

PLANNING BOARD

DATE: November 9, 2017
TIME: 7:00 P.M.
PLACE: Large Meeting Room
FOR: Regular Meeting
PRESENT: Brandee Nelson, Chair; Malcolm Fick; Jonathan Hankin; Jack Musgrove;
Jeremy Higa
Pedro Pachano, Associate Member
Chris Rembold, Town Planner

Ms. Nelson called the meeting to order at 7:00 P.M.

FORM A's:

No Form A's were presented.

MINUTES: OCTOBER 26, 2017

Mr. Hankin made a motion to approve the minutes of October 26, 2017 as amended, Mr. Fick seconded, all in favor.

BARRINGTON BROOK:

Paper work for Barrington Brook was not submitted in time for the meeting.

ZONING: PROPOSED REVISIONS FOR THE MARIJUANA BYLAW

Mr. Fick provided a revised version of the Medical Marijuana bylaw. The revision adapts the bylaw to address recreational marijuana. The Board went over the revisions outlined in the undated handout.

Mr. Fick said the regulations from the State are not expected until April. The Town could vote on the proposed bylaw at the Annual Town Meeting in May. The proposed language changes the distance of where a retail store can be allowed from an assumed 500 feet to 200 feet from an area where children congregate. Mr. Fick said we need to take action to change the distance so the stores can be allowed in Town.

Mr. Higa asked if Site Plan Review would apply to agricultural production.

Ms. Nelson said according to the meeting we attended in Lenox, growing marijuana is not considered agricultural.

Mr. Higa said he is concerned about the lighting used when growing marijuana. He said it can be very bright. He asked if we would be able to comment on interior lighting and lighting spilling onto abutting properties.

Mr. Rembold said Site Plan Review would be triggered under 7.18. General commercial uses would not trigger SPR.

Mr. Musgrove asked if retail marijuana can go into a medical marijuana facility.

Mr. Rembold said he thought yes, they will be able to convert and co-exist. Requirements of the host agreement might need to be looked at. He said all retail businesses will have to have a host agreement. He said he thinks the not-for-profit medical marijuana facility in Town may be able to convert.

Ms. Nelson said when the State puts their regulations out applications will be made to the State. She said it is expected to be a multi-month process. We should be able to put our proposed bylaw into place in May.

Mr. Fick said if we were going to contemplate restricting the use we would have to have a Special Town Meeting prior to April to impose a moratorium. We are putting this together to have something in place so we are ready.

Mr. Hankin said it is important to put this into place so we are not subjected to the 500 foot separation from areas where children congregate as was written into the state statute for Medical Marijuana dispensaries.

Mr. Rembold said if we have something ready for Town Meeting we would be able to make amendments on Town Meeting floor if it was necessary as we will know at that time what regulations the State has put in place.

Mr. Musgrove said he does not support a moratorium. He said he ok to move forward with this proposal.

There was discussion of changing the Table of Use by changing the N to Y under the B, HVC and B-1 zones.

Mr. Rembold said N was listed under those zones for the Medical Marijuana bylaw because that use would not have worked in those zones with the 500 foot separation. Reducing the separation to 200 feet will make more areas available. We can look at the map with the 200 foot separation to see what areas would be available.

Mr. Hankin commented that retail marijuana is not a lot different than a liquor store. Liquor stores, under state law, have a separation from schools and churches which can be waived by local authorities if it is found that the proposed use will not be detrimental to the protected use. He suggested changing the language to conform more closely with the liquor law. He said he thinks stating that the use would not be detrimental is a clearer criterion than language allowing the Planning Board to deviate from the separation requirement when it believes there are adequate barriers in place.

Mr. Higa did not agree.

Ms. Nelson said there was a lot of community outreach to get the Medical Marijuana bylaw passed. She suggested changing the language as little as possible will help get a retail bylaw passed.

Mr. Hankin said the people have voted to make it legal. This is a different situation.

Mr. Fick said he didn't think this is a different situation.

Mr. Hankin said we should put into the bylaw what we want it to say.

Ms. Nelson said she thinks marijuana can be approached the same way alcohol is.

Mr. Fick said his best guess is if we mirror the retail use with the medical use we are less likely to run into a problem.

Ms. Nelson said we can get something in place then modify it in a year or so. Right now it would be good to see something simple and straight forward to get through the Annual Town Meeting.

Mr. Hankin said the alternative approach is putting in the language we want regarding schools and amend it on the Town Meeting floor back to the existing language if it is necessary for passage.

Mr. Musgrove said saying that the location is not detrimental would be another way of permitting in areas we might not be able to see.

Ms. Nelson said she would prefer to keep the existing language and offer Mr. Hankin's language as an amendment.

Mr. Musgrove asked if there is a limit on the number of facilities.

Mr. Rembold said it has not been discussed.

Ms. Nelson said she is interested in engaging the Selectboard on this proposal. She said if we are comfortable with the language we should forward it to the Selectboard for their comments.

Mr. Musgrove asked if the law will allow the Town to regulate the number allowed.

Mr. Rembold said yes.

Ms. Nelson asked Mr. Higa if he had any other suggestions or comments.

Mr. Higa questioned allowing in B zone or the HVC if it fits. He said it should be allowed in the new B-2-A, State Road, zone and the B-1 zone could go either way.

Ms. Nelson asked Mr. Rembold to bring the maps to the next meeting.

Mr. Pachano asked if “minor” is defined in the bylaw.

Ms. Nelson said if it is not defined we would refer to a legal definition.

Mr. Pachano said a “minor” would be different from children.

Mr. Rembold said suggested sending the draft with edits to the Selectboard.

Ms. Nelson agreed.

Holly Hamer asked why the sale of marijuana would be prohibited on Sundays.

Ms. Nelson said she is not sure; it can be changed.

Mr. Rembold said he is not sure if item #4, the agricultural component of the RMD, applies.

Mr. Higa said he thinks it should be considered an agricultural use.

Ms. Nelson said we are being told all growing of marijuana would have to be done indoors.

Mr. Musgrove made a motion to refer to the Selectboard the proposed amended language for 7.18 for marijuana establishment as submitted in the draft before us with the exception of the definition of minor, not restricting sales on Sundays, 7.18.6-agricultural component and changes to the Table of Use by adding “Y” to the B district, HVC, B-1 and B-2-A districts

Mr. Hankin said in 7.18.4.1 everything after should be struck. He said he would rather offer to add it back in if necessary at the Town Meeting

Mr. Fick said it is easier to go to the Town Meeting with minimal amendments to the Medical Marijuana bylaw than to go in with big changes.

Mr. Higa said he agreed it would be easier to get through the Town Meeting by just adding retail to the existing bylaw.

Ms. Nelson asked if there is a consensus about the changes to the Use Table.

Mr. Pachano said he agreed with the changes to the Table of Uses.

Mr. Musgrove agreed with the changes to the Table of Uses. He said he agreed that the setback should be changed from 500 feet to 200 feet.

Mr. Higa said he wanted to see the maps with the setback shown.

Mr. Rembold said he could provide the maps. He said it is important to get something to the Selectboard to get a response from them.

Mr. Musgrove said his motion is on the table. Mr. Fick seconded.

Mr. Higa said it would be easier to get the bylaw passed at the Town Meeting if the Table of Uses is not altered.

Mr. Musgrove said the Town voted to legalize marijuana.

Mr. Higa said he thinks this Town Meeting will be different.

Mr. Fick said it doesn't make a difference if the table is changed. We can leave it.

Mr. Hankin said if sales of marijuana are not allowed in the B district there might as well be a moratorium.

Ms. Nelson said we need to look at the map but we need to move forward with language.

Mr. Musgrove said we can forward to the Selectboard with the "Y"s crossed out.

Mr. Hankin said he doesn't feel like he is being heard.

Mr. Higa said he didn't agree with the language Mr. Hankin was suggesting.

Ms. Nelson said she would prefer to make easy changes. She said she wanted to get something to the Selectboard so we can get their feedback. She said Mr. Hankin may have a point and we may want to make the change. She called for a vote on the motion.

Mr. Musgrove, Mr. Fick, Mr. Higa and Ms. Nelson in favor. Mr. Hankin abstained.

Mr. Musgrove said he agreed with Mr. Hankin and will want to make the changes he suggested.

TOWN PLANNER'S REPORT:

Mr. Rembold told the Board that anyone going to the 5th Thursday meeting needs to let him know so he can register who ever plans to attend.

He said there will be a special permit application at the next meeting for a moderate impact home occupation for weddings and celebrations at 39 Alford Road. He said it is difficult to do site visits in the evening so he asked if a site visit could be scheduled during the day. He suggested December 14 at 12:30. The Board said they would try to make that time.

BOARD & COMMITTEE UPDATES:

There were no updates.

CITIZEN'S SPEAK TIME:

Holly Hamer said she has an issue with the proposed retail marijuana language, specifically the distance between where children congregate. She also said she is concerned about signage for

the stores. She said Theory Wellness is discrete and quiet. She said sign regulations should be considered.

Ed Abrahams suggested "where children congregate" is extremely vague and asked if it could be applied to any store front on Main St. or Railroad St. where kids like to hang out.

Mr. Musgrove said he went to several establishments on the west coast. He said they were very discrete.

Retail marijuana will be discussed at the next meeting.

Having concluded their business, Ms. Nelson adjourned at 8:12 P.M.

Respectfully submitted,



Kimberly L. Shaw
Planning Board Secretary