

TEWKSBURY ZONING BYLAW SUBCOMMITTEE

January 27, 2014

Call The Meeting to Order

Vincent Spada called the meeting to order at 8:00 P.M. at the new Town Hall Auditorium. Present at the meeting were Nancy Reed, David Plunkett, Community Development Director Steven Sadwick and Recording Secretary Dawn Cathcart. Also in attendance were Robert Fowler and Stephen Johnson members of the Planning Board.

Approval of Minutes – January 13, 2014

MOTION - Mrs. Reed made a motion to approve the Zoning Bylaw Subcommittee minutes of January 13, 2014 as presented. The motion was seconded by Mr. Plunkett and unanimously voted 3-0.

(1) Medical Marijuana

Mr. Sadwick distributed copies of the draft bylaw, a zoning map, the Attorney General opinion on the Town of Hanover bylaw, an email with comments from the Board of Health and he also has had discussions with Town Counsel.

Mr. Spada stated that this bylaw has to be ready for the Annual Town Meeting. Mr. Sadwick replied that was correct. The warrant for the Annual closes on February 28, 2014 but the warrant for the Special may be extended a week or two later. Mr. Sadwick suggested meeting more frequently until the articles are ready for submittal. Mr. Sadwick stated that the Selectmen are meeting next Monday for the budget presentation so this committee could meet on Tuesday, February 4th.

Mr. Sadwick stated that Town Counsel had some questions. The first is he believes that the 1000' setback from Rt. 495 would be difficult to defend. He also questioned if we had the Mass DOT layout of Rt. 495. Mrs. Reed asked why this is in the bylaw. We could just put in a medical marijuana overlay and delete the 1000' requirement from the bylaw. Mr. Sadwick stated that we do not usually create an overlay for one use, but this is a special case and with the overlay we would not need to reference distances from protected uses.

Mr. Sadwick stated that another concern Town Counsel had was that the 1200' setback from the protected uses may be too much where the State regulations only require a 500' setback. Mrs. Reed stated that she would be concerned if the State changes their setbacks would we be covered.

Mr. Spada stated that we had setbacks in the adult entertainment district. Mr. Plunkett replied yes, we had studies that were done and we had facts on crimes, prostitution, robberies, etc. to base the setbacks on. Mr. Plunkett agreed with an overlay. We set the area, period. The setbacks from the protected uses should be removed but there should be maintained in the record as part of the reasoning that this area was chosen for the overlay.

Mr. Spada stated that Section 6541(c) should be removed.

TEWKSBURY ZONING BYLAW SUBCOMMITTEE

January 27, 2014

Mr. Plunkett stated that if a protected use applies for a permit to go into this overlay, they need to be made aware that there is a possibility a medical marijuana facility would be allowed in this area. Mrs. Reed stated that there should be an effective date added to the bylaw.

Mr. Sadwick stated that in Section 6451(d), he will change the 1,500 to 1,200, delete 6541(c) and add an effective date. Mr. Plunkett stated that we should check with Town Counsel to see if (d) would be required to remain in the bylaw. It should be in the record for rational of the overlay but not part of the bylaw.

Mr. Sadwick stated that another issue Town Counsel had was in Section 6551. If we limit the number of dispensaries to one, we need to call out cultivation. Mrs. Reed asked why. Some of the other bylaws we've seen only allow dispensaries in a 2,500 SF building with no cultivation. The size of the facility matters. Mr. Sadwick stated that the definition of a medical marijuana dispensary includes cultivation. Mr. Plunkett stated that the applicant would need to decide if they want to cultivate or only dispense. Mr. Sadwick stated that in Section 6552, the range for the size of the building could be removed and we could create a maximum building square footage allowance. The size of 5,000 SF was discussed.

Mr. Sadwick stated that Town Counsel was concerned with someone coming in under a MGL 40A, Section 3 exemption for agriculture. This could allow people to grow marijuana even though it is a restricted use. Mr. Plunkett stated that does not make sense. The growing of marijuana is illegal unless they comply with the regulations. Mr. Sadwick stated that he will talk with Town Counsel further on this issue.

Mr. Sadwick stated that the Board of Health sent an email with some questions.

Section 6541 – Parks & recreational areas should be included in setbacks, what happens if a protected use goes into the setback after a facility is constructed and security measures at closing. **Response:** The overlay does not include any parks and we've already discussed what will happen if a protected use comes in after. The security procedures are set forward in the DPH regulations and this falls under operation. The plans will also be reviewed by Fire and Police.

Section 6552 – No sitting or reception area. **Response:** We cannot design the interior of a building.

Section 6572 – Add “properly” before “remove materials” and 6 months is too long. **Response:** No change will be made to the bylaw. Who would determine properly and any non-compliance would fall to the Zoning Enforcement Officer.

Mrs. Reed stated that on the map, we should not include more than the 1st parcels on Rogers Street. Mr. Sadwick agreed and will remove the extra parcels on Rogers Street from the overlay.

TEWKSBURY ZONING BYLAW SUBCOMMITTEE

January 27, 2014

(2) **Electronic Message Board**

Mr. Sadwick stated that there is nothing new.

(3) **Solar Farms**

Mr. Sadwick presented the Town of Dunstable's bylaw on solar farms. Mr. Sadwick stated that he has not changed anything with this bylaw except put it in our format.

Mr. Fowler and Mr. Johnson left the meeting.

Mrs. Reed asked what would happen with a smaller facility. Mr. Plunkett asked if there is a wattage definition to determine a residential use. Mr. Sadwick stated that he also has a State regulation that he will provide and he will ask for expected production on residential solar installations.

Mrs. Reed asked what would happen if an application came in with less than 20 acres. Mr. Sadwick replied it would not be allowed. Mrs. Reed stated that is not called out in the bylaw.

(4) **Floodplain Overlay District**

Mr. Sadwick stated that there is nothing new.

(5) **MFD Revisions**

Mr. Sadwick stated that there is nothing new. The strike-out corrections are ok to be submitted but there are some policy issues such as stepping down the density and keeping the affordable component that still need more discussion.

Mrs. Reed stated that we should delete the entire MFD bylaw. The developers that were using this were coming in and paying the fee, but no units were being built. There are no more parcels with the MFD designation. Mr. Sadwick stated that there is one, the parcel off of Victor Drive. The permit has been approved but it has not been built and the developer was concerned with the MFD being deleted. This parcel is also within the CVOD but they are concerned with the density change. Mr. Sadwick stated that if the MFD is deleted in its entirety, then what would replace the underlying zoning. Mrs. Reed stated that the MFD was used because of the threat of 40Bs. The strike-outs should be submitted and we'll continue to look at the remaining bylaw.

Mr. Sadwick stated that the next meeting will be on Tuesday, February 4th at the DPW.

Adjournment

MOTION - Mr. Plunkett made a motion to adjourn at 8:25 PM. The motion was seconded by Mrs. Reed and unanimously voted 3-0.

Approved: 2/4/14

NO Documents provided to Committee Members.