

Planning Board Meeting Minutes

5/3/2021

Board Members

Present: Casey Campetti, Chuck Walkovich, Jennifer Gingras, Joyce Morrow, Paul Lonergan, Al Patenaude

Staff: Lisa Davis, Planning Consultant, Cheryl Lutzka, Administrative Assistant

Guests: Wes Ritchie, NECC; Valerio Romano, Attorney for UMA Flowers; Mark Walsh; Alan Leao, Paula Terrasi, Margaret Scarsdale, Anthony Beattie and Mark Matthews, Select Board; Andrew MacLean, Town Administrator

1) Call to Order

The meeting was called to order by Chair Campetti at 7:00PM

2) Acceptance of Minutes

a) **April 5, 2021** – The minutes were accepted as written by a motion from Ms. Morrow; seconded by Mr. Walkovich. All in favor

3) Action Items

a. Discussion on Interpretation of Recreational Marijuana Bylaw

Mx. Campetti recused herself for this portion of the agenda, appointing Mr. Walkovich as Interim Chair for the discussion. Mr. Walkovich provided an introduction to why the Planning Board was holding this discussion to interpret the Recreational Marijuana Bylaw. In September 2019 two host agreements were accepted for review. It was the Planning Board's understanding that according to the Recreational Marijuana Bylaw, 20% of the total issued permits to the Town of Pepperell, or 2 special permits, for Recreational Marijuana retail stores was allowable. The Select Board issued 1 Special Permit under the current calculations in the Fall of 2020, with a second Special Permit under consideration. There was a motion at Town Meeting to license only 1 special permit but that failed, and after receipt of a Citizen's Petition, a Special Town Meeting was held in Spring 2021 to clarify the calculation for the number of special permits under the current Bylaw. That, too, was defeated at the Town Meeting. The Cannabis Control Commission was contacted but provided no guidance other than a suggestion to contact another Town or City that had a similar Bylaw and ask how they handled the number of special permits for retail marijuana establishments. The City of Worcester had a similar Bylaw and they allotted the number of retail establishments, not following the 20% rule as per State guidelines. Our Town Counsel felt Pepperell should follow the 1 Special Permit as per the Bylaw, leaving the Planning Board in conflict as to how to interpret the Bylaw. Once the introduction to the discussion was completed Mr. Walkovich asked the Board members if they had any questions or comments. He further noted that all public comments would be limited as this was not a Public Hearing but rather a regular Planning Board meeting. With no questions coming from the Planning Board members at this time, Mr. Wes Ritchie of NECC spoke. His brief

presentation noted that NECC has completed all documentation required to open a Recreational Marijuana establishment, and that the Planning Board, according to NECC counsel, has the authority to approve a second Special Permit using the allotment model rather than the percentage model as in other Towns and Cities with similar Bylaws.

Following the presentation from NECC, Mr. Valerio Romano, attorney for the competitor, UMA Flowers, commented that the voters believed there was only one special permit for the Retail Establishment, and that the Bylaw states only one, therefore the Planning Board should not override the will of the people and Bylaw. He also stated that no additional income would be forthcoming to the Town as the two retail establishments would be in competition.

There was further discussion from Mr. Walkovich regarding the ambiguity in the Bylaw, and Mr. Andrew MacLean, Town Administrator, reiterated how this occurred way back in 2019. Mr. Alan Leao of Main Street, worried about a breach of contract/lawsuit and Mr. Walkovich reminded him that the discussion was to be about the interpretation of the Bylaw and nothing more. Margaret Scarsdale, 90 Nashua Road, and Selectwoman, noted that the Town of Pepperell was seeking to clarify the Bylaw. She said that the Select Board had approved 2 Special Permits after they reached out to the Cannabis Control Commission, but the CCC was not going to provide any guidance on the Bylaw for us. She also reached out to other communities in the surrounding area to find out how their Bylaw was interpreted before issuing the licenses. Town Counsel has stated that the Planning Board has the authority to set policy on the Bylaw. Mr. Tony Beattie, 36 Oak Hill Road, Selectman, noted that the Town was attempting to clarify the Bylaw at this meeting. Ms. Paula Terrasi, 77 Jewett Street, asked why the Building Inspector, who is the Zoning Enforcer, was not asked to clarify the Bylaw initially. Mr. MacLean, noted that in 2019 no one thought there was an issue but found out after the fact, in 2020, that there was an ambiguity. Mr. Paul Lonergan, Planning Board member, noted that he felt the intent of the Bylaw should be most important rather than the interpretation. His understanding of the Bylaw was 1 retail establishment and 1 cultivator. Mr. Al Patenaude stated that he had hoped Town Counsel would have given more assistance early on when the Bylaw was written to avoid this misinterpretation now and was conflicted. Ms. Joyce Morrow noted she was perplexed. She, too, felt Town Counsel, could have been more precise in 2019. Ms. Jennifer Gingras asked how many licenses were issued to the Town by the State and how many were granted by the Select Board. Currently the State issued 8 licenses, but only 4 have been granted.

Mr. Walkovich took a straw poll about approval or denial of the Special Permit for NECC.

8 licenses at 20% - Ms. Gingras and Ms. Morrow in favor

4 licenses at 20% - Mr. Lonergan and Mr. Patenaude in favor

Ms. Davis noted that the Planning Board has until May 17, 2021 to render a decision or postpone it. The Planning Board could grant the Special Permit with conditions or deny it. The applicant could wait until the Planning Board makes its decision, and possibly be denied, or can withdraw it without prejudice, if the Planning Board agrees, and come back at a later time.

Mr. Walkovich suggested that the Planning Board postpone their deliberation to the next meeting on May 17. Mr. Patenaude asked if there were any funds to cover the expense of a second legal opinion on the interpretation of the Bylaw. Mr. MacLean said there were funds available. It was the Planning Board's overall decision to postpone the deliberation to the next meeting pending advice of legal counsel.

Ms. Davis also noted that the NECC could appeal the decision in Land Court.

Mr. Walkovich stated that the decision would be postponed until May 17, 2021, if it was agreeable with NECC, and that Ms. MacLean would contact a legal counsel to help with the decision interpretation.

Mr. Walkovich thanked everyone for their input and handed the reins back to Mx. Campetti for the remainder of the meeting.

b. New England Craft Cultivators (NECC) – Deliberation

NECC deliberation postponed to May 17, 2021

4) Reports/Correspondence/Discussion

Matters may arise that the chair didn't reasonably anticipate)

a. Stormwater Bylaw/Proposed Rules and Regulations

Ms. Davis commented that she had received the final iteration of the Bylaw and rules and regulations for the Planning Board to make their recommendation but did not have the opportunity to forward it to the Board members. The discussion would move to May 17, 2021

b. Local Resource Recovery Planning Grant

Ms. Davis noted that the Committee is working through the process. Beverly Woods received the survey results and compiled them, with a report to the Planning Board to follow. The State is offering webinars to help with the process. Ms. Scarsdale commented that NMCOG is working to hold a Public meeting and that there is a delay until August.

c. Master Plan Implementation Team Update

Ms. Deb Fountain reported out on the status report progress. Most have been received but the final due date is May 5, 2021. She was hoping to hold a briefing to the Planning Board at the next meeting, if possible. Ms. Fountain listed three items to be accomplished

- Summary and analysis – briefing to the Select Board
- Reporting requirements are extremely labor intensive and time consuming on a quarterly basis. She would like to hold the semi-annually instead. MPIT is melding status reports together and would like to report the results at Spring and Fall town meetings.
- Changes to recommendations by the Planning Board. There is a new committee – the Invasive Plant Committee. Some of the recommendations fall into their scope of responsibilities.
 - OSRD Revision, Tree Retention Bylaw, Zoning Bylaw

Mr. Mark Matthews reported that the details of the Recommendations List will be put on the Town Website, so they are available to all residents.

d. NMCOG Update/DLTA Funding Request

Ms. Davis reported that Jay Donovan and Beverly Woods are working on OSRD, but she has not heard back from them. She will reach out and report back at the next meeting. Ms. Davis received Harvard, MA most recent OSRD draft and will share with the Planning Board members. Jay Donovan, NMCOG, reported that there is additional funding that could be available to us. Ms. Davis is not sure what the timelines are to get these items accomplished but will check and get back to everyone.

Ms. Davis also noted that there are Best Practices funds available with NMCOG capabilities. Ms. Susan McCarthy, Director of the Senior Center might be interested in the Dementia funding assistance. Ms. Davis commented that Best Practices in Housing Choice Communities could be another option. We could submit both grants as they require only a paragraph description. If the Board has any ideas, please email her.

e. MVP

Ms. Paula Terrasi is currently completing two grants – one of which is for Sucker Brook replacement of the culverts and removing the dam. Ms. Terrasi explained the importance of this work for sustainability of water resources and vulnerable populations. Ms. Davis asked for a letter of support for Paula and that she will draft a letter, and Mx. Campetti can sign it.

f. One Stop for Community Growth Expression of Interest

Ms. Margaret Scarsdale reported that this Committee has received two community applications – one for Streetscape improvements and one for Planning and Zoning

Both require work and they could use support from the Planning Board as the deadline date is June 4, 2021.

Future Meeting(s)

a. May 17, 2021

b. June 7, 2021

The meeting was adjourned at 8:44PM by motion from Mr. Walkovich, seconded by Mr. Patenaude. All in favor

Respectfully submitted by Joan Ladik