



Approved
5/14/19

Town of Carver, Office of Planning and Community Development

Planning Board Public Hearing Meeting Minutes, for proposed Zoning Amendments, March 12, 2019, Carver Town Hall, Meeting Room #11. This meeting was videotaped for cable cast area 58, channel 15.

Attendees: Bruce Maki, Chairman; James Hoffman, Member; Jen Bogart, Member; Kevin Robinson, Member; Cara Dahill, Alternate Member Kevin Robinson

Also Present: Stephen Cole, Planning Director; Andy Glimes, Fuss and O'Neil

Absent: William Sinclair, Member James Hoffman;

Bruce Maki, Chairman, opened the meeting at 5:30 7:00 PM, followed by the pledge of allegiance

Mr. Cole - We have approved the first 7 Amendment Articles and are now on the last Article. Joining us this evening is Amy Kwessell from KP Law.

Zoning Amendments 1 – 6 were recommended for Town Meeting on 2/26/19

Zoning Amendment 7:

To amend Article VI of the Town of Carver Zoning by-Law, definition of the "Craftsman/Tradesman" to delete "etc." as shown below in strikethrough:

Craftsman/Tradesman shall mean retail and/or service provided by a worker who practices a trade or handicraft, one who creates or performs with skill or dexterity, especially in the manual arts, such as a jeweler, cabinet maker, frame person, etc.

Zoning Amendment 7 was recommended for Town Meeting on 3/5/19

Zoning Amendment 8:

To amend the Town of Carver Zoning by-Law for purposes of regulating non-medical (recreational-use) marijuana establishments within the town, including establishments for the cultivation, processing, testing, product manufacturing and retail sale of non-medical (recreational-use) marijuana establishments, which uses shall be allowed pursuant to the issuance of a Special Permit and Site Plan approval within a designated marijuana overlay district. And to further amend the Town of Carver Zoning by-Law by adding a new Section – Non Medical

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Marijuana Overlay District at the end of Article IV, Special Uses, as follows and further, to authorize the Town Clerk to make such revisions to the numbering and lettering of such subsection to ensure conformity with the Zoning by-Law.

Mr. Cole presented maps of the areas in this proposal. Mr. Johnson is here to add to the discussion.

Nathan Johnson, 367 Tremont Street –

I suggest moving it farther back into Carver. There is a slight bend right in front of my house. I have seen at least 8 bad accidents, including fatality. It's a very busy area and I don't feel that we should put anything on that side of the road. I don't know if I would have built there had I know. I would like to move the overlay. Can we move it to not include that area? Mr. Maki – How long is the overlay district? Mr. Cole – It is 1.5 miles. Mr. Maki – There may not be anything at that spot; this is a long distance. Mr. Johnson – I just wanted to voice my opinion. Mr. Maki – This is good information to have, perhaps a reduced speed limit. Mr. Johnson – I will admit I am not for a recreational facility in Carver but that is not going to be changed. Mr. Maki – Thank you, we appreciate you coming. Ms. Bogart – At the last hearing I expressed concern over residents in the area. I also raised concern over this house as well. Maybe after hearing the traffic concerns; maybe we should consider removing the lot next to his house or set distances. Mr. Johnson – I am just concerned over safety on that roadway. Ms. Bogart – I appreciate you adding the safety concern. How large is that lot north of his house? Mr. Cole – Map 98 (7, 2 and 2-1) Map 281 (Lot 7 and 6). I believe Lot 6 is 17.4 acres Lot 1 is 182 acres. Ms. Bogart – What is the road frontage? Mr. Cole – I will check. Ms. Kwessell – Unfortunately you can not set a boundary to residents. A buffer zone to a residence would be a red flag. Ms. Bogart – then we should explore the lots directly north of his property. Mr. Maki – How many to remove? Mr. Cole – 6 lots. Mr. Maki – How many acres is that? Mr. Cole – About 50 acres. Mr. Robinson – Do we have to have a certain amount of acreage? Ms. Kwessell – you don't. you need a large area for cultivation but for retail you are looking at storefront; I would be cautious of making it too small. If you take away some of this acreage, the options aren't there. Mr. Robinson – Taking the lot of a dangerous point of travel would be what? Do we have a speed limit there? If we were to remove the most dangerous area, will we still fall within the amount of acreage we need? Mr. Cole – We don't see another building until we reach Berry Guys. Mr. Robinson – If Mr. Johnson is the only one with this concern, would it be possible for us to remove his lot? Ms. Kwessell – considering his lot is already developed, that would be reasonable to remove from the overlay. Mr. Cole – Part of the reasoning for not doing retail in N. Carver is due to traffic. I would be curious to find what we could do about traffic. Ms. Kwessell – there could be operation time limits, etc. Mr. Cole – Can we limit Sunday's? Ms. Kwessell – currently, yes. Currently it is tying into pharmacy hours, 8-6. Mr. Cole – Currently we are recommending cultivation in N. Carver and retail in S. Carver. Mr. Hoffman – In S. Carver the lots aren't big enough? Mr. Cole – I think they are, but mostly bogs and wetlands. There are already some building vacancies in South Carver. Mr. Maki – At our last meeting the gentlemen that was here was talking about the availability of water. He thought having the growing in North Carver would be beneficial as we have the water district in North Carver. The concern was the traffic. Mr. Cole – Can we segment the number of allowed licenses? Ms. Kwessell –

That may get flagged. If you say that you can have 2 retail licenses in Carver based on 20% rule, chapter 138 and you limit one to North and one to South, and someone gets the South Carver and someone comes in and wants to open in South Carver, they wouldn't be able to. Ms. Bogart – The licenses are only for retail? Ms. Kwessell – Correct. Ms. Bogart – You said we can't have distance to residences, but Bourne was working on that last year. Ms. Kwessell – That was challenged. Your overlay is your overlay. A cultivation facility needs to be 50 feet from property line of a residence. If we were to try, we would need to go back to the beginning to be sure we aren't zoning it away. Ms. Bogart – Have you given more thought to giving both zones, both uses? Mr. Maki – I did think about it; the reasoning on this was due to traffic concerns. Mr. Robinson – In the even that we were to allow retail in North and South, we can keep it at two? Ms. Kwessell – It would stay at 2 licenses. Ms. Bogart – If we are having traffic studies for the south, we can have them in the north. This could be grounds for conditions. Is there someone wanting to put in a grow facility in N. Carver? Mr. Cole – I can't say we haven't had inquiries but nothing has been submitted yet. I don't have any argument for being restrictive. Mr. Robinson – We can make some restrictions if traffic is concerned? Ms. Kwessell – Yes, this is a Special Permit and Site Plan so you could. If you allow both in both zones, you could have co-location (grow with retail in one location). This would allow everything in both zones. The benefit to that would be that nothing would have to be delivered. Mr. Maki – We are always going to have to deal with traffic regardless of the business coming in. Mr. Hoffman – We shouldn't restrict to S. Carver for retail. We can analyze and deny if necessary if there is a danger or it is not a good fit. Mr. Robinson – In this town if we had another package store selling alcohol, would that increase more retail marijuana. Ms. Kwessell – Numbers can change. Depending on the number of alcohol licenses there are, you may still have room for alcohol licenses and not increase marijuana licenses. Liquor licenses under Chapter 138 are always changing. Mr. Robinson – If two liquor licenses have to come in at the same time in order to allow one more retail shop to be allowed. Ms. Kwessell – possibly The other point of that is that I do think that the town would probably have until town meeting to amend their by-Law. Because this is so new, no one has run into this yet. Ms. Bogart – What are your thoughts on the Spring Street area? Ms. Kwessell – It depends on if there are any recorded covenants on that district; did that state put any restrictions on it. Mr. Cole – That was a state owned property until recently. I understand there was some pretty strong restrictions. Ms. Kwessell – If we don't get something on the books, the establishments can go anywhere. If you get this in now, you can always amend later. Mr. Hoffman – If Spring Street went through; before that could even be developed, we are talking 2 years, we could amend at a future town meeting. For now, we should just stick with what we have now. Mr. Cole – This will be monitored in real time. Ms. Kwessell – There has been one court decision re: marijuana – regarding general by-Law. This will be amended down the road; it is constantly changing. Ms. Bogart – Are we voting on location or language? Mr. Maki – We are going to vote on the whole thing; it is just a recommendation for the Town Meeting. I think it is reasonable to do the Retail in North and South. I don't know if we want to exclude any lots. Just in South Carver we have 1.5 miles. Mr. Cole - In North Carver we have 1500 feet. If a selling facility came up, we would have to look at entrances, site distances, etc. As time goes on, Carver streets will get busier. Ms. Bogart, if you have a few things, you can do that. Ms. Bogart –

A resource Plan

Suggestions from Ms. Bogart –

- We should require organic practice
- Architectural drawings – Middleboro is already doing that
- Operating hours – Sunday 12-6? Wareham is 12-6, 7 days per week.
- Contact Information – I think we should ask for 2 people, Ms. Kwessell – This is usually taken care of in the Host Community Agreement. This shouldn't be a conflict if included in the by-Law.
- We shouldn't have vending machines and must interact with customers. Ms. Kwessell – Already in the state regulations. Mr. Robinson – This is down the road? Ms. Bogart – No, we are voting on the language. Ms. Bogart – I would like to start with a strong language and by-Law.
- Signage – does not encourage use by minors. Some towns specify that you can't tell on the outside that it is a marijuana facility – Ms. Kwessell – That language is already in the state regulations. Mr. Cole – Yes, it goes even further.

Ms. Kwessell – In your special permit, you can specify hours. Ms. Bogart – I would like to specific. Ms. Kwessell – I would not change what is there, but add Sunday hours. If none are specified, limit to 9-8. If we leave it and add restriction on Sundays, we will accomplish what Ms. Bogart is trying to accomplish. Mr. Hoffman – Is the organic practice at the state level now? Ms. Kwessell – In the State of Massachusetts, there is currently no specific definition of organic; and would be hard to enforce. I don't think it will be a problem to add, but this is a special permit and could be changed at that time. If we specify "Unless specified in the Special Permit", we could add Ms. Bogart's language. Mr. Maki – I don't want it too restrictive; these grow facilities are all inside. Ms. Kwessell – I question how it would be enforced. Mr. Maki – So someone would have to monitor this? Ms. Kwessell – Correct, a facility close to here was shut down by CCC due to formaldehyde based formula. Ms. Bogart – The organic language is already in Middleboro. Ms. Dahill – Fertilizers are made up some potential contaminates. These are all closed facilities and are not at risk of contaminating our water table. Ms. Kwessell – Noise, odors, etc. are monitored. I don't think there is a problem having this language as long as we state "unless otherwise stated in the Special Permit". Ms. Dahill – Fertilizers are primarily made up of Nitrogen, Potassium and phosphorus. These are closed systems. As long as it's not going into the water table. If it gets into the water table, it can contaminate. The cannabis commission handles this? Ms. Kwessell – Yes, they do. Ms. Dahill – We do need to protect our special aquifer. These are consumables, this would help the consumers too. Ms. Kwessell – After cultivation, the plant that no longer contains marijuana that I recommend be disposed of in a dumpster. Mr. Maki – Do we think organic is the way to go? How do we regulate? Ms. Dahill – you have a label on anything that you apply and you rely on that. This is all controlled by the cannabis commission. Organic is usually fish or chicken feces. Mr. Robinson – Who will regulate? Mr. Maki – If you restrict too much, that business won't come here. Ms. Bogart – I am just looking out for the water supply. It might cost more. Mr. Maki – A lot of this is under our Site Plan Review. We look at any hazards and other things you mentioned.

Amend –

- Retail North and South

- Remove Mr. Johnson's lot Mr. Robinson – Can we exclude Mr. Johnson's lot? Ms. Kwessell – That's fine; this lot is toward the end of the overlay. We will remove those last 3 lots.
- Sunday hours restriction - 12-6
- Organic Fertilizer – Ms. Kwessell – precede with "if not otherwise specified in the Special Permit" for flexibility
- Ms. Bogart – The parcels near Seipet? I don't think it belongs in a residential area. Mr. Robinson – I am more concerned with traffic danger. Ms. Bogart – This just moves it a little south. Mr. Robinson – How much does that take? Mr. Cole – That is a significant amount of land.
- Mr. Cole – We should also strike 29, 1E and 1W as it is the Cole Property
- Map 98 2, 2-1 and 7

Motion to recommend Zoning Amendment 8, with amendments, to Town Meeting: Mr. Hoffman

Second: Mr. Robinson

Approved: 3-1 (Ms. Bogart)

Motion to close the Public Hearing on Zoning Amendments for Town Meeting: Ms. Bogart

Second: Mr. Robinson

Approved: Unanimous (4-0)

Materials submitted for the proposed zoning amendments are available for review at the Town Clerk's Office and Planning Department at the Carver Town Hall, 108 Main Street, Carver MA 02330, during regular business hours. Any person interested or wishing to comment on the proposed amendments should appear at the time and place noted above, or submit written comment at least one week in advance of the hearing.

Carver Planning Board Proposed Public Hearing Schedule

~~Tuesday, February 26, 2019 at 5:00 PM~~

~~Tuesday, March 5, 2019 at 5:00 PM~~

~~Tuesday, March 12, 2019 at 5:00 PM~~

Tuesday, March 19, 2019 at 5:00 PM*

* If Necessary