

**TRURO PLANNING BOARD  
MEETING MINUTES  
September 19, 2018  
Truro Town Hall**

**PLANNING BOARD MEMBERS PRESENT:** Chair-Steve Sollog, Peter Herridge, Jack Riemer, Karen Tosh, Bruce Boleyn, Paul Kiernan, Mike Roderick

**OTHER PARTICIPANTS:** Interim Town Planner-Jessica Bardi, Town Counsel-Katherine Laughman (via conference call), Ron Fitchner, Claire Perry, Atty. Ben Zehnder

Chair Sollog called the meeting to order at 6:04pm

**Public Comment Period**

Mr. Ron Fitchner (member of the Board of Directors of the Part Time Residents Taxpayers Association) approached the Board. He states that an email went out yesterday which summarized some questions from a survey conducted by the PTRTA over the last ten days. They received responses from approximately 500 individuals. The email summarized responses that are pertinent to the marijuana bylaw. He is here tonight to discuss two items (or comments) that don't directly relate to the marijuana bylaw. A lot of comments suggested that excise taxes, and any other taxes coming to the town, because of marijuana sales should go to eliminate the residential tax exemption. Another common comment was regarding the quality of cannabis. He's asking if there is quality assurance of the product. Chair Sollog thanked Mr. Fitchner. He does not believe that the RTE is within the Planning Board's purview, and as far as the quality of cannabis being produced there are testing labs that must handle the testing, which is also outside of the Planning Board's purview. He did add that the co-op has shared with the Board their intent to produce a high-quality product.

**Continued 2018-004PB Claire Perry**

Atty. Zehnder states that he's read communication from the Cape Cod Commission's Chief Regulatory Officer, Jon Idman. He's indicated that this approval requires review by the CCC. Atty. Zehnder is concerned that a member of the Planning Board reached out to the CCC independently as opposed to the Board doing it as a Board Action. He is reserving whatever action he may take to a later date. Per Atty. Zehnder, Mr. Idman is assuming that the land in question derives from a parcel of land which was thirty acres (or more) back in 1994. Atty. Zehnder is not sure that is a correct assumption. He believes it is an incorrect assumption. They are going to withdraw this application. Atty. Zehnder is going to review the title history and the ownership history of this property. He will prepare an analysis of the ownership of the property as of that date and continue from that date forward to determine exactly what acreage was owned by whom. He believes that information will give the Board a better understanding whether the CCC review was mandated and a mandatory review under the CCC act. Atty. Zehnder would love to hear the opinions of the Board since their site visit.

From Chair Sollog's perspective, he felt the road was quite a distance and that might be the one hinderance, in his view, of a dead-end road that would be approximately two-thousand feet long. If the road had a way to continue on, that would take that issue off the Board completely. The rest of the Board had no additional comments.

**Chair Sollog made a motion to allow a withdrawal without prejudice.**

**Mr. Boleyn seconded the motion.**

**So voted; 7-0-0, motion carries.**

### **Continued Deliberation by Planning Board-Draft Marijuana Bylaw**

At 6:17pm, Katherine Laughman joined the meeting via conference call and the Board proceeded to continue their deliberation on the draft marijuana bylaw at "Additional Provisions Regarding Cultivation". Mr. Kiernan pointed out that in the draft, the amount of canopy proposed pertains to marijuana cultivated on each parcel. Some of the locations have more than one parcel. He recommends changing the word "parcel" to "location". That would identify both a single parcel, and possibly more than one adjacent parcel. Ms. Laughman thinks that the term "location" would need to be clarified. Mr. Riemer asked if a definition of "parcel" should also be included. Ms. Tosh doesn't believe they need to change the word from parcel to location. Ms. Laughman has advised to extract the definition of "parcel" out of the footnote and put it into the area of the bylaw that has the rest of the definitions.

The Board moved along to "Special Permit and Site Plan Review Criteria". Chair Sollog stated that for the time being, they would leave the wording alone in this section. He suggested they review the "Use Table" next.

Mr. Riemer interjected to ask if they could talk about a couple of areas not in the bylaw. Those items being; "Sanctions and Remedies" and "Severability Clause". The Sanctions and Remedies section could specify penalties for violation of the bylaw and whether non-criminal disposition will be available. The Board would need to specify who shall have standing to apply for enforcement of the bylaw and what remedies are available to one seeking enforcement. An appropriate mechanism for administrative review must be included. Per Mr. Riemer, all bylaws have a severability clause. Interim Planner Bardi stated that the zoning code bylaw does have a severability clause. Mr. Kiernan thinks it's a good idea to spell it out. He believes it may be a good selling point at the Special Town meeting. Mr. Herridge is in agreement. Ms. Laughman advised the Board that they cannot revoke a permit. They can fine, they could take it to court to file an injunction requiring compliance, but once they have granted rights under a permit, they do not have the legal authority to revoke them. Mr. Kiernan then posed a question to Ms. Laughman. He asked, if the State comes in and determines that one-half of a crop is not geo-tagged (grown illegally) what would the State then do and what rights would the Town have? Per Ms. Laughman, if crops are being grown illegally, that would be a criminal offense, and that would be handled by law enforcement. If they are growing illegally and they have a license, then that would be a matter for the State licensing enforcement division. If the Board determines someone is in violation of the terms of the special permit they can require the permit holder come into compliance or seek an injunction through the court system. The Planning Board cannot be the arbiter of whether there is a zoning violation. That is something which is given to the Zoning Enforcement Officer and the court to review the case. Ms. Tosh believes that if a permit holder loses their license, they will also lose their permit from the Town.

Interim Planner Bardi suggested they move along to review the Use Table. Mr. Kiernan does not believe that a marijuana cultivator should be in a residential district. He feels that marijuana cultivators should be allowed in the Route 6 business district. Ms. Tosh mentioned that at a prior meeting they talked about not treating a craft cultivator differently from a micro business or a craft cooperative (due to uniformity). Ms. Laughman confirmed that what Ms. Tosh said was correct. This is a land use classification and not a license classification. Mr. Kiernan asked if they could limit cultivators to tier 6 evenly. Ms. Laughman stated that they could apply the limit evenly across the residential district to all cultivation categories. Chair Sollog questioned the tier 6 proposal. Mr. Kiernan believes that will make it somewhat undesirable for commercial growing. Ms. Laughman is suggesting that the Board look at the parcel size and whether there should be a limitation on the amount per parcel, or a threshold, for certain tiers to locate on.

Ms. Tosh stated that the craft cooperative proposed starting at a Tier 2 production level of canopy per parcel, and that if they sought to increase that tier they would undergo additional site plan review and

not exceed the lot coverage in canopy limitations set forth. She believes that should apply to marijuana cultivators as well. The Board worked on crafting a footnote for craft cooperatives and marijuana cultivators which would read; "The initial Special Permit shall limit the amount of total canopy to a Tier 2 production level under 935 CMR 500.05 (10,000 sq. ft. or less) in the Residential District. Every year thereafter, the Craft Marijuana Cultivator Cooperative, MMTCCP or Marijuana Cultivator may apply to the Zoning Board of Appeals to modify the special permit to increase production levels one Tier per year to a maximum of Tier 6 production levels as established under 935 CMR 500.5, provided however (i) each licensee seeking to increase production levels must undergo additional Site Plan Review; and (ii) in no instance shall the Craft Marijuana Cultivator Cooperative, MMTCCP, or Marijuana Cultivator exceed the lot coverage and canopy limitations set forth elsewhere in this Bylaw. Cultivation in the Residential District is limited to parcels of 1.5 acres or more."

**Mr. Herridge left the meeting at this time.**

A discussion was then held regarding the number of licenses to be issued. Ms. Tosh asked if the number of licenses for all cultivators must match. For example, could there be one cultivator license and two craft cooperatives? Chair Sollog polled the Board to see if they wanted to increase the number of craft cooperatives from one to two. Mr. Kiernan suggested that would be a good item to place on a future town meeting. Chair Sollog continued reading, stating that Beach Point is not an eligible location for permitting any type of cultivator, treatment center, manufacturer, etc. He moved along to list North Truro 6A, Truro Center, North Truro Center, Route 6, and the Seashore districts. Mr. Kiernan asked that when the Board receives a clean copy, they should hold another public hearing for comments instead of going through it right now. Ms. Tosh pointed out that three public hearings have already been held. Ms. Tosh also asked if there was a requirement to have no limit on marijuana treatment centers and cultivation/dispensary. Ms. Laughman stated that the Board is not allowed to prohibit them and there is no specific provision in the medical marijuana law that talks about municipalities imposing limits. She thinks they could limit them if they wanted to. Mr. Kiernan suggested putting a placeholder of a limit of (one) in there. Chair Sollog would like a footnote added, however Ms. Laughman has stated that having a footnote is not necessary.

The Board then discussed the definition of a medical marijuana treatment center. There are two specific definitions; there is a cultivation only portion and then a dispensary/retail portion. Even though they both look like a treatment center, one is the cultivating/processing/manufacturing side, and the other dispensary/retail side. Ms. Tosh asked if they needed to allow this in the residential district to be uniform, since it is cultivation. Ms. Laughman stated that they could allow it in the same locations as marijuana cultivation is allowed as the land-use impact would be the same. Mr. Kiernan asked if a medical marijuana treatment center dispensary/retail could co-locate with the marijuana retailers. Ms. Laughman confirmed that yes, they can.

Mr. Kiernan would like to talk with the Board about several uses not allowed in the Residential District. Ms. Tosh started off by asking Ms. Laughman a question. If you allow product manufacturing, a commercial testing lab, or a research facility or transporter into the Residential District, would you also need to allow (due to uniformity) a taxi cab business or other manufacturers. Ms. Laughman responded by saying a case can be made for the fact that these are marijuana specific uses and they would not necessarily open up the Residential District to other similar uses. One clarification which could be made would be that a marijuana product manufacturer would have to be a licensed accessory, it could not be a stand-alone product manufacturing license. An agreement with most of the Board was reached to leave those discussed uses (product manufacturing, commercial testing lab, research facility and transporter) as an "N" in the Residential District.

After completing review of the use table, the Board went back to the beginning to do another run-through of the entire bylaw.

- §100.1 Purpose-Minor changes made to language and CMR references.
- §100.2 Definitions-Minor changes to CMR references.
  - A-Drafted by Ms. Laughman, no changes needed.
  - B-Minor spelling corrected.
  - C through L, no changes needed. A definition of parcel was added.
- §100.3 Eligibility (Use Table)-Completed during last review.
- §100.4 Limitations-The Board did some editing of language on the first section. The second section on Site Plan Review was also briefly edited. The third section required no editing. The fourth section regarding modifications, amendments or changes to a Special Permit was left alone at this time.
- §100.5 Applicability of Regulations-the only addition was to include MMTCs in section two, regarding the number of RMEs and MMTCs permitted in Truro.
- §100.6 General Requirements-Sections one through seven required no amending. Section eight, regarding the number of movable structures, was altered slightly. Section nine did not need any changing. Section ten pertained to the total aggregate floor area allowed for structures involved with marijuana cultivation and triggered some discussion amongst the Board members. Mr. Riemer wants this bylaw to be similar to the house size bylaw in respect to how much floor area/size of buildings is being used for marijuana cultivation. He wants the rural character of Truro to remain. Ms. Tosh would like to revisit this at their next meeting.

The Board agreed to continue their deliberation of the Draft Marijuana Bylaw on Monday, September 24<sup>th</sup>, 2018 at 12:00pm.

**Ms. Tosh made a motion to adjourn the meeting at 9:40pm.**

**Mr. Kiernan seconded the motion.**

**So voted; 6-0-0, motion carries.**



Respectfully submitted, Noelle L. Scoullar

