

**TRURO PLANNING BOARD  
MEETING MINUTES  
September 24, 2018  
Truro Town Hall**

**PLANNING BOARD MEMBERS PRESENT:** Chair-Steve Sollog, Jack Riemer, Karen Tosh, Bruce Boleyn

**PLANNING BOARD MEMBERS NOT PRESENT:** Peter Herridge, Paul Kiernan, Mike Roderick

**OTHER PARTICIPANTS:** Interim Town Planner-Jessica Bardi, Town Counsel-Katherine Laughman (via conference call),

Chair Sollog called the meeting to order at 12:00pm. He noted that Mr. Tim McCarthy was also recording the meeting.

**Public Comment Period**

No public comment.

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

The Board picked up deliberating right where they ended at their last meeting.

- §100.6 General Requirements
  - Section 10 was reviewed and modified. Section 10 discusses the total aggregate floor area allowed by a RME or MMTC within the Residential and NT6A Districts. Discussion was held regarding a two-acre lot being considered a “farmable” plot by the State of Massachusetts. Ms. Tosh would like to see the Town adopt a one-and-a-half-acre lot so as to not exclude any people interested in cultivating marijuana who do not have a two-acre lot of land. Mr. Riemer would like to keep the acreage minimum at two. Chair Sollog understands that Mr. Riemer is looking toward the future to protect the residential district. Ms. Tosh pointed out that Pure Joy Farm is situated on an approximate 1.9-acre lot of land. She does not want to put Pure Joy Farm out of business and believes that lowering the minimum acreage to 1.5-acres would help the people in the co-op who do not have two acres of land. Chair Sollog stated that if they hold the acreage to two, then at least two of the growers will be eliminated from using a parcel that they planned on using. He believes that would be in bad faith. Mr. Riemer would be willing to adopt the 1.5 acres if there was a limit placed on the number of permits allowed.  
Chair Sollog moved forward to talk about setbacks. Mr. Riemer would like a 50- foot setback for fencing. Chair Sollog stated that if you need to enclose something with a security fence, the security fence would need to follow the setbacks, which are 25 feet. Marijuana cultivation needs to be secured, so the setbacks will need to be followed. Mr. Riemer is concerned of what security fencing will look like, hence his suggestion of a 50-foot setback. Ms. Tosh mentioned that a site plan review requires a landscaping plan, so the Board will be able to see each proposal on a case-by-case basis.
- §100.7 Application Requirements
  - The Security Plan section was reviewed and left as is, since it had been previously reviewed at an earlier meeting.
  - The Resource Plan was reviewed next and left as is.
  - The Traffic Study and Circulation Plan was discussed.

- Site Plan Review and Special Permit Criteria were discussed next. This section ends up being §100.9. Items encompassed in this section pertain to site location, traditional uses of the site, and the intensity of the proposed activities.
- Additional requirements of §70.4C and §30.8 were listed and will be included under §100.7 Application Requirements. Ms. Tosh asked the Board if they would use the residential site plan review (that currently applies to the seashore) for the "R" district and use the commercial site plan review for any non-residential district. Mr. Riemer believes it would be dependent on the district in which the application is being considered. Ms. Tosh favors using the residential site plan review because the criteria will be more likely to address how things will affect a residential neighborhood. Ms. Laughman feels that is reasonable. Chair Sollog is in favor of using the residential site plan review. If there is something missing, it can be added as a separate item. Mr. Riemer argued that this is a commercial activity, potentially being run in a residential zone. He feels that certain commercial site plan review criteria apply. Mr. Boleyn is leaning toward using the residential site plan review, however he cannot find fault in the issues Mr. Riemer has mentioned. Ms. Tosh has suggested that they take certain items from the commercial site plan review criteria and add them to the residential site plan review section.
- §100.8 Review of Additional Provisions Regarding Cultivation
  - The section regarding indoor cultivation (reusing existing buildings/greenhouses, etc. along with the use of natural, or approved, screening was not subject to any amendments.
  - The next section discussing securing fencing being as inconspicuous as possible and being compatible with the surrounding neighborhood was not subject to any amendments.
  - The section regarding lighting was amended slightly to include an amendment stating that the Planning Board may require any artificial lighting system to employ appropriate components, including but not limited to LED components.
  - The section stating that the Planning Board shall include in its Site Plan Approval a mandatory condition of any cultivation activities, that sales, gifts or delivery of Marijuana or Marijuana products directly to the public shall be prohibited was not amended.
  - The next section regarding a change in the amount of canopy being cultivated being reported to the Zoning Enforcement Officer and the Zoning Board of Appeals was left alone.
- Before Ms. Laughman had to leave the meeting, Chair Sollog wished to discuss who would be the Special Permit issuer, who would be the Site Plan Reviewer, and whether the Board has any problems with sharing the responsibility with the Zoning Board of Appeals. Ms. Tosh wanted to ask another question of Ms. Laughman as well. If the Planning Board decides to share with the Zoning Board of Appeals should a section be included on how to appeal a denial of a Site Plan, or appeal what an applicant feels is unreasonable conditions. Ms. Laughman stated that because there is no statutory procedure for appealing from site plan, the typical procedure which is followed is listed below:
  - Anyone who wants to appeal applies for a Building Permit. That action is what triggers the Site Plan appeal.

Ms. Laughman added that if the Board wants an avenue to appeal, that is typically to the Zoning Board of Appeals, and then onto the court. She can provide language if the Board wants to clarify the appeals process under the bylaw for Site Plan Approval.

Ms. Tosh asked if Ms. Laughman could clarify whether a cultivator can have more than one location. Per Ms. Laughman, a cultivator cannot, under their state license, have more than one location. The cultivator would need a separate license to operate in the other location.

Ms. Laughman reminded the Board that a question had been asked regarding whether the applicant who receives permitting could go forward at their own risk (during an appeal). The ability does exist, and it is not something which the Board can take away.

The last question Ms. Tosh asked was does the bylaw clarify if you get your special permit first and then go for the site plan, do you do them simultaneously, or do you get the site plan first and the special permit second? Ms. Laughman stated that they had taken something out of the bylaw, but that the Board may want to consider clarifying which one comes before the other. The applicant cannot obtain a building permit until they have both the special permit and the site plan.

Mr. Riemer read aloud proposed language for "Enforcement" and asked Ms. Laughman if she felt it should be included. She stated that additional enforcement language could be included but ultimately it will not grant greater rights than what exist already. Mr. Riemer asked if any mention of fines should be included. Ms. Laughman stated that the violations are already governed by the existing bylaw.

Chair Sollog moved along to discuss which Board would be receiving the permits. The Planning Board has site plan review and he's satisfied that they have oversight. If a special permit is issued by the Zoning Board of Appeals, that will include the Zoning Board in the decision-making process. In Chair Sollog's mind, the question becomes, if the applicant has received the special permit, site plan review, host community agreement, and the license from the State, and then decides that he/she would like to alter something would they then need to go through all the hoops again or could a specific Board handle the change. Mr. Boleyn offered that he would think it would depend on what was being changed. Ms. Tosh is in favor of the Zoning Board of Appeals being the special permit granting authority. She believes having another set of people to review and share in the responsibility would be a good thing. Mr. Boleyn agrees.

At this point in time, Chair Sollog wished to inform the audience and the Board that member, Mr. Peter Herridge, has chosen to recuse himself from all decisions about cannabis. Although Chair Sollog is not entirely in agreement with Mr. Herridge, the reasoning given was that he felt he was too passionate about the growing and sale of cannabis in Truro. He did not want to take part in the decision. Chair Sollog wanted the Board to hear that, and to know that was Mr. Herridge's feeling. Chair Sollog thinks the Planning Board has provided, what he would consider, fair and intense guidance for the Zoning Board of Appeals to follow and have them be the Special Permit granting authority.

The Board, and Interim Planner Bardi, went back through the bylaw to make sure that the Zoning Board of Appeals was listed in areas mentioning the Special Permit granting authority. Grammatical errors and small additions/removals were made throughout.

There was much discussion around the section under §100.4 Limitations regarding which Board should be notified should a Special Permit holder had modifications, amendments or changes to licensing rights, including changes in tiers of canopy cultivation. Mr. Riemer wants to make sure that both boards receive notification, so a determination can be made as to whether that specific board needs to require additional conditions to the Special Permit (ZBA) or further site plan review (Planning Board). Wording was added which includes both the Zoning Board and the Planning Board.

After the last run-through with the Planning Board, Ms. Tosh stated that they had completed the review, subject to Ms. Laughman adding a paragraph about the appellate process from Site Plan review. Chair Sollog agreed, stating that if the Planning Board was to deny a Site Plan and

the applicant wished appeal that decision, they need to ensure that the applicant will have to appeal in court. If the applicant only must appeal to the Zoning Board of Appeals, then the Planning Board has no real "teeth" in the matter.

Interim Planner Bardi asked the Board where they wanted to fit the marijuana section into the bylaws. Ms. Tosh thinks it should be a stand-alone section within the bylaws and is okay with whatever Ms. Laughman and Interim Planner Bardi recommend.

**Ms. Tosh made a motion to approve the draft bylaw, renaming it "Proposed Section 100" of the Truro Zoning Bylaw, to refer it to the Board of Selectmen, and authorize Interim Town Planner Bardi to correct any typographical errors and to reformat or rearrange paragraphs in a way which is consistent and appropriate, and to further authorize Town Counsel to insert a section at the end describing the appellate process for appeal from denial or over-condition of a Site Plan.**

**Mr. Boleyn seconded the motion.**

**So Voted; 4-0-0, motion carries.**

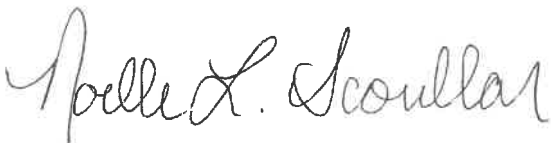
Mr. Riemer asked if a fact sheet would be available for citizens. Interim Planner Bardi stated that Ms. Laughman had worked on the fact sheet and had sent it to Town Manager Palmer and Interim Planner Bardi and that it would be going up on the town website. Chair Sollog asked when a copy of the draft bylaw would be available for the public to view. Interim Planner Bardi said that once the warrant opens it will be viewable.

Mr. Riemer asked if someone from the Planning Board would be attending the Board of Selectmen's meeting when the bylaw is presented to them to perhaps answer any questions the Board may have. Interim Planner Bardi stated that she will draft a report with recommendations for the bylaw for the Board of Selectmen. Chair Sollog stated that he will attend the Board of Selectmen meeting if he is available.

**Ms. Tosh made a motion to adjourn at 2:57 pm.**

**Mr. Boleyn seconded the motion.**

**So Voted; 4-0-0, motion carries.**



Respectfully submitted, Noelle L. Scoullar

