

Planning Board Minutes: July, 09 2013

Attending: Max Lamson (ML), Chair; Bernie Cahill (BC), Vice Chair; Chuck Shea (CS); Gregory Tuzzolo (GT); Jason Kreil (JK), Alternate

At 7:00 P.M. ML called the meeting to order and provided an Introduction of the Board Members.

ML Provided an Intro to medical marijuana topic to lead the discussion of possible By-Laws for Medical Marijuana Dispensaries

BC: Hill Law info on ByLaws, compare to other zoning

JK: Have our new Town Planner look into it

GT: We add to table of uses

CS: Town of Westborough bylaws, entered into the record (See Attachment A)

ML: Bolton information

JK: Develop a timeline—will need to have something drafted by mid-August to get on the warrant

ML: How do we feel about HCI (Health Care/Industrial) Zoning District?

JK: HCI or I (Industrial District) (with setbacks), need to address mixed zoning—perhaps make a setback from residential zoning but not residences

ML: Police department concerns and other officials. Will there be BOH regulations?

ML: Joe Mullin is open to the idea, reference email (See Attachment B).

BC: Should we outline something to discuss at next meeting, have a public hearing?

GT: Consider a second warrant article that would extend the moratorium

CS: If the Clock Tower opposes then the AG might not approve it

CS: Maynard business alliance opinion?

JK: Consider Business, not CB (Central Business) District

Maura Flynn (MF), Patty Lane: Educate people on the issues. Consider looking at other models, like Rhode Island or Oakland. Challenges with Maynard as a center for this *kind* of “medication”.

Vic Tomyl (VT): What is so dangerous about it?

Elizabeth Steiner Milligan, 4 Lincoln Street: Going to be a regulated operation and could be good for the Town to get in now.

GT: Understand the needs of the facility to consider zoning

ML: Indicated moving onto Old & New Business, including election of officers

GT: Next hearing is on the proposed industrial zoning changes. Can we add a special permit requirement be added, not attached to the use (i.e. not attached to the table of uses) perhaps attached to the size.

BC: Should anything over 75,000sf be special permit?

ML: Discussion of status of 129 Parker

ML: Vote on Bernie Cahill for Chairman of the Planning Board 5-0

JK: Vote on Max Lamson for Vice Chairman of the Planning Board 5-0

ML: Signing the decision for 107 Main

JK: We need to amend the floodplain bylaw to reference the updated FEMA Maps.

ML: Perhaps we can have the new Town Planner look into this and get it onto Fall Town Meeting.

ML: - Approval of Minutes. JK made the Motion to approve the following sets of minutes as amended. Seconded by CS.

Date	Favor	Abstain
2.26.2013	4	1
3.5.2013	4	1
4.9.2013	4	1
4.23.2013	4	1
5.7.2013	4	1
5.8.2013	4	1
5.14.2013	4	1
5.15.2013	4	1

ML: Motion to adjourn the meeting at 9:00PM, JK second. 5-0 in favor.

Exhibit A:

Westborough March 5, 2013 Town Meeting Warrant

Article #16

“Proposed Amendment to the Westborough Zoning Bylaws to Regulate Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation by its complete disallowance (Planning Board).

*The Commission is seeking to increase the membership back to 9 members with 4 of the members being high school students (2 seniors and 2 juniors) to obtain their input on the activities of the Youth Commission.*

**ARTICLE 16: Proposed Amendment to the Westborough Zoning Bylaws to Regulate Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation by its complete disallowance. (Planning Board)**

To see if the Town will vote to amend the Westborough Zoning Bylaws by adding definitions of Medical Marijuana Treatment and Dispensing Facilities, Marijuana and Marijuana Cultivation by amending “Article 5, Definitions” adding the following:

**“Medical Marijuana Treatment and Dispensing Facilities”** shall mean a not-for-profit entity, as defined by Massachusetts Law as a Medical Marijuana Treatment Center, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, or sells material to qualifying patients or their personal caregivers. It shall also include any establishment having as any portion of its stock in trade marijuana or non-FDA approved marijuana based products or its active ingredient, THC (tetrahydrocannabinol); or paraphernalia for the consumption or delivery of marijuana or products containing marijuana as allowed for medical uses under Massachusetts Law, including but not limited to retail distribution, wholesale distribution or growth and/or cultivation of marijuana; production or sale of marijuana (cannabis) seeds; or the refinement or manufacturing or sale of marijuana infused products.

**Marijuana:** In addition to the Commonwealth’s definition under Chapter 94C of Mass General Laws, our definition shall include: Marijuana, Marihuana, Cannabis, Hashish, Cannabis seeds, THC (tetrahydrocannabinol) and its derivatives and extracts as well as any substances containing THC whether in plant, including its flowers, oil, resin, solid, liquid or aerosol form.

**Marijuana Cultivation:** The process of propagation, including germination, using soil, hydroponics, or other mediums to generate growth and maturity. The intended process of bringing a plant or other grown product to maturity for harvesting, sale, refining or use as an ingredient in further manufacturing or processing. This definition encompasses marijuana cultivation related to Medical Marijuana Treatment and Dispensing Facilities, personal cultivation by qualifying patients or cultivation by personal caregivers on behalf of qualifying patients or others.

And by amending the Westborough Zoning Bylaws by amending **Article 5, Definitions, Agricultural** by adding the following sentence:

**“Agricultural shall not include any uses or activities associated Medical Marijuana Treatment and Dispensing Facilities or Marijuana Cultivation. Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation are defined elsewhere in Article 5 Definitions.”**

so that the final definition shall be as follows:

**Agricultural:** shall mean the science, art and business of cultivating the soil, producing crops, and raising of livestock, useful to man. Agricultural shall not include any uses or activities associated Medical Marijuana Treatment and Dispensing Facilities or Marijuana Cultivation. Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation are defined elsewhere in Article 5 Definitions.

And by amending Section 2300, Use Regulation Schedule, by adding a new line as follows:

	C	R	AA	BA	G2	BB	IA	IB	IC	ID	M	AE	M1	All	DPOD	MUD
	AB													Other		
<b>Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation:</b>	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N

And by creating a new **Section 5700** as follows:

**5700. MEDICAL MARIJUANA TREATMENT AND DISPENSING FACILITIES and MARIJUANA CULTIVATION**

“Note: Land use in the Town of Westborough is governed first and foremost as described in the “Use Regulation Schedule” of Section 2300 in which uses for Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation are disallowed altogether. If any aspect of Section 2300 of these Bylaws is adjudged by any court of competent jurisdiction to be invalid as it relates to the disallowance of land use for Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation in the Town of Westborough, the zoning of Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation uses in the Town of Westborough shall be governed in accordance with this section, Section 5700”.

**5710. PURPOSE:**

The intent of this bylaw to address possible adverse public health and safety consequences related to the passage of Question 3 on the November 6, 2012 State Referendum. It is the purpose of this section titled “Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation” to minimize any potential adverse impacts on the quality of life in the Town. It is the intent of this bylaw to establish specific zoning standards and regulations for medical marijuana centers (treatment and dispensing facilities), medical marijuana infused products, medical marijuana paraphernalia, manufacturers, and medical marijuana growing and cultivation operations either related to Medical Marijuana Treatment Facilities and Dispensaries or the personal cultivation by qualified patients or cultivation by personal caregivers on the behalf of qualified patients or other users;

To provide for the limited establishment of Medical Marijuana Treatment and Dispensing Facilities in appropriate places and under strict conditions in acknowledgment of the passage of Initiative Petition 11-11 (Question #3 on the November, 2012 state ballot);

To minimize the adverse impacts of Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Facilities;

To regulate the siting, design, placement, safety, monitoring, modification, and removal of Medical Marijuana Treatment and Dispensing Facilities; and Marijuana Cultivation; and

To limit the overall number of Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation activity in the Town to what is essential to serve the public necessity.

**5720. APPLICABILITY:**

The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited unless permitted as a Medical Marijuana Treatment and Dispensing Facility under this Section.

**5721.** No Medical Marijuana Treatment and Dispensing Facility or any Marijuana Cultivation use shall be established except in compliance with the provisions of this Section.

**5722.** Nothing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

**5723.** If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

**5730. GENERAL:**

Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation shall be authorized by Special Permit only in District(s) provided, as set forth in Section 2300, Use Regulation Schedule of the Zoning Bylaws. Any such Special Permit issued by the Special Permit Granting Authority shall comply with all relevant local, state, and federal laws.

**5740. DISALLOWANCE:**

No Medical Marijuana Treatment and Dispensing Facilities or Marijuana Cultivation Special Permit shall be issued to any person convicted of violating the provisions of Mass General Law,

Chapter 119, Section 63, or General Law, Chapter 94C, or similar laws in other jurisdictions. Any applicant for special permit under this Bylaw must allow for a criminal background check which includes jurisdiction beyond Massachusetts.

**5750. ELIGIBLE LOCATIONS:**

Any Medical Marijuana Treatment and Dispensing Facility or Marijuana Cultivation activities permitted under this Section shall be located only in a zoning district that is designated for its use within this Zoning Bylaw.

No Medical Marijuana Treatment and Dispensing Facilities use or Marijuana Cultivation activities shall be located with five hundred (500) linear feet of a property line where the following Districts or activity or uses occur:

1. Any Residential District as defined in these Zoning Bylaws;
2. Any school or child care establishment; or place where minors frequent (e.g. a library, ball field, sports or family recreation facility, religious facility or the like);
3. Any other Medical Marijuana Treatment or Dispensing Facility or Marijuana Cultivation site;
4. Any drug or alcohol rehabilitation facility;
5. Any correctional facility, half-way house or similar facility; or
6. Any establishment licensed under the provisions of General Law, Chapter 138, Section 12.

**5751.** No marijuana or marijuana based product shall be sold or grown or cultivated, interior or exterior, of a residential dwelling unit or residential district. Growing and related cultivation activities shall occur only in districts as permitted in this Bylaw.

**5752. Separation:** Distances shall be calculated by direct measurement from the nearest property line of the land used for school or child care purposes or places where minors frequent or any other use listed above in Section 5750 to the nearest portion of the building in which the medical marijuana dispensary is located.

**5753. No Entitlement or vested rights to permitting:** No person shall be deemed to have any entitlement or vested rights to permitting under this Bylaw by virtue of having received any prior permit from the Town including, by way of example only, any zoning permit or any wholesale food manufacturer's license. In order to lawfully engage in the business of selling, cultivating marijuana, or manufacturing medical marijuana, or products containing marijuana, cannabis, or THC, in the Town on and after the date of passage of this Bylaw, any person must qualify for and obtain a special permit in accordance with the requirements of this Bylaw.

**5754. Off-site delivery prohibited:** All sales and distribution of medical marijuana by a licensed Medical Marijuana Treatment and Dispensing Facility shall occur only upon the permitted premises, and the registrant shall be strictly prohibited from delivering medical marijuana to any person at any other location.

**5755. Signage:** Any permitted Medical Marijuana Treatment and Dispensing Facilities site shall comply with the requirements of the Town Sign Bylaws at all times. In addition, upon penalty of special permit revocation, no permitted Medical Marijuana Treatment and Dispensing Facility or Marijuana Cultivation Facility shall use any advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors. Off site signage or advertizing in any form, including billboards shall not be allowed.

**5756. Visibility:** There shall be no visibility of activities, products or treatment occurring within or on the premises of a Medical Marijuana Treatment or Dispensing Facility or Marijuana Cultivation Facility from the exterior of such facility or premises.

**5757. Manufacturing:** A local special permit for medical marijuana infused product manufacturing may be issued only in locations where Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation activities are permitted.

**5758. Cultivation Activities:** Cultivation, as defined in this Bylaw, by any qualifying patient, personal caregiver, or Medical Marijuana Treatment and Dispensing Facility in any location other than where specifically permitted shall be disallowed. This disallowance shall include cultivation, even where proposed as an accessory use, by any qualified patient, personal caregiver, or Medical Marijuana Treatment and Dispensing Facility.

**5760. TERM OF SPECIAL PERMIT:**

Any local special permit issued pursuant to this Section shall be valid for a period of two years from the date of issuance. Any renewal of the special permit shall be governed by the standards and procedures set forth in this Section and any regulations adopted pursuant thereto by the Planning Board/Zoning Enforcement Officer and/or Licensing Board.

**5761. Notification:** Any new applications sought under this Section must be publically advertised for a period of no less than fourteen (14) days, not including the date of the required special permit public hearing. Abutters within three hundred (300) feet shall be notified in writing of said application, and include any and all dates and locations of public hearings on said application.

**5770. CONFLICT OF LAWS:**

In the event of any conflict between the provisions of this Bylaw and any other applicable state or local law, the stricter provision, as deemed by the Zoning Enforcement Officer, shall control.

**DEFINITIONS:**

**“Medical Marijuana Treatment and Dispensing Facilities”** shall mean a not-for-profit entity, as defined by Massachusetts Law as a “Medical Marijuana Treatment Center”, registered under

this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, material to qualifying patients or their personal caregivers. It shall also include any establishment having as any portion of its stock in trade marijuana or non-FDA approved marijuana based products or its active ingredient, THC (tetrahydrocannabinol); or paraphernalia for the consumption or delivery of marijuana or products containing marijuana as allowed for medical uses under Massachusetts Law, including but not limited to retail distribution, wholesale distribution or growth and/or cultivation of marijuana; production or sale of marijuana (cannabis) seeds; or the refinement or manufacturing or sale of marijuana infused products.

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	AB			Other												
<b>Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation:</b>	N	N	N	N	N	N	N	N	N	N	N	SP(2)	N	N	N	N

**(2) Allowed by Special Permit issued by the Planning Board.**

*Town Manager’s Statement – This article seeks to prohibit the dispensing or growing of medical marijuana. If this is struck down by the Attorney General, the Article then provides for the dispensing and growing within an overlay zone within Town through a Special Permit granted by the Planning Board.*

**ARTICLE 17: CITIZEN PETITION (By Petition)**

To see if the Town will vote to limit the Tax Rate for FY15 and FY16 to 0% increase or less over FY14 Tax Rate. This will require that the Finance Advisory Committee produce a budget that shows the impact on Town Services. This Article is designed to direct the Selectmen to pursue

Exhibit B:

Email Correspondence Planning Board Member Max Lamson with  
Joe Mullin, Clock Tower Place

**Eric Smith**

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**From:** Max Lamson <maxmaynardpb@gmail.com>  
**Sent:** Thursday, July 18, 2013 2:36 PM  
**To:** Eric Smith  
**Subject:** Fwd: FW: Clock Tower Uses

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**From:** Joe Mullin [mailto:[jmullin@wellesley.com](mailto:jmullin@wellesley.com)]  
**Sent:** Monday, July 08, 2013 5:43 PM  
**To:** Max Lamson  
**Subject:** RE: Clock Tower Uses

Monday, July 08, 2013

Hi Max,

Thanks for the contact.

We would very much be open to discussing the addition of Medical Marijuana zoning as an allowed use within our Health Care Industrial Zone.

The key to this discussion, from our point of view here at Clock Tower Place, would be for us to be responding to the Planning Board, and other town officials and boards, regarding whether or not there was and is a consensus, within the Town, for such a zoning change.

Determining informally or formally if there is, or is not, such a consensus, would likely be the most important factor re whether or not Clock Tower Place would proactively work with the Planning Board, and town officials, in favor of this zoning change.

To this end I would be willing to come before the Planning Board for a baseline discussion of this opportunity, and its challenges and benefits.

I am not available tomorrow night, but would be available for other meetings this summer, or other meetings in the future, in the event the Board is interested in commencing these discussions.

All the best,

Joe Mullin

Public Affairs Director

Clock Tower Place

[978-823-8200, extension 883](tel:978-823-8200)

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**From:** Max Lamson [<mailto:mlamson@sanbornhead.com>]

**Sent:** Monday, July 08, 2013 2:01 PM

**To:** Joe Mullin

**Subject:** Clock Tower Uses

Joe,

I hope that this finds you well.

The Maynard Planning Board is meeting tomorrow night to discuss Medical Marijuana zoning. There has been some preliminary consideration that Medical Marijuana as a wellness center would be a consistent use in the Heath Care/Industrial District but wondered if you had any thoughts about potentially adding this use to Clock Tower?

Thanks,  
Max Lamson

Maynard Planning Board, Chairman

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**Max E. Lamson**  
Senior Project Manager

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