

**Minutes of the  
Topsfield Planning Board  
Town Library Meeting Room  
March 20, 2018**

Chairman Morrison called the meeting to order at 7:33PM.

Board members present: Chairman Martha Morrison, Jeanine Cunniff, Josh Rownd, Steven Hall and Joseph Geller. Of the Planning Board staff Community Development Coordinator Donna Rich was in attendance.

Visitors: Tri Town Council representative Meredith Shaw.

Residents: Selectmen John Spencer and Dick Gandt, Finance Committee member Eric Menzer, residents Kim Sherwood, Dave Larson, Jodi Clineff, Zillie Theodorou Bhujju and Heidi Fox.

Chairman Morrison announced that the meeting would be recorded.

**Public Hearing:**

**Proposed Amendments to the Topsfield Zoning Bylaw for the May 1, 2018 Annual Town Meeting** – Member Steve Hall read the Legal Notice to open the Public Hearing.

1) Article XII, Sign Regulation: amend Section 13.4 and add a new section 13.7, Enforcement, to the Zoning Bylaw Sign Regulation: Member Jeannine Cunniff explained that the Board of Selectmen had requested the amendment because of correspondence they received describing inconsistencies in enforcement within the by-law. Chairman Morrison explained that Town Counsel recommended not adding the enforcement because it is covered under the Zoning By-law Article V. However Town Counsel suggested that an enforcement clause be placed within the Board of Selectmen Rules and Regulations.

Chairman Morrison announced that one objective of this article proposes to fix the lettering/numbering within this section, a housekeeping issue.

Chairman Morrison stated that internally illuminated signs are not permitted, however some “OPEN” signs are grandfathered. The Building Inspector requested that a change be proposed to the by-law to help bring equity to the use of the internally illuminated “OPEN” signs.

Chairman Morrison then spoke of the portable A-frame signs, stating that currently they can only be used by businesses on a temporary basis, such as to announce sales, however, they appear in many places all over Town to advertise products or services, sometimes on public property. The Building Inspector has requested that a change in the by-law be considered that would allow A-frames for regular use by businesses if they are placed on the businesses’ properties and taken in at night.

Chairman Morrison opened up to public comment: Selectmen John Spencer asked how the changes would affect business signs that are similar in style to campaign signs, mounted on wire frames stuck into the ground. Chairman Morrison commented that they are illegal and can't be displayed on people's property without permission. Chairman Morrison stated that the Building Inspector requests that anyone that knows of signage that is non-compliant should send notice to him via email or signed written note, stating the location of the non-compliant sign. After receiving such notice, he will investigate. Selectmen Dick Gandt stated his concern that A-frame signs would multiply everywhere if no restrictions were stated in the by-law. Member Josh Rownd requested possible solutions, and Mr. Gandt responded that he thought restrictions for time limits on temporary A-frame signs would be sufficient.

Member Josh Rownd suggested adding to section b: 'in front of a business establishment during regular business hours'.

Dave Larson mentioned the fluttering signs. Chairman Morrison reported that banners have to be associated with a particular event and are subject to a time limitation. Banners that are left up for extended periods of time are illegal.

The Board discussed section c and determined it could be eliminated by adding to the last sentence of section b: 'Signs shall not obstruct sidewalks or pedestrian and/or vehicular traffic'.

Selectman Dick Gandt then requested tweaking of the first sentence to read: 'The only exception to this section is'..., with further discussion of the allowable size of the 'OPEN' signage. The Board agreed to change the size to read: '4 square feet'.

2) Article XI, Groundwater Protection District: amend Zone II to include a recharge area, Zone II, in Topsfield's District: Member Josh Rownd explained that a neighboring town requested that Topsfield create a Groundwater Protection District that would affect some residential properties. The Board, after consulting with Water Superintendent Greg Krom, decided not to proceed with this Article.

3) Article VII, Section 7.05: replace existing Section 7.05 Temporary Moratorium On Recreational Marijuana Establishments with a new Section 7.05 "Marijuana Establishments": Chairman Morrison began by stating there would be two (2) articles relative to this issue, the first a General By-law, which doesn't require a Public Hearing, and the second a Zoning By-law that does require a Public Hearing. Language presented was provided by KP Law. The effect would be that the sale and cultivation of recreational marijuana would be banned in Topsfield. Comments: Chairman Morrison noted that those who attended the Forum, held on February 13<sup>th</sup> supported this ban. Jeanine Cunniff noted that a General By-law requires simple majority vote at Town Meeting and Zoning By-law requires a 2/3rd majority vote at Town Meeting. There was a discussion of what happens if the General By-law passes at Town Meeting and the Zoning By-law doesn't pass. It was noted that if someone desperately wanted to set up a retail marijuana shop in Topsfield, the General By-law might provide protection. However, this could be challenged because retail sales are considered a "land use," by law governed by zoning bylaws. Jeanine Cunniff recapped the information presented at Minutes of 03/20/18

the Town Forum quoting the Town voted 57% to 43% against marijuana, which allowed the Town to place a total ban on recreational marijuana by a vote of Town Meeting.

4) Amend Table of Contents: Chairman Morrison reported that this would replace Section 7.05 “Temporary Moratorium On Recreational Marijuana Establishments” with Section 7.05, “Marijuana Establishments” within the Table of Contents.

5) Amend Articles I, II, III and VII to establish a Medical Marijuana Overlay District: Chairman Morrison explained that request originated from the property owners, the Patton’s. They followed the process to petition for a change in use. They met with the Town Administrator and Community Development Coordinator, sent a letter to the Board of Selectman requesting placement on the Warrant, then forwarded a request to the Planning Board because it would be a Zoning article. As a Zoning Bylaw it is required by law to be reviewed by the Planning Board in order to provide a report to Town Meeting. It is being presented as a new article, number LXVII, with language describing the district, the definition, conditions for a special permit, all requirements they have to meet and standard language that is associated with medical marijuana facilities. Chairman Morrison further explained that what this does is take the Business Park District, 22 lots, which already allow cultivation, and add the lot on Asbury Street, to create an overlay district, all 23 lots being pulled together into one overlay district. This is much like the other overlay districts that exist in Town, such as the Groundwater Protection District, Scenic Overlay District, and Elderly Housing District, some have contiguous lots and some do not, this proposed overlay district is similar to our others and is the approach the property owners are pursuing. Chairman Morrison noted that the Town voted at the State Ballot 59% to 41% in favor of medical marijuana. Chairman Morrison noted that this is what is before the Planning Board and that for the Patton family to proceed with their business plan they must negotiate a Host Community Agreement with the Board of Selectmen and submit to site plan review under the Zoning Board of Appeals. Member Joe Geller recused himself due to his ownership of property within the Business Park District.

Chairman Morrison turned it over to Selectman John Spencer who briefly reviewed the business side of the Pattons’ plan for the property. Selectman John Spencer described why the Patton family wishes to dedicate Lot 1, Map 45 to the cultivation of marijuana for medicinal purposes. Selectman Spencer then described briefly the processing of the marijuana plant, explaining which parts are sold or transformed into products that would assist individuals for medicinal purposes. The law states that if a business cultivates for medicinal purposes it is required to have a retail shop for medicinal marijuana. Mr. Spencer said that the Patton family states that it plans on opening a retail establishment on the South Shore of Boston, licensed separately through the State. Selectman Spencer described some of the legal requirements. A business must have a cultivation company, which sells directly to a retailer and a processing company, both of which must report to the State. The operation of cultivation was described as being grown under glass and would not be seen from Asbury Street. Transportation of the product would occur most likely 2-3 times a week in vans that are driven by bonded carriers. There would be a 24-hour security system at the facility. Selectman Spencer continued to describe the Host Community Agreement (HCA), which was explained to be an agreement that has to be in place with the community in order for the Patton’s to be licensed by the state. Selectman

Spencer noted that he has done a lot of research and has been gathering information so as to have the conversation with the Board of Selectmen so that the Board of Selectmen may be prepared to negotiate this agreement. The revenue from this agreement is a negotiated amount. It was explained that cultivation facilities do not typically receive the full 3%, but something less than that. It was noted that the tax on the property would change due to the change in use, from Chapter Land to real estate property tax. Further noted was that the Town could benefit financially from the new business plan, however the HCA is up to the Board of Selectmen and the recommendation for Town Meeting action is the responsibility of the Finance Committee. Selectman Spencer added that the HCA payments would be restricted to specific types of expenditures of the Town and would be identified within the agreement. The Patton family timeline was reviewed with more information that would be vetted out with the Board of Selectmen, under the guidance of Town Counsel, KP Law.

Chairman Morrison noted that a site plan of the project would be developed and provided to the Town. Chairman Morrison noted that this is a single lot on Asbury Street. Immediate abutters are Essex County Greenbelt and the Patton family, surrounded by permanently protected land. Chairman Morrison described that at a future Town Meeting dispensaries in the Business Park District could be removed.

Resident Heidi Fox asked for an explanation of the chemical properties of the marijuana plant, Selectmen Spencer explained what the differences are between the extractions from the plant are for recreational and medicinal purposes. Resident Kim Sherwood asked why the Planning Board was being informed of the Board of Selectmen business at a Planning Board meeting. Chairman Morrison explained the importance to understand the economics and extensive implications of the details that surround this Article. It was commented that the Town needs to understand all the information that is available at this point in time. Resident Heidi Fox expressed her opinion that this is not only an economic decision for the Town. It is also a social and cultural decision.

The Chairman asked if there were any changes the Board would like to make to the language in this article:

Member Jeanine Cunniff suggested in 17.03-Definitions, paragraph a remove a comma between 'and related'; in paragraph b, replace 'means' with 'shall mean'....

Member Jeanine Cunniff suggested in section 17.04-Location and Dimensional Controls, paragraph 6 add a dash between By-law, and remove comma after 'signage'....

Member Jeanine Cunniff suggested in section 17.05-Special Permit, paragraph 7 insert a comma after 'drainage, and light...'; in paragraph b insert a comma after 'Planning Board, Police Department'....

Chairman Morrison suggested in section 17.05-Special Permit, paragraph b removal of 'Section [SP] and [SPR] of the' with 'the procedures for Special Permits and Site Plan Review of this'....

Member Jeanine Cunniff suggested in section 17.07-Severability, end of statement correct the backward quote symbol.

Zillie Theodorou Bhujy asked about organic growing and the impact on the environment. Chairman Morrison stated that during site plan review all the environmental concerns would be reviewed.

Member Jeanine Cunniff made a motion to close the Hearing, seconded by Member Steve Hall; so voted: 5-0

Member Steve Hall made a motion to approve Article XIII, Sign Regulation, as amended, seconded by Member Josh Rownd; so voted: 5-0.

Member Jeanine Cunniff made a motion to dismiss Article XI, Groundwater Protection District, seconded by Member Steve Hall; so voted: 5-0.

Member Steve Hall made a motion to approve Article VII, Section 7.05, replace existing Section 7.05 Temporary Moratorium On Recreational Marijuana Establishments with a new Section 7.05 “Marijuana Establishments”, seconded by Member Josh Rownd; so voted: 5-0.

Member Jeanine Cunniff made a motion to take positive action to approve Amend Table of Contents, Marijuana Establishments, seconded by Member Steve Hall; so voted: 5-0.

Member Josh Rownd made a motion to approve to a new Article LXVII, Medical Marijuana Overlay District, as amended, seconded by Member Steve Hall; so voted: 3-1-1. Member Jeanine Cunniff voted against it. Member Joe Geller recused himself.

Assignments for presenting at Town Meeting:

Article XIII, Sign Regulation: Josh Rownd

Article VII, Section 7.05, replace existing Section 7.05 Temporary Moratorium On Recreational Marijuana Establishments with a new Section 7.05 “Marijuana Establishments and Table of Contents: Steve Hall

Article LXVII, Medical Marijuana Overlay District: Martha Morrison

At 9:44pm, Member Joe Geller made a motion to adjourn and Member Steve Hall seconded the motion; so voted: 5-0.

Respectfully submitted,

Donna C. Rich  
Community Development Coordinator

Per the Open Meeting Law, the documents that were either distributed to the Planning Board before the meeting in a packet, or at the meeting were:

1. Agenda

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2. Minutes of January 9, 2018
3. Draft language for the proposed Warrant Articles, dated 3/19/18

*Approved as amended at the April 17, 2018 Planning Board meeting.*

<p>Pursuant to the 'Open Meeting Law,' G.L. 39, § 23B, the approval of these minutes by the Committee constitutes a certification of the date, time and place of the meeting, the members present and absent, and the actions taken at the meeting. Any other description of statements made by any person, or the summary of the discussion of any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Committee as to the completeness or accuracy of such statements.</p>
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