

Town of Sharon Planning Board
Minutes of 3/15/18
Sharon Community Center
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Planning Board	
David Blaszkowsky, Chair	Peter O'Cain, Town Engineer
Ben Pinkowitz absent	Lance Delpriore, Assistant Town Engineer
Shannon McLaughlin absent	Rob Maidman
Pasqualino Pannone	

Other Attendees	
Various attendees	Lisa Whelan

Meeting Initiation

Chair. Blaszkowsky called the meeting to order at 7:30 PM.

Meeting Minutes

Mr. Maidman moved to accept the minutes of 3/8/18 and Mr. Pannone seconded the motion. The Board voted 2-0-1 (Pannone) in favor of approval.

Public Hearing Solar Energy Article

Mr. Maidman read the public hearing notice.

Mr. Pannone moved and Mr. Maidman seconded the motion to open the hearing. The Board voted 3-0-0 in favor of approval.

ARTICLE – Commercial Solar Energy Systems

To see if the Town will vote to amend the Town's Zoning Bylaws by amending Section 2313 – Other permitted principal uses – by adding a new subsection (d), to allow commercial solar energy systems within residential districts on land owned by a municipal body, other than land under the control of the Sharon Conservation Commission; provided, however, such use is permitted only on a parcel consisting of two or more acres, as follows:

d. In all residential districts, commercial solar energy systems on land owned by a municipal body, other than land under the control of the Sharon Conservation Commission; provided, however, such use is permitted only on a parcel consisting of two or more acres. Parcels separated by a road shall be considered adjacent for purposes of this Subsection d.

Or take any other action relative thereto.

Comment: The May 2017 ATM voted to amend the Zoning Bylaw Section 4534 to exclude Large-Scale Ground-Mounted Solar Photovoltaic Installations from

impervious area limitations. Do we need to expand that to include all "commercial solar energy systems" or is the existing language sufficient, depending on what types of solar facilities you're anticipating on town owned land?

The proposed change would not specifically allow commercial solar energy systems in the Business districts.

Conversation ensued.

Mr. Pannone moved and Mr. Maidman seconded the motion to close the public hearing on solar energy. The Board voted 3-0-0 in favor of closing the hearing. No vote was taken.

Ms. Whelan will be modifying language based on the public hearing comments. This will be discussed at the 3/29/18 meeting.

Town Meeting Articles

Mr. Maidman read the public hearing notice:

To review proposed Annual Town Meeting Articles that include several options to amend the Town's Zoning Bylaw by (1) adding a new Section 3700 – Marijuana Establishments, that would ban all types of non-medical marijuana establishments as defined in M.G.L. c. 94G, § 1, in the Town of Sharon, with the understanding that in accordance with M.G.L. c. 94G, § 3(a)(2), such Bylaw must also be approved by the voters of the Town at an election; (2) amending Section 2334: Uses and accessory uses allowed by Special Permit in the Light Industrial District and Section 3600: Registered Marijuana Dispensaries, to allow marijuana establishments within the Light Industrial District; (3) amending Section 2334 to limit the number of marijuana establishments to 20% of the number of package store licenses in town, with the understanding that in accordance with M.G.L. c. 94G, § 3(a)(2), such amendment must also be approved by the voters of the Town at an election; and (4) amending Section 3730: Temporary Moratorium, relative to the use of land or structures for marijuana retailers, by deleting the date of June 30, 2018 and replacing it with December 31, 2018, thereby extending the existing temporary moratorium for marijuana establishments from June 30, 2018 to December 31, 2018

Mr. Pannone moved and Mr. Maidman seconded the motion to open the hearing. The Board voted 3-0-0 in favor of approval.

Attorney Whelan had previously provided the following document to the Board to help them better understand the articles and what they mean:

1. Ban Retail Establishments

Comments: Adoption of this zoning amendment would result in a ban on marijuana establishments in the Town. However, it would not affect RMDs and, in my opinion, it would not prevent the conversion of an existing RMD licensed prior to July 1, 2017, to a marijuana establishment.

The vote at Town Meeting to adopt the zoning amendment must be substantially the same as the ballot question. Therefore, any amendments on the floor of Town Meeting to the text of the zoning amendment must be scrutinized carefully. See AG opinion in Milford (floor amendment of zoning bylaw resulted in difference in text of zoning amendment than that shown on ballot. The zoning amendment, as voted by town meeting, had to be re-voted on a new ballot vote).

Zoning Bylaw Amendment

ARTICLE - To see if the Town will vote to amend the Town's Zoning Bylaw by adding a new Section 3700 – Marijuana Establishments, that would provide as follows, with the understanding that in accordance with M.G.L. c. 94G, § 3(a)(2), such Bylaw must also be approved by the voters of the Town at an election:

Section 3700 – Marijuana Establishments. Consistent with M.G.L. c. 94G, § 3(a)(2), all types of non-medical "marijuana establishments" as defined in M.G.L. c. 94G, § 1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Sharon. This prohibition shall not be construed to affect the medical use of marijuana as expressly authorized by the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.000 (as the same may be amended from time to time).

Or take any other action relative thereto.

BALLOT QUESTION - Shall the Town of Sharon adopt the following Zoning Bylaw:

Summary:

General Laws Chapter 94G, Section 3, allows cities and towns in the Commonwealth to approve By-Laws or Ordinances prohibiting certain Marijuana establishments to operate. The above question, if voted in the affirmative, would approve the Town Meeting vote of May 7, 2018, to enact a Zoning Bylaw amendment which would prohibit the establishment of Marijuana Establishments in the Town of Sharon, such establishment being defined in Chapter 94G, § 1 as "...a marijuana cultivator, marijuana testing facility, marijuana product manufacturing, marijuana retailer or any other type of licensed marijuana-related business." This prohibition would not affect the medical use of marijuana as expressly authorized by the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.000 (as the same may be amended from time to time).

Text of Zoning Bylaw Amendment:

Section 3700 – Marijuana Establishments. Consistent with M.G.L. c. 94G, § 3(a)(2), all types of non-medical "marijuana establishments" as defined in M.G.L. c. 94G, § 1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Sharon. This prohibition shall not be construed to affect the medical use of marijuana as expressly authorized by the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.000 (as the same may be amended from time to time).

2. Amend Existing Zoning Bylaw to Allow Recreational in the Same District as RMD

Comments: If this amendment passes, marijuana establishments will be allowed by special permit in the same manner as RMDs, within the Light Industrial District only. If this amendment does not pass and no other zoning bylaw amendment is voted on, then the Town would not have any zoning in effect to regulate location, permitting or number of marijuana establishments.

A ballot question is not necessary for this opinion, since the Bylaw amendment does not seek to ban or limit marijuana establishments.

ARTICLE – To see if the Town will vote to amend the Zoning Bylaw by amending Section 2334: Uses and accessory uses allowed by Special Permit in the Light Industrial District and Section 3600: Registered Marijuana Dispensaries, to allow marijuana establishments within the Light Industrial District, as follows:

Amend Section 2334 by adding a new subsection n. as follows:

n. Registered Marijuana Dispensaries and Marijuana Establishments as provided in Section 3600. These uses shall not be considered accessory uses.

Amend Section 3600 to add "and Marijuana Establishments" in the title.

Amend Subsection 3610 - Definitions to add the following definition of marijuana establishments:

Marijuana Establishment: A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

Amend Subsection 3620 – Siting Requirements to include Marijuana Establishments, as follows:

a. All RMDs and Marijuana Establishments, as defined in Subsection 3610 of this Zoning Bylaw are allowed only in the Light Industrial (LI) District upon the granting of a special permit by the Zoning Board of Appeals.

b. No RMD or Marijuana Establishment shall be located less than 400 feet from any residential zoning district or from any residential use; from any public or private school, or municipal building open to the general public; from any church or other religious facility; from any public park or recreation area and any principal or accessory private recreational facility use; or from any day-care center, nursing home or hospital. The minimum distance specified above shall be measured in a straight line from the nearest point of the uses listed herein to the nearest point of the proposed RMD or Marijuana Establishment, except where the distance to be measured crosses Interstate 95 or US Route 1, in which case the distance shall be limited by and measured only to the boundary of such highway.

Amend Subsection 3640 – Sign Requirements to include Marijuana Establishments, as follows:

a. Only one sign, to be mounted flat on the building wall face, shall be allowed for an RMD or Marijuana Establishment. The area of this wall sign shall be not more than 10% of the projected area of the elevation it is attached to, except that no sign shall exceed 30 square feet.

d. No RMD or Marijuana Establishment may have any flashing lights visible from outside the establishment. Furthermore, no sign shall rotate or contain reflective or fluorescent elements.

Amend Subsection 3650.a (2) and (3) – Special Permit submission and approval to include Marijuana Establishments, as follows:

(2) The distances between the proposed RMD or Marijuana Establishment and any residential zoning district, public or private school, church or other religious

facility, public park or recreation area, day-care center, nursing home and hospital, and municipal building open to the general public.

(3) Copies of all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the RMD or Marijuana Establishment.

Amend Subsection 3650.c (1) and (3) as follows:

(1) Any special permit granted hereunder for an RMD or Marijuana Establishment shall lapse after one year, including such time required to pursue or await the determination of an appeal from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or in the case of a permit for construction, if construction has not begun by such date except for good cause, including such time to pursue or await the determination of an appeal referred to in MGL c. 40A, § 17, from the grant thereof.

(3) In addition to the requirements of Subsection (2) above, a special permit granted hereunder shall have a term limited to the duration of the applicant's ownership and use of the premises as an RMD or Marijuana Establishment. A special permit granted hereunder is nontransferable and nonassignable.

Amend Subsection 3660 – Existing RMDs, to include Marijuana Establishments, as follows:

3660 Existing RMDs and Marijuana Establishments.

Any RMD or Marijuana Establishment that was in existence as of the first date of the publication of the notice of public hearing on this zoning amendment regulating medical marijuana uses or marijuana establishments may continue to operate in the same location, without material change in scale or content of the business, but shall apply for such special permit within 90 days following the adoption of this bylaw and shall thereafter comply with all of the requirements herein.

Or take any other action relative thereto.

3. Limit Number of Establishments

Comments: If option #2, above, is passed to allow marijuana establishments in the LI district, this article would amend that zoning to include a paragraph limiting the number of marijuana establishments to 20% of the number of package store licenses in town. A ballot question is required and, as stated above, the ballot question must match exactly the language of the zoning amendment as voted.

Zoning Bylaw Amendment

ARTICLE – To see if the Town will vote to amend the Zoning Bylaw by amending Section 3600: Registered Marijuana Dispensaries and Marijuana Establishments, to allow no more than 20% of the number of licenses issued within the Town under § 15 of M.G.L. c. 138 for the retail sale of alcoholic beverages not to be drunk on the premises where sold. (1) marijuana establishments within the Light Industrial District, as follows:

Amend Subsection 3620 – Siting Requirements to add a new subsection (c) as follows:

c. The number of marijuana establishments that shall be permitted in the Town of Sharon is limited to twenty percent (20%) of the number of licenses issued within the Town under § 15 of M.G.L. c. 138 for the retail sale of alcoholic beverages not to be drunk on the premises where sold.

Or take any other action relative thereto.

BALLOT QUESTION - Shall the Town of Sharon adopt the following Zoning Bylaw:

Summary:

General Laws Chapter 94G, Section 3, allows cities and towns in the Commonwealth to approve By-Laws or Ordinances prohibiting or limiting the number of certain marijuana establishments to operate. The above question, if voted in the affirmative, would approve the Town Meeting vote of May 7, 2018, to enact a Zoning Bylaw amendment which would limit the number of Marijuana Establishments in the Town of Sharon to 20% of the number of licenses issued within the Town under § 15 of M.G.L. c. 138 for the retail sale of alcoholic beverages not to be drunk on the premises where sold. Such establishment being defined in Chapter 94G, § 1 as "...a marijuana cultivator, marijuana testing facility, marijuana product manufacturing, marijuana retailer or any other type of licensed marijuana-related business." This prohibition would not affect the medical use of marijuana as expressly authorized by the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.000 (as the same may be amended from time to time).

ARTICLE – To see if the Town will vote to amend the Zoning Bylaw by amending Section 3600: Registered Marijuana Dispensaries and Marijuana Establishments, to allow no more than 20% of the number of licenses issued within the Town

under § 15 of M.G.L. c. 138 for the retail sale of alcoholic beverages not to be drunk on the premises where sold. (1) marijuana establishments within the Light Industrial District, as follows:

Amend Subsection 3620 – Siting Requirements to add a new subsection (c) as follows:

c. The number of marijuana establishments that shall be permitted in the Town of Sharon is limited to twenty percent (20%) of the number of licenses issued within the Town under § 15 of M.G.L. c. 138 for the retail sale of alcoholic beverages not to be drunk on the premises where sold.

4. Extend Temporary Moratorium

ARTICLE - To see if the Town will vote to amend the Zoning Bylaw by amending Section 3730: Temporary Moratorium, relative to the use of land or structures for marijuana retailers, by deleting the date of June 30, 2018 and replacing it with December 31, 2018, thereby extending the temporary moratorium from June 30, 2018 to December 31, 2018.

Or take any other action relative thereto.

Comments: While extending the existing moratorium would allow the Town additional time to craft zoning amendments, it may not protect the Town from applications for marijuana establishments, in any zoning district, based on predictions that the Cannabis Control Commission (the "Commission") may not view a moratorium as a vote to adopt a complete ban that is in effect prior to April 1, 2018 (the date licensing applications may be accepted).

No ballot question is required for this article.

At the meeting, Ms. Whelan explained the articles to the Board and Community.

Ms. Whelan stated that the CCC will issue extensive rules regarding the process.

No vote was taken.

Adjournment - The Board voted 3-0-0 to close the PB meeting at 10:00 PM.

Future Scheduled Meetings: 3/29, 4/12