

# ***LUNENBURG PLANNING BOARD***

## ***TOWN OF LUNENBURG***

Joanna L. Bilotta-Simeone, Chair  
Nathan J. Lockwood, Vice-Chair  
Damon McQuaid, Clk.  
Emerick R. Bakaysa, Mbr.  
Matthew Allison, Mbr.  
Marion M. Benson, Planning Director



Tel: (978) 582-4147, ext 5  
Fax: (978) 582-4353  
960 Massachusetts Avenue  
Lunenburg, MA 01462

Public Hearing Minutes  
Town Meeting Article  
March 24, 2014

Meeting Posted: Yes

Place: Town Hall, 17 Main Street, Lunenburg, MA. 01462

Time: 6:35 PM

Members Present: Joanna L. Bilotta-Simeone, Chair, Nathan J. Lockwood, Vice Chair, Damon McQuaid, Emerick R. Bakaysa, Matthew Allison

Absent: Marion M. Benson, Planning Director

Also Present: Chantell Fleck, MRPC

Chair opened the Public Hearing at 6:35 PM with the reading of the legal notice published in the Sentinel & Enterprise on March 10 and March 17, 2014. The Public Hearing was to amend the Zoning Bylaw by adding to the current Section 4.0. Use Regulations a new Section entitled Section 4.16. Registered Marijuana Dispensary. Notices were sent to abutting towns, cities, agencies and Town departments.

J. Bilotta-Simeone noted that at the November 6, 2012 State Election, for Ballot Question 3, Law Proposed by Initiative Petition, the Town voted YES to enact the proposed law eliminating state criminal and civil penalties related to the medical use of marijuana. J. Bilotta-Simeone went through the PowerPoint presentation handout (on file in the Planning Office). The Board's bylaw (below) supplements the State's Department of Public Health 105 CMR 725.000.

### **4.16. Registered Marijuana Dispensary**

#### **4.16.1. Purpose**

To provide for the placement of Registered Marijuana Dispensary (RMDs), in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c. 94C App. 1-1 - Chapter 369 of the Acts of 2012 in locations suitable for lawful medical marijuana facilities and to minimize adverse impact of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security and removal of RMDs.

#### **4.16.2. Applicability**

**4.16.2.1.** All RMDs shall comply with The Regulations promulgated by the Massachusetts Department of Public Health (DPH) 105 CMR 725.000 Implementation of an Act for the Humanitarian Medical Use of Marijuana, effective May 24, 2013, and any subsequent amendments thereto.

**4.16.2.2.** The Town reserves the right to require provisions in the DPH Regulations for which the state granted waivers and/or exemptions to the RMD applicant based on the provisions of Section 8.3.3. (as to special permit) and Section 8.4. (as to development plan review).

#### **4.16.3. Definition**

Registered Marijuana Dispensary: also known as a Medical Marijuana Treatment Center, means a not-for-profit entity registered under 105 CMR 725.000, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

#### **4.16.4. Location**

**4.16.4.1. Retail:** Allowed in Commercial Districts by special permit.

**4.16.4.2. Cultivation:** Allowed in all Districts by right if applicant is eligible for protection under Section 4.1.3(b) and G.L. c. 40A, § 3.

**Section 4.16.5. Procedure for Submittal**

**4.16.5.1.** The Planning Board shall be the Special Permit Granting Authority (SPGA) for a RMD Special Permit per MA Gen. Law 40A, Section 9. Siting shall be by Special Permit and Development Plan Review per Section 8.4 of the Lunenburg Protective Bylaw.

**4.16.5.1.a) Criteria** In granting any special permit, the Planning Board shall assure that the proposed use:

- 1) Will not be injurious or dangerous to the public health or unduly hazardous because of traffic congestion, danger or fire or explosion or other reasons.
- 2) Will not have a material adverse effect on the value of land and buildings in the neighborhood or on the amenities of the neighborhood.
- 3) Will be operated with reasonable regard for order and sightliness, if an open use.
- 4) Will not produce noise, vibration, smoke, dust, odor, heat or glare observable at the lot lines in amounts clearly detrimental to the normal use of adjacent property.

**4.16.5.2.** It is recommended that a concept plan showing the proposed use be submitted to the Planning Board for review and discussion prior to the filing for Development Plan Review.

**4.16.5.3.** The provisions of Section 8.3.3. (as to Special Permits) and Section 8.4. (as to Development Plan Review) shall apply.

**4.16.5.4.** Filing under Section 8.3.3. and 8.4. may be simultaneous.

**4.16.6. Distance** All proposed RMDs shall be sited accordingly as stated in Massachusetts Department of Public Health (DPH) 105 CMR 725.110 (A) (14).

**4.16.7. Setbacks and Buffer Strips** Cultivation facilities located within Residential Districts shall be surrounded by a buffer strip which shall be two hundred (200) feet in depth unless the applicant can demonstrate, and the Planning Board finds, that adequate buffering can be provided in a narrower buffer strip. In all other districts existing setbacks will apply. For Retail Distributions facilities without any cultivation component, which are allowed within the Commercial Districts only, existing setbacks will apply.

**4.16.8. Design Standards** In addition to requirements contained elsewhere in this Bylaw, Section 4.6.5. Design Standards shall be applicable to a RMD. The applicant shall meet all requirements of the Commercial District or DPH guidelines, whichever is more restrictive.

**4.16.9. Security**

**4.16.9.1.** All security measures to be approved by the Lunenburg Fire and Police Chiefs.

**4.16.9.2.** An active security system shall be required for all RMD locations and approved by both the Lunenburg Fire and Police Chiefs and submitted to the Planning Board

**4.16.9.3.** RMDs shall be open to inspection by the Fire Department, Police Department, Building Official and the Board of Health with twenty-four (24) hours' notice of request for such inspection to be made by the Town Department or Official. A property contact shall be available to such Town Department or Official twenty-four hours a day, seven days a week.

**4.16.10. Documentation**

The Planning Board shall be provided with all decisions or approvals, denials or other substantive actions by DPH regarding the RMD and all submittals of information between the applicant or RMD and DPH.

**4.16.11. Waivers** The Planning Board may waive any of the standards within this section provided that such waiver will not derogate from the intent established herein.

Board discussion. M. Allison- requested clarification on 4.16.7., para 2, as to "existing setbacks". J. Bilotta-Simeone noted existing setbacks for Commercial District. The setback figure will be added to 4.16.7. E. Bakaysa- opined that the 200 foot setback in 4.16.7. would render certain properties not viable for cultivation and that the public needed to be aware the Board could waive the 200 foot setback if an applicant could demonstrate that adequate buffering could be provided in a narrower buffer strip. Section will be edited to note that if the 200 foot setback renders an otherwise viable parcel unusable, the Board may waive the 200 foot setback. Board discussion as to whether the Bylaw should note that RMDs could not be located within 1000 or 500 feet of schools, libraries, etc. DPH CMR specifies 500 feet. The Board could specify 1000 feet at Town Meeting if desired by the citizenry. 4.16.7., para. 2, clarify that in all other districts, existing setbacks apply. 4.16.4.2., edit to note cultivation allowed in commercial and industrial districts by right and allowed in other districts where "applicant is eligible...". Combine 4.16.9.1. and 4.16.9.2. Add a section to include annual reporting by each facility to provide all applicable licenses to SPGA and demonstrate continued compliance with the special permit. C. Fleck to research.

Add a section limiting special permit to current owner of facility. If under new ownership, special permit may be transferred with approval of SPGA. N. Lockwood requesting Town Counsel guidance.

J. Bilotta-Simeone opened for public comment.

Celeste McCain-Stober, 275 Pleasant Street- opined that the special permit should be able to accept/reject siting in a residential neighborhood.

Tom Alonzo, 284 Lancaster Avenue- opined that the Residential District setbacks are in place for criteria established in 4.16.5.1.a). If the setback negates a parcel from being viable this should not be a reason to change the setbacks. He noted no provisions were made for processing facilities. He also inquired as to what the Board is allowed to waive under 4.16.11. C. Fleck responded that applies to 4.16.8. and 4.16.7. Clarification will be added.

4.16.4.1. will be revised to "Retail, processing and cultivation will be allowed in Commercial Districts by special permit".

4.16.4.2. will be revised to include processing.

Carl Luck, 50 Sunset Lane- asked for clarification of allowable districts for cultivation. Presently in Commercial and Office Park/Industrial by right. C. Fleck noted it is exempt from zoning if it is an agricultural use, but would not be considered agricultural if located inside a building. Change to Commercial and Office Park/Industrial by special permit.

M. Allison, Motion to continue hearing to April 14, 2014, 6:30 PM, Town Hall, Second, D. McQuaid. All aye. Recessed 8:15 PM.

E. Bakaysa, Motion to return to Regular Session, Second, M. Allison, All aye.