

Oak Bluffs Planning Board
Meeting Minutes

March 7, 2017 at 5:00 p.m. in the Oak Bluffs Town Hall Lower Level Meeting Room

Members in attendance: Brian Packish (Chairman), Robert Fehl (Vice Chairman), Jeremiah McCarthy, Ewell Hopkins

Members absent: Erik Albert

Staff in attendance: MacGregor Anderson (Administrative Assistant)

Chairman Packish opened the hearing at 5:05 p.m.

5:00 Public Hearing on Amending the Oak Bluffs Zoning By-laws, section 8 SPECIAL DISTRICTS, to insert the MARIJUANA ESTABLISHMENT OVERLAY DISTRICT (MEOD) as section 8.5.

Subject Matter of Proposed Amendments

Amending the Oak Bluffs Zoning By-laws, section 8 SPECIAL DISTRICTS, to insert the MARIJUANA ESTABLISHMENT OVERLAY DISTRICT (MEOD) as section 8.5.

Purpose of the By-Law: The purpose of this section is to establish areas in which a Marijuana Establishment may be located, while protecting the Town's unique community character and while minimizing any adverse impact on adjacent properties, residential neighborhoods, elderly housing facilities, schools, and other places where children congregate, as well as other land uses potentially incompatible with a Marijuana Establishment. Since a Marijuana Establishment will serve both Oak Bluffs and the surrounding communities, the location of the MEOD is designed to allow for ease of access by both private vehicles and public transportation, to provide sufficient parking.

Locations: The MEOD is composed of the following areas, which is identical to the overlay district providing for Registered Marijuana Dispensaries in Section 8.4 of this By-law.

The following parcels, as set forth on the maps of the Town Board of Assessors:

Map 6 Parcel 43, Map 6 Parcel 46, Map 6 Parcel 46.1, Map 6 Parcel 9, Map 7 Parcel 1, Map 24 Parcel 7, Map 24 Parcel 8, Map 24 Parcel 9, Map 24 Parcel 10, Map 24 Parcel 11, Map 24 Parcel 12, Map 40 Parcel 10, Map 40 Parcel 11, Map 40 Parcel 11.1

Chairman Packish read the hearing notice aloud in full. Mr. Anderson explained that if the Board reached a decision during this hearing he would be drafting a written recommendation for Town Meeting. That recommendation would be reviewed and voted on by the Board in two days.

Chairman Packish read the rules and procedures for the hearing aloud. He asked if there were any letters or correspondence from the public. Mr. Anderson said no.

Chairman Packish asked if anybody would like to speak for or against the proposal.

Theresa Manning from the Youth Task Force said that they as a coalition cared very much about how non-medical marijuana would impact the youth of the community. She said they applauded the Board's efforts to be really thoughtful about that. She said she had attended the last meeting and thought that Oak Bluffs was doing a particularly good job in making the impact as low as possible on the youth.

Susan Mercier from the Island Wide Youth Collaborative, and also a member of the Youth Task Force, said they worked with families and young people, and she completely agreed with Ms. Manning's comments. She thanked the Board for being so thoughtful on how this would turn out.

Bill Vrooman said the map and parcel on the hearing notice told him nothing about the location of the district. Mr. Anderson indicated the districts on a roughly 20"x36" map displayed at the hearing. He explained that the map had been available to the public during the notice period for the hearing, although nobody to his knowledge had come to view it. Mr. Vrooman thanked Mr. Anderson.

Chairman Packish said he wanted to offer some back story to the room. He said that when the Medical Marijuana law went into effect they had asked for a moratorium at Town Meeting to allow for a year to really develop the by-law. That was denied, so the Board had to act quickly. There were a lot of hearings that were pretty well attended. The medical district had a few or perhaps just one additional parcels that went to Town Meeting, and this map was what resulted from the process.

Chairman Packish said the concept here was to put together a proactive approach given this hadn't made its way through the Legislature yet, and the community really didn't know what would result for that. Chairman Packish said they wanted to have a placeholder so that when the time did come and the public asked the Board to revisit, there would be a baseline to start with, and from there the community could decide.

Chairman Packish confirmed there were no more people who wished to speak. There were none. He closed the public hearing.

Mr. Anderson explained to the Board that he would be drafting the recommendation based on this hearing only, and suggested members be explicit in their reasoning.

Member Fehl recalled that the Board had determined they did not like the term "recreational", and asked if they had made a decision on using the term. Mr. Anderson said Jeff Rose had advocated for not using that term, and as it did not exist in the Act, Mr. Anderson had not used it in the language of the by-law. He had instead used language from the Act itself, including "marijuana establishment", which was

clearly defined in the Act. He added that he had to use “recreational” sparingly in agenda as they had begun with that term and he didn’t want the public to be confused about the subject matter.

Chairman Packish noted that Town Counsel had reviewed the by-law pretty thoroughly and asked Mr. Anderson if he had anything to add on that topic. Mr. Anderson said Town Counsel didn’t write by-laws, he reviewed them, so Mr. Anderson had written it. Mr. Anderson said most of the work they’d done had been considering whether they would add non-medical into the medical by-law or rather create a second and separate by-law for non-medical. They had decided to create a separate by-law based on the structure of the medical by-law, for several reasons. First, when you got down to the nitty-gritty of removing the term “medical” you ended up with references to the wrong laws. Mr. Anderson said Town Counsel had worked with him to ensure his references in the new law referenced the Act appropriately. Mr. Anderson said there was still the opportunity for tweaking or fine tuning of language prior to Town Meeting.

Member Hopkins said he had some comments in support of this approach. He felt there had not been enough work done at the State level to define the reality of non-medical use and where it will go. In particular, he did not see a practical application for edibles in a non-medical situation. He felt they were critical for medical use, but he was leery of attracting a youthful user. This also held for tobacco and alcohol. He did not want to attract young people through flavorings or other applications of the substance. That was all being worked out, but if the Board didn’t do their work to define where non-medical could be located, and allowed anybody to apply in any business zone, they were not meeting their responsibility to the Town. He acknowledged there would be growth but felt that should be defined at Town Meeting and should not go beyond the medical district at this particular time. He supported the overlay in honoring the wishes of the Town, and until he heard otherwise from the community he didn’t want it to expand beyond where it currently was.

Member McCarthy said he agreed with a lot of what Member Hopkins said. His concern was that although they were having a public hearing today, they had not received a lot of public input yet. He acknowledged this was a stop-gap, but looked forward to the time, once the State finished its work defining the law, when they could gather more extensive public input and decide whether they wanted to expand the district, further define it, or ban it all together if the Town wanted to do that. Member McCarthy said he supported the proposed overlay district and was excited to see where it went from here.

Chairman Packish said he’d basically echo what he’d heard from Members Hopkins and McCarthy. He said he had significant concern over edibles in a recreational district. He had a strong concern how young people would translate eating a high and how that could move on into another direction. He felt this overlay district was a step in the right direction, a stop-gap measure until there was a fully defined representation from the State in terms of what was and wasn’t acceptable. He thought this was the right answer for the community in the short term, and the public would have many opportunities to discuss it in the long term. As with any by-law it would be there until the people felt it needed to be changed, and then you had that conversation.

Member McCarthy made a motion to recommend the zoning by-law proposal to Town Meeting. Member Hopkins seconded the motion. The vote was 4-0 in favor of recommending the zoning by-law proposal to Town Meeting.

Ms. Mercier asked if it would be helpful to have organizations that worked with young people attend Town Meeting as proponents for the proposal. Chairman Packish said it certainly couldn't hurt. He encouraged Ms. Mercier to have her organization ask their Oak Bluffs residents to attend Town Meeting and vote accordingly. Mr. Anderson noted it required a two thirds vote, and Chairman Packish pointed out it could be tough to reach two thirds in some cases. Chairman Packish said some of the challenges they'd heard from an absent member of the Board was that a lot of people had voted to support marijuana on this level and they feel like this would be restrictive. Chairman Packish said it was a protective measure in the short term and there would be a lot more opportunity to talk about it longer term.

Ms. Mercier thanked the Board for their efforts, and said other towns were presently working with them on this topic. Mr. Anderson said several other towns had called to discuss this with him as well.

Board Member Updates

Member Hopkins said he and Member Fehl had attended an All Island Planning Board meeting that neither of the other two members had been able to attend. The primary focus of this meeting had been the status of the Housing Production Plans. Member Hopkins said he felt he was very clear in saying he saw no evidence of political will to advance that. He wanted to clarify to the Board what he meant with that. Member Hopkins said he was not prepared to keep talking about a subject that he saw no interest in truly trying to solve, and if that was the case then he wasn't signing off on an HPP just so they could say they did something when there was no intention of getting it done. Member Hopkins said he was not encouraged by the progress or lack there-of being made in terms of advancing true housing reform.

Member Fehl asked Member Hopkins what impact he anticipated from the non-binding question on the Warrant concerning the housing bank. Chairman Packish said both he and Member Hopkins were members of the ad-hoc committee that created that article and suggested not deliberating on it at this time.

Member Fehl said he was concerned that the Selectmen had called a public hearing for March 28th half an hour before their regular meeting to discuss the New Town Hall and the Capital Improvement Program. Member Fehl said he was a member of the Capital Improvement Committee but didn't know what this meeting was going to cover. He didn't know if they had been asked to modify their line item for a New Town Hall, and it scared him a little that this was happening without his knowledge. He was looking for backup and participation at the hearing on the 28th of March.

Chairman Packish said he had considerable concerns related to the Capital Improvement Plan including letters to the editor that were not accurate. There were not grants available for wastewater as it never

got funded through grants. Instead it was low interest or no-interest loans, and by using the word “grant” it deceived people into thinking it was free money. Member Fehl agreed. Chairman Packish asked to have it on the March 23 agenda.

Member Fehl asked that the Board also go through the Warrant at the March 23 meeting. He wanted to clarify what input the Planning Board had in getting specific articles on the Warrant and similar. Chairman Packish asked that be added as well.

Bill Vrooman told the Board the Selectmen would be going over the Warrant on Thursday and Fincom would be there as well. Member Fehl asked who was presenting. Mr. Vrooman said Robert Whritenour would be presenting, and Jason Balboni would represent the Fincom recommendations.

Chairman Packish said he’d been back for a day and he’d heard from Adam Turner at the MVC. Chairman Packish suggested people keep a close eye on the MVC schedule as there were lots of topics that were relevant to the Board, including some from other towns.

Member Hopkins said that after the last LUPC meeting for MV at Play synthetic turf, he and Mark Barbadoro had found there were enough triggers for a site plan review. Member Hopkins said he indicated to the LUPC that it was the full intent of the Planning Board from his understanding that the application would come before the Board. Member Hopkins said he did not support the LUPC decision to not call for a traffic study based on a lack of increased use in phase one. Member Hopkins said the applicant could either do the traffic study for the MVC or they could do it for the Planning Board. He noted he was only speaking for himself as this hadn’t been voted on by the Board, but it was on public record at the LUPC.

Chairman Packish asked if Member Hopkins had spoken with Mr. Barbadoro about the latest MV at Play application. Member Hopkins said no, that Mr. Barbadoro indicated there were triggers that would call for it to require a site plan review. Chairman Packish said there had been talk about site plan review on the old application and it was unclear then. He was unsure if the new plan would trigger site plan review.

The meeting was adjourned at 5:31.34

Documents used in this meeting:

Agenda

Sign In Sheet

Hearing Procedures for Oak Bluffs Planning Board

MEOD draft by-law

An Initiative Petition for a law relative to the regulation and taxation of Marijuana

Registered Marijuana Dispensary Overlay District