

## PLANNING BOARD MEETING MINUTES

August 16, 2018

**PRESENT:** Elmer Clegg, Steven Strojny, Lou Gallo, Jeanne Azarovitz, William Grant, Sandra Goldstein, Elizabeth Brown, John Carroll

**EXCUSED:** Daniel Doucette

**STAFF:** Coreen Moore, Jennifer Copeland

**PUBLIC:** Jim Mulvey, Paul Gately, Michael Rausch, Beth Ellis, George Slade, Susie Derubio, Ron Matheson, Thomas Barnes, Kathleen Cristadoro, Doug Pesterheld, Bob Prophett, Linda Zuern, Lee Berger, Kat Brennan, Emilie Martin

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Chairman Clegg called the meeting to order at 7:02pm.

1. **Minutes:** 8/9/18: Mr. Grant made a MOTION to approve, seconded by Mr. Strojny with all in favor.
2. **Public Hearing for Special Permit #06-2017:** 1077 County Road Rose Kozaryn Living Trust. For four or more horses. Continued from 6/14/18.

Mr. Grant: This has been ongoing for a long time over numerous meetings. It seems to have fizzled out and he hasn't done the remediation. Have to move on it. The condition is terrible. Recommend to deny.

Coreen: Seems stalled.

Chairman Clegg: The project came in on 5/25/17. Issues were a fallen wall and runoff to another neighbor. In the spring he committed to remediation. Only the bricks of the wall were removed, then boulders moved to the front of the property which didn't do anything. There are a number of factors we consider: Impact on abutting property and impact on environment in general. I believe there are grounds for denial.

Mr. Gallo: Is this under violation?

Chairman Clegg: It was, and is subject to site work order for further construction of the arena, and fix the wall and take care of the runoff.

Mr. Gallo: If we deny, can the Building Inspector still enforce?

Chairman Clegg: It went to court once, they said bring back to the Town.

Mr. Grant: They aren't acting on any of the plans. We wanted to give them every opportunity.

Ms. Brown: Is there anything that precludes them from applying again?

Chairman Clegg: If denied, they can't apply for two years with the same application. This application was for more than 4 horses in a water resource district, to reconstruct a retaining wall and the completion of construction of a horse riding arena.

Mr. Grant made a MOTION to DENY based on the following reasons:

- Section 1331 – impact on natural environment
- Section 4734 – Impact upon nearby developed premises
- On site drainage recharge of stormwater runoff

The MOTION was seconded by Mr. Strojny. Roll call vote as follows:

Mr. Clegg – yes	Mr. Gallo – yes	Mr. Strojny – yes
Mr. Grant – yes	Ms. Brown – yes	Ms. Azarovitz – yes
Ms. Goldstein – yes	Mr. Carroll - abstain	

3. **Public Hearing for a revision to the Bourne Zoning Bylaw** – Affordable Housing – Continued from 8/9/18, to see if the Town will vote to amend the Bourne Zoning Bylaw as follows or take any other action in relation thereto: Section V Definitions and Section 2842 Affordable Housing. *Full text available at the Town Clerks office or the Planning Board Office.*

Coreen: Changed some wording, changed to 55 units, removed the 30% requirement thought it was unfair. Adopted for market rent levels, makes available to a wider audience.

Chairman Clegg: Doing away with onsite units or off site.

Coreen: this is only to the Downtown District (DTD). The definition is for the whole town.

Chairman Clegg: Saying units have to be on site. We are sponsoring this.

Ms. Brown made a MOTION to support this at Town Meeting. The MOTION was seconded by Ms. Azarovitz with all in favor.

4. **Public Hearing for a revision to the Bourne Zoning Bylaw** – Medical Marijuana and Marijuana Establishments – To see if the Town will vote to amend the Bourne Zoning Bylaw as follows or take any other action in relation thereto: Section 2250. *Full text available at the Town Clerks office or the Planning Board Office.*

Chairman Clegg: This is neither a vote in favor or against. Put a comprehensive plan in place if/when both are legalized in town. If a ban on recreational, still need to have in place.

Mr. Grant: The effect of the bylaw ban is subject of legal discussion. Since it's a general bylaw, a ban to be effective should be 2/3's not 50%. This is to establish where they go if allowed. That's the intent of this bylaw, to regulate it. Maps, listening session. Contentious issue if it comes to town. They should have assurance that thought was given where to put it. Proposed ban is only on recreational. Our bylaw is both. A ban failed at a previous town meeting. We cannot in good conscious not act on it.

Jen reviewed the changes with the Board.

Ms. Goldstein: Does the Board of Health have any say in the number of places in town – retailers?

Chairman Clegg: The Board of Health regulations they put six licenses which include retail and all other types of establishments. Their licenses are needed for recreational and medical. They will need a permit from us and them. We limited retail to three.

Ms. Goldstein: If they get a license from the Board of Health, are we required to give a permit?

Chairman Clegg: No. A recreational coop is a type of establishment. We aren't restricting the number of establishments but the Board of Health does. It's our choice to limit only retailers. Had to be in a business district, not VB or Residential, B2, 3, 4 and DTD non residential.

Joe Seaver, Cataumet: 75 people OD'd on synthetic marijuana. You want that here?

Linda Zuern: You said had to have bylaws if the ban is passed.

Chairman Clegg: I said would be wise to have it in place.

Linda: Very misleading to the public. Many towns don't have zoning bylaws in place. It's adding confusion.

Chairman Clegg: Place holder if decide what we have needs to be broken out for just medical. Given the lottery, the zoning might come up before the ban.

Linda: If the ban passes, can't just add recreational. I read as part of the Commission.

Chairman Clegg: Opinion they will try to support a ban if one is put in place. TBD in the future.

Linda: A 50% vote only needed a majority for the ban.

**Bourne Zoning Bylaw** – Medical Marijuana and Marijuana Establishments. Cont'd:

Ron Matheson: I'm confused. The volume in money we're going to get from this. The bylaw doesn't talk about the square footage of a building or parking spots. We're talking supermarket business. Not addressed here. Ought to give some thought – retail only.

Coreen: If retail, it goes by the selling area, not the storage area.

Jennifer: Section 2255h – comply with our parking and loading requirements.

Ron: We get 3%.

Chairman Clegg: People are spending an average of \$100.

Coreen: The developer will figure it out. 800sf store, that's all he'll get. If you think Cumberland Farms vs. Market Basket, both have high turnover. Market Basket, people stay longer, need more parking. Mashpee and Plymouth are not massive, have parking lights.

Mr. Grant: We don't know. People use CO and CA figures they had more parking then needed. It's an evolving business.

Kathleen Cristodoro: We don't want synthetic. Not a good argument. Things are expensive and little. Never a traffic jam. My age or older. If kids have pot, it's better to have some that's tested, legal and safe. You say 3 retail with unlimited other. Board of Health says 6. Why not putting a cap? Other towns have put a cap.

Mr. Grant: Manufacturing is self-contained, no reason to cap. Retail has traffic, labs do not. Retail is a different set of regulations. We need 2/3 on a zoning bylaw to pass. We're being cautious here. They were proactive. The moratorium expires in November. Worst case the bylaw and ban don't pass, no buffer zones then. We had a listening session and talked to people. 150' setback is a compromise. We paced it off. Parents were comfortable with 150'. 300'? Drugstores and liquor stores aren't that far away from each other.

Catherine: Can we apply to extend the moratorium?

Chairman Clegg: There are 270 towns like us working on something.

Mr. Grant: Wareham and Plymouth have it. Economic benefits. If assure public acceptance by increasing in 5 years will all these bans be in effect? I don't think so. Will Bourne's economic health benefit? I think it will. Jobs. No way to anticipate what benefit it'll be.

Tom Barnes: There was an article in the Enterprise about setbacks. Was 300' from residential, would have been excluded from everywhere in town.

Chairman Clegg: Our objective is to be in the middle of the road. The Cannabis Commission says we can't unduly restrict the operation of establishments. When draw maps with the 350' setback, there is no place to put retailers. We did maps at 250', 200', 100'.

Tom: They can have a strong odor.

Chairman Clegg: What is generally the odor?

Tom: The plant.

Chairman Clegg: The enforcement of that issue falls under the Board of Health regulations.

Mr. Grant: State law says 6 plants per person in a house. It's in Bourne and will be here. This is for commercial. Scrubbers are used for odor control. They have quality control. We visited different sites.

Tom: Flagstaff, AZ is a 1,000' setback from residential and is only in industrial areas.

**Bourne Zoning Bylaw** – Medical Marijuana and Marijuana Establishments. Cont'd:

Jim Mulvey: I agree to have it in place is a good plan. What about craft growing, coop agriculture?

Chairman Clegg: In Section 2257 Definitions: craft and coop type of establishment is subject to the bylaw. When personal is regulated, documented. Huge potential for a cottage industry. The Commission regulation do not regulate individual growing. What made that possible was a section of the referendum by the State. Can only be gifted, not sold. The Board of Health has more stake in that than us.

Coreen: Monitoring that is not a good use of resources.

Ms. Goldstein: When growing at home, setup, layouts, etc. Commercial rules and regulations, scrubbers. There are lots of apartments/condos that have a right to grow.

Chairman Clegg: You can put a restriction in your lease.

Ms. Goldstein: If bans, does the State have any obligation to issue a license?

Chairman Clegg: If completely prohibited through a general bylaw the Commission won't issue a license. Any establishment needs State, Board of Health and Planning Board. The Commission will act in accordance with Town wishes. Things like this may prove to become a problem. Health, safety is up to the grievance of the town to do something. We are tasked to address the commercial aspects. We added 500' from daycare and preschool. Setbacks are all over the map. Some have no setback. The Commission imposed a K-12 restriction.

Linda: Agree with Tom, right to grow. Don't see the consideration for the people in this town. They'll use our town.

Chairman Clegg: There will be a vote for the ban and the bylaw.

Ms. Brennan: Reefer madness is nuts. If parents grow in a closet, it's bad parenting. Craft is like craft beer. More sophisticated. We should have the right to do it.

Jim Mulvey: It's a substance that interferes with legal thinking.

Ms. Goldstein: #8 applies to all marijuana operations? – yes.

Lee Berger: I want to congratulate you on sincere efforts. Takes care of potential risks, no smell, advertising, security.

Chairman Clegg: Old water testing facility. Possible site? How would you feel?

Lee. No problem. Business along Main St. you can get a drink, get drunk. This has a limit on 3 retail dispensaries. So what? I don't understand the fear. I've seen terrible things with heroin and opioids, not marijuana.

Mr. Grant made a MOTION to close the hearing. The MOTION was seconded by Mr. Strojny with all in favor.

Mr. Strojny: I like it as it stands.

Ms. Brown: My son smoked a lot. I hate the smell, but it's here. Did due diligence. A lot of technology to keep smells down. Prefer some regulation and control.

Mr. Grant: Brocton had to upgrade their odor issue.

Ms. Goldstein: They put scrubbers in the bylaw in Brewster or Eastham.

**Bourne Zoning Bylaw** – Medical Marijuana and Marijuana Establishments. Cont’d:

Mr. Grant made a MOTION to approve and support at Town Meeting. The MOTION was seconded by Mr. Strojny. Roll call vote as follows:

Mr. Clegg – yes	Mr. Gallo – yes	Mr. Strojny – yes
Mr. Grant – yes	Ms. Brown – yes	Ms. Azarovitz – yes
Ms. Goldstein – abstain	Mr. Carroll – yes	

5. **Discussion:** Private Petition Prohibition on Marijuana Establishments General Bylaw versus Proposed Zoning Bylaw Medical Marijuana and Marijuana Establishments

The ban is for recreational only. What think on impact? Go ahead with combined zoning or should we suggest we split the bylaw?

Mr. Grant: Either way is good to have a bylaw in place. If in future the town votes no ban, all our work is for nothing. Still apply. We did a lot of work.

Lee Berger: I was the ZBA chair for 15 years. In MA, local legislations, health, safety, welfare of a community. Requires a 2/3 vote. The proposed ban disguises as a general bylaw. It is in fact a zoning bylaw. Prohibits in Bourne, same as saying prohibit in all zoning districts. All legal businesses are legal unless a zoning bylaw prohibits. Bourne prohibits certain businesses in certain areas. The Ban prohibits all types of businesses in all districts. It shouldn't be considered at town meeting. It wasn't submitted with the Planning Board.

Linda: March town meeting was a general bylaw. I looked at other general bylaws in the state. Took an already approved bylaw. It has nothing to do with zoning. This is similar to the one in March.

Mr. Grant: Lee raises an issue. Just because it's in other towns, challenged in court. My opinion if general bylaw passes, one more reason to go forward. If found not to be effective, then would be worst case scenario. They could go anywhere. There are people who want to open in Bourne. If they go to court and win...It's a new area. Do we want to subject ourselves to that?

Chairman Clegg: Mr. Troy will look at our bylaw and the general bylaw. The key is to look at it now.

Ms. Goldstein: Zoning bylaws are traditional. Form based codes are another. How does this mesh with that?

Chairman Clegg: Following Mashpee.

Coreen: Downtown Buzzards Bay is form based code zoning. Have to meet with what we have in place.

Chairman Clegg: Get opinion about splitting the bylaw and if the ban gets picked first.

Mr. Grant made a MOTION to adjourn. The MOTION was seconded by Ms. Brown with all in favor. With no further business before the Board, the meeting was adjourned at 9:26pm.

Respectfully submitted,  
Ann Gutterson