

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Special Workshop

September 11, 2013

Chairman Michele Camerota called the special workshop meeting of the Newington Town Plan and Zoning Commission to order at 6:00 p.m. in Conference Room L101 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

I. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Commissioner Frank Aieta
Commissioner Carol Anest
Chairman Michele Camerota
Commissioner Cathleen Hall
Commissioner Stanley Sobieski
Commissioner Audra Ekstrom-A
Commissioner Kenneth Leggo-A

Commissioners Absent

Commissioner Michael Camillo

Staff Present

Craig Minor, Town Planner

Commissioner Leggo was seated for former Chairman Pruett.

Craig Minor: This draft regulation, well I'll start from the beginning for the record. As most people know, the State of Connecticut passed a law last session that directed the Department of Consumer Protection to establish regulations to allow for the production and distribution of medical marijuana in Connecticut. It's taken a while, but the Department finally came out with regulations to actually implement this law. Those regulations were approved just last week, and so now, as everyone knows, there is a flurry of interest in, across the state, in opening these either dispensary and/or production facilities. So, about a month or so ago, maybe more than that, I got a call from someone in Newington who, I think he's a realtor, and he was representing the property owner on Stamm Road, and wanted to know if he would be able to open a dispensary for distribution, not growing it, but selling it. So we looked into the regulations, and the regulations didn't really say, although, and I'll get to this a little bit later, a dispensary facility is really nothing more than a drug store that sells nothing but medical marijuana. It's got to be operated by a pharmacist, it's got to be licensed, there's a strenuous licensing procedure which I can go through later if you want to, but it's basically a drug store that sells one kind of drug, and we allow drug stores, as of right, in any business zone in town, so I guess one way of looking at it would be it's already allowed as of right. I mentioned that to the Commission and the Commissioners felt that we really have to have regulations. So I called the individual back and I told him, what you need to do is submit an amendment to the zoning regulations, to clearly articulate where they could be and what the provisions would be, and I told him, make it by Special Exception, because that's about the only way that this has of possibly going through. So he did, and I presented it to the Commission, but the feeling of the Commission was, something like this, the Commission would feel more comfortable in being in control of the process, and not feeling that you had to close the hearing within 35 days, and then act on it within 65 days and then if you felt that you

needed more time, you'd have to go to the applicant for permission, so I went back to the applicant and asked him if he would be willing to withdraw, and I told him that the regulations that I was going to draft would be very similar to his, in fact, the only difference was, we differed over signage, that was the only, and then where it could be, where dispensaries could be, because his property was in the Industrial Zone, and we don't allow retail in an Industrial Zone, so, but that we will get to later. But he did agree to withdraw, he withdrew his application because I convinced him that the Commission was in good faith, that you weren't doing this as a delaying tactic, and he accepted my request and he withdrew his application. Now there is nothing on the table, now it's in your, you are in the driver's seat on any regulations that you may want to go forward with.

What you have in front of you, this draft, is almost, is very similar to what he submitted, and what he submitted, I told him, go to the Town of Southington regulations, because I had been collecting medical marijuana regulations for the past month or so, and I felt Southington had a very good regulation, so he patterned his on Southington's, and then I added some more to it, and that's what is in front of you for now.

We were thinking that there might be more members from the public to speak on it, but there aren't, so when the Commission is ready to go forward with this, we will have to have the usual public hearing as we would with any zone change, but the hope was that we could get some informal input from the general public, but the fact that nobody showed up, and we didn't beat the drum on it, but I'm sure there were conversations around town, so I think the fact that no one is here means it is probably not a very controversial issue in Newington.

Chairman Camerota: There was no correspondence from anyone on it.

Craig Minor: Correct. I got one phone call from one person I think he just wanted to know more about what the draft involved, and I explained it to him and he was happy and I told him about the meeting, but I guess, so with that as background, would you like me to go through it quickly? It's only two and a half pages.

Chairman Camerota: That would be good. Actually, I'm going to ask you when you get to the locations, if you can just use the map and show everyone where they are.

Craig Minor: Okay good. The first paragraph is the purpose statement, and I like purpose statements because that tells anyone who is reading the regulations what the intent is, and then if for some reason there is some vagueness somewhere down in the body of a regulation, if we have a purpose statement up at the top, that gives people guidance as to what the event was when the Commission first wrote the regulations. So we have the purpose statement, I won't read it, and then we have definitions, which is also very important, and these definitions come from the statute. These definitions of dispensary facility, which means a place of business when the marijuana may be sold, and then the production facility, which is where it is grown. Production facilities are regulated very differently from dispensary facilities, and that is why if you have noticed, I almost never, and if I did, tell me and I'll fix it, I almost never said production and dispensary in one sentence because they are totally separate. Different application fee, different numbers of permits that the State is allowed to issue, they are totally different things.

Then the next section, 6.2.3, this is where we talk about what zones these would be allowed in, and my thought was that dispensaries would be basically allowed in any business zone. I threw in Industrial Zone also.....

Commissioner Aieta: But retail is not allowed in the Industrial Zone, so how do you get around that?

Craig Minor: Well, I threw it in there for discussion, to get discussion. Then finally, I put public land zone, because Cedarcrest, and the Hospital which have some pretty big campuses, those are public land zones, and oh, the VA Hospital, that's a public land zone, and the Eddy Farm.

Chairman Camerota: I can see the point with the hospitals, the Veterans.....

Commissioner Aieta: Why don't you not say public land, why don't you say health facilities?

Craig Minor: Well, that's the name of the zone.

Commissioner Aieta: I know, but we don't really want to put the Eddy Farm in that....

Commissioner Anest: Or Cedar Mountain.

Commissioner Aieta: Or Cedar Mountain, or the Deming Farm.

Craig Minor: Okay, so to get back to what I said, B Zones, but not PD, not in the PD Zone, not in the Berlin Turnpike Zone, only in the business zone, light blue.....

Commissioner Aieta: The business zone is the center of town, but that is a separate zone. So where is the business, the only business zone that we have is the neighborhood business areas, and we don't want it in those. Like Maple Hill, New Britain Avenue where David has the store.....

Craig Minor: There are a few along New Britain Avenue, in the area of Maple Hill, there is a business zone at the corner of Main and Dowd Street, on Main, the corner of Main and.....

Commissioner Hall: Briarwood.

Craig Minor: Up here at Newington Junction, at the corner of West Hill and Willard. So, as I said, we did not include the PD Zone and the Berlin turnpike zone, I just didn't. I just didn't feel comfortable suggesting that we allow them there. But if you feel differently, or after the public hearing....oh, and then the Industrial Zone, which is green. The green is the Industrial Zone. I think that is why I left that on the list of where a dispensary could go, because otherwise, we're not going to allow them on the Berlin Turnpike, it really doesn't leave much non-residential areas of town to put a dispensary.

Commissioner Aieta: All of the business zones are almost all neighborhood business zones, so they would never, none of those areas that you talked about would ever be able to meet the one thousand feet from a residence zone, I mean, if you don't put the Berlin Turnpike and the Berlin Turnpike business thing in there, there really is no place to put a dispensary in the Town of Newington.

Craig Minor: Except for Industrial.

Commissioner Aieta: Except for Industrial, and then we have to get around the fact that we don't allow retail in those Industrial zones.

Craig Minor: Well, that's easy, we can get around that, if you don't mind appearing to be inconsistent, by simply saying this one thing, this medical marijuana dispensary is allowed, by Special Exception in the Industrial Zone. There are some other things, I can't think of them

off the top of my head, but there are some other things in the Industrial Zone that I wouldn't think that we would allow, say a restaurant in the Industrial Zone, so this wouldn't be the first thing that we would allow in the Industrial Zone, by Special Exception, that doesn't seem to be industrial.

Commissioner Aieta: Is there a specific reason that you didn't do the Berlin Turnpike and the Berlin Turnpike Business zone? You just didn't like it?

Craig Minor: Yes. Nothing more scientific than that, it just didn't feel right.

Commissioner Anest: I'm going to throw this out, do we have to allow both in our regulations?

Craig Minor: No.

Commissioner Anest: Okay.

Craig Minor: You don't have to allow either.

Commissioner Anest: Right, but we don't have to allow.....

Craig Minor: One but not the other. Yes.

Commissioner Aieta: What did the guy come in for?

Craig Minor: Dispensary. Dispensary on the property on Stamm Road.

Commissioner Aieta: And that is in the Industrial Zone.

Craig Minor: Yes, right, and ironically, I've come around to suggesting that we allow it in the Industrial Zone, which is what I told him that the regs, no matter how favorably you read them, does not allow a drug store in the Industrial Zone, but if it's a medical marijuana dispensary facility, it could be allowed.

Chairman Camerota: Well, it's a kind of different retail, I mean, it's like taking the pharmacy out of a drug store because you have to have a prescription, not everyone is going in, it's not general public retail, but it is retail.

Craig Minor: Okay, so that is the dispensary facilities, and then medical marijuana production facilities only in the Industrial Zone. That is where marijuana would be grown. It's agriculture industrial, it's inside buildings, so it's a production, it's creating something that happens to be a plant, but it is production, so I'm suggesting that it be allowed by Special Exception in the Industrial Zone only.

The next section is the separation requirements. No medical marijuana dispensary shall be within a 1000 feet of a church, temple or other place used for primarily for religious worship, or private recreation area, or a school or playground or child care, and then the same thing for production, also a 1000 feet away from those same places, and then no medical marijuana facilities shall be allowed on a site that is less than 750 feet from any property zoned single family residential.

Commissioner Aieta: At the last meeting, Stanley brought up that he thought that it should be 1,000 feet, which would be more consistent with the churches and the private recreation

areas and the schools. The residential should have a higher priority than a school or a temple or a playground.

Craig Minor: Okay. And then, no dispensary or production shall be allowed in the same building, and I'm pretty sure that that comes out of the statute. So we are just repeating what the law says anyway. Kind of for the benefit of some citizen who might be reading this, they'll read that and say, oh, well, that's good to know that they won't be allowed in the same building. Then all distances shall be measured by taking the nearest straight line between respective lot boundary of each site. I kind of went around on that, because some towns, I don't think Newington does, but some towns will measure it from the front door to front door, and then you get arguments over what is really the front door, whereas if we just measure it from property line to property line, there is no disagreement as to where the property lines are, pretty straightforward.

Okay, 6.15.5 sign and exterior display requirements, Exterior signage shall be restricted to a single sign no larger than 16 x 18; no graphics of any kind will be allowed and the text will be limited to the street address of the facility. This was the issue that I got into with the original applicant. He wanted to be able to have at least the name of the place; I said but why? The only people that will be coming to the dispensary are customers who have permission to buy medical marijuana, they know where they're going. It's not like a CVS where you, oh yeah, I need to pick up some sun tan location, or whatever. There is no reason for it to be advertised at all. Having the street address prominent makes sense, so the people who are looking for 63 Fenn Road can find it, but there is no need to say what that Fenn Road is.

Commissioner Aieta: What do the statutes say as far as signage? What did the state say when they did it?

Craig Minor: I'm trying to remember. I'll double check but I don't think the statute or the regulations, I don't think they say anything about signage. I think they leave that to the town, but I'll double check though.

Commissioner Aieta: Okay. That's a good idea, like you said, it's not like people are driving by and say, let's stop and get some marijuana, you have a prescription or you don't.

Craig Minor: Exactly. Off street parking shall be in accordance with our regulations. Security requirements, all medical marijuana dispensary and production facilities shall have adequate security systems to prevent and detect diversions, etc., etc., meeting at least the requirements of Section 21.4.8, I think that's the new medical marijuana regulations to sell.

Commissioner Aieta: The state regulations on the security are so stringent that it is almost ridiculous, I mean, it's like a bank. I mean, I read the regulations on that, and they really want to protect, you just can't be barging in there.

Craig Minor: Which is good.

Commissioner Sobieski: So does that mean that the alarm system will be tied into the Police Department?

Craig Minor: Oh, I would think at a minimum.

Commissioner Sobieski: No, I'm just asking.

Craig Minor: I can find out, I'll.....

Commissioner Aieta: They were pretty strict.

Craig Minor: Then, conditional approval. I don't think this is in the Southington regulations, I think the original applicant suggested these and I think these are a good idea; A. Special exceptions shall be approved with the condition that the applicant obtain the dispensary/production facility permit from the State. So, if we approve it, one of the conditions would be that they eventually get a license from the state, and that this conditional approval will become automatically finalized, upon receipt by the Town Planner of a copy of their Consumer Protection permit. I'm not sure permit is the right word, it might be license, but I'll check that. Then, the conditional approval shall expire if the applicant fails to provide the Town Planner with a copy of their Department of Consumer Protection Permit within six months of the date of TPZ's approval, and then subparagraph one, a six month extension of such conditional approval shall be granted to the applicant upon written notification to the Town Planner that an application for a permit has been filed, indicating the expected decision date from the Department of Consumer Protection.

Chairman Camerota: Any comments from the public on the draft medical marijuana zoning regulations?

Rose Lyons, 46 Elton Drive: I was just curious, I'm not sure if Wethersfield has even adopted any regulations. Have they?

Craig Minor: I saw in the paper the other day that they are talking about it, but I don't know how far along they are.

Rose Lyons: I was just wondering if we should look at what they are adopting since it is a neighboring town.

Chairman Camerota: Okay. Discussion on the draft regulations?

Commissioner Sobieski: Craig, does this also require, I haven't read the law, but does this also require the town to give them some kind of (inaudible) or does the state cover that?

Craig Minor: Well, they will need local approval, which is what this body would be.

Commissioner Sobieski: No, but would the town go in once a year to inspect the place? That's what I'm asking.

Craig Minor: No. Unless you wanted to make that a condition of your approval, but I don't.....

Chairman Camerota: We don't do it for restaurants and things like that, so I don't...

Commissioner Anest: I have a question. I thought I remember reading that they had to apply to get a renewal. Are you going to make that part, that they would have to submit the renewal permit to the town so that we know that they can continue?

Craig Minor: Yes, that's a good point. Let me....

Commissioner Aieta: They have to keep getting renewed?

Craig Minor: Yes.

Chairman Camerota: Do you have to renew liquor licenses too? Once you have it from the Liquor Commission unless you get suspended or something.

Craig Minor: Yes, this is different and you have to pay the permit fee every year, and it's.....

Commissioner Aieta: Revenue generating

Craig Minor: To apply for a dispensary license, you need to pay a \$1,000.00 non-refundable application fee, and if you are successful and you are approved, you pay a \$5,000.00 non-refundable registration fee and then a \$5,000 renewal fee, which I'm not sure how frequently, it may be every year, I don't know, but that's for dispensaries. For production, it's a \$25,000 non-refundable application fee, and then, if you are awarded the permit, a \$75,000 registration fee and a \$75,000 renewal fee, so I think that is every year. \$75,000 for the production. The State is only going to issue between three and ten production licenses.

Commissioner Aieta: How many dispensaries are they going to allow?

Craig Minor: Unlimited.

Commissioner Aieta: Unlimited?

Craig Minor: Well, the law doesn't say, but I believe that I read somewhere that they are going to base it on the number of people who have actually registered with the State as patients who.....

Commissioner Aieta: As of today, there are 900 who have registered.

Craig Minor: Right, I saw that also.

Commissioner Aieta: The only area that I see that we really have to be concerned about is the, where we are going to allow the dispensaries. We have to define that.

Commissioner Leggo: Kind of along the lines of what Frank was saying, there was some previous discussion about, like if a dispensary is put in an Industrial area, the hours of operation as far as what time of night that you are going to have something actually open in an industrial area?

Chairman Camerota: That's a good point. Are the hours of operation.....

Commissioner Aieta: Normally the hours in an industrial area are eight to five type operation, right?

Commissioner Ekstrom: During the summer it may not be so bad, but once they hit later....

Commissioner Leggo: At late hours, that is what I was thinking, you are in an industrial area where everything is closed up early. To keep this kind of facility open late at night might not be a good thing.

Commissioner Aieta: I think the business zone, we should take that right out of there because the only business zones that we have are those neighborhood business areas and that was the reason that the Commission in 2007 went and took out the auto related uses because they didn't want them in the business zone, so for us to start putting medical

marijuana dispensaries in those areas, I think, you have to remember, most of those neighborhood business zones were pre-zoning.

Chairman Camerota: I agree, I don't think they are even going to meet the other requirements.

Commissioner Aieta: As far as the public land, you make a good point with the hospital, we have this as a special exception, so if someone came in with the Eddy Farm or something like that, we would have the discretion of.....

Commissioner Anest: The Veterans Hospital wouldn't fit this.

Craig Minor: The Veterans Hospital is in the PL zone, but remember production has to be inside a building.

Commissioner Anest: But it's not a 1000 feet from a school, or housing.

Chairman Camerota: Yes, the new Victory Gardens that just went up. Would part of it qualify.

Commissioner Anest: I don't know, you have Old Farms, which wraps around, so the only place might be near the football field.

Craig Minor: The part of the building facing the football field? That's a good point. I'll have the GIS department do a plot of all this, and see if it turns out that, oops, no where in Newington can you actually do any of these, which obviously is not your intent, but I'll have our GIS guys do that to see what areas don't fall under these circles.

Commissioner Aieta: We are going to take out the business zone, and we are basically talking Industrial and Public Land Zones.

Chairman Camerota: Is everyone else okay with that?

Craig Minor: And the Berlin Turnpike?

Chairman Camerota: What about the Berlin Turnpike?

Commissioner Hall: I'd rather not.

Commissioner Anest: And not the PD.

Chairman Camerota: And definitely not the Business Town Center, and obviously not residential.

Commissioner Aieta: Sometimes they have these, in other states, I think they have them like in shopping centers, I've seen them like in California, they have them in shopping centers.

Craig Minor: I think in Washington too.

Commissioner Hall: We haven't come that far.

Chairman Camerota: That's on the whole other side of the country.

Craig Minor: Are you suggesting that?

Commissioner Aieta: No, I'm just saying. Then the other thing was the 1000 to the residence.

Craig Minor: Yeah, I already made that change.

Commissioner Aieta: The rest of it looks pretty good.

Commissioner Hall: I wonder if we want to go so far as to limit the number of production facilities that we would have?

Craig Minor: I don't think you can do that. I think that is one of those principles of zoning in Connecticut, that a zoning commission is not allowed to limit how many, you can't put in your regs, no more than five, or no more than ten. You can deny the next one because you feel that there are already too many of whatever.

Commissioner Aieta: It's already restricted by the state saying it's between three and ten....

Craig Minor: But not the dispensary.

Commissioner Aieta: But they said in part of their statement that it would be spread around the state, it wouldn't be concentrated.

Commissioner Hall: That's for production. How about dispensaries?

Commissioner Aieta: Well, we don't even know what the state is saying, what the maximum number.....

Craig Minor: There is no max, we know that. There is no maximum number.

Commissioner Ekstrom: It's not even like one per town?

Craig Minor: No, liquor is that way, production, the Commissioner of Consumer Protection is limited to issuing between three and ten production permits, but he is not limited on how many dispensary permits he can issue. Now, what they are going to do, they are going to issue them on the base on what is needed, but the law doesn't say what the maximum and minimum numbers are.

Chairman Camerota: So he will have the discretion to say, 900 people have applied, and have the right to purchase medical marijuana and he will decide then how many are needed.

Craig Minor: Yes.

Commissioner Aieta: And he would have to spread that across the whole state. You are not going to have them all in Hartford.

Commissioner Hall: And this is the Commissioner of?

Craig Minor: Consumer Protection, which is interesting. Not health.

Chairman Camerota: Other comments? I guess my only, Ken had a good comment about the Industrial Zone, and do we want to do any kind of hour limitation.

Craig Minor: We could do that.

Commissioner Hall: I think with an application we could have that as part.....

Commissioner Aieta: But if we don't have it in the regulations saying that we would want it from certain hours to certain hours, then they could, they it's too discretionary from our point. We should say, we want regular business hours, nine to five, nine to seven, whatever you guys decide. Put it right in the regulations so they know right up front, those are the hours.

Chairman Camerota: This may not be that big of an issue, but.....

Commissioner Aieta: I don't see people going to a dispensary in the middle of the night, looking for, I don't know, maybe they do.

Commissioner Anest: If they need it.

Chairman Camerota: What about weekends?

Commissioner Anest: I think you could do it on a Saturday, even if you did it eight to five, in an Industrial area, there are people there at seven in the morning, landscapers.....

Commissioner Aieta: But he brought up a good point, we don't want it open till, in the Industrial area where they people who are in the Industrial area leave for the day, and the only thing open is the dispensary, and they are there until nine, ten o'clock at night, it's going to lend itself to criminal activity.

Commissioner Anest: Unless you had a drive-in.

Craig Minor: I'll look, but I suspect that the state regulations make that, I'll look.

Chairman Camerota: And then, what about this issue of not allowing retail in the Industrial Zone? Do we need to.....

Craig Minor: No, that's not a problem, because your regulation will say that medical marijuana is allowed in the Industrial Zone. At least the sale of it.

Commissioner Aieta: And he made a good point that we do allow, there are restaurants in the Industrial Zone, so it's not like we are setting a precedent of going against the regulations.

Craig Minor: We allow adult oriented business, assembly, auto related, children's theater, well that's kind of unique thing, churches are allowed, club and fraternal organizations, gas stations, hospitals, office and financial is allowed in the Industrial zone, personal and business services, schools, federal buildings, truck terminals, veterinary hospitals, no, we don't allow restaurants.

Commissioner Aieta: We don't allow restaurants.

Craig Minor: And not to imply that medical marijuana is anything like an adult oriented business, you do allow adult oriented businesses in the Industrial zone.

Chairman Camerota: Which could include retail I think.

Commissioner Anest: It is retail, but.....

Craig Minor: But it's not to the general public.

Commissioner Anest: It is medical if most of this is covered by insurance.

Craig Minor: I don't think that has been worked out yet. It's interesting.

Chairman Camerota: Any other comments?

Craig Minor: So, it's on the agenda for tonight's meeting under New Business so we can talk about what you want to do next, procedurally.

Chairman Camerota: All right. Can I have a motion to adjourn?

Commissioner Aieta moved to adjourn the Special Workshop Meeting. The motion was seconded by Commissioner Hall. The meeting was adjourned at 6:40 p.m.

Respectfully submitted,



Norine Addis,
Recording Secretary