

Planning Board Minutes
April 27, 2022
7pm
Virtual meeting

Board Members Present: Chairman Ken Smith, George Oleen, Robbie Cooper, Caitlin McNeill, Sari Hoy.

Others present: Lauren Hyde, Betsy Garcia, Catherine Miller.

Chairman called the meeting to order at 7:01pm.

1. **ANR Requests – None**
2. **Approval of minutes –** Ken initiated discussion of March 9th and 23rd. Caitlin stated that she is no longer willing to write minutes. Caitlin believes we have paid employees, a budget for an assistant, and the town is not working hard enough to fill the position. Caitlin felt personally insulted by the response that she got from the administrator's assistant when she submitted the minutes at the end of the day of today's PB meeting.

March 9th meeting minutes: were voted on and accepted at the April 13th meeting but Sari Hoy, who was not present at the time requested that one change be made to the March 9th minutes regarding the Overlay District: specifically, that it was related to 3.1.3 H5 only and not H9 or H10. Caitlin agreed to make the amendment.

George moved that we table the March 23rd meeting minutes; Robbie Cooper seconded. Ken, Caitlin, George, and Robbie voted in favor; Sari abstained.

3. **Discussion/Possible Action Regarding Modified Deliberation Guide –** Caitlin queried why Town Hall had not forwarded the Modified Deliberation Guide to the PB until late afternoon on Monday April 25th when Ken had forwarded it to Town Hall on Sunday April 17th and asked for it to be forwarded to the PB for review. George suggested that we state that these documents be forwarded "immediately" and stated that Jill is doing the work of numerous people at this point. Caitlin re-stated that her frustration is not with Jill but with Town Hall.

Ken suggested that we table the discussion to our next meeting but asked the public for input. Catherine Miller suggested that we may add some of our newly modified Deliberation Guide considerations into our existing bylaws 7.5.7 and 9.4.2. She asked if this would need to go through a Town Meeting voting process. A: Yes.

Ken acknowledged that in his mind the proposed modification laid out in 9.4.2.2.4 that discusses “saturation point of a specific area” may be overstepping the bounds of a deliberation guide and may need to become a bylaw. He suggested that we get town counsel’s input on this point. Otherwise the questions we are proposing to add to the deliberation guide seem clearly within the limits of said guide.

Robbie asked if this was discussed with town counsel when Ken and Sari met with them on 4/19/22. Ken confirmed it was not discussed.

Review of proposed allowed distances between two or more marijuana establishments:
Sari : presented two maps that demonstrated what ½ a mile versus ¼ mile radius would look like from The Pass and Town Hall and asked the board to consider if ½ a mile was too far. Ken asked we consider Betsy Garcia’s situation with numerous marijuana establishments around her home and Route 7A. Ken was concerned that this overlay district would be considered spot zoning. Sari noted that at the CPTC workshop spot zoning was described as a zone created around one property. Anything around two or more properties had never been challenged in MA. Ken asked everybody to look over the 9,4.2. section for further review and also consider if the marijuana modifications should be moved to the marijuana section or in the actual bylaw we should discuss further.

4. **Community Residences Bylaw Review** – Ken has not heard back from Rhonda on which state law we may be violating and will follow up with her again.
5. **Dark Skies Bylaw** – George reviewed New Marlborough’s and Sandisfield bylaws and suggested that we modify his very simple bylaw proposal to be more inclusive to make the angle of lights to no more than 75 degrees and instigate a height limit based on the maximum building height limit which is 35’ max. Caitlin suggested that we keep any bylaw simple while still enabling property owners to protect their properties without encroaching on others and the “night sky”. Ken will follow up with BRPC for other examples of Dark Sky bylaws to review.
6. **Town Counsel Meeting Review** – Ken appreciated spending an hour with town counsel and acknowledged that it would be better if all members could be present to ask questions and hear the responses. Sari suggested we request to do this at least once a year every year.

Ken’s questions: Are marijuana companies that existed before the inception of our town bylaw allowed to change ownership? Does the host agreement need to be changed?

A: The HCA is not bound to the name change and the organization would have to start the SP process over including organizations who created an HCA prior to the creation of our bylaw.

Caitlin asked for clarification on if ownership changed and there were changes to the operating and shareholder agreement such as a new owner buying out 51% of the business without a name change would the business rights be “grandfathered” in. Ken said “yes”.

Lauren Hyde said this is exactly the question she wanted answered.

Ken described how the term “grandfathered” has been replaced with “pre-existing non-conforming use”

Ken’s second question was whether we could make the overlay district and exclusion zone rather than an inclusive zone. Town counsel is to get back to us but thought it could work. Sari reported that she was advised at the CPTC workshop that an exclusion zone would be very unusual and will lead to confusion. Instead they suggested that we would create an overlay district where the said activity can be done with a SP thereby creating an exclusion zone by default.

Ken’s last question was how long does a host community agreement last if not acted on with a building permit or opening a business such as the May Antique’s who have an HCA with Sheffield. Town counsel advised that having an HCA prior to the establishment of the bylaw does not protect the applicant or negate the need for them to abide by our current bylaw unless they had filed a permit with the CCC or a building permit from our building inspector.

Ken then asked Caitlin’s question about the hybrid meeting format, MA state has extended the hybrid meeting format through July and may extend it further. It is our Administrator and our SB that no allowing it to take place in Sheffield.

Caitlin brought up that she never received notification of the meeting with town counsel and was very disappointed not to have the opportunity to meet with them in person. She stated that she felt Sari was cherry picked for the meeting and that board member questions were deliberately withheld from the board as a whole to create divisiveness. Sari stated the original intent of inviting Rhonda / town counsel to meet with the PB was so they could answer specific questions with all of us present. Ken Stated that they obviously did not want to answer these questions in a public forum. Conversation ensued regarding the forwarding of documents between board members for informational purposes only being within the Open Meeting Laws (OML) with the understanding that no discussion between board members prior to the next public meeting could be had. Ken reiterated that Town Hall had instructed us that all information had to go through Town Hall first but he said he would ask the question again.

Ken asked Sari to report on the Open Meeting Law questions she asked town. Sari reviewed that town counsel confirmed that the AG would probably see the forwarding of the report created by Robbie and Sari to the rest of the board as a violation of OML but the forwarding of information by one board member to all other board members would not be a violation. A document created by two PB members has

to be submitted to TH and added to the agenda for the next meeting for the board to see it 48hrs prior to the next meeting. Caitlin is not convinced that the directions we are getting on MA OML are correct and thinks that things have not been clarified.

The real concern is how to get the questions from the CG legally to be reviewed by at least the chair of the board so the CG can get the answers in a timely fashion. Caitlin offered to contact the ACLU and / or the AG office for clarity on this specific situation. George supported the idea that one of us call as a citizen to clarify.

Ken is still going to ask for town counsel to come to meet with us in a public forum.

7. Review Mail – Ken read letters from other towns.

8. Board Member Items – Caitlin inquired about the building going in on Berkshire School Road next to Mount Everett School. Paul Greene/Building Inspector has issued building permits and they have cleared the site and framing is going up. It appears to be a commercial building where heavy equipment such as dump trucks and excavators are being stored and would fall under 3.1.3 E2 in the Table of Use which would require PB approval. However, Paul Greene explained that there is an apt. going in upstairs. The PB is still unclear how this particular configuration of a commercial building with an apt. not owner occupied could move forward without PB approval. Ken said he would speak with Paul to get further clarification so that we can follow-up with the owner if necessary.

Caitlin stated that she knows of qualified people who have applied for the job as administrative assistant who have not been called on, is not convinced that the town is either pursuing the right avenues to find an employee or offering enough pay to attract applicants. She suggested that the SB review pay rates offered. She pondered how long we would be expected to carry the extra responsibility of writing the minutes since it has already been three months

George Olean brought up that we are the only elected board in Sheffield that receives no pay. He announced the Candidate Forum or PB and SB on May 4th.

Robbie acknowledged that he had received an email that we were all included on from Rhonda regarding attending a meeting with town counsel which he had responded to saying he could not make the specified dates.

Sari reported that the Housing Production Plan Committee had their first community outreach meeting on April 20th. It was a hybrid: in person, on Zoom, and phone meeting. It was well attended by the community and business owners. The Commission gave an overview of the plan and there was good community discussion following the presentation.

Caitlin asked if this means development of the rural district. Sari said that had not been defined specifically and that would mean changing the bylaws. The bylaw section is the one section that was incomplete in the Plan and Rene Wood and Sari would be following up with the PB on that.

Big stumbling blocks for development are that Sheffield has no sewage system and only very limited areas with town water. So far the renovation of abandoned buildings, transformation of large houses into apartments and infill look more possible than building new large apartment buildings.

Ken announced that at the next PB meeting the board would be reorganized as he is stepping down as chairperson.

9. Public Comments – no public remaining.

**Caitlin made a motion to adjourn the meeting. Robbie seconded. Motion carried 5-0.
Meeting ended at 9:06pm.**

Respectfully submitted,

A handwritten signature in blue ink, appearing to be 'Sari Hoy', with a stylized, overlapping loop structure.

Sari Hoy

Planning Board Minutes
June 22, 2022
7:00 pm
Town Hall Upstairs Meeting Room

Members present: George Oleen, Chair
Robbie Cooper
Sari Hoy
Ken Smith (arrived at approximately 7:15pm)

Members absent: Caitlin Marsden McNeill

Others present: Rene Wood, Bob Kilmer, Rhonda LaBombard, Jill Hughes

Chairman Oleen called the meeting to order at 7:00PM.

1. **Meeting with Select Board** – Please refer to the minutes drafted by Jill for content from this portion of the meeting. The Select Board adjourned their joint meeting with the PB at 8:56pm.
2. **ANR Requests:** None
3. **Approval of Minutes:** Meeting minutes from June 8th were approved unanimously as presented.
4. **Dark Skies Bylaw Discussion:** Item was tabled due to the lateness of the meeting
5. **Planning Board Mail Review:** George indicated there was no mail
6. **Board Member Items:**
No board member items, but we all felt the meeting with the SB was good and we feel it should be done yearly.
7. **Public Inquiries:** None

Sari made a motion, seconded by Ken to adjourn the meeting. The motion carried unanimously.

The meeting was adjourned at 9:07pm.

Respectfully submitted by:

Ken Smith

