

**Town of Turner, Maine
Planning Board Minutes
February 20, 2019**

1 CALL TO ORDER

Called to order at 5:59 pm by Mr. Bill Bullard. Those Members present were Mr. R. Edward Morris, Mr. Bill Bullard, Mr. Kelvin Youland, Mr. Brian Emmons, Mr. Richard Lee and Mr. Russell Pack. Those absent were Ms. Shirley Twitchell. Mr. Kurt Schaub and Mr. Mike Gotto and Bob Folsom, Code Enforcement were present.

2. VERIFICATION OF QUORUM

Mr. Bill Bullard stated that there were 6 Board Members in attendance which constitutes a Quorum.

3. PUBLIC HEARING

Zoning Ordinance for Wedding Barn/ Event Center

Mr. John Maloney provided testimony and stated that he is not here in favor nor is he against the Wedding Barn. He presented information regarding information on noise. He would like to see the ordinance address the issue regarding the noise pollution. He would like to see a decimal level between below 55 decibels from 7am-10pm and 45 decibels between 10 pm – 7 am. He also included site plan review applications for commercial properties in Rural District from 1989-2017. There have been issues with noise complaints in the past.

Mr. Maloney also included other types of businesses that could be in issue moving forward. Wedding Barns have been an issue in the past. Mr. Maloney also included a chart for recommendations regarding noise limits. This information was provided from (International Organization for Standardization). This information has also been used in other towns to determine noise pollution and the study is done by a non-biased group.

He also stated on ways the noise level could be controlled. He stated that distance and barriers are the best way to control noise. The current zoning ordinance has been successful and has not included no necessary noise in the past with zone level. The area being looked

He is not here to be against Wedding Barns he just wants to make sure the Rural Residential areas are protected.

Mr. Angelo Terri questioned on if the Town of Turner's Ordinance is below state standards right now.

Mr. Steve Maheu questioned on how the Decimal level would be calculated? How would it be determined? What the decimal level would be?

It was questioned on how the decimal level would be studied or controlled without a building in place?

Mr. Maloney stated that he is not a sound engineer but when the Hannaford project was designed there was a Noise study preformed.

Mr. Kurt Youland stated that it is important for the people to understand what certain decimals would be. He stated that noise does travel.. If you go out onto a property you can hear noise. He does not think we should change the town's current Noise Ordinance.

Mr. Matt Maloney spoke stating that the Town should also be aware of what the traffic maybe on the road. He lived near a wedding venue when he resided in New Hampshire and he could hear events on a regular basis. He moved here because it is quiet. It concerns him with the children in the area on what could happen. The Town should make sure they are looking after the people who moved the rural district for a reason. The people there moved there for the low key lifestyle.

Applicant stated that they are looking to build a barn replicate that will fit into the Maine Landscape and celebrate people and a union. They are not looking to look cause an issue with traffic or with noise. There are people going by with trucks on a regular basis with farm trucks.

Mr. Kurt Youland is concerned that the Ordinance will allow it when it is appropriate. He is concerned that applicants will need to jump through hoops when the site is appropriate.

Ms. Mary Seaman spoke in regards to the proposed project. She has been in business for 40 years and can only speak to what is being done to her business. (she provided a list of event venues in the area and stated that the market is saturated at this point.)

Medical Marijuana Ordinance Establishments

Mr. Bullard stated that the Town has an option to opt in or opt out. The ordinance before us would be brought to the Town to decide if it would be allowed and how the Town would operate the same.

Mr. Maloney questioned if there would be an Ordinance on opt in or opt out at Town meeting.

Mr. Schaub stated that at Town meeting it would be all or nothing at Town meeting.

Becky O'Conner questioned on the establishment why there is another section in the presented information.

Mr. Kendall Ricker stated that the break down on the information would be break down the statute and would include the cultivation part. This would be required to be permitted to license both areas.

Ms. O'Connor questioned why all areas within medical marijuana growing would need to be 24 hour surveillance.

Mr. Schaub stated that the State has guided these guidelines to commercials vs the at home businesses. In the past the Town could not inquire to the state on what caregivers to develop at their home. Unless the Town had a Police Department they would not be able to know.

Mr. Maloney stated that he does not use medical marijuana. He believes that town is moving too fast regarding this ordinance with not enough information. The Town needs to be aware of the types of businesses. The board will also need to be aware of the current operations. To his knowledge there is only one medical marijuana business that has filled out the paperwork with the Town.

He believes the Board needs to be aware of drive thru areas, fees (auburn is \$5,000 where the Town currently has only \$500 listed in the Ordinance. He suggests the Board wait a year to work out all the details rather than rush into it and take the time to talk to caregivers and growers and get more information on what the Town would like to see.

Mr. Darren Labbe spoke in regards to question if the Town can look to see how many caregivers are in the Town.

Mr. Schaub stated that the Code Enforcement Officer would have to request the information and need to have a reason to request the same and would not know the in home care operations.

Mr. Labbe questioned on the commercial properties on how the Town is going to look at waste. He lives on an aquifer and he needs to look at clean water. He is concerned on this. He has called the DEP and the Ag department. He is not against growing but he is against how is water is currently being monitored. He is also concerned on the smell and how people are going to patrol the smell and how it would be gauged. Who will determine this?? He also stated that he is concerned on how the pot is being grown and how chemicals are being used and where they are going. He is also concerned about the flushing of the plants and where the water is going?

Craig O'Connor requested the board form a committee in the Town to discuss current and possible issues and how to help others that are small working in the Town.

Mr. Kendall Ricker stated that caregivers are limited to 36 mature plants at this time in the State Statute. He also stated that he has done research and it would not benefit the Town to include Statutes that are already being regulated by DEP.

Mr. Warren Hood stated that he never thought he would be sitting in a meeting discussing marijuana and that this is not going to be an easy topic and there is a lot to think about and to be respectful.

Mr. Mark Kent stated that there are already operations in the Town in Turner. There are other people in the town that may want to do the same. He stated that the Town needs to be aware of the medical vs. recreational.

Mr. Kelvin Youland stated that the biggest topic that is being discussed is opening Store Fronts in the Town.

Mr. Matt Maloney stated that he likes the idea of a committee and get a group of people to get together and have a plan. This should be done with more topics like this. It would be nice to have input and make sure that this is being done properly and there should be a due process and this ordinance was suggested quickly without a lot of time to get it right.

Mr. Kendall Ricker stated that he has heard a lot of people state that they would like to have it go to the town and by putting this ordinance to be voted by the Town people.

Mr. O'Conner stated that he would like to see this brought to the Town and would like to see a moratorium and this topic should be discussed properly and with the document he has seen it does not address all the concerns. He feels it was done without a lot of consideration and should be done right with a task force.

Mr. John Maloney stated that you never know what will be done at Town meeting and there should be a talk about this and an accurate document prior to Town meeting.

4. OLD BUSINESS

Zoning Ordinance Amendments-Wedding Barn/Event Center

Mr. Mike Gotto questioned on what the amendment would look like.

Mr. Gotto reviewed the document and requested a few typos and descriptions to be updated and changed.

Mr. Morris stated that he questions on Mr. John Maloney's comments on the Wedding Barn during Public Hearing. He is afraid that the Board maybe overlooking something.

Mr. Bullard stated that the Board could put in a condition of approval in the site review.

Mr. Emmons stated that the best part of a board is everyone has a different opinion. He stated that he doesn't believe that this Ordinance needs to be discussed.

Mr. Pack stated that the discussion of the Ordinance was not to regulate the business. A member of the community came in front of the board to request to build a Wedding Barn. At the time the location/business did not fit in a category.

Mr. Emmons stated that it was the fact that a wedding barn/event center should have a category vs an ordinance being drafted to change all the same. He questioned on if the business would not be able to just build a barn and call the building what ever it would be.

Mr. Gotto stated that if they were building a barn, they would not need a permit. To build for a Commercial use the permit changes. The issue is the last application was requested to be a "service business." Mr. Gotto stated if the board votes this down the building has been determined as a "service industry."

Mr. Davenport questioned on what the 5,000 sq ft area. Any under 5,000 sq ft would this trigger something that needs to be done?

Mr. Bullard questioned on if the Board sees any other issues or have any questions regarding the same.

Mr. Pack stated that he agrees somewhat of the Mr. Emmons stated. He stated that something needs to be down to describe the service industry and where these businesses can be.

Mr. Matt Maloney questioned on how why the Board is looking at Ordinances. He is questioning on why the Board will make a suggestion for one person. He is not allowed to build a duplex but if he wanted to would he be able to come up to the Board and request and ordinance change.

Ms. Greene stated that when they started this project they went to the Code Enforcement Officer and he suggested this go to the board to see what could be done.

Mr. Pack made a motion to put the updated document with changes in front of the Town per (3A with amendments.) and it seconded by Me. Lee. (3 ayes – 2 abstained -1 absent)

Mr. Pack motioned to enacted the same it was seconded by Mr. Lee (3 ayes- 2-no recommendation - 1 absent)

Medical Marijuana Store Front

Mr. Kendall Ricker stated that are the last meeting there is room for argument on going forward with site plan review. The Maine Statute that stated that you need to opt in vs opt out. There are Towns that passed ordinances prior the when ordinances passed. There could be a petition to have an ordinance be put onto a Town Vote. If the Town opted out a petition to be heard at a Town Meeting.

Mr. Gotto added an update to be done on 3b page 6 of 7 to be updated to be Town Manager.

Per the Town meeting he suggested that the video storage requirements may not be needed. His suggestion on the security be based on store fronts only. These changes would be reflected on both of the ordinances.

Mr. Maheu stated that he saw this ordinance to be based the same as alcohol. Mr. Kendall Ricker stated that he based this ordinance on other ordinances.

Mr. Morris questioned the licensing fee. The State of Maine regulates

Mr. Kurt Youland stated that at this time the board was looking to keep it consistent to other fees and the fee proposed if the alcohol fee. These can be changed later on. He also stated that the Code Enforcement Officer should be looking at these permit and what board they will need to go to. He made note that the Town Manager is busy enough and would like the fines should be enforced by the Selectman. He stated that there have been conflicts in the past between 2 individuals and it would be better for a board to decide and voted on rather than an individual.

Mr. John Maloney stated that in his testimony that he does question the \$100 fee. He is looking at all the fees we charge and does not feel \$100 is the right amount if the select board will look at possibly increasing later on.

Mr. Mahue stated he is against fees as it is.

Mr. Bullard questioned on what would happen to current operations.

Mr. Kurt Youland stated that he does not believe that we should only require certain operations to require a permit. There should be a time limit that would require the business to be licensed.

Mr. Morris questioned on how the Town would inspect the levels odor. Who would regulate the same?

Mr. Terri stated that the Code Enforcement Officer would be the one to investigate.

Mr. Kendall Ricker will make sure that the ordinance would state that the current operations would need to come before the board within a year for a license. There would also need to be a grandfather clause that would not require current operations to come before the board for a site plan. Any new establishment would need to start the process per the new guidelines.

Mr. John Maloney questioned on if the law stated that current operations would be under municipal approval. There are a number of current operations that are operating and he believes that the Board is moving too fast.

Mr. Schaub stated that there are a number of operations that are in business legally through the State. There are some concerns for those current operations.

Mr. John Maloney just wants to make sure that all the operations are being done properly and that we are not missing something that would open the Town up for a lawsuit later on.

Mr. Kendall Ricker stated that because this is being done after an ordinance was already in place. There were already questions before this process started. He stated that this proposed ordinance with licenses being required within 12 months would be helpful.

Mr. Kurt Youland stated that some of the facilities have multiple workers. Is the intent to license the facility owner or the tenants/individual owner that maybe in the building.

Mr. Kendall Ricker stated that the facility would be done first and would than fall to each individual caregiver.

Mr. Kurt Youland feels that the license should be a facility vs a caregiver. He questions on if the Town really cares on who the caregiver is if there is a facility with 3+ tenants. He feels you should be permitting a facility.

Mr. Ricker stated that as far as licensing goes the individuals need to go through licensing process with the State of Maine and there cannot be rotating tenants.

Mr. Hood question on if the Town has the information on who the license caregivers are and who is operating in the building.

Mr. Kurt Youland stated that going forward he is unsure why a license a facility and as the tenant may change this would preclude anyone else from coming in. How is the town suppose to monitor the current operations?

A license would also a certain individual to license into a new place. In order to move into a new location, the caregiver would need to be in the state.

Mr. Matt Horn stated that it is not only a grow room. There needs to be an individual grower with all their material. The State is trying to stop Co-op grow houses.

Mr. Maloney stated that the ordinance should be looked at closely. He is concerned on how this will be done at Town meeting.

Mr. Kurt Youland stated that all this will work its way out. Maybe the Town should wait until the State gives the list of current operations. We will also have a 12-month sunset clause to register in the State.

Mr. Morris questioned the chart currently has the testing facility. He thought the board had discussed not having a testing facility in the Town.

Mr. Ricker stated there is only one testing facility in the State at this time and there are no regulations on the amount allowed. He believes there will be more allowed within the State.

3B changes – Caregivers Ordinance – Selectman

Section 3

F. Notwithstanding the current operating caregivers will not be subject on section sub 3 a above will have a 12 Month Sunset Rule requiring licensing.

Section 5 Investigation on page 3 of 7 – Violation should be updated to be the CEO for review and update.

Security

Section 11B II-III will become sub sections to II 2 Storefronts and testing facilities will be video surveillance and lighting.

Violations will come before the Selectman rather than the Town Manager.

Motion to forward the Draft to the selectman with the updated changes made by Mr. Lee and seconded by Mr. Youland (5 ayes – 1 abstained- 1 absent)

Planning Board Approval (3c) to be forwarded to the Select board.
Motioned by Mr. Lee and seconded by Mr. Pack (6 ayes – 1 absent)

Page 2 of 6 Security will be updated to reflect the same from the Select Board Changes

Licensing requirements.

Mr. Kurt Youland stated that the Town needs to be aware that the Town needs to have some sort of frame work for the same.

Mr. Schaub stated that the Town will decide on if they would like to opt in or not. If the Town chooses to Opt in the framework is laid out as such.

Mr. John Maloney stated that he does not feel the Board should be suggesting an adoption for an ordinance for the Select Board.

Planning Board Approval (3c) to be forwarded to the Select board.
Motioned by Mr. Lee and seconded by Mr. Pack (6 ayes – 1 absent)

The Planning Board voted to put language in the Town Report to not take a position on the Opt in

The Select Board will put into the Town report stating that they do not have a position on Opting in but if the Town chooses to opt in they suggest the Ordinance drafted.

Mr. John Maloney stated that he is a little disappointed in the Planning board. There was some testimony that was presented with some great ideas but feels that maybe the board should have listened to some of the suggestions that were presented to them. This might shed light on why members of the community may not be active because they feel that they are not being heard.

5. Consideration of New Business

None

6. Other Business

6. PLANNING BOARD MINUTES FROM January 16, 2019 and Work Shop Minutes from February 6, 2019.

Motion to accept the Workshop Minutes from February 6, 2019 was motioned by Mr. Pack and Seconded by Mr. Morris (6 ayes, 1 absent)

Motion to accept the Planning Board minutes January 16, 2019 made by Mr. Pack and Seconded by Mr. Morris Motion carried, (6 ayes, 1 absent)

7. REPORTS

A. Planner Escrow

An update was given to the Board.

B. CEO Report

The new CEO gave an update on new standards and what is not being required. He has updated a form to be signed by those looking to build a new building. He will be requiring more information and will be held to a higher standard that will be safer for the town and

those who are living within the building. There will need to be better and more uniformed required.

C. Other

8. ANNOUNCEMENTS AND CORRESPONDENCE

None

9. PUBLIC COMMENTS

None

10. ADJOURNMENT

Mr Lee made a motion for adjournment and it was seconded by Mr. Pack, the board unanimously accepted. The meeting adjourned at 8:45 pm.

Respectfully submitted by, Megan L. Ricker, Secretary.