

Public Hearing Feb 24, 2022 on Cannabis Bylaws, 3 Silverbrook Road, Sandisfield, 7PM

Attending: In person Roger Kohler, chair; Paul Gaudette, Bill Taylor, Secretary. Live in room: Ron Pachulski, Carl Nett, George Riley. Via zoom: Barbara Cormier, Edward Brozman, Diane Barth, Leslie Garwood, Shaw Israel Iziks..., Douglas Miner, John Heck, Lisa, Eric, Peter Levine and Ellen Croibier

7:01PM: Opened meeting and hearing (Roger). Rules: same as last year. 3 minutes to talk, give everyone a chance to talk, no repeats until everyone has talked.

Ed Brozman: Appreciates cliff notes. No appetite for restrictions of first bylaw. Sees 1-3 only for outdoor due to odor of larger grows. No appetite to limit larger indoor grows. What are remediations if odor issues etc.? Is my assessment accurate? Paul: seems accurate. Ed: Any feeling whether this would pass? Should Rte 8 be the only place to cultivate? Yes. Bill: We decided to keep grows away from residences and Rte 8 was a way, not nuanced, to do that and then allow larger grows. Some interest when we met with Select Board to allow smaller indoor grows outside route 8 corridor. Survey responses all over the place from bans to everything goes.

Ed: Bylaw as written would not allow cultivation off route 8: Roger, Bill: yes. That's why we're having this mtg. Some comments at SELECT BOARD-PLANNING BOARD meeting to allow outside rte 8. Voted to present as written before mtg. Get more of a sense where public stands. Ed: Wanted to allow smaller growers to do something. Any others besides SAMA or DayDreamz wanting to do a tier 1,2, or 3 grow? Planning Board responded "no".

Ellen and Peter: We live in the old stone house (at 57 and 8). Why change from Rte 8 from New Boston south, plus part of 57, to all of Rte 8? George clarified how Overlay changer: location to all of route 8. Eliminated distinction between retail and cultivation. Bill: Rte 8 may have less residences in the sense of truck noise, more industrial feel, to avoid residential areas. Peter/Ellen: half mile south to half mile north of rte 8 are many residences. Why open these up? Bill: perhaps we exclude those residential areas for cultivation. George: Cannabis projects are not by right, needs Special Permit. Select Board can consider residential areas as a factor. Ellen: Even retail not appropriate in New Boston core, historic district. Feel strongly to not have those in New Boston with historic houses.

Carl Nett: Need to reflect on what registered voters are willing to vote for. This one will be, he thinks, even more opposed than last year's one. Myth: Wild Wild West. Not true, need all 3 Select Board members to vote for a Special Permit. Since we elect a new Select Board each year, people can get their views better represented by voting for the right person. This happened in last year's election. Perhaps we could strengthen the Select Board's discretion to deny a permit beyond proving it is a nuisance/detriment to the existing neighborhood. Question: Applicant could legally challenge, is it really a detriment? Could allow Select Board to decide at sole discretion to reject? Insulate them to legal action, give them more power to reject an undesirable project. Over 300 people who own over 50 acres. What if someone wants to grow in the middle of their large acreage. With this bylaw, excludes all but 10 acres total on route 8. Noone will look at Sandisfield, channel everything into busy area. Should be in more remote areas. To pass, need to give Select Board more power but not restrict this way. Sole discretion; Carl thinks Select Board can't be sued. Paul: Mass General Laws has specifics, things they can't remove. Carl: Town can write town law to give SELECT BOARD ability to reject a project. Bill: We did Rte 8 to avoid neighborhood conflicts by keeping it on one area. Carl: We have a lot of land, 34,000 acres down to 10 acres.

George: Carl's point well taken. Overlay district does not distinguish between cultivation and retail. Last year Select Board said separate the 2. Don't lump together. Last year's bylaw restricted retail to Rte 8 district which he thinks is more appropriate. To take agricultural operation and put along rte 8 is not sensible. New bylaw is right that setbacks be determined for each situation, too complicated to have boilerplate setbacks for each tier. Keeping odor and noise results same is good. Paul: We started with this, changed it over and over, now it seems like we are coming back full circle.

Paul or others: Large commercial grows with processing facility are different than other kinds of agriculture. Security lighting, big buildings. Not a simple farming, but commercial. Should be in business district. George: that is why we need to determine every situation. 100 plants without a license? Came to Select Board, got permission. Paul: MGL only

allows 10 plants. Argued over legality of that. George: Their lawyer said legal. 10 per person? George: maybe another number, not 100. Heated discussion between Paul and Carl. Carl: Need to have a bylaw that passes.

George: better to have imperfect bylaw passed than try to get everything into it. Roger: retail in overlay, cultivation not geographically restricted. Others who haven't spoken? None came forward except in chat.

Peter and Ellen: residential versus commercial? Do we have specific zoning? Answer: No. Roger: Commercial allowed by Special Permit. Home can be built by right.

Ed: If we leave it up to Select Board, undesirable projects may get approved. Problem in past is both SAMA and DayDreamz approved. Cost of getting license is prohibitive so little guy won't do because of that cost; only large grows will be able to afford it, so the idea of encouraging small local growers is not realistic. Bill: 1 or 2 acres are the largest grows. 2.2 is largest. Market collapsed in CA, but still the 1-2 acre grows can make a lot of money here.

George: Is it our business to determine lucrative?

Carl: Reiterates Bill's point. Why not tier 11 outdoor grow in the middle of a very large property? Don't want to lose the option to pursue a grow. Limit to 10 acres in the whole town of 28,000 non-state-owned land is too limiting. What's wrong if we can't see it or smell it. What constitutes a non-nuisance/non-detrimental grow? Roger: How can we fix the bylaw? Carl: Focus on results. Can't be detected from the boundaries of the property. Roger: Also the visual: can't see. Don't focus on acreage? Carl: write into bylaws what makes a detrimental grow. Bill: Sheffield passed a moratorium because of the outdoor grows. Can travel thousands of feet or more; 640 acres is a square mile and from the middle could travel to the next property. Even though a short smell season in fall this could be a problem.

Paul: Mass General Laws limit to 6 per person, 12 per 2 or more, more if providing 60 day supply of for personal medical use.

Carl and Paul debate how far odor travels, bylaw history, dispersion of odors. Depends on elevation and distance.

George: Can use plantings, continual harvest, small acreages, adjacent to valleys with residences. Grower has to decide if they can. Roger: What if they can't actually do it. We can revoke Special Permit if violations occur.

Carl: We all agree that don't want it to negatively impact neighbors. But we should respect property owners to do things that don't negatively impact neighbors. Ensure we are satisfied the grower can comply.

Ed: John Heck, what is news on SAMA? John Heck: Awaiting provisional license from CCC

Roger asked for others to share. Doug: just here to listen.

Bill: last year 300,000 square feet. George: do 500,000 versus 400,000 square feet? Probably won't get there anyway so why not allow more to get the law passed? This is a political issue. Only reason to support limit originally was looking at potential boom which did not materialize. Do we want to limit it to 5 large grows? Carl, Bill and Paul discuss acreage that is likely to be desired for grows, drawing a line (Paul). George: we didn't want Sandisfield's economy to be overly dependent on any one industry. If 500,000 makes it easier to pass and as Paul says we won't get that many applications, why not go with the higher number? Discussion between George and Paul about being dependent on money that may go away (they agree on that).

Paul and Carl discuss price drop. Paul: CBD dropped from \$100 to \$10 per ounce?

Ed: Roger questions? Schumer putting forth Federal law in April 2022 to legalize. Any other organizations interested in a grow? George also said no more have come forward. Ed: Boom may be over or at least tapered off.

Bill: Don't need a lot of cannabis to satisfy the market. Make it simple to eliminate big nuisances. Roger: Buy something on route 8. Bill: Route 8 too restrictive and may even backfire. George: Large outdoor grows on Rte 7, Sheffield cause odor problems especially late season. Drivers complained as they smelled it on road. Paul: Tier 11 on route 8. George: in a special area or rte 8. Paul: just growing, no processing outside route 8. George: would have stopped Daydreamz.

George and Paul debating outdoor grows, SAMA, etc.

Leslie Garwood: What's missing is how determined that detrimental or not to neighborhood. What about opinions of people next to facility? Huge battle over SAMA, people almost in tears. But Select Board did not deny the SP. Even with changes people not satisfied. Damage to environment, lighting, large industrial buildings. Hired attorneys, we fought it because Select Board approved it. Conservation Commission asked for outside opinion, not done. SAMA heard concerns and moved. Carl has point: middle of large property. What are guarantees that opinion would be heard if near to where they live. Not sure how to account. Steven Seddon back at joint Select Board-Planning Board meeting suggested idea of approval of certain percentage of abutters.

Bill: Garage George used as example of something debated, but it did not have the financial windfall a cannabis business could have, so neighbors should have some say when finances motivate a yes. Carl: Get vote of abutters if can see or smell. Don't let them stop something that can't be seen or smelled. Paul: Did with setbacks before but got shot down.

Barbara: Agrees with Leslie a lot. We need to set limits, don't allow everywhere. Does impact neighbors. Problem with Special Permit process; maybe a Cannabis committee, not just 3 people on the Select Board making decisions. A group that comes into being when a cannabis Special Permit application happens.

Ed: Seemed loose, how is grower dealt with if odor is detected? Too loose according to him.

Leslie: Interested to have subcommittee. She got involved talking with neighbors. Ed proposed a subcommittee last year during SAMA application. Offer was not accepted.

Carl: Let's look at what we agree on, not wanting a nuisance grow. These bylaws would not have allowed SAMA to move to rte 8 because they would not have been able to first apply for Abby Road.

Special Permit law may not allow Select Board to deny for their own reason, needs a criterion.

George: Special Permit procedures are already in the proposed bylaw.

Bill: Can Select Board say no without criterion. George: Won't without a reason. Could help

Carl: Special town law possible? SP law does not allow no reason denials. Paul: Can we get around that? George: SP procedures conditions and requirements different for cannabis.

Leslie: Can't see can't smell can't be determined in advance. Promises may not be kept. Smell horrendous in Sheffield at certain times of year according to John Field. Attended other towns' mtgs. What made a difference to approve was when a proponent was very accommodating to residents, saying "we hear concerns and give you cell phone and we'll work on a solution if there is a problem". Roger: Smell: write something into bylaw to deal with problems. Leslie: Subcommittee – work into bylaw?

Bill: Want to put forth something that will pass. Survey not clear. Need to revisit total, route 8, political matter. Limit tier size or all the way to 11 everywhere? Simple or 2/3 abutter majority; Carl: Protect rights of people to enjoy property without hurting neighbors.

Discussed timing: 8<sup>th</sup> gives us only 1 Select Board meeting before needs to go by town council.

Hearing closed at 8:53 PM. Planning Board meeting continues.

Roger: pick time before March 8, like 1<sup>st</sup>? Ask John.

Leslie: Can you submit an item before finalized? Leslie said an item on the warrant can be withdrawn before town meeting. George: Can be amended at town meeting but should be as close as possible with limited amendments, to facilitate an informed vote.

George: May need more time on cannabis; other 2 Select Board already commented on.

