



Town of Sheffield

Planning Board

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Public Hearing Minutes

Tuesday, March 26, 2013, 7:00 PM

TOWN HALL – 1ST FLOOR MEETING ROOM

Board Members Present: David A. Smith Sr.
James T. Collingwood Jr.
Peter R. Cherneff
Maria Nation
Margaret Martin

Others Present: Please see attached sign-in sheet.

Meeting was called to order at 7:03 PM.

David Smith Sr. explained the purpose and procedure of the hearing.

First Item: Table of Use Changes

Margaret Martin, Secretary of the Planning Board, read the notice of public hearing, published on March 13th and 18th, 2013 in the [Berkshire Eagle](#).

Comments of Planning Board Members: Each Board Member was offered an opportunity to comment on the proposal, but none had a comment at this time.

Comments of Members of the Public:

David West stated that he counts a total of 68 changes. He was concerned that any existing business would be non-conforming. Peter Cherneff explained that the proposed bylaw does not affect current businesses. He stated that the proposed zoning bylaw only affects future commercial businesses.

Rene Wood applauded the Planning Board for these proposed bylaws. She said that people have wanted to make uses available for years and these proposed bylaws allow more uses in town. She stated that a Special Permit gives people the opportunity to have their say.

Jean Bizalion asked when would change be effective? He wanted to know if there is a way to apply these changes to a pending application? David Smith Sr. said there are differences of opinion as to whether these notifications put pending applications on hold. He stated that we will find out the answer to that question in the next few days.

Beno Friedman asked if the answer to Jean Bizalion's question will be available to citizens? David Smith Sr. responded that the answer to the question will be available at the town meeting.

David Smith Jr. stated that he does agree with some of the changes proposed, he does not like the fact that there are so many definite “nos” in the current bylaws. What bothers him is the erosion of property rights. Peter Cherneff explained there is no taking away of rights by asking people to come for a Special Permit. He stated that Special Permits are generally granted, although they may have conditions, like parking or lighting requirements. David Smith Jr. responded that there’s nothing saying you have to grant the special permit, so someone could be denied the right. He added that there’s a certain cost involved with putting someone through the special permit process, so these proposed bylaws will be adding to project costs.

David Smith Sr. stated that he has been on the Planning Board for 6 years, and no one has been denied or asked to hire a lawyer. He stated that the Planning Board has been able to come to agreements with applicants. David Smith Jr. objected that now so many more Special Permits would have to come before the Board.

Margaret Martin stated that this measure was intended to protect Sheffield.

David West stated that he agrees with David Smith Jr. and that people will be charged \$250 more for each use that is now allowed by right. He worried that these changes are being made without definitions of “commercial use” and other terms that could be disputed and lead to costly determinations. David Smith Sr. explained that the only changes are requirements to go before the Planning Board or not, there are no additional definitions involved.

David Smith Jr. stated that it’s such a large change to enact suddenly. He remembered that the sign bylaw took much longer to develop. David Smith Sr. responded that sign bylaws are known to take a long time to develop. He explained that the work on these proposed changes began more than a year and a half ago.

Bart Elsbach stated that there’s always a conflict between individual and business rights. He said that as the town grows we have more impact on each other, so there needs to be some oversight and recognition that each business affects the larger community. He recognized that these proposed bylaws offer a measure of oversight. He said that he is in favor of encouraging commercial uses but not all commercial uses are the same or have the same impact. He stated that this is a way for the town, through the Planning Board, to have control over the development of Sheffield.

Richard Cherneff asked if these proposed bylaws are compatible with other municipalities or if this is a radical step? Peter Cherneff explained that these proposed bylaws have been talked about for a long time, and proposals have been rejected for far more radical and restrictive changes, these won’t set Sheffield apart from zoning in other parts of the state and many other towns are far more restrictive in their commercial approvals. Peter Cherneff said that allowing for the fact that towns are in different environments, these proposed bylaws could be characterized as much less restrictive than those of many other towns.

Maria Nation pointed out that the bylaws don’t change and that there can’t be a capricious interpretation of the bylaws.

David Smith Jr. stated that he doesn't know one other community where all commercial ventures that come to town have to go through the Special Permit process. Peter Cherneff stated that there are communities in the state of MA that do not permit formula businesses at all. He said that in those communities you don't get to go in front of the Planning Board to make an application, and that such restrictions were rejected here.

Peter Cherneff stated that in Provincetown, Lenox, Chatham and Eastham, the state of MA permits more stringent regulation, all of these towns regulations passed the attorney general. He pointed out that the proposed bylaws still allow for by-right uses.

Beno Friedman stated that things change sufficiently so that an unexpected use is just seen in an environment that was never there before, for example, fracking. He said that so many towns are rushing to try to prevent that activity from occurring in their town. He views the proposed bylaws as measured and intermediate change. He believes they will allow the town, with its elected and appointed officials, to act in a measured and judicious manner.

Peter Cherneff pointed out that the bylaw review committee is an on-going project, because situations do change.

Laura Grunfeld stated that she would have supported having no formula businesses in Sheffield. She asked if there is a bylaw provision to protect the character of Sheffield? Peter Cherneff stated that, yes, in bylaw 1.1 the purpose of the zoning bylaws is to protect Sheffield's character.

Mark Mendel said that he went on a bike ride tonight and that this is an incredibly beautiful town. He said that it's amazing, beautiful and can't protect itself. He hoped that everybody would agree.

Richard Cherneff stated the town has always stood behind the planning Board when they have brought changes to the Town Meeting.

Second Item: 5000 feet: Margaret Martin, Secretary of the Planning Board, read the notice of public hearing, published on March 13th and 18th, 2013 in the Berkshire Eagle.

Comments of Planning Board Members: Each Board Member was offered an opportunity to comment on the proposal.

Peter Cherneff stated that the existing zoning bylaw that this would replace calls for a by-right footprint of up to 10,000 square feet. He said that the Planning Board thought it would be good planning to have consistency in terms of square footage allowed as well as the part of the building facing the street. He said that a provision says that it should be compatible with other structures in the area and that is a subjective judgment.

David Smith Sr. added that the original allowed by right, was 50,000 square feet,

Comments of Members of the Public:

Rene Wood asked how this affects the Sheffield Business Park and Sheffield Plastics. David Smith Sr. stated that is a stand-alone operation, those dimensions were set up 10-20 years ago and this provision does not affect. Sheffield Plastics is non-conforming.

David Smith Jr. asked how would this affect a new industrial park? David Smith Sr. said that it would be considered at the time of proposal. Rene Wood stated that this should be looked at because we run the risk of limiting our opportunities with other industrial park proposals. David Smith Sr. said he agreed with her and David Smith Jr's concerns. He said we need to show that we are willing to make bylaw changes. He said that already built structures would be grandfathered. David Smith Jr. said he is also concerned about Sheffield Plastics.

David West said he has surveyed the town records and there are 27 structures 5000 square feet or over. These large buildings are not as rare as supposed.

Kathy Orlando asked what does 110% mean? Peter Cherneff answered that the structure could be 10% larger to allow it to fit in to the neighborhood, 110% of the average size of the surrounding buildings. She suggested putting an example in the proposed bylaw to clarify the meaning.

Eileen Vining, Member of Egremont Planning Board suggested that the word "increase" would mean to double it.

David West pointed out the mathematical confusion in the current proposed language, by reviewing a number of hypothetical examples which would make it impossible to build. James Collingwood stated that we are going to work with people so that they can build their buildings. Peter Cherneff pointed out that the language says "shall not exceed" thus if there are not buildings around you are riding on a clean slate and it is not the intention of the Planning Board to prohibit buildings at all.

Third Item: Temporary Moratorium on Medical Marijuana Treatment Centers

Margaret Martin, Secretary of the Planning Board, read the notice of public hearing, published on March 11th and 18th in the Berkshire Eagle.

Rene Wood described a citizen petition sponsored by herself and Tony Gulotta. The law regarding medical marijuana, which 67% of the citizens in Sheffield voted for, will not have regulations until May 24th. Our Town Meeting is May 6th. The law calls for a minimum of one of these centers in each county with no more than 5. Sheffield is an attractive location for one of these centers, there is a question as to whether patients can come across state borders to get medical marijuana treatment. This a temporary provision to allow the town, the Planning Board in particular, the Board of Health the Police and the Agricultural Commission to study the new regulations and try to figure out what if anything needs to be done, then it gives the town time to bring it to the voters next May. She explained that without this moratorium a medical marijuana center could come in by right without being reviewed in any way by the town. She is here with the citizens petition the Planning Board cannot change the wording, but can recommend that this go on the Town Warrant.

Maria Nation said at the state level they sound confused. Rene Wood explained that the initial regulations will be released this Friday, March 29th. Then there will be a public comment hearing. Berkshire Regional Planning Commission is submitting comments asking that the towns be allowed to regulate.

Maria Nation asked if we are potentially giving up revenue for the town in giving up this opportunity for the next 13 months? Rene Wood responded that these treatment centers can only be established by a non-profit organization. So there is not money to be made through property taxes. There is a hardship provision, if a person can show that they cannot get to a conveniently located medical marijuana treatment center, they can grow their own and receive a 60 day supply. A caregiver can go get that for the patient. So this moratorium would not stop people from receiving what they need.

Peter Cherneff, pointed out that the word “cultivates” is in the moratorium. Rene Wood clarified that the moratorium simply refers to the medical marijuana treatment center, not anyone else.

Rene Wood explained that the Planning Board is required to make a written report to Board of Selectmen recommending this Citizen’s Petition be included on the Town Warrant.

At 9:10 p.m. a motion to close the public hearing was made by James Collingwood Jr., seconded by Peter Cherneff and approved by the Board unanimously.

Respectfully submitted,



Nadia Milleron
Secretary to the Planning Board