

Special Town Meeting – Wednesday, September 13, 2017

Meeting Called to Order. Town Moderator Mary-Jo Avellar convened the Special Town Meeting at 6:00 p.m. on Wednesday, September 13, 2017 in the Town Hall Auditorium.

Preliminary Motions:

Cheryl Andrews moved that the Town vote to waive the reading of the warrant.

Motion Passed.

Cheryl Andrews moved that the Town vote to grant permission to speak at the September 13, 2017 Special Town Meeting to the following persons who are not registered voters of the Town of Provincetown:

Jonathan Silverstein, Esq., and other attorneys of the firm of KP Law, P.C., Town Counsel; Josee Cardinal Young, Finance Director; Morgan Clark, Director of Health; Scott Fahle, Principal Assessor; James Golden, Chief of Police; Beau Jackett, MIS Director; Michelle Jarusiewicz, Housing Specialist/Grant Administrator; Gloria McPherson, Town Planner; Rex McKinsey, Harbormaster; Cody Salisbury, Water Superintendent; Beth Singer, Superintendent of Schools; Elisabeth Verde, Executive Assistant to the Town Manager; Steven Wlodkowski, Deputy Director of Public Works.

Motion Passed.

Cheryl Andrews moved that on all matters to come before the September 13, 2017 Special Town Meeting, requiring a two-thirds vote by statute, that a count need not be taken unless the vote so declared is immediately questioned by seven or more registered voters.

Motion Passed.

Article 1: Petitioned Article by Stephanie Page and Others.

The following petition is submitted to the Town of Provincetown for consideration: The petitioners hereby request a vote to reverse Article 13. Zoning By-law Article 1. Medical Marijuana Treatment Center Zoning Bylaw shown below, which was enacted at the Special Town Meeting – Monday, October 21, 2013. Petitioners seek to prohibit the siting of any Medical Marijuana Treatment Center within the Res 3 Res B zone making the following modification to Section 2440 as follows:

D. Institutional		Res1	Res2	Res3 ResB	TCC	GC	S	M
D7	Medical Marijuana Treatment Center	No	No	No	No	BA ¹⁹	No	No

Article 13. Zoning By-Law Article 1. Medical Marijuana Treatment Center Zoning Bylaw Amendment – Passed on October 21, 21013.

To see if the Town will vote to amend the Provincetown Zoning Bylaw, Article 1, Definitions, by adding the following:

Medical Marijuana Treatment Center (MMTC): means a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes, (including development of related products such as edible marijuana infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, MMTC references to the site(s) of dispensing, cultivation, and preparation of marijuana.

And Further to make the following modifications to Section 2440 as follows:

D. Institutional		Res1	Res2	Res3 ResB	TCC	GC	S	M
D7	Medical Marijuana Treatment Center	No	No	BA ¹⁹	No	BA ¹⁹	No	No

And add footnote 19.

¹⁹ *The Planning Board shall be the Special Permit Granting Authority for Medical Marijuana Treatment Centers. Except no MMTC shall be permitted with a radius of 100 feet of a school or daycare center. The 100 foot distance is measures in a straight line from the nearest point of the facility in question to the nearest point of the proposed MMTC.*

Requested by Stephanie Page and Others

[Stefanie Page moved to amend the Zoning By-law to prohibit the siting of any medical Marijuana Treatment Center within the Res 3 and Res B zones by making the following modification to Section 2440 as follows:](#)

D. Institutional		Res1	Res2	Res3 ResB	TCC	GC	S	M
D7	Medical Marijuana Treatment	No	No	BA¹⁹ No	No	BA¹⁹	No	No

	Center								
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**Board of Selectmen Recommends 3-1-0
 Planning Board Recommends 3-0-0**

Brandon Quesnell moved to amend the motion to continue to allow this use in ResB by Special Permit, by having the entry in that column in the table if permitted principal uses read as follows:

D. Institutional		Res1	Res2	Res3	ResB	TCC	GC	S	M
D7	Medical Marijuana Treatment Center	No	No	BA¹⁹ <u>No</u>	BA¹⁹ <u>BA¹⁹</u>	No	BA ¹⁹	No	No

Motion to amend does not pass.

Chris Snow moved to indefinitely postpone Article 1.
Motion does not pass.

Brandon Quesnell Moved to reconsider the amendment to Article 1.
Motion to reconsider amendment passed.
Motion to amend Article 1 passed.

(2/3rd's Vote required and not obtained: 97 For and 86 Against)
Motion to amend Article 1 as amended does not pass.

Raphael Richter moved to adjourn the STM September 13, 2017
Motion does not pass.

Article 2: Zoning Bylaw Amendment: Article 1. Definition of Natural Grade.
 (Deletions shown in strike-through and new text shown as underlined.) To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 1, Definitions, *Natural Grade*, as follows:

Natural Grade The lower of: (1) the existing grade or elevation of the ground surface prior to ~~human-made alteration~~ at the time of application for a building permit, special permit, variance or site plan approval; or (2) the grade or elevation of the ground at any time within 20 years prior to the date of such application, as shown on any plan or by any other evidence deemed to be reliable by the Zoning Enforcement Officer in his/her discretion. To determine the applicable natural grade, which may not be artificially heightened to raise the elevation of a structure, the critical topographical data shall be provided as required by the Zoning Enforcement Officer. On any lot exhibiting evidence of fill not authorized, the Zoning Enforcement Officer may require the applicant to provide a professional soil analysis to determine the natural grade.

Or to take any other action relative thereto.

Two-Thirds Vote (G.L.c.40A, §5); Planning Board public hearing and report under G.L. c.40A, §5.

Requested by the Town Manager

**Board of Selectmen Recommends PB amendment 2-1-1
Planning Board Recommends amendment 3-0-0**

Gloria McPhearson moved to amend the motion by removing the words... “the lower of...” and “or (2) the grade or elevation of the ground at any time within 20 years prior to the date of such application,” so as to read as follows:

Natural Grade The existing grade or elevation of the ground surface prior to human made alteration at the time of application for a building permit, special permit, variance or site plan approval, as shown on any plan or by any other evidence deemed to be reliable by the Zoning Enforcement Officer in his/her discretion. To determine the applicable natural grade, which may not be artificially heightened to raise the elevation of a structure, the critical topographical data shall be provided as required by the Zoning Enforcement Officer. On any lot exhibiting evidence of fill not authorized, the Zoning Enforcement Officer may require the applicant to provide a professional soil analysis to determine the natural grade.

**Board of Selectmen Recommends Planning Board amendment 4-1-0
Planning Board Recommends amendment 3-0-0**

Motion to amend passed.

Motion to approve Article 2 as amended passed.

(2/3rds vote declared).

Article 3: Zoning Bylaw Amendment: Article 2 Design Standards (*Deletions shown in strike-through and new text shown as underlined.*) To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 2, Design Standards, by inserting the following new section:

To see if the Town will vote to amend the Provincetown Zoning Bylaws, by inserting a new Section 2650 as follows:

Section 2650 Surveys

(a) Height Surveys

1. All applications for site plan approval and building permits for new structures or additions that alter the height of existing structures must include complete height calculations.

2. If the height of the structure is within 2 feet of the maximum building height, or if the structure is being constructed on a site with a change in topography of 8 feet or greater, a survey is required from a professional land surveyor.
3. The survey shall be conducted and submitted to the Zoning Enforcement Officer at a point of construction when enough roof structure is in place to accurately measure the structure yet early enough in the process to still make changes if the structure is too tall.

(b) Foundation Surveys

1. All building permits for new buildings or additions require a foundation survey.
2. After the foundation has been constructed, a foundation survey shall be prepared, stamped and signed by a professional land surveyor and submitted to the Zoning Enforcement Officer for review.
3. All work must stop until the foundation survey is submitted, reviewed and approved by the Zoning Enforcement Officer. The full building permit shall not be issued until the foundation survey is approved by the Zoning Enforcement Officer.
4. Any setback or easement violations must be corrected before the full building permit is issued.

Or to take any other action relative thereto.

Two-Thirds Vote (G.L.c.40A, §5); Planning Board public hearing and report under G.L. c.40A, §5.

Requested by the Town Manager

Gloria McPhearson moved that the Town vote to amend the Zoning Bylaw as printed in the warrant under Article 3.

Board of Selectmen Recommends 4-0-0
Planning Board Recommends 3-0-0

Motion passed.

(2/3rd's vote declared).

Article 4: Recreational Marijuana Sales Tax. To see if the Town will vote to accept the provisions of General Laws Chapter 64N, Section 3(a), as recently amended by Section 13 of Chapter 55 of the Acts of 2017, and to authorize the Town to impose a local sales tax upon the sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the Town to anyone other than a marijuana establishment, at the rate of 3 percent of the total sales price received by the marijuana retailer as a consideration for the sale of marijuana or marijuana products; or to take any other action relative thereto.

Requested by the Town Manager

David Panagore moved to approve article 4 as printed in the warrant.

Board of Selectmen Recommends 4-0-0
Finance Committee Recommends 6-0-0
Board of Health Recommends 3-0-1

Motion passed.

**Article 5: General Bylaw Amendment: Chapter 16, Section 16-14:
Enforcement.**

(Deletions shown in strike-through and new text shown as underlined) To see if the Town will vote to amend the Provincetown General Bylaws by amending Section 16-14-1 as follows:

16-14-1. Any person who violates any provision of G. L. c. 87, s. 3-5, relating to the trimming, cutting or removal of public shade trees, shall be subject to fines of up to \$500 for each separate offense, as provided by G. L. c. 87, s. 6. Where any person violates any provision of this bylaw but not the provisions of G. L. c. 87, the person shall be subject to a fines of up to \$300 for each separate offense. Each act causing damage to a separate tree shall constitute a separate offense. Fines shall be assessed and collected under the G. L. c. 40, s. 21D process; or to take any other action relative thereto.

Requested by the Town Manager

Rich Waldo moved that the Town vote to amend the General Bylaw as printed in the warrant under Article 5.

Board of Selectmen Recommends PB amendment 2-1-1
Planning Board Recommends amendment 3-0-0

Motion passed.

Town Moderator Mary-Jo Avellar motioned to dissolve the September 13, 2017 Special Town Meeting at 8:23 p.m.

Motion Passed.