

## ZONING COMMISSION MEETING

TUESDAY, MAY 26, 2015

TOWN HALL 7:00 P.M.

Present: Chairman Don Truskauskas, David Mathes, Anne Marie Buonocore, Joseph Marzullo, Alternate Member Dan Thurston, Alternate Member Michelle Rewenko, Land Use Coordinator Polly Redmond and Zoning Enforcement Officer David Perkins

Absent: Todd Ouellette and Alternate Member Lynne Steincamp

### PLEDGE OF ALLEGIANCE

### PUBLIC HEARING

#### 1. OPEN HEARING – ESTABLISH QUORUM.

Chairman Truskauskas called the hearing to order at 7:00 p.m. All regular members present are seated with Alternate Member Dan Thurston seated for Todd Ouellette.

#### 2. PRESENT COMMISSION-INITIATED PROPOSED ZONING REGULATION AMENDMENTS AS FOLLOWS:

##### **\*ADD TO SECTION 2.3 DEFINITIONS:**

*Medical Marijuana Dispensary Facility means a place of business where medical marijuana may be dispensed or sold at retail to qualifying patients and primary caregivers and for which the Connecticut Department of Consumer Protection has issued a dispensary facility permit under Public Act 12-155, Connecticut General Statutes, Chapter 420f, and Sections 21a-408-1 to 21a-408-70, inclusive, of the Regulations of Connecticut State Agencies.*

*Medical Marijuana Production Facility means a secure, indoor facility where the production of medical marijuana occurs and is operated by a person to whom the Connecticut Department of Consumer Protection has issued a production facility permit under Public Act 12-155, Connecticut General Statutes, Chapter 420f, and Sections 21a-408-1 to 21a-408-70, inclusive, of the Regulations of Connecticut State Agencies.*

##### **\*ADD TO SECTION 4 PERMITTED USES AND SPECIAL PERMIT USES FOR EACH ZONE (PRIOR TO SECTION 4.1): LAST PARAGRAPH TO READ:**

*Prohibited Uses: Medical Marijuana Dispensary and Medical Marijuana Production Facilities are not allowed in any zone.*

Chairman Truskauskas explains the hearing process and procedures and asks that speakers keep their comments on point with the subject of the proposed amendment and not the validity of medical marijuana.

**Exhibit T** is acknowledged as a report from NHCOC (Northwest Hills Council of Governments) that states "No inter-municipal impact expected" on this proposed Zoning Regulation.

Chairman Truskauskas opens the floor for public comment at this time.

Roland Perreault, 165 Delay Road, resident and Planning Commission member, states that he spoke at the last public hearing Zoning held on 5/11/15 and notes that his concerns are not the pros or cons of medical marijuana but concern that the Planning Commission's report requesting that the Zoning Commission further explore the topic before making a decision may not be followed. He expressed concern when he heard the First Selectman speak at the last public hearing comparing medical marijuana facilities with methadone clinics. Mr. Perreault submits and references a report from the Marijuana Policy Report titled "Medical Marijuana Dispensaries and Their Effect on Crime" (**Exhibit U**) that speaks of cities experiencing a reduction in crime where medical marijuana facilities are located. He also submits a report from the NIH (National Institutes of Health) (**Exhibit V**) titled "Evaluating Medical Marijuana Dispensary Policies: Spatial Methods for the Study of Environmentally-Based Interventions" noting that NIH is evaluating policies for medical marijuana dispensaries and looking at the pros and cons and the relationship between dispensaries and crime. He reminds the commission that the Planning Commission did not give a negative report to the proposed amendment; they only asked that the Zoning Commission proceed slowly. He warns that if Harwinton is coming off as obstructing and comparing medical marijuana dispensaries to methadone clinics, it could be shaky ground that could get the town in trouble.

Scott Ragaglia, 154 Woodchuck Lane, states that he has read the Zoning minutes of 5/11/15 and believes that the action of the Zoning Commission to be preemptive. He speaks of finding out recently that he had an illness and did not want to be on the drugs suggested to help him. He did research on medical marijuana and believes it allows patients an alternative to the use of addictive drugs. He believes the town should look at the pros and cons and the benefits of medical marijuana. He speaks of the process in order to obtain a license to start a medical marijuana dispensary.

Janet Burritt, 31 Whetstone Road, states that she is against any proposal to allow medical marijuana facilities in town. She notes that a few months ago when the Zoning Commission proposed a regulation amendment allowing liquor stores and sales anywhere within town, everyone was in an uproar. She states that every town in CT doesn't need these types of facilities and that Harwinton should be able to remain in its rural character.

Ron Leoni, 44 Brookfield Road, states that he had operated the pharmacy when it was here in Harwinton and that when he started as a pharmacist in 1953, the narcotic license of a pharmacist included a marijuana stamp allowing patients to come in and fill a prescription for it. That is no longer the case and that is why dispensaries are now needed. He expresses concern for the strength and potency of today's marijuana.

Franci Tartaglino, 500 Burlington Road, submits to each commissioner a copy of a survey she conducted on social media. It is noted by the commission that the people who took the survey should be at tonight's public hearing if they wish to express their opinion on this proposed amendment. Ms. Tartaglino states her belief that if someone produces a plant, they should be able to market it. She stresses that medical marijuana is a plant. She states that as a business owner in town, she doesn't see how a medical marijuana business would work here but notes that the townspeople thought the same about her business, a massage therapy business, and they worried that it would bring undesirable things to town.

Scott Ragaglia, 154 Woodchuck Lane, refers to Mr. Leoni's statement about pharmacists no longer prescribing marijuana and states that in fact, patients do go to a pharmacist at a medical marijuana dispensary with their prescriptions. Mr. Ragaglia states that he is not saying that allowing a dispensary in town is the right thing for Harwinton but when putting laws in place, he believes this regulation proposal is preemptive and the Zoning Commission should look at what other towns have done. Investigate the

medical marijuana dispensary facilities that are operating, visit the sites, talk to the pharmacist, find out how many people come in before acting on this proposal.

Sal Bonola, 171 Laurel Road, states that this type of facility is not needed in Harwinton and he does not support having any medical marijuana facilities in town.

Ron Leoni, 44 Brookfield Road, states that everyone believes medical marijuana to be harmless but if you look to California there are problems they are encountering.

Franci Tartaglino, 500 Burlington Road, wishes to clarify that no one has made application to bring a medical marijuana dispensary to town.

With no further comments from the public, Chairman Truskauskas asks Commissioners for their comments.

Commissioner Joseph Marzullo provides an article titled “Number of Legal Medical Marijuana Patients (as of Oct. 27, 2014)” (**Exhibit W**) which estimates the number of medical marijuana patients in the United States. The article notes that the estimates may not be nor is it intended to be scientifically or statistically sound. It is only to give a general reference point for discussion of medical marijuana use in the United States.

Commissioner Michelle Rewenko submits an article (**Exhibit X**) titled “Riverside: Guard shoots driver outside marijuana dispensary.” She questions who would police and protect marijuana facilities if they were allowed in town? She refers to the California Supreme Court decision that allows towns to individually permit or prohibit these facilities (submitted as Exhibit S at the Zoning Commission’s May 11, 2015 public hearing).

Further public comment continues with Alex Hasapis, 759 South Road, stating that it good that the Zoning Commission is being preemptive in proposing this Zoning Regulation. It is their job. He supports the prohibition of these facilities in town.

### **3. CONTINUE OR CLOSE HEARING.**

Commissioner A. Buonocore **motions** to continue the public hearing to Monday, June 8, 2015 at 7:00 p.m. in order to obtain Atty. Steven Byrnes’ opinion on the proposed Zoning Regulation amendment. D. Mathes seconded the motion and it passed 3-1 with Commissioner J. Marzullo voting against the motion and Chairman D. Truskauskas refraining from vote.

## **REGULAR MEETING**

### **1. OPEN MEETING – ESTABLISH QUORUM.**

Chairman Truskauskas called the meeting to order at 7:54 p.m. Quorum remains the same.

### **2. APPROVE MINUTES OF PREVIOUS MEETING: 5/11/15**

Corrections to the minutes as suggested by Town Atty. Michael Rybak: Page 2, paragraph 1, line 9 to read: “...University School of Medicine and Chair, AAP National Committee on Substance Abuse. The article

makes clear...” Same paragraph, line 11 to read: “...THC has been reclassified and scientifically **studied** as a Schedule 2...” Page 4, last paragraph, line 4 to read (per Commissioner Marzullo): “...from being quite poor to making **\$8,000.00** a day.” Page 6, first paragraph, line 3 to read (per Town Atty. M. Rybak): “...must also make clear if their decision is **consistent** with the Plan of Conservation...” Page 6, paragraph 3, line 6 to read: “...commission is going into deeper water. At issue is **whether the** adoption of Chapter 420f and State Regulations (omit the word “that”) **preempt zoning.**” Page 6, paragraph 4, line 6 to read: “...qualified patients in the state. Atty. Rybak states (omit the word “that”) in Subsection f of **Section 21a-408h** of the regulations...” Page 6, paragraph 4, last line to read: “...Subsection (a) of Section 30-46 of **the CT General Statutes.**” Page 7, paragraph 2, line 11 to read: “...guarantee the availability of locations where medical marijuana may be **sold** and in fact...” Page 9, Item 8, last paragraph, line 1: add at the end of the first sentence (per Chairman Truskauskas): “**Anne Marie Buonocore interjects that due to time and emotions Mr. Truskauskas should be limited to 2 minutes to rebut the complaints. A discussion ensues between Ms. Buonocore and Mr. Mathes whether the 2 minutes or 3 minutes is the appropriate time. Acting Chairman Mathes decides 3 minutes is appropriate.**” Page 9, last paragraph, line 4 to read (per Chairman Truskauskas): “...truck and then **borrowed** Mr. Truskauskas’ truck.” Page 9, last paragraph, line 5 to read (per Chairman Truskauskas): “...also be stored on his property. Mr. Truskauskas notes that his friend **returned** earlier than he does so...”

D. Thurston **motioned** to approve the minutes as amended, seconded by J. Marzullo. Motion passed unanimously.

3. **PUBLIC COMMENT.**

None.

4. **DISCUSSION/POSSIBLE DECISION - COMMISSION-INITIATED PROPOSED ZONING REGULATION AMENDMENTS ADDING DEFINITIONS OF MEDICAL MARIJUANA DISPENSARY FACILITY AND MEDICAL MARIJUANA PRODUCTION FACILITY AND TO PROHIBIT THE USE OF MEDICAL MARIJUANA DISPENSARIES AND MEDICAL MARIJUANA PRODUCTION FACILITIES IN ANY ZONE.**

None.

A. Buonocore **motioned** to add to the agenda: **Jason Emery, 38 Meadowview Drive, application for 18’ x 36’ inground pool.** D. Mathes seconded the motion and it passed unanimously.

Jason Emery is present. Plans by Berkshire Engineering, revised 5-22-15 for patio and pool, are reviewed. IWWC approval has been received. TAHD approval is pending. D. Mathes **motioned** to approve the application, pending TAHD approval, seconded by A. Buonocore. Motion passed unanimously.

5. **COMPLAINTS/ENFORCEMENT ACTIONS.**

ZEO David Perkins informs the commission that he has responded to Edward Zielinski’s complaints with a letter going to 505 Plymouth Road regarding unregistered cars and significant amount of debris on the property. He also wrote to Mr. Zielinski stating his actions in response to the complaints. ZEO Perkins informs the commission that he has also responded to the complaints made by Jessica Genovese against Don Truskauskas. \*Chairman Truskauskas recuses himself at this time and D. Mathes becomes acting chairman. ZEO Perkins explains that his response to Ms. Genovese was that the matter is going to court on June 25, 2015 and that Atty. Steven Byrnes wrote a letter to ZEO Perkins dated 12/1/14 recommending that any enforcement action against Mr. Truskauskas not be taken until the appeals to court have been decided.

At this time Don Truskauskas responds to the activity in question (complaints) that is taking place on his property. He submits to commissioners a copy of the 7/2/14 ZBA minutes and notes that the coming and going of his truck is legal. He submits to commissioners a copy of the 7/16/14 ZBA minutes where ZBA's decision was that the truck usage was legal non-conforming and can enter and exit the property. He states that the Zoning Commission can determine this so no further complaints are made by Ms. Genovese. ZEO Perkins states that he has written a letter to Ms. Genovese informing her of what Atty. Byrnes has suggested in the 12/1/14 letter referenced in the above paragraph.

D. Mathes questions the lack of berm and planted trees at the 529 Burlington Road site as presented and approved for school bus parking. ZEO Perkins states he spoke to the property owner in February and was told it would be done. He will follow up with the property owner.

D. Truskauskas is reseated as Chairman.

Discussion with ZEO Perkins on the use of Complaint and Site Visit forms takes place. The commission would like to have reports from the ZEO regardless of his attendance at Zoning meetings.

6. **ANY OTHER BUSINESS.**

None.

7. **CORRESPONDENCE.**

None.

8. **INVOICES.**

ZEO Perkins submits an invoice covering the period 4/27/15 -- 5/25/15 in the amount of \$285.00.

A. Buonocore **motioned** to approve the invoice, seconded by D. Thurston. Motion passed unanimously.

9. **ADJOURN.**

J. Marzullo **motioned** to adjourn the meeting at 8:35 p.m., seconded by A. Buonocore. Motion passed unanimously.

Respectfully submitted,

Polly Redmond  
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CT  
ON 5-28-2015 AT 2:18 PM  
ATTEST NANCY E. ELDRIDGE TOWN CLERK