

Agawam Planning Board – May 19, 2022

MEMBERS PRESENT:

Mark R. Paleologopoulos, Chairman
Frank DeStefano
Charles Elfman
Michael DiLullo

MEMBERS ABSENT:

Violet E. Baldwin

ALSO PRESENT:

Pam Kerr

Chairperson Paleologopoulos called the meeting to order at 6:00 pm.

1. 6:00 PM - PUBLIC HEARING – Zoning Amendment – Buffer Zone to Marijuana Facilities (TOR-2022-8) – Mayor Sapelli

Attorney Stephen Buoniconti presented the proposed Zoning Amendment on behalf of the Administration. He began by explaining that the marijuana ordinances were originally for medical marijuana only. The City Council created a buffer zone 500' from parcel to parcel for a residential property. The property being referred to is in the area of Shoemaker Lane, Silver Street back to Suffield Street. The use would be marijuana cultivation. In 2021 the buffer zone was amended to 225' and building to building. Residences in industrial zones prohibit many areas from being used for this purpose. Attorney Buoniconti said they see this as an extension of the amendment made last year. Any parcels that are zoned industrial but have a residential property on it would now be exempt and the buffer zone would be eliminated allowing for a cultivation facility to be located next to it. Attorney Buoniconti went on to say that the Town is always looking for the maximum use or value for the Town as to how a property is zoned. He said that when a house is located in an industrial zone, the property could really be used for many purposes that could result in the maximum use potentially including valuation changes and more tax revenue. The Board received a letter from the Fitzgerald Law Group opposing this amendment. Attorney Buoniconti said he does not see this as a spot zoning issue as only the buffer zone is being changed not the zoning. He feels this is a positive advancement as the Town tries to attract businesses.

Chairperson Paleologopoulos stated that the Planning Board's function is to listen to the presentation of the proposed amendment and if they vote it would be to send either a positive or a negative recommendation to the City Council. He then opened the hearing to the public.

Attorney Nick Amanti with Fitzgerald Law Firm was present representing the owner of 144 Shoemaker Lane, the home that would be negatively impacted by the amendment. He noted that the home is in an industrial zone. He also said that his firm had submitted a letter of opposition to the Board. He went on to say that the property abutting 144 Shoemaker Lane is the only property in town that has been proposed for an adult use cannabis operation. He said that changing the zone really just impacts this property. Other homes in industrial zones would not be impacted. It is only to affect this property. This property would be treated differently than those of similar character. He added that the protections of this property are being stripped away. He asks the Planning Board to take a step back and further study the legal implications and reconsider it's

Agawam Planning Board – May 19, 2022

positioning on the matter. He said that in general his client is willing to work with someone if they want to come in and talk to him about cannabis operations adjacent to his property. They do oppose this change in zoning and will oppose any operators that will come to the property because of it. Steve Baradino, owner of 144 Shoemaker Lane, SS Asrow Holdings, spoke saying that he is a partner in the cannabis business. He said it is the only business that has interest in the Chez Josef property. He said last May he learned that the property was for sale and understood that in order to grow marijuana on that property he would need to own 144 Shoemaker Lane and he then bought it. He said that when he then went to buy the Chez Josef property the price increased from 2.5 million to 3.5 million dollars. He and his partners negotiated down to 3.1 million dollars. He said that the only people other than him interested in the property are his partners who will not reimburse him for the purchase of 144 Shoemaker Lane. He added that there is a family living in the home now. He said he will be willing to work with or sell to any party interested in 144 Shoemaker Lane. Chair Paleologopoulos said that what he understood from the letter from his attorney, is that the building was there before Chez Josef and before the zoning laws were instituted. So why should the owner be impacted by having no buffer. Attorney Amanti said there are homes across the street that were built first and they are zoned agricultural so would not be impacted by this amendment. He stated that, as discussed earlier with spot zoning, this property is being treated differently than other buildings. He went on to say that when the regulations were set some thought was given that having a cannabis operation shouldn't be adjacent to residential homes. He said they do not object to a cannabis operation in town but are in opposition to it being next to their property. Mr. DeStefano spoke saying that he is concerned about setting a precedent by waving this restriction for the Town. He said these restrictions are set for a reason. If everyone comes before the Board for waivers perhaps the Board should go on a case by case basis. Mr. Paleologopoulos noted that this amendment is considered as an extension of the previous amendment. Mr. DeStefano went on to say that amendments can so often be sought which change the original restrictions. Mr. Paleologopoulos noted that sometimes the first time maybe isn't always right. Mr. DeStefano expressed concern that there will be amendments coming before the Board often. Ms. Kerr explained that waivers and zoning bylaws are different. Waivers are through subdivision regulations and must be in the best interest of the Town for the Board to approve them. She went on to say that this is not an arbitrary decision as all options have to be weighed to be sure it is in the best interest of the Town. She said that our zoning bylaws were written in the 1950's originally and are constantly updated.. Mr. DeStefano suggested that perhaps an amendment should be made concerning cannabis that covers all possibilities. Attorney Buoniconti spoke saying the Board's business is not taken lightly. We do live in political reality, about what is the will of this Board and also the City Council. He said it is measured very closely about what they decide to do. In the past the community had voted in opposition of recreational marijuana. The town has looked at what other communities are receiving in tax values of businesses in town. What has changed in a short period of time is the feeling about marijuana. It is less considered a noxious type of business. When this ordinance was initially installed then amended, there was a big concern with the City Council as to the impact and the smell. Those concerns are now dissipating as there are advances in technology. Attorney Buoniconti went on to say that they want to keep these properties on the tax rolls and encourage industrial development. Mr. Elfman asked Attorney Buoniconti to go over the specific changes such as measurements. Attorney Buoniconti explained the Town's marijuana facility code 180 – 4 – subsection D. He said this proposal has one sentence addition that says the section does not apply to industrial zoned parcels used for residential uses, meaning

Agawam Planning Board – May 19, 2022

that the buffer zone will be eliminated for these parcels. Mr. Baradino spoke saying that there are approximately 30 cannabis companies looking for property in the area but most are too expensive. He then read an email he had sent to the Mayor and the Solicitor. He will see that an electronic file is sent to the office.

Mr. Paleologopoulos reminded the Board that if they vote tonight they would be voting on whether to send a positive recommendation to the City Council for this amendment.

Mr. Elfman and Mr. DeStefano were ready to vote. Mr. DiLullo was not ready to vote. He felt that he needed to do more homework or abstain if the Board voted.

Motion was made by Mr. Elfman and seconded by Mr. DeStefano to give a positive recommendation to the City Council for the Zoning Amendment – Buffer Zone to Marijuana Facilities (TOR-2022-8) – Mayor Sapelli.

VOTE 2 – 2 (DiLullo & DeStefano opposed)

2. PUBLIC HEARING CONT. – Definitive Plan – 673 Silver Street – Aspenwood Estates – Aspenwood Associates LLC

The Board received a request to continue to the next meeting.

Motion was made by Mr. DeStefano and seconded by Mr. Elfman to continue the Public Hearing - Definitive Plan – 673 Silver Street – Aspenwood Estates – Aspenwood Associates LLC to the June 2, 2022 meeting.

VOTE 4 - 0

3. SITE PLAN – Tuckahoe Farm – 0 Pine Street – Town of Agawam

Previously continued to June 2, 2022

4. APPROVAL OF MINUTES May 5, 2022

Motion was made by Mr. Elfman and seconded by Mr. DeStefano to approve of the minutes of May 5, 2022 as written.

VOTE 4 – 0

5. Correspondences— None

Motion was made by Mr. Elfman and seconded by Mr. DiLullo to adjourn the meeting.

VOTE 4 – 0

Meeting was adjourned at 6:48.