

**Licensing Review Committee Meeting
February 8, 2018**

A meeting of the Licensing Review Committee was held on Thursday, February 8, 2018 at 8:30 a.m. The meeting followed all the guidelines of the Open Meeting Law.

In attendance: Bernard Greene (Co-Chair); Lea Cohen; Anne Meyers; Tom Gallitano

Absent: Ben Franco (Co-Chair); Peg Senturia

Also present: Tracey Michienzi (Paralegal); Patty Correa (First Assistant Town Counsel); Zack Carlton (Town Counsel Intern); Austin Faison (Assistant Town Manager); Pat Maloney (Health); Dr. Swannie Jett (Health); Francisco Torres (Planning); Ashley Clark (Planning); Kara Brewton (Planning); Paul Cullinane (Police); Daniel Carroll (Fire); Jennifer Dopazo Gilbert (Attorney for NETA); Amanda Rossitano (NETA); Jonathan Lau (Interested Person); William Seagaard (Interested Person), John Bryant Havck (Interested Person); Lynda Roseman (Interested Person)

Ms. Michienzi announced that the meeting would be audiotaped to assist with preparation of minutes. The Committee agreed.

I. Approve Minutes of the January 18, 2018 Meeting and the January 24, 2018 2018

The minutes of the January 18, 2018 Meeting were discussed and unanimously approved without changes.

The minutes of the January 24, 2018 meeting were unanimously approved with changes.

II. Discussion and Possible Vote Regarding Local Regulation of Recreational Marijuana

First Assistant Correa reviewed the comments made during the joint public hearing. Francisco Torres from the Planning Department told the Committee that he received a subsequent comment asking that the Putterham area be removed from consideration for a marijuana establishment because of how close it is to Temple Emeth.

The Committee then began to discuss the public comments pertaining to the Zoning By-Law article. As far as the square footage is concerned, First Assistant Correa reminded the Committee that the Town Moderator has said that he would approve motions to increase the maximum square footage up to 5,000 square feet but would not approve motions to decrease square footage. Mr. Torres discussed the process that the Town Planning Department used to get to its recommendation for a 3,500 square feet limitation. First Assistant Correa then reviewed the various comments made at the public hearing about the square footage limit.

Co-Chair Bernard Greene was concerned with how the Town is treating the marijuana establishments and how other establishments (such as liquor package stores) are treated. Mr. Torres told him that the reasoning behind the differences is to have operations that blend into the existing commercial area. Mr. Torres said that the 3,500 square feet limitation only applies to ground floor spaces and not to second or third floor establishments, which would still be subject to the 5,000 square feet limitation for retail operations that is in the existing zoning by-law. First Assistant Correa reminded the Committee that in making a final recommendation they should be cognizant of the Town Moderator's position on scope issues, i.e., that he will permit motions to increase up to 5,000 square feet but not to decrease below the square footage in the warrant article.

Mr. Torres told the Committee that the Zoning By-Law Committee is meeting on February 28th to discuss the Zoning By-Law article and he would report back to the Committee at the March 1, 2018 meeting.

The Planning Department then reviewed a change to the draft providing that if a grandfathered facility (NETA) not subject to the square footage limitation expands or modifies the facility in any way, the grandfathering protection would not apply. Attorney Gilbert told the Committee that NETA doesn't have issue with the language insofar as it pertains to the expansion of the facility, but it does have an issue with "modify in any way", because that conflicts with the statute pertaining to grandfathering. She stated that there will be no expansions. However, there may be modifications that need to be made requiring a building permit, and for the issue to come up every time NETA has to apply for a permit could violate the statute. The Committee agreed to delete the modification language and to leave the "expands in any way" language.

The Committee then discussed the cap language. The consensus after the public hearing was that the cap should be for marijuana retailers and not for all kinds of marijuana establishments. The cap language explicitly applies just to retailers. First Assistant Correa told the Committee that she is working on language for this section that will cross-reference the limitation established by the General By-Laws.

The Committee also discussed the provisions pertaining to verification of age (carding). First Assistant Correa said that the language in the draft is from the Cannabis Commission's draft regulations. The Town wants to be sure that there are ID's checked at retail locations. The Cannabis Commission draft regulations seem to say that IDs should be checked at all marijuana establishments, but there is some internal inconsistencies in the draft. Amanda Rossitano, a representative from NETA, told the Committee that the state already requires carding for manufacturing establishments. The Committee decided to take out the ID language and rely on the State requirements in this respect.

Ms. Rositano told the Committee that she wants to make sure that minors with a medical card would still be able to gain access to the establishment for medical marijuana. First Assistant Correa told her that it is included in the regulations under section 15. B.

There was a discussion about social consumption marijuana retailers. The restaurants wanting to serve marijuana-infused products would have to obtain one of the retail licenses, since social consumption operators are a type of retail licensee. Lea Cohen lamented that it was too bad that restaurant owners would be competing with retail stores for retail licenses. There was discussion about the fact that under the recreational marijuana law, there could not be social consumption operators until there was a successful Town-wide vote to opt into offering this type of license. It was agreed that the Committee would not attempt now to define a cap that accommodates social consumption operators when there has not been a successful Town-wide vote to opt into offering these types of licenses. It was agreed that in the event of any such vote, the Committee could then take up whether to seek an increase in the cap.

The Committee then discussed the buffer zone around K-12 schools. Mr. Torres explained the changes that were made with respect to the buffer zone. The Committee discussed adding language that would allow for properties that were fully not within the buffer zone to be considered as a location. It was agreed that the language that is in the existing zoning by-law's RMD buffer zone regarding the calculation of the buffer zone could be used here for the sake of clarity. Also, Mr. Torres said that the Planning Department suggests that laboratories and testing facilities should be exempt from the buffer zone, because they are required to have proper ventilation and safety requirements. It is also a type of establishment the Town would like to attract due to the jobs it will produce.

There were questions about whether or not to include preschool and daycares in the buffer zones. Adding those parameters would greatly diminish where these places could open and could prevent establishments from opening in Brookline. Co-Chair Greene told the Committee that he can't think of any serious concern with having an establishment near a day care or preschool. Mr. Torres made the point that what differentiates preschool/daycares and K-12 schools are that the children in preschool or daycare do not walk alone.

First Assistant Correa said that she is now more confident that licensing will be allowed on a municipal level, given language in the Cannabis Commission's draft regulations and municipal guidance. She asked what the Committee thinks about Linda Pelkhe's suggestion that once local licensing is approved, remove the time-limited special permits and make them permanent. She said that an alternative is to modify the language to make them permanent at the outset, which may be preferable given the likely approval of local licensing schemes. The Committee agreed that this was an appropriate change to make.

The Committee then asked those interested parties in attendance if they have any questions or comments. William Seagaard asked if the Committee would be open to decreasing the buffer zone for non-retail uses. Mr. Torres said that the Planning Department had originally contemplated a lower buffer zone for non-retail uses but it wanted to be mindful of the concerns of the public. The Planning Department is working

on preparing different buffer zone recommendations for different types of uses based on the feedback it has received. First Assistant Correa suggested adding language that states that odor shall not be detectable outside of premises.

Jonathan Lau told the Committee that he believes they should rethink the buffer zone. He lamented that the buffer zone as is creates few opportunities to open businesses in Brookline. He told the Committee that there were no places for rent now in the areas that an establishment can open within the limits of the buffer zone. First Assistant Correa said that it is not possible to zone based on where there are vacancies on any given day.

The Committee recommends a buffer zone of 500 feet for retail establishments, 200 feet for cultivation and manufacturing establishments and 0 feet for laboratories.

III. Next Steps

The Committee will meet on March 1, 2018 and will potentially vote on the proposed articles for Spring Town Meeting. If approved, the articles will be finalized and filed with the Select Board's Office prior to the warrant deadline of March 8, 2018 at 12:00 PM.

IV. New Business

There is no new business.

V. Schedule Next Meeting

The next meeting is scheduled for March 1, 2018 at 8:30 AM in Room 103.

Adjourned 9:55 AM

Materials List
(Items distributed at the 2/8/18 Licensing Review Committee Meeting)

Item 1: Agenda for 2/8/18 Meeting (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 2: Draft Minutes for the January 18, 2018 Meeting (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 3: Draft Minutes of the January 24, 2018 Joint Public Hearing (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 4: Draft Zoning By-Law Warrant Article (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 5: Draft Marijuana Establishment Warrant Article (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 6: Draft Motion regarding the Cap on the Number of Select Board Licenses for Marijuana Retailers (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 7: Draft Marijuana and Hemp and Marijuana and Hemp Products Warrant Article (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 8: Draft Prosecution and Enforcement Article (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 9: Planning Department Written Recommendations (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 10: Written Comments from Elizabeth Schlosberg (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)