

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS  
ZONING WORKSHOP MEETING  
JANUARY 5, 2017

The Board of Supervisors of Upper Merion Township met for a Zoning Workshop meeting on Thursday, January 5, 2017 in the Township Building. The meeting was called to order at 5:30 p.m., followed by a pledge of allegiance.

ROLL CALL:

Supervisors present were: Greg Philips, Greg Waks, Bill Jenaway, Carole Kenney and Erika Spott. Also present were: Dave Kraynik, Township Manager; Sally Slook, Assistant Township Manager; Joe McGrory, Township Solicitor; John Walko, Solicitor's Office; Rob Loeper, Township Planner; Kyle Brown, Associate Planner.

DISCUSSIONS:

MEDICAL MARIJUANA ISSUE

John Walko, Solicitor's Office, provided an overview of the Medical Marijuana Act – Act 16 of 2016 with a focus on issues of importance to municipalities. It was noted there are potential applicants approaching municipalities all around eastern Pennsylvania to find places for their medical marijuana dispensaries and growing/processing facilities. A PowerPoint was shown. Highlights as follows:

- The Medical Marijuana Act and systems will be facilitated by the Pennsylvania Department of Health which will issue permits for the facilities.
- A 15-member board is being established similar to the Liquor Control Board.
- There will be a practitioner registry and a physician included in the registry will be authorized to issue certifications to patients to use medical marijuana
- Medical marijuana may not be dispensed to a patient or a caregiver in dry leaf or plant form.
- Medical marijuana may only be dispensed to a patient or caregiver in certain forms: pill, oil, topical forms including gels, creams or ointments, liquids and vaporizations.
- Prohibition against advertising as a medical marijuana doctor. Doctors cannot have a stake in a medical marijuana facility.
- In order to get medical marijuana it would be necessary to have a serious condition and the doctor would have to be a continuing care provider.

- There will be a drug monitoring system indicating how much is being prescribed. Only 30-day supplies will be prescribed. Patients will obtain an ID card valid for one year. Background checks will be required.
- There are two different categories: growing/processing or dispensaries.
- You cannot just be someone growing and another processing. It will be necessary to do both. As a dispensary it will be possible to be a grower/processor and also have a dispensary, but it will require three permits.
- In order to get permits for growing/ processing zoning approval must be in place, completed background checks (including background checks for financial backers) and a security plan in place.
- Zoning for a growing/processing facility has to meet the same requirements as manufacturing processing and production facilities located in the same zoning district.
- Dispensaries have to meet requirements of the commercial facility in that zoning district.
- A grower/processor is not an agricultural use. Growing must be done indoors. Outside growing is not permitted.
- For a dispensary there is a requirement to have a pharmacist or doctor on staff for all hours of operation.
- There are distance requirements for dispensaries from schools and day care facilities.

Mr. Walko stated it may be a good idea to put the medical marijuana facilities in the Commercial District, but it is important to keep in mind that municipalities have a say where these facilities go. In order to file an application it is necessary to include zoning approval from the zoning officer. Mr. Walko said it would be a good idea to figure out where to put these facilities before licenses are submitted.

A discussion followed about possible suitable areas for the medical marijuana facilities and the impact on neighboring properties.

Mrs. Kenney asked if there are pharmacies looking to be dispense medical marijuana. Mr. Walko responded in the negative. He said it has to be a separate dispensary. He noted currently there are no dispensary applications and the applications for growing/processing will be done first and should be coming out mid-January to March.

Mr. Philips asked what is done with the refuse from the processing operation. Mr. Walko did not have the exact scientific method and noted there are specific temporary regulations addressing how that should be done. He mentioned it cannot be thrown out in the trash. In 2020 regulations will be reviewed to see if additional conditions should be included. Mr. Walko indicated there are separate regulations for the dispensaries. Mr. McGrory stated his law firm will be hosting a Montgomery County Consortium meeting to address the

Medical Marijuana Act in great detail, including what fertilizer is used and how it will be dispensed.

Mr. Walko stated most of the larger issues are addressed in the Medical Marijuana Act, for example, transportation, unmarked cars, type of security, seed-to-sale tracking system etc.

Mr. Jenaway asked if there is anything prohibiting a company from growing, processing and dispensing at the same site. Mr. Walko responded there cannot be a growing/processing facility at the same site as a dispensary. He also noted growing and processing have to be done together.

In response to Mr. Jenaway's question about distance requirements, Mr. Walko responded the only distance requirement is 1,000 feet from a school. He said there isn't anything preventing this from being in a residential area.

Mr. McGrory stated the Board of Supervisors has to make the decision if this should be a permitted use in the township and if so, where it should be located.

Mr. Loeper mentioned an ordinance has been drafted which references 1,000 feet from a residential district, although that is not part of the Act. He mentioned it was drafted as a conditional use to start. Mr. McGrory pointed out the pros and cons for doing this by conditional use.

Mrs. Kenney asked who has ultimate oversight over how business is done at the growing/ processing center and the dispensary. Mr. Walko responded the Pennsylvania Department of Health would regulate the industry and would have the right to revoke permit.

With regard to parking spaces, Mr. McGrory asked the Township Planner to talk to some developers since processing is going to have more employees than growing.

Mr. Loeper discussed some large warehouse buildings that would be suitable for processing and are in the proposed zoning. He pointed out this is just a first draft to start the discussion.

Mr. Philips commented on the proposed zoning for the dispensaries and asked why the industrial district would not be included with the commercial. Mr. Loeper responded the draft follows where pharmacies are currently located. Mr. McGrory said the use is close to a retail use.

Mr. McGrory indicated he does not believe the township would attract those interested in the growing process since land acquisition costs are so high. He said the township is a prime township for a dispensary, but not the other use.

Mrs. Kenney asked if there has been any negative feedback regarding medical marijuana in other areas with growing/processing or the dispensaries. Mr. Walko responded he has not heard of any significant issues in any of the states. He pointed out when the Pennsylvania law was drafted they tried to take advantage of some of the “holes” in past laws, for example, the seed-to-sale tracking system and unmarked transport car were added.

Mr. Jenaway asked if Mr. Walko’s recommendation going forward would be to take this under advisement and if a time frame should be proposed. Mr. Walko responded it would be beneficial to designate the permitted areas for this use.

Mr. Waks suggested reaching out to the police department for their input as well as the Community Alliance for a Safer Tomorrow (CAST).

With regard to the draft ordinance, Mr. Loeper noted the distance requirements could be changed.

In response to Mrs. Kenney’s question, Mr. Walko responded there are no 1,000 foot distance requirements for processing facilities.

Mr. McGrory suggested talking to a developer to see how much of the area is needed for growing and how much for processing.

Mr. Jenaway stated the supervisors will get their questions to Mr. Walko and Mr. Loeper for revision and bring this back for another meeting.

#### COMMERCIAL DISTRICTS – CERTAIN DIMENSIONAL REQUIREMENTS

Mr. Rob Loeper, Township Planner, explained some of the issues with setbacks in the commercial districts. He indicated an application is being prepared with regard to a property approved for the Wawa on Henderson Road several years ago. An ordinance has been drafted to address the General Commercial District (and not the other districts) with regard to the maximum 25 foot setback which may work in certain commercial districts and on certain commercial roads, but not in some of the other districts.

Mr. Loeper indicated the General Commercial District is primarily along US 202, parts of Henderson Road and parts of Gulph Road. The parcels with the maximum 25 foot setbacks require applicants to obtain a variance to allow the building to be more than 25 feet back from the street. Mr. Loeper highlighted the areas with this requirement on the screen.

The draft ordinance proposes the elimination of the 25 feet maximum setback in the General Commercial District. It was noted it does not change anything in the other Commercial Districts.

Mr. Loeper said a discussion is needed to address the setback issue and also the way the original ordinance was worded with regard to the buffer setbacks. The draft ordinance changes the buffer requirement to a minimum in the General Commercial and states the buffer has to meet the requirements of the softening buffer or alternate design as set forth within the landscape ordinance.

Denise Yarnoff, Esq., mentioned she discussed the setback issue at a prior workshop meeting and the supervisors made some suggestions which are reflected in the footnote language.

Mr. Loeper stated part of the problem is the 25 foot maximum setback cannot be met because the maximum makes the property very difficult to develop and hinders circulation around the building. He said with such a long narrow property it is not possible to have driveway access and 25 feet.

A discussion followed with regard to some of the issues with setbacks in commercial districts.

Mr. Jenaway asked if there are any issues with the N/A [front maximum for General Commercial] and adding no parking in the front. Mr. McGrory suggested phrasing indicating no parking in the front or side of the building to the curb. Another option would be to leave it [the parking] alone and if it becomes an issue an adjustment could be made accordingly.

Mr. Jenaway suggested a two track approach as the best way for Ms. Yarnoff to proceed by exploring the Zoning Hearing Board variance and at the same time continue working with Mr. Loeper on the draft.

ADJOURNMENT:

Without further comment from the Board and public, it was moved by Mr. Waks, seconded by Mrs. Spott, all voting "Aye" to adjourn the meeting. None opposed. Motion approved 4-0. Adjournment occurred at 7:26 p.m.

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DAVID G. KRAYNIK  
SECRETARY-TREASURER/  
TOWNSHIP MANAGER

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Minutes Approved:  
Minutes Entered: