

**Westwood Planning Board Meeting Minutes**  
**(Planning Board Attendance at Finance and Warrant Commission's Meeting)**  
**Tuesday, March 7, 2017 – 7:30 PM**  
**Community Meeting Room, Library, 660 High Street**

The Planning Board attended the Finance and Warrant Commission (FinCom)'s meeting relative to the public hearing for warrant articles for Annual Town Meeting. This hearing was continued from the previous night on Monday, March 6.

Planning Board Members Present: Christopher A. Pfaff, Steven H. Olanoff, David L. Atkins, Jr., Michael L. McCusker, and Trevor W. Laubenstein.

Staff Present: Nora Loughnane, Director of Community and Economic Development, Abby McCabe, Town Planner.

**Annual Town Meeting Warrant Article Sponsors:**

- Planning Board Articles, Board Chairman Chris Pfaff and Town Planner Abby McCabe were called to the front for the presentation.

Ms. McCabe summarized that this article is submitted to comply with the November ballot initiative that legalizes non-medical marijuana facilities and retailers. The legislation is all inclusive and the state will start accepting applications in early to mid-2018 unless municipalities opt-out. The Act provides a provision, which allows communities to prohibit all marijuana retail establishments and facilities. However, the prohibition option can only be achieved by a vote of Westwood registered voters. There will be a ballot question on the April 25 election asking residents to prohibit all marijuana establishments excluding the medical facilities. Although we won't know the results of the election until the week prior to Town Meeting, this article proposes prohibiting the non-medical facilities in all zoning districts because Westwood citizen's voted 57% to deny the November ballot question legalizing marijuana. The amendment also clarifies the definitions to make a clear distinction between the medical and non-medical facilities. She noted that if the ballot question does not pass, the Board would prepare an amendment to recommend on Town Meeting floor.

The board members and staff answered questions asked by the FinCom members and from members of the public.

**Article B – Related to the maximum number of Accessory Apartments**

Ms. McCabe explained that accessory apartments are currently allowed by grant of a special permit from the Zoning Board of Appeals (ZBA). She said that accessory apartments are not restricted to family members and may be rented to unrelated individuals. The bylaw includes specific criteria that are needed for approval such as; one allowed per lot, the owner must live in the principal dwelling or in the accessory apartment, the exterior of the property must maintain the appearance of a single-family property, the apartment must be at least 500 square feet and no more than 900 square feet, and the apartment must have its own separate ingress and egress from the principal dwelling. The zoning currently limits the maximum number of special permits to not exceed 1% of the current number of one- and two-family houses in town. She added that the 1% limit was originally established in 1992 when the accessory use section was expanded to include accessory

apartments. Within the last year, the town reached that maximum with 45 permits issued for accessory apartments. The only change proposed with this article is to increase the limited number from 1% to 2%.

In response to a question regarding why the Board is bringing this forward now and if there is a need, staff and board members explained that the purpose of this article is to provide an opportunity for interested residents to apply for a special permit. The ZBA, building and planning department have received a steady stream of inquiries for accessory apartments and applicants have had to be turned away.

### **Article C – Related to Storage Facilities and Special Regulations**

Ms. McCabe explained that self-storage facilities are currently allowed by grant of a special permit from the ZBA in the HB, the I, and IO zoning districts and the bylaw does not presently have specific special permit criteria or supplemental conditions for these facilities. Because storage facilities are viewed as industrial uses but have low activity levels, this article proposes the creation of special permit criteria and general requirements aimed at ensuring these facilities are appropriately sited in Westwood.

The article proposes changing the special permit granting authority from the ZBA to the Planning Board, which allows for a combined special permit and EIDR review by the Planning Board.

The new regulations included in this proposed amendments were summarized:

- The submission of a storage facility map showing similar facilities;
- Market and occupancy analysis of nearby facilities to demonstrate that the proposed storage facilities are needed to serve Westwood residents and businesses;
- No storage facilities to be located within 200 ft. of the right-of-way of: University Ave., Station Drive, Blue Hill Drive, Harvard Street, Everett Street, and Route 1;
- Trees plantings along streets;
- Buildings may only be multi-story rather than single-story structures;
- Individual storage units may only be accessed from the building interior;
- Screening and buffering requirements;
- Encourages attractive façades and building design;
- Reduces the parking requirements from the current bylaw and ties it to the number of storage units.
- Allows the Planning Board to waive the front, rear and side yard setback requirements if in keeping with the purpose of the bylaw.

She added that the intent of this article is to allow storage facilities when they are beneficial to the Town, and to ensure that storage facilities are not located on Westwood's most prominent and valuable commercial land so that those areas are reserved for the highest and best use.

In response to a question about noise considerations Ms. McCabe responded that a review of noise levels and that the bylaw includes provisions for conditions related to noise considerations.

#### **Article D – Related to Solar**

Ms. McCabe explained that the zoning currently defines “Large Scale Solar” as a facility that exceeds 15 kW and “Small Scale Solar” as 15 kW or less and allows Small Scale Solar as-of right without having to go to the ZBA, while Large Scale Solar triggers a public hearing review with the ZBA prior to the building permits. The current bylaw does not distinguish between roof-mounted and ground-mounted solar facilities, and was last amended in November 2015.

Since November 2015, there have been two applications for Large Scale Solar filed with the ZBA for Xaverian School and for a residential property. Both special permits were granted by the ZBA, but the residential owner did not receive permits in time to receive the needed tax credits and the Planning Board was asked to reconsider the process for roof mounted solar facilities.

The Planning Board is now proposing removing the existing definitions and replacing with definitions for “Roof-mounted Solar” and “Ground-mounted and Other Solar” which includes proposals on accessory structures or ones that extend beyond a principal building’s roof. The Roof-mounted Solar facilities are proposed to be allowed as-of right in all zones without a public hearing or abutter notification, but the Ground-mounted and Other Solar proposals on accessory structures such as sheds or garages require a special permit from the ZBA, which would entail the completion of the public hearing process prior to the issuance of any building permits. The purpose of this article is to expedite the permitting process for solar arrays proposed on roofs of existing buildings so that property owner’s may apply directly to the Building Division for building permits without having to go through the ZBA process.

#### **Article E – Related to Earth Movement Permit Process**

Ms. McCabe explained that if a residentially zoned property is exporting, importing and/or regrading more than 200 cubic yards of earth (about 10-25 dump trucks) in residential zones, or 250 cubic yards in nonresidential zones, then the zoning requires a special permit from the Planning Board. This article proposes changing the type of approval from a special permit to an EIDR (Environmental Impact and Design Review) Approval. The purpose is to help reduce the delay between the time of the Board’s approval until when construction can begin. The special permit process has a strict 20-day appeal period, while EIDR Approvals have no such waiting period. Additionally, the proposed amendment will clarify the bylaw’s purpose, which is to review the transportation of the fill to reasonably regulate the impacts to the town’s roads rather than to review the details of the proposed project. In most cases, earth movement projects also require review by the stormwater authority, which is either the Conservation Agent or the Conservation Commission.

In response to a question about hazardous material on properties Ms. McCabe responded that the bylaw contains a condition that no hazardous material can be brought in and the Board can ask where the fill is from.

#### **Article F – Related to Exterior Lighting**

Ms. McCabe explained that this proposed article requires applicants to identify the security and non-security lighting on their exterior lighting plans so that commercial projects can be designed appropriately to help reduce unnecessary glare outside of a business’s operating hours. The article would impose a new requirement that non-security lighting be turned off within an hour after the

close of business. Additionally, the fifteen foot height limit for wall-mounted fixtures is clarified to explain that measurement is taken. This amendment only applies commercial, industrial and institutional properties. Ms. McCabe also added that existing businesses that do not apply would essentially be grandfathered but would need to apply if new applications for new construction are proposed.

#### **Article G – Related to Nonconforming Uses and Structures**

Ms. McCabe introduced the article by explaining that a nonconforming use or structure is a property that does not comply with current zoning. The Zoning Bylaw has a section (Section 4.5.6) dedicated to nonconforming uses and structures. This section currently allows almost any alterations to occur by issuance of a special permit from the ZBA upon a finding that it is not more detrimental to the neighborhood. Both the current bylaw and the proposed amendments would not require ZBA approval of non-substantial alterations, which are permitted without having to receive relief from the ZBA if there is no increase in nonconformity. The article proposes that when alterations, reconstructions or extensions to a structure do not increase the nonconforming nature of the property to a greater extent than the existing structure, then the ZBA may grant relief in the form of a special permit upon a finding that the proposal is not more detrimental. When an alteration proposes increasing the nonconformity of a structure, or creating a new non-conformity, the proposed amendment would require that the ZBA consider the proposed alteration for a variance. Variances may be granted by the ZBA upon that board's finding that a literal enforcement of the Zoning Bylaw would involve substantial hardship to the applicant, where that hardship is unique to that specific property rather than to the zoning district as a whole. Ms. McCabe reviewed several slides showing proposed alterations and how they would be impacted by this change.

A FinCom member asked what the ZBA's thoughts were on this article and Ms. McCabe responded that they were provided a copy of the proposed amendment and provided some recommended changes for clarification that were incorporated but were also concerned about the change that would kick applications up to a variance as they were afraid it might limit the development potential for homeowner's looking to improve their home. The FinCom asked the Planning Board to review further with the ZBA for the continued hearing.

#### **Article H – Related to Corner Clearance**

Ms. McCabe explained the purpose of this article is to protect clear sight distances and visibility at corners. The current zoning does not explicitly prohibit fences from being located within critical sight lines at intersections. Recent fence installations have created dangerous conditions in some locations in town. This article proposes expanding this section to prohibit fences and clarify how the sight distance clearance is measured.

In response to a question, Ms. McCabe responded that this would not apply retroactively to fences already installed but applies going forward to new fences or to replacement of existing fences. Repair of a fence would be permitted but new fences and full replacement expected to comply with new bylaw if approved.

#### **Article I – Related to Penalties for Noncriminal Complaints**

Ms. McCabe informed the Fin Com that the zoning currently allows the Building Commissioner to penalize offenders with fines of up to \$100.00 per offense per day for zoning violations. This article proposes increasing the maximum fined allowed up to \$300.00 per offence per day, at the Building Commissioner's discretion. The \$300.00 limit is the maximum allowed by state law.

The FinCom asked for a draft policy or regulation further detailing how the fines would be assessed for violations.

**Article J – Alternatives to Calcium Chloride Use & Storage in the UAMUD & WRPOD**

Ms. McCabe noted that at the Board's public hearing on February 28, the Board voted to withdraw this article previously submitted.

**Article K – Housekeeping Amendments**

Ms. McCabe introduced housekeeping amendments to the notes section of the Table of Principal Use and one housekeeping change to the zoning map to correct the depiction of an area of a lot without a zoning designation because it appears as a roadway on a portion of the lot at 120 Birch Tree Drive should be amended to be in the SRC (Single-Family Residence C) zoning district as depicted on the draft May 2017 Official Zoning Map in your packet and displayed on the slide.

Planning Board adjourned at approximately 10:00 p.m. [The FinCom's public hearing was continued to March 27, 2017].

<u>List of Exhibits:</u>
Finance and Warrant Commission Public Hearing Packet/Agenda for March 6, 2017
Memorandum from Planning Board Members to Finance and Warrant Commission Members, Re: Planning Board Warrant Article Summaries for Annual Town Meeting, dated March 1, 2017.
Redlined version of Zoning Bylaw and full text of proposed zoning amendments.
Public Hearing PowerPoint presentation
Photographs (9) submitted by Paul Kelly, Willard Circle, photos taken from Willard Circle towards commercial area on Providence Highway (re: exterior lighting).