

Town of Westwood
Commonwealth of Massachusetts

David L. Atkins, Jr., Chair
Brian D. Gorman, Vice Chair
Christopher A. Pfaff, Secretary
Deborah J. Conant
Michael L. McCusker



Abigail McCabe, AICP, Town Planner
amccabe@townhall.westwood.ma.us
(781) 251-2581

Karyn Flynn, Land Use & Licensing Specialist
kflynn@townhall.westwood.ma.us
(781) 767-6344

PLANNING BOARD

Memorandum

To: Jane O'Donnell, Administrator
Finance and Warrant Commission Members

From: Abby McCabe, Town Planner
Planning Board Members

Date: March 14, 2019

Re: Planning Board Summary of Updates to Warrant Articles

Below is a summary of the Planning Board's updated recommendation for warrant articles for the Finance and Warrant Commission's continued public hearing on March 25. The specific zoning language is included below. The Planning Board hereby submits a final recommendation for a modified warrant article related to medical uses, the vehicle parking and storage article, and request the open space and recreation plan endorsement article be withdrawn.

Endorsement of the Open Space and Recreation Plan

On March 12, 2019, the Planning Board voted to withdraw the article requesting endorsement of the Open Space and Recreation Plan.

The Planning Board approved the Open Space and Recreation Plan (OSRP) on February 26, 2019 and will submit the Plan to MA Department of Conservation and Recreation for final approval. The Board submitted the request for Town Meeting endorsement in effort to educate and inform residents and members of the Finance and Warrant Commission on the recent efforts to protect and improve Westwood's valuable land as put forth in this updated Plan. The OSRP is intended to serve as a guiding document encompassing the community's goals related to open space and recreation over the next several years.

The Planning Board is open to explore ways to engage the Finance and Warrant Commission members and Town Meeting participants in long-range planning efforts, particularly as we embark on the update to the Comprehensive Plan over the upcoming year. The Comprehensive Plan Update is underway and the Planning Board is looking to

engage residents throughout the processes. Input in the early stages is important to develop the overall collective vision, goals, and action strategies. A Comprehensive Plan is a road map for future efforts established after public input. Once a Comprehensive Plan is adopted by the Planning Board it is commonly brought forward to Town Meeting to recognize and inform the community of this collective vision determined through an active planning process.

Zoning Amendment Related to Medical Uses

On March 12, 2019, the Planning Board unanimously voted to modify the article language to update the Table of Uses to include “Medical Center or Clinic” to be allowed by special permit in the Industrial (I) zoning district and rename the “Office of a Doctor or Dentist not a resident on Premises” to “Office of Health Care Professional”.

The Planning Board removed the portion of the original article that defined, zoned and regulated “Substance Rehabilitation or Treatment Facilities” and “Hospitals”. These uses are currently undefined and are not regulated in Westwood’s Zoning Bylaw presently. The Planning Board recognizes the importance of zoning for these uses because uses not mentioned leaves the town susceptible to a challenge, particularly a Substance Rehabilitation Facility because it is a protected use. The Board will further consider where and how these uses should be zoned and the Board intends to return at a subsequent Town Meeting.

A legal opinion from Special Legal Counsel Dan Bailey that further explains zoning and the legal process for these uses is attached.

Background

This amendment was approved by Town Meeting in November 2017 and was re-submitted after Attorney General Disapproval due to a minor procedural defect.

In 2017, while reviewing the Brigham and Women’s project at University Station, the Planning Board discovered there were medical uses referenced in several locations in the Zoning Bylaw that were not clearly defined in the definition section and were not all listed in the Table of Uses, which identifies where uses can and cannot be located. The purpose of the original article is to provide consistent definitions by amending existing definitions; adding new definitions for uses referenced throughout the bylaw; and updates the Table of Uses to restrict the uses to a specific zoning district.

The primary purpose of the original article is to eliminate ambiguity to avoid the potential for a Hospital, Medical Center/Clinic, and Substance Rehabilitation or Treatment Center, to be proposed in a location not appropriate for such uses. The Zoning Bylaw currently allows an “Office of Doctor or Dentist” by-right in all commercial zoning districts and by

special permit in the General Residence zone, which leave Westwood vulnerable to a challenge as one could argue it is a similar use. The Zoning Bylaw's failure to address all uses mentioned exposes the town for a potential "use not mentioned" appeal to the Zoning Board of Appeals (ZBA) for a development of these uses in any zoning district.

The 2017 zoning article and the article originally submitted to this warrant proposed allowing a Medical Center or Clinic in the ARO, I, and IO zones by special permit only, and Hospital, and the Substance Rehabilitation or Treatment Facility by special permit only in the ARO zone. The ARO (Administrative-Research-Office) zoning district was originally selected because the district is intended for businesses engaged in administrative, research and office activities, includes compatible uses such as assisted living facilities, nursing or convalescent homes, residential retirement community, and medical marijuana establishments and is located near the I-128.

The ARO zone has been removed from a possible zoning district for the Medical Center use and the Substance Rehabilitation Treatment Facility and Hospital uses remain unmentioned in the Zoning Bylaw with this proposed article.

Zoning Amendment to Accessory Uses in Residential District

This article is submitted to clarify the intent of the zoning to provide clear guidance to the Building Commissioner as the zoning enforcement officer. Currently, a special permit is required for all residential properties that have a "parking area and storage area" for four or more vehicles. If literally enforced, four vehicles parked in a driveway or combination of garage and parking area requires a special permit. The current zoning is not realistically enforceable because many properties have more than four vehicles or driveway space that can accommodate four or more vehicles.

On March 12, 2019, the Planning Board voted to revise the language to continue to require a special permit for garages that can accommodate more than three vehicles and require a special permit for more than three vehicles parked in a driveway that do not have screening and are thus visible at normal eye level from an abutting lot.

Zoning Article Language for Amended Articles Only

Article: **Zoning Amendments Related to Medical Uses** – To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw by amending Section 4.1.5 [Table of Principal Uses – Commercial Uses]; and amending Section 9.5.8.1.9 [Use Permitted by FMUOD Special Permit in any FMUOD], or take any other action in relation thereto:

- 1) Amend Section 4.1.5 [Table of Principal Uses – Commercial Uses] by changing the title of Section 4.1.5.22 from "Office of a doctor or dentist not a resident on premises" to "Office of Health Care Professional", and by adding new Section 4.1.5.23 "Medical

Center or Clinic”, as follows, and renumber subsequent sections as appropriate:

4.1.5 COMMERCIAL USES

PRINCIPAL USE	DISTRICTS												
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.1.5.22 Office of doctor or dentist not a resident on premises <u>Health Care Professional</u>	N	N	N	N	N	BA	N	Y	Y	Y	Y	Y	Y
<u>4.1.5.23 Medical Center or Clinic</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>BA</u>	<u>N</u>	<u>N</u>

2) Amend Section 9.5.8.1.9 [Use Permitted by FMUOD Special Permit in any FMUOD] by replacing the words “Office of a doctor or dentist” with the words “Office of Health Care Professional” to read as follows:

9.5.8.1.9 ~~Office of doctor or dentist~~ Office of Health Care Professional;

Article : **Zoning Amendment to Accessory Uses in Residential Districts** - To see if the Town will vote to amend Section 4.3.3 [Accessory Uses in Residential Districts] to amend the requirements for private garage and the parking and storage of more than three motor vehicles in Section 4.3.3.2 to read as follows, or take any action in relation thereto.

4.3.3 ACCESSORY USES IN RESIDENTIAL DISTRICTS

DISTRICTS

SRA SRB SRC SRD SRE GR SR LBA LBB

4.3.3.2 Private garage and/or the parking or storage ~~area~~ of more than three (3) motor vehicles within an enclosed structure, or more than three (3) vehicles visible at normal eye level from an abutting residential lot, or of more than one (1) commercial vehicle with a gross vehicle weight of less than 26,000 pounds, but only where in connection with a Principal Use on the same premises.

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