

Town of Westwood
Commonwealth of Massachusetts

Christopher A. Pfaff, Chairman
Trevor W. Laubenstein, Vice Chairman
Steven H. Olanoff, Secretary
David L. Atkins, Jr.
Michael L. McCusker
Steven M. Rafsky, Associate
Todd C. Sullivan, Associate



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

Janice Barba, Planning & Land Use Specialist
jbarba@townhall.westwood.ma.us
(781) 320-1366

PLANNING BOARD

The full language of the zoning amendment articles are shown below as revised through the Planning Board's February 28, 2017 hearing.

Article A: Zoning Amendment Related to Non-Medical Marijuana Establishments

To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to marijuana establishments, including amendments to Section 2.0 [Definitions], Section 4.1.2 [Table of Principal Uses], and any necessary amendments to Section 7.4 [Registered Marijuana Dispensary], or take any other action in relation thereto:

- 1) Amend Section 2.0 [Definitions] to delete the terms "Other Marijuana Facility" and "Registered Marijuana Dispensary" and to add new definitions for "Medical Marijuana Establishment" and "Non-Medical Marijuana Establishment" to read as follows:

Medical Marijuana Establishment A non-profit entity, lawfully permitted and licensed pursuant to 105 CMR 725 as a Registered Marijuana Dispensary (RMD) that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments) transfers, transports, sells distributes, dispenses, and/or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A Medical Marijuana Establishment may sell only marijuana, marijuana-infused products (MIPs) and marijuana seeds, and other products such as vaporizers that facilitate the use of marijuana for medical purposes.

Non-Medical Marijuana Establishment Any facility defined in M.G.L. Ch.94G, Section I, including all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other type of marijuana-related businesses, other than a licensed Registered Marijuana Dispensary (RMD) lawfully permitted and licensed pursuant to 105 CMR 725.

- 2) Amend Section 4.1.5.39 and Section 4.1.5.40 to read as follows: (*bold italics indicates new wording*)

Zoning Language Revised through 2/28/17

Page 1 of 15

Carby Street Municipal Building • 50 Carby Street • Westwood, MA 02090

	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.1.5.39 Registered Marijuana Dispensary <i>Medical Marijuana Establishment</i> per Section 7.4	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.5.40 Other Marijuana Facility <i>Non-Medical Marijuana Establishment</i>	N	N	N	N	N	N	N	N	N	N	N	N	N

3) Amend Section 7.4 to read as follows: (*bold italics indicates new wording, words to be removed have strikethrough*)

SECTION 7.4 ~~REGISTERED MARIJUANA DISPENSARIES~~ *MEDICAL MARIJUANA ESTABLISHMENT*

- 7.4.1 **Purpose.** The purpose of this Section is to assure that *Medical Marijuana Establishments, which shall be limited to* Registered Marijuana Dispensaries (RMDs) *which are lawfully permitted and licensed pursuant to 105 CMR 725*, are carefully designed, located and operated in accordance with applicable state and local laws, rules and regulations, and to assure that adequate provisions are made for impacts of such facilities upon the character of the Town and upon traffic, utilities and property values therein, thereby affecting the public health, safety and general welfare thereof.
- 7.4.2 **Special Permit Required.** No ~~RMD~~*Medical Marijuana Establishment* shall be constructed or operated except pursuant to a special permit therefor granted by the Board of Appeals in accordance with Section 7.4.
- 7.4.3 **Application Requirements.** An application for a special permit for a ~~RMD~~*Medical Marijuana Establishment* shall be accompanied by a *certified* site plan, *building and elevation plans* and all other application materials *and plan information as* required by the rules and regulations of the Board of Appeals.
- 7.4.4 **Referral of Application to Board of Health.** Within ten (10) days after receipt of the application, the Board of Appeals shall transmit a copy thereof to the Board of Health, whereupon ~~said~~ *the Board of Health* may, at its discretion, review the proposed ~~RMD~~*Medical Marijuana Establishment* project and report in writing its recommendations to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a report thereon from the Board of Health, or until said Planning Board has allowed sixty-five (65) days to elapse after receipt of such application without submission of a report.
- 7.4.5 **Referral of Application to Police Chief.** Within ten (10) days after receipt of the application, the Board of Appeals shall transmit a copy thereof to the Police Chief,

whereupon said Police Chief may, at his or her discretion, review the proposed ~~RMD~~ ***Medical Marijuana Establishment*** project and report in writing recommendations to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a report thereon from the Police Chief, or until said Police Chief has allowed sixty-five (65) days to elapse after receipt of such application without submission of a report.

7.4.6 **Referral of Application to Planning Board.** Within ten (10) days after receipt of the application, the Board of Appeals shall transmit a copy thereof to the Planning Board, whereupon said Board may, at its discretion, review the proposed ~~RMD~~ ***Medical Marijuana Establishment*** project and report in writing its recommendations to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a report thereon from the Planning Board, or until said Planning Board has allowed sixty-five (65) days to elapse after receipt of such application without submission of a report. Said Planning Board report *shall* indicate the status of the proposed ~~RMD's~~ ***Medical Marijuana Establishment's*** Environmental Impact and Design Review (EIDR) application which is required pursuant to Section 7.3 of this Bylaw. If the Board of Appeals shall vote to grant a ~~RMD~~ ***Medical Marijuana Establishment*** Special Permit prior to the Planning Board's issuance of an EIDR Approval for the ~~RMD~~ ***Medical Marijuana Establishment*** project, the Board of Appeals decision shall be conditional upon the granting of such EIDR Approval by the Planning Board and subject to any conditions thereof.

7.4.7 **Findings.** No ~~RMD~~ ***Medical Marijuana Establishment*** Special Permit shall be granted unless the Board of Appeals finds that operations conducted under such special permit, subject to the conditions imposed thereby, will not be contrary to the best interests of the Town.

Article B: Zoning Amendment Related to the Number of Allowable Accessory Apartments

To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to Section 8.5 [Accessory Apartments] to amend the limited number of special permits to be issued and in effect in Section 8.5.4 [Limited Number of Special Permits], or take any other action in relation thereto:

1) Amend Section 8.5.4 [Limited Number of Special Permits] to increase the maximum number from one (1%) to two percent (2%) to read as follows:

8.5.4 **Limited Number of Special Permits.** The maximum number of special permits to be issued and in effect shall not exceed two percent (2%) of the current number of single-family and two-family dwelling units in Town. All applications for a special permit pursuant to this Section shall be acted upon in the order in which they are filed.

2) Amend Section 2.0 [Definitions] to change the Section reference from 8.3 to 8.5 to read as follows:

Zoning Language Revised through 2/28/17

Page 3 of 15

Carby Street Municipal Building • 50 Carby Street • Westwood, MA 02090

Accessory Apartment A self-contained area comprised of living space, kitchen space and a bathroom, within a single family home or as an accessory structure thereto, and which may be occupied by one or more individuals, related or unrelated to the owner of the principal dwelling, and which accessory apartment is subject to the conditions of Section 8.5 of this Bylaw.

Article C: Zoning Amendment Related to Storage Facility Special Regulations

To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related Section 4.1.6.8 [Self-Storage or Mini-Storage Facility] in the Table of Uses, add a new Section 7.6 [Storage Facilities Regulations], and amend the parking requirements for storage facilities in Section 6.1.6.6, to take any other action in relation thereto:

- 1) Amend Section 4.1.6.8 [Table of Principal Uses] to change the Special Permit Granting Authority from the Zoning Board of Appeals to the Planning Board, so that Section 4.1.6.8 reads as follows:

	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
Self-Storage or Mini-Storage Facility per Section 7.6	N	N	N	N	N	N	N	N	N	PB	PB	PB	N

- 2) Insert a new Section 7.6 [Self-Storage or Mini-Storage Facilities] to read as follows:

SECTION 7.6 STORAGE FACILITY REGULATIONS

7.6.1 Purpose. The purpose of this section is to assure that self-storage and mini-storage facilities are appropriately sited in Highway Business and Industrial zones, while maintaining the desired character and function of the area. Storage facilities are characterized as industrial uses but have low activity levels that do not add to the vitality of a commercial area. The general and design requirements of this section are intended to allow self-storage facilities to locate where they best serve residents and businesses while not having prominent frontage on major commercial streets.

7.6.2 Special Permit Required. A self-storage or mini-storage facility shall require the issuance of a special permit granted by the Planning Board in compliance with the provisions of this Section and Section 10.3.3 of this Bylaw [Special Permits].

7.6.3 Application Requirements. Application for a special permit for a self-storage or mini-storage facility shall be subject to Environmental Impact and Design Review (EIDR) approval pursuant to Section 7.3 of this Bylaw, which shall be consolidated into a mandatory site plan approval component of the self-storage special permit, and no separate EIDR Approval shall be required. Submittal requirements shall be as required pursuant to Section 7.3.7 with the following additional requirements:

- 7.6.3.1 Parking plan shall clearly demonstrate a sufficient number of parking spaces for customers and employees, clear vehicular and pedestrian access ways, and appropriate loading and unloading areas.

- 7.6.3.2 Landscape Planting Plan, shall indicate the species and size of all existing trees, and shall clearly note which trees are proposed for removal. Trees shall be planted along all streets at intervals of approximately every thirty (30) feet.
- 7.6.3.3 Application shall include a narrative description of all proposed on-site activities and proposed hours of operation.
- 7.6.3.4 Application shall include an analysis demonstrating how the proposed project serves the needs, services or other interests of Town residents.
- 7.6.3.5 A Storage Facility Map showing all existing and/or permitted self-storage and mini-storage facilities within a one-mile radius of the project site, whether within Westwood or another community.

7.6.4 General and Design Requirements.

- 7.6.4.1 **Landscaping.** In addition to the Screening and Buffer Requirements of Section 6.3, there shall be a minimum landscape area of at least ten feet required along all street frontages with tree plantings approximately every thirty (30) feet.
- 7.6.4.2 **Siting.** No self-storage or mini-storage facility shall be located within 200 feet of the right-of-way of any of the following major roads: University Avenue, Station Drive, Blue Hill Drive, Harvard Street, Everett Street, and Providence Highway (Route 1). No such facility shall be located within one mile of another similar facility unless the Planning Board in its sole discretion grants a waiver of this requirement upon finding that there is a clear need and benefit to the Town demonstrated by a market and occupancy analysis including such other nearby facilities.
- 7.6.4.3 **Accessory Uses.** Accessory uses such as the sale or rental of moving equipment are permitted as required by Section 4.0 [Use Regulations], subject to all other necessary approvals, and shall be appropriately screened. Living quarters for one caretaker or watchmen may be permitted as an Accessory Use according to the Section 4.3.4.1 provided there are proper provisions for wastewater disposal and at least two dedicated parking spaces.
- 7.6.4.4 **Street facades.** The design and layout of the street side of a proposed facility shall provide a varied and interesting façade. Considerations shall include the building placement, fenestration, roof design, variations in building walls, and other structural elements.
- 7.6.4.5 **Building Design.** Storage facilities are permitted only as or within multi-story structures. Buildings shall be designed and situated so that overhead doors and loading areas into such facilities are not visible from any adjacent right-of-way. All individual storage units shall be accessed from the interior of the building.
- 7.6.4.6 **Building Materials.** The materials for buildings shall be compatible with the desired character of the surrounding area and shall be visually pleasing.

7.6.4.7 **Building Setbacks.** The front, rear and side yard setback requirements regulated in Section 5.2 [Table of Dimensional Requirements] may be reduced by the Planning Board to allow for better design and compatibility with surrounding buildings upon a finding by the Planning Board that the proposed layout is in keeping with the purpose of this section of the bylaw.

7.6.5 Parking Requirements. Self-storage and mini-storage facilities may provide fewer parking spaces than required under Section 6.1.2 [Table of Parking Regulations], where in the determination of the Planning Board, the number and configuration of proposed parking spaces are found to be sufficient to meet the needs of the proposed development. Customer parking shall be separate from truck parking and loading and unloading space shall be clearly designated.

7.6.6 Findings. In addition to the specific decision findings outlined in Section 10.3.3 of this Bylaw, the Planning Board shall make a determination of each of the following:

- 7.6.6.1 Demonstrated of need for town residents and/or businesses.
- 7.6.6.2 Facility located off a primary commercial local road to meet the purpose of this Section 7.6.1.
- 7.6.6.3 Sufficient buffering and screening from nearby uses.
- 7.6.6.4 Consistency with the purpose of this Section 7.6.
- 7.6.6.5 Degree to which the proposal serves job, service or other interests of Town residents.

7.6.7 Conditions. In granting a special permit, the Planning Board shall impose reasonable conditions specifically designed to safeguard the surrounding properties and Town such as noise controls, limits on hours of operation, landscaping, and/or drainage controls.

4) Amend Section 6.1.6.6 in the parking table to read as follows:

6.1.6.6 Self-Storage or Mini-Storage Facility per Section 7.6.5	Not less than one (1) space for each employee on the largest shift, plus one (1) space per 500 sq. ft. of sales floor area, plus two (2) spaces for any resident manager or caretaker, plus one (1) space per 50 storage units.
---	---

Article D: To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to Section 2.0 [Definitions], Section 4.1 [Table of Principal Uses] and Section 4.3 [Table of Accessory Uses], for amendments related to solar energy facilities, large scale solar and small scale solar, or take any other action in relation thereto:

- 1) Amend Section 2.0 [Definitions] by deleting the terms “Large Scale Solar” and “Small Scale Solar” in their entirety, and by adding new definitions for “Roof-mounted Solar” and “Ground-mounted and Other Solar”.

Roof-mounted Solar Any solar arrays, facilities, or solar photovoltaic installations mounted to the roof of a principal building which do not extend or project beyond the principal building’s roof and at the same angle as the existing roof.

Ground-mounted and Other Solar Any solar arrays, facilities, or solar photovoltaic installations which do not meet the definition of “Roof-mounted Solar”.

- 2) Revise Section 4.1.2 [Table of Principal Uses] to delete Section 4.1.7.5 [Large Scale Solar] and Section 4.1.7.6 [Small Scale Solar] in their entirety.

- 3) Revise Section 4.3 [Table of Accessory Uses] to add a new Section 4.3.2.6 [Roof-mounted Solar] and a new Section 4.3.2.7 [Other Solar] to read as follows:

	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
Section 4.3.2.5 Roof-mounted Solar ¹²	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Section 4.3.2.6 Ground Mounted & Other Solar ¹²	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA

- 4) Add a new note 1 to Section 4.4 [NOTES FOR TABLE OF ACCESSORY USES] as follows, and renumber subsequent notes as appropriate:

¹²All solar arrays, facilities, and solar photovoltaic installations must comply with applicable setbacks as required by Section 5.0 [DIMENSIONAL REQUIREMENTS], 5.2 [TABLE OF DIMENSIONAL REQUIREMENTS], and 5.4 [HEIGHT REGULATIONS].

Article E: To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to Section 7.1 [Earth Material Movement (EMM)] to change the type of permit from a Special Permit to an Environmental Impact and Design Review (EIDR) in Section 7.3, or take any other action in relation thereto (*bold italics denote new language, words to be removed have strikethrough*):

- 1) Amend Section 7.1.1 by deleting “Special Permit” and replacing with “Environmental Impact and Design Review (EIDR) so that Section 7.1.1 reads as follows :

7.1.1 ~~Special Permit~~ ***Environmental Impact and Design Review (EIDR) Required.***
 No soil, loam, sand, gravel, topsoil, borrow, rock, sod peat, humus, clay, stone or other

Zoning Language Revised through 2/28/17

earth material shall be exported, imported and/or regraded on any premises within the Town unless such export, import and/or regrading will constitute an exempt operation as hereinafter provided or is done pursuant to ~~an special permit~~ **EIDR Approval** therefor granted by the Planning Board.

2) Add a new Section 7.1.2 as follows, and renumber subsequent sections as appropriate.

7.1.2 **Purpose.** To protect the safety, health and wellbeing of the citizens and property of the Town by regulating the transportation of earth material to and from a property. The intent is to eliminate or minimize harmful impacts to the public ways associated with the movement of earth.

3) Amend Section 7.1.3 by deleting “Special Permit” as follows:

7.1.3 ~~Special Permit~~ **Decision.** An EMM ~~Special Permit~~ **EIDR Approval** shall be granted by the Planning Board only upon its written determination that operations conducted under such ~~special permit~~ **EIDR Approval**, subject to the conditions imposed thereby, will not be contrary to the best interests of the Town, and will be in harmony with the general purpose and intent of this Section. No ~~special permit~~ **EIDR Approval** for the movement of earth material (including temporary structures accessory thereto), shall be granted if the Board finds that operations conducted thereunder would:

4) Amend Section 7.1.4 as follows:

7.1.4 **Conditions.** In granting a ~~special permit~~ **an EIDR Approval** hereunder, the Planning Board shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town, which shall include conditions as to:

5) Amend Section 7.1.5 as follows:

7.1.5 **Fill Material.** A statement may be required from a certified professional to verify the source and content of fill material if the ~~special permit~~ **EIDR Approval** is issued for the placement of fill. The analysis of the content of the fill material may be required so as to detect the presence and quantity of hazardous or substandard materials. This analysis shall be conducted by a certified professional hired by the Planning Board at the expense of the Applicant.

6) Amend Section 7.1.7 to read as follows:

7.1.7 **Time Limit.** No ~~special permit~~ **EIDR Approval** for the export, import and/or regrading of earth material shall be granted for a period of more than ~~one (1)~~ **two (2)** years in a Residential District or more than three (3) years in a Nonresidential District, although the ~~special permit~~ **EIDR Approval** may be renewed for additional periods in the same manner as for the initial issuance.

7) Amend Section 7.1.8 to read as follows:

7.1.8 **Exempt Operations.** The movement of earth material in any of the following operations shall constitute an exempt operation and shall not require an EMM ~~special permit~~ **EIDR Approval**:

8) Amend Section 7.1.9 to read as follows:

7.1.9 **Subdivisions.** The export, import and/or regrading of earth material on any parcel of land for which a preliminary or definitive subdivision plan has been prepared shall be allowed only in the same manner as removal from other parcels of land in the Town. Consequently, tentative or final approval of a subdivision plan by the Planning Board shall not be construed as authorizing the export, import and/or regrading of earth material on the premises, even though in connection with the construction of streets and the installation of municipal services shown on a subdivision plan, and an EMM **EIDR Approval** ~~Special Permit~~ shall be required pursuant to this Section.

9) Add a new Section 7.3.2.6 to read as follows:

7.3.2.6 Exporting, importing or regrading on premises subject to Earth Material Movement (EMM), pursuant to Section 7.1 of this bylaw.

Article F: To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to Section 6.4 [Exterior Lighting] to clarify the height limit for wall mounted fixtures for nonresidential properties, limit the hours for exterior lighting at nonresidential properties, and identify security and non-security lighting on the exterior lighting plan, or take any other action in relation thereto (***bold italics denote new language, words to be removed have strikethrough***):

1) Add a new Section 6.4.4.6 to read as follows:

6.4.4.6 identification of any security lighting to remain illuminated outside of operating hours and identification of any non-security lighting to be turned off no later than one (1) hour after close of business.

2) Amend Section 6.4.6 to read as follows:

6.4.6 **Wall Mounted Fixtures.** ~~In Nonresidential Districts~~ ***For all uses other than single and two-family dwellings***, a luminaire attached to the exterior of a building or structure for area lighting shall be mounted no higher than fifteen (15) feet above ***the ground directly below the luminaire*** ~~grade~~ and shall be shielded to control glare.

3) Add a new Section 6.4.12 as follows:

6.4.12 **Hours.** All exterior lighting, including fixtures located on walls, light poles, and canopies, with the exception of security lighting, shall be turned off within one (1) hour after the close of business. This limitation shall only apply to commercial and institutional properties and not residential properties.

Article G: To see if the Town will vote to approve certain zoning amendments to the Westwood Zoning Bylaw related to Section 2.0 [Definitions], Section 4.5 [Nonconforming Uses and Structures], or take any other action in relation thereto:

1) Delete Section 4.5 in its entirety and replace with a new Section 4.5 to read as follows:

4.5 NONCONFORMING USES AND STRUCTURES

4.5.1 **Applicability.** This Section shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by M.G.L. Chapter 40A, Section 5 at which this Bylaw, or any relevant part thereof, was adopted. Nonconforming uses and structures are defined as those that are in existence lawfully at the time they are created, provided that no modification or alteration of the use or structure is accomplished, unless authorized hereunder. Alterations are defined as those that do not increase the nonconforming nature of said use or structure as further defined in Sections 4.5.2.1 and 4.5.3.1.

4.5.2 Nonconforming Uses.

4.5.2.1 **Permitted Alterations of Nonconforming Uses.** A structure that conforms dimensionally to current zoning regulations while its use no longer conforms, can be altered without needing a special permit if the Building Commissioner determines that the proposed alteration falls under any of the following circumstances:

4.5.2.1.1. There is no extension or expansion of the exterior of the structure.

4.5.2.1.2 There is no interior expansion that would intensify the use.

4.5.2.1.3 The alteration is made for the purposes of conforming to the building code for health and safety purposes.

4.5.2.2 **Special Permit Required for Alteration to Nonconforming Use.** The Board of Appeals may grant a special permit to modify, alter or extend a nonconforming use in accordance with this Section only if it determines that such modification, alteration or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood and the town. To be considered insubstantial, the Board must find that the proposed use reflects the nature and purpose of the prior use, there is no difference in the quality, character or degree of the proposed use, and the proposed use is not different in its effect on the neighborhood.

4.5.3 Nonconforming Structures.

4.5.3.1 **Permitted Alterations of Nonconforming Single and Two-Family Residential Structures.** Nonconforming single and two-family residential

Zoning Language Revised through 2/28/17

Page 10 of 15

Carby Street Municipal Building • 50 Carby Street • Westwood, MA 02090

structures may be altered upon a determination by the Building Commissioner that such proposed alteration does not increase the nonconforming nature of said structure. The following circumstances shall be deemed not to increase the nonconforming nature of said structure and may be permitted as of right:

- 4.5.3.1.1 Alteration to a structure which complies with all current setbacks, building coverage and building height requirements but is located on a lot with insufficient lot area, where the alteration will still comply with all such current requirements.
- 4.5.3.1.2 Alteration to a structure which complies with all current setbacks, building coverage and building height requirements but is located on a lot with insufficient lot frontage, where the alteration will still comply with all such current requirements.
- 4.5.3.1.3 Alteration to a structure which violates one (1) or more required setbacks, where the alteration will now comply with all current setback, yard, building coverage and building height requirements regardless of whether the lot complies with current lot area and lot frontage requirements.
- 4.5.3.1.4 Alteration to the side or face of a structure which violates a required setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure, and will comply with building height restrictions, regardless of whether the lot complies with current lot area and lot frontage requirements.
- 4.5.3.1.5 Alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions of Section 5.0 of this bylaw shall not be exceeded.

4.5.3.2 **Special Permit Alterations of Nonconforming Structures.** In the event that the Building Commissioner determines that a proposed alteration to a nonconforming structure does not meet the requirements of Section 4.5.3.1, the Board of Appeals may grant a special permit to make alterations to a nonconforming structure in accordance with this Section only if it determines that such extension, alteration or change does not substantially increase the nonconforming nature of said structure and would not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered for a special permit by the Board of Appeals:

- 4.5.3.2.1 Horizontal extension of an exterior wall at or along the same nonconforming distance within a required setback as the existing wall, provided that existing height restrictions shall not be exceeded, regardless of whether the lot complies with current lot area and lot frontage requirements.

4.5.3.2.2 Vertical extension of an existing exterior wall at or along the same or greater distance from a lot line, provided that the structure has a building height of no more than twenty-five (25) feet, if constructed on a lot that does not comply with current lot area and/or lot frontage requirements, or a building height no greater than permitted by this Bylaw if constructed on a lot that complies with current lot area and/or lot frontage requirements.

4.5.3.3 **Variance Required for New or Expansion of Nonconformity.** In the event that the Building Commissioner determines that a proposed alteration to a nonconforming structure increases the nonconformity or results in a new nonconformity and does not meet the requirements of Section 4.5.3.1 nor of Section 4.5.3.2, a variance is required in accordance with Section 10.4 of this Bylaw. If the nonconforming nature of a structure would be increased by the proposed extension, alteration or change, a variance from Board of Appeals shall be required to allow such extension, alteration or change. In addition, no nonconforming structure, commercial or residential, shall be altered to accommodate a substantially different use, or to accommodate the same use in a substantially different manner or to a substantially greater extent, unless a variance allowing said alteration is granted by the Board of Appeals.

4.5.3.4 **Special Provisions for Reconstruction of Single and Two-Family Structures after Catastrophe or Voluntary Demolition.** Any single and two-family nonconforming structure may be reconstructed after a catastrophe or voluntary demolition only in accordance with the following provisions:

4.5.3.4.1 Reconstruction of said premises shall commence within one (1) year after such voluntary demolition, or within two (2) years after such catastrophe, which time period may be extended by the Building Commissioner for good cause.

4.5.3.4.2 The building as reconstructed:

4.5.3.4.2.1 Shall be located on the same footprint as the original structure, and shall only be as great in volume or area as the original nonconforming structure; or

4.5.3.4.2.2 Shall comply with all current setbacks, building coverage and height requirements, except that if the lot does not comply with lot, area and frontage requirements, it must comply with a building height limit of twenty-five (25) feet.

4.5.3.4.3 In the event that the proposed reconstruction does not meet the provisions of Section 4.5.3.4.2, a special permit pursuant to Section 4.5.3.2, or a variance pursuant Section 4.5.3.3, as

applicable, shall be required from the Board of Appeals for such reconstruction.

4.5.4 **Abandonment or Non-use.** A nonconforming use or nonconforming structure which has been abandoned, or not used for a period of two (2) years, shall lose its protected status and be subject to all of the provisions of this Bylaw.

4.5.5 **Reversion to Nonconformity.** No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

Article H: To see if the Town will vote to approve certain zoning amendments to the Westwood Zoning Bylaw related to Section 5.5.5 [Corner Clearance], to prohibit fences from being located within a certain distance from intersections, or take any other action in relation thereto:

1) Amend Section 5.5.5 to read as follows:

5.5.5 **Corner Clearance.** On any corner lot, no building, structure, fence, wall, landscaping, or any other similar obstruction greater than three (3) feet above the road surface shall be located within the sight distance triangle. The sight distance triangle is the area formed by the point of intersection of the tangents of the curb lines or the tangents of the edge of pavement lines of the intersecting streets and the two points along those tangents that are a distance from that intersection point of twenty-five (25) feet. Said triangular area shall remain clear as to not interfere with traffic visibility around the corner.

Article I: To see if the Town will vote to approve certain zoning amendments to the Westwood Zoning Bylaw related to Section 10.1.6 [Penalty for Noncriminal Complaint] to increase the penalty for a violation from \$100.00 to up to \$300.00 for each offense, or take any other action in relation thereto.

1) Amend Section 10.1.6 to read as follows: (*bold italics denote new language words to be removed have strikethrough*)

Penalty for Noncriminal Complaint. In addition to the procedures for enforcement as described in this Section, the provisions of this Bylaw may be enforced by the Building Commissioner by noncriminal complaint pursuant to the provisions of M.G.L. Chapter 40, Section 21D. The penalty for a violation enforced hereunder shall be ~~one~~ **up to three** hundred dollars (~~\$100~~ **300.00**) for each offense *and the specific amount shall be at the Building Commissioner's discretion.* Each day that such violation continues shall constitute and be considered a separate offense.

Article J: Zoning Amendment Related to Sodium Chloride Use in UAMUD and WRPOD

This article was withdrawn

Zoning Language Revised through 2/28/17

Page 13 of 15

Carby Street Municipal Building • 50 Carby Street • Westwood, MA 02090

Article K: To see if the Town will vote to approve certain housekeeping amendments to various sections of the Westwood Zoning Bylaw and Official Zoning Map as may be necessary to correct any errors or inconsistencies, including without limitation the correction of one or more erroneous section references, update the footnotes in Section 4.1 [Table of Principal Uses], and update the Official Zoning Map to remove an area depicted as a road without a zoning designation as follows:

- 1) Renumber and reorder the notes in Section 4.2 [NOTES TO TABLE OF PRINCIPAL USES] to correspond to the correct use in the table.

4.2 NOTES FOR TABLE OF PRINCIPAL USES

- 1 Accessory dwellings may be allowed to the extent expressly allowed by the special permit.
- 2 Open Space Residential Development shall be permitted in the SRB, SRC and SRE districts and the uses delineated in Article 8.0, Special Residential Development, Section 8.3, Open Space Residential Development, shall be the allowed uses in OSRD projects.
- 3 Non-exempt farm stands on municipal properties are permitted and exempt from BA special permit requirements.
- 4 For only retail sales and services in the Highway Business District that do not require a special permit pursuant to other sections of the Bylaw and do not involve Adult Uses
- 5 Except for a retail grocery store which may exceed 10,000 square feet.
- 6 Retail sales and services in the Industrial and Industrial-Office Districts between 15,000 square feet and 50,000 square feet shall require a special permit from the Board of Appeals. Retail sales and services over 50,000 square feet shall require only a special permit from the Planning Board pursuant to Section 7.2, Major Business Development.
- 7 In addition to meeting all other requirements for a special permit for a Fast Order Food Establishment in the Highway Business District, the Applicant shall be required to submit the opinion of a qualified professional expert, and the data upon which such opinion is based, showing to the reasonable satisfaction of the Board of Appeals that the facilities for on-site parking (taking into account all other uses and activities that share the premises with the proposed use) will be sufficient to serve the employees and customers of such establishment without encroaching upon or using neighboring streets or property.
- 8 A special permit from the Board of Appeals shall be required if there is outdoor storage of equipment or materials.
- 9 Does not include wireless communications facilities.

2) Replace the number 15,000 in the below note with the number 10,000 so that the note is consistent with the table and reads as follows.

Retail sales and services in the Industrial and Industrial-Office Districts between 10,000 square feet and 50,000 square feet shall require a special permit from the Board of Appeals. Retail sales and services over 50,000 square feet shall require only a special permit from the Planning Board pursuant to Section 7.2, Major Business Development.

3) Amend the Official Zoning Map to correct the portion of a lot depicted as a road without a zoning designation on the lot at 120 Birch Tree Drive (Assessor's Map 09, Lot 158) be amended so the lot is fully in the SRC (Single-Family Residence) zoning district, as shown on the revised Official Zoning Map dated May, 2017.