

MINUTES OF WESTBOROUGH PLANNING BOARD
June 21, 2016

Regular meeting of the Westborough Planning Board held in the Forbes Municipal Building, 2nd Floor, Room 23 at 45 West Main Street. Members Silverberg, Diamond, Spencer and Paris were present. Member Bush was absent.

Meeting dates: July 12, 2016

Vice Chairman Mark Silverberg will chair the Planning Board meeting in Chairman Brian Bush's absence.

At 7:00 a.m. the Planning Board met with Mr. Lester Hensley to discuss recreational marijuana as related to the current zoning bylaw for medical marijuana.

Mr. Lester Hensley, 39 Arch Street stated he is here to request the Planning Board to consider amending the existing medical marijuana bylaw. There is a petition for a law relating to the regulation and taxation of marijuana that the state is hoping to pass in November as a ballot question. It will broaden the use of marijuana more than anticipated. Mr. Hensley gave the Board a copy of the petition. The purpose of this petition is to control the production and distribution of marijuana under licenses, regulations and tax the businesses involved similar to alcohol with an age limit of 21 years and up. There has been a lot of research showing the possible risk and abuse of the use of marijuana. We should decide to plan for the use than react to the use. We should initially take a strong approach and can later relax it. It is evident that marijuana is becoming a problem in other parts of Massachusetts. 53,000 medical marijuana licenses have already been issued. Salem was the first marijuana dispensary. There is proof of problems with operating under the influence, problems of possession by a person under 21 years of age, illegal manufacturing of the product. These actions are consistent with what happened in California and Colorado. It is our social responsibility to protect the public from the abuse of marijuana. We need to take a more restrictive approach, the precautionary principle should be considered. The 25 page petition for voters to consider in November is vague. There are new definitions of what marijuana is. This law enables that the sale and derivatives of the plant can all be sold. It can create very potent concentrates. It allows for marijuana and derivatives to also go into food and beverage products. There is also ample evidence that these high potency marijuana products are causing problems and landing people in hospital emergencies. The act exposes the intentions behind the medical marijuana. A community that might have considered medical marijuana will now have not recourse from recreational marijuana. It is a dense law but we can restrict it to not allow recreational marijuana. There are a number of new definitions: marijuana establishment, marijuana manufacture, marijuana product, marijuana accessories, marijuana cultivation, marijuana retailer, and testing facility. Our bylaw does not address the retail or manufacturing of marijuana. We should take what we have and take the new definitions and uses and leave it in the same district already established. We should assign some time and energy for October Town Meeting.

Member Charlie Diamond said initially a facility could open as a medical marijuana establishment and then become retail.

Mr. Lester Hensley said if a business is sold the new owner could go in for manufacturing and retail (recreational sale) of any products, edible products, candies, drinks, concentrates. They could also have onsite consumption of marijuana. When the law passed in Colorado, cities had to opt in to allow recreational marijuana. Some that did are now trying to opt out. What the industry has learned is to write a law that gives communities the right to opt out. From a use standpoint, it is something that is consistent to what we did on the medial side.

Member Charlie Diamond said marijuana affects driving skills. How can police control and protect the safety of people in town.

Mr. Lester Hensley said this is a big concern for law enforcement. Currently there is no test to give for marijuana consumption.

Member Bill Spencer said he appreciates Mr. Hensley coming in. He needs to catch up on what is happening with marijuana. He will read the law that was handed out. Member Spencer said he wants to make sure he is up to date. In terms of the state voting, how do we amend our local bylaw? Will sales be regulated and available in liquor stores if this passes?

Mr. Lester Hensley said it is unclear, but does suggest that the product is a retail use. We could be open to having marijuana be retail unless we change this in our zoning bylaw.

Member Tim Paris said he is not familiar with the zone we currently have.

The Town Planner explained that it is on the Northborough/Westborough town line along Route 9. It was previously zoned as the adult entertainment district in the Highway Business Zone.

Member Tim Paris said given that there are now new categories, are we going to have to add these into our existing bylaw.

Mr. Lester Hensley said the bylaw we have was written very well. The retail sale of recreational marijuana was not anticipated in our bylaw. We might want to just broaden the existing bylaw. You should have Town Counsel and the Town Planner review the existing bylaw.

Vice-Chairman Mark Silverberg said he has questions about the procedure. His initial reaction is to go through the public hearing process and expand the bylaw to cover these new additions. Who is responsible for drafting the amended bylaw?

Vice-Chairman Mark Silverberg said he is worried about meetings due to summertime.

The Town Planner said he can draft the bylaw and then have Town Counsel look at it. The Town Meeting Article must be to the Board of Selectmen by September. We can have a public hearing in August.

The Town Planner said we have two other Articles ready for Town Meeting. We are proposing extending a zoning map for the Gateway 2 District and expansion of the DPOD District along Cottage Street.

Mr. Lester Hensley said it is not a certainty that this petition will be on the November ballot. We should know for sure by middle of July. It might pass or fail. If it passes, the law goes into effect and it limits and prohibits lots of ways of control on the marijuana plant.

The Town Planner said we must have something on the warrant to get some protection from the new law if it passes.

Vice-Chairman Mark Silverberg said the Town Planner needs to draft an amendment to our existing bylaw with Town Counsel review. This should be a priority over all the articles we have coming aboard. Move forward on this.

The Town Planner said he will ask for permission to talk to Town Counsel. The Town Planner pointed out that one control we do not have is this legislation will allow this use by right. Our current bylaw restricts by Special Permit. This new one will be under Site Plan Review.

Member Charlie Diamond said our current bylaw has it restricted to the adult entertainment district.

Vice-Chairman Mark Silverberg said the new legislation if it passes would be a supplement to our bylaw.

Member Tim Paris noted that if we don't amend our bylaw it could go anywhere that retail is allowed.

Member Bill Spencer motioned to seek Town Counsel review on the amendment of the existing Medical Marijuana Bylaw. The Town Planner will draft the bylaw to move forward for Town Meeting. The motion was seconded by Member Tim Paris and unanimously voted.

The Town Planner said he can have something for them to review by the next meeting on July 12th. You must advertise the bylaw for two weeks before the public hearing.

Vice-Chairman Mark Silverberg thinks we can make it work and thanked Mr. Hensley for his presentation.

At 7:40 p.m. the Planning Board met with Mr. John Wells, owner of 7 Cottage Street to discuss having his property overlaid with DPOD zoning.

Mr. John Wells stated that he owns 2 buildings on one lot. He would like to have a mixed use building on the lot with the DPOD Overlay. One of his lots is currently Downtown Business but the other is Residential.

Vice-chairman Mark Silverberg stated the process for this revision is to go to Town Meeting and he must receive a 2/3 vote to pass. Mr. Wells has two different lots, one in downtown business and the other is residential. The downtown business lot could take the overlay but not the residential. The current use for both lots is multi-family housing.

The Town Planner presented two maps. Lot 7 is currently a split by residential and downtown business on Cottage Street. The larger portion of the lot is mostly residential. All abutters are all downtown business. There is one three family and one two family on the existing lot. The proposal would be to make it all one designation. Change it first to downtown planning and then the overlay with DPOD. We would do the same with any other properties.

Mr. John Wells said he wants the ability to put up a mixed use building. It is hard to make the existing buildings better. He would like to have the downtown business on his entire lot and then the overlay of DPOD. He has spoken with almost all his abutters and they are in favor of having this done.

Vice-Chairman Mark Silverberg asked about the rest of the street.

Member Tim Paris thinks it makes sense that the zone be equal on both sides of the street.

Member Bill Spencer said he did visit the site. As long as no one has a problem with this change, he is fine.

The Town Planner said the bylaw requires the property be non residential at the time of the overlay. We must first do the rezoning to downtown business and then we can apply the DPOD Overlay.

Member Charlie Diamond asked if all the people have no issue.

Mr. John Wells said they have no problems with it.

The Town Planner reminded the Board that they will all be notified by certified mail for the public hearing.

Vice-Chairman Mark Silverberg said he doesn't like it. We did the Overlay with the idea that most of the lots have to have frontage on the main road. We were envisioning a combination. Not sure he sees the benefit of a commercial use on that lot. The rest of the neighborhood will have issues with it. He understands the appeal to you as an individual. We stopped the overlay with just frontage lots. Not really supportive of it. You might want to wait for us to be a full board.

Mr. John Wells said this piece of property is currently a modest property and he does not want it to remain that way,

Vice-Chairman Mark Silverberg said he is not in favor of more commercial use down Cottage Street.

The Town Planner said under Section 4930, the DPOD District shall only be within 2500 feet of the intersection of the centerline of Milk, Main and South Streets around the Rotary. At the time of filing on the warrant it must be downtown business first. This will be a two step process. If the Board does not want to go through with this, Mr. Wells could petition to have the Planning Board hold a hearing.

Vice-Chairman Mark Silverberg said Cottage Street is a neighborhood and he wants to be respectful to that neighborhood. He is willing to do a hearing or discussion.

Member Bill Spencer agreed that regardless of our opinions we would go through the process.

Member Charlie Diamond said that the whole area has gone through quite a change due to Bay State Commons.

Member Tim Paris asked how much you can limit the use of what goes in.

The Town Planner said it is a special permit and we would review the application of what goes in. If he does this as a business only, he would not require parking. We have more control with the overlay.

Vice-Chairman Mark Silverberg said right now he has more residential than business on Lot 7. He would like to see it go to 100% residential. He could go to the ZBA. He is willing to discuss it.

The Town Planner said Lots 7 and 9 on Cottage Street are to be rezoned from residential to downtown business.

Member Charlie Diamond said he wants to hear from the owner of Lot 9 before we go any further with discussion. Invite him in to the July 12th meeting.

Vice-Chairman Mark Silverberg said we can always take this up in the spring. It does not have to be on the October Town Meeting. Ask the neighbor to come into the July 12th meeting.

The Town Planner suggested having the neighbor come in and talk to him. Then at the July 12th meeting we can work on scheduling a hearing.

Gateway District discussion:

The Town Planner said that the existing Gateway 2 District is Lyman Street to East Main Street. We are proposing to overlay non town owned property. We would extend from Lyman Street to the Senior Living Overlay District on East Main Street and Flanders Road. This District allows commercial use but the buildings will look residential. The Town Planner said he has had discussion with some of the property owners and they would like to include a mixed use. This would require an amendment to the existing zoning bylaw. If they want to rehabilitate a house to do a business they could but it would be no larger than 5,000 square feet.

Member Charlie Silverberg asked are current homes under 5,000 square feet?

The Town Planner responded yes.

Vice-Chairman Mark Silverberg asked what the setbacks in the Gateway 2 District are.

The Town Planner responded that the minimum lot size 15,000 square feet and all setbacks are 25 feet. The maximum building height is 45 feet and they must allow 60% open space.

Member Charlie Diamond said he is concerned because this is a very heavy traffic road. Rush hour traffic already backs up.

Member Bill Spencer said he agrees. This will create more traffic. He is also concerned about occupancy rate of businesses right now. Is it the best thing to do to create more building space? We should concentrate on the occupancy of buildings we have vacant now.

Vice-Chairman Mark Silverberg said he would love to see improved traffic flow along East Main Street.

Member Tim Paris said at Lyman Street and Route 9 there are improvements that will be done by the state. This will help with traffic but he does not think anything will happen right away.

Member Tim Paris said he does not think the impact from allowing mix use will be that great. We can limit what we approve for uses. He thinks expansion makes sense. It makes sense because of the nature of the area.

Member Charlie Diamond asked will the property values significantly increase by this change.

Vice-Chairman Mark Silverberg said it depends on what is already there and what they want to do. He is not sure if these houses will be more valuable than a commercial use. He does not agree with the mix use change. We are beginning to blur lines of our districts. He would rather see our downtown become concentrated. He sees in the long term the downtown extending out to Lyman Street. He does not want to entertain the mix use change in this district. By allowing in the mix use you are changing the Gateway 2 District. He would rather see mixed use only in the DPOD District.

Member Tim Paris said it would seem that we are trying to be back to a time when there was more mixed use. Now we are looking at all the overlay districts for mix use. Let's get people living close to the services they need.

The Town Planner said these are small lots. All three are residential houses on a third of an acre. They will have to have 60% open space. Most of the lots in the expansion are small lots. Only two are around an acre and could support a 5,000 square foot building. Most are 1/3 of an acre or 3/4 acre. You are not going to get a large amount of traffic.

Vice-Chairman Mark Silverberg said he would like to extend the Gateway 2 but not allow mixed use. To include mix use we have to rewrite the zoning.

The Town Planner clarified that on any of the Gateway lots, the biggest it can go is 5,000 square feet and through a special permit.

Member Bill Spencer said at Bay State Commons, are we happy with the occupancy rate there? Don't we need to fill that up that vacant space first? We should not keep building more new buildings until the current ones are filled. He would like to see some of the existing space used first.

Member Charlie Diamond said you do have a lot of traffic leaving town during rush hours. Bay State Commons started in the middle of a recession.

Member Tim Paris said if we have a mixed use you might have owner occupied small businesses. In Bay State Commons, you have to lease the space. It is a different market.

The Town Planner said his opinion is you need to do the extension of the Gateway 2 District. An amendment to the bylaw it would allow mixed use. The owners of the two residential properties would like the mix use. They have already expressed interest. We know there is interest. However it is up to the Board. The addition of the mix use fits in that district where residential is walking distance to the Post office, Julio's Plaza and stores.

Vice-Chairman Mark Silverberg said we should move forward with the extension of the Gateway 2. The Town Planner can do a draft article for the next meeting.

Member Bill Spencer said the area of Flanders Road and East Main Street is already bad with traffic.

The Town Planner said we have to be careful with cut through traffic. There is a limiting factor that requires 60% open space.

Member Charlie Diamond said if we extend to other side of Flanders Road, do you see more traffic backing up onto East Main Street.

Member Bill Spencer said it is bad during lunch time. It might be good area for a round-about. He has seen accidents there. People are upset with how long they have to wait with traffic. They get aggressive and go too fast. It will back up 30-40 cars.

Vice-Chairman Mark Silverberg said that people who live on Flanders Road don't want to see it to be a cut through for traffic.

The Town Planner asked about the two properties on Lyman that were changed under the current Gateway 2. They are now commercial uses. The new extension would be the same.

Vice-Chairman Mark Silverberg said he has not seen any problems with those properties. They were well designed. He does not see that vehicles have a problem going in and out of the site. They are not highly intensive uses. As you go further down East Main Street, it is commercial uses in residential buildings. What will the mix use do to this area? Lots could be subdivided.

The Town Planner said that is a good point and maybe he should rethink this. Maybe it is not a good idea to do the mix use. You could end up with more.

Vice-Chairman Mark Silverberg suggested we table the mix use and only go with the extension of Gateway 2.

Member Tim Paris suggested that where this will require a special permit, have them put in a sidewalk.

Vice-Chairman Mark Silverberg said we have a new member to the Open Space Recreation Committee who is an urban planner by trade. At the meeting we encouraged the Board of Selectmen also be involved with open space so Selectmen Bruce Tretter volunteered. The Robinson Fund has substantial funds. The Board of Selectmen has decided to revive that committee. The membership is very similar to Open Space so it was suggested to roll the duties of the Robinson Committee into the Open Space Committee. We might have to redefine the purpose of that committee. At this point they will try to revive the committee and use some of this money. There is over 1.1 million dollars in there. It can be used for maintenance of recreation, a recreation center, etc...

The Town Planner summarized that at the next meeting we will only be proposing the extension of the Gateway 2 District; a draft written and reviewed by Town Counsel on Marijuana; a draft article on rezoning from residential to downtown business on Lots 7 & 9 Cottage Street

Vice-Chairman Mark Silverberg said he is not available the first meeting in August and would prefer to do August 9th and 23rd.

There being no further business to discuss, the meeting adjourned at 9:00 p.m.

Respectfully submitted,

Sandy Spinella
Administrative Assistant

APPROVED:

Brian Bush, Chairman of Board

Mark Silverberg, Vice-Chairman of Board

Charlie Diamond

William Spencer

Tim Paris