



# Town of Duxbury Massachusetts Planning Board

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DUXBURY, MASS.

## Minutes 1/30/19

The Planning Board met on Wednesday, January 30, 2019 at 7:00 PM at the Duxbury Town Hall, 878 Tremont Street, Mural Room, lower level.

Present: Scott Casagrande, Chairman; David Uitti, Vice-Chairman; Cynthia Ladd Fiorini, Clerk; John Bear, George Wadsworth, and Brian Glennon.

Absent: Jennifer Turcotte.

Staff: Valerie Massard, Planning Director; and Ashley MacMillan, Administrative Assistant.

Mr. Casagrande called the meeting to order at 7:03 PM.

### OPEN FORUM / COMMITTEE LIAISON REPORTS

Ms. Massard mentioned that the Town Meeting warrant article to adopt the updated inland FEMA flood risk maps will be indefinitely postponed until next year, when FEMA is ready.

#### **A. ZONING BOARD OF APPEALS REFERRAL, SPECIAL PERMIT: 53 Railroad Avenue**

The Special Permit application for 53 Railroad Avenue proposes to add lighting fixtures to an existing William Raveis Real Estate office in the Neighborhood-Business 1 District.

Steve Schwede, representative from Archer Signs, said the fixtures will include two (2) gooseneck lights facing away from the street and installation of lighting on an existing ground-level sign that sits in the mulch bed. The lighting is designed to minimize disturbance to the abutters.

The members of the Planning Board did not have any objections to the proposed lighting additions.

Motion: Ms. Ladd Fiorini made a motion to recommend approval to the ZBA of the Special Permit application for 53 Railroad Avenue, and Mr. Uitti provided a second.

Vote: 4-0-2, with Mr. Wadsworth and Mr. Glennon abstaining because they arrived to the meeting after this discussion.

**B.) 7:10 PM – CONTINUED PUBLIC HEARING, ANNUAL TOWN MEETING  
ARTICLE: Medical Marijuana Treatment Center (MMTC) Overlay District**

Ms. Massard pointed out that some Planning Board members have missed public hearings regarding this matter, but have reviewed the materials and will be voting using the Mullins Rule.

Ms. Massard said she has been fielding many questions about medical marijuana and prepared a presentation that will hopefully clear up some confusion on this topic.

Ms. Massard presented a PowerPoint with information about current medical marijuana legislation in the Commonwealth and the proposed local regulations (overlay district). This PowerPoint presentation can be viewed by navigating to the “Town Meeting” tab on the Planning Department webpage. It is also available upon request from the Planning Department staff.

Ms. Massard said that because of lack of local zoning in regard to medical marijuana, any proposed facility would currently fall under state law. The state law mandates that a MMTC must be 500 feet from a licensed children’s facility (such as a school, licensed daycare, etc.). Due to lack of local regulations, this would be the only restriction currently. The creation of an overlay district is one approach to regulating medical marijuana at the local level.

Ms. Massard presented an updated zoning map with potential locations for the overlay district. The map highlighted Neighborhood Business-2 districts and children’s facilities. One version of the map showed a 500’ buffer around the NB-2 districts, and a second version showed a 1000’ buffer around the NB-2 districts. Throughout the public hearing process, many members from the public have suggested increasing the state-mandated buffer to 1000’ for local zoning purposes.

Mr. Neal Doherty, of Duxbury FACTS, asked about the allowable uses for a MMTC. Ms. Massard responded that allowable uses will be specified through the Host Agreement with the Board of Selectmen.

Ms. Shelia Lynch, 344 West Street, asked about the possibility of creating a buffer around the local historic districts. Ms. Amy Kwesell, of KP Law and representing as town counsel, answered that it would be unlikely.

Mr. Uitti asked if the town is running the risk of having this overlay district rejected by the Attorney General’s Office (AGO) for being too restrictive. Ms. Kwesell answered yes, and that the overlay district has to be feasible according to the AGO.

Mr. Glennon said it will be too difficult to create an overlay district within the Residential-Compatibility (RC) district, and he agrees that focusing on NB districts is a good idea.

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Ms. Fran Russell, of Island Creek Village, pointed out that children often congregate within Neighborhood Business districts. The Planning Board agreed with this point, but still maintains that if MMTC must go somewhere, it is more appropriate to go in the NB district than in the RC district. State regulations are very clear on what can be counted as an exclusion area; ice cream shops and delis, for example, are not excluded.

Mr. Wadsworth asked if there is any data regarding the traffic implications caused by a MMTC. Ms. Massard responded that there is not yet any concrete data on traffic, because all MMTC are different and unique to their location.

Mr. Casagrande asked if there are any known wetland buffer regulations. Ms. Kwesell responded that the regular wetland restrictions apply to MMTC.

Motion: Mr. Glennon moved to close the public hearing at 8:35 PM, and Ms. Ladd Fiorini provided a second.

Vote: 6-0, unanimous.

Motion: Mr. Glennon moved to recommend favorably the warrant article to create a medical marijuana treatment center overlay district to the Annual Town Meeting, and Mr. Bear provided a second.

Vote: 6-0, unanimous.

**C.) 7:30 PM - CONTINUED PUBLIC HEARING, ANNUAL TOWN MEETING**  
**ARTICLE: Demolition Delay Bylaw**

The first warrant article in relation to section 609.3 creates a demolition delay time limit. Specifically, the new language would require that after the demolition permit is granted, the applicant has 2 years to complete the demo, and that the decision is transferrable to a new owner.

Mr. Glennon said that he thinks this expiration period is advantageous to the town.

Ms. Kwessel found a typo in the preamble language of the article. Ms. Kwessel also recommended changing the location of the section for the proposed language from “Definitions” to “Procedures” as it more appropriately applies to the nature of the section. Ms. Massard agreed to make these changes prior to the publication of the final warrant.

Motion: Mr. Glennon moved to close the public hearing at 8:56 PM, and Mr. Uitti provided a second.

Vote: 6-0, unanimous.

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Motion: Ms. Ladd Fiorini moved to recommend favorably to Town Meeting the warrant article to amend the zoning bylaw section 609.3, specifically to create a demolition delay period limit of 2 years, and to allow transferability and Mr. Uitti provided a second.

Vote: 6-0, unanimous.

The second warrant article pertaining to demolition delay changes the delay period from 6 months to 12 months. This language is also slated to fall under section 609.3.

Ms. Massard pointed out that many other communities, including some that are similar in character to Duxbury, utilize a 12 month delay period. Extending the delay period is a better approach for preserving historic structures. Other changes tighten up the review period.

Motion: Mr. Glennon moved to close the public hearing at 9:00 PM, and Ms. Ladd Fiorini provided a second.

Vote: 6-0, unanimous.

Mr. Terry Vose, member of the Historic Commission, thanked the Planning Board for their efforts in sponsoring this article.

Motion: Mr. Glennon moved to recommend favorably to Town Meeting the warrant article to amend the zoning bylaw section 609.3, specifically to change the delay period from 6 months to 12 months, and Ms. Ladd Fiorini provided a second.

Vote: 6-0, unanimous.

## **D.) OTHER BUSINESS**

### *ENGINEERING INVOICES*

Motion: Ms. Ladd Fiorini made a motion to approve Merrill Invoice #6631 in the amount of \$900, and Mr. Uitti provided a second.

Vote: 5-0 (Mr. Glennon had not yet arrived).

## **ADJOURNMENT**

Motion: Mr. Uitti motioned to adjourn at 9:06 PM, and Mr. Wadsworth provided a second.

Vote: 6-0, unanimous.

*The next Planning Board meeting will take place on February 13, 2019 at 7:00 PM at the Duxbury Town Hall, 878 Tremont Street, Mural Room, lower level.*

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Materials reviewed at the meeting:

- ZBA Special Permit Application: 53 Railroad Avenue
- ATM Warrant Language, Maps, and supporting documents – MMTC Overlay District
- ATM Warrant Language - Demolition Delay
- Merrill Engineering Invoice #6631
- Construction Cost Estimates December 2019

