

Please Read



COMMONWEALTH OF MASSACHUSETTS

TOWN OF DUXBURY

SPECIAL TOWN MEETING

WARRANT

THURSDAY, SEPTEMBER 6, 2018

AT 7:00 P.M.

DUXBURY SCHOOLS PERFORMING ARTS CENTER

73 ALDEN STREET

**Plymouth, SS
Greetings:**

To either of the Constables of the Town of Duxbury, in said County:

In the name of the Commonwealth of Massachusetts you are directed to NOTIFY and WARN the INHABITANTS OF THE TOWN OF DUXBURY, qualified to vote in elections and in Town affairs, to meet in the Duxbury Schools Performing Arts Center, 73 Alden Street, in said Duxbury on THURSDAY, the SIXTH day of SEPTEMBER, 2018, next, at 7:00 P.M. for a SPECIAL TOWN MEETING, for the transaction of any business that may legally come before said meeting:

SPECIAL TOWN MEETING WARRANT
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ARTICLE 1 – STABILIZATION SPENDING – DEFICIT FUNDING

To see if the Town will appropriate and transfer a sum of money from the Stabilization Fund for the purpose of funding the legal deficit under M.G.L. Ch 44 § 31 that arose from the March 2018 storms, or take any action in relation thereto.

Proposed by the Board of Selectmen/Town Manager/Finance Director

A two-thirds vote of Town Meeting is required to approve this article.

Explanation: As a result of the March 2018 Nor'easters, the Town was required to deficit spend to cover the costs of emergency repairs and services. The Commonwealth approved the deficit spending under Ch 44 § 31 and as a result, we are asking that the voters at Town Meeting fund the deficit using the Stabilization Fund. If the deficit is not funded, the Department of Revenue (DOR) will automatically include that amount as part of our tax rate which would put us in an "out of balance" budget status. The DOR will not set our tax rate if we don't have a balanced budget. Therefore, we are requesting that the voters at Town Meeting fund this deficit before the tax rate is set, which is usually by early December.

Recommendations: *Board of Selectmen Voted 3-0 to Recommend*
Finance Committee Vote – Available at Town Meeting

ARTICLE 2 – SEAWALL REPAIR EASEMENTS

To see if the Town will vote to authorize the Board of Selectmen to acquire, by purchase, gift, and/or eminent domain, and to confirm and ratify the prior acquisitions of, the fee to and/or permanent and/or temporary easements, for the purpose of constructing, inspecting, maintaining, repairing, reconstructing, reinforcing and/or replacing the Duxbury Beach seawall, and/or related support structures and appurtenances, in, on and under parcels of land abutting the entire length of the seawall, as approximately shown on a plan entitled "Duxbury Beach Seawall Plan of Land," prepared by Bryant Associates Inc., dated June 24, 1996, and recorded with the Plymouth Registry of Deeds in Plan Book 39, Page 360, as said plan may be amended, consisting of land 15' feet on the landward side of the seawall and land within 30' feet of the seaward side of said seawall, or take any action in relation thereto.

Proposed by the Board of Selectmen/Town Manager

Explanation: The Duxbury Beach seawall has deteriorated over the years, and now needs substantial repairs to preserve the integrity of the seawall. Repairs to the seawall are necessary to preserve the beach and to prevent properties abutting and near the seawall from the significant damage that could occur if the seawall is breached because of storms that occur on a more frequent basis and/or other weather conditions. While the Town has easements on many of the abutting properties, which the Town acquired in the late 1990's, the Town needs to acquire easements on the remaining properties and other land so that the Town has the practical and legal

ability to repair the seawall in its entirety. This article authorizes the Board of Selectmen to acquire the remaining easements. The Town may be unable to undertake the project if it does not obtain the necessary rights.

***Recommendations: Board of Selectmen Voted 3-0 to Recommend
Finance Committee Vote – Available at Town Meeting***

ARTICLE 3 – STABILIZATION SPENDING – SEAWALL REPAIRS

To see if the Town will appropriate and transfer a sum of money from the Stabilization Fund for the purpose of funding temporary repairs to the Duxbury Beach seawall that arose from the March 2018 storms, or take any action in relation thereto.

Proposed by the Board of Selectmen/Town Manager/Seawall Committee

A two-thirds vote of Town Meeting is required to approve this article.

Explanation: As a result of the March 2018 Nor'easters, severe damage occurred to the Duxbury Beach seawall. This funding will allow for the purchase and installation of armoring stone to be placed and piled on the beach, in front of the damaged and compromised sections of the seawall along Ocean Road North, Ocean Road South and Cable Hill Way as a temporary measure. Once funding becomes available for a permanent repair solution, this material will be re-used as part of that project.

***Recommendations: Board of Selectmen Voted 3-0 to Recommend
Finance Committee Vote – Available at Town Meeting***

ARTICLE 4 – STABILIZATION SPENDING – SEAWALL ENGINEERING PEER REVIEW

To see if the Town will appropriate and transfer a sum of money from the Stabilization Fund for the purpose of funding engineering peer review related to the plans for proposed repairs and reconstruction of the Duxbury Beach seawall, or take any action in relation thereto.

Proposed by the Board of Selectmen/Town Manager/Seawall Committee

A two-thirds vote of Town Meeting is required to approve this article.

Explanation: Funding of this project will allow the Town to engage the services of an engineering firm to review the proposed plans related to the reconstruction of the Duxbury Beach seawall. The purpose of this technical peer review is to address and remove defects, if applicable, as early as possible in the development process. By addressing these types of concerns at their origin, a peer review will help to prevent defects from propagating and reduce the overall amount of rework necessary on the project as it moves through the permitting phases.

Recommendations: Board of Selectmen Voted 3-0 to Recommend

Finance Committee Vote – Available at Town Meeting

ARTICLE 5 – FUND COLLECTIVE BARGAINING AGREEMENTS

To see if the Town will raise and appropriate, or transfer from available funds, a sum of money to fund collective bargaining agreements with any one or more of the following employee organizations for the fiscal year commencing July 1, 2017:

- Duxbury Police Union, MCOP Local 376B

; or take any action in relation thereto.

Proposed by the Board of Selectmen

Explanation: This article will fund collective bargaining agreements for positions in the contract to be noted in the motion to be made at Town Meeting.

Recommendations: *Board of Selectmen Voted 3-0 to Recommend
Finance Committee Vote – Available at Town Meeting*

ARTICLE 6 - CITIZENS' PETITION – AMEND ZONING BY-LAWS – PROPOSAL TO ADD NEW SPECIAL PERMITTED USE UNDER SECTION 410 RESIDENTIAL COMPATIBILITY DISTRICT

To see if the Town will vote to amend the Zoning Bylaw, Article 400-Use, Intensity, Dimensional and Coverage Regulations for all Districts; Section 410 Residential Compatibility District; Subsection 410.3 Uses and Structures Permitted by Special Permit by adding thereto a new special permitted use as paragraph 12 which would read as follows:

“12. Veterinary Hospital for the care and treatment of domestic animals;” or act on anything related thereto.

Proposed by Citizen's Petition

A two-thirds vote of Town Meeting is required to approve this article.

Recommendations: *Board of Selectmen Vote – Available at Town Meeting
Finance Committee Vote – Available at Town Meeting*

ARTICLE 7 - CITIZENS' PETITION – AMEND ZONING BY-LAWS – PROPOSAL TO ESTABLISH A NEIGHBORHOOD BUSINESS LIGHT ZONING DISTRICT

To see if the Town will vote to amend the Zoning Bylaws, as follows:

Article 200 ESTABLISHMENT OF DISTRICTS, Section 201 Classes of Districts, to insert the underlined language below:

201 CLASSES OF DISTRICTS

FHAOD	Flood Hazard Areas Overlay District
DP	Dunes Protection District
WP	Wetlands Protection Overlay District *
POL	Publicly-Owned Land Overlay District APOD Aquifer Protection Overlay District
RC	Residential Compatibility District
<u>NB-L</u>	<u>Neighborhood Business Light District</u>
NB-1	Neighborhood Business District 1
NB-2	Neighborhood Business District 2
PD-1	Planned Development District 1
PD-2	Planned Development District 2
PD-3	Planned Development District 3
WSA	Waterfront Scenic Overlay District
<u>GMSP</u>	<u>Ground-Mounted Solar Photovoltaic Installations Overlay District</u>

*The Wetlands Protection Overlay District as referred to in this Bylaw is the district identified on the “Wetlands and Watershed Protection District Map dated March 4, 1971.”

12. Neighborhood Business Light District may only be located where the district is adjacent to an existing NB-1 or NB-2 District through a common district boundary line.

Article 400 USE, INTENSITY, DIMENSIONAL AND COVERAGE REGULATIONS FOR ALL DISTRICTS, Section 420 Neighborhood Business Districts, to insert new Section 421-A as follows:

421-A NEIGHBORHOOD LIGHT BUSINESS DISTRICT

The Town shall have a Neighborhood Light Business District (NB-L) as established by Section 201, described herein and as shown on the Zoning Map dated March 13, 1973 as revised and amended to date and on file in the office of the Town Clerk, and as defined in and subject to this Section 421A.

General: No structure shall be erected or altered and no building, structure, premises or land shall be used for any purpose or in any manner other than as permitted as follows:

421A.1 Permitted Uses and Structures

1. Uses and structures as permitted by Section 410.1 and 410.3 in accordance with all intensity, dimensional, and coverage regulations of Section 410.4.
2. Signs in accordance with Section 601.

3. The keeping of any registered commercial motor vehicle.

421A.2 Prohibited Uses and Structures

1. Any use which will produce a nuisance or hazard from fire or explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent or electrical interference which may affect or impair the normal use and peaceful enjoyment of any property, structure or dwelling in Town. Parks for trailers, travel trailers, tent trailers, trailer coaches and motor homes, auto dismantling, junkyards, privately developed and operated septage waste disposal/treatment facilities are expressly prohibited.
2. All Neighborhood Business 2 Structures, and all Neighborhood Business 1 Structures not otherwise listed in Section 421A.3.

421A.3 Uses and Structures That May Be Permitted Subject to Special Permit and Site Plan Requirement

The following uses shall only be permitted by a special permit from the Board of Appeals when the off-street parking requirement is more than three (3) vehicles and/or off-street loading space is required. If the off-street parking requirement is less than three (3) vehicles and no off-street loading space is required, the Zoning Enforcement Officer may approve the following uses, provided that the provisions of Section 424.2 are complied with:

1. Professional office for dental, architectural, engineering, renewable and alternative energy research and development, legal, medical, and other similar recognized professions; medical and dental clinics, including retail uses accessory thereto providing no more than twenty-five percent (25%) of the rentable floor space in a principal building exclusive of all storage areas is used therefor.
2. Real estate, insurance and general business office, banks, telephone office.
3. Dwelling in a business structure above the ground floor.
4. Greenhouse that is accessory to a business.

421A.4 Special Permit Uses

1. Retail sale of food items, including confectionery, dairy products, fruits, vegetables, groceries and meats.
2. Sale of baked goods and the manufacture of same for sale.

3. Sale of dry goods, variety merchandise and handicraft work.
4. Sale of clothing and clothing accessories.
5. Sale of hardware, household items including appliances, furniture, furnishings and supplies.
6. Sale of printed matter, drugs, stationary and photographic supplies.
7. Restaurant and other places for serving of food or beverages inside or outside the building at tables or counters, including public or private clubs.
8. Take-out food establishment or delicatessen where food is prepared but not consumed on the premises and sold retail; catering services.
9. Service establishment: barber and beauty shop, laundry agency, shoe and hat repair, bicycle and household appliance repair, dressmaking, dry cleaning and pressing or tailor shop where no work is done on the premises for retail outlets elsewhere.

Replace NB-1 Sections 421.3, and 421.4 as follows:

421.3 Uses and Structures That May Be Permitted Subject to Special Permit and Site Plan Requirement

The following uses shall only be permitted by a special permit from the Board of Appeals when the off-street parking requirement is more than three (3) vehicles and/or off-street loading space is required. If the off-street parking requirement is less than three (3) vehicles and no off-street loading space is required, the Zoning Enforcement Officer may approve the following uses, provided that the provisions of Section 424.2 are complied with:

1. Uses allowed in NB Light and as described in Section 421A.3.
2. Public transportation passenger station and right-of-way passenger bus terminal.
3. Shop of an electrician, painter, paper-hanger, plumber, upholsterer, carpenter or cabinet-maker and similar trades.

421.4 Special Permit Uses

1. Special Permit Uses allowed in NB Light and as described in Section 421A.4.

2. Wireless Telecommunications Services Facility in accordance with Section 610.

Section 422.1 Permitted Uses for NB-2 by inserting the underlined as follows:

422.1 Permitted Uses

All uses permitted in Section 421A.1 (Neighborhood Light Business District), and Section 421.1 (Neighborhood Business District 1) shall be permitted in Neighborhood Business District 2. Permitted signs shall comply in all respects with the requirements of Section 601.

Section 422.3.1 Uses and Structures Permitted by Special Permit for NB-2 by inserting the underlined as follows:

1. All uses and structures permitted by special permit in Sections 421A.4, 421.3 and 421.4.

Section 424, to be re-named by inserting the underlined language below:

424 SPECIAL PERMIT PROCEDURES AND CRITERIA FOR NEIGHBORHOOD BUSINESS DISTRICTS L, 1 AND 2

Section 425 INTENSITY AND DIMENSIONAL REGULATIONS FOR ALL NEIGHBORHOOD BUSINESS DISTRICTS by striking crossed-out text and by inserting the underlined language below:

425.1 Lot Area, Frontage, Depth Dimensions and Coverage

1. Minimum lot size for NB-L is 30,000 square feet.
2. Lot Dimension for NB-L:

<u>Frontage</u>	<u>200 linear feet</u>
<u>Depth</u>	<u>100 linear feet</u>
<u>Front setback</u>	<u>25</u>
<u>Side setback</u>	<u>25 to residential use; 0 to NB-1 or NB-2</u>
<u>Rear setback</u>	<u>15 to residential use; 0 to NB-1 or NB-2</u>
3. Minimum lot size for NB-1 and NB-2 is 15,000 square feet.
4. Lot Dimension for NB-1 and NB-2:

Frontage	100 linear feet
Depth	100 linear feet
Front setback	0

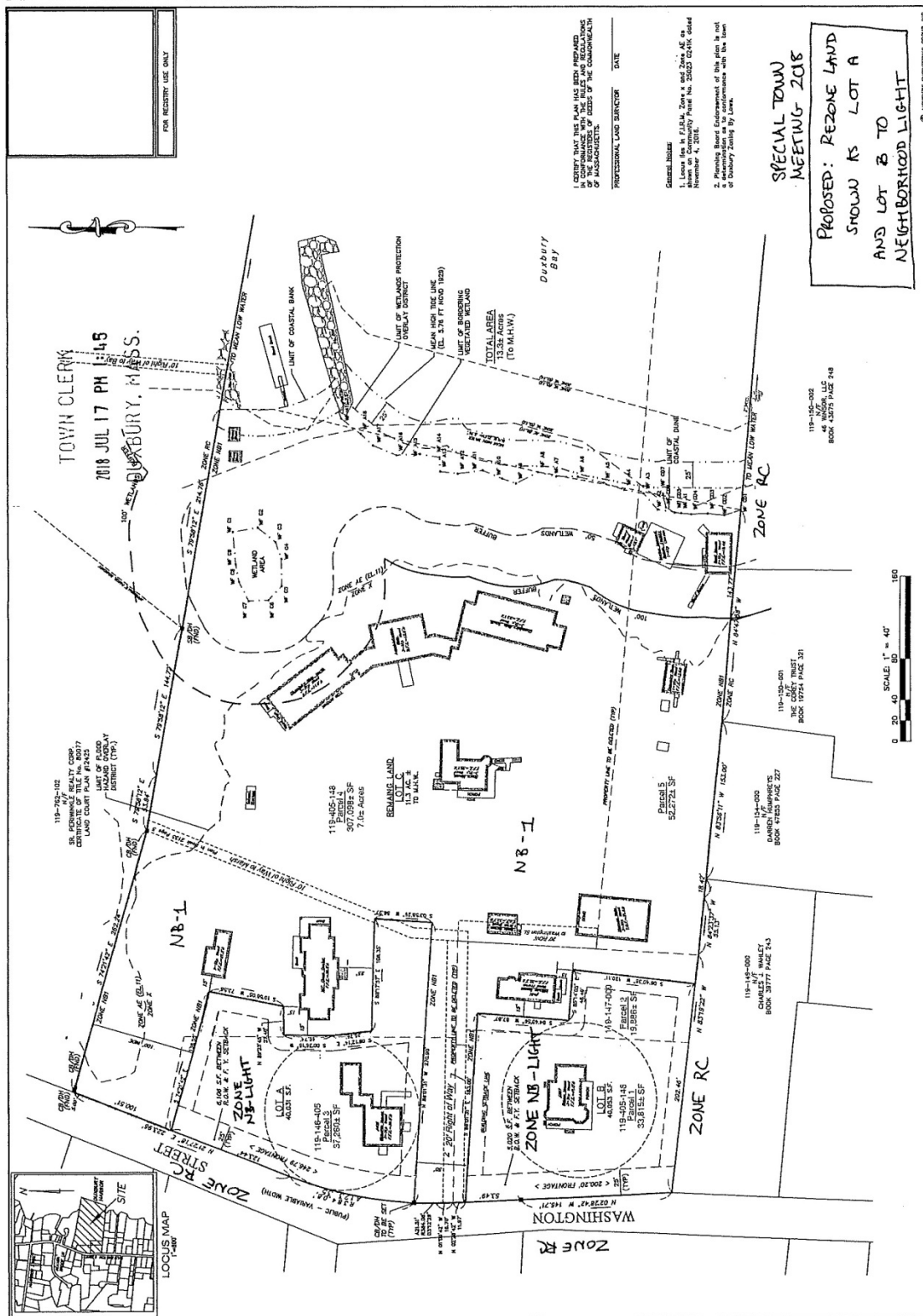
Side setback 0
Rear setback 0

5. In a Neighborhood Business District where present buildings are less than forty (40) feet from the right-of way line, new buildings may be placed as near the right-of- way line as the average buildings on said adjoining lots. A vacant lot shall, for this purpose, be treated as though occupied by a building set back forty (40) feet.
6. The minimum front setback shall be measured from the right-of-way giving legal access to any lot where a plan of the way is on file with the Registry of Deeds or, in the absence of such a plan, from a line twenty feet from and parallel with the center line of the traveled way. In the case of a corner lot, the distance of the front setback shall apply to any structure adjacent to either right-of-way.
7. In a Neighborhood Business District, no accessory building or structure shall be located within the required front setback. Accessory structures may be appended to the principal building or to another accessory building.
 - a. Corner Clearance – Within the triangle formed by the lines of intersecting ways and a line joining points on such lines fifteen feet distance from their point of intersection, or in the case of a rounded corner, the point of intersection, or in the case of a rounded corner, the point of intersection of their tangents, no structure and no foliage shall be maintained between a height three and one-half (3.5) feet and height of eight (8) feet above the plan through their curb grades.
 - b. Projections–Nothing herein shall prevent the projection of steps, stoops, not exceeding thirty square feet in any area, cornices, window sills or belt courses into any required setback.
 - c. Height – Maximum height shall be thirty (30) feet in ~~NB 1 and NB 2.~~ All NB Districts.
 - d. Exemptions to Height Regulations–The limitations of height in feet shall not apply to chimneys, elevators, poles, ventilators, skylights, tanks, bulkheads, and other accessory structural features usually carried above roofs, nor to domes, towers, or spires of churches or other buildings provided such features are in no way used for living purposes and further provided that no such structural feature of any building shall exceed a height of sixty-five (65) feet from the ground. The Board of Appeals may grant a special permit for

greater height for such structures and provided such greater height would not be hazardous or detrimental to the neighborhood.

- e. Site Coverage—In ~~NB-1 and NB-2~~, all NB Districts the maximum site coverage of a lot shall be no more than fifty percent (50%) of the total area of the lot as defined in Section 302 and not “Lot Area.”
- f. Bedrooms – Above ground floor apartments in ~~Neighborhood Business Districts 1 and 2~~ all NB Districts shall be limited to no more than two (2) bedrooms.
- g. Reduction of Minimum Requirements – No lot, setback, court or other open space already having less than the minimum requirements in this Bylaw shall be further divided or reduced with respect to such minimum requirement or requirements.

AND To see if the Town will vote to amend its Official Zoning Map as follows:



Or take any other action relative thereto.

Proposed by Citizen's Petition

A two-thirds vote of Town Meeting is required to approve this article.

Recommendations: Board of Selectmen Vote – Available at Town Meeting
Finance Committee Vote – Available at Town Meeting

AND YOU ARE HEREBY DIRECTED TO SERVE THIS WARRANT by posting attested copies thereof as prescribed by M.G.L. Chapter 39, Section 10 and by Chapter 2, Section 2.3 of the Town of Duxbury General Bylaws, and by publishing a copy of this Warrant in a Plymouth County Newspaper, as prescribed by Article 2, Section 2.3 of the Duxbury By-Laws, at least fourteen (14) days before the time of holding said Meeting.

Hereof fail not and make due return of this Warrant, with your doings thereon, to the Town Clerk, at the time and place of this meeting.

Given under our hands this 13th day of August, 2018.

BOARD OF SELECTMEN



Theodore J. Flynn, Chair

Shawn Dahlen, Vice-Chair



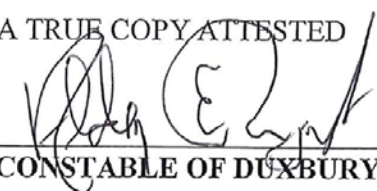
David J. Madigan, Clerk

Plymouth SS:


_____, 2018

Pursuant to the warrant I have this day notified and warned the inhabitants of the Town of Duxbury, herein described, to meet at the time and place and for the purposes as prescribed by the bylaws of the Town.

A TRUE COPY ATTESTED



CONSTABLE OF DUXBURY