

**PLANNING BOARD**

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John R. Bethoney, Vice Chair  
Robert D. Aldous, Clerk  
James E. O'Brien IV  
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**TOWN OF DEDHAM  
COMMONWEALTH OF MASSACHUSETTS**

**PLANNING BOARD MEETING MINUTES  
Lower Conference Room, Town Office Building  
Tuesday, February 25, 2014**

**Present:** Michael A. Podolski, Esq., Chairman  
John R. Bethoney, Vice Chairman  
Robert D. Aldous, Clerk  
Ralph I. Steeves  
Richard J. McCarthy, Jr., Planning Director

Mr. Podolski called the meeting to order at 7:02 p.m. The zoning proposals referred to are incorporated as part of the public record and are on file in the Planning and Zoning office. It should be noted that Mr. O'Brien was not present for this meeting because of family obligations. The only item on this agenda is discussion of the proposed Zoning Bylaw changes for the Annual Town Meeting.

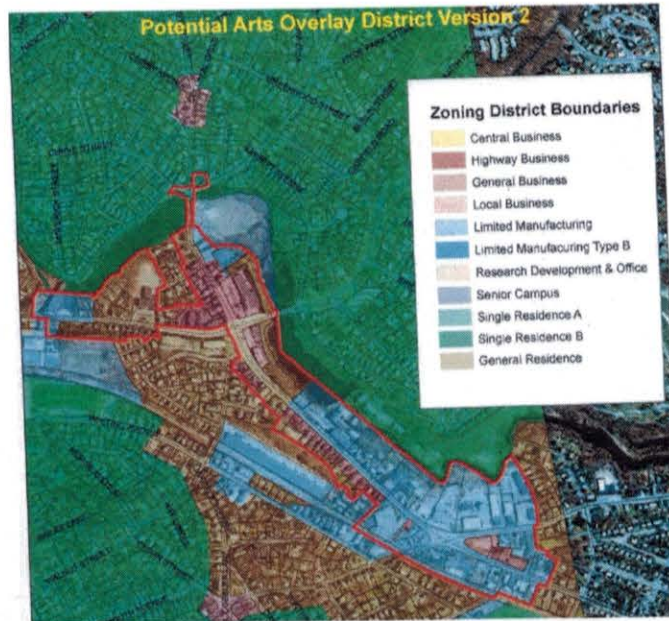
**ARTS OVERLAY PROPOSAL**

**Present:** Karen O'Connell, Economic Development Director

Mr. McCarthy gave an overview of the proposal. In the next couple of weeks, there will be an interactive link on the Town website. A meeting was held with the Mother Brook Community Group (MBCG) in January 2014. MBCG submitted an article to Town Meeting to create a revitalization committee for East Dedham. This would look at the arts overlay proposal and East Dedham as a whole. They liked the concept of the arts overlay district, and wanted to take steps toward this. There are Northeastern students doing research for the Town and will report on arts overlay districts in other areas of the state. As a beginning and after consultation with Town Counsel, a proposal can be put on the warrant that explains the purpose of the Arts Overlay District (AOD), the boundaries of the district, the definition, regulations, uses, and setbacks. Ms. O'Connell would like to co-sponsor the proposal with the Planning Board. Mr. McCarthy supplied the Board with a packet that explains the purpose of the article, and what will rule concerning zoning interpretation. He presented two maps for the district:

- The first version, which Ms. O'Connell wanted to tweak. This stops at the Avery School, but she wanted it to go up to Alimed's property and connect with a cross street.

- The second version is the preferred one, and incorporates the changes that Ms. O'Connell requested.



Mr. Podolski pointed out the area by Mill Pond at the top point of the map, and asked if this was exempted. Mr. Bethoney suggested drawing the line straight across. Ms. O'Connell said this is all General Residence (GR), and Mr. McCarthy said he wanted to stay along the road. Mr. Podolski said that the Zoning Bylaw allows a single person to operate a business in his/her residence as long there is only one employee. There could be people in those GR areas who might want to open up, for example, a pottery shop. If they are in the AOD, even though they are in a GR zoning district, they should have the advantage of the overlay district. Mr. McCarthy and Ms. O'Connell agreed. Mr. Bethoney said that, where it is an overlay district, no one is losing any underlying zoning, and in fact they may receive a benefit from being in it. In the area in question, across from Condon Park, is 213 Colburn Street, an abandoned, vacant commercial building (previously the Old Mill) owned by David Spiegel. It is a blight, and is in a very visible location. There is a sign on the property saying that it is available for retail use, but Mr. Steeves said this cannot be changed to anything other than a residence/apartment now since it is zoned Single Residence B (SRB). Mr. McCarthy said that some arts group might be able to adapt the property. Mr. Steeves noted that there is no parking there. Ms. O'Connell suggested working with a group of artisans who might be interested in going into the vacant commercial building.

Ms. O'Connell said it did not make any sense to include Sawmill Lane, the site of a proposed Dunkin' Donuts. She said that Pastor Stephen Johnson of Fellowship Bible Church would like the church to be included in the AOD. The large commercial warehouse building on Walnut Street is also a consideration for inclusion within the AOD. Ms. O'Connell said she has spoken with a group of artisans looking for a location in East Dedham, and they may be interested in this. Mr. Podolski suggested that this be included in the AOD. Mr. McCarthy will change the map to reflect this.

Mr. McCarthy said the map could be left as is, or more detail could be put on it. Mr. Podolski said 213 Colburn Street should be kept on the map, but Mr. Steeves and Mr. Bethoney disagreed. The Board acknowledged that consideration could be made to expanding the AOD if there is a need. The boundaries are not set in stone, and the Revitalization Committee could consider expansion in the future. Mr. McCarthy will make the requested changes in the map and give the Board the updated map at the next meeting on Thursday, February 27, 2014. Mr. Bethoney made a motion to support the article subject to the mutually agreed upon modifications. Mr. Steeves seconded the motion. The vote was unanimous at 4-0. Mr. Podolski indicated that there will be some language change, although the substance will remain the same.

#### WIRELESS COMMUNICATIONS LINKS, APPLICABILITY

The current Zoning Bylaw requires review of new installations or modifications of wireless communications links by the Planning Board, Zoning Board of Appeals, and the Design Review Advisory Board. This article would remove that requirement for proposed modifications, and leave site plan review to the Planning Board. Construction work must begin within six months of the date of the permit. The exception to this is the need for zoning relief, in which case the Applicant would meet with the Zoning Board of Appeals. Mr. Steeves commented that the wireless companies keep adding to the sites with no end to them, and they think they can do anything they want. He said that only the Planning Board can stop them.

Mr. Aldous noted that wireless companies are still putting in the wrong size grounding wire on their applications, citing the upcoming Verizon applications that will be heard on Thursday night. Mr. Steeves asked why the Board could not just deny them, since the Board informs them of the requirements. Mr. Bethoney made a motion to support the article as presented, seconded by Mr. Aldous. The vote was unanimous at 4-0.

#### ROWHOUSES

Kenneth Cimeno, Building Commissioner, has proposed an article to amend the footnotes to the Table of Dimensional Requirements by deleting the following language:

- \*1. (Applies to GR General Residence District):

*Frontage: 50 ft., except 90 ft. for a two-family home, ~~and 30 ft. per dwelling unit in a row house~~; Lot width at front and rear building lines: 90 ft for a **two family home**, except 50 ft. for a single family home use, and ~~30 ft. per dwelling unit in a row house~~; Lot Area: 11,000 sq. ft., except for 7,500 sq. ft. for a single-family home. ~~And 5,000 sq. ft. per dwelling unit in a row house~~; or take any action relative thereto.*

In the Table of Allowed Uses, the Zoning Bylaw does not allow three-family dwellings in the General Residence Zoning district, yet the footnote in the Dimensional section of the bylaw, there is an inference of additional units. A dwelling on Curve Street will be subject of an application for a three-family. Mr. McCarthy said that they will use the bylaw as a basis to argue that it is inferred that three-families are allowed by the reference to row housing, but in fact, the allowable table does not say that. This proposal is to match the two items and make it clear that only one and two-family houses are allowable in the General Residence zoning district.

Mr. Bethoney asked if someone buys an existing three-family dwelling, tears it down with the intention of building another three-family, whether it could be done. Mr. Steeves said it cannot be done. Only an existing three-family is allowed, but it can be made larger or fancier. Mr.

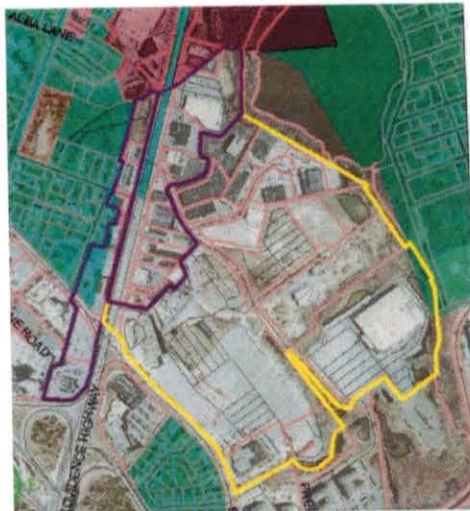
Podolski said that it could be allowed if the building stays in the same footprint. Mr. McCarthy will get clarification of this for the next meeting. He said that the number of units is not allowed in the Zoning Bylaw. The Board could consider a three-family. Mr. Bethoney asked if it is the intention of the bylaw to refer to more than two units, or if it is the intention of the bylaw to exclude anything more than two units as it stands. Mr. McCarthy said the Town used to allow three-family dwellings, but it was omitted when the Table was changed to allow the use and dimensional changes. It was an oversight then. Mr. Bethoney commented that the Town can have mixed use development with 40 units, but it cannot allow a three-family dwelling.

Mr. McCarthy said an option is to do nothing with this and re-evaluate it. He suggested that the Board not take any action. If the Board wants to re-visit the idea of a three family dwelling, he would hold off on this article. Mr. Podolski wanted the Building Department to come in to discuss the proposal at Thursday's meeting. Mr. McCarthy will arrange this with Mr. Cimeno.

#### **HIGHWAY BUSINESS/RESEARCH, DEVELOPMENT, AND OFFICE ZONING DISTRICTS: RE-ZONING PROPOSAL**

Mr. McCarthy passed out a map of areas in the Research, Development, and Office (RDO) zoning district that are proposed to be changed to Highway Business (HB) on Providence Highway. He also supplied a copy of the allowable use tables from the Zoning Bylaw in which the HB and RDO districts are compared side by side. Building Commissioner Kenneth Cimeno had proposed adding some uses to the RDO district because it is a bit restrictive. The premise of the RDO made sense, but since 1996 when it was first put in the Zoning Bylaw, the Town has developed differently. People come in to the Board to put in uses that are not allowed in the RDO district, so adding more allowed uses in the RDO district was considered.

There are different uses allowed in the RDO district. Mr. Cimeno asked about changing that part of the RDO districts that fronts Providence Highway to the HB district because of existing businesses and how things have changed over time. This would give a different opportunity for re-development. He oriented the Board by saying that Joe's Bar and Grill, Walgreen's, and CVS are presently in the RDO district, but would be changed to HB. Mr. McCarthy said that if there is an existing property in RDO sitting on Providence Highway, and they want to change the use, this can be done by Special Permit. If the business is up the street a few hundred yards, it is in HB, and a Special Permit is not needed. This creates uniformity along Providence Highway.



Mr. Bethoney asked what the yellow delineation was, and Mr. McCarthy said this is the edge of RDO. Mr. Bethoney then asked if a Target store could be put in the RDO district, and Mr. McCarthy said it depends on how big the property is. Mr. Bethoney said it would be a Special Permit. It can be done as a Planned Commercial (PC) development with 5 acres or more:

*§3.1.6.1 PC - "Planned Commercial development may be allowed on a lot or lots consisting of a minimum of 5 acres, located in the LMA, LMB, HB, GB, CB, or RDO Districts in accordance with Section 6.0, upon approval of a Major Nonresidential Project Special Permit."*

Mr. Podolski said he worries about extending highway business. It is more lenient. He wants to be careful that the Board maintains control on Legacy Place until something happens with the crushed rock on Joe Federico's property. Mr. Bethoney said he wants something to go in there that would enhance the commercial uses.

Mr. McCarthy said he understood what Mr. Cimeno was thinking, but he also thinks there needs to be more tweaking with the bylaw. His thought is with some of the uses and the way they are defined, the Board might want to think about looking at the language prior to changing the bylaw. He said he does not necessarily want to create a secondary effect that the Board would not want to see.

Mr. Podolski said he misunderstood the point. When he discussed it with Mr. McCarthy, Mr. McCarthy said he had heard from some people who wanted to have indoor gymnasiums, and spinning classes. Those uses are not allowed in RDO, but a footnote in the RDO in the Table of Allowable Uses, they can apply to the Zoning Board of Appeals for a Special Permit. This is happening right now. Mr. Steeves said there is no parking there. Mr. McCarthy realized that this might not work. The concept of changing the uses is that, if you have enough parking, you can apply and still get a Special Permit because of the restriction on RDO. If there was no restriction, the use would be allowed by right if you comply with the requirements. This leads into the uses. If you comply with the requirements of the bylaw, you still require another permit that would not necessarily have been required if you were down the street. Mr. Podolski said that consistency is important, but he would rather change or add some of the uses, than change districts. Mr. McCarthy said this can be done as well.

Mr. McCarthy thought that this could be the beginning of a discussion. The Board needs to spend time talking about the issues before any changes are made. A report needs to be put together along with a letter explaining why it is the right thing to do. This will be put in the warrant for Town Meeting. He said that the current uses can be dated (i.e., hat repair shop, blueprinting, furrier, frozen food locker), so this shows that the Board has not really looked at it lately. This is why he wanted to look at the definitions and modernize them. Once it is done, it can be brought before Town Meeting.

Mr. Bethoney asked that any of the Board's zoning articles be presented to the Town Meeting by the Board of Selectmen. This was a joke, of course.

## MEDICAL MARIJUANA

All the licenses have been chosen, and they are starting Phase 2. There are twenty locations right now, but there are 35 statewide, so Dedham could still potentially be chosen for a center. A bylaw needs to be in place because the moratorium expires on July 1, 2014. This proposal is a preventative measure to have something in place in case someone wants to use a building like the Rustcraft Building to grow and cultivate marijuana. Mr. Podolski felt that the Rustcraft Building is a perfect location.

The Board previously chose two areas as the Marijuana Overlay District:



Mr. Podolski had suggested some additional language changes that came through Town Counsel (Town Counsel). Unfortunately, he was not pleased with their response. He considered their response to be "vanilla," and he does not want "vanilla" in town. He wants as specific a bylaw as the Board can do. He reviewed Town Counsel's report, and came up with a couple of concepts that Town Counsel did not even touch on, i.e., why allow marijuana dispensaries to be near churches and religious facilities. He added this. He also added ball fields to playgrounds, athletic facilities, recreational areas, etc.

Mr. Podolski said that the first sentence under History said:

*"By Initiative Petition 11-11 (Question #3 on the November 6, 2012), the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession, and use of marijuana **for medical purposes.**"*

He said that language was not in the proposal. With regard to distance required, they said that "the distance requirement may be reduced by no more than **25 percent**..." Mr. Podolski suggested that this be **10 percent** so there would be an option to say it won't be allowed because it is too close. If they are allowed to reduce it, they have to show the Board adequate and sufficient security in place to prevent diversion of marijuana to minors, who are not qualified patients. The DPH regulations are not by property boundary, but by land or distance. Mr. McCarthy explained the options available as far as distances are concerned. He said that 300 feet was a good distance from the property boundary. He tried to pre-plan the districts so that the Town would have some options. Mr. Aldous asked if the boundaries also include where the marijuana can be grown, or just where they can sell it. Mr. McCarthy said they can grow it, too, as noted in the first section of the bylaw. Smoking on site is prohibited except as noted in the Department of Public Health 105 CMR 725(N)(8). Town Meeting Members will receive a definition of this at Town Meeting.

Mr. McCarthy said that the Board can choose the buffer. Mr. Aldous made a motion to make it no more than 10%. Because of this, they have to show the Board adequate and sufficient security in place to prevent diversion of marijuana to minors, who are not qualified patients. Mr. Aldous brought up home delivery of marijuana. He wondered how much control they would have over that. Mr. McCarthy said that, if the rules are followed properly, the patient has to have a registration card, which he must show to the delivery person. Vehicles that deliver marijuana must be plain with no slogan on the side. Mr. Steeves said that the delivery drivers cannot sell the marijuana. He gave an example of a situation in Weymouth:

A 31-year-old person who has a card bought medical marijuana. This person then sells the marijuana to a 16-year-old child. A police officer happens to be watching the transaction and grabs the man. He told them he had a card and can have the marijuana. The police said it was for his use and his use only. He cannot sell it to another person.

He said that whoever prescribes it should be responsible for the patient using it. If the marijuana is not delivered properly to the right person three times, the physician should lose his license. He said it has already been a problem in other locations. The delivery person will need to be certified to do his job as required in the regulations. Mr. Podolski said that it is likely that, by 2016, legalizing marijuana in Massachusetts will be on the ballot.

Mr. Podolski reviewed the changes that he made to the proposed zoning article. The Planning Board will be the Special Permit Granting Authority. Mr. McCarthy said that there will likely be discussions about applying for agricultural exemptions. Mr. Podolski said this will not be allowed, and will be deleted from the proposed article. For a patient to grow marijuana in his house, he must be granted a hardship. Mr. McCarthy said it would probably not be hard to get this.

Mr. McCarthy will make the necessary changes. As noted, Town Meeting members will be given flyers with the Department of Public Health regulations (which are State regulations and cannot be changed by the Town). Mr. Bethoney made a motion to adjourn, seconded by Mr. Steeves. The vote was unanimous at 4-0. The meeting ended at 8:15 p.m.

Respectfully submitted,



Robert D. Aldous, Clerk  
Town of Dedham Planning Board

/snw