

**CITY OF WOBURN
APRIL 4, 2017 - 7:00 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gately
Campbell	Higgins
Concannon	Mercer-Bruen
Gaffney	Tedesco
Haggerty	

VOTED to dispense with the reading of the previous meeting's Journal and to APPROVE.

MAYOR'S COMMUNICATIONS: None.

PUBLIC HEARINGS:

On the petition by Seaver Properties LLC, 215 Lexington Street, Woburn, Massachusetts 01801 for a special permit and site plan approval pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.3c, 5.1 Note 20, 11.3.2, 14, and Site Plan Approval pursuant to Sections 12.2.2 and 12.3.2 to allow for one hundred eighteen (118) residential townhouse units at 285, 287 and 299 Lexington Street. PUBLIC HEARING OPENED. A communication dated March 23, 2017 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Special Permit Petition of Seaver Properties LLC, 285, 287 and 299 Lexington Street, Woburn, Massachusetts

Dear Mr. Campbell:

On behalf of my client Seaver Properties LLC, I respectfully request that the public hearing scheduled for April 4, 2017 be continued to April 18, 2017. If you have any questions, please do not hesitate to contact me. Thank you.

Very truly yours, s/Joseph R. Tarby, III

On the petition by WMK, LLC dba MobilityWorks, 299 C&E Washington Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.45 to allow use of 10,150 square feet of space in existing building for sale office and automotive shop to convert standard vehicles to

wheelchair accessible vehicles and fourteen overnight parking spaces at 299 C&E Washington Street. PUBLIC HEARING OPENED. A communication dated March 23, 2017 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: WMK LLC, 299-C and 200-E Washington Street, Woburn, MA

Dear Mr. Campbell:

On behalf of my client WMK LLC, I respectfully request that the public hearing scheduled for April 4, 2017 be continued to April 18, 2017 since the Public Hearing on the Class One License is scheduled for April 18, 2017. If you have any questions, please do not hesitate to contact me. Thank you.

Very truly yours, s/Joseph R. Tarby, III

A communication dated March 30, 2017 was received from Dan Orr, City Planner/Grant Writer as follows:

Re: Planning Department comments on special permit application for 299 Washington Street C&E/WMK, LLC (d.b.a. MobilityWorks)

Dear Council:

The Planning Department has reviewed the above-referenced petition which seeks a special permit in accordance with Section 5.1(45) for the operation of a sales office and automotive shop that converts standard vehicles to wheelchair-accessible vehicles, as well as permission to park fourteen (14) vehicles on site overnight. The property is located in an Industrial General (I-G) zoning district, and the Petitioner seeks a special permit for the sale or rental of automobiles including accessory repair and storage in accordance with Section 5.1(45). The applicant intends to lease approximately 10,150 square feet of space in an existing building at 299 Washington Street for this use.

Although the application notes that a Special Permit is being sought in accordance with Section 5.1(45) for the sales office and automotive shop, the Building Inspector should be consulted with respect to the portion of the request dealing with overnight parking of vehicles, to determine if a special permit is needed for the overnight vehicle storage. Accessory storage or parking of *commercial* vehicles may be allowed by special permit in this district (Section 5.1.57[b]); there is no corresponding authorization for non-commercial vehicles. It may be that ancillary vehicle storage associated with an authorized automotive repair shop is permitted by right and needs no special permit; it may be that outside vehicle storage is not permitted at all.

The application proposes to reserve fourteen (14) parking spaces for the overnight storage of vehicles. However, no parking or floor area calculations have been provided to demonstrate that there are in fact fourteen (14) excess parking spaces over and above the

number needed to ensure zoning conformance for the building's uses. The applicant should be required to provide this information.

Similarly, the Petitioner should be required to amend the plan to comply with Section 8.5.1 of the WZO which requires security lighting for all parking facilities "which are used at night". Although the key on the plan indicates that "existing site lighting" is incorporated into the plans, Planning staff found none on the plan itself. Therefore, the plans should be revised to incorporate details of all lighting, including security lighting, all of which should be shielded in such a manner that will prevent glare from impacting abutting properties.

Lastly, the plan does not show any areas dedicated for snow storage, and the application does not address snow removal. Planning staff therefore recommends the plans be revised to include this information.

If the Council ultimately decides to grant the special permit (singular or plural), staff recommends imposing the following as conditions of approval:

1. The Plan of Record for this petition shall be "Special Permit Application: Mobility Works, 299 C&E Washington St., Woburn, MA," Site Layout Plan; Prepared by Crossroads Properties, LLC, 200 West Cummings Park, Woburn, MA; Sheet C-1, Dated February 28, 2017; Revised _____";
2. That a copy of the approved snow storage plan be submitted to the Building Inspector; and
3. The special permit shall be issued to WMK, LLC (d.b.a. MobilityWorks) and shall not be transferrable.

If members of the City Council have any questions or concerns regarding these recommendations, please feel free to contact me.

Respectfully, s/Dan Orr, City Planner/Grant Writer

On the petition by Minast, LLC, 11 Presidential Way, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, to modify a special permit dated January 9, 2014, as modified by decisions dated October 29, 2015 and August 11, 2016 to allow for the deletion or modification of Condition 3 of the Decision relative to mitigation at Lot 1, Presidential Way. PUBLIC HEARING OPENED.

On the petition by Woburn Toyota, 394R Washington Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.71 an 7.3 to modify a special permit dated July 1, 2016 to allow for parking

of additional vehicles in its commercial parking lot at 1095R Main Street. PUBLIC HEARING OPENED.

On the petition by Burns Landscaping & Construction, LLC, 68 Delwood Drive, Tewksbury, Massachusetts 01876 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.57a, 5.1.57b and 7.3 to modify special permits dated April 9, 2015 and November 13, 2015 by amending Condition Two to allow for a revised site plan at 1095R Main Street. PUBLIC HEARING OPENED.

On the petition by Burbank LLC, 16 Highland Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 7.3 to allow alteration of a nonconforming structure and use (three family dwelling) by razing existing structure and replacing with a new three family dwelling at 25 Hawthorne Street. PUBLIC HEARING OPENED. A communication dated March 30, 2017 was received from Dan Orr, City Planner/Grant Writer as follows:

Re: Planning Department comments on special permit application for 25 Hawthorne Street/Burbank LLC

Dear Council:

The Planning Department has reviewed the above-referenced petition submitted by Burbank LLC, which requests approval pursuant to Section 7.3 of the Woburn Zoning Ordinances (WZO) to allow for the alteration and expansion of a non-conforming use (a three-family residential dwelling) in a Residential-Two (R-2) zoning district. Specifically, the applicant intends to raze the existing three-family dwelling and replace it with a new three-family dwelling.

Planning staff note that no proof has been provided as required to show that the pre-existing, non-conforming structure was “validly and legally established” prior to the adoption of the current WZO. The site plan submitted with the application references MSRD Plan #1030 of 1930 but a copy of this historic survey plan was not submitted with the application. The applicant should be required to provide this information.

The proposed replacement structure would become less non-conforming in several respects as compared to the existing structure. The land surveyor-certified plot plan provided with the application indicates that front and side setbacks would shift from non-conforming to conforming. Currently conforming aspects of the property such as rear setback, building ground coverage and landscaped usable open space would each become closer to the respective thresholds yet still comply with current zoning ordinances. Other aspects of the site such as lot area, lot width, lot frontage and building height would remain as they are with the proposed new structure. The lot currently has one driveway on Hawthorne Street, which would be replaced by three (3) driveways serving each unit. Two driveways would access the lot from Hawthorne Street and one would access the lot

from Central Street. The two driveways on Hawthorne Street violate zoning requirements; Section 8.4.1.4. requires a minimum of fifty (50) feet of distance between driveways on a corner lot, and the driveways being proposed are only 27' apart.

Assuming the existing building is at least seventy-five (75) years old, its destruction will be subject to the City's Demolition Delay ordinance prior to the issuance of any demolition/building permit.

The plan submitted for review does not show any areas for the storage of snow. The applicant should be required to incorporate such area(s) into the plan so they can be reviewed as to adequacy.

The Planning Department recommends the City Council require the applicant to provide the information noted above and correct the zoning violation prior to any approval of the plan. If the Council ultimately votes to approve this project, it should consider imposing the following as conditions of approval:

- That the Plan of Record shall be referenced in the Decision as, "Site Plan, 25 Hawthorne Street, Woburn, MA; Prepared for Burbank LLC; Scale 1"=20'; Prepared by Griffin Engineering Group, LLC, 495 Cabot Street, 2nd Floor, Beverly, MA 019015, (978) 927-5111; Dated: February 15, 2017", revised _____; and
- That a snow storage plan be created for the property and submitted to the Building Commissioner for the City's records; and

If members of the City Council have any questions or concerns regarding the foregoing recommendation, please feel free to contact me.

Respectfully, s/Dan Orr, City Planner/Grant Writer

On the petition by President Haggerty, Alderman Higgins, Alderman Anderson, Alderman Gately, Alderman Tedesco and Alderman Campbell to amend 1985 Woburn Zoning Ordinances, as amended, section 8.3 as follows: 8.3 Off Street Parking Facilities Required - Off street parking facilities shall be provided on the same lot with the principal use, except that: 1. Within any R3, R4, Business, Mixed Use, Industrial, or Office Park district, the City Council, by Special Permit, may allow the parking facility requirements to be met on a lot separate from the use to be served, if such facilities are located within five hundred (500) feet of the use to be served, and if the City Council finds that suitable arrangements, such as ownership, long term lease or easement, have been made to assure the permanent provision of the parking facilities; 2. Within the B-D District, municipal parking facilities may be substituted for the required off street parking for non-residential uses, if such facilities are located within five hundred (500) ft. of the use to be served; 3. Within the B-D District, the City Council, by Special Permit, may allow municipal parking facilities to substitute for the required off street parking for

residential uses under this Section if it imposes, as a condition of approval, the non-waivable fee required by Section 8.3.4 below and makes the following findings: 1. That the municipal parking facilities are located within five hundred (500) feet of the use to be served; 2. That the proposed combination of on-site, off-street parking spaces and municipal parking spaces is available and adequate to serve the proposed development; and 3. That reliance on municipal parking facilities will not create an undue burden on the municipal parking facilities. 4. If a Special Permit is granted to allow municipal parking facilities to substitute for required off-street parking for residential uses in the B-D District, it shall be conditioned on the payment of a fee equal to Seventy Five Hundred Dollars (\$7,500) for each space in a municipal parking facility that substitutes for a required off-street parking space. The City Council shall not have the authority to vary or waive the fee, either in whole or in part, for any project. The payment of a fee shall not act as a guarantee that future tenants of the residential development shall be entitled to the reservation or designation of a parking space or spaces. All such fees shall be deposited in a separate "Downtown Parking Enhancement Fund" to be established in the City Treasury and administered by the Treasurer/Collector. Funds deposited in this account shall only be used for costs incurred by the City in acquiring, designing, constructing and/or reconstructing land and facilities that increase the supply of parking within the B-D District. Expenditure of funds from this account shall only be authorized by a 2/3 vote of the City Council. PUBLIC HEARING OPENED. A communication dated March 29, 2017 was received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Continued public hearing on proposed zoning text amendments relative to Section 8.3 (establishment of parking fund for downtown parking lot improvements)/Alderman Higgins, Anderson, Haggerty, Gately, Tedesco and Campbell

Dear Mr. Campbell:

The Planning Board opened the public hearing on the above-referenced matter as its meeting on March 28, 2017 and subsequently voted to continue the public hearing to the Board's April 11, 2017 meeting.

Respectfully, s/Tina P. Cassidy, Planning Board Director

On the petition by President Haggerty, Alderman Anderson and Alderman Higgins the 1985 Zoning Ordinance of the City of Woburn, as amended, as follows: 1. By amending Section 2 Definitions by adding between "Passenger Transportation Terminal" and "Persons" the following the two new definitions: "Pawnbroker - Pawnbroker means a person engaged in the business of lending money upon the security of goods deposited with it or left in pawn, with or without a fixed period of redemption, whether or not a fixed place of business is maintained for such purposes. Pawnbroker shall not mean or include any bank, savings and loan, credit union or financial institution subject to financial regulations by the federal or state government, nor does it include lending of

money on deposit or pledge of title to property.” “Pawn Shop - The location at which or premises in which a pawnbroker conducts business.”; 2. By amending Section 5.1 Table of Uses by adding a new line “25d Pawn Shop” and adding a “-“ under all zoning districts meaning and intending that the use is not allowed in any zoning district. PUBLIC HEARING OPENED. A communication dated March 29, 2017 was received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Planning Board recommendation on proposed zoning text amendments to (A) define the terms “pawn shop” and “pawn broker” and (B) prohibit pawn shops in all zoning districts/Alderman Haggerty, Anderson and Higgins

Dear Council:

The Planning Board conducted a public hearing on the above-referenced matters at its meeting on March 28, 2017.

Following the close of the public hearing on the same date, some members discussed the proposal and expressed concern as to whether any Constitutional issues would be raised by prohibiting this use in all areas of the City. Pawn brokers and their establishments provided a needed and necessary service to some people who are typically lower income. Would depriving residents of access to these services somehow violate the law?

Following completion of discussion, members of the Board voted 4-0 (Edmonds, Ventresca, Callahan, and Donovan in favor) to recommend to the City Council that it confer with City Solicitor Ellen Callahan Doucette on the issue of Constitutional adherence and if there are no issues, the Board recommends the above-referenced proposed zoning text amendments be adopted.

Respectfully, s/Tina P. Cassidy, Planning Board Director

CITIZEN’S PARTICIPATION: None.

COMMITTEE REPORTS:

PUBLIC SAFETY AND LICENSES:

On the petition by Woburn Bowladrome Inc. for renewal of a Bowling Alley License, committee report was received “ought to pass”.

PERSONNEL:

On the appointment of Shannon Ryan as a Member of the Woburn Board of Registrars of Voters, committee report was received “ought to pass”.

On the appointment of Charles J. Natale, Jr. as a Member of the Woburn Golf & Ski Authority, committee report was received “ought to pass”.

ORDINANCES:

On the Order to amend the 1989 Woburn Municipal Code, as amended, Title 2, Section 2-180 relative to non-union department head salary adjustments, committee report was received “ought to pass”.

On the Order to amend the 1989 Woburn Municipal Code, as amended, Title 2, Section 2-180 as to stipends for boards and commissions, committee report was received “back for action”.

NEW PETITIONS:

Petition by Camargo Chauffeur Service, LLC, 35 Dix Road Ext.

COMMUNICATIONS AND REPORTS:

A communication dated March 29, 2017 with attachment was received from City Solicitor Ellen Callahan Doucette as follows:

Re: Amendment of the WMC – Revolving Funds

Section 86 of Chapter 218 of the Acts of 2016 (the Municipal Modernization Act) amended M.G.L. c.44, §53E½ by requiring that “a revolving fund shall be established pursuant to this section by by-law or ordinance.” In order to comply with this statutory revision in advance of the City Council’s budget process for FY19, I have attached hereto a proposed Order that serves to amend Title 3 (Revenue and Finance) of the Woburn Municipal Code.

This proposed Order is consistent with the statutory requirements of c.44, §53E½ by identifying the fund; the board or individual authorized to make expenditures; the sources(s) of revenue to be deposited to the fund; and the purpose(s) for which the funds may be expended. Please note that I took the liberty of formalizing the title of certain funds (e.g. Landfill Closure not Dump Closure; and Immunizations and Clinical Services instead of Vaccines). Similarly, I clarified the purpose for which funds may be expended (e.g. the stated purpose for the School Resource Officer was School Resource Officer

which is nonsensical). (I understand that two current revolving funds, Special Education and Cable TV, are being closed out.)

Please note that the City Council must still vote annually on the spending limits for each fund, however it is not necessary to include those spending limits in the ordinance.

Thank you for your attention to the above. Please do not hesitate to contact me if you have any additional questions regarding this matter.

Sincerely, s/Ellen Callahan Doucette

Attached thereto was the following Order:

ORDERED

Be it ordained by the City Council of the City of Woburn that Title 3, Revenue and Finance, of the Woburn Municipal Code, as amended, be further amending by inserting the following new Article and Section:

Article VII – Revolving Funds - 3-35 Establishment

Pursuant to M.G.L. c.44, §53E½, as amended by Section 86 of Chapter 218 of the Acts of 2016, the following revolving funds are hereby established:

Revolving Fund	Spending Authority	Revenue Source	Purpose
Conservation	Conservation Commission	Fees, gifts and donations	Support of environmental education programs and acquisition of open space
School Resource Officer	Police Department	Fees, charges, gifts and donations	Support of programs and purchase of program materials
Landfill Closure	Board of Health	Fees and charges	Expenses associated with the closure and monitoring of the landfill
Senior Center	Council on Aging	Program fees	Senior Center programs
Recreation Travel Basketball	Recreation Commission	Program fees and donations	Expenses of the travel basketball league
Liberty Elm Tree Program	DPW	Fees, charges and donations	Purchase of trees
Spence Farm	Mayor	Permit or program fees, and donations	Spence Farm activities and programs

Energy	Mayor	Revenue from Green Energy Programs	Expenditures for Green Energy programs and consultants
Immunizations and Clinical Services	Board of Health	Gifts, donations, charges and medical insurance reimbursements	Expenditures for purchase of vaccines and clinical supplies
Historical Plaques	Historical Commission	Fees, gifts and donations	Purchase and installation of historical plaques

Expenditures from each revolving fund shall be subject to the annual limitation established in the annual budget, and to any additional limitations as otherwise set forth in M.G.L. c.44, §53E½.

s/Alderman Anderson

A communication dated March 17, 2017 was received from Charles O'Connor, Parking Clerk, Police Headquarters, 25 Harrison Avenue as follows:

Council Members,

In accordance with Massachusetts General Laws Chapter 90, Section 20½ I am submitting the following parking ticket report. Figures cited below are for the Month of Jan. 2015 to February 2017: Number of violations issued 184, Numbers of violations paid 76, Number of violations outstanding 103, Amount collected and submitted to Collectors Office \$11,845.00, Parking fines referred to the Handicap Commission \$4,300.00.

There is a backlog of 1,644 unpaid tickets dating from January 2004 to December 2016. A 21 day late notice is sent to vehicle owners who have not paid the fine. After 28 days, if the fine still has not been paid, that information is forwarded to the Registry of Motor Vehicles for administrative action.

Respectfully submitted, s/Charles O'Connor, Parking Clerk

A copy communication dated March 21, 2017 to President Haggerty was received from Ben Tafoya, Director, Division of Local Mandates, Auditor of the Commonwealth, One Winter Street, 9th Floor, Boston, Massachusetts 02108 as follows:

Dear Alderman Haggerty:

I want to thank you, the Woburn City Council and Clerk Campbell for your correspondence to Auditor Bump regarding the recent mandate determination. The office was pleased to review the issues related to early voting and issue the determination of February 14. Please keep in mind, in terms of follow-up, we have limited authority to

pursue these issues once we have made our recommendation to the Legislature, the Secretary of the Commonwealth and the other stakeholders. We are happy to answer further questions about the mandate determination at any time.

Sincerely, s/Ben Tafoya, Director, Division of Local Mandates

An Informational Guideline Release relative to Overlay and Overlay Surplus was received from Division of Local Services, Massachusetts Department of Revenue, P.O. Box 9569, Boston, Massachusetts 02114-9569.

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS: None.

Motion made and 2nd to ADJOURN.