

**CITY OF WOBURN
SEPTEMBER 19, 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:

On the communication dated August 9, 2017 was received from His Honor the Mayor Scott D. Galvin as follows:

Dear Councilors:

I would like to take this opportunity to inform you of two planning efforts we are embarking on relative to the area near the Anderson Woburn Regional Transit Center (Anderson RTC).

As you know, the area in and around Commerce Way holds great promise for future economic development. The lots east of the rail line and north of Mishawum Road are zoned for a mix of office, retail and industrial uses and the provisions of the Commerce Way Corridor Overlay District (CWCOD) inject the possibility of residential dwellings as well.

This area has recently proven attractive for residential development. The prospective owners of 120 Commerce Way were the first to exercise the overlay district's residential component, and their special permit will add 293 rental apartments. A recent comprehensive permit decision on a so-called 40B application will add another 200 residential units at 200 Presidential Way.

Is this "enough" housing development in this mixed-use district, or is there capacity and/or desire for more? If there is capacity, should new residential projects be proposed and permitted under the State's Smart Growth legislation (M.G.L. Chapter 40R) or by using the CWCOD Overlay? Has enough thought been given as to how to facilitate use of public transit by the residents of the two new developments mentioned above - and any future residential projects - for their commuting needs?

The future of the Woburn Mall is far from certain. What types of other uses, if any, might be appropriate? Could this site be redeveloped in a significant way without negatively affecting traffic on local roads? Would a mixed-use, residential/retail/office project on the Woburn Mall site re-energize use of Mishawum Station?

During the public meetings associated with the master planning process, a number of shortcomings relative to the infrastructure of Commerce Way were mentioned. How important are those shortcomings to the future of the district? To what extent will they negatively affect or perhaps impede future development? What are the solutions to the problems and how can they be implemented at the lowest cost to the Woburn taxpayer?

To answer these questions, the City has embarked on an effort with the Metropolitan Area Planning Council (MAPC) to conduct a comprehensive study of this area and of the Woburn Mall site in particular over the next six months or so. A natural outgrowth of the earlier master plan study and the aforementioned recent private sector interest, the study will analyze and evaluate existing land uses and various data, gather input from the public and City policy leaders via meetings and a survey, and will assess various market demands. MAPC will then develop recommendations on the subjects of economic development, affordable housing, and transportation connectivity that are essential to achieving the City's vision for the Anderson RTC area generally. It will also draft specific ordinances such as a 40R District for the City's consideration and adoption, should the study's conclusions require them.

A second planning study will also soon begin relative to the industrial area along and near New Boston Street. As you know, the State is planning to construct a replacement bridge over the commuter rail tracks at the current terminus of New Boston Street in 2022 to replace the bridge destroyed in the 1970's. The new bridge will re-establish connections between the New Boston Street industrial area, the Commerce Way district and the industrial park in Wilmington. How will construction impact the businesses along New Boston Street? What benefits will the bridge bring in the mid- to long-term? Is the existing zoning reflective of what current and future property owners need to ensure the businesses continue to flourish? Are infrastructure improvements needed? Would a pedestrian walkway connecting the Anderson RTC to New Boston Street help those businesses attract and retain employees?

The New Boston Street analysis is expected to take four (4) months to complete. Although the Anderson RTC and New Boston Street studies are largely independent of each other, both will be undertaken at the same time and will involve substantial amounts of public input and public meetings.

Planning Board Director Tina Cassidy will be overseeing both projects on the City's behalf. Please feel free to contact either one of us for additional background and information on either study.

Respectfully, s/Scott D. Galvin, Mayor

A communication dated August 31, 2017 with attachment was received from His Honor the Mayor Scott D. Galvin as follows:

Re: Affordable Housing and Certification under Woburn's Housing Production Plan

Dear Councilors:

It is my genuine please to inform you that the State's Department of Housing and Community Development has certified that the City of Woburn is in compliance with its recently-adopted Housing Production Plan (HPP).

With this designation, the City has achieved so-called "safe harbor" with respect to future comprehensive permit applications filed under M.G.L. Chapter 40B. While HPP certification will not preclude the filing of 40B applications per se, it will give the City far greater control over any that might be submitted. A copy of the official certification letter is attached for your information.

Achievement of this very important milestone was made possible only by the hard work of many, most notably that of the Zoning Board of Appeals members who labored for many months to process the two most recent affordable housing applications that made this certification possible.

The City's HPP certification is already in effect and will remain in place until August 3, 2019. Based on current data, Woburn's affordable housing percentage has now increased to 8.74%.

I look forward to working with you, my staff and the community at large over the next two years exploring and implementing ways to attain the 10% threshold required by M.G.L. Chapter 40B on our own terms and in a manner that is best for our community.

Thank you for your role in making this happen.

Respectfully, s/Scott D. Galvin

PUBLIC HEARINGS:

On the petition by NStar Electric Company dba Eversource Energy for grant of right in a way to install one guy pole in Lake Terrace southwesterly side approximately 496 feet southeast of Lake Avenue approximately 24 feet southeast of pole 475/4 and to install one pole 475/4-S. PUBLIC HEARING OPENED.

On the petition by Verizon New England Inc. for a grant of right in a way in Salem Street as follows: 1. Place approximately 73 feet of underground conduit from manhole no. 35/142 to jointly-owned pole no. 191/64, 2. Place one (1) new manhole no. 35/141 on southerly side to replace exiting manhole that must be removed due to bridge construction over MBTA tracks, 3. Place approximately 205 feet of underground conduit from manhole no. 35/141 in a southerly direction across MBTA bridge to existing underground conduit on southerly side of bridge, 4. Place one (1) hand-hole at jointly-owned pole no. 191/52 on northerly side, 5. Place approximately 216 feet of underground conduit from manhole no. 35/140 on southerly side at intersection with Wood St. to jointly-owned pole no. 191/47 on northerly side at intersection with Wildwood Drive, and in Pine Street place approximately 20 feet of underground conduit from old jointly-owned pole no. 175/3 to new relocated pole no. 175/3. PUBLIC HEARING OPENED.

On the petition by National Grid for grant of right in a way to replace 400 feet of 2 inch low pressure bare steel with 6 inch plastic in Woburn Parkway from Pleasant Street to 9 Woburn Parkway. PUBLIC HEARING OPENED. A communication dated September 13, 2017 was received from Sean Kilcullen, Supervisor, Gas Operations, National Grid, 170 Medford Street, Malden, Massachusetts 02148 as follows:

Subject: Grant of Location – Woburn Parkway

I need to cancel the Grant of Location request made by National Grid to do a gas project on Woburn Parkway. The National Grid Engineering department has decided not to move forward with the project at this time because the street is newly paved and would require a curb to curb grind and inlay to restore. I've attached the Grant of Location Document for the cancelled project to this email.

Thanks, Sean Kilcullen, Supervisor, Gas Operations

On the petition by C&C Realty Trust, Fred J. Cotreau and John J. Canney, Jr., Trustees, 64 Chestnut Street, Wakefield, Massachusetts 01880 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.5 and 5.1.43 to allow for 2800 cubic yards of fill and for outside storage of building materials and equipment at 6 Draper Street. PUBLIC HEARING OPENED. The Planning Department report received at the June 6, 2017 Regular Meeting reads as follows:

Re: Planning Department comments on special permit application for 6 Draper Street/C&C Realty Trust

Dear Council:

The Planning Department has reviewed the above-referenced petition, which seeks authorization of a previous activity via special permit, pursuant to Sections 5.5 (for the earth removal or filling) and 5.1 (43) (for the open or outside storage of new or used

building materials or equipment) of the Woburn Zoning Ordinance (WZO). Although not noted on the engineer-certified plot plan provided, the property is located in the Industrial General (I-G) zoning district, which allows the aforementioned uses by City Council special permit.

The Petitioner is seeking authorization to maintain storage of 2,800 cubic yards of fill onsite, which is greater than the amount of fill already onsite according to the engineering estimate noted in the application (2,628 cubic yards). However, a description of the building materials and equipment to be stored onsite are not indicated in the application, nor is the proposed storage location of the equipment depicted on the plot plan. This raises three potential issues relative to parking requirements and storage. If the applicant intends to utilize the existing pavement for storage purposes, it may: 1) impact on the number available off-street parking spaces required for the current 2-story building use, 2) complicate access through the pre-existing, relatively narrow (as little as 15' wide) drive aisles, and 3) conflict with any onsite snow storage.

Planning staff have determined, via Geospatial Information System (GIS) review and plot plan measurements, that the Petitioner's building conforms to WZO setback requirements, as noted in Section 5.7.2. An 8-ft. wall or solid fence does not appear to surround the area of material storage, as required by Note 6 to Section 5.1 (43), although a review of GIS does reveal that a natural tree buffer lays between this parcel and easterly residential properties. The presence of this buffer may help to allay screening concerns, depending where onsite materials and equipment will be stored.

A review of environmental mapping on the City's GIS system reveals that the parcel does not fall within a local floodplain, Groundwater Protection District, or an area of contaminated soils. However, the plot plan indicates, and the Conservation Commission Administrator has confirmed, that this parcel falls within 150' of a wetland boundary line, and is also within 200' of a riverfront area. As such, both would trigger jurisdictional review by the Commission. In addition, because Commission approval has not yet been sought, a final plan and attached permit conditions would have to be reconciled between the Council and the Commission.

Although the information necessary to completely review this application was not fully provided, Planning staff recommend consideration of the following as minimum conditions of approval should the Council ultimately approve the application:

1. That the Plan of Record be modified to indicate the proposed locations of equipment to be stored, the zoning designation of the property, and onsite snow storage (if applicable);
2. That the Plan of Record for this Petition shall be "Existing Parking Plan 6 Draper Street, Woburn, MA," Scale 1"=20'; Prepared by Alan Engineering, LLC, 288 Littleton Road, Suite 31, Westford, MA 01886; Dated May 9, 2017; Revised _____;"

3. That if snow is to be stored onsite, a plan for such storage shall be filed with the Building Commissioner.

Please feel free to contact me if you have any questions relative to this recommendation.

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

On the petition by Ronchetti Masonry, 6 Draper Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.5 and 5.1.43 to allow: 1. Outside storage of building materials and equipment, 2. Accessory storage trailers, and 3. Accessory parking of commercial vehicle, at 6 Draper Street. PUBLIC HEARING OPENED. The Planning Department report received at the September 5, 2017 Regular Meeting reads as follows:

Re: Planning Department comments on special permit application for 6 Draper Street/Ronchetti Masonry

Dear Council:

The Planning Department has reviewed the above-referenced petition, which seeks a special permit pursuant to Sections 5.5 and 5.1 (43, 57a, and 57b) of Woburn Zoning Ordinance (WZO) to authorize outside storage of building materials and equipment, the placement of accessory storage trailers on site, and the accessory parking of commercial vehicles, respectively. The property is located in the Industrial General (I-G) zoning district, which allows the aforementioned uses by City Council special permit.

Planning staff considers this application to be inadequate in its current form:

- The 8.5" x 11" black and white copy of a GIS-based map submitted with the application is not suitable for the purpose of this review. It shows a general quarter-mile or so area around the site but doesn't identify the subject property. It provides no information as to existing conditions on the site in question, nor does it provide any of the basic information the Council will need to consider the special permit request (i.e. identification of areas on the property where the proposed building materials, storage trailers and commercial vehicles would be stored).
- It lacks critical site and zoning-related information necessary to determining whether the proposed uses will conform to zoning. For instance, it is important to know exactly where the commercial vehicles will be stored on site, since there is a prohibition on the daytime parking of commercial vehicles within 70' of the nearby R-2 zoning district (Section 5.7.6.).

Planning staff recommends the applicant be required to provide an engineer-certified plot plan (preferably an updated version submitted with the yet-to-be decided petition at this property by C&C Realty Trust to authorize storage of 2,800 cubic yards in order to

identify the scope and location of proposed building materials and equipment, storage trailers, and commercial vehicle storage.

As noted in the Planning Office's comment letter dated June 1, 2017 submitted for the C&C Realty petition at this property, if the current applicant intends to utilize the existing pavement for storage purposes, it may: 1) impact on the number available off-street parking spaces required for the current 2-story building use, 2) complicate access through the pre-existing, relatively narrow (as little as 15' wide) drive aisles, and 3) conflict with any onsite snow storage. This becomes even more of a concern with two concurrent special permits for outside storage at the same property. In addition, as previously noted, an 8-ft. wall or solid fence does not appear to surround the area of material storage, as required by Note 6 to Section 5.1, although the existing natural tree buffer lays between this parcel and easterly residential properties may help to allay screening concerns, depending where onsite materials and equipment will be stored.

Also as noted in our June comment letter, a review of environmental mapping on the City's GIS system reveals that the parcel does not fall within a local floodplain, Groundwater Protection District, or an area of contaminated soils. The site is however within 150' of a wetland boundary line and within 200' of a riverfront area. As such, both would trigger jurisdictional review by the City's Conservation Commission. In addition, because Commission approval has not yet been sought, a final plan and attached permit conditions would have to be reconciled between the Council and the Commission.

Finally, the Planning Department recommends that the submitted plan show the areas proposed for snow storage. Although submission of snow storage plans are sometimes deferred until after the Special Permit decision, we recommend in this case that the plan include that information now for review, given the extent to which outside areas, including parking areas, are proposed for storage-related uses.

Although the Planning Department's thorough review is obstructed by the lack of essential information, Planning staff recommends the Council consider imposing at least the following as conditions of approval should it ultimately vote to approve the application:

1. That the plot plan submitted on behalf C&C Realty for this parcel be modified to indicate the proposed locations of materials, vehicles, equipment and storage trailers intended for the tenant of Ronchetti Masonry, as well as onsite snow storage (if applicable); and
2. That the Plan of Record for this Petition shall be "Existing Parking Plan 6 Draper Street, Woburn, MA," Scale 1"=20'; Prepared by Alan Engineering, LLC, 288 Littleton Road, Suite 31, Westford, MA 01886; Dated May 9, 2017; Revised _____;" and

Please feel free to contact me if you have any questions relative to this recommendation

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

On the petition by Luis Cortorreal, 27 Salem Street, Apt. 1B, Woburn, Massachusetts for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.29 to allow a fast food restaurant at 446 Main Street. PUBLIC HEARING OPENED. The Planning Department report received at the September 5, 2017 Regular Meeting reads as follows:

Re: Planning Department comments on special permit application for 446 Main Street/Luis Cortorreal

Dear Council:

The Planning Department has reviewed the above-referenced Special Permit application which requests permission to operate a fast food restaurant (5.1 [29]) at the above-referenced location. The property is zoned Downtown Business (B-D) and therefore such use is permitted by City Council Special Permit, subject to Site Plan review requirements (Section 12). No exterior construction is proposed in connection with this application. Instead, re-configuration/renovation of interior space is proposed.

Planning staff offers the following questions and comments for the Council's consideration:

- The proposed use (RESTAURANT, FAST FOOD) requires both a special permit in accordance with Section 5.1(29) of the Zoning Ordinance as well as site plan review in accordance with Section 12 (see Notes to Section 5.1, Table of Use Regulations). The application references the required special permit but does not specifically request site plan review/approval.
- Unless authorized by a subsequent Special Permit, the hours of operation of this establishment must be 6:00 a.m. to 11:00 p.m. in accordance with Note 16 to Section 5.1, Table of Use Regulations.
- Section 8.3 allows, by right, commercial enterprises to rely on municipal off-street parking lots to meet the parking requirements of the zoning ordinance (e.g. no special permit is needed). Although the application is silent on the issue of parking, it is presumed that the business will rely on the Walnut Hill parking lot to provide parking for employees and customers. (Note the site will also be within 500' of the planned parking lot at Campbell and Union Streets when it is constructed.)

Planning staff recommends the applicant submit a site plan as part of the application that includes a locus plan as an inset that notes the off-street lot locations. The site plan can serve as documentation that the property is in fact within 500' of one (or two) municipal off-street lot(s) and the purpose of the following paragraph.

- The issue of trash storage and its regular pickup seems particularly important given that food will compose a significant portion of the business's trash. The application indicates there is a small Dumpster in the rear of the store that will be used by the restaurant to safely store the refuse and prevent health issues. It is not clear whether the Dumpster is adequately sized for the task, especially if it will be shared by other businesses on the property. A site plan should be submitted which identifies the location of the Dumpster that will be used by this business and the plan could be referred to the Fire Department for review and comment, since the Fire Department is the entity charged with regulating Dumpsters in accordance with Title 8, Article VII, Section 8-17 of the Woburn Municipal Code (general regulations for Dumpsters).
- This establishment appears to have access to an area at the rear of the building (via a driveway from Main Street) that is currently a combination of open space and parking. Will the proposed fast-food restaurant have any use of this parking area at the back of the building, either for employees of this business or (though unlikely) its customers?
- The application indicates that there is a rear access door that will be used by employees and deliverymen to load and unload stock and foodstuffs. Will delivery trucks drive to the rear of the building via the driveway, or will delivery trucks park on Main Street and goods walked to the rear access door by employees? If goods will be offloaded on Main Street because the narrow driveway precludes truck access, the Council should include a condition in any approval prohibiting delivery-related activities from interfering with use of the sidewalk by pedestrians (i.e. blocking the sidewalk with boxes or dolly ramps). There should also be a condition prohibiting stock and foodstuffs from being delivered through the front door, in order to further lessen the possibility/extent of sidewalk conflict. The Council should also consider restricting/limiting the hours of deliveries to those that are outside of peak pedestrian times, if in fact deliveries will be made via a truck parked on the street.

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

Respectfully, s/Tina P. Cassidy, Planning Director

On the petition by Alderman Campbell and President Haggerty to further amend the 1985 Woburn Zoning Ordinances, as amended, as follows: By amending Section 5, Use Regulations, of the Woburn Zoning Ordinances, by adding the following: 5.9 Marijuana Establishments Forbidden - The operation of any marijuana establishment, as defined in G.L. c. 94G, § 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, is prohibited in all zoning districts of the City. This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed under Chapter 369 of the Acts of 2012. PUBLIC HEARING OPENED.

A communication dated September 14, 2017 was received from Tian P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Proposed zoning text amendment to prohibit, city-wide, marijuana establishments that are unrelated to medical purposes

Dear Council:

The Planning Board conducted a public hearing on the attached proposed zoning amendment at its meeting on September 13, 2017.

Following the public hearing and subsequent Board discussion, members of the Planning Board voted 3-2 (Ventresca, Turner, Callahan in favor, Bolgen and Doherty against) to recommend adoption of the proposed measure.

If you have any questions relative to the Planning Board's deliberations or recommendation, please do not hesitate to contact me.

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

On the petition by Alderman Mercer-Bruen concerning the structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 135 Montvale Road, Woburn, Massachusetts, for the purposes of determining whether said structure or structures are a public nuisance, a nuisance to the neighborhood, a dilapidated or dangerous building or other structure, as said terms are used in Massachusetts General Laws Ch. 139, Sec. 1, and if so, enter an order adjudging it to be a nuisance to the neighborhood, or dangerous, and prescribing its disposition, alteration or regulation. PUBLIC HEARING OPENED.

CITIZEN'S PARTICIPATION: None.

COMMITTEE REPORTS:

FINANCE:

On the Order to appropriate the sum of \$100,000.00 from Stabilization Fund Acct to 455 Main Street Parking Lot Acct, committee report was received "ought to pass".

PUBLIC SAFETY AND LICENSES:

On the petition by Checker Cab of Woburn, Inc. for a new Livery License for two vehicles, committee report was received "ought to pass".

On the petition by Sams Liv Express LLC for a new Livery License for three vehicles, committee report was received “ought to pass, as amended, with the condition as follows: Limited to two (2) livery vehicles.”

On the petition by KPS Bhatti Inc. for a new Livery License for one vehicle, committee report was received “ought to pass”.

SPECIAL PERMITS:

On the petition by West Woburn Development Corporation, 498 Lexington Street, Woburn, Massachusetts 01801 requesting a determination that the water pump station with an exterior measurement of 17 feet by 27 feet is in substantial compliance with the special permit issued January 9, 2003 and modified by the special permit issued April 13, 2017, committee report was received “That the plan entitled ‘Landscape Plan, Winning Farm Pump Station, 498 Lexington Street, Woburn’ dated 1-24-2017, revised 8-31-2017 prepared by Commonwealth Engineering Inc. and the plan entitled ‘The Village at Winning Farm, Woburn, Massachusetts, Pump Station Locus and Building Envelope Plan’ dated 1/11/17 and revised 8/31/17 prepared by Commonwealth Engineering denoting the pump station to be 17 feet by 27 feet be accepted as in substantial compliance with the special permit issued January 9, 2003 and modified by the special permit issued April 13, 2017.”

NEW PETITIONS:

Petition by Woburn Friends of Hospice, 305 Salem Street, #310, Woburn, Massachusetts 01801 for a Special Event Permit to allow a walk and road race on October 1, 2017 beginning and ending at Woburn Irish American Club, 147 Main Street.

Petition by Lionano Inc., 1 Broadway, 14th Floor, Cambridge, Massachusetts 02142 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.41 to allow a research and testing laboratory at 195 Presidential Way.

Petition by 36 Cabot Road LLC, 36 Cabot Road, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.30b, 5.1.42, 9 and 12 to allow construction of new building containing approximately 49,600 square feet of gross floor area more or less for 1. Wholesale establishment, warehouse and distribution use (approximately 17,360 square feet of gross floor area, more or less), 2. Office use (approximately 24,800 square feet of gross floor area, more

or less), and 3. Light manufacturing use (approximately 7,440 square feet of gross floor area, more or less), at 32 Cabot Road.

COMMUNICATIONS AND REPORTS:

A communication dated September 11, 2017 was received from City Solicitor Ellen Callahan Doucette as follows:

Re: NAI Entertainment v. Woburn City Council

I am requesting the opportunity to meet with the City Council in executive session to discuss the above-captioned zoning appeal on September 19, 2017.

Sincerely, s/ Ellen Callahan Doucette

A communication dated September 5, 2017 was received from Joanne Collins, Director, Woburn Council on Aging along with a copy of the Director's Report and the minutes of the Council on Aging meeting for the month of August 2017.

A communication dated September 13, 2017 with attachment was received from City Solicitor Ellen Callahan Doucette as follows:

Re: Amendment of Section 11.3(11) of the WZO

I am submitting for the City Council's consideration and action, a proposed amendment of Section 11.3(11) of the Woburn Zoning Ordinance ("WZO") the adoption of which, would bring the provision in compliance with M.G.L. c.40A, §6.

Section 11.3(11) places a six (6) month limitation on the use of special permits (issued prior to first publication of the public hearing held on a zoning amendment which may prohibit the use authorized by the special permit). The six (6) month limitation is at odds with M.G.L. c.40A, §6 which provides that; "[s] zoning ordinance or by-law shall provide that construction or operations under a building or special permit shall conform to any subsequent amendment of the ordinance or by-law unless the use or construction is commenced within a period of not more than 12 months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable."

To further explain, general and zoning ordinances or bylaws may not conflict with enabling legislation of general application. See, *David v. Bd. of Appeals of Reading*, 333 Mass. 657, 661 (1956); *Bartlett v. Bd. of Appeals of Lakeville*, 23 Mass.App.Ct. 664, 671 (1987) and cases cited therein. Additionally, the protections afforded to nonconforming uses under c.40A, §6 are and have been characterized as, "prescribing certain minimum

tolerances which must be afforded to nonconforming uses”. *Nichols v. Board of Zoning Appeal of Cambridge*, 26 Mass.App.Ct. 631, 633, (1988), quoting from *Inspector of Bldgs. of Burlington v. Murphy*, 320 Mass. 207, 209 (1946). In other words, §6 provides the “floor” for the protection of nonconforming uses, and local authorities are permitted to provide additional protections for nonconforming uses, if they choose to do so. See, *Chilson v. Zoning Bd. of Appeals of Attleboro*, 344 Mass. 406, 411 (1962). Local zoning ordinances and bylaws may not however, be more restrictive. For instance, the WZO could provide that construction under the special permit must commence within 18 months or 2 years after issuance of the special permit, but they may not reduce that time limitation to less than 12 months.

Alternatively, as Section 11.3(11) simply parrots a portion of c.40A, §6, it could be deleted.

In a related matter, recent legislation has authorized the expansion of the time frame for exercising rights under a special permit from two (2), to three (3) years. This expansion is not automatic however, but is left to the discretion of the individual cities and towns should they wish to amend their zoning ordinances or bylaws to expand this time period. See, Section 11.2(10) of the WZO.

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

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 Section 11, Special Permits and Variances, 11.3 Procedures for Special Permits, subparagraph 11, be amended by deleting “six (6) months” and replacing same with “twelve (12) months”.

s/Alderman _____

A communication dated September 13, 2017 with attachments was received from City Solicitor Ellen Callahan Doucette as follows:

Re: Order Authorizing Mayor - Donations/Easements – Montvale Avenue Project

Submitted herewith is a proposed Order the first part of which, would authorize the Mayor to execute the Certificate of Donation for easements over City property for the Montvale Avenue road widening project. A copy of the Certificate of Donation is attached hereto.

The second part of the proposed Order will authorize the Mayor to accept on behalf of the City of Woburn any Certificates of Donation or Grant of Easements related to the project. At present, there is only one such donation (314-318 Montvale Avenue). The approval of this Order would facilitate the completion of documents which must be submitted to MassDOT for this project.

Please let me know if there are any questions regarding this Order.

Sincerely, s/Ellen Callahan Doucette

Attached thereto was the following:

ORDERED Be it Ordained by the City Council of the City of Woburn that the Mayor be and is hereby authorized to execute on behalf of the City of Woburn the Certificate of Donation for the following permanent and temporary easements for the Montvale Avenue Reconstruction and Widening project: E-13; TE-1, TE-2, TE-25, TE-28 & TE-43 as shown on the plan entitled “Plan of Road in the City of Woburn, Mass. showing location of Easements for the purpose of Reconstructing Montvale Avenue for the City of Woburn Scale 20 feet to the Inch” which is recorded in the Middlesex South Registry of Deeds as Plan no. 807 of 2017; and further, that the Mayor be and is hereby authorized to accept on behalf of the City of Woburn all Certifications of Donation and grants of permanent and temporary easements from the property owners identified on the Order of Taking, recorded with said deeds in Book 69889, Page 39 which easements are shown on said Plan.

s/President Haggerty

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS:

RESOLVED Whereas the City of Woburn is cleaning and relining water lines on Montvale Road and the surrounding streets, and whereas flooding has been a recurring issue in this area,

Be it Resolved by the City Council of the City of Woburn that the Department of Public Works provide a plan to connect the existing drywells to the main drain line on Pine Street to alleviate the flooding issues and that the Committee on Infrastructure and Public Lands meet in

mid-October 2017 with the Superintendent of Public Works and the City Engineer to review the plan.

s/Alderman Mercer-Bruen

RESOLVE That His Honor the Mayor direct the Superintendent of Public Works to place two flashing speed limit signs in front of the Altavesta Elementary School located at 990 Main Street.

s/Alderman Tedesco

RESOLVED Whereas, upon petition of the City of Woburn duly authorized by an Order adopted by the City Council and approved by the Mayor on April 6, 2016, the General Court approved Chapter 200 of the Acts of 2016 entitled “An Act for authorizing the temporary use of the Clapp elementary school property in city of Woburn for civic purposes”; and

Whereas, Section 1 of such act requires that the Clapp elementary school and the adjacent lower parking lot shall be vacated on or before July 15, 2017 and the Clapp elementary school has been vacated; and

Whereas, Section 1 of such act further requires in pertinent part as follows: “...any building thereon shall be demolished and the land shall be restored to its natural state and utilized solely for recreational and park uses not later than October 15, 2017...”; and

Whereas, the City Council appropriated the sum of \$550,000.00 for the purpose of demolition of the Clapp elementary school;

Now, Therefore, Be it Resolved that His Honor the Mayor take all steps necessary and required to execute the legislative action of the City Council and the General Court with respect to the demolition of the Clapp elementary school and restoring the land to its natural state by October 15, 2017, all as set forth in Chapter 200 of the Acts of 2016.

s/Alderman Campbell and Alderman Gately

RESOLVED Whereas, upon petition of the City of Woburn duly authorized by an Order adopted by the City Council and approved by the Mayor on April 6, 2016, the General Court approved Chapter 200 of the Acts of 2016 entitled “An Act for authorizing the temporary use of the Clapp elementary school property in city of Woburn for civic purposes”; and

Whereas, Section 1 of such act requires that the Clapp elementary school and the adjacent lower parking lot shall be vacated on or before July 15, 2017 and the Clapp elementary school has been vacated; and

Whereas, Section 1 of such act further requires in pertinent part as follows: "...any building thereon shall be demolished and the land shall be restored to its natural state and utilized solely for recreational and park uses not later than October 15, 2017..."; and

Whereas, the City Council appropriated the sum of \$550,000.00 for the purpose of demolition of the Clapp elementary school;

Now, Therefore, Be it Resolved pursuant to Title II, Article 1, Sections 2-5 of the 1989 Woburn Municipal Code, as amended, and all other applicable authority, the Purchasing Agent provide a report to the City Council of all actions taken by his office, and if no actions have been taken a narrative of what actions must be taken, with respect to the demolition of the Clapp elementary school and restoring the land to its natural state by October 15, 2017, all as set forth in Chapter 200 of the Acts of 2016.

s/Alderman Campbell and Alderman Gately

ORDERED Whereas, upon petition of the City of Woburn duly authorized by an Order adopted by the City Council and approved by the Mayor on April 6, 2016, the General Court approved Chapter 200 of the Acts of 2016 entitled "An Act for authorizing the temporary use of the Clapp elementary school property in city of Woburn for civic purposes"); and

Whereas, Section 1 of such act requires that the Clapp elementary school and the adjacent lower parking lot shall be vacated on or before July 15, 2017 and the Clapp elementary school has been vacated; and

Whereas, Section 1 of such act further requires in pertinent part as follows: "...any building thereon shall be demolished and the land shall be restored to its natural state and utilized solely for recreational and park uses not later than October 15, 2017..."; and

Whereas, the City Council appropriated the sum of \$550,000.00 for the purpose of demolition of the Clapp elementary school;

Now, Therefore, Be it Ordered that pursuant to Title II, Article X, Sections 2-50, 2-51 and 2-52 of the 1989 Woburn Municipal Code, as amended, and all other applicable authority, the City Solicitor shall provide a written opinion to the City Council as to all steps necessary and required for the

City to execute the legislative action of the City Council and the General Court in requiring the demolition of the Clapp elementary school and restoring the land to its natural state by October 15, 2017, as set forth in Chapter 200 of the Acts of 2016, and further to take such action as necessary to enforce compliance including but not limited to consulting with the Attorney General of the Commonwealth, and to report her findings and actions to the City Council.

s/Alderman Campbell and Alderman Gately

ORDERED That the City Engineer meet with the Committee on Infrastructure and Public Lands to review what action has been taken to mitigate the flooding in the area of Columbus Road.

s/Alderman Campbell

ORDERED Whereas, there presently exists a parcel of land located in the City of Woburn, Massachusetts on West Street and identified on the Assessors Map as parcel 23-05-37; and

Whereas, at the said parcel of land the exterior grounds have excessive overgrowth, dead trees, a rotting fence, and garbage dumped on the grounds;

Now, Therefore, Be It Ordered by the City Council of the City of Woburn that the City Clerk and Clerk of the City Council schedule a public hearing pursuant to Mass. General Laws Ch. 139, Sec. 1, et. seq., and give notice thereof to the owner of said parcel of land, said hearing to be conducted for the purposes of determining whether said parcel of land is a nuisance, a nuisance to the neighborhood, dilapidated or dangerous parcel of land, as said terms are used in Mass. General Laws Ch. 139, Sec. 1, and if so, enter an order adjudging it to be a nuisance to the neighborhood, or dangerous, and prescribing its disposition, alteration or regulation.

s/Alderman Tedesco and Alderman Gately

ORDERED That the Committee on Special Permits meet with representatives of Madison Woburn Holdings LLC relative to the review of a special permit issued August 11, 2015 with respect to the requirement of regular updates in letter format to the City Engineer, Department of Public Works, Building Commissioner and the City Council as set forth in Condition 16 of the special permit.

s/Alderman Mercer-Bruen

ORDERED That the City Council send a communication to the next meeting of the Traffic Commission requesting the approval and installation of no parking signs at 100 Washington Street, formerly St Joseph's Church, pursuant to Condition 16 of a special permit on May 28, 2015 and as outlined in the special permit conditions, namely no parking between the hours of Monday through Friday 7:00 a.m. to 9:00 a.m. and between the hours of 3:00 p.m. and 7:00 p.m. Further, that a copy of the special permit be attached to the communication.

s/Alderman Mercer-Bruen

ORDERED Whereas, a majority of the voters in the City of Woburn voted against the ballot initiative on the 2016 state election ballot to legalize the recreational use of marijuana, known as Question 4, entitled "Legalization, Regulation, and Taxation of Marijuana"; and

Whereas, the General Court adopted Chapter 55 of the Acts of 2017 amending Massachusetts General Laws Chapter 94G, Section 3(a) effective July 28, 2017; and

Whereas, such amendment permits the city of Woburn to prohibit the operation of one or more types of marijuana establishments in the city by adoption of an ordinance; and

Whereas, the city of Woburn adopted an ordinance amending Title 5, Article XVIII, of the 1989 Woburn Municipal Code, as amended, by adding a new Section 5-89 thereby prohibiting the operation of one or more types of marijuana establishments in the city;

Now, Therefore, Be it Ordained by the City Council of the City of Woburn that the vote of the City Council approved by the Mayor effective May 4, 2017 placing a question on the November 7, 2017 municipal election ballot relative to recreational marijuana be and is hereby rescinded.

s/Alderman Campbell and Alderman Tedesco

Motion made and 2nd to ADJOURN