

Meeting Minutes
September 13, 2017 Planning Board Meeting
7:00 P.M. | City Council Chambers, Woburn City Hall

Chair Turner called the meeting to order at 7:03 p.m. and asked Planner Karen Smith to conduct a roll call of members.

ROLL CALL OF MEMBERS

Members Mr. Bob Doherty, Ms. Claudia Bolgen, Mr. Jim Callahan, Mr. Michael Ventresca, and Chair Carolyn Turner were present. Members Mr. David Edmonds and Mr. Kevin Donovan were absent. Also present were Planning Director Tina Cassidy and City Planner Karen Smith.

Chair Carolyn Turner asked Planning Director Cassidy if there were any ANR's to present to the Board. Planning Director Cassidy stated that there was one.

1. SUBDIVISION APPROVAL NOT REQUIRED PLAN (ANR): 32-36 CABOT ROAD

Planning Director Cassidy provided an overview of the plan and recommended endorsement of the plan as one not requiring approval under the Subdivision Control Law.

Motion to approve the ANR plan as submitted made by Mr. Bob Doherty;
Seconded by Claudia Bolgen;
Motion carried, 5-0-0.

2. PUBLIC HEARING: PROPOSED ZONING TEXT AMENDMENT TO PROHIBIT RETAIL-RELATED CANNABIS ACTIVITIES CITY-WIDE / Aldermen Campbell and Haggerty

Planning Director Cassidy provided a brief summary noting two members of the City Council have sponsored a zoning text amendment that, if adopted, would preclude the operation of any type of marijuana establishment as defined in M.G.L. Chapter 94G subsection 1 within the City of Woburn. Director Cassidy noted, as explained in a memo to the City Council by City Solicitor Ellen Callahan Doucette, H.3818, a compromise bill on recreational marijuana, was passed by the House and Senate this past June that allows cities and towns where Question 4 was disapproved, to adopt an ordinance or by-law that will be sufficient to limit or ban the sale or manufacture of recreational marijuana. The majority of Woburn voters rejected Question 4 last November. If this proposed Amendment is adopted before December 31, 2019, the Woburn City council could ban or limit retail-related cannabis activities in the city.

City Council President Rich Haggerty appeared before the Planning Board stating City Solicitor Ellen Callahan Doucette has provided guidance on Question 4 of the State Ballot regarding legalizing the sale of recreational marijuana. City Council President Rich Haggerty noted that our community voted against the sale of marijuana and he wants to support and respect the populous vote by putting zoning changes in effect and also added that the proposed amendment will have no effect on the sale, distribution, or cultivation of medical marijuana in our community. City Council President Rich Haggerty further stated that our Legislature is certainly within its rights to take measures as it did but so do the Question 4 folks and if they challenged the bill and the compromised bill was overturned we'd be back to square one. He also stated that going down the path as outlined by City Solicitor Ellen Callahan Doucette gives him comfort.

Chair Carolyn Turner asked if any Planning Board member had anything further to no response.

City Council President Rich Haggerty departed the meeting.

PUBLIC HEARING

Chair Carolyn Turner opened this matter as a Public Hearing and asked any audience members who would like to step forward to address the Board at this time to please do so.

No one in the audience chose to participate.

Motion to close the Public Hearing made by Member Bob Doherty;
Seconded by Member Claudia Bolgen;
Motion carried, 5-0-0.

Chair Carolyn Turner asked Planning Director Cassidy if she had a recommendation to the Board.

Planning Director Cassidy asked permission to show a 1950's Public Service announcement video to stimulate discussion and assist in the understanding of why some people may hold particular views regarding marijuana while warning the video may be disturbing to small children if they are watching.

Planning Director Cassidy presented a 1:37 minute video clip from a 1950's Public Service Announcement warning the rapid addiction to drugs. The video depicts the actions of four young men buying marijuana cigarettes from a street dealer who, as a result, eventually become physically dependent on heroin.

Planning Director Cassidy, in an explanation as to why the city is now be presented with a proposed ordinance to ban the sale of marijuana across the city, stated that many people in the 1950's were influenced by frightening Public Service Ads such as the one just shown; and added

that she is having difficulty recommending positively regarding the proposed zoning text amendment. She further stated that the gateway to addiction may not necessarily be the fact that a person smoking a marijuana cigarette will lead to that same person desiring a line of cocaine; but perhaps the “gateway” to addiction is the street dealer.

Planning Director Cassidy further stated that it gives her pause about banning retail sales and believes legalizing the sale of marijuana and having it sold in places that are regulated and controlled in some manner by the government, will result in the elimination of the street dealers, therefore taking away the pipeline and eliminating the gateway. An additional benefit to retail sales will allow the regulation to control the level of THC in the marijuana versus what’s being sold on the street.

Planning Director Cassidy further stated that liquor and opioids, both legal and regulated, are used by 95-98% of the population the way they are intended and perhaps, by allowing the retail sale of marijuana, people will hold marijuana to the same standard and choose to use and handle it a responsible way. In terms of zoning issues, Planning Director Cassidy emphasized medical facilities and drug stores dispense opioids and are allowed in every non-residential district in the city; while alcohol sales are allowed in 8 out of 12 non-residential districts, adding that the city recently asked the Legislature to lift the cap on the amount of liquor licenses by 5 realizing people drink responsibly and abide by the rules.

Planning Director Cassidy further stated that, as a Planner, it is important to consider and assess certain site-specific issues when deciding whether or not this kind of facility of recreational sale of cannabis should be allowed in our community such as: water and sewer demands; demands on infrastructure; hazard or undue glare or noise from these facilities; and/or traffic issues. There are no land use based reasons to say the retail sale of this particular product is not appropriate; it is already legal and will be sold in retail somewhere in the Commonwealth.

Chair Carolyn Turner inquired whether any Planning Board member has any questions or comments.

Mr. Michael Ventresca stated that he believes the issue of whether or not marijuana is a gateway drug was put up for discussion when Question 4 was originally on the ballot and added that the use of recreational marijuana is legal while, taking into consideration the people of Woburn voted against legalizing marijuana for recreational use, he prefers to err on the side of caution. He agrees with the proposed zoning text amendment to prohibit retail-related cannabis activity city-wide.

Ms. Claudia Bolgen acknowledged some conflict when first reviewing the proposed amendment and personally agreed with Planning Director Cassidy’s point of view and presentation. Calling on her professional experience, she has witnessed more death and family dysfunction as a result of alcohol than she can attribute to marijuana.

Ms. Claudia Bolgen further stated her concerns as to whether or not a Planning Board, who is designed to make planning decisions as to what is best for the community by looking at neighborhood patterns, traffic, roadways, utilities, physical manifestations of things on the ground, etc. should be called upon to make decisions on whether it is morally and ethically in principal to have marijuana sales in Woburn or not and feels it is a voter issue and, as an appointed board, feels very conflicted about putting a personal viewpoint on this issue.

Ms. Claudia Bolgen further stated she did not agree with the legislature changing the ballot question allowing cities and towns who voted against this initiative to be able to more easily not allow the sales within city limits. She strongly believes this is an elected issue and does not feel that it is a positive thing if her no vote could change the situation.

Mr. Jim Callahan requested clarification on the referendum. Planning Director Cassidy responded that it was on the November 2016 ballot for the voters in Woburn.

Mr. Michael Ventresca inquired as to how other communities and neighboring towns voted on Question 4. Planning Director Cassidy replied that many surrounding towns voted no on Question 4 to legalize recreational marijuana and a large number of communities in the western part of the state and many major cities voted yes; while adding the fact that there is an interactive online map that shows an interesting pattern to the results.

Mr. Michael Ventresca expressed concern regarding neighboring towns and if they do not have retail-related cannabis they will all flock to Woburn adding to already difficult traffic conditions.

Mr. Bob Doherty asked for Woburn's Question 4 election results. Planning Director Tina Cassidy responded that over 20,000 residents voted returning a 1% difference.

Ms. Claudia Bolgen stated that the corollary to not having it available in Woburn is that our younger residents will be leaving the city to purchase their marijuana and further stated that she understands fellow Planning Board members points of view while noting reasonable minds can differ on this issue and 50/50 splits seems common these days. She sees the difficulty here, as an appointed body making a recommendation to the city council which is an elected body, which in turn has to answer directly to the voters.

Mr. Bob Doherty stated he does not believe it is a Planning Board decision and questioned why the City Council is not going to put it on the ballot for the voters; and does not believe in the perception that if we allow retail-related cannabis activities that everyone will start to smoke marijuana. Mr. Bob Doherty also discussed the benefits of the marijuana excise tax and that we will be losing the potential revenue to another town.

Mr. Michael Ventresca asked if both the city and the state benefit from the tax on marijuana. Planning Director Cassidy replied the total tax rate is 20%; including an excise tax of 10.75%

(including the 6.25% local tax rate) and the local option cap will be 3%. The taxes do not apply to medical marijuana.

Mr. Bob Doherty stated he is also conflicted regarding the issue and noted the importance of product quality and the issue of control so the wrong people aren't making money on the drugs.

Chair Carolyn Turner noted regulation would assist in removing the marijuana from the hands of the street dealers but also mentioned her concern as to if retailers would also modify the composition of the drug; alcohol has been legalized and history shows cases of abuse that result in destruction of families and accidents from alcohol.

Chair Carolyn Turner continued that the counter position to that is having a substance that hasn't been legalized and questioned if those numbers are going to increase in incidents of destruction with marijuana also being legalized? She would be inclined to vote in favor of the proposed amendment.

Ms. Claudia Bolgen stated that she praises the open conversation on the issue while stating it is important to know how alcohol and marijuana affect human beings. Consuming too much alcohol results in a person becoming increasingly combative and making impaired driving decisions versus the behavioral changes in a person under the influence of marijuana result in slow driving and they are more likely to hole up and noted she would be more comfortable if alcohol was the substance that was more regulated than marijuana based on her professional experience.

Chair Carolyn Turner further stated that someone who has had alcohol for four hours can be tested immediately if they get pulled over versus a much later blood test is one on a person that is under the influence of marijuana while reinforcing regulation and the safety of the public as important issues.

Mr. Michael Ventresca stated that the City should be mindful of the issue of location of the retail sales of cannabis and the stigma of it being sold in Woburn.

Chair Carolyn Turner noted that legalization is the ethical issue and questioned how allowing a retail business to sell marijuana is different than our approval or acceptance of another type of retail business.

Mr. James Callahan stated that he does not feel this is a Planning Board or City Council decision and the populous should be voting on the issue while deciding if they want the retail stores within our city and if they would like to see their city reap the benefits of the taxation while considering all risks involved. He would be voting in favor of the proposed amendment due to the fact that the populous carried the city on Question 4 and if the local folks would like to put it on the ballot and have good dialogue prior to voting that would be the way to go.

Ms. Claudia Bolgen reiterated that the Planning Board is being asked to vote on an ordinance that would allow the City Council to make a decision as opposed to the referendum voters despite

the state law that allows the city council to enact this ordinance or allowing the populous to vote on the issue due to the fact the vote was so close.

Motion made by Mr. Michael Ventresca to send a favorable recommendation to the city council on the proposed zoning text amendment to prohibit retail-related cannabis activities city-wide;
Seconded by Carolyn turner;
Motion carried 3-2-0 (Mr. Bob Doherty and Ms. Claudia Bolgen voting against).

3. DRAGON COURT SUBDIVISION (GARVEY ROAD): Approval and acceptance of proposed deed language relative to 5' reserve strip

Chair Carolyn Turner recused herself from this matter and Mr. Michael Ventresca assumed the role of Chair Pro Tem.

Planning Director Cassidy provided an overview of the genesis of this matter noting that Condition #3 of the Planning Board's decision on this project required the developer to submit, for Board approval, the language that will be included in the individual lot deeds relative to the 5' reserve strips provided adjacent to the right of way. After reviewing the document prior to the last Planning Board meeting, Attorney Tarby felt the language needed to be revised and more specific and asked the Board to defer the matter to this current meeting. Revised language is now much clearer and detailed as to what the easement will be for. There is no mention of street trees in the revised documents and the approved Plan shows the trees behind the 5' easement so the fact that the 5' reserve strip does not mention the street trees is absolutely appropriate. Planning Director Cassidy recommends the Board accepts the proposed document relative to the 5' reserve strip.

Motion to accept the proposed Declaration of Restrictive Covenant relative to the 5' reserve strip made by Mr. Bob Doherty;
Seconded by Ms. Claudia Bolgen;
Motion carried, 4-0-0, with Chair Carolyn Turner recusing.

4. WALL ESTATES SUBDIVISION: Request for a Bond Reduction

Planning Director Cassidy provided an overview of the request from the developer for a bond reduction of \$96,000 leaving a balance of \$11,000 to cover the setting of bounds and completion of As-Built Drawings as their completion date is next month. Comments from the Engineering

Department and the Department of Public Works, have expressed that holding a balance of \$11,000 is sufficient.

Motion to accept the bond reduction request of \$96,000 to leave a balance remaining of \$11,000 made by Mr. Bob Doherty;
Seconded by Ms. Claudia Bolgen;
Motion carried, 4-0-0, with Chair Carolyn Turner recusing.

Mr. Michael Ventresca stepped down as Chair Pro tem and Chair Carolyn Turner resumed the role of Chair.

5. APPROVAL OF MINUTES: August 8, 2017 meeting

Motion to accept the August 8, 2017 meeting minutes, as drafted, made by Mr. Bob Doherty;
Seconded by Mr. Michael Ventresca;
Motion carried, 5-0-0.

6. PLANNING BOARD DIRECTOR UPDATE:

Planning Board Director Tina Cassidy noted preliminary agenda items for the next Board meeting on September 26, 2017 include:

- A site visit at 24 Flagg street at 6:00 p.m. followed by a Public Hearing at city hall during the regularly scheduled Planning Board meeting.
- A Public hearing regarding zoning map and text amendments for a proposed Smart Growth Overlay District for properties at 14 and 14R Federal Street.
- And a Public Hearing for modifications and revision such as underground drainage and utility changes to the approved definitive plan for Crossman Road.

Planning Director Cassidy informed the Board of the recent Housing Production Plan Certification and that the city has received Safe Harbor Certification as we are making strides toward the goal of 10% affordable housing and emphasized the need to stay ahead of the number of required housing units.

Planning Director Cassidy continued to update the Board on the status of the New Boston Street Bridge project that will be a great asset to the businesses in that area and the city is involved in a study of the potential economic development opportunities in that area including transportation, residential, retail, office, etc.

Planning Director Cassidy noted staff is still working on the remote meeting issue with the IT Department.

Motion to adjourn the meeting at 8:09 p.m. by Ms. Claudia Bolgen;
Seconded by Mr. Bob Doherty;
Motion carried, 5-0-0.
Meeting adjourned at 8:09 p.m.

Table of Documents Used at Meeting

Staff Report
ANR Application for 32-36 Cabot Road
Public Hearing Notice: Proposed Zoning Text Amendment to Prohibit Retail-related Cannabis Activities (Cultivation, Sale, Etc.) City-Wide
Copy of Proposed Zoning Text Amendment to Section 5
Letter to Woburn City Council from City Solicitor Ellen Callahan Doucette RE: H3818 An Act to ensure safe access to marijuana
Dragon Court Definitive Subdivision: Copy of Declaration of Restrictive Covenant for Five-Foot Wide Planting Strip
Wall Estates Definitive Subdivision: Copy of developer's letter and spreadsheet requesting bond reduction; Planning Department Request for Comment letter; and Comment letters from Engineering and DPW