

Planning Board Minutes: August 27, 2013

Attending: Bernie Cahill (BC), Chair; Chuck Shea (CS); Gregory Tuzzolo (GT); Kevin Calzia (KC) and Jason Kreil (JK), Alternate. Also attending representing the Town of Maynard, Eric R. Smith, AICP, Town Planner. Absent: Max Lamson (ML), Vice Chair.

At 7:00 P.M. BC called the meeting to order and began with the continuation

Approval Not Required (ANR) Plan – Distinctive Action Homes, Inc., 16 Boeske Avenue and Lot Gabrielle Circle/Karlee Drive

BC asked the Eric R. Smith, AICP, Town Planner, to explain this ANR. ES asked if the Applicant or a Representative of the Applicant was present. Ms. Tracie Brown of 16 Boeske Avenue: We need the purchase of the land to build an Accessory Family Dwelling Unit. In order to do that need to extend our land so we need to purchase land from Distinctive Action Homes.

BC: Is this purchase to allow compliance with Area Coverage on a Lot? Ms. Brown: It is for setbacks, we went to the Zoning Board for a Variance and the Accessory Family Dwelling Unit. BC: My understanding the ZBA approved everything. Town Planner noted he submitted the ZBA Decision and Meeting Minutes to the Planning Board.

BC asked if the Board had other comments and concerns. KC: No.

CS: Did look into this a lot. Don't have a problem with what the Browns are doing. Parcel A is being carved out of the subdivision. Submitted to the Board a portion of the "ANR Handbook" and noted this is a modification of the subdivision. CS provided reference to the "Approving ANR Lots on Subdivision Ways" section with two findings "the court has determined that a Planning Board should consider" before endorsing an ANR Plan: "1) Are the approved ways built or is there a Performance Guarantee in place, as required by MGL, Chapter 41, §81U, that they will be built?" and "2) Was there a condition placed on the previously approved subdivision plan which has not been met or which would prevent further subdivision on the land?" I don't have a problem with what is going on here. But bring it up as we are going to be faced with completing this subdivision. We are holding Lot 10.

ES: Noted he has wanted to bring to the Board's attention that on site visit to 16 Boeske he discovered no street signs installed in the Gabrielle Circle/Karlee Drive subdivision. He then provided the relevant 81L exemption quotation from the Brobowski, "Handbook of Massachusetts Land Use and Planning Law": "Mass. Gen L. ch. 41 Section 81L also creates an exception for conveyances or other instruments adding to, taking away from, or changing the size and shape of lots in such a manner as not to leave any lot so affected without the frontage set forth above."

CS: Just bringing this up and would like to make a Motion relative to that matter.

GT: No comments.

JK: At one point there was discussion of taking a 2nd lot as one lot was not going to cover the cost of improving and completing the subdivision.

ES: Noted he saw letter from former DPW Superintendent Flood, requesting other lots be rescinded, but did not see any follow-up action and would follow up with Marie.

JT: Noted this land was going to be an orphan and helps clean up the subdivision.

CS made a motion to endorse the ANR as presented and it complies with the Rules and Regulations and is compliance with Ch. 41. Second by GT. Vote to Approve 5 to 0.

CS made a motion for the Planning Board to authorize the Town Planner to be proactive on organize the DPW, Mr. Okafor and Wayne Amico in determining what needs to be done in the subdivision site to finish the so we are ready when the developer. Second by JT. The Board held discussion about finding out what needs to be done to complete the subdivision including street signs. Vote 5 to 0.

Vic Tomy: Noted one reason there has been problems with this subdivision it has been in litigation. The Bank had taken it over and then they have sold off the lots. Noticed they have sold one lot and started 3 on the other side.

Public Hearing: Fine Arts Theatre, 17 Summer Street, Sign Special Permit

At 7:20p.m. BC opened up the Public Hearing for the Fine Arts Theatre by reading the Public Hearing Notice into the Record:

A public hearing will be held on Tuesday, August 27, 2013 at 7:05 p.m. at the Maynard Town Building, 195 Main Street, Maynard, Room 101, to hear all persons interested in the Petition filed by Fine Arts Theatre Place, LLC, P.O. Box 721, Maynard, Map 14, Parcel 183, in the Downtown Overlay Zoning District (and the underlying Business Zoning District) for a Sign Special Permit to install two signs approximately 95 square feet. This is subject to Section 6.2.11 of the Maynard Protection Zoning Bylaw of the Town of Maynard. A copy of the application and plan are on file with the Town Clerk and the Planning Board office.

BC noted he believed the Applicant was present and suggested they present what they proposed to do.

Melanie Perry of the Fine Arts Theatre: We are proposing to rehab the sign to make it sturdier and make it thicker. Cover it in weather-protective coating and make it look as original as possible. Neon light is not practical and want look of it to feel original. We want that sign to be placed back on the building as it has been taken down to be refurbished.

Then for the second sign, Ms. Perry noted discrete lettering on the top of the larger white wall "Theatre Place" hoping to attract other tenants for the 2 other abutting uses within the building.

Steve Trumble of the Fine Arts Theatre: The Fine Arts sign; it is basically the same sign. We have brought it up to Code and weatherized it.

BC: Asked for a color copy of the “Theatre Place” sign, as his copy printed out in black and white. Ms. Perry: It is going to be in a font style that we thought would be best for the building. Going to be a Retro 1950’s font, we know that is not original to the buildings. It is the only portion we are asking to be added along with two very small strips LED, Neon-looking LED lighting right under two pediments that we have right underneath that wall.

BC: Is the “Theatre Place” sign going to be internally lit? MP: That sign will not be internally lit. BC: So just the two neon-type strips will be lit?

BC: Inquired about any signage from future tenants in the vacant space on the other side of the Theatre Building. Mr. Trumble, we are trying to keep it original. When you look there is a small metal, like a real estate sign, and Ms. Perry noted the other sign involves a winch and whoever goes in there will use those signs.

BC noted he has absolutely no problem with the Fine Arts sign above the main doors. It is an historical place and hope it will be listed somehow. The Applicants noted when work is complete they hope to get the Historical Listing. BC suggested we go for Board comments for Fine Arts sign first, given it is a repair and replacement job.

CS is fine with that, don’t see a problem. Other Board members concurred.

BC then opened up for Board discussion the new “Theatre Place” sign and the two strips of light.

JK: No issue with the Fine Arts Theatre sign. Noted the Board once protected an historical sign in the Town. As far as the Theatre Place sign, as I read the Memo from Eric, is the new signage would be 46% the front of the building? As I look at this proposal, I just don’t see that. ES referred the Board to the Section 6.2.10.1, which is for signs located outside the Downtown Business Overlay District, which allows 20% of the total first floor building facade area. ES worked through the calculation has provided in the Memo and noted that it would be 46% of the allowable first floor building façade area. JK: Before the sign bylaw was changed from allowing 12% of the Façade.

JK: No issue with the Theatre Place sign but a little uncomfortable with the light proposed for the top of the building. Asked if it is only going to be over the white wall part of the building? Ms. Perry noted pediment built with two layers of crown molding supposed to house canopies over the lighting. We want to have some of the lighting exposed as part of the retro feel.

BC: Is there a color scheme for the Theatre Place sign? Ms. Perry noted it will be a metal-pewter. She would provide the Board with an example. There was discussion related to lighting. JK noted there is not allowed upward facing of lights. Dark Sky lighting. ES noted reference to Illumination section of the Bylaw. Section 6.2.8. JK referenced an illuminated flag pole. BC noted external lighting is not part of this Sign Special Permit application.

GT asked if any abutters were in attendance and wondering if any abutters had any opinions. ES noted abutters were notified and none had called, visited the Town Building or written any correspondence to the Board’s attention.

GT asked about Theatre Place business name. Mr. Trimble noted yes, for potential restaurant/café in the space upstairs. GT had question about placement of LED tube lighting in the pediments. Ms. Perry noted if you were right under the white wall you would see the lights but if you were across the street in parking lot, you would not see the lights just the illumination. GT: Asked about doing a mock-up and then if it could have flexibility.

Mr. Trumble indicated idea of putting in a dimmer. The Board discussed putting a condition on the approval regarding dimmer. Ms. Perry indicated she spoke to the one direct abutter, who is a 90-year old woman, who has no issues with the proposal. Not to say that the neighbor could change in the future.

CS: Based on photo here (in ES's Memo) taken in Late July, you have completed this molding now? Ms. Perry, correct. CS: Didn't see how you could put the lighting in there. Looked tight. Ms. Perry noted there is 2-4" lip. CS: How many rows of lighting? Ms. Perry there would be two rows of lighting.

CS: What is all this spaghetti (review of photo submitted)? Applicant: That was existing (by the theatre entrance), but no intention of replacing this lighting. Board and Applicant reviewed lighting at the theatre entrance.

KC: What is the relative intensity of the two strips versus the Fine Arts sign? Applicants: Less; will be subtle. Those strips will be an accent, minor.

BC: Knowing the Theatre Place sign is not lit, I am in favor, did a tasteful job with selection of fonts and the retro feel. There are no abutters across the street.

KC: Just a comment, here is a developer are coming in and so far what we have seen today they are bringing the theater back up to an attractive place. The Planning Board should support them within reason and our Bylaws.

BC: So besides the dimmer are there are any other conditions the Board is thinking of? The Board then discussed the need for a dimmer. KC: Hesitant to require the dimmer. Thought it is a burden and unnecessary. BC: Asked the Applicant if the dimmer would be cost prohibitive. The Applicant could not answer until speak with the Electrician. Mr. Trumble asked not to have the limitation but fine if you need to have it in there so we can get the approval.

GT: I don't see it necessarily as a condition, but I just see it as a good idea. Mr. Trimble discussed cost consideration. BC: Noted more cost have to go in and retroactively install it if the Building Inspector gets complaints.

CS: I think you should have the dimmer it is a precautionary thing.

BC asked the Town Planner in his experience if there was public compliant, not saying there would be, but what if there was public outcry? The Town Planner noted his experience in Mashpee involving Special Permit approval regarding outdoor music. BC asked what if we didn't put any such review in the Special Permit approval. Mr. Trimble said would put the dimmer in then if the

lighting became a problem, as we don't want to take out the lights. Just concerned about committing to the dimmer as we don't know the cost. GT: I think they have proper incentive to make adjustment.

BC opened the hearing to the Public.

Vic Tomyl- I think these folks have done a wonderful job. We are having people who are doing the job properly and you don't have to worry with these people. Noted he used to work at the Theatre.

BC made a Motion to close the Public Hearing. Seconded by CS. Vote approved 5 to 0.

The Board then held deliberations on the Fine Arts Theatre Sign Special Permit request.

Mr. Trumble noted that if it comes up in the future and there is an issue, we would put the dimmer in.

KC: noted to break it down for each request. 1) Fine Arts Sign, 2) Theatre Place Sign and 3) the red Two rows of LED Neon-style lighting...approve as requested in the Sign Special Permit Application.

CS: Fine with the Fine Arts and Theater Place. For the strip lighting put timer in; like six month review. BC: clarified it would be reviewed only if complaints. The Town Planner noted he could put a reminder in Outlook at the six month approval date and bring to the Board's attention. Then we can note there have been no complaints within the six months. KC: Wanted to clarify, would they have to come back. BC: No, unless we needed to review cause of complaints.

CS Made a Motion to approve the Fine Arts Theatre Sign Special Permit as submitted with the one condition we have a six month review on the LED tube lighting in the event there is an issue with the lighting intensity. Second by GT. Vote to Approve 5 to 0.

BC opened up the Continuation of the **Public Hearing on Proposed Changes: Zoning General Definitions and Table of Uses.**

"Proposed Changes: Zoning General Definitions - To amend Section 11.0 by replacing the existing definition of Supermarket with the following definitions. Changes are in bold and underlined.

Supermarket: A retail establishment or full-service grocery store **occupying a space no greater than 75,000 square feet, primarily** selling **primarily** food and grocery items not limited to, fresh meats, fresh poultry, fresh seafood, organic foods, bakery products that are baked on the premises, a fresh produce department and a deli department offering freshly prepared foods and counter service. A **Supermarket** may contain a pharmacy and may sell other ~~merchandise such as~~ convenience items **such as** household supplies and **cleaning products**, hardware, **food preparation materials**, and personal care and health products.

Proposed Changes: Table of uses - To amend the Table of Uses in Section 3.1.2 Table A, Use Regulations, Principal Uses 4. Business Uses, by changing Supermarket under the Industrial district from "Y" to "Special Permit" with approval by the Planning Board."

BC read the Town Planner's Draft proposed changes to the Supermarket definition *"Supermarket: An establishment whose primary business is the sale of a general line of food such as fresh fruits and*

vegetable, fresh and prepared meats, fish and poultry, and canned and frozen foods, with none of the lines predominating. The floor area devoted to the sale and storage of food comprises at least 85% of the gross floor area of the establishment with a maximum of 15% of the gross floor area devoted to non-food items. For purposes of this definition, gross floor area shall include indoor and outdoor space utilized for retail display and sale of goods.” A copy of the proposal available at the Office of Municipal Services.

ES noted he prepared this definition based on the Somerville model, but with figures of 85%, including the maximum of 15% and then the inclusion of outdoor space in calculation. He also asked did the Board want to include Michelle Booth’s suggestions based on American Express Rewards Program information, but noted currently those terms are not defined.

ES then reviewed proposed use regulations of 3.1.2. that would create two new use categories: “Supermarket, up to 50,000 gross square feet” allowed by Planning Board Special Permit and “Supermarket, greater than 50,000 gross square feet” would be prohibited. He noted this proposal only addressed the Industrial Zone. Did ask question to Town Counsel about idea as suggested by Lynda Thayer at last meeting, to see about making changes to the by-right Supermarket use in the other three zoning districts. But no answer received from Town Counsel as of the start time of this meeting.

BC noted perhaps we could get rid of the “Supermarket” line, especially if we can make the other changes.

GT: Suggested you could have six “Y” in Supermarket, up to 50,000 gross square feet and Supermarket, greater than 50,000 gross square feet as Supermarket is allowed by-right in the B, CB and HCI Zones. As such in affect all you would be changing the Industrial Zone. Board held further discussion on format of table in relation to the advertised hearing.

BC would this (table in current format) confuse people? ES noted previous towns he worked in they would prepare an explanation at the end of the proposed zoning bylaw amendment.

CS: Asked question of the Town Planner: If we were dealing with all four districts “Supermarket” use, would you eliminate now? The Town Planner noted assuming we go with the same 50,000 square foot; yes there would be two rows.

CS: If the Board is so inclined to include proposal with other 3 zoning district without a decisions from Town Counsel, I personally doesn’t think Attorney General will reject it. The AG would make the Town go through same process as in 2011. Just my opinion.

BC: I believe we should advertise for the other 3 zones. CS: why don’t we do that so we can have one package.

Vic Tomy: Noted we have the Parking section of the Zoning Bylaw. How would you justify a supermarket of this size in the Business and Central Business zones? Would need to address parking situations.

The Board then had discussed issues with allowing or prohibiting on allowing a Supermarket in the Central Business District, which will be subject of the next Public Hearing.

BC suggested language of the Town Planner's proposal be changed to read "Supermarket, up to 50,000 square feet" in both 1st and 2nd paragraph. KC also suggested in the Use Table to have the line with just "Supermarket" should just disappear. The Board concurred with both sets of changes.

BC then opened up the Public Hearing to the Public.

Cornelia Anne Keenan, 263 Great Road: You plan to keep Supermarket in the 50,000 square feet in B, CB, and HCI zones by-right? And allow by Special Permit in the Industrial Zone, then No for the others?

Elizabeth Steiner Milligan: Assuming "Y" means Yes. Noted the "N" at the Industrial District. There was discussion on location of the "N" in the sentence and suggestion by Greg McColm to put the "N" before "in the Industrial District" in the sentence.

Marie Gunnerson, 119 Parker Street: By highlighting these two rows, will you have to explain to people. Will it cause people to become alarmed over something that is already allowed? The Town Planner noted that in past experiences they would include "Explanations" at the bottom of the zoning bylaw amendment.

Greg Price, 16 Allan Drive: Is there any other business besides Supermarket that is being split up by square footage, such as gas stations? Or is all of this just restricted to Supermarket? BC noted just Supermarket. ES: the Board has proposed some broader dimensional changes that would impact other uses, that is the subject of the next Public Hearing.

BC asked if the Board had any more questions/comments on the proposed Use Table. BC asked the Town Planner question related to procedure to submitting Article for the Town Meeting.

BC then indicated the Board would move to discuss the definition of Supermarket.

JK: As you read it is very concise as to what floor area will be and there is no square footage in the definition. BC: Correct. JK noted his preference personally to not put space limitations in the definition. Noted it has a track record in other communities.

KC: Why didn't we include outdoor space in the floor area?

GT: A get a little hesitant by putting numbers in the definition, but people are comfortable with it. Well regulated in terms of the store we are trying to avoid. A little concerned it may be burdensome.

CS: Fine with it as is.

BC: Shares some of GT's concerns. Max asked what the purpose of this effort and the purpose is to deny superstores but still allow grocery stores and to define what a community thinks what is a grocery store.

GT suggested we give some verbal examples from other communities in the explanation section.

JK: One more clarification, not changing the definition to what we don't want but to what we want. The original definition defined as primarily is vague and 51% could be defined as primarily.

Mr. Tomyl: I believe for the gross floor area of indoor and outdoor space have to change in case you have a walkway like they do at the Shaw's in Stow and Price Chopper in Marlboro. The Board and Mr. Tomyl then had discussions related to counting of a covered walkway in terms of Supermarket definition calculation related to percentage of sales.

Marie Gunnerson, 119 Parker Street: I liked Jason's interpretation of the Bylaw and I want to support that. 15% (non-food) is what we find in the Industry's own marketing association and does not feel restrictive. From her research, within the Industry when they refer to gross square footage they include outdoor storage area.

Maura Flynn, Patty Lane: I think this is well written, clear. In regards to Vic's comments, noted we are looking at the total retail selling area. Agree with this proposed re-written Definition.

Greg Price: Does the Board have any information on the size of nearest Supermarkets, say Shaw's in Stow and Stop and Shop in Acton. Are they above or below 50,000? Would they meet the 85/15% split. BC: Did not bring the exact sizes with him tonight, but have it. Noted they are on the within the 50,000 mark, either side of it. 60,000 square feet is the Westford Market Basket, as the Town of Westford has a 60,000 square feet retail cap. CS noted the new Wayland Stop and Shop is 45,000 square feet.

Lynda Thayer, Chandler Street: Supermarket was added when we approved the NBOD Zoning, which a strong majority of voters approved the NBOD. That allowed the 75,000 square feet Supermarket. Most of the voters were thinking a Supermarket would be a grocery store.

Nancy Thanked the Board for sticking for this for a while. But think it is a very clear definition.

GT: Thinking more about the outdoor storage. What about home gardening supplies, including tomato seedlings? Like Verrill Farms in Concord, they also sell plants for growing food. BC: Noted we do have a Garden Center in our definitions and usually most Supermarkets sell some tomato plants and seeds.

BC: We will send our changes back to Eric, including Explanations written in. CS: Defining Supermarket and then we are not defining what it is not. Jason concurred.

CS made a Motion to advertise for a Public Hearing necessary to explore the changes of Supermarket use in the CB, B and HCI zoning district. BC second. GT: Want to see if we can

include in the four corners to have another threshold for these finer grain zoning districts, such as 20,000 square feet. Vote to Approve 5 to 0.

BC Made a Motion to continue the definition to September 10th at 7:30pm. Second by CS. Vote to Approve 5 to 0.

BC opened up the **Public Hearing for Proposed Changes to the Maynard Protective Zoning Bylaws related to Dimensional Regulations and Building Coverage, Use Regulation and Special Regulations related to Registered Marijuana Dispensaries and Extension of Temporary Moratorium on Medical Marijuana Treatment Centers** by reading the legal notice into the Public Record:

“Pursuant to Massachusetts General Laws, Chapter 40A, the Maynard Planning Board will hold a public hearing on Tuesday, August 27, 2013 at 7:30 p.m. at the Maynard Town Building, 195 Main Street, Maynard, Room 101 to discuss the following proposed changes to the Maynard Protective Zoning Bylaws: Proposed Changes: Zoning Dimensional Regulations. To amend Section 4.0, Dimensional Regulations, by adding further requirements related to Building Coverage on a lot. Proposed Changes: Special Regulations To amend Section 7.0, by adding a new Section 7.7, Registered Marijuana Dispensary, and amend Section 3.1.2 Table A, Use Regulations, Principal Uses 4. Business Uses, by adding the use “Registered Marijuana Dispensary” as an allowable use by Planning Board Special Permit only in the B, HCI and I zoning districts. Proposed Changes: Special Regulations To amend Section 7.0, by amending Section 7.9.3. Temporary Moratorium on Medical Marijuana Treatment Centers, by replacing the existing Temporary Moratorium expiration date as follows: “The moratorium shall be in effect through November 30, 2013 ~~June 30, 2014.~~” (Strike out text represents deleted language and bold font represents the new expiration date.) A copy of the Proposed Zoning Bylaw Changes are on file with the Town Clerk’s Office, the Planning Board office and the Town’s website (www.townofmaynard.net) under Planning Division.

BC began by discussion the proposed bylaw amendment related to the new Registered Marijuana Dispensaries. ES distributed his proposal entitled “*Registered Marijuana Dispensary By-law Proposal for Maynard Planning Board August 27, 2013*”. BC read the proposal, a copy of which is on file at the Planning Office.

GT: Do we need Section 7.7? It seems like we are just referring to State Law. Noted for Spacing Requirements if I was reading 7.7.2 and saw 105 CMR 725.110(A)(14), I would want to know what that is. Perhaps could put a note in the explanation. Also, don’t want to stigmatize any more than it is already is.

JK: You are stating clearly in that you are referring to established law. Cause if State law changed, we don’t have to go back and change the zoning bylaw. Also support of putting the 105 CMR 725.110(A)(14) in explanation.

KC: read the spacing requirements of CMR 725.110(A)(14): “*a RMD shall not be sited within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate. The 500 foot distance under this section shall be measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD.*” BC suggested adding language in the Explanation stating that these are the State rigs as they are stated now.

ES: Noted at 6:58pm that the Radius maps he prepared are wrong: measured the 500-foot center radius from the Day Care Center. The point should be at the Medical Building in front of the Clock

Tower Place, would redo before the next meeting. Noted that Joe Mullin of Clock Tower Place (CTP) stated the Medical Building is where the CTP would site a RMD.

The Board then discussed siting of the RMD in the HCI, which is Clock Tower Place. GT: Noted there is the Imago School. Eric noted it shows up on the map, but feels it will be outside of the 500-foot area.

BC: I wanted to address what Greg said earlier regarding Section 7. I feels it (the RMD provisions) belong there in Section 7. Not all uses are stigmatized. I think having a small definition would put people at ease. Noted some Towns have gone haywire, 5-10 pages of Bylaw. Then if Eric adds the Explanation in for 7.7.2 will help clarify.

BC: I want to open up for Board discussion, including what other zones to consider if you can't site RMD in HCI, I am happy personally with also the B and I zones.

JK: My question would be, where else would you go? Up on Rockland Avenue, would meet the 1,000 feet from liquor establishment. Board clarified that the 1,000 feet not a state requirement, it was discussed by GT maybe, Eric noted. JK: So it would open 3 Industrial zones and I think you can still do HCI, though it will be tight.

KC: I think leaving the Section 7 in there is a good idea. No further comments, want to see re-plotting the center of the circle to see if allows HCI. Concerned about proximity to CB with the HCI. But seems to make sense to go into HCI in my mind.

CS: OK with B, I, I don't have a problem to put in the HCI if it fits. Don't think CB is appropriate, as RMD uses are not conducive to storefronts. Section 7.7 location is fine and the definition looks good to me.

Eric noted the Board wanted to keep the Bylaw as simple is possible. However, there were a few things that Chuck had noted were important to consider. But ownership transfer process. CS: You could also have a renewal provision. Eric: Yes, like you do in cell tower bylaw. CS: By an owner getting a Special Permit they don't have a vested right that is transferrable and every owner has to be looked at own their own merits.

BC: I don't have a problem with the renewal problem, 2 years. CS: They are all over the map, 1 years, 2, 3 years.

ES: The other one I suggest is to allow yourself the authority to do Rules and Regulations to add specific application requirements.

BC: So I am hearing three things: renewable, non-transferrable vested right and rules and regulations. I am OK but want to hear from the other Board members. It add 3 bullets that don't overcomplicate things. Might help put some people at ease.

Cornelia Anne Keenan: I suggest you run radii from all schools, as the High School is practically in an Industrial area. It would be really helpful to have the info before someone comes to you. Then

ownership transfer if somebody forms a corporation and another body buys this corporation, the corporation is an individual under the law and the ownership is transferred, because it is a corporation it hasn't transferred. This happened to us under the Board of Health.

Cornelia Anne Keenan: I am somewhat confused by the definition or statement in Section 7.7.1. If you grow this you are going to have to room for such operations. Would you want to know what portion of each operation? There was discussion on how some towns are separating out Cultivation versus Distribution. Eric also noted that information would be part of an application and your Special Permit applications requirements, under Rules and Regulations.

Maura Flynn: I like the way these are written up and reference State regs, I suggest that when you write up the explanation, but little notation that the Mass regulations were put out for public comment. CS: Suggest you do that at the Town Meeting.

Ms. Flynn noted there were 183 applications for Phase 1, didn't see if any for Maynard within Middlesex County and there will only be 5 allowed most in Middlesex.

KC: For HCI, were we going to wait until Eric does a replot of the HCI? BC: I am ok with HCI without the replot. Noted that we still would have the B and I district were the RMD uses could go. The Board then further discussed allowing RMD uses in the HCI zone.

There was discussion of mapping out the 500-foot radius from the various Schools. For next meeting, the Town Planer would map 500-foot radius from the high school.

Elizabeth Steiner-Milligan: Based on 23 years of Town Meeting experience, be really good at Town Meeting, noting state has been working since 2012 and that you have really studied it. Also, I agree with Greg that I don't like in Section 7 with similar uses as Adult Entertainment and Tattoo Parlors. On the other side I don't know where you would put it.

JK: Section 7 is not all bad things; it is for Special Regulations and also includes Telecommunications Facilities.

The Medical Marijuana Moratorium Extension Proposed Zoning was then discussed. BC: I am happy with it as it is. Just continues the Moratorium if it doesn't pass. KC: It is a fallback. CS: Gives the time through the period that the Attorney General says is reasonable.

The Town Planner distributed the *"Medical Marijuana Temporary Moratorium Extension By-Law Proposal for Maynard Planning Board August 27, 2013 Public Hearing."*

Maura Flynn: I am not happy. We had a vote at the Town Meeting and basically you are trying to pass the original article. CS: That is not true. It is the original date. Ms. Flynn asked how long it would take to issue a Special Permit? The Board clarified that this Moratorium Extension Article would only kick-in if the RMD Article does not pass.

Ms. Flynn, so if the zoning does not make it and you are going to extend the moratorium, are you going to do anything in the meantime? The Board noted we will fix what we couldn't through. CS:

We would have this withdrawn if the RMD passes. ES: I can write an explanation that the RMD article is only being proposed by the Planning Board if the RMD article does not pass. Ms. Flynn, but still why do you need this Article? Board: If the RMD does not pass and the Moratorium expires it would give the Town no protection. There was further discussion of the need for the Medical Marijuana Moratorium Extension Article.

GT: It is important for us to craft a good explanation (for the RMD Bylaw) but it would help to have other efforts by other people to educate the public.

CS: If you are thinking that the moratorium is going to be put off, put off, and put off, no as the 18 month Moratorium was reasonable by the Attorney General. Can't extend beyond that.

Cornelia Anne Keenan brought up discussion regarding the Section 7.9, Temporary Moratorium On Medical Marijuana Treatment Centers and suggested to get rid of Section 7.9.1 Purpose and Section 7.9.2 Definitions if you are going to add the Section 7.7. CS: Mr. Chairman, I brought that up at the last meeting. I was told if you read the thing through its entirety it is going to go away. ES: The Moratorium is temporary. Ms. Keenan: It is the 3rd section. ES: You could ask for Town Counsel. There was further discussion. ES would ask Town Counsel.

There was discussion of renumbering the Registered Marijuana Dispensary, Section 7.9.

GT: Noted that the Moratorium expiration date is October 31, 2013. ES: I will make the correction when I had the Explanation.

BC: Is this the first hearing on the Dimensional Regulations? ES: Yes.

BC: This essentially compliments what we did tonight, but it is much broader, in that it is not just Supermarkets. Ms. Keenan: I was confused if this includes all dwellings, including residential. Question on the proposed Section 4.1.3. What about storage in commercial units?

KC: Before we go on, can we decide if we are going to discuss this matter or not?

BC: Asked for the Board input.

GT: One thing I wanted to bring up, I had mentioned to Eric, is that I personally feel the gross floor square feet for Special Permit 4.1.3 and the 4.1.4 maximum building size retail be separate and they each have their own NBOD exemption. People might feel voting yes on one but no on the other.

The Board discussed the background with the drafting of Section 4.1.3 leading to tonight's hearing. GT: I felt it would be more challenging to get 4.1.4 passed, especially with 2/3 voter approval and I didn't want to jeopardize the first section in trying to get this passed. I wanted to bring this up as it would require re-writing it, didn't want to wait two more weeks.

The Town Planner would separate 4.1.3 and 4.1.4 into two warrant articles.

BC made a Motion to continue the Public Hearing on the Dimensional Changes, RMD and Moratorium Extension until September 10th @ 7:45p.m. Seconded by CS. Vote 5 to 0 to Approve.

Approval of July 30, 2013 Planning Board Meeting Minutes

BC made a motion to approve the July 30, 2013 Planning Board Meeting minutes. Second by GT. Vote 4 to 0 to approve as submitted (JK did not vote as he was not at the meeting).

Old/New Business

Discussion of Hiring of Special Counsel

BC turned to the Town Planner for explanation of this matter. The Town Planner noted there has been discussions, including emails and conversation he had with Selectmen Gavin, regarding hiring Special Counsel for the 129 Parker Street development. Town Planner was looking to see if there could be Planning Board consensus in hiring Special Counsel for the 129 Parker Street and perhaps more broader for other projects.

BC: Would this kind of be in principal to hire someone, say for 129 Parker? At what point what you hire someone? Town Planner noted there is not an actual project before the Board. Town Planner noted he has not had previous experiences with hiring of Special Counsel. The Board discussed issues of moving forward with the Town's regular Town Counsel versus hiring of Special Counsel, including funding considerations, and also if the Board should look for a Special Counsel more broadly and not only for 129 Parker Street.

GT Made a Motion to endorse the concept of the idea of entertaining of hiring of Special Counsel that is Project-based, with a focus, but not limited to 129 Parker Street, subject to funding, with the Planning Board having the opportunity to review the hiring of said Special Counsel. Second by CS. Board discussion. Vote 4 to 0. KC Abstain.

Discussion of Preparation for 129 Parker Street Visioning Session

The Town Planner reminded the Planning Board of the upcoming 129 Parker Street Visioning Session on Thursday, August 29th, 6p.m. at the Fowler Middle School. He indicated there would be 4 breakout sessions. The Facilitator Planner Consultant, Angus Jennings, had asked if the Planning Board members would lead a breakout sessions. BC noted he wants to be there to listen and observe. The Board declined this request.

Assabet River Rail Trail Update Discussions

BC requested Board comments and concerns on the Assabet Rail Trail by next week and be given to the Town Planner.

Other

CS: I wanted to bring up a quick discussion that based on the Attorney General review of meeting minutes, see if we want Board consensus to just have a list of documents. Board did have consensus for just a list of documents.

KC: Noted there has been a Land Court action/appeal against the Planning Board for 213 Main Street.

Correspondence

The Planning Board reviewed the Correspondence on file, including CPC Committee Chairman's request for a new Planning Board member to serve on the CPC Committee. Now that Greg Price is now longer on the Planning Board and the CPC Committee is requesting a new member representing the Planning Board. The Board did not appoint a member for the CPC Committee this evening, but would revisit the matter at the next meeting.

The Town Planner noted there is a Chapter 40B Training Conference being held in Lowell on Friday, September 20th.

JK: Motion to adjourn the meeting. Second by BC. Vote 5-0 in favor to adjourn.

Prepared by Eric R. Smith, AICP, Town Planner