

Planning Board Minutes: September 24, 2013

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

At 7:00 P.M. BC called the meeting to order.

7:05 Public Hearing: Proposed Changes to the Maynard Protective Zoning Bylaw related to changing the use of Supermarket in the Business, Central Business and Health Care/Industrial zoning districts.

BC opened up the Public Hearing by reading the Public Hearing notice into the Record.

BC: Eric, myself and Chuck met briefly last week. I will ask the Town Planner to explain the latest concept of what we have come up with so far.

ES: So back at the last meeting the Planning Board closed the hearing for Supermarket definition and also for Supermarket use in the Industrial Zone to make it allowed subject to Planning Board Special Permit up to 50,000 square feet. After that it would not be allowed. During those hearings from Board and public comments led to the idea of tweak or change the Supermarket by-right approval for HCI and Business District. Also there was discussion because of the character of Downtown to make the CB 20,000 square feet. That was the way the Hearing was advertised for tonight.

ES: Then we had further discussions. I met with Siobain Mitchell from the Coop, received feedback from Greg and other Planning Board members to try and streamline the proposed changes a bit by allowing some Supermarket size by-right. This latest proposal reflects this consensus and talking to Bernie and Chuck. This would be changing for what you were originally looking at for Industrial.

ES: The initial proposal that the Planning Board will consider tonight is to allow Supermarkets by-right up to 20,000 gross square feet in all four zones they are currently allowed. And then allow 20,000-50,000 gross square feet in two zones: HCI and Industrial. The cap still would remain 50,000 square feet.

BC asked for any Board comments.

GT: I just wanted to revisit quickly the idea of having another tier, which I see you guys have simplified it, it makes sense. This would be another threshold set at 7,000 square feet. Wondered where this originally came from. I don't believe that was me. BC: I believe we took 7,000 square feet directly from Somerville's recent zoning changes. We discussed this and also heard from the Coop and their concerns.

BC opened up the Hearing for Public Comment and recognized Tom Hesbach, Vice President of the Assabet Village Food Cooperative.

Tom Hesbach (TH), 2 Chandler Street: I took the time to write up the concerns of the Board of Directors. The Co-op is made up of a group of people who want to put a grocery store in the Downtown. We are here this evening to advocate on behalf of them. I'd like to introduce our Board of Directors: President, Siobain Mitchell; Treasurer, Daniel Newcomb are here; Board member, Amber Pacheco is not here. We do also have Kristina Orchard and Kathy Belisle, our Secretary, here. The Board of Directors is here in force tonight to show support tonight regarding proposed zoning changes for Downtown. I serve as Vice-President and on the site selection Committee.

TH: We have not done our Market Study yet, so some of our comments are preliminary. Market study will vet out how big the store is going to be. But in doing some research we are concerned that limiting the supermarket size to smaller than some of the structures Downtown might unfortunately have untoward effects on us. Based on our research of some of the stores downtown and of other co-ops with similar visions as ours, we recommend a tiered approach, which I have outlined here (referred to his letter): *"In the Central Business District: A Supermarket <= 15,000 sq. ft. allowed by-right; A Supermarket larger than 15,000 sq. ft. but not over 25,000 sq. ft. allowed subject to Special Permit from the Planning Board; A Supermarket above 25,000 sq. ft. prohibited."* Then in the Health Care Industrial and Business Districts, you could include the Industrial District but I didn't think that was on the table cause of pending permit actions: A Supermarket <= 15,000 sq. ft. allowed by-right; A Supermarket larger than 15,000 sq. ft. but not over 50,000 sq. ft. allowed subject to Special Permit from the Planning Board; A Supermarket above 50,000 sq. ft. prohibited." With the cap at 50,000 square feet as you already have in the (proposed) bylaws.

As an example to what our vision entails, again not having the Market Study to give you a strong business case, Brattleboro VT, a community with 14,000 people has a 14,500 square-foot grocery store within a 4-story building that also serves as a community center. They do cooking classes and have a large commercial-style kitchen. Plus partnering with housing authority to have 24 apartments in the 4-story building. That vision of not only grocery store and a community center plus some apartment are part of our vision.

There was a co-op Downtown. One of its storefronts was over 10,000 square feet at 54 Main Street. We see ours reasonably growing into the 10-15,000 square feet range. We really want to be in the Downtown triangle area. Anything bigger would require new construction. The Walgreen's according to the GIS information is 22,000 square feet. That is the biggest single building down there. Aubuchon is 15,000 square feet. Grubers is just over 11,000-12,000 square feet. I hope this helps you guys out.

BC: Question to Tom, your recommendation versus what we are proposing now. How do you see them matching up?

TH: I think they match up fairly well. If this was posted on the website, I probably would have used some of this language in here. We had a Board of Directors meeting last night to vet out what we wanted to bring here. In my review of this, it is very similar. My only concern is if we do grow, there is the 20,000 square foot cap. But if we picture something similar to what Brattleboro has done, where does the square footage begin and end. What would count towards our facility? We

recommend 25,000 because of the Brattleboro model. This is helpful and heading in the right direction.

Unidentified Woman, Co-op Board of Director, asked if the Board was going to speak to the matter of what square footage counts for the purposes of this document.

GT: I was thinking about that idea of a facility that has portion of Supermarket, portion has this and that. It relates to our other conversation about the definition of Supermarket. That definition, if it were to pass, would say that a Supermarket is 85% Gross Floor Area of sales is dedicated to food. To me the facility that is 1/3 grocery store 1/3 community center and 1/3 apartments would not be a Supermarket. It would be divided and we would treat each of those uses separately. To answer the question, we would look at the Supermarket portion individually.

BC: it is a fair question. BC asked the Town Planner to remind us what we are discussing now gross square feet not gross floor area, correct, what we are deliberation on so far. ES: This is gross square feet. ES noted that the Building Commissioner is the Zoning Enforcement Officer of course so that his interpretation would come in for this big project. But I can't see how apartments provided under a development would be counted in a Supermarket calculation. I just don't see that.

Tom: The language I don't quite understand, we were hoping to get cleared up, there are some terms cooperative use of the facility is capped at 50,000 square feet. So if you were to take the Walgreens, for example, it is a 22,000 square feet for first and second story. Then you look at 54 Main Street and that shows up in the GIS as 10,000 square feet. That must be the first floor only? Data is inconstant for research we have done. But it is a question we have open, is if the Co-op has associated activities with it that are part of the Co-op facility, but not part of the Supermarket, would that be count against the square footage.

ES noted again that the Building Commissioner would make the official interpretation, but that he thinks no.

BC: Let's say you did have a 3-4 story building. The first floor was grocery. The second was community center and the third was apartments. If I was the Building Inspector, I would not classify it as Supermarket. Some other use. Maybe not even retail but mixed-use of some kind. Is that correct? ES: That is how I would interpret it too.

Unidentified Woman, Co-op Board of Director: Would we be covered under the umbrella of retail?

BC: Not for apartments. ES noted the Downtown Overlay allows apartments above storefronts.

BC: I think you would be OK. Max or Chuck do you have anything to add based on your experiences? ML: I don't think in that scenario the first floor would be classified as Supermarket.

But then the other floors would be categorized elsewhere. CS: I would agree with that. This is geared for Supermarket. I think all three are separate.

KC: For clarification define it in gross square feet again. Gross square feet is just the footprint of the building versus Gross Floor Area for single use.

TH: Your recommendation is for the gross square foot number. KC: The actual footprint of the building. TH: It seems your recommendation fits within what we are asking for. Other than the difference between the 20,000 and 25,000 square feet.

BC: So if you are envisioning a first-floor grocery store. Say you got the brick-oven place and something next to it. That would be your 20,000 square feet that block. You could do other uses upstairs is my understanding.

ML: The Walgreen's example we heard. So that has an 11,000 gross square foot area, but a 22,000 total floor area.

CS: Mr. Chair, we do have a definition of Floor Area Gross. ES the read the definition from the Zoning Bylaw of Floor Area Gross. KC: But we don't define gross square feet. ES: We were proposing it under our other definition new section for retail gap at 50K sq. ft. and special permit 20K sq. ft.

KC: So as I read Concept #3 which says "gross square feet" is that intended to be by the definition of "Floor Area, Gross" in the current bylaws, which is all the floors summed together?

There was discussion amongst the Board and the Town Planner regarding these distinct definitions. CS: I don't have a problem substituting Floor Area Gross for Gross Square Feet. I think that is what we need to do in this particular case. Board continued this discussion. KC: The language should match the definition.

VT: With the Overlay District and then you are going to allow a 20,000 square foot Supermarket. Now we have had a problem with the Overlay District for a while. You build upper story buildings and allow apartments above. Vic discussed situation with Walgreens who build a 2nd story but did not put apartments in. Noted that language could have been incorporated to require, make compulsory, development of apartments in upper story portions of Downtown buildings.

VT: The second thing I would like to know is if you allow a 20,000 square foot Supermarket, what you are going to do about your parking requirements? BC: Fair points, but outside of the scope for tonight's hearing.

Lynda Thayer, Chandler Street: What is the maximum number of stories for Downtown? The Board reviewed the Zoning Bylaw. Town Planner notes the Bylaw goes by height, 40 feet. VT: I think it is three Mr. Chairman.

BC: It is 7:30 and I would like to continue this matter. CS made a Motion to continue the public hearing for the Proposed Changes to the Maynard Protective Zoning Bylaw related to changing the use of Supermarket in the Business, Central Business and Health Care/Industrial zoning districts to 7:50p.m. Seconded by GT. Vote 5 to 0 to continue said Public Hearing until 7:50p.m.

7:30p.m. Public Hearing, Fowler Street Extension Definitive Plan

BC noted the time was 7:30p.m. and opened the Public Hearing indicating this was a continuation of the Fowler Street Extension Definitive Plan that was opened on Tuesday, September 10, 2013.

BC turned to Mark Donohoe from Acton Surveying and Engineering to provide status update of where the review stands of the Fowler Street Extension Definitive Plan

Mr. Donohoe: Good evening, I have with me Frank Dentino and Marty Maria of Orchard Valley Construction, these are my clients. This is the altered plan I sent you a few weeks ago. You asked me to put on houses and the driveways (pointing to the plan) which I have done. We put dimensions in the backyards up to the ice contact slope. I also met with my clients and they would like to offer a third proposal, which is shown here (pointing to new plan). This would proposal would move the T-Turnaround and have a paper street from this point to this point (pointing to plan). The paper street is a private way. The private way can be used for frontage if approved by the Planning Board. This foreshortens the street. Town responsibility stops here. The people who live in the subdivision have the responsibility and the right to pass and re-pass.

It places the 3 houses on the south side with very nice open lots. One house then where the existing buildings are. We view these as workable.

MD: I have received a Memo from Town Counsel who says this is 5-lots. As far as Stormwater Management, we exceed the stormwater requirements and we will fill out the necessary forms.

MD: There is a 4th option. Because the GR Zoning District goes through the property and the S-1 is here. Go to Town Meeting and have the property rezoned to GR. We would still have the property subdivided and my client would agree to a maximum of 6 units. I guess we would like some direction from the Board and then I can go through Wayne's list for which option we chose.

MD: I did receive comments from Eric, the Town Planner, through the Fire Chief who indicated his concern with the parking spaces which we added to the plan here and here (pointing to plan). These are outside of the 18' right-of-way. And they would be 9-10' wide. So we would be increasing the pavement to 27-28'. There would be 4 parking spaces outside the right-of-way.

MD: Since we are asking for substantial waivers, we are willing to repave all of Fowler Street from Parker all the way through. Hammer mill to remove top-course pavement and fix some areas that need to be fully repaved. If you want we will put in a speed table to slow down vehicles.

BC: Did you say you were fully prepared to answer Wayne's comments? MD: No, because we have many options.

BC asked Wayne for any comments and thoughts on the proposals and plans he has seen tonight.

Wayne Amico, Town Engineer (WA): Couple questions not so many comments. Mark, it appears that driveway widths are wider than the roadway width. Is that just a drawing cartoon? MD: It is 22 feet so a husband and wife can park outside she can come in and take bundles out.

WA: Regarding the 26' width requirement, I think from our discussions last time, from the public as well, 26' wide roadway is not necessary here. But we may want to be careful regarding if 18' is acceptable or maybe something a little larger if we are going to have wider driveways and potential on-street parking with plowing operations, something to think about.

WA: The whole cul-de-sac is just shown for reference? MD: Correct. WA: Setbacks, appear to be OK with the criteria for this Alternative A. For Lot 4 the driveway you may have to think regarding stormwater management.

WA: For Concept B, I am not sure how I feel about this whole private way issue, maybe we need to talk about it more. If you were to have a private way versus public way over 600 feet is public way and then goes private.

WA: I am not quite sure I understand the easement for the turnaround. MD: The reason we put the turnaround in easement is that we don't have the 30-foot setback to the building. The easement allows us to build up to the line. Keeps the house further from the slope.

WA: We didn't give too much thought to the rezoning concept. That should be discussed among the Boards and Residents.

MD: Regarding the Private Way we have used that in other towns.

BC: Mark, can you explain how it would work when you would have the Public Street come to an end and then have the Private. How would it work for Town Plowing? MD: Essentially how they do now and push to the side. BC: Who would plow on the Private Way? MD: There would be a Homeowner's Association. There would be an area for snow storage.

BC: So if we were to change the zoning, where would we see the three duplexes to the lower portion of the lot and leave the top as open space? MD: Correct.

ES: Comment related to Concept A vs. Concept B. Concept A is based on the original concept and that was going to have public benefit to have a right-of-way to tie electric service into the cemetery shed; whereas concept B does not have that right-of-way not sure if there still would be an easement or not. MD: We would provide an easement.

BC allowed input before opening up for Board discussion. Edwin A. Mroz (EM): I just want to interject; we have a situation exactly like the end of the road now. But when the plows turnaround a huge amount of salt accumulates.

Karen Sullivan, 11 Fowler Street: I do have one question. I don't understand why it has to be a Private Way on Option B. MD: The roadway itself extended to here (pointing to plan) where the pavement ends could be public way. Then extended as a Private Way just to give this one lot frontage. MD discussed on the private way layout would give the 3 lots facing the cemetery nice and square shape versus the other Alternative.

KC: The wetlands to the north and the 50' line shown there. Concerns were raised last time. MD: The Conservation Bylaw prohibits alteration within 50' of wetlands. The State allows alterations up the wetlands. (Then pointed to the wetlands location on the plans) This is the 50-foot buffer midway up the slope. We would have to file for any alterations within the 100-foot buffer, which would be construction of these two lots. My experience is that they will not deny, as we have the right to construct, but we have to conform to their regulations.

KC: Asked question related to Stormwater Management. MD: The State Stormwater Management Regulations do not apply to single-family lots, but because we have a 5-lot subdivision, we have agreed to conform with the Stormwater management bylaw. BC: I guess what Kevin is asking is what some of those standards are. MD: We have to control our stormwater pollution; not impact public or private water supply; not cause flood damage; not cause erosion or sedimentation control; not alter the groundwater table detrimentally; wildlife. If you go through our original design and the stormwater calculations, we do provide stormwater management for each individual lot. All the driveway runoff and roof runoff will be recharged on the lot. For each of the lots that are in the buffer zone we do an erosion or sedimentation control plan. This will all be reviewed by the Conservation Commission.

EM: If you look at that 50' buffer, it is very sensitive. We have had minor changes. We lost our wood ducks over the last couple years. MD: We will not alter within the 50-foot buffer and we will not alter the slope at all. EM: I am suggesting that maybe the 100-buffer needs to be respected.

KC: Can you describe the intent of the owners in rezoning the S-1 to GR? I don't know if that was talked about last time. MD: If was rezoned to GR, we would have to come in on a Special Permit with the six units. We would have to go subdivision to get the required frontage. KC: It sounds like the reason for rezoning to GR would be to have duplexes. MD confirmed that is the intent. KC: The homes on Fowler are currently single-family. It is my feeling that it doesn't fit in with the neighborhood. I don't know what the neighbors feel. MD: I was just putting it out for the Board to consider and obviously it would have to pass Town Meeting.

CS: Commenting on the other plan (to me) that does not seem to work at all, especially when you are doing off-street parking. I think the Fire Department said that if it is going to be 18' road there is not going to be any off-street parking. MD: I increased the pavement in that area from 18' to 27'. The off-street parking is something I came up with; I am happy to remove it if the Board wants.

CS asked for MD to flip over to the other Plan. CS: As important as the conservation issue is, it has no bearing on the subdivision control for us. I really have problems approving a private or public way that is a paper street for subdivision purposes.

ML: Question for clarification purposes, where would the public way end and the private way begin? MD: We show two locations (pointing to the site plan); one it could end here, which is the end of the existing street. Or it could end at the end of the pavement that would be at the 475 feet length. ML: what happens after that? MD: It becomes a driveway to serve the house. They have the right to pass and re-pass.

ML: I like the idea of pulling 3 houses out of the buffer zone which puts 1 in. ML asked for the lot that would be in the buffer zone and GR zone, would it be a single-family residence? MD: I think it probably will be. Given the size of the lot, I don't see how it would be anything other than a single-family home. ML asked what is the size of the lot? MD: It is a large lot, but (pointing to plan with house location) this is a 25'x40' box, which is the size of a large cape. ML: So it could be a single or multi-family. MD: It could be. ML asked if the zoning line was on the Plan. MD indicated yes.

ML: With Plan B is there any kind of backyard setback from the wetlands or slope? MD showed the 100-foot buffer line, we're 75 feet off the line and outside the 50-foot buffer.

WA: If desired, could the house on that lot be re-oriented, to be parallel to the top of the slope? Or do you have a frontage issue? MD: We could.

ML: If we don't do a 26-foot width, and it is a private way, can you make it whatever width you want? MD: Board still needs to approve.

ML: If you are going to repave the existing Fowler Road (then alluded to requesting a wider existing Fowler). MD: We would just repave the existing road. Also in the section the roadway is on private property, so to widen the roadway we would be doing on private property. ML: It would look weird going from a 17' road to 26' road. MD conferred.

MD: I think if the Board does consider us repaving for substitution of less than the width, we can come up with a punch list with what can be done. ML: I do appreciate some consideration if you can even do 20-foot width. MD: We can't. We would like to, because the appearance coming into the subdivision is very important. ML: So you can't cause you don't know what the sub-base is? MD: You would have to excavate the entire road. WA: You also have driveways to deal with and not knowing exactly where the property line is. Mark is right they would be working on other people's property that they really shouldn't be, without having a legal right of entry. WA: I would support them repaving the existing roadway width. MD: When we go by to repave in places we can we would improve. Marty and I talked, (pointing to plan) there is a gravel parking space, he would pave that, with owner's permission.

GT: The extension in this scheme here, would it be a private way and where would it get frontage for that last lot? MD: The driveway would service that last lot. GT: I would have to warm up to the idea of private road. It seems to raise more questions, so I would lean to making it a public road.

GT: I still would like to see more information on tree removal. MD: Once we file what we are doing. GT: That is a big factor for me. In my head I am still trying to figure out the impervious surface balance between the two. It seems this one has generally less impact on the site.

GT: I want to bring up some possible alternative material for the T. Not proposing alternative materials for access to someone's driveway, perhaps where the T-Turnaround area is.

GT: I want to be clear on the potential rezoning. It is my understanding as we are in GR and S-1. There is potential to change to GR and that allows duplexes. I am curious, but process wise, how is

that zoning change relate to what you are applying for right now? MD: We would put this on hold until Town Meeting votes. It takes a 2/3 vote of Town Meeting to approve. Speaking with my client, (the zoning change) would allow some flexibility in the placement of the units and decrease the road impacts. GT: Initially it has some merits. Certainly in this scheme you are moving the houses to the more developable portion of the site. Changing the zoning would help that, which I support.

BC: I prefer this plan (Option B) for a couple of reasons. You pull the houses to the south from the cliff and the wetlands. I think I echo the majority opinion, I am not so sure about the private way versus the public, I would lean public right now.

BC: For duplexes, I lean away from them. For this particular neighborhood and site, against rezoning. Duplexes can be against the character of the neighborhood. Plus the width of the roadway and compactness of that neighborhood and having that traffic from going to 4 new houses to 6-7. Plus there is a safety issue.

BC: One think I have heard (from Maynard residents) is the lack of single-family housing of a decent size and get them to stay in Town.

BC: Is the lieu of the sidewalk option still on the table, the owner to provide the funds to have a sidewalk built somewhere else? MD: Let me talk with my client and get back to the Board. We are offering to rebuild the road.

WA: Carefully consider the whole private versus public way thing. We are grappling this at DPW right now. There are many of these unaccepted roads, based on past experiences, that may've been private ways as the whole subdivision process was not in existence when many of these roads were built. We are grasping with a lot of roads that need to be repaved, that have not been maintained and not having the ability to use funds from the State, cause they are not public ways. We are trying to go through an acceptance process to try and make them public ways so we can use Chapter 90 funding to repave them. I strongly recommend against private way and the Town would be better served having a public way that can be maintained in the future with other funds.

WA: Mark is right you could have a homeowners association, that could be setup and funds could be set aside. Practically speaking it is difficult to implement, because the neighbors have to agree they want to spend \$27,000 to repair a section of road.

Karen Sullivan, 11 Fowler Street: I have a couple comments. 1) I personally do not want to see duplexes. I want to see it keep a single family feel to the whole street. The village feel should be maintained. 2) You (to the Developer) are going to repave the whole road. Our driveway is a shamble. Would you be willing to repave our driveway? MD: Let's talk at the end of the process. Frank Dentino, Orchard Valley Construction: These are economic questions. We want to be accommodating as we can. I think our bottom line is what the configuration will be. Then we can talk about what we can and can't do for people in the neighborhood.

EM: The Character should be maintained. Maybe sidewalks aren't necessary. I noticed the extension of the Private Way goes through the 100-foot buffer it also goes through the 50-foot buffer. MD: It is a paper street.

EM: What about putting Elderly Housing on the South Side? You would have fewer cars coming in and out.

Karen Grimes, Field Street: Question on paper streets. We have property up in Ashby. It is a nightmare. It went private way, trying to collect betterments for the association it has been 25-30 years. Tell me what is a paper street? MD: A paper street is approved as a private way. It can be approved as a public way. However, you just do not build the actual street. I have done many paper streets. Sometimes they work to a distinct advantage and there are no problems. Other times they are a great deal of problems.

ML: Would the setbacks off the private road apply? MD: Yes.

Alexandra Howard, 9 Fowler Street: I would echo that Single Family Homes be approved.

Steve King, 7 Fowler Street: I would echo that Single Family Homes are desired and for having a public access road.

BC noted it has been submitted the Board to have the decision deadline for this application be extended to November 12, 2013 from October 31, 2013. CS made a Motion to accept the deadline extension as submitted by the application to November 12, 2013. Seconded by GT. Vote to approve the extension 5 to 0.

BC made a motion to continue the Fowler Street Extension Definitive Plan Application Public Hearing until Tuesday, October 22, 2013 @ 7:05p.m. Seconded by ML. Vote to continue the public hearing approved 5 to 0.

Continuation of Public Hearing: Proposed Changes to the Maynard Protective Zoning Bylaw related to changing the use of Supermarket in the Business, Central Business and Health Care/Industrial zoning districts.

BC reopened this public hearing which had been continued due to the Fowler Street Extension Definitive Plan Public Hearing. BC inquired as where the Board had left off. ES noted we were having discussions related to gross floor area versus the aggregate and also issue of spreading out of uses over more than one floor and example of if the Coop was going to have a community center or apartments upstairs would they all count.

BC: I like KC's point that the fact Gross Floor Area is in the definitions and gross square feet is not in the definition section of our bylaws, it makes more sense to go that way since it is already defined.

KC: I think that was the intent of the public and this Board. For concept 3, each of the figures in the table should read "square feet, gross floor area".

BC: So the table should be consistent with our definition.

KC: Concerns/unsureness if these numbers were to apply to single use or all uses in the building.

ES: Mr. Chairman, I wanted to make sure we discuss Greg's proposal to have the square footage thresholds be broken down finer. Greg had discussed up to 7,000 sq. ft. by-right, 7-20 by Special Permit.

BC: I think Kevin's question is if we resolved that the Co-op representatives had if they had a three-story building and other uses on 2nd and 3rd floor how that would impact square footage of gross floor area.

ES: Our interpretation is that apartments would count as apartments, community center as community use and then Supermarket would be Supermarket on the first floor.

KC: If it arose as a problem that mixed uses would count towards the same gross floor area, you could then apply to whatever permits under the different uses, if that makes sense.

The Board then held further discussions related to the matter of different uses on different stories in buildings in the Downtown area.

TH: As a point of clarification, we were looking up to 25,000 square feet in our proposal. We wanted that to be consistent in the Business District.

BC: I am ok with moving the Supermarket up to 25,000 square feet gross floor area, not sure about the whole Board. Anything over 25,000 square feet would not be allowed in the Central Business District.

ML: I am in favor of bumping up the number, even if it is by Special Permit. ML made reference to the Victory Plaza, which once had a Supermarket, and is located in the Business District.

GT: I do agree.

KC: I then make a proposal, the first tier bump up to 25,000 square feet; the second tier 25,000 to 50,000 square feet. Business going down Y, PB and N. Central Business, my feeling would be to keep it Y, N and N. Over 25,000 in the Central Business it sounds like that sort of area doesn't exist and also my feeling something larger does not fit in the immediate Downtown area.

CS suggested leaving the 20,000 square feet figure alone and change the N under the 20-50 under the B to PB. KC noted that the Walgreens building is 25,000 square feet and if we did not bump the figure to 25,000, a Supermarket would not be allowed to go in that space, if it were to utilize both stories.

BC: I am certainly in favor of bumping up the footage to 25,000 square feet to be allowed by-right in the B and CB zones.

BC noted that we are in the middle of the public hearing and wanted to open the comments up to the public at this point.

TH: If we had this piece of paper before we wrote up our request and had clarification on gross floor area, I think we would have requested something very much like this with the 25,000 square foot cut off. The discussions tonight have been enlightening. I believe there would be a consensus (of the Coop Directors) that would be very happy.

BC noted the important of meeting with CS and ES to help clarify the language of the previous Board proposal.

BC indicated that the Board has received a letter from Bob Depietri of Capital Group Properties, developer of 129 Parker Street. He read the following portion of the letter into the public record: *"In regards to the proposed changes under Section 3, Use Regulations, limiting the maximum size of a grocery store to 50,000 square feet would be detrimental to potentially a grocery store/supermarket to locate in Maynard because grocery stores that are expanding today in Eastern Mass are building stores that are 45,000-85,000 square feet. By limiting the maximum size of 50,000 you are eliminating the majority of grocers from considering Maynard for the site of a new store."*

ES indicated that perhaps he could still read the part of establishing a Committee as it is relevant to this issue.

BC then read as follows: *"We would like to respectfully request that the Planning Board delay any action on these three proposed zoning amendments and take the time to form a sub committee comprised of town officials, residents and developers to further study the impact of the proposed zoning amendments on potential future development in Maynard. These are substantial changes to the zoning bylaws and could impact the potential of new growth in Maynard for years to come."*

BC then asked GT to provide his thoughts and comments, as BC noted he was starting to rethink the maximum of 50,000 square feet.

GT: So in the context of the existing NBOD, there is an avenue for going above 50,000 square feet. Then indicated this avenue it was for just one property owner. GT: I personally feel that 2/3 vote to pass, if it were to happen that shows overwhelming support and I am comfortable with putting forth measures to the public.

ML: As I mentioned last time, the new Supermarket models tend to be bigger. The original intent was to put some protections in place because there was no limit. I don't want it to go too far the other way where we can't have a grocery store of a modern era style. I would be in favor of moving the number higher to 60,000-65,000 square feet or somewhere along those lines. 75,000 (sq. ft.) is what we are proposing to allow in the NBOD. ML noted there are some other properties in town, including the Stratus property, to allow a Supermarket and also that the Special Permit process does have protections to allow Planning Board review.

BC opened up comments to the Public.

VT asked for clarification on what means a Supermarket and what by definition constitutes a grocery store to be a Supermarket? Is it based # of square feet used, the items sold? BC then read the existing definition of Supermarket from the Maynard Zoning Bylaw. VT: You could fit that all into a lot less space than you are talking about. BC then indicated the Board has been working on a new definition of Supermarket, which the Board is planning to bring to the Fall Special Town Meeting. Further discussion ensued.

Unidentified Person asked the Board to consider economic viability when you think of size.

KG: Are you going to be putting an end figure, like between 50,000 and 75,000 square feet? Is that feasible? BC noted that is what we do right now with the current proposal to limit the size to 50,000 square feet. KG noted her company works with stores like Wegmans that are become a destination and that between Whole Foods, Price Choppers, and Shaws and the sizes are coming in between 50-65,000 square feet. It was noted the new Wegmans was larger.

Lynda Thayer: Thinking about the Industrial zone and Supermarket, it applies to one zone but it is the NBOD. She asked if in other towns they put Supermarkets in Industrial zones. ES noted it depends on the community but in his experience he has not seem them having commercial retail uses in their Industrial Zoning District.

TH noted that under the existing Supermarket definition CVS and Walgreens count as a Supermarket as well as Tedeschis and Russell's. He then asked what is the Board proposing as a definition. ES suggested BC read the proposed definition. ES then distributed the proposed new Supermarket definition and noted that it has been reviewed and approved by Town Counsel.

TH asked where the Board's preference for the 85% (food items) and 15% (non-food) came from. BC indicated that it came from the Food Marketing Institute. TH inquired as to what CVS would be classified as. ML: Retail and not a Supermarket, after this.

Unidentified Woman from Co-op: Retail as an allowable by-right use in the Central Business District, is up to what gross square footage of floor area? ES indicated it would be based on the individual square footage of the building.

CS made a Motion to close the Public Hearing for the Proposed Changes to the Maynard Protective Zoning Bylaw related to changing the use of Supermarket in the Business, Central Business and Health Care/Industrial zoning districts. Seconded by KC. There was no further discussion. Vote 5 to 0 to close the Public Hearing.

Deliberations of Proposed Zoning Bylaws Amendments

Proposed Changes related to change the use of Supermarket

BC indicated he was in favor of changes proposed this evening (use of gross floor area; the 25,000 square foot gross floor area). Then in favor of changing the middle row to 25,000 to 65,000 square feet gross floor area Planning Board for Special Permit for Business, Health Care Industrial and Industrial. Then keep it "no" depending on the number we settle on tonight.

Then BC asked for the Board members input and comments on each of the four related items.

KC: 1-3 are suggestions I support. Then upping the second row. We initially came up with 50,000 based on average Supermarket sizes in the area. But by not limiting any other Supermarket, I would be ok based on getting more information. KC noted that the Board has heard that more Supermarkets that are being built are closer to 60,000. He suggested 65,000 square feet and noted that the Industrial zone in Maynard may lend itself to a larger Supermarket than the B or CB zones. He noted that whatever changes the Board makes regarding to the Supermarket use need to be in sync with the other Bylaw Amendment proposals.

CS: Based on my review the B zone is a zone where the size could be increased. I agree with Kevin that we can't find ourselves in conflict with our other articles.

KC indicated the importance of having all these Bylaws facilitate the discussion of what does the Town of Maynard want to be.

CS agreed with Kevin on having the discussion of what do we want the Town to be, noting the bigger you go then the more of a regional center and draw it will have to be to make it economically sustainable. That is why we were at 50,000. CS: I don't think we want to get too close to the 75,000 sq. ft. allowed in the NBOD now. 60-65K is still a big market. 20,000 square feet bigger than the one in Wayland; though not as big as Hudson Market Basket (86K).

GT: Points 1,2 and 3 I support. For #4 I am still listening but providing some flexibility make sense. We would still have the Planning Board Special Permit process if we go to 65,000 square feet.

ML: In general I am favor of points 1-4, as discussed and amended. I think it was good input we received today that new grocery stores are being built in the 50,000-60,000 square-foot range. We heard the comments that a smaller store might not be economically viable. ML supported the option to allow 65,000 square-foot Supermarket with protections allowed for by Special Permit.

BC noted there is consensus for the issues of 1-3 and that the Board just needs to vote on the square-footage limit. BC: I am in favor with up to 65,000 (Sq. ft.) by Special Permit in the B, HCI and I. BC then asked for a vote of the other Board members. There was unanimous vote to support a change to allow the Supermarkets in the B, HCI and I zones up to 65,000 square feet by Special Permit.

ML made a Motion to approve the proposed zoning amendments for the Supermarket use in the Industrial, Business, Central Business and Health Care/Industrial Zoning District, as amended. Seconded by KC. There was no further discussion. Vote 5 to 0 to approve.

BC made a Motion to hold a Public Hearing on the Supermarket Use Zoning Bylaw Amendments, as amended this evening, on October 22, 2014. Seconded by GT. Vote 5 to 0 to approve holding the

Registered Marijuana Dispensary (RMD) Zoning Bylaw Amendment

The Town Planner distributed the latest version of the Registered Medical Dispensary (RMD) that includes input from Town Counsel to the Board members.

BC noted the revised version reflects changes to have those with individuals who have a felony from being restricted to operate a RMD as requested by the Police Chief. Although the Board and the Town Planner noted that the language Town Counsel uses is of the word "crime" which could include a misdemeanor. The Board requested the Town Planner to contact Town Counsel to see about replacing "crime" with "felony." The Board then reviewed other suggested edits recommended by Town Counsel. The Board agreed to incorporate those other edits.

After further discussions, GT made a Motion to approve the Zoning Bylaw Amendments to add a new Section 7.7 for Registered Marijuana Dispensary and said use to the Use Regulations, as amended to substitute the use of the word "felony" instead of "crime" and incorporating other edits recommended by Town Counsel. Seconded by ML. There was no further discussion. Vote 5 to 0.

Extension of Temporary Moratorium

ES noted the language on this Bylaw Amendment has not changed except just insertion of the correct date, which is June 30, 2014. The Board noted that this Warrant Article would only be acted upon if the RMD Article fails.

BC made a Motion to approve the Article to Extend the Temporary Moratorium on Medical Marijuana Treatment Centers, as amended for the correct date. Seconded by CS. There was no further discussion. Vote 5 to 0 to approve.

Supermarket Definition

ES noted that Town Counsel did not have any comments or suggested edits on the Board's initial version.

BC noted that based on additional information provided during the Public Hearing process he would be in favor of reducing the % of area devoted to food items from 85% to 75%. BC noted we have heard from different constituents in town, including business owners. The standard will stand up to scrutiny, as the language is based on Somerville's definition and was approved by the Attorney General. BC indicated he thought 75% would give more flexibility to small Supermarket owners and also the bigger chains.

ES noted that Andover approved their definition at 70% for food items and it was approved by the AG.

GT believed that 75% protects the Town against on what the Town is trying to prevent and provides for what we are trying to do. GT noted 75% would provide more flexibility.

ML: I am good with the 75% as well. I think this will clarify that our definition of a Supermarket is intended to be like a grocery store-type model.

CS: I think 75% accomplishes what we are trying to accomplish, though a little more lenient.

KC: Yes, I support to reduce to 75% to me it's more flexible and glad that the definition is tied to percentage of gross floor area.

BC made a Motion to approve this article with the changes aforementioned of having the food items minimum reduced to 75% and non-food maximum reduced to 15%. Seconded by CS. There was discussion to have the Town Planner update the Explanation text accordingly. Bernie amended his Motion accordingly. Vote 5 to 0 to Approve.

New Section 4.1.4, Maximum Total Gross Square Feet and Special Permit

ES distributed the marked up version that has Town Counsel's comments to the Board members.

GT noted that only the article for 4.1.5 involves a maximum whereas 4.1.4 is a threshold. The Board agreed to remove the word Maximum from the proposed 4.1.4 and have the language read "4.1.4. Total Gross Square Feet Threshold for Special Permit."

The Board had discussions on the proposed articles and if they would apply to 129 Parker Street.

KC: My comment is that 4.1.4 should be changed to 25,000 square feet. The other Board members were in agreement.

The Board had discussion on use of term Total Gross Square Feet in this proposed Bylaw. After discussions the Board agreed to keep this term for Section 4.1.4.

CS made a Motion to accept the amendments for the proposed Section 4.1.4. so that the new section would read "4.1.4. Total Gross Square Feet Threshold for Special Permit", to strike the figure of 20,000 and replace with 25,000, along with accepting the suggested edits made by Town Counsel. Seconded by KC. There was no further discussion. Vote 5 to 0 to Approve.

New 4.1.5. Maximum Building Size Retail Establishment in all Districts

ES distributed the marked up version that has Town Counsel's comments to the Board members.

The Board reviewed Town Counsel's comments, along with input from ML, and agreed, after further discussion, to amend subsection 1 so that the ending of the last sentence should read "...in the aggregate on a single and/or adjoining lot."

GT suggested raising the maximum building size for retail business to 65,000 square feet for consistency with the change made to the Supermarket use zoning bylaw article. The Board had further discussion on this proposed change.

The Board had discussion on use of term Gross Floor Area in this proposed Bylaw. During these discussions a new Gross Retail Area term was introduced by ML. After further discussions the

Board agreed to use this new term, Gross Retail Area, throughout Section 4.1.5, in lieu of Gross Floor Area.

The Board had discussions related to retail uses and applicability of this Bylaw in the different commercial and industrial zoning districts.

The Board directed the Town Planner to change the explanation accordingly based on the updated language for Section 4.1.5.

GT noted he was now feeling uncomfortable in that he had proposed this article for 50,000 square feet for other non-Supermarket based retail uses. The example he gave was for a 65,000 square feet K-Mart. The Board then held further discussions on this matter.

KC indicated he is fine with changing to 65,000 square feet. ML seconded this proposed amendment. BC noted his support and also there would be the 25,000 square feet Special Permit threshold if that passes. CS believed that the figure should be 65,000 square feet to be consistent. GT noted he still felt that 50,000 square feet should be the threshold for non-Supermarket retail.

BC made a Motion to approve the proposed new Section 4.1.5, with the suggested edits from Town Counsel and ML regarding language in Subsection 1, striking out 50,000 and replacing with 65,000 square feet and replacing the term Gross Floor Area to Gross Retail Area throughout the proposed Bylaw. Seconded by CS. There was no further discussion. Vote 4 to 1 Approve (GT voted not to approve).

Correspondence

The Board reviewed various correspondence received since the last meeting.

Approval of Minutes of Previous Meetings

Approval of August 27, 2013 meeting minutes

BC made a motion for the Planning Board to approve the August 27, 2013 minutes as amended and having the Town Planner make a list of the documents entered into the record during that meeting. Seconded by CS. Vote 5 to 0.

Old/New Business

Planning Board Meeting Room Scheduling

The Town Planner noted the Board will need to meet downstairs during October given that the Board of Selectmen will be meeting weekly. Therefore it was indicated that the Board would need to meet in the Downstairs Lower Level Meeting Room (Room #101).

Planning Board Vacancy on Maynard Community Preservation Committee (CPC)

The Town Planner noted that there remains an opening on the CPC and that Mike Chambers, the CPC Chair, inquired since the last meeting if the Board has made an appointment. The Board reiterated that the CPC meets 2nd and 4th Wednesday of the month @7p.m. which is the night after the Planning Board meeting. The Board asked if the Town Planner could ask the Town Administrator if it could be a rotating Board member. Also the Board recommended seeing if the CPC would be willing to change their meetings to 1st and 3rd Wednesdays.

Other

BC indicated that the 2nd Visioning Session for 129 Parker Street will be held this Thursday from 6-8:30 at the Fowler Middle School.

ES said that he has received information from the Massachusetts Department of Housing and Community Development's FY 2014 Downtown Initiative Technical Assistance Grant Program and that he wants to apply on behalf of the Town for a Downtown Market Study.

ES asked if the Board members had current copies of the Zoning Bylaws, Subdivision Rules and Regulations and the various State Statutes, both hard and electronic versions.

GT asked if there was Wi-Fi in this building. ES indicated he was not aware of Town Building availability of Wi-Fi.

CS made a Motion to adjourn the meeting. Second by ML. Vote 5-0 in favor to adjourn.

Prepared by Eric R. Smith, AICP, Town Planner

List of Documents Entered into the Records

On file at the Office of Municipal Services

1. Legal Notice – Maynard Planning Board for the proposed Supermarket use zoning changes
2. Concept #3: Proposed Amendments to the Section 3, Use Regulations, of the Maynard Zoning By-Law regarding change of allowed Supermarket use in the Industrial, Business, Central Business and the Health Care/Industrial Zoning Districts, Prepared for the Maynard Planning Board September 24, 2013 Public Hearing, Prepared by Eric R. Smith, AICP, Maynard Town Planner
3. Memorandum from Tom Hesbach, Vice President, The Assabet Village Food Cooperative
4. Extension Request for Decision Deadline on Fowler Street Extension Subdivision
5. Letter from Bob Depietri, Capital Group Properties, re: Proposed Zoning Bylaw Amendments
6. Proposed New Definition of Supermarket Proposed by Planning Board