

TEWKSBURY ZONING BYLAW SUBCOMMITTEE

February 10, 2014

Call The Meeting to Order

Vincent Spada called the meeting to order at 7:30 P.M. at the new Town Hall Auditorium. Present at the meeting were Nancy Reed, David Plunkett, Community Development Director Steven Sadwick and Recording Secretary Dawn Cathcart. Also in attendance was Planning Board member Robert Fowler.

(2) Interstate Overlay District – Marc Ginsburg

Marc Ginsburg and Dick Cuoco appeared for discussion of changes to the Interstate Overlay District. Mr. Ginsburg stated that he has been approached by multiple people and would like to reconsider expanding the overlay up to his property across from Wal-Mart. Mr. Cuoco stated that they are proposing to extend the overlay down the right side of Rt. 38 with it only being back 291'. This would encompass this parcel, Town Fair Tire, and Atamian. They are also adding a "2B" to the bylaw that encompasses this area. They are also changing "Massachusetts Highway Department layout of" to "center medium of Interstate...". In Section 8402, they are adding "and Commercial (Com)" after "Heavy Industrial (HI)".

Mr. Spada asked if "center medium" is the correct term. Mr. Cuoco stated that he will verify with Mass DOT if "center line of construction" is the correct term.

Mr. Cuoco stated that the ½ mile radius does not cover the entire lot; there will be about 20' of the lot that will not fall in the overlay.

Mrs. Reed stated that she is concerned with adding Commercial because that changes the entire dynamics because now it applies to all commercial parcels in the radius. Mr. Cuoco stated that we could add the overlay from the Lowell line up 2,800' on the northern side and 500' from the Lowell line on the southern side. Mr. Ginsburg stated that we could rezone this parcel to HI. Mr. Spada stated that there may be opposition from the residents. Mr. Cuoco stated that we could remove the radius and just make the overlay down Rt. 38.

Mr. Fowler stated that we need to fix the 291' requirement in the future. Mr. Fowler stated that the Wal-Mart site would not be considered for any expansion because they are at maximum with parking. The State is going to be redoing Main Street from the Lowell line to Astle Street.

Mr. Sadwick stated that we need to be careful about removing the radius because there is one parcel that has already exercised their rights under the overlay. If it is removed, they would be pre-existing non-conforming.

Mr. Cuoco stated that the addition of the commercial zone would not affect the overlay area on Woburn Street or East Street because there are no commercial zones except along Main Street. Mr. Cuoco stated that the article will remain as originally submitted with the confirmation of the "center line of construction" term.

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Mr. Plunkett asked if the EDC has contacted Mr. Ginsburg on expected use on Rt. 38. Mr. Ginsburg replied yes. There are three interested parties on this parcel for a gas and retail use but nothing specific has been discussed. Mr. Ginsburg stated that he is still willing to discuss the Rt. 38 corridor as a whole. Mr. Plunkett stated that he is not sure that a gas station is what we have envisioned for this area in the Master Plan. Mr. Ginsburg stated that there is no gas station on that side of the street from the center of town to past Rt. 495. The Board can require in depth landscape and esthetic building design. There is no perfect use.

Mrs. Reed stated that she could see how a gas station could work in this area. Mr. Cuoco stated that there will be at least 50' of green strip due to the right of way.

(9) Major Recreational Vehicles

Angela Kalkhoran appeared to discuss adding a bylaw for major recreation vehicles. Ms. Kalkhoran stated that her neighbor has parked an RV on their property that is blocking her view and her house from the street.

Mr. Sadwick stated that something similar was proposed in Section 3222 but it was taken out of the recodification.

Mrs. Reed stated that she remembers a similar article around 2002 and it failed miserably at Town Meeting due to the issue with small lots.

Mr. Plunkett stated that there could be a setback from the house or behind the front line of the house. The previous article language should be looked at and a waiver provision could be added for smaller lots.

Ms. Kalkhoran stated that the only language we found was that they wanted to enclose recreational vehicles. Ms. Kalkhoran asked if she could move forward with this article. Mr. Sadwick stated that no one here would tell you know, but the Board wants to work with you to make the article more complete.

(3) Solar Farms

Mr. Sadwick presented the draft solar bylaw. Mr. Sadwick has added the definition for large scale ground mounted solar facilities to Section 6602. Mrs. Reed stated that Photovoltaic should be capitalized. In Section 6603, ordinance has been replaced by bylaw; Site Plan Review has been replaced by Site Plan Special Permit. In Section 6608 there are several changes: No specific zoning is specified, this will be allowed in all zones. The lot requires a minimum of 20 acres, the front setback will be 50', the side and rear setbacks will be 20' and there will be a 200' setback from any residential building. Mrs. Reed stated that the 200' setback should be from the residential lot line not the structure.

Mr. Plunkett stated that in 6608 (c), add "unless waived by the Planning Board" should be added to the end.

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Mr. Ginsburg asked if the 200' residential setback could be reduced if it was significantly buffered and screened.

Mr. Sadwick stated that he is still investigating the revenue benefit to the Town if any and the abandonment issue has been addressed.

(1) Medical Marijuana

Mr. Sadwick presented the latest draft of the medical marijuana bylaw and comments from Town Counsel. Mr. Sadwick stated that the changes including in Section 6541(c) changed "five" to "two" hundred and inclusion of the map. Mr. Sadwick stated that most of the comments from Town Counsel were grammatical.

Mr. Spada stated that Town Counsel has commented on Sections 6651 and 6652, the comment has been noted but we are going with what we have.

Mr. Fowler asked why this section of Town was selected. Mr. Sadwick stated that we took the protected uses and looked for an area that best fit the criteria. This area provided the most parcels. Mr. Fowler stated that some could say this area was picked because most of the sites are already used. Mr. Plunkett replied that any site can be viable if the money is right.

MOTION - Mrs. Reed made a motion to approve the submission of the medical marijuana bylaw for the warrant with the grammatical changes from Town Counsel. The motion was seconded by Mr. Plunkett and unanimously voted 3-0. Mr. Fowler also agreed.

(4) Floodplain Overlay District

Mr. Sadwick suggested that they move forward with the article. Mrs. Reed suggested that the revision date of the maps be July 7, 2014 "or latest revision date" or some similar statement. This will cover if the date of the maps changes.

MOTION - Mrs. Reed made a motion to approve the submission of the Floodplain Overlay District for the warrant with the correction noted above. The motion was seconded by Mr. Plunkett and unanimously voted 3-0. Mr. Fowler also agreed.

(5) Heavy Industrial Zones in Tewksbury

Mr. Sadwick provided an updated zoning map with all HI zones labeled with separate numbers. This is a good starting point for future changes.

Mr. Plunkett stated that currently all HI districts are the same, with having different designations we can add specific uses to certain HI districts. Mrs. Reed stated that we may also take uses away from certain HI district, depending on the area. Mr. Plunkett stated that if we remove a use from a current HI zone and the use exists now, it would be grandfathered.

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Mr. Sadwick stated that we could just start with the HI zone around the Washington Street area and label it HI-1. This would allow the proposed change by Attorney O'Neill to go in and it would not affect the other HI zones. Mr. Sadwick will change the zoning map to HI-1 for the HI district around Washington Street only and he will notify Attorney O'Neill.

(6) Small Business Motor Vehicle Rental and Leasing

Mr. Sadwick stated that Attorney Mike Newhouse submitted a revised article for a small business motor vehicle rental and leasing. Mrs. Reed stated that all comments we suggested have been incorporated and they would support this article to be submitted.

(7) Motor Vehicles General and Body Repair Services

Mr. Sadwick stated that Attorney Rick O'Neill has submitted a revised bylaw. He will speak with Attorney O'Neill about the map change as previously discussed. He will also speak with him about adding an exemption for the parcel that has frontage on Main Street and include all the additional uses of motor vehicles from Attorney Newhouse's article such as "box truck, cargo van, motorcycle, trailer, all terrain vehicle, snowmobile, boat or personal water craft".

(8) Family Suite

Mr. Sadwick stated that Attorney O'Neill presented an updated Family Suite bylaw with changes from the last meeting. Mr. Sadwick stated that he had a discussion with staff today and it was agreed that #11 should also be deleted, since the Special Permit will be recorded. The Special Permit will have the restriction information as well as the language if the property is foreclosed on the Special Permit would be null and void, so there is no need for a separate restriction or subordination agreement. Mr. Sadwick will tell Attorney O'Neill that this is acceptable with the deletion of #11.

Adjournment

MOTION - Mr. Plunkett made a motion to adjourn at 9:15 PM. The motion was seconded by Mrs. Reed and unanimously voted 3-0.

Approved: 2/24/14

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List of documents for 2/10/14 Agenda

Documents can be located at the Community Development Office

1. Medical Marijuana
 - *Section 6500 Article - MJ Draft 02.03.13*
 - *Letter dated 2/6/14 from Attorney Zaroulis*
2. Interstate Overlay District – Marc Ginsburg
 - *Draft article - Section 8400*
 - *Google Earth Map 8/24/13*
3. Solar Farms
 - *Draft article - Section 6600*
4. Floodplain Overlay District
 - *Draft article - Section 2300*
5. Heavy Industrial Zones in Tewksbury
 - *Heavy Industrial Zones Map dated September 2013*
6. Small Business Motor Vehicle Rental and Leasing
 - *Draft article*
7. Motor Vehicle General and Body Repair Services
 - *Draft article from Attorney O'Neill*
8. Family Suite
 - *Draft article – Section 3400*
9. Major Recreational Vehicles
 - *Section 3222 - Draft 2/8/14 (revised 2/9/14) Article*