



*Town of Danvers*  
**Planning Board**

Danvers Town Hall  
One Sylvan Street  
Danvers, MA 01923  
www.danvers.govoffice.com

Planning Board Members:

Aaron Henry, Chairman  
Kristine Cheetham  
Margaret Zilinsky  
William Prentiss  
James Sears

---

**NOTICE OF PUBLIC MEETING**

**Daniel J. Toomey Hearing Room**

**July 23, 2013**

**7:00 p.m.**

**MINUTES**

Chair Aaron Henry called the meeting to order at 7:00 p.m. Planning Board members Aaron Henry, James Sears, Kristine Cheetham, Margaret Zilinsky and William Prentiss were present. Planner Kate Day was also present.

**STAFF BRIEFING**

Day informed the Board that Iron Horse was back in Town working on the Rail Trail. They started putting down the stone dust surface last Tuesday. They began at the Wenham line and will work their way down the trail. The tree canopy has presented some difficulties. They are trying to keep the trail safe during this project and have people stationed on the trail to stop users from going near the heavy equipment.

Day told the Board that there is a serious issue with the McKinnon's parking lot. The owner paved the back corner of the lot which caused an increase of impervious surface. This means that they would have to come in for Site Plan Approval or remove the asphalt. The Building Inspector sent a letter to have the situation rectified within 30 days, and they have asked for 60 additional days to rip up the asphalt. The owner did not want to come in for a modification. Maloney said that there was a notation on the ZBA decision stating no further paving would be allowed.

Day spoke with Dan Casey who informed her that the Riverview Marina condominiums are proceeding quite nicely, but she has not heard anything about the affordable housing requirement. Day provided him with the name of the affordable housing consultant, Jim Haskell. Day stated that they are looking to get this unit sooner versus later. The developer wanted an off-site unit, and no certificates of occupancy will be issued until this unit is identified. Their obligation was to provide one unit along with an additional payment-in-lieu amount.

Andrea Daley inquired who would get the unit, and Gardner Trask stated they would find a suitable off-site location which would be sold under the affordable housing structures with an affordable housing restriction, not unlike Habitat for Humanity. This unit would be eligible for inclusion in the affordable housing numbers.

Day stated that Symes Associates has acquired the Aria development, and a \$92,000.00 payment will be coming from that project as a payment-in-lieu of unit. The agreement was that they were going to pay this amount incrementally as seven (7) units were issued Certificates of Occupancy, but Symes has indicated he would prefer to write one check. No Certificates of Occupancy will be issued until the payment is received.

Sears pointed out that the traffic island adopted by Kelly's Roast Beef looks atrocious, and he asked Day to speak to staff to have this issue addressed.

## **OTHER MATTERS**

**Wadsworth Farm (Saratoga Lane).** Request by Wadsworth Farm Lane LLC for reduction of performance guarantee for completed site improvements for the Definitive Subdivision known as Wadsworth Farm (Saratoga Lane) (Assessors Map 24, Lots 9 and 10).

**MOTION:** Sears read the Certificate of Action for Reduction of the amount of the Tripartite Agreement for Wadsworth Farm (Saratoga Lane). Prentiss seconded the motion. The motion passed by unanimous vote.

## **Medical Marijuana Treatment Centers. Discussion of re-zoning options pursuant to the current moratorium.**

Aaron addressed the Board stating that they need to decide the direction they were going to take for this issue whether it was Site Plan, Special Permit or whether the Selectmen be involved. He stated he would like to hear from the Selectmen for their point of view. Day told the Board that the example provided is what was circulating in Ipswich. Ipswich is ahead of the game and have a Town Meeting scheduled for October 15<sup>th</sup>. She stated that there was a graduate student doing her research project on how towns were handling the medical marijuana issue. She has assembled a matrix showing where people were in the process. Day felt there would be merit taking a look at what other communities were doing. She stated that they have a lot of choices. Dispensary clinics are allowed in four (4) areas according to the Bylaws located in the I-II zones: Danvers Industrial Park, the Partners/Osram property on Endicott Street, Cherry Hill Park and the old Sylvania property on Sylvan Street. This would have been a by-right use if the moratorium had not been issued. The other area that is of concern is the current health-care district for Hunt Hospital. The I-II destinations make sense. The old Fishery Products building is empty. It is an isolated building with adequate security and no residential abutters. This location is probably not a bad choice. Day said the Cherry Hill Industrial Park may have merit since they house many biotech facilities. She felt it would be inappropriate to consider 75 Sylvan Street and the Partners building. Day stated that their challenge is to provide a couple of credible zones where this could be located. The Hunt Hospital area is one that they need to carefully consider since it is in the middle of a residential area.

Henry asked if there was some way to tie in certain I-I with I-II areas such as an allowed use.

Cheetham stated there was resistance to the overlay, and Prentiss thought an overlay would be a good way to start.

Henry asked the Selectmen if they thought the overlay district would work.

Dan Bennett stated it may if the Planning Board found a spot that was logical and out of the way, not near residential and business areas. He felt Route 1 might be appropriate. He would like to limit it to an area rather than give choices.

Henry stated if it happened, it would be an existing I-1 or I-II District and an overlay would allow the use.

Trask stated when they advocated the adult zone, it did not mean buildings being built. He would be in favor of a site not unlike the adult zone area, but he would be very much against the Hunt Hospital site. This area has medical zoning; however, this is not a prescription medication. It is a tool that people need. He is concerned with the Danvers Industrial Park since there is a sports facility which raises the issue of how close this may be to schools and children-oriented facilities. He does not want to preclude something from going in.

Prentiss stated if they considered the overlay, having restrictions would limit some other parcels in the I-II area.

Cheetham stated people will question why this is going in their area.

Henry stated there are three phases of the regulations: growing, production and dispensing.

Andrea Daley asked if the marijuana clinic was going to grow and produce, and Henry responded that you have to accommodate this. Day stated that she thought one area would grow and one would sell. Henry told her to assume that it is all three.

Daley asked if they have to worry about transporting people to the site, and Henry stated this was covered under the hardship clause in the law.

Trask stated that they do not have to make special accommodations for people to get to the site.

Trask stated that he understands that the Board was going to start pursuing options in the I-I and I-II zone, and he sees concerns with conditions since a lot of these areas will not be able to be used. Henry asked whether they should be thinking Special Permit, and stated that he does not know why the Planning Board needs to be involved. He felt the Selectmen and the Board of Health need to be involved.

Trask responded that the Selectmen will be taking a huge ownership on this issue. He pointed out if this is a retail facility where an edible form of marijuana is distributed, this would bring in the Board of Health.

Bennett stated that they are looking to the Board to determine where the dispensaries can go due to land restrictions. Bennett said there are applications and permits for clear local oversight.

Cheetham stated that she would prefer Special Permit to have more authority to make additional conditions not placed on other businesses.

Trask responded that the Special Permit allows for annual review.

Henry asked why a land-use board would be seeking compliance for regulations.

Bennett stated that the Board of Health would be regulating this, and this was in the hands of the Planning Board because they need to find a location.

Sears, Prentiss and Zilinsky felt this fell under Special Permit.

Day felt in the public eye the Danvers Industrial Park is an easy place to imagine such a use since there is good access and no neighbors. The site is confined and easy to make the connection. Access, privacy and security are very important.

Trask stated that there are two major schools in the area: North Shore Community College and Essex Agricultural School. There is the ARC residential program that borders the property, and the Avalon apartments are uphill. He stated if he were opposed to the location, these are the things that he would bring up. He felt the adult zone was better even though it has places like Monkey Joes which attracts children.

Henry felt that no place is perfect. In theory, they will not be dealing with this until they have made it through Phase 2.

Trask agreed that there is no commercial traffic in the industrial park.

Brandon Tarricone addressed the Board stating that regulations are very tight. He said that when the Board is trying to consider zoning, to remember that the cultivation area may be different from the dispensary area. He stated he has been working with the Department of Public Health following the regulations and has met with ten towns in Essex County. Everyone needs to keep in mind that people need this, and you need to have sympathy for them.

He asked the Board to think about the different aspects - one side is growing, and the other is biotech. He asked that the Board think about zoning for each different part: zoning as separate areas and zoning together.

Cheetham felt it could be separated but, when researched, most sites are found in industrial areas. In general, these are places that are fenced. She felt a dispensary should be in a more secure area than a strip mall.

Bennett stated they are looking to what this will look like in the future. He thinks it will evolve into a large grower somewhere with dispensaries somewhere else.

Daley stated she has enjoyed listening to Tarricone, and felt if these are the parameters, Cherry Hill may be a good location since it is a destination point.

Trask asked how large the Danvers Industrial Park was, and Day responded it was very large with many parcels. She said there were many small buildings that could be used for a dispensary.

Tarricone stated he drove by the site and saw a lot of vacancies. For a dispensary, it was an area that did not have a lot of traffic, schools and neighbors.

Day stated that privacy was an important part of this plan.

Trask asked what the zone was for the area around North Shore Community College and Sheraton, and Cheetham responded that it was I-1.

Trask thought this might be a good area.

Henry had heard they want to stay 1,000 feet away from abutters because federal penalties would go up. They want to stay away from these risks.

## **EFLA**

Andrea Daley stated that she once served on the Danvers Housing Authority and had been contacted by people to increase the square footage of the EFLA. All the units at the Danvers Housing Authority have one-bedroom and are tiny. There are not many couples. She stated she was approached by people whose children had moved out, and they had a basement that could be renovated. These people would prefer to stay in their own homes and turn their basements into living quarters with family living upstairs. They want to stay in their neighborhoods. The Danvers Housing Authority list is very long. Daley stated that 750 square feet is not enough square footage. She has had a couple of conversations with the Building Inspector's office and found that most people come before them for an increase in size of the EFLA. She asked Maloney if he would object to increasing the unit to 1,000 square feet.

Day stated the square footage for EFLAs is 750 square feet by right, and they need to go for relief to increase the square footage.

Sears stated this would cause a problem with parking and cause the neighborhood to become denser.

Henry stated he did not realize there was a relief valve.

Cheetham asked if they could inquire what the demand is for the variance.

Henry asked if they could get a review of the ZBA cases regarding EFLAs, and if every Special Permit is under 1,000 square feet, he would feel more comfortable.

Sears stated the intent of the bylaw was that they knew EFLAs were in the Town, and this allowed the owners to come clean and be sure code issues were dealt with. There were issues regarding safety with egress issues. He felt these EFLAs could be abused when family members move out.

Daley stated she will now have more concrete information for people that are contacting her. She is looking to find ways to create a solution. You cannot get two bedrooms with this square footage.

Day stated it would be good to have the numbers of how many EFLAs meet the 750 square foot requirement and how many requests the Zoning Board of Appeals has received, and granted, for larger units.

**“Housekeeping items” – potential zoning amendments.**

Day stated that she has been going through the Zoning By-laws with Maloney to clean up some issues such as:

4.8 Application Requirements. 1 (e). Agree that this language needs to be changed to allow the Special Permit to be determined at the time of Site Plan Approval.

4.17 Queuing/Stacking Requirement. This chart reflects the restaurant drive-through to have a minimum of four (4) stacking spaces. Section 30.13 has a provision that has a drive-through by Special Permit having a queuing capacity for three (3) cars.

Under Site Lighting. There is concern for dark sky language. Section 4.21 does not allow LED lighting. Under (g) the maximum footcandle is 8.0, which is very high. It is natural for an applicant to always ask for more than what is allowed, so she felt this amount should be lowered.

Page 4.21 LED lighting is not allowed. Under (g) 8.0 is high. They felt they may want to look at it and adjust it.

Cheetham would love more information about footcandles before changing the bylaws.

Day responded that she would be amenable to doing a site lighting tour.

Sears pointed out Section 3 (a) the light source should be what new technology allows.

Section 5 – Need to add something that refers to a medical marijuana treatment district.

Section 8 There is no Section 8, and this is where the moratorium was placed and where the medical marijuana treatment language will go.

Section 9.1 – Old language between item d & item h. This language is contradictory and should be consolidated.

EFLA There was a discussion between the Board regarding EFLAs.

Prentiss stated the reason for EFLAs was that people were trying to circumvent the two-family situation. These were to be occupied by family members. They wanted to make a situation where people could by right have a legal way to create this type of dwelling.

Cheetham stated that they wanted to make these apartments safe and get them on the books. She questioned whether anyone checked up and enforced the EFLAs.

Day stated that Maloney would like language added to the EFLAs that no boarders are allowed. This would give him more leverage.

Section 15, Health Care District There is the potential for this to be modified and felt it was something to think about.

Section 30, Special Permit Page 30.4 #4. The last sentence should be deleted because it references Section 30.2.10, and there is no such section.

Section 30.15 Multifamily Affordability Provision They felt a requirement needs to be added if a multi-family meets the standards by variance by finding the applicant is still required to provide that unit.

Day stated that the ZBA has gotten more sensitized after having the discussion with the Planning Board.

Section 30.17 (2) The second sentence should be deleted, and the language changed to read site access and public streets. Sears would like to add private way, and Day suggested public streets, private ways and site access.

Other potential zoning amendments:

Funeral Homes - Day stated that Maloney pointed out when they went to the new table format, funeral homes use to be allowed by Special Permit in the R-1 zone. She said it is something to think about since they are not allowed anywhere in Danvers.

Chickens – Day said this is a really hot topic. They are allowed in the R-II district but not allowed in the R-III District. Day felt it would be good to get this out of the bylaw all together and pass it to the Board of Health to regulate.

Indoor recreation – Maloney said that people want an indoor recreation facility consisting of a small workout center or gym. It was suggested to create a new definition with a square footage limit and allow them by right in the I-1 and Highway Corridor. Cheetham suggested to add the 114 zone.

Menu boards They are looking to craft something into the drive-through provision. It was suggested not to treat this as signage, but as an accessory.

Motor vehicle refueling stations. They suggested that it may be time to open this up.

Day said there was discussion about creating a sign bylaw for temporary opening signage, which is not presently allowed in Danvers. She felt this is not business friendly, but the Board is questioning how this would be regulated. It was suggested to have people put up some sort of bond that would have them come back after the initial “opening” days. It was suggested to charge a fee of two times the cost of the sign.

Day stated there was a discussion as to who is making the decisions for allowing greater density by finding or by variance. Just like the building across from McKinnon’s, the applicant needed to go to the ZBA. The ZBA is not unhappy; they just need some guidance from the Planning Board. One way to deal with this is to set up a more formal opportunity for the ZBA to ask for the Planning Board’s comments. Day pointed out the Rules and Regulations in the back of the book, under 4.1. One way to provide for better conversations between the ZBA and the Planning Board for density issues is to point to this part of the bylaw.

A discussion started among the Board concerning density.

Prentiss stated that he and Sears have discussed density issues in the past and asked if there is any way to take another look at parking. He stated that you cannot change the increase of people, but you can increase parking regulations. He pointed out condominium parking problems. He felt if applicants are required to put up more parking for each unit, less units will be put up.

Zilinsky reiterated her concerns about parking at condominiums and apartments. She did not have a problem with the parking at the 72 Elm Street project because of the public parking lot across the street. She felt that there is not a lot of parking at the Otis and Pickering Street site.

Prentiss stated that the 72 Elm Street project was an example where the applicant met all the criteria, but he felt the parking was not sufficient. He felt the density could have been reduced by right to require them to have more parking.

Sears stated the reality is that family members move back along with their cars. Lofts turn into bedrooms.

Zilinsky pointed out that it was not just people moving into the home, it was guests. She pointed out a two-bedroom residence with a husband and wife and child has the potential for three cars.

Prentiss stated to the Board that the Town is running out of room. He felt the density is going to start to be increased, and they need to get a grasp on it.

Henry felt the field is going the other way, and they are not going to be able to find towns increasing parking requirements.

Zilinsky felt revitalizing the downtown area is different and thought it was a great place for higher density.

Sears pointed up the site built next to McKinnon's.

Zilinsky stated it should be a practical issue, not a density issue.

Prentiss felt it was something that should be addressed.

Day showed the Board a sketch of the Danversport Yacht Club parking lot with a thin solar film, which could cut their electricity by thirty percent.

Day directed the Board to the timeline that was attached to her memo. She stated it was an ambitious but achievable schedule.

Sears brought up plans that were presented to the Board that were substandard and asked if a threshold should be set forth in the bylaw. Plans are presented to them that are not engineered, and he felt this may be the time to change this.

Zilinsky felt there are different levels of people coming before the Board, and she did not want to hurt the little guy. She stated to the Board that she had to come before the Board for a site plan modification for extending her deck three feet eight inches. She did not feel this was necessary.

Henry felt this was making a break for financial purposes. He stated that a large addition on a residential home still needs a detailed plan.

Cheetham wants a financial waiver.

Prentiss felt it was not about affording a project. It was about how much of a change was being made. He felt the standard was on how much was being changed; it was not based on economics. Day said that a waiver can be asked for at the time of application.

Prentiss asked if there was a way that waivers are the first thing they address.

Zilinsky felt it was a two-step process: the application being filed and the waiver being requested.

Sears asked how that could be narrowed down.

A discussion ensued between the Board regarding waivers.

Zilinsky asked if there was a way certain things could be asterisked when the application was submitted that could be brought before the Board.

Day stated an easy way to address this was to eliminate the ability to grant waivers.

Zilinsky felt this was bad for the little guy.

Prentiss felt the need to address the waiver was critical if there is an engineering plan.

Henry does not want to get into the financials of the applicants.

Sears felt that several uses on one lot is offensive.

Cheetham stated this was blending uses on one site.

Zilinsky stated she always felt the site will determine what the business will support.

### **MINUTES**

**MOTION:** Zilinsky moved to approve the minutes of July 9, 2013. Prentiss seconded the motion. The motion passed by unanimous vote.

### **ADJOURNMENT**

**MOTION:** Prentiss moved to adjourn. Cheetham seconded the motion. The motion passed by unanimous vote.

The meeting adjourned at 9:30 p.m.

Respectfully submitted: Francine T. Butler

The Planning Board approved these minutes on August 13, 2013.