Falmouth Planning Board
Lawrence School – April 8, 2019
Pre-town Meeting, Public Meeting 6:30 pm
MINUTES

Present: Jim Fox, Chairman, Pat Kerfoot, Vice Chairman, Paul Dreyer, Clerk/Secretary, Robert Leary, John Druley, Pamela Harting-Barrat, Charlotte Harris
Also Present: Thomas Bott, Town Planner

Note: Filmed by FCTV

Chairman Jim Fox called the meeting to order at 6:32 PM.

Town Planner presented two versions of Planning Board report to Town Meeting. One noted the lack of payment of the notice from the two petitioners, and the other version without the note. The Board agreed to send the note with the notice of lac of payment.

Board voted unanimously to submit the report with the note.

MOTION by P. Kerfoot/P. Dreyer
Voted 7-0-0

Town Planner presented, for the Board’s information, the presentations for Articles 17, 18, and 19 that had previously been emailed to Town Meeting Members.

Town Planner gave out copies of Pat Kerfoot’s zoning bylaw recodification presentation for the Board’s information.

MOTION by P. Dreyer to adjourn at 6:51PM.

Respectfully Submitted,
Paul Dreyer, Clerk/Secretary
Melinda Maranchie, Office Assistant
To: Town Meeting
From: Paul Dreyer, Planning Board Clerk
Date: April 8, 2019

RE: Planning Board Report for April 2019 Annual Town Meeting

In accordance with Massachusetts General Law Chapter 40A Section 5 and Article XXXIII (43) of the Falmouth Zoning Bylaw the Planning Board reports that public hearings were held on January 8, January 15, February 26, and March 12, 2019. Below please find final language, recommendations and explanations for Zoning Bylaw Amendments voted by the Planning Board at their meetings.

ARTICLE 17:
Recommendation: As printed (Planning Board)

Explanation: This change is intended to ensure that site improvements required by Site Plan Review have been properly installed prior to the issuance of a certificate of occupancy. Requested by the Planning Board in consultation with the Building Commissioner.

ARTICLE 18:
Recommendation: As printed (Planning Board)

Explanation: This amendment changes only the requirement to send certain notices to interested parties by certified mail. The reason for the amendment is to save money and staff time involved in using certified mail. This provision, 240-225 Notices, of the Falmouth Zoning bylaw is in addition to the requirements under GL Ch 40A § 5. The notices affected concern “amendments to any district of the Official Zoning Map that involve rezoning of 10 or fewer parcels of land.” If this change is approved interested parties will be notified by regular mail.

ARTICLE 19:
Recommendation: As printed (Planning Board)

Explanation: Last year when Town Meeting approved “Article XLVII Marijuana Treatment Centers” the state law required such centers to be non-profits. The state has since dropped that requirement and, at the same time, changed the CMR Code number and transferred oversight from the Department of Public Health to the Cannabis Control Commission. The proposed change will accomplish three things:

1.) Drop “not-for-profit” from Falmouth’s by-law to accord with the state’s change;
2.) Change the Code numbers to reflect the state’s new codes;
3.) Add the word “medical” to the title of Falmouth’s by-law to underscore that only medical marijuana treatment centers are allowed in Falmouth.

ARTICLE 20 pertains to Planning Board but is not a zoning article as thus was not heard by the Planning Board at a hearing

508 495-7440 o. planning@falmouthma.gov 508 495-7443 f.
Recommendations and Explanations for Petitioned Zoning Articles

ARTICLE 21:
Recommendation: Indefinite Postponement
Explanation: Similar changes were discussed last year within the Accessory Apartment Working Group and were not recommended to the Planning Board as changes to the bylaw

Article 22
Recommendation: Indefinite Postponement
Explanation: Similar changes were discussed last year within the Accessory Apartment Working Group and were not recommended to the Planning Board as changes to the bylaw

Article 23:
Recommendation: Indefinite Postponement
Explanation: Similar changes were discussed last year within the Accessory Apartment Working Group and were not recommended to the Planning Board as changes to the bylaw

Article 24:
Recommendation: Indefinite Postponement. The petitioner did not appear at the Planning Board hearing nor at the Selectmen’s meeting when petitioned articles were presented to the Board of Selectmen
Explanation: None given. No Presentation given by the petitioner at the Planning Board hearing

Article 25:
Recommendation: As Printed in the warrant
Explanation: This amendment would add a ninth performance requirement for site design that is in accord with the Town’s Long Range Comprehensive Plan and furthers the Town’s goals concerning solar energy. It does not add a requirement but does urge consideration of solar energy when planning any building for which site plan review is required.
Article 17 As-built plan required prior to occupancy

To see if the Town will vote to amend the Zoning Bylaw Article (39) XXXIX – Site Plan Review - by amending § 240-193 Procedure by adding a new sub section C to read:

C. No certificate of occupancy shall be issued until an As-built plan, prepared by a registered land surveyor, professional engineer, or registered landscape architect has been submitted and verified by the Planning Board’s designee within 7 days of the As-built submittal that all conditions of approval have been met. For reasonable cause the Planning Board or its designee may authorize a temporary or partial certificate of occupancy, where the required work is substantially complete and is adequately assured by a performance guaranty of the Board’s choosing.
Why Article 17 As-built plan required prior to occupancy

**Explanation:** This change is intended to ensure that site improvements required by Site Plan Approval have been properly installed prior to the issuance of a certificate of occupancy. Requested by the Planning Board in consultation with the Building Commissioner.

Falmouth Town Meetings

April 2019
Article 18 Remove requirement of Certified Mail for Zoning Changes

To see if the Town will vote to amend the Zoning Bylaw Article (43) XLIII - Amendments - by amending § 240-225 Notices deleting the words "by certified mail" so that the revised section will read:

Amendments to any district of the Official Zoning Map shall require that notice of the Planning Board public hearing required by MGL c. 40A, § 5, be sent postage prepaid, to all parties in interest in accordance with MGL c. 40A, § 11, when those amendments involve the rezoning of 10 or fewer parcels of land. When greater than 10 parcels of land are proposed for rezoning, notice shall be accomplished by publishing a map in the local newspaper together with the public hearing notice required by MGL c. 40A, § 5.

Article 18- What changes

§ 240-225 Notices

Amendments to any district of the Official Zoning Map shall require that notice of the Planning Board public hearing required by MGL c. 40A, § 5, be sent by certified mail, postage prepaid, to all parties in interest in accordance with MGL c. 40A, § 11, when those amendments involve the rezoning of 10 or fewer parcels of land. When greater than 10 parcels of land are proposed for rezoning, notice shall be accomplished by publishing a map in the local newspaper together with the public hearing notice required by MGL c. 40A, § 5.
Why Article 18?
Remove requirement for Certified Mail for Zoning Changes

**Explanation:** This amendment changes only the requirement to send certain notices to interested parties by certified mail. The reason for the amendment is to save money and staff time involved in using certified mail. This provision, 240-225 Notices, of the Falmouth Zoning bylaw is in addition to the requirements under GL Ch 40A § 5. The notices affected concern “amendments to any district of the Official Zoning Map that involve rezoning of 10 or fewer parcels of land.” If this change is approved interested parties will be notified by regular mail.

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**Falmouth Town Meetings**

April 2019
Why Article 19? Changes Zoning Bylaw to be consistent with State Law regarding Medical Marijuana

- **Explanation:** Last year when Town Meeting approved “Article XLVII Marijuana Treatment Centers” the state law required such centers to be non-profits. The state has since dropped that requirement and, at the same time, changed the CMR Code number and transferred oversight from the Department of Public Health to the Cannabis Control Commission. The proposed change will accomplish three things:
  - Drop “not-for-profit” from Falmouth’s by-law to accord with the state's change;
  - Change the CMR numbers to reflect the state’s new codes from the Cannabis Control Commission;
  - Add the word “medical” to the title of Falmouth’s by-law to underscore that only medical marijuana treatment centers are allowed in Falmouth.

To see if the Town will vote to amend the Zoning Bylaw Article XLVII – Marijuana Treatment Centers – by updating Article XLVII Marijuana Treatment Centers so the bylaw will comply with the regulations adopted for such facilities by the Cannabis Control Commission as called for in the Zoning bylaw’s “Purpose” section so that the revised bylaw will read:

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**Article 19 Medical Marijuana**

**What Changes?**

§ 240-250 Purpose; definitions; special permit criteria.

A. Purpose. This article defines permitting requirements and standards for medical marijuana treatment centers, also known as "registered marijuana dispensaries," which are consistent with the regulations adopted for such facilities by the Cannabis Control Commission. **935 CMR 501.00 Massachusetts Department of Public Health. 105 CMR 725.000** contains additional definitions and regulations relative to the registration, establishment, operations and regulation of such centers/dispensaries, as well as hardship cultivation registration by the Massachusetts Department of Public Health. Nothing in this chapter is intended to regulate or prohibit uses or activities under a hardship cultivation registration.
Article 19 Medical Marijuana
What Changes?

B. Definitions:

**MEDICAL MARIJUANA TREATMENT CENTER/REGISTERED MARIJUANA DISPENSARY**

An **not-for-profit** entity registered under the Cannabis Control Commission (previously under 105 CMR 725.100) that acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, including development of related marijuana-infused product (MIP), related supplies, or educational materials to registered qualifying patients or their registered personal caregivers.

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Article 19 Medical Marijuana
What Changes?

B. Definitions:

**QUALIFYING PATIENT**

**A Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed healthcare provider as having a debilitating medical condition, or a Massachusetts resident younger than 18 years old who has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 935 CMR 501.010(J).**

**A Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed certifying physician as having a debilitating medical condition, or a Massachusetts resident under 18 years of age who has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(J).** "Registered qualifying patient" means a qualifying patient who has applied for and received a registration card from the Department of Public Health.
Article 19 Medical Marijuana
What Changes?

D. Special permit criteria - standards:

(2) Be approved for operation, or remain in operation, with a certificate of registration issued by the Cannabis Control Commission or successor agency Massachusetts Department of Public Health.

(3) Be compliant at all times with the security measures required by 935 CMR 501 105-CMR-725.000. A description of such measures, including any updates, shall be provided to the Falmouth Police Department, along with after-hours contact information. Any other provisions of this chapter regarding required landscaping or vegetated buffers notwithstanding, trees, bushes and other foliage located on the site outside of the center/dispensary shall be located (or removed) so they do not allow for a person or persons to conceal themselves from sight within 50 feet of any entrance or of any parking space designated to be utilized by registered qualifying patients, personal caregivers, and dispensary agents of the center/dispensary.

Article 19 Medical Marijuana
What Changes?

D. Special permit criteria - standards:

(4) Be in compliance with 935 CMR 501.105 105-CMR-725.105(D) and cultivation, production, preparation, transport or analysis shall be done in a manner to prevent diversion, theft or loss. All phases of the cultivation of marijuana shall take place in designated, locked, limited access areas that are monitored by a surveillance camera system in accordance with 501.110(4)(a)(4) through (9). 105-CMR-725.110(D)(1)(d) through (i).

(7) Be in compliance with 935 CMR 501.105(12) 105-CMR-725.105(L) regarding marketing, advertising and signs.
(Not in your warrant book)
What's to prevent Medical from becoming Recreational?
It is prohibited by both Falmouth Zoning and General Bylaws

Article IX Marijuana Not Medically Prescribed
§ 156-15 Marijuana establishments.
Consistent with Massachusetts General Laws Chapter 94G, § 3(a)(2), all types of marijuana establishments as defined in General Laws Chapter 94G, § 1, to include all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers and any other type of marijuana-related business establishment that is not specifically permitted or licensed for the sale of medical marijuana, shall be prohibited within the Town of Falmouth.

§ 240-18.2 Uses prohibited.
Except as provided by Chapter 240, Article XLVII, Marijuana Treatment Centers, § 240-250, of this zoning bylaw, all types of marijuana establishments as defined in MGL c. 94G, § 1, to include all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other type of licensed marijuana-related business, shall be prohibited within all zoning districts in the Town of Falmouth.

Falmouth Town Meetings

April 2019
What is Zoning Bylaw Recodification?

• Reorganization of *existing* Bylaws to create
  
  ➢ Ease of use
  
  ➢ Logical, consistent numbering
  
  ➢ Consistent format

Recodification Fixes

• Disorganization of
  
  ➢ Decades of Amendments
  
  ➢ Same topics scattered over Bylaws

• Inconsistency of
  
  ➢ Numbering system
  
  ➢ Format, headings, organization
  
  ➢ Use of language, “voices”
  
  ➢ Subject matter location, obsolescence

• Incorrect grammar, wording, punctuation

• Outdated references to State Statutes, Court decisions
Recodification Goals

- Build a new organization framework to
  - Be user friendly
  - Increase ease of navigation
  - Use consistent language and style
- Provide an end-product zoning document
  - Readily amendable
  - Without disrupting organization, style and language

New Organizational Framework

Create a new framework for the existing Bylaws designed to cluster related topics together for a more logical organization, reducing from 47 to 14 articles

<table>
<thead>
<tr>
<th>ARTICLE NUMBER</th>
<th>ARTICLE TITLE</th>
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<tbody>
<tr>
<td>ARTICLE 1</td>
<td>PURPOSE AND AUTHORITY</td>
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<tr>
<td>ARTICLE 2</td>
<td>ADMINISTRATION AND ENFORCEMENT</td>
</tr>
<tr>
<td>ARTICLE 3</td>
<td>DEFINITIONS</td>
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<td>ARTICLE 4</td>
<td>ZONING DISTRICTS AND MAP - OVERVIEW</td>
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<tr>
<td>ARTICLE 5</td>
<td>USE REGULATIONS</td>
</tr>
<tr>
<td>ARTICLE 6</td>
<td>ZONING DISTRICTS &amp; USE TABLES</td>
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<tr>
<td>ARTICLE 7</td>
<td>ZONING OVERLAY DISTRICTS</td>
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<td>ARTICLE 8</td>
<td>SPECIAL USE DISTRICT</td>
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<td>ARTICLE 9</td>
<td>SPECIAL USE REGULATIONS</td>
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<tr>
<td>ARTICLE 10</td>
<td>NONCONFORMING STRUCTURES, USES AND LOTS</td>
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<tr>
<td>ARTICLE 11</td>
<td>DIMENSIONAL AND DENSITY REGULATIONS</td>
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<tr>
<td>ARTICLE 12</td>
<td>LAND USE PERMITS</td>
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<tr>
<td>ARTICLE 13</td>
<td>PERFORMANCE REQUIREMENTS</td>
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<tr>
<td>ARTICLE 14</td>
<td>GENERAL REGULATIONS</td>
</tr>
</tbody>
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Bylaw Improvements

- Use of simple English
- Use of Headings and Subheadings to organize
- Creation of Tables, Charts, Lists, Use Tables
- Replace Roman numerals, renumber elements

Targets of Intensive Review

- Definitions
- Creation of Use Tables
- Non-conforming structures, uses, and lots
In the **Public Use District**, accessory uses are addressed in Section 240-32(f) of the current code (lower left), but in tabular format in the recode (right). The new table has a list of 7 easy-to-read parts.

Accessory science and technology research and development, including production as limited herein, by public or private institutions or firms, whether for profit or otherwise, but only if accessory to operations of a nonprofit educational institution or government agency, provided that such use is on a lot or contiguous lots in common ownership containing a total of not less than 40 acres in the Public Use District, that such production shall not be located within 100 feet of any other zoning district where residential uses are permitted and that the total floor area used for such production shall not exceed one-half percent (0.5%) of such total lot area. Any such production shall be in compliance with § 240-110 and shall involve or be derived from research and development activities of such nonprofit educational institution or government agency. Prior to commencement of each new production activity, written notice describing the production shall be filed with the Falmouth Hazardous Waste Coordinator, the Falmouth Fire Chief and the Falmouth Board of Health. [Added ATIM 4-6-1992, Art. 14]

<table>
<thead>
<tr>
<th>Science and Technology Research and Development Including Production</th>
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<tbody>
<tr>
<td>(2) The use shall be on a lot or contiguous lots in common ownership containing a total of not less than 40 acres in the Public Use District.</td>
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<td>(3) Production shall not be located within 100 feet of any zoning district where residential uses are permitted.</td>
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<td>(4) The total floor area used for production shall not exceed 0.5% of the total lot area.</td>
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<td>(5) Any production shall be in compliance with Section xxx.</td>
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<td>(6) Any production shall involve or be derived from research and development activities of the nonprofit educational institution or government agency.</td>
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