

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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September 11, 2019

Tracy K. Kenney, Town Clerk
Town of Canton
801 Washington Street
Canton, MA 02021

RE: Canton Annual Town Meeting of May 13, 2019 - Case # 9544
Warrant Articles # 29, 30, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42 (Zoning)
Warrant Articles # 11, 22, 25, and 27 (General)

Dear Ms. Kenney:

Articles 11, 22, 25, 27, 29, 30, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42 - We approve these Articles, and the map amendments related to Article 40, from the May 13, 2019 Canton Annual Town Meeting. We will send the approved map to you by regular mail. Our comments on Articles 11, 27, 33, 34, 35, and 37 are provided below.

Article 11 - Article 11 was a vote to amend Article VIII, Section 6 to establish two new revolving funds, the Paul Revere Heritage Site Museum and the Paul Revere Heritage Rolling Mill and Open Space revolving funds.¹ The revenue source for these revolving funds includes grants, gifts, and donations. It is unclear whether “gifts” and “donations” referred to are actually “fees” for programs and services, or if the donations are true “gifts.” General Laws Chapter 44, Section 53A, pertains to the acceptance and expenditure of grants and gifts, and requires:

An officer or department of any...town, or of any regional school or other district, may accept grants or gifts of funds from the federal government and from a charitable foundation, a private corporation, or an individual, or from the commonwealth, a county or municipality or an agency thereof, and in the case of any grant or gift given for educational purposes may expend said funds for the purposes of such grant or gift with the approval of the school committee, and in the case of any other grant or gift may

¹ Article 11 was also a vote to: (1) petition the Legislature for a special Act to create a nonprofit corporation to be known as the “Revere and Son Heritage Trust Inc.,” and (2) set the spending limit amounts for various revolving funds that were established under Article VIII, Section 6. We take no action on these portions of Article 11’s because they are not by-law amendments and are not subject to review and approval by the Attorney General. See G.L. c. 40, § 32.

expend such funds for the purposes of such grant or gift...in towns with the approval of the board of selectmen...

Further, Section 53A provides that “[n]otwithstanding the provisions of section fifty-three, any amounts so received by an officer or department of a city, town or district shall be deposited with the treasurer of such city, town or district and held as a separate account and may be expended as aforesaid by such officer or department receiving the grant or gift without further appropriation.” The Town should consult with Town Counsel to ensure that any gifts or donations deposited in the Town’s Paul Revere Heritage Site Museum and the Paul Revere Heritage Rolling Mill and Open Space revolving funds comply with the requirements of G.L. c. 44, § 53A and § 53E ½.

Articles 33, 34, 35, and 37 - Based on the Attorney General’s limited standard of review of town by-laws, we approve Articles 33, 34, 35, and 37. However, for the reasons explained below, the Town should consult closely with Town Counsel before applying the by-law amendments to any substance abuse treatment facility to avoid violating the Massachusetts Zoning Act, Americans with Disabilities Act (42 U.S.C. §§, 12132 et seq.), the Rehabilitation Act (29 U.S.C. § 794(a)), and the Fair Housing Act (42 U.S.C. § 3604(f)(1) et seq.).

In the decision below, we briefly describe Articles 33, 34, 35, and 37; discuss the Attorney General’s standard of review of town by-laws under G.L. c. 40, § 32; and then explain why, governed as we are by that standard, we must approve these Articles because, on their face, they do not present a sharp conflict with state and federal law. We emphasize that our approval in no way implies any agreement or disagreement with the policy views that led to the passage of these by-laws. The Attorney General’s limited standard of review requires her to approve or disapprove by-laws based solely on their consistency with state and federal law, not on any policy views she may have on the subject matter or wisdom of the by-law. Amherst v. Attorney General, 398 Mass. 793, 795-96, 798-99 (1986).

I. Description of Articles 33, 34, 35, and 37

Article 33 amends the Town’s zoning by-laws to add new definitions and amend existing definitions of the health care related uses. Specifically, Article 33 adds a new definition for “substance abuse detoxification or treatment center” as follows:

A residential unit, treatment unit, detoxification facility, or other facility licensed by the Department under 105 CMR 164.00. This may include in-patient or out-patient facilities providing care coordination, case management, medical, pharmacological, psychological, psycho-educational, rehabilitative, or social services and therapies. A substance abuse facility that offers both inpatient and outpatient services would be defined as an in-patient facility, per Section 4.2.7. A substance abuse facility that offer only outpatient services would be treated as an outpatient facility, per Section 4.2.8. This does not include hospitals, long-term care facilities, clinics or medical offices or groups of offices, such as drug or alcohol counselors where no medication is provided on-site.

Article 34 amends the Town’s Table of Use Regulations to allow for health care related uses in various zoning districts in the Town. Specifically, one change allows hospitals, long-term care facilities, substance abuse detoxification or treatment centers by special permit in the Town’s

Light Industrial, Light Industrial (B), and Light Industrial (C) Districts and prohibits such uses in all of the Town's other zoning districts.

Article 35 adds new Sections 4.2.7 and 4.2.8, special regulations for hospital, long term-care facilities, health care facilities and substance abuse detoxification or treatment centers. The new Sections 4.2.7 and 4.2.8 impose infrastructure, landscaping, and dimensional requirements on such uses.

Lastly, Article 37 amends Section 6.1 "Off-Street Parking," to add parking requirements for hospital, long term-care facilities, health care facilities and substance abuse detoxification or treatment centers.

II. Attorney General's Standard of Review and General Zoning Principles

Pursuant to G.L. c. 40, § 32, the Attorney General has a "limited power of disapproval," and "[i]t is fundamental that every presumption is to be made in favor of the validity of municipal by-laws." Amherst, 398 Mass. at 795-96. The Attorney General does not review the policy arguments for or against the enactment. *Id.* at 798-99 ("Neither we nor the Attorney General may comment on the wisdom of the town's by-law.") Rather, in order to disapprove a by-law (or any portion thereof), the Attorney General must cite an inconsistency between the by-law and the state Constitution or laws. *Id.* at 796. "As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have given considerable latitude to municipalities, requiring a sharp conflict between the local and State provisions before the local regulation has been held invalid." Bloom, 363 Mass. at 154 (emphasis added). "The legislative intent to preclude local action must be clear." *Id.* at 155. Massachusetts has the "strongest type of home rule and municipal action is presumed to be valid." Connors v. City of Boston, 430 Mass. 31, 35 (1999) (internal quotations and citations omitted).

Articles 33, 34, 35, and 37 as amendments to the Town's zoning by-laws, must be accorded deference. W.R. Grace & Co. v. Cambridge City Council, 56 Mass. App. Ct. 559, 566 (2002) ("With respect to the exercise of their powers under the Zoning Act, we accord municipalities deference as to their legislative choices and their exercise of discretion regarding zoning orders."). When reviewing zoning by-laws for consistency with the Constitution or laws of the Commonwealth, the Attorney General's standard of review is equivalent to that of a court. "[T]he proper focus of review of a zoning enactment is whether it violates State law or constitutional provisions, is arbitrary or unreasonable, or is substantially unrelated to the public health, safety or general welfare." Durand v. IDC Bellingham, LLC, 440 Mass. 45, 57 (2003). Because the adoption of a zoning by-law by the voters at Town Meeting is both the exercise of the Town's police power and a legislative act, the vote carries a "strong presumption of validity." *Id.* at 51. "Zoning has always been treated as a local matter and much weight must be accorded to the judgment of the local legislative body, since it is familiar with local conditions." Concord v. Attorney General, 336 Mass. 17, 25 (1957) (quoting Burnham v. Board of Appeals of Gloucester, 333 Mass. 114, 117 (1955)). "If the reasonableness of a zoning bylaw is even 'fairly debatable, the judgment of the local legislative body responsible for the enactment must be sustained.'" Durand, 440 Mass. at 51 (quoting Crall v. City of Leominster, 362 Mass. 95, 101 (1972)). Nevertheless, where a zoning by-law conflicts with state or federal law or the Constitution, it is invalid. *See*

Zuckerman v. Hadley, 442 Mass. 511, 520 (2004) (rate of development by-law of unlimited duration did not serve a permissible public purpose and was thus unconstitutional). In general, a municipality “is given broad authority to establish zoning districts regulating the use and improvement of the land within its borders.” Andrews v. Amherst, 68 Mass. App. Ct. 365, 367-368 (2007). However, a municipality has no power to adopt a zoning by-law that is “inconsistent with the constitution or laws enacted by the [Legislature]...” Home Rule Amendment, Mass. Const. amend. art. 2, § 6.

III. Protections of Disabled Persons in State and Federal Law

Although we must approve Article 33, 34, 35, and 37 under the Attorney General’s limited standard of review, the Town should consult closely with town Counsel when applying the by-laws, and specifically those pertaining to substance abuse treatment centers, so that the Town does not violate the numerous statutory protections for disabled persons in state and federal law.

A. Massachusetts Zoning Act, G.L. c. 40A, § 3, ¶ 4

The Massachusetts Zoning Act, G.L. c. 40A, § 3, ¶ 4 prohibits town by-laws that have a discriminatory effect on disabled persons, as follows:

Notwithstanding any general or special law to the contrary, local land use and health and safety laws, regulations, practices, ordinances, by-laws and decisions of a city or town shall not discriminate against a disabled person. Imposition of health and safety laws or land-use requirements on congregate living arrangements among non-related persons with disabilities that are not imposed on families and groups of similar size or other unrelated persons shall constitute discrimination.

Persons suffering from drug addiction are considered disabled under G.L. c. 40A, § 3, and facilities that serve this population are entitled to the protections of the statute. *See S. Middlesex Opportunity Council, Inc. v. Town of Framingham*, 752 F. Supp. 2d 85, 95 (D. Mass. 2010) (“Federal regulations define ‘handicap’ to include drug addiction or alcoholism that ‘substantially limits one or more major life activities.’”) (citation omitted); Granada House, Inc. v. City of Boston, 1997 WL 106688 at *9 (Mass. Super. Feb. 28, 1997) (“Massachusetts would look to federal law, including the [Fair Housing Act], in interpreting the phrase ‘disabled person’ and ‘persons with disabilities’, and that by so doing, the [Massachusetts Zoning Act] must be read to bar the City’s discriminatory treatment of a group home for recovering drug and alcohol users under the Code.”); Spectrum Health Systems, Inc. v. City of Lawrence, No. 2015-288-C (Essex Superior Ct.) (“Based upon the record now before this Court, the plaintiff Spectrum is entitled to those protections set out under G.L. Ch. 40A, § 3, as amended.”).

In applying the by-laws, specifically during the special permit process, the Town must be careful not to impose additional land use restrictions on substance abuse treatment centers that are not imposed on similar uses in the Town because such restrictions would violate G.L. c. 40A, § 3. *See Brockton Fire Department v. St. Mary Broad Street, LLC*, 181 F. Supp. 155, 157 (D. Mass. 2016) (ruling that the City could not enforce the Massachusetts Sprinkler Law, G.L. c. 148, § 26H, against sober homes because such enforcement would constitute “facially disparate imposition of the Sprinkler Law on a group residence sheltering disabled individuals.”); *see also Jeffrey’s House*,

Inc. v. City of Fitchburg, 2016 WL 4926415 at *7 (D. Mass. 2016) (Because the Massachusetts Sprinkler Law “imposes a health and safety requirement on sober homes... which is not imposed on homes housing families and certain unrelated groups of a similar size” it “runs afoul of the [Massachusetts Zoning Act] where it is a ‘facially disparate’ statute which ‘shall constitute discrimination.’ ”) (internal citations omitted). The Town should consult with Town Counsel on this issue.

B. The ADA, the Rehabilitation Act, and the Fair Housing Act

The Americans with Disabilities Act (42 U.S.C. §§, 12132 et seq.) (“ADA”), the Rehabilitation Act (29 U.S.C. § 794(a)) (“RA”), and the Fair Housing Act (42 U.S.C. § 3604(f)(1) et seq.) (“FHA”) all prohibit municipal by-laws from discriminating against disabled persons. “Under the ADA and FHA, a public entity such as the [Town] is prohibited from implementing a zoning scheme that treats disabled individuals differently than non-disabled individuals.” U.S. v. City of Baltimore, 845 F.Supp. 2d 640, 647-648 (D. Md. 2012) (Baltimore’s zoning code requirement that residential substance abuse treatment programs obtain a conditional ordinance before locating in any district for which they were otherwise eligible was facially discriminatory in violation of the ADA and FHA). “[C]ourts have found ADA and FHA violations not only in cases of specific zoning actions such as outright permit denials, but also in cases of burdensome procedural zoning requirements uniquely placed on disabled individuals.” Id. at 648 (collecting cases). Even if a local ordinance or by-law does not use the word “disability” it can be found to discriminate against disabled persons if the effect is to impose unique land use burdens on disabled persons. Community Housing Trust v. Dep’t of Consumer & Regulatory Affairs, 257 F.Supp.2d 208, 224-25 (D.D.C. 2003) (District of Columbia requirement that community based residential facilities obtain a certificate of occupancy expressly targeted individuals with disabilities, even if it did not use the word “disability,” and was thus facially discriminatory). “Response to community pressure may support a finding that discriminatory animus motivated a defendant in enforcement or regulation efforts.” Safe Haven Sober Houses, LLC v. Good, 82 Mass. App. Ct. 1112, *3 (2012) (citing South Middlesex Opportunity Council, Inc. v. Framingham, 752 F. Supp. 2d 85, 95 (D.Mass. 2010)). The Town should consult closely with Town Counsel when it applies the by-law amendments related to substance abuse treatment center adopted under Article 33, 34, 35, and 37, to avoid running afoul of these statutory protections.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

Kelli E. Gunagan

By: Kelli E. Gunagan
Assistant Attorney General
Municipal Law Unit
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Worcester, MA 01608
(508) 792-7600

cc: Town Counsel Paul DeRensis

Any claim of invalidity by reason of any defect in the procedure of adoption or amendment to the Zoning By-Law must be made with 90 days following the second publication of this notice. Copies of article votes and maps are available for examination by the public in the office of the Town Clerk in Town Hall, 801 Washington Street; at the Canton Public Library, 786 Washington Street; and on the Town website at town.canton.ma.us

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 15, 2019

SECOND SESSION

ARTICLE 11

AUTHORIZE CERTAIN REVOLVING FUNDS

Article 11 To see what revolving funds, pursuant to c. 44, section 53E ½ of the General Laws of the Commonwealth, the Town will establish by by-law and to determine the limit on total amount that may be expended from said revolving accounts, for various boards, commissions or departments of the town, for the fiscal year beginning July 1, 2019 and ending June 30, 2020, or to take any other action related thereto.

Board of Selectmen

Article 11 – Motion 1

MOVED: That the General By Laws Article VIII Section 16 be amended by adding a new revolving fund for the Paul Revere Heritage Site Museum as follows:

Revolving Fund	Department Board, Committee, Agency or Officer Authorized to Spend from Fund	Fees, Charges of Other Receipts Credited to Fund	Program of Activity Expenses Payable from Fund	Fiscal Years
#152 – Paul Revere Heritage Site Museum Fund	Paul Revere Heritage Committee	Museum grants, museum gifts, museum endowments, museum contributions, museum donations, museum rentals, museum admission receipts, receipts from events.	Providing additional funding for museum maintenance expenses, operating expenses, capital expenses, repair expenses, building expenses, event expenses.	Fiscal Year 2020 and subsequent years.

FINANCE COMMITTEE VOTE: 7-0

Robert Barker, Chairperson of the Finance Committee, moved Article 11, Motion 1 as printed in the warrant.

ADOPTED VOICE VOTE. MODERATOR DECLARED MOTION ADOPTED

Article 11 – Motion 2

MOVED: That the General By Laws Article VIII Section 16 be amended by adding a new revolving fund for Paul Revere Heritage Rolling Mill and Open Space as follows:

Revolving Fund	Department Board, Committee, Agency or Officer Authorized to Spend from Fund	Fees, Charges of Other Receipts Credited to Fund	Program of Activity Expenses Payable from Fund	Fiscal Years
#142 – Paul Revere Heritage Site Rolling Mill and Open Space Fund	Board of Selectmen	Rolling Mill, open space or historical grants, Rolling Mill, open space or historical gifts, Rolling Mill, open space or historical endowments, Rolling Mill, open space or historical contributions, Rolling Mill, open space or historical donations, Rolling Mill rentals, grounds rentals, grounds use, receipts from events.	Providing additional funding relative to the Rolling Mill, Grounds and Museum maintenance expenses, operating expenses, capital expenses, repair expenses building expenses, event fees.	Fiscal Year 2020 and subsequent years

and that the Board of Selectmen be hereby authorized to petition the General Court for a home rule Special Act to create a municipal affiliated nonprofit corporation as a body politic and corporate pursuant to chapter 180 of the General Laws or any other applicable statute to be known as "Revere & Son Heritage Trust, Inc.," whose board of trustees is to be appointed by the Board of Selectmen of the Town of Canton

and the numbers of such board members are to be determined by the Board of Selectmen, for the purpose of the creation and operation of an open-to-the-public Paul Revere Museum of Discovery and Innovation and the Paul Revere Heritage Site located at Lots 3A and 3B as shown on the plan entitled "Subdivision Plan of Land In Canton Massachusetts" prepared by VHB, Inc. and dated October 8, 2018, as determined by the board of trustees; and further to authorize the General Court with the approval of the Board of Selectmen to make changes in the language of the home rule petition to accomplish the public purpose thereof.

FINANCE COMMITTEE VOTE: 7-0

Robert Barker, Chairperson of the Finance Committee, moved Article 11, Motion 2 as printed in the warrant.

ADOPTED VOICE VOTE, MODERATOR DECLARED MOTION ADOPTED WITH ONE OPPOSING VOTE

Article 11 - Motion 3

MOVED: That the spending limits for the revolving funds established pursuant to General By-Laws Article VIII, Section 16 pursuant to the provisions of MGL chapter 44, section 53 E ½ for the 2020 fiscal year beginning July 1, 2019 through June 30, 2020 and that each Revolving Fund shall be credited with the balance remaining in such fund at the end of the FY 2019 as set forth below:

Revolving Fund #	Name of Revolving Fund	FY20 Spending Limit
110	Veteran's Services Special Revenues	\$100,000
119	Library Revolving Fund	\$75,000
130	Recreation Revolving Fund	\$500,000
132	Student Parking Fees	\$100,000
134	Pequitside Farm Rentals	\$50,000
135	Greenlodge Street Parking Fees	\$100,000
136	Beautification Fund	\$10,000
137	Animal Control Special Revenues	\$50,000
138	Library Building Rentals	\$50,000
140	COA Revolving Fund	\$50,000
141	Board of Health Special Revenue	\$50,000
142	Paul Revere Heritage Site Rolling Mill and Open Space fund	\$120,000
145	Traffic Mitigation Fund	\$50,000
152	Paul Revere Heritage Site Museum Fund	\$100,000

FINANCE COMMITTEE VOTE: 7-0

Robert Barker, Chairperson of the Finance Committee, moved Article 11, Motion 3 as printed in the warrant.

ADOPTED VOICE VOTE, MODERATOR DECLARED MOTION ADOPTED

Attest:


Tracy K. Kenley, Canton Town Clerk

ANNUAL TOWN MEETING

TOWN OF CANTON

ARTICLE 22

MAY 13, 2019

FIRST SESSION

ARTICLE 4

ACT ON "CONSENT AGENDA"

Article 4 To see if the town will vote to dispose of certain articles in this warrant by a single vote, in accordance with a so-called "consent agenda" or to take any other action related thereto.

Board of Selectmen

MOVED: That the following articles be disposed of by a single vote, in accordance with the Finance Committee motions as printed in the report of the Finance Committee: 5, 6, 7, 8, 10, 13, 14, 15, 16, 22, 23, 24 and 43.

Article	Description	Motion	FINCOM VOTE	Reason
5	Collective Bargaining Agreements under the BOS	Adopt this article	8-0	Non-controversial.
6	Personal Service Contracts under the BOS	Postpone Indefinitely	8-0	Non-controversial.
7	Set Salaries of Elected Officials	Adopt this article	Mot. 1 - 8-0 Mot. 2 - 7-1	Non-controversial.
8	Pay Bills of Prior Fiscal Year	Postpone Indefinitely	8-0	There are none.
10	Transfer Unexpended Prior Year Appropriations	Adopt this article	7-0	Non-controversial.
13	Accept Laws Enacted by the General Court	Postpone Indefinitely	8-0	There are none.
14	Approve Funding for 4 th of July Celebration	Adopt this article	8-0	Non-controversial.
15	Insurance Proceeds	Postpone Indefinitely	8-0	There are none.
16	Rescind Unused Borrowing Authorizations	Adopt this article	7-0	Non-controversial.
22	Amend General By-Law - Composition of Mapping Commission	Adopt this article	8-0	Non-controversial.
23	5-Year Lease for Fire Dept. Equipment Storage Space	Adopt this article	8-0	Non-controversial.
24	Adopt Muni. Act - Speed Limits & Safety Zones	Adopt this article	8-0	Non-controversial.
43	Amend Veteran's Tax Program	Adopt this article	8-0	Non-controversial.

FINANCE COMMITTEE VOTE: 7-0

Robert Barker, Chairperson of the Finance Committee, moved a substitute motion that the following articles be disposed of by a single vote, in accordance with the Finance committee motions as printed in the report of the Finance Committee: Articles 5, 6, 7, 10, 13, 14, 15, 16, 22, 23, 24 and 43.

Motion seconded.

VOTED: That the following articles be disposed of by a single vote, in accordance with the Finance Committee motions as printed in the report of the Finance Committee: Articles 5, 6, 7, 10, 13, 14, 15, 16, 22, 23, 24 and 43.

Article	Description	Motion	FINCOM VOTE	Reason
5	Collective Bargaining Agreements under the BOS	Adopt this article	8-0	Non-controversial.
6	Personal Service Contracts under the BOS	Postpone indefinitely	8-0	Non-controversial.
7	Set Salaries of Elected Officials	Adopt this article	Mot. 1 - 8-0 Mot. 2 - 7-1	Non-controversial.
10	Transfer Unexpended Prior Year Appropriations	Adopt this article	7-0	Non-controversial.
13	Accept Laws Enacted by the General Court	Postpone indefinitely	8-0	There are none.
14	Approve Funding for 4 th of July Celebration	Adopt this article	8-0	Non-controversial.
15	Insurance Proceeds	Postpone indefinitely	8-0	There are none.
16	Rescind Unused Borrowing Authorizations	Adopt this article	7-0	Non-controversial.
22	Amend General By-Law -- Composition of Mapping Commission	Adopt this article	8-0	Non-controversial.
23	5-Year Lease for Fire Dept. Equipment Storage Space	Adopt this article	8-0	Non-controversial.
24	Adopt Muni. Act - Speed Limits & Safety Zones	Adopt this article	8-0	Non-controversial.
43	Amend Veteran's Tax Program	Adopt this article	8-0	Non-controversial.

ADOPTED UNANIMOUS VOICE VOTE

Article 22 adopted under the consent agenda, as follows:

ARTICLE 22

AMEND GENERAL BY-LAW RELATIVE TO THE COMPOSITION OF THE MAPPING COMMISSION

Article 22 To see if the Town will Amend General By-law Article 16 Section 17(b) by changing the wording regarding the composition as follows:

By striking "~~The Mapping Commission shall consist of the Superintendent of Public Works, the head of the engineering division within the Department of Public Works, the Town Planner and the Information Systems Manager who shall serve by virtue of their office as members of the Mapping Commission.~~"

And adding "The Mapping Commission shall consist of Town Engineer within the Department of Public Works, the Town Planner, the GIS Coordinator, and the Information Systems Manager who shall serve by virtue of their office as members of the Mapping Commission." or to take any other action related thereto.

Board of Selectmen

MOVED: That General By-law Article 16 Section 17(b) be amended as printed in the warrant.

FINANCE COMMITTEE VOTE: 8-0

Attest:


Tracy K. Kenner, Canton Town Clerk

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 15, 2019

SECOND SESSION

ARTICLE 25

AMEND BY-LAW REGARDING FINES AND PENALTIES FOR VIOLATING DOG LICENSING REGULATIONS

Article 25 To see if the Town will amend the Town of Canton By-Law Article 14 Section 39 Sub-section 9 regarding dog licensing regulations as follows: (a) *Failure to License a Dog in a timely manner* by striking ~~\$25~~ and adding \$50 or to take any other action related thereto.

Board of Selectmen

MOVED: That the Town amend the Town of Canton By-Law Article 14 Section 39 Sub-section 9 regarding dog licensing regulations as follows: (a) *Failure to License a Dog in a timely manner* by striking ~~\$25~~ and adding \$50.

FINANCE COMMITTEE VOTE: 8-0

Robert Barker, Chairperson of the Finance Committee, moved Article 25 as printed in the warrant.

ADOPTED UNANIMOUS VOICE VOTE

Attest:


Tracy K. Kenney, Canton Town Clerk

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 13, 2019

FIRST SESSION

ARTICLE 27

ACCEPTANCE OF PROPOSED NEW BY-LAW REGARDING PLASTIC SHOPPING BAG REDUCTION

Article 27 To see if the Town will vote to accept a new by-law as follows:

Plastic Bag Reduction By-law

SECTION 1 DEFINITIONS: The following words shall, unless the context clearly requires otherwise, have the following meanings:

"Director", the Director of Health.

"ASTM D6400", the American Society for Testing and Materials (ASTM) International "Standard Specification for Compostable Plastics".

"ASTM D7801", ASTM International "Standard Specification for Biodegradable Plastics in the Marine Environment".

"Checkout bag", a carryout bag provided by a store to a customer at the point of sale. Checkout bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of the store.

"Compostable plastic bag", a plastic bag that (1) conforms to the current ASTM D6400 for compostability; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) conforms to any other standards deemed acceptable by this section.

"Department", the municipal Department of Health

"Marine-degradable plastic bag", a plastic bag that conforms to the current ASTM D7801 standard specification for marine degradability; and conforms to any other standards deemed acceptable by the Department, provided additional, Department-approved standards are as stringent as ASTM D7801.

"Recyclable Paper Bag" means a paper bag that is (1) 100 percent recyclable including the handles; (2) contains at least 40% post-consumer recycled paper content; and (3) displays the words "recyclable" and "made from 40% post-consumer recycled content" (or other applicable amount) in a visible manner on the outside of the bag.

"Retail establishment", any retail space located in the town including without limitation a restaurant, food or ice cream truck, convenience store, retail pharmacy, or supermarket.

"Reusable checkout bag", a sewn bag with stitched handles that (1) can carry 25 pounds over a distance of 300 feet; (2) is either (a) made of cloth or other machine washable fabric; or (b) made of plastic other than polyethylene (HDPE, LDPE, PETE, etc.) or polyvinyl chloride that is durable, non-toxic, and generally considered a food-grade material that is more than 4 mils thick.

SECTION 2 REQUIREMENTS: (a) If any retail establishment as defined in section 1 provides a checkout bag to customers, the bag shall comply with the requirements of being either a recyclable paper bag, a compostable and marine-degradable plastic bag, or a reusable checkout bag. (b) The Director may promulgate rules and regulations to implement this section.

SECTION 3 PENALTIES AND ENFORCEMENT: (a) Each Retail Establishment shall comply with this by-law. (1) If it is determined that a violation has occurred the Director shall issue a warning notice to the Retail Establishment for the initial violation. (2) If an additional violation of this by-law has occurred within one year after a warning notice has been issued for an initial violation, the Director shall issue a notice of violation and shall impose a penalty against the retail establishment. (3) The penalty for each violation that occurs after the issuance of the warning notice shall be no more than: (A) \$50 for the first offense (B) \$100 for the second offense and all subsequent offenses. Payment of such fines may be enforced through civil action in the state District Court. (4) No more than one (1) penalty shall be imposed upon a Retail Establishment within a seven (7) calendar day period. (5) A Retail Establishment shall have fifteen (15) calendar days after the date that a notice of violation is issued to pay the penalty.

SECTION 4 EFFECTIVE DATE: All of the requirements set forth in this by-law shall take effect within six months of passage. In the event that compliance with the effective date of this by-law is not feasible for a small retail establishment, because of economic hardship, the Department may grant a waiver of not more than six months upon application of the owner or the owner's representative.

SECTION 5 SEVERABILITY: It is the intention of this law that each separate provision of this Chapter shall be deemed independent of all other provisions herein, and it is further the intention that if any provision of this Chapter be declared to be invalid by a court of competent jurisdiction, the remaining provisions of this Chapter shall remain valid and enforceable.

Michael Rose and 20 others

MOVED: That Article XVI of the Town of Canton General Bylaws be amended by adding the following Section 25:

Article XVI: Section 25: Plastic Bag Reduction Bylaw

Subsection 1. Purpose

The purpose of this Bylaw is to protect the Town's natural beauty and irreplaceable natural resources by reducing the number of single-use, thin-film, plastic check-out bags that are distributed and used in the Town of Canton and to promote the use of reusable bags.

Subsection 2. Definitions

The following words shall, unless the context clearly requires otherwise, have the following meanings:

- a. "Director" shall mean the Director of the Canton Board of Health.
- b. "ASTM D6400" shall mean the American Society for Testing and Materials (ASTM) International "Standard Specification for Compostable Plastics".
- c. "ASTM D7081" shall mean ASTM International "Standard Specification for Biodegradable Plastics in the Marine Environment".
- d. "Checkout Bag" shall mean a carryout bag provided by a store to a customer at the point of sale. "Checkout Bag" shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of the store.
- e. "Compostable Plastic Bag" shall mean a plastic bag that (1) conforms to the current ASTM D6400 for compostability; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) conforms to any other standards deemed acceptable by this section.
- f. "Department" shall mean the Town of Canton Board of Health.
- g. "Marine-degradable Plastic Bag" shall mean a plastic bag that conforms to the current ASTM D7081 standard specification for marine degradability; and conforms to any other standards deemed acceptable by the Department, provided additional, Department-approved standards are as stringent as ASTM D7081.
- h. "Recyclable Paper Bag" shall mean a paper bag that is (1) 100% recyclable including the handles; (2) contains at least 100% post-consumer recycled paper content; and, (3) displays the words "recyclable" and "made from 100% post-consumer recycled content" in a visible manner on the outside of the bag.
- i. "Retail Establishment" shall mean any retail space located in the town including without limitation a restaurant, food or ice cream truck, convenience store, retail pharmacy, or supermarket.
- j. "Reusable Checkout Bag" shall mean a sewn bag with stitched handles that (1) can carry 25 pounds over a distance of 300 feet; (2) is either (a) made of cloth or other machine washable fabric; or (b) made of plastic other than polyethylene (HDPE, LDPE, PETE, etc.) or polyvinyl chloride that is durable, non-toxic, and generally considered a food-grade material that is more than 4 mils in thickness.

Subsection 3. Regulated Conduct

- a. If any Retail Establishment provides a Checkout Bag to customers, the Checkout Bag shall comply with the requirements of being either a Recyclable Paper Bag, a Compostable Plastic Bag, a Marine-degradable Plastic Bag, or a Reusable Checkout Bag.
- b. The Department may adopt and amend rules and regulations to effectuate the purposes of this bylaw.

Subsection 4. Enforcement and Penalties

- a. The Department, the Director or the Director's designee, or the Board of Selectmen's designee, shall have the authority to administer and enforce this bylaw.
- b. Violations of this bylaw may be enforced in accordance with Article 1, Section 2 of the General Bylaws of the Town of Canton.
- c. For the first violation, the enforcing authority, upon a determination that a violation has occurred, shall issue a written warning notice to the Retail Establishment specifying the violation.
- d. The penalty for each violation that occurs after the issuance of the warning notice shall be:
 - (1) \$50 for the first offense
 - (2) \$100 for the second offense
 - (3) \$200 for the third and all subsequent offenses
- e. No more than one (1) penalty shall be imposed upon a Retail Establishment within a seven (7) calendar day period.

- f. A Retail Establishment shall have fifteen (15) calendar days after the date that a notice of violation is issued to pay the penalty.
- g. Fines shall be cumulative and each day on which a violation occurs shall constitute a separate offense.

Subsection 5. Effective Date

- a. This bylaw shall take effect within six months from approval of the bylaw by the Attorney General or on November 1, 2019, whichever is later, for Retail Establishments with a floor area equal to or exceeding 3,500 square feet or with at least two (2) locations under the same name within the Town of Canton that total 3500 square feet or more.
- b. This bylaw shall take effect one (1) year from approval of the by law by the Attorney General for Retail Establishments with a floor area less than 3,500 square feet.
- c. The Director or his designee may grant a waiver of not more than six months if a Retail Establishment requires additional time in order to draw down on existing inventory of thin-film, single use plastic check-out bags.

Subsection 6. Severability

- a. It is the intention of this law that each separate provision of this bylaw shall be deemed independent of all other provisions herein, and it is further the intention that if any provision of this bylaw be declared to be invalid by a court of competent jurisdiction, the remaining provisions of this bylaw shall remain valid and enforceable.

FINANCE COMMITTEE VOTE: 7-0

Robert Barker, Chairperson of the Finance Committee, moved a substitute motion, as follows:

MOVED: That Article XVI of the Town of Canton General By-Laws be amended by adding the following Section 25:

Section 24. Plastic Bag Reduction By-Law

Subsection 1. Purpose

The purpose of the by-law is to protect the Town's natural beauty and irreplaceable natural resources by reducing the number of single-use, thin-film, plastic check-out bags that are distributed and used in the Town of Canton and to promote the use of reusable bags.

Subsection 2. Definitions

The following words shall, unless the context clearly requires otherwise, have the following meanings:

Director - The Director of the Canton Board of Health.

ASTM D6400 - The American Society for Testing and Materials (ASTM) International "Standard Specification for Compostable Plastics".

ASTM D7081 - ASTM International "Standard Specification for Biodegradable Plastics in the Marine Environment".

Checkout Bag - A carryout bag provided by a store to a customer at the point of sale. "Checkout Bag" shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of the store.

Compostable Plastic Bag - A plastic bag that (1) conforms to the current ASTM D6400 for composability; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) conforms to any other standards deemed acceptable by this section.

Department - The Town of Canton Board of Health.

Marine-degradable Plastic Bag - A plastic bag that conforms to the current ASTM D7081 standard specification for marine degradability; and conforms to any other standards deemed acceptable by the Department, provided additional, Department approved standards are as stringent as ASTM D7081.

Recyclable Paper Bag – A paper bag that is (1) 100% recyclable including the handles; (2) contains at least 100% post-consumer recycled paper content; and (3) displays the words “recyclable” and “made from 100% post-consumer recycled content” in a visible manner on the outside of the bag.

Retail Establishment – Any retail space located in the Town including without limitation a restaurant, food or ice cream truck, convenience store, retail pharmacy, or supermarket.

Reusable Checkout Bag – A sewn bag with stitched handles that (1) can carry 25 pounds over a distance of 300 feet; (2) is either (a) made of cloth or other machine washable fabric; or (b) made of plastic other than polyethylene (HDPE, LDPE, PETE, etc.) or polyvinyl chloride that is durable, non-toxic, and generally considered a food-grade material that is more than 4 mils in thickness.

Subsection 3. Regulated Conduct

- a. If any Retail Establishment provides a Checkout Bag to customers, the Checkout Bag shall comply with the requirements of being either a Recyclable Paper Bag, a Compostable Plastic Bag, a Marine-degradable Plastic Bag, or a Reusable Checkout Bag.
- b. The Department may adopt and amend rules and regulations of effectuate the purposes of this by-law.

Subsection 4. Enforcement and Penalties

- a. The Department, the Director or the Director’s designee, or the Board of Selectmen’s designee, shall have the authority to administer and enforce this by-law.
- b. Violations of this by-law may be enforced in accordance with Article 1, Section 2 of the General By-Laws of the Town of Canton.
- c. For the first violation, the enforcing authority, upon a determination that a violation has occurred, shall issue a written warning notice to the Retail Establishment specifying the violation.
- d. The penalty for each violation that occurs after the issuance of the warning notice shall be:
 - 1) \$100 for the first offense
 - 2) \$200 for the second offense
 - 3) \$300 for the third and all subsequent offenses
- e. No more than one (1) penalty shall be imposed upon a Retail Establishment within a seven (7) calendar day period.
- f. A Retail Establishment shall have fifteen (15) calendar days after the date that a notice of violation is issued to pay the penalty.
- g. Fines shall be cumulative and each day on which a violation occurs shall constitute a separate offense.

Subsection 5. Effective Date

- a. This by-law shall take effect within six months from approval of the by-law by the Attorney General or on November 1, 2019, whichever is later, for Retail Establishments with a floor area equal to or exceeding 3,500 square feet or with at least two (2) locations under the same name within the Town of Canton that total 3,500 square feet or more.
- b. This by-law shall take effect one (1) year from approval of the by-law by the Attorney General for Retail Establishments with a floor area of less than 3,500 square feet.
- c. The Director or his designee may grant a waiver of not more than six months if a Retail Establishment requires additional time in order to draw down on existing inventory of thin-film, single use plastic check-out bags.

Subsection 6. Severability

- a. It is the intention of this law that each separate provision of the by-law shall be deemed independent of all other provisions herein, and it is further the intention that if any provision of this by-law be declared to be invalid by a court of competent jurisdiction, the remaining provisions of the by-law shall remain valid and enforceable.

Kate Merrigan moved to amend the substitute motion by lowering the fines in subsection 4 to zero dollars.

Amendment defeated.

DEFEATED MAJORITY VOICE VOTE

VOTED: That the substitute motion be adopted.

ADOPTED VOICE VOTE, MODERATOR DECLARED THAT SUBSTITUTE MOTION PASSED

Attest:


Tracy K. Kenney, Canton Town Clerk

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 15, 2019

SECOND SESSION

ARTICLE 29

AMEND ZONING BY-LAWS SECTION 11.0 DEFINITIONS

Article 29 To see if the Town will vote to amend Zoning By-Laws Section 11.0 as follows, with new word definitions being incorporated into the existing text in order alphabetically with the existing word definitions:

1. By adding the definition of "Boarding or lodging houses" under the **Dwelling** definition as follows:

Dwelling, Boarding or Lodging House: a lodging house licensed under section 23 of chapter 140 and where rooms are let to four or more unrelated persons. A lodging house may or may not be owner-occupied. A boarding or lodging house is not a hotel, motel, short-term rental, long-term care facility, or group home.

2. By adding the definition of "Short-term rental" as follows:

Short-term rental, non-intensive: an owner-occupied, tenant-occupied or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant; (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such. (iii) A short-term rental for the purposes of this Bylaw is the same definition as set forth in Chapter 337 of the Acts of 2018 as a rental that is not for more than 31 consecutive calendar days per occupant and does not include long-term rentals such as leases. Non-intensive short-term rentals are rented out for a period of 14 days or less in one calendar year.

Short-term rental, intensive: an owner-occupied, tenant-occupied or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant; (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such. (iii) A short-term rental for the purposes of this Bylaw is the same definition as set forth in Chapter 337 of the Acts of 2018 as a rental that is not for more than 31 consecutive calendar days per occupant and does not include long-term rentals such as leases. Intensive short-term rentals are rented out for a period of greater than 14 days in one calendar year.

Or to take any other action related thereto.

Board of Selectmen for Planning Board

Commentary: The goal of this and related zoning articles is to modernize Canton's zoning regulations around short-term rental of residential property made through internet hosting platforms such as, but not limited to, AirBnB. The goal of this and related zoning articles is to modernize Canton's zoning regulations around short-term rental of residential property made through internet hosting platforms such as, but not limited to, AirBnB. A short-term rental is a rental that is not for more than 31 consecutive calendar days per occupant, and does not include long-term rentals such as leases.

PLANNING BOARD MOTION:

MOVED: That Zoning By-Laws Section 11.0 be amended as follows, with new word definitions being incorporated into the existing text in order alphabetically with the existing word definitions:

By adding the definition of "Boarding or lodging houses" under the Dwelling definition as follows:

Dwelling, Boarding or Lodging House: a lodging house licensed under section 23 of chapter 140 and where rooms are let to four or more unrelated persons. A lodging house may or may not be owner-occupied. A boarding or lodging house is not a hotel, motel, short-term rental, long-term care facility, or group home.

PLANNING BOARD VOTE: 5-0

FINANCE COMMITTEE RECOMMENDATION:

MOVED: The Finance Committee recommends that the motion presented by the Planning Board to Town Meeting for Article 29 as written in the warrant be adopted.

FINANCE COMMITTEE VOTE: 7-0

Thomas Scully, Chairperson of the Planning Board, stated that the Planning Board convened on March 6th, 2019 to discuss the proposed article and provided an oral report on Article 29. Mr. Scully then moved that Article 29 be adopted as printed in the warrant.

ADOPTED UNANIMOUS VOICE VOTE

Attest:


Tracy K. Kenney, Canton Town Clerk

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 15, 2019

SECOND SESSION

ARTICLE 30

AMEND ZONING BY-LAWS SECTION 3.1.4 TABLE OF USE REGULATIONS

Article 30 To see if the Town will vote to amend Zoning By-laws Section 3.1.4 Table of Use Regulations as follows or take any other action related thereto.

1. *By amending the Zoning By-laws Section 3.1.4, Table of Use Regulations, Section A Residential Uses changing the title to the principal use of "Boarding or lodging house, convalescent or nursing home, tourist home" to state "Boarding or lodging house" but not changing any zones for principal use.*

Principal Use	SR	GR	B	CB	LI	LI(B)	LI(C)	I	POS
<i>A. Residential Uses</i>									
Boarding or lodging house ²	N	BA	Y	Y	N	N	N	N	N

2. See Section 8.3 for special regulations

2. *By amending the Zoning By-laws Section 3.1.4, Table of Use Regulations, Section J Accessory Uses by adding the principle use zones for "Short term rentals, non-intensive" by allowing their use by right in all Single Family zones, General Residence zones, Business and Central Business zones(if rented for 14 calendar days a year or less), and "Short-term rental, Intensive" by special permit in Single Family zones and General Residence zones(If rented for greater than 14 calendar days a year), and allowed by right in Business and Central Business zones. Short term rentals non-Intensive and Intensive would not be allowed in Limited Industrial zones (LI, LI-B, or LI-C), Industrial Zones, or Parkland and Open Space, as stated below.*

<i>J. Accessory Uses</i>	SR	GR	B	CB	LI	LI(B)	LI(C)	I	POS
Short-term rental, non-intensive	Y	Y	Y	Y	N	N	N	N	N
Short-term rental, Intensive	BA	BA	Y	Y	N	N	N	N	N

Board of Selectmen for Planning Board

Commentary: The goal of this and related zoning articles is to modernize Canton's zoning regulations around short-term rental of residential property made through internet hosting platforms such as, but not limited to, AirBnB. A short-term rental is a rental that is not for more than 31 consecutive calendar days per occupant, and does not include long-term rentals such as leases.

PLANNING BOARD MOTION

MOVED: That Zoning By-laws Section 3.1.4 Table of Use Regulations be amended as follows:

By amending the Zoning By-laws Section 3.1.4, Table of Use Regulations, Section A Residential Uses changing the title to the principal use of "Boarding or lodging house, convalescent or nursing home, tourist home" to state "Boarding or lodging house" but not changing any zones for principal use.

Principal Use	SR	GR	B	CB	LI	LI(B)	LI(C)	I	POS
<i>A. Residential Uses</i>									
Boarding or lodging house ²	N	BA	Y	Y	N	N	N	N	N

2. See Section 8.3 for special regulations

PLANNING BOARD VOTE: 5-0

FINANCE COMMITTEE RECOMMENDATION:

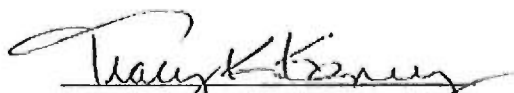
MOVED: The Finance Committee recommends that the motion presented by the Planning Board to Town Meeting for Article 30 as written in the warrant be adopted.

FINANCE COMMITTEE VOTE: 7-0

Thomas Scully, Chairperson of the Planning Board, stated that the Planning Board convened on March 6th, 2019 to discuss the proposed article and provided an oral report on Article 30. Mr. Scully then moved that Article 30 be adopted as printed in the warrant.

ADOPTED UNANIMOUS VOICE VOTE

Attest:


Tracy K. Kenney, Canton Town Clerk

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 13, 2019

FIRST SESSION

ARTICLE 33

AMEND ZONING BY-LAWS SECTION 11.0 DEFINITIONS

Article 33 To see if the Town will vote to amend Zoning By-Laws Section 11.0 as follows, with new word definitions being incorporated into the existing text in order alphabetically with the existing word definitions:

1. By amending the definition of "Adult day care facility" to add the words "(105 CMR 158)" as follows: **Adult day care facility:** A social day care or adult day health facility as those terms are defined by the Commonwealth's Department of Elder Affairs (105 CMR 158).

2. By adding the definition of "Assisted Living Facility" as follows:

Assisted Living Facility: An entity either for profit or non-profit (defined and regulated under M.G.L. Ch.19D, Section 1) and certified by the Department of Elder Affairs (651 CMR 12) that provides room and board, assistance in activities of daily living for three or more adult residents; and collects payments or reimbursements on behalf of residents to pay for the provision of assistance with the activities of daily living or arrange for the same. This does not include any other form of group living quarters (651 CMR 12.01) such as nursing homes, hospices, group homes, religious housing, or substance abuse detoxification or treatment facilities.

3. By amending the title of "Business Office" to read "Business and Professional Office" and amending the definition to reflect the definition of "Business and Professional Office" in the Canton Center Economic Opportunity District but without the words "doctor" and "dentist" as follows:

Business or Professional Office: The office of one skilled in an occupation that primarily services clients or patients rather than retail customers including, but not limited to the office of a lawyer, architect, engineer, landscape architect, real estate agent, insurance agent, or the studio of an artist, musician or teacher, or the workroom of a dressmaker or milliner or photographer.

4. By deleting the definition of "Business and Profession Office" from the subheading of the Canton Center Economic Opportunity District subheading as follows:

~~GGEOB~~

~~Business and Professional Office: The office of one skilled in an occupation that primarily services clients or patients rather than retail customers including, but not limited to the office of a doctor, lawyer, dentist, architect, engineer, landscape architect, real estate agent, insurance agent, or the studio of an artist, musician or teacher, or the workroom of a dressmaker or milliner or photographer.~~

5. By adding the definition of "Exempt uses" as follows:

Exempt uses: Uses defined in M.G.L. Chapter 40A, Section 3: Includes various uses related to agriculture, religious purposes or non-profit educational purposes, child care facilities, congregate living arrangements for disabled persons, or solar energy systems.

6. By amending the definition of "General or personal service establishment" to remove the following words "frozen food locker" and "medical or dental laboratory" as follows:

General or personal service establishment: Any of the following service establishments and the like dealing directly with the consumer: barber or beauty shop, business or trade school, clothing rental establishment, collection station for laundry or dry cleaning, dressmaking or millinery shop, hand or self-service laundry, household appliance repair shop, interior decorating studio, meeting hall for hire, photographic studio, shoe or hat repair shop, tailor shop, typewriter repair shop.

7. By adding the definition of "Healthcare facility/clinic" as follows:

Healthcare facility/clinic: Any facility whether for profit or non-profit, which provides out-patient ambulatory medical, surgical, dental, physical rehabilitation, or mental health services, as licensed and defined by the Massachusetts Department of Public Health (105 CMR 140). Clinics do not include hospitals, medical offices, or substance abuse detoxification or treatment centers; Healthcare facilities/clinics include urgent care, primary care, specialists, outpatient, day surgery, rehabilitation and sports, mental health, certified home health agencies, physical therapy and speech pathology, renal dialysis facilities, temporary nursing agencies.

8. By amending the definition of "Home occupation, non-Intensive" to add the words "psychologist" and "social worker" as follows:

Home occupation, non-Intensive: the use of a portion of a dwelling or of a building accessory thereto by a resident of the premises as an office, studio or workroom for the conduct of a profession or customary home occupation, subject to the condition that such use is clearly incidental and secondary to the use of the premises for dwelling purposes and subject to the provisions of Section 3.2.2. In particular, a home occupation may include, but are not limited to, the office of a lawyer, doctor, dentist, psychologist, social worker, architect, engineer, real estate agent or insurance agent, the studio of an artist, musician or teacher (with any regular instruction limited to one pupil at a time), or the workroom of a dressmaker, milliner, or photographer, but do not include any use hereinafter set forth as permissible by special permit in the same district.

9. By adding the definition of "Hospice" as follows:

Hospice: An inpatient facility licensed by the Department of Public Health (105 CMR 141) providing palliative and supportive care and other services by an interdisciplinary team under the direction of hospice administration to terminally ill patients with limited life expectancy and to their families. Services may be provided at home, in the community, and in a facility. Services might include nursing, social services, volunteer services, and counseling services. Home health agencies and temporary nursing agencies offering hospice care are considered clinics.

10. By amending the definition of "Hospital" to add the words "licensed by the Department of Public Health (105 CMR 130)" as follows:

Hospital: An institution licensed by the Department of Public Health (105 CMR 130) providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, and other physical or mental conditions and including, as an integral part of the institution, related facilities, including laboratories, outpatient facilities, training facilities, medical offices, and staff residences. "Hospital" does not include long term care facilities, substance abuse detoxification or treatment centers, or health care facilities/clinics.

11. By adding the definition of "Independent Senior Living Apartments" as follows:

Independent Senior Living Apartments – Multi-family buildings containing three or more dwelling units, which building houses only residential uses intended for individuals 55 years or older, and/or families with at least one family member aged 55 and older. Independent Senior Living Apartments shall be considered multi-family dwellings for the purposes of Section 6.1.1 and Section 8.2.

12. By adding the definition of "Long-term care facility" as follows:

Long-term care facility: any institution licensed by the Massachusetts Department of Public Health (105 CMR 150) whether for charity or non-profit providing four or more individuals with long-term resident, nursing, convalescent or rehabilitative care; supervision and care incident to old age for ambulatory persons; or retirement home care for elderly persons. Long-term care facilities include convalescent or nursing homes, rest homes, infirmaries maintained in town and charitable homes for the aged. Long-term care facilities do not include hospitals, clinics, medical offices, or substance abuse detoxification or treatment centers.

13. By adding the definition of "Medical office or group of such offices" as follows:

Medical office or group of such offices: Office (or building) designed and used as an office by physicians, dentists, or psychotherapists for the diagnosis and treatment of human patients that does not include overnight care facilities, or licensing as a clinic.

14. By adding the definition of "Medical or dental labs" as follows:

Medical or dental labs: A laboratory where microbiological, chemical, hematological, biophysical, cytological, immuno-hematological, or pathological examinations are performed on materials derived from the human body to provide information for the diagnosis, prevention, or treatment of a disease or assessment of a medical condition (see Executive Office of Health and Human Services 101 CMR 320). This excludes scientific or research laboratories and those categorized as Level 4 by the National Institutes of Health.

15. By amending the definition of "Nursing or convalescent home" to replace the definition with the words "See definition for long-term care facility" as follows:

Nursing or convalescent home: See definition for long-term care facility.

16. By adding the definition of "Pharmacy or drug store" as follows:

Pharmacy or drug store: A store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies, and nonprescription medicines but where nonmedical products may be sold as well.

17. By adding the definition of "Rehabilitation Hospital" as follows:

Rehabilitation Hospital: An in-patient facility, as defined by the Federal Department of Health and Human Services, Centers for Medicare & Medicaid (CMS-1480-N), where at least 60% of the population served meets at least one of the following medical conditions: stroke, spinal cord injury, congenital deformity, amputation, major multiple trauma, fracture of femur (hip), brain injury, neurological disorders including MS, MD, and Parkinson's, burns, active rheumatoid arthritis, systematic vasculitides with joint inflammation, severe osteoarthritis, or knee or hip joint replacement.

18. By adding the definition of "Substance abuse detoxification or treatment center" as follows:

Substance abuse detoxification or treatment center: A residential rehabilitation unit, treatment unit, detoxification facility, or other facility licensed by the Department under 105 CMR 164.000. This may include in-patient or out-patient facilities providing care coordination, case management, medical, pharmacological, psychological, psycho-educational, rehabilitative, or social services and therapies. A substance abuse facility that offers both inpatient and outpatient services would be defined as an in-patient facility, per Section 4.2.7. A substance abuse facility that offers only outpatient services would be treated as an outpatient facility, per Section 4.2.8. This does not include hospitals, long-term care facilities, clinics, or medical offices or groups of offices, such as drug or alcohol counselors where no medication is provided on-site.

19. By adding the definition of "Veterinary Facility or Clinic" as follows:

Veterinary Facility or Clinic: A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the use.

20. By deleting the definitions for the Village Overlay District as follows:

~~**Village Housing Overlay District:** The following definitions shall apply in the VHOD, Section 9.6:~~

~~**Apartment Style Dwelling:** A multifamily structure designed to have dwelling units placed one above the other (stacked).~~

~~**Applicant:** The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit for construction of a VOHDD within a VHOD, hereunder. The Applicant must own, or be the beneficial owner of, all the land included in the proposed site, or have authority from the owner(s) to act for him or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.~~

~~**Buffer Area:** An area within a VOHDD which is adjacent to its boundaries, streams, ponds, lakes, and reservoirs which may not be developed except as provided herein.~~

~~**Design Review:** The review of the overall site design by qualified team of site design professionals. A Massachusetts Registered Landscape Architect shall lead the Site Design Review Team.~~

~~**Development Schedule:** A schedule showing the order and timing of construction and the sequence of the improvements to be built or furnished on the VOHDD site, separated into stages where applicable.~~

~~**Subdivision Regulations:** The rules and regulations of the Planning Board relative to subdivisions, special permits and site plans.~~

~~**Townhouse Style Dwelling:** A multi-family structure designed to have each dwelling unit placed side-by-side.~~

~~**Village Housing Overlay District Development (VOHDD):** A multifamily development consisting of townhouse style and/or apartment style dwellings and permissible accessory uses authorized by special permit from the Planning Board as set forth herein.~~

~~**Wetlands:** All land subject to the provisions of Massachusetts General Law c. 131, ss. 40 and 40A and/or the Town's Wetlands By-Law.~~

21. By deleting the definitions for the "Senior Housing Overlay District" as follows:

~~**Senior Housing Overlay District:** The following definitions shall apply in the Senior Housing Overlay District, Section 9.9:~~

~~**Applicant:** The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit for construction of a Senior Housing Community hereunder. The Applicant must own, or be the beneficial owner of, all the land included in the proposed site, or have authority from the owner(s) to act or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.~~

~~**Senior Housing Community:** A self-contained residential community created expressly for residence and use by persons aged 62 years or older, in accordance with M.G.L. c. 151G, Section 4, Subsection 6, that consists of independent living units and assisted living units (including memory care units), and a combination thereof. Said community shall contain a minimum of 25% of each of the described units to qualify as a Senior Housing Community. For such independent living units, ancillary services will be provided to residents such as meals and communal dining, transportation, laundry, recreation, entertainment, exercise, therapy, beautification, automated teller machines and limited banking, and community activities. For such assisted living units, the foregoing services will be provided to residents in addition to the supportive services permitted by M.G.L. c. 19D and the regulations promulgated thereunder. A Senior Housing Community shall be permitted only within the SHOD and only upon the granting of a special permit by the Zoning Board of Appeals.~~

~~Buffer: An area within a SHOD adjacent to its boundaries, streams, and ponds, which may not be developed except as provided herein.~~

~~Development Schedule: A schedule showing the order and timing of construction and the sequence of the improvements to be built or furnished in the Senior Housing Community site, separated into stages where applicable.~~

~~Open Space: Any such area of land containing no building, structure, or impervious surface material.~~

~~Regulations: The applicable rules and regulations of the Zoning Board of Appeals relative to special permits and site plans. The Zoning Board of Appeals, as the Special Permit Granting Authority, reserves the right to modify and/or waive any and all requirements described in section 9.7~~

~~Upland acres: Land without a wet area and not subject to flooding.~~

~~Wet Areas: All land subject to the provisions of M.G.L. c. 131, Sections 40 and 40A." Or to take any other action related thereto.~~

~~Board of Selectmen for Planning Board~~

~~Commentary: The goal of this and related zoning articles is to modernize Canton's zoning regulations around medical facilities and uses. The goals include ensuring equity in housing, services, health and safety for everyone; To manage development well, where thoughtful development preserves town character, while providing services for a diversity of residents; To provide necessary medical services for vulnerable populations, such as allowing for addiction services; To clarify the definitions, uses, parking, and special regulations for medical facilities (For example: hospitals, clinics, doctor's offices) and residential facilities with medical components (For example: senior living facilities, nursing homes). The new definitions will be clearly tied to state licensing definitions and requirements, the uses will require mostly special permits, the parking will follow planning and design standards, and the special regulations will minimize the impact of more intensive uses on the town and residential neighbors.~~

PLANNING BOARD MOTION

MOVED: That Zoning By-Laws Section 11.0 be amended as printed in the warrant.

PLANNING BOARD VOTE: 5-0

FINANCE COMMITTEE RECOMMENDATION:

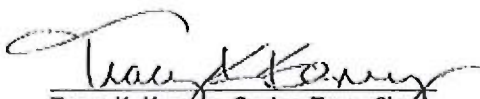
MOVED: The Finance Committee recommends that the motion presented by the Planning Board to Town Meeting for Article 33 as written in the warrant be adopted.

FINANCE COMMITTEE VOTE: 7-0

Thomas Scully, Chairperson of the Planning Board, stated that the Planning Board convened on February 6th and again on March 6th, 2019 to discuss the proposed article and provided an oral report on Article 33. Mr. Scully then moved that Article 33 be adopted as printed in the warrant.

ADOPTED UNANIMOUS VOICE VOTE

Attest:


Tracy K. Kenney, Canton Town Clerk

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 13, 2019

FIRST SESSION

ARTICLE 34

AMEND ZONING BY-LAWS SECTION 3.1.4 TABLE OF USE REGULATIONS

Article 34 To see if the Town will vote to amend Zoning By-laws Section 3.1.4 Table of Use Regulations as follows or take any other action related thereto.

- To see if the Town will vote to amend the Zoning By-laws Section 3.1.4, Table of Use Regulations, Section A Residential Uses by adding the principal use of Assisted Living and/or Independent Living Facility" by allowing Assisted Living and/or Independent Living Facility by special permit "BA" under the General Residence (GR), Business (B), Central Business (CB), Limited Industrial (LI), Limited Industrial B (LI-B), Limited Industrial C (LI-C) zones, and to prohibit assisted living facilities and/or Independent living facilities in the Single Residence (SR), Industrial (I), and Parkland and Open Space (POS) zones.

Principal Use	SR	GR	B	CB	LI	LI(B)	LI(C)	I	POS
A. Residential Uses									
Assisted Living and/or Independent Living Facility ¹	N	BA	BA	BA	BA	BA	BA	N	N

1. See Section 8.2.2 and 8.7 for special regulations

- To see if the Town will vote to amend the Zoning By-laws Section 3.1.4, Table of Use Regulations, Section B Exempt and Institutional Uses by combining religious purposes, educational purposes, and childcare centers into one line, titled "Exempt: uses exempted from prohibition by G.L. Chapter 40A, Section 3", by separating Hospitals from Philanthropic, or charitable Institutions, by adding and combining "Hospitals", "Long-term care facility, "Hospice", "Health care facility/clinic", and "Substance abuse detoxification or treatment center" as follows:

Principal Use	SR	GR	B	CB	LI	LI(B)	LI(C)	I	POS
B. Exempt and Institutional Uses									
Exempt: uses exempted from prohibition by G.L. Chapter 40A, Section 3 ²	Y	Y	Y	Y	Y	Y	Y	Y	Y
Hospital, Long-term care facility, hospice, health care facility/clinic, or substance abuse detoxification or treatment center ³	N	N	N	N	BA	BA	BA	BA	N
Philanthropic, educational, or charitable Institution, non-exempt	BA	BA	Y	Y	N	N	N	N	Y

2. As defined by M.G.L. Chapter 40A, Section 3

3. See Special Regulations Section 4.2.7 for in-patient facilities and Section 4.2.8 for out-patient facilities

- To see if the Town will vote to amend the Zoning By-laws Section 3.1.4, Table of Use Regulations, Section F Commercial and Office Uses by amending the principle use zones for "Medical offices: offices of a doctor or dentist not a resident of the premises, or a group of such offices" and "General or Personal Service Establishments", and "Business or professional office or agency" to expand their use by special permit in all Limited Industrial (LI) zones, and adding "Medical or Dental Labs", "Healthcare facility/clinic" and "Medical marijuana facilities" with the proposed use zones as stated. Finally, to allow kennels, animal or veterinary hospitals in Business zones as a special permit, as stated below.

Principal Use	SR	GR	B	CB	LI	LI(B)	LI(C)	I	POS
F. Commercial and Office Uses									
Kennel, animal or veterinary hospital	N	N	BA	N	Y	Y	Y	Y	N
Medical offices: offices of a doctor or dentist not a resident of the premises, or a group of such offices	N	N	Y	Y	BA	BA	BA	Y	N
Medical or Dental Labs	N	N	Y	Y	BA	BA	BA	Y	N
General or personal service establishment	N	N	Y	Y	BA	BA	BA	Y	N
Medical Marijuana Facilities ⁴	N	N	N	N	N	N	N	BA	N

4. See Section 7.7 for special regulations.

- To see if the Town will vote to amend the Zoning By-laws Section 3.1.4, Table of Use Regulations, Section G Retail Uses by adding "Pharmacy or drug store" as follows:

G. Retail Uses	SR	GR	B	CB	LI	LI(B)	LI(C)	I	POS
Pharmacy or drug store	N	N	Y	Y	Y	Y	Y	Y	N

Board of Selectmen for Planning Board

Commentary: The goal of this and related zoning articles is to modernize Canton's zoning regulations around medical facilities and uses. The purposes include ensuring: (1) equity in housing, services, health and safety for everyone; (2) sound and thoughtful management of development; (3) preservation of town character; (4) delivery of services for a diversity of residents; (5) availability of necessary medical services for vulnerable populations, such as allowing for addiction services; (6) clarifications for the definitions, uses, parking, and special regulations for medical facilities (for example: hospitals, clinics, doctor's offices, etc.) and residential facilities with medical components (for example: senior living facilities, nursing homes, etc.). The new definitions will be clearly tied to state licensing definitions and requirements. The uses will require mostly special permits. The parking will follow planning and design standards, and the special regulations will minimize the impact of more intensive uses on the town and residential neighbors.

Proposed changes to the Table of Use include:

- Adding Assisted Living and/or Independent Living Facilities as a special permit in all zones but Single Family Residential, Industrial or Parkland and Open Space
- Combining religious purposes, educational purposes, and child care into one line, titled "Exempt: uses exempted from prohibition by G.L. Chapter 40A, Section 3 (allowed by right in all zones by law)"
- Separating hospitals from philanthropic or charitable institutions
- Adding "Hospital, Long-term care facility, hospice, health care facility/clinic or substance abuse detoxification or treatment center" as a special permit in Limited Industrial zones, and Industrial zones as a special permit, and with associated special regulations and buffers from residential zones (500 feet).
- Allowing doctor/dentist offices in Limited Industrial zones by special permit (expanding this use)
- Separating out medical or dental labs from General Personal Service establishments, and allowing them as a special permit in Limited Industrial zones (expanding this use)
- Allowing General Personal Service establishments as a special permit in Limited Industrial zones
- Adding pharmacy or drug stores, and allowing them by right in all districts except Single Family Residential, General Residential, and Parkland and Open Space
- Adding medical marijuana facilities (special permit in Industrial zones with 500 foot buffers, as described in Section 7.7 of the Zoning Bylaws)
- Adding veterinary establishments, provided that animals are kept indoors, as a special permit in Business zones, but allowed by right in Limited Industrial zones and the Industrial zone
- There are no changes proposed for home-occupations or adult daycares

PLANNING BOARD MOTION

MOVED: That the Town vote to amend Zoning By-laws Section 3.1.4 Table of Use Regulations be hereby amended as follows:

1. To see if the Town will vote to amend the Zoning By-laws Section 3.1.4, Table of Use Regulations, Section A Residential Uses by adding the principal use of Assisted Living and/or Independent Living Facility" by allowing Assisted Living and/or Independent Living Facility by special permit "BA" under the General Residence (GR), Business (B), Central Business (CB), Limited Industrial (LI), Limited Industrial B (LI-B), Limited Industrial C (LI-C) zones, and to prohibit assisted living facilities and/or independent living facilities in the Single Residence (SR), Industrial (I), and Parkland and Open Space (POS) zones.

Principal Use	SR	GR	B	CB	LI	LI(B)	LI(C)	I	POS
A. Residential Uses									
Assisted Living and/or Independent Living Facility¹	N	BA	BA	BA	BA	BA	BA	N	N

1. See Section 8.2.2 and 8.7 for special regulations

2. To see if the Town will vote to amend the Zoning By-laws Section 3.1.4, Table of Use Regulations, Section B Exempt and Institutional Uses by combining religious purposes, educational purposes, and childcare centers into one line, titled "Exempt: uses exempted from prohibition by G.L. Chapter 40A, Section 3", by separating Hospitals from Philanthropic, or charitable institutions, by adding and combining "Hospitals", "Long-term care facility", "Hospice", "Health care facility/clinic", and "Substance abuse detoxification or treatment center" as follows:

Principal Use	SR	GR	B	CB	LI	LI(B)	LI(C)	I	POS
B. Exempt and Institutional Uses									
Exempt: uses exempted from prohibition by G.L. Chapter 40A, Section 3²	Y	Y	Y	Y	Y	Y	Y	Y	Y
Hospital, Rehabilitation hospital, Long-term care	N	N	N	N	BA	BA	BA	BA	N

facility, hospice, health care facility/clinic, or substance abuse detoxification or treatment center ³										
Philanthropic, educational, or charitable institution, non-exempt	BA	BA	Y	Y	N	N	N	N	N	Y

2. As defined by M.G.L. Chapter 40A, Section 3

3. See Special Regulations Section 4.2.7 for in-patient facilities and Section 4.2.8 for out-patient facilities

3. To see if the Town will vote to amend the Zoning By-laws Section 3.1.4, Table of Use Regulations, Section F Commercial and Office Uses by amending the principle use zones for "Medical offices; offices of a doctor or dentist not a resident of the premises, or a group of such offices" and "General or Personal Service Establishments", and "Business or professional office or agency" to expand their use by special permit in all Limited Industrial (LI) zones, and adding "Medical or Dental Labs", "Healthcare facility/clinic" and "Medical marijuana facilities" with the proposed use zones as stated. Finally, to allow kennels, animal or veterinary hospitals in Business zones as a special permit, as stated below.

F. Commercial and Office Uses	SR	GR	B	CB	LI	LI(B)	LI(C)	I	POS
Kennel or Veterinary Facility or Clinic	N	N	BA	N	Y	Y	Y	Y	N
Medical offices; offices of a doctor or dentist not a resident of the premises, or a group of such offices	N	N	Y	Y	BA	BA	BA	Y	N
Medical or Dental Labs	N	N	Y	Y	BA	BA	BA	Y	N
General or personal service establishment	N	N	Y	Y	BA	BA	BA	Y	N
Medical Marijuana Facilities ⁴	N	N	N	N	N	N	N	BA	N

4. See Section 7.7 for special regulations.

4. To see if the Town will vote to amend the Zoning By-laws Section 3.1.4, Table of Use Regulations, Section G Retail Uses by adding "Pharmacy or drug store" as follows:

G. Retail Uses	SR	GR	B	CB	LI	LI(B)	LI(C)	I	POS
Pharmacy or drug store	N	N	Y	Y	Y	Y	Y	Y	N

PLANNING BOARD VOTE: 5-0

FINANCE COMMITTEE RECOMMENDATION:

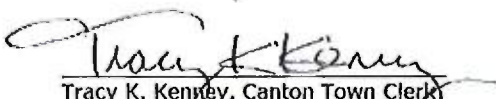
MOVED: The Finance Committee recommends that the motion presented by the Planning Board to Town Meeting for Article 34 as written in the warrant be adopted.

FINANCE COMMITTEE VOTE: 7-0

Thomas Scully, Chairperson of the Planning Board, stated that the Planning Board convened on February 6th and again on March 6th, 2019 to discuss the proposed article and provided an oral report on Article 34. Mr. Scully then moved that Article 34 be adopted as printed in the warrant.

ADOPTED UNANIMOUS VOICE VOTE

Attest:


Tracy K. Kenney, Canton Town Clerk

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 13, 2019

FIRST SESSION

ARTICLE 35

AMEND ZONING BY-LAW 4.2 SPECIAL REGULATIONS FOR "HOSPITALS, LONG TERM CARE FACILITIES, HEALTH CARE FACILITIES/CLINICS, OR SUBSTANCE ABUSE DETOXIFICATION OR TREATMENT CENTERS"

Article 35 To see if the Town will vote to amend Zoning By-law 4.2 Special Regulations by adding a new Section 4.2.7 and Section 4.2.8 as follows or take any other action related thereto:

4.2.7 In-patient Medical Facilities: Hospitals, Long-term care Facilities, or Substance Abuse Detoxification or Treatment Centers.

1. **General:** An in-patient medical facility, hospital, long-term care facility, or substance abuse detoxification or treatment center may be allowed by special permit from the Zoning Board of Appeals upon determination that all of the conditions set forth below have been met. The following conditions are the minimum which must be met for the approval of a Special Permit. This list is not intended to exclude the imposition of any additional conditions by the Zoning Board of Appeals or the Planning Board. In-patient facilities with out-patient components shall be subject to Section 4.2.7.

2. Infrastructure

- a. **Water and Sewer.** The facility shall be connected to municipal water and sewer systems. All costs associated with the extension of these services shall be borne by the developer or applicant.
- b. **Roads.** All newly created traveled ways shall be privately maintained with respect to roadway upkeep and snow and ice removal.
- c. **Refuse.** Collection and disposal of all refuse shall be provided privately.
- d. **Utilities.** All utilities on the site shall be installed underground pursuant to approved methods of installation and construction.
- e. **Safety.** The facility shall have an integrated emergency call, security, telephone, and other communication system to provide monitoring for its residents and direct line connection to the Canton Fire Department.
- f. **Open Space.** At least twenty percent (20%) of the parcel shall be open space, which is any land not containing a building, structure, or impervious surface material. The open space shall have a shape suitable to assure its use for areas of scenic beauty, landscaping and/or useable recreational purposes. At least ten percent (10%) of the open space shall be for recreational use by patients and visitors, such as looped pathways, settings for physical therapy, playground, courtyard, or gardens for walking. Outdoor areas should be visible from patients' rooms, interior public spaces and corridors. Seventy-five (75%) of open space shall be contiguous, and no piece shall be included in the calculation of open land unless at least two hundred square feet in size. Preserving existing stands of trees, trees at site perimeter, and contiguous vegetation with adjacent sites are a priority.
- g. **Bonding procedures and requirements** for roadways, utilities, structures, and site amenities for a facility shall be the same as those established by the Planning Board for subdivisions in the Town of Canton.

3. Dimensional Regulations

Hospital, Long-term care facility, or Substance Abuse Detoxification or Treatment Center	
Dimensional Regulations	
Minimum Lot Size	1. Six to ten beds: 21,780 square feet (0.5 acre). 2. Eleven to 20 beds: 43,560 square feet (1 acre). 3. Every ten beds (or fraction thereof) over 20 beds: 21,780 square feet (0.5 acre).
Minimum Non-wetland Area	Same as minimum lot size.
Lot Width	200 feet
Frontage (ft.)	100 feet
Lot Coverage (%)	25
Open Space (%)	20
Setbacks	Determined by underlying zone
Proximity to existing residential zone	500 feet
Proximity to existing hospital, long-term care	500 feet

facility, or substance abuse detoxification or treatment center	
Maximum Number of Beds	115 beds
Maximum Height	40 feet or 3 floors, whichever is less

4. Landscaping Requirements

- a. **Buffer zone:** The side and rear lot lines shall be screened by a ten (10) foot width of dense natural growth or landscaping. Plant materials characterized by dense growth which will form an effective year-round screen shall be planted to form the screen. Screening shall consist of natural materials. To the extent practical, existing trees and vegetation shall be retained and used to satisfy the provisions of this section. All required plant material shall be maintained by the owner in healthy condition and replaced with new plantings whenever necessary to insure continued compliance with screening requirements.
- a. All outdoor refuse collection and loading areas shall be screened from adjoining streets and abutting properties by a visually impermeable six foot high landscape screen or fence.
- b. All parking areas shall be screened from adjoining streets and abutting properties.

4.2.8 Out-patient Only Medical Facilities: Healthcare Facilities/Clinics or Out-patient Substance Abuse Detoxification or Treatment Centers.

1. **General:** An out-patient healthcare facility/clinic or out-patient substance abuse detoxification or treatment center may be allowed by special permit from the Zoning Board of Appeals upon determination that all of the conditions set forth below have been met. The following conditions are the minimum which must be met for the approval of a Special Permit. This list is not intended to exclude the imposition of any additional conditions by the Zoning Board of Appeals or the Planning Board. In-patient facilities with out-patient components shall be subject to Section 4.2.7.

2. Infrastructure

- a. **Water and Sewer.** The facility shall be connected to municipal water and sewer systems. All costs associated with the extension of these services shall be borne by the developer or applicant.
- b. **Roads.** All newly created traveled ways shall be privately maintained with respect to roadway upkeep and snow and ice removal.
- c. **Refuse.** Collection and disposal of all refuse shall be provided privately.
- d. **Utilities.** All utilities on the site shall be installed underground pursuant to approved methods of installation and construction.
- e. **Safety.** The facility shall have an integrated emergency call, security, telephone, and other communication system to provide monitoring for its residents and direct line connection to the Canton Fire Department.
- f. **Bonding procedures and requirements** for roadways, utilities, structures, and site amenities for a facility shall be the same as those established by the Planning Board for subdivisions in the Town of Canton.

3. Dimensional Regulations

Healthcare Facility/Clinic or Out-patient Substance Abuse Detoxification or Treatment Center Dimensional Regulations	
Minimum Lot Size	Determined by underlying zone
Minimum Non-wetland Area	Same as minimum lot size.
Lot Width	200 feet
Frontage (ft.)	100 feet
Lot Coverage (%)	25
Setbacks	Determined by underlying zone
Proximity to existing residential zone	500 feet
Proximity to existing healthcare facility/clinic or out-patient substance abuse detoxification or treatment center	500 feet
Maximum Height	40 feet or 3 floors, whichever is less

4. Landscaping Requirements

- a. **Buffer zone:** The side and rear lot lines shall be screened by a ten (10) foot width of dense natural growth or landscaping. Plant materials characterized by dense growth which will form an effective year-round screen shall be planted to form the screen. Screening shall consist of natural materials. To the extent practical, existing trees and vegetation shall be retained and used to satisfy the provisions of this section. All required plant material shall be maintained by the owner in healthy condition and replaced with new plantings whenever necessary to insure continued compliance with screening requirements.
- c. All outdoor refuse collection and loading areas shall be screened from adjoining streets and abutting properties by a visually impermeable six foot high landscape screen or fence.
- d. All parking areas shall be screened from adjoining streets and abutting properties.

Board of Selectmen for Planning Board

Commentary: The goal of this and related zoning articles is to modernize Canton's zoning regulations around medical facilities and uses. The goals include ensuring equity in housing, services, health and safety for everyone; To manage development well, where thoughtful development preserves town character, while providing services for a diversity of residents; To provide necessary medical services for vulnerable populations, such as allowing for addiction services; To clarify the definitions, uses, parking, and special regulations for medical facilities (For example: hospitals, clinics, doctor's offices) and residential facilities with medical components (For example: senior living facilities, nursing homes). The new definitions will be clearly tied to state licensing definitions and requirements, the uses will require mostly special permits, the parking will follow planning and design standards, and the special regulations will minimize the impact of more intensive uses on the town and residential neighbors.

PLANNING BOARD MOTION

MOVED: That Zoning By-law 4.2 Special Regulations be amended by adding a new Section 4.2.7 and Section 4.2.8 as presented in the warrant.

PLANNING BOARD VOTE: 3-2

FINANCE COMMITTEE RECOMMENDATION:

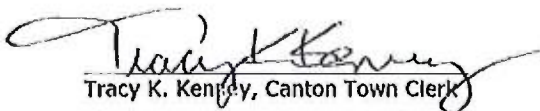
MOVED: The Finance Committee recommends that the motion presented by the Planning Board to Town Meeting for Article 35 as written in the warrant be adopted.

FINANCE COMMITTEE VOTE: 7-0

Thomas Scully, Chairperson of the Planning Board, stated that the Planning Board convened on February 6th and again on March 6th, 2019 to discuss the proposed article and provided an oral report on Article 35. Mr. Scully then moved that Article 35 be adopted as printed in the warrant.

ADOPTED UNANIMOUS VOICE VOTE

Attest;


Tracy K. Kenney, Canton Town Clerk

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 13, 2019

FIRST SESSION

ARTICLE 36

AMEND ZONING BY-LAWS SECTION 8.0 SPECIAL RESIDENTIAL REGULATIONS

Article 36 To see if the Town will vote to amend Zoning By-Laws Section 8.0 as follows; or take any other action thereto.

1. By amending zoning By-law 8.3 Convalescent or Nursing Home, Boarding or Lodging House, or Tourist Home to delete references of "convalescent or nursing home" and "tourist home" as follows:

8.3 Boarding or Lodging House

8.3.1. General. A boarding or lodging house may be authorize by special permit by the Zoning Board of Appeals, subject to the following requirements:

8.3.2. Requirements.

1. The building shall have the external appearance and general aspect of a one-family dwelling, or
 2. The building shall be located on a lot that abuts a Non-Residential Zoning District, or shall be located on a lot that abuts other lots containing buildings used for one or more of such purposes or occupied by more than two families.
2. By amending Zoning By-law 8.2.2 Multifamily Dwellings Requirements by adding a new subsection B, as follows:
 - B. Independent Senior Living Apartments, age-restricted, but not considered an assisted living facility or long-term care facility shall be treated as a multi-family dwelling.
3. By adding Zoning By-law 8.7 "Assisted Living Facilities" as follows:

8.7 Assisted Living Facilities

8.7.1 General. An Assisted Living Facility may be authorized by special permit by the Zoning Board of Appeals, subject to the following requirements. This list is not intended to exclude the imposition of any additional conditions by the Zoning Board of Appeals or the Planning Board under Site Plan Review:

8.7.2 Requirements

1. **Water and Sewer:** The assisted living facility site shall be connected to municipal water and sewer systems. All costs associated with the extension of these services shall be borne by the developer or applicant.
2. **Roads:** All newly constructed ways shall be privately maintained with respect to roadway upkeep and snow and ice removal.
3. **Refuse:** Collection and disposal of all refuse shall be provided privately.
4. **Utilities:** All utilities on the site shall be installed underground pursuant to approved methods of installation and construction.
5. **Safety:** The assisted living facility site shall have an integrated emergency call, security, telephone and other communication system to provide monitoring for its residents and direct line connection to the Canton Fire Department.
6. **Open Space:** At least thirty percent (30%) of the parcel shall be open space. The open space shall have a shape suitable to assure its use for areas of scenic beauty, landscaping and/or recreation purposes. At least fifteen percent (15%) of the open space shall be for recreational use by residents and visitors, such as looped pathways, settings for physical therapy, playground, courtyards, gardens, swimming pools, tennis and other recreational

courts, playing fields, putting greens, bocce courts, residential greenhouses of not more than two hundred and fifty (250) square feet, or covered and uncovered sitting areas. Outdoor areas should be visible from resident's rooms, interior public spaces and corridors. Seventy-five (75%) of open space shall be contiguous, and no piece shall be included in the calculation of open land unless at least two hundred square feet in size. Preserving existing stands of trees, trees at site perimeter, and contiguous vegetation with adjacent sites are a priority.

7. **Affordable Units:** For assisted living premises containing more than ten (10) dwelling units, in consideration of the increases in the otherwise permissible density of population or intensity of a particular use authorized pursuant to this Section 8.7, at least twelve and half (12.5%) of the dwelling units, in no case less than one (1) unit, shall be deed restricted in perpetuity as "Affordable Units" as defined in the applicable regulations of the Department of Housing and Community Development.

8.7.3 Dimensional Regulations

Assisted Living Facility Dimensional Regulations

Minimum Lot Size	2.5 acres
Minimum Non-wetland Area	2.5 acres
Lot Width	200 feet
Frontage (ft.)	125 feet
Lot Coverage (%)	25
Open Space (%)	30
Setbacks	Determined by underlying zone
Minimum Lot Area per Dwelling Unit	4,000 square feet
Maximum Number of Units in an Assisted Living Facility	115 units
Maximum Height	40 feet or 3 floors, whichever is less

8.7.4 Landscaping and Buffering Requirements

1. **Buffer zone:** The side and rear lot lines shall be screened by a ten (10) foot width of dense natural growth or landscaping. Plant materials characterized by dense growth which will form an effective year-round screen shall be planted to form the screen. Screening shall consist of natural materials. To the extent practical, existing trees and vegetation shall be retained and used to satisfy the provisions of this section. All required plant material shall be maintained by the owner in healthy condition and replaced with new plantings whenever necessary to insure continued compliance with screening requirements.
2. All outdoor refuse collection and loading areas shall be screened from adjoining streets and abutting properties by a visually impermeable six foot height landscape screen or fence and through the use of appropriate landscaping.
3. All parking areas shall be screened from adjoining streets and abutting properties.
4. The Planning Board or Zoning Board may require buffer areas at specific locations along the perimeter as necessary to provide an additional visual buffer.

8.7.5 Accessory Uses

1. Garages for common use vehicles owned by the operating entity.
2. One single-story building to house snow removal, lawn maintenance, and recreational equipment. Such building shall not exceed 3,000 square feet.
3. Outdoor recreational facilities. This may include outdoor swimming pools, tennis and other recreational courts, playing fields, putting greens, bocce courts, gardens, residential greenhouses of not more than two hundred and fifty (250) square feet, covered and uncovered sitting areas.
4. Any and all other uses normal accessory, or incidental to an assisted living facility. Accessory uses shall comply with principal density, dimensional, and buffering requirements.

8.7.6 Non-Residential Uses

The operator of a long-term care facility may also provide optional services on the site including but not limited to local transportation, barber/beauty services, meals, laundry, exercise, healthcare, entertainment, sundries for personal consumption, and other amenities, provided:

1. Such uses serve the resident, guests, and employees of the assisted living facility only
2. Such uses are conducted within and may be entered only from within a principal building
3. There is no external evidence of such uses visible beyond the development site
4. The appearance and character of the commercial uses are compatible with a residential development. The non-residential uses are accessory uses for the assisted living facility and if the underlying assisted living facility use is discontinued the non-residential use shall not continue.

8.7.7 Public Transportation: Applicant shall provide shuttle service for residents to nearby public transportation facilities and other community resources.

8.7.B Decision: A site plan pursuant to the provisions of Section 10.5 shall be required. The Zoning Board of Appeals may issue a special permit for a development when it finds that the proposed use is in harmony with the purpose and intent of the bylaw and the proposal shall be subject to the general or specific provisions set forth herein. The Zoning Board of Appeals may waive any or all dimensional requirements, when, in the judgement of the Zoning Board of Appeals, such action is in the public interest and not inconsistent with the provisions of this Section 8.7. Any such permit issued may also impose reasonable conditions, safeguards and limitations of time and use. The Zoning Board of Appeals as Special Permit Granting Authority reserves the right to amend, modify or revoke any permit granted for noncompliance of aforesaid conditions.

Board of Selectmen for Planning Board

Commentary: The goal of this and related zoning articles is to modernize Canton's zoning regulations around medical facilities and uses. The goals include ensuring equity in housing, services, health and safety for everyone; To manage development well, where thoughtful development preserves town character, while providing services for a diversity of residents; To provide necessary medical services for vulnerable populations, such as allowing for addiction services; To clarify the definitions, uses, parking, and special regulations for medical facilities (For example: hospitals, clinics, doctor's offices) and residential facilities with medical components (For example: senior living facilities, nursing homes). The new definitions will be clearly tied to state licensing definitions and requirements, the uses will require mostly special permits, the parking will follow planning and design standards, and the special regulations will minimize the impact of more intensive uses on the town and residential neighbors.

Proposed residential special regulation changes include:

- Treating independent senior living apartments (age-restricted) as multi-family dwellings and required to follow those special regulations (Section 8.2.2 Multifamily Dwellings Requirements)
- Separating convalescent or nursing homes from "Boarding or Lodging Houses, or Tourist Homes" and creating special regulations for those uses in another Section
- By adding special regulations for Assisted Living Facilities

PLANNING BOARD MOTION

MOVED: That Zoning By-Laws Section 8.0 be amended as follows:

That Zoning By-Laws Section 8.0 be amended as follows.

- 1. By amending zoning By-law 8.3 Convalescent or Nursing Home, Boarding or Lodging House, or Tourist Home to delete references of "convalescent or nursing home" and "tourist home" as follows:**

8.3 Boarding or Lodging House

8.3.1. General. A boarding or lodging house may be authorized by special permit by the Zoning Board of Appeals, subject to the following requirements:

8.3.2. Requirements.

- 1. The building shall have the external appearance and general aspect of a one-family dwelling, or**
- 2. The building shall be located on a lot that abuts a Non-Residential Zoning District or shall be located on a lot that abuts other lots containing buildings used for one or more of such purposes or occupied by more than two families.**

- 2. By amending Zoning By-law 8.2.2 Multifamily Dwellings Requirements by adding a new subsection 8, as follows:**

8. Independent Senior Living Apartments, age-restricted, but not considered an assisted living facility or long-term care facility shall be treated as a multi-family dwelling.

- 3. By adding Zoning By-law 8.7 "Assisted Living Facilities" as follows:**

8.7 Assisted Living Facilities

8.7.1 General. An Assisted Living Facility may be authorized by special permit by the Zoning Board of Appeals, subject to the following requirements. This list is not intended to exclude the imposition of any additional conditions by the Zoning Board of Appeals or the Planning Board under Site Plan Review:

8.7.2 Requirements

1. **Water and Sewer:** The assisted living facility site shall be connected to municipal water and sewer systems. All costs associated with the extension of these services shall be borne by the developer or applicant.
2. **Roads:** All newly constructed ways shall be privately maintained with respect to roadway upkeep and snow and ice removal.
3. **Refuse:** Collection and disposal of all refuse shall be provided privately.
4. **Utilities:** All utilities on the site shall be installed underground pursuant to approved methods of installation and construction.
5. **Safety:** The assisted living facility site shall have an integrated emergency call, security, telephone and other communication system to provide monitoring for its residents and direct line connection to the Canton Fire Department.
6. **Open Space:** At least thirty percent (30%) of the parcel shall be open space. The open space shall have a shape suitable to assure its use for areas of scenic beauty, landscaping and/or recreation purposes. At least fifteen percent (15%) of the open space shall be for recreational use by residents and visitors, such as looped pathways, settings for physical therapy, playground, courtyards, gardens, swimming pools, tennis and other recreational courts, playing fields, putting greens, bocce courts, residential greenhouses of not more than two hundred and fifty (250) square feet, or covered and uncovered sitting areas. Outdoor areas should be visible from resident's rooms, interior public spaces and corridors. Seventy-five (75%) of open space shall be contiguous, and no piece shall be included in the calculation of open land unless at least two hundred square feet in size. Preserving existing stands of trees, trees at site perimeter, and contiguous vegetation with adjacent sites are a priority.
7. **Affordable Units:** For assisted living premises containing more than ten (10) dwelling units, in consideration of the increases in the otherwise permissible density of population or intensity of a particular use authorized pursuant to this Section 8.7, at least twelve and half (12.5%) of the dwelling units, in no case less than one (1) unit, shall be deed restricted in perpetuity as "Affordable Units" as defined in the applicable regulations of the Department of Housing and Community Development.

8.7.3 Dimensional Regulations

Assisted Living Facility Dimensional Regulations	
Minimum Lot Size	2.5 acres
Minimum Non-wetland Area	2.5 acres
Lot Width	200 feet
Frontage (ft.)	125 feet
Lot Coverage (%)	25
Open Space (%)	30
Setbacks	Determined by underlying zone
Minimum Lot Area per Dwelling Unit	4,000 square feet
Maximum Number of Units in an Assisted Living Facility	115 units
Maximum Height	40 feet or 3 floors, whichever is less

8.7.4 Landscaping and Buffering Requirements

1. **Buffer zone:** The side and rear lot lines shall be screened by a ten (10) foot width of dense natural growth or landscaping. Plant materials characterized by dense growth which will form an effective year-round screen shall be planted to form the screen. Screening shall consist of natural materials. To the extent practical, existing trees and vegetation shall be retained and used to satisfy the provisions of this section. All required plant material shall be maintained by the owner in healthy condition and replaced with new plantings whenever necessary to insure continued compliance with screening requirements.
2. All outdoor refuse collection and loading areas shall be screened from adjoining streets and abutting properties by a visually impermeable six-foot height landscape screen or fence and through the use of appropriate landscaping.
3. All parking areas shall be screened from adjoining streets and abutting properties.

4. The Planning Board or Zoning Board may require buffer areas at specific locations along the perimeter as necessary to provide an additional visual buffer.

8.7.5 Accessory Uses

1. Garages for common use vehicles owned by the operating entity.
2. One single-story building to house snow removal, lawn maintenance, and recreational equipment. Such building shall not exceed 3,000 square feet.
3. Outdoor recreational facilities. This may include outdoor swimming pools, tennis and other recreational courts, playing fields, putting greens, bocce courts, gardens, residential greenhouses of not more than two hundred and fifty (250) square feet, covered and uncovered sitting areas.
4. Any and all other uses normal accessory, or incidental to an assisted living facility. Accessory uses shall comply with principal density, dimensional, and buffering requirements.

8.7.6 Non-Residential Uses

The operator of a long-term care facility may also provide optional services on the site including but not limited to local transportation, barber/beauty services, meals, laundry, exercise, healthcare, entertainment, sundries for personal consumption, and other amenities, provided:

1. Such uses serve the resident, guests, and employees of the assisted living facility only
2. Such uses are conducted within and may be entered only from within a principal building
3. There is no external evidence of such uses visible beyond the development site
4. The appearance and character of the commercial uses are compatible with a residential development. The non-residential uses are accessory uses for the assisted living facility and if the underlying assisted living facility use is discontinued the non-residential use shall not continue.

- 8.7.7 Public Transportation: Applicant shall provide shuttle service for residents to nearby public transportation facilities and other community resources.

8.7.8 Decision: A site plan pursuant to the provisions of Section 10.5 shall be required. The Zoning Board of Appeals may issue a special permit for a development when it finds that the proposed use is in harmony with the purpose and intent of the bylaw and the proposal shall be subject to the general or specific provisions set forth herein. The Zoning Board of Appeals may waive any or all dimensional requirements, when, in the judgement of the Zoning Board of Appeals, such action is in the public interest and not inconsistent with the provisions of this Section 8.7. Any such permit issued may also impose reasonable conditions, safeguards and limitations of time and use. The Zoning Board of Appeals as Special Permit Granting Authority reserves the right to amend, modify or revoke any permit granted for noncompliance of aforesaid conditions.

PLANNING BOARD VOTE: 5-0

FINANCE COMMITTEE RECOMMENDATION:

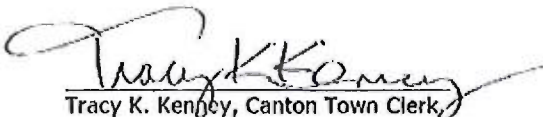
MOVED: The Finance Committee recommends that the motion presented by the Planning Board to Town Meeting for Article 36 as written in the warrant be adopted.

FINANCE COMMITTEE VOTE: 7-0

Thomas Scully, Chairperson of the Planning Board, stated that the Planning Board convened on February 6th and again on March 6th, 2019 to discuss the proposed article and provided an oral report on Article 36. Mr. Scully then moved that Article 36 be adopted as printed in the warrant.

ADOPTED UNANIMOUS VOICE VOTE

Attest:


Tracy K. Kenney, Canton Town Clerk,

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 13, 2019

FIRST SESSION

ARTICLE 37

AMEND ZONING BY-LAW SECTION 6.1. OFF-STREET PARKING

Article 37 To see if the Town will vote to amend Zoning By-law Section 6.1.1. for Parking Requirements In All Districts by adding new, separate off-street parking principal uses and requirements for "Assisted Living facilities;" "In-patient medical facilities: long-term care facilities, hospitals, or In-patient substance abuse detoxification or treatment centers;" and "Out-patient facilities: clinics, medical offices, and out-patient substance abuse detoxification or treatment centers," and to revise "Boarding and lodging houses, tourist homes, hotels, motels" as follows:

PRINCIPAL USE	REQUIRED PARKING
Assisted Living Facilities	0.5 spaces/ 1,000 building gross square footage plus employee parking as deemed adequate by the Board of Appeals
Boarding and lodging houses, hotels, motels	One parking space for each sleeping room for single or double occupancy, or, where not divided into such rooms (as in a dormitory), one space for each two (2) beds
In-patient medical facilities: long-term care facilities, hospitals, or In-patient substance abuse detoxification or treatment centers	2.5 spaces/ 1,000 building gross square footage
Out-patient medical facilities: clinics, medical offices, or out-patient substance abuse detoxification or treatment centers	4.0 spaces/ 1,000 building gross square footage

or to take any other action related thereto.

Board of Selectmen for Planning Board

Commentary: The goal of this and related zoning articles is to modernize Canton's zoning regulations around medical facilities and uses. The goals include ensuring equity in housing, services, health and safety for everyone; To manage development well, where thoughtful development preserves town character, while providing services for a diversity of residents; To provide necessary medical services for vulnerable populations, such as allowing for addiction services; To clarify the definitions, uses, parking, and special regulations for medical facilities (For example: hospitals, clinics, doctor's offices) and residential facilities with medical components (For example: senior living facilities, nursing homes). The new definitions will be clearly tied to state licensing definitions and requirements, the uses will require mostly special permits, the parking will follow planning and design standards, and the special regulations will minimize the impact of more intensive uses on the town and residential neighbors.

Proposed parking regulation changes include:

- Adding parking regulations for assisted living facilities
- Separating nursing and convalescent homes from Boarding and lodging houses, tourist homes, hotels, and motels - rather, those uses will be included in-patient facilities
- Adding in-patient and outpatient medical facility parking requirements

PLANNING BOARD MOTION

MOVED: That Zoning By-law Section 6.1.1. for Parking Requirements in All Districts be amended by adding new, separate off-street parking principal uses and requirements for "Assisted Living facilities;" "In-patient medical facilities: long-term care facilities, hospitals, or in-patient substance abuse detoxification or treatment centers;" and "Out-patient facilities: clinics, medical offices, and out-patient substance abuse detoxification or treatment centers," and to revise "Boarding and lodging houses, tourist homes, hotels, motels" as follows:

PRINCIPAL USE	REQUIRED PARKING
Assisted Living Facilities	0.5 spaces/ 1,000 building gross square footage plus employee parking as deemed adequate by the Board of Appeals
Boarding and lodging houses, hotels, motels	One parking space for each sleeping room for single or double occupancy, or, where not divided into such rooms (as in a dormitory), one space for each two (2) beds
In-patient medical facilities: long-term care facilities, hospitals, rehabilitation hospitals, or in-patient substance abuse detoxification or treatment centers	2.5 spaces/ 1,000 building gross square footage
Out-patient medical facilities: clinics, medical offices, or out-patient substance abuse detoxification or treatment centers	4.0 spaces/ 1,000 building gross square footage

PLANNING BOARD VOTE: 5-0

FINANCE COMMITTEE RECOMMENDATION:

MOVED: The Finance Committee recommends that the motion presented by the Planning Board to Town Meeting for Article 37 as written in the warrant be adopted.

FINANCE COMMITTEE VOTE: 7-0

Thomas Scully, Chairperson of the Planning Board, stated that the Planning Board convened on February 6th and again on March 6th, 2019 to discuss the proposed article and provided an oral report on Article 37. Mr. Scully then moved that Article 37 be adopted as printed in the warrant.

ADOPTED UNANIMOUS VOICE VOTE

Attest:


Tracy K. Kenney, Canton Town Clerk

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 13, 2019

FIRST SESSION

ARTICLE 38

AMEND ZONING BY-LAWS – DELETE SENIOR HOUSING OVERLAY DISTRICT

Article 38 To see if the Town will vote to amend the Zoning By-laws:

1. By deleting Section 9.9 Canton Senior Housing Overlay District (SHOD) the text of which is being deleted appears below indicated by strike out.

~~9.9 CANTON SENIOR HOUSING OVERLAY DISTRICT~~

~~9.9.1 Purpose. The purpose of the Senior Housing Overlay District (SHOD) is to:~~

- ~~1. Provide for the establishment of a specialized Senior Housing Community that will furnish mixed and diverse varieties of enriched service, supportive and secure housing for individuals sixty-two (62) years of age or older who do not want or need placement in a hospital or nursing home.~~
- ~~2. Create regulatory procedures to promote flexibility in land use planning in appropriate locations for the uses defined herein~~
- ~~3. Provide for residential development in a manner that conserves environmental features, woodlands, wet areas, open space, areas of scenic beauty, views and vistas. Such communities shall be designed to achieve compatibility with their surroundings and to encourage orderly and well-planned development.~~

~~9.9.2 Overlay District, Applicability. The SHOD shall be construed as an overlay district. This district may be applied as an overlay to any parcel of land which has been designated by a town meeting vote. All requirements of the underlying zoning district(s) shall remain in full force and effect, except where the requirements of the SHOD are less restrictive or provide for uses or structures not otherwise available in the underlying district(s). In such cases the requirements of the SHOD may supersede the underlying zoning regulations upon the issuance of a special permit from the Zoning Board of Appeals.~~

~~9.9.3 Locations and Eligibility. No parcel shall be placed in the SHOD unless it contains ten (10) contiguous upland acres of land. The location of a SHOD shall include all land designated by Town Meeting as being within the SHOD, pursuant to G.L. c. 40A, s. 5.~~

~~9.9.4 Definitions. See Section 11, "Senior Housing Overlay District."~~

~~9.9.5 Use Restrictions and Requirements. A Senior Housing Community may be authorized by a special permit issued by the Zoning Board of Appeals pursuant to this Section and in compliance with the standards set forth herein:~~

- ~~1. Multifamily residential structures consisting of dwelling units occupied by persons 62 years of age or older and which are designed as townhouse style structures to have dwelling units side-by-side or as apartment style structures to have dwelling units placed one above another. There may be more than one building on a single lot in a Senior Housing Community with a minimum of thirty feet for internal lot line setbacks within the Senior Housing Community.~~
- ~~2. Structures and uses accessory to the Senior Housing Community including but not limited to: meals and communal dining, transportation, laundry, recreation, entertainment, exercise, healthcare, therapy, beautification, automated teller machines and limited banking, and community activities.~~
- ~~3. All Senior Housing Community dwellings shall be connected to the public sewer or shall comply with the provisions of the State Sanitary Code, 310-CMR-15.00, any other applicable State regulations, and with the rules of the Town of Canton Board of Health.~~

~~9.9.6 Density. No building or structure shall be designed, arranged or constructed and no building, structure or land shall be used, in whole or in part, which exceeds one dwelling unit per three thousand seven hundred and fifty (3,750) square feet of "buildable lot area". Upon placement of an eligible subject property in this SHOD by vote of Town Meeting, and if the applicant for a special permit pursuant to this Section 9.9 desires to subdivide the subject property for the sole purpose of donating a portion of the subject property's total acreage to the Town of Canton, and where the subject property shall thereafter fully maintain compliance with all other requirements of the herein overlay district, the Special Permit Granting Authority may adjust the density factor to allow the subject property to maintain the right to total unit count available prior to any such subdivision and subsequent donation. Said donation shall be received by the Town of Canton via its Board of Selectmen subject to MGL Ch. 44 s 53A. Under no circumstances shall such a subdivision cause the subject property to be out of conformity with any other requirement of the herein overlay district.~~

9.9.7 Application. An application for a special permit for construction within a SHOD shall be submitted to the Zoning Board of Appeals on forms furnished by the Zoning Board of Appeals, accompanied by the fees set forth below, the following information and data, and a development plan as described below:

1. All of the information required for site plan approval pursuant to Zoning Bylaws Section 10.5;
2. The name(s) and address(es) of the Applicant and all legal and beneficial owners of the site and an instrument executed by all persons owning property constituting the site consenting to the development of the subject property, as applied for;
3. A proposed development schedule showing the expected start of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion;
4. A narrative report prepared by the Applicant's qualified professionals detailing the impact of the development on the Town's capacity to furnish services, including, but not limited to, roads, water and sanitation;
5. Information regarding the number and kind of units and other structures (including signs) proposed, their location, the number of units planned for each use (i.e. independent living, assisted living, and memory care), the type of materials to be used in construction. The architecture of the structures shall be sensitive to the abutting structures and residences;
6. Areas to be set aside for building structures, parking areas, and any easements;
7. A Traffic Study prepared by the Applicant's qualified professional and any other information that the Zoning Board of Appeals may reasonably require in a form acceptable to said Board to assist in determining whether the Applicant's proposed development plan meets the objectives of this Section;

9.9.8 Lot Coverage Requirement. At least thirty percent (30%) of the Senior Housing Community shall be open space. The open space shall have a shape suitable to assure its use for landscaping and/or open space purposes. In all districts, the Zoning Board of Appeals may approve a Senior Housing Community with no more than 30% lot coverage.

9.9.9 Dimensional Regulations. All dimensions shall comply with the lot dimensional regulations of this subsection. In addition, the applicant shall prepare a "Development and Use" plan in accordance with design standards submitted and approved by the Zoning Board of Appeals.

Requirement	Residential District	Business, Industrial, Limited Industrial
Minimum lot area	10 acres	10 acres
Minimum Frontage	150 feet	150 feet
Minimum Lot width	200 feet	175 feet
Minimum Front yard	60 feet	60 feet
Minimum Side yard	40 feet	35 feet
Minimum Rear yard	50 feet	40 feet

9.9.10 Minimum Lot Frontages. SHOD sites shall have a minimum frontage of one hundred and fifty (150) feet and at least one means of ingress/egress provided by a primary public roadway.

9.9.11 Landscaping. A minimum buffer area of ten (10) feet shall be provided at the perimeter of the SHOD site. Additional screening shall be designed and installed within setback areas adjoining or facing residential properties, to the extent deemed appropriate by the Zoning Board of Appeals as a part of the site plan approval process. Vegetation in this buffer area shall not be destroyed or removed, except for normal maintenance. Buffer areas shall be included in calculating the Open Space requirement of this by-law. Applicant shall file a landscape plan, prepared by a landscape architect that demonstrates sufficient plantings to provide adequate screening. The landscaping plan shall strive to be consistent with the requirements of Section 10.5 in terms of the percent of the total interior landscaped area. The Zoning Board of Appeals may reduce the width of the required buffer and modify other landscaping requirements where the applicant demonstrates that suitable screening will be provided by other means.

9.9.12 Parking and Loading. There shall be a minimum of (a) 0.75 parking spaces per independent living dwelling unit and (b) 0.5 parking spaces per assisted living dwelling unit and these calculations include necessary staff and visitor parking. The Applicant shall provide information detailing the method of computation of parking spaces. All parking shall be confined to the site except as allowed under Section 4.05. Parking for residents of the SHOD must be reserved exclusively for their use. The Applicant shall demonstrate sufficient off street loading space to insure that all loading operations take place off the public way.

9.9.13 Stormwater Management. The stormwater management system shall be designed in accordance with the Subdivision Regulations and the MassDEP's Stormwater Management Guidelines and Regulations, as amended.

9.9.14 Utilities. All electric, gas, telephone, water distribution lines, and other utilities shall be placed underground.

9.9.15 Building Height. No building or structure shall be constructed to exceed thirty six (36') feet. Maximum building height shall be measured as set forth in the State Building Code 780-CMR. Structures erected on a building and not used for human occupancy, such as chimneys, heating, ventilating or air conditioning equipment, solar or photovoltaic panels, elevator housings, antennas, skylights, cupolas, spires, or other such roof structures and the like may exceed the maximum height of building provided that no part of the structures is more than fifteen (15) higher than the upper elevation of the building and the total horizontal coverage of such structures on the building does not exceed twenty five (25) percent. An additional one foot in height may be obtained by special permit granted by the Zoning Board of Appeals by which

applicant demonstrates an additional foot in excess of the required setback distance, narrower side yard, or rear yard depth whichever of the three is the smallest; provided however, the height in any case shall not exceed forty-two (42) feet;

9.9.16 Lighting. All lights and other sources of illumination (whether interior or exterior) and all intense light emanating from operations or equipment shall be shielded from direct view at normal eye level from streets and residential districts;

9.9.17 Signage. All signs and awnings shall conform to the maximum area, height, number, setback and illumination requirements set forth in Section 6.3.

9.9.18 Noise Regulation. From the date the Senior Housing Community receives its final Certificate of Occupancy, no activity or use shall be allowed which causes exterior noise levels to exceed a day-night average sound level of 65 decibels at the lot line; no dwelling unit shall be located where exterior noise levels exceed a day-night average sound level of 65 decibels; and no dwelling unit shall be constructed which allows interior noise levels to exceed a day-night average sound level of 45 decibels. The day/night average sound level (L_{dn}) is the 24-hour average sound level, in decibels, resulting from the accumulation of noise from all sources contributing to the external noise environment of the site (with 10 decibels added to sound levels occurring from 10:00 AM to 7:00 PM. The day-night average sound level shall be determined in accordance with The Code of Federal Regulations, Title 24 Housing and Urban Development, Part 51 Environmental Criteria and Standards (24 CFR 51).

9.9.19 Affordable Units. In accordance with the provisions set forth in this Section 9.9.19 below, at the request of the applicant the Zoning Board of Appeals as Special Permit Granting Authority in acting upon the application for a special permit for the SHOD development shall make specific findings as to whether there will be a benefit to the Town as a result of allowing the applicant to make a grant of funds to the Town in lieu of inclusionary affordable units in the SHOD development. The Zoning Board of Appeals shall consider, as the most significant factor in making this finding, whether the applicant and the Town acting through the Board of Selectmen have executed a Development Agreement that includes without limitation the applicant's agreement to make a grant of funds to the Town for use in developing or fostering the development of affordable housing in the Town or for use by the Town for any other municipal purposes. The execution of such a Development Agreement shall strongly indicate that the Zoning Board of Appeals should find that there will be a benefit to the Town as a result of allowing the applicant to make a grant of funds to the Town in lieu of inclusionary affordable units in the SHOD development. The findings shall also include consideration of appropriateness of the development site location for income-eligible households, including proximity to and quality of public transportation, schools and other services, as well as input from the Planning Board and the Board of Selectmen. In exercising its discretion to decide whether a benefit would result to the Town in allowing a grant of funds in lieu of inclusionary units, the Zoning Board of Appeals shall be subject to the following:

- A. At least twelve percent (12%) of the number of independent living units in the SHOD shall be restricted for rental by persons earning not more than eighty percent of the area median family income as defined by the DHCD. Such affordable units shall be integrated into the overall development so as to prevent the physical segregation of such units and otherwise shall be indistinguishable from market rate units and their associated services except in size and interior finishing and appliances.
- B. Grant of Funds—Subject to the Zoning Board of Appeals or Board of Selectmen's respective determinations in Section 9.9.19 A, in lieu of providing affordable units within a development as described in Section 9.9.19 A, the applicant may choose to make a cash contribution to the Town of Canton via the Board of Selectmen pursuant to MGL Ch. 44A, § 53A, which payment shall be made upon the issuance of the first building permit associated with the applicant's project. In doing so, the applicant shall comply with the following procedure:
1. Pre-Application Meeting—The applicant shall convene a pre-application meeting with the Planning Board and the Board of Selectmen to discuss the project proposal and affordable housing requirements.
 2. Submittal of Affordable Housing Plan—The applicant shall fill out and submit a Cash Contribution Form as part of the pre-application meeting for site plan approval to the planning board. This form requires the following information:
 - a. Name, location and statement of the total project units and the type of units;
 - b. Verification from the DHCD that the town is in compliance with the 10% requirements of affordable housing standards for the community;
 - c. The following formula shall be applied as the basis for the cash contribution: Total number of independent living units in the SHOD X = \$7,501 = Total Donation;
 - d. The total amount of the cash contribution to be made by the applicant;
 - e. If the development shall occur in more than one phase, each phase shall expressly be subject to the donation formula herein.

C. The Zoning Board of Appeals in issuing the Special Permit will rely upon input from the Planning Board and the Board of Selectmen to ensure compliance with the provisions of this section. In addition, the Zoning Board of Appeals may impose conditions in which the building commissioner may limit, restrict, or withhold the issuance of a certificate of occupancy for any market rate unit(s) in a development until, to the extent applicable:

1. all of the affordable units have obtained a certificate of occupancy; or
2. any land, buildings, off-site units and/or cash contribution agreed upon to be donated to the Town or its designee have been conveyed.

9.9.20 Fees. The filing fee for a Special Permit pursuant to this section shall be

~~§1000.00. The Planning Board may charge the applicant a filing fee for site plan approval in addition to a technical review fee pursuant to MGL, c. 44 s. 53G to engage professional services to review an application for a special permit within the SHOD.~~

~~9.9.21 Accessibility. The facility and parking shall comply with all state and federal requirements for handicapped access.~~

~~9.9.22 Public Transportation. Applicant shall provide shuttle service for residents to nearby public transportation facilities and other community resources.~~

~~9.9.23 Decision. A site plan pursuant to the provisions of Section 10.5 shall be required.~~

~~The Zoning Board of Appeals may issue a special permit for a development in the SHOD when it finds that the proposed use is in harmony with the purpose and intent of the bylaw and the proposal shall be subject to general or specific provisions set forth herein.~~

~~The Zoning Board of Appeals may waive any or all of the dimensional requirements, when, in the judgment of the Zoning Board of Appeals, such action is in the public interest and not inconsistent with the provisions of this Section 9.9. Any such permit issued may also impose reasonable conditions, safeguards and limitations of time and use. The Zoning Board of Appeals as Special Permit Granting Authority reserves the right to amend, modify or revoke any permit granted for noncompliance of aforesaid conditions.~~

And

2. By relabeling section 9.9 as not used

Or to take any other action related thereto.

Board of Selectmen for Planning Board

Commentary: The purpose of this warrant article is to delete the Senior Housing Overlay District zoning bylaw. The current Senior Housing Overlay District has been developed and will become a pre-existing non-conforming use. The Planning Board would prefer to allow for Assisted Living Facilities and Senior Independent Living apartments in the underlying zoning rather than a special district.

PLANNING BOARD MOTION

MOVED: That Zoning By-laws of the Town be amended as follows:

1. By deleting Section 9.9 Canton Senior Housing Overlay District (SHOD) and
2. By relabeling section 9.9 as not used.

PLANNING BOARD VOTE: 5-0

FINANCE COMMITTEE RECOMMENDATION:

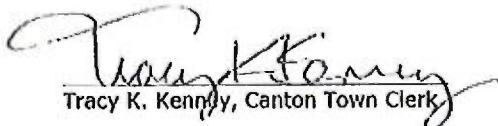
MOVED: The Finance Committee recommends that the motion presented by the Planning Board to Town Meeting for Article 38 as written in the warrant be adopted.

FINANCE COMMITTEE VOTE: 7-0

Thomas Scully, Chairperson of the Planning Board, stated that the Planning Board convened on February 6th and again on March 6th, 2019 to discuss the proposed article to delete the Senior Housing Overlay District and provided an oral report on Article 38. Mr. Scully then moved that Article 38 be adopted as printed in the warrant.

ADOPTED UNANIMOUS VOICE VOTE

Attest:


Tracy K. Kennedy, Canton Town Clerk

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 13, 2019

FIRST SESSION

ARTICLE 39

AMEND ZONING BY-LAWS -- DELETE VILLAGE HOUSING OVERLAY DISTRICT

Article 39 To see if the Town will vote to amend the Zoning By-laws:

1. By deleting Section 9.6 Village Housing Overlay District (VHOD) the text of which is being deleted appears below indicated by strike out.

~~9.6 VILLAGE HOUSING OVERLAY DISTRICT (VHOD)~~

~~9.6.1 Purpose.~~ The purpose of the Village Housing Overlay District (VHOD) is to:

- ~~1. Provide dwellings for occupancy by individuals fifty-five (55) years of age or older;~~
- ~~2. Provide for mixed and diverse varieties of housing, including affordable housing; and~~
- ~~3. Provide for residential development in a manner that conserves environmental features, woodlands, wet areas, open space, areas of scenic beauty, views and vistas.~~

~~9.6.2 Overlay District, Applicability.~~ The VHOD is an overlay zoning district. The benefits of the Village Housing Overlay District Development (VHODD) shall accrue only to those parcels located entirely within the boundaries of the VHOD. If the landowner selects to file a development plan in conformance with the requirements of the VHOD, the development shall conform to the objectives, standards and criteria specified by the VHOD. If the landowner selects to file a development plan in conformance with the requirements of the underlying zoning district, the development shall conform to the objectives, standards and criteria specified by the underlying zoning by-law.

~~9.6.3 Location.~~ The location of a VHOD shall include all land designated by Town Meeting as being within the VHOD, pursuant to G.L. c. 40A, s. 5.

~~9.6.4 Occupancy.~~ The occupancy of a VHODD shall be by residents fifty-five (55) years of age or older, pursuant to G.L. c. 151B.

~~9.6.5 Definitions.~~ See Section 11, "Village Housing Overlay District."

~~9.6.6 Use Restrictions or Requirements.~~ A VHODD, consisting of the multi-family uses set forth below, individually or in combination, may be authorized by a special permit issued by the Planning Board pursuant to this Section and in compliance with the standards set forth herein:

- ~~1. Townhouse Style Structures consisting of dwelling units occupied by persons fifty-five (55) years of age or older and which are designed to have each dwelling unit placed side-by-side. Townhouse Style Structure shall contain no less than two (2) units;~~
- ~~2. Apartment Style Structures which contain dwelling units occupied by persons fifty-five (55) years of age or older and which are designed to have dwelling units placed one above another (stacked). Apartment Style Structures shall contain no more than eight (8) dwelling units; and;~~
- ~~3. Structures and uses accessory to the multi-family use set forth above including: Community building serving the residents of the VHODD; underground utilities located on a lot not serving the dwelling; recreational facilities; and roadways;~~

~~9.6.7 Application.~~ An application for a special permit for construction of a VHODD shall be submitted to the Planning Board on forms furnished by the Planning Board, accompanied by the filing fee, the following information and data, and a development plan as described below:

- ~~1. All of the information required for site plan approval, if applicable;~~
- ~~2. The name and address of the Applicant(s) and all legal and beneficial owners of the site. Copies of all instruments, options, contracts or encumbrances affecting ownership of the development site. An instrument executed by all persons owning property within the site consenting to the development of the subject property, as applied for;~~
- ~~3. A proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion;~~

4. ~~A narrative Design Review report prepared by qualified professionals, detailing the impact of the development on the Town's capacity to furnish services including, but not limited to, roads, water and sanitation;~~
5. ~~Information regarding the number and kind of dwelling units and other structures (including signs) proposed, their location, the number of bedrooms planned, the sale prices anticipated and population projections pertaining thereto;~~
6. ~~Areas to be set aside for building structures, parking areas and conservation and recreation easements;~~
7. ~~Information pertaining to any condominium organization (if any);~~
8. ~~Copies of all proposed deed restrictions to ensure occupancy by persons fifty-five (55) years of age or older, the resale of the dwelling units at affordable prices and the right of first refusal in favor of the Town for dwelling units to be sold at affordable prices, if applicable;~~
9. ~~Any and all other information that the Planning Board may reasonably require in a form acceptable to it to assist in determining whether the Applicant's proposed development plan meets the objectives of this Section.~~

~~9.6.8 Qualifying Land Area: Qualifying Land Areas shall be in one ownership with definitive boundaries, shall be located entirely within a VHOD and shall contain at least ten (10) contiguous acres of land. No more than fifteen (15) percent of a Qualifying Land Area shall be Wetlands.~~

~~9.6.9 Density: Not more than one (1) dwelling unit shall be constructed for each five thousand (5,000) square feet of Qualifying Land Area or portion thereof in a VHODD.~~

~~9.6.10 Open Space Requirement: At least thirty (30%) percent of the VHODD site shall be open space. The open space shall have a shape suitable to assure its use for landscaping and/or open space purposes.~~

~~9.6.11 Buffer Area: The Planning Board may require Buffer Areas at specific locations along the perimeter of the VHODD. Vegetation in this buffer area shall be enhanced as necessary to provide a visual barrier. Buffer areas shall be included in calculating the Open Space requirement of this by-law.~~

~~9.6.12 Minimum Lot Frontages: VHODD sites shall have a minimum frontage of one hundred and twenty (120) feet and at least one (1) means of ingress/egress provided by a primary public roadway.~~

~~9.6.13 Ingress and Egress: Each means of ingress/egress shall have a continuous frontage of sixty (60) feet on a primary roadway. The Planning Board has the discretion to require more than one (1) means of ingress/egress to the extent that the proposed primary public road exceeds one thousand (1000) feet in length, in accordance with the Canton Subdivision Rules and Regulations. The primary public roadway(s) serving the site shall be subject to the Rules and Regulations of the Canton Planning Board governing the Subdivision of Land, the Canton Department of Public Works regulations regarding water, sewer and storm drainage systems, and any other applicable regulation and/or standards of the Town.~~

1. ~~The secondary private roadway(s) serving the site shall be sized to adequately serve the intended vehicular and pedestrian traffic. The secondary private roadway(s) shall strive to conform to the Rules and Regulations of the Canton Planning Board governing the Subdivision of Land, the Canton Department of Public Works regulations regarding water, sewer and storm drainage systems, and any other applicable regulation and/or standards of the Town.~~
2. ~~The secondary private roadways shall be maintained by an association of unit owners or by the applicant. Paths for the use of residents shall be attractively designed with proper regard for convenience, separation of vehicular, bicycle and pedestrian traffic, and access to the amenities and facilities on the site and to paths on adjacent sites.~~

~~9.6.14 Parking: There shall be a minimum of two (2) parking spaces per dwelling unit. At least fifty (50%) percent of all Townhouse residential parking spaces required shall not be surface parking. At least fifty (50%) percent of all Apartment residential parking spaces required shall not be surface parking. All non-surface parking shall be designed to be an integral part of the residential structure it serves.~~

1. ~~All required parking shall be exclusively reserved for motor vehicles of residents or employees of the development.~~

~~9.6.15 Stormwater Management: The stormwater management system shall be designed in accordance with the Subdivision Regulations and the DEP's Stormwater Management Guidelines and Regulations, as amended.~~

~~9.6.16 Utilities: All electric, gas, telephone, water distribution lines, and other utilities shall be placed underground.~~

~~9.6.17 Dwellings: The development of one (1) or more townhouse style and/or multifamily style structure on a lot or lots shall be permitted in an application to construct a VHODD. Such dwellings may be situated on any common or individual lot consistent with the overall design objectives of the VHOD, provided however, that such dwellings shall be connected to the public sewer or shall comply with the provisions of the State Sanitary Code, 310 CMR 15.00, any other applicable State regulations, and with the rules of the Board of Health.~~

~~9.6.18 Affordable Units: At least fifteen percent (15%) of the dwelling units shall be deed restricted for purchase by persons earning not more than eighty (80%) percent of the area median family income as defined by the Commonwealth's Department of Housing and Community Development. Such affordable dwelling units shall be integrated into the overall development so as to prevent the physical segregation of such units and otherwise shall be indistinguishable from market rate units except in size and interior finishing and appliances. Preference. As a condition of~~

~~approval, the Planning Board shall require that Canton residents be given first preference in the purchase of dwelling units within the VHODD. Such preference shall be for thirty (30%) percent of the dwelling units in the VHODD and shall be for at least one (1) year from the issuance of the first certificate of occupancy for any residential building within the VHODD.~~

~~9.6.19 Building Height. No building or structure shall be constructed to exceed thirty five (35) feet or three (3) stories, whichever is lower.~~

~~9.6.20 Setbacks. No building shall be constructed so as to be nearer to the line of any street than the "required setback distance" or nearer to the side line of its lot than the "required side yard width" or nearer to the rear line of its lot than the "required rear yard depth" specified below:~~

- ~~Required setback distance 30'~~
- ~~Required side yard width 30'~~
- ~~Required rear yard depth 30'~~

~~9.6.21 Fees. The filing fee for a special permit pursuant to this Section shall be one thousand dollars (\$1,000). The Planning Board shall also charge the applicant a technical review fee, pursuant to G. L. c. 44, s. 53G. Such technical review fee shall be used to engage professional, technical and/or legal consultants to review an application for a special permit within the VHOD. The initial deposit of such fee shall be ten thousand dollars (\$10,000.00)~~

~~9.6.22 Decision. The Planning Board may grant a special permit for a VHODD where it makes the following findings:~~

- ~~1. The proposed development complies with the requirements of this section;~~
- ~~2. The proposed development does not cause substantial detriment to the neighborhood after considering the following potential consequences:~~
 - ~~a. noise, during the construction and operational phases;~~
 - ~~b. pedestrian and vehicular traffic;~~
 - ~~c. environmental harm;~~
 - ~~d. visual impact caused by the character and scale of the proposed structure(s).~~

And

- 2. By relabeling section 9.6 as not used

Or to take any other action related thereto.

Board of Selectmen for Planning Board

Commentary: The purpose of this warrant article is to delete the Village Housing Overlay District zoning bylaw. The current Village Housing Overlay District has been developed and will become a pre-existing non-conforming use. The Planning Board would prefer to allow for Senior Independent Living apartments in the underlying zoning rather than a special district, treating them as any other multifamily style development.

PLANNING BOARD MOTION

MOVED: That Zoning By-laws be amended as follows:

- 1. By deleting Section 9.6 Village Housing Overlay District (VHOD) and
- 2. By relabeling section 9.6 as not used.

PLANNING BOARD VOTE: 5-0

FINANCE COMMITTEE RECOMMENDATION:

MOVED: The Finance Committee recommends that the motion presented by the Planning Board to Town Meeting for Article 39 as written in the warrant be adopted.

FINANCE COMMITTEE VOTE: 7-0

Thomas Scully, Chairperson of the Planning Board, stated that the Planning Board convened on February 6th and again on March 6th, 2019 to discuss the proposed article to delete the Village Housing Overlay District and provided an oral report on Article 39. Mr. Scully then moved that Article 39 be adopted as printed in the warrant.

ADOPTED UNANIMOUS VOICE VOTE

Attest:


Tracy K. Kennedy, Canton Town Clerk

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 15, 2019

SECOND SESSION

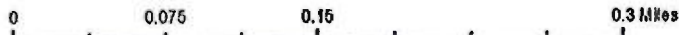
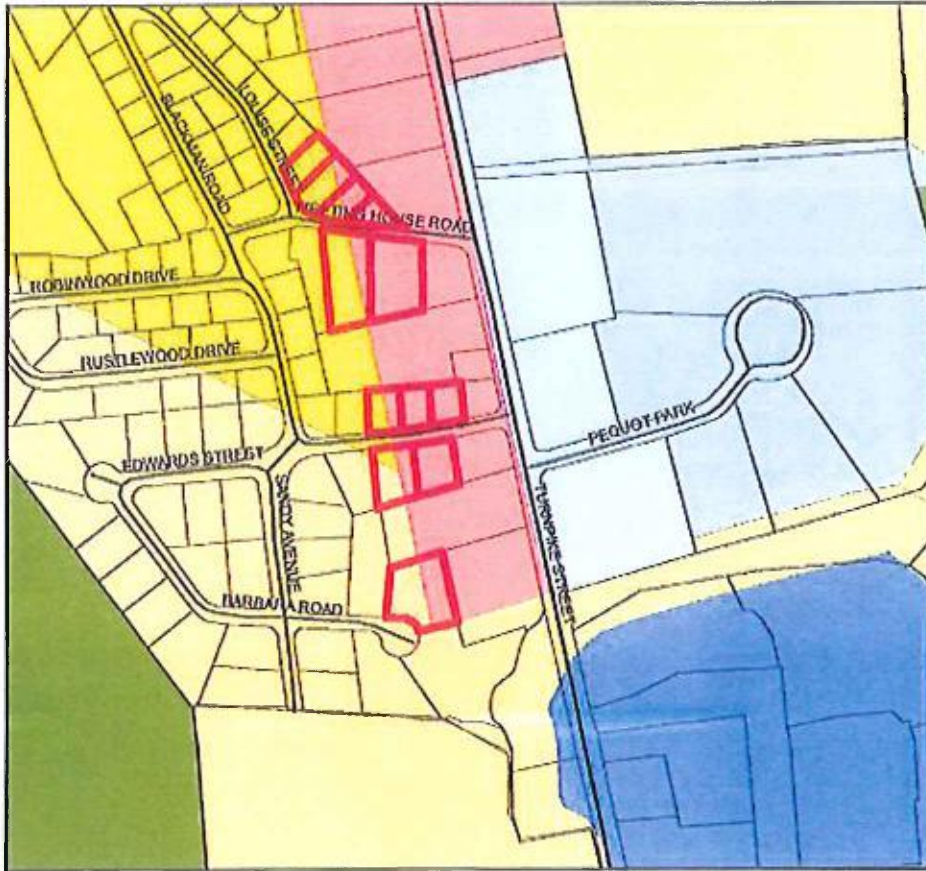
ARTICLE 40

AMEND THE ZONING MAP BY REZONING CERTAIN BUSINESS PARCELS TO SINGLE RESIDENCE ZONES
Article 40 To see if the Town will vote to amend the Zoning Map to rezone the following parcels from Business (B) Zone to the respective adjacent Single Family Zone: Single Residence AA (SR-AA), Single Residence B (SR-B), or Single Residence C (SR-C) as follows:

Address	Parcel Number	Current Zone	Proposed Zone
2 Tracywood Road	088_021_000	B	SR-AA
4 Tracywood Road	088_019_000	Partially B, partially SR-AA	SR-AA
3 Tracywood Road	088_020_000	B	SR-AA
5 Tracywood Road	088_018_000	Partially B, partially SR-AA	SR-AA
1 Meetinghouse Road	079_103_000	B	SR-C
2 Meetinghouse Road	079_100_000	B	SR-C
5 Meetinghouse Road	079_104_000	Partially B, Partially SR-C	SR-C
6 Meetinghouse Road	079_099_000	Partially B, Partially SR-C	SR-C
20 Louise Street	079_106_000	Partially B, partially SR-C	SR-C
22 Louise Street	079_105_000	Partially B, partially SR-C	SR-C
1 Edward Street	079_090_000	Business	SR-C
5 Edward Street	079_089_000	B	SR-C
6 Edward Street	079_083_000	B	SR-C
7 Edward Street	079_088_000	Partially B, Partially SR-C	SR-C
8 Edward Street	079_084_000	Partially B, Partially SR-B, Partially SR-C	SR-B
16 Barbara Road	079_079_000	Partially B, Partially SR-B	SR-B

or to take any other action related thereto.
Board of Selectmen for Planning Board






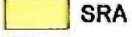

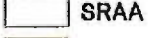




Single Residences in Business Zones - Area 1



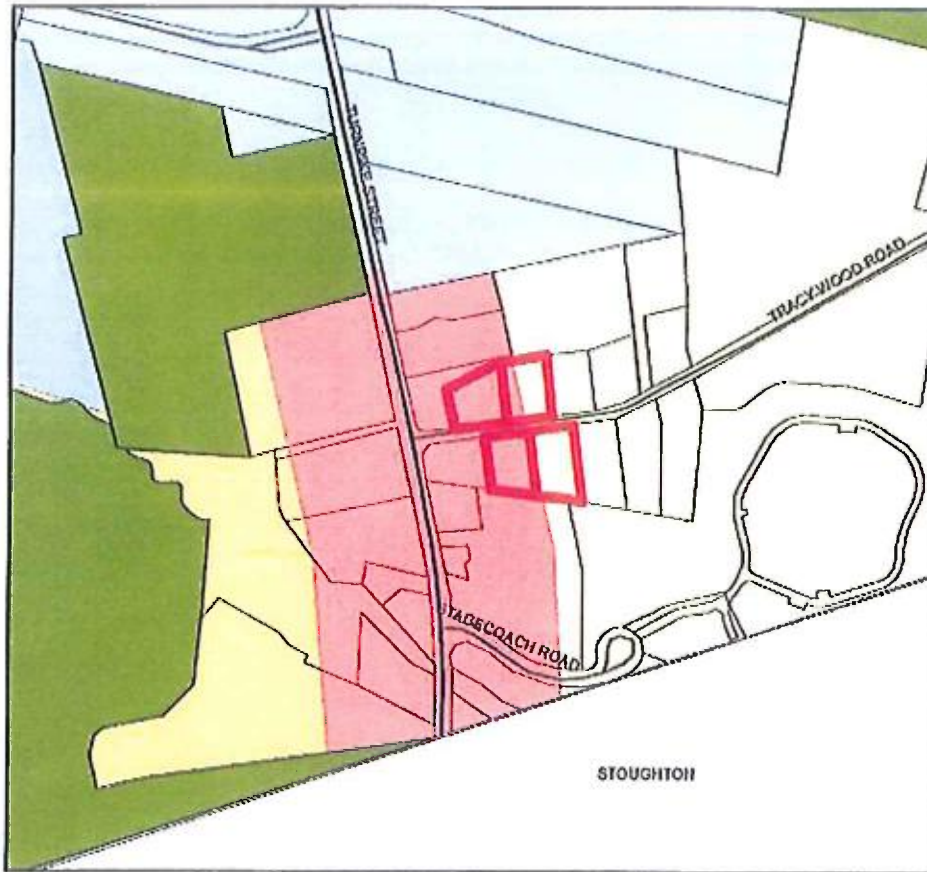
Cartographer: Laura Smead
 December 3, 2018
 Data: Town of Canton GIS Data



Legend

 Potential rezoning parcels	 LIB
Zoning	 LIC
ZONE	 PROSD
 B	 SRA
 GR	 SRAA
 I	 SRB
 LI	 SRC

Single Residences in Business Zones - Area 2



Cartographer: Laura Smead
 October 10, 2018
 Data: Town of Canton GIS Data

Legend

- Residential parcels proposed to rezone
- <all other values>
- B
- GR
- I
- U
- LIB
- LIC
- PROSD
- SRA
- SRAA
- SRB
- SRC

PLANNING BOARD MOTION

MOVED: That the Zoning Map be amended to rezone parcels identified in the warrant from Business (B) Zone to the respective adjacent Single Family Zone: Single Residence AA (SR-AA), Single Residence B (SR-B), or Single Residence C (SR-C) as presented in the warrant.

PLANNING BOARD VOTE: 5-0

FINANCE COMMITTEE RECOMMENDATION:

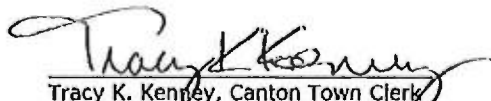
MOVED: The Finance Committee recommends that the motion presented by the Planning Board to Town Meeting for Article 40 as written in the warrant be adopted.

FINANCE COMMITTEE VOTE: 7-0

Thomas Scully, Chairperson of the Planning Board, stated that the Planning Board convened on February 6th and again on March 6th, 2019 to discuss the proposed rezoning of certain Business Zone parcels to Single Family Residence Zones as described in Article 40 and provided an oral report on the article. Mr. Scully then moved that Article 40 be adopted as printed in the warrant.

ADOPTED UNANIMOUS VOICE VOTE

Attest:


Tracy K. Kenney, Canton Town Clerk

Town of Canton
Massachusetts
Map 79

- Parcel
- Easement
- Combined ownership
- Building - demo or ruin
- Building: Tank
- Trees, Vegetation

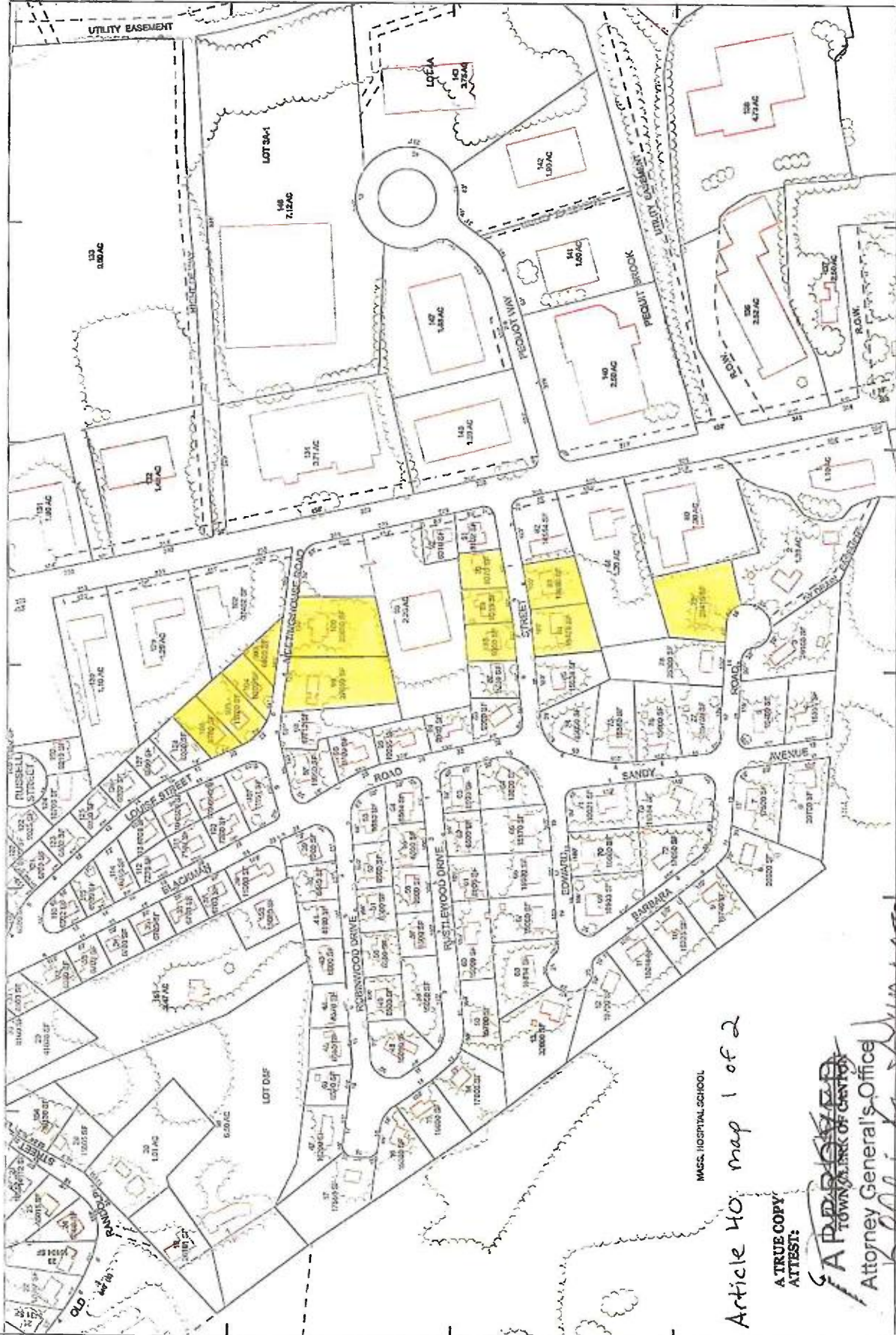
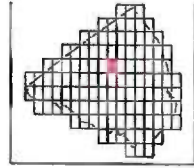
200 FT GRID BASED ON MASSACHUSETTS STATE PLANE COORDINATE SYSTEM, NAD 83

Last revised: April 2018

250 Feet



64	80	94
63	79	93
62	78	92



Article 40 map 1 of 2

A TRUE COPY ATTEST:

A. P. BARKER
TOWN CLERK OF CANTON

Attorney General's Office

By: *[Signature]*

Date: 09/11/19

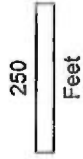
Art. 40 Town Meeting Date 05/13/19

Town of Canton
Massachusetts
Map 88

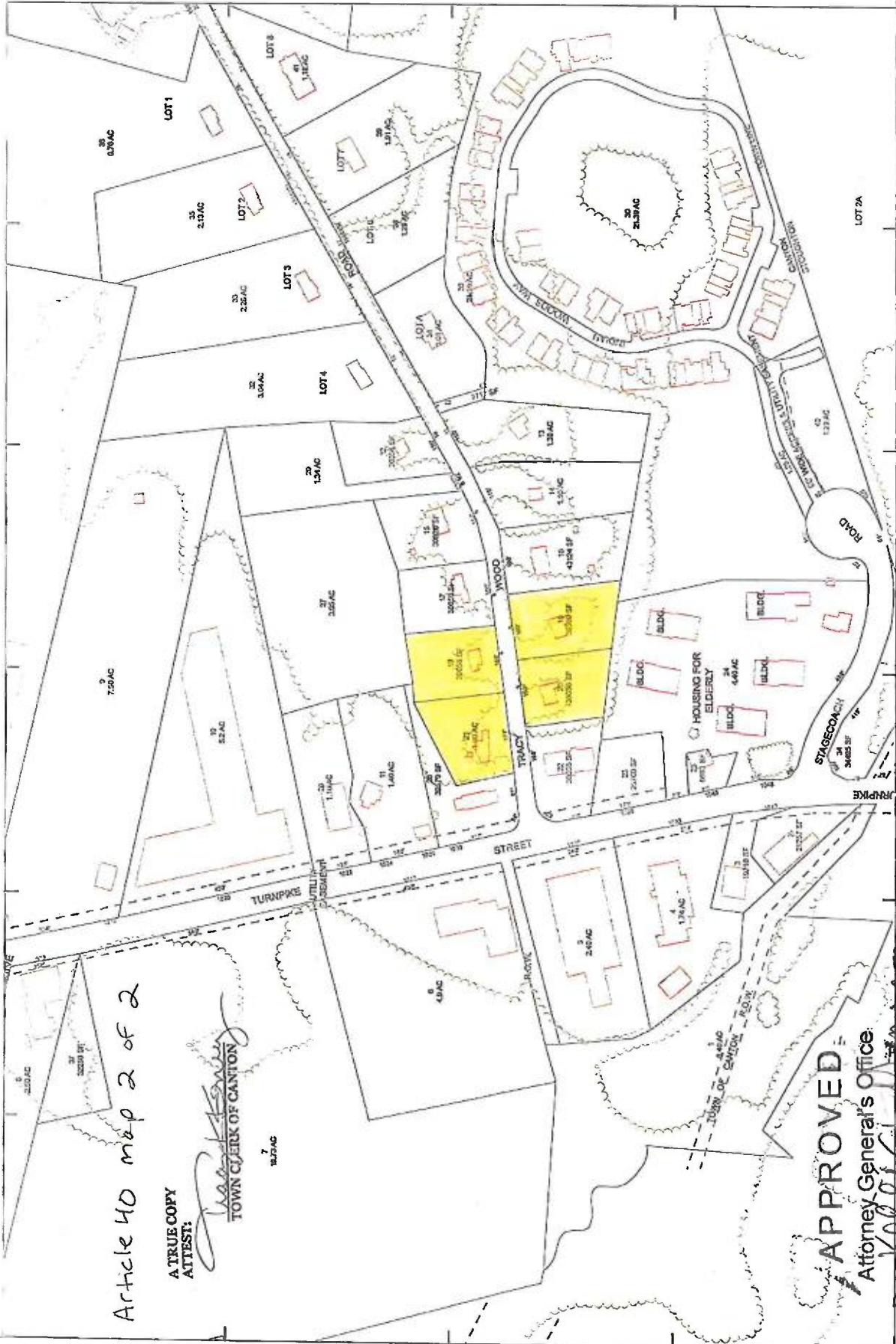
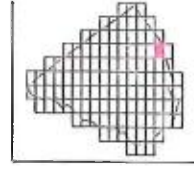
- Parcels
- Parcels on Adjacent Lots
- Easement
- Combined ownership
- Building - demo or ruin
- Building Tank
- Trees, Vegetation

500 FT GRID BASED ON MASSACHUSETTS STATE PLANE COORDINATE SYSTEM, NAD 83

Last revised: April 2018



75	89	100
74	88	99
73	87	



Article 40 map 2 of 2

A TRUE COPY ATTEST:

[Signature]
TOWN CLERK OF CANTON

APPROVED:
Attorney General's Office

By: *[Signature]*

Date: 09/11/19

Art. 40 Town Meeting Date 05/13/19

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 15, 2019

SECOND SESSION

ARTICLE 41

AMEND ZONING BY-LAW 4.1.6 NOTES TO TABLES OF DIMENSIONAL REQUIREMENTS

Article 41 To see if the Town will vote to amend Zoning By-law 4.1.6 Notes to Tables of Dimensional Requirements by adding a new subsection 3 as follows; or take any other action related thereto.

3. Residential Accessory structures.

- a. Permitted and required accessory uses to residential properties shall be on the same lot of record as the principal use to which they are necessary and shall be such as not to alter the character of the premises on which it is located.
- b. On lots less than three acres, no freestanding residential accessory building shall occupy part of the required Front Yard.
- c. In no case shall an accessory structure be allowed that is larger in size or height than the principal building.
- d. See the Table of Dimensional Requirements – Residence Districts for rear and side yard setbacks (Section 4.1.4)
- e. Residential accessory building size may not exceed the size and number requirements outlined below ^{1,2}:

Lot size	Maximum individual accessory building footprint	Maximum number of accessory structures	Maximum total accessory structure area
Less than ½ acre	No greater than 800 sq. ft.	3	1,000 s.f.
½ an acre to 1 acre	No greater than 1000 sq. ft.	4	1,000 s.f.
1 acre to 3 acres	No greater than 1,500 sq. ft.	5	2,000 s.f.
3 or more acres	Must be smaller than principal building, may be located in any yard (front, side, or rear)	No specific limit, lot coverage applies	No specific limit, lot coverage applies

- 1 Ground mounted solar panels are exempt from footprint size limitations of this Section 4.1.6, but not lot coverage limitations.
- 2 Historic storage or accessory structures on properties identified on the Massachusetts Cultural Resource Information System (MACRIS) or by the local or state Massachusetts Historical Commissions will not count towards maximum allowable square footage for the purposes of adding new accessory structures; however, expanding an existing historic structure will be counted towards the allowable square footage.

Board of Selectmen for Planning Board

Commentary: Regulating accessory building size to be in smaller proportion to the principal building will prevent residential accessory buildings from being disproportionately large and altering the character of the premises on which it is located.

PLANNING BOARD MOTION

MOVED: That Zoning By-law 4.1.6 Notes to Tables of Dimensional Requirements be amended by adding a new subsection 3 as follows:

3. Residential Accessory structures.

- a. Permitted and required accessory structures to residential properties shall be on the same lot of record as the principal structure to which they are accessory and shall be such as not to alter the character of the premises on which it is located.
- b. On lots less than three acres, no freestanding residential accessory building shall occupy part of the required Front Yard.
- c. In no case shall an accessory structure be allowed that is larger in size or height than the principal building.
- d. See the Table of Dimensional Requirements – Residence Districts for rear and side yard setbacks (Section 4.1.4)

- e. Residential accessory building size may not exceed the size and number requirements outlined below ^{1,2};

Lot size	Maximum individual accessory building footprint	Maximum number of accessory structures	Maximum total accessory structure area
Less than 1/2 acre	No greater than 800 sq. ft.	3	1,000 s.f.
1/2 an acre to 1 acre	No greater than 1000 sq. ft.	4	1,000 s.f.
1 acre to 3 acres	No greater than 1,500 sq. ft.	4	2,000 s.f.
3 or more acres	Must be smaller than principal building, may be located in rear, side or front yard (except front yard by special permit from the Board of Appeals only)	No specific limit, lot coverage applies	No specific limit, lot coverage applies

- 1 Ground mounted solar panels are exempt from footprint size limitations of this Section 4.1.6, but not lot coverage limitations.
- 2 Historic storage or accessory structures on properties identified on the Massachusetts Cultural Resource Information System (MACRIS) or by the local or state Massachusetts Historical Commissions will not count towards maximum allowable square footage for the purposes of adding new accessory structures; however, expanding an existing historic structure will be counted towards the allowable square footage.

PLANNING BOARD VOTE: 5-0

FINANCE COMMITTEE RECOMMENDATION:

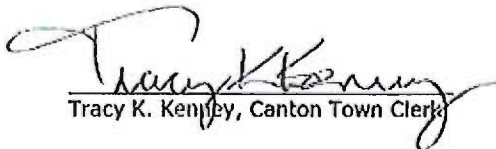
MOVED: The Finance Committee recommends that the motion presented by the Planning Board to Town Meeting for Article 41 as written in the warrant be adopted.

FINANCE COMMITTEE VOTE: 7-0

Thomas Scully, Chairperson of the Planning Board, stated that the Planning Board convened on February 6th and again on March 6th, 2019 to discuss the proposed article to regulate the size of residential accessory structures and provided an oral report on Article 41. Mr. Scully then moved that Article 41 be adopted as printed in the warrant.

ADOPTED VOICE VOTE, MODERATOR DECLARED A SUPER MAJORITY

Attest:


Tracy K. Kenney, Canton Town Clerk

ANNUAL TOWN MEETING

TOWN OF CANTON

MAY 13, 2019

FIRST SESSION

ARTICLE 42

AMEND ZONING BY-LAWS SECTION 10.4.8 LAPSE REGARDING TIME FRAME FOR SPECIAL PERMITS TO "LAPSE"

Article 42 To see if the Town will vote to amend Zoning By-Laws Section 10.4.8 as follows, or to take any action related thereto.

10.4.8 Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 3 years following the filing of the special permit approval (plus such time as required to pursue or await the determination of an appeal referred to In G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

Board of Selectmen for Planning Board

Commentary: Mass General Law Chapter 40 A, Section 9, Paragraph fourteen changed the specified period of time in which a special permit lapses from not more than 2 years to not more than 3 years, effective August 10, 2016.

PLANNING BOARD MOTION

MOVED: That Zoning By-Laws Section 10.4.8 be amended as follows:

10.4.8 Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 3 years following the filing of the special permit approval (plus such time as required to pursue or await the determination of an appeal referred to In G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

PLANNING BOARD VOTE: 5-0

FINANCE COMMITTEE RECOMMENDATION:

MOVED: The Finance Committee recommends that the motion presented by the Planning Board to Town Meeting for Article 42 as written in the warrant be adopted.

FINANCE COMMITTEE VOTE: 7-0

Thomas Scully, Chairperson of the Planning Board, stated that the Planning Board convened on February 6th and again on March 6th, 2019 to discuss the proposed article to change the timeframe for special permits to lapse and provided an oral report on Article 42. Mr. Scully then moved that Article 42 be adopted as printed in the warrant.

ADOPTED UNANIMOUS VOICE VOTE

Attest:


Tracy K. Kenney, Canton Town Clerk