

**PLANNING BOARD SUMMARY OF PROPOSED AMENDMENTS TO ZONING BYLAW
ANNUAL TOWN MEETING, MAY 8, 2023**

Article 12 – Warehouse / Truck Terminals

Why are these changes being proposed? To address recent concerns with truck terminals/trucking/delivery van-oriented uses in Town by eliminating the currently allowed “Trucking Terminal/General Commodity/Public Warehouse” use (Section 3.1.6.D.8) and replacing with a new/changed use, “Warehouse”. *See warrant for proposed definition of Warehouse.*

Warehouse is not currently defined in our Zoning Bylaw. Since Foxborough has many existing Warehouses, we do not want to prohibit the Warehouse use entirely. Rather we want to create a clear definition of Warehouse that would still allow storage of goods and materials but would not allow van delivery centers, fulfillment centers or other high intensity/trucking/delivery uses.

Below shows line 8 of Section D of the Use Table as it is today versus the proposed change:

Existing Use – allowed today

	R-15	R-40	GB	NB	HB	GI	LI	S-1
8. Trucking Terminal/General Commodity/ Public Warehouse	N	N	N	N	PB	PB	PB	PB

Proposed – new use and definition

	R-15	R-40	GB	NB	HB	GI	LI	S-1
8. Warehouse	N	N	N	N	PB	PB	PB	PB

Other Changes in this Article 12 (be sure to read warrant for full text):

- In addition to deleting the “Truck terminal/general commodity/public warehouse” use, we propose to delete the current definition of that use. Section 11 of Zoning Bylaw currently contains the following definition to be deleted:

TRUCK TERMINAL/GENERAL COMMODITY/PUBLIC WAREHOUSE - A facility/use whose primary function is to provide for the distribution of a wide variety of merchandise, goods and/or other products via trucks. This shall include those facilities designed to store products in preparation for shipping and where those products are generally not made available for retail sale. The storage or parking of tractor-trailers, trucks or trailers as a primary use.

- A new definition of self storage warehouse is also included in this Article since the self storage use is listed in the Use Table but there is currently no definition.

SELF STORAGE MINI-WAREHOUSE – A commercial establishment that provides within a building or group of buildings individual, self-contained units that are leased to individuals, businesses or organizations for the self-service storage of items of personal property and other non-hazardous durable goods. The conduct or performance from an individual storage unit or other area within a self storage mini-warehouse of any business activity other than providing storage space for the personal property and non-hazardous goods of a business is prohibited.

See next page for description of difference between warehouse and fulfillment centers, which is provided for informational purposes only.

Background Information: The Difference Between Warehouse and Fulfillment Center

Warehouses and fulfillment centers are often thought of as similar, and the words used interchangeably. In reality though, they are quite different. While both fulfillment centers and warehouses are large buildings that store inventory for businesses that sell products, that's pretty much where the similarities end. A warehouse usually refers to a building where goods and products are stored for an extended period of time. It's a place designed to store or house a business's inventory in bulk until it is needed (i.e., your business offers a seasonal product and needs a place to store things during the rest of the year when your product isn't in demand). If you walk into a warehouse, you'll see high shelves stacked with many products, and forklifts driving around and moving containers. Operationally, what happens in a warehouse on a day to day basis is pretty static. Inventory is added, moved to different locations when necessary and transferred out.

Fulfillment centers can act as a warehouse too, however, warehouses do not double as fulfillment centers. Like a warehouse, a fulfillment center is also a large building that stores inventory for a business. However, it also serves many other purposes as well. A fulfillment center typically stores products for short periods of time before the product is shipped out. A fulfillment center works with retailers, e-commerce companies, corporations, etc. to fulfill B2B (business to business) and B2C (business to consumer) orders. It's a fulfillment center's duty to get products out to customers who just placed an order as quickly as possible. Unlike a warehouse, inventory won't sit in a fulfillment center for very long (usually not for more than a month or so) - the main goal is to get the product out to the customers who need it as soon as possible.

Retail orders are usually shipped from a fulfillment center rather than from a warehouse. Even if you're storing extra products in a warehouse, products can be shipped from the warehouse to a fulfillment center where they move quickly through the fulfillment center and then out to their final destination with the customer. A warehouse doesn't serve external customers, while, on the other hand, serving external customers is the main focus of a fulfillment center.

Fulfillment centers are often bustling with activity. They are always working around the clock to process, pack, and ship orders to customers. In addition, they receive shipments of inventory, have people picking items, packing up boxes, and labeling shipments and orders, ship out fulfilled orders and handle returns. Because of that, fulfillment centers are equipped with the best technology for processing orders, managing inventory, organizing transportation, and similar tasks. (Source: <https://www.pbd.com/blog/warehouse-vs-fulfillment-center>)

Other reading: Hidden and in Plain Sight: Impacts of E-Commerce in Massachusetts by MAPC (<https://www.mapc.org/wp-content/uploads/2021/02/Feb2021-Ecommerce-Report.pdf>)

“Last-mile delivery centers are noticeably different from traditional warehouses, with facilities operating 24 hours a day, seven days a week. A typical "day" begins in the middle of the night, as tractor-trailers bring packages in bulk from fulfillment centers. Orders are sorted, prepped, and loaded into delivery vans. Each morning, employees drive to the facilities, park, and load themselves into the readied delivery vans. With their routes to customers' homes planned, they usually enter and leave the warehouse outside of peak traffic hours, with delivery departure times often scheduled in waves. If demand is especially high, some companies also contract with third-party delivery-service partners or use on-call drivers who make deliveries using their personal vehicles. In a typical facility, tractor-trailers, delivery vans, and on-call drivers can generate an enormous amount of activity.”

Article 13 - Definitions

Why are these changes being proposed? The Building Commissioner, who is also the Zoning Enforcement Officer for the Town, has asked that certain terms currently contained in the Zoning Bylaw, be defined. We propose the following new/revised definitions:

AUTO GRAVEYARD – Any area, lot, land, parcel, building, structure, establishment, place of business or part thereof that is maintained, operated or used for the storage, collection, processing, purchase, sale or abandonment of wrecked, scrapped, ruined, dismantled or inoperable motor vehicles or motor vehicle parts ~~pending their destruction, removal to another location or other disposition~~¹. Any such area, lot, land, parcel, building, structure, establishment or place of business that includes wrecked, scrapped, ruined, dismantled or inoperable motor vehicles or motor vehicle parts as well as other items of junk shall be deemed a junkyard. [New definition].

SETBACK – The horizontal distance measured at right angles from a lot line to the closest portion of any building or structure, including any porch, deck or terrace that is attached to such building or structure, on that lot. The setback of a building or structure does not include any unroofed deck, porch, stairs or terrace that provides access to or egress from such building or structure. [New definition].

TATTOO PARLOR – A commercial establishment whose principal business activity in terms of operation or as held out to the public is the practice of placing designs, letters, figures, symbols or other marks upon or under the skin of any person by the use of needles or other instruments that are designed to contact or puncture the skin with ink or other substances that result in the permanent coloration of the human skin. Tattoo parlors do not include beauty salons or cosmetology businesses that provide permanent cosmetic services, or commercial establishments that engage in the removal of tattoos by the use of lasers or that engage in the business of microblading or other semi-permanent techniques for enhancing the appearance of eyebrows by the means of scratching pigment into the human skin. [New definition].

A definition for Junkyard is currently contained in the Zoning Bylaw but we have been asked to change the definition:

Existing definition (to be changed):

JUNKYARD – Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of junk, or two or more unregistered or inoperable motor vehicles.

Proposed new definition:

JUNKYARD – Any area, lot, land, parcel, building, structure, establishment, place of business or part thereof that is maintained, operated or used for the storage, collection, processing, purchase, sale or abandonment of junk, or for the maintenance or operation of an auto graveyard.

¹ The Planning Board will make a motion on Town Meeting floor seeking to delete the strike-through language, per a discussion at the 4/13/23 Planning Board public hearing.

Article 14 – Limited Site Plan Review

Why is this change proposed? We are proposing a new process entitled “Limited Site Plan Review” to codify the approval process for any educational or religious institution or child-care center that is protected by the provisions of MGL c. 40A, §3 (the so called “Dover Amendment”). Pursuant to the Dover Amendment, zoning bylaws and ordinances cannot prohibit or require special permits for the use of land or structures for religious and educational uses, and for child care facilities, provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

The purpose of this new Limited Site Plan Review is to ensure that site plan review of a “Section 3 Use” is subject to reasonable regulation concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. It puts “on the books” a review process that has been administrative and undocumented over the years. With this change, the rules are transparent which is beneficial to all stakeholders.

We note that various Massachusetts towns have adopted zoning bylaw provisions that grant limited site plan review authority to their respective Planning Boards (Wayland, Framingham, Concord and Canton). Each such bylaw provision has been approved by the Massachusetts Office of the Attorney General in accordance with the requirements of G.L. Chapter 40, Section 32

Article 15 – Replace Town Planner (“housekeeping” article)

Why is this change proposed? Various sections of the Zoning Bylaw refer to the “Town Planner” however since last year the former Planning Director’s title has been Director of Land Use and Economic Development. This change will replace all references to Town Planner with the words “Director of Land Use and Economic Development or the designee thereof ” in order to reflect the current organizational structure in Town. Also proposed is some tightening up of language in Section 9.7.4, as shown below:

Existing Section 9.7.4 (to be changed):

Pre-application process. Prior to submitting a building application for a project within the FCOD, the applicant shall contact the Town Planner to arrange a pre-application meeting to review the project. The Town Planner will coordinate, if applicable, further pre-application meetings with the Planning Board and/or a joint administrative meeting. The purpose of the pre-application process is to answer questions and concerns in order to streamline the review process for applicants.

Proposed new Section 9.7.4:

Pre-application process. Prior to submitting a building application for a project in the FCOD, the applicant shall meet with the Director of Land Use and Economic Development or the designee thereof to address issues and respond to questions concerning such application in order to facilitate the Planning Board’s review of such matter.

Article 16 – S-1 Special Permit Process

Why is this change proposed? There is a provision in the Zoning Bylaw that requires the applicant for a project requiring a special permit in the S-1 zoning district to meet informally with the Select Board. This vague requirement also indicates the Select Board may present its comments to the SPGA (special permit granting authority, either Planning Board or Board of Appeals) before the public hearing date. The requirement does not indicate the purview of the Select Board’s review, nor does the Select Board otherwise have a role in special permit decisions. This language applies only to S-1, not any other part of town. The change would require the applicant to meet with the Director of Land Use and Economic Development or the designee thereof prior to application to address issues and respond to questions concerning such application.

Existing Section 9.1.4.2 (to be changed):

2. Prior to the required public hearing before the SPGA, the applicant shall meet informally with the Select Board. The Select Board may present its comments to the SPGA before the public hearing date.

Proposed new Section 9.1.4.2:

2. Prior to submitting an application for a special permit within the S-1 District, the applicant shall meet with the Director of Land Use and Economic Development or the designee thereof to address issues and respond to questions concerning such application in order to facilitate the SPGA’s review of such matter.

Article 17 – Environmental Impact Statement (“housekeeping” article)

Why is this change proposed? We discovered an error in Section 10.6.6. where “Paragraph D” is used when it should say “Section 10.6.8. of these bylaws”. This was a change missed during the recodification of the Zoning Bylaw. See difference below:

Existing Section 10.6.6 (to be changed):

10.6.6. Scope of work. The appropriate Town board shall develop a scope of work to direct the completion of the statement. The Board may waive or add to the list of concerns noted in Paragraph D pursuant to the specifics of each project. It is recommended that the applicant meet with the Board to participate in the preparation of this scope.

Proposed new Section 10.6.6:

10.6.6. Scope of work. The appropriate Town board shall develop a scope of work to direct the completion of the statement. The Board may waive or add to the list of concerns noted in Section 10.6.8. of these bylaws pursuant to the specifics of each project. It is recommended that the applicant meet with the Board to participate in the preparation of this scope.

Submitted by the Foxborough Planning Board (approved at April 13, 2023 meeting)

- **Kevin Weinfeld, Chair**
- **Ron Bresse, Vice Chair**
- **Tracey Vasile, Clerk**
- **Gary Whitehouse**
- **Jeff Peterson**
- **Tom Murphy, Associate**