

TOWN CLERK'S REPORT
SPECIAL TOWN MEETING

Monday, the Fifteenth Day of November 2021

The Special Town Meeting of the Town of Foxborough convened at 7:36 PM in the auditorium of the Foxborough Senior High School, 120 South Street, Foxborough, Massachusetts with Acting Moderator Robert E. Cutler, Jr. presiding.

There were one hundred and eleven (111) registered voters recorded as present [a quorum being one hundred (100) registered voters].

Robert E. Cutler, Jr. recognized Kevin Weinfeld, who moved that Robert E. Cutler, Jr. be appointed as Moderator to preside over this Special Town meeting.

ADOPTED 100 AFFIRMATIVE 0 NEGATIVE 7:36 P.M.

Robert E. Cutler, Jr. was sworn in as Acting Moderator by Assistant Town Clerk, Claudine Gover. Claudine Gover was sworn in as Acting Town Clerk by Robert E. Cutler, Jr. Claudine Gover read the Warrant and Return

The Invocation was given by Reverend Timothy Hynes of St. Mary's Parish. Dan Peterson of the Advisory Committee led the Pledge of Allegiance. Moderator Robert E. Cutler, Jr. recognized special guest, Representative Jay Barrows.

ARTICLE 1: MOVED, that the Town vote to amend Section 7 of the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, by adding the following new section:

7.6. Use of outdoor premises by restaurants.

7.6.1. Purpose. The purpose of this Section 7.6. is to promote the use of outdoor premises by restaurants for dining purposes in a manner that provides an additional resource for such establishments and additional dining options for their patrons, fosters the vibrancy of commercial activity in the Town, and is in harmony with the intent of these bylaws.

7.6.2. Applicability. A restaurant that holds a common victualler license issued by the Board of Selectmen is authorized in accordance with this Section 7.6. and in compliance with its requirements to provide outdoor seating for its patrons on that portion of the privately-owned sidewalk or parking lot that is adjacent to its premises.

7.6.3. General requirements.

1. A restaurant that desires to provide seating for outdoor dining purposes shall submit a site plan to the Planning Board that complies with the requirements of Section 7.6.4. Outdoor dining shall not be permitted until such time as the Planning Board has approved the submitted site plan, and such restaurant has obtained such other approvals and authorizations that may be required from the Board of

Health, the Building Commissioner, Board of Selectmen, or otherwise. In the event that the area that a restaurant desires to use for outdoor dining purposes is owned by a third party, that person's written authorization to utilize such area must be submitted to the Planning Board together with the restaurant's site plan.

2. Changes or modifications to an approved site plan shall require the filing and approval of an amended plan that complies with the requirements of Section 7.6.4.
3. An approved site plan may be revoked by the Planning Board if it is determined, after notice and a hearing, that the use of the authorized outdoor premises interferes with public travel and convenience, or is, otherwise not in the interests of public health, safety or welfare.

7.6.4. Site plan requirements. The site plan that is required from a restaurant seeking to use outdoor premises for dining purposes shall include an outdoor seating plan that complies with the Massachusetts Mandatory Safety Standards and Town of Foxborough Fire Department standards and requirements, and includes each of the following as applicable:

1. The specific location of the outdoor dining area in relation to the restaurant, abutting buildings and properties, and adjacent streets.
2. Adjacent parking areas.
3. Points of access and egress to the outdoor dining area.
4. Handicap access to and from the outdoor dining area.
5. Table locations, seats and benches.
6. The location of server and other stations.
7. Traffic flow for waitstaff and for patron access to restrooms and the indoor restaurant area.
8. Tents and other coverings.
9. Umbrellas.
10. Outdoor heaters.
11. Railings, stanchions and barriers.
12. Planters, plantings and landscaped areas.
13. Such other information as the Planning Board may require to determine compliance with the provisions of this Section 7.6.

7.6.5. Parking exemptions. Notwithstanding the off-street parking requirements for restaurants that are set forth in these bylaws, exemptions from such requirements may be permitted to accommodate outdoor dining as follows:

1. A site plan that is approved by the Planning Board in accordance with this Section 7.6. may authorize a reduction by not more than 25% of the off-street parking spaces that otherwise are required by these bylaws.

2. The area that is used by a restaurant for outdoor dining shall not be used to determine the number of off-street parking spaces that is otherwise required for such restaurant under these bylaws.

7.6.6. Dimensional regulation exemptions. A site plan that is approved by the Planning Board in accordance with this Section 7.6. shall waive any front yard, side yard and rear yard dimensional requirements applicable to the restaurant that otherwise are required by these bylaws. A tent or other covering that covers the outdoor dining area may be placed in any such setback.

7.6.7. Use of Town sidewalks and parking lots. A restaurant may utilize adjacent Town sidewalks and parking lots for outdoor dining purposes subject to such rules, regulations, licenses and requirements as may be imposed by the Board of Selectmen.

2/3rds vote required

ADOPTED UNANIMOUSLY 100 AFFIRMATIVE 0 NEGATIVE 7:44 P.M

Pending AG Approval / REC

ARTICLE 2: MOVED, that the Town vote to amend Section 8.1. Accessory Apartments and the definition of Accessory Apartment in Section 11.1. Terms defined of the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, by deleting Sections 8.1.1. and Section 8.1.2. in their entirety and replacing them with the following, and by amending the definition of Accessory Apartment in Section 11.1 as follows:

8.1.1. Accessory Apartments. Subject to satisfying the following standards and the criteria set forth in Section 10.4.2., the Planning Board, by issuance of a special permit, may authorize the addition of an accessory apartment to a single-family residence (the "principal residence") that is located in the R-40 Residential District, Agricultural District or the Neighborhood Business District:

1. Only one (1) accessory apartment is permitted on a lot. The accessory apartment and the principal residence shall be owned by the same individual(s) or entity.
2. The owner(s) of the residential structure shall occupy either the accessory apartment or the principal residence.
3. The principal residence and the accessory apartment shall comply with, or be granted appropriate relief from, the dimensional requirements for single-family residential structures set forth in Section 4.1.1., Table 4-1, of these bylaws.
4. The accessory apartment either shall be (i) contained within the residential structure by converting a portion thereof to a separate dwelling unit, (ii) attached to the principal residence as a newly-constructed addition thereto, or (iii) a combination of the foregoing. A common wall or floor/ceiling shall separate the accessory apartment from the principal residence. Direct access between the two (2) units shall be provided.

5. The architectural design of the accessory apartment and the type and color of the external materials used in its construction shall be comparable to and consistent with that of the principal residence such that the structure when viewed from its front yard(s) shall retain the appearance of a single-family dwelling.
6. The accessory apartment shall not contain more than one (1) bedroom.
7. Boarders and lodgers shall not be permitted within either the accessory apartment or the principal residence. The rental of either the accessory apartment or the principal residence for a period of less than twelve (12) consecutive months shall be prohibited.
8. The gross floor area of the accessory apartment shall not exceed the greater of 1,100 square feet or (i) twenty-five percent (25%) of the combined gross floor area of the proposed accessory apartment and the principal residence if the existing footprint of the principal residence is increased, or (ii) thirty-three percent (33%) of the combined gross floor area of the proposed accessory apartment and the principal residence if there is no increase to the existing footprint of the principal residence. Gross floor area for purposes hereof shall mean and include the total floor area within the exterior walls of the accessory apartment and the principal residence, as the case may be, including habitable floor area, unfinished basements and attics, spaces used for heating, utilities and other mechanical apparatus, entrances and garages.
9. Adequate off-street parking shall be provided on the premises for not more than four (4) motor vehicles either within a garage or carport, or on a paved or all-weather gravel surface. Such parking shall not be obtrusive, and shall comply with all applicable parking requirements as set forth in these bylaws.
10. Any stairway to the accessory apartment that provides access other than at ground level shall be enclosed within the structure's exterior walls.
11. Landscaping for the accessory apartment, screening between the accessory apartment and abutting properties, and screening of exterior parking areas may be required as conditions to the special permit.
12. Utilities serving the accessory apartment shall not be separated from the principal residence.
13. The special permit for the accessory apartment and the use and occupancy of the accessory apartment shall be subject to the issuance of and compliance with all applicable Commonwealth of Massachusetts and Town of Foxborough laws, regulations, codes and requirements.
14. The design sewage flow for lots or structures that conform with these bylaws and are located within Zone II or Zone III of the Water Resource Protection Overlay District shall not exceed the applicable design sewage flow requirements that are set forth in Section 9.4.

15. A special permit may be issued for an accessory apartment with respect to a single-family residence that is a preexisting nonconforming lot or structure located in Zone II or Zone III of the Water Resource Protection Overlay District, provided that such apartment does not result in an increase in the total number of bedrooms on such property that is otherwise permissible. As a condition to any such permit, the property's existing septic system shall pass a Title 5 inspection or be upgraded as approved by the Town of Foxborough Board of Health.

Section 11.1. Terms defined:

ACCESSORY APARTMENT – A separate dwelling unit that is within or attached to a detached single-family residence and that satisfies the standards set forth in Section 8.1.1. of these bylaws, provided that a special permit is not required for an accessory apartment to a single-family residence that is in the R-15 District or the General Business District.

2/3rds vote required

NOT ADOPTED 45 AFFIRMATIVE 50 NEGATIVE 8:12 P.M.

MOTION TO RECONSIDER

NOT ADOPTED 1 AFFIRMATIVE 90 NEGATIVE 8:12 P.M.

ARTICLE 3: MOVED, that the Town vote to amend the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, as follows:

1. Amend Section 1.3. by deleting the phrase "number of stories."
2. Amend Use Item L.3. in Section 3.1.6., Table 3-1 Table of Uses, to read as follows:
"Residential accessory uses and structures. Gross area of residential storage structures shall not exceed 400 square feet or 21 feet in height; the gross area of temporary wayside stands shall not exceed 400 square feet."
3. Amend Use Item L.4. in Section 3.1.6., Table 3-1 Table of Uses, to read as follows:
"Residential garages that do not exceed 21 feet in height and a footprint that does not exceed 625 square feet."
4. Amend Use Item L.5. in Section 3.1.6., Table of Uses, to read as follows:
"Residential garages that exceed 21 feet in height or have a footprint greater than 625 square feet."
5. Amend Section 4.1.1., Table 4-1 Dimensional Regulations for Uses in Residential and Neighborhood Business Districts, by deleting the "Stories" column that is set forth under the "Building Height" heading.
6. Amend Section 4.1.1., Table 4-2 Dimensional Regulations for Uses in Nonresidential Districts, by deleting the "Stories" column that is set forth under the "Building Height" heading.
7. Amend Section 4.1.2.3. to read as follows:
"The total height of a structure shall not exceed 35 feet."

8. Amend Section 4.4.2. by deleting the phrase "or more than four stories," and adding a comma after the words "60 feet".
9. Amend Section 8.3.4., Table 8-1 OSRD Dimensional Regulations, by deleting the "Stories" column that is set forth under the "Maximum Building Height" heading.
10. Amend Section 9.6.6., Table 9-1 Dimensional Regulations for Chestnut-Payson District, by deleting the "Stories" column that is set forth under the "Building Height" heading.
11. Amend the second sentence of Section 9.6.7.6. to read as follows:
 "For CPOD applications that include use of those building under the protection of the Massachusetts Historical Commission, newly constructed buildings within the CPOD shall not exceed 42 feet in height."
12. Amend Item L.3. and L.4. of Section 9.7.5.1. to read as follows:
 "3. Residential accessory uses and structures. Residential storage structures shall not exceed 400 square feet of gross area or 21 feet in height; the gross area of temporary wayside stands shall not exceed 400 square feet.
 4. Residential garages that do not exceed 21 feet in height and have a footprint that does not exceed 625 square feet."
13. Amend the second sentence of Section 9.7.7.1. to read as follows:
 "Subject to the provisions of Section 4.4.2., no principal structure in the FCOD may be constructed to a height in excess of 60 feet."
14. Amend Section 9.7.6., Table 9-2 Dimensional Regulations for Foxborough Center Overlay District, by deleting the "Stories" column that is set forth under the "Building Height" heading.
15. Amend the definition of the term BASEMENT that is set forth in Section 11.1. by deleting the second sentence of such definition.
16. Delete the term STORY and its definition from Section 11.1.

MOTION TO AMEND

MOVED, to amend Article 3 by amending item numbered 7 to add two sentences as the second and third sentences to Section 4.1.2.3. so such section shall read as follows:

"The total height of a structure shall not exceed 35 feet. The height of a single-family or two-family residential structure that contains a so-called walkout basement or the like shall be measured from the mean grade of that portion of the ground that immediately adjoins the part of such structure that faces the street or way on which the structure has legal frontage. The height of a multifamily residential structure shall be measured in accordance with the definition of Height, Building as set forth in these bylaws."

MOTION TO AMEND

ADOPTED 78 AFFIRMATIVE 3 NEGATIVE 8:20 P.M.

2/3rds vote required

ARTICLE 3 AS AMENDED

ADOPTED 83 AFFIRMATIVE 4 NEGATIVE 8:20 P.M.

Pending AG Approval / REC

ARTICLE 4: MOVED, that the Town vote to amend the definition of Brew Pub in Section 11.1 of the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, by deleting the current definition of Brew Pub and replacing it with the following:

Brew Pub – An establishment wherein the primary use is a restaurant that specializes in producing craft beers and other craft malt beverages in limited quantities for on-site retail sale to restaurant patrons. Ancillary uses may include the production of fermented liquors such as wine and hard ciders and the distillation of spiritous liquors, each of the foregoing in limited quantities for on-site retail sale to restaurant patrons (provided that the aggregate area devoted to any such production and distillation does not exceed 15% of the gross floor area of the establishment), tastings and tours, and the retail and wholesale sales of their products and related goods, all of which are subject to all applicable statutes of the commonwealth.

2/3rds vote required

ADOPTED 98 AFFIRMATIVE 1 NEGATIVE 8:22 P.M.
Pending AG Approval / REC

ARTICLE 5: MOVED, that the Town vote to amend Section 11.1 of the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, by adding the following new definition:

HABITABLE FLOOR AREA – The interior space of a dwelling unit designed, intended or adapted to be used for sleeping, eating, food preparation and other living activities, including, without limitation, bathrooms, bedrooms, dens and recreation rooms, dining rooms, kitchens, and other rooms that are finished and have ceilings the height of which are the minimum permitted by the Massachusetts State Building Code. Habitable floor area does not include the space of unfinished attics and basements, balconies, closets, crawl spaces, decks, garages and carports, unfinished porches, stairs and stairwells, storage areas, utility rooms and similar spaces that are not used for sleeping, eating, food preparation and other living activities.

2/3rds vote required

ADOPTED 97 AFFIRMATIVE 1 NEGATIVE 8:24 P.M.
Pending AG Approval / REC

ARTICLE 6: MOVED, that the Town vote to amend Section 10.5.4. of the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, by adding the following new subsection:

4. Site plan review is not required for a change of use of a building located in the Foxborough Center Overlay District where the Building Commissioner determines that any such change involves only alterations to the building exterior that are minor cosmetic, repair or sign changes, and does not involve changes to the number, design or location of parking spaces or other visible exterior site features;

that is within the Design Review District where the Building Commissioner determines that the proposed alterations are sufficiently extensive to materially affect the character of the surrounding area.

2/3rds vote required

ADOPTED UNANIMOUSLY 99 AFFIRMATIVE

0 NEGATIVE

8:26 P.M.

Pending AG Approval / REC

ARTICLE 7: MOVED, that the Town vote to accept as a public way a portion of Garrett Spillane Road, which has been constructed pursuant to the standards of the Planning Board Subdivision Regulations as follows:

Garrett Spillane Road – from its intersection with Edwards Road generally northeasterly approximately 715 feet more or less.

MOTION OF NO ACTION

ADOPTED

97 AFFIRMATIVE

1 NEGATIVE

8:27 P.M.

ARTICLE 8: MOVED, that the Town vote to amend the Code of the Town of Foxborough, Massachusetts, Section 213: Signs, as follows:

1. Add the following new subsection to Section 213-3.D.:

(3) Each sign that is part of an integrated sign permit shall comply with the requirements for such sign as set forth in this bylaw, unless otherwise authorized by the Board of Appeals.

2. Delete Section 213-3.E.(1) in its entirety and replace it with the following:

(1) An applicant for a special sign permit or for an integrated sign permit shall submit 10 copies of such application (three copies of which shall contain all required original signatures) and supporting materials to the Building Commissioner to be reviewed thereby as to completeness in accordance with Section 213-3.E.(2). The Building Commissioner shall complete such review within 20 days of receipt of the application, and upon determining that an application is complete, shall provide the application to the Board of Appeals to be filed thereby with the Foxborough Town Clerk.

3. Amend Section 213-3.E.(4) as follows:

(a) Add the words "or a complete integrated sign permit application" after the words "complete sign permit application" in the first sentence of such section.

4. Delete Section 213-3.E.(2) in its entirety and replace it with the following:

(2) A complete application shall include the pertinent application; payment of the required application fee; sign plans as described in Section 213-3.B.(1); a certified plot plan that sets forth the specific location on the subject lot at which the sign that is the subject of a special sign permit application is to be installed, or that sets forth the specific location on the subject lot or lots at which the signs that are the subject of an integrated sign permit application are to be installed; a certified list of abutters within 300 feet of the property lines of the lot or lots on which the sign or signs that is or are the subject of a special sign permit application or of an integrated sign permit application is or are to be installed; and such other information as may be required pursuant to any rules adopted by the Board of Appeals in accordance with Section 213-3.E.(3).

5. Amend Section 213-3.E.(3) as follows:

(a) Add the words "or the issuance of integrated sign permits," after the words "special sign permits" in the first sentence of such section.

(b) Add the words "or a complete integrated sign permit application," after the words "complete sign permit application" in the second sentence of such section.

6. Delete Section 213-3.G.(1) in its entirety and replace it with the following:

(1) An appeal to the Board of Appeals of a decision of the Building Commissioner to approve or deny a sign permit application shall be filed with the Town Clerk within 30 days of the date of such decision.

7. Delete Section 213-3.G.(5) in its entirety and replace it with the following:

(5) Any party aggrieved by the decision of the Board of Appeals may file an appeal to a court of competent jurisdiction within 30 days of the date on which such decision is filed with the Town Clerk.

ADOPTED

97 AFFIRMATIVE

0 NEGATIVE

8:30 P.M.

Pending AG Approval / REC

ARTICLE 9: MOVED, that the Town vote to transfer from Free Cash the sum of Nine Hundred Eighty-Five Thousand One Hundred Thirty-Five Dollars (\$985,135), the sum of Sixty-Three Thousand One Hundred Fifty-Six Dollars (\$63,156) from Water Enterprise Retained Earnings, and the sum Fifteen Thousand Seven Hundred Seventy-Eight Dollars (\$15,778) from Sewer Enterprise Retained Earnings for a total transfer amount of One Million Sixty-Four Thousand Sixty-Nine Dollars (\$1,064,069) into the Other Post-Employment Benefits (OPEB) Liability Trust fund to be used towards the unfunded actuarial liability of health care and other post-employment benefits for Town of Foxborough retirees.

ADOPTED

98 AFFIRMATIVE

0 NEGATIVE

8:32 P.M.

ARTICLE 10: MOVED, that the Town vote to transfer from free cash an amount that will amend Article 4 of the May 10, 2021, FY 2022 Annual Operating Budget in order to fund expenses associated with the Annual Assessment of Southeastern Regional as follows:

Department #	Department	FY22' Budget	Adjustment	Revised Budget	FY22'	Funding Source
390	Southeastern Regional	733,815	38,954	772,769		Free Cash

ADOPTED

96 AFFIRMATIVE

1 NEGATIVE

8:36 P.M.

ARTICLE 11: MOVED, that the Town vote to allow the following parcels that have so requested to be incorporated into the Sewer Service Area, and to amend the Sewer Service Area Map with the parcels so designated as follows:

<u>ADDRESS</u>	<u>Map</u>	<u>Lot</u>	<u>Estimated Capacity</u>
473A South Street	180	025	266 GPD
36 Morse Street	111	02	266 GPD

ADOPTED

98 AFFIRMATIVE

1 NEGATIVE

8:37 P.M.

ARTICLE 12: MOVED, that the Town vote to authorize the Board of Selectmen to petition the Massachusetts General Court for special legislation, as set forth below, provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court, and provided further that the Board of Selectmen is authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

AN ACT EXEMPTING CERTAIN POSITIONS IN THE POLICE DEPARTMENT OF THE TOWN OF FOXBOROUGH FROM THE CIVIL SERVICE LAW

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Pursuant to the collective bargaining agreements between the town of Foxborough and the Foxborough police and superior officers

unions, and notwithstanding any general or special law to the contrary, all uniformed positions within the police department of the town, including the positions of deputy chief, captain, lieutenant, sergeant and patrolman shall be exempt from chapter 31 of the General Laws and related regulations applicable thereto. However, the foregoing exemption shall not impair the civil service status of present employees of the police department of the town except for the purpose of promotion.

SECTION 2. Notwithstanding any general or special law to the contrary, each incumbent employee holding a position described in Section 1 who has the status of permanent civil service employee on the effective date of this act shall retain their civil service status, except for purposes of promotion, until such time as they no longer serve in that position.

SECTION 3. This act shall take effect upon its passage.

ADOPTED 97 AFFIRMATIVE 1 NEGATIVE 8:44 P.M.

ARTICLE 13: MOVED, that the Town vote to amend Section 35-4, Subsection H of the Town of Foxborough Code in the following manner:

After the words "one member of the Board of Water/Sewer Commissioners" insert the words
"or their designee."

ADOPTED 95 AFFIRMATIVE 1 NEGATIVE 8:46 P.M.
Pending AG Approval / REC