

**2007 Annual Town Meeting
March 26, 2007
(See Warrant File for Warrant)**

The **first session** of the 2007 Annual Town Meeting was called to order by Moderator Margery M. Battin at 7:40 p.m., Cary Memorial Hall. A quorum of 180 members was present.

The Lexington Minutemen, accompanied by the William Diamond Fife and Drum Corps, posted the colors. The Fife & Drum Corp played a tune in honor of the Moderator's recent birthday.

The Moderator honored deceased Town Meeting members Mary Milcy, Charles Parks, Doug Ross & Paul Hamburger.

The Moderator declared a recess for a presentation by the Town Meeting Members Association for recognition of long-serving Town Meeting Members Elaine Dratch and Paul Hamburger, recently deceased. Edith Sandy and Deborah Brown presented certificates.

8:29 p.m. Following attempts to resolve some sound system difficulties, Selectman Jeanne Krieger moved to adjourn until 7:30 p.m., Wednesday, March 28, 2007, at Cary Memorial Hall. Motion Adopted.

A true copy:
Attest:

Donna M. Hooper, Town Clerk

**Adjourned session of the 2007 Annual Town Meeting
March 28, 2007**

Moderator Margery M. Battin called the **second session** of the 2007 Annual Town Meeting to order at 7:30 p.m., Cary Memorial Hall. A quorum of 169 members was present.

Town Clerk Donna M. Hooper read the Warrant for the Meeting until waived. The Town Clerk read the Constable's Return of the Warrant.

The Moderator reviewed procedural matters and explained the meeting would not convene on April 2, April 16 or April 18. The Moderator declared the meeting open under Article 2, and would be for the duration of the meeting.

ARTICLE 2: REPORTS OF TOWN BOARDS, OFFICERS, COMMITTEES

7:48 p.m. John Rosenberg, pr.4, moved the Report of the Committee on Cary Lectures be accepted and placed on file and the Committee be discharged. Chairperson, Nancy Shephard, presented the Committee's report. Motion Adopted.

7:50 p.m. Selectman Jeanne Krieger moved the Report of the Housing Partnership Board be accepted and placed on file. Chairman Bob Bicknell reported. Motion Adopted.

7:54 p.m. Wendy Manz moved the Report of the Planning Board be accepted and placed on file. Adopted Unanimously. Ms. Manz reported.

8:00 p.m. Presented by Selectman Norman Cohen.

ARTICLE 3: APPOINTMENTS TO CARY LECTURE SERIES

MOTION: That a committee of three be appointed by the Moderator to have the charge of the lectures under the wills of Eliza Cary Farnham and Suzanna E. Cary for the current year. Motion Adopted Unanimously.

8:00 p.m. Wendy Manz moved the report of the Planning Board on Article 4 be accepted and placed on file. Adopted Unanimously.

8:00 p.m. Presented by Wendy Manz.

ARTICLE 4: ZONING BY-LAW, INCLUSIONARY ZONING

MOTION: That the Zoning By-Laws of the Town be amended as set forth in the motion attached to the report of the Planning Board on this article.

REPORT TEXT for ARTICLE 4:

Motion: that the Town vote to amend the Lexington Zoning By-law as follows:

1. Add a new §135-46.I to read as follows:

I. Inclusionary Housing.

(1) General Objective. This section is intended to ensure that those residential developments which are authorized through special permits with site plan review will provide some housing that is affordable to low-, moderate-, or middle-income households to offset the reduction in the Town's percentage of such housing that would result from those developments' incremental increase to the Town's overall housing stock. To achieve that intention, some of the units in such developments are required to be Inclusionary Units, as defined below.

(2) Applicability. These provisions shall apply to all residential developments with five or more dwelling units which are authorized through special permits with site plan review, including residential developments in CD or RD Districts.

(3) Inclusionary Units.

(a) Definition. "Inclusionary Units" are dwelling units which are subject to price restrictions and which may be owned and occupied or rented and occupied only by "Eligible Households" with income and assets below specified maximum limits, as provided in §135-46.I(3)(d) below.

(b) Siting. Inclusionary Units may result from either new construction or existing dwelling units, located on one or more sites.

(c) Accessory Apartments. An accessory apartment in compliance with §135-19 may be considered an Inclusionary Unit if it meets all requirements of this §135-46.I.

(d) Eligible Households. Eligible purchaser occupants or tenant occupants of an Inclusionary Unit shall be subject to maximum household income and asset limits established for that unit, based on the Area Median Income (AMI) as annually determined by the U.S. Department of Housing and Urban Development, assuming one more person in the household than the number of bedrooms in the unit. Eligible Households shall have incomes no greater than 120% of the AMI.

(e) Sales and Rental Pricing. Sales prices and rental rates of Inclusionary Units shall comply with the requirements of this §135-46.I, shall be consistent with applicable subsidy programs or with inclusionary administrative guidelines which may be adopted from time to time by the Planning Board, and shall meet the following standards:

[1] Maximum Housing Cost. The maximum housing cost to an Eligible Household shall be 30% of the household income. For the purpose of determining the sales pricing or rental rate of an Inclusionary Unit, the household income used shall be at least 10% of the AMI lower than the maximum household income established for that Inclusionary Unit.

[2] Ownership housing costs including mortgage principal and interest (assuming a 5% down payment), private mortgage insurance, real estate taxes, condominium or homeowners association fees, property insurance, and parking shall not exceed the maximum housing cost.

[3] The cost of any pending or anticipated special assessments based on decedded obligations such as those of a condominium or homeowners association shall be deducted from the allowable sales price of the Inclusionary Unit calculated per subparagraphs [1] and [2] immediately preceding.

[4] Rental housing costs including rent, heat, utilities, and parking shall not exceed the maximum housing cost.

(4) Inclusionary Credits.

(a) Net Units Added. The "Net Units Added" by a development is the difference between the total number of dwelling units existing before development and the total number of dwelling units that will exist after development, not including accessory apartments in either case. In the case of residential developments under §135-48, the applicant may substitute the "maximum number of dwellings" as calculated under §135-48.D(3) Step One in place of the total number of dwelling units that will exist after development.

- (b) Required Number. All residential developments shall provide Inclusionary Units qualifying for “Inclusionary Credits” equal to at least 15% of the Net Units Added. Provision of Inclusionary Units qualifying for the required number of Inclusionary Credits shall be a condition of the special permit with site plan review authorizing the development.
- (c) Selection of affordability levels. The number of Inclusionary Units designated for households with a maximum household income of 80% of AMI or less (“≤ 80% units”) shall be no fewer than the Net Units Added divided by eight and rounded down to the next whole number or zero.
- (d) Existing Affordable Units. Existing dwelling units that are already subject to affordability restrictions, such as rent or price limits, do not qualify for Inclusionary Credits.
- (e) Calculation of Inclusionary Credits. Inclusionary Units in developments shall qualify for Inclusionary Credits as follows:

Maximum Household Income (% of AMI)	Inclusionary Credits per Inclusionary Unit (2 bedrooms)	Inclusionary Credits per Inclusionary Unit (3 or more bedrooms)
≤ 50%	0.80	1.30
≤ 80%	0.60	1.00
≤ 100%	0.45	0.85
≤ 120%	0.30	0.70

(5) Continuing Affordability: Documentation.

- (a) An applicant for a special permit with site plan review shall prepare all deeds, condominium documents, and legal instruments, including, without limitation, all documents required to comply with this §135-46.I, in a form satisfactory to Town Council.
 - (b) For each Inclusionary Unit, an applicant shall provide to the Planning Board a Unit Restriction and Regulatory Agreement (URRA) among the developer; the property owner; an approval agency, if applicable; and the Selectmen; which shall detail the calculation of the price of such unit as required by §135-46.I(3)(c) above, and shall require that at any future resale of the unit, the price shall be calculated at the same level with reference to the then current AMI. The URRA shall state the income and asset restrictions applicable to the purchaser or renter of such unit as required by 135-46.I(3)(d) above, and shall require that such restrictions, calculated in the same way, shall be applicable to all future purchasers and renters. It shall contain a marketing plan that meets local preference and fair housing requirements, consistent with state and federal laws. The URRA shall also contain provisions for annual monitoring of the units to ensure compliance with income and residency requirements.
 - (c) The URRA shall set out provisions under which the Town shall be entitled to exercise a right of first refusal to purchase an Inclusionary Unit being offered for sale. Such provisions shall be substantially in the form of (a) any sample regulatory agreement established by the applicable site approval agency (including, without limitation, the Local Initiative Program of the Department of Housing and Community Development) or (b) any applicable administrative guidelines that may be adopted by the Planning Board.
 - (d) For each Inclusionary Unit eligible for inclusion in the Town’s Chapter 40B Subsidized Housing Inventory, an applicant shall provide to the Planning Board a site approval letter from a site approval agency or other documents sufficient to ensure such inclusion in accordance with M.G.L. Chapter 40B, or any successor statute, and all applicable state regulations.
 - (e) For each Inclusionary Unit, the special permit with site plan review decision of the Planning Board, the URRA, and any documents attached thereto, shall be recorded as restrictive covenants with the unit deed in the Middlesex Registry of Deeds, prior to the issuance of any building permit for the development, so as to ensure continuing compliance with the requirements of this §135-46.I.
- (6) Development Design. Location and design of Inclusionary Units shall comply with the following:
- (a) Inclusionary Units shall be sited in no less desirable locations than the other units located on the same site.

- (b) The materials used and the quality of construction for Inclusionary Units, including heating, ventilation, and air conditioning systems, shall be equal to those of the other units in the development, but amenities such as designer or high end appliances and fixtures need not be provided for Inclusionary Units.
 - (c) To be credited towards the count of Inclusionary Units any existing dwelling units must be in full compliance with all applicable construction and occupancy codes, and shall be sufficiently maintained or rehabilitated so that all major systems (including, but not limited to, roof, windows and building envelope, HVAC, plumbing, and electrical) meet standards comparable to new construction.
 - (d) The exterior appearance of the Inclusionary Units shall be compatible with the other units on the same site.
 - (e) The timing of completion of Inclusionary Units shall parallel that of the other units in accord with a phasing schedule approved by the Planning Board.
 - (f) The Planning Board may waive strict compliance with the design standards in this section because of such considerations as a subsidizing agency's occupancy requirements or the applicant's offer of an alternative better meeting the Town's identified housing needs.
- (7) Multiple Site Provisions. At the developer's option, permitting may be sought and determination of required Inclusionary Units may be based upon dwelling units on multiple sites subject to the following:
- (a) The creation of units on all sites involved shall be acted upon under either a single special permit or under contemporaneous special permits, possibly involving multiple applicants, related through a binding development agreement made enforceable by the Town.
 - (b) The total number of Inclusionary Credits required shall be based upon the total Net Units Added summed over the sites involved.
- (8) Significant Public Benefit. Consistent with §135-49.D(3), provision of Inclusionary Units which are affordable only to the level necessary to satisfy the Inclusionary Credit requirement set forth above shall not be considered to provide significant public benefit pursuant to §135-49.D(1).

2. Add a new §135-46.J as follows:

- J. Segmentation. In determining whether a project is a residential development, the Planning Board shall consider the entirety of the development, including (a) any likely future expansion of the project on the subject property or on any property which is contiguous to the subject property or under related ownership or (b) any past, related development on any property which is contiguous to the subject property or any property that was under related ownership with the subject property at the time that §135-46.J was adopted. A developer or property owner may not phase or segment a project or transfer ownership of contiguous properties to evade, defer or curtail the residential development requirements set forth in §135-46. The Planning Board shall consider all circumstances as to whether various work or activities, taken together, comprise a common plan or independent undertakings, regardless of whether there is more than one developer or property owner, including, without limitation, any time interval(s) between the work or activities and whether the development impacts are separable or cumulative.

3. Add a new §135-13.J as follows:

- J. All involved departments, boards and staff shall develop and implement procedures which will expedite the application and review procedures for residential developments proposing Inclusionary Units pursuant to §135-46.I to the extent consistent with ensuring well-considered outcomes, by such measures as giving scheduling priority to such applications, arranging for staff assistance to applicants, or scheduling concurrent rather than sequential agency reviews. Issuance of a decision on an application for a special permit with site plan review shall be within 45 days after the close of the public hearing.

8:02 p.m. Planning Board members Gregory Zurlo and Charles Hornig explained requested action.
8:23 p.m. Anthony Galaitsis moved the Minority Report of the Planning Board be accepted and placed on file. Motion Adopted. Mr. Galaitsis presented his report in opposition.

8:28 p.m. Jeanne Krieger reported the support (3-2) of the Board of Selectmen.
8:30 p.m. Selectman Peter Kelley presented a minority report and explained his opposition.
8:31 p.m. Robert Bicknell, Housing Partnership Board, spoke in support.

Members spoke in support and in opposition. Citizens from the audience spoke in support and in opposition.

9:19 p.m. Richard Michelson, pr.8, called for a roll-call vote when the vote is taken. Sufficient members stood in support of a roll call vote.

9:29 p.m. John Cunha, pr.8, called the question. Not Adopted.
Members and citizens continued to speak in support and in opposition.

10:20 p.m. Andrew Friedlich, pr.5, questioned if the Planning Board would be amenable to an amendment to pertain only to developments with combined lots. Following a brief recess, Chair Wendy Manz reported the Planning Board would not support such an amendment as proposed.

10:55 p.m. After further discussion, Marsha Baker, pr.7, moved the question. Motion Adopted.
Planning Board Chair Wendy Manz summarized requested action.

11:00 p.m. Town Clerk Donna Hooper called the Roll:

Precinct 1

Adler	Joel	A.	NO
Adler	Nancy	M.	NO
Barry	James	E.	NO
Bartenstein	John	C.	NO
Basch	Ellen		NO
Bowes	Mary		NO
Breen	John	P.	NO
Cole	Jean	W.	NO
Cole	Jonathan	G.	NO
Jeon	Iang		NO
Maloney	Scott	W.	NO
Michelson	Eric	J.	NO
Rancatore	Joseph	S.	YES
Redmon	Ann	S.	YES
Rossi	John	F.	NO
Sampson	Barry	E.	NO
Sampson	Carol	J.	NO
Slotkin	Joel	Steven	ABSENT
Stewart	MaryAnn		YES
Zabin	Albert	P.	NO
Zabin	Judith	L.	NO

Precinct 6:

Baturin	Florence	A.	YES
Fallick	Bebe	H.	ABSENT
Grant	Edmund	C.	ABSTAIN
Himmel	Jonathan	A.	ABSENT
Kahan	Morton	G.	NO
Kane	Ann	Forbes	NO
Kaufman	David	L.	YES
Kelley	Brian	P.	NO
Kennealy	Trisha	P.	NO
Lacey	Gerald	A.	NO
Lazarus	Alan	J.	ABSENT
Mahoney	Laura	M.	NO
McKenna	Dawn	E.	NO
Pagett	Jane		NO
Pagett	Richard		ABSENT
Pawliczek	Ronald	B	NO
Sandy	Edith		NO
Sandy	Frank		NO
Spector	Sheldon	A.	NO
Strod	Deborah		YES
Watson	Sheila	M.	NO

Precinct 2:

Alessandrini	Alessandro	A.	YES
Cohen	Marian	A. O.	YES
Cunha	Robert	W.	NO
DiGiammarino	Robin	B.	NO
Goldberg	Rita	B.	NO
Kreutziger	Kenneth	M.	YES
Kropper	Steven	A.	YES
Lapointe	Paul	H.	YES
Lucas	Daniel	A.	NO
Lucente	Douglas	M.	NO
McAleer	Andrew		NO
Nolan	Nancy	E.	NO
O'Sullivan	Michael	J.	NO
Sacks	Adam	D.	YES
Sackton	John	T.	ABSENT
Stein	Jill	E.	YES
Vogelzang	Jennifer	M.	NO
Weiss	Betsy		YES
Welch	Christina	J.	YES
Wilson	Donald	D.	NO
Wilson	James	S.	NO

Precinct 7:

Baker	Marsha	E.	NO
Brown	Deborah	J.	NO
Costello	Patricia	Elen	NO
Counts-Klebe	Margaret	L.	YES
Courtemanche	James	W.	YES
Gill	Catherine	Woodward	YES
Griffiths	Thomas	V.	NO
Hoffman	Keith		NO
Hoffman	Pam		NO
Leavitt	William	I.	NO
Mahoney	Sheryl	R.	NO
Martin	Fred	H.	NO
Mason	Sheryl	T.	NO
Miller	Joyce	A.	ABSENT
Perry-Wood	Elizabeth	B.	YES
Peters	Robert	D.	ABSENT
Sakhuja	Ravi	K.	YES
Trudeau	Jane	A.	NO
Wood	James	C.	YES
Wood	Martha	C.	YES
Wrigley	Alan	A.	ABSENT

Precinct 3:

Adams	Darwin	P.	YES
Berman	Samuel		YES
Brodner	Bonnie	E.	YES
Bryant	Nancy	A.	YES
Cannalonga	Nancy	M.	ABSENT
Cannalonga	Nicholas	A.	ABSENT
Cohen	Benjamin	J.	NO
Copp	Robert	H.	NO

Precinct 8:

Bartlett	Nancy		NO
Battin	Richard	H.	YES
Belvin	Larry	N.	YES
Borghesani	Roger	F.	NO
Bradley	Margaret		NO
Bryant	Elizabeth	J.	NO
Cunha	John	T.	NO
Herring	William		NO

Adjourned Session of the 2007 Annual Town Meeting – March 28, 2007

Diaz	Thomas	R.	YES	Hornig	Charles		YES
Fenn, Jr.	Dan	H.	YES	Horton	David	C.	YES
Gordon	Sherry	L.	YES	Kennedy	Stewart	G.	YES
Heinrich	Steven	P.	NO	Klimoff	Ingrid	H.	ABSTAIN
Katz	Arthur		YES	Levine	Alan	Mayer	NO
Lee	Peter	B.	YES	Michelson	Richard	A.	NO
Mehr	Patrick	R.	NO	Moore, Jr.	Charles	L.	YES
Neumeier	Richard	L.	NO	Osten	James	A.	YES
Parker	Glenn	P.	YES	Seferian	Alan	V.	NO
Rotberg	Robert		ABSENT	Steigerwald	Jessica	G.	NO
Whitman	Robert	V.	YES	Stolz	Shirley	H.	NO
Wood	Loren		NO	Tiffany	Carolyn	H.	NO
Zurlo	Reid	E.	YES	Walker	Melinda	M.	NO

Precinct 4:

Baci	Lisa	A.	NO
Barnert	Nyles	Nathan	NO
Bloom	Gloria	J.	NO
Burson	Scott	F.	YES
Counihan	Timothy	R.	ABSENT
Davies	John	L.	ABSENT
Enrich	Peter	David	YES
Hai	Jill	I.	NO
Harris	David	J.	NO
Heitz	Margaret	B.	NO
Kelley	Beverly		NO
Krawczyk	John	J.	NO
Lamb	Charles	W.	NO
McDonald	Ellen	Jo	NO
Patrick	John	M.	YES
Paul	Gerald		NO
Peltz	Barric		NO
Rosenberg	John	S.	YES
Santosuosso	Nicholas		NO
Shaw	Sandra	J.	YES
Thomas	Ruth	S.	YES

Precinct 5:

Barnes	Paul	F.	NO
Daggett	Marjorie	M.	YES
Dondley	Irene	M.	NO
Dratch	Elaine		YES
Fenollosa	Marilyn	M.	YES
Flaster	Ana	H.	YES
Friedlich	Andrew	J.	NO
Galatsis	Anthony	G.	NO
Guttag	Olga	P.	ABSENT
Hayward	John		NO
Holland	Gloria	V.	YES
Kelly	Ann	M.	ABSENT
Liff	Carol	A.	NO
Lowry	James	R.	NO
Michelson	Jerold	S.	NO
Porter	Loretta	A.	ABSENT
Silverman	Sam		NO
Snyder	Jed	N.	ABSENT
Traber	M. Masha		YES
Weiss	Ephraim		YES
Williams	David	G.	NO

Precinct 9:

Adler	Alice	J.	YES
Bhatia	Narain	D.	YES
Blier	Victoria	Lawrence	YES
Canale	Richard	L.	YES
Cohen	Helen	L.	YES
Cole	Rodney		NO
Coppe	Margaret	E.	YES
Donahue	Mary	E.	ABSENT
Donovan	Emily	R.	NO
Fenn	Thomas	O.	YES
Garberg	Mollie	K.	NO
Kennedy	Janice	A.	ABSENT
Kennedy	William	P.	NO
Kole	Laura	J.	NO
Manz	Wendy		YES
Mazerall	John		ABSENT
McSwecney	Leo	P.	NO
Perry	Janet	M.	NO
Rosenberg	Fred	D.	ABSENT
Segovia	Jesse	F.	NO
Stieglitz	Francine		NO

At-Large:

Battin	Margery	M.	ABSTAIN
Burnell	George	A.	NO
Cohen	Norman	P.	YES
Hooper	Donna	M.	ABSTAIN
Kaufman	Jay	R.	YES
Kelley	Peter	C. J.	NO
Krieger	Jeanne	K.	YES
Lahey	William	L.	ABSTAIN
Manz	Hank		YES

11:22 p.m. With a total of 66 voting in the affirmative, 105 in the negative, and 5 abstaining.

Motion Not Adopted.

11:23 p.m. Charles Lamb, pr.4, served Notice of Reconsideration on Article 4.

11:24 p.m. Selectman Jeanne Krieger moved the meeting be adjourned to 7:30 p.m., Wednesday, April 4, 2007, Cary Memorial Hall. Motion Adopted.

A true copy.

Attest:

Donna M. Hooper, Town Clerk