

***Town Council Ordinance Committee
November 12, 2013
Town Council Chambers***

Present: Chairman Michael Smart
Councilor Jane Hackett
Councilor Ed Harrington
Councilor Arthur Mathews
Councilor Kenneth DiFazio

Also Present: George Lane, Town Solicitor
James Clarke, Director of Planning and Community Development
Joseph Comperchio-Captain WPD

Chairman Smart called the Town Council Ordinance Committee Meeting to order at 7:06 PM.

13 113-Rezone 1267 Washington Street

-Application Submitted by Michael Krause of ETI Realty LLC

-Map 35,Block 446,Lot 17-from Highway Transition and Industrial 1 to Industrial 1

Chairman Smart noted that this measure was referred on August 12, 2013, the committee met on October 7th, and a joint public hearing was held with the Planning Board who forwarded their recommendation to the Council which was 4-0-1.

Councilor Hackett motioned for approval of measure number 13 113 and read the Planning Board's recommendation into the record as follows:

"The applicant, Michael F. Krause, owner of the subject property at 1267 Washington Street has petitioned the Town of Weymouth to rezone his property from its current designation as Highway Transitional (HT) and Limited Industrial (I-1) to all I-1. The parcel, sheet 35, block 446, lot 17, is zoned HT from the Washington Street property line 240' into the lot. The remaining portion of the lot is zoned I-1. The I-1 zone is currently over 60% of the total lot area which is 77,254 square feet.

There was a joint public hearing on this request by the Planning Board and Town Council on October 7, 2013. The applicant stated that he intended to erect a building on the site for the repair of automobiles. He stated that he met with neighbors on September 21, 2013, and has tried to address several concerns stemming from a prior use of the property. No one from the public spoke at the hearing.

This property abuts Weymouth Industrial Park to the south and west. That land is zoned I-1. The HT designation was passed by Town meeting in 1990. The area had been a General Business (B-2) zone. The HT zoning district, and other districts created in 1990, was enacted to address concerns over rapid development along the major highways in the Town.

In this case, the split zone impedes the efficient use of the lot. The shape of the lot, with a frontage of 40' going into the lot approximately 130', limits development opportunities near the street. More intensive uses on the lot will be confined to the rear portions.

The public hearing was closed on October 7, 2013 and deliberation was continued to the October 29, 2013 Planning Board meeting. The Planning Board notes the following reasons in support of the application:

1. Over 60% of the lot is zoned I-1 and industrially zoned parcels are located to the south and west of the applicant's property.
2. The frontage and access off Washington Street has limited potential for development.
3. Unifying the zoning on the lot will allow for more efficient use of the lot.
4. Previous rezoning by the Town has tried to reduce split zone conflicts where appropriate.
5. This request is not inconsistent with the Master Plan or other specific plans for the Town.

For these reasons, the Planning Board voted 4-0-1 (Flynn, Williams, Chandler, Hurley voted in favor, Akoury abstained) to recommend favorable action on Measure 13-113."

Motion seconded by Councilor Mathews.

Councilor Mathews noted that he is voting in favor of this rezoning request because this is a great opportunity for more commercial growth. He thanked Mr. Krause (proponent) for being pro-active, following the process and reaching out to both him and the abutters.

Motion passes unanimously.

13 119-Licensing of Junk Dealers and Dealers in Precious Metals Ordinance Amendment

Chairman Smart noted that this measure was referred on September 3, 2013, the committee met on October 7th and held a public hearing that same night. This was referred by Captain Comperchio and the Chairman noted that 19 shops are involved in total and approximately 5 are considered active; and would now be required to show proof of identification and follow a procedure when selling items.

Councilor DiFazio recollected that a committee member had previously recommended that a picture of the seller be taken. Councilor Harrington requested this as it would be an additional tool for the Police Department.

Captain Comperchio clarified that currently a driver's license is submitted but a photo is not taken. He further noted that it is imperative that this ordinance change is made immediately. Councilor Smart suggested that discussion regarding this suggestion be made at a future date and Captain Comperchio agreed.

Councilor Hackett motioned for favorable action on measure number 13 119, motion seconded by Councilor Mathews and voted unanimously.

13 123-Public Consumption of Marijuana Ordinance

Chairman Smart noted that this was referred on September 23, the committee met on October 7 and held a public hearing. It was noted that this proposed ordinance change was put forth by Captain Comperchio as well.

Chairman Smart asked Captain Comperchio if there are any updates since the last meeting, to which he responded no.

Councilor Hackett motioned for favorable action on measure number 13 123, motion seconded by Councilor Mathews.

Councilor Mathews called for a point of information as to the requirement to read the measure into the record. Chairman Smart agreed and read the measure into the record as follows:

“That the Town of Weymouth, through Town Council, amend the Code of Ordinances, Chapter 6: Preservation of Public Peace and Order, Section 6-102: Public Consumption of Marihuana (Marijuana), Tetrahydrocannabinol or Marihuana (Marijuana) Infused Products, by adding the following:

SECTION 6-102: Public Consumption of Marihuana (Marijuana), Tetrahydrocannabinol or Marihuana (Marijuana) Infused Products.

(a) Prohibition – No person, whether in or upon a vehicle, motor vehicle, conveyance or in or upon any bus or other passenger conveyance operated by a common carrier, or on foot, shall burn, smoke, ingest, or otherwise use or consume marihuana (marijuana), tetrahydrocannabinol or marihuana (marijuana) infused products, as defined in M.G.L. c. 94c, s. 1, as amended, and 105 C.M.R. 725.004, while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town of Weymouth; or in any place accessible to the public, or on private land or place without the consent of the owner or person in control thereof.

(b) Enforcement – This ordinance may be enforced through any lawful means in law or in equity by the Mayor, or duly authorized agents, or any police officer of the Town of Weymouth, including, but not limited to, enforcement by criminal indictment or complaint pursuant to M.G.L. c. 40, s.21, or by non-criminal disposition pursuant to M.G.L. c. 40, s.21D. Whoever is found in violation of this ordinance shall, when requested by an official authorized to enforce this ordinance, state his true name and address to said official. The fine for a violation of this ordinance shall be three hundred dollars (\$300.00) for each offense. Any penalty imposed under this ordinance shall be in addition to any civil penalty imposed under M.G.L. c. 94C, S.32L.

(c) Seizure of Controlled Substances – All controlled substances being used in violation of this ordinance shall be seized, held, and disposed of in accordance with M.G.L. c.94C, s.47A.

(e) Severability – If any provision of this ordinance is determined to be invalid or unenforceable by final judgment or order of a court of competent jurisdiction, the remaining provisions shall continue in effect to the extent permitted by law.”

Councilor DiFazio questioned how this ordinance change is effected by the state regulations regarding medical marijuana; to which Solicitor Lane noted that there are no conflicts, as it is up to the local authorities to enforce.

Motion passes unanimously.

With no further business to attend to, Councilor Hackett motioned to adjourn at 7:24 PM- motion seconded by Councilor Mathews and voted unanimously.

Respectfully Submitted by Diane T. Hachey as Recording Secretary

Approved by Michael Smart, Chairman of the Ordinance Committee