

TOWN OF WEYMOUTH

IN COUNCIL

ORDER NO. 16 150

NOVEMBER 17, 2016

INTRODUCED: MAYOR

That the Town of Weymouth, through Town Council, amend the Town of Weymouth Zoning Ordinance, as follows:

Delete §120-53 in its entirety.

Also remove reference to 120-53 from Table 1 Schedule of District Regulations

Add §120-53.2 containing the following text:

Lot Shape Factor: No lot shall be created so as to be so irregularly shaped or extended that it has a "shape factor" in excess of thirty (30). Shape Factor equals the square of the lot perimeter divided by the lot area.

Also add reference to 120-53.2 to Table 1 Schedule of District Regulations defining the R-1 District Lot Size.

Amend §120-53.1 to read:

Any lot created after [insert adoption date], shall have a minimum upland area, as defined in Section 120-6, of 85% of the minimum lot area.

Delete §120-13 (A) in its entirety.

Re-assign lettering of remaining items under §120-13 accordingly.

Amend Table 1 Schedule of District Regulations as follows:

Under the heading "Maximum Lot Coverage" in the R-3 District, change the Percentage of Landscaped Area from 15% to 20%.

Amend Table 1 Schedule of District Regulations as follows:

Under the heading "Maximum Lot Coverage" in the R-4 District, change the Percentage of Landscaped Area from 15% to 20%.

This measure requires a legal notice and a joint public hearing with the Weymouth Planning Board.

Passed in Council – January 17, 2016
Presented to Mayor – January 18, 2016
A True Copy. Attest:

Approved

1/18/17

Date

Kathleen A. Deree
Kathleen A. Deree, Town Clerk

[Signature]

Mayor

YEAS: Conlon, DiFazio, Hackett, Harrington, Haugh, Lacey
Mathews, McDonald, Molisse, O'Connor, Smart.

NAYS: Conlon, DiFazio, Hackett, Harrington, Haugh, Lacey
Mathews, McDonald, Molisse, O'Connor, Smart

ABSENT: Harrington, McDonald

TOWN OF WEYMOUTH-APPLICATION FOR REZONING WORKSHEET
MEASURE NUMBER 16150

Contact Individual Robert Luongo

Name _____

Address _____ Phone _____

Email _____

Reason for Request resolve issue of subverting the intent of zoning ord amendment (voted in 2013 for minimum res. lot size in R-1 for 25K SF)

Request Submitted By Dept of Planning

Deadline Schedule:

Received by Council 17 November 2016

Time-stamped Town Clerk's Office 17 November 2016

Submit to Planning Dept. (14 days from receipt) 1 Dec 2016 (Deadline)
done on 22 Nov

Ordinance Committee Referral 21 Nov 2016

Met on 11/28/16 4-0 favorable

Hold Joint PH (Council and P. Board-includes 14 days to Planning Dept. plus 65 days) Dec 19, 2016 @ 7:36 PM opened/closed

Publication Dates 12/5 & 12/12

(7 & 14 days)

Planning Dept. to Submit Report to Council (21 days from public hearing-if no report submitted-Council may proceed with vote) 9 Jan 2016 (22 Dec)

Met 12/19 After TC

Town Council Voting Deadline (90 days from initial ph date-requires 2/3 majority vote to pass-if time lapses, no action can be taken until new public hearing is held) _____

PB issued recommendation on 22 Dec 2016

***Planning Department handles the advertising of 2 public hearings (7 days and 14 days) which are required-Town Council Office is required to post the hearing within 48 hours.

Referred 11/21/16 Ord. Comm.

OW. VOTED 4-0 on 1/7/17

T.C. VOTED 9-0 on 1/17/17

Department of Planning and
Community Development

Robert J. Luongo
Director of Planning and
Community Development
email: rluongo@weymouth.ma.us

(781) 340-5015
(781) 335-3283 fax

**Town of Weymouth
Massachusetts**




RECEIVED

Robert L. Hedlund
Mayor

2016 DEC 22 AM 10:27

75 Middle Street
Weymouth, MA 02189
www.weymouth.ma.us

CC: ALL COUNCILORS

DATE: December 22, 2016
TO: Weymouth Town Council
FROM: Eric Schneider, Principal Planner 
SUBJECT: Measure 16-150 Amendment to the Zoning Ordinance

During the public hearing on Measure 16-150 held on December 19, 2016, questions arose as to the relative level of scrutiny required when considering special permits and variances.

Section 120-122 of the Weymouth Zoning Ordinance provides the following guidance for the consideration of special permits:

Criteria for approval by special permit granting authorities. The special permit granting authority may approve any such application for a special permit only if it finds that, in its judgment, all of the following conditions are met:

- 1. The specific site is an appropriate location for such a use.*
- 2. The use involved will not be detrimental to the established or future character of the neighborhood or Town.*
- 3. There will be no nuisance or serious hazard to vehicles or pedestrians.*
- 4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.*
- 5. The public convenience and welfare will be substantially served.*

Section 120-119 of the Weymouth Zoning Ordinance provides the following guidance for the consideration of variances:

To hear and decide, upon appeal or petition, requests for variances after public hearing for which notice has been given by publication and posting as provided in MGL c. 40A, § 11, and by mailing to all parties in interest. Variances from the term of this bylaw with respect to particular land or structures shall be granted only when the Board of Zoning Appeals specifically finds that, owing to circumstances relating to the soil conditions, shape or topography of such land or structures

and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the petitioner or applicant, or that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw. No variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located; provided, however, that such variances properly granted prior to January 1, 1976, but limited in time, may be extended on the same terms and conditions there were in effect for such variance upon said effective date.

Department of Planning and
Community Development

Robert J. Luongo
Director of Planning and
Community Development
email: rluongo@weymouth.ma.us

781) 340-5015
(781) 335-3283 fax


**Town of Weymouth
Massachusetts**



Robert L. Hedlund
Mayor

75 Middle Street
Weymouth, MA 02189

www.weymouth.ma.us

DATE: December 22, 2016
TO: Weymouth Town Council
FROM: Weymouth Planning Board 
SUBJECT: Measure 16-150 Amendment to the Zoning Ordinance

Testimony and public comment was heard on Measure 16-150 at a joint public hearing of the Planning Board and Town Council held on Monday, December 19, 2016. Both bodies closed the public hearing that evening.

After the public hearing was closed, the Planning Board adjourned to the Kelly Room at Town Hall and voted 3-0 (B.D. Nayak and David Chandler absent) to recommend favorable action on Measure 16-150 as submitted to the Town Council on November 8, 2016 with the added recommendation that, at the discretion of the Town Council and Ordinance Committee, proposed section 120-53.2 be amended to read:

Lot Shape Factor: No lot shall be created so as to be so irregularly shaped or extended that it has a "shape factor" in excess of thirty (30). Shape Factor equals the square of the lot perimeter divided by the lot area.

CC: ALL COUNCILORS

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2016 DEC 22 AM 10:22
Weymouth
Town Council



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Public Hearing on Proposed Amendments to Weymouth Zoning Ordinance

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Posted on: December 14, 2016 - 1:50pm

Monday December 19, 2016 at 7:30pm.

PUBLIC HEARING ON PROPOSED AMENDMENTS TO WEYMOUTH ZONING ORDINANCE



SUBMITTED FOR TOWN COUNCIL
CONSIDERATION BY:

MAYOR ROBERT HEDLUND

with the

DEPARTMENT OF PLANNING AND
COMMUNITY DEVELOPMENT

SUMMARY

In an ongoing effort to protect the fabric of Weymouth's established single-family neighborhoods, this proposal seeks to increase lot size and open space requirements within residential districts. The proposal also introduces a lot shape requirement for new lots within the R-1 District (single-family residential) and reduces the percentage of wetlands eligible to be counted towards the required lot size.

PURPOSE

This is a first step toward the larger goal of directing and encouraging development where appropriate while also preserving the integrity and vitality of residential neighborhoods. In the coming months, Mayor Hedlund will propose additional zoning amendments to revitalize Weymouth's major commercial corridors and village centers.

WHEN: Monday, December 19, 2016 7:30 PM

PLACE: Town Council Chambers
75 Middle Street, Weymouth

For details on the proposed amendments, visit the Town of Weymouth's website or contact the Department of Planning and Community Development at 781-340-5015.

Town of Weymouth, 75 Middle Street, Weymouth, MA 02189
Phone: (781) 335-2000 Fax: (781) 335-3283

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Department of Planning and
Community Development

Robert J. Luongo
Director of Planning and
Community Development
email: rluongo@weymouth.ma.us
(781) 340-5015

***Town of Weymouth
Massachusetts***



Robert L. Hedlund
Mayor

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**Planning Board Agenda
Monday, December 19, 2016
7:30 P.M.**

**Town Council Chambers, Town Hall, 2nd Floor
75 Middle Street Weymouth, MA 02189**

1. Call to Order
2. Public Hearing Zoning Amendment Petition, Measure 16 150 – 7:36 PM
Joint Hearing with Town Council

Zoning Ordinance Amendment Petition – Presented by Mayor Hedlund and
Department of Planning and Community Development as summarized below:

To see if the Town will amend the Town of Weymouth Zoning Ordinance as follows:

1. **Delete §120-53 Exceptions to Dimensional Requirements** in its entirety.

Also remove reference to 120-53 from Table 1 Schedule of District Regulations

2. **Add §120-53.2** containing the following text:

Lot Shape Factor: No lot shall be created so as to be so irregularly shaped or extended that it has a "shape factor" in excess of thirty-five (35). Shape Factor equals the square of the lot perimeter divided by the lot area.

Also add reference to 120-53.2 to Table 1 Schedule of District Regulations defining the R-1 District Lot Size.

3. **Amend §120-53.1** to read:

Any lot created after [insert adoption date], shall have a minimum upland area, as defined in Section 120-6, of 85% of the minimum lot area.

Weymouth Planning Board
Department of Planning and Community Development
Weymouth Town Hall, 75 Middle Street, 3rd Floor, Weymouth, MA 02189
Telephone: (781) 340-5015

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www.weymouth.ma.us**

4. **Delete §120-13 (A) Special Permit Uses in R-1** in its entirety.

Re-assign lettering of remaining items under §120-13 accordingly.

5. **Amend Table 1 Schedule of District Regulations** as follows:

Under the heading "Maximum Lot Coverage" in the R-3 District, change the Percentage of Landscaped Area from 15% to **20%**.

6. **Amend Table 1 Schedule of District Regulations** as follows:

Under the heading "Maximum Lot Coverage" in the R-4 District, change the Percentage of Landscaped Area from 15% to **20%**.

3. Reconvene to discuss and vote recommended action on Zoning Amendment
4. Upcoming Scheduled Meetings – 1/17/2017, 2/7/2017
5. Adjournment

**Town of Weymouth
Massachusetts**

Robert L. Hedlund
Mayor

75 Middle Street
Weymouth, MA 02189



Office: 781.340.5012
Fax: 781.335.8184

TTY: 781.331.5124

Referral Dte. _____ PH Dte. _____
Comm. Referral _____ TC Vote _____
Comm. Vote _____ TC Vote Dte. _____
Comm. Vote Dte. _____

MEMORANDUM

16 150

TO: TOWN COUNCIL
FROM: ROBERT L. HEDLUND, MAYOR
RE: PROPOSED CHANGES TO THE TOWN OF WEYMOUTH
ZONING ORDINANCE
DATE: NOVEMBER 8, 2016

2016 NOV 17 AM 10:02

RECEIVED
TOWN OF WEYMOUTH
TOWN CLERK'S OFFICE

I hereby submit the following measure to Town Council for its consideration and action:

That the Town of Weymouth, through Town Council, amend the Town of Weymouth Zoning Ordinance, as follows:

Delete §120-53 in its entirety.

Also remove reference to 120-53 from Table 1 Schedule of District Regulations

Add §120-53.2 containing the following text:

Lot Shape Factor: No lot shall be created so as to be so irregularly shaped or extended that it has a "shape factor" in excess of thirty-five (35). Shape Factor equals the square of the lot perimeter divided by the lot area.

Also add reference to 120-53.2 to Table 1 Schedule of District Regulations defining the R-1 District Lot Size.

Amend §120-53.1 to read:

Any lot created after [insert adoption date], shall have a minimum upland area, as defined in Section 120-6, of 85% of the minimum lot area.

Weymouth
Town Council

2016 NOV 17 AM 10:50

RECEIVED

Delete §120-13 (A) in its entirety.

Re-assign lettering of remaining items under §120-13 accordingly.

Amend Table 1 Schedule of District Regulations as follows:

Under the heading “Maximum Lot Coverage” in the R-3 District, change the Percentage of Landscaped Area from 15% to **20%**.

Amend Table 1 Schedule of District Regulations as follows:

Under the heading “Maximum Lot Coverage” in the R-4 District, change the Percentage of Landscaped Area from 15% to **20%**.

This measure requires a legal notice and a joint public hearing with the Weymouth Planning Board.

Department of Planning and
Community Development

Robert F. Luongo,
Director of Planning and
Community Development
email: rluongo@weymouth.ma.us

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(781) 335-3283 fax

***Town of Weymouth
Massachusetts***



Robert L. Hedlund
Mayor

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Weymouth, MA 02189

www.weymouth.ma.us

**PETITION FOR TOWN COUNCIL HEARING OF
PROPOSED AMENDMENTS TO ZONING ORDINANCE
BY THE OFFICE OF PLANNING AND COMMUNITY DEVELOPMENT**

November 8, 2016

Reason for Request

The minimum residential lot size in the Town's R-1 District is 25,000 square feet. In 2013, the Zoning Ordinance was amended to permit lots of 17,500 square feet with Special Permit approval by the Board of Zoning Appeals. In considering the request for this Special Permit, the Board is required to consider the size and configuration of existing lots in the surrounding neighborhoods.

The intent of these ordinances is to protect the integrity of existing residential neighborhoods and to protect various environmental resources from over development. To this end, the ordinance further stipulates that 75% of a lot's minimum required size must be "upland" as defined in Section 120-6 of the Weymouth Zoning Ordinance.

As Weymouth reaches build out the pressure to develop the few remaining vacant parcels has steadily increased. Many of the parcels have remained undeveloped as they represent significant challenges stemming from one or more of the following factors:

- size and shape
- safe access to public roads
- topography
- proximity to sensitive environmental resources

Recently, Planning Department staff, the Planning Board and several residents have observed development practices that seek to systemically subvert the intent of existing Zoning Ordinance and the Rules and Regulations of the Planning Board. This trend is viewed as a direct result of the limited number of developable parcels within the Town of Weymouth and we feel strongly that adjustments need to be made in order to preserve the original intent of these documents.

In summary, the below recommendations are intended to achieve greater protection for existing single family neighborhoods and to ensure that any future residential development conform to the original intent of the Town's bylaws.

The current proposals are consistent with and are a step toward a larger goal of encouraging density where density is appropriate while providing greater protection for existing residential neighborhoods. In 2010 the Town Council adopted the Village Center Overlay District which promotes greater development potential and design opportunities in order to revitalize the Weymouth Landing area. This has proved successful in attracting development interest and has been instrumental in creating the impetus for solid urban design and the creation of what will become a vibrant mixed-use neighborhood centered around the Commuter Rail station.

We hope to apply similar techniques to other areas of the Town in the coming months and feel that adding protection for our established residential neighborhoods is a critical first step.

A. Lot Size

We believe that an increased burden of proof should be applied when considering a reduction in the required lot size of 25,000 square feet. Currently lot size can be reduced to 17,500 square feet with a Special Permit from the Board of Zoning Appeals. We recommend increasing the burden of proof by eliminating this provision (120-53) which would then mean that a *variance* would be required to create a lot of less than 25,000 square feet.

In addition, we propose to increase from 75 to 85 the percentage of upland space required when conforming to minimum lot size (120-53.1). Put another way, only 15 percent of a lot's minimum required size may be wetland. In the case of a 25,000 square foot lot, a maximum of 3,750 square feet may be within a designated wetland.

B. Lot Shape Factor

In an effort to comply with lot size minimums and to maximize the number of lots within a subdivision, developers and engineers have been utilizing irregularly shaped lots which have long, narrow "tails" that often extend into otherwise undevelopable wetland areas. These "tails" are often only 5-10 feet in width and can extend for hundreds of feet. Although unusable, the square footage within the "tail" currently counts toward the minimum lot size. In addition to skirting the intent of the minimal lot size requirement, these narrow strips of land cause disputes between neighbors and can be an obstruction to routine property maintenance. A survey of all Massachusetts towns conducted in 2004 by the Pioneer Institute for Policy Research found that many municipalities have adopted what are commonly referred to as "perimeter area ratios" to combat this practice. After a review of various analysis tools, we recommend the addition of the below to the Town's Dimensional Requirements.

Lot Shape Factor: No lot shall be created so as to be so irregularly shaped or extended that it has a "shape factor" in excess of thirty-five (35). Shape Factor equals the square of the lot perimeter divided by the lot area.

The lower the shape factor, the more regular the shape.

C. Two-Family Dwellings in R-1 Districts

Section 120-13 (A) of the Weymouth Zoning Ordinance lists Special Permit uses within the R-1 district. It reads:

Any of the following uses, or uses customarily accessory thereto, on approval of the Board of Zoning Appeals, subject to the conditions and requirements of Article XXV:

- A. Alteration of a dwelling existing at the time this bylaw is adopted for a two-family dwelling.*

The ambiguity of this bylaw has led to a variety of interpretations. A liberal reading of this bylaw has been interpreted to mean that any single-family home constructed prior to 1969 can be converted to a two-family home via Special Permit. A more conservative interpretation would suggest only that if a legal two-family home existed as of 1969 it could be further altered or expanded only with a Special Permit from the Board of Zoning Appeals.

We do not see a compelling reason to allow for the conversion of single-family homes to two-family homes within our districts. Separate provisions do allow for the creation of an “in-law” suite which we believe to be satisfactory to protect and support the family unit. Toward this end, we propose that item (A) of Section 120-13 be removed.

D. Residential District R-3 and R-4

Similarly, the demand for multi-family housing has resulted in increased focus on the limited number of properties remaining which are zoned for multi-family use but not currently being used as such. A review of properties currently zoned as R-3 reveals that only seventeen (17) of these remain as single family homes and are scattered throughout seven (7) R-3 zones. As such, we do not propose to rezone or otherwise limit the development rights of those property owners. Their long-term use as single-family homes should not be expected given the more intense development that has occurred around them. Instead it is our goal to ensure the highest quality and most appropriate development possible.

Rather than “density”, we view the problem as poor design and lack of civic guidance. We would propose only small changes to the rules guiding future development and suggest that greater effort be made to encourage responsible design with a higher regard for the well-being of residents.

Toward this end, we recommend increasing the required landscape area from 15% to 20% in both the R-3 and R-4 zones.

Summary of Proposed Changes

To see if the Town will amend the Town of Weymouth Zoning Ordinance as follows:

- Remove Section 120-53 which currently allows the reduction of the minimum lot size to 17,500 s.f. by Special Permit. Deviation from the 25,000 s.f. minimum lot size will now require a variance from the Board of Zoning Appeals. References to 120-53 also to be removed from Table 1 Schedule of District Regulations.

- Add Section 120-53.2 to read:

Lot Shape Factor. No lot shall be created so as to be so irregularly shaped or extended that it has a “shape factor” in excess of thirty (35). Shape Factor equals the square of the lot perimeter divided by the lot area.

Reference to 120-53.2 will also be added to Table 1 Schedule of District Regulations.

- Amend Section 120-53.1 to read:

Minimum Upland Area. Any lot created after [insert adoption date], shall have a minimum upland area, as defined in Section 120-6, of 85% of the minimum required lot area.

- Remove Section 120-13 (A).

Alteration of a dwelling existing at the time this bylaw is adopted for a two family dwelling.

- Amend Table 1 Schedule of District Regulations for the R-3 zone to now require a 20% minimum landscape area. This is an increase from the current 15% requirement.
- Amend Table 1 Schedule of District Regulations for the R-4 zone to now require a 20% minimum landscape area. This is an increase from the current 15% requirement.

TOWN COUNCIL

*Town of Weymouth
Massachusetts*



*Patrick O'Connor, President
Michael Smart, Vice President
Robert M. Conlon
Kenneth DiFazio
Jane Hackett
Ed Harrington*

*Rebecca Haugh
Thomas J. Lacey
Arthur Mathews
Brian McDonald
Michael Molisse*

MEMORANDUM

Patrick O'Connor *DH*

TO: ROBERT LUONGO, DIRECTOR OF PLANNING & COMMUNITY DEVELOPMENT
FROM: PATRICK O'CONNOR-COUNCIL PRESIDENT
SUBJECT: MEASURE # 16 150-PROPOSED CHANGES TO TOWN OF WEYMOUTH ZONING
ORDINANCE- § 120
DATE: 22 NOVEMBER 2016
CC: ALL COUNCILORS, ERIC SCHNEIDER, SANDRA WILLIAMS-CHAIR/PLANNING
BOARD

ATTACHMENTS

The attached measure was received in the Town Council Office on 17 November 2016. This measure was introduced at the Town Council meeting of 21 November 2016 and subsequently referred to both the Ordinance Committee and Planning Board.

We are seeking the Planning Board's input and recommendations on this matter.

As you are aware, a joint public hearing (Town Council and Planning Board) must be held within 65 days. To this end, please contact Diane Hachey to schedule an amenable date to hold the hearing.

Thank you.

**Town of Weymouth
Massachusetts**

Robert L. Hedlund
Mayor

75 Middle Street
Weymouth, MA 02189



Office: 781.340.5012

Fax: 781.335.8184

TTY: 781.331.5124

Referral Dte. _____ PH Dte. _____

Comm. Referral _____ TC Vote _____

Comm. Vote _____ TC Vote Dte. _____

Comm. Vote Dte. _____

MEMORANDUM

16 150

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TOWN COUNCIL
WEYMOUTH

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A. Lot Size

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In addition, we propose to increase from 75 to 85 the percentage of upland space required when conforming to minimum lot size (120-53.1). Put another way, only 15 percent of a lot's minimum required size may be wetland. In the case of a 25,000 square foot lot, a maximum of 3,750 square feet may be within a designated wetland.

B. Lot Shape Factor

In an effort to comply with lot size minimums and to maximize the number of lots within a subdivision, developers and engineers have been utilizing irregularly shaped lots which have long, narrow "tails" that often extend into otherwise undevelopable wetland areas. These "tails" are often only 5-10 feet in width and can extend for hundreds of feet. Although unusable, the square footage within the "tail" currently counts toward the minimum lot size. In addition to skirting the intent of the minimal lot size requirement, these narrow strips of land cause disputes between neighbors and can be an obstruction to routine property maintenance. A survey of all Massachusetts towns conducted in 2004 by the Pioneer Institute for Policy Research found that many municipalities have adopted what are commonly referred to as "perimeter area ratios" to combat this practice. After a review of various analysis tools, we recommend the addition of the below to the Town's Dimensional Requirements.

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The ambiguity of this bylaw has led to a variety of interpretations. A liberal reading of this bylaw has been interpreted to mean that any single-family home constructed prior to 1969 can be converted to a two-family home via Special Permit. A more conservative interpretation would suggest only that if a legal two-family home existed as of 1969 it could be further altered or expanded only with a Special Permit from the Board of Zoning Appeals.

We do not see a compelling reason to allow for the conversion of single-family homes to two-family homes within our districts. Separate provisions do allow for the creation of an “in-law” suite which we believe to be satisfactory to protect and support the family unit. Toward this end, we propose that item (A) of Section 120-13 be removed.

D. Residential District R-3 and R-4

Similarly, the demand for multi-family housing has resulted in increased focus on the limited number of properties remaining which are zoned for multi-family use but not currently being used as such. A review of properties currently zoned as R-3 reveals that only seventeen (17) of these remain as single family homes and are scattered throughout seven (7) R-3 zones. As such, we do not propose to rezone or otherwise limit the development rights of those property owners. Their long-term use as single-family homes should not be expected given the more intense development that has occurred around them. Instead it is our goal to ensure the highest quality and most appropriate development possible.

Rather than “density”, we view the problem as poor design and lack of civic guidance. We would propose only small changes to the rules guiding future development and suggest that greater effort be made to encourage responsible design with a higher regard for the well-being of residents.

Toward this end, we recommend increasing the required landscape area from 15% to 20% in both the R-3 and R-4 zones.

Summary of Proposed Changes

To see if the Town will amend the Town of Weymouth Zoning Ordinance as follows:

- Remove Section 120-53 which currently allows the reduction of the minimum lot size to 17,500 s.f. by Special Permit. Deviation from the 25,000 s.f. minimum lot size will now require a variance from the Board of Zoning Appeals. References to 120-53 also to be removed from Table 1 Schedule of District Regulations.
- Add Section 120-53.2 to read:

Lot Shape Factor. No lot shall be created so as to be so irregularly shaped or extended that it has a “shape factor” in excess of thirty (35). Shape Factor equals the square of the lot perimeter divided by the lot area.

Reference to 120-53.2 will also be added to Table 1 Schedule of District Regulations.

- Amend Section 120-53.1 to read:

Minimum Upland Area. Any lot created after [insert adoption date], shall have a minimum upland area, as defined in Section 120-6, of 85% of the minimum required lot area.

- Remove Section 120-13 (A).

Alteration of a dwelling existing at the time this bylaw is adopted for a two family dwelling.

- Amend Table 1 Schedule of District Regulations for the R-3 zone to now require a 20% minimum landscape area. This is an increase from the current 15% requirement.
- Amend Table 1 Schedule of District Regulations for the R-4 zone to now require a 20% minimum landscape area. This is an increase from the current 15% requirement.

PROPOSED ZONING CHANGE ISSUE

I'm going to propose that Councilor Lacey recuse himself from deliberating and voting on this change because he has personally injected himself into the fray on a proposed development in the Idlewell section using his lone position on the council in violation of charter §§ 2-3 and 2-7. I was at the ZBA hearing when he attempted to sway the developer and the ZBA to reduce the number of lots from 14 to 12 to satisfy Mr. Lacey's area constituents. One of those constituents happens to be the developer himself who bought the subject acreage, a local builder with over 30 years experience building quality homes, including councilor Lacey's, as well as many commercial properties in Weymouth. While I believe this developer is being personally targeted by this proposed zoning change, he was astute enough to file a Form A to protect his rights, which Mr. Lacey has been trying to undo through letters to the mayor, the planning director and a judge in Land Court. Has this council and planning board ceded their duties and responsibilities to one rogue councilor who may think of himself as Alexander Haig? Is he in charge here now?

The ZBA approved the Idlewell plan because of ~ 120-53, which this entire council—including councilor Lacey, who was for it before he was against it—and the planning board approved in late 2013. The ZBA approval is in Land Court litigation as we speak because a neighborhood group contested the ZBA's decision, which is its right. Councilor Lacey wrote a letter to the mayor on council stationery using council staff and copied it to several others, including the Land Court judge, where Mr. Lacey obviously was attempting to sway the Court's decision, intervening after all the legal arguments were presented by the legitimate parties to the suit.

The developer used ~ 120-53 as it was intended – to offer lot size relief by allowing R-1 lots to be as little as 17,500 sq. feet under certain conditions. Ironically, Mr. Lacey's lot on Sherrick's Farm Road is only 16,117 sq. ft., so what's good for the goose should be good for the gander, no?

In his plan, the developer used ~120-53 to get rid of all the pig-tail extensions that are deemed to be problematic. I suppose that after three decades of building in Weymouth, the developer used a keen eye with his plan in order to continue to preserve his reputation as a high quality builder who employs a good number of local craftsmen, thereby adding to the local economy, and, that particular developer is probably one of the leading taxpayers in Weymouth. His office is directly across the street from where I live and for 16 years he's always been a model neighbor. All of his properties are meticulously maintained. One can't ask for more, except for Mr. Lacey I suppose.

I'd suggest retaining ~ 120-53 as it is and amending it only in regards to the upland percentages. The operative word in ~ 120-53 is that the ZBA "**MAY**" consider granting a special permit and does not use the mandatory "**SHALL**"; so the ZBA **MAY** legally vote to not consider smaller lots.

As far as the in-law suites are concerned, what happens when the in-laws are no longer with us? Do those suites become available commercial rentals or places where the homeowners use them to run a home business without paying a commercial tax on that portion of the property? Perhaps we should look at a tax rate somewhere between residential and commercial to be applied to these so-called in-law apartments and suites instead of giving away the tax barn by abandoning sound policy. They're basically commercially used residential units. I know of a few that are rented to people who are not relatives. It's an abuse of the right and privilege to provide for one's family and, to be fair, should be taxed accordingly. Thank you for your time.

WEYMOUTH CHARTER SECTION 2-3: PROHIBITIONS

(b) Interference with Administration – Except for the purpose of inquiries and investigations pursuant to section 2-7, the town council and its members shall deal with the officers and employees serving under the mayor, solely through the mayor, and neither the town council nor any member of the town council shall give orders or directions to any such officer or employee, either publicly or privately.

WEYMOUTH CHARTER SECTION 2-7: ACCESS TO INFORMATION

(a) In General - The town council may make investigations into the affairs of the town and into the conduct and performance of any town agency and for this purpose may subpoena witnesses, administer oaths and require the production of evidence.

(b) Town Officers, Members of Town Agencies, Employees - The town council may require any town officer, member of a town agency or town employee to appear before it to give such information as the town council may require in relation to the municipal services, functions, powers, or duties which are within the scope of responsibility of such person and within the jurisdiction of the town council.

(c) Mayor - The town council may require the mayor to provide specific information to it on any matter within the jurisdiction of the town council. The town council may require the mayor to appear before it, in person, to respond to written questions made available to the mayor at the time the request to attend is made to the mayor to provide specific information on the conduct of any aspect of the business of the town. The mayor may bring to such meeting any assistant, department head or other town officer or employee the mayor may deem necessary to assist in responding to the questions posed by the town council.

(d) Notice - The town council shall give not less than five days notice to any person it may require to appear before it under the provisions of this section. The notice shall include specific questions on which the town council seeks information and no person called to appear before the town council under this section shall be required to respond to any question not relevant or related to those presented in advance and in writing. Notice shall be by delivery in hand, or by registered or certified mail to the last known place of residence of any such person.

ARTICLE XV

Dimensional Requirements

~ 120-51: Schedule of District Regulations: [Added May 1989 ATM Art. 51, app. 7-28-1989]

No structure shall be erected, altered or moved, except in conformity with Table 1, Schedule of District Regulations, at the end of this chapter.

~ 120-52: Exception for erection of single-family dwelling on previously recorded lots [Amended May 1989 ATM Art. 51, app. 7-28-1989]

A single-family dwelling may be erected on a lot containing less than is hereby prescribed if such lot was recorded at time of the adoption of this bylaw, if separately owned and containing not less than 5,000 square feet and if it did not at the time of such adoption adjoin other land of the same owner available for use in connection with said lot; provided, however, that any building erected thereon shall conform to all other provisions of this bylaw. See Table 1 for applicability.

~ 120-53: Exceptions by Zoning Board of Appeals [Amended Nov. 7, 2013, Town Council Order # 13-127, App. March 14, 2014.]

If the average size or area of residential lots in the surrounding neighborhood is nonconforming with respect to lot area and the new lots to be created are larger or of similar area as the surrounding lots, the Zoning Board of Appeals **MAY** consider granting a special permit if all of the following requirements have been met (See Table 1, Schedule of District Regulations for applicability):

- A. The lot shall be in existence in its current configuration prior to December 1, 2013;
- B. The lot to be subdivided shall be at least 40,000 square feet;
- C. The proposed new lots shall meet frontage requirements;
- D. The proposed new lots shall not be less than 17,500 square feet in area, and
- E. The Zoning Board of Appeals shall make a finding that the proposed lots are of a similar lot size configuration to lots in the surrounding neighborhood.

~ 120-53.1: Minimum upland area [Added May 1986 ATM Art. 46, app. 7-24-1986; amended May 1998 ATM Art. 43, app. 10-23-1998]

Any lot created after May 4, 1998, shall have a minimum upland area, as defined in ~ 120-6, of seventy-five percent (75%) of the minimum required lot area.

~ 120-54: Confinement of accessory uses to rear yard required [Amended May 1989 ATM Art. 48, app. 7-28-1989]

Building of an accessory use, other than a private garage or carport, shall be confined to the rear yard area, and no building of any accessory use shall be permitted in the required front yard.

~ 120-55: One-story accessory use building [Amended May 1989 ATM Art. 48, app. 7-28-1989]

A one-story building of accessory use may be built no closer than five feet from a side lot line and/or the rear lot line.

***Town of Weymouth
Massachusetts***

***Thomas J. Lacey
Weymouth Town Council
District Two Councilor
75 Middle Street
Weymouth, MA 02189
(781) 340-5020***



MEMORANDUM

Thomas J. Lacey **DH**

TO: Mayor Robert Hedlund
FROM: District Two Town Councilor Thomas J. Lacey
SUBJECT: ANR Application-Submitted by Ryder Development Corporation-Edison and Hyde Parcels
DATE: October 26, 2016
CC: Robert Luongo-Planning Director, Eric Schneider- Principal Planner, Joseph Callanan-Town Solicitor, Sandra Williams- Chair/Planning Board, Matthew Tallon, President- Idlewell Neighborhood Association, Attorney Matthew Dunn, Attorney Gregory Galvin, Kenneth Ryder, Honorable Keith Long

As the District Two Town Councilor representing residents in the Idlewell neighborhood, I'm writing to you regarding the aforementioned application and to gain your support in revisiting the recent direction our Planning Director, Robert Luongo, gave to the Planning Board during their meeting last Tuesday evening, October 18, 2016; resulting in no action on the Ryder Development Corporation ANR application. As with all ANR applications, no action taken by a local municipality results in automatic approval after 21 days and in this case would be irresponsible of your administration to allow this to happen, given the two year history and community sensitivity around this Edison/Hyde Parcel.

Following assurances made to me by both the Planning Department and Town Clerk's Office that I would be made immediately aware of any application submission for the Edison/Hyde parcel, I was stunned when I was informed that this ANR application was on the agenda for the Planning Board meeting only hours prior to the meeting. This matter was discussed under the agenda item described as "ANR Approvals". Given the 21 day timeclock that begins upon submission of the ANR application, 11 days had elapsed when I was informed of this submittal, which is disappointing, frustrating and frankly, infuriating.

Additionally, it is important to note that Ryder Development Corporation filed the application with the Planning Department, paid the subsequent application fee, but neglected to file the application with the Town Clerk's Office, of which most applications are filed and must be time stamped, especially one that includes a 21-day automatic approval that could result in a binding decision.

I am formally requesting that you instruct Robert Luongo, Director of Planning, to deny this ANR application, prior to the 21 day deadline of Friday, October 28, 2016.

Let me outline some additional history and specifically why I'm requesting your intervention ...

This application creates potential risks for the residents of the Idlewell neighborhood by endorsing, through no action by the Planning Board, that the applicant has vital access from a public way to the area which the applicant hopes to develop.

As you are aware, there is currently an appeal pending in land court, as to the Weymouth Zoning Board of Appeal's decision to approve the Ryder Development Corporation's petition for a special permit, granting reduced lot sizes on the Edison/Hyde parcel. Closing arguments on this case concluded last month and both sides are awaiting the judge's decision on this appeal in the near future.

This is the second attempt by Ryder Development Corporation to submit an application on this parcel via the Planning Board, while the Zoning Board of Appeals case is still pending in land court. The first submittal prompted the Town of Weymouth to require withdrawal of the planning board application in the spring of 2016, due to the fact that the applicant's plan was illegal - overburdening an access (Edison Street) to access 14 subdivided lots on both registered and unregistered lands.

The applicant has not established access to the parcels which were purchased in November 2015 and July 2016. The parcels are tucked away between a salt marsh, a commuter rail, multiple existing homes, and only entered via two private, unaccepted ways. These two ways (Edison and Hyde) have a multitude of access and feasibility issues as entry roads to a 14-home subdivision. This ANR application represents a potential opportunity to acquire legal access to a public way without first demonstrating that there is a suitable access way; also a key point of contention between the two parties in land court.

Also, prior submissions by the applicant have been inaccurate- as the complete parcel was not owned by Ryder Development Corporation- until the purchase of a strip of land known as "Hyde Street" on July 14, 2016. Previous plans submitted have been erroneous as they depicted the entire parcel owned by the applicant. Your administration should be concerned and skeptical of this applicants submissions and intentions both now and in the future.

All of our town boards should require the applicant prove accuracy of all information submitted and not force our towns residents to confirm the legal and proper process has been followed in land court proceedings. Allowing an ANR Plan approval at this juncture would essentially be doubling down on the capricious actions of the Zoning Board of Appeals by shifting, once again, the burden of proof from the applicant to the individual residents (abutters). The town's actions appear to be requesting that the residents finance, at great personal expense, actions that clarify the application of subdivision rules and regulations-- whereas the position of the town should be to place the onus/burden of proof on the applicant to demonstrate why such approvals are necessary (ex: special permit & ANR perimeter plan).

According to our Town Solicitor, Joseph Callanan, Ryder Development Corporation claims that an ANR endorsement is required on this plan under M.G.L. c. 41, sec. 81X (even though nothing noting that is included on the ANR application) however, that section only gets implicated where a plan shows "a division of a tract of land into two or more lots, and ways, whether existing or proposed, providing access thereto, in a city or town, in which the subdivision control law is in force." In this case, the plan does not indicate a division of a tract of land into two or more lots. Instead, it simply depicts existing lots that Ryder Development Corporation has acquired over the last year. As such, the third paragraph of M.G.L. c. 41, sec. 81X. applies as follows:

"The Register of Deeds shall accept for recording and the land court shall accept with a petition for registration or confirmation of title any plan bearing a certificate by a registered land surveyor that the property lines shown are the lines dividing existing ownerships, and the lines of streets and ways shown are those of public or private streets or ways already established, and that no new lines for division of existing ownership or for new ways are shown. The recording of any such plan shall not relieve any owner from compliance with the provisions of the subdivision control law or of any other applicable provision of law."

Therefore, Ryder Development Corporation's plan only requires a certificate by a registered land surveyor - not an ANR endorsement, which would only create confusion concerning the sufficiency of Ryder lots access to a public way in any subsequent consideration of a proposal to subdivide that land. That is because an ANR endorsement indicates that the Planning Board properly reviewed the plan under the subdivision control law - including the sufficiency of its access to a public way - and was satisfied that sufficient access existed. That implication is incorrect, but would nonetheless be "final and conclusive on all parties" pursuant to M.G.L. c. 41, sec. 81X.

Rather than risk any misinterpretation of an ANR endorsement, the better course of action is to deny Ryder Development Corporation an ANR endorsement because the third paragraph of M.G.L. c. 41, sec. 81X renders it completely unnecessary.

Last week I was informed by our Town Solicitor, Joseph Callanan, that our Planning Director could have stamped this application to be approved or denied the same day the application was submitted and bypassed the Planning Boards involvement. So I reiterate my ask of you Mayor Hedlund, please direct Mr. Luongo to deny this ANR application for the reasons I've outlined in this correspondence. It is the right thing to do to be fair to all parties involved.

I also ask that you ensure that no further requests be accepted by the town on behalf of Ryder Development Corporation, until the land court has had an opportunity to make its ruling.

I look forward to meeting with you later this morning to discuss your position on this paramount issue.

Thank you.

I do not wish to labor this subject so the top page gets straight to the meat of the any change in the R1 zoning. The taxes that come from the R1 zone is at \$12.80 cents and the entire buildable house lot is assessed at that rate, if it is up land or wet land. So having some of a house lots with portions wet and unbuildable is to the town's advantage because wet lands outside of a buildable house lot are assessed at a much, much lower rate. If our town wanted snob zoning we should have made all house lots one acre lots back in the 1940's but we went from 10,000ft lots to 15,000ft lots and today with 25,000ft lots and with only 4% of R1 zoned land we should stop messing with the R1 zone.—

Anything, make the unusable 40% and buildable area and usable upland 60% and get more taxes.

Tom Tanner
169 Park Ave West
Weymouth Ma.
02190

NIMBY'S

Not in my back yard We have over 50,000 residents in our town and I am willing to say that not that more than a hand full of them complain about the R-1 regulations that were just voted in just a few years ago. This over regulation is happening everywhere and that's one of the reasons our incoming President is talking about doing away with OVER regulations that is why the country wants him to put a stop to them. If the few people that complain were truthful, they would say "I have my piece of land too bad about the rest of the town." We, as a town, brag about how great our town is --we brag about the School system, the Police Dept., the Dept. Of Public Works --our teen programs and I could go on and on, but after all that, we do not want to share that. We want all the kids that are presently in our town to finish school and move away because we are regulating the land to a point that they will never be able to afford land to build on it. They will not be able to stay in the town they grew up in. - 25,000 ft. house lots are becoming unaffordable. No one can buy a lot for \$3,000.00 and put a ranch or a split level on it. -- 25,000 sq. ft. Lot with 60% up land and 40% wet lands is still fully taxable land. When rezoning is done the town should have the finance dept. calculates what taxes will be affected. Low land and wet land that is usable is taxed at a much lower rate, but if it is part of a buildable house lot the whole lot is taxed at the higher rate. We need to stop picking on the little guy that might have land they intended for one of their kids. I think it would be reasonable for the people that are in charge to keep a log for a year to see how many people that live in our town and complain about density. If the town were to keep records for one year they would find not more than (1%) of the town's people complains about density in the R1 districts. They may complain about the number of apartments or condos. I am over 70 years of age and I do not and cannot mow and maintain a 25,000 ft. piece of land so people should be forced to move out of town just so they can have a smaller home. Look at who is complaining they got there little piece of land but they do not want anyone else to have an affordable piece of property. "Too bad about everyone else." So they wish to make the cost of land so high no one can afford it I request you to leave the R1 district alone and spend more time on getting Route 18 fixed and Columbian Square fixed and figure out the school needs. Thank you...The town of Weymouth R1 area is about 96% percent built out; leave the remaining 4% as it is. It is plenty restrictive as is.-We need all the tax money we can get.

Remember what Yogi Berra --said (If it ant broke don't fix it)