

TOWN COUNCIL MINUTES
Town Hall Council Chambers
Zoom # 845 8439 1134
December 6, 2021, Monday

Present: Arthur Mathews, President
Michael Molisse, Vice President
John Abbott, Councilor
Pascale Burga, Councilor
Kenneth DiFazio, Councilor
Fred Happel, Councilor
Rebecca Haugh, Councilor
Christopher Heffernan, Councilor
Maureen Kiely, Councilor

Absent: Jane Hackett, Councilor
Ed Harrington, Councilor

Also Present: Kathleen Deree, Town Clerk
Joseph Callanan, Town Solicitor
Robert Luongo, Director of Planning & Community Development
Eric Schneider, Principal Planner
Sandra Williams, Chair, Planning Board
Paul, Rotondi, Planning Board
Greg Agnew, Planning Board
Ben Faust, Planning Board

Recording Secretary: Mary Barker

President Mathews called the meeting to order at 7:36 PM. After the Pledge of Allegiance, Town Clerk Kathleen Deree called the roll, with Councilors Hackett and Harrington absent.

ANNOUNCEMENTS

Councilor Kiely announced that the Weymouth Public Library is soliciting the community's feedback on a survey in order to create a strategic plan defining the priorities for the next five years. The survey is available on the town's website or in paper form at Tufts or Fogg.

Councilor Abbott announced a neighborhood meeting on Tuesday, December 7, 6:30 PM in the Humanities Center at WHS regarding the proposed Columbian Square Improvement project. The meeting will also be simulcast on webinar.

President Mathews announced to the audience that additional seating is available in the Kelly room.

MINUTES

Budget/Management Committee Meeting Minutes of November 15, 2021

Vice President Molisse motioned to approve the minutes from the November 15, 2021 Budget/Management Committee meeting and was seconded by Councilor Kiely. Unanimously voted.

Town Council Meeting Minutes of November 15, 2021

Vice President Molisse motioned to approve the minutes from the November 15, 2021 Town Council meeting and was seconded by Councilor Kiely. Unanimously voted.

Ordinance Committee Meeting Minutes of November 23, 2021

Vice President Molisse motioned to approve the minutes from the November 23, 2021 Ordinance Committee meeting and was seconded by Councilor Kiely. Unanimously voted.

PUBLIC HEARINGS

21 116-Citizens Petition to Change Zoning Ordinances- Article IV Section 120-13 Article IV A Section 120-13.3 (eliminate “funeral Home” section)

Vice President Molisse motioned to open the joint public hearing on measure 21 116 and was seconded by Councilor Kiely. This was advertised on November 11 and 18, 2021. Unanimously voted.

Chair Sandra Williams opened the Planning Board Meeting. Paul Rotondi motioned to open the public hearing on Measure 21 116 and was seconded by Greg Agnew. Unanimously voted.

Jim Kirkcaldy, 181 Columbian Street, presented the petition on behalf of the Citizens group to disallow funeral homes in the R-1 and R-2 zoning districts. He sent materials electronically to the Council, showing some of the funeral industry trends, and a petition signed by members outside of their neighborhood, since the request for an ordinance change affects other residential neighborhoods. The group was formed last summer after they were presented with plans for an expansion of the Keohane Funeral Home on Main Street which abuts their residential neighborhood. The 6,100-square foot expansion includes parking for 50-60 spaces, a large retention pond to collect runoff from the property, and includes the teardown of an existing residential home. He reported that this project is a significant encroachment into the neighborhood, as celebration events, with proposed banquet halls, other functions (weddings, proms), liquor services, etc. brings with it increased hours of operation, noise and traffic. The two Articles allow for a funeral home to be built in an R-1 or R2 zoning district. These are the only commercial uses allowed in these districts. A funeral home in a residential neighborhood may have made sense 60 years ago; however, with the direction the industry is currently trending, it no longer does. He urged the Council and Planning Board to approve the petition and amend the ordinance.

Johanna Schneider, attorney with Hemenway & Barnes and representing the Citizens Group, addressed the Council and Board. Her approach was to look at this in a broader context in how funeral homes are treated in Weymouth and surrounding communities. It is an issue that affects

every other neighborhood in town. One time it made sense to treat funeral homes differently. Under the current zoning, no other commercial use is allowed by special permit in a residential district. Since 1978, the ordinance has been amended several times to phase out availability for all other commercial uses that were previously allowed by special permit in residential zoning. At was said, at one time it made sense to treat funeral homes differently, it does not make sense to allow this expansion the same treatment. The language as it is currently written has a loophole to allow for a function facility to come into residential neighborhoods. Neighboring towns do not allow funeral homes in residential neighborhoods. Quincy allows them in their central and general business districts. Hingham allows them in business districts by special permits. Braintree allows them in the general and highway business districts; they are not allowed in residential with the exception by special permit where the minimum lot size is one acre. In contrast, Weymouth's minimum lot size in residential lot sizes are 25,000 and 10,000 square feet. This is not an anti-business petition. Funeral homes are currently allowed by right in the MCD and BCD, and by special permit in the MSD district. She suggested the town not continue to allow this use by special permit in residential neighborhoods, but change the zoning to allow in business districts, as surrounding towns do. She asked that they bring the zoning more in line with other towns, and with other commercial uses in this town to give the residents uniformity and predictability. Currently, the special permit process the zoning board is evaluating these on a case-by-case process, which does not give citizens the comfort of knowing their neighborhoods are safe from encroachment of commercial use.

She also noted that last Friday, the Planning Board approved an ANR (approval not required) for Keohane to combine lots at 809 Main Street. They are now entitled to a plan freeze, so that even if the town passes this petition and changes the zoning, for the next three years, the site will be subject to the unchanged zoning, meaning they can expand the funeral home into the abutting neighborhood with a special permit. While legally entitle to do this, it was done in reaction to the petition and the group is frustrated and disappointed that any change is not going to help this neighborhood that worked to bring this petition forward. the group will vigorously oppose the plan before the BZA, but this underscores the need for the town to use its zoning power to protect this and other residential neighborhoods from encroachment by big business.

President Mathews responded that the Council was made aware of the ANR today. Planning Board Chair Williams corrected the record to reflect that the Planning Board did not make any approval. She read the letter from attorneys Drohan Tocchio & Morgan, P.C. into the record:

December 6, 2021

Via Email

To:

*Arthur Mathews, President
Town Council
Town of Weymouth*

*Sandra Williams, Chair
Planning Board
Town of Weymouth*

Re: Measure No. 21 116: Citizens Petition to Change Zoning Ordinances to Eliminate "Funeral Home" Use in R-1 & R-2 Zoning Districts

Dear President Mathews and Chair Williams:

This office represents McDonald Keohane Funeral Home ("Keohane"), the owner of

three (3) funeral homes in Weymouth. We write with regard to the Measure No. 21 116- a Citizens Petition to Change Zoning Ordinances – Article IV Section 120-13 & Article IV A Section 120-13.3 to eliminate “funeral home” as a use in R-1 and R-2 zoning districts– in order to provide relevant background for your consideration relating to the proposed zoning amendment.

For the past year, Keohane has actively engaged in the planning of a proposed alteration/extension of its existing funeral home at 809 Nain Street, in Weymouth, which includes the adjacent properties owned by Keohane at 19 Cypress Street and 0 Cypress Street (the ‘Project’). To that end, Keohane and its project team met with and solicited input from the Town and neighbors relating to its proposed Project – in order to proactively address any concerns prior to formally filing with the Town. Specifically, representatives of Keohane and it’s project team:

- On July 6, 2021, met at the site with the Director of the Department of Planning and Community Development (“DPCD”) to discuss the Project;
- On July 7, 2021, sent a letter to neighbors inviting them to a meeting at 809 Main Street, scheduled for July 19th, to discuss the proposed Project (see Exhibit 1);
- On July 19, 2021, held a neighborhood meeting to introduce the Project, and solicit input and answer questions from neighbors:
- On August 2, 2021, met at Town Hall with representatives of the DPCD and Director of Department of Municipal Licenses to discuss updates and revisions to the Project; and
- On August 2, 2021, met at Town Hall with representatives of the DPCD and Director of Department of Municipal Licenses to provide an update regarding neighborhood issues and proposed responsive solutions and mitigation measures; and
- On October 15, 2021, met with representatives of the DPCD to discuss plan revisions incorporated to address neighbor concerns.

Additionally, Keohane and its project team previously planned to hold a follow-up neighborhood meeting in early-January of 2022 to discuss the revisions incorporated into the plans in order to address earlier raised neighbor concerns – prior to filing its application for Special Permit.

Overall, Keohane engaged with the DPCD and neighbors prior to filing – which we understand to be the responsible and recommended practice in Weymouth. It is a long-standing member of the Weymouth community and has provided years of diligent and respected service. Keohane has asked that we convey its profound disappointment that members of the neighborhood have sought to use Keohane’s deliberative engagement process as an opportunity to disrupt their planned investment to better serve the Weymouth Community. A less responsible party would have filed the project application in July, rather than expend the time and expense of engaging as a neighbor.

Thank you for reading this into the public record.

Very truly yours,

Jeffery A. Tocchio

cc: Robert Luongo, Director DPCD

Exhibit 1:

July 7, 2021

Dear Neighbors,

For those of you I have not met, I am the owner of McDonald Keohane Funeral Home at 809 Main Street. I am writing to invite you to a meeting at our business to discuss our plans to add an addition to our building. Our plans will permit us to perform a much-needed modernization of our services to better serve the needs and expectations of our community.

We hope to see you on July 19th at 6:00 pm and ask that you please enter at the front door. Please feel free to contact me at 781.335.0045 if you have any questions. We hope you can attend and look forward to seeing you.

Sincerely,

Dennis W. Keohane

Ms. Williams added her own observations. By eliminating funeral homes from R-1 zoning, they can still exist in the district; they are grandfathered in. Any work over and above for a funeral home has to go for special permit. The Zoning Board of Appeals holds a public hearing, at which the neighborhood may speak, and the BZA is generally interested in what neighbors have to say. Banning it altogether won't remove it. It already exists. Function halls are a separate classification. These are two different businesses, and they could not get a permit for a function hall in a business operating as a funeral home. It would be two different permits. They also plan to add parking. She asked if a church, for example, is in a residential zone, is that now required to have a special permit, or is it outright banned? She expressed her confusion as to the differentiation.

Director Luongo responded that the Building Inspector interprets the zoning. He has not said this expansion into assembly space is not a funeral home. It is a funeral home expansion. He has not made the difference between place of assembly and funeral home. The concept here is to create a larger assembly space to hold services. Right now, it's a funeral home expansion, not an assembly. He is unsure if places of assembly are an avenue for a special permit. Principal Planner Eric Schneider added that if it were ruled a place of assembly, there isn't an avenue for it. The only special permitted use is a funeral home.

Ms. Williams asked if there are hours of operation for funeral homes- it might be something to consider. Neither the director or planner was aware of hours of operation. Director Luongo added that anything can be conditioned.

Mr. Luongo added that if this is prohibited, it would only grandfather in one in the R-1 district (Charles Street) that would be a preexisting nonconforming use. If they wanted to expand on the same lot, they could do it but they could not acquire an additional lot to expand. It would prohibit any new funeral homes in R-1 zones. The other existing funeral homes are 809 Main Street in Medical Services District (allowed by special permit), 40 Sea Street facility is allowed by right, in a Neighborhood Center District, Shepard in B-2 is a nonconforming use that's allowed to expand on the B-s portion of their lot. If they were to acquire additional B-2 lot, they would not be allowed to expand, and the Clancy funeral home is also in a B-2 zone and is also a

nonconforming use and would not be allowed to expand.

Planning Board member Faust asked about the funeral home owner acquiring additional lots to expand. Mr. Luongo replied that he owns all three lots; the lot that the funeral home sits on is zoned MSD, and the two lots in back, one with a home on it and one a vacant lot, are both zoned R-1. The ANR was filed to combine the three lots into one.

Mr. Faust asked how would the proposed ordinance change affect their ability to affect the proposed plan? Mr. Luongo responded that the town's solicitor is reviewing case law. Filing the ANR froze the zoning on the date it was filed with the town. Any future zoning change probably would not apply to this property. These residents and their attorney are aware of that, but are still adamant about the intrusion in the R-1 and R-2 zones. It's not necessarily about the McDonald/Keohane funeral home but the integrity of the R-1 and R-2 zones in town.

Board member Greg Agnew feel that instead of disallowing it outright, he asked if the neighbors can offer any concrete solutions to come to a compromise with the funeral home? Atty. Schneider responded that she expects that is what will be the outcome. Hopefully, BZA will take the materials and neighborhood comments into consideration. It is hard to understand how the proposed use will coexist with neighbors.

Mr. Agnew asked if the funeral home owner plans to close any auxiliary branches? Mr. Luongo responded no. The Peck Home in Jackson Square has closed. There hasn't been a new one in years. Funeral Homes could be allowed by special permit in B-1 and B-2 districts. If they took the rights out from R-1 and R-2 they might consider allowing them elsewhere. It would still need to be a special permit and not allowed by right. They can check with town's legal counsel.

Mr. Agnew responded that they want to work with a business that wants to expand and see them succeed and become a larger participant in the Weymouth tax base.

Councilor Haugh asked if because they filed ANR they may still be able to file a special permit to expand regardless of how the Town Council votes? Mr. Luongo responded yes, but they are still looking at the legal aspect, but he is fairly confident they can.

Ms. Williams added that tonight's meeting is on the zoning proposal. It has zero to do with this specific project.

President Mathews asked if there were any questions or comments from the public, to which there was the following comments:

Laurie McGrath, 131 Cypress Street provided photographs and explained their context. She supports the ordinance change and does not support a retention pond and the dangers it presents to children and animals abutting her property.

Robert Marini, 1 Nevin Road, who worked as an environmental engineer for over 50 years and supports the ordinance change due to three environmental problems that would come with the proposal from the funeral home on Main Street: removing trees would remove the sound barrier

they provide from traffic on Rt. 18 to the neighborhood behind it; paving over areas that absorb water to create parking spaces and the creation of a retention pond to capture excess water that will sit there and stagnate until it percolates, serving as a breeding ground for insects and preventing neighbors from enjoying their outside spaces; and the lighting that will be needed around the outside of the facility that will run later at night and impact the characteristics of the neighborhood. The zoning requires separation because it's needed to maintain good residential neighborhoods.

Tom Welch, 20 Cypress Street, identified himself as a former priest and bereavement counselor, and confirms the funeral trend moving away from church affiliations and to celebrations of life. He supports the ordinance change, and doesn't understand why there would be this exemption in an R-1 district.

Laura Fallon 159 Columbian Street- supported the ordinance change. She also cited the negative impacts- traffic congestion, backups on already overloaded streets, lighting, parking, increased noise levels, as not appropriate in residential zones, and at the expense of neighbors.

MaryBeth Bernard 19 Sargent Road, supported the ordinance change and noted that as a resident in a residential neighborhood, she would not be able to install a retention pond to manage stormwater runoff on her property. It will be a safety hazard for children and an attractive nuisance. Water levels fluctuate and attract insects, build algae and scum on the surface, and attract water fowl, and invasive weeds. It would change water levels in surrounding homes, and provide contaminants from runoff.

Bill Kendall 60 Burton Terrace reminded others as a longstanding resident of the successful prevention of a strip club from coming into town. It took a 2-pronged approach that included changed zoning. They found a way to stop the project. This project should be stopped. He suggested there is a lot of land on the base- find some land there to put it. It doesn't belong in their back yards.

Mary Hay, 19 Sargent Road, supported the ordinance change. The town over the last 40 years has worked to eliminate commercial uses from residential districts. This is the only one left in, and probably because the funeral home business hasn't changed in that time. It is now.

Shirley Levine, 165 Columbian Street supported the ordinance change. The modern day funeral home fits into the same categories as other commercial business and does not belong in residential neighborhoods. Even though the ANR was filed, the neighbors have been working on this for a long time in order to live peacefully in their homes.

Bill Coyte, 22 Sargent Road reported that there has been a water problem in the neighborhood for several years. There is no storm drain on Cypress. The committees should work on behalf of the residents.

Arthur Cormier, 29 Sargent Road, reported that the residents are looking for certainty. This will at least limit the potential damage to the residential neighborhood.

Liz Coyte, 200 Justin Drive, urged that anyone who has questions should look at the neighborhood. It's quiet, and this will have a major impact on it.

Kathy Swain, 134 Mill Street, supported the ordinance change. As a member of a neighborhood group who banded together on billboards. The residents will be waiting for months. This ordinance change will bring zoning in Weymouth in line with neighboring towns. It possibly makes Weymouth a safer place to live. The ANR does not change what happens to Keohane's but does give the residents some certainty.

Vice President Molisse motioned to close the public hearing on measure 21 116 and was seconded by Councilor Kiely. President Mathews reminded the public that once the public hearing is closed, and the Council receives the recommendation of the Planning Board, then the Ordinance Committee will reconvene to deliberate and make its recommendation to the full Town Council for action. Unanimously voted.

Planning Board Member Rotondi motioned to close the public hearing on behalf of the Planning Board and was seconded by Member Agnew. Chair Williams announced the Planning Board will meet to deliberate the matter on December 7, 2021 via Webex. Director Luongo reminded the public that since the public hearing is now closed, no additional testimony will be accepted. Unanimously voted.

NEW BUSINESS

21 117- Federal Redistricting 2021- action requested under 2-9(b)

Town Clerk Kathleen Deree notified by the state that a few lines didn't match- redone or would have had 6 split precincts – now one (9). requested that:

Section 1. Be it resolved that the Town of Weymouth, through the Weymouth Town Council vote to adopt the 2021 Re-Precincting plan for the Town of Weymouth as presented by the Town Clerk and as laid out on the Map, Legal Description, and the Census Block listing provided by the Census Liaison of the Commonwealth of Massachusetts. Said precincts to be effective December 31, 2021.

Section 2. Order 21 112 is hereby repealed.

Vice President Molisse motioned to consider measure 21 117 under 2-9(b) same night action, and was seconded by Councilor Kiely. Unanimously voted.

Vice President Molisse motioned to approve measure 20 117; that the Town of Weymouth, through the Weymouth Town Council adopt the 2021 Re-Precincting plan for the Town of Weymouth as presented by the Town Clerk and as laid out on the Map, Legal Description, and the Census Block listing provided by the Census Liaison of the Commonwealth of Massachusetts. Said precincts to be effective December 31, 2021.

Order 21 112 is hereby repealed.

Councilor Kiely seconded the motion. Vice President Molisse thanked Town Clerk Deree and GIS Administrator Garrett Walsh for their work. Unanimously voted.

ADJOURNMENT

The next regularly scheduled meeting of the Town Council is Monday, December 20, 2021. At 9:04 PM; there being no further business, Vice President Molisse motioned to adjourn the meeting and was seconded by Councilor Kiely. Unanimously voted.

Respectfully Submitted by Mary Barker as Recording Secretary.

Approved by Arthur Mathews as President of the Town Council.
Voted unanimously on 20 December 2021