

**TOWN COUNCIL MINUTES
ORDINANCE COMMITTEE at 6:00 PM
November 23, 2021**

Present: Kenneth DiFazio, Chairman
John Abbott, Councilor
Rebecca Haugh, Councilor
Christopher Heffernan, Councilor

Absent: Arthur Mathews, Councilor

Also Present: Joseph Callanan, Town Solicitor
Robert Luongo, Director of Planning
Eric Schneider, Principal Planner

Recording Secretary: Mary Barker

Chair DiFazio called the meeting to order at 6:02 PM. Councilor Mathews was absent.

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

The chair invited a designated spokesman from the petitioners to present their case for the ordinance change. Jim Kirkcaldy, 181 Columbian Street, provided a packet of materials to the committee that has research articles, pictures and a blueprint of an expansion Keohane’s has proposed. It also included a petition signed by Weymouth residents (in addition to the original petition signers, because they also feel is it not just one neighborhood’s issue. The group began investigating when presented with a proposal from Keohane’s to double the size of their funeral home on Main Street; adding a function room, outside patio and retention basin. When the neighbors realized the significant encroachment of the plan, they reviewed the history of funeral industry in town. In R-1, Art 1, 4A of the Code of Ordinances allows for special permits for funeral homes if approved by BZA. With the evolution of the funeral industry, it’s no longer appropriate. In the past, large old homes were converted to accommodate funerals. Three of the five parlors in town were homes converted before 1930. These homes in their present form may be able to coexist with their neighbors, but the trending modern models cannot. Mr. Kirkcaldy provided a series of articles in his handout describing the trend. The industry is seeking new ways to utilize space and increase profits. Some nationwide funeral businesses have banquet halls, and they’re used for additional events such as weddings. With the expanded hours comes noise and traffic when these functions are held. Route 18’s traffic is also a major concern. The ordinance protects the residents from commercial uses which should include funeral homes.

Chair DiFazio thanked the residents for coming out and explaining their position. His opinion is this is a good petition. Currently, for both sections cited from the ordinances, a funeral home is required to have a special permit to do this. He asked why do it then, if there is already a mechanism in place? He reviewed the five criteria for special permits and that it would be a big hurdle to overcome:

1. The specific site is an appropriate location for such a use.
2. The proposed use of structure will not be detrimental or adversely affecting the character or future character of the neighborhood or town.
3. There is not a potential for nuisance or serious hazard to vehicle or pedestrians.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

Mr. Kirkcaldy responded that they don't want to rely solely on the BZA. Funeral homes are no longer quiet, traditional homes. It makes sense to evolve, but not at the expense of the neighboring residents. No other business would be able to go to the BZA, and it shouldn't be possible for this one.

Councilor Abbott asked if the funeral home has made any attempt to mediate a mutual agreement with the neighborhood. Director Luongo explained that Keohane's met with the residents to propose the initial plan. There has not been a second meeting, and no reworking of plans has been proposed. The expansion includes a garage, parking area and retention basin for drainage. This type of an expansion wouldn't fit with any of the other funeral homes in town. Keohane's owns one at 3 Charles Street in an R1 zone- if the zoning amendment passed, it would not do any harm to that property. If he wanted to expand, he would still need to go for a special permit, for a change from an existing nonconforming use to another nonconforming use. If they were to purchase an adjacent property they could not expand, but they could on the existing property. The home at 40 Sea Street is zoned District Neighborhood Center District, and is allowed by right. Sheppard's is in a B-2 district, and is a preexisting nonconforming use, as is Clancy, and would require a special permit to expand. It is allowed in only R1, R2, R3 and Medical Services Districts. McDonalds owns the two adjacent properties; one home is rented, the other is a residential vacant lot. If it passes, they would not be able to expand onto the R1, but could in the Medical Services District, with a special permit.

Mr. Schneider explained that in the current zoning, the existing structure could expand within the existing lot, and would have the ability to go back into the R1 district.

Director Luongo pointed out that function facilities in the funeral business could be the wave of the future, and the thinking behind it is, what do people want for services and how can the need be filled within the structure itself? In the traditional model, funeral services bring a concentration of traffic between 3-4 and 7-9 PM at one time. If it is located somewhere in town, it requires more thought. It's important they remember this discussion concerns a zoning change, and not a debate of Keohane's. The premise has

serious issues outside of the encroachment and the biggest issue is Route 18 traffic. It would be akin to adding a church on that street. He doesn't know of any funeral homes that were not converted from an older existing home. Keohane met with the residents when this was initially proposed, and they were upset. Administration then met with the proponents and relayed the residents' concerns.

Councilor Haugh pointed out the traffic on Route 18 is already atrocious. If they aren't allowed in R1, R2 and R3, could they consider a location such as the Elks? It currently is a function/ recreational hall. Mr. Schneider responded that if the Council approves this, they could look at other areas where it might be a good fit. Mr. Luongo responded that they haven't seen this kind of application before. They could consider if say, one is in a B2 zone allowing them by right and take it away from R1 and R2. It's already allowed in R3 and Medical Services. It would all be by special permit. He will research prior to the public hearing to see if it's possible to add it to one of the business zones. Councilor Haugh responded that if this is the way the industry is moving and this is the model, she would like to see where it is possible; she doesn't want to see Weymouth miss out on an opportunity. Mr. Schneider suggested they could look at defining the definitions and amend the language. Director Luongo added that in his opinion, the residents are on the right track. Councilor Haugh asked if funeral homes pay a commercial tax rate?? The response was yes.

Chair DiFazio pointed out that a joint public hearing is scheduled, with the Planning Board, for the Council meeting on December 6, 2021, at which time the public can weigh in. Once the hearing is closed, the Planning Board will vote their recommendation to the Council. The Town Council will then take up deliberation, possibly by the middle of January. This is a cohesive neighborhood group, and he is glad to see the public participation. If they have anything new to add, they can forward it to the Council office.

ADJOURNMENT

At 6:33 PM, there being no further business, Councilor Haugh motioned to adjourn and was seconded by Councilor Heffernan.

Attachment: handout – Information Regarding Town Council Measure 21 116 – Citizens' Petition to Change Zoning Ordinance

Respectfully Submitted by Mary Barker as Recording Secretary

Approved by Ken DiFazio as Ordinance Committee Chairman

Approved unanimously on 6 December 2021