

**TOWN COUNCIL MINUTES
Town Hall Council Chambers
December 19, 2016, Monday**

Present: Patrick O'Connor, President
Michael Smart, Vice President
Kenneth DiFazio, Councilor
Jane Hackett, Councilor
E Harrington, Councilor
Rebecca Haugh, Councilor
Thomas J. Lacey, Councilor
Arthur Mathews, Councilor
Brian McDonald, Councilor
Michael Molisse, Councilor

Absent: Robert Conlon, Councilor

Also Present: Robert Hedlund, Mayor
Brian Connolly, Chief Financial Officer
Joseph Callanan, Town Solicitor
Kathy Deree, Town Clerk
Richard Swanson, Town Auditor
Robert Luongo, Director of Planning
Eric Schneider, Principal Planner
Sandra Williams, Chair, Planning Board
George Berg, Vice Chair, Planning Board
Paul Rotondo, Planning Board Member

Recording Secretary: Mary Barker

President O'Connor called the meeting to order at 7:30 PM. After the Pledge of Allegiance, Town Clerk Kathy Deree called the roll, with one member absent. President O'Connor reported that Councilor Conlon was absent because he wasn't feeling well.

ANNOUNCEMENTS

Councilor Mathews announced the Christmas holiday trash pickup schedule; residents are allowed two extra bags in addition to the trash receptacles during the week of December 27-31, 2016. Trees can be left for curbside collection during the week of January 3-9, 2017.

MINUTES

Budget/Management Committee Meeting Minutes of November 16, 2016

A Motion was made by Vice President Smart to approve the minutes of the November 16, 2016 Budget/Management Committee meeting and was seconded by Councilor

Mathews. UNANIMOUSLY VOTED.

Ordinance Committee Meeting Minutes of November 21, 2016

A Motion was made by Vice President Smart to approve the minutes of the November 21, 2016 Ordinance Committee meeting and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

Town Council Meeting Minutes of November 21, 2016

A Motion was made by Vice President Smart to approve the minutes of the November 21, 2016 Town Council meeting and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

Ordinance Committee Meeting Minutes of November 28, 2016

A Motion was made by Vice President Smart to approve the minutes of the November 28, 2016 Ordinance Committee meeting and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

A Motion was made by Vice President Smart to take REPORTS OF COMMITTEES out of order and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

REPORTS OF COMMITTEES

Budget/Management Committee-Chairman Michael Molisse

Councilor Molisse reported that the Budget/Management Committee met on December 19, 2016 to deliberate the following measure:

16 151-Appointment to the WETC Board of Directors-William Christopher Potter

This matter was referred to the Committee on December 5, 2016. The Committee met on December 19, 2016 and voted to forward to the full Town Council with a recommendation for favorable action. Mr. Potter was invited to the table to present his interest and qualifications.

On behalf of the Budget/Management Committee, a Motion was made by Councilor Molisse to approve measure 16 151; that the Town of Weymouth appoint William Christopher Potter of 33 Moreland Road to the WETC Board of Directors for a term to expire in March 2017. The opening is due to the resignation of Cathy Torrey, and was seconded by Vice President Smart. UNANIMOUSLY VOTED.

PUBLIC HEARINGS

16 146-Crosswalk Across Mutton Lane at the Lakehurst Avenue Intersection

A Motion was made by Vice President Smart to open the public hearing on 16 146 and was seconded by Councilor Mathews. This was published on December 9, 2016. UNANIMOUSLY VOTED.

Traffic Engineer Owen McDonald presented the measure via PowerPoint presentation.

President O'Connor reported that the measure is under deliberation in the Ordinance Committee and action will be taken after the close of the public hearing.

The following are the comments from the public:

Cynthia Lyons, 104 Lakehurst Avenue- neighborhood dynamics have changed, as there are more younger children. She asked if they could reconsider moving the crosswalk to the north side of the street instead. Children still have to cross a street to enter the park. There is a high volume of traffic cutting through, especially when the school lets out.

President O'Connor asked if the traffic engineer could address the request. Mr. McDonald responded that the request would need to be reviewed and requires an additional measure.

Michelle Legere, 18 Mutton Lane- asked for additional traffic mitigation because of the additional traffic drawn to the park since it's been improved.

President O'Connor asked the traffic engineer if it had been reviewed. Mr. McDonald will look at the potential for a flashing light.

Robert Montgomery Thomas, 848 Washington Street – asked if the crosswalk can increase to encompass both sides of Lakehurst to accommodate the concerns of the neighbors.

Mr. McDonald responded that this was considered but there is no sidewalk on the other side of the street. It would encourage walking on a side with no sidewalk and this is a safety issue.

Robert Montgomery Thomas, 848 Washington Street- responded that he could get cement poured for sidewalks if stripes are painted.

A Motion was made by Vice President Smart to close the public hearing on 16 146 and was seconded by Councilor Mathews. Councilor DiFazio reported that the next scheduled meeting of the Ordinance Committee is December 27, 2016. UNANIMOUSLY VOTED.

16 150-Proposed Change to the Town of Weymouth Zoning Ordinance-Section 120 Joint with Planning Board

A Motion was made by Vice President Smart to open the public hearing on 16 150 and was seconded by Councilor Mathews. This was published on December 5, 2016 and December 12, 2016. UNANIMOUSLY VOTED.

Chair Sandra Williams called the Planning Board to order.

Mayor Hedlund and Mr. Schneider provided a brief presentation. Mayor Hedlund provided background. He reported that this was brought forward as a result of concerns he heard from residents during his campaign and in discussion later with the Planning Director. This is the first of a series of proposed reforms and updates and the goal of this measure is to serve as a tool to further protect the town's neighborhoods and to tighten up the loopholes on the remaining developable land. Other reforms will be brought forward which will look at commercial zoning, specifically along Rt. 3A, Bridge Street to drive development for higher and better use. Development can be a good thing in the right areas.

It is evidenced that the overlay district in the Landing attracted redevelopment to that area. Eric Schneider reviewed in detail. There are few pieces left to develop. The current 25,000 square foot minimum lot size can be reduced by special permit to 17,000 square feet. It's a low burden of proof bar. They propose to raise the burden of proof and eliminate the special permit in the R-1 district and make it a variance. Also in R-1, they propose to increase the percentage of each lot that must be upland from 75 to 85%. Many communities have 100% standard; this is less strict.

They also propose a lot shape factor. The proliferation of rattail lots used to get to minimum lot size. The Rule of 22 is the current mathematical calculation ($\text{perimeter}^2/\text{square footage}$) of 22. The rule of 22 is stringent. They propose 35 as appropriate for the town. Additionally, they are proposing, in R-1 districts, to amend the provision to built prior to the adoption of the zoning law, to create a 2-family. The Building department has robust in-law suite provisions. They don't see the need to allow the creation of a 2-family. The burden of proof is others in the neighborhood. In multi-family zoned districts, they propose to increase landscaped area in R-3 and R-4 districts. Mr. Schneider read the proposed changes into the record:

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 Ordinances 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 proven 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 issuance of 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.*

President O'Connor reported that the measure is in committee for deliberation.

Councilor Lacey noted that the last changes to the zoning ordinance took place in 2014. At that time, the BZA took proactive partnership. He asked if they support this proposal. Mr. Schneider responded that they are in agreement. Some of the exceptions they review are so low that it places them sometimes in an awkward situation and they are supportive of the additional support. Councilor Lacey responded that the previous changes were aggressively sought. He asked if this is a result of the new administration. He asked why 35 was the chosen number and why it isn't shut out completely. Mr. Schneider responded that 35 allows a bit of room to allow a less geometric shape, but still accomplishes the goal of eliminating rattail lots. Mr. Luongo noted that the BZA appreciates the additional guidance this zoning amendment will give them. They are not boxed into granting special permits to reduce lots to meet the average lot size. Creating a 17,500 threshold was still problematic. Councilor Lacey responded that his initial reaction is that it is better than what was proposed a few years ago.

Councilor McDonald noted he supports the proposal as well, and looks forward to public comment, but this is a step in the right direction.

The following are the comments from the public:

Thomas Tanner, 169 Park Avenue West, provided a handout to the Planning Board addressing the R-1 section of the proposal and read it to the Council. He addressed the R-1 section-Taxes set at 12.88 in R-1. The entire buildable lot is assessed at that rate and wetlands outside of the buildable lot are assessed lower. If they wanted "snob zoning," they should have done it years ago and made all lots the same size. The town is approximately 96% developed; zoning should stop where it stands. This is a way to get additional tax revenue, by counting wetlands that can't be used within the buildable lot size. The whole process was reviewed in 2014 and the builders have been building within it. This process is zoning out their children. He cautioned the Council against this proposal.

Robert Montgomery Thomas, 848 Washington Street- provided a copy of his comments in writing. He suggested that Councilor Lacey recuse himself from the matter because he used his position as Councilor to insert himself into a zoning matter on a

proposed development in the Idlewell section, allegedly in violation of the Charter. He suggested amending only the upland percentages. He addressed his other concerns regarding in-law suites.

Councilor Lacey commented that he would not respond to a personal attack; however he did address inaccuracies in the attack. He did not support the prior motion from measure 13 127 and was the only one to vote no, and has consistently voted on this matter. He disclosed that his home was built by the developer in question. He followed all laws disclosing it when it has been appropriate. This is the third attempt by Mr. Thomas to malign his character in writing to various sources. As the District 2 Councilor for 18 years, he is a strong advocate for his constituents. He has been in zoning contention with the developer as representative of his constituents.

Wayne Mathews, 952 Commercial Street, and president of the East Weymouth Civic Association (but not speaking on its behalf) noted that he had requested a moratorium last year and collected 200+ signatures on a petition supporting it. He thanked the Mayor and administration, and Councilors Lacey and DiFazio. There are two types of development; good and bad. Adding section 120-53.2 is good but he wishes they went further. He'd like to see a ban on all odd shape lots. 35 would be one of the highest in MA; he urged they consider reducing it to 30. Developers need to realize that the days of getting what they want are over. The rules serve to protect the residents; not the developers. Zoning still needs a major overhaul and he requested they reconsider his earlier proposal of a targeted moratorium which the town's former legal counsel declared legal.

Diane Rello, 155 Fort Point Road, noted that waterfront property has changed in the area because the zoning board was not educated about redevelopment. She urged they take into account health, safety and population growth. She asked about building specifics (adding floors).

George Berg, Planning Board- responded that the Building Department could advise Ms. Rello of her rights.

Matt Tallon, 105 Trefton Avenue-echoed Mr. Mathew's comments regarding shape factor and stands by the recommendation of 30. He would prefer 95% upland and asked what are the major differences and why is it more difficult to get a variance than a special permit. He also disagreed with the first two speakers and that zoning does need to be tightened. He also noted the personal attack by Mr. Thomas is off-base and unfounded. He and his neighbors agree that Councilor Lacey is a model for all Councilors to emulate.

President O'Connor requested that Mr. Luongo review the difference between special permit and variance. Mr. Luongo responded that the determination of each is defined by MGL; the test of a variance is that a hardship must be demonstrated. It cannot be used to request relief of a condition that was known at the time of purchase. He surmised that the majority of variances in the state were granted illegally. He will obtain the complete definition and have it posted to the town website. Solicitor Callanan noted that special permit is within the purview of the BZA and it's a broader permit. The Planning Board

has a narrower focus for variance; hardship must be for specific reason(s), and not self-imposed hardship. Mr. Luongo added that under MGL if the use is not allowed by right or by special permit, then the use cannot go into the zone.

Councilor DiFazio request Mr. Luongo provide the criteria for Special Permit and Variance prior to the next Ordinance Committee meeting, and put examples together for Rule of 35, 22, 30 so it can be visualized. Solicitor Callanan responded that shape factors are pretty common in other communities.

Robert Montgomery Thomas, 848 Washington Street, addressed comments to another speaker and was ruled out of order by the Council President.

Dennis Hoyt, 972 Commercial Street- support the proposed changes and also supported a targeted moratorium. The current lack of regulation allows a destruction of high quality of life.

Chris Primiano, 82 Rindge Street- supported the measure, that's a result of residents' request. He is pleased that the next phase will include commercial zoning.

Wayne Mathews- followed up to show examples of strips of land used to create sufficient buildable land. Eliminating the porkchops will end this.

Thomas Tanner, 169 Park Avenue West –reported they will never satisfy everyone. He urges the Council to do the right thing. He never wants to hear building moratorium; there are 55,000 people who should not be prohibited from being able to build on their own properties.

Patricia O'Leary 999 Commercial – supports the measure. She noted this is an excellent first step to improve the zoning and the complexion of the R-1 neighborhoods in town.

George Berg asked Mr. Schneider to clarify how this proposal will affect the existing lots which are currently in compliance with the 17,500 sq.ft. limit (vacant lot). Mr. Schneider responded that it targets the creation of lots going forward, and does not affect the existing.

Mayor Hedlund reported that the changes recommended in this measure seek to strike a balance and this was done with an eye towards maintaining affordability.

A Motion was made by Vice President Smart to close the public hearing on measure 16 150 and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

A Motion was made by Vice Chairman Berg to close the public hearing on measure 16 150 and was seconded by Paul Rotondo. The Planning Board adjourned to the Kelley Room to continue its deliberation.

COMMUNICATIONS AND REPORTS FROM THE MAYOR, TOWN OFFICERS AND TOWN BOARDS

16 153-Free Cash for Stabilization Fund

Brian Connolly requested on behalf of the Mayor that the Town of Weymouth transfer the sum of \$2,000,000 from free Cash to the Stabilization Fund.

A Motion was made by Vice President Smart to refer measure 16 153 to the Budget/Management Committee and was seconded by Councilor Mathews. Councilor Mathews requested the administration provide a breakdown of funds derived from mitigation funds. UNANIMOUSLY VOTED.

16 154-Special Legislation-Veteran Buyback for Credible Service

Brian Connolly requested on behalf of the Mayor that the Town Council vote to petition the General Court, pursuant to Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, for an act of special legislation to allow any eligible veteran, who is also a Town of Weymouth employee, to buy back their military service for purposes of creditable service under General Laws Chapter 32, as follows:

Section 1. Notwithstanding any general or special law to the contrary, including but not limited to General Laws Chapter 32 and Chapter 468 of the Acts of 2002, that the Town of Weymouth Retirement Board shall be authorized to allow any veteran, as defined by chapter 4, section 7, clause 42, and who is also an employee of the Town of Weymouth, to purchase up to four (4) years of military service in the armed services of the United States, for purposes of creditable service to be counted towards pension benefits, provided such service shall not be credited until the eligible veteran-employee has paid into the annuity savings fund of the Weymouth Retirement Board such sum or installments upon such term and conditions as the Weymouth Retirement Board may prescribe for each year of creditable service sought of an amount equal to the appropriate percent of the regular annual compensation of each eligible veteran-employee when he or she entered the Weymouth Retirement system.

Section 2. The General Court is authorized to make typographical or other minor revisions to this act, provided such revisions are not inconsistent with the purpose of this act.

Section 3. This act shall take effect upon its passage.

A MOTION was made by Vice President Smart to refer measure 16 154 to the Budget/Management Committee and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

16 155-Acceptance of a New Public Library Schematic Design for Submission to the Massachusetts Public Library Construction Program

Brian Connolly requested on behalf of the Mayor that the Town of Weymouth accept the schematic design for a new public library, shown on a sketch prepared by Johnson

Roberts Associates, architects and consultants to the Town of Weymouth, for submission to the Massachusetts Public Library Construction Program, and consistent with the total square footage of public library space proposed in the Town's Library Building Program.

A MOTION was made by Vice President Smart to refer measure 16 155 to the Committee and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

MOTIONS, ORDERS AND RESOLUTIONS

Motion to Carry Over Outstanding Measures from 2016 to 2017-Vice President Michael Smart

A Motion was made by Vice President Smart to carry over outstanding measures and was seconded by Councilor Mathews.

16 101-Legal Counsel Representation for Town Council

16 153-Free Cash for Stabilization Fund

16 154-Special Legislation-Veteran Buyback for Credible Service

16 155-Acceptance of a New Public Library Schematic Design for Submission to the Massachusetts Public Library Construction Program

UNANIMOUSLY VOTED.

ADJOURNMENT

A Special Town Council Meeting has been called for Tuesday, December 27, 2016. The next regular meeting of the Town Council Meeting has been scheduled for Tuesday, January 3, 2017. At 9:09 PM; there being no further business, a MOTION was made by Vice President Smart to adjourn the meeting and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

Respectfully submitted by Mary Barker as Recording Secretary

Approved by Council President Patrick O'Connor
Voted unanimously on 17 January 2017