

TOWN COUNCIL MINUTES
Ordinance Committee
Town Hall Council Chambers
March 2, 2015, Monday

Present: Kenneth DiFazio, Chairman
Michael Smart, Vice Chairman
Jane Hackett, Councilor
Arthur Mathews, Councilor
Patrick O'Connor, Councilor

Also Present: James Clarke, Director of Planning and Community
Development

Recording Secretary: Mary Barker

Chairman Ken DiFazio called the meeting to order at 6:35 PM.

14 107 –Zoning Ordinance Amendment to Allow Restaurants with Drive-through Windows in the HT (Highway Transition) Zoning District (Zoning Ordinance Article VIB, Section 120-22.8E application submitted by Michael and Mark Mignosa, Trustees and Joseph Murray-1255 Main Street

The applicants were present. Chair DiFazio summarized the measure. The town received a request to amend the present ordinance to allow drive-throughs in the Highway Transition Zone. The committee reviewed the change, which is a new permitted special permit use.

The measure was time stamped in the Council office on November 5, 2014 and was referred to the Ordinance Committee at the Town Council meeting of November 17, 2014. The Ordinance Committee met and deliberated the measure on January 5, 2015. Legal notice was published on December 31, 2014 and again on January 7, 2015. A joint hearing was held with the Planning Board on January 20, 2015, and the Planning Board issued its recommendation on February 17, 2015. Chairman DiFazio summarized the Planning Board's recommendation:

“The Board supports modifying the applicants’ request to include a one-acre lot size minimum and no other amendments for the following reasons:

- 1. The proposed use change is allowed only by Special Permit and is a discretionary approval by the special permit granting authority.*
- 2. The lot size minimum of one acre (43,560 square feet) limits the qualifying properties from 190 to 32 different properties. A further analysis concludes that, at most, approximately twelve properties would likely develop under the proposed zone change.*
- 3. Amending the proposal to include the lot size minimum gives clear direction and guidance to interested property and business owners on the Town’s development standards and protects the town from a potential increase in this type of Special*

Permit application on sites that may be undesirable or problematic. For these reasons, the Planning Board voted 3-0 to recommend favorable action on the below modified the applicants Measure 14-107, and the below version is as follows:

Amend the Weymouth Zoning Ordinance, Article VIB "Highway Transition District (HT)," Section 120-22.8 E "Special Permit Uses" from:

E. Restaurant, except that no drive-through window is allowed.

Be Amended to read,

E. Restaurant except that no drive-through window be allowed unless the restaurant has less than 20 seats and the minimum lot size land area shall be 43,560 square feet."

Chairman DiFazio reported that the Ordinance Committee must report back to the Town Council, which then must vote the measure by April 20, 2015, and must pass by a two-thirds vote of Council.

Vice Chairman Smart commented that if there were ever a lot that could hold 13-16 cars in queue, they would be jumping to approve it; this one certainly does. He thanked the Planning Department for their help. He noted that the applicant has been a business owner in town for more than twenty years and has asked for help to improve the property in order to attract tenants to the site. It's a win-win situation; it increases property values and brings in meals tax revenue. This is a good opportunity to bring in more commercial revenue stream. He believes it is a good plan and will support a favorable motion.

Councilor Hackett asked Mr. Clarke to review the special permit process for the twelve potential other sites that could qualify under these conditions. It works in this situation, but may not in the other eleven. Mr. Clarke responded that applicants would be required to go through the special permit approval process with site plans, traffic studies, public hearings, meet the five criteria set forth for special permit and two-thirds vote by BZA. The town would have the opportunity to have some discussion on whether it is an appropriate choice. Chairman DiFazio noted that of those properties that would qualify under the amendment, it would still require plans submitted via the Board of Zoning approval process. Councilor Hackett also noted that she would be interested in seeing a landscaping plan for this site going forward.

During this discussion, at 6:45 PM, Councilor Patrick O'Connor arrived, and the discussion was recapped. Councilor Smart noted that the applicants still would have to submit for the special permit process. Mr. Clarke noted that the other property owners may not necessarily apply for special permit, but the information was disseminated by the Planning Department to give the committee a sense of the scope of the change.

Chairman DiFazio also reported that another proposed change to this ordinance has been filed by Robert Montgomery Thomas that will be reviewed in the future. Councilor

O'Connor responded that he has requested and received an opinion from the Town Solicitor that the applicant is within his rights to file the proposal. The application from Mr. Montgomery Thomas will be vetted through the normal process.

A motion was made by Vice Chairman Smart to approve measure 14 107 –Zoning Ordinance Amendment to Allow Restaurants with Drive-through Windows in the HT (Highway Transition) Zoning District (Zoning Ordinance Article VIB, Section 120-22.8E, as amended to include a one-acre minimum lot size and was seconded by Councilor O'Connor. Chairman DiFazio thanked the staff of the Planning Department for their assistance. UNANIMOUSLY VOTED.

Issue – Board of Health Regulation #33 (Bodyworks Regulation)

Chairman DiFazio reported that this matter was referred to the Ordinance Committee for review from the Town Council by a proposal from citizen Robert Montgomery Thomas. He has begun a review and it appears this may be a recommendation for an ordinance rather than a regulation as proposed by the Board of Health. He reviewed some of the articles that were also provided. A packet was sent to the members from the Mayor's office that includes memos from that Mayor and one from Maureen DelPrete of the Board of Health. It appears the administration is satisfied with the current regulation. Chairman DiFazio acknowledged that Mr. Montgomery Thomas noted a typo on page 10 of the Regulation that refers to an ordinance when it should read regulation, so at the very least it may require a change in the language. He opened it to discussion. During this discussion, at 6:55 PM, Councilor Arthur Mathews arrived. Councilor O'Connor suggested a discussion that includes the administration. Vice Chairman Smart agreed. Chairman DiFazio noted Solicitor Lane was invited but could not be present. He suggested the discussion should include Atty. Lane and Board of Health Director Dan McCormack, going forward.

Mr. Montgomery Thomas commented that the City of Quincy has just passed a similar ordinance. He reviewed and researched the town's Charter with respect to Licensing and Inspections and based on what he culled from his research, he intends to withdraw his original petition and submit a new one. He noted that the regulation does not refer to bodywork ordinances and he wants to see it properly worded to prevent prostitution and human trafficking. He will submit the new version to the Council office. Chairman DiFazio concluded that the matter will remain open and he will schedule another meeting.

ADJOURNMENT

At 7:01 PM, there being no further business, a motion was made by Vice Chairman Smart to adjourn and was seconded by Councilor Hackett. UNANIMOUSLY VOTED.

Respectfully submitted by Mary Barker as Recording Secretary

Approved by Kenneth DiFazio as Ordinance Committee Chair
Voted unanimously on 6 April 2015

