

**TOWN COUNCIL MINUTES
ORDINANCE COMMITTEE
December 13, 2021**

Present: Ken DiFazio, Chairman
John Abbott, Councilor
Rebecca Haugh, Councilor
Christopher Heffernan, Councilor
Arthur Mathews, Councilor- arrived 7:09

Also Present: Eric Schneider, Principal Planner

Recording Secretary: Mary Barker

Chair DiFazio called the meeting to order at 7:00 PM.

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

Chair DiFazio reported that the measure originated with a citizen petition received on October 29, 2021, requesting elimination of language in the zoning ordinance so that funeral homes could not apply for a special permit to expand in the R-1 and R-2 zones. The measure was referred on November 8, 2021, the committee deliberated on November 23, 2021. A joint public hearing was held with the Planning Board on December 6, 2021. The Planning Board rendered unanimous endorsement of the measure on December 9, 2021 in the following decision read into the record:

“MEMORANDUM

TO: Town Council

FROM: Eric Schneider, Principal Planner

DATE: December 9, 2021

SUBJECT: Planning Board Recommendation – Citizen Petition 21 116

On December 7, 2021 the Planning Board met to deliberate Citizen Petition 21 116 following a Joint Public Hearing with the Weymouth Town Council on December 6, 2021. As the public hearing had been closed following the joint hearing, no additional testimony was accepted.

The Board considered the testimony of the applicants as well as the opinions put forth by Planning Department staff. The main points considered are hereby summarized:

- *That the proposed zoning amendment was relevant to the Town as a whole and not limited to the specific site or project which had initiated the petition.*
- *That compelling evidence was provided demonstrating the evolution of the funeral home business model throughout the country and that these changes increase the potential for activities incompatible with abutting residential uses.*
- *That this petition represents the continuation of the effort to eliminate non-residential uses from the R-1 and R-2 Zoning districts that dates as far back as 1969.*
- *The elimination of funeral homes from the R-1 and R-2 districts is consistent with surrounding communities including Braintree, Quincy and Hingham.*
- *That passage of this petition would not result in any unintended collateral consequences that would harm other businesses in the industry.*

The Board did express concern over the elimination of the much-needed services provided by funeral homes and recommends their inclusion elsewhere. Based on these findings, the Town of Weymouth Planning Board recommends the following:

The Board voted unanimously to recommend favorable action on Citizen Petition 21 116 as submitted, eliminating funeral homes from both the R-1 and R-2 zoning districts.

The Board further recommends that as part of this petition, the Council take action to add funeral homes as Special Permitted uses in both the B-1 and B-2 business districts.

On the motion to recommend favorable action:

Sandra Williams: Yes

Paul Rotondo: Yes

Greg Agnew: Yes

Ben Faust: Yes”

Chair DiFazio added that based upon the recommendation of the Planning Board, the testimony and the voluminous materials provided, the committee will deliberate on the Planning Board’s recommendation, which is over and above what the citizens requested. Mr. Schneider responded that the permitted and special permitted uses are enumerated in each of the district ordinances. To accomplish what the Planning Board recommends, they will be adding to section 120-24 G, which would be “funeral homes,” and in the B-2 district, under 120-27 it would add section “D- funeral homes.”

Chair DiFazio asked if the Planning Department reviewed the decision and asked if they had anything to add. Mr. Schneider responded that from all that they learned in the last month on the changing format of funeral homes, this is a much more appropriate move. Business zones are more apt to be able to handle some of the effects. (During this discussion, 7:09 PM, Councilor Mathews arrived.)

Councilor Abbott asked if there is an issue with the language changes added after the fact? Mr. Schneider responded no; he conferred with Solicitor Callanan today and his recommendation is that if the Council wants to accept the Planning Board's recommendation, they would need to amend the measure on the floor consistent with the Planning Board's recommendation, second it, and pass by a two-thirds vote. He quoted MGL which supports making the change, it does not change the zoning fundamentally and the proposed zoning is not utterly changed, then it falls within that guidance.

Councilor Haugh thanked the residents, pointed out she loves the concept, but it doesn't belong in people's back yards and she made a motion to forward the measure to the full Town Council with a recommendation for favorable action, as amended, and was seconded by Councilor Heffernan. Councilor Mathews asked how many times has an ANR been used in Weymouth? Mr. Schneider responded that is not unique to Weymouth, and was submitted on the Idlewell neighborhood project, and when they discussed whether to omit the Hanover project property on Washington Street from a zoning overlay. This is not the first use and it's not unusual, but not commonly used.

Councilor Haugh asked if the funeral home can move forward-- whether this measure passes or not? Mr. Schneider responded yes, but there is still a discussion to be had between the Planning Department and Building Inspector, around where does a funeral home end and a place of assembly begin? Once the Building Inspector makes a determination, then the application would go to the BZA. The neighbors should continue their advocacy when this project comes before the Board of Zoning Appeals. Councilor Abbott asked what the timeline for that might look like and Mr. Schneider responded that he is unsure. Unanimously voted.

Chair DiFazio commends the neighbors for their professionally handled conduct during the review process of this measure.

ADJOURNMENT

At 7:15 PM, there being no further business, Councilor Haugh motioned to adjourn and Councilor Abbott seconded.

Respectfully Submitted by Mary Barker as Recording Secretary

Approved by Ken DiFazio as Ordinance Committee Chairman
Voted by Council on 18 January 2022