

**TOWN COUNCIL MINUTES
ORDINANCE COMMITTEE**

June 29, 2020

Zoom #857 6914 5930

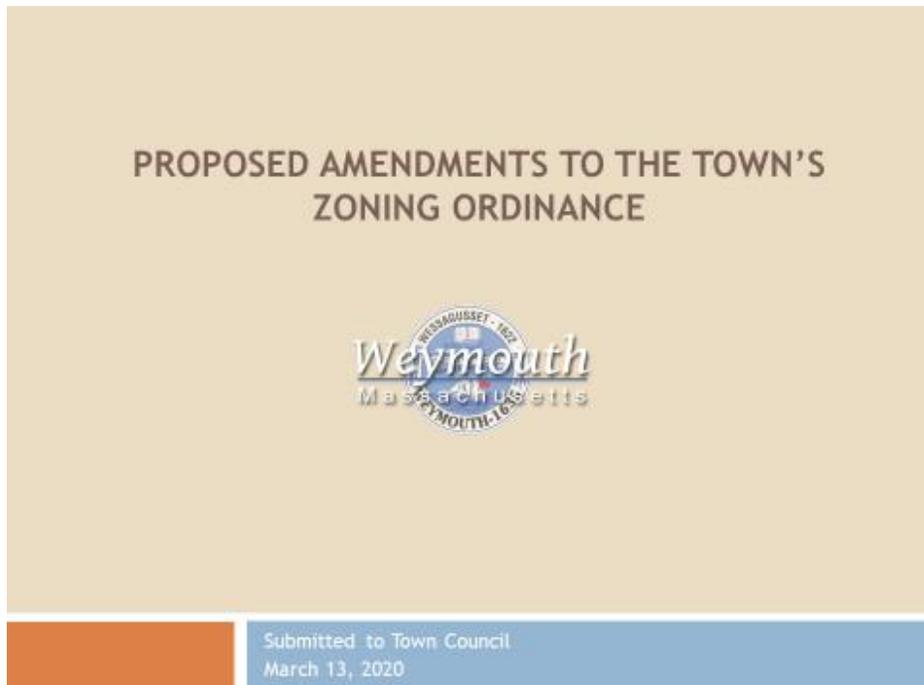
Present: Kenneth DiFazio, Chairman
Brian Dwyer-Vice Chair
Rebecca Haugh, Councilor
Christopher Heffernan, Councilor
Arthur Mathews, Councilor

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

Recording Secretary: Mary Barker

Chairman DiFazio called the meeting to order at 6:32 PM.

The Chair reported these are the proposed amendments. Bob Luongo and Eric Schneider presented the changes in a PowerPoint:



GARAGES



- In 2018, The Town Council adopted several zoning changes which included limiting the height of detached garages. This was initiated in response to the proliferation of free-standing prefabricated metal garage structures.
- Since this limitation was adopted, the Town has seen several situations where this has prevented otherwise sensible and historically appropriate projects.
- The current amendment seeks to continue the limitation of pre-fab metal garages while allowing for garages at an appropriate scale to be built.

Section 120-12 (A)



Existing:

- A. Garage space for storage of not more than three automobiles. Single story, detached garages shall not exceed 14 feet at the highest point.[Amended 4-2-2018 by Ord. No. 17-127]

Proposed:

- A. *Garage space for storage of not more than three automobiles. Maximum height shall be determined as below:*
1. *On any lot containing 25,000 square feet or more, a garage may be built to the height of the primary structure provided that is constructed on a permanent foundation, is of wood construction, and meets all other dimensional requirements of this bylaw.*
 2. *On any lot less than 25,000 square feet, the maximum height of a detached garage shall be one and a half stories and a maximum of 21 feet at the highest point provided that is constructed on a permanent foundation, is of wood construction and meets all other dimensional requirements of this bylaw.*

120-13 (B) Special Permit in R-1



- The following will be added to the uses allowed by Special Permit in the R-1 District:

B. Garages.

1. *Garage space for storage of more than three automobiles;*
2. *Garage structure that does not comply with dimensional requirements of 120-12;*
3. *Garage structure made of prefabricated metal; or*
4. *Any combination of these circumstances.*

Section 120-22.7

Special Permitted Uses - HT District



- Add the following to the list of uses permitted by Special Permit in the Highway Transition District.

C. *New construction of up to four dwelling units on the existing site of at least two dwelling units.*

Note: The conversion of an existing structure to four units is already allowed via Special Permit.

Front setback in CCOD



- The following sentence to be added to Section 120-25.17 (B) Setback Requirements in the CCOD.

To the greatest extent practicable, parking for the commercial use will be provided at the front of the building with parking for the residential component concentrated behind the building.

Front setback in CCOD cont'



- Section 120-25.17 (B)(1) of the Town of Weymouth Zoning Ordinance is hereby amended by striking out that subsection and inserting in place thereof the following subsection:

1. *The Board of Zoning Appeals shall have the authority to approve the front setback based on the goals articulated above and subject to the review of the Weymouth Fire Department, Planning Department, and Traffic Engineer. Further, when the front setback will be used for parking, a minimum of 70 feet will be provided to allow for a minimum five (5) foot landscape area along the frontage, a row of parking, and a travel aisle.*

Section 120-37.1 (C) (6)



The following change is proposed to the dimensional requirements in the Public Open Space (POS) District:

Existing:

6. Height: maximum of 3 stories or 35 feet whichever is less.

Proposed:

6. Height: maximum of 3 stories or 35 feet whichever is greater.

Table 1 - Dimensional Requirements



The following notation (*) will be added to the Schedule of District Regulations to provide clarification and to better match the verbiage provided in the R-2 residential district:

** To a maximum of three (3) total units*

- White Street Rezoning Order

- Renumbering of Section created during creation of the Medical Marijuana Moratorium

Proposed amendments:

20 089-Proposed Miscellaneous Amendments to the Town’s Zoning Ordinances/Garages

This measure was referred to the Ordinance Committee on March 9, 2020. From the redline version:

EXISTING

§ 120-12. Accessory uses.

Uses on the same lot with and customarily incident to any of the above permitted uses and not detrimental to a residential neighborhood. The term "accessory" in this section shall be limited to the following uses:

- A. ~~Garage space for storage of not more than three automobiles. Single story, detached garages shall not exceed 14 feet at the highest point.~~ [Amended 4-2-2018 by Ord. No. 17-127]

PROPOSED

- A. Garage space for storage of not more than three automobiles. Maximum height shall be determined as below:
 - 1. On any lot containing 25,000 square feet or more, a garage may be built to the height of the primary structure provided that is constructed on a

permanent foundation, is of wood construction, and meets all other dimensional requirements of this bylaw.

2. On any lot less than 25,000 square feet, the maximum height of a detached garage shall be one and a half stories and a maximum of 21 feet at the highest point provided that is constructed on a permanent foundation, is of wood construction and meets all other dimensional requirements of this bylaw.

EXISTING

**§ 120-13. Special permit uses by Board of Zoning Appeals.
[Amended June 1978 STM by Art. 2, approved 11-2-1978;
October 1982 STM by Art. 3, approved 1-11-1983; May 1990
STM by Art. 3, approved 8-29-1990; 1-17-2017 by Ord. No. 16-
150]**

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. Funeral home.
- ~~B. Garage space for or storage of more than three automobiles.~~
- C. Noncommercial greenhouse.
- D. The renting of rooms and/or furnishing of meals, limited to three persons not members of the family of the occupant and who are not casual or transient guests.

PROPOSED

- B. Garages.
 1. Garage space for storage of more than three automobiles;
 2. Garage structure that does not comply with dimensional requirements of 120-12;
 3. Garage structure made of prefabricated metal; or
 4. Any combination of these circumstances.

Mr. Schneider reported that garages were reviewed in the commercial corridor overlay zone tackled in 2018. This was to address the proliferation of metal free-standing garages springing up in backyards. They looked at height and put a limit on it. Since, it has had some unintended consequences. There are a lot of larger lot properties with large garages at an appropriate scale historically that couldn't be built with this change in the zoning. The impetus with this was to control metal garages from being a nuisance.

In 2018 they limited height to 14' at highest point. This would not allow for an architecturally correct pitch to the roof and out of character with the house and neighborhood. How to address? They are looking to tier the situation- on lots of 25,000 sq. ft. or more, one can build a garage to the height of the structure with one on a permanent foundation, wood construction and meets all other dimensional requirements. Less than 25,000, adjust the raise to 25' to allow for the correct pitch.

R-1 shows uses allowed under special permit – added number 3- not ruling out prefab building but it needs more scrutiny by the BZA.

Mr. Schneider reported that some of the BZA members will have some input.

Councilor Haugh asked could one build a garage with room above on a lot less than 25,000 sq.ft.? Mr. Schneider responded that it would be determined by whether the garage is detached vs. attached. Attached can have living space above it; detached cannot. In some cases breezeways were added to get around the limitations.

Chair DiFazio asked where in the language does it specify detached vs. attached? Mr. Schneider was not sure, but he will check- it might be in the definitions. It is in the commercial corridor overlay district.

Councilor Dwyer asked if this lines up with other towns? Mr. Schneider responded that they are universally adopted practice within the south shore. Scaling to lot size is common practice.

Chair DiFazio wants to make sure which section applies to detached garages.

Councilor Haugh asked about putting up more than 3-car garages if the lot size is larger. Mr. Schneider responded that this change doesn't affect anything other than height of garages.

20 090-Proposed Miscellaneous Amendments to the Town's Zoning Ordinances/Commercial Corridor Overlay District

From the redline version:

[PROPOSED ADDITIONAL SENTENCE](#)

B. Setbacks.

Recognizing that the primary mode of transportation along major commercial corridors will be the automobile, the goal of this article is to safely accommodate traffic while preventing these gateway corridors from being visually dominated by large expanses of paved parking areas. **To the greatest extent practicable, parking for the commercial use will be provided at the front of the building with parking for the residential component concentrated behind the building.** With this in mind the following setback requirements shall be, at least, as follows:

EXISTING 120-25.17 (b) (1)

~~(1) The maximum front yard setback shall be 70 feet, taken as an average across the building frontage to allow for a minimum five foot landscape area along the frontage, a row of parking, and a travel aisle.~~

PROPOSED

1. The Board of Zoning Appeals shall have the authority to approve the front setback based on the goals articulated above and subject to the review of the Weymouth Fire Department, Planning Department, and Traffic Engineer. Further, when the front setback will be used for parking, a minimum of 70 feet will be provided to allow for a minimum five (5) foot landscape area along the frontage, a row of parking, and a travel aisle

Mr. Schneider reported on another situation in creation of the corridor overlay, the biggest problem with the way it's written creates maximum front yard setback 70 ft- it was intentional and it would be the minimum needed to put a landscape space, travel road walkway and entry to building, but it's so big it encompasses the space. If proposing parking along front setback, they still need the rest. Desire is for the greatest extent possible, commercial parking at front and residential component concentrated behind the building. They want to look at it on a case-by-case basis. Don't have the fear this will happen a lot. Anything in the COD requires BZA scrutiny (special permit).

Chair DiFazio noted if it only applies to applications under spec permit- they replaced language with the specific criteria to meet the objective. Mr. Schneider responded that in addition to the different locations they also ran into design with horseshoe shaped building and calculating front yard setback was harder than it needed to be.

Mr. Luongo added that part of the criteria is to discourage monolithic front façades. Every variation in the front setback requires averaging. The intent was to break up façade-facing main roadways. Objective is still there to get to the end result.

Councilor Mathews asked if this opens the ambiguity for challenge to the decision of the BZA- the language is subject to interpretation in appeal. Mr. Schneider responded that it is subject to special permit and gives BZA more leeway with approvals and denials. Mr. Luongo added that there is a lot of guidance built in the zoning.

Councilor Haugh asked how formal is the review of the application. Mr. Schneider responded that any application that goes before the BZA is subject to review by all departments. A package is sent, and applicants are required to formally meet with departments. It is a more formal process.

Councilor Dwyer asked what role the Fire Department plays in the review? Mr. Schneider responded that they look at an application to determine fire and emergency vehicle access ability.

20 091-Proposed Miscellaneous Amendments to the Town’s Zoning Ordinances/Correction of Scrivener Error

This measure was referred to the Ordinance Committee on March 9, 2020. From the redline version:

SECTION 9. The first paragraph of Order 16 015 of the Town of Weymouth Ordinances is hereby amended by striking out the words “Parcel E: 2.93 acres of Southfield Open Space” and “Parcel G: 0.08 Acres of Southfield Open Space” inserting in place thereof the following phrase:

Town of Weymouth Atlas Parcels:

Sheet 54 -Block 597- Lot 155

Sheet 54 -Block 597- Lot 158

Sheet 54 -Block 597- Lot 159

Sheet 54 -Block 597- Lot 160

Sheet 54 -Block 597- Lot 161

Sheet 54 -Block 597- Lot 162

SECTION 10. Section three of Order 18 002 of the Town of Weymouth Ordinances is hereby amended by striking out the words “120.106.2” and “120.106.3” and inserting in place thereof the following text:- “120.106.3” and “120.106.4,” respectively.

Mr. Schneider noted this measure is to correct scrivener's errors- identified specifically in an application for rezoning by LStar for the property at the end of White Street. When they submitted their zoning proposal on the cover letter they referenced the parcels- it was incomplete and everything following contained the correct information. Once the Council approved the change, the order was written up incorrectly. GIS picked it up – they determined then it was best to go back and make sure everything matched up. It probably would only have come up in a title search years later.

Chair DiFazio asked if these seven parcels in section one, etc. is the result they want? Mr. Schneider responded that at no point during the application process, was inaccurate information conveyed. He went back and researched the process through. At the last minute, when the order was written, it was copied wrong.

Councilor Mathews noted the actual measure refers to section one and two. The page from the redline version says 9 and 10- which is it? Mr. Schneider responded that it is Section 1 and 2 of measure 091. Those were the sections from the original. When it goes to public hearing, he'll update this and the dates on the coversheets, and make sure all is updated.

Second item- refers to the Marijuana moratorium that was before Council- it was given an incorrect number. Originally given 120.106.3 (which was a duplicate) so it became 120.106.4.

20 092-Proposed Miscellaneous Amendments to the Town's Zoning Ordinances/Dimensional Requirement-Highway Transition

This measure was referred to the Ordinance Committee on March 9, 2020. From the redline version:

EXISTING

§ 120-22.7. Special permit uses by Board of Zoning Appeals.

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. Private club or lodge.
- B. Conversion of an existing dwelling for up to four dwelling units.

PROPOSED

§ 120-22.7. Special permit uses by Board of Zoning Appeals.

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. Private club or lodge.

B. Conversion of an existing dwelling for up to four dwelling units.

C. New construction of up to four dwelling units on an existing site of at least two dwelling units.

Mr. Schneider noted this refers to special permitted uses in the HT zone- conversion of an existing unit to 4 dwelling units is allowed. A lot have deteriorated; if demolishing, they don't have a mechanism to demolish and rebuild. It allows for new construction of up to 4 units after demolition. It creates a pathway for a deteriorated condition building. It doesn't change the allowable number of units. Mr. Luongo added that increasing an existing dwelling unit to 4 is by special permit. If they already have existing of minimum of 2 units, an owner can knock down and build 4 units. It still has to conform to existing requirements, including FAR. This would be for example, a building that has surpassed its life expectancy.

Vice Chair Dwyer asked if they anticipate any unexpected consequence as a result? Mr. Schneider responded that he didn't think so. It must be already a multifamily of at least 2 units. This gives the same option to expand. It was done intentionally to discourage single family home owners from converting to multifamily- it must be an existing multifamily.

Councilor Heffernan asked that if there is no opportunity to fit further parking spaces, the matter is moot? Mr. Schneider responded yes. Councilor Heffernan noted there are locations that could be interested, but they wouldn't have a large enough lot size.

Councilor Mathews asked if the COD took out a lot of the HT zoning? Mr. Schneider responded no, it puts the overlay on top of the HT zoning. One would have to have 30,000 sq. ft. to take advantage or bring an application forward under the existing HT zoning. They thought to add the language to prevent small business from turning into residential multifamily. It's a protection. Mr. Schneider responded that it's something to consider whether there should be different criteria if a building falls under business.

Mr. Luongo disagreed- it will get small sq. ft. for commercial that will be hard to rent up. Commercial rental is going through changes. He would not like to do this. From an economic viewpoint, it's not going to happen. Even on larger projects on Main street, owners are finding it hard to lease. Injecting a commercial component would be a mistake. Councilor Mathews asked if there was no concern about the tax base? Mr.

Luongo responded yes, but miniscule from a small sq. ft. commercial. They have to be consistent. They don't want to encourage small lots with too many ins and outs. Incentive was to combine curb cuts, lots, etc. HT doesn't mandate a commercial component. HT was to protect- read the preamble to see it was designed to protect. Councilor Mathews responded that, from a philosophical standpoint density of Weymouth is a concern. They have to think about density. Mr. Luongo responded that that is a topic for another time. The full council has to determine how to build the tax base.

Chair DiFazio noted the changes are confusing. He wants to hear from the Planning Board. He is not happy with the way B and C are set forth. He added there will be a joint public hearing at the Town Council meeting on July 13, 2020.

Mr. Luongo reverted back to the discussion on attached/detached garages and whether the language applies only to detached? He read the language from the zoning. Living space above attached garaged. If 14' is the maximum height, one can't put living space within this. Mr. Schneider added that the building department regulates space above garages based on utilities.

20 093-Proposed Miscellaneous Amendments to the Town's Zoning Ordinances/Dimensional Requirements-Public Open Space

This measure was referred to the Ordinance Committee on March 9, 2020. From the redline version:

MEASURE 20093

ZONING
120 Attachment 1
Town of Weymouth

Table 1
Schedule of District Regulations

[Amended April 1971 ATM by Art. 47, approved 8-24-1971; February 1972 STM by Art. 6, approved 5-8-1972; October 1972 STM by Art. 8, approved 12-6-1972; June 1976 STM by Art. 26, approved 10-18-1976; February 1979 STM by Art. 1, approved 4-19-1979; May 1983 ATM by Art. 48, approved 8-26-1983; February 1985 STM by Art. 7, approved 6-3-1985; May 1985 ATM by Art. 44, approved 7-25-1985; May 1987 ATM by Arts. 51 and 52, approved 8-27-1987; May 1990 STM by Arts. 1, 2, 3, approved 8-29-1990; May 1990 STM by Art. 52, approved 9-13-1990; May 1992 ATM by Arts. 34 and 37, approved 10-1-1992; May 1997 ATM by Art. 46, approved 8-11-1997; May 1998 ATM by Art. 43, approved 10-23-1998; 1-17-2017 by Ord. No. 16-150]

District	Type of Use	Minimum Lot Size (square feet)	Minimum Lot Area (square feet per dwelling unit)	Minimum Lot Width (feet)	Minimum Front Yard Depth (feet)	Minimum Side Yard Depth (feet)	Minimum Rear Yard Depth (feet)	Maximum Lot Coverage (percent of lot area)	Maximum Height
R-1	One-family	25,000 (See §§ 120-51, 120-52, 120-53.1 and 120-53.2)	25,000	120 (See §§ 120-51, 120-52, 120-56, and 120-59.1)	18 (See § 120-54)	10; 20 feet of any dwelling (See § 120-55)	24 or 1/5 of depth of lot, whichever is less (See § 120-55)	30%	2 1/2 stories, not to exceed 35 feet
R-2	Mixed residential		10,000 for single-family and nonresidential, plus 5,000 per each additional residential unit UP TO 3 UNITS 120-53.2 (5)	75; 75 feet of frontage	18 (See § 120-54)	10 (See §§ 120-54, 120-55 and 120-59)	10; 20 feet from any other dwelling	30% for building; 25% minimum for landscaping (See § 120-62.1)	3 stories, not to exceed 35 feet
R-3	Garden-type multiple	15,000 (See § 120-52)	One- to two-unit residence buildings: 15,000 All 3-or-more-unit buildings for multiple-family residential use based on FAR of 0.25 (See § 120-6)	20 (See §§ 120-52, 120-56 and 120-59.1)	20 (See § 120-54)	20 (See § 120-55)	20 (See § 120-55)	Minimum 20% landscaped area (See § 120-62.1)	3 stories, not to exceed 35 feet
R-4	Multiple	15,000	All units in all multiple-family residential building based on FAR of 0.30. (See § 120-6, "floor area ratio")	120 (See §§ 120-56 and 120-59.1)	40 plus 5 feet for each setback for each story above 3rd floor (See § 120-54)	20 plus 2 feet for each story above the 3rd floor (See § 120-54)	30 or 1/2 the building height, whichever is greater (See § 120-54)	Minimum 20% landscaped area (See § 120-62.1)	6 stories, not to exceed 80 feet (See § 120-57)
NCD	Neighborhood center	7,500 (See § 120-58)	(See § 120-22.3)	50 (See §§ 120-52 and 120-56)	18 (See § 120-56B)	10 (See §§ 120-55 and 120-59)	10 (See §§ 120-55 and 120-59)	None	2 1/2 stories, not to exceed 35 feet
HT	Highway transition; residential office and small-scale commercial		15,000; FAR of 0.25	75; 60 feet of frontage	20	10 (See § 120-59)	10 (See § 120-59)	50%; 25% minimum for landscaping (See § 120-62.1)	3 stories or 45 feet, whichever is less

Mr. Schneider noted this is a point of clarification – in R2, max units is 3. They ran into situations where using minimum lot column to use the formula that was intended to go to 3, but to use it to infinity.

Chair DiFazio noted this is to make the chart match the actual ordinance and cleans up the discrepancy between chart and the text of the ordinance. Mr. Luongo noted there was a developer who bought property and argued the square footage would allow him to build more than the 3. This is to make sure the chart is consistent. The chair asked they provide the verbiage from R-2 residential (120.13.2) Mr. Luongo responded that this is limiting density, not creating density.

Section 2- public open space. Mr. Schneider reported they ran into this with the Chapman School project- quasi- and public buildings in POS. the height guidance- they were running into construction requirements for a school with several stories, and different heights, within the 3 stories, but exceeded the 35 feet to fulfill requirements from ADA standpoints, etc. Chapman project is within the 3 stories but slightly over 35 feet and required a variance; subsequently appealed by an abutter. Mr. Luongo added that this has to do with the number of stories. Pediments or ornamentations, spires, etc, put up to screen utilities are not included in the height calculation. Currently they aren't regulated under the height restriction.

Councilor Haugh asked if a new North fire station were 3 floor but higher than 35 feet, they could do it because it's a public building? Mr. Schneider responded yes, based on needs use. It only applies in that zone.

Mr. Schneider reported he took notes on the comments and is happy to incorporate them. He has had conversations with the two architects on the Planning Board and they will give their thoughts on it at the public hearing.

Chair DiFazio reminded them that transparency and clarity is what they are looking for.

ADJOURNMENT

Chair DiFazio reported that the Ordinance Committee will meet on July 14, 2020 to review the East Street traffic concerns. A neighborhood meeting took place but there are no minutes. Owen MacDonald took notes and will put them together for the meeting.

At 7:49 PM, there being no further business, a MOTION was made by Councilor Haugh to adjourn and was seconded by Councilor Mathews.

A roll call vote was taken. Councilor Haugh-Yes, Councilor Heffernan-Yes, Councilor Mathews-Yes, Vice Dwyer-Yes, Chair DiFazio-Yes. UNANIMOUSLY VOTED.

Respectfully Submitted by Mary Barker as Recording Secretary

Approved by Kenneth DiFazio as Ordinance Committee Chairman
Voted unanimously on 13 July 2020