

**Ordinance Committee Minutes
Town Hall Council Chambers
November 1, 2023**

Present: Kenneth DiFazio, Chairperson
Gary MacDougall, Vice Chairperson
Arthur Mathews (left at 7:30)
Lisa Belmarsh

Not Present: John Abbott

Also Present: Richard MacLeod, Town Solicitor
Robert Luongo, Director of Planning

Recording Secretary: Janet P. Murray

Chair DiFazio called the Ordinance Committee meeting to order at 6:00 p.m.

Measure #23 120 - Proposed Amendment to Zoning Ordinance, Article II Section 120-6 and Article IV Section 120-13 – Concerning In-Law Residence Structures

Chair DiFazio noted that this matter had a public hearing on 10/2/2023 and the Planning Board has met twice on this matter and has issued a letter dated 10/18/2023 with their recommendations. In those recommendations they took the original measure and made revisions and gave reasons for those changes.

Sandra Williams (Chair of the Planning Board) stated that although she is the chairperson of the Weymouth Planning Board, she is speaking tonight as a private citizen. She stated that she is in favor of this measure as a means to maintain the integrity of the R-1 single-family-home neighborhoods; however, she stated that several public comments brought forth at the public hearings were not incorporated into the revised measure. She would like to see the following considered for inclusion in the ordinance:

- Database of in-law apartments recorded by address to maintain anonymity
- Inspection by the town
- Definition of and proof of relationship for family members as well as a process that allows for non-family members if needed.

Councilor Belmarsh questioned Ms. Williams about whether she was speaking as a private citizen or as the chairperson of the Planning Board. Councilor Belmarsh noted that Ms. Williams made comments representing what happened at the Planning Board meeting and how she voted.

Ms. Williams reiterated that she is speaking as a private citizen but identified herself as the chairperson of the Planning Board to be upfront. She added that she thinks it is a matter of semantics.

Councilor Belmarsh asked if there are inspections that can happen now, even without this ordinance.

Mr. Luongo stated that this was discussed at the Planning Board meeting. He noted that the Building Department does not have the capacity to perform annual inspections of properties. He added that if there is a complaint, they will go out to determine if the complaint is valid. He noted that it would be a burden to keep a registry and pointed out that every property jacket has this type of information included.

Mr. Luongo stated that if you were going to have a registry for in-law apartments, then in order not to single that out, there would need to be a registry for two-family, three-family, etc. dwellings as well.

Ms. Williams stated that there needs to be a line drawn to distinguish between an in-law residential dwelling and a two-family home.

Councilor Belmarsh stated that she is concerned about defining what a family member is and questioned the need for a definition at all.

Mr. Luongo stated that an in-law has to be integrated with the main house so as not to have a separate breezeway, or entranceway; it has to be connected. The in-law will be inspected upon its completion.

Mr. Luongo noted that maintaining an anonymous list is not possible because the jacket on each property is public record.

Councilor MacDougall pointed out that the R-1 zoning district does not designate the type of people that live in a house. The distinction is that a single structure, family home can be built in an R-1 zone; garages, additions, and extensions are allowed within the permitting of the town. He acknowledged that what is trying to happen here is to have some rules around what an "in-law" apartment is. He added that the idea of what an in-law apartment is has changed over the last 100 years. He stated that the idea of having a registry or database of in-laws is a little beyond the scope of this measure.

Councilor MacDougall asked what the impetus for this measure was.

Mr. Luongo stated this was not an effort to eliminate in-law residences or hinder the ability of families to house and care for relatives in need. He stated that the problem was in-law residences are not currently addressed/ regulated in the Town of Weymouth zoning ordinances.

Mr. Luongo stated that, historically, the Building Department has interpreted the zoning ordinances as allowing an in-law residence as an accessory use with limited guidelines. This means there is no review by the Planning and Community Development Department and no oversight by the Board of Zoning Appeals, or the Planning Department. He pointed out that this is the reason they started off this amendment by amending accessory uses.

Mr. Luongo continued that he had discussions about this with the building inspector. He noted that because the building inspector interprets the zoning under the town's ordinances and under state law, they make the decisions and use the definitions under accessory building and accessory uses in order to allow in-law apartments. He stated that the Planning Department disagrees with that interpretation.

Mr. Luongo further noted that it came to a head when some of these accessory dwellings were actually bigger than the original house and meant to be a separate apartment which resulted in complaints from neighborhoods as to what was going on.

Mr. Luongo stated that he worked with the solicitor to tighten this up and regulate, not prohibit in-law apartments. He continued that based on what was heard at the public hearing, it was decided that if certain criteria such as size, design, and integration with the remainder of the house were met, in-law use would be allowed by right. If the use deviated from those requirements, then they would have to seek a special permit from the Board of Zoning Appeals.

Councilor MacDougall asked what the process is if he wanted to build an addition on his house in Weymouth.

Mr. Luongo stated that for just an addition, a resident would go to the Building Department where there would be a determination if the addition meets the zoning, the setback, and height requirements. He continued that a resident could come in for an addition to get around the in-law requirements but then could not put in a kitchen. As of right now there are no regulations on additions to homes as long as the noted requirements are met. He pointed out that another ordinance would need to be written to regulate the size of additions.

Councilor MacDougall asked about the particular examples given in the presentation and why they were afforded the opportunity to build something.

Mr. Luongo stated that the residents of those examples still had to come to the Building Department to be approved for setbacks to build the in-law. He continued that if they were expanding their house or creating an in-law, the Building Director would still make sure they met the height requirements and the setback requirements, but it could be as big as the resident wanted it to be. As of now, an in-law must be 40% or less of the size of the existing house, or 600 square feet-- whichever is less.

Mr. Luongo stated that they have heard concerns that in-law apartments are going to morph into two-family homes because they are so big. There is also concern about there being enough off-street parking.

Councilor MacDougall questioned if the issue was one of process or ordinance.

Mr. Luongo stated that the examples that he gave were approved as in-laws as there were no regulations governing the size, or how they were entered. This is the reason for the proposed regulations.

Councilor MacDougall questioned if Accessory Dwelling Units (ADU) are allowed-- will this proposed ordinance be struck because it is going to be a MGL law.

Mr. Luongo stated that there will still be a need for these regulations for in-law apartments attached to the house.

Councilor MacDougall stated that he is not speaking particularly to the style of what is being built; he is talking about conceptually that an ADU could be used as a separate in-law dwelling.

Mr. Luongo does not support the ADU legislation which the Governor has proposed as a way to ease the housing shortage; he is concerned that the state is going to take away a lot of the local zoning rights.

Chair DiFazio asked if this measure is necessary if the ADU law is passed.

Mr. Luongo stated that he thinks that this measure is necessary and if the ADU law passed it would not negate the proposed ordinance.

Mr. Luongo summarized that he believes this measure is necessary because he is concerned about the creation of two distinct and separate dwelling units in an R-1 zone which could further jeopardize the single-family nature of the R-1 district. These large, separate dwellings could be changed from single-family homes to larger group settings which are covered under the Federal Fair Housing Law.

Mr. Luongo reviewed the proposed measure:

- A specific definition of an accessory building and accessory use; an in-law apartment will not be considered an accessory building.
- An in-law residence does not turn the property into a two family dwelling that can be rented to anyone; the word temporary is used so that if the relative leaves or passes away, the home reverts back to a single family without an in-law apartment.
- A shared living area such as a hallway, kitchen, living room, dining room, or bathroom is available to the inhabitants of both the in-law and the main residence.
- Definition of an efficiency kitchen, so a removable kitchen that contains:
 - sink with a maximum vertical waistline diameter of 1.5 inches
 - appliances that do not require an electrical service greater than 120 volts, natural or propane gas,
 - limited food preparation counter and storage cabinets
 - kitchen shall not exceed six linear feet, except that if existing counter space is being converted to efficiency kitchen use, the counter space shall not exceed eight linear feet.
 - prohibited cooking appliances are ranges, stoves, cooktops, and/or built in ovens
 - permitted cooking appliances are microwave ovens, hot plates, and similar appliances intended for countertop use

- refrigerator size is not limited.

Mr. Luongo reiterated that if these requirements are met, a special permit is not required. However, if the request is for something more than this, a special permit through the Board of Zoning Appeals will be required.

Mr. Luongo stated that they are specific about the size of the kitchen because they do not want the in-law to morph into a two-family house:

- The owner of the property must occupy either the principal residence or the in-law
- No more than two bedrooms, one kitchen and one bathroom shall be permitted in an in-law apartment
- If the in-law is created through an attached addition to the existing home, it will not be in excess of 600 square feet or 40% of the existing home whichever is less

Councilor MacDougall asked about the rationale for 600 square feet as this seems small.

Mr. Luongo stated that an in-law is meant to accommodate one or two people who are going to be living in that in law, with shared space in the main house. An in-law is not supposed to be a separate dwelling unit, the space is to be shared.

Mayor Hedlund stated that he had spoken with contractors and builders and 600 square feet seemed to be the typical size:

- maximum of two people occupying the living area. Exceptions may be made administratively to accommodate in home medical professionals only
- both principle dwelling and in-law must be serviced by common gas or electric and water meters
- at least two off street parking spaces for the principle residence, which is required now; and one additional off-street parking space for the in-law. If the person doesn't drive, the requirement for the one additional parking space could be waived

Councilor DiFazio asked about existing houses that may only have one parking space.

Mr. Luongo stated that each situation will be handled with compassion and require satisfactory proof of kinship,

Councilor MacDougall asked why have proof of kinship at all if there is no real way to determine it.

- architectural character of your existing home must extend to that of any addition. This additional ingress or egress points will be limited to the sides. And administrative exceptions may be made to accommodate proper accessibility for people with disabilities.

Mr. Luongo stated that exceptions can be made administratively.

- In-law shall terminate upon the following
 - sale of the premises
 - occupancy of the principal residence or the enlarged residence by any person other than blood or marriage.

Mr. Luongo stated that the new owner would have to reestablish the in-law.

Councilor Mathews suggested that a seller be required to notify the town of Weymouth of the sale of the house with an in-law unit.

Solicitor MacLeod stated that an affidavit of in-law use is required to be recorded with the State Registry of Deeds. He noted that within a certain number of days upon passing of ownership, an affidavit must be recorded to continue the in-law use. If the affidavit for in-law use is not recorded, it can't be used as an in-law.

- In-law use will be inspected when someone is re-applying for the new residence.
- Recognizing the complexity of familial living arrangement, any proposal not in conformance with the provisions of this ordinance may be granted by a special permit by the Board of Zoning Appeals, if the Board determines that the specifics of the proposal meet the spirit of the law residence ordinance

Chair DiFazio suggested changing the word “spirit” to “intent.

Mr. Luongo agreed.

Councilor Mathews stated that he is comfortable with the measure and would be willing to make a motion after other Councilors have had an opportunity to speak.

Councilor MacDougall stated that he is uncomfortable with section 8B regarding determining familial relationships. He is concerned about some of the problematic language. He added that if it cannot be enforced, why have it in the measure.

Councilor Belmarsh asked if there was any intent behind this in reaction to trying to encourage people to move into the apartment units that are being built in town.

Mr. Luongo stated that this is just for the R-1 district.

Councilor Belmarsh stated that she will not be supporting this measure. She stated that she does not agree with the principle of the ordinance at a time when more housing should be allowed in the community. She continued that she also thinks that the actions of this administration seem contrary to this. She noted that the administration was ready to add a very large addition to the Keohane funeral home which is in an R-1 district and the St. Francis development is a group home which the administration supported.

Councilor Belmarsh stated that there is already a process in place and an ordinance that does not allow two-family homes. She stated that this is an example of over intrusion of government, and it is unreasonable, unnecessary, exclusionary, and borders on discriminatory.

Mr. Luongo stated that if this does not pass, then no more in-law apartments can be allowed.

Councilor Belmarsh stated that it is because Mr. Luongo has chosen to take a different stance on allowable uses.

Mr. Luongo stated that there is no comparison between multifamily developments and commercial corridors and that she and her band mix them up.

Councilor Belmarsh asked Mr. Luongo what he meant by “me and my band.”

Mr. Luongo stated that there is false information that gets out there that they are intruding on the R-1 district, and perpetuating falsehoods, when they are not. He stated that he does not equate multifamily housing with in-law apartments or that the town is inconsistent in allowing multifamily, but not allowing in-laws.

Mr. Luongo stated that when he said “band” he meant people who have the same ideas as Councilor Belmarsh, relative to multi-families not being appropriate in commercial corridors and that residential neighborhoods are being destroyed.

Councilor Belmarsh stated, for the record, that she did not say any of those words.

Councilor Mathews made a motion for favorable action to the full Council measure 23-120 with the recommended change of the word “spirit” to “intent” which was seconded by Chair DiFazio.

Councilor MacDougall stated that he understands the reasons for this measure. He stated that he does not have too much of an issue with having ordinances and rules around these things. He stated that he does have an issue with 8 B as it will be hard to enforce.

Mr. Luongo stated that without having the definition of who can live in an in-law, it will encourage more of a rental for profit unit.

Councilor Mathews withdrew his motion.

Councilor MacDougall stated that it seems odd to have somebody sign an affidavit regarding a family relationship, but they are going to have to lie.

Solicitor McLeod stated that presently, in your own home in an R-1 district, you can bring anyone into your home to have them live in a room. He continued that this is simply to have some controls on an additional structure to a main home and to provide affordable housing to a relative.

Councilor MacDougall asked if this language is consistent with other communities.

Solicitor MacLeod stated that it is consistent with other communities and encouraged Councilors to take a look at some of the other ordinances.

Chair DiFazio withdrew his second of Councilor Mathews motion for favorable action..

Councilor Mathews made a motion to continue measure 23 120 to a future Ordinance Committee meeting, where all five members are present, motion was seconded by Chair DiFazio. The motion passed on a 4-0 vote.

Councilor Mathews apologized that he needed to leave early for a family commitment.

Measure #23 125 - Proposed Change to Town of Weymouth Zoning Ordinance, Extending Village Overlay District

Attorney Gregory Galvin stated that he is present this evening along with two of the applicants, Mr. Jason Kennedy, and Mr. Christopher Bruce, who are the owners of 238 Washington Street, which is at the corner of Washington Street and Vine Street. The parcels current use is commercial with an existing strip mall. He noted that he had pictures of the property. All of the Councilors stated that they are familiar with the property.

Mr. Galvin stated that the applicants are requesting that the Village Center Overlay District (VC) be extended to include this property which had been in the Commercial Corridor Overlay District (CCOD). He continued that when the Council amended the map, they took the CCOD off that section of Washington Street. The VC comes up Washington Street on both sides of the street and when it gets to Broad Street, it crosses over to include 217 Washington Street which is commonly known as the Western Auto property. The village center overlay does not cross over Broad Street on the other side. He added that the applicant is suggesting to crossover Washington Street up to Vine Street which is a residential area.

Mr. Galvin stated that his clients are considering a mixed use building, keeping commercial on the lower level, and then residential, on the upper levels. The design would be stepped back along Vine Street, with only two stories along Vine Street and the fourth level would also be stepped back away from the front of the building.

Councilor Belmarsh asked where the Village Overlay District ends.

Mr. Galvin stated that it ends at the Western Auto property line.

United Congregational Church Homes, Inc. owns the 12 story building on the corner of Washington and Broad Streets as well as the property on which the Bicycle Link is located.

Mr. Luongo stated that he is against this zoning change. The VC zoning change was not meant to continue up Route 53; it was a defined area that was planned out many years ago with the help of the Metropolitan Area Planning Council, and the towns of Braintree and Weymouth. This is one of the properties where it was agreed that it should be taken out of the CCOD. He continued that

it should not be going back and forth and his priorities as the Planning Director are to revitalize the town's village centers of Jackson Square, Columbian Square, Weymouth Landing, and Bicknell Square. He has had to prioritize due to the town's limited water resources and that now is not the time to be expanding the VC.

Mr. Galvin stated when the planning office made the determination as to what was going to be included in the VC, they did go across Broad Street because they wanted to capture a particular piece of property. They didn't go across Broad Street, on the side of his clients' property because they didn't want to capture that property. He added that they are saying that the decision to go across Broad Street is correct, but it should go up to Vine Street. If you put something like the Neon Marketplace that would light up Vine Street. He added that the proposed changes would be residential in character and would not be lit up all night long.

Chair DiFazio asked if anything proposed on this site would exit from the front of that building onto Washington Street.

Mr. Bruce stated that from the proposed building, they would be coming off of Vine Street; all of the residents would park in the rear and exit onto Vine Street. From there they would get on Washington Street.

Councilor Belmarsh stated that she would like to see where the original CCOD was.

Chair DiFazio asked for the map that shows the zoning as CCOD and VC.

Mr. Bruce stated that they reached out to Neon because Mr. Luongo had pushed them to do that. However, Neon has no interest in the property. Mr. Bruce added that they are trying to improve the corner of the neighborhood and noted that no one in the neighborhood likes the existing building. He said Mr. Luongo had said that if they got the Council to agree to it, he would support it and now he is completely against it.

Mr. Luongo stated that he never said that-- he would support a residential development.

Chair DiFazio stated that there will be a public hearing to hear from the neighborhood.

Councilor MacDougall made a motion to adjourn which was seconded by Chair DiFazio. The motion passed 3-0.

There being no further business, Councilor MacDougall moved to adjourn at 8:10 p.m. Chair DiFazio seconded. The motion was UNANIMOUSLY VOTED.

Respectfully submitted by Janet P. Murray as recording secretary

Approved by Kenneth DiFazio as Chair of the Ordinance Committee
Approved 16 January 2024