



Braintree Town Council Committee on Ordinance & Rules

One JFK Memorial Drive
Braintree, Massachusetts 02184

MEMBERS

Sean Powers, Chairman
David Ringius, Jr, Vice- Chairman
Charles Kokoros, Member
Timothy Carey, Member
Charles B. Ryan, Ex-officio

May 1, 2019 MINUTES

A meeting of the Committee on Ordinance & Rules was held in the Cahill Auditorium on Wednesday, May 1, 2019 beginning at 6:30pm.

Chairman Powers was in the Chair.

Clerk of the Council, Susan Cimino conducted the roll call.

Present: Sean Powers, Chairman
David Ringius, Jr, Vice- Chairman
Charles Kokoros, Member arrived @7:13pm
Timothy Carey, Member

Also Present: Christine Stickney, Director Planning & Community Development
Melissa Santucci-Rozzi, Assistant Director Planning & Community Development
John Goldrosen, Town Solicitor
Residents

There was a moment of silence for all those serving in our armed services, past and present, and the meeting was opened with the pledge of allegiance to the flag.

Approval of Minutes

- April 2, 2019

Motion: by Councilor Ringius to approve minutes of April 2, 2019

Second: by Councilor Carey

Vote: For (4 – Carey, Kokoros, Powers, Ringius), Against (0), Absent (0), Abstain (0)

New Business

- **19 011 Mayor: Comprehensive Zoning Ordinance or take up any action relative thereto**

Chairman Powers asked Assistant Town Solicitor, John Goldrosen gave a brief overview of procedures and timelines.

John Goldrosen explained how Town Zoning Amendments can be considered and approved. For most part it is governed by state law Chapter 40A Section 5. This requires both Planning Board and

Town Council to conduct Public Hearings and states the Public Hearing shall be held within 65 days of when the Zoning Amendment has been referred to the Planning Board for its consideration. The state law does not say how long those hearings can go for. Once a hearing is open it can continue a hearing as needed. The Town Council has scheduled a Public Hearing for May 14, 2019. If the Town Council wants to hold the hearing and continue it they are free to do so. Some municipalities have the Planning Board and Town Council hold hearings together. The only real restriction for when the Town Council can act on the zoning proposal is the Town Council has to wait for Planning Board (PB) to make its recommendation. Town Council can hold a hearing but cannot act (approve, deny or approve with amendments) until after receiving the PB recommendations. The only deadline is once the Town Council closes its hearing it has to act within 90 days or else the whole process has to start over. There is no requirement that the Town Council within a certain period after the Planning Board closes its hearing and makes its recommendations. There is such a requirement in the case of Town Meeting form of government but not for the form of government that Town Council is under. John Goldrosen explained to what extent the original proposal can be changed and how does that work. Is it ok if Town Council votes on something that is not the same as the original proposal. Courts look at whether people have been put on notice of what is going to be discussed. It is pretty clear here that it's the entire Zoning Ordinance that is being proposed as a revision. Cases are pretty clear that changes can be made to the original proposal and that is the point to hold public hearings and the reason to take comments is to see what changes might be advisable.

David Ringius, District 5 Councilor stated once the Town Council opens its hearing on May 14th we can continue to hold these parallel meetings and the Planning Board (PB) can hold their meetings but the Town Council cannot vote until after PB gives their recommendation and the PB can continue their hearing after their currently scheduled June 4.

John Goldrosen, Assistant Town Solicitor stated this is correct.

David Ringius, District 5 Councilor stated when the recommendation comes from Planning Board, we can change different sections. We are not bound to vote just on the proposal proposed by Planning. Is this accurate? Through Motion practice at the Town Council meeting we can amend and change anything that is recommended over from the Planning Board.

John Goldrosen, Assistant Town Solicitor stated this is correct.

Tim Carey, District 6 Councilor asked for clarification on current applications for existing permits. Where those would fall – the existing rules or proposed?

John Goldrosen, Assistant Town Solicitor stated that while a zoning amendment is pending the boards still have to following the existing bylaw or ordinance because that is what is in effect and that's what they have to apply but some may be subject to the new zoning if they are approved. There is a risk to an applicant that they might get an approval under the existing ordinance and then when the new one is approved even though it doesn't take effect officially until it is approved by the Town Council it sort of relates back. The reason for that is the state law and attempting to address someone proposing a zoning ordinance to get on a particular district to only say single family houses could be allowed and not commercial or something and then having people rush forward to get their permits under the existing ordinance before Town Council got to vote on the change. The law was written in a way so that once a public notice of an ordinance change it kind of freezes the clock and

you get your permits but might still be subject to some new provisions. There is that risk of a current proposal ultimately being subject to changes in a zoning ordinance. Towns should operate under the current zoning ordinance because who knows what will happen to any proposal.

David Ringius, District 5 Councilor asked if a home owner demolished a current home and received a building permit under the existing zoning ordinance what happens after/if the proposal is approved. John Goldrosen, Assistant Town Solicitor stated they could put up that house and run the risk of have it be in violation of zoning. The key moment is the public notice. The Town is not liable. It is the risk the property owner takes. The Planning Department staff has been pro-active in making the applicant aware of what's on the table so we don't get in a situation where someone says gee I didn't know.

David Ringius, District 5 Councilor stated is it fair to say the longer this goes on for the more owners trying to do adjustments to their home could be held up.

John Goldrosen, Assistant Town Solicitor stated it is fair to say there is an impact on people planning their decisions about construction and various uses to start operations.

Charles Kokoros, District 1 Councilor stated are applicants able to apply to the proposed zoning use.

John Goldrosen, Assistant Town Solicitor stated no the boards are applying the current rules.

Charles Kokoros, District 1 Councilor stated the longer this drags out it works counter-productively for the citizens, property owners, small businesses etc. in Braintree. I would expect legal counsel to maybe make a recommendation based on the fact we have this massive problem right now because we have such a comprehensive plan. What is Legal Counsels opinion?

John Goldrosen, Assistant Town Solicitor stated that is a political decision. It is by a case-by-case. There are a lot of projects that would not be affected by any of these changes.

Charles Kokoros, District 1 Councilor stated now there is this issue of pause and we are in a mess because of "in-action". I feel it is time we get a recommendation from the Planning Board. Why can't there be a Special meeting of the Planning Board to meet on this. This is too important to put off. The legal ramifications for the residents are great and the inability for residents to understand what is going to happen and what the future of the Town is going to be. I think it is important we get a recommendation. We shouldn't be held up. We should be allowed to do our job. There are parts of the comprehensive plan that are good for Braintree. I think the sooner we can make those happen is the best for the Town.

Sean Powers, Chairman stated I would too like to add I too hope the Planning Board would vote on a recommendation at their June 3rd meeting so this process can fully come before us so we can do our work.

Carl Johnson stated those most affected by this would be single family homeowners. This lowers from 3 stories to 2 ½ and it also has a FAR so it is being built on scale. There are no real changes to dimensional requirements.

Charles Kokoros, District 1 Councilor asked if there were any applicants currently being held up.

Christine Stickney, Director of Planning & Community Development stated they give applicants a memo from the Town Solicitor stating recommendations on rezoning. We cannot speak for other departments.

Charles Kokoros, District 1 Councilor asked what direction staff of the Planning Board is given on the state of a recommendation.

Christine Stickney stated we have had our second public hearing and there are comments brought forward. We are working on revisions and amendments. We are working towards June 3rd, today no but depends on how much more public comment we receive.

Sean Powers, Chairman stated I would too like to add I too hope the Planning Board would vote on a recommendation at their June 3rd meeting. The ultimate decision is with this Council. That is why we are beginning our work to move if forward in a thorough and expeditious way.

Christine Stickney stated they were looking at the zoning bylaws due to many inconsistent sections in it. Our use table was outdated. We had a number of rezones that were coming before the board. We requested appropriations in 2013 and 2014 to have a consultant work with us to rewrite the comprehensive zoning bylaws. We had a working group and the consultant RKG. They worked for two years. Our new consultant is now Horsley and Whitton. In Fall 2018 and early 2019 we had public meetings where we presented a Draft of the Bylaw. We submitted a Draft to Town Council on March 8, 2019. We notified all property owners in town. We had the first Public Hearing with the Planning Board on March 25, 2019 and another on April 22, 2019. We came back with more recommendations. We meet again on June 4, 2019.

Councilor Powers, Chairman of the Committee on Ordinance & Rules began at Section 1. Councilor Powers read along with the Readers Guide (*italics below*). The Chairman will ask if there are any questions from members and residents as each Section is explained.

Sec. 1. Purposes and Authority

This section is one page long, and includes text largely standard across Massachusetts.

Sec. 2. Establishment of Districts

§ 2.1 Districts

- *A description of the purpose of each zoning district has been added.*
- *There is a new Transition District (TD), accommodating a mix of uses, and serving as a “transition” from village centers to residential areas.*
- *The Village Overlay District is now proposed as a standalone Village Center (VC) zoning district.*

Sec. 2. Establishment of Districts

§ 2.1 Districts

For purposes of this chapter, the Town of Braintree is divided into the following zoning districts:

A. Residential Districts

(1) Residence A (RA)

This district consists largely of single-family detached homes, and other neighborhood complementary uses such as places of worship, libraries, municipal parks, and play grounds.

(2) Residence B (RB)

This district consists of single-family detached homes, but generally on smaller lots than in the RA district. It can also accommodate conversion of single-family homes to two-family homes with a special permit. On top of the complementary uses allowed in the RA district, the RB district may also accommodate uses such as community centers and funeral homes.

(3) Residence C (RC)

This district may accommodate a wide range of residential uses, from single-family detached homes to multi-family dwellings, as well as the complementary uses allowed in the RA and RB districts.

B. Business Districts

(1) Transition District (TD)

This district generally runs along Washington Street, serving as a transition from the village centers and other business areas to residential areas. The TD accommodates a mix of residential and lower-intensity commercial uses on smaller lots.

(2) Village Center (VC)

This district covers the two traditional village centers of Braintree: Braintree Square and South Braintree. The purpose is to regulate the quality and scale of future development in these areas, to preserve the predominant scale and character of the villages, while also encouraging residential and mixed-use development. This district provides a set of development standards that promote a stronger sense of place and encourage visual harmony.

(3) General Business (GB)

This district allows for a variety of multi-family residential uses but is primarily meant to accommodate a wide range of businesses, including retail, restaurants, offices, and services.

(4) Highway Business (HB)

This district is meant to accommodate larger-scale retail and service businesses, business parks, regional shopping centers, and other such uses reliant on access to local highways. Multi-family dwellings may be accommodated in this district, but not single- and two- family homes.

(5) Commercial (C)

This district is designed to accommodate heavier commercial, storage, and light industrial uses that are generally not compatible with residential uses. Residential uses are not allowed in the C

(6) Braintree-Weymouth Landing (BWLD)

This is a special district that shares a border with the Town of Weymouth. It is designed to accommodate a mix of higher density housing, retail, and services around public transportation.

(7) Open Space and Conservancy (OSC)

This district is meant to protect open space, parks, forests, and other lands that have a permanent or long-term conservation easement for public recreation and/or environmental protection. It also includes many municipal buildings and land under Town control.

C. Overlay Districts

(1) Floodplain Protection Overlay District (FP)

This district is meant to protect the health and safety of persons and property against flooding and water inundation and ensure that the Town complies with all relevant FEMA rules and regulations.

(2) Drinking Water Protection Overlay District (DWP)

This district is meant to protect public health and safety by minimizing contamination risks to surface waters that supply the Town of Braintree with drinking water.

(3) Billboard Zoning Overlay District (BZOD)

This district is meant to manage the placement, operation, maintenance, and local impacts of billboards.

(4) Special Industrial Management Area Overlay District (SIMA)

This district is meant to protect public health and safety by minimizing the impacts of existing larger-scale hazardous waste facilities and bulk fuel storage operations in Town.

§ 2.2 Zoning Map

(To be reviewed at the end of this process in committee)

END OF DRAFT PROPOSED ORDINANCE ---

DISCUSSION:

Melissa Santucci-Rozzi, Assistant Director stated in the “old” section this is 135-301. This has been moved up to Section 2 in the proposed ordinance. In the proposed Districts descriptions have been added.

Sean Powers, Chairman asked what the Residence B lot size requirement for converting from single family to two-family.

Melissa Santucci-Rozzi, Assistant Director stated 15,000 square feet. It needs to be built prior to 1940. No increase in living space is allowed. 15,000 square feet is the same now and proposed.

Charles Kokoros, District 1 Councilor asked can we just not allow this to happen.

Melissa Santucci-Rozzi stated yes potentially we can. Given the sites there are different scenarios for Res A and Res B.

Sean Powers, Chairman asked a question on Res C. What is the proposed density maximum for Res C?

Melissa Santucci-Rozzi, Assistant Director stated 20 units per acre. The existing density is in 135-705. It has to do with # of bedrooms.

Charles Kokoros, District 1 Councilor stated the Transition District creates too much growth and density with too many cars already.

David Ringius, District 5 Councilor stated the Transition District starts in my district and continues to District 2. The questions I get about a brand new district is what is changing and why is it changing? Currently there are a variety of uses. The why would make them all in the same use? Why are we looking to increase the density in that area?

Melissa Santucci-Rozzi, Assistant Director stated most now are Res C. The Transition District allows some of this by right and then requires the Special Permit for multi-family. A lot along Washington Street are older properties. There are quite a few multi-families. We have heard the comments about this district. We will lower the density to 12 and we are looking to refine the boundaries. We thought creating a district where someone wanted a business and residential as well this would be an option for them.

David Ringius, District 5 Councilor stated in regards to Academy Street area and it looks like this district is creeping up the street two to three lots. Why is that? The residents do not want businesses creeping up into their neighborhoods.

Christine Stickney stated many are already multi-family dwellings and those people use the public transportation. We have heard the public comment and we are looking to bring it back closer to those lots on Washington Street. The Transition District actually starts at Thayer and goes North.

Anything South is not included in that District. In the use table of the TD there are things not allowed in this district which is allowed by use in other districts.

Charles Kokoros, District 1 Councilor stated I am not sure how the parking would work with adding a business use.

Sean Powers, Chairman asked for the Transition District what the square footage is.

Melissa Santucci-Rozzi, Assistant Director stated the minimum for any use is 7,500 square feet.

Currently Res C is a 1 acre minimum.

Sean Powers, Chairman stated so we are reducing the lots size? This is a concern from residents that I have heard.

Jill Coyle, resident stated currently/existing Res C is a minimum 1 acre. It is being reduced to 25,000 square feet. Transition is 7,500 and Village Overlay is 5,000 square feet. From Capen Circle to Dunkin Donuts by Route 37 these areas will all be affected by either Village Overlay or Transition District with the exception of a very small area. The Academy Street issue is also true for Hobart Avenue and several other neighborhoods.

Carl Johnson, formerly on the working group/study committee stated we responded to many policy questions mostly on Residential and Transition District. We had real concerns about how it would impact parking. We have split lots all over the place along the main roads. You should think about how this is going to be done. You should limit the types of businesses that can go in there.

Liz Page, resident stated there are too many uses by right/special permit. That tells me a lot can happen. We need to be careful about how densely we are going to develop this area. I do think you're creating a bigger problem. A concern with the residents is someone buying the homes and building bigger multi-unit developments.

Sean Powers, Chairman stated for the Village Overlay – what is visual harmony and who's opinion determines this.

Melissa Santucci-Rozzi, Assistant Director stated this is not design guidelines. We have a whole section on the village. It's more about where entrances are located, windows, etc. The current bylaw says build buildings like the others.

Sean Powers, Chairman stated Kristin's and Glow did a great job in a much needed facelift in that square. We have an opportunity here to encourage our building owners to develop a uniform set of buildings to make it look like villages. I am excited about facelifts on our squares.

David Ringius, District 5 Councilor stated yes the squares are the hearts of the Town. District 5 is the heart of Braintree. I do appreciate how we define this. I do love this definition and this is something we can work with to monitor development and preserve the history of Braintree.

Charles Kokoros, District 1 Councilor stated can you talk what other changes have been made to the Overlay.

Melissa Santucci-Rozzi, Assistant Director stated when you have an Overlay you also have many different base districts. Those underlying districts start to present conflicts with how we would like South Braintree to look like. The village overlay has not produced many projects. In Section 8 we talk in more detail about that district.

Charles Kokoros, District 1 Councilor stated the overlay was initially created to try to get café type locations. That was the vision I had when we approved it years ago. We should talk more about the presence of outdoor seating.

Liz Page, resident asked what do you want the square to look like?

Melissa Santucci-Rozzi, Assistant Director stated my ideal square would be mom and pop shops, outdoor seating, not a lot of chains, people walking, more municipal parking, an area with benches where you can get a sandwich, a lot more walking, people connecting with businesses. Just really try to soften it and make it more of a different feel. I want a reason to park and spend two hours. Bring back butchers, bakeries where people know the owners.

Liz Page, resident stated if you look next to the Passport restaurant in Weymouth right next to it is a big development and it looks so out of place. I am afraid of this happening in our squares.

Sean Powers, Chairman stated in order to make our squares a destination place right now they need to accommodate parking.

Carl Johnson, stated one way to make this move is an incentive and a plan involving parking and identify the types of uses for the parcel. I do think it is within the Town Council working with the administration. It does not make sense to increase the Village District.

Steve Scaccia, resident stated the only part that scares me is we are talking about moving ahead with the square without a plan. Eight foot setbacks can make or break the design of our squares. I feel there needs to be more of a plan for the squares.

Christine Stickney stated we have done a parking plan. It is the first portion of a parking program. This has inventory of all the parking in both squares.

Melissa Santucci-Rozzi, Assistant Director stated certain sites in the Village Overlay we have the ability to have zero setbacks.

§ 2.2 Zoning Map – This item will be discussed at a later date. This should include all recommended changes.

It was agreed to begin the next meeting with Section 3.

MOTION by Councilor Ringius to TABLE Order 19 011 to May 15, 2019 at 6:30pm

Motion: by Councilor Ringius to TABLE Order 19 011 to May 15, 2019 at 6:30pm

Second: by Councilor Kokoros

Vote: For (4 - Carey, Kokoros, Powers, Ringius), Against (0), Absent (0), Abstain (0)

Sean Powers, Chairman stated please email any questions or concerns to the town council or planning department so they can be addressed.

Old Business

- None

It was unanimously voted to adjourn the meeting at 9:17 p.m.

Respectfully submitted,

Susan M. Cimino

Clerk of the Council

Documents provided for Meeting

- 19 011 Mayor: Comprehensive Zoning Ordinance or take up any action relative thereto