



CITY OF NEW BEDFORD, MASSACHUSETTS

MEETING: COMMITTEE ON ORDINANCES
DATE: SEPTEMBER 19, 2024
TIME: 7:01 P.M.
PLACE: CITY COUNCIL CHAMBERS, ROOM 214

PRESENT: COUNCILLORS RYAN PEREIRA, CHAIR; IAN ABREU;
DEREK BAPTISTE; SHANE BURGO (7:43); NAOMI
CARNEY; BRIAN GOMES; JOSEPH LOPES; SHAWN
OLIVER

ABSENT: COUNCILLORS LEO CHOQUETTE; MARIA GIESTA;
LINDA MORAD

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Councillor Pereira called the Ordinance Committee meeting to order, took attendance and explained that the meeting was being recorded and live-streamed. The Clerk read Communications into the record from Councillors Choquette, Giesta and Morad explaining their absence and from Councillor Burgo explaining his tardiness. The Communications were received and placed on file by Councillor Lopes and seconded by Councillor Oliver.

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WRITTEN MOTION, Councillors Gomes, Pereira, Lopes, Abreu, Giesta, Choquette and Baptiste, requesting, that the Committee on Ordinances look at the City Ordinance and the State Law pertaining to campers being left on City streets; and further, that a City Ordinance be established that states these campers, whether attached to a vehicle or not, will not be permitted to stay on City streets for more than a 24-hour period without a special permit from the City and a letter of permission from the owner of the residential property. (Referred – May 23, 2024.) (Matter ID #0855)

Councillor Gomes was recognized and explained that the purpose of this Motion was not to address deserted campers on City streets, as that issue is currently being discussed by the Ordinance Committee. This Motion is to address campers owned by New Bedford residents, in addition to owners who may be visiting family or friends and have parked their campers on City streets for an extended period of time. He added that it was not his desire to prohibit this, but if a camper is parked in a location for longer than 24 hours, it is his hope to come up with a non-fee parking permit for the unit. He asked Atty. David Gerwatowski, Legal Counsel, if this was possible.

Atty. Gerwatowski was recognized and replied that there is currently an Ordinance in place that addresses campers attached to vehicles. However, he would need to research what is currently allowed, as well as what Massachusetts General Laws have in place. Councillor Gomes informed Atty. Gerwatowski that he had a copy of the State Law and would provide him with it for his review.

Councillor Gomes stressed that this permit would be issued at no charge to the owner and would allow a camper to remain on a City street for a yet to be determined period of time. Councillor Abreu spoke in support of the Motion and agreed that the City needs to take the appropriate steps to clarify and strengthen the current Ordinance in place for campers and travel trailers.

On motion by Councillor Gomes and seconded by Councillor Abreu, the Committee VOTED: To table the matter at this time to allow Atty. Gerwatowski the opportunity to review the City Ordinance and Massachusetts General Laws currently in place, and possibly draft a new Ordinance.

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The following items were taken out of order, without objection.

PUBLIC HEARING on a COMMUNICATION, Councillor Baptiste, submitting a DRAFT ORDINANCE, Amending Chapter 9, Sections 2210 and 2200, and Table “D. Industrial” of “Appendix A – The Table of Principal Use Regulations” relating to Uses in the Waterfront Industrial District and Facilities for Maritime Industrial Training. (To be Referred to the Committee on Ordinances and the Planning Board.) (Referred – August 13, 2024.) (Matter ID #1362) (Duly advertised in The Standard-Times on Thursday, September 05, 2024 and Thursday, September 12, 2024.)

COMMUNICATION, Jennifer Carloni, Director, City Planning, to Councillor Naomi R.A. Carney, City Council President, advising that the Planning Board held a public hearing on Wednesday, September 04, 2024, to discuss a request made by the City Council for the Planning Board to review and make a recommendation relative to Chapter 9 of the Code of Ordinances, to amend Section 2210 and insert a new Section 2240, regarding uses in the Waterfront Industrial District; the Planning Board voted to send a **FAVORABLE RECOMMENDATION** for the rezoning request. (Referred – September 10, 2024.)

On motion by Councillor Lopes and seconded by Councillor Baptiste, the Committee VOTED: To receive and place on file the Communication received from the Planning Board containing the Planning Board’s Recommendation Letter and Staff Report.

Councillor Pereira opened the Public Hearing.

The Chair recognized the petitioner, Andrew Saunders, President, Foss Marine Terminal of New Bedford. Mr. Saunders stated that he approached the City with a request to change the current Ordinance to allow for additional uses on the property and the Waterfront Industrial District.

Mr. Saunders explained that Foss Marine Terminal is redeveloping the old Eversource property on the City’s waterfront. He is asking that the Council consider an Amendment to the City Code, which would eliminate an issue they have regarding the definition of the term “lot”. The Code currently states that a lot and any continuously connected lot or lots that abut each other are considered to be one lot.

Mr. Saunders added that there is also language in the Zoning Code which states you can only have one structure on that lot, although you can place accessory dwellings on those lots with a Special Permit granted by the Zoning Board of Appeals. However, if you do that, the size and height of that building cannot be greater than eighteen feet.

Mr. Saunders shared that Foss Marine Terminal is a 27-acre parcel, comprised of seven different lots; under the current Code, they can only put one principal building on the entire parcel. He explained that by changing the Zoning Ordinance, it would allow them to enter into an agreement they currently have with two customers to construct two 30,000 square-foot warehouses, which would accommodate the offshore wind industry. They are also in discussion with other individuals in the same type of business, who would also require the building of additional facilities on the property. If the Ordinance were to be Amended, Foss Marine Terminal could have five 30,000 square foot warehouses on the property by the year 2030.

Mr. Saunders added that this zoning change would only apply to the Waterfront Industrial District, and it would not change the City's requirements to meet set back, density or other types of restrictions within the City Code. He stated that there was also a request to include in the Table of Uses, the term "Maritime Industrial Training"; this is because the workers in the facilities would require training. However, he informed the Committee that when Foss Marine Terminal went before the Planning Board, it was recommended that they change the term "Maritime Training" to "Maritime Education".

Councillor Abreu asked Mr. Saunders to explain the need for the zoning change. Mr. Saunders explained that projects such as Foss Marine Terminal would lead to a huge economic boom for the City.

Councillor Baptiste asked what would happen if the Ordinance was not changed. Mr. Saunders stated that Foss Marine Terminal would still move forward with their project, but it would limit the different uses on that property. He stressed that it would be a benefit to them and others within the district if the zoning did change.

Councillor Carney asked if the change was allowed, would Foss Marine Terminal be able to erect multiple buildings on that property. Mr. Saunders replied yes.

Councillor Pereria stated that he did not have any issues with the proposed zoning change. However, he did express concern in changing the definition of "Maritime Training" to "Maritime Education". He stated that after doing some research, he believes this change could possibly allow for a school to be set up on the property, and he feels the entirety of the property should be used for marine-related business. That being said, he would not support Sections three and four of the proposed Ordinance.

Councillor Baptiste asked Atty. Gerwatowski if adopted, what the trickle-down effect would be for other businesses within the district. Atty. Gerwatowski replied that the Ordinance is a zoning change and would apply to any property within the Waterfront Industrial District.

Jennifer Carloni, Director of the Planning Department, was recognized. Ms. Carloni explained that the Planning Board sent a Favorable Recommendation to the City Council regarding the Ordinance change, and that this change would affect the entire Waterfront Industrial District. She confirmed that passage would allow for more than one building on a property.

Ms. Carloni went on to explain that the second part of the request was related to a new use. The Planning Board recommended that the petitioner define the term "Marine Education", and suggested a definition they have used in the past; that language was incorporated into the Ordinance.

The Chair asked if there was anyone present who would like to speak and/or be recorded in favor of the Ordinance change. There were none. The Chair asked if there was anyone present who would like to speak and/or be recorded in opposition of the Ordinance change. There were none.

Councillor Pereira closed the Public Hearing.

Council President Carney assumed Chairmanship of the meeting so that Councillor Pereira could make a motion from the floor.

Councillor Pereira was recognized and explained that he would like to strike Sections 3 and 4 from the proposed Ordinance because the State already has a process through Chapter 91 which grants licenses for maritime education. His concern is that if it were to pass as presented, it would create redundancy within the permitting process for maritime education entities, and send a confusing message to the State. He does not want to see a library or museum taking up valuable port space as a result.

On motion by Councillor Pereira and seconded by Councillor Burgo, the Committee VOTED: To strike Section 3 and Section 4 from the proposed Ordinance, in their entirety. This motion FAILED on a roll call vote of Yeas 5, Nays 3, with Councillors Abreu – no; Baptiste – no; Burgo – yes; Carney – no; Gomes – yes; Lopes – yes; Oliver – yes; and Pereira – yes.

On motion by Councillor Pereira and seconded by Councillor Gomes, the Committee VOTED: To Amend the Ordinance by adopting the definition language provided by the Planning Board changing the definition of “Maritime Training” to “Maritime Education”. This motion passed on a roll call vote of Yeas 7, Nays 1, with Councillors Abreu – yes; Baptiste – yes; Burgo – yes; Carney – yes; Gomes – yes; Lopes – yes; Oliver – yes; and Pereira – no.

On motion by Councillor Abreu and seconded by Councillor Pereira, the Committee VOTED: To recommend to the City Council APPROVAL of the ORDINANCE, AS AMENDED, Chapter 9, Sections 2210 and 2200, and Table “D. Industrial” of “Appendix A – The Table of Principal Use Regulations” relating to Uses in the Waterfront Industrial District and Facilities for Maritime Industrial Training. This motion passed on a roll call vote of Yeas 7, Nays 1, with Councillors Abreu – yes; Baptiste – yes; Burgo – yes; Carney – yes; Gomes – yes; Lopes – yes; Oliver – no; and Pereira – yes.

Councillor Pereira resumed Chairmanship of the meeting.

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The following item was taken out of order, without objection.

WRITTEN MOTION, Councillors Lopes and Oliver, requesting, that the Committee on Ordinances meet with the City Planner and Inspectional Services Commissioner to review and discuss the current condo legislation for a possible amendment to include the ability for Resident “A” zoned properties that are greater than 3,250 square ft. of living space to have the ability through a Special Permit process to be reconstituted into Residential Condo units. (Referred– June 13, 2024.) (Matter ID #1008)

On motion by Councillor Lopes and seconded by Councillor Abreu, the Committee VOTED: To table the matter at this time to allow Atty. Gerwatowski the opportunity to review and amend the proposed Ordinance.

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The following items were taken out of order, without objection.

PUBLIC HEARING on a COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDINANCE, Amending Chapter 9, Section 20, Accessory Dwelling Units (ADUs). (To be Referred to the Committee on Ordinances and the Planning Board.) (Referred – August 13, 2024.) (Matter ID #1322) (Duly advertised in The Standard-Times on Thursday, September 05, 2024 and Thursday, September 12, 2024.)

AN ORDINANCE, (To be Referred to the Committee on Ordinances and the Planning Board.) (Referred – August 13, 2024.) (Matter ID #1323)

COMMUNICATION, Jennifer Carloni, Director, Planning Department, to Councillor Naomi R.A. Carney, City Council President, advising that the Planning Board held a public hearing on Wednesday, September 04, 2024, to discuss a request made by the City Council for the Planning Board to review and make a recommendation relative to amending Chapter 9 of the Code of Ordinances, Section 2340 and associated definitions in Section 1200, pertaining to the zoning of Accessory Dwelling Units (ADUs); the Planning Board voted to send a FAVORABLE RECOMMENDATION for the Ordinance amendment. (Referred – September 10, 2024.)

On motion by Councillor Gomes and seconded by Councillor Lopes, the Committee VOTED: To receive and place on file the Communication received from the Planning Board containing the Planning Board's Recommendation Letter and Staff Report.

Councillor Pereira opened the Public Hearing.

Ms. Carloni was recognized and provided the Committee with a PowerPoint presentation of the proposed Ordinance change, and explained that it was drafted by the Planning Department. The recommendation was reviewed by the Planning Board and referred to the full City Council with a Favorable Recommendation.

The presentation took the Committee step-by-step through the changes made to the Ordinance. Ms. Carloni explained that Accessory Dwelling Units (ADUs) are small independent dwelling units located on the same lot as a single-family home. Attached or Interior ADUs are within an existing structure. Additional or Detached ADUs are on the same lot, but separate from the primary building and can be created by converting existing accessory buildings (such as a garage or carriage house) or through new construction.

The proposed updates to the Ordinance would allow ADUs on lots with single-family homes, includes a process to adopt more specific standards for attached and detached units, allows structures up to 900 square-feet, and prohibits short-term rentals of ADUs.

On motion by Councillor Lopes and seconded by Councillor Abreu, the Committee VOTED: To receive and place on file the PowerPoint presentation received from the Planning Board.

Councillor Burgo was recognized and asked if property owners would have to obtain a permit every two years. He was told they would not, nor would they have to obtain a special permit to build as long as it was within the ADU guidelines. For structures measuring 900 square-feet or less, permits could be obtained from the Building Department; structures measuring more than 900 square-feet would require Zoning Board approval and a parking waiver request.

Councillor Lopes asked why the Ordinance only applies to single-family homes, and suggested that duplexes have this opportunity as well. He pointed out that there is not much of a difference between a single-family home converting their garage into an ADU and a duplex converting their garage into an ADU, especially if the goal is to produce as many livable units as possible.

Councillor Lopes questioned how the City would regulate the use of an ADU similarly to that of an Airbnb; Ms. Carloni answered that there was language in the new Ordinance to address that issue. Councillor Lopes expressed concern that there wasn't enough strength behind that language, no fine, etc. He suggested that a mechanism to address short-term infractions be put in place. He also expressed concern about the lease requirements being greater than 31 days, especially since many renters are tenants-at-will. He asked Ms. Carloni to provide him with the language related to the "greater than 31 days" rental requirement.

Councillor Oliver asked if there was any discussion about expanding this proposal City-wide, particularly regarding multi-family units. His fear is that if this does eventually happen, an already dense area would have an even bigger parking problem than it already has. Ms. Carloni agreed and stated that this was why single-family homes were specifically chosen for the Ordinance, at least for now.

Councillor Pereira shared his concern with the definition of "short-term rental" in Section 2, particularly the "private owner-occupied" language. He requested that City Solicitor Eric Jaikes provide him with further clarification on this Section.

Referencing 2342.b of the proposed Ordinance, Councillor Pereira asked if he has a 1400 square-foot home, could he build up to 700 square feet (half the main house size) and still get a special permit to go up to 1200 square feet. Ms. Carloni stated that was correct, but he would need to go before the Zoning Board of Appeals.

Referencing 2342.d of the proposed Ordinance, Councillor Pereira asked if there is a three-car driveway and he is converting a unit into an ADU, would he have to find a fourth parking space. Ms. Carloni stated the homeowner would have to meet the parking requirements or seek a waiver through the Zoning Board. You are required to have two parking spaces for a primary unit and one space for the ADU. If you have enough room to accommodate three parking spaces, you would not be required to secure a waiver.

Referencing 2343.c of the proposed Ordinance, Councillor Pereira asked who is making the determinations to minimize the ingress and egress from public view. Ms. Carloni answered that would fall to Inspectional Services.

Danny Romanowicz, Commissioner for the Department of Inspectional Services, was recognized. Councillor Lopes asked Mr. Romanowicz who would be responsible for connecting the utilities, piping, etc. when building an ADU; he was told it would be the homeowner. Councillor Lopes asked if someone has a three-family home and wanted to upgrade an attic or basement, how would that be addressed; Mr. Romanowicz replied that M.G.L. Sections 40 and 40a, Section 6 were used, and it is for single-family homes only. Mr. Romanowicz informed the Committee that the Town of Milton is already appealing this issue. Milton's contention is that those who purchased a single-family home did so for that purpose, and they are not in favor of having smaller units built adjacent to the existing homes in their neighborhoods.

Councillor Oliver asked if fire alarms and fire suppression units would have to be put into these homes. He was told yes, whatever you have to have in a single-family home you would have to have in an ADU, and the structure would have to meet State Code. Councillor Oliver asked if ADUs had to have separate services or if they could tie into the existing home. He was told you could not cross wires, but they could use the same water service, with separate meters.

Councillor Burgo asked Mr. Romanowicz if it was the Committee's desire to include two-family and multi-family units in the ADU program, would he be amenable to that. Mr. Romanowicz suggested such a discussion should take place with the City Solicitor's Office. He explained that the current Law is for single dwellings only.

Councillor Pereria asked Mr. Romanowicz how he felt about minimizing the visibility of stairwells from public ways. Mr. Romanowicz replied that if the Council feels that is the right way to go, then he would enforce the Zoning Ordinance. He would not have a problem with it.

Councillor Lopes asked Atty. Jaikes how the City would go about regulating the exclusion of short-term rentals in ADUs. Atty. Jaikes responded that the most practical answer he could give is that vigilant neighbors that observe such a violation report it to the City. The only other alternative would be to put in some form of monetary fine.

Councillor Oliver asked Atty. Jaikes if the homeowner is allowed to rent or fill the space with whomever they choose; he was told that was correct. He asked if this Ordinance would apply to sober homes that have available space and wish to build an ADU; Atty. Jaikes replied that this was not a question he had considered, although it may be a possibility based on how the Federal Statute is written. He informed the Committee that this Ordinance was drafted with outside counsel and a consultant, and that he read the Ordinance yesterday for the first time. Atty. Jaikes said he was informed by Atty. Gerwatowski that there are fines included in the City Code for zoning violations, beginning at \$300 per day and totaling \$9,000 for 30 days.

The Chair acknowledged that it appears the Committee has a number of questions and concerns they would like to have addressed, and perhaps some amendments they would like to propose.

The Chair asked if there was anyone present who would like to speak and/or be recorded in favor of the Ordinance. There were none. The Chair asked if there was anyone present who would like to speak and/or be recorded in opposition of the Ordinance. There were none.

Councillor Pereira closed the Public Hearing.

On motion by Councillor Lopes and seconded by Councillor Abreu, the Committee VOTED: To table the matter at this time.

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Councillor Abreu made a motion to adjourn, which was seconded by Councillor Oliver.

This meeting adjourned at 9:21 p.m.

ATTEST:

Denis Lawrence Jr.
Clerk of the Committees