

**Needham Finance Committee
Minutes of Meeting of April 5, 2017**

The meeting of the Finance Committee was called to order by Vice Chair Richard Reilly at approximately 7:00 pm in the Selectmen's Chambers at the Town Hall.

Present from the Finance Committee:

Richard Reilly, Vice Chair

Members: Barry Coffman, John Connelly, Tom Jacob, Richard Lunetta, Louise Miller, Carol Smith-Fachetti

Others present:

David Davison, Assistant Town Manager/Finance Director

Lee Newman, Director, Planning and Economic Development

Doug Fox, Citizen Petitioner

Citizen Requests

There were no requests to address the Committee.

Annual Town Meeting Warrant Articles: Discuss and/or Vote

Article 23: Amend Zoning By-Law-- Dimensional Regulations for Residential Districts (Technical Formatting Amendment)

Article 24: Amend Zoning By-Law - Side Yard Setbacks in the Single Residence B and General Residence Districts for Nonconforming Lots

Article 25: Amend Zoning By-Law – Height Requirements in Residential Districts

Article 26: Amend Zoning By-Law - Floor Area Ratio Requirement in the Single Residence B District

Article 27: Amend Zoning By-Law – Definitions and Side Yard Setback Requirement Setbacks in the Single Residence B and General Residence Districts

Article 28: Amend Zoning By-Law - Garage Setbacks Setback Requirement in the Single Residence B and General Residence Districts

Article 29: Amend Zoning By-Law - Lot Coverage Requirement in the Single Residence B and General Residence Districts

Article 30: Amend Zoning By-Law - Front and Side Yard Special Permit Exceptions for Nonconforming Structures in the Single Residence B and General Residence Districts

Mr. Reilly stated that Articles 23-30 all work together to create zoning changes relating to larger houses. He stated that before discussing the merits the Finance Committee should consider whether there are financial implications of these changes that the Finance Committee can and should express an opinion about. Ms. Smith-Fachetti stated that she is wrestling with whether there are financial implications. To the extent there are financial implications, she felt that they could be either positive or negative. She stated that the goal of some of the new restrictions is to have houses better aligned with lot size, which means houses will be a bit smaller, which could be negative. But the value of all homes could be enhanced by not having outsized houses in

neighborhoods. Mr. Reilly stated that if the regulation is done poorly, it could adversely affect property values, but he does not feel that the Finance Committee has the expertise to judge that. He stated that the Finance Committee could express an opinion on the process but not the substance. Ms. Miller agreed that the Committee does not know good zoning. However, she felt that there are two areas of financial impact: (1) building permits: if properties are less attractive to build on, then fewer building permits will be issued and those fees are a source of free cash; and (2) new growth: teardowns lead to increases in new growth. Ms. Miller stated that, to the extent there is a financial implication, the Committee has a duty to comment. She stated that assessments are based on the value of the land and of the buildings on the land. If there are more restrictions on what can be built on the land, it can affect not only the buildings but the underlying land.

Mr. Owens stated it is extremely difficult to quantify the fiscal impact of the proposed changes since there are so many variables, but he tried to make an estimate. He stated that property tax values have no effect on tax revenue. The Board of Selectmen collects the maximum tax under Proposition 2 ½ and then backs out the tax rate from that. Property taxes are one big pie that the assessors split up by tax payer. If the property values all increase, then the tax rates will decrease. These zoning changes may affect relative value of properties which would affect individual tax bills, but will not affect the Town's overall tax revenue allowed under Prop 2 ½. He agreed that land and buildings are valued separately, but felt it is not clear that the changes would affect the land values. Ms. Miller stated that the zoning changes could affect what the Town has to put aside in the overlay in a revaluation year. Mr. Davison stated that happens every 5 years. Mr. Reilly questioned whether the Finance Committee should weigh in on changes that affect only some property owners but do not affect the Town as a whole. He stated that the Committee needs to understand the financial implications in order to find them.

Ms. Miller stated that when the Needham Business District was created, there was a full financial analysis. She stated that the Finance Committee took a position for the purpose of presenting the financial implication to Town Meeting without taking a position on the zoning. Ms. Smith Fachetti noted that it is easier to quantify the effects of commercial rather than residential zoning.

Mr. Owens stated that the impact of tear downs shows up only in residential new growth. To determine property taxes, first the allowable amount with the 2 ½ % increase is determined, then new growth is added. Needham has recently experienced high levels of new growth, which is the part of tax revenue that these zoning changes would affect. He examined single family residence new growth for the past 10 years. He applied the annual tax rate to determine the revenue value of the new growth. He stated that the new growth includes added value from replacement homes plus additions, new bathrooms, and subdivisions. Ms. Miller stated that if the changes in the zoning changes the value of the land, it will affect different properties differently, though she was not sure which way it would cut. Mr. Owens felt that it would not likely change the value of the land. Mr. Davison stated that the Town will get the same amount of taxes even when individual property values change. Mr. Coffman stated that the zoning changes only have a financial impact if they materially change renovation activity. He argued that the Finance Committee's responsibility is to evaluate the impact on the Town.

Mr. Owens stated that in his analysis, he assumed that 50% of the tax revenue from new growth was attributable to teardowns and new construction. He stated that he did not have a factual basis for that assumption. He then assumed that 20% of that new construction was on nonconforming lots, based on the fact that about 20% of the residential lots in the Town database are nonconforming. With these assumptions, he found the impact on the tax levy of these changes could be \$130K if applied to FY17, not including permit activity. He stated that the changes could impact taxes, but will not stop the building activity. He stated that there were 367 teardowns from January 2010 to September 2016. He stated that the financial implications do not provide a reason to make these changes or not to make the changes. He stated that the purpose of zoning is to give up some freedoms in exchange for restrictions on your neighbors intended to benefit everyone.

Mr. Connelly asked why the zoning changes would not affect the value of conforming lots. Mr. Owens stated that there is less impact on those lots because they have more space to work with. Mr. Connelly stated that the presentation shows the house on a conforming lot will be 600 square feet smaller. Mr. Owens stated that it is not enough to be significant. Mr. Reilly stated that the presentation shows that there will be a 13% reduction in square footage, which he feels would make a substantial difference in price. Mr. Owens agreed. Ms. Newman stated that they focused on nonconforming lots because conforming lots would be able to deliver homes with all of the things that the market wants such as 4 bedrooms and 2.5 baths, while the nonconforming lots would have to make tradeoffs, and the impact of the zoning changes will be bigger.

Mr. Coffman argued that the worst case scenario is that there would be no new growth so the \$1.3 million tax revenue is the maximum impact. Mr. Jacob noted that there is a finite number of houses that will be torn down. Generally, those with additions will not be torn down, so the rate of teardowns will slow. Mr. Owens presented a bar graph which showed that property valuations have never decreased in town, even in the recent years of recession, likely due to the school system, trains, location and good zoning. He stated that these zoning changes should have no effect on additions.

Mr. Reilly stated that the zoning changes will likely have little financial impact on a gross macro level, and to the extent there is an impact, it is likely to be on nonconforming lots. He asked whether one would conclude that the changes would affect a certain class of people that might be likely to live there. The consensus was that they would not. Mr. Jacob stated that he was not convinced that the changes affect only nonconforming lots. Mr. Reilly stated that the Planning Board reached that conclusion. He asked whether the Committee needs to explain any the implications. Mr. Coffman stated that there should be an explanation that the changes may cause impact on an individual basis, though it is not clear what the impact is or which way it would go. Mr. Reilly stated that it is arguable that fewer builders will be bidding on jobs, but the costs cannot be estimated.

Article 23: Amend Zoning By-Law-- Dimensional Regulations for Residential Districts (Technical Formatting Amendment): Mr. Owens stated that there is no substantive change. The article changes the format of the by-law to make it easier to read and to amend.

Article 24: Amend Zoning By-Law - Side Yard Setbacks in the Single Residence B and General Residence Districts for Nonconforming Lots: Mr. Owens stated that this is the

“canary in a mine” to see if Town Meeting is open to these type of zoning changes. It is a small change that would increase setbacks on nonconforming lots. Article 27 will override Article 24, but if article 24 does not pass, then it will be apparent that the other articles will not pass. Mr. Owens stated that the Planning Board plans to present it like this to Town Meeting to see what the Town Meeting members think.

Article 25: Amend Zoning By-Law – Height Requirements in Residential Districts: Mr.

Owens stated that this article prevents gamesmanship around measuring house heights. There are protections for properties with a downhill slope or with an uphill slope. The height is measured off an average grade, with an overall height restriction of 41 feet off any grade. This is the only restriction that affects all residential properties, including acre lots.

Article 26: Amend Zoning By-Law - Floor Area Ratio Requirement in the Single Residence B District: Mr. Owens stated that this is to control the massing of a house, and drives designs away from big box homes to encourage more interesting features. He says where trade-offs have to be made, there are more architectural features. There are restrictions of the floor area to the lot size.

Article 27: Amend Zoning By-Law – Definitions and Side Yard Setback Requirement

Setbacks in the Single Residence B and General Residence Districts: Mr. Owens stated that if Articles 25 and 27 both pass, then Article 27 will override Article 25. The measurement for side yard setbacks is now to the farthest extension of the house. The change will mean that the measurement is taken to the foundation, which allows for features such as roof extensions or bay windows to go into the setback area. The change will allow additions on nonconforming houses as long as they do not go farther into the setback.

Article 28: Amend Zoning By-Law - Garage Setbacks Setback Requirement in the Single Residence B and General Residence Districts: Mr. Owens stated that this article changes setbacks only for garages, and is being done for visual impact.

Article 29: Amend Zoning By-Law - Lot Coverage Requirement in the Single Residence B and General Residence Districts: Mr. Owens stated that these restrictions on the percentage of lot coverage already apply to new construction. This article will apply the restrictions to additions on existing homes.

Article 30: Amend Zoning By-Law - Front and Side Yard Special Permit Exceptions for Nonconforming Structures in the Single Residence B and General Residence Districts: Mr.

Owens stated that this article provides a safety valve for new construction from tear downs which includes the demolition of greater than 50% of house, and which has been rendered nonconforming by the by-law changes. It allows the property owner to apply for a special permit if there is a unique aspect of the by-laws that make it unfair in their situation.

Ms. Miller asked the goal of the set of by-law changes. Mr. Owens stated that the goal is to control side setbacks, bulk and height in a way that prevents houses that are detrimental to the neighborhood. The attempt is the make minimal changes. He stated that they are not trying to stop teardowns, since it is good to refresh homes. Replacements of homes are positive, if they

are in keeping with the Town. Mr. Coffman asked about the public hearing. Mr. Owens stated that some people think that there is no problem, and that the restrictions will lower property values. Others feel it is not just what they want but they support it because it is getting somewhere. He stated that there was a small turnout. Mr. Jacob asked about builders. Mr. Owens state that some think the changes are outrageous and others shrug and say these restrictions are not the worst they deal with. Ms. Newman stated that there is not a huge rush to get permit applications in before the changes which usually happens when builders are concerned.

Mr. Reilly stated that the changes appear to have an impact at the margins, primarily on nonconforming properties, but trying to determine the amount of the impact would be speculative. Ms. Smith-Fachetti stated that there is a perception of impact, but it cuts both ways. Mr. Coffman stated that there is a clear impact on new growth, but it cannot be quantified. Mr. Connelly suggested that the Committee should take no position on the article, but should explain the impact. Ms. Miller stated that the Moderator generally does not allow the Finance Committee to speak if no position is taken. Mr. Reilly stated that he will speak to the Moderator about the issue. He stated that the Committee should hold off on voting on the articles to see if the Moderator will allow comments.

Article 31: Amend Zoning By-Law – Recreational Marijuana Moratorium Establishments and Recreational Marijuana Retailers

Mr. Owens stated that the Town is unsure what the state will do to regulate recreational marijuana. This article will establish a temporary moratorium on the establishment of regulations on the sale and distribution of recreational marijuana in Needham until it is known what the state will require. He stated that the ballot question on recreational marijuana failed in Needham but the local options to say no are limited. He stated that the moratorium would go through the end of 2018. He stated that other towns have taken similar action and the attorney general has approved of those actions. Mr. Reilly asked if there is a financial impact. Mr. Owens stated that it could be the delay of taxes on sales. Mr. Davison stated that it is *de minimus*.

MOVED: By Ms. Miller that the Finance Committee take no position on 2017 Annual Town Meeting Warrant Article 31: Amend Zoning By-Law – Recreational Marijuana Moratorium Establishments and Recreational Marijuana Retailers. Mr. Lunetta seconded the motion. The motion was approved by a vote of 7-0.

Article 57: Amend General By-Law: Denial, Revocation, Suspension or Nonrenewal of Licenses or Permits

Mr. Davison stated that this change will allow more flexibility that was provided under the Municipal Modernization Act. Communities can deny or revoke licenses of businesses in Town that are delinquent in taxes or fees owed to the Town, but only in accordance with a list from the Tax Collector which could only be issued once per year under the old law. The law changed to allow the Tax Collector to issue a list of delinquency annually or periodically. Under the old

law, it could be up to two years before the Town could take action on delinquent accounts. This will be an improvement. He stated that there are currently \$4 million of outstanding receivables.

MOVED: By Mr. Connelly that the Finance Committee recommend adoption of 2017 Annual Town Meeting Warrant Article 57: Amend General By-Law: Denial, Revocation, Suspension or Nonrenewal of Licenses or Permits. Ms. Miller seconded the motion. There was no further discussion. The motion was approved by a vote of 7-0.

Article 64: Citizen's Petition: Food Trucks

Mr. Reilly stated that the Committee addressed food trucks last year, and the discussion should focus on changes to the proposal and the economic impact. Mr. Reilly stated that this article reduces the fees for food trucks, and has a potential adverse impact on local restaurants, so there could be a negative effect. Mr. Fox stated that \$1 spent at a food truck is the same to the Town as \$1 spent at a pizza place. The negative impact assumes that the person would buy food from a restaurant. He stated that he feels the biggest competition is fast casual places like Chipotle or Five Guys in other towns. Mr. Reilly suggested Acorns in Needham was also a competitor. Mr. Fox stated that there would be positive revenue because people don't leave town. He stated that upscale restaurants would not be affected. He stated that the food trucks would bring not only revenue but also foot traffic and excitement. He stated that the article addresses congestion and parking issues in the Town Center by not allowing the trucks to block restaurants or retail stores by parking by Greene's Field and the YMCA. He stated that a single truck would be allowed in the Center, and would have to be 270 feet from any restaurant. He stated that the hot dog truck was in town for 10 years, and Comella's opened up right nearby and has done well.

Mr. Reilly asked if the food trucks would have reserved parking spaces. Mr. Fox stated that they would. Mr. Reilly stated that gives them an exclusive right to a space which has an economic value. He stated that he has trouble with that notion for just a \$250 permit fee. Mr. Fox stated that the Town needs a fee that will attract a truck from somewhere else. Boston charges \$500 and Needham charges \$1000. Mr. Connelly stated that he has a problem with the right to use a certain space over someone who is shopping or using Greene's Field. There should be rent for a spot. Mr. Reilly stated that there is a value to the spot, though he does not know what. He suggested a bid process so the space could be rented for market value. Mr. Coffman stated that there is a financial implication of the real estate, even if it is for temporary use.

Mr. Reilly stated that the data from last year was from big cities where there is more traffic. Ms. Miller commented that Boston charges a \$500 application fee, plus a fee based on the property value of the property being used, including sidewalks. Mr. Jacob asked why Mr. Fox is pursuing this. Mr. Fox stated that he has no financial interest, but he is righting a wrong where the hot dog truck could no longer bring his truck into the Town Center. Mr. Connelly asked why this had not been worked out during the last year. Mr. Fox stated that the Selectmen did not study the issue, and only held a public hearing at a difficult time, and then only talked about the trouble parking in the Center on some days.

Mr. Reilly stated that the Finance Committee seems to be saying that the fee is not enough for the value. Mr. Connelly stated that the food trucks are a great idea but with the exclusivity, there should be an obligation from the vendor. If that could be worked in, he would be in favor of this.

Ms. Miller asked how this would fit in with the article regarding hawkers and peddlers. Mr. Fox stated that the Town had claimed that food trucks were different from hawkers and peddlers when it set the food truck permit fee, so that should not apply to food trucks. He stated that if the Town wants food trucks to come, the fees will have to be at market rate.

MOVED: By Mr. Lunetta that the Finance Committee recommends AGAINST adoption of 2017 Annual Town Meeting Warrant Article 64: Citizen's Petition: Food Truck. The Committee indicated that it would support the article with an amendment that would provide for market bidding for the cost of the parking space. Ms. Smith-Fachetti seconded the motion. The motion was approved by a vote of 7-0.

Finance Committee Updates

Mr. Reilly asked the members of the Committee to consider whether allowing the Tax Increment Financing agreement would create a slippery slope precedent that any big project will expect a TIF and the Town will get in negative bidding wars with other towns. Mr. Coffman agreed that each additional project has a lower incremental value, as the transformational nature is limited. He added that this project is a no-brainer because of the fact that, even with the TIF, it will bring in more revenue than almost any competitor. Mr. Reilly noted that competing towns will still fight over the incremental projects. Ms. Miller noted that another argument is that Trip Advisor was given a TIF to attract other businesses, and NBC Universal came because Trip Advisor is here. The first TIF worked, but there is a question whether it makes sense to reward a second one. Mr. Coffman stated that there is an expected snowball effect from NBC Universal that it will bring in retailers, restaurants and other ancillary businesses. Mr. Jacob asked if it is worth taking a risk to see if NBC Universal would come without the TIF. Mr. Reilly stated that the Selectmen said with the first TIF that they would not bring another unless it met the list of criteria. He added that this project needs to also meet all those standards, and be a magnet for other businesses. Mr. Jacob stated that the personal property of this business make this different and more appealing. Mr. Reilly stated that the Committee will vote later, but he wanted people to think about the issue.

Adjournment

MOVED: By Mr. Connelly that the Finance Committee meeting be adjourned, as there was no further business. Mr. Jacob seconded the motion. There was no further discussion. The motion was approved by a vote of 7-0, at approximately 9:23 p.m.

Documents: 2017 Annual Town Meeting warrant; Estimated Fiscal Impact of Proposed Residential Zoning Articles for 2017 Annual Town Meeting.

Respectfully submitted,

Louise Mizgerd
Staff Analyst

Approved April 26, 2017