

PUBLIC HEARING

A Public Hearing was conducted by the Planning & Economic Development Committee on Tuesday, January 15, 2019, at 7:00 p.m. in the Aldermanic Chamber.

Alderwoman Mary Ann Melizzi-Golja, Chair, presided.

Members of Committee present: Alderman Ernest A. Jette, Vice Chair
Alderman-at-Large David C. Tencza
Alderman-at-Large Brandon Michael Laws
Alderman Jan Schmidt

Also in Attendance: Alderman Richard A. Dowd
Alderman Tom Lopez, arrived at 7:05 p.m.

O-18-033

AMENDING THE LAND USE CODE USE MATRIX REGARDING SELF-STORAGE FACILITIES AND SANITARY LANDFILLS

Chairwoman Melizzi-Golja

Prior to Alderman Dowd giving a brief explanation of the ordinance, I will just state that the ordinance was reviewed by the Planning Board on January 10, and unanimously given approval.

Alderman Dowd

O-18-033 is to make a couple of changes in the zoning ordinances. The first is fairly simple. If you look at the zoning today, landfills are authorized in the general business areas. That was done years ago when we had a small landfill off East Dunstable. We don't want to do that anymore obviously, and general business property is very scarce in Nashua, so we want to prohibit a landfill in a GB Zone, not that we ever put one there, but we want to ensure that it's not allowed,

The other part of this is amending the land use codes for self-storage facilities. There are some parcels that in the past GB, which is usually the first 200 feet of property adjoining a major artery, had the land behind it changed from Industrial Use to General Business, which has a much more intensive use. So what we want to do is change the ordinance to allow for storage facilities buildings that look like an office building that are 200 feet back from the street, which is through the general business. The idea was we want to make this a conditional part of the ordinance for general business with a caveat that we got from the planning department. What it does is it gives the planning board the authority to enact the requirements and allow or not allow the storage facility in a GB back 200 feet from the main artery. The changes which were part of the approval from the planning board the other night that came from the planning department is where the sentence already exists on item 5, self-storage facilities designated with a subscript 2, must be at least 200 feet from the city right-of-way, the added verbiage "and all storage bay doors to be screened from view from all adjacent street frontages and residentially used properties and a minimum landscaped buffer of 40 feet is required from all adjacent residential used properties. Planning Board may waive the 200 foot setback on a non-arterial right-of-way, meaning not a main street, door screenings and 40-foot buffers as part of a conditional use application and a site plan application, provided they find there are no negative impacts on the abutting neighborhood or the city in addition to the required criteria for waivers, NRO 190-148(d)." Basically what it is saying is back 200 feet, 40-foot buffer, but all of those items can be changed by the planning board if they find say 30 feet is okay because you know it's

dense woods or something as opposed to 40 feet. It makes the planning board some control over the development of these buildings, rather than going back and changing a GB back to Industrial. We don't want to keep doing that, so this gives the Planning Board much more flexibility.

Chairwoman Melizzi-Golja

I would just add as Alderman Dowd indicated the additional language that he read to you is what has been recommended by the Planning Board. We would have to move to amend the ordinance because they cannot just amend this. He has presented an overview of the ordinance in addition to the recommended language for amendments that came from the planning board.

If the record could please indicate that Alderman Lopez arrived at 7:05 p.m.

TESTIMONY IN FAVOR

Attorney Gerald Prunier, 20 Trafalgar Square, Nashua. I am here to speak in favor of this ordinance. What is happening in the city is we are getting less and less land, and there is less ability to do some of the projects in the city. This storage facility was allowed in park industrial, but a lot of the park industrial land is now becoming general business. Storage facilities are very little traffic and very little noise so it is something that you like to have. However, they don't have to be on the public thoroughfare, right-of-way, because people know where they are. The planning staff when it was discussed with them indicated that they were in favor of this, especially if they could keep it back off the major thoroughfare where businesses have to be, they need the exposure for the general public. We worked on this ordinance and we also worked to give the planning board some flexibility. The pieces of property that are vacant that are left in the city are either small. rectangle, different sizes, This gives the planning board to look at the property's location in that particular area and try to help make it palpable to put it in that area. It gives some flexibility to the developer if he wants to be creative. Then both sides win and something can be done.

When I was doing this, I noticed that the sanitary landfills could be put in general business so I suggested to the planning staff that while we are doing this, we might as well take the sanitary landfills out of that since we didn't want it. We went to the planning board and it was unanimously, I believe. We feel this will be a help to the development of the City of Nashua. I hope I can come before you with more innovative parts to the zoning ordinance to make the development of the city more organized, more available and better for everyone involved. Thank you.

TESTIMONY IN OPPOSITION – None

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION – None

The Public Hearing was declared closed at 7:09 p.m.

Alderman Jan Schmidt
Committee Clerk

PLANNING & ECONOMIC DEVELOPMENT COMMITTEE

JANUARY 15, 2019

A meeting of the Planning and Economic Development Committee was held on Tuesday, January 15, 2019 at 7:10 p.m. in the Aldermanic Chamber.

Alderswoman Mary Ann Melizzi-Golja, Chair, presided.

Members of Committee present: Alderman Ernest A. Jette, Vice Chair
Alderman-at-Large David C. Tencza
Alderman-at-Large Brandon Michael Laws
Alderman Jan Schmidt

Members not in Attendance: Alderman Richard A. Dowd
Alderman Tom Lopez

PUBLIC COMMENT

COMMUNICATIONS – None

UNFINISHED BUSINESS - None

NEW BUSINESS – RESOLUTIONS – None

NEW BUSINESS – ORDINANCES

O-18-033

Endorsers: Alderman Richard A. Dowd
Alderman Tom Lopez

**AMENDING THE LAND USE CODE USE MATRIX REGARDING SELF-STORAGE FACILITIES
AND SANITARY LANDFILLS**

- Also assigned to the Planning Board; Favorable Recommendation Issued 1/10/2019

MOTION BY ALDERMAN TENCZA TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Chairwoman Melizzi-Golja

Alderman Tencza, as the liaison to the planning board, and actually a member to the planning board, is there anything you would like to add?

Alderman Tencza

I think the explanation we got at the Planning Board the other night is similar to what we had here. I don't believe there were any real concerns or comments. I think it passed unanimously without really much hesitation.

**MOTION BY ALDERMAN TENCZA TO AMEND O-18-033 AS OUTLINED IN THE MEMORANDUM DATED
JANUARY 9, 2019, TO SCOTT LECLAIR AND MEMBERS OF THE PLANNING BOARD FROM ROGER
HOUSTON, PLANNING DIRECTOR**

ON THE QUESTION

Chairwoman Melizzi-Golja

That is the amendment regarding the interpretation of number 5 in table 15-1, correct?

Alderman Tencza

Yes.

Alderman Jette

First of all, I'd like to say if the planning board or the planning staff wants to recommend that we amend something, it would be helpful if they sent this to us in advance. Handing it to us at the meeting as we are sitting down is not, I don't think, the best way to handle this. I'm not saying that I find any fault with what they are recommending, but I would have appreciated some time to read it before tonight so that I could analyze and formulate any questions I might have, if I had any. This happens a lot. I know I do the same thing, so I'm not trying to cast stones from a glass house, but in general, if the city staff would be cognizant of that and think to themselves, if I asked them to do something, wouldn't they want to know about it ahead of time rather than just handing it to them on the spot.

That being said, I do have a question. I'm looking at the use matrix, table 15-1, and I'm seeing that under 193, self-storage facility, under general business, there are two dashes on top and then there's a c with a superscript 2 and then a line underneath that. Does anybody know what that means?

Alderman Dowd

The "c" is a conditional approval. It means it is not just allowed by fact. It has to go to the planning board and meet the conditions in order to be approved. Also the wording didn't come to this committee until after the planning board met because, they did in this case, but they could reject what the planning department wanted to add for words, or they could add to them, or change to them. SO, when it comes to this meeting, we had to know exactly what they approved. The meeting was – when was the meeting?

Chairwoman Melizzi-Golja

The meeting was the tenth. I actually just became aware of the language because Mr. Houston gave me a heads up on the change because the minutes weren't available, but I had listened to the minutes, so that's how I was aware of it prior to getting it from him. But he recognized that even if we had looked at minutes, minutes would not have been posted.

Alderman Dowd

In the presentation from the planning department, Roger Houston to the Planning Board, with that wording that has the full support of the planning department including Director Marchant. Also, Carter Falk looked at all of the properties that might fall into these criteria. There are very few where you would be able to put this. It's not impacting a lot of land in Nashua. It's a few spots where you could put one of these facilities in back 200 feet and have a 20 foot buffer. That's along all the major arteries. I have this stack of drawings that at first I had no idea what the heck was trying to tell me until I realized it was the 200 foot line that they drew. This is probably one of the other changes that will be coming forward. Director Marchant would like to look at the zoning in the entire city. We have a lot of convoluted zoning changes that have been made over the last 30 years, and she would like to get them more in line with what it really should be. Some of them will come with the ability for the planning board when they are addressing a site to be able to make the determinations of how it best fits into the site.

Chairwoman Melizzi-Golja

I think all of us have been part of conversations regarding the need to make some of these changes to give the planning board a little more support in the absence of updating the Master Plan.

Alderman Schmidt

I'd like to know if this came about because of a specific question. Had someone asked for this zoning change?

Alderman Dowd

There was a location where it would either require changing a GB zone back to Industrial. If we had more flexible zoning back then we wouldn't have change it to a GB. It's allowed in industrial zones, so this one particular lot that's being considered, which isn't final by any means, was industrial before. It was changed to GB. As far as the neighbors are concerned, the GB use is far more intense than this would be. This is very limited traffic. It's going to look like a regular building, not intrusive. It's not the one level, orange doors thing. It's more like the one on Somerset Drive. So, this is just going to allow it to go back through the system. It will still be up to the planning board as to whether it is allowed or not. I think that answered your question.

Just one other thing, in a GB zone, you could have a filling station, you could have a restaurant which is far more intrusive to the residential neighborhood than what this is.

Alderman Jette

If I could through you ask Alderman Tencza a question, whom I assumed was at the planning board when this was discussed, about the ability of the planning board to waive some of these requirements. I am somewhat leery. I hate to make enemies of the planning board, but I've already made enemies of the zoning board so I guess I might as well. I've seen the zoning board grant variances and people who are not direct abutters but live in the neighborhood have an objection but the board, where it's the zoning board or the planning board, the zoning board has granted variances over the objections of neighbors. If you are not a direct abutter, you have no recourse. Only direct abutters can appeal the decision of a zoning board to the superior court. You have people who live in an area and if the planning board decides they are going to waive the 200-foot setback a direct abutter is put in a position of having to appeal that. But if you are not a direct abutter, you have no right to appeal that. I'm wondering what the discussion was and Alderman Tencza if you could help us, help me understand why they included this ability of the planning board to waive these requirements.

Alderman Tencza

I think in part because this was the language that was proposed planning staff. They believe that the parameters that they put in here as a suggestion would be sufficient regardless of where a self-storage facility was put in to make it so the character of the neighborhood wasn't affected. Things like the 40-foot landscape buffer. The planning board at any point can reject a proposed plan if they don't believe that it is in the best interest or doesn't meet the criteria as set forth in the ordinances and the RSAs. There wasn't too much discussion. What I have seen from my year on the planning board is members of the planning board take it pretty seriously especially when you get negative feedback from neighbors. But just because some of the neighbors may not like it, I don't think that necessarily dictates what the final decision of the planning board will be. I would have to go back and look at this, but I think the planning board can set limitations or overwrite any proposal if there's good reason to do so. There's certain criteria. I don't have that in front of me here, but before every meeting we are given the criteria that we need to look at in order to approve or deny any proposed plan.

Alderman Jette

I think the planning board has certain criteria that they review. If the second sentence beginning “Planning Board may waive the 200-foot setback...” were eliminated from this and it was just that the self-storage facilities have to be at least 200 feet from the city right-of-way and all storage bay doors to be screened from view all adjacent street frontages and residentially used properties, and a minimum landscape buffer of 40 feet is required from all adjacent residentially used properties, if that was the ordinance that we passed, I don’t think the planning board could waive that. The planning board’s ability to waive that would have to be empowered by this second sentence. I’m finding some reluctance on my part. Again, I’m just reading this for the first time.

Alderman Dowd

The waiver is because if they went with a plan and to make it fit with the buffer zone and everything ended up being 195 feet back from the street, the planning board could say okay that’s fine. None of these facilities that I have heard mentioned want to be on the street. They want to be back. The other thing is doing this with a conditional approval and keeping it GB zoned but conditionally you can use it for this type of building, the tax will be GB which is higher than industrial so it makes more money for the city. I don’t think anybody on the planning board from my experience is going to allow one of these buildings up alongside the street. In general business they want up by the street like gas stations, restaurants that type of thing.

Alderman Tencza

I think too when we are talking about self-storage facilities there are various ways that self-storage facilities are designed. Some of them are climate controlled and completely indoors like any other building. They are not all going to be open bays kind of storage. Giving the planning board that flexibility for a business like that may make sense. They could design the outside of the building which has a character like every other building and you would never know it’s a self-storage facility. I think what Director Marchant and Alderman Dowd are trying to come up with is just something that will fit different situations so these folks when they want to develop the land, they don’t have to come in and ask that it be rezoned.

Alderman Jette

I like the idea of the 40-foot landscape buffer required from all adjacent residentially used properties. I think currently there are self-storage facilities that have been built that are closer than that over the objection of neighbors, so I like the 40-foot requirement. What I don’t like is the ability to waive it. Personally, I think it is unfair of us to put the planning board in that situation. I think if they have set rules that they have to abide by I think it is easier for them. I know that we can all imagine in our own minds what a project that we like the looks of might look like in our minds, but what the law deals with is what is allowed by the law. When you say the people who want to provide these self-storage facilities don’t want it right on the highway, that may be true; but it may not be true. If we adopt it the way it reads they could propose it that way and the planning board could waive the setback and there you go. The same thing with the residential setback. There are residential areas that are adjacent to highway business or general business areas, I believe. I’m thinking of a particular self-storage facility that was constructed in my ward adjacent to a condominium development. All of a sudden these owners of condominiums are looking at the self-storage facility and it’s got the doors that are painted bright orange. There used to be trees and now it is bright orange doors facing them. I just feel it is important that we protect our residents from this type of thing. I wondering if it would make sense to have the planning department come and explain to us why this ability to waive this requirement is necessary or why that’s a good thing.

Alderman Dowd

I think there’s a couple of things here. One, anything that comes before the planning board gets a recommendation from the planning department, and the planning department is right there. There’s two

members of the planning department, Roger Houston and I forgot the name of the other – Linda, I think, and they make a recommendation to the planning board. The planning board for the most part sticks to the recommendation coming out of the planning department. I know from the discussions I've had that the planning department is not going to authorize in the areas that this ordinance would impact anymore storage facilities with the orange doors. It would only be a building that looks like an office building with doors that are hidden from the main street sight. Certainly the planning board and the planning department are not going to put these facilities on the street. That's why they want them back 200 feet.

I think we have to rely on the integrity of the planning board because that's what they are there for. They are there to ensure the integrity of the developments of lands in the City of Nashua. If we're trying to take powers away from them, I don't think that's the way we want to go.

I think everybody involved is comfortable with the wording that came out of the memo from the planning department. Certainly everybody on the planning board felt comfortable. It was a unanimous vote; there were basically no questions. I think it's good the way it is written. The alternative would be to go in and change the zoning back to industrial and then there would be none of these requirements. They could build it anywhere they want; they would be allowed.

Chairwoman Melizzi-Golja

I did speak to Director Marchant. She felt that Alderman Dowd understood what was going on and he was able to represent and give the overall and Alderman Tencza was also at the meeting. I think as Alderman Dowd has said, this actually gives a little more control than if it were to go back.

Alderman Jette

When you say that you know the planning board is not going to allow anymore orange doors, with all due respect, they have to abide by the law. The law does not prohibit orange doors or neon green doors or yellow doors or any other color. The planning board does not have the authority to prohibit that unless we gave them that authority in this law. The alternative is not to go back and as you say rezone it to industrial and then we have no control at all. I think the alternative is that we adopt this ordinance with the amendment that the storage bay doors be screened from view as it says here and there be a minimum landscape buffer of 40 feet, without giving them the power to waive that. That's the alternative that I see. We do everything that they ask except giving them the alternative of waiving these requirements. If the situation were appropriate where the lot design was such that they couldn't do it, the developer could go to the zoning board of adjustment and ask for a variance. By adopting this the way it is, we are allowing the planning board to waive these requirements. We are saying: these are the requirements but you can waive them. I'm not willing to do that.

Alderman Dowd

If they went and applied for a variance, you would have to go through that process and then you go to the planning board and the planning board could still look at this criteria and decide yes or no. It's going to cost the applicant a heck of a lot more time and money and you end up with convoluted zoning again. We are trying to make the zoning much easier for people to go through. If you are familiar with this type of facility that they would allow – they wouldn't allow the one story with orange doors – the planning department would say no.

Alderman Jette

They have allowed it. I can show you.

Alderman Dowd

But you have to look at the wording. On major arterial ways – Amherst Street, DW Highway, Main Street. We're not talking about other areas of the city. If there's a park industrial land up against the street in Ward 5 or Ward 3, or wherever, the building is allowed and they can build it. In this instance, they have a lot more control over how the building looks. If you are familiar with the one on Southwood Drive, there are no orange doors. You go around the back and there's glass doors and you go in there; everything is internal. This would be internal. It would not be one of those orange facilities, and I can tell you that the planning department would not allow that type of development to go through. They would recommend to the planning board that something like that be disapproved. And I'm sure from my experience with the planning board that it would be.

Alderman Tencza

I would also point out that in Ward 8 there's a storage facility right next to the fire station, very nice landscaping. You would never even know the way it's set up. There's open bays but they don't face the road. It's not quite residential, there's no residential property that abuts that, but there are apartments across the street. I think as Attorney Prunier said at the planning board meeting, that's where these facilities are going to pop up, near apartments because people need the extra storage in those facilities. I don't know the facility you are speaking of, Alderman Jette, but I think Alderman Dowd is right. If it is zoned as industrial there are no restrictions on it. The three zones where these facilities are permitted, was there ever any thought to making it a conditional use for the three zones, Park Industrial, Airport Industrial and General Industrial, making those conditional use for self-storage facilities as well or is there just not the need for it in those areas?

Alderman Dowd

Typically in those zones they are allowed. We just did, which was approved by this board, the overlay of the airport industrial zone off Amherst Street because it is never going to be used for airport industrial again. That overlay allows for conditional uses for other things. Again, it goes to the planning board. I will say from my time on the ZBA that state law says that you cannot restrict the use of the property you own unduly. Cities can't make laws that will overly restrict the use of property. These conditional uses are the way that zoning is going. There are eight members on the planning board. That's eight people who get to vote on it, and that's what they are there for.

MOTION BY ALDERMAN JETTE TO AMEND THE AMENDMENT BY STRIKING THE SECOND SENTENCE BEGINNING: "PLANNING BOARD MAY WAIVE..."
MOTION FAILED

MOTION CARRIED TO AMEND

MOTION BY ALDERMAN TENCZA TO RECOMMEND FINAL PASSAGE AS AMENDED
MOTION CARRIED

PUBLIC COMMENT – None

REMARKS BY THE ALDERMENAlderman Dowd

I'm not on the committee, but I've had several discussions with Director Marchant. She is undertaking looking at zoning across the entire city. She feels there is a lot of areas that need improvement to be able to develop properties in more accordance with what the city is looking for, from the planning department's standpoint

and getting rid of old zoning that doesn't apply anymore. That's a big undertaking and part of an even bigger undertaking of updating the city's Master Plan. She has put in for it again, but I don't know if it's going to get funded.

Chairwoman Melizzi-Golja

It hasn't been presented to Capital Improvements yet.

Alderman Dowd

The city should really have an update to the Master Plan, but part of that is the zoning ordinances. The airport industrial was the first one because it was very obvious that because of all of the changes at the airport that that was never going to be used for airport industrial. It's still airport industrial but now there is an overlay from that whole section from Charron Avenue to up by the Santander Bank which allows you to do other things in that zone with the approval of the planning department. It's being addressed by priorities, two being Amherst Street and Daniel Webster Highway. Those are the big areas and then the rest of the city will follow.

Chairwoman Melizzi-Golja

You will be receiving probably within the next two or three weeks the draft goals from the Strategic Planning Committee. Director Marchant met with us two weeks ago. She and I have worked on polishing up the draft goals. They have been sent out to the committee members to comment on. That's really the first step because it outlines where the goals of the city are and they will be used to drive how things happen in the city. Director Marchant referred to it as the backbone of doing the Master Plan. There's a lot we need to do. I think those of us who have talked to members of the planning board and the ZBA know that there's frustration that sometimes there just isn't good up-to-date information for them to use in making decisions. Some things are outdated and some of the uses that are being proposed 20 years ago we didn't think about. I am hoping this year the money for the Master Plan will be approved, but we have yet to have that presentation.

Alderman Lopez

Anyone living in the tree streets, "Your Voice, Your Choice" reception is tomorrow morning at Mellette Manor. I believe it is at 10:00 a.m. It is an opportunity for people who live in the neighborhood who are interested in micro improvements in the infrastructure to vote on different projects. Some of the popular ones are garbage cans along the rail trail, a bus shelter in front of Palm Street. Recently a Gaga pit has become very popular. It's worth checking out if you are nearby. If not, you can check out the city's website for more information.

Chairwoman Melizzi-Golja

I believe everyone received an invitation to the Nashua Regional Planning Commission's annual event in February. I would encourage you to attend. If you remember, last year there was conversation about housing. It was held at the Courtyard, I believe.

At the next Infrastructure meeting there will be the presentation by the Rail Committee. There has been some other presentations and pieces that have happened with the Rail Committee prior to leading up to this final presentation. The original presentation was in October, 2017, to PEDC. I believe they have been to Budget and they may have been to Finance. If you want to do a little background looking, there are minutes from those meetings. I will send you the link to the minutes from PEDC because Ms. Lovering and I had to dig around to find them because none of the search terms were bringing them up. Again, I would encourage you to attend and if you want some history, it is there in our minutes.

Also, Empty Bowls is coming up the end of February, I believe, which is something that you would like to attend.

Alderman Lopez

I have a correction: the Millette Manor event tomorrow morning is 9:15 a.m. to 10:15 a.m.

ADJOURNMENT

**MOTION BY ALDERMAN SCHMIDT TO ADJOURN
MOTION CARRIED**

The meeting was declared adjourned at 7:53 p.m.

Alderman Jan Schmidt
Committee Clerk