

City of Somerville Commission for Persons with Disabilities  
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>> Bonnie: Chair's report, I don't have a lot. I have received records from my public records request in related to out door dining finally, so I just received them and haven't had a chance to review. I will say that the first thing I have noted is a bit of a disconnect in terms of what this city thinks we want and what we have talked about wanting in terms of how to file ADA complaints and specifically working within the 311 system. So that's going to be a thing, that I think, in February or March, we should put on the agenda to start that conversation so that the city staff and us can kind of get on the same page. I think there's a couple of different competing needs there.

The brick bottom vision report just came out today. Kate, you know, I'm glad you're here because I think that's something we want to also talk to. The planning department and the mobility, I haven't had a chance to review it but I think there's a couple of things that will be useful for the commission to chime in on. That, I think, is all I have to report on. Adrienne, did you have anything logistical? Sorry,

just one second. Holly, the report is, it's not a report. It's a plan for a brick bottom. They are re envisioning that area and inner belt as well and there's a draft plan for how they envision the area. Great! Adrienne?

>> Adrienne: Sure. I don't have much either. I wanted to make sure you all have time for out door dining because I think that's going to be a very great and robust discussion so I wanted to give proper time for that. First thing, you got an e-mail from me about scheduling a training for budget with another city staff who was a huge expert in this and has been at it for a long time. We are closing in on finding that date and I should have it to you all by the end of the week.

I appreciate your patience in getting that information to me and just for reference, the two other commissions that will be attending this training with you all are members of the women's commission and members of the human rights commission which also fall under the RSJ department of the city. So I think also with a very good training, there will be a great way for you to all meet each other if you haven't already and just have that time together.

Of course, because it is essentially a commission meeting, it will have to be public meeting so we may have a few other guests and that's okay. Knowledge is power. So I hope to have that wrapped up by Thursday but I thank you all for your quick response. To the polling and letting you know what other ways your availability was. Just a calendar note, in case anybody was curious, I think it was probably posted today. The board of health will meet on Thursday evening. And the sole focus on that agenda is the indoor vaccine mandate. That information is on the website. Once I pass it back over to Bonnie, I will put it in so you can see the information.

If you're interested in attending, that is just an information piece if that's something that you're interested in from a public health, from your perspective. And just, you know, for your information and then Bonnie, this is a segue to the next agenda item sort of on the logistical piece of that.

So maybe I will save that until Bonnie gets through her piece and that can be the final part of that. So it's in a little bit more of a logistical order so I will pass it back to Bonnie.

>> Bonnie: Thank you, Adrienne! Yeah, so the first piece of

business is commissioner appointment terms. We have been asking for quite some time to get these and hadn't. So what has happened is that Brian is, has a technically expired term right now. As of the end of December, so we will need to vote Brian in as an associate member while writing a memo requesting, a reappointment of another term by the mayor and Adrienne, technicality wise, does that need to go through the confirmation of appointments or are ex official staff handled differently?

>> Adrienne: You speaking of Colin?

>> Bonnie: No, Brian.

>> Adrienne: They need to get a letter from you, a short letter that says we as a commission recommend Brian for a second term. The dates of the term and a couple of reasons. Just a couple of highlights of why you would like it to happen. I do need logistical piece, I do need it fairly quickly because that committee on appointments is actually meeting on the 27th. So that way I can get it in and they can talk about it and Henry has be so very patient.

Henry is already on that agenda. I can confirm it to be true and we would like to add Brian to that. So at the end of next week, I can come back to you and say this is it. Brian might be correcting me. I'm looking at his face.

>> Brian: Adrienne, this is Brian. Adrienne, that may have to go through the mayor's office. Primarily because I am the mayor's appointee. I am the employee of the city who is on the commission and so I don't know but you may want to check with Nicky to see if it has to go, that has to be cosigned. I don't know what it is.

>> Adrienne: That's a great point, Brian. I will double check with Nicky who is mayor's chief of staff. Regardless, there needs to be a letter and I would like to have it sooner rather than later to get this moving. Henry asked a good question in the chat. There was another appointee and they have removed themselves from the process. S that all I know. That's the only communication I have received.

So I was saving that for the meeting Henry so I could let everyone know who did not receive that communication. And we can talk about this later in another meeting but I know Bonnie and I have talked about recruitment and out reach to get some

more commissioners as well. So that's another discussion for maybe another time. Yeah.

>> Bonnie: I think Henry had a lot of valid feedback about the process as well. It has continued to be lengthy and some of that, I think, we will have streamlined with coming up with a consistent set of questions and a process but I think it is notable that, it is a difficulty to engagement because, I think most of us went through that process with the exception of Brian where there was an extended period of time where we had been interested before we ever got put forth and I think that's been a problem across all of the commissions and calls for more future conversations.

In terms of this one, I am happy to draft that if somebody wants to nominate me to do so. I mean, we can take the time to come up with the language now but I think, if we're all in agreement of recommending Brian to a second term, then it made sense to just give me the power to do it so we can move on to other business?

>> Bonnie: I'm in agreement.

>> Lian: I propose that we recommend Brian for a second term and nominate Bonnie to write a letter to whoever needs to go to indicate that.

>> Holly: I will second that.

>> Bonnie: Great! Let's take an official vote. Great! So well, I think we also --

>> Brian: I can't even abstain.

>> Bonnie: No.

>> Brian: Then the other thing you need to do is vote me in as a secretary today.

>> These rules of Roger's --

>> Robert's rule, isn't that what it's called?

>> Bonnie: Yes, so the first thing we need to do is, I nominate voting Brian as an associate commissioner. Everybody in favor? Great! I declare Brian as secretary of this meeting. All in favor?

>> Lian: I like how we're not even nominating them, we're just saying, you're the secretary.

>> Brian: I did propose it so it's okay. I accept.

>> Bonnie: So everyone is in favor of that? Great! So Colin does not appear to be here. Colin, I feel like is slightly more complicated because, so I got the dates of the commission appointments from the city clerk and it does list Colin as expired but it also lists Colin's last confirmation as November of 2019. And I recall that we had worked with (inaudible) who was the ADA coordinator at the time who worked with the city solicitor to get permission to give Colin another term because of the lack of commissioners.

So he was confirmed and so I'm unclear on how long that was for and why it's no longer valid and maybe it's that it was only a two year term and that's now expired but I can't find those meetings notes. I have like September and October and December but not November. I have looked all over. But I think, you know, regardless, we would need to nominate him to be an associate commissioner. But without him here?

>> Lian: This is a timing thing. I fairly am certain about voting on that one which means it happened some time in 2021. I think it was the beginning of the year. I think it was one of the first things I voted on so it's been at least a year since we voted to give him an additional term and I don't remember if there's a length so it's possible it's just a year and it's about to expire. But it shouldn't be expired yet. I don't think. If I can have the remembering dates correctly.

>> Bonnie: I think this will take some more back and forth with myself and Adrienne and Kim Wells, the city clerk. But I think with that here, it's hard to vote him in as an associate commissioner in the interim because we need to make sure of that. So for now, and come back to it at the next meeting or we will speak with Colin in the interim and find out if that's something he is interested in and get clarity by the day of the term.

>> Adrienne: I'm happy to reach out to Kimberly Wells tomorrow and see if they can start that conversation or continue that conversation.

>> Bonnie: Great, thank you! If you can just copy me on that

to be abreast of all of it. So moving on, the out door dining, I just want to check, has everyone had a chance to review this? Can I get a thumbs up or thumbs down or a no from Henry, no from Katie, okay.

So Jenny, have you been able to review this plan? I think what I am going to do, folks, do you want to pull it up on your own screens or should I pull it up here for us to be looking at it together?

>> Lian: Either way, I will probably pull it up on my own screen so I can scroll up and down but having it up for you to have. Having it up, shared as well to have an idea of where we're actually talking about doesn't hurt.

>> Brian: Bonnie: I do have a PowerPoint I used for the licensing commission, especially because there's a number of people who haven't read it, that might be helpful because it's a pretty long document otherwise.

>> Bonnie: That would be great, thank! I'm having trouble. Let me assign you. That will make it easier for me for looking at my comments as well. Also seeing the screen.

>> Brian: Before we get into this, I can't take the minutes on the out door portion of the meeting. So I will need somebody to take minutes during this period of time. For two reasons, just logistically, and also, because I shouldn't take minutes when I'm presenting.

>> Okay, I can't guarantee it's as good as Brian's but I can do it, hold on.

>> Bonnie: Thank you, Katie. I also have mine all typed out. So I will probably submit them. Afterwards to get a clear capture of them.

>> Katie: I have two screens in case you are wondering why I keep looking over there. It's really nice!

>> Bonnie: Logistical Brian, I think if we want to do a quick overview and then we'll get into the sections. I know I have a lot of commentary. I'm sure others will as well.

>> Brian: Okay, do you want me to go ahead and start? I'm Brian and I'm going to present this from my perspective as a city employee and as the director of engineering with many

other departments, we hope to develop an outdoor seating program that will be designed to be a permanent replacement of the existing emergency system. There we go. So I did want to say, my initial comment was that from many perspective, the outdoor seating was implemented. I will refrain from saying it was a success but it was implemented for the past two years during COVID. There were a number of challenges associated with the implementation and the key one I'm going to discuss this evening is accessibility but I'm happy to discuss the processes and clarity piece of it.

Though I'm the director of engineering, the engineering department did not lead this effort. This was a joint effort from many departments in the city. Especially over time, we found out that all of these departments are directly impacted by or impacted with the out door seatings and have been a part of the process of developing this new process. What does out door seating cover?

It covers all outdoor seating, public street seating. And public street seating during the emergency was broken down in two types of street seating, sidewalk seating and parking seating. Prior to the COVID emergency, only sidewalk seating was permitted with two exceptions. Two actual implementation exceptions and the primary one being the independent in union square.

The goal in the requirement moving forward is there's a 48 inch minimum clearing in all out door seating in the public way. Now, the MAB minimum clearance of 36 inches still applies but we're using that from are as a condition where there are unforeseen conditions in implementation and we're not designed to the 36 clearance in MAB.

Furthermore, in pedestrian streets, we're making the minimum 60 inches.

>> Bonnie: Brian, can you share that definition with us. I have not seen it.

>> Brian: Sure, I do not have that definition up. Maybe in a little bit, I can pull up the map but the simple zoning maps, there's the pedestrian street and those are generally the business districts in the city. So they are most of Davis square, most all of Union Square, all lower broad way, all the way up to the top of winter hill and then a handful of other isolated conditions throughout the city. Well, Teal and lagoon square. So most places are 60 inches.

That is of course, if the 60 inches exists but if the 60 inches do not exist, we would not allow under this a sidewalk seating. We would then be requiring an -- seating. I am taking this out of order because I feel this is an important piece. So if they can't meet the 48 or 60 inch requirement which a lot of our sidewalks won't allow, it would say you are have to do a parklet seating scenario. The only time it would flip back is if there's no ability to do a park let seating.

That we do talk about seating being located near store fronts and there's a key thing about ABCC which is the state system that allows alcohol to be served in the streets. We don't know if they're going to go back to their pre emergency standpoint but their requirement of continuousness really limits our ability to require parklets and there's some belief that it's better to have out door seating located in a parklet, rather than in a sidewalk because in a sidewalk, it tends to obstruct passage for mobility impaired, visually impaired, et cetera.

And the parklet simplifies that use of the public space. As far as accessibility standards, we're making A abundantly clear to be followed, we further in the process, highlight key sections of 521CMR that are going to be paid. Those are primarily the pieces applied but we're going to make it clear, the entire document applies not just what we spell out.

The other piece that is important, especially when it comes to parklets is that, we are requiring full ramps to be installed if they are going to be putting in a parklet that is at street level. And the intent of that is to encourage the construction of platforms at sidewalk level. When we go into the process, there's a couple other things that really encourage restaurants to put in platforms and we're trying to make it easier to put in platforms. And then making it clear that the seating in these parklets and sidewalk seating needs to meet all of the other clearance and accessibility spaces and the number of tables that MAAB requires in restaurants internally.

I'm going to skip the parklets in the safety section because I don't think it's abundantly important here but if we have to go back, we can.

Layouts are requiring a full design of plans marking out everything. This does not show it, but we're going to be



requiring grades to be shown. Especially if they use the existing road way as their surface area because though our sidewalks not always, are generally compliant, the road way surface and asphalt, is not necessarily compliant ever! So even if they could ramp down to the road way grade, if the roadway is not compliant, they wouldn't be able to use that parklet, that's one more way of encouraging people to build up a platform that can be constructed to a level compliance.

This is just a discussion of the operations. I think the key item here is that the restaurant's toilet capacity will need to include the outdoor seating and if the restaurant doesn't have enough restaurant toilet capacity to handle the extra seating for out door seating, then that wouldn't be permitted. And this is something that has come to the surprise of a number of restaurants even, but this is a rule that predated the emergency and we're just bringing back in and making it clear.

Let's see, the standards of dogs is introducing something preCOVID and this is discussing the proposed fees. And this is going over a clarification of what the application process is. And that's the key things. That's really the key slides that were most appropriate to this commission. What I will do is pull up the process itself. And open it up for questions because I think the process itself probably facilitates that better. And Bonnie, I will hand it back to you to lead the remainder of this process but I'm happy to answer any questions except I pulled up the wrong document.

>> Bonnie: Thank you, Brian! I think that it would have been nice for our commission to be given this presentation as well because I think it addresses some things in clearer language and more detail than what we received did. So I'm glad we got to see it. Holly had a hand up so I want to go to you first, Holly.

>> Holly: It was more about the 48 or 60 inch requirements. Actually, I put it in the chat, the link for what you're talking about and now I can't find it on my screen.

>> Bonnie: I had some questions about that too. I think this document you now have up was not clear in that. It was under general. I had some comments before but we can come back to those. I think it's unclear. What I heard just now, well, you were -- it starts there. And it continues. So I think what I heard from you is you're requiring accessible paths throughout

parklets. I suppose if they have barriers then --

>> Brian: So why don't I expand on that a bit more.

>> Bonnie: Yeah, because I think it's not clear based on this document.

>> Brian: Okay. So the first thing is the accessible route applies to the sidewalk, to the pedestrian sidewalk. So a minimum of 60 inches is needed in the pedestrian sidewalk outside of the seating area so the accessible route that remains after the seating is established is 60 inches or 48 inches outside of the pedestrian streets. So what that means is if there is, if you have -- if we have a sidewalk that is only 70 feet wide and I'm going to use lagoon square as an example.

It's one of the narrowest sidewalks in the business district so I think it's about a 6 foot sidewalk. And you couldn't -- so out of that six feet, you would have to reserve five feet for the accessible room, leaving you one foot for seating and that's not possible. But areas outside of a pedestrian zone say on Low street, that is outside of the pedestrian area.

If you have a cafe on that street, there, that minimum dimension would be 48 inches and if let's say you had a 7 foot sidewalk, it's reasonable to have cafe seating in three feet, than the remaining four feet as accessible. That's assuming there's no signs or trees and no other utility's that are in the way.

>> Bonnie: Great, so we can assume that they will not be given their sidewalk seating this year?

>> Brian: The Burn is a good example.

>> Bonnie: It is. It definitely has not complied in the past.

>> Brian: In that case, since they would not have the opportunity to do a parklet seating, it would revert back to the 48 inches but we are requiring everybody to come back for a reanalysis of their seating, like the Burn went into the COVID-19 pandemic, relying on their previous license which I think, predates any real documentation. And so even the Burn will have to come in and demonstrate they can install an out door seating area that is leaving a clear 48 inches on their accessible route for that seating.

>> Bonnie: Okay, and the second portion of that, an accessible route within their seating. Because using them as an example again, I think that what they would try to do is move that barrier back but then there's no access to the tables.

>> Brian: So this process does not stipulate the requirements for setting up tables within their zone. That relies fully on 521CMR and that is not something that is a part of the process because that relies holy on the regulations and I am honestly not an expert enough in how to design a restaurant seating to be able to answer questions specifically on that.

>> Bonnie: Okay, well that addresses that. If you want to scroll up to the process portion, it has under item number six, the application review process includes engineering, ISD, health and fire prevention. My first commentary on this would be to include a review by the ADA coordinator who should have that expertise.

I think we have seen in the past, there's a lack of expertise within ISD to understand these regulations both in times of review and in terms of going out and doing inspections and I think there both needs to be training by Adrienne and also a review of, if not all applications, certainly ones like this where there is going to be a lot of questions of that because what we have experienced in the past is, you know, ISU will go out and look at something and say, I don't think this presents a problem. And if you look at the technical requirements, it does present a problem. You know, that risk is primarily around parklets but it was also around space. And I think seating in particular, the type of furniture, at the requirements for being able to get to the furniture, nobody seems to have expertise and there's nothing standardized and the city doesn't want to tell restaurants they have to go out and buy new things. But if we're not laying it out clearly in the start and they're going to continue to fall on the side of, gosh, we want to support small businesses, I think that's going to continue to be a problem. So we do need that expertise looking at it.

>> Brian: I think that's a wonderful comment. I will be including that. Does anybody else have any questions?

>> Lian: So I have a question about one of the things that Brian said in the last bit about, I think, they wouldn't be able to do a parklet. Isn't that because of the rule around

liquor licenses and being continuous? PCH.

>> Brian: It could be around the liquor license and it depends on where they fall with whether they're serving alcohol to the premises that is licensed to serve alcohol. We just don't know how it's going to land. And if you know about the independent, they had certain permission from the ABCC to do that preCOVID.

The second piece is that parklets require a space in the road way that is either used by motor vehicles for parking, loading, et cetera or is just unused space used for seating and in front of the Burn, due to the bump outs and the accessible curve ramps for the crosswalks, that would not be an opportunity that the Burn could use.

>> Lian: So my follow up question may not apply in this specific case but is there like, would a different business potentially not be able to do a parklet, solely because of the alcohol issue?

>> Brian: I don't know the answer to that question.

>> Lian: So my follow up question that may be irrelevant but I'll ask it any way, but the way that the liquor license works, is it possible to have an a park let seating but you're not allowed to serve alcohol but food, such they don't have to make things less accessible?

>> Brian: Now I think I understand your question better.

>> Lian: Could, if there's a case of, well, you can make it accessible as a parklet but you can't do a parklet because of a liquor license, could the follow up there be, okay, you can have the parklet without alcohol, rather than, you can have the sidewalk seating and lax the accessibility rules?

>> Brian: Yes, you can have a parklet without serving alcohol there. And my understanding is that the restriction is from alcohol being served in a space non continuous of the premises or across the public way from the premises. The origination of that rule is they didn't want servers caring alcohol into the public way. I mean, caring open containers in the public way. We do have open container law. So we don't know how it's going to be resolved but foreseeable, IE an establishment that has a liquor license, must also serve food in the city of Somerville.

So it would be accessible to have a parklet where they

serve food but not alcohol. I don't think any restaurant would likely choose that but that would be an option.

>> Lian: If there is the exception rule, I would like to look harder at making sure that is not a compromised too far against accessibility if there's other options or even if there aren't other options. Like, do we actually have to compromise accessibility?

>> Bonnie: I would agree with that. This spot in particular, it's already difficult to pass even when there's no seating there due to the condition of the sidewalks which I don't foresee changing any time soon. So narrowing the space just makes it that much harder in particular, how it has to be narrowed. It is not very passable.

Also, does the Burn have the private outdoor seating as well?

>> Brian: They did over the summer. I don't know if they're still operating it.

>> Bonnie: So I guess, my big question would be why would we be considering granting Lee YANS on the sidewalk. We're not talking about there are no other options.

>> Brian: So when a license is issued, we can only look at what is applied for the license. So whether or not a restaurant has inside seating or not, can't impact whether we have give a license. Whether a restaurant has or has not outdoor seating on private property, we can't consider that in the license.

>> Bonnie: Could we consider amending this process to get approval for the commission on a variance on sidewalk clearance that looks at the individual's circumstances?

>> Brian: I don't think we would give a variance for that avenue.

>> Bonnie: But that's what we're thinking about doing. MAAB wasn't designed for this sidewalk is five feet wide but we want to take half of it for outdoor seating but sure, have it only 36 inches.

>> Brian: So 36 inches is purely for obstructions. It's not for the duration of the sidewalk which is something we try to make abundantly clear in this document. That's why we put it at

48 inches which is the accessible route width required by MAAB and we up it by an extra twelve inches effectively in business districts because of the increased pedestrian traffic.

It also simplifies the measurement for, you have to have a 60 inch width accessible route every, I think, it's 50 or 100 feet any way. So if we had multiple restaurants back to back, that would be complicated with the 40 inch rule any way.

>> Bonnie: I don't think it's clear in the document. That's one of my comments further on. That will needed to be clear passing space. It's every 200 feet.

>> Brian: Okay, thank you! I didn't know what it was.

>> Bonnie: Yes, if an accessible route has less than 60 inches, then passing space is at least 60 inches by 60 inches, shall will located at intervals not to exceed 200 feet. I would love the idea of less than that. I think being able to pass is important, especially, you know, somebody in a larger manual -- sorry, a larger power wheelchair may be taking up 36 inches. If there's only 48 inches, you can't get past.

And even in a smaller manual wheelchair, I run into that problem a lot. Especially in Davis square when there's a lot of businesses doing this. See, I think your presentation showed some more clarity but the way that the document itself is written, I think it needs some tweaking in terms of being clear to the restaurants and also city staff. Because if their tasked with looking at this, making it as easy to understand is critical.

Did anybody else have comments on the process before we move on to the meat of it?

>> Lian: I have one question that I'm not sure follows under process or meat, but it's something that came up a little bit. I know it talks about plans that are taken into account of signs and that was mentioned earlier. What I didn't see is anything taken into account the actual condition of the sidewalk and is there any accounting for, okay, the sidewalk is six feet wide and there are no utility here to get in the way but also this one sidewalk panel, half of it is, you know, crumbling and you can only use the other half of it and is that being looked at and taken into account when deciding if there's still enough width to be accessible?

>> Bonnie: He'll correct me if I'm wrong but I think it requires a submission of the whole site layout. And I think that includes the sidewalk itself but maybe it just includes the portion they're going to use?

>> Lian: Yeah, I'm wondering, does that include the theoretical, here's the diagram of the sidewalk but does it look at the actual current conditions? Which probably, maybe it isn't necessarily going to mark down, oh, this particular panel is crumbling.

>> Brian: So Lian if I may, the intent is that in the scaled site plan that an elevation survey of the sidewalk is required. So if they're doing either roadway seating as oppose to platform seating, or sidewalk seating, they would have to assess that. Now, we could probably wave that assessment if we go out and we can observe, yes, it's compliant or there's a brand new sidewalk. We know it's recently constructed and it should be compliant but I think, going back to the example of the Burn, that's a good example of the sidewalk that is not compliant enough to provide a 48 inch path around the seating as it is currently shown or provided.

So yes, I agree with you Lian. And I can look to see if we can clarify it more. I'm also looking to see if we can find a space in here where oh, I can't find it off the back. I had a space if here where I basically said, if the walk is not compliant at any time, the restaurant must be closed or something to that effect.

>> Lian: Yeah, I do remember seeing that. I think it might be helpful to put in -- I was going to try to find the space that makes the most sense but I think where it talks about the accessible path and you know, how wide it needs to be, it might be good too, in that section, to also include a bit about, like, specifically calling out, taking into account, utilities and other constructions and sidewalk condition as one of those, yes, it's in the actual regulations somewhere but not every business owner is going to dig through that specifically and I think that's one that is calling it out so they have that in mind is probably a good plan.

>> Brian: One thing we also want to encourage is locating cafe seating that doesn't need borders and stuff around them to encourage them to locate along the curb line where there are already existing these obstructions on the street or the sidewalk so they're not obstructing the one clear path

available and part of that is to minimize the amount of zig zagging that people with mobility devices need to do but also to avoid the zig zagging that people with limited availability also need to do because I agree that it's kind of hard to see something that doesn't make any noise.

>> Bonnie: With limited vision. People who have limited visibility, that's another issue.

>> Brian: Thank you, Bonnie.

>> Bonnie: You're welcome. Henry, did you have comments on this section?

>> Henry: I have some general comments on why I stopped going to Davis Square. I am not sure they are specifically relevant to this section but basically, I had a lot of mobility issues thereafter the encroachment into the public right away. And to be brief, Davis is always hazardous to me because I have proprioception issues and neuropathy and I'm a stroke survivor and I don't know where my right foot is without looking at it. It's easy for me to stop and fall on my face which I have done.

Then we have the pits where the trees are planted which are two or two and a half inch drop offs, all along Davis and they encroach half way across the walk way. And then it became very difficult when there's a lot of people down there, when traffic started to pick back up. This is very difficult to maneuver down there. I had the experience of having a [LIFT](#) driver abandon the pick up at the cafe because there's no easy way to get from the diesel cafe from the barriers to the vehicle. They wouldn't drive up the street or go down to the corner. They just canceled the call and I was stuck there. It took me another hour to get a vehicle. So I would prefer we not take from the poor who have nothing but the commons to give to the rich. The average small business owner has a net worth in Massachusetts, between 10 and 20 million dollars and they have investable resources, liquid resources from one to two million dollars. The commonwealth is 22 percent non White but business owners are 12 percent White. And family owned businesses are substantially wealthier than the owners of non family owned business. So you know, if we're going to do this at all, the fees should be several orders of magnitude higher.

>> Bonnie: Henry, I appreciate what you're saying and I think that's good comments to share in public commentary for the more general, but in terms of tonight, I want to stick with



accessibility because I think there's so much to get through and that's where this commission really can have the most impact but there will be a public meeting as well at the licensing commission.

>> Henry: Well, I'm sorry from straying from my point which is, I gave up going to Davis Square because this constriction of the public right of way has made it unsafe. And not accessible for me as a disabled person.

>> Bonnie: Thank you! I'm sorry to hear that and I agree with you. I'm in a similar position.

>> Holly: I think that a member of our commission should be involved in the approval and the review of the plan, not just the ADA coordinator.

>> Bonnie: I'm happy to entertain that question and I think it's going to come down to capacity. I think with my comments, a lot of my goals to try to get these guidelines to a point where there's not a lot of flexibility, in terms of what is being approved and not a lot of opportunities to do it wrong. And that's hard. I don't know. I don't know how much our commentary is going to be incorporated. So I'm not opposed to having that as a suggestion. I just think that capacity wise, we would need to be able to sign on to doing that and we would need the city to bring us into the process so that it can actually be done. I think bringing or commentary this late in the process makes it hard because they're eager to get these rules financial and pushed out because they want to give business times to actual get plans and get them up and running. But I have been saying this for two years. That's not new. Just in terms of bringing in an actual commission member in.

>> Bonnie: There's a saying about your lack of time and attention, doesn't mean that I have to act faster. Because you didn't plan well. And I'm totally botching that so I apologize.

>> Lian: Lack of preparation does not constitute my preparation time.

>> Holly: I don't mean to be inappropriate, well, maybe I do mean to be inappropriate. The things that come to us and the majority of things that have become predesigned, pre reviewed and have no input from us, should not require us to act faster. We should have had it as much more notice because therefore, why do we exist? We're not here to stamp approve on something

we didn't even participate in. And you shouldn't be in that.

That goes with things about, look at what we did, the major rotary. Yeah, that is a nightmare! And it went in and all we saw is this is what is going to happen and it's not anything against you, Brian. But you're the person who is standing, you know, on the call with us. And we have no voice. There's no input unless it's passed that point. So that's my input. Is, if you're not going to make us part of this process, then we need to be, one of us needs to be able to sit in or review a plan with as much, you know, speed as anyone else would as part of the decisions. It just doesn't fly.

>> Bonnie: Thank you, Holly and Katie. Hope you got that in the notes. You're muted.

>> Katie: Holly, I tried. I suck at this. If you want to write a summary of what you just said, I will hug you at a non COVID time.

>> Holly: I can hug you all back.

>> Bonnie: I think that's a nice segue in my next point. Brian, I noticed in your lovely presentation, there's a visual of non porous barriers which were included in the previous outdoor guideline as Adrienne pointed out in the start of this meeting. The board of health would be looking at a vaccine mandate on Thursday. We are currently in the midst of an incredible surge of virus that continues to mutate and we can't predict where it's going.

One of the things that I noticed in this draft is that there's no social distancing requirement what so ever between tables, between the public on the public right of way and the seating areas. There's just nothing. And in terms of equity and inclusion of people with disabilities, I think that's a big miss because people with disabilities are at greatly increased risk due to COVID- 19 and not having any requirements whatsoever, is saying you don't belong here.

There might be plenty of people who feel comfortable eating in an outdoor space with some distance but if the tables are right next door to each other, no barriers and no six feet, that's just saying, gosh, immuno compromised people, you are not welcome.

So I think that's kind of a problem.

>> Brian: I don't know if I might have or could have an answer to that question. That was not part of the genesis of the set of documents since that portion of the emergency order had passed. I think if it were reinstated, it would have to be by the board of health. And even in the previous incarnation, I think it was in the board of health that established that level of protection and outdoor separation. I can look into it further to see what I can find.

>> Bonnie: Thank you! Let me just finish and then you can go next. I think there would be not quite this push by the city to change these guidelines and drop them so extensively were there not still a pandemic, right? There was not outdoor -- we were not giving over the parking spaces or sidewalks and I guess, what's the motivation behind it? Because if it's just, gosh, people like to eat on the street, then I am going to say we need to be a whole lot stricter with the ADA compliance. If the whole motivation is, there's an ongoing pandemic and a recognition that a lot of people do not feel safe eating indoors and we want to do this to allow more businesses to survive, then there needs to be a recognition, there's still a pandemic.

I don't really see, you can't have it both ways. Like, if we're just saying we're going to move to, you want a restaurant taking over the public way, then I want it accessible with no compromise.

>> Brian: I think I can answer it better. The intent from those two perspectives were A, that the realization from the administration and for lack of a better term, the common public that the expanded parklet seating from their perspective was a success. And the belief that it is something, and it centers around, gee, this is better than the parking spaces.

If I condensed it into the public perspective as best as I can. So it was the acknowledgment, this is something that we could establish, a process around and that the city could choose to license. The second was a recognition that outdoors, the commune ability of COVID is much more dispensed and for many people, just sitting outdoors is substantially more comfortable and potentially safer from a disease spreading perspective as compared to sitting inside. There are no constraints at present from a board of health, public health, from being outside.

>> Holly: I really enjoy it! If people in wheelchairs or those who are visually impaired, or mobility impaired, could enjoy the outdoors as much. Which includes sitting outside. So I think, if we do not have representation and when we make suggestions like this of people who sit and walk and roll and see differently, then we're just continuing to marginalize the populations.

>> Lian: And I think one issue that is not really being taken into account here is the unavoidable ability of it. It's okay to have one thing, like the outdoor seating is closer together than I am comfortable with and it sucks I can't go to the restaurant I like but I can make the choice to avoid that.

It's another thing to have, I need to get down the street and there are all of these outdoor seating I have to go by and I don't have a choice. Like, I'm not patronizing the businesses but I have to get down the seat and I'm being subjected to people two feet away from me with their masks off and I think we need to be stricter in that sense of when the choice of the business and patrons of the business are affecting people who aren't going to the business, but are trying to get about their daily lives and they don't have a choice in the matter.

>> Bonnie: I would tie what Holly and Lian shared together with, I understand the general public might think, oh, this is better than a parking space but we are a commission of marginalized people that from our perspective, it has made life more difficult. It's made it more difficult to move through the space. It's made it more difficult to feel safe. Davis Square in particular. You know, I see a massage therapist there. There is a physical therapy office there. There is a grocery store there which, you know, I imagine is many people's primary grocery store. There are plenty of other businesses near the restaurants. There's a post office there. It is impossible to get near Davis square without, for the bulk of the year, it's been impossible to go without being surrounded by a lot of people in very close proximity.

And we don't always have the option of just taking our business elsewhere. So I agree that it's a problem. Yeah, and I would love to hear, you know. We have mentioned vision impairments but Jenny, I would love to hear your perspective on which specific things are an issue and how big of an issue because I can make guesses but I don't want to speak for you.

>> I will tell you the truth, I avoid Davis square as if it's

the bubonic plague. I can tell you why, because the brick sidewalks that somebody said, oh, beautiful are, when they're wet, worse than a skating rink. I mean honestly, David square has too many -- well, too many people for one thing. Unsafe sidewalks for a second. All of these trees that have been planted, why? Can't we get rid of 90 percent of these obstacles? Is and give us decent sidewalks to walk on and not fall and injure ourselves? Maybe the previous mayor couldn't do anything about it and he injured an ankle severely on the brick sidewalks. Even he wasn't able to do anything about it. Where do we go from here?

>> Bonnie: Thank you! I want to remind everyone, do we like a parking space versus do we like a restaurant, et cetera, this is civil rights. This is access and inclusion and I just -- it's frustrating that the city continues to prioritize. I don't remember exactly how you phrase it Brian, but the general populous over meeting actual laws. It's frustrating!

>> Kate: Sometimes I wonder, so how can we address these things? I always feel bad for Brian but that's my own issue. Brian is a tough plan. Brian is a tough guy. And I am not saying that we -- Brian and his job shouldn't be but what do we do? Is it getting on the -- is getting on the -- being more of the planning process? Is that our goal?

>> Bonnie: That's definitely one of them. That's what we have been asking for, that's in our bylaws, to serve the city and advise them. And so being cut out of the planning process is kind of ludicrous and bringing or comments at the end as general public commentary is disrespecting what our commission exists for and I, you know, I am psyched that we have Adrienne here now. I think she should absolutely be a part of the process but these not a substitution in including the commission. It's supposed to be a collaborative process. So yeah, that's definitely being included in the planning process is the goal. And it's what we have been fighting for and the city continues not to do. And I think, you know, we're not even half way through this document and we can see that there's a lot of commentary that could have been included had we been brought in the process. Lian, I see your hand?

>> Lian: Yeah, just speaking of commentary, I do have a couple of things but I just wanted to make sure I can get to it in the next ten minutes. So would now be a good time to start going through those?

>> Bonnie: Yes, and Holly asked who is responsible for reviewing the seating? Since Brian, you said you don't have expertise on that?

>> Brian: So you had previously suggested we address that and I think that was your first comment to have the ADA coordinator be a reviewer for the seating itself.

>> Bonnie: No, I meant the entire plan.

>> Brian: Yes, but I interpreted that as the key piece was the seating in the restaurant area because that's the area that I acknowledged not having the expertise in the engineering division to do. I mean, of course, anyone reviewing the plans would be the full set of plans.

>> Bonnie: As Holly points out, we should add commission review as well. So Lian, if you want to share yours and then I have specific commentary.

Lian: Starting from the seating area, there's a couple of things I thought would be helpful to specify some additional requirements that are already the requirement through the CMR and then MAAB stuff that would be helpful too, to follow on the documents that are not missed.

One mentions the 8.3 percent maximum slope and I think that listing that, as instead or additionally as the ratio, would make things a lot more clearer to a lot of people. I know I had to go and look up the okay, what is the 8.3 because I know this one to twelve number off the top of my head but is the 8.3 the same? What does a percent mean in terms of slope and then I think, that's going to be a lot of people who are going to have that and are not going to know what 8.3 means but if they see that yes, it means -- yeah, they are like, okay. Shoot, I need a six foot ramp for that. That doesn't fit. And similarly, calling out the required size for levelled landings is going to make it a lot clearer to people, like, I straight up can't fit it in, rather than, here's a ramp and it fits in the space. What are you talking about? Those are the important ones to highlight. And then in the section right above, number five, it mentions that if you have raised platform, it has to have less than a quarter inch level change. I think mentioning a gap.

I saw some in previous iterations where there's a large gap between the curve.

>> Bonnie: I have a specific thing to address that.

>> Lian: Okay. And then for the private outdoor seating section, there was a number two that talks about there needs to be an accessible route from the sidewalk or two through the inside of the space. And I would like to amend that to say that having the accessible route go through the entire of the space is only permissible if that's the only route to the private outdoor seating.

I think if it is a case of, we have this patio we can only get to from the side. Fine. If it's a case of, everyone else can get do it without having to go inside but the accessibility requires you to go inside is not reasonably equal in a pandemic. We should not force some people inside and others not. And then, I guess for the general, there was a bit about toilet capacity. I know in previous years I saw some outdoor seating areas that had port apotties and I think it should be called out that if the toilet capacity requires they add in additional portable toilets, that there must be at least one that is accessible and one in an accessible location because again, we shouldn't force disabled people to go inside where other people are not required to.

>> Bonnie: Thank you, Lian. We have five minutes left and I have extensive comments. Process wise, Brian, are you expecting the licensing commission to take a vote on this at their next meeting?

>> Brian. That's my anticipation. It will have a public hearing associated as that is my understanding.

>> Bonnie: So process wise, how can we get extensive commentary and given it's going to happen prior to the next commission meeting?

>> Brian: So I don't think it is, well, you have the opportunity to hold another meeting if you want. I'm speaking more as a secretary right now. What are your options.

>> Bonnie: Do folks want to get together again, next Tuesday evening? I know most people are available but Holly was only available for the first hour. I'm not sure if Katie, if you were available?

>> Katie: These meetings are hard for me. I would suggest, if people want to read them, are people able to go through and make their own notes? Because who reads these notes? Are we

giving them to Brian or the commission? I mean, who are we getting them to? Our comments?

>> Brian: I can tell you the vast majority, if to the all of these comments, I can include. I'm going to do it whether or not you approve them. I'm going to say, you made good comments in a public meeting and we're going to consider them as comments made at a public meeting.

>> Bonnie: Then I think I want to try to quickly get through my comments out loud so I can e-mail them.

>> Katie: I'm not doing justice to your comments and I feel bad about it.

>> Bonnie: That's okay. I'm going to rapid fire so they're on record and then maybe we can take a quick vote to allow me to submit an official memo from the commission and or speak at the licensing commission meeting. So under the accessible seating, other municipalities have at least five percent accessible seating, not just one table.

I would request we bump it up to 20 percent accessible seating previously in our variance request, that we had worked on to allow these outdoor seating, we had requested there to be a way to reserve accessible seating and that never happened. It's a thing that the city does not have the capacity to follow up on and allot of restaurants can't implement. So I say we bump up that requirement because other people can use these tables too.

There's no downside to it. I would even vote for going higher. Want to consider adding a provision to look at -- oh, this is the concentrations of public seating and the 60 inches clear width which sounds like the zoning ordinance covers.

I want to include the fee schedule and the time, that is an issue over the last two years. Where nobody wanted to fine a business and there was a lot of discussion over whether or not something actually rose to the level of a complaint and I think we're pretty clear on, we want things to comply and there would be consequences if we don't. So it's hard to expect there will be follow through on that if businesses are not even told what they are.

>> Brian: I have one question on that. If you -- if you were to suggest a time frame between warning and finding, what do you think would be a reasonable time frame?



>> Bonnie: I think a reasonable time frame is one day because there should be no compliance issues if these are reviewed at the start. And somebody is reviewing them when they go out. Holly, if you have to hang up, can you quickly do this vote?

>> Holly: Absolutely.

>> Lian: I motion to empower Bonnie to write a memo capturing all of the comments that have been made in this meeting and submit it to whatever place they deem necessary to convey these comments to whoever needs to see them.

>> Bonnie: All of the departments that worked on it which Brian will provide me with because it's in a handy slide.

>> Bonnie: Also the licensing commission. It's the licensing commission, not licenses and permits but the licensing commission chaired by Joe Lynch that is the body that approves this document. And approves all subsequent licenses. Holly or Katie, do you want to second?

>> Holly: I will second.

>> Bonnie: Great. All in favor? Great, thanks Holly P.

>> Holly: You're welcome. Thanks everybody.

>> Bonnie: So on the private outdoor seating, I love that you require they maintain the accessible space. This was a big problem, I'm not even going to call out the restaurant that was the most egregious but I propose adding in a requirement to construct a permanent IE concrete blocks, barrier adjacent to the isle to ensure that the space remains open because it kept getting moved into the spaces and tables so I want to have some sort of construction.

The park lets, I would like a flesh transition from the sidewalk and curve. I submitted a piece I e- mailed as a parklet example also in the global design guidelines, pretty much everywhere else is doing it. But the parklet shows what it looks like. It's just an aluminum strip. There's a lot of companies that are selling parklets. If people want to construct their own, fine. I think that's a good guideline so we don't have to deal with the gap issues that Lian mentioned and we don't have to deal with the lip issues because that's just going to be a flat surface connecting the parklet to the sidewalk over the curve.

I think we shouldn't allow parklet seating that requires a ramp but if we are going to allow it but then I think there needs to be clearer guidelines on what the ramps are. And I think we talked previously, Brian and I, about only allowing road way level seating if there was a curb cut in good repair that could be accessed as the accessible path for patrons to enter, I would like that as an idea.

I think it's hard to do for anyone to do an appropriate ramp. And I think there needs to be language to explicitly call out that wheelchairs need to be able to get on to the parklets themselves and not be in the clear pathway. This was a problem particularly in Davis square where the furniture was placed such that you could go up to it but you were still on the sidewalk. And I think that the city should consider, this isn't the document but something I want to put on record, the city should consider adding additional on street spaces, given this is taking away parking space and people with disabilities can't walk as far and are limited in their options and as Henry pointed out, LYFT as well so accessible slash loading spaces if we are giving a significant portion of the roadway to dining, we need to be looking at how to increase access. I think that's everything and the toilet capacity, I need to know if it needs to be accessible or if that's not a requirement.

>> Brian: I don't know the answer to that but I heard Lian's comment and I'm going to look into that. I'm pretty confident, there's an MAAB requirement for that.

>> Lian: Even if they don't meet the number, I think that specifically, adding an additional requirement that if any are outside, there needs to be an accessible one outside is important because of the pandemic and Bonnie reminded me, I also had a -- wanting to meet criteria spelling out when and how a curb cut could be used as a park to a --

>> Bonnie: Mainly, it needs to be in good repair.

>> Lian: But also, what is the path from the curb cut to the space? Like, can you use, like, if you're the last on the block, can you use the crosswalk and how do you mark out a path from the crosswalk that won't be obstructed and also doesn't obstruct the crosswalk.

>> Bonnie: Yep. Thank you, everyone! Adrienne, I am incredibly sorry we did not get to discussing your role and

that's the top of next month's agenda because I think it is super important. And I am sorry this took up the whole night!

>> Adrienne: No no, I was anticipating that it would and I certainly welcome that you all had enough space, well, maybe we did run out of time but that was a nice summary but I did anticipate this is the majority of this meeting and be that's okay because priorities are ongoing and I just wanted to reiterate, because Holly and I are meeting for a one to one for Friday. I am to meet with all of you on an individual basis like I did with Bonnie on the top of my tenure. I have been at it 60 days already. Sort of flown by. Again, open door, virtual policy. I am happy to meet in person. I feel safe about that decision but as long as you all, the receiving end feels safe. But as we know, Zoom is always -- safest in our climate. PCH.

>> Bonnie: I want to acknowledge that the captioner has to go. Thank you so much!