

Minutes

Brookline Commission on Disability
Wednesday, January 11, 2023; 5:30 PM – 7:15 PM
Meeting held via Zoom

Members in Attendance: Jim Lee, Chair; Henry Winkelman; Joan Mahon; Elaine Ober; Rob Heist; Saralynn Allaire; Miriam Aschkenasy, Select Board Member

Members not in attendance: Shawn O'Neal; Jim Miczek; Nancy Moore (Transportation Board Liaison)

Note taker: Sarah Kaplan, ADA Coordinator – Ex. Officio

Presenters: Brian Kane, Chair of the Transportation Board; Anthony Ishak; Perry Grossman; Maria Foster, COA Transportation Coordinator

Jim Lee commenced the meeting at 5:32 PM.

Public Comment: The Chair and members welcomed back Saralynn to the Commission as a voting member. No other public comments were made at this time.

Vote on December 2022 Minutes: Henry requested a sentence be deleted on page 3.

- **Vote:** Henry motioned the December 2022 minutes be approved as amended. Joan seconded. A roll call vote was taken. Saralynn abstained as she was not officially a voting member in December. Elaine and Rob also abstained because they were not present at the December meeting. Jim Lee, Henry, Joan, and Miriam voted in favor of the minutes as amended. Motion passes. **4-0-3.**

New Business

New Variances: None

Background on Article 9, presented by Brian Kane, Chair of Transportation Board:

Brian Kane started by thanking Nancy Moore for representing the Commission's voice at Transportation Board Meetings. He then focused on a discussion about the history and plan before the Transportation Board takes up a vote on Article 9.

During the December 13, 2022 Transportation Board meeting, the Board was made aware that certain micro-mobility devices were illegal on the sidewalks in Brookline, including any pushed/non-motorized device, including, but not limited to, children's push scooters, roller skates, skate boards, and bikes. A Brookline PD representative told the Transportation Board that they have no intention of enforcing the ban against children or their devices. Subsequently, there was a request to amend the language of the local ordinance.

Before voting on this matter, Mr. Kane elected to seek out feedback from other Commission's and community groups including BCOD, the Council on Aging, and the Age Friendly Cities Committee.

All three Transportation Board subcommittees have also been asked to deliberate on this issue. The Bicycle Advisory Committee has already done so.

Town Counsel has also been asked to weigh in as there seems to be a difference between state law and local ordinances on this issue; according to Mr. Kane, it seems that the state regulates motorized mobility devices and local ordinances regulate non-motorized mobility devices. The Transportation Board has jurisdiction on matters like this under state law and expected to take up this issue again during their March 2023 meeting.

Mr. Kane let Commission know that his natural inclination was to remove prohibitions that are unenforced and unenforceable, although he and the Transportation Board are open to hearing all perspectives on this issue before making any decisions or changes to current regulations. He can be reached at brianseankane@gmail.com for anyone that wishes to contact him directly.

Jim Lee opened the discussion to public comment. None was made at this time.

Micro-mobility Regulations Discussion, presented by Anthony Ishak and Perry Grossman:

Mr. Ishak spoke first. This issue first came to his attention through the TTM listserv talking about the Brookline Teen Center creating a space to teach kids how to skateboard safely. Mr. Ishak then informed the listserv, that technically, skateboarding was illegal in Brookline; it is unclear how old this policy is. Todd Kirrane's research shows that it may go back to the 1970's, when skateboarding was considered 'a public menace.' We now know that people who skateboard are no more prone to crime or antisocial behavior, it is a good activity for exercise and socializing. There is a concern that while the prohibition on non-motorized devices is not currently enforced, it could be enforced and be enforced unfairly. Mr. Ishak believes that it should not be enforced as a crime anymore, and it has always been an unfair ordinance.

Mr. Ishak said that children under 12 are typically with their parents when they use their micro-mobility devices. It is not practical or safe to force a child under the age of 12 end of the bike lane to use their device. He also pointed out that most of these non-motorized micro-mobility devices because they are being self-propelled cannot get up to high speeds that would be necessarily unsafe for other pedestrians. He said that unlike with the electric scooters that were supplied by scooter companies, the Town should not expect to see a marked increase in the use of these non-motorized devices as there are not many companies that would seek to create a rental market for non-motorized devices like self-propelled scooters, skateboards, roller blades, and other such devices.

The Chair asked about electric scooters – Mr. Ishak spoke briefly about how in 2019 the bike rental and electric scooter rentals were introduced in the Brookline and the public outcry that followed related to safety concerns.

Miriam asked if this issue needed to be taken up by Town Meeting or if this issue could be resolved by vote of the Transportation Board. Mr. Kane said that this issue is within the jurisdiction of the Transportation Board and did not need to go before Town Meeting. Miriam also talked about the issue that came before the Commission on Disability in the December 2022 meeting: State Law says that electric bikes and electric tricycles are not to be driven on the sidewalk in a business district. She advised however Article 9 is amended, it be clear that it only applies to non-motorized devices and aligns with State Law. Mr. Ishak says that the proposed new language is written to align with Brookline By-Laws concerning non-motorized bicycles.

Saralynn spoke about how there's a lot of overlapping terminology and she suggested that the revised Article 9 be very clear on what it does and does not regulate. Henry asked if the revised

Article 9 could include a statement that this bylaw does not prohibit the use of any mobility devices for people with disabilities (which is supported by the ADA). Mr. Ishak deferred to Mr. Kane on this and Mr. Kane reminded all in attendance that the Supremacy Clause of the Constitution says that federal supersedes State Law and local regulations. There is no attempt to in this Article or any other Article to regulate or disqualify any device that a person with a disability in Brookline needs to use for their mobility on Public Sidewalks. State Law regulates motorized devices while local by-laws can regulate non-motorized devices, so the Transportation Board only has jurisdiction over non-motorized devices.

Henry asked for other communities, like Newton, are doing related to this issue. Mr. Kane said he did not know but he would reach out to Newton. The Chair stated that he had not heard this issue brought up in the monthly CODA meetings he attends. Saralynn advised that the Article may want to carve out an exception for commercial areas and she believes most seniors in Town would agree with that exception.

Mr. Grossman then took the floor. He stated that in Todd Kirrane's memo, he wrote about best practices, what other local communities are doing, and he did mention electric devices as well as non-motorized ones. Clarification from Town Counsel will be essential here. He shared with the Commission that in the Bicycle Advisory Committee's meeting about Article 9 they voted in support of the changes. He said that they have contacted Robert King in Transportation Division for clarity on what would be allowed on the sidewalk, versus the bike lane, versus the travel lane. The BAC wants make sure that all travel regulations in Brookline are in alignment and BAC has questions about speeds allowed on the public way, especially since walking pedestrians have right of way and deserve priority.

On January 17, 2023 the Shared Mobility Advisory Committee will be discussing this issue. The Pedestrian Advisory Committee will meet on January 23, 2022 to discuss this issue.

The Chair asked what was the difference between a Class 1 and Class 2 e-bike. Mr. Grossman isn't 100% sure but he does know that there are 3 classes of e-bikes. Class 3 e-bikes are motorized devices that go over 20 mph are not legal on the Public Way in Massachusetts, while Class 1 and Class 2 e-bikes are legal in some fashion. It seems that the top speed of the e-bike determines the classification.

Saralynn asked for the definition of a Public Way. The ADA Coordinator said that it is a public sidewalk or street or other travel lane that the public is allowed by law to utilize. The Transportation Board must use this terminology.

Elaine asked if a type of public way (i.e., the sidewalk) could be excluded from legal use by these devices. Perry gave the example that in Todd Kirrane's memo on this issue, he wrote that people over 12 cannot use non-motorized micro mobility devices on the sidewalk within a business district.

Maria Foster spoke and said that for 70% of the population that use the COA's transportation programs, their primary mode of transportation is as a pedestrian on the sidewalk. Maria asked how these regulations make pedestrians safer. She also asked for clarification on where the State is regarding regulating micro-mobility devices.

Mr. Kane said that bicycling on sidewalks is regulated by the State and that the Transportation Board will be having a very narrow discussion that focuses on only what they can regulate.

Abby suggested in Q & A that the Transportation Board seek out assistance from the Walk Massachusetts Network. <https://walkboston.org/walkmanetwork/>

- **Action:** The Chair of the BCOD suggested that once the Transportation Board determines exactly what changes to Article 9 they plan to vote on, the Commission should host a Public Hearing on this issue, and perhaps take a vote on support or lack thereof of any proposed changes to the current Article 9.

Presentation on TRIPPS & Transportation for People with Disabilities, by Maria Foster:

Maria presented on transportation pre-COVID and now, in which she covered the following history:

- The Council on Aging had a 30-year Taxi discount program, which was funded through CBDG funds.
 - In the Spring of 2020, the last taxi dispatch company went out of business.
- In 2019, the COA began a partnership with Lyft, which was initially grant funded.
 - It operates similar to The RIDE partnership with Uber and Lyft)
 - This program is income limited.
- In 2020, the COA partnered with GoGo which provides dispatch for Uber and Lyft
 - GoGo provides 4 discounted rides per year
 - This program is income limited.
- In 2021, the COA received a grant to continue to provide medical transportation with a local taxi company.
 - During COVID this service was provided through the use of the Senior Center van and bus;
 - This program is open to senior over 60 & those on SSDI under 60 regardless of income
 - At this time this program has no wheelchair accessible vehicles.
- The HELP program provides Eye Care Rides.
- The COA also assists with applying for the Senior Charlie Card and the TAP pass, and general mobility management.

Maria shared data on these programs. The COA sees transportation as an Age-Friendly issue, as well as once with equity and climate impacts. They are looking to other local communities for Best Practices (ex. Newton's VIA model, which costs about \$1 million/year and is currently open to any Newton resident age 13 or older.). An RFP is due on January 16, 2023 for the COA's current programs. To contact Maria email mfoster@brooklinema.gov or call 617-730-2644.

Jim asked about the differences in population between Newton and Brookline. The numbers are fairly comparable. Maria explained what she knew about Newton's VIA program. Miriam suggested framing transportation as an intersectional issue would broaden the appeal. Saralynn asked if VIA's program was wheelchair accessible, Maria confirmed it was, and Saralynn said that there is a need for such a program in Brookline. Maria told BCOD that the State could help with funding or expand funding for some transportation programs run by the COA.

- **Action:** The ADA Coordinator offered to work with Maria and the COA to review the RFPs.

Access Brookline column for January 2023: The Chair reviewed and approved the column. Going forward they can be self-published by Abby or Elaine. The Chair suggested that the members go back voting on the column. Abby suggested reviewing it informally so as not to make it an emergency to get it to all members before the meeting. The Chair agreed; no changes to the current process were made or voted on. Saralynn asked how to access the column; Abby explained the process and shared her screen to demonstrate and showed how to get it sent to your email. The Commission discussed how to make the column more prominent, including sending it to the Town Administrator and Senior Center for wider distribution.

Transportation Board Liaison Update: Nancy was not in attendance; no update was provided.

ADA Coordinator Update: The ADA Coordinator let the members know that the MOD grant they submitted in the Fall was not chosen for funding by MOD.

Old Business

Effective Communication Focus Group: The ADA Coordinator announced that she is still looking for participants for the BCOD hosted Effective Communication Focus Group on January 23, 2023 @ 5:30 PM. As of the date of the current meeting, the Focus Group has 2 RSVP'd participants.

Liaison from BCOD to ZBA and/or Planning Board: Jim is still having trouble with making the ZBA and/or the Planning Board understand the Liaison role. The ADA Coordinator is willing to help the Chair explain it to Kara Brewton. Elaine suggested explaining it by stating how useful the Transportation Board Liaison role has been to BCOD.

Announcements/date for next meeting:

- **The next BCOD meeting is set for February 8, 2023 @ 5:30 PM via Zoom**
- **Jim suggested members may want to attend other meetings on the micro-mobility devices**

Jim adjourned the meeting at 7:06 PM.