

Meeting Notes for Planning Board; Zoning Ordinance meeting September 10th 2013

Present: Ken Mertz
Neil Irvine
George Luciano
Daniel Love
Paul Tierney – ZBA
Paul Rossi – Public

Meeting was called to order at 7pm

Mr. Tierney stated that he was attending at the request of the ZBA Chairman who was unable to attend, he further stated that any input would be general in nature. Mr. Mertz acknowledged that as the ZBA is the administrator of the Town Zoning Ordinances the Board was not soliciting ordinance language changes from the members of the ZBA but rather input as to where the ZBA was encountering conflicts with Town Ordinances.

Discussion began with the proposed Landscaping Standards. Mr. Irvine indicated that the language in the document being discussed was provided to facilitate a conversation, that it had been compiled from multiple towns that had adopted Landscaping Standards. Mr. Tierney asked if the proposed language was to be an ordinance or a part of Site Plan review. Mr. Irvine stated that the objective of the Landscaping Standards language was to allow the PB to define what they were seeking when they required a “vegetative buffer” as currently they application of that type of request was not achieving the aesthetic be sought. Mr. Mertz stated he saw the value to having minimum plant sizes. Mr. Luciano voiced a concern about the cost to an applicant to plant larger, more established trees. Discussion followed citing the recent activity at New Hampton School as a positive example of including landscaping as part of a project budget vs treating it as an afterthought. Mr. Love commented that he felt that prescribing the size of trees was restrictive to economic investment, particularly with the current economic climate. Mr. Irvine referenced the planning seminar by Randall Arendt where it was shown that by breaking up large parking areas around commercial areas with planter strips and softening the appearance there was an increase in activity in those areas. It was generally agreed that any adopted language not be so prescriptive that the landscaping appeared contrived. It was confirmed that the standards being discussed were to apply to new commercial activity in the Mixed Use, Business and Industrial areas in support of furthering the vision of the Town as defined in the Master Plan. Mr. Irvine confirmed that the impetus for the creation of the document was the response in the Community Survey in favor of adopting Landscaping Standards (36% in favor, 33% undecided). Mr. Love asked for clarification on the current standards in the ordinances regarding landscaping. Mr. Tierney stated that the subject has some very broad language in the current Site Plan Review documents. Mr. Mertz read the language from the current Site Plan Review and confirmed that the current language was somewhat vague (eg: “a vegetative buffer will be planted” & “a substantial planting of trees”). It was agreed that if any language was adopted it would be more appropriate for it to be a part of the Site Plan Review documents provided it was enforceable. Mr. Mertz confirmed that from the administrative viewpoint of the ZBA the more definite the language the clearer the application is. It was agreed that the document required additional work and would be revisited at a later date.

Signage amendments were discussed. Mr. Irvine indicated that as currently written prohibited signs were comingled with other sections of the Signage ordinance. The first recommendation is to consolidate all prohibited signs in one section and then transition into the guidelines for permitted signs. Discussion followed regarding the addition of language regarding attention getting devices. Mr. Irvine asked if these types of devices have a place in New Hampton when weighed against the stated vision of the Town. Mr. Tierney stated that the definition of a sign currently includes balloons; flags etc. and that if the device was temporary in nature they would be covered by the temporary sign ordinance and it is therefore an enforcement issue. Mr. Tierney acknowledged the challenge of enforcement especially since the Town voted down a warrant article for code enforcement. Mr. Rossi questioned equal enforcement when some property owners ignore the letters from the Town, it was agreed that this was the continuing challenge. It was felt that current ordinances covered the subject adequately and that the PB should use Site Plan Review to document clearly what can and cannot be done with signage. It was also felt that the Selectboard should be made aware of the need for more consistent enforcement. Mr. Love stated he felt that the proposed language for internally illuminated signs was overly prescriptive on design requirements. He felt that energies could be better used on larger issues than dictating color schemes on signage. Mr. Irvine stated that we would not be dictating colors and used the Irving gas station as an example, saying it is a red, white and blue sign and would stay red, white and blue just not with white as the predominant color. Mr. Mertz stated that he agreed with the aesthetic appeal of the proposed language but asked "do we want to go there?" he felt that internally illuminated signage can be controlled by using the current illumination standards for lumens. Discussion of monument signage followed, and it was the general feeling of the Board that it was not appropriate for the Route 104 corridor.

Discussion followed regarding Agricultural activity in the Village Precinct. Mr. Irvine explained that the current ordinances are built on the concept that that which is not explicitly permitted is implicitly prohibited, however under NH statute 674:32 agricultural activity is a permitted use unless it is explicitly prohibited. The discussion acknowledged that any changes had to respect the intent of the original ordinance, which implicitly prohibited agricultural activity. Mr. Mertz questioned why bees were included under prohibited activity and asked if it could be permitted based on lot size. Mr. Luciano stated he believed that there was an exclusion zone around bee hives. Mr. Love suggested further research was required on this matter due to the public safety implications before adding keeping bees to the permitted section. Mr. Irvine requested clarification if the number of poultry based on acreage (no more than 12 on 4 acres or less) was excessive. The Board felt that it was a good number.

The final topic discussed was Limited Special Exception. Mr. Mertz stated that he felt uses should be permitted or prohibited, and that creating a grey area of permitting prohibited activity for 3 years was not a good idea. Mr. Rossi identified a current business activity in Town which is not permitted but was provided a temporary use by the ZBA and asked if they will be able to renew their approval. Mr. Irvine indicated that it would be inappropriate for the Board to speak to that matter prior to any activity on the part of the ZBA with the proper notifications. He stated that the operator was free to make application. Mr. Rossi then asked if the temporary use was enforceable, Mr. Irvine explained that the Town was seeking legal guidance as to the feasibility of the language. Mr. Rossi quoted his own recent experience and that the lawyers indicated that temporary uses were not possible. Mr. Irvine explained that Mr. Rossi had been seeking a variance and he was correct in stating that time limits cannot be attached to a variance. The Town is now exploring an alternative vehicle to allow activity without meeting all of the criteria of a variance request.

Mr. Rossi asked if this 3 year temporary use was what the Board wanted to see. Mr. Mertz restated his position that if a use is permissible temporarily then it should be permissible permanently. Mr. Irvine stated that initially he supported the concept of Limited Special Exception, but as he worked on the concept he found himself more in agreement with Mr. Mertz. He also referenced the earlier statement that clarity in the ordinances makes for better administration for the ZBA. Mr. Rossi asked about his options for a petition article to remove the 10% rule. He was advised that that was certainly his right and to speak to Mrs. Lucas for guidance as to the process and dates for submission. Mr. Irvine and Mr. Mertz encouraged Mr. Rossi to continue attending these discussions and helping to shape the language of any amendment.

Discussion highlighted the desire to foster economic activity, while respecting the long term view of the Mixed Use District. The Board felt that attention should be given to the current permitted uses to see if they should be expanded or the language altered to better define the permitted activities.

Motion to Adjourn made by Irvine 8:45pm
Seconded by Mertz
Meeting Adjourned