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TOWN OF DURHAM

Planning and Zoning Commission
P.O. Box 428
Durham, Connecticut 06422-0428

MINUTES OF JANUARY 21, 2015, MEETING

Present

Members: Alana Adams, Lisa Davenport, Frank DeFelice, Steve DeMartino, Richard Eriksen, Chris Flanagan, Dan Melnik, Joe Pasquale
Alternate: Campbell Barrett
Town Planner: Geoffrey Colegrove

Absent

Member: Dave Foley
Alternates: Norm Jason, Bonnie Ryder

The meeting was called to order by Richard Eriksen, Chairman, at 7:30 p.m. All members present were seated. Campbell Barrett was seated on the Commission in Dave Foley's place.

Chris Flanagan stated that electing officers each year is not allowed by town charter; instead, this needs to occur following the election of new Commission members (every other year), thus taking place after the swearing-in ceremony every other December. December 2015 will be the next window following the election/reelection of Commission members.

Motion by Chris Flanagan, seconded by Joe Pasquale, to approve the agenda of the January 21, 2015, meeting as amended to delete item #7, election of officers. Motion carried unanimously.

1. Public Session

No business.

2. Sign Regulations

Frank DeFelice began a review of the remaining language in the proposed sign regulations that had not been discussed at the previous meeting, starting with 11.01.03, Residential Zones.

11.01.03.01

Nonresidential uses permitted under Section 05.01., ***other than agricultural*** uses, ***or*** home occupations may have upon the property on which the business is conducted one non-illuminated sign not to exceed two **(2)** square feet in area***. One agricultural sign is permitted providing it does not exceed sixteen (16) square feet when fronting on a state highway and eight (8) square feet fronting on a town road. Special permit uses under section 05.01.01.01 (23) are permitted one permanent sign not to exceed sixteen (16) square feet in total on said property.***

Frank DeFelice stated that the addition of 'other than agricultural uses' (separating out usage of signs for agricultural purposes) lends support to the agricultural community and connects with the town's Plan of Conservation and Development. The incremental language is to address the location of such signs, on state highways versus town roads. A special permit use might be something such as a sign at the Durham Manufacturing site.

11.01.03.03.

Multifamily developments may display one ***(1)*** sign, which shall not exceed nine ***(9)*** square feet in area**.** Multifamily developments replaced the formerly used language (apartments).

11.01.03.04.

Temporary political signs associated with political campaigns shall be removed not later than 14 days after an election.

There was agreement that this has generally been handled without incident or problem; it does not apply to billboard advertising for political campaigns.

11.01.03.05.

No permanent, freestanding sign shall have a height greater than seven (7) feet.

There was clarification that the measuring of seven feet is from grade to the top of the sign.

11.01.03.06.

Nonprofit organizations ***or*** municipal facilities may display one ***(1)*** sign affixed to the building ***and one (1)*** permanent, freestanding ***sign, each*** **of which** shall not exceed fifteen (15) square feet. ***Nonpermanent*** signs ***for nonprofit or municipal uses*** advertising special events and/or promotions of a commercial or non-commercial nature are permitted**,** provided that such signs shall be non-illuminated and shall not exceed nine (9) square feet in area. Such signs shall not be erected more than thirty (30) days prior to an event and shall be removed within ***seven (7)*** days of the completion of the event. Each ***nonprofit or municipal*** premise is permitted one ***(1) nonpermanent*** sign, except for properties which have frontage in excess of one hundred ***(100)*** feet, in which case they are allowed an additional sign for each additional one hundred (100) feet of frontage or portion thereof.

Following discussion, it was agreed that the timeframe should be increased from five days (completion of the event) to seven days for removal of signs.

Campbell Barrett queried if, under this language, signs were to be placed 100 feet apart—or if they could be grouped altogether. The language does not make this clear.

11.01.03.07

There was extensive discussion over this language, including:

- Whether or not the intention was to mandate signage being on the *inside* of the sporting facility's fencing – or if signage could be posted outside of a fence facing drivers-by
- Whether or not the language "or property owned by the nonprofit athletic organization" should be deleted
- What accommodation should be made for a situation such as a privately owned soccer club buying a field
- Incorporating the term "nonpermanent" (because the signs are taken down every year)
- Whether or not duration of the athletic season should be noted (i.e., April to November)
- What size limitations, if any, should be incorporated (in some locations – behind backstop – signs are higher than seven feet above grade)

Geoffrey Colegrove indicated that even if the clause "except by special permit" were incorporated, there should be some upper limit above which signs could not be posted. He suggested that there are height requirements for buildings.

The drafted language for further discussion is as follows:

Nonpermanent signs that sponsor nonprofit athletic organizations are permitted to be placed on fencing used to contain the athletic activity and shall be located on property owned by Regional School District #13 or the Town of Durham; such signs shall not exceed a height of greater than seven (7) feet except by special permit. Signs for such purposes in other locations are allowed by special permit only. In no event shall any sign exceed a height greater than 15 feet or project above the height of the fence to which it is affixed, whichever is less.

11.01.04.04.

All real estate sale or leasing signs shall be removed when ***the building is fully occupied.***

It was agreed that the following *proposed* language be deleted altogether from the draft. Attorney John Corona noted this could be problematic for a house that is sold, but remains unoccupied for six months or when a property owner *anticipates* a vacancy (while the building is still fully occupied) and wishes to advertise that fact.

11.01.05.01

A ***nonpermanent*** sign in commercial ***or*** industrial ***zones*** indicating construction or alteration shall not exceed ***twenty-five*** (25) square feet. Such ***nonpermanent*** sign may contain only the name of the building(s), the developer(s), the architect and other professional(s) involved in the building(s) design, the general subcontractor(s), the proposed tenant(s), the funding agency, and the like as well as a graphic representation of the completed development. ***Such signs shall be removed within five (5) years of the Commission's approval of the project or when occupancy of the building is fully achieved, whichever comes first. A sign permit may be extended by the Commission for up to five (5) additional years.***

The Commission discussed *not* adding the clause, "whichever comes first."

Question: Should this same clause (whichever comes first) also be deleted from 11.01.05.02?

The Commission next discussed the newly proposed language for signage for special events.

11.01.06 Special Events: (See Definitions 02.13.03.01 through 02.13.03.03)

11.01.06.01. Accessory Use:

Nonpermanent special event signs are permitted, provided that such signs shall be non-illuminated and shall not exceed nine (9) square feet in area. Such signs shall not be erected more than fourteen (14) days prior to an event and shall be removed within seven (7) days of the completion of the event. Each premise is permitted one (1) nonpermanent sign, except for properties which have frontage in excess of one hundred (100) feet, in which case they are allowed an additional sign for each additional one hundred (100) feet of frontage or portion thereof.

Frank DeFelice clarified these uses are churches, schools, and private individuals.

11.01.06.02. Principal Use:

1. ***Nonpermanent Special Event Signs - A sign erected for an event no earlier than fourteen days (14) prior to the commencement of an event and removed no later than seven (7) days after the conclusion of the event. There shall be no limit on the size, type (including illumination), or number of signs.***

Attorney John Corona stated that, as a principal use, the Durham Fair Grounds would be the only property in town fitting this definition. Frank DeFelice noted that this language is an attempt to address what is already being done at the Fair. However, zoning cannot be by *user*, it must be by *use.*

There was much discussion about other types of activities or events (ranging from 4-H fairs to a scouting jamboree).

Joe Pasquale raised a concern about the Commission being asked to comply with its own regulations or enforce a standing regulation. Geoffrey Colegrove stated that while there was not a legal obligation to do that, there could be an ethical or moral reason to.

2. ***Permanent Special Event Signs - A sign erected at a premises hosting an event which identifies a building, use, or user of a building or other structure at the premises where the event is taking place and which may remain in place erected at all times providing no such sign shall be within one hundred (100) feet of a public road as shown on the Connecticut Department of Transportation Town Road Map 037. Signs attached to buildings, in total, shall not exceed one (1) square feet for each linear foot of the longest building dimension. There shall be no limit on the number of signs.***

This language is an attempt to address signage at the fairgrounds when the Fair is not in progress.

3. ***Internal Directional Special Event Signs - A sign erected containing information directing pedestrians and/or vehicles to areas within the event location or to exits from the event.***

Generally, the language in this section is an attempt to regulate something that occurs infrequently "but changes dimensionally." There has not been a problem in the past. The special permit already granted to the Durham Fair Association provides for a number of different activities at the site.

A question was raised about how to treat the Durham Fair's use of the town green property—this is with the permission of the Board of Selectmen.

Dan Melnik asked why this language was even being proposed in the first place. Frank DeFelice added that this language is being written for "a problem that doesn't exist."

Other concerns were explored, from "what would happen" if the fairgrounds were sold and turned into a mall (Danbury Fair Mall)… or the fair expanded to a "Big E" event, perhaps under new, for-profit ownership. The existing rights by special permit for the Durham Fair property *runs with the land.*

There was lengthy discussion around the ownership of the property *if the Durham Fair Association were to cease operations.* The special permit, as noted above, would stay with the property—and the property could be sold with another user operating a fair/conducting special events that are allowed by the permit. The idea of considering language in the regulations is an attempt to create an envelope to allow the Fair Association to conduct what it is already doing in a reasonable manner, perhaps with some constraints.

The current special permit for the Fair Association does not address signage at all. There was general agreement that some kind of language was needed.

There was also discussion around the Fair Association's ability to sell its property to another 501 (c) versus reverting to town ownership. The property could be leased for one of the uses allowed in the 1986 special permit.

It would be next to impossible to try to inventory and quantify the number of signs within the Fair's property (from directional to signage on vendors' trailers). Attorney John Corona stated that the signs are inherent to the nature of the activities.

Chris Flanagan expressed concern with the special event definition—that what the Durham Fair does is not a special event, it's an everyday occurrence for the fair operation.

Campbell Barrett stated that incorporation of "occurring for a limited or fixed duration" is a critical part of the definition.

This section of the **special events** language will be revisited at the next meeting.

Chris Flanagan will provide possible language for consideration for this section.

11.01.01. General

Geoffrey Colegrove suggested elimination of "nonpermanent sign" from the leading sentence with incorporation of Campbell Barrett's caveat later in that paragraph:

No permanent sign, ~~nonpermanent sign,~~ billboard, or outdoor advertising structure (hereinafter collectively referred to as "sign" or "signs") shall be established, constructed, reconstructed, enlarged, extended, moved, or structurally altered until an application for a sign permit has been approved by the Zoning Enforcement Officer in accordance with these regulations. Nonpermanent signs are required to adhere to all applicable regulations herein. ***It is the purpose and intent of this Section to accommodate the installation of signs that are necessary for identification, direction, and commercial promotion. All signs shall conform to the following provisions in addition to any other conditions or limitations that may be imposed by the Commission in connection with the approval of a site development plan or special permit.***

11.01.01.17. Application Fees:

After lengthy discussion, it was agreed that the proposed language would read:

There shall be no zoning application fee from the Town of Durham associated with signage.

In addition, it was agreed to move this section of the language up to the **general language.**

At the Commission's request, Jan Melnik will incorporate into the next revisions of the draft language a more consistent use of subheadings and descriptions/numbering.

3. Payment of Bills

Motion by Frank DeFelice, seconded by Campbell Barrett, to approve payment of the following bills:

- Absolute Advantage – $187.50 (sign regulation revisions)
- Absolute Advantage – $433.12 (minutes of January 7, 2015, meeting)

Motion carried, 8-1, with all in favor with the exception of Dan Melnik (in abstention).

4. Approval of Minutes

Motion by Frank DeFelice, seconded by Alana Adams, to approve the minutes of the January 7, 2015, meeting as amended to reflect the following clarifications:

- Lisa Davenport—the signs in front of 6 Main Street already exceed the regulations in their current state (page 7).
- Joe Pasquale—regarding a change of the regulations to (3) or more possible signs—this would *not* be his recommendation; the current regulations are simple and consistent (page 6).

Motion carried, 7-2, with all in favor with the exception of Campbell Barrett and Steve DeMartino (in abstention).

Motion by Chris Flanagan, seconded by Joe Pasquale, to adjourn the meeting at 10:14 p.m. Motion carried unanimously.

Respectfully submitted,
Jan Melnik, Recording Secretary

1/28/2015