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TOWN OF DURHAM

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

MINUTES OF MARCH 4, 2015, MEETING

Present

Members: Alana Adams, Lisa Davenport, Frank DeFelice, Steve DeMartino, Richard Eriksen, Chris Flanagan, Dave Foley, Dan Melnik, Joe Pasquale
Alternate: Norm Jason, Bonnie Ryder
Town Planner: Geoffrey Colegrove

Absent

Alternate: Campbell Barrett

The meeting was called to order by Richard Eriksen, Chairman, at 7:30 p.m. All members present were seated. Norm Jason was seated on the Commission in Steve DeMartino's place (until Steve's arrival).

Motion by Frank DeFelice, seconded by Dave Foley, to approve the agenda of the March 4, 2015, meeting as submitted. Motion carried unanimously.

1. Public Session

No business.

2. Dianne St. Pierre, Discussion of 1st Floor Business, 2nd Floor Residence, 271 Main St.

Dianne St. Pierre addressed the Commission and described the business that she operates in Wallingford, a women's clothing and accessories boutique. Her family is purchasing the house at 271 Main Street; two of her daughters will reside in the upstairs portion of the house. She is hopeful that she can operate a small boutique in about 400 square feet of space on the first floor. Parking would be at the back of the building. Typically, even for an 'event,' there are only a few customers at any given time.

Dianne St. Pierre described the proposed boutique business, stating her opinion that it would be compatible with Durham's Main Street and other businesses. She stated that she has lived in Durham for nearly 30 years; her Wallingford business has been in operation for four years.

The property's back parking area is enclosed by trees/bushes to the south and the superfund site to the north.

The entire house is 1,727 square feet in size. The 400 square feet proposed for the business would be two rooms on the first floor. Hours of operation are proposed as 10 a.m. to 6 p.m., Tuesday, Wednesday, Friday, and Saturday; Thursday: 10 a.m. to 4:30 p.m.; closed Sunday and Monday.

Geoffrey Colegrove stated that he had informed the applicant that the regulations allow for a home occupation, restricted to no more than 25% of the total square footage of the house. The current regulations do not allow for retail sales in the residential zone. A regulation change would need to be considered in order to permit this type of proposed (mixed) use.

Steve DeMartino was seated on the Commission at 7:32 p.m.; Norm Jason was unseated. Bonnie Ryder arrived at 7:36 p.m., but was not seated.

The Commission discussed various possibilities, from a village district to an overlay zone (such as used in Portland) that permits residential use upstairs and professional or retail use downstairs.

There is no formal application before the Commission at this time; the discussion this evening is informal to determine whether the Commission might view such a proposal favorably. If so, a regulation change would need to occur first, then a formal application would be required for the actual proposed use.

Frank DeFelice stated that this mixed-use concept along Main Street is something the Commission has discussed previously at various times. It would probably be most appropriate to consider the entire matter holistically as opposed to just for one property (and change the regulations accordingly, if the Commission were in favor of such a move).

Lisa Davenport stated that she was in favor of this move, consistent with what she has expressed in the past: Creating a more business-friendly town/Main Street and capitalizing on the potential that Main Street offers. She noted that, historically, Durham's Main Street comprised residences on the second floor with retail or professional offices on the first floor. Such a move to mixed-use zoning would bring this back "full circle" and she stated that she was in favor of this. Chris Flanagan concurred, stating that this was "long overdue."

Richard Eriksen indicated that a change in the regulations or zone isn't an easy or quick process and could take several months. The St. Pierres stated that they were planning to purchase this property in any event. He outlined that it could take a minimum of several months with the first step being a change in the regulations/zone, which would necessitate a public hearing before an actual application for the subject property could be pursued.

Frank DeFelice suggested examining language used in other towns for an overlay/village district.

Geoffrey Colegrove noted that the Commission had begun to consider such a move and that there is the beginning of language in the Plan of Conservation and Development that discussed the village district overlay.

A floating zone could be considered along the Main Street residential zone. Geoffrey Colegrove stated that the floating zone would give the Commission more discretion.

Primary concerns will be parking and the matter of owner-occupied for a combined retail operation with residential use (or if the residential area could possibly be a rental unit).

3. Review of Sign Regulations

Geoffrey Colegrove indicated that he had spoken with the Commission's counsel, Attorney Steve Byrne, as well as the Department of Transportation. Commercial signs are not permitted in the state's right-of-ways unless a lease is in place for the signage. Nonpermanent signs are prohibited as well on the state's right-of-ways. While such signage is not allowed, there is no enforcement by the state unless there is a traffic hazard or line-of-sight issue. It would not be appropriate for the Commission to craft language allowing signage in the state's right-of-way.

Richard Eriksen stated that recent budgetary reviews show that the Commission's budget is at 88% of maximum at present (with four months remaining in the fiscal year). While legal expenses can be explained in matters where the Commission must incur costs for defending an action or bringing forth a suit, it is difficult to explain the overage in the budget because of the number of sign regulation meetings and minutes/regulation changes. He stated the need for the Commission moving forward on the sign regulations (toward public hearing).

The Commission then discussed the remaining components of the language that had neither been decided definitively or were still in discussion.

The Commission agreed upon this language for 11.01.02.07:

Retail gasoline outlets may have an additional fifteen (15) square feet of sign area for advertising fuel price. Such additional sign area may be affixed to a building, canopy, or free standing sign. Such signage shall be in addition to that required by applicable state and/or federal regulations.

11.01.02.08.

The Commission discussed nonpermanent signage for individual businesses. Geoffrey Colegrove stated that, in Madison's regulations, there is a ten-foot setback from the adjacent property line. The proposed language was modified to read as follows:

Each business within the commercial/industrial zone shall be permitted one (1) nonpermanent sign; this sign shall not exceed nine (9) square feet in area and shall not be illuminated. Such signs shall not be spaced less than twenty-five (25) feet apart as calculated at the property's frontage and ten (10) feet from adjacent property lines. Signs in excess of thirty-six (36) inches in height shall be located not less than eight (8) feet from the curb line of a public highway.

Such signs located more than eight (8) feet from the curb line of a public highway shall not exceed forty-eight (48) inches in height. For the purpose of this section, a business is defined as a unit that is owned or leased.

Joe Pasquale asked how it would be handled if one business in a multi-business site decided not to have a nonpermanent sign; in that situation, another business could not post a second sign. It was also agreed that even if a business is located on a property with frontage on two roads, only one nonpermanent sign per business is proposed.

Joe Pasquale asked for clarification as to the issues with signage on the ball fields and how this related to other signage regulations in town (regulating based on use versus regulating based on property). Geoffrey Colegrove stated that with respect to signage regulations, the intent of the nonpermanent signs (one per business) is to give more signage opportunities to multisite business locations. The ball field signage issue has to do with non-premises businesses (i.e., businesses being afforded the opportunity for signage on property they don't own).

11.01.02.09.

Joe Pasquale stated that he does not have an issue with flags, but does not find the banners to be very attractive. In addition, he expressed concern with what Main Street would look like if every business used a banner (especially along the front of a building, such as the gable front of the former bakery). He suggested removing "banners" from the language.

The Commission discussed imposing a time limitation (i.e., banners for grand-opening events). Geoffrey Colegrove stated that this would be impossible to enforce; banners could be part of the total sign calculation as an option.

This was the language agreed on for the proposed draft:

Flags and banners are permitted, provided that they are attached to the building, the display does not exceed nine (9) feet in height and twelve (12) square feet in area, and there is only one (1) per unit owned or leased. Banners shall be included in the overall calculation of area for the purposes of signage.

11.01.03.07.

The Commission decided to delete this language that had been originally proposed from the draft, then renumbering the remaining section of the language:

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 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 of 15 feet or project above the height of the fence to which it is affixed, whichever is less.

11.01.06. Special Events

Definitions: 02.19.03.01. through 02.19.03.03.
Sections: 11.01.06.01. (Accessory Use); 11.01.06.02. (Principal Use)

The Commission discussed this newly proposed section of the sign regulations at length, ultimately determining to delete the proposed sections/definitions.

Some of the concerns discussed included handling of properties predating zoning/postdating zoning, whether or not a special permit was in place, etc.

Chris Flanagan discussed the language he had proposed for defining the special event concept to further detail its intended meaning (separating it from a usual or typical event, possibly linked to duration, etc.).

The Commission also discussed inviting the Durham Fair Association to a meeting to talk about possible special permitting for signage. There was follow-on discussion as to what *could* transpire on the Fair Association property when/if ownership changes (and depending on if it 'reverted' to the town or to a private or for-profit organization). If the 'activity' were not a fair, then a special permit could be required for any event. It was noted that the property is primarily a wetland and certainly in a floodplain, precluding many types of possible development or uses.

Dave Foley noted that the only thing consistent on the Fair Association's site is change and there is challenge with attempting to regulate signs within a property that is ever changing. Frank DeFelice reiterated his prior characterization of the situation—the proposed language might be considered a "solution in search of a problem." Bonnie Ryder referenced previous issues brought before the Commission with regard to what takes place on the Fair Association's property from the standpoint of noise and/or blinking-flashing lights.

Motion by Dave Foley, seconded by Frank DeFelice, to delete the proposed definitions and proposed sections related to Special Events (02.19.03 and 11.01.06.01 and 11.01.06.02) from the proposed sign regulations. Motion carried, 8-1, with all in favor with the exception of Lisa Davenport (in opposition).

The plan will be for Commissioners to review the final draft of the language then move forward with scheduling a public hearing on April 1.

4. Payment of Bills

Motion by Chris Flanagan, seconded by Alana Adams, to approve payment of the following bills:

- Absolute Advantage - $433.12 (minutes of February 18, 2015)
- Absolute Advantage - $600.00 (sign regulations)

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

5. Approval of Minutes

Motion by Dan Melnik, seconded by Lisa Davenport, to approve the minutes of the February 18, 2015, meeting as presented. Motion carried, 8-1, with all in favor with the exception of Dave Foley (in abstention).

6. Zoning Enforcement Officer's Report

Geoffrey Colegrove stated that the depth of the snow prevents inspection of any signage along Main Street. He noted that the Aberdeen/Stagecoach Farms matter is coming to a conclusion, anticipated this in the next month. Attorney Tom Byrne (Atty. Steve Byrne's father) previously had provided clarification to the Commission that a letter of credit is equivalent to a cash bond. The content of any letter of credit provided by the applicant/buyer will be subject to review by the Commission and its counsel (including review of the timeline/duration of project, expiration date in letter, etc.).

Rockville Bank is funding the project. The buyer has just completed a 40-unit project in Vernon.

7. Town Planner's Report

Geoffrey Colegrove stated that the discontinuance of a portion of the road off Blue Hills Road was still in the hands of the Board of Selectmen (while First Selectman Laura Francis advised him that the Board had voted to release it, nothing has yet been provided in writing for the Commission to conduct an 8-24 review).

Frank DeFelice stated that there is a bill before the legislature this session requiring towns to pay for land record updates for town roads that are discontinued; in addition, towns would formally be required to notify all abutters.

Joe Pasquale referenced a set of minutes from the Zoning Board of Appeals' October meeting concerning a deed for a property on Dunn Hill Road. Geoffrey Colegrove explained that a field mistake had been made by a Massachusetts surveyor in staking out a building within a subdivision that was approved after discontinuance of a road.

8. Miscellaneous

Richard Eriksen advised that the Connecticut Federation of Planning and Zoning Agencies would be holding its annual conference later in March at the Aqua Turf.

Motion by Lisa Davenport, seconded by Dan Melnik, to adjourn the meeting at 9:43 p.m. Motion carried unanimously.

Respectfully submitted,
Jan Melnik, Recording Secretary

3/10/2015