

Town of Farmington
Planning Board Public Hearing Minutes
Tuesday, January 17, 2017

Board Members Present:

David Kestner, Vice Chairman
Jim Horgan, Selectmen's Rep.
Bill Fisher
Martin Laferte

Board Members Absent:

Charlie Doke, Chairman, excused

Others Present:

Liz Durfee, Interim Planner
No public present

BUSINESS BEFORE THE BOARD:

Call to Order:

Vice Chairman Kestner called the meeting to order at 6:10 p.m.

Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

Minutes:

January 3, 2017 – No errors or omissions found.

Motion: Mr. Horgan motioned to approve the minutes as written; 2nd by Mr. Laferte.

Vote: The motion passed 4-0.

Resignation:

Vice Chairman Kestner told the board that he received a letter of resignation from member Resta Detwiler. Ms. Detwiler wrote that she was stepping down due to the prohibition against 2 members of the Conservation Commission also serving as members of the Planning Board. Mr. Kestner thanked Ms. Detwiler for her time on the board.

Motion: Mr. Horgan motioned to accept the resignation of Resta Detwiler; 2nd by Mr. Laferte.

Vote: The motion passed unanimously.

Recess – Mr. Horgan motioned to recess the meeting until 6:29 p.m. 2nd by Mr. Laferte. The motion passed unanimously at 6:15 p.m. The meeting reconvened at 6:29 p.m.

Public Hearing – 6:30 p.m.

Vice Chairman Kestner opened the continued Public Hearing at 6:30 p.m. Consensus of the board was to change the order of the amendments for discussion to begin with Amendment 2 and move Amendment 1 to the end of the hearing.

Amendment 2 – Mr. Kestner read the proposed amendment as follows:

To amend the Zoning Ordinance to include Section 6.00 Accessory Dwelling Units. Section 6.00 includes: authority; administration; approval process; provisions of accessory dwelling units; minimum lot requirements; owner residency requirements; discontinuance of the unit; enforcement and a severability section.

Related amendments to the Zoning Ordinance Section 1.14 Definitions are also proposed.

Amendments to space and bulk standards in Section 2.01(B), 2.02 (B), 2.03 (B), 2.04 (B), and 2.05 (B) are also proposed to allow one (1) dwelling unit plus one (1) accessory dwelling unit per minimum lot size of the district.

Mr. Laferte expressed concern about not limiting the size of an ADU to less than 750 feet in the proposed definitions.

Ms. Durfee said the Town can't require the ADU be less than 750 feet and that legal counsel recommended the size limitations be removed from the definitions section of the ordinance (Section 1.14).

Mr. Kestner noted the proposed amendments to the Space and Bulk Standards (Tables 2.01-2.05) proposes to add 1 ADU per the lot size approved for each type of district.

Ms. Durfee said the Municipal Association and Town counsel recommended there be guidelines as to the size of the units and that the board had previously discussed how to limit the units' sizes.

Mr. Kestner added that he did not want to see the units be as big as the primary unit. He noted there is a potential for an ADU to occupy most of a basement or first floor of a dwelling.

Mr. Kestner then asked for any questions from the public.

Hearing none, he closed the public comment portion of hearing on Amendment 2 at 6:40 p.m.

Mr. Fisher asked if the ceiling over a basement ADU could be considered a "common wall" as required by Section 6.01(D5) of the ordinance.

Mr. Kestner said the structural surface is common between the primary residence and the ADU whether it is horizontal or vertical.

Mr. Fisher said he did not want to preclude the use of a basement as an ADU and asked if "ceiling" should be included in the ordinance.

Ms. Durfee said there is no definition of "wall" in the ordinance.

Consensus of the board was to add "floor/ceiling" to "common wall" in the ordinance.

Motion: Mr. Horgan motioned to accept the revised Accessory Dwelling Unit Ordinance dated 12/22/16 and to include the proposed language dated 1/6/17 to the Table of Permitted Uses Sections 2.0 – 2.5; 2nd by Mr. Laferte.

Vote: The motion passed 4-0.

Motion: Mr. Horgan motioned to recommend the Board of Selectmen include Amendment 2, Accessory Dwelling Units on the Town Meeting Warrant; 2nd by Mr. Laferte.

Vote: The motion passed 4-0.

Amendment 3- Vice Chairman Kestner read the proposed amendment as follows;

To amend Zoning Ordinance Section 4.03 Waterfront Protection Overlay District. Amendments include technical edits to correct section numbers that are referenced in Section 4.03 (B) (2) and Section 4.03 (C) (2). In the text of Section 4.03 (B) (2), 4.04 (B) (2) is to be replaced with 4.03 (C) (2). In the text of Section 4.03 (C) (2), 4.04 (C) (3) is to be replaced with 4.03 (C) (3). In Section 4.03 (C) (2) (e), 4.04 (B) (4) is to be replaced with 4.03 (C) (4).

Mr. Kestner noted the wording has not changed since the previous meeting and opened the continued Public Hearing on Amendment 3 at 6:50 p.m.

Mr. Kestner asked for questions or comments from the public or the board. Hearing none, he closed the public comment portion of the hearing at 6:52 p.m.

Motion: Mr. Horgan motioned to accept the revised Waterfront Protection Overlay District and move it forward to the Board of Selectmen; 2nd by Mr. Laferte.

Vote: The motion passed 4-0.

Amendment 1 – Vice Chairman Kestner read the proposed amendment as follows:

To amend the Zoning Ordinance Section 3.09 Signs. Amendments include: addition of a purpose section; expansion of the general provisions; modification of the size regulations; modification of sign properties; omission of directional signage section; and addition of a severability section. Related amendments to Zoning Ordinance Section 1.14 Definitions are also proposed.

The board reviewed the Jan. 6, 2017 drafts of the proposed amendments to Section 1.14, Sign Ordinance Definitions and Section 3.09 Signs.

Mr. Kestner opened the continued hearing on Amendment 1 at 6:52 p.m.

Mr. Laferte said that at the previous meeting he asked if real estate signs are considered temporary signs and if they must contain the posting date on them as required in Section 3.09 (C) Temporary Signs. He asked Ms. Durfee if she had gotten a response to his questions from Town counsel.

Ms. Durfee said that the Attorney advised that real estate signs are considered temporary signs and that the posting date should be included on the sign but acknowledged there may be difficulty in enforcing the requirements of the ordinance.

Ms. Durfee said she also contacted the Police Chief and the Town attorney regarding the possibility of allowing the Code Enforcement Officer to permit flashing signs on a case by case basis. She said she was advised that the sign owners could argue that they are being treated differently and that there would be no way to do this legally as it runs afoul of the recent court case regarding equal treatment of signs.

Mr. Horgan asked if the equal treatment ruling only pertains to the content of signs.

Ms. Durfee said the ruling mandates equal treatment for uses as well as content and that the signs must be subject to the same standards in the same district. Even if not intended the CEO/board could be treating the owners differently if the flashing signs were allowed/disallowed on a case by case basis she said.

Ms. Durfee said she also inquired about removing Section E (1) Sign Properties from the ordinance which prohibits scrolling, flashing or movement of signs and limits message changes to no more than every 30 seconds. The attorney advised the section could be removed if the Police Chief did not have any safety concerns about flashing or moving signs. Chief Drury said that excessive flashing and moving lights could be a distraction to drivers but had no major concerns about the issue. She said the Chief also said limiting message changes to once every 30 seconds was a reasonable requirement and that he noted a business owner once flashed a message on his sign warning of an accident ahead which was helpful to the Officers on scene. She added that a business owner told the board at a previous meeting that he would agree to put messages regarding Town events on his sign.

Discussion also included the lack of non-compliance procedures/fines for violators in the ordinance, enforcement of the ordinance, the definition of the illusion of movement, to prohibit or allow scrolling/flashing messages or movement of message backgrounds, definition of visible matter and whether to combine the sentences of Section E1 or to strike the section entirely.

Following a lengthy discussion, consensus of the board was to amend Section E (1) Sign Properties to read as follows: "A sign itself may neither move nor give the illusion of movement. When signs have the capability of changing messages, messages and message backgrounds may scroll, flash or animate. Messages and message backgrounds may not change more frequently than once every 30 seconds."

Vice Chairman Kestner closed the Public Hearing at 7:34 p.m.

Motion: Mr. Fisher motioned to accept the draft Sign Ordinance dated 1/17/17 with the amendments to Section E (1) Sign Properties; 2nd by Mr. Laferte.

Vote: The motion passed 4-0.

Motion: Mr. Laferte motioned to forward the revised Sign Ordinance to the Board of Selectmen for inclusion on the Town Meeting Warrant; 2nd by Mr. Fisher.

Vote: The motion passed 4-0.

Adjournment:

Motion: Mr. Laferte motioned to adjourn the meeting; 2nd by Mr. Horgan.

Vote: The motion passed 4-0 at 7:40 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary

A handwritten signature in black ink, appearing to read "D. Kestner", written over a horizontal line.

David Kestner, Vice Chairman