

NORTH BERWICK, ME 03906

MINUTES OF PLANNING BOARD JANUARY 14, 2016

Present: Rick Reynolds, Mark Cahoon, Barry Chase, Matthew Qualls, Jon Morse, Jim Marchese, CEO

Absent: Chairman Geoffrey Aleva, Anne Whitten

Also Present: Lorinda Hilton, Shirley Barto, Dwayne Morin

1. Call To Order:

Vice Chairman Rick Reynolds will be the Acting Chairman tonight. He called the meeting to order at 6:32.

Vice Chairman Reynolds moved Matthew Qualls up to full voting status.

2. Review Previous Minutes:

Jon Morse stated that on Page 2, in the 5th sentence in the last paragraph it has the town as Gilbert, Texas, but it should be Gilbert, Arizona.

Jon Morse motioned to approve the minutes from December 17, 2015 as amended. Barry Chase seconded the motion. VOTE: 4-0 Abstain: 1

3. Current Business:

3.1 Review of ordinance amendments as recommended by the Board of Selectmen:

Acting Chairman Reynolds stated that they were going to review the ordinance amendments that are being brought forward for a Public Hearing. Barry Chase stated that it looks like Questions 1-5 are all set. Dwayne Morin said that those had already been discussed and approved previously. Acting Chairman Reynolds asked Dwayne if there was any updates on these questions since they had previously reviewed them and Dwayne said that there had been none. Dwayne stated that the attorney still needs to review them. He will be sending it to the attorney tomorrow. He wanted to wait until after this meeting so he could send everything over at the same time.

Acting Chairman Reynolds said that Question #6 was regarding the demolition permit. Dwayne stated that this was all set. Jim Marchese stated that at the last meeting the Board members had requested some revisions to the permit itself. He has made those changes and given the Board a copy of the new permit.

Barry Chase motioned to accept Section 6.1.8 (new) Demolition permit required.

Mark Cahoon asked if there was a time frame from the time that the permit is obtained to when the demolition is done. Dwayne said that it did not have a time limit. Dwayne stated that the whole idea of the permit is to keep our records up to date for tax assessments. Jim Marchese stated that the verbiage that was approved at the last meeting states that Section 6.1.8.5 covers the expiration of the permit. It says that the permit will expire 6 months after the date of issuance.

Mark Cahoon asked if a fee had been established yet. Dwayne said that the Selectmen had not set a price yet but they were talking about a \$5 fee. Barry Chase said that they want it to be a minimal fee because they don't want to discourage people from getting one. Jon Morse said that the fee was not listed on the permit. He thought that it should be on there. Dwayne stated that the permit application is not part of the zoning change. You have to look at what the Zoning Ordinance itself states. It says that all fees are set by the Board of Selectmen.

Jon Morse seconded the motion. VOTE: 5-0

The next question is regarding Section 5.2.6 Signs and Billboards.

Dwayne said that the Planning Board had asked him to do some research on signs. They wanted to know what some of the typical temporary signs were in town. He said that political signs are typically 18" x 24". There are a couple of different A Frame signs that are used in town. The typical one is the regular size which is 24" x 36" and the other is the XL size that are 29" x 45". The Yard Sale signs range from 12" x 18" to 18" to 27". He said that the ones that you buy at Lowes are 12" x 18" and if you go on Vistaprint they offer these two sizes. Real Estate signs are typically 18" x 24" but they can go up to 24" x 36". Dwayne said that Jon Morse had mentioned at the last meeting that 24 sf would probably be the size to put in our Ordinance and he feels that this would probably be the most logical size for the signs as well.

Dwayne said that he has been working with the attorney quite a bit on this Ordinance. He said that another thing that the Planning Board had stated that they had an issue with was that the attorney had suggested a duration for the sign. The Planning Board had asked how we were going to enforce this especially regarding signs for something like real estate. The Planning Board had suggested having a "prior" and then a "removal after". Dwayne asked the attorney if this is something that could be done. At the same time, we need to figure out what we will need to establish for this standard. Dwayne said that they looked at the State of Maine's political sign

law. It states that you can put up political signs 6 weeks before and they have to come back down 1 week after. He said that this should be the standard when looking at temporary signs because now we need to treat them equally, the political signs become the norm. He said that 95% of all temporary signs are political signs. The attorney is recommending that on non-commercial temporary signs that we do 6 weeks prior and 1 week after. Barry Chase asked if this would include political signs. Dwayne said that it would include political, yard sale, real estate and any sign that would be considered nothing for the sale of goods or services.

Dwayne said that he knows that there was some concern about commercial establishments putting their signs out 6 weeks before. He asked the attorney if they could separate commercial signs from non-commercial signs. He said that because of the Reed case the question is about free speech. One of the consenting opinions of one of the judges actually laid out a road map that basically says that you can limit commercial speech more than you can limit free speech. Our attorney is recommending that we separate commercial and non-commercial. Commercial signs can go up 2 weeks prior and come down 1 week after. He said that this is typically what we do now.

Another question that had come up before was regarding home occupation signs and whether we could limit a home occupation sign to be smaller size because it is a commercial business within a home. The attorney said that we could continue to keep our home occupations signs standard at 6 sf.

Acting Chairman Reynolds asked if the event for real estate signs would be the sale of the house. Dwayne said that it was. Once the house is sold the sign needs to come down a week after. Mark Cahoon asked how the town was going to track the signs as to when the event starts and when they stop. He asked if there was a requirement to get a permit and Dwayne said there was no requirement for a permit for temporary signs. Dwayne said that it is really going to be enforced with some common sense. He said that with political signs, it should be pretty easy because the candidates know the rules. Regarding yard sale signs, the date is usually listed on the sign so you can tell when it needs to be down. Dwayne doesn't feel that it is going to be as big of an issue as what some people may think it will be. He said that we will have one standard for commercial and one standard for non-commercial.

Dwayne went on to review the verbiage that the attorney wrote up for the Signs and Billboards section. Under Section 1.5 General we will add a substitution clause. It will read as follows:

1.5.7. Substance Clause. Notwithstanding any other provision of this Ordinance, any non-commercial copy may be substituted, in whole or in part, for any commercial copy on any lawfully existing sign or any sign permitted by this Ordinance. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech.

Dwayne said that it is just saying that our intent within our Ordinance is not to limit free speech.

The attorney is recommending some changes to our definitions to just make them clearer. In our Billboard definition, we stated that anything that is over 32 square feet is considered a billboard. Dwayne said that this was actually contradictory to the rest of our Ordinance so we need to eliminate the 32 square feet. A billboard is for an off-premise sign that is used to advertise for goods and services that are not sold, manufactured or distributed on or from the premises on which the sign is located. We have basically taken the definition and made it consistent with what the State of Maine law is regarding billboards.

Under the definition of a Sign, you will see a couple of changes. One of them has to do with affixing so that it allows it to be affixed to an outdoor surface. Dwayne stated that there is a lot of crossing out because of the new Reed court case. We are not allowed to talk about object, product, place, activity, person, business, service, institution, facility, organization, entertainment or amusement available either on the lot where the sign appears or in some other location.

The only thing that was done for the Temporary Sign definition is adding the following sentence: Temporary signs include banners and feather flag signs.

We also added a definition for Traveled Edge. It reads, “the fog line (white line) painted on a roadway or, if no fog line exists, the edge of the pavement of the roadway.” Dwayne said that when they first did the Sign Ordinance about 4 years ago, and we said how signs needed to be set back from the traveled edge. Although we never discussed it, it was always said that the traveled edge was from the fog line or from the edge of pavement if there is no fog line. We are now just putting it in writing.

The next item is regarding Section 5.2.6 Signs and Billboards. Dwayne stated that there are a lot of cross outs. We basically just combined a lot of the sections. He stated that our Ordinance had a lot of places that had duplicate things listed. Dwayne said that they have consolidated it all into this one Section 5.2.6. The first change is the addition of what is allowed and what is not allowed in the districts. He stated that what is not allowed are billboards, neon or gas-filled tubular signs, signs placed on utility poles, flashing, moving or animated signs and mobile signs that are mounted on a movable chassis. It then goes on to say where they can be located. They can be in or adjacent to any public way or sidewalk as long as it doesn’t obstruct clear and free vision, or where, by reason of its position, shape, color, illumination or other design feature. It also cannot interfere with pedestrian or vehicular traffic.

Dwayne said that it then goes on and separates Permanent Signs and Temporary signs. Under Permanent signs, it really just stays the same and we just basically renumbered the things. The first one reads: “No permanent sign shall exceed fifty (50) square feet in surface area, including the surface area of all informational sides. The total on-premise permanent signage shall be limited to sixty (60) square feet of surface area per land use, including all informational sides.”. We took the previously numbered 2, 3 & 4 and made it all number 1. Under number 2, we just added “the traveled edge of any travel way” and added the word “fifteen”. There is no change

to number 3. In number 4, we changed “free-standing sign” to read “free-standing permanent sign”. We also added the number “(15)” and added “above ground grade”. In number 5, we just added the word “Permanent”.

Dwayne stated that number 6 is actually a combination of a couple of different things that have to do with illuminated signs. It states that the illuminated sign needs to deflect light away from residential properties and public roads. Steady white light shall be required on any illuminated signs. Number 10 was eliminated and moved up to number 1. Dwayne said that they had talked about a durational period for holiday lights. The attorney recommended that they do not put a duration for the holiday lights.

Dwayne said that the former number 12 was now number 7. He stated that this was actually the State billboard law. We included the State billboard law language into our Ordinance. Last year, the State billboard law changed. Before, the only thing that you could advertise off-premise was the little directional signs. The State changed this to state that they were going to allow a different kind of sign in addition to those directional signs called an approach sign. An approach sign is when your business has no frontage on a route because the business is behind somebody. In order to place your sign out where people would see what the business is, your sign is actually off-premise. By law, this is a billboard and it is against the law. So now, the State law says that you can get an approach sign which is permitted through the DOT. Dwayne said that we just wrote this section in number 7 to comply with the State law. Number 8 is regarding Home Occupation signs and it basically stays the same. It was just reworded.

Acting Chairman Reynolds said that he thought they were not going to do anything regarding the permanent signs this year. Dwayne said that the attorney thinks that they will be all set with these changes that are being recommended. The attorney said that our permanent sign ordinance was written really well and it would only need a few tweaks.

Dwayne said that the next section was regarding Temporary signs. He said that there were a lot of cross outs because we are creating two different types of temporary signs which are commercial and non-commercial. He stated that number 1 read as follows: “No temporary sign shall exceed _____ (_____) square feet in surface area, including the surface area of all informational sides. The total on-premise temporary signage shall be limited to fifty (50) square feet of surface area, including all informational sides, at any given time.”. Dwayne stated that the Planning Board needed to fill in the blank to indicate what the square footage will be for the signs. He stated that in looking at the square footage of all the different temporary signs in town, it would appear that 24 square feet would fit into the zone that they had been discussing. Number 2 states that the maximum height of a temporary sign shall be fifteen (15) feet above ground grade to the topmost point. Number 3 states that the sign cannot be located within 8 feet of the traveled edge or within five feet of the paved edge of a sidewalk.

Number 4 is where we break down the duration. It reads: “No temporary sign may be displayed for more than six (6) weeks prior to any event bringing about its use, except that no temporary commercial sign advertising goods or services may be displayed for more than two (2) weeks prior to such event, and shall be removed forthwith after the event but in no case later than one (1) week after the sign has fulfilled its function.”.

Dwayne stated that numbers 15-24 and all Shoreland District Standards have been removed because they have been included in the above mentioned 4 numbers.

Jon Morse suggested that they decide what the square footage should be for the temporary signs before moving on to the next section. Barry Chase said that they should go ahead and use 24 square feet. The Board members all agreed.

Dwayne stated that the next section is 6.5 Sign Permit Requirements. He said that it is basically staying the same except adding the word “permanent” before the word “sign” throughout this section. We also removed section “e” and “f” is now “e”.

Dwayne said that regarding the Temporary Signs, we eliminated everything and added just one paragraph that states:

Temporary signs conforming to section 5.2.6.c do not require a permit. Temporary signs not conforming to section 5.2.6.c are considered a violation of this ordinance and are subject to enforcement pursuant to section 6.6 and 6.7 of this Ordinance.

Dwayne said that he gave the Planning Board credit for some of the concerns that they had brought up at the previous meeting because it made the attorney look at things a little differently.

Jim Marchese stated that as far as the sign definition goes, would it be clearer if we added that the sign will be measured on each side. Dwayne said that it actually says it in the ordinance already.

Jon Morse motioned to accept the revised Sign Ordinance with the amendments that were brought forth tonight for Section 1.5.7 Substitution Clause, 3.2 Definitions, 5.2.6 Signs and Billboards, 6.5 Sign Permit Requirements and to add under section.5.2.6.c.1 the size “twenty-four (24)”. Barry Chase seconded the motion. VOTE: 5-0

Acting Chairman Reynolds stated that the next item on the Agenda was Question #8 Establishment of Planning Board Ordinance. Dwayne stated that there is a question of legality regarding the current bylaws. The big change is to change the terms for the Planning Board from 5 years to 3 years. We established our Planning Board in 1967. At the time, the State Law said that the terms needed to be 5 years. In order to create 3 year terms, we need to create an Ordinance. Dwayne said that they took the existing bylaws and basically created it into an Ordinance. The first item on the Ordinance is regarding Establishment. This shows the State

law that allows us to have a Planning Board. The next section is regarding Appointments. He stated that we didn't really change anything except the terms from 5 years to 3 years. Any member currently on the Board will still have to complete their 5 year terms. He stated that when there is a permanent vacancy, the municipal officers shall appoint a person to serve for the unexpired term.

Number 3 of the Ordinance is regarding the Organization and Rules. The first item states that the board will elect a chairperson and vice chairperson. The Town hires the stenographer. When a member is not able to attend a meeting the chairperson will designate an associate member to sit in for the absent member. It also states that an associate member may attend all the meetings of the board and participate in the proceedings but cannot vote unless they were designated by the chairperson. It also states that if there is a question of whether a member is disqualified from voting on something, the Board members will decide by majority vote whether or not that member becomes disqualified. It also states that the Board will have at least one regular meeting each month. Everything needs to be given in accordance with the Maine Freedom of Access Act. You must have 3 members to have a quorum and you can adopt rules for transaction.

The final section is regarding Duties: Powers. It states that the board shall perform duties and exercise such powers as are provided by the Ordinance and the laws of the State of Maine. The board may also obtain goods and services necessary to its proper function within the limits of their budget.

Mark Cahoon asked Dwayne if they were going to be notified if their term was coming up. Dwayne said that he usually calls and/or emails them to see if they are still interested.

Dwayne said that there will possibly be two more questions regarding liquor laws. He stated that there is currently a petition going around town to allow for an agency liquor store.

Barry Chase asked Dwayne what the status was with Geoffrey Aleva and if he was coming back. Dwayne said that he is supposed to attend the next Board of Selectmen's meeting so he should be all set after that.

Dwayne said that they will be having a Public Hearing on 2/11/16 at the Community Center.

4. Other Business:

There is no other business at this time.

5. Adjournment:

Barry Chase motioned to adjourn the meeting at 7:41 pm. Mark Cahoon seconded the motion.

VOTE: 5-0

James Marchese
Planning Coordinator

Respectively submitted,
Susan Niehoff, Stenographer

Chairman Geoffrey Aleva

Barry Chase

Rick Reynolds

Mark Cahoon

Jon Morse

Anne Whitten

Matthew Qualls