

Planning Board Meeting – January 17, 2017 Minutes

Members Present: Harold Broadwell, Errol Briggerman, Gilda Wall, Ruth Van der Grinten, Lloyd Lancaster, Kathe Schaecher

Members Absent: Ashley Anderson, Victoria Curtis, Allen Swaim

Staff Present: Planning Director David Bergmark, Planner Patrick Reidy

Guests Present: Regina Harmon, Mayor Gray

1. Meeting Called to Order

Mr. Broadwell called the meeting to order.

2. Welcome and Recognition of Guests

Mr. Broadwell welcomed the public.

3. Chairman and Board Members' Comments

There were no comments.

4. Adjustment and Approval of Agenda.

Gilda Wall made a motion to accept the agenda. Ruth Van der Grinten seconded the motion. The motion passed.

5. Public Comments

Regina Harmon had signed up to speak at public comment, but said she preferred to speak with the issue of temporary signs was discussed.

6. Approval of Minutes

Lloyd Lancaster said that he had had a discussion with Ms. Rice about the fact that some of Mr. Marlowe's comments in the last meeting were not included in the minutes. Mr. Lancaster said that at the top of page 9 of the minutes Mr. Lancaster said that the Planning Board take note of what Mr. Marlowe was saying. He said the bottom of page 8 had a lengthy paragraph of Mr. Marlowe's comments. He said the minutes were missing one phrase. Mr. Lancaster asked the Planning Board if anyone else heard Mr. Marlowe say at the last meeting that Wendell, with all of his regulations, was the most difficult place he had ever built in his 30 years of building. He said he was sure he heard it, but that it wasn't included in the minutes for December 19, 2016. He said that he had asked staff to review the audio recording for that sentence, but Ms. Rice said that it was either not on the recording or not intelligible. He said staff had put more detail into the minutes that reflected what was said by Mr. Marlowe. Mr. Lancaster said he would like that statement included in the record, and asked the Planning Board members if they remembered hearing a statement to that effect.

Mr. Briggerman said that he remembered Mr. Marlowe saying that he was satisfied with they had agreed upon but that it was difficult. Ms. Van der Grinten said she didn't remember Mr. Marlowe saying that but she did remember him saying that he appreciated the Town working with him. Mr. Broadwell said he thought he remembered Mr. Marlowe making that statement and he certainly has heard other builders say

that in the past. Mr. Lancaster said he wasn't sure how that statement should be included in the minutes but he would let Ms. Rice decide the best way to include it.

Ms. Schaecher said she wasn't present at the December 19th meeting and that the minutes showed that she was present.

Mr. Lancaster made a motion to include a statement in the December 19, 2016 minutes that Mr. Marlowe had said that in his 30+ years of building he had found Wendell to be one of the more difficult places he had ever built in. Mr. Briggerman seconded the motion. The motion passed unanimously.

Mr. Lancaster made a motion to accept the December 19, 2016 minutes with the updates by staff, a change showing Ms. Schaecher was not present, and an amendment that showed Mr. Marlowe's statement. Ms. Van der Grinten seconded the motion. The motion passed.

Mr. Lancaster asked Planning Board members to ask visitors to speak in the microphone so that they can be recorded accurately. He said this would make staffs' jobs easier.

7. Discussion, Consideration, and Action on the Following Items:

Item 7A – Discussion and Action on proposed text amendments to Chapter 12 of the UDO as it relates to temporary signs.

Mr. Bergmark gave the following report, in italics:

In January of 2015, the Town Board approved amendments to Chapter 12 of the UDO related to temporary signage. Significant features of the approved text amendment (see Attachment A) were that small ground signs erected by a non-profit operating within the Town's jurisdiction or a business located within the Town's jurisdiction could post up to 12 signs (no more than 2 per property) with no time limit. The text of the ordinance was based on language provided at the board meeting. Prior to these new rules, only 6 small ground signs could be erected at once and the permit was valid for 10 calendar days.

The intent of the 2015 amendment was to provide more flexibility to businesses wishing to erect temporary signs and to provide staff time to gauge the impact of the amendments passed. However, the current regulation which provides no expiration date for these temporary signs has created enforcement issues for staff and has caused complaints from citizens. Some citizen complaints have been related to signs being erected on their property without their permission. Other complaints were regarding temporary signs creating an overall unkempt and messy appearance along the town's entrance roadways. Even if properly placed and permitted, the omission of a duration period for smaller temporary sign permits increases the total number of temporary signs erected around town at any given time.

As a result, it is staff's recommendation that an expiration date of 14 days be re-established for all temporary sign permits. The proposed amendments also include modifications to other sections of Chapter 12 in order to make the Town's regulations more in line with the 'Reed vs. Town of Gilbert' court case. This case found sign regulations should be as content-neutral as possible.

One question for the planning board to consider is whether or not any special standard should be created for 'feather signs/feather banners'. Under both the current and proposed regulations, their height would only permit one feather sign to be erected at a time on a property for a 10-14 day period using the 'all other temporary signs' provision. Some jurisdictions, such as Wake Forest, do not permit feather signs/banner at all. Other jurisdictions, such as Raleigh will permit them for a 30 day period. Garner does not directly address them, but their general temporary signs regulations would allow a single feather sign/banner to be erected for 30 days with a permit.

Summary of Proposed Changes (for red-lined changes to Chapter 12, see Attachment B)

- *Make temporary 'ground signs- small' valid for 14 days, with 6 signs permitted per business (rather than 12).*
- *Remove content related language from the 'Banners' section and reword so that it is clear that banners placed on buildings are valid for 30 days, while banners mounted on poles in the ground are valid for 14 days (like other temporary signs).*
- *Amend 'sandwich board signs' so that the sign does not have to be located within 8 feet of a door. Instead, the sign simply has to be placed on or directly behind the sidewalk in front of the business, with at least 4 feet of clearance if placed on a sidewalk.*
- *Remove the 'Mobile Sign' category from temporary signs. This provision is rarely used, and can be lumped into the 'All other temporary signs' category.*
- *Remove language related to 'special event signs of recognized non-profit or charitable organizations' from the 'Realtor and Non-Realtor Open House Signs, and Yard Sales Sign' section of 'Signs Not Requiring a Permit'. Special event signs should be addressed by the 'temporary sign permit' section.*
- *Add language under the 'Applicability' section of Chapter 12 to reference the general statute which creates a 24 month exemption from sign regulations for fence wrapping.*

Ms. Schaecher asked if 6 temporary signs were permitted at a time or per year. Mr. Bergmark said that businesses were permitted to get 6 temporary signs at a time up to 4 times per year. Ms. Schaecher said she had worked on a lot of fundraisers over the years and she had never gotten a permit for a temporary sign. Ms. Van der Grinten said she didn't know if people would think to get a permit for that. Mr. Bergmark said it was hit or miss. He said that there were people who would come in and ask and there were people who would just go out and put the sign up.

Mr. Briggerman asked, if the Town were to go back to enforcing the temporary signs, was the purpose for accountability that people only post signs x times a year. Mr. Bergmark said it was to make sure the rules regarding size, number of signs, placement, etc. were met. He said it came down to aesthetics and safety. He said some people thought too many temporary signs looked messy while others didn't. He said that, if you thought about it, the purpose of signs was to distract. He said if there were too many or too large signs along the road it could create a dangerous condition. He said that the Board should consider what it would look like if permitted temporary signs reached its full potential.

Mr. Briggerman asked about yard sale signs. Mr. Bergmark said yard sale signs were addressed separately in the UDO. He said you didn't need to get a permit for those types of signs. He said homeowners were limited to 4 or 5 times per year for yard sale signs to limit an ongoing business occurring.

Mr. Bergmark showed a picture of too much temporary signage to illustrate a traffic safety hazard and lack of aesthetics.

Ms. Schaecher said it seemed as though there were a lot of different time frames for each type of temporary sign. She said it would be easier to have the same time frame for each type of temporary sign. She said she wasn't sure how staff would keep up with that, but suggested there be a date stamped at the bottom of the sign indicating when the sign should be removed. Mr. Bergmark said that the more you would try to accommodate different things, the more confusing it got. The more simple the regulations the more rigid they would get. Mr. Bergmark said the Planning Board could make the recommendation to make the time limit 30 days across the board. He said he suggested less than 30 days for lighter than air signs. Ms. Schaecher said she agreed that large signs like lighter than air sign should be limited more because they were more distracting.

Ms. Wall suggested that businesses be permitted to have temporary signs 4 times per year for each type of temporary sign. Mr. Bergmark said that the Town used to have a similar regulation, but it ended up being too confusing so the Board changed it to the current regulations.

Mr. Lancaster said he wished Wendell Boulevard looked like Mr. Bergmark's example of too many temporary signs. He said it looked like that at the beach and it screamed to him that it was a thriving business and a thriving community. Ms. Harmon and Ms. Schaecher agreed. Mr. Lancaster said that eventually, when there were too many signs along the roads, then they could talk about having a limit for an overall number of temporary signs allowed to be posted in Wendell at one time.

Mr. Lancaster asked if he would be permitted to post a sign for a business on his own property all year round if that was his desire. Mr. Bergmark said he would be permitted to do so 4 times a year. Mr. Lancaster said he didn't want to restrict business. He said it was his own private property. Mr. Bergmark said that property owners and businesses could do that in the County, but all towns have these types of sign regulations. Mr. Lancaster said there was a thing in the law called prior restraint where people had to ask for permission to do things on the property that they bought. He said he understood the purpose, but he said he didn't see the purpose of prohibiting clearly maintained signs and restricting businesses.

Mr. Bergmark said that his proposal was normal regulations that all towns have and enforce. He said the proposed temporary sign regulations were on par with or less strict than other towns in Wake County. Mr. Lancaster said he didn't want Wendell to be like every other town. He said he wanted us to be unique. He said why shouldn't they be known as the town that let people alone. Mr. Bergmark said that could be said about living in the County, outside of a municipality. He said he didn't know that most people living in a town wanted it to be just like living in a rural county.

Mr. Briggerman said there were some signs that were posted all week long, but most event signs were posted on the weekends. Mr. Bergmark said that brought up a good point. He said Town staff didn't work on weekends, so nobody was driving around looking at signs on a Saturday. He said that if someone wanted to post a sign over the weekend and take it down before Monday, nobody would be the wiser. Mr. Lancaster asked if we were encouraging rule breaking.

Ms. Schaecher said one reason why she got involved with the Town was because of a conversation she once had with the owner of Nowell Auto. He had a banner attached to his tall monument sign that he didn't get permitted. Ms. Schaecher said it broke her heart to hear how worried he was that he would get fined because of this or be told to take the sign down, and all he was trying to do was build a business. Ms. Schaecher said one reason why she joined the Planning Board was because the Town had so many regulations, and now they were discussing more regulations on signs. She said she could see how it could become an eyesore after a while, but why not wait until it actually became an issue before making regulations.

Ms. Regina Harmon gave her public comment. Ms. Harmon said she owned several businesses in Town. She said the Planning Board brought up a lot of great comments. She said she appreciated it when Mayor Gray suggested having a 12 sign limit last time this issue was brought before the Board. She said nobody had abused that policy and there weren't too many signs up. She said businesses were thriving because of the current sign policy.

Ms. Harmon said that when the General Store opened there were a lot of sign ordinances that hindered businesses, and that there weren't any businesses Downtown at the time. She said she didn't want different rules for Wendell Falls and the rest of Wendell. She said she wanted to put up a banner for Chick-fil-a when she was selling it at the General Store, but there were problems with the sign regulations. She said she came to the Town to get a permit for the banner, and after hanging it for a couple of weeks, she was told that it was too large to hang from the awning. She said that the businesses Downtown that had awnings weren't able to put banners directly onto the brick façade because there was no room. She said that wasn't fair.

Ms. Harmon said there should be some unification for time periods. She said 4 times per year was nowhere enough time, especially when you're talking about banners, feather signs, ground signs, etc. She said that events needed to be advertised at least 45 days out and it was hard to business owners to account for events in the Town.

Ms. Harmon said we needed to get to the meat of it and not worry about what Garner, Wake Forest, and Cary were doing. She said we only needed to worry about Wendell. She said Wendell was nowhere near to having a sign problem. She said just look at the number of buildings still available in Wendell.

Ms. Harmon said as for yard sale signs, people only put them up for a few days. She said the Town had a code enforcement guy that worked 40 hours a week and all he did was drive around and take down signs. She said as far as whether he would be able to handle it, if the paperwork were filled out right, he could carry a piece of paper that showed how long each sign had been posted and whether he should pull the sign up.. She said that was easy.

Ms. Harmon asked if staff had gone out and asked businesses how they felt about signs. She said she had seen where staff had posted the meeting announcement, but staff should have made it more clear what topics were being discussed at the meeting. She said more people from the business community would have shown up if they had known this were being discussed.

Ms. Harmon said she was fine with the proposed number of signs that were permitted at a time. She said she had a problem with the limited number of times per year and the length of time the signs were allowed to be posted.

Mr. Broadwell asked if Mr. Lancaster wanted to throw out Chapter 12. Mr. Lancaster talked about the concept of prior restraint, which he said we traditionally opposed in this country. He said he felt like this was an issue of prior restraint. He said we had people who wanted to run a business. He said we clearly didn't have a problem, but we were trying to fix a problem that didn't exist.

Mr. Broadwell asked Mr. Lancaster what action he would like to take. Mr. Lancaster made a motion to strip Chapter 12 from the UDO for the duration of 2 years. Ms. Wall asked if Chapter 12 regulated all signs or just temporary signs. Mr. Bergmark said that Chapter 12 referred to all signs, including monument signs and wall signs, in addition to temporary signs. Mr. Briggerman said he didn't have an issue with the Town's regulations for permanent signs.

Mr. Lancaster withdrew his previous motion. He made a motion to suspend all temporary signs regulations for a period of 2 years. Ms. Schaecher said this motion was closer to her own preference but was still concerned with lighter-than-air signs. Mr. Lancaster said lighter-than-air signs were not a problem in Wendell and that he had never seen a single one in Town. Mr. Lancaster withdrew the motion.

Ms. Schaecher made a motion to suspended enforcement of section 12.7.D regarding temporary signs for a period of 1 year. Mr. Lancaster seconded the motion. Mr. Bergmark said that would also include regulations on lighter-than-air signs. Ms. Schaecher said that was the reason why she limited it to one year.

Ms. Van der Grinten said that she was more inclined to tweak the current regulations than to strip them all the way.

Mr. Bergmark said staff made additional recommendations regarding fence wrapping, realtor and sandwich board signs, which were outside of section 12.7.D. Mr. Lancaster said the Board could vote on this motion and then address those recommendations.

The motion passed 4-2. Voting in favor – Lloyd Lancaster, Gilda Wall, Errol Briggerman, Kathe Schaecher. Voting against – Harold Broadwell, Ruth Van der Grinten.

Mr. Lancaster made a motion to approve the other staff recommendations for changes to Chapter 12 of the UDO. Ms. Schaecher seconded the motion. The motion passed unanimously.

8. Adjourn to Next Regularly Scheduled Meeting

Mr. Lancaster made a motion to adjourn the meeting. Mr. Briggerman seconded the motion. The motion passed unanimously.