

TOWN OF LAUDERDALE-BY-THE-SEA
PLANNING AND ZONING
REGULAR MEETING MINUTES
Town Commission Meeting Room
Wednesday, January 19, 2011
6:30 P.M.

Mr. Hunsaker made a motion to nominate Mr. Wick as Acting Chair for the subject meeting due to the absence of both Chairman Oldaker and Vice Chair Brandt; seconded by Mr. Yankwitt. The motion carried unanimously.

I. CALL TO ORDER

Acting Chair Lawrence Wick called the meeting to order at 6:30 P.M. Members present were Acting Chair Lawrence Wick, Ben Freeney, George Hunsaker and First Alternate Eric Yankwitt. Also present were Jeff Bowman, Director of Development Services and Town Attorney Kathryn Mehaffey. Board Secretary Colleen Tyrrell was present to record the minutes of the meeting.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

Acting Chair Wick acknowledged the excused absence of Chairman Oldaker and Vice Chair Brandt.

III. APPROVAL OF MINUTES

Planning and Zoning Workshop and Regular Meeting of the Planning and Zoning Board of December 15, 2010

A motion was made and seconded to approve the above minutes as presented. In a roll call vote, the motion passed 4 – 0.

IV. PUBLIC COMMENT

None

V. NEW BUSINESS

Project:

Applicant:

Location:

Request: Item #1. Proposed changes to the required parking regulations and general public parking requirements.

Director of Development Services Jeff Bowman remarked the subject item was previously discussed at the December 15, 2010, P&Z Workshop; he went on to review the information contained in the backup. Staff wished the Board to review the items highlighted in green, beginning on page seven, as they were additional staff recommendations for the Board to consider for approval.

Mr. Wick questioned if a business owner increased the dimensions of their floor space, would they be responsible for new parking.

Mr. Bowman affirmed they would have to provide added parking.

Mr. Freaney expressed a general concern for businesses whose use of their bay area was 50 percent warehouse and 50 percent retail sales floor, wondering if their parking space requirement was calculated based the entire square footage of the floor space.

Mr. Bowman commented in the Town's existing Code, calculation of the amount of parking space encompassed the entire floor area of the structure, including storage areas. Staff sought not to change the existing Code but to make the verbiage consistent.

Mr. Freaney remarked his concern lay with future interpretation of the Code, a matter the Board could refine in the subject process. For instance, a restaurant's seating space requirement should not include kitchen square footage.

Town Attorney Mehaffey indicated section 3315D on page seven provided for mixed uses in commercial areas where mixed uses were permitted. The question would be whether, in reviewing the application, the building was determined to have mixed uses. She noted these aspects could be further clarified in the Code.

Mr. Yankwitt questioned if an applicant had a challenge with the mixed-use provision, could they rectify the situation by submitting a variance application.

Mr. Bowman indicated this was possible.

Mr. Freaney pointed out there was a fee and application process associated with getting a variance, which he thought would be an onerous penalty for a business owner. He thought if there was language in the Code for other types of businesses that addressed a similar issue, and this language should apply to situations similar to those discussed.

Mr. Bowman stated most businesses already had credit parking spaces; if additional parking spaces were required, a recent ordinance passed by the Commission gave the Town Manager authority up to about three parking spaces. If an applicant needed the requirement waived, they could go before the Commission for a decision. Thus, there were number of mechanisms available.

Mr. Hunsaker claimed it surprised him that retail stores were not classified as "sales areas", as such areas determined the number of patrons that might visit a store.

Mr. Bowman remarked the Town did not have warehouses, rather there were small retail shops that might use portions of their square footage to store merchandise. It would hardly be beneficial for retail businesses to use a significant portion of their space for storage.

Mr. Yankwitt noted at times he changed the use of the space in his office as to how much was used for storage, library, conference room, etc.; but this did not mean he had to apply for a variance each time he decided to redecorate. The most efficient approach to measuring the number of parking spaces a business should have was using the entire square footage of the business' floor space, as the calculation did acknowledge different types of industry and what the standard multiplier of square footage was for parking spaces. It was better to consider applications on a case-by-case basis.

Mr. Hunsaker felt a maximum square footage should be included for restaurants that could qualify for no parking spaces, as it appeared the Town was leaving itself open to a situation in which no matter the size of a restaurant coming to the Town in the next three years, they would not have to provide parking.

Mr. Freaney commented, in light of trying to clean up the Code, it would be prudent to incorporate language for the various types of spaces that were limited to public use areas to make the Code more streamlined. There was still the option of the applicant going before the Town Manager or the Commission for a waiver. He pointed out the Town's process was not onerous for new businesses, but applicants were unlikely to come to the Town if they had to go through added steps after filling out and submitting the initial application paperwork. Regarding the issue of changing uses, in most cases it would require moving walls, etc. that would, in turn, require additional permits, and it was at this level changes to the parking requirements should be considered. He noted the Town's Code defined the required number of parking spaces per square footage related to different uses in the commercial areas, including a matrix developed by consultants knowledgeable as to the amount of parking spaces required for various uses. He asked if the numbers used by the consultants were from the same or similar source(s) when the matrix was developed.

Mr. Bowman assumed the same or similar source(s) was used.

Mr. Freaney thought, in order to alleviate extra work for potential businesses wishing to come to the Town, staff should develop generic language that pertained to a wide variety of retail uses, allowing them to move forward without requiring they take added steps in the application process to get a waiver on square footage requirement for parking spaces.

Mr. Wick agreed with Mr. Hunsaker, expressing disappointment in the Commission allowing new restaurants to come to the Town and take what he felt was an unfair economic advantage of existing restaurants; restaurants that came to Lauderdale-By-The-Sea after the moratorium lifted would also be at an economic disadvantage. He believed the language in the amended Code was not very well thought out, as no numbers were given to furnish an idea of what the costs would be. The main goal appeared to be to fill the ten or 12 retail spaces, which he felt was not the Town's responsibility, as their vacancy was due mostly to the present state of the economy. If a large restaurant chain came to the Town in the next three years, purchased a large lot and build it out wall to wall, they would not have to pay for any parking for the life of the restaurant; this would be a very bad situation. He requested a motion to move the subject matter to the Town Commission.

Mr. Hunsaker made a motion to approve moving the subject changes as reflected in the backup and have them go forward to the Commission for a vote, seconded by Mr. Freeney.

Mr. Freeney wished to amend the language of the recommended Code changes.

Town Attorney Mehaffey indicated if the Board was looking to impact the areas that had open areas, from the list in the backup this appeared to apply primarily to items K and M, as all the other uses were based on floor area that was not necessarily prone to public use types; there were other factors that came into play. Thus, the Board could, within items K and M, amend the language to possibly read, "... each 225 square feet of sales/display floor area ..."

Mr. Bowman commented though the Board was asked to find a simpler method by which to get businesses to open in the Town without having to deal with the parking requirements set forth in the Code. The whole intention of the ordinance the Board previously forwarded to the Commission for approval was to make it easier for businesses to acquire parking space waivers, and the language the Commission passed streamlined the approval process for required parking.

Town Attorney Mehaffey pointed out the amendment to the language the Board was now proposing could have a significant impact on the Town's parking requirements in the Code, possibly cutting the number of spaces by half; she recommended doing this only in items K and M.

Mr. Freeney preferred the language in the parking code cleaned up completely, realizing it would require another round of discussions and voting for such a change to take place. He proposed an amendment to the existing language that could be generally applied to all commercial retail uses, as they all used portions of their space for storage. Language amendments could be applied to items K, M, Q and R on page 12.

Town Attorney Mehaffey reiterated the changes to the language should be individualized, as item Q pertained to public and office space; banks, and savings and loan could be classified as areas of public service and office. Thus, that covered sales and display, as well as gasoline service.

Mr. Bowman pointed out the requirement would apply to gasoline service, as one such business already existed in the Town, and a second would not be a permitted use.

Mr. Freeney suggested dropping item R, as it would not be a permitted use, and he doubted if the existing gasoline service business intended doing any renovations or expansion.

Mr. Bowman sought to confirm the Board wished to change the language to reflect that businesses were required to have a set number of parking spaces per square foot, not including storage areas.

Mr. Freeney thought this language would not be sufficiently generic.

Mr. Bowman recommended the Board take additional time to discuss the issue of storage space and other uses for commercial space, as staff would be bringing back amendments to the language of a third ordinance in the Code that addressed parking for hotels and motels.

Mr. Freeney concurred, asking the Town Attorney to conduct some research to learn how other municipalities handled similar issues.

Mr. Wick wished to clarify the discussion, noting there was a proposed amendment to the language in the changes to the Town Code pertaining to commercial parking that was being sent to the Commission by the Board, but the amendment was not seconded.

Mr. Freeney indicated he would maintain his second to the motion to move staff's proposed amendments with Board recommendations forward to the Town Commission for approval.

In a roll call vote, the motion passed 3 – 1; Mr. Yankwitt voted no.

Item #2. Proposed changes to fences and concrete wall requirements.

Mr. Bowman reviewed the changes laid out in the backup pertaining to the subject item, noting the Town Commission directed staff to investigate cement concrete walls, the aim being to expand on the types of finishes required for such walls, including decorative features that increased their attractiveness.

Mr. Wick asked if any of the changes proposed by staff were unusual or different by design than what was done in the past; that is, would the changes lead to any major or significant alterations in existing design standards.

Mr. Bowman responded the Town never established any design standards for cement walls, and the new language was reflected in red and underlined in the backup.

Mr. Wick wished to know if the proposed changes were common to neighboring or other Broward municipalities; this was important for consistency.

Mr. Bowman replied staff pulled ordinances from surrounding cities and found their design standards to be consistent with staff's proposals. The only proposed change that was not consistent was detailed item 2 I.

Mr. Yankwitt recalled the City recently hired a consultant to conduct a seminar on design concepts that might be aesthetically pleasing in the Town, and the following day of the seminar a walkthrough of the Town was conducted. He thought many wonderful ideas emerged from the walkthrough of the Town with the consultant and the Town's people, as there was an interchange of ideas, thoughts and concerns. Staff's proposal appeared to have been drafted prior to the walkthrough; if so, could changes be made based on the outcome of the seminar and input from the walkthrough.

Mr. Bowman indicated the changes reflected in the backup as they related to cement walls would remain the same. However, if there were recommendations Mr. Yankwitt wished to add that were not reflected in the backup, this was the proper forum to voice them.

Mr. Yankwitt commented during the walkthrough some members of the community expressed surprise the Town had a marina with boats docked there, and along the road the marina abutted there was a fence that could be changed to allow passersby to see the marina, a more aesthetically pleasing structure that enhanced the appearance of the area. He wondered if staff's proposed changes allowed for such a fence.

Mr. Bowman believed it would, noting Mr. Yankwitt seemed to be suggesting a fence through which people passing by could see the marina was preferable to a solid fence. He thought the reasoning behind the property owner erecting a solid fence was for security purposes, mainly to protect the many boats and equipment located on the property. It would be difficult to change the fence if the owner preferred not to.

Mr. Yankwitt presented a scenario in which an owner found his property surrounded by neighboring enclosures that were undesirable. If that owner chose to erect a fence to obscure the view of undesired enclosures and the latter were subsequently removed, would that property owner be required to bring the outer facing portion of the fencing up to an aesthetically pleasing standard.

Mr. Bowman thought this a good point, suggesting the Board consider adding language to address such a scenario to ensure the property owner maintained the visible outer facing portion of the fence up to Code requirements.

Town Attorney Mehaffey asked if the Board wished there to be a condition requiring such property owners to upgrade their fence by a set period of time if the obstacle was removed or the fence destroyed, or there should there be a nonconforming condition, whereby the fence could be made code compliant when it was replaced.

Mr. Yankwitt mentioned certain causative factors should be considered; such as, destruction by an act of God like a hurricane; voluntary removal of fences; or new homeowners with different aesthetic tastes wishing to make changes.

Town Attorney Mehaffey pointed out the Town already had established codes for fencing; if fences were repaired or replaced, there were standards property owners had to adhere to.

Mr. Bowman reminded the Board the current verbiage in the Code applied only to wood fences.

Town Attorney Mehaffey indicated both wood and concrete fences/walls were being addressed under C2 in the backup, stating they needed to be finished on both sides unless they abutted an existing wall or fence.

Mr. Freaney felt the answer was to have a nonconforming condition apply to the fence or wall until the criteria set forth in the current Code was met. It would be an economic hardship to require a landowner immediately tear down or repair a fence just to comply with the Code due to their neighbor's decision to remove or alter an abutting fence or wall.

Mr. Wick questioned item I G that dealt with chain link fences, wondering if the chain link fence along the parking lot running north to south on A1A before reaching the south entrance of Belair would be classified as being in a nonconforming district or was it out of code. He noted trash was collected along the chain link fence, and the fence abutted a property zoned RM4 or RM5.

Mr. Bowman responded in 2007, the Town unified the Code to improve the whole Town; prior to that time, Broward County's Code was used and it permitted the chain link fence. There was no language in the current Code that addressed nonconforming fences, though it might be discussed in 3021, but the removal of such a fence meant it met the 50 percent requirement.

Town Attorney Mehaffey confirmed the chain link fence would be classified as nonconforming under 3021, and no action would be required unless it met the 50 percent criterion.

Mr. Hunsaker remarked the subject lot was nonconforming, and a variety of objects was stored on that property.

Mr. Wick indicated the proposed additions to the subject code were fairly well written and invited a motion from the Board to pass them onto the Commission as presented by staff. Amendments to the language could be made thereafter.

Mr. Hunsaker made a motion to approve the subject changes as reflected in the backup and have them go forward to the Commission for approval, seconded by Mr. Yankwitt.

Mr. Yankwitt wished to make a motion to amend the proposed changes to include language to address properties whose walls or fence became a nonconforming use. The property had to become code compliant within a reasonable amount of time; the requirement could be categorized under two criteria, one for conditions due to an act of God, the second due to actions of abutting neighbors.

Mr. Bowman was unsure if nonconforming was the appropriate classification, as the aim was to bring exposed, unfinished walls/fences up to code whenever they occurred. When a structure or use was classified as nonconforming, it was due to a change in the Town's code; thus, , when fences were built, they were usually in compliance. He suggested including language that gave a set time frame in which an unfinished wall or fence must be brought up to code after the removal of abutting enclosures; the time allowed could be differentiated based on the act that led to the removal of the abutting enclosure. Where the exposure of the unfinished fence was due to an act of God, the property owner should be allowed more time to bring the structure up to code, and if a neighbor's removal of their fencing exposed unfinished fencing, less time should be given.

Mr. Bowman believed that for both scenarios, a reasonable amount of time should be allotted the property owner required bring their exposed fence or wall into compliance; he was unsure of the justification to treat them differently, as the time frame should be guided by the extent of the work required to bring the fencing into compliance.

Mr. Freaney pointed out that the property owner erecting the second fencing had very limited ability to overcome the difficulty of complying with the Code requirement to finish the exterior of a wall or fence if it was in close proximity to a neighboring enclosure. The aim of the additional language should be to offer the property owner some guidance on what to do to help them bring their fencing up to code. He was unsure a set time frame should be included in the language, as each scenario would be unique, and a set time could create economic hardship for the property owner being asked to comply. If the fence or wall was damaged by a hurricane, for instance, then the 50 percent rule should apply with regard to replacement or repair.

Mr. Bowman thought unfinished fences and walls that were visible from rights of way should be addressed first.

Mr. Hunsaker pointed out problems might arise if such language was added to the Code, whereby, individuals building after the amended language took effect had to comply, but those who built prior to the requirements taking effect would not. The same rules should apply for both existing and new construction.

Mr. Bowman commented the Code should remain as is.

Town Attorney Mehaffey summarized the motion: the proposal to be forwarded to the Commission for approval was an addendum, the new item J on the second page as currently proposed in the text set forth in the backup, with added text, based on Board discussion. This would reflect language along the lines of: "If the obstacle is removed, the fence side facing out shall be finished on the side facing out, upon

replacement or repair of any facing out segment for any reason. Repair or replacement of 50 percent or more of the fence shall require all segments facing out to be finished.”

Mr. Yankwitt felt the amended language reflected the essence of his recommendation.

Mr. Bowman asked if the requirement should apply to both wood fences and cement walls.

Mr. Yankwitt affirmed the language should apply to both forms of enclosures.

Mr. Yankwitt made a motion to amend staff's proposed changes to include the above language as presented by Town Attorney Mehaffey, seconded by Mr. Freaney. In a roll call vote, the motion passed 3 – 1.

Mr. Hunsaker made a motion to approve the subject changes as reflected in the backup and have them go forward to the Commission for approval as amended, seconded by Mr. Yankwitt.

A roll call vote was taken on the main motion to pass the proposed changes to fences and concrete wall requirements to the Town Commission for approval with an amendment to add language for fences or cement or concrete walls finished on only one side that abuts an obstacle. If that obstacle is removed, the fence/wall side facing out shall be finished on the side facing out upon replacement or repair of any facing out segment for any reason. Repair or replacement of 50% or more of the fence/wall shall require finishing of all facing out exposures. The motion carried 4 to 0.

VI. OLD BUSINESS

Item #1. Proposed changes to the sign regulations.

Mr. Bowman reviewed the backup information pertaining to the subject item, focusing on pole signs in the hotel/motel districts, RM25 and RM50, as well as sandwich signs, where the Board recommended allowing them in the B1 zoning district.

Mr. Wick requested background specifically on the portions in the backup dealing with poles and pylon signs, specifically items 202 to 205.

Town Attorney Mehaffey responded section two provided for the nonconforming language that was in the Town Code. Prior to the shifting around for housekeeping purposes, there was a provision for pole signs and a provision for pylon signs; in one section of the code they were prohibited, while in another section they were permitted. In the zoning districts themselves, both signs were allowed subject to conditions, but were only permitted if they already existed, making them nonconforming signs. She said staff moved all those provisions to the nonconforming section of the codes pertaining to signage; all of section F highlighted in yellow represented the cleanup where staff moved the provisions for clarity. The highlighted red section was the proposal staff made in prior discussions regarding if a time came when the Town wished such signs removed, and it was similar to using the nonconforming language previously discussed and was in other sections of the Town's Code regarding the 50 percent replacement cost. She intimated this was totally a policy decision for the Board to make recommendations on and for the Town Commission to decide on as to whether or not to pursue the matter. Ms. Mehaffey mentioned her focus would be on the changes highlighted in green, purple, grey and red, as these were the changes the Board directed staff to make at its last meeting, and staff wished to confirm their accuracy. Those highlighted in purple pertained to legal issues with staff recommendations; grey was the legal recommendations that might need some policy direction; and the red reflected staff's recommendations; she went on to review those changes, accordingly, as shown in the backup. She moved to page eight, where exempt signs were examined, noting the Board might wish to review the size for noncommercial signs that could be posted on commercial, business or residential property; she then reviewed the highlighted portions dealing with flags regarding permitted sizes and numbers on nonresidential commercial property. The Board was at liberty to change the Code's language. She then looked at page nine, number eight dealing with temporary signs.

Mr. Freaney asked about temporary signs, specifically sandwich signs, and whether the Code had a definition of “temporary” or a set time limit.

Town Attorney Mehaffey answered, yes, later in the provisions, there was language regulating how long temporary signs could be up, and then each sign was defined. She then went on to review pages 10 and 12, noting the changes pertained to legal procedures and was based on a policy decision the Board might wish to consider in terms of whether it desired digital, electronic or LED signs in any context. The legal changes noted in the backup were examined. Staff and she realized the Town had hotels in the RM 25 and RM 50 districts, as illustrated on page 24 in the backup. Section four pertained to subdivision and residential development identification signs, as within sign approvals, staff discovered one of the serious flaws in the Code was it allowed for too much discretion, as this could create legal problems.

Mr. Hunsaker commented as to flag sizes, stating he wished the permitted size of 27 square feet changed to 40 square feet.

Town Attorney Mehaffey responded the Board had considerable flexibility and could set flag sizes based on various thresholds, such as the size of the lot, frontage, etc.

Mr. Bowman concurred, stating the size of 27 square feet was a figure staff put in the amendment but the Board was at liberty to change.

Mr. Wick suggested making an amendment to the motion, specifically to page eight, line 270 of staff's recommendations.

Recess/Reconvene

Town Attorney Mehaffey continued her page-by-page review of the backup material, reminding the Board that the size restriction pertaining to flags applied to the American flag as well, as case law did not permit size discrimination based on a flag's country of origin, etc.

Mr. Yankwitt thought the size of flags needed to be discussed in terms of condominiums, as well as posting commercial flags; for instance, in support of a particular sports team.

Town Attorney Mehaffey indicated the language pertaining to the definitions and provisions of flags was located on page 14 in the backup.

Mr. Hunsaker understood the Town's government buildings had to comply with the flag regulations as well.

Mr. Bowman affirmed this to be the case, reiterating the Board was free to change allowable flag sizes.

Mr. Hunsaker restated his wish for the maximum flag size to be changed from 27 to 40 square feet for commercial and residential, and the language should say the cumulative size of the flag(s) should not exceed 40 square feet. He went on to comment on changeable electronic signs, noting they should be permitted in some manner in keeping with changing times, though he was unclear if they fell under animated or flashing signs.

Mr. Freeney anticipated electronic signs being permitted, though he felt it was necessary to limit flashing signs. He envisioned gas stations having signs that digitally showed gas prices without having to manually change the numbers; it might be difficult to devise language that would differentiate between the various uses and types of electronic signs. There were those electronic signs that gave general information, while others were there specifically to draw attention.

Mr. Wick discussed pages six, lines 160 to 178, confirming the time limits would remain as is.

Mr. Bowman indicated they would remain the same.

Mr. Wick moved on to line 325, questioning the placement of real estate signs on the property of a real estate office.

Town Attorney Mehaffey replied a real estate sign was defined as a temporary sign announcing an open house, a model home, or the availability of a premises for sale or lease; this was different from the permanent signage posted to indicate a real estate place of business.

Mr. Wick next discussed line 344, private signs posted on Town property or rights of way, noting election signs were sometimes placed in these areas.

Town Attorney Mehaffey remarked under the current Town Code, posting of such signs was not permitted.

Mr. Wick questioned if there was Board consensus on line 374 dealing with signs being limited to three colors. He received an affirmative response.

Mr. Yankwitt stated he did not feel adequately knowledgeable about sign colors, lettering and how their aesthetics achieved the business owner's desire; he was merely going along with the Board consensus. He wondered if staff could acquire some form of information that could enlighten him further on such matters.

Mr. Bowman replied staff did not have such information, but the issue of sign colors was discussed at length at the Board's workshop in December, and the Board decided to stick with the language in the current Code.

Mr. Wick directed the discussion to line 451, asking if the Code would restrict the Town from erecting a banner for a Fourth of July event.

Mr. Bowman responded the Fourth of July celebration would be a community event, and signs for such activities were addressed under banner signs in the Code.

Mr. Yankwitt asked about the regulation of signage located within a storefront window; it could just be about items for sale but was not electronic, such as in many grocery and convenience stores.

Mr. Bowman pointed out any sign that was placed within ten feet of the store's window was considered a sign.

Mr. Wick agreed this was one of the points of discussion, as many such stores had their front windows practically covered in sale signs.

Mr. Bowman mentioned the definition of a window sign could be found on page 21, line 856 of the Town Code, to which there were no changes. Stores were currently limited to three window signs that did not cover more than 25 percent of the window area.

Mr. Hunsaker questioned if staff had any issues regarding sign design in terms of the number of colors used.

Mr. Bowman answered, no, he was unaware of anyone questioning the existing code, nor had anyone come to him about such an issue.

Mr. Wick requested a motion to pass on staff's proposed changes with Board recommendations to the Town Commission.

Mr. Yankwitt made a motion, seconded by Mr. Hunsaker, to approve the subject changes as reflected in the backup and have them go forward to the Commission.

Mr. Hunsaker specified his motion to amend the language on page 8, line 270 (15), by placing a period after the words "not to exceed a cumulative maximum of 40 square feet" and strike the rest of the language in the particular sentence.

Town Attorney Mehaffey informed the Board, for clarification, rather than a period, a semicolon would be used.

Mr. Freeny was more inclined to look at the cumulative size based on the lot size or frontage that would make it more flexible for people who might have 100 feet of frontage to have a larger flag or X number of flags cumulative to the maximum.

Mr. Wick suggested the total square footage could not exceed four times the lot frontage.

Mr. Hunsaker asked if the language could be 1 square foot per street frontage and if a store front has 25 feet of frontage, that would be one flag 4 feet by 6 feet and if there was 200 feet of frontage, you could have up to 200 square feet of flags.

Town Attorney Mehaffey said that could be done and a cap could be placed on the maximum.

Mr. Bowman clarified Mr. Hunsaker's suggestion that for every foot of frontage, you would have 1 square foot of flag.

George Hunsaker made an amendment to the main motion, seconded by Eric Yankwitt, to amend line 270 (15) to read "Flags on residential property up to a cumulative maximum of 40 square feet"; and to amend line 272 (16) to read " Up to four flags on a non-residential property, up to a cumulative maximum of one square foot of flag per linear foot of the front lot line". In a roll call vote, the motion for the amendment to the main motion carried 4 to 0.

Mr. Wick asked if there were any further amendments to be added to the main motion.

Mr. Yankwitt said that he would like to discuss the section pertaining to digital signage.

Town Attorney Mehaffey referred to page 12 line 443 regarding the definition of "Animated or flashing sign" and said that language was added that strengthened the prohibition of these signs. Town Attorney Mehaffey recommended that the board give staff guidance because of the extensive nature of regulations that could be applied and imposed and the degree of complexity that would be involved in using these types of signs.

Mr. Yankwitt asked Town Attorney Mehaffey if there were any studies done by D.O.T. that would give the board some insight.

Town Attorney Mehaffey said that the D.O.T. study was not complete, however, the study was due out very soon.

Mr. Wick commented that animated or flashing signs are prohibitive in Town. Mr. Wick asked Mr. Yankwitt if he wanted to delete that section entirely.

Mr. Yankwitt said he thought you could have a digital sign.

Mr. Wick said there was not enough time for the board to come up with some kind answer that evening.

Mr. Yankwitt was in agreement and suggested that the board address this matter at another Planning and Zoning meeting.

Town Attorney Mehaffey asked the board to give staff guidance in what the board would like to see in regulating digital signs.

Mr. Bowman said that in the definition of animated or flashing signs, it was talking about elements, images, text or colors that move and rotate. Mr. Bowman asked the board if they want to allow these types of signs.

Mr. Hunsaker said that he thought there should be something in the code that addresses scrolling electronic digital signage and would like staff to recommend regulations that would allow this type of signage.

Mr. Wick felt that scrolling signs could be beneficial to advertise daily or weekly specials for various businesses.

Mr. Bowman said that if the board wants to allow signs that have moving text, the board could recommend that now. Mr. Bowman said that if this passes through, a separate ordinance would have to be done and there would have to be another legal advertisement, or most likely another Notice of Intent or extending the current one. Mr. Bowman suggested that the board come up with a consensus on how the board wanted to go forward with this.

Mr. Hunsaker said the Town Attorney said that the regulations on these types of signs were extensive and asked Mr. Bowman how he would regulate the signs.

Mr. Bowman referred to page 15 line 582 and said that the neon sign regulation pertaining to illumination could be used.

Mr. Wick verified with Mr. Bowman that neon signs were permitted and if the board wanted to do what Mr. Bowman suggested, they would go by the neon sign regulation and say that a scrolling sign could not be more than 6 inches in height and not more than 4 foot across.

Mr. Freeny said that there were already digital signs in Town. Mr. Freeny said that they span from just a simple LED with image changes with pre non-descript images to a television with a slide show. Mr. Freeny agreed with Mr. Hunsaker and thought that a comprehensive study needed to be done and suggested that staff check with other cities to see how they structured the components of their electrical digital signs. Mr. Freeny said that people have told him that they want to put up a large type TV screen to put up different signage.

Mr. Bowman said that he had directed the board to neon signs by mistake but then referred them to page 11 line 423 (f) regarding Sign illumination regulations. Mr. Bowman said that if the board wanted to revisit this matter, he recommended this be tabled to a future Planning and Zoning meeting and not push this forward and have to do a separate ordinance.

Town Attorney Mehaffey said that there were motions on the table and the board could address any additional motions and give the board guidance on this; there would be the primary motion as amended and at that point table this to come back with additions and final considerations.

Mr. Wick asked the board for a motion to table this to the next meeting.

Ben Freeny made a motion, seconded by Eric Yankwitt, to table the proposed changes to the sign regulations with amendment #1 and open amendment #2 to the next planning and zoning meeting scheduled for February 16, 2011. In a roll call vote, the motion carried 4 to 0.

Mr. Wick asked the board to give staff direction regarding recommending regulations on digital/electronic/scrolling signs.

Mr. Freeny said that in light of the complexity using this type of signage, he thought that staff should check with other cities similar to the Town to obtain general feedback on their experiences with digital and electronic signs. Mr. Hunsaker said that this is an emerging field and there would have to be some information out there on how this would be regulated and in the process encourage forward thinking to modernize our signage. Mr. Yankwitt suggested that staff check with other organizations such as the DOT that would be releasing their latest report soon that would address the complexities of flashing and illuminated signage and also the AARP to get input as to the size of the fonts and other factors that a senior person would have with this type of signage.

VII. UPDATES/BOARD MEMBER COMMENTS

As the board requested at the last meeting held on December 15, 2010, Jeff Bowman researched the parking requirements at the Pier and his preliminary findings were that originally the Pier was built in 1941; there were modifications done in 1963 that expanded the length and the width of the Pier; added a bait and tackle shop; added a snack bar and also a parking lot. In 1973, the original zoning ordinance was passed. Mr. Bowman said that what staff has found so far is that there was no parking requirements prior to 1973. Mr. Bowman said that the only thing left is to research prior to 1973 if there were any Code of Ordinances that would have applied to parking requirements because there was no Land Development Code at that time. Mr. Bowman said that he would have the final update ready for the next scheduled Planning and Zoning meeting

VII. ADJOURNMENT

There being no further business to discuss, Acting Chair Wick made a motion to adjourn the meeting at 9:30 p.m., January 19, 2011.

ATTEST:

Chairman Alfred Oldaker

Date Accepted: _____

Colleen Tyrrell, Board Secretary
