

Rowley Planning Board Minutes For Regular Meeting on February 15, 2017

Members present: Chris Thornton (Chairman), Cliff Pierce (Member), Curtis Bryant (Member) and David Jaquith (Vice Chairman) are present. Kirk Baker, Town Planner is also present.

Jean Pietrillo (Associate Member) and Mark Savory (Member) are absent. Thornton calls the meeting order at approximately 7:30 pm.

Public Hearings for Zoning Bylaw Amendments to be considered at the 2017 Spring Town Meeting:

7:30 pm - Public hearing pertaining to a proposal to amend Zoning Bylaw Section 2 (Definitions) and Sections 4.4 and 4.8 (Use Regulations).

Thornton notes that the subsequent public hearing pertains to the definition of agricultural uses that is derived from the formal definition set by the State, and which, pertains to the minimum acreage threshold for permitting agricultural uses in any zoning district. Currently, the Zoning Bylaw specifically permits agriculture uses in the Outlying (OD) Zoning District

Thornton notes that there are members of the ZRC at the meeting. Mr. Baker stated that the zoning by-law currently lacks a definition of agriculture although agricultural uses involving . The by-law uses “agriculture” in its terms, however does not give a definition of agriculture. The ZRC recommended putting the definition from the State code into the by-law. Baker points out that the by-law states one must have 5 acres where the State code allows 2 acres if the farm generates \$2,000.00 a month.

Pierce brought up the fact that this was already discussed at the ZRC meeting. The ZRC felt that there should not be a dollar amount set (as the State has), but just to say it is appropriate for the 2 acres or more. Bryant pointed out that he feels they would have to consider a dollar amount as the issue has been problematic with the grandfathering in the outlying district, with grandfathered businesses that people have to prove they are still generating income.

Mr. Baker, speaking on behalf of the building inspector, stated the inspector was against having take enforcement actions based on his having to determine the revenue of individual uses.

Libby Tucker from the Agricultural Commission stated she felt that the fiscal limits came under 61-A. A discussion follows: sale of tomatoes on side of road, lemonade stands, etc. Bryant brought up the law suits in Boxford with pre-existing farms also bringing up the issue of the Farmers Markets.

Pierce states that the Board is primarily seeking clarification of the by-law and to bring it into compliance with the state's definition for agricultural uses. However, Pierce notes there is another issue to raise. As he reads the State Law regarding the exemption of agricultural uses from local municipal controls, Pierce notes that the outlying district is currently zoned specifically to permit agriculture uses and the town should not seek to impose any size limitation.

Mr. Jaquith made the motion to approve the language with the amendments discussed. The motion was seconded by Mr. Bryant and passed unanimous. Mr. Bryant also made a motion to close the public hearing and the motion pass unanimously.

7:45 pm - Public hearing to amend Zoning Bylaw Section 8.6.5 pertaining to the external illumination of signs.

Thornton opens the public hearing and states that this is a discussion for an amendment of the zoning by-law regarding illumination of free standing signs. There have been some issues with applicants who want to illuminate their signage, but their plans were inconsistent with the by-law. When applicants gave examples of signs in town, the Board realized that other businesses were not compliant as well. Now the Board is considering allowing the lighting from above and below the signage as long as it protects public safety including glare and light pollution that would be emitted.

Baker notes that there had recently been a complaint by a citizen that there was inconsistency regarding enforcement of the current lighting bylaw. He presents a letter from a Mr. John Petrowicz, who was instrumental in drafting the current lighting bylaw, recommending that moving forward, the Planning Board should develop a policy in regards to what the Planning Board wants to achieve in regards to the lighting bylaw.

Mr. Baker reads the letter out to the Board. In response to the content of the letter Mr. Bryant and Mr. Pierce agreed that some of the points raised in the letter were valid. Mr. Pierce thought that the points in the letter might serve as a kind of check list for the Board. Mr. Bryant felt the over- all premise of the letter was a good one. Mr. Bryant stated there were 3 important goals:

1. The over-spilling of light into adjacent properties (light trespass)

2. Vertical Light pollution (dark skies issues)
3. Vehicular traffic not to be blinded by the light (also light trespass)

Mr. Pierce thought it might be good to change the language to make it clear that there is no choice between downward and upward lighting. Another change Pierce would like to make the language state “except that the Planning Board may waive this requirement if it determines that such a waiver is necessary and in the public’s interest”. Pierce suggested he and Baker work on the language together.

Pierce also suggested that the zoning bylaw language be changed to emphasize that fixtures on externally illuminated free standing signs shall be pointed downward excepting when the Board waives the specific requirement when doing so is in the public interest, and, when such fixtures are shielded to prevent the types of light trespass just previously mentioned.

Thornton asked public meeting attendees if there were any problems with any signs in town which they would like to bring to the Board’s attention. There was no response.

Pierce made the motion to close the public hearing, Jaquith seconded and Thornton closed the hearing. Pierce made a motion to accept the changes made to the by-law and to recommend approval at the Spring Town Meeting, Bryant seconded the motion and it was unanimously passed (5 in favor/0 opposed).

8:00 pm - public hearing for a proposal to amend Zoning Bylaw Section 4.6 to permit pharmacies with drive-through facilities with Planning Board approval in the Retail Zoning District.

Thornton opened the Public Hearing, all were in favor.

There are no applicants at this time except that CVS has expressed potential interest in locations where drive through service would be possible. Baker notes that the Zoning Official has expressed the opinion that such drive-through amenities in pharmacies is the preferred business model today. The Board is considering that there will be a time when developers will be proposing plans for a large pharmacy that will want a drive-through. This would be by special permit, so the Board would have the right to consider it. Bryant asked Joan Peterson where the two drive- through establishments that were grandfathered were located. Peterson stated it was McDonalds and Dunkin’ Donuts.

Pierce agrees that the town needs to change with the preferred model. He notes that there is a section in the retail uses that says what type of businesses need a special permit. There is another section that says

what type of businesses need a site plan review only. The change was made previously for the section regarding site plan. Pierce stated that he felt all should fall under special permit.

Peterson is concerned that it is Route 1, it is the retail district and the proposed ruling is long over-due. She feels that the zoning changes take forever, but the bottom line is that these businesses bring in tax money to a town that needs more money that won't put an impact on our schools, etc. She would like to see this go through more smoothly.

Pierce stated that no one is opposed to the idea, the Board is trying to decide if the change should be site plan review only or special permit. The larger the type of building the more the Board would like to see the review handled by special permit. This way there is more control and discretion.

Jaquith brought up the point that they would like to see how much space there is, what landscaping requirements there might be, and, where it is located in regards to the pharmacy inside.

Thornton also states that, knowing the type of retail store the town is trying to attract, the Board does not have a lot of discretion about setting hours. Under a special permit, however, the Board does have the ability to consider the hours of operation where under site review the Board would not have that option. Bryant states that many towns use special permit with larger businesses that are a little more complex to get that little layer of review beyond site plan (i.e. the infrastructure). Site plan review does not cover all of the little nuances that go on with these complex projects.

Peterson brought up the fact that there is plenty of property (in town) and that she would like to see some more retail business in town. If there is a pharmacy that wants to come in to town and have a drive-through, she is all in favor of it.

Bryant stated that he would like to see more things happen different than we already have. When the winery opened up, it attracted visitors. Once one attracts visitors, then it would spill over into other businesses.

Peterson said she would like to see people coming in from near-by towns to shop in Rowley and would like to see more retail business come in. She states that everyone benefits when we bring people in from other towns.

Thornton brought up the possibility of a walk-in clinic that a pharmacy might bring in and this might be something the town would like to consider.

Baker pointed out that a site plan review can occur without having a special permit approval, however a special permit has to always have a site plan review. Does the Board want to do both? Pierce answered that the amendment need only happen under the portion of use regulation pertaining the requirement for Special Permit approval.

Motion was made to close the public meeting, seconded, and passed unanimously.

Motion was made by Pierce to approve the modification and to forward to the Spring Town Meeting. Motion was seconded and passed unanimously (5 in favor / 0 opposed).

Adjournment

Pierce makes motion to adjourn the meeting. Jaquith seconds the motion. All vote in favor (3-0).

Meeting adjourns at 9:00 pm.