

Planning Board – Public Hearing

Zoom Virtual Platform – www.zoom.us, P: 646-558-8656, Meeting ID: 957 4466 1097, Password: 048426
Wednesday January 6th, 2021 7:00 p.m.

Members Present: Donald Holland, Chair; Walter Gunn, Clerk; Ken Taylor, Bruce Colton, Josh Levine.

Others Present: Town Manager Lyn Simmons, Andrew Fox, Steve Walker.

The *Planning Board Virtual Public Hearing* was called to order at 7:03 p.m. by Chair Donald Holland.

The public hearing, which was originally advertised in the local paper on October 8th, 2020 and October 15th, 2020 as well as on the town's website, was called to order on October 26th, 2020 and continued without deliberation to December 2nd, 2020 as well as January 6th, 2021; the hearing's purpose is to review the zoning bylaw changes proposed by the Town as it pertains to unpaid zoning violation fines, commercial vehicles and non-conforming structure reconstruction.

Proposed Amendment to Article I, Section E.6 of the Town's Zoning Bylaws:

" Any violation of the provisions of the Bylaw, the conditions of a permit granted under this Bylaw, or any decision rendered by the Zoning Board of Appeals or Planning Board under this Bylaw shall be liable to a fine of not more than one hundred dollars (\$100.00) for each violation. Each day such violation continues shall be deemed a separate offense. In addition to the procedures for enforcement as described above, the provisions of this Bylaw, the conditions of a permit granted under this Bylaw, or any decisions rendered by the Zoning Board of Appeals or Planning Board under this Bylaw be enforced, by the Building Commissioner, by non-criminal complaint pursuant to the provisions of General Laws, Chapter 40, Section 21D. The fine for any violation disposed of through this procedure shall be one-hundred dollars (\$100.00) for each offense. Each day such violation continues shall be deemed a separate offense. Unpaid fine(s) shall be subject to the municipal charges lien pursuant to MGL. c. 40, sec. 58."

Town Manager Lyn Simmons indicated that the addition of the last sentence (related to unpaid fines) seeks to strengthen enforcement efforts and mirror the same protocols already in place for water and sewer fines, as well as abandoned or foreclosed properties. Bruce Colton, who is in favor of said amendment, also indicated that said language will aid in the proper collection of unpaid fees. Member Josh Levine, who is also in favor, indicated that the method of attaching the unpaid fines to the property provides an opportunity to collect fines whenever action is taken on the property, such as a sale or refinancing.

Proposed Amendment to Article II, "Definitions" of the Town's Zoning Bylaws:

"Commercial Vehicle." Any vehicle registered for commercial use which has a gross vehicle weight rating of 12,000 or more pounds, or is a van, truck, or SUV of any weight that has decals or painted lettering that represents a commercial enterprise."

The definition herein reflect the views of a Department of Community Development/Town Manager joint venture, with Select Board amending the initial proposal to include the sentence "or is a van, truck, or SUV of any weight that has decals or painted lettering that represents a commercial enterprise". This language is based on a research by Town Manager Simmons on definitions provided by municipal managers throughout the Commonwealth, as well as an analysis of the various scenarios that are the source of local complaints.

Two aspects generated concern among board members. One was the potential interpretation of "commercial enterprise" and its implications on sign message and/or content. The second was the impacts this proposed definition would have on local tradesmen who reside in town, must park their work vehicles in their residences and maybe forced to comply, under this definition, with the existing zoning bylaw that requires enclosed garage overnight parking for commercial vehicles; many properties throughout town have the original smaller garages that may not accommodate these vehicles.

Mr. Andrew Fox (29 Lorenz St.) is concerned over the procedural hurdles that hearing continuation and town meeting postponements have on the enforcement of overnight parking of commercial vehicles in town. He pointed to MassDOT's definition of a commercial vehicle (which covers various issues such as vehicle weight, or signage, or ability to carry and display tools, etc.) as adequate guidance to follow for the town's proposed definition and to language currently found in the zoning bylaw's Article IV, Section B, Sub-section 1.2(a) as language that already, in his view, mirrors the definition of a commercial vehicle per MassDOT. He believes defining a commercial vehicle solely based on a commercial registration would open the door to numerous cases of vehicles that aesthetically meet the criteria of commercial vehicle without possessing commercial registration, thus affecting the aesthetics of the town. He is willing to aid the town in looking for solutions to this ongoing problem.

While MassDOT's commercial vehicle definition indicates that any vehicles that fit this description must have commercial registration, the consensus is that this aspect is often overlooked, thus revealing a lapse on the part of the Registry of Motor Vehicles. It is in the best interest of the town to generate a definition for "commercial vehicle" that aptly covers issues pertaining to the vehicle's registration as well as appearance. Because the Fall Town meeting was dissolved in early December with no action taken on the majority of the warrant's articles as effects of the Covid19 pandemic forced a postponement, there is the potential possibility of further brainstorming the best possible definition to be presented at the 2021 Annual Town Meeting in late spring or early summer.

Proposed Amendment to Article IV, Section E, Sub-section 1(b) of the Town's Zoning Bylaws:

If the non-conforming building is destroyed by fire, explosion, act of the public enemy, act of God to the extent of 50% or more of its replacement value, it may be rebuilt on the same footprint within a two-year time frame but any future use of the premises shall conform to the use regulations of the zone in which the building and lands are located.

Over the decades, as zoning bylaws evolved, the consideration of rebuilding on their original footprint previously non-conforming structures that were destroyed by unforeseen circumstances may have been overlooked. Presently, there are a number of lots that are unbuildable as they are unable to meet current zoning bylaw requirements, consequently forcing owners out of their neighborhoods and/or generating financial hurdles. This language aims to eliminate such impasses. The board unanimously welcomed the proposal.

Proposed Amendment to Article IV, Section B, Sub-section 1.2(a) of the Town's Zoning Bylaws:

Private garage, of such size and construction as to accommodate no more than three automobiles. A detached garage shall be permitted in supplement to an existing like facility, but in no case should the total number of spaces be greater than three. A totally enclosed garage must be used for the overnight vehicular storage of commercial vehicles which include vans and pickup trucks used in connection with a business or trade or which have commercial lettering thereon.

The proposed language aims to further clarify the maximum parking allowance of three cars per property whether they are accommodated in a detached garage, attached garage or a combination of both.

Walter Gunn made a motion to close the public hearing. Roll call vote - Mr. Gunn: yes; Mr. Levine: yes, Mr. Taylor: yes; Mr. Colton: yes; Mr. Holland: yes. All in favor 5-0, motion passed and hearing closed at 7:53pm.

Respectfully submitted,

Bianca Damiano