

Committee to Review and Assess Zoning and Review the Town's Use of Regulatory Agreements

Selectmen's Conference Room 2nd Floor Town Hall Building
367 Main Street Hyannis, MA 02601

Councilor Jeffrey Mendes
Councilor Matthew Levesque
Councilor John Crow
Councilor Kristen Terkelsen
Councilor Charles Bloom
Catherine Ledec
Bob Schulte Chair
Ken Alsman

June 28, 2024
4:00PM

MEETING MINUTES

Administrator for the Town Council opened the meeting of the Committee to Review and Assess Zoning and Review the Town's Use of Regulatory Agreements and made the following announcement:

This meeting is being recorded and will be rebroadcast on the Town of Barnstable's Government Access Channel. In accordance with Massachusetts General Laws Chapter 30A, Section 20, the Administrator must inquire whether anyone else is recording this meeting and, if so, please make their presence known. This meeting will be replayed via Xfinity Channel 8 or high-definition Channel 1072. It may also be accessed via the Government Access Channel live video on demand archives on the Town of Barnstable's website: <https://streaming85.townofbarnstable.us/CablecastPublicSite/?channel=1>

The administrator to the Town Council took a Roll call, all members present in the Selectmen's Conference Room except for Chris Kuhn who had to resign due to work commitments. The Appointments Committee will look at the prior applications and make a recommendation to the full Council to replace him on the AD HOC Committee

Also in Attendance were Kathleen Connolly, Assistant Town Attorney and James Kupfer, Assistant Director, Planning and Development.

Members of the Public in person: Eric Schwaab, Town Council President, Felicia Penn

Administrator took nominations for Chair, Councilor John Crow nominated Bob Schulte, this was seconded by Councilor Kristin Terkelsen. Councilor Mendes nominated Ken Alsman, and this was seconded by Councilor Bloom. Mr. Alsman respectfully declined the nomination. Councilor Bloom wanted some discussion on the nomination of Mr. Schulte and Councilor Levesque also wanted to discuss this. Councilor Mendes reminded everyone that mutual respect is needed to the Town Staff as well as those on the Committee and hopes that moving forward this can happen, so that the work can be completed in a timely manner.

All members voted in the positive to elect Mr. Bob Schulte to the position of Chair. The administrator asked that the Chair read the Charge of the Committee so that it is clear as to what they are charged with to complete the task.

PURPOSE: Work with the Town's Planning & Development staff to review and reassess recently adopted zoning changes, review the Town's use of regulatory agreements, and make recommendations to the Council.

Chair of the Committee asked for Public Comment: Eric Schwaab has issues with commercial use in residential areas and hopes that this Committee will look at the inner neighborhoods where this takes

place. He also hopes that public comments and correspondence will be looked at from residents that have similar problems, and issues.

(Administrator had to shut down the Zoom link because of being Zoom bombed by the public domain)

Councilor Bloom asked him about the map he had created to pinpoint locations in the Town of Barnstable that were having such issues. Mr. Schwaab reported that Hyannis had the most issues, West Barnstable had the least, he believes this is due to the density.

Councilor Crow asked what the most driven complaint was, Mr. Schwaab mentioned over crowding of cars in residential areas, basement apartments, auto body repairs and pouring hazardous waste down the storm drains

Discussion continued with the following topics: parking, single family homes, Chair of the Committee mentioned that the Local Comprehensive Planning Committee is also looking at the Zoning; Short Term Rentals. Zoning seems to be a big issue in the Town as mentioned in the email we received, and the public comment made today.

Chair of Committee mentioned the DRAFT document put together by the Town Council leadership had some good talking points and will be discussed at a later meeting.

Committee to Review and Assess Zoning and Review the Town's Use of Regulatory Agreements
Members: 5 Councilors and may include up to 4 registered voters in the Town (provided that the total membership shall be an odd number)
Purpose: Work with the Town's Planning & Development staff to review and reassess recently adopted zoning changes, review the Town's use of regulatory agreements and make recommendations to the Council.
Time Period: Complete work and make recommendations to the Council by October 31, 2024.

Zoning Issues for Discussion/Consideration:

In the GIZ:

- The value of Regulatory Agreements:
 - Who do they provide a long-term benefit to: the Town or the Developer?
 - Since they were intended to provide the Town with meaningful mitigation funds in exchange for waiving zoning, and the town has not pursued this course, should the Regulatory Agreements be eliminated? Or, should the Town create predictable mitigation information?
- Enforcement of Regulatory Agreements: What is the process? Has the Town ever enforced one? Does this need attention?

Form Based Code:

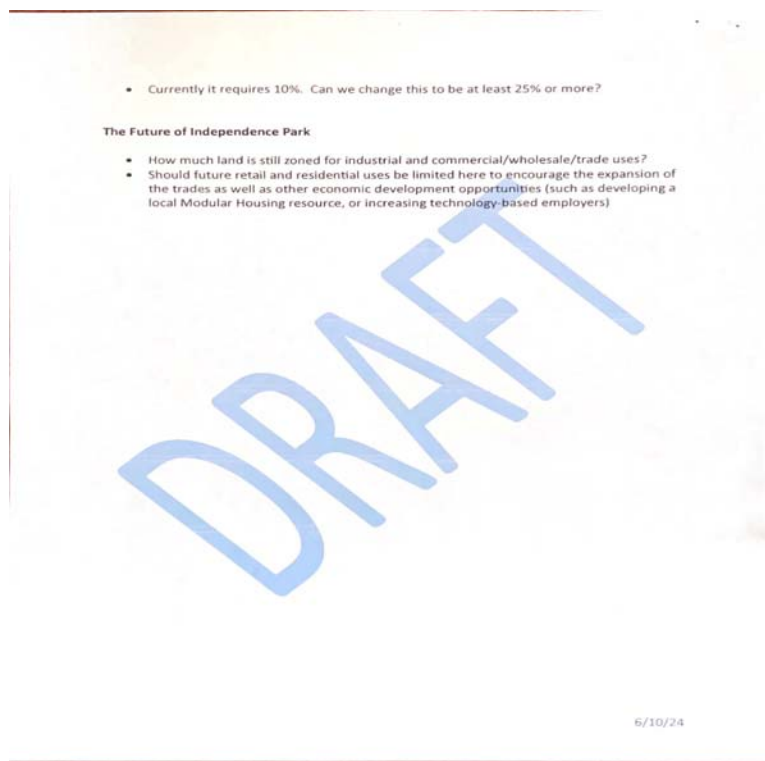
- Is it a benefit to the Town to by-pass the Planning Board?
- Should the map reflect the written text so that each neighborhood/district's area as represented on the map corresponds exactly to the written description for that district?
- Shall the parking requirements within the FBC perimeter differ from other areas in town?
- Shall four stories only be allowed on the North Side of Main Street?

Zoning Enforcement:

- What is required to enforce zoning in residential areas? Specifically: the long-time accumulation of trash, junk, and unregistered vehicles or boats and the expansion of commercial uses in residential neighborhoods.
- What is required to enforce a business license? i.e. assure that the business owner is operating within their license and not engaged in uses that are not licensed.
- Do our ordinances need to be changed so that enforcement is easy for the town to impose, and easy for the residents/home and business owners to understand and comply?

"Inclusionary Zoning":

6/10/24



Catherine Ledec commented that there are Boards/Committees/Commissions that deal with zoning daily, some of those sections could be tightened up to help the enforcement of them and she would like to hear from those Committees on the issues they typically face at their meetings, this might be helpful to us going forward if there was a particular issue they keep coming up against.

Councilor Terkelsen met with Brian Florence and recommended we have Brian come and explain enforcement to the committee, so we have an understanding of how enforcement works.

Councilor Mendes mentioned we need to be careful on limiting the number of cars at a residential home, he cited a case that went before a judge that the neighbors did not like the number of cars parked in the yard, it was taken to court by the neighbors, and the judge ruled in favor of the resident that had the cars stored on his property.

(Councilor Levesque had to leave at 5pm for another commitment)

At the Chair's request, Assistant Town Attorney Kathleen Connolly said that the Town is authorized to adopt and enforce a more stringent local ordinance provided they are not less stringent than the State statute, she also added that some small towns have by laws, along the lines of what Councilor Mendes said, to prohibit, for example more than one unregistered, disassembled vehicle per front yard.

Attorney Connolly will look at our current ordinances we have in place to see if the language needs to be tweaked or if language could be added but will also have to research the case law on these topics to make sure that state law does not preempt the Town ordinances.

Ken Alsman mentioned he struggled to understand Regulatory Agreements and why they exist. President Penn explained how the Regulatory Agreement happened in 2006, they are agreements that are waivers outside of the Zoning regulations and only pertain to the Growth Incentive Zone, not the entire Town.

Mr. Kupfer stated there are about 23 current Regulatory Agreements, but mentioned very few are asked for currently. These projects first go before the Planning Board, and if the Planning Board recommends them, they go to the full Council for approval, if the Planning Board does not approve it, it never reaches the Town Council for a vote.

The Chair of the Committee asked the members of the Committee for the next meeting if they would like a more descriptive analysis of the Regulatory Agreements and how they happen and what happens when there is one. The Committee members would like to invite Mr. Steven Robichaud, Chair of the Planning Board, and Mr. James Kupfer to come to the next meeting to explain this process so the members have a better understanding.

Administrator will invite the following to the next meeting:

Mr. Steven Robichaud, Chair of the Planning Board

Mr. James Kupfer, Assistant Director, Planning and Development

Chair of the Committee asked for a motion to adjourn, Councilor Crow made the motion to adjourn, this was seconded by Councilor Terkelsen, all members voted in favor of adjournment at 6:00pm

Next Meeting July 12, 2024, at 3pm in the Selectmen's Conference Room

ADJOURN: 6:00 pm