



The Town of Barnstable Growth Management Department

367 Main Street, Hyannis, MA 02601

Office: 508-862-4678

Fax: 508-862-4782

Jo Anne Miller Buntich, Interim Director



Minutes of Planning Board - Approved
Tuesday, May 19, 2009
Selectmen's Conference Room
367 Main Street
Hyannis, MA

May 21, 2009

Committee Members Present:

Ray Lang
Felicia Penn
Dave Munsell
Paul Curley

Also present: Ann Canedy, Town Council Liaison
Tom Perry, Building Commissioner
Tom Geiler, Director, Regulatory Services
Jo Anne Miller Buntich, Interim Director, Growth Management Department

Meeting called to order at 4:30 pm by Subcommittee Chair Ray Lang.

Restaurant Definition Discussion

Councilor Canedy stated that she has proposed a restaurant definition ordinance as currently no definition exists for the Villages (exception being the Hyannis Growth Incentive Zone). Anne explained that her intent is to provide the applicant with predictability regarding whether their project would be considered a retail or restaurant establishment prior to the application process.

The definition proposed by Growth Management and submitted for discussion is as follows:

RESTAURANT – A structure in which the principal use is the preparation and sale of food and beverage.

Commissioner Perry stated that this could be a convenience store.

Jo Anne commented that many of the villages are dealing with uses in different ways. She said that corporate branding and formula business become intertwined with restaurants, which should be separate from a restaurant definition. She also said the villages are moving toward having its own unique village zoning districts, whereby what applies in one village may not apply in another. When this was brought

before the Planning Board, their objective was to create a broad definition that could be further defined for each village.

Tom Perry stated that there is not even a definition for a food service establishment in the zoning ordinance.

Tom Geiler said that any establishment selling unwrapped food is considered a food service establishment.

Tom Perry said that this definition would suggest that a convenience store is a restaurant.

Tom Geiler explained that from a licensing perspective the three components of a food service establishment are a kitchen, implements to prepare food and tables. Tom also said that a restaurant definition should be consistent with state laws.

Jo Anne will provide the restaurant definitions as it relates to state health regulations, plumbing code, etc. for review with Tom Geiler and Tom Perry at a subsequent planning board subcommittee meeting.

Discussion of A Frame Signs in the BID

Jo Anne introduced Scott Lajoie, Executive Director of the Hyannis Main Street Business Improvement District.

Jo Anne presented a draft ordinance regarding seasonal (April 1 to December 26) outdoor display and signage in downtown Hyannis that was prepared with input from Tom Perry and is currently being reviewed by the Legal Department. The ordinance has a sunset clause of January 15, 2010 and allows a business to display one of the following three:

- Outdoor merchandise display
- Display flag
- A-frame sign

Under this ordinance a business can be permitted for all of the above, but can display only one at a time.

Tom Geiler stated that state law prohibits material on a public way unless permitted by the Town Manager, who would need to approve each display.

About 1/3 of the sidewalks in downtown Hyannis is private property, and consequently would be exempt from a town ordinance.

Jo Anne stated that Councilor Tobey has agreed to sponsor this ordinance. Jo Anne said that the BID has some enforcement powers, but some of the businesses are outside the BID boundaries and not all are BID members. Scott Lajoie stated that for those businesses that are not part of the BID, it would be the BID's responsibility to tactfully address the issue with the business owner.

In response to a question from Felicia, Tom Perry said that if a business was not in compliance, they would be ticketed and would be fined \$100 per day.

Jo Anne also said that this ordinance will expire in January 2010, unless it is renewed or brought forward again.

Felicia stated that she is uncomfortable with the outdoor display in that additional signage on the displays is not addressed in the ordinance as presented.

Tom Geiler stated that displays on town owned sidewalks are regulated to be 25 feet back from the sidewalk unless approved by the Town Manager. He also stated that banners and flags should have a minimum height requirement if displayed over the sidewalk.

Felicia stated that in regard to outdoor displays, the town will have no recourse over what is displayed, relative to first amendment rights.

Jo Anne will ask the Legal Department if compliance review and enforcement can be deferred to the BID. It will also be added that this ordinance does not preclude the appropriate permissions for placement of items on town property, historic review, etc.

This discussion will be continued to the next subcommittee meeting scheduled for Friday, May 29th, at 3:30 pm in the Town Hall Hearing Room.

Respectfully submitted,

Marjorie Watson
Administrative Assistant