

D-R-A-F-T

DURHAM PLANNING BOARD MEETING MINUTES WEDNESDAY, OCTOBER 17, 2007 TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL 7:00 P.M.

MEMBERS PRESENT: Steve Roberts; Richard Ozenich; Councilor Needell

ALTERNATES PRESENT: Wayne Lewis; Councilor Diana Carroll

MEMBERS ABSENT: Chair Bill McGowan; Vice Chair Lorne Parnell; Secretary Susan Fuller; Richard Kelley; Doug Greene

ALSO PRESENT: Victoria Parmele, Minutes-taker

I. Call to Order

The meeting came to order at 7:12 pm. Mr. Campbell served as Chair for the meeting.

II. Approval of Agenda

Richard Ozenich MOVED to approve the Agenda. Steve Roberts SECONDED the motion, and it PASSED unanimously 4-0.

III. Discussion of Proposed Zoning Changes

Mr. Campbell noted that planning consultant Steve Whitman was present, and that Mr. Whitman had drafted the changes to the Sign and Parking Ordinances.

Draft Article XXIII of Zoning Ordinance - Signs and Communication Devices

He said if the Planning Board could review these proposed changes that evening and direct him to make some or all of them, he would then bring the revised draft back to another Board meeting, and a public hearing could be set. He said it could then be decided whether the provisions were ready to be sent to the Town Council for review.

Councilor Needell suggested that at the next stage of this review process, it would be good to highlight the differences between the existing provisions and the proposed changes. He also noted that there were gender specific terms throughout the document, and it was agreed this would be addressed.

Planning Consultant Steve Whitman, who had developed the draft, said he had met with Mr. Campbell and Mr. Johnson to see what the problem areas were in the existing sign ordinance provisions. He said that overall they were good provisions, but said there were some that needed to be tweaked. He noted that there were some provisions that he felt he couldn't make judgment calls on. Mr. Campbell said that some of these had to do with square footage requirements for signs.

Section 175-132 - Condition of Signs

There was discussion about the words “public nuisance”, that it triggered some kind of enforcement authority in Town, and that there probably would be fines if the signs weren’t taken down. It was noted that Section 175-35 - Enforcement could be referenced.

Section 175-133 A. Total Sign Area

Councilor Needell pointed out the word “ever” in the sentence, “..but no sign shall ever exceed 12 square feet.” It was agreed this word should be removed from the provision.

Section 175-133 B. Snipe Signs

There was detailed discussion on the purpose of snipe signs, and how this provision had been changed in the draft. It was noted that “snipe sign” was defined in the Zoning Ordinance.

There was detailed discussion on the wording “5 ft above the adjacent finished ground level”, and whether this meant 5 ft to the top or the bottom of the snipe sign. It was agreed that this needed to be clarified.

There was discussion on Item #4, concerning snipe signs located in the right of way, and that they “...could extend no more than 2 feet above the ground surface..” so as not to restrict vehicle sight lines. Board members agreed they should talk with Mr. Johnson about this wording.

There was continued discussion on the purpose of snipe signs, and where they could be located. Mr. Campbell said the Board needed to be sure it was ok with the definition of snipe sign, and that it matched Section 175-133 B.

Section 175-133 C. Temporary Signs

Mr. Campbell said Item #6 was a new provision “Only one additional directional sign is allowed for each Real Estate for-sale sign, and it must be located at the nearest street intersection to the property that is for sale. This sign is limited to not more than four (4) sq ft in size, and may project no more than two (2) feet above the ground.”

Mr. Campbell said there had been a lot of complaints from real estate people over the years that their signs were removed. He said Item #6 was an attempt to clarify what was allowed.

There was detailed discussion about it by the Board, and it was noted that Mr. Johnson had frequently seen the situation Item #6 was meant to address.

Mr. Whitman noted that the wording here “..no more than 2 feet above the ground” needed to be considered here as well.

Section 175-133 D. Real Estate Open House Signs

There was discussion as to whether the word “arterial” in Item #1 referred to specific roads on the list of arterial roads in the Zoning Ordinance, or included all the arterial streets in Town. It was suggested that the provision should read “Such signs are not placed on arterial roads as defined by Section 175-7, and others agreed. It was then agreed that the new wording proposed for this provision, “...on arterial roads which are classified as having moderate to high speeds and carry high volumes of traffic..” should be taken out. After further discussion, the Board agreed to remove Item # 1 entirely.

Section 175-133 E. Yard Sale Signs

There was discussion about changing the time period allowed for yard sales from “..5 pm on Friday to 5 pm on Sunday..” to “..12 pm on Friday to 12 pm..” on Monday, because people should be able to see yard signs during the day time. There was also the suggestion that perhaps signs should be allowed from the beginning to the end of a particular yard sale. It was noted that this might result in continuous yard sales.

It was agreed that 175-133 E 4, “Such signs are not placed on arterial roads, which are classified as having moderate to high speeds and carry high volumes of traffic” should be deleted.

Section 175-133 G. Directory Signs

It was noted that this was a new provision. Mr. Campbell said it was developed in part because local businesses had said there should be a sign to help people find a particular business in the Central Business District, especially those located off of Main Street.

There was detailed discussion on why this kind of sign would be needed, and whether business was lost for those businesses that didn’t have them. It was noted that the provision only pertained to businesses in the Central Business District.

Mr. Roberts said a directory sign would allow potential customers to find a business quickly, without requiring a lot of individual signs on Main Street and down the side streets.

Councilor Needell suggested that such a sign should probably be built by the Town, not a particular business. He said it was essentially an information sign, not an advertising sign.

There was discussion that perhaps if the Durham Business Association asked for something like this and designed this, the Town would be receptive. It was suggested that the Association should be able to have some sense that such a sign would be permitted. It was noted that currently, such a sign would be a violation of the Ordinance.

Mr. Campbell said a directory sign could be a good economic development tool. There was further details discussion on the idea of a directory sign, and how the Town Council might be involved with the idea of such a sign, outside of the sign ordinance.

Councilor Needell asked if perhaps this provision should be remove from the sign ordinance draft.

After further discussion, it was agreed by the Board and Mr. Campbell that this provision would be taken out for the time being, and that the idea itself would be brought forward in some capacity. He said he could put this on the agenda for a future Economic Development Committee meeting

Section 175-133 H. Projecting Sign

The discussion on this provision engendered further detailed discussion on **Section 175-133 A. Total Sign Area**. It was noted that the proposed wording under Total Sign Area was much different than the proposed wording under Projecting Signs.

Mr. Whitman said he recommended leaving the projected sign at 20 sq ft for each sign, and perhaps bring wall signs down to 20 sq ft as well. He also said this should be changed to 20 sq ft under Total Sign Area as well, for consistency. He noted that some of the signs on the fronts of buildings downtown had narrow signs that were about that size, and that they seemed to fit there. He also said that a 6 ft by 8 ft wall sign was a bit larger than a piece of plywood, and asked whether perhaps that would seem to be too big.

It was agreed that allow 12 sq ft for a sign could cause problems, and would make a lot of signs in Town non-conforming, so that 20 sq ft would be better.

There was discussion about the idea of bringing wall signs down to 20 sq ft as well. Mr. Whitman said that was still a pretty big sign.

He also said that if the total sign area allowed a business was dropped to 48 sq ft and the maximum per sign was put at 20 sq ft, the other sign provisions could be made to conform to this.

It was agreed that the Total Sign Area provision should read “Each business establishment will be allowed a total of 48 sq ft of signage...”, but that the wording “...no one sign shall ever exceed 12 sq ft” should be changed to read “no one sign shall exceed 20 sq ft”.

There was detailed discussion as to whether the Board wanted to say that a wall sign couldn’t exceed 20 sq ft (rather than 48 sq ft), and also whether the 10% aspect should be included.

Councilor Needell noted that this change for wall signs meant that the square footage allowed would be cut in half.

There was discussion that allowing 48 sq ft for a wall sign, rather than 20 sq ft, made sense, assuming that there was sufficient wall area.

After further discussion on wall signs, it was agreed that the wording would be “..in no case shall it exceed 48 sq ft in size..”, and that “..the cumulative size of permitted signs on any one business establishment shall not exceed 48 sq ft.”

Mr. Whitman noted that wording could be included under Total Sign Area to allow for this exception for wall signs.

Councilor Needell questioned having the specific square footages under Total Sign area if there were going to be exceptions to it.

After further discussion, it was agreed that the wording “..but no one sign shall ever exceed (12) square feet.” would be removed from Section 175-133 A. Total Sign Area.

Section 175-133 J. Window Signs

It was noted that there were two wording options for the Board to consider concerning window signs.

“Signs may be displayed in a window inside a building without a permit as long as they do not cover more than 25% of the total visible window area.”

and

“Signs attached temporarily to the interior of a building window or glass door. Such signs, individually or collectively, may not cover more than thirty (30) percent of the surface area of the transparent portion of the window or door to which they are attached. Such signs shall be removed within thirty (30) days after placement.”

There was detailed discussion on how this would work for local businesses.

Mr. Roberts suggested that Mr. Whitman should come back with something that wouldn't be as difficult for businesses to comply with. He said although she personally would like to see some provisions like this, he wasn't sure it was fair to local businesses.

There was discussion on the temporary nature of these signs. It was noted that the first version provided of possible new language could be considered to allow a permanent window sign. It was suggested that perhaps an additional 25% coverage of the window area by a temporary sign could be allowed.

Mr. Campbell said he, Mr. Whitman and Mr. Johnson would take another look at these proposed provisions, and see if this was generally the kind of thing Mr. Johnson would want to enforce, and if so, what specific provision concerning window signs he would want to enforce.

Section 175-133 K Multi-tenant Developments

Mr. Campbell explained that there had been discussion over the years that Durham needed more signage like this. He said the thought was that such a sign would be up closer to the road, with the names of the different businesses in a business complex, and that the sign would not count as part of the sign allowances for the individual businesses.

There was detailed discussion on the fact that the provision proposed would allow a directional sign to be a maximum of 100 sq ft.

Mr. Whitman said other towns that had this kind of sign typically allowed a sign bigger than Durham would be comfortable with. He said these kinds of signs were essentially anchor signs, with smaller signs within them. He said they tended to be auto oriented.

There was discussion about how big such a sign would need to be on Route 108, for the Stone Quarry Drive development. It was noted that the sign would really only need to say something like the Stone Quarry Medical Park, and could direct customers further into the Park.

Councilor Carroll said a large multi-tenant development sign at Mill Plaza would be a negative, and she suggested that such a sign could simply say "Mill Plaza."

Councilor Needell asked if this section was a response to a request, and Mr. Campbell said it was, from business owners and others. He said developer Dave Garvey had said he wanted this, in order to have maximum exposure for the Stone Quarry Drive development.

Mr. Ozenich noted that there were sight lines issues in Durham, because of the way the roads ran., including the strange way that traffic was directed in the downtown area. He said to make a sign that covered every situation was therefore difficult.

Councilor Needell said 100 sq ft, with a maximum height of 20 ft, seemed quite large, and said he didn't think anyone in Town wanted to see a sign bigger than the Irving sign. There was discussion on this.

Mr. Campbell said the Ordinance could allow a ground mounted sign that would basically name the development, but wouldn't have smaller signs indicating the various businesses in the development. He said this could work for Mill Plaza so people would know where it was, and said the signage for the businesses in the plaza could then be on the individual businesses themselves.

There was detailed discussion on the idea of reaching some kind of compromise for a place like Mill Plaza, which would be good for businesses but would also be aesthetically pleasing.

Mr. Roberts said that some kind of directory sign that was easy to find should also be allowed inside a development. There was discussion on this, and on where it should

be placed.

Mr. Campbell agreed that a directory sign was a good idea, and shouldn't count toward a business's signage.

There was further detailed discussion on what the maximum size of Multi-tenant Development sign should be. It was noted that a sign like this would be two sided. There was discussion that perhaps the Board should check with the ZBA on this provision.

Councilor Needell said the question was whether the Board wanted to do this, and if it did, what it wanted such a sign to look like. He said he wasn't sure that the collective community wanted this, although he realized businesses wanted it.

There was further detailed discussion on how to handle this, including the idea included in the provision of a Signage Master Plan, and the possible use of the conditional use process to address this signage. It was questioned what the criteria would be for the Board to approve a Signage Master Plan.

Mr. Roberts suggested that the address of a multi-tenant development was often seen on such a sign, so people knew they were in the right place.

Mr. Campbell said he and Mr. Whitman now had some guidance from the Planning Board on this. He said he would keep the current draft language, with a few changes the Board had discussed, and said he would also get some examples of the kind of signage they had been talking about.

Mr. Roberts noted that Manchester and especially Bedford had made good changes to their Multi-tenant Development signage. Mr. Campbell said there were some good examples from Maine as well.

Section 175-130. Illumination of Signs

There was detailed discussion on the idea of using ground-lighting, during business hours, and that if it was done right, it was a softer light, and didn't cause light pollution. There was discussion that eliminating spillover was the key issue.

It was agreed that the sentence "All light sources must be positioned for down lighting to reduce light pollution" would be taken out. It was also agreed that something would be added to the first sentence of this provision regarding the fact that illuminated signs would not contribute to light pollution.

There was discussion that it was important to make sure that these provisions didn't conflict with wording in the Lighting Ordinance.

Section 175-134. Sign Construction

At Councilor Needell's suggestion, the Board agreed that the wording "should" on

pages 5 and 6 in this section should be changed to “shall”. There was discussion that the second paragraph in that section essentially embellished the first paragraph, and it was agreed that it could be eliminated.

Concerning Section 175-134 F. Awnings, Mr. Campbell noted that Mr. Johnson counted a whole awning as a sign. He said he didn’t think that was fair, and came up with proposed language, so that the square footage of the awning other than the signage itself didn’t count as part of the business’s allowed square footage.

After discussion, the Board agreed the wording that had been developed should say “The area of the awing used for signage shall be computed by means of the smallest regular polygon thereof...”

Recess from 9:30 - 9:38 pm

Councilor Carroll left the meeting at this time.

Draft Off Street Parking and Loading Ordinance

The Board and Mr. Campbell reviewed what changes were actually proposed in the Ordinance, with Councilor Needell stating that it wasn’t clear from the draft what all the changes were.

Section 175-111 General Requirements

There was detailed discussion on the wording in Section 175-111 A “The nine (9) foot vehicle parking space width may be reduced to eight (8) feet in order to comply with accessibility requirements under ADA or State Building Codes where an access aisle is required adjacent to the space.”

There was discussion on Section 175-111 G. 5 of the Design Requirements, and the fact that parking was currently only allowed on the side or in back of buildings. Mr. Roberts and Mr. Campbell agreed that in some cases allowing parking in front could make sense. It was noted that right now, a variance was needed for this, and Mr. Roberts suggested that perhaps this should be allowed by special exception, if it was compatible with the layout requirements of the property.

Mr. Campbell went through some of the language on this for the various Zoning districts. He said if the Board wanted to revisit this, it would need to do so outside of this present effort.

Section 175-111 E

Mr. Whitman noted that said under Section 175-111 E there was new language to “Parking spaces, excluding employee parking, shall be on the same lot with the main building”, “..unless arrangements have been made for shared parking on another property and approved by the Planning Board.”

There was discussion on this, and there was also discussion on the idea of excluding employee parking, and that if anything, they should be the people who should have to park off site. After further discussion, it was agreed to remove the words “excluding employee parking”.

Councilor Needell asked who tracked the arrangements that businesses had with, say Durham Marketplace, to allow parking, and also asked who enforced this.

Mr. Roberts said when a building went through a change of use, these kinds of details became evident.

Councilor Needell said a particular parking arrangement could change, and asked what happened then.

Mr. Roberts said if there was a change of use for either party, it would be picked up by the Town, but he said if not, it would most likely slide by.

There was further discussion about this, and Mr. Campbell said it was an enforcement issue, one that needed to be defined.

Mr. Ozenich said that the way this wording read, a business could have no parking spaces onsite as long as it provided spaces off site.

There was further detailed discussion on this, and on what options downtown businesses had for parking. It was noted that new buildings developed downtown wouldn't have to provide parking since there was no place to put it, but would have to pay a fee concerning the lack of parking.

Councilor Needell noted that developments with two floors were being encouraged with the Zoning Ordinance, but then businesses were being penalized for not having parking. He asked whether, if a business said it had parking spaces at Durham Marketplace, it was off the hook.

Mr. Campbell said yes.

Councilor Needell noted that the provision simply said “arrangements have been made” and didn't say anything about a financial arrangement.

After further discussion, it was agreed that the wording on employee parking would be taken out, and the Board would see what happened from there.

Section 175-111 F. Bicycle Racks

There was discussion about the various approaches that could be used to store bicycles, under the phrase “bicycle racks”. It was noted that in providing something for bicycles, this meant that less space needed to be provided for car parking spaces. After detailed discussion, it was agreed wording should be included “For all parking facilities that provide 10 or more parking spaces, the installation of bicycle racks shall be required.”

Further discussion on Section 175-111 G. Design Requirements

Under Item a, it was noted that the inclusion of “agricultural use” here came out of Emery Farm site plan.

There was discussion about Item b, “A paved surface (concrete, asphalt, porous asphalt of cement, interlocking brick, etc.)” A question was asked as to whether gravel parking fit under Item b, and there was discussion on how porous gravel actually was, if it had a clay base. Mr. Whitman spoke about gravel-pave as a possible approach, for the right application. It was agreed that gravel should be included in Item b. There was also discussion about possibly removing the word “paved”.

There was discussion on the proposed language for Item c. “Adequate drainage to prevent runoff from flowing onto adjacent property, sidewalks and public roads. The infiltration of storm water on site is strongly encouraged.” It was noted that the draft storm water ordinance would also address this issue.

There was a brief discussion on wording concerning bumper guards for parking spaces.

There was detailed discussion on Section 175-111 7 “Only eighty percent of the Pervious surface treatments for driveways, parking lots, and loading areas will be included in the calculation of the total developed area of the parcel.”

Mr. Campbell said this was put in the draft for discussion.

Councilor Needell said the Ordinance perhaps should have a paved surface ratio, and he provided detail on how this might work. There was discussion as to what difference this would make in terms of actually limiting the amount of impervious surface on a site.

Mr. Campbell said more thought could be put into this.

Section 175-111 8 - Vegetated swales

Mr. Whitman said this followed the low impact development approach.

There was discussion as to how this related to Item 7, and that 8 would apply whether porous

Councilor Needell noted that this was a recommendation, and asked if there was any enforcement aspect to it.

Mr. Whitman asked if the Board would rather require this kind of thing, unless it didn’t work for a particular property.

Mr. Roberts said the drainage plan required in the site plan and subdivision regulations pushed a developer into having to do these things.

Councilor Needell asked if this really belonged here as part of the parking ordinance, or instead should be in the storm water ordinance.

There was detailed discussion about this, and on how this section related to Section 175-111. G 1.c of the Design Requirements concerning drainage. There was discussion that previously, most of the parking provisions related to aesthetic issues.

Mr. Whitman said both aesthetics and storm water management could be addressed in this Ordinance as well as the storm water ordinance, but he said the Board should give some thought to this.

Mr. Campbell quickly reviewed some other changes that had been made in the draft Off-Street Parking and Loading provisions. He noted that all parking requirements had been eliminated for the Central Business District. He said there was a section added on shared parking, 175-114. He said there was some wording concerning loading bays in 175-115, and also said there was a new section on interconnections between parcels, where the back of properties could connect parking areas in part as a way to share parking.

Mr. Roberts said perhaps the Board should be provided with a list of alternative approaches for addressing parking in different parts of Town.

Mr. Whitman noted that performance guidelines could be used for this, also noting that the conditional use permit process allowed the Planning Board flexibility as well.

Mr. Campbell noted that if the Town started not requiring parking, there would be arguments from the public safety people. He said he would rather see the Planning Board require parking rather than not requiring it.

Mr. Whitman noted that some communities were setting parking maximums.

Councilor Needell that the Town Council would be sending the Board the Council initiated changes to the Zoning Ordinance. He noted that one of the proposed changes was to take mixed use office/retail with parking out of the Table of Uses for the Route 108 District.

He said the second proposed change was to change the definition of wholesale sales, to prevent businesses like Cosco. He said the wording had been sent to the Town Attorney to make it would be able to prevent such businesses.

Mr. Roberts asked if the issue of taking the most restrictive, conservative approach to interpretation of the Zoning Ordinance.

Councilor Needell said this had not been discussed yet by the Town Council.

Mr. Campbell said he had gathered some information on this for Administrator Selig, and said his sense was that change was coming concerning this.

Councilor Needell said a third proposed Zoning change being looked at by the

Council was the idea of developing a transfer of development rights ordinance. He said the Council was trying to decide whether it was something it wanted, and what form it should take. He said he had encouraged the Council, if it wanted to move forward with something like this, to work out what it wanted to recommend, rather leaving this up to the Planning Board to do this.

Mr. Roberts said the Planning Board was supposed to field the Master Plan, and then focus down with some logic on these kinds of issues.

Mr. Campbell noted that he had mentioned that the Master Plan did say that the Town should adopt some form of transfer of development rights ordinance.

Councilor Needell said he hadn't heard discussion yet by the Planning Board that this issue was on the horizon. He said it would be if the Council sent it to the Board. He said the Board could also say it wanted to take this over.

It was agreed that the Board should discuss this at the meeting the following week, when more Board members would be present.

Mr. Roberts said the Council should recommend to the Planning Board areas for investigation, and not draft ordinances on their own.

Mr. Campbell said he was in the process of putting together a presentation to the Town Council on transfer of development rights for the November 19th meeting.

There was further discussion on what the Planning Board's role should be on this. Mr. Campbell noted that this issue had come forward very quickly as a result of feedback from the public concerning the TIF district.

Mr. Roberts said it should be a charge for the Planning Board to recommend Ordinance changes, and said he thought it was wrong for the Council to draft ordinances. He said Councilor Needell should be the liaison between the two entities, and said he was doing a good job with this.

Councilor Needell said this was why he was bringing this issue up. He said he had said to the Council that if this was a policy issue, it needed to communicate this clearly to the Planning Board. He said he had also told the Council that he didn't want it to send the Board a vague request. He noted that the Charter allowed the Council to initiate Ordinance changes.

Richard Ozenich MOVED to adjourn the meeting. Wayne Lewis SECONDED the motion, and it PASSED unanimously 4-0.

Adjournment at 10:47 pm

Victoria Parmele, Minutes taker

