

TOWN OF CENTER HARBOR
PLANNING BOARD
Meeting
Tuesday, January 07, 2020
6 p.m.

Chair Charles Hanson called the meeting to order at 6:00 p.m. Board members present Vice-Chair Peter Loudon, Secretary Bill Ricciardi, Selectmen's Rep Harry Viens, Members David Reilly, Kelli Kemery and Clerk Aimee Manfredi-Sanschagrin. Mark Hildebrand, Winnifred Boynton and Rachel Xavier were absent. In the audience, Bernie Volz and Mark Ponton.

Voting Members: Chair announces the voting member as himself Charles Hanson, Harry Viens, Peter Loudon, David Reilly, Bill Ricciardi and Kelli Kemery. (Peter Loudon arrived after the minutes were voted on but at the start of the Public Hearing.)

- I. **MINUTES:** (Voting Members for minutes Charles Hanson, Harry Viens, David Reilly, Bill Ricciardi and Kelli Kemery) Bill Ricciardi motions to approve the minutes of December 3, 2019 as presented. Seconded by David Reilly. All were in favor the minutes pass unanimously.

- II. **PUBLIC HEARING –ZONING ORDINANCE CHANGES SECTIONS 6 AND 4**
Chairman opens the public hearing at 6:02 for the proposed ordinance changes in Sections 6 and 4.

Chair provides some background on the changes being proposed to those in attendance. In the spring of 2019, the Town had some complaints about the signage around town. The Town has a fairly comprehensive sign ordinance and we had quite a few businesses that were not compliant. The Board of Selectmen (BoS) issued letters to all the businesses which stated there were quite a few businesses that were not in compliance with the Town Ordinance and gave the businesses a grace period to come into compliance. The BoS requested that each business submit an inventory of what they currently had for signage on their building(s).

The BoS also asked the Planning Board (PB) to review the current ordinance to determine whether or not changes may be warranted. Some internal discussions were had and it didn't seem there were any issues with the current ordinance but the PB decided to have two public input sessions over the summer. These input sessions were publicly noticed, we had several people attend those sessions. The feedback we received was that the existing ordinance seemed to be working but that it needed to be enforced and there were a couple of minor items that needed clarification.

Mark Ponton asks if the feather signs noted in red were previously allowed and now they are not allowed? Chair, that was one of the multiple complaints we received that the feather signs or flags were unattractive. Mark Ponton, so were they allowed before the change here? Chair states yes. Harry Viens adds that the current ordinance on feather signs is silent it was written before they became to be therefore, they were not illegal as defined. Chair, technically I don't think anyone has taken this to the degree of whether each feather sign would be added to the square footage they already have on their structure which I wouldn't be surprised if that puts them over what they are allowed.

Mark Ponton, you speak of violations what were those? Chair states mainly it has to do with having more signs than what is allowed by our ordinance.

Bernie Volz, I have a concern about the 6:3:4 changes because I think it opens the town up to a lot of different signs. If I build a 3,500-sf building, have a multi-tenant occupancy you are now saying every one of those businesses, say we have 10 in one building, can now have 50 signs on one building. As a renter in a 3,500-sf building and I only have 200 sf for my business, according to the way this is now written, I can have 100 sf of signage. Chair, our intent was for it to be calculated by the rented space. Bernie Volz, but this table is per building and I think there needs to be an upper cap on how many signs you allow. As a member of the ZBA for 8-9 years, we've never had anyone come and ask for more signage and they could by way of variance. Chairman, I can submit to you though that at the time enforcement of the sign ordinance was lax. Bernie Volz, that may be why but where are the specific examples that caused this change? Chair responds, we are just trying to make it clearer. Bernie Volz, ok but I think you have also expanded on what you can do which doesn't seem to clarify things well.

Bill Ricciardi, I think how we arrived at these changes was in using your example we had someone construct a building and say put 50 businesses in there and I know that's extreme but just using it as an example, how would we pick who doesn't get to have a sign? Bernie Volz, in a multi-tenant building it is not untypical for there not be a sign for everybody. When you drive down the highway and see a building that says HP on it, if you were to enter that building you might find that HP only rents 2 floors out of that 10-story building. The Prudential Tower in Boston isn't all used by the Prudential, there are many other tenants in that building so that is something that is fairly normal and is negotiated between the building owner and the tenants. Someone may need to wait to put up a sign. Bernie Volz continues, I think that telling every single tenant they can have a sign is a bit excessive. Maybe we don't really have a problem now but you never know and rather than facing it at a time where you may have to dial it back, I think this should be looked at a lot more carefully.

Chair, we did have a lot of discussion on this and raised some of the same concerns you did. We received input from Ken Ballance from a Code Enforcement perspective standpoint and decided to give a little more leeway to the businesses. If it gets to be too much we can always change it. Bernie Volz, I guess the other side of that is if someone wants to put up more signs than what is allowed, they have avenues. One is a variance from the ZBA or they can come to you to get a change to the zoning ordinances and to my knowledge no one has requested either of those so why change it. If there is a specific issue you were trying to clarify then let's address that. Bernie Volz continues, it's allowing every business to have a sign and not having to wait until space for signage is available. I understand that and in some ways that's good but if you have someone put up a fairly large building and had a lot of tenants in it now you potentially could be looking at a very large sign. Kelli Kemery, no because it's per business. Bernie Volz, but every business could have a 90-sf sign because this change removes the restriction of the building sign and states it's per business which could potentially mean a lot more signage.

Bernie Volz, it says 5 signs per business. Kelli Kemery, right it is identifying how many signs per business but it's telling you based on the overall gross floor area of the building itself. Bernie Volz, to make it easy say it's 3001 sf, each tenant is allowed up to 100 sf of signs and if you have 20 tenants in there that's 2000 sf of signage that you can have on that building. Kelli Kemery and I think that is what Ken's intention was which was to not isolate people.

Bill Ricciardi, I think we need to read the whole section and there is an asterisk next to 100 sf which brings us to the next page which states "maximum signage allowed per commercial/industrial building." Mark Ponton, so that's what I'm confused about, I have a commercial building 3000 sf and I have 5 businesses in there each business is allowed a sign. Bernie Volz, they are allowed 5 signs. Mark Ponton, the way I interpret it is that each business would be allowed 1 sign and the square footage of that sign would be equal to these square feet calculations. Bill Ricciardi, no because if you have a 3000-sf building and there are 5 business in there that means each business is 600 sf. Bernie Volz, well it says per business what is the "per business" thing then. Bill Ricciardi, it's the total square footage per business because each business should be allowed to have a sign.

Bernie Volz, ok well how does the double asterisk come in, does it come in only on 100sf does it come in for everything? Bernie Volz, if someone was coming to the ZBA for this I would be totally confused as to what is going on. Bill Ricciardi, the double asterisk only comes into play on anything over 3000 sf, the column on the left. If you have a building that has 10,000 sf you are only allowed 100 sf per business. Bernie Volz, ok so if I have a 3000-sf building how much am I allowed? Bill Ricciardi, so for the entire 3000 sf you are allowed 90 sf. Bernie Volz, then why is the "per business" listed under the signage allowed what does that mean. Before it was clear to me this was the total square footage allowed for all the signs on that building.

Chair, do you have other comments? Bernie Volz, no that was it. Mark Ponton, why do we need this whole thing. If the idea is to provide you a sign based on the size of your business why don't we just leave it at that regardless of whether it's in a building all by itself or in another building with other businesses. The size of your business space in terms of square footage should determine your signage. Mark Ponton continues, if I have one building and it's 1000 sf that determines how much signage I'm allowed on my building. If I have 1000 sf business space but in a shared building with others, I would still be governed by the same signage allowed for that square foot space. Bernie Volz, the only problem with that is that you are now going say that for a 1000 sf building for one business you are allowed 50 sf but if you put 5 tenants in there you are allowed 250 sf of signage. Mark Ponton, no I'm thinking it's the sf per the space of that business not every business gets sf based on the size of the building they are in. Bernie Volz, the gross floor area is what is determining that factor. Mark Ponton, right that is why I am saying if you have a 1000 sf building and you're a tenant that has 100 sf of usable space, your signage is determined on the 100 sf of space not on the size of the building. I don't think that matters it would be based on the sf of the size of the business space in that building whether shared or not whether owned by the same person or not and not based on the whole building. Bernie Volz, so I have a 1000 sf building, if I'm the only business in it I

get 50 sf of signage. If I have that building and have 5 tenants in it each with 200 sf of space, each of those businesses you are saying I'm allowed 5 business signs times the allowed square footage because every business is allowed 50 sf. Kelli Kemery, that was the intention of why we made this change. We did not want to discriminate against a business that was renting space within a building. Bernie Volz, the CruCon building, if that was in Center Harbor and had one business, they sell the building or move and now that building becomes a multi-tenant building how much signage do you really want in front of that building?

Chair, I think we all understand your point Bernie does anybody not understand? I think it's a good point. Bill Ricciardi, I think it's a good point also but I thought we had control over that by having the two separate tables. The building itself regardless of how many tenants is limited to the maximum amount of sf signage you could have. Whether it's 1 tenant or 10 tenants you don't get 10 times as many you get it divided by 10. We already have a maximum of signage allowed period. Chair, I think to Bernie's point, just our struggle to try to explain this section is what provoked this review.

Harry Viens, maybe the best way to do this is to re-design this chart. There must be some way to make this easier to understand. Chair, well we don't have a lot of time here. Kelli Kemery, I think we need to talk to Ken. Bill Ricciardi, we also should find out what the asterisk refers to under that first table because I cannot find it any reference.

With the discussion surrounding the changes under 6:3:4 the Board decides to revert their proposal back to the original. The revisions will be made and the document in final format will be presented at the Board's next public hearing. **Public input closed at 6:34 p.m.**

Clerk, what do we do with these businesses that are not in compliance? My understanding was this change would bring a lot of the non-compliance businesses into compliance. Harry Viens, well I think Ken actually stated they were now in compliance. Kelli Kemery, maybe it was with these proposed changes that they would be. Clerk, yes that is how I understood it. Kelli Kemery, so now they will be non-compliant. Bernie Volz, well the Selectmen have the authority to not enforce. Harry Viens, right so we may have to temporarily not enforce it. Bernie Volz, or suggest they go for a variance and that might help to understand what the problems are. Harry Viens, yeah but I'm a little loathed to put it back on the businesses. In other words, we didn't get it done and now we put the onus back on them to go through the variance process it seems kind of unfair. Bernie Volz, it might be worth finding out who would not be in compliance. Harry Viens, Ken would have to tell us that. Kelli Kemery, part of this was to produce an inventory for the Town. Harry Viens, we actually have the raw material for the inventory it just has not been assembled into a binder. We have photographs and an inventory sheet from every business.

Bill Ricciardi, I wanted to make a suggestion for this Board. Whenever we work on ordinance changes, we should probably have a member of the ZBA here. Chair, I don't know does Congress have a member of the Supreme Court sit in on their meetings? Bill

Ricciardi, well I thought it may be helpful. Bernie Volz, in some ways it might be helpful because that ZBA member will have some kind of history on why the change was made for a better understanding otherwise, if we get a case before the ZBA we are scratching our heads as to what does this mean, why was it done because you don't really have that context. Kelli Kemery, maybe moving forward if we have as much difficulty as we've had we can reach out to you as a resource. Chair, the ZBA has every opportunity to come to the public meetings, they know we are working on it we are not secretive about it.

Motion: Peter Loudon motions to revert 6:3:4 to original form. Seconded by Bill Ricciardi. All were in favor. Board continues the hearing to January 21, 2020 @ 6 p.m.

Chair, the final meeting would be to approve the revisions we just made the motion on. Bill Ricciardi, do you think we are going to receive any blow back from the businesses that already were notified about this and now we don't change it? Chair, it was a proposed change, that is not set in stone because the voters can say no. Bill Ricciardi, and what is staying is that they need permits for their signs. Chair, and that requirement has been there. Clerk, I will have Ken speak to the Selectmen and document for the Board. The one that I was made aware of that was not in compliance was Maxfield Real Estate. Harry Viens, I think that may be the only one. Clerk, and from what I was told they were holding off on removing any of their signage until this change went to Town Meeting. Chair, they shouldn't count on things that haven't been voted on.

PERMITS

Board reviews the permits from December 2019.

III. OTHER

- **Site plan BKM** – Final plans received and reviewed by the Board.
Motion: Chair makes a motion to sign the final plans. Bill Ricciardi seconds. All were in favor. Chair and the Secretary sign the final plans. One plan will be sent to the property owner the other will be kept on file in the PB case file a copy will be submitted to the Code Enforcement Officer.
- **2020 Reappointments**
Bill Ricciardi and Mark Hildebrand have requested to be reappointed. Winnifred Boynton will not continue. Clerk adds Mark Hildebrand has been reappointed he can come in and be sworn in by the Town Clerk at any time. Bill Ricciardi's reappointment is still pending. Chair, we are looking for two new alternates one is to fill Winnifred's spot and then Aimee will no longer be the last alternate only the clerk so we can fill that spot.

IV. ADJOURNMENT

Meeting adjourned at 6:45 p.m. Next meeting scheduled for January 21, 2020 @ 6:00p.m.
Respectfully submitted by Aimee Manfredi-Sanschagrin.