

HONEOYE FALLS VILLAGE PLANNING BOARD

November 3, 2014

Official Meeting Minutes

MEMBERS PRESENT: Mary Szlosek, Ann Bailey, Joe Cooley, Brian Hoose, Denise Heischman

ALSO PRESENT: Danny Bassette, Amy Harris, Muffy Meisenzahl; Richard Milne, Mayor; Greg Emerson, Village Administrator; Charlie Johnson, Code Enforcement Officer; Mike Tobin, Village Attorney.

Chair Szlosek called the meeting to order at 7:30 PM.

Meeting Minute Approval

The September 8 Village Planning Board minutes were reviewed. **A MOTION was made by Brian Hoose to approve the minutes as amended, Seconded by Joe Cooley and vote was unanimous. SO MOVED.**

Review Proposed Code Change to General Partial Commercial Zoning District

At the 10/20/14 Board of Trustees Meeting the Trustees voted to vacate the previously adopted code permitting restaurants with drive thru window service due to a court decision. Later in the meeting the Board voted to begin the process to change the code again; and as a result, Chair Szlosek received a letter from Mayor Milne, note letter is attached to the meeting minutes for reference.

Planning Board members received the above mentioned letter and proposed code language via email on October 27 in order to review the document prior to the November 3 Planning Board meeting. Note proposed code change is attached to meeting minutes for reference.

Chair Szlosek (Mary) asked Board members if there were any comments prior to reviewing the proposed code change section-by-section.

Denise asked, "What is the process? Do we start from scratch going through public hearings again?"

Mary stated the Village Board of Trustees have started the process and part of that process is the requirement that the Planning Board formally review the proposed code change and respond with a written report. The Trustees will have to go through the SEQR process and will have to go through the Public Hearing process, but the Planning Board's job is to review the code change and report back to the Trustees.

Mary stated that the code will be known as 190-45.12 Restaurants with drive-through or drive-up windows. Attorney Tobin stated that Section 190-45 covers the General Commercial (GC) District so this is an amendment to the GC District. Currently this District allows restaurants without drive-through windows. So this amendment will allow restaurants with a drive-through window.

Mary read aloud the definitions section of the proposed code change. She asked for comments from the Board, hearing none she asked Attorney Tobin about whether reading every word aloud to the Board was necessary. Attorney Tobin responded that the Board needs to be comfortable that should

an applicant come before the Board with an application that this language has enough clarity and together with the rest of the GC Zoning District language and Site Plan Approval requirements for the Board to adequately review the application. This is the reference point for the Board and whether they read aloud or not is up to the Board.

Denise asked Attorney Tobin whether he had any thoughts on the different sections. Attorney Tobin responded that he drafted the code and therefore has no suggestions.

Mary began reading aloud the proposed code change asking if Board members had any comments.

Denise asked about front setbacks of the Dunkin Donuts site plan application with regard to this code change. Greg Emerson responded that the setbacks for the Dunkin project were established to conform with properties on either side. Brian added that this follows the proposed code language. Mary noted that the front setback can be more than 25' but not less than 25'. Denise asked about the maximum front setback dimension. Attorney Tobin responded by reading the code aloud which states: "the front setback shall be no less than 25' nor more than 40', in any event when there are existing adjoining buildings the front setback shall conform to the existing buildings"

Mary reminded the Board that this proposed code language does not apply to any specific site plan application but rather the point of this review is it determine that the proposed change is adequate with which to review a potential site plan application.

Denise wondered if the minimum 25' is even adequate. Charlie responded that this is what is currently in the GC District. Brian stated that the maximum 40' is not applicable in this case. Attorney Tobin agreed with this. Mary asked if there were other comments. Joe stated that this will be the starting point of front setback determinations. Denise stated this may be too small due to existing power lines and street trees are required.

Denise asked what other sites meet the square footage criteria in the GC District for this code language to apply. She added that not only vacant lots should be included as some existing buildings could be torn down. Charlie responded that a list of proposed properties was developed approximately one year ago when this proposed change was first being developed and did not recall the specific sites. Some discussion ensued regarding demolition of buildings and related costs involved. Denise also said that a structure fire could create redevelopment potential. Charlie offered to provide tax maps to the Board in order for the Board to determine which lots met the requirements.

Mary asked what the concern is with regard to reporting back to the Trustees. She asked whether having flexibility in the setbacks would allow the Board to adequately review an application. Brian stated that language in other parts of code like "in any event" would take precedent over what is stated as a minimum or maximum. Attorney Tobin then read aloud the existing code language for setbacks in the CG District. Brian asked for Attorney Tobin to read the following: "in any event for buildings constructed near or next to existing buildings the front set back shall conform to the setback of the adjoining buildings". Brian stated this sounds like it should be your first priority. Ann and Mary stated that this was very clear language. Brian asked if the language in the proposed code is the same. Attorney Tobin said that the word "provided" when used to connect two paragraphs means that both paragraphs must be followed.

Mary read aloud more proposed code language. Denise asked about the minimum 75' driveway separation between proposed and existing driveways and wondered if this would be limiting to adjoining lots. She asked if this dimensional requirement would be limiting to the adjacent lot to the Dunkin site. Charlie responded that future development on undeveloped lots was not evaluated. Greg responded that a drive thru could not be developed on this lot as it abuts a residential zoning

district. Greg stated that the adjoining lot is approx. 100' and a driveway for that parcel could be developed and meet the 75' separation to a drive thru driveway.

Discussion ensued about future development and the 75' drive thru driveway separation to another site's driveway. The Board realized that this requirement has an influence on adjacent lots in the GC District. Brian suggested that the language should read: "ingress/egress should be no closer than 65' to a property line". This would allow a 10' setback to adjoining lot's driveway. He felt this would then not impose an undue hardship on the development potential of the adjacent lot.

The Board agreed that a review of the 75' dimension would be included in the report to the Trustees.

Mary continued to read the proposed code aloud asking the Board members if there were any comments.

Discussion ensued about the capacity of the queuing lane.

Mary continued to read the proposed code aloud asking the Board members if there were any comments.

Ann asked about the required sidewalk leading to the front of the building from the public sidewalk, asking whether this was required of all restaurants in this zoning district or only those with drive thru service? Mary responded that this applied only to drive thru restaurants. Ann asked where this requirement originated from? Attorney Tobin responded that it was felt that providing a path for pedestrians to get to the building without having to walk through or across parking areas was important. Ann stated that she appreciates this requirement and would like to add this requirement to all future development in the GC District as this district is not walker friendly.

Mary continued to read the proposed code aloud asking the Board members if there were any comments.

Discussion ensued about the term "levels of service" with regard to traffic studies.

Mary continued to read the proposed code aloud asking the Board members if there were any comments.

Ann asked about the maintenance of landscaping material. Specifically Family Dollar has not kept the landscaping in good condition. Denise asked about adding the words "and maintained". Greg stated that if this were made a part of the site plan then during annual inspections the landscaping maintenance could be enforced. Mary suggested that "and maintained" be added Attorney Tobin concurred. Denise asked about specifying a height requirement of landscaping material. Mary responded that the Board can make this determination on a case by case basis. Tobin suggested adding "adequate height and depth" to assist the Board. Brian reminded the Board that the Conservation Board would make recommendations on types and sizes of landscape materials in their review.

Ann asked if the entire site perimeter, except the street frontage, is to be planted with landscape material? This was not required for any other recent development in this District why is this now being required for a drive thru. Brian suggested that it is the traffic driving around the site to the drive thru that was the reason for this added requirement, to limit the headlight wash onto the next door property. Denise asked whether the language needed to be tighter to actually require what is to be planted. Brian responded that the current language provides the Board with enough leverage to approve proper landscape materials. Denise stated her desire for the "adequate height and depth and as determined by the Planning Board" language to be added.

Attorney Tobin asked whether the Board wanted to make changes based on Ann's question about planting the entire perimeter of a site. Discussion ensued. It was determined that "or other screen material" to be added.

Mary continued to read the proposed code aloud asking the Board members if there were any comments.

Ann asked about the prohibition of outdoor or indoor play lands. The response was for liability reasons.

Mary continued to read the proposed code aloud asking the Board members if there were any comments.

Ann asked about why the hours of operation were being limited for drive thru restaurants while no other business type is limited in the code? Attorney Tobin responded that the only other business use open after 11 pm is a tavern or bar. The drive up bank atm is a unique business. We probably don't want cars driving up after 11 pm. Joe asked if the restaurant could be open just not the drive thru? Attorney Tobin responded that based on other municipalities that have similar zoning codes this was a common practice, however this is up to the Board to review. A review of local business hours ensued.

Mary continued to read the proposed code aloud asking the Board members if there were any comments.

Ann asked about the limit of two restaurants with drive thru. Attorney Tobin responded that the Town of Victor has this provision in their code and this was also desired in Honeoye Falls. Brian asked that once the second drive thru restaurant exists then all other applications for restaurant drive thru would be rejected? Attorney Tobin concurred. Mary stated this this limit also prevents over development similar to Henrietta. Brian stated that the code language "adjacent to residential use" will also be a limiting requirement in this GC District.

Denise asked if the previous subdivision of the Dunkin site is still valid. Attorney Tobin said that subdivision approval had been granted and the subdivision is valid. Greg reminded the Board that the second lot directly adjacent to the Dunkin site abuts a residential district and therefore is not eligible to be used for a drive thru. Discussion ensued about other lots that abut residential uses.

Mary continued to read the proposed code aloud asking the Board members if there were any comments.

Denise asked about the definition of safety lighting that is stated in the Lighting Ordinance with reference to the previous car sales lots that were proposed. That level of security lighting would not be acceptable. Attorney Tobin said that he would look into the Lighting Ordinance specifics. Denise suggested that if the light levels are too high in the lighting code this drive thru code should include specific limits. Charlie suggested adding the language "or as determined by the Planning Board". Mary stated that the Trustees can evaluate the lighting levels and said that just because a drive thru was present shouldn't require any different lighting levels than other uses in the GC District. Greg read aloud the Lighting Ordinance language covering security lighting which limits the light level to 0.2 foot candles. Additional discussion ensued regarding lighting levels.

Mary continued to read the proposed code aloud asking the Board members if there were any comments.

Joe asked if menu boards counted as signs. Mary responded that they do not and therefore can be lighted from within.

Mary continued to read the proposed code aloud asking the Board members if there were any comments.

No further comments from the Board.

Attorney Tobin reviewed the front setback discussion from earlier. He stated that the minimum and maximum dimensions may not allow all aspects for a drive thru that may be required. Denise asked what all the other existing building's front setback dimensions are to evaluate if those properties could accommodate the drive thru requirements. The concern is that lots that meet all other drive thru requirements except front setback dimensions would then request a variance. Attorney Tobin suggested that something be added now to address this concern and avoid the need for a variance. Brian said that two adjacent buildings that are closer than 65' to the street would establish that as the front setback due to the "conform to adjacent buildings" language in the code.

C. Johnson responded that the Board may be trying to solve a problem that doesn't exist. A solution could be to add language that reads: "or as minimally required to meet all the other aspects of this code" which gives the Board latitude. B. Hoose stated that this allows review without having to play out every possible scenario.

Chair Szlosek asked if there were any other questions or comments before the Board drafts the letter. Hearing none she read aloud a potential letter to be sent to the Trustees for Planning Board's review and approval. "The Planning Board reviewed the proposed code change at the regularly scheduled meeting held on November 3, 2014 with all members in attendance. Accordingly the Planning Board submits the following report. The Planning Board is in agreement with the proposed change to Code Section 190-45.12 that lists restaurants with drive thru service as a permitted use in the General Commercial Zoning District with the following recommendations:

1. With reference to B-b-1-iii:
 - a. Change the word "adjoining" to "adjacent"
 - b. Consider adding the following wording at the end of the sentence: "or as minimally required to meet all other stipulations of the Code."
2. With reference to D-2:
 - a. Recommend that eligible lots be examined to determine if the 75' required frontage is too limiting to other development on adjacent lots.
3. With reference to E-7:
 - a. Consider modifying the wording to read: "A row of shrubs or other screening material of adequate density, height and width, as determined by the Planning Board, shall be provided and maintained along the outside perimeter of all parking and on site circulation areas. However such screening material shall not block sight lines within the site."

A MOTION was made by Brian Hoose to approve the letter with recommendations as developed at tonight's meeting, and that letter will be forwarded to the Mayor and Board of Trustees. Seconded by Joe Cooley. Vote was unanimous. SO MOVED.

Denise requested that the Board discuss the current required 10' front yard setback in the Village Business District and to discuss sidewalks in the General Commercial District at December meeting.

A MOTION to close the Planning Board meeting was made by Denise Heischman and Seconded by Joe Cooley. Vote was Unanimous. So Carried.

The Honeoye Falls Village Planning Board meeting was adjourned at 9:20 p.m.

Deborah Shaughnessy, Planning Board Clerk