

## **BOROUGH OF FAIR HAVEN PLANNING BOARD**

### **Regular Meeting Minutes**

**July 16, 2019**

1. The meeting was called to order at 7:34 by Mr. Lehder, Chair, with a reading of the Open Public Meetings Act statement and pledge to the flag.

### **2. ROLL CALL**

Present: Mr. Folker, Mr. Borneo, Mr. Rolff, Mr. Bordelon, Mr. Ingle, Mrs. Koch, Mr. Newell, Mr. Sobel, Mr. Lehder

Absent: Mr. Criscola, Mr. Rice

Also Present: Mr. Kovats, Board Attorney, Mr. Gardella, Board Engineer, Ms. Gable, Board Planner

### **3. ADMINISTRATIVE ITEMS**

Mr. Lehder announced that the Dunkin Donuts matter has been postponed. Mr. Kovats stated that the applicant waived the time limits and requested that there be no need to renote.

MOTION Sobel, second Koch, to carry the matter to the August agenda with the stipulation of time and no need to renote.

In Favor: Bordelon, Borneo, Folker, Ingle, Koch, Newell, Sobel, Rolff, Lehder

Opposed: None

#### Discussion of Ordinance amendments # 2019-07 and # 2019-08

Mr. Kovats noted that after the 1<sup>st</sup> reading by Council the proposed changes are sent to the Planning Board for consideration of consistency with the Master Plan and any problems. The Board is required to report back to Council within 35 days. The public hearing takes place at the Council's 2<sup>nd</sup> reading.

Mrs. Koch noted that the two changes were related to permitted use, where the category 3 restaurant is being eliminated, and to definitions, where the term drive-in restaurant was redefined. She said this was being done in response to lack of clarity.

Ms. Gable stated that Heyer Gruel had worked on the definitions, using the Moskowitz book. Mr. Borneo asked what a walk-up restaurant was and was told it was a restaurant with a window. Mr. Kovats said it meant there was no inside, that service and payment occurred outside. Ms. Gable said this goes back to the issue of indoor seating. The Board recommended that item #22, restaurants, be clarified, as well as the term drive thru. It was said that definitions can't anticipate or cover future situations, noting the recent appearance of such things as apps and restaurants delivering to designated spots. Mr. Lehder said the town hasn't looked at the definitions of categories 1 & 2. The wording is dated and this is not a

comprehensive re-do. It was noted that as written, current businesses might be prohibited from adding additional services.

Mr. Lehder questioned the lack of consideration of traffic issues. He further noted that there are value judgements involved. Mr. Kovats asked what is the intent? Maybe the functions can't be separated. Board members are not just looking at what the ordinances say but where are we headed and can the ordinances look that far ahead. Have unintended consequences been considered? It was stated that consistent enforcement is the key. After considerable discussion the Board was ok with the recommended definitions of walk-up and drive-thru restaurants, including wording regarding delivery to car/pick up service.

Mr. Gardella stated that the town currently has parking spots with a 15 minute limit. Enforcement is a problem. He questioned whether, from a streetscape aspect, are all walk-ups bad.

Mrs. Lehder stated this doesn't get to what they are trying to encourage. There is clarity, but lack of direction.

Mr. Borneo expressed concern that small businesses may be discouraged if there is lack of clarity and the cost of having to appear before the Zoning or Planning Board. There needs to be a conversation about what someone is trying to do.

Mrs. Koch said the Council's purpose was to provide clarity, not to rewrite the ordinances. She said the mayor plans to have an on-going study regarding fast food issues.

Mr. Kovats will circulate a draft of tonight's discussion to the Board for their comments, tweaks, prior to sending a statement to the Council.

MOTION Sobel, second Lehder, to advise Council of the Board's recommendations

In Favor: Bordelon, Borneo, Folker, Ingle, Koch, Newell, Sobel, Rolff, Lehder

Opposed: None

#### Discussion regarding creation of a Technical Review Committee (TRC)

A TRC would be a subcommittee of the Board – a process that allows technical issues to be reviewed with the applicant prior to a full Board meeting. This would deal with off-site issues, drainage, traffic, etc. and comments from outside agencies and Borough officials is solicited.

Mr. Kovats stated that this review needs to be done prior to determining completeness. He went on to say that statute allows for a site-plan review committee. A TRC is slightly different. This is an advisory report only. It is not needed for all applications. It is recommended that the committee contain 3 Board members plus an alternate. The Borough might want to consider an ordinance regarding a subcommittee.

Mr. Lehder noted that a subcommittee had already been formed, consisting of Mr. Sobel, Mr. Newell and Mr. Rolff. Mr. Borneo volunteered to be the alternate. Mr. Kovats was asked to put together a plan to formalize.

MOTION to approve the minutes as amended by Mr. Folker made by Folker, second Koch  
In Favor: Borneo, Folker, Ingle, Koch, Newell, Sobel, Rolff, Lehder  
Opposed: None  
Abstained: Bordelon

#### Comments from the Public

Carolyn Ferguson, Colonial Court, stated that at the Council meeting the public was told there would be no changes to the ordinances, only clarification of language, but at the following meeting the walk-up window was added and that is a substantive change. A walk-up window is a new idea and shouldn't be banned without more consideration.

Tracy Cole, Grange Ave – said it was important to talk about what we do want. She said it would be helpful to have a statement giving a forward vision, not just a set of definitions. Clarifying what we want helps clarifying what we don't want.

Gayle O'Reilly, Hance Rd – expressed concern about the delay of the Mayor's subcommittee. She asked if the Board could have a cover until there is a final report – a conditional use umbrella.

Bea Sena, Lake Ave, - commended the Board for their work. She stated we are looking at things the wrong way. It is hard to define things first, look at the ordinances.

Ruth Blaser, River Rd – stated that the term cars should be changed to vehicles.  
There were no further comments from the public.

MOTION to adjourn Sobel, second Ingle, and approved unanimously by voice vote.

Meeting adjourned at 10:20.

Judy Fuller, Board Secretary