

**CITY OF KEENE
NEW HAMPSHIRE**

JOINT PUBLIC WORKSHOP
PLANNING BOARD/
PLANNING, LICENSES, AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Monday, April 9, 2018

6:30 PM

Council Chambers

Planning Board Members Present

Gary Spykman, Chair
Doug Barrett, Vice-Chair
Andrew Bohannon
Nathaniel Stout
Douglas Barrett
Councilor George Hansel
Chris Cusack
Pamela Russell-Slack
Martha Landry

Planning Board Members Not Present

Mayor Kendall Lane

Planning, Licenses and Development

Committee Members Present

Councilor David Richards, Chairman
Councilor Philip Jones
Councilor Bart Sapeta
Councilor Margaret Rice
Councilor George Hansel

Staff Present

Rhett Lamb, Planning Director
Tara Kessler, Planner
Health Director, John Rogers

1. Roll Call

Chair called the meeting to order at 6:30 pm and a roll call was taken.

2. February 12, 2018 meeting minutes

Councilor Jones offered the following correction:

Councilor Bettina Chadbourne should not be included as a member of the PLD Committee.

A motion was made by Councilor George Hansel that the Joint Committee accept the February 12, 2018 meeting minutes as amended. The motion was seconded by Councilor Phil Jones and was unanimously approved.

3. Public Workshop

Ordinance – O-2018-02 Relating to Amendments to Sign Regulations (Chapter 102 Article VIII) – Petitioner, City of Keene, proposes to amend Article VIII Sign Regulations of the Keene Zoning Ordinance to be consistent with the United States Supreme Court ruling in Reed vs. Town of Gilbert, Arizona, and to address sign regulations for the Business Growth and Re-Use, Neighborhood Business, and Residential Preservation Zoning Districts. Additional amendments are proposed to this Article at the recommendation of the Code Enforcement Department.

Health Director, John Rogers and Planner, Tara Kessler addressed the Committee. Mr. Rogers referred to a Supreme Court ruling which indicates that the Sign Code needed to be of neutral content. Keene's Sign Code had a few areas which needed to be amended.

Mr. Rogers then went over the amendments as follows:

Amendment #1 – Mr. Rogers noted that the changes proposed under Amendment #1 address both Reed vs. Gilbert as well as some of the corrections the Code Department had been looking to make with respect to the definitions section. He indicated the stricken text denotes regulations that are currently content-based.

Mr. Rogers explained that staff propose to remove the phrase “for the purposes of ingress and egress” from the definitions of primary and secondary frontage. These definitions require an ingress/egress (i.e. entrance/exit) be present for it to be considered primary or secondary frontage, which can conflict with the Planning Board standards related to parking. Planning Board Development Standard 19 requires off street parking to be placed to the side and/or rear of a building. In locations where parking is located to the rear of a building, the primary entrance/exit is often also at the building’s rear. For buildings that do not have entrances/exits facing the street they are not able to place signs on these facades. Mr. Rogers noted that this conflict has led to the issuance of variances from the Sign Regulations. Additionally, some businesses have chosen to install ingress and egress doors where they are not needed for the sole purpose of obtaining signage.

Mr. Rogers noted that the definition for “primary sign” is proposed to be removed because it is defined based on content such as the name and nature of the business.

Mr. Rogers also noted the addition of a definition for “snipe signs,” which would be prohibited based on Amendment #3.

Amendment #2 – Mr. Rogers explained that this amendment is in keeping with Reed v. Gilbert to make the sign regulations content neutral.

Amendment #3 – Mr. Rogers noted that this amendment proposes prohibiting snipe signs. These are signs that are of a temporary nature that are posted on someone else’s property, such as a flyer posted to a fence or tree that is not owned by the person posting the flyer.

Amendment #4 – Mr. Roger noted that the changes proposed under Amendment #4 relate to temporary signs. This amendment would remove the standards specific to agricultural and real estate signs on the list of temporary signs that are excepted from needing a sign permit. Instead, one temporary sign would be allowed per lot without a permit subject to sign size requirements. For lots in the Agriculture, Rural, Low Density, Medium Density, High Density, Office, Residential Preservation, and Central Business Districts the sign of the temporary sign would not be able to exceed 6 square feet. For all other districts, the size of the sign cannot exceed 32 square feet. Mr. Rogers noted that since submitting the Ordinance, staff have discussed adding Neighborhood Business to the list of the districts that limit the temporary sign size to 6 square feet. He explained that this size would be in keeping with the intent of this District.

Ms. Landry referred to Section 102.1301(b)(1) “agricultural signs,” and asked whether this covers things like farm stands. Mr. Rogers answered in the affirmative and added they used to be able to have four temporary signs without a permit but now they can only have one. He noted that they could have more than one if they apply for a permit.

Councilor Jones noted there is a matter coming before the PLD Committee regarding a waiver for a stand up banner for a food truck and asked where this item is addressed in the document.

Mr. Rogers stated that with the changes proposed in Amendment #4, a vendor would be allowed to have a temporary sign; however, the zoning district the vendor is located in would dictate the size requirements for this sign.

Councilor Sapeta asked where election signs fall. Mr. Rogers stated if it is on a public right-of-way it is allowed by RSA. The City's Sign Code only covers private property. The Councilor asked whether the sign code addresses signs posted onto a utility pole. Mr. Rogers responded that if the sign is posted on a pole or land in the right-of-way, the City's Sign Regulations would not take effect, but they may need permission from the Council.

Mr. Rogers noted that real estate signs have been stricken as they now fall under temporary signs. He added that off-site open house sign would be permitted but would need to be removed by the end of the day. Chair Spykman asked if "open studio" signs would fall under this category as well. Mr. Rogers stated that offsite signs for any kind of open house would be allowed, but would need to be removed at the end of the day

Amendment #5 – Mr. Rogers noted that the stricken text in this amendment is specific to content and would need to be removed to be consistent with Reed v. Gilbert.

Amendment #6 – Mr. Rogers stated that this section of Education Signs is being removed to be consistent with Reed v. Gilbert.

Amendments #7 – Mr. Rogers noted that when the City recently adopted three new zoning districts in the fall of 2017, it did not update the Sign Regulations to address sign standards for these districts. The proposed changes in this Amendment would add the Neighborhood Business District to the section of the sign regulations (Section 102-1310) that address sign requirement for the Office District. Mr. Rogers noted that this Amendment would add "legally non-conforming commercial property" to this section as well. Currently, there are legal non-conforming commercial businesses located in zoning districts that do not allow for signage. Although these are allowed businesses, they need to obtain a variance to have a sign. This addition would allow for signs at these properties subject to dimensional requirements and a sign permit.

Mr. Rogers noted that staff suggest removing Section 102-1310(3) which states "Temporary signs are prohibited in the Office District." This is in conflict with the amendment allowing for temporary signs in all zoning districts. Staff overlooked this edit when the Ordinance was first submitted to City Council.

Amendment #8 – Mr. Rogers noted that this amendment includes the Business and Regrowth District in the section of the Sign Regulations that address sign requirements for the Commerce, Commerce Limited and Central Business Limited Districts.

Amendment #9 – Mr. Rogers noted that this amendment includes the Residential Preservation in the section of the Sign Regulations that address sign requirements for the Conservation and Agricultural Districts.

Councilor Hansel referred to Amendment #8 and questioned whether Section 102-1311(4)(c) refers to content and if it should be removed. Mr. Rogers agreed this should also be stricken.

Councilor Sapeta referred to Amendment #4 related to temporary signs, and asked if there is a timeframe for display of temporary signs that are exempt from permit requirement. Mr. Rogers stated he would not attach a timeframe to this type of sign, because this now covers many different types of signs. He added the sign has to be temporary in nature, it cannot be permanently mounted.

Mr. Bohannon referred to the Amendment #1 related to the definition of Construction Signs. He asked whether the new definition of construction signs would still permit references contractors, architects, etc. to be displayed. Mr. Rogers stated they are permitted to have the one construction sign but the City cannot dictate what it can say.

Councilor Jones asked Mr. Rogers whether the Sign Code issue is mostly complaint driven. Mr. Rogers agreed. The Councilor asked whether the signs being discussed today are signs that are attached to the outside of a structure or staked in someone's lawn; not signs that are located in someone's window. Mr. Rogers replied that signs in windows are not regulated by the Sign Code.

Dr. Cusack asked about the "For Rent" signs whether these are signs that could be left on a property indefinitely. Mr. Rogers stated this Ordinance won't change that circumstance. Dr. Cusack asked whether "Rental for Students" is a sign that would be permitted. Mr. Rogers stated the City cannot look at content unless it is offensive.

Ms. Kessler addressed the Joint Committee and noted the Sign Regulations are not addressed directly in the Master Plan but the Plan does address quality built environment. As sign regulations address the reduction of visual clutter and help to coordinate the shape, size and location of signs with respect to the built environment, the proposed changes are in keeping with the intent of the Master Plan to improve the quality of the built environment. In addition, many of the changes proposed as a result of this Ordinance will make it easier for businesses to obtain signage, which is in keeping with the intent of the Master Plan to encourage economic development. As for the changes related to content-neutral signs and the allowance for one temporary sign per lot in all districts, it is difficult for Planning staff to make a determination at this time as to how it might impact the community. However, these changes are prompted by a Supreme Court decision and need to be addressed.

The Chairman asked for public comment. With no comments from the public, the Chair closed the public hearing.

Ms. Kessler went over the proposed changes to O-2018-02:
Section 102-1301(b)(1) – Neighborhood District will be added to the already existing list.

Section 102-1310 (3) "*Temporary Signs will be prohibited in the office district*" will be deleted and the list re-numbered.

Section 102-1311 (4)(c) "*Copy. Sign copy for all banners shall be limited to the logo/emblem and/or the name of the shopping center/plaza. Copy identifying individual stores is prohibited.*" will be deleted and the list re-numbered.

Councilor Sapeta asked when switching to Form Based Code, whether the Sign Ordinance would be reviewed here again. Ms. Kessler stated the Sign Code would be reviewed as part of the Land Use Code update.

A motion was made by Chair Spykman that the Planning Board find O-2018-02-A consistent with the Comprehensive Master Plan. The motion was seconded by Councilor George Hansel and was unanimously approved.

A motion was made by Chair David Richards that the Planning Licenses and Development Committee request the Mayor set a Public Hearing for O-2018-02-A. The motion was seconded by Councilor Jones and was unanimously approved.

5. Staff Update

Ms. Kessler reminded the Committee about the workshop on May 1st from 6 pm at Hannah Grimes specifically for the Planning Board, City Council and Zoning Board regarding planning and zoning concepts. She stated the City has contracted with a Communications Consultant for the project and is in the midst of negotiations with a Planning Consultant.

4. Next Meeting - Wednesday, May 16, 2018

5. Adjourn

The meeting adjourned at 7:15pm.

Respectfully submitted,
Krishni Pahl,
Minute Taker
Edits, Tara Kessler and Lee Langella