

TOWN COUNCIL
Committee to Review Zoning and Permitting Regulations
Selectmen's Conference Room

Thursday April 20, 2017 – 5:30pm

MEETING MINUTES

PRESENT: Chair of Committee, Vice-President James Crocker; Councilor Jessica Rapp-Grassetti,
ABSENT: Councilor John Norman, Councilor Fred Chirigotis; Councilor Deborah Dagwan
Also in Attendance: Ruth Weil, Town Attorney; Ali Maloney, AMG Realty

Meeting was called to order at 5:30pm by the Chair of Committee, Vice-President James Crocker, due to not having a quorum; Chair of Committee declared the meeting a workshop.

Chair of the Committee opened up the floor to public comment, Ali Maloney from AMG Realty came to the meeting to speak at public comment (see her letter dated April 20, 2017 that was presented at the meeting to be included in the discussion workshop

AMG Realty
Commercial Real Estate Services
1170 Main Street, Rt. 6A, #5, West Barnstable, MA 02668
Bus: (508) 362-3323 Fax: (508) 362-3324
www.AMGRealty.net

To: Town Councilors: James Crocker, John Norman, Jessica Rapp-Grassetti, Fred Chirigotis, Deborah Dagwan
Cynthia Lovell, Administrator
From: Ali Maloney
AMG Realty
April 20, 2017

Dear Councilors,

I appreciate very much that you have formed a committee to examine the current zoning by-laws and to contemplate what should be changed. In anticipation of the committee meeting tonight, I wanted to send you some specifics pertaining to the concerns that I have expressed about the Hyannis Gateway Zoning, and specific language in the Hyannis Village Zoning Districts, pertaining to nonconforming uses. I plan to attend the meeting, but may not be able to stay long enough to speak. Today I pulled out the zoning map and in less than thirty minutes scanned the properties within this HG district and picked five properties that are in the zone that are currently occupied by businesses that are not allowed, that are preexisting, nonconforming.

Please see the information on the attached document. In a few of these cases, the design of buildings does not lend themselves to any of the permitted uses.

For example, the industrial bays at 371 Iyannough Road are steel frame bays, each with a cement floor. The structure is not visible from the street. Converting these bays to retail, restaurant, bank, or offices is really not feasible. If the town officials followed the letter of the law in terms of

Section 240-24.1.2.C. of the Hyannis Village Zoning Districts General Provisions, the town official would not have the authority to approve the continued use of these buildings if there were to be change in tenancy. The town official would be forced to tell a new owner of the gas station that it may not operate its pumps. If this was not the intent when this language was inserted, please know that it is the end result and it is how the language is interpreted by the zoning enforcement officer. There are vacancies in multiple buildings in the Hyannis Gateway zone and there are tenants who would like to rent those spaces. Some examples of tenants are personal trainers, working with a few individuals at a time, cabinet makers, aestheticians, nail salons, seamstresses and more. These are all low impact, low traffic uses, and they're not allowed in HG zone. There is an overabundance of office space in Hyannis, with limited demand. Retail businesses struggle to make it with the competition from nearby businesses, big box stores and online shopping. Lord knows we do not need more restaurants.

The Town Council must make changes that are in the best interests of the community, business and property owners. Eliminate section 240-24.1.2.C of Hyannis Village Zoning Districts, and change the HG zoning.

Next topics of concern should be:

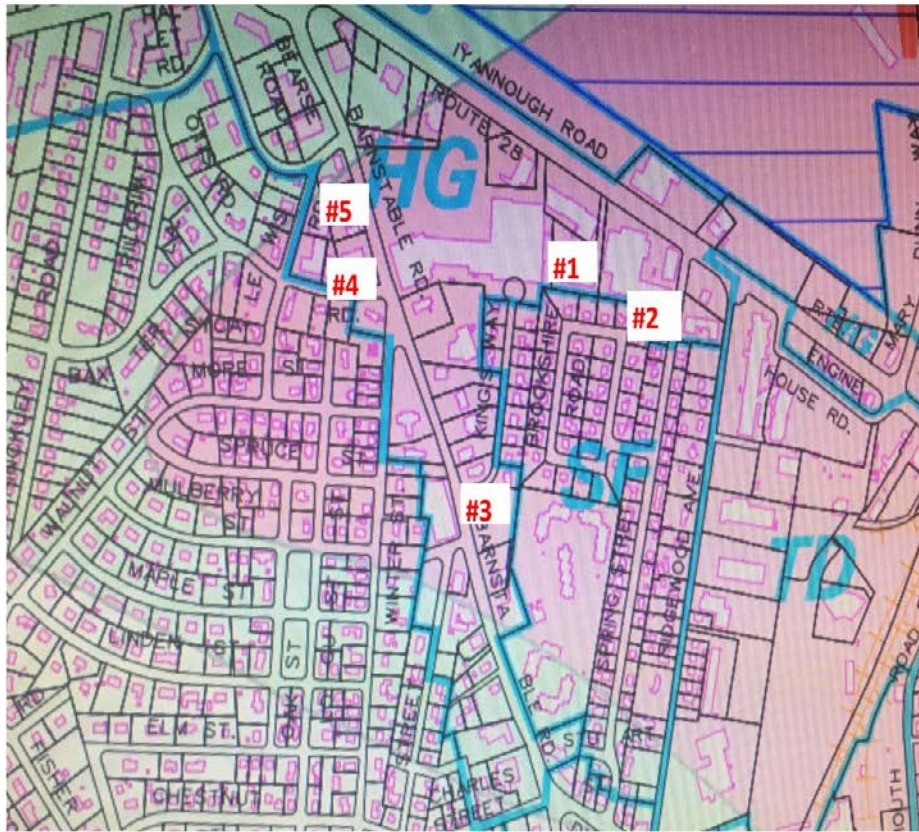
- The overuse of the town owned parking lots abutting Main Street, many of which are not fully town owned. Only one vehicle can park in one parking space at a given time. Driving businesses to the downtown area was a great idea, but where is everyone going to park?
- The MS zone and the Medical Services Overlay. It seems that spot zoning relief is being granted on a regular basis in many different zones. Why is the town still pushing doctors in to functionally obsolescent buildings near the hospital?
- Anyone who owns a property in the Transportation Hub District has been robbed. Their property has been devalued by the zoning and its severely limited uses.
- The stabling of horses: Did you know that you only need a half acre of land total in order to stable a horse on your property? That can include you house, garage, pool, etc. Consult with an expert on how much land each horse should have to move around. Horses are large animals that need space to roam; this is not humane.

Thank you for your consideration.

Sincerely,

Ali Maloney

The Map below Ms. Maloney provided for areas of concern.



- #1.) 371 Iyannough Road. 14,400 sf of steel frame industrial bays. Built in 1970. Preexisting, non-conforming.
- #2.) 181 Spring Street. 2,400 sf small engine repair shop. Built in 1945. Preexisting, non-conforming.
- #3.) 242 Barnstable Road. 2,280 sf dry cleaner. Built in 1969. Preexisting, non-conforming.
- #4.) 339 Barnstable Road. 1,481 sf hair salon. Built in 1950. Preexisting, non-conforming.
- #5.) 375 Barnstable Road. 1,930 sf market and gas station. Built in 1976. Preexisting, non-conforming.

Attorney Ruth Weil commented on the Public Comment portion by making a generic statement: Zoning issues are very fact specific and in terms, and interpretation, in the section you spoke about regarding the the change of non conforming to another non conforming use does not prohibit another from using it as the same, so the best way to explain it is if there is a hair salon in this zoning area and the original hair salon leaves, you can't put another hair salon there once the ownership changes, and that is not true, someone else can go into that space and operate it as the same business that left. The grey area is the Salvation Building on North Street that seems to be the same use, again it is a judgement call, without knowing what the Salvation Army operated as, there are grey areas in the zoning of this as well, there may be facts surrounding the decision. If the previous business was abandoned, then that is a whole other explanation as to what can go into there.

Chair of the Committee wanted to make sure that everyone had a clear take away from today's public comment; if you have a tenant that has a nail business that they want to sell and even though it is non conforming, they can still sell as a nail salon and operate as such, providing the open it as a nail salon. if you have a business owner that owns the business is operating as a car repair shop that is non conforming and you want to open up another repair shop that is okay. Unless the business has been closed for two years, that means the business is closed, but if you have a salon that has not removed all their equipment, and wants to open up after two years that is allowed, because the rules under abandonment states that if the building contents are removed and the building is stripped and two years later you want to re-open you can't. Or if the license is given up, the business can't come back in two years and open.

Chair of the Committee stated that this Committee will make a list of issues regarding Zoning and Regulatory, and those that are something that can be fixed quick will be, those that may need a little more discussion will be presented to the Planning Board as changes, and then the Planning Board will have to meet to discuss them and go through their process.

Chair of the Committee welcomed Matthew Eddy, Principal Professional Engineer, Baxter - Nye Incorporated. Every person who comes into town works with a competent broker and a competent engineer. Mr. Eddy was asked to give his thoughts regarding zoning, the Town of Barnstable is a very good process, everyone tries to work with you, he said in a regulatory standpoint which seems to be consistently is dealing with the Cape Cod Commission, there are some projects within the Route 132 corridor is an economic center that is targeted for redevelopment and we have projects we are working on and the intensification of the use is a project that impacts the region. When a certain threshold of the project is discussed it sends the project to the Commission, however he believes that the Town could handle this without having to go through the Commission, we provide the same information to the Town that we provide to the Commission, it is an unnecessary level for redevelopment that causes a hardship to the owners, realtors, and as soon as we start the process of talking to these business owners and developers about what is going to be needed and mention we may need to go to the Commission, the business owners and realtors seem to stop in their tracks and it becomes economically not sound to go through the Commission, it's an extra review that is not needed. He believes the West end of Hyannis needs to be developed, but again the zoning there does not allow a lot to go there, and you get into the non-conforming use issues. Chair of the Committee asked if there a number that we keep coming up against that seems to be an inhibitor. Mr. Eddy stated to him it seems as soon as you go over 10, 000 square feet it triggers the Commission, there really is not a hard number that is a problem. Maybe the 20,000 range or more, but it really depends on the use of the building.

Chair of the Committee stated that we are all aware that the Cape Cod is a hub, there are restrictions based on how we handle our discharge, so what are developers looking for what range, Mr. Eddy stated 20 to 50 thousand square feet. The time to have positive impact is now, not 5 years from now Mr. Eddy said. From the zoning aspect, the HB (Hyannis Business District) Zoning has a lot of issues as well; he would like to see the HB done away with because again the Town has the capacity and the capability of handling this. There are a lot of the regulations that need to be re looked at, some are very constraining to a developer. The Zoning Ordinance of the Town of Barnstable could be streamlined, there are three

definitions to it, and then under those 3 there are 5 more off of those, so if you are a new developer coming in and do not know about these in Barnstable, then it becomes very difficult to find out any information, so if this could be streamlined that would make an enormous difference for outsiders. He hears a lot of questions from developers; “is this allowed” “can we do this” he gives the advice to call the Building Inspector for clarification and explain what you want to do, it is also based on interpretation of the Zoning bylaws, it can be in some instances very cumbersome with some of the zoning issues. If someone wants to re-do their cellar for extra living space they should be able to do so, or if they want to add another bedroom or move an elderly person into a home, a lot of the septic can handle this especially if you have low water toilets and such, so those regulations he feels needs to be re looked at. The Residential/Multifamily zoning that require variances, a lot of these do not need all this. The way the Zoning is currently designed for multifamily there are no parcels in Barnstable that currently allow this to happen. He feels this needs to be re looked at because there is a lot more need for multifamily than there is for single family. The other item he wanted to touch on was the Board of Health regulations, the one he sees being talked about a lot is the waste water bylaw. This bylaw was written back in the 80’s so he feels that it needs to be returned to deal with today’s issues with the technologies that are available today, the way it is written today there are no variance given, but he has worked on projects he has had to show them that this way is the better way and is more efficient. Chair of the Committee stated he is correct on this one because there are so many products out today for design and flow, which the average homeowner does not use what the ordinance is saying for today, it’s outdated and needs to be looked at.

Councilor Jessica Rapp Grassetti does not feel that the ordinances should be left up to interpretation, they should be all uniform so the answers given out are the same every day so she would like to see that happen. Ruth thanked him for all his information he presented tonight it was good to hear his perspective on the Zoning Ordinances. She would also like to see the definitions provided as one and not several definitions for the same word.

Chair of the Committee thanked Mr. Eddy for his time and his information tonight. Due to the fact that quorum was not met the Committee could not vote or move on anything for the night. The meeting minutes of April 6, 2017 and April 20, 2017 will be presented at the next meeting for approval.

ADJOURN: 6:25pm