

Town of Clarence
Planning Board Minutes
Wednesday July 15, 2009

Work Session 6:00 pm

Roll Call
Update on Pending Items
Zoning Reports
Committee Reports
Miscellaneous

Agenda Items 7:00 pm

Approval of Minutes

Item 1

Sign Law

Review, Recommendation and Action

Chairman Gerald Drinkard called the meeting to order at 7:00 p.m. Councilman Joe Weiss led the pledge to the flag.

Planning Board Members Present:

Chairman Gerald Drinkard
2nd Vice Chairman Wendy Salvati
George Van Nest
Gregory Todaro

1st Vice Chairman Albert Schultz
Timothy Pazda
Richard Bigler

Planning Board Members Absent:

Jeffrey Grenzebach

Other Town Officials Present:

Director of Community Development James Callahan
Planner Brad Packard
Councilman Peter DiCostanzo
Deputy Town Attorney David Donohue

Other Interested Parties Present:

Bob Geiger
Jim Blum
Anthony Pacenzia

Patrick Casilio
Dan Hanley

In the absence of Planning Board member Jeffrey Grenzebach, alternate Planning Board member Gregory Todaro will be participating in all discussions and voting on all agenda items this evening.

Motion by Al Schultz, seconded by Gregory Todaro, to **approve** the minutes of the meeting held on June 17, 2009, as written.

ON THE QUESTION:

Chairman Drinkard said he will not be voting on the minutes because he recused himself for part of the June 17, 2009 meeting.

Gregory Todaro	Aye	Richard Bigler	Aye
George Van Nest	Abstain	Timothy Pazda	Aye
Wendy Salvati	Aye	Al Schultz	Aye
Gerald Drinkard	Recuse		

MOTION CARRIED.

Chairman Drinkard explains that the Planning Board is a recommending body that may vote to refer agenda items to other committees such as the TEQR Committee, Fire Advisory and Traffic Safety for their study and comment. The Planning Board may vote to recommend an action to the Town Board with conditions. The Town Board is the governing body and as such will have the final vote on all items.

Item 1

Sign Law

Review, Recommendation and Action

DISCUSSION:

Jim Callahan explains that after several years of review, after the previous rendition was recommended for Town Board consideration and with a lot of public input and legal reviews, the Planning board has a drafted Sign Law in which they are prepared to forward to the Town Board for consideration. The overall document has addressed many of the issues that have been brought forward through the past couple years. With some slight modifications the Planning Board is ready to make a recommendation to the Town Board.

Chairman Drinkard reads the statement that is printed on the current document of the Sign Law draft: Draft Sign Law after review by the Town Board, Legal Dept and having held a Public Hearing. Adjustments were made to the previously submitted Sign Law. A Negative Declaration under SEQRA was issued by the Town Board on August 22, 2007 based on a thorough review by the TEQR Committee. A Town Board Public Hearing was held on October 10, 2007.

Comments by the Town Board and members of the public indicate that the Sign Law is disorganized. The prepared draft reflects the law as organized and modular. Zoning Districts have been identified and all that applies to each district is listed under that section appropriately. Due to the re-organization of the Law there is some duplication of information.

Chairman Drinkard said the public made a profound statement on “grandfathering” at a seven (7) year moratorium. Other Towns have a moratorium but the town must be able to execute it. The draft does not indicate a time limit; any sign that isn’t in conformance the day the Law passes is a non-conforming sign. A current business owner, unless he sells his business can keep the existing non-conforming sign, the new owner would have to bring it into compliance.

The next issue is internal vs. external lighting. Snow and snow plows can ruin external lighting. Internal lighting is now allowed with criteria to make for classy lighting.

Chairman Drinkard lists a few of the Towns that were researched during the review process of the Sign Law; they include the Town of Amherst, the Town of Grand Island, and Sonoma, which is outside of Phoenix, Arizona. The Municipal Sign Law from the State of New York was also researched. There is a National Highway Standards Committee that has much input from people that sell signs for 100% advertising, that is not what the Town of Clarence is about.

Chairman Drinkard said the intent is to move the draft to the Town Board; within the motion will be any concerns of the Planning Board.

Timothy Pazda refers to page 2 of the drafted Sign Law and voices his concern with the amount of time allowed for constant intensity. The time is ten seconds; Mr. Pazda said it should be longer. He refers to page 17 and said the Sign Review Board should be delineated in the Law. Page 12 refers to Political signs and Mr. Pazda said there needs to be discussion on those as well.

George Van Nest refers to LED signs and asked if the Town’s Law is appropriate for what the Planning Board is trying to accomplish from a planning and design perspective. He asked if the Sign Law is sufficient for the businesses in the Town to grow and does not want the Town’s Law to be too restrictive as the businesses operate. The LED technology is here and can be appropriate and consistent with the law. By not allowing LED signs in certain districts such as Commercial, Industrial Business Parks and Restricted Business it makes it difficult for businesses to grow. If the Town does not allow LED signs in these districts they will use 1950 technology with changeable copy. A changeable copy sign is time intensive and labor intensive and not as easy to function as an LED sign might be. Mr. Van Nest thinks LED signs should be permitted and allowed through the Restricted Business District, yet preserving the character of the community. The sign design should be very clear on the sign permit application as to what is permitted.

Chairman Drinkard said the current draft of the Sign Law allows an LED sign in the Major Arterial Zone only. He would like to see the law for Restricted Business kept as is.

Wendy Salvati thinks LED signs are distractions and have the ability to produce traffic conflicts. She does not feel LED signs are in keeping with the character of the community. The American Association of Safety Traffic and Highway Organization have come out with new recommendations which include the display time on LED signs; it recommends intensity longer than 10 seconds. Ms. Salvati said the intent of the Sign Law is to protect property values, restrict visual blight and enhance the appearance of the community. It is further to enhance the business environment while protecting and improving upon the character of the community by reducing the visual blight and hazards that may be caused by advertising obstructions and distractions. Ms. Salvati said the purpose of a sign is not for advertising, it’s for identity.

Al Schultz voices his concern stating that the law should be consistent between permanent and temporary signs.

Chairman Drinkard said the Sign Law is modular and meant to grow.

Mr. Pazda said he is not prepared to move the draft forward with the LED issue out in the open. He agrees with sending it forward as is, with the condition of increasing the message intensity for a time longer than 10 seconds. He suggests further discussion on the law subsequent to sending it to the Town Board.

Mr. Todaro said the Town does not have to accept new technology just because it's new. However, he thinks there are issues that can be agreed on. He does not see LED signs in the Commercial Zone as a problem but he questions the Restricted Business Zone. If the traditional look is going to be maintained in the Restricted Business Area he is not sure LED signs should be allowed.

Mr. Bigler agrees that the allowance of LED signs need to be pursued. He said it is time to move the draft forward.

Dan Hanley, owner of the Red Mill on Main Street, compliments the Planning Board on the work they have done on the Sign Law draft. Mr. Hanley said there are different needs for different sections on Main Street. He agrees that the intensity of the message should be longer than 10 seconds; this can be enforced by taking a video of the sign. He also agrees that an LED sign is not acceptable in all areas of the Town. Mr. Hanley notes that a changeable copy sign is difficult to maintain, especially in the winter due to the cold temperatures; snow plows may pile up snow to make it difficult to change a message. Extreme winds have blown letters off the sign.

Councilman Joe Weiss compliments the Planning Board on the work they have done drafting the Sign Law. He said content, color and fabric need to be taken into consideration when a sign application is reviewed. These items should be addressed in the law. He refers to page 2 of the drafted law, item 5, and asked how the Town Board will obtain copies of the sign permit applications. He suggests copies are made and put in the Town Board's mailboxes. Councilman Weiss refers to page 2 (C) (3) and suggests adding the following: No temporary signs may be affixed without a permit. He suggests any additions to existing signs should be checked. Councilman Weiss refers to page 3 (E) and suggests a 30 day period be used as opposed to a 60 day period for off-premises signs. He refers to item (I) and suggests limiting the wording on these signs to prohibit the owner's names from appearing on a permanent sign welcoming anyone who ventures into the subdivision. Mr. Pazda points out content can not be dictated as it is a First Amendment Right of the U. S. Constitution; it is freedom of speech. What can not be advertised are things pertaining to pornographic businesses. Councilman Weiss asked why the Board can't just suggest content. He refers to page 4 (M) and suggests blank signs be taken down within 6 months.

Mr. Schultz notes that the Sign Review Board looks at and discusses content and color of all signs that are brought before them.

Councilman Patrick Casilio points out that signs with external lighting can be a problem for business owners to maintain. He thanks the Planning Board for the work they have done on the Sign Law Draft. He voices his concern with signage on trucks; there should be something in the code to control this. Photos showing signage on trucks are distributed for members of the Planning Board to

view. Ms. Salvati agrees that something should be in the code saying this can not be done. Councilman Casilio understands there are only 2 gentlemen in the Zoning Office to enforce the code.

Councilman Casilio voices his concern with regards to vendors who place newspaper boxes in the right-of-way. He said people think they can do anything they want in the right-of-way. This also needs to be controlled. Mr. Pazda said the draft indicates there can be no signs in the right-of-way. Councilman Casilio is not sure what part of the Town Code would regulate the newspaper boxes he is referring to, but the situation needs to be addressed.

Mr. Pazda voices his concern with the length of time a political sign is allowed to be up. Councilman Casilio notes that signs at intersections can affect line of sight for drivers. Ms. Salvati explains the law says political signs must be treated as any other sign. Councilman Casilio would like to see some sort of regulation on political signs.

Mr. Schultz said the Planning Board discussed the signs on trucks and they decided to get the Sign Law in place and then re-visit the truck issue at a later date. Deputy Town Attorney David Donohue said the DOT regulates trucks with signs.

Anthony Pacenzia, of 4755 Schurr Road, said there should not be more than one (1) political sign per person on a piece of property. He explains his sign is one (1) year old and if it was damaged he would have to replace it according to code which would mean relocating it and that would be expensive. Chairman Drinkard explained to Mr. Pacenzia that he would not have to relocate his sign according to both the old sign law and the new drafted sign law. Deputy Town Attorney David Donohue clarifies that if his sign needed repair, he would not have to relocate. But if the sign needed to be replaced he would have to comply with the code and go before the Zoning Board of Appeals. Chairman Drinkard said the owner of the sign could demonstrate that he had a hardship and, most likely, a variance would be granted.

Mr. Pacenzia said when decisions are made on rules older buildings must be taken into consideration. Mr. Schultz explains that the laws must be written to serve the general public in general situations. For specific situations there are provisions that can address the issue such as the Zoning Board of Appeals; a law can not be written for every single situation.

Mr. Pacenzia said LED signs should be considered. He would not have a problem if a business next to his put up an LED sign. Mr. Pacenzia said external lighting is dangerous, it creates a glare and you can't read the sign, especially on rainy nights. He would like to see more consideration given to interior lit signs. He does not see anything in the code referring to sign lighting. Chairman Drinkard reads section 2 (C) from the drafted Sign Law: No sign shall be placed or be directed so as to permit the sign illumination to be directed upon a public street, highway, sidewalk or adjacent premises so as to cause hardship or danger to any person or persons. This is an enforceable issue. Mr. Pacenzia suggests the law allow the external lights be raised to the bottom level of the sign, not below.

Mr. Pacenzia voices his concern with the size allowed for plaza signs, which is 48 square feet. He does not think this is enough and the Law should increase the allowable size.

Chairman Drinkard said the intent of the current law is as much to protect the current owners of businesses as it is to protect new owners.

The Planning Board will propose an annual review of the Sign Law. Ms. Salvati does not think this is a good idea.

Mr. Hanley asked the Planning Board to be very cognizant of the fact that future Board members may apply the negative side of logic and damage can be done to the business man. He asked the Board to look carefully at the wording in the Law, and be aware of such words as “shall” and “must”. He said there is not always an appeal process.

Mr. Schultz said any time the Town Board wants the law reviewed they can send it to the Planning Board to do just that.

Ms. Salvati said the Sign Law should not be a work in progress. The Town should achieve a law and then if an issue comes up the law will go through the proper procedures and can be amended.

Mr. Van Nest said the Town is doubling the business owner’s problems if the non-conforming sign is destroyed by an Act of God and has to be replaced in conformity with the law. Mr. Pacenzia said there is also a problem with the time limit in order to get the sign back up. Deputy Town Attorney David Donohue said there is no time limit.

Mr. Pazda would not be in favor of voting on the Sign Law without further discussion on the time limit for the intensity of the sign. Ms. Salvati said she is not against LED signs in other districts but suggests the Planning Board establish very specific regulations for LED signs, such as movement, number of colors and no animation. Mr. Van Nest wonders if this can be accomplished through an addendum to the sign permit so that the applicant has agreed to the conditions on the sign permit application. Jim Callahan said the Sign Review Board will have to be very detailed and spell out exactly what the conditions are. Ms. Salvati said if the conditions that are put on the sign are not in the law, how can the Sign Review Board make the applicant comply? Mr. Callahan said general parameters should be in the law and then specific conditions listed when the permit is issued. Chairman Drinkard reads from the drafted Sign Law page 2, section C (5): LED signs must have messages that remain of constant intensity for at least ten (10) seconds. No part of an LED sign may move or scroll or be considered an animated sign. He asked how much more detail is needed to be built into the law that can’t be put into a permit. Mr. Van Nest said page 9, section B (1) of the drafted Sign Law is another means of setting conditions for a sign.

Mr. Hanley suggests the following wording be added to the Sign Law draft: In accordance with the specifications issued by the Zoning Office. Mr. Van Nest suggests the wording: Conditions associated to the permit that the applicant applied for and agreed to. The applicant’s signature would be required on the application.

Mr. Pazda thinks the item should be tabled this evening and further discussion(s) be held. Mr. Van Nest agrees and said further discussion should be held especially regarding LED signs.

Chairman Drinkard said if the item is tabled this evening he suggests it be placed on the agenda for the July 29, 2009 meeting and a motion be made then. He also suggests a work meeting on Monday July 20, 2009 in order to hammer out the details prior to the July 29 meeting.

ACTION:

Motion by Richard Bigler to **refer** the Sign Law Draft to the Town Board with a stipulation that the LED light be made constant for 30 seconds instead of 10 seconds.

There is no second to the motion.

MOTION FAILED.

Chairman Drinkard invites all Planning Board members to the Executive Planning Board meeting on Monday July 20, 2009 at 9:00 a.m. to discuss the Sign Law draft. There will be a Planning Board meeting on July 29, 2009 to take action on the Sign Law.

ACTION:

Motion by Wendy Salvati, seconded by Timothy Pazda to **table** the Sign Law Draft for consideration at the next Executive Planning Board meeting.

ON THE QUESTION:

Any comments or suggested changes should be brought to the Executive Planning Board meeting.

Gregory Todaro	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Al Schultz	Nay
Gerald Drinkard	Nay		

MOTION CARRIED.

Meeting adjourned at 8:40 p.m.

Carolyn Delgato
Senior Clerk Typist