Town of Nags Head
Planning Board
February 16, 2016

The Planning Board of the Town of Nags Head met in regular session on Tuesday, February 16, 2016 in the Board Room at the Nags Head Municipal Complex.

Chairman Mark Cornwell called the meeting to order at 2:35 p.m. as a quorum was present.

Members Present

Mark Cornwell, Ben Reilly, Kate Murray, Mike Siers, Jim Troutman

Members Absent

Clyde Futrell, Pogie Worsley

Others Present

Andy Garman, Kelly Wyatt, Holly White, Lily Nieberding

Approval of Agenda

There being no changes to the agenda, Chairman Cornwell moved that it be approved as submitted. The motion passed by unanimous vote

Approval of Minutes

There being no changes, Ben Reilly moved that the minutes be approved as presented. Jim Troutman seconded the motion and it passed by unanimous vote.

Audience Response

None

Action Items

Consideration of amendments to the Town's Sign Ordinance to ensure content neutral language and regulations pertaining to residential freestanding signage.

Deputy Town Manager/Planning Director Andy Garman explained the focus of what is being discussed today relates to real estate rental signs/residential freestanding signs. In previous months, the Board has received presentations on the entire sign ordinance and the content neutral provisions that were added to it. During January's meeting, the Board held a workshop with members from the Real Estate community related to the regulation of real estate rental signs. After the workshop, the Board requested Staff to come back with a draft ordinance that would be presented in a menu type format, looking at different options for size and height of the signs as well as setbacks.

Staff has discussed different options with the Planning Board Chair and developed a table with the options and included photos to illustrate the impact of the various options. Staff and the Planning Board Chair also presented the options to the Local Business Committee at their January meeting. The Committee had discussed this issue previously, reviewed the options and at their meeting made a recommendation of a two square foot size limitation for the signs with a maximum height of 24 inches to top of sign. Mr. Garman proceeded to present the table of options and the accompanying photographs.

Mr. Garman noted that as agreed upon last month, they removed the requirement that the signs be parallel to the right of way. The provision, that the signs can only be placed on properties where the building is 100 or more feet from the right of way, remains unchanged so these signs could only be placed on properties that meet this provision. Mr. Garman also stated that the proposed ordinance continues to allow a house to have a six square foot sign attached to the house, regardless if it has a free-standing sign or not.

Lastly, Mr. Garman spoke about the amortization period; the Local Business Committee discussed what would be a reasonable timeframe to allow the signs to be modified to comply with new standards. A date of January 1, 2018 was suggested since this would provide two additional seasons for the signs. This was included in the Committee's recommendation.

There being no questions for Mr. Garman, Chairman Cornwell invited members of the audience to speak on this item.

First to speak was Webb Fuller, representing Village Realty. Mr. Fuller stated that he had reviewed public records as they relate to real estate signs and could find only one complaint about the signs identified in those records. He also noted he could find no discussion related to the pros and cons of the ordinance in the public records. The Planning Board invited industry people to attend a meeting to discuss the merits of the proposed changes and the industry's position was that the current ordinance that has been in place for a number of years was working as intended and did not need to be changed. Mr. Fuller stated that the industry has not been provided with, and would request a list of issues that exist with the current ordinance. Mr. Fuller also requested a "true workshop" with the industry to discuss the pros and cons of modifications to the current ordinance.

In addition, Mr. Fuller asked that the Planning Board look at non-commercial identification (private home) signs as he noted there are several that seem to be in violation of square footage and setback requirements. Mr. Fuller also noted that although there is an amortization period, there is no definition for real estate signs. Mr. Fuller also stated that there is no definition for "temporary" signs.

David Pergerson with Resort Realty cautioned the Board that comments noted in Staff's report reiterated his concern related to content based discrimination and felt that the Real Estate industry is being singled out. Mr. Pergerson also stated that he does not want to have to reinvest in signs any more than anyone else does.

Bob Oakes, Nags Head resident and part owner of Village Realty stated that they all have an interest in the appearance of the community. Personally he felt that he has done some things to improve and maintain that appearance. But Mr. Oakes also noted that they have to recognize that vacation rentals are the gateway to the community; and that guest experience is an important part of that. A big part of their business is repeat business; people keep coming back year after year but don't always rent the same house. Signs are difficult to see when you are driving down the beach road at 35 miles per hour; they have had complaints from guests who can't find their house. There is a public safety

component, especially when guests are trying to find a house after dark. Mr. Oakes reminded the Board that the ordinance has been in place since 1982 and asked that "if it ain't broke don't fix it". Mr. Oakes also asked that if they are going to change it to please consider an incremental approach or maybe start by regulating height. Mr. Oakes also noted there should be more stakeholder input on this subject.

Stan White with Stan White Realty was next to address the Board. Mr. White expressed concern that in the summer, driving down the beach road at 35 mph existing signs are already hard to see. Mr. White stated that a 2 square foot sign was not large enough and would be even harder to see. Mr. White believes that there should be some police input on the proposed changes and expressed concern about possible safety issues if sign sizes are reduced. Mr. White reminded the Board that their industry provides a lot of jobs for the community. Mr. White noted that even their contractors have had difficulty locating the right house down in south Nags Head due to the vegetation.

Mr. White asked if the Ordinance has a definition for Home Business sign. Mr. Garman noted that the current ordinance allows a sign not over one square foot in association with a home occupation, but the proposed ordinance does not have a definition.

Mr. White noted that he has never had anyone complain about the size of the current signs, instead he has received compliments about how easy a house is to find because of the sign. Mr. White asked that the Board reconsider the size reduction and instead consider regulating height to create some uniformity.

Mr. Fuller spoke about the comparative analysis done by Staff noting that The Town of Duck should be removed because there are no ocean-to-road houses and there none really in Kitty Hawk either. Only one section in Southern Shores has comparable houses and the Town of Kill Devil Hills has comparable houses as well.

Mr. Siers asked Staff to address Mr. Fuller's concerns related to residential identification signs. Mr. Garman noted that the size requirement for these types of signs is 2 square feet and a sign that exceeds this requirement either predates the ordinance or it is in violation; this is something that Staff would need to determine and address through code enforcement. Mr. Garman confirmed that they are not allowed in the right of way and any that are, would be considered in violation.

Chairman Cornwell inquired what the current timeframe was for replacing signs. It was industry consensus that signs are replaced when necessary, when they look bad.

Mr. Siers and Mr. Reilly both agreed that more discussion is needed. Mr. Siers noted the effort that Village Realty has made in improving the look of Nags Head but would like to see how much rentals have increased due to the increase in signs. Mr. Siers also noted the concern that people can't find their houses even with the current signs and wondered if it's because the current size of the house number (address) is not large enough to see going down the road at any speed.

Mr. Reilly concurred noting that in the photos provided by staff, the clearest identification is the street address. Mr. Reilly noted that if public safety is a concern then the address number is the most important thing to note, especially if calling Dare Central/911. A renter looking for house would find it much easier if they had an address rather than a Realty number to look for. In looking at the signs Mr. Reilly noted that in most cases the lettering for the Company name is bigger than the house rental number. Mr. Reilly also noted that it is not the signs themselves necessarily but the quantity that is the problem; multiple identical signs become a nuisance and an eyesore.

Ms. Murray concurred with Mr. Reilly and inquired why the company name is larger than the rental number. Should the number be larger? Would that make a house easier to find? Ms. Murray also agreed that more discussion was needed and that she was only prepared to make a recommendation on height at this time.

Mr. Troutman also would like to discuss further and believed that they might do better with size noting that currently there are several items on the current signs, including company logos, phone numbers and websites that are not necessary. Mr. Troutman also believes that height needs to be considered.

Mr. White and Mr. Oakes noted that in the off season, people drive around, find a house that they like and use the phone number on the sign to contact the company.

Ms. Murray noted that they are not able to regulate content on a sign.

Chairman Cornwell noted that they could maybe start with a height that worked with sight lines that might be a step in the right direction. He understands if it's not broken don't fix it but from the Board's perspective it is a problem. At a minimum, two things come to mind, size and height. Mr. Cornwell noted that the impact of changing the size of the signs from a financial and time standpoint could be pretty significant.

Mr. Cornwell also noted that regardless of what they decide, bringing the signs, including the private signs into compliance will take some time and will not resolve the problem overnight.

Ms. Murray asked if it was possible to invite those that have an opposing view to come in and share their viewpoint.

With regards to the actual issue, Mr. Garman stated that the Small Business Committee have been the most vocal about it. In addition to an email from a resident, Mr. Garman has also personally received phone calls from local realtors about the issue who want to remain anonymous. Mr. Garman noted that the Commissioners and Planning Board members have also received feedback on the issue. When the Commissioners asked Staff and the Planning Board to look into the issue, Staff did its review, trying to remain objective.

Mr. Garman realizes that the Real Estate industry is a significant industry and there's the need for visitors to find properties, which is why the Board initially allowed this additional signage. But the question at this point is, what is too much? Mr. Garman agrees that beauty is in the eye of beholder but noted that the Town is trying to balance sign needs vs. maintaining aesthetics as stated in the Town's Land Use Plan.

Chairman Cornwell stated that maybe they could get the Local Business Committee to come to a meeting to discuss their perspective on the sign issue and hear from the property managers. Mr. Cornwell asked Mr. Garman if he would speak to Commissioner Cahoon.

After some further discussion Ben Reilly moved to table the item. Mike Siers seconded the motion. The motion passed 4 to 1 with Mark Cornwell casting the Nay vote.

Report of Board of Commissioners Actions

Ms. Wyatt reported on recent Board Actions:

The proposed zoning ordinance text amendments pertaining to the Town's landscaping and buffering ordinances were adopted as presented.

The proposed zoning ordinance text amendment to Chapter 22, Flood Damage Prevention, to define "free and clear of obstruction" was adopted as presented with a request for Staff to prepare a diagram depicting the 18" free and clear for clarification purposes.

The proposed zoning ordinance text amendment to Chapter 22, Flood Damage Prevention to reduce the area of allowable space below the Regulatory Flood Elevation from 300 square feet to 299 square feet for purposes of gaining CRS points was tabled. The Board directed Staff to get clarification from CRS on point system, application of points for new construction, etc.

Chairman Cornwell explained to the Board that the Commissioners were concerned about creating non-conformity among existing properties that are at 300 square feet, how many properties might be impacted by the change and what the consequences might be.

Town Updates

Principal Planner Holly White updated the Board on Focus Nags Head. Ms. White confirmed that the next Community meeting will take place on Thursday March 3rd (this how now been moved to March 8th at Jennette's Pier). The Advisory Committee has met several times with discussion centering on "character areas" within the Town. Are there areas that are distinctive or unique? For each of these areas different issues have come up; some specific to each district but also some common themes throughout town. These include: concerns about walkability/connectivity; making it safer for people to travel among both corridors - the Beach Road and the Bypass; also concerns about compatibility, new vs. existing; encouraging "legacy" businesses and diversifying accommodations. Ms. White noted that the next committee meeting will be Tuesday February 23rd.

Ms. Murray noted that the Committee has some great discussions and encouraged the other Planning Board members to come to a meeting. Ms. White also reminded the Board that most Meeting notes and minutes are available on the Focus Nags Head Website.

Ms. Wyatt gave a brief update on the Landscape Ordinance noting that Staff is still working on the guidelines. Landscape Architect Jim Connors provided Ms. Wyatt with a list of eight additional plantings and these have been added to the chart. Ms. Wyatt noted that the ordinance includes an incentive of a 10% reduction in plantings when using drip irrigation or native plants. They now have asterisks identifying the native species on list. They are still working on the cross-section cluster diagrams and Staff is working on a identifying a resource.

Mr. Garman stated that there is some money budgeted under professional services and noted that Mr. Connors might be a resource.

Discussion Items

None

Planning Board Members' Agenda

Ben Reilly stated that in keeping with the idea of "legacy buildings", it has come to his attention that the former Millers' Pharmacy building, later Mulligan's and most recently known as Thumpers has been sold and will soon be torn down to build houses. Mr. Reilly spoke about the importance of commercial spaces and expressed concerned that the Town is losing commercial establishments at a fast rate, especially on the beach road. Mr. Reilly would like the Planning Board to look at a possible short term solution to stop the loss of commercial space.

Ms. Wyatt noted that residential uses are permitted in all commercial districts so the Thumpers property would most likely not need to go in front of the Planning Board for approval of residential construction. There potentially could be two houses built if there are two underlying lots.

Mr. Garman noted that through Focus Nags Head they are looking at this issue and finding ways to incentivize businesses to stay; however this is more of a long term solution. Short of a moratorium, it is a complex issue with no simple solutions.

Ms. White stated that one of the recurring themes she has heard from the Focus Advisory Committee is flexibility to encourage existing Legacy businesses/buildings. Ms. White recently had a conversation with the Lee Nettles of the Outer Banks Visitors Bureau with regards to the next generation of visitors and how to market to them. Mr. Nettles noted that "Millennials" are very interested in knowing the story behind what's there and having these older "Legacy" buildings are what draw younger visitors in.

Jim Troutman asked if Staff need to look further at definitions in the sign ordinance. Chair Cornwell stated they could review the definitions to make sure nothing was missed but Staff is limited due to the Supreme Court ruling related to content neutral language. Chair Cornwell suggested that the Planning Board should come to a consensus on size, height, setback and amortization; then insert it into the ordinance. Mr. Garman liked the idea of having more community input maybe through a workshop with the Local Business Committee to get more points of view on the topic. Mr. Garman will contact Commissioner Cahoon about the possibility of scheduling something prior to the next Planning Board meeting. Chairman Cornwell stated he would like to be part of that conversation.

Mr. Garman stated that they can look at the definitions again, in particular the one for temporary signs and see if they can clarify the language. The Board noted that identifying the non-compliant sign, taking steps to bring them into compliance and cleaning up some of the other concerns that were brought up by the property managers will make the ordinance easier to approve.

Planning Board Chairman's Agenda

None

Adjournment

There being no further business to discuss, a motion to adjourn was made by Ben Reilly. Jim Troutman seconded the motion and the motion passed unanimously. The time was 4:49 PM.

Respectfully submitted,

Lily Campos Nieberding