



TOWN OF WAYNESVILLE Planning Board

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Chairman

Patrick McDowell

Planning Board Members

Danny Wingate (Vice)

Anthony Sutton

Marty Prevost

Robert Herrmann

Phillip Gibbs

H.P. Dykes, Jr.

P Shah

Ginger Hain

Development Services

Director

Elizabeth Teague

MINUTES OF THE TOWN OF WAYNESVILLE PLANNING BOARD Regular Meeting Town Hall – 9 South Main St., Waynesville, NC 28786 July 18, 2016

THE WAYNESVILLE PLANNING BOARD held a regular meeting on July 18, 2016 at 5:30 p.m. in the board room of the Town Hall, 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

1. Welcome/Calendar/Announcements

Chairman Patrick McDowell welcomed everyone and called the meeting to order at 5:30 p.m. Newly appointed members Pratik Shaw and Ginger Hain were introduced by Development Services Director Elizabeth Teague. Both members will be sworn in at or before the next regular meeting. Since Ginger Hain is appointed to represent the one-mile extraterritorial jurisdiction, her appointment will not be official until action has been taken by the Haywood County Board of Commissioners. Pratik Shah was appointed by the Town of Waynesville Board of Aldermen to serve as a regular member of the Planning Board.

The following members were present:

Anthony Sutton
Phillip Gibbs
Marty Prevost
Patrick McDowell
Robert Herrmann
Danny Wingate

The following Board Members were absent:

Bucky Dykes

The following staff members were present:

Elizabeth Teague, Development Services Director
Phyllis Rogers, Administrative Assistant

2. Adoption of Minutes

A motion was made by Board Member Anthony Sutton, seconded by Board Member Phillip Gibbs, to approve the minutes of the May 16, 2016 regular meeting as presented. The motion passed unanimously.

B. NEW BUSINESS

1. Review and discussion of possible text amendment to the Town of Waynesville's Land Development Standards related to Signage, Chapter 11

Ms. Elizabeth Teague, Development Services Director, presented several proposed text amendments to the Town of Waynesville's Land Development Standards related to Signage, Chapter 11. Ms. Teague asked for input and ideas from the Planning Board, adding that a public hearing regarding these amendments could be scheduled next month in August. A lot of information has been written on a Court Case in June 2015 that affects sign ordinances. This case determined that the content or message contained on a sign cannot be used to determine its legality. It is a matter of time before sign ordinances are tested because of this ruling. It is felt that Waynesville should review their sign ordinance and remove what they can, keeping in mind that additional changes may need to be made. Ms. Teague presented the following background information:

Background:

In June 2015, the U.S. Supreme Court issued a decision in the case entitled *Reed v. Town of Gilbert, Arizona*. The case involved [Gilbert, Arizona](#) which adopted a municipal sign ordinance that regulated the manner in which signs could be displayed in public areas in 2005. The town's sign code identified various categories of signs based on the type of information they conveyed, and then subjected each category to different restrictions. One of the categories was "Temporary Directional Signs Relating to a Qualifying Event," loosely defined as signs directing the public to a meeting of a nonprofit group. When the town cited a local church for violating the ordinance, the church filed a lawsuit in which they argued the town's sign regulations violated its [First Amendment](#) right to the [freedom of speech](#).

Because the sign ordinance imposed more stringent restrictions on one category of signs than on signs conveying other messages, The Supreme Court unanimously held that that this distinction was a content-based regulation of speech that could not survive strict scrutiny. Therefore, the content or message contained on a sign cannot be used to determine its legality or to regulate it more restrictively than any other type of sign allowed within the jurisdiction. The Court decision held that if an enforcement official has to read the content of a sign to determine whether its size and location are permitted, the local ordinance is unconstitutional. More background available at the UNC Institute of Government blog <http://canons.sog.unc.edu/sign-litigation-a-brief-analysis-of-reed-v-town-of-gilbert/>), and on Wikipedia at: https://en.wikipedia.org/wiki/Reed_v._Town_of_Gilbert.

The impact of this decision is being felt throughout the country when it comes to sign ordinances because the ruling means that content-specific regulations within local sign ordinances are no longer enforceable. However, content-neutral regulations are still available to resolve problems with safety and aesthetics, including regulating size, building materials, lighting, moving parts, and portability. Additionally, local governments will still be able to forbid postings on public property, so long as they do so in an evenhanded, content-neutral manner.

Staff is bringing forward proposed changes for discussion as follows. Information is still coming forward from various sources as to how local governments can best respond to this case.

Waynesville's Sign Standards:

Waynesville's sign standards, Chapter 11.5 of the Land Development Standards covers "Signs Not Requiring a Permit" and includes regulations for Real Estate (Section 11.5.11), Political Signs (Section 11.5.11) and Construction Signs (Section 11.5.13) which distinguish signs by content. The current regulations state:

11.5.11 Real Estate Signs.

- A. Only one (1) sign is allowed per street frontage.
- B. Such signs may not be illuminated.
- C. Such signs may be no greater than four (4) square feet in area (all types of signs) and four (4) feet in height (if freestanding) when located on residential property.
- D. Such signs may be no greater than thirty-two (32) square feet in area (all types of signs) and eight (8) feet in height (if freestanding) for non-residential properties, except that such signs may not exceed the maximum height and size for permanent signs within the district.

11.5.12 Political Signs (rev. 9/11/12)

- A. Duration: such signs may be displayed during a period beginning thirty (30) days prior to the beginning date of "one-stop" early voting under G.S. 163-227.2 and concluding ten (10) days after the primary or election day immediately following.
- B. Placement:
 - 1. No sign shall be permitted in the right-of-way of a fully controlled access highway.
 - 2. No sign shall be closer than three (3) feet from the edge of pavement of the road.
 - 3. No sign shall obscure motorist visibility at an intersection.
 - 4. No sign shall be higher than 42 inches above the edge of pavement of the closest road.
 - 5. No sign shall be larger than sixteen (16) square feet.
 - 6. No sign shall be attached to a utility pole.

- C. Permission: such signs may only be located on private property with the permission of the property owner. When located in the public right-of-way in front of residences, businesses or religious institutions the permission of the property owner shall be obtained.
- D. Illumination: such signs may not be illuminated.

11.5.12 Political Signs (rev. 9/11/12)

- A. Construction signs shall be allowed provided such signs do not exceed one (1) sign per street frontage with a maximum of two (2) signs per construction site.
- B. Such signs shall not exceed sixteen (16) square feet in area and six (6) feet in height for single-family or duplex residential construction or thirty-two (32) square feet in area and eight (8) feet in height for other construction.
- C. Construction signs shall not be erected prior to the issuance of a building permit and shall be removed within seven (7) days of the issuance of building permit and shall be removed within seven (7) days of the issuance of a certificate of occupancy on the last building in the development.

Staff Recommended Text Changes:

Given The Supreme Court decision discussed above, staff recommends making a few changes to the LDS standards relating to these sections of the ordinance in order to: remove the distinction of “Real Estate,” “Political” or “Construction” signs and treat them as other “Temporary Signs;” focus on traffic and pedestrian safety impacts of signs – ie, regulate for safety, not for content; and to defer to the size limitation of signs for the underlying zoning districts in 11.6.1.

- Strike 11.5.11, 11.5.12 and 11.5.13 as written altogether.
- Expand Section on Temporary Signs (11.5.14, which would become 11.5.11) to include a sub-paragraph “I.” which would address the concerns originally regulated under the current Real Estate, Political and Construction Sign Sections.
- Suggested text for discussion is as follows:

11.5.12 Temporary Signs.

A.

- I. Other Temporary Signs used for extended periods, such as the duration of a real estate sale, election season, or duration of a construction project.
 - 1. Such signage shall be limited to the time period for the project or purpose it describes and must be removed within ten (10) days upon completion of the project or event.
 - 2. Such signage shall not be placed on any Town property or Park without the permission of the Town Manager.

3. Regulations regarding such temporary signs in a public or private right of way shall not create a safety hazard or impediment to use of the right-of-way, including:
 - a) Such signs shall not be placed in a way as to interfere with pedestrians, cyclists, or motorists' access along rights-of-way, nor be placed so as to interfere with the line-of-sight of any motorist, or be placed in any way that creates a safety hazard for any mode of transportation.
 - b) Such signs shall be placed a minimum of three (3) feet from any curb or edge of pavement.
 - c) Such signs shall not be placed within a Town maintained sidewalk or greenway.
 - d) Such signs shall not be attached to trees or utility poles.
 - e) Such signs shall not be illuminated unless they are part of an existing billboard or compliant sign structure that is already illuminated.
 - f) Such signs shall be of break-away or flexible material unless they are part of an existing billboard or compliant sign structure.
 - g) Such signs shall be limited to six (6) square feet in area and four (4) feet in height.
4. Regulations regarding such signs on private property shall comply with the dimensional requirements for Ground Signs for the District in which it is located.

Ms. Teague said these proposed revisions are meant as a starting point of discussion and review for both the Planning Board and the Town's attorneys. The goals in developing these revisions are to keep the Town compliant and up to date with the current interpretation of laws, while staying consistent with the purpose and intent of the Town's Sign Ordinance and Comprehensive Land Use Plan.

Ms. Teague shared an e-mail from Attorney Ron Sneed, along with information from David Owens with the School of Government. It was felt that some text amendment wording should be removed, but that additional changes may also be necessary. There was some discussion about State Law that made changes with political signage, and that the Town can't govern signage on NCDOT right-of-way. There was discussion about regulating signs by size and not content and signs within the right-of-way and on private property. Attorney Sneed felt that the proposed changes were a good start.

Ms. Teague read excerpts from the Signage Foundation. Waynesville can still limit the number of signs. A severability clause should be added. Waynesville should guard against proliferation of signage that can cause safety issues and litter.

Patrick McDowell asked about the meaning of “edge of pavement” and how it related to allowed placement of signage. There were several adjustments to the wording regarding temporary signs to remove wording that contained content of signage and to clarify other sections. These changes will be incorporated into the draft.

Planning Board Members felt that it was important for Waynesville to comply with the Court Case but not to fix what is not broken. Ms. Teague said if a community has a sign ordinance what we are being told is we have to be careful how we regulate these signs. Robert Herrman asked about signs that are grandfathered such as billboards. Ms. Teague said the only type of signs being considered for text amendment changes are temporary signs. Ms. Teague will be talking with attorneys and hopes to provide a final draft for Board consideration and to discuss scheduling a public hearing at their next meeting.

2. Discussion Regarding Temporary Use Permit for Mad Anthony’s

There was discussion regarding Mad Anthony’s, regarding recent action taken by the Board of Aldermen to allow as a temporary use with a 180 day permit and the possibility that the building could be converted to a permanent structure. No action was taken.

3. Discussion Regarding a Study of the Hazelwood Avenue Area for Walkability

Chairman McDowell asked the opinion of the other Planning Board Members to consider studying the area on Hazelwood Avenue and its walkability from its intersection with South Main Street to Sulphur Springs Road. There are a lot of small neighborhoods in this area. It was felt that the study should include participation from the property owners in this area. It was the consensus of the Planning Board Members that a study should be made of the Hazelwood Avenue area for walkability.

Marty Prevost mentioned the area of Riverbend Street, since the street is very narrow and there is a lot of on street parking, making it difficult to pass. Ms. Teague will speak with Police Chief Hollingsed regarding this issue.

Adjournment

With no further business, a motion was made by Board Member Marty Prevost, seconded by Board Member Anthony Sutton to adjourn at 6:23 p.m. The motion passed unanimously.


Patrick McDowell, Chairman

Phyllis Rogers, Administrative Assistant