



THE CITY OF DELAWARE CITY

407 Clinton Street – P.O. Box 4159

Delaware City, Delaware 19706

Phone: 302-834-4573 Fax: 302-832-5545

**MINUTES
REGULAR MEETING OF THE PLANNING COMMISSION
CITY OF DELAWARE CITY
Monday, May 7, 2018 – 7:00 p.m.
City Council Chamber**

CALL TO ORDER

Commissioner Snow called to order the regular meeting of the Planning Commission (PC) at 7:01 p.m. Those present included Commissioners West, Hendry, Snow, Smith, McKinley, and Williams. City Manager Houck was also in attendance as was City Solicitor Walton.

ACTION ON THE PREVIOUS MINUTES

Commissioner McKinley made a motion to accept the minutes from the September 11, 2017 meeting as written. Commissioner Hendry noted a typo on page 3, second bullet. Corrections were made. Motion to accept minutes with correction was made by Commissioner McKinley and Commissioner West seconded the motion. A vote was taken, all ayes, motion carried.

SIGN ORDINANCE CHAPTER 46 ARTICLE X – REVIEW & RECOMMENDATION TO MAYOR & COUNCIL

City Manager Houck tells the Commissioners that as a result of a complaint she looked into the sign code which has resulted in her considering several areas for improvement. She welcomes dialogue and suggestions on how to improve the code going forward.

Banners

- The size of banners currently permitted seems to be overly restrictive and she was not able to find any reason for the restriction.
- For this reason, additional language is being recommended to conform to past successful practice while continuing to maintain control.

Projecting Signs

- Projecting signs are currently allowed in the R1 district but not in C1 district. Allowing projecting signs in the C1 district is not only warranted but also reasonable and therefore recommended.
- One projecting sign had been downtown in the past. A new merchant moved into the space. Under the current code a projecting sign would not be allowed as it is written. However, the sign fits in well with the C1 district and therefore it is recommended to revisit allowing projecting signs in C1.

Discussion & Comments

Banners

Commissioner Hendry asked why was the section on banners increased from one (1) section to four (4). City Solicitor responds in addition to the 25 sq. ft. signs the new regulations allow banners to be 50 sq. ft. This will make the code more consistent. Commissioner Hendry expresses his concern over banners of that size being allowed to hang on fences, homes, etc. City Manager adds that was the reason the caveats were added to distinguish between neighborhood and community.

City Solicitor Walton clarifies that a banner for a regular display is no larger than 20 sq. ft. City Manager can issue a permit for up to 60 days and it can be extended for an additional 30 days. The larger, 110 sq. ft. banner is for a specialized category which includes parades, community sponsored events and city sponsored special events.

Commissioner McKinley asked if a person can have a banner up four (4) times a year for up to 90 days does that mean that person could have a banner up all year. City Solicitor suggests that the number times a year could be lowered. Commissioner McKinley also wanted to know does this allow business owners to put banners up across the street. The answer is no, only parades, community sponsored events and city sponsored special events.

Discussion continued on who would be allowed to stretch banners across the street. City Manager calls their attention to Section 8 and suggests adding "across the street". Commissioner Snow suggests breaking it into two (2) paragraphs, one for 20 sq. ft. banners and one for the street banners so it's less confusing. All banners will require permits. City Solicitor said he will change the wording in sections 1, 2, and 3 and break it down into two (2) paragraphs to have banner and street banners separated.

The time period was mentioned again, especially the 30 day extension. City Solicitor said the extension already exists in the current code. He commented the permits per year was a valid point and perhaps should stay at three (3) per year. Commissioner Williams believes twice a year is sufficient. City Solicitor said it is written to accommodate any individual, property or entity, so if someone had a business on one side of town and one on the other side.

Commissioner Snow suggested as the meeting progressed discussion about residential signs, perhaps banners on private property could be eliminated.

City Manager brings the conversation back to the time limit. Some properties have banners for sale of property on them. The sale may not be accomplished in 30 days. She gave the example of the old Fire House on Clinton Street. She has had complaints of others and had to request their removal. To date that has only been in the commercial district.

Discussion went on to what is the content of a sign (banner). In the permitting process (which is in its infancy) it either meets code or it does not. There is no room to say what appropriate language is. However, City Manager said, it doesn't mean she can't discuss it with the applicant.

Commissioner Snow said she had been reading other city's codes and they add no profanity or obscenities on any sign that required a permit. City Solicitor said content is not to be restricted, however there are exceptions. He gave the example of having freedom of speech in a public place but one could not yell fire in a crowded theater. He believes in respect to profanity and obscenities case law would help support that.

The discussion about content continued and several Commissioners shared their views on what is obscene and profane to one person may not be to another. City Solicitor said he would add about profanity and obscenity where it texturally fits in.

Projecting Signs

Commissioner Williams said there are potential hazards to the structure and personal injury with projecting signs. He recommends any new signs hung from existing hardware be inspected by permit and town official.

Size of the projecting sign was discussed. Safety and consistency in the code is important. City Manager added if someone wanted to exceed the size they would have to request a variance. City Solicitor said under 46-3 a limitation of the size can be added. He asked what size the Commissioners would consider.

Many different thoughts of size and location were discussed: projection distance; encroachments on powerlines; materials; the wall it will be hung from; what a safe distance is; and what the difference between a banner and a sign is.

City Solicitor gave the definition of a banner as, "fabric, plastic or other non-rigid material without enclosing structural framework. The manipulation of aforesaid material affixed to a solid surface shall not constitute a sign of another description".

City Solicitor suggested the Commissioners consider a projecting sign to be wooden. He said by definition a projecting sign has to be attached to a structure, a fence, or a building face. However, what is decided would not impact the current signs as they are grandfathered.

In trying to find a reasonable size they considered visibility from the street, bad weather and wind coming off the river. After mentioning several sizes they agreed on 15 sq. ft. (3x5).

Corner Signs

Commissioner Williams believes corner signs on properties should be restricted to the C1 district only. City Solicitor added there are four (4) classifications for commercial and asked if the Commissioners wanted to apply it to one or all. City Manager feels it should be applied to all.

The discussion returned to projecting signs. Commissioner McKinley said he has a vision of Delaware City taking on the aesthetic appearance of a Civil War town because of its history and relation to the two (2) Forts.

An appropriate size was still in question. They discussed getting a variance if too small or too big. City Solicitor pointed out if someone comes to the Board of Adjustments for a variance they have to meet the exceptionable-practical-difficulty test and will have a very hard time proving they do. If they are applying for a 15 sq. ft. rather than an 8 sq. ft. they probably will not get it. So, whatever is decided and committed to will be it. Reminds the Commissioners they are making recommendations to Mayor & Council to vote on. The final agreement was 10 sq. ft. for projecting signs.

Entrance Signs

City Manager said this had not been thought about before Fort DuPont put up their sign. Currently the sign does not qualify as written. She suggested adding "or government entity" to the definition. Commissioner Snow mentions 46:82-B however, City Solicitor said this would fall under 46:81 because it deals with single family, etc. and Historic Preservation & Redevelopment. Therefore 46:81-H will read: *"One sign or bulletin board not exceeding twenty four (24) square feet in area upon the premises of a church or other similar religious institution or government entity."* The Commissioners were in agreement.

Real Estate Signs- Portable Signs

City Manager would like to see real estate signs provided for in the code. City Solicitor said it doesn't fit under temporary signs but under portable signs in Subsection L. City Solicitor read the section on portable signs and added that "real estate signs" could be added there.

Commissioner Williams saw a problem with the wording that says the sign is to be placed by a business. He believes that eliminates home owners from being able to sell their home without a realtor. City Solicitor suggested working on the wording to leave out "by a business"

Commissioner Snow brought up portable signs in the R-1 district. She added when we write this we have to describe some type of sign so people can't put up anything in R-1. There should be a way to add that it is necessary to have the sign in front of the business it's representing. City Solicitor agrees the way the code is now there is a no provision that allows you to put a real estate sign in front of your house. Commissioner Snow said that the previous recommendations to Council were for no portable signs in the R-1 district.

City Solicitor said the judgment that Justice Alito handed down said: "you are presumptively unconstitutional if you differentiate between real estate signs and commercial speech". Continued discussion over what can

be and can't be went on. City Solicitor mentioned other cases of this nature (Rappa vs. New Castle County). Going back to no signs at all would also eliminate real estate signs.

City Manager suggested deleting M and N in 46-81 from R-1, R-2 and R-3 districts. The 100 feet from an intersection also was viewed problematic. Discussion of property size in town suggested at 60 ft. It was pointed out the 100 feet was for businesses now the attempt is to make it applicable to both business and residents.

City Solicitor's recommendation is one (1) portable sign. After more discussion of set-back, number, type City Solicitor asked if anyone objected to R-1, R-2, CL and HPR districts make the recommendation to delete sign illumination for all signs. All agreed to delete. He also asked if anyone objected to recommend eliminating projecting signs in these same districts. All agreed.

The discussion continued for some time over size, number of signs, types of signs. City Solicitor concluded they had reached a consensus and asked for someone to make a motion.

The following are recommendations of the Planning Commission:

- To amend Section 46:81-H which deals with church or other religious institutions to add "and government entity."
- To amend Section 46:81-L to now read one portable sign not to exceed 6 sq. ft. and placed by a licensed business and placed only on the property where the business is located.
- The Planning Commission recommends further to remove 46-81-M relating to sign illumination and for projecting signs.
- Planning Commission also recommends a limitation of 10 sq. ft. for projecting signs and with respect to corner lots only two (2) signs in commercial district on a corner.
- The Planning Commission further recommends that the definition of temporary sign be changed to 8 weeks from its current 2 weeks and
- Section 46:93 of the code recommends temporary signs be included in the list of signs that do not require a permit

ADJOURNMENT

Commissioner Williams made a motion to adjourn the meeting. Commissioner Smith seconded the motion. A vote was taken, all ayes. Meeting adjourned at 9:07 pm.

Respectfully submitted,

Bonnie Lynn Hanna

City Secretary