

Town of Granby Steering Committee

Meeting Notes – October 2, 2019

A meeting was held on Wednesday October 2, 2019 at 5:00 pm with the following members and professionals present:

John Snow Jr.
Linda Parkhurst - excused
David Crockford
Tina Sawyer
Loretta Waldron
Lisa Somers
Lynn Lyons
Christine Bassett
Jamie Lynn Sutphen - attorney
Howard Brodsky - planner
Doug Miller – engineer

Also Present: no one.

The Committee welcomed two new members, Lynn Lyons and Christine Bassett. Both are members of the Mining Task Force, and Lynn Lyons has been involved in Granby government and a School Board Member for many years. Both had been supplied with the previous minutes and Howard Brodsky briefly summarized the format of the Planning Program and the groups connection to the Moratorium. The new members asked if mining should be added to the issues list generated by the group so far, Howard Brodsky agreed that it should be an issue developed for the Planning Program and probably dealt with more in the map/geographical review. Discussion ensued of the limited authority municipalities have regarding mining operations because of the DEC's over-riding jurisdiction with the MLR permit – not allowing or designating a district where mining is allowed, and establishing large setbacks are two of the Town's best control mechanisms.

Brodsky had prepared an agenda that he explained. It prompts discussion of some recurring land use issues dealing with animals, home occupations and accessory structures. The special use permit process is another topic listed for discussion because of the broad interpretation of uses allowed by the Zoning Ordinance language, and likewise, the lack of regulatory control measures in the Zoning Ordinance. The various zoning districts themselves are a listed topic because there is no apparent distinction of allowed uses defining each district, and the districts are unconnected to the existing land use patterns. The final group of issues are 'foundational' and deal with the existing written Code, physical map and Board Training. The agenda has page references from the Zoning Code for committee members to read and critique related sections in preparation for meeting discussion – potential solutions start with changing current text.

**** A foundational issue needing immediate attention was to obtain a current, legal version of the Zoning Ordinance in a Word format to 1.) add missing local laws and amendments from years past that are not included within the current Zoning Ordinance text, and 2.) for updating with adopted changes as they are made over the next year and provide the same document to everyone. Lisa Somers will provide Howard Brodsky with ZO in Word format.

Jamie Lynn Sutphen and Howard Brodsky had discussed what issues had surfaced so far to them as manageable and presented a couple of actions that could be completed through to an adopted Local Law in roughly three months. Picking a project and developing a proposal to present to the Town Board is a process that will be completed several times during this Committee's work, therefore this initial proposal will establish the format to use for all future amendments.

They suggested the following proposals:

1. Special Permit UNSPECIFIED uses clause:

The special use permit is overused in the Code and lacks specificity. It has been problematic because of broad interpretation and could be considered an improper extension of the Town Board's authority.

- a. ACTION - Remove clause from the Use Chart Page 9 – *"Uses not specified shall require Special Use Permit and Site Plan approval from the Planning Board."*
- b. CONSEQUENCE – If use is not listed, then it is not allowed.
- c. Professionals will draft Local Law for consideration by Town Board – the Committee will review and eventually present the draft.

2. Text Amendment Section:

Amendments updating the Zoning Ordinance should be a constant process for Town personnel. A systematic and easily understandable process will greatly aid in completing the task.

- a. ACTION – Define Text Amendment with detailed process in the Code by rewriting Zoning Ordinance Section IX: Amendments Page 39.
- b. CONSEQUENCE – Positive - Provide ease for considering and adding future uses and updates.
- c. Professionals will draft Local Law for consideration by Town Board – the Committee will review and eventually present the draft.

Jamie Sutphen elaborated on the value of a defined Text Amendment in the Zoning Ordinance. When a legislative body, the Town Board, makes a Local Law it is very strong and often not appealable. A decision adopted as local law gives residents security in the regulations that the special use permit cannot deliver upon. A land use designated as requiring a special use permit means that the use is allowed and deemed inherently harmonious with the community, and only requires the establishment of conditions particular to that location. A Local Law conclusively eliminates or permits a land use.

3. Use Chart - Change to Business Use:

The Moratorium targets commercial/business uses and development as potentially impacting the Town negatively. Clarification of zoning language by adding clear definitions is recommended.

- a. ACTION – Remove line from Use Chart Page 9 – *"Retail business or service not otherwise specifically mentioned herein."* Add two lines – Retail Business and Service Business.
- b. CONSEQUENCE – Overlooking or omitting a desirable land use, therefore definition needs to clearly assign land use designation. Jamie Sutphen stated that 'retail business or service' land uses that currently exist by special use permit, and that are desirable, will need to be added to the Use Chart to allow and provide consistency to the status of those properties.
- c. Professionals will draft clear, descriptive and specific definitions for the Committee to review. Lisa Somers will provide a short history of land uses that have received special use permits.

Howard Brodsky explained that the distinction between the two is commonly defined as: a retail business involves walking out of the establishment with a physical product in hand, and a service business involves the customer needing to physically be present to receive the service such as a dog for doggie day care.

PACKAGE OF TASKS generated so far from tonight's discussion:

1. Delete clause at end of Use Chart by Local Law.
2. Change/Replace: Retail Business and Service Business with definitions.
3. Review and modify Page 39 of Zoning Ordinance with explaining language of how to add land use to the Use Chart.
4. Add specific current land uses to the Use Chart. Lisa Somers to research past SUP uses.

USE CHART:

Discussion ensued regarding line item land use changes within the Use Chart and that without a focused strategy it can become unmanageable and time-consuming quickly. The objective for this proposal is to identify examples of specific 'retail business and service' uses within the community that need to be either potentially added or removed from the Use Chart. A short list was generated as follows:

- Doggie Day Care, Dog Grooming and other pet trends.
- Banks, free-standing ATM's – is it service or retail?
- Amazon and similar centers – new use to culture
- Mini-storage
- Eventually remove antiquated language such as 'gasoline filling station'

Howard Brodsky emphasized that going forward all land uses added or changed in the Zoning Ordinance will require a definition. Everyone should consider definitions when reviewing text of the zoning Code – revision as we go for clarification purposes will go a long way in assisting all departments that utilize the document.

NON-CONFORMING USES:

Howard Brodsky asked what the issue was regarding non-conforming uses, which both the planning board minutes and Chairman Ketchum's email (both provided at last meeting) mention as an issue needing attention.

- Lisa Somers replied that the Zoning Ordinance Section VI: Non-Conforming Buildings, Uses and Lots Page 31, lacks a time frame designation for declaring discontinuance. One consequence has been parcels developed commercially in the R-1 district may remain commercial entities, permitted with Site Plan Review regardless of the length of abandonment.
- The Zoning Ordinance Section VI: Non-Conforming Buildings, Uses and Lots Page 31, overlooked the impacts to properties when their zoning district changed to a more restrictive one. A consequence created is hardship to residential properties in the CIT district which restricts residential construction activity such as garages.

Jamie Sutphen stated that another draft Local Law could be created quickly to address adding an exception clause to Section VI to protect residential property usage within the CIT and provide somewhat immediate relief for maintenance and upkeep to affected property owners.

FARM ANIMALS:

Several areas of the Code are cited in the agenda for references dealing with farms and animals. Howard Brodsky commented that several definitions are missing in the current ZO such as agriculture and farm – basic land uses, and directly pertaining to the Town's identity as agricultural. Currently two categories exist for this land use as agriculture with animals and agriculture without animals. A strategy involving the scheduling of the various farm animals by type and acreage required could apply instead of the blanket regulation of not allowing any animals in the R-1, and allowing animals by SUP in the A/R. Jamie Sutphen pointed out that the inclusion of animals in zoning text is not for the protection of the animals, there are other State laws for that, but rather to protect the surrounding property owners. Farm animals to be covered would include cows, horses, goats, sheep, ducks, chickens – large acreage differences needed for the array of animals listed. Currently properties within the A/R district, including those with lots of acreage, requires a special use permit – seems contrary for an agricultural and residential zoning status. Some discussion ensued regarding when this potentially controversial or sensitive topic should be presented to the Town Board.

CHICKENS:

The problem surrounding chickens is not a farm animal issue but rather a new trend to combat ticks. The desire to have free roaming chickens has developed in all zoning districts regardless of whether the property is located within a residential district with aesthetic covenants, or in a residential area of the CIT district, they all want chickens. The CEO also has numerous calls for controlling the neighbor's chickens that free-roam into their yard. The CEO has no recourse for a community that supports the formation of SCAD – State Certified Agricultural Districts. A strategy presented was to regulate animals that's purpose is not for farming, but rather are kept as pets, to be considered as an accessory use which would fall under the discretion of the CEO.

HOME OCCUPATIONS:

The Zoning Ordinance lists home occupations as a permitted use by right in all zoning districts except CIT, and has supplementary stipulations for number of employees, maximum of 20% of living space utilized, no external evidence of business and limited signage. Home occupations are not required to comply with planning board review and are subject to CEO review only. Businesses located on residentially used property are subject to special use permit approval and usually involve utilizing an accessory structure like a garage or pole barn. A gap exists within the regulations between when a business is small and considered a home occupation, and then grows to occupy additional space in a separate structure. There is interest by some committee members to see standards developed to apply to all scales of businesses located on residentially used properties to better provide overall safer structures for people to visit. This issue needs further development to proceed. The group is tasked to review the text of the Code to clarify what the issue is with home occupations. Performance standards or a measure of how the business behaves should be considered in order to determine appropriate regulations.

The next meeting is scheduled for **Wednesday, November 6, 2019** between **5:00 & 7:00 pm**.

Next Meetings Homework for Members:

- Develop listing of potential and existing land uses for retail business and for service business.
- Review the Use Chart to determine if any land uses should be removed, added, clarified or expanded. Additions also need a definition.
- Research home occupations and business uses for problem identification.

Meeting ended at 7:00 pm.

Respectfully submitted,

Lisa Somers, Steering Committee Clerk