

Planning Board Minutes
April 6, 2016 – 7:00 P.M.
Town Council Chambers, Town Hall
125 Main Street
East Greenwich, R.I

Members Present: Steve Brusini, Chair; Dan Tagliatela; Brad Turchetta; Chris Russo;
Jason Gomez

Staff present: Lisa Bourbonnais, Planning Director; Aaron Lindo, Planning Assistant; Sarah Jette, Legal Counsel

Mr. Brusini opened the meeting at 7:04 PM and introduced the first item.

1. Continued Discussion and Recommendation to Town Council: The Town of East Greenwich is considering amending its zoning regulations pertaining to “farming” and agricultural land uses. Such amendment would include changes to Section 260 – 6, Definitions, of the Town Code and Section 260a, Table 1, Table of Permitted Uses by Zone. Sections 260 – 108 through 260 – 110 would be added to the Zoning Code to address farming/agricultural operations. Last reviewed 3/2/16.

Mrs. Bourbonnais commented that the ordinance is ready to be recommended after adding an update. Section E was added. At the last meeting, an inquiry was made about a “sunset” or timeline to conform to the ordinance could be enacted. It was decided that it could not happen and uses would be allowed to continue until the property was abandoned.

Mr. Russo asked what would be considered “abandoned.” He was answered that there is a timeline and specific requirements in the ordinance that dictated what would be considered abandoned. Changing ownership would not be considered abandoned. Once a limit has been established, there is no way to increase the limit nor is there a way to retain the original amount if said amount is non-conforming. For example, if the limit was 10 horses per 10 acres and a person had 20 and dropped to 15, the amount cannot go back to 20.

On page 2, when defining ‘equestrian facility,’ it was determined that the ordinance would not list every animal in the equidae family. Instead, the language was changed to ‘by way of example...’ The language was also updated to specify animals boarded and maintained on the property and not just visiting for a show.

Another update was reworking the urban agriculture definition into two definitions, animal and plant, because plant agriculture is allowed by right everywhere.

Mr. Brusini commented that Section E. was not in the right place and suggested that the 2nd part belongs in a different section. A discussion was had about the abandonment of the use and the timeline established for the limit of animals. It was determined that once a use is abandoned, it shall not be re-established, and, once the non-conforming limit of animals is reduced for a period of 90 days or more, the limit shall not be re-intensified or expanded to the non-conforming limit.

In the next section, Mr. Brusini asked if the equidae family should include miniature horses citing that there has already been a case in Rhode Island deciding if a miniature horse was a pet or a farm animal. Mrs. Bourbonnais agreed to include them to remove all doubt.

Mr. Brusini continued, asking if the definition of 'domestic pet' was established. After it was concluded that there was no definition of what a domestic pet was, the definition was proposed; "the keeping of any animals other than domestic pets, which, for avoidance of doubt, does not include any animals referred to as 'farm animals' in the definition of 'farm or farmland.' If it is a farm animal, it cannot be a domestic pet. Mrs. Bourbonnais commented that animal can be defined as a farm animal if it is used for food, fur or another useful purpose. It can be a pet depending on how it is used.

After a discussion, it was determined that the definition that is in the ordinance should be kept to eliminate the complication of defining what a 'domestic pet' and a 'farm animal'.

In the definition of urban plant agriculture, Mr. Brusini asked why 'commercial use' was included in a residential zone. Mrs. Bourbonnais commented that it would not be an intensive use but perhaps the 'commercial use' language could be left out because the Right to Farm Act covers any plant agriculture.

To recap: Section E would be moved to 260-11; language would be added for the 90 day re-intensification; miniature horses would be added to the definition of equestrian facility and; fixing a typo in the definition of small livestock.

With no additional comments and no public comment, a motion to approve and recommend the ordinance with the changes was made by Mr. Gomez and seconded by Mr. Turchetta. Motion passed unanimously after a vote.

2. Continued Discussion and Recommendation to Town Council: The Town is considering amending Chapter 260 of the Town Code, Zoning Ordinance, Article XVII, Affordable Housing. The revision would replace Sections 260-98 through 260-101 in their entirety and would add Sections 260-102 through 260-104.

Mrs. Bourbonnais commented that the state made a manual for inclusionary zoning which was deferred to when writing the ordinance. In regards to the fact sheet written about inclusionary zoning for the board, Mr. Gomez commented that it was good information but was missing the

actual numbers for median income in Kent County and how the calculations were used. It would be beneficial to give an example of how the calculations were used by the Housing Authority. Mrs. Bourbonnais commented that the Housing Authority gives a table that shows what can be afforded at 50%, 80%, and 120% of the area median income which could be included on the fact sheet.

Mr. Gomez did some calculations on the Kent County median income of \$62,900. 80% is \$50,000, and 120% is \$75,000. From these numbers, a per-month cost can be calculated using a mortgage calculator. The low end is a \$165,000 house and the high end is a \$250,000 house which uses 30% of a monthly income to the housing costs.

Mrs. Bourbonnais explained that the State's current data says that the real need for affordable housing is at 50-80% of the area median income, not 80-120%. Inclusionary zoning alone will not allow the Town to reach the 10% affordable housing goal. There is a need for big projects to bring multiple units online at a time. In order for developers to receive funding for such projects, the units must be available for 50-80% of the area median income.

After a brief discussion, numbers 5 and 6 were deemed suitable as is.

On page 3 in item B, language was inserted to allow deviations from the dimensional standards by special use permit. When an applicant goes before the Zoning Board of Review, the legal standards that have to be applied are very different for a special use permit than for a dimensional variance. The language is to clearly differentiate between the two sets of standards.

Further down page 3, item E was eliminated. For off-site exactions, the Town cannot guarantee funding assistance to rehab units and therefore it cannot be counted as a subsidy.

Mr. Gomez asked if the Town can mandate developers put in certain types of affordable units (i.e. handicapped, etc.) in regards to page 4, item G. Mrs. Bourbonnais explained that the State is prioritizing family housing as the primary need in their funding structure. The State is strongly encouraging communities to emphasize family type housing for developments.

Mr. Gomez found that the need seemed to be based on opinion based on the lack of evidence on what is or is not needed. It is difficult to assess the actual need for individual communities. Just because the need in the State is a certain way, it does not mean the need in the Town is a certain way. Developers are going to do what they want regardless of what a mandate says.

Mr. Tagliatela agreed with Mr. Gomez. He stated that it seemed very discretionary. The Town should have a say in what types of units should be built but it should not be mandated.

After more discussion, the Board suggested taking out item G.

Page 5 contained the subject of off-site exactions. In 260-103, the language was modified to give more clarity as to when an off-site exaction would be more appropriate. Item 3 was changed to

include a density bonus for developers seeking an off-site exaction option. The Town must offer a subsidy and a bonus is the only to give that subsidy.

The sections were broken down and commented upon. Section 1, subsection A was determined acceptable after a minor language change was suggested. Subsection B was discussed amongst the Board and the language was changed to exclude the quantitative/qualitative aspect and include a reference to the Affordable Housing section in the Comprehensive Plan: "...would be beneficial to the Town and the future residents of the units by yielding housing that is more likely to accomplish the goals in the Town's affordable housing plan."

In section 6 regarding incentive, the Board determined that most of the language was not needed, keeping only a sentence referring to State law.

No public comment was made on the ordinance. Pending the small changes made, a motion was made to send the ordinance to Town Council by Mr. Russo, seconded by Mr. Tagliatela, and passed unanimously after a vote.

3. Minutes: Approval of the 3/2/16 and 1/20/16 meeting minutes.

No comments were made on the minutes from 1/20/16. A motion was made to pass the minutes was made by Mr. Tagliatela, seconded by Mr. Turchetta, and passed unanimously with Mr. Brusini abstaining.

The minutes from 3/2/16 were pushed to the next meeting as there were not enough members present to vote on them.

4. Planning Board Member Comments: For items not on the agenda and not relating to specific applications.

Mr. Turchetta suggested that the Town should embrace building condos and gave a hypothetical situation where building and renovating condos for affordable housing would be more economically viable than building separate houses. Mr. Brusini compared this to the recurring example of a developer building a million dollar house and telling that developer to build 4 \$250,000 houses as affordable units. The question that needs to be answered is if the Board can legally have the authority to enforce such a scenario. There are 3 avenues that can be taken: not doing anything at all because it is not known if it can be done; create and enforce a statute anyway and hope for the best; or file a declaratory judgement to find out if it is legally permitted to do.

A discussion was held based off of this idea. It was decided that the subject is a philosophical question of affordable housing and should be made into an agenda item for a subsequent meeting to further discuss the matter.

A motion to adjourn was made by Mr. Russo, seconded by Mr. Gomez. Meeting adjourned at 8:47 PM.

Minutes respectfully submitted by Aaron Lindo, Planning Assistant.

For further information, please refer to the recording available in the Planning Department.