

**FRANKLIN ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING**

Wednesday, June 6, 2018 at 7:00 p.m.; City Council Chambers

MINUTES

Call to Order: 7:04 pm

☐ **Salute to the Flag**

☐ **Roll Call – Present: Chairman Glen Feener, Vice Chair Debbie Davis, Kathlene Fleckenstein, Jeffrey Dickinson, Zoning Director Richard Lewis Absent: Cecile Cormier, David Testerman**

Chairman Feener informed the applicants Deborah Rowell & Mandie Hagan and their attorney Jim Sessler that sufficient board members were present to create a quorum.

☐ **Approval of Minutes of the January 3, 2018 Public Meeting of the Board** – Motion to approve the minutes as recorded was made by Member Fleckenstein and seconded by Member Davis. By a vote of 4-0-0 the motion passed.

Old Business: None

New Business:

- ☐ **Z 18-02:** Deborah Rowell & Mandie Hagan, owners/applicants are appealing an Administrative Decision ordering the removal of signage that does not comply with the Zoning Ordinance. The sign is located at 63 Webster Lake Road [Map/Lot 095-037-00, Map Sheet L6] in the R-1 [Low-Density Residential] district.

Mr. James Sessler, attorney for the applicants, informed the board that they were appealing the Administrative Decision of 3/9/2018, which ordered the removal of the sign at 63 Webster Lake Road. He referenced the Director's allegations that 1) the sign had been moved & replaced, and 2) the sign is out of compliance with zoning ordinance 305-24.F.1.(b): Prohibited signs: Any type of sign, billboard that advertises or promotes goods, services, or products not sold on the property on which the sign is located. Mr. Sessler mentioned that Director Lewis acknowledged the fact that the sign had not been replaced or moved in his March 23 memo to the applicants, but continued to contend that the sign was still out of compliance with 305-24.F.1.(b).

Mr. Sessler then referenced Zoning Ordinance 305.24.A.7: (Existing signage that has been legally placed on the property prior to the effective date of this section shall be allowed to remain in place, and the face of the sign may be replaced. This provision notwithstanding, if the sign is moved or removed for any purpose, or if a new supporting structure is installed, then the new or replacement sign shall conform to the provisions of this section) and contended that Rowell sign falls under the grandfathered clause since the placement of the sign pre-dated the 1991 code. He added that Rowell Services was never located on that property, the business operated out of the 25 Carr Street address

from the 1980s until they moved the operation to Northfield. Mr. Sessler passed out photographs showing the sign as it existed in the 1960s. He added that old advertising and the Google site of 2010 listed the business address as 25 Carr Street.

Mandie Hagan read letters of support from the following individuals: Kathy L. Masse & Paul E. Masse, Lisa Judkins, Alan Larter & Susan Pabst, Mrs. Laura May Hosmer-LaRoche, Heather Stanley, Porter Paving, Inc., Robert Grevior, Grevior Furniture, and J.A. Garneau. (See file for details)

Member Fleckenstein asked for a copy of grandfathering in the regulations. Director Lewis passed the pertinent regulation among the members.

Director Lewis stated that he didn't contest the fact that the sign has been in place since the 1960s, however 305.24.F.1(b) states that: Any type of sign, billboard that advertises or promotes goods, services, or products not sold on the property on which the sign is located. Director Lewis stated that the language is clear and concise. The ordinance is in place to protect neighborhoods. By overturning his Administrative Decision the Zoning Board will be opening the door to non-approved signs throughout the city.

Attorney Sessler argued that Director Lewis's argument was ridiculous. That the grandfathering of a pre-ordinance sign is legally more binding than any violation of an ordinance established after that date. Only when the post rots or services no longer exist will the sign go away. Why would there be grandfathering clauses if they don't protect that which existed prior to ordinance changes?

Director Lewis answered that grandfathering never appears in the RSAs.

Chairman Feener asked if there were any other comments from the public. Receiving no reply he closed the public hearing and brought the discussion back to the Board. He asked Director Lewis how this issue about the sign came about and Director Lewis stated that although the issue was discussed with Mandie Hagan in the past, it wasn't until a new face was put on the sign that he pursued the issue.

Vice Chair Davis asked if there were any other billboard type signs in Franklin that advertised a business not located in Franklin and Director Lewis replied that he was not aware of any.

Member Fleckenstein mentioned the Garneau changing message sign on Central Street which predated the zoning ordinance. Director Lewis said that the sign was located at the site of the Garneau business and if that business shut down, the sign would need to be removed. He added that if Aubuchon moved their sign would be taken down.

Member Dickinson said that in both cases the sign is located where the business offers services, but that the Rowell sign is different since it never offered services at the sign location.

Chairman Feener added that the only change in the Rowell sign is that it has been updated. Vice Chair Davis added that the only change to the sign was made when the Rowell Auction House went out of business and the Rowell Septic Services was afterwards advertised.

Chairman Feener asked for a motion. Member Dickinson made a motion not to uphold the Administrative Decision. There was no second and the discussion continued with Member Dickinson stating that he felt that the Board and the City should encourage business and property rights. Chairman Feener added that the purpose of the sign has never changed and he agreed with Member Dickinson. Member Fleckenstein added that the issue is not cut and dry for either side and then motioned to uphold the Administrative Decision which was seconded by Vice Chair Davis. Members Feener, Dickinson and Davis voted nay. Member Fleckenstein vote in favor. By a vote of 3-1-0 the appeal was granted.

Director Lewis asked for the board to take time to draft a more complete wording for their decision. The members suggested that 1) the sign always advertised a business at another location, 2) the sign has never been abandoned, 3) the sign was there prior to any changes in the zoning ordinance, and 4) the purpose of the sign has not changed. Vice Chair Davis added that the services that Rowell offers is not restrictive to only community, that they provide service to Franklin and other communities outside their physical address in Northfield. Chairman Feener reiterated that the sign always advertised services that were not available on the property where the sign stood. Member Fleckenstein questioned whether the grandfather clause or the zoning ordinance would weigh heavier in the court of appeals.

Chairman Feener asked for the Planner's Update and Director Lewis said there was no update at this time.

Adjournment: Motion to adjourn made by Member Dickinson and seconded by Member Fleckenstein. All were in favor and the meeting adjourned at 7:59 PM.

The next scheduled meeting of the Zoning Board is July 11th with an application deadline date of June 20th.

Minutes recorded by Cheryl Y. Fisher, Administrative Assistant Planning and Zoning