

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

Wednesday, August 3, 2016 at 7:00 p.m.; City Council Chambers

Agenda

Call to Order 7:00 PM

- ❑ **Salute to the Flag**
- ❑ **Roll Call: Kathlene Fleckenstein, David Testerman, Debbie Davis, Jeffrey Dickinson, Director Richard Lewis**
- ❖ **Seat Alternate Debbie Davis in place of regular board member**
- ❑ **Approval of Minutes of the July 6, 2016 Public Meeting of the Board. Testerman motioned/Davis seconded. Member Dickinson noted the misspelling of his first name in the list of those present. All approved of the minutes with that correction.**

Old Business:

Z16-08: Lyn Spain Appeals an Administrative Decision of the Planning Director finding that the Zoning Ordinance does not allow, in the Table of Permitted Uses [Section 305-13], the Purpose Section of the Ordinance [Section 305-1], and the Travel Trailers & Recreational Vehicles Section [305-29.6], and does not support, the granting of permission to camp on the properties located on Riverview Drive, Tax Map/Lot # 115-102-00 & 115-110-00, in the R-1 Zone (Low Density Residential District).

Chair Fleckenstein asked if the applicant had any addition information for the board and Ms. Spain answered 'No'.

The Chair then opened the meeting to public comments.

Mr. Leigh Webb reiterated from the previous meeting that overturning an Administrative Decision should not be based on personal feelings, that the judgement is based on existing ordinances and that there are appropriate steps to be followed to change those ordinances. Mr. Marc Chauvette of Riverview Drive argued that the change in the camping ordinance took place after they had been camping for years and without his knowledge, that they were doing everything correctly until the law changed.

Director Lewis pointed out that his decision was based on zoning enacted in 1974 and was only an interpretation of the law already on the books. It was the Planning Board's decision to delete the section of public campgrounds and replace it with Section 305-29.6 regarding travel trailers on residential lots. For the 2005 zoning change, the Planning Board presented this statement in the overall amendment package: "The Franklin Planning Board proposes to delete all of section 305-22 Campgrounds and Travel Trailer Parks and leave the section open as a reserve section. In the opinion of the Board, the development of the types of land uses outlined in this section is not in the best interest of the overall city since they can lead to the overuse of key resource areas such as lakes and river front areas, result in over-crowding of the land and can have adverse

impacts on water quality". The Board proposed to delete section 305-22, and replace it with the existing section 305-29.6.

Director Lewis reviewed the history of the lots down on Riverview Drive and the fact that the current number and size of lots in no way resembles the 1959 Subdivision Plan filed by Edwina Merrill. Documentation does not mention any specific use for any of the lots. The City's 2004 sale of properties also makes no mention of recreational usage. Director Lewis reminded both the public and the board that in 2010 the Planning Board chose to put off making any changes to zoning or city codes regarding camping. He added that should the board overturn his decision, the Planning Board would need to review the ordinance and come up with appropriate language regarding lot size, water quality, and the number of campsites. Mr. Chauvette asked about the timeframe for such a meeting and Director Lewis said possibly early fall.

Ms. Spain stated that her use of a camper/travel trailer was in compliance with Section 305-29.6 part A which states that the trailer or vehicle, which must be current with its registration, shall not be hooked up to any utility, except for the purpose of charging batteries or filling water storage tanks, prior to regular seasonal usage. Chair Fleckenstein mentioned that in part D of that same section, the only use of a travel trailer on property without an existing house, is when the pre-existing house has been demolished, damaged or destroyed and then the trailer could be used as temporary housing for a limited period of time. Director Lewis stated again that when the Planning Board removed the section about campgrounds it was for the purpose of only allowing trailers for no more than 15 days on property with an existing house.

Ms. Spain stated that camping down on Riverview Lane has been going on for nearly 28 years and should the board deny her appeal, the buyer for her property will withdraw his offer. What is she supposed to do then?

Chair Fleckenstein closed the public portion of the hearing and brought the discussion back to board.

Member Testerman asked about there being any clear titles for the properties that have been further subdivided without any known recorded subdivision plan after the 1959 plan. Mr. Chauvette stated title searches and proper deeds, along with the city's zoning maps show that his five properties are clearly his. He also added that the footnotes on the 1959 subdivision plan indicate that the intention was for the property to be further subdivided for the purposes of camping.

Director Lewis said that it was somewhat shocking and surprising to me that we have on record at the Merrimack Registry of Deeds a plan from 1959 for the subdivision of the lots shown on this recorded plan, and then subsequent to this plan, these lots, without any new subdivision plan or modification, were broken up into many, many much smaller lots. The 1959 plan showed lots ranging from thirty-two thousand to fifty-seven thousand square feet; these were sizable pieces of property. The tax map today shows many smaller lots, laid out differently, and with a different roadway layout. I'm not sure how that happened. It seems like the breaking up of these lots into smaller parcels without some plan or some approval should raise a title question, but that's hard for me to say.

Member Testerman asked if the choices offered the board were to either overturn the Administrative Decision and thus allow Ms. Spain to use or sell her property, or to uphold the decision and requests changes through the proper channels through Planning Board and City Council? Director Lewis said, yes, if there were going to be a change with the zoning or some new individual city code then that would be done through the Planning Board and City Council.

Member Dickinson was curious about the wider ramifications of saying a decision is incorrect from a policy perspective. Director Lewis remarked that he was answering a specific question about camping on a specific

piece of property and his interpretation was that camping is not allowed by the current zoning ordinances. He argued that zoning is established to create guidelines that embrace the welfare of all the citizens of the city. Member Testerman added that the laws were a necessary part of life and they needed to be enforced or changed following certain procedures.

Chair Fleckenstein motioned to deny the appeal by Ms. Spain regarding the Administrative Decision issued by the Planning Director in a letter dated May 12, 2016. The letter deals with the proposal to allow camping on the subject property at tax map/lots 115-102 and 110 on Riverview Drive. This denial is based on the draft language reviewed, and modified as needed, by the Board. The denial of the Appeal, and the decision to uphold the Administrative Decision, is based on the following findings and facts:

1. The Zoning Ordinance does not contain any language to permit the type of camping use proposed by the applicant.
2. The provisions of Section 305-29.6 of the ordinance [Travel Trailer/Recreational Vehicles] are clearly established to address guests of property owners that are visiting from out-of-town in their trailer or other vehicle.
3. To allow the requested approval to camp in the manner put forward by the applicant would create a land use activity that would be counter to the purposes and goals of the Zoning Ordinance. Specifically, the need to encourage the most appropriate use of the land throughout the city; the need to prevent the overcrowding of the real estate; and the coordinated development of unbuilt areas. All of these purposes are important to the protection of the integrity of neighborhoods in the City and to the protection of the public's health, safety, and welfare.
4. The Planning Director in his letter of May 12, 2016 correctly interpreted the provisions of the Zoning Ordinance and correctly applied the language and intent of the ordinance to the specific land use put forward by the applicant.

Members Testerman & Davis both seconded the motion and the motion carried. Member Testerman added that he encouraged Director Lewis to meet again with the Planning Board and the City Council to reevaluate the ordinance regarding camping in the very near future. Member Dickinson also added that although he upholds the Administrative Decision, he still feels that the concerns about camping need to be attended to. Member Davis added that she too agrees with the Board's decision, but that the issues need to be addressed and ambiguous code language needs to be cleaned up.

New Business: None

Planner's Update: Director Lewis mentioned that he is putting together an Information packet regarding the camping issues for the Planning Board's August 24th meeting.

Other Business: None

Public Comment: None

Adjournment: Motion to adjourn by Member Testerman; seconded by Member Dickinson. All in favor.

The next scheduled meeting of the Zoning Board of Adjustments is Wednesday, September 7, 2016, at 7:00 p.m.; the Deadline date for submission of applications for this meeting is Wednesday, August 17, 2016.