

ONEONTA, NEW YORK - JUNE 20, 2012 - 7:00 P.M.

REGULAR MEETING OF THE PLANNING COMMISSION PG. 1

PRESENT: Chair Dennis Finn
Commissioner Gary Herzig (Vice Chair)
Commissioner Anna Tomaino
Commissioner Barry Holden
Commissioner Edmond Overbey
Commissioner Michelle Eastman
ABSENT: Commissioner Gene Betterley
Council Member Maureen Hennessy

Chair Finn called the regular meeting to order and asked the Clerk to call the roll.

PETITIONERS

Chair Finn indicated there were no petitioners.

CORRESPONDENCE

City Clerk Koury indicated there was no correspondence.

APPROVAL OF MINUTES

MOTION, made by Commissioner Overbey and seconded by Commissioner Tomaino, that the commission approves the minutes of the regular meeting held May 16, 2012.

Voting Ayes: Chair Finn
Commissioner Herzig
Commissioner Tomaino
Commissioner Holden
Commissioner Overbey
Commissioner Eastman
Noes: None
Absent: Commissioner Betterley

MOTION CARRIED

NEW BUSINESS

Review of proposed changes to Zoning Code Section 300-62, Miscellaneous Regulations negating the need for a site plan review dealing with the demolition of buildings and structures when ordered by the Board of Public Service.

Chair Finn stated that the commission received copies of the following Memorandum to the Community Improvement Committee from Code Enforcement Officer Chiappisi regarding a Zoning Code amendment on the demolition of buildings that was in consultation with City Attorney Merzig. He said also submitted were minutes from the Community Improvement Committee meeting recommending that Code Enforcement Officer Chiappisi take it to the Planning Commission for further approval.

“City of Oneonta Zoning Code

§300-62 Miscellaneous Supplemental Regulations

F. Demolition of buildings and structures. Demolition of all buildings, structures, and parts thereof, in all zones, shall be subject to Article VII of this chapter, Site Plan Review and Approval.

RC -- Before I took this job, I spoke to someone in the community who told me that the code office had ordered him, through the Board of Public Service, to demolish his garage. They then told him

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(New Business – Review of proposed Zoning change) continued

that he would need to pay \$75 and go to the Planning Commission for permission to tear it down.

This seemed ludicrous to me at the time, and still does today.

DM -- “The history of this is that there used to be no limitation on demolition other than simply requesting a permit. This created several issues where it was felt that demolitions of garages etc. were used as precursors to requesting the paving of back yards for parking for apartments. This concern was especially so in the Historic District. In order to address that, the demolition permitting system was put into place. Historical significance and neighborhood impact was the primary motivator rather than health and safety.”

Proposal

DM -- I would think that a simple addition to 300-62 (F) saying, "This requirement shall not apply to any demolition order made by the Board of Public Service, which shall have the sole authority to determine, direct, oversee and enforce any demolition order it shall make."

That's at least a start for consideration.

Process

Code Office → CIC → Planning Commission → Otsego County Planning Dept. (239 m referral) → Common Council

Request that the CIC, upon initial approval of the wording of the amendment, inform the other council members of the change. The code office will facilitate the discussion with the Planning Commission at their next meeting on June 20th and work with the City Clerk to complete the 239m referral review to the Otsego County Planning Dept. At any point in which the Common Council wishes to hear from me directly concerning this change, I can attend a council meeting. Council members, as always, are welcome to attend the Planning Commission meeting on 6/20 to express their concerns.

§ 300-90. Amendments.

- A.** *Authority. Pursuant to § 83 of the General City Law and other applicable provisions of law, the Common Council may from time to time on its own motion or on petition, after public notice and hearing, amend, supplement, repeal or change the regulations and districts established under this chapter.*
- B.** *Referral to Planning Commission. Every proposed amendment or change initiated by the Common Council or by petition shall be referred to the City of Oneonta Planning Commission for report thereon before the public hearing required by law. In recommending the adoption of any such proposed amendment, the Planning Commission may state its reasons for such recommendation, describing any conditions that it believes make the amendment advisable, and specifically setting forth the manner in which, in its opinion, the amendment would be in harmony with the Comprehensive Plan for the City, and be in furtherance of the purposes set forth in § [300-2](#) of this chapter. In recommending the rejection or revision of any proposed amendment or change, the Planning Commission may similarly state its reasons. Failure on the part of the Commission to report its recommendations with respect to any proposed amendment or change to the Common Council within 45 days after the date of referral shall be deemed to be approval thereof, unless such proceedings have theretofore been terminated.*
- C.** *Referral to County Planning Department. The City Clerk shall promptly transmit to the Otsego County Planning Department any matters required to be referred pursuant to the provisions of §§ 239-l and 239-m of the General Municipal Law.”*

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(New Business - Review of proposed Zoning change) continued

Commissioner Overbey stated he would like to see something like in a business contract that includes successors and assigns that way if a company changed its name you did not have to go back and write the contract all over again. He said he was not sure exactly what that language should be for this zoning change to restrict it to the Board of Public Service.

Commissioner Herzig questioned what the current process was in Code Enforcement with demolitions.

Code Enforcement Officer Chiappisi stated normally when he declares a building unsafe he brings it to the Board of Public Service because he was required to by the Code. He said the board then notifies the owner and requests they attend an unsafe building hearing to account for this on public record. He spoke about a current property that was recently discussed by the board, 1 Fair Street, and that the building was fire damaged. He said the insurance company and the owner were not doing anything about the building and were letting it sit there. He said the board issued a 30-day demolition order to the insurance company and property owner and if they do not comply the city would demolish it providing there was a site plan review approved by the commission. He said what this amendment was more geared toward was garages and/or out buildings on properties that were dangerous and needed to be taken down. He said his request for this came about when he was notified of his position and had stopped to talk to a property owner who chuckled when he told him about getting the position. He said when he asked him why he chuckled he said the Code Enforcement Office ordered him to take down his garage and then wanted him to pay \$75 for permission to do it. He said that was ridiculous. He said the property owner then said that was why the garage was still standing. He said the order went in 5 years ago to tear that garage down but because there was no site plan review he did not have to take the building down. He said there were a number of those situations in the city.

Commissioner Tomaino questioned if this would eliminate the need of a site plan review and paying \$75 to demolish a building if the Board of Public Service and Code Enforcement declared it unsafe and ordered the demolition of a building.

Code Enforcement Officer Chiappisi responded yes.

City Clerk Koury stated that the Board of Public Service had to judge unsafe buildings according to standards listed in the Code under Chapter 92, Unsafe Buildings. He said the board did not take it upon themselves to declare a building unsafe without Code Enforcement input.

The board held a brief discussion on the matter with Code Enforcement Officer Chiappisi.

Chair Finn stated that the city received "Notice of County Planning Department's Recommendation" from the Otsego County Planning Department regarding "Proposed amendment to the City of Oneonta Zoning Code to dispense with the site plan review for a demolition order" and he said it indicated their recommendation was "No significant county-wide or inter-community impacts." He said that was dated June 19, 2012.

City Clerk Koury stated that was sent early to the county because it was a zoning change but technically that did not have to happen here but would have had to have happened before the Council voted on the ordinance.

Commissioner Overbey stated rather than for the commission to try to change the wording he suggested that the commission send it back to the City Attorney asking him to incorporate some language that recognizes the fact that the Board of Public Service may be changed and this responsibility could be given to another board. He questioned if that should happen and nobody remembers this ordinance. He asked if there would be a problem if this did not go forward for another month and if it would cost somebody \$75 for a site plan review.

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(New Business – Zoning changes) continued

Code Enforcement Officer Chiappisi replied that he was concerned about the Fair Street property but he was hoping the insurance company steps up the process.

City Clerk Koury stated the commission was reviewing the ordinance and making a recommendation on it, which will go back to the Common Council and the City Attorney. He said the Council would determine whether they wanted the City Attorney to rewrite it.

Commissioner Overbey stated that the commission did not have to make a recommendation and could send it back to City Attorney Merzig asking him to reword it.

City Clerk Koury stated he could not see the city changing the name of the Board of Public Service. He said that was a long-standing board in the City Charter.

MOTION, made by Commissioner Overbey and seconded by Commissioner Tomaino, that the Planning Commission sends the Common Council a recommendation that the language in Ordinance 4, 2012 amending Chapter 300 entitled “Zoning,” §300-62, entitled “Miscellaneous Supplemental Regulations, be put in general terms along the lines of successors and assigns and indicate the Board of Public Service or whatever municipal body has its responsibility.

Commissioner Herzig stated maybe the commission did not want to change that and leave it wide open in case things changed drastically in the future and there was some different entity.

The commission held a brief discussion on the matter.

Commissioner Overbey withdrew his motion.

MOTION, made by Commissioner Eastman and seconded by Commissioner Herzig, that the Planning Commission accepts Ordinance #4, 2012 amending Chapter 300 entitled “Zoning,” §300-62, entitled “Miscellaneous Supplemental Regulations, as written.

Voting Ayes: Chair Finn
Commissioner Herzig
Commissioner Tomaino
Commissioner Holden
Commissioner Overbey
Commissioner Eastman

Noes: None

Absent: Commissioner Betterley

MOTION CARRIED

There being no further business to come before the commission, Chair Finn adjourned the regular meeting at approximately 7:30 p.m.

JAMES R. KOURY, City Clerk

JRK/pab