

Minutes of Meeting  
Dagsboro Planning & Zoning Commission  
Bethel Center-28307 Clayton Street  
November 8, 2018

I. Call Meeting to Order:

Chairman Connor called the meeting to order at 6:00 p.m.

Those in attendance were: Chairman Brad Connor, Co-Chairperson Cathy Flowers, Commissioner Cindy Gallimore, Commissioner Earl Savage, Commissioner Audrey Miller, Town Administrator Cindi Brought, and Town Engineer Kyle Gulbranson. Please see the sign in sheet for others in attendance.

II. Public Comment:

Bob Flowers of New Street spoke regarding the old fire hall on Waples Street. He lives only one block and there are places in town that are zoned for the type of business that wants to buy the fire hall – he thinks the business should be in one of those areas in town.

III. Approval of Agenda

Commissioner Savage made a motion to approve the agenda. Co-Chairperson Flowers seconded the motion. All in favor.

IV. Approval of Minutes:

A. October 4, 2018 – Planning and Zoning Meeting minutes

Commissioner Gallimore made a motion to approve the October 4, 2018 meeting minutes. Seconded by Commissioner Savage. All in favor.

V. New Business:

A. Bill Lucks – Presentation for old fire hall on Waples Street

Bill Lucks is the Broker of Record and Senior Advisor with Keller Williams Commercial Division. He was present at the meeting as he is the listing agent for the old fire hall on Waples Street. This particular building has some challenges – its size being over 11,000 square feet, the location in a residential neighborhood, and the zoning. They turned away several inquiries for companies that wanted to do truck repair or similar business, a church that was interested fell through due to the cost to convert the building, and to turn it into a residential area would not be cost efficient. Another company ended up making an offer. This company wants to use the facility to repackage shampoos and lotions for major companies. They take a product that they have in bulk and they repackage it in smaller quantities for various vendors. The work would all be done inside the building with an initial count of about six employees and growing to ten. There would be a bulk delivery about once a month to the back of the building and then Fed Ex or others would pick up the finished product.

This buyer has no plans to change the exterior of the building. The problem is that they don't see a way to submit an application to the town. They typically would ask for a conditional use under a zoning classification of commercial. This buyer is not looking to change the zoning to commercial, which would allow any use that fits in the commercial zoning to be there. They are fine with the conditional use giving a list of what would be allowed, but the town does not allow conditional uses. Given that, they are asking if the town would consider zoning the property commercial to allow this use, but add restrictions on the use. The buyer is willing to agree to restrictions such as: no outside use of the property, no vehicle storage, no change in the structure, all employees will park in the rear of the property, and the use will be limited to this particular buyer and cannot be passed on or changed without the approval of the town.

Chairman Connor explained that the town did have conditional use at one point in time, but the town found restrictions were being ignored. He expressed that the concern with this particular building is the neighbors.

Mr. Gulbranson confirmed that the town eliminated conditional uses about five years ago because of the experiences they were having with the conditional uses and it was determined they weren't working. Mr. Gulbranson stated the issue is that an update to the comprehensive plan is being worked on currently and the future land use has been looked at. If the town were to make a zoning change on this property, the future land use map would also have to change. This would mean an amendment to the comprehensive plan. The property is currently zoned residential and this potential business seems to be a light industrial use. If Planning and Zoning does want this business to move forward, the steps would be for a comprehensive plan map amendment, then it would go before Town Council, and a public hearing would be needed.

Mr. Gulbranson also stated that he is not aware of conditions being placed on a zoning – his experience has been that is not allowed. Mr. Lucks replied that he has seen it done. Mr. Gulbranson replied that in his experience, if a property is re-zoned commercial, anything that falls into the commercial zoning permitted uses would be able to move in.

Commissioner Savage asked where the business owner currently lives. Mr. Lucks replied he is from Staten Island, but that building is for sale. They are permanently relocating to this area. Commissioner Savage asked what the estimated amount of truck traffic would be. Mr. Lucks replied that there probably would be one large truck about once per month bringing a bulk load. He is not completely sure what that would look like, but knows it would be a large truck that brings the product and then the company splits it out and does batches such as a batch of coconut scented hand lotion for CVS, a vanilla scented lotion for CVS, etc. FedEx and similar trucks would then pick up the product, but Mr. Lucks is not sure of the frequency. Commissioner Savage expressed concern that even residents have a hard time getting out into the traffic on Main Street – it would be difficult for trucks.

Co-Chairperson Flowers stated that she does not have any questions, but she is opposed to this idea. She lives in the area and she has concerns about the trucks already going through town that are speeding. She also stated the roads in that area are all crumbling and there are kids that skateboard, ride bike, etc. down the hill near that property so there is a safety concern. There are no sidewalks in that neighborhood for people to walk on so trucks speeding down the road would be dangerous. She stated there is not a known amount of the smaller trucks and there is no guarantee the large trucks would stay at only once a month because the company will possibly want to grow. Chairman Connor also expressed concern about the condition of the roads in that neighborhood – they are not meant for

truck traffic. Mr. Lucks stated only one tractor trailer size truck will delivery monthly, the rest of the trucks would be the typical FedEx size truck.

Dawn Hopkins of the small business office stated she feels this company would be significantly less trucks. She also stated they want to grow their business and then possibly move to a more appropriate place. She questioned the process. Chairman Connor explained that it is normal procedure for the applicant to come before Planning and Zoning and for the Commission to ask questions about the company. They can then make a decision based on those facts since they would have all of the information – a realtor might not know all of the details of the business. Mr. Lucks stated they were doing it this way because the town doesn't allow conditional uses and the buyer doesn't want to apply for the commercial zoning because they understand the town would not allow that since it opens the building up to anything commercial down the road. The applicant would be present when they submit an application, but for now they just wanted to get an informal opinion of where the town stands.

Co-Chairperson Flowers clarified that she is not opposed to the business coming to Dagsboro – she would like to see the business come to Dagsboro, but they belong in the commercial area, not a residential area. Mr. Lucks stated this business has made it this far in the process because they do not want to change the building and are willing to have restrictions. For example, they would be open to the town limiting the time of day that the larger trucks can make deliveries.

Chairman Connor noted that the problem with allowing a conditional use at this location sets a precedent to other buildings in town wanting to request conditional uses. Mr. Lucks feels if they would do restrictions on the zoning that would be better than conditional uses because the town has control over it – it would be this owner for this purpose at that location and nothing else. Mr. Gulbranson stated that he has been a land use planner for a long time and his opinion is that they cannot do restrictions – once a property is zoned to whatever category it is, that zoning remains on the property until Town Council re-zones it. Mr. Lucks stated that he ran it by two council members and they told him it is out of the norm, but could be discussed. Mr. Gulbranson advised the town solicitor be consulted. Co-Chairperson Flowers stated there is an attorney in the audience. William Chandler, Main Street resident, attorney, and Town Council member, responded by stating that he feels spot zoning can be challengeable and the person that obtained that type of zoning would not be bound by it at the end of the day. Mr. Gulbranson agrees. Mr. Chandler's other concern is that it would be setting a precedent and other owners could come to the town stating that this company was given special zoning for their use and they would like the same thing. The town would either need to find a way to distinguish this business from the other requests or follow it and allow others in town the same special zoning exceptions or they could be accused of acting in an arbitrary way. Mr. Chandler's view is that the neighborhood this property is in was designed and planned by Joe Kollock as a residential community. He stated that he would love it if Mr. Lucks could find a way for that building to be used that is consistent with its historic use and function. The building has always been something community focused and community oriented. A church would fit that category or even a police department or the town hall since it is outgrowing its current location. He feels the fire department and the town could work together to find some uses that would be mutually satisfactory – a property that maintains its public purpose and community role and enables the fire company to sell the property. There are probably grants and state funding to help this happen.

Mr. Gulbranson noted that the other issue with this property is that the town's water supply/water tower is on that property. Town Administrator Brought added that the fire siren is on that property as well.

Chairman Connor stated he doesn't think a decision could be made right at this moment. Mr. Gulbranson stated he thinks the presentation was just for discussion because there is no application. Chairman Connor asked if they are waiting to submit an application because they wanted to get an idea of what the town thought. Mr. Lucks replied that he isn't sure because that is up to the buyer when they want to submit an application, but he asked the commission to keep in mind that the buyer is willing to restrict what they can do on the property. He thought this was the perfect user because they can use the building as is – the church that was interested found that the cost to convert the building was too high and removing the building would be expensive.

Chairman Connor suggested they table the discussion until next month. Commissioner Savage stated the applicant would need to come as the next step. Commissioner Gallimore agreed with Chairman Connor. Chairman Connor stated they would discuss it more next month.

B. P&Z terms ending December 2018 – Cathy Flowers and Cindy Gallimore

Chairman Connor asked if Co-Chairperson Flowers and Commissioner Gallimore if they are interested in staying on for another term. Both stated they would.

VI. Old Business:

A. Continue Reviewing Comprehensive Plan – Update due by April 2019

Mr. Gulbranson stated there isn't much to review. He and Town Administrator Brought went to the Plus Review meeting on October 31<sup>st</sup>, but it was a little disappointing as only two state agencies were present – Del-Dot and the Division of Historic Preservation were there. There was some good conversation with them. Del-Dot is going to give them updated traffic information and work with them on traffic issues. Of course Historic Preservation would like to see the town have a Historic District. Mr. Gulbranson asked them if they have any grant funding to help the town do the historic survey, but they do not. The gentlemen representing Historic Preservation did say he would try to help the town look for sources, but it is expensive. Mr. Gulbranson stated it was a short meeting, but the town will get a full report with all of the agencies listing their recommendations and requirements that the town must abide by. The state has thirty days to do this report so that should be back by the next meeting. Mr. Gulbranson plans to have the community survey draft by the next meeting also. He did explain at the meeting that they are mostly going to be doing another update because the “bones” of the plan are still valid.

VII. Public Comment:

No public comment was made.

VIII. Adjournment:

Motion to adjourn was made by Commissioner Savage and seconded by Co-Chairperson Flowers. All in favor. Meeting adjourned at 6:38 p.m.

Respectfully Submitted,

Megan Thorp, Town Clerk