

CITY OF AUBURN PLANNING BOARD  
TUESDAY, MAY 7, 2013 6:30 PM, MEMORIAL CITY HALL

Present: Sam Giangreco, Anne McCarthy, Tim Baroody, Crystal Cosentino, Frank Reginelli

Absent: Christopher DeProspero, Shelli Graney

Staff: Stephen Selvek, Planning and Community Development Program Manager; Andy Fusco, Corporation Counsel; Greg Gilfus, Officer-APD Traffic Coordinator; Brian Hicks, Code Enforcement Officer

Agenda Items: Public Hearing and Board Recommendation for Revisions to the Zoning Code

Chair calls the meeting to order. The Pledge of Allegiance is recited. Roll is called.

**Agenda Item 1: Approval of March 5, 2013 Meeting Minutes.**

Chair asks for a motion to approve the minutes of the March 5, 2013 meeting. So moved by Tim Baroody, seconded by Anne McCarthy. All members vote approval. Motion carried.

**Agenda Item 2: Board Recommendation for Revisions to City of Auburn Zoning Code regarding to Home Occupations, Bed and Breakfast use, Public Uses, and related uses.**

Chair asks staff for comments.

Stephen Selvek- Tonight we will not be doing large changes within the code, but rather clarifying bits and pieces of it to make it more user friendly. A copy of code revisions were sent to board members and is available tonight in the yellow binder if board members do not have a copy in front of them. We will also go over the SEQRA documentation tonight and that can be found in the binder as well. The role of this board is to make a recommendation to City Council, as to whether or not the board supports the recommended revisions. It is still Councils authority to adopt the revisions as part of a change to the ordinance.

Stephen Selvek refers to Boards packets which includes information on zoning code revisions and highlights the following changes:

- Section 305-23 Summary of Uses Addressed.  
Adding public uses to the section. Previously public uses were listed as an accessory use but have always been treated as a use unto itself. This would be our schools, churches and things of that nature. This is bringing clarity to this particular section of code.
- 305-24 Accessory uses and structures.  
Section 11 Communication towers, antennas, including dish antennas  
Adding language that no part of such accessory shall be located in the front yard. It has often been the recommendation of Codes and Planning Board that satellite dishes are located out of the view of the right away and this has been a problem specifically within the Historic District, where the Historic District will not permit them to be in the view of the right away. Previously the code allowed for satellite dishes but there was not a specific prohibition on the location of the satellite dishes.  
Section 15 Home Occupations  
Providing additional safeguards to not have a negative impact on neighborhoods. The main change regards the rooming and boarding of persons. Currently the boarding of two

persons is allowed but now a certificate of occupancy will be required so that Codes will be aware of any deficiencies within that property which would have to be corrected before a permit was issued.

Adding to the code:

(a) The rooming or boarding of not more than two persons; subject to the following:

Prior to the issuance of a Home Occupation Permit for rooming or boarding of not more than two persons for the purposes of providing housing for full-time students, the applicant must obtain a Certificate of Occupancy from the City of Auburn Codes Office in compliance with the requirements set forth in Article I, Chapter 305, paragraphs (1) through (11).

Stephen Selvek- As you continue to read there is a list of prohibited home occupancies. Those stay the same but the difference comes in at the next section where it talks about occupations that are not permitted or are prohibited that can come before this board for a special use permit. Things like Auto repair, restaurants, and animal hospitals were prohibited for a reason and would have to go in front of the zoning board of appeals for a use variance.

Crystal Cosentino- Are some occupations allowed without a permit or do they all require a permit?

Stephen Selvek- Home occupations did have to apply through a zoning permit. Now, it will be called a home occupation permit. Essentially what this does is require someone to come in and notify the City that they are doing a home occupation and if there is an increase of traffic or something of that nature that the City is aware of that before it takes place and happens.

Tim Baroody- Is there an increase in fee for the homeowner/business owner?

Stephen Selvek- We do not have any regulation over fee. I would assume that the fee would stay the same that it is right now. Fees are held by Council as to what they see fit.

Stephen Selvek continues with discussion of code changes:

In Section 19 where it is talked about appropriate public uses including religious and educational uses. When the code was initially adopted in 1993 this was put under accessory use but churches and schools are primary uses. So what we have done is taken this section in its entirety, pulled it out, and created its own section under 305-24.1. We are not making any changes to it.

- 305-24 Public Uses

This section was moved and given its own section heading for clarity purposes.

- Bed and Breakfast

New section added for Bed and Breakfast Home. Bed and Breakfasts have been regulated as home occupations but a bed and breakfast may have additional impacts or may be used in a different way than a traditional home occupation. A home occupation, such as a professional architect, may have an office and is regulated to that 150 or 200 square foot of their home. A bed and breakfast is utilizing more than a small portion of your house and needs to have sufficient room within the house and lot to appropriately support the bed and breakfast as well as the parking associated with it and ensuring that they will not have a negative impact on the neighborhood. So what you are going to see in this section is:

- Establishing a minimum lot size of 10,000 square feet

- A minimum house size of 2,000 square feet
- Clear regulations on parking. They have to have parking for each bedroom they may have.
- Bed and Breakfast per State Code: is limited to no more than five bedrooms or 10 transient lodgers.
- Exterior signage must comply with the zoning district it is in.
- Owners must reside within the dwelling as their principle place of residence (also in State Code)
- Limitation of guest stays to no more than thirty (30) consecutive days.

The Bed and Breakfast must be maintained and preserve as well as complement the surrounding area. The Bed and Breakfast must comply with the NYS Uniform Fire Prevention and Building Code.

Because a Bed and Breakfast is allowed in more than a residential district, it can occur in commercial and R2 districts, there is a need to tighten the regulations in a residential zone. A Bed and Breakfast is not allowed in R1 or R1A zones. This will not change. However, anyone interested in doing a Bed and Breakfast in a R2 zone will have to come before this Board for a special use permit. This will give a chance for this Board to review potential impacts to that residential neighborhood. Additional regulations for Bed and Breakfast in an R2 zone will be a limit to three (3) bedrooms and a limit to employing no more than one (1) nonresident employee. As for signage, this stays as a two foot sign that may be attached to the house. Finally, Planning Board has the right to impose and include additional conditions that may be deemed necessary to effectuate the purpose of this chapter. For example, if the Bed and Breakfast is proposed in a dense area and/or there is not adequate separation between homes, this Board may say that three bedrooms may not work in this case but two bedrooms would be a better fit.

- Section 305-26 Off Street Parking and Loading
  - Clarifying no front yard parking requirement that currently exists. There was an image in the code that makes it appear that a driveway could be established within the front yard of a house. Now there are two new images that clearly show that the driveway is in front of the garage and not meant to be in the front yard of the residential house.

Tim Baroody- Non conforming/pre-existing is still okay? My lot is a corner lot.

Stephen Selvek- There is language later in the code that talks about a major or minor front yard. Pre-existing, non-conformity would still allow a situation that currently exists to remain there. Essentially we are just clarifying the no front yard illustration found in the code. The no front yard parking applies to residential zoning districts, specifically the R1 and R2, and then to residential buildings. This will not have an impact to our commercial properties.

Stephen Selvek continues with discussion of code changes:

#### Exhibit B

- Article 5 deals with our residential zoning districts. We pulled out the previous Bed and Breakfast information and put in the new regulations we discussed.
- Under R2 Zoning District 305-34, now you are referred to the new section instead of the old section of code.

#### 305-38 Residential uses in commercial districts

- Just changing the reference so it goes to the new section of code.

#### Exhibit C

- has minor changes with changing references to the appropriate sections.

#### Exhibit Dimensional standards

- An illustration has been updated to better reflect what is in the code.
- The dimensional requirements has been a difficulty to our downtown development. Currently, code requires a five foot setback from the property line. When someone wants to develop, they want to do so to the property line which is appropriate downtown. Currently, if they want to develop to the line they are sent to the zoning board of appeals. This will eliminate the need for downtown development to through the process of Zoning Board of Appeals.

That summarizes the code changes that we are looking at right now and would be the proposed changes recommended to Council from this Board. Council will do two readings of this; a first reading then public comment and then finally an adoption of the ordinance itself.

These changes do support the Comprehensive Plan, providing neighborhood stability as far as the front yard parking issues and also simplifying the development process by making the code more user friendly.

Stephen Selvek asks Board members if they have any questions.

Crystal Cosentino- Questions if Bed and Breakfast currently needs a special use permit

Stephen Selvek- Currently if a Bed Breakfast is established as a home occupation, a special use permit would have to come before this board for review. The problem within the code right now is that you can establish a Bed and Breakfast in a commercial district and that refers you back to the residential section of code, which then makes it convoluted as whether the intent was for this Board is to hear a special use permit for a commercial district which is far less imposing than the restaurant next door or the bar down the street. So this clarifies that if you are in a commercial district and you want to do a Bed and Breakfast, you have the right to do that. However, if you are in a residential district you will still have to go before this board with these regulations, which are a little bit tighter in general so that this board has more to hang their hat on when it reviews the special use applications.

Crystal Cosentino- With a Rooming House, we will be requiring a Certificate of Occupancy? Is there a reason why we would not want to see a Certificate of Occupancy for a Bed and Breakfast?

Stephen Selvek- That does make sense and I am more than willing to add that but the question I have for Brian Hicks is whether or not our State Building and Fire Prevention Code requires a CO for Bed and Breakfasts.

Brian Hicks- I will have to do more research on that.

Crystal Cosentino- So for a Rooming House it is a requirement?

Brian Hicks- That has been a requirement of ours for College housing.

Tim Baroody- We want growth in the City and we want people to run businesses, how much additional regulation do we want to do here? I understand the rooming house and college housing but we should really consider before adding layers and layers of regulations.

Stephen Selvek- From the Bed and Breakfast perspective, the only additional regulation is establishing a minimum for the lot size as well as the size of the structure, which was a model that was used in other communities. I do not want to add regulations to the point where it becomes prohibitive to do things and to Crystal's point, if the Board is interested in a Certificate of Occupancy for Bed and Breakfasts, we can add that into these particular exhibits. I would like Brian to look back at the New York State Uniform Fire and Prevention Code and determine if that is part of it already, because if it is, then it would already be caught in the code and if not and the Board desires we can add it to this. When you are dealing with a Bed and Breakfast you have to go through and have hard wired smoke detectors by State Building Code. You

have to have adequate means of egress; there are points where sprinkler systems kick in under State Building Code. I actually think when you change the use of the home from a single family to a Bed and Breakfast; you have to get a new CO. Therefore you would need a CO but I will confirm that with the Code Enforcement office.

Frank Reginelli- Whenever you have a change or whenever you are making application everything has to be done according to the prints, everything has to be inspected as far as electrical etc. So a Certificate of Occupancy to be given, the requirements have to be meant. That means everything is in compliance with New York State and the local building codes. It would also be useful for that of a home occupancy.

Stephen Selvek- Council is requesting a Certificate of Occupancy for Roomers and Boarders. So there is a desire from Council for these to be safe environments for people to be in.

Frank Reginelli- I think no occupancy should be utilized until that CO is issued.

Stephen Selvek- That is the regulation to be enforced. We can make a recommendation to Council that will reiterate the fact that the code only works if there is enforcement but that also becomes a policy decision.

Frank Reginelli- By issuing that CO that means there is character and class as far as structure.

Chair opens Public to be Heard.

Richard Stankus, 119 South Street- I have several questions that I would like to propose to the Planning Board. As a member of the South Street Historical Neighborhood Association, we would like to have our voice at meetings like this, which are planning not only for Bed and Breakfasts but also for boarding houses which may impact South Street as much as it may other areas in the City. Our interests simply lies in South Street because that's where we have spent our taxes for the last twenty some years, where we have spent more money than most would on restoring older homes in this great City and have done things that many other people might not have done but we don't do it for any other reason than we love this City, we value the historical nature of this City and we are here for the long haul. We are not simply here to flip houses or make something we might make a profit out of. We are here to support the City of Auburn and all of the great things we enjoy in the City. My question is that is there any flexibility within the Planning Board to designate or look at the Historic South Street District as the unique district it is. In the sense that, if my neighbor is zoned R2 and decides he wants to create a Bed and Breakfast, I would understand from the recommendations that you are making this evening that he would be restricted at that R2 zoning to three (3) rooms, two (2) people per room, and would have to provide off street parking. Certainly I think, and I am speaking for myself not our group, that it would be acceptable to me. These older homes are difficult to maintain and I think it would be a plus for the neighborhood to maintain a home particularly if its owner occupied. Now I think would disagree with that type of conversion from R2, which might be single family into some type of Bed and Breakfast. The boarding houses, I am not really familiar with in terms of what the restrictions are but I would certainly hope that boarding house does not become transient housing where people simply come in, you pay your \$20 and out the door you go, whether you return that evening or not nobody would know or be checking. I would also hope there would be restrictions on that, which seems to be proposed this evening and in fact I am here to commend the board for thinking this through in a very logical fashion. Again I would hope and I think that most of you agree that the South Street neighborhood is a unique neighborhood with a large group of people that have moved into the area and turned that area around in the last twenty some years and if you look at the taxes people, like myself, have paid for the last twenty some years, City taxes alone, we are looking well over a million dollars and the one thing we would not appreciate is someone coming into the neighborhood and destroying not only the character and integrity of the neighborhood but questioning again the growth of Auburn in terms of where it is going. The issue at hand too is, as I understand it, is that someone did decide to put a Bed and Breakfast in, if they did not meet the criteria as outlined tonight

by the Planning Board, that they could petition the Zoning Board for a variance maybe a use variance. So the next question is there another venue they could seek? Then the restrictions or guidelines that are being proposed may be reviewed by something like the Historical Resources Review Board. So if someone applies, for example, for a Bed and Breakfast, then not only would they have to go through Planning Board but also channel through Historical Resources Review Board. Not just in terms of what they may change on the exterior of the house but how the new facility may impact the neighborhood. There at least you have two checks to be sure that if it moves on to a use variance or something, that at least it has gone through committees, like your own, that can take a hard and fast look at this.

Kathy Diviney, 100 South Street- Would like clarification on the difference between accessory use and with respect to churches and schools and the intention of the impact of that to be.

Stephen Selvek- The way the code is written right now is that it allows for accessory uses within all zoning districts. An accessory use is defined as something that is less in scope in size than what the primary use of that particular site is. An accessory use example is: a hotel. The primary use is a hotel. The hotel has a restaurant within it. That restaurant is accessory to the hotel. Same as a garage to a house. Right now the way the code is written is that it refers to public uses under the accessory uses section of the code. Essentially saying a church is an accessory use. Churches are typically not an accessory use, but is a primary use. What we are looking at is taking that section out of the code, not changing what is permitted or allowed but giving it its own section. Now when someone is dealing with a church or a school they will be clearly going to a section of code that regulates that and it gives our code enforcement office the ability to point specifically at that code when someone comes in for a public use and say, this is what regulates that. Right now there is not necessarily a regulation on public uses because it falls under accessory use.

Kathy Diviney- How are public uses defined?

Stephen Selvek- A public use, as defined by the code is currently- appropriate public and quasi-public uses include activities of welfare, educational, religious, recreational and cultural nature and structures accessory there too. In our code right now, public uses have a wide definition. The intent at this point is not to change the definition by which public uses are regulated but instead to begin the process by clearly noting they are of and to themselves a use, they are not necessarily an accessory to something else.

Kathy Diviney- Where are public uses permitted?

Stephen Selvek- In all zoning districts

Kathy Diviney- I would also like to state that I concur with the statements made by Dr. Stankus.

Chair closes Public Hearing section.

Chair asks staff for comments.

Stephen Selvek- I am going to do the SEQRA review with regards to the proposed zone changes. Are there any changes that we have questions or need clarification on?

One point of clarification that I do want to make with regards to a change in the Bed and Breakfast from what is currently allowed to what would potentially be allowed if this was adopted. Within the R2 zone you could have a four (4) bedroom Bed and Breakfast this would change that to allow three (3) bedrooms. Essentially trying to bring down the number of bedrooms because you are in a residential zone and staying compatible with that residential use. Within a commercial zone you can have five (5) bedrooms, per state code.

The other information I provided to the board was the Full Environmental Assessment Form. Based upon my review of the code this action is an unlisted action because it's not site specific, you're not changing a specific zoning district and you're not changing the uses allowed within those zoning districts but I have prepared the Long Environmental Assessment Form (EAF).

\*Reviews what has been prepared on the Full EAF\*

Noted under other impacts: The action provided clarification and additional controls regarding potential future development and uses that are presently permitted. Noted a small to moderate impact.

It is important to recognize that these types of changes do regulate the potential for future development. Again, the direction that is being provided here is to align with our comprehensive plan so that we are moving the goals that the City has in a land use perspective forward.

All other areas in regards to physical changes are noted that there is no impact.

Does the board have any questions?

Staff recommendation is for negative declaration and staff recommendation is that the proposed changes are recommended to City Council.

Chair asks for a motion for adopt SEQRA Negative Declaration Resolution of The City of Auburn Zoning Code Revisions. Motion made by Crystal Cosentino and seconded by Frank Reginelli. All members vote and motion carried.

Chair asks for a motion for recommending that the City Council will amend the Code of the City of Auburn Chapter 305 Resolution. Motion made by Crystal Cosentino and seconded by Tim Baroody. All members vote and motion carried.

The date of the next Planning Board meeting scheduled for Tuesday, June 4, 2013 at 6:30pm

Motion to adjourn by Frank Reginelli.