



Town Administrator's Office

343 Highland Road, Tiverton, Rhode Island 02878 (401) 625-6710

Memorandum

Date: March 2, 2015

To: LUPI Committee members

From: Matt Wojcik

RE: Minutes from January 19, 2015

The meeting was called to order at 6:38 PM with a quorum consisting of Councilor Brett Pelletier, Planning Board Chair Steve Hughes, Town Solicitor Andy Teitz and Town Administrator Matt Wojcik present.

Minutes of the Committee's prior meeting unanimously approved after motion made by Mr. Hughes and seconded by Mr. Pelletier.

The Committee received an update from Mr. Teitz regarding the draft rules for the municipal court. These rules would make it clear that zoning matters are treated as civil matters, not criminal. Mr. Teitz noted that Judge Donnelly has reviewed the draft rules and he feels they are ready for Council consideration. Mr. Teitz moved that the rules be brought to the Council, seconded by Mr. Hughes, motion passed unanimously.

The Committee moved to the next item on the agenda regarding zoning procedures and the adequacy of "findings of fact" to guide and justify the decisions of the Zoning Official and Zoning Board. Mr. Teitz offered that the Official and Board should be following a format of "because of this fact(s), we have applied this part of the zoning code and concluded this."

Mr. Hughes asked Mr. Teitz to provide a clear definition of the term "hardship" in application of zoning laws. Mr. Teitz responded that "hardship" in the case of a use variance should be thought of very strictly and narrowly – that if the use requested in a petition for zoning relief is not allowed, there will be no use of the property in question. He continued that in the case of a dimensional variance, a "hardship" must be more than a "mere inconvenience." As for this definition Mr. Teitz said the reality is, "you know it when you see it." A discussion of a term "reasonable use of the land" ensued.

The discussion turned to whether Zoning Boards have to follow their own decisions or treat each case as an individual case. Mr. Teitz offered the view that Zoning Boards are not bound by their own precedents, but that over time most develop "rules of thumb."

Discussion turned to the zoning relief application. The idea was brought forward that the Zoning Officer should have a form to document applications carefully so that all issues are identified before a Zoning Board hearing is scheduled and notice given. Members of the board noted this might look like a "certificate of completeness" with a checklist that is standard to all applications. Mr. Hughes noted that the checklist should include proof that the petitioner's taxes were paid up to date. Mr. Teitz supported that point of view. It was suggested that a zoning packet should include an aerial photo and use of GIS to show approximate location of lot lines.

Mr. Teitz opined that the Zoning Official should reduce all decisions to writing and on close calls, asking for legal counsel to review his draft. He asked, and Mr. Hughes answered, a question as to whether the Planning Board reviews requests for variances. Mr. Hughes said yes, the Board reviews in the case of special use permit requests, and also looks at cases where an environmental review is required.

A member of the audience noted that helping abutters understand how they can offer input should be made part of the notice given in zoning board matters.

The Committee set the time and place of the next meeting for Monday, March 2, 2015 at 6:30 PM at Town Hall. Mr. Pelletier moved adjournment, seconded by Mr. Hughes, unanimously approved, meeting adjourned at 8:14 PM.