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TOWN COUNCIL  
Committee to Review Zoning and Permitting Regulations  
Selectmen's Conference Room  
Thursday October 5, 2017 – 5:30pm

Councilors:

Vice-President James Crocker, Precinct 5 (CHAIR)  
Councilor Jessica Rapp-Grassetti, Precinct 7  
Councilor John Norman, Precinct 12  
Councilor Fred Chirigotis, Precinct 4  
Councilor Deborah Dagwan, Precinct 8

## MEETING MINUTES

**PRESENT:** Chair of Committee, Vice-President James Crocker Jr.; Councilor Fred Chirigotis, Councilor Debra Dagwan, Councilor John Norman

**Also in Attendance:** Mark S. Ells, Town Manager; Ed Miles, Commercial Broker, Hyannis

**ABSENT:** Councilor Jessica Rapp-Grassetti,

Meeting was called to order at 6:10pm by the Chair of Committee, Vice-President James Crocker Jr., who introduced Ed Miles, Commercial Broker, who came to explain his permitting issues at 181 Spring Street, Hyannis. This site was formally an Alan Smallage and repair shop. Chair of the Committee explained to the members of the Committee that Mr. Miles is the Broker representing the seller trying to sell the property with the interpretation of the property, they were led to spend some money by 200 Main Street to go through site plan that did not work out, change of Building Commissioner and Zoning Commissioner, so everyone is taking a different step he generalized it all, and passed it to the Town manager, The Town Manager suggested a regulatory agreement because it is in the Growth Incentive Zone (GIZ)., but we are here to understand the process, and then when there is an issue at 200 Main, this Committee asks that the Town manager be brought in to understand what happened right from the individuals it happened to.

Mr. Miles discussed the other individual that has been in the process with him which is Jeff Eckland who represents the buyer in this process. He was doing a lot of the work with Robin Anderson, he is very good at doing this work in the beginning, so I stepped back and let him take the lead on this, the only thing I can say from my experience in this process, was that Ms. Anderson was not rude at all, she was very nice in explanation; we were not led to believe that there was going to be any issues with the change of use, we thought that it was going to be a good fix for this area, so at the very end it was a jaw dropper when we found out that we could not use it for the purpose intended, when we thought all along we were okay until the very end at the time of the closing and we find out we are not, so we let the two lawyers involved in this, and they are not proficient in this area with this type of negotiating, so Kevin (Client) recommended that we talk to Singer and Singer. Chair of the committee for clarification purposes, when the process started you had gone to 200 Main with the buyer, and the buyer had made it clear at that time that no position wanting to do retail business, patio furniture, plus a contractor business that left in the morning, and the shop would stay as retail for patio furniture. Mr. Miles stated yes, he was going to have a showroom with furniture in it to view only, so individuals can come view, not buy and take away, he believed the retail element was still, there. Chair of the Committee asked about the client, is he also a landscape Contractor, Mr. Miles said yes he is he was looking for a small office in this building as well to work out of. He is small landscape company so he does not have huge pieces of equipment, 3 trucks is his fleet. Chair of the Committee stated that the business before this one was a

small repair shop that repaired small equipment like Husqvarna Equipment. Mr. Miles stated yes, that is correct, which is why we thought there was not going to be an issue. On this particular piece of property there was a special permit issued about 43 years ago to change its use.

Chair of the Committee asked if he could explain from the first encounter with the counter at 200 Main with Ms. Anderson. The buyer went to 200 Main with his plans and desires for the property use. At the time Ms. Anderson had given him everything that was need to be completed and accepted an original hand drawing of the plans. It wasn't until the buyer went back and submitted everything that was given to him that he found out they now would not accept it, and he needed to pay \$1,500 to hire a site planner to lay everything out in detail and resubmit the plans again. Chair of the Committee asked Mr. Miles about the very first encounter they had, that it was explained to the buyer that what he had that day was okay, it wasn't until he filled out the rest of the paperwork and resubmitted with the hand drawn plans that it was rejected and it was at that point they were told to resubmit a more formal plan with every detail. Mr. Miles said that is correct. Chair of the Committee said it seemed to be a use issue. Mr. Miles said yes, that is why we kept going with the project, because in the beginning we were not told that there were any issues, so we kept going with the permitting and the process. So after the formal plan was done and resubmitted for consideration, was there another issue or concern that came up of a different nature regarding back up alarms. Mr. Miles said the back- up alarms have always been an issue in that area because of the two house that are still there, but we thought the noise levels would be decreased because of the hours they are leaving. Mr. Miles stated the hours of operation he believes are from 7am to 8pm. Mr. Miles stated that his client made every attempt to accommodate the backup alarm issue by the way he would park his trucks so the alarms would not go off, and the trucks would pull forward so you would not hear it.

Town Manager Mark Ells mentioned that the recommendation has been that there be a regulatory agreement, and Town Manager Ells will sit down with you and whomever else you would like there, however both our Legal department and our Building Commissioner believe there is a use issue on this particular parcel, but we would like to be able to sit with you and be able to agree on the best use for this property. The Building Commissioner does not have the authority to issue a variance, however Zoning can, so if there is a Regulatory agreement and a Zoning decision then from what he is hearing from the Building Commissioner that there would not be an issue, it was more of a procedural issue.

Councilor John Norman believes the breakdown in the process is the determination of each case, because in the email he is reading was in the positive, so as a contractor you get emails like this in the positive, as a contractor your moving forward, because nowhere in these emails is there a negative, or a do not do that mention anywhere, so that is where he believes the frustration is. Change in use should have mentioned in the very beginning when the formal application or proposal was accepted, but that is not what they heard, it wasn't until the end of the process they heard there was a change in business. Councilor Norman would like to see the information individuals receive from the first encounter is very important, and too often it is different and it varies from one individual to another.

Town Manager Mark Ells asked Mr. Miles to get a date as soon as he can to meet on this so that we can get this done for you.

Mr. Miles thanked the Committee for tonight and allowing him to come in and explain his process, and possibly help with this in any way you can. I am trying to have my client hold on as long as he can before he walks away, because he is at that point.

Chair of the Committee thanked Mr. Miles for coming in and explaining what he had gone through, but we are aware of the problem now, and will do everything we can to help you make whatever decisions you need to make moving forward.

Town Manager Mark S Ells asked Mr. Miles to please reach out to his office whenever he has a question or problem with any future issues, or if you have just general questions.

Chair of the Committee explained this was an issue hopefully in the past, moving forward it is clear that the person in the front is the most important, and that information is the key to a smooth process.

Councilor Norman said he has pulled a lot of permits, so it is not just a Barnstable issue, this happens everywhere he goes and pulls permit. There is a lot of times that the person you started with is not the same person you bring things back to and they will not touch it if they were not the first person you spoke to, if they are out, then you have to wait until they get back which delays the process again, so having someone in the front to explain from the beginning to the end should be a position we should look at.

Chair of the Committee has invited Mr. Poyant in for our next meeting scheduled for November 2, 2017. He has accepted and agreed to come in. We are going to look at our zoning as well; there are constraints in Barnstable that does not allow building in our town, so we as a committee will have to look at possibly loosening some of these regulations so it is not so difficult to accept new growth.

Chair of the Committee asked for a motion to accept the meeting minutes of July 20, 2017 as amended. (Corrected spelling of Councilor John Norman, Councilor Debra Dagwan) Councilor Chirigotis made the motion to accept the meeting minutes of July 20, 2017 as amended, Councilor Debra Dagwan seconded the motion. All members present voted in favor of accepting the amended minutes as corrected. Chair of the Committee asked for a motion to adjourn, Councilor Frederick Chirigotis made the motion to adjourn; Councilor Debra Dagwan seconded the motion. All members voted in favor of adjournment at 6:56pm

**NEXT MEETING:** October 5, 2017, 6PM

**ADJOURNMENT:** 6:56pm