

MINUTES OF THE REGULAR SESSION
STONE HARBOR PLANNING BOARD

May 21, 2012

7:00 p.m.

CALL TO ORDER:

The meeting was called to order by Mr. Hand, who stated that all requirements of the “Open Public Meetings Act of 1975” had been met.

ROLL CALL:

Planning Members Present

Thomas Hand
Perry Conte
Mayor Suzanne Walters
Wayne Conrad
Robert D. Bickford, Jr.
Jill Gougher
Joselyn O. Rich

Board Solicitor

Andrew Catanese

Board Secretary

Patricia H. Wagner

Zoning Officer

Joanne Mascia

Alternates Present

Robert Ashman
Julian Miraglia

Approve Minutes

Motion by Mr. Ashman and seconded by Mr. Conrad to approve the minutes of the April 23, 2012 regular session.

Affirmative votes: Mr. Hand, Mr. Conte, Mayor Walters, Mrs. Gougher, Mr. Conrad, Mr. Bickford, Mr. Ashman.

Resolution 2012-005 - Amend RGO Outdoor Dining Definition

RESOLUTION NO. 2012-005

WHEREAS, the Stone Harbor Planning Board carefully evaluated the draft ordinance, dated May 4, 2012, attached hereto (the Proposed Ordinance) at a public meeting held on May 21, 2012; and

WHEREAS, the Planning Board has determined that the Proposed Ordinance creating a definition of “outdoor dining” promotes the intent and purposes of the Municipal Land Use Law and is consistent with the Borough’s Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Stone Harbor, New Jersey on this 21st day of, 2012 that the Ordinance attached hereto is consistent with the intent and purposes of the Municipal Land Use Law and is consistent with the Borough’s Master Plan. Accordingly, the Planning Board recommends adoption of the Proposed Ordinance by the Borough Council.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the Clerk of the Borough of Stone Harbor and maintained by the Secretary of the Planning Board.

I hereby certify the foregoing to be an original resolution of the Borough of Stone Harbor Planning Board adopted and approved at a meeting held on the 21st day of May, 2012.

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**BOROUGH OF STONE HARBOR
CAPE MAY COUNTY, NEW JERSEY**

PROPOSED ORDINANCE NO. _____ (*Draft(#2) 5/4/12*)

**AN ORDINANCE AMENDING CHAPTER 560 OF THE REVISED GENERAL ORDINANCES OF THE
BOROUGH OF STONE HARBOR AND REGULATING OUTDOOR DINING**

WHEREAS, the Stone Harbor Master Plan adopted June 22, 2009 (the “Master Plan”) provides that “the (downtown) streetscape should provide a rich environment that appeals to the pedestrian’s senses. A variety of sensory-related uses and activities should be encouraged, such as outdoor dining....”; and

WHEREAS, outdoor dining is currently permitted as a conditional use in the Business and Waterfront Business Zoning Districts; however the zoning ordinance of the Borough of Stone Harbor (the “Zoning Ordinance”) does not define “outdoor dining”; and

WHEREAS, the Stone Harbor Planning Board (the “Board”) has determined that certain limited table-seating should be permitted for outdoor food consumption without the need for conditional use approval; and

WHEREAS, the Board has recommended revisions to the Zoning Ordinance as set forth below and has determined that the implementation of those revisions is consistent with the Master Plan and will promote the general welfare of the Borough and its residents; and

WHEREAS, the Borough Council desires to adopt and implement the recommendations of the Board, as set forth below.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Stone Harbor, Cape May County, New Jersey, as follows:

Section 1. A definition of “Outdoor Dining” is hereby created in Section 560-10 of the Zoning Ordinance as follows:

OUTDOOR DINING. The consumption of food or drink at a table that is not located within a structure, which table is made available for use in conjunction with a restaurant or other food service business; provided that Outdoor Dining shall not include the consumption of food or drink if (i) the food and/or drink is purchased and served indoors or via window service (without table service); (ii) the consumption occurs at a table which is twenty-seven inches (27”) or less in length and in width or thirty inches (30”) or less in diameter; (iii) the number of outdoor tables provided by the associated restaurant or other food service business does not exceed the lesser of one table for each thirty-two (32ft²) square feet of ground area or four (4) tables; and (iv) the table and surrounding area are not available for the consumption of alcoholic beverages.

Section 2. A new section 560-18(D)(9) is created as follows:

Outdoor Tables. Tables may be placed on private property in connection with a restaurant or other food service business in the Business District without the need for site plan review or prior zoning approval; provided that (i) no table service shall be provided; (ii) the tables shall not exceed twenty-seven inches (27”) in length and in width or thirty inches (30”) in diameter; (iii) the number of outdoor tables provided by the associated restaurant or other food service business shall not exceed the lesser of one table for each thirty-two (32ft²) square feet of ground area or four (4) tables; and (iv) the tables and surrounding area are not available for the consumption of alcoholic beverages.

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Section 3. A new section 560-19(F)(2) is created as follows:

Outdoor Tables. Tables may be placed on private property in connection with a restaurant or other food service business in the Waterfront Business District without the need for site plan review or prior zoning approval; provided that (i) no table service shall be provided; (ii) the tables shall not exceed twenty-seven inches (27") in length and in width or thirty inches (30") in diameter; (iii) the number of outdoor tables provided by the associated restaurant or other food service business shall not exceed the lesser of one table for each thirty-two (32ft²) square feet of ground area or four (4) tables; and (iv) the tables and surrounding area are not available for the consumption of alcoholic beverages.

Section 4. If any portion of this ordinance is determined to be invalid by a Court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

Section 5. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same are hereby repealed.

Section 6. This Ordinance shall take effect twenty (20) days after final passage and publication as provided by law.

Suzanne M. Walters, Mayor

Suzanne C. Stanford, Borough Clerk

Mr. Conte would like to see the Borough issue mercantile licenses rather than the current business registration policy. He feels that if Borough regulations are not met, the ability to revoke a license to conduct business in Stone Harbor would have a greater impact.

Mayor Walters noted any change to the current policy could only be approved by Borough Council. The Board can recommend to Council to have a mercantile license rather than a registration. The registration is currently used for emergency contact information. Mr. Catanese stated enforcement of a mercantile license would come under the jurisdiction of public safety and would not be subject to zoning ordinance enforcement. He stated the Board can suggest that if any mercantile licensing policy is drafted it should include regulations for standards and due process procedures in case of revocation or non renewal if there are unabated zoning violations, that way it could come under the zoning ordinance province.

Mr. Miraglia asked that a motion be made on the proposed outdoor dining ordinance only and the subject of business licensing be taken up at another time or different venue.

Motion by Mr. Conrad and seconded by Mayor Walters to approve Resolution 2012-005 – Recommend to Borough Council to amend RGO Zoning 560-10 outlining outdoor dining requirements.

Affirmative votes: Mr. Hand, Mr. Conte, Mayor Walters, Mrs. Gougher, Mr. Conrad, Mrs. Rich and Mr. Bickford.

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Committee Reports

Subcommittee - Zoning Ordinance Review

Tom Cope reported that his subcommittee has completed their final project, setback regulations with respect to light and air issues. He distributed to Board members an outline suggesting changes to the items permitted in setback areas. A separate document, the proposed ordinance prepared by Mr. Catanese, was also distributed by the Board Secretary. The proposed amendment to Section 560-38 will prohibit stairs and landings, outdoor shower enclosures, trash enclosures and HVAC equipment in side yard and front yard setback areas, unless lawfully existed prior to July 1, 2012. The proposed amendment also continues limitations on the size and location of these structures when or where they are permitted. The proposed ordinance change will be placed on the Board's agenda for possible adoption at the June 25, 2012 meeting. Mr. Cope asked that any questions or concerns be directed to him prior to the next Board meeting.

Subcommittee - Hotel/Motel Zone

Mr. Ashman reported his committee has met with the professional planners, Heyer & Gruel. The committee will be establishing a priority list of goals & objectives. They will update the Board on their progress at future meetings.

NEW DISCUSSION ITEMS

Three business owners appeared before the Board asking for relief from the current zoning restrictions regulating the placement of free standing signs in the business and waterfront business districts (RGO 560-32 B).

T. F. McCallum of Eco Alley spoke first. His business is set back off of Third Avenue, behind Coffee Talk (97th St.). It is not on a main pedestrian walkway and is situated 96' from the main Third Avenue sidewalk. Mr. McCallum has been placing a homemade sign, advertising the location of his business, on the Third Avenue sidewalk to draw in potential customers. He stated his sign which uses a unique advertising message, "We Sell Poop" also helps to attract customers to his store. This type of free standing signage is prohibited by the current zoning ordinance and he was told to remove the sign by the Zoning Officer. Mr. McCallum feels customers do not know his store exists and his business drops off dramatically when he has had to remove the sign. The success of his store is very important to him.

John Wilson of Jack's Shack spoke next. His food business is located in the rear section of the Harbor Square Mall Shops. Just like Mr. McCallum, his business is also not on a main pedestrian walkway. He is shocked that only three people showed up for tonight's discussion. He is not in favor of a sign "free-for-all" but agrees that something should be done to help the businesses advertise their locations. Mr. Wilson asked that instead of placing free standing signs on public sidewalks, would they be allowed on a section of property owned by the businesses (setback areas).

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Andrew Dorley of Tutto Gelato spoke next. Mr. Dorley doesn't want to infringe on the public sidewalk space but he asked the Board to come up with creative solutions to help advertise and promote new businesses, he also feels that Stone Harbor is a "walking town". He noted his support of Mr. McCallum's efforts to attract new customers with his sign. Signs are a great tool to promote things that a business has to sell. Their businesses are unique in that they sit back off the main pedestrian walkways.

No one else spoke. Mr. Hand closed the public portion of the discussion. Mr. Hand asked for comments from Planning Board members.

Mr. Miraglia would like for the Board to offer some relief to those businesses that do not front onto a major public street to have the opportunity to display some type of a limited size, advertising sign.

Mr. Ashman noted there are two different types of signage being mentioned tonight. One is a directional location (wayfarer) sign and the other is a sign that states what a store or business is selling or promoting. He feels the three business owners who spoke this evening are looking for the latter type of signage.

Mayor Walters and Mrs. Mascia suggested that a committee be formed to thoroughly review the zoning ordinance governing signs and the request for relief in the business districts. Mr. Catanese noted the restrictions that the Board instituted when they drafted the projecting sign amendments to the ordinance RGO 560-32 B (9).

Mr. Conrad suggested having Heyer & Gruel Planners review the ordinance for possible changes to be effective next summer. Mr. Hand noted this unfortunately will not be of help to business owners this summer.

Mr. Catanese stated he needs to review the situation before advising the Board that they may be in a position to grant temporary relief for this summer. Temporary relief could make free standing signs a permitted use and therefore grandfather-in any type of current signs and their locations.

A subcommittee was formed to review the existing ordinance and to make any recommendations and amendments for the business district, waterfront business district and the satellite business districts (non-public property). The members are Mr. Hand, Mr. Bickford and Mrs. Gougher.

Mr. McCallum stated the summer season is very short and every day is crucial to his business; if it fails he will have to leave Stone Harbor. He is appreciative of the Board's willingness to review the sign regulations.

Mr. Hand stated the Board is very sympathetic to his problem. He also thought more business owners would be here tonight to express their opinions on the issue. Mr. Conte noted any type of legislative change takes several weeks to process for final Council approval.

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OLD BUSINESS

None

OPEN PUBLIC SESSION

Mr. Hand opened the meeting for public comment. No one spoke. Public session was closed.

ADJOURNMENT

Having no further business at hand Mr. Hand called for a motion to adjourn the meeting.

A motion to adjourn the meeting by Mr. Conrad and seconded by Mayor Walters. All members present voted in the affirmative.

APPROVED:

ATTESTED: _____
Patricia H. Wagner, Secretary Stone Harbor Planning Board