

## Report of Investigations of Alleged Zoning Violations

Following the adjournment of the Planning and Zoning Commission meeting of January 3, 2012, Ms. Mary O'Brien confronted Chairman Klemens and Zoning Enforcement Officer Nancy Brusie with accusations of lack of responsiveness (of the Town, the PZC, and Ms. Brusie) to alleged zoning violations in the Central Business District. Also present in the room for a portion of the ensuing discussion were Commissioners Judy Swanson and Fred Schmidt. The complaints that Ms. O'Brien brought to our attention were not new. She has attended several recent PZC meetings and has spoken in the public comment period regarding these issues. The Chairman has repeatedly requested that she put these complaints in written form so that we could respond to them in an appropriate manner. Ms. O'Brien prefaced her remarks stating that she would not put these into writing. As this has been a recurrent issue, the Chairman directed Ms. Brusie to write down the various complaints for follow-up. The overall nature of her complaints were a lack of consistency in enforcing the provisions of the zoning code to the benefit of some and the detriment of others.

On Wednesday, January 4, 2012, Chairman Klemens and the ZEO made site visits to the following business establishments that were allegedly not in compliance with the code.

1. **The Bistro** - The complainant stated that the restaurant use was illegal, there were too many tables for the size of the restaurant, that there was insufficient parking to accommodate the patio seating, that the signs and flags were illegal, and that the Bistro was engaging in unfair practices by preparing Ms. O'Brien's signature tomato pie entree.

Findings: Restaurant use is an allowable use in that location (see table of permitted uses). Restaurant use is one of several legally permitted uses in that location, this is not a grandfathered use, but a permitted use. It has been determined by counting during our site visit that the Bistro has 39 seats inside and 31 seats outside (this includes both outside patios). With regards to parking, it should be noted that our inside parking requirements for restaurants are determined by GFA (Gross Floor Area), not the actual number of seats with one space for every 200 square feet. The ground floor of the Bistro (including the kitchen and rest rooms is 1,180 sq. ft) yielding a parking need for 6 spaces. The 31 outdoor seats do require one parking space for every four seats or 8 parking spaces. They have 7.75 spaces and therefore, need to reduce the outdoor seating to 28 seats. This establishment is allowed to use six parking spaces in the in the adjacent parking lot (Johnnycake Books) in addition to the seven that it owns for a total of thirteen spaces.

Concerning signage, the Bistro has two conventional free standing signs, one flag that is a sign by virtue of the word "Restaurant", and three additional flags that are not considered signs. With regards to signage, the business is allowed to have two signs, therefore the "Restaurant" flag (which is considered a sign) should be removed. With regards to flags that are not signs, a business is allowed to have one flag, therefore two flags (in addition to the "Restaurant" flag) should be removed. Balloons and decorative lights are not

regulated, nor does the PZC have any authority to mediate disputes concerning alleged unfair business practices in regard to menu items.

2. **Passports** – The complainant stated that the business had too many signs.

Findings: We counted four signs at this location, three were on the front of the building (two oval signs on the building and one freestanding sign in front of the building) and on the building at its rear entrance. Two signs will need to be removed to conform to zoning.

3. **The Roost** - The complainant stated that the business had too many signs.

Findings: We counted three signs at this location, two on the building and a third on Main Street. We noted that this business had a large banner attached to the deck which is not permitted and serves as a sign. In order to conform to zoning one of the painted signs with the pink flamingos must be removed as well as the "Artisan Coffee" banner.

*banner  
gone  
Neat  
open  
gone*

4. **Best & Cavallaro** – The complainant alleged that there are multiple business operating under a single roof and that parking was inadequate.

Findings: Although there are multiple independently licensed agents operating in this office, they do so as part of a single commercial entity. We verified this with one of the principles, Ms. Cavallaro, during our site visit. The business currently has one sign and six parking spaces and is in compliance with our zoning regulations. If cars could be parked one behind the other, an additional two parking spaces are available behind the building.

5. **Lucky Nails** – The complainant alleged that there were moving neon signs in the window.

Findings: We noted two internally lit red neon-type signs in the window, one "Open" and one "Nails". Both these signs had a circle of small flashing blue lights around the edges. The owner was able to disconnect the moving portion of the "Open" sign and turned off the "Nails" sign. It was also noted that there was a paper sign on the outside of the window that needs to be removed and placed on the inside of the window.

6. **Encore** – Clothing rack and other merchandise placed on town property creating a cluttered flea market look that continued beyond the established permitted flea market that occurred on Saturday mornings.

Findings: Encore has a single free standing sign and a welcome sign and is in compliance. It is our understanding that permission has to be granted by the Town and a Vendor's/Hawking permit obtained from the Town Clerk for a fee of \$100 in order to use Town property in this manner. The Town Clerk did not issue a permit to this entity.

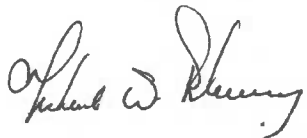
7. **Ragamont** –The complainant alleged that this is currently a Bed and Breakfast, with up to six rooms being let.

Findings: We could not substantiate or refute these allegations. There was no data provided by the complainant that we could independently verify that would lead to this conclusion. Should Ms. O'Brien provide us with documentation (i.e., beyond hearsay) that would allow us to investigate further we will, but at present we have no choice but to consider these allegations unsubstantiated,

8. **Peter Beck's** – Clothing rack and other merchandise placed on town property creating a cluttered flea market look that continued beyond the established permitted flea market that occurred on Saturday mornings.

Findings: Peter Beck's has a single free standing sign that is compliant, and a sandwich board observed on 1/1/2012 on the sidewalk that is non-compliant and violates the code. It is our understanding that permission has to be granted by the Town and a Vendor's/Hawking permit obtained from the Town Clerk for a fee of \$100 in order to use Town property in this manner. The Town Clerk did not issue a permit to this entity.

The village centers of Lakeville and Salisbury have inadequate parking. We would suggest that the Planning and Zoning Commission re-visit both the parking requirements and the sign requirements in order to create a more business-friendly atmosphere while maintaining the beauty of our village centers. However, until that time we are duty-bound to abide by and uphold the current laws. To that effect, notices of violation will be sent by the ZEO to the respective property owners and tenants that are in violation of the Town's zoning code as discussed above.



Michael W. Klemens

Nancy Brusie

January 17, 2012