

The stated meeting of the Planning Commission of the Township of Abington was held on Tuesday, April 28, 2015 at the Township Administration Building, Abington, PA., with Vice Chairman, Mr. Ron Rosen presiding.

CALL TO ORDER: 7:30 p.m.

ROLL CALL: Present: SPEARMAN, COOPER, GAUTHIER (8:05 p.m.)
STRACKHOUSE, WEGGEL, ROSEN, RUSSELL,
ROBINSON
Excused: MARQUARDT

Also Present: Director of Code Enforcement MATTEO
Planning & Zoning Official PENECALE
Commissioner MYERS

Agenda Item PC1 – Recommendation on proposed Ordinance No. 2093 – Display and Storage of Goods

Mr. Rosen read agenda item PC1 into the record and called on Mr. Penecale.

Mr. Penecale said over a year ago, Abington Township was approached by several business owners who were interested in having the Township review the outdoor sales section of the ordinance as it relates to vendors who come into the Township periodically to sell their goods. Easter weekend brings flower sale vendors as well as hotdog cart vendors on Mother’s Day weekend, etc.

After deliberation by Township Solicitor with the Board of Commissioners, the directive was to put an ordinance together to amend existing Section 801.N. of the Zoning Ordinance and Ordinance No. 2093 was drafted, and a copy was provided to members of the Planning Commission for review.

Two items listed in the ordinance that differ from existing language in the ordinance are as follows:

1. The issuance of any permit pursuant to this section shall be for a period of ninety (90) days or less. No more than two (2) such permits will be issued to any applicant for any calendar year.
2. Seasonal or temporary outdoor sales of any articles, equipment or merchandise shall not be permitted within 1,000 feet of any structure wherein the primary use of building, storefront, or structure is the sale of such articles, equipment or merchandise.

The proposed ordinance does not prohibit the Girl Scouts from selling cookies or the Boy Scouts from selling popcorn, etc., and it does not prohibit any nonprofits from selling Christmas Trees or other items.

It is strictly drafted for vendors who sell goods for-profit that operate on a temporary basis in Abington Township. They are required to register with the Tax Office; however, it has never been regulated by permit or any type of approval process through the Township other than permitting outdoor sales vendors in the Town Commercial and Mixed Use Districts.

Mr. Rosen asked why has this issue come about now?

Mr. Penecale replied it is expanding such as vendors are setting up at multiple sites. In the last two years, vendors would submit their location and we would check to make sure it was in the Town Commercial or Mixed Use Districts, and if not, they were notified they could not sell at that location. They are also affecting the brick and mortar establishing substantially.

Mr. Rosen asked about tax collection for seasonal, temporary vendors.

Mr. Penecale replied a list of vendors is submitted to the Tax Collector so they are registered to pay Business Privilege and Mercantile Taxes.

Mr. Cooper questioned whether there is any benefit for the community for having these vendors sell their goods once or twice a year.

Mr. Penecale replied there have been meetings with business owners of the Township; however, this is the first public meeting on this topic. Township Solicitor indicated that the Township cannot completely prohibit these vendors from selling in the Township, so the Board of Commissioners would like to regulate it to protect the brick and mortar businesses in the Township.

Mr. Matteo added that legally, the Township cannot completely prohibit it.

Mr. Rosen commented that we need to consider the impact on existing businesses that are encouraged to be here and that make a commitment to our community, and they need to be protected. What is the cost for a permit?

Mr. Penecale replied if the Board directs us to issue special use permits, the fee is \$200 for each permit and vendors have to register with the Tax Office.

Mr. Rosen continued that auditing revenues of these temporary businesses would be difficult.

Edith Schmid, owner of Elite Florals, 1160 Bradfield Road, said she not only represents her business, but also other floral business owners in the Township such as In Bloom Flowers and the owner of Penny's Flowers, Mr. Rick Pannepacker, who is here this evening.

She brought this matter to the Township approximately seven years ago when her business begun seeing an impact from these pop-up stands that are a direct conflict to her business and it was located directly across the street from her previous location.

She has seen these pop-up stands increase in numbers and she has a list of locations of where they sell their goods. This has been a contention for many years for other brick and mortar business owners as well.

Back in 2013, she questioned whether these vendors had liability insurance, paid taxes and asked how the Township was being compensated for their sales. The Township will not be able to track their revenue as it is a cash business.

Mr. Spearman suggested having certain locations for these vendors so that they are not near an established business.

Ms. Schmid replied we had requested a distance of 2,000 feet for pop-up stands.

Mr. Rosen asked why is 2,000 feet an acceptable distance?

Ms. Schmid replied because they piggy-back on our advertising.

Mr. Penecale provided a map showing the location of the florist shops and highlighted in yellow the areas where pop-up stands operate seasonally to the Board for their review.

Mr. Rosen asked for the scope of products sold by pop-up stands besides flowers?

Mr. Penecale replied hotdog vendors; fireworks sales; and sports memorabilia. Traditionally, year-after-year is the flower vendors and fireworks sales.

Mr. Rosen asked for the time period these pop-up stands sell their goods?

Ms. Schmid replied they setup their stands on Friday afternoon and then arrive early on Saturdays and Sundays and close up by 6 p.m. on Sunday.

Mr. Spearman questioned whether temporary sales are permitted in certain zoning districts?

Mr. Penecale replied yes, only in the Town Commercial and Mixed Use Districts are seasonal, temporary outdoor sales a by-right use. Originally, it was to allow businesses in those districts to display sale items in front of their buildings. However, the language says, “seasonal, temporary outdoor sale,” so we would like to tighten it up.

Mr. Spearman suggested the language say, “Seasonal, temporary outdoor sales associated with an existing permitted business.”

Mr. Penecale replied it is drafted that way in the revised zoning ordinance; however, when Township Solicitor reviewed it, he believes the Township should continue to allow vendors to operate, but at a certain distance.

Richard Pannepacker, owner of Penny’s Flowers, 263 North Keswick Avenue, commented that these pop-up stands have been a problem for a long time and nothing has been done about it. His business is a seasonal business and we depend on Mother’s Day and Easter and other holidays. He questioned the distance of 2,000 feet because they should not be permitted in the Township whatsoever. June through September is a difficult time and we need the Easter and Mother’s Day sales.

Mr. Rosen commented that he does not know what the legal obligations are for allowing these seasonal, temporary businesses, and he does not know why the Township would want to have them in the Township, but he would do everything in his power to restrict them.

Mr. Matteo replied that Township Solicitor indicated that these businesses cannot be prohibited in the Township.

Mr. Rosen recommended that we do everything in our power to restrict the areas where these pop-up stands can be located.

Mr. Spearman added that outdoor sales should be associated with existing businesses.

Mr. Weggel questioned whether there would be any acceptable businesses unduly restricted.

Mr. Penecale replied as long as we do not prohibit the brick and mortar business owners from selling their items outdoors. He suggested that the pop-up stand vendors obtain a special use permit for each day and at each location they operate, and this Board needs to consider the distance for pop-up stands to be located from brick and mortar businesses.

Mr. Rosen recommended restricting and limiting outdoor sales unless they are associated with existing brick and mortar businesses, but if they are permitted, they should be located at a distance of 2,000 feet.

Mr. Matteo suggested the Board make recommendation of a distance of 1,500 linear feet.

Ms. Strackhouse commented that there are different fees for various types of vendors and nonprofits pay less and suggested having another tier of fees for nonprofits and raise the fees for the for-profit businesses and regulate the distance.

Mr. Penecale summarized that the recommendation is that there be no outdoor vendors unless they are affiliated with a brick and mortar business and that the distance from pop-up stands from brick and mortar businesses should be a minimum of 1,500 linear feet.

Mr. Pannepacker commented that he feels no one will “police” the distance of these pop-up stands, so the ordinance cannot be enforced, therefore, they should not be permitted at all.

Mr. Rosen made a MOTION, seconded by Mr. Weggel to recommend restricting temporary, seasonal outdoor sales completely, but if they are permitted, they should be only associated with existing, taxpaying businesses. However, if the existence of temporary, seasonal outdoor sales vendors is permitted, they should only be permitted in Town Commercial and Mixed Use Districts and that there should be a distance of 1,500 linear feet from where these pop-up stands can be located from any existing brick and mortar business selling the same goods. Also, consideration should be given that a premium is paid for a special use permit by vendors of seasonal, temporary outdoor sales business.

Mr. Rosen asked for any public comments.

Commissioner Myers commented that at the Board meeting where this ordinance was listed for advertisement, a discussion took place and some Board members felt 1,000 feet was not far enough and there was a motion to amend the ordinance to a distance of 5,000 feet, but the majority of the Board felt that was not defensible in court, and that if it was taken too far, perhaps these vendors would challenge it.

We would all like to not permit this in our Township as we work hard for economic development and we want our brick and mortar businesses to stay long term. She urged the Board to recommend a distance of 2,000 feet from where pop-up stands can be located from any existing brick and mortar business selling the same goods.

Mr. Rosen made a MOTION to AMEND the MOTION to recommend a distance of 2,000 linear feet from where pop-up stands can be located from any existing brick and mortar business selling the same goods, seconded by Mr. Weggel.

Planning Commission Meeting

April 28, 2015

MOTION as AMENDED – PASSED 7-0. Ms. Gauthier abstained (due to her absence during some of the meeting)

ADJOURNMENT: 8:27 p.m.

Respectfully submitted,

Liz Vile, Recording Secretary