

**MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
JUNE 20, 2011**

ROLL CALL:

Members Present: Joseph Diminico, Chairman
Andy Kidd, Secretary
Eric Prause
Horace Brown

Alternates: Anthony Petrone
Susan Shanbaum
John Chaput (sitting)

Absent: Kevin Dougan, Vice Chairman

Also Present: Mark Pellegrini, Director of Planning
Renata Bertotti, Senior Planner
Ginger MacHattie, Recording Secretary

The Chairman opened the Public Hearing at 7:02 p.m. The Secretary read the legal notice for the application when the call was made.

TOWN OF MANCHESTER PLANNING AND ZONING COMMISSION – revision to Manchester’s Zoning Regulations to delete references to restaurants “with outdoor food consumption” and “indoor service and seating only” to coincide with the general zoning definition for restaurants, and delete yard and site requirements associated with restaurant uses – Zoning Regulation Amendment (T-536)

Ms. Renata Bertotti, Senior Planner, explained this application will serve to amend Manchester’s Zoning Regulations as they apply to restaurants with outdoor seating or outdoor food consumption. Under current zoning regulations, restaurants are defined in one of two ways. A restaurant is either an establishment that serves food and beverages primarily to persons seated within the building or in an outdoor seating area on the premises, or a drive-in restaurant, which is an establishment where food and beverages are sold primarily for consumption by customers parked in motor vehicles on the premises. Manchester only has a few drive-in restaurants.

In business zones, restaurants are currently permitted as a right. Each of the business zones, including B-1, B-2, B-3, and B-5 zones allows restaurants as a permitted use. In addition, zones B-2, B-3, and B-5 have a separate provision in which restaurants with outdoor food consumption are allowed under special exception. Those restaurants are subject to the general criteria of Article IV, Section 20, which is a special exception criteria that applies to every special exception use. In addition, they are subject to Article IV, Section 6, which primarily deals with either restaurants with outdoor food consumption or limitation of restaurants to indoor food consumption in an Industrial zone.

The special exception granting body of Article IV, Section 6, is the Zoning Board of Appeals. This article has general requirements and special requirements, which apply to auto related uses and restaurants with outdoor seating. These requirements are more stringent when it comes to lot area and dimensions, front yard requirements, frontage requirements and the like. For example, there are no frontage requirements in business zones; however, if there was a restaurant that would like to have outdoor service, that lot would have to have 150 feet of frontage. Front yard requirements in a B-2 zone are 15 feet and 25 feet in a B-3 zone. Under Article IV, Section 6.02.02, the requirement is 60 feet, which is more stringent. This section is proposed for deletion. Similarly, in an Industrial zone, the requirements are more stringent. In addition, restaurants in industrial zones are limited to having indoor service only; outdoor service is prohibited.

With this amendment, it is proposed that references to outside building food consumption are deleted, which would effectively eliminate the need for a special exception for restaurants in business zones. A restaurant, by zoning definition, is an establishment that has either indoor or outdoor service of food and is a permitted use in business zones. It is also proposed that all special requirements for frontage, front yards, rear yards, etc. are eliminated because the special exception requirements will no longer be applicable.

It is further proposed that restaurants as defined, with the option to have outdoor service, be allowed in an Industrial zone, subject to a special exception granted by the Zoning Board of Appeals. The special requirements of Article IV Section 6.03.03 that are currently applicable to Industrial zones are proposed for deletion.

Larger restaurants requiring development of a site over four acres, more than 60 parking spaces, and restaurants with drive-through service would still need a special exception whether or not they have an outdoor seating component. Outdoor seating is incidental and seasonal.

Mr. Kidd said this amendment seems straightforward. He wondered if there would be any ramifications to parking if seating was extended to include outdoor seating.

Ms. Bertotti said outdoor seating is not currently taken into consideration for parking requirements.

Mr. Pellegrini said a discussion was held with the Zoning Enforcement Officer when this amendment was reviewed. Lack of parking has not been an issue at any restaurant that currently has outdoor seating. He did not think it was necessary to make an adjustment to that practice.

Ms. Bertotti added that if parking becomes a problem for venues with outdoor seating, the Commission could address it at that time.

Mr. Diminico noted that the parking regulations have changed recently. He said this has not become an issue, but if it does the Commission should address it at that time. Prior to the new parking regulations, restaurants were required to have plenty of parking. It stands to reason that more seating will mean more parking is needed.

Mr. Pellegrini said if the Commission has a concern about parking, his department could do a survey of local restaurants; it is outdoor dining season now.

In response to a question from Mr. Brown, Ms. Bertotti explained that a special exception discussion was held with members of the Zoning Board of Appeals and they were open to changes. Recently, a restaurant wanted to come to Manchester but was unsure if it would meet the front yard requirements.

Mr. Brown said the Sonic restaurant situation may be interesting over time. It is not fair to examine it yet since it is still new and very busy.

Ms. Bertotti explained there is a definition of a restaurant in the regulations that says it is an establishment that serves food indoors and outdoors. Then three pages later, there are requirements for a special exception for outdoor seating. She said these amendments will clarify the requirements.

In response to a question from Ms. Shanbaum, Mr. Pellegrini said the goal has been to keep Industrial zones reserved primarily for industrial uses. Over time, other uses have been allowed into this zone as special exceptions. When the business park/campus trend began, other accessory type businesses were allowed.

In response to a question from Mr. Diminico, Ms. Bertotti explained this amendment applies to business and industrial zones. Existing restaurants in other zones would likely need to come to either the Planning and Zoning Commission or the Zoning Board of Appeals for permission for outdoor seating.

Mr. Brown commented that he could see the argument for a special exception in an Industrial zone. If it is a heavy industrial area, there may be cause for concern with putting a restaurant immediately adjacent to a lot of truck traffic and noise.

Mr. Diminico said he is aware there are many industrial properties in Town and we are trying to work with property owners to be sure there are tenants in the buildings. He agrees that the special exception should be kept.

Ms. Bertotti said Town staff had no comments on this application. CRCOG indicated the amendments would have no negative impact on the region.

Chairman Diminico opened the floor for public comment either in favor of or in opposition to this application. No member of the public wished to comment at this time.

The Chairman closed the Public Hearing portion of the meeting at 7:27 p.m.

NOTICE: THE CASSETTE TAPE RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.

OFFICIAL TAPE NO. 1117