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Committee grapples with nonconformity

By Peggy Roberts (published: April 05, 2007)

SCARBOROUGH – Town officials continue to debate the merits and specifics of an ordinance restricting the “condoization” of nonconforming hotels and motels. But by the end of Wednesday evening’s Ordinance Committee meeting, it was evident to most that almost nothing about the ordinance was clear.

Anything that constitutes a change of use for a nonconforming property must come before the Zoning Board of Appeals. A nonconforming property is one that does not meet current zoning requirements. At issue is whether an ordinance is needed to prevent nonconforming motels from “condoizing” – selling off their rooms, or in some cases their guest cottages, to individuals – an act which many are arguing would change their use. Currently, about a dozen of Scarborough’s roughly 20 inns and motels are considered nonconforming.

The ordinance on the table, which was sent back to the Ordinance Committee for further review, would require nonconforming motels to operate with the traditional trappings of motels, such as a central phone system, a staffed front office, a central mail delivery system, housekeeping service, a certain number of rooms left available for nightly rental and other requirements. Additionally, under these requirements, no kitchens could be added and no rooms could be combined with other rooms.

Peter Truman, who owns the Lighthouse Inn at Pine Point with his brother, Nick, believes the ordinance is aimed at his family and their establishment because they have recently pursued selling off rooms at the 20-unit motel to individual owners.

“This is just a direct attack to stop us from following what other properties have done in town,” he said. “They didn’t get harassed.”

On April 3, he sent a letter to Councilor Patrick O’Reilly and copied the other councilors. In it, he cited four nonconforming properties in Pine Point that sold individual units as condos within the past 15 years.

“The net effect of this happening is that all the properties have melded into the neighborhoods that they are in and they are not perceived as commercial entities in any way,” he stated in the letter. “I’m sure if you ask any of the abutters they would rather have owners as neighbors than the transient population that came prior to the conversions.”

And there lies the heart of the town’s struggle. Because present-day zoning is residential in Pine Point, where most of the nonconforming motels are located, does it constitute a change of use to convert a commercial property to a residential one?

“What would these new restrictions have on the few remaining nonconforming motels left in the town?” Truman asked in his letter. “They would lock in the remaining properties to their highest form of nonconformity, including signs, lights, transient traffic going in and out and higher insurance liabilities.”

Councilor Sylvia Most, who served as chairwoman at Wednesday’s meeting, said the way the ordinance is drafted, it keeps a motel operating as a business rather than allowing it to become more like its neighbors. She also pointed out that most of the single family lots in the Pine Point area are nonconforming as well.

But Code Enforcement Officer Dave Grysk said there are many inherent problems with these conversions, such as adequate parking, boat storage, septic and plumbing. And with fire codes for condominiums, many of these properties would need complete overhauls with central alarm systems and sprinklers installed. To make these properties comply is “kind of like a

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rolling stone," he said. Their nonconforming use would be changed to a conforming use on a nonconforming lot.

Town Manager Ron Owens acknowledged the issue could have "a big impact" on surrounding properties.

"Whether that's good or bad would vary," he said. "We're not trying to make a judgment."

Owens said it would increase numbers of cars and traffic.

But O'Reilly disagreed with that assessment, saying he believed it would actually reduce vehicles.

"You're not changing the use," he said, "you're actually decreasing the substantive use."

O'Reilly also questioned whether the problem warranted modifying the zones.

"A half-dozen have done it (converted to condos) in the last 15 years. Have there been any problems?" he asked.

David and Cheryl Aranovitch, who own The Dunes on Grand Avenue in Pine Point, attended Wednesday's meeting. They have been planning for years to sell their seven cottages and three apartments to individual owners. Although they say larger motels might be a different situation that would warrant some oversight by the town, they still see it as a way to create a more residential feel to the community.

The full council will hold a workshop in early May to discuss the ordinance before it returns to the council for another public hearing.

"I don't think it will go through as written because it's just a laundry list of anything the attorney could think of to throw in there," Truman said.

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