

Hot Topics in Zoning 2018

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Reed v. Town of Gilbert

- ▶ Supreme Court of the United States
 - All temporary signs must be treated in the same manner
 - Content Neutral
 - ▶ Should not have to read the sign to know how to regulate the sign
 - Some distinctions still allowed
 - ▶ On and off-premise
 - ▶ Static versus Automatic Changeable Copy
 - More litigation is likely

There's no place like...farm?

- ▶ Community Gardens become Urban Farms
 - Potential Land Use Conflicts
 - ▶ Are sales allowed, other than farm items?
 - ▶ Storage of machinery and water
 - ▶ Parking on busy weekends
 - ▶ Abandonment when the season is over
 - Structures such as high tunnels could include:
 - ▶ Teaching areas and demo kitchens
 - ▶ Heating and cooling devices
 - ▶ Facilities and processing areas

Home, Sweet (Small) Home

▶ Tiny Homes

- How they are built is critical
 - ▶ Some are simply trailers
 - ▶ Some are HUD Certified Manufactured Homes
 - ▶ Some are modular units certified under the OBC
 - ▶ Some are stick built under local approval
- Still needs to meet general zoning code requirements such as off street parking
- Some practical difficulties in this climate due to the need for insulation, heating and cooling

Home, Sweet (Short -Term Rented) Home

- ▶ Web based rental platforms
 - How to best to regulate, may not be zoning code based, but license code based
 - Time, location, duration
 - Bed tax
 - Owner occupied requirement or full rental
 - Limitation on number by a single operator

A Place for My Stuff – Part II

► Big Box Reuse

- How are they going to be reused is key
- Still needs to meet general zoning code requirements such as off street parking
- Some practical difficulties in this climate due to the need for cooling and heating, security concerns inside and outside the footprint

The Opioid Epidemic is a Land Use Epidemic

- ▶ Sober Living Facilities
- ▶ Rehab Clinics
 - Formerly often know as Methadone Clinics
- ▶ Rehab Facilities
 - Long Term and Short Term
- ▶ Crash Hospitals and Overdose Centers
- ▶ Controlled Use Centers

All Mixed Up

- ▶ New Unique Combinations of Uses
 - A bar in a bookstore, a restaurant and an arcade, ice cream and offices, multiple uses in a former single mall anchor space, foods courts.
 - Older Zoning Codes do not handle the mixing of uses well, especially where there are not discreet areas of use
 - Off street parking calculations
 - May need to grant discretion to an appointed authority.

Non-Conforming Non-Sense

- ▶ Nonconformities exists anywhere there is zoning
- ▶ Lenders are taking a closer look at these scenarios
- ▶ A balancing act between controlling uses we want to phase out in an area and the need to limit negative impacts
- ▶ A lesson in unintended consequences.

Micro-Wireless Facilities

▶ Tiny Towers

- Also known as “Small Cell Facilities”
- Many in the right-of-way
- Small size, often on top of existing infrastructure
- Revenue stream for local utilities
- May be exempt in certain circumstances, especially in the right-of-way
 - ▶ Ohio Substitute House Bill 478

Cell Tower Modifications

- ▶ Significant Changes defined by FCC Rule 6409(a)
 - Less than significant changes may be exempt
 - Tower companies not always open and clear about the limits of their scope of work
 - Need to review plans carefully
 - Consult your legal authority sooner rather than after application is received.
 - Know what Section 6409(a) defines as a substantial modification

Conclusion

- ▶ Always check with your designated legal counsel
- ▶ Evolving fields change quickly
- ▶ Research local conditions and laws

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