



Planning Board Agenda

Thursday, June 10, 2010, 5:00 p.m.

Bryant Womack Justice & Administration Center
40 Courthouse Street
Columbus, North Carolina 28722

- I. Call to order
- II. Approve Agenda
- III. Approval of Minutes
- IV. Minor Subdivision – McCall Subdivision – Preliminary Plat
Applicant: Kevin J. McCall (Gerald Weathers)
Applicant Address: 3462 US Hwy 176 Tryon, NC
Location: P59-107, Columbus Township
Acreage: 17.51
Number of sites: 5
Average lot size: 3.5 acres
Road system: N/A
Length of new road: N/A
Water/Sewer: Individual/Individual
Land Use: Residential
- V. Zoning Ordinance
- VI. Other Business
- VII. Adjournment



Planning Board Minutes

Thursday, May 13, 2010, 5:00 p.m.

Bryant Womack Justice & Administration Center
Columbus, North Carolina

Members Present: Lee Bradley, Bill Ennis, John Hansborough, Wayne Horne, Lisa Krolak, Harry Petersen and Mike Stone

Member(s) Absent: William Deck

Staff Present: Mike Egan, Cathy Ruth, and Ange' High

Call to order

Bill Ennis called meeting to order.

I. Approve Agenda

Harry Petersen made a motion to approve the May 13, 2010 Planning Board Agenda. Lee Bradley seconded. All in favor

II. Approval of Minutes

Lee Bradley made a motion to approve the April 8, 2010 meeting minutes with a clerical correction of section 5.13. John Hansborough seconded. All in favor.

III. Zoning Ordinance

Mr. Egan explained that with the recent adoption of the Polk County 20/20 Comprehensive Plan, a main objective and strategy is to create a county-wide unified development ordinance. This will be a long process and will probably take a couple of years to complete. The purpose of these current zoning proposed changes is to act as an interim until a unified development ordinance can be created. These are changes that Mr. Egan and Cathy Ruth view as a way to patch up some holes in the current ordinance and should not wait.

Mr. Egan gave an overview of the Ordinance Amending the Zoning Ordinance, section by section.

Harry Petersen made a motion to revise the wording in Section 4 lines 23-25: *Except as otherwise provided in this Ordinance, a mobile home shall in no event be considered a customary accessory building*, to make the modifications and clerical corrections found during the review (see attached) and to repeal section 9. John Hansborough seconded. All in favor.

IV. Subdivision Ordinance

The Planning Board reviewed the changes recommended to the subdivision road standards in regards to the North Carolina Fire Code from the previous meeting. Lisa Krolak pointed out a typo in the numbers of lots; also she said there was already an asterisk in the chart so maybe a double asterisk would be appropriate for the changes we made. Change 2nd sentence to add the wording fire apparatus access.

Cathy asked the Board if any one was opposed to waiting to present all the changes discussed for both ordinances to the Board of Commissioners at one time. Everyone agreed to present all changes together.

V. Other Business

Lisa Krolak asked where the information for the Hazardous Mitigation Plan could be found on the County's website and requested an update on the Soil & Erosion Ordinance. Cathy Ruth told the Board that she will investigate where the information is on the website and that the Soil & Erosion Ordinance was approved by the Board of Commissioners, but they are going to wait to take it to the State for their approval until building permits and development increase.

Cathy Ruth gave the Planning Board applications for the opportunity to serve on the steering committee to help create the Unified Development Ordinance. She explained that the Board of Commissioners is requesting 2 members of the Planning Board to be on the steering committee along with 2 Commissioners and 5 members of the Comprehensive Plan committee. Anyone interested in being on the steering committee should submit an application by June 2.

VI. Adjournment

Lee Bradley made a motion to adjourn the meeting. John Hansborough seconded. All in favor

1 **AN ORDINANCE AMENDING THE ZONING ORDINANCE OF POLK**
2 **COUNTY; MODIFYING AND ESTABLISHING PROCEDURES AND**
3 **STANDARDS FOR DETERMINING VESTED RIGHTS; REPEALING AND**
4 **REPLACING REGULATIONS PERTAINING TO THE ZONING BOARD OF**
5 **ADJUSTMENT; DEFINING THE TERM "KENNELS" AND ESTABLISHING IT**
6 **AS A USE CLASSIFICATION; MODIFYING REGULATIONS PERTAINING TO**
7 **THE NUMBER OF PRINCIPAL BUILDINGS ON ONE LOT, ROAD ACCESS,**
8 **TEMPORARY USE PERMITS FOR MANUFACTURED / MOBILE HOMES, THE**
9 **RE-ESTABLISHMENT OF NONCONFORMING SITUATIONS, AND THE**
10 **PERMISSIBILITY OF CERTAIN USES**

11
12 **WHEREAS**, the Polk County Planning Board has recommended enactment of this
13 Ordinance Amending the Zoning Ordinance of Polk County; and

14
15 **WHEREAS**, this Ordinance is neither consistent with, nor inconsistent with, the Polk
16 County Comprehensive Plan; and

17
18 **WHEREAS**, the Polk County Board of Commissioners, after due notice, conducted a
19 public hearing on the _____ day of _____, 2010, upon the question of
20 enacting this Ordinance; and

21
22 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS**
23 **OF POLK COUNTY, NORTH CAROLINA, MEETING IN REGULAR SESSION**
24 **AND WITH A MAJORITY OF THE MEMBERS VOTING IN THE**
25 **AFFIRMATIVE:**

26
27 **SECTION ONE.** This Ordinance shall be known as the Zoning Ordinance Revision
28 of 2010. Throughout this Ordinance, additions to existing text are indicated by the
29 use of underlining, and deletions are indicated by strike-through.

30
31 **SECTION TWO.** Section 3.3 of the Zoning Ordinance of Polk County, entitled
32 "Vested Rights", and including Sections 3.3.1 through 3.3.3, thereof, is hereby
33 repealed and replaced with the following new Section 3.3, entitled "Statutory Vested
34 Rights".

35
36 **Section 3.3 Statutory Vested Rights.**
37

1 A statutory vested right is a right established pursuant to N.C.G.S. 153A-344.1 to
2 undertake and complete the development and use of property under the terms
3 and conditions of an approved site-specific development plan. A statutory
4 vested right may be established for any group development authorized pursuant
5 to Section 7.3, below, or any development authorized by means of a conditional
6 use permit, pursuant to Section 10.8, below. Any request for a statutory vested
7 right shall be reviewed by the Zoning Board of Adjustment (ZBA) in accordance
8 with the requirements and procedures set forth herein.

9
10 3.3.1 Application.

11
12 3.3.1.1 Pre-application Conference. Each applicant for a statutory vested right
13 shall meet with the Planning Director prior to, or at the time of, the submittal
14 of an application. The purposes of this conference are to provide additional
15 information regarding the review process and assist in the preparation of the
16 application.

17
18 3.3.1.2 Application. Each application for statutory vested rights shall be
19 submitted along with the appropriate fee(s) and site plan to the Planning
20 Department. Applications shall additionally include: (1) a letter indicating the
21 intent to obtain a statutory vested right for the particular use or development
22 proposed and (2) a site-specific development plan.

23
24 3.3.2 Staff Review. The Planning Department shall process and review all
25 applications for a statutory vested right and shall prepare a staff
26 recommendation for the ZBA on the statutory vested rights application.

27
28 3.3.3 Hearing. A quasijudicial hearing shall be conducted by the ZBA with
29 regard to the application for statutory vested rights. Notice of such hearing shall
30 be provided, and the hearing shall be conducted, in accordance with the rules of
31 the ZBA.

32
33 3.3.4 Standards of Review. The ZBA shall grant a statutory vested right upon
34 finding that all provisions of this Chapter are met in the proposed use or
35 development plan and that the granting of the statutory vested right does not
36 materially endanger the public health, safety and welfare. A variance shall not

1 constitute a site-specific development plan and approval of a site-specific
2 development plan with the condition that a variance be obtained shall not confer
3 a statutory vested right unless and until the necessary variance is obtained. In
4 approving a statutory vested rights request, the ZBA may attach conditions
5 necessary to protect the public health, safety and welfare.
6

7 3.3.5 Duration of Statutory Vested Rights. Statutory vested rights shall remain
8 vested for a period of two years from the date of site-specific development plan
9 approval. Notwithstanding the foregoing, the ZBA may authorize a vested right
10 for a period not exceeding five years where warranted in light of all relevant
11 circumstances, including, but not limited to, the size and phasing of the
12 development, economic cycles, and market conditions.
13

14 3.3.6 Statutory Vested Rights Revocation. The ZBA may conclude forfeiture of
15 statutory vested rights previously recorded where there is failure to abide by the
16 terms and conditions placed upon the original approval.
17

18 **SECTION THREE.** Section 3.4 of the Zoning Ordinance of Polk County, entitled
19 "Common Law Vested Rights," is hereby enacted to read as follows:
20

21 **Section 3.4 Common Law Vested Rights.** A common law vested right is a right
22 established by common law to undertake and complete the development and use
23 of property based on substantial expenditures in good faith reliance on a valid
24 governmental approval. A request for a determination of a common law vested
25 right will be reviewed and acted upon by the Planning Director in accordance
26 with the requirements and procedures set forth in this section.
27

28 3.4.1 Application. The applicant shall provide satisfactory proof that it meets
29 each of the standards for review contained in Subsection 3.4.2, below, and is
30 entitled to recognition of common law vested rights as provided herein.
31

32 3.4.2 Standards of Review. The Planning Director shall approve the application
33 for a determination of a common law vested right only upon finding that the
34 applicant has proven each of the following:
35

- 1 1) The applicant has, prior to the adoption or amendment of an ordinance, made
2 expenditures or incurred contractual obligations substantial in amount
3 relating to the proposed development.
- 4
- 5 2) The obligations and/or expenditures were incurred in good faith.
- 6
- 7 3) The obligations and/or expenditures were made in reasonable reliance on and
8 after the issuance of a valid governmental permit, if such permit is required;
9 provided, however, a mistakenly-issued governmental permit shall not give
10 rise to a common law vested right.
- 11
- 12 4) The amended or newly-adopted ordinance is a substantial detriment to the
13 applicant.
- 14

15 3.4.3 Appeals. An appeal of the Planning Director's determination of the
16 existence of a common law vested right may be taken to the Zoning Board of
17 Adjustment pursuant to Section 10.4, below, and shall be heard by such Board in
18 a quasijudicial hearing.

19

20 **SECTION FOUR.** Section 4.2 of the Zoning Ordinance of Polk County, entitled
21 "limitations on number of principal buildings on one lot," is hereby amended as
22 follows:

23

24 **Section 4.2 Limitation on number of principal buildings on one lot.**

25 Except as hereinafter provided in Section 6.2.3, 6.2.5 and 7.3, only one principal
26 building and its customary accessory buildings may hereafter be erected on any
27 lot. ~~For the purposes of Except as otherwise provided in this Ordinance, a~~
28 ~~mobile home shall be considered a principal building and shall in no event be~~
29 ~~considered a customary accessory building. (Exception: In the event of a medical~~
30 ~~condition where a family member requires close supervision or constant care a permit~~
31 ~~may be issued by the Planning Administrator or the Planning Board for a mobile home or~~
32 ~~manufactured home to be placed on a lot in the rear yard of another structure for a period~~
33 ~~of twelve months. The Planning Board or Planning Administrator may renew the~~
34 ~~permit at the end of the twelve month period.)~~

1 SECTION FIVE. Section 4.5 of the Zoning Ordinance of Polk County, entitled
2 "street access," is hereby amended as follows:

3
4 **Section 4.5 Street Road Access.**

5 No building shall hereafter be erected on a lot ~~which does not abut a publicly~~
6 ~~dedicated, publicly approved or publicly maintained street, or have access to a~~
7 ~~public road, or in the case of a subdivision, have access to an approved private~~
8 ~~street unless there is legal access to such lot adequate to serve the purposes of the~~
9 building

10
11 SECTION SIX. Section 4.11 of the Zoning Ordinance of Polk County, entitled
12 "Temporary use permits for manufactured / mobile homes", is hereby created to
13 read as follows:

14
15 **Section 4.11 Temporary use permits for manufactured / mobile homes.**

16
17 In the event of a medical condition where a family member requires close
18 supervision or constant care, the Board of Adjustment may issue a temporary use
19 permit whereby a mobile home or a manufactured home may be placed in the
20 rear yard of a residential dwelling as an accessory structure. Such temporary use
21 permit shall be issued for a period of time not to exceed twelve months and may
22 be renewed by the Zoning Administrator so long as the hardship continues to
23 exist.

24
25 SECTION SEVEN. *Kennels* shall be added to the Permitted Use Table in Article VI
26 of the Zoning Ordinance of Polk County as follows:

27
28 RE2 Permitted with conditions
29 RE5 Permitted with conditions
30 AR Allowed as a Conditional Use
31 NC Allowed as a Conditional Use
32 HC Allowed as a Conditional Use
33 MU Allowed as a Conditional Use
34 FF Permitted
35 AR5 Allowed as a Conditional Use.
36

1 The following definition of *kennels* shall be added to Article XII of the Zoning
2 Ordinance of Polk County:

3
4 *Kennels.* Any premises, except where accessory to an agricultural use, where
5 domestic animals, such as dogs and cats, are boarded, trained, or bred.

6
7 **SECTION EIGHT.** The following statement in the legend of the Permitted Use
8 Table in Article VI is hereby repealed:

9
10 ~~The permissibility of any use not listed, or not closely resembling any listed use,~~
11 ~~will be decided upon by the Board of Adjustment based on the district intent~~
12 ~~clause.~~

13
14 **SECTION NINE.** Section 8.4.C of the Zoning Ordinance of Polk County, concerning
15 the re-establishment of nonconforming situations, is hereby repealed.

16
17 **SECTION TEN.** Article X of the Zoning Ordinance of Polk County, entitled
18 "Zoning Board of Adjustment", is hereby repealed and replaced with the following
19 new Article X.

20
21 **Article X. Zoning Board of Adjustment**

22
23 **Section 10.1 Establishment of Zoning Board of Adjustment and qualifications**
24 **of members.** A Zoning Board of Adjustment is hereby established. Said Board
25 shall consist of five members to be appointed by the Board of Commissioners for
26 overlapping terms of three years.

27
28 **10.1.1 Terms.** Terms shall be three years; however, the Board of Commissioners
29 may appoint members for a lesser term in order to achieve a balanced system of
30 overlapping terms. Any vacancy in the membership shall be filled for the
31 unexpired term in the same manner as the initial appointment. Members shall
32 serve without pay but may be reimbursed for any expenses incurred while
33 representing the Board.

34

1 10.1.2 Alternates. The Board of Commissioners shall appoint three alternate
2 members to serve on the Board in the absence of any regular members. Alternate
3 members shall be appointed for the same term and in the same manner as
4 regular members. Each alternate member, while attending any regular or special
5 meeting of the Board and serving in the absence of any regular member, shall
6 have and may exercise all the powers and duties of a regular member.

7
8 **Section 10.2 Powers of the Zoning Board of Adjustment.** The Zoning Board of
9 Adjustment shall have the following powers:

- 10
11 1) To hear and decide appeals from and review any order, requirement, decision
12 or determination made by any administrative official charged with the
13 enforcement of the Zoning Ordinance.
- 14
15 2) To hear and decide requests for variances from the dimensional requirements
16 of the Zoning Ordinance.
- 17
18 3) To make interpretations of the Zoning Map and to pass upon disputed
19 questions of lot lines or district boundary lines and similar questions as arise
20 in the administration of the Zoning Ordinance.
- 21
22 4) To enter, at reasonable times, upon private lands and make examinations or
23 surveys as necessary for the performance of its official duties.
- 24
25 5) To request the Board of Commissioners to ~~consider hold public hearings on~~
26 matters within the purview of the Board.
- 27
28 6) To hear and decide any other matter as required by the provisions of the
29 Zoning Ordinance.
- 30
31 7) To adopt rules not inconsistent with the Zoning Ordinance or the North
32 Carolina General Statutes governing the organization of the Board and
33 proceedings before the Board.
- 34

1 **Section 10.3 Officers.** The Board shall elect one member to serve as Chair and
2 preside over its meetings and shall elect one member to serve as Vice-Chair to
3 fulfill the responsibilities of the Chair when the Chair cannot. The Board shall
4 appoint a clerk, who may be a County officer or employee, a member of the
5 Board, or such other person who is qualified to fulfill the requirements of the
6 position. The Board may create and fill such offices and committees as it may
7 deem necessary. The term of the Chair and other offices shall be one year with
8 eligibility for re-election. The Chair, or any member temporarily acting as chair,
9 is authorized to administer oaths to any witnesses in any matter coming before
10 the Board.

11
12 **Section 10.4 Meetings.** The Board shall establish a regular meeting schedule
13 and shall meet frequently enough so that it may take action as expeditiously as
14 reasonably possible. All meetings of the Board shall be open to the public, and
15 reasonable notice of the time and place thereof shall be given to the public in
16 accordance with the North Carolina General Statutes. The Board shall keep a
17 record of its meetings, including attendance of its members, the vote of each
18 member on every questions, a complete summary of the evidence submitted to it,
19 documents submitted to it, and all official actions.

20
21 Any member of the Board who misses more than three consecutive regular
22 meetings or more than half the regular meetings in a calendar year shall lose his
23 or her status as a member of the Board and shall be replaced or reappointed by
24 the Board of Commissioners, as appropriate. Absence due to sickness, death, or
25 other emergencies of like nature shall be recognized as excused absences, and
26 shall not affect the member's status on the Board, except that in the event of a
27 long illness or other such cause for prolonged absence, the member shall be
28 replaced.

29
30 **Section 10.5 Quorum and voting.** A quorum of the Board, necessary to take
31 official action, shall consist of three ~~four~~ members. The concurring vote of ~~four-~~
32 ~~fifths~~ of the sitting ~~four~~ members shall be necessary in order to (1) approve an
33 application for a variance, (2) reverse or modify any order, requirement, decision,
34 or determination made by an administrative official, or (3) decide in favor of the

1 applicant in any other matter on which the Board is required to act by this
2 Ordinance. The concurring vote of a majority of those members present shall be
3 necessary to conduct other business of the Board.

4
5 **Section 10.6 Appeals of administrative decisions.** The Zoning Board of
6 Adjustment shall hear and decide appeals from and review any order,
7 requirement, decision or determination made by an administrative official
8 charged with the enforcement of the Ordinance. An appeal may be taken by any
9 person aggrieved by

10
11 such decision by filing with the Board, within ten days of the rendition of such
12 decision, a written notice of appeal specifying the grounds thereof. The Zoning
13 Administrator shall forthwith transmit to the Board all the papers constituting
14 the record upon which the action appealed from was taken. An appeal stays all
15 legal proceedings in furtherance of the action appealed from, unless the Zoning
16 Administrator certifies to the Board, after the notice of appeal has been filed, that
17 because of facts stated in the certificate a stay would cause imminent peril to life
18 or property or that because the violation charged is transitory in nature, a stay
19 would seriously interfere with enforcement of the Ordinance. In such case
20 proceedings shall not be stayed except by a restraining order, which may be
21 granted by the Board or by a court of record on application, as provided for in
22 the North Carolina General Statutes.

23
24 **Section 10.7 Variances.** A variance is a means whereby the County may grant
25 relief from the effect of the Zoning Ordinance in cases of hardship. A variance
26 constitutes permission to depart from the literal requirements of the Ordinance.
27 A variance from the requirements of this ordinance may be granted by the Board
28 if it finds the following:

- 29
30 1) Strict enforcement of the regulations would result in practical difficulties or
31 unnecessary hardships to the applicant for the variance;
32
33 2) The variance is in harmony with the general purpose and intent of the
34 ordinance and preserves its spirit; and

1
2 3) In the granting of the variance the public safety and welfare have been
3 secured and substantial justice has been done.
4

5 Such findings shall be based on the following considerations:
6

7 a) The fact that the property could be utilized more profitably or conveniently
8 with the variance than without the variance shall not be considered as
9 grounds for granting the variance.
10

11 b) The hardship relates to the applicant's property rather than to personal
12 circumstances.
13

14 c) The hardship results from the application of the ordinance and from no other
15 cause, including the actions of the owner of the property or previous owners.
16

17 d) The hardship is peculiar to the property in question rather than a hardship
18 shared by the neighborhood or the general public.
19

20 The Board shall not have authority to grant a variance when to do so would (1)
21 result in the extension of a nonconformity regulated under this Ordinance or (2)
22 permit a use of land, building or structure which is not permitted within the
23 applicable zoning district classification.
24

25 **Section 10.8 Conditional Use Permits.** A conditional use permit from the
26 Zoning Board of Adjustment is required for all conditional uses.
27

28 **10.8.1 Application.** When a conditional use permit is required by the terms of
29 this Ordinance, application for such permit, along with a fee established by
30 resolution of Board of Commissioners, shall be made in accordance with this
31 Section.
32

1 10.8.2 Site Plan. The application for a conditional use permit shall be
2 accompanied by a site plan conforming with the requirements of the Zoning
3 Administrator.

4
5 10.8.3 Public hearings on applications for conditional use permits. Once the
6 Zoning Administrator is in receipt of a complete application and seven copies
7 of a complete site plan, he or she will schedule the application for a public
8 hearing before the Board. The Zoning Administrator shall mail or deliver
9 written notice of the public hearing to the applicant and the owners of any
10 property adjoining the property on which the conditional use is planned at
11 least 15 days prior to the date of the public hearing. The Zoning Board of
12 Adjustment shall conduct a quasi-judicial hearing on the application and
13 shall allow any interested party to appear, either in person or by agent or
14 attorney.

15
16 10.8.4 Board action on applications for conditional use permits. After the
17 public hearing, and on consideration of the record, the Board shall take action
18 on the application, either (1) denying it, (2) approving it, or (3) approving it
19 subject to one or more conditions. The Board shall not approve an
20 application for a conditional use permit, with or without conditions, unless it
21 makes each of the following findings of fact:

- 22
23 1) the proposed use complies with the standards for such use contained in
24 Article XVI;
- 25
26 2) the proposed use will not adversely affect the health or safety of persons
27 residing or working in the neighborhood of such proposed use; and
- 28
29 3) the proposed use will not be detrimental or injurious to property or public
30 improvements in the neighborhood of such proposed use.

31
32 Section 10.9 Processing of applications before the Zoning Board of Adjustment.
33 A completed application to the Zoning Board of Adjustment pursuant to the
34 terms of this Article, whether it be in the nature of an application for a

1 conditional use permit, a request for a variance or an appeal from an
2 administrative determination, must be received by the Zoning Administrator at
3 least 20 days prior to the date of a Zoning Board of Adjustment meeting in order
4 to be scheduled for such meeting.
5

6 **Section 10.10 Judicial review.** Every decision of the Zoning Board of
7 Adjustment may be appealed to the Superior Court by any aggrieved party.
8 Such appeal shall be in the nature of certiorari and must be filed within 30 days
9 after the filing of the decision in the office of the Land Use Administrator or after
10 a written a copy thereof is delivered to every aggrieved party who has filed a
11 written request for such copy with the chairman of the Board at the time of its
12 hearing of the case, whichever is later. The copy of the decision of the Board may
13 be delivered to aggrieved parties either by personal service or by registered mail
14 or certified mail return receipt requested.
15

16 **SECTION ELEVEN.** Any person violating the provisions of this ordinance shall be
17 subject to the penalties set forth in Section 2.3 of the Subdivision Ordinance.
18

19 **SECTION TWELVE.** All ordinances or parts of ordinances in conflict with this
20 ordinance are hereby repealed to the extent of such conflict.
21

22 **SECTION THIRTEEN.** If any section, subsection, paragraph, sentence, clause,
23 phrase or portion of this ordinance is for any reason held invalid or unconstitutional
24 by any court of competent jurisdiction, such portion shall be deemed severable and
25 such holding shall not affect the validity of the remaining portions hereof.
26

27 **SECTION FOURTEEN.** The enactment of this ordinance shall in no way affect the
28 running of any amortization provisions or enforcement actions, or otherwise cure
29 any existing violations.
30

31 **SECTION FIFTEEN.** This ordinance shall be in full force and effect from and after
32 the date of its adoption.
33

34 Adopted this _____ day of _____, 2010.



TO: Polk County Board of Commissioners
FROM: Planning staff
DATE: October 16, 2006 (Public Hearing)
RE: Zoning Ordinance Text Amendment regarding
Nonconforming Situations

Action Requested of the Board of Commissioners

Hold a public hearing and approve or deny the proposed text amendments regarding Nonconforming Situations. A statement of consistency shall be provided by the Board of Commissioners in its action. If the Board of Commissioners chooses to follow the Planning Board's recommendation, then it may adopt the Planning Board's statement of consistency.

Basic Information

Applicant(s): Polk County
Applicable Sections: Section 4.2, New Article 8, Definitions in Zoning Ordinance.

Proposed Text Amendments

The attached text amendments are proposed to address nonconforming situations. Below is a summary of the proposed changes:

- Section 4.2 regarding nonconforming uses was removed and a new Article 8 regarding all nonconforming situations, including lots and structures, was created.
- Section 5.4.5: References to nonconforming lots and structures related specifically to the RE-5 zoning district have been removed since they are redundant when taking the proposed regulations into consideration.
- Greater detail was given regarding the continuance of nonconforming uses. For example, nonconforming uses may be expanded within an existing building but may not be added on to.
- Nonconforming lots of record may be built upon as long as the setbacks for the district can be met.
- Single family residences (excluding mobile homes) that are nonconforming uses may be enlarged if setbacks can be met. Accessory structures can also be added.
- Nonconforming single family residences can be replaced within one year as long as new nonconformities are not created.
- Nonconforming mobile homes may not be replaced or enlarged.
- Nonconforming lots and situations are defined.
- The definition of structure is changed to exclude fences as long as they are outside of the public right-of-way and sight triangle.

Planning Board Recommendation

Planning Board recommends approval of the proposed text amendments. The Planning Board requested that structures should also be located outside of the sight triangle.

"The Planning Board finds that the proposed text amendments are consistent with the plans and policies of Polk County."

or which has been damaged by any cause to an extent equal to 60 percent or more of its taxed value shall only be repaired and/or constructed and used as a conforming structure and a conforming use.

- C. Per Subsection 8.2(G) above, nothing herein shall prevent the reconstruction of a single-family dwelling that is nonconforming as to use.

Section 8.5 Nonconforming Uses

- A. A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert back to a nonconforming use.
- B. A nonconforming use shall not be changed to another nonconforming use nor shall a nonconforming structure be replaced after it has been destroyed except upon approval by the Board of Adjustment.
- C. If a nonconforming use and a conforming use, or any combination of nonconforming uses exist on one lot, the use made of the property may be changed only to a conforming use.
- D. Conforming uses may be established or re-established in nonconforming buildings or structures provided that off-street parking is provided as required by this Ordinance and provided no other provisions of this Ordinance for the establishment of new uses is violated.

Section 8.6 Replacement of Nonconforming Mobile Homes

- A. A nonconforming mobile home on an individual lot—outside of a conforming mobile home park or a zoning district where mobile homes are permitted—may not be replaced except by a conforming dwelling. A nonconforming mobile home may not be enlarged or altered in any way.

Article IX. Administration and Enforcement.

Section 9.1 Zoning Administrator

To provide the general administration, interpretation and enforcement of this ordinance the Polk County Board of Commissioners shall appoint a zoning administrator who will be directly responsible to, and report periodically, to the Board.

9. Zoning Ordinance Amendments – Chairman Denton called for a vote. Vice-Chairman Pack stated that he did not like the mobile homes being singled out and not allowed to replace or rebuild. The amendment states that non-conforming mobile homes may not be replaced or enlarged. Commissioner Owens agreed. Commissioner Talbot would like to see it studied. This is a zoning issue and probably needs to be grandfathered in. Mr. Pack made a motion to adopt all the other proposed amendments, seconded by Commissioner Owens and the motion carried unanimously.
10. Work First Block Grant Plan 2007-09 – Commissioner Owens made a motion to approve the plan, seconded by Commissioner Talbot and the motion carried unanimously.
11. Schedule Public Hearing for Community Transportation Grant 07/08 for November 6, 2006 @ 6:30pm. Commissioner Talbot made a motion to schedule the public hearing, seconded by Vice-Chairman Pack and the motion carried unanimously.
12. Agriculture Economic Farmland Preservation Board Annual Presentation, Rev. Powell and Dave Slater. Doug Harmon, the Chairman could not be there and Dave Slater gave the slide presentation. The slide presentation has been incorporated into the minutes.
13. Resolution for County Wide Farm Protection Plan – Mr. Slater presented Resolutions from the Agriculture Economic and Farmland Preservation Board, the Polk Soil and Water Conservation District Board, the Pacolet Area Conservancy, and the Polk County Farm Bureau all in support of a county wide farm protection plan and requested support for this protection plan and a strategy for agriculture to remain an important part of the future of Polk County. Commissioner Owens made a motion to appropriate the \$46,898.10 from fund balance (EWP projects) to be used for development and creation of a county wide protection plan, seconded by Vice-Chairman Pack and the motion carried unanimously.
14. Lease Option – Alexander's Ford – Commissioner Talbot made a motion to adopt the lease (revised by Attorney Louis Nanney), seconded by Commissioner Lingafelter and the motion carried 4-1 (Pack opposed).
15. Resolution – Mental Illness Awareness Week – Chairman Denton presented the prepared resolution to Sandy Goble, RN, MSN, who made a short presentation. Ms. Goble is President of the National Mental Health Alliance and brought the awareness week to everyone's attention.
16. Slope Regulations – Commissioner Lingafelter requested information from the Planning Board as to the status of the incorporation of slope regulations into the Subdivision Ordinance or any other ordinance. Erin Burris, consultant from