



Planning Board Minutes

Thursday, June 10, 2010, 5:00 p.m. Bryant Womack Justice & Administration Center
40 Courthouse Street Columbus, NC 28722

Members Present: John Hansborough, Wayne Horne, Lisa Krolak, and Harry Petersen

Member(s) Absent: Lee Bradley, William Deck, Bill Ennis, and Mike Stone

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

- I. Call to order
Lisa Krolak called meeting to order at 5:08 p.m.

- II. Approval of Agenda
John Hansborough made a motion to approve the June 10, 2010 Planning Board Agenda as presented. Harry Petersen seconded. All in favor

- III. Approval of Minutes
Harry Petersen made a motion to approve the May 13, 2010 meeting minutes as written. Wayne Horne seconded. All in favor

- IV. McCall Minor Subdivision
Billy McFarland, attorney, on behalf of Kevin McCall presented the White Oak Mountain, Hemlock Shoals, McCall/Weather Subdivision Plat for Preliminary approval.

Wayne Horne made a motion to approve the Preliminary Plat of the McCall Subdivision. John Hansborough seconded. All in favor.

- V. Zoning Ordinance
Mike Egan presented the June 4, 2010 revision of the zoning ordinance modifications that included the changes made at the last Planning Board meeting. As requested, Cathy Ruth researched the issue of nonconforming uses that was adopted in a 2006 Zoning Ordinance revision (see attached notes from October 4, 2006 meeting). Mike explained that there are two competing values, the principle of legal nonconformity and zoning theory. The intent of a legal nonconformity is to address the hardships that take place when zoning is enacted. Uses that were historically permitted are now, with the new zoning, not permitted thus creating a hardship. In zoning theory, there is an expectation that at some time the nonconformity will go away. If you allow the replacement of a nonconforming use, you are postponing the intent and purpose of why the district was created, to not

permit a particular use. Since the Commissioner's in 2006 requested further study on this issue, Mike suggested that Cathy Ruth research how surrounding counties handle nonconforming situations, especially nonconforming uses being replaced or enlarged. He would also recommend that at this time, instead of repealing Section Nine, to remove this change and to leave Section 8.4.(C) concerning the re-establishment of nonconforming situations, as written, in the existing Polk County Zoning Ordinance. This issue could be revisited during the creation of the Unified Development Ordinance.

John Hansborough made a motion to accept the Ordinance Amending the Zoning Ordinance of Polk County removing section nine, to renumber the remaining sections and to recommend adoption to the Board of Commissioners. Harry Petersen seconded. All in favor.

VI. Other Business

Unified Development Ordinance Committee

Cathy Ruth gave an update on the committee appointments. She stated that the Commissioners at their meeting on Monday June 7, 2010, voted to increase the committee size to 13 members: 3 Planning Board Members, 8 Comprehensive Plan Committee Members, and 2 Board of Commissioners. They will vote on the committee appointments at their next meeting June 21, 2010.

Lisa Krolak asked the status of the Polk County Permit Extension Ordinance. Cathy Ruth explained since the General Assembly's enactment of a Permit Extension Law, Session Law 2009-406 (S 831) which became effective August 4, 2009, it was unnecessary for the County to have an ordinance that replicated what the State was requiring.

VII. Adjournment

Wayne Horne made the motion to adjourn. John Hansborough seconded. All in favor.



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.

10/16/06

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