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Town of Lake Lure

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Minutes of the Regular Meeting of the Zoning and Planning Board

Tuesday, October 19, 2010

Lake Lure Municipal Center

Chairman Washburn called the meeting to order at 9:30 a.m.

ROLL CALL

Present: Dick Washburn, Chairman
Bill Bush
Paula Jordan
Donnie Samarotto
John Moore, Town Council Liaison

Absent: Rick Coley

Also Present: Suzy Smoyer, Planner/ Subdivision Administrator, Recording Secretary
Shannon Baldwin, Community Development Director
Mike Egan, Community Development Attorney
Sheila Spicer, Zoning Administrator
Clint Calhoun, Environmental Management Officer

APPROVAL OF THE AGENDA

The agenda was approved upon a motion made by Ms. Jordan and seconded by Mr. Samarotto.

APPROVAL OF THE MINUTES

The minutes were approved as amended upon a motion made by Mr. Samarotto and seconded by Ms. Jordan.

OLD BUSINESS

- (A) Continue discussion to consider amending the Zoning Regulations to define produce stands and set standards for produce stands

Mr. Baldwin gave a brief introduction and background of the proposed amendment. Ms. Spicer explained how she interpreted the Zoning Regulations as they apply to Mr. Burgess's produce stands as outlined in a letter to Mr. Burgess. It was her determination as the Zoning Administrator that the use of the property located at 2047 Memorial Highway to sell produce continues to be considered a non-conforming use as that term is defined by the Zoning Regulations. Continuing to utilize the portions of property as outlined on the site plan for the sale of produce, which is an area that extends 3 feet beyond the foundation of the building, will not constitute a zoning violation; however, extending the display of produce to any additional portions of the property would not be allowed. Ms. Spicer has advised Mr. Burgess that if he wants to expand any further than he would have to continue discussions with the Zoning and Planning Board to amend the regulations.

Mr. Baldwin noted that produce stands are a conditional use in CG. However, there is not a definition or standards in the Zoning Regulations for produce stands. Mr. Baldwin read the following suggested definition in the memo:

Proposed Definition: a retail establishment that offers for sale items limited to fruits, vegetables, preserves, relishes, jams, and/or jellies, locally handmade crafts, and similar products, but shall not include foods canned in metal containers.

Ms. Jordan suggested that we limit preserves, relishes, jams, and/or jellies to regionally produced products.

Mr. Washburn asked if the could change the non-conforming regulations to allow small expansions rather than amending the R-4 regulations to allow produce stands as a conditional use. Mr. Baldwin said that staff discussed this option, but found that it opens the door to expansion of other non-conforming uses. Produce stand standards and a definition will protect public, health and safety. Ms. Spicer noted that produce stands are currently conditional uses along Memorial Highway.

There was a brief discussion on Mr. Burgess's pumpkin decoration. The Board discussed the process that Mr. Burgess would have to follow if he wanted to expand less than 1000 square feet if the Board changed the regulations to allow produce stands as conditional uses in R-4. Overall, Ms. Spicer indicated that she needs additional time to research the regulations to determine if Mr. Burgess would have to request a conditional use permit if he wanted to add less than 1000 square feet.

The Board discussed the requirements for a conditional use permit when you add 1000 square feet or more to a commercial establishment. It was noted that a particular business in town has pulled more than one permit each with less than 1000 square feet to avoid applying for a conditional use permit. Mike Egan suggested that the Board fix this glitch by amending the Zoning Regulations to allow additions up to 1000 square feet for the life of the structure without a conditional use permit.

After discussion, Mr. Baldwin summarized the Board's recommendations which include the following:

1. Add a definition for produce stands
2. Add produce stands as a conditional use in the R-4 Zoning District
3. Add the following standard for produce stands: Merchandise shall not be displayed beyond any extension of the structure. Clarify what is permitted beyond extension of structure.
4. Fix the glitch referred to by Mr. Egan regarding requiring conditional use permits for additions that result in more than 1000 square feet for the life of the structure.

Mr. Bush made a motion that staff review the above items and make recommendations at the next Zoning and Planning Board meeting. Paula Jordan seconded. The motion passed unanimously.

(B) Continue discussion regarding amendments to the tree protection provision in the Zoning Regulations to review enforcement procedures and overall effectiveness

Mr. Baldwin recapped the discussion from the previous meeting. Based on the discussion, he created the memo in the packet which outlines the issues and staff's suggestions.

Ms. Spicer discussed the administrative process as outlined in the memo:

If a person is adding a structure to an already developed lot, the town has been requiring them to do a tree protection plan (or at least show what additional trees are being removed).

From the Zoning Administrator's perspective, what was an inefficient process has been largely improved by changes made to the certificate of zoning compliance form. The Zoning Administrator can make a simple determination whether or not a project needs approval from the Environmental Protection Officer/Tree Protection Officer (EMO/TPO) in conjunction with development activities.

Clint Calhoun gave an overview of the proposed definitions which were derived from the Forest Service's informational pamphlet on How to Prune Trees which has been integrated into the Tree Management Handbook. The EMO/TPO recommends the following definitions be considered for adoption.

- *"Pruning"- the practice of properly removing limbs and branches of ornamental and shade trees for the purpose of producing strong, healthy, and attractive plants.*
- *"Pollarding"- the annual removal of all the previous year's growth, resulting in a flush of slender shoots and branches each spring.*

- *"Tipping"- a poor maintenance practice used to control the size of tree crowns; involves the cutting of branches at right angles leaving long stubs.*
- *"Topping"- a poor maintenance practice often used to control the size of trees; involves the indiscriminate cutting of branches and stems at right angles leaving long stubs. Synonyms include rounding-over, heading-back, dehorning, capping and hat-racking. Topping is often improperly referred to as pollarding.*

Ms. Jordan suggested that they keep "sensitive natural areas" in the following section and add the underlined section as follows:

§ 92.047(A)(1) The site conditions and characteristics, before and after the proposed land clearing, land disturbance and/or construction, including contours, water courses, flood hazard areas, and any sensitive natural areas (where such have been identified) or unique man made features.

Shannon Baldwin gave an introduction of the educational component. Clint Calhoun gave an overview of the process outlined in the memo as follows:

If the lot is developed, nothing is being constructed, and they just want to remove trees, the EMO/TPO typically visits the lot and gives a verbal go ahead unless in describing the trees they suitably indicate that the tree is dead, diseased, or a threat to a structure. Per the EMO/TPO, it's really quite simple, at least from his standpoint. Per the EMO/TPO, the aggravating part is arranging the site visits and traveling to those sites to verify that what the property owner wants to do is appropriate.

Staff recommends that a person desiring to cut or trim trees simply fill out an application to verify compliance with very simple standards, pay a small fee, and allow the person to remove or cut trees without a site visit from staff. Clear cutting a lot would be prohibited. Limited cutting in the Trout Buffer would be permitted, but only after submitting the appropriate information. However, any other action would basically be permitted. Let's make issuing a tree extremely simple. If a person wants to cut a tree for any of the following reasons, the permit would be issued:

- *When a tree is dead, diseased, infected, or infested;*
- *When a tree, as a result of storm, fire, accident, or other acts of nature places life, limb, or property in immediate danger;*
- *When a tree will be harvested for personal use by the property owner;*
- *When a tree or part thereof will be cut, trimmed, pruned, or topped for views or to improve property aesthetics.*

Education

The Environmental Management Officer recommends the following:

- *Completion of the Tree Protection Handbook (THP) currently in the works.*
- *Providing certain informational material at a greater availability than the TPH. (For instance the brochure on how to properly prune trees would be a beneficial handout separate from the TPH. EMO believes the TPH in the grand scheme of things is going to be too cumbersome for the average person wanting to do tree maintenance.) Any and all material needs to be simple and easy to understand, yet convey the desired message.*
- *It would be appropriate to do one workshop a quarter. Each time we could focus on different topics so that it doesn't get stale. Perhaps we bring in guest speakers to talk about specific topics such as pruning of trees, etc., someone who is in the industry so that the attendees are getting advice from a peer rather than an official.*
- *Development of an education program that can be used at the new school (or any school) so we can promote trees and their importance to the new generation. The EMO is very interested in developing several educational programs for the new school if the opportunity presents itself (i.e. a portable watershed model to that can help look at the various issues that impact water quality in our watershed).*

It was noted that clear cutting would have to be quantifiable, possibly by defining a percentage of trees on a lot. Mr. Egan pointed out Section 92.120 (D) which touches on defining clear cutting as clearing 50% of land area on an undeveloped lot. Clint asked how they would define clear cutting on developed lots. Bill Bush expressed concern about enforcement. Ms. Jordan noted that if a majority of people know and respect the regulations, then they should work. Also, permit help monitor tree cutting.

Mr. Bush expressed concern with the public impression if we require a fee for a permit. Mr. Baldwin noted that the permit process gives face time with a person to educate them about tree cutting. The staff would make the process simple. Ms. Jordan thinks that such permits will become routine. The permits will also serve to put staff on notice when calls come in. The Board continued discussion about overall enforcement and administration procedures.

Mike Egan made the following suggestions:

1. Create an occupational license for professional/ semi-professional tree cutters where they have to take class and/ or pass test. This process would include a fee. Make an exception for property owner wishing to cut their own trees. A list of these licensed tree cutters would be available at Town Hall.
2. Property owners would have guidelines, but no fee, test, class, etc.

Mr. Baldwin asked if they would have to license all occupations if they license tree cutters. Mr. Egan did not think so, but said he would check into it.

The Board discussed clear cutting. Clint read a definition. The Board suggested a consolidated definition and standard in the regulations. They discussed whether they should stay away from the term "clear cutting" because it has different meaning to different people.

Mayor Keith told a story about a discussion with the public, and suggested that the regulations need simplification.

Paula Jordan recommended a combination of the proposals as follows:

1. Professional certificate/ license with annual fee.
2. Homeowners would have to register. No fee.

She also suggested a process to rescind certification if there are a number of violations. Ms. Jordan offered to sit on discussions with staff to outline the process.

Staff will work on a solution and send out program/ process to the Zoning and Planning Board before the next meeting.

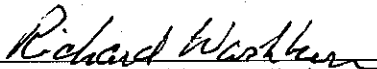
Consent Agenda

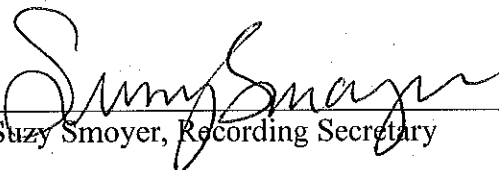
The Board reviewed the monthly update of active subdivisions. Ms. Smoyer gave an update on activity at the Lago Vista subdivision.

ADJOURNMENT

Mr. Bush made a motion seconded by Mr. Samarotto to adjourn the meeting. The motion passed unanimously. The meeting was adjourned at 11:28 a.m. The next regular meeting is scheduled for Tuesday, November 16, 2010 at 9:30 a.m. at the Lake Lure Municipal Center.

ATTEST


Richard Washburn, Chairman


Suzy Smoyer, Recording Secretary