



Minutes of the Regular Meeting of the
Zoning and Planning Board

Tuesday, September 16, 2014

Lake Lure Municipal Center

ROLL CALL

Present: Thomas M McKay, Chair
Charlie Ellis
Ric Thurlby
John Moore, Town Council Liaison

Absent: Bruce Barrett
David Goins

Also Present: Shannon Baldwin, Community Development Director
Chris Braund, Town Manager
Mike Egan, Community Development Attorney
Michelle Jolley, Recording Clerk
Mary Ann Silvey, Commissioner
Sheila Spicer, Zoning Administrator

Chairman McKay called the meeting to order at 9:40 a.m. and Commissioner Moore gave the invocation. The Board members led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Mr. Baldwin proposed two additions:

- (1) A request to amend the commercial sign provisions relative to commercial centers
- (2) Council request to review de-annexation request

He suggested that the request to amend the commercial sign provisions be the first item on the agenda, discussion on microbreweries to be the second item, and the last item to be the council request to review de-annexation request.

The Board unanimously agreed to approve the agenda as amended.

APPROVAL OF THE MINUTES

Mr. Thurlby made a motion to approve the minutes of the August 19, 2014 regular meeting as presented. Mr. Ellis seconded the motion. All voted in favor.

NEW BUSINESS

A. A Request to Amend the Commercial Sign Provisions Relative to Commercial Center

Mr. Baldwin mentioned that Kevin Cooley and Tommy Hartzog recommended to Town Council that the Zoning and Planning Board review their request to amend the commercial sign provisions relative to commercial centers. He stated that Mr. Egan has already reviewed the request.

Kevin Cooley, owner of the Lake Lure Gateway Center building, gave an explanation of his request to amend the zoning regulations. Mr. Cooley explained the monument type sign that is allowed as a free standing sign in front of the building is not best suited for his building. He stated there is not enough room in front of the building for a free standing monument type sign and it would be a visual obstruction to the parking area. He stated he has been working with Mr. Hartzog and together they have come up with an idea to have a sign placed on the bell tower. He stated they hired an architect to create a design for a sign and a replicate banner was made and placed on the bell tower. Mr. Cooley then passed out copies of pictures of the sign that was placed on the bell tower. He stated they would like to use the oval signage as shown on the picture. He pointed out they would also like for individual business owners in the center to have a protruding sign, for better marketing, instead of a flat sign. Mr. Cooley expressed their desire to add awnings to the building. He mentioned the awnings would protrude out three feet off the building but would not encroach into the right-of-way. He pointed out the intention of the awnings is to define the entrances to individual businesses in the center and feels that it is an attractive architectural element.

Mr. Baldwin pointed out that Ms. Spicer has put this request into an ordinance format. Ms. Spicer presented the ordinance. She pointed out the request involves the following three sections in Section 92.157 relative to commercial centers, which are defined as three or more businesses in a single building or on a single parcel:

- (B)(1)(a) Types of signage that a commercial center is allowed to identify the name of the center – the proposed change would allow three attached signs on the building in lieu of the one free standing sign that is already allowed. Also a proposed change to increase the sign area allowed from 50 square feet to 100 square feet, regardless of the size of the building.

- (B)(1)(b) Allow greater flexibility in the way signs identifying the individual businesses in the center are attached to the building. The current regulations only allow principal flat signs, while the proposed amendments would also allow projecting signs. The proposed changes would also reduce the maximum allowable sign area for individual businesses to 6 square feet.
- (B)(1)(c) Proposed change to reduce the maximum allowable sign area for incidental signs to 12 square feet.

Ms. Spicer noted that Section 92.157(B)(6) of the sign regulations which states the maximum height for any sign is 16 feet may need to be addressed. Mr. Baldwin mentioned the ordinance could be changed to state that no sign may exceed 16 feet except signs on a building, which could not protrude over the building.

Ms. Spicer read from Section 92.148 of the sign regulations regarding sign area. She also read from Section 92.150 on how a sign height is measured. There was considerable discussion on the proposed changes to reduce the maximum allowable sign size for individual business signs in the center and incidental signs. Ms. Spicer pointed out that staff has not researched how this might affect other existing signs in Town limits. Mr. Ellis stated he does not agree with changing the sign regulations if it will further limit the size of signs individual tenants can have. Ms. Spicer stated the proposed change would do so. She also noted that an amendment to the sign regulations will require any signs that become nonconforming due to the changes to come into conformity within seven years of the date of change or be removed. Mr. Ellis stated this needs to be looked over more and he would not vote for this change. Discussion ensued.

Mr. Ellis asked if the Board has any control on the color of the awnings. Ms. Spicer answered only if a conditional use permit is required. Mr. Cooley further discussed his plans for awnings. Ms. Spicer pointed out that, if the awnings are constructed additions to the building, a permit from the Town is required; however, if they are attached fabric structures less than 500 square feet in size, they may not require any type of permit from the Town.

Mr. Baldwin stated the only change needed would be to allow more than 16 feet for the height of a freestanding detached sign at a commercial center building. Mr. Egan stated this could be a simple change to Section 92.157(B)(6) of the sign regulations. Ms. Spicer noted the regulation could be changed to state that all signs other than a freestanding detached sign cannot exceed the roof line of the building. Mr. Egan mentioned this would call for a redraft of the ordinance. Chairman McKay suggested calling a brief recess to see if Mr. Egan and Ms. Spicer can propose possible simple revisions to the proposed amendments to address the concerns over the maximum height of commercial signs.

After a brief recess, Mr. Egan proposed the following change to the proposed amendments:

- (1) In Section 92.157 (B)(1)(b), the maximum sign size should remain 240 square feet instead of the proposed reduction to 6 square feet
- (2) In Section 92.157 (B)(1)(c), the maximum sign size should remain 160 square feet instead of the proposed reduction to 12 square feet
- (3) Adding a new paragraph amending Section 92.157 (B)(6) to read, "The maximum height of any freestanding detached sign shall be 16 feet; all other signs shall not project above the base of the roof of the building to which they are attached."

Commissioner Moore mentioned the Town Council may request the ZPB to review the sign ordinance as a whole to address any problems.

Mr. Ellis moved the ZPB to approve the ordinance as amended by Mr. Egan's recommendation. Mr. Thurlby seconded. All voted in favor.

OLD BUSINESS

A. Discussion on Microbreweries

Mr. Baldwin pointed out the ordinance in the packet is a result of last month's meeting. He mentioned that Town Council passed a sewer ordinance at their last meeting, which now requires anyone requesting a brewery to first get approval from the Town Manager relative to those provisions of the sewer ordinance that would require pretreatment of the type of discharge that they would be putting into the sewer system. He stated the concern is the strength of the discharge going into the system and pretreatment would neutralize the strength. He stated that the regulations have been tweaked and the provisions to the ordinance are included in the packet. Mr. Egan pointed out the only change in the new draft is to require a sewer use permit for operation of any brewery, winery, or distillery. Ms. Spicer noted that brewpubs and nanobreweries are a permitted use and microbreweries, micro-distilleries, and micro-wineries are a conditional use.

Mr. Thurlby moved the Zoning & Planning Board to find that the Ordinance concerning breweries, distilleries and wineries is consistent with the 2007-2027 Town of Lake Lure Comprehensive Plan for the reasons stated in the introduction to the Ordinance, and he further moved this Board to recommend enactment of such Ordinance. Mr. Ellis seconded the motion. All voted in favor.

NEW BUSINESS

A. Council Request to Review De-annexation Request

See attached notes regarding this agenda item.

Mr. Baldwin explained that the Town has always struggled with a number of maps that were contradictory in regards to the Town boundaries. He mentioned that research was conducted and a new map was created and approved by the Town Council. He stated the

map was then brought before the General Assembly and they created and passed a local bill recognizing this map, which was recorded at the Rutherford County Courthouse, as the Town's official map. He stated the Girl Scout Camp property was researched and included on the new map. He stated that large portions of that property are out of Town, but the part that is inside Town limits has always been inside the Town limits. He mentioned Town Council was asked to support a local bill to remove this property from Town limits for a number of reasons. He stated that Council has asked three things of this Board:

- (1) Advise the Town Council on a process for evaluating de-annexation requests. He pointed out the Town does not have authority to deannex a property; only the General Assembly can deannex a property by a local bill.
- (2) Use the de-annexation criteria to render a recommendation to the Town Council on the Mystic Waters Farm request.
- (3) Advise the Town Council on any recommended amendments to the zoning code to meet objectives for local food, agriculture, and livestock.

Mr. Baldwin stated he called the Division of Community Assistance in Asheville and asked if other towns have a protocol for de-annexation and they stated they did not know of any. He mentioned it is his understanding that the property owners have presented this de-annexation request to Mike Hager, North Carolina General Assembly Representative. Commissioner Moore explained the request was attached to the amendment to the Town map that was sent to the NC Representative but was kicked out in the second committee review before it ever reached the Senate. However, the Town boundaries map was approved. Mr. Ellis asked if there were any remaining controversies over boundaries and Commissioner Moore stated no. Commissioner Moore explained that the Girl Scout Camp property had two parcels that were combined to form one. As a result, part of the property remained inside Town limits and part of the property outside Town limits. Commissioner Moore pointed out that there are other pieces of property around town similar to that and mentioned that there is the possibility that someone that has a piece of property inside town limits could purchase an abutting piece of property and then request a de-annexation from the Town. Therefore, he felt that the Board needed to be very careful upon making a decision because it would have an affect years later. He did not think it needed to be under a strict time constraint or treated as an emergency situation. Discussion ensued.

Mr. Ellis stated he would be interested in knowing the motivation behind the de-annexation request. He mentioned it's not the request, if approved, that would take them to a point where they could do anything they want. He stated they would still be subject to the rules of Rutherford County and the State, and felt there must be some motivation the property owner would want to be subject to those rules and not to the Towns. He mentioned that they are either wanting to do something that can't be done now or there has to be a disconnect between the current rules of the road and what they would be subject to if they're going to be successful. He mentioned he would rather resolve the concerns they have and not go down the path of having other people wanting to be taken out of the Town limits.

Mr. Pitts explained he sent a request to Town Council to endorse a resolution of de-annexation of his property at 109 Camp Hill Road, Mill Spring, NC. He mentioned he is asking to de-annex his property because he has a hardship being that half of his property is inside town limits and half of it is outside town limits. He stated his situation is unique in that the property boundary is split down the middle of the property, where the property is being actively agriculturally developed. He mentioned he is using a small percentage of his property, which is located inside the Town, to monocrop and has been enforced by the Town regulations. He stressed that he is not interested in annexing the portion of his property that is outside the Town because, he stated, it does not make financial sense. Mr. Pitts discussed the property when it belonged to the Girl Scouts and to Mary Ann Silvey. He pointed out that a majority of the property is in agriculture and he supports the Weed Action Coalition (WAC). He mentioned that he cannot use the best management practices because of the Town regulations. He also mentioned he is not interested in being put into a new zoning district to allow agriculture because zoning districts can be changed over time. He stated that he would not ever be developing the property and is also not interested in having the property grandfathered into regulations because it changes when there is new ownership. He mentioned that his request is not about money or taxes. He stated he would like to have agricultural fencing, which would help out WAC, but the Town regulations will not allow them and he is not interested in going before the Board of Adjustment to do that. Mr. Pitts pointed out the only way the Town could make this work to meet his needs for the property would be to allow the portion of the property that is inside town limits to use county regulations and permits instead of the Town's regulations and permits. However, he stated he would not encourage the Town do entertain that.

Chairman McKay asked Mr. Pitts what he wants to happen from the Zoning & Planning Board regarding the portion of his property that is inside town limits. Mr. Pitts answered that he does not want anything from this board. He stated that he came to Town Council to ask for their support of the de-annexation.

Mary Ann Silvey, Commissioner, mentioned that Town Council passed a motion at the last council meeting to send this board the question of looking at the ordinance as it would be applied to other lands regarding agriculture. Discussion held.

Commissioner Moore stated that a letter was drafted by the town attorney and was sent to Mr. Hager along with a resolution, that the town map had been researched, was accurate, and the Town would like it recognized as the official town map. He stated the letter also asked that nothing be considered in regards to de-annexation without the Town's approval. Mr. Braund emphasized that the letter was requesting any de-annexation requests that come before the Legislature be sent back to the Town Council for consideration. Discussion ensued.

Mr. Ellis pointed out that this is a political decision and the Zoning & Planning Board is not a political board. He stated it would be worth advising Council that a study of recommended amendments to the zoning code be considered because there might be some folks out there with an opinion about it and they may want to express that.

Mr. Ellis suggested sending a recommendation to Town Council that Zoning & Planning Board has no recommendation. He stated, in his opinion, it is not appropriate for the ZPB to be looking effectively at a way to diminish the Board's influence and control. He stated it seems to him that a de-annexation request would be rare and he thinks that any such request in the future would be examined on its own merits; it will always be a unique situation. Therefore, he made the following motion:

Mr. Ellis moved the Board recommend to Town Council that no action be taken with respect to the de-annexation request. He further recommended that we engage in a study to determine whether the Zoning & Planning Board should make recommendations for the zoning code to allow for some agricultural uses and related uses that may not be allowed today. Mr. Thurlby seconded the motion and all voted in favor.

Upon a motion by Mr. Thurlby and seconded by Mr. Ellis, the meeting was adjourned at 12:36 p.m. The next regular meeting is scheduled for Tuesday, October 21, 2014 at 9:30 a.m. at the Lake Lure Municipal Center.

ATTEST


Thomas M McKay, Chair


Michelle Jolley, Recording Clerk