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Town of Lake Lure

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Minutes of the Regular Meeting of the Zoning and Planning Board

Tuesday, September 21, 2010

Lake Lure Municipal Center

Chairman Washburn called the meeting to order at 9:34 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. Bush.

APPROVAL OF THE MINUTES

The minutes were approved upon a motion made by Mr. Bush and seconded by Mr. Samarotto.

NEW BUSINESS

(A) Discussion to consider amending the Zoning Regulations to allow produce stands as a conditional use in the R-4 Zoning District

Mr. Baldwin gave a brief overview of this topic. Ms. Smoyer reviewed the memo with the Zoning and Planning Board: Two property owners that each own an existing produce stand in the R-4 Zoning District appeared at the July Zoning and Planning Board meeting to express their concern that produce stands are not permitted in the R-4 Zoning District. Both property owners have non-conforming uses (produce stands) in the R-4 Zoning District. In accordance with 92.101 of the Zoning Regulations, non-conforming uses can continue to exist, but cannot be expanded. Mr. Moore discussed the amendment at the August Town Council meeting, at which time the Council directed the Zoning and Planning Board to review and make a recommendation for a possible amendment to the Zoning Regulations to allow produce stands in the R-4 Zoning District.

Chairman Washburn informed the property owners that by being grandfathered in, they are in an unusual position because they have no competition. He asked Mr. Burgess if his intent is expansion. Mr. Burgess explained that he would like to build a porch so that he can put his apples under it. Ms. Jordan asked if he could apply for a variance. Sheila Spicer and Mike Egan agreed that this would be a use variance, which is not legal. John Moore asked if there is any way that Mr. Burgess could expand his porch without amending the regulations. Sheila Spicer read the nonconforming use regulations, which verified that it is not possible to expand a nonconforming use. A discussion about various alternatives pursued.

Shannon Baldwin noted that produce stands seem to be a desirable use. However, the Comprehensive Plan makes the case that if you focus commercial development in nodes, there will be less traffic impact. It is important that corridors have moving/ flowing traffic. Mike Egan noted that produce stands are a permitted use in the CG zoning district, but there are not standards. Mr. Egan discussed amending regulations to allow minimal expansion/ alteration to non conforming uses without making it too broad. Mr. Egan suggested moving forward with standards for produce stands in zoning districts where they are currently permitted.

The Board continued to discuss Mr. Burgess's fruit stands. The police department told Mr. Burgess that he could not have tables in the yard with items for sale because it is considered peddling.

Paula Jordan moved that staff look at possibility of changes to the regulations to make it possible to construct small additions to produce stands. Mr. Samarotto seconded the motion. Discussion pursued. Mr. Egan noted that the issue may be with the peddling ordinance. We may need to reconcile the two ordinances. There may be other options for solving this issue. Ms. Jordan modified her motion to allow staff to find the most practical way to resolve these issues. Mr. Samarotto seconded the motion. All were in favor.

(B) Study the tree protection provisions in the Zoning Regulations to review enforcement procedures and overall effectiveness as a basis for a proposed amendment

Mr. Baldwin gave an overview of the history of the tree regulations. Based on various discussions, it was time to revisit the regulations and work out any bugs. Mr. Moore discussed issues that various people had with the tree regulations. They appeared to be a concern with terminology. The question was asked if people should be able to do what they want with their developed lot with the understanding that people will not purposely make it ugly. Mr. Moore noted that there seemed to be overwhelming support for the protection of trees during development, but not necessarily after development. Ms. Jordan noted that there was 89% approval of protection of trees in general. The Board realized that they are discussing three issues that they should wade through separately; 1) terminology, 2) restriction on developed lots, and 3) administration and education.

Mr. Calhoun spoke about the administration of the regulations, and potential ways to create a mechanism to educate and communicate good practices. Staff has discussed requiring a written permit that includes handing out an educational pamphlet. They discussed giving a presentation and Town of Lake Lure certificate for professional or semi-professional tree surgeons in the town limits.

The Zoning Board continued to discuss various aspects of the tree regulations. Mr. Baldwin summarized the discussion and said that staff would work on the following issues:

- A. Administrative Process
- B. Pruning versus topping (add definitions)
- C. Tree cutting on developed lots
- D. Education components

Consent Agenda

The Board reviewed the subdivision report and the Highlands of Lake Lure memo. The Board discussed this subdivision. There were specific questions about foreclosures. Someone noted a foreclosure notice in the paper for 52 acres in Highlands.


ADJOURNMENT

Mr. Bush made a motion seconded by Ms. Jordan to adjourn the meeting. The motion passed unanimously. The meeting was adjourned at 11:23 a.m. The next regular meeting is scheduled for Tuesday, October 19, 2010 at 9:30 a.m. at the Lake Lure Municipal Center.

ATTEST



Suzy Smoyer, Recording Secretary



Richard Washburn, Chairman