



**Meeting of the
Zoning and Planning Board
Minutes**

Regular meeting, Tuesday, November 17, 2020

Council Chambers

Present: Dave Keenan, PE
Thomas M. McKay, Chair
Randal Nelson
John Moore, Town Council Liaison
Mike Holden

Absent: Jonathan Hinkle, Vice Chair

Also Present: Mitchell Anderson, Assistant Community Development Director
Garrett Murphy, Development and Environment Review Specialist
Sha'Linda Pruitt, -Recording Secretary

The meeting started at 9:39am.

ROLL CALL

Mr. McKay called roll.

APPROVAL OF THE AGENDA

Chairman McKay asked for a motion to approve the agenda. Mr. Holden made a motion to approve the agenda and Mr. Nelson made the second. All voted in favor.

APPROVAL OF THE APPROVAL OF THE MINUTES

Chairman McKay asked for a motion to accept the minutes as presented. Mr. Keenan made the motion to approve the minutes and Mr. Nelson gave the second. All voted in favor.

NEW BUSINESS

- a. Conditional Use Permit #CU-2020002: Sciandra- Requesting CUP for a garage apartment in R-1 zoning district.

Mr. Anderson opened with the staff presentation.

When an applicant submits an application for a conditional use permit, it has to be reviewed by the Development Review Committee which is comprised on internal staff and building inspectors then it moves forward to the Zoning and Planning Board to provide a recommendation with conditions or concerns to the Board of Adjustments.

James Sciandra is requesting a Conditional Use Permit for the construction of a garage apartment adjacent to the current residence located at 141 Gentlewinds Lane in Lake Lure, North Carolina (Parcel number 219240). This property is located in the R-1 Residential Zoning District.

Mr. Sciandra's current resident is a 2 bedroom single family dwelling that is connected to a private well and the Town's Sewer system. Mr. Sciandra reports that the new garage and apartment will have 3 additional bedrooms. This new sewer line will be connected to a shared private lateral that runs into a manhole in front of the subject property.

Additional Information for the Board:

- 1) Town staff has reviewed the proposed structures and find that all planned structural placement and dimensions are in compliance with the Town's Zoning Regulations.
- 2) Mr. Sciandra has provided a complete application, to-scale plans, and proof of available sewer and water for the proposed project site. These documents are included in the meeting packet.

There is available sewer and water, Mr. Sciandra is already connected to the town. This new sewer line will be connected to a shared private lateral that runs into a manhole in front of the subject property.

Mr. Sciandra's current structure is 840sf with 2 bedrooms and 1 bathroom. The proposed garage apartment will be 1,487.5 sf with 3 bedrooms, 3 full bathrooms, and 2 half baths. The new proposed living area is 647.5 sf larger and contains more bathrooms and bedrooms than the current single family dwelling. As a garage is supposed to be an accessory building that is subordinate to the principal building, staff believes this proposed structure would be a new "principle building" as defined in the Town's Zoning Regulations.

§ 92.107 ONE PRINCIPAL BUILDING ON A LOT.

Every building hereafter erected or moved shall be located on a lot, and in no case shall there be more than one (1) principal building and its accessory buildings on a lot except as provided in § 92.048 and in §92.027(D). (Ord. passed 1-22-91, Amended 4-8-14) Penalty, see §92.999. § 92.108 REDUCTION OF LOT AND YARD AREA.

If you guys wish to make a recommendation it will go to the Board of Adjustments today otherwise you have 35 days to make a recommendation.

Staff recommended two possible recommendation:

- 1) Reduce the proposed living area, of the garage apartment less than 840sf to ensure the new structure is considered an accessory building and use the existing principle structure.
- 2) Diminish the existing principal structure by removing its classification and a "Dwelling Unit." This can be done by removing either the cooking and eating facilities or the sanitation facilities from the existing principle structure.

The board feels that the mitigated recommendations from staff should be proposed to the applicant. The applicant would have to determine his own method of resolving the underlining issue in order to become compliant.

Mr. Anderson made the board aware that there is existing precedent for this case based on information that he collected from the town manager as well as the previous Community Development Director.

Mr. Nelson made a motion to approve the conditional use permit conditional on the owner adhering with one of the suggested mitigated recommendations from staff. Mr. Holden gave the second. All voted in favor.

b. Proposed Amendment to the Town's Residential Vacation Rental Regulations
Mr. Anderson explained that a Superior Court judge struck down the city of Wilmington's whole-house lodging ordinance. This decision will impact how a local government ability to regulate vacation rentals.

The school of government released a statement in regards to this mattering citing With the recent adoption of Chapter 160D, the limitations outlined in the Periodic Inspection statutes have been relocated from the statutes on general building inspections to the statutes on housing code enforcement. The legislature also amended subsection (c) of 160D-1207 to clarify the restrictions on permitting and registration of residential rental properties:

The town currently requires residents to have a vacation rental operating permit which is a form of a zoning permit but it is still a separate permitting process. We also require that managers of property owners maintain a contact record with the town. It is staff's belief that based on the towns current practices that we may not be aligned to the states statutes.

The town requires that owners maintain records of their rentals with the town. 92.042 (a)(7)(c) This may not correspond with the towns methods of handling vacation rentals.

(c) In no event may a local government do any of the following: (i) adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission under Article 11 or Article 12 of this Chapter from the local government to lease or rent residential real property or to register rental property with the local government, except for those individual properties that have more than four verified violations in a rolling 12-month period or two or more verified violations in a rolling 30-day period, or upon the property being identified within the top ten percent (10%) of properties with crime or disorder problems as set forth in a local ordinance, (ii) require that an owner or manager of residential rental property enroll or participate in any governmental program as a condition of obtaining a certificate of occupancy, (iii) levy a special fee or tax on residential rental property that is not also levied against other commercial and residential properties, unless expressly authorized by general law or applicable only to an individual rental unit or property described in clause (i) of this subsection and the fee does not exceed five hundred dollars (\$500.00) in any 12-month period in which the unit or property is found to have verified violations, (iv) provide that any violation of a rental registration ordinance is punishable as a criminal offense, or (v) require any owner or manager of rental property to submit to an inspection before receiving any utility service provided by the local government. For purposes of this section, the term "verified violation" means all of the following:

- (1) The aggregate of all violations of housing ordinances or codes found in an individual rental unit of residential real property during a 72-hour period.
- (2) Any violations that have not been corrected by the owner or manager within 21 days of receipt of written notice from the local government of the violations. Should the same violation occur more than two times in a 12-month period, the owner or manager may not have the option of correcting the violation. If the housing code provides that any form of prohibited tenant behavior constitutes a violation by the owner or manager of the rental property, it shall be deemed a correction of the tenant-related violation if the owner or manager, within 30 days of receipt of written notice of the tenant-related violation, brings a summary ejectment action to have the tenant evicted.

§92.042 (A) within the Town's Zoning Regulations require residential vacation rentals to obtain a Vacation Rental Operating Permit (VROP) rather than a standard Certificate of Zoning Compliance(CZC). Please reference §92.042 (A) enclosed below. Staff believe that requiring a short-term rental obtain a VROP rather than a CZC does not align with state statutes.

Also, §92.042 (A)(7)(c) and within the Town's Zoning Regulations requires a manager or property owner to register and update operator information with the Town. This does not align with NC G.S. § 160D-1207(c)(i).

§92.042 (A)(7)(c):

Continuously maintain on file with the Town the operator's current address, telephone number, and facsimile number and/or email address.

To ensure town regulations align with state regulations, staff recommend revising the Town's Zoning Regulations in a manner that maintains residential vacation rentals as a permitted use that is subject to special requirements contained in §92.042, but remove §92.042 (A)(7)(c), as well as any reference to a VROP requirement.

Residential Vacation Rentals can then be approved with a certificate of zoning compliance if they comply with §92.042.

Mr. Anderson stated instead of being issued as a separate special application we should just make it apart of the zoning application so that it still goes under review while being processed. Staff has not approached the town attorney yet but has plans too after first presenting these statutes to the board. Mr. Moore recommends that we seek the advice of the town attorney. We should let Mr. Morgan review it and provide the town with a memo that indicates what the town should do at the local level in order to be in compliance with the state.

c. Discussion on Additional Amendment to the Town's Regulations

The Community Development Staff have been combing through the Town's Zoning Regulations, identifying required updates to comply with North Carolina GS 160D.

During this process, staff have also identified some additional beneficial changes that are shared below.

1) Within § 92.103 the phrasing "Churches or other religious institutions" is utilized. It is suggested to change all references to "Churches" within the Zoning Regulations to phrasing similar to §92.103. This change would result in updating the phrasing in the 10 sections.

These are suggested changes within the zoning regulations. We currently use the word churches and other religious institutions this language should be carried forward as not to exclude any religious institutions. This is a small terminology change.

Mr. Nelson asked would it be necessary to define religious institutions? Mr. Keenan stated that it would be hard to define what constitutes a religious institution without eliminating or alienating another ground. A broad description is necessary for inclusion of all.

In regards to real estate signs the town has been sending out notices because of the traditional riders that are attached to the signs. These violations occur when real estate agency included a double 6'' x 24'' rider sign with the standard 18'' x 24'' sign, or a single rider sign with a 24''x 24'' sign.

By increasing the allowed size limit within residential districts to 6sf, real estate agencies would be able to utilize such sign combinations without being in violation of the Town's Zoning Regulations.

Most towns have an allowance for the size of the signs and the space where you can place a second rider besides the initial posting. Mr. Anderson provided an analysis of examples from other jurisdictions to demonstrate the range of allowable sign sizes. By comparison Forest City's max size in residential district is 6 sf.

d. Discussion on Animal Husbandry within Town Limits

A few people have contacted the town to have goats and backyard chickens the request is normally between 4 to 6 hens. The goats are to control the unruly growth of unwanted vegetation. The hens are being requested for the purpose of making eggs.

Mr. Moore asked whether the goats are temporary to be added just until the vegetation is under control? Mr. Anderson confirmed.

The board has concerns with enforcement of this matter.

Mr. Nelson asked would this require a zoning application and inspections as well and if so is this a project that the town is prepared to take on? Mr. Anderson stated that from a zoning administrator's stance he would prefer that this request be limited to larger estates or historic farm land someone with at least 5 acres would make a more ideal candidate.

Staff provided examples of animal husbandry ordinances from four jurisdictions as an example of how other towns and cities regulate fowl and livestock within their jurisdiction including Forest City, Asheville, Weaverville, Hendersonville, and Concord, North Carolina. Gainesville, FL is also listed.

Horses and ponies have already been approved under the livestock clause. Chickens without roosters is a new demand.

It is unlawful to keep or maintain fowl in the current regulations.

There has been an increased demand in backyard birds. The board agrees that hobby chickens are very popular and people should be allowed to have fresh eggs within reason.

Mr. Moore made a suggestion to potentially use a Kudzu control service for the unwanted vegetation as an alternative to having goats.

Mr. Anderson is open to this suggestion and once he receives the contact for this service will make it available to those interested parties. None

OLD BUSINESS

None

MONTHLY REPORTS- OCTOBER 2020

Staff presented the minor zoning violations for the month. Mr. Anderson touched on the CDD reoccurring work activities and trainings. Staff has been compiling a total of house constructions for the year. The town also updated the list of vacation rentals at the beginning of the year. The TDA works closely with the town for managing vacation rentals. If residents use Airbnb or any of the property websites the owner doesn't register it with the TDA. For compliance every home should still list the permit on the front door? If it is reported that someone is renting out their property the town follows up with the complaint and sends out a notice to the owner.

Mr. Nelson requested that monthly reports be emailed to the board.

Updates on the new sewer system were presented. The town is working through the access requirements that would affect different property owners from the dam to the southern part of the lake. We are attempting to execute the first phase. There are lost of moving parts that we are seeking funding for from grants from the state and federal government. We have to get the money up which is why we increased fees such as sewer. We are in the process of putting another drain in the lake.

Mr. Anderson has placed a link onto the town's websites for updates

Sedimentation into lake water and water quality concerns are currently being addressed. The town at the advice of the attorney has agreed to hold civil penalties in abeyance for the opportunity to meet.

Amy Annino with the state of NC, Brandee Boggs with USACE, Pete Dickerson with Odom Engineering, Clear Water Environment Consultants, and Highlands HOA have met at the upper road failure site. Odom Engineering as a consultant for Highlands HOA, provided the town with plans. Staff coordinated and reviewed plans with the state. Staff has received plan revisions from Odom Engineering for the upper slope failure repairs.

The Town has submitted a transportation project proposal to Isothermal Planning and Development Commission for the consideration of Lago Vista Dr. as a future dedicated egress.

Garrett Murphy will be leaving the town of Lake Lure effective November 17, 2020. Mr. Murphy took a moment to address the board and say goodbye.

Mr. Anderson has also been working with tech support and the towns internet provider to secure a stronger internet connection.

Chairman McKay asked about any updates for a cell tower.

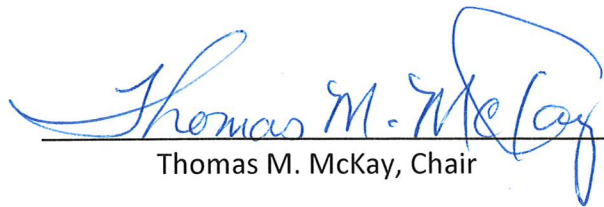
Mr. Anderson stated that there were state statues in place that limit the towns ability to interfere with these types of connections. In low population areas there not enough demand to establish an infrastructure. Staff is currently trying to be responses to customer concerns for cell towers and internet services for the area. Within town hall Mr. Anderson has been installing micro cell towers.

ADJOURN

Chairman McKay asked for a motion. Mr. Keenan made a motion to adjourn. Mr. Nelson gave the second. All voted in favor.

The meeting adjourned at 11:30am.

ATTEST


Thomas M. McKay, Chair


Sha'Linda Pruitt, Recording Secretary