



**OAK RIDGE PLANNING & ZONING BOARD MEETING  
APRIL 27, 2017 - 7:00 P.M.  
OAK RIDGE TOWN HALL**

**MINUTES**

**Members Present**

Ron Simpson, Chair  
Bobbi Baker, Vice Chair  
Nancy Stoudemire  
Patti Paslaru  
Tammy Gardner  
Steve Wilson, Alternate (Sitting)  
Ed Treacy, Alternate (Sitting)  
Tony Cooler (Not sitting)

**Staff Present**

Bill Bruce, Planning Director  
Bruce Oakley, Town Manager

**Members Absent**

Larry Stafford

**1. CALL TO ORDER**

The meeting was called to order by Chair Ron Simpson at 7:00 p.m.

**2. APPROVE AGENDA**

**Ed Treacy** made a **motion** to approve the meeting agenda. **Patti Paslaru** seconded the motion, and it was passed unanimously (7-0).

**3. APPROVE MINUTES OF THE MARCH 23, 2017 MEETING**

Because the minutes had not been completed, the Board agreed by consensus to approve them at a later meeting.

**4. PUBLIC HEARING**

**A. TEXT AMENDMENT.** Amendments were proposed to Chapter 30-9 Definitions and Chapter 30-351 Dimensional Requirements which would amend the definition of townhouse and to amend building separation requirements in the TC-R zoning district. The applicant is Chuck Truby on behalf of PJ Village Woods LLC.

Simpson noted that the Board had already heard and denied the text amendments at the March meeting, but the applicant had revised the language. Although the revised language was available at the Town Council meeting, the applicant elected to wait until the Planning & Zoning Board had an opportunity to discuss the revisions.

Planning Director Bill Bruce presented the staff report, which is hereby incorporated by reference and made a part of the minutes. He said at the last P&Z Board meeting, there were several concerns expressed by members of the Board, and he had worked with the applicant to try to propose amended language that might address the Board's concerns. He referred the Board to the staff report, where the new proposed language was shown. He said the changes would not change the building code for townhouses, and he thought it made clearer the intent to define what detached townhomes were. Bruce said he had asked Oak Ridge Fire Chief Steve Simmons to be present in order to address concerns he had relayed through a Board member at the last meeting. Bruce said the change in building separations was also being requested from 20 feet to 15 feet with the qualifications that the change is only applicable in the TC-R zoning district, in townhouse developments, and in buildings that are two stories tall or less.

Simpson asked Chief Simmons to speak regarding the proposed changes. Simmons first stated that the fire department was neutral on the proposed text amendment and was neither for nor against it. He said the fire department was also not in the business of saying who could build what in Oak Ridge, and it is the department's job to provide fire protection in Oak Ridge for whatever is built. However, he said because the community is still somewhat rural, particularly in regard to the water supply, some changes could have a potential negative outcome in fire suppression. Simmons said if buildings are closer together, they are apt to catch on fire faster and a 5-foot or 25-percent reduction would mean the fire department has 25 percent less time to keep fire from spreading.

Simpson said the Board members could not make a valued judgment about fire protection, and Simmons said he was not asking them to. He said that fire doubles at least every minute, and that Oak Ridge is a rural water supply fire department without fire hydrants. Simpson asked if Simmons was saying that reducing the building separation may make fire suppression more difficult, but was not declaring that the change would create an unsafe condition; Simmons said yes. Simpson asked if Simmons was recommending the change not be approved, and Simmons said no. Simpson asked if Simmons was saying that while the builder or owner might be taking on additional risk, Simmons was just giving the Board notice. Simmons said he was just trying to give the Board some facts to help it make its decision. He said it is part of the fire department's job to provide information on risks and anything that might increase or decrease those risks. He said he was not in a position to say he did or did not recommend the change.

Steve Wilson asked Simmons how much the building separation decrease would limit the fire department's ability to get to a fire. Simmons said there would be no impact.

Treacy asked Simmons if his discomfort in reducing the building separations would be reduced if this type of zoning had fire hydrants; Simmons said yes. Treacy asked if Simmons would have the same level of discomfort if the building separation was lowered from 40 feet to 30 feet, which is also 25 percent, and Simmons said no because the potential for a fire spreading is greater because the distance is less.

Tammy Gardner asked Simmons to explain the difference in fire spreading between units and having attached townhouse units. Simmons said he had less concern with attached units because a firewall would be built between units. Gardner asked if it would help to have a dry hydrant connected to the pond on the property. Simmons said yes, and while he

had discussed that option with the property owner, there were questions about whether it could be done.

Simpson reminded the Board that the issue did not center on this particular development or the characteristics of it, but that approving the text amendment would apply to all such developments in the future. Simmons said the issue was how fast the fire department could get water to the site once the 4,000 gallons in the tanker is used, so Gardner's question did have relevance.

Treacy asked whether requiring a pond and a dry hydrant in townhouse developments would ease Simmons' discomfort if the building separation is reduced to 15 feet. Simmons said that would make him feel a lot better.

Simpson asked Bruce if he recalled correctly that he had heard the engineer say that firewalls would still be installed in the buildings with a 15-foot separation. Bruce said Frank Park, the building code official for Guilford County, had told him that any townhouse units with less than a 20-foot building separation would require a fire-rated wall. He said building code officials would make sure the building code is met when plans are submitted, and that the fire code is part of that review process. Simpson asked if that is part of county regulations, and Bruce said it is part of the state building code, which is reviewed by the county's permitting and inspections department.

Patti Paslaru said the rest of the county has fire hydrants because it is primarily made up of Greensboro, but Bruce said he was talking about the unincorporated portions of the county, which all have wells and septic.

Bobbi Baker asked if it was appropriate to include in the text amendment that firewalls must be installed in townhouse units with less than 20-foot building separations. Bruce said he would not recommend inserting language in the ordinance for matters that are already established in the state building code. He also pointed out that some commercial zoning districts have building separation allowances as low as 10 feet, so there are existing zoning districts today in Oak Ridge that have less building separation than is being requested by the applicant. Paslaru said that those commercial buildings are primarily built of steel and metal, not wood. Bruce said all he could say was that the building code would account for that.

Treacy said the Town did not control the building code and that it could change, but the Board was hearing from its fire chief that he has a concern. He said he liked Baker's idea of including the wording about firewalls in the ordinance in case the building code changes to 20 or 30 feet. Treacy asked why Bruce was recommending the Town change the definition of a townhouse development just because one developer requested it. Bruce said this was simply a request from the applicant and that he had made no recommendation. He said, per the Board's direction at the last meeting, he had worked with the applicant to try to address the Board's concerns. He added that he thought the applicant was making the request in response to the market. Treacy asked if it was customary for Oak Ridge to change its ordinances to make developers more money or to make their projects more viable. He said what he was hearing was that a developer could not make enough money with the current definition of townhouse, but he could if the Town would change its rules. Bruce said that the Town's documents are not static, and market conditions, best practices and legislation all change over time. He said the Town needs to be able to respond to market conditions if it

wants the best possible projects available for its citizens. Bruce said it was up to the Board to recommend approval if it would like to see this type of product in Oak Ridge or denial of the request if it did not want to see it.

Simpson said he thought the change in definition was the result of a Planning & Zoning Board member who felt the difference in a detached townhome and a detached single-family dwelling was unclear. Treacy asked Bruce if the applicant could move forward with the development with the current definition of townhouse if the 15-foot building separation is approved, or if it is contingent upon the definition change as well. Simpson said that question was appropriate to ask the applicant.

Gardner, who is a real estate agent, said the common perception of townhouse is of attached units, but there are several developments that do have detached units in them as well. She cited a development with all detached townhome units in Gibsonville.

Paslaru asked if there was anything in the development ordinance that would preclude a developer from putting a single-family home in a townhouse development. Bruce said he thought the text amendment was trying to establish that if detached units are in communities with private drives and maintained open space, are generally in a row and look similar, those are all ways to determine how a detached townhouse is different from a single-family residence. Bruce said with this proposed definition, it would not be possible to build a single-family residence in a townhouse development. He explained that a single-family residence could not currently be built in a townhouse development because it would not meet the minimum lot size requirements. Paslaru said because TC-R zoning allows lots to be as small as 20,000 square feet, nothing would preclude someone from building a house between two townhouses, but Bruce said that would still require access to public rights of way. He added that a townhouse development is a very specific type of development plan which has private drives and parking, whereas a single-family detached dwelling has different road frontage requirements and would not be able to use that same private drive to access it.

Simpson opened the public hearing.

*Proponents:*

- Chuck Truby of CPT Engineering, 4400 Tynning Street, High Point, said he would not repeat everything that he had said at the March meeting, but that the new development model for empty-nesters and young professionals is a townhome community with a homeowners' association, which maintains the grounds and exteriors, and basically offers maintenance-free living. He said over the last 4 or 5 years, it seemed that some folks liked that concept but did not want to have a common wall attached to their neighbor. He said this development was being modeled after a development they were doing in Greensboro called Blakeney at Irving Park. Truby said Dwight Stone was the builder of that development, he would be the builder of the development in Oak Ridge if it is approved, and that Stone's marketing research indicated that the detached townhouse units are selling better than attached ones. Truby said the joint townhomes are also somewhat marketable, so the developer wanted to do an attached two-unit townhome separated by 15 feet and then a detached townhome, creating a mixture of the types of units within this development. He said that was the purpose of asking for the text amendment, and that Greensboro and High Point had allowed similar amendments to their ordinances. He said the request was not about trying to make

more money, but instead about building a product that is marketable and will allow the Village Woods project to be completed.

Regarding the building separations, Truby said international building code, which is used throughout the country, requires different types of ratings of materials used on exterior walls based on building separation between units. He said the ratings on the exterior walls get greater as buildings are built closer together. He said the building code requires a one-hour firewall between attached units so a fire in one unit, in theory, should take one hour to burn through that wall and into the next unit. Truby said while the firewall used to have to extend above the ceiling, that is no longer the case, and the current requirement is for it to extend to the ceiling. He said with detached units, the building code requires a one-hour firewall on the exterior of one unit and another one-hour firewall on the next unit, so that there would be the equivalent of a two-hour firewall, plus there is 15 feet of separation between the units. He said it would be nice if there were fire hydrants, but he believed that this proposal was better than if the units were joined together. Truby said he had also requested that the text amendment only apply to buildings that were two stories or less. He said the 15-foot building separation is also needed because the site has already been graded and they wanted to be able to work with the building pads and grading that had already been done. He also said the first building to be constructed would be beside the existing three-story building, and the 20-foot building separation would apply there.

- Jerry Cooke, the developer, said the current building is three stories tall and is a great place to live, but the problem is that the middle units don't sell well. He said Dwight Stone had built nine townhouse communities similar to the one proposed and that none of them have a middle unit. Cooke said the units in the current building had been on the market for nine years. He said he had begun to listen to others about why this product needed to be changed, and this proposed text amendment would enable that.

*Opponents:*

- None

Simpson closed the public hearing for the text amendment.

Baker asked about Truby's statement that the building code allowed separations of 10 feet; she asked what type of zoning that applied to. Truby said it varied regarding the type of zoning and also depending on the type of construction, such as steel and brick versus wood frame with brick and sheetrock. He said the code spells out all the requirements for all the different types of construction and also specifies the percentage of openings allowed in a wall that is adjacent to another unit. He said he supposed that was because they were concerned about the possibility of a fire breaking through a window and spreading that way. Baker asked if Truby would be amenable to adding that a firewall be required to the text amendment, even though it was already in the building code. Truby said in his experience, the building code always gets more stringent, not vice versa. He said he thought sprinkler requirements would likely be added at some point in the future. He said if it made the Board feel more comfortable, he had no problem with adding the firewall requirements to the ordinance, but asked what would happen if the building code becomes more stringent. Paslaru said they would amend the ordinance if that were to happen. Bruce said he did not think it was a good idea to mix the requirements of the building code and the zoning ordinance together, and that the building code would cover safety and code

requirements. He said he did not think the Town should get into the business of legislating code issues.

Treacy asked Truby if the definition of townhouse dwelling was not changed, would that affect what they were trying to do, or it was just the 15-foot building separation that they required to execute the plan they had. Truby said if the townhome definition did not change, they would end up with all double units. He said he was not sure whether Dwight Stone would still want to be involved in the project because he had been adamant about wanting some single units in the development. Treacy asked if they could just build single-family residences in the development instead, and Truby said no. Bruce said that rather than specifying a minimum lot size in a townhouse development, a minimum development size is established. He said, for example, if there are three units, the development size must be 60,000 square feet. He said the maximum density is still two units per acre. Treacy said whether a single-family residence, an attached townhome with two units or with three units is built, the minimum lot size is still 20,000 square feet. Bruce explained that the minimum lot size for a townhome is not 20,000 square feet and that a developer could have three 2,000-square-foot buildings and the rest of the property would be taken up by the driveways and maintained areas. He said this is a way to get the density to remain at a maximum of two units per acre and still allow the very small lot sizes that townhomes require. Truby said he had an illustration of the property that might help answer questions, but Simpson said he would prefer to keep the conversation more general and not about this specific development.

Nancy Stoudemire said she understood you could not build single units if the townhouse definition did not change, but asked what would happen if the definition was changed but the 15-foot building separation was not approved; Truby said they would lose a couple of units in this development. She asked how the Town would stop someone from building a community of single townhouse units. Truby said if the text amendment is approved, there would be nothing to stop someone from doing that, but with the required building separations, at some point he thought you would start to lose density. He said he was just an engineer and he depended on the builders to tell him what they wanted, and in this case, the proposed text amendment was what they said they wanted.

Baker asked what a villa is and if that is not a single unit in a townhome development. Bruce said the Town does not have a definition for villa, so that would not be relevant to zoning.

Paslaru said there had been comments about Greensboro and High Point changing its ordinances, and that she thought the Board needed to take a look at the safety of the community's firefighters, who are mostly volunteer. She said anything can be sold for a price, and if something has been on the market for nine years, she was sorry but maybe there were other factors involved. Paslaru said she had a problem with changing the building separations to less than 20 feet for the safety of the public, the citizens and the firefighters.

Stoudemire asked Chief Simmons if his preference would be to have 20 feet between buildings and no firewall, or to have 15 feet with a firewall. Simmons said the building code did specify firewalls and the percentage of open space allowed in a wall. He said he is not an engineer, as Truby is, he is not a building code official, and he is only somewhat familiar with the building code. He said anyone familiar with the building code, both international and the state's, knows that the board members are mostly builders. He added that there is

currently legislation in the state to remove the fire code official from the building code board, and because of that, he did not see things getting safer. Simmons said based on his personal experience, if a fire goes up a wall and there is a window there, the window will break faster than the firewall and the fire will lap up and burn whatever is above it; if there is a vinyl soffit at the roof, it will burn and set the other building on fire. He said that is more apt to happen if the buildings are closer together. He said the Planning & Zoning Board and the Town Council can set the building code separation at whatever it likes, but his point was to show the worst case scenario, which was that the effect could be more negative than if the building separation was left at 20 feet. Regarding Stoudemire's question, Simmons said whether to have a firewall or not was not a choice, because a building had to meet code. He said he had not seen the specific plans for this development, but he also had to consider time. Although the ordinances had been changed in Greensboro and High Point, he said they also have fire hydrants, they have four people manning each fire truck, and their stations are closer together than they are here. He said he did not believe it was fair to compare Greensboro and High Point to Oak Ridge.

Baker asked if approval of the text amendment could be split; Truby said two changes were being requested. Bruce said he thought the important thing was to get the ordinance right, whether it required one text amendment or two.

**Patti Paslaru** made a **motion** to recommend denial of the request to reduce the building separation from 20 to 15 feet. **Ed Treacy** seconded the motion.

Steve Wilson asked Simmons if reducing the allowable building separation to 15 feet would limit the fire department's ability to fight fire in those units. Simmons said it has the potential to have a negative effect on fire suppression activities. Wilson said he would like to underscore the fact that Oak Ridge is not Greensboro, High Point or Sedgefield, and he thought everyone was concerned about the safety of the individuals who would live in the townhomes. He said Simmons' professional opinion was important and carried a lot of weight with him. Simmons said he had been asked earlier if reducing the area between the townhouses would limit the fire department's access to them, and he had said no. He said after thinking about it, it might make it a little more difficult. He added that 15 feet should be enough room to get a ladder between the buildings, but he would hesitate to say it would be inaccessible.

Baker said the text amendment request for the reduction in building separation was for buildings two stories tall or less. She asked Simmons if that made a difference, and Simmons said yes. He said with a one-story building, less space would be needed for a ladder because of the angle placing the ladder required. As far as fire spreading between one-story and two-story buildings, he said in his experience that had not made any difference.

Treacy said he had not seen any evidence that decreasing the building separation would make things any safer. He said he could see nothing positive other than for possibly increasing density for commercial buildings, but not from a personal safety standpoint or for the safety of the firefighters.

Simpson called for a vote, and the motion to recommend denying the requested building separation passed by a 5-2 vote (Simpson and Gardner voting against).

**Bobbi Baker** made a **motion** to recommend approval of the requested change to the definition of townhouse dwelling. **Steve Wilson** seconded the motion, and it was passed unanimously (7-0).

**5. NEW BUSINESS**

- A. SITE PLAN CASE # SP-17-02: Pugh Oil.** FPB Oak Ridge LLC requests approval of a 2,500-square-foot automobile service facility. The property is located at 8004 Marketplace Drive in Oak Ridge Township, is Guilford County Tax Parcel 0166237, and is zoned CU-SC (Conditional Use- Shopping Center), Historic District Overlay, Greensboro (GW-III) Overlay, Scenic Corridor Overlay. It is owned by FPB Oak Ridge LLC.

Planning Director Bill Bruce presented the staff report, which is hereby incorporated by reference and made a part of the minutes. He said the site plan meets all other technical requirements of the ordinance, and staff recommends conditional approval based on HPC approval and the submittal and approval of a lighting plan.

Ann Schneider, chair of the Historic Preservation Commission, said the Commission approved the design unanimously after two design consultations. She said the Commission's concerns about the large doors on the building were somewhat mitigated by the fact that the grade of the property will require an 8-foot retaining wall with a fence and plantings, so the building and parking lot will actually be below the grade of Oak Ridge Road and will be largely screened. Mechanical systems will be screened all the way around by the roof parapet.

Treacy asked if it was permissible to install landscaping in a utility easement or if that was against any Town ordinance. Bruce said the ordinance does not really specify whether landscaping is allowed in a utility easement, but it does not specifically prohibit it. He said you could not build a structure in a utility easement or plant something that might interfere with an underground utility, but added that there are no underground utilities on this site. Simpson asked if asking the applicant to spread the plantings out should be a condition of approval, and Bruce said the Board could word its approval to say that the developer should utilize the entire 15 to 20 feet of planting yard.

Additional conversation ensued regarding the landscaping and whether studies had taken into account the effect this business would have on traffic.

Leigh Potts, an engineer with Withers Ravenel, spoke on behalf of the plan and answered additional questions from the Board. Wilson, who said he was concerned about wells and septic, asked what would be done with used oil collected at the site; Potts said it would be stored and collected by a recycling service.

**Ed Treacy** made a **motion** to approve the site plan, incorporating Bruce's recommendation that the planting yard be increased from 8 to 15 feet. **Steve Wilson** seconded the motion, and it was passed unanimously (7-0).

- B. Discussion of resignation of Carl Leybourne/appointment of alternate to full Commission member.**

Simpson said after deliberation, Carl Leybourne had decided to resign from the Board due to his increased job responsibilities and travel. Simpson commended Leybourne for the unique perspective he had brought to the Board during his years of service.

The Board agreed by consensus to recommend Steve Wilson be moved from an alternate to a full Board member.

**5. PUBLIC COMMENTS**

None

**6. ADJOURNMENT**

**Tammy Gardner** made a **motion** to adjourn the meeting at 8:38 p.m. **Bobbi Baker** seconded the motion, and it was passed unanimously (7-0).