



OAK RIDGE PLANNING & ZONING BOARD MEETING
FEBRUARY 24, 2022 - 7:00 P.M.
(The meeting was held electronically via the Zoom platform)

This meeting was conducted remotely under N. C. Gen. Stat. § 166A-19.24 by use of simultaneous communication using the Zoom online platform and in which Planning & Zoning Board members participated by simultaneous communication. Planning & Zoning Board members were joined and participated in the entire meeting, unless otherwise noted.

MINUTES

Board Members Present

Jason Streck, Chair
Nancy Stoudemire, Vice Chair
Patrick Fiorentino
Ron Simpson
Larry Stafford

Staff Present

Sandra Smith, Town Clerk
Sean Taylor, Planning Director
Bill Bruce, Town Manager

Board Members Absent

Tammy Gardner
Patti Paslaru
Maureena Shepherd, Alternate
Rick Schlaginhaufen, Alternate
Megan Dyson, Alternate

1. CALL TO ORDER

The meeting was called to order by Chair Jason Streck at 7:00 p.m.

2. APPROVE AGENDA

Nancy Stoudemire moved to approve the agenda, and Ron Simpson seconded. The motion was passed unanimously (5-0).

3. APPROVE MINUTES

Ron Simpson motioned to approve the minutes of the January 27, 2022 meeting, and Pat Fiorentino seconded. The motion was passed unanimously (5-0).

4. PUBLIC HEARINGS

TEXT AMENDMENTS. Amendments to Section 30-254 and 30-1300 of the Town of Oak Ridge Code of Ordinances to ensure compliance with NC General Assembly Session Law

2021-138, specifically to clarify that violations of a city ordinance may be a misdemeanor or infraction only if the city specifies such in the ordinance (*continued from January 27, 2022 meeting*).

Streck said that a public hearing had been held at the January meeting so an additional one was not required now.

Town Planner Sean Taylor told the Board that Town Council had continued this hearing until its meeting on March 7, 2022 in order to get a recommendation from the Board. He said because there seemed to be some confusion around the state, the School of Government had sent out blog posts on the topic, which he had forwarded to the Board and which are hereby incorporated by reference and made a part of the minutes. Taylor stated that the Board only needs to be concerned with amendments to Sec. 30-254 and 30-1300 of the Town of Oak Ridge's Code of Ordinances. He clarified that zoning enforcement is generally pursued on a civil level, not a criminal one, except for instances of building code violations. Taylor said that the Town of Oak Ridge would not be the enforcement agency in a case like that, but that would be up to Guilford County's building code inspectors. He said that he tried to include less information in the packet than in the previous month's packet to narrow it down to only ordinances that the Board deals with.

Fiorentino said that one thing that bothered him was that the wording was very precise about unsafe buildings and left no wiggle room. He asked if there was a way to say "unsafe buildings" or "similar infractions." Fiorentino said that he was picturing somebody who could cause damage to a building to make it unsafe.

Taylor replied that there would be wiggle room in that the Town, by reference, had adopted North Carolina's building code. He said that was how those determinations would be made because there are standards on how buildings are deemed unsafe.

Town Manager Bill Bruce said that the language in the proposed text amendment came directly from the state statute. He read, "It prohibits criminalization of any ordinance provisions in the Development Ordinance except for those ordinances related to unsafe buildings." Bruce said that the Town Attorney had taken the language directly from the statute and inserted it into the Town's ordinances.

Fiorentino asked where the ordinance says "related to unsafe buildings." He said that it currently says "pertaining to," but he preferred that it say "related to."

Simpson referenced the bottom of the blog post titled, "Limits on Enforcement of Development Regulations." He noted that on the bottom of page 1 of 4 it specifically says "except for ordinances related to unsafe buildings."

Bruce said that the Town Attorney used the word "pertaining," not the word "related." He said he thought that if the Board desired, it could make that wording change part of its recommendation to Town Council.

Streck said that he was curious if there was a difference in the meaning of the two terms from a legal standpoint.

Fiorentino replied that the two terms had different meanings in his mind.

Simpson said that his comments the previous month had to do with the maximum fine of \$500, which is in the language of the ordinance. He said that it seemed an arbitrary figure, and he asked if that fine was per day or a maximum per violation.

Taylor replied that the maximum \$500 fine referred only to a criminal penalty.

Simpson said that he thought this part of the ordinance referred to a civil penalty or a misdemeanor, and Bruce responded that misdemeanor was a criminal penalty. Bruce said that the language had come from the state statute.

Taylor said that the civil penalties still stay the same at \$500 per day.

Simpson asked if the criminal penalties were limited to unsafe buildings, and Taylor replied yes. Simpson said that \$500 was in the ordinance now, and he asked if the Town had levied that fine in the past. Bruce replied yes. Simpson asked if that was what was done with the litigation involving Kanoy Properties, and Bruce replied that the Kanoy case was a civil matter.

Bruce said that he did not think that the Town of Oak Ridge had ever used criminal enforcement, but that the Town Attorney left it in the ordinance because it was in the state statute. He said that the Town had never chosen to go that route, but it could.

Simpson asked what the Kanoy Properties' civil penalty fine was, and Bruce said he thought it was about \$20,000. Simpson said that in the past, Board member Patti Paslaru had suggested that the Town was like a paper tiger, meaning when the Town had imposed fines and then waived them. Bruce said that the point was not about being punitive, but about fixing the problem.

Streck said that it was somewhat confusing, but asked if this text amendment was simply about bringing the language of the ordinance into compliance with state statute. Bruce replied yes.

Fiorentino made a motion to recommend approval of the proposed text amendment to Section 30-254 and 30-1300 of the Town of Oak Ridge Code of Ordinances with the additional recommendation to change the word "pertaining" to "related." Ron Simpson seconded, and the motion was passed unanimously (5-0).

5. PUBLIC COMMENTS

None

6. ADJOURNMENT

Nancy Stoudemire moved to adjourn the meeting at 7:17 p.m. Pat Fiorentino seconded, and the motion was passed unanimously (5-0).

