

MEETING MINUTES

Members Present

Chairman Kenneth Razza
Patrizia Hoffman
Mike Molling (alt)

Jeff Angel
Barbara Lamb

Jay Grimmett
Theresa Stoker

Board Members Absent

None

Town Staff Present

Adrienne Isenhower, Planning Director
Ryan Vinson, Town Clerk / HR Analyst

Michael Saunders, Planner / Code Enforcement

Chairman Razza called the meeting to order at 6:31 p.m. and asked Angel to lead the invocation.

A. Approval of the Agenda

Chairman Razza edited the agenda to remove New Business #B as address was incorrect. Mr. Angel made a motion to approve the agenda. Ms. Stoker seconded the motion, which passed unanimously, 6-0.

B. Approval of the March 1st and April 5th Meeting Minutes

Chairman Razza postponed approving the minutes until the June meeting so they can be further reviewed since they were received on Friday. He stated a more thorough review was needed and clarification on a few points.

C. Public Forum

Chairman Razza applauded Ms. Lamb for coming back and spent time catching up and welcomed her back.

D. Old Business

a. Conditional Use Permit Hearing – Bluffs on River Bend (Richmond Hill)

- i. **Ron Sneed (Town Attorney)**: We left off from the last meeting during the hearing when Mr. Allen asked Ms. Lamb to recuse herself and she did. With only having five (5) members left, there is a mix of rules saying that a hearing for conditional use must be heard by six (6) members of the board and those 6 members must in attendance for the full hearing. Talked to Adrienne, Derek, John, and there are a couple problems, The Board has a duty to preform duty and are under an obligation to find a way, if possible, to complete hearing. The first possibility is that the missing board member could listen to videos to catch up on previous hearings and have the ability to question any previous witnesses, which is probably as close as we can get to following rules. The second option is that if all agree to continue as a Board of five (5), we can continue and complete hearing. The problem with that is that Mr. Noor does not represent everybody,

and some additional parties could potentially appeal the decision. The third option is that Mr. Allen could withdraw his request to have Ms. Lamb recuse herself.

- i. After speaking with some staff at the UNC School of Government, Fleming's Rule of Thumb – Rule of Necessity was mentioned. In short, it says if you cannot dress an entire board, you have a duty to still proceed. He stated the Court of Appeals could be a toss-up and we are trying to interpret rules as best we can. He explained he can present ideas, their attorneys can agree or disagree or offer suggestions, but the first option is most preferable.
- ii. Mr. Allen: I had a meeting trying to figure out a way through this procedurally. Is the option not available to bring someone up to speed? There is the option to proceed forward as is but have practical issues and narrowed big issues to a few. We are working through the storm water issue and will send response to Mr. Noor and company. We are trying to keep options open. My expectation from the meeting tonight was knowing whether there was going to be enough members, looking at continuing situation and have the Board make decision. Mr. Noor, myself, and engineers are moving forward with storm water issue.
- iii. Mr. Noor: We are all on same page, there are not enough people to proceed. Next question. Was a previous member able to get up to speed? Unsure if that is possible, can Adrienne clarify? Town is readjusting PZBOA to PB and BOA. The new board continue with this request or current Board see this issue through but request adequate time to get experts lined up and ready.
 - i. Continued disagreement about going forward with five (5) people, Supreme Court law to back up not going forward with five (5) people.
- iv. Mr. Allen: Finding a sixth (6th) member is easiest way to move forward.
- v. Chairman Razza: Ms. Hoffman would be sixth (6th) member and she is uncomfortable catching up by just watching videos.
 - i. Mr. Allen mentioned that she would be able to question witnesses. Do not think it is fair to wait on new Board that will have different rules.
 - ii. Ms. Hoffman: reiterated that she was not comfortable with playing catch up as not having sat through the previous meetings in person.
- vi. Mr. Noor: Commissioners could appoint another sixth (6th) member too? I believe the new board could get up to speed and handle.
- vii. Chairman Razza: We have been unable to get ahold of the second (2nd) alternate member.
- viii. Mr. Noor: I do not have consent to proceed with five (5) members. Reiterated Board of Commissioners can appoint sixth (6th) member and reminded everyone of the Commissioners meeting on May 18th to establish new board.
- ix. Chairman Razza asked Planning Director Isenhower her thoughts on if Board could/would appoint a 6th member before May 18th? She stated that she was unsure of the limited time available before May 18th to call a special meeting for that.
- x. Mr. Allen: Commented that there would be procedural issues with moving to a new Board(s).
- xi. Chairman Razza: What if we can find a sixth (6th) person?
 - i. Mr. Allen: Yes. Mr. Noor Maybe, the 18th is not a magical date, and unsure if it is feasible to get someone appointed and schedule hearing by the 18th.

Ms. Stoker made a motion to postpone this hearing until new board has been paneled. Mr. Angel seconded the motion, which passed 3-2.

- xii. Ms. Stoker: We continue until new board appointed?
- xiii. Mr. Sneed: The board just voted 3-2 to continue this assuming new Board of Adjustment will pick up the hearing once appointed. Anticipating that Board of Commissioners will go through with disbanding this body and creating two (2) new bodies. I suggest continuing to the June meeting so you would see what Board of Commissioners do with the Planning Boards.

Ms. Stoker made an amended motion to continue the meeting to June to see what Board of Commissioners does at their May 18th meeting. Chairman Razza seconded the motion, which passed unanimously, 5-0.

E. New Business:

- a. Conditional Use Permit Hearing – Allowing use of a kennel in the community shopping district for property located at 119 Weaverville Road and further identified by NCPIN#9731-73-0523.
 - i. Member Lamb recused herself as she is a neighbor to the building.
 - ii. Planning Director Isenhower summarized the proposed business.
 - i. It is a dog training facility, and it would be on the first floor of Go Store It, with no outside signage other than on the Go Store It sign, dogs would be inside. Summarized the applicable standards under zoning ordinance Sec. 54-255 and Sec. 54-256.
 - iii. Myles Alexander: The application is for dog kennel at bottom of Go Store It and will be a dog training facility on the first floor. There would be kennels inside as well for overnight training and the business would not use nor display anything on the outside of the building.
 - i. Chairman Razza swore in Myles Alexander.
 - iv. Mr. Alexander: The training facility would encompass about 3300 square feet or about 90% of first floor. The space would be split up in the three areas: 1/2 for reception and training, 1/4 for cleaning supplies, kitchen, and dog food, and lastly a 1/4 for 7 or 8 indoor kennels. Nothing located outside facility, except small sign on Go Store It sign. Maybe 6 dogs at a time and no outdoor kennels.
 - v. Ms. Hoffman: As a dog owner, I have questions and concerns about dogs being able to go outside and walk or exercise?
 - i. Mr. Alexander: It is not doggie daycare, but a training facility, and the dogs are onsite for 8-12 hours a day. They are walked by trainer to go outside for bathroom breaks, and it doubles for training purposes. Boarding would be ancillary training for some of dogs.
 - ii. Ms. Hoffman: Where would they be walked?
 - iii. Mr. Alexander: There is one (1) grassy area on each side of property.
 - vi. Ms. Lamb: Everything is basically inside?
 - i. Mr. Alexander: Yes.
 - vii. Ms. Lamb: Is there an attendant there overnight with dogs?
 - i. Mr. Alexander: I am not sure.
 - viii. Mr. Molling: What is the max caring capacity at a time?
 - i. Mr. Alexander: Due to requirements of kennels, eight (8) is max at a time.
 - ii. Mr. Molling: What about during the day?
 - iii. Mr. Alexander: I am not sure about during the day.
 - iv. Chairman Razza: Can we talk to him (the owner) to get the answer?
 - v. Mr. Alexander: He is not here nor available at the moment, but I will try to text him. I spoke with him, there would be a max of sixteen (16) dogs during the day.
 - ix. Ms. Stoker: Sixteen (16) is a lot of dogs, I have some concerns about odor and pet waste.
 - i. Mr. Alexander: The HVAC is above board, with exchanges and protocols, designed to accommodate this type of usage.
 - x. The board members reviewed a conditional use permit worksheet provided by staff and discussed the standards required for issuance of the permit. The following standards were discussed and voted upon.
 - i. Compliance with Conditional Use Standards
 1. The establishment, maintenance, or operation of the conditional use **will/will not** be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
 - a. Will not, 4-2. Mr. Hoffman & Ms. Stoker oppose

2. The conditional use **will/will not** be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted **and/or** substantially diminish and impair property values within the neighborhood.
 - a. Will not, 5-1, Ms. Stoker opposes
 3. The conditional use **will/will not** impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - a. Will not, 5-1, Ms. Stoker opposes
 4. The exterior architectural appeal and functional plan of any proposed structure **will/will not** be so at variance with the exterior architectural appeal and functional plan of the structures already constructed or with the character of the applicable district as to cause a substantial depreciation in the property values within the neighborhoods.
 - a. Not applicable
 5. Adequate utilities, access roads, drainage, and or other necessary facilities **have/have not** been or are being provided.
 - a. Not applicable
 6. Adequate measures **have/have not been** taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets.
 - a. Not applicable
- ii. Decision of Planning & Zoning Board of Adjustment
1. This application is recommended for approval subject to the following conditions:
 - a. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by this Board.
 - b. Prior to construction commencing, applicant shall ensure appropriate performance requirements are met with a surety bond or equivalent security (Mountain Village Multi-Use/Group Developments)
 - c. The conditional use shall conform to all applicable regulations of the district in which it is located.
 - d. If any of the conditions imposed or agreements made have not been or are not being fulfilled by the holder of the conditional use permit, a zoning violation shall be issued, and the permit shall be terminated.
- xi. Ms. Hoffman: Can we add a condition that says no more than sixteen (16) dogs?
- i. Chairman Razza: Yes, we could do that.
 - ii. Planning Director Isenhower: While you can add conditions on, it is hard to enforce, but they will have to adhere to what they said they will build.
- xii. A roll call vote was called to vote on the conditional use permit by Chairman Razza. Ms. Hoffman, Chairman Razza, Mr. Grimmet, Mr. Angel and Mr. Molling voted in favor of approving the conditional use permit, Ms. Stoker voted no, and the conditional use permit was approved 6-1.
- b. Ordinance Text Amendment Public Hearing – Presentation of recommended zoning and subdivision ordinance changes for compliance with 160D legislation.
- i. Planning Director Isenhower went over background of where 160D came from and that it consolidated zoning and subdivision ordinances and reorganizes into 1 chapter. She also stated that staff took opportunity to reorganize ordinances outside of 160D.
 - i. *The PowerPoint presentation that was presented is attached to these minutes.*
 - ii. Chairman Razza: Would you consider this an important issue? Planning Director Isenhower said yes it was important as changes must be approved by July 1st. Chairman Razza said, we only got

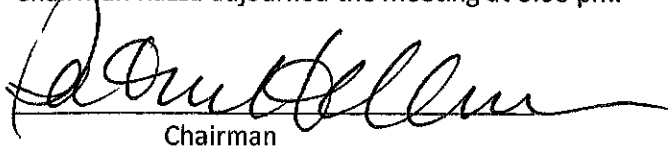
this on Friday, and he does not feel they have had had the appropriate amount of time to review.

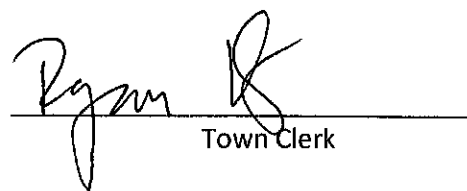
- iii. Ms. Lamb: Are these changes mandatory? Planning Director Isenhower said yes.
- iv. Chairman Razza: Again, we only got this on Friday, and he does not feel they have had had the appropriate amount of time to review. Planning Director Isenhower said she was working on July 1 deadline and that this has been mentioned before today's meeting. She mentioned that the UNC School of Government has approved/agreed with the changes.
- v. Chairman Razza: What about the entire month of June? Planning Director Isenhower said they could choose not to vote on the text amendment tonight if they did not want to.
- vi. Chairman Razza: Given its importance, couldn't we have had this done earlier and gone over it? Planning Director Isenhower offered her apologies as given the tight deadline there was not sufficient time to reconvene the entire Board.
- vii. Chairman Razza: Major decisions have been made about this Board based on the email we received on April 23. Planner Director Isenhower said that if he had these concerns, they could have talked about them before the meeting. Was under the impression everybody was on the same page.
- viii. Ms. Stoker: Great presentation, see ins and outs of the changes and updated.
- ix. Chairman Razza: I get that, but this is the first time we are seeing it. Timelines are disturbing.
- x. Ms. Lamb: Are the changes local or state? Planning Director Isenhower said it s a mixture of both.
- xi. Ms. Hoffman: Part of what you did was streamline info and make it easier for us to look through.
- xii. Planning Director Isenhower: The next step would be to work on the nuts-and-bolts decisions.
- xiii. Chairman Razza: I am still concerned about timeline. We are being asked to make a decision based on PowerPoint we are seeing for the first time tonight.
 - i. Ms. Hoffman, Ms. Stoker, Ms. Lamb, Mr. Grimmett, Mr. Angel and Mr. Molling commented they had no concerns or issues with the changes being brought forth today.
- xiv. Mr. Grimmet made a motion to recommend the ordinance changes for 160D legislation compliance to the Board of Commissioners. Ms. Stoker seconded the motion, which passed 5-2. Chairman Razza Mr. Molling voted against.

F. Adjournment:

Mr. Angel motioned to adjourn the meeting. Mr. Grimmet seconded the motion, which passed unanimously, 6-0.

Chairman Razza adjourned the meeting at 8:00 pm.


Chairman


Town Clerk