

**Town of Woodfin  
Planning Board  
Town Hall  
May 3, 2022  
6:00 P.M.**

**A. Call to Order**

1. Meeting Call to Order

**B. Approval of the Agenda**

**C. Approval of the Minutes from March 1, 2022**

**D. Public Comment**

*Everyone wishing to address the Board must sign up with the Town Clerk 15 minutes prior to the meeting. Each speaker will be recognized by the Chair when it is their time to be heard. Comments are limited to three minutes per speaker and the time allotted to public comment will be at the discretion of the Chair.*

**E. Old Business**

**F. New Business**

**Item 1: Public Hearing: Ordinance Text Amendments.** Review and recommendation of proposed amendments to Sections 54-10, 54-34 and 54-317 of the zoning ordinance and Section 46-81 of the subdivision ordinance.

**G. Adjournment**



## **DRAFT MEETING MINUTES**

### **Board Members Present**

Chairperson Jay Grimmett  
Member Dylan Dechant

Vice Chair Kimberly Hunter  
Member Glenda Overbeck

### **Board Members Absent**

Member Jeff Angel

### **Town Staff Present**

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

Penny Sams, Planner / Zoning Administrator

## **SIMULTANEOUS COMMUNICATION IN PERSON AT TOWN HALL AND STREAMED VIA ZOOM**

Chairperson Grimmett called the meeting to order at 6:02 p.m.

### **A. Approval of the Agenda**

Member Overbeck made a motion to approve the agenda. Member Dechant seconded the motion, which passed unanimously, 4-0.

### **B. Approval of the February 1, 2022, Regular Meeting Minutes**

Member Overbeck made a motion to approve the minutes. Member Dechant seconded the motion, which passed unanimously 4-0.

### **C. Public Comment**

*Everyone wishing to address the Board must sign up with the Town Clerk 15 minutes prior to the meeting. Each speaker will be recognized by the Chair when it is their time to be heard. Comments are limited to three minutes per speaker and the time allotted to public comment will be at the discretion of the Chair.*

### **D. New Business**

1. **Item 1: Rezoning**: The property is located at 99999 Elk Mountain Road, further identified by Buncombe County Parcel Identification Number 9730-73-4056. The request is to rezone the property from Community Shopping to R-7.

Planning Director Isenhower: The applicant is under contract to purchase the property located at 99999 Elk Mountain, further identified by Buncombe County Parcel Identification Number 9730-73-4056. The property owner has submitted written permission for the applicant to request this rezoning. The property is currently zoned Community Shopping and the district does not allow residential development. The applicant is interested in rezoning the property to R-7 to allow for single-family or two-family residential development. The properties adjacent to two sides of the property are currently zoned Community Shopping and are zoned R-7 on the other two sides.

Nazar Sadovnik: The property is located off of Locust and Mulberry St and all adjacent streets are zoned residential. I want to subdivide the property and build two single family homes.

Member Overbeck: What types of home and would you stay or sell the homes?

Nazar Sadovnik: Our intention is to build one to live in and sell one.

Member Overbeck: What would the house size be, such as the square footage?

Nazar Sadovnik: Most likely between 1700-1800 square feet. We love the Woodfin area and want to build a home here.

Member Overbeck: Do you know what the price – given the lack of affordable housing?

Nazar Sadovnik: Unsure due to market demands and inflation.

Chairperson Grimmett: Would both driveways be off of Locust Street?

Nazar Sadovnik: No, 1 would be on Mulberry Street, and 1 would be on Locust Street.

Ori Tuvia: The rest of the area are 1 story homes, will yours be 1 story?

Nazar Sadovnik: It would be either 1 or 1.5 story as the sloping lot would require basement. Lot on Mulberry Street would be 1 or 1.5 stories without basement.

Ori Tuvia: I live on Locust Street and sewer lines runs through property your property, are you aware of the easement?

Nazar Sadovnik: During our due diligence period, we saw the sewer lines, they are flagged. We did title search and there are no current easements on the property. We have been trying to locate, went back last 30 years, searching about the private sewer lines. I have to tap into sewer line at the bottom of property. If anything happens during construction, we wouldn't be responsible.

Ella Sadovnik: Who is benefiting from the private sewer lines? Want to get in touch to talk about the lines.

Ori Tuvia: Our house was built in 1960, the sewer line and former property owner had agreement. I have concerns if your construction is being built on sewer line.

Ella Sadovnik: Do you have a record of easement?

Ori Tuvia: I will check. I had to replace part of line a few years ago, had to get approval from previous owner of property.

Member Dechant made a motion to approve the rezoning request. Vice Chair Hunter seconded the motion, which passed unanimously, 4-0.

## **E. Adjournment**

Member Dechant made a motion to adjourn the meeting. Vice Chair Hunter seconded the motion, which passed unanimously, 4-0.

Chairperson Grimmett adjourned the meeting at 6:17 pm.

---

Jay Grimmett  
PB Chairperson

Attest: \_\_\_\_\_  
Ryan Vinson  
Town Clerk



## Staff Report

Agenda title: Zoning and Subdivision Ordinance Amendments

Presenter: Adrienne Isenhower

Meeting Date: May 1, 2022

---

Staff is recommending various changes to the zoning and subdivision ordinance to provide clarification on submittals for development approvals. An amendment to the fence regulations is also proposed. A summary of the amendments is provided below.

1. ZONING ORDINANCE: Section 54-10 Definitions
  - Add a definition for Application to provide a description of necessary documentation for development permit submittals.
2. ZONING ORDINANCE: Section 54-34 Certificate of Zoning Compliance
  - Add language to this section to prohibit land disturbing activity from taking place prior to issuance of a zoning permit.
3. ZONING ORDINANCE: Section 54-317 Fences, retaining walls.
  - Increase fence height limitation from 6 feet to 8 feet
4. SUBDIVISION ORDINANCE: Section 46-81 Final Plat Submission and Review
  - *Throughout text:* Remove language requiring final plat approval to follow same procedures as preliminary plat; final plat approval is administrative unless changes are made to plan after initial approval.
  - *Sec. 46-81 (b)(1):* Consolidate language regarding estimated cost requirements for performance guarantees. Previously, the language was located in several different provisions.
  - *Sec. 46-81 (b)(1)(b-c)* Divide Letter of Credit and Cash into two separate options for performance guarantees
  - *Sec. 46-81(c)(7 & 14)* Remove required certificate language as that language is provided in other regulation. We will add the required certificate for the Town of Woodfin on our checklist for major subdivisions.

## **ZONING ORDINANCE AMENDMENTS**

### Sec. 54-10. Definitions.

*Application* means any development application submitted to the Town of Woodfin for approval of a permit, site plan, certificate or any other authorization required for development and includes all forms, site plans and building plans as required by the Town of Woodfin

### Sec. 54-34. Certificate of zoning compliance.

No building, sign or other structure shall be erected, moved, added to, or structurally altered, nor shall any land disturbing activity, including clearing and grubbing of trees and other vegetation for the construction of any building be initiated until an application for a zoning compliance permit is approved by the zoning administrator and a zoning compliance permit is issued. No zoning compliance permit shall be issued except in conformity with the provisions of this chapter. All applications for a zoning compliance permit shall be accompanied by two sets of plans showing the dimensions and shade of the parcel to be built upon, the exact sizes, uses, and location of the parcel or buildings already existing, if any, and the locations and dimensions of the proposed building or alterations. The application shall include such other information as may be necessary to determine conformance with and provide for the enforcement of this article. An application fee shall be charged for processing of each such application. Prior to issuance of a certificate of zoning compliance, the zoning administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this chapter. Zoning compliance permits, and all other development permits are valid for 12 months from the date of issuance.

(Ord. of 5-18-2021)

### Sec. 54-317. Fences, retaining walls.

In any residential district fences or walls may be erected in a required rear or side yard adjacent to a side lot line, provided such wall does not exceed six feet in height and such fence does not exceed six-eight feet in height. For retaining walls, the height limitations specified herein shall apply only to the height above the top of the soil retained by such wall. In addition, all fences shall be erected and maintained in accordance with the following requirements and restrictions:

- (1) Inside the property lines and shall not encroach upon a public right-of-way;
- (2) In a safe, sound and upright condition, and present a uniform appearance;
- (3) Such that all supporting members of a fence shall be located on the inside of the fence, and if erected or maintained along or adjacent to a property line, the supporting members of the fence shall face the principal portion of the tract of land of the property upon which the fence is erected or maintained. The finished side of fences and walls shall face adjacent properties;
- (4) No fence shall block the vision from any street, roadway, and/or driveway; nor shall it be erected or maintained in such a fashion as to present a hazard to life or property regardless of the height, material, construction and/or location.

(Ord. of 5-18-2021)

## SUBDIVISION ORDINANCE AMENDMENTS

### Sec. 46-81. Final plat submission and review.

- (a) *Preparation of final plat and installation of improvements.* Upon approval of the preliminary plat by the board of commissioners, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this article. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this article or guaranteed their installation as provided herein. ~~No final plat will be accepted for review by the planning board or the board of commissioners unless accompanied by written notice by the subdivision administrator acknowledging compliance with the improvement and guarantee standards of this article.~~
- (b) *Performance guarantees.*
- (1) *Agreement and security required.* In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the town may enter into an agreement with the subdivider whereby the subdivider shall complete all required improvements. Once the surety is accepted agreement is signed by both parties and the security required herein is provided, the final plat may be approved if all other requirements of this article are met. To secure this agreement, the subdivider shall provide ~~any, or a combination~~one of the following guarantees sufficient to cover the costs of the uncompleted improvements, but not to exceed 125 percent of the entire estimated cost, as estimated by a licensed engineer and approved by the town.
- a. *Surety bond.* The subdivider shall obtain a surety bond from a surety bonding company authorized to do business in the state. The bond shall be payable to the town and ~~shall be in an amount sufficient to cover the entire cost of completing all required improvements, but not to exceed 125 percent of the entire estimated cost, as estimated by the subdivider and approved by the board of commissioners.~~ The duration of the bond shall be until such time as the improvements are accepted by the board of commissioners. Town.
- b. *Letter of credit.* The subdivider shall deposit cash, obtain an irrevocable letter of credit ~~or other instrument readily convertible into cash at face value, either with the town or in escrow with from~~ a financial institution authorized to do business in the state. ~~The letter of credit shall be payable to the town and the duration of the letter of credit shall be until such time as the improvements are accepted by the town.~~ The use of any instrument other than cash shall be subject to the approval of the board of commissioners. The amount of deposit shall be equal sufficient to cover the entire cost of completing all requirement improvements, not to exceed 125 percent of the entire estimated cost, as estimated by the subdivider and approved by the board of commissioners.
- c. *Cash.* The subdivider may deposit cash in escrow with a financial institution authorized to do business in the state.
- In addition, the subdivider shall file with the town with the board of commissioners an agreement between the financial institution and the subdivider himself guaranteeing the following:
- (i) That the escrow account shall be held in trust until released by the ~~board of commissioners~~ Town and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and
- (ii) That in the case of a failure on the part of the subdivider to complete the improvements, the financial institution shall, upon notification by the ~~board of commissioners~~ Town and submission ~~of by the board of commissioners~~ to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to

the town the funds estimated to complete the improvement, up to the full balance of the escrow account, or deliver to the town any other instruments fully endorsed or otherwise made payable in full to the town.

- (2) *Default.* Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, the surety or the financial institution holding the escrow account shall, ~~if requested by the board of commissioners,~~ pay all or any portion of the bond or escrow fund to the town up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the board of commissioners, in its discretion, may expend such portion of the funds as it deems necessary to complete all or any portion of the required improvements.
  - (3) *Release of guarantee of security/surety.* The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the ~~t~~Town board of commissioners that the improvements for which the performance guarantee ~~is~~isn being required are complete. If the improvements are not complete and the current performance guarantee is expiring, it shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. A subdivider shall demonstrate, reasonable, good-faith progress toward completion of the required improvements.
- (c) *Submission procedure.*
- ~~(1) The subdivider shall submit the final plat, so marked, to the subdivision administrator not less than 21 days prior to the planning board meeting at which it will be reviewed; further, the final plat for the first stage of the subdivision shall be submitted not more than six months after the date on which the preliminary plat was approved; otherwise, such approval shall be null and void, unless a written extension of this limit is granted by the board of commissioners on or before the six month anniversary of the approval.~~
  - ~~(2) The subdivider shall submit the final plat shall be prepared by a registered land surveyor currently licensed and registered in the state by the state board of registration for professional engineers and land surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30, and the Manual of Practice for Land Surveying in North Carolina, the requirements of the county register of deeds, and the requirements of the town.~~
  - (3) Final plats may be submitted electronically for review and approval. If submitted a hard copy, two Five copies of the final plat shall be submitted; ~~two of these shall be on reproducible material; three shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the county register of deeds.~~
  - ~~(4) The final plat shall be of a size suitable for recording with the county register of deeds and shall be at a scale of not less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.~~
  - (5) Submission of the final pat shall be accompanied by a filing fee as established by the board of commissioners.
  - (6) The final plat shall meet the specifications in sections 46-81 and 46-82.
  - ~~(7) The following signed certificates shall appear on all five copies of the final plat:
    - a. *Certificate of ownership and dedication.*

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Woodfin, North Carolina and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted.~~

Date: \_\_\_\_\_ Owners: \_\_\_\_\_

~~b. Certificate of survey and accuracy.~~

~~1. In accordance with the Manual of Practice for Land Surveying in North Carolina:~~

~~On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgements and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source on information.~~

~~2. The certificate shall take the following general form:~~

~~I, \_\_\_\_\_, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, Book \_\_\_\_\_, Page \_\_\_\_\_, etc.) (other); that the ration of precision as calculated by latitudes and departure is 1: \_\_\_\_\_, (that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number, and seal this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_.~~

~~Surveyor: \_\_\_\_\_~~

~~Seal or Stamp~~

~~Registration Number: \_\_\_\_\_~~

~~3. The certificate of the notary shall read as follows:~~

~~North Carolina, \_\_\_\_\_ County.~~

~~I, A Notary Public of the County and State aforesaid, certify that \_\_\_\_\_, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.~~

~~Notary Public: \_\_\_\_\_~~

~~Seal or Stamp~~

~~My commission expires \_\_\_\_\_.~~

~~c. Certificate of approval of the design and installation of streets, utilities, and other required improvements.~~

~~I hereby certify that all streets, utilities, and other required improvements have been installed in an acceptable manner and according to town specifications and standards in the \_\_\_\_\_ Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the town has been received, and that the filing fee for this plat, has been paid, as such fee is established by the Board of Commissioners.~~

- (8) The ~~planning boards~~ subdivision administrator shall review the final plat at or before its next regularly scheduled meeting which follows at least 21 days after the subdivision administrator receives the final plat and shall recommend approval, conditional approval with modifications to bring the plat into compliance or disapproval of the final plat with reasons within ~~60~~30 days of its first consideration of the plat.



- (9) ~~During its review of the final plat, the planning board may appoint a registered land surveyor to confirm the accuracy of the final plat if agreed to by the board of commissioners. If errors are found, the plat shall not be recommended for approval until such errors have been corrected.~~
- (10) ~~If the planning board recommends approval of the final plat, it shall transmit all copies of the plat and its written recommendations to the board of commissioners through the subdivision administrator.~~
- (11) ~~If the planning board recommends disapproval of the final plat, it shall instruct the subdivider concerning resubmission of revised plat and the subdivider may make such changes as will bring the plat into compliance with the provisions of this article and resubmit the same for reconsideration by the planning board, or appeal the decision to the board of commissioners.~~
- (12) ~~Failure of the planning board to make a written recommendation within 60 days shall constitute grounds for the subdivider to apply to the board of commissioners for approval.~~
- (13) ~~If the planning board recommends approval or conditional approval with modifications to bring the plat into compliance, or the subdivider appeals to the board of commissioners, the board of commissioners shall review and approve or disapprove the final plat within 30 days after the plat and recommendations of the planning board have been received by the subdivision administrator.~~
- (14) ~~If the board of commissioners approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:~~

~~Certificate of Approval for Recording~~

~~I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Woodfin, North Carolina and that this plat has been approved by the Board of Commissioners of the Town of Woodfin for recording in the Office of the Register of Deeds of Buncombe County.~~

~~Town Clerk: \_\_\_\_\_ Date: \_\_\_\_\_~~

~~\_\_\_\_\_, North Carolina~~

- (15) ~~If the final plat is disapproved by the board of commissioners, the reasons for such disapproval shall be stated in writing, specifying the provisions of this article with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the board of commissioners as part of its proceedings; one copy of the reasons and three copies of the plat shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance and resubmit the same for reconsideration by the planning board and the board of commissioners or by the board of commissioners as determined by the board of commissioners.~~
- (16) ~~If the final plat is approved by the board of commissioners, the original tracing and one print of the plat shall be retained by the subdivider. One reproducible tracing and one print shall be filed with the town clerk, and one print shall be returned to the planning board for its records.~~
- (17) ~~The subdivider shall file the approved final plat with the register of deeds of the county within ten thirty days of the board of commissioners' approval; otherwise, such approval shall be null and void.~~

(Ord. of 5-18-2021)



**WRITTEN STATEMENT OF THE TOWN OF WOODFIN  
PLANNING AND ZONING BOARD OF ADJUSTMENT  
TO  
TOWN OF WOODFIN BOARD OF COMMISSIONERS**

Having reviewed the **Text Amendments** of the Town of Woodfin Code of Ordinances for amendments to the following sections of the zoning ordinance and subdivision ordinance: 54-10. Definitions, 54-34. Certificate of Zoning Compliance, 54-317. Fences, Retaining Walls, 46-81. Final Plat Submission and Review, and having considered information from the planning staff of the Town of Woodfin and comments from other persons, pursuant to 160D-604(d), the Town of Woodfin Planning Board hereby adopts on of the following motions, effective May 3, 2022:

- (A) \_\_\_\_\_ Motion to adopt the following resolution: RESOLVED, that the Town of Woodfin Planning Board finds the proposed text amendment is consistent with the Town of Woodfin comprehensive plan. The following reasons and other matters were considered in the deliberations of the Town of Woodfin Planning Board with respect to this motion:
1. The proposed text amendment is reasonable considering the potential benefits to development of the Town of Woodfin and surrounding community; and
  2. The proposed text amendment advances the public health, safety, and welfare of the Town of Woodfin, and;
- (B) \_\_\_\_\_ Motion to adopt the following resolution: RESOLVED, that the Town of Woodfin Planning Board hereby finds that the proposed text amendments are not consistent with the Town of Woodfin comprehensive plan.

---

Chair

---

Date