

Town of Weaverville  
Planning and Zoning Board  
Minutes – Thursday, December 7, 2017

The Planning and Zoning Board of the Town of Weaverville met for a regularly scheduled monthly meeting at 5:45pm on Thursday, December 7, 2017 within the Weaverville Fire Department training room.

Present: Chairman Doug Theroux, Vice-Chairman Gary Burge, Board Members Catherine Cordell and Peter Stanz, Alternate Board Member John Chase, Town Attorney Jennifer Jackson and Planning Director James Eller. Absent: Alternate Board Member Steve Warren.

**1. Call to Order.**

Chairman Doug Theroux called the meeting to order at 5:45 pm.

Chairman Theroux called for a moment of silence in observance of Pearl Harbor Day.

**2. Approval of the Minutes from the October 3 and November 7, 2017 Meetings of the Board.**

Mr. Stanz motioned to approve the minutes as presented. Ms. Osborne seconded and all voted unanimously.

**3. Discussion Related to a Final Plat for a Major Subdivision Commonly Known as Greenwood Park Phase One and the Hamlet Phase One, a Portion of Reems Creek Village.**

Mr. Eller reviewed his previous findings from November related to the two aforementioned final plats:

- Title block of the final plat for The Hamlet should reflect that the Hamlet is a part of the Reems Creek Village subdivision as per Town Councils approval of the preliminary plat for same on Monday, February 23, 2015.
- The road maintenance agreement for Greenwood park should be crafted should one not presently exist and recorded.
- The road maintenance agreement for Reems Creek Village should be amended and recorded to include the lots created by the Hamlet portion of Reems Creek Village.
- The temporary t-turnaround shown on the proposed final plat for Greenwood park should be paved as per the Fire Marshal and shown as same on the final plat.
- Due to the road construction occurring outside the requisite supervision of the Town's Public Works Department, in order to ensure that the portion of Al Dorf Drive which extends into Greenwood Park phase 1 has been built to the Town's standards, the construction standards will need to be verified by a professional engineer who oversaw the construction and performed testing. In the alternative an engineer must test the soil and pavement compaction and depth by taking core borings to determine pavement, stone and soil compaction and depth at 100 foot intervals or 50 foot intervals should the test not reveal proper construction, with a report of same being presented to the Town.

- A verification from MSD will need to be submitted ensuring that individual sewer taps are available to each lot shown on each plat.
- The water line extending into Greenwood Park phase one has not been accepted by Town Council and is therefore not eligible to be utilized. Waterline easement documents should be executed and recorded in conjunction with Town Council's acceptance of the line into the municipal water system. Town Attorney Jennifer Jackson will need to be involved in the preparation of these documents. Additionally, at the direction of the Public Works Director, two clear water samples (bacteriological testing) will be required prior to the activation of the line in order to ensure that bacteria regrowth has not occurred.
- A notation should be made on both plats that dedications to the Town are subject to the acceptance of Town Council.
- A reminder that on January 25, 2016, Town Council required lot 101 to be removed from Greenwood Park (which has been done on the plat you presented) and added to Reems Creek Village. The plat to accomplish this has been completed, see attached. It just needs to be re-labeled as a final plat and I am prepared to obtain Town signatures quickly so that you can get it recorded. Please let me know how I can help move this along.

Mr. Eller noted that there is a concern related to the plats being labeled as both preliminary and final. Mr. Dorf noted that the t-turnaround was completed after submittal deadline and therefore the preliminary stamp remained.

Mr. Burge asked if each item on the list had been satisfied. Ms. Jackson commented on the sequencing of plat recordation and noted that the bacteriological testing could be done after plat recordation.

Mr. Theroux noted that some items, specifically the sewer easement plat and engineering report, were submitted after deadline and therefore the Board didn't have sufficient time to review same. Additionally the road maintenance agreements made requisite at the Board's last meeting and review were not made available for review.

Mr. Dorf noted that the sewer easement had been recorded and, therefore, shouldn't be considered a deficiency. Mr. Dorf also asked that the revisions of the two plats be made a condition placed upon the recommendation to Town Council.

Mr. Theroux noted that on the final plat for the Hamlet there was a statement related to the changing of property lines and corners and that such a statement and action should not be on a final plat. Ms. Osborne also stated that the plats were not sufficient.

Mr. Eller noted that the applicant had not in any way worked with staff regarding the application and the changes suggested by the Board at the previous month's meeting.

Ms. Cordell asked if the application should have been rejected without presentation to the Board. Mr. Eller clarified that the applicant could hold the position that a complete final plat application had been submitted and that the additional material requested by the Board during last month's meeting were to be treated as a supplement to same.

Mr. Chase noted that the professional land surveyor was not in a position to sign off and qualify the plats as final and therefore the Board should hold the same position.

Mr. Theroux highly recommended that the applicant meet with staff in advance of the next meeting of the Board and instructed staff to compile a list of items to be presented at next month's meeting.

Ms. Osborne made a motion to table the plats until the next meeting and Mr. Burge seconded. A lengthy discussion occurred related to the procedure for a tabled application and an application denial. Ultimately consensus was achieved to deny the application and the previous motion was withdrawn without objected.

**4. Consideration of a Motion Establishing a Recommendation to Town Council or Ruling on the Major Subdivision Final Plat for Greenwood Park Phase One.**

Mr. Theroux noted that he would suggest a motion to disapprove the applications and plats as submitted and for the applicant to consider the staff report and items discussed as instruction for revision, resubmittal and reconsideration.

Ms. Osborne made such a motion for the application and final plat of Greenwood Park Phase One. Mr. Burge seconded and all voted unanimously.

**5. Consideration of a Motion Establishing a Recommendation to Town Council or Ruling on the Major Subdivision Final Plat for the Hamlet Phase One, a Portion of Reems Creek Village.**

Mr. Theroux noted that he would suggest a motion to disapprove the applications and plats as submitted and for the applicant to consider the staff report and items discussed as instruction for revision, resubmittal and reconsideration.

Ms. Osborne made such a motion for the application and final plat of The Hamlet Phase One, a portion of Reems Creek Village. Mr. Burge seconded and all voted unanimously.

**6. Discussion Related to a Proposed Amendment of Code Related to the Prohibition of Storage or Shipping Containers as an Accessory Structure within Residentially Zoned Districts.**

Mr. Eller distributed to the Board photographs and maps related to the topic of conversation. Ms. Jackson described North Carolina statutory limitations which prohibit any local jurisdiction from legislating residential design standards. North Carolina General Statute 160A-381 establishes the following:

A jurisdiction MAY NOT regulate:

1. Exterior building color;
2. Type or style of exterior cladding material;
3. Style or materials of roofs and porches;
4. Exterior nonstructural architectural ornamentation;
5. Location or architectural styling of windows and doors, including garage doors
6. Location of rooms; or
7. Interior layout of rooms

A jurisdiction MAY regulate:

1. Height, bulk, orientation and location of structure on lot;

2. Use of buffering or screening to minimize visual impacts, to mitigate light or noise, or protect privacy of neighbors; and
3. Regulations governing permitted uses of land or structures

Mr. Eller noted that the structure which began this conversation had been appropriately permitted by the Town and that due to the aforementioned statutory limitations the Town was not in a position to deny such a permit request.

Ms. Jackson stated that the Board should keep in mind that any rules governing this particular structure would be applicable to all other accessory structures in town.

Mr. Eller stated that due to the configuration of the lots in the area, the accessory structure was placed as required by ordinance and that the backyard of the subject property was adjacent to the front yard of other homes. Mr. Eller noted that buffering requirements in this regard would not be applicable as the aforementioned lots are not adjacent and that such buffering requirements for accessory structures placed in the rear yard with an adjacent front yard would be detrimental to the properties along Church and Moore Streets.

Mr. Burge inquired as to the ability to limit the size of accessory structures. Mr. Eller responded that you may, but if the intent is to prohibit the storage container you would also by extension prohibit any detached two car garage.

Mr. Theroux noted that the Board should be cognizant of other problems which may be created in response to one particular occurrence or property.

Ms. Jackson noted that as a Dillon's Rule state the Town may only exercise the authority that the state allows.

Mr. Stanz acknowledged the difficulties presented by these particular statutory limitations and inquired if the Town was involved with an organization who could lobby state issues on their behalf. Ms. Jackson responded and described the League of Municipalities.

Mr. Eller noted that this information was meant to be an introduction to the topic and due to the complexities of the issue he did not foresee the Board being able to make a recommendation to Council at the present meeting.

Ms. Cordell asked if the Board or Council could consider a moratorium on this particular use. Ms. Jackson noted that statutorily moratoriums could not be placed on residential development.

## **7. Consideration of a Motion Establishing a Recommendation to Town Council Related to the Aforementioned Proposed Revision of Code.**

Mr. Theroux expressed his desire to discuss the issue further before making a recommendation to Council. No motion was made regarding a recommendation to Council but consensus was achieved that more time would be needed to research the issue and develop a possible solution.

## **8. Any Other Business to Come Before the Board.**

Mr. Eller noted that a schedule of meetings for 2018 had been included in the Board packet. Mr. Stanz motioned to adopt the schedule of regular meetings of the Planning and Zoning Board for 2018 as presented. Ms. Cordell seconded and all voted unanimously.

**9. Adjournment.**

Ms. Osborne motioned to adjourn. Ms. Cordell seconded and all voted unanimously.

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**Doug Theroux, Chairman  
Planning and Zoning Board**

**ATTEST:**

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**James W. Eller  
Planning Director / Deputy Town Clerk**