

**PLANNING COMMISSION
WORK SESSION
MINUTES
NOVEMBER 15, 2007
5:00 p.m.**

The Planning Commission of the Town of Rocky Mount, Virginia met at the Rocky Mount Municipal Building on Thursday, November 15, 2007 at 5:00 p.m. with Madame Chair Janet Stockton presiding.

The following members were present:

Madame Chair Janet Stockton, Vice Chair John Speidel, Planning Commission Members Derwin Hall, John Tiggle, Milton Arrington, and Ina Clements; Assistant Town Manager/Community Development Director Matthew C. Hankins, Planning and Zoning Administrator Paul Stockwell, Council Member John Lester, and Deputy Clerk Stacey B. Sink.

Let the record show that Planning Commission Member Jerry W. Greer, Sr. was not present.

APPROVAL OF AGENDA

Let the record show that there was no discussion regarding the work session agenda, and no motion was made regarding the agenda.

WORK SESSION

Let the record show that the following two work sessions were open to the public.

1) **Nonconformities Regulations**

Let the record show that prior to the meeting, the Planning Commission Members received, in writing, the proposed changes to Article 13 of the Town of Rocky Mount Zoning and Development Ordinance regarding Nonconformities.

The Planning and Zoning Administrator opened the floor to discussion by stating that the need to review the Nonconformities Regulations was brought to him by a Rocky Mount Town Council Member because the Town's current regulations do not take into consideration if a house is completely burned or destroyed. With the new proposed amendments, the property owner would have the option of either building to current zoning regulations or to the existing setbacks that are characteristic of the neighborhood.

For the purposes of clarification, let the record show that **Articles 13-6. Nonconforming Lots** and **13-7-3. Restoration or replacement** are proposed to be amended to read as follows:

13-6. Nonconforming lots

Any lot of record at the time of the adoption of this ordinance or which is less in area, frontage, or width than the minimum by this ordinance may be used in accordance with the following provisions. These provisions shall be looked by the zoning administrator progressively starting with A to determine the appropriate course of action.

- A) An accessory structure may be built or expanded provided all setbacks, side and rear yard requirements are met.*
- B) The lot of record may be used if it contains at least 80 percent of the required frontage, lot width, and area and the remaining setbacks, side and rear yard requirements can be met, except that the front setback requirement shall be no greater than the average of the adjoining lots' that front on the same street existing structure setbacks.*
- C) If the lot of record can not meet A or B above, a lot shall be combined or re-subdivided with an adjoining lot of similar ownership to create a legally conforming lot.*
- D) A lot of record without road frontage shall contain at least 80 percent of the required lot width and area, the remaining setbacks, side and rear yard requirements shall be met, and there shall be a legally recorded access easement.*
- E) If the lot of record can not meet A, B, C, or D above, a lot may be combined or re-subdivided with an adjoining lot of different ownership to create a legally conforming lot given a reasonable offer.*
- F) If the lot of record can not meet A, B, C, D, or E above, a lot may be used when the requirements of the board of zoning appeals regarding setbacks, side and rear yards, and legal access are met, except that the front setback requirement shall be no greater than the average of the adjoining lots' that front on the same street existing structure setbacks.*

13-7-3. Restoration or Replacement

Where a conforming structure devoted to a nonconforming use is damaged less than 50 percent of the cost of reconstructing the entire structure, or where a nonconforming structure is damaged less than 75 percent of the cost of reconstructing the entire structure, either may be replaced or restored, provided any such

repair or restoration is started within 12 months and completed within 18 months from the date of damage. In determining the question of whether a structure has been damaged to over 50 or 75 percent of the value of the structure, the following procedure shall be followed:

- A) The zoning administrator shall inspect the structure, if so permitted. The zoning administrator, using recognized procedures and standards in that profession, shall determine, if possible, whether or not the structure has been damaged to 50 or 75 percent of the value of the structure.*
- B) If the zoning administrator may not be able to make such determination without further information from the owner of the structure, the administrator will request from the owner a scope of work and estimated cost of repair, prepared by a general contractor, and a copy of any contract for the repairs between the owner and general contractor. The zoning administrator shall compare the cost of repair with the assessed value of the structure, to determine if the structure has been destroyed by more than 50 or 75 percent of the value of the structure.*
- C) If the zoning administrator is unable to make the determination as to whether a structure has been damaged to over 50 or 75 percent of its value, the administrator shall use the best available information to make this determination.*
- D) The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.*

Discussion ensued between the Planning and Zoning Administrator, Planning Commission Members, Council Member Lester, and the Assistant Town Manager regarding the following points of interest:

- Under Article 13-6, item F, “the requirements of the board of zoning appeals...” indicates that the property owner would have to go before the board of zoning appeals and the board of zoning appeals could impose specific requirements for building on a substandard lot, such as the designation of setbacks.
- What are the “standards” recognized by the planning profession referenced under 13-7-3, item A? Does the Planning and Zoning Administrator’s occupation have such standards? Is this a vague statement?
- The Planning and Zoning Administrator questioned if 13-7-3, item B, should be moved to A, so that the value of estimated work is the standard used for making a determination, with Madame Chair Stockton indicating that she would like to keep item A, but removed the phrase “using recognized

procedures and standards in that profession.” The Planning and Zoning Administrator indicated the phrase “with aid from the building official” could be added in place of the removed phrase.

- Would property owners who are also general contractors be allowed to estimate their own damages, or would third party contractors be required? For example, an owner who is a general contractor would be able to forgo adding the cost of labor into the estimated cost of repair.
- The Planning and Zoning Administrator confirmed to the Planning Commission that if the requirements, as set forth for the Planning and Zoning Administrator to use in making a decision, are not met, then the request would have to be appealed to the Board of Zoning Appeals for a decision. In addition, the main purpose in amending these regulations is so that if a property owner wants to build on a substandard lot, the property owner will not have to come before the Board of Zoning Appeals every time. The Planning and Zoning Administrator could look at the specific requirements and possibly issue a permit based on the requirements. The Planning and Zoning Administrator also gave an example of how this might be useful, indicating that he currently has a property owner that wishes to build a shed on his property; however, the current lot width is only 95 feet. The current ordinance says that it must be 100 feet, so the property owner must go before the Board of Zoning Appeals for approval.
- Planning Commission Member Hall stated that even though the lot is non-conforming, it could still affect adjoining property owners, and questioned if this would prevent adjoining property owners from having the public hearing option. The Planning and Zoning Administrator confirmed to the Planning Commission that this should not affect the adjoining property owners because the setback requirements would be met.
- The Planning and Zoning Administrator advised the Planning Commission that the “80 percent” identified in Article 13-6, item B, can be changed at the Planning Commission’s discretion, and it can be made more or less, based on what the Planning Commission feels would be a useful percentage. For example, with the “80 percent” requirement, a property owner could get a permit for a lot that is 80 feet in width (when the ordinance requires 100 feet) as long as the property meets the setback requirements, without going before the Board of Zoning Appeals. The Planning and Zoning Administrator further explained that this would not apply to new lots, but instead would only apply to lots that are already on record. The “80 percent” is a standard that is used in other localities and if the percentage is lowered, then it will be more likely that the property owner will be able to use the property; conversely, if the percentage is increased, then it will be less likely. The Planning and Zoning Administrator is trying to strike a balance.

- The Planning and Zoning Administrator confirmed to the Planning Commission that he is not trying to eliminate the appeals process, but is instead attempting to make the process easier for property owners who are close to meeting the requirements. An example of who this would benefit, would be a property owner that wishes to add to an existing structure, which may or may not be considered a hardship for the purposes of the Board of Zoning Appeals.
- Vice Chair Speidel questioned if it is possible that changing the ordinance will make it too easy to get around the requirements of the ordinance, thereby diminishing the importance of the ordinance, with the Planning and Zoning Administrator confirming that there would still be specific requirements like setbacks, and rear yards, which would have to be met. In older towns, such as Rocky Mount, there are a lot of non-conforming lots, and the Planning and Zoning Administrator thinks it would be good for the property owners to be able to make an addition without it having to be considered a hardship. A house burning down would be considered a hardship, but most likely adding a room would not be considered a hardship.
- The Planning and Zoning Administrator confirmed that these regulations will only apply to substandard lots in regards to area and lot width.
- It was the consensus of the Planning Commission Members present that the wording used should be consistent throughout the article.
- Vice Chair Speidel questioned the meaning of Article 13-7-1, with respect to the statement regarding the “average of the adjoining lots” which reads as follows:

13-7-1. Restoration or Replacement

If a nonconforming activity is destroyed or damaged to the extent that the cost of restoration of its condition before the occurrence shall exceed 50 percent of the cost of reconstructing the entire activity or structure, it shall be restored only if such use complies with the requirements of this ordinance, except that the front setback requirement shall be no greater than the average of the adjoining lots' that front on the same street existing structure setbacks.

- The Planning and Zoning Administrator came forward and drew a brief sketch which illustrated the meaning of the “average of adjoining lots,” showing three lots all in a row, with the middle lot setback being no greater than the average of the two neighboring lots. The sketch also illustrated how a corner lot could follow different setback requirements based on the way the house is faced.

- Council Member Lester stated that these proposed regulations will give the landowner more rights by giving the landowner a range to use in making a decision. It prevents the landowner from being penalized by a pre-existing condition that the landowner had no control over.
- Planning Commission Member Hall stated that he feels these types of exceptions are what the Board of Zoning Appeals is for, with Council Member Lester stating that the landowner must pay between two hundred and three hundred dollars to go before the Board of Zoning Appeals.
- The Planning and Zoning Administrator explained that if a house, built at a setback of 25 feet, is destroyed, the property owner would have to come before the Board of Zoning Appeals to build the house back at its previous location, because the current regulation requires a setback of 35 feet. In addition, the Planning and Zoning Administrator thinks that the current 35 feet setback requirement is to allow the Town the opportunity to add things like cul-de-sacs without significantly affecting existing houses.
- Planning Commission Members Clements and Stockton agreed that the homeowner should be allowed to build back in the same location.
- The Assistant Town Manager advised the Planning Commission that they could approach this with a broader view of the neighborhood character, by considering all lots within 500 feet (for example) instead of three contiguous lots. He also stated that the Town is looking for the Planning Commission's guidance to modernize the Town's way of looking at nonconformities.
- Vice Chair Speidel questioned if there is a time frame for making these decisions, with the Planning and Zoning Administrator confirming that there is no specific time period and offering to provide the Planning Commission with some practical non-conforming examples, as well as a site-visit.

There being no further discussion, it was the consensus of the Planning Commission to continue the discussion to a later date, pending a site visit and practical examples.

2) Pigg River Heritage Area Interpretive Plan and Trail Master Plan

The Planning and Zoning Administrator brought before the Planning Commission the following list of questions and comments that resulted from a public input session regarding the proposed Pigg River Heritage Trail Master Plan which was held at the Franklin County Library, in Rocky Mount, Virginia on Tuesday, November 13, 2007:

- Trail will be dawn to dusk use only.

- Work with the Department of Game and Inland Fisheries to stock trout in section of river adjacent to planned trail.
- Locked gate during the night where trails enter/exit private property.
- Who has liability for injuries?
- Dogs should be kept on a leash
- A few revisions to trail route. Will update map to reflect comments – Master Plan map is “concept only” and may be changed to reflect desires of property owners.
- Property values?
- Tax credits?
- Who is responsible for maintenance?
- Trail will not be lit (to discourage use after dark).
- Public safety enforcement? Will be enforced as trespassing after dark.
- Private animals (i.e. horses and dogs) kept off trail by fence or other barrier.

The Planning and Zoning Administrator further advised the Planning Commission that approximately fifteen (15) citizens attended the public input session and most of them think that if done correctly the Trail will be an asset to the community. In addition, there was no out-right opposition to the Trail expressed at the meeting, and it is his hope that the Planning Commission will consider proceeding with a public hearing in December so the Historic Resources Interpretive Plan of the Pigg River Heritage Area and the Pigg River Heritage Trail Master Plan can be officially adopted. Once adopted, the Town can begin to seek grant funding for the project.

Discussion ensued between the Planning Commission and the Planning and Zoning Administrator regarding the following points of interest:

- The Planning and Zoning Administrator confirmed to Planning Commission Member Arrington that development of the Trail is totally dependent upon the cooperation of the property owners and hopefully, they will view this as a community asset and will want to participate.
- Vice Chair Speidel questioned if the property owners along the Old Fort Road section of the proposed Trail, toward Christian Heritage Academy, are willing to have the Trail go along the river rather than down Old Fort Road, with the Planning and Zoning Administrator stating that it is still being considered. The Planning and Zoning Administrator also pointed out that Phase I of the Trail will be a boardwalk connecting the Franklin County Veterans’ Memorial Park to Lynch Park.

- The Planning and Zoning Administrator confirmed to Madame Chair Stockton that currently, the number of property owners affected by the proposed Trail is approximately one dozen.
- The Planning and Zoning Administrator confirmed to Planning Commission Member Clements, that Celeste Park is still in the engineering process.

There being no further discussion, Madame Chair Stockton entertained a motion:

- Motion was made by Vice Chair Speidel that the Planning Commission proceed with a public hearing in the month of December 2007 for the adoption of the Historic Resources Interpretive Plan of the Pigg River Heritage Are in the Town of Rocky, Mount Virginia and the Pigg River Heritage Trail Master Plan, with the motion on the floor being seconded by Planning Commission Member Hall. A questioned was raised as to who would be responsible for locking the gates at night, with the Planning and Zoning Administrator stating that it will most likely be the Rocky Mount Police Department. There being no further discussion, let the record show that the motion on the floor passed unanimously by those present.

ADJOURNMENT

There being no further work session items, Madame Chair Stockton entertained a motion to adjourn at 6:10 p.m., with motion being made by Planning Commission Member Tiggle, seconded by Planning Commission Member Arrington, and carried unanimously by those present.

Janet Stockton, Chair

ATTEST:

Stacey B. Sink
Deputy Clerk