

TOWN OF UNIONVILLE
MINUTES OF REGULAR AND SPECIAL PLANNING BOARD MEETING

The Planning Board of the Town of Unionville met on Monday, November 4, 2019, at Town Hall, 1102 Unionville Church Road, Monroe, NC. Vice Chairman Craig Rushing and Board members Jeff Broadaway, Barry Baucom, Andy Fowler, Jerry Adams, and Alternate Scott Barbee were present. Also in attendance were Councilmen Andrew Benton, Jaren Simpson, Gene Price, Edd Little. Absent were Planning Board Chairman Ken Trull, Board Member Joe Medlin, and Alternate Matt Price.

Everyone stood and recited the Pledge of Allegiance to the United States flag, after which Jeff Broadaway led the prayer of invocation.

Vice Chairman Rushing called the meeting to order and welcomed all to the meeting at 7:31 p.m. Vice Chairman Rushing asked Scott Barbee to fill in for the members absent on the Board. He then welcomed everyone who came out to the meeting.

Vice Chairman Rushing then asked for any questions on the minutes of the October 7, 2019, Regular Meeting. After a motion by Jeff Broadaway, seconded by Scott Barbee, the Board unanimously approved the minutes from the October 7, 2019, Regular Meeting.

Next, Vice Chairman Rushing recognized Richard Flowe from N-Focus Planning to address the request for recommendations to Land Use Ordinance Sections 238 and 239 wording to comply with House Bill 495. Mr. Flowe thanked everyone for inviting him to speak. He said that it was about a year since he was here to fix things, and then he was here to give some suggestions for moving forward. It appears that at the same time we were discussing this ordinance last year, an initiative was taking place in Emerald Isle going in the opposite direction. Legislation was introduced in March of 2019 by Pat McIlraft. Mr. Flowe stated that he could not find the motivating factor behind the change in regulation, Session Law 2019-131. Mr. Flowe stated that he believed it pertained to issues that happened around the Fall of 2018 regarding on-site wastewater disposal, making sure any facilities would be clearly marked on plats and under the control and ownership of those that they served. The bill undid that and made it retroactive. Considering the background and the bill, he presented a revised ordinance as an introductory draft and the Board could work on any changes that may need to be made for the Town to be in compliance of the law.

The Town's ordinance spoke very specifically about off-site facilities and what information would be required for plats to contain. The Session Law overturned the off-site facilities portion. When looking through the new law and compared it to the Text Amendment written last year, he edited the document so the Board could see all recommended tweaks. The first page offers several background details, which has some tweaks because of the changes. In section 238, we get into the specific changes. The first section of the proposed ordinance would include the session law as indicative of the purpose. The third section would be changed to be consistent with the state law. The fourth section would indicate how and why the ordinance is reasonable.

In Section 238, Mr. Flowe stated that he added a citation to the general statute and struck out all of the part that referenced the off-site sewer. It does not eliminate the importance of why we were concerned, which was discussed last year. He stated that while that can't be prohibited, we have clean records and will hopefully be influencing better decision-making among property owners.

He went on to state that the former Part 3 of the ordinance will become Part 2 of the new draft. He said that he was careful to make sure that we don't overstep our boundaries, but also addressed the plats so records will show where those septic systems are proposed to be planned. On-site or off-site no longer matters, but the plat should still reflect the easements, wastewater systems, etc. This will essentially make sure those property owners have a way of finding out if someone put something over on their side of their property five years ago. A homeowner should at least be aware of this. Whenever a new subdivision plat is prepared, septic lines must be shown.

He advised the Board that the changes are pretty simple because there is no wiggle room or gray area. Mr. Flowe then entertained any questions.

Barry Baucom asked that in Part One if something had to be changed according to the plat who says what is/is not reasonable. Mr. Flowe advised the Board that municipalities do not get to have a say. That is for the County health department to set those rules. Municipalities have been taken out of the conversation. We require that people have a system, but we cannot put into place any rules/standards on the operations/structure of the system. It is now in the County's hands. It sometimes seems that they do not concern themselves with considering the subdivisions, and 100 acres is just 100 acres without the subdivided lines. He said that they can run the lines however desired without thinking about the aftermath that it will be 50 separate pieces of property with 50 separate land owners. A lot of these resort communities will try to crowd as many houses on the waterfront, which directed the bill. However, short of lobbying for clarification, we need to comply with the bill. The revised ordinance meets the requirements, but also makes sure that property owners show the information on the plat. A year ago we had lines that would come out of a plot, go down the road, then cut across other people's pieces of property. We want property owners to think things through to set people up for success, which is why we ask and require that it be shown on the plats. This requirement opens the door to ask questions or encourage improvements or suggestions.

Jeff Broadaway stated that he was trying to follow fairly closely to the legislation and the ordinance change here last year impacted the bill. The original proposed date for the state law to take effect was October 18, which was the day before Council approved the ordinance. Jeff stated that he was not sure if it was the homebuilder's association, or whom, but someone went to the legislature to write the bill. The sponsor of the bill was a realtor. Mr. Flowe stated that he hated to see reactionary legislation like that, but it happens and he has seen it happen a lot.

Jaren Simpson asked if there were any other municipalities that have this ordinance in place. Mr. Flowe stated that there were, but they are going to have to undo it as well. Any municipality that has this in place will have to un-do what they have. There is a provision called the severability clause and a conflict clause in the ordinance. Severability Clause says that if any piece of the ordinance is deemed to be unconstitutional or illegal, it only affects that portion of the ordinance. If other municipalities never change their ordinances, it would not invalidate the rest of the ordinance; however, it would not be clear for citizens. The conflict clause would cover the ordinance, usually reeling in the local control and overriding it. The best recommendation is to clean it up so it is clear for a surveyor who is preparing a plat, so he clearly knows what is required and everyone knows where it is.

Gene Price asked if all that is required by Union County could be found at the Register of Deeds. Mr. Flowe stated that this ordinance makes sure that everything is clearly marked on the plats, which is not required by Union County. Gene Price asked if this made more work for Sonya. Mr. Flowe stated that it would not. Barry Baucom asked if this would give the Town an opportunity to deny a subdivision if it is not on the plat. Mr. Flowe stated that yes, it has to be on there so the person who buys the property gets the information. Craig Rushing asked if there could be more detailed identification of the location or if there is a potential easement. Mr. Flowe stated not unless it is recorded. We can't require that they do an easement, but we can at least bring the subject up. Andrew Benton asked if this could open the Town up for a potential conflict. Mr. Flowe stated not for the Town, but could for the property owners.

Barry Baucom asked who would regulate how these conflicts get fixed. Mr. Flowe stated that the Town does not because the Town does not regulate it. It's typically done between the owners. When closing on that lot, it will be shown and the buyers will be given an opportunity to review it. Ideally, septic systems would be on the owner's property, but it is not always feasible.

Scott Barbee asked how many counties in the state implemented what we had. Mr. Flowe stated that counties generally do not.

Then, Vice Chairman Rushing opened the floor for the consideration of Text Amendment TC-19-04, a text change to reverse septic restrictions to Sections 238 and 239 of the Land Use Ordinance, requiring on-site sewage disposal facilities, in compliance with House Bill 495. Land Use Administrator Gaddy advised the Board to vote on whatever they would recommend to Council. Craig Rushing asked if this needed to happen in a different meeting or if they could decide to recommend these changes. Land Use Administrator Gaddy advised him that there is already a public hearing set for two weeks from tonight. This is the third month that Planning Board has considered this issue. The hearing is scheduled and on the agenda. Whatever the Board decides to do, they should use the statement of reasonableness and consistency. This is a good framework, and it is thorough.

Craig Rushing asked the Board if there were any needed changes. Jeff Broadaway moved that we accept the changes to the ordinance as presented by Mr. Flowe and that the proposal is found reasonable and consistent with the Land Use Ordinance adopted in March 2003. Scott Barbee seconded the motion. Mr. Flowe then noted that there was a typo in Part 4 at the end of page two and it would need to be changed to Part 3; however, this was a non-substantive change. The Board unanimously voted to recommend the changes of the ordinance to the Council.

In other business, Land Use Administrator Gaddy noted that the Christmas parade would be the first Saturday in December. Next month, the Board will need recommendation for replacement for Jeff Broadaway, who likely will win the election. Craig Rushing also thanked the Town for the donation to the Unionville Elementary School for the BBQ. It made the process go much better and made a big difference.

There being no other business, and upon motion made by Jeff Broadaway, the Board unanimously adjourned the meeting at 8:14 p.m.

Respectfully submitted,

Melody Braswell

Deputy Clerk