

**TOWN OF BEAUFORT
PLANNING BOARD
MONDAY, APRIL 20, 2009
6:00 P.M., TRAIN DEPOT, BEAUFORT N.C.**

The Town of Beaufort Planning Board held its regularly scheduled meeting on Monday, April 20, 2009 in the Train Depot located at 614 Broad Street, Beaufort, NC. Chairman Doug Doubleday presided at the meeting.

Members Present:

Ryan Neve, Vice-Chairman
Ann Carter
Steve Rice
Bob Safrit

Staff Members Present:

Kyle Garner, Town Planner
Michele Davis, Town Clerk

I. CALL TO ORDER

Chairman Doubleday called the April 20, 2009 meeting to order and asked that those in attendance please join in the Pledge of Allegiance.

Chairman Doubleday asked for a moment of silence in memory of Dr. John Costlow.

II. AGENDA APPROVAL

Chairman Doubleday asked to add after the Planner's Report the LDO discussion and to also add after Items of Consideration a time for Board Comments. Member Carter moved to approve the agenda as amended. Member Neve seconded and all were in favor.

III. APPROVAL OF MINUTES

Chairman Doubleday moved for the approval of the minutes. Member Carter seconded and the vote was unanimous.

IV. PUBLIC COMMENT

Bucky Oliver gave an update on the Front Street project. As per Mr. Oliver's report, things seem to be progressing in a timely manner. The water and sewer lines have been extended across Curtis Perry Park. There have been no interruptions of access to the state boat ramp. We have also worked hard not to interrupt the flow of traffic on Front Street. We have worked with CAMA and John Young on extending the breakwater turn back 10 feet. We are getting close to closing Front Street for the construction of the storm water drain and the construction of the new street. During this time the boat ramp access will remain unencumbered. It will be accessible from Lennoxville Road.

Member Neve asked about how many live oak trees will be moved. Mr. Oliver explained the ones next to the apartments will be protected and the ones right dead center will need to be removed. Mr. Garner explained some of those are in the existing parking lot and the wildlife is doing what they can to protect those.

V. ITEMS FOR CONSIDERATION

1. Final Plat Approval for Beaufort Townes located on Broad Street.

Kyle Garner, Town Planner, explained this is a request for the final plat approval for the Beaufort Townes at the end of Broad Street. This is just a little over a half acre lot this is to be broken out into four townhome lots. The addresses are from 101-107 Broad Street. This request is coming from Gallant Partners, LLC. This has been under development since 2004-2005 with modifications back in 2006. When the time comes to split out the lots for ownership, the Planning Board has the authority to do this instead of the Town Council. Prior to any approval there must be a letter of recommendation from John Young stating the entire infrastructure has been installed as was originally planned. The height of the buildings has been questioned. They are under the 35 foot criteria. We also have information indicating they were required to raise the ground level before construction. This is a unique situation in which all of the building has been completed and the final plat approval is just coming before the Board.

Russell Ammons, managing partner for the LLC, was present for the discussion.

A public comment period was opened and closed since no one wished to comment.

Member Carter asked about the maintenance of the fill wall. Mr. Adams responded the wall is 100% on our property. There is an easement over all open land and the homeowner's association is responsible for the wall and the docks.

Member Rice made a motion to approve the final plat. Member Carter seconded the motion and the vote was unanimous.

2. Discussion of non-conforming section of the zoning ordinance regarding existing single-family homes that may be damaged over a certain percentage or demolished to rebuild in the original footprint.

Mr. Garner stated this is one of those items that is unique and was discussed at last month's meeting. We are looking at the existing homes of record which in a case of a disaster due to non-conforming status would not be able to go back on original footprint. Looking at properties all over town would be a major issue if a disaster were to happen.

Mr. Garner stated one item that did stand out is that in the non-conforming section (14.4) subsection G does allow for a single family dwelling to be rebuilt on its original footprint, however, it can be done in a commercial district rather than in residential districts. In

order to take care of situations of residential uses in residential sections, I have put some wording together to address this situation.

The statement is as follows:

When a single-family structure is substantially damaged over fifty percent of its replacement cost by an accident or natural disaster and the same size structure could not be rebuilt on the lot without encroaching into the required setbacks, the structure may be replaced within the building footprint of the original foundation.

What ever the Board decides tonight is not an “official” decision. The staff will send the statement to the Town Attorney’s office for verification on legal issues and then it would come back probably in 60 to90 days.

Member Carter questioned the 50% of replacement costs or should it be structure. Mr. Garner stated he had actually thought of using the amount on the tax listing. Mr. Garner stated he was concerned people would look at the replacement cost as what it would cost to rebuild.

Member Carter stated that now a day, the value of some homes is greater than what it will actually cost to replace the home. Mr. Garner stated the best way to determine the 50% is for the owner to bring the replacement cost in to request the building permit and then look at that figure in reference to the value of the house and determine if it really was 50%.

Member Safrit asked how 50% was decided upon. Mr. Garner stated that 50% is somewhat substantial and if you have damage, most of the time it will be at least 50%. Member Safrit expressed he did not think a percentage should be included in the verbiage and also what about multi-family structures that are non-conforming. Mr. Garner stated he was looking at this not from a use aspect but from a set-back aspect and trying to get the structure back to conforming.

Chairman Doubleday asked if the original ordinance stated a percentage. Member Carter informed the members the original document described the 50% as structure damage. A question was raised who determined the percentage of damage. Mr. Garner stated that ultimately the Code Enforcement Officer would make that decision.

Member Neve understands the 50% is for catastrophic. He questioned the wording of footprint. Should wording be added to include envelope. Mr. Garner stated as long as the rebuild is on the original footprint, and then if the district allows 35 feet in height, then it could be possible to go higher than the original structure. Member Carter stated the intent is for reasonable use of the lot, so size does not necessarily come into play. Member Safrit stated he believed some wording regarding envelope should be added. The height of the building should be limited to the original structure. The biggest question is the height inside the set back. In the conforming area, then okay with the

height, but in the set back then the original height. Member Carter asked if we could legally restrict this.

Chairman Doubleday asked about multiple previous foundations. Mr. Garner stated that was for the Board to decide. Member Neve stated how about the previous footprint, meaning the one of the damaged structure. Member Carter expressed concern about being too rigid and making the lot unusable. Member Neve asked if someone has a non-conforming house now and want to go up, what they will need to do. Mr. Garner stated we have in the past required the owner to go before the Board of Adjustment to request a variance if they are encroaching prior to approving the building permit.

The Board members discussed scenarios dealing with if the structure is demolished and the request to rebuild comes in with something other than the original structure will the owner have to go before the Board of Adjustments? The discussion centered around whether the owner would be able to increase the height according to setbacks already present and any variances already in place. The members talked about adding verbiage that addressed the height issue.

Mr. Garner stated he has a couple of options on this matter. We can take another couple of stabs at this or try to work it out in the whole scheme of things when addressing the non-conforming section of the Land Development Ordinance. Chairman Doubleday expressed concern that during a previous meeting the members spoke about this being an issue of extreme importance. Member Carter expressed concern the Board was making this matter too difficult. She felt the owners should be able to build what they wanted to build as long as it is in the original footprint. In a conforming lot, the owner can build what they want to; the non-conforming lot owner is being required to stay within the footprint and not build any higher or larger. Member Safrit disagreed with this issue. He felt we can not give an open invitation for the owner to make those types of changes. He felt the Board's responsibility was to protect the surrounding neighbors.

The Town Planner directed the Board members to please look at the description again. He stated he was looking more at the same size being square footage as the previous structure. Member Carter stated this may be a legal matter also. Member Carter requested to make sure this is reasonably correct instead of pushing it through.

Chairman Doubleday asked the Board's feelings on whether they should continue or address it during the review in the Land Development Ordinance.

Mr. Garner asked how many members preferred to take out the 50% figure. Three members were in favor. Chairman Doubleday expressed concern about who would be given the right to say what 50% is.

Commissioner Hagle spoke to the Board regarding how the County handled this same type of situation a while back. He suggested Mr. Garner contact the County Planner to discuss the matter. Mr. Garner stated this is a matter of helping people protect their property.

Chairman Doubleday asked if it would be reasonable to ask staff to look at the wording and be able to discuss this again at Thursday's meeting. The matter was tabled until Thursday night.

3. Discussion and consideration of Old Town versus New Town zoning study.

During the last meeting the staff presented information in reference to the Old Town and New Town Beaufort to determine if a change in zoning needed to occur. Through the process slides were shown as to how many lots were non-conforming. At that time 500 lots were non-conforming. The Board asked the staff to go back and pull information on how many lots if changing the width from 60 feet to 50 feet and changing the zoning from R-8 to RS-5 would result in being conforming. Mr. Garner stated that approximately 100 lots would be conforming with the changes. This is based on lot size and width. This still does not include structures. It is almost impossible to clear all non-conforming lots.

Member Carter stated the issue that has been of concern is the repeated request of a variance because of a non-conforming lot. As part of that, we are asking for the rezoning to help with non-conforming. We are still not addressing the issue. The problem is lack of conformity around town. Creating a new zone to deal with the non-conformity issue is overkill when it still does not deal with the problem of non-conformity.

Mr. Garner stated the two options outlined, neither one is going to eliminate all of the non-conformity. They will make improvement in the issues. We are trying to improve the situation but we will not be able to complete take care of all non-conformity in the Town.

Member Carter stated all non-conforming lots have not always been non-conforming. Member Safrit asked why that was so. Mr. Garner stated he had gone back and checked the zoning maps from 1980 in reference to the R-8 zoning. By setting this as the zoning, I believe the intention was to protect districts and the property. This is a protection from infield development. Changes over the past twenty years, have caused the non-conformity issues.

Chairman Doubleday stated there are two options that will help the situation.

OPTION 1

Continued use of Nonconforming Property:

Nonconforming lots of record. In any district permitting single-family dwellings by right, a single-family dwelling and customary accessory building may be erected on any single lot lawfully recorded before the adoption of this ordinance or amendment hereto provide this single lot is not adjacent to any other lot of record under the same ownership which, if combined, would allow for the meeting of area and setback requirements. This

provision shall apply if the single lot fails to meet the minimum lot size or width requirement of the district. Yard space and other dimensional requirements of the district shall continue to apply, however, variances of such requirements shall be obtained only by action of the Board of Adjustment, except that no appeal for a variance is necessary if other yard spaces are met and the following yard setbacks are met:

Width – Lot of Record	Minimum Side Yard	Minimum Front Yard
40-49 Feet	5 Feet	15 Feet
50-59 Feet	6 Feet	15 Feet
60-69 Feet	7 Feet	20 Feet
70-75	8 Feet	25 Feet

OPTION 2

Residential Single-Family 5 (RS-5) Zone

The Residential Single Family 5 (RS-5) zoning classification is intended for existing smaller lot residential neighborhoods in Beaufort. The zone is intended for older neighborhoods that are characterized by single family residences on relatively smaller lots with reduced setback requirements and a defined street façade. The purpose of this district is to provide relief to existing lots of record that make them difficult to be developed as single family.

A. Minimum Lot Size

All lots in the RS-5 zone shall be a minimum of 5,000 square feet.

B. Residential Density

1. All lots in the RS-5 zone shall be limited to one single family detached dwelling per lot.
2. All lots in the RS-5 zone shall not exceed a lot coverage requirement of 50 percent.

C. Minimum Lot Width

All lots in the Rs-5 zone shall have a minimum lot width of 50 feet at the minimum building line.

D. Building Setback Requirements

Subject to the provisions of Section 2 – General Provisions and this section, no portion of any primary building shall be on any lot closer than is authorized in the tables set forth in this section:

Interior Lots:

Zone	Front Setback (Right of Way)	Rear Setback	Side Setbacks
RS-5	20 feet	15 feet	5 feet

Corner Lots:

Zone	Designated Front (Right of Way) Setback	Designated Side (Right of Way) Setback	Rear Setback	Side Setbacks
RS-5	20 feet	10 feet	15 feet	5 feet

Double Frontage Lots:

Zone	Designated Front (Right of Way) Setback	Designated Rear (Right of Way) Setback	Side Setbacks
RS-5	20 feet	20 feet	5 feet

E. **Accessory Building Setback Requirements**

All accessory buildings must comply with the lot setback requirements as set forth in Section 2.11 General Provisions – Accessory Buildings and 6.2 – Application of General Regulations.

F. **Building Height Limitations:**

1. Building height in the RS-5 zone shall be limited to 35 feet in height.
2. Features exempt from the height limitations can be found in Section 6.9 Height Restrictions.

G. **Permitted Uses:**

See Attachment of Zoning Table of Permitted Uses

H. **Special Uses:**

See Attachment of Zoning Table of Permitted Uses

ZONING TABLE OF PERMITTED USES

Permitted Uses	R8	Proposed RS-5
Accessory Use Structures	X	X
Assisted Living Facility	S	
Associations or organizations; civic, social, and fraternal		X
Bed and Breakfast	X	X
Cemetery		X
Church	X	X
Dwelling, single family	X	X
Dwelling, two family	S	
Fences	X	X
Fill (earth elevation)	X	X
Fire or police station	S	X
Home occupations	X	X
Manufactured structure (individual for office and/or exhibition, twelve months or less)	S	
Municipal, county, state and federal governmental town halls, police stations, fire stations, museums, post offices, office buildings, libraries, governmental offices, and related types of uses	S	X
Offices, business, professional and public use	S	
Offices, medical dental and other professional offices	S	
Post office	S	X
Private recreation club or	S	

Attachment

A

swimming club		
Public parks and picnic areas	X	X
Public recreation	X	X
Public utility distribution lines, transformer stations, transmission lines and towers, water tanks, but not service or storage yards		X
Pumps electronic substations and kindred devices	S	X
Real estate and appraisers office	S	
Schools, public and private	S	
Telephone exchange operation	S	
Temporary construction building (12 months or less)	X	
Tourist home	X	
Travel agencies	S	

Chairman Doubleday stated option one seems to cover the entire town. Member Carter pointed out option one addresses the problem at hand where option two will open a can of worms and people all over town may start asking for rezoning.

In answer to a question from Member Safrit, Mr. Garner explained some lots in the town of Beaufort are 100 feet in width.

Member Neve stated he liked the idea of R-S5 but a tremendous amount of thought will need to go into it. Member Carter stated we currently have an R-5 district now.

Chairman Doubleday asked how the Board felt about going with option one and then proceed with readdress the RS-5 in the future after we know the ramifications. Member Rice preferred to go with option one and move forward. He felt it would be unreasonable to try and rezone lots all over town.

Chairman Doubleday stated we are not really in the position to make a motion. Members Carter and Member Rice were in agreement with proceeding in making a recommendation for option one.

Member Carter asked about non-conforming building lots of record that are less in width than what is shown in Option One. Should that also be addressed in Option one also. Mr. Garner stated he was not sure if you can capture every non-conforming lot. Member Neve feels we should go with Option one and study Option two more. Member Safrit does not want to send a recommendation to the Board for Option one and then in a couple of months make another change.

Chairman Doubleday stated that option one is a step forward in trying to correct a problem the Town is facing. Mr. Garner reminded all members when the recommendation is made it will go to the Board of Commissioners. Option two will also go to the Board of Commissioners since it was a part of the study.

Chairman Doubleday recommends option one to address the immediate concerns and leave the door open for further work as we go through the LDO look at option two. There are a lot of questions about option two.

Member Safrit asked if they were talking old town/new town and where is the dividing line. Members of the board stated this option one covered all of town. Member Safrit stated he felt Option two was better since it would make 275 additional lots more conforming.

Chairman Doubleday stated the recommendation would be Option One and looking at Option Two as we go through the LDO. Four members were in favor of moving forward with Option One. Member Safrit was in favor of Option Two.

VIII. COMMITTEE REPORTS

No committee reports were given.

IX. BOARD COMMENTS

Chairman Doubleday stated Dr. John Costlow will be greatly missed.

X. PLANNER'S REPORT

Mr. Garner began his report by informing the Board about the Bicycle Plan. The next Open House will take place on Tuesday, May 19th at Beaufort Elementary Square from 5 to 7 pm.

Mr. Garner also spoke about the Front Street project. Things are moving ahead with the relocation. Front Street will periodically be closed off during the road work.

The boat ramp on West Beaufort Road will be open for use on May 2nd. There will be a ribbon cutting ceremony on May 1st.

Beaufort East Development has submitted a landscape plan for the area between Front Street and Lennoxville Road. They plan on putting in their scenic drive. For everything

tree they are taking out, they are replacing them with new trees. They are not taking out as many trees as we originally thought.

Chairman Doubleday called for a short break and then the meeting will resume. Chairman Doubleday called the meeting to order.

Discussion and consideration of proposed Land Development Ordinance (LDO)

Susan Suggs was present to begin the review of the proposed ordinance. Ms. Suggs thought it was best to get input from the Board for the LDO. Ms. Suggs stated during the February and March meetings she had covered some of the basics of the LDO. Ms. Suggs stated she had been talking with the Planning Committee members to get their input also. Ms. Suggs asked for Mr. Garner to please hand out Article 5, which will be reviewed in the May meeting. The Town asked Ms. Suggs to put in some smart growth concepts.

Article 1 General Provisions

1.4.2 Added verbiage about land disturbances activities

1.4.4 and 1.4.5 are ones State Statutes allows.

1.5.2 Fifth paragraph—Ms. Suggs stated she is not sure about that information. Mr. Garner stated he is not sure what it means and it should probably be removed.

Ms. Suggs stated with this new ordinance, we are taking out split zoning of property.

Some of the new parts of the ordinance are more restrictive than the current ordinance.

Article 2 Administration

Ms. Suggs stated that in Article 2 an attempt was made to put together the process of how and who makes decisions.

Member Carter stated the Town did not really use the Robert's Rules of Order. Ms. Suggs stated this is in the current ordinance. The decision was made to change it to the adopted Rules of Procedure.

The Planning Board Duties section 2.1.3 E were read to the board members.

6. To make recommendations to the Board of Adjustment concerning applications for Special Use Permits is a new duty.

Ms. Suggs stated if there was something specific the members wanted added, now was a good time to mention it.

2.1.4 Beaufort Historic Preservation Commission

1. The historic preservation commission has 7 regular members instead of 5 regular members and two alternates.

Remove #5 since there are no alternate members.

Should there be mention that a certain percentage of the Historic Preservation Commission members live in the Historic District?

2.1.5 Board of Adjustment

Member Carter asked if ETJ members of any of the Boards are allowed to be officers on the Board. This language is what is currently in the ordinance.

2.2 Technical Review Committee

Town Planner, Kyle Garner, has already been working with a Technical Review Committee. The decision was made to add the Police Chief and the Code Enforcement Officer to the members of the committee.

XI. RECESS TO THURSDAY, APRIL 23, 2009 AT 6:00 PM

Member Neve moved to recess the meeting. Member Carter seconded the motion and the vote carried unanimously.

Doug Doubleday, Chairman

Attest:

Michele Davis, Town Clerk