

Members

Chair: Amy Hallman

Vice-Chair: Kathy Jones

Scott Harrington

Matthew Jones

Joseph Kluttz

Jake Palillo

Michael Pollard

Harrison Whittaker

Planning Board Member:

Frank Gammon



Town Staff (Non-Voting Members)

Lance Munger

Town Commissioner

Jack Simoneau

Director

Planning Department

Tracy Barron

Executive Assistant

Planning Department

Emily Sloop

Town Attorney

AGENDA

Huntersville Ordinances Advisory Board Meeting

December 7, 2023 - 3:30 PM

TOWN HALL (101 Huntersville-Concord Road)

Live Stream available via YouTube

@townofhuntersvillenc28078

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes**
 - 2.A. Consider approval of the October 5, 2023 regular meeting minutes.
- 3. Public Comments** - *Speakers are limited to 3 minutes. The Chairperson reserves the right to shorten the time limit for speakers when an unusually large number of persons have signed up to speak. Speakers may not give all or a portion of their time to other speakers*
- 4. Action Agenda**
 - 4.A. Consider a recommendation on petition #TA23-08, a request by the Huntersville Planning Department for a text amendment to remove Article 8.13 Regulation of Nuisances as noise and noxious fumes are covered by the Town Code of Ordinances. *(Nathan Farber)*
- 5. Other Business**
- 6. Adjourn**

GENERAL MEETING INFORMATION

Huntersville Ordinances Advisory Board:

The Huntersville Ordinances Advisory Board is established to: 1) Review, evaluate and recommend amendments to the Zoning and Subdivision Ordinances to the Planning Board and the Town Board 2) Review, evaluate and recommend amendments to Town planning processes and procedures to the Planning Board and Town Board 3) Other such related Zoning and Subdivision Ordinance as directed from the Town Board or Planning Board. For more information visit www.huntersville.org.

Meeting Time, Place and Agenda:

All meetings of the Board are open to the public and the public is invited and encouraged to attend. The Board meets in the Town Hall at 3:30 p.m. on the first Thursday of each month (unless otherwise posted). Agendas are published Thursdays before the meeting on our website. The Board reserves the right to deviate from the agenda.

Special Accommodations:

Anyone needing special accommodations when attending this meeting and/or if this information is needed in an alternative format please contact Tracy Barron. She can be reached by phone or fax: 704-766-2215, email: tbarron@huntersville.org or at 105 Gilead Rd, 3rd Floor, Huntersville, NC 28078. We request at least 72-hours' notice prior to the meeting to make the appropriate arrangements.

Minutes of the Town of Huntersville Ordinance Advisory Board

The Town of Huntersville Ordinance Advisory Board met in person at 3:30 p.m. on Thursday, October 5, 2023.

Call to Order/Roll Call

Chairwoman Hallman called the meeting to order at 3:30 pm.

Voting Members Present: A. Hallman, K. Jones, M. Jones, S. Harrington, M. Pollard, and F. Gammon

Voting Members Absent: J. Palillo, J. Kluttz, H. Whittaker

Non-Voting Members Present: Commissioner Kovacs, J. Simoneau, T. Barron, E. Sloop, and J. Glass

Non-Voting Members Absent: None

Approval of Minutes

Item 2A. Consider approval of the July 6, 2023, Regular Meeting Minutes

Motion: S. Harrington made a Motion to Approve the July 6, 2023, regular meeting minutes. K. Jones seconded the motion.

Vote: The motion passed unanimously (6-0).

Public Comments

None

Chairwoman Hallman commented to the Board regarding the importance of having their opinion for or against an item noted for the record so that the Planning Board and Town Board can benefit from understanding what caused someone to vote as they did.

Action Agenda

4A. Consider a recommendation on petition #TA23-06, a request by the Huntersville Planning Department for a text amendment to Article 3, Section 3.2.1(d)(4)(a), 3.2.2(d)(4)(a), 3.2.4(d)(1)(e), 3.2.5(d)(1)(d), 3.2.6(d)(4), 3.2.7(d)(1)(d), 3.2.11(d)(1)(d), 3.2.13(d)(2)(c), 3.3.1(d)(1), Article 8.14, and Article 11.1.3 to bring the text into compliance with HB 488.

N. Farber, Planner II reviewed the proposed text amendment.

M. Jones stated that to his understanding the ordinance appears to state that we can impose the most restrictive standards which appears to be more stringent than the statute 160D-804(j). Staff responded that the intention is not to be in conflict. E. Sloop responded that the majority of the design standards are not addressed in the ordinance they are in manuals that are

maintained by engineering staff. This caveat is there if needed and the manuals will be updated if needed.

M. Pollard asked what the manuals are and if they are legally enforceable. Staff responded that engineering manuals are adopted policy and outline all of the specific engineering guidelines that must be followed in developing a project.

S. Harrington asked staff to confirm if in Article 3 the \$40,000 should be underlined. Staff confirmed that is correct.

M. Jones commented that the \$40,000 has adjusted numerous times between \$5,000 and \$40,000 and asked going forward what the policy is to stay on top of legislative changes so that the Town updates are more timely and we are not missing changes like this in the future. Staff responded that the Legal department advises the Planning department of changes. Now with the Town having two attorneys and their proactive assistance in this area we will continue to bring forth changes as they occur.

F. Gammon asked staff to confirm against NCGS 160D if a building permit is needed to replace a hot water heater. M. Jones read from NCGS 160D and confirmed that a building permit for residential is not needed. M. Jones then requested that staff revisit this text amendment to ensure that it is accurate.

Motion: M. Jones made a Motion to Table TA23-06 in coordination with the bill and ensure that the text amendment complies fully with the NC legislature bill that has been passed. K. Jones seconded the motion.

F. Gammon commented that he does not want to defer the amendment but agrees that staff should review it and move it forward to the Planning Board with any necessary corrections.

Commissioner Kovacs commented that she is in support of the comments made and if this Board does not feel comfortable tabling the item that the Town Board would likely table if the answers are not available when presented to them.

S. Harrington asked if it is possible to reword the motion to approve everything except the water heater statement so the balance of the items could move forward. M. Jones responded that he is welcome to make a substitute motion as he would like staff to look at the driveway design standards in addition to the hot water heater item.

Vote: The motion passed (4-2) with A. Hallman and F. Gammon opposed.

4B. Consider a recommendation in #TA23-07, a request by the Huntersville Planning Department for a text amendment to Article 12, Section 12.2.1 "Interconnected" to clean up definition.

P. Patterson, Planner I reviewed the proposed text amendment.

Motion: M. Pollard made a Motion to recommend Approval of TA23-07. M. Jones seconded the motion.

Vote: The motion passed unanimously (6-0).

Other Business

5A. Discuss possible changes to the Zoning Ordinance related to Breezeways and Accessory Structures.

N. Farber, Planner II reviewed the item for discussion and stated that staff would like to bring this forward as a future text amendment. Staff reviewed what the Zoning Ordinance currently allows detached accessory structures square footage not exceeding the primary structure first floor heated area square footage. Accessory dwelling units (ADU) may not exceed 650 square feet or 50% of the first-floor area of principle dwelling, whichever is greater. Either structure must be placed in the rear yard. ADU's may also be combined with a detached garage so you could have a first floor 1,500 square foot detached garage with a 500 square foot ADU on the second story.

Staff then reviewed the definition of breezeway and staff's interpretation in the past to allow a fully enclosed breezeway to be attached to a detached structure rendering it an attached structure which removes the limitations of the square footage. Staff indicated that current requests appear to be using this method to subvert the ordinance. Staff provided examples of requests which appear to be to allow structures to be placed in the front or side yard, or an excessively long breezeway.

Staff stated that there are approximately 40 municipalities in North Carolina with language included in their zoning ordinances addressing this issue. Examples were provided to reflect that connection by breezeway shall not deem the structures one building. Other examples provided reflect maximums of building sizes and maximums of height and length of breezeways.

Staff recommends that we consider amending the definition of building and/or breezeway within the Zoning Ordinance and potentially limiting the length of a breezeway to 15 feet.

F. Gammon asked why the breezeway should be limited to 15 feet when it could be utilized in the right place for the right reason and require more than 15 feet. Staff responded the recommendation would be to eliminate the abuse of the breezeway possibly by creating a length. F. Gammon responded that a specific measurement may only be appropriate to specific zoning.

F. Gammon then asked if staff knows what the purpose of the large structures are that people are building. Staff responded that businesses are not allowed so they are for storage.

M. Pollard asked staff to research and provide quantities on how many applicants a 15-foot breezeway would have affected and how frequently staff is seeing these requests. Staff responded that it should be noted that applicants are not initially requesting breezeways when they are requesting to add an accessory structure or accessory dwelling unit, applicants are simply seeing this as a way to gain approval on the size of structure or location of the structure that they want to build. Staff stated there is no method to provide quantifiable data on these requests its simply something staff knows we frequently deal with.

M. Jones commented that if a breezeway, which creates more impervious area, is necessary for someone to build a structure then it seems like something is wrong with our zoning ordinance. Staff responded that if the Board desires to look at allowing a larger accessory structure or accessory dwelling unit in certain zoning districts then that could be taken separately. The current issue staff is facing is how to be fair and not subjective in determining at what point a breezeway length should not be allowed when an applicant is proposing 70-feet. M. Jones commented that he can imagine scenarios where someone buys a large lot with an older home and does not understand that they own this land and cannot do what they want. Also, if several people are subverting the rules, then it also leads one to look at the rules and determine if they are still practical to current needs.

F. Gammon asked if staff considered special use permits for larger structures. Staff stated they had not but they would take that under advisement. Commissioner Kovacs commented she would be in support of special use permits as an option.

Staff responded that defining what a breezeway is or permits would assist staff with providing a consistent interpretation regardless of the proposed building size or location.

F. Gammon commented that he would like to see some flexibility based on lot size and zoning district or permitted uses versus a one size fits all ordinance.

M. Jones commented that a multiple of large lot size with a cut off for smaller lots could create a greater amount of flexibility.

M. Pollard agreed with F. Gammon's comments that purpose would be a good area to focus on so that the rules could more effectively address the uses. Staff responded that accessory structures are not permitted to be businesses so they can only be used for some type of storage. A. Hallman agreed with M. Pollard's comment that this would be valuable to be sure that one is for storage, garage, or barn versus a mother-in-law suite.

S. Harrington revisited that this may be two separate issues, one to define breezeways to not treat the structures as one building and a second to address what use, and size is permitted for an accessory structure.

Commissioner Kovacs asked what the rationale was for using 50% of the first-floor heated area was to determine the footprint for the accessory dwelling unit. She then provided the scenario

that a 2-story home on 5 acres with 1,000 square foot first floor would be allowed to build the maximum of 650 square feet ADU versus a 2,000 square foot ranch home on 1-acre that would be allowed to build 1,000 square feet ADU. The factor of the lot size and that the homes are equal in square footage is not considered. She recommended staff review that in their consideration of ADU's.

E. Sloop commented that she may be able to clear up some information raised on Item TA23-06 that would allow the Board not to have to meet the following month. She then reviewed Section 3 of the proposed changes and highlighted that the wording states "when one is required, and generally required" which allows staff not to place the wordy exclusions that are applicable to this and instead know that the County will not require a building permit where one is not required. The specific language from NCGS 160D-110(a)(2) is specific to residential one and two dwellings and does not need to be detailed within the zoning ordinance.

M. Jones commented that subsection 7 of the proposed ordinance implies a building permit would be necessary. E. Sloop responded that if you read the beginning it puts the context that it is generally require and when one is required, therefore legally it is not viewed as a conflict.

A. Hallman asked if the average homeowner would be confused by this. E. Sloop stated that generally the zoning ordinance here is reviewed by contractors completing new construction, so she does not see this as being misunderstood by a homeowner. Additionally, the County is the only issuing authority for building permits and they are not going to require a building permit for something when it is not legally required. The County's website and documentation provides much more detail available for the homeowner as they are the issuing authority.

E. Sloop commented that if anyone on the Board would like to reconsider to recommend approval on these simple statutory housekeeping items then the Board will not have to reconvene in November for the one item.

F. Gammon commented that he is not opposed to moving it forward, but he would like staff to still review the wording to see if it could be improved and clarified.

M. Jones commented the request was also in place for staff to review NCGS 160D-804(j). E. Sloop responded that the Ordinance does not address the design standards, they are all within the Engineering Manual because they are very technical, and the goal is to not make the Ordinances more convoluted. If the Engineering Manual needs to be updated it will.

Motion: F. Gammon made a Motion to Reconsider the previous motion on TA23-06. S. Harrington seconded the motion.

M. Jones commented that he believes that there are technical problems with what staff has presented and he believes staff should re-review of the legislation to make the Ordinance compliant with the relevant legislation.

Vote: The motion passed (5-1) with M. Jones opposed.

Motion: F. Gammon made Motion to recommend Approval of TA23-06 with the caveat that Planning and Legal department review HB488 and items pertaining to 160D-804(j) and ensure that the wording as written in the current ordinance applies and in concurrence with the state statute. S. Harrington seconded the motion.

M. Pollard requested that a timeline for when the item will be presented to the HOAB be included. E. Sloop clarified that approval would move the item forward and that staff can make the research available to the Board but the item itself would not return for consideration to the Board.

Vote: the motion passed (4-2-1) with M. Jones opposed and M. Pollard abstaining.

Adjourn

Motion: F. Gammon made a Motion to Adjourn. K. Jones seconded the motion.

Vote: The motion passed unanimously (6-0).

Approved this ____ day of _____ 2023.

Chair or Vice Chair

Board Secretary



Text Amendment Application

Date of Application 11/20/2023

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

☐ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

☒ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Article(s): Article 8 Section(s): Article 8.13

See Attached

Current Ordinance

See Attached

Proposed Text

See Attached

**Reason for Proposed
Change**

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Town of Huntersville Planning Department

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature Brian Richards Date _____

Title Planning Director Email brichards@huntersville.org

Address of Applicant 105 Gilead Rd - 3rd Floor Huntersville, NC

Property Owner (if different than applicant)

* Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____ Date _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

**Town of Huntersville
Planning Department**
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: _____

Staff Initials: _____

TA23-08: Article 8.13 Removal:

Noise and noxious fumes are covered by the Town Code of Ordinances as applicable in the municipal limits. The Town also has an interlocal agreement with Mecklenburg County to police and enforce ordinance requirements in the Town's ETJ. Therefore, Article 8.13 of the Zoning Ordinance is redundant. It also conflicts with the enforcement procedures set forth for such violations in the Town's Code of Ordinances. Finally, General police power authority is typically used to regulate such nuisances instead of development regulations. Code Enforcement officers are not available to investigate alleged code violations of this nature after normal business hours, but HPD officers are.

**AN ORDINANCE TO AMEND THE TOWN OF HUNTERSVILLE ZONING ORDINANCE TO
REVISE THE REGULATION OF NUISANCES**

Section 1. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Article 8.13 of the Zoning Ordinance, Regulation of Nuisances, is hereby amended as follows:

8.13 Regulation Of Nuisances Reserved

- ~~1. Noise. No use shall be operated so as to generate recurring noises that are unreasonably loud, cause injury, or create a nuisance to any person of ordinary sensitivities. No nonresidential use shall be operated so as to generate any noise in an adjacent residential, research, or office-institutional district, as detected in that district without instruments, that is louder than the noise which could be generally expected from uses permitted in that district.~~
- ~~2. Fumes and Odors. No use shall emit fumes, gasses, or odors in concentrations or amounts that cause injury or create a nuisance to any person of ordinary sensitivities on another property.~~
- ~~3. Vibration. No use shall be operated so as to generate inherent or recurring ground vibrations detectable at the property line without instruments.~~

Section 2. This ordinance shall become effective upon adoption.

HUNTERSVILLE ORDINANCE ADVISORY BOARD:

PLANNING BOARD:

TOWN BOARD: