



**Huntersville Ordinances Advisory
Board Minutes
July 1, 2021
3:30 p.m. – 5:00 p.m.
Location: VIRTUAL MEETING**

A. Adoption of June 3, 2021 Minutes (Attachment 1)

Attendance: M. Jones, T. Taylor, L. Munger, K. Jones, J. Henson, S. Moore, F. Gammon, and T. Finlay

Absent: B. Skelly

Non-voting members present: J. Simoneau, J. Glass & T. Barron

B. Adoption of Minutes

1. Adoption of June 3, 2021 Minutes (Attachment 1)

S. Moore made a Motion to Adopt the June 3, 2021 Minutes. L. Munger seconded the motion. The motion passed unanimously (8-0).

C. Comments from Audience (3 minutes per person allocation)

D. Other Business

S. Moore made a Motion to Amend the agenda and hear items 5 & 6 as items 1 & 2. J. Henson seconded the motion. The motion passed unanimously (8-0).

1. Recommendation on dormitory amendment for Metrolina Greenhouse in TR and R zones with a special use permit (Attachment 2).

J. Simoneau, Planning Director reviewed the modified request which now includes:

- Section 1 & 2. Article 3.2.1 Rural District and Article 3.2.2 Transitional Residential District, Uses permitted with special use permit: Dormitory for a bona fide farm.
- Section 3. Article 9.62 Dormitory: Dormitories for a bona fide farm are permitted in the Rural and Transitional Zoning Districts subject to a Special Use Permit according to the procedures of Article 11.4.10. The Town Board shall issue a special use permit for use in a Rural or Transitional Residential Zoning District if, but not unless, the evidence presented at the Special Use Permit hearing establishes: 1. The use will not endanger health and safety, does not substantially reduce the value of nearby property. 2. The use does not conflict with long range plans. 3. The use does not constitute a nuisance to adjoining properties with respect to noise, dust, fumes, odor, and traffic. 4. Buildings, parking, trash facilities shall be setback at least 100' from any adjoining property line and 500' from any public street right-of-way. 5. The use shall be visual screened year-round from all adjoining properties and public streets. 6. The driveway and parking area shall, at a minimum, be ground asphalt. 7. The dormitory is located on a bona fide farm of at least 100 contiguous acres.
- Section 4. Article 12 Dormitory definition include: bona fide farm

L. Munger thanked the applicants and staff for their work on the amendment and appreciated the inclusion of Rural zoning, which he personally is more in favor of than Transitional Residential zoning, and he plans to support this amendment.

T. Finlay asked staff how many existing farms meet the criteria of the amendment. Staff stated that they do not have that information, but they do not know of any other than Metrolina. The applicants also stated that they were not aware of any, but they did not research to verify.

J. Henson asked staff if dormitories have a height limitation and while the setup proposed has limited traffic, do we need to include anything to address traffic for possible future concerns. Staff and the applicant confirmed that the proposed structure is one-story and there is no TIA requirement because the mode of transportation is a bus. The applicant confirmed that the transportation must be provided in the program, there is a 50-passenger bus and smaller buses that hold 15-25 people. The workers are not allowed to bring cars.

F. Gammon asked staff if the proposed amendment related to H2A or migrant workers should be included in the proposed amendment to ensure that proper regulations and guidelines are being met and this will serve for its intended purpose. The applicant responded that the amendment here is for zoning permit but the State and Federal entities that regulate the H2A program will come out and inspect and require that all of their criteria be met also.

M. Jones expressed concern over the proposed amendment of Article 9.62, Item 1: The use will not endanger health and safety, does not substantially reduce the value of nearby property. This language appears to give neighboring properties veto powers on how someone may use their land. Staff stated that it is the role of the Town Board in hearing Special Use Permits to hear any substantial evidence presented. If a nearby property owner had a concern, they would need to establish that through something like a certified appraisal.

S. Moore asked if the Code of Ordinances related to nuisances would apply and if it is redundant to state this reduction of value for nearby property statement. Staff responded that the Code of Ordinances applies only to properties in the corporate limits and not in the ETJ, where this would be located.

K. Jones asked staff where the neighbors would call and complain in the event that there was noise pollution. Staff responded that they would call Code Enforcement and it would be up to the Planning Department to enforce the standards of the Special Use Permit.

S. Moore made a Motion to Approve the proposed text amendment. L. Munger seconded the motion. The motion passed unanimously (8-0).

2. Continued discussion on street buffer amendment in the CB, CI, and SP zoning districts (Attachment 3, 4).

B. Priest, Principal Planner reviewed the current requirements of Article 7.5 related to an 80' buffer along an abutting street and any property lines that abut a property that is not zoned CB, CI, or SP. The footnote to this allows for the buffer to be reduced if the building scale, frontage relationship, and location of accessory uses ensures design compatibility off-site.

Recently applicants have requested to go through the conditional rezoning process to request modifications to the required buffer. This raised the question for staff if some flexibility needs to be added to the ordinance. The Huntersville 2040 Plan, Policy LU7.1 identified that some flexibility may be appropriate.

Staff reviewed the proposed amendment which includes:

- Article 7.5.3, footnote (2): The CB, CI, and SP buffer is not required if the subject property is abutting a property zoned CB, CI, or SP. Further, a full eighty (80) foot buffer may be removed along street frontages where the building proposed addresses the public street with architecture and design consistent with the building type requirements of Article 4. The 80-foot buffer may be reduced to the width below along street frontages when the following conditions are met:
 - 40-foot buffer
 - Along any thoroughfare where only customer and employee parking is located between the building and the street,
 - Along interior streets of existing or proposed business parks where loading, truck dock, or utility areas are located between the building and the street.
 - 20-foot buffer
 - Along interior streets of established or proposed business parks where only customer and employee parking is located in between the building and street.
 - Any building that meets the architectural standards of Article 4 but whose building is moved further from the street than the required build to line.
 - Reduced street buffer widths may be disturbed and replanted so long as a complete visual opaque buffer is established at planting maturity between the building and street.

L. Munger asked if there were any concerns regarding line of sight with the proposed change to the buffer. Staff stated that it is not addressed by the Ordinance, but it is addressed by Engineering and they will verify that the buffer elements are not in the line of sight.

T. Finlay asked how many applicants are requesting this change. Staff stated that in the past two months 100% of applicants made the request.

T. Taylor asked if staff considered adjusting the planting requirements based on buffer width to possibly make smaller buffers denser. Staff confirmed that all buffer widths are required to have an opaque buffer, when the buffer width changes the applicant may have less plants to choose from to successfully accomplish this.

F. Gammon asked what the impact would be on previously approved projects but are not yet built. Staff responded that any projects approved for buffer reduction through rezoning would be required to go back through the Board approval process to request a modification. Any by right projects could meet the new requirements and request to be administratively amended.

J. Henson confirmed that this proposed amendment would not reduce the 80-foot buffer requirement to adjacent residential. Staff confirmed that is correct, there is no change to those requirements.

Staff stated that they would take the comments from this discussion and bring the official amendment request to a subsequent meeting.

3. Recommendation on metal panel amendment for shopfront buildings (Applicant: Nick Lombardo – North American Properties; Attachment 5, 6)
J. Henson disclosed that he is working on the Birkdale Village project. F. Gammon made a Motion to Recuse J. Henson. S. Moore seconded the motion. The motion was passed unanimously (7-0).

L. Speight, Planner 1 reviewed the proposed amendment to permit metal paneling or aluminum composite material for the shopfront building type. Currently metal paneling is allowed in the Urban Workplace building type, Highway Commercial development, Apartment and Civic buildings, primarily as an accent material.

Staff reviewed the proposed amendment which includes:

- Article 4: Shopfront Building, Architectural Standards Principles
Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Decorative metal panels such as Aluminum Composite Material (ACM) panels may be used as an accent or trim material and as cladding for building accent elements such as column wraps, entablature, canopies, and their supporting structure. Decorative metal panel access, however, may not exceed 30% of any façade visible from the street.

M. Jones asked how much flexibility this provides applicants versus current standards. Staff responded this is relative to the side of the building facing the street and it would provide one additional building material, currently masonry, wood, vinyl siding, stucco or similar materials are permitted.

S. Moore made a Motion to Approve the amendment as written. T. Finlay seconded the motion. The motion passed unanimously (7-0).

L. Munger made a Motion to Reinstate J. Henson. S. Moore seconded the motion. The motion passed unanimously (7-0).

4. Discussion on amendment to fence height restrictions for front yard of residential properties near boulevards and major thoroughfares. (Request by Tim Costello, Property Owner of 14238 Stumptown Road; Attachment 7, 8, 9)

L. Speight, Planner 1 shared that currently a fence is permitted to be up to 8-feet tall in the side and rear yard when those sides do not abut a street. The side yard begins at the front façade of the home and continues to the rear property line. Any fencing in the front yard must be a minimum of 2-feet in height and a maximum of 5-feet in height.

The proposal for discussion today is to permit a lot located within 300 feet of a major thoroughfare or boulevard may be allowed to have front yard fencing along the side yards be a maximum of 8-feet in height. The rationale for the proposal is to provide a sound barrier from the neighboring thoroughfares.

Staff reviewed transportation comments provided by Stephen Trott which indicated, sight distance for private street, driveways, and public streets. Additionally, staff noted that fences do not require permits, the property owner should make themselves aware of the ordinances and could be cited by Code Enforcement if they are not in compliance.

L. Munger commented that the line of sight would be a real concern for him. This concept makes the most sense near major thoroughfares and boulevards but that is also where you need the most line of sight and given that no permit is required for a fence, it could become a hazard since it will not be reviewed by Engineering.

Applicant Tim Costello, 14238 Stumptown Road commented that the intention of putting up a fence was always the intention to create some sound barrier from the busy streets, particularly due to emergency vehicles. He appreciates the concerns but he doesn't quite see the difference of

a fence versus trees and evergreens that the ordinances would permit him to install now.

L. Munger followed up and commented that the 8-foot fence on this particular property makes sense given its distance from the intersection, setback from Stumptown Road, no adjoining driveway issues, but as a text amendment it could cause problems on other properties where it really does not make sense. He recommended putting in language to create a required distance from a major intersection.

S. Moore agreed with L. Mungers comments and thought that working on improving the language to reduce the risk of inappropriate application would be necessary.

F. Gammon asked if this was a potential case for the Board of Adjustment. Staff confirmed that it would not.

S. Moore asked if the applicant considered a 5-foot fence and if that would suffice. The applicant stated that it did not suffice to create the sound barrier.

M. Jones summarized that the greatest concerns are related to safety, site lines, and to craft the amendment such that it can be uniformly applied without creating potential safety issues on other parcels.

5. Discussion on HOAB having a standardized checklist for text amendments.

M. Jones stated that at the previous meeting there was rough draft of a checklist provided to the Board to review. The catalyst is to provide a minimum level of diligence and transparency that is being implemented to change the ordinance.

T. Taylor stated he reviewed the list and recommended adding that the amendment should align with approved area plans, and the checklist be a guiding document but not the final deciding factor for a proposed amendment to be approved or denied based on the results of the findings.

S. Moore stated he would be in agreement with creating a standardized list.

F. Gammon agreed that he would not have a problem with it but he would like it to be a guideline so it does not become rigid but is a living document as additional things are found that could be added.

S. Moore made a Motion to Approve the creation of a standardized checklist for text amendments in order to provide due diligence. K. Jones seconded the motion. The motion passed unanimously (8-0).

6. Discussion about forming subcommittees.

M. Jones commented that there is a very limited amount of time to really deep dive into topics that may need time to research related to ordinances and Planning processes. The idea here is to form subcommittees that are indefinite in their term to complete the research that is not afforded during regular Board meetings.

S. Moore stated he is in favor of it at the basic level that it is being introduced.

T. Taylor who served on the TIA subcommittee stated he saw the value of what can be accomplished with a subcommittee and when there is a topic that warrants it, he agrees it would be useful.

L. Munger stated that he agreed with the subcommittee on ordinances, but he was not sure that the subcommittee for Planning processes fell under the Boards scope. M. Jones referenced the Boards bylaws which outlines both ordinances and Planning processes.

F. Gammon commented that he could support forming a subcommittee for the ordinance portion but hesitates on the forming of the subcommittee for Planning processes until he better understands what the purpose will be.

S. Moore made a Motion to Approve the forming of subcommittees to review ordinances and planning processes with a subsequent meeting to address how they will be formed and the purposes they will serve. K. Jones seconded the motion. The motion passed (7-0-1) with F. Gammon abstaining.

E. Adjourn

S. Moore made a Motion to Adjourn. L. Munger seconded the motion. The motion passed unanimously (8-0).