



**MINUTES OF THE REGULAR MEETING OF THE TOWN OF
LAKE LURE ZONING AND PLANNING BOARD**

**TUESDAY, SEPTEMBER 19, 2023
9:30 A.M.**

Present: Randall Nelson, Chair
Dave Keenan
Ken Williams
Mac Hillabush

David DiOrio, Town Council Liaison (standing in for Scott Doster)

Absent: Charlie Ellis, Vice Chair

Staff: Michael Williams, Community Development Director
Richard Carpenter, Development and Environmental Review Specialist
Kimberly Martin, Community Development Administrative Support Specialist

The meeting was called to order at 9:30 a.m.

I. ROLL CALL

The Board opened with the pledge of allegiance. All Board members were present aside from Charlie Ellis.

II. APPROVAL OF THE AGENDA

Mr. Dave Keenan made a motion to approve the agenda, as presented. Mr. Mac Hillabush seconded and all voted in favor.

III. APPROVAL OF THE MINUTES

Mr. Ken Williams made a motion to approve the minutes from the August 15, 2023 regular Zoning and Planning Board meeting, as presented. Mr. Keenan seconded and all voted in favor.

IV. **PUBLIC COMMENT**

There were no comments from the public.

V. **OLD BUSINESS**

- A. *Review of July 18 Z&P Board recommendation regarding amending Chapter 36 Zoning ordinance regarding bars, taverns, nightclubs and alcohol sales for on premises uses in light of new information gathered from ABC Commission and Town Council's non-voting review at their July 26 work session.*

Chair Nelson explained that this topic had been discussed previously and provided a summary of discussions that had taken place to date. It was noted that there had been comprehensive review and research through speaking with a representative from the ABC Commission. Chair Nelson summarized that the Board should be looking at inconsistencies between the Town's ordinances and the state's regulations. Chair Nelson created a summary of goals that was included in the meeting packet. It was concluded that mixed drinks and hard liquor are only allowed in certain establishments approved by referendum, an establishment cannot sell on premise unless it is a restaurant or meets a variations such as breweries and wineries. It was also concluded that the Town's ordinances do not address whether or not different types or beverages can be sold and establishments such as wineries and breweries and the Town should defer to the state issued permit. Director Williams added that the Town's involvement is upfront because the ABC Commission asks the Town to approve or deny a certificate of zoning compliance. Director Williams noted that staff interpretations have been that wineries and breweries cannot sell outside beverages and staff is re-evaluating this opinion. Director Williams also noted that bars from ABC Commission are establishments that only sell mixed beverages. Chair Nelson noted that referendum passed by the Town in 1985 does not mention bars. Chair Nelson expressed that the Board would like to rescind the original motion next month and add definitions aligning with the referendum. Chair Nelson asked that Board review the associated ordinances for next month and ask Director Williams any questions prior to the meeting.

Commissioner DiOrio explained that the initial feelings from Council was to align the Town ordinances with the state regulations. It was noted that resistance was met with allowing bars anywhere in town, but all other recommendations by the Board were acceptable. Commissioner DiOrio expressed that the Town wants to enable local business to succeed. Commissioner DiOrio added that he thinks that the board has a goal of realigning the ordinances to align with state regulations and allowing permitting to help businesses while considering the wants of the community. Commissioner DiOrio thanked Board for their efforts and noted that each of their recommendations will be looked at separately.

Chair Nelson stated that this topic will be revisited during the November meeting.

VI. NEW BUSINESS

- A. *Review of request from Cheryl Daugvila of 180 Blarney Road to revise Town Code of Ordinances Chapter 4 “Animals” for purpose of making recommendation to Town Council regarding requested revision. (Specific request is to revise Section 4-3 – Animals, to allow chickens within the town limits. Request was submitted to Town Council, on their August 16th agenda, where they decided to send it to Zoning and Planning for review and a recommendation.)*

Director Williams explained that there was a proposal for a text amendment submitted by a resident, Cheryl Daugvila, who is interested in the Town allowing chickens. Director Williams noted that Town Code of Ordinances Chapter 4 prohibits chickens. It was noted that Council had reviewed the proposal and asked that the Zoning and Planning Board provide recommendations. Director Williams provided the Board with the information from the August 16th Council meeting, including the request from the resident. Director Williams cited the proposal (copy and paste below).

Director Williams provided the following staff recommendation based on the proposal:

Sec. 4-3.Livestock

- (a) *Keeping of livestock.* Change 1st sentence to “It shall be unlawful to keep or maintain any cow, mule, sheep, goat, hog, or other livestock or fowl, *other than female chickens*, on any lot or within any pen, stable, or other enclosure or building within the corporate limits.”
- (b) *Horses and ponies.* No change
- (c) Add “*Chickens.* “Female chickens may be kept within town limits, for pleasure or egg production purposes only, provided that no chicken is kept, housed, penned or maintained within 200 feet of a residence, including the owner’s or boarder’s residence, any waterway, church, store or other place of business. Chickens must be kept contained within an enclosed chicken house or run. All pens, coops and runs shall be no larger than 20 square feet, shall be kept clean, disinfected and sanitary, and shall not emit at any time any noxious or offensive odor or smell which can be detected by and is offensive to the occupant of any house in the town. Safeguards must be utilized and maintained to minimize the breeding and dissemination of rodents and flies by the use of appropriate pesticides and feed-storage facilities. Free range pasturing of chickens will not be permitted.”
- (d) *Effect upon existing livestock.* No change
- (e) *Violations.* Change 1st sentence to “In any event, if any horse, pony *or chicken* being kept pursuant to this section becomes noncompliant with these provision, upon written notice given by the town to either the owner of the *animal or fowl*

or the boarder of said *animal or fowl*, the owner or boarder shall have seven days to correct the deficiencies noted in the written notice, and the failure to correct the deficiencies noted in the written notice shall constitute a violation of this chapter.

See also Sec. 4-5. Penalty. No change

Staff reviewed their recommendation. Development and Environmental Review Specialist Richard Carpenter noted that Asheville imposes an annually licensing fee for chickens that allows them to inspect each year to ensure all regulations are being abided by. Staff warned against allowing free range. Specialist Carpenter noted that if restrictions are put in place and abided by, smell should not be an issue. Chair Nelson asked if there was a reason for the recommended limit of four chickens and Director Williams explained that this was included in the Mrs. Daugvila's proposal.

Mrs. Daugvila expressed that owning chickens is a growing hobby for many people and noted that she has three chickens now who are staying with a friend of hers. Mrs. Daugvila explained that the chickens benefit her life and that she originally got them in Chicago as emotional support animals. Mrs. Daugvila her long term plan for owning chickens.

Chair Nelson noted the Board looks at the entire needs of the Town when discussing these ordinances. Chair Nelson asked why the staff recommendation did not include specified districts. Specialist Carpenter expressed that districts should be residential and possibility limited from R1 because of the distance from the lake. Specialist Carpenter noted that NCDEQ allows chickens as long as they are outside of buffers and expressed that 200 ft. away from the water is sufficient for 4 hens. Mr. Hillabush expressed that he does not want to put a limit to personal residents and that he thinks that 200 ft. from house is too much, but agreed that distance from buffers should be regulated. Chair Nelson asked if a coop could be in a setback and staff discussed.

Chair Nelson asked if there are any other places besides Asheville and Marion that have ordinances that allow chickens that the Board could review. Staff noted that they would follow up. Specialist Carpenter read the Henderson County ordinance.

Director Williams noted that when he and Specialist Carpenter once inspected Mrs. Daugvila's property and they did not notice that she had chickens until it was reported by another resident. Mrs. Daugvila noted that she can teach others how to bear proof chicken feed. Mr. Williams asked why the other residents filed a complaint and Director Williams answered that neighbors had reported chickens free ranging, messing up yards, and that there was a rooster. Director Williams added that staff could not find evidence to back up the complaints.

Chair Nelson noted that the Town's recommendation is much stricter than the one cited from Henderson County. Mr. Hillabush expressed it is too strict and recommended a 50 ft. buffer. Board discussed buffers from waterways. Specialist Carpenter noted that fertilizer is prohibited in trout buffer. Chair Nelson expressed that the Town must keep the trout buffer

unaltered by chickens.

Chair Nelson expressed that he would support four hens in residential zones, but the Town needs to define which residential zones and noted that he is not in favor of allowing them in R1. Mr. Hillabush expressed that restrictions should just be from waterways and other residencies. Chair Nelson disagreed and noted that it should also be limited to certain residential districts. Chair Nelson expressed support for the annual licensing fee that Specialist Carpenter mentioned previously that is done by Asheville. Chair Nelson noted that he wants to address setbacks. Specialist Carpenter noted that Marion's setback for chickens is 100 ft.

Chair Nelson asked what residential zones staff would recommend. Director Williams noted that he feels that a buffer is more of an issue. Specialist Carpenter expressed that if R1 is allowed, the coop, house and run should be fully enclosed. Director Williams and Specialist Carpenter recommended allowing chickens in any residential districts with restrictions. Commissioner DiOrio expressed concern with how the state would view chickens near the waterway with the new sewer being installed. Commissioner DiOrio also expressed that he is concerned about the noise that chickens would cause. Commissioner DiOrio expressed that there is a need for preserving trout buffer. Mr. Williams expressed that the people on the lake will be much noisier than four chickens. Specialist Carpenter noted that the nuisance ordinance could cover other issues such as noise.

Director Williams expressed that the buffers are important. Chair Nelson expressed support for the originally recommended 200 ft. and expressed support for licensing and annual inspections. Board and staff continued discussions on buffers. Chair Nelson expressed need to keep chickens away from waterways. Mr. Hillabush expressed that he thinks setting a buffer would still allow for chickens to be allowed in R1.

Chair Nelson noted that he is in favor of tabling the discussion to allow more time to craft a comprehensive recommendation.

Specialist Carpenter recommended a 4 chicken limit, no rooster, no free range, enclosed coop, and buffers. There was consensus to only recommend allowing chickens in residential districts, but not commercial. Director Williams displayed Mrs. Daugvila's property on GIS to give perspective in regard to distance from the lake. Mr. Hillabush recommended setting buffers of 75 ft. from roadways and waterways and 50 ft. from property lines. Director Williams expressed that he would be more in support for 100 ft. Mr. Hillabush expressed that he wants to accommodate residents' wants, but have clear expectations.

Chair Nelson asked how Mr. Hillabush feels about annual fee and inspection Mr. Hillabush answered that he feels that inspection would be a waste of time, but expressed than an annual license fee is good and staff can complete inspections if any complaints are received..

Specialist Carpenter recommended 40 sq. ft. maximum fully enclosed coop or run. Chair Nelson asked if chicken effluent needs to be addressed and Specialist Carpenter expressed that it should be covered under maintaining cleanliness. Chair Nelson asked how people discard of effluent and Specialist Carpenter answered that it is composted.

Chair Nelson reiterated that the recommendations that had been discussed are 75 ft. buffers from roadways, buildings, waterways, and 50 ft. from property lines, restricting allowance of chickens to residential districts only, and requiring an annual license fee.

Director Williams read the penalty section of the ordinance.

Mr. Hillabush asked if staff can draft a recommendation that can be reviewed and recommended next month.

Mr. Hillabush made a motion to table the discussion for a recommendation next month. Mr. Keenan seconded and all voted in favor.

B. Brief Review and discussion of the 2014 Lake Lure Town Center Small Area Plan.

Chair Nelson asked that the board review the Town Center Small Area Plan and decide if it is still valid or if modifications are needed. It was noted that a resolution was adopted three years ago to affirm the plan. Director Williams noted that the plan is very ambitious. Commissioner DiOrio explained that the plan is a planning documents and that should be a consideration for execution. Commissioner DiOrio added that if the Town wants to begin executing the plan, zoning would need to be reviewed first because the plan is not consistent with the current zoning. Commissioner DiOrio noted that it seems that residents want to protect the green space at Pool Creek Park which would need to be supported by rezoning. Director Williams explained that the property in reference has always been zoned commercial general. Chair Nelson noted that he finds it interesting that there are no designated zoning for green spaces and it was noted that they are under government use (GU) districts. Commissioner DiOrio recommended that the board review if the plan is consistent and provide any recommendations. Board members discussed zoning. Mr. Hillabush expressed that zoning should be according to the plan. Director Williams expressed that his opinion is that the use of the park does not conflict with zoning, but if it were zoned as GU then it would have an impact on any use of the old ABC Store. Board members discussed zoning the park and store parcel separately. Specialist Carpenter explained that the Town could do split zoning, but traditionally that is not allowed. Chair Nelson expressed opposition for split zoning.

Commissioner DiOrio detailed Council conversations regarding proposals for the lease of the former ABC Store. Commissioner DiOrio expressed that Council would like to allow an area for activities benefiting the community including use of the pool creek property. Commissioner DiOrio added that that public expressed Lakeside Chapel was never to be impacted and residents also expressed that they do not want Pool Creek Park to be impacts, but it is zoned incorrectly.

Mr. Hillabush suggested that the Board discuss zoning each month unless there is another major topic being discussed. Director Williams expressed that the Board could do that. Mr. Hillabush noted that this could help with updating zoning sooner than later. Mr. Hillabush asked if there are major zoning issues that need to be address immediately and Director Williams expressed that he does not think so, but long range planning in accordance with the comprehensive plan is needed.

Chair Nelson expressed that one thing he would like is to get a consensus from the Board about how they feel regarding the Town Center Small Area Plan. Commissioner DiOrio agreed and expressed that this should have been brought to the Board to begin with so they could provide guidance. Commissioner DiOrio noted that there are a lot of properties owned by Lake Lure and expressed that it is a good idea to review them over time and determine appropriate zoning. Chair Nelson agreed and asked that Board members do a comprehensive review of the plan and re-visit discussions next month.

C. *Discussion of whether Commercial General Zoning District is appropriate District for the Town's Pool Creek/old ABC store parcel.*

This topic was discussed under the previous item.

VII. AUGUST DEPARTMENT REPORT

Board members reviewed the August Department Report that was available in the meeting packet.

Director Williams noted that geotech analysis was completed for the cell tower last Thursday and final plans were received yesterday so the Town can review and issue a zoning permit for the tower. The issues with SHPPO are almost resolved. Director Williams expressed that the Tower is moving forward.

Chair Nelson asked about audit for soil erosion and sedimentation control. Director Williams noted staff met with the state auditors again last week and Specialist Carpenter spent a lot of time with reviewing expectations and it was very productive and positive. It was noted that a review will be completed in end of October.

Chair Nelson asked about enforcement of vacation rentals and garbage. Director Williams noted that staff are making progress on that issue, communicating with vacation rental owners and property managers. Director Williams expressed that if anyone sees an issue with garbage, please let staff know.

VIII. ADJOURN

Mr. Hillabush made a motion to adjourn the meeting. Mr. Keenan seconded and all voted in favor. The meeting was adjourned at 11:54 a.m.

ATTEST



Olivia Stewman, Town Clerk



Randall Nelson, Board Chair