

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
February 11, 2009**

The Planning Board for the Town of Duck convened at the Duck Municipal Offices at 6:30 p.m. on Wednesday, February 11, 2009.

Present were Chairman Jon Britt, Vice Chair Joe Blakaitis, Ron Forlano, John Fricker and Claiborne Yarbrough.

Absent: None.

Also present were Director of Community Development Andy Garman, Permit Coordinator Sandy Cady and Council Liaison Dave Wessel.

Others Present: George Grinnan.

Absent: None.

Chairman Britt called to order the Regular Meeting of the Planning Board for February 11, 2009 at 6:36 p.m. He noted that Claiborne Yarbrough would be late to the meeting due to traffic.

PUBLIC COMMENTS

None.

OLD BUSINESS

Discussion/Consideration of Electronic Message Board Signs and Vehicle Signs – Ordinance 09-002

Director Garman stated that at the last meeting, the Planning Board had agreed to regulate electronic message board signs. He noted that everyone was clear on what the language would be. He stated that the Board had also discussed vehicle signs and had agreed that they would look at a standard that would create a minimum uniform distance that vehicles with signs would have to be located away from Duck Road.

Claiborne Yarbrough arrived for the meeting.

Director Garman went on to review the final draft of the ordinance language with the Planning Board. He stated that if the ordinance was acceptable, it could be forwarded to the Town Council for consent at their March meeting.

Member Yarbrough stated she was fine with the draft ordinance. Member Fricker agreed with Member Yarbrough, but felt that Subsection 7 should be tweaked slightly. He thought it should state: "...no vehicle shall be parked or located within a certain distance if it has a sign affixed to

it...” Vice Chair Blakaitis thought the original language was fine the way it was written. Council Liaison Wessel suggested that it read: “...no signs or lettering shall be displayed on a vehicle...” Member Fricker stated that he liked Council Liaison Wessel’s suggestion. Vice Chair Blakaitis agreed. Director Garman agreed and stated that he would change the language with Council Liaison Wessel’s suggestion.

Member Fricker moved to recommend to Town Council draft Ordinance 09-002 be adopted as amended with the aforementioned changes. Member Forlano seconded.

Motion carried 5-0.

NEW BUSINESS

Discussion/Presentation Pertaining to Quasi-Judicial Procedures

Director Garman stated that this item was a housekeeping issue. He stated that there have been issues with various sections of the ordinance related to quasi-judicial procedures. He stated that he wished to discuss a few of the issues and get a better understanding of where to go from there. He went on to review sections of the ordinance with the Board, noting that some Special Exceptions and Conditional Use Permits go before the Town Council while others go before the Board of Adjustment.

Member Forlano noted that the Town Council and Board of Adjustment seemed to rely heavily on the Planning Board’s work and study for each individual case. He added that a lot of times the Board of Adjustment was in the dark when they made their decisions. He thought that the board liked to rely on the Planning Board’s decision on a particular case so they could make a legitimate determination.

Member Fricker asked why the Planning Board’s assessment of an issue was more thorough than the Board of Adjustment’s. Director Garman stated that the land disturbing activities in the ordinance did not give the Board of Adjustment any guidance in issuing the permit. He stated that the Board of Adjustment had a difficult time making findings when issuing a special exception for land disturbance since they were not given any guidance in the ordinance on the standards. He thought that for a Conditional Use Permit, there had to be an idea of what the intent of the regulations were as well as what it was intended to do.

Chairman Britt stated that he had a problem with the Board of Adjustment making the final decision for a Special Exception or Conditional Use Permit. He thought that it shouldn’t be that way. He noted that other municipalities have their Board of Adjustments deal with variances only. He thought that any land disturbing act, height and/or special exception should come before the Planning Board. He suggested taking the Board of Adjustment out of any topics that they weren’t used to dealing with.

Member Fricker asked what activities the Board of Adjustment would hear if the change was made, other than land disturbing activities. Director Garman stated it would be special exceptions for specified improvements to single-family dwellings in existence on July 1, 2003. Member Fricker asked if that and land disturbing activities would go before Council after the

change to the ordinance. Director Garman stated that they would. Chairman Britt stated he would like to see the change made and suggested that Council deal with all height variances. Vice Chair Blakaitis agreed. Director Garman suggested having the Planning Board review all the items, such as Conditional Use Permits or Special Exceptions, regardless of who it ends up going to.

Member Fricker felt the Board should decide on the proper division of labor and then move on with cleaning up the ordinance language. Director Garman agreed. Chairman Britt thought the Board of Adjustment should be taken out of the land disturbing section as well as Sections 156.054 and 156.128 of the ordinance.

Chairman Britt asked if it was the Board's desire to take the Board of Adjustment off Sections 156.054 and 156.128. It was *consensus* of the Board to have the change made. Council Liaison Wessel stated he was not familiar with Council's history on the issue but would check with other council members to get their feelings on it. He stated that he would review the Town's history to get a sense whether the height should go to the Board of Adjustment or stay with the Town Council.

Director Garman stated that the next issue regarding application procedures had referenced incorrect sections. He stated that he would fix the language regarding nonconformities in Section 156.070 through 156.076. He reviewed the corrected language with the Board. Director Garman stated that another issue was the reference to Conditional Use Permits and Special Exceptions. He stated that he would change the section heading to make it clearer.

Vice Chair Blakaitis asked what would be proposed regarding the inconsistencies with mailings. Director Garman explained that for a standard Conditional Use Permit, the property is posted no later than ten (10) days before the scheduled hearing. He added that between ten (10) and twenty-five (25) days before the hearing, a notification is sent to all adjacent property owners as well as advertising the hearing in the local newspapers. He noted that individual child care centers have unique procedures they have to file in that the applicant sends a letter to adjacent property owners. He stated that he would prefer Town staff send notifications instead of the applicants.

Director Garman stated that he would like to remove some of the duplicity in the language that was repeated in the ordinance. He recommended cleaning up the language. He stated that the small child care was unique and needed to be standardized. He added that he would not change the requirement of notifying property owners within two hundred (200) feet but would change that Town staff would send out the notifications instead of the applicant.

Director Garman stated that most Special Exceptions and Conditional Use Permits typically run with the land. He stated that he wasn't sure if it was legal to say that those permits were not transferrable. He recommended removing this condition. Director Garman stated that the section regarding land disturbing activities did not give clear guidance for making findings. He stated he would like to clean it up.

Chairman Britt asked Director Garman to clear the language up and bring it back at a future meeting.

APPROVAL OF MINUTES

Planning Board Meeting January 14, 2009

Chairman Britt directed the Board to review the minutes from the January 14, 2009 meeting.

Vice Chair Blakaitis moved to approve the minutes as presented. Member Yarbrough seconded.

Motion carried 5-0.

OTHER BUSINESS

Meeting Schedule in April

Director Garman stated that Council had changed their meeting dates for April and that the Town Council would be meeting the second Wednesday. He stated that the Planning Board would have to change their meeting date to alleviate this conflict. It was *consensus* of the Board to meet on Wednesday, April 15, 2009 at 6:30 p.m. Permit Coordinator Cady stated that she would advertise the date change.

Chairman Britt asked Director Garman to give an overview on the wind energy presentation he attended with members of the Planning Board. Director Garman gave a short review on the presentation.

STAFF COMMENTS

None.

BOARD COMMENTS

Chairman Britt thanked Member Yarbrough for her service on the Planning Board. Member Yarbrough stated that this would be her last meeting. She added that she had learned a lot while a member of the Board.

ADJOURNMENT

Member Fricker moved to adjourn the meeting. Member Yarbrough seconded.

Motion carried 5-0.

The time was 8:10 p.m.

Approved: _____
/s/ Joe Blakaitis, Vice-Chairman