**Town of Beech Mountain**

Planning Board Meeting Minutes

July 6th, 2010

***Call to Order:***

Chairman Paul O’Connell called the meeting to order at approximately 9:00 A.M. Other board members present in attendance were Brian Barnes, Bill Watson, and John Hoffman. Vice Mayor Paul Piquet was also present, as well as Tree Board Chairperson Renee Castiglione.

***Adoption of Agenda:***

A motion was made that the agenda be adopted. The motion was seconded and carried with no opposition.

***Approval of Minutes:***

Andy Porter made a motion that the minutes of the June meeting be approved with the amendment that he was not listed as present. The motion was seconded by John Hoffman and carried with no opposition.

***Discussion of Tree Ordinance Amendments:***

Paul O’Connell opened the discussion by requesting more information on the standards for pruning and cutting provided in ANSI A300, which was referenced in the proposed Tree Ordinance. James Scott replied that ANSI A300 was a standard that had been developed by experts in the field that described best practices for tree trimming and cutting. He mentioned that he felt it was important for there to be some sort of objective standard to determine whether a tree had been topped or trimmed correctly. The current tree ordinance left this as a very gray area by simply stating that trees “could be topped to the extent that it did not become detrimental to the life of the tree.” Paul O’Connell said that he had heard that ANSI A300 prohibited topping. Renee Castiglione commented that ANSI did not prohibit topping. Andy Porter questioned how ANSI A300 regulates topping to ensure that it is done in a way that is healthy to the tree. James Scott replied that ANSI does not recommend “topping,” but nevertheless provides instruction on how to do it in an acceptable manner.

Bill Watson commented that the new tree ordinance provides protection to many types of “trash trees” that are not valuable or desirable. He also commented that he understood why people were afraid that they would no longer be able to top their trees-- because of the ANSI A300 recommendation that trees not be “topped.” John Hoffman agreed that there were many types of “noxious” trees on the mountain that were undesirable to keep or protect. Stan Hanna commented that he would bring as much common sense as possible to the enforcement of the ordinance, and would consider the type of tree involved when deciding what was allowed to be cut. Renee Castiglione agreed that this was the best solution for the problem, as it would be difficult to specify different standards for different types of trees in the ordinance.

Bill Watson stated that the real problem with tree cutting was unlicensed, un registered tree cutters who cut trees without permits on weekends or evenings. Many others agreed but questioned how this was to be stopped. John Hoffman suggested that the Police Department write down the address whenever they saw tree cutting and verify with the zoning official that a permit had been obtained.

Stan Hanna and others discussed the fact that only live trees require permits, and that the Planning and Inspection Department receives numerous inquiries about whether dead trees may be cut.

Paul O’Connell questioned what would happen in the instance where someone wanted to trim their trees to enhance their view, and the trees were of such an elevation that the only way to accomplish their goals was to severely top the tree. Renee Castiglione replied that in this instance, the Town may just request that the tree be removed entirely, and that this could be justified because it would encourage the growth of other trees. She reflected that the purpose of the tree ordinance was not to prevent people from obtaining views, it was to educate them to some other possibilities for achieving their goal that might be healthier for the forests.

The discussion then turned to replacement trees. Councilman Paul Piquet questioned whether the provision for replacement trees should be removed as unenforceable. Paul O’Connell replied that the provision was only unenforceable in the Town Attorney’s opinion, and recommended leaving the provision in. James Scott explained that there were two provisions that spoke of replacement trees in the proposed ordinance. One of these is for replacement trees as a condition of a permit, the other is as a penalty. Replacement trees as a condition of a permit is clearly legal, replacement trees as a penalty is of questionable legality. After some discussion, the Board resolved to leave both provisions in the ordinance, and defer to the Town Council on whether to remove the portion regarding replacement trees as a penalty.

Brian Barnes questioned the purpose of a fee for tree permits, and also the requirement for a copy of the deed. The Board agreed that they did not see the necessity of these provisions. Brian Barnes made a motion that the ordinance be presented to the Town Council with the exception that these provisions be struck. Said motion was passed 4-1 with Paul O’Connell raising the only objection, because he was unclear about how the amendments would affect the ability to top trees.

***Discuss Building Height Provisions***

Paul O’Connell opened the discussion by opening the floor to discuss the correct interpretation of the current building height provision. Mr. O’Connell commented that when his house was built, the allowable height was measured from the highest point on the natural grade on which the building sits, not of the entire parcel of land on which the building was being built. Mr. Scott commented that the problem with using the highest elevation of the lot on which the building sits would be that some lots have a great range in elevation, and this could result in some extremely tall buildings.

Bill Watson commented that the building height ordinance was created at the same time that Avery County introduced the 35 foot ridge line law. The intent, he said, was to limit building height to 35 feet above road level for houses on the low side of the street. Somehow, he said, this intent became lost in the process of incorporating this ordinance into writing. He said that the intent was never to measure from the natural grade.

Paul O’Connell stated that the ordinance had always been interpreted to require the measurement to be from the natural grade, but recognized that the wording in the current ordinance could be read differently. James Scott questioned whether this uncertainty necessitated that the existing ordinance be revised. He explained that if the board determined that the building height provision should be changed, he had worked on a proposed modification to the building height that would define it similarly to the sign ordinance. It would measure building height from natural grade for lots above street level, and from road height for lots below street level.

Charlie Burleson then questioned what the reasoning behind limiting building height was in the first place, if proper setbacks and other regulations were adhered to. James Scott responded that the reason for limiting building height was for fire protection and to maintain the aesthetic character of the Town. John Hoffman responded that the height of the building was not always the most important consideration when fighting fire. Stan Hanna commented that any structure above 3.5 stories would have to be constructed under the Commercial Code, which requires engineering and multiple other safeguards to ensure safety. Because of these protections, the Board agreed that there was no need for the amended ordinance to limit the use of road height for a base of measurement to structures only within a certain distance of the road.

Paul O’Connell questioned whether anyone had anything else to discuss regarding building height. Brian Barnes noticed a typo in the proposed amendment, and also questioned what would be used to measure height for houses that front multiple roads. Mr. Scott stated that in the proposed amendment, he had specified that height would be measured from “the road that provides primary access.” Brian Barnes made a motion that the amended building height provision be provided to Town Council. Said motion was seconded by Paul O’Connell and carried with no opposition.

***Streetscape Plan***

James Scott provided an update in which he reported that he had sent out “letters of intent agreement” to each of the property owners who would be involved in the prospective streetscape plan, which included some general parameters about the streetscape as it pertained to each of the properties. He reported that at this time he had not received any responses. He then discussed that once he received word back from the property owners, he wanted to hold a public meeting with as much representation from the citizens of the Town as possible, in which the purpose was to receive as much public input on the design and direction of the Streetscape project as possible.

Brian Barnes noted that the club had recently constructed a meandering path and a park that had received significant public interest and approval.

Charlie Burleson noted that he had forwarded his intent agreement to his attorney, who had raised questions as to liability if someone was to be hurt walking on the walkway, and whether it would cause potential problems for the landowner. James Scott stated that in the past, the Town had covered other portions of land under the Town’s insurance policy when the Town was using their land.

Andy Porter questioned if Mr. Scott could follow up on getting responses from property owners to keep the process moving along. Mr. Scott replied that he would.

Finally, Mr. Scott described the draft donation solicitation form he had created, using a similar form from Banner Elk as a guide. The Board approved of the general design of the form.

The Board and other meeting attendees then proceeded to discuss potential surfaces for the walkway, especially the pros and cons of using bricks. It was also discussed that using pea gravel for the walkway would be a good option for now, because it could serve as a base for a paved or brick surface when more funds were available.

***Other Business***

James Scott commented that various persons had requested that the Planning Board consider extending the term for Real Estate permits from 6 months to one year. The Planning Board was agreeable to this proposal, and moved that it should be proposed to town Council. Said motion was seconded and passed with no objection (Brian Barnes and Andy Porter abstained from voting on this issue).

***Adjournment***

Having no further business, Brian Barnes moved that the meeting be adjourned. Said motion was seconded by Paul O’Connell and carried with no opposition.

**Respectfully Submitted,**

**James Scott**

**Secretary to the Board**