

Town of Beech Mountain
Planning Board Meeting Minutes
February 1st, 2011

Call to Order:

Chairman Paul O'Connell called the meeting to order at approximately 9:10 A.M. Other board members present in attendance were Bill Watson, John Hoffman, Andy Porter and Brian Barnes. Genesis Wildlife Sanctuary President Leslie Hayhurst was also present, as were Ms. Eva Jones, Mr. Jones, and Beech Mountain Outdoor Recreation staff member BJ Hughes.

Adoption of Agenda:

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

Approval of Minutes:

Brian Barnes moved that the minutes be approved. Said motion was seconded and carried with no opposition.

Discussion of Possible Conditional Use Overlay for Genesis Wildlife Sanctuary:

(At the last Planning Board meeting, the Board had resolved to gather input from adjacent property owners regarding a possible conditional use overlay that would allow Genesis Wildlife Sanctuary to operate a Wildlife Rehabilitation center in a residentially zoned area on Fireweed Lane.)

Paul O'Connell opened the discussion by stating that he had received several responses of a generally negative nature. He said that he had personally received a letter from one property owner in particular who was very concerned about the impacts of allowing such a use and was "dead-set" against the measure.

James Scott reviewed that he had sent out 14 notices to the adjacent property owners by Certified Mail. Of these 14 notices, 12 were signed for (2 were returned and it is presumable they did not reach their intended recipient). Of the 12 property owners that had received the said notice, 6 returned responses. Two respondents were generally supportive of Genesis; two were decisively opposed; one was ambivalent and deferred to the Board's judgment; and one person questioned whether he would be allowed to keep animals such as goats and chickens on his lots if Genesis were allowed to have animals. Mr. Scott circulated copies of all of these responses.

Paul O'Connell stated that, given the opposition raised by several of the adjacent property owners, and given that granting a Conditional Use Overlay in this situation may open a "Pandora's Box" of similar requests, he felt that it would not be prudent to recommend a Conditional Use Overlay in this situation. Brian Barnes said that in his experience the Town Council would not grant such a measure with this level of

opposition. Andy Porter that he was very appreciative of what Leslie Hayhurst and Genesis had done for the Town through the years, but that he felt that the Wildlife Sanctuary should be located on Recreation Center property where it could be operated for perpetuity, even after Ms. Hayhurst was not able to continue with her work.

Ms. Hayhurst stated that what she was trying to accomplish was to bring in the modular homes and locate them on her lots on Fireweed Lane (which is allowed by right), and then to continue to do what she has done for the past 17 years- which is to bring in injured animals and release them. She stated that she had at least fifteen cages on her property at Upper Grouse Ridge Rd. and no one had complained about it. She stated that she felt the two people who were opposed to her locating on the Fireweed property were merely interested in personal gain by having her purchase their property. She continued by saying that no one would see the animals as they would be completely enclosed within the buildings.

James Scott stated that there is an ordinance that prohibits keeping any animals other than those commonly considered household pets in Beech Mountain. However, in the absence of a search warrant, there was no way to determine and control what a person was keeping in the privacy of their home. Nevertheless, he felt it was important to have it on record that technically, it was not allowable to keep animals other than household pets on a lot in Beech Mountain.

At this point Eva Jones was recognized and spoke on behalf of Genesis Wildlife Sanctuary. She began by stating that the Town of Beech Mountain had no Animal Control or any other method of handling injured, sick, or otherwise troubled wildlife. She stated that Genesis had fulfilled this function for many years- ensuring that the mountain was safe for animals and people alike. She stated that Beech Mountain's unique situation in our rural atmosphere made such a service necessary and essential, and that if the Town was not going to allow Genesis to provide the service, it should do so on its own.

Andy Porter questioned how Leslie Hayhurst had been allowed to keep wild animals at her house at Upper Grouse Ridge. She replied that she had kept animals there for 17 years with the full knowledge of the Town and that no one had ever complained, her neighbors included.

Bill Watson commented that he appreciated all the work that Leslie had done for the Town over the years, but that he felt the neighbors who were opposed to her locating at Fireweed Lane were justified. He felt that the Town may be faced with legal challenges if they approved the Conditional Use Overlay. Paul O'Connell agreed that the neighbors' concerns were justified and worried that approving the Conditional Use Overlay in this instance would open "Pandora's Box" when other landowners applied for similar exceptions to zoning rules.

Having heard the discussion on this issue, Paul O'Connell moved that the request for a Conditional Use Overlay be denied. Brian Barnes seconded the motion and it was carried with no opposition. The issue will therefore not be recommended to Town Council for further action at this time.

Discussion of “Mixed Use Residential/ Commercial” in the CS-1 Zoning District:

James Scott summarized the history of this issue that began with the realization that the building at 3363 Beech Mountain Parkway had never been applied a zoning designation. Upon considering what designation was most appropriate for the building, it was realized that it had both commercial and residential components, and that this was technically not allowed. It was also discussed that many other buildings in Town had both residential and commercial functions. Therefore, the Board had previously moved to recommend that council amend the ordinances to allow “Mixed Use Residential/ Commercial” in the CS1 zoning district. Upon their review at the last Town Council meeting, the Council had recommended that the Board provide more standards that would define and regulate exactly what was to be allowed under this usage designation.

Mr. Scott had prepared a definition of “Mixed Use Residential/ Commercial” to fulfill the Council’s recommendation. The definition he prepared would protect against potential abuses of the amendment by requiring that such a Mixed Use building be no greater than 45% residential.

Brian Barnes and Andy Porter had attended the previous Council meeting and commented that the restriction on the percentage of the building that could be residential was in line with what the Council wanted. Andy Porter commented that he felt it was important that the main focus of the building be the Commercial portion, as it was to be in a Commercial zone.

John Hoffman was concerned that we limit or restrict access between the commercial and residential portions of buildings. He suggested that Boone’s ordinances be researched to determine what restrictions they place on mixed use buildings.

It was also discussed that several existing buildings in town had greater than 45% residential usage. Beech Towers, for example, had several floors of residential usage above one floor of Commercial usage. Paul O’Connell commented that he felt that 45% residential was high for a Commercial zone.

The Board then discussed whether it was important that it be required that the Commercial use be on the ground floor. Brian Barnes said that perhaps it should stated that the Commercial portion of the property be at the entrance level. James Scott said that he felt that the market would dictate that Commercial usages be located where they were easily accessible. However, it was discussed that some restaurants may want to be located where they had the best view rather than on the ground level. After some discussion, it was decided that in the cases that an operation desired to have a commercial business located other than at the entry level, as long as such a building was compliant with applicable fire and building codes it may be acceptable.

Finally, the Board resolved to approve of the definition as written. A motion to this effect was made by Brian Barnes and seconded by Andy Porter and was carried with no opposition.

Discussion of Directional Signs

This discussion involved a proposed amendment that would exempt any signs erected by the Town from the Sign Ordinance. The proposed amendment was created with the intention of allowing the Town to erect off-premise signs (currently prohibited) that provided directions to the Town's major attractions. Brian Barnes opened by saying that this issue had been brought up at the Town Council meeting. He felt that there was an important place for directional signs and had envisioned the large rock on the Accardi property being used as a welcome sign. He said that he was in favor of directional signs, but wanted to ensure that they were of a better quality than the standard routed signs created by the Town's Public Works department.

Paul O'Connell mentioned that an off premise sign had recently been erected for Ski Beech and asked if this issue had been raised to "bend" for them. James Scott acknowledged that the Ski Beech sign had been erected but felt that regardless of that issue there is a legitimate interest in providing directions to major attractions in town. John Hoffman, Paul O'Connell and others recalled various groups that they had assisted when lost in the area.

Brian Barnes repeated that he liked the idea of directional signs, but did not think that merely allowing the Town to erect such signs would be sufficient. He felt that private entities would create and erect signs that were much more tasteful than those created by the Town. James Scott said that although the proposed amendment would only permit the Town to erect such signs, it did not necessarily prohibit individual entities from providing the Town with signs to erect.

After more discussion, the Board moved to recommend the amendment to the Town Council as written.

Discussion of Deer Population Control

In prior meetings, the Board had discussed the overpopulation of deer on Beech Mountain. They requested that Mr. Scott research the feasibility of birth control for deer. Mr. Scott reported that in his research, he had found that deer birth control is expensive and that many tests had shown it to be ineffective. Moreover, his research had indicated that the drug was only available to State Wildlife Commissions at the present time.

Because of these obstacles, he proposed that the Board consider an alternative control measure that would involve tranquilizing and removing deer to a conservation area. Outdoor Recreation Specialist BJ Hughes was present to discuss the proposed program. As an avid hunter, Mr. Hughes was very knowledgeable on the subject matter. He discussed that the basic premise of the plan would be to tranquilize an appropriate number of deer every year and remove them to land that was owned by the Nature Conservancy near Hump Mountain, approximately 20 miles away. Deer would primarily be removed from Town property and would only be removed from other property at the owner's request. Mr. Hughes discussed how even removing a small percentage of the

deer would decrease the general sense of security that deer have in Beech Mountain. Over time, less deer would locate here as a safe haven.

James Scott commented that he felt the idea was appealing because it involved no ordinance change. While the discharge of firearms and crossbows is prohibited in Town, there is no such prohibition of tranquilizer guns.

Bill Watson suggested that a dollar amount be calculated to estimate how much this type of program would cost.

Paul O'Connell and other members of the Board concluded that they would like staff to continue to look into this idea.

Discussion of Potential Standards for Regulation of Windmills

James Scott opened the discussion by stating that he had recently been contacted several times by individuals who wanted to know the Town's policy on the regulation of windmills. He requested input from the Board on whether they felt it was important to develop a set of standards to regulate windmills. He went on to mention that Watauga County had recently passed Ordinances that regulated windmills.

Paul O'Connell questioned the specifics of the Watauga County ordinance and was curious to know exactly what they allowed. James Scott replied that Watauga County made a distinction between small, private windmills and large, corporate ones. Their restrictions were much more relaxed for small, private windmills. Requirements included a height limitation of 135 feet and setback requirements.

Paul O'Connell felt that it was definitely warranted to develop some sort of standards to regulate the installation of windmills. There was general agreement that large, commercial windmills would not be appropriate in Beech Mountain. There was debate over whether small, private windmills should be allowed. Bill Watson felt that there were very few homes that could benefit from small windmills anyway. Paul O'Connell worried that they would be "eyesores" and that they would become nuisances by generating too much noise. Bill Watson also mentioned that some windmills would be destroyed and damaged by winds that were too high. Paul O'Connell stated that he felt it may be best to disallow windmills completely in the Town limits. Brian Barnes and John Hoffman stated that they could see the merit in allowing windmills in some circumstances. Brian Barnes felt that windmills were less obtrusive visually than solar panels on roofs. Andy Porter said that he felt that there was a place for residential windmills as long as there was a height restriction imposed upon them. John Hoffman thought that residential windmills may be appropriate as long as there was a noise restriction. Bill Watson compared this issue to the Town's prohibition of large satellite dishes years ago. Now, he commented, satellite dish technology had progressed to the point that all of the dishes currently marketed were well within our Town's standards. He felt that if a set of reasonable standards were developed, advances in technology may make products that comply.

The Board agreed that it was necessary to look further into this issue. James Scott clarified that the Board would like to examine proposed standards that would prohibit

large and industrial grade windmills yet allow residential windmills with certain restrictions.

Other Business

Paul O’Connell mentioned the sign for the “Beech Bear Café” that was not compliant and questioned what was to be done. James Scott replied that he had already spoken to the owner and was working with him to ensure his sign was compliant. Mr. O’Connell questioned whether the advertisement of “dinner specials” was allowable under the sign ordinance. James Scott replied that it was permissible to have 4 “Special Sale” signs per year under §154.277(B). Also, §154.274(B)(2)(e) allows for “Special advertisements” on a wood-framed chalkboard or markerboard. John Hoffman commented that he felt that the “wood-framed chalkboard/ markerboard” requirement was more of an example and that the intent was merely to allow businesses to have special advertisements of reasonable size.

Brian Barnes questioned what was the Town’s ordinance regarding fences. James Scott read the text of §154.139 “*Fences, Walls and Hedges.*” It was discussed that a new fence erected in Town was not compliant with this ordinance.

Adjournment

Having no further business, a motion was made that the meeting be adjourned. Said motion was seconded and carried with no opposition.

Respectfully Submitted,

**James Scott
Secretary to the Board**