

Town of Beech Mountain
Planning Board Meeting Minutes
July 26, 2011

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 Andy Porter, Bill Watson, John Hoffman, and Brian Barnes. Planning Director James Scott and Planning Intern Kevin Lewis were also present for the meeting.

Adoption of Agenda:

Chairman O'Connell made a motion to adopt the agenda. Said motion was seconded and carried with no opposition.

Approval of Minutes:

Chairman O'Connell made a motion to adopt the minutes from the previous Planning Board meeting. Said motion was seconded and carried with no opposition.

Discussion of Wind Energy Systems:

The Board once again explored the topic of allowing wind energy systems for commercial and accessory use in Town. James Scott related that the proposed ordinance was presented to the Town Council, and the Council had some concerns. On one hand, the Town Council was apprehensive of the possibility of commercial wind energy operations and their possible negative effects on the resort character of the Town. On the other hand, the Council felt that the set of standards proposed would be too difficult on homeowners who wished to install an accessory, non-commercial, wind turbine on their property.

In order to meet the Council's wishes, Planning Director Jes Scott created definitions to differentiate between wind energy systems for commercial and accessory use. Accessory systems are located on the same tract of land as a permitted residential dwelling or commercial building and produce the majority of their power for use on-site. Commercial systems exist primarily as a stand-alone use on a tract of land and produce the majority of their power for redistribution and use at locations other than the tract of land on which the system sits.

Some of the Board members were concerned about how the size of a turbine might cause problems, mainly concerning the possibility of damages to surrounding property. Commercial units have stricter regulations, and are required to be a certain distance from property lines and surrounding structures. Accessory units do not have those same standards, and could cause a potential risk for people and other structures. The Board asked that similar guidelines be added to wind turbines as an accessory use if possible ensure safety.

The height of accessory units was also a concern. Board members wanted to make sure that the units would not be excessively tall, and the ordinance takes that into consideration. Accessory units are limited to 50 feet tall, or 15feet above the highest point of the structure that shares the piece of property. Overall, the Board was pleased with this ordinance, and they feel that it reflects what the Town Council asked for. A motion was made to send the ordinances to the Town Council for approval. Said motion was seconded and carried with no opposition.

Discussion of Manufacturing and Processing Regulations:

The Town of Beech Mountain does not have any large scale manufacturing business, and many residents feel strongly that such uses are incompatible with the residential resort character of the Town. While the Town's size and topography limit the possibility of heavy manufacturing from becoming a reality, it is nevertheless important to have regulations that govern such uses, because in the absence of any regulation they may be allowed by default.

Mr. Scott explained that he had researched the legality of completely excluding a use from the town's ordinance. In doing so, he found that a Town must demonstrate a legitimate public purpose to exclude an otherwise valid land use, or else the regulation would be struck down as arbitrary and capricious. Mr. Scott felt that due to the unique resort character of Beech Mountain and the nature of its topography, it would not be arbitrary or capricious to exclude heavy industry, but that certain types of light industry (wood working, pottery, etc.) would not necessarily conflict with the character of the Town. The Board was in agreement and pointed out that the Town's infrastructure would not support larger manufacturing processes.

Because of the need to regulate light industry differently than heavy industry, Mr. Scott explained that he had created a draft set of regulations that distinguished between these two uses. In creating this distinction, clear definitions of light and heavy manufacturing are necessary. Mr. Scott had drafted a definition of Manufacturing/Processing-Light that required that majority of dollar volume of business at such facilities is done through walk-in trade, while Manufacturing/ Processing-Heavy was characterized by establishments that created or produced items for transport and sale elsewhere. Many Board members felt that the distinction between light and heavy manufacturing needed more clarification. After some discussion, the Board agreed that heavy manufacturing focuses mainly on producing merchandise, not selling it, and that therefore, the definition was adequate.

However, the Board was concerned with other portions of the regulations. One item of concern was that the regulations would prohibit homeowners from operating woodworking shops and the like in their residences. Although the definitions of Manufacturing/ Processing specifically state that "woodworking, pottery, arts and crafts, and the like executed in private residence for other than commercial purposes are not included in this definition," there was still a concern that the ordinance would prohibit a homeowner from selling anything he or she created in their home, no matter how small of a scale such operation was.

The Board also had concerns regarding noise and other possible nuisances presented by manufacturing uses. The Board mentioned that they had previously worked on an ordinance that regulated noise from construction and dealt with the hours at which construction could occur. This ordinance was not found in the Code of Ordinances. It was recommended that the staff search for it in old meeting minutes. It was debated whether the Town's existing noise ordinance would eliminate any unwanted noises, and the Board considered the possibility of updating the noise ordinance.

On site storage was also a concern of the Board. They want to make sure that a business owner could not store materials and waste on their property that would be visible from the property line. It was agreed that such a provision should be added to the proposed regulations.

The Board suggested that more consideration of regulations for Manufacturing/ Processing uses be made at later meetings, and that this item be tabled. The motion was made, seconded and carried with no opposition.

Discussion of Nonconforming Structures:

This item is in response to a number of inquiries with the Planning and Inspections Dept. regarding additions to “Non-Conforming Structures.” James Scott explained that the ordinance defined any home or structure that was erected in a setback area prior to the enactment of the zoning ordinance as a legal, non-conforming structure. According to the Town ordinances, such structures are allowed to remain, but may not be altered in any way except maintenance and repair needed to keep them in sound condition. An addition to such a home would be disallowed, even if it was to be in an area that met all applicable setbacks. Mr. Scott and the Board agreed that this was an unreasonable way to handle non-conforming structures.

The proposed amendment would allow residents to make alterations to their structures as long as the addition or extension meets all required setbacks and any other applicable ordinances or regulations. Also, the proposed amendments made some minor changes to address confusing wording in the ordinance by separating the standards for modifying a nonconforming “use” and the standards concerning modifying nonconforming “structures.” The Board also discussed the provision in this section that stipulates that nonconforming parking facilities are never “grandfathered” and whenever encountered must be brought to standard. The Board agreed that this was intended and should not be altered. Finally, the Board discussed adding a requirement that when adding on to a non-conforming structure, the maximum depth of penetration on the nonconforming side be added to the set back on the opposite side. After some discussion on how such a provision would be enforced, it was agreed that it was necessary to ensure that owners of non-compliant structures would not be unfairly advantaged and able to build a larger structure than compliant homeowners. With the addition of this stipulation, a motion was made to adopt this ordinance and send it to the Town Council for approval. Said motion was seconded and carried with no opposition.

Discussion of the Comprehensive Plan:

Mr. Scott presented the Board with the vision statement that was compiled with information provided by each of the members. The statement provided a view of what the Town will be like in 2030 if the Town’s development goals are reached. After reading the vision statement aloud, Mr. Scott received feedback from Board Members and others. Mr. Scott would update the vision statement as directed and provide the revised version of the statement to the Board at the next meeting. At the next meeting, the board would also decide which topical areas the plan would focus on. A motion was made to table the Plan, and continue the discussion at the next meeting. Said motion was seconded and carried with no opposition.

Other Business:

The Board once again discussed noise related to construction, but decided to focus on that subject at a later date. Mr. Scott briefly raised the topic of outdoor sales, but he and the Board agreed that that topic would be better addressed at a later date.

Call to Adjournment:

Chairman O'Connell called for the adjournment of the meeting. Said motion was seconded and carried with no opposition.

Respectfully Submitted,

James Scott

Secretary to the Board