

**TOWN OF UNIONVILLE
MINUTES OF REGULAR PLANNING BOARD MEETING
AND SPECIAL MEETING WITH TOWN COUNCIL**

The Planning Board of Town of Unionville met on Monday, March 2, 2020, at Town Hall, 1102 Unionville Church Road, Monroe, NC. Chairman Ken Trull, Board members Jerry Adams, Barry Baucom, Craig Rushing, Matt Price, and Alternate Steve Outen were present. Mayor Randy Baucom, Councilmen Jeff Broadaway, Andrew Benton, Jaren Simpson, and Gene Price were present. Absent were Planning Board members Andy Fowler, Joe Medlin, and Alternate Scott Barbee.

Everyone stood and recited the Pledge of Allegiance to the United States flag, after which Barry Baucom led the prayer of invocation.

Chairman Trull called the meeting to order and welcomed all to the meeting at 7:31 p.m.

Chairman Trull then asked for any questions on the minutes of the February 3, 2020, Regular Meeting. After a motion by Jerry Adams, seconded by Barry Baucom, the Board unanimously approved the minutes from the February 3, 2020, Regular Meeting.

Chairman Trull asked Steve Outen to fill in for Andy Fowler on the Board.

Next, Chairman Trull said there was a subdivision request, SUB-20-02, as emailed. Land Use Administrator Gaddy stated that there was a two-acre tract with no road frontage. This subdivision must be approved by the Planning Board and needs a 20' dedicated easement to satisfy the ordinance requirements. The lot is located on Clontz-Long Road and was previously a part of Ms. Doris Outen's property. The subdivision meets all criteria of the ordinance and Land Use Administrator Gaddy recommends approval of this subdivision. Land Use Administrator Gaddy also noted that the new owner, Alex Walker, was there to answer any questions. Chairman Trull confirmed that the subdivision met all requirements and asked for any discussion on the matter. There being none, he called for a motion to approve. Upon a motion by Matt Price, seconded by Barry Baucom, the motion passed unanimously.

Chairman Trull then welcomed the Council to join in discussion with the Planning Board and asked Code Enforcement Officer John Ganus to speak regarding the proposed Public Nuisance Ordinance, a copy of which is appended to these minutes.

Code Enforcement Officer John Ganus stated that he had sent a draft public nuisance ordinance to the Town for review. Included in this draft was a list of potential nuisance violations, or what could be defined as a public nuisance violation. After review, the Council and Planning Board had shortened the list and Mr. Ganus then revised the list based on those items sent, and that is the proposed ordinance. The list started with twenty-three different types of violations, which were violations that were accrued from other towns in which Mr. Ganus has worked. The Town has since reduced that down to six

categories which have been included in the draft ordinance presented at this meeting. To review, the nuisance violations are only enforceable within the corporate limits of the town. The six categories include: trash, open storage, junk, debris, unserviceable equipment, and partially burned or destroyed structures. This could be a house that's severely damaged, not just one involved in a fire. Based on the proposed ordinance, that would be considered something that could be dealt with. For example, an extremely damaged mobile home, if it were repairable, would not qualify under this ordinance. Mr. Ganus went on to state that he was asked to include that a complaint would be written and signed. This detail has been included in section C, paragraph one. Violators will be notified via first class mail and there will also be a notification posted on the property. The Town is not required by law to mail violations. In addition, there is an appeal process which violators can go through. Within 10 days of notice, the property owner can appeal to the Board of Adjustment in writing to the Town Clerk. Mr. Ganus also noted that in Section E, the ordinance addresses chronic violators. A chronic violator is defined as a person who has received three notices of nuisance violations on the same property within a calendar year. Mr. Ganus clarified that it does not have to be citations for the same violation, but just three violations on the same property. For example, if in 2020 the Town adopts this ordinance and a property is found in violation, a notice is then issued. If that property owner cleans up the property, they will be back in good standing. If after the property has been cleaned up and the owner then has another issue, they will receive another citation. Say they clean it up and are back in good standing, however, they have a third violation and are sent a third notice. By January of 2021, this property owner is noted as a chronic violator. Any additional violation within 2021 would lead the Town to abate the violation without further notice. The Town can clean it up and put a lien on the property.

Steve Outen asked Mr. Ganus how often something like this has happened. Mr. Ganus stated that in some jurisdictions, there are some repeat offenders, but it is typically a small number. Steve Outen asked if that was within all of the violations listed on the ordinance. Mr. Ganus stated there would only be six items in the ordinance as it is proposed. Steve Outen asked if cutting it down to six types of violations would cut down on the number of potential chronic violators. Mr. Ganus said that it would, with the main violation pertaining to tall grass and having to ask property owners to mow their grass. Initial violations will be sent via first-class mail; however, chronic violators are notified via certified mail, first class mail, and posted on the property.

Matt Price asked that when a complaint is received if Mr. Ganus has the autonomy to determine what is "junk" versus what is not. He asked Mr. Ganus how that process would work. Mr. Ganus stated that when the Town receives a complaint, he investigates it and compares it with the ordinance. If anything is there, then the property owner will receive a violation letter. First, they can appeal immediately by calling Mr. Ganus and explaining their case. Mr. Ganus stated that he was open to property owners' questions. Then, the Board of Adjustment will look at the situation and determine whether the violation is correct or not. Matt Price stated that he could see that being a big issue as to what is considered junk or not. For example, a stack of bricks might be junk to some, but not to others. Mr. Ganus stated that a neat stack of bricks is not a problem; however, a pile of broken bricks would be a problem.

Steve Outen stated that there was some discussion at the last meeting about broken or discarded machinery. There was concern that machinery may be there to be repaired or for parts. One man's junk might be another man's treasure. He asked Mr. Ganus if that would be determined on a case-by-case basis. Mr. Ganus stated that the Town would have to have generalizations. The Town will take complaints only and does not go out and hunt for anything. The complainant writes in about their next-door neighbor with trash problems. The code enforcement officer then goes out and looks at the complaint against the ordinance. Once investigated, it may be in violation of the standards of the ordinance. At that point, the code enforcement officer will look at the options, look at why there's a gray area, and see what the facts are. If he runs into an old tractor that is an antique, but missing tires, wheels, and half the parts, it may be an issue. If there are piles of debris, collections of parts piled against the barn, the code enforcement officer will have to determine if they are usable or just where they're thrown.

Craig Rushing asked if there was someone who was initially out of view or sight and then there is a complaint when a piece of property gets developed and people start complaining, then what will happen. Mr. Ganus stated that new subdivisions can cause that. One guy had a huge pile of things in his back yard with trash, but it was initially hidden. Once the trees were cut, it opened up the view from his backyard, and then someone complained.

Matt Price asked if the person who complains is disclosed. Mr. Ganus stated that it would be public record.

Ken Trull asked Mr. Ganus if he was employed by the county. Mr. Ganus stated that he was not, but he was employed by N-Focus and hired by municipalities. Municipalities hire him through N-Focus.

Barry Baucom asked Mr. Ganus about unfounded complaints and if he contacts the complainant to advise them that the complaint was unfounded. Mr. Ganus said that he does not necessarily do that. Barry Baucom stated that he felt the complainants needed that. Mr. Ganus stated that he does not typically run into a situation like that. A complainant might call in to the Town to find out why nothing has happened. Ms. Gaddy would receive a report from Mr. Ganus after a complaint has been reviewed. If the complainant wants to know why nothing was done, the Town could call that person and let them know what was done.

Matt Price asked that if there is a report and the complainant calls in and they would like more information, if we would direct them to Mr. Ganus. Mr. Ganus stated that the violations have his number on them and he tells people to call him.

Steve Outen asked if the signed, written complaint would be on file at the Town Hall. Land Use Administrator Gaddy confirmed that the complaints are on file with her at Town Hall and with Mr. Ganus. Steve Outen asked if anyone could see the complaints. Mr. Ganus confirmed that signed, written complaints are a matter of public record. He stated that he was a proponent for anonymous complaints in an effort to protect the complainant. Land Use Administrator Gaddy stated that this requirement cuts down on a lot of complaints. She fields the initial calls and advises that it requires a signed, written complaint, but they don't always follow through.

Chairman Trull asked if there were questions from Council. Barry Baucom asked about the 10-day appeal process. He said if he wanted 60 days to clean up a mess from a burned house, if it would not be subjective to the violation. Mr. Ganus stated that in Section C, Paragraph 3, if they need to clean it up within a stated amount of time. If the timeline is reasonable and the property owner is willing to do the cleanup, he is willing to work with them. Mr. Ganus went on to say that he may approve the 60-day clean up period, but if the property owner has not done anything in the 60 days, then it becomes an issue. He went on to say that sometimes he will look at how much is done within 30 days, and then adjust the timeline after that. If the property owner still needs time, but is making progress, then the timeline can be flexible. If there is a violation and the deadline hits, then there will be a hearing with the code administrator. He will call and set up a time to meet with the property owner. A notice will be sent, he will have a call with the owner, then will meet to review the owner's current situation. Mr. Ganus will assess if the owner needs more time and will determine if anything is in violation or not. He will work to straighten it out with the property owner and it may not get decided before the appeal time is over. If they come to an agreement, then they will cancel the appeal. If no agreement has been reached, the property owner will still have the right to appeal. It is a win-win situation for everyone.

Steve Outen then asked about the potential financial hardship for someone who is trying to clean up a partially burned building. Mr. Ganus stated that he understood; however, if someone were living next door to that structure, after six to eight months it would need to be cleaned up. Steve Outen stated that that sounded like a reasonable amount of time. Mr. Ganus stated that if a structure burned today, and a complaint is received tomorrow, he will not touch it right away. Once a cause has been determined and the owners have had time to work out insurance, then the clean-up should start. Typically, a complaint is not received right after a fire; it is usually about six months later.

Land Use Administrator Gaddy asked about the bonafide farm exemption from zoning and if that exempts it from nuisance complaints. Mr. Ganus stated that it would not exempt a property from nuisance since that was a use of the property, but not an exemption from police-power ordinance.

Jeff Broadaway stated that he had some wording concerns about worn out, broken down machinery. He asked if that should be struck from the ordinance and then reconsidered at a later point in time in an effort to start broad and then narrow down if needed. Steve Outen asked Land Use Administrator Gaddy what types of complaints we currently have. Land Use Administrator Gaddy stated that there were complaints about trash and abandoned appliances. Mr. Ganus asked if the complaints were within the town limits. Land Use Administrator Gaddy confirmed that they were.

Mr. Ganus stated that machinery is not concrete and they could strike through discarded machinery. Jaren Simpson stated that a farmer may have machinery that is not currently being used, but is functional. Someone could see it as broken down. Matt Price furthered that a farmer might be using an implement for parts. Ken Trull stated that the location of the complaint would need to be considered -if the complaint is on a farm and not in a subdivision. Matt Price stated that it is likely that 90% of the complaints will come from a subdivision. It is unlikely that someone will complain about something behind their house that is not in a subdivision.

Mr. Ganus went on to clarify that a complaint is not a violation. The complaint has to be verified that there is a violation. If the implement is functional, it will not be viewed as a violation. Jaren Simpson then asked how it would be handled if someone has a horse-drawn hay rake in their yard as decoration, and someone does not like it and assumes it is junk farm equipment and complains to the town. Mr. Ganus stated that he drives by a similar decoration everyday where a gentleman has landscaped with two rusted 1940s/1950s pick-ups. It's yard art and has been there for 25 years or more. Jaren Simpson stated that it would seem if someone offends one neighbor, then they would potentially complain. Mr. Ganus stated that it would still have to meet the standard of this ordinance. These examples would not be considered as a violation. He said that certain things have been identified that the Council is not comfortable with putting into the ordinance. Jaren Simpson stated that he was in agreement with Jeff about removing the language about worn/discarded farm equipment. Mr. Ganus said that it actually says machinery. He stated that he has seen where people went to a yard sale or flea market and found something cheap and the neighbor had a fit.

Matt Price stated that as long as there is a way that complaints are not turned over to the sole regulation by another company, yet it can be heard by the Town's Board of Adjustment, then he thinks that element will settle many of the concerns. Jerry Adams stated that on Highway 51 there was someone running a body shop for years with lots of cars out back. But, to the officer, it looked like junk cars and he was forced to destroy a collection of rare, antique cars. Mr. Ganus stated that based on the ordinance, it could have been, but there are also antique exceptions that could be added to the ordinance. Steve Outen asked Mr. Ganus that once he had gone to the property and reviewed the situation, if he then threw out a complaint that was unfounded. Mr. Ganus stated that it depends on the ordinance and the approach.

Mr. Ganus then asked the Board and Council if there was anything they wanted removed. He advised that while the nuisance ordinance is not as fluid as zoning, it can easily be changed. The Town will have the opportunity to define their violations. An example would be if someone is collecting old rusty metal for scrap, but it is blowing all over the neighborhood. Complaints do not typically come regarding farm machinery.

Steve Outen asked if the word "machinery" should be removed from the wording. Matt Price clarified that the recommended changes would have to go back through Council. Land Use Administrator Gaddy confirmed this and Mr. Ganus added that there would also have to be a public hearing.

Ken Trull asked if the Board wanted to make a recommendation. Craig Rushing made a motion to strike "old worn out broken or discarded machinery and equipment" in numbers 3 and 5 of the proposed draft. The motion was seconded by Steve Outen and passed in a split vote of five to one.

Ken Trull asked Mr. Ganus to make the approved changes to the draft for Council to review. He then asked the Board if they would like to talk about it again. Barry Baucom made a motion to send the revised ordinance to council for consideration. The motion was seconded by Craig Rushing and passed unanimously.

Ken Trull then asked Land Use Administrator Gaddy if there was an update on the storage facility case. Ms. Gaddy stated that there was no update and the Town has provided all requested records. We have not heard anything since then. Mr. Outen asked about the location. Ms. Gaddy stated it is the property beside of Van's Welding on Sikes Mill Road. Tim Keziah petitioned for a two-acre Conditional Use Permit for a mini-warehouse, but the Board did not approve it. Mr. Keziah is appealing that decision.

Jerry Adams made inquiry as to the updates on the intersection at Morgan Mill Road and Old Camden Road. Ms. Gaddy stated that you can go online and make comments through the end of the month. The two options are: a four-way stop or a roundabout. She urged everyone to comment and make a request. She will email that information to the Council and Planning Board.

There being no other business, the meeting adjourned at 8:24 p.m.

Respectfully submitted,

Melody Braswell

Deputy Clerk