

**TOWN OF MAGGIE VALLEY
REGULARLY SCHEDULED PLANNING BOARD MEETING
NOVEMBER 9, 2010
MINUTES**

Members Present: Chairman Billy Brede, Tom Benoit, Bob Knoedler, Doreen Pauley,
and John Schreiber
Members Absent: June Johnson
Staff Present: Planning Director Nathan Clark and Town Clerk Vickie Best
Others Present: James Harden

Meeting Called to Order

Chairman Brede called the meeting to order at 5:39 p.m. in the Town Hall Boardroom.

Approval of Minutes: October 7, 2010

**MR. BENOIT MADE A MOTION TO APPROVE THE MINUTES OF OCTOBER
7, 2010 AS PRESENTED.**

**MR. KNOEDLER SECONDED THE MOTION.
MOTION CARRIED UNANIMOUSLY.**

Special Exception: 977 Soco Road, Residential Use in C-1

Director Clark provided the following information:

Rock Garden Enterprises the owner of 977 Soco Road has applied to the ZBOA for a residential use special exception within the C-1 Zoning District. "Due to potential conflicts, such as noise, traffic, and the like, residential uses in the C-1 District is discouraged, however, it may be allowed as a special exception if approved by the Zoning Board of Adjustment based on elements listed in § [154.172](#)" A requirement of the Planning Board as stated in § [154.172](#) is to make a recommendation to the ZBOA based on the following criteria. I have written my opinions on both elements in *italics*.

Some additional background to 977 Soco Road

- Last Use: Ed Hensley's Law Firm.
- The building was originally constructed as a single family house in 1946
- Approximately 800 square feet in size.
- The lot size is minimal, only 0.16 acres.
- House is orientated to the left of lot, leaving right for parking
- Applicant is getting heavy residential use interest, very little, if any commercial rental interest
- Surrounding land uses: a window treatment store, a duplex, vacant land
- More than a dozen single family homes exist along Soco Road's C-1 Zoning District.

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d) The Board of Adjustment shall request the Maggie Valley Planning Board to review and make recommendations concerning the special exceptions relative to the following considerations:

1. Relation of the special exception to applicable elements of the planning program *The 2007 Land Use Plan indentifies this area for Mixed Used, placing a heavy emphasis on commercial activity where size of parcel allows.*

2. Appearance of the special exception relative to location, structure, and design. *When viewing the structure it is hard to imagine it being used for any other purpose than for residential use or professional office space. The structure's design resembles that of a small cottage that looks as it has never been used for commercial purposes. The site has limited parking potential due to the small lot size, 0.16 acres, which coincidentally is the smallest allowable lot size*

The parcel will remain zoned Commercial 1 but with a special exception allowing residential use. The 1946 structure was built as a single family home. The structure has a full size bathroom and kitchen.

Mr. Benoit was familiar with the request due to the similarities of the Benitez Homes changing from a construction office to apartments. Due to the economic times, requests like this, when suitable, will become more prevalent.

The tax rate will not change due to the change in use. Tax rates are applied to value, not zoning.

CHAIRMAN BREDE MADE A MOTION TO RECOMMEND APPROVAL OF THE SPECIAL EXCEPTION TO ALLOW THE RESIDENTIAL USE DUE TO PREVIOUSLY BEING A RESIDENCE PRIOR TO BEING AN ATTORNEY'S OFFICE, IN REFERENCE TO QUESTION 1 THE AREA IS A MIXED USE AREA, AND QUESTION 2 THE STRUCTURE WAS CONSTRUCTED AS A RESIDENCE. THE SIGN FRAME IS TO BE REMOVED, IF THE ZONING BOARD OF ADJUSTMENTS ALLOWS THE SPECIAL EXCEPTION.

MR. KNOEDLER SECONDED THE MOTION.

MOTION CARRIED UNANIMOUSLY.

Greenspace Text Amendment: Citizen Proposal, James Harden

Director Clark explained that Mr. Harden has an issue with the enforcement of Chapter 154.055 entitled Standards, letter E. which reads:

No structure or parking shall be allowed in the green space. Principal use signs and city sidewalks are allowed. Front yard setbacks in C1 shall remain a green space.

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Quest Services, located at 37 Bennett Drive is one parcel off Soco Road and is zoned Commercial 1. Bennett Drive is a private road. The setback is off the road right-of-way, which in turn limits the required number of parking spaces for the business and the apartments. It is assumed that the required green space in Commercial 1 District was made into legislation for aesthetics purposes. If not Soco Road, a five-lane highway would appear to be concrete upon concrete. Director Clark felt that with the up coming aesthetics and design document proposals, there is no need for a text amendment on green space.

Mr. Harden addressed the board stating that he feels the required green space was enacted into law for not only aesthetics, but also for safety reasons. Bennett Drive is a private road. The parcel cannot be seen from Soco Road. There has never been green space along the road right-of-way. The areas in front of the business and the apartments have always been gravel. Green space should be better defined i.e. trees, shrubs, or grass.

The board informally discussed instances in the past where businesses were required to install green space. The Blue Grass Café and Saratoga's were required to install green space.

Mr. Harden was not sure how much time elapsed between Hogan Auto and himself reopening the garage, but the residential use never ceased.

Chairman Brede explained that the Planning Board is an advisory board. The Zoning Board of Adjustments is the only board that can grant a variance to the green space requirement and a professional parking plan showing the road right-of-way, the green space required, and the number of parking spaces remaining is required so that the members can see the constraints of enforcing the green space requirement. It would be prudent to wait until after the November 16 Board of Aldermen meeting to see if the aesthetics and design policy is adopted.

Mr. Harden thanked the members for their time.

Other Business

➤ Director Clark informed the board that he has received a few comments and visits from people concerned about the real estate sign ordinance amendment. An example is the property for sale below the rock shop on Soco Road. The six acre parcel with 600 feet of road frontage has a 32 square foot real estate sign. Due to the amount of open space, it does not appear to be that large or obtrusive. Also, if someone owned several adjacent lots that are for sale, could a 16 square foot real estate sign be utilized?

The board felt that the answer would be yes. A 16 square foot sign would be allowed if adjacent lots are for sale. The board felt the sign ordinance should remain simple, without confusion.

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Chairman Brede stated that the sign ordinance has always been in place, it is now being enforced fairly across the board.

- The sweepstake gaming machine will become prohibited in North Carolina December 1, 2010.
- The Moody Farm Road sidewalk project is coming along well.

Director's Report

◆ The Rich Cove Road Landslide is nearing completion. The landslide threat has been removed and the stream bank restoration has been accomplished.

◆ The next regularly scheduled meeting will be held December 2, 2010 at 5:30 p.m. A tow truck service and salvage yard would like to locate in Maggie Valley which requires the issue to be brought before the Zoning Board of Adjustments. The Zoning Board of Adjustments is required to get the Planning Board's recommendation on the proposed business being in harmony with the land use ordinance.

◆ The bulbs have been delivered for the Maggie Valley Beautification Program. Mr. Clayton Davis will be holding a class on November 15 at 1:00 p.m. in front of the pavilion to demonstrate how to plant and care for the flowerbeds. There will be several large public flowerbeds throughout town that should make a showing in the spring of 2011.

◆ The Planning Board members decided to meet for their annual Christmas dinner on January 7.

◆ There have been no new applicants for the vacancy on the Planning Board. The Board of Aldermen are eager to fill the vacant position as soon as possible.

Meeting Adjourned

**ON MOTION OF MR. BENOIT, SECONDED BY MS. PAULEY, THE MEETING
ADJOURNED AT 6:55 P.M.**

Chairman Billy Brede

ATTEST:

Vickie Best, CMC, Town Clerk