

Town of Beech Mountain

Planning Board Meeting Minutes

June 2, 2009

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 Bill Watson, Andy Porter, Brian Barnes, and John Hoffman.

Adoption of Agenda:

There was a motion that the agenda be adopted. The motion was seconded and carried with no opposition.

Approval of Minutes:

Brian Barnes moved that the minutes of the May 5th/ 19th meetings be approved. The motion was seconded and carried with no opposition.

Discussion and Review of Legal Revision of Sign Ordinance Amendment:

Discussion proceeded involving the legal review of the Sign Ordinance. Many of the issues identified by the legal review were stylistic, such as the use of the word “Article” throughout the document in place of the word “Ordinance.” These and other minor changes were accepted by the Board. Other changes pertaining to more material issues warranted more in-depth discussion as described below.

Regarding the definition of “Projecting Signs,” it was determined that the original wording of the provision was correct, and that the intent was to ensure that projecting signs were a minimum of 8 feet above the ground, not a maximum of 8 feet. Therefore, this provision was left as it was.

As discussion began to divert to some of the finer points and technicalities of legal language, Randy Feierabend noted that legislation inherently has gray areas, and that in practice this cannot be eliminated totally. Therefore, the effectiveness of

ordinances sometimes hinge on clear communication of Town's policy toward interpretation (formal written memorandums) as well as consistent enforcement.

Regarding Section 1904- Prohibited Signs, there were several items that merited substantial discussion:

- It was decided to accept the Town Attorney's deletion of the verbage defining "Portable Signs." This was done in order to reduce redundancy, because "Portable Signs" were previously defined in the definitions section of the article.

- It was decided to eliminate item "(e)," which pertained to "Banners, balloons, flags, streamers, spinners, placards, pennants, and other similar wind- activated devices..." It was noted by John Hoffman and Brian Barnes as well as others that it was not the Town's intent to regulate the many seasonal, university-oriented, or other flags and decorations that commonly are displayed on the mountain. Therefore it was moved by Brian Barnes to strike item "(e)." Said motion was seconded by John Hoffman and carried with no objection. However, in order to prevent this change from allowing obscene or indecent flags or decorations, it was moved by John Hoffman to amend item "(j)," which prohibited "signs containing statements, words, or pictures of obscene, indecent or immoral character..." to include the regulation of flags or other decorations which likewise violate a sense of decency. Said motion was seconded by Bill Watson and carried with no objection.

- The Town Attorney had commented that item "(s)," (which prohibited information boxes visible from the roadway) may be in violation of 1st Amendment rights. However, after much discussion it was decided that since our ordinance didn't prohibit property owners from having information boxes (it merely prohibited them from being visible from the roadway), the provision should remain in the ordinance. However, to clear up any misunderstanding regarding the intent of this provision, Andy Porter proposed that the reading be changed to say "Information boxes in residential areas are not to be visible from the roadway." A motion to this effect was made, seconded and carried with no objection.

There were also several items that merited substantial discussion regarding Section 1909- Material and Style:

- It was decided to let item "(a)," which requires sign lettering and background colors to be of muted earth tones, remain as it currently reads.

“Muted earth tones” is commonly understandable and is used in the wording of various other local municipalities.

- **In order to clarify intent, it was decided to change item “(c),” which pertains to light reflective backgrounds. The words “other than a numerical address” were removed. Such a motion was made by Brian Barnes, seconded by Andy Porter, and carried with no objection.**

- **It was decided that as it was not the intent of the ordinance to require signs to be painted on faces that are not visible, it is appropriate to keep the phrase “faces that are being used” in item “(e).”**

Regarding section 1914- Sign Permits, it was decided to recommend to the Town Council that the Town’s Fee Schedule be altered such that there be a lower fee for an appeal of a denied sign permit.

Regarding Section 1918- Penalties, the Attorney’s strikethrough of this Section was accepted, as penalties for violation are covered elsewhere in the Town’s ordinances.

Other Business:

John Hoffman voiced some concerns about when permits are required. A recent document circulated by the Department of Inspections and Planning summarized the North Carolina General Statutes in this regard. Mr. Hoffman questioned the wording and clarity of this document, and questioned whether the statute really prohibited a person from performing some types of simple maintenance without a permit. Bill Watson stated that this was an instance of when the letter of the law must be compared with the intent of the law, and that the intent of the law was not so restrictive as to prohibit a person from minor maintenance such as changing a light bulb. Nevertheless, as this subject is governed by North Carolina State Law, the Planning Board saw no need to take a formal position on this matter.

Adjournment:

With no further business, it was moved that the meeting be adjourned. Said motion was seconded and carried with no opposition.

Respectfully Submitted,

James Scott

Secretary to the Board