

**TOWN OF BLACK MOUNTAIN
PLANNING BOARD**

The Black Mountain Planning Board held its regular meeting on Monday, June 24, 2019 at 6:00 p.m. in Town Hall at 160 Midland Avenue, Black Mountain, North Carolina.

I. CALL TO ORDER

The meeting was called to order with the following members present:

Peter Vazquez, Chair
Pam Norton, Vice Chair
Jennifer Willet
Lisa Milton
Michael Raines
Scott Reed

Absent:

Jesse Gardner

Staff:

Jennifer Tipton, Zoning Administrator
Jessica Trotman, Planning Director
Ron Sneed, Town Attorney

The meeting was called to order at 6:00 p.m. and duly constituted and opened for business with a quorum of six (6) regular members.

II. ADOPTION OF AGENDA

Lisa Milton made a motion to adopt the agenda as presented. The motion was approved by consensus with a vote of 6-0.

III. ADOPTION OF MINUTES

Scott Reed made a motion to adopt the minutes of April 22, 2019 as written. The motion was approved by consensus with a vote of 6-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Rezoning Request – 300 Flat Creek Road from SR-2 to TR-4

Jennifer Tipton reported that Ann Best had requested a rezoning for 300 Flat Creek Road from SR-2 (suburban residential) to TR-4 (town residential). Ms. Tipton went over the staff report and explained the subtle differences between the SR-2 and TR-4 zoning districts, including setbacks, lot sizes, and uses. Ms. Tipton explained that overall, TR-4 is slightly less restrictive and allows one or two more uses than SR-2 allows. Lisa Milton expressed concern that this was spot zoning and that the area had been zoned SR-2 to protect slopes and that it would allow the applicant to have rights that other property owners in the area would not have. Ms. Milton asked about the possibility of a variance to allow the applicant to build a second dwelling and Town Attorney Ron Sneed explained that that would be a use variance and those are not allowed in North Carolina. Town Attorney Sneed explained that spot zoning is not necessarily illegal if it can be found that

Planning Board Regular Meeting
June 24, 2019

the request is reasonable and that a rezoning request such as this would raise the standard of looking at reasonableness and that the decision could not be arbitrary and capricious.

Ann Best and Thomas Wright, 144 Rabbit Ridge Road, explained that they are working of fixing up the existing house that is currently on the lot and would like to be able to subdivide and build an affordable home on the existing foundation of the old Roseland Gardens building. Board members asked how the property would be divided and the applicants explained that they wanted to leave the longer piece of the parcel with the original house that they are renovating.

Buzz Yeatman, 313 Flat Creek Road, said that slope did not have anything to do when the area was rezoned to SR-2 and said that the felt the rezoning in 2010 was done too rapidly. Mr. Yeatman said that the town needs affordable housing with the influx of residents that are coming into the town and said that all of Flat Creek should be rezoned to TR-4 and not just one parcel and that Flat Creek Road should have higher density rather than lower density and that it would be personally beneficial to him if Flat Creek Road were rezoned.

Elaine Loutzenheiser, 410 Avena Road, said that all of or a portion of Flat Creek Road should be rezoned as opposed to spot zoning as that leaves the possibility of spot zoning open to other lots that would have a hard time if they were not rezoned when it was allowed for another and reiterated that all of Flat Creek Road should be rezoned or none of Flat Creek Road rezoned.

Joe Snyder, 304 Portmanvilla Road, reported that he owns 302 Flat Creek Road, right next to the subject parcel, and that he was planning on asking to be rezoned to be able to allow another lot and that his lot is not steep but the areas around Rainbow Terrace and Montreat Road are where the steeper lots are located and agreed with rezoning the area as a whole.

Jessica Trotman explained that the board can look at a larger area to rezone and this does happen when there tends to be a change in conditions. If a larger area is looked at it will require additional noticing and hearings. Board members questioned how many lots could be subdivided if the area were to be rezoned and Ms. Trotman said that staff would have to obtain that data.

Town Attorney Sneed asked the board to determine if the request is reasonable or not and why.

Town Attorney Sneed read a definition of spot zoning from a court case which is below:

A zoning ordinance, or amendment, which singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, so as to impose upon the small tract greater restrictions than those imposed upon the large area, or so as to relieve the small tract from restrictions to which the rest of the area is subjected, is call spot zoning. Town Attorney Sneed told the board to keep in mind that other than a use or two the only differences between the districts were that you could create smaller lots and double the density.

Town Attorney Sneed also told the board to consider the area around the request. The board were told that the whole area had not been petitioned and that a decision had to be based on the application submitted. Town Attorney Sneed said that this was marginally spot zoning and was just a little less restrictive. Jennifer Willet made a motion to recommend the rezoning request for 300 Flat Creek Road from SR-2 to TR-4. The motion tied with a vote of 3-3 with Jennifer Willet, Michael Raines and Scott Reed voting to recommend and Lisa Milton, Pam Norton and Peter Vazquez voting to not recommend. Town Attorney Sneed said that the request would go to the Board of Aldermen as a tie vote. The board agreed to look at rezoning Flat Creek Road as a whole and Ms. Trotman said that staff would bring some boundary maps to the next meeting to start looking at creating a defined area to look at.

2. Resolutions of Appreciation

Planning Board Regular Meeting
June 24, 2019

Jennifer Tipton thanked Peter Vazquez, Lisa Milton and Jesse Gardner for their hard work and dedication to the Planning Board. All three were given Resolutions of Appreciation for their time on the Planning Board.

VI. COMMUNICATION FROM PLANNING BOARD

None.

VII. COMMUNICATION FROM STAFF

Jessica Trotman reported to the board that the draft document of the Blue Ridge Road Small Area Plan should be ready by mid-July at which time it will be brought to the board for review and recommendation.

Ms. Trotman reported that the parking study has begun and that staff will begin collecting data and asked that if anyone is interested in volunteering to help collect data to just contact Ms. Trotman.

VIII. ADJOURNMENT

Pam Norton made a motion to adjourn the meeting at 7:00 p.m. The motion was approved by consensus with a vote of 6-0.

Prepared by:

Pam Norton, Vice Chair

Jennifer Tipton, Zoning Administrator