

# Marshville Planning Board Meeting

## February 8th, 2021 7:00 PM

**Present (in person):** Frances Griffin, Rusty Johnson, Tracy Stancill and Tom Appenzeller

**Present (via Zoom):** Susan Drake, Fred Burton and Brian Weber

**Staff Present (in Person):** Michael Garrison

**Staff Present (via Zoom):** Carina Soriano

**Absent:** None

**Pledge/Invocation:** All stood for pledge. Invocation was given by Mr. Johnson.

**Approval of December 14<sup>th</sup> minutes:** Ms. Drake asked for a motion to approve the minutes. Mr. Johnson made motion, Ms. Griffin seconded. All ayes. Motion passed unanimously.

**Lot 3 Green Street Rezoning Application:** Ms. Drake mentioned that her property is neighbors the aforementioned property and may need to recuse herself from public comments and voting for this application and asked the opinion of the Board.

Mr. Burton stated he is of the opinion that Ms. Drake needs to recuse herself from public comments and voting.

Mr. Drake recused herself and turned the meeting over to the Vice Chair, Mr. Burton.

Ms. Soriano explained that the applicant is looking at the Lot 3 on Green Street and wishes to have the lot rezoned from SFR1 to SFR2 and that the applicant had applied last July to have the property rezoned from SFR1 to R/MST and the Board voted unanimously to recommended Council to deny that zoning request. Ms. Soriano also explained that on the application was the proposed split of the parcel into 12 smaller parcels to create a subdivision once the rezoning is complete.

Mr. Appenzeller asked if the applicant is trying to put 12 houses there.

Ms. Soriano confirmed that is correct. Ms. Soriano then discussed the uses for the proposed zoning and that when making the decision, the board must consider all uses.

Mr. Appenzeller stated that none of those uses matter because the applicant is wanting to put houses in that lot.

Mr. Burton asked exactly what the applicant is wanting to do with the lot.

Mr. Appenzeller responded that the applicant wants to put 12 houses in the lot.

Ms. Soriano then showed the Board a sketch of the proposed breakup of the lot.

Mr. Appenzeller asked if each house would be on a half-acre lot and asked if the applicant is going to fix that road.

Ms. Soriano stated that she wasn't sure and that is something that would have to be discussed post rezoning.

Mr. Appenzeller stated that the road this lot is on can't handle 12 houses.

Ms. Soriano stated that the road is owned by the town and that she didn't know if road improvements would be the responsibility of the developer or the town's responsibility.

Mr. Burton explained that road improvements are usually a condition of approving the driveway permit.

Mr. Appenzeller stated that the road is terrible and he can't see 12 houses being put in.

Mr. Weber thinks that a half acre lot is plenty for a home and doesn't see a problem with it.

Mr. Johnson asked if this lot butts up to the Mill Tree Apartment property.

Ms. Soriano stated that is correct. Ms. Soriano also stated the property is 6.79 acres.

Mr. Weber said the town should be looking for more homes and more people and he again does not see a problem with half-acre size lots for homes, but agrees the road is a problem and is small land a plan needs to be in place for his vote of approval.

Mr. Burton then discussed the issue of trying to put in roads and not upset nearby properties.

Mr. Johnson pointed out that most of the properties around this lot are already less than half an acre.

Ms. Soriano said those are legal nonconformities and were more than likely grandfathered in.

Mr. Weber asked that if the Board is going to take a vote then to go ahead and make it.

Mr. Burton entertained a motion to go ahead and approve the rezoning of Lot 3 on Green Street from SFR1 to SFR2.

Mr. Weber made motion, Mr. Johnson seconded. Ms. Griffin and Mr. Burton voted to approve the motion. Mr. Appenzeller and Ms. Stancill voted against. Motion passed 4-2.

Mr. Burton then gave the floor back to Ms. Drake for the next agenda item.

**Internet café/Electronic Gaming Operation Zoning District:** Ms. Soriano showed the land use regulation internet sweepstakes cafes to the Board. Ms. Soriano proposed to keep this in the zoning ordinance but relegate them to industrial zoned areas.

Mr. Weber asked if there is a consequence to the town in having to pay a fine to the applicant who applies for a zoning permit for electronic gaming.

Ms. Soriano said there is the potential the town would have to pay a fine in the event of a court case and pay out to the prospective applicant.

Mr. Weber stated that you typically wouldn't see electronic gaming located in industrial areas.

Ms. Soriano explained that is correct but the reason it is put in the industrial area is because there are certain state restrictions around where those sorts of facilities can be located, including being far away from things such as schools, child care facilities and religious institutions. Ms. Soriano believes industrial zoning keeps it away from these institutions.

Ms. Drake stated the original intent of placing them in industrial was to not segregate electronic gaming out of town, but enable them to function in an area that would meet the town's distance requirements from churches and schools.

Mr. Weber stated he is fine with where Ms. Soriano has electronic gaming/internet cafes zoned.

Mr. Johnson stated he thinks the Board needs to look at major gate way setbacks and why those are in there and pointed out the listing of US 74 and Monroe Bypass and NC 205.

Ms. Soriano explained that the first two are state ordinances and the town has to follow and she isn't sure about the third.

Mr. Weber asked Mr. Johnson what the point is.

Mr. Johnson stated that he is trying to figure out the major gateway setbacks and in his book he has a) US 74 and b) the Monroe Bypass for future toll and wants to know what they are in here for and if the board is only allowing them in the industrial area.

Ms. Soriano stated she is not sure what the 205 is referring to and that is a correction that the board would have to make and take 205 off there.

Mr. Weber stated he is not for it being anywhere near highway 74 and asked if there was any way to eliminate the highway 74 out of the plan or would the Board have to change the ordinance.

Ms. Soriano said she thinks the Board would need to change the ordinance since most the town's industrial property does front 74.

Mr. Weber asked if it is possible to lump electronic gaming in with adult uses and lump adult uses together to include alcohol/tobacco sales, and adult night clubs.

Ms. Drake stated that Mr. Weber is well within his right to lump it in with adult uses in a proposal and have Ms. Soriano check about in which industrial zones the Board would like adult activities to take place in.

Mr. Weber asked Ms. Soriano if the Board could sublabel industrial lots into A, B, C, or D.

Ms. Soriano explained that parcel numbers with properties that neighbor one another will tend to have an A, B, or C on them and asked what he would like to use them for.

Mr. Weber stated that he would like to label the industrial lots and have electronic gaming in D which puts it out in the outskirts which would not bother the town.

Ms. Soriano stated that she would need to do some research on that as she has never done anything like that before.

The Board agreed to table this agenda item until the next meeting.

**Animal Shelters and Zoning District:** Ms. Soriano discussed the document she sent to members of the Planning Board establishing a definition of animal shelters as the town currently does not have a definition for animal shelters. Ms. Soriano stated she wanted to go ahead and start with the definition and then discuss the table of uses.

Mr. Weber asked what it is exactly the people at the facility on Main Street are doing.

Ms. Soriano stated that her understanding is they are taking in stray cats, having them fixed and adopting them out.

Ms. Stancill stated that the lady is taking them in, having them fixed and then sending them up north out of state as there is a need up north for cats.

Ms. Drake stated that they may be operating as a nonprofit and they do have to have a certificate of registration with the state and have to be run by the Humane Society.

Ms. Soriano stated that is correct that they need to be registered with the state to operate as an animal shelter and that the language she has for the animal shelter definition is taken from the NC General Statutes.

Mr. Weber asked if they have that certification.

Ms. Soriano stated that she does not have that information and was going to discuss that information with the code enforcement officer Steve May. Ms. Soriano then stated that this discussion is to clarify what an animal shelter is and where it would be allowed in town limits.

Mr. Weber then asked if she knows where this facility matches up closest with what is in the table of uses.

Ms. Soriano explained that the Board could keep animal shelter in the table of uses under kennels with or without indoor runs. However, she thinks the Board would need to introduce additional standards for these kennels to ensure they follow state rules.

Mr. Weber asked if the town has the authority to recommend that the state come down and take a look at this facility and have them regulate versus the town having to regulate the facility.

Ms. Soriano stated that the town needs to discuss regulation with the facility first since the town is the local jurisdictional authority.

Mr. Weber asked if they would be considered an animal shelter once they have the correct certification.

Ms. Soriano confirmed that is correct.

Mr. Weber then asked if they are allowed to be where they are currently located based on the town's current zoning.

Ms. Soriano stated that technically yes they are allowed to be at their current location because the town does not currently have an animal shelter definition and have been utilizing the kennels with indoor runs as the use that it is allowed under.

Mr. Weber stated that we need to check with them and see if they do in fact have the proper certification.

Mr. Appenzeller asked if the Board needs to go ahead and get the definition in the books first before asking to see their certification.

Ms. Soriano stated that the point of this language is to regulate both current and future shelters.

Mr. Appenzeller made motion to approve the animal shelter language. Mr. Burton seconded. All ayes. Motion passed unanimously.

Ms. Soriano then proposed to have a separate definition in the table of uses for animal shelters and fall under kennels and pet grooming with or without outdoor pens or runs based on what type of animal shelter it is.

Mr. Appenzeller suggested that animal shelters should be its own separate entity and not lumped in with kennels.

Ms. Soriano stated that the Board can make animal shelters its own line item in the table of uses.

Mr. Appenzeller made motion to make animal shelters its own entity in the table of uses and limit it to commercial, agricultural, and industrial zoning. Mr. Johnson seconded. All ayes. Motion passed unanimously.

**Public Comments:** Dian Amundson, 1018 Hasty Road, asked about parcels on Green Street and who puts in the water and sewer.

Ms. Soriano stated that's a discussion to have with the Public Works Department.

Ms. Drake reminded the Board about setting up dates for workshops to review the current and possible updates to the table of uses.

**Adjournment:** Ms. Drake asked for a motion to adjourn. Mr. Johnson made motion, Mr. Burton seconded. All Ayes. Motion passed unanimously. Meeting adjourned at 8:50 pm.