

PLANNING ZONING BOARD

Tuesday, November 20, 2012

The Planning & Zoning Board held its regular meeting on Tuesday, November 20, 2012 at 7:00 p.m. in the Council Chambers of the Graham Municipal Building. Board members present were Andy Rumley, Dean Ward, Ricky Hall, Bonnie Blalock and Tim Beshel. Staff members present were Frankie Maness, Assistant City Manager, Melissa Guilbeau, City Planner and Darcy Sperry, Zoning Enforcement Officer.

Chairman Andy Rumley called the meeting to order, explained the function of the Board to those present and business was conducted as follows:

Invocation was given by Ricky Hall.

1. Ricky Hall made a motion for approval for the September 18, 2012 minutes, second by Tim Beshel. All voted in favor.

2a. Request of Melissa Guilbeau, City Planner, for Text Amendment in City of Graham Development Ordinance to identify and define “Group Care Facility”.

Andy Rumley asked Melissa Guilbeau to describe request. Melissa Guilbeau gave overview of proposed Text Amendment as follows:

- Add the following definition to Article II, Section 10.16:
Group Care Facility - A facility with support and supervisory personnel that provides room and board, personal care or habilitation services in a group environment for more than 6 people. Examples include homeless shelters, transitional housing shelters, substance abuse programs or halfway houses. This does not include “Family Care Homes.”
- Modify the definition of “Group Home” in Article II, Section 10.16 to result in the following:
Group Home – A facility with support and supervisory personnel that provides room and board, personal care or habilitation services in a residential environment for not more than 6 people. This does not include “Family Care Homes.”
- Modify “Group Care Facility (Group Home)” in Section 10.135 Table of Permitted Uses to result in the following:

Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1	C-I	I-2	C-MXR	C-MXC	LUC
Group Home, See Note 24	S	S	S	S	S	C	S	S	S	C	S	S		C				C	C	1

- Add the following Use Type and associated permitted zoning districts and LUC to Section 10.135 Table of Permitted Uses:

Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1	C-I	I-2	C-MXR	C-MXC	LUC
Group Care Facility, See Notes 23 & 24						C	S	S	S	C	S	S	S	C				C	C	3

- Add the following Note to Section 10.136 Notes to the Table of Permitted Uses:
23. Group Care Facilities in B-1 district – Group Care Facilities located in the B-1 district are not permitted on the ground floor of a commercial building. Offices or other common areas associated with a Group Care Facility that are meant for use by the general public may be located on the ground floor.
- Add the following Note to Section 10.136 Notes to the Table of Permitted Uses:
24. Group Care Facilities and Group Homes, Development Standards – Off-street parking, as required by Section 10.240, shall be located to the side and/or rear of the building. Group Care Facilities and Group Homes should be located in areas where employment, goods and services can readily be reached by a variety of means of transportation. Access to transit, a sidewalk network and/or close proximity to employment, goods, and services are encouraged for approval of a special use permit unless the applicant can satisfactorily demonstrate that the intended residents of the group home or facility do not require this service. For halfway houses, there shall be on-site supervision at all times by persons employed by or volunteers trained by the agency operating the halfway house. Rules of conduct shall be established and enforced by the agency operating a halfway house. These rules shall prohibit the use or possession of drugs, alcohol or weapons, as well as disorderly conduct.
- Modify the “Group homes for youth” entry in Section 10.240 Off-Street Parking to result in the following:

Use	Minimum Number of Required Off-Street Parking Spaces
Residential and Related	
Group Care Facilities and Group homes	One space for each two residents of driving age and ability, plus one space per employee

Ricky Hall asked if “Group Care Facility” could mean halfway house. Ms. Guilbeau said it could be.

Without any further questions, Andy Rumley asked for motion to approve. Tim Beshel made motion to approve, second by Dean Ward. Bonnie Blalock, Andy Rumley, Tim Beshel and Dean Ward voted in favor. Ricky Hall opposed.

2b. Request of Melissa Guilbeau, City Planner, for Text Amendment in City of Graham Development Ordinance to specify that members of the Planning Board shall also serve as members of the Board of Adjustment.

Melissa Guilbeau gave overview of proposed Text Amendment as follows:

- Amend Section 10.95 Creation; members; appointment; compensation, to result in the following:
 There shall be and is hereby created a board of adjustment, referred to in this division as the "board," consisting of five members of the City of Graham Planning Board. Three members shall be citizens and residents of the City of Graham and shall be appointed by the City Council; two members shall be citizens and residents of the area lying outside the corporate limits of the City of Graham (extraterritorial area) but within the Graham planning area and shall be appointed by the Alamance County Board of Commissioners in accordance with section 160A-362 of the General Statutes of North Carolina. Extraterritorial members shall have equal rights, privileges, and duties with the other members. The Council shall appoint the remaining two members of the City of Graham Planning Board as alternate members to serve on the board in the absence or temporary disqualification of any City member or to fill a vacancy pending appointment of a City member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as City members. Each alternate member, while attending any City or special meeting of the board and serving on behalf of any City member, shall have and may exercise all powers and

duties of a City member. The members of the board of adjustment shall receive no compensation for their services.

- Amend Section 10.96 Officers; proceedings generally, to result in the following:
The board shall elect a chair and a vice-chair, each of whom shall serve for one year or until s/he is re-elected or his/her successor is elected. The board shall appoint a secretary who may be an officer or an employee of the city. It shall adopt rules for the conduct of its business. Meetings shall be held at the call of the chair and at such other times as the board may determine. A quorum for a meeting shall consist of a majority of the members of the board, not including vacancies. The chair or, in his/her absence, the vice-chair, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the board shall be open to the public. The secretary shall keep minutes of the proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. The board shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the board and shall be a public record.
- Amend Section 10.102(a) Terms; vacancies; removal, to result in the following:
The term of office of the members of the board of adjustment shall run concurrent with their Planning Board term.
- Delete the definition of "Board of Adjustment" from Section 10.16.
- Amend Section 10.17, Created, to result in the following: There is hereby created a planning board, referred to in this article as the "board," to be composed of seven members, five members appointed by the city and two members appointed by the county commissioners to represent the extraterritorial area. All members of the board, before entering upon their duties, shall take and subscribe to the oath of office required to be taken by officials of the city.
- Amend Section 10.20(a), Terms; vacancies; removal, to result in the following:
The term of office of the members of the planning board shall be for overlapping terms of three years, notwithstanding current appointments. Vacancies occurring for any reason other than expiration of term shall be filled as soon as is reasonably possible after such vacancy occurs by the proper board making the appointment. Such appointment shall be for the period of the unexpired terms, or for a term that is up to two years longer if needed to prevent the termination of four or more terms in the same year. The Board shall elect a Chair and a Vice-Chair, each of whom will serve for one year or until he/she is re-elected or his/her successor is elected. Elections shall occur at the regularly scheduled November meeting of the Board.

Ms. Guilbeau added that the current Board of Adjustment has not met since 2007 and currently has five vacancies. Ms. Guilbeau noted that there are currently nine other cities in North Carolina in which Planning Board members also serve as members of the Board of Adjustment.

Andy Rumley indicated that it is his belief that the Planning Board already fills the role of the Board of Adjustment to an extent already.

Melissa Guilbeau added that it should not be difficult to merge the two boards and that training would be made available.

Tim Beshel asked what training would be involved. Melissa Guilbeau stated that training would consist of a ninety minute presentation to be scheduled at a convenient time for all.

Ricky Hall asked why board member terms would change. Melissa Guilbeau referred to North Carolina State Statute specifying Board of Adjustment members be appointed to three year terms.

Melissa went on to add that the current terms for all board members shall remain in effect until current term expires.

Ricky Hall made a motion to approve, second by Bonnie Blalock. All voted in favor.

2c. Request of Melissa Guilbeau, City Planner, for Text Amendment in City of Graham Development Ordinance to identify and define Non-Substantive Errors.

Melissa Guilbeau gave overview of proposed Text Amendment as follows:

- Add the following as a new Section in Article I to address non-substantive errors:

Section 10.4 Amendments in General; Non-Substantive Errors.

- a) Amendments to the text of this Chapter may be made in accordance with NCGS § 160A-364(a), or in the case of non-substantive editorial changes, may be made administratively by the City Planner, as described in subsection (b).
- b) Non-Substantive Errors. The City Planner may correct typographical errors, numerical reference errors, spelling errors, errors in section or page numbering and may make similar non-substantive changes to the text of this Chapter without formal adoption by the City Council, provided the changes necessary to correct any errors do not change the meaning of the ordinance. Any correction made pursuant to this section must be documented to the City Council and made a part of the City Council's regular meeting minutes.

Andy Rumley asked who determines Non-Substantive Errors. Melissa Guilbeau explained that it would be the staff that makes any Non-Substantive Error changes and would then present those changes to the City Council for inclusion in their adopted minutes.

Ricky Hall asked if the Council would have final say on any changes and Bonnie Blalock asked if the Council would review any changes. Melissa Guilbeau answered yes to both questions and added that the Council would have the opportunity to review all changes and can require text to be changed back to original state if they so choose.

Bonnie Blalock made a motion to approve, second by Ricky Hall. All voted in favor.

2d. Request of Melissa Guilbeau, City Planner, for Text Amendment in City of Graham Development Ordinance to simplify the definition of "Family Care Home" and correct permitted zoning districts for nursing homes.

Melissa Guilbeau gave overview of proposed Text Amendment as follows:

- Modify the definition of "Family Care Home" in Article II, Section 10.16, to result in the following:
Family Care Home – A home that provides room and board, support and supervisory personnel and personal care and habilitation services for 2 to 6 resident persons with disabilities (as defined in NCGS § 168-21(2) or its successor) in a family environment.
- Delete the definition of "Domiciliary Home" from Article II, Section 10.16.
- Delete the definition of "Handicapped Person" from Article II, Section 10.16.

- Delete the row for “Rest Home, Nursing Home, Convalescent Home” from Section 10.135 Table of Permitted Uses.

Ricky Hall asked if zoning would be changed. Melissa Guilbeau said no.

Ricky Hall asked if “Family Care Home” was a nursing home.

Ricky Hall asked if “Family Care Home” was a group home. Frankie Maness said it could be a small group home by definition.

Ricky Hall asked if a request submitted to the City for a “Family Care Home” would require it to come before the Planning Board. Frankie Maness said no and went on to explain that North Carolina State Statute stipulates that the State of North Carolina regulates “Family Care Homes” and only allows the City to regulate a distance between “Family Care Home” facilities.

Ricky Hall asked if residents in such facilities are supervised 24 hours per day. Frankie Maness said that the City does not regulate that.

Ricky Hall asked if Graham currently has such facilities. Frankie Maness and Dean Ward simultaneously answered yes.

Ricky Hall made a motion to approve, second by Bonnie Blalock. All voted in favor.

3. Election of Planning Board Chair and Vice Chair for 2013.

Ricky Hall asked if elected Chair and Vice Chair would hold respective position on Board of Adjustment. Melissa Guilbeau said no and explained that Council will have to approve the Text Amendment pertaining to the Board of Adjustment before election of officers for that board can take place.

Ricky Hall asked if the voting could be tabled. Melissa Guilbeau informed board that our Ordinance reads that the Planning Board shall elect Chair and Vice Chair for following year at the November meeting of prior year.

Ricky Hall made a motion to keep nominations as they stand now – Andy Rumley Chair and Ricky Hall Vice Chair, second by Dean Ward. All voted in favor.

There being no further business the meeting was adjourned.

Respectively Submitted,
Darcy Sperry
Zoning Enforcement Officer