Board of Planning & Adjustment
Regular Meeting Agenda
April 19, 2016
5:30 PM – Town Hall

- Call to Order
- Approval of Minutes
  February 16, 2016 Minutes
- Public Comment
  Public may address the Board about any policy matter
- Board of Adjustment
  Public Hearing Case 160318
- Other Business
- Adjourn

Board of Planning & Adjustment

Meeting Minutes
February 16, 2016

Present
Lynn Sarratt, Jim Blalock, John Cannon, Ellen Humphries, J.T. Scruggs, and Cliff Wilson. Staff members present: Town Manager Tom Hart.

Others Present
Wayne Johnson (GWU)

Call to Order
Chairman Lynn Sarrat called the meeting to order at 5:30.

Approval of Minutes
Cliff Wilson made a motion to approve the minutes of the January 19, 2016 meeting. J.T. Scruggs seconded the motion and all were in favor.

Public Comment

Consider Rezoning Requests
Mr. Hart reintroduced the Gardner-Webb University request to have 14 parcels they own be rezoned from residential to institutional from the January 19, 2016 meeting.

J.T. Scruggs, agreed that GWU housing persons on campus in a single family format could be a use customarily associated with univiersities but inqured whether allowing GWU to house non-students and non-employees on parcels zoned institutaional was essentially allowing GWU to unfairly compete in the landlord market because of their tax expemt status. Tom Hart advised that the use of the property, regardless of the parcel's zoning designation, dictates whether property is tax exempt and that the County Tax Assesor makes that determination based on statute and case law.

Cliff Wilson, inquired as to how a sorority house or similar arrangement would be handled. Mr. Hart advised that he would have to consult the Zoning Code but suspected such use would either require an R-10 designation or I-1 designation and that an I-1 designation would probably be more desirable as it would isolate such uses to campus. Mr. Johnson commented to the Board that under the current leadership GWU would not embrace a "greek" precense at the University.

J.T. Scruggs asked that the Board make a clear statement that GWU is or is not allowed to house persons with no formal or clear affiliation with the University on campus in a single family format. Tom Hart advised from a Zoning persopective, a primary goal is to minimize impacts on adjacent property. By Zoning a parcel Institutional the Board is approving the property for very dense development. It would logically follow that a single family residence is a less intense use and would be less impactful on surrounding properties. As such, allowing single family residences in the Institutional distrcit by treating it as a use customarily associated with Universities is a viable interpretation of the Zoning Code. Tom

Hart agreed to include such language in the Board of Planning and Adjustment's statement issued to the Town Council. Chairman Sarratt agreed to review the statement for such language prior to signing it.

J.T. Scruggs made a motion in favor of all 14 rezoing requests. Ellen Humphries seconded and all were in favor.

Review Staff Memorandum

There was no further discussion on the staff memorandum from the January 19, 2016 meeting.

Appoint Vice Chair

J.T. Scruggs made a motion to appoint Ellen Humphries as the Vice-Chair of the Board of Planning and Adjustment. Jim Blalock seconded, all were in favor.

Appoint BOA Members

The Board discussed the composition of the Board of Adjustment required by the Zoning Code. Jim Blalock and J.T. Scruggs volunteered to step down for the Board of Adjustment. Board Chairman Lynn Sarrattt appointed Johnny Cannon and Cliff Wilson as permanent members on the Board of Adjustment. Accordingly, the Board of Adjustment composition is as follows: Lynn Sarratt (Chair), Ellen Humphries (Vice-chair), Josh Beason, Johnny Cannon, and Cliff Wilson. All other memebers of the Planning Board serve as alternate members as needed.

Adjourn

J.T. Scruggs made the motion to adjourn the meeting at 6:10 p.m. Ellen Humphries seconded and the vote was unanimous.

Staff Notes

Public Hearing Case 160318
The Board of Adjustment will convene to conduct a quasi-judicial public hearing to gather evidence and make a decision on the administrative appeal of the Zoning Decision issued in case 160318.

The BOA will conduct a Public Hearing to gather material or testimonial evidence from various parties who wish to speak and may request testimony or evidence from any party who may provide relevant testimony. Typically this will include Zoning Administrator Tom Hart, property owner Jim Beason III, and property owner Dolores Abdow. Parties have the option of having a representative speak for them. The Board will need to conduct this hearing until they believe they have sufficient evidence to make a fact based decision and are able to issue a formal written decision that includes findings of fact. The Board may recess the hearing to a later point if they need further time to consider the evidence or request more evidence. The Town's Attorney will be present to provide legal counsel to the BOA. The BOA may enter a private closed session with the Attorney for the purpose of seeking privileged legal advice but may not deliberate on the hearing in closed session.

Materials provided for consideration and entered as evidence include:

1. Notice of Hearing
2. Copy of Zoning Decision issued 03/18/16
3. Copy of Appeal from Mrs. Dolores Abdow
    a. Current Ordinance 151.001
    b. Current Ordinance 151.062
    c. Current Ordinance 94.01
4. Aerial or satellite photos from:
    a. 1993
    b. 1998
    c. 2006
    d. 2008
    e. 2015
5. Excerpts from Current Zoning Code:
    a. Table of Permitted and Conditional Uses
    b. Current Ordinance Section 151.151 and 151.153
6. Various historical excerpts from Zoning Code including:
    a. Copy of 1991 Ordinance 151.031
    b. Copy of 1989 Ordinance 151.035
    c. Copy of 1988 Ordinance 50 and 51

*Any additional evidence presented such as maps, pictures, affidavits, and the like will need to be collected and numbered.

"The Crossroads of Opportunity"

TOWN OF BOILING SPRINGS

TOWN OF BOILING SPRINGS
NOTICE OF PUBLIC HEARING BEFORE THE BOARD OF ADJUSTMENT
REGULAR MEETING
APRIL 19, 2016 – 5:30 P.M.

The Boiling Springs Board of Adjustment will hold a public hearing on Tuesday, April 19, 2016 at 5:30 p.m. at the Boiling Springs Town Hall located at 114 E. College Avenue. The Board of Adjustment will consider an appeal of an Administrative Official's determination that the landscaping business activities at 212 Wall Avenue predate the provisions forbidding them and therefore constitute a legal non-conforming use and may continue.

Submitted by:
Kim Greene
Town Clerk

BOA Case 160318
Evidence Item 1
Notice of Hearing

"The Crossroads of Opportunity"

TOWN OF BOILING SPRINGS

BOA Case 160318
Evidence Item 2
Zoning Decision

2 Pages

NOTICE OF ZONING DECISION
PARCEL NO. 717 or 212 WALL AVE
CASE NO. ZC160318

3/18/16

After investigation, it is determined the landscaping business activities at 212 Wall Avenue (Parcel No. 717) do not conform with the Town's Zoning Code but predate the provisions forbidding them and therefore constitute a legal non-conforming use and may continue. This decision is primarily based on the following factors:

- Parcel 717 is and has been zoned R-15.

- Landscaping services as a land use were not specifically addressed in the Zoning Code until 2001 when the Table of Permitted and Conditional Uses was adopted to include, "farm related enterprises such as vegetable stands, fishing ponds, horticulture, landscaping services, farm supplies, stables..." as a use by right in the R-20 and M-1 districts. Prior to that inclusion, land use for landscaping services was not specifically listed as a use permitted use but would reasonably be interpreted as "horticulture" which is mentioned several times in the Zoning Code prior to 2001.

- Prior to 2001 the Zoning Code stated the following under the description of the R-15 district: 151.035(B) "Permitted uses. The following uses are permitted: all uses permitted in the R-20 Residential District, except isolated mobile homes..."

  Prior to 2001 the code stated the following under the description of the R-20 district: 151.031(B) "Permitted uses. The following uses are permitted. (5) Any form of agriculture or horticulture, including the sale of products..."

- Section 151.153 of the Zoning Code states: (A) Except as specifically provided in this section, it shall be unlawful for any person to engage in any activity that causes and increase in the extent of a non-conformity of a non-conforming situation. (D) The volume, intensity, or frequency of use of property where a non-conforming situation exists may be increased and the equipment or process used at a location where a non-conforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind..."

"The Crossroads of Opportunity"

TOWN OF BOILING SPRINGS

- Satellite photos from 1993 show various accessory structures historically existed on the property and that no new structures appear to have been added. The satellite photos depict the same area being utilized.

- The property owner indicates that the horticultural use of the property predates the 2001 changes to the Zoning Code that made them non-forming in the R-15 district and such activities have continued un-interrupted.

In consideration of the information available I have determined that the use of the Parcel No. 717 for landscaping services is a legal non-conforming use as defined in the Zoning Code. While the use cannot be expanded, the Zoning Code clearly allows for an increase in volume, intensity, and frequency of the use. No further investigative or corrective enforcement action is deemed necessary at this time.

Signed,

Tom C. Hart Jr

Tom Hart
Zoning Administrator/Town Manager

114 East College Ave | P.O. Box 1014 | 28017 | (704) 434-2357 | www.BoilingSpringsNC.net

Mrs. Dolores Abdow
214 Wall Avenue
Shelby, NC 28152
704-434-2462

BOA Case 160318
Evidence Item 3
Abdow Appeal

March 31, 2016

Mr. Tom Hart
Town Manager
P.O. Box 1014
Boiling Springs, NC 28017

Mr. Hart,

I am corresponding with you concerning your formal zoning decision issued Friday, March 18, 2016. I am filing a formal appeal to the Town's Board of Adjustment. I have been instructed by you to state I have standing under NCGS 160-A-393(d) in this matter.

The grounds upon which I am appealing the decision are as follows: I am not in agreement with your decision concerning Parcel No. 717 or 212 Wall Avenue "constitutes a legal non-conforming use and may continue." The "non-conforming use"of this property does not predate the 2001 changes to the Zoning Code.

This "non-conforming use" is in violation of R-15 zoning ordinances. 151.062 R-15 states "established as a district in which the principal use of land is for medium density residential uses. Parcel No. 717 or 212 Wall Avenue is being primarily utilized as a commercial property.

Boiling Springs – Land Usage, 151.001 PURPOSE specifically states "The zoning regulations and districts have been made in accordance with a comprehensive plan and for the purpose of promoting the public health, safety, morals, and general welfare." All items have been violated. As to public health, there is storage of hazardous or toxic materials and chemicals (94.01 Unlawful Conditions). As to safety, heavy industrial equipment (total weight exceeding 7,500lb) traveling residential roads as well as employees exceeding the local posted speed limit. As to general welfare, decreasing market value as well as marketability of my home.

Regards,

Mrs. Dolores Abdow

Mrs. Dolores Abdow

Section

Enforcement and Penalties

151.995 Violations; remedies
151.996 Inspection and investigation
151.997 Enforcement procedure
151.998 Failure to comply with notice; remedies
151.999 Penalty

BOA Case 160318
Evidence Item 3a
Zoning Code 151.001

GENERAL PROVISIONS

§ 151.001 PURPOSE.

The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan and for the purpose of: (1) Promoting the public health, safety, morals, and general welfare; (2) Promoting the orderly growth and development of the town of Boiling Springs and the surrounding area; (3) Lessening congestion in the street and roads; (4) Providing adequate light and air; (5) Securing safety from fires, panic and other dangers; (6) Preventing the overcrowding of land; (7) Avoiding undue congestion of population; (8) Facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things to the character of each zoning district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Jurisdiction.
(Ord. 011106.1, passed 11-6-01)

§ 151.002 AUTHORITY.

This chapter is enacted pursuant to the authority conferred by G.S. Article 19, Chapter 160A.
(Ord. 011106.1, passed 11-6-01)

§ 151.003 TITLE.

This chapter shall be known as the Zoning Code of the town of Boiling Springs, North Carolina and may be referred to as the "Zoning Code." The map referred to herein is identified by the title "Official Zoning Map, town of Boiling Springs, North Carolina" and may be known as the "Zoning Map."
(Ord. 011106.1, passed 11-6-01)

§ 151.004 INTERPRETATION, PURPOSE, CONFLICT.

In interpreting and applying the provisions of this chapter, the provision shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. This chapter is not intended to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, where this chapter imposes a greater restriction or imposes higher standards than those required by other rules, regulations, or by easements, covenants or agreements, the provisions of this chapter shall govern so that, in all cases, the most restrictive limitation or requirement causing the highest standard of improvement shall govern.
(Ord. 011106.1, passed 11-6-01)

§ 151.044 SETBACK FROM RESIDENTIAL DISTRICTS.

Any use in any non-residential district which has any activity area not completely enclosed in a building such as car washes, equipment repair areas, intensive play areas, heavy vehicle parking, areas with intensive lighting, amplified sound, or any such area which might cause fumes, noise, light or similar effects upon the adjoining residential area shall setback such area a minimum of 50 feet from the residential zoning line and implement measures to lessen such adverse effects.
(Ord. 011106.1, passed 11-6-01)

§ 151.045 MINIMUM REGULATIONS.

Regulations set forth by this chapter shall be minimum regulations. If the requirements set forth in this chapter are at variance with the requirements of any other lawfully adopted rules or regulations, the more restrictive or higher standards shall govern.
(Ord. 011106.1, passed 11-6-01)

§ 151.046 FEES.

Applicants for permits and other procedures as provided for by this chapter may be required to pay such fees as may be established by the Board of Commissioners in the Schedule of Fees and Charges.
(Ord. 011106.1, passed 11-6-01)

ZONING DISTRICTS

§ 151.060 PRIMARY ZONING DISTRICTS ESTABLISHED: PURPOSES SET FORTH.

For the purposes of this chapter, the Town of Boiling Springs, North Carolina and its area of extraterritorial jurisdiction, is hereby divided into the following primary use districts.
(Ord. 011106.1, passed 11-6-01)

§ 151.061 R-20 RESIDENTIAL DISTRICT.

The R-20 Residential District is established as a district in which the principal use of the land is for low density residential or agricultural uses and to provide and protect low density residential areas for those desiring that type of environment. The R-20 district also permits associated public and private facilities typically associated with such districts.
(Ord. 011106.1, passed 11-6-01)

§ 151.062 R-15 RESIDENTIAL DISTRICT.

The R-15 Residential District is established as a district in which the principal use of land is for medium density residential uses and associated public and private facilities typically associated with such districts.
(Ord. 011106.1, passed 11-6-01)

BOA Case 160318
Evidence Item 3b
Zoning Code 151.062

ORDINANCE #110628.1
AN ORDINANCE TO AMEND CHAPTER 94 OF THE BOILING SPRINGS' CODE OF ORDINANCES, "UNLAWFUL CONDITIONS ON PRIVATE PROPI

BOA Case 160318
Evidence Item 3c
Ordinance 94.01

BE IT ORDAINED by the Board of Commissioners of the T that:

Part 1. Chapter 94 of the Town of Boiling Springs' Code of Ordinances is hereby amended to read:

§ 94.01 UNLAWFUL CONDITIONS ENUMERATED

~~(A)~~ The following enumerated and described conditions, or any combination thereof, are hereby found, deemed and declared to constitute a detriment, danger and hazard to the health, safety, morals and general welfare of the inhabitants of the town and are found, deemed and declared to be public nuisances wherever the conditions may exist and the creation, maintenance or failure to abate any nuisances is hereby declared unlawful:

~~(1)~~ (A) Any weeds or other overgrown vegetation having an overall height of more than 12 inches above the surrounding ground provided that the following shall not be considered to be a part of this condition: trees and ornamental shrubs; cultured plants; natural vegetation on undeveloped property that is not a threat to the character of surrounding properties; and flowers and growing and producing vegetable plants;

~~(2)~~ (B) Any accumulation of trash and/or garbage which is the result of the absence of or overflowing of improperly closed trash or garbage containers;

~~(3)~~ (C) Accumulation in an open place of hazardous or toxic materials and chemicals;

~~(4)~~ (D) An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible materials or objects of a like nature;

~~(5)~~ (E) Any accumulation of garbage, rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, mosquitoes, or vermin prejudicial to the public health;

~~(6)~~ (F) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitance therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health;

~~(7)~~ (G) The open storage of any discarded ice box, furniture, refrigerator, stove, glass, building materials, building rubbish or similar items;

~~(8)~~ (H) Any condition detrimental to the public health which violates the rules and regulations of the Cleveland County Health Department;

~~(9)~~ (I) Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the

Satellite or Aerial Photos

Evidence Items 4a through 4e transmitted separately to preserve image quality.

TABLE OF PERMITTED AND CONDITIONAL USES

USE TYPES	R-20	R-15	R-15TH	R-10	I-1	O&CS	B-1	B-2	M-1	SR
computer services						X	X	X		
contractors' facilities with open storage									X	
contractors' offices (no storage)						X	X		X	
convenience food stores							X	X		
dental offices & laboratories					X	X	X	X		
doctors' offices & laboratories					X	X	X	X		
drive-in theaters									X	
dry cleaning & laundry facilities							X		X	
employment agencies, personnel agencies						X	X	X		
engineering, architectural, surveying services						X	X	X		
equipment rental & leasing (no vehicles/outdoor items)							X	X		
equipment repairs, heavy									X	
equipment repairs, light									X	
exterminating services									X	
farm related enterprises such as vegetable stands, fishing ponds, horticulture, landscaping services, farm supplies, stab	X								X	
finance or loan offices						X	X	X		
fraternal organizations	X					X	X	X	X	
freezer lockers							X		X	
funeral homes							X		X	
insurance agencies						X	X	X		
internal service facilities, incidental to permitted uses,including cafeterias, day care facilities, snack bars, pharmacies, optical stores & similar retail activities when conducted solely for use of employees, patrons, or occasional visitors; provided such activities are within the principal building & advertising for it is not permitted beyond premises				X	X	X	X	X	X	

BOA Case 160318
Evidence Item 5a
Table of Permitted Uses

BOA Case 160318
Evidence Item 5b
Zoning Code 151.151 & 151.153

development, the maximum permitted additional impe
of the portion of the property that is not covered by
impervious surface limitation for the district in which t

(C) In addition to the total impervious surface limitations, no impervious surface other than a building shall exceed a total of 10,000 square feet of contiguous impervious surface area. Impervious surface areas greater than 10,000 square feet may be developed on the same site provided they are separated by pervious strips (grassed or landscaped) a minimum of five feet in width penetrated only by necessary driveways and walkways.

2 Pages

(D) In no case shall such strips be less than five feet by 15 feet in order to qualify as a separation unless the Planning Board allows a different sized area as an equal or better performance modification. Where impervious surfaces greater than 10,000 are permitted on a site pursuant to this section, a pervious strip of a minimum of five feet shall be provided adjoining the facades of any building and along the exterior property lines. The pervious strip as provided for in this section may be used to count toward landscaped areas as may be required for parking lots and other landscaping.
(Ord. 011106.1, passed 11-6-01)

NON-CONFORMING SITUATIONS

§ 151.150 PURPOSE.

The purpose of this subchapter is to avoid undue hardship by permitting the continued use of any building, structure, or property that was lawful at the time of the enactment of this chapter or any applicable amendment thereof even though such use, structure or property does not conform with the provisions of this chapter. However, this subchapter is also established to require that non-conforming situations be terminated under certain circumstances.
(Ord. 011106.1, passed 11-6-01)

§ 151.151 CONTINUATION OF NON-CONFORMING SITUATIONS.

Non-conforming situations that were otherwise lawful on the effective date of this chapter may be continued, subject to the restrictions and qualifications set forthin §§ 151.151 through 151.159.
(Ord. 011106.1, passed 11-6-01)

§ 151.152 NON-CONFORMING LOTS OF RECORD.

Where the owners of a lot of record at the time of the adoption of this chapter or his successor in title thereto does not own sufficient land to enable him to conform to the area or lot width requirements of this chapter, such lot may be used as a building site provided all other dimensional requirements are met and provided that the use to be made of the property is not one to which larger than minimum lot area requirements are called for in the list of Permitted and Conditional Uses and the Special Requirements.
(Ord. 011106.1, passed 11-6-01)

§ 151.153 EXTENSION OR ENLARGEMENT OF NON-CONFORMING SITUATIONS.

(A) Except as specifically provided in this section, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of non-conformity of a non-conforming situation.

(B) Subject to division (D), a non-conforming use may be extended through any portion of a completed building that, when the use was made non-conforming by this chapter, was manifestly designed or arranged to accommodate such use. However, a non-conforming use may not be extended to additional buildings or to land outside the original building.

(C) A non-conforming use may not be extended to cover more land than was occupied, or manifestly designed and arranged to be occupied, by that use when it became non-conforming.

(D) The volume, intensity, or frequency of use of property where a non-conforming situation exists may be increased and the equipment or processes used at a location where a non-conforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this section occur.

(E) Physical alteration of non-conforming structures or structures containing a non-conforming use is unlawful if it results in:

(1) An increase in the total amount of space devoted to a non-conforming use;

(2) Greater non-conformity with respect to dimension restrictions such as yard requirements, height limitations, or density requirements; or,

(3) The enclosure of previously unenclosed areas, even through those areas are or were used in connection with the non-conforming activity.

(F) Minor repairs to and routine maintenance of property where non-conforming situations exist are permitted and encouraged. Major renovation, such as work estimated to cost more than 10% but less than 60% of the taxed value of the structure to be renovated may be done provided that the work will not result in a violation of any other paragraphs of this division, particularly division (E). In no case, however, shall work costing more than 60% of the taxed value of the structure be done, singularly or cumulatively, within any five year period. Provided, nothing herein shall prevent the maintenance, repair and extension of a single family dwelling that is non-conforming as to use, provided done in conformance with the dimensional requirements of the R-10 Residential District.
(Ord. 011106.1, passed 11-6-01)

§ 151.154 RECONSTRUCTION PROHIBITED.

Any non-conforming building or structure or any building or structure containing a non-conforming use for which major repair or reconstruction is proposed in any amount equal to 60% or more of the taxed value of the building or structure or which has been damaged by any cause to an extent equal to 60% or more of its taxed value shall only be repaired and/or reconstructed and used as a conforming structure and a conforming use. Provided, nothing herein shall prevent the reconstruction of a single-family dwelling that is nonconforming as to use provided such reconstruction conforms to the dimensional requirements of the R-10 Residential District.
(Ord. 011106.1, passed 11-6-01)

§ 151.155 CHANGE IN KIND OF NON-CONFORMING USE.

(A) A non-conforming use may be changed to a conforming use. Thereafter, the property may not revert to a non-conforming use.

(B) A non-conforming use shall not be changed to another non-conforming use except upon a finding by the Board of Adjustment that the use is more in character with the uses permitted in the district than the previous use.

BOA Case 160318
Evidence Item 6a
1991 Section 151.031
3 pages

(C) Where district boundaries are so indicated that shall be construed to be the boundaries.

(D) Where district boundaries are so indicated that t of streets, alleys, highways or the rights-of-way of same, the district boundaries shall be construed as being parallel thereto and at the distance therefrom as indicated on the Zoning Map.

(E) Where a district boundary line divides a lot or tract in single ownership, the district requirements for the least restricted portion of the lot or tract shall be deemed to apply to the whole thereof, provided the extensions shall not include any of a lot or tract more than 35 feet beyond the district boundary line. The term ***LEAST RESTRICTED*** shall refer to zoning restrictions, not lot or tract size.
(Ord. passed 9-5-89; Am. Ord. passed 6-4-91)

DISTRICT REGULATIONS

§ 151.030 USE REQUIREMENTS BY DISTRICT.

Within the districts indicated on the Zoning Map, no building or land shall be used and no building shall be erected in part, for any use other than those listed as permitted for that district in this subchapter.
(Ord. passed 9-5-89) Penalty, see § 151.999

§ 151.031 R-20 RESIDENTIAL DISTRICT.

(A) The R-20 Residential District is established as a district in which the principal use of the land is for low-density residential or agricultural purposes and to provide and protect low density residential areas for those desiring that type of environment. These districts are intended to insure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment.

(B) *Permitted uses.* The following uses are permitted.

(1) Family Care Homes.

(2) Single-family dwellings.

(3) Two-family dwellings.

(4) Isolated mobile homes, provided they are treated as principal uses and meet the same area, yard and sanitary requirements as non-mobile dwelling units.

(5) Any form of agriculture or horticulture, including the sale of products at a retail stand on the property where produced.

(6) Customary home occupations, including dressmaking, cooking and baking, hairdressing, music instruction, the renting of not more than one room, the practice of such professions as insurance and accounting shall be permitted as accessory uses in a residence. The Board of Adjustment shall decide whether other home occupations not listed here are within the spirit of this category of accessory uses.

(7) Rest and convalescent homes not used primarily for the treatment of contagious diseases, alcoholics, drug addicts and psychotics.

(8) Churches and their customary related uses including cemeteries, provided that all structures and graves shall be set back at least 20 feet from any property line.

(9) Public elementary and secondary schools and private schools having curricula approximately the same as ordinarily given in public schools.

(10) Public or private parks, playgrounds, community centers, clubs lodges, golf courses, swimming pools, fishing lakes, family camp grounds and similar recreation uses.

(11) Public safety facilities such as fire and police stations and rescue squad headquarters, provided that all vehicles and equipment shall be stored indoors; provided further, that all structures shall be set back at least 20 feet from all property lines and shall be designed and landscaped in a way as o blend in with the surrounding area.

(12) Public works and public utility facilities including transformer stations, pumping stations, watch towers and telephone exchanges, provided:

(a) The facilities are essential to the service of the immediate area and no vehicles or materials shall be stored on the premises;

(b) All buildings and apparatus shall be set back at least 20 feet from all property lines and shall be designed and landscaped in a way as to blend in with the surrounding area.

(c) Such facilities as water towers, pumping stations and so forth shall be surrounded by a chain link fence six feet in height.

(13) Signs:

(a) One professional or announcement sign per lot for customary home occupations, kindergartens and rest homes. No sign shall be illuminated. The sign shall not exceed three square feet in area.

(b) One sign per lot pertaining only to the lease, rent or sale of the property upon which displayed. The sign shall not exceed six square feet in area. No sign shall be illuminated.

(14) Kindergartens and day care centers, provided that not less than 200 square feet of play area is provided for each child and provided further such aggregate play space is surrounded by a sturdy fence at least four feet in height.

(C) *Conditional uses.* The following uses may be permitted subject to a finding by the Board of Adjustment pursuant to § 151.138 hereof that:

(1) Mobile home parks, subject to the conditions listed under § 151.008 of this subchapter.

(2) Temporary sawmills, provided they shall not be in operation for more than one year; provided further, all sawmill structures shall be levelled and the premises cleaned up within six months after discontinuance.

(D) *Dimensional Requirements.* Within the R-20 Residential District as shown on the Zoning Map, the following dimensional requirements shall be complied with:

(1) Area, yard and height requirements shall be provided as required in § 151.047 of this subchapter.

(2) Off-street parking shall be provided as required in § 151.090 of this subchapter.
(Ord. passed 9-5-89; Am. Ord. passed 6-4-91)

§ 151.032 R-20TH RESIDENTIAL DISTRICT — TOWNHOUSES.

The R-20TH Residential District is hereby established as a district having the same general purposes and characteristics as the R-20 Residential District, but in which two-family Townhouse Buildings, Townhouses and Townhouse Developments, as defined in § 151.005 of this subchapter shall be allowed as permitted uses in addition to all uses permitted in the R-20 Residential District, except that isolated mobile homes, mobile home parks, manufactured homes, modular homes not meeting the requirements of the North Carolina State Building Code, rest homes, clubs, lodges and public safety facilities shall not be permitted in R-20TH districts.
(Ord. passed 9-5-89)

§ 151.033 R-20(CU) RESIDENTIAL CONDITIONAL USE DISTRICT.

Identical to R-20 Residential District except that a Conditional Use Permit is required as a prerequisite to any use or development, as provided for in this subchapter.
(Ord. passed 9-5-89)

§ 151.034 R-20TH(CU) RESIDENTIAL CONDITIONAL USE DISTRICT — TOWNHOUSES.

Identical to R-20TH Residential District — Townhouses except that a Conditional Use Permit is required as a prerequisite to any use or development as provided for in this subchapter.
(Ord. passed 9-5-89)

BOA Case 160318
Evidence Item 6b
1989 Section 151.035

§ 151.035 R-15 RESIDENTIAL DISTRICT.

(A) The R-15 Residential District is established as a district in which the principal use of land is for medium density single-family purposes along with limited home occupations and public and private community uses. It is expected that all dwellings in the district will have access to municipal water supplies or municipal sewage disposal facilities or a reasonable expectation of the service in the near future.

(B) *Permitted uses.* The following uses are permitted: all uses permitted in the R-20 Residential District, except isolated mobile homes and mobile home parks, rest homes, clubs and lodges, public safety facilities.

(C) *Conditional Uses.* The following uses shall be permitted subject to a finding by the Board of Adjustment the additional conditions listed below will be met: two-family dwellings, which are not townhouse buildings, provided that:

(1) They meet the same area, yard and height requirements as a single-family dwelling in the R-15 District;

(2) The Planning Board makes a finding that the non-townhouse building, two-family development is appropriate to the general area.

(D) *Dimensional Requirements.* Within the R-15 Residential District as shown on the Zoning Map, the following dimensional requirements shall be complied with:

(1) Area, yard and height requirements shall be provided as required in Article VI of this subchapter.

(2) Off-street parking shall be provided as required in § 151.090 of this subchapter.
(Ord. passed 9-5-89)

§ 151.036 R-15TH RESIDENTIAL DISTRICT — TOWNHOUSES.

The R-15TH Residential District is hereby established as a district having the same general purposes and characteristics as the R-15 Residential District, but in which two-family townhouse buildings, townhouses and townhouse developments, as defined in § 151.005 of this subchapter shall be allowed as permitted uses in addition to all uses permitted in the R-15 Residential District, except that isolated mobile homes, mobile home parks, manufactured homes, modular homes not meeting the requirements of the North Carolina State Building Code, rest homes, clubs, lodges and public safety facilities shall not be permitted in R-15TH districts.
(Ord. passed 9-5-89)

§ 151.037 R-15(CU) RESIDENTIAL CONDITIONAL USE DISTRICT.

Identical to R-15 Residential District except that a Conditional Use Permit is required as a prerequisite to any use or development as provided for in this subchapter.
(Ord. passed 9-5-89)

PREPARED FOR: THE TOWN OF BOILING SPRINGS, NORTH CAROLINA

John Washburn, Jr., Mayor

Margretta McKee, Clerk

BOARD OF COMMISSIONERS

Max Hamrick
Jerry Bryson
Bill Ellis
Albert Glenn
Buddy McDaniels

PREPARED BY: PLANNING BOARD

Town Members: W. Wyan Washburn, Chairman
Joe Rose
Clifford Hamrick, III
Wellington Hamrick
James L. Beason, Jr.

Fringe Area Members: John W. Greene
Julius Hoyle
Thomas A. Greene
Ron Blackwell
Bruce Bridges

Town Attorney: Michael S. Kennedy
215 East Warren Street
Shelby, NC 28150

TECHNICAL ASSISTANCE PROVIDED BY:

Isothermal Planning & Development Commission
Rutherfordton, North Carolina

The North Carolina Department of Natural Resources
& Community Development
Asheville Area Office

Revised
November 15, 1988

BOA Case 160318
Evidence Item 6c
1988 Chapters 50 & 51

5 Pages

Section 50. R-20 Residential District

The R-20 Residential District is established as a district in which the principal use of the land is for low-density residential or agricultural purposes and to provide and protect low density residential areas for those desiring that type of environment. These districts are intended to insure that residential Development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment.

50.1 **The following uses are permitted:**

- Family Care Homes.
- Single-family dwellings.
- Two-family dwellings.
- Isolated mobile homes, provided they are treated as principal uses and meet the same area, yard and sanitary requirements as non-mobile dwelling units.
- Any form of agriculture or horticulture, including the sale of products at a retail stand on the property where produced.
- Customary home occupations, including dressmaking, cooking and baking, hairdressing, music instruction, the renting of not more than one (1) room, the practice of such professions as insurance and accounting shall be permitted as accessory uses in a residence. The Board of Adjustment shall decide whether other home occupations not listed here are within the spirit of this category of accessory uses.
- Rest and convalescent homes not used primarily for the treatment of contagious diseases, alcoholics, drug addicts and psychotics.
- Churches and their customary related uses including cemeteries, provided that all structures and graves shall be set back at least twenty (20) feet from any property line.
- Public elementary and secondary schools and private schools having curricula approximately the same as ordinarily given in public schools.

.Public or private parks, playgrounds, community centers, clubs lodges, golf courses, swimming pools, fishing lakes, family camp grounds and similar recreation uses.

.Public safety facilities such as fire and police stations and rescue squad headquarters, provided that all vehicles and equipment shall be stored indoors; provided further, that all structures shall be set back at least twenty (20) feet from all property lines and shall be designed and landscaped in such a way as to blend in with the surrounding area.

.Public works and public utility facilities such as transformer stations, pumping stations, watch towers and telephone exchanges, provided:

a. such facilities are essential to the service of the immediate area and no vehicles or materials shall be stored on the premises;

b. all buildings and apparatus shall be set back at least twenty (20) feet from all property lines and shall be designed and landscaped in such a way as to blend in with the surrounding area.

c. such facilities as water towers, pumping stations and so forth shall be surrounded by a chain link fence six (6) feet in height.

Signs:

a. One (1) professional or announcement sign per lot for customary home occupations, kindergartens and rest homes. No such sign shall be illuminated.

b. One (1) sign per lot pertaining only to the lease, rent or sale of the property upon which displayed. No such sign shall be illuminated.

50.2 Conditional Uses: The following uses may be permitted subject to a finding by the Board of Adjustment pursuant to Section 113 hereof that:

.Mobile home parks, subject to the conditions listed under Section 76 of this ordinance.

.Temporary sawmills, provided they shall not be in operation for more than one (1) year; provided further, all sawmill structures shall be levelled and the premises cleaned up within six (6) months after discontinuance.

50.3 Dimensional Requirements. Within the R-20 Residential District as shown on the zoning map, the following dimensional requirements shall be complied with:

50.31 Area, yard and height requirements shall be provided as required in Article VI of this ordinance.

50.32 Off-street parking shall be provided as required in Section 90 of this ordinance.

Section 50-A R-20-TH Residential District

The R-20-TH Residential District is hereby established as a district having the same general purposes and characteristics as the R-20 Residential District, but in which two-family Townhouse Buildings, Townhouses and Townhouse Developments, as defined in Section 141-31-A, B and C herein shall be allowed as permitted uses in addition to all uses permitted in the R-20 Residential District, except that isolated mobile homes, mobile home parks, manufactured homes, modular homes not meeting the requirements of the North Carolina State Building Code, rest homes, clubs, lodges and public safety facilities shall not be permitted in R-20-TH districts.

Section 51. R-15 Residential District

The R-15 Residential District is established as a district in which the principal use of land is for medium density single-family purposes along with limited home occupations and public and private community uses. It is expected that all dwellings in such a district will have access to municipal water supplies or municipal sewage disposal facilities or a reasonable expectation of such service in the near future.

51.1 The following uses are permitted:

.All uses permitted in the R-20 Residential District except isolated mobile homes and mobile home parks, rest homes, clubs and lodges, public safety facilities.

51.2 Conditional Uses. The following uses shall be permitted subject to a finding by the Board of Adjustment the additional conditions listed below will be met:

.Two-family dwellings, which are not Townhouse Buildings, provided they meet the same area, yard and height requirements as a single-family dwelling in the R-15 District and provided further that the Planning Board makes a finding that such non-Townhouse Building, two-family development is appropriate to the general area.

51.3 Dimensional Requirements. Within the R-15 Residential District as shown on the zoning map, the following dimensional requirements shall be complied with:

51.31 Area, yard and height requirements shall be provided as required in Article VI of this ordinance.

51.32 Off-street parking shall be provided as required in Section 90 of this ordinance.

Section 51-A R-15-TH Residential District

The R-15-TH Residential District is hereby established as a district having the same general purposes and characteristics as the R-15 Residential District, but in which two-family Townhouse Buildings, Townhouses and Townhouse Developments, as defined in Section 141-31-A, B and C herein shall be allowed as permitted uses in addition to all uses permitted in the R-15 Residential District, except that isolated mobile homes, mobile home parks, manufactured homes, modular homes not meeting the requirements of the North Carolina State Building Code, rest homes, clubs, lodges and public safety facilities shall not be permitted in R-15-TH districts.