Town of Boiling Springs

Board of Planning & Adjustment

Meeting Agenda Packet

August 16, 2016

Town of Boiling Springs
PO Box 1014 | Boiling Springs, NC 28017
Phone 704-434-2357 | Fax 704-434-2358
www.BoilingSpringsNC.net

BOARD OF PLANNING & ADJUSTMENT MEETING AGENDA

August 16, 2016

ROUTINE BUSINESS

1. **Chairman's Call to Order**
2. **Recognize Citizen's Present & Public Comment**
3. **Minutes from July 19, 2016 Regular Meeting** 3

REGULAR BUSINESS

4. **Swear In New Members** 5
5. **Text Amendment 160906.01 | R-20 Minimum Lot Size** 6
6. **Text Amendment 160906.02 | Temporary Family Health Care Structures** 13

The Town Council desires all citizens have an opportunity to address the Council in an open and productive manner. Individuals not on the agenda but wishing to speak should register with the Clerk prior to the start of the meeting. During the Public Comment portion of the meeting speakers have three (3) minutes unless otherwise approved by the Council. Groups are urged to appoint a spokesperson. If you require additional time, we ask you be placed on the agenda for the next regularly scheduled meeting of the Council. This policy allows the Council members adequate time to familiarize themselves with an issue.

Board of Planning & Adjustment

Meeting Minutes
June 21, 2016

Board Present
Jim Blalock, Buster Bryson, Josh Beason, John Cannon, Ellen Humphries, and Pat Hamrick

Staff Present
Town Manager Tom Hart and Town Clerk Kim Greene

Others Present

Call to Order
Co-chair Ellen Humphries called the meeting to order at 5:30 p.m.

Approval of Minutes
Jim Blalock made a motion to approve the minutes of the April 19, 2016 meeting. John Cannon seconded the motion and all were in favor.

Public Comment
Public may address the Board about any policy matter.

Consider Zoning Code Text Amendment 160630.01
Mr. Hart and Chairman Lynn Sarratt attended the School of Government Board Workshop for Planning and Development Regulation training in Mooresville last month. Mr. Hart reported one of the items they spoke on was determining the composition of the Board of Planning and Adjustment. State law indicates the ratio of ETJ members to inside members be based on population. Current population estimates indicate the Board should consist of 7 inside members and 2 ETJ members. The Board currently has 5 inside members and 4 ETJ members.

Pat Hamrick and Cliff Wilson's ETJ seats expire June 30, 2016. Pat Hamrick agreed to serve another term. Cliff Wilson does not wish to continue to serve. On July 1, 2016 the Board will have 3 ETJ members (John Cannon, Buster Bryson, and Pat Hamrick). After discussion, John Cannon voluntarily resigned from the Board to reduce the number of ETJ seats. Co-chair Ellen Humphries made the motion to accept John Cannon's resignation from the Board of Planning and Adjustment. Josh Beason seconded the motion and all were in favor.

Jim Blalock made the motion to recommend the Town Council approve Ordinance 160630.01 Amending Chapter 151 Board of Planning and Adjustment. Pat Hamrick seconded the motion and all were in favor.

DRAFT

Consider Policy on Public Comment
Mr. Hart shared the Town Council's Policy on Public Comment to facilitate meetings. Buster Bryson made the motion to approve the Policy on Public Comment. Pat Hamrick seconded the motion and all were in favor.

The Board of Planing and Adjustment desires all citizens have an opportunity to address the Board in an open and productive manner. Individuals not on the agenda but wishing to speak should register with the Clerk prior to the start of the meeting. During the Public Comment portion of the meeting speakers have three (3) minutes unless otherwise approved by the Board. Groups are urged to appoint a spokesperson. If you require additional time, we ask you be placed on the agenda for the next regularly scheduled meeting of the Board. This policy allows the Board members adequate time to familiarize themselves with an issue.

Identify Training Topics
Mr. Hart reported there are companies that offer on site training. He asked Board members to contact him regarding topics they feel would be beneficial.

Adjourn
Jim Blalock made the motion to adjourn the meeting at 5:50 p.m. John Cannon seconded the motion and all were in favor.

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BOARD OF PLANNING & ADJUSTMENT
AGENDA ITEM 4
August 16, 2016

SWEAR IN NEW MEMBERS

SUMMARY

The Town Clerk will swear in the new members of the Board of Planning and Adjustment. On August 6, 2016 the Town Council appointed Bill Daves, Wayne Johnson, and Alan McWhirter to the Board.

MATERIALS PROVIDED

- None

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BOARD OF PLANNING & ADJUSTMENT
AGENDA ITEM 5
August 16, 2016

TEXT AMENDMENT 160906.01 | MIN LOT SIZE IN R-20

SUMMARY

It has been brought the staff's attention that the Town's R-20 zoning district may be over restrictive in terms of the minimum lot size. The numerical designation on a zoning district usually indicates the minimum square footage for the lot. R-10 is a 10,000 square foot lot, R-15 is a 15,000, etc. The Town's R-20 district historically called for a minimum lot size ranging from 20,000 to 40,000 square feet depending on the available utilities. This was probably to protect well water supplies and ensure space for septic systems. At some point the Town split the difference and changed R-20 district to a 30,000 square foot lot regardless of available utilities. The R-20 district is mostly located in the Town's ETJ or outskirts which are near or adjacent to properties regulated by the Cleveland County Unified Development Ordinance (UDO). All light residential zoning districts in the County UDO call for a 21,780 square foot lot or exactly half of an acre. Usually a town or city would allow a higher density than surrounding county. Accordingly staff request the Board of Planning and Adjustment consider text amendment TA160904.01 which reduces the minimum lot size in the R-20 district from 30,000 square feet to 20,000 square feet.

The Board will make an advisory decision on this amendment which will be considered by the Town Council in September.

MATERIALS PROVIDED

- Text Amendment TA160906.01
- Town Zoning Code 151.061 R-20 District Description
- County UDO 12-121 Zoning District Descriptions
- County UDO 12-171 Table of Minimum Lot Sizes

ORDINANCE AMENDING CHAPTER 151.074
SCHEDULE OF AREA, YARD AND HEIGHT REQUIREMENTS
OF THE TOWN OF BOILING SPRINGS CODE OF ORDINANCES
AMENDMENT NO. TA160906.01

BE IT ORDAINED by the Boiling Springs Town Council assembled this the 6th day of September, 2016.

Part 1. The Cleveland County Unified Development Ordinance specifies that parcels zoned Residential (R), Restricted Residential (RR), and Residential Manufactured Home (RM), have a minimum lot size of 21,780 square feet. The Town desires the minimum lot size applicable to parcels regulated under the Town's Zoning Code in the light residential (R-20) district allow for similar density development as the nearby residential properties regulated under the Cleveland County Unified Development Ordinance. Therefore, the Zoning Code Section 151.074 Schedule of Area, Yard and Height Requirements is hereby amended to read as follows:

[See Table on Page 2]

Schedule of Area, Yard and Height Requirements

District	Minimum Lot Area Square Feet (e)	Square Feet per Dwelling Unit (e)	Lot Width at the Building Setback Line – Feet (See Lot Width Definition)	Front Setback - Feet	Side Setback – Feet (a)	Rear Setback – Feet	Maximum Height - Feet
R-20 Single Family	~~30,000~~20,000	~~30,000~~20,000	100	40	20	30	35
R-15 Single Family	15,000	15,000	80	30	15	25	35
R-15TH Single Family Attached 2 or more units	1st 2 units 15,000	7,500 for each additional unity after 1st two units	40 each unit	30	15	25	35
R-10 Single Family Two-Family Multi-Family	10,000 20,000 20,000 for 1st unit		80 80 80	30 30 30	15 15 15	25 25 25	35 35 35
I-1	20,000	N/A	100	20	20	30	35 (d)
O & CS	N/A	N/A	N/A	20	20	30	35
B-1	N/A	N/A	N/A	20	(b)	(c)	35
B-2	N/A	N/A	N/A	20	20	30	35
M-1	N/A	N/A	N/A	50	25	25	35 (f)

...

Part 2. This Ordinance shall become effective upon its adoption by the Boiling Springs Town Council.

Adopted this the 6nd day of September 2016.

_____

Max Hamrick | Mayor

_____

Kim Greene | Town Clerk

§ 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 forby 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)

Sec. 12-121. - Zoning districts established.

The following zoning districts are hereby established:

(a) *RA—Rural Agricultural.* The purpose of this district is to accommodate agricultural and residential uses in the rural areas of the county at a maximum of one (1) dwelling per three (3) acres. Given the very low-density of development, a limited number of nonresidential uses are also allowed in this district, which are not permitted in the other residential zoning districts.

(b) *RR—Restricted Residential.* This district is the most restrictive residential, district intended to accommodate low-density single-family detached dwellings and modular homes at a maximum density of two (2) dwelling units per acre.

(c) *R—Residential.* The purpose of this district is to accommodate low-density single-family detached dwellings, modular homes, manufactured homes at a maximum density of two (2) dwelling units per acre. Multi-family housing is also permitted in this district, but may be exempt from the density requirements depending on location.

(d) *RM—Residential Manufactured Homes and Parks.* This district accommodates the widest variety of residential uses including low-density single-family detached dwellings, modular homes, manufactured homes and manufactured home parks.

(e) *NB—Neighborhood Business.* This purpose of this district is to accommodate small, limited retail and service land uses that provide goods and services to surrounding residential neighborhoods. Residential uses are also permitted at a maximum density of two (2) dwelling units per acre. The intent of this district is to encourage the location of convenience retail establishments, professional services, and offices that will be compatible with surrounding residential uses, discourage intensive land uses which require large land area; and limit the location of large traffic generating uses to arterial streets.

(f) *GB—General Business.* The purpose of this district is to accommodate a wide variety of retail; business, professional, and personal services; office; and limited wholesale and warehousing uses. These uses are generally located on arterial streets with the capacity for additional commercial traffic.

(g) *CP—Corridor Protection.* This overlay district is designed to promote well-planned, economically viable development that is compatible with and will enhance the visual appeal of the area by avoiding uncoordinated, strip development along arterial streets. It will also support safe and efficient traffic flow through these areas. The district boundaries shall extend along arterial streets, for a distance of five hundred (500) feet from and perpendicular to each side of the highway right-of-way.

(h) *LI—Light Industrial.* The purpose of this district is to accommodate limited manufacturing, warehousing, wholesaling, and related commercial and service activities which have little or no adverse impact upon adjoining residential, business and industrial properties. Other land uses allowed within this district should be limited to those uses that support light industrial uses.

Sec. 12-171. - Minimum lot size.

(a) Subject to subsections (b) and (c) all lots in the following zoning districts shall meet the following minimum area requirements:

	District	Minimum Square Feet
	RA	130,680 (3 acres)
	RR	21,780 (½ acre)
	R	21,780 (½ acre)
	RM	21,780 (½ acre)
	N-B	No Minimum*
	G-B	No Minimum*
	L-I	No Minimum
	H-I	No Minimum

*Except residential uses which require twenty-one thousand seven hundred eighty (21,780) square feet.

R, RM, and RR district lots shall have a minimum width of eighty (80) feet at the building line and twenty-five (25) feet wide at the street right-of-way, and a minimum depth of one hundred fifty (150) feet. The RA district lots shall have a minimum width of one hundred twenty-five (125) feet at the building line and fifty (50) feet wide at the street right-of-way, and a minimum depth of one hundred fifty (150) feet.

(b) Lots in the R, RM, and RR districts and lots in the NB district that are used for residential purposes that are served by both public water and sewer, shall have a minimum usable area of fifteen thousand (15,000) square feet, and the same width standards as above.

(c) The minimum lot sizes set forth in this section are permissible only if and to the extent that adequate water and sewer facilities are or can be made available to serve every lot in accordance with the provisions of article XII of this chapter.

(d) All rights-of-way or easements deeded or reserved shall be excluded when determining lot areas.

(Ord. of 1-4-94, § 11.1; Amd. of 5-2-95; Amd. of 9-19-95; Amd. of 5-20-96; Ord. of 6-17-97; Amd. of 12-17-02)

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BOARD OF PLANNING & ADJUSTMENT
AGENDA ITEM 6
August 16, 2016

TEXT AMENDMENT 160906.02 | TEMP HEALTHCARE STRUCTURES

SUMMARY

In 2014 the state legislature passed S.L. 2014-94 which created NCGS 160A-383.5 which requires local zoning approval of temporary family healthcare structures sometimes referred to as "Granny Pods." The proposed text amendment brings the Town's Zoning Code into compliance with the state law. The Town may adopt less restrictive guidelines that those outlined in the state law but may not adopt more restrictive guidelines. The proposed amendment mirrors the applicable state law.

One point of local discretion is which setback to apply to the temporary structure. The Town may apply the existing setback for accessory structures or may apply the existing setback for the primary building in whichever zoning district the structure is located in. The proposed amendment adopts the existing primary structure setback which varies based on zoning district. It is possible that smaller parcels may not be able to accommodate a temporary family health care structure. The accessory setback is 10 feet in all residential districts.

The Board will make an advisory decision on this amendment which will be considered by the Town Council in September.

MATERIALS PROVIDED

- Text Amendment TA160906.02
- Internet Link: http://canons.sog.unc.edu/meet-the-granny-pod-new-zoning-protection-for-temporary-family-health-care-structures/

ORDINANCE AMENDING CHAPTER 151
APPENDIX A: TABLE OF PERMITTED AND CONDITIONAL USES &
APPENDIX B: SPECIAL REQUIREMENTS TO THE TABLE OF PERMITTED AND CONDITIONAL USES
OF THE TOWN OF BOILING SPRINGS CODE OF ORDINANCES
AMENDMENT TA160906.02

BE IT ORDAINED by the Boiling Springs Town Council assembled this the 6th day of September, 2016.

Part 1. S.L. 2014-94 created N.C.G.S. 160A-383.5 requiring the zoning approval of "temporary family healthcare structure." Therefore to create uniformity and agreement with state law the Town Code Chapter 151 Appendix A: Table of Permitted and Conditional Uses is hereby amended to read as follows:

APPENDIX A: TABLE OF PERMITTED AND CONDITIONAL USES

....

[See Table on Page 2]

TABLE OF PERMITTED AND CONDITIONAL USES										
USE TYPES	R-20	R-15	R-15TH	R-10	I-1	O&CS	B-1	B-2	M1	SR
Residential Uses ... temporary family health care structure ...	X	X	X	X						

Part 2. S.L. 2014-94 created N.C.G.S. 160A-383.5 requiring the zoning approval of "temporary family healthcare structure." Therefore to create uniformity and agreement with state law the Town Code Chapter 151 Appendix B: Special Requirements to the Table of Permitted and Conditional Uses is hereby amended to read as follows:

APPENDIX B: SPECIAL REQUIREMENTS TO THE TABLE OF PERMITTED AND CONDITIONAL USES

...

SR 43 TEMPORARY FAMILY HEALTH CARE STRUCTURES – ACCESSORY RESIDENTIAL USE

Subject to the provisions of this section and in accordance with N.C.G.S. 160A-383.5, the Town shall consider temporary family health care structures a permitted accessory use in any zoning district that allows for detached single family

(A) The temporary health care structure must be used by a caregiver of a mentally or physically impaired person, to provide care to the mentally or physically impaired person and must be located on property owned or occupied by the caregiver as the caregiver's residence.

(B) Caregiver shall be an individual 18 years of age or older who provides care for a mentally or physically impaired person and is the legal guardian or a first or second degree relative of the mentally or physically impaired person for whom the individual is caring. A first or second degree relative shall include a spouse, lineal ascendant, lineal descendent, sibling, uncle, aunt, nephew, or niece and include half, step, and in-law relationships.

(C) Mentally or Physically impaired person shall be a person who is a resident of North Carolina and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in North Carolina. Activities of daily living shall include: bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.

(D) The temporary family health care structure shall be a transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that is:

1. Primarily assembled at a location other than the site of installation;
2. Limited to one occupant who shall be physically or mentally impaired;
3. Has no more than 300 gross square feet;
4. Complies with the State Building Code and G.S. 143-139.1(b); and
5. Is not installed on a permanent foundation.

(E) Only one temporary family healthcare structure shall be allowed on a lot or parcel of land. The temporary structures shall not require a special or conditional use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures except as otherwise provided in this section.

(F) Temporary structures installed pursuant to this section shall comply with the setback requirements that apply to the primary structure in the zoning district the structure is located in.

(G) Any person proposing to install a temporary family health care structure shall first obtain a permit from the Town. The Town will charge an initial fee and annual renewal fee for said permit. The initial fee and annual fee shall be the same as the adopted Zoning Permit fee provided that the initial fee may not exceed one hundred dollars ($100) and the renewal fee may not exceed fifty dollars ($50).

(H) The caregiver must provide evidence of compliance with this section on an annual basis as long as the temporary structure remains on the property. The evidence may involve inspection by the Town of the structure at reasonable times convenient to the caregiver.

(I) The structure may be required to connect to the Town's water and sewer systems in accordance with the Town Code and the Town's Standard Specifications and Construction Details.

(J) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted on the property or on the exterior of the temporary structure.

(K) When the mentally or physically impaired person is no longer receiving or no longer in need of the assistance provided for in this section; any structure installed pursuant to this section shall be removed within 60 days.

(L) The Town may revoke the permit granted pursuant to this section if the caregiver violates any provision of this section or applicable state law. The Town may seek injunctive relief or other appropriate actions or preceding to ensure compliance with this section.

Part 3. This Ordinance shall become effective upon its adoption by the Boiling Springs Town Council.

Adopted this the 6nd day of September 2016.

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Max Hamrick | Mayor

_____

Kim Greene | Town Clerk