

**TOWN OF PINE LEVEL
MINUTES OF
PINE LEVEL PLANNING BOARD MEETING
AUGUST 17, 2017**

MEETING INFORMATION

The Pine Level Planning Board met on Thursday, August 17, 2017 at 6:30 p.m. at the Pine Level Town Hall. The meeting was called to order by Chairman Randy Jones.

ROLL CALL

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|------------------|------------------------|
| √ Randy Jones | X Faye Starling (alt) |
| √ Randy Holloman | √ Cecelia Weaver (alt) |
| √ Berry Godwin | √ Janet Kleinert (alt) |
| √ Nester McClain | |
| √ Terry Rains | |

Others present: Dan Simmons, Tonia Hill, Commissioner Phil Pittman, and Commissioner Greg Baker.

Staff present: Town Attorney Will Barham, Zoning Administrator Scottie Hayes, and Deputy Clerk Connie Capps.

MINUTES

Nester McClain made a motion to approve the minutes from the meeting held on July 27, 2017. Terry Rains seconded the motion. The minutes were approved as presented by unanimous vote.

SIDEWALK SALES AND DISPLAYS

Chairman Randy Jones told the board that the item of "Display of Goods on Sidewalks" had been discussed and tabled in the past and he felt this item needed to be addressed. The board reviewed the Table of Permitted Uses on page 23 and saw that "Outdoor Display of Merchandise" was allowed only under HB and LI districts with a "D" for Development Standards. Randy Holloman said that all of the downtown area is zoned Commercial, and that is where most would have outdoor displays, but according to the Table of Permitted Uses it is not permitted in that zoning district. Chairman Randy Jones and Randy Holloman suggested adding the Commercial District to this use.

After some discussion Berry Godwin entered a motion to recommend to amend the ordinance to add the Commercial District to the use of Outdoor Display of Merchandise with "D" Development Standards on the Table of Permitted Uses on page 23 of the Zoning Ordinance. Terry Rains seconded the motion. The motion passed on a unanimous vote.

Chairman Randy Jones next asked the board to look at the handout on "Display of Goods on Sidewalks". He said this was not something to be adopted tonight but to consider what is on the sheet, review it and make notes. He said there wasn't anything in the ordinance regulating displays and he thought it was time to add something to the ordinance. After some discussion, Berry Godwin then made a motion to table this item until the next meeting to give the board more time to review. Terry Rains seconded the motion. Motion passed unanimously. Randy Holloman said he just felt the board needed more time to study and have clarification on the property, whether sidewalks are considered as being on private property or public right-of-ways. Berry Godwin withdrew his previous motion until after the Board of Adjustment Hearing and Terry Rains also withdrew his second. Motion passed unanimously.

RULES AND PROCEDURES

Chairman Randy Jones said that according to the Rules and Procedures of the Planning Board under Section C. number 7, it states:

7. In accordance with "**AN ORDINANCE TO REESTABLISH AND CONTINUE A PLANNING BOARD FOR THE TOWN OF PINE LEVEL**", a quorum shall consist of five (5) members for the purpose of taking any official action required by this ordinance on planning board matters. When the planning board is performing the duties of a Board of Adjustment and the zoning ordinance requires at least a four-fifths (4/5) majority to reverse any order, requirement, decision or determination of an administrative official, to decide in favor of the applicant, or to grant a variance, a quorum shall consist of eight (8) members. To take action on a board of adjustment matter, which does not require a four-fifths (4/5) majority vote, a quorum of the board shall consist of five (5) of the nine (9) members.

Due to the current number of members on the board, Randy Holloman made a motion recommending to amend the Rules of Procedures from the number of eight (8) members to five (5) members. Terry Rains seconded the motion. Motion passed unanimously.

CONTINUED/ SIDEWALK SALES AND DISPLAYS

After the Board of Adjustment hearing ended, the board continued their discussion on sidewalk sales and displays. Town Attorney Will Barham suggested to the board to have the business owners that want to display outdoor merchandise to buy or apply for a permit. He said his concern was the town's liability only. He also said that the board can require a business to get a permit, and they can deny the permit if the business does not have a license. He said what is in the ordinance is adequate on page 23. Chairman Randy Jones suggested to keep what is in the ordinance and add a permit of usage to have an outdoor display. The attorney said with a permit process it would be subject to the zoning administrator's enforcement. He said the board needed to decide what guidance they wanted to give the Zoning Administrator. After some discussion, Chairman Randy Jones made a motion to table this issue until the next meeting on September 28, 2017, so as to have a rewritten ordinance to look at, by suggesting that businesses obtain a permit and to require indemnity insurance in order to display merchandise on sidewalks and public right-of-ways for the Town of Pine Level, and also keep what our ordinance currently states. Randy Holloman seconded the motion. Motion passed on a unanimous vote.

MEETING ADJOURNED

Chairman Randy Jones thanked everyone for an outstanding job. He also thanked Attorney Will Barham for his great legal advice. There being no further business to discuss, Terry Rains made a motion to adjourn the meeting and Janet Kleinert seconded the motion. The meeting ended at 8:00 p.m.

Connie N. Capps
Deputy Clerk

Randy Jones, Chairman

BOARD OF ADJUSTMENT PUBLIC HERING/TONIA HILL-PLAYMATES DAYCARE

At 7:00 p.m. Chairman Randy Jones said the board should close the planning board meeting and convene as the Board of Adjustment in order to hold a public hearing on a conditional use permit submitted by Tonia Hill to construct a daycare facility at 2081 East 70-A Highway in the city limits of Pine Level in a HB (Highway Business) District. Nester McClain made a motion to that effect and Terry Rains seconded the motion. The motion passed on a unanimous vote.

Chairman Randy Jones called the Board of Adjustment public hearing to order. He informed everyone that this was a quasi-judicial hearing and anyone wishing to speak must be sworn in by Connie Capps. He said the public hearing was advertised in the Pine Level Edition of the Kenly News on August 2, 2017 and August 9, 2017.

Those sworn in to speak: Tonia Hill and Dan Simmons

Chairman Randy Jones directed the board to page 81 of the Zoning Ordinance Section 606.1. The conditional use is justified based on the following facts:

1) All applicable specific conditions pertaining to the proposed use have been or will be satisfied.

Based on the information submitted and testimony presented, Daycare Facilities are allowed in HB (Highway Business) Districts. All specifications meet the requirements of the Zoning Ordinance, and the plan has been sealed by a registered engineer.

(2) Access roads or entrance and exit drives are or will be suitable in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or other emergency.

Based on the information submitted and testimony presented, the NCDOT has approved the drive access and traffic flow design of this project. There will be staggered times designated for drop-offs that will be for the safety for everyone.

(3) Off-street parking, loading, refuse and other service areas are located so as to be safe, convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood.

Based on the information submitted and testimony presented, all parking in this plan exceeds the requirements of the Zoning Ordinance. On the west side of facility there will be trash containers with a retaining wall around them which will be metal-framed gates which will not fall.

(4) Utilities, schools, fire, police, and other necessary public and private facilities and services will be adequate to handle the proposed use.

Based on the information submitted and testimony presented- Yes, all of these departments can handle this use. As for security, the Police Department is located across the street, as for Fire protection, adequately sprinkler protection will be installed which ties into a 12-inch waterline on Kornegay Avenue; and the access of two fire hydrants-one located in front of building and one in back of building. The driveway access for the fire trucks is sufficient. There will be interior fencing of 4 feet and exterior fencing of 6 feet around the property. It will be well secured.

(5) The location and arrangement of the use on the site, screening, buffering, landscaping and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts.

Based on the information submitted and testimony presented, the landscaping design was submitted and exceeded the requirements of the ordinance. This plan would be a model plan to present to other businesses. There will be a buffer on the west side.

The grading and drainage will be done at the expense of Playmates Daycare. On the east side of the building on East Brown Street there is a culvert that has deteriorated and needs to be replaced. Owner will replace with a 24" culvert. The ditch is large enough but not the culvert. At every intersection there is 20 feet of sight-angle clearance so that traffic can see at all intersections.

(6) The type, size and intensity of the proposed use, including such considerations as hours of operation and numbers of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood.

Based on the information submitted and testimony presented, this facility will not have an adverse impact on adjoining properties or the neighborhood. Hours of operation will be from 6:00 a.m. to 6:00 p.m. Monday-Friday. Daycare will hold 439 people if all are present at one time. A set time for drop-offs has not been set yet, but will be staggered times, so that loading and unloading of children will be successful. The cafeteria will be a multi-use cafeteria, which would allow for a multi-purpose room for the children if it rains. The property will be fenced.

After reviewing the findings of facts, conclusions, and reasons for the conditional use, Chairman Randy Jones made a motion to place the following condition on Number 5:

If Mrs. Hill chooses to put up a fence on the west side property line during construction, she would need to refer back to page 40 Section A of the zoning ordinance which reads:

(A) A wall or fence, a minimum of six (6) feet in height (constructed of masonry or pressure treated lumber) or densely planted vegetation a minimum of six (6) feet in height that would provide a complete visual separation within three (3) years of planting, may be used to reduce both the minimum width of the Planting Yards and the corresponding number of points per linear foot by 20%.

By the plan a map would need to be drawn to show the zoning administrator this change and to make sure it meets the zoning code. Berry Godwin seconded the motion. Motion passed unanimously.

It was noted that the modular unit that is currently at Playmates Daycare on East Pine Street will be removed from that site when she moves to the new site on Highway 70-A.

Chairman Randy Jones ask for any more comments or questions. Since there were none, Nester McClain made a motion to approve the conditional use permit and Randy Holloman seconded the motion. Motion passed on a unanimous vote.

Janet Kleinert made a motion to close the Board of Adjustment public hearing and reconvene as the Planning Board. Cecelia Weaver seconded the motion. Motion was unanimous. The public hearing ended at 7:30 p.m.

Chairman Randy Jones thanked Tonia Hill and stated that the daycare will enhance Pine Level greatly, and also thanked her for choosing Pine Level to build. Randy Holloman said that the daycare will be a great addition for the Town of Pine Level, and that Dan Simmons did an excellent job on following the zoning ordinance with this project. Tonia Hill thanked the planning board and asked that they keep her and the business in their prayers. She said she started the business with 38 children and currently has 215 children. She said with this new building she would be doubling the staff and children and they all are very excited.