

**MINUTES OF THE HUNTSVILLE TOWN  
PLANNING COMMISSION MEETING**

**MEETING DATE:** May 26<sup>th</sup>, 2016  
**PLACE:** Huntsville Town Hall, 7309 E. 200 S.  
**TIME:** 7:00 P.M.

**Commissioners:** Ron Gault                      Preston Cox                      Karen Klein  
   Rex Harris

**Excused:** Brent Ahlstrom                      Sandy Hunter                      Mike Engstrom

**Admin Staff:** Gail Ahlstrom                      Bill White

**Citizens:** Julie Powell                      Artie Powell

Ron Gault called the meeting to order, there is a quorum present.

Review of Proposed Changes to Title 15.17.3: Additions and Enlargements: (See Attachments)

Ron prepared draft verbiage for proposed changes to Title 15.17.3 that the Commissioners reviewed. Rex added his suggested amendments to the document, which are highlighted in red. Rex said as he was looking at this ordinance, he realized that there are four things that need to be defined: non-conforming land use, non-complying buildings or structures, non-conforming building, and non-complying land or residential lot. Nonconforming land use is land that doesn't conform to the use regulations that govern the use of the land, or didn't legally exist before its current land use designation. It may have had nonconforming use at one time and has been used continually, therefore, being grandfathered. The next situation under non-conforming is a nonconforming building, which is, the use of a building that doesn't meet use regulations. Under the noncomplying; a noncomplying building or structure that doesn't meet regulations for that zoning. Such as; it doesn't comply with setbacks or height. Noncomplying land which doesn't meet the physical requirements, such as an undersized lot. Rex thinks those things need to be defined. The PC has been spending a lot of time defining what it wasn't, instead of defining what it is.

Rex suggested adding to 1.1: The minimum distance between any portion of any building above or below ground and property boundary. Ron said the way that is worded would mean setbacks would be measured from the roof overhang. Which means the PC will need to tell people that their foundations would need to be further than 10- off the property lines, which is different than what has been done in the past. Rex said the measurement would include the footings but not the foundation wall. Normally footings are more narrow than the overhang on the roof, generally overhangs are 18-21". This would mean measurements would need to be done before the footings are poured.

Rex liked the proposed 1.1 because it doesn't include a list of things which could cause problems. Ron reported that he just measured the Larsen home's setbacks from the foundation wall; they are using the old foundation which is 10 1/2' off the property line. The Larsen's wouldn't meet this proposed requirement if they had any kind of an overhang. This same thing would happen when people just did an addition. There are homes that are just 10' off the side yard. The simple way would be to keep the definition and change the setbacks distance to a longer distance. Artie stated that the town has another ordinance that says there needs to be 20' between buildings. The more you let someone encroach on a setback the more it restricts the adjoining neighbor. There is a safety issue the closer the houses are to each other. Rex wondered if the Fire Department has a minimum distance that they require for fire safety. As it stands right now a 20' distance between two homes is standard and acceptable. Bill White remarked that this seems unfair to people who live next to a non-conforming use, that they would be required to build further off their property line because a neighbor's home was too close. Artie expressed his opinion that the setback measurement should include the eaves. Title 15.6.7: says minimum side yard shall be 10' and the total width of two required side yards shall not be less than 20'.

Ron wanted to talk about where the 10' side yard setback came from. Rex replied that a side yard is defined as enough space to get a vehicle behind the building; 10' is a good number and is consistent with what has traditionally been required, the majority of homes in town fit this setback requirement. Even with a very low house you could still drive a vehicle behind the home with a 10' side yard. Artie commented that there is access to the backyard but there is also a safety issue if something happens at a neighbor's house it threatens your home as well if they are too close. Ron stated that if the 10' side setback is changed a lot of homes will be out of compliance as well as create problems when people remodel. There was discussion on how to measure an overhang. Ron will check with a builder to see what a typical overhang is and he will reword the definition.

The discussion moved to nonconforming land use. Rex recommended removing a lot of wording and basically say you have to conform to the regulations as stated in other sections of the zones. Preston stated that nonconforming land use doesn't have anything to do with the size of the lot, it's how the property is being used. Julie said she has been doing some research online and found that some websites simplify things by only using the term nonconforming. Julie asked what the difference is between nonconforming and noncomplying. Rex replied conforming has to do to use and complying deals with physical regulations like height, width, and depth.

Ron reviewed the proposed verbiage for Title 14.17: to allow or disallow. "The town government wants to allow an owner to improve the infrastructure of a current noncomplying structure if at the same time they can bring it closer to compliance." This would allow someone to upgrade a home so it a safer home and is brought up to current building codes. The town wants to encourage people to do this. Rex said he would want less leeway on a noncomplying home, he wants to bring all of the older homes up to code, but he feels there is more flexibility with conformity. Where the house sits, or how tall it is are not safety or code violations. Does the town want to allow an owner to add a small amount of additional floor space if it brings modern capabilities and the addition is in compliance with current zoning? Artie said the ordinances would need to define what small means. If the main structure doesn't meet setbacks, it's encroaching on the neighbor.

Granted, noncompliance could have been there for decades, but once people start changing the structure of the house, it's an opportunity for them to bring the home into compliance. Artie would not allow any addition to a home without requiring it to come into compliance.

Artie stated that if you are adding 50% to the existing footprint then it is no longer considered a remodel it is considered a new structure. You can get around this by doing additions slowly. Rex said the prior discussion was any change to the structure that requires engineering. If you have a non-conforming house you could do interior remodeling, anything that doesn't require engineering. Remodeling on the interior of your home doesn't affect anyone else. Julie read from a definition she found on line. "Nonconforming structures: where a lawful structure exists that affective date of adoption or amendment to an ordinance codified in this division that could not be built under the terms of this division or restriction on area, lot size, height, yard, or other characteristics of the structure or location of the lot such structure may be continued as long as it remains otherwise lawful subject to the following provisions. A. No structure shall be expanded or enlarged until it has been brought into conformity. Nothing in this division shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, or prevent the improvement of a single family house without expanding its exterior dimensions." This would allow the interior, maintenance, or roofing to be changed. In Julie's opinion if your home is nonconforming you are probably encroaching on a neighbor or the town. Julie continued to read: "Intent: Within the districts established by this division there exist lots, structures, and land uses and structures that were lawful prior to this division, but would be restricted and prohibited by the terms of this division. It is the intent of this division to permit these nonconformities to continue until they are moved, but not to encourage their survival. Non conformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited in this revision. Julie feels that the ordinance never should have been changed in the first place.

Bill White read from the existing Title 15.17.3.A. "A building or structure of nonconforming as to the use regulations shall not be added to or enlarged in any manner unless the entire building or structure including such additions and enlargements is made to conform to all the use regulations of the zone in which it is located. Title 15.17.3.B. A building or structure noncomplying as to height, area, or yard regulations shall not be added to or enlarged in any manner unless such addition or enlargement complies with the regulations of the zone in which it is located." Artie feels that this ordinance should say not only the addition but the existing structure has to be brought into compliance.

Bill suggested amending paragraph B. to say if you have a noncomplying home and you enlarge your house you need to bring everything into conformance. This would be a simple fix for a complex problem. Bill suggested the following verbiage: "A building or structure noncomplying as to height, area, or yard regulations shall not be added to or enlarged in any manner unless the entire structure including additions are required to meet the regulations of the zone."

Artie said the way the ordinance is written was if you owned a nonconforming home on a noncomplying lot you couldn't do anything but routine maintenance to the home, which is wrong. The idea the PC tried to accomplish a few years ago was to allow someone to do what everyone else

can do, but they need to bring the home into compliance. With this minor change to the ordinance you could do a complete remodel to your home unless you did an addition or enlarged the home. Artie said if you have a noncomplying home, and you decide to gut the inside of the house but leave the outside alone, and then let them do it. Bill remarked that the PC thought they were allowing people to make small additions to a home as long as the additions met requirements. The ordinance is saying if you have a small home on a small lot you are stuck with it unless you can bring it into conformance with the setbacks. Rex said the issue that is being debated is will the town allow a person to do anything to their home if it is in noncompliance. The argument being how far can someone go? Bill stated that the reason the ordinance was amended in the first place was that some of these nonconforming homes are becoming dilapidated. The town wants to encourage people to maintain and improve their homes, but not expand them in a way that they further encroach on setbacks.

Bill stated that one day the Powell's are going to want to remodel their home. So, why wouldn't the town want to encourage them to do a remodel on their home? Rex remarked that the Powell's comply. Bill said they are not complying as to the lot size, their home is on too small of a lot and the Powell's won't be allowed to remodel. Julie said Title 15.17.14 address this, if a lot was designated as a legal building lot they are allowed the same property rights as everyone else. Bill said it means they have a legal building lot, not the right to remodel or enlarge their home. Artie said the only problem with their home is that the lot is undersized. He interprets Title 15.17.3 as they can tear their house down and rebuild as long as they meet setbacks. Ron agreed. Julie clarified that they would have the rights that everyone else has as long as they bring the home into conformity. Rex said this doesn't meet the goal of bringing things into compliance and conformity. The parcel will never come into conformance. In most cases it will be impossible to join two lots.

Rex commented that when Huntsville Town was originally platted the town was divided into  $\frac{3}{4}$  acre lots and at some point in time people were given more rights than everyone else when they were allowed to divide their property. If it's possible the town wants to encourage people to get rid of nonconforming lots. Rex doesn't want to see a 10,000 sq. ft. home fit onto a .5 acre lot. If you're on smaller lot and you want to tear down and rebuild there should be regulations restricting the size of the home in comparison to the size of the lot. Artie said the town is taking away the ability for them to use their property. Bill agreed. Ron will made the changes and send them out to the PC.

Approval of minutes for Planning Commission meeting held April 28<sup>th</sup>, 2016:

Rex made a motion to approve the PC minutes for meeting held April 28<sup>th</sup>, 2016, as prepared. Karen seconded. All votes aye. Motion passed. Minutes were approved.

Approval of minutes for Planning Commission meeting held May 9<sup>th</sup>, 2016:

Rex made a motion to approve the PC minutes for meeting held May 9<sup>th</sup>, 2016, as prepared. Preston seconded. All votes aye. Motion passed. Minutes were approved.

Preston made a motion to adjourn. Rex seconded. All votes aye. Motion passed.

**Meeting adjourned at 8:35 P.M.**

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Gail Ahlstrom, Clerk/Recorder

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Ron Gault, Chairman