**Town of Lake Santeetlah**

**Public Hearing Minutes (Zoom)**

**September 21, 2021**

Mayor Hager called the meeting to order at 10:01AM. Councilmembers Predmore, Haag, Simon, and Carlton were present for the meeting. Town Administrator Matheson, Town Clerk Hooper and Attorney Justus were also present for the meeting.

**Old Business:**

1. **Discussion of the Proposed Zoning Ordinance, Map and Application Forms**:

**Map:**

Mayor Hager reviewed the proposed Zoning Map. The map has minor changes the Planning Board presented to the Council. The Town owned property, Town Hall and the location of the water tank is now GS district (Governmental Services). This area is colored in blue. The Planning Board received a request from three homeowners (Steven Poole, Wayne Carter property and Aura Griffith) to be zoned R-1. The Planning Board provided this recommendation to the Council. The map displays these homes as R-1 shaded light green.

Roger Carlton asked if the proposed map is clear that Aura Griffith owns a strip of land that connects to the lake. Anne Hager, Planning Board Chair, clarified that the small strip of property reaching to the lake owned by Aura Griffith should be corrected and zoned R-1. This will be updated on the map as this was the recommendation of the Planning Board.

Roger Carlton pointed out that the Commercial Area at the Old Lodge does not reflect the fully developed plans of the developer. Justus explained that as long as the exterior boundary that is being depicted is clear, the map is sufficient.

**Zoning Ordinance:**

Ken Foskett asked for a brief explanation for those who may not have followed the process to update the Ordinance.

Anne Hager, Planning Board Chairman, provided detail of the height change from 30 to 35 feet. There was no increase or decrease to setbacks. The Planning Board completed in depth work on conforming/non-conforming. Hager explained that if you did lose your home it could be built as it was before. The idea and focus of the rewrite is to pull unnecessary material out, expand, clarify, and update the current ordinance. The new ordinance is clear and easy to understand. The idea/goal was to rewrite the Ordinance with the need for minimal variance requests. A fee schedule has been added and a Certificate of Zoning Compliance. Justus explained that the updated Ordinance follows what the General Assembly has enacted in Raleigh. It is more inclusive of uses, modernizes the material and much plainer than the previous.

Anne Cargile asked if there is any change in provisions regarding non-conforming use. Justus stated that you can’t increase the nonconformity. Justus explained if you want to build upward and build a bigger house as long as the non-conformity isn’t changed it would be approved.

Chris Griggs spoke as a resident and Contractor within the Town. Griggs asked the Council and Planning Board to strongly consider changing the setback to five feet. This would allow the homes to have more conforming septic systems throughout the Town. Griggs feels as though a five foot setback would be a positive change for the Town as so many lots throughout the Town struggle to have the land to build their home and install new septic. Anne Hager explained that the Planning Board discussed this in depth and the Board was split in recommendation to the Council.

Kevin McNally asked for clarification for the maximum height proposed. Hager stated 35ft. is the updated height.

Tina Emerson pointed out that the map is difficult to read on the website. If this hearing is continued could residents be provided an updated map that is easier to read and download?

Page 10. Non-conforming situation: A non-conforming situation may arise when structures do not satisfy maximum height limitations. Emerson suggested this phrase be re-worded.

Emerson explained that the older part of Town (Section 1, 2 & 3) contain very small lots. The lots in this area are almost impossible to comply with the proposed Zoning. Most homes in this area are non-conforming and if the resident wished to upgrade it would not be possible in this area. Emerson recommended the Council discuss/consider creating separate districts in the higher density area of Town and consider smaller setbacks (5ft). Emerson stated that approximately 100 homes between Section 1 & 4 are going to be non-conforming and would need variances. These are all older homes that will need upgrades requiring a high number of variance requests.

Jack Gross Section 602. Rules governing boundaries: Gross asked if a scale is attached to the Official Zoning Map.

Page 22. Section 702. Adjacent to District: Gross asked, “Why would we go with – whichever is more restrictive? Why three choices?”

Section 703. Intent regarding allowance of Uses. Gross pointed out that there is no definition for Nuisance in the proposed Zoning.

Section 801. Certificate of Zoning Compliance: “How can repairs have anything to do with Zoning? That’s just standard maintenance.”

Building Permit. The Town is not allowed to issue permits, including building, septic, mandating what can be used for fences.

Section 807. Accessory Buildings. If a fence is installed according to this proposal, it must be within 5ft. of the property line. The Town is attempting to take 5ft of your land by this requirement.

Certificate of Completion. Gross asked, why is the Town preforming inspection? When a Zoning Certificate is received no other inspection is needed. The Zoning Administrator isn’t qualified, nor does he have permission to be on your property.

Section 901 Item 5. Special Use Permit. The Town cannot issue permits. Section 901 “Why should the Board of Adjustment not be involved in issuing a Special Use Permit.”

Item 6. Why is Town Council deciding things that the Zoning Administrator should be handling?

Page 30. #11 This statement seems to only involve homeowner’s issues nothing that should involve the Town Council.

Article 1100 #3 The Town parking Ordinance is 100% unenforceable. By attaching the Parking Ordinance, Gross stated that the Town is setting itself up for a lot of legal fees and a big mistake in his opinion.

Page 34 #1. Off Street Parking. Gross is unclear and doesn’t understand that item, “but it doesn’t sound good.”

Section 1103. Gross explained that with the new Ordinance there must be a 10ft. buffer around the lake. No building other than water dependent buildings can be within that 10ft. This further restricts building and improvements.

Section 1104. Fences/Walls. Gross pointed out that Zoning cannot mandate what a fence can be made of. Gross also asked the Council to consider the 4ft. maximum height. Most fences are installed for a purpose and not decoration. Gross stated his dog can come over that size of fence.

Page 35 Article 12. Nonconforming Situations. Gross stated that it shouldn’t be the homeowner’s responsibility to prove at what time their home became non-conforming. The Zoning Administrator should identify all homes that are non-conforming prior to implementation of this Ordinance. This will eliminate legal challenges in the future.

Gross explained that some of the questions on the Forms are not necessary, such as the value of your home before and after.

**Forms:**

Tina Emerson. Page 14. The definition of violation and page 55 under violation does not go along with non-conforming homes. Justus explained if your legal non-conforming then you would not be in violation or subject to fees. Emerson suggested the definition change.

Gross stated that the Application of Zoning Certificate by signing the form you are giving authority for the Zoning Administrator to come on your property.

Civil Penalties/Stop Work Orders. The current Zoning Administrator does not have proper qualifications to perform those duties.

Gross pointed out that the Town doesn’t have control of the issuance of a Building Permit. Gross also pointed out that by signing the Certificate of Zoning Compliance permission is given for the Zoning Administrator to come on your property.

Gross asked, “Why do we need a floor plan? What does it have to do with Zoning?”

The Zoning Certificate form is the only form to be discussed. All other forms are created by the Town and Zoning Administrator.

No further public comments.

Justus explained the Hearing will need to be continued in order to discuss the items presented at today’s hearing.

The Town went above the requirement to notice the Public Hearing. When more than 50 properties are changing, the General Assembly only mandates notice of half a page in the local paper. The Town did other items of notice which was not required and will continue to follow those procedures for future hearings concerning Zoning.

Carlton asked for Clarification from Justus about zoning change. Justus explained that because the text is changing including more uses, descriptive detail and updates then every property is changing in some manner. The three property changes from CS to R1 is a black and white change while others are not as clear yet all changing from this comprehensive re-write.

Carlton suggested a workshop to follow up discussion prior to the continued hearing.

Attorney Justus submitted a memorandum from the previous meetings in which the Ordinance was reviewed. Justus will review each item and determine if the Council is in favor or opposed to the change and edit the Ordinance per their request. These changes will be discussed further as well as any questions or concerns from the Public at the continued hearing.

1. Define Construct. The Council agreed the dictionary definition is sufficient.
2. Eliminate “garages” from accessory building or structures. Justus proposed adding two phrases to the definition of: Accessory building. “Relatively small in nature” and “It does not include a dwelling or a detached garage.”

Carlton is opposed to the word “shed” being included in the definition as it is unclear what the definition of shed might be.

Hager feels as though combining fences, walls and sheds shouldn’t be combined. A fence shouldn’t have to be five ft. back from the property line. Hager stated these items should be placed in different categories.

Justus explained that after hearing the opposition to a shed or garage being an accessory building the Council should consider making a policy decision that all setbacks are the same (10ft) with the exception of detached steps being (5ft), fences and walls there is no setback required.

Justus clarified that steps that are attached to a deck are part of the principal dwelling which would require a setback.

Carlton opposed to fences, walls or steps being to the property line because it would block emergency access.

1. Delete planning before jurisdiction. Justus agreed. No opposition from the Council.
2. Carlton requested that the role of the Board of Adjustment be limited. Most decisions should be made by the Town Council.

Carlton asked if an appeal is made from the Board of Adjustment decision, is the next step going to court. Justus answered, yes. Carlton disagrees with this process and feels that the Town Council should make the decisions. Justus proposed that the Board of Adjustment hear all requests other than Special Use Permits and PUD’s. Hager, Predmore, Simon and Haag agreed with this proposal.

1. Predmore suggested to modify adding “top finished surface” to the definition of “floor.” Justus agreed. No opposition from the Council.
2. Predmore suggested to change “height” to be measured from the “lowest grade point existing prior to construction adjacent to the building.” Take into account the primary access into the structure. Where the firetrucks would come. This would account whether you were above or below the street. This would be accounted for by locating that point on the building. This would be fair to homes both above and below the road. The measurement is in a natural grade so the landowner cannot alter his elevation by bringing in dirt or other means. All members agreed.
3. Predmore asked for clarification for “parking space” and watercraft. Justus recommended the definition, “the storage space for one automobile or if the owner or occupant maintains a boat onsite, the space necessary to store one boar with a trailer. The space must meet the dimensional standards of this Ordinance, plus have necessary access for ingress and egress. A parking space shall always be located outside a dedicated street right of way.”

Hager asked if those homes who currently have parking right next to the roadway will need to come in for a variance. Justus explained that it is highly unlikely that the Town would re-visit parking spaces. This is for future development. The homeowner can confirm that they have aqeduate parking spaces and can avoid encroachment of the Town ride-of-way. Justus suggest to leave the parking as is.

8. Carlton asked for clarification for “major variance.” A minor variance is 5% of the development standard. This can be increased if the Council desires. Justus explained if the variance is not minor then it is major. The Council could debate changing the proposal of 5% (at a later time). If the variance is minor the Zoning Administrator can approve without Council approval. Hager explained this would be 6 inches (5%). Predmore, Carlton and Haag agreed that 5% is an ideal standard.

9. Carlton suggested that Religious activities not be permitted in Governmental Districts. Removing the (P) in the Permitted Use Table. Predmore, Haag and Hager recommend to leave it in.

Carlton would like to eliminate residential and incidentals related thereto from Governmental Districts. Hager and Predmore do not have an opinion either way. Simon suggested to remove. Hager stated to eliminate.

The hearing today will be continued to October 28, 2021 at 10:00AM with proper notice given.

A workshop will be held October 6, 2021 at 10:00AM to further discuss the memorandum from attorney Justus as well as comments from the Public from today’s hearing.

With no further business Carlton made a motion to continue to hearing. Predmore seconded. All others agreed.

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Jim Hager, Mayor Emily Hooper, Town Clerk