

Camden County Planning Board
Minutes
February 18, 2009, 7:00pm
Historic Courtroom
Camden County Courthouse Complex

Members Present: Chairman Rodney Needham,
Vice Chairman Terri Griffin,
Fletcher Harris, Ray Albertson,
Calvin Leary, John Aydlett

Absent: Michael Etheridge

Call to Order & Welcome

Chairman Rodney Needham called to order the February 18, 2009 meeting at 7:05 PM.

Others Present at Meeting

Present were staff members Dan Porter, Planning Department Director, Dave Parks, Permit Officer and Flood Administrator, Aaron Maupin, Code Enforcement Officer, and Amy Barnett, Planning Board Clerk.

Consideration of Agenda

Chairman Rodney Needham called for the consideration of the agenda. Planning Director Dan Porter noted a few items to be added to the agenda, those items added under 'Information from Staff'. Vice Chairman Terri Griffin made a motion to approve the amended agenda. John Aydlett seconded the motion. The motion was approved with Chairman Rodney Needham, Vice Chairman Terri Griffin, Members Fletcher Harris, Ray Albertson, Calvin Leary, and John Aydlett voting aye; none voting no; 1 absent; none not voting.

Consideration of the Minutes- January 21, 2009

Chairman Rodney Needham called for the consideration of the minutes from the January 21, 2009 meeting. Calvin Leary made a motion to approve the minutes from the aforementioned meeting as written. Fletcher Harris seconded the motion. The motion was approved with Chairman Rodney Needham, Vice Chairman Terri Griffin, Members Fletcher Harris, Ray Albertson, Calvin Leary, and John Aydlett voting aye; none voting no; 1 absent; none not voting.

Comments from the Public.

None - No public was present for this meeting.

Old Business

None

New Business

Ordinance No. 2009-03-01, Amending Camden County Code of Ordinances, (specifically amending chapters 10 and 90)

Dan Porter described the background of this issue and introduced Aaron Maupin, Code Enforcement Officer for Camden County. (Aaron is also a Building Code Enforcement Officer, but has recently been assigned to Code Enforcement). Aaron reads the zoning laws like he reads the building code, so he has pointed out a number of things in trying to enforce the zoning laws. Staff took a couple of issues to the Board of Commissioners and they asked the County Attorney to look into these matters. The issue we brought to the Commission really had to do with 'what is a violation of the junk car ordinance?'. What the County Attorney brought back to staff were a couple of changes related to the junk car ordinance, but not necessarily any particular comments on what constitutes a violation. So when staff brought that to the commission, they referred it back to the Planning Board. The chapter of the code of ordinances that deals with junk cars (Chapter 90) is a separate chapter from the land use ordinances (Chapter 151). Staff provided to the Planning Board copies of the changes as recommended by the County Attorney.

One of these changes is actually in chapter 10 of the Camden County Code of Ordinances, which deals with general penalties. The change for chapter 10 is to recommend the addition of civil penalties, based on visible available evidence. With civil penalties, you can fine people who are in violation of an ordinance. This is better than having to take them to court for criminal violations of ordinances, because with criminal court you have to prove beyond a reasonable doubt that they are in violation... with a civil penalty, you can use the visible available evidence to prove violations exist, and the person doesn't get a criminal record nor have to pay any attorney's fees. With civil penalties, you can fine people and continue to fine them until their fines get high enough to take them to civil court (this is if they refuse to pay their fines). At which point, you would have to pay attorney's fees, so you would want to wait until their fines are high enough to cover attorney's fees. If they don't pay their civil fines after being taken to civil court (and presumably being found guilty or at fault), then they are in contempt of court, which gets back into the criminal issue. So there is a little bit more flexibility with civil penalties and fines.

One of the recommendations the County Attorney suggested was to add a section in Chapter 10, Rules of Construction; General Penalty, paragraph B... "Any act constituting a violation of the provisions within this code of ordinances or a failure to comply with any of its requirements shall also subject the offender to a civil penalty...".

Calvin Leary asked the question what does this ordinance have to do with the Planning Board. Dan Porter answered saying that it has to do with the Planning Department, who is responsible for implementing (Zoning) Code Enforcement. Also, if you have 2 or more unregistered cars on your property, your property is considered a junk yard per our current ordinances, and that is a land use violation.

Dan went on to say that in the NC General Statutes, the criminal penalty says you can fine \$50.00 per day or imprisonment for 30 days unless your local code says you can fine a higher amount, and then you can fine up to \$500.00 per day. The reason you might want to do that is so that a person who has 1 violation would be fined \$50.00, whereas a person who has 20 violations on their property (or a history of violations), you might want to fine them a little bit more. That is under the criminal penalties.

Civil penalties would be per day per occurrence, and every day is an occurrence, every violation is an occurrence. There is no monetary cap on civil penalties.

When the Code Enforcement Officer sends out a code enforcement letter, the violator is given a specific amount of time to bring their property into compliance. If they do not comply within that time frame, then every day after that is subject to daily fines. Of course to continue to fine them on a daily basis as you would since every day is considered an occurrence, the Code Enforcement Officer must check the property daily to see that the violation still exists.

Terri Griffin asked hypothetically if a person fails to comply with removing a junked vehicle, and the penalties keep accruing, at what point should the county seek to have the fines paid or seek removal of the vehicle [abate the situation]? Dan Porter answered saying that the county has the ability to abate the situation, to go in and tow the vehicle off the violators property. The county would then incur the expense at that point, and there are some trespass issues the Planning Department is trying to get clarification on. The county can tow the car, store it for 30 days, then sell it for junk or at auction depending on its value, in order to cover the costs incurred and the fines.

As stated before, the county must make sure the violation continues to exist prior to adding daily fines. The county can then take the violator to court once the fines reach a sufficiently high monetary amount (high enough to cover court costs, etc.). If the violator fails to pay the fines after being found guilty in court, then they are in contempt of court, and it becomes a legal matter for the legal system to handle.

Chairman Rodney Needham asked if there would be any form of citation which will tell the violator how many days they have to comply with the ordinance. Aaron Maupin, Code Enforcement Officer for the county explained the process. He will ride by a property wherein an alleged violation exists, look for the vehicle(s) in violation, check to see if they meet any of the criteria that apply to the definition of a junked motor vehicle, cite the violation if they meet a couple of the criteria, and then send them a letter asking them to abate the property within 10 days as per the Camden County Code of Ordinances. If they fail to abate the property, the county can have the property abated upon the permission of the owner of the property, but we cannot go on the property without their permission. Before the letter is even sent, the Code Enforcement Officer generally looks up the property owner and gives them a phone call to let them know that we are looking at their property and that they are in violation and informs them of the intent of the county regarding their violation.

Vice Chairman Terri Griffin asked "What if you can't establish ownership? If there is no license, you can't really tell..." Aaron Maupin responded to this saying that he has a contact in the Theft and Bureau of Investigations at the DMV. They say that if we cannot identify it that we can call them and they can check the Vehicle Identification Number through the manufacturer. If it comes back as unidentifiable from the DMV, it's probably stolen.

Ms. Griffin further asked if fees and penalties can be attached to the real estate taxes. Dan Porter answered this saying that it could not. If we cite them under the criminal penalties and they fail to pay their criminal penalties, we can take them to court and at that point, if the judge finds them in violation, we may be able to attach it to their property. Mr. Porter indicated an amount of uncertainty in the answer to this question. He continued saying that what can be attached is if the county abates the situation-i.e. we send them a bill and if they don't pay- then the fees for abatement can be attached to their property.

Ms. Griffin had a concern regarding the amount of punitive actions. She indicated a desire to refrain from being overly punitive. Dave Parks responded saying that the letter that is sent to persons in violation says that they have 10 days to comply, this really means that they have 10 days to contact the Code Enforcement Officer. If they need an extension of time to comply, and they have a good reason, an extension may be granted.

Dan Porter described this ordinance change (chapter 10, section 10.99) as a tool that is somewhere between abatement, self-abatement, and criminal penalties to use to assist in the enforcement of the law. We don't have to wait until the fees and penalties accrue to a point where we can take them to court, we can go to the magistrate for assistance. The problem with this is that if the violator is not going to comply, he probably won't comply with the magistrate, and will end up in civil court anyway.

Dan Porter then referred to Chapter 90 Section 90.05, and described the section titled "Exceptions". The county attorney recommended replacing the phrase "reasonable amount of time" with a specific amount of time. Also, exceptions to chapter 90, as proposed, would include military or civilian contractors stationed overseas, with proof of assignment (military orders, etc.).

Dan then asked Aaron Maupin to speak about the definition of Abandoned and Junked Vehicles (Chapter 90, Section 90.03). Dan stated that as the current ordinance reads, following definition number 3, it says “or”. Aaron stated that staff would like to make the ordinance so that a car that is suspected of being a junk vehicle would have to meet at least 2 of the 4 criteria given in the definition of Abandoned and Junked Vehicles. Staff would like to avoid classifying a vehicle as junk if the only criteria it meets is being unregistered, hence the reasoning behind meeting 2 out of the 4 criteria, since it is possible for a homeowner to have multiple vehicles owned within their family and forget (or get behind on) the registration of one or more of their vehicles. Meeting 2 out of 4 would eliminate this type of situation, where an owner has forgotten to renew registration. This would make it easier for both citizens and staff, and clear up a lot of confusion.

There was some discussion regarding the wording and placement of the word “or” within the definition of a junked motor vehicle. The consensus between the Board and staff was to reword the first line under “Definitions” to read “JUNKED MOTOR VEHICLES. A motor vehicle that meets at least 2 out of the 4 criteria listed below:”, and remove the “or” from list item number 3.

Staff also pointed out a change in definition item number 3, wherein the dollar amount is raised to \$500.00 as opposed to \$100.00 as current ordinance states. This would make number 3 read to indicate that the car is more than 5 years old and appears to be worth less than \$500.00.

Chairman Rodney Needham asked who would have the authority to grant leniency in this code of ordinance to citizens who request leniency. Dan Porter responded that the Code Enforcement Officer has the authority to make the appropriate determinations. He added that if citizens disagree with the decision(s) of the Code Enforcement Officer, then the citizens have the right to appeal to the Board of Adjustment.

A few members of the Board spoke about some of the citizens as being ‘street-smart’ in that they will do whatever they can to keep their vehicles in their yards (hide them, locate them in areas of their property where the tags are not visible, etc.). Aaron responded to this saying that he has been discussing with the Magistrate about how to get Administrative Search Warrants for those types of situations where all that has to be proven is reasonable doubt, and then he could go onto the property with a Sheriff’s Deputy to obtain pictures / details regarding the presence of junked vehicles.

As an aside, Chairman Rodney Needham expressed the appreciation of the Board for the work that Aaron Maupin is doing with regard to Code Enforcement. Dan Porter added that Aaron is doing a very good job and has been getting a good amount of compliance from the citizens.

At this time, Vice Chairman Terri Griffin made a motion to proceed with the ordinance changes as recommended by the Planning Department staff, with two additional changes: Change the first line under 90.03 Definitions to read “JUNKED MOTOR VEHICLES. A motor vehicle that meets at least 2 out of the 4 criteria listed below:”, and remove the word “or” from after list item number 3. John Aydlett seconded the motion. The motion was approved with Chairman Rodney Needham, Vice Chairman Terri Griffin, Members Fletcher Harris, Ray Albertson, Calvin Leary, and John Aydlett voting aye; none voting no; 1 absent; none not voting.

Information from Board and Staff

There were a few information items from staff, they are listed below:

- Acceptance of roads from DOT (for DOT to accept and maintain roads)
- Buffering in and around developments
 - Planning Department will bring back language regarding road acceptance and buffering for March meeting of Planning Board.
- Possibility of placing a County Commissioner on the Planning Board as an Ex-Officio member of the board
- Commissioner Retreat in March – R4X is an agenda item for retreat

Consider Date of Next Meeting – March 18, 2009

Adjournment

At 8:05 PM, Ray Albertson made a motion to adjourn the meeting. John Aydlett seconded the motion. The motion was approved with Chairman Rodney Needham, Vice Chairman Terri Griffin, Members Fletcher Harris, Ray Albertson, Calvin Leary, and John Aydlett voting aye; none voting no; 1 absent; none not voting.

Date: _____

Approved: _____
Chairman Rodney Needham

Attested: _____
Amy Barnett, Planning Clerk