



**MINUTES OF THE
PINEVILLE PLANNING BOARD
TOWN OF PINEVILLE, NORTH CAROLINA
THURSDAY, FEBRUARY 20, 2025**

The Pineville Planning Board held its regular meeting on Thursday, February 20, 2025, at the Town Hall Council Chambers located at 505 Main Street, Pineville, NC at 4:00 pm.

ATTENDANCE

Planning Board Members: Jim Knowles, Thomas White, and Dusty Gilvin were in attendance

Planning Director: Travis Morgan

Town Clerk: Lisa Snyder

Town Attorney: Janelle Lyons

Absent: Roshan Bhula and Eric Fransen

CALL TO ORDER

Current Chair, Jim Knowles, called the meeting to order at 4:01 pm and established that a quorum had been met since three members were present and two members were absent.

Chair Knowles requested a moment of silence.

ORDER OF BUSINESS

OLD BUSINESS.

Approval of Minutes for the January 23, 2025, Regular Meeting. Chair Knowles called for a motion to approve the minutes from the January 23, 2025, regular meeting. There was no discussion on the minutes. A motion was made by Thomas White and seconded by Dusty Gilvin to approve the minutes as presented. There were ayes by all, and the minutes were approved as presented.

NEW BUSINESS.

Planning Director Travis Morgan reintroduced a text amendment to the Zoning Ordinance to remove the owner-occupied requirement as it specifically relates to ADU's (accessory dwelling units). He is seeking the Board's recommendation following the additional legal input by our Town Attorney, Janelle Lyons. A public hearing with Council is needed before any final vote on any ordinance change. Council reviewed the legal opinion from Attorney Lyons and wanted to defer it to the Planning Board since they requested it. There were questions on the downzoning and any changes at the State level. Attorney Lyons is present to answer the Board's questions.

Board Member White noted that it didn't appear to be a lot of case law on this subject. Attorney Lyons replied that only cases that make it to the Court of Appeals or the Supreme Court become published

case law. She is advising as the statute reads today. There is a possibility that it can change in the next term. Attorney Lyons would prefer to think conservatively in acting on behalf of the Town. If we want to keep ownership a consideration, and the applicant disagrees and brings it to Superior Court, a Judge would more likely, than not, consider the consideration of ownership in zoning decisions improper.

Chair Knowles asked if the pending House Bill itself requires owner-occupancy of the accessory dwelling. Attorney Lyons reminded him that this is not law yet. The Senate still has to review it and will most likely make changes. Under 160D-601, Downzoning did pass the House and Senate; that tells her that there's a housing crisis and they want people to have housing. They don't want municipalities to decrease the uses of the current lot structures, etc.

Chair Knowles feels that Pineville can be harmed by doing what the legislature says, and in comparing other case law, such as Chapel Hill or Wilmington, he has real concerns about dropping the requirements that we currently have. If we remove the residency requirement, the owners could have more dwellings and more cars on that property.

Planning Director Morgan added that he feels the negatives are that it is hard to police who resides at the residence and difficult for zoning to do even if we have the power to do that. Attorney Lyons also replied to Chair Knowles that an underlying issue is that case law doesn't want cities and towns to regulate ownership through zoning laws, and with regard to Wilmington, if the Court of Appeals ruled that Wilmington's ordinance was unconstitutional regulation of ownership with more ADUs, in a beach town, then the Town of Pineville's dwellings, which would be lower, would most likely be considered unconstitutional, as well.

Attorney Lyons said that the average person isn't going to read the ordinances prior to building or developing to look for ownership restrictions, if the County allows the build. The applicant didn't understand the ordinance process but rather went to the County for the regulations. Mr. Morgan would steer Chair Knowles toward safe avenue. The negatives that would come off an ADU, in general, such as trash, noise, debris, parking on the lawn would be safer to enforce, instead of ownership. Board Member Gilvin concurs with Mr. Morgan. We should be proactive and prevent some concerns.

Attorney Lyons added that an entity such as Legal Aid, or someone who supports fair housing and decreasing homelessness, can find plaintiffs and show loss of housing options when additional ADUs are denied. These are all hypotheticals. Rentals are huge around the nation and are continuing to be an emerging topic.

Mr. Morgan stated that ownership is the main issue. Chair Knowles doesn't want us to remove our restrictions. Board Member White said he believed this was a matter of the Town's appetite for risk and he believed this was in the best interest of the town's residents to continue to run the risk until it's more apparent.

Mr. Morgan requested a recommendation from the Board to give Council. At that last Planning Board meeting, the Board recommended "the property owner(s) to occupy at least one of the dwelling units on the premises unless the property owner has resided on the property for a period of not less than twenty-four consecutive months."

Attorney Lyons summarized by adding a comma to the end of that, prior to non-owner rental of both the primary and the secondary dwelling. Mr. Morgan felt that having an affidavit would help, as well.

Applicant Stumpf stated that he feels his rights are being infringed upon by not allowing him to build on his property, even though it's properly zoned, etc. He feels he owns it and should be allowed to add on to it.

Chair Knowles disagreed and feels he's giving an example of exactly why he is concerned. You can't say you can have it and build it, because what if the developer builds it right away, and never resides there. You will have five homes become ten rental properties. If you're not a resident of Pineville, then you'd have no vested interest in keeping the property up and addressing renter's behaviors that are not in line with keeping the property value up.

Applicant Stumpf said that tenants are the same humans as homeowners. It is his property and he has the right to rent it. He said they are people who go to work and provide for their families, that want to have nice places to live. There is no difference between a renter and owner-occupied person. Mr. Knowles disagreed with that and said it's his opinion of a lot of people who live in Pineville that they want owners to have an interest in the betterment in the town. He said that we are different than towns like Raleigh, Chapel Hill, Asheville, and Wilmington. We want someone to live in a place, be a resident and be involved in the town; not just an investor who buys the property for the sole purpose of building an accessory unit, to rent two properties.

Applicant Stumpf continued and said at the next town fair, you're saying that renters can't come because they're not residents? Chair Knowles responded by saying that we can have stipulations on an accessory unit, but not an event. The owner should live there for a period of time, at least. Applicant Stumpf stated that not all lots allow for ADUs because of the setbacks. Chair Knowles said that there also has to be concern for the residents that their neighborhood doesn't turn into a multi-rental unit for people who have not invested their time and money in the town like residents have.

Mr. Morgan asked for a recommendation and/or clarifications to pass along to Council. We need a simple majority of the board, three of the five board members. A public hearing will be scheduled and a possible vote by Council.

Board Member White made a motion to recommend to Town Council to revise the owner-occupant definition and section (F) restriction of the below ordinance to:

"The property owner(s) shall occupy at least one (1) of the dwelling units on the property unless the property owner has resided on the premises for a period of not less than twenty-four (24) consecutive months, prior to non-owner rental of both the primary and secondary dwelling.: AND (G) Owner(s) must sign an affidavit acknowledging and verifying that they will reside on the property for a period of not less than twenty-four (24) months before both primary and secondary dwelling unit are rented, with a second made by Board Member Gilvin. All ayes.

A motion to adjourn was made by Board Member Gilvin with a second made by Board Member White. All ayes.

ADJOURNMENT was at 5:52 pm.



CHAIR



DATE



TOWN CLERK