

PROPOSED AGENDA

Meeting of the Town of Biltmore Forest
Planning Commission

To be held Tuesday, August 23, 2022 at 5:30 p.m.

MEETING OPEN TO THE PUBLIC

Viewing Options via Zoom available at Bottom of Page

- A. Roll Call for Attendance
 - B. Planning Commission Plan of Work – Review and Discussion
 - C. Adjourn
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<https://us02web.zoom.us/j/83015148121?pwd=aG12eDZFU2RFSWx2Q09NOFFLMFAwQT09>

Meeting ID: 830 1514 8121
Passcode: 226922

TO: Planning Commission, Jonathan Kanipe, Harry Buckner, Billy Clarke **DATE:** 4 August 2022

FROM: Paul Zimmerman

After the successful adoption of our 10-year Plan for Biltmore Forest, the next step for the Planning Commission is to use that 10 Year Plan as a reference to look at our existing Zoning Ordinances for potential clarifications, outages, and changes. It's important to both the Town and its residents that the ordinances be as clear and concise as possible -- while reflecting their wishes for where the Town should focus.

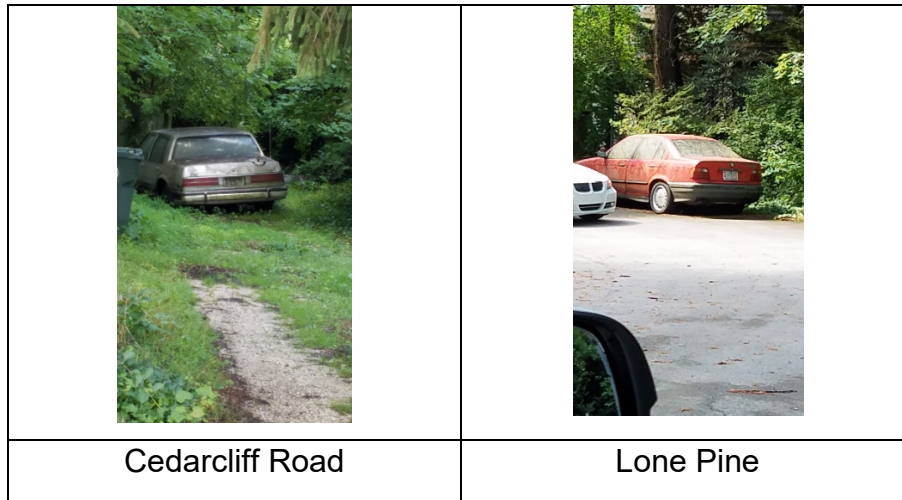
I had a meeting with Jonathan about next steps a month ago and one thing that was discussed was that the Planning Commission have a joint meeting with the Board of Adjustment (BOA) to get their thoughts on what areas in the Ordinances should be reviewed, which I thought was a great idea.

I realized that I've only had 2-3 direct interactions with the BOA on issues that directly affected either me or our neighbors. So, I decided to review some of their cases and decisions to get a better feel for what residents were asking. I ended up reading approximately 6 years of the judgments by the Board of Adjustment, from 2014 to 2019 in order to get a first-hand understanding of what Ordinance issues come before the Board of Adjustment. There were a total of 146 cases reviewed, which averages out to about 25/year! Of those cases I reviewed, 32% requested a Zoning Variance (Jonathan says this is a very high number relative to other municipalities), 24% were for a Stone wall, deck or terrace, 19% were for a Fence and/or Gate, 6% were for a Play Set/Swing, 8% were for specific Deer Fencing, 22% were for a Structure such as a Porch or Garage or Home extension, 3% involved a Roof Coverage issue and 6% involved an Impervious area issue.

Overall, I was impressed with how the meetings were held, but they did raise issues or questions on where Ordinances could or should be clarified to ensure they are fair to all and keep up with trends in the US – particularly around solar and Electric Vehicles.

I'd like to list areas where I had questions or felt there were opportunities. These are not in any particular order. I am also expecting that each of you might have some ideas for areas we might pursue—in addition to the ones below!

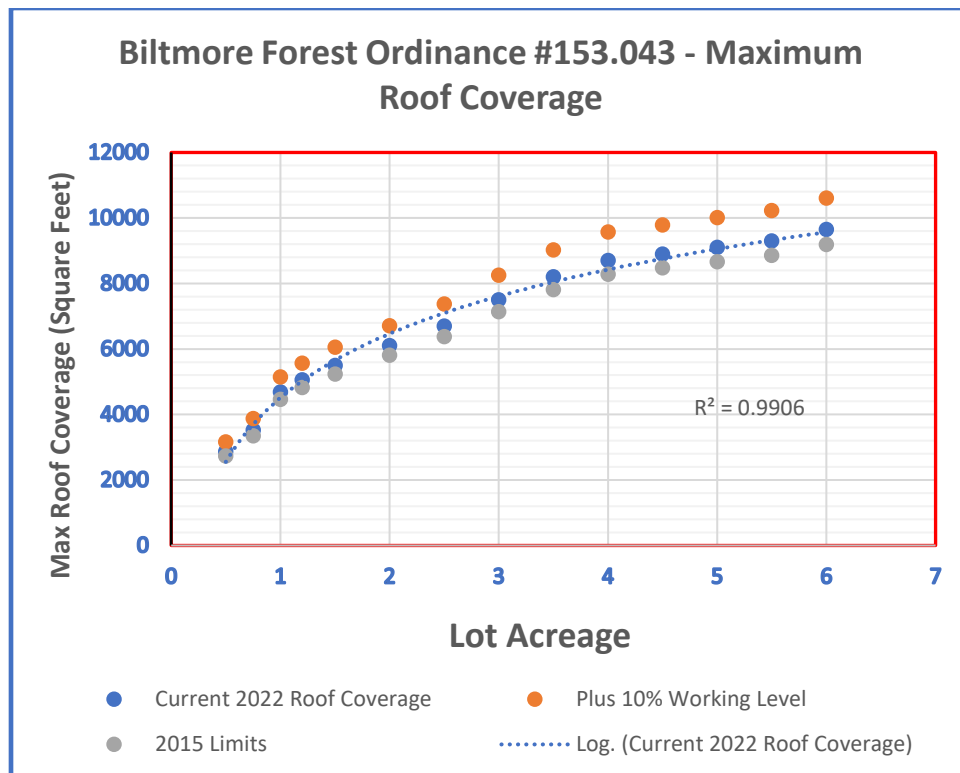
1. I see a very strong need for a Quick Reference Guide on Ordinances that would be sent to all residents – new and old. (...and, also all Realtors selling in the Town) I was amazed that some homeowners claimed they did not know that Biltmore Forest was a separate Town from Asheville and distinct from the Ramble and others said they had no idea that approval was needed for installing a structure (even though they were born here). Having such a reference guide was mentioned at least once in the BOA proceedings and several times in the BOC meetings. It just makes good common sense. I feel this is something that the Planning Commission could do that would be immediately useful.
The Village of Pinehurst has a good version of this quick reference guide that is attached, as an example, to this memorandum.
2. I realized that we have no Ordinance on Abandoned Cars. We should add an ordinance to address this issue. Jonathan is not sure whether this should be in the Town Code or the Zoning Ordinances- but will advise us.



3. We should look at an Ordinance for EV charging stations. A homeowner installed a charging station in the front setback – plainly visible from the road- without approval (see photo) because the BOA had allowed them to NOT have a garage. There are a lot of residences where people do not have or do not use their garage—so we should address what locations are allowed for such an installation. (In the garage or on the house, as an example?)
ANTICIPATED GROWTH OF EV CARS MAKES THIS ORDINANCE QUITE IMPORTANT!






4. Roof Coverage should be re-evaluated. This ordinance (#153.043) was originally written to prevent huge homes from being built on small lots. I read in the BOA minutes that the limits were increased by 5% in 2015 and the BOA discussed whether they should be increased by 1% in 2017. However, in all cases that I reviewed, the BOA routinely granted a variance if the request was within 10% of the limit. Have we, de facto, increased the limits on roof coverage as a result of their past rulings? I also plotted the roof coverage as a function of acreage and the fit is quite good, but there could be minor adjustments.



5. Tree Ordinances should be totally reviewed. Based on the Resident Survey, there is a strong desire to maintain the existing tree canopy. However, there is a complicated system of credits and some judgment involved when advising residents what they need to replace—irrespective of the technical tree coverage on their lot. I have piloted a Google Earth tool that would allow us to determine the canopy coverage on each lot and have also determined that the approximate tree coverage in Biltmore Forest (non-Golf Course portion) is about 53%. I would like to share this tool with the Planning Commission and Public Works to see if this could be integrated into a more reasonable Tree Ordinance Plan. One resident removing 2 dead trees was told they had to plant 2 new trees, even though the tree coverage on their lot is about 75%! I feel that the Google Earth Tree Coverage Tool could be integrated into a better way to identify which lots should have more trees planted, and how many!
6. For new home construction, we should require FINAL landscaping plans required before BOA approval, so we have something firm to compare against when work is complete. Also – the BOA ALWAYS asks if the resident is willing to ‘buffer’ as needed and the answer is always yes. I have not seen any reports indicating that the buffering was ever checked.
7. Impervious Surface Coverage – While the allowed Roof Coverage DECREASES with increasing lot size – the impervious surface coverage is virtually constant -- ranging from 25% for small lots to 20% for the largest lot (Ordinance #153.048). I don’t understand the logic to this, since a 5-acre lot can currently be allowed to have 1 acre of impervious coverage! It’s also not clear in the definition of this factor whether a Wood deck that has 3/16” spacing between boards would be considered impervious or not? The ordinance just says ‘decks’. A mention should also be made of pervious pavers and pervious asphalt being exempt, assuming they are. This whole area should be evaluated and tied back to the roof coverage ordinance.
8. Fencing/Chain Link Fencing – Ordinance #153.049 says that Chain Link Fencing is not allowed. Period. However, in May of 2016 – some was approved. Also – Electric Deer Fence was approved in April 2016. It turns out that the Ordinance was changed after these decisions

were made, but there is still a LOT of chain link fence around Biltmore Forest. Are we allowed to specify acceptable fencing types, or not? Should FENCING be added as a definition in Ordinance #153.004?

9. Storage Buildings – Do you want plastic storage buildings or Home Depot sheds allowed? They have been approved.
10. Lighting – Ordinance #153.045 should be amended to include LED lights. The residential portion talks about lights not being ‘directed’ at adjacent properties, whereas the Commercial section says a bulb should not be SEEN from an adjacent property. I personally like the Commercial phrasing better and I like the specification of Degrees Kelvin for the lighting, Perhaps--a measure of lumens on an adjoining property would be even better?! Should we consider a “Dark Sky” type of ordinance?
11. Living Fences – While the BOC has said they discourage fencing, there are numerous living fences all over the Town and some extend into the street. Should we should regulate the impact these can have on the Line of Site regulations in the Town Ordinances?
 - a. Road setback – In order to manage vegetation, utilities, and structures in the 5 or 10 ft setback from the Road, do we need to add some definitions and ordinances to do so? This would be an important way to improve walking safety – which people strongly wanted in our recent survey!

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| Southbound Forest at Busbee (Impossible to get off road) | Corner of Lone Pine and Forest (A blind corner for walkers!) | Corner of Busbee and Forest (can you see the Stop Sign?) |

12. Accessory Building vs Accessory Structures - It appears as though there have been lots where two or more accessory buildings have been approved. Can we still have an ordinance where it says only one is allowed? If a homeowner wishes to build an accessory structure (stone wall, fire pit, fountain, etc.) totally within the currently allowed area (not in setback/in the side or back yard) – do they even need to go before the BOA? Could this be simply approved by Town Administration if they comply? Tennis courts should be added to an accessory structure list in 153.004? ZIP lines were requested by one resident. Should they be added as an accessory structure?
13. Trailers—we currently prohibit storage of Boat and RV trailers. I have also seen 10-12’ Closed Utility trailers stored in resident’s driveways and visible from the street. Should the ordinance be broadened? What if the trailer cannot be seen from the road and is behind the house? Other Towns permit this with buffering. (Gates Mills, OH)

Thanks again for all you do!

Paul



Long Range Comprehensive Plan

The centerpiece of a local planning program is a long range comprehensive plan. A long range comprehensive plan (comp plan) is a policy document that details the Village's long-term vision and goals and outlines the steps necessary to achieve them. The plan is intended to guide growth and development in an organized, efficient, and sustainable manner. To do so, it looks to the future to anticipate trends and issues that could impact how growth and development occur. The plan is long range in scope, focusing on the ultimate needs of the community rather than the pressing concerns of today.

The Village updates and adopts a comp plan every 7-8 years to ensure the vision described within the plan is still the vision residents have for their community. A comp plan is so important that once it has been adopted, the Village must include a statement of comp plan consistency with any proposed zoning amendment.

Stay Informed

The public is invited to attend all Village Council meetings, Planning & Zoning Board meetings, and Board of Adjustment meetings. To find meeting schedules, visit www.vopnc.org/meetings. To view agendas for these meetings in advance, visit www.vopnc.org/agendas.

Can't make it to the meeting? View video of all Village Council, Planning & Zoning Board, and Board of Adjustment meetings online at www.vopnc.org/videos.

FOR MORE INFORMATION

Pinehurst Development Ordinance
www.vopnc.org/pdo

Village of Pinehurst Municipal Code
www.vopnc.org/municipalcode

Volunteer to Serve
www.vopnc.org/volunteer

Village Board Information
www.vopnc.org/boards

Council & Board Meeting Schedules
www.vopnc.org/meetings

Access Council & Board Meeting Agendas
www.vopnc.org/agendas

Watch Council & Board Meeting Videos
www.vopnc.org/videos

This learning guide is just one in a series about the Village of Pinehurst. You can find the rest of the series on the Village's website: www.vopnc.org/getinvolved.

The Village of Pinehurst
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Pinehurst, NC 28374
910-295-1900
www.vopnc.org



Your guide to PLANNING AND ZONING



VILLAGE OF PINEHURST LEARNING SERIES



Planning & Zoning

For many communities in North Carolina, some form of growth, development, and change is inevitable. Careful planning enables the Village to capture the benefits of growth and avoid the pitfalls, while honoring the Village's past and preserving the special character of our community. The Village of Pinehurst Planning Department works with the community, Village Council, and other Village departments to set goals and policies for responsible development.

The State of North Carolina provides local governments the authority to regulate land use and development. The principal tool for land use regulation in North Carolina is zoning, which is the creation of a number of different districts or "zones" in a city, each of which sets specific rules on how the land in that district may be used. Zoning ordinances are then adopted to set detailed standards on how permitted uses may be carried out.



Pinehurst Development Ordinance

The Pinehurst Development Ordinance (PDO) is an important tool for guiding growth in the Village of Pinehurst. The PDO establishes the Village's zoning districts and implements the zoning framework. In addition to zoning, the PDO includes design and development standards such as parking, landscaping, screening, signs, lighting, and storage. Other standards, such as the Historic District Guidelines, place additional regulations on historic properties. To view the PDO online, including the Village's official zoning map, visit www.vopnc.org/pdo.

Zoning Process Roles

Village Council is the governing board and makes final policy decisions on local zoning. They are responsible for legislative decisions such as:

- Adopting ordinances, amendments, policy statements and budgets
- Approving acquisitions
- Making appointments to other bodies

The **Planning & Zoning Board** is a group of nine citizens who provide advice to the Village Council on zoning issues. In North Carolina, the governing board must appoint a planning board consisting of at least three members before adopting a zoning ordinance. In addition, the Village is required to refer all proposed zoning amendments to this board for review. They are responsible for advisory decisions such as:

- Sponsoring planning studies
- Recommending policies
- Advising Village Council
- Coordinating public participation
- Recommending initial zoning ordinances
- Reviewing all zoning amendments

The **Board of Adjustment** interprets and applies standards that have been placed in the zoning ordinance by the governing board. Village Council has appointed nine members to this board, each with a set, three-year term. They are responsible for quasi-judicial decisions that include hearing zoning appeals, variances, and sometimes special and conditional use permits.

Village Planning Department staff provide support to the zoning process, preparing drafts of ordinances, processing permits, enforcing ordinances, and keeping the records of the citizen boards. Staff is responsible for administrative decisions such as:

- Issuing permits
- Conducting technical studies
- Initiating enforcement
- Advising the Village Manager

Zoning Decision Types

Zoning Decisions can be grouped into four categories:

- **Legislative zoning decisions** affect the entire community by setting the policies and standards included in the zoning ordinance. These include decisions to adopt, amend, or repeal the zoning ordinance. Legislative hearings with public notice (also called public hearings) are required prior to making legislative zoning decisions. These hearings are conducted by the Planning & Zoning Board and the Village Council so that citizen opinion can be expressed directly to those making zoning policy decisions.
- **Quasi-judicial decisions** involve the application of zoning policies to individual decisions such as variances, special and conditional use permits, appeals, and interpretations. Evidentiary hearings are used in making quasi-judicial decisions. This type of hearing is conducted more like a court proceeding than a public hearing. The purpose is to gather evidence in deciding an individual case and is not for the purpose of soliciting citizen opinions.
- **Advisory decisions** are made by the Planning & Zoning Board. They recommend decisions on a matter but have no final decision-making authority over it, such as rezoning petitions.
- **Administrative decisions** are made by Village staff and are applications of the zoning ordinance. Administrative decisions may include approval of routine permits or issuing a notice of violation.