

**MINUTES – SPECIAL MEETING
BOONE TOWN COUNCIL
March 31, 2021**

CALL TO ORDER

A special meeting of the Boone Town Council was called to order electronically at 6:00 p.m. on Wednesday, March 31, 2021. Mayor Rennie Brantz presided. Council members present included Mayor Pro-Tem Ulmer, Sam Furgiuele, Dustin Hicks, Nancy LaPlaca and Virginia Roseman. Staff present included Town Manager John Ward, Town Clerk Nicole Harmon, Planning Director Jane Shook, and Assistant Planning Director Stacey Miller. Town Attorney Allison Meade was also in attendance.

ANNOUNCEMENTS

Mr. Ward announced that two bills had recently been filed that had the potential to greatly affect Boone and its citizens. He explained that the first bill, HB 291, would require a fifteen day review of commercial building plans, and that due to the number and complexity of the plans staff saw on a regular basis, it would be impossible to do this without increasing the number of staff in the Planning Department. Mr. Ward noted that this would in turn require taxpayers to further subsidize development fees to cover the cost of additional staff. The second bill, HB 401/SB 349 would result in the transfer of local control to the State for local zoning decisions involving R1 Single-Family residential zones. He indicated that this would potentially allow developers to come into single family traditional neighborhoods to build duplexes, triplexes, quadraplexes and town homes next to single-family homes, and could allow for accessory apartments to be built on all existing single-family properties. Mr. Ward added that this bill would also prohibit any type of owner-occupancy requirements for the main structure, which would essentially allow for homes to be rented and additional apartments to be added and rented. He stated that the bill included wording which obligated the Town to connect these dwellings to its utility system without being able to charge any type of system development fee for water and sewer.

PUBLIC COMMENT

Adam Zebzda of Boone spoke in support of Town officials working to oppose both bills, and added that Boone needed affordable housing opportunities to accommodate a growing student body and general population. He believed that any bill that benefited rich and powerful developers while limiting municipal autonomy was not about affordable housing, but about putting profits over people and revenue over neighborhoods. Mr. Zebzda felt that Boone should not allow the General Assembly to rob it of its power of ensuring low and moderate income housing opportunities rather than protecting actual affordable housing.

Pam Williamson of Boone was concerned that if the bills went into effect, there would be no way to fix the damage caused, and urged members to do all they could to stop the passage of the bills.

Loretta Clawson of Boone stated that she was shocked to read the two bills. She added that the Town of Boone had come so far in terms of neighborhood protection and was concerned for single-family neighborhoods.

Dalton George of Boone spoke against the proposed legislation in the North Carolina General Assembly, specifically the Senate Bill. He felt the bills were a power grab by the developers of our society and that working class people were left to fight amongst themselves in a market controlled by developers. Mr. George echoed Ms. Williamson's statement that if the bills were passed, the Town would never be able to fix the damage caused. He finished by stating that if the Town wanted to work on accessibility and housing, it should be done at the municipal level and in ways that can be adjusted for the community.

Chris Behrend of Boone was concerned about the bills potential to take away all zoning powers of the Town of Boone, and encouraged members to oppose the bills.

**DISCUSSION OF HB 291 & HB 401/SB 349 REGARDING THE POTENTIAL TRANSFER
OF LOCAL CONTROL TO THE STATE FOR LOCAL ZONING DECISIONS
INVOLVING R1 SINGLE FAMILY RESIDENTIAL ZONES**

Mr. Ward read the following resolution into the record:

RESOLUTION

WHEREAS, recognizing the importance of zoning to the peace and prosperity of North Carolina's municipalities, for generations the State of North Carolina has allowed municipalities to regulate local development; and

WHEREAS, municipalities in the State of North Carolina have their own unique characteristics and challenges so that "one size" does not "fit all," and statewide zoning mandates thus may have unintended negative consequences for the residents of the State; and

WHEREAS, unfunded mandates by the State, particularly during a time when local revenues are under pressure due to Covid-19 and other factors affecting local economies, will force communities such as Boone to either increase property taxes or decrease services critical to the their residents, such as street maintenance or fire and police protection; and

WHEREAS, HB 291 is pending in the North Carolina General Assembly and would force municipalities to complete an "initial plan review" of commercial development plans initially sealed by a "design professional," without regard to their complexity, deficiencies, or impacts of human health and safety, within 15 days, and issue permits within 30 days of the application for development unless additional information is requested within the first 15 days; and

WHEREAS, HB 291 provides that if within the initial 15 day period, if additional information is requested by the town, permits must be granted within 15 days of the submission of additional information or the developer may retain a "third party firm" to review its plans at the expense of the municipality and must issue "all necessary permits" for the development within 72 hours of approval by that third party; and

WHEREAS, in order to comply with HB 291, the Town of Boone would have to greatly expand its planning department, which would force an increase in property taxes or a decrease in other services; and

WHEREAS, HB 291 unfairly puts the burden on taxpayers to pay for the private development permitting by commercial developers; and

WHEREAS, HB 291 essentially redirects long-extant governmental functions now performed by local governments to protect the public and to allow for the orderly growth of communities through zoning, to private and unspecified engineering or architectural firms who may have conflicts of interest, with no recourse for decisions which may violate local zoning ordinances; and

WHEREAS, property owners in the Town of Boone often purchased their properties at premium prices in order to have the benefits and protections of local zoning ordinances which protected their investments from incompatible and unsafe development; and

WHEREAS, commercial developers within the Town of Boone, often with no prior connection with the town, but because of the attraction of the large student housing market, have sought to build commercial developments which were substandard and non-compliant with

building and zoning standards, and which would have caused great harm to the quality of life for residents of adjacent and nearby neighborhoods; and

WHEREAS, SB 349, too, is now pending in the North Carolina General Assembly, and would force municipalities to allow duplexes, triplexes, quadplexes and townhouses into all residential zones, including all low-density zoning districts, for the stated purpose of expanding housing opportunities in towns; and

WHEREAS, SB 349 exempts residential areas in which private restrictive covenants apply, thus differentiating between sub-divisions such as gated communities and the neighborhoods without such protections, in essence protecting the wealthy by exposing middle and low income residents to incompatible development dictated by state government; and

WHEREAS, although SB 349 has reportedly been endorsed by “affordable housing” proponents as a way to increase supply and decrease costs, in actuality there is nothing in the bill which actually controls costs; and

WHEREAS, the practice by multi-family developers in the Town of Boone is to rent housing units by the bedroom at prices usually far in excess of the mortgage cost of a single family home; and

WHEREAS, when low density neighborhoods in Boone have been made available for higher density housing, existing single family homes have often been demolished to allow more intense types of housing, destroying the character of Boone which has made it attractive, but also with the unintended result that rental prices have actually increased as low density housing disappears; and

WHEREAS, SB 349 likewise mandates the allowance of “one accessory dwelling,” which can consist of a duplex, on each lot on which there is a single family residence, circumventing all usual approval processes such as conditional district zoning, and trumping all local parking requirements and utility approval protocols without regard to the impacts of a potential tripling of density; and

WHEREAS, SB 349 has the potential to fundamentally change most neighborhoods in Boone and accelerate the disruption of the lives of its permanent citizens, as out-of-town investors and AirBnB operators continue to buy up low density housing stock; and

WHEREAS, SB 349 allows deficient applications to nevertheless vest development rights, undermining the ability of local jurisdictions to react to changes within their communities; and

WHEREAS, SB 349, by using terms which are undefined and vague, makes expensive future litigation likely to create certainty around the meaning of its terms; and

WHEREAS, SB 349 shifts financial responsibility for a developers attorney’s fees onto the municipality whether or not the town’s decisions have been made in good faith in a manner seeking to protect the common good; and

WHEREAS, SB 349 prohibits a municipality from even examining a traffic impact analysis which has satisfied the North Carolina Department of Transportation, whether or not the municipality believes that the traffic generated by the project poses a danger to public safety and the ratification by the Department is prudent; and

WHEREAS, SB 349, under the guise of creating affordable housing, is actually a usurpation of local zoning authority and if passed, will undermine the long-term stability of the Town of Boone for its permanent residents, betraying the promises of zoning which residents have relied upon in making their most important financial investments, the purchase of their homes;

NOW THEREFORE BE IT RESOLVED, that the Town Council of the Town of Boone, North Carolina, respectfully requests:

1. That the General Assembly not adopt either HB 291 and SB 349;
2. That, if passed, the Governor, the Honorable Roy Cooper, veto these measures;
3. That the town manager employ the town's lobbyists to work to prevent the passage of these bills;
4. That a copy of this resolution be sent to our elected State representatives and the Governor;
5. That the town manager take whatever additional steps he deems prudent in seeking to prevent the adoption of these bills; and
6. That the town manager promptly issue a press release warning the citizens of Boone about these disastrous bills.

Adopted this 31st day of March, 2021.

Rennie Brantz

Rennie Brantz, Mayor

Attested to:

Nicole Harmon

Nicole Harmon, Town Clerk
Clerk, Town of Boone, North Carolina



Ms. Meade added that the bill set up a situation where it would be very hard for the Town to refuse to allow unlisted uses, or particular uses that were outright prohibited without facing the risk of really expensive litigation. Mr. Ward indicated that he had informed the Town's lobbyists of tonight's meeting and would be in touch once he had further direction. Upon a motion by Mayor Pro-Tem Ulmer, seconded by Mr. Hicks, Council voted unanimously to approve the resolution as presented and distributed to the appropriate officials and media.

ADJOURNMENT

Upon a motion by Ms. LaPlaca, seconded by Mayor Pro-Tem Ulmer, Council voted unanimously to adjourn the meeting at 6:11 p.m.

Nicole Harmon, Town Clerk

Rennie Brantz, Mayor