

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
OCTOBER 12, 2011 7:30 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

**A. CALL TO ORDER, PRAYER AND PLEDGE:**

Meeting called to order at 7:30 P.M. Prayer and Pledge led Chair Bob Wilbur.

**B. ROLL CALL:**

|                |                                |
|----------------|--------------------------------|
| CHAIR:         | BOB WILBUR                     |
| VICE-CHAIR:    | PATRICK REILLY                 |
| BOARD MEMBERS: | DON KRIEGER                    |
|                | BUD RYAN                       |
|                | LIZ RITTER, excused            |
|                | WAYNE ABARE, voting for Ritter |
| ALTERNATE:     | CINDY ZINDEL, excused          |
| SECRETARY:     | DENINE SHEREAR                 |
| TOWN ENGINEER  | MORRIS SMITH, P.E., excused    |

**C. ADDITIONS/DELETIONS/CHANGES:**

**D. CONSENT AGENDA:**

- ~~1. Approval of Minutes~~ Planning and Zoning Meeting 09/14/2011  
Planning and Zoning Meeting 09/28/2011

Not ready yet

**E. PUBLIC HEARING:**

**F. ACTION:**

**G. DISCUSSION:**

- Continued Discussion with Morris Smith, P.E. Town Engineer- List of Requirements for Site Plans as they relate to Excavation and Ponds less than ¼ acre of water surface area**  
**Exhibit:** Agenda Report No. 2  
**Recommendation:** Discussion

Reilly suggests that somebody needs to go through both Ordinances 91 & 03 to compare and simplify. Wilbur adds now that we have an engineer on board to better advise us of different situations and a check list handed out at the 9/28/11 PZ Meeting.

Abare notes that in Ord 91-1, there is no off site dirt disposal permitted, than later it says you can take muck off site.

Reilly clarifies, that you can take muck off site and leave top soil.

Krieger does not mind championing the Ordinance's 91 & 03, but as a group we are trying to simplify smaller than a ¼ acre pond issues. Generally the solution of this is not to change Ordinances', but to work with what we have to solve problems at hand; right now we have a set of existing rules. Krieger adds that we should have a simple template for simple buildings.

Reilly explains that we are trying to solve under ¼ acre. Wilbur suggests "minor pond".

Krieger suggests we should call it a "decorative water body", not a pond. Also, that we do have agencies such as St. Johns Water Management, and DEP involved, as long as the rules are followed for them and ok'd by those organizations, it will go through the "Town" with simple procedures.

Krieger agrees that he can look at both Ordinances and bring back to Board, noting 2 areas (1) don't take dirt off property. (2) no mining of dirt.

Abare states that when building a house & digging a pond you need to know where the dirt goes. Krieger says that you should not take dirt out of Malabar. Abare said the ponds help the drainage.

Reilly gives the pond definition out of the code book to the Board. (page273)

Reilly suggests that we should come up with a "Minor Pond", to simplify for less than ¼ acre ponds.

Wilbur notes that the definition of pond in 91 Ord. is 200 sq ft. anything smaller than 200 sq ft would be a hole in the ground.

Wilbur suggests to go back to the 91 Ord., but 03 Ord. has a lot of good points that the cut off is too great.

Wilbur says you can do a Pond "A" and Pond "B":

Pond A 200 sq ft or less

Pond B 200 sq ft or more

The Board is discussing combining both Ordinances 91 & 03.

Wilbur explains to the Board that the Town Engineer was trying to simplify things so that we don't have to change Ordinance.

Abare suggests cleaning up 2003 Ord. and redefining "minor pond", under 1,000 sq ft. & not allowing dirt to be hauled off.

Reilly suggests redefining in the General Provisions:

POND: Add Pond "A" 0-1,000 sq ft or less- "Minor Site Plan Review" with the check list.

LAKE: Add Pond "B" 1,000- up sq ft or more- "Major Site Plan review"

Reilly sums up that to go through the 2003 Ord. and see what places that we need to add the verbiage, in Code Book, page 269 Sec 1-5.27 in General Provisions

Abare is going to review and bring back to Board, to include three things:

1. Definition of size
2. Maintaining fill on property
3. Using check list for "Minor" \* & "Major"

### **3. Continued Discussion Recreational Vehicles & Trailers in front yards of Residential Zoning**

**Exhibit:** Agenda Report No. 3

**Recommendation:** Discussion

Abare, if the front setbacks were meet, it didn't have to be the front of the house it could be front setback.

Reilly replies with that the lawyer said that was wrong. Wilbur responds with in reference to fence Ord. that changed everything.

Krieger, stated that two meetings ago Reilly brought up the fact about the setbacks.

Krieger reviews that the memo from the attorney was given at the meeting, it is not understood that the attorney thinks that things are affected outside the fence Ord.

Krieger is discussing the two front yards that the attorney brought up

- The defined front yard
- required front yard

Krieger brings up the Nuisance Ord., it seems as though we already have the rules it's a matter if you have something in your front yard maybe put a hedge to deflect the site.

Abare should we send a statement to Council that we collective believe that the current Ordinances allow these things beyond the required front setback. Abare explaining that this is our interpretation.

The Board is discussing Front yard setbacks, Reilly explains that the Fence Ord. calls front yard setbacks from the center of the road; Krieger adds that any structures any projections thereof.

Abare suggest that we believe that the current Ord. would allow these vehicles if they are behind the front setback, not the required front yard and send to Council.

Krieger reads any projection in fact the setback line 1187 definition in code book

Krieger asks if this can be done without changing the Ord. and be done by Resolution as an interpretation.

Wilbur suggests directing attorney to change Section 1-5.15 to change the term to "Required Front Yard" and any other related changes that are needed in definitions.

**Motion: Reilly/ Ryan Recommendation to Council that Our interpretation of Section 1-5.15 of the Current Ord. Item #1 Paragraph change Residential Front Yard to Required Front Yard. Yards are within setbacks, as defined in Table 1-3.3(A)Update the definition of 1-20.2 Language & definition of yard , front yard, rear yard and side yard**

**Vote: 4 Ayes: Wilbur, Ryan, Reilly, Abare; 1 Nay: Kreiger**

**4. Continued Discussion Parking of Tractor Trailer Trucks in Residential Zonings**

**Exhibit:** Agenda Report No. 4

**Recommendation:** Discussion/Action

Reilly is reading to Board Section 1-5.16 from Code Book.

Ryan what of someone puts up a pole barn for temp construction, it would be under building permit,

Wilbur, reads letter from Sept 6, 2011 from Town Attorney Karl Bohne.

Wilbur suggest to get consistency

Abare, can we stop someone from parking an 18 wheeler in there yard?

Krieger, about letter for Tractor Trailer

Abare asks about 18 wheelers breaking roads and culverts, Krieger responds that if the roads are built right with proper specifications or the road is built wrong, he brought up the Ord. that if there is construction and road is damaged then they are responsible for repair.

Abare asked if tractor trailers could park under current code?

The Board is discussing parking tractor trailers in residential zoning. Ord. visibility can you see it? and who has the ownership of truck?

The Ord./ Code that Reilly read Section 1-5.16 from Code Book, has to do with two things

- Visibility, is it behind house of garage
- Ownership

Reilly what can we do with this verbiage, anything exceeding greater than GVW 2.5 tons? Or by axels?

Krieger asks if there are weight limits on roads in the Town. Roads are built according to specification.

Krieger asks different between parked or stored vehicle?

The Board discusses different options for limits concerning Tractor Trailers.

Reilly suggests for next time:

Option:

- GVW weight
- Axels
- Storing

Ryan what do other municipalities have in place as far as Tractor Trailers? Bring back next meeting. Wilbur reads what Attorney wrote; the Board needs to look at this next meeting.

Agenda Items 5,6,7,8 for next Meeting Agenda.

Wilbur suggests reviewing the setbacks- Agenda #5 so we are not too liberal with setbacks, and look at fire codes so things are not jammed up.

**5. Continued Discussion Setbacks in All Residential Zoning Classifications**

**Exhibit:** Agenda Report No. 5

**Recommendation:** Discussion/Action

**6. Continued Discussion Residential/Limited Commercial Zoning & Density Clarification- Attorney R/LC (Ord. 2011-49)**

**Exhibit:** Agenda Report No. 6

**Recommendation:** Discussion/Action

**7. Continue Discussion of "Light Industrial"**

**Exhibit:** Agenda Report No.7

**Recommendation:** Discussion

**8. Continue to Work on Requirements for Assisted Living**

**Exhibit:** Agenda Report No.8

**Recommendation:** Discussion

**H. PUBLIC:**

Tom Eschenberg 2835 Beran Lane, Malabar FL. Comments about RV'S & Trailers parked in front yard, I was surprised you took action and made recommendation to Council, reason being that there wasn't proper notice given to public if public had known you were going to take action on this item public would have come. Without proper notice to the public I don't think it was proper for you to make recommendation to Council tonight. It should be on next meeting for action item so the public would know. A couple things missing from recommendation, is to add definition for RV For example: a race care, with RV – Toy Haulers

Wilbur, tractor trailers need to define

Tom- this started because all the RV's parked in front yards. I brought a recommendation to Council, and then sent off to P &Z. There were minor things that weren't addressed, Section 1-5.15:

- About pop up trailers not being popped up, I want to eliminate this.
- You can't sleep over night, exemption kids under the age of 15

There had been a complaint made about an RV parked in driveway at Corey Rd & Atz Rd. Bonnie had mentioned that she needed to go out as a code enforcement issue.

Tom had given Teen Council this RV parking issue, the teen council passed motion to allow RV's to park in front yards anywhere in Malabar. Tom is going to bring back to Teen Council to show unintended consequences of what they passed.

Tom explaining different scenarios for Teen Council.

Tom speaking about the parking of Tractor Trailers in Malabar, it is in the Land Development Code, P & Z has to deal with it first,

There is two ways to do it:

- You can send some stuff down
- Revise the Ord, and send you an Ord.

Tom adds he would like to see people do whatever they want on their property as long as it doesn't affect someone else.

The wording of Ordinance needs to be change and allow people to do whatever they want as long as it doesn't affect anyone else allow land owner as much freedom with their land.

Krieger comments that if there is a business on property they should have a BTR License.

Ryan adds you can't simplify laws, there is always going to be an unforeseen area.

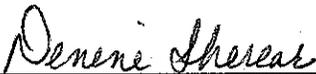
**I. OLD BUSINESS/NEW BUSINESS:**

Krieger impressed with drainage with storm this past week. The only thing I saw was in the newspaper having to do with Quarterman that has been an ongoing.

**J. ADJOURN:**

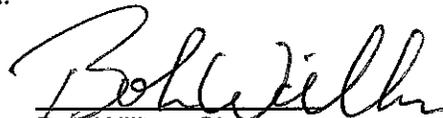
There being no further business to discuss, **MOTION:** Ryan / Reilly to adjourn this meeting.

**Vote:** All Ayes. The meeting adjourned 9:45 P.M.



Denine Sherear, Recording Secretary

BY:

  
Bob Wilbur, Chair

11/9/2011 with corrections

Date Approved