

**AMHERST COUNTY
PLANNING COMMISSION MEETING
THURSDAY, APRIL 7, 2011
MINUTES**

VIRGINIA

A public meeting for the Amherst County Planning Commission was held on Thursday, April 7, 2011, in the Board of Supervisors Room located in the Administration Building at 153 Washington Street, Amherst VA.

MEMBERS PRESENT: Donald Hedrick, Chairman
Mitch Heishman, Vice-chairman
Leslie Irvin
Derin Foor
George Brine, Jr.
Donald Kidd, Board Liaison

MEMBERS ABSENT: Beverly Jones

STAFF PRESENT: Jeremy Bryant, Director of Planning/Zoning
Matthew Rowe, Planner/Assistant Zoning Administrator
Stacey Stinnett, Administrative Assistant

1. CALL TO ORDER

Chairman Hedrick called the meeting to order at 7:00 PM.

2. APPROVAL OF AGENDA

The agenda was approved with one modification. The Zoning Case # 2011-01 Satya Narayan will be tabled until the Thursday, April 21, 2011 Planning Commission meeting.

Planning Commission Recommendations:

Motion: Heishman Motion to approve the agenda with Zoning Case #
2011-01 Satya Narayan to be tabled to April 21,
2011 .

Second: Irvin

The motion carried by a 5-0 vote.

3. SITE PLAN REVIEW

- A. McDonald's— Submitted a site plan for a replacement restaurant building in the B-2 General Commercial District located at 4971 S. Amherst Hwy, Madison Heights, VA. Tax Parcel Number 155D-A-5,8.

Mr. Rowe presented to the Planning Commission a major site plan submitted by McDonald's Corporation for the construction of an approximate 5,100 square foot replacement restaurant building on property located off of S. Amherst Hwy (State Route 163). Copies of the plans were reviewed by the Development Review Committee on March 8, 2011. Mr. Rowe stated that staff recommends approval of the site plan with the following conditions:

1. A rapid entry key box must be provided per Amherst County Code 11.5-107.
2. Per Section 602.02, all new parking areas and aisles must be surface treated.
3. Per Section 602.02(2), all lighting facilities must be arranged so that light is reflected away from adjacent properties and streets.
4. The existing entrances must be approved by a representative of the Virginia Department of Transportation (through site plan approval).
5. A landscaping bond must be established with Amherst County per Section 1602.

Mr. Hedrick stated that there seemed to be lot of shrubbery required and would that be necessary for zoning requirements. Mr. Hedrick also asked if the existing white pines located in the rear of the property would be eliminated.

Mr. Rowe explained the shrubbery was necessary due to the site plan requirements since the building was being expanded in size and there were additional parking requirements.

Mr. Bill Peachtree, representing McDonald's from Stimmel Associates, stated that the existing white pines would remain along the outside perimeter in addition to new evergreens that will be planted. The wooden fence in the rear portion of the property will be removed.

Mr. Foor asked how the square footage of the building would be utilized.

Mr. Peachtree stated that the facility will be fifty-one hundred (5,100) square feet. Nineteen hundred (1,900) square feet will be for customer use and thrity-two hundred (3,200) square feet will be for kitchen and bathroom use. Currently the facility occupies eighty-five (85) seats and the addition will occupy one hundred and two (102) seats, an addition of seventeen (17) seats.

Planning Commission Recommendations:

Motion: Irvin

Motion to approve site plan with staff recommendations.

Second: Foor

The motion carried by a 5-0 vote.

4. SUBDIVISION PLAT VACATION

A. Homestead Villas (Lots 1-9)

Mr. Bryant presented to the Planning Commission that on January 31, 2007, a plat was recorded in the Clerk of the Circuit Courts office. At the time of plat submission, two (2) surety bonds were collected to ensure improvements would be made at the proposed site. The Amherst County Planning/Zoning Office Department collected surety for the road improvements for \$48,750.00, and the Amherst County Service Authority is currently holding surety for \$22,000.00 for a water line. In order for both departments to release the surety, the project needs to be vacated and relinquished from public record. Mr. Bryant stated that the owners of Homestead Villas are requesting approval by the County to vacate the recorded plat per Section 1202.01. Mr. Bryant also explained that if the owners decided to develop the property in the future and if the use of the property changed, approval would be required by the Planning Commission.

Mr. Tom Berry, attorney representing Janice Augustine who is a managing member of Homestead Villas, stated that this was originally a thirteen (13) acre tract. The owners may in the future develop townhomes, however, at this time they have decided to delay due to economic reasons.

Planning Commission Recommendations:

Motion: Foor

Motion to approve Homestead Villas (Lots 1-9) to be vacated and relinquished from public record.

Second: Irvin

The motion carried by a 5-0 vote.

6. REVIEW OF BOARD OF ZONING APPEALS CASES

- A. Hazel and Roy Childrey –Multiple variances to allow for four (4) accessory structures located in the R-2 General Residential District. The property address is 109 Sixth Street, Madison Heights, VA. Tax Parcel Number 160A3-A-101.

Mr. Bryant presented to the Planning Commission that they have the option to make a recommendation to the Board of Appeals which will meet on April 14, 2011.

Mr. Bryant explained that Mr. and Mrs. Childrey had four (4) accessory structures that were currently in violation of the Amherst County Zoning Ordinance setback requirements. The four (4) accessory structures will be referenced as:

Structure #1 (Garden Shed): The request is for approval of two (2) variances from Section 804 and 901.02 (2) of the Zoning and Subdivision Ordinance to allow an accessory structure to remain nine (9) feet from the side yard setback requirement. The accessory structure is required to be ten (10) feet from the side property line; the request is for a variance of one (1) foot. The request is also for approval of a variance from the main dwelling, whereas the requirement from accessory structures to the main dwelling is fifteen (15) feet. The garden shed is four (4) feet from the dwelling; therefore the variance request is for eleven (11) feet.

Structure #2 (Metal Carport): The request is for approval of three (3) variances from Section 804 and 901.02 (2) of the Zoning and Subdivision Ordinance to allow an accessory structure to remain three (3) feet, eleven (11) inches from the side yard setback requirement. The accessory structure is required to be ten (10) feet from the side property line; the request is for a variance of six (6) feet one (1) inch. The request is also for approval of variances from the main dwelling whereas the requirement from accessory structures to the main dwellings is fifteen (15) feet. The metal carport is six (6) feet, ten (10) inches from the dwelling; therefore the request for variance is for eight (8) feet, two (2) inches. Additionally, the metal carport is eleven feet (11), eight (8) inches from the dwelling; therefore the request for variance is for three (3) feet, four (4) inches.

Structure #3 (Shed with extended roof): The request is for approval of a variance from Section 804 and 901.02 (2) of the Zoning and Subdivision Ordinance to allow an accessory structure to remain 0.83 feet from the side yard setback requirement. The accessory structure is required to be ten (10) feet from the side property line; the request is for a variance of 9.17 feet.

Structure #4 (White Shed): The request is for approval of a variance from Section 804 and 901.02 (2) of the Zoning and Subdivision Ordinance to allow an accessory structure to remain 4.75 feet from the side yard setback requirement. The accessory structure is required to be ten (10) feet from the side property line; the request is for a variance of 5.25 feet.

Mr. Bryant also pointed out to the Planning Commission the accessory structures on the aerial photograph. Mr. Bryant passed out to the Planning Commission two (2) emails that were sent to the Planning/Zoning Office, a petition, and a memorandum by staff of one hundred nineteen (119) letters received in the office by mail from April 4th-7th, 2011. These letters consisted of a standard form that was signed, dated and mailed into the office with a return address of Hazel and Roy Childrey. Mr. Bryant was not sure if all individuals were property owners in Amherst County.

After viewing the aerial photograph, Mr. Heishman asked if the trailer located in the yard belonged to Mr. and Mrs. Childrey and what was it used for?

Mr. Leon Parrish, speaking on behalf of the Childrey's (applicant), stated that the trailer was located on the lower part of the Childrey's property and that it was used for storage.

Mr. Kidd asked if the Board of Zoning Appeals would view this as one (1) variance request or each individual accessory structure would be considered a separate request.

Mr. Bryant replied that each individual accessory structure will be viewed as a separate variance request although similar findings may be found. Mr. Bryant said that the advertisement in the newspaper also listed each accessory structure individually.

Mr. Hedrick asked what the proper procedures were when checking setbacks on structures to make sure individuals were within compliance of the setbacks.

Mr. Bryant explained that the Planning & Zoning Department requires a sketch on a tax map or a plat (preferably a plat). The plat or sketch must also include the distance that the structure is from all property lines and drain field. A zoning permit is required on all structures; however, a building permit doesn't need to be obtained if the structure is less than one hundred and fifty (150) square feet. Once the zoning permit is approved, a copy of the permit is given to the applicant and the Building Department. It is then, that the Building Department reviews and the building inspector inspects the building for compliance. If a problem arises, the Building Department will notify the Planning & Zoning Department to investigate the issue.

Mr. Hedrick asked if the Building Department did measurements to see if the property met the setbacks.

Mr. Bryant explained that one of the issues when checking setbacks is unless a survey is required for each structure there typically is no other way to tell where the property line is located.

Mr. Heishman asked when the property fence was installed and how far did the fence go to the rear of the property. Mr. Bryant replied that the property fence would not appear on the aerial photograph because the fence was constructed in the fall of 2010. Mr. Bryant stated that the fence went past accessory structure four (4) in the year yard.

Mr. Parrish stated that Ms. Childrey called an Amherst County official regarding each accessory structure and the buildings had been installed for fourteen (14) years. Mr. & Mrs. Childrey are aware that this is a violation, however, the Childrey's feel that the County is responsible because they did not properly explain the procedures for obtaining a zoning and building permit. Mr. Parrish stated that "County employees should not penalize the citizens for their mistakes."

Although he understands the positions that everyone is in due to the fact that he was previously on the Board of Supervisors, he feels that there should be some type of changes made to the setbacks for Olde Town Madison Heights due to the topography and dense area. Mr. Parrish asked the Planning Commission to consider the conditions of this case and make a favorable recommendation to the Board of Zoning Appeals.

Mr. Heishman asked if the structures could be located elsewhere on the property.

Mr. Parrish said that the land slopes down a steep hill and these structures could not be relocated.

Mr. Bryant stated that the Amherst County Zoning Ordinance has been in effect since 1982 and all of the accessory structures were placed on the property after this date. He also mentioned that an old home was on the property when the Childrey's purchased the property and was torn down and replaced with a single-wide manufactured home. The single-wide manufactured home was considered by the Board of Zoning Appeals as a special exception and was approved. Any zoning permits that were issued, were for the single-wide manufactured home and additions made to the dwelling and pool. The only permit (building) for the accessory structures was for accessory structure # 1 which consisted of a roof put over an existing patio and sides on the structure, however final approval was not received by the building department. Zoning permits were required on all four (4) accessory structures, but not obtained.

Mr. Parrish explained to the Planning Commission that all of the buildings were prebuilt buildings

Mr. Hedrick stated that the Planning Commission had several options to recommendation that they could provide to the Board of Zoning Appeals, they are as follows:

- a. The Planning Commission could recommend that the case be approved.
- b. The Planning Commission could recommend that the case be denied.
- c. The Planning Commission could not make a recommendation.

Planning Commission Recommendations:

Motion: Foor

Motion for Planning Commission to not make a recommendation to the Board of Zoning Appeals.

Second: Heishman

The motion carried by a 5-0 vote.

- B. O'Reilly Automotive Stores, Inc. - A variances to both increase the maximum allowable height of a freestanding sign at the setback line (approximate) from six (6) feet to twenty-five (25) feet, and enlarge the permitted sign from fifty-eight (58) square feet to seventy-eight (78) square feet in order to permit an on-site freestanding sign. The property is located in the B-2 General Commercial District in Madison Heights, VA Tax Parcel Number 155D-A-16B.

Mr. Rowe presented to the Planning Commission that the property was acquired by O'Reilly Automotive Stores after the adoption of the County's sign ordinance. The property is separated from U.S. Route 29 Business north by a 10" to 20" tall embankment that obscures that property's visibility to north-bound motorists along the mentioned highway. The proposed sign, if a variance request is granted, would allow north-bound motorists to effectively identify and locate the business and its location. The property in question is zoned for business retail/automobile parts sales, and has been approved for this use. In addition, the property does have the available space to place a conforming sign on the property that would eliminate the need for the granting of a variance. There can be no claim of confiscation of use in this case. Mr. Rowe also added that the hardship is not shared generally by other properties in the same zoning district and the same vicinity. The County's sign ordinance applies to all parcels and zoning districts within the County. All signage permitted after the adoption date of the current Zoning & Subdivision Ordinance (circa 1982) is required to meet all signage requirements (which may have been amended since the adoption date). Adjacent businesses have both conforming and nonconforming signage with regards to height and sign area, and business located to the south are also not readily visible from U.S. Route 29 Business north. Mr. Rowe stated that the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance. The property is located along business corridor and is surrounded by other businesses that consist of both conforming and non-conforming structures prior to the adoption of the Ordinance and no new non-conforming signage had been approved and granted (to Staffs knowledge). Staff believes that the granting of the variance request will not change the character of the district and not be substantial detriment to the adjacent properties.

Should the Board of Zoning Appeals approve this request; Staff recommends the following conditions:

1. The variance is granted for Tax map parcel No. 155D-A-16B to permit a freestanding sign with 78 sq. ft. of sign area and an overall height of 25 ft.
2. The sign shall be located as given in the "Site Development Plan" for O'Reilly Automotive Stores, Inc., certified by Jeffrey D. Geurian and dated December 27, 2010.
3. If the sign is to be illuminated, either internally or externally, such lighting shall conform to section 602.02.2 of the Ordinance.
4. The Variance request shall become null and void if a zoning permit is not obtained within six (6) months from the date of the approval.
5. The granting of this variance shall not be constructed to vest in the applicant a right to approval processes have been completed.

6. This approval may be revoked by the County of Amherst or its designated agent for failure by the applicant or its assigns to comply with any of the listed conditions or any provisions of Federal, State or local regulations.

Mr. Kidd recalled a previous situation that occurred with a sign regarding the John Deere Company in Faulconerville. The Planning Commission recommended denial and the Board of Zoning Appeals approved the request.

Mr. Dave Adams, District Manager for O'Reilly's Automotive Parts, stated that O'Reilly's Automotive Store would be willing to eliminate the sign which will be located on the side of the building in order to have the taller sign. He stated that the company's main concern was visibility and safety.

Mr. Henry Elbert, owner of Elbert Sign Company, was the individual who completed the sign application, felt that by having the taller sign this would give a better and safer view for the motorists. Mr. Elbert felt that with a six (6) foot sign it could not be seen coming north or south on Route 29 Business.

Mr. Irvin asked if the surrounding areas signs were within the sign ordinance.

Mr. Bryant stated that multiple signs on the Route 29 Business Corridor were legal non-conforming signs and used McDonald's sign as an example.

Mr. Adams stated that signage for all O'Reilly's is within the normal height of six (6) feet. However, being that this location is not level, O'Reilly's must request a variance.

Mr. Ebert explained that if the variance was denied, O'Reilly's would request a six (6) foot sign.

Mr. Heishman asked how far from the ground would the sign appear. Mr. Ebert was unable to give this accurate information, however he will have Mr. Adams do the measurements.

Planning Commission Recommendations:

Motion: Heishman Motion to approve the request to the Board of
Zoning Appeals with staff recommendations.

Second: Irvin

The motion carried by a 5-0 vote.

7. OLD/NEW BUSINESS

Mr. Bryant briefly described the A-1 Agricultural Residential District meeting that was held at Amherst, Amelon and Temperance Elementary Schools. Powerpoints were presented to the public to help them better understand the proposed changes. Mr. Bryant explained a few modifications that staff recommended.

Mr. Bryant explained that the Planning Commission could make necessary changes once they felt comfortable with the draft, then the department will request the County Attorney to review the proposed document and the down zoning process. Mr. Bryant explained that the Board of Supervisors was considering a budget line that includes funds for legal advertisements and a mass mailing to property owners in the A-1 Agricultural Residential District. Mr. Bryant passed around comments noted from the public meetings.

Mr. Irvin asked the cost of the mailings.

Mr. Bryant explained that he contacted two (2) different mailing firms that would print, stuff the envelopes, label and stamp the notices. The cost estimate was \$6,700. Mr. Bryant is requesting that the Board of Supervisors appropriate \$10,000 in the budget to make sure all expenses are covered. There are approximately 9,129 property owners in the A-1 Agricultural Residential District that will receive these mailings.

Mr. Bryant carefully went through the material heard and made the following changes:

Page 5 - On the flow chart a change was made to read: 16 + 1 lot for each additional 60 acres."

Page 5 – Located under the heading "Character of Area" a change was made to read: "a minimum of fifty (50) percent of the average lot size of adjoining properties."

Page 9 – Located on number five (5) a change was made to read: "Minimum lot size in a cluster subdivision is not required. However, the density of a parent parcel in a cluster subdivision shall not exceed one (1) for every three (3) acres."

Page 10 – Located on number seven (7) delete "and shall have dedicated access to,"

Page 10 – Located on number ten (10) change to read: "Drainage easements serving public roads shall be dedicated to the Virginia Department of Transportation."

Page 15 – Located under “Appendix 2 – Cluster Subdivisions make a change to read: “the density of the parent parcel shall not exceed one (1) lot for every three (3) acres of land.” Delete “a lot must be a minimum for three (3) acres in total size.”

Mr. Hedrick asked how a cluster subdivision was defined. Mr. Bryant explained the standards located in the draft document. Mr. Hedrick advised that multiple diagrams be included in the appendix for the public to identify.

Planning Commission Recommendations:

Motion: Heishman Motion to approve with staff recommended changes and to be submitted to the County Attorney for review.

Second: Foor
The motion carried by a 5-0 vote

8. APPROVAL OF MINUTES FOR MARCH 3, 2011

Motion: Foor Motion to approve the Minutes for March 3, 2011.
Second: Irvin
The motion carried by a 5-0 vote

9. ADJOURNMENT

Motion: Foor I move to adjourn.
Second: Heishman
The motion carried by a 5-0 vote

There being no further business to discuss, the meeting was adjourned at 8:50 p.m.

/ss/041911


CHAIRMAN