

**CLARKE COUNTY
PLANNING COMMISSION
MINUTES
3 March 2006**

A regular meeting of the Planning Commission of Clarke County, Virginia was held at the County Circuit Courthouse, Berryville, Virginia, on Friday, the 3rd day of March 2006.

ATTENDANCE

Beverly McKay, Chair; George L. Ohrstrom, II, Vice Chair; Jay Arnold, Barbara Batterton, Anne Caldwell, Mary Daniel, Pat McKelvy, Cliff Nelson, Kathy Smart, and Robert Wade.

ABSENT

A. R. Dunning, Jr.

STAFF

Charles Johnston, Planning Administrator; Jesse Russell, Zoning Administrator; Alison Teetor, Natural Resource Planner; Nancy Olin, Enforcement Officer; Debbie Bean, Recording Secretary.

CALL TO ORDER

Chair McKay called the meeting to order at 9:03 a.m.

APPROVAL OF AGENDA

The agenda for 3 March 2006 was unanimously approved with the exception of holding the public hearing for item number 8 on the agenda after item number 3.

Yes: Arnold, Batterton, Caldwell (seconded), Daniel, McKay, McKelvy, Nelson, Ohrstrom, Smart (moved), and Wade

No: No one

Absent: Dunning

APPROVAL OF MINUTES

The briefing minutes for 31 January 2006 were unanimously approved.

Yes: Arnold, Batterton, Caldwell (moved), Daniel, McKay, McKelvy, Nelson, Ohrstrom (seconded), Smart, and Wade

No: No one

Absent: Dunning

The regular minutes for 3 February 2006 were unanimously approved with editorial corrections.

Yes: Arnold, Batterton, Caldwell, Daniel, McKay, McKelvy (seconded), Nelson, Ohrstrom, Smart, and Wade (moved)

No: No one

Absent: Dunning

TEXT AMENDMENT – PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance:

Section 3, add an Additional Regulation, to state that ‘Accessory Structures larger than 150 square feet shall not be located in the front yard of a single-family dwelling;’

Section 3, Supplementary Regulations, so as to limit the number of occupants of a dwelling to not more than two people per number of bedrooms of permitted drain-field capacity; and

Section 9, Definitions, so as to state in the definition of ‘Family’ that a person related by blood is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, parent, aunt, uncle, niece, or nephew of the property owner or leaser. TA-06-01

Mr. Johnston explained the 1st of the three amendments. After discussion by staff and Commission, Chair McKay asked for public comments on the amendment to add an additional regulation for accessory structures larger than 150 square feet will not be located in the front yard of a single family dwelling.

The following area residents spoke:

Gary Comparetto and Mather Leeds, residents in the area, expressed their concerns regarding this amendment.

Evann Mooney, area resident, asked why this ordinance has anything to do with the County government.

Commissioner Caldwell suggested the language be modified and re-addressed at the next regular meeting of the Commission on 7 April 2006.

There being no further public comments, Chair McKay called for a motion.

The Commission voted to postpone action and continue the public hearing on this amendment until the next regular meeting of the Planning Commission on 7 April 2006, in order to allow time for the Commission to modify the language in the amendment.

Yes: Arnold, Batterton, Caldwell (seconded), Daniel, McKay, McKelvy, Nelson, and Ohrstrom (moved)

No: No one

Absent: Dunning

Abstained: Smart and Wade

Mr. Johnston explained the 2nd of the three amendments. After discussion with staff and the Commission, Chair McKay asked for public comments on the amendment to limit the number of occupants of a dwelling to not more than two people per number of bedrooms of permitted drain-field capacity.

The following area residents spoke:

Jane Burtner - She asked why you have to wait until there is a real failure before it would actually be a misdemeanor.

Gary Comparetto – He asked if he and his wife would have another child would they need to expand their drain-field. He questioned that if his extended family were to come for a six-month visit, would he have to expand his drain-field.

Jim Hallbuck – He asked if there is any evidence as to how many problems have occurred resulting in health risks.

Bill Helbig – He stated he sees the good intentions regarding this amendment, but the ramifications of this can be severe. He said he hopes that the comments from the citizens are taken seriously.

Dave Juday – He asked if there is a standard regarding enforcement of this ordinance, should a violation occur.

Tina Koon – She compared this to having her appendix taken out because it may go bad.

Mather Leeds – He asked where would this ordinance be codified, as it is not covered under the Health Department rules and regulations.

Tricia Lukens – She stated she feels we need to have clean water, but this amendment targets minorities and they are being treated unfairly. She feels this amendment is telling people that are on limited incomes that they are not welcome in our community.

James Mason – He feels the real problem is the design standard of the Health Department which would effectively outlaw people from living in their homes. He asked if you have more children than the limited amount will you be able to live in Clarke County. He questioned about people are already living in homes with more children than that.

Ellen Rogers – She asked when does the violation occur? She stated that it is a presumption that this could happen. She asked how this ordinance would be enforced? She feels the amendment needs to be re-worded and not to assume everyone will be in violation of overloading his or her drain-field.

Dick Taylor – He stated that sometimes government regulations have severe consequences. He said we all know the geology in the County is not a simple matter. He stated he has six children and two elderly in-laws living in his home. He said he would be in violation of the ordinance if he and his wife have another child.

Mike Vanderlinen – He asked if the Health Department has any scientific evidence that this could occur.

Chair McKay stated there are genuine concerns with protecting our water. He stated that a committee of the Planning Commissioners and the public will be formed to discuss this issue before the next meeting of the Commission on 7 April 2006.

The following residents volunteered to serve on this committee: Fred Alger, Gem Bingol, Jeff Burtner, Gary Comparetto, Bill Helbig, Dave Juday, Mather Leeds, Evann Mooney and Ellen Rogers.

There being no further public comments, Chair McKay called for a motion.

The Commission voted unanimously to postpone action and continue the public hearing on this amendment of the County Zoning Ordinance until the next regular meeting of the Commission on 7 April 2006 in order to allow time for the selected committee to review this amendment.

Yes: Arnold, Batterton, Caldwell (seconded), Daniel, McKay, McKelvy, Nelson, Ohrstrom, Smart (moved), and Wade

No: No one

Absent: Dunning

The date for the Committee meeting will be on March 15, 2006 at 7:30 p.m. with a back up date of March 14, 2006.

Mr. Johnston explained the 3rd of the three amendments. After discussion with staff and the Commission, Chair McKay asked for public comments on the amendment to state in the definition of 'Family' that a person related by blood is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, parent, aunt, uncle, niece, or nephew of the property owner or leaser.

The following area residents spoke:

Mather Leeds – He questioned the purpose of this definition.

Tricia Lukens – She stated that she feels this is not an issue and we are infringing upon our rights as citizens of the United States.

James Mason – He stated that dwellings are defined as being inhabited by family. He said you could have four people living together that are not blood relatives.

Will Nelson – He stated that the definition of family has been this way for a long time. He said he hopes our elected officials are not going to make decisions based on things always being that way when they need to be changed.

There being no further public comments, Chair McKay called for a motion.

The Commission voted to recommend to the Board of Supervisors approval of the proposed Zoning Ordinance amendment, Section 9, Definition of Family.

Yes: Arnold, Batterton (seconded), Caldwell, Daniel (moved), McKay, McKelvy, Nelson, Ohrstrom, Smart, and Wade

No: No one

Absent: Dunning

MINOR SUBDIVISION

Steven and Jody Shippa request approval for a two-lot subdivision for Tax Map 15-((A))-10B located at 1010 Parshall Road, Battletown Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). MS-05-18

Mr. Russell explained this request. He stated that Commissioners McKelvy and Batterton met on site with VDOT to determine whether another entrance could be approved if the lot was reconfigured to the northern end of the subject parcel. A number of options were tried and each failed to meet VDOT standards. Commissioners McKelvy and Batterton suggested that the proposed lot be reconfigured in a rectangular shape versus the currently proposed irregular shape. The applicant and his surveyor agreed that this could be accomplished. After discussion with staff and the Commission, Chair McKay called for a motion.

The Commission voted unanimously to approve this request on the following conditions:

- ◆ the applicant provide a deed of dedication before the Zoning Administrator signs the record plats;
- ◆ the applicant provides a bond for the proposed entrance for Lot 6 in accordance with VDOT comments and requirements prior to the Zoning Administrator signing the subdivision plats;
- ◆ the addition of the view shed is shown on the plat; and
- ◆ the lot configuration be revised as presented to the Planning Commission on March 3, 2006.

Yes: Arnold, Batterton (seconded), Caldwell, Daniel, McKay, McKelvy, Nelson, Ohrstrom, Smart (moved), and Wade

No: No one

Absent: Dunning

MINOR SUBDIVISION

Double TT, Inc. (Neel Taylor, Agent) requests approval of a two-lot subdivision for Tax Map Parcel 33-((A))-7 located in the 700 block of Morgans Mill Road, Chapel Magisterial District, zoned Forestal-Open Space-Conservation (FOC). MS-05-22

Mr. Russell explained this request. He stated Commissioners Caldwell and Wade visited the site. Commissioners Caldwell and Wade stated everything is in accordance with the County regulations for a subdivision. After discussion with staff and the Commission, Chair McKay called for a motion.

The Commission voted unanimously to approve this request on the following conditions:

- ◆ The applicant provides a deed of dedication and dedicate to VDOT a sight distance easement for purposes of clearing and maintaining vegetation as determined by VDOT.

◆ The applicant provides a 75 foot vegetated buffer along the property lines with the Appalachian Trail.

Yes: Arnold, Batterton, Caldwell (moved), Daniel, McKay, McKelvy, Nelson, Ohrstrom, Smart, and Wade (seconded)

No: No one

Absent: Dunning

Chair McKay left the meeting at 10:55 a.m.

Vice Chair Ohrstrom assumed the chair.

MINOR SUBDIVISION

Fred H. Alger, Jr. and Janet Creager Alger request approval for a two-lot subdivision for Tax Map 7-((A))-77, located at 10068 Harry Byrd Highway, Longmarsh Magisterial District, zoned Agricultural-Open_Space-Conservation (AOC). MS-06-02

Mr. Russell explained this request. He stated Commissioner Nelson and Vice Chair Ohrstrom visited the site. Vice Chair Ohrstrom suggested that the applicant leave as much tree growth as possible. After discussion with staff and the Commission, Vice Chair Ohrstrom called for a motion.

The Commission voted unanimously to approve this request.

Yes: Arnold, Batterton (seconded), Caldwell, Daniel, McKelvy, Nelson (moved), Ohrstrom, Smart, and Wade

No: No one

Absent: Dunning and McKay

MINOR SUBDIVISION

Thomas R. Wiseman, II requests approval for a one-lot subdivision for Tax Map 30-((A))-75A, located at 477 Tilthammer Mill Road, Chapel Magisterial District, zoned Agricultural-Open_Space-Conservation (AOC). MS-06-02

Mr. Russell explained this request. He stated everything is in accordance with the County regulations for a subdivision. Commissioner Wade stated he has visited the site. After discussion with staff and the Commission, Vice Chair Ohrstrom called for a motion.

The Commission voted unanimously to approve this request.

Yes: Arnold, Batterton, Caldwell, McKelvy (seconded), Nelson, Ohrstrom, Smart (moved), and Wade

No: No one

Absent: Dunning and McKay

Abstained: Daniel

ANNUAL REPORT

The 2005 Annual Land Use Report was distributed to the Planning Commissioners. Mr. Johnston gave a brief overview of the report.

Conversations with Planning Commissions in the Region – Kathy Smart

Commissioner Smart stated she met with the Chairs of the Frederick County Planning Commission and the City of Winchester Planning Commission. They discussed the need of having communications among the Frederick County, City of Winchester and Clarke County Planning Commissions. They identified transportation as the first important problem. Commissioners Caldwell and Smart feel there should be a committee in our Planning Commission regarding transportation problems. Commissioner Smart stated they also discussed the issue of affordable housing.

VDOT vegetation removal along Scenic By-ways – Kathy Smart

Commissioner Smart said she had concerns about this issue, but that she would hold her comments until the Commission had more time to discuss the matter.

REPORTS

- ◆ Board of Supervisors – Mr. Johnston stated a public hearing for the Text Amendment regarding the flag pole will be on 21 March 2006.
- ◆ Conservation Easement Authority – Commissioner McKelvy stated the easement authority work is growing and she commended Ms. Teetor for her good work.
- ◆ Historic Preservation Comm. (third Thursdays of odd months, 9:00 a.m.)
Commissioner Nelson stated the next meeting is scheduled for 16 March 2006.
- ◆ Natural Resource Activities – Ms. Teetor – No report.
- ◆ Sanitary Authority (second Tuesdays, 10:30 a.m.) – Mr. Johnston stated that the Sanitary Authority & Board of Supervisors are trying to set the amount of sewer capacity for the long term at the Waterloo intersection.
- ◆ Board of Septic & Well Appeals – Ms. Teetor stated there was a meeting on 2 March 2006 on property owned by Tom Wiseman for a variance to locate a house farther than 400 feet from a drain-field, which was approved.
- ◆ Board of Zoning Appeals – Commissioner Caldwell stated there is a home occupation text amendment that may come before the Planning Commission next month.
- ◆ Enforcement Officer – Ms. Olin's progress reports for 1 February thru 28 February 2006 were reviewed.
- ◆ Lighting Committee – Jesse Russell – He stated that he, Mr. Johnston, and Commissioner Arnold attended the lighting committee meeting at the home of Commissioner Nelson to test the illumination of light bulbs.

There being no further discussion, the meeting was adjourned at 11:50 a.m. until 7 April 2006 at 9:00 a.m.

Beverly McKay, Chair

Charles Johnston, Clerk

Minutes prepared by
Debra L. Bean
Recording Secretary