



DUMFRIES, VIRGINIA
Virginia's Oldest Continuously Chartered Town
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AT A PUBLIC HEARING AND REGULAR MEETING OF THE PLANNING COMMISSION, HELD ON MARCH 10, 2014, AT 6:50 P.M., IN COUNCIL CHAMBERS, 17755 MAIN STREET, DUMFRIES, VIRGINIA:

I. Call to Order

Mr. Webb called the meeting to order.

II. Roll Call

Present: John Webb, Chair
Naeem Arshad
Selonia Miles
Lou Praino
William O'Kelly Russell
Louise Waggy

Absent: Christopher Padberg, Vice-Chair

Staff Present: Laura O'Dell, Town Planner/Zoning Administrator

PUBLIC HEARING

III. Yard Sale Ordinance

Mr. Webb opened the public hearing for the consideration of a new yard sale ordinance, Code Section 70-22, Temporary Uses, to add subsection (3) Yard Sale.

The public hearing was opened to public comments.

Pete Singh asked about the signage associated with a yard sale and how it was going to be removed. He used the example of signs being placed over the weekend around Town of Homes for Sale. Signage should be covered under the clause as well. Where you can advertise and that you cannot place signs on every lamppost.

Ms. Waggy believed signage was covered under the section on signs.

Mr. Singh noted signs were not mentioned in this particular section.

Ms. Waggy asked Mr. Singh if he thought it needed to be added.

Mr. Singh agreed it needed to be added or a sentence added that states all other ordinances of the Town are applicable.

Mr. Webb explained the matter would be addressed during the regular meeting before a vote is taken.

There being no further comments the public hearing was closed.

IV. Fountain Gate Church CUP 2014-003

Mr. Webb opened the public hearing to public comments.

Alex Fredua-Agyemang, Pastor of Fountain Gate Chapel, explained he was before the Planning Commission to obtain the required permit prior to signing a lease with the landlord. He was available for any clarification needed.

Mr. Webb explained any questions on the application would be done during the regular meeting prior to a vote being taken.

Mr. Singh mentioned seeing the Planning Commission, as well as the Town Council, over the years spending hours and hours on conditional use permits. Yes, we should encourage a conditional use permit as many of the Town Council members have done in the past. He was not speaking for the Town Council. He was just giving his sentiments on it. As a Planning Commission, you have a responsibility to ensure that this institution, a church or daycare, which comes to the Town, has the right facilities. Those right facilities start from the basis on which the Planning Commission issued the occupancy permit for the building. If a building is designed for a daycare, then yes, you can have a daycare. If a building is designed to be a place of assembly or has been retrofitted for that action, you are welcome to have one.

There being no further comments the public hearing was closed.

The Planning Commission took a five-minute break before starting the regular meeting scheduled for 7:00 p.m.

REGULAR MEETING

V. Adoption Approval of 2012 Minutes: 7-16-12, 7-23-12, 8-13-12, 9-17-12, 10-23-12, 11-26-12, 12-10-12, 12-17-12

Ms. O'Dell noted the minutes were provided to the Planning Commission a few months ago. The Planning Commission decided not to act on the minutes because the details and specifics of the meetings could not be recalled. This is on the agenda tonight because a formal vote is required to be made to either accept or reject the minutes so the Town Clerk can proceed forward as needed.

Mr. Webb asked if in the motion the Planning Commission could state the age of the minutes is the reason for the rejection.

Ms. O'Dell agreed that could be done.

Mr. Webb stated the Planning Commission could not remember exactly what had taken place. He did not want anyone to think that they were just being. . .

Ms. Waggy moved, seconded by Ms. Miles, to reject approving the 7-16-12, 7-23-12, 8-13-12, 9-17-12, 10-23-12, 11-26-12, 12-10-12, 12-17-12 minutes based on the fact that the Planning Commission's memories do not serve them properly for that length of time, not because they are incorrect.

Mr. Praino thought that if the minutes were rejected the Planning Commission would still have to come up with minutes for those meetings. The meetings took place, State Code requires minutes.

Mr. Webb stated the Planning Commission would have minutes, it is just the Planning Commission rejected those minutes. He was not sure how that would work.

Mr. Russell stated the minutes would have to be revised to something the Planning Commission could approve.

Ms. Waggy stated that was not going to happen.

Mr. Russell explained what that means is, how far down could the minutes be stripped to considering what State Code requires. At a minimum, it would be what the agenda was for those days, and whether the Planning Commission agrees that was what was discussed, not necessarily all of the particulars.

Ms. Waggy asked about making a motion to accept the agenda as what was discussed at those meetings and then the Clerk can add any backup materials. She was not sure how to state it.

Mr. Webb asked if the Planning Commission could withdrawal the motion.

Ms. Waggy withdrew her motion.

Mr. Webb suggested that if the motioneer and seconder are willing to withdrawal the motion the vote could be delayed until the next meeting while Ms. O'Dell checks with the Town Attorney as to what would have to be done as far as State Code is concerned.

Ms. O'Dell noted the minutes need to be accepted or rejected. She stated there does not need to be approved minutes on file. There has to be minutes on file whether denied or not. Minutes cannot just be sitting out there. There has to be an action taken on minutes at a meeting.

Mr. Praino noted the first three are good compared to his notes from those meetings. He mentioned if other people have notes they can compare the others theoretically. He explained these were taken off the videos.

Ms. Waggy could not remember a lot of it.

Mr. Webb read them when they first came out and he could not say whether that was what the Planning Commission discussed or not. More than likely it was because the meetings were recorded and the minutes were transcribed from those recordings.

Ms. Waggy and Ms. Miles withdrew the motion on the floor.

Ms. Waggy asked what needed to be said and whether the Planning Commission needed to state the minutes are accept as typed for lack of other information.

Mr. Webb did not agree.

Ms. Waggy explained there needed to be something in there.

Mr. Webb agreed and truthfully, he did not know.

Ms. Waggy noted the minutes would have to be redone. She felt the Planning Commission has to accept or reject the minutes.

Mr. Webb thought State Code just states the Planning Commission has to have minutes. The Planning Commission has to either approve the minutes or reject them. If the minutes are rejected, the minutes probably are still going to be legal documents. The only other thing the Planning Commission could do is get a legal interpretation from the Town Attorney and vote on the minutes next month.

Mr. Praino stated the minutes would still need a signature on them.

Ms. Waggy agreed.

Mr. Praino stated when the minutes are signed they are approved.

Mr. Webb did not agree. He would not sign the minutes unless the minutes stated the Planning Commission rejected them. The Planning Commission could assume everything is correct and approve the minutes. It was what the Planning Commission wants. The Planning Commission could vote to reject the minutes or vote to delay the vote until the next meeting when an interpretation from the Town Attorney is made on whether the Planning Commission has to have approved minutes or not. If the Town Attorney states the Planning Commission does not have to approve the minutes, the minutes could be rejected, and that would be all the Planning Commission has to do.

Ms. Waggy stated that if the Planning Commission did that there would be nothing out there, period.

Mr. Russell asked Ms. O'Dell what happens if the minutes are rejected.

Ms. O'Dell stated it stops there.

Mr. Russell asked if that was it.

Ms. O'Dell stated the minutes would be filed as unapproved. That way there is at least something on file. The requirement is to have minutes for each meeting whether approved or denied is irrelevant.

Mr. Russell asked if the minutes were denied whether there would be any reason or need for the minutes to be revised.

Ms. O'Dell stated the minutes would not be revised unless the Planning Commission wanted specific things changed.

Mr. Webb gave the example of the Planning Commission knowing something was said at the meeting that was not included in the meeting minutes. The Planning Commission would approve those minutes with the condition the statement is included which would mean the minutes would be revised.

Ms. O'Dell agreed.

Mr. Praino asked if there was a trickledown effect on items that motions were made on and approved at a meeting because the minutes were not approved.

Mr. Webb stated it would not, because a specific motion was made that was voted on that night.

Ms. Waggy stated it was also recorded.

Mr. Praino indicated there would be a video that showed the motion and minutes that do not.

Mr. Webb stated the minutes would show it. Everything is typed in the minutes as interpreted by the transcriber from the recording and included in the record.

Mr. Praino asked about accepting the minutes as transcribed off the recording. Not saying this is exactly what happened, but accepting the minutes as a transcription.

Mr. Webb asked if that meant accept them as transcribed from the recording.

Mr. Praino stated a note could be put on the minutes when signed off.

Mr. Webb guessed it could be done that way. He pointed out the Planning Commission would still be approving the minutes.

Mr. Praino explained the Planning Commission is approving the minutes as a transcription.

Mr. Webb stated approving the minutes as a transcription is no different than approving the minutes.

Ms. Waggy agreed.

Mr. Praino indicated that was a technicality.

Mr. Webb clarified that as Ms. O'Dell stated if the minutes are rejected, they are not signed, but the minutes are still a legal record.

Mr. Praino explained that if the minutes are not approved theoretically the minutes are not a legal record.

Mr. Webb reiterated that Ms. O'Dell noted that State Code requires the Planning Commission either vote to approve or reject the minutes.

Ms. Waggy personally thought the minutes should be approved.

Mr. Praino could only recall reading that minutes will be taken.

Mr. Webb stated minutes were taken.

Ms. Waggy stated the Planning Commission has to approve or reject the minutes.

Mr. Webb stated the Planning Commission could do either one.

Ms. Waggy moved that the minutes be accepted as recorded, which later can be amended if wanted.

Mr. Webb stated it was as Ms. Waggy stated, "as recorded."

Ms. Miles seconded the motion.

Mr. Arshad asked if he could abstain since he was not here at that time.

Mr. Webb stated that was okay.

Mr. Praino stated he would have to abstain on the last half of the minutes because he was on Council.

Ms. Miles stated she would have to abstain since this was before her time as well.

The motion failed by the following roll call vote: Mr. Arshad, abstain; Ms. Miles, abstain; Mr. Padberg, absent; Mr. Praino, abstain; Mr. Russell, yes; Ms. Waggy, yes; Mr. Webb, yes.

Mr. Webb stated the motion failed because there are only three yes votes and three abstentions. He stated there has to be a majority of four for the motion to pass.

Ms. Waggy asked Mr. Arshad how many minutes he was not here for.

Mr. Arshad thought it was for the whole thing.

Ms. Waggy asked Mr. Praino.

Mr. Praino stated from August on.

Mr. Webb wanted to move the item to the next meeting.

Ms. Waggy stated Mr. Padberg would be at the next meeting.

Mr. Webb would try his best to look at each individual set of minutes and look at the roll call to determine who attended. He indicated if the Planning Commission has to break the minutes apart individually by who attended for a vote that would allow each individual to

vote. He was always told that whether you were at the meeting or not you could still vote on the minutes. He did not know if that was right or not.

Mr. Praino asked for a determination on that.

Mr. Webb thought Ms. O'Dell was going to do that. He asked Ms. O'Dell to place the minutes as an agenda item for the next meeting.

VI. Adoption Approval of Minutes from February 10, 2014

Ms. Waggy moved, seconded by Mr. Praino, to adopt the February 10, 2014 minutes as presented. The motion carried by the following voice vote: Mr. Arshad, yes; Ms. Miles, yes; Mr. Padberg, absent; Mr. Praino, yes; Mr. Russell, yes; Ms. Waggy, yes; Mr. Webb, yes.

VII. Consideration of CUP 2014-003

Ms. O'Dell suggested the condition be made that all parking for the church be along Graham Park Road in the side parking lot area that runs along the side of the Rite Aid building to eliminate any traffic problems that could develop.

Mr. Praino moved, seconded by Ms. Miles, to forward to Town Council the conditional use permit (CUP) for Fountain Gate Chapel (2014-003) to operate at 18037 Dumfries Shopping Plaza with staff's recommendation that parking be along Graham Park Road in the side parking lot area that runs along the side of the Rite Aid with the recommendation to approve with the condition.

Mr. Praino thought that Mr. Singh had a valid point. The Planning Commission really has not considered, for any CUP, the building being properly designed for the use. He did not think it was in the zoning ordinance.

Ms. O'Dell explained it is addressed when a business applies for an occupancy permit and part of the inspection process.

Mr. Praino noted it is not specifically addressed in the ordinance so it does not pertain to the Planning Commission's approval of a CUP. He mentioned that staff might get with the Planning Commission one day to see if there needs to be something with a little more detail without creating a can of worms.

The motion carried by the following voice vote: Mr. Arshad, yes; Ms. Miles, yes; Mr. Padberg, absent; Mr. Praino, yes; Mr. Russell, yes; Ms. Waggy, yes; Mr. Webb, yes.

VIII. Consideration of Yard Sale Ordinance

Ms. Waggy moved, seconded by Ms. Miles, to forward to Town Council the following proposed yard sale ordinance with the recommendation to approve. The motion carried by

the following voice vote: Mr. Arshad, yes; Ms. Miles, yes; Mr. Padberg, absent; Mr. Praino, yes; Mr. Russell, yes; Ms. Waggy, yes; Mr. Webb, no.

Sec. 70-22 - Temporary Uses

(3) Yard sale: the sale of used or unwanted household goods being personal items, held on private property. The temporary sale of goods will be allowed provided that they shall not be held on: Rt. 1, Main Street, Fraley Boulevard, Graham Park Road, and Rt. 234. Yard sales may be held, provided that:

- a. A permit is obtained from the town prior to the event, and will be issued free of charge.
- b. Permits shall only be issued to property owner/s or to a tenant with written permission by the property owner/s.
- c. No more than three permits will be issued per lot in a 12 month period.
- d. All yard sale permits are temporary in nature and shall be valid for no longer than two days.
- e. All merchandise and staging equipment must be removed at the conclusion of the sale.
- f. A setback of 10' must be maintained from any street, front, side, or rear yard.
- g. Temporary signs may be allowed in accordance with Sec. 70-14 of the Zoning Ordinance, however signs for yard sales may not be displayed longer than 5 days prior to the event, and must be removed once the sale is over.

IX. Adjournment

Mr. Webb advised the next meeting would be held April 7, with the work session starting at 6:00 p.m., and the regular meeting at 7:00 p.m.

Ms. Waggy moved, seconded by Mr. Russell, to adjourn the regular meeting. The motion carried by the following voice vote: Mr. Arshad, yes; Ms. Miles, yes; Mr. Padberg, absent; Mr. Praino, yes; Mr. Russell, yes; Ms. Waggy, yes; Mr. Webb, yes.

Minutes submitted by

Approved by

Dawn Hobgood
Town Clerk

John Webb
Chair