# *PLANNING COMMISSION MINUTES*

## June 2, 2009 Revised

**Attendees:**

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| Dan Talbot/Chair | Cole McGregor |
| Vic Corbo | Charlotte Shifflett/Secretary |
| Lauri Sigler/Attorney | Margretta Isom/Council Representative |
| Madelyn Dixon | Cathy Morrison (excused first half) |

**Guests:**
Bertha Williams

Dan Talbot/ Chairman called the meeting to order at 7:00 pm.

- **Minutes:**
  - Vic Corbo made a motion to accept the May minutes, seconded by Cole McGregor.

  **Voice Vote: 5-0**
  **Motion Carried**

**Old Business:**

- **110-610 Land Development**
  **Downtown Business District B-1**
  **Ref. B- Permitted Uses**
  - (4) Living and/or sleeping quarters shall be a permitted use when constructed above the ground and basement floors. No living and/or sleeping quarters shall be permitted in any detached accessory building or structure on the same lot of any building.

Mrs. Bertha Williams was in attendance and inquired where she stands on the issue involving her property located at 120 Spotswood Ave.?

- The rental of business usage (B 1) as residential rental property is an issue for the Zoning Administrator rather than the Planning Commission.
- Mrs. Williams submitted letters, signed by witnesses, that the efficiency apartment in the back was occupied from November 2006 thru Feb 2009 by Jackie Dovel. It was noted she ran her business in the front section.
- The small efficiency apartment is grandfathered and she may continue to to rent as living quarters, however, the front shall be occupied by business only. The Zoning Administrator will give written documentation and resolve this topic.

**Proposed Amendments to the Town of Elkton Code**
**Adding Section 713 to Chapter 110- Land Development,**
**Article VII, Use Regulations**
**June 2, 2009**

**§ 110-713 Foundation Surveys**

A. A foundation survey shall be obtained for the following structures:

(1) New structures, renovations, or additions that require a foundation or footer inspection;

(2) Manufactured homes, decks or other additions over three (3) feet by three (3) feet within a manufactured home park or manufactured home subdivision established after 1995.

B. The foundation survey shall be prepared by a certified land surveyor licensed to practice in the commonwealth after the footer or foundation (whether existing or new construction) has been inspected and approved by the building inspector. Construction above the foundation, slab, or pier shall not commence until the survey has been approved.

C. The foundation survey shall document the location of the foundation, slab, or piers relative to property lines to confirm that the construction complies with setback regulations.

D. Exceptions. The following are exemptions from those requirements:

(1) The placement of manufactured homes on a manufactured home park lot that existed prior to 1995 does not require foundation, slab, or pier survey. County staff shall determine if sufficient space for the requested unit complies with the current building code.

(2) A new structure or the addition to an existing structure, on a tract of land that has a valid survey, does not require a foundation, slab, or pier survey if a certified land surveyor licensed to practice in the commonwealth confirms by letter that the construction is more than 40 feet from all property lines. This determination must be made by the surveyor after the approval of the footer inspection.

(3) Survey may be waived on parcels of 3 acres or larger if the owner of the land states in writing that the structure in question is more than 40 feet from all property lines.

(4) Survey may be waived for structures of record, at the time of adoption of this regulation, with non-conforming setbacks as long as the remodeling of an existing porch or deck does not further decrease setbacks. This situation applies to the creation on non-conforming structures resulting from widening or relocation of roads of the construction.

(5) If application is made for an addition to a structure, and the applicant presents a previous survey of the property that shows the existing structure meets setbacks, and it can be determined that the addition shall meet all setbacks, that survey may be used and a new foundation survey may not be required.

E. Exemptions: The following are exempted from these requirements:

(1) Storage building that is less than two hundred fifty six (256) square feet and not on a permanent foundation.

(2) Deck, stoop, or porch, without a roof and not located in a manufactured home park or manufactured home subdivision established after 1995.

Cole McGregor made a motion to accept 110-713 as presented with changes as noted; seconded by Vic Corbo.

a. Remove last two (2) sentences from Section C.

b. E (2) change 60 feet to 40 feet.

c. E (3) change 6 acres to three (3) acres and 60 feet to 40 feet.

A Public Hearing is recommended.
**Voice Vote: 5-0**
**Motion Carried**

**§ 110-910 Lot Line Revisions and Vacations**

A. A lot line on an existing parcel may be revised or vacated if the revision or vacation will not be in conflict with any provisions of this chapter.

B. **Vacation:** The property owner or proprietor of a tract of land in Elkton shall file a plat meeting the requirements of § 910-908. The Zoning Administrator shall review requests for lot line vacations for compliance with this chapter and shall approve the plat if he/she finds all to be in compliance with provisions of this chapter. ~~*The Planning Commission shall review the proposed revision and make recommendations to Town Council. Council consideration will follow the process outlined in § 110-909.*~~

*C.* **Revision:** The property owner or proprietor of a tract of land in Elkton shall file a plat meeting the requirements of § 910-908. The Planning Commission shall review the proposed revision and make recommendations to Town Council. Council consideration will follow the process outlined in § 110-909.

Vic Corbo made a motion to revise 110-910 and recommended holding a Public Hearing.. The motion was seconded by Cole McGregor.
**Voice Vote: 5-0**
**Motion Carried**

**2009-012**
**Clyde Hisey**

- Mr. Hisey's request was revisited by the commissioners. He may reactivate the original plat he presented, which requested subdivision of a lot and a lot line vacation. With implementation of this plat, he would be required to dedicate an additional 20 feet to increase the existing 30 ft Right of Way to a 50 ft. Right of Way to comply with code and VDOT standards.

**Pathforward:**
Charlotte will contact Mr. Hisey with the latest results.

□ **Current Zoning vs. Rezoning and Comprehensive Plan**

This discussion began with a memo researched, authored and distributed by Town Attorney, Lauri Sigler, relative to the subject of Downzoning.

- In a downzoning case it should be noted that the threshold question is whether the action was **"comprehensive**" or "**piecemeal".** We want our rezoning to fit into the "comprehensive" category. In a "piecemeal zoning" we would have to show a change in circumstances. What will make it "comprehensive" is a period of investigation and planning by the Commission.
- The mentality of property owner's is to assume when going from B to an R; they may have been down zoned.
- A downzoning is the reduction in formally permitted land use intensity, as when a commercially zoned property is down zoned to permit only low intensity residential use. It is not downzoning if the property is rezoned from a more economically desirable classification to a less desirable one.
- Some residents living in business districts may have a hardship under current zoning.
- Generally, land use decisions by local governing bodies are legislative actions enjoying a presumption of validity, and which the courts will not lightly overturn. As the Planning Commission moves forward and considers the rezoning of certain areas of the Town, the Commission needs to consider whether these actions will result in a downzoning of property.
- Downey Knolls has presented a boundary line adjustment request to Rockingham County officials. If this development is annexed into Town we have the possibility of creating more business on the West end of Town.
- Each member should review the paper in it's entirety before next month's meeting. The examples may be beneficial in determining your outlook as we move forward.

**Pathforward:**
Dan will write a summary to define issues and provide information as to why rezoning should occur.

With no further business, the meeting adjourned. The next regular meeting is scheduled for the first Tuesday, July 7, 2009 @ 7pm in the Elkton Area Community Center at 20593 Blue & Gold Dr. A possible Public Hearing may be held on July 14, 2009.

Submitted By:
Charlotte Shifflett

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Dan Talbot/Chair Madelyn Dixon/Secretary