

**Planning & Zoning
Meeting Minutes
November 21, 2011**

ATTENDANCE: Michael Fortner, Michael Dawson, Pete Reich, George Jack, Priscilla Turgon, Town Planner Mary Ann Skilling, and Planning & Zoning Coordinator Dianna Battaglia.

Meeting called to order at 6:30 p.m.

APPROVAL OF MINUTES:

MOTION was made by Mr. Jack and seconded by Mr. Reich to approve the October 17, 2011 Planning and Zoning Public Hearing and Meeting minutes as written. **Four in Favor.**
Motion Passed. (Ms. Turgon arrived after approval).

NEW BUSINESS:

2011 MPCA Annual Conference, November 9 & 10, 2011:

Mr. Reich provided a summary of the conference and a handout was distributed with website location that has all conference presentations available for review. Most of the meeting was about clean energy and land use. Topics included electric vehicles and that charging stations should be provided at transit points, like the Train Station here. There are one hundred fifty (150) charging stations in the State of Maryland right now and one of them is in Bel Air. They are all private sector developed and owned. Maryland wants twenty percent (20%) of the energy use in the State to be renewable energy by the year 2022. There was some discussion of whether local municipalities, the public sector, should get involved in this. Towns should consider community scaled energy sources to reduce dependency on the power grid. For example, Easton is putting in wind turbines to run their sewerage treatment plant. A map was displayed of Maryland to show those areas conducive to wind energy; Western Maryland and areas along the coast of the Chesapeake Bay; however Cecil County is not in an area that provides constant wind force to generate the turbines. Cecil County also is one of the counties in the State that does not have a wind turbine ordinance. There was discussion about land use and renovation of cities and towns, revitalizing dilapidated areas with landscaping and paint. The most income to cities or large towns is generated by land usage with multi-story, multi-family dwellings rather than single family homes because of more units per acre. As part of that, there was a ten year projection that what people need most are apartments, not homes. That's consistent with the people coming down from Fort Monmouth to APG. If this continues we need to consider multi-family dwellings to be able to accommodate what people are looking for in a community. Not low end apartments but mid-range. Also, people don't want to live and work in the same area. They will work in one building and live in another across the street, but not in the same building. One of the webinars talked about using social media for Town meetings and other uses, such as Facebook, and others. You could have a Town meeting and people in the community who couldn't make the meeting would be able to participate. But there are some ethical issues and some drawbacks because written minutes must be kept on file for all official meetings. Also any comments provided for official documents you must be able to prove they are from Town residents. When collecting written comments the Town should provide a secure website with password to ensure accurate results. A disadvantage is not everybody has social media or access to it. It's not a replacement for the face to face that a town meeting provides. The town does post a lot of information on the web and it saves postage but not everyone in the town has access to the website. There was discussion that in Caroline and Prince George's counties how they got

people from the community involved in the updating and reviewing the new plan. There was a lot of participation from the residents and everybody got a physical hand in writing the plan. Committees were set up to include representatives from the community, not Planning Commission members but residents of the community to come up with consensus and created the direction they wanted to go. Another topic was what is the brand for your town, what is the brand for the county, and how to market it. As a Town we need to discuss what our brand should be, and as a planning committee go out to the community as ask them what they think the brand should be. I also had conversations with other members in our area who have the same issues we do.

Ms. Skilling indicated when we did our Comprehensive Plan we did have some input, the committee had maybe fifteen people and we did have some people participate by reading the draft and submitted comments. We need to look at that and how the Town wants to brand itself to grow. There are a lot of things we do have. Things have changed in our downtown. We have a major waterfront. We're looking to do a TOD (Transit Oriented Development) which is consistent with your idea of having residential communities that would support it, for people who want to live in an apartment and get the train, go to Baltimore, Washington DC, or Philadelphia.

Ms. Battaglia indicated the website is included on the handout provided (www.mdp.state.md.us/yourpart/MPCA/mpcaMeetings.shtml#fall2011) where you can access all the presentations from the conference to get your ideas flowing.

Mr. Reich continued another point that was brought up was at the training session for the State mandated training course. There were guest speakers there and you had the ability to discuss things back and forth which you can't do on the website. It is the law in the State of Maryland that you have to take that training after being appointed to this board within six months. If not, there are some real possibilities for legal issues and suits by the State against the Town if all of us aren't trained. If they ever have the training offered again, even though we already did it, I would recommend attending.

Commissioner Dawson – discussion of Article XV Signs:

Mr. Dawson stated he wants to initiate some discussion about some signage issues. There are fourteen pages of rules and regulations and over the past couple of weeks I continue to get contacted by local business owners who are fed up with the strict rules and regulations. One of the examples is All About You Hair Salon who came to our last Town meeting and asked about the pylon sign that has used the allowed square footage and that he cannot put a sign on the backside of the shopping center.

Ms. Skilling responded he can put a sign on the building as other businesses in that development have done so. The sign on the MD222 side is a grandfathered sign and the square footage was set back during the development, put up by that development. The monument sign on Route 40 includes all businesses in that shopping center. They should go to the owner from whom they lease and have them change it. As long as they keep the same square footage there is no problem. He had the opportunity to put a sign on the back of the building just like everybody else but the one sign he's complaining about is a sign we have no control over at this point because its grandfathered.

Mr. Dawson replied it's those restrictions that people are complaining about. He doesn't want to put a sign on the back of the building, he wants to put a sign on the pylon and according to the

rules and regulations we've exhausted the allowed square footage on the back sign. It doesn't have to do with the front sign, it's the back sign.

Ms. Skilling stated everybody else there has their sign on the back of the building and he's the only one who doesn't, he is allowed to do that. When he came in here he indicated to us that he was not allowed to do anything, but that in fact was not true. He is allowed to put a sign on the back of the building. This issue goes way back regarding signage, when the regulations were developed. (Article by Edward T. McMahon was handed to each member—attached separately). This was done some time ago about signage and how businesses take advantage of some things and when we did this the speaker provided ways that you don't have to have signage that destroys the community, and for good reasons. People want to have nice things and that was the standard. That was the information and that's how the standards came about. (Information was provided regarding Pasquale's signage.) He's applied to Board of Appeals on two issues; one, an appeal of the denial decision of his Zoning Certificate for the signage. First of all, when he submitted that application it was after the signs were installed. There was a discussion with the owners that in fact he needed to get his signage in here so we could look at it and discuss square footage and what needed to be done, and that didn't happen. But he did call and apologized that the signs went up. During review of the application based on the square footage he provided, it did not meet the requirements. It's not that we don't want the sign but the fact is in the downtown there are certain requirements in Town Center that are more restrictive than say on Route 40. Do we think there are some problems with our Zoning Ordinance, probably; there are some things we need to look at. Town Center's maximum square footage for a flat sign is sixty-four square feet, and there are additional flat signs that are both twenty-five square feet. The smaller signs are not permitted because the total of all went over the allowable square footage. There is an option to also have a free-standing sign but there are site restraints and this type of sign may be inappropriate.

Mr. Dawson stated several gentlemen have come to me in this Town upset about these rules and regulations. If you don't want new business in here then keep things the way they are. This gentlemen's gift (Pasquale's) when he opened up from the Town was a letter saying he was in violation. He now has a thousand dollars in legal bills. Is this how we're going to treat our businesses? Mr. Rex Burkins at Frontier Carpet wants to put up a rotating LED sign, can't do it: no flashing, rotating signs. It's very simple. These are too restrictive to the business world, and at the end of the day these people won't be here. At one point we have to find a happy medium or there won't be any businesses. If that's what this board and this Town wants, then keep things the way they are. People come to me and ask me to please do something because they are tired of it. They don't have to be here. We should be welcoming these people to come in here and conduct business and be part of our community. To slap them with a thousand dollars in legal bills on the day they opened up, is there anything wrong with those signs? Case in point, it's too strict.

Ms. Turgon commented when we were doing our Comprehensive Plan, our vision was what we wanted the Town to look like. I for one would not want to see a LED sign on 40 at Frontier Carpet. We're trying to pull the Town up, to get a more uniform look, and in Chestertown, the McDonalds had to meet their criteria, you don't even know it's a McDonalds. It keeps that look, that quaint look. So I think we need to figure out first, what is the vision, what do we want the Town to look like and then revisit, and do we want LED signs.

Mr. Jack stated I think within the regulations we have decided what we want our Town to look like, and when people start putting up whatever signs they want it will get cluttered. If Mr. Burkins or any other businesses come into our Town they need to come here first and when we

say you can't, then they need to figure out well what can I do. They need to figure out in compliance with the Town what can we do to make the sign good for me and good for the Town.

Mr. Dawson responded at what point in time does a business owner have the right to do what he wants to do with his land instead of the government dictating to him you can't do it.

Mr. Jack replied well it would be the same thing if someone in Beacon Point bought a lot and wanted to put a trailer in. He would be coming to you saying there are too many restrictions and too many laws.

Discussion continued that the regulations are to create boundaries; that you're allowed to open a restaurant in the right location, to serve alcohol, allowed to do renovations to the building, to put up signage, etc.

Mr. Dawson replied we're not talking about absolutely zero regulations. We're talking about being too tight on these individuals where they can't do anything. They have to follow these rules made by this appointed board and they're saying we don't want to do business here.

Mr. Jack responded we didn't make the rules and we're not just doing it for one person. We're doing it for the community. If we're trying to satisfy one person everywhere up and down Route 40 corridor I would imagine everybody would have a different concept. There are rules and regulations to make something presentable for the community itself, not just one individual.

Mr. Dawson stated an idea of what I've been thinking about, there are fourteen pages of different things and different zones, and in each one it's something different, abolish the whole entire thing and start all over again. Right now it's black and white and no one uses their discretion. If a business owner wants to put a sign up he should bring it up to this board and say this is what I want to do and each of us should be able to sit here and say this makes sense or it doesn't make sense and vote on it based on that. At that point we could vote on it or make suggestions to make it smaller if needed.

Discussion continued that regulations provide parameters, create guidelines, and are consistent for all. You can't do planning on a case-by-case basis. There is a standardized approach for planning and the regulations are posted on the web. Most communities have similar regulations. There have been good relationships with businesses along Route 40 cooperating to adjust sign heights. It seems when outside interference comes in we get a one hundred seventy five foot pole out there instead of what the board recommended and what most of the public wanted was to not have it and yet interference from the Commissioners let the pole go up there.

Mr. Dawson responded that is the individual's property and he wants to do what he sees fit, and the difference between smaller government and bigger government.

Mr. Fortner commented about boundaries, there are safety boundaries. Signage attracts more customers and those customers have an easier time finding what they are looking for, but signage can become disruptive. If you could imagine the shopping center where Food Lion is, could you imagine what it would look like if every business had a stand-alone sign? You would actually see less, you would go through Perryville and like on page 9 (from handout: Sign clutter is ugly, ineffective, and expensive) can you imagine driving through that. So by having our zoning code it makes it clear and defines that balance.

Discussion continued regarding regulations and limits to use of property is for the good of the community; you can't have a septic system or a well, or put an adult book store or liquor store within close proximity to schools. Mr. Reich commented he took a tour of old town Easton and looked at signs. I wanted to see what Easton has done to keep the old town look. Signs in the town were small and tasteful on the front of the buildings and there are other ways to advertise businesses. Cities and towns all over the county have restrictions and set design for what they want their town or city to look like. Standards have to be consistent across the board, not for an individual business, because you can get into legal situations. Recent developments in Town have all included a master signage plan, with no complaints. There was a discussion first, with review of the regulations, and a master signage plan was then presented to the Planning Commission, for review and approval. Some individuals are very receptive to do something nice, to work with the property owner for nice signage and landscaping along Route 40. Business owners thought it would help business and a nice investment for the property.

Discussion continued regarding recent sign issues. Pasquale's was told to talk to us first and review regulations, but it didn't happen, unfortunately. People need to talk to us so we can make the outreach and review what they want to do. The Town is business friendly in trying to clean up what is here and to the best of our ability to make sure that the Town does get developed in a way that will attract businesses, because the first thing a business looks at is: what is the community doing to make it better, whether it's signage or otherwise. Chesapeake Overlook development is a good example because a lot of time was spent reviewing the master signage and the only two things objected to were the two pylon signs that were over one-hundred feet tall. It was discussed to consider the pylon sign for Chesapeake Overlook after they had other venues interested in the development. The Ordinance makes it standard for everybody so we don't get sued. It would be reasonable to ask the reason for larger signs, and if it's an issue of visibility that would certainly be something to consider, but not to make it whatever you want. There is a process to handle issues like that.

Ms. Skilling informed the board members the State had a signage conference for two full days that I could not attend but have all the information. All the signage along any State highway is going to be regulated and controlled by the State. We probably won't even have any say and if any sign is illegally put up in that highway it will be taken out and the business owner could be fined.

Regarding the case of adding to an existing pylon sign, one change that could be considered is if a business is surrounded by two major roads an additional monument type sign be allowed. If you have two major roads you certainly would want to make people aware of access to meet that type of situation and not be overly permissive. Another change could be to add wording "in so far as possible" to address issues of grandfathered signs when a business changes hands.

Mr. Dawson commented in the Cecil Whig Mr. Matt Roath, who used to sit on this board, exercised his first amendment right in the editorial section and said the wheels had already been moving on this. What has this board done over the past year since he's been here?

Ms. Skilling replied he sat on the board for a short time and resigned. I've been working on the Zoning Ordinance and we need to go through that and discuss some of the potential changes that are needed. During the whole process for the CEMUD we went through a lot of those regulations. There are changes that should happen but you have to start with one thing at a time. In order to get it completed we need to go through what's the priority here.

Mr. Dawson commented I was hoping to bring a recommendation that we could sit down and talk about, trying to bring this to the table so we can talk about it. This is what people are telling me. It's taking the next step and I keep hearing Ms. Skilling say there are changes that need to be made but what have we found, what are the specific things that have been found that need to be addressed. My question tonight to the board is does this board believe the current rules and regulations are fine and do not need to be addressed. Do you think these fourteen pages are good, then so be it, or do you think we should look at it and start taking it one by one.

Discussion continued for specific suggestions to improve it and there is always an idea not thought of that may work and make sense. In terms of the existing, it is adequate signage plan and does a good job. If there are certain changes to propose then we can debate it. Some signage may be a distraction for passing motorists and potential for creating accidents. What is the vision for the Town going down Route 40? What is the image we want the Town to have? The policies in place now reflect what the consensus was. It was suggested that all board members review the Ordinance and sign regulations and present ways of improving. Town Center verses Highway Commercial has a different look and we can discuss that. Planning trends throughout the country are getting away from the massive signage because they realize it can be too much. There needs to be consistency. Review of the signage sections for issues and discussion until we can get to some point where there is consensus. It was expressed that a lot of time and effort went into creating the whole Ordinance, and there may be some mistakes and if so, give reasons to explain what is wrong.

All members agreed at the next scheduled meeting discussion will continue about specific items for change, we don't want a sign war where anything goes, and we can debate the merits of each change. There may need to be some changes to existing verbiage so that it allows some things to happen with consideration. It was mentioned the possibility that a signage application for Zoning Certificate comes to the Planning Commission for recommendation just like other projects. Right now Zoning Certificate applications for signs are reviewed administratively and it gets approved if it meets the regulations. The only time the Planning Commission reviews signage is when it is part of the master signage plan for a larger development. There is a process in place now to handle problems or issues with meeting the regulations, and the applicant is able to explain their reasons for requesting relief.

Discussion continued that if somebody's complaining about our signage laws, we should invite them to the meeting and hear their complaint. Maybe they need a better understanding of our signage ordinance and then understand why we do what we do instead of just talking to one person to get to this board and argue a case for them. It was said many business owners are fed up and do not want the board to know who they are. However, if specific issues and complaints are not known by board members and staff, those issues and complaints can't be corrected or resolved. It's not known that changes need to happen.

Ms. Skilling indicated if someone gets turned down for a Zoning Certificate or by the Planning Commission, they can appeal that decision to the Board of Appeals, and if the Board of Appeals turns them down, then their next step would be to take it to Circuit Court.

Discussion continued about the process and the costs incurred in order to go through the steps. There was a situation that occurred: the High Roads School was turned down by the Board of Appeals, went to Circuit Court and the Court overruled the Town and they got their Special Exception permit. Most affected business owners can barely afford the additional costs of this process.

Discussion occurred about the Cecil Whig and some articles that do not have complete, accurate facts, such as the produce stand. Mr. Jack stated they don't even know their facts. "Perryville officials say they wanted to help a local business man but their hands were tied, says Town Attorney Fred Sussman". I don't think the Mayor and Commissioners have the authority to extend a business permit. He didn't have a permit. The man is stuck up there, he didn't get a permit, he got rejected for a permit and he still stayed up there, went to the Board of Appeals, still didn't get a permit, but they're making it look like Perryville did nothing. The article goes on, they quoted Commissioner Dawson "tried to pass a motion to extend the business license of Ronald Baer", but he didn't have anything to extend. That's what people don't hear and what I wanted to bring up was the fact we need somehow to make a synopsis of what we do in here and put it out on the internet instead of people having to read through the minutes to see what's going on and have people understand. This guy was up there illegally to begin with and then he comes in here and makes it look like we're the ones who rejected him. Not only that, but in our minutes we have at least ten alternative sites for him to go to that he could have been legal, but he wouldn't move.

Discussion continued about alternate sites that had been suggested and how the board tried to work with the applicant in explaining the process and ways to be successful with his appeal. He continued to operate without a permit. Ms. Skilling explained he didn't get a permit first, and when he came in to obtain it, it was denied. He appealed, and that allows a stay; in other words we can't act on it until after the appeal. If you read some of that article they definitely do not give all the facts and I think the Town gets criticized for things in a negative way. We need to be working better with the press to get the facts right. There was also a safety issue on the site with signage and products sold.

Mr. Dawson stated the Table of Permissible Uses is useless because you cannot possibility think of every possible scenario and this guy is a neighborhood business but because it did not fall under that category he was closed down for it. There is no reason why he shouldn't have been able to stay there or for us to have some kind of provision in there that says this makes sense. We should never have gotten to this point. And why do we even have a Neighborhood Business compared to the C-2, what's the big difference, I don't see a lot in the definition about what the differences are.

Ms. Skilling replied a Neighborhood Business is within a lot of residential dwellings where the C-2 Commercial is more on an open highway where you have more commercial activity. When that Neighborhood Business was brought up there were certain things they didn't want to expand in there because there are a lot of potential businesses in there that they didn't want them to be expanded.

Mr. Dawson stated before I came on board here there was a problem with the karate school wanting to locate here and that use was not listed in the table because how could you possibly think of every single scenario, and they had to go to Board of Appeals.

Ms. Skilling replied it was having children next to the liquor store, that was the primary issue and the Planning Commission recommended approval for the Special Exception under educational and Board of Appeals allowed the Special Exception.

Discussion continued that the image we project is for business owners to not locate in Perryville because we are too restrictive. The regulations in place are too tight. Some thought it is better to err on the tight side than err on the loose side because there are restraints when appropriate

but if too loose you can't tighten anything and have the potential for major risk of problems. Part of being in business is trying to work within the rules. Applicants should come to us and let us look at what they want to do, review the regulations and how can we work together, the same with the signs and the landscaping and everything else. Mr. Dawson stated when talking to these people they are afraid to come in here and say something because it's their business and they're afraid of what's going to happen to them, maybe not by this board but other people that have power in this particular Town. They don't want to get involved, and I quote one guy who "wants to fly under their radar". They don't want to come in here because when they start playing politics and get involved they're afraid something's going to happen to them and if anybody doesn't think that doesn't happen where something's going to go out to them and the next thing you know there's a fine or someone is snooping around because they made somebody mad, that's why they don't get involved. That's why you don't see them here.

Discussion continued that it works both ways and there're variations across the spectrum. For the next meeting all of us will look through the Ordinance and highlight areas for discussion. We can look at some of these things, discuss it and make changes. It is a very complicated process to go through. Ms. Skilling indicated Commissioner Dawson could go right before Mayor and Commissioners and make the same recommendation and present what you want to change. You have to give them something specific, it can't be just a general comment to change it, they have to have some consideration. If you have that then the Mayor and Commissioners send it back to the Planning Commission for review, and then the Planning Commission reviews it, makes recommendation to Mayor and Commissioners, we hold public hearings, it would be a text amendment to do major revisions to the Zoning Ordinance, just like we've gone through for the mapping mistake. Anything that changes the Zoning Ordinance has to have public hearings because you're changing things that are already impacting someone. The Mayor and Commissioners can deny it, accept it, or change it.

Comments were made regarding some people who want to go under the radar of the Town. Ms. Skilling stated I've worked with the Town for thirteen years and worked for the Town for three, and I've heard comments but it's mainly specific to individual properties. Generally, on the whole I've never had anybody adamant about something that needs to be changed, why it needs to be changed. For most cases with the large developments that I participated in the Master Signage Plan was pretty clear cut. And we talked about it, had meetings, at least for development projects that I know of. Most time when people want to fly under the radar, they've got something else going on to themselves that they don't want the Town looking in their businesses.

Mr. Dawson explained if you have a store and say we have political parties here, republican and democrat, and you start supporting the republican person for office and your democrat friends didn't know you felt that way, they may decide to not support that store. Then that store just lost some business, so when we say fly under the radar it's not what you're thinking. This is why people don't want to get involved and there have been other issues; someone makes a complaint and mysteriously Ms. Hickman's out there in the neighborhood writing up a repair order/complaint, whatever it is, and I've said this at plenty of Town Hall meetings is that just a coincidence, probably not, but it's suspicious. That's why people want to fly under the radar, that's why people don't want to get involved.

Discussion continued that politics should not enter into any decisions made because it would be ethically wrong. It is hard to think that some people feel that way unfortunately there is politics in everything.

Motion was made by Mr. Jack and seconded by Ms. Turgon to adjourn the meeting at 8:15 p.m.
All in Favor. Motion Passed.

Respectfully Submitted,

Dianna M. Battaglia
Planning & Zoning Coordinator