

**Planning & Zoning  
Meeting Minutes  
August 15, 2011**

**ATTENDANCE:** Michael Dawson, Pete Reich, Ray Ryan, Priscilla Turgon, George Jack, Matt Oberholtzer, 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. Reich and seconded by Mr. Oberholtzer to approve the June 20, 2011 Planning and Zoning Meeting minutes as written. 1 abstained: Mr. Jack not in attendance. **Five in Favor. Motion Passed.**

**NEW BUSINESS:**

**File No. SE2011-01-** Recommendation to Board of Appeals for Appeal & Special Exception Request to operate seasonal produce/flower business at 1000 Cedar Corner Road; **PROPERTY OWNER:** Porter Real Estate, 225 Principio Road, Port Deposit, MD 21904; **APPLICANT:** Ron Baer, 655 Brenda Lane, Aberdeen, MD 21001; **LOCATION:** 1000 Cedar Corner Road, Perryville, MD 21903; Tax Map 800, Parcel 766, Zoned NB.

Ms. Turgon invited the applicant to state his request.

Mr. Baer commented I don't understand why we're having this hearing. I'm on commercial property to begin with and I don't see why I need a special exception to operate a produce stand on commercial property.

Mr. Reich responded it has to do with how that commercial property is zoned. You look at the zoning code and it tells you what can and cannot be there.

Ms. Turgon asked Mr. Baer did you think because there are stores there...

Mr. Baer replied because its commercial property and I thought I would be able to be there.

Ms. Turgon stated but without asking for any approval first.

Mr. Baer responded who would think you would need a Zoning Certificate. Who would think that, nobody would. That's the reason why I don't understand why we're having this hearing. If I was an eyesore or a deterrent to the community I could understand why we're having a hearing but, I mean I got laid off from my job and I started this produce stand, I created a job for myself because I was unemployed. I thought it was a plus because I'm trying to work for myself, trying to live, trying to pay my bills, and you guys are trying to shoot me down. I don't see what the problem with it is.

Ms. Turgon responded but we didn't shoot you down.

Ms. Battaglia stated you came in and talked to me and I explained the procedures and how it is zoned Neighborhood Business in the Town of Perryville, not a commercial property. So we had that discussion.

Ms. Turgon asked do you understand the difference between neighborhood business and commercial property.

Mr. Baer responded not really. I'm new to all this stuff. I'm just trying to make a living. I'm unemployed, trying to work at a produce stand. I heard they make good money so I thought, I'm unemployed, I'm going to try it for myself. What's more neighborhood than a produce stand. People like my produce stand. They can walk up from their house or from the golf course up there and get something from me instead of getting in their car and going to the store. And then everybody else who stops by on their way home from work or whatever, it's not an eyesore and I think it looks pretty good.

Ms. Skilling commented it's really not that we don't like it, or even whether we like it, it's what the legal precedent is set in our Zoning Ordinance which is a legal document we have to follow for any zoning in our Town. That area, which is not a very large area, is considered neighborhood business district. It was determined that when the Town redid the zoning in 2005 based on some of the small businesses that were already there, existing in that community. There is a Permissible Use Table for these various zones and neighborhood business, the type of activity that you would have such as an open market is not allowed in any neighborhood business district for a market, an open air market. And that's how we tried to qualify it under our zoning. It was not allowed. And that's the only reason the Town had to turn it down was because our zoning did not allow it. Whether we liked it or not we don't legally have the ability to do that because of our zoning. If we allowed everyone to come in then we wouldn't have zoning. One of the things we're looking at is some of the permissible uses in these areas and that is a consideration that our Planning Commission may be looking at for some changes to our zoning, that would allow this type of activity in a neighborhood business district or a commercial business or some other district which we think is appropriate for that type of business. The Town had no choice because of the zoning and our regulations that say this isn't the business that was allowed here. I didn't write the zoning but I have to follow it. That's what my job is to look at the zoning and make an interpretation. Now, you are appealing that interpretation, which is your legal right to do and that is why you are here at the Planning Commission. The Planning Commission can make a recommendation to the Board of Appeals of which it really is your appeal, this is just the Planning Commission trying to make a recommendation to them of whether they agree with the decision that was made based on the zoning, or not. That is the authority of the Planning Commission to make that decision to the Board of Appeals as a recommendation. That's all they do. They could make a recommendation that maybe we ought to reconsider some of the things in the neighborhood business district or some of the other districts. I'm working now to go through some of these things to see whether some of these types of activities we have in here are really the kind of things the Town residents would like to see. Maybe they would like to see more open air markets and it seems you say you have people who are interested in it and maybe that's what we need to do, we just have to make sure it's in a place that provides safety, ingress and egress to the site, not causing any obstruction as far as getting out onto the roadway, the same planning conditions we do for all the other businesses in Town. We have to be consistent and we have to make it a safe business. So that's what this is really about, whether we like it or not is not the issue.

Ms. Turgon asked did you set up the business and then go to the Town and ask for a permit, or how did this all play out.

Mr. Baer replied I was in Rising Sun and I wasn't making any money and a friend of mine knows Mr. Steve Porter and he asked if I could move my business down there and he said sure. We didn't think we would need any kind of permit or anything like that so that's why I moved it there and then I got the water turned on and then the next thing I heard was I had to fill out this form. It wasn't that I was trying to pull a fast one on anybody, I just didn't know. I didn't think you would need anything like that. It's a commercial property so I thought I was good. This is my first business venture on my own so that's why I made this mistake. If I had known anything like this ahead of time I would have checked. I just didn't think I would because in Rising Sun where I was at they didn't need that so I didn't figure Perryville would either.

Mr. Jack stated while we would sympathize with your position it doesn't negate the responsibility we have for the community as a whole and if one person moves in and does this then it doesn't negate anybody else from doing the same thing. So it's important that we try to follow the zoning laws and I can only recommend that no matter how this pans out whenever you start a business you certainly have to figure out what the zoning laws are and what you have to do before you just jump into the business. Whether somebody gives you that right to put a place on his property or not there are certainly ramifications for everything that is done, within Town limits anyway.

Mr. Baer responded I already said because it was commercial property I didn't think I would need this in a place, that I didn't need one, I had no idea. I do have a petition, about one hundred fifty (150) signatures from customers that I will pass out to each of you.

Mr. Dawson asked who put the Permissible Use table together, is that the board, or is that staff, who puts these things together?

Ms. Skilling responded the process of developing the zoning code, there was a group of people, citizens in the Town, and I happened to serve on that committee, members of the Planning Commission and there were planners. I happened to represent not the Town at the time but the Maryland Department of Planning and there were people called in during the whole process. The process took several years to go through all the zoning and all these tables. There was a consultant who actually did the plan and we went through each section in each district and it was determined what the citizens of the Town wanted. Before you can finalize it, it goes to two public hearings: to the Planning Commission for their hearing with recommendations to the Mayor and Commissioners, then another public hearing by Mayor and Commissioners. And then it is adopted, becomes effective, and there is a time period before it actually becomes law. We have just recently gone through the process to make some changes. A lot of the Planning Commission members have gone through this process before.

Mr. Dawson stated my issue with the table and the definition of the zoning, I think it could be reworked and rewritten. If I could open up the discussion to the board does anybody think, with the process that he has gone through, it wasn't the right process. How is that not a neighborhood business. The man is operating a produce stand as a business in a neighborhood, how is that not a neighborhood business. Regardless of whether you don't like the way it looks, we could address that.

Mr. Jack replied it didn't meet the zoning. It didn't meet the zoning qualifications.

Mr. Dawson indicated that's why I was asking you.

Mr. Reich commented if I put a junk yard in a neighborhood, then that's a neighborhood business. We don't want a junk yard in a neighborhood. We spent hours and hours on zoning. I was on the board when we were writing this before I left the Planning Commission so there was literally hundreds of hours into this particular set of tables, the whole ordinance. It sounds like you have a reason to question this. It's been agreed upon, it's been taken to public hearings, it's been taken to the Mayor and Commissioners and everybody's agreed this is our zoning laws. Now that said, that makes it the legal binding document, you can object to it all you want except you can't because it's a legal binding document. Does it need to be approved, does it need to be revised, does it need to be looked at again, probably, because it's an ongoing thing. But what we have is what's legal now so your question doesn't make any sense in my opinion. It's a business in a neighborhood, yes I could put all kinds of businesses in a neighborhood but does it meet the zoning requirements as written now. That's the issue. Not whether it's fair, not whether it's right, wrong or indifferent, does it meet it now. And it doesn't.

Mr. Dawson replied that is a point well taken but the simple question was does anybody here think it's not a neighborhood business.

Mr. Jack responded not in our legal document.

Mr. Oberholtzer stated I agree with Mr. Jack, the truth is this doesn't meet the zoning requirements.

Ms. Turgon indicated we can take that statement and go places from that statement. Right now it doesn't meet the requirements. You could have a seasonal business, a produce stand, or sell Christmas trees but couldn't exceed ninety (90) days under the current zoning. Right now you could operate for three (3) months the way it is zoned right now. But again, everybody needs to have this conversation tonight and then determine what our recommendation is to the Board of Appeals.

Mr. Ryan commented I happen to disagree with Mr. Reich because you said we don't have a right to disagree with it because it's the law. I don't have to agree with every law that's out there, I can disagree, but I can do what I need to if I disagree. The first questions I was going to ask was every time we have a holiday we see a flower shop up there but it's less than ninety days. I'm assuming that use is permanent because every holiday there is a flower shop, a place selling flowers.

Ms. Battaglia responded at every holiday a new Zoning Certificate is issued for that weekend.

Mr. Ryan continued and that is why they were never shut down and because it was less than ninety (90) days it can operate with a permit in that area. In my mind that is a true definition of a neighborhood business but we are bound by the rules that were written and all agreed to as citizens in this Town and that's what makes it very tough on this Commission right now to tell people these are the rules you have to follow and unfortunately that's what we have to do.

Mr. Jack commented I was just noticing that one of the first things of order was some kind of a recommendation for the validity of the decision made by the Zoning Administrator and I think it is needed and I think that issue first is whether the decision they made was valid or not.

Ms. Skilling indicated your authority is to validate, or not, the zoning decision made by the Zoning Administrator. That is the authority by which this Planning Commission has and secondary to that is does the Planning Commission think, as some of you have brought up, we need to look at the zoning code. That is something you can recommend. That is the only way we can move forward with changing things. We are in the process of looking through some of those items in the zoning code that we think need to be changed.

Mr. Reich commented I think we have some more discussion. Mr. Ryan, you are absolutely right. We do have the right to disagree with our Ordinance. What I'm trying to say is I don't think we necessarily can sit here and say let's just overturn our Ordinance. Is this a neighborhood business? No I don't think so. If we had a cool-aid stand out by the street by kids maybe that's a neighborhood business. It depends on what you consider your neighborhood to be. Would I put a fruit stand in the middle of the neighborhood at Gotham Bush, probably not; would I put a hair dresser in the middle of, take one of the houses and turn it into a barber shop or a hair dresser, is that a neighborhood business, I don't think so, so I think this is kind of an iffy thing in my opinion. I guess I want to repeat and I'll say it one more time, it doesn't meet the Ordinance as written. I think Mr. Baer has every right to go to the Board of Appeals and have them talk about it. I have a couple of issues with it. One is that area is the school bus stop. Another thing is if I'm up there at Christmas time with a lot of trees, that could get crowded in a hurry depending on how many trees are set up. There is not a lot of parking there and it is kind of a nasty corner for traffic. There are some safety issues and line of sight issues there, especially if you start putting trees up instead of just laying them on the ground. Those are my concerns for that area and I think the Town suggested other areas that you might be able to go to. I'm surprised Steve Porter doesn't know what the zoning of his property is and I've known Steve a lot of years that he would give the authorization for this but he did.

Motion made by Mr. Oberholtzer and seconded by Mr. Jack to recommend to the Board of Appeals the validity of the decision of denial of the Zoning Certificate by the Zoning Administrator.  
(Discussion continued.)

Ms. Turgon clarified the way the Ordinance is written now for us to approve or disapprove the decision made by the Zoning Administrator.

Mr. Dawson stated I will vote in favor of that motion but I just also want to verify what a neighborhood business is and when reading it, it says "the purpose of this district is to provide primarily for retail shopping and personal service uses, to be developed either as a unit or in individual parcels, to serve the needs of a relatively small residential area" and I think that's exactly what Mr. Baer is doing. And I think we need to go back and look at these tables and change those tables because that use is exactly what a neighborhood business is supposed to be.

Ms. Turgon responded we can recommend that the Board of Appeals grants a Special Exception, isn't that correct.

Ms. Skilling indicated that would be the next recommendation.

Ms. Turgon stated first of all we have to deal with the primary motion and that is do we agree or do we disagree with the decision of the Zoning Administrator, that is the motion that is on the table and we have a second.

**Motion** made by Mr. Oberholtzer and seconded by Mr. Jack to recommend to the Board of Appeals in agreement with decision of denial of the Zoning Certificate by the Zoning Administrator. **All in Favor. Motion Passed.**

Mr. Ryan indicated I would make a motion that we do make a recommendation to the Board of Appeals that they make this a Special Exception because I think it's one hundred percent what a neighborhood business is.

Discussion continued regarding above motion.

Another motion was made by Mr. Ryan and seconded by Mr. Dawson to recommend to Board of Appeals approval of the special exception. (Discussion continued.)

Ms. Turgon indicated we have a motion, we have a second, but here's my point, on page 2 of Ms. Skilling's comments, we need to make sure that the conditions to grant a Special Exception are considered. Let's just make sure that we address the requirements of granting a Special Exception. There are some comments on page 3 for consideration regarding the ingress and egress, the sight triangle, that intersection is heavily traveled, and there is limited parking. So those are the kinds of things that we need to discuss.

Mr. Reich replied that was my point awhile ago. One, the issue about the school bus stop, two, the issue about the line of sight if you put trees and everything else up there at Christmas time, and third, the limited amount of parking and how safe that is. I understand people walk up here but I don't think they'll walk up here in December. I really think we ought to amend that motion to make conditions or considerations for the Board of Appeals. One is I really think that the Town Police should look at this as a safety issue and make recommendations to the Board of Appeals, if they approve it, whether conditions for safety are to be taken with that corner because they are after all our safety people. And Mr. Ryan may have some conditions that he wants for the fire department and issues he may have for fire equipment egress and ingress to the Gotham Bush area. We have a straight up motion to send it to the Board of Appeals with a recommendation to approve it, I thought, is that what I heard. I think if you do that you haven't put into it any consideration of any of these issues, any conditions in there.

Mr. Oberholtzer stated I would like it to be unconditionally recommended to the Board of Appeals.

Mr. Ryan commented I read this over and I understand the questions you're having but now all of a sudden all this. First of all these exceptions are, if the Board finds numbers 1 through 7 that they can't approve the special exception, that's for the Board of Appeals to decide. It's not up to us to approve the exception. Second, all these things that are being talked about, I have to wonder why these same things weren't considered safety issues, the road turn issue, the blocking of 222 when turning out, why wasn't all this thought about when the flower stands are up there for the past ten or twenty years. Why all of a sudden now it's such a big issue to this man. Even if it was for two or three days when they sell flowers, what's to say in two days they put up a flower tent and block the

view like you would with Christmas trees. We're really getting nit picky here with this purpose of what our recommendation is.

Ms. Skilling replied but you have to understand that there are requirements for those temporary structures as well: setbacks, sight triangle, all of those things we look at.

Ms. Battaglia indicated the flower tents are on a different property. The flower tent is on the front property where the other businesses are. This use is on the back property (fronting Cedar Corner Road).

Mr. Oberholtzer commented I'm not seeing the safety issue.

Mr. Ryan stated I drive there every day. I live in Gotham Bush. I travel that road every day, I work at the casino, I make that right to go out every day and I don't have a bit of a problem. I don't see how traffic is such a big issue today that it wasn't six months ago when they put the Christmas flowers up there.

Ms. Skilling stated this is the issue, the problem being here is, you're asking me but I'm just following the Ordinance. If you all believe that there needs to be a change then you need to suggest that as a group, the Planning group.

Mr. Jack responded just because we've given special exception in the past doesn't negate our responsibility to start reinforcing things now. My question from the beginning was how did he get his stand in there. Why wasn't the selling stopped when the permit was denied. Why would he keep on selling his stuff knowing it's not right. So we talk about these things but the enforcement part is one of the issues I want to bring up later for these types of issues when people don't have a permit but they still do it. Now the safety issue, Mr. Ryan I commend you, but I've come out of the there when flowers have been there and I had to wait to make sure nothing was out there, there's a twenty-five foot setback, and it's not your (Mr. Baer) fault. If you don't know the regulations you don't know where to set your flowers but there is a twenty-five foot offset from that road and I've had trouble seeing down that road so I can imagine what's going to happen when it really gets busy, and so there is a safety issue especially if they start putting a lot of things out there. That's not his fault. I understand because he didn't read the zoning but that doesn't negate us from addressing that issue. There is a safety issue there but what I'm more concerned with the special exception is if these were not followed at the beginning will they after, even though we address special issues to that property, that's my concern with this whole thing. And the other concern I have is we should be making these exceptions into realities instead of having them brought here every time. We should be proactive in doing something in our planning. I don't believe we should just say to go ahead if we think there is a problem just because everybody else has had it in the past. And as far as the flower stands go, I would address that too. If they're not in compliance with what they're doing we should not give them the permit to do it either. If they've got flowers stuck out there within the twenty five feet boundary it should be shut down too. Just because somebody does it doesn't make it right. We have laws and we should be adhering to those zoning laws that we have.

Ms. Skilling responded we do check the setbacks when they come in for temporary, we look at the sight triangle for those, it's very much a concern of a lot of people and we do have certain specifications that we need to look at for planning purposes. We become liable. The Town made a decision for temporary as well as anything else, to allow something in there so we try to look at

those issues. And we do have regulations. We actually write it on the plan to show where you're going to set things, because that's the only way we can regulate it, this is what you said you were going to do, did you do it. And you can't get away with a lot of things now because now things are on aerial photography. We do have a Code Enforcement person who looks into these things and we're trying to enforce it. The other end of the spectrum is do we want to change things. As a planning group that's your recommendation and I've gone through here and I don't understand how some of these things are in here myself but I am looking through it and eventually it will come back to you with recommendations for changes as we go through each section.

Ms. Turgon indicated so the motion we have on the table right now is to recommend to Board of Appeals to approve the special exception.

Discussion continued regarding the motion without conditions and now voted on:

**Motion** made by Mr. Ryan and seconded by Mr. Dawson to recommend to Board of Appeals approval of the special exception. **Three ayes, three nays. Motion Failed.**

Discussion ensued whether acting chairperson is able to vote. (As per Town Zoning Ordinance, Section 18, 2. *The chairman and vice-chairman may take part in all deliberations and vote on all issues.*)

Mr. Dawson asked is there a particular condition that the members would consider if the motion is amended.

Mr. Reich stated I don't want to send anything to Board of Appeals without recommendation of conditions for their acceptance of it. My biggest issue is safety and the other thing is this is a full time, year round business. This is not a part time, thirty day thing. I want something there with the Town police looking at it to talk about how do we mitigate safety issues if there are any. That's why I disagreed to send it without conditions.

Mr. Dawson replied so the only condition is public safety.

Ms. Turgon indicated my concerns are in thinking about what we're trying to do here, I would feel better if we had a motion for special exception with conditions that you can meet them, so long term you could be there. Not that you have to keep coming back. So the issues that I would be concerned about is the ingress and egress at the site and maintaining the setbacks. You meet those requirements, and on that basis I would say approve it with conditions. If you can meet those conditions and you're set where you need to be, and we know the safety is not an issue, and the parking is better defined, with those conditions then you could get your special exception. I'm a small business owner myself so I understand what you're saying but also we need to see it all defined for you and you meet those requirements so you can stay there and keep your business and it's more than three months.

Mr. Baer stated I don't see a problem with the parking. The karate school, Pizza Tower, and the Liquor Store, when the karate school is going the parking lot is pretty full but people can still pull into that parking lot because we're behind that part. Parking has never been a problem since I've been there.



Ms. Turgon responded but those businesses were responsible for ensuring a certain number of parking spaces were available to serve their customers when they came before us. So your business is using spots that those defined businesses, established businesses, have to make available.

Mr. Baer replied they haven't had a problem with me, they don't have a problem with me being there.

Ms. Battaglia commented then an option would be to get a letter from each of those businesses to the Town that they are allowing you to use their parking lot.

Mr. Ryan stated I think what he's referring to is when the karate school has classes going they are actually pulling off Cedar Corner Road and pulling in that dirt road because the front lot is already full. I've often seen times cars behind the building instead of taking up parking spaces there. That's what he's referring to and I see it all the time.

Mr. Jack indicated I would recommend we make no recommendation to the Board of Appeals and let them decide because I think when we start going against what we have planned ourselves, as the Zoning board, then we begin to question the rules we put into effect and if we do that then we should go ahead and amend the rules that we have. So I would have preferred that we make no recommendation and let it go to the Board of Appeals and let them handle that.

Mr. Reich agreed. The neighborhood business district takes in not a whole lot of property and we're not considering Cedar Corner. We just said in general this is what it should look like. I think what Mr. Ryan and Mr. Dawson are saying is wait a minute, here's an area that ought of have an exception. And we agreed that the Town did say this is against our Ordinance and that's right because it is. We made a motion to send it to the Board of Appeals with approval of the exception and that is the one that bothered me. I would rather say let's send it to the Board with no recommendation, or send it to the Board for recommendation with conditions.

Discussion ensued regarding motions made with no second or no majority agreement.

**Motion** made by Mr. Jack to make no recommendation to the Board of Appeals and let it go forward. **No second. Motion failed.**

Motion made by Ms. Turgon and seconded by Mr. Dawson recommendation to Board of Appeals approving the special exception with conditions that the parking is addressed and better defined, the sight triangle as required for safety, congestion at the corner is addressed, and ingress and egress from Cedar Corner Road is defined. (Discussion continued.)

Mr. Dawson stated I understand why you have your tent located there because you want the visibility from 222, but that piece of property the address is Cedar Corner Road so that business typically would front Cedar Corner Road and not 222. Do you have any objection to moving your tent to that circle part of the property?

Mr. Baer replied then I will be less visible from the road. That was so people could see me and would stop.

Mr. Dawson responded well you'll still be able to put signs up.

Mr. Baer stated but then we're set back and people won't be able to see well, that's why we were up that way. They're not going to see me, they're going to go right on by.

Mr. Dawson responded what I'm trying to say is Ms. Turgon has put some good things out there and if you were to move that tent a little bit people would come down there and use that circle area for your parking, nobody else from the karate studio would use that parking there because they would see you have it occupied and I want you to be there for long term. I would love for you to be there forever and making all kinds of money. That's what we want. But you see what's happening now with the division of this board. I'm simply saying if you would give that some thought, make it front Cedar Corner Road, you can still put your signs up there, you can still put directional signs up there, people are going to see that tent. It's not that far away. Yes or no, is that something you would consider.

Mr. Baer replied I guess I could move it but I would like to leave it where it's at because it's more visible where it's at but I could move it.

Ms. Turgon stated that is ammunition for you when you go before the Board of Appeals that you can say I would consider that.

Mr. Baer replied I can move it. I like it where it's at but I can move it back on the property somewhere else.

Mr. Jack asked doesn't everything have to be back twenty five feet. Am I missing something here. I mean everything.

Mr. Baer questioned, even the flowers. I want people to see my product, that's why it's out by the road. If people don't see the product they're not going to stop in there, they're just going to keep on going. So I should just shut up if you do that to me. I'll have to go get a job.

Mr. Jack responded unless they are going to change the sight triangle requirement on the setbacks for neighborhood business then it seems like everything has to be off that.

Mr. Ryan commented is it structures in the twenty five feet because a few flower pots sitting on the ground is not going to be a sight distance matter.

Mr. Jack asked but what are a few flower pots. What if the flower pot has a Christmas tree sitting in it? Everything is relative. You start with a little flower and you end up with the big flower. I know how this thing works.

Ms. Skilling replied if anything we would probably get a phone call to complain. You have to meet the setback requirement. You shouldn't be putting things out there to obstruct view. If it's out there and we get a complaint we have to address it.

Ms. Turgon indicated if we want Mr. Baer to be successful, which is what everybody here is saying, then your piece of the partnership is to follow the requirements. And if it says twenty five feet, that isn't that much.

Mr. Baer responded when people come by that corner they're not going to be able to see me. I want it out there to be visible so the people who don't know I'm there stop to get something from me.

Ms. Turgon replied but consider what's going to happen when you go before the Board of Appeals. If that becomes an issue, what's your response? You want this special exception and we would like you to get the special exception if you meet those conditions.

Mr. Reich asked I see a building here, and in the letter it says a tent. Is the building part of the business?

Mr. Baer replied the building that's on the property already, no. The shed is there so I can stay dry when it rains. The little building with the tent in front of it is mine.

Discussion continued regarding Mr. Baer's setup that consists of a 6x10 shed and tent area and review of pictures provided.

Mr. Dawson asked would you drop those conditions if Mr. Baer takes his tent down in front of the old building and use that circular driveway as his staging area. That would take care of every issue that was brought up.

Ms. Battaglia indicated those conditions are actually part of the zoning ordinance regulations so it is just reiteration to recommend special exception approval as long as those conditions are met which are part of the code.

Ms. Turgon commented and then when he goes in front of the Board of Appeals and says I'm going to move it all of those are met. Those are the conditions.

Mr. Dawson stated I understand but we have a man who instead of living off the system he's taken his entrepreneurial skills trying to do something to better himself and better the community and we just have so many restrictions and rules and regulations I think this Board, we have the ability to use our discretion to approve it and if we continue to put regulations on him it's really not fair.

(Vote was taken on the last motion.)

**Motion** made by Ms. Turgon and seconded by Mr. Dawson recommendation to Board of Appeals approving the special exception with conditions that the parking is addressed and better defined, the sight triangle established as required for safety, congestion at the corner is addressed, and ingress and egress from Cedar Corner Road is defined. **Four in Favor. Two opposed. Motion Passed.**

Ms. Skilling stated if there are any public comment it can be added to the minutes for review by the Board of Appeals.

Mr. Keith Campbell stated I live at 75 Dr. Jack Road, Port Deposit, MD and I am a member of the Planning and Zoning Board for the Town of Rising Sun so I deal with these issues quite a bit. As you can see here on the map, Mr. Baer is back more than twenty five feet with his structure and if you look at the site, if you've been there before, you can see there is a large sign there that's way up ahead of his building that is much more of an obstruction than what his building is. His building sits back far enough that it's not an issue safety wise because there is plain sight right there. So actually

if there was a safety issue the issue would be more with the sign that's out there. He's moved his signs back to where it's not an issue for people coming out of Cedar Corner Road or an issue with people coming out of the existing businesses. As far as with parking there's tons of parking in that lot where the existing businesses are already so I can't see how parking would be an issue. As far as what he has done here is basically, I don't see how you can say that it's any more of a neighborhood business than to have a produce and flower shop. There's a liquor store there, a martial arts studio, at one time there was a flower shop that operated in the same space as the martial arts studio because I knew the lady who had the business. Before this even came about before the strip mall was even put in there that actual property for the strip mall was part of the property that he's on right now and the property is zoned commercial through the county. Now I don't know what Mr. Reich said here but it is commercially zoned property and as far as the business being put there and started that was unbeknownst to him that he was doing something wrong. He figured that this was commercial property and he could operate a commercial business out of there. I could see if he was operating something that was industrial or something that was detrimental to the community but this business serves a purpose here and the purpose is that he is providing a service for the people in the community. And as far as safety, there is no real safety issue because he has setbacks and you can see that in the front he's fifty two feet back from the road already. So his building is definitely not in the eyesight of someone who is pulling up there to look either way. So I don't see how safety could be an issue here. And my recommendation to the Board is this man here was unemployed and what's true more of the American way than starting a business yourself. I mean that's the American way and what you people have done here and I'm not saying it's you I'm saying that how can you stop somebody from doing something like that. I mean if you're going to start a business, if someone starts a business and they're successful at it why would you try to stop someone that's successful. I think what he's done is beneficial to the community. I think it should be passed as far as my opinion. And I know you have rules you have to follow but I think this is definitely one that the exception should be made for.

Discussion continued regarding the amount of traffic on 222.

Mr. Reich stated it's not that we don't want him to be successful. The point is we have come up with this Ordinance to keep things in some orderly manner and we spent a lot of time doing it, it's not an overnight thing, and it is not zoned commercial it's zoned neighborhood business, there is a difference. So the point is there were reasons why that was put in there and do we think it needs review, probably; could we think of everything when that table was created, no; did we think of Cedar Corner Road primarily when we did that, no; so you do those things in generality. What I wanted to see was he had a business but he had so many things as conditions that are in our Ordinance and we gave a recommendation to approve with conditions.

Mr. Campbell asked Mr. Baer, if you have to move your stuff a little bit, you're going to do that, right.

Mr. Baer responded I'll move it back but I want people to be able to see what I got.

Ms. Turgon indicated and you need to ask the Board of Appeals for clarification on the twenty five feet, does that mean I can't put a Christmas tree at twenty feet. You need to know so that you know you meet the requirements for your success.

Mr. Baer replied I don't want to be the cause of an accident.

Mr. Campbell indicated I've seen he has his stuff back far enough I don't think it's been an issue with anybody and if somebody would say something to you I'm sure you would correct it.

Discussion continued regarding increased traffic and disruptions in the area of Cedar Corner Road and 222.

## **OLD BUSINESS:**

### **Garrett Point** – results of Traffic Impact Study and SHA comment letters

Ms. Skilling indicated the Planning Commission gave concept approval for Garrett Point and there were certain conditions that had to be met: traffic, storm water management, and TAC, the Technical Advisory Committee at Cecil County. We have comments from TAC and now have all the comments back from SHA and response from Traffic Concepts which was the group who did the original plan. The last letter that was sent recently to the Mayor was from SHA as a result of a meeting that we had on Franklin Street and 222. I was giving you this information as a total package of all the outcomes of the requirements, things that we require them to go through to document to us whether things need to happen at that intersection. So I'm sending it to you to see as a result of all that information what the final analysis was as one of the conditions of the conceptual plan.

Mr. Reich stated the summary is we can't have a light there because SHA doesn't warrant it.

Ms. Skilling responded they indicate it was not warranted based on certain guidelines and also if a traffic light were even put there it was their opinion that it could probably cause more accidents as more people coming down heading southbound on 222 trying to stop at that light and coordination with the light there at Route 40. The only other discussion was the possibility of stopping people making turns out of the shopping center so the other side would not have to compete with those people making the turn across. That wasn't anything that anyone wanted to address at that point. But a consideration should have been made at that time when ingress and egress to the shopping center was put there that there wasn't an issue at Franklin Street but nothing was addressed at that time. I'm just giving you this information because until such time as they come in for Preliminary, we don't need to address this but for your information I wanted to get all the information we have to date. The recent thing we have does address everything that State Highways has asked them to address as far as egress and ingress at that site on Franklin. The warrant analysis and they have addressed the turn signals, the timing of it, how many people turned, and there were no accidents, I think there were two, over the last couple of years. So they didn't feel like there was a safety issue.

Mr. Reich commented one of the things I saw in that report, in the original one was the number of people who make a left turn to go up towards I-95 out of Franklin Street, it said it was very few. People I know who drive there in the morning purposely turn right so they can get out and go down to the light and go around and come back. So the traffic study has some flaws. As we said earlier that area in Gotham Bush has the same problem with ingress and egress.

Ms. Skilling responded and the things they addressed at the meeting too is what happens with these particular conditions like we're saying, people are trying to get in and out of areas to avoid traffic. That seems to be everybody's human nature to find the shortest way to go around. Can I dispute their comments, can you dispute them, they are the authority. I have to take what they say because

they are the authority and they are the ones who are going to make the decision on whether we do or do not have to do something. Can we do something about it as the Planning Commission or the Mayor and Commissioners, we're working on it. Hopefully we will be able to address some of the issues on 222, 40, and I-95, that whole corridor, they are looking at a plan. And the best way to deal with it that I see is with any development that comes in start making them pay into a fund so we can get things done. Otherwise we're going to have to count on State Highways and we all know where that's going. That is something to be addressed with Mayor and Commissioners on how we can deal with these situations otherwise we're going to be limited to what we can do as far as any development in this area, even small ones, or even commercial. If you have any comments I'll be more than happy to try to answer them but I think it's pretty self explanatory.

Mr. Bill Huss of 510 Charles Street commented this traffic report, I have no idea what it says because you have it, I don't, but has it taken into consideration the growth that's going to be north on 222 from us. They say this many cars came in and this many cars came out, but that's not a year from now.

Ms. Skilling stated you are correct to a point. The original traffic impact study which was done and these are public documents that you can look at in Town Hall. The original traffic impact study did address all, what they call background, developments. Everything in the area. Not only the Town of Perryville but also the Town of Port Deposit, and Charlestown Manor which is farther down on 40. They take in consideration all those potential developments in a long time frame, you know what's going to happen in the next fifteen years. A lot of those haven't happened or may happen in the near future but they do take in consideration all those sites and the potential impact. They know that the 222, I-95, and especially 40 at 222 are severely impacted if those things occur within a relative time. Bainbridge is in the background, there is only one site plan in the development, which is a residential of I think a hundred some odd units that was included, not the twelve hundred acres. It included Cedar Corner and Woodlands for the Town of Perryville.

Mr. Huss asked so they're basically saying there's not going to be impact from sixty-two houses. I can't hardly believe that.

Mr. Dawson stated tomorrow is our worksession meeting starting at 6:30 and the developer will be here to present the study reports as well as a revised plan where they are considering reducing it from sixty two units to fifty units and add some homeownership units. So there will be some slight variations of the original plans. I'd recommend you try to reach out to your community. I've tried to reach out to some of them but tomorrow would be a good opportunity to listen to the developer. He has suggested they may reduce the number of units to fifty but if they keep it at sixty-two, those twelve additional units would be homeownership units. We'll talk about it more tomorrow and I would recommend you come and listen. There will be opportunity tomorrow for the public to speak.

#### **AGENDA ITEMS ADDED BY COMMISSIONER DAWSON:**

##### **Planning Commission Priority List:**

Mr. Dawson stated at our last Town meeting or worksession, the Mayor and some of the Commissioners asked about the list here the Planning Commission made about some of the

improvements in the community. I believe one of the questions asked was why wasn't it prioritized. So my first question is can you prioritize this.

Ms. Skilling explained the reason that we did it the way it is here in categories is because the way the Planning Commission functions is that the Planning Commission can make recommendations to Mayor and Commissioners on planning issues. And this was the attempt to do that under certain guidelines. The Planning Commission does not have authorization to say you have to do something because we don't have the funding mechanism. That is the Mayor and Commissioners. But we can make recommendations to them on planning issues. That's the authority by which the Planning Commission acts. We tried to do that by way of putting these in categories. Now some of these things are already in our comprehensive plan as priorities and we have addressed some of them through the years. The Mayor and Commissioners should make the priorities because those priorities are based on funding. Do we have the money to do it? The Planning Commission can't make that decision. They can only recommend, and the Mayor and Commissioners have to make the decision on what they consider priority based on funding.

Mr. Jack commented and we didn't know what the priority was. When you have projects like Garrett Point and Cedar Corner, different places like that, but you don't know when they're going to start and the whole concept here was to be proactive instead of being reactive. In other words, every time when something comes to our Board we just have to figure out this is broke, and we have to fix it before we allow these people to come in and add to it as Garrett Point as an example. So what we were trying to do here was to give the areas that needed to be addressed so when builders or a new building plan comes in we wouldn't have to go through that at planning, it would be prepared for that very thing, at least that was one of the concepts I had. We have no way to do that but we can recommend the infrastructure changes that need to be made and where they need to be made as a priority. As you can see under drainage, Broad Street, Perryville Manor, Richmond Hills, Gotham Bush areas and along Frenchtown Road. Now say there was a project coming in for Perryville Manor, obviously that would be one, if I was a Commissioner and if I had the money, I would be putting my money in there to straighten it out before building was started there so it wouldn't be an overload on every system out there. So that was one of the concepts we thought of when we first started.

Mr. Reich stated we did have some discussion about setting priorities and just couldn't come to an agreement. I would want to make sure that you get the Richmond Hills things done first because of Garrett Point because we need egress and ingress there and because I live there, but that's not fair. Because I live there then I shouldn't argue with the board that it has to be priority number one. I think we set these down saying the Mayor and Commissioners know better than we do because they have constituents in that old community and to resolve those issues which are the most important. I don't. I'm just appointed and I don't think I'm the voice of everybody in the Town as the Mayor and Commissioners are.

Mr. Jack commented I think we were trying to awaken the Mayor and Commissioners to the fact that the old parts of Town need to be looked at along with the new building coming in. That's the whole focus of this. Not necessarily where it's done but that it is being done. That money is being set aside to look at the old areas. You couldn't get a fire truck going up Cedar Corner Road and a car to pass. Impossible. So that's the kind of thing we're talking about. How do we change the old in Perryville along with building the new. If money was set aside to look at these and try to start

changing them before they started building in these areas that was the whole idea. Not leaving the old areas behind but trying to keep up with today.

Mr. Reich indicated and I've seen ambulances go up to the Richmond Hills and Perryville Manor areas, and they have to come in Franklin Street. There is no quick ingress to that area. They have to go through the entire community to get there. It's a good thing it's not John Street you have to go down because John Street has parked cars on both sides of the road. I want to reinforce how Mr. Jack was saying let's get the old part of Town up to speed of the new part, I'm adamant about that and I think we all are. You want to in-fill the old communities in Town without making improvements that the new communities in Town have to have. We can't say the priority is to do drainage on Broad Street. Some people do care and I would think the Mayor and Commissioners might care a whole bunch.

Ms. Skilling stated in some of the discussions we had were things in the older communities like sidewalks, how do you do sidewalks and drainage and curb and guttering. How do you do all that when in fact people in the community didn't want to give up eight feet of their property to do it. And how do you do that under new regulations that say you have to do certain things in order to achieve it. It's not as easy to do older development as it is to do new development. Unfortunately the way the laws and regulations are going, it's steering away from some of the things which we call the smart growth initiatives where we try to get infill and not having all the new development because if it's easier to do new development where do you think they're going to go? They're going to go and do all the new stuff because it's easier. But it's not going to be easy on either end, infill or new development.

Mr. Reich commented regarding drainage in my area, I've talked to a lot of people in the community and they don't want sidewalks but they do want drainage. And what's the big deal with a backhoe going down there. I've got a drain in front of my house that probably needs to be dug out, it hasn't been done and so do a whole lot of other people going down that street. I don't think anybody has an argument because now they won't have water standing in their yards.

Ms. Skilling responded but the real thing is the engineering, where's that water conveying to. It's got to convey somewhere down on that street. And it has to have an outfall.

Mr. Reich replied it should be going somewhere because that's where the Mayor had it going at the corner of Franklin and Aiken Avenue Extended where he put a drain in. It's where it should go but it doesn't, it sits in a big puddle because that drains clogged and so in the winter time we have this huge ice rink right there.

Mr. Dawson indicated first of all it wasn't my question, it was a question from the Mayor and Commissioners.

Ms. Turgon asked are you able to go back and represent what our thought process was.

Mr. Dawson responded let me continue. I happen to agree that I'm going to ask the board to prioritize it, the reason being is I'm sure it took a lot of time to do this and you may as well just crumple it up and throw it away because as Mr. Jack said and I quote you "awakening the Mayor and Commissioners". That hasn't happened. I'm awake and I agree with you but when you look at the casino spending plan, there's about thirty some odd projects and they're listed as a priority. As I said



in that meeting maybe one of your recommendations is on there out of those thirty plus things. So who is listening to all the work that you did. There's close to seven million dollars worth of new government buildings that we spend before we even touch anything that you guys did. So I'm trying to give you some teeth and I think you all should sit down and say what are we going to prioritize and take it back there and say this board has some teeth, you're not just sitting here wasting two and half hours of your life to do nothing.

Mr. Jack indicated the only teeth we will have is when we reject one of these projects because the older part of that community where they want to build such as Garrette Point. When we say we reject that because you haven't done what needs to be done, then we have teeth. So what we're saying is you have to look at this and start thinking about that seven million dollars or whatever they're going to spend and how they're going to spend it because we don't have control of the money or we would. The whole idea is to be sensitive to what we can do. We can recommend, we can't make, but there are times when we can reject planning things that come within here I guess.

Ms. Skilling replied you can reject it on planning and zoning, neither one are issues of Mayor and Commissioners.

Mr. Jack stated so we have no teeth. Even if we prioritize that there would not be a difference on how we looked at this.

Mr. Dawson responded well I hope Mayor and Commissioners give you a response on this. When I looked at this list and I said it at that meeting, it says to me the most important thing in this Town is fixing the drainage problems in Richmond Hills. It's a disaster. I went up there yesterday to take pictures on how bad it was after that storm.

Mr. Jack indicated that's the whole idea. If a Commissioner looks at these, they're not prioritized but if they were prioritized you know what they would say, this one doesn't belong here, it belongs here. But when they're listed and such as yourself goes out and looks and sees what happens at a place, then you say this has got a priority in itself, we as a Commission can prioritize it because I've seen it with my own eyes, I've gone down to Richmond Hills and seen what the problem is, now I have a better understanding and maybe that's what we're looking for. It's difficult to prioritize these things unless you're out in the field, and even then I don't think I could prioritize it. I may be biased in what I prioritize. But here we're giving the things we think that need to be done and I think it says it good here *"would like to recommend that the following initiatives be considered as priority in an effort to improve the quality of life of our existing communities"*. I hope our intent's not lost.

Ms. Turgon stated and Ms. Skilling put a ton of work into this document and we worked on getting that language just right in that last paragraph so none of it was done lightly. I would say we have to trust that you will take it forward.

Mr. Reich responded I'm afraid to be biased in here because I know what I'd like to see happen, and Mr. Jack would, and Mr. Ryan would probably have a whole different idea from what I do, especially with the Fire Department, but to be frank with you is here we said these are the things we need you to look at and what you just said to me is the Mayor and Commissioners threw it back on us, we don't know how to deal with it, what are the priorities. And I'm looking at it saying you guys are the one who represent, this is my opinion, the Town and you ought to know what your communities need. I don't know what all the communities look like.

Mr. Jack commented I'd like to commend your effort in going out when it rained to go look at a community. I think that is important.

Mr. Ryan indicated I personally thought these should have been prioritized. I did when I came to this meeting and I was probably the one who stuck it out the longest but after listening to the arguments and all and especially with the arguments about money and priorities and again mine is as skewed as anybody else's but I think for us to sit here and prioritize is going to be a problem because as soon as we say, we pick roads first at 222 and 40, the first thing we're going to hear is we don't have money to do that so we're going to skip over that and go to something else. That's where I think the Commissioners need to use their best judgment, what's best for this community as a whole, not just Mr. Reich's area or my area, when they have available funds. If there is twenty five million dollars available to spend then let's spend it in the best way you can to address these issues. I don't care if you pick one spot out of number one and one out of number four, address them and pick them within the money that you have. Look, you and I have had this conversation before Commissioner and I think they're way spending the money in the wrong place too but again we can trust that now we're back to our Commissioners making good decisions for our community and as soon as we start prioritizing I think we're limiting their hand to make those decisions.

Mr. Jack stated and it reminded me of one other reason why I was so adamant about this to get this done. We have been, as a planning and zoning board, proactive so that when individuals like these come here to our meetings we can say we sent that to the Mayor and Commissioners. We have been proactive in trying to get these things done within the community and you're going to have to go to the Mayor and Commissioners and ask why aren't these things done. That's how I looked at it. Because we had to be proactive, that's the only way that we can be. And that's another reason why I thought we should do this. We did put a lot of time in and everybody did an excellent job for what was done here and I think it's a useful tool whether the Mayor and Commissioners are going to use it or not, that's up to them.

Mr. Reich stated the thing that Mr. Jack said a minute ago was we don't control the purse strings. We don't know what the biggest bang for the buck is. If the biggest bang for the buck is for me to go in and fix ditches and drainage in Gotham Bush and Richmond Hills and Frenchtown Road and Broad Street or whatever, we get the most improvement for the least number of bucks. We don't know that. If you want to prioritize it, that's how I'd prioritize it.

Mr. Jack indicated the prioritizing should come from the Commissioners who are overseeing these different areas of expertise in the community.

Ms. Skilling responded Commissioners are assigned, so the Commissioners are knowing what's going on out there and they work close with those departments to try to figure out what's going on. I know Public Works has been working with the Fire Department for fire hydrants, so we're trying to work some of these things out. A lot of these things we are working on. You may not hear of them but know the Mayor and Commissioners are working behind the scenes trying to get these things done. It's not easy to do but there is funding right now to do some of these. I & I is a real big issue in this Town, that's infiltration of water getting into our waste system which causes problems. We're trying to address that, we have to do it incrementally, you can't do it all at once. It's in the budget. We're going to look at that. I-95, 222, Route 40, we are working on that. I talked

to SHA today and it is planned, we're doing a plan, how we're going to solve it, how we're going to pay for it.

Mr. Reich commented you brought up a point and you've brought it up several times and I don't see the fairness. If somebody is going to build a project, let's assume we annex Jackson Station Road and they're going to build a housing development on an old farm, and we're going to assess them money to fix the drainage problems up on Franklin Street, that doesn't make any sense to me. I don't think we can pay for older communities improvements by what the new folks are doing, although they agreed at Garrett Point to do some.

Ms. Skilling replied I'm not saying that, but things like roads, where there are impacts surely we should be able to make them pay for certain impacts; to a new road system, to a new water system, to a new sewer system or any maintenance or upkeep of that.

Mr. Reich stated in their area, but you've said it before and that's what I disagree with. I don't think we can do that. I don't think that's fair to them.

Ms. Skilling responded so you're saying we shouldn't be able to take some funding to help fix the whole thing, we're all one. For some reason I see this segregation of the north part of Town, the north part of 40 and the south part of 40. I see it as the Town. If you're in corporate limits, we're all in corporate limits, I don't care where you live in corporate limits, we are responsible for maintenance of roads, and stormwater and things like that, and how we address them have to be done incrementally. If there is an issue with stormwater it not only impacts Gotham Bush or Richmond Hills communities, it impacts us all because that runoff becomes an issue with everything. It goes into our sewer system, that's the I & I, it goes into a storm drain system that ends up in the Bay. We have to address right now the discharge of all our stormwater into that Bay. There are some things that we can do for that and it's an impact, whether we call it an impact fee or not.

Mr. Reich replied I'm just saying when we tell a contractor who's building something in Cedar Corner then ask him to fund something in Garrett Point doesn't make sense.

Ms. Skilling replied I'm not inferring that, I'm thinking like Garrett Point wanted to pay into a fund. I think you misunderstood what I was saying because we've always talked about Garrett Point wanted to pay money to help fund issues in the Richmond Hills community to help support whatever they thought was appropriate for the Town. We all looked at that, we considered that, and it's still out there but I think that's a possibility for developers when they come in and impact the community I don't think there is a problem with asking for money. It's an impact fee for that development in our community.

Mr. Dawson responded it looks to me like this board has done their job and it's up to the Mayor and Commissioners to find some ways to make decisions since they have the purse strings.

### **550 Otsego Street:**

Mr. Dawson stated the Town purchased a property on Otsego Street, it's a residential property and it's going to be renovated for the Outreach Program, therefore it changes the zoning. So are they supposed to come to the Town.

Ms. Skilling replied Town property is Town property and once they purchased it the zoning doesn't necessarily apply to the Town. That piece of property becomes part of this complex and the purpose to be used ultimately is by Mayor and Commissioners.

Mr. Dawson commented so they don't have to follow the same rules as everyone else.

Ms. Skilling stated as far as building setbacks and things like that, if they were to build it would be required to look at those issues under the same guidelines. They do follow the same rules and regulations. When we did the Department of Public Works building we had to follow all the stormwater regulations, setbacks and things. The use of the building is to be used for the Outreach Program and from what I understand they are using the building and moving from existing building that they are in now so they don't have to pay for the lease of the building.

Mr. Dawson stated that property is zoned residential and it is not going to be used for residential any more, that is the next question, what is the Outreach Program actually called. Is it a school, is it a social club, what exactly is it.

Ms. Skilling replied right now it's an extension, it's my understanding it's an extension of the Police Department.

Mr. Oberholtzer asked what is the zoning for the building?

Ms. Skilling responded right now it is in residential, it's residential zoning. This piece of property has certain zoning on it but basically the zoning, the Town will follow the zoning but they don't necessarily have to follow the zoning for a piece of property they bring in, they have to follow setbacks and things like that.

Mr. Ryan commented so what you're saying is the Permissible Use table doesn't apply to Town owned property.

Ms. Skilling replied it's not a substantially different use. I have to look into the use and the table and what it's going to be used as. It hasn't come before me and no questions have come before planning and we'll have to look at that and the use.

Mr. Dawson stated that's the point that I'm making here. It seems the Town is going around the rules and regulations that we expect our citizens to abide by as well as our business owners. We just went through this with the produce stand. It's residential and we're changing the use of it. There is no occupancy put on the property that they currently have now so who even knows what they are. And I went out and spoke to the neighbor's and they think it's a boys and girls club coming there. I want to make sure that the citizens have a right to come in here to Mayor and Commissioners to voice their concern so we have to post it thirty days in advance to ensure that people are able to speak their minds. This is a government forum by the people, not for and by the Town Commissioners.

Ms. Skilling responded understood but this is not the forum to do it because that's the Mayor and Commissioners decision and you need to come before Mayor and Commissioners first. If there is a decision on zoning then this body here would make that decision but we've never gotten anything.

Mr. Dawson stated we're going to talk about this tomorrow and that's the point I'm trying to make, to get some guidance from this department because it seems they should be following the same rules as residents or anybody else. What you're telling me is that they're just going to make an extension to the Police Department. Well, it's a different parcel of land and it's a zoning issue, right?

Ms. Skilling replied if it comes before me for making a planning decision to come here, number one I'd like to get it before the day of the meeting and then I can address those things. I think it's very difficult to look at zoning, what you're changing, and the process, and then for the Mayor and Commissioners, I can get information to them in the process and that's all I'm asking. Let me look into what it is, what it's going to be, so I can make a decision based on the zoning. I have not had the chance to do that. I have to look into it because you're asking me questions that I was not involved in.

Discussion continued regarding what the Outreach Program is and the activities that are offered.

Mr. Jack stated I don't want to speak out of turn for our Commissioner but if I'm listening correctly, the question he is asking is underlying a root question, can the Mayor and Commissioners change these kinds of things at their whim, their will, or do they have to go through the guidelines that any residential or business person would have to go through.

Ms. Skilling responded I can tell you the precedent has been set that in fact the Town does follow rules and regulations based on zoning, based on what I approve. For the Public Works building, that was put on a piece of property outside of Town that the Town owned. They followed all rules and regulations just like we would follow for any other project in that area. And if it comes before me that's what I look at. I will look at what the rules are, what the regulations are for that particular property for that use and is it allowed in that district. Now for clarification, I haven't received anything for what they would potentially change it to or not change it to, in order to change the zoning on that particular piece of property there are certain procedures they would have to go through.

Mr. Jack replied so for that to be changed from residential to anything else they would have to, like anybody else, make application to you and through us.

Ms. Skilling responded I think there's some special regulations.

Mr. Jack indicated that's what we wanted to know. I want to know that for my own information.

Ms. Skilling stated the authority that was given to the Town Commissioners in zoning makes the rules of which how municipal government and governments can do things.

Mr. Reich indicated it is and it isn't. Think about this. We make recommendations, we don't make the Zoning Ordinance ourselves. We make recommendations to the Mayor and Commissioners about what areas should be zoned how. They're the final answer to how those areas should be zoned. If they come in and say we want, as Mayor and Commissioners because they are the final authority, this whole street to be zoned not residential anymore but more of a neighborhood business or commercial then they have the right to do it because they are the final authority on that.

Mr. Jack responded I understand that part but doing it just by the Mayor and Commissioners without any public forum or any procedure, I mean I know they can do what they want but then it negates....

Ms. Skilling interrupted that's not true. You need to go back to the way we annex, the way we change zoning, and you have all gone through this. You change zoning, you make special exceptions, and it's all through the public hearing process, it all goes through a procedure. Mayor and Commissioners cannot just change zoning. It has to go through public hearings or at least have some recommendation to be able to make a change. Now, if it's residential and they bring it in Town and they want to have it as an Outreach Program that's where we have clarification. The zoning is R-2, and it may be a permitted use in R-2. I don't know yet because I have never been asked to make that determination. Again, I need to look at the regulations on how the Town in our Code says zoning for a municipal government is handled in this particular way. For instance, State government does not have to follow our zoning. The VA doesn't have to follow any zoning. So I think the Town may be in that same category.

Mr. Jack responded I'd like to know that because I thought that's what you were asking.

Mr. Ryan commented although if it's in the code saying that they can or cannot do it, it doesn't matter because with two Commissioners here tonight hearing what we have to say they're going to build that one way or the other and we're just sitting here beating up time.

Mr. Dawson indicated I would like the answer to that question, Ms. Skilling if you can find out what the current occupancy listing is at the current location, what use was listed either on their zoning certificate or business license or whatever it is. What do they plan for this other location. There already is work going on there so wouldn't there be a building permit or some type of Zoning Certificate for that. There was work going on the other day installing electric, upgrading the electrical system.

Ms. Skilling responded he may have been fixing some things, I'm not sure.

Mr. Dawson replied to me that would be work so I want to make sure. Listen the whole thing is the Town is going to follow the rules, they're just not going to do what they want to do, those days are over, ok. This is my opinion now and we're going to follow the rules and I'm not going to stand quietly while the Town does what it wants to do. The people have a right to be heard and if we're going to change the zoning laws we're going to do it the right way. That's all I'm asking. So I just want to make sure they come before this board as any other resident or business owner would have to do.

**Motion** was made by Mr. Reich and seconded by Mr. Oberholtzer to adjourn the meeting at 8:35 p.m. **All in Favor. Motion Passed.**

Respectfully Submitted,

Dianna M. Battaglia  
Planning & Zoning Coordinator