



City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT
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MINUTES

The Salisbury-Wicomico Planning and Zoning Commission met in regular session on June 16, 2016 in Room 301, Council Chambers, Government Office Building, with the following persons in attendance:

COMMISSION MEMBERS:

Charles "Chip" Dashiell, Chairman
James W. Magill, Vice Chairman
Scott Rogers
Marc Kilmer
Newell Quinton
James McNaughton
Jack Heath

CITY/COUNTY OFFICIALS:

Paul Wilbur, County Attorney

PLANNING STAFF:

Jack Lenox, Director
Gloria Smith, Planner
Beverly Tull, Recording Secretary



The meeting was called to order at 1:34 p.m. by Mr. Dashiell, Chairman.



Upon a motion by Mr. Magill, seconded by Mr. Heath, and duly carried, the Commission **APPROVED** the minutes of the May 19, 2016 meeting as submitted.

Mr. Rogers abstained due to his absence from the meeting.



#WP-1601 DISCUSSION – TEXT AMENDMENTS – Section 225-106 “Poultry Houses” and Section 225-25 “Definition of Basic Terms”, as well as other related sections of Chapter 225.

Mr. Lenox came forward. He explained that there had been a lot of information given to the Commission. An updated memo was handed out at the meeting. Mr. Lenox went over the documents in the packet. He explained that the hearing has concluded and all written documentation has been given to the Commission. The draft minutes from the public hearing of June 9 were also included in the Commission’s packet. Mr. Lenox explained that he had read through all the submittals and conversed with Mr. Wilbur. Also, Dr. McNaughton’s questions and comments have been sent to each member and are available if needed.

Mr. Dashiell stated that he had discussed the procedure for this meeting with Mr. Lenox and unless there were any objections, they would proceed with discussing each issue included in the updated memo as they went through. The Commission agreed to proceed.



Mr. Lenox stated that they had overlooked the poultry uses accessory to a dwelling. Domestic animals are accessory. These standards should not apply to things we allow. Mr. Lenox stated that he was hesitant to start counting chickens, so we shouldn’t regulate the number of chickens. There is a proposed definition included in the memo for domestic animals. The amendments proposed are for commercially grown poultry. The County will rely on the dictionary definition of poultry to include other fowl as well.

The second item in the memo addresses the 10 percent expansion. The language that came from Accomack County discussed being able to replace and/or expand an existing poultry house. There is discussion of 10 percent expansion. Does the 10 percent expansion apply to the individual house or the entire complex? By increasing to a 25 percent expansion, if there were four (4) units then you could build a fifth poultry house which seems to be more permissive.

Dr. McNaughton stated that there were some letters received that support the 10 to 25 percent increase for expansion. Dr. McNaughton discussed the ability to replace a house on the same square footage and have the ability to increase it by 25 percent. Mr. Lenox stated that the feedback seems to be if you have four (4) houses then you could have a fifth house. There was discussion regarding the nonconforming use. Mr. Lenox explained that they have to interpret the language which shows 100 ft. from the lot line and any new structure would be need to meet the 200 ft. setback. It would not require the 400 ft. setback from the next door dwelling if there was a fifth house. Mr. Kilmer stated that in the residential district this wouldn’t

have the broad effect for a special exception. Mr. Lenox responded that there would be more than you would anticipate in the residential districts.

Mr. Rogers questioned the reasoning for the 10 percent increase. Mr. Lenox responded that the 10 percent figure came from Accomack County and it is for enlarging an existing use. Dr. McNaughton noted that if there is an older house then you probably wouldn't replace it with the same size, it would be replaced with a larger house. Mr. Lenox stated that the areas where this is mostly used would be in the residential areas where you would need a special exception. Mr. Heath questioned what standards are used if a fifth house is built. Mr. Lenox responded that if a fifth house is built the question becomes do you enforce the new standards or allow some flexibility. Mr. Quinton responded that new is new so they should comply with the new standards.

Dr. McNaughton questioned if the entire farm would be subject to the new standards or just the new house because in his mind only the new house should be subjected to the new standards. Mr. Lenox responded that he thought the language would be for the new house only. Mr. Quinton suggested that the 25 percent increase would be with existing standards but any new structures built would have to adhere to the new regulations. Mr. Kilmer added that this might be complex. Mr. Heath stated that adding onto an existing building would be allowed but building a new structure would require meeting the new regulations and providing a buffer. Mr. Lenox stated that the language would be modified to include a 25 percent increase to existing structures.



Mr. Kilmer reverted back to the first item and suggested making it 256 sq. ft. of gross floor area for any structural enclosure, not to include fencing, to make it easier.



Dr. McNaughton stated that there is a growing need for laying hens. Mr. Lenox stated that we need to be careful how things are defined and settle on what is best for Wicomico County, rather than deferring to State or Federal definitions.



Under item 3 in the memo, not all zoning districts were addressed in the draft. Those zoning districts should be included.



Under item 4, there needs to be a definition of Tunnel Fans. The updated memo offers a combination of two (2) versions of a definition. Dr. McNaughton stated that the language he offered came from a premier person in the industry. This also comes into play in the residential districts.



Item 5 addresses the 10 ft. on-center tree spacing for the buffer. Mr. Magill stated that the center spacing should be determined by the species. Mr. Lenox explained that the 10 ft. center spacing was determined generally by best management practices.



Item 6 addresses the term “church” and it should be replaced with the term “places of religious assembly”.



Item 7 addresses the term “mobile home park” and it should be replaced with the new terminology of “manufactured home park”.



Item 8 addresses the phrase “located on the farm” should be changed to “parcel or parcels under common ownership” because it will allow for the family farm house or a house on an adjacent lot if it is under the same ownership.



Item 9 addresses the criteria for the special exception. There are two (2) types of special exceptions. The special exception is not a variance. The language gives some flexibility without having to prove a hardship. The special exception is for residential districts. There is no need to put in any language about soils, land cover, ownership or property restrictions. This language should be struck from the residential districts. The correct language is listed in Mr. Lenox’s memo. Mr. Kilmer noted that when there is something in the ag district and surrounded by an easement in perpetuity the rules might not make sense. Mr. Heath requested some clarification. Mr. Lenox stated that when the Council started their discussion the special exceptions for

use weren't part of the proposal but towards the end they decided the special exception in Residential Districts would be needed.



Mr. Lenox discussed the property located on Rockawalkin Ridge Road, which is in the county growth area as well as a residential district. The property owners can build chicken houses if they have 20 acres. The Council says the language should be different and that to establish eight (8) chicken houses on this property that they would need to apply for a special exception. In the ag district, they could apply for a special exception to modify the setbacks.

Dr. McNaughton questioned the historic districts. Mr. Lenox responded that you could apply for a special exception but would also need to go before the Historic District Commission.



Item 10 discussed the effective date and who it applies to. Traditionally the County has not back dated projects already in the pipeline. With any proposed changes in the past, there has been a grandfather clause. There are a couple building permit applications that should be ready to issue soon. There are some that are in Public Works for stormwater management review and some that are at Soil Conservation. Mr. Lenox suggested the first time the County has a complete set of plans and the applicant follows up with a building permit application within a six (6) month time frame. There could be a poultry house built and chickens never be put in it. Extensive discussion followed regarding the Public Works application process, there is a checklist of submission requirements, if there is a time frame to complete the checklist, and if a submission is not complete, then the applicant must follow the new rules. There was also discussion regarding leased properties and properties that might have been purchased with the intent to build.

Mr. Dashiell questioned if there was anything else to consider. Mr. Wilbur responded that right now the stormwater management is the consideration. Mr. Lenox stated that stormwater management and soil conservation go concurrently prior to the building permit.

Mr. Lenox stated that emergency legislation would state that if you didn't have your submittals in then you would fall under the new regulations. Mr. Lenox questioned Mr. Kilmer if the language was reasonable. Mr. Kilmer responded in the affirmative.

Mr. Dashiell stated that it was essentially up to the County Council to determine the effective date. The Council doesn't have to enact emergency legislation. Mr. Magill questioned if there was any outside organization that had any

standing. Mr. Lenox responded that Soil Conservation could but we don't need their approval to submit for stormwater management review.

Dr. McNaughton stated that we are assuming that everyone owns the land but there is some leased land. Mr. Dashiell stated that the leased land was a separate issue.

Mr. Dashiell questioned if everyone was comfortable with the language for an effective date. Mr. Lenox noted that the County Executive is agreeable to the language.



Mr. Lenox stated that he would like to look at the intricacies. Mr. Quinton questioned the number of poultry farms that are leased.



Dr. McNaughton questioned if the audience wanted to make any comments.



Mr. Bill Satterfield, DPI, questioned the exhaust fans. If the technology changes in the future and requires larger fans would it be precluded for is it covered under the proposed regulations? Mr. Wilbur responded that the fans would be okay under the language if they were greater in size.

Mr. Satterfield noted that there is a small group of licensed engineers that are working on poultry house stormwater management plans. There is a notice of intent that has to be filed with MDE about stormwater so they don't apply just to the County. Mr. Satterfield stated that the professional engineers can follow the checklist to ensure that complete sets of plans are being submitted.

Mr. Satterfield noted that changing the 10 percent increase to 25 percent would be great because no one would increase by only 10 percent.

Mr. Satterfield discussed the legal nonconforming situation. He stated that if someone were to tear down existing houses and put up new buildings the setbacks would it limit them. Discussion followed regarding the legal nonconforming uses.



Dr. McNaughton stated that he can see the tunnel ventilation fans being in the middle of the houses at some point.



Mr. Kilmer suggested a detail on ventilation fans could be included in the Poultry House Standards. The changes could then be passed by resolution instead of legislation.



Mr. Lenox stated that there is a relationship between legislative and sister documents. Mr. Wilbur stated that the Commission makes a recommendation about the Zoning Code changes. The legislative bill has standards in it. A legislative bill that references standards approved by a resolution would only take one (1) reading. This option needs to be researched further.



Dr. McNaughton questioned the 25 percent increase. Mr. Lenox responded that you cannot build a new building at the 25 percent increase. Mr. Heath stated that the Commission said that it could be done but would have to meet the new standards. Dr. McNaughton stated that the house could be lengthened by 25 percent or a new house could be built at 25 percent of the complex size.



Mr. Satterfield questioned if the areal visuals of the chicken houses in the residential areas could determine if they were in use. Mr. Lenox responded in the negative. Dr. McNaughton added that there are between seven (7) and nine (9) chicken houses in Whitehaven that are not in use.

Mr. Lenox stated that somewhere the phrase active or inactive houses was used and questioned if they wanted to allow for inactive houses to be used. If the inactive houses are used do they have to meet the 400 ft. setback? Mr. Wilbur stated that it was already covered in the language. There was extensive discussion regarding active vs. inactive houses, the time frame for expiration of other nonconforming uses, and the process if someone purchases a farm with inactive houses with the intent to demolish and rebuild. Mr. Wilbur questioned if the Commission wanted to distinguish between designated growth areas and out in the county.

Mr. Bill Sattreffield questioned reverse setbacks. Should an unused dwelling have the same rules about reverse setbacks? Mr. Lenox suggested changing the language to active/inactive versus occupied/unoccupied.

Mr. Dashiell questioned if there was a reason to differentiate between the ag districts and the non-ag districts. There was discussion regarding when residential structures are determined to be abandoned, if there is a time line, and potential impacts on poultry house construction on adjoining properties.

Mr. Dashiell questioned if the other areas should be addressed in the legislation. Mr. Lenox questioned if he was referring to a separation between the residences and the poultry houses. Discussion followed regarding the special exception process and additional discussion followed regarding abandoned structures. Mr. Kilmer suggested to define active versus inactive. Mr. Dashiell stated that it needs to be longer than a year. It is an arbitrary issue. Mr. Wilbur stated that occupancy on houses is tough. Chicken houses are probably not reused after five (5) years. Dr. McNaughton stated that the minimum standards could be used. Mr. Dashiell suggested further consideration. Mr. Lenox stated that occupancy is a difficult standard. Mr. Dashiell questioned if abandoned house was a legal term. Mr. Lenox responded in the negative.

Mr. Magill stated that 600 ft. is two (2) football fields. He questioned if there was any capability to divert the air direction. Dr. McNaughton stated that if there was concern as a neighbor that he would plant as much vegetation as he could. There has been discussion about how to divert it and it should be diverted downwards.



Mr. Kilmer asked what is next. Mr. Lenox stated that where there is agreement, we can work on formatting the Code. On the research points, Staff will do more research and come back.

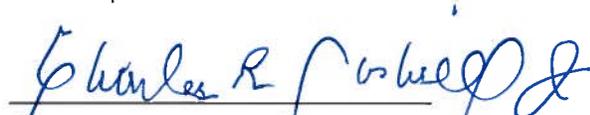
Mr. Kilmer questioned the timeline. Mr. Lenox responded that Staff could bring this back to the Commission in a few weeks. Mr. Dashiell suggested a special meeting on Thursday, June 30, 2016 at 1:30 p.m. Mr. Lenox responded that Staff would confirm the meeting location for June 30th.



There being no further business, the Commission meeting was adjourned at 3:47 p.m. by Mr. Dashiell.



This is a summary of the proceedings of this meeting. Detailed information is in the permanent files of each case as presented and filed in the Salisbury-Wicomico County Department of Planning, Zoning, and Community Development Office.



Charles "Chip" Dashiell, Chairman



John F. Lenox, Director



Beverly R. Tull, Recording Secretary