

**Northumberland County Planning Commission
October 17, 2013
Minutes**

The regular monthly meeting of the Northumberland County Planning Commission was held on October 17, 2013 at 7:00 p.m. in the Courthouse at Heathsville, VA with the following attendance:

Chris Cralle	Present	Garfield Parker	Present
Kevin Elmore	Present	Albert Penley, Jr.	Present
Alfred Fisher	Present	Charles Williams	Present
Ed King	Present		
Bill Kling	Present		

Others in attendance:

Richard Haynie (Board of Supervisor Liaison)
Luttrell Tadlock (Assistant County Administrator)
W.H. Shirley (Zoning Administrator)
Philip Marston (Assistant Zoning Administrator)

RE: CALL TO ORDER

The meeting was called to order by Garfield Parker, Chairman.

Ed King gave the invocation.

Garfield Parker led the Commission in the Pledge of Allegiance to the Flag.

RE: AGENDA APPROVAL

With a motion from Ed King, seconded by Albert Penley, and approved by all, the October 17, 2013 agenda was approved. The vote was as follows:

Chris Cralle	AYE	Garfield Parker	AYE
Kevin Elmore	AYE	Albert Penley, Jr.	AYE
Alfred Fisher	AYE	Charles Williams	AYE
Ed King	AYE		
Bill Kling	AYE		

RE: MINUTES- September 19, 2013

With a motion from Albert Penley, seconded by Kevin Elmore, and approved by all, the September 19, 2013 minutes were approved. The vote was as follows:

Chris Cralle	AYE	Garfield Parker	AYE
Kevin Elmore	AYE	Albert Penley, Jr.	AYE
Alfred Fisher	AYE	Charles Williams	AYE

Bill Kling stated he still believed that individuals did not realize what was advertised with the permitted and by-right uses.

W.H. Shirley noted that in Zoning, Permitted Use and By-Right are synonymous.

Al Fisher stated that he concluded some people may have thought by-right meant you had a free hand in what you wanted to do. That is not the case at all; you still have to meet the specified criteria.

Al Fisher noted that some of the Home Owners Associations (HOAs) do not want Tourist Homes in their developments. He questioned if the HOAs had something in their covenants and restrictions that there is to be no commercial activity, and he wondered if this would solve their problem.

Luttrell Tadlock stated that the HOAs can put something in their covenants and restrictions to exclude Tourist Homes in their development. However, it is his understanding, that based on a recent Supreme Court case, they could not exclude them based on “commercial” activity. HOAs would need to be specific in that they would need to say “Tourist Home” or “Short Term Rentals”.

Charles Williams asked if a subdivision changed their covenants and restrictions, would an existing Tourist Home be grandfathered.

W.H. Shirley stated he thought they would be grandfathered.

Albert Penley stated a subdivision can’t change their covenants and restrictions to get rid of an existing use. The County cannot tell a subdivision what to do.

Al Fisher asked if we are trying to classify Tourist Homes.

Luttrell Tadlock stated the Board of Supervisors asked the Commission to look at three options: 1) Continue allowing Tourist Homes as a Conditional Use in specified districts, 2) Not allow Tourist Homes- either by Permitted Use or Conditional Use, or 3) Allow Tourist Homes under a permitted use but with the specified conditions.

Albert Penley asked if this is done by right, would they need to go before any board.

W.H. Shirley stated this would not be the case. They would just come to the office and apply for the Tourist Home. They would still need to meet the specified conditions.

Al Fisher asked Chairman Parker if he could ask the audience a question. Mr. Parker accepted. Al Fisher asked of those in the audience that currently had a Tourist Home, do they have any contention with the conditions that are being proposed. There were no objections to the proposed conditions.

Bill Kling stated another concern raised in the public hearing was many in a subdivision can be protected by the covenants and restrictions. How about those not in a subdivision?

These individuals would be more vulnerable to a situation that is not covered by a HOA. Is there a way to cover this aspect?

Al Fisher felt this situation could occur with anything one plans to do with their property. How far do you regulate people on their own property? However, he did admit to seeing the point being made.

Kevin Elmore stated he lives in a subdivision HOA. One of the homeowners rented his house to two twenty year olds, and they party all the time.

W.H. Shirley asked if this is a short term.

Kevin Elmore stated no it is a long term rental.

The commission stated they were not looking at long term rentals.

Kevin Elmore stated that was his point. The County can't regulate peoples' lives. There is no way to do a one size fits all. The next time this comes up, it will be addressed at the HOA's meeting.

Albert Penley asked what the downside allowing this by right would be.

W.H. Shirley and Luttrell Tadlock stated that they could not think of anything.

Charles Williams asked if the County has the right to change the conditions and if they are changed are they grandfathered.

Luttrell Tadlock stated yes the County could change the conditions; however, a public hearing would need to be held. If the condition was changed to be more restrictive, the Tourist Home would be grandfathered.

Bill Kling asked why this came up on the Board of Supervisors level.

Richard Haynie stated the Board was getting more applications each month. The Board was looking for a way to handle these applications to simplify this process. It wanted to get the public's input on what should be done as well.

With a motion from Ed King, seconded by Alfred Fisher, and approved by all, the Commission is recommending to the Board of Supervisors that Tourist Homes be listed as a permitted use in the A-1, C-1, R-1, R-2, R-3, and R-4 Zoning Districts, and the Commission is also recommending the additional requirements as advertised must also be met of any permitted Tourist Home.

The vote was as follows:

Chris Cralle	AYE	Garfield Parker	AYE
Kevin Elmore	AYE	Albert Penley, Jr.	AYE
Alfred Fisher	AYE	Charles Williams	AYE

