

Northumberland County Planning Commission
May 15, 2014
Minutes

The regular monthly meeting of the Northumberland County Planning Commission was held on May 15, 2014 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	Wellington Shirley, Jr.	Present
Ed King	Present	Heidi Wilkins	Present
Bill Kling	Present	Charles Williams	Present

Others in attendance:

Luttrell Tadlock (Assistant County Administrator)

Philip Marston (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 Albert Penley, seconded by Albert Fisher, and approved by all, the May 15, 2014 agenda was approved. The vote was as follows:

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

RE: MINUTES- April 17, 2014

With a motion from Charles Williams, seconded by Kevin Elmore, and approved by all, the April 17, 2014 minutes were approved. The vote was as follows:

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

RE: COMMISSIONERS' COMMENTS

There were no comments from the Commission members.

RE: STAFF MEMBERS' COMMENTS

There were no Staff comments.

RE: CITIZENS' COMMENTS

There were no Citizens' comments.

RE: PUBLIC HEARINGS

1. Public Hearing on Vacation Home Rentals and associated definitions:
 - a. An amendment to the Northumberland County Zoning Ordinance Chapter 148 Article I, Section 148-3; Definitions and word Usage, to remove, modify, and add certain terms regarding "Boarding House", "Motel, Cabin, or Motor Lodge", "Bed and Breakfast", "Single-Unit Dwelling", "Hotel/Motel", "Tourist Home", "Transient", and "Vacation Home Rental".
 - b. An amendment to the Northumberland County Zoning Ordinance Chapter 148 Article I, Section 148-5; Usages, to remove, modify, or add the usages listed above in #1.
 - c. An amendment to the Northumberland County Zoning Ordinance Chapter 148 Article XIV, Section 148-155, to list requirements to be met in order to operate a "Vacation Home Rental".

Luttrell Tadlock explained the Public Hearing.

Garfield Parker opened the Public Hearing.

Maurice Johnson stated the discussion of Tourist Homes has been going on for about three years. There has been a big to do about Tourist Homes, but there are none here. The draft language uses the word "Transient", which is usually used as an adjective and now it is being used as a noun to describe a particular class of people. This is probably not necessary. Mr. Johnson explained the definition of a Tourist Home in his letter he submitted to the Commission. We are talking about basic property rights here, if Vacation Home Rentals are not run well, they will fail. There are folks here on the board that own their own businesses, you know how hard you have to work, it is not necessary to be micro-managed. He noted he is trying to address how the word Transient will be perceived in the public.

Cynthia Taylor commented she has an issue with a lot of this, as it is eroding property rights. You rent to save a home. Owners with Vacation Home Rentals screen their renters so it is rented to those that will take care of the property. She has an issue with the County taking on too much responsibility. The requirements should be suggestions,

because now if the Building Official misses something, the County will be responsible. Insurance companies already necessitate a lot of these requirements listed in the notice of public hearing. What will this cost the County to enforce? We have over analyzed this issue; it needs to be kept simple. We need the tourist dollars. There are no hotels here, and we need something to attract them here. We will miss this whole season if we do not move fast. She expressed concern over defining transient, as this area is a destination not a transient area.

Bill Kling asked Ms. Taylor if insurance policies across the board are uniform in what is required, and asked if it would be possible to look at these insurance policies.

Cynthia Taylor said she has several different policies as she has rental properties in Williamsburg as well. The insurance company will come out prior to rental to make sure you have certain items so when a claim is made, they will know if you did or did not have certain things. She stated she would get a copy to Luttrell Tadlock to distribute to the Commission.

Wayne Corey recommended the number of lodging descriptions be limited to three. They would be Hotel/Motel, Bed & Breakfast, and Vacation Rental. All references to Transients and Tourist Homes should be removed. These terms are too polarizing and do not reflect the County's intentions or the type of potential clientele. Homeowner's living in a Homeowner's Association should get written consent before applying for a Vacation Home Rental. The County should require an inspection prior to a permit hearing (referring to the public hearing for conditional use) to make sure they meet all standards. A provision for a lodging tax should be implemented.

Bingham Jones noted he is with Countryside Corporation, developer of Jetties Reach. He informed the Commission members that they should have received correspondence from his corporation's legal team. He wanted to re-enforce that all short term rentals be by conditional use.

Al Fisher questioned if conditions can be placed on a by right use, and asked if they violate these conditions then do they come to the Board of Supervisors.

Luttrell Tadlock stated that permitted use and buy right, the way the County uses these terms, are one and the same. A permitted use may have certain criteria/requirements they have to meet; however, if they are not met or violated, they are handled administratively by the Zoning Administrator not by the Board of Supervisors.

Albert Penley asked what would one gain by having a public hearing on something when we already have the guidelines set forth.

William Walker, with Twin Harbor Homeowner's Association, stated there seems to be some confusion to those that he has spoken to in order to govern what can be done within a Homeowner's Association (HOA). Everyone, when purchasing property in a HOA, is required to say they will abide by the covenants. Mr. Corey's thought of getting consent from the HOA was a good idea before a Vacation Home Rental can be done. He just

wanted to clarify that the issuance of a County permit does not override the HOA's covenants and restrictions.

Kaz Kazenske wished to commend the Board. The proposed language is a well thought out document, but there is one fact for a Vacation Home Rental. That is this use is permitted in all zoned areas except in Business. Mr. Kazenske stated that he guessed there are unique situations that may come up in the Business zones. A vast majority of the citizens, whether in a HOA or not, had one underlying factor, they want to be heard. And if not in a HOA, the government structure is the only way available to be heard. He feels that the Board should give the public, especially not part of a HOA, an opportunity to voice of their opinions.

Albert Penley stated that Board meetings can get cluttered by good people on this issue. He feels this is why the Board is looking for some direction, and he feels the guidelines the Commission has before them tonight are good guidelines.

Al Fisher commented that there is an ordinance now that allows boathouses; however, if there are objections to these boathouses, those in opposition must be heard by the Board of Supervisors. This gives the public an opportunity to come forward to give notice to the government, but it also gives the individual the opportunity to do what they want as long as they meet the criteria. He asked if this would not be a viable option.

Wellington Shirley commented the problem with that provision is that someone building a boathouse on the Wicomico River would need to come to the Board of Supervisors to continue to get a permit because someone on the Yeocomico River objected to the boathouse. You have to draw the line somewhere. The Commission is talking about a use that is already there (referring to the dwelling), if they want to comply with the conditions required by the County. It was questioned as to why anyone should be able to hold up the issuance of a zoning permit allowing them to have a Vacation Home Rental. He personally does not like the idea of taking a Vacation Home Rental to the Board of Supervisors based on an objection.

Phoebe Mix noted she is pleased to see the proposal of Vacation Home Rentals since they are fundamentally different. There was confusion with all of the terms and there use with the term single use dwelling. She agrees that the number of terms could be reduced. The term "Transient" has been a source of enormous controversy. She recommends that the word "Transient" be struck and just included at the end of the definition of Vacation Home Rental "thirty days or less". There are also some inconsistencies between the definitions of a hotel, bed/breakfast, and tourist homes. The problem with the Conditional Use process is that it is not the conditions that are under discussion. At one point it seemed to be "Let's take a vote in the room". This is not good government. What the Conditional Use turns into is how many people you can get in the room, and who can make the most noise. This is true for any type of Conditional Use.

William Walker wanted to add that individuals in a HOA invested money in their property. HOAs also maintain common property, boat ramps, entry ways, and beaches.

It does affect when outsiders are brought into a community. On July 4th I like to have relatives down, and I can't get on the beach because it is so crowded.

Maurice Johnson said there are several avenues the HOAs have. If you have a Vacation Rental in your neighborhood being rented for profit that is imposing additional stress on common areas, the HOA may be able to do a special use assessment to be compensated by the Vacation Rental.

Pat Boone noted that prior to 2011 Tourist Home and Vacation Rentals were not one and the same. Because of an opinion in 2011, they were joined. Vacation Rentals have never really caused a problem. When there has been a problem, renters or neighbors call the Sheriff's Office. He feels that having this many conditions on a Vacation Rental will cause individuals not to come to the County to get a permit when there is a thought that the County can come after them and shut them down. There are people that have been doing this for 30-40 years in this County. At this time, they feel they are breaking the law because they don't have a permit. Tourist Homes and Vacation Rentals are two very different things. During the Conditional Use public hearing one can have an individual show up that lives 20 miles away that doesn't want the Tourist Home. If it was your neighbor that is one thing; however, if they are 20 miles away that is not fair.

Catherine Bennett noted she owns property in Indian Creek Estates. She added that she got into rentals gradually. Rental is rental. Some stay short; some stay long. She asked what would happen when she rented for short term and then rented for longer, and would this property no longer be considered a Vacation Rental. As far as the requirements go, if they are good for Vacation Rentals, why aren't they good for all rentals, and if they are good for all rentals, why aren't they good for all properties? She did not like the idea of the government coming in and telling her she has to have certain things. This is a taking of property rights. She stated that she felt it was her right to rent for however long she wished to rent. The government's involvement limits this. Sometimes neighbors do things we don't like; we try to be considerate. Not everyone that stays in our house is a Tourist. There are various reasons why people stay at her place. For example, construction on one's home, or a teacher rents for a couple of months.

Bingham Jones stated the conditions seem to be more aimed at ensuring the safety of the renters. It does not guarantee the quietness and enjoyment of the neighbors enjoying their own property. Just as other short term rentals such as Bed & Breakfast etc. are by conditional use, Vacation Rentals should be by conditional use to give HOAs some sort of voice.

With no further comments, the Public Hearing was closed.

Ed King noted if Vacation Home Rentals were allowed up to the year 2011, it sounds like there was a complaint about Vacation Home Rentals.

Wellington Shirley noted the letter to which was being referred was driven by one complaint at one site.

Ed King noted that HOAs have covenants and restrictions that can protect them. He wondered why the whole County is being turned on its head.

Albert Penley stated he has a problem with the term transient, and questioned why transient had to be defined. He sees it as degrading.

Charles Williams said that he does not see it that way. He has transients coming into his business on 2-3 million dollar boats.

Kevin Elmore noted the way it is being used is not a derogatory term. You can take any term and make it derogatory.

Bill Kling commented that we should get away from the labels and define the various types of rentals. Let's put the definition on the action rather than describing the individual.

Ed King noted if one owns a piece of property and one wished to rent the house, what difference does it make if they want to rent it for three days, three months, or three years. He asked why the Commission should be messing with a private citizens' use of their property. If the individual is in a subdivision and under a homeowner's association, that would be different.

Wellington Shirley questioned why we would need the definition of transient or the word transient in the definitions.

Garfield Parker noted that when we start interfering with individuals' economics, he has a problem with that. He thinks our rights are being taken away gradually anyway. People have been doing Tourist Homes/Vacation Homes for years in this County, now all of a sudden the County is going to start meddling with their income, and he was not sure that was right. Homeowner's Associations can handle their own problems.

With a motion from Albert Penley, seconded by Bill Kling, and approved by all, the Commission is recommending to remove the definition of "Transient" and any reference of the word "Transient" with either the word "persons" or "people" from the Bed and Breakfast, Tourist Home, and Vacation Home Rental definitions. The vote was as follows:

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

Wellington Shirley commented he had a problem with limiting the number of bedrooms for a Bed-And-Breakfast. There are several Bed and Breakfasts in the County that are operating today that would not be able to operate under this definition. If they have enough septic or they are on sewer and are permitted to have more than four bedrooms, why shouldn't they be allowed to rent out more rooms.

After further discussion, the Commission wished to recommend that the following wording in the Bed and Breakfast definition be struck "having no more than four bedrooms".

Charles Williams stated Mr. Kazenske questioned why Vacation Home Rentals are allowed in all districts except by Conditional Use in the Business district and asked if an answer could be given. Luttrell Tadlock explained that Single Dwelling Units are by Conditional Use in the Business district; therefore, Vacation Home Rentals are listed as a Conditional Use because the underlying structure (Single Dwelling Unit) is a Conditional Use.

Luttrell Tadlock noted that, in the current ordinance the County does not specify a time period. This was one of the reasons for defining Transients. By the Commission deleting the Transient definition, it has gotten rid of the ability to distinguish between long term and short term rentals. If the Commission does not use the word Transient, Tadlock felt that the Commission is still going to want to recommend some sort of criteria to differentiate between short term and long term rental. Otherwise, all of the long term rentals would potentially now need a Vacation Home Rental permit.

After discussion, the Commission decided to recommend adding to the Tourist Home and Vacation Home Rental definitions at the end of the first sentence "... for a period of 30 days or less."

Upon further discussion, the Commission felt that more time would be needed for a Manager or an alternate to get to the site of the Vacation Home Rental in requirement "E". The Commission is recommending 90 minutes.

The Commission is also recommending that requirement "L" be modified to "Total overnight occupancy...", to clarify that the Commission is not restricting two people to a bedroom. This requirement is only used to determine the total number of people allowed in the Vacation Home Rental, not restrict the number of people per bedroom.

With a motion from Albert Penley, seconded by Kevin Elmore, and approved by all, the Commission is recommending the advertised changes with the above proposed recommendations to the Board of Supervisors. The vote was as follows:

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

RE: WORK SESSION ITEMS

There were no Work Session Items.

RE: DISCUSSION ITEMS

Board of Supervisors Report

Luttrell Tadlock gave the Board of Supervisors’ report.

Other Discussion Items

Al Fisher stated there is a problem with individuals dumping household trash at the Glebe Point Fishing Pier. The current regulations for the Glebe Point Fishing Pier do not give the Sheriff’s Office anything to use to charge individuals for dumping their household trash. Mr. Fisher asked if the Board of Supervisors could examine the rules for this site and possibly give the Sheriff’s Office some criteria with which to work so the site can be maintained. The criteria would include not having so much household trash at the site and would limit those using the site to not be able to throw their household trash away.

RE: PUBLIC COMMENTS

There were no Public Comments.

RE: ADJOURNMENT

With a motion from Ed King, seconded by Kevin Elmore, and approved by all, the meeting was adjourned. The vote was as follows:

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