

**Town of Amherst
Planning Commission Minutes
July 7, 2010**

A meeting of the Town of Amherst Planning Commission was called to order by Chairperson June Driskill in the Council Chambers of the Town Hall at 7:30 PM on July 7, 2010. It was noted that a quorum was present as indicated below:

P June Driskill	P Steve LaBar
P Ted Finney	A Mike Mozingo
P William Hathaway	P Richard Wydner
P William Jones	

Town Manager Jack Hobbs was present in his capacity as Secretary to the Commission.

The minutes of the May 5, 2010 Commission meeting were approved on a motion by Mr. Hathaway, seconded by Mr. Jones, and carried 6-0 according to the following:

June Driskill	Aye	Steve LaBar	Aye
Ted Finney	Aye	Mike Mozingo	Absent
William Hathaway	Aye	Richard Wydner	Aye
William Jones	Aye		

Ordinance Amendment

A duly advertized public hearing on a series of potential Zoning and Subdivision Ordinance amendments as follows was opened at 7:32 PM:

§18.1-901: Establish solar panel setbacks and size limits and revise rules for satellite dishes.

§18.1-906: Establish standards for streets and driveways inside a "multifamily" (apartment or condominium) complex.

§18.1-919: Clarify that VDOT's "527" traffic impact study regulations are effective in the Town.

§18.1-920: Adjust landscaping requirements for commercial developments.

§18.1-1011: Clarify application deadlines for plats and site plans.

§18.1-1102: Establish an expiration date for site plan approvals.

§18.1-1103: Clarify the administration of site plans for large residences being converted to businesses

§18.1-1402: Eliminate the variance hardship requirement per the change to Sec. 15.2- 2309 of the Code of Virginia that removed the "approaching confiscation" clause and other updates per the Code of Virginia.

Chapter 18.1; Table 7.1: Allow day care facilities in R: 1, R: 2, R: 3 and R: 4 districts by special use permit; allow "retail uses not specifically delineated" by right in commercial zones but require all items offered for retail to be under roof or outside materials screened; and clarify "contractor" uses – i.e. outside storage of materials or equipment, parking lots, etc.

Chapter 18.1; Articles XII and XIII: Update subdivision regulations.

The Secretary gave a brief report on the proposed amendments. Since there was no one present who wished to speak, the hearing was closed at 7:36 PM. On a motion by Mr. LaBar, which was seconded by Mr. Hathaway and carried 6-0 according to the following, the Commission agreed to recommend that the Town Council approve the ordinance amendments:

June Driskill	Aye	Steve LaBar	Aye
Ted Finney	Aye	Mike Mozingo	Absent
William Hathaway	Aye	Richard Wydner	Aye
William Jones	Aye		

Berkey Variance Request (180 Waughs Ferry Road)

The Secretary reported that Randy Berkey (180 Waughs Ferry Road) has applied for a variance to Section 18.1-901 of the Zoning and Subdivision Ordinance as follows:

- If approved, a new detached two-car garage could be located behind his house at as close as 5' to the side property line, 5' to the rear property line and 5' from his house. This property (TM# 95-10-3) is zoned Limited Residential District R-1 which requires a minimum side yard of 15', a rear yard of 15' and a accessory building to main building separation of 15'. Mr. Berkey is representing himself in this matter.
- Factors favoring the approval of this proposal include limitation on garage placement options due to the location of the existing house and drainfield on the property and general orientation of the existing driveway. Correspondence indicating no objections from the adjoining property owners has been received.
- A significant consideration that is not favorable to the application is the theory that the Town should work towards conformity with established ordinances. It is clear that additional buildings or additions were not a major consideration when the Berkey's house was built in the 1990's which was, of course, prior to the Berkey's purchase of the property.
- This application is before the Planning Commission for its review and comment per §18.1-1006.02 of the Town Code. The inconsistency between the Code of Virginia (§15.2-2309) and the Town Code (§18.1-1402.02a) was noted: the state recently repealed its hardship criteria, but the same hardship criteria is still in the Town Code although adjustment of this clause to achieve conformity with the Code of Virginia is underway and a subject in the Planning Commission's public hearing this same evening.
- The Town of Amherst Board of Zoning Appeals has not scheduled the required public hearing on this matter as of this date.

Mr. Finney made a motion to recommend that the Board of Zoning Appeals approve the request. The motion failed due to the lack of a second.

On a motion by Mr. Hathawy, which was seconded by Mr. Jones and carried 5-1 according to the following, the Commission agreed to recommend that the Board of Zoning Appeals deny the request due to concerns that it might set a precedent for this part of the Town and possibly other parts of the Town:

June Driskill	Aye	Steve LaBar	Aye
Ted Finney	Nay	Mike Mozingo	Absent
William Hathaway	Aye	Richard Wydner	Aye
William Jones	Aye		

Urban Development Area Requirement and Grant Opportunity

The Secretary reported that Section 15.2-2223.1 of the Code of Virginia will require the Town to designate Urban Development Areas (UDA's) in its Comprehensive Plan. In such UDA(s), a minimum developable acreage density of at least four single family residences, six townhouses or 12 apartments or condominiums per acre and an authorized floor area ratio of at least 0.4 per acre for commercial development (or any proportional combination thereof) would be required. Although the Town would be required to update its comprehensive plan to comply with the UDA law, an amendment to the Town's zoning and subdivision ordinance is not required by the legislation. The use of a VDOT consultant "grant" to aid the Town in adjusting its comprehensive plan and zoning ordinance was discussed.

By consensus, the Commission agreed that the Town should work toward meeting the actual comprehensive plan amendment mandate but move more slowly on actual changes to the Zoning and Subdivision Ordinance.

The meeting adjourned at 8:10 PM on a motion by Mr. Wydner that was seconded by Mr. Hathaway and carried 6-0 according to the following:

June Driskill	Aye	Steve LaBar	Aye
Ted Finney	Aye	Mike Mozingo	Absent
William Hathaway	Aye	Richard Wydner	Aye
William Jones	Aye		

June Driskill, Chairperson

Attest: _____