

Planning Board  
October 13, 2014

6:30 pm

Council Chambers

Minutes & General Account

Planning Board Members: Kerry Miller, Chair; Art Wise, Vice-Chair, Dot Perdue, Sarah Glanville, Eddie Oakley, Ted Johnson, ETJ, Richard Newbill, ETJ, John Capes, Alternate

Staff Present: Matthew Johnson and Martha Wolfe

Visitors – Carol Brooks of the Jamestown News

1. Call to Order – Kerry Miller called the meeting to order.
2. Approval of minutes from the June 9<sup>th</sup>, 2014 meeting – Art Wise made a motion to accept the minutes as written. Sarah Glanville made a second to the motion. The motion passed by unanimous vote.
3. Minor Updates to Land Development Ordinance (various sections) as it relates to stormwater & definition of gravel to update the LDO to comply with current changes to state law, Text amendment 2014-06 – Matthew Johnson stated this item is in regard to changes made in the last session of the General Assembly regarding stormwater. The State Legislature and DENR have been debating the definition of gravel and its impervious surface treatment. Developers feel that gravel should not be counted as a built upon area for impervious calculations. However, DENR states if gravel is compacted, it can be just as impervious to water penetrating as concrete. The General Assembly decided that gravel is not an impervious surface. DENR responded with a definition of gravel.

The session of the General Assembly has stated that DENR or EMC (Environmental Management Commission) can no longer define gravel or how it is treated. We are basically adopting the original DENR standards for gravel. These standards are “gravel is a clean or washed, loose, uniformly-graded aggregate of stones from a lower limit of 0.08 inches to an upper limit of 3.0 inches in size.” Meaning loose uncompact gravel is pervious to rain water. We are suggesting to change our ordinance to reflect this definition and use of gravel.

Another change by the General Assembly was that the word “wooden slotted” decks be deleted from the language because decks can be of other materials (recycled plastics) to make clearer that a slotted deck would allow water to go through it.

We recognized that session law has passed and DENR and EMC can no longer define gravel. Therefore, the municipality must define that type of surface treatment. We just need to be clear how we deal with these types of issues. It is recommended to accept this amendment. Art Wise stated that we have talked about this earlier, it makes perfect sense to do this. Johnson stated regarding required parking areas, according to the Town’s Ordinance these required parking areas are not permitted to be gravel. Overflow parking can be gravel. Driveways are permitted to be gravel.

Art Wise made a motion that we accept the amendment to the Land Development Ordinance with respect to the definition and treatment of gravel as written and presented. Ted Johnson made a second

to the motion. The motion passed by unanimous vote. This amendment will be presented to the Council for a Public Hearing and consideration.

Johnson stated, continuing with changes made by the General Assembly is Text Amendment 2014-07 regarding a temporary health care structure. This is essentially an accessory building of a certain size for a family member (defined in the law). The temporary structure is permitted by law and can be permitted on any single family residential lot. The structure cannot exceed 300 sq. ft. It must meet state building codes. However, we cannot regulate the aesthetics of the structure. It may not be placed on a permanent foundation. We can charge up to \$100.00 for the permit. The structure is for someone that is mentally or physically handicapped or impaired. We can require information on that disability before we issue a permit. The structure must be removed within 60 days after the impaired person is no longer receiving assistance.

The structure is basically a small modular structure that is self-contained; bedroom, bathroom, kitchenette. The structure has to meet the Town's current setbacks. This law is in response to an aging population that needs to have access to health care but may not want to go into a facility. This is state law. Basically, we are adding this to the permitted use table as an accessory building. This cannot be the principal structure and it must be a temporary structure.

Again, the resident of the temporary health care structure is defined by law as mentally or physically impaired person. They have to be a resident of the State and require assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State. The Town can require them to connect to water/sewer. For clarification, Johnson said the Town's current setbacks are; 15' from the front line, 25' from the rear line and 6' from the side line. This is essentially like building a separate temporary garage.

Sarah Glanville made a motion to accept Text Amendment 2014-07 regarding the permitting of temporary health care structures as written and presented. Dot Perdue made a second to the motion. The motion passed by unanimous vote. This will be presented to the Council for a Public Hearing and consideration.

4. Discussion of flexibility language as it relates to parking standards – Miller stated this item was discussed at the June 9<sup>th</sup>, 2014 Planning Board meeting. We left this section open at the last meeting for further discussion. The proposed flexibility parking standards would allow the Technical Review Committee (TRC) the ability to change parking lot density without coming before the Planning Board. Johnson stated the idea came from a local engineer who was faced with an issue regarding addition of onsite parking. One of the suggestions the engineer had was that some flexibility language be added so that an applicant would not have to go through the Planning Board and then the Town Council to make small changes. The suggested language was that deviations from the number of spaces required up to 25% would be allowable when the TRC can determine that a particular situation is unreasonable. The request must be in writing with the reasons for the request. TRC would provide the response in writing back to the application with reasons for allowing or denying the request. The TRC may require "equal or better performance" standards or other conditions as a part of the agreement to allow that deviation from the ordinance.

For example, if a developer had an irregular shaped lot and could not meet parking space requirements then an adjustment up to 25% of the parking space requirement could be requested from the TRC. Instead of going through a 2 – 3 month process (Planning Board & Town Council) this amendment would allow the developer a way to seek continuing the project with small changes (up to 25%) through review by the TRC. Johnson stated the 25% was a recommendation by the applicant. The Planning Board may feel more comfortable with another percentage. The idea was to have some flexibility and keep the

applicant from coming before 2 bodies taking 3 months for approval for a small change. Johnson added this situation rarely happens.

Johnson also explained “equal or better performance standards”. He said it is common to require additional landscaping, addition of bike racks, another connection on sidewalks, etc. in trade for a request in deviation in parking spaces. Different things could be required but has to be an equal standard.

Johnson said that TRC is made up of at least 3 staff people; Town Manager, Public Service Director and Planning Director. Per Johnson, there are some other members that can act in the TRC capacity such as: an outside engineering group to act on stormwater issues or Fire Marshall for those types of issues. No one person has the discretion to make this change.

Miller felt the discussion at the last meeting centered around the point of contact with the public on parking issues. Miller stated he was not objecting to any technical language other than he feels that the job of the Planning Board is to listen to the public. This TRC process would bypass the Public. Art Wise felt 25% was too much of a deviation. That could be a significant amount depending on the situation. While hard to say, he felt 15% would be more reasonable. Wise felt the Planning Board’s job is there and the rules are in place for a reason. If people need to get something done, they will have to go through the process. Maybe we have an obligation to expedite the process, but still feels 25% is too high.

Johnson stated we do have flexibility language in place for setback standards in our current Land Development Ordinance. We allow 10% or up to 24” in deviation whichever is greater. This applies for example, to an encroachment of a deck or eaves of house, etc. It is helpful to have some flexibility so an applicant in these cases would not have to go through the timing of the two boards.

Capes asked the question if an applicant went to the TRC for a request and the applicant was not satisfied with the decision by TRC what happens. Johnson stated that the applicant would appeal this decision to the Board of Adjustment which is the Planning Board. The Board of Adjustment acts as a court. The Board of Adjustment is on a case by case basis.

Richard Newbill suggested dropping the 25% to 10% to make it more palatable to the Planning Board. Johnson stated that is certainly a recommendation the Planning Board can present to the Town Council.

Oakley stated he felt the Planning Board should be fully involved from the beginning. He gave the example of the Southern Roots opening with insufficient parking. A requirement of the opening was that extra parking would be built and it was not. The restaurant opened with less parking per seat and we see where we are today. Oakley felt the Planning Board is responsible for seeing the rules are followed.

Capes stated in terms of what we are talking about here, I think that a smaller % would allow flexibility with appropriate oversight. Oakley felt the Planning Board should be involved in the planning of the parking, new structures, old structures, etc. Capes stated he did not see this flexibility standard would allow the situation that happened with Southern Roots to occur. Capes understands his point, however, he feels the 10% adjustment would be an acceptable amendment.

Johnson said this adjustment in percentage would apply to the minimum and maximum parking. The Town has a standard on maximum parking for environmental reasons. We try to be good stewards of the environment. Generally, businesses do not want to build more parking than they need. It is

expensive to build parking spaces. He sees this flexibility standard being used more when a developer cannot fit a few spaces into a site.

Ted Johnson asked what does staff recommend. Johnson stated flexibility standards are not a new concept. A lot of ordinances around the state have flexibility standards. The thing is for Planning Board to figure out what percentage makes the most sense here. He feels the Planning Board's recommendation of 10% is very fair.

Capes asked looking to the future if TRC at some point, due to public opinion, wanted to relinquish this 10% flexibility could it go back to the Planning Board as the regulatory board. Johnson said it could. It would go back through the amendment process and approved by the Planning Board and the Town Council. The Town Council has the ultimate authority.

Miller asked as part of this amendment, to include the requirement that if the TRC had a request for the use of the flexibility parking standard, could it be required that the Planning Board be made aware of the case. A written report given to the Planning Board. Add an item C.) The TRC shall provide the Planning Board with a copy of any ruling on Flexibility Standards at the Planning Board's next regularly scheduled meeting. There were no other questions for Matthew Johnson.

Art Wise made a motion to recommend approval of Text Amendment 2014-05 "Flexibility for Parking Standards" with the amendment of up to 10% deviation in parking spaces and the addition of item C) The Planning Board be given a written report of any cases submitted to the Technical Review Committee (TRC) regarding the "Flexibility in Parking Standards". Richard Newbill made a second to the motion. The motion passed by unanimous vote.

5. Recommendation for ETJ representative – The Town Clerk reported that we are still in need of an ETJ representative. If you have any recommendations, please give to her.

6. Public Comment Period – No one signed up to speak.

7. Other Business – The Planning Board discussed the public parking issues in the downtown area. Oakley said there was a meeting a few months ago. The meeting consisted of a presentation by Preferred Parking Company. They are an outside company that provides metered spaces. To date, nothing has transpired from the meeting. Glanville said the parking issue is frustrating. Everyone is interested in it, but no one has a solution.

Ted Johnson made a motion to adjourn. Art Wise made a second to the motion. The meeting ended at 7:26 pm.