

**Christiansburg Planning Commission  
Minutes of July 18, 2016**

Present: Ann Carter  
Harry Collins  
David Franusich  
Hil Johnson  
Craig Moore, Chairperson  
T.L. Newell  
Virginia Peeples  
Joe Powers  
Jennifer D. Sowers, Vice-Chairperson  
Sara Morgan, Secretary <sup>Non-Voting</sup>

Absent: Matthew J. Beasley

Staff/Visitors: Andrew Warren, Planning Director  
Steve Biggs, Town Manager  
Will Drake, staff  
Juli Kurnos, staff  
Cindy Wells-Disney, Montgomery County Planning Commission

Chairperson Moore called the meeting to order at 7:00 p.m. in the Christiansburg Town Hall at 100 E. Main Street, Christiansburg, Virginia.

Public Comment.

Chairperson Moore opened the floor for public comment. With no comments, Chairperson Moore closed the floor for public comment.

Approval of Planning Commission Minutes for May 31, 2016 meeting.

Chairperson Moore introduced the discussion. Commissioner Johnson made a motion to approve the May 31, 2016 Planning Commission meeting minutes. Vice-Chairperson Sowers seconded the motion, which passed 6-0. Commissioners Carter, Peeples, and Powers abstained, as they were not present for the meeting.

Approval of Planning Commission Minutes for June 20, 2016 meeting.

Chairperson Moore introduced the discussion. Commissioner Carter made a motion to approve the June 20, 2016 Planning Commission meeting minutes. Vice-Chairperson Sowers seconded the motion, which passed 8-0. Commissioner Franusich abstained, as he was not present for the previous meeting.

Public Hearing on an Ordinance to amend Chapter 42, Zoning, Article I, In General, Section 42-1, Definitions to revise the term "Variance", Article XIX, Provisions for Appeal, Section 42-566, Membership; Terms; Removal and Disqualification of Members; Officers; Section 42-567, Powers and Duties; Section 42-571, Appeal from Decision of Board; and to adopt Section 42-572, Board of Zoning Appeals, Ex Parte Communications, Proceedings; to conform these sections of the Town's Zoning Ordinance to the applicable provisions of the Virginia Code.

Chairperson Moore opened the public hearing. Mr. Warren, Planning Director, presented the proposed ordinance amendment. Mr. Warren stated the Virginia General Assembly revised the Code of Virginia in 2015 in regards to the definition of "variance" and the powers and procedures for the Board of Zoning Appeals (BZA). Mr. Warren noted the purpose of the ordinance amendment is to bring the Town Code into conformance with the Code of Virginia.

Mr. Warren stated the proposed ordinance amendment accomplishes four main objectives. First, Mr. Warren stated the ordinance amendment brings Town Code into conformance with the Code of Virginia requirements for ex parte communication. Mr. Warren noted the Town already adheres to these practices. Second, Mr. Warren stated the General Assembly revised the definition of "variance" and the requirements with the intent to make it easier for a BZA to grant a variance if they desired. Third, Mr. Warren stated the ordinance amendment codifies the BZA Secretary position and allows for the BZA to elect the Secretary from among its members. Mr. Warren noted the Town currently follows this practice. Finally, Mr. Warren noted the ordinance amendment would allow Town Council to recommend alternate BZA members, to be appointed by the Montgomery County Circuit Court. Mr. Warren stated the alternate members could serve in the absence of a regular BZA member. Mr. Warren noted the Development Subcommittee met on June 9, 2016 and supported the ordinance amendment.

With no further public comments, Chairperson Moore moved to close the public hearing. With no objections, Chairperson Moore closed the public hearing.

Commissioner Collins asked about the motivation for the ordinance amendment. Mr. Warren stated the ordinance amendment is necessary to bring Town Code into conformance with the Code of Virginia. Mr. Warren noted the previous BZA hearing in May for a variance request followed the new requirements.

Commissioner Collins inquired about the current BZA members. Mr. Warren stated the current members include James Kirk, Commissioner Newell, James Stewart, Ernie Wade, and Karen Drake.

Mr. Warren stated the BZA members will discuss these changes, especially ex parte communication procedures, at the next BZA meeting on August 4, 2016.

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Chairperson Moore asked for clarification of ex parte communication, Section 42-572 (a). Chairperson Moore inquired if all the listed parties need to be present at a public meeting or discussion prior to a public meeting for the discussion to not be considered ex parte communication, or if an invitation is sufficient. Mr. Warren stated the Town's current practice is to invite and give notice to all parties. Commissioner Newell noted Section 42-572 (b) references the Virginia Freedom of Information Act, Code of Virginia § 2.2-3704. Commissioner Newell noted there must be notification of an intention to meet and discuss the issue at hand.

Commissioner Powers stated the BZA does not have alternate members and noted it would be good practice for the BZA to have alternates.

Commissioner Newell stated she was unsure if the BZA members were aware of the proposed ordinance amendment. Mr. Warren noted the code changes were discussed briefly at the two previous BZA meetings and stated the BZA will meet on August 4, 2016 to review the proposed code changes in detail. Commissioner Newell asked if the BZA variance application would be revised to reflect the code changes. Mr. Warren stated the BZA application would be updated.

Commissioner Collins inquired about the appointment of BZA members. Mr. Warren stated Town Council recommends members to the Montgomery County Circuit Court and the court then appoints BZA members.

Commissioner Collins asked if it would benefit the BZA to have alternate members. Mr. Warren stated it would be very helpful and noted the two previous BZA meetings did not have full attendance. Mr. Warren stated the BZA vote is based on a majority of the membership, not the members present at a given meeting. Commissioner Collins asked how many alternates would be preferred. Mr. Warren stated two alternates is common practice from his experience. Vice-Chairperson Sowers noted the Code of Virginia allows for up to three alternates. Commissioner Newell stated two alternates would be advisable because it would prevent a tie vote.

Commissioner Newell asked why the entire section regarding BZA powers and duties was struck from the ordinance amendment. Mr. Warren stated this approach is intended to reduce future Town Code amendments. Mr. Warren explained the amendment references the powers and duties set forth in the Code of Virginia and therefore the Town Code will always reflect the current Code of Virginia provisions.

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Commissioner Newell inquired about the meaning of the word "certiorari" in Section 42-571. Mr. Warren explained Section 42-571 specifies the process to appeal a BZA decision. Mr. Warren stated an appeal must be filed with the Circuit Court. Mr. Warren stated the ordinance amendment removes the outdated Code of Virginia language and replaces it with a reference to the current Code of Virginia §15.2-2314.

Chairperson Moore stated the alternate BZA members would only vote if a regular member were to abstain. Chairperson Moore noted the number of voting members for any given appeal is restricted to five and therefore the number of alternate members would not affect the possibility of a tie vote.

Commissioner Newell stated Town Council has filled board and committee positions in the past through advertising and recruitment. Commissioner Newell noted having as many alternates as possible would be good practice.

Commissioner Johnson inquired about the qualifications for BZA membership. Commissioner Newell stated criminal convictions may be a disqualification. Commissioner Newell noted the BZA meets infrequently because staff is often able to find a viable solution that does not require a variance. Commissioner Newell noted BZA members have a range of experience in business, real estate, and local government.

Mr. Warren stated the BZA reviews requests for zoning code variances and appeals of determinations made by the Zoning Administrator. Commissioner Powers noted the BZA is good training for prospective planning commissioners. Commissioner Newell stated there is a BZA certification similar to the Planning Commissioner certification.

Ms. Morgan, Secretary, stated the next Planning Commission meeting is scheduled for August 1, 2016 and the BZA will meet on August 4, 2016. Planning Commission agreed to vote on the ordinance amendment at the next meeting. Mr. Warren stated he would provide the Town Council public hearing schedule on this item to Planning Commission.

Other business.

Chairperson Moore introduced the discussion. Chairperson Moore presented the membership for the Development Subcommittee and Comprehensive Plan Subcommittee. Chairperson Moore stated the members of the Comprehensive Plan Subcommittee will include Commissioners Franusich, Newell, and Peeples. Chairperson Moore stated he has selected Commissioner Peeples as the Subcommittee Chair and asked the members to select a Vice-Chair.

Commissioner Collins stated a large portion of the historical narrative was removed from the most recent Comprehensive Plan. Commissioner Collins stated Christiansburg's history is important and asked the Comprehensive Plan Subcommittee to consider including a more detailed history section.

Chairperson Moore stated the members of the Development Subcommittee will include Vice-Chairperson Sowers and Commissioners Beasley, Carter, and Powers. Chairperson Moore stated he has selected Commissioner Powers to continue as the Subcommittee Chair and asked the members to select a Vice-Chair.

Chairperson Moore noted the subcommittees are an extension of Planning Commission and asked the members to maintain an appropriate level of formality.

Chairperson Moore noted the Historical Committee is inactive and can be re-activated, if needed. Chairperson Moore stated he appreciates staff's willingness to move the subcommittee meetings to 6:00 PM. Mr. Warren requested the Development Subcommittee hold a meeting on August 1, 2016.

Chairperson Moore encouraged commissioners to reach out to him or staff if they have a concern with the subcommittees.

Steve Biggs, Town Manager, introduced himself to Planning Commission. Mr. Biggs stated he has been meeting with the Department Heads to learn about each department's operations and noted he held a productive meeting with Mr. Warren on Friday.

Mr. Biggs stated there may be an opportunity to improve the flow and predictability of the public hearing process. Mr. Biggs noted these discussions have just begun and he will return to Planning Commission once staff has suitable options.

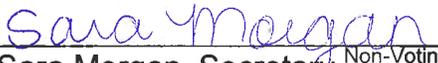
Chairperson Moore noted public participation is often low at Planning Commission meetings but reminded the commissioners they represent the interests of the citizens, whether or not they attend the meetings.

Other business - (continued).

Commissioner Carter thanked Ms. Disney for attending the Planning Commission meetings.

There being no more business, Chairperson Moore adjourned the meeting at 7:33 p.m.

  
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Craig Moore, Chairperson

  
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Sara Morgan, Secretary <sup>Non-Voting</sup>