

Patrick County Planning Commission Meeting

July 15, 2014

Public Hearing

6:15 p.m.

Patrick County Veterans Memorial Building – 2nd Floor Conference Room

Present: Ed Anthony, Chairman; Stanley Fain, Vice-Chairman; Gary Griffith, Rodney Boyd; members; Brenda Quesinberry, Citizen at Large

Absent: Danny Foley, Board of Supervisor

Also Present: Alan Black, County Attorney; Teresa G. McCormick, Secretary to the Planning Commission

Call to Order

Ed Anthony called the meeting to order for a brief discussion prior to the Public Hearing.

Teresa McCormick stated she had spoken with Terry Waller, Land Surveyor about the Subdivision Ordinance. Mr. Waller suggested doing away with the Certification Statements for each department found on page 7 and 8 and use instead an "Approval Block". Teresa McCormick stated Mr. Waller uses this on his subdivision plats and that it was easier for his clients to get all the signatures required. A copy of the "Approval Block" was handed out to the Planning Commission.

Mr. Black suggested to the Planning Commission to remove the Certification Statements and use the "Approval Block" with the following statement "To Be Approved by the Following Agencies". The Board will make a motion to make the change after the Public Hearing.

Ed Anthony called to open the meeting at 6:15 p.m. for the Public Hearing to receive comments on the revised Subdivision Ordinance.

Present: Crystal Harris, Smith River Board of Supervisor, Karen Wilson, Susan Gasperini, Clerk of Circuit Court, Dee Dehart and Misty Sheppard, Patrick County Storm Water Management

Citizens who asked to speak during the Public Hearing: Karl Weiss, Blue Ridge Board of Supervisor, Roger Hayden, Dan River Board of Supervisor, Leon Holt, Citizen and Steve Helms with Primland.

Mr. Karl Weiss ask to speak as a citizen, tax payer and not Board of Supervisor. Mr. Weiss stated that he was comparing the May 9, 2005 subdivision ordinance with the proposed revised subdivision ordinance.

Article 4 – Definitions and Minimum Requirements

- A) Agent – Mr. Weiss stated that he disagrees with having an agent approving a division of land that if he decides to divide a 50 acre tract between his children it doesn't need to be signed-off on by an agent.
- D) Building Setback Line: Changes to comply with Uniform Statewide Building Codes. Mr. Weiss asked if there is a setback line in Patrick County. Mrs. Quesinberry stated that only if VDOT requires one. Mr. Fain stated that setback lines are regulated with the building inspector and VDOT, weather it is in the ordinance or not. Mr. Anthony stated we are not here to force but to inform the public of the rules and regulations that are in existence. Mr. Griffith stated that we don't totally agree with the ordinance but we are mandated by the state to have one in place.
- G) Frontage: Mr. Weiss ask if frontage was defined in the old ordinance. Mr. Black stated that in the last public hearing citizens ask for a definition of frontage. So therefore, we added a definition for frontage.
- I) Lot: Mr. Weiss asked why two parcels should not have the same right-of-way. Mr. Black stated the definition means an easement will be part of the lot. Mr. Black stated what we are trying to prevent is property from being land locked. Mr. Black also stated some existing subdivisions have easements shown on surveys that were never developed and this is the reason for adding the easement into the adjoining lots of a subdivision.
- O) Remnant: Mr. Weiss asked what is a defined size in this definition. Mr. Fain stated what the Board is saying that a remnant of less than an acre.

Mr. Black stated the Agent will eliminate having to go before the Planning Commission Board with every lot change. The Agent will be able to approve a deed and survey before being recorded in the Clerk's Office. Mr. Black stated that there are certain plats that have to go before the Planning Commission for approval.

Mr. Weiss stated a development is if you cut a large tract of land in half and it is not a subdivision. The Board stated even though the parcel is a large tract and is divided into two parcels the agent would approve the division and then the plat could be recorded.

- U) Subdivision Categories: Mr. Weiss questioned the reasoning for categories for subdivisions. Mr. Black and the Board reviewed the categories with Mr. Weiss. Mr. Anthony stated the young and retirees who are not from Patrick County wanting to move here and we as the Board are trying to give them guidelines to prevent harm on the County. Mr. Fain stated the regulations are already in place for the person doing his job checking off on lots. Mrs. Harris stated in regards to realtors they say to a person VDOT will take over the road. Mrs. Harris stated informed the Board that VDOT has told the Board of Supervisors they will not be taking over any additional road nor will the County take them over either.

Article 5 – Applications

- A) Mr. Weiss stated he has a problem having to submit a survey plat for a division of land to be approved to the Planning Commission or an Agent. Mr. Weiss stated he has property in another County and they wanted to know what he was going to do with the land. Mr. Weiss ask the Board is that coming to Patrick County. The Board stated you would bring copies of the survey to the Agent who would review and approve or forward to the Board for approval. This procedure is in place to make sure no parcel is land locked or a substandard lot. The Board stated that they are here to make sure all divisions of land are in compliance with the regulations. Mr. Weiss asked the Board if we have zoning in Patrick County. The Board stated that zoning is only in the Town of Stuart.
- D) – Mr. Weiss stated he has a problem with an Agent or the Planning Commission signing off on a survey before it can be recorded in the Clerk’s Office. Mr. Stanley asked Susan Gasperini, Clerk of Circuit Court had they ever had anyone come in to record a plat and lied about the plat they were recording. Mrs. Gasperini gave no comment on anyone lying but did say there are errors in some of the recorded plats. Mrs. Quesinberry and Mr. Anthony both gave examples of properties with false information which had been recorded. Mr. Anthony stated this is one of the reasons why the divisions must go before the Agent or Planning Commission Board before recordation.
- E) – Mr. Weiss stated it is up to the homeowners association to build the roads and not the sub-divider. Mrs. Quesinberry stated that the sub-divider is responsible for taking care of building these roads. Mr. Weiss asked that if all the lots are sold in the subdivision who will be responsible then. The Board stated when the homeowners association comes into effect the Homeowners Association is responsible for the road maintenance.
- I) – Mr. Weiss questioned the incline or grade of 16%. The Board stated they had met with a representative with VDOT who informed the Board this needs to be included in the ordinance. Mr. Black stated the reason for doing this is to prevent erosion and sediment and that this pertains to the roads inside a subdivision.

Article 7 – Final Plats

- C) – Mr. Weiss asked can a certified architect or certified land disturber be added to the list. The Board stated that could not be done because neither of these positions are qualified for this type of work. The work must be completed by a certified land surveyor or civil engineer. Mrs. Quesinberry stated that we will be adding an “Approval Block” for the signatures for the departments to sign-off for their approval.
- L) Mr. Weiss questioned the requirements and designs, stating this will be expensive for the developer of the subdivision. Mr. Weiss stated he knew that VDOT is telling the Board of Supervisors they will not to be taking in any more roads in the secondary system. Mr. Anthony stated the reasoning for having street construction requirements and design is for those having intention for the streets become a state road.
- N) Mr. Weiss questioned why any parcel land of 4 acres or less needs to be surveyed and a sub-standard lot must be added to an adjacent lot. Mr. Black stated what the Board is trying to avoid is sub-standard lots which is considered a lot that you cannot build a house with a well and septic system.

Article 8 – Public Easements and Utilities

- A) – Mr. Weiss stated the Planning Commission had a reason for adding the Patrick County Storm Water Management into the Ordinance and that but this is going to happen whether we like it or not.
- B) – b) Mr. Weiss asked the Board about the sub-divider and once all the lots have been sold the sub-divider is no longer responsible for the storm water run-off. Mr. Weiss stated if this holds true does the Board have terminology in the ordinance. The Board will add in Article 4- Definitions – Sub-divider has sold all lots in a subdivision will no longer be responsible for the storm water run-off.
- C) – 1) Mr. Weiss asked has a sub-divider always been required to put up a performance bond. Mr. Griffith stated once the completion of the storm water run-off drainage has been completed the performance bond is returned to the sub-divider. It was stated this relieves the County from any liability. Mr. Weiss asked why we are not requiring a performance bond now. Mr. Black stated any subdivision that contain lots of 2 acres or more we do not regulate.
- C) – 2) Mr. Weiss stated that the utility easements should be determined by the utility companies. Mr. Weiss also stated that easements centered on rear or side lot lines may not be practical for the utility companies. Mr. Boyd stated we are not forcing them to allow the easement to go there. Mr. Black stated each lot will have access of public utilities. Mrs. Quesinberry stated the easement is to prevent any other adjoining lot owner from denying access to utilities.

Mr. Stanley stated that no one in this group is trying to prevent anyone from subdividing but it is important for them to have the needed guidelines. Mr. Griffith stated we are always going to have changes in the ordinances.

Mr. Roger Hayden ask to speak as a citizen, tax payer and a Board of Supervisor.

Article 4 – Definitions and Minimum Requirements

- F) – Family Member – Mr. Hayden asked if the Board could add nieces, nephews’, aunts and uncles? Mr. Anthony read from Code of Virginia – Section 15.2-2244- (A) - last sentence- In, addition, any such locality may include aunts, uncles, nieces and nephews in its definition of immediate family. No action was taken at this time.
- R) – Substandard Lot – Mr. Hayden stated if a substandard lot is less than one acre approved by Health Department for well and septic system. Mr. Black stated that the Board could approve a variance for substandard lot. Mr. Hayden stated that in Tier 3 subdivision must containing 2 or more acres. Mr. Black stated that in Tier 3 subdivision less than 2 acres will be a sub-standard lot. Mr. Hayden stated if you are going to require 2 acre lots in Tier 3 that will cut down creating more lots in acreage. Mr. Fain stated you could use Tier 2 that can be 2 acres or less.

U) – Subdivision Categories

- A) - Mr. Hayden stated in Tier 1 you have 25’ of road frontage easement on VDOT street or right of way then in Tier 2 you have a 40’ easement on a VDOT street. Mr. Hayden does that mean the Tier 1 has be Tier 2 for the 40’ easement. Mr. Black stated the 25’ is the land that is owned that has to front either VDOT Street or an interior right of way within the subdivision.
- L) – Mr. Hayden stated that this is telling the sub-divider that all the streets will have street designs. Mrs. Quesinberry stated that only if they are going into VDOT Secondary Road System. Mr. Black stated we could remove this definition. No action taken at this time.
- O) – Size – Mr. Hayden stated he would like for this to be referred back to approved by the Health Department. Mr. Griffith stated if it meets all requirements you will be granted a variance.

Article 8 – Public Easements and Utilities

- 1) – Drainage – Mr. Hayden stated this should be covered by the Storm Water Management. Mrs. Quesinberry stated that drainage and storm water will be covered by that department. Mr. Hayden stated a plan will have to be approved by VDOT. Mrs. Quesinberry stated this pertains to the public ingress and egress that has to be approved by VDOT, referencing street definition.

Mr. Fain asks Mr. Hayden when we revisit the subdivision ordinance and refer to your concerns, and make changes are you will to approve the ordinance. Mr. Hayden stated that he would have to read the revisions before deciding to approve the subdivision ordinance. Mr. Boyd stated we can’t seem to get the basic ordinance approved before starting something else. Mr. Holt stated the Boards is asking had you rather not have it spelled out in the ordinance for something that is a requirement? Mr. Holt stated

the Board is putting information in the ordinance that is required by someone else. Mr. Hayden stated he had rather have required information in the ordinance.

Mr. Leon Holt, citizen of Patrick County stated the Planning Commission Board is a thankless job. Mr. Holt asked the Board to be very careful approving sub-standard lots and that there are one-half acre lot that doesn't have nor cannot get water and sewer systems.

Mr. Holt stated there will be changes in Code of Virginia by the 2017. Mr. Holt stated that these changes would resolve a lot questions that were mentioned prior to him speaking. The old subdivision states any division of land 2 acres or less and this was a subdivision. We can't legislate everything in this County.

Mr. Holt stated if the Board changes the definition of a subdivision to 5 acres or less and anything over 5 acres is not in a subdivision.

Mr. Holt stated if someone divided a 1000 acre tract into 2 lots that means he would have to get water and sewer permits. Mr. Black stated all that the person would have to do is show access to these parcels. The Board reference Tier 1 in the Definitions that all that is required is the easements.

Mr. Fain asked what does this Board need to do to clarify this problem. Mr. Holt stated if you have five acres or less is a subdivision and anything you subdivide over five acres. Mr. Black stated what we are trying to guarantee is legal access to the lots by having the Planning Commission Agent review.

Mr. Holt stated that the Code of Virginia takes care of not being able to land lock person. Mr. Black stated you can land lock someone and you don't have to give access to their property. The Board stated regardless the size of the tract and then divided into tracts or lots that each division of land will have access to a VDOT road from their property. Mr. Holt stated he did not want the Board to go against the Code of Virginia, but I just think that anything over 5 acres is not in a subdivision ordinance. The Board also stated that no one is required to have the well and septic approved for 4 lots or less.

Mr. Holt asked that could you expand on the definition of subdivision. The Board took no action at this time.

Mr. Steve Helms, citizen of Patrick County and representing Primland stated he is unclear about small acreages. Mr. Anthony stated that once we get the Subdivision Ordinance approved than we can move forward. Mr. Black stated there is a separate code section for condominiums. Mrs. Quesinberry stated that condominiums have to be approved by the state.

Article 4 - Definitions and Minimum Requirements

- Subdivisions – Family Subdivision – Mr. Helms stated I have a parcel of land, am I only allowed to deed my children land one time. Mr. Black stated you can deed as much land as many times as you want. Mr. Black stated in the Claus for the Family Subdivision was created by the Code of Virginia to protect families and requires only a 10' right-of way.
- Tier 1 – Mr. Helms stated there shall be no sub-standard lots which means less than one acre. Mr. Helms stated you can approve a variance so you are saying there is no sub-standard lots. Mr. Helms stated to be careful about the wording about sub-standard lot. Mr. Helms stated someone have a large tract with a 15' right of way is this going to prevent from subdividing. The Board stated the inside right of way needs to be twenty-five feet and the entrance off VDOT

secondary road has to be forty feet. Existing subdivision with fifteen feet at the entrance are grandfather into VDOT. The Board took no action at this time.

Rodney Boyd left the meeting.

- Tier 3 – Mr. Helms stated 15 lot or more all lots must be 2 acres more or less. Mr. Helms suggested to remove the word **all** out of the definition. Mr. Helms stated you are not giving yourself room to approve a variance. The Board took no action at this time.
- Mr. Helms stated the developer maintains the road until a certain point and then the Home Owners Association covenants as to who would be responsible to maintain the road. Mrs. Quesinberry stated if a developer creates 20 lots and only 2 have been sold, the developer would have to maintain the road until lots have been sold. Mr. Helms stated it depends on what has been written in the covenant. Mr. Black referenced page 4 –E. Mr. Helms stated the word **all** lot owners, the developer does so much for a while and then it is turned over to the homeowners association.

Mr. Anthony stated that no two people think alike and all we can do is try to make a decent balance when all of this is done. We the Board appreciate everyone speaking and giving their input on the proposed subdivision ordinance.

Article 9 – Variances

- C) – Conditions - Karen Wilson stated Mr. Helms referenced visiting several housing communities. Mrs. Wilson states that under conditions that dedication of open space or recreation areas. If Mr. Helms comes up in 5 years with a planned community that the Board could come up with something to make this work. Mr. Anthony stated once we get the subdivision ordinance approved, then we could work on this. Mr. Fain stated listening to the comments that we need to remove the ½ acre tract, because it would make it hard to approve what Mr. Helms has discussed about housing communities.

Article 5 – Applications

- G) - Mr. Holt stated if we divide 1000 acre into 4 lots we would have to have written approval for water and sewer. Mr. Black stated we will review this item. Board took no action at this time.

Ed Anthony, Chairman closed the Public Hearing. A motion was made by Brenda Quesinberry to close Public Hearing and seconded by Gary Griffith and carried unanimously by all voting members present.

A motion was made by Stanley Fain to adjourn the meeting and seconded by Brenda Quesinberry and carried unanimously by all voting members present. The next Planning Commission meeting will be August 12, 2014 at 6 p.m.

Ed Anthony, Chairman

