

Marshville Planning Board
September 11, 2014, 7:00 PM
Marshville Town Hall

REGULAR MEETING MINUTES

Board Members Present: Chairman: Susan Drake, Planning Board Members: Brian Weber, Rusty Johnson, Jerry Powell, Richard Paschal, Lorraine Long, Mark Traywick

Board Members Absent: Mandi Maske

Staff Present: David Flowe, Planning & Zoning Administrator; Gwen Bothun, Administrative Support Specialist, Richard Flowe, Planning Staff

Others Present: Ms. Norma Carpenter and Mr. Tal McBride

Welcome/Pledge of Allegiance

Chairman Susan Drake called the meeting to order at 7:00pm and welcomed the members of the public. Mr. Weber gave the invocation, and everyone present recited the pledge of allegiance.

Consideration of the Agenda

Nancy Ogburn motioned to approve the agenda. The motion was seconded by Brian Weber and passed unanimously.

Approval of Minutes

Jerry Powell motioned to approve the minutes from the 6/12/14 planning board meeting. The motion was seconded by Brian Weber and passed unanimously.

Review of Attendance Policy

David Flowe asked to be notified at least one week in advance whenever a board member will need to be absent from a scheduled meeting. Also, he asked that board members whose terms are about to expire inform him in advance if they plan to seek re-appointment to the board. Ms. Drake asked for a list of everyone whose term will expire shortly, and she reminded everyone that Planning Board meetings are normally held every second Thursday of each month.

Public Comments

Tal McBride with BG Stewart Solar Farm introduced himself and stated that his goal was to build a solar farm in the RA-40 zoning district.

Seating Arrangement in Town Hall

Ms. Drake raised questions of whether the current seating arrangement could be improved. Ms. Ogburn commented that she sometimes has trouble hearing people on the other side of the room and suggested that microphones could be used or seats could be moved closer together. Mr. Traywick suggested that the meetings could be moved to the Community Center. David Flowe commented that any change of the location of planning board meetings would need to be advertised in advance. Ms. Drake commented that using a different table in the town hall building probably would not be feasible. Mr. Weber said the Town Council had already tried using the Community Center for meetings, but this had not worked. Ms. Long suggested that everyone could speak louder so that all comments could be easily heard. Ms. Drake stated that the issue of seating did not have to be addressed immediately. She advised Ms. Ogburn to raise her hand if she had any trouble hearing a speaker, and the speaker could then repeat himself or herself.

Addressing Report on Consistency – (Numbers vs. alphabet)

David Flowe directed the board's attention to a July 14 memorandum regarding the protocol for establishing new addresses in Marshville. He had worked with Union County Tax Assessor Mark Lemmon and Deputy Fire Marshal Jon Williams to come up with the proposed addressing protocol. If the proposed protocol is accepted, buildings will be assigned numbers, and suites within the same building will be assigned letters. Marshville will work with the county tax assessor to find the most logical addresses for new properties. Mr. Traywick said the plan seemed simple enough. Ms. Ogburn asked if current addresses would be changed. David Flowe explained that current addresses would stay the same, but if someone has a problem with an existing address, re-addressing might be possible. Ms. Ogburn stated that the proposed lettering and numbering system seemed logical, and Mr. Flowe said it was consistent with the current addressing for most locations. Mr. Johnson asked what would happen if someone were to add on to a current building. Mr. Flowe said any new addresses would need to be consistent with current addressing of properties & the fire marshal would need to be consulted to determine the

exact address of any new building. The consensus was that the proposed protocol was acceptable.

Signs

- Section 279(a) Discussion
- Discussion of ‘Banner and Pole Signs’ and how to administer the ordinance
- Discussion of how to proceed

Ms. Drake stated that she has gotten questions about a particular temporary pole sign with a flag on it, and commented that signs of this type tend to wear out quickly. Mr. Weber commented that these types of signs can be found in Monroe as well as Marshville, and that they are annoying. Mr. Traywick asked what the current Marshville ordinances say about such signs. Richard Flowe said the current ordinance does not specifically address the exact type of signs in question, but that the signs are most similar to “banners,” and would be treated as such under the current ordinance. The signs in question are characterized as “feathers” under the proposed new draft ordinance. Ms. Ogburn stated that the signs in question are pole signs. Mr. Traywick pointed out that the signs are only temporary and not permanent pole signs. The signs will be regulated differently based on whether the board treats them as temporary banners or as permanent pole signs. Mr. Weber asked if the current feathers might be grandfathered after the new ordinance takes effect. Ms. Ogburn commented that some the signs are clearly out of compliance with the current ordinance. Richard Flowe stated that any signs which are not in compliance with the current ordinance could not be grandfathered-in under the new ordinance. David Flowe commented that enforcement of sign ordinances is complaint driven, and he would need a complaint to take action. Mr. Traywick said he was fine with signs, as long as they are only up for two weeks. Temporary signs may be erected up to six times per year for up to two weeks at a time. David Flowe asked the board about its views regarding the overall direction of Marshville, in terms of the town’s character and appearance in the future. Mr. Weber, Mr. Traywick, Mr. Paschal and Ms. Drake briefly discussed the current sign ordinance. Mr. Johnson wanted to know exactly where the current ordinance states that the signs in question are not permitted. Ms. Drake proposed that the issue be brought back before the board on a future agenda, so that everyone would have time to think it over. David Flowe mentioned sandwich

board signs, which can only be displayed during business hours. He stated that this is a possible precedent for dealing with feather signs. Mr. Flowe also asked the board for feedback regarding the Downtown Décor sign. He explained why the image above the sign is not considered part of the sign, and therefore, the sign is in compliance with the current ordinance. Ms. Ogburn asked for a description of the sign, and Mr. Flowe described the sign in detail. Ms. Drake commented that the sign was an effective tool for attracting attention to the new business. Mr. Traywick commented that allowing the sign to remain in place could set a precedent, but that this was not necessarily a problem.

Solar Farms – Table of Uses Explanation

- Solar Farms Text Amendment (Table of Uses 17.500)
- Supplementary Uses – Section 180(G)
- Discussion/Recommendation on Solar Farms in RA-40
- Unintentional Omission?
- Formal Recommendation and Text Amendment Process

David Flowe drew everyone's attention to the Table of Uses contained within the Zoning Ordinance and explained why some businesses do not fit neatly into any particular zoning district. He explained why panels placed on homes are treated differently than solar panels used commercially for solar energy production. If a house produces solar energy to offset its energy costs, this is considered an accessory use, and no special use permit is required. However when solar panels are erected for the purpose of producing energy, a special use permit is required, and there are required setbacks, signage restrictions, installation and design is parameters, etc. He requested a recommendation from the Planning Board on how solar farms should be situated on the Table of Uses. He read the description of the RA-40 zoning district where solar farms are not currently permitted, then read description of the R-10 district, one of the districts where solar farms may be permitted by special use permits. Most of the RA-40 district lies within the extra-territorial jurisdiction. Mr. Traywick asked if solar energy is a form of agribusiness. Mr. Flowe replied a solar farm differs from most people's initial concept of an agribusiness; however, it they are similar to agriculture in that maintaining a solar farm is a passive activity which generates very little noise. Mr. Traywick asked if having solar farms inside the RA-40 could hinder the

growth of other businesses. Mr. Flowe responded that the goal was to create compatibility between neighboring businesses. Ms. Drake asked how solar farms came to be approved by special use permits in the districts where they are currently permitted. She also asked if there might be another, more appropriate, district for solar farms. Richard Flowe suggested that the zoning districts where solar farms may currently be allowed, R10, R20 and are R30, may not be the most appropriate choices. Ms. Drake recalled that the reason the solar farms were permitted in those districts may have been to allow the placement of solar panels on residential structures. Richard Flowe pointed out that a solar farm is not an appurtenance. David Flowe explained that a solar panel on a home is an accessory use, and is different from a solar energy production facility. Richard Flowe explained that an appurtenance might include something such as a chimney or a satellite dish, which is attached to one home and serves only that one home. Mr. Weber asked if thresholds, such as wattage, could be used to determine how solar panels should be categorized. Ms. Drake stated that the board should first look at whether solar farms should be in the current districts. David Flowe said a table of uses item - solar as a residential use accessory - could be added, and the issue of solar farms could be addressed separately. Richard Flowe asked for guidance on where the board would like solar farms located within Marshville. Mr. Weber stated that the one existing solar farm in Marshville does provided any apparent benefit to the town. Mr. Traywick and Mr. McBride discussed the fact that current solar farm was annexed, so that there would be some tax benefit. Mr. Weber raised concerns about solar farms in California which have killed birds which flew too close to the facilities. Mr. McBride said the California farms responsible for the bird deaths use old technology, and that his proposed solar farm would use newer, safer technology. Mr. Weber asked if the town would benefit in any way by having another solar farm, and commented that such facilities take a long time to provide a return on investments. Mr. Traywick, Richard Flowe and Mr. Weber all briefly discussed the question of whether having solar panels in the extra-territorial jurisdiction would provide any economic benefit to the town. The consensus was that, unless the solar farm could be annexed into the town, the economic impact would be negligible. Mr. Weber asked why a new solar farm should be built in Marshville, instead of some other town or city. Ms. Drake and Richard Flowe said would be better that Mr. McBride refrain from answering that question during the Planning Board meeting, because there might be a quasi-judicial proceeding regarding

the issue in the future. Ms. Drake stated the board should wait before making a recommendation, and Mr. McBride asked for a time frame. Richard Flowe said Mr. McBride already had the right to petition the Board for a text amendment at any time, and Mr. McBride indicated that he would do so. Mr. Traywick asked whether there would need to be a public hearing, and Richard Flowe explained the timeline and the process for an applicant to apply for the special use permit for a specific project. Mr. Johnson recommended that the board stay focused on the town as a whole, rather than specific proposals, and said it might be better for the applicant to make a petition for a text amendment, rather than having the board examine the issue of zoning for solar farms in general at this time. There was discussion on whether there should be a petition for a text amendment. Mr. Traywick made motion to leave the current zoning for solar farms as is, and Ms. Long seconded the motion. There was further discussion. Mr. Traywick rescinded the motion.

There was a brief recess, and Ms. Carpenter and Mr. McBride left the meeting.

Discussion of Marshville Development Ordinance Articles 6 and 23

Richard Flowe asked the board members to locate Article 6 in the proposed new draft MDO and take it out of their notebooks because it will need to be replaced. There are some errors in the text. He called everyone's attention back to the issue of whether to have a technical review committee. He also asked the board to review Article 22, which deals with the issue of grandfathering, a.k.a. non-conformities. In 22.3, dimensional non-conformities are addressed. For example, there may be changes in required setbacks, but buildings erected prior to the change would be grandfathered in. Any property damaged after the proposed new draft MDO takes affect could be rebuilt according to the original standards in place when it was originally built. Any property which is completely destroyed after the proposed new draft MDO takes affect will have to be built to the standards in place at the time it is destroyed. Mr. Flowe's recommendation is that grandfathered structures be allowed to be expanded, so long as the expansion does not increase the level of non-conformity. He went on to address the issue of grandfathering the use of a property a.k.a. usage non-conformities. There is a specific provision in the proposed new draft MDO for mobile homes, allowing old mobile homes to be replaced

with newer, larger and generally better mobile home. The new replacement home must have been built in 1976 or later and meet the HUD standard. Mr. Johnson voiced the concern that someone might replace an old mobile home with one which could be in worse condition than the original. Mr. Flowe pointed out that there would be an opportunity to inspect the replacement home. Ms. Drake asked for suggestions regarding the length of time allowed for buildings to be returned to their original use. Ms. Ogburn suggested that two years, with good faith effort, should be allowed for bringing non-conforming structures back to their original uses. Under the proposed new draft MDO, after five years of non-conformity, properties could only be used for conforming uses. Mr. Johnson brought up the issue of whether residential uses should be treated differently than commercial uses. Richard Flowe recommended having the same standard for both residential and commercial non-conformities. David Flowe suggested that more specific language might be needed to define a "good faith effort." Maintenance and repair is also addressed in the article. Richard Flowe wanted to know how many meetings per month the board wanted to have. Mr. Paschal and Ms. Long suggested that meeting once per month should be enough. Ms. Drake suggested that the board members could decide later whether to meet more than once per month.

Adjournment

Mr. Weber motioned to adjourn the meeting. Ms. Long seconded the motion, which passed unanimously and the meeting was adjourned.

These minutes approved this _____ day of _____, 2014.

By: _____

Attest: _____