

# Marshville Planning Board Meeting

## September 14, 2020 7:00 PM

**Present (in person):** Frances Griffin, Fred Burton

**Present (via Zoom):** Susan Drake, Tracy Stancill, Rusty Johnson, Tom Appenzeller, Brian Weber

**Absent:** None

**Pledge/Invocation:** All stood for pledge. Invocation was given by Mr. Johnson.

**Approval of March 9<sup>th</sup> and July 13<sup>th</sup> 2020 minutes:** Ms. Drake asked for a motion to approve the minutes from the March 9<sup>th</sup> and July 13<sup>th</sup> 2020 meetings. Mr. Burton made motion, Mr. Weber seconded. All Ayes. Motion passed unanimously.

Ms. Drake requested nominations for Planning Board Officers be added to the agenda. Everyone was in agreement. Ms. Drake then opened the floor for Planning Board Chair nominations. Mr. Johnson nominated Ms. Drake for Planning Board Chair. Mr. Weber seconded. There were no other nominations. Nominations for Planning Board Chair were closed. All Ayes. Nomination for Susan Drake as Planning Board Chair passed unanimously.

Ms. Drake then opened the floor for nominations for Vice Chair. Ms. Griffin nominated Fred Burton. Mr. Appenzeller seconded. All Ayes. There were no other nominations. Nominations for Vice Chair were closed. Nomination for Fred Burton as Vice Chair passed unanimously.

**Introduction of 160 D Changes by Carina Soriano:** Ms. Soriano briefly introduced the 160 D changes, noting that the topic had been forecasted at earlier meetings this year and listed off the items in the agenda packet that Mr. Flowe would review. She then turned it over to Mr. Flowe to expand on the packet items.

**Introduction of 160 D Changes by Richard Flowe:** Mr. Flowe reviewed the summary memo for the 160 D changes and explained that 160 D replaces Article 19 of the old 160 A consolidates planning and development for counties and municipalities. 160 D incorporates case law, appellate court and state Supreme Court rulings, on how a provision is to be interpreted. He noted that in the memo, one of the 160 D requirements is that a municipality must have a comprehensive plan in order to adopt the 160 D changes and that Marshville already has the 2035 plan Mr. Flowe helped create. He mentioned that the 160 D changes are consistent with the 2035 comprehensive plan. Mr. Flowe stated another big change is to get rid of conditional use permits, parallel zoning districts, conditional and special use districts. Conditional zoning that doesn't require testimony and special use permits are the new tools that can be used.

Mr. Flowe went on to explain that 160 D requires that all Planning Board members and Board of Adjustment members be sworn in and take the Oath of Office effective immediately. This is also

the case for Planning and Zoning Administrators as well. Mr. Flowe did warn that there will be new language on Oath of Office and Conflicts of Interest.

Ms. Soriano explained that this was discussed in meeting earlier in the year and that the changes are required by state legislature.

Mr. Flowe then explain that there are a few new name changes as well. There is no longer such a thing as a “public hearing” and is now a “legislative hearing” and he is putting in the ordinance is a legislative public hearing. Legislative hearings go to the Council where they can vote on rezoning or changing the ordinance. Mr. Flowe also explained that with appeals for variances, they are no longer a broadly advertised public hearing, but are now evidentiary hearings in which everything is under testimony and everything has to be presented as evidence to the Board of Adjustments. The law now limits the people speaking to those that have standing only, in other words only those that will be affected by the decision.

Ms. Soriano thanked Mr. Flowe for his time and assistance and asked if there were any questions.

Ms. Drake asked if the modifications apply now even though they are not adopted by Council.

Mr. Flowe explained that the Planning Board will have to administer the modifications to them as an effective into law which means that even if the town’s ordinance have not been updated, the town still has to play by the rules as if the ordinances have been updated. State law is in effect, the town ordinance just needs to catch up.

Mr. Appenzeller asked who would be enforcing this.

Mr. Flowe explained the courts would. Mr. Flowe further explained that failure to update these ordinance by midnight on June 30<sup>th</sup>, 2021 then the town would lose all planning and zoning authority at the local level.

Ms. Drake then asked Mr. Flowe if he is suggesting that the Planning Board go ahead operating under then new modifications now. Mr. Flowe stated that the Planning Board needs to start doing that.

**Introduction of Nonconformity Zoning Text Amendment:** Ms. Soriano stated that this concerns Article 22 which deal with nonconformities and this issue concerns 22.3-2 which is the structure section. Ms. Soriano went on to explain that the town has several properties in the ETJ and in the town limits that have nonconforming structures or the properties themselves are nonconforming. This could become an issue for folks who end up with structures that are unlivable due to natural disasters and the town does not have language that allowed folks to replace their homes due to natural disasters on nonconforming properties.

Ms. Soriano stated language has been created so that property owners can have an equivalent structure placed on their property if the original was damaged by a natural disaster. This is so that property owners are still able to utilize their property even if the original structure was nonconforming and is consistent with the Town’s zoning ordinance of intending to guide land use and development, as opposed to being overly restrictive on property owners.

Ms. Drake asked if there needs to be a motion to recommend to Council to accept the amendment for this article.

Ms. Soriano said yes there needs to be a motion.

Ms. Drake asked for a motion to recommend to Council to accept the text amendment to Town Council. Mr. Johnson made motion, Mr. Burton seconded. All Ayes. Motion passes unanimously.

Ms. Drake asked if there was any further business that needs to be brought before the Board.

Ms. Soriano stated that the Board needs to vote on the 160 D changes and recommend the m to Town Council.

Ms. Drake requested a motion to make the recommendation to Council the changes to 160 D. Mr. Johnson made motion, Mr. Burton seconded. All Ayes. Motion passed unanimously.

**Public Comments:** Ms. Drake opened the floor to public comments.

Diane Amundson asked about the new business opening on Main Street.

Ms. Soriano asked if she had a question about a particular business.

Ms. Amundson said she emailed Ms. Soriano a question about the “no kill” shelter across from the funeral home.

Ms. Soriano stated that she is looking into that and is just getting back from vacation.

Ms. Amundson expressed concern that this is not what the town needs on Main Street and that there is no place for the rescue animals to get out and exercise and if the town has any control on what business can go on Main Street.

Ms. Drake said that she will check it into it and address it in the future.

Ms. Drake asked if there were any other questions. There were none.

**Adjournment:** Ms. Drake asked for a motion to adjourn. Mr. Johnson made motion, Mr. Weber seconded. All Ayes. Motion passed unanimously. Meeting adjourned at 7:51 pm.