

Minutes
Walkersville Planning Commission
November 28, 2017

Commissioner Chairman Dick Brady called the meeting to order at 7:30 p.m. with members David Ennis, Tim Pollak, Mike Kuster, Gary Baker, John Zimmerman and Ray Santullo in attendance. Also present were Town Planner Susan Hauver and Town Attorney Ian Bartman.

1. Minutes

Member Ennis made a motion, seconded by Member Santullo, to approve the revised minutes (change of date) of October 10, 2017 meeting. The motion passed on a vote of 7-0.

Member Kuster made a motion, seconded by Member Pollak, to approve the minutes of October 24, 2017 meeting. The motion passed on a vote of 7-0.

2. Critical Farms Application to Frederick County --- Grossnickle property

Mr. Brady explained that the Town had received a referral from Frederick County of an application to the County's Critical Farms program. Approval of the application provides funding for farms to take steps toward selling their developments rights through an agricultural land preservation easement. The County is asking for comment from the Town, so the Planning Commission's recommendation will be forwarded to the Burgess and Commissioners. Mr. Brady noted that the farm is located within Town limits, and is designated Agricultural on the Town's Comprehensive Plan.

Member Ennis noted that he would like more information about the request and to see the application submitted to the County.

Member Pollak make a motion, seconded by Member Kuster, to recommend that the Town Burgess and Commissioners send a favorable recommendation to Frederick County. The motion passed on a vote of 6-0-1 (Ennis).

3. Rules of Procedure Review

Town Attorney Ian Bartman advised the Commission on ex parte communication. Restrictions on ex parte communication ensure that applicants are given due process in the consideration of their applications. In many instances, the Commission operates in a quasi-judicial capacity. The members are like judges, and their decisions need to be fair, impartial and based on evidence presented in public hearings or meetings. All information on which decisions are based should be in the public record and not based on an individual members own fact-finding. Restrictions on ex parte communication help preserve public confidence in the system.

Mr. Bartman and Commission members made the following additional points:

- In the event of ex parte communication, members should disclose it promptly. Issues or questions from applicants or other interested parties should be referred to staff.
- Commission members can seek advice or information from each other outside of public meetings.
- All decisions need to be based on information in the public record. When and if a decision is appealed, the question is whether a reasonable person could have come to the decision made based on the evidence in the record.
- If a case is appealed, the reasoning of those who dissented in the vote is not relevant.

- Those who have dissenting opinions should express them, as they might influence the opinions of others on the Commission.
- Commission members should avoid meeting with applicants outside of public meetings, even when staff is present or a quorum is not present.
- Decisions made by the Commission are appealed to the Board of Appeals. The applicant or any interested party (those involved in the public hearing/meeting process) can file an appeal.

Commission members said that they needed more time to digest the information about ex parte communication and agreed to continue the discussion to the December 12, 2017 meeting.

4. Announcements

Commission members noted that Mr. Mark Lynch of Walkers Overlook had not completed changes to the parking areas on site nor had he submitted any update to the Commission as requested by the Commission in May.

Chairman Brady reviewed the upcoming meeting dates.

There being no other business, the meeting was adjourned.

Respectfully submitted,

Susan J. Hauver