

**MINUTES OF THE MEETING OF THE TOWN OF VINTON PLANNING COMMISSION
HELD ON THURSDAY, FEBRUARY 7, 2013, AT 6:00 P.M., AT THE
VINTON MUNICIPAL BUILDING, 311 SOUTH POLLARD STREET.**

MEMBERS PRESENT: Dave Jones, Chairman
Dawn Michelsen, Vice Chairperson
Bill Booth
Paul Mason

MEMBERS ABSENT: Bob Patterson

STAFF PRESENT: Anita McMillan, Planning and Zoning Director
Karla Turman, Associate Planner/Code Enforcement Officer
Julie S. Tucei, Planning and Zoning Coordinator

OTHERS PRESENT: John Hartsock, Colbourne Avenue, Vinton

AGENDA:

WORK SESSION

I. Call to Order

II. Consent Agenda: March 7, 2013

- a. Work Session – CIP FY 2013 – 2018 Requests Discussion
- b. Petition of Trey Boyd, t/a Scorpion Towing & Recovery, authorized agent, to amend Ordinance No. 871, adopted October 4, 2005, Special Use Permit (SUP) to operate a police impoundment storage lot at 814 2nd Street, tax map number 060.19-02-16, zoned M-1 Limited Business District. Petitioner requests that SUP be amended to allow storage of vehicles repossessed by financial institutions, and safe storage of vehicles purchased by a dealership. No vehicles shall be stored for more than 30 days.
- c. Petition of Jason M. Varney, t/a Consolidated Real Estate Enterprises, LLC, authorized agent, for a Special Use Permit (SUP) to convert a single-family dwelling, located at 134 West (Virginia—corrected) Augusta Avenue, tax map number 060.15-05-18, zoned RB Residential Business District, into a two-family dwelling.
- d. Proposed amendment to the Town of Vinton Zoning Ordinance:
 - i. Article V. Supplementary Regulations, Division 2. Building and Lots
 - ii. Article VI. Nonconforming Uses and Features, Section 6-7 Damage to nonconforming buildings and uses

III. Comments of Planning Commissioners and Planning Staff

IV. Adjournment

EVENING SESSION

V.. Call to Order

VI. Public Hearing Petitions:

- a. Petition of Williams Mullen, authorized agent for Clearview Manor Acquisition, LLC, for a rezoning of Clearview Manor Apartments, 1150 Vinyard Road, tax map number 61.17-2-7, from GB General Business District to R-3 Residential District. The rezoning request is for a property that already developed with apartment units.

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- b. Petition of Williams Mullen, authorized agent for Clearview Manor Acquisition, LLC, for a Special Use Permit (SUP) for Clearview Manor Apartments, 1150 Vinyard Road, tax map number 61.17-2-7. The SUP request is for a property that already developed with apartment units.**
- VII. Citizens Comments**
- IX. Election of Officers:**
 - a. Chairman**
 - b. Vice-Chairman**
 - c. Secretary**
 - d. Recording Secretary**
- X. Comments of Planning Commissioners and Planning Staff**
- XI. Adjournment**

The meeting of the Vinton Planning Commission was called to order at 6:46 p.m. by Chairman Jones. As noted above, four members were present and one was absent.

A motion to amend the agenda to move the election of officers to the top was made by Mr. Jones and seconded by Mr. Booth. All were in favor of moving this item to top of agenda. For Chairman, Mr. Booth made a motion to nominate Mr. Jones to continue on as Chairman. Ms. Michelsen seconded the motion. All members present voted in favor of the motion. For Vice Chairman, Ms. Michelsen made a motion to nominate Mr. Mason, and Mr. Booth seconded it. All members present voted in favor of the motion. For Secretary and Recording Secretary, the members agreed that Ms. McMillan and Ms. Tucei would continue in these roles, respectively.

Next, was a discussion of items on the upcoming agenda for March 7, 2013. Mr. Jones mentioned that Mr. Barry Thompson would attend the next meeting to present the CIP items for FY 2013-2018.

Also on the March 7, 2013, is the petition of Trey Boyd, t/a Scorpion Towing & Recovery, authorized agent, to amend Ordinance No. 871, adopted October 4, 2005, Special Use Permit (SUP) to operate a police impoundment storage lot at 814 2nd Street, tax map number 060.19-02-16, zoned M-1 Limited Business District. Petitioner requests that SUP be amended to allow storage of vehicles repossessed by financial institutions, and safe storage of vehicles purchased by a dealership. No vehicles shall be stored for more than 30 days. This request is for the property that formerly housed Big Johns towing who went out of business awhile ago. The members looked at an aerial map of the property. Mr. Jones stated that it is located over near Gladetown. Ms. Turman said she had gotten a complaint from another business owner about the impound lot. She stated that, upon investigation of the complaint, there were vehicles that were not impounded by police.

The work session was adjourned at 6:58 p.m. in order to begin the public hearing. The work session will continue afterwards.

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The evening session was called to order at 7 p.m. in the Council Chambers by Chairman Jones. As noted previously, four members were present and one was absent.

Mr. Jones announced that there had been a change in the agenda regarding the Petitions of Williams Mullen, authorized agent for Clearview Manor for rezoning and a special use permit. He stated that the petitioner asked for a continuance due to a change brought to staff's attention by the Town attorney. He said that the petitioner will not be in attendance tonight. Ms. McMillan stated for the record that, as of Wednesday morning, the Town attorney brought to staff's attention a recently revised section of the state code concerning vested rights and the right to rebuild nonconforming structures. The section includes rebuilding after such things as natural disasters and fires. The petitioner's attorney submitted a request to Town attorney for a continuation of the request. Per Virginia's Dillon rules, a locality's zoning ordinance cannot be more restrictive than the state code. Therefore, a section of the town zoning ordinance will have to be revised to reflect the revised state code requirements. The petitioner will consider whether they want to formally withdraw their request at a later date. Mr. John Hartsock, who lives on Colbourne Avenue, stated that he was attending the meeting just to see what is going on with the request. He said he has no concerns, but just wanted to see what it was all about. He asked if it still would have to be rezoned. Ms. McMillan explained that the petitioner had not decided about the rezoning and will let town know as soon as they decide. With nothing further to discuss, Chairman Jones closed the public hearing at 7:08 p.m.

The work session was reconvened at 7:08 pm. The work session began with the conclusion of the discussion of the police impoundment storage lot at 814 2nd Street. Ms. McMillan and Mr. Jones pointed out the property on the zoning map. Ms. Turman said that Mr. Boyd was unhappy with the decision that only impounded vehicles can be stored there. Ms. Turman informed Mr. Boyd that they would have to amend the special use permit to revise what is allowed to be stored there. Originally, Mr. Boyd was thinking about requesting a rezoning of the property, but when he found out he was still going to need to obtain a SUP, he decided to just request to amend the existing SUP to add the right to be able to store financial institution vehicle repossessions and also used cars for a dealership. Ms. Turman stated that their violation would be stayed until the final decision on the request is made by Town Council. Mr. Booth asked if they could go ahead and recommend amending it during this work session. Ms. McMillan stated that a public hearing is required because of the type of change that is requested. Mr. Jones mentioned that Mr. Boyd's company had a lot near his place of business, but it is not there any longer. Ms. Turman said he was only supposed to be storing his tow trucks at that location, but was found to be storing other vehicles there. Ms. McMillan stated that she contacted the property owner, Mr. Pedigo, and told him that he could request a rezoning of the property to M-1 if he wanted to keep leasing to the tow company. A special use permit would have also been required for the tow lot. Mr. Pedigo opted to not pursue the rezoning, and the tow company moved off the property. Mr. Mason asked if there was a maximum number of vehicles that could be allowed. Ms. McMillan stated that the number is only limited by the amount of space on the parcel. Ms. Turman stated that the only condition that council put on the SUP originally was that the fence had to be maintained in good repair. She said the fence had not

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been maintained well, and that has been discussed with Mr. Boyd with regard to the vines that cover the fence. Town code mandates that the vehicles be there no more than 30 days, but Ms. Turman stated that it is not really enforced unless it becomes an issue. Ms. Turman mentioned that they are on the Vinton police rotation list for towing, and that requires them to have an impound lot within the Town limits. Ms. Turman stated that the public hearing for this request will be held on March 7th. Ms. Michelsen asked how long they had been at the current location on 2nd Street. Ms. Turman said they had been there probably close to a year. Ms. Michelsen asked about the vines on the fence. Ms. Turman said she feels like those will be taken care of once the SUP is granted.

The Planning Commission also discussed the petition of Jason M. Varney, t/a Consolidated Real Estate Enterprises, LLC, authorized agent, for a Special Use Permit (SUP) to convert a single-family dwelling, located at 134 West ~~(Virginia—corrected)~~ Augusta, tax map number 060.15-05-18, zoned RB Residential Business District, into a two-family dwelling. Mr. Jones asked where this property is located. Ms. Turman stated that it is very close to the impound lot they just finished discussing. Ms. Michelsen asked if it was W. Virginia Avenue or W. Augusta Avenue. Ms. Turman said that it is on W. Augusta Avenue and that she would correct the agenda prior to the March meeting. She said she will also check her legal notices to make sure they show W. Augusta. Ms. Turman stated that this is the same type of SUP request that Mr. Cranwell was granted by Town Council some time ago. Ms. Turman said this particular property was a foreclosed property, and the company that has it advertised said it could be possibly be used as a duplex. The property only has 7000 square feet and needs to have 12,000 square feet for a duplex by right. However, currently there is no separation between the two units, but the structure has two kitchens etc. Staff contacted the building commissioner to see what would need to be done to make it into a duplex again. The building commissioner said the owner would need to hire an architect or engineer and would also have to add fire walls for separation. When Ms. Turman informed Mr. Varney of the requirements, he was unhappy and decided to withdraw the application, but then later changed his mind and decided to proceed with it. Mr. Jones asked if the situation was different than Mr. Cranwell's duplex. Ms. McMillan said they were told that Mr. Cranwell's was always used as a duplex. She said she recalls that the Planning Commission recommended denial of Mr. Cranwell's request, but the Town Council went ahead and granted approval of it at their hearing. She showed them on an aerial map the location of the property and the locations of other nearby existing duplexes. Mr. Jones pointed out that this property is not along a major street like Mr. Cranwell's. Mr. Hartsock asked if the adjoining owner notifications had the proper address for the property on them. Ms. Turman stated that the notifications have not sent out yet. Ms. Turman mentioned that the former owner and their son lived in the duplex, and while they lived there, they removed the wall that separated the two units. She said that Mr. Varney stated that he may just fix the house up as a single-family residence and resell it with the SUP, if granted. Ms. Turman said SUP will expire after one year, if no permits are obtained. Also, the SUP would expire if the units are vacant for that time period. Ms. McMillan confirmed that our ordinance does allow for expiration of the SUP. She said they might be able to request more time as a part of the SUP request.

The next item for discussion was a proposed amendment to the Town of Vinton Zoning Ordinance:

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ii. Article V. Supplementary Regulations, Division 2. Building and Lots; and Article VI. Nonconforming Uses and Features, Section 6-7 Damage to nonconforming buildings and uses. There is a proposal to change that section of the ordinance to state that any legally recorded lot prior to 1995 must be allowed to be developed as long as they meet the required setbacks, even if they do not have any road frontage. Such properties would have a vested right to development. Additional information will be provided at the next meeting after further research by staff and the Town attorney.

Next on the agenda, were comments. First were comments from the Planning Commissioners and Planning Staff. Staff mentioned that there might be a third public hearing during the March 7th meeting for a rezoning of 223 W. Virginia Avenue to GB General Business due to sign restrictions in its current district of RB Residential Business. It could possibly be considered spot zoning as they would be the only GB in that block, but it is similar to the request made by Walker Commercial Properties a few years ago when Express Alterations moved to a new location in that area. Ms. McMillan mentioned that, a few years ago, the Town had worked on creating a LB Limited Business district especially along major thoroughfares such as Virginia Avenue. She said they would like to try to have a transitional area between the residential properties and businesses. She stated that, when you change the zoning of 500 parcels or more, you are not required to notify the property owners. Otherwise, you have to notify owners and have them involved from the beginning of the process, whether up-zoning or down-zoning. She also said that Council has asked Staff to look into rezoning some additional properties into the CB district. Ms. McMillan mentioned that some property owners may not be comfortable with surrounding properties being up-zoned due to more intensive uses allowed, such as restaurants with drive-throughs. For the Citizens' comments, Mr. Hartsock said they are doing a good job, and he thanked each of them for their service on the Planning Commission.

Mr. Booth asked an additional question about 134 Augusta Avenue. He wanted to know if there would be any reason why they should not recommend the requested SUP. Mr. Jones said they recommended denial on the one for Mr. Cranwell a couple of years ago. Ms. Michelsen said maybe the size of the lot would be a reason to recommend denial. Mr. Jones said, in his opinion, reasons could be the size of the house and that it was not constructed to be a duplex. However, if an SUP were granted, the applicant would have to fix it and bring it up to code within a year or the SUP expires. Mr. Booth said if they do recommend approval and receive a SUP, it could be precedent setting. Then, other owners may request SUPs for their properties.

With there being nothing further to discuss, the meeting was adjourned at 7:53 p.m. on motion by Mr. Mason, and a second by Ms. Michelsen.

Respectfully Submitted,

Anita McMillan
Planning Commission Secretary