

MARYSVILLE BOROUGH PLANNING COMMISSION
REGULAR MEETING MINUTES
NOVEMBER 23, 2010

CALL TO ORDER. The meeting began at 7:37 pm

MEMBERS PRESENT

Jennifer Brock, Chairman
Lori Mohr
Art Vaitl
Monte Shearer

STAFF PRESENT:

Janet Hardman, Code Enforcement Officer

OTHERS PRESENT:

Ronald L. Cree, 1865 Valley Road, Marysville,

2. MINUTES:

a. September 28, 2010 Minutes

No action was taken due to the member's present need to abstain because they were not present on September 28, 2010.

b. October 26, 2010 Minutes

No action was taken due to the member's present need to abstain because they were not present on October 26, 2010.

3. PUBLIC COMMENT. NONE

4. OLD BUSINESS.

a. Article 4 Subdivision Amendment - Plan Specifications and Procedures

Ms. Brock stated that Article 4 review has been completed.

b. Article 5 Design and Improvement Standards.

Ms. Brock stated that Streets, Access Drives and Driveways from Article 8, 9 and 10 of the Lancaster County Model SALDO are being reviewed. The workshop meeting was held on November 10th. The chapter that Mr. Zehring had will be assigned to Mr. Vaccaro.

c. Well Ordinance.

Ms. Brock stated that Mrs. Stoner is working on the well ordinance.

d. Zoning Ordinance.

- i. Part 1, 2,3,4,5,7,8,9 & 11 review – completed**
- ii. Part 13, 14, 15 and 16 – completed**
- iii. Defined terms used in ordinance-completed**

Ms. Brock stated that all the zoning ordinance questions were addressed. The zoning ordinance is in the process of being corrected by the Borough staff.

5. NEW BUSINESS.

A. Nonconforming Use Ordinance Amendment.

Ms. Brock stated that an example of a nonconforming structure is a house that is too close to the property line but the use is permitted in the zoning district. The issue being addressed is a nonconforming use which is a use that is prohibited in the zoning district but was in existence prior to the adoption of the zoning ordinance.

Ms. Brock stated that the issue came up because the current ordinance prohibits reconstruction of a nonconforming use. If there is a fire in a building that is being used as a use that is prohibited, the structure cannot be rebuilt. The resident that brought this to the Borough's attention is having problems because she wants to refinance. She is having problems refinancing because of the ordinance. There are three solutions which are: do nothing, rezone the property from industrial to residential or change the ordinance.

Ms. Hardman stated that the ordinance has been reviewed and revised by the Borough Solicitor.

Ms. Brock stated that Borough Council recommended that the ordinance be revised instead of rezoning the property.

Ms. Hardman stated that the amendment of Section 27-704 Nonconforming uses #1.C. Reconstruction is the same as Section 27-705 Nonconforming buildings or structures #3 except the last sentence that was added which reads, "*If the structure is reconstructed in strict compliance with the foregoing, the nonconforming use as set forth in the Certificate of Non-conformance may be resumed.*"

Ms. Hardman stated that the original ordinance was silent on the issue of reconstruction of a nonconforming use. Ordinance 584 that was adopted in September, 2009 stated that a building or structure with a nonconforming use that is damaged or destroyed by any means to any extent could not be reconstructed.

Ms. Brock stated that repairs and maintenance of up to 25% of the current replacement value is permitted in Section 27-703.1.D.

Mr. Vaitl stated that Section 27-703.1.A. permits restoration of 50% of the replacement cost. Over 50% of the replacement cost would be considered reconstruction. The current wording of the ordinance is unfair.

Ms. Mohr stated that Section 27-703.1.C. third line; the word *construction* should be changed to *reconstruction*.

Mr. Cree asked if the 50% is damage of the building area.

Ms. Brock stated that the 50% is of the value of the building or structure.

Mr. Cree asked if a nonconforming use burns down that is more than 50% of the value of the building or structure, can the building or structure size be increased.

Ms. Brock stated that a nonconforming use can only be reconstructed the same size and the same location.

Ms. Brock stated that the ordinance does have a provision that would permit a nonconforming building or structure to expand by 25%. A nonconforming use is not permitted to expand. In order to expand a nonconforming use, the owner must request a variance from the Zoning Hearing Board.

Mr. Cree stated that a variance can be requested from any ordinance requirement. The ordinance can specifically state that a nonconforming use can be increased in size.

Ms. Brock stated that the ordinance could be revised to state that a nonconforming use can be expanded; however, the purpose of the amendment is to change the ordinance in order that a hardship is not created but at the same time the use cannot be expanded.

Mr. Cree stated that the Rye Township ordinance permits a 30% expansion of a nonconforming use. A commercial use in the residential district was permitted to expand by 30% when it was damaged.

Mr. Vaitl stated that Marysville is a small town and they don't want to see an increase of a nonconforming use.

Ms. Brock stated that increasing a nonconforming use would require a specific variance request.

Ms. Mohr stated that nonconforming uses could be enlarged upon a request for a variance and be heard on a case by case basis.

Ms. Brock stated that the concern in permitting an expansion of a nonconforming use is when there is an industrial use in the residential district.

Mr. Vaitl stated that he feels the Zoning Hearing Board would not have a problem allowing a residential use located in an industrial district to expand.

Mr. Vaitl stated that one thing that an ordinance amendment will do is to solve the problem of reducing the industrial zoned area.

Ms. Brock stated that the reconstruction within 18 months is the same for a nonconforming building or structure and a nonconforming use.

Motion: Ms. Mohr moved, seconded by Mr. Vaitl to recommend the change to Section 27-704.1.C. to permit the reconstruction of a nonconforming use that is damaged or destroyed by

any means to any extent with the change to the word construction to reconstruction on line three. The motion passed unanimously.

6. GENERAL ANNOUNCEMENTS. None

**7. REPORT ON BOROUGH COUNCIL MEETING (Next Council Meeting 12/13/10).
None**

**8. ADJOURNMENT/NEXT SPECIAL MEETING DATE 12/8 /10 @ 6:30pm/NEXT
REGULAR MEETING 12/28/10 @ 7:30 pm, WORK SESSION @ 6:30 pm.**

It was a consensus of those present to cancel the 12/8/10 special meeting. The 12/28/10 regular meeting will not be held if there are no new agenda items.

The meeting adjourned at 8:12 pm.

Respectfully Submitted,

Janet Hardman,
Code Enforcement Officer