

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
JANUARY 11, 2012 7:30 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER, PRAYER AND PLEDGE:

Meeting called to order at 7:30 P.M. Prayer and Pledge led Chair Bob Wilbur.

B. ROLL CALL:

CHAIR:	BOB WILBUR
VICE-CHAIR:	PATRICK REILLY
BOARD MEMBERS:	DON KRIEGER
	BUD RYAN
	LIZ RITTER
ALTERNATE:	WAYNE ABARE
ALTERNATE:	CINDY ZINDEL, excused
BOARD SECRETARY:	DENINE SHEREAR
TOWN CLERK/TREASURER	DEBBY FRANKLIN

Denine said Zindel called and is still out of town with medical issues until after January 16th.

C. ADDITIONS/DELETIONS/CHANGES: Krieger has problem with 3 and 4 being under Action because we have not finished the discussion of R/LC or FLUM. Chair Wilbur said we can discuss as an Action Item. Krieger respectfully disagreed.

Krieger said with the article on DCA in packet there is no rush to work on these items. Wilbur stated it is the job of P&Z to work on these items. Reilly said the items could be kept as Action and moved to Discussion when we get there. Ryan agreed with Krieger. Chair asked each member. Abare did not have a strong opinion either way. Ritter has thought of other issues re: R/LC and wants to have discussion on them. She also has concern on tax value of properties involved in changing FLUM (Future Land Use Map). Stated she had questions on this and has not received definitive answers. Chair asked if we had planner here to answer those questions could they act on them. Board didn't want to pay for planner. Chair said if Board stated their questions, staff could get answers before the next meeting. Ritter said we have not gotten definitive answers on property values. Wilbur said we could ask staff ahead of time so we would have the information. Consensus to move items to Discussion.

D. CONSENT AGENDA:

1. **Approval of Minutes** Planning and Zoning Meeting – 12/14/2011

Exhibit: Agenda Report No. 1

Recommendation: Motion to Approve

MOTION: Krieger / Ryan to approve Minutes of 12/14/2011 with corrections:

Corrections: Reilly said on pg 1 meeting was called to order by Reilly. Pg 2, public F. add that there was no presentation. J. on pg 5, She (who is she) Anne Crane. Abare asked and there is nothing – Adjournment was not Pat Reilly as he was Chair. Put Ritter down as doing motion.

Krieger: on pg 3, he has an editorial comment re: 3rd and 4th para - Wilbur said "guys" request. They should remove guys. Suggested using applicant or property owner. Franklin said that "guy" is the word that was used. Leave it as written.

Vote: All Ayes.

E. PUBLIC HEARING:

F. PUBLIC:

Juliana Hirsch, 1035 Malabar Road, has question on Item 3 which is now after 8. Why are we changing R/LC from 6 to 4 units per acre. For all these years it was 6 units. Ritter said it is a vision

the Board is proposing. Hirsch asked why change it from 6 to 4; it will be less tax and less revenues. Hirsch does not have a dog in fight. Hirsch asked why Ritter is only one that says anything about the reduction from 6 to 4; does Ritter imagine something in future. Hirsch said you have to be realistic; business wise from a builder and property owner she is looking at it. Hirsch also said this topic has been kicking around for over a year. This may go on another two years. Chair Wilbur said he thought Hirsch requested R/LC for her land. Hirsch said she has at one time; a year ago it seemed sensible, but certainly not for fewer units. Hirsch did not feel Board was looking at people who are here now. If change was from 10 to 5 units she could see, but from 6 to 4 does not make sense. Ritter said what is the main character of our Town - Rural, you can't have apartments. Hirsch said for 6 units per acre that is not very much; she has 10 acres. It is not about her. Hirsch said she has flood zone and wetland issues; it does not make sense to go through all this to go to 4 units.

Reilly said it is 4 people per unit. R/LC square foot per unit is maximum of 4000. So a townhouse and a business could operate. If it is only 4000sf then it makes sense because it is like a cat box.

Krieger said if we change the land use and it increases the taxes for years before the owner requests the zoning change he is against it.

Abare said he owned a large piece of land and the Town has a right to have a future land use map (FLUM). Abare did not think the Town can force you to change the zoning. Abare's understanding is that you can decline the change and keep your current zoning.

Wilbur gave comparison of lots on Pt Malabar vs. a lot in Malabar. Malabar will have a higher quality of life.

Hirsch just doesn't see why the Zoning Board and the Council take three years. Now you have decided to have some commercial on Malabar Road and then whammy you want to go from 6 to 4 units per acre in R/LC.

Ritter said if Hirsch likes the larger lots then why does she object to the change from 6 to 4.

Wilbur said if you are going to combine the two then you have to have open space. If you are just going to have office space that leaves at 5pm then they don't have to have the green space. Small businesses can't make it on Malabar Road. Abare said where there is water and sewer they will have development. Hirsch said there is water to Weber Road. Wilbur said water will come but it will only come with larger development. Hirsch said if she paid for the water she could get water to her place; she said the Town took over the lift station so it can be added to and she could hook up to sewer. Hirsch said tonight the Board shelved it again.

Tom Eschenberg, 2835 Beran Lane, regarding RV parking. He wanted to make sure the Board got the right paper. The one in the P&Z package he did originally. Then he did a marked up copy. He thinks it could be for action at next meeting.

G. ACTION:

2. Recommendation to Council re: Setbacks in All Residential Zones

Exhibit: Agenda Report No. 2

Recommendation: Action

Speaker card, Tom Eschenberg, 2835 Beran Lane, he was scanning 1-3.3A and he questions their not thinking of other residential zones. If RS-10 gets a ten foot setback why don't the others get ten feet? On the other hand why not give the other the benefit of the 15? That is all that would mean. Eschenberg said he is always for giving people more freedom instead of more government restrictions. Eschenberg stated he gets a P&Z package and has reviewed it and saw the part about deleting Section 1-5.10

He questions why we even need Table 1-3.3.(E) at all. He doesn't know why they have two tables. Wilbur said if a sidewalk was ever added you have that extra setback. Franklin explained that the two tables are used depending on whether the additional right of way has been dedicated to the Town. If a property owner simply does setback from property line and has not dedicated the additional right of way and his neighbor has, the setbacks do not match.

The Board has discussed this and consensus to keep both tables. Mayor suggested Board look at it again and make it clearer. If they don't look at it, Mayor will have to bring it to Council and they will be confused and it will help if they can read PZ minutes. The footnote for Table 1-3.3(A) of Code directs applicant to whichever setback is more restrictive.

Mayor said if they look at Table A and it is more restrictive then just do away with Table E. Wilbur thinks we should then increase the setback on arterial roads. Reilly tried to explain what Franklin had said about the reason for the two tables and the setbacks.

Abare said instead of footnote, put it in the table title. In foot note 2 eliminate the first part and just leave the last part. Ritter is using table on pg 16. Abare asked why we can't add words instead of footnotes.

Reilly said let's talk about changing side setbacks to 10 in all zoning. Ritter doesn't like it. It is not enough to get a fire truck. Smaller lots have smaller setbacks because the lots are smaller. Krieger doesn't think we should have rules on what a person can do on their property but if you are going to keep 7 that way it should be for all residential zonings.

Krieger said if the wind knocks it over it would not go to next property. Wilbur said what about a fire and a 30 foot clear zone. Fire codes have a lot to do with that. Most smaller lots have water available.

Abare said Mayor came to them with a request and P&Z gave a reasonable compromise. He doesn't think they should change the setbacks in the other residential zonings unless people in those zonings come in and ask.

Ritter said to use footnote 7 on all of them. Or go with zones that are already at 15 feet. Krieger said that would increase the ones that are smaller. Krieger said people don't go out to do things impractical. If you have a fence and swale that is a lot to put in on 10-foot setback.

Wilbur is ok with reduced setbacks in RR-65 for accessory structures.

Ritter said leave Footnote #7 across the board for all zonings. Krieger said to reduce it to 10 feet. Wilbur said it is ludicrous. Ritter asked if they wanted to reduce setback in RM6.

Wilbur said they need to be consistent and keep it in RR-65. Krieger said we all agreed to 15 feet.

Krieger gave example of fence in his neighborhood that was allowed to be built as a 8-foot high cinder block wall. If a neighbor wanted to put a shed next to the wall, he would have to setback 15 feet?

Reilly supports 15 feet.

Wilbur supports 15 feet.

Ritter supports 15 feet.

Good for Footnote #7 in all zonings? Reilly said no, just in RR65, RS 15 and RS 21.

Wilbur said in RR65 only.

Ryan agrees with Wilbur. Ritter RR65 and RM 4 – not the smaller one.

Abare would go with only RR65.

Wilbur works in Pt Malabar all the time and you would be surprised what could put on those lots.

Reilly is thinking only the RR65 and RS21. The others are smaller lots. The Board looked at where RS 21 was and that area is covered under their own covenants.

Keep with wording at beginning of meeting.

Merge the footnote 2 on the next table.

Reilly said keep paragraph E. Ritter said don't delete E.

Reilly asked if Section 1-5.10 should be deleted.

Ritter said delete the paragraph before the Table E.

Krieger said it should provide setbacks for all zonings depicted in the table.

Discussion - 3rd line of para

Discussed the widths of roads.

Franklin explained how the right of way dedication can affect the setback and how they use the two tables.

Ritter read how the paragraph E should read. Krieger agreed. She reread the suggested language.

Abare is talking about 60 ROW that has had some ROW dedicated and some not. Both Table A and E would require the same distance setback. Neither is more restrictive. They try the property on Highway 1 and then on north Corey. Abare wants to find example where E is more restrictive. Found it in MH Zoning.

Ryan got call and had to leave at 9:20PM

MOTION: Reilly / Abare to take all editing and combine into one document for Table 1-3.3.A.
They will have for Action at next meeting. New language will be underscored.

VOTE: All Ayes (Abare voted for Ryan)

Pg 12, building setbacks para in E. Add PRINCIPAL

3. Moved to Discussion (not action) after # 8

Recommendation to Council re: R/LC Zoning and Density Clarification

Exhibit: Agenda Report No. 3

Recommendation: Action

4. Moved to Discussion (not action) after # 8

Recommendation to Council re: FLUM Changes

Exhibit: Agenda Report No. 4

Recommendation: Action

H. DISCUSSION:

Skipped:

5. Continue Review of Checklist and Requirements for Ponds

Exhibit: Agenda Report No. 5

Recommendation: Discussion

Discussed:

6. Tractor Trailer Parking in Residential Zonings

Exhibit: Agenda Report No. 6

Recommendation: Discussion

Reilly said they agreed to clean up the paragraphs in Section 1-5.16 and discuss requiring a CUP process to park truck tractors and/or trailers.

Krieger said his problem – big vehicles – some should be handled by nuisance code and not in this section. CUP (conditional use permit) – he disagrees with this. Has truck at your property. If he is running a business from his house then that is the conditional use.

Krieger said to increase the hours to 72 hours. There is no limit now. Krieger said there is no problem right now. He does not see it as a problem. Krieger said Franklin showed the picture of a truck tractor and trailer parked on Corey. Krieger stated the nuisance code should be reviewed.

Reilly stated the guy that started this was not in RR-65.

Wilbur said keep discussion for RR-65 since they have at least 1.5 acres and it can be in RS21 if they own several lots. Ritter said it is not just the people next to them. It could be the others they are driving past; if he has to leave early and comes in late.

Krieger is with Ritter on using State definitions.

Krieger does not want to require other requirements for people with trucks. Krieger said the trigger should be the business OL (occupational license – now called BTR, Business Tax Receipt).

Abare asked if Reilly has problem with that. No, for truck tractor only.

Wilbur – he had neighbor and truck tractor only – no problem – dead end road.

Having a CUP – Abare why come in for CUP if they don't have problem.

Ritter has no problem with it either but not for the trailer part.

Krieger said allow it until it becomes a nuisance. Wilbur said the CUP would require them to have a site plan showing where it would be parked and stored. Ritter doesn't think they will get people to come in and do that. This would give mechanism if there is a complaint.

Krieger said when does it become a nuisance. Neighbor is very seldom there but has a huge RV and tows a car and another neighbor with a truck tractor and trailer. He has no problem with either.

Wilbur gave another example of someone parking a truck tractor and trailer by the church on Marie. Driver was told to move it and he moved it down the road or to another location.

Krieger gives another example – truck tractor and trailer full of oranges. Is it agricultural or commercial? What about a huge combine on a truck tractor trailer flatbed – is it agricultural or commercial. What about if he drives it on his 50,000-acre parcel.

Wilbur explained difference between agricultural vehicles and commercial vehicles. Ag vehicles have a registration number instead of a VIN.

Abare said if nothing is broken – then don't fix it.

Reilly said bring back next meeting.

Krieger asked where this is in the code book. Section 1-5.16. He found it and marked it and will review it for possible rewrite. Then he will have other items. Like difference between major and minor RVs.

Reilly then said review and consider whether to require the CUP. Also consider if you want to Keep at 65K and delete RR65.

Have for next meeting for discussion.

Skipped

- 7. **Define "Light Industrial" Zoning**
Exhibit: Agenda Report No. 7
Recommendation: Discussion

Last item.

- 8. **Consider Suggestions from Mayor re: RV Parking**
Exhibit: Agenda Report No. 8
Recommendation: Discussion

They discussed the Mayor's suggestions. Mayor said current code prohibits them from using their RV on their property.

Krieger said what about a collapsible plane or hot air balloon that is for recreation.

Wilbur said anyone should be able to sleep in their RV.

Ritter said it is not our place to give permission for kids to sleep or not in an RV regardless of age; that is parent's job. Krieger said what about a tent?

Mayor said you can't have it popped up in your yard.

Ritter said change it to conform to FS 320 and list the different types and include toy haulers.

Krieger said it should not be used as a domicile.

Reilly said work on this and bring it back.

MOTION: Reilly / Krieger recommend they skip all the rest of agenda items.

Vote: All Ayes.

Skipped:

- 4. **Move to discussion after 8**
Recommendation to Council re: FLUM Changes
Exhibit: Agenda Report No. 4
Recommendation: Action

- I. **ADDITIONAL ITEMS FOR FUTURE MEETINGS:**
9. **Code Requirements for Assisted Living Facilities**

J. PUBLIC:

Mayor, said regarding discussion of tractor trailer. Per the current code it is perfectly legal to park a rig on your property anywhere in Town.

If you want to now restrict it and make a new law that you can't park. Two totally separate issues. If you own it you can park it. If you don't own it you can't. That is the other section of the code – if you change that then anyone could park their tractor trailer anywhere in town. Abare asked how he felt. Mayor always votes for more freedom. Take out owner to be in control. Keep them separate issues. Quality of life is a nebulous term.

Re setbacks:

It seems to him they want to keep Table E. Look at each category and see when it is more restrictive. Krieger said only the main arterials should be in E. Only place it applies is MH Zoning. Mayor argued his point of deleting Table 1-3.3.E.

K OLD BUSINESS/NEW BUSINESS: None.

L. ADJOURN

There being no further business to discuss, **MOTION:** Reilly / Ritter to adjourn this meeting. **Vote:** All Ayes. The meeting adjourned 10:25 P.M.

BY:


 Bob Wilbur, Chair


 Debby Franklin, Recording Secretary


 Denine Sherear, P&Z Board Secretary

2/8/2012 as corrected
 Date Approved