

**TOWN OF MIDWAY  
PLANNING AND ZONING BOARD/BOARD OF ADJUSTMENT  
MINUTES  
MAY 31, 2011 – 5:00 P.M.**

**CALL TO ORDER**

Planning and Zoning Board Chairman Lynn Griggs called the meeting to order.

Planning and Zoning Board members present were: Lynn Griggs, Jackie Edwards, Sue Stephens, LeeAnn Thomas, and Charles Waddell. Absent: None. Town Administrator Ryan Ross, Town Attorney James Lanik, Town Clerk Linda Hunt, and Planning and Zoning Consultant Vagn Hansen of Benchmark CMR, Inc.

**PUBLIC COMMENT**

There were none.

**APPROVAL OF MINUTES**

On motion by Board member Charles Waddell, seconded by Board member Lee Ann Thomas, the Board voted unanimously to approve the minutes of the April 19, 2011 meeting as presented.

**ADOPT AGENDA**

On motion by Board member Sue Stephens, seconded by Board member Charles Waddell, the Board voted unanimously to adopt the agenda as presented.

**PLANNING BOARD CASES**

There were none.

**OTHER BUSINESS**

**SIGN ORDINANCE ENFORCEMENT DISCUSSION**

The Town's Sign Ordinance was adopted by Town Council on May 4, 2009, effective upon adoption. Section 7-9. Permitted Signs, Size and Number addresses the number and size of permitted signs in the different zoning districts as follows:

- Residential Districts (RA-1, RA-2, RA-3, RS, RM1, and RM-2)
- Non-Residential Districts (RC, CS, HC, LI, HI and O & I)
  - Outdoor Advertising Signs
  - Height of Free Standing Signs

Section 7-10 of the ordinance addresses enforcement of the sign ordinance for prohibited and nonconforming signs in existence on the effective date of the ordinance. Any prohibited sign in existence on the effective date must be immediately removed and is subject to immediate removal by or on behalf of the Town. Any nonconforming sign erected prior to the effective date shall be removed, changed, or altered to conform to the provisions of this ordinance within five (5) years of the effective date of the ordinance. All nonconforming signs shall be identified and recorded.

Planning and Zoning Consultant Vagn Hansen stated that under the Town's contract with Benchmark CMR, Inc., Benchmark will be handling the enforcement of the Town's ordinances. Mr. Hansen stated that to begin the process of enforcing the sign ordinance, all nonconforming signs need to be identified and categorized and violators be notified of the violations. Mr. Hansen asked the Planning Board how they wished to proceed with enforcement.

Planning Board members and staff briefly discussed the existing sign problems.

Mr. Hansen noted that prior to the adoption of the Town's sign ordinance, zoning permits required were issued by the County. Mr. Hansen stated that enforcement needs to be done equitably.

Chairman Lynn Griggs said he felt that violators needs to be put on notice and that applies to everyone, not just a few.

Board member Jackie Edwards asked how long the process would be. Mr. Hansen stated that it would not be a lengthy process.

Mr. Hansen stated a program would be established to have a digital calendar for reminders to make sure the violations have been corrected.

Chairman Lynn Griggs stated that he recommends enforcing the sign ordinance.

Mr. Hansen said there are three options on enforcement of the sign ordinance. Those options are: (1) Do nothing, (2) Do a little, or (3) Put everyone on notice.

In Section 7-10 of the ordinance, it states that "any nonconforming sign erected prior to the effective date of this Article shall be removed, changed, or altered to conform to the provisions of this ordinance within five years of the effective date of this Article." Mr. Hansen asked the Planning Board if they wanted to enforce the ordinance from its effective date which has three years remaining to bring nonconforming signs into compliance or to allow violators additional time.

Board member Jackie Edwards said she thought the deadline for bringing signs into compliance should be from the effective date of the ordinance. Board member Sue Stephens agreed with Ms. Edwards.

On motion by Board member Charles Waddell, seconded by Board member Jackie Edwards, the Planning and Zoning Board voted unanimously to recommend to Town Council to proceed with the inventory of existing signs and notification to the businesses in violation of the sign ordinance with reference to the three years remaining to bring signs into compliance as outlined in the ordinance.

Board member Sue Stephens asked what the cost of that service would be. Planning and Zoning Consultant Vagn Hansen stated there would be no cost for the service because it is included in the contract with Benchmark CMR, Inc.

Ms. Stephens also asked about banners and such being put up by new businesses and grand openings. Mr. Hansen said those can be allowed, stating they are more of a nuisance than a violation.

### **MINIMUM HOUSING CODE DISCUSSION**

Planning and Zoning Consultant Vagn Hansen stated the State of North Carolina does not have a comprehensive property maintenance code. The State's Landlord and Tenant law (Chapter 42), however, imposes minimum generic maintenance obligations for rental property. Also, State law (Chapter 160A) empowers localities to adopt and enforce ordinances for dwellings that are "unfit for human habitation" due to conditions that render dwellings "unsafe" to residents.

North Carolina General Statutes § 160A-441 empowers cities and counties to enact laws that provide for the repair, closing and demolition of dwellings found to be "unfit for human habitation" due to "dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions" that render the dwellings "unsafe or unsanitary, or dangerous or detrimental to the health, safety . . . [or] welfare of the residents."

Mr. Hansen pointed out that a more specific set of standards can be adopted for the Town and asked the Board if, in their opinion, this should be addressed as a more formal manner.

Board member Lee Ann Thomas expressed her concern about putting people out of their homes. Mr. Hansen said the minimum housing code is more about renters abusing tenants. Chairman Lynn Griggs said he understood what Ms. Thomas was saying.

Board member Sue Stephens said she believed adoption of such an ordinance would give the Town some muscle for enforcing the standards.

Board member Jackie Edwards asked if the process is complaint driven.

Town Administrator Ryan Ross stated that no decision is needed at this time and the matter can be discussed at a later date.

Board member Lee Ann Thomas questioned the possibility of the Habitat for Humanity helping out in these matters. Mr. Hansen explained that Habitat for Humanity is a non-governmental, non-profit organization devoted to building "simple, decent, and affordable" housing. Community-level Habitat offices act in partnership with and on behalf of Habitat for Humanity International. In the United States, these local offices are called Habitat affiliates. Each affiliate and national office is an independently run,

nonprofit organization. Mr. Hansen pointed out that the Town of Midway is not an affiliate.

Board member Jackie Edwards asked who would enforce the Minimum Housing Code if adopted. Mr. Hansen said the Town Administrator would be mostly responsible for enforcement.

This item was for discussion only.

(Board member Lee Ann Thomas left the meeting at 6:25 p.m.)

## **REPORTS**

### **ZONING ADMINISTRATOR'S REPORT**

Vagn Hansen reported two zoning permits had been issued, one for Wal-Mart and the other for a repair of an awning.

Mr. Hansen informed the Board he has received an application for an existing cellular tower located behind a barn off of Midway School Road cellular tower to add an antenna, to build a shed and to expand the existing fence and for landscaping.

### **TOWN ADMINISTRATOR'S REPORT**

There were none.

### **OTHER**

Board member Sue Stephens asked if there were any complaints that the Board needed to take care of since the Town has hired someone to enforce the ordinances. Town Administrator Ryan Ross stated there were none at this time.

### **ADJOURNMENT**

On motion by Board member Charles Waddell, seconded by Board member Sue Stephens, the Board voted unanimously to adjourn the meeting.

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Lynn Griggs, Planning Board Chairman

ATTEST:

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Linda A. Hunt, Town Clerk