

**City of Lewisburg**  
**Planning Commission Working Session**  
**Meeting Minutes ~ November 3, 2022, 5:30 p.m.**  
**942 Washington Street West, Lewisburg, WV**  
**Paul R. Cooley Council Chambers**

**PRESENT:** Chair John Little, Margaret Gossard, Davis Lewis, Dan Stevenson, Tia Bouman, Matthew Campbell, Helen Harless, Valerie Pritt, City Manager Misty Hill, Planning and Zoning Officer Marsha Cunningham, Recorder Sarah Richardson

**ABSENT:** None

**VISITORS:** Christy DeMuth of WVU Law and law student K. Westley Carpenter (via ZOOM)

**CALL TO ORDER:** The meeting was called to order at 5:30 p.m. by Chair John Little.

**PUBLIC COMMENT:** None

**Review and discuss the Draft Zoning Ordinance**

Christy DeMuth said that at the September meeting they began going through a list of questions regarding the Zoning Ordinance Draft Use Table for the board's opinion as it nears completion for a final review.

DeMuth noted that in all commercial districts there are currently no accessory structure setback requirements in place. However, there are accessory setbacks in residential areas. Dan Stevenson asked what the definition of an "accessory building" was, with Marsha Cunningham answering that sheds and outbuildings are considered accessory buildings (among other things), but not the main business/structure itself. Stevenson asked if there is a setback requirement for the main building in commercial areas. John Little and DeMuth answered that there is a 15 foot setback for side and rear.

Helen Harless asked if a dumpster would be considered an accessory structure. DeMuth reviewed the language and said she would consider a dumpster as fitting under this definition. Matthew Campbell and Tia Bouman voiced support of adding accessory structure setbacks. Valerie Pritt referenced the 3 foot accessory setback instilled at the last meeting for OC areas, a "maintenance corridor." Misty Hill said she supports a setback "of no less than 5 feet." John Little stated that he would be in favor of front and side setbacks being "the same as the main building" at 15 feet, and adding a rear setback of a "minimum of 5 feet." Members were in agreement with updating this language.

For EI zones, DeMuth noted there are no accessory setbacks currently. Members agreed to keep the requirements "consistent" with commercial in that accessory buildings will have a setback that is the

same at the primary building setback for front and side, and a 5 foot setback at the rear.

For CC zones, DeMuth said that there is currently a minimum 3,000 sq. ft. lot size if used for residential purposes, but “otherwise no minimum,” and there are no accessory setbacks in this zone, and no setbacks for principal buildings. Misty Hill voiced concerns that with no minimum commercial lot size, landowners could “subdivide” a lot numerous times into a “flea market” situation, potentially. Campbell asked why there would have initially been no setbacks, Hill said this is old language, and other members noted that tight spacing downtown probably dictated that decision. Pritt noted that the True Value lot is one that “could be subdivided.” Cunningham said that if there was a fire that “took a whole block down,” rebuilding could be crowded with no minimum lot square footage.

Hill said that she would support a “lot minimum, not a setback minimum” in CC. Dan Stevenson said that lots of shops downtown are smaller than 3,000 sq. ft. He asked if they add a 3,000 sq. ft. minimum, and a lot burns down where the structure is under 3,000 sq. ft., if they could rebuild because they wouldn’t meet the minimum. Hill said that City Hall is one building with shops inside of it, so one building can have multiple shops. John Little floated a 1,500 sq. ft. minimum for commercial lots and 3,000 sq. ft. lot size for residential.

Matthew Campbell asked if the sidewalks downtown are included as part of the building’s setback, Hill said they wouldn’t be because the sidewalk is an easement. Little said that he would support no front, rear, or side setbacks for the principal buildings, and for accessory setbacks a 3 foot maintenance corridor.

Tia Bouman said that numerous shops downtown are smaller than 1,500 sq. ft. Little said the 1,500 sq. ft. size would be the minimum for a potentially subdivided commercial lot, not the footage of the building itself. DeMuth said that it’s “odd” to not have a setback for principal buildings but to have one for accessory structures. DeMuth said she agrees with adding a minimum lot size. Hill said businesses could “maximize their space” if there were no setbacks.

DeMuth said that in the “neighborhood commercial” district, there’s currently a lot size minimum of 5,000 sq. ft. if used for residential, are no lot size minimums for commercial. She said there are currently no accessory setbacks. Members asked what district this is, and determined that it’s what’s known to them as C1. John Little said he supports having a lot size minimum, and floated a 3,000 sq. ft. minimum lot size for commercial in C1. This was met with agreement by members after discussion. DeMuth asked about accessory setbacks, Little said he would do the same as other zones and add a 5 foot rear setback and front and side setbacks matching the principal structure for C1.

DeMuth said that under “general commercial” there were no setbacks at all in the current ordinance and no accessory setbacks. Cunningham said this is C2. Little again proposed a minimum lot size “matching C1” at 3,000 sq. ft., and a 5 foot rear setback and front and side setbacks matching the principal building for accessory structures.

In I1 zones, DeMuth said there are no lot minimum and no accessory setbacks.

Referring back to C1, Bouman asked if it makes sense to have different lot sizes for residential and commercial. DeMuth said that relates to Lewisburg’s Residential Density Requirements, 1355.02, which DeMuth said she “has not seen anywhere else.” She said these are requirements for the actual “dwelling unit” rather than lot size. Cunningham she said believed this was for use mainly for apartments, or structures with multiple residences. Members voiced confusion over language referencing planned use developments (PUD), with DeMuth saying that code of reference will be removed in the new updated version. “It makes no sense and really shouldn’t be there,” she said.

Members were also confused on the dwelling sizes listed in the table. Little said that the table reads, at a glance, that you live in R0 you have to have a 20,000 sq. ft. house. DeMuth said that, for example, in R2 where the minimum lot size is 3,000 sq. ft., if you had 6,000 sq. ft. you could subdivide it twice. Little asked if you had a lot in RR that was 80,000 sq. ft. you could build two houses on that lot without subdividing. Hill said that “means you wouldn’t put a housing development in there.”

DeMuth noted a “weird provision” underneath the table that states duplexes may be allowed on lots larger than 12,000 sq. ft. in R1 with a conditional use permit issued by Lewisburg City Council. DeMuth noted that City Council doesn’t do conditional use permits. She thought this statement was odd.

Little said that he believes there should be “a correct relationship” between the residential density and the minimum lot sizes they are entering into zones. DeMuth noted that they haven’t changed residential lot size minimums, but rather have added commercial lot size minimums. Hill said they should hear from Ray, the building inspector, for insight. DeMuth said she believes much of this would be in the building code, rather than zoning.

Little noted that they updated CC to a 1,500 sq. ft. minimum lot size for commercial, and DeMuth said its 3,000 sq. ft. for residential. In C1 it’s 5,000 sq. ft. for residential and 3,000 sq. ft. for commercial. Little wanted to make sure these residential sq. ft. numbers match the residential density table. DeMuth reiterated that they haven’t updated the residential lot sizes, rather just added commercial lot minimums.

For I1, DeMuth said there is currently no minimum lot size, and no accessory setbacks. Dan Stevenson

said that he doesn't see the why they would want to have a minimum lot size in the industrial section, specifically. Tia Bouman noted that there is already a 100 foot lot width minimum, and a 50 foot front setback for principal building, with a 20 foot setback on the rear and side. Stevenson said that this essentially outlines a minimum lot size. Campbell asked if they'd want to add accessory setbacks. Little voiced that he would like to "leave it the way we originally decided, no front or side setbacks, rear only, for accessory."

DeMuth said that she sees industrial having more accessory structure than most other zones. She said that there are buffering requirements for those against residential, but "you can't be too careful." Little said that they'd like to do the same as in other zones, match the accessory structure setbacks to the principal building for front and side, and add a 5 foot setback in the rear. Members voiced support for the consistency.

DeMuth said that with the Historic District Overlay, the historic guidelines cover a lot, but that some uses are protected by zoning such as B&Bs and wireless telecommunication facilities. Campbell asked if they could ban franchises. DeMuth said no. Margaret Gossard asked if they could not allow "fast food" or "fast casual." Little asked for examples from other communities regarding these outlines. DeMuth said that she could gather other community regulations as an example. She noted that this is just for the historic part of the CC district.

For landscape buffer areas, DeMuth updated the language with details that are more specific about plants and vegetation upkeep and regulations. Members were in agreement to add this language.

For roadside vendors, DeMuth discussed updating the language. Cunningham brought up that some commercial businesses in town want to potentially sublet sections of their parking lots to individual businesses. The renter would place a "little building" on the rented area of commercial parking lot and operate a business independently from the commercial lot owner. Little said that the building would have to be in compliance with the fire marshal to open. Cunningham said that this wouldn't be on a foundation, so permanent use v. temporary use is in question. DeMuth said that in terms of zoning, they could limit use, but not limit people from renting space, just the type of use they are renting for. Cunningham said she has asked the business owner for details including how they will hook up to water, sewer, and electric; foundation type; and what they will sell.

Tia Bouman said that she believes that if it sits longer than 4 weeks then they would have to take it down. DeMuth said if it's on a foundation she would think it would be considered permanent use, and they

would have to comply with building code. Little asked how the building code defines permanent v. temporary, “If you’re hooked up to a water hose and you’ve got electric running to you, that seems like an RV.” Hill said that they will meet with city attorney Tom White and discuss the site plan. Helen Harless clarified that there is an ordinance against food trucks, so a “mobile” place serving food and drinks might be considered a food truck. DeMuth said it depends on the definition of food trucks in the ordinance.

Little said that he isn’t in favor of the temporary uses. He noted the regulation allowing non-profits to have temporary stands, such as Christmas trees. Stevenson asked about how the farmer’s market could have operated in the Lewisburg United Methodist Church parking lot. Hill said, “That is ours,” and Cunningham said, “We’re the same as the state.” Little said that he’s in favor of removing the temporary use section. He said a temporary vendor could sell a different thing every few weeks, or seasonally, and it could get “congested and dangerous.”

Hill read an email from Tom White, which states that the code currently prohibits it in all districts. “The use of a mobile home, motor vehicle, trailer, recreational vehicle, table, or tent as a temporary or permanent place of business from which any goods are sold or stored,” is currently banned. Farmer’s markets held by community or agricultural associations, and sales by charitable or religious groups are permitted with approval of their application. The fireworks stand in the Wal-Mart parking lot filed proper paperwork to open temporarily as a nonprofit, for example. To allow temporary agricultural sales, Planning Commission would have to amend section 1347.03 B.8. White recommended amending the Permissible Use table to update where these sales could take place, rather than amend the ordinance. White also said that the current table permits horticultural sales with an outdoor display only in certain zones. Overall, Matthew Campbell said that the debate is between keeping temporary uses but with added restrictions, or if we’d remove it and allow it to be covered “in another way.”

Stevenson said that they mentioned traffic concerns, yet Starbucks construction was permitted. Little said that, hypothetically, even if everyone on the Planning Commission was opposed to the Starbucks construction, there is no mechanism in place for them to attempt to stop construction, as they met all requirements “to a T.” Unless a public safety issue arose, they met all guidelines. Little said that, personally, the sole concerns with the temporary uses are not just safety, although that is a factor. “I think it’s unsightly,” he added. Cunningham added that Starbucks purchased the land their building is being constructed on from Wal-Mart, and they now own it and completed a traffic study. The temporary use/pop-up vendors have no traffic control plan, and Little added, “They haven’t subdivided.” Hill said that due to the pre-existing ordinance prohibiting temporary uses, she doesn’t see how this proposed language could supersede it. It was decided to remove the proposed temporary use section from the zoning draft.

DeMuth said there are proposed supplemental regulations regarding agritourism. Currently, agriculture is permitted in OC and I1. She asked if the commission would like to add new language. Little said he didn't know why there would be a 5 acre minimum lot size, and asked if lot size restrictions would be different than the ones previously discussed for those zones. DeMuth said that in other communities this has caused issues on smaller lots, but it could be changed. Little and Bouman said they would like to review this proposed language in greater detail and return later to the topic.

For Garage Sales, DeMuth reviewed the current ordinance language. She listed additional proposed requirements involving cleanup and parameters of the sale. Cunningham did not agree with there being a required zoning permit for a yard or garage sale. Little agreed with avoiding encroachment on the roadway and rights of way, and prompt cleanup. Members were overall in agreement with this added language, and agreed with not requiring a permit for yard and garage sales.

DeMuth said that there is already language for medical cannabis, and after discussion it was agreed to keep the language that's already instilled.

For commercial garage gas stations, DeMuth read some new language that included spacing for vehicular entrances and gas pump spacing from the property line. Campbell said he saw no reason not to add this language, and was met in agreement by other members.

For reception facilities, which are permitted in C1, C2, and I1, DeMuth reviewed some supplemental provisions that included limiting the number of events they can hold per week, parking, vehicular congestion prevention, and more. After discussion, members voiced support to remove the limitation of the number of events a reception facility can have, and Bouman noted that she doesn't like the proposed language stating events must end at 11 p.m. It was decided to remove the time limitations and number of event restrictions and keep the rest of the language.

DeMuth said that she will prepare the Draft Zoning Ordinance for a final review. DeMuth said it could take a while to get through everything as they near finalization.

**COMMENTS from the COMMISSION:** None.

**COMMENTS from the ZONING OFFICER:** Marsha Cunningham said that the next meeting will be held on December 1 at 5:30 p.m.

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**ADJOURNMENT:** The meeting was adjourned at 7:37 p.m. with a motion by Dan Stevenson and a second from Matthew Campbell.

Respectfully submitted,  
Sarah Richardson  
Recording Officer