

**City of Lewisburg  
Planning Commission  
Meeting Minutes ~ August 1, 2019  
Paul R. Cooley Council Chambers  
942 Washington Street, West, Lewisburg, WV**

**PRESENT:** Commission Chair Mark Etten; Commission members Sarah Elkins, Margaret “Gee” Gossard, Helen Harless, Ed Johns, Roger Vannoy; Zoning Officer Gary Ford, City Manager Jacy Faulkner, Planning & Zoning Clerk Marsha Cunningham, Recording Officer Peggy Mackenzie

**ABSENT:** Commission members Tia Bouman, Jeff Vickers

**VISITORS:** Christy DeMuth, Whitney Morgan, Mayor Beverly White

**CALL TO ORDER:** Commission Chair Mark Etten called the meeting to order at 5:30 p.m. and introduced WVU Law consultants Christy DeMuth and Whitney Morgan, as well as new Commission members Helen Harless and Margaret Gossard.

*Review and discuss consistency of the draft zoning map with future land use map*

As an authority on land use and sustainable development law, WVU Law Clinic consultant Whitney Morgan presented “the big picture” regarding the First Amendment and Land Use Law in avoiding content-based regulations in both commercial and non-commercial signage. A sign is considered speech, and though commercial speech is less protected by the first Amendment than non-commercial speech, Morgan advised that municipalities ought to make as few distinctions as possible between the two because articulating a governmental interest for differing treatment is difficult. The courts decide whether speech is commercial or non-commercial. If non-commercial, it is under strict scrutiny and cannot be defined except by the court. It is prudent to not distinguish between them, she said.

Commission member Ed Johns said he understood that content is important, but the Commission has been concerned about the types of signs and what language would allow signage with intent “at the heart of the community” as opposed to signage that would tend to clutter or be inappropriate for the area. Examples were given: a temporary banner ad for a community event versus a sale advertising mattresses; yard sales and rights of property owners to allow signage in their yards; exemption of billboards within city limits, and what defines for profit signs and non-profit signs. Morgan said the Clinic could draft purpose statements from a governmental approach for the various situations the commission presented.

She presented a chart detailing situations where signage is determined appropriate or not by kinds, sizes, materials, locations, etc., that are further broken down and sorted into categories defined as permanent/temporary, commercial/non-commercial, on premises/off premises, and principal use/accessory use/temporary use. All objective tools are available to the Planning Commission for each box in the chart, Morgan said. The Commission went through the chart, box by box, and checked those that were applicable to the City (see attached). Morgan said the Clinic could construct language with strict requirements to address where signage clutter is growing and present a beginning draft for the commission at the next meeting.

Margaret Gossard said it is well known that residents believe Lewisburg is a highly regulated town. Helen Harless aired a similar view that in this community, given the various restrictions, it is difficult to The City of Lewisburg  
Planning Commission  
Meeting Minutes ~ Aug. 1, 2019  
Page 2

advertise. It was aired that some problem areas still vex the commission. For example the signage issue at Montwell Commons and the need for off premises signage for businesses outside of the main corridors of travel, citing Lee Street Studios.

A discussion about murals and their definition as “wall signs” and whether or not they are “art” was also heard – which then brought up the Historic Landmarks Commission, charged with sign design guidelines in the historic district. Morgan said signage review should be done through the Zoning Board, and not the HLC, although the HLC can review signage based on scale, placement, color and near by signs; size and shape and materials; and whether or not it fits within the community, but she emphasized, not content. “The zoning ordinance trumps all,” she said. The HLC could be included in the Planning Commission's process for educational purposes, said Planning & Zoning Clerk Marsha Cunningham.

With the bulk of the situational signage concerns of the Commission settled, Morgan said she and DeMuth will return to Morgantown and work out the language. DeMuth said she and Morgan would be available to meet again on Wednesday, September 4 at 7 p.m.

**APPROVAL OF MINUTES:** The minutes of June 6, 2019 were approved with changes in a motion by Commission member Johns and seconded by Commission member Sarah Elkins. The minutes of June 12, 2019 were approved as presented by Commission member Elkins and seconded by Commission member Johns. With five (5) in favor, two (2) abstentions and two (2) absences, both motions carried.

**ADJOURNMENT:** The meeting was adjourned at 7:20 p.m. in a motion by Commission member Johns and seconded by Commission member Roger Vannoy.

Respectfully submitted,  
Peggy Mackenzie  
Recording Officer



Sign Type	Sign accessory to...							
	Principal Use		Accessory Use		Temporary Use			
	Res.	Nonres.	Res.	Nonres.	Res.	Nonres.		
Permanent	On-premises (commercial & noncommercial)	Commercial	N/A	Most commercial signs w/in a community, e.g. arches outside McDonald's	*Home-based Business Sign in front yard	Drive-through sign	A garage sale sign posted in a front yard for three months showing June, July, and August dates for three separate garage sales	Mural for Christmas tree stand by parking lot where stand locates, up year round
		Noncommercial	Most signs in residential areas, e.g. U.S. flag on home	Most permanent signs not associated with a business, e.g. church sign	A residential pool warning sign; beekkeeping sign, remains up year round	Community pool warning sign	N/A	Sign for free church spring and fall festival that remains up year round
	Off-premises (commercial only)	Commercial	N/A	A church with a Wendy's monument sign	A billboard across town advertising a home-based business	*A billboard across town advertising a drive-through	A garage sale sign posted at entrance to subdivision for three months showing June to August dates for three separate garage sales	A billboard across town advertising a Christmas tree stand year round
No permanent off-premises billboards								
Temporary	On-premises (commercial & noncommercial)	Commercial	Real estate signs in a home's front yard	*Grand opening banner hung at business' entrance Ok with this being temporary but sometimes the sign never gets taken down	*Wicket sign in front yard of home-based business	*Wicket sign pointing to drive-through location	Poster garage sale signs in front yards	Chalkboard a-frame wine festival signs at the sight of the festival
		Noncommercial	Birthday party banner hung across home's front porch; Political signs	Church free VBS sign	A residential pool warning sign; beekkeeping sign	Community pool warning sign	N/A	Banner for free church spring festival
	Off-premises (commercial only)	Commercial	*Real estate sign at entrance to subdivision	*Grand opening wicket signs at gas station for business located across town	Wicket sign across town advertising a home-based business	*Wicket sign pointing to drive-through location across street from business	*Garage sale signs at the entrance to a subdivision	Wine festival signs at a nearby gas station  This was the huge debate. They are ok with a wine festival putting a sign up but NOT

Check marks show applicable uses  
Xs non-applicable