

Town Council: Brandon Brockmeier, Ray Burger, Cynthia Holdren, Joy Marino, Sarah Nock and Maphis Oswald
Mayor: Fletcher Fosque | Town Manager: Matt Spuck

Planning Commission
June 3, 2024
6:00 PM Council Chambers
Agenda

- 1) Call to order
- 2) Attendance – Establish Quorum
- 3) Approve minutes: May 6, 2024
- 4) Public comments
- 5) Final review of the Parking Ordinance
- 6) First review of the Special Use Permit ordinance
- 7) Commissioner comments
- 8) Adjourn

Town of Onancock
Planning Commission Meeting
May 6, 2024
6:00 PM

1) Call to Order

Commissioner Dillon called the meeting to order at 6:00 PM.

2) Attendance/Establish Quorum

Commissioners Bill Bagwell, T. Lee Byrd, Jake Dillon, Larry Frey, and Carol Tunstall were present. Commissioner Brandon Brockmeier and Chairperson Schrieber were not present. A quorum was established. Town Manager Spuck was also present. Town Clerk Debbie Caton was present via Zoom.

3) Approve minutes: April 1, 2023, meeting - Commissioner Byrd moved to approve the minutes. Commissioner Byrd seconded the motion. The motion passed with a 5-0 vote.

4) Building Application (23 Market St) –

- a. John Chandler spoke to the Planning Commission asking for clarification on a few things before moving forward with the purchase of the vacant lot beside 23 Market St. He is proposing a three-story unit with commercial space on the first floor and living space on the second and third floors. Because Section 38-154 states buildings may be erected to a height not to exceed 2-1/2 stories or 35 feet, Mr. Chandler asked for clarification that if the building does not exceed 35 feet, would a three-story building be acceptable?
- b. B-D parking - Town Manager Spuck will edit section 26.42A to say three-hour parking which is consistent with the rest of the ordinance. Also, Article XII: off-street parking will be removed. The new ordinance will be reviewed by the Town Council at the June 24, 2024, meeting. Commissioner Byrd moved to approve the Stopping, Standing and Parking ordinance as amended. Commissioner Tunstall seconded the motion. The motion passed with a 5-0 vote.

5) Zoning change Commercial to Residential - Jeff and Dottie Vernimb purchased 14 King Street and requested a zoning change from commercial to residential. Mr. Vernimb spoke to the planning commission explaining the desire to renovate the property to a single unit apartment. Commissioner T. Lee Byrd moved to approve the application and a joint public hearing with Town Council. Commissioner Bagwell seconded the motion. The motion passed with a 5-0 vote.

6) Special Use Permit – Article XV – Town Manager Spuck presented the Planning Commission with grammatical edits. Discussion ensued. Commissioner Tunstall moved to the approve the changes. Commissioner Bagwell seconded the motion. The motion passed with a 5-0 vote.

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- 7) **Public Comment** – no public comments
- 8) **Commissioner Comments** – no comments from Commissioner Dillon (sitting in for Chairperson Schrieber.)
- **Commissioner Bagwell** – Commissioner Bagwell asked how many Airbnb applications are in town and if there are any applications pending. Town Manager Spuck responded there are fourteen active Airbnb’s and no pending applications. Commissioner Bagwell has concerns because of the issues in Cape Charles.
 - **Commissioner Byrd** –Commissioner Byrd echoed the comments of Commissioner Bagwell.
- 9) **Adjourn** - Commissioner Byrd moved to adjourn the meeting. Commissioner Frey seconded the motion. The motion passed with a 5-0 vote. The meeting adjourned at 6:44 PM.

ARTICLE II. STOPPING, STANDING AND PARKING

Sec. 26-37. Parking is prohibited in specified places.

No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk.
- (2) Blocking any portion of a public or private driveway.
- (3) Within 15 feet of any intersection.
- (4) Within 15 feet of a fire hydrant.
- (5) On a crosswalk.
- (6) Within 15 feet upon approaching any flashing beacon, stop sign, or traffic control signal located at the side of a roadway.
- (7) Between a safety zone and the adjacent curb or within 15 feet of points on the curb immediately opposite the ends of a safety zone unless official signs or markings indicate a different length.
- (8) Within 15 feet of the driveway entrance to any fire station and, on the side of a street opposite the entrance to any fire station, within 75 feet of the entrance when properly signposted.
- (9) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic.
- (10) On the roadway side of any vehicle parked at the edge or curb of a street (double parking).
- (11) Upon any bridge.
- (12) At any place where official signs prohibit parking. This provision shall not be in force on Sundays and other generally recognized legal holidays except around the town wharf and the adjacent streets.

(Code 1989, § 13-10; Amd. of 4-10-1978, § 1)

State law reference(s)— Prohibiting parking in certain locations, Code of Virginia, § 46.2-1239; authority of town to regulate parking, Code of Virginia, § 46.2-1220.

Sec. 26-38. Parking across parking space lines or not wholly within parking space.

It shall be unlawful to park any vehicle across any line or marking designated as a parking space or to park any vehicle in any way that such vehicle shall not be wholly within a parking space designated by lines or markings. Without written permission from the Town Manager or Chief of Police, it shall be unlawful to place any object other than a motor vehicle within the confines of a marked parking space that could impede a full-sized vehicle from using the parking space it as intended.

(Code 1989, § 13-11; Amd. of 4-10-1978, § 2)

Sec. 26-39. Vehicles, trailers, and campers parked on streets and parking lots.

- (a) No vehicle, trailer, or camper shall be parked on any street or parking lot in the town for more than 48 hours.
- (b) No trailer shall be left on any town property for more than 24 hours without being properly attached to a vehicle.
- (c) No vehicle shall be parked on any public right of way or parking lot without displaying a valid/current state license plate or state inspection.
- (d) Enforcement by the police chief or by another officer as designated.
 - (1) The registered owner of the vehicle, trailer, or camper shall receive a parking violation. If, after seven days from the date, the owner of such property has failed to remove it, the town, acting through its agents or employees, may have it removed.
 - (2) After removal of any such property according to subsection (a) of this section, the town, through its agents or employees, may dispose of such property. Written notice shall be delivered in a manner that allows for confirmation of receipt. The owner must pay all costs attributable to such removal within five days of receiving such notice. If the owner of the property cannot be determined by investigation through the state department of motor vehicles or the comparable state agency in which said property is registered, or such cannot be reasonably ascertained from the property, no such additional notice to the owner of the property shall be required.
 - (3) The cost of such removal and disposal shall be chargeable to the property owner and may be collected by the town as taxes and levies are collected. Any amount which may be realized by the town from the sale of any such property shall be applied to such costs. No amount will be refunded to the owner under any circumstance.
- (e) Penalty. Any person violating the provisions of this section shall, upon conviction, be guilty of a Class 4 misdemeanor and be punished by a fine of not more than \$250.00. Each day in violation shall constitute a separate offense with a limit of \$3,000.00. The town shall similarly collect fines as personal property taxes.

(Code 1989, § 13-12; Ord. of 4-25-2016(1))

Sec. 26-40. Violations and penalties; payment of uncontested parking citations; contested citations.

- (a) It shall be unlawful for any person to violate or fail to comply with any of the provisions of this article or any rule or regulation promulgated pursuant thereto.
- (b) Any citation issued by an officer of the town under this article may be satisfied by payment to the town office an amount equal to the appropriate amount, including the Processing Fee as published in the most recently published Virginia Uniform Fee Schedule Rule 3B:2 Uniform Fine Schedule). If the violation remains unpaid for 30 days, the violation will be reported to the Department of Motor Vehicles, which may affect vehicle registration. The fine and Processing Fee shall not be waived under any circumstance.
- (c) It is unlawful to park any vehicle in handicapped-only designated areas unless the vehicle displays a valid handicapped license plate or parking tag issued by the appropriate Department of Motor Vehicles and is currently operated by the handicapped person or persons for whom the tag was issued. Violation of this subsection shall be punishable by the fine and processing fee published in the Virginia Uniform Fee Schedule.
- (d) Any person who wishes to contest any parking citation shall notify the town manager at any time during regular office hours at the town office within 15 days of the date of the citation. Upon receipt of such notification, the town manager shall certify in writing on an appropriate form to the general district court of

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the county that such parking citation is being contested and request that a date for trial be set on the docket of such court. Upon notification by the court of the trial date, the town manager shall cause a summons to be issued to the person receiving such parking citation, which summons shall be served by a police officer or shall be mailed by USPS to such person in the event such person is a nonresident of the town.

- (e) In the event any parking citation is neither satisfied by payment nor contested by delivery of written notice to the town manager within such period of 15 days, the town manager shall refer the matter for trial to the general district court of the county and have a summons issued in the same manner as described above. The town will also report the unpaid citation to the Department of Motor Vehicles.

(Code 1989, § 13-13; Amd. of 4-10-1978, § 3; Amd. of 4-10-1989; Ord. of 4-25-2016(2))

Sec. 26-41. Temporary Parking Adjustments.

The town manager or chief of police may adopt and implement regulations designating the time, place, and manner for which vehicles may be allowed to park on town streets and make and enforce such additional rules and regulations as parking conditions may require. It shall be unlawful for any person to violate such rules and regulations.

(Code 1989, § 13-14; Ord. of 4-25-2016(3))

State law reference(s)—Enforcement of town parking ordinances, Code of Virginia, § 46.2-1225.

Secs. 26-42: Downtown Parking Regulations

- a) Limitation of parking to two hours in the Downtown District
- i) For this ordinance, the boundaries of the Downtown are considered Market Street immediately west of College Avenue, traveling west on Market Street to East Street. Also included in the Downtown District is North Street, which heads south from Town Hall to Market Street. The northern spurs of Ames Street and Mount Prospect Street begin at the northern edge of the bridges up to Market Street. All of King Street, King Street, and Crockett Avenue are included. A parking space is defined as a marked area designed for the temporary parking of a motor vehicle, including a golf cart.
 - ii) No person shall park any motor vehicle in any parking space on any public street within the Downtown District for a period exceeding three hours between the hours of 5:00 AM and 5:00 PM.
 - (1) Exceptions include emergency vehicles actively performing their duties or vehicles displaying a handicapped parking permit following applicable state laws.
 - (2) Fines and processing fees are set by the most recently published Virginia Uniform Fee Schedule, including the Processing Fee as published in the most recently published Virginia Uniform Fee Schedule Rule 3B:2 Uniform Fine Schedule. If the fine is not paid within 30 days, the violation shall report the violation to the Department of Motor Vehicles and the general district court of the county.
 - (3) The fine and Processing Fee shall not be reduced, waived, or adjusted in any way under any circumstance unless ordered to do so by the Onancock Chief of Police.

Secs. 26-44—26-70. Reserved.

ARTICLE XV. SPECIAL USE PERMITS

Sec. 38-496. Statement of intent.

It is recognized in this chapter that certain uses are not necessarily incompatible with the uses traditionally associated with standard zoning districts, if the proper mitigating conditions are enacted along with the proposed exception. Therefore, such uses have been designated as special exceptions. Such uses are allowed in the associated districts upon the issuance of a special use permit by the town council. Opinions of neighbors are strongly considered by the town council.

(Code 1989, § 24-92; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Amd. of 1-26-2004)

Sec. 38-497. Procedure.

An application for a special use permit may be submitted by the property owner, contract owner, or optionee of the property affected. Procedures for application and review shall be as follows:

- (1) The applicant shall submit an application to the zoning administrator along with a check made out to the town in the amount as provided for in the fee schedule on file in the town clerk's office. Such application shall be accompanied by evidence that the specific criteria set forth in this chapter for the special use requested will be met. Accompanying maps showing the siting of the proposed use may be required.
- (2) The zoning administrator shall review the application, visit the site, request additional information or review by other agencies, transmit a copy of collected information to the planning commission and formulate a recommendation to the town council.
- (3) Written notice shall be given at least five days before the public hearing to all abutting property owners and property immediately across the street or road from the property affected by certified mail to the last known address.
- (4) The planning commission may make a recommendation to the town council or appear as a party at the hearing.
- (5) The town council shall hold a public hearing in accordance with Code of Virginia, § 15.2-2204, in order to receive public comment and to decide upon the special use permit application. Such public hearing shall be scheduled to coincide with the regularly scheduled town council meeting that most closely follows the council's receipt of the special use permit application. If the requirement for proper notice for a public hearing makes such regularly scheduled town council meeting impractical, the public hearing shall be scheduled for the town council meeting one meeting hence from the meeting most closely following receipt of the application by the town council.

(Code 1989, § 24-93; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Amd. of 2-9-1998; Amd. of 1-26-2004)

Sec. 38-498. Conditions and bonds.

- (a) The town council may impose conditions, limitations or other special requirements as it deems necessary to protect the public health, safety, and general welfare, such as, but not limited to, the following:
 - (1) Abatement or restriction of noise, smoke, dust, vibration, odors, wastes or other elements that may affect surrounding properties.
 - (2) Establishment of setback, side, front and rear are requirements necessary for orderly expansion and for preventing traffic congestion.
 - (3) Provision for adequate parking and ingress and egress to public streets and roads necessary preventing traffic congestion.
 - (4) Provision for adjoining property with a buffer or shield from view of the proposed use and/or structure.
 - (5) Establishment of a time limit for expiration after which the permit shall no longer be valid or shall require renewal.
- (b) The town council may require a bond, in a reasonable amount determined by the council, to be payable to the zoning administrator to ensure compliance with the terms and conditions of any special use permit.
- (c) After due consideration, the town council shall make a decision and promptly notify the applicant of its decision in writing, along with a justification for denial or special conditions.

(Code 1989, § 24-94; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-499. Review standards.

The zoning administrator, planning commission, and town council shall consider the following in reviewing a special use application:

- (1) The proposed use and/or structure appears on the official schedule of district regulations or elsewhere in this chapter.
- (2) The proposed use and/or structure complies with the regulations governing individual special uses.
- (3) The proposed use and/or structure is consistent with the town plan.
- (4) The proposed use and/or structure will not tend to change the character and established pattern of development of the district in which it will be located.
- (5) The proposed use and/or structure, and accompanying parcel development, are in harmony with the uses permitted by right in the zoning district and with the intent of the zoning district regulations and will not adversely affect the use of neighboring property or impair the value thereof.
- (6) Consideration of neighbor's opinions or concerns.

(Code 1989, § 24-95; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Ord. of 1-26-2004)

Sec. 38-500. Effect of approval.

The issuance of a special use permit shall authorize the applicant to construct only such structure or conduct only such uses as are specifically made part of the special use permit. No deviations, expansion, or other changes whatsoever shall be made from the term of the special use permit without the express written consent of the town council.

(Code 1989, § 24-96; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Secs. 38-501—38-523. Reserved.

CURRENT

ARTICLE XV. SPECIAL USE PERMITS

Sec. 38-496. Statement of intent.

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An application for a special use permit may be submitted by the property owner, prospective owner, the contract owner of the property affected. Procedures for application and review shall be as follows:

- (1) The applicant shall apply to the zoning administrator along with a check made out to the town in the amount as provided for in the fee schedule on file in the town clerk's office. Such application shall met, accompanied by detailed proposed land use, a site plan from all angles with measurements, structures, and landscaping, and an impact study of traffic, noise, and impact on adjacent property. Accompanying maps showing the siting of the proposed use will be required.
- (2) The zoning administrator shall review the application, visit the site, and may request additional information or review by other agencies. The administrator shall transmit a copy of the collected information to the planning commission, which will formulate a recommendation to the town council.
- (3) Written notice shall be given at least five days before the public hearing by hand delivery to all abutting property owners and property immediately across the street or road from the affected property.
- (4) The planning commission may appear with the town council at a joint public hearing unless it has held its own public hearing before the Town Councils.
- (5) The town council shall hold a public hearing per Code of Virginia, § 15.2-2204, to receive public comment and to decide upon the special use permit application. Such a public hearing shall be scheduled to coincide with the regularly scheduled town council meeting that most closely follows the council's receipt of the special use permit application. If the requirement for proper notice for a public hearing makes such regularly scheduled town council meetings impractical, the public hearing shall be scheduled for the town council meeting one meeting, hence from the meeting most closely following receipt of the application by the town council.

(Code 1989, § 24-93; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Amd. of 2-9-1998; Amd. of 1-26-2004)

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- (1) Abatement or restriction of noise, smoke, dust, vibration, odors, wastes, or other elements that may affect surrounding properties.
 - (2) Establishing enhanced setbacks on the sides, front, and rear may be necessary for orderly expansion and preventing traffic congestion.
 - (3) Provision for adequate on-site or off-site parking, ingress, and egress to public streets and roads necessary to prevent traffic congestion.
 - (4) Provision for adjoining property with a buffer or shield equal to those established by the zoning district where the structure exists.
 - (5) Establish a time limit for expiration, after which the permit is no longer valid or requires renewal. The special use permit ceases entirely when the property changes ownership, whether by formal sale or transfer between taxable entities. For short-term rental, the permit expires 36 months from the date of issuance, and the owner must apply again under the then-current requirements.
- (b) The town council may require a bond, in a reasonable amount determined by the council, to be payable to the zoning administrator to ensure compliance with the terms and conditions of any special use permit.
 - (c) After due consideration, the town council shall decide and promptly notify the applicant of its decision in writing, along with a justification for denial or special conditions.

(Code 1989, § 24-94; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

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The zoning administrator, planning commission, and town council shall consider the following in reviewing a special use application:

- (1) The proposed use and/or structure appears on the permitted use by right within the zoning district.
- (2) The proposed use and/or structure complies with the regulations governing individual land and special uses.
- (3) The proposed use and/or structure is consistent with Onancock's town Comprehensive Plan.
- (4) The proposed use and/or structure will not tend to change the character and established pattern of development of the district in which it will be located.
- (5) Environmental impact. The proposed use shall not significantly adversely impact the natural environment.
- (6) Consideration of neighbor's opinions or concerns.

(Code 1989, § 24-95; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Ord. of 1-26-2004)

Sec. 38-500. Effect of approval.

Issuing a special use permit authorizes the applicant to construct only such structure or conduct only such uses as are specifically made part of the special use permit. No deviations, expansions, or other changes whatsoever shall be made from the term of the special use permit without the express written consent of the town council.

(Code 1989, § 24-96; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-501. Appeal Process.

If the variance request is denied and the applicant disagrees with the decision, they may have the option to appeal through established channels, such as the Board of Zoning Appeals or the court system.

Sec. 38-502. Penalties and Revocation.

Notice may be made by direct posting on the property front door, regular postal delivery, email, hand delivery, or certified mail. In case the notice referred to in this section cannot reasonably be served on the owner, or when such notice is mailed to the owner's last known address as shown in the Town office, and such owner fails to comply with such notice, The Town Manager shall, together with a one hundred fifty-dollar (\$150.00) service charge per occurrence as detailed on the fine schedule, shall be collected by the Town pursuant to the same procedures and in the same manner as real estate taxes and shall be a real estate tax lien upon such land.

Failure to obey the terms of the notice shall be punishable as a criminal misdemeanor with a fine of at least \$100.00 but not more than \$1,000.00 per violation. Each day during which the condition is ongoing shall constitute a separate offense.

The town Council may revoke a Special Use Permit if the use violates any condition of approval or applicable law or regulation.

Secs. 38-503. Severability

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Secs. 38-504—38-523. Reserved.