

the Wednesday, July 5, 2023 and Wednesday, July 12, 2023 editions of THE FARMVILLE HERALD, a newspaper published in the County of Prince Edward.

Mr. Love stated the Prince Edward County Board of Supervisors requested that staff review the existing Zoning Ordinance as it related to flags in the Spring of 2022 after numerous calls and emails to Board and Planning Commission from County residents. After researching how other localities in the region specified, an emergency ordinance was drafted. The ordinance placed a maximum limit on the size of flags at 40 square feet (5'x8') with a total of three flags allowed per site for a total of 120 square feet of free expression for each property.

Since the adoption of the ordinance this ordinance last year, the County has written three notices on flag poles that were erected without a zoning permit, all of which applied for and were approved to erect a pole up to 20 feet. Three oversize flag violations and two advisory notices have been sent out to landowners with oversize flags. Of those five notices, four were for American flags.

Several speakers spoke out during public participation at the April 9, 2022 Board of Supervisors regular meeting concerning the maximum allowed size of flags and asked the Board to consider exempting the American flag. Since the County can only regulate the size of flags, but not flag content, it cannot exempt any particular flag regardless of what it may signify. To do so has been seen by the courts as a violation of constitutional rights.

The Board of Supervisors adopted an Emergency Ordinance at its June 13, 2023 Meeting. Section 15.2-1427 of the Code of Virginia outlines the procedures for adoption of an emergency ordinance. The emergency ordinance may be adopted without prior notice; however, no such ordinance shall be enforced for more than 60 days unless readopted in conformity with the provisions of the code. As a zoning ordinance amendment, it requires that the ordinance be sent to the Planning Commission for a hearing and recommendation. To comply with the time requirement, the Board of Supervisors directed staff to advertise a public hearing with the Planning Commission on July 18, 2023.

Mr. Love stated one emailed letter was received which related to content of the flag and not the size.

Commissioner Fuller clarified the public hearing was regarding the size of the flag, with a total allotment of 120 square feet with up to three flags.

Chairman Pregelman opened the public hearing.

Rex Williams, Lockett District, stated he is passionate about the American flag, and presented information on the meaning of the Pledge of Allegiance. He questioned the Commission as to why this ordinance is being done.

Walter Edwards questioned the three flag limit, stating he has a flag on his barn, and his wife decorates with snowman and daisy flags. He said there is a difference between feelings and rights. He stated the Commission needs to step back and let the citizens live their lives the way they've been living them. He added cemeteries display flags on the graves of veterans and asked if this would be illegal.

Earl Wallace, Lockett District, asked what is offensive about the American flag and why can't folks just leave it alone. He asked that for the sake of those that served the flag, the issue be left alone.

Larry Baker said the American flag needs to be left alone; he said the change from a 40 [square foot] to 120 square foot flag on a 40 foot [pole] would be dangling down. He said again to let it alone.

There being no one further wishing to speak, Chairman Pregelman closed the public hearing.

Commissioner Fuller stated the issue regarding cemeteries needs to be addressed. Chairman Pregelman agreed that multiple flags of that size is not addressed in the ordinance and needs to be.

Commissioner Weiss stated that he has attended most of these meetings and said a lot of time, effort, money and emotion has been spent on this issue. He said this proposed amendment creates more problems than it solves. He

said Section 9A is ambiguous and does not make sense. He reviewed several suggestions for consideration, including types of flags, the number of flags and where they are placed, and the size of the flags. He added obtaining a special use permit for a taller flag pole but not a larger flag seems inconsistent.

Chairman Pregaman said have the challenge is to define a flag; the Commissioners have to avoid any discussion of content. The County has a flag size ordinance.

Commissioner Weiss said these are shoehorned into the definition of a sign in the ordinance. Chairman Pregaman said the way it is defined currently is that a flag is a temporary sign.

Mr. Love said there is no way for a flag to be permanent; the pole is a permanent structure. The flag that is flown on the pole can be changed. Regarding the square footage of the flag, the Board reviewed four options and decided not to require a special use permit to extend any square footage beyond 120 square feet.

Discussion followed on the role of the Planning Commission for this issue. The recommendations can be less restrictive or there would need to be another public hearing.

Mr. Stanley said he reviewed ordinances from other localities around the state and presented language used by the City of Chesapeake for their temporary signs and maximum flags per parcel. Discussion followed on a possible less restrictive amendment, to exempt flags of a temporary nature such as holidays and in cemeteries of less than one square foot.

Following some discussion, Chairman Pregaman called a ten-minute recess to prepare the potential amendment.

Chairman Pregaman reconvened the meeting at 8:15 p.m.

Chairman Pregaman then read the proposed amendment for the record:

9. *Flags and Flagpoles:*

~~The official flag of a government, governmental agency, public institution, religious body, or other similar entity, or flags flown on a temporary basis for the purpose of honoring holidays. Flags may also be used as part of a permanently maintained entrance or inner design feature of a residential or commercial development, provided that **Flags are defined as a temporary sign and are considered a permitted temporary sign under the following conditions:**~~

~~(a) The official flag of a government, governmental agency, public institution, religious body, or other similar entity, or flags flown on a temporary basis for the purpose of honoring holidays. Flags may also be used as part of a permanently maintained entrance or inner design feature of a residential or commercial development, provided that The number off flags is **shall be no more than three per parcel.**~~

(a) ~~The maximum area for a flag is 40 square feet.~~ **for flags shall be subject to an overall maximum site allowance of 120 square feet.** Flagpoles shall have a maximum height of 20 feet except in the A1, A2, C1, I1 and CR districts in which a taller flagpole **and larger flag** will be allowed with the issuance of a special use permit;

(b) ~~Flags attached to a structure shall not project beyond the façade of the building or more than 20 feet from the roofline in any direction and in no case exceed the maximum permitted height of the structure upon which it is located;~~

- (c) *Flags or cloth or other flexible material, used to attract attention to a commercial use or activity and attached to a pole shall be included in the definition of and calculation of freestanding signage on the property;*
- (d) *Temporary flags located at a cemetery of no more than one (1) square foot shall be exempted from these requirements.*

Further discussion followed.

Commissioner Weiss made a motion, seconded by Commissioner Gilliam, to recommend to the Board of Supervisors approval of the ordinance to amend Appendix B of the Prince Edward County Code (Zoning) Sections 3-104.1 to amend the language for signage and to Section 6-100 to add definitions for signs, flagpoles, temporary signs, and structures, with further modifications; the motion carried:

Aye:	Brad Fuller	Nay:	(None)
	Llew W. Gilliam, Jr.		
	Whitfield M. Paige		
	John "Jack" W. Peery, Jr.		
	John Prengaman		
	Rhett Weiss		
	Henry Womack		
Absent:	Clifford Jack Leatherwood		
	Teresa Sandlin		

AN ORDINANCE TO AMEND APPENDIX B OF THE PRINCE EDWARD COUNTY CODE (ZONING) TO AMEND SECTIONS 3-104.1 TO AMEND THE LANGUAGE FOR SIGNAGE AND TO SEC. 6-100 TO ADD DEFINITIONS FOR SIGNS, FLAGPOLES, TEMPORARY SIGNS, AND STRUCTURES

BE IT ORDAINED BY THE PRINCE EDWARD COUNTY BOARD OF SUPERVISORS that the Prince Edward County Code – Appendix B (Zoning) be amended as follows:

Sec. 3-104.1. - Sign placement and general provisions.

1. No sign may be placed within the right-of-way of a highway or street, other than duly authorized governmental signs.
2. No sign may be placed off the immediate platted lot of the business or civic use without a special use permit.
3. No sign may be placed so as to impair vision at an intersection or sharp highway curve.
4. All signs shall be maintained in good condition at all times. The pedestal of any sign may not be wood unless it is clad with vinyl or metal, painted, or stained.
5. No sign shall be painted on or attached to any trees, rocks, fence posts, utility poles, or similar structures or objects.
6. The light from any illuminated sign shall be so directed, shaded, or shielded that the light intensity or brightness shall not adversely affect surrounding or facing premises, nor interfere with the safe vision of operators of moving vehicles. Light shall not be permitted to shine or reflect on or into any residential structure.
7. Storefront windows: no more than 25 percent of the glass area may be covered by signs. This is recommended by emergency response personnel to provide sight into building.

8. Temporary signs are permitted in all districts as follows:
 - (a) Temporary signs warning of construction, excavation, or other hazard, for as long as the hazard shall exist;
 - (b) Signs in the nature of seasonal decorations, clearly associated with a national, local, or religious holiday;
 - (c) Temporary signs must be removed within 20 days of the event or election to which the temporary signs relate.

9. Flags and Flagpoles:

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- (a) The maximum area for a flag is 40 square feet. **for flags shall be subject to an overall maximum site allowance of 120 square feet.** Flagpoles shall have a maximum height of 20 feet except in the A1, A2, C1, I1 and CR districts in which a taller flagpole **and larger flag** will be allowed with the issuance of a special use permit;
- (b) Flags attached to a structure shall not project beyond the façade of the building or more than 20 feet from the roofline in any direction and in no case exceed the maximum permitted height of the structure upon which it is located;
- (c) Flags or cloth or other flexible material, used to attract attention to a commercial use or activity and attached to a pole shall be included in the definition of and calculation of freestanding signage on the property;
- (d) Temporary flags located at a cemetery of no more than one (1) square foot shall be exempted from these requirements.**

10. Any business closing operations must remove its signs within 12 months.

Sec. 6-100. Definitions.

(A) For the purposes of this ordinance, the following rules of language shall apply:

FLAG, A piece of cloth or similar material, typically oblong or square, attachable by at least one edge to a pole or rope or by one side to a surface, and used as the symbol or emblem of a country or institution or as a decoration during public festivities.

FLAGPOLE, A pole used for flying or otherwise displaying a flag.

SIGN, Any display of letters, words, symbols, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof visible for the purpose of making anything known; whether such display be made on, attached to, or as a part of a structure, surface, or any other thing, including but not limited to the ground, rocks, trees, or other natural objects, which display is visible beyond the boundaries of the parcel of land on which the same is located. For the purposes of this chapter, the term “sign” shall include all portions of the sign structure.

SIGN, FREESTANDING or GROUND-MOUNTED, A sign which is supported or held directly by, or affixed to, a structure built on the ground primarily for that sign and independent of any building.

SIGN, MARQUEE, A sign attached to and made part of a marquee.

SIGN, MONUMENT, A sign which is completely affixed to a masonry, granite, limestone, marble, or similar structure built on grade and which is an integral part of the structure.

SIGN, PORTABLE, Any sign which is mounted perpendicular to a building and is supported only by the wall on which it is mounted.

SIGN, PROJECTING, Any sign which is mounted perpendicular to a building and is supported only by the wall on which it is mounted.

SIGN, ROOF, A sign painted, erected or constructed in whole or in part upon any portion of a roof of any building.

SIGN, TEMPORARY, A sign intended to be displayed for less than 30 days.

SIGN, WALL, A sign which is 100% attached to, supported by, or painted on a wall or any flat vertical surface of a structure.

Language proposed to be deleted is ~~lined through~~.

Language proposed to be added is underlined.

In Re: Review of Supervisors Actions

Mr. Love reported that at the last Board meeting, the Board approved the Special Use Permit application for Mark Smith (Sandy River Distillery), the Special Use Permit applications for James Napier for both the Towing Lot and the Illuminated Signs.

Old Business

Mr. Love presented updates to the current projects:

- Wawa is conducting a traffic impact analysis, as requested by the Lynchburg District, on the intersection at Zion Hill Road, Route 15 and Commerce Road. This needs to be done before they can pull a building permit.
- Dollar General is permitted and may break ground soon.
- Harbor Freight has administrative approval on the Dominion corner of Route 15 in front of Lowe's. They have gone through Stormwater/ENS.
- Qadir Abdus-Sabur is moving forward with the purchase of 2.8 acre lot, from the IDA, on Dominion Drive. That project is going through Administrative review and the Stormwater/ENS.
- Better Built Sheds has been permitted and have their ENS and Stormwater.

Mr. Stanley added the Industrial Park Access Road should be completed soon. He said the Rice Convenience Site is substantially complete and should open around August 4; the Worsham site will be worked on next.

New Business

Mr. Love said the summer intern has been working on the GIS and is making headway. He said the board has approved for the Community Development department to have online building and zoning permitting which will allow the process to be quick and very modern. Mr. Love said the Planning Commission will receive tablets in the near future.

Chairman Pregaman declared the meeting adjourned at 8:38 p.m.

Next Meeting: Tuesday, August 15, 2023 at 7:00 p.m.