

Morgantown Planning Commission



REGULAR MEETING PACKET

**Thursday, May 13, 2021
6:30 p.m.**

Planning Commissioners:

Peter DeMasters, 6th Ward
President

Carol Pyles, 7th Ward
Vice-President

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Blosser, 3rd Ward

Bill Petros, 4th Ward

Michael Shuman, 5th Ward

AJ Hammond, Admin.

Ronald Dulaney, City Councilor

Development Services Department

Rickie Yeager, AICP, Director

John Whitmore, AICP, Senior Planner

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Planning Commission Electronic Means Meeting Announcement

Confirming Member Access:

As a preliminary matter, this is **Morgantown Planning Commission President Peter DeMasters**. Permit me to confirm that all Planning Commissioners and persons anticipated on the agenda are present and can hear me.

- Planning Commissioners, when I call your name, please respond in the affirmative.

State each members' name:

- | | |
|--------------------------------|---------------------------------|
| – Vice-President Carol Pyles | – Commissioner Bill Petros |
| – Commissioner Sam Loretta | – Commissioner Michael Shuman |
| – Commissioner Tim Stranko | – Council Member Ronald Dulaney |
| – Commissioner William Blosser | – Commissioner AJ Hammond |

- Staff, when I call your name, please respond in the affirmative.

State each staff members' name:

- Chris Fletcher, Director of Development Services

Introduction to Electronic Means Meeting:

Good Evening. This meeting of the **Morgantown Planning Commission** is being conducted by electronic means consistent with the West Virginia Open Governmental Proceedings Act and the guidance of the West Virginia Ethics Commission due to the current State of Emergency given the outbreak of COVID-19.

In order to mitigate the transmission of the virus and reduce risk of COVID-19 illness, we have been advised and directed to suspend public gatherings. In keeping with that direction, and the authority provided by the Open Governmental Proceedings Act and the Ethics Commission guidance allowing the conduct of public meetings by electronic means so long as the public is able to observe the meeting, this meeting is being conducted by remote electronic participation and in-person attendance by the public is not permitted.

This meeting will include a public comment portion concerning matters not on the agenda and public hearings for each of the cases listing on this evening's agenda. Members of the public will be permitted to comment during these portions by submitting comments in writing or by speaking during their designated time, if they have signed up to do so prior to the start of the meeting. Even if members of the public do not provide comment, participants are advised that people may be listening who do not provide comment, and those persons are not required to identify themselves.

For this meeting, the **Planning Commission** is convening by **Cisco Webex video and telephone conference** as posted on the City's Website identifying how the public may join.

Please note that this meeting is being recorded, and that some attendees are participating by video conference.

Planning Commission Electronic Means Meeting Announcement

Accordingly, please be aware that other people may be able to see you and your video feed, and that you take care not to “screen share” your computer. Anything that you broadcast may be captured by the recording.

All supporting materials that have been provided members of this body are available on the City’s website with the Planning Commission meeting packet unless otherwise noted. The public is encouraged to follow along using the posted agenda.

Meeting Business Ground Rules

Before we turn to the first item on the agenda, permit me to cover some ground rules for effective and clear conduct of our business and to ensure accurate meeting minutes.

- Please remember to mute your phone or computer when you are not speaking.
- Please remember to wait to be recognized by the President before speaking and to speak clearly and in a way that helps generate accurate minutes.
- For any response, please wait until the President yields the floor to you and state your name before speaking.
- If Planning Commissioners wish to engage in colloquy with other members, please do so through the President, taking care to identify yourself.

The Planning Commission conducts business in the following order:

- (1) There will be a general public comment portion when anyone who wishes to address the Planning Commission may do so, but only on matters that are not on the agenda. I will first read, or have read, all written comments submitted, and will then review the list of public commenters who have signed up by the meeting start time. Once I have a list of all public commentators, I will call on each by name. All speakers will be limited to five (5) minutes. If members of the Planning Commission have any questions of the speaker, that time will not be counted toward the speaker’s five (5) minutes. Public speakers must state their name and address for the record. Speakers are notified that irrelevant comments or comments of a personal nature or personal attacks may result in the speaker forfeiting their opportunity to participate in the general public comment portion.
- (2) We review, amend, and approve minutes of the previous meeting.
- (3) We consider any Unfinished Business from previous meetings.
- (4) We move on to New Business items. First, we introduce the item and the Planning Division representative presents the Staff Report.
- (5) Next, we ask the petitioner to make a presentation. Planning Commissioners may ask the petitioner questions at that time. To ensure an accurate record and to aid the preparation of meeting minutes, presenters and Planning Commissioners must first be recognized by the President and state your name before proceeding.

Planning Commission Electronic Means Meeting Announcement

- (6) I will then open a Public Hearing to hear testimony in support of, or in opposition to, the request. Rules regarding public testimony are as follows:
 - (a) I will first read, or have read, all written comments submitted, and will then review the list of public commenters who have signed up by the meeting start time.
 - (b) Once I have a list of all public commentators, I will call on each by name. All speakers will be limited to five (5) minutes. If members of the Planning Commission have any questions of the speaker, that time will not be counted toward the speaker's five (5) minutes.
 - (c) Public speakers must state their name and address for the record. All comments must be addressed to the Commission. Speakers are notified that irrelevant comments or comments of a personal nature or personal attacks may result in the speaker forfeiting their opportunity to participate in the public hearing.
 - (d) If there is a large number of speakers, including many who are part of groups or organizations, I may, to avoid repetitive comments, elect to ask for a representative to speak on behalf of the group or organization.
 - (e) I may elect to recognize the applicant/agent at the end of the public hearing to provide rebuttal or additional comments, which will be limited to five (5) minutes. If members of the Commission have any questions of the applicant/agent, that time will not be counted toward the applicant's/agent's five (5) minutes.
- (7) After all testimony is heard, I will declare the Public Hearing closed and no further public comment will be permitted. At that time, no one in the audience may speak again unless a Planning Commissioner asks a question. If someone is asked a question, they must first be recognized by the President and identify themselves once again before answering.
- (8) Next, the Planning Commission will discuss and take action on the application.
- (9) Because this public meeting is being conducted by remote electronic participation and to ensure accurate meeting minutes each vote taken during this meeting will be conducted by roll call vote.
- (10) Uncivil, unruly, and/or disruptive behavior at any time during this meeting is prohibited and will result in removal from this public meeting.

Thank you for your consideration and respect for these proceedings and the opinions of all meeting participants.

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MORGANTOWN PLANNING COMMISSION

May 13, 2021
6:30 p.m.
By Electronic Means

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

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Tim Stranko, 2nd Ward

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Bill Petros, 4th Ward

Michael Shuman, 5th Ward

Ronald Dulaney, City Council

AJ Hammond, City Admin.

If you need an accommodation, please contact 304-284-7431 or TDD 304-284-7512

Development Services

Rickie Yeager, AICP
Director

Planning Division

John Whitmore, AICP
Senior Planner

389 Spruce Street
Morgantown, WV 26505
304.284.7431

City buildings remain partially closed to the public to protect public health during the COVID-19 pandemic. Personal attendance at this meeting will not be permitted. The public may participate in the public portions through the following Cisco WebEx videoconference access methods:

Meeting Link: <https://cityofmorgantown.my.webex.com/meet/cityofmorgantown>

Meeting Number: 793 734 477

Phone: 415-655-0001

Access Code: 793 734 477

All members of the public may view the meeting on Channel 15 and by streaming hosted on the City's website at www.morgantownwv.gov. If you do not wish to speak at the meeting, please view it by these methods to conserve capacity on the videoconference.

Any person wishing to speak at the meeting may sign up by completing the form available at: <http://bit.ly/MPC051321>. Another option to speak during a public comment portion is by providing their name, phone number they will use to participate, and the specific Case Number and/or General Public Comments listed on the Planning Commission's agenda on which they would like to speak by texting or calling 304-906-7843. You may sign up to speak at any time until the meeting begins. Additionally, the public may submit written comments for the public hearing portions of the meeting by sending an email to the Development Services Department at bmcDonald@morgantownwv.gov. In the email, please use the subject line "Public Comment PC 05/13/2021" and indicate in the body of the email the specific Case Number you wish to address and if you would like your comment to be read aloud during the public hearing portion for that case.

A G E N D A

- I. CALL TO ORDER AND ROLL CALL**
- II. GENERAL PUBLIC COMMENTS** – concerning matters not on the agenda.
- III. MATTERS OF BUSINESS**
 - A.** Approval of the April 8, 2021 meeting minutes.
- IV. UNFINISHED BUSINESS:** None.
- V. NEW BUSINESS:**
 - A.** **TX21-01 / Summers / Swimming Pool:** Request by Dolores John on behalf of Kevin and Audrie Summers for Text Amendment to Articles



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1329 and 1331 concerning the definition and requirements of swimming pools.

VII. OTHER BUSINESS

A. Committee Reports

- Traffic Commission
- Other Committees

B. Staff Comments

VIII. FOR THE GOOD OF THE COMMISSION

IX. ADJOURNMENT

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MORGANTOWN PLANNING COMMISSION

MINUTES

6:30 p.m.

April 8, 2021

By Electronic Means

COMMISSIONERS PRESENT: Peter DeMasters, Carol Pyles, William Blosser, Ronald Dulaney, Sam Loretta, A.J. Hammond, Bill Petros, and Michael Shuman.

COMMISSIONERS ABSENT: Tim Stranko

STAFF PRESENT: John Whitmore, AICP

I. CALL TO ORDER/ROLL CALL: DeMasters called the meeting to order at 6:30 p.m. DeMasters with approval of the commission, did not read the pre-meeting announcement.

II. GENERAL PUBLIC COMMENTS: None.

III. MATTERS OF BUSINESS:

A. Approval of the March 11, 2021 meeting minutes. Blosser motioned to approve, seconded by Loretta. Hammond abstained. Vote was 7-0-1.

IV. UNFINISHED BUSINESS: None

V. NEW BUSINESS:

MNS21-05 / McGinnis / 1256 and 1260 Montrose Avenue: Request by Calvin McGinnis for minor subdivision approval of property located at 1256 and 1260 Montrose Avenue. Tax District 14, Tax Map 24, Parcels 275 & 276; R-1A, Single-Family Residential District

Whitmore presented the staff report.

Mr. McGinnis stated that they are just trying to separate these parcels for ease of sale. Commissioner's provided no questions for the planner or petitioner. Whitmore presented the staff recommendation to approve the minor subdivision.

Hammond moved to approve as recommended. Pyles seconded. Shuman abstained as he was unable to view the packet. Vote 7-0-1.

VI. OTHER BUSINESS

- A. Committee Reports: None.
 - Traffic Commission Report: None.
 - Other Committees: None.
- B. Staff Comments: Whitmore introduced Rickie Yeager who is currently on the call. Rickie introduced himself and thanked John Whitmore for all he has handled in his role as Interim Director.

VII. FOR THE GOOD OF THE COMMISSION

- A. Pyles sought clarification on the role of abstaining from votes. Whitmore noted that abstentions based on lack of information about the case were different than a Commissioner having a financial interest in the case.

VIII. ADJOURNMENT: Loretta moved to adjourn. 6:50 p.m.

MINUTES APPROVED:

COMMISSION SECRETARY:

Rickie Yeager, AICP



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STAFF REPORT

CASE NO: TX21-01 / Summers / Swimming Pools

REQUEST and LOCATION:

Request by Dolores John on behalf of Kevin and Audrie Summers to amend Section 1331.08 of the Planning and Zoning Code as it relates to swimming pools as an accessory structure.

BACKGROUND:

The petitioner seeks to develop a swimming pool at their residence located at 1101 Windsor Avenue. The petitioner's swimming pool design includes a pool house, which per Section 1331.08(a)(12) is permitted to be no further than ten (10) feet from the swimming pool. The applicant seeks to develop the pool house fifteen (15) feet from the swimming pool. The proposed text amendment would change this physical distance provision to accommodate the additional space.

ANALYSIS:

Swimming pools are defined in Section 1329.02 of the Planning and Zoning Code as follows:

Swimming pool means a pool or tub constructed either above or below grade and having a capacity of 1,000 or more gallons.

Swimming pools are also considered accessory structures as a result of Section 1331.08(a)(12) as provided below:

(12) Any accessory structure designed as a poolhouse shall be located no farther than ten feet from the swimming pool to which it shall be accessory. A swimming pool and poolhouse shall constitute one accessory structure.

As shown above, the swimming pool and pool house constitute one accessory structure for zoning purposes.

STAFF RECOMMENDATION:

Staff appreciates the petitioner's application as it does allow for the consideration of the City of Morgantown's regulation of swimming pools as accessory structures. Staff however feels that the associated space between a swimming pool and a pool house is arbitrarily sought, as fifteen (15) only functionally provides an additional five (5) feet of space

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between a physical building and a swimming pool. Instead, staff recommends the Planning Commission revise the accessory structure provisions of the Planning and Zoning Code for Section 1331.08(a)(12) to provide some flexibility in the zoning code in accordance with applicable building codes regarding the placement, construction and operation of swimming pools.

Staff recommends one of the following two (2) zoning text amendment recommendations be affirmatively submitted to City Council under Case No. TX21-01. Staff recommended text amendments are presented as the Recommendation 1 below and the petitioner's requested text amendment is presented as Recommendation 2 below.

Recommendation 1 – Staff Preferred Text Amendment

Revise Section 1331.08 (a)(12) to read as follows:

(a) Customary and incidental accessory buildings and uses are allowed in all residential districts, as specifically regulated in that zoning district, provided that:

(12) Any accessory structure designed as a poolhouse shall be located ~~no farther than ten feet a safe and reasonable distance~~ from the swimming pool, to which it shall be accessory, in accordance with applicable building and zoning codes. A swimming pool and poolhouse shall constitute one accessory structure.

Recommendation 2 – Petitioner's Requested Text Amendment

Change the spatial distance requirements of a pool house to be located no more than fifteen (15) feet from the swimming pool.

1331.08 ACCESSORY STRUCTURES AND USES IN RESIDENTIAL DISTRICTS.

(a) Customary and incidental accessory buildings and uses are allowed in all residential districts, as specifically regulated in that zoning district, provided that:

(12) Any accessory structure designed as a poolhouse shall be located no farther than ~~ten fifteen~~ feet from the swimming pool to which it shall be accessory. A swimming pool and poolhouse shall constitute one accessory structure.

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