



Town of Emmitsburg

Mayor Donald N. Briggs

Board of Commissioners,
Timothy O'Donnell, *President*
Joseph Ritz III, *Vice President*
Clifford Sweeney, *Treasurer*
Frank Davis
Amy Boehman-Pollitt

Town Manager
Cathy Willets
Town Clerk
Sabrina King

**TOWN MEETING AGENDA PACKET
TOWN OFFICE – 300A SOUTH SETON AVENUE
MONDAY, NOVEMBER 7TH – 7:30 P.M.**

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. FUTURE MEETINGS**

Park's Committee Meeting: Tuesday, November 15th, at 7:30 pm (Town Office & Zoom)

Town Board Meeting: Monday, November 21st, at 7:30 pm (Town Office & Zoom)

Christmas Tree Lighting: Monday, December 5th, at 6:00 pm (Front of Community Center)

Town Board Meeting: Tuesday, December 6th at 7:30 pm (Town Office & Zoom)

MEETING ITEMS

- A. APPROVE MINUTES: October 3rd, 2022
- B. POLICE REPORT
- C. TOWN MANAGER'S REPORT
- D. TOWN PLANNER'S REPORT
- E. COMMISSIONER COMMENTS
- F. MAYOR'S COMMENTS
- G. PUBLIC COMMENTS
- H. ADMINISTRATIVE BUSINESS
 - 1) Proclamation for Municipal Government Works Month November 2022 for consideration.
 - 2) ~~Update on trail use, damage and repairs.~~
- I. CONSENT AGENDA
 - 1) Accept resignation of Dan Garnitz from the Board of Appeals.
 - 2) Appoint Dan Garnitz as a regular member of the Planning Commission with a term of November 7, 2022 – January 18, 2027 for consideration.
 - 3) Appoint Jack Pollitt as an alternate member of the Board of Appeals term expires October 1, 2025 for consideration.
- J. TREASURER'S REPORT
- K. PLANNING COMMISSION REPORT
- L. AGENDA ITEMS (DETAILS ATTACHED)
 - 1) For discussion, increases to water/sewer rates.
 - 2) Hold public hearing then consideration, of Ordinance of 2022-10 which would allow private shooting ranges in the industrial zone.
 - 3) For consideration, approval of Ordinance 2022-11 which would allow the use of firearms at private shooting ranges in Town of Emmitsburg.

300A South Seton Avenue • Emmitsburg, Maryland 21727

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- 4) For consideration, policy P 22-01 hunting and recreational usage at Rainbow Lake and Watershed.
- 5) For consideration, approval of Resolution 2022-05R which adopts the Frederick County Hazard Mitigation Plan.
- 6) Rutters forest conservation easement removal request discussion and consideration.
 - i. If the Board agrees to revoke the easement, in whole or in part, the Forest Conservation Plan goes back to the planning commission for its decision regarding Forest conservation requirements and determination.
- 7) Discussion and consideration of amending town code to allow for fences greater than four feet tall in front of yards.
 - i. If the Board desires to amend the code, the staff shall be directed to prepare a text amendment for review and recommendation by the planning commission which will then be returned to the Board for final consideration and adoption.
- ~~8) Decline to accept dedication of four open space lots in Brookfield conditioned upon approval of the Brookfield HOA consideration.~~
- ~~9) Welty Ave parking update.~~

M. SET AGENDA FOR NEXT MEETING: NOVEMBER 7, 2022

4. SIGN APPROVED TEXT AMENDMENTS AND/OR RESOLUTIONS

5. ADJOURN

Join Zoom Meeting

<https://us02web.zoom.us/j/81963409346>

Meeting ID: 819 6340 9346

Passcode: 21727

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Dial by your location

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A. APPROVE MINUTES

**MINUTES
TOWN MEETING
OCTOBER 3RD, 2022
TOWN OFFICE – 300A SOUTH SETON AVENUE**

Present: *Elected Officials* - Mayor Donald Briggs; Commissioners: Timothy O’Donnell, President; Clifford Sweeney, Vice President; T.J. Burns, Treasurer, Joseph Ritz III; Frank Davis; and newly elected Amy Boehman-Pollitt. *Staff Present* - Cathy Willets, Town Manager; Amy Naill, Code Enforcement; Cole Tabler, Town Accountant, and Sabrina King, Recording Secretary and Town Clerk. *Others Present* – Deputy Jason Ahalt.

I. Call to Order

A quorum being present, Commissioner Timothy O’Donnell, President of the Board of Commissioners, called the October 3, 2022 town meeting to order at 7:30 p.m. Pledge of Allegiance was recited. Upcoming meetings were announced.

Approval of Minutes

Motion: Commissioner Ritz III motioned to accept the September 12, 2022 town meeting minutes as presented; second by Commissioner Sweeney. Yeas – 5; Nays – 0. The motion was adopted.

Police Report:

Deputy Ahalt presented the police report from September 2022 (exhibit attached).

Town Managers Report:

Ms. Willets, Town Manager, presented the Manager’s Report from August 2022 (exhibit in agenda packet). Ms. Willets highlighted key points in her report. The contractor repaired section of streetlights on East Main St from Federal Ave. to Creamery Rd. Commissioner O’Donnell asked about the door hangers for water shut offs if they are successful, which Ms. Willets replied that they are and the Town only had two properties on the shut off list.

Grant Administrative Report:

Ms. Willets, Town Manager, presented Ms. Shaw’s Grants Administrator Report. Key highlights are: USDA New Public Works Equipment is almost complete just waiting on the last piece of equipment which should arrive by November 10, 2022. For the Advanced License Plate Reader, the equipment has been installed and only waiting on the network connections.

Town Planners Report:

Ms. Willets, Town Manager, presented the Town Planners Report from August 2022 (exhibit in agenda packet). She presented key highlights from the Board of Appeals. Staff received a variance application for 277 DePaul Street. For the planning commission Mr. Gulden has worked on Christ Community Church, 500 East Main Street Right-of-Way, Village Liquors, Emmitsburg East Industrial II projects. He began working with MD Department of Planning on the next steps to start the 2025 comprehensive plan update.

Commissioner Comments:

- Commissioner Ritz III: Would like to congratulate Commissioner Davis on his re-election and Commissioner-elect Amy Boehman-Pollitt for her. He attended the first meeting of the newly formed Emmitsburg Business Alliance. He attended the 100th year anniversary of the Emmitsburg Community.
- Commissioner Davis: Also attended the Anniversary celebration and he wanted to give a big thank you to Dan Fissel who retired and will be missed. He gave his thoughts and prayers to the Boyle family. Mr. Boyle was a long-time resident and business man.
- Commissioner Sweeney: Reminder that Halloween and the parade is approaching, on Monday, October 31st. Trick or Treating will be from 5:30 pm to 6:45 pm.
- Commissioner O'Donnell: Also attended the High School Anniversary 100th Anniversary. Reminder that Turkey Trot is on Thanksgiving. He has not found a sponsor in the community and welcomes any to step forward.
- Commissioner Burns: Start off by saying congratulations to Commissioner Davis and Commissioner Elect Boehman-Pollitt. Also a thank you to his fellow Commissioners, Mayor, Town Staff, and all the residents in Emmitsburg who has supported him over the years.

TJ Burns steps out after the Commissioners Comments at 7:56 p.m.

Mayor's Comments:

Mayor Briggs attended numerous meetings in September 2022 (meetings listed in agenda packet) The Mayor welcomed Commissioner Elect Amy Boehman-Pollitt and congratulated Commissioner Davis on his re-election. The Mayor had his podcast with Ron Siarnicki the Executive Director of the National Fallen Firefighters Foundation. The Mayor had another podcast with guest Reverend Timothy S. May, the Frederick County Volunteer Firefighters' Chaplain. He attended the MML dinner-meetings where the Town received a \$100,000 LPPI FY2022 Grant. He gave his thanks to Dan Fissel and his years of serving with the town.

Public Comments: *Dr. Samuel Christian, Julian Murray and Gregory McCullers, National Association of Black Veterans of Western, MD-* All voiced an opinion on the Dough Boy statue by asking that the Colored Soldiers be combined with the rest of the soldiers that served during that time. In conclusion all speakers agreed that all soldiers be unified as one and not separated. There will be a future meeting to discuss in more detail. *Eric Sloane, Emmitsburg MD-* Mr. Sloane expressed his concerns of how he has had many code complaints and asked that if someone calls in about his property that they would have a form with that persons contact information so they know who is complaining. He also voiced concerned of the speeding outside of his house across from the Dollar General. *Ray Buchheister, Emmitsburg, Welty Ave-* He gave his congratulations to the newly elect Commissioner Boehman-Pollitt and Commissioner Davis on being re-elected. He asked about a follow up on the painted lines on Welty Avenue because was under the impression that this was going to be done before this meeting. Ms. Willets answered, waiting for the contractor to confirm and reassuring that there will be a letter posted on each resident's door of the time and day of when line painting will begin. *Edward Wantz, Emmitsburg MD-* He asked if small gain hunting can be included in with deer season and end altogether on January 31st which still leaves time in February for the trails. Commissioner O'Donnell suggested we make this an agenda item for November.

Administrative Business:

For consideration, Proclamation declaring October 3rd, breast cancer awareness month.

Motion: Commissioner Sweeney motioned to accept the Proclamation as presented; seconded by Commissioner Ritz. Yeas - 4; Nays - 0 Absent - 1 Commissioner Burns.

Consent Agenda:

None

Treasurer's Report:

Cathy Willets, Town Manager, presented the Treasurer's Report for September 2022 (exhibit in agenda packet).

Planning Commission Report:

Commissioner Ritz III presented the report. Planning Commissioners did meet on September 26th, it was a busy night. They were presented a Zoning Text Amendment to allow private public shooting ranges in the industrial zone, after some lengthy discussion the applicant withdrew his application in order to include more in detail, noise abatement, hours of operation, safety etc. The Planning Commission conditionally approved the Final Forest Conservation Plan and Final Subdivision for lots 5 and 6 and remainder for the Emmitsburg East Industrial Park II. The Planning Commission was requested by the Board of Appeals to consider a potential zoning text amendment regarding fences on how it relates specifically to corner lots.

II. Agenda Items

Agenda #1 – Swearing in new elected commissioners. Mayor Briggs sworn in Commissioner Frank Davis. Next the Mayor, sworn in Commissioner Amy Boehman-Pollitt as her family stood beside.

Commissioner Boehman-Pollitt took her seat with the Board at 8:41 p.m.

Agenda #2 – For consideration Mayors recommendation for reorganization of the Board of Commissioners. Presented by Mayor Donald Briggs, Timothy O'Donnell as President; Joseph Ritz III as Vice President; Clifford Sweeney as Treasurer; Joseph Ritz III as Planning Commission; Frank Davis as Park Commission; and Amy Boehman-Pollitt as Citizens Advisory Committee. Motion: Commissioner Davis motioned to accept the Mayors recommendation as presented; seconded by Commissioner Amy Boehman-Pollitt. Yeas – 5; Nays – 0

~~Agenda #3 – Hold a public hearing then consideration of Ordinance 2022-10, which would allow Private and public Shooting ranges in the Industrial Park zoning district.~~ WITHDRAWN BY APPLICANT

Agenda #4 – Discussion of possible water and sewer rate and connection fee increase options as a result of a recent study. Ms. Willets, Town Manger presented the following along with Mr. Maker (NewGen Strategies & Solutions). Ms. Willets wanted to point out that this meeting is to give an idea of where we are and where we need to go. Water fund has been at a loss for many. There are two proposed options, of a onetime rate increase of approximately 150% and then continue to increase 3%. Ms. Willets recommended to change the Town code to automatically increase 3% each year so that way can continue to maintain and not fall behind like they did. The second option would be to spread it out over the next three fiscal years, knowing that the water fund will still remain in the negative and will not see the 90 days of surplus until fiscal year 2025. Voting on the rates in December so they would go in effect on January 1st and reflected in the March water bill. Mr. Tabler expressed that the water fund is to the point where the cash balance moving forward is in the position ~~we will have~~ to have to borrow cash from the general or sewer fund. The goal is to keep the funds separate and self-sustaining. Ms. Willets added that it is not recommended to not borrow from the sewer as it would lead to a “Black Mark” on your audit and any money borrowed has to be paid back. Mr. Tabler also added the water fund from year to year has consistent revenue from utility charges from water rates. One thing that is inconsistent are the tap fees that are collected on new buildings. Commissioner Ritz had questions in regards to the minimum usage of the

gallons. Mr. Maker answered the 6,000 gallons as it is the fixed rate charged that goes towards the revenue. Mr. Maker stated many municipalities have increased their minimum fixed rate charge and usage. Commissioner O'Donnell also wanted clarification on current projects or future projects. Ms. Willets responded that on the books there is a five-year plan which the Board gets each budget year. Commissioner O'Donnell stated that the Board will revisit this at the November meeting.

Cole Tabler left at 9:25 p.m.

Agenda #5 For consideration, approval of a planning consultant contract.

Ms. Willets explained, that at the direction of the Board from the July meeting, the Mayor, and herself met with Mr. Jakubiak who has previously done work with the town. He comes highly recommended by the town attorney. He currently works with the Town of Thurmont. The agreement is for Mr. Jakubiak to be on call where he will provide town planning and zoning services. The consultant would report to the Town Manager. It would be a nine-month agreement and can be extended and renewed for another year if the money is in the budget. The compensation is billed by the hour at \$205.00 dollars per hour for approximately 16 hours a month. For the total of nine months it would be twenty-nine thousand five hundred and twenty dollars. Commissioner Davis and Commissioner O'Donnell support the idea of having a planning consultant. The Board had a consensus to wait for the audit to be complete to identify the funds from the 2022 budget being available for the planning consultant. Motion: Commissioner Davis motioned to accept the contract as presented; seconded by Commissioner Sweeney. Yeas – 5; Nays - 0

Agenda #6 – For consideration, approval of lease for 303 West Lincoln Ave. Ms. Willets advised Pastor John was present if there were any questions and read the terms of the lease. This is a lease addendum to the current lease and would take effect in retroactive on October 1st, 2022. It shall expire on its own terms on the 30th day of September 2024. During the first year of the terms the rent will be \$2500.00 which will be a \$300.00 rent increase. During the second year rent increase to \$3000.00. Ms. Willets mentioned both Pastor John and the Mayor came up with these agreements. Commissioner Davis suggested that they keep the rent the \$2,500.00 for the next two years, Commissioner O'Donnell asked, looking at the rental agreement to be \$2,500.00 monthly for the two years. Motion: To accept the contract as modified; Commissioner Davis motioned to accept the contract as modified; seconded by Commissioner Ritz. Yeas – 5; Nays - 0

Set Agenda Items for October 3, 2022 Town Meeting

Agenda Items:

(1.) For discussion, increases to water/sewer rates. (2.) Hold a public hearing then consideration, of Ordinance of 2022-10 which would allow private shooting ranges in the industrial zone. (3.) For consideration, approval of Ordinance 2022-11 which would allow the use of firearms at private shooting ranges in Town of Emmitsburg. (4.) For consideration, policy P 22-01 hunting and recreational usage at Rainbow Lake and Watershed. (5.) For consideration, approval of Resolution 2022-05R which adopts the Frederick County Hazard Mitigation Plan. (6.) Rutters forest conservation easement removal request discussion and consideration. (7.) Discussion and consideration of amending town code to allow for fences greater than four feet tall in front of yards. (9.) Welty Ave parking update. ***Administrative Business:*** (1.) Proclamation for Municipal Government Works Month November 2022 for consideration. (2.) Update on trail use, damage and repairs. ***Consent Items:*** (1.) Accept resignation of Dan Garnitz from the Board of Appeals. (2.) Appoint Dan Garnitz as a regular member of the Planning Commission with a term of November 8, 2022- January 18, 2027 for consideration. (3.) Appoint Jack

Pollitt as an alternate member of the Board of Appeals term expires October 1, 2025 for consideration.
Motion: Commissioner Davis motioned to accept the November 7th, 2022 town meeting agenda as presented; second by Commissioner Ritz. Yeas – 5; Nays – 0. The motion was adopted.

III. Sign Approved Text Amendments and/or Resolutions

IV. Adjournment

With no further business, Commissioner Sweeney motioned to adjourn the October 3rd, 2022 town meeting at 10:15 p.m.; second by Commissioner Boehman-Pollitt. Yeas – 5; Nays – 0. The motion was adopted.

Respectfully submitted,

Sabrina King, Recording Secretary
Minutes Approved On:

B. POLICE REPORT: Presentation by deputies at the meeting.

C. TOWN MANAGER’S REPORT

**Town Manager’s Report
September 2022
Prepared by Cathy Willets**

Streets:

- Staff replaced and repaired some street signs around town.
- Staff conducted monthly street sweeping.
- Staff repaired street lights.
- Staff conducted monthly storm drain inlet cleaning.
- Staff weed killed sidewalks, curbs and around streetlights on East & West Main St.
- Contractor blacktopped section of Robindale Dr. in Silo Hill.
- Staff assisted contractor(s) with the ALPR project.
- Contractor blacktopped road to salt shed at WWTP.
- Staff cut tree root off in tree well on West Main St.
- Contractor blacktopped Chesapeake Ave. and installed new speed bump.
- Contracting blacktopped Stonehurst Ct.
- Staff installed Emmitsburg High School wayside exhibit.
- Staff put up Fallen Firefighter banners up on street light poles and at each end of Town.

Parks:

- Staff conducted daily park checks – trash cans, cameras, dog waste stations, restrooms.
- Staff conducted monthly park maintenance – playground equipment, roads, fences, pavilions, etc.
- Staff mowed, trimmed and weed killed in parks.
- Contractors installed conduit and wire for new camera project in Memorial Park and E. Eugene Myers Park.
- Staff painted over graffiti in ballfield #5 dugout and storage shed door at ballfield #7.

Water:

- Rainbow Lake is 1.5’ below the spillway level (15.1 feet). Spillway is 16.6 feet.
- The roughing filters are being backwashed three times a day. The DE filters are getting two week runs.
- Well levels (optimum level was determined to be May 2011).

| | <u>May 2011</u> | <u>September</u> | <u>Change</u> |
|------------|-----------------|------------------|---------------|
| ○ Well #1: | 35’ | 37’ | -2’ |
| ○ Well #2: | 8’ | 10’ | -2’ |
| ○ Well #3: | 12’ | 30’ | -18’ |
| ○ Well #4: | 108’ | 81’ | +27’ |
| ○ Well #5: | 10’ | 32 | -22 |

- Water production and consumption. We produced an average of 230,646 GPD. We consumed an average of 244,107 GPD (finish water + MSM). The amount of Backwash Water in the month of September is ... (13.49%).
 - 43.05% of this water came from wells.
 - 5.15% of this water came from Mt. St. Mary's.
 - 51.80% of this water came from Rainbow Lake.

We purchased 421,700 gallons of water from MSM this month.

Wastewater:

- We treated an average of 361,300 gpd (consumed 244,107 GPD) which means that 32.44% of the wastewater treated this month was "wild water".
- We had no spills of untreated sewage in the month of September.
- We did exceed the plant's design capacity twice in the month of September.
 - 09/06 848,500 gpd 09/07 1,062,900 gpd
- We received about 5.05" of precipitation this month (the average is 4.24"). We have a precipitation **SURPLUS of 2.99"** over the last six months. The average precipitation for the period from April 1 through September 30 is 23.46". We have received 26.45" for that period.

Trash: Trash pickup will remain Mondays in the month of November.

Meetings Attended:

- 09/01 Attended zoom call with Jimmy Click and MSM staff re: event in park
- 09/01 Attended County Executive conference call re: tax equity and legislative issues
- 09/01 Attended walk through with staff and County representative re: roof replacement project
- 09/07 Met with Mayor.
- 09/07 Attended zoom call with staff and contractor re: water/sewer rate study
- 09/12 Attended MS-4 training.
- 09/12 Call with SHA re: light at North Seton Ave. @ DePaul St.
- 09/12 Attended Town meeting.
- 09/13 Attended meeting with staff re: stormwater utility fee implementation meeting.
- 09/13 Attended meeting with staff to review EEIP II plan
- 09/13 Conference call with Mayor and Town Attorney
- 09/14 Conference call with Mayor and Town Attorney.
- 09/20 Conference call with staff and Town Attorney re: upcoming zoning text amendment.
- 09/26 Attended Planning Commission meeting.
- 09/27 Conference call with Town Attorney re: Frailey Road annexation
- 09/29 Attended zoom meeting with staff and contractor re: water/sewer rate study.

Noteworthy:

- Staff pumps holding tank every 10 days at 8533 Hampton Valley Rd.
- Staff worked the yard waste dumpster twice in September.
- Staff conducted monthly equipment and fire extinguisher maintenance.
- Staff did some water meter upgrades.
- Staff completed some use and occupancy permit inspections.
- Staff conducted quarterly water meter readings.

November 2022
Grants Administrator Report
Prepared By: Madeline Shaw, Grants Administrator

ACTIVE GRANTS (11 TOTAL)

#22-1, USDA New Public Works Equipment for \$168,900 (match of \$128,500)

- For purchase of a 4x4 work truck, backhoe loader, multi-user tractor, WWTP SCADA.
- Status - Backhoe and multi-use tractor delivered. SCADA completed. Waiting on work truck to be delivered around Nov. 10th and invoices before submitting final grant report.

#22-5, GOCCP Edward J. Byrne Memorial Justice Assistance Grant (BJAG) for \$98,544 (no match)

- For purchase/installation of 3 license plate readers & 3 surveillance cameras.
- Status - ALPRs installed mid-September. 2 of 3 surveillance cameras installed. Deputies to be trained on how to use the system in November. Main Street/Silo Hill Parkway surveillance camera to be installed in December before project is complete.

#22-6, POS New Bathroom/Concession Stand for \$147,980 (\$89,000 match)

#22-7, LPPI New Bathroom/Concession Stand for \$40,000 (no match)

- For construction of a new bathroom/concession stand combo building in Community Park.
- Status – Engineer currently working on SWM plan and topographic work, due by Dec. 1st.

USDA Creamery Road Pump Station Replacement \$863,000 grant, \$1,987,000 loan

- For replacement of Creamery Road Pump Station with new station.
- Status – waiting on USDA to approve final design, currently submitting monthly reports to USDA.

#23-1, TRIPP Historic Walking Tour and Visit Emmitsburg Website for \$9,750 (\$9,750 match)

- For creation of a tri-fold brochure with walking tour map and creation of Visit Emmitsburg website that would include things to do in area and walking tour.
- Status – final edits for brochure submitted to contractor 10/27, website to begin final design next.

#23-2, TRIPP Emmitsburg Advertising for \$2,963 (\$1,481 match)

- For advertising the Town as a destination in Celebrate Gettysburg and Montgomery Magazine.
- Status – waiting to run ads in spring/summer 2023.

#23-4, CP&P Silo Hill Playground Improvements for \$146,263 (no match)

- To replace old swing set and playground tower and install half basketball court.
- Status – State fully approved grant. Purchase order sent to contractor for work 08/25. Installation to occur in January/February 2023 at latest. Half basketball court to be installed prior.

#23-8, MEA Streetlight & Outdoor Lighting Efficiency Pilot for \$27,500 (\$35,113.50 match)

- For replacement of street lights on Main Street/South Seton with dimmable cutoff lights.
- Status – waiting to find additional funding to fund entire project est. at \$234,090. Grant agreement being finalized with State for this grant.

NEWLY AWARDED GRANTS (2 TOTAL)

USDA Community Facility Grant – Downtown Streetlight Replacements for \$75,000 and \$50,000 (\$125,000 total)

- Replace 102 streetlights along Main Street / Seton Avenue with new LED dimmable cutoff lights.

DHCD Operating Assistance Grant – Main Street Improvement Grant for \$10,000

- Replace 102 streetlights along Main Street / Seton Avenue with new LED dimmable cutoff lights.

PENDING GRANTS (WAITING FOR ANNOUNCEMENT) (12 TOTAL)

#23-5, POS Rainbow Lake Parking Lot for \$70,000 (\$37,500 match)

- For SWM plan and to pave a 10 to 12 space parking lot at Rainbow Lake.
- Status - waiting on Maryland Board of Public Works final review/approval in November.

#23-6, POS Community Park Cornhole for \$6,000 (\$2,00 match)

- For installing two pairs of permanent concrete cornhole boards in Community Park.
- Status - waiting on Maryland Board of Public Works final review/approval in November.

#23-7, POS Outdoor Storybook Trail for \$8,250 (\$2,750 match)

- For installation of 30 single pedestal exhibits that would display exchangeable storybook pages.
- Status - waiting on Maryland Board of Public Works final review/approval in November.

MWQFA Drinking Water Revolving Loan and/or Water Supply Grant for \$2,255,552 submitted 01/31/22

1. North Seton Avenue waterline replacement \$1,145,552
2. DePaul Street waterline replacement \$1,110,000

DNR Local Parks and Playgrounds Infrastructure Grant FY2023 – 4 Totaling \$100,000 submitted 07/06/22

1. Rainbow Lake Parking Lot to cover remainder of funds needed for project \$44,500
2. Community Park Pavilion Improvements to rehab pavilion and replace tables \$30,500
3. Memorial Park Pavilion Improvements to rehab pavilions and replace tables \$22,000
4. Baseball Bat/Helmet Racks to purchase racks for remaining 3 ballfields \$3,000

DNR Community Parks and Playgrounds FY2024 – 2 Totaling \$120,686 submitted 08/24/22

1. Half basketball court in Memorial Park \$15,000
2. Playground addition via Timber Stacks play equipment in Memorial Park \$105,686

DHCD Business District and Neighborhood Safety Grant for \$85,000 submitted 10/21/22

- Purchase two portable radar speed trailers and two surveillance cameras for town square.

UPCOMING GRANTS (TO APPLY FOR)

1. **Keep Maryland Beautiful, due November 15, 2022**
 - Purchase 4 pet waste stations for Town/parks
 - Purchase 3 recycling bins for Town/parks
2. **Community Development Block Grant, due around June 2023**
 - Fund remaining DePaul Street waterline replacement as needed
3. **GOCCP Edward J. Byrne Memorial Justice Assistance Grant, due around August 2023**
 - Purchase/installation of 3 more ALPRs to catch traffic going in both directions
4. **And other grants as funding is found.**

- FYI - Maryland Tourism Office, Outdoor Legacy - Building the last mile grant, rolling deadline**
- Funds to rebuild the red trail damaged by logging
 - Grant closed early in October due to overwhelming response of applications. No wait list.

PARKING ENFORCEMENT REPORT
September 2022

| | |
|-------------------------------|-------------------|
| Overtime Parking | 31 |
| Restricted Parking Zone | 6 |
| Parked in Crosswalk | |
| Parked on Sidewalk/Curb | 3 |
| Parked by Fire Hydrant | 1 |
| Parked Blocking Street | |
| Parked Blocking Driveway | |
| Failure to Park between Lines | |
| Left Side Parking | 4 |
| Parked in Handicapped Space | |
| 48 Consecutive Hours | |
| Parking Warnings | |
| Meter Money | \$ 897.21 |
| Parking Bags | |
| Parking Permits | \$ 345.00 |
| Parking Ticket Money | \$ 1,255.00 |
| Total: | \$2,497.21 |

D. TOWN PLANNER'S REPORT

Town Planner's Report – September 2022

Prepared by Zach Gulden, MPA

1. Board of Appeals (BOA):

- Reviewed 277 DePaul Street variance application and created staff memo.
- Prepared and distributed new alternate member's information packet.
- Attended BOA meeting on 9/27 and processed pre/post meeting materials.

2. Board of Commissioners (BOC):

- Attended the 9/12 BOC meeting and processed pre/post meeting materials.
- Attended a water/sewer rate study presentation meeting on 9/7 & 9/29.
- Reviewed sample "floating zone" informal request and provided comments to town attorney, mayor, & manager.

3. Grants:

- Chesapeake Bay Trust:
 - Silo Hill SWM basin retrofit design & permitting grant management.
 - Submitted grant contingency report in order to receive first distribution of funding.
 - Served as a grant expert reviewer for the FY23 Watershed Assistance Grant Program. Attended a meeting on 9/8 for training. Reviewed 6x grant applications.
- Community Legacy:
 - Submitted the FY22 award quarterly report.
- Chesapeake & Coastal Grants Gateway:
 - Received notification of \$199,000 award for Silo Hill basin retrofit project.
 - Submitted updated budget to reflect new costs.

4. Municipal Separate Storm Sewer System (MS4):

- Silo Hill SWM basin retrofit & tree planting project management.
 - Silo Hill SWM basin retrofit:
 - Applied for and obtained mass grading permit.
 - Grant required pre-construction meeting on 9/14.
 - Conservation District required pre-construction meeting on 9/28.
 - Tree plantings:
 - Planting event held on 9/24.
- Continued working on the current year MS4 permit report.
- Prepared for and attended the yearly mandatory MS4 staff training on 9/12.
- Met with accountant department and manager on 9/13 regarding implementation of the SWM fee.

- Prepared a newsletter article on the newly enacted MS4 fee.
- Answered numerous emails/phone calls on new SWM fee.

5. Code Enforcement & Permits:

- Processed 8x zoning permit applications:
 - 1x – paver walkway.
 - 3x – fence.
 - 1x – driveway extension.
 - 1x – patio.
 - 1x – shed.
 - 1x – 2x 1,000-gallon propane tanks (Rutter’s).
- Processed 4x backflow preventer permit applications.
- Processed 1x street closure permit application.
- Processed 1x street cut permit application.
- Code enforcement officer attended court hearing regarding Frailey Road property citation on 9/13.
- Removed 39 citations with the court due to payment – Frailey Road property.
- Processed bi-yearly grease trap reports.
- Filed 49x liens with FC Court regarding E Main St property.
- Filed 1x lien with FC Court regarding Welty Ave property.
- Filed request for entry of an order of default (Welty Ave property).
- Responded to incident reports.

6. Planning Commission (PC):

- Christ’s Community Church, Brookfield Parcel’s “C”, “D”, & “E”, Rutter’s, Village Liquors, Emmitsburg East Industrial Park II, and Irishtown Road (Brookfield Lots 1-19) project management.
- 500 East Main Street Right-of-Way (ROW) Plat:
 - Oversaw fence installation from Frederick Fence.
- Christ’s Community Church
 - Reviewed corrected addition plat for mayor and PC chairman signatures.
- Brookfield Parcel’s “C”, “D”, & “E”:
 - Reviewed corrected forest stand delineation, preliminary forest conservation, and preliminary subdivision plat for mayor and PC chairman signatures.
- Emmitsburg East Industrial Park II:
 - Reviewed and prepared staff memos for the final subdivision & final forest conservation plans for Lots 5 & 6.
- Irishtown Road Brookfield Lots 1-19.
 - Final sidewalk/curb walkthrough with Public Works Director on 9/2.
 - Worked with developer/contractor on finalizing punch list items.
 - Street tree walkthrough with Ryan Homes on 9/20.
- Reviewed and prepared staff memo for zoning text amendment application – shooting ranges.

- Attended PC meeting on 9/26 and processed pre/post meeting materials.

7. Miscellaneous:

- Stand 10 forestry project management.
- Researched solutions for Welty Avenue parking complaint.
- Assisted Town Manager with gathering permit information for a public information act request.
- Worked with County on amending the State's Forest Conservation Law to increase restoration requirements from 2 years / 3 growing seasons to 5 years / 6 growing seasons.
- Met with manager, mayor, & attorney on 9/20 for various matters.
- Met with manager, mayor, & attorney on 9/27 regarding Frailey Farm.
- Created Welty Avenue resident letter regarding parking solution on behalf of mayor.
- Prepared audit info for Accountant.

8. New Business / Development Updates:

- **Emmit Ridge 2** – Property is for sale.
- **Federal Stone** – Forest & site plans approved. Next step is to submit an improvement plat with the Town. Unknown date.
- **Frailey Farm** - Property is under contract. Public workshop scheduled for October 24 @ 7:30 PM.
- **Mason Dixon Logistics Park (Trout Property)** – concept plan submitted to staff. Commercial / industrial park. Submitted informal floating zone amendment for comment.
- **MDOT/SHA Park & Ride** – MDOT/SHA has informed the Town that they have restarted design on July 1, 2022. They expect that 30% of the project will be completed by the end of 2022 (“Preliminary Investigation Phase”).
- **Ripleigh's Creamery** – Construction to begin in October.
- **Rutter's** – active construction. Expected completion is end of October or beginning of November 2022.
- **Village Liquors & Plaza Inn** – Property owner has informed the Town that they are now phasing the project – Phase 1) 1st story convenience area; and Phase 2) 2nd & 3rd story hotel. They are working on zoning permit submittal.

E. COMMISSIONER COMMENTS

F. MAYOR'S COMMENTS

October activities for November 7th Town meeting agenda - Mayor Briggs

- Monday, October 3rd, 7:30 PM, regularly scheduled Town meeting.
- Thursday, 27th, 10 AM, Ribbon cutting for St. Joseph's College – NETC wayside exhibits, EMI
- Deputy. Hoover, DOC Archivist staff Town – Myself and Maddy Shaw, Vince Hodge, NETC MOSS Director.
- Saturday, 6:30 PM, 41st Annual National Fallen Firefighters Memorial weekend, NETC campus. Welcoming address at Candlelight Service.
- Tuesday, October 18th, 11:30 AM, conference call with the Town Manger Cathy Willets and Chris Jakubiak, Planning Consultant.
- Friday 22nd, 9 AM -12, Mount St. Mary's University College of Liberal Arts Advisory Board.
- Friday 22nd, Noon, Ski Liberty, Mount St. Mary's University Rugby team annual golf tournament- banquet.
- Friday 22nd, 1 PM, Talk to group of Emmitsburg seniors.
- Monday, 24th, 7:30 PM, Commission Frailey property annexation workshop.
- Monday 31st, 9 AM -12, Zoom meeting with staff and Frederick County Public Schools representative regarding growth in Emmitsburg.
- Monday, November 7th, 7:30 PM, regularly scheduled town monthly meeting.

G. PUBLIC COMMENTS

H. ADMINISTRATIVE BUSINESS

- 1) Proclamation for Municipal Government Works Month November 2022 for consideration.
- 2) ~~Update on trail use, damage and repairs.~~ **THIS ITEM HAS BEEN POSTPONED PER COMMISSIONER O'DONNELL.**



draft

Proclamation

MUNICIPAL GOVERNMENT WORKS MONTH NOVEMBER 2022

The Mayor and Council of the Town of Emmitsburg proclaim November 2022 to be Municipal Government Works Month.

WHEREAS, the Town was established in 1785; and

WHEREAS, Maryland is home to 156 other municipalities; and

WHEREAS, municipal government represents the most responsive level of government, allowing citizens to have direct access to elected officials; and

WHEREAS, in an effort to educate citizens about municipal government and the importance of their participation, the Town of Emmitsburg is proud to promote municipal government awareness; and

WHEREAS, municipalities have enhanced the quality of life for their respective residents maintaining natural and historic sites and structures and helping to make Maryland a great place to live, work, play and explore.

NOW, THEREFORE, BE IT PROCLAIMED, that the Mayor and Council of the Town of Emmitsburg, Maryland do hereby join the Maryland Municipal League in declaring November 2022 to be Municipal Government Works Month in Emmitsburg.

ADOPTED this 7th day of November, 2022

Donald N. Briggs
Mayor

Timothy J. O'Donnell, President
Board of Commissioners

K. PLANNING COMMISSION REPORT:

Presentation at the meeting.

L. AGENDA ITEMS:

AGENDA ITEM #1: For discussion, increases to water/sewer rates.

Presentation at meeting by Town Staff and Contractor.

Current Charges and Fees (FY 2022)

Water Charges

Quarterly Minimum Charge (by meter size)*

| | |
|-------|----------|
| 3/4 | \$35.00 |
| 1 | \$45.00 |
| 1 1/2 | \$50.00 |
| 2 | \$100.00 |
| 4 | \$400.00 |
| 6 | \$800.00 |

Volume Charge (per 1,000 gallons)

| | | |
|---------------------------|-------------------------------|---------|
| Single-Family Residential | | |
| Level 1 | 6,001 - 10,000 gallons | \$2.40 |
| Level 2 | 10,001 - 20,000 gallons | \$4.50 |
| Level 3 | 20,001 - 100,000 gallons | \$7.50 |
| Level 4 | 100,001 - 1,000,000 gallons | \$10.50 |
| Level 5 | 1,000,001 – 2,000,000 gallons | \$13.80 |
| Level 6 | Over 2,000,000 gallons | \$17.25 |

Sewer Charges

Quarterly Minimum Charge (by meter size)*

| | |
|-------|-----------|
| 3/4 | \$113.00 |
| 1 | \$122.00 |
| 1 1/2 | \$175.00 |
| 2 | \$175.00 |
| 4 | \$700.00 |
| 6 | \$1400.00 |

Volume Charge (per 1,000 gallons)

| | | |
|---------------------------|-------------------------------|---------|
| Single-Family Residential | | |
| Level 1 | 6,001 - 10,000 gallons | \$2.40 |
| Level 2 | 10,001 - 20,000 gallons | \$6.00 |
| Level 3 | 20,001 - 100,000 gallons | \$10.00 |
| Level 4 | 100,000 - 1,000,000 gallons | \$14.00 |
| Level 5 | 1,000,000 – 2,000,000 gallons | \$18.50 |
| Level 6 | Over 2,000,000 gallons | \$23.00 |

*includes 6,000 gallons

Projected Water Rates (Current Rate Design)

| | Current | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|------------------------------------------|----------|------------|------------|------------|------------|------------|
| Quarterly Minimum Charge* | | | | | | |
| 3/4 | \$35.00 | \$87.50 | \$90.15 | \$92.85 | \$95.65 | \$98.50 |
| 1 | \$45.00 | \$112.50 | \$115.95 | \$119.40 | \$123.00 | \$126.65 |
| 1 1/2 | \$50.00 | \$125.00 | \$128.80 | \$132.65 | \$136.65 | \$140.75 |
| 2 | \$100.00 | \$250.00 | \$257.60 | \$265.30 | \$273.30 | \$281.45 |
| 4 | \$400.00 | \$1,000.00 | \$1,030.30 | \$1,061.15 | \$1,093.15 | \$1,125.75 |
| 6 | \$800.00 | \$2,000.00 | \$2,060.60 | \$2,122.30 | \$2,186.30 | \$2,251.45 |
| Overage Rates (per 1,000 gallons) | | | | | | |
| Tier 1 (6,001 - 10,000 gallons) | \$2.40 | \$6.00 | \$6.18 | \$6.37 | \$6.56 | \$6.76 |
| Tier 2 (10,001 - 20,000 gallons) | \$4.50 | \$11.25 | \$11.59 | \$11.94 | \$12.30 | \$12.68 |
| Tier 3 (20,001 - 100,000 gallons) | \$7.50 | \$18.75 | \$19.31 | \$19.91 | \$20.50 | \$21.13 |
| Tier 4 (100,001 – 1,000,000 gallons) | \$10.50 | \$26.25 | \$27.04 | \$27.87 | \$28.70 | \$29.58 |
| Tier 5 (1,000,001 – 2,000,000 gallons) | \$13.80 | \$34.50 | \$35.54 | \$36.63 | \$37.72 | \$38.87 |
| Tier 6 (Over 2,000,000 gallons) | \$17.25 | \$43.13 | \$44.42 | \$45.78 | \$47.15 | \$48.59 |

*includes 6,000 gallons

Projected Sewer Rates (Current Rate Design)

| | Current | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|------------------------------------------|------------|------------|------------|------------|------------|------------|
| Quarterly Minimum Charge* | | | | | | |
| 3/4 | \$113.00 | \$116.40 | \$119.90 | \$123.50 | \$127.20 | \$131.00 |
| 1 | \$122.00 | \$125.70 | \$129.45 | \$133.35 | \$137.35 | \$141.45 |
| 1 1/2 | \$175.00 | \$180.30 | \$185.70 | \$191.30 | \$197.00 | \$202.90 |
| 2 | \$175.00 | \$180.30 | \$185.70 | \$191.30 | \$197.00 | \$202.90 |
| 4 | \$700.00 | \$721.10 | \$742.75 | \$765.05 | \$788.00 | \$811.55 |
| 6 | \$1,400.00 | \$1,442.15 | \$1,485.50 | \$1,530.10 | \$1,575.95 | \$1,623.05 |
| Overage Rates (per 1,000 gallons) | | | | | | |
| Tier 1 (6,001 - 10,000 gallons) | \$2.40 | \$2.47 | \$2.54 | \$2.62 | \$2.70 | \$2.78 |
| Tier 2 (10,001 - 20,000 gallons) | \$6.00 | \$6.18 | \$6.35 | \$6.55 | \$6.75 | \$6.95 |
| Tier 3 (20,001 - 100,000 gallons) | \$10.00 | \$10.29 | \$10.58 | \$10.92 | \$11.25 | \$11.58 |
| Tier 4 (100,001 - 1,000,000 gallons) | \$14.00 | \$14.41 | \$14.82 | \$15.28 | \$15.75 | \$16.22 |
| Tier 5 (1,000,001 - 2,000,000 gallons) | \$18.50 | \$19.04 | \$19.58 | \$20.20 | \$20.81 | \$21.43 |
| Tier 6 (Over 2,000,000 gallons) | \$23.00 | \$23.67 | \$24.34 | \$25.11 | \$25.88 | \$26.64 |

*includes 6,000 gallons

Projected Water Rates (Alternative Rate Design)

| | Current | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|------------------------------------------|----------|-------------|-------------|-------------|-------------|-------------|
| Quarterly Minimum Charge* | | | | | | |
| 3/4 | \$35.00 | \$87.50 | \$90.15 | \$92.85 | \$95.65 | \$98.50 |
| 1 | \$45.00 | \$145.85 | \$150.25 | \$154.75 | \$159.45 | \$164.20 |
| 1 1/2 | \$50.00 | \$291.70 | \$300.50 | \$309.50 | \$318.85 | \$328.35 |
| 2 | \$100.00 | \$466.70 | \$480.80 | \$495.20 | \$510.15 | \$525.35 |
| 4 | \$400.00 | \$1,458.35 | \$1,502.50 | \$1,547.50 | \$1,594.20 | \$1,641.70 |
| 6 | \$800.00 | \$2,916.70 | \$3,005.00 | \$3,095.00 | \$3,188.35 | \$3,283.35 |
| 8 | - | \$4,666.70 | \$4,808.00 | \$4,952.00 | \$5,101.35 | \$5,253.35 |
| 10 | - | \$12,250.00 | \$12,621.00 | \$12,999.00 | \$13,391.00 | \$13,790.00 |
| Overage Rates (per 1,000 gallons) | | | | | | |
| Tier 1 (6,001 - 10,000 gallons) | \$2.40 | \$6.00 | \$6.18 | \$6.37 | \$6.56 | \$6.76 |
| Tier 2 (10,001 - 20,000 gallons) | \$4.50 | \$13.50 | \$13.91 | \$14.33 | \$14.76 | \$15.21 |
| Tier 3 (20,001 - 100,000 gallons) | \$7.50 | \$21.00 | \$21.63 | \$22.30 | \$22.96 | \$23.66 |
| Tier 4 (100,001 - 1,000,000 gallons) | \$10.50 | \$28.50 | \$29.36 | \$30.26 | \$31.16 | \$32.11 |
| Tier 5 (1,000,001 - 2,000,000 gallons) | \$13.80 | \$36.00 | \$37.08 | \$38.22 | \$39.36 | \$40.56 |
| Tier 6 (Over 2,000,000 gallons) | \$17.25 | \$43.50 | \$44.81 | \$46.18 | \$47.56 | \$49.01 |

*includes 6,000 gallons

Projected Sewer Rates (Alternative Rate Design)

| | Current | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|------------------------------------------|------------|-------------|-------------|-------------|-------------|-------------|
| Quarterly Minimum Charge* | | | | | | |
| 3/4 | \$113.00 | \$116.40 | \$119.90 | \$123.50 | \$127.20 | \$131.00 |
| 1 | \$122.00 | \$194.00 | \$199.85 | \$205.85 | \$212.00 | \$218.35 |
| 1 1/2 | \$175.00 | \$388.00 | \$399.70 | \$411.70 | \$424.00 | \$436.70 |
| 2 | \$175.00 | \$620.80 | \$639.50 | \$658.70 | \$678.40 | \$698.70 |
| 4 | \$700.00 | \$1,940.00 | \$1,998.35 | \$2,058.35 | \$2,120.00 | \$2,183.35 |
| 6 | \$1,400.00 | \$3,880.00 | \$3,996.70 | \$4,116.70 | \$4,240.00 | \$4,366.70 |
| 8 | - | \$6,208.00 | \$6,394.70 | \$6,586.70 | \$6,784.00 | \$6,986.70 |
| 10 | - | \$16,296.00 | \$16,786.00 | \$17,290.00 | \$17,808.00 | \$18,340.00 |
| Overage Rates (per 1,000 gallons) | | | | | | |
| Tier 1 (6,001 - 10,000 gallons) | \$2.40 | \$2.47 | \$2.54 | \$2.62 | \$2.70 | \$2.78 |
| Tier 2 (10,001 - 20,000 gallons) | \$6.00 | \$5.56 | \$5.72 | \$5.90 | \$6.08 | \$6.26 |
| Tier 3 (20,001 - 100,000 gallons) | \$10.00 | \$8.65 | \$8.89 | \$9.17 | \$9.45 | \$9.73 |
| Tier 4 (100,001 – 1,000,000 gallons) | \$14.00 | \$11.73 | \$12.07 | \$12.45 | \$12.83 | \$13.21 |
| Tier 5 (1,000,001 – 2,000,000 gallons) | \$18.50 | \$14.82 | \$15.24 | \$15.72 | \$16.20 | \$16.68 |
| Tier 6 (Over 2,000,000 gallons) | \$23.00 | \$17.91 | \$18.42 | \$19.00 | \$19.58 | \$20.16 |

*includes 6,000 gallons

FY 2023 Quarterly Bill Impact

| User (Percentile) | Quarterly Usage (gallons) | Current Bill | FY 2023 Bill | | FY 2023 Bill Increase | |
|---------------------------|---------------------------|-----------------|-----------------|--------------------|-----------------------|--------------------|
| | | | Current Design | Alternative Design | Current Design | Alternative Design |
| Small User (25th) | | | | | | |
| Water Bill | 3,000 | \$35.00 | \$87.50 | \$87.50 | \$52.50 | \$52.50 |
| Sewer Bill | | \$113.00 | \$116.40 | \$116.40 | \$3.40 | \$3.40 |
| Combined Bill | | \$148.00 | \$203.90 | \$203.90 | \$55.90 | \$55.90 |
| Median User (50th) | | | | | | |
| Water Bill | 8,000 | \$39.80 | \$99.50 | \$99.50 | \$59.70 | \$59.70 |
| Sewer Bill | | \$117.80 | \$121.34 | \$121.34 | \$3.54 | \$3.54 |
| Combined Bill | | \$157.60 | \$220.84 | \$220.84 | \$63.24 | \$63.24 |
| Large User (75th) | | | | | | |
| Water Bill | 19,000 | \$85.10 | \$212.75 | \$233.00 | \$127.65 | \$147.90 |
| Sewer Bill | | \$176.60 | \$181.86 | \$176.30 | \$5.26 | \$(0.30) |
| Combined Bill | | \$261.70 | \$394.61 | \$409.30 | \$132.91 | \$147.60 |

Residential customers with 3/4 inch meters

For more information, go to www.emmitsburgmd.gov

Water Alternative Scenario

- Allows cash balance to go negative in order to mitigate a large one-time rate increase in FY 2023

Projected Water Rates (Current Rate Design) Three-Year Increase

| | Current | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|------------------------------------------|----------|------------|------------|------------|------------|------------|
| Quarterly Minimum Charge* | | | | | | |
| 3/4 | \$35.00 | \$50.40 | \$72.60 | \$104.55 | \$107.70 | \$110.95 |
| 1 | \$45.00 | \$64.80 | \$93.35 | \$134.45 | \$138.50 | \$142.65 |
| 1 1/2 | \$50.00 | \$72.00 | \$103.75 | \$149.40 | \$153.90 | \$158.50 |
| 2 | \$100.00 | \$144.00 | \$207.45 | \$298.75 | \$307.75 | \$317.00 |
| 4 | \$400.00 | \$576.00 | \$829.75 | \$1,194.90 | \$1,230.90 | \$1,268.00 |
| 6 | \$800.00 | \$1,152.00 | \$1,659.45 | \$2,389.75 | \$2,461.75 | \$2,536.00 |
| Overage Rates (per 1,000 gallons) | | | | | | |
| Tier 1 (6,001 - 10,000 gallons) | \$2.40 | \$3.46 | \$4.98 | \$7.17 | \$7.39 | \$7.61 |
| Tier 2 (10,001 - 20,000 gallons) | \$4.50 | \$6.49 | \$9.34 | \$13.44 | \$13.86 | \$14.27 |
| Tier 3 (20,001 - 100,000 gallons) | \$7.50 | \$10.81 | \$15.56 | \$22.41 | \$23.09 | \$23.78 |
| Tier 4 (100,001 – 1,000,000 gallons) | \$10.50 | \$15.14 | \$21.79 | \$31.37 | \$32.33 | \$33.29 |
| Tier 5 (1,000,001 – 2,000,000 gallons) | \$13.80 | \$19.90 | \$28.64 | \$41.23 | \$42.49 | \$43.76 |
| Tier 6 (Over 2,000,000 gallons) | \$17.25 | \$24.87 | \$35.79 | \$51.53 | \$53.12 | \$54.70 |

*includes 6,000 gallons

FY 2023 Quarterly Bill Impact Three-Year Increase

| User (Percentile) | Quarterly Usage (gallons) | Current Bill | FY 2023 Bill | | FY 2023 Bill Increase | |
|---------------------------|---------------------------|-----------------|-----------------|--------------------|-----------------------|--------------------|
| | | | Current Design | Alternative Design | Current Design | Alternative Design |
| Small User (25th) | | | | | | |
| Water Bill | 3,000 | \$35.00 | \$50.40 | \$50.40 | \$15.40 | \$15.40 |
| Sewer Bill | | \$113.00 | \$116.40 | \$116.40 | \$3.40 | \$3.40 |
| Combined Bill | | \$148.00 | \$166.80 | \$166.80 | \$18.80 | \$18.80 |
| Median User (50th) | | | | | | |
| Water Bill | 8,000 | \$39.80 | \$57.32 | \$57.32 | \$17.52 | \$17.52 |
| Sewer Bill | | \$117.80 | \$121.34 | \$121.34 | \$3.54 | \$3.54 |
| Combined Bill | | \$157.60 | \$178.66 | \$178.66 | \$21.06 | \$21.06 |
| Large User (75th) | | | | | | |
| Water Bill | 19,000 | \$85.10 | \$122.63 | \$134.31 | \$37.53 | \$49.21 |
| Sewer Bill | | \$176.60 | \$181.86 | \$176.30 | \$5.26 | \$(0.30) |
| Combined Bill | | \$261.70 | \$304.48 | \$310.60 | \$42.78 | \$48.90 |

Residential customers with 3/4 inch meters

AGENDA ITEM #2: Hold a public hearing then consideration, of Ordinance of 2022-10 which would allow private shooting ranges in the industrial zone.

Presentation at the meeting by Town Staff.

ORD. NO: 22 – 10

AN ORDINANCE TO AMEND
TITLE 17
OF THE CODE OF EMMITSBURG
ENTITLED
ZONING



BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by the laws of Maryland and the Charter of the Town of Emmitsburg, that Title 17, Zoning, of the Emmitsburg Municipal Code, be amended as follows:

New language is indicated by being in **BOLD, CAPITAL LETTERS**, and deleted language is designated by being in ~~[brackets and strike out]~~.

Chapter 17.04 – General Provisions.

§17.04.020 – Definitions.

“PRIVATE OR PUBLIC SHOOTING RANGES” MEANS, IN THE INDUSTRIAL PARK DISTRICT (I-P), A PERMANENTLY LOCATED AND IMPROVED FACILITY THAT IS DESIGNED AND OPERATED FOR THE SAFE USE OF TRAP, SKEET, RIFLES, ARCHERY, PISTOLS, SHOTGUNS, BLACK POWDER OR ANY OTHER SIMILAR SPORT SHOOTING AT TARGETS.

Chapter 17.08 – General Regulations.

§17.08.170 - Prohibited uses in all districts.

A. **EXCEPT AS PROVIDED IN §17.24.020**, private or public rifle shooting ranges are prohibited.

[B-E unchanged]

Chapter 17.24 – Industrial Park District (I-P) and Office, Research, Industrial (ORI) District.

§17.24.020 - Uses permitted in the Industrial Park district (I-P).

Uses permitted in the Industrial Park district (I-P) are as follows:

A. Warehousing and storage of goods and materials, including warehousing, pole yards, building material storage and trucking storage. (Not however, to include auto wrecking, junk and other salvage storage);

ORD. NO: 22 - 10

B. Manufacturing uses of a light nature and research and development or science oriented industries that are free from any objectionable odors, fumes, dirt, vibration, or noise detectable at the lot line. Such uses shall not be established without an application for a permit which shall be accompanied by a certification by a registered engineer or architect indicating that fumes, odors, dirt, vibration or noise produced by the industry will not be detectable at the lot line. In the event of the denial of such permit, the applicant shall have the right of appeal to the board of appeals, in accordance with Chapter 17.12.

C. Rental facility for cars and/or trucks.

D. Vehicle repair facility.

E. PRIVATE SHOOTING RANGES, SUBJECT TO THE FOLLOWING:

- 1. STRUCTURES ASSOCIATED WITH SHOOTING RANGES SHALL BE LOCATED AT LEAST 250 FEET FROM ALL PROPERTY LINES AND PUBLIC WAYS AND 450 FEET FROM OCCUPIED STRUCTURES.**
- 2. THE SETBACK OF ALL STRUCTURES NOT USED FOR SHOOTING RANGES SHALL COMPLY WITH THE SETBACKS FOR PRINCIPAL STRUCTURES.**
- 3. A SITE DEVELOPMENT PLAN SHALL BE SUBMITTED TO AND APPROVED BY THE PLANNING COMMISSION.**
- 4. AS PART OF SITE DEVELOPMENT PLAN REVIEW, THE APPLICANT SHALL SUBMIT A RANGE SAFETY PROTOCOL OR SIMILAR SAFETY PROTOCOL DOCUMENT.**
- 5. OUTDOOR DISCHARGING OF FIREARMS OR RELEASE OF ARROWS SHALL NOT BE PERMITTED WITHIN 500 FEET OF ANY PROPERTY LINE.**
- 6. SHOOTING RANGES SHALL BE CONSTRUCTED TO ELIMINATE DANGER TO PERSONS OR PROPERTY FROM FLYING PROJECTILES. SAFETY DESIGN SHOULD BE IN ACCORDANCE WITH ACCEPTED STANDARDS AND PRACTICES.**
- 7. SHOOTING RANGES SHALL PRACTICE LEAD CONTAINMENT/COLLECTION OF PROJECTILES WITH BEST MANAGEMENT PRACTICES FOR THE INDIVIDUAL SITE IN ACCORDANCE WITH ACCEPTED STANDARDS FOR CONTAINMENT.**

ORD. NO: 22 - 10

8. THE MINIMUM LOT SIZE SHALL BE 10 ACRES.

9. THE FACILITY SHALL BE DESIGNED SO THAT TOPOGRAPHIC FEATURES OF THE SITE ARE USED TO ENHANCE SAFETY, MINIMIZE FIREARM NOISE, AND MAXIMIZE LEAD CONTAINMENT.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Ordinance shall take effect on the date on which the Mayor approves the Ordinance after passing by the Board of Commissioners or on the date on which the Board of Commissioners passes the Ordinance over the veto of the Mayor.

| Commissioners: | For | Against | Absent | Abstain |
|-----------------------|------------|----------------|---------------|----------------|
| O'Donnell | | | | |
| Sweeney | | | | |
| Ritz III | | | | |
| Davis | | | | |
| Boehman-Pollitt | | | | |
| TOTAL: | | | | |

PASSED this ___ day of _____, 2022 by a vote of

ATTEST:

BOARD OF COMMISSIONERS:

Sabrina King, Town Clerk

Timothy J. O'Donnell, President

MAYOR

_____ APPROVED _____ VETOED

this _____ day of _____, 2022.

Donald N. Briggs, Mayor

I hereby certify that the foregoing Ordinance has been posted as required by Chapter 2.04 of the Emmitsburg Municipal Code.

Sabrina King, Town Clerk
Date:



RANGE SAFETY PROTOCOLS

Student firearms must arrive unloaded and cased or holstered.

SAFETY BRIEFING

Firearms may not be uncased or unholstered except on the line

Firearms may not be loaded or unloaded except on the line with muzzle downrange

Identify Emergency Address location

Identify Trauma Kit location

Ask for medical experience

Designate one person to call 911 in event of emergency

Designate one person to retrieve Trauma Kit

Designate one person to begin medical care

Designate one person to wait for/direct EMS at gate

HOLSTERING CASSED FIREARMS

1. Bring cased firearm to the line
2. Place case on the table (or ground) in front of you
3. Open your case and orient muzzle downrange
4. Load firearm keeping muzzle pointed downrange
5. With finger off the trigger, holster your firearm and return your case to the ready area

RECASING FIRERMS FROM HOLSTERED POSITION

1. Bring your case to the line
2. Place case on the table (or ground) in front of you
3. Unholster firearm with finger off trigger and muzzle pointed downrange
4. Remove magazine and lock slide to rear or empty cylinder
5. Inspect firearm to ensure empty chamber or cylinder
6. Case firearm with muzzle oriented downrange

Notes:

1. Only Law Enforcement, NRA, USCCA and/or Maryland State Police Certified Instructors are eligible to teach at this location.
2. All Instructors will have a range orientation prior to receiving the calendar link.
3. All Instructors are required to have/maintain instructor's insurance.
4. The above-referenced SAFETY BRIEFING is a standard range briefing that is conducted prior to any student/group shooting activities at most ranges.

Town of Emmitsburg Planning Commission Minutes

September 26, 2022, 7:00pm

Present: Mark Long (Chair), Kevin Hagan (Vice-Chair), Amy Boehman-Pollitt (Secretary), Glenn Blanchard, Joe Ritz (Commissioner Liaison)

Staff Present: Zach Gulden (Town Planner), Leslie Powell (Town Attorney), Cathy Willets (Town Manager), and Amy Naill (Code Enforcement Officer)

Call to Order

- a. Chair Long called the meeting to order at 7pm

2. Opening

- a. The pledge of allegiance was held.

3. Review and Approval of Minutes for July 25, 2022

- a. Motion to approve minutes by Vice-Chair Hagan
- b. Second by Commissioner Ritz
- c. Changes: none
- d. Approved: The minutes were approved unanimously.

4. Public Comment: None

5. Old Business: None

6. New Business:

a. Proposed Ordinance 22-10, Zoning Text Amendment Application, File No. 2022-17

- i. Mr. Gulden summarized the proposed text amendment, which would allow for public or private shooting ranges in the industrial zone within town limits, as well as recommended comments from town staff for the planning commission to consider.
- ii. Commissioners discussed which guidelines should be followed for shooting ranges: DOE or Army Corps Engineers.
- iii. Mr. Kirby Delauter explained the range would be used to complete the required qualification course to possess firearms.
- iv. Ms. Kathleen O'Connor, who would be supervising and managing the proposed range, explained the need for a private, qualifying range in the

local area and provided details about how the range would be constructed/set up.

- v. Vice-Chair Hagan inquired about the standard of not allowing gun ranges within 1.5 miles of a federal building.
 - vi. Commissioner Ritz inquired about the staff comment that firing of rounds shall not be conducted within 2500 yards of residential areas because this would eliminate all of Emmitsburg's town limits
 - vii. Ms. Powell suggested that a sound ordinance could be considered along with the proposal.
 - viii. Public Comment:
 - 1. Tim Bieber (on behalf of Rutters): Concerned with safety, sound, public perception since there are no details included with the text amendment.
 - 2. Richard Lindsay (16737 Creamery Road): concerned with days/hours/frequency of the range along with the noise that is associated with each type of firearm. He pointed out that hunting is allowed in the town limits near the waste water plant. The noise from hunting near his property is problematic for his horses.
 - 3. Diane Walbrecker (535 W. Main Street): Concerned with the generality of the text amendment and how it will impact the rest of the town.
 - 4. Mike Hillman: Other gun ranges are built many miles away from houses, and noise will be an issue for horse owners.
 - ix. Chair Long noted that the applicant, Mr. Delauter, had already begun work on the shooting range on the property he did not yet own and without the required permits, and expressed concern that this may be a reflection of how the applicant conducts business.
 - x. Town Attorney, Ms. Powell, also followed up by stating that the owner of the property, Federal Stone, was fined for this. Mr. Delauter stated that he had paid the fine since his company had completed the work.
 - xi. Given the general nature of the proposal, the commissioners suggested adding more details before moving forward with a decision. Mr. Delauter withdrew his proposal to make changes and will resubmit at a later date.
- b. Emmitsburg East Industrial Park II, Final Forest Conservation Plan for Lots 5, 6, & Remainder, File No. 2022-18***
- i.* Bob Barrick: stated Federal Stone is in agreement with all of the staff comments.

ii. Commissioner Ritz motioned to approve the Emmitsburg East Industrial Park II's Final Conservation plan with the following conditions (see below)

1. According to the Forest Conservation Long Term Protective Agreement recorded in P.B. 16038 P.G. 243: "The [Forest Conservation] Easement Area may not be divided or subdivided." The proposed subdivision line and plan shall be updated accordingly.
2. The current fee in-lieu rate is \$0.305 in accordance with Town Code 516.48.140.B.1.; therefore, the "fee in-lieu calculations" box shall be corrected accordingly.
3. The "fee in lieu calculation total fee required" shall be corrected to read \$39,458.77.
4. The "fee in-lieu calculations" boxes shall be changed as follows (changes in bold):

| Lot # | Lot area (AC) | % of total lot area | Mitigation required as % of total lot area (sq. ft.) | Fee in-lieu requirement per lot | Remarks |
|---------------------------|---------------|---------------------|------------------------------------------------------|---------------------------------|----------------------|
| 3 | 2.9 | 8% | 10,349.84 | \$3,156.70 | P/O Remainder |
| 4 | 2.9 | 8% | 10,349.84 | \$3,156.70 | P/O Remainder |
| 5 | 13.8 | 40% | 51,749.20 | \$15,783.51 | - |
| 6 | 7.2 | 21% | 21,168.33 | \$8,286.34 | - |
| Combined 7 & 8 | 8.1 | 23% | 29,755.80 | \$9,075.52 | Paid |
| TOTAL | 34.9 | 100% | 129,373 sq. ft. | \$39,458.77 | - |

5. The owner shall contribute to the Town's Forest Conservation Fund in the amount of \$30,383.25. This contribution to the Fund shall be paid within 90 calendar days of the approval of the grading plan in accordance with Town Code Section 516.48.140.C.
6. Include note about critical habitat. Town Staff will provide the letter from the state acquired by the previous property owner.
7. The limit of disturbance is not clear on the plan. The line type is similar to the FEMA 100-year floodplain limit.
8. Add a scale bar
9. Remove the abandoned 12' sanitary sewer easement from the plan, and show the full existing easement.
10. Show existing locations and types of protective devices (signs) used during construction activities to protect trees and forest designated for conservation in accordance with Town Code 516.48.090.B.2.

11. Include the substantive elements required under Subsections 516.48.080.B.2.-5., 7.-9., and 11. in accordance with Town Code 516.48.090.B.2. In particular:
 - a. Approved forest stand delineation for the site; and
 - b. Proposed stockpile areas.
12. Label the specimen trees, show/label the critical root zones for both trees, and show/describe how trees will be protected during construction.

Administrative

13. The owner shall provide the Town 2x paper and 1x PDF copies of the signed plan.
 14. No permits will be issued until all regulatory requirements have been met, including but not limited to: adequate public facilities ordinance (APFO), forestation, water, sewer, etc.
 15. Planning Commission approval is conditioned upon the acceptance of an improvement plat in conformance with the Town of Emmitsburg and all other governmental agency requirements.
 16. The developer shall pay such fees that are charged from time to time by the Town of Emmitsburg for further reviews or permits as may be required concerning the proposed development.
 17. It is the developer's obligation at its cost to repair Creamery Court for any damage arising out of development.
- iii.* Vice-Chair Hagan seconded the motion.
 - iv.* Motion carries unanimously

c. Emmitsburg East Industrial Park II, Final Subdivision Plat for Lots 5, 6, & Remainder, File No. 2022-19

- i. Commissioner Ritz motioned to approve the Final Subdivision Plat for Lots 5, 6, and Remainder for FS Creamery, LLC. with the following conditions:
1. According to the Forest Conservation Long Term Protective Agreement recorded in P.B. 16038 P.G. 243: "The [Forest Conservation] Easement Area may not be divided or subdivided." The proposed subdivision line and plan shall be updated accordingly.
 2. Include the landscape and stream buffer easements on the plan.
 3. Include the liber (book) & folio (page) numbers for all easements.
 4. Clearly label the utility easement's widths.

Administrative

5. The owner shall provide the Town 2x paper and 1x PDF copies of the signed plan.
 6. Planning Commission approval is conditioned upon the acceptance of an improvement plat in conformance with the Town of Emmitsburg and all other governmental agency requirements.
 7. No permits will be issued until all regulatory requirements have been met, including but not limited to: adequate public facilities ordinance (APFO), forestation, water, sewer, etc.
 8. The developer shall pay such fees that are charged from time to time by the Town of Emmitsburg for further reviews or permits as may be required concerning the proposed development.
 9. It is the developer's obligation at its cost to repair Creamery Court for any damage arising out of development.
- ii. Second by Secretary Boehman-Pollitt
- iii. Motion carries unanimously

7. Other Business:

- a. Board of Appeals' review request – corner lot fences.
 - i. Mr. and Mrs. Turnquist (4000 Carrick Court) are requesting a text amendment to allow fences on corner lots higher than 4 feet. Robert Turnquist was prepared with a formal presentation.
 - ii. Diane Walbrecker, 535 W. Main Street: (Board of Appeals Chair) Corner lots have 2 front lawns. Since many are located on busy through streets, this will be an issue that will come up in the future.
 - iii. Valerie Turnquist (4000 Carrick Court) provided additional background on how her house has two front yards and no rear yard.
 - iv. Vice-Chair Hagan made a motion for the board to review the zoning codes for corner lots with 4 foot and higher fences.
 - v. Secretary Boehman-Pollitt seconded the motion
 - vi. Motion passed with Commissioner Ritz abstaining.

8. Next Meeting Date: Tuesday, Oct. 25

9. Adjournment

- a. Chair Long adjourned the meeting at 9:21pm.

8/15/22, 5:47 PM

Gun Safety: Ammunition Maximum Range | NRA Family

NRA FAMILY

by NRA STAFF posted on November 22, 2016
[NEWS](#), [HOW-TO](#), [ON THE RANGE](#)

Support NRA Family

DONATE



Whether you're hunting, target shooting or plinking, it's important that you be aware of the maximum range of the gun and cartridge combination you're using. The maximum range is the greatest distance a projectile can travel when fired at the optimum angle of elevation of the gun barrel. This optimal angle of elevation is usually around 30 degrees from horizontal. Note that the maximum range is far greater than the effective range of the cartridge, which is the maximum distance at which a projectile can be expected to be useful. This is usually determined by factors such as accuracy and, for hunting or military uses, striking energy.

The importance of maximum range stems from the safety rule "Know your target and what is beyond." A bullet from an errant shot or a miss may fly several miles before it impacts the earth. A knowledge of maximum range (as well as what lies beyond the target area) can help a shooter assess whether it is or is not safe to fire.

The following table contains representative figures for the maximum range for many common rifle and handgun cartridges. Note that these figures are *approximate* and are useful for rough comparison *only*. Variations in barrel length, the velocity level of the load, bullet ballistic coefficient and more will affect the actual distance attained by a particular load in a particular gun under specific conditions.

8/15/22, 5:47 PM

Gun Safety: Ammunition Maximum Range | NRA Family



Semi-Automatic Pistol Calibers (FMJ)

| Caliber | Muzzle Velocity (fps) | Bullet Weight | Maximum Range (yds) |
|-------------------|-----------------------|---------------|---------------------|
| .25 ACP | 760 | 50 | 1,194 |
| .30 Luger | 1,220 | 93 | 2,280 |
| .32 ACP | 905 | 71 | 1,505 |
| .357 SIG | 1,350 | 125 | 2,200 |
| 9x19mm Luger | 1,140 | 124 | 2,130 |
| .38 Super Auto +P | 1,215 | 130 | 2,295 |
| .38C ACP | 970 | 95 | 1,090 |
| 10mm Auto | 1,290 | 155 | 2,227 |
| .40 S&W | 990 | 180 | 2,200 |
| .45 ACP +P | 1,140 | 185 | 1,840 |

Revolver Calibers

| Caliber | Muzzle Velocity (fps) | Bullet Weight | Maximum Range (yds) |
|----------------|-----------------------|---------------|---------------------|
| .32 Short Colt | 745 | 80 | 1,030 |
| .32 S&W Long | 680 | 85 | 2,680 |
| .38 S&W | 685 | 145 | 1,411 |
| .357 Mag. | 1,235 | 158 | 2,398 |
| .38 Special +P | 945 | 125 | 2,257 |
| .38 Special | 755 | 158 | 1,739 |
| .41 Rem. Mag. | 1,300 | 210 | 2,095 |
| .44 Special | 755 | 246 | 1,879 |
| .44 Rem. Mag. | 1,350 | 240 | 2,477 |
| .45 Colt | 860 | 250 | 1,853 |

8/15/22, 5:47 PM

Gun Safety: Ammunition Maximum Range | NRA Family



Rifle Calibers

| Caliber | <input type="checkbox"/> Muzzle Velocity (fps) | Bullet Weight | <input type="checkbox"/> Maximum Range (yds) | <input type="checkbox"/> |
|-----------------|------------------------------------------------|---------------|----------------------------------------------|--------------------------|
| .17 HMR | 2,550 | 17 | 2,500 | |
| .22 LR Standard | 1,145 | 40 | 1,588 | |
| .223 Rem. | 3,240 | 55 | 3,843 | |
| .243 Win. | 2,960 | 100 | 4,000 | |
| .270 Win. | 3,050 | 130 | 4,795 | |
| 7mm-08 Rem. | 2,875 | 140 | 4,400 | |
| .30-30 Win. | 2,390 | 150 | 3,010 | |
| .308 Win. | 2,620 | 180 | 4,655 | |
| .45-70 Gov't. | 1,315 | 405 | 3,500 | |
| .450 Marlin | 2,225 | 325 | 7,000 | |
| | | | | 0 |

© Copyright 2022 National Rifle Association

See Range Design Criteria from U.S Department of Energy

https://www.energy.gov/sites/prod/files/2013/05/f1/Range_Design_Criteria.pdf



Memo

DATE: October 14, 2022

TO: Town of Emmitsburg Planning Commission
Mark Long, Chair

FROM: Zach Gulden, MPA *ZRG*
Town Planner

Cathy Willets *CW*
Town Manager

RE: Proposed Ordinance 22-10, which would amend Town Code Title 17 - Zoning.

File No.: 2022-17

The applicant, Kirby Delauter, is requesting a zoning text amendment to Town Code §17.04.020 – Definitions; §17.08.170 – Prohibited uses in all districts; & §17.24.020 – Uses permitted in the Industrial Park district (I-P). The amendment, if passed, would allow the “private shooting range” use as a permitted use by right in the I-P zoning district.

In response to Planning Commission comments at their September 26th meeting, the Applicant withdrew their original application. A second application has been submitted with the addition of a definition, minimum use standards, and range safety protocols.

TIMELINE

The following table presents the review period timeline for the above referenced amendment.

| PROPOSED CODE REVIEW PERIOD | CURRENT DATES |
|------------------------------------------------------------------------------------------------------------|----------------------|
| Application Date | 08/08/2022 |
| Planning Commission Presentation & Recommendation Vote – APPLICANT WITHDREW APPLICATION AT MEETING. | 09/26/2022 |
| 2 nd Application Date | 09/30/2022 |
| 2 nd Planning Commission Presentation & Recommendation Vote | 10/25/2022 |
| Board of Commissioner’s Public Hearing and Final Vote | 11/07/2022 |

Town of Emmitsburg
300A South Seton Avenue, Emmitsburg, MD 21727
Phone: 301-600-6300 Fax: 301-600-6313

TOWN CODE REQUIREMENT

Town Code §17.44.030 – Approval of board of commissioners and review by planning commission required.

- A. No (zoning) amendment shall be considered or acted upon by the Board of Commissioners unless it is first submitted to the Planning Commission for review and consideration. The Planning Commission recommendations shall be reported within thirty (30) days of receipt of the proposed amendment. If comments are not submitted within the thirty-day period, the Board of Commissioners may proceed with the review process.

STAFF COMMENTS

If there is desire to allow private shooting ranges, it is highly recommended that the Town implement minimum use standards before approval of the text amendment. For example:

- Setbacks – the applicant is now proposing setbacks; however, the Board shall determine if they are sufficient. Dependent upon the weapon and ammunition, bullet range can vary between approximately 1500 yards to over 7000 yards according to the NRA website, *Gun Safety Ammunition Maximum Range*. “A bullet from an errant shot or a miss may fly several miles before it impacts the earth.” *Id.*
- Consider Limitation of Hours of operation.
- Construction of berms and sound remediation tools. See attached DOE Range Design Guidelines.
- Safety precautions such as professionally designed and commercially fabricated bullet traps and/or backstops to prevent ammunition rebound.
- Earth berms constructed in the firing area. Shooting would have to be restricted below the berm-line to prevent over-shots.
- Collection of any lead ammunition must be done daily.
- Public courtesy warnings like hazard signs and gated fencing to notify passersby of their proximity to the range.
- Noise reduction measures such as buffering requirements may be required. At point of origin a dB level of a .22 caliber rifle with standard velocity creates 140 dB of sound.¹ Sound carries dependent on several factors including weather, wind, barriers.
- Liability insurance requirements for bodily injury and property damage.
- Prohibit location of ranges within a proximity of ___ miles of federal government and state and local government operations.
- Prohibit location of ranges within a proximity of ___ feet of residentially / commercially zoned districts.
- Ensure all environmental and other laws and regulations are met.

The Town may wish to include minimum use regulations for both indoor and outdoor shooting ranges.

The Town may wish to require a special exception for the establishment of an indoor or outdoor shooting range as opposed to as of right in the I-P District.

Attached are various materials from different sources regarding rifle ranges.

SUGGESTED MOTION

Move to recommend approval of proposed Ordinance 22-10 with comment. Please state the comment(s) for the record. **OR**

Move to recommend approval of proposed Ordinance 22-10 without comment. **OR**

Move to recommend denial of proposed Ordinance 22-10 with comment. Please state the comment(s) for the record. **OR**

Move to recommend denial of proposed Ordinance 22-10 without comment.

ⁱ Section 17.24.020 requires that sound emanating from manufacturing uses in the I-P district end at the lot line.

Staff Memorandum

To: Town of Emmitsburg Planning Commission

From: Christopher N. Jakubiak, AICP

Via: Cathy Willets, Town Manager

Date: October 25, 2022

Re: Proposed Ordinance, 22-10. Text amendment to the Zoning Ordinance to permit Shooting Ranges as a permitted use in the Industrial Park District

Introduction

Please consider this memorandum a supplement to the October 14, 2022 Memo provided by Zach Gulden.

Per Section 17.44.030 of the Zoning Ordinance, when zoning text amendments are proposed, the Planning Commission has an opportunity to provide a recommendation to the Board of Commissioners. Since the Planning Commission is the body most closely associated with the Town's Comprehensive Plan and the Town's zoning rules, its assessment optimally centers on the question of whether the proposed amendments are consistent with the Plan and the Zoning Ordinance.

The proposed text amendments would: (1) modify the current Town-wide prohibition on rifle shooting ranges, (2) define the term "shooting ranges" in a way that encompasses the use of rifles, shotguns, pistols, archery, black powder, or any other similar shooting target sport, and (3) establish shooting ranges as a permitted use in the Industrial Park (I-P) District. This memo reviews the adopted Town Comprehensive Plan and the intent of relevant sections the Zoning Ordinance.

Assessment

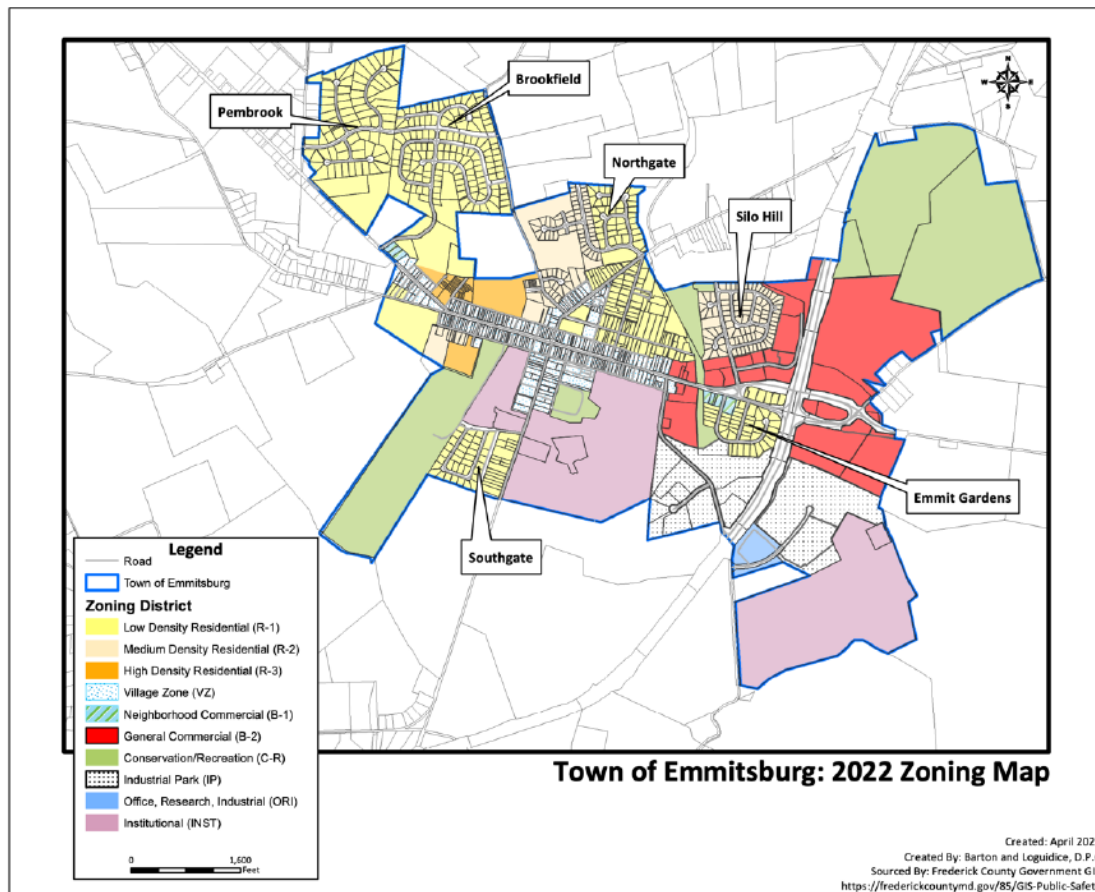
Because the proposed amendments would permit shooting ranges within the Industrial Park (I-P) District, if adopted, the Planning Commission would be required to review site plans for shooting ranges in the I-P District and approve such site plans provided the conditions for the use were satisfied and the site plans otherwise met Town zoning standards. The proposed definition clearly anticipates outdoor shooting range venue though indoor venues would also be possible.

Purpose and Intent of the Industrial Park (I-P) District

Section 17.24.010A provides the purpose of the I-P District, as follows:

“The I-P district is intended for the location of both heavy commercial and light industrial uses (emphasis added) which are basically similar in nature and too few in number to warrant separate districts. These use are of such size and character as to deem them inappropriate for other commercial and industrial districts. This district is intended for their location in a manner that would make them least offensive to one another and to adjacent land uses districts.”

The properties zoned I-P are shown in the Town’s Zoning Map below.



With respect to the Emmitsburg Comprehensive Plan, the I-P District promotes “job centers” and “employment centers”. Under the heading “2021 Land Use Plan” the Comprehensive Plan says:

“The general plan for land use within the Emmitsburg Town boundary through 2030 is shown on the 2021 Land use Map. The recommend land use categories are described below: Employment Centers--Land located primarily on the east side of U.S. 15 and along Creamery Road east of Willow Rill tributary to Flat Run”.

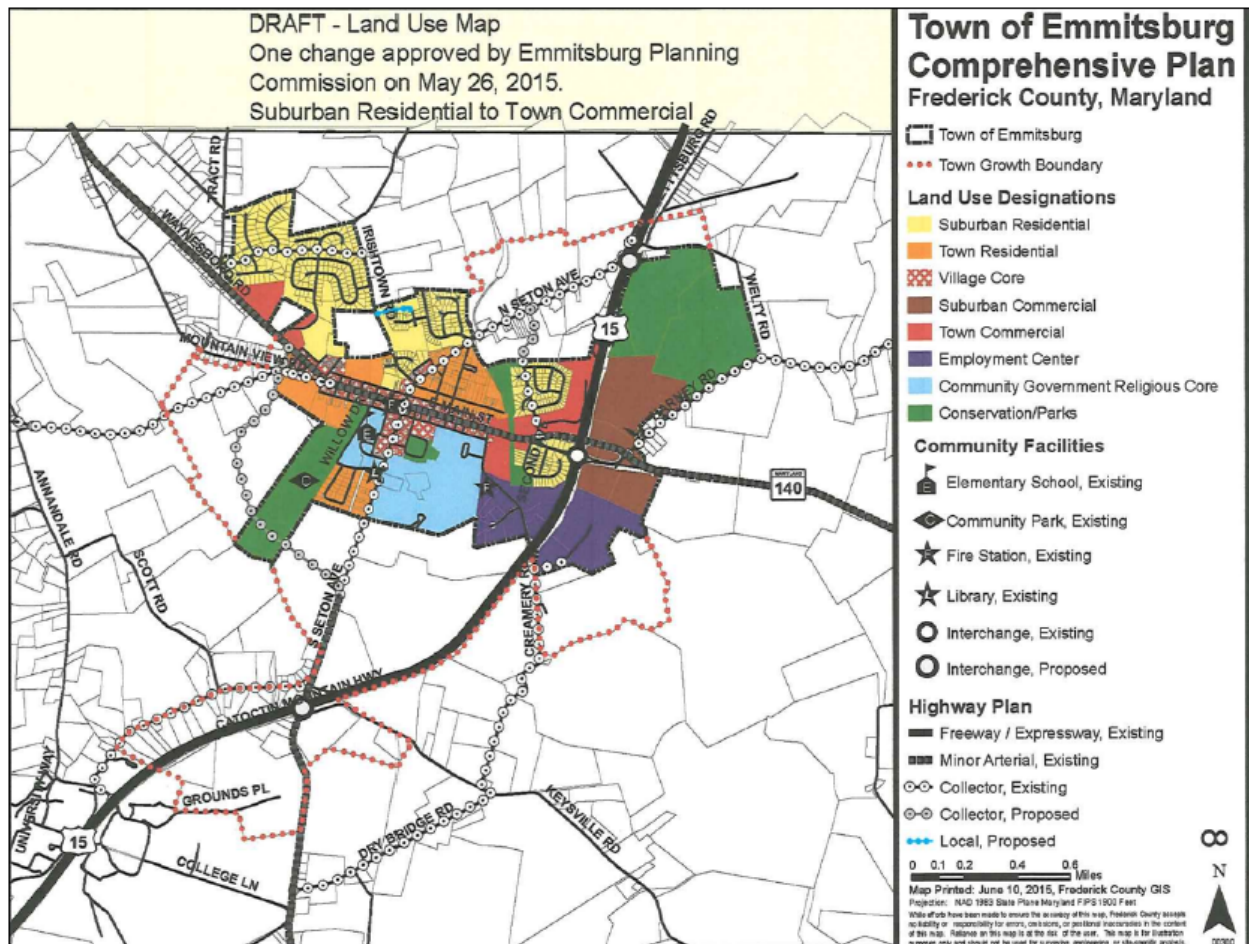


Figure 1 Land Use Plan Map from the Comprehensive Plan

The Employment Center land use designation is shown on the Land Use Plan Map above as dark blue located along Creamery Road and on the east side of U.S. Route 15.

The Comprehensive Plan also says:

“An increased number and wider variety of employment opportunities within the Town itself would be beneficial to at least some of the 94% of working residents who commute elsewhere for their primary occupation. The Town should encourage development of local employment providers. ”

In summary, the I-P District’s intent is to provide space for heavy commercial and light industrial land uses. The location of the I-P District coincides with the adopted Comprehensive Plan and its Employment Center designation. Heavy commercial and industrial uses are restricted to the I-P District.

Permitted Uses within the I-P District

Section 17.24.020 of the Zoning Ordinance lists the uses permitted in the I-P District. They are as follows: warehousing and storage of good and materials, building material storage, trucking storage, manufacturing of a light nature, research and development, science oriented industries free of objectional odors, fumes, dust, vibration, or noise detectable at the lot line, rental facility for cars and/or trucks and vehicle repair facility.

The uses permitted are clearly aligned with the purpose of the I-P district in that they are all heavy commercial or light industrial. These permitted uses are further qualified as being free of objectional impacts to surrounding properties and zones. A shooting range has objectional noise impacts.

To help mitigate the anticipated noise, the drafter of the text amendment included a condition that the property be at least 10-acres in size. The vacant and available land in Town zoned I-P is shown in the Table below. It includes six parcels totaling 44.51 acres in size. Only one of the parcel is larger than 10 acres—the 26.8-acre Emmitsburg Industrial Park Remainder. The other five are already subdivided into developable lots, all less than 10 acres in size.

A shooting range lot, exactly meeting the proposed 10-acre minimum lot size would comprise 22.5 percent of the 44.5 acres of remaining developable I-P zoned land. And as a practical matter, that same 10-acre lot would comprise 37.3 percent of the land not already subdivided for I-P development. If the text amendments were approved and a shooting range were developed, it would consume a significant share of the remaining land that Town’s Plan (and Zoning Map) allocates to Employment Centers. A larger shooting range would consume more of the limited amount of I-P land.

Land Remaining Available in the I-P Zoning District

| Property | Size (Acres) |
|-----------------------------------------------------------------------|-------------------------|
| Lots 7 & 8, Emmitsburg Industrial Park II | 8.13 |
| Remainder, Emmitsburg Industrial Park II | 26.8 |
| Zachardiadis, Seton Square Center, Lot 2 | 3.73 |
| M&E Land, LLC, Emmitsburg East Industrial Park, Lot 5 | 2.86 |
| Properties & Investments, LLC, Emmitsburg East Industrial Park, Lot 4 | 1.49 |
| Properties & Investments, LLC, Emmitsburg East Industrial Park, Lot 3 | 1.5 |
| | <hr/> 44.51 |

Source: State Department of Assessments and Taxation and Emmitsburg Zoning Map. Note: The Town of Emmitsburg, owns an I-P zoned lot, (2 Creamery Rd.) which is environmentally sensitive and not included in the sum above. There is also an out-lot in the Emmitsburg Industrial Park II reserved for stormwater management that is not included in the sum above.

Conclusion

A shooting range is not a heavy commercial or light industrial use. It is not a use consistent with the "Employment Center" element of the Plan. It is a recreational use. As an outdoor venue, featuring the activities that would be permitted by the zoning text amendment, it would create a noise impact that the Zoning Ordinance – now in effect -- would not allow for a permitted industrial use. To help mitigate that impact, the petitioners for the zoning amendments have proposed a 10-acre lot size minimum as a condition. At 10 acres, however, one shooting range, would consume a large share of the remaining land planned for the Town's Employment Centers. Approval of this text amendment would change the nature of the I-P Zoning District in a manner not contemplated by the Comprehensive Plan. Approval of this amendment would also permit within the Town boundaries generally a use that is expressly prohibited now anywhere in Town.



October 21, 2022

VIA EMAIL

Town of Emmitsburg
Attn: Board of Commissioners
300A South Seton Ave
Emmitsburg, MD 21727

Re: Proposed Gun Range Taneytown Pike

Board of Commissioners:

M & G Realty, Inc., an affiliate of the Rutter's Companies, is the owner of property situated at 10201 Taneytown Pike, Emmitsburg, MD 21727 (the "Property"). This is the location of the Rutter's convenience store known and numbered as Rutter's #84, which is expected to open in the near future. We are aware of a proposed text amendment to the zoning ordinance that would allow for a gun range on the property adjacent to Rutter's #84 the proximity of which can be seen on the Property's site plan found on Exhibit "A." This letter shall serve as a formal objection to the proposed text amendment.

Allowing for a gun range in such close proximity to the Rutter's #84 will create significant customer experience and safety concerns. Rutter's customers will be bombarded with loud and startling sounds as they shop, pump gas, or walk their dog and stretch after a long drive. Further, the Proposed Use will be in close proximity to the truck parking (see Exhibit "A") on the Property. This creates a dangerous condition for our customers, and these concerns should not be present at a store meant to benefit guests and give them a positive and safe shopping experience. While there is no doubt that folks at the gun range will take every precaution to do their best to ensure the safety of all people, accidents do happen. As such, a gun range as a permitted use may better be zoned in an area better suited to mitigate the inherent risks associated with that use.

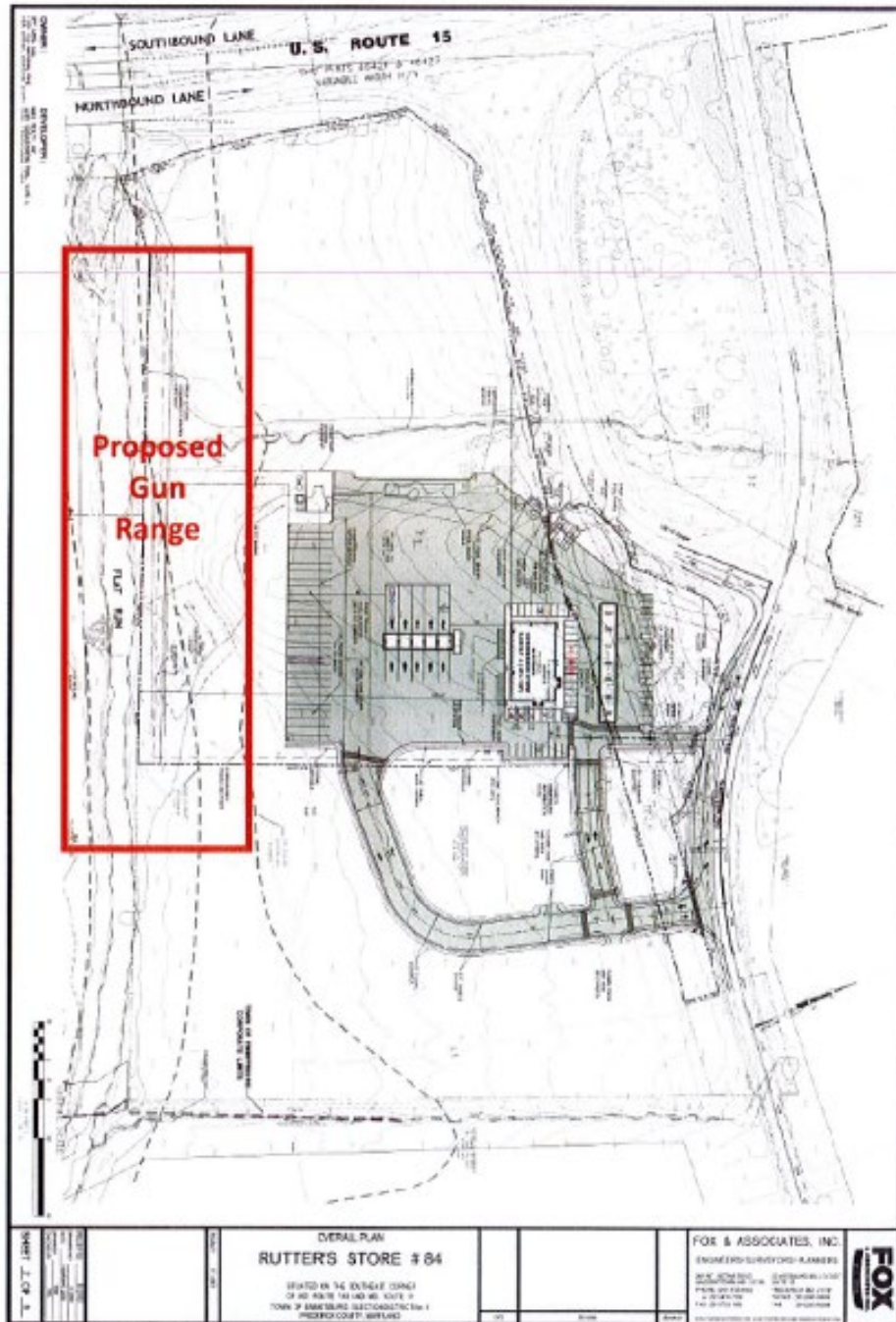
For these reasons, we respectfully request that the Board of Commissioners deny the proposed text amendment to the zoning ordinance. Do not hesitate to contact me with any concerns.

Best Regards,

A handwritten signature in blue ink, appearing to read "Joel W. Rimby", is written over a light blue horizontal line.

Joel W. Rimby
Associate General Counsel
The Rutter's Companies

Exhibit "A"
Site Plan



Cathy Willets

From: Joe Ritz
Sent: Monday, October 24, 2022 5:25 PM
To: Cathy Willets
Subject: Fwd: Proposed Shooting Range

For PC and BOC. Thanks!

Joe Ritz
Emmitsburg Town Commissioner
301-748-8516
jritz@emmitsburgmd.gov

--- Forwarded message ---

From: Phyllis Stahley pstahley0620@comcast.net
Date: October 24, 2022 3:37:23 PM
Subject: Proposed Shooting Range
To: Joe Ritz JRitz@emmitsburgmd.gov

Dear Commissioner Ritz,

As I understand you are the liaison on the Planning and Zoning Committee for the Town of Emmitsburg, I'd like take a moment of your time to express our concerns.as I will not be able to attend the meeting on Tues. Oct. 25.

My husband and I reside at 44 Park Drive in Emmit Gardens and have lived there for almost 45 years. I know there have been some inaccurate information published recently so we along with many other residence of this neighborhood did obtain information directly from Mr. Delauter. After hearing what is proposed, Denny and I feel very strongly that this is not the location for a shooting range. We see no benefit whatsoever for the town and just do not feel this is needed within the town limits.

If you need more specific reasons to take before the Committee I'd be happy to speak with you. (301-447-6501)

I ask that you take this into consideration when this agenda item is discussed and potentially voted on.

Thanks for all you do for the town and thanks for taking the time to read this.

Best regards,
Dennis and Phyllis Stahley.

Cathy Willets

From: Joe Ritz
Sent: Monday, October 24, 2022 5:23 PM
To: Cathy Willets
Subject: Fwd: Shooting range

For PC and BOC

Joe Ritz
Emmitsburg Town Commissioner
301-748-8516
jritz@emmitsburgmd.gov

--- Forwarded message ---

From: Gene Lingg glingg@verizon.net
Date: October 22, 2022 10:11:09 AM
Subject: Shooting range
To: Joe Ritz JRitz@emmitsburgmd.gov

My name is Gene Lingg. I live at 37 Park Drive (Emmit Gardens). I am one of, if not the closest resident to the proposed shooting range. I am totally against having a shooting range practically in my back yard. There are many reasons for my objection. No matter how safe they make it, their is no way you can control the sound. It supposedly is for handgun use, but I can see it evolving into rifle, automatic weapons e.g. AR-15's. I was in a machine gun unit in Vietnam and I know what a shooting gallery sounds like. There is also no way one can guarantee the safety of bullets being fired in a so called (controlled) environment. There is no reason why a shooting range is acceptable in town limits. I am unable to attend the planning commission meeting on Tuesday, so I wanted to express my thoughts to you. If you have any questions, you can call me at 301-788-2919.

[Sent from Yahoo Mail on Android](#)

Cathy Willets

From: Joe Ritz
Sent: Monday, October 24, 2022 5:21 PM
To: Cathy Willets
Subject: Fwd: gun range

Asking you to forward to PC and BOC. That Ok?

Joe Ritz
Emmitsburg Town Commissioner
301-748-8516
jritz@emmitsburgmd.gov

--- Forwarded message ---

From: Nancy Fizer nancyemerickfizer@gmail.com
Date: October 24, 2022 4:58:52 PM
To: Joe Ritz JRitz@emmitsburgmd.gov

I'm not in favor of a gun range for a variety of reasons. Thank you.

Cathy Willets

From: Catherine Bodin <cbodin@mcdaniel.edu>
Sent: Monday, October 24, 2022 4:02 PM
To: Joe Ritz; Zach Gulden; Tim O'Donnell; Cathy Willets; Town of Emmitsburg; Clifford L Sweeney (clsweeneycommish@comcast.net); Mayor Briggs
Subject: Against the gun range

Dear Commissioners:

I am opposed to the proposed gun range suggested for a space behind the new Rutters Service Plaza and in any case within the town limits at any place.

The fact that the planners themselves were not aware that federal law prohibits such a range within a mile and a half of a federal installation—as reported in the Emmitsburg News-Journal—is surprising and shows how ill-founded this proposal is.

But I am against a gun range being located at any location inside the Town's limits for a number of safety reasons.

There are plenty of other, even nearby, ranges already established for those who want target practice, as the Journal reported; let these noisy aficionados go there.

All best to you all, and many thanks for your public service.

Cathy Bodin
312 W. Main, P. O. Box 368, Emmitsburg

Catherine Bodin, Ph.D.
McDaniel College, Retired
World Languages, Literatures, and Cultures

"[Wo]man is a sun and a moon and a heaven filled with stars."--Paracelsus (1493-1541)

Cathy Willets

From: Joe Ritz
Sent: Tuesday, October 25, 2022 6:23 PM
To: Cathy Willets
Subject: Fwd: Gun Range in Emmitsburg

Joe Ritz
Emmitsburg Town Commissioner
301-748-8516
jritz@emmitsburgmd.gov

--- Forwarded message ---
From: Joe Mackin mackinjm@juno.com
Date: October 25, 2022 6:01:13 PM
Subject: Gun Range in Emmitsburg
To: Joe Ritz JRitz@emmitsburgmd.gov

Commissioner Ritz,
I am a citizen who lives alongside Route 15 in Emmitsburg. I am opposed to allowing a gun range on the east side of Emmitsburg, as has been discussed. My reasons are for the noise of shots and the possibility of extending the purpose of the range to include rifle training. I realize it is only proposed for pistol training, initially.

Joe Mackin
35 Park Drive, Emmitsburg
240-772-8298

Cathy Willets

From: Joe Ritz
Sent: Tuesday, October 25, 2022 10:57 AM
To: Cathy Willets
Subject: Fwd: Shooting range

Joe Ritz
Emmitsburg Town Commissioner
301-748-8516
jritz@emmitsburgmd.gov

--- Forwarded message ---

From: Betty Baker bettybaker438@gmail.com
Date: October 25, 2022 10:42:03 AM
Subject: Shooting range
To: Joe Ritz JRitz@emmitsburgmd.gov

Joe , on behalf of my mother, Betty Ann Baker, she would like to Express her unfavorable voice for the proposed shooting range on creamery road. I personally don't care one way or another . I would like to see a drawing of the range with measurements & directions of shooting,etc..... Before I render a judgement on it. Of course we live on the opposite side of the neighborhood, so sound , etc would not affect us quite as much as others in the neighborhood.
Baker

THANKS -Gabe

Cathy Willets

From: Joe Ritz
Sent: Tuesday, October 25, 2022 10:57 AM
To: Cathy Willets
Subject: Fwd: Proposed Shooting Range

Joe Ritz
Emmitsburg Town Commissioner
301-748-8516
jritz@emmitsburgmd.gov

--- Forwarded message ---

From: Kuykendall, Patricia A pkuykendall@wellspan.org
Date: October 25, 2022 9:36:17 AM
Subject: Proposed Shooting Range
To: Joe Ritz JRitz@emmitsburgmd.gov
CC: kkuykendall4@aol.com

Hi Joe!

I am an Emmit Gardens resident and have been almost all my life. I attended a meeting last Thursday night with about 25 residents from Emmit Gardens where Frank Davis and Kirby Delauter gave us background on the Proposed Shooting Range on Creamery Road. I can tell you not one person from Emmit Gardens was in favor of this proposal.

My comments from the discussion:

1. Kirby Delauter was asked who the company was that he would be renting the land to- he didn't know the company name just the person he spoke to. You would think that if you were proposing a business that you were going to be working with you would at least know the company name.
2. Kirby said the shooting range would only be operational from approximately 10am-3pm and not interrupt peoples sleep early or late in the day. My household has two people who work "off" hours so there are days that they are sleeping from 7am-4pm when the range is open.
3. The Town of Emmitsburg currently does not allow discharging firearms in town limits. Why would the Town want to change their regulation for a company that will probably bring very little revenue/foot traffic to Emmitsburg. Kirby himself said that this company would probably not come into town for any business concerns, eating at restaurants etc.
4. What other towns would allow a shooting range inside their town limits right next to businesses (Rutters, Emmitsburg Glass and I am told that Federal Stone will be putting a business in the same area)?
5. Were the residents on Creamery Road notified of this proposed range? I can't imagine they would be happy to have a shooting range shooting toward their homes.
6. Have the company find a piece of land outside of town limits to put there shooting range in- where there are no houses or other businesses around. Kirby may not own that land but someone does.

I am definitely opposed to this Shooting Range on Creamery Road and would hope that the Town of Emmitsburg would stand up for its residents and vote not to allow this to happen. We don't want this Shooting Range in our back yards and doubt you would want it in yours.

Thanks for listening!

Patty Kuykendall
46 Park Drive
Emmitsburg, MD

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Message string: KqxH=FU

Cathy Willets

From: Dorsey, Peter A. <dorsey@msmary.edu>
Sent: Tuesday, October 25, 2022 8:26 AM
To: Joe Ritz; Zach Gulden; Cathy Willets; Town of Emmitsburg
Subject: Please vote no to gun range

Dear Members of the Emmitsburg Government:

As a concerned citizen and homeowner in Emmitsburg, I wish to let you know of my opposition to adding a gun range to our fair town. Thank you for your consideration.

Sincerely,

Peter Dorsey

Peter A. Dorsey
Professor of English
Mount St. Mary's University
Emmitsburg, MD 21727
301-447-5047

Cathy Willets

From: Joe Ritz
Sent: Monday, October 24, 2022 6:55 PM
To: Cathy Willets
Subject: Fwd: proposed shooting range

Fyi

Joe Ritz
Emmitsburg Town Commissioner
301-748-8516
jritz@emmitsburgmd.gov

--- Forwarded message ---

From: usinger's story 1390sparkplug@gmail.com
Date: October 24, 2022 6:52:55 PM
Subject: proposed shooting range
To: Town Council towncouncil@emmitsburgmd.gov
CC: Jascur Pauline paj1390@verizon.net

I am very concerned about the proposed shooting range which is being proposed near the new Rutters station. Safety of neighboring homes and their residents is my prime concern. I also feel that the noise which would occur from such a range is not appropriate for the area.

Pauline Jascur

Sent from [Mail](#) for Windows

Cathy Willets

From: Joe Ritz
Sent: Monday, October 24, 2022 6:12 PM
To: Cathy Willets
Subject: Fwd: I am against the gun range.

Fyi

Joe Ritz
Emmitsburg Town Commissioner
301-748-8516
jritz@emmitsburgmd.gov

--- Forwarded message ---

From: Michele Cuseo mcuseo@yahoo.com
Date: October 24, 2022 5:55:35 PM
Subject: I am against the gun range.
To: Joe Ritz JRitz@emmitsburgmd.gov

I wanted to reach out to let you know I do NOT support the gun range. Thanks.

Michele Cuseo
Emmitsburg Citizen

Cathy Willets

From: Samuel Delaurence <SDelaurence@mdot.maryland.gov>
Sent: Tuesday, October 25, 2022 8:17 AM
To: Cathy Willets
Subject: RE: Proposed Zoning Text Amendment

Hi Cathy,

We would not have comments on the text amendment, as uses are based on jurisdictional code. MDOT SHA would comment on access proposed to MDOT SHA facilities at such a time as site plans are advanced.

Thanks,
Sam

From: Cathy Willets <CWillets@emmitsburgmd.gov>
Sent: Friday, October 21, 2022 4:14 PM
To: Samuel Delaurence <SDelaurence@mdot.maryland.gov>
Subject: Proposed Zoning Text Amendment

Good afternoon,

I have been asked to email you to let you know about the proposed zoning text amendment that would allow shooting ranges in the Industrial Zone of Emmitsburg. The proposed SHA park and ride is in the Industrial Zone. I didn't know if SHA had any comment related to the proposal. The initial request goes to our Planning Commission on October 25th and then the Board of Commissioners on November 7th. If you would like more information, I can pass along the proposed amendment.

Cathy
Cathy Willets
Town Manager
Town of Emmitsburg
300A South Seton Ave.
Emmitsburg, MD 21727
301-600-6300

Planning Commission and Vote

- A. At the October 25th, 2022 Planning Commission meeting, the motion was made to “Move to recommend denial of proposed ordinance 22-10 with comment. Comments: The noise and safety issues could not be resolved by the applicant in their proposed text amendment. Motion passed 2-1 with Commissioner Ritz III abstaining.

AGENDA ITEM #3: For consideration, approval of Ordinance 2022-11 which would allow private shooting ranges in the industrial zone.

Presentation at the meeting by Town Staff.

ORDINANCE SERIES: 2022
ORD. NO: 22 - 11

Page 72 of 107

AN ORDINANCE TO AMEND
TITLE 9
OF THE CODE OF EMMITSBURG
ENTITLED
PUBLIC PEACE, MORALS, AND WELFARE

Draft

BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by the laws of Maryland and the Charter of the Town of Emmitsburg, that Title 9, Public Peace, Morals, and Welfare, of the Emmitsburg Municipal Code, be amended as follows:

New language is indicated by being in **BOLD, CAPITAL LETTERS**, and deleted language is designated by being in ~~[brackets and strike out]~~.

9.16.010 - Discharge within town.

It is unlawful for any person to fire, discharge or set off any firearm or dangerous weapon of any character within the town provided that this section shall not apply to:

- A. Members of any military company when engaged in drilling or target practice under the command or direction of an officer thereof, or
- B. The use of firearms in the lawful defense of person or property, or
- C. The use of firearms by members of the police department in the lawful discharge of their duty, or
- D. Any person lawfully engaged in hunting or in a hunt, as defined in Natural Resources article, section 10-101, Annotated Code of Maryland (as may be amended from time to time), on private property subject to the following:
 - 1. The private property shall consist of at least fifty (50) acres, either:
 - A. As one parcel or lot, or
 - B. As more than one parcel or lot joined together if the several parcels are contiguous and adjoining to each other and are titled in the same ownership; and
 - 2. There are no occupied or unoccupied residential dwelling units located on any portion of the private property [-]; **OR**
- E. THE USE OF FIREARMS AT AN APPROVED PRIVATE SHOOTING RANGE THAT INCORPORATES SAFETY PROTOCOLS.**

ORDINANCE SERIES: 2022
ORD. NO: 22 - 11

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Ordinance shall take effect on the date on which the Mayor approves the Ordinance after passing by the Board of Commissioners or on the date on which the Board of Commissioners passes the Ordinance over the veto of the Mayor.

PASSED this ___ day of _____, 2022 by a vote of

| Commissioners: | For | Against | Absent | Abstain |
|------------------------|------------|----------------|---------------|----------------|
| O'Donnell | | | | |
| Sweeney | | | | |
| Ritz III | | | | |
| Davis | | | | |
| Boehman-Pollitt | | | | |
| TOTAL: | | | | |

ATTEST:

BOARD OF COMMISSIONERS:

Sabrina King, Town Clerk

Timothy J. O'Donnell, President

MAYOR

_____ APPROVED _____ VETOED

this _____ day of _____, 2022.

Donald N. Briggs, Mayor

I hereby certify that the foregoing Ordinance has been posted as required by Chapter 2.04 of the Emmitsburg Municipal Code.

Sabrina King, Town Clerk
Date:

AGENDA ITEM #4: For consideration, policy P 22-01 hunting and recreational usage at Rainbow Lake and Watershed

Presentation at meeting by Town Staff.

**TOWN OF EMMITSBURG
HUNTING AND RECREATIONAL USAGE
AT RAINBOW LAKE WATERSHED**

This Policy will replace previously adopted policy P21-01.

Purpose:

This policy sets forth guidelines for the hunting and recreational usage of the Town of Emmitsburg's watershed property. The intended purpose behind the policy to set rules and regulations that govern the usage of the Town's property for hunting, fishing and trail usage.

Rules and Regulations

In addition to the rules and regulations set forth by this policy, any user of the watershed must adhere to all regulations set forth by the Maryland Department of Natural Resources (DNR).

- Watershed use is limited to daylight hours. Watershed use from dusk to dawn shall be considered as trespassing.
- Parking in front of the cabled road/path is prohibited. Violators will be towed at their expense.
- Refuse must be properly disposed of in the provided receptacles.
- Smoking, alcoholic beverages, controlled dangerous substances and gambling are prohibited.
- Obstructing any drive, path, or walk is prohibited.
- Camping and fires are prohibited.
- Pets brought upon watershed property must be on a leash and entirely within the control of the handler(s) at all times. Pet owners must pick up and dispose of any/all waste generated by their pets.
- A town issued permit to hunt and/or fish must be on your person while on watershed property.
- Boating, swimming, ice fishing and ice skating are prohibited in Rainbow Lake.
- Injury, defacement, disturbance of any building, sign or public property is prohibited. Removal or destruction of any tree, plant or mineral is prohibited. All users of the watershed agree to assume responsibility for any and all property damages caused by the user to the Town property.
- No obscene or indecent acts or intentional annoyance or instigating/encouraging violence or loud/disturbing noises from any person or device will be permitted.
- All-terrain vehicles, except class one pedal assist bicycles and emergency vehicles, are prohibited in the watershed. A class one pedal assist bicycle is defined as a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 20 mph. Emergency vehicles and emergency personnel are permitted to access the trails when responding to an emergency event or incident only.

Hunting Rules and Regulations

- You must carry your Town issued permit with you at all times.
- No hunting on Sundays.
- Hunting access is limited to deer, turkey and small game. Hunting of any other wildlife species is prohibited.
- Hunting is only permitted from the first day of deer season until the end of deer season. Hunting will then only be permitted from the first day of spring wild turkey season until the end of spring wild turkey season. This is typically early September until early February for deer (this includes fall and winter wild turkey seasons) and then mid-April until late May for spring turkey season. The dates/days will be based on DNR's approved schedule, which comes out annually.
- No hunting within 150 feet of the established safety zones, as shown on the Town's watershed map located on the back of the permit.
- Only residents of Emmitsburg with a 21727 (verified by Maryland State ID) address can hunt on the watershed.
- Use of hunting dogs to chase/hunt deer, turkey or small game is prohibited.
- Trapping is prohibited.
- Portable tree stands and climbing devices that do not use nails, wires, spikes, bolts or screws for attachments are permitted.
- Permanent tree stands are prohibited. It is not permissible to use nails, wires, spikes, bolts, screws or screw in steps with tree stands or any other method that could have a negative impact on the tree.
- All tree stands must be registered with the town on the hunting permit.
- The owner's name and DNR ID must be on the stand and legible from the ground by unaided vision.
- Town staff shall confiscate any tree stand in violation and the violator may have his/her permit revoked.

Fishing Rules and Regulations

- You must carry your Town issued permit with you at all times.
- A Town permit to fish is required for anyone over the age of 16. Minors under the age of 16 must be accompanied by a person at least 18 years of age who holds a valid Town permit.
- A valid Maryland fishing license is required to fish at Rainbow Lake.
- Fishing permits must be renewed annually and expire on the date of your Maryland fishing license expires.
- Fishing is permitted only at Rainbow Lake. All other reservoirs or ponds in the Town's watershed property are off limits.
- Please refrain from walking, standing or throwing the rip rap rocks located around the lake basin.

Non-hunting/fishing users

- During approved hunting days (deer and turkey season), non-hunting users may access the property on Sundays only. Outside of these timeframes, the Town of Emmitsburg watershed is open seven days a week for:
 - Hiking
 - Mountain biking
 - Horseback riding
 - Nature photography
 - Bird watching
 - Athletic activities
 - Picnicking
- Hiking and mountain biking are allowed on designated trails only. Trails must not be used if they are wet or muddy to protect the watershed from erosion.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this policy shall take effect this 7th day of November 2022.

PASSED this 7th day of November 2022.

ATTEST:

BOARD OF COMMISSIONERS:

Sabrina King, Town Clerk

Timothy O'Donnell, President

_____APPROVED _____VETOED

this 7th day of November 2022.

Donald N. Briggs, Mayor

AGENDA ITEM #5: For consideration, approval of Resolution 2022-05R which adopts the Frederick County Hazard Mitigation Plan.

Presentation at the meeting by Town Staff and Frederick County representative Dennis Dudley.

From: Dudley, Dennis
Sent: Wednesday, June 22, 2022 11:50 AM
To: Cathy Willets <cwillets@emmitsburgmd.gov>; 'mayorbriggs@emmitsburgmd.gov' <mayorbriggs@emmitsburgmd.gov>
Subject: Hazard Mitigation and Climate Change Plan Adoption
Importance: High

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:e5dfc088-5c29-4202-a3bd-b9c3b5043d56>

Thank you for your participation in the update of the Frederick County Hazard mitigation plan.

The link will provide you a copy of the 2022 Frederick County Hazard Mitigation Plan Update that was developed by county and local jurisdiction staff with the assistance of Dewberry Engineers Inc. This plan is being sent to your attention as you are the governing official or designated representative for your municipality in the development of this plan.

This plan has been approved by the Maryland Department of Emergency Management and the Federal Emergency Management Agency pending adoption of the plan by each jurisdiction participating in the plan. The County Council voted to formally adopt the plan on May 17, 2022 and the plan was approved by FEMA on May 19, 2022.

If this plan update is not formally adopted, your jurisdiction may be ineligible for federal Public Assistance or mitigation funds. Therefore, a resolution adopting the plan update should be scheduled for your jurisdiction. Please advise me of the date you plan to adopt the plan. Once adopted please email a copy of the signed adoption resolution to ddudley@FrederickCountyMD.gov. If you have any questions or would like me to attend your public meeting, please contact me at the email above or at 301-600-1418.



Dennis K. Dudley
Director, Department of Emergency Preparedness
Division of Emergency Management
301-600-1418
240-357-7819

RESOLUTION: 2022
RESOLUTION NO. 22-05R

**A RESOLUTION
ADOPTING THE FREDERICK COUNTY
HAZARD MITIGATION PLAN UPDATE
TOWN OF EMMITSBURG, FREDERICK COUNTY MARYLAND**

BE IT RESOLVED, ENACTED AND ORDAINED, this _____ day of _____ 2022, by the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by the laws of Maryland and the Charter of the Town of Emmitsburg, do

WHEREAS, the Town of Emmitsburg, Frederick County, Maryland is most vulnerable to natural hazards which may result in loss of life and property, economic hardship, and threats to public health and safety, and

WHEREAS, Section 322 of the Disaster Mitigation Act of 2000 (DMA 2000) requires State and local governments to develop and submit for approval to the President a mitigation plan that outlines processes for identifying their respective natural hazards, risks, and vulnerabilities, and

WHEREAS, the Town of Emmitsburg acknowledges the requirements of Section 322 of DMA 2000 to have an approved Hazard Mitigation Plan as a prerequisite to receiving post-disaster Hazard Mitigation Grant Program funds, and

WHEREAS, the Frederick County 2022 Hazard Mitigation Plan has been developed by Frederick County officials in cooperation with other county departments, and officials and citizens of the Town of Emmitsburg, and

WHEREAS, a public involvement process consistent with the requirements of DMA 2000 was conducted to develop the Frederick County 2022 Hazard Mitigation Plan, and

WHEREAS, the Frederick County 2022 Hazard Vulnerability Assessment and Mitigation Plan recommends mitigation activities that will reduce losses to life and property affected by natural hazards that face the County and its municipal governments,

NOW THEREFORE BE IT RESOLVED by the governing body for the Town of Emmitsburg:

- The Frederick County 2022 Hazard Mitigation Plan is hereby adopted as the official Hazard Mitigation Plan of the Town of Emmitsburg, and

RESOLUTION: 2022
RESOLUTION NO. 22-05R

- The respective officials and agencies identified in the implementation strategy of the Frederick County 2022 Hazard Mitigation Plan are hereby directed to implement the recommended activities assigned to them.

NOW, THEREFORE, BE IT HEREBY enacted this _____ day of _____, 2022 by the Mayor and Board of Commissioners, that Resolution Number 2022-05R is true, correct, and duly adopted by the Mayor and Board of Commissioners of the Town of Emmitsburg.

PASSED this ___ day of _____, 2022 by a vote of:

| Commissioners: | For | Against | Absent | Abstain |
|-----------------|-----|---------|--------|---------|
| O'Donnell | | | | |
| Sweeney | | | | |
| Ritz III | | | | |
| Davis | | | | |
| Boehman-Pollitt | | | | |
| TOTAL: | | | | |

ATTEST:

BOARD OF COMMISSIONERS:

Sabrina King, Town Clerk

Timothy J. Donnell, President

_____ APPROVED _____ VETOED

this _____ day of _____, 2022.

Donald N. Briggs, Mayor

AGENDA ITEM #6: Rutters forest conservation easement removal request discussion and consideration.

If the Board agrees to revoke the easement, in whole or in part, the Forest Conservation Plan goes back to the planning commission for its decision regarding Forest conservation requirements and determination.

Presentation at the meeting by Town Staff.



Joel W. Rimby
Associate General Counsel
2295 Susquehanna Trail
York, PA 17404
(717) 771-5942
Joel.rimby@rutters.com

September 12, 2022

Board of Commissioners
Town of Emmitsburg
300A South Seton Avenue
Emmitsburg, MD 21727

**RE: Rutter's Store 84 – Abandoning Forest Conservation Easements
Modification of Forest Conservation Plan**

Dear Board of Commissioners:

As part of the Combined Preliminary/Final Forest Conservation Plan approved by the Town of Emmitsburg in December of 2020 (the "Plan"), M & G Realty, Inc. ("Rutter's") established three (3) Forest Conservation Easements on the property located at the southeast corner of US Route 15 and Maryland Route 140, where Rutter's Store 84 stands. Those three (3) easements comprise both, a forest retention area and an afforestation planting area and collectively comprise 2.05 acres of land.

The trees located in these Forest Conservation Easements, particularly the two located between the Rutter's store and US Route 15, obscure the sightlines to the store of drivers on US Route 15. The lack of visibility to drivers on US Route 15 may negatively impact business at the store and also, arguably, could create unsafe driving conditions on US Route 15 as drivers quickly attempt to exit when seeing the store at the last minute prior to the exit ramp.

In an effort to mitigate both of these issues, Rutter's respectfully proposes that the Town of Emmitsburg allow for the abandonment of all of Forest Conservation Easement Area #1 and that portion of Forest Conservation Easement Area #2, as defined on the enclosed Plan, that resides in Forest Stand #1 along the tributary to Flat Run, which is in poor condition. The total acreage that Rutter's is requesting to be abandoned is .31 acres. Title X of the Forest Conservation Ordinance of the Town of Emmitsburg (§16.48.140), allows for a payment to the Forest Conservation Fund if it can be demonstrated that the requirements of reforestation or afforestation cannot be reasonably accomplished. Rutter's attempted to accomplish the requirements of reforestation and afforestation in good faith at the time of development, but it has since then shown to be unreasonable.



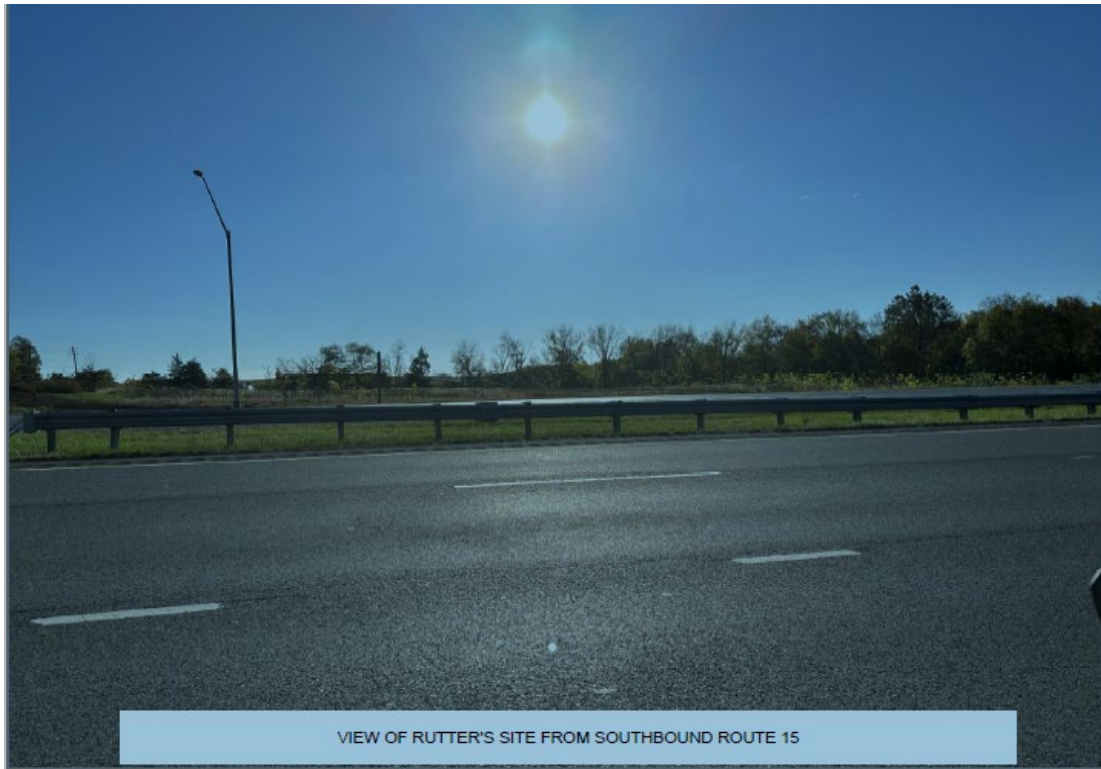
As such, Rutter's respectfully requests to remove Forest Conservation Easement Areas #1 and #2 and pay the fee in lieu of said easements to the Forest Conservation Fund as permitted un §16.48.140 of the Forest Conservation Ordinance. Please direct any questions to Rutter's Site Development Project Manager, Tim Bieber at tim.bieber@rutters.com or 717-815-2821.

Very truly yours,

/s/ Joel W. Rimby
Joel W. Rimby
Associate General Counsel

CC: Zach Gulden, Town Planner & Zoning Administrator
Donald Briggs, Mayor
Chris Reed, Rutter's General Counsel
Tim Bieber, Rutter's Site Development Project Manager

enclosure





AGENDA ITEM #7: Discussion and consideration of amending town code to allow for fences greater than four feet tall in front of yards.

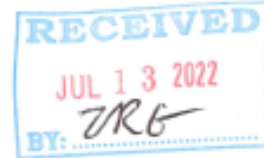
If the Board desires to amend the code, the staff shall be directed to prepare a text amendment for review and recommendation by the planning commission which will then be returned to the Board for final consideration and adoption.

Presentation at the meeting by Town Staff.



BOARD OF APPEAL'S APPLICATION
TOWN OF EMMITSBURG
300A South Seton Avenue, Emmitsburg, MD 21727
www.emmitsburgmd.gov · (301) 301-6300

AD #300.00
check 1307



SECTION A – DATA

Property Description

Address (full): _____ 4000 Carrick Ct, Emmitsburg, MD 21727 _____

Tax Map / Parcel No: __0003/0144____ Zoning Classification: __R-1_____

Applicant

Name: _____ Robert and Valerie Turnquist _____

Address (full): _____ 4000 Carrick Ct, Emmitsburg, MD 21727 _____

Phone: _____ Cell: _____ 240-285-3976 _____ E-

mail: michaeltnq1949@gmail.com _____ Fax: _____

(if applicant is not the owner, consent to act on the owner's behalf is required)

Owner(s)

Name(s): _____ Robert and Valerie Turnquist _____

Address (full): _____ 4000 Carrick Ct, Emmitsburg, MD 21727 _____

Phone: _____ Cell: _____ 240-285-3976 _____ E-

mail: _____ michaeltnq1949@gmail.com _____ Fax: _____

Proxy (if applicable)

This is to certify that the undersigned has designated _____

as his/her representative to provide testimony and act on the owner's behalf at the Board of Appeal's meeting to be held on _____ (date), and any related lawfully adjourned meetings thereof. In no event shall this proxy be valid for a period longer than the legal decision rendered for this Board of Appeal's meeting. This proxy shall be revocable at any time at the request of the undersigned owner.

Robert M. Turnquist
Valerie Turnquist
(Print Name)

Valerie Turnquist
(Signature)

SECTION B – INSTRUCTIONS

This section is to assist applicants in applying to the Board of Appeals. The process is explained in detail in Chapter 17.12 (§17.12.050 for variances & §17.12.060 for special exceptions) of the Town of Emmitsburg's Zoning Ordinance. Any information provided in these checklists is intended only as a guide. The applicant is advised to consult this Chapter as well as obtain the services of an attorney, engineer, or other professionals in completing this application and presenting evidence before the Board. The applicant is not required to be represented by third parties.

1. Attach appropriate written explanation / arguments that indicate how the applicant's request meets the requirements set forth for a variance (Section E) or a special exception (Section F), or on what grounds the appeal is based. Variance applicants must also attach a copy of a denied zoning permit. For appeals, attach a true copy of the Decision/Order/Determination of the Zoning Administrator.
2. Attach all drawings, photographs, plans, and/or illustrations, which will help explain the request. Six (6) copies of any documents are required. Any materials submitted with this application or entered as Exhibits during the hearing become the property of the Town of Emmitsburg and are kept with this application. Include existing and proposed building structures, driveways, parking, landscaping, property lines, etc. Be sure to include all dimensions where applicable.
3. It is the applicant's responsibility to locate property lines and to check the property deed for easements and restrictive covenants.
4. The Town's Board of Appeals meet on an as-needed basis. Complete applications, with exhibits, for consideration in any given month must be submitted within thirty (30) days from the decision being appealed from. The date, place, and time of the hearing will be confirmed by phone or mail. In addition, the Town's Zoning Ordinance requires the Board of Appeals (or their designated Town Official) to place a public hearing notice in a paper of general circulation in the Town at least once, not more than thirty (30) or less than ten (10) days prior to the hearing. The Town is also required to give not less than ten (10) days public notice thereof by the posting of not less than one sign of at least three (3) square feet in area.
5. The applicant, or their representative, shall present the request to the Board of Appeals and be available to answer questions, if needed.

The Board of Appeals may hold more than one hearing on an application, or may continue a hearing over several dates. All deliberations and decisions will be made in public at scheduled hearing dates and times. Many times, the Board will make its decision immediately following the conclusion of the hearing. The applicant or other aggrieved parties may make a Petition for Judicial Review to the Circuit Court of Frederick County within thirty (30) days of the Board's written hearing decision.

SECTION C – FEES

Example of service provided through fees include advertising, attorney, stenographer, & Town staff time.

Special Exception.....\$500.00

Variance.....\$300.00

Zoning Administrator appeals / interpretations.....\$300.00

Hearing continuances if requested by applicant.....\$150.00

SECTION D – Administration

Indicate type of application below: (Initial all that apply)

Chapter 17.12 of the Zoning Ordinance:

RJA _____ Appeals from the determination of the Zoning Administrator

Application for variance(s) from the terms of the zoning ordinance.

_____ Application for special exception(s) from the terms of the zoning ordinance.

_____ Other (explain): _____

Sworn Statement of Truth (Initial): (All applicants must complete this section)

Applicant, being duly sworn, says he/she is:

the owner of the property in question.

RJA _____ the authorized agent for the owner of record of the property for which the application is made. The owner's signature authorization to his/her/its agent to act on owner's behalf is required to be submitted.

RJA _____ a person aggrieved.

_____ an officer or agency of the municipality.

The undersigned applicant hereby verifies that the statements made in this application, and all information and exhibits provided with this application are true and correct to the best of the applicant's knowledge or information and belief. The applicant acknowledges that the Town or its representatives have not provided any legal representation and no opinion rendered by the Town or its representatives as to the validity of the applicant's prospects for relief. I understand that false statements herein are made subject to the penalties of Maryland State law relating to unsworn falsification to authorities.

Individual Applicant: Robert + Valeria Turquist Robert M. Turquist
Print Applicant Name Signature of Applicant Valeria Turquist

Partnership/Corporate Applicant: _____
Name of Partnership / Corporation

Print Name of Signer & Title Signature of Applicant's Signer

SECTION F – SPECIAL EXCEPTION APPLICATIONS

The Board of Appeals may grant special exceptions. In deciding such matters, the Board shall give consideration, among other things to the following: (Reference: §17.12.060 of the Town of Emmitsburg Code).

1. Decisions of the circuit court of the County and the Court of Appeals of the state. _____

2. The orderly growth of the neighborhood and community. _____

3. The most appropriate use of land and structure. _____

N/A

4. Facilities for sewers, water, trash collection, and disposal, and the ability of the Town to supply such services. _____

5. Availability of fire-fighting equipment. _____

6. The effect of such use upon the peaceful enjoyment of people in their homes. _____

7. The number of people residing, working, or studying in the immediate areas. _____

8. The type and kind of structures in the vicinity where people are apt to gather in large numbers such as schools, places of worship, theaters, hospitals, and the like. _____

9. Traffic conditions, including facilities for pedestrians, such as sidewalks, safety zones, parking facilities available, and the access of cars on highways. _____

10. The preservation of cultural and historic landmarks. _____

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11. The conservation of property values. _____

12. The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the uses of surrounding properties. _____

N/A

13. The contribution, if any, such proposed use, building or addition would make toward the deterioration of areas and neighborhoods. _____

14. Accordance of contemplated action with an adopted Town plan. _____

In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of this chapter.



Memo

DATE: August 15, 2022

TO: Town of Emmitsburg Board of Appeals
Dianne Walbrecker, Chair

FROM: Zach Gulden, MPA
Town Planner & Zoning Administrator

Cathy Willets
Town Manager

RE: Property Address: 4000 Carrick Court
Applicant & Property Owners: Robert & Valerie Turnquist
File Number: 2022-01
Property Tax ID: 05-185386
Zoning District: Low-Density Residential (R-1)

Background: The applicant constructed a 5' – 6' tall fence (varies in height) in the front yard of their property without Town zoning permit approval. According to page 1 of the Board of Appeal's variance application package, the fence was installed on June 6, 2022. The Town's Code Enforcement Officer issued the homeowners a code enforcement door hanger on June 7, 2022 stating that they must apply for a zoning permit for the newly installed fence in accordance with Town Code §17.48.020. The applicant applied for a fence zoning permit on June 10, 2022. The Town's Zoning Administrator denied the zoning permit application on June 13, 2022 as the fence does not meet the requirements set forth in Town Code §17.40.060(b). A copy of the zoning permit denial letter is located within the applicant's variance application package.

The applicant has requested a variance to the following category in Title 17, Chapter 17.40, Section 17.40.060(b), of the Town's Codified Ordinances:

| Description | Requirement Per Code | Requested Variance |
|-------------------------------------------|----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| Allowable projections of fences into yard | "no fence more than four feet high may be located closer to the front of the lot than the principal building," | Allow the 5'-6' tall fence to remain in the front yard facing Brookfield Drive. |

Town of Emmitsburg
300A South Seton Avenue, Emmitsburg, MD 21727
Phone: 301-600-6300 Fax: 301-600-6313

For more information, go to www.emmitsburgmd.gov

4000 Carrick Court
File No. 2022-01

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Town Code Variance Requirements: §17.12.050.B of the Code states: No such variance in the provisions or requirements of this title shall be authorized by the board unless the board finds, beyond reasonable doubt, that all of the following facts and conditions exist:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or classes of uses in the same zoning district;

- **Staff Comments:**

1. The variance application is the result of a self-created hardship. According to the applicant, under background on page 1 of the application, neither the fence contractors nor HOA informed them that a Town zoning permit was required for the project. If the applicant would have contacted the Town before installation, staff would have informed them that a fence over 4' high was prohibited within a front yard, and a zoning permit was required per Town Code §17.48.020. It is the responsibility of the property owner to obtain any necessary permits before construction.
2. There are eight (8) corner lots in the Pembroke Woods subdivision. All of which are very similar in size, shape, and slope, so it does not seem that there are exceptional or extraordinary circumstances or conditions that apply to the property in question that do not apply generally to other properties or classes in the same neighborhood or zoning district. Most, if not all, of the properties in Pembroke have sloped front, side, and/or rear yards due to the stormwater management swales.

- 1) 4000 Carrick Court

- i. Approximately 201 linear feet of frontage on Brookfield Drive.
- ii. Approximately 102 linear feet of frontage on Carrick Court.
- iii. 22,866 total square feet.

- 2) 4005 Carrick Court

- i. Approximately 119 linear feet of frontage on Brookfield Drive.
- ii. Approximately 137 linear feet of frontage on Carrick Court.
- iii. 18,712 total square feet.

- 3) 2000 Pembroke Court

- i. Approximately 223 linear feet of frontage on Brookfield Drive.
- ii. Approximately 115 linear feet of frontage on Pembroke Court.
- iii. 23,776 total square feet.

- 4) 2005 Pembroke Court
 - i. Approximately 171 linear feet of frontage on Brookfield Drive.
 - ii. Approximately 137 linear feet of frontage on Pembroke Court.
 - iii. 22,713 total square feet.
 - 5) 3000 Stonehurst Drive
 - i. Approximately 171 linear feet of frontage on Brookfield Drive.
 - ii. Approximately 116 linear feet of frontage on Stonehurst Drive.
 - iii. 23,150 total square feet.
 - 6) 3005 Stonehurst Drive
 - i. Approximately 184 linear feet of frontage on Brookfield Drive.
 - ii. Approximately 116 linear feet of frontage on Stonehurst Drive.
 - iii. 22,238 total square feet.
 - 7) 3010 Stonehurst Drive
 - i. Approximately 108 linear feet of frontage on Stonehurst Drive.
 - ii. Approximately 199 linear feet of frontage on Stonehurst Court.
 - iii. 23,125 total square feet.
 - 8) 3025 Stonehurst Drive
 - i. Approximately 122 linear feet of frontage on Stonehurst Drive.
 - ii. Approximately 147 linear feet of frontage on Stonehurst Court.
 - iii. 20,337 total square feet.
3. The applicant mentions Town Code §15.04.010 on page 3 of their application, which does not apply. A Frederick County building permit is not required for a fence installation. Only a Town issued zoning permit is required for a fence installation.
 4. The applicant mentions Frederick, Maryland, Land Management Code / Article 8 – Supplemental Use Regulations / Sec. 821 on page 4 of the application, which does not apply. Frederick County does not have zoning jurisdiction within the Town's corporate limits.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity;
- **Staff Comments:** The reasons for the fence do not appear to be supported by evidence that such a fence would provide sound reduction or reduce water run-off through the lot. To the extent that the fence interferes with the swales for

4000 Carrick Court
File No. 2022-01

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storm water run-off, such interference is not permitted under the code. No evidence is provided that the addition of the fence preserves or promotes property rights enjoyed by others in the subdivision.

3. That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of this title, or the public interest.

- **Staff Comments:**

1. It does not appear that the fence will cause substantial detriment to adjacent property and will not materially impair the public interest. It also does not appear that the fence is within the Carrick Court / Brookfield Drive intersection's clear sight triangle; however, this should be confirmed by an engineer.
2. Approval of this variance could set a precedent, which could materially impair the purpose of Title 17 - Zoning. If approved, property owners could regularly request variances for the placement 4'+ high fences in front yards.
3. This issue could be addressed by amendment to the fence ordinance that would apply to all lots with two "front" yards and does not appear to result from a unique characteristic of this lot.

Suggested Motion:

Move to approve/deny the applicant's variance request for 4000 Carrick Court.

Regardless of the outcome, please state your findings of fact, and reasons for the grant of the variance for the record. The findings of fact shall provide specifics supporting your determination of how the applicant meets or does not meet each of the Town Code variance requirements set forth in §17.12.050.B.

To approve, you must first determine whether the property is unique and unusual from the surrounding properties and the uniqueness of the property causes the zoning provisions to impact the property disproportionately.

If this determination is **not** made, your analysis ends. If you find that the property is unique, you then address whether the uniqueness causes a practical difficulty or undue burden if the zoning provision is applied.

Each of the above factors must be met and supported by evidence.

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Conversely, if you find that the factors are not met, the facts in support of your determination must also be stated.

If approved, staff recommends the following condition of approval:

1. The applicant shall provide a letter from a Maryland certified engineer stating that the location of the fence is not within the Carrick Court / Brookfield Drive intersection's clear sight triangle and meets the requirements set forth in Town Code §17.08.160. – Clear sight triangle, sight distance. The fence shall be moved out of the clear sight triangle if applicable.

Thank you.

Board of Appeals (BoA) Members Present:

Dianne Walbrecker (DW)

Wayne Slaughter (WS)

Scott Frager (SF)

Dan Garnitz (DG) - Alternate Member

Town of Emmitsburg (ToE) – Zach Gulden, Town Planner & Leslie Powell, Town Attorney

Call to Order

1. 2022 Board Reorganization

- Motion for the Chair to be Dianne Walbrecker
 - o WS Motion, SF Second
 - o Passed 3-0
- Motion for Vice Chair to be Wayne Slaughter
 - o WS Motion, SF Second
 - o Passed 3-0
- Motion for note-taker to be Scott Frager
 - o WS Motion, SF Second
 - o Passed 3-0

2. Approval of Prior BoA Meeting Minutes

- Date of Meeting October 18th, 2021
- Any Corrections, Additions, Subtractions
 - o DW discussed minor typo's direction to Zach who agreed to make those corrections
- Motion to Approve 10-18-2021 minutes
 - o WS Motion, SF Second
 - o Passed 3-0

3. Swearing in of Witnesses

- Chair Walbrecker swore in the witnesses.

4. Old Business

- None

5. New Business

Staff Report

- Only new case on the agenda is the case of Robert (RT) & Valerie Turnquist (VT), 4000 Carrick Court, Pembroke.
- Seeks Variance for 5-6' fence in the front yard.
- Planning Staff to Present the Case, Town Planner
 - o Read Background of ToE staff memo dated 8-15-2022
 - Subject constructed fence 6-6-2022 without a permit
 - Code enforcement action 6-7-2022 per code 17.48.020
 - Subject applied for ToE fence permit 6-13-2022
 - Zoning Administrator denied permit per code 17.40.060(b)
 - o Read Variance Requirements
 - Per code 17.12.050.B all of the following facts and conditions must be met beyond reasonable doubt
 1. Exceptional or extraordinary circumstances or conditions must apply to property
 - o Staff Comments
 - Hardship was self-created

- Eight other lots in the same subdivision similar in size, shape, and slope sighted.
- Town application mentions Frederick County permit, which is not required, only a Town issued permit is required
- 2. Variance must be necessary for preservation and enjoyment of property rights possessed by other properties in the same zoning district
 - Staff Comments
 - No evidence provided that the addition of the fence preserves or promotes property rights enjoyed by others
- 3. Variance must not be of substantial detriment to adjacent property
 - Staff Comments
 - The fences placement outside of the intersection's clear sight triangle should be confirmed
 - With variance approval, all property owners within the Town could regularly request variance for 4'+ high fences in front yard
 - Issue could be address by amendment to fence ordinance applying to all lots with two "front" yards
- Town Staff Suggested Motion
 - Each of the following factors must be met and supported by evidence
 - To approve, BoA must first determine whether property is unique and unusual
 - If this determination is not made, analysis ends
 - If determination is made that the property is unique, the uniqueness causing a practical difficulty or undue burden may be applied
 - If each factor is not met, facts in support of determination must also be stated

6. Applicants Brief

- RT, who resides at 4000 Carrick Court, intro brief
 - In spring, 3 requests received to replace split rail fence with a 6' Williamsburg picket fence
 - Fence approved by Pembroke Board of Directors and executed by Armor Fence on 6-6-2022
 - Armor Fence said permit not required but Miss Utilities must be called. They came out and applied markings
 - None of the fence companies informed homeowner of the 4' fence ordinance
 - On 6-7-2022, a Code Violation was received stating a Zoning Permit from ToE was required
 - On 6-10-2022, ToE permit requested and Town Planner came to Applicant's residence and reported the fence and informed the Turnquists of the disapproval of the permit and explained procedure to request Variance
- VT, who resides at 4000 Carrick Court, gave a brief addressing conditions 1 and 2
 - 17-12-050(b) quoted requiring Exceptional or extraordinary circumstances or conditions,
 - Validates the 4000 Carrick Court has two front yards in accordance with ToE corner ordinance
 - States sloping topography and corner lot designation creates the hardship of limited use
 - States adjacent new home properties built "behind us" are at a higher elevation which is unique from other corner lots in subdivision
 - Quotes Maryland Dept of Labor and Maryland Home Improvement Commission states it is the responsibility of the prime contractor to apply for and obtain all required building permits
 - Quotes Code of Maryland regulation 9080108, Duty of prime contractor to obtain for and obtain all required building permits
 - VT pointed out perceived differences between 8 similar properties and 4000 Carrick Court with respect to abatement to public roads, sidewalks, traffic, size, slope, and some properties have fences taller than 4'; and, adjacent home at a significantly higher elevation
 - Applicant requested a 6 ft fence as a noise barrier and increased security.

- Applicant reports instances of their dog jumping current fence, persons throwing rocks from sidewalk at dog, over fence, and pointed out that a higher fence mitigates increased foot and auto traffic, and wild animals
 - Taller fence provides more privacy, security, and comfort and added height to help to mitigate visual and noise impact
 - At least 4 additional homes in Pembroke on corner lots with fences over 4' high as well as additional homes in Pembroke and the ToE with fences over 4' in their front yard
 - To move fence back to building line of residence would cause a loss of square footage in rear yard of 2,706 sq ft
 - Equally important need of taller fence provides harmony and peaceful coexistence with dogs and foot traffic constantly walking their dogs on Brookfield Road
 - Stated practical difficulties, unnecessary hardships, safety concerns, and risk causes practical difficulties each day protecting grandchildren and keeping them and pets safe and free from harm
 - Research about sound waves will help reduce controlling noise
 - RT addressing condition 3
 - Higher fence is valued for the greater privacy, safety, and travel noise
 - Intent was to create a fence that blends in with landscape and existing vegetation and in harmony with neighbors' fence types and appearance
 - States the requested fence will separate rear yard from adjacent arterial road
 - Characteristics of use of Brookfield has changed
 - Spoke with adjacent neighbors and the requested fence height causes no harm
 - Does not encroach, infringe, or impose hardship on neighboring or residential properties
 - States meeting the conditions of variance requested, as precedence will not be created
- 7. Open the Meeting to the Public**
- No public or Zoom attendee comments
- 8. VT Rebuttal**
- Presents ToE code 17.12.40
 - Presents code 17.12.30C
 - Presents code 17.12.060
 - Asked what is the purpose of 4' fence in dual side yard?
 - No sight limitations or impairment present
 - Applicants have desire for safety, privacy, etc. afforded by fence during these times where crime is raising in ToE
 - No conflicts with other ordinances with respect to safety, health, convenience, comfort, morals, property, and general welfare
 - ToE Attorney asked if she had any comments or points to make
 - Citations to certain code provisions that don't appear to be applicable
 - Particularly building versus zoning permits
 - Call to Close the Meeting for Discussion by Applicants
 - Madam chair can authorize additional questions by the applicants
 - RT's Added Comment
 - Point was a request for common sense to prevail
 - Suggested that BoA members have been to their property and the existing fence is not causing any problems and suggested common sense should prevail
 - Call to Close the Meeting Records for Discussion
 - DW closed the record
- 9. Open the Meeting for Deliberations**
- WS questioned when Brookfield was opened to 2-way traffic recently

- DW Brookfield was always intended to be open to 2-way traffic

10. Open the Meeting to Discussion by the Board

- SF asks, is the job to determine of the BoA to measure whether there are exceptional circumstances defined by the 3 conditions quoted by both the town staff and applicants; and, validation that the applicant concerns can be legitimate but not exceptional circumstance justifying a variance
- Leslie- yes, if you don't determine the property is unique and unusual per the first of the three conditions we need not move forward with further discussion
- WS believe applicants made valid points, applicants' experience is what matters, living there would be a good test; questions if there is anything in the code allowing them to keep their fence, concerned about the excess cost to the applicant; applicant is suffering from the text of the code; we should consider a revision to the code
- DW horrified neither the contractor nor HOA knew the permit requirements but that is not in our control
- DG 15 years with a 4' fence, would a 4' fence suffice
- DW is concerned with setting precedent; the wording of having two front yards is of concern
- SF believes the text ensures all corner lot homeowners are treated in a consistent, objective manner
- ToE-Lesley offered the clear site triangle code (not sure what is being referenced here) is the objective measure
- DW suggest out loud what ToE-Lesley would later describe as a Text Amendment
- ToE-Lesley proposed an example of a solution where the BoA proposes a legislative Text Amendment to the Zoning Code to be reviewed such that the clear site triangle code becomes the figure-of-merit to determine the height of the fence
 - o BoA job is to make a determination whether actions are compliant with town codes and if not, does the applicants' variance request comply with town codes
 - o Does the opening of Brookfield Road and the current speed limit create a difference which justifies a legislative investigation of codes and circumstances involved in the appeal request?
- SF asked can we recommend that a legislative review distinguish elements of change affecting the roads connected to Brookfield (i.e., Timbermill and Irishtown)
- DW pointed out the distinguishing feature is corner lots
- All parties discussed agreed this is not merely a Pembroke issue, the common denominator is that all affected lots are corner lots and any solution should pertain to all R1 corner lots within the ToE
- DW stated this applies to annexations as well, do the applicants need an answer tonight?
- Town Planner stated, if the applicants ask for a continuance, the cost is \$150. There is no cost if the continuance is requested by the BoA.

11. DW asked for a motion for a continuance

- WS Motion for continuance, SF Second
- Motion passed 3-0
- DW suggested basis of continuance.
 - o Continuance for 6 months
 - o Actions suspended in terms of code enforcement issue for the 6-month period
 - o Revisit when text amendment is examined and / or approved by the Commissioners and work with Town Planner until draft text is created
- ToE-Lesley summarized and closed with a reminder the issue is corner lots and:
 - o ToE did not cause the issue
 - o Uneducated fence contractor
 - o Uneducated HOA
 - o Everyone is charged with knowledge of the rules whether they know the laws or not

12. Adjournment

- WS Motion to adjourn, SF Second.

~~AGENDA ITEM #8: Decline to accept dedication of four open space lots in Brookfield conditioned upon approval of the Brookfield HOA consideration.~~
POSTPONED

AGENDA ITEM #9: ~~Welty Ave parking update.~~ **THIS ITEM HAS BEEN WITHDRAWN AT THE REQUEST OF RESIDENT AND COMMISSIONER RITZ III.**

M. SET AGENDA FOR NEXT MEETING: December 6th, 2022

1) SET AGENDA FOR NEXT MEETING: December 6th, 2022 AT 7:30 PM

- 1.
- 2.
- 3.
- 4.
- 5.

Administrative Business:

- A.
- B.
- C.