

5-28-91 Minutes

A regular meeting of the Council of the City of Bedford, Virginia, was held in the Council Hall of the Municipal Building at 7:30 p.m., May 28, 1991.

Members present: Mayor G. Michael Shelton; Councilman Larry D. Brookshier; Councilwoman Joanne A. Grahame; Councilman Payton M. Otey; Vice Mayor John M. Owen, III; Councilman Ronnie C. Rice; and Councilman James A. Vest.

Members absent: None.

Staff present: City Manager Jack A. Gross; City Attorney W. W. Berry, IV; and Clerk of the Council Teresa W. Hatcher.

Mayor Shelton opened the meeting and led all present in saying the Pledge of Allegiance to the Flag.

Mayor Shelton declared that the minutes of a regular Council meeting held on May 14, 1991, were approved as mailed.

On motion by Councilman Otey, seconded by Councilman Brookshier, voted upon and carried unanimously, the following items were added to the agenda:

Presentation by Library Director Nancy Donahoo - Master Plan for New Library

Executive Session - Personnel, pursuant to Section 2.1- 344(a)(6)

Mayor Shelton stated that he had discussed appointments to the Blue Ribbon Committee for a joint industrial park with the Chairman of the Bedford County Board of Supervisors. The Mayor stated that these appointments will be made at the first meeting in July held by each governing body. The Mayor asked the City/County Relations Committee to begin the process of consideration of names of individuals to serve on this committee; to talk to individuals as to their interest; and come back to Council with a recommended slate of citizens for appointment.

The Mayor stated that the rescheduled dedication of Poplar Park will be held June 2 at 3:00 p.m.

The joint public hearing with the Planning Commission was moved further down on the agenda because of the lack of a quorum of the Planning Commission.

Ms. Nancy Donahoo, Library Director, reviewed the proposed master plan for a new library, which will maintain the Wharton Garden and Wharton House, and build a library facility that will last 15 to 20 years. Ms. Donahoo gave Council copies of a chart that compared present floor area needs with needs in 15 years. She gave Council copies of the proposed budget for A/E Services and a budget cost estimate.

Discussion ensued.

Councilwoman Grahame moved that Council give the Library Director a consensus to go ahead with this

master plan based on the square footage of 26,500 ft. The motion was seconded by Councilman Brookshier.

Mayor Shelton asked for a clarification. Councilwoman Grahame stated that this would be the consensus of Council to go with the concept of this master plan (for the new library) based on the square footage the Library Director has mentioned.

The motion was then voted upon and carried unanimously.

Mayor Shelton stated that on May 25 he was presented with petitions on behalf of concerned citizens for the tennis courts at the library. The Mayor said that their position is that if in building the projected new library it is necessary to use the space where the tennis courts are located, then the courts should go.

Discussion ensued regarding the lack of a quorum of the Planning Commission for the purpose of holding the scheduled public hearing. The public hearing was delayed until there was a quorum of the Planning Committee.

The City Manager stated that Council had received copies of a memorandum from Mr. Jimmy English, Director of Community & Economic Development, concerning the preliminary subdivision plat of the Mabel Ballard property on Longwood Avenue, together with a copy of that plat. Mr. Gross reported that the Planning Commission, at its meeting on May 2, 1991, recommended that City Council approve this subdivision plat with certain modifications and additions. The City Manager stated that at this time it would be in order for Council to consider the "preliminary" subdivision plat with the right-of-way variance.

Councilman Brookshier moved that the "preliminary" subdivision plat with the right-of-way variance be approved. The motion was seconded by Councilwoman Grahame.

Councilman Brookshier explained the right-of-way variance, which would be a 50' foot right-of-way, non-maintained, and dedicated to the City for future street development. Councilman Brookshier stated that Mrs. Ballard wants to donate the two houses to those individuals who have lived in the two houses for years. It was stated in the memorandum from Mr. English that the property already existed in a non-conforming developed situation by having two separate single family dwellings on the same lot and that this situation had been further complicated by the old abandoned-for-maintenance public road which would have allowed proper lot frontage.

Councilman Vest expressed concern that this would set a precedent.

Councilman Brookshier stated that the Planning Commission indicated that this would not set a precedent due to the fact that this is such an unusual request and would not have a bearing on any future decisions.

The motion to approve the "preliminary" subdivision plat was then voted upon and carried unanimously.

Further discussion ensued regarding the Planning Commission not having a quorum in order to conduct the public hearing. Council decided to hold its executive session and after the session hold the public hearing if there were a quorum of the Planning Commission.

Councilman Vest moved that Council adjourn into executive session to discuss personnel matters, pursuant to Section 2.1-344(a)(6) of the Code of Virginia of 1950, as amended. The motion was seconded by Councilwoman Grahame, voted upon and carried unanimously by the following roll call vote:

Councilman Brookshier aye

Councilwoman Grahame aye

Councilman Otey	aye
Vice Mayor Owen	aye
Councilman Rice	aye
Councilman Vest	aye
Mayor Shelton	aye

Council adjourned into executive session at 8:20 p.m. Non-council members attending were: City Attorney Berry.

Council reconvened into open session at 8:50.

The Clerk of Council read aloud the following proposed resolution:

BE IT RESOLVED that the Council of the City of Bedford hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Council.

Councilwoman Grahame moved that the resolution be approved as read. The motion was seconded by Councilman Vest, voted upon and carried unanimously by the following roll call vote:

Councilwoman Grahame	aye
Councilman Otey	aye
Vice Mayor Owen	aye
Councilman Rice	aye
Councilman Vest	aye
Councilman Brookshier	aye
Mayor Shelton	aye

It was determined that the Planning Commission had a quorum to conduct the public hearing.

The Clerk of Council read aloud the following public hearing notice:

PUBLIC HEARING NOTICE

A public hearing will be held by the Council and Planning Commission of the City of Bedford, Tuesday, May 28, 1991, at 7:30 p.m. in Council Hall of the City Municipal Building for the purpose as follows:

To amend the City of Bedford Land Development Regulations, Article VI, Section 611, Flood Hazard District, to conform to the Federal Emergency Management Agency guidelines. These guidelines allow the City to continue to be eligible for the federal flood insurance program, grant funds, etc.

A copy of the proposed amendment is on file in the office of Community & Economic Development, City Municipal Building.

This amendment is requested by the City of Bedford.

Anyone who is in favor of or opposed to the amendment will be given ample opportunity to express their views at this hearing.

By the Authority of the Council and
the Planning Commission of the City of Bedford.

Mayor Shelton opened the public hearing at 8:53 p.m.

As there were no comments, Mayor Shelton closed the public hearing at 8:54 p.m.

On motion by Planning Commission member John Messier, seconded by Commission member Carl Saunders, voted upon and carried, the Planning Commission recommended that Council approve the amendments to the City of Bedford Land Development Regulations, Article VI, Flood Hazard District, to conform to the Federal Emergency Management Agency guidelines.

The Mayor stated that the proposed ordinance had been properly posted and was before Council for the second time.

On motion by Councilwoman Grahame, seconded by Councilman Vest, voted upon and carried unanimously, Council waived the reading of the ordinance based upon its proper posting before the public.

Councilman Brookshier moved that the ordinance to amend and reenact the Land Development Regulations be approved as posted. The motion was seconded by Councilman Otey voted upon and carried unanimously by the following roll call vote:

Councilman Otey	aye
Vice Mayor Owen	aye
Councilman Rice	aye
Councilman Vest	aye
Councilman Brookshier	aye
Councilwoman Grahame	aye
Mayor Shelton	aye

**An Ordinance to Amend and Re-enact the City of Bedford Land
Development Regulations Pertaining to Floodplain Zoning In
Order to Comply With Recent Changes in the National Flood
Insurance Program Rules**

WHEREAS, the City of Bedford has enacted as part of its Land Development Regulations a chapter Regulating Flood Hazard Districts (Existing Section 611) in order to participate in the National Flood Insurance Program; and

WHEREAS, recent changes in the National Flood Insurance Program (NFIP) Rules require the City to amend its existing Floodplain Ordinances in order to remain in compliance with NFIP Rules and in order to qualify the community for the Federal Flood Insurance Program.

Now, therefore, BE IT ORDAINED by the Council of the City of Bedford:

Section 1. Section 611.01 through Section 611.12 of the City of Bedford Land Development Regulations adopted January 26, 1989 are hereby repealed, except those provisions shall still be applicable to permits which were issued pursuant to said Sections prior to the date of enactment of this ordinance.

Section 2. The following new Sections are enacted and added as Chapter 612 Flood Hazard District (FH) of the City of Bedford Land Development Regulations, and said Land Development Regulations are re-enacted so as to include the new Section, which shall read as follows:

611. Flood Hazard District FH

Section 612.01 - Purpose

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increase in flood

heights, velocities, and frequencies.

B. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding.

C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood proofed against flooding and flood damage.

D. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

Section 612.02-Applicability

These provisions shall apply to all lands within the jurisdiction of Bedford and identified as being in the 100-year floodplain by the Federal Insurance Administration.

Section 612.03-Compliance and Liability

A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district, or that land uses permitted within such district will be free from flooding or flood damages.

C. This ordinance shall not create liability on the part of the City of Bedford or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 612.04 - Abrogation and Greater Restrictions

This ordinance supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance. This ordinance shall become effective one week after publication in the Bedford Bulletin or after posting at three (3) or more places in the City for one week pursuant to Section 19 of the City Charter.

Section 612.05 - Definitions

A. Base-Flood/One-Hundred Year Flood-A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

B. Base Flood Elevation (BFE) - The Federal Emergency Management Agency designated 100 year water surface elevation (plus one, two or three feet). (THIS ADDITION WILL BE USED ONLY WHEN A COMMUNITY DESIRES TO EXCEED MINIMUM FEDERAL STANDARDS)

C. Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.

D. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

E. Flood - (a) A general and temporary condition of partial or complete inundation of normally dry land areas from (1) The overflow of inland or tidal waters. (2) The unusual and rapid accumulation or runoff of surface waters from any source. (3) Mudslides (i.e.mudflows) which are proximately caused by flooding as defined in paragraph (a) (2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or by some similarly unusual and unforeseeable event which results in flooding as defined in (a) (1) of this definition.

F. Flood-Prone Area - Any land area susceptible to being inundated by water from any source.

G. Floodplain - (a) A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation; (b) an area subject to the unusual and rapid accumulation or runoff of surface water from any source.

H. Floodway - The designated area of the floodplain required to carry and discharge flood waters of a given magnitude. For the purpose of this ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100)-year magnitude.

I. Historic Structure - Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior or

(2) Directly by the Secretary of the Interior in states without approved programs.

J. Manufactured Home - A structure subject to Federal Regulations, which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single family dwelling, with or without a permanent foundation when connected to the required facilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

K. Manufactured Home Park/Subdivision - A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

L. New Construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

M. Recreational Vehicle - A vehicle which is:

(a) built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

N. Start of Construction - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

O. Substantial Damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

P. Substantial Improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure."

Section 612.06 - Description of Districts

A. Basis of Districts

1. The various floodplain districts shall include areas subject to inundation by waters of the one hundred (100)-year flood. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) for the City of Bedford prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated December 1977, as amended.

2. The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineer Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the City of Bedford.

B. Overlay Concept

1. The Floodplain Districts described shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

2. Any conflict between the provisions or requirements of the Floodplain District and those of

any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

3. In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

Section 612.07 - Official Zoning Map

The boundaries of the Floodplain Districts are established as shown on the (Flood Boundary and Floodway Map and/or Flood Insurance Rate Map) which is declared to be a part of this ordinance and which shall be kept on file at the City of Bedford offices.

Section 612.08 - District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by the Federal Emergency Management Association where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

Section 612.09 - Interpretation of District Boundaries

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

Section 612.10

A. Permit Requirement

All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of the Ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the City of Bedford Subdivision Regulations. Prior to the issuance of any such permit, the Zoning Officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.

B. Alteration or Relocation of Watercourse

Prior to any proposed alteration or relocation of any channels

or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the

U. S. Corps of Engineers, the Virginia State Water Control Board, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organization). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Insurance Administration.

C. Site Plans and Permit Applications

All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

1. For structure to be elevated, the elevation of the lowest flood (including basement).
2. For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
3. The elevation of the one hundred (100)-year flood.
4. Topographic information showing existing and proposed ground elevations.

D. Manufactured Homes

Manufactured homes that are placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation collapse and lateral movement.

E. Recreational Vehicles

Recreational vehicles placed on sites either:

- (i) Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or
- (ii) Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes in paragraph 4.1 D above.

A recreational vehicles is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

Section 612.11 - Floodway District

In the Floodway District no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the one hundred (100)-year flood elevation.

Section 612.12 - Permitted Uses in the Floodway District

The following uses and activities are permitted provided that they are in compliance with the provisions of the underlying area and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

- A. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- B. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
- C. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.
- D. Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.

Section 612.13 - Flood fringe and Approximated Floodplain Districts

In the Flood-Fringe and Approximated Floodplain Districts the development and/or use of land shall be permitted in accordance with the regulations of the underlying district provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

Section 612.14 Flood Fringe and Approximated Floodplain Districts

In the Flood-Fringe and Approximated Floodplain Districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying area provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

Within the Approximately Floodplain District, the applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the one hundred (100)-year flood elevation more than one foot at any one point. The engineering principle--equal reduction of conveyance--shall be used to make the determination of increased flood heights.

Within the floodway area delineated by the applicant, the provisions of Section 4.2 shall apply.

Section 612.15-Design Criteria for Utilities and facilities

A. Sanitary Sewer Facilities

All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

B. Water Facilities

All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.

C. Drainage Facilities

All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and onsite waste disposal sites. The City Building Official may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

D. Utilities

All utilities, such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, elevated (where possible), and constructed to minimize the change of impairment during a flooding occurrence.

E. Streets and Sidewalks

Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

Section 612.16-Variances: Factors to be Considered

In passing upon applications for Variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood

elevation.

- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that variance will be the minimum required to provide relief from any hardship to the applicant.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuances of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

Section 612.17-Existing Structures in Floodplain Districts

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A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. Existing structures in the Floodway District shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the one hundred (100)-year flood elevation.
- B. Any modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.
- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area, to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provisions of this ordinance and the Virginia Uniform Statewide Building Code.

Section 3. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

Section 4. This Ordinance shall become effective one week after publication in the Bedford Bulletin or after posting at three or more places in the City for one week pursuant to Section 19 of the City Charter.

Mayor Shelton adjourned the meeting at 8:55 p.m.