

PLANNING BOARD VIOLATED OPEN MEETINGS ACT

JANUARY 17, 2022 DAVID LUBLIN

Like many institutions, the Montgomery County Planning Board has taken to holding meetings online during the pandemic. Incredibly, they chose not to give public notice about how members of the public could attend the meeting online.

Del. Al Carr (D-18) filed a complaint on November 1 alleging that the Development Review Committee (DRC) of the Montgomery County Planning Board repeatedly violated the Open Meetings Act by failing to provide the public this information.

Unbelievably, the Planning Board Counsel, overseen by Planning Board Chair Casey Anderson, defended this decision as acceptable because there was no physical location for the meetings:

Since March 2020, due to the COVID-19 pandemic, the DRC meetings have been held via Microsoft Teams. Someone wishing to join the Teams meeting would call the Information Counter (number provided on the website) and request to be added to the Teams meeting. There was no in-person option so no "location" was required.

The Open Meetings Compliance Board did not agree:

We believe the DRC construes the Act's notice requirement too narrowly. The purpose of § 3-302(b)(2) is to ensure that members of the public who would like to attend a public body's meeting have enough information to be able to do so.

An individual cannot attend a meeting without knowing where the meeting will take place. And while a virtual meeting may not happen in a physical location in the traditional sense, a person hoping to attend the meeting must still know where to go to observe the public body's business. . .

The notices further indicated that "project applicants and their team" would receive information about "how to participate in the DRC meeting[s]" remotely. But the notices gave no indication of how an interested member of the public could obtain access information for the meeting. In its response, the

DRC asserts that “[s]omeone wishing to join [a] Teams meeting would call the Information Counter” and “request to be added to the Teams meeting.” But the DRC fails to explain how an individual interested in attending such a meeting would even know to call “the Information Counter” or where to find that number, as such details are missing from the meeting notices.

Notice that the Board not only called out the Planning Board for failing to provide the information but also for their disingenuous claim that members of the public would somehow magically know to call the Information Center to be added to the meeting.

As with [M-NCPPC’s complete ignoring of lobbying disclosure requirements](#) and failure to address this ongoing violation despite their assurances, the Planning Board’s failure shows contempt for ethics laws and the public that they are supposed to serve.

In this case, the Planning Board finally altered its behavior in response to Del. Carr’s complaint But it should not take action by a member of the General Assembly for the Montgomery County Planning Board and M-NCPPC to comply with ethics laws.

And why didn’t the County Council, which has responsibility for appointing and overseeing the Planning Board, take action? Or do they condone this illegal nexus between the Board and the interests that they are supposed to regulate.