

**Town of Bethany Beach
Planning Commission Meeting Minutes
March 17, 2012**

The Bethany Beach Planning Commission held a meeting on Saturday, March 17, 2012 at 9:00 a.m. in the Bethany Beach Town Hall, 214 Garfield Parkway, Bethany Beach, DE 19930.

The following members were present: Lew Killmer, who presided; Faith Denault; John Gaughan; Fulton Loppatto; and Chuck Peterson.

Excused members: Mike Boswell

Also present: Susan Frederick, Building Inspector; Councilperson, Margaret Young; and interested members of the public.

Mr. Killmer called the meeting to order at 9:00 a.m.

OPENING OF MEETING

Approval of Agenda

Ms. Denault made a motion to approve the agenda. Mr. Gaughan seconded the motion and it was unanimously approved.

Discussion/Approval of the Planning Commission Minutes of February 18, 2012

Ms. Denault made a motion to approve the minutes dated February 18, 2012. Seconded by Mr. Gaughan, the motion was unanimously approved.

Announcements/Comments/Updates

Non-Residential Design Review Update (Killmer)

There was no meeting so there was no report.

Ms. Frederick stated that an application has been submitted by Tia Sexton, tenant of 14 N. Pennsylvania Avenue, for a modified exterior to the existing building and a new business sign. Modifications to include new paint, lighting, stonework and retractable awning for property located at 14 N. Pennsylvania Avenue, Lot 23, Block 102 in the C-1 Commercial Zoning District, Bethany Beach, DE. This application will be reviewed and voted on at the next regularly scheduled meeting to be held April 13, 2012 at 2:00 p.m.

Comments/Updates Regarding the March Town Council Meeting (Killmer)

Mr. Killmer gave the following report:

- The Town Council presented donations to the Bethany Beach Volunteer Fire Company and Friends of the South Coastal Library.
- Council approved the budget for Fiscal Year 2013.

- A public hearing was held prior to the Council meeting on the ordinance regarding housekeeping amendments to the Table of Dimensional Requirements related to the R-1 Zoning District, but no members of the public were in attendance.
- There was a First Reading on an ordinance to amend Chapter 530 (Signs) of the Code to exempt the Town from the ordinance and the revise the definition of a “sign”. Mr. Killmer reviewed the new definition with the Commission.
- The ordinance to amend the Chapter 1 of the Code, Article 1, to increase parking fines from \$25 to \$30 was approved.
- The ordinance to increase the penalties of parking fines from \$25 to \$30 was approved.
- Council approved beach exercise concession for Zumba, Tai Chi, and Yoga on the boardwalk this summer.
- There were no revisions to the Fence regulations that were drafted by the Commission, and Council scheduled a public hearing on April 20th, 2012 regarding an ordinance to establish a Zoning Commission and an ordinance to amend the Town Code regarding fences. The ordinance has been sent to the Town Solicitor to review.
- Council approved the contract submitted by Hatch Mott MacDonald for engineering services for the Water Treatment Plan and Distribution System, which includes the construction and design of a new Water Tower.
- Council approved a contract submitted by Barr Freightliner for the purchase of a 2013 Freightliner Truck Chassis, which will be used for trash pick-up by the Public Works Department.
- A contract submitted by Oceanswell, Inc. to replace boards on the South end of the boardwalk with Kebony was approved.
- Council voted to approve a contract submitted by Paul’s Paving Inc. to grade and stone all road shoulders east of Route 1 for the amount of \$31,249.
- An Executive Session of Council was held after the meeting to conduct preliminary discussions on site acquisition for publicly funded capital improvements.
- Full-time police officers will receive a salary increase to cut costs for training new officers and to eliminate the issue of shortage of seasonal police officer employment.

Mr. Gaughan questioned if there were any public comments or concerns received by the Town regarding the increase in property taxes. Mr. Killmer responded that only one letter was received from a resident who objected about the proposed tax increase, but he believed that he was misinformed and now has no objection about the increase.

Comments, Q&A and Discussion for Planning Commissioner Members (All)

Mr. Killmer made the following announcements:

- The Application for a Sketch Plan Review files by Stanley J. and Dolores F. Walcek for property identified as Lots 5, 8, 9, and 10, Block 25, at Garfield Parkway, in the R-1 Zoning District is scheduled to take place at the next Planning Commission meeting on April 21st, 2012.

Ms. Frederick stated that, although not required by the Town code, a notice for this application will be advertised in the Coastal Point newspaper, posted at the five (5) places

around Town (PNC Bank, Post Office, Bandstand, South Coastal Library, and Town Hall), posted on the property, and posted on the Town's website on Friday, March 23rd, 2012.

Mr. Killmer acknowledged that there is much public interest involved with this application, which is why it will be advertised much in advance even though it is not a requirement. He asked the Commissioners to review the requirements in the Zoning Code prior to the meeting to be sure that there is no violation of the Code. Mr. Killmer noted that no votes are taken at a Sketch Plan Review. He explained that Mr. Walcek informed the Town that in essence, before the Army CORPS of Engineers makes a final decision on an application, they prefer to have knowledge of how the Town views the application. He added that the Army CORPS of Engineers ultimately votes on all applications submitted to them, and it is difficult for the Planning Commission to make a decision on the application without having knowledge of the concerns and/or conditions of the Army CORPS places on the property in question. Mr. Peterson advised that determining the CORPS' assessment of filling wetlands for the Feasibility Study could solve this issue. Ms. Frederick said that she would contact the Army CORPS of Engineers to determine the status of the Walcek application. Mr. Loppatto noted that he believes there was a law suite and an appeal to the Federal Appeals Court by Mr. and Mrs. Walcek in the past and the proposed development was denied and he believes that a previous Planning Commission had reviewed this issue. He will e-mail the Commissioners the website where he obtained this information.

- Ms. Jo Carroll Onoffrey has re-submitted an application for a major subdivision for a property located 857 Garfield Parkway, Lot 5, Block 33, Bethany Beach, DE.

Mr. Killmer explained that this meeting would need to be scheduled during a time that is suitable for the applicant based on her religious beliefs.

Mr. Peterson expressed concern that if the Commission grants reasonable accommodation for personal beliefs, then all applicants must be given the same opportunity.

Mr. Gaughan acknowledged that he understands Mr. Peterson's view on this matter.

However, since there are certain practices in the congregation that Ms. Onoffrey has committed herself to abide by, the Commission should be respectful of Ms. Onoffrey religious beliefs and grant her another opportunity to have a meeting scheduled on a more appropriate day.

The majority of Commissioners agreed that the applicant should be respectfully given one more opportunity to hold a meeting during an appropriate time that is respectful to her religious beliefs.

Ms. Frederick stated that she will notify Ms. Onoffrey's engineer in advance of the meeting, and will ensure that the public notice is published in the newspaper, and posted

on the property and in the five (5) five places around Town (PNC Bank, Bandstand, Post Office, South Coastal Library and the Town Hall). She noted that the plans that were submitted do not include the calculations for a number of units, but the calculations are not always required.

Mr. Killmer asked Ms. Frederick if she has had any contact with Mr. John Murray, of Kercher Engineering, Inc. regarding the information he previously provided for this application. He added that Mr. Murray would only represent Ms. Onoffrey at the Sketch Plan Review, so the Town would not have to hire a different engineer if and when the application progresses to the Preliminary Plan Review stage.

Mr. Gaughan advised that if there is already a conflict at the beginning stage of this application consideration, then it will become even more complicated further along in the process. He explained that if the consulting engineer of the property expresses concern that the plans do not include calculations, then the opinion from the future engineer on this application might create additional conflict.

Mr. Killmer acknowledged that he shares Mr. Gaughan's concern. He stated that he would discuss this issue with Town Manager, Cliff Gravier on Monday and ask him to contact the Town Solicitor and/or Kercher Engineering to advise the Planning Commission on what action to take.

The Commissioners agreed that attention needs to be brought to this issue, or it would possibly create a serious conflict in the future.

A Sketch Plan Review for the property of Jo Carroll Onoffrey will be scheduled for Friday, May 18, 2012 at 9:00 A.M., pending advice from the Town Manager.

- Ms. Frederick stated that the application filed by John Cooper and Carolyn Hockman with John, William, and Christine Addy requesting a major subdivision of property may be re-submitted in the near future. She added that the applicants' had requested to be added to the Town Council's agenda for their approval to allow access to Town held easements for the stormwater system as their next step, but the application must first be re-submitted for preliminary plan review, with all requested information being provided regarding all other easements outside of the Town's jurisdiction and must be first approved by the Planning Commission.

Mr. Killmer explained that the plans for this application must be reviewed by the Town Engineer to determine if it even has a chance of being approved. Ms. Frederick noted that the applicants' had submitted but withdrew their final application because the information that they obtained was incomplete. Mr. Killmer advised Ms. Frederick to inform the Commissioners of the status of this application at the next Planning Commission meeting in April.

Property owner, Michael Hanchuck, questioned why the applicant is requesting to submit their application directly to the Town Council to have a vote, instead of the Planning

Commission holding a vote first. Ms. Frederick stated that the Commission must approve the application before the Town Council votes on it.

PUBLIC COMMENT/QUESTIONS FOR THE PLANNING COMMISSION

There were no comments/questions at this time.

OLD BUSINESS

Continue To Review The Subject Of How To Create Lower Cost Housing For Bethany Beach

Inclusionary Housing: “Balancing Growth and Community Needs”

Mr. Killmer reviewed the “Inclusionary Housing: Balancing Growth and Community Needs” by the Delaware State Housing Authority with the Commissioners. He stated that he feels creating opportunities for the development of low-cost housing within the corporate limits of the Town of Bethany Beach is not likely.

Mr. Gaughan commented that he agrees with Mr. Killmer’s view, but added that he made some observations. He explained that if one or two property owners wanted to participate in turning their own homes into affordable housing and establish a set cost, it is possible to do that.

Mr. Killmer stated that that in order to move forward, the Commission would need to draft a document of all the possible ways to provide affordable housing units.

Mr. Killmer made a reference to Page 8 of the document, and explained that larger cities have fewer restrictions when developing successful affordable housing programs.

Mr. Loppatto expressed concern that the tenant will assume that that the homeowner will be responsible for paying property taxes. He also expressed concern with liability issues.

Mr. Gaughan emphasized that Sussex County is attempting to develop affordable housing units, however, coastal communities need assistance with establishing these types of housing units. He noted that the Town might not even have the necessity for creating affordable housing program.

Shared Equity Homeownership: “Expanding Homeownership and Preserving Affordability”

Mr. Loppatto made reference to the Sussex County MPHU Program on Page 9 of the “Shared Equity Homeownership: Expanding Homeownership and Preserving Affordability” document, and asked if the Town is eligible to utilize this program.

Mr. Killmer responded that this program requires voluntary action and does not believe any builders have participated.

Mr. Killmer explained that there is a trend in all of the references created by the Delaware State Housing Authority. He feels that it would be beneficial for the DSHA to

establish guidelines especially applicable to coastal communities. For the time being, the Commission should notify the DSHA that they are reviewing the information and will hold public hearings on this matter.

Mr. Killmer will contact the Sussex County Administrator, Todd Lawson, to inquire about his possible recommendations and/or experience of participating in affordable housing programs in coastal communities. He added that this is a regional issue, and he is concerned is focused for those individuals that provide the services to the community who can not now and/or in the future to be able to afford living in or near the Town of Bethany Beach.

Mr. Peterson agreed that discussing this issue with the Sussex County Administrator would be beneficial. Ms. Denault noted that while she was reviewing the documents, she noticed that if a community initiates an affordable housing program, there are expenses involved. Property owner, Mr. Hanchuck, stated that Page 29 of the 2010/2020 Comprehensive Developmental Plan addresses the problematic situation regarding the development of affordable housing units in Bethany Beach.

Mr. Peterson acknowledged that the Delaware Housing Authority criticized the Town for stating in the Town's Comp. Plan that the Town felt that developing affordable housing units is a regional issue and not a town only based issue and the Town only agreed to work at the regional level.

Mr. Gaughan made a reference to Page 12 of the "Inclusionary Housing: Balancing Growth and Community Needs" document, noting that the Commission is making a substantial effort to develop low cost housing alternatives for the Town. He made a suggestion that a Commission member attend the conference being held which provides information on affordable housing.

Mr. Killmer recommended that it might be best to not continue reviewing the series of DSHA information until after he discusses the issue with the County Administrator, Mr. Peterson agreed. Ms. Denault made a suggestion to also consult Mr. David Baker the former Sussex County administrator regarding affordable housing programs.

SUMMARY OF ACTION ITEMS

- A. Mr. Killmer will contact with Town Manager, Cliff Graviet on Monday, to discuss the issue with the Sketch Plan Review application submitted by Ms. Onoffrey. He will ask Mr. Graviet to contact the Town Solicitor to see if the Commission should write a letter to Ms. Onoffrey explaining the conflicting issue.
- B. Regarding creating lower cost housing in the Town, Mr. Killmer will contact the County Administrator and ask for his view on this issue. He will also inquire if this is an attainable goal for coastal communities.
- C. Mr. Killmer will create a checklist for Sketch Plan Reviews and send to the Commissioners.

- D. The Commissioners will review the Zoning Code to prepare for the Sketch Plan Review scheduled for April 21st submitted by Stanley J. and Dolores F. Walcek for property identified as Lots 5, 8, 9, and 10, Block 25, at Garfield Parkway, in the R-1 Zoning District.
- E. Lindsey Good, Assistant Town Clerk, will register Mr. Peterson and Ms. Frederick for the Delaware Land-Use Law and Regulation Course (Planning 102) on March 30th.

ADJOURN

Ms. Denault made a motion to adjourn the meeting. Seconded by Mr. Gaughan, the motion was unanimously approved. The meeting was adjourned at 10:22 a.m. The next meeting is scheduled for April 21, 2012.

Respectfully Submitted:

Lindsey Good, Admin. Secretary