

**Town of Bethany Beach
Planning Commission Minutes
February 22, 2014**

The Bethany Beach Planning Commission held a meeting on Saturday, February 22, 2014 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, Chairman, who presided; Mike Boswell; John Gaughan; Fulton Loppatto; and Jerry Morris.

The following member was excused: Faith Denault

Also present: Building Inspector, Susan Frederick; Council members, Chuck Peterson and Margaret Young; Receptionist, Nathalie Fernandes; and interested members of the public.

OPENING OF MEETING

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

Approval of Agenda

Mr. Gaughan made a motion to approve the agenda. The motion was seconded by Mr. Boswell and unanimously approved.

Discussion/Approval of the Planning Commission Minutes of January 24, 2014

Mr. Morris questioned the minimum roof pitch found on page 3 of the minutes. Ms. Frederick replied that lots that cover 38 and 40 percent should have a minimum roof pitch of 5:12 and lots that cover 36 percent have a minimum of 3:12.

Mr. Gaughan noted that on page 4, the word 'length' is used rather than 'width' to describe the permitted width of driveways allowed in town.

Mr. Killmer asked that Ms. Fernandes make corrections to the minutes. Mr. Morris made a motion to approve the minutes dated January 24, 2014, as amended. The motion was seconded by Mr. Gaughan and unanimously approved.

Announcements/Comments/Updates

Non-Residential Design Review Update (Denault/Killmer)

Mr. Killmer reported the following:

There was a Non-Residential Design Review Committee meeting held on Friday, February 21, 2014. The meeting was held to discuss the application for two new Plexiglas sign inserts for an existing pole sign and for a new wall sign that will be located above the front entrance that will contain the words 'Bethany Diner.' The owners of Bethany Diner were originally involved with Romeo's Kitchen, the previous occupant of 792 A Garfield Parkway. The owners have redone the interior of the restaurant and have temporarily removed the awing but it will be reinstalled. Mr. Killmer noted that the owners are actively involved in the business and he believes they will do an excellent job.

Comments/Updates Regarding the February Town Council Meeting

Mr. Killmer reported the following:

Tony McClenny resigned as the Town Mayor. Mr. McClenny explained that he has brain cancer and his focus will involve receiving treatments for the next 6 to 8 weeks. Mr. Killmer stated that it was a very emotional meeting after his announcement and he asked that everyone please keep Mr. McClenny and his family in their thoughts and prayers.

The Council amended an ordinance to permit the removal of vehicles parked for extended periods of time in residential permit parking spots which are used as seasonal "storage lockers" throughout the summer. There will not be a constant surveillance for these types of vehicles around town, but residents can file complaints and the Town would then notify the vehicle owner to move the car within 48 hours of the notice. This is meant to provide adequate and equal parking so residents, and visitors alike, can enjoy the beach.

Lastly, there was a discussion about any changes made with water taps, especially commercial water taps. It was clarified that it is the responsibility of the property owner, not the Town's.

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

Mr. Gaughan asked if the Vice Mayor is to take over the responsibilities. Mr. Killmer responded that for the past month the Vice Mayor has and will continue to do so, but it is unknown what will happen next. It will be advertised that the Town will be looking for a replacement of Mr. McClenny on the Town Council. Mr. McClenny is up for reelection this year, therefore whoever takes over his position will need to be on the ballot in September of this year.

PUBLIC COMMENT/QUESTIONS FOR THE PLANNING COMMISSION

There were no comments or questions at this time.

NEW BUSINESS

There was no new business.

OLD BUSINESS

Review of Draft D of the Ordinance To Regulate Residential Bulk Density

Mr. Killmer made the following statement in regards to the draft:

This has been an issue before the Planning Commission for a long time. It has been difficult to create a means to regulate residential bulk density because there is a fine line between respecting individual property rights, while at the same time respecting the overall rights of the community. Size and bulk density of structures has an impact on existing neighborhoods. Nothing seems to have worked in the past because this is such a delicate balance. The use of tradeoffs is an option that has not been tried in the past. It has been well worth spending the time by the Planning Commission in creating this draft proposal.

Mr. Gaughan explained that this issue is something that he can personally relate to. In his permanent residential community in Bethesda, Maryland, his neighborhood had completely changed. There was an old house atop of a hill that overlooked the community, and in the past 6 (six) months, it was torn down and rebuilt into a square, featureless house and it now looms over a 4-5 block area. The community changed because the new house does not fit in. He believes that it is important for people to understand that this is a working document, an approach, not an ordinance just yet.

Mr. Killmer praised Ms. Frederick for a wonderful job in creating different examples to more clearly illustrate the concept of tradeoffs. He asked that Ms. Frederick to review the Tradeoff Chart for R-1, R-1A and R-1B Zoning Districts as well as the illustrations prior to reviewing Draft D.

Ms. Frederick stated that she made corrections to the chart and created diagrams to go along with the information. Reviewing the first diagram, she explained that, in order to have 40% lot coverage, the tradeoff for interior lots would be to require that the side yard setbacks be increased by 2 feet, requiring a minimum 7 foot setback with a combined total of 16 feet. Corner lots would not be permitted to have lot coverage of 40%, as it is impossible to achieve with larger setbacks. The next diagram for a maximum lot coverage of 38% shows how the reduction of 2% can lead to achieving larger front and/or rear yards for interior lots and that corner lots can achieve this as well. The last two diagrams show maximum lot coverage of 36% and demonstrate how the front and rear yard areas can increase in size. The last diagram also shows how one might use the trade off that permits a 5 foot encroachment into the rear yard. Overall, the illustrations show that, instead of a uniformity of blocks of buildings, the trade offs can create different options for positioning of the house on the property, allowing for diversity and greater open space between buildings.

Mr. Killmer noted that the lots that cover less than 40% can achieve a lot more flexibility and useable space. There is little compromising in the square footage of the house.

Ms. Frederick explained that this is not meant to create a huge impact; the tradeoffs and diagrams show variety, which allows open space between buildings instead of having a tunnel effect.

Mr. Gaughan addressed that at the last meeting, another possible approach was discussed that if a house was greater than 2.5 stories, the lot coverage would be reduced to 32%. He referred to the bottom of page 5 of the draft, number one, "Greater Lot Coverage Versus Maximum Height of 2.5 Stories." He suggested that this section be added to the trade off chart. Mr. Killmer agreed.

Ms. Frederick wanted to clarify what information would be included for 32% lot coverage. There was discussion for each section; all the information will be the same as 36% lot coverage except for the number of floors permitted. Ms. Frederick questioned what would be defined for the number of floors permitted for lots that cover 32%.

Mr. Killmer stated that it would deal with maximum height of 31 feet, nothing above. Ms. Frederick clarified that there is no maximum number of floors a house can have, but a house cannot exceed 31 feet, as per Town Code. After some discussion, it was agreed that the number of floors permitted for lots that cover 32% would have no maximum number of floors, but cannot exceed the maximum height permitted by the Town.

Mr. Morris questioned if there should be any examples on elevation views. Ms. Frederick explained that it would be hard to do because there are too many variables to portray. The diagrams deal more with lot coverage rather than the overall design in order to give more variations for the lots.

Mr. Killmer pointed out that in a past PowerPoint presentation arranged by Ms. Frederick, there were some photo examples of houses in town that can incorporated with these documents as well.

Mr. Morris stated that architects will not have any difficulty with the verbiage in the document but it may be difficult for others, such as clients, to understand and visualize. In doing that, they are able to better direct the architect and designer on what it is they want their house to look like.

From experience, Ms. Frederick explained that the clients will express their likes, dislikes, and wish lists, and the architects and designers will try to achieve everything on their lists while conforming to the Town Code. She noted that clients do not typically read or study the ordinances.

Mr. Killmer asked if any of the Commissioners see any value adding photos to the document. Mr. Morris stated that more information is better for people. It was agreed that it would be beneficial. Mr. Gaughan added that in a PowerPoint presentation there are many photo examples that will help others visually.

Mr. Killmer stated that having an appendix added to show examples of what the document is portraying, is sensible.

Mr. Boswell asked that Ms. Frederick clarify the definition for the rear yard encroachment for 36% lot coverage. Ms. Frederick explained that a one story five foot rear yard encroachment, with a limited width, is permitted so the rear yard is not entirely covered. This allows houses to have a little extra space on one floor, but not to add bulk to the house.

Mr. Gaughan wanted to clarify that if property owners ask for the architect to build a home that had all necessary rooms on a single livable floor with a second floor just for guests, it might allow flexibility for the architect in creating the desired livable space with the encroachment.

The discussion is now focused on Draft D:

Referring to the title, Mr. Gaughan believes that it declares the document of being an ordinance. Rather, it should be clarified that this document is as an approach to an ordinance because it discusses possible tradeoffs. The language seen on page 4, for example, indicates that this is a working, drafted, document.

Mr. Killmer stated that the section Mr. Gaughan referred to may not even be part of the ordinance; the drafted document is just a basis to a future ordinance. He also stated that this is not in any form an ordinance and agrees that the title should be revised. Mr. Gaughan and Mr. Loppatto suggested that the title be changed to either 'Concepts' or 'Approaches' "To an Ordinance to Regulate Residential Bulk Density in the R-1, R-1A & R-1B Zoning Districts."

Mr. Killmer discussed that in the past, a draft ordinance would be created in which included the concerns and inputs from contractors and architects. Then, at the workshop offered by the Planning Commission and the Town, a discussion would be conducted line by line of the proposed ordinance.

Mr. Morris wanted a clarification on what the next step is. Mr. Killmer replied that it is to create an ordinance which will be made out of the documents they have been working on.

Mr. Loppatto noted that in a past preliminary meeting with contractors and architects, there was a lot of back and forth discussion. Having the specific language shows them that this is a serious working document.

Mr. Morris asked what has to be done to Draft D in order to turn it into an ordinance. Mr. Killmer explained that there is a specific format and these documents are just a basis for creating the ordinance. After some discussion on what parts of Draft D will be included in the ordinance, Mr. Killmer stated that he would create a section of definitions and an appendix that has picture examples, the Trade Off Chart, and other parts of Draft D.

Mr. Gaughan stated the page 4 is not meant for the draft ordinance, but he believes that it would not be productive to have a discussion on floor to area ratio or a discussion on certain A-F concepts. Mr. Killmer asked for a clarification on what Mr. Gaughan is suggesting. After some discussion, it was acknowledged that pages 4-7 of Draft D were concepts that had been considered by the Committee prior to creating the drafted ordinance. It was agreed that the title on page 4 be modified to "Concepts Considered When Developing Plans For New Residential Structures And/or Residential Additions That Have An Impact On Residential Bulk Density."

Mr. Morris commented that using this as an informational document for the public to know how an ordinance is created is a great idea because it shows that the Committee put a lot of time and effort into it rather than jamming an idea without considering the different angles.

Mr. Killmer declared that he will create the ordinance and after one final meeting focused on the document and the ordinance, it should be completed.

Ms. Frederick questioned if the April meeting had been rescheduled. Mr. Killmer stated that the meeting will be held on Friday, April 25 at 10:00 am. Mr. Gaughan clarified that the next meeting is scheduled for Saturday, March 22 and the following month the meeting is held on Friday, April 25. Mr. Killmer concurred.

Mr. Morris wanted to know if there are any updates on the proposed hotel. Ms. Frederick explained that there was a meeting, but no new plans given. The meeting was held with the Town Manager, Director of Public Works, Director of Water Plant, the State Fire Marshall, the applicants, Jeff Clark, Jeff Schoellkopf, and Jim Lober from Kercher Engineering. Mr. Lober, the Town's Engineer, created three plans for Hollywood Street. The Fire Marshall was at the meeting because he has very specific requirements related to exterior distances and accessibility that the building must be from the fire lane. He needs 75% of the perimeter accessible, which means that there needs to be a minimum of 10 (ten) feet of clearance and a minimum of 15 (fifteen) feet of clearance if there is any parking in front of the fire lane. As presented to the Fire Marshall, the Town intends to reclaim a lot of Hollywood Street, keep the parking spaces that are already there (about 12 spaces), and will provide five foot sidewalks. The Fire Marshall is unsure if the clearance that remains will meet the requirements, but the applicants may be able to make sufficient compromises with the Fire Marshall by making the building safer and to a higher standard of fire resistance and safety than required.

Mr. Morris asked about the sampling wells at the end of Hollywood Street. Ms. Frederick replied that it is being worked on and it may be possible to move them in that area. In the redesign of Hollywood Street, new sampling wells may need to be created.

Mr. Morris also questioned if construction of the Church/Neff property is up to code and if it creates a problem with flooding. Ms. Frederick explained that it is up to code and the plan was approved by Sussex Conservation District for storm water runoff. Mr. Killmer inquired if there will be any improvement in that area from flooding and Ms. Frederick replied that it should be a huge improvement with the drainage system for the Church/Neff property as it was specifically designed for the property.

Discussion was reverted back to the proposed hotel. The applicants are trying to gather all the information needed so once it is approved and a building permit is issued, they can start right away. Pile driving is not allowed starting June 15th through September 30th, so time is of the essence. Ms. Frederick noted that it is not known if the street will be permitted to be blocked off all summer.

SUMMARY OF ACTION ITEMS

- A. Mr. Killmer will revise the Draft D and will create an Ordinance for Residential Bulk Density.
- B. Ms. Frederick will incorporate 32% lot coverage to the Trade Off Chart and create a diagram.
- C. Ms. Fernandes will revise the minutes from January 24, 2014.

ADJOURN

Mr. Gaughan made a motion to adjourn the meeting. Mr. Loppatto seconded the motion and it was unanimously approved. The meeting was adjourned at 10:02 a.m.

Respectfully Submitted:

Nathalie Fernandes, Receptionist