

**Town of Bethany Beach
Planning Commission Meeting
October 17, 2015**

The Bethany Beach Planning Commission held a meeting on Saturday, October 17, 2015 at 9:00 a.m. in the Bethany Beach Town Hall, 214 Garfield Parkway, Bethany Beach, DE 19930

Present: Lew Killmer, Chairman, who presided: Diane Fogash, Fulton Loppatto, and Larry Fishel
The following members were absent: John Gaughan and Mike Boswell.

Also present: Susan Frederick (Building Inspector); Cynthia Dodd (Administrative Assistant) and interested members of the public.

OPENING OF MEETING

Mr. Killmer called the meeting to order at 9:00 a.m. The Pledge of Allegiance was recited.

Approval of the Agenda

Mr. Loppatto made a motion to approve the agenda. Seconded by Ms. Fogash, the motion was unanimously approved.

Discussion/Approval of the Planning Commission Minutes of August 22, 2015

Lacking a quorum, approval of the Planning Commission Minutes of August 22, 2015 was postponed till next Planning Commission meeting.

Announcements/Comments/Updates

Non-Residential Design Review Update:

There was no NRDR Committee meeting to report.

Town Council Meeting:

Mr. Killmer reported the following:

The Town Council had a first reading of An Ordinance Regulating the Possession of Firearms, Ammunition, Components of Firearms, and Explosives in Municipal Buildings and Police Stations in the Town of Bethany Beach. This ordinance would prohibit “open carry” in our buildings with the following exemptions: Police Officers, anyone doing training, anyone involved with official use of fire arms and anyone with a concealed weapon permit. The ordinance requires notice to be posted giving the Town the ability to tell a person they cannot enter the building with a visible weapon and if they refuse, they will be escorted out. This came about this past spring/summer when there were a number of individuals who were showing up at the Newark and Elsmere Town Council Meetings sitting primarily up front with open carry. They were approached and asked to leave and they responded by saying that they had every right to be there with their firearm and there was no law prohibiting it. A group of towns including the Delaware League of Local Governments worked with several attorneys including the Attorney General of Delaware as well as members of the NRA to produce a bill to regulate open carry. The bill was not unanimously approved by all legislators but it was recently signed by the Governor into law.

The Town Council also had a second reading of a revision to the Town's fence ordinance. The Council voted to adopt the change that will permit perimeter fences to be a maximum of 4 ½ feet high, an increase of 6 inches.

The Town Council also filled all seats on Town Committees.

The two parking lots east of the Blue Crab Restaurant would be paid for with funding coming from fees collected from the parking meters.

Public Comments/Questions for the Planning Commission Members

There were no comments or questions at this time.

Mr. Killmer welcomed new Planning Commission member Dr. Larry Fishel. He was a member of the Town's Communications Committee and currently is on the BBLA's Farmers Market Committee. Dr. Fishel introduced himself as a forensic therapist. He has lived here for 18 years, loves Bethany Beach and wants to do what is best for the Town.

Mr. Killmer commented that they need to pick the Chairman for the 2015/2016 term but since 2 members are absent the vote will be postponed until the next meeting. There were no objections.

Old Business

A. Planning Commissions Final Draft of the Residential Bulk Density Ordinance

Mr. Killmer stated that the members needed to vote on and approve the Planning Commission's Final Draft of the proposed Residential Bulk Density Ordinance, which includes updates by the members of the Building Trade Community. Mr. Killmer commented that they have had a chance to review and discuss this issue over many meetings. At the last meeting there were representatives from the Building Trades and, based upon their input, changes were made to the tradeoff chart as well as front step configurations and bay and bow windows. Mr. Killmer said that it is his hope that once this issue goes to the Town Council, a series of public hearings and presentations will be scheduled to insure that the ordinance and the purpose of what the Town is trying to accomplish is fully understood. Mr. Killmer continued that the definition of 2 1/2 stories had been changed based upon the Planning Commissioners input. Mr. Killmer stated that he would like recommend to Council that the effective date for implementation of the ordinance, should it pass, be one year after the date so that anyone who is in the process of building a house won't have to change plans. Dr. Fishel commented that the rules here are not a secret and people should know whom to ask about the rules. Ignorance of the law is not an excuse. Mr. Killmer asked if there was any more discussion on this issue. Mr. Tracy Mulligan, an interested member of the public commented that he completely agrees with the Planning Commission approving this draft ordinance today and it needs to go to the next step with the Town Council. Mr. Mulligan continued that there are parts of the ordinance that he did not understand and how it would affect him. He stated his concern that the changes could affect his property values and property rights, and voiced concern that ignorance may cause opposition for all the wrong reasons and that would put the Council in an awkward position. He advocated for a strong communications process in advance of public hearings.

Mr. Loppatto made a motion to approve the final draft of the proposed Residential Bulk Density Ordinance and included a recommendation that it not be enacted for one year. Seconded by Ms. Fogash, the motion was unanimously approved.

New Business

A. CORC's – Exterior Residential Lighting Proposed Legislation

Lew Killmer stated that he preferred not to create a whole new ordinance regarding exterior residential lighting and thought that regulations should be added to Chapter 475 Property Maintenance. Mr. Killmer noted that he understood the intent and agreed that it would be beneficial to have a remedy in place in case there was ever a problem. He however voiced concern over how the proposed legislation could be enforced.

Mr. Loppatto commented that he agreed and he wasn't sure how it could be implemented. He also did not know where or how the light intensity values were derived. Mr. Killmer stated that the values came from industry lighting standards. Mr. Loppatto stated that safety and the fact that the houses were so close had to be considered. He was not sure if the ordinance was measuring the amount or the intensity of light and wondered if there should be more data. Ms. Fogash commented that she had to get data from the box of a light bulb to figure out the watts and the lumens. Referring to CORC's proposed legislation, Mr. Killmer stated that he removed all references to foot-candles and replaced it with the new lighting standard, lumens under the definitions sections. Ms. Frederick asked if regulations should be expanded to cover commercial and commercial lodging districts as well. She noted that she had received complaints concerning excessive lighting from the Hotel from one property. Dr. Fishel added that he used to be President of a Neighborhood Association and lighting was one of the biggest complaints they dealt with. He resolved this issue in the past by enforcing a time frame. Mr. Killmer said it goes back to the central issue of enforcement, how is it enforced on a town wide level?

Mr. Loppatto said it was similar to the noise ordinance, if someone complains it's a police issue. Mr. Killmer explained that the focus should be that there is something in the Town Code for the Town to deal with lighting complaints. Mr. Loppatto asked if there should also be something to address lighting when someone is designing, building or remodeling a house. Mr. Killmer added that the Town could put in something simple like "all exterior lighting has to be directed on the property with minimal spillover into a neighboring property line."

B. Bay and Bow Windows/Residential Front Steps

Mr. Killmer began by stating that if there is no objection from the Planning Committee he would like to push this issue along to the Town Council to have a public hearing and vote now and not wait until the Residential Bulk Density is done. There were no objections. Under §425.85 Dimensional Exceptions, the current code states that chimneys and eaves may project in any yard space a maximum of 2 feet. The proposed update states that chimney; eaves, bay and bow windows may project in any yard space at a maximum of 2 feet. Bay and bow windows may project at a maximum of 10 linear feet.

Mr. Killmer continued with the second change to this section regarding front steps. The current code permits front steps and landings of any single family dwelling unit in the R1 and R1A Residential Districts to encroach up to 10 feet into the front yard setback but no closer than 10 feet from the front property line. The change would permit steps and landings to encroach into the front yard setback but must fall within a ten (10) foot by ten (10) foot area. The purpose of this change is to create diversity for the design of front steps. Ms. Frederick commented that it makes for a much better design than the current code which limits the width of stairs to forty-two (42) inches wide step, which creates a very tight and unwelcoming front entrance to a home. Mr. Killmer added that the proposed ordinance would include the sketches submitted by John Hendrickson to illustrate the point

Mr. Killmer asked if there were any other comments. With no further comments, Ms. Fogash made a motion to approve the changes to §425.85 Dimensional Exceptions of the Town Code referring to Bay and Bow Windows and Residential Front Steps. Seconded by Dr. Fishel, the motion was unanimously approved.

Summary of Action Items

- A. There are no items for the Planning Commission so there will be no Planning Commission meeting in November.
- B. Approval of the minutes from the Planning Commission minutes from August 22, 2015 was postponed until the next meeting pending a quorum
- C. Choosing a Chairperson, Vice Chairperson and Deputy Chairperson was postponed to the next meeting pending a quorum

Adjourn

Ms. Fogash made a motion to adjourn the meeting. Mr. Loppatto seconded the motion and it was unanimously approved. The meeting was adjourned at 9:57 a.m.

Respectfully Submitted:

Cynthia Dodd
Administrative Assistant