

**Town of Bethany Beach
Planning Commission Minutes
May 23, 2011**

The Bethany Beach Planning Commission held a meeting on Monday, May 23, 2011 at 10:00 a.m. in the Bethany Beach Town Hall, 214 Garfield Parkway, Bethany Beach, DE 19930.

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

Excused members: Fulton Loppatto

Also present: Susan Frederick, Building Inspector; Applicants Jo Carroll Onoffrey and Michael Onoffrey, and John Murray of Kercher Engineering representing Jo Carroll Onoffrey; Patricia Titus of Coastal Point; and Lindsey Shallcross, Administrative Secretary.

The meeting was called to order at 10:00 a.m.

OPENING OF MEETING

Approval of Agenda

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

Discussion/Approval of the Planning Commission Minutes of March 19, 2011

Mr. Peterson made a motion to approve the minutes dated March 19, 2011. Seconded by Mr. Gaughan, the motion was unanimously approved.

Announcements/Comments/Updates

Non-Residential Design Review Update (Killmer/Denault)

Mr. Killmer reported that the Committee had five applications that were reviewed in the past month and there are two more scheduled for next month.

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

Mr. Killmer reported the following:

- The ordinance amending the Town Code to reflect the use of pay stations and parking permits and to make other needed changes was approved.
- The Town Council Election is scheduled for September 10, 2011 from 12:00 p.m. to 6:00 p.m. in the Town Meeting Room.
- Council voted to eliminate the Zoning Commission.
- The purchase of more Mobi-Mats for the amount of \$52,000 was approved.

- Delmarva Power has completed the electrical transfer for the Garfield Parkway Streetscape Project.
- All of the parking pay stations are installed.
- Signs that prohibit smoking have been installed on the beach.
- The handicap access to the beach on Ocean View Parkway has not yet been completed.
- The second phase installation of Kebony brand planking boards has been completed on the north end of the boardwalk.

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

Mr. Gaughan noted that there was a letter published in the Coastal Point newspaper from an individual that was concerned that he received a parking ticket when there were no signs that clarified the use of the pay stations.

Mr. Killmer replied that he spoke with the Parking Supervisor, Bill Dowdell, and he was informed that the pay stations signs have now been installed. He advised Mr. Dowdell to minimize the issuing of parking tickets until the signage issue has been resolved.

PUBLIC COMMENT/QUESTIONS FOR THE PLANNING COMMISSION

There were no comments or questions at this time.

NEW BUSINESS

Sketch Plan Review of a Proposed Major Subdivision for a Property Located at 857 Garfield Parkway, Lot 5, Block 33, Bethany Beach, DE and is Referenced as the Lands of Jo Carroll Onoffrey

The applicant, Jo Carroll Onoffrey is proposing to develop the parcel into five (5) buildable lots and a large area of open space (10,901.51 square feet) at the rear. The proposed plan is to arrange the lots perpendicular to Garfield Parkway and provide a private way as access. From the plan submitted, all existing improvements are to be removed.

Representative of the applicant, John Murray of Kercher Engineering expressed his appreciation to the Commission for re-scheduling the meeting due to Ms. Onoffrey’s religious beliefs and presented the following information:

1. The subject property is mostly cleared and contains an existing dwelling and associated features, such as decks and a detached building/shed. The existing wetland area located in the rear of the lot was created because of a number of houses constructed that border the rear area of the lot. At one time, it drained well, however, low spots have occurred over time.
2. The drainage ditches along the eastern and northern property boundary eventually discharge into the Bethany Beach Loop Canal and the Salt Pond. Due to past filling activities, the site is now sparsely wooded and the majority of these remaining trees will be preserved in a post-development condition.

3. A wetland restoration plan is being prepared by Environmental Resources, Inc. to restore the wetland area of the property.
4. The property is zoned R-2, so all lots must contain a minimum of 7,000 square feet and will have a minimum roadway frontage of sixty (60) feet. Due to the shape of the property, it is proposed that all lots will have access to Route 26 by a thirty (30)-foot wide perpetual cross-access easement. Therefore, a private way would be established, which would be constructed to the standard of the Town of Bethany Beach and maintained by a created homeowners' association. The Sussex County Sewer Authority and the Bethany Beach Water Company would service all of the lots. The provided open space would be utilized for storm water treatment and passive recreation.

Mr. Murray acknowledged that the Town had questioned why the applicant is not proposing a PRD, which is defined as a lot, improved or to be improved by two (2) or more principal buildings, without interior lot lines and with or without a public street or streets. He explained that by creating a subdivision, the owners are able to own a partial part of the land. In terms of access, it is no different than a major subdivision.

Mr. Murray emphasized that Ms. Onoffrey is planning on living on one of the lots once it is developed, adding that she truly cares for the property.

Mr. Murray opened the discussion to any questions that the Planning Commissioners may have at this time.

- Mr. Killmer questioned how the requirement of a subdivision on a public street was avoided.

Mr. Murray replied that he doesn't feel there is an issue with easement of public use. He added that there would have to be public access rights dedicated to the public to use.

- Mr. Killmer expressed a concern that it would be unjust to manipulate the Code in order to accommodate one particular property owner, and explained that the Town would probably have to create new regulations that currently aren't covered in the Code.

Mr. Murray explained that what is being proposed would not substantially cause any problems or changes and similar projects have been done in Sussex County. He added that they would design all improvements to the Town's standards.

- Mr. Boswell questioned if the Code allows the waterline to run under the private street and if the Town would be responsible for any damage done on the private street.

Mr. Murray stated that Sussex County requires the water line to run under the road. Sussex County will be responsible for the sewer once it is built to their standards and approved by them.

- Mr. Boswell asked what specifically needs to be done in order for the Town to maintain a private road.

Mr. Murray acknowledged that in terms of maintenance, the assignment of the infrastructure to the Town would not be any different than the assignment of a public street.

- Ms. Denault noted that the sketch plan of the property provided by Mr. Murray shows that there are currently drainage ditches and one of the ditches is backing up to Bethany Glen.

Mr. Murray explained that the subdivision will actually increase the number of drainage ditches. In terms of the existing ditches, they will not be interrupted.

- Mr. Gaughan stated that he is a long-time property owner and when this application first came to his attention he felt that if this is a major subdivision, it needs to contain a public road. He questioned whether the lots would become much smaller if a public road was provided.

Mr. Murray emphasized that the Onoffrey family is trying to maintain the integrity of the land.

- Mr. Killmer noted that this proposal as presented, as a major subdivision would increase the financial benefit for the applicant compared to if the property was developed as a PRD.

Mr. Murray explained that this is not necessarily the case because the next owner of the property may prefer something different.

- Mr. Gaughan expressed that the Commission has spent a lot of time reviewing each regulation in the Code and updating it. The Commission has established a set of regulations that are comprehensible and fair. He added that this would be a possible project if it was a PRD and asked Ms. Onoffrey why she is reluctant towards proposing a PRD plan. He stated that he would not be in favor of approving any plan that did not conform to the Town Code.

Mr. Michael Onoffrey, the son of Mrs. Onoffrey stated that Ms. Onoffrey has kept the property for many years through hard times, and they are only trying to work with the Town to conform to the Town Code.

Ms. Jo Carroll Onoffrey asked to speak at the podium. She said that she purchased this property in 1971, so it is very significant to her and her family.

She explained the history of her ownership of the property. She and her husband, who passed away, had a long history with the property and she is asking if there is any possible way to have this proposed major subdivision approved.

Mr. Killmer explained that there is no perceived hardship in this particular situation, since there are other options within the Town Code that would permit her to develop the property. He added that he appreciates Ms. Onoffrey's passion for her property, but the Commission does not have the authority to waive the Town's Zoning Code to approve her application as a major subdivision.

Mr. Killmer acknowledged that the Commission does not vote at a sketch plan review. He advised Ms. Onoffrey to reflect on what was discussed and to consider replying for her property to be developed as a PRD.

Ms. Onoffrey noted that this property is very long and narrow. Mr. Killmer noted that most PRD applications are for very long and narrow properties, which is why PRD's were developed in the first place.

Ms. Frederick added that there are a couple lots just like this one that were approved, and also recommended that this proposal be changed to a PRD request or be revised to include a public street with a 50' right of way as required.

Mr. Murray stated that the lots would be too narrow if a public street and typical setbacks were required.

Ms. Frederick stated that he would need to consider a design with less lots and would also need to consider looping the street to create corner lots. She believes that based upon the total area of the lot, including the need for a public street, only a maximum of three lots would be possible to meet the requirements for a major subdivision.

The applicants expressed their appreciation and gratitude to the Commission for their time.

Discussion and Possible Cote on an Ordinance to Amend Chapter 425 of the Bethany Beach Town Code ("Zoning") to Clarify Language Relating to Maximum Lot Coverage Percentages in the "Table of Dimensional Requirements" (Appendix 3), and to Make Housekeeping Amendments Pertaining to the Table of Dimensional Requirements

Mr. Killmer explained that he asked the Town Solicitor revise the Chapter 435 of the Code.

The Committee reviewed the proposed draft of the amended ordinance.

Mr. Killmer emphasized that there are still some changes that need to be made before the amended ordinance is approved.

After reviewing and discussing the proposed amended ordinance, Mr. Boswell made a motion to approve the ordinance to amend Chapter 425 of the Town Code of the Bethany Beach Town Code (“Zoning”) to clarify language relating to maximum lot coverage housekeeping amendments pertaining to the Table of Dimensional Requirements, with the suggested changes made at this meeting. Mr. Gaughan seconded the motion and it was unanimously approved.

The Commission reviewed the following additional proposed housekeeping changes to the Code from Ms. Frederick:

- **Section 410-22. Sketch Plans**
Change the number of copies required to be submitted from 6 to 10.
- **Section 410-23. Preliminary Plans**
Change the number of copies required to be submitted from 7 to 10.
- **Section 475-1. Lot Requirements; private and public.**
Subsection G. Change the chapter referenced from 76 to 440.

SUMMARY OF ACTION ITEMS

- A. At the next meeting, Mr. Killmer would like to review picture of signs throughout the Town that were brought to him by Code Enforcement Officer, Barry English.
- B. Mr. Killmer contacted the City of Rehoboth Beach in regards to floor area ratio. He would like to review what the Town is doing regarding the size of homes in Town and whether adopting a maximum floor area ratio would be in the Town’s interest.

ADJOURN

Mr. Gaughan made a motion to adjourn the meeting. Seconded by Ms. Denault, the motion was unanimously approved.

The meeting was adjourned at 11:28 a.m.

Respectfully Submitted:

Lindsey Good, Admin. Secretary