

**Town of Bethany Beach
Planning Commission Minutes
July 16, 2011**

The Bethany Beach Planning Commission held a meeting on Saturday, July 16, 2011 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; John Gaughan; Chuck Peterson; Fulton Loppatto; and Mike Boswell.

Excused member: Faith Denault

Also present: Susan Frederick, Building Inspector; Kathleen Mink, a former Planning Commissioner; Councilpersons, Margaret Young and Joseph Healy; Lindsey Shallcross, Administrative Secretary; and interested members of the public.

The meeting was called to order at 9:00 a.m.

OPENING OF MEETING

Approval of Agenda

Mr. Boswell made a motion to approve the agenda. Mr. Peterson seconded the motion and it was unanimously approved.

Discussion/Approval of the Planning Commission Minutes of May 23, 2011

Mr. Gaughan made a motion to approve the minutes dated May 23, 2011. Seconded by Mr. Peterson, the motion was unanimously approved. (Mr. Loppatto was abstained from the vote since he was not present at the Planning Commission meeting on May 23, 2011)

Announcements/Comments/Updates

Non-Residential Design Review Update (Killmer)

There was no meeting so there was no report.

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

Mr. Killmer reported the following:

- Council approved an amendment to the Town's Schedule of Fees increasing the fees for violation of the Town's Property Maintenance Ordinance to \$200 for the first offense, \$400 for the second offense, and \$600 for the additional offenses. He explained that there are about fifteen (15) residents in Town that don't maintain their lawns, and the Town should not be responsible for cutting the grass of residents' lawns.

- There was a First Reading of an Ordinance to Amend Chapter One (General Provisions), Section 1.1 (Fines and Penalties) of the Bethany Beach Town Code to change the fine/penalty for a first offense for violation of the Town's Construction Hours Ordinance from a warning to a fine of \$100. A third offense results in the Building Permit License being revoked.
- Council voted against allowing NRG Bluewater Wind to move forward with its proposed project in Town.
- The 2010-2020 Comprehensive Plan was approved by the Council. A professional copy will be made and it will be ready to be sent for review and certification by the State of Delaware's Office of Planning.
- Council approved an Agreement with the U.S. Army Corps of Engineers to conduct a Feasibility Study on Tidal Flooding Problems in the Town. It was approved with a 6-1 vote.
- Council approved an Agreement between the Town and the Bethany-Fenwick Chamber of Commerce Regarding the annual Fall Arts Festival. Mr. Killmer explained that previously there was a contract, which stated that the Town was to receive \$15 for each booth at the Arts Festival, but this contract was voted by the Town Council to be terminated. The new agreement states that the Town will only be compensated for assistance provided by the Town.

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

There were no comments or questions at this time.

PUBLIC COMMENT/QUESTIONS FOR THE PLANNING COMMISSION

There were no comments or questions at this time.

NEW BUSINESS

Review and Discuss the Possible Need to Standardize Real Estate and Construction Company Signage

The code enforcement officer, Mr. English provided to the members of the Planning Commission a series of photos of real estate sale and rental signs as well as construction company signs. His request is should there be a standard design for real estate signs and should signs for builders and developers be permitted to be displayed and if the answer is yes, should there be a time limit? Many of the construction and or developer signs are either freestanding signs or attached to a structure

Also discussed were flyer boxes that are commonly attached to rental and for sale signs and Mr. Loppatto noted that there is no specific ordinance in the Town Code, which prohibits of these types of flyer boxes attached to these types of signs.

Ms. Frederick stated that attachments are informational.

Mr. Boswell expressed that he doesn't feel that attachments are an issue.

Ms. Frederick advised that the frames of signs should be included from the proposed requirement of Real Estate Signs being no larger than 288 square inches in total sign area.

Mr. Killmer agreed with Ms. Frederick's suggestion, but recommended that the sign can be any style as long as it conforms to the Town Code.

Mr. Killmer questioned if there should be a time limit for builder signs to remain attached to structures?

Mr. Gaughan acknowledged that he feels the time limit should be ruled by the owner of the building.

The Commission discussed other possible amendments to be considered being made to the Town Code regarding these types of signs.

Mr. Gaughan questioned whether Mr. Barry English is a "Constable" or a "Code Enforcement Officer" for the Town.

Ms. Frederick explained that Mr. English is a Constable based on the fact as a Constable he is permitted to write citations and has the right to enter properties without the need to get pre-approval from the property owner.

Mr. Peterson added that a "Constable" is basically a Class 2 Police Authority, which does not allow him to carry a weapon, but permits him to go onto properties without permission of the property owner.

Review and Discuss the Possible Need to Amend the Town Code Preventing Future New Construction and Major Redevelopment Projects from Having No Permeable Surfaces on the Entire Lot

Mr. Killmer explained that Ms. Margaret Young advised him that there is no current ordinance which prevents new construction and major redevelopment projects from having no permeable surfaces on the entire property.

Ms. Frederick verified that there is no such current ordinance.

Mr. Killmer distributed a drafted document that he developed with Mr. Loppatto and other members on the Planning Commission in 2006 that was not approved by a previous Town Council. The document required a certain percentage of green space per property as well as permeable driveways, walkways and sidewalks.

Ms. Frederick acknowledged that the City of Rehoboth Beach has a requirement of having twenty percent (20 %) of green space per property, adding that green space does not include rocks, stones, shells or other hard surfaces. It does include planted areas, grass and mulch.

Mr. Killmer asked if this is an issue that the Planning Commission would like to pursue. Mr. Loppatto suggested to create a possible ordinance that points out what is required rather than focusing on what is not permitted.

Mr. Norbert Kraich, property owner, expressed that when his house was first built, it had no drainage issues. When the new house next door was built, it was built higher than his property that resulted in having drainage problems on his property. He said the Code Enforcement Officer, Barry English, told him that the builder of the next-door property fully complied with the Town Code. Mr. Kraich explained that he believes it is the Town's responsibility to do something about this drainage issue because builders and residents are currently permitted to cover their entire lot, which will make the flooding issue worse.

Ms. Frederick disagreed with Mr. Kraich's assertion that the grade of the property to the east was raised during the recent construction of the new dwelling. She further stated that Mr. Kraich's property is lower than the alley and the adjoining properties to the east and west. The downspouts from the new dwelling to the east are booted and all water is directed to the street and alley. The new walkways were also inspected and found to be sloped to the street and alley as well.

Mr. Boswell recommended that this issue needs to be discussed by the Commissioners because of issues such as this one involving Mr. Kraich. He advised that the Commissioners review the document that Mr. Killmer distributed and discuss it at the next meeting.

The Commission discussed what the requirement of green space per lot should be.

Mr. Peterson advised that having a requirement of green space for those who do not reside in the Town year-round will be an issue since they will not be able to maintain it.

Mr. Boswell asked Ms. Frederick if the Town required the surveyor to provide a post-construction analysis of properties.

Ms. Frederick replied that a post-construction analysis is required for certain circumstances. Placement surveys are required for all new construction and additional survey information such as building height, lot coverage or setbacks are required when the proposed work is close to the maximum permitted.

Ms. Young noted that the Town has tried to resolve the issue of flooding for many years, and this is a way approach to improve the situation.

Mr. Gaughan stated that finding a positive approach towards a possible green space requirement is the correct way to make a change.

OLD BUSINESS

Review and Discuss Floor Area Ratio (FAR) Ordinances That Are Currently Used in Other Delaware Municipalities to Regulate the Size Of Homes

Mr. Killmer explained that there is a huge house being built on a large corner lot in Town.

Mr. Killmer emphasized that the Town has spent years trying to establish a revised ordinance to control this issue, but it is very difficult to do. Mr. Killmer expressed that the City of Rehoboth has a formula that is used to precisely calculate the Floor Area Ratio requirement.

Ms. Frederick stated that she has designed many houses in Rehoboth Beach, and the green space requirement is very difficult to calculate. The intent is to create green space by limiting square footage.

Mr. Killmer asked Mr. Loppatto if he would take the lead in the drafting of a possible Floor Area Ratio ordinance for review and discussion by the Planning Commission.

SUMMARY OF ACTION ITEMS

- A. Mr. Killmer is going to contact Mr. Bob Bradley, who has expertise in ordinances that deal with permeable surfaces.
- B. Commissioners will develop ideas and give suggestions at a future meeting regarding moving forward with amending the Code to prevent future new construction and major redevelopment projects from having no permeable surfaces on the entire lot.
- C. Mr. Loppatto is going to develop a drafted Floor Area Ratio ordinance for the Planning Commission to consider.

ADJOURN

Mr. Gaughan made a motion to adjourn the meeting. Mr. Boswell seconded the motion and it was unanimously approved.

The meeting was adjourned at 10:23 a.m.

Respectfully Submitted:

Lindsey Good, Admin. Secretary

