

Town of Bethany Beach
Planning and Zoning Commission Meeting
May 21, 2022

The Bethany Beach Planning and Zoning Commission held a meeting on Saturday, May 21, 2022, at 9:00 am in the Bethany Beach Town Hall Meeting Room.

Present: Mike Boswell (Chair), John Gaughan, Scott Edmonston, Mark Bauernhuber, Diane Fogash, Kathy Shorter, and Susan Frederick (Building Inspector).

Also present: Andrea Brosius (Secretary)

Mr. Boswell called the meeting to order at 9:05 am.

Approval of the Agenda

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

Discussion/Approval of the Planning and Zoning Commission Minutes of April 23, 2022

Mr. Gaughan made a motion to approve the minutes. The motion was seconded by Ms. Fogash and was unanimously approved.

Announcements/Comments/Updates

1. The Non-Residential Design Review Committee did not meet last month but will be meeting on May 25, 2022, to review and vote on three applications.

2. The Town Council held a meeting on Friday May 20, 2022.
Mr. Edmonston gave the members an update on the meeting. He made mention of the Town Manager's update in which all the beach crossings are open with the help from DNREC. The Town Council voted on changing the makeup of the Non-Residential Design Review Committee so that it did not require the liaison to sit on the board. The Council tabled the possible vote on the ordinance regarding pervious and non - pervious material. There is new information from McCormick and Taylor that will allow them to refine and make a holistic approach to lot occupancy and coverage. There is currently a pending ordinance doctrine, so if someone brought an application for a new driveway or lot coverage, it would have to either comply with the pending

ordinance or Ms. Frederick can advise them to wait until the more refined wording comes out. There will be an alternative approach to the ordinance as well.

3. Mr. Boswell made mention that himself, the Mayor, and the Town Manager met last week and decided the Town is going to write a document on how the Planning and Zoning Commission responds, how it should be run, and the procedures they have in place. They would like to have a guide and reference for new members in the future. This document will be beneficial and will help the committee moving forward. The Commission will have input before it is finalized.

Public Comment:

Janet Freeman, 319 Wellington Parkway, asked the committee how a new house gets approved and then needs a variance because it was built taller than what was proposed?

Mrs. Frederick mentioned there was a hearing on it and the BOA looked over all the information and all the factors that contributed to the oversight of this and decided it was not intentional and it was approved as a variance. Ms. Frederick offered her the opportunity to view the BOA meeting minutes available on our Town website.

Janie Switzer, 318 Wellington Parkway, received an email stating that all dune crossovers were open, however the one at Wellington Pkwy, the ADA ramp was completely blocked off.

Mr. Edmonston stated that DNREC controls all the ramps and is responsible for the construction of them as well. The Town Manager is aware of the condition of both ADA ramps and will be working with DNREC to get that up and running as quickly as possible.

Meg Smith, 428 Wiegand, questioned Mr. Edmonston about the scope for the contract with McCormick and Taylor for the pervious and impervious suggestions. She also doesn't think that Central Park drains like envisioned and is concerned for grandfathering and wants to make sure it's just for houses moving forward regarding pervious and impervious lot coverage.

Mr. Edmonston said they approached McCormick and Taylor to look at what we have done and to offer some guidance, and we are not under a contract with them regarding this matter. He suggested to write to the Town Manager to view any contracts as the Planning and Zoning Commission does not have those. He also said there will only be an amendment to the current code regarding pervious and impervious lot coverage and you will have different alternatives for compliance.

Mr. Boswell mentioned that any modifications are sent to the Town Council and will be brought before the public for open discussion.

Any future activity will require Town Council approval and public hearings.

New Business:

A. The Planning Commission of the Town of Bethany Beach will consider an application to combine property known as Block 25, Lots 1, 5, 8, 9, 10, 11, Tax map and parcel numbers 134-13.19-61.01, 134-13.19-62.00, 134-13.19-63.00, 134-13.19-64.00 and 134-13.19-65.00 into one parcel.

Public Comment:

Zach Alexander, 430 Weigand, asked the committee why it was a requirement that the lots become combined, is it because it is continuous parcels, and where would we find the authority for this?

Ms. Frederick stated that it was her understanding that for Town property to be added to the map as all Town property it must be one parcel. It's in the code for properties owned by the Town and it is also in state regulation. Ms. Frederick would have to look back to find the code, and yes, she believes it is also because they are continuous parcels.

Chip Smith, 428 Weigand Lane, argued that the Planning and Zoning Commission defer action on this matter until we see the authority in writing and have the legal site provided so they know what they are voting on. Mr. Smith also expressed concerns of combining the lots just for future development.

Ms. Frederick mentioned that anyone can combine properties if it meets the requirements and regulations of the code on frontage and area. You can combine them at any time. No implications that it means anything more than that. It's municipal property so to go into any kind of development it would require more public hearings and that is not what is happening today here. All they are doing here is removing interior lot lines. The Town

could rezone with the lot lines there, but to add it as municipal property it must be one parcel. One parcel owned by the Town is all that's going on. No other agenda currently.

Ms. Mayor spoke and stated that she did see the state code regarding the requirement of combining Municipal property. It is currently zoned residential. It's not zoned properly. The pathway is not an issue here and we could build the pathway whether its rezoned, it could be built right now, but it's not going to be built. Taking the lines out and rezoning it properly doesn't affect the pathway one way or another.

Mr. Edmonston understands everyone's concern about the path and like Mr. Boswell pointed out the path is not currently under discussion. The concern about the number of things that could be developed on it could be true for how it's zoned right now. An individual owner could fill 5,000 sq ft legally without a variance with the approval of the Army engineer core on each individual lot if they met the frontage. As he sees it, combining these lots is the path towards preservation. Furthermore, the Planning and Zoning commission can only look to see if requirements have been met for combination. The Commission doesn't have the authority to act in any other way than to say, have these requirements been met, do the lots meet the requirements to be combined and if so it's the commissions duties to combine the lots.

Mr. Gaughan made a motion to approve the application to combine lots 1, 5, 8, 9, 10, 11. Ms. Fogash seconded the motion, and it was unanimously approved.

B. The Planning Commission of the Town of Bethany Beach will consider the Application for a Minor Subdivision for property identified as Lots 77, 78, and 79, Block 28, at 610 Fifth Street, in the R-1 Zoning District.

Representative Tim Naughton from Evergreene Homes took to the podium to speak and answer any questions. He admitted that they were in violation of the code and what they did was wrong. He said he knows they cleared too many trees and would like to replace all the one's they took down. The company put in an application for the demo of the house, and it included a tree clearing estimate. They thought they had given the Town proper notice in submitting the estimate. Usually, he would meet with Susan ahead of time but thought since it was a demo, he thought including the bid would fulfill the notice requirements.

Mr. Naughton did submit a diagram of where he was going to put the replacement trees and the types of trees as well.

Public Comment:

Janice Holland, 617 sixth street, expressed her disappointment in the clearing of the lot done by Evergreene Homes. Ms. Holland stated some concern about flooding and says it has become worse since they cleared the lot.

Erin Peart, 541 A Hudson, would say the flooding on Evans Ave is already terrible but every time they cover 5,000 square feet of ground it makes more flooding issues.

Meg Smith, 428 Wiegand questioned what the criteria is to evaluate whether it's appropriate to transition one lot into three just because you're legally allowed to and why not negotiate the number of dwellings being allowed on those lots.

Ms. Frederick stated the requirement is a minimum of 40 ft of frontage on the street and 5000 sq feet for a buildable lot. Once you have more than 2 lots the code asks for more.

Ms. Smith expressed her concern over exacerbated flooded due to new clearing of the lot. She is also concerned about her flood zone and insurance and Ms. Frederick reassured her that it doesn't have any effect on her.

Mr. Bauernhuber made a motion to approve the application pending further documentation of the tree replacement.

After some discussion, the Committee decided to amend the previous motion and to defer final action until there is submission of a tree replacement plan that meets the building inspector's approval and that can then be reviewed by the public and members of the Commission.

Ms. Frederick would like more information, preliminary plans on the three dwellings, such as how many bedrooms, where the parking is, how many parking spaces they need, will there be a pool and is there any hardscaping and landscaping. Further plans of the development of the lots are needed to assure the trees are placed properly and that they will exist after the house is permitted and built. Once Evergreene Homes complies, the Commission will have an opportunity to review it and ask questions.

Mr. Gaughan acted as chairman and Mr. Boswell modified the motion to defer action on this project until information is provided to the Building Inspector.

Ms. Shorter seconded this motion, and it was unanimously approved.

Old Business:

Continue discussion of noxious plants

Mr. Boswell would like to review a study that the Town Council brought up at their meeting and thinks it will be beneficial for the Planning and Zoning Commission to read through it and introduce some of the material at their next meeting. It is the study of Southern Lowcountry Stormwater Design manual by McCormick and Taylor. It may be good resource to the Planning and Zoning Commission.

Continue discussion of Green Bethany Initiative

The Commission will continue to incorporate the Green Bethany Initiative into the Comprehensive Plan as more information is collected.

The next meeting will be held on Saturday, June 18, 2022, at the Bethany Beach Town Hall at 9:00 a.m.

Adjourn:

Mr. Gaughan made a motion to adjourn the meeting. Ms. Fogash seconded the motion, and it was unanimously approved. The meeting was adjourned at 11:25 a.m.

Respectfully submitted:

Andrea Harpster, Secretary