

Meeting Minutes
Town of Dewey Beach Planning Commission Public Hearings and Meetings
Meeting Date: May 10, 2014

Purpose. To hold one in of a series of public-hearing style meetings to garner public input and stimulate Planning Commission discussion on important zoning issues related to increased coastal flooding and sea-level rise, zoning in the Neighborhood Residential district, and FEMA/DNREC requirements regarding floodplain management.

Chair’s Summary and Comments. Today’s discussions raised the following issues:

1. All decisions need to be data driven, i.e., what is the benefit to the Town from an increased freeboard, what is a realistic building envelope for a modern 2 ½ story or 3 story residential structure in a season resort town, what is the current character of the Neighborhood Residential zoning district?
2. There is a balancing between the role of the Town in mandating specific flood-safety standards and the responsibilities and personal priorities of the individual home owner.
3. Given the uncertainties of sea-level rise, the appropriate planning horizon for the current flooding and sea-level rise discussions planning horizon of 100 years or more.

Opening. The meeting was called to order by Chair David King (3:00 pm). Followed by the Pledge of Allegiance and roll call. A quorum of the Planning Commission was present, including Mike Harmer, Mike Paraskewich, and Marty Seitz. Also in attendance were Town Manager Marc Appelbaum, Town Commissioner David Jasinski, Leigh Giangreco, and Chris Flood amongst others.

Minutes. A motion was made and seconded to approve, with minor editorial corrections, the draft minutes for the April 12, 2014 Planning Commission meeting, and passed by unanimous voice vote of those commissioners who were in attendance at the April 12 meeting.

Regular Agenda

1. Issues specifically related to coastal flooding and sea-level rise (3:04 PM):

- Should the Town increase its required freeboard and, if so, to what height (freeboard is the additional elevation required, as part of the Town’s participation in the National Flood Insurance Program, of buildings in a flood zone as a buffer for excessive flooding or tidal surge, and results in town-wide flood insurance rate reductions for properties in a flood zone)? Currently the Town requires a freeboard of 1’ while DNREC recommends a freeboard of 18”. Why increase the required freeboard? DNREC predicts sea level is rising, and while FEMA will reset the FIRMs sometime in the future, if one is building a house today, you want to have it safe for the next 30 to 50 years. One way to deal with all this uncertainty is to increase the freeboard, possibly to 2’ or 3’ (freeboards of 1’, 2’ and 3’ result in increasingly reduced flood insurance rates). This bumps some properties up against the current 35’ height limit.

The following points were made/issues raised during the discussions:

- DNREC uses a “common sense” figure of merit for their recommended freeboard. Many communities use freeboards in the range of 1’ to 2’; DNREC recommends 1 ½ foot freeboard.
- Possibly consider distinct freeboards for each different flood zone type; or, a higher one for VE and AE zones and a lower one for the AO zone (no wave action in AO zone); or, a higher one for properties channelward of the limit of moderate wave action (LMWA) line and a lesser one for inland zones. For example, keeping 1’ for the AO zone and increasing the freeboard requirement for the VE and AE zones, or for properties in any zone channelward of the LMWA.
- The sheet flow one sees in an AO zone generally results in little structural damage (i.e., damage of limited extent and duration, and largely resolved by clean up and carpet replacement). Although there have been examples of homes in AO zones that have been washed off their foundations.

- 1 ○ There are benefits in terms of reduced flood insurance rates through the National Flood Insurance
- 2 Program (NFIP) from an increased freeboard. This presents a risk-reward situation, and raises the
- 3 question: do the benefits of increasing the freeboard requirement exceed the costs or risks associated
- 4 with doing so? One risk of increasing freeboard is that it might create a false sense of security vis a vis
- 5 lower insurance rates.
- 6 ○ There is an interplay between increasing freeboard and maximum building height limits – both being
- 7 Town zoning requirements. This might be a reason to require only a minimum freeboard.
- 8 **Commissoner Paraskewich** noted that his house was built to a 1’ freeboard in an AO zone and he was
- 9 able to build 3 full floors (two 8’ ceilings and one 9’ ceiling) and a roof deck with a 42” railing within
- 10 the Town’s current 35’ height limit. While a 6” to 1’ increase in freeboard might not pose a hardship in
- 11 the AO zone, it might in AE or VE zones.
- 12 ○ **Commissoner Seitz** would like to fully understand what we might gain by an increase in freeboard.
- 13 Possible benefits include improvement in rating within the CRS and therefore increased flood
- 14 insurance rate reductions across town, and resulting in the construction of new homes that will likely
- 15 be safe for occupancy for 30 to 50 years even in the face of accelerated sea-level rise. Before
- 16 recommending an increase in freeboard, we need to quantify the potential benefits for our
- 17 homeowners. The **Town manager** offered to 1) investigate how increasing or decreasing the current
- 18 Town-required freeboard might affect the Town’s rating in the DNREC Community Rating System
- 19 (CRS) – which might result in further reductions in rates for flood insurance obtained through the
- 20 National Flood Insurance Program (NFIP), and 2) investigate how individual flood insurance rates
- 21 might vary with 1’, 18”, 2’ and 3’ elevations above FEMA’s effective 1% annual flood elevation.
- 22 ○ While most homeowner have the option to build to a base elevation higher than the Town’s freeboard
- 23 requirement, this option is not currently available to properties that encroach in a required setback
- 24 (unless relocated or redesigned so as not to encroach).
- 25 ○ There was information in possibly having a presentation on “smart vents” and disseminating this
- 26 information to the town homeowners – increased outreach and education.
- 27 ○ In some parts of Town the 1% annual flood elevation has decreased by a foot or two. This creates a
- 28 risk because new homes in these areas would have been flooded by Hurricane Sandy if built to the
- 29 anticipated 2015 FEMA FIRM requirements.
- 30 ○ Commercial-use properties are not required by FEMA to elevate the building, they are only required to
- 31 “floodproof” to the required elevation, for which there are a number of options.
- 32
- 33 • Under what circumstances – if any – should/could an existing structure be elevated such that the resulting
- 34 building height exceeds current building height limit of 35’? For example, if substantially damaged FEMA
- 35 would require any rebuild to be elevated to its base flood elevation plus the Town’s freeboard requirement. This
- 36 would be problematic for an existing structure that is already near 35’ in height and requiring additional
- 37 elevation to meet Town flood elevation requirements. Of course there is always recourse to the Board of
- 38 Adjustment for a height variance based on hardship. The question is, does it make sense to provide more
- 39 certainty of outcome by incorporating relief under certain circumstances into the zoning code (as a matter of
- 40 right for all properties meeting these criteria)?

41

42 The following points were made/issues raised during planning commissioner discussion:

- 43 ○ Possibly floating the “max building height” with changing FEMA requirements
- 44 ○ “Grandfather” existing buildings close to or exceeding 35’ to let them elevate to address FEMA or
- 45 safety concerns (so will not have to elevate now and then elevate again in 20 or 30 years). Be flexible.
- 46 ○ Let zoning relief related to increased encroachment of properties located in flood zones also apply to
- 47 stairs and landings required for safe entrance/egress.
- 48 ○ This is a different discussion from the 35’ concerns in the Neighborhood Residential (NR) zoning
- 49 district because there are only a few NR residential properties in a flood zone.
- 50 ○ Let the conditional use process recommended by the Planning Commission be optional to homeowners
- 51 with properties encroaching in the setbacks (i.e., provide the option to elevate “as is” with no
- 52 requirement for a conditional use application, or modify somewhat through the conditional use
- 53 process)
- 54 ○ Possibly redefine “building height” with reference to FEMA 1% annual flood elevations; or, have
- 55 different height limits in different flood zones;

- 1 ○ Research what happened when the Town joined the CRS and introduced a 1' freeboard into the Town
- 2 code (the pre-2009 zoning code has a reference to an additional 1' in building height for NR properties
- 3 in a flood zone). The **Town Manager** was asked to explore this issue and report back to the
- 4 commission.
- 5 ○ **Commissioner Paraskewich** raised the issue that we might also want to address what is realistic in a
- 6 building envelope in a modern 2- or 3-story home. If it is marked less than 35', that might drive our
- 7 approach to this question. One option would be to possibly re-define "maximum height" in terms of a
- 8 maximum building envelope.
- 9 ○ There were concerns that letting existing structures elevate to an arbitrary level above that required by
- 10 FEMA would open a lot of doors through which some people could take advantage. There are other
- 11 approaches besides increased elevation to improving resilience in terms of increased flood severity.
- 12 These need to be explored, and brought to the attention of town property owners.
- 13 ○ Possibly allow existing homes in flood zones near 35' elevate to 40', but existing buildings below 30'
- 14 and new construction still constrained to 35'.
- 15 ○ Increased freeboard results in extended security from flooding and a longer expectation of continued
- 16 occupancy. However, there is a decision to be made by the individual home owner: to build a safer
- 17 house (2 stories or a 3-story structure with moderate height ceilings at a higher elevation to protect
- 18 from flooding), or a more comfortable one (built at the FEMA minimum base flood elevation). This
- 19 personal decision has to be part of the discussing regarding maximum height requirements in the
- 20 zoning code. Also, it is important to note that one can enclose and use the space below the first floor
- 21 for storage, parking, etc. provided it is appropriately vented.
- 22 ○ If adding a room to an existing home in a flood zone, the new construction must be built to the FEMA
- 23 minimum flood elevation plus Town freeboard; if there are substantial improvements to an existing
- 24 home (structural improvements valued at more than 50% of the existing structure) the entire structure
- 25 must be elevated to these flood standards.
- 26 ○ There were questions as to how the "35' height limit" came about. It would be good to get some
- 27 background on this.

28
 29 **Kevin Monigle**, Snug Harbor, Read Ave., would like to see an increase in freeboard with a "grandfathering" of
 30 existing buildings that would exceed a height of 35' if raised to the Town's freeboard requirement, out of
 31 concerns for safety and long-term occupancy; the higher the better.

32
 33 2. **Zoning Code requirements for the Neighborhood Residential district.** (3:53 pm) Does the current zoning
 34 code provide sufficient protections to preserve the character of the NR district – as stipulated in the 2007
 35 Comprehensive Development Plan – in the face of recent increases in real-estate and re-development activity?
 36

37 In 2007 the Comprehensive Plan Development Group didn't address land-lease properties because it was
 38 viewed as unlikely that they would be developed/re-developed prior to 2017 (when the Comp Plan is due for
 39 renewal). Consideration of the zoning in the NR district has now been forwarded to the Planning Commission
 40 by the Town Commissioners. The comp plan sets, as one of the Town's goals, the definition of the architectural
 41 character of its various communities, including the NR district. The comp plan also says that the Town zoning
 42 code should encourage development in the NR district that is consistent with the existing architectural character,
 43 scale and density of the neighborhood, encourage development of single family homes of modest size, and to
 44 regulate and shape residential development. Current building heights are 35' and floor area ratio (FAR) of 1.0 –
 45 both much larger than neighboring communities.

46
 47 To date there has been limited input, including: "35' is too high, and is not consistent with the character of the
 48 neighborhood," and issues related to floor-area ratio, front & rear setbacks, off-street parking, and swimming
 49 pools in the front yard. Bill Coulbourne and Tim Arnold, professional residential developers, are working on
 50 the Planning Commission's behalf to define the "character" of this district. This is important data to guide
 51 future discussions on this topic. There was a consensus of the commission that it would be good to hear from
 52 the land owner (Rehoboth by the Sea Realty) about their plans and thoughts and from Coulbourne/Arnold
 53 characterizing the existing architecture, and for the Town to send a mailer out to property owners in this district
 54 to alert them to these discussions.
 55

1 In all of this the Planning Commission needs to balance the trade-off between neighborhood character (a public
2 benefit) and individual property rights.
3

- 4 3. **Flood plain management.** (4:05 pm) Review and compare existing Dewey flood plain management code
5 (Chapter 101) with DNREC-recommended code as a prelude to possibly amending and adopting the DNREC
6 language (which has been reviewed by legal authority at the state level). **Commissioner Harmer** reviewed
7 these two documents and identified areas of overlap and uniqueness, showed how these two documents could
8 be merged into a single, comprehensive document, and pointed out where there are items for more detailed
9 deliberation. **Chair King** will take this input and create a merged master document, which will show which
10 document each section came from and how it was changed from the original(s) for discussion at the next
11 meeting.
12
- 13 4. **Administrative Provisions.** (4:11 pm) Review and discuss potential amendments to Article XI Administrative
14 Provisions of Chapter 185 Zoning, especially as relates to site plan requirements, changes and approval. This
15 task was stimulated by several recent building permit applications. **Commissioners Paraskewich and Dedes**
16 **and Building Official Bill Mears** have started working on this.
17
18

19 **Adjournment.**

20 The next meeting date was moved to Saturday June 7th at 1:00 pm (probably at the Gold Leaf) to facilitate
21 some issues forwarded to the Planning Commission by the Town Commissioners (Chair King will post
22 details of these issues on the June 7 meeting event on the Town's web site). Following that, tentative
23 meetings are scheduled for the second Saturday of July, August & September at 1:00 pm.
24

25 Following a motion, second and unanimous voice vote, the meeting was adjourned at 4:18 pm.