

Minutes of the
TOWN OF DEWEY BEACH
PLANNING and ZONING COMMISSION
PUBLIC HEARING(S)
Saturday, April 11, 2015

At the
Dewey Beach Life Saving Station
1 Dagsworthy Ave., Dewey Beach, DE 19971

The Chairman, Michael Paraskewich, opened the meeting with the pledge to the flag at 2:42 pm. The opening of the meeting was delayed by the continuation of the town commissioners' meeting which concluded at 2:38 pm.

Roll call identified that all seven planning commissioners were present, Chairman Paraskewich, Dale Cooke, Don Gritti, Mike Harmer, Chuck McKinney, Gary Persinger and Marty Seitz. By majority vote, the commissioners adopted the minutes of the March 21, 2015, Planning Commission public hearing and meeting.

Public Hearing

The chairman opened the public hearing at 2:45 pm with a description of the process to be followed at this public hearing and meeting. The process is that each applicant will present their application; commissioners can ask questions of the applicant; the public can speak in favor or against the application; and the applicant can rebut statements or elaborate on details of the application. The commissioners will hear each application before closing the public hearing. The commissioners will then discuss, make possible recommendations, and vote, if warranted, on each application or issue before the Commission. The applicant will be given the opportunity to accept the recommendations or withdraw the application.

The chairman specified that, upon request by the applicant, item 1 on the agenda will be heard last. The minutes here describe the items in the sequence that they were considered at the meeting by the commissioners.

Public hearing on a draft of an ordinance to approve a conditional use application submitted by Rich Robinson for expansion of an existing restaurant business, McShea's Beach Pub and Grill, under the town zoning code and licensing requirements of a restaurant at 1705 Coastal Highway, unit #1, Dewey Beach, DE 19971.

Mr. Rich Robinson expressed that he has been in business in Dewey Beach for 15 years. Additionally, he has experience in the restaurant business prior to his work in Dewey Beach. The lot that Mr. Robinson leases behind the McShea's establishment was planned as a patio adjacent to the restaurant. However, opposition from residents precluded this use and the lot remains largely unused. Citizen Jim Dedes testified in favor of the expansion however, he opposed the expansion in its present form. Mr. Dedes stated that, first, by ABCC standards, 50 % of the sales should be for food, and secondly, tables have to stay in place. Mr. David King of Swedes Street spoke in favor of the application but questioned the process in that

there was not a draft ordinance that could be critiqued by a member of the public such as himself. The draft ordinance should deal with common issues such as the placement of speakers (placed inside the establishment and pointed inward), trash clean up, standardization of conditions across all restaurant establishment, and so on. Bar space should be less than 20 percent of the patron area. Mr. King said that many of these comments apply to other applications of expansions to be dealt with in this public hearing. Opposition to the expansion included the observation that McShea's operates more like a bar than as a restaurant. Mr. King suggested that the commissioners incorporate a statement that the applicant signs to abide by all conditions.

Public hearing on a draft of an ordinance to approve a conditional use application submitted by Juli Mills for expansion of an existing restaurant business, The Salad Factory, under the town zoning code and licensing requirements of a restaurant at 1904 Coastal Highway, Dewey Beach, DE 19971.

Ms. Juli Mills had her legal representative describe the relocation of the Salad Factory and the expansion of facilities. Ms. Mills then described some of the details of the expansion. Several citizens spoke in favor of the expansion including Mr. Tracy Wilson. Citizen Bruce Vavala had reservations that another bar would evolve and jeopardize his family's beach merchandise business. Becoming surrounded by bars does not encourage families with children to visit his store. Ms. Mills expressed that the Salad Factory had no interest in music or other entertainment. The public expressed concern about the service bar and the distinction from a regular bar in which patrons would surround the bar and be served by a bar tender. The owner of Woody's Grill, Jimmy Conner, testified that the Mills family has been a valuable asset to the Dewey Beach business community. However, Mr. Connor had reservations about the service bar being out in the open rather than against the wall of the expanded facility.

Public hearing on a draft of an ordinance to approve changes to **Section 185-27.1** of the town code relating to outdoor displays, as submitted.

Presentations from the public and inquiries by the commissioners focused on the calculation of display area and the use of side street frontage in the calculation of allowed area of the display. Concern was raised about the impact of displays along frontage that is not on the Coastal Highway. Ms. Megan Mantzavinos, attorney for the Town's insurance coverage, spoke on the issue of the use of the side street for displays. She expressed that there was not a prohibition on displays along the side street, but that the frontage was not included in the calculation of display area that is allowed. Mr. King described that a 500 -square -foot display means that the foot print of the display would be 500 square feet.

Review application for an LED sign at 1707 Coastal Highway, submitted by Jason Fruchtman.

No one for the applicant spoke to describe the application. No one from the public spoke in favor or against the application. The chairman tabled the public discussion.

Public hearing on a draft of an ordinance to approve a conditional use application submitted

by Gary Cannon for expansion of an existing restaurant business for the addition of a small batch brewery manufacturing operation, Gary's Dewey Beach Grill, under the town zoning code and licensing requirements of a restaurant at 2000 Coastal Highway, Dewey Beach, DE 19971.

Mr. Gary Cannon described his application to include a small brewery inside of Gary's Dewey Beach Grill. The brewing facility would be purchased and consist of a batch volume of 30 gallons. The facility would not be run at capacity. Many of the issues expressed above for expansion of restaurant facilities were made regarding this application.

The Chairman expressed that the public hearing would be continued at the next and future meetings of the Planning Commission. The continued public hearing would be to consider additional information that may be submitted by the applicants. Commissioner Dale Cooke questioned the procedure of hearing public comments on all applications before deliberations by the commissioners. The commissioners recessed the public hearing to be resumed at the next and subsequent meetings of the Planning Commission. Commissioner Persinger expressed that the applicants should prepare an application with more detail that addresses the Dewey Beach Code.

The Chairman then asked that commissioners discuss, make possible recommendations, and vote, if warranted, on each application or issue before the Commission.

Regarding the Application for Expansion of McShea's Beach Pub and Grill

Commissioner Mike Harmer moved that for the application presented by Mr. Rich Robinson regarding expansion of the McShea's Beach Pub and Grill, at 1705 Coastal Highway, unit #1, that the Planning Commission requests additional information to clarify the application for the expansion of the existing restaurant business to include, but not limited to, the following: certified architectural drawing showing the restaurant with the expanded floor plan, patron areas including distinctive food service and bar areas; calculation of the ratio of bar service area to food service area, calculation of the expanded area relative to the current restaurant area, and other calculations relevant to Dewey Beach code compliance; and delineation of any area cleared of seating and tables to accommodate entertainment.

The motion was seconded by Commissioner Seitz.

The discussion of the motion by the commissioners included anticipation that the Planning Commission in a recommendation to the Town commissioners would include conditions on the placement of speakers for entertainment and other items in the Dewey Beach Code that are important in the operation of the expanded facility.

The motion was brought to a vote and approved by a majority of the commissioners.

Regarding the Application for Expansion of the Salad Factory

Commissioner Mike Harmer moved that for the application presented by Ms. Juli Mills regarding expansion of the Salad Factory Restaurant at 1904 Coastal Highway, Dewey

Beach, DE 19971, that the Planning Commission requests additional information to clarify the application for the expansion of the existing restaurant business to include, but not limited to, the following: certified architectural drawing showing the restaurant with the expanded floor plan, patron area, and service bar area including notes on the use and operation of the service bar; distinctions of food service and service bar areas; calculation of the expanded area relative to the current restaurant area, and other calculations relevant to Dewey Beach code compliance; and delineation of any area cleared of seating and tables to accommodate entertainment, or a statement that entertainment will not be accommodated in the expanded facility requested in the application.

The motion was seconded by Commissioner Seitz.

The discussion of the motion by the commissioners included anticipation that the Planning Commission in a recommendation to the Town commissioners would include conditions regarding any entertainment specified in this application and other items in the Dewey Beach Code that are important in the operation of the expanded facility. In recommendations to the Town Commissioners, the planning commissioners will recommend for severability, proper formatting, and establishment of an effective date for approval of the application, where relevant.

The motion was approved by a majority vote of the commissioners.

Regarding the Draft Ordinance to Change Section 185-27.1 of the Town Code

This section of the code regulates the size and placement of outdoor displays of merchandise and other items associated with a business in Dewey Beach. The commissioners considered possible adjustments to the draft ordinance to improve its utility to the Dewey Beach community. The proposed ordinance provides for the use of any side frontage in the calculation of display area available to the vendor. One suggestion was that the draft ordinance could allow additional display area for side frontage facing commercial or mixed commercial property but would not allow additional display area for side frontage facing residential property.

Commissioner McKinney moved that the Planning Commission continue deliberations on the draft ordinance at its next meeting.

The motion was seconded by Commissioner Harmer.

In discussion of the motion, the Chairman suggested that commissioners could walk around town to gain a better appreciation of the impact of the draft ordinance on the operation of the town. Signage and displays will take up a lot of viewing area in the commercial districts of Dewey Beach.

The motion was approved by a majority vote of the commissioners.

Regarding Application for a LED Sign at 1707 Coastal Highway

Because of the absence of any presenter for the application, and because of a lack of information in the application provided by the applicant, the commissioners deferred further consideration of this issue until sufficient information was provided to the commissioners. Additional information required for consideration of the LED sign includes the placement of the sign on the building at 1707 Coastal Highway, or on a dedicated stanchion, the times of operation of the sign, etc.

Regarding the Addition of a Small Batch Brewery Operation at Gary's Dewey Beach Grill

Commissioner Make Harmer moved that for the consideration for the conditional use application submitted by Gary Cannon for the addition of a small batch brewery manufacturing operation, Gary's Dewey Beach Grill, that the Planning Commission requests additional information to clarify the application for the inclusion of brewing within the existing restaurant business to include, but not limited to, the following: certified architectural drawing showing the restaurant with delineation of the brewing manufacturing operations; maximum beer production rates based on historical and anticipated customers; any anticipated sale of brewed beer for off-site consumption; treatment of brew waste products and control of odors caused by brewing to not be a nuisance to the community; and any calculations relevant to Dewey Beach code compliance.

The motion was seconded by Commissioner Seitz.

The discussion of the motion by the commissioners included anticipation that the Planning Commission in a recommendation to the Town commissioners would include limitations on the annual production of beer, conditions regarding treatment of waste products, including odorous vapors that are important in the operation of the expanded facility.

The motion was approved by a majority vote of the commissioners.

The Chairman asked about the availability of commissioners for future meetings and established the next meeting of the Planning Commission is planned for Saturday, May 9, 2:00 pm in the Dewey Beach Life Saving Station.

Commissioner Harmer moved that the commissioners adjourn the meeting. His motion was seconded by Commissioner Persinger and approved by majority vote of the commissioners at 7:06 pm.

Respectfully submitted,

Marty Seitz
Secretary
Dewey Beach Planning Commission