

Minutes of the  
TOWN OF DEWEY BEACH  
PLANNING and ZONING COMMISSION  
PUBLIC HEARING AND MEETING  
Saturday, April 9, 2016, 2:00 pm  
At the  
Dewey Beach Life Saving Station  
1 Dagsworthy Ave., Dewey Beach, DE 19971

The Chairman of the Planning Commission, Michael Paraskewich, opened the meeting with the pledge to the flag at 2:02 pm. The chairman introduced the new member of the Planning Commission, Commissioner Jim Bielicki. Mr. Bielicki comes to the Planning Commission with experience in municipality zoning and extensive service on public boards. The Chairman took roll call. Commissioners Jim Bielicki, Jim Dedes, Mike Harmer, Chuck McKinney, Mike Paraskewich, and Marty Seitz, were present. Commissioner Persinger was absent. Present and representing the Town Planning Commission was attorney Noel E. Primos. Also, members of the public were present including Commissioner Dale Cooke, Mr. Ed Beste, Ms. Anna Legates, Mr. Chris Flood, and others.

The chairman convened the public hearing regarding the referral by the Town commissioners for a detailed review of the appropriate definitions of the following terms with reference to Chapter 1, General Provisions, and Chapter 185, Zoning, of the Dewey Beach Code: HALF STORY, STORY, KNEE WALL, MAJOR STREET or HIGHWAY, and BAR. (The minutes will record the terms in the definitions in capital letters, as they are presented as definitions in Chapter 1, General Provisions, of the Zoning Code.) The definitions to be considered were those recommended to the Town Commissioners by the Planning Commissioners on February 7, 2015.

The chairman read the transmittal from Mr. Rick Judge concerning the use and definition of the term, HALF STORY, in the Dewey Beach Code. Mr. Judge concluded the transmittal with the summary that he advocated that the Planning Commission eliminate the definition of KNEE WALL or eliminate the definition of a HALF STORY and replace the definition of a HALF STORY with a regulation to limit the maximum square footage allowed on the upper story.

After being sworn in by the attorney for the Planning Commission, Mr. Beste testified concerning the definitions. Mr. Beste described problems with a half story on a building, and objected to a KNEE WALL that is specified within the living space. Specifically, the KNEE WALL in this configuration leads to a loss of living space. A definition that allows a KNEE WALL from 3-feet to 6-feet in height can produce a canyon effect between neighboring buildings. Mr. Beste recommended that the Planning Commission consider limiting the size of buildings by relying on the specification of a maximum ratio allowed for the living floor area of a building to the lot area on which it is located (FAR).

After being sworn in by the attorney for the Planning Commission, Ms. Anna Legates testified that she attended the second meeting on definitions with Mr. Rick Judge presiding. Ms. Legates believes that for Dewey Beach the FAR in the NR district is 1.0, and is 1.2 in other zoning districts. Ms. Legates advocated for the position presented by Mr. Judge in order to prevent the construction of box-type homes.

With no further testimony from the public, the chairman Paraskewich asked that the public hearing be tabled. Commissioner Mike Harmer moved that the hearing be tabled; Commissioner McKinney seconded the motion. The motion was passed by unanimous vote of the commissioners.

## OLD BUSINESS

Chairman Paraskewich asked for any comments on the minutes of the November 7, 2015' Planning Commission Public Hearing and Meeting. Attorney Noel Primos prepared comments in "track-change" format which were read by Commissioner Seitz. The comments from commissioners were that the suggested changes were consistent with the activities in the hearing and meeting, and added clarity to the minutes. The commissioners did not provide any additional comments,

Commissioner Harmer moved to approve the minutes, as modified by Mr. Primos. Commissioner McKinney seconded the motion. The commissioners approved the motion by unanimous vote.

## NEW BUSINESS

The commissioners discussed the definitions and suggested that dealing with the definition of KNEE WALL first would be useful. Also, that the discussion of the definition of STORY before the discussion of HALF STORY would be logical. The commissioners dealt with the definitions in this modified order.

The commissioners considered several alternatives to the definition of KNEE WALL as presented in the updated Chapter 1, Article III Definitions, as recommended by the Planning Commission, February 7, 2015, to the Town commissioners. The planning commissioners discussed that much of the definition was long and included details that were not needed for the purpose of the Dewey Beach Code. For example, the commissioners suggested that the 3 sentences after the first sentence were details that were not needed. Looking ahead at the definitions to be considered, the commissioners anticipated that the use of the term, KNEE WALL, in the definition of a HALF STORY was not needed.

Commissioner McKinney moved that the definition of KNEE WALL be eliminated from the updated Chapter 1, Article III Definitions that are recommended to the Town commissioners. Commissioner Seitz seconded the motion. After a brief discussion of the motion, the planning commissioners voted unanimously to adopt the motion as part of the recommendation to the Town Commissioners.

The planning commissioners then considered several adjustments of the definition of a STORY. As with the definition of a KNEE WALL, the definition of a STORY appeared to be too long, with detail not needed by the Town Zoning Code.

Commissioner Seitz moved that the definition of STORY consist of the first sentence of the definition as recommended to the Town Commissioners on February 7, 2015. Further, the words "or HALF STORY" were to be added to the first sentence after the word basement. So, the definition would read:

STORY – That portion of a building, other than a basement or HALF STORY, included between the surface of any floor and the surface of the floor next above it: if there be no floor next above it, then the space between such floor and the ceiling next above it.

The motion was seconded by Commissioner Dedes and passed by unanimous vote of the planning commissioners.

The commissioners discussed the definition of HALF STORY recommended February 7, 2015. In keeping with the change recommended for the definition of STORY, the definition of HALF STORY should be eliminated from the General Provisions of the Town's Zoning Code. Commissioner Harmer moved that the Planning Commission recommend that the definition of HALF STORY be removed from the definitions in the General Provisions of the Zoning Code. Commissioner McKinney seconded the motion, and the commissioners passed the motion by unanimous vote.

The chairman asked that the public hearing be reopened for input by the public. The motion passed unanimously by the commissioners. The motion to open the tabled public hearing had been made by Commissioner Harmer and seconded by Commissioner McKinney.

After being sworn in by the attorney for the Planning Commission, Mr. Chris Flood, a member of the public and residing in Lewes DE, testified regarding the definition of MAJOR STREET OR HIGHWAY. After conclusion of testimony from Mr. Flood, Commissioner Mike Harmer moved that the hearing be closed; Commissioner McKinney seconded the motion. The motion was passed by unanimous vote of the commissioners.

The commissioners examined the definition of MAJOR STREET OR HIGHWAY as recommended February 7, 2015. The commissioners did not identify any issues with the previously recommended definition. Commissioner Harmer moved that the attorney, Mr. Noel Primos, check with Mayor Hanson regarding the issue that the Town Commissioners might have with the recommended definition. The motion was seconded by Commissioner Dedes and passes by unanimous vote of the commissioners.

Upon discussing the definition of a BAR, the commissioners remarked that the definition recommended on February 7, 2015, included provisions about the permitting of a bar. This information is more appropriately relegated to the body of the zoning code rather

than included in the definitions. Specifically considered was the removal from the definition of a BAR the wording that "No new bars shall be permitted," (as specified by Ordinance No. 228, enacted 4-11-1992).

Commissioner Mike Harmer moved that the definition of BAR consist of the first two sentences of the definition as recommended on February 7, 2015. Commissioner Dedes seconded the motion. The commissioners passed the recommendation of the revised definition of BAR by unanimous vote.

Chairman Paraskewich discussed a schedule for the next and subsequent meetings of the Planning Commission. The suggested schedule was to have the meetings 3 weeks after the meeting of the Town Council. With this schedule, the Planning Commission could respond quickly to requests by the Town commissioners. The three weeks allowed time to publish an announcement of any required public hearings two weeks prior to the meeting of the Planning Commissioners. The next meeting of the Planning Commission was scheduled for Saturday, April 30, 2016.

At 3:55 m, the chairman asked for a motion to adjourn the meeting. Commissioner Harmer so moved. Commissioner Dedes seconded the motion and the commissioners passed the motion by unanimous vote.

Respectfully submitted,

Martin G. Seitz  
Secretary, Planning Commission