



Town of Cheswold
Minutes of the Monthly Town Council Meeting
Monday – December 3, 2018
6:00 p.m.
Cheswold Town Hall
691 Main Street
Cheswold, Delaware 19936

The following persons were in attendance:

Mayor Robert Sine
Vice Mayor Larence Kirby
Secretary/Treasurer Theon Callender
Councilperson Judith Johnson
Councilperson Santo Faronea

Excused: Councilperson Mark Moxley
Chief Christopher Workman

Police Department: None
Public Works: Code Enforcement Officer Mike Callender;
Town: Town Clerk Shadina Jones

Planning Commission: 0 Other Town Employees: 0 # Residents: 0 Visitors: 1

NOTICE:

Notice of this meeting has been made in accordance with the Delaware Open Meeting Act, by properly posting it on December 18, 2017, on the Town of Cheswold website at: <http://cheswold.delaware.gov>. Copies of the agenda were posted outside the Cheswold Town Hall; in the local Post Office; at the Fox Pointe Management Office and on the Official Web Site for the Town of Cheswold, at <http://cheswold.delaware.gov>; and was filed with the Clerk of the Town of Cheswold on November 26, 2018. Copies of the agenda were available for pick-up at the Town Hall.

MEETING:

The meeting was called to order by Mayor Sine, at 6:00 pm.

The Pledge of Allegiance and Moment of Silence immediately followed and were led by Mayor Sine.

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PROPERLY POSTED: Based on the dates of the posting of the meeting and the agenda, Mayor Sine acknowledged that the meeting had been properly posted.

AGENDA REVIEW:

Mayor Sine requested the Council review the accuracy of the agenda and for a motion to accept as presented or to make changes and amendment requests as needed.

A request was made by Mrs. Callender to amend the agenda to add the following:

1. Requisition Review and Approval – R9-00031
2. Requisition Review and Approval – R9-00032
3. Addition of Mr. Jim Dowd, property owner of 179 Commerce St., to address Council

A motion to accept the agenda as requested was made by Vice Mayor Kirby and seconded by Councilperson Faronea. A roll call vote on the motion resulted in a unanimous vote to approve.

REVIEW of PREVIOUS'S MONTHS MINUTES:

Mayor Sine requested the Council to review the accuracy of the previous month's minutes and for a motion to accept them as presented or to make changes and amendment requests as needed.

The minutes to be reviewed were as follows:
November 5, 2018 - Monthly Town Council Meeting

A motion to accept the Monthly Town Council minutes, as presented was made by Vice Mayor Kirby and Councilperson Faronea made a second to approve the motion.

A roll call vote on the motion resulted in a unanimous vote to approve.

TREASURER'S REPORT:

a. The Treasurer's Reports for the **Month of November 2018**, is as follows:

Monthly Cash Flow Comparisons	
TOWN of CHESWOLD	November 2018
Cash Receipts	\$ 34,384.06
Cash Disbursements	\$ 63,938.09
Negative Monthly Cash Flow	(\$ 29,554.03)
ADMINISTRATION	November 2018
Cash Receipts	\$ 21,327.49
Cash Disbursements	\$ 52,010.00
Negative Monthly Cash Flow	(\$ 30,682.51)
POLICE DEPARTMENT	November 2018
Cash Receipts	\$ 4,755.48
Cash Disbursements	\$ 11,710.19
Negative Monthly Cash Flow	(\$ 6,954.71)

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TREASURER'S REPORT "continued":

PUBLIC WORKS	November 2018
Cash Receipts	\$ 8,301.09
Cash Disbursements	\$ 217.90
Positive Monthly Cash Flow	\$ 8,083.19

c. The Treasurer's Report, **(Account Balances)**, for the **Month of November 2018**, is as follows:

As of:	November 2018
Capital Account	\$ 30,253.89
Cheswold Heritage Day Account	\$ 4,942.71
Eide Grant Fund Account	\$ 1,073.32
Fire Company Account	\$ 42,522.18
General Fund Account	\$ 226,284.63*
Land Use Applicant's Account	\$ 26,557.49
Litigation Account	\$ 21,453.78
Municipal Street Aid Account	\$ 50,694.62
Salle Grant Fund Account	\$ 186.83

***The November General Fund Balance for the Town in the Bank Statement reflects a balance of \$379,284.63; however, \$150,000 of that balance is dedicated to the Old Town Water Project as it was received from State Funds can only be used for the Water Project.**

d. Requisitions -

<u>.#</u>	<u>Department</u>	<u>Vendor</u>	<u>Item</u>	<u>Amount</u>	<u>To Be Paid By</u>
R9-00031	Police Dept.	Red the Uniform Tailor	Repl. Vest -Cpl. Kline	\$605.88	Eide Grant
R9-00032	Police Dept.	The Emblem Source	Patches & Pins	\$706.18	General Fund

A motion to approve R9-00031 was passed with an unanimous vote of the Council.

A motion to approve R9-00032 was passed with a vote of Yes = 3 and No =1. The dissenting vote was from Secretary/Treasurer Callender.

e. Proposed Purchases -

<u>P.O. #</u>	<u>Department</u>	<u>Vendor</u>	<u>Item</u>	<u>Amount</u>	<u>To Be Paid By</u>
NOTHING TO REPORT					

TAX COLLECTOR'S REPORT

a. **Month of November 2018**

TAX REPORT: FISCAL YEAR 2018 - 2019

Total Amount Billed: \$150,827.40

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TAX COLLECTOR'S REPORT

Payments as of:

	Current Year: Past Due Paid:	
07/31/2018	\$ 22,750.94	\$ 212.72
08/31/2018	\$ 98,852.23	\$ 1,841.46
09/30/2018	\$ 15,520.22	\$ 2,554.16
10/31/2018	\$ 1,607.35	\$ 167.39
11/30/2018	\$ 289.20	\$ 32.13
12 /31/2018		
01/31/2019		
02/29/2019		
03/31/2019		
04/30/2019		
05/31/2019		
06/30/2019		

The Tax Report was accepted as presented by the Mayor and Council as presented.

b. DELINQUENT TAXES – Town Clerk Shadina Jones

Mrs. Jones reported that conversations with the Town Tax Attorney Bill Pepper led to the recommendation and agreement to send attorney letters to delinquent tax payers prior to moving forward with tax liens. Currently the total arrears stands at \$54,538.31

POLICE DEPARTMENT REPORT – Chief Christopher Workman: (submitted prior to meeting)

- **Holiday Season**

Tis the Holiday Season and we are reminding all residents to lock the doors to their vehicles when parked in the area over night. We have had a rash of things being taken from cars resulting from cars being left unlocked. Do not make yourself a victim by leaving your car unlocked.

- **SALLE/EDIE**

Both SALLE and EDIE Grant allocations were approved for this year.

- **2017 CJC Byrne Grant**

The Cheswold Police Department has applied for the 2017 Byrne Grant of \$3,200 for the purchase of cradle point routers for each patrol vehicle in order to increase the connectivity of officers to their laptops without losing an internet signal. **Approval for this purchase is pending.**



**The OFFICERS and STAFF would like to
wish everyone a
*MERRY CHRISTMAS and a HAPPY and
SAFE HOLIDAY SEASON***



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POLICE DEPARTMENT REPORT – “continued”

- **Traffic Summons** –
Officers issued 169 traffic summonses during the month of October.
- **Monthly Activity Report** -
Officers responded to or completed reports for 180 incidents for the month of November 2018. No incidents were handled by outside agencies.
- **Monthly Incident Report – November 2018**

911 Disconnects = 2	Fireworks = 0	Rape = 0
Accidents-H/R = 0	Fraud = 0	Relay = 0
Accidents-Dept = 0	Fugitives = 7	Repossessions = 1
Accidents PD = 2	Harassment = 0	Resisting Arrest = 0
AED/CPR = 0	Lock Jock = 0	Robberies = 0
Alarms = 6	Lost Property = 2	Sex Crimes = 0
Alcohol Violations = 0	Lost/Stolen Tag = 0	Shoplifting = 0
Animal Complaints = 0	Loud Party = 0	Shots Fired = 0
Assaults = 0	Medical Transport = 0	Solicitation = 0
Assigned in Error = 2	Megan’s Law = 0	Stolen Vehicle = 0
Assist Other Agencies = 32	Mental Patient = 0	Suspicious Noise = 0
BOLO = 1	Misc. Investigation = 0	Suspicious Person/s = 7
Burglary = 0	Missing Person = 1	Suspicious Vehicle/s = 0
Burning = 0	Noise Complaint = 0	Terroristic Threat/s = 1
Check on Welfare = 0	Offensive Touching = 4	Thefts = 1
Civil Dispute = 0	Open Burning = 0	Traffic Hazards = 0
Court Violation = 0	Open Door/Window = 0	Traffic Hazard/Service = 1
Criminal Impersonation = 0	Ordinance Violation = 0	Traffic Violations = 49
Criminal Mischief = 0	Overdose = 0	Trespass = -1
Curfew = 0	Parking Violation = 0	Unassigned = 0
Custody Dispute = 0	Pay Job/Special Duty = 0	Unfounded = 0
Death Investigation = 0	Pedestrian Stop = 0	Vehicle/s – Abandoned = 0
Disorderly = 1	PFA Service = 1	Vehicle/s – Disabled = 0
Domestics = 3	PFA Violation = 0	Vehicle/s – Recovered = 0
Drugs = 5	Property Checks = 5	Vehicle/Unauthzd Use = 0
Dumping = 0	Psychiatric Incident = 1	Warrant Service = 0
DUI = 0	Public Assistance = 7	Weapon – Gun = 0
Fight = 1	Pursuit = 0	Welfare Check = 0

IF YOU DON’T CALL WHO WILL – CALL 9-1-1

The Police Department Report was accepted as presented.

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PUBLIC WORKS REPORT – “continued”

wiring and metal plumbing. In March 2018, his contractor, Apex Builders submitted his construction plans to the County. He was directed by the Insurance Company that the building must be restored to its former use. His contractor reported to him that he could not get his plans passed by the Cheswold Building Inspector. He stated that he didn't know what the original issues were with the plans and failed to be hands on, but received a notice from Town Hall that he could not restore building to what it was.

According to Mr. Dowd he was informed by his Insurance Company to obtain another contractor. And he wants to move forward with another contractor as he still owes \$100,000 on the building.

At that time, Mrs. Callender reiterated that she was representing the Town as the Land Use Administrator and asked Mr. Dowd if he was aware that his building was zoned R-1 and located in the Old Town section of Cheswold. He said he did not understand exactly what that meant.

Mrs. Callender explained that Old Town is a section of Cheswold designated in the Town Comprehensive Plan and Land Use Ordinance as a section of Town that is zoned as R-1, which means single family home – residential. And as such all homes in that area should be single family homes. She also explained that it was realized that not all buildings in Old Town were single family at the time the area was zoned, but it was the desire of the Town to return the area to that state. As a result, the Land Use Ordinance provided a caveat for buildings that were not single family which allowed them to continue to exist as Non-Conforming Structures and she read the definition from Section 5-3 of the Land Use Ordinance. (See Attachment A) She asked Mr. Dowd if he agreed that his building was a Non-Conforming Structure and he agreed. She then read Section 5-3 C1 and C2 – Termination of Legal Non-Conforming Status and asked Mr. Dowd if he agreed that his building and situation met the definition. He agreed. She stated that legally Mr. Dowd lost his “grandfathered” status in May, 2018 and although the Town has no legal obligation to inform him, since she didn't do it in May, she notified him by certified mail in September 2018, which actually extended his “grandfather” status by 3 months.

Mr. Dowd acknowledged the receipt of the notice but requested the Council to provide additional time for him to begin corrective construction in the “grandfathered” state of the building.

Vice Mayor Kirby made note that Mrs. Callender had extended the “grandfather” state without Council permission therefore he was making a motion that the “grandfather” state be extended to May, 2019. Mrs. Callender advised that this was a direct violation of our Land Use Ordinance and Comprehensive Plan. Councilperson Faronea suggested that the motion be amended to require Mr. Dowd to report to the Council monthly on his progress.

The motion was so made by Councilperson Faronea with his addition and a second was made by Vice Mayor Kirby and the motion passed with a vote of 3 to 0 with Mrs. Callender recused from the vote.

Attachment B is a copy of the plan review letter from the Building Inspector to the Contractor and Property Owner. The letter was sent twice. Once in March, 2018 and again in May, 2018

VIOLATIONS:

1. **Villages of Nobles Pond** – Lots 217; 238;285;101; 299 and 56 have failed their inspections. Lots 285 and 216 have revisions done and been fined accordingly. As of this date all fines have been paid as required.

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PUBLIC WORKS REPORT – Code Enforcement Officer Mike Callender

a. **Status Report** – The following report was submitted to the Mayor and Council:

	<u>PERMITS ISSUED</u>	<u>NEW VIOLATIONS</u>	<u>CLOSED VIOLATIONS</u>	<u>BUSINESS LICENSES ISSUED</u>	<u>BUILDING INSPECTIONS</u>
November 2018	8	3	8	4	0

The Status Report was accepted as presented.

b. **CODE ENFORCEMENT PROPERTIES**

1. **30 New Street** - Have received two, (2), demolition estimates:

- o **Sunnyfield Construction - \$8,750.00**
If asbestos abatement survey is required additional - \$600.00
If asbestos is present additional - \$1,000.00
Could total - **\$10,350.00**

- o **Gateway Construction - \$16,800.00**
Asbestos abatement survey and potential removal are included in estimated cost.

Note: *The above estimates are from 2016. Have received legal opinion that property can be demolished, however financial cost is an obstruction at this time-September 2018. ON HOLD – PENDING FINANCING*

2. **33 New Street** – All attempts to contact Doug Wiseman, the property owner, have been and unsuccessful. Two Notices of Violation have been mailed to the last known address. The overgrown weeds and grass at this property have been cut by Mr. Ziegenhorn. In discussion with new Attorney concerning possible Town options. **PENDING**

3. **179 Commerce Street** – The property owner has been sent a certified letter that the grandfathered lot status has expired, per Land Use Ordinance Article 5, Section C-1, and the property must now be restored as a single family dwelling as required by the Zoning Code. There has also been a sink hole noted on the premises. There has been no response from the property owner. **PENDING**

Mr. Jim Dowd, property owner was attendance at this meeting and requested to address the Council. Prior to his address Ms. Callender informed the Mayor and Council that she was recusing herself from this part of the meeting as a Council member, as she would be representing the Town in her position as Land Use Administrator and thus was not certified to vote in any decision that may be made by the Council.

Mr. Dowd then introduced himself and explained that he’s owned 179 Commerce Street for 20 years and that he had a fire in the building in May 2017, and unfortunately a life was lost as a result. And that due to the damage and condition of the building he was not permitted access until September 2017. At some time, he did not specify when, his insurance company agreed to repair the building and referred him to a contractor. The trash and debris as a result of the fire was removed in January 2018. Then someone stole the electric

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PUBLIC WORKS REPORT – “continued”

2. **Stonington** – The last communication with the property owners regarded the continual upkeep of the property to include cutting of the grass, sewer plate risers and pot hole maintenance. As of this report all of the outstanding items have been satisfied. **COMPLETE**

Construction Repairs

- **Main Street, (Rte. 42), Sidewalk** – There has been no further correspondence of which this office is aware regarding the sidewalk across from the Post Office. Continuing to wait for a response from DelDOT.
- **School Lane** – Reports of potholes on School Lane have necessitated review and potential repair. Currently investing and will be contacting asphalt companies to gather estimates. White’s Custom Paving; Rock Bottom Paving; Dr. Sealcoat and Affordable Asphalt are all being considered for the job depending on the cost estimate. Upon receipt of all estimates a decision will be made on the selection of a contractor.

PLANNING COMMISSION REPORT – *Land Use Administrator Sam Callender*

Due to scheduling conflicts among the members, the December meeting has been cancelled and the Commissioners will begin meeting two or three times per month in January in order to develop the 2020 Comprehensive Plan

ORDINANCES - *Town Administrator Sam Callender*

NOTHING to REPORT

RESOLUTIONS - *Town Administrator Sam Callender*

Resolution 12-10-2018-088 Authorization to Hold Public Hearing for the Revision of 2012 IRC Code will be presented at the January Council meeting.

Resolution 12-26-2018-089 Authorization to Hold Public Hearing for the Annexation of 5867 N Dupont Hwy, Kent County. Note: This resolution number was changed as a result of pending approval from Office of State Planning Commission

PROCLAMATION- *Town Administrator Sam Callender*

NOTHING to REPORT

Old Business:

a. Town Charter Update – *Vice Mayor Larence Kirby* -

Discussion concerning compensation types to encourage Council participation was conducted. Ms. Callender volunteered to obtain and forward information on financial compensation to Mayors and Council members in other municipalities for discussion at next month’s Council meeting.

Ms. Callender confirmed that all members received spreadsheet of municipal compensations and then made a motion to retain the Charter as is. Vice Mayor Kirby made a second to the motion and it passed with an unanimous vote.

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Old Business: *"continued"*

b. Town of Cheswold vs. Cheswold Business Park – *Town Administrator Sam Callender*
Next Steps - **PENDING**

c. Main Street Crossing - *Vice Mayor Larence Kirby* -

The Vice Mayor is continuing to obtain a resolution which he confirmed he has been and will continue to pursue with Senator Dave Lawson. Pending DelDOT response and he may be able to obtain signage for the crosswalk in lieu of crossing stripes.

New Business

NOTHING to REPORT

Community Comments/Concerns

NOTHING to REPORT

COUNCILPERSON COMMENTS:

Vice Mayor Larence Kirby – *NOTHING to REPORT*

Secretary/Treasurer Theon Callender – *NOTHING to REPORT*

Councilperson Judith Johnson – *NOTHING to REPORT*

Councilperson Santo Faronea – *NOTHING to REPORT*

Councilperson Mark Moxley– *EXCUSED*

MAYOR'S COMMENTS: *NOTHING to REPORT*

Motion to Adjourn

A motion was made by Councilperson Callender, seconded by Councilperson Faronea to adjourn at 7:07 p.m. A roll call vote on the motion resulted in a unanimous vote to approve and the meeting was adjourned.

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Article 6. Zoning Districts and Map

Section 6-1. Establishment of Zoning Districts

A Base Zones

Table 6-1 Zoning District Summary

Zoning District	Designation	Typical Kinds of Uses in Zone
Residential	R-1 Old Town Residential	Single family dwellings and home based or neighborhood businesses, located in the historic center of the original Town.
	R-2 1 & 2-Family Residential	Single family, duplexes, and single-family semi-detached dwellings and institutional uses such as schools, churches, or municipal buildings.
	R-3 1, 2 & 3-Family Residential & Townhouse Residential	Uses permitted in R-2 plus age-defined communities, townhomes and multi-family dwellings, including apartments. Also clustered residential designs with associated public services.
	R-4 Manufactured Home Park & Trailer Park	For Manufactured Homes and Existing Trailer Parks
Commercial	C-1 Neighborhood Business	Small scale commercial uses that can meet setback & off-street parking requirements
	C-2 Highway Commercial	Commercial located on arterials; also for large-scale shopping centers and uses that are not appropriate in Neighborhood Business (C-1) or require substantial buffering from residential uses.
Industrial	I-1 Light Industrial	Light or small-scale industrial uses, and other uses such as Warehousing and mini-storage.
	I-2 Heavy Industrial & Extraction	Heavier or larger industrial uses. Outdoor storage of materials is discouraged, however accessory uses for storage are allowed. Towers for communications.

Insert R-5

Insert I-1

Section 6-2. District Purpose and Intent

A R-1 Old Town Residential

1. To preserve the configuration and layout of the historic center of the Town, and to permit continuing residential uses where lot sizes are very small.
2. To permit small home businesses, and local neighborhood services without impacting the character and layout of the original railroad town.

B R-2 Single and Two-Family Residential

Table 7-2 Permitted Uses & Structures

	Zone R-1	Zone R-2	Zone R-3	Zone R-4	Zone C-1	Zone C-2	Zone I-1	Zone I-2
Blank	Not Permitted							
P	Permitted Use							
SP	Site Plan Review required. See Sec. 4-2.							
CU	Conditional Use. See Sec.4-7.							
O	Overlay Zone Applies (See Sec. 6-2)							
See definitions in Art. 2.								
Agriculture-Related Uses								
Farms, Customary and conventional farming operations including the raising of vegetables, flowers, and horticultural materials not to be construed to include commercial poultry and swine production, cattle feeder lots, and fur bearing animal farms.		P	P		P	P		
Greenhouse, Commercial			CU SP			P SP		
Residential Uses								
Apartment above commercial or office uses			CU SP		P SP			
Bed & breakfast	CU	CU	CU		CU			
Dwelling, Two Family		P,SP	P,SP					
Dwelling, Manufactured Home				P,SP				
Dwelling, Multi-family			P,SP					
Dwelling, Single Family including modular homes	P,SP	P,SP	P,SP	P,SP				
Dwelling, Single Family Manufactured homes				P,SP	P,SP			
Dwelling, Townhouse			P,SP					
Home Based Businesses – See Section 74	CU	CU	CU	CU				
Sales & Rental of Goods, Merchandise, and Equipment								
Convenience Store					P,SP	P,SP		
Retail Food Establishments			P,SP		P,SP	P,SP		
Retail Sales Establishments			P,SP		P,SP	P,SP		
Retail Sales Establishments with drive-through					CU, SP	P,SP		
Supermarket			CU SP		CU SP	P,SP		
Restaurant			CU SP		P,SP	P,SP		
Restaurant with drive through					CU SP	P,SP		
Wholesale trade establishments						P,SP	P,SP	
Shopping Center					CU SP	P,SP		
Office, Clerical, Research, Personal Service and Similar Enterprises Not Primarily Related to Goods and Services								
Business Service Establishments					P,SP	P,SP		
Offices			CU SP		P,SP	P,SP	P,SP	P, SP
Office complex of multiple buildings					CU SP	P,SP	CU, SP	
Miscellaneous Service Establishments					CU SP	P,SP		
Personal Service Establishments			CU SP		P,SP	P,SP		
Retail Service Establishments			CU SP		P,SP	P,SP		

Table 8-1. Basic Development Standards in Residential Zones

	R-1				R-2				R-3				R-4
	Old Town	Single Family	Duplex	Triple Attached	Single Family	Duplex And Triple Attached	Town House	Multi-Family	Manufactured and Mobile Housing				
Minimum living space (SF)	1,000	1,200	1,000 per unit	1,000 per unit	Same As R-2	Same As R-2	1,000 per unit	800 per unit	980 per unit				
Tract Standards													
Tract Area	5,000 SF	7,000 SF	7,000 SF	8,000 SF					20,000 SF	40,000 SF	15 acres		
Maximum DUs Per Acre	N/A	6.2	12.4	16.3					8.0	8.0	4.5		
Lot Standards													
Lot Area Per DU (SF)	5,000	7,000	3,000	2,000					2,000	3,000	5,000		
Street Frontage (feet)	30	30	30	Interior 20 End 30					Interior 20 End 30	125	30		
Lot Width at Front Bldg. Line (feet)	30	75	60	Interior 20 End 30					Interior 20 End 30	N/A	50		
Setbacks (feet)													
Front Yard	10	15	15	15					15	15	25		
Side Yard													
One	5 ^a	10	10	10					10	20	10		
Sum of Both	10	20	20	N/A					N/A	40	20		
Rear Yard	30	30	30	30					30	40	25		
Maximum Building Height													
Stories	2 ½	2 ½	2 ½	2 ½					2 ½	2 ½	2 ½		
Feet	35	35	35	35			35	35	35				
Maximum Building Coverage (% of Lot)	50%	50%	50%	50%			50%	60%	60%				
Minimum Lot Depth	100	100	100	100			100	100	100				

Notes:

1. R-1 is a closed zone, that is no new lands shall be zoned R-1.
2. Living space is heated space, excluding for example but not exclusively, garage, attic or un finished basements.
3. Tract Area is the minimum acreage or square footage needed to develop land for each dwelling unit type.
4. Lot Area is the minimum lot size for each dwelling unit type.
5. DU means dwelling unit.
6. SF means square feet.
7. See building height note Section 6-2, H, 2.
8. There is a required 10' clearance between a new structure and an existing structure on an adjacent lot.

43,560 sq ft. = 1 acre

Article 5. Nonconforming Situations

Section 5-1. Definition & Intent

A Definition

Nonconforming situations are existing structures, lots, signs, and uses of land, which were lawful before this Ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under the provisions of this Ordinance.

B Intent

Nonconforming situations may continue until they are removed, but their survival is not encouraged.

Section 5-2. Nonconforming Lots

A Definition

A lot, whose area and/or width were lawful before this Ordinance was adopted, revised or amended, but does not meet the current lot area and/or lot width standards of this Ordinance.

B Nonconforming Legal Lots

1. Definition. A nonconforming legal lot is a nonconforming lot of record, whose owner or ownership entity does not own or control adjacent property.
2. Applicability. Zoning districts where single-family dwellings are permitted.
3. Regulation. A non-conforming legal lot may be developed, without a variance, with a single-family home, including customary accessory structures, as long as it complies with the dimensional and density standards of this Ordinance, other than lot area and/or lot width.

C Other Situations

1. Where a property owner owns or controls land adjacent to a single nonconforming lot, the adjacent land must be added to the nonconforming lot and re-platted so that the resulting lot conforms to the standards of this Ordinance.
2. Where a property owner owns or controls land adjacent to a group of nonconforming lots, the lots must be re-platted to conform to the standards of this Ordinance.
3. Adjacent nonconforming lots of record owned or controlled by the same owner or ownership entity, may not be sold to different purchasers in order to subvert the intent of this Ordinance.

Section 5-3. Nonconforming Structures

A Definition

A structure, whose dimensional and density characteristics were lawful before this Ordinance was adopted, revised, or amended, but does not meet the dimensional and density standards of this Ordinance.

B Continued Existence

A nonconforming structure may be continued under the following conditions:

1. Normal repair and maintenance is permitted.
2. A nonconforming structure may not be enlarged or altered in a way that increases its nonconformity. It may be altered in a way that decreases its nonconformity.
3. Nonconforming structures may not be used as grounds for the addition of other structures or uses that do not conform to the standards of the zoning district.
4. If a nonconforming structure is moved, it must be located in a manner that conforms to the requirements of the zone in its new location.

C Termination of Legal Nonconforming Status

1. When a nonconforming structure, or a nonconforming portion of a structure is destroyed, by any means by more than 50% of its replacement cost at the time of destruction, its legal, nonconforming status is terminated unless reconstruction of the structure commences within twelve (12) months time of said destruction.
2. Any subsequent use, including replacement construction, of such land shall conform to the provisions of this Ordinance.
3. Manufactured homes removed for any reason after the effective date of this ordinance may only be replaced by homes meeting the current HUD codes and all other requirements of this ordinance.

Section 5-4. Nonconforming Uses**A Definition**

A use or activity, that was lawful before this Ordinance was adopted, revised, or amended, which is not permitted under the Use Regulations of this Ordinance.

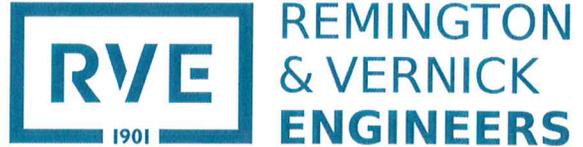
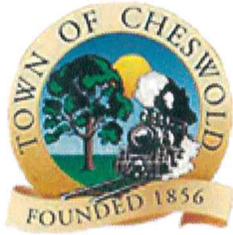
B Continued Existence

Although nonconforming uses are incompatible with permitted uses in their respective districts, a nonconforming use may continue under the following conditions.

1. The use or portions of the structures accommodating the use may not be enlarged, increased, or extended to occupy a greater area of land than was occupied on the date when this Ordinance is adopted or amended.
2. The use may not be relocated or partially relocated from its location on the date when this Ordinance is adopted or amended unless it is placed in a zoning district that allows such use.

C Termination of Legal Nonconforming Status

ATTACHMENT B



Plan Review Comment Letter

Town Permit Application Number: N/A Date: 5/23/18

RV&B Project Number: N/A

Reviewed by: Remington & Vernick Engineers
University Office Plaza, 262 Chapman Road
Bellevue Building, Suite 105, Newark, DE 19702
Work: (302) 266-0212 Fax: (302) 266-6208

Description of Work: Fire restoration – multi-family structure

Site Address: 179 Commerce St.
Dover, DE 19904

Plan Reviewer: David Naples, MCP

Client: Town of Cheswold, Delaware

Applicable Codes: 2012 International Building Code and references. The proposed construction submission was not reviewed by Remington & Vernick Engineers for conformance with applicable Cheswold land development, sewage connection, flood plain, shade tree, signage, driveway, and curbing regulations, etc.

Construction documents for this project have been submitted on multiple occasions. Comments regarding the plan deficiencies were provided to the applicant previously on 3/21/18. Those comments have yet to be addressed and are included below for reference with the associated insufficient responses.

The following items require additional information, once the information has been submitted the plan review can be further processed:

1. The submitted construction documents are not sealed as is required by DE Title 16 and 24.
2. Approval for the project from the Office of the State Fire Marshal was not provided as is required.
3. The address of the property is not noted on the submitted construction documents. (IBC 107.2.1)
4. The occupancy classification of the structure is not noted on the submitted construction documents. (IBC 107.2.1)

5. Citation of the applicable code used for the creation of the submitted construction documents is not noted on the plans (IBC 107.2.1)

6. A note on the construction documents stipulates that the structure will NOT be provided with a fire suppression system or a fire alarm system. As submitted, the structure IS REQUIRED to be provided with an automatic sprinkler system in accordance with IEBC 901.2 and 804.2.2; it represents a Level 3 alteration and IS NOT a REPAIR as is claimed in the responses below. The construction documents must be revised to include the installation of an automatic fire sprinkler system whether or not the SFMO requires such a system.

7. The project narrative stipulates that 6 units are proposed yet only 5 are depicted on the construction documents.

8. New construction versus existing construction is not clearly identified throughout the structure.

9. The Town of Cheswold requires that a properly licensed structural engineer evaluate the integrity of the existing structure and define components that may be re-used and those that must be replaced.

10. Compliance with energy conservation requirements is mandatory per 2012 IECC C101.4.3; *Additions, alterations, renovations or repairs to an existing building, building system or portion thereof shall conform to the provisions of this code as they relate to new construction without requiring the unaltered portion(s) of the existing building or building system to comply with this code.* Documentation demonstrating compliance with all applicable IECC provisions is required.

11. Compliance with the Accessibility provisions of 2012 IEBC 906.2 has not been demonstrated. This code section stipulates, *Where four or more Group I-1, I-2, R-1, **R-2**, R-3, or R-4 dwelling or sleeping units are being altered, the requirements of Section 1107 of the International Building Code for Type B units and Chapter 9 of the IBC for visible alarms apply only to the quantity of the spaces being altered.*

12. No information was provided for the proposed interior finishes. Compliance with the applicable requirements of 2012 IBC could not be determined.

13. Details for all newly proposed structural elements must be provided to determine code compliance; eg – ceiling joists, roof rafters, floor joists, wall studs, etc.

14. The construction documents identify that the removal of asbestos materials is proposed. The Town of Cheswold requires proper documentation and notification of DNREC and adherence to ALL applicable requirements imposed by the regulatory agencies accordingly. DO NOT remove any asbestos containing materials unless properly authorized to do so by DNREC and providing documentation of such approval to the Town of Cheswold.

Begin previous comments

For reference, the following MUST be addressed BEFORE a formal code review will be performed on properly prepared and submitted construction documents:

-
- Plans are sealed as is required by State Law **Will do**
- Approval from the Office of the State Fire Marshal's is mandatory: **Need to Apply**
- Approval from the Office of the State Plumbing Inspector is mandatory **Need to Apply**

- The submitted plans are incomplete:
 - o No occupancy classification stated: Group R-2
 - o No governing code citation is provided: IBC 2012
 - o No property address noted you'll have to add that
 - o Plan narrative states 6 dwelling units when only 5 are depicted Seems that was a mistake, but it's hard to tell for sure. I would label each unit, unit 1, unit 2, etc.
 - o Scope of work must be defined in accordance with the 2012 International Existing Building Code: I'm assuming this classifies as a repair. A repair is simply the restoration of existing damaged features with no changes to loads or occupancies or arrangements of spaces. If any of those are false, then we're in an alteration. A level 1 alteration is the removal of finish materials for upgrading with new materials serving the same purpose. A level 2 alteration is a reconfiguration of the spaces, removal or addition of doors and windows. A level 3 alteration is anything more advanced than that.
 - o Justification for not providing fire suppression system in the design must be provided If it's a repair, I would point to 603.1 in the 2012 IEBC that states that fire protection must be maintained at existing levels, it does not call for upgrading them to higher standards. Level 1 alteration has the same standard, but the section is 703.1. Level 2 alterations get trickier, I would argue that each tenant has a direct exit outside and 804.2.2 doesn't apply.
 - o No information was provided for interior finishes This is probably rectified by a note that all interior wall finishes to be class a, b, or c, all interior floor finishes to be class I or II. They may want more detail about what you're putting in there, not sure.
 - o New versus existing walls and elements must be identified on construction documents I would do a wall schedule or some very clear defining technique as to which walls are existing, which walls are being repaired and which walls are being built new.
 - o Plan narrative states "repair fire damage as necessary"; The scope of this item must be determined and provided under seal by a Delaware licensed structural engineer and will be verified by the Town of Cheswold. I can't help with this one as you'll need a structural engineer to write up a report. In Kent County, I usually use Baker Ingram for that, but there are probably cheaper options.
 - o No information for Energy Code compliance was provided This is a bit of an odd request, can't tell if he wants a ComCheck or more information on an insulation upgrades you're doing. If you're exposing any new framing cavities, they'll have to be filled with insulation, and you may have to provide r-49 in the ceilings.

- o No information was provided for all applicable aspects of the Interior Environment including mechanical ventilation Not sure what he's looking for here either. I presume he wants information on how each unit is heated, what sort of HVAC system, do the ducts penetrate the fire walls, are they fuel burning, where are they located, etc.

This list in no way represents a comprehensive listing of all code items and the Town reserves the full right to perform a fully comprehensive review upon receipt of a properly prepared permit application submission.

A resubmission addressing the aforementioned issues is required. Please contact me via email with any question that you may have in regards to these comments.

A minimum of 2 sets of construction documents is required for resubmission.

The Town of Cheswold reserves the right to make further comment based on information or plans submitted. DO NOT START ANY WORK UNTIL THE PROPER PERMITS HAVE BEEN OBTAINED.

The Town of Cheswold Office of the Building Code Official will not review any further submissions or provide comment unless each and every item noted above, in addition to any other applicable code requirement, is submitted in proper format as dictated by the IBC.

Respectfully Submitted,

David A. Naples, MCP
Remington & Vernick Engineers
University Office Plaza
Bellevue Building
262 Chapman Road, Suite 105
Newark, DE 19702
David.Naples@rve.com