

Town of Cheswold
1856



State of Delaware
1787

**PLANNING COMMISSION
MEETING MINUTES
THURSDAY, SEPTEMBER 14, 2023
691 Main Street
Cheswold, Delaware 19936**

ATTENDANCE VIA ZOOM WAS AVAILABLE

Planning Commissioners In Attendance:

**Mr. Stephen Williams – Chairperson
Ms. Barbara Cooper Commissioner - via ZOOM
Mr. Dave Naples - Commissioner - via ZOOM
Mr. Michael Callender – Commissioner - *Excused*
Ms. Kara Naples - Commissioner – via ZOOM**

Also in Attendance:

Ms. Sam Callender, Town Land Use Administrator

MEETING OPENING:

The meeting was called to order at 5:01p.m., by Chairperson Williams, followed by a Salute to the Flag and a Moment of Silence.

MEETING PROPERLY POSTED

Chairperson Williams acknowledged that the meeting had been properly posted.

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ROLL CALL:

Chairperson Williams conducted a roll call, and it was acknowledged that a quorum of members were in attendance, and the meeting proceeded.

AGENDA REVIEW:

A call for a review of the agenda was made by Chairperson Williams.

A motion was made by Commissioner Dave Naples with a second from Commissioner Barbara Cooper to approve the agenda as presented. The motion passed with a unanimous roll call vote of the Commissioners.

MINUTES REVIEW:

Chairperson Williams requested the Commissioners to review the minutes of the meeting of the previous month and to make a motion to accept as presented or provide notice of items requiring revisions.

A motion was made Commissioner Barbara Cooper to accept the minutes as presented and Commissioner Dave Naples provided a second to the motion. The following minutes passed with a unanimous roll call vote of the Commissioners:

Planning Commission Meeting
August 10, 2023 Minutes

NEW BUSINESS –

1. NEW BUSINESS –

a. Review of Land Use Ordinance

- Article 8. Dimensional and Density Standards

- Table 8-5. Permitted Projections into Required Yards

Land Use Administrator Sam Callender on behalf of excused Commissioner Mike Callender stated that Table 8-5 appears to prohibit the construction of enclosed porches and decks in all residential zones. And this specifically affects the Stonington community.

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NEW BUSINESS – *“continued”*

- Table 8-5. Permitted Projections into Required Yards

Commissioner Dave Naples explained that the prohibition is against the projection of enclosed porches or decks into the setback limits, and not a prohibition against enclosed porches. Additionally, Commissioner Naples stated that due to the acreage available to most property owners within the Stonington community, there should not be any issue with anyone constructing an enclosed porch or deck.

All attendees agreed with the assessment of Commissioner Naples and considers this a completed item.

b. POOLS

Chairperson Williams requested Land Use Administrator Callender to discuss the changes previously agreed upon by the Commissioners concerning pools.

Ms. Callender presented a draft of an Ordinance that includes changes previously approved as recommendations to the Town Council for revisions to Article 7. Section 7.5 Home Based Businesses and Article 8. Dimensional and Density Standards, (see Ordinance 08-30-23-072), of the Land Use Ordinance. She also presented the Town policies for the Town of Cheswold International Swimming Pool and Spa Code and the Building Permit Application Requirements – Swimming Pools, Hot Tubs and Spas.

The Commissioners agreed that the revisions documented in the Ordinance reflect the changes suggested by them and should be presented to the Town Council for review and vote.

c. QUESTION for DISCUSSION

Can a home owner operate a multi-unit rental in a single-family home in a R-2 zoned community?

Ms. Callender explained that she had been informed by the Police Department that a residential unit in the Parkers Run community appears to be being used as a multi-unit rental property. The allegation was made based on a visual observation on door numbers from 1 through 4 on what appears to be bedroom doors. In addition, while speaking with the persons in the home, none of the residents appear to be related by blood or marriage.

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NEW BUSINESS – *“continued”*

c. QUESTION for DISCUSSION – *“continued”*

Commissioner Dave Naples provided the following information concerning the question:

“There is nothing in the Land Use Ordinance that speaks to multi-unit rentals in a single family home in a R-2 zoned community with any specificity.

There is a concern about what unit means in the question. Additional dwelling units within the structure? Accessory dwelling units? A boarding or rooming house?”

Ms. Callender stated that the boarding/rooming house scenario best describes the situation that prompted the question.

“Dave explained that based on that response then NO a multi-unit rental is not permitted in the R-2 Zone. R-2 zoning permits Bed & Breakfast with a Conditional Use approval, but visitors can stay no longer than 14 days. There is a need to determine what the situation really looks like.

R-2 allows for single family dwellings; two family dwellings, and even triple family dwellings, but not multi-family dwelling and there are different definitions for each of those. So R-2 indicates that it is a single family detached building containing one dwelling unit. Dwelling unit is categorized by cooking equipment, so in the absence of cooking equipment in those individual rooms, they are not dwelling units, they are rental units. And the term family shows up in all the definitions.

The Family definition indicates that they do not include disciplinary units, group homes, dormitories, boarding houses, rooming houses, fraternities, day care facilities or any family similar to those included.

So in the absence of being specifically included, it would be specifically prohibited. Whether it is a boarding house which may provide meals or a rooming house that does not serve meals, it falls into the definition of a boarding or rooming house, but it does not meet the definition of a family as defined for a R-2 Zone. “

Commissioner Cooper agreed with the statements and expressions of Commissioner Dave Naples that the R-2 Zone excludes boarding and rooming houses and the situation described by Ms. Callender falls into the category of either a boarding or rooming house.

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NEW BUSINESS – “*continued*”

c. QUESTION for DISCUSSION – “*continued*”

Ms. Callender asked the Commissioners what her next steps should be because of deciding that the situation which generated the question has determined that an illegal boarding/room house environment is being conducted in a R-2 Zone.

Commissioner Dave Naples and Cooper informed Ms. Callender that a Notice of Violation needs to be submitted to the homeowner via registered certified mail, with a signed receipt required.

The Notice of Violation should include the terms that must be met to bring the property into compliance; the required time limit to complete, (24 – 48 hours); and a date and time to permit a visual inspection of the property.

If the homeowner denies access, it may be necessary to assess a cease and desist order and potentially obtain a warrant.

It is additionally important to obtain a copy of the police report if possible, and to maintain all paper work.

After the Meeting – Ms. Callender contacted Police Chief Workman and requested a copy of the police report that instigated the question. Chief Workman agreed to find the police report and he may be able to provide a camera recording of the property.

OLD BUSINESS:

a. **Review of Revisions to Article 4. Administrative Procedures - Pages 8 – 14**

Land Use Administrator Callender reminded the Commissioners that she updated the pages that need to be reviewed and hopefully the discussion and review of this section will be continued at the next meeting.

It was unanimously agreed to do so.

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COMMENTS:

Chairperson Williams then moved on to comments from the attendees:

- **TOWN ENGINEER' S COMMENTS:** Excused

- **LAND USE ADMINISTRATOR COMMENTS:** Reminded Commissioners that the Town will be hosting a Heritage Day on September 30, 2023 at 10 am – 2 pm, in the field across from the Fire house.

- **COMMISSIONER BARBARA COOPER:** – Questioned the need to revise Item 2 of Section 7.5 of the Land Use Ordinance from “Baby-sitting”, to “Day Care”. It was unanimously agreed by the Commissioners.

After the Meeting – Ms. Callender notified the Commissioners via e-mail that upon additional consideration, she’s not sure that Day Care is the proper terminology to convey the intent of the statement as it refers to a Home Based Business.

- **COMMISSIONER DAVE NAPLES:** - Asked if there was a swearing in ceremony for the 2 new members of the Planning Commission. Ms. Callender responded that in the past a ceremony was held, but it’s not required. She also stated that the Town Council had approved a Resolution appointed Kara Naples and Mike Callender to the Commission on September 11, 2023. Commissioner Dave Naples accepted that explanation.

- **CHAIRPERSON STEVE WILLIAMS:** – Asked if anyone wanted to volunteer to be Vice-Chair. He will not be able to attend the October meeting and needs someone to take his place. After some discussion, it was agreed to ask Mike to conduct the October meeting and to potentially serve as Vice Chair.

- **COMMISSIONER MIKE CALLENDER:** - Excused

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NEXT MEETING DATE:

Thursday – October 12, 2023; 5:00 p.m.
Regularly Scheduled Planning Commission Meeting

Meeting to be Held at:

Cheswold Town Hall - Commissioners and Applicants only

- **ZOOM** will be available for all others

MOTION to ADJOURN:

A motion to adjourn was made by Commissioner Kara Naples at 5:35 p.m. A second to the motion was made by Commissioner Cooper and a unanimous roll call vote passed the motion.

Minutes Submitted by: Land Use Administrator Sam Callender – September 21, 2023