

*Town of Cheswold*  
1856



*State of Delaware*  
1787

**PLANNING COMMISSION  
MEETING MINUTES  
THURSDAY, OCTOBER 12, 2023  
691 Main Street  
Cheswold, Delaware 19936**

***ATTENDANCE VIA ZOOM WAS AVAILABLE***

**Planning Commissioners In Attendance:**

**Mr. Stephen Williams – Chairperson via ZOOM  
Ms. Barbara Cooper Commissioner - via ZOOM  
Mr. Dave Naples - Commissioner - via ZOOM  
Mr. Michael Callender – Commissioner  
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 Acting Chairperson Mike Callender, followed by a Salute to the Flag and a Moment of Silence.

**MEETING PROPERLY POSTED**

Acting Chairperson Callender acknowledged that the meeting had been properly posted.

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**ROLL CALL:**

Acting Chairperson Callender 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 Acting Chairperson Callender.

A motion was made by Chairperson Williams 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:**

Acting Chairperson Callender 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 Chairperson Williams provided a second to the motion. The following minutes passed with a unanimous roll call vote of the Commissioners:

Planning Commission Meeting  
September 14, 2023 Minutes

**NEW BUSINESS –**

**1. SITUATION for DISCUSSION –**

**Single Family Homes in restricted zones used for boarding/rooming house/transitional home purposes.**

Acting Chair Callender presented two, (2), instances of single family homes appearing to be used in a boarding/rooming home environment. They are located in the R-1, (Old Town Residential) and R-2, (Single and Two Family Residential).

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NEW BUSINESS – “continued”

1. SITUATION for DISCUSSION –

Mr. Callender also pointed out that the residence in the R-1 Zone currently houses previously homeless vets some of whom may be handicapped. The situation in the R-2 Zone consists of a home that displays room numbers 1-4 on the bedroom doors. Both situations were brought to the attention of the Code Enforcement Officer as a result of Police Department activity occurring on the premises. There was a video available of the home in the R-2 Zone.

Land Use Administrator Sam Callender explained her involvement with the situations. She was informed of the R-2 issue as a result of a Police Department response to an alarm, which happens at the location more than is usual for a home residence. Likewise the R-1 issue was the result of a response by the Police Department to a female veteran that needed to be evicted for breaking house rules concerning drugs.

The R-1 issue was discussed and resolved at the September Planning Commission meeting with the decision made to notify the property owner of the violation of using a R-1 Zone residence as a boarding/rooming house, and the notification to remedy the condition within 48 hours.

The R-2 situation appears to be operating as a State sanctioned and federally funded homeless veterans program to provide temporary housing for veterans until they can be transitioned into their own private housing locations. The program is operated by a retired Air Force Sargent and the home is owned by a retired Air Force Colonel. There are stringent requirements that must be followed by the renters in order to maintain their residence at the location and they include requirements from the Town of Cheswold Land Use Ordinance.

There was detailed discussion concerning the validity of the veterans program including questions and concerns about the ADA compliancy of the house. Acting Chairperson Callender stated that a life safety inspection had been completed at the home and it had passed. If there had been life safety issues they would have had to be addressed by the home owner prior to the issuance of a Certificate of Occupancy.

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NEW BUSINESS – “*continued*”

1. SITUATION for DISCUSSION –

Mrs. Callender explained that a temporary solution to the violation would be to permit the program administrator to make a request to the Town Council to permit the continued use of the property as transitional housing until such time as all the current residents have moved into their permanent housing locations. The question was asked for a period on when that would occur. Ms. Callender responded that a time period is unknown, as this is a government program being administered across the State and Nation and no time limits have been placed on it.

She had additionally suggested that the property owner apply for a variance to operate the residence as a veterans transitional home on a permanent basis or until the owner sells the property.

There was continued discussion concerning the proof of the validity of the program and/or the facility and concern about the possibility of an unequitable solution to like situations.

Ms. Callender informed that she had contacted the Town Attorney and the Attorney provided information from the Delaware Code which states:

22 *Del. C.* § 309. Residential facilities for persons with disabilities.

(a) For purposes of all local zoning ordinances a residential facility licensed or approved by a state agency serving 10 or fewer persons with disabilities on a 24 hour-per-day basis shall be construed to be a permitted single family residential use of such property.

(b) For the purposes of this section, the term “persons with disabilities” includes any persons with a handicap or disability as those terms are defined in the Delaware Fair Housing Act Chapter 46 of Title 6.

6 *Del. C.* § 4502. Definitions.

- (18) “Person with a disability” means any person who satisfies any 1 of the following:
- a. Has a physical or mental impairment which substantially limits 1 or more major life activities.
  - b. Has a record of such impairment.
  - c. Is regarded as having such an impairment.

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NEW BUSINESS – “continued”

1. SITUATION for DISCUSSION –

However, this information did not provide the clarity intended. There remained a question as to whether the program or the facility have been properly and legally approved.

There was discussion that it appears that the program administrator or property owner may have supercede State requirements and guidelines to obtain State funding and to go around the Town. Mrs. Callender stated that she’s not even sure who is funding the program. It maynot be the State, but the Federal government, but she is absolutely sure that the property owner had no intent to violate any Town codes, rules, regulations or ordinances. Any mistakes that were made were just that – mistakes. The property owner has a binder that includes copies of Ordinances pertaining to rental processes and procedures for the Town. What she failed to include was Article 7 which specifies what uses apply in each Zone. Ms. Callender stated that she believes that this was a honest mistake and not an effort to circumvent the rules, regulations and/or requirements for housing reviews by the Federal government, the State or the Town.

Commissioner Naples presented the viewpoint that the situation does not adhere to the definition of a family, as stated in the Town Land Use Ordinance, which is:

**Family. A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability. The term, “family” shall not include disciplinary group homes, dormitories, boarding houses, rooming houses, fraternity houses, hotels, day care facilities, or any use similar to those specifically excluded.**

Nor does the Town Land Use Ordinance define the term Boarding House, but the Town adopted International Building Code does. And it defines it as:

**A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.**

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**NEW BUSINESS** – *“continued”*

1. **SITUATION for DISCUSSION** –

Based on the above definitions Chairperson Dave Naples expressed that the two situations are not necessarily similar and that the homeless veteran situation can meet the family definition specified in the Town’s Land Use Ordinance.

There was additional concern expressed concerning the validity of the program without a visual view of documentation.

Eventually it was agreed that Ms. Callender would notify the Program Director and Property Owner that they will need to present the program with accompanying documents to the Town Council and to make a request for a temporary Waiver of Use to the Town Council. However, they must also present their program and documents to the Planning Commission with a request for recommendation of approval of the Waiver.

In addition, if they desire a permanent Waiver, they must submit a Variance Request to the Board of Adjustment.

The initial presentation will be scheduled to be made to the Council at their November, 2023 meeting.

2. **OLD BUSINESS** –

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

The review was once again placed on hold.

**COMMENTS:**

Acting Chairperson Callender then moved on to comments from the attendees:

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

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COMMENTS:

- LAND USE ADMINISTRATOR COMMENTS:  
Nothing to Report
- COMMISSIONER BARBARA COOPER:  
Nothing to Report
- COMMISSIONER DAVE NAPLES: - Unnecessarily apologized for being late.

ACTING CHAIRPERSON MIKE CALLENDER:  
Nothing to Report

- CHAIRPERSON STEVE WILLIAMS:  
Nothing to Report

**NEXT MEETING DATE:**

Thursday – November 9, 2023; 5:00 p.m.

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 Chairperson Williams at 5:58 p.m. A second to the motion was made by Commissioner Dave Naples and a unanimous roll call vote passed the motion.

***Minutes Submitted by: Land Use Administrator Sam Callender – October 26, 2023***