

## ***Planning & Zoning Commission***

***March 22, 2018***

The regularly scheduled meeting of the Planning & Zoning Commission was held at Town Hall on March 22, 2018. In attendance were Chairman Boyan, Commissioner Scholl, Commission Members Catellier and Wilson, Community Development Coordinator Hardin and Clerk of Council Fisher. Absent: Commission Member Morgan. Guests: James Libengood, Chris Gilkerson, Kyle Hughes, Robert Colucco, Doug Marshall, Chris Brown, Kalpesh Patel and Kenny Soni.

### ***Call to Order***

Chairman Boyan called the meeting to order. The Commission performed the Pledge of Allegiance. He asked anyone who would be addressing the Commission to sign in at the podium and that anyone with a cell phone to either turn it off or put it in silent mode.

Chairman Boyan informed the Commission and the public in attendance that the Clerk of Council has informed him that the recording device is not working and that this meeting will only be able to be transcribed, and there wouldn't be an audio recording for the record.

Chairman Boyan also read a letter of resignation, for the record, from P&Z Member Latishia Morgan as of March 22, 2018.

### ***Approval of Minutes***

Commissioner Scholl made a motion to approve the February, 2018 minutes as circulated. Commission Member Wilson seconded the motion which passed with 4 ayes.

### ***New Business***

Kalpesh Patel- 30376 Trestle Place, Delmar, MD- Variance request for front and side setbacks for new home build

Mr. Patel and Mr. Kenny Soni were both present for this request. Mr. Soni identified himself as someone who will be speaking on behalf of Mr. Patel, since his understanding of the English language was far better.

Mr. Soni instructed the Commission to go to the written variance request they had submitted. Once there he noted that item #3 was incorrectly typed. It should read that on the south side (Trestle Place side) to allow the setback to be 10 ft. instead of 15 ft. The paperwork had the numbers reversed.

The variance request as it should read is as follows:

On the east side (Newbridge Drive) allow the side setback to be 10 ft. instead of the required 25 ft.

On the west side (touching Lot #2) allow the side setback to be 5 ft. instead of the required 10 ft.

On the south side (Trestle Place side) allow the front setback to be 10 ft. instead of the required 15 ft.

Chairman Boyan said that he was confused on how this lot was sold since it did not meet the required square footage for a buildable lot. Mr. Patel said that he is confused as well. He stated that he purchased the lot in November of 2017. When he bought the property he was not aware of and did not know anything about zoning regulations. Community Development Coordinator Hardin said that this should have been something that was discussed in the planning stage.

Commission Member Catellier said that right now the planned house does not fit the size of the lot. He asked if the next lot had a house built on it and if they had any conversations with those neighbors in reference to the proposed setbacks. He said that the Newbridge Drive setback is the one that needs changing. Mr. Soni said that no they had not spoken with the neighbors. CDC Hardin said that the neighbors will have the opportunity to express whatever concerns they might have at the public hearing at the Maryland Board of Zoning Appeals. He also said that another variance request would have to be added since the lot size does not meet the minimum of 60 sq. ft. in width. The width of the rear of the property is 44.23 sq. ft. These dimensions will have to be included in the variance request. CDC Hardin informed the Commission Members that a similar comparison would be in Wood Creek and Yorkshire.

Both Commissioner Scholl and Planning and Zoning Commission Member Wilson agreed with Commission Member Catellier that the variance would need to be on the Newbridge Drive side. The certified site plan provided does not show the house location on Lot 2 and how it sits within its' setbacks.

Commission Member Wilson made a motion to table this agenda item until the next Planning and Zoning meeting, to allow Mr. Patel enough time to obtain and provide a new certified site plan showing the house as it would sit on the property as well as the location of the house on Lot 2. Mr. Patel is asking for a 15 ft. setback on the Trestle Place side and the Planning and Zoning Commission Members do not feel there is a reason to request that variance. The Commission stated that they would like to see the house as it fronts Trestle Place. Commission Member Catellier seconded the motion which passed with 4 ayes.

Andy Wilkins- Reconfiguration of 200 and 202 E. East Street, Delmar, MD to make a conforming house lot for 202 E. East St and 200 E. East St. is to remain vacant at this time.

James Libengood introduced himself as the owner of 200 and 202 E. East Street properties He stated that he wants to separate the 2 properties. The original property line goes through the center of the existing house at 202 E. East Street. He is trying to break the property into 2 lots. He said that he has owned both properties for over 20 years.

Commission Member Catellier wanted to clarify that 202 E. East St. has a house on it and 200 E. East St. has no house. Mr. Libengood confirmed that was correct. He wants to

move the existing property line to the east side to make equal lots. CDC Hardin stated that moving the lot line still provides the minimum sq. footage in an R-1 District of 7,000 sq. ft. so they can be buildable lots. The house was built in the '20's and was deeded as is. Commission Member Catellier stated that while this is super confusing, he is in favor of moving the lot line. Commissioner Scholl said that no matter how it gets there, he also is in favor of moving the lot line.

CDC Hardin reported that the required setbacks for R-1 District is 20 ft. for the front, 30 ft. in the rear and each side is 10 ft. The width of the property minimally is 50 ft. The property part that is on E. East Street is only 45 ft. wide and will require a variance from the Maryland Board of Zoning Appeals. The problem with the new line is that the width of the property has been shortened from the 50 ft. requirement and makes the property out of compliance. By subdividing the 2 lots it has created a need for variances so the lots will be conforming.

The variances needed would be that neither property meets the width requirements in the front. CDC Hardin said that once changes to the character of the property are made, it will then be required to conform to the current regulations and any that are out of compliance would need to be included in the variance request.

Commissioner Scholl made a motion for favorable recommendation to the Mayor and Commissioners to re-subdivide 200 and 202 E. East Street, Delmar, MD with the moving of the property line, per the attached drawing. Commission Member Catellier seconded the motion which passed with 4 ayes.

In doing the re-subdivision, it now creates 2 non-conforming lots. Commissioner Scholl made a motion for favorable recommendation to the Maryland Board of Zoning Appeals for a variance for 202 E. East St. due to the non-conforming lot size on the east boundary. Commission Member Catellier seconded the motion which passed with 4 ayes.

Commissioner Scholl made a motion for favorable recommendation to the Maryland Board of Zoning Appeals for 200 and 202 E. East Streets variance request for the front lot line setbacks of 45 ft. width instead of the 50 ft. width requirement. Commission Member Catellier seconded the motion which passed with 4 ayes.

Commissioner Scholl made a motion for favorable recommendation to the Maryland Board of Zoning Appeals for 202 E. East St. for the non-conforming front setback. Commission Member Catellier seconded the motion which passed with 4 ayes.

Chris Gilkerson- New home build- Lot 9, 602 E. Chestnut St. Delmar, MD

Mr. Gilkerson said that there are houses on the east and west side of the property. Commission Member Wilson said that the proposed house conforms to the general feel of the community. All setbacks are conforming with the requirements. When asked about a carport, Mr. Gilkerson responded that they will keep that as an option but with the width of the lot, there may not be enough room.

Commission Member Catellier made a motion for favorable recommendation to the Mayor and Commissioners for a new home build on Lot 9, 602 Chestnut Street, Delmar, MD, per the attached drawings. Commission Member Wilson seconded the motion which passed with 4 ayes.

Kyle Hughes Sign approval for Kylan Barn, located at 30603 Dusty Lane, Heron Ponds, Delmar, MD

Mr. Hughes said the sign that he is applying for will be 4 ft. off the ground, each side will be 10 ft. long and 8 ft. high. It was noted on the sign permit that was filled out and accompanied the agenda request has those dimensions in reverse. Each side of the sign will be 40 sq. ft. and will conform with the sign requirements. The sign will be on the same lot as the Barn. CDC Hardin said that since the sign is located on the same lot as the Barn, it is essentially considered a monument sign. He also said that there is a 15 ft. setback from the sidewalk requirement.

Since the total height of the sign including the 4 ft. off the ground is more than the 10 ft. maximum height requirement, Mr. Hughes said that he would erect the sign only 2 ft. from the ground instead of the 4 ft. he was planning. So the total height of the sign from the ground will only be 10 ft.

Commission Member Catellier made a motion for favorable recommendation to the Maryland Mayor and Commissioners for a sign for Kylan Barn located at 30603 Dusty Lane, Delmar, MD, per the attached drawings to be compliant in being 8 ft. high and 10 ft. in length, 15 ft. from the sidewalk and being 10 ft. total height from the grade. Commissioner Scholl seconded the motion which passed with 4 ayes.

Robert Colucco- Dynamic Engineering- construction of trash enclosure along rear wall portion of Wawa, located at 37811 Sussex Hwy., Delmar, DE

Mr. Colucco stated that Wawa wants to improve the trash situation by alleviating trash cans and put in an enclosed trash area. He said that in 2015 he received a favorable recommendation from the Planning and Zoning Commission and in 2016 received approval from the Mayor and Council. The approval ran out before any of the permits could be issued. There are no changes to the previously approved plans.

Commission Member Wilson made a motion for favorable recommendation to the Mayor and Council for the construction of a trash enclosure along the rear wall portion of Wawa, located at 37811 Sussex Hwy., Delmar, DE, per the attached drawings. The motion was seconded by Commissioner Scholl and passed with 4 ayes.

Brock Parker- Subdivision of parcel 88.00 into 2 parcels plus requesting a variance for the front building setback to be adjusted to allow future construction to be in line with existing building, Delmar, DE

No one was at the meeting for Mr. Parker. This item was tabled since no one was present to take part in any discussion.

Doug Marshall- Combine Lots on Grace Lane and Buckingham Lane, per the plat drawings

Mr. Marshall said that the original lot sizes in Phase I are not working for the style of homes that Ryan Homes is building. He wants to combine the lots to make it work for Ryan Homes to be able to build homes on the lots.

Mr. Marshall said that lots 16-22 on the south side of Yorkshire Estates will become lots 16-20. On the north side they want to combine lots 29 and 30 to make a new lot 29. On Carriage Walk Lane lots 251 and 252 will combine to make new lot 251. Mr. Marshall said that they are going off of the existing utilities to create the combined lots.

Commission Member Catellier made a motion for favorable recommendation to the Delmar, Delaware Mayor and Council for the combining of lots 16-22 in Yorkshire Estates to become lots 16-20, per the attached plat dated 03-15-18. The motion was seconded by Commissioner Scholl and passed with 4 ayes.

Commission Member Wilson made a motion for favorable recommendation to the Delmar, Delaware Mayor and Council for the combining of lots 29 and 30 in Yorkshire Estates to become lot 29, per the attached plat dated 03-15-18. The motion was seconded by Commission Member Catellier and passed with 4 ayes.

Commission Member Wilson made a motion for favorable recommendation to the Delmar, Delaware Mayor and Council for the combining of lots 251 and 252 on Carriage Walk Lane in Yorkshire Estates to become lot 251, per the attached plat dated 03-15-18. The motion was seconded by Commissioner Scholl and passed with 4 ayes.

Mr. Marshall thanked the Commission and informed them that he has eliminated 62 homes from the development.

Chris Brown- Ryan Homes- New Home Build- Lot 80, House Type 1918, Elevation A, 11497 Buckingham Drive, Yorkshire Estates, Delmar, DE

Upon the review of the plans, Commissioner Scholl made a motion for favorable recommendation to the Delmar, Delaware Mayor and Council for the new home build on Lot 80, house type 1918, elevation A, to be located at 11497 Buckingham Drive, Yorkshire Estates, Delmar, DE, per the attached drawings. Commission Member Wilson seconded the motion which passed with 4 ayes.

Chris Brown- Ryan Homes- New Home Build- Lot 81, House Type 2203, Elevation A, 11505 Buckingham Drive, Yorkshire Estates, Delmar, DE

Upon the review of the plans, Commission Member Wilson made a motion for favorable recommendation to the Delmar, Delaware Mayor and Council for the new home build on Lot 81, house type 2203, elevation A, to be located at 11505 Buckingham Drive, Yorkshire Estates, Delmar, DE, per the attached drawings. Commission Member Catellier seconded the motion which passed with 4 ayes.

Chris Brown- Ryan Homes- New Home Build- Lot 82, House Type 1680, Elevation A, 11513 Buckingham Drive, Yorkshire Estates, Delmar, DE

Upon the review of the plans, Commission Member Wilson made a motion for favorable recommendation to the Delmar, Delaware Mayor and Council for the new home build on Lot 82, house type 1680, elevation A, to be located at 11513 Buckingham Drive, Yorkshire Estates, Delmar, DE, per the attached drawings. Commissioner Scholl seconded the motion which passed with 4 ayes.

Chris Brown- Ryan Homes- New Home Build- Lot 83, House Type 2203, Elevation A, 11519 Buckingham Drive, Yorkshire Estates, Delmar, DE

Upon the review of the plans, Commission Member Wilson made a motion for favorable recommendation to the Delmar, Delaware Mayor and Council for the new home build on Lot 83, house type 2203, elevation A, to be located at 11519 Buckingham Drive, Yorkshire Estates, Delmar, DE, per the attached drawings. Commission Member Catellier seconded the motion which passed with 4 ayes.

### **Adjournment**

Upon hearing no public comments, Commission Member Wilson made a motion for adjournment which was seconded by Commission Member Catellier. The motion passed with 4 ayes.

Submitted by:

Cindy Fisher  
Clerk of Council