

Planning & Zoning Commission Meeting
July 27, 2023
MEETING HELD IN-PERSON & VIA TELECONFERENCE

The regularly scheduled meeting of the Planning & Zoning Commission was held at Delmar Town Hall and via teleconference. Those in attendance: Deputy Mayor Lenox, Vice Mayor Jones, Commission Members: Rochelle Outten, Beverly Wilson and Shawn Johnson. Key personnel: Planning and Zoning Director Twain Evanson, CEO Liz Peek and Clerk of Council Vondell Spencer. Guests: Rodney & Brenda Marshall, Steve & Jo Ditmer, Blair Carey, Doug Marshall, and Wicomico County Plumbing Inspector Sam Scott.

Called to Order:

Deputy Mayor Lenox called the meeting to order at 7:00 p.m. and performed the pledge of allegiance.

Deputy Mayor Lenox announced there is an advertised public hearing scheduled for this meeting for Mr. Rodney Marshall, public comments towards the end of this meeting and any conversation in-between if anyone chooses to address the Commission.

Approval of Minutes –

A motion was made and seconded (Wilson/Jones) to approve the June 22, 2023 meeting minutes as circulated by roll call vote with 3 Ayes 2 Abstain (Outten/Johnson).

Old Business –

None.

New Business –

1. **Rodney Marshall – Request for Change in Zoning – 208 N. Memorial Drive, Delmar, DE** – Mr. Marshall presented a request for change in zoning as referenced per the attached drawings. Mr. Marshall explained he moved into the house that was at this location about 30 years ago which his cousin resided in the home 25 years before him. The foundation was not good on the house and the house was built back in 1904.

He further explained the zoning where the home was located is zoned light industrial and he would like to get that location rezoned to put a modular home in that location. Mrs. Marshall noted they have already purchased a modular home to go on the site unaware of the current zoning from the 1800's. Deputy Mayor Lenox asked Mr. Marshall was there anything back in that area that was light industrial for use. Mr. Marshall answered train tracks ran about 100 yards behind the house and people were just dumping their trash back in that area using it as a dump.

P&Z Director Evanson said in that area it mostly residential. There is nothing that indicates that the area is light industrial. Deputy Mayor Lenox said he and P&Z Director Evanson went back to look at the adopted Comprehensive Plan. He further said he was not on this Commission or the Town Commission when the updated plan occurred.

There were no public comments for the record.

Deputy Mayor Lenox asked Mr. Marshall if the other property owners agree with the zoning change. Mr. Marshall answered yes. Commission Member Wilson asked Mr. Marshall to see pictures of the modular home that was purchased to put on the proposed property. She confirmed for the record that the modular home is not a mobile home and suggested Mr. Marshall submit the pictures of the modular home for the next meeting which is the Mayor and Council meeting. She said it is certainly in conformity if the house was in that area and an improvement.

The Marshall's mentioned they would rather have an R1 setback.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Rodney Marshall – Request for Change in Zoning – 208 N. Memorial Drive, Delmar, DE, for the property proposed including the adjacent area identified in the adopted Delmar, DE Comprehensive Plan from light industrial to R-1 and further to approve the proposed dwelling as submitted with the understanding that it can be located closer to N. Memorial Drive consistent with the requirements of the R-1 district. A motion was made/seconded (Wilson/Johnson) and carried by a roll call vote of 5 Ayes.

2. **Steve Ditmer – Room & Bathroom Addition – 710 E. Jewell St., Delmar, DE** – Mr. Ditmer presented a room and bathroom addition as referenced per the attached drawings. PZD stated Mr. Ditmer meets all the setback requirements.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Steve Ditmer – Room & Bathroom Addition – 710 E. Jewell St., Delmar, DE, per the attached drawings. A motion was made/seconded (Jones/Outten) and carried by a roll call vote of 5 Ayes.

3. **Blair Carey – Easement Removal – 2 N. Pennsylvania Ave., Delmar, DE** – Mr. Carey presented an easement removal as referenced per the attached drawings. Mr. Carey referenced the location that the dumpster sits, where the curb cutout is located which is on the provided pictures to the Commission.

Mr. Carey stated when he purchased 4 N. Penn. Ave. it was discovered the person that did the renovation gave the alley to the Town of Delmar. He further explained he confirmed with Public Works that there is no infrastructure back there; it's just simply an egress and ingress easement that basically goes to nothing which was previously fenced in.

Mr. Carey said when the plat was being done the easement was discovered. Commission Member Wilson asked Mr. Carey if there is a deed that states the easement is there, who is the easement benefitting and who owns the land. Mr. Carey answered he owns the land and he has given the Town the easement; it's a preexisting easement. Commission Member Wilson explained it is typically up to the Town to request the removal of the easement or a joint effort if the Town agrees.

Mr. Carey mentioned he shared the information with Town Mgr. Fleetwood and Town Attorney Micheal Smith. He said that Town Mgr. Fleetwood agreed that if there is no need for the easement than just do away with it. Mr. Smith never did respond via email.

Commission Member Wilson stated she would like to see the deed or a document that states that it is in perpetuity. She asked Mr. Carey what he planned on doing in the easement area. Mr. Carey answered impact setting. It does not go all the way to the sidewalk but it gets into the easement by maybe a foot. It encroaches on that easement.

Mr. Carey said his intent was to get approval of the plan and a favorable recommendation to eliminate the easement. Deputy Mayor Lenox asked Mr. Carey when he is referring to the alley if he was referring to where the cars were parked in the pictures he submitted. Mr. Carey answered yes, where the curb cut out is. He further asked does anyone else benefit to the easement to Mr. Carey's knowledge. Mr. Carey further answered he is unsure if the Town is the beneficiary.

Commission Member Wilson informed Mr. Carey he really needs the document that states what the easement is, where the easement is, what the easement is for, etc. She said the beneficiary has a right to the easement forever. They can request the easement be removed. Commission Member Wilson further informed Mr. Carey if the Town owns the easement than he is the beneficiary.

Deputy Mayor Lenox asked Mr. Carey if he would like to withdraw the request for now. Mr. Carey responded yes.

Mr. Carey updated the Commission about the plans that he presented that now have a floor plan with the same layout that existed many years ago. He described all the plans and his ideas for the building. Commission Member Outten stated to Mr. Carey he might want to look into the requirements of firewalls because he would like to have potential businesses in the building. Mr. Carey agreed.

4. **Doug Marshall – Approval of Two Tiny Cottages and 5 RV Hookups – Heron Ponds, Delmar MD** – Mr. Marshall presented for approval of two tiny cottages and 5 RV Hookups. Mr. Marshall stated they are looking for a scaled back version of what was approved by this Commission in the Spring of 2022. Deputy Mayor Lenox noted the recommendations and conditions of the Spring 2022 meeting minutes.

Deputy Mayor Lenox stated the Commission originally supported 10 RV hookups with some of the tiny cottages that you might see on the campground along with a good

size facility. Now that number is reduced to 5 RV hookups and two tiny cottages. He asked Mr. Marshall if he had any idea of the field area; then someone would probably be bringing a tent. Mr. Marshall answered they would put in grass sod; tent site or path site in the woods and they would do a pond area. The people would rent their own tent and either put it in the woods or out in the field.

Deputy Mayor Lenox asked Mr. Marshall if he has heard from any of the residents at Heron Ponds about the open concept that he is referring to as to before when he proposed an enclosed building. Mr. Marshall answered the HOA is aware that something has to be done with that property. Residents said the same thing, they would rather have an event venue verses 100 homes. Mr. Marshall discussed the conditions from the Spring 2022 favorable recommendation by this Commission. The concept will be the property would be rented from Thursday morning to Sunday night.

Deputy Mayor Lenox asked Mr. Marshall if he will be prepared for the inquiries from his neighbors as they finish the last phase of Heron Ponds. Mr. Marshall answered yes, he gets calls regularly so, he will be prepared to address the inquiries.

Deputy Mayor Lenox acknowledged Wicomico County Plumbing Inspector Mr. Sam Scott that was in attendance. Mr. Scott stated because the tiny cottages are something brand new the Fire Inspector and himself would like to know what it will be classified as; a campground, mobile home park, or single-family homes because that would determine the inspection that they are responsible for. Mr. Marshall responded these are titled as RV's which are allowed in this particular zone. Mobile homes are not allowed in highway commercial land but RV's and campers are. He further responded they are only allowed for 14-day intervals.

Mr. Scott further asked Mr. Marshall would he put individual RV sites for dump stations or sewer and water. Mr. Marshall answered the first goal is to put the two tiny cottages on concrete pads and those two would be at the entrance of the woods hooked in permanently to the water and sewer. The 5 RV spots would be stone just like in a campground with a sewer stub that pops up. They would like them to run on generators first and if it all works out well, they will run 50-amp services to each. Potential customers would hook their 3inch hose into the sewer that is already installed and that would be for Thursday through Sunday use. The generators will be shut off by 10:00 p.m.

Commission Member Wilson asked Mr. Marshall with the EDU situation as it is how are they going to get water. Mr. Marshall answered they met with the Town before getting this approved and they were approved for a wedding center in the five sites shown on the plans. Since that approval they have been informed about this EDU crisis. He further answered he bought Heron Ponds with 301 EDU's and he has only used 126 EDU's. This proposed project was also approved by Town Engineer Josh Taylor and former Town Mgr. Bynum-King with their Comprehensive Plan before the current Town Mgr. found out what was going on. He said the projection with tiny cottages and RV's around

54,000 gallons of discharge annually is based on weekend use with a full load with the 2 tiny cottages and 5 RV hookups/camper booked thirty, three-day weekends a year.

Mr. Marshall stated if he has to send CES (Chesapeake Environmental Services) to pump the pumpstation off then he will nine times a year. Deputy Mayor Lenox asked Mr. Marshall if the tiny cottages and 5 RV hookups wouldn't be occupied unless there was an event. Mr. Marshall answered he is renting the venue 27 acres for 3-day intervals. He further asked if there was tent camping across the property or is the proposed site the only place that will be occupied. Mr. Marshall further answered if someone rents it and wanted to do an event, he does not just want to limit to the 5 RV hookups (campers). If four or five other people want to bring their campers and camp in that area and leave on Sunday, they do not want to limit them to that. They would like for them to dump when they leave but they just wouldn't hook in permanently.

Commission Member Johnson asked Mr. Marshall if water and sewer was run back in that location already. Mr. Marshall answered yes. Commission Member Johnson said the generators are not going to work in the night time and the summer. He further said there would be people with candles in the camper. Mr. Marshall responded campers have batteries so after the generators shut down at 10:00 p.m. the campers have batteries they run off of.

Commission Member Johnson further asked Mr. Marshall if he had a person putting the campers on the property. Mr. Marshall further answered people would bring their own campers. So, they would offer the pad sites, the two tiny cottages and bring in five family members that can hook into the sewer that is there and if a few show up it would not be the end of the world.

Commission Member Johnson inquired if Mr. Marshall was going to rent/offer those sites when he has his events and would he offer those sites for the Heacock Fest. Mr. Marshall responded no. He said his goal is to rent the entire parcel in its entirety to one family.

Commission Member Outten asked Mr. Marshall what were the issues he mentioned previously with DelDot associated with. Mr. Marshall answered Oak 54 Restaurant. After all approvals were received and construction was started for Oak 54 Restaurant DelDot said we had to change the use and a turn lane had to be put in.

Commission Member Outten asked Mr. Marshall when the punch list for the rest of that community proposed to be completed and how does that impact when the roads are not completed for the roads that are existing and then adding additional traffic. Mr. Marshall answered the first phase is top coat of streets. The roads that are on the back loop, there is a punch list. They need a top coat, a couple of sidewalks; just a couple other things. So, to develop the rear parcel is instrumental and critical in getting the banks cash flow in order to finish that phase off; this is really vital in completing that. Mr. Marshall said he does not have a timeline right now. She further asked if there was a Public Works agreement in place. Mr. Marshall answered there is not one in place.

Commission Member Wilson asked Mr. Marshall if there were campground regulations that he would have to follow. Mr. Scott answered not enforced by Wicomico County. The state has regulations regarding campgrounds and so forth. She further asked Mr. Marshall what constitutes a campground. Mr. Marshall answered there is already a campground on Chestnut St. and they would fall under the same regulations.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for – Doug Marshall – Approval of Two Tiny Cottages and 5 RV Hookups – Heron Ponds, Delmar, MD, per the attached drawings with two conditions to modify the previously approved motion in that location: 1.) The five RV sites and two mobile cottages shall not be used as permanent residences and shall be occupied on a transient basis for no longer than 14 consecutive days. 2.) The venue shall be rented in its entirety. A motion was made/seconded (Jones/Johnson) and carried by a roll call vote of 5 Ayes.

P&Z Director Evanson stated we are requesting to approve sign permits inhouse by staff. On July 14th Town Mgr. Fleetwood, Mayor Bauer and himself met with a gentleman from a signage company. This gentleman was upset and asked why he had to wait 90 days to get a sign approved. So, they came to a conclusion of approving the signs by staff because everything is based off of the Planning and Zoning Regulations. Commission Member Wilson said that this Commission has said this for years because they felt it was too much of a long process. Deputy Mayor Lenox said he thought it was a very positive move to make because it's good customer service. A discussion occurred.

Deputy Mayor Lenox called for a motion to support a procedural change that signs will be reviewed administratively and do not need to come before this Commission and even the Town Commission. A motion was made/seconded (Jones/Wilson) and carried by a roll call vote of 5 Ayes.

Deputy Mayor Lenox stated there was discussion about Rodney Marshall's change of zoning and when they found out about all of the good work currently in the DE Comprehensive Plan it never had an implementation phase following up on it. He said as the situations are discovered we should probably be proactive since the Town is already agreed that the changes should be made.

He further stated related to that we have the MD Comprehensive Plan which is considerably older from 2009 which means all of the numbers were based on the 2000 census. We are in a new fiscal year and it has been included in the MD FY'24 Budget to update the Comprehensive Plan. We have started working with DBF and a consultant planner through them so we could take a good jump at updating this plan. He informed the Commission that he will get back to them with a process

Public Comments –

None.

Commission Comments –

None.

Adjournment –

Deputy Mayor Lenox called for a motion to adjourn the meeting. The motion was made/seconded (Jones/Johnson) and carried by roll call vote of 5 Ayes.

Submitted by:

Vondell Spencer

Clerk of Council