

Planning & Zoning Commission Meeting
December 21, 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: Beverly Wilson, Rochelle Outten, and Shawn Johnson. Key personnel: Town Mgr. Fleetwood, Planning and Zoning Director Twain Evanson, Code Enforcement Officer Liz Peek and Clerk of Council Vondell Spencer. Guests: Doug Marshall and via teleconference Rodney Brown.

Called to Order:

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

Approval of Minutes –

A motion was made and seconded (Wilson/Jones) to approve the November 15, 2023 meeting minutes as circulated by a roll call vote of 4 Ayes, 1 Abstain (Johnson).

Old Business –

None.

New Business –

- 1. Doug Marshall (Oaked 54 Restaurant) – Approval for Deck, Stage, and Backyard – 30503 E. Line Road, Delmar, MD** – Mr. Marshall requested approval for a deck and stage as referenced per the attached drawings. Mr. Marshall mentioned he did not want to come back to the Planning and Zoning Commission just to get approval on anything as far as Oaked 54 so he decided to wrap everything into one. He clarified the deck would be on the second floor.

Mr. Marshall discussed the surrounding existing buildings when entering Oaked 54. He said the existing building which was the Country Store to the left that has the paved parking in front of it is where the Oaked 54 Restaurant will be. It measures 35 by 75 feet and they would like to add a deck on the eastern end that overlooks Kylan Barn. The reason why he is here is because they are working with the Fire Marshal now to bring the second floor of that building online as retail restaurant space. There are festivals coming up and if everything is approved that deck will hold more than the average deck so they hired an engineering firm to design and load the deck.

He further discussed the stage which is 20 feet deep by 32 feet wide. He said they would like to put a fabric tent up which is 14 by 24 because when unloading an artist there will be something to park the trucks under. Mr. Marshall said they are engineering to make

sure it is engineered to carry speakers for outdoor shows. They are very involved in the amp program and the Rock-n-Roll Revival in Salisbury, MD and they want the performances here in Delmar. Mr. Marshall stated if they are going to do a big festival they will come in and let the Commission know what they are doing.

Commission Member Wilson questioned if the fabric tent is considered a temporary structure. Mr. Marshall answered he does not have a spec on that yet. They want to build a stage first and if everything is working like they think it will they would like to add. He said he just wanted to show a master template. The deck and the stage they definitely need first. Town Mgr. Fleetwood asked Mr. Marshall what approval he was seeking in this meeting. He further answered the deck and stage.

Deputy Mayor Lenox asked Mr. Evanson if he was good with the uses. Mr. Evanson answered yes.

Commission Member Johnson asked Mr. Marshall if he would be taking the tent up and down each time. Mr. Marshall responded eventually they would like to make it more permanent but right now it is something simple.

Commission Member Outten asked Mr. Marshall if he had an estimate of how many vehicles the overflow holds. Mr. Marshall responded they hold 200 cars plus or minus. The existing stone and existing paving that has been there since the 1990's holds somewhere around 115 or 120. Around the front yard, the grass holds about 36. The hope is the stage ties in with Kylan Barn and the amphitheater so people can come through the properties.

Deputy Mayor Lenox asked Mr. Marshall where he stood with the Liquor Board at this point with the liquor license. Mr. Marshall answered they are 100% compliant. He further asked if it included the proposed area that we are seeing. Mr. Marshall further answered they had to get an extension because of the delay because the permit was not issued within 6 months so, we got a 90-day extension. Mr. Marshall informed the Commission from the entire backyard from the stone to the pond is within the liquor license area.

Town Mgr. Fleetwood mentioned a comingling between Kylan Barn and Oaked 54 Restaurant. He asked Mr. Marshall how that was going to be policed. He further mentioned Kyle Hughes was concerned about people that live in Heron Ponds; in the future people walking across property lines. Town Mgr. Fleetwood asked Mr. Marshall if they figured that out because he does not want to see people coming onto Heron Ponds residents' property taking a shortcut. Mr. Marshall responded the liquor license is in his name, it is very strict that alcohol cannot cross the property line without a permit. He further responded so, when they do Heacock Fest that will allow them to do that but those are one and done events. The interconnectivity between him and Kyle Hughes, they both thrive on each other's businesses.

He further responded he doesn't see what they can do about that until it happens. Mr. Marshall said he is concerned as well. There is a road that will be barricaded between Mr. Hughes and himself. So, it is a very delicate ecosystem and they need to make sure they manage that. Mr. Marshall further said with the liquor license no one can leave from his property and go to Kylan Barn unless they have a permit to do so which they will with the big decibels. Town Mgr. Fleetwood stated he just wanted to make everyone aware of the potential dynamics down the road.

Deputy Mayor Lenox informed Mr. Marshall at some point he will have to return in front of the Mayor and Commissioners to signoff of what he is allowed to do.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for Concept Plan– Doug Marshall (Oaked 54 Restaurant) –Elevated Deck, and Stage – 30503 E. Line Road, Delmar, MD, as presented and specifically for the proposed elevated deck and stage. A motion was made/seconded (Johnson/Wilson) and carried by a roll call vote of 5 Ayes.

- 2. Jennifer Newton/Mike Edwards (Ponds Edge) – New Construction of 7 Garages – Delmar, MD** – Mr. Edwards presented new construction of seven garages as referenced per the attached drawings. He clarified there are two garages, number 4 and 5 that are ADA accessible that have a main service door that allows a handicapped person to pull in and get into their wheelchair and leave through that door once the regular garage door is down. Garages numbers 4 and 5 coincide with the building numbers 4 and 5.

Mr. Edwards commented from his understanding the actual footprint of the garages were initially approved with the project and this is a review for the elevation.

Deputy Mayor Lenox asked Mr. Edwards if the stone work on the front is similar to the buildings that are out there now. Mr. Edwards answered the elevations should show the cut brick that the buildings have, yes.

Commission Member Wilson asked Mr. Edwards if the door on the side of the front of the garages is ADA accessible and if they get an extra door. Mr. Edwards responded it is actually a front door, yes. She informed Mr. Edwards the ADA drawing under project name reads, "The Reserve at Parsons Lake". Mr. Edwards responded it is the same plan that they used on that side as well in Salisbury, MD. She further informed Mr. Edwards whenever it is finalized/submitted it should be the correct project name.

Deputy Mayor Lenox said a question of the height of the gable roof has come up in the Commission in reference to the elevation showing basically up to the top of the garage doors but they cannot see the total height of the building. He further said the Town does need to have that number to ensure that it's within the limits of zoning.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for – Jennifer Newton/Mike Edwards (Ponds Edge) – New Construction of 7 Garages – Delmar, MD, per the attached drawings with two conditions: 1. The notes

accurately reflect the name of the development. 2. The height at the top of the roof be confirmed with our building inspector for compliance with zoning. A motion was made/seconded (Jones/Outten) and carried by a roll call vote of 5 Ayes.

Stillwater Discussion –

Deputy Mayor Lenox said Mr. Brown may know there have been difficulties in Stillwater, around town, and around the region this past week with all the rain that we had. He further said it was a pretty rough situation at the entrance to Stillwater affecting not just this property but also immediately adjacent properties as well. Deputy Mayor Lenox informed Mr. Brown that it is important that the Mayor and Council in Delaware have some assurances that this is going to be addressed as reasonably as we can.

Deputy Mayor Lenox asked Town Mgr. Fleetwood if he had any background in terms of what the Town of Delmar engineers or Ryan Homes engineers have explained about this situation. Town Mgr. Fleetwood answered he does not have a definitive answer so he is still pending information. It is a serious concern.

Deputy Mayor Lenox stated the town has concerns and he is sure Ryan Homes does as well if it were to be an ongoing issue. Mr. Brown stated Ryan Homes is aware of the problem and they are concerned. Deputy Mayor Lenox replied it is important for the Mayor and Council of DE to have some assurances that this is going to be addressed as reasonably as we can. He recommended to Mr. Brown some sort of engineering report for their next meeting, an update. If it is from the design engineer or from the town's representative perhaps working together that there will be an update for the Council.

- 3. Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation K – Lot 99, 38346 Stillwater Parkway, Delmar, DE** – Mr. Brown presented a new home build as referenced per the attached drawings.

Commission Member Wilson noted there is a corner lot and a vacant lot on one side. The setbacks appear to be in order.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation K – Lot 99, 38346 Stillwater Parkway, Delmar, DE, per the attached drawings. A motion was made/seconded (Outten/Johnson) and carried by a roll call vote of 5 Ayes.

- 4. Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation L – Lot 172, 38347 Stillwater Parkway, Delmar, DE** – Mr. Brown presented a new home build as referenced per the attached drawings. Commission Member Wilson noted there is a Dogwood model on the corner lot with a vacant lot next door. The setbacks appear to be in order.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation L – Lot 172, 38347 Stillwater Parkway, Delmar, DE, per the attached drawings. A motion was made/seconded (Wilson/Jones) and carried by a roll call vote of 5 Ayes.

5. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Tupelo/Elevation L – Lot 6, 11703 Silverbell Dr., Delmar, DE** – Mr. Brown presented a new home build as referenced per the attached drawings. Commission Member Wilson noted there is a Spruce on one side and a vacant lot on the other. The setback lines appear to be normal.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Tupelo/Elevation L – Lot 6, 11703 Silverbell Dr., Delmar, DE, per the attached drawings. A motion was made/seconded (Jones/Johnson) and carried by a roll call vote of 5 Ayes.

6. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation K – Lot 10, 11711 Silverbell Dr., Delmar, DE** – Mr. Brown presented a new home build as referenced per the attached drawings. Commission Member Wilson noted there is a Cedar on one side and a Tupelo on the other side. The setbacks appear to be in order.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation K – Lot 10, 11711 Silverbell Dr., Delmar, DE, per the attached drawings. A motion was made/seconded (Wilson/Johnson) and carried by a roll call vote of 5 Ayes.

7. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Cedar/Elevation K – Lot 93, 38322 Stillwater Parkway, Delmar, DE** – Mr. Brown presented a new home build as referenced per the attached drawings. Commission Member Wilson noted this is a corner lot with a vacant lot on the other side. The setbacks appear to be in order.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Cedar/Elevation K – Lot 93, 38322 Stillwater Parkway, Delmar, DE, per the attached drawings. A motion was made/seconded (Jones/Wilson) and carried by a roll call vote of 5 Ayes.

8. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Cedar/Elevation K – Lot 170, 38339 Stillwater Parkway, Delmar, DE** – Mr. Brown presented a new home build as referenced per the attached drawings. Commission Member Wilson noted there are vacant lots on either side of the property. The setbacks appear to be in order.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Cedar/Elevation K – Lot 170, 38339 Stillwater Parkway, Delmar, DE, per the attached drawings. A motion was made/seconded (Outten/Wilson) and carried by a roll vote of 5 Ayes.

Deputy Mayor Lenox asked Mr. Brown to convey what he referenced earlier about the stormwater situation at Stillwater. He said the Council would really appreciate an update on the status. Mr. Brown answered it will definitely be taken care of and he will pass it on to the right people.

Public Comments –

1. Town Mgr. Fleetwood thanked the Commission. He said Commission Member Outten will be sorely missed and the door is always open. He further said he appreciated everything the Commission does. He wished everyone a safe and enjoyable holiday.
2. Deputy Mayor Lenox echoed what Town Mgr. Fleetwood said about Commission Member Outten and he thanked Commission Member Wilson for her many years and those before the Planning and Zoning Commission that she supported as well. He said she will be missed. Deputy Mayor Lenox wished everyone a Merry Christmas.
3. Commission Member Outten said she appreciated everybody's assistance to her and everybody's forgiveness when she forgot to come to a meeting. She said although she is leaving it really was a pleasure working with each Commission Member and she appreciated it.

Adjournment –

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

Submitted by:

Vondell Spencer

Clerk of Council