

Planning & Zoning Commission Meeting
March 23, 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 and Beverly Wilson. Key personnel: Town Mgr. Jeff Fleetwood, CDC William Hardin, CEO Liz Peek and Clerk of Council Vondell Spencer. Guests: Council Member Morris, Darrin & Beth Wyatt and via teleconference: Chris Brown and Robert Micheliche. Absent: Commission Member Johnson.

Called to Order:

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

Approval of Minutes –

A motion was made and seconded (Wilson/Outten) to approve the February 23, 2023 meeting minutes as circulated by roll call vote with 3 Ayes, 1 Absent (Johnson) and 1 Abstain (Jones).

New Business –

1. **Robert Micheliche– Deck and Patio – Lot 386, 9340 Mulligan Way, Delmar, MD –**
Mr. Micheliche presented a deck and patio as referenced per the attached drawings.

Commission Member Outten noted the site plan shows 25 feet by 20 feet but it also shows 28 feet. Mr. Micheliche responded the deck itself is 25 feet by 20 feet and patio of pavers. Commission Member Outten said that is 12 feet by 12 feet. It appears according to the drawing that the deck is proposed to be outside of the building setback line. CDC Hardin noted as in the past as long as the accessory structure is set within the setback of the property it's been approved to be built unless it was attached to the principal part of the house and then it becomes part of the principal.

Deputy Mayor Lenox stated it appears that the line shown on the rear property line as the setback shows is 10 feet and the deck is intruding by a foot. If the deck has to be setback about 5 feet, then that is probably okay. Commission Member Outten read the code as it relates for the structure. CDC Hardin responded as far as he is aware the principal structure has to be 30 feet from the rear setback; it cannot be outside of that minimum setback. A conversation ensued.

Deputy Mayor Lenox further said when Mr. Micheliche's informal hand drawn site plan was formalized with the surveyors stamp it looks different in fact, it looks like it's intruding on what he has shown this Commission to be the required setback. It appears to be 9 and the setback is 10.

Deputy Mayor Lenox suggested on behalf of Mr. Micheliche's client he reduce it by a foot and that would solve half of the problem. The west is the rear property line and it shows the deck going 20 feet from the back of the house heading towards the rear property and that bumps it approximately 1 foot into the setback area.

Commission Member Outten clarified what Deputy Mayor Lenox suggested about the setback line. Commission Member Wilson suggested for the next meeting Mr. Micheliche have a new survey done so this Commission's motion to approve to the Mayor and Commissioners will be contingent upon the proposed structures being within the setback lines.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for – Robert Micheliche – Deck and Patio – Lot 386, 9340 Mulligan Way, Delmar, MD, with the condition all improvements be located within the required setback line in accordance with a revised survey plan. A motion was made/seconded (Jones/Outten) and carried by roll call vote of 4 Ayes 1 Absent (Johnson).

2. **Chris Brown/Ryan Homes – Rear covered Porch – Wood Creek – Lot 86, 9419 Rolling Green Drive, Delmar, MD** – Ms. Brown presented a deck as referenced per the attached drawings. Deputy Mayor Lenox stated this Commission will be reviewing a deck to be constructed on a house that has not been built yet. Ms. Brown said this porch will be a 14 foot by 10-foot rear covered porch.

Deputy Mayor Lenox noted the issue that was pending in the last meeting regarding issuance of building permits for new homes in Wood Creek has been resolved. The issue was resolved at the last Mayor and Commissioners meeting Monday, March 13th as all past due bills were paid by Ryan Homes. Permits are now ready to be issued. CDC Hardin added the permit for this particular home has been issued for the home build and the add on porch came after the issuance of the permit.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for – Chris Brown/Ryan Homes – Deck – Wood Creek – Lot 86, 9419 Rolling Green Drive, Delmar, MD, per the attached drawings. A motion was made/seconded (Jones/Wilson) and carried by roll call vote of 4 Ayes 1 Absent (Johnson).

3. **Chris Brown/Ryan Homes – New Home Build – Wood Creek/Columbia/Elevation A – Lot 336, 9377 Mulligan Way, Delmar, MD** – Ms. Brown presented a new home build as referenced per the attached drawings.

This submittal was voluntarily withdrawn.

4. **Darrin Wyatt (Seal Tech) – Building – Lot 117a, Stage Road, Delmar, MD** – Mr. Wyatt presented a pole building as referenced per the attached drawings.

Mr. Wyatt stated the last time they were in front of this Commission they purchased this property. Now they have written a letter of explanation of what they do as a business that he provided which was asked by this Commission. Also, he's had the property surveyed, an engineer from Parker and Associates has designed the building and the driveway access and provided a fence around the entire perimeter. He said they have submitted the elevations and size as well.

Mr. Wyatt further stated this time they already have an office. Deputy Mayor Lenox questioned Mr. Wyatt about access to sewer. Mr. Wyatt replied this time they have an office already so they do not need access to sewer. Down the road if it becomes available; absolutely.

Deputy Mayor Lenox said there are a number of property owners in that area that have the same challenge with utilities. A conversation ensued. Deputy Mayor Lenox asked Town Mgr. Fleetwood if the Town of Delmar has a policy about construction of a building without access to water and sewer. Town Mgr. Fleetwood answered what they discussed was other property owners discussing free standing buildings and in the interim placing porta johns. A conversation ensued.

CDC Hardin explained regardless of any business in the Town of Delmar, if it has a well it has been grandfathered; those are nonconforming. Deputy Mayor Lenox explained to Mr. Wyatt the Planning and Zoning Commission does not have the authority to decide whether he needs to be tied in to the Town water and sewer; that is a question for the Mayor and Commissioners. Deputy Mayor Lenox asked where the Town of Delmar stands with the zoning from the July 21, 2022 meeting Mr. Wyatt attended because it was discussed that Mr. Wyatt needed to amend the code to allow this as a special exception?

Mr. Wyatt responded the Planning and Zoning Commission requested that he put in writing a letter describing what the business is and what it does. He said from what he understands the codes haven't been updated in thirteen to fifteen years. Town Mgr. Fleetwood added back on the July 21, 2022 meeting Mr. Wyatt shared there was going to be a storage tank on the property. Mr. Wyatt replied one storage tank. Town Mgr. Fleetwood said that is another issue. Mr. Wyatt added a storage tank of nonhazardous material.

CDC Hardin stated a direct issue that has to be considered is Mr. Wyatt is proposing a warehouse which is zoned community business district. There is no provision for a warehouse as a use either by inherent or special exception. In the prior meeting the use really fit another zone. The issue about going before the zoning board was to get special exception to put that use into community business. The present request for a storage unit/storage building there is no warehouse in the community business.

Deputy Mayor Lenox stated when this Commission discussed this in the July 21, 2022 meeting this commission concluded that it did not and Mr. Wyatt needed a text change to the code. A couple weeks later at the Mayor and Commissioners August 8, 2022

meeting they had this discussion and asked other sorts of questions like what was involved in the business, and description. They also asked Mr. Wyatt to make sure he could fit what he wanted to do on the property because the property ended up being smaller than Mr. Wyatt had originally hoped. So now Mr. Wyatt has that information and, in his opinion, he thinks Mr. Wyatt should attend the Mayor and Commissioners meeting April 10, 2023 for their consideration on amending the Town of Delmar code to allow this by special exception and it has to be revisited.

Mr. Wyatt revisited the discussion he just had about storage tanks with Town Mgr. Fleetwood. He said in the description he is allowed to have a gas station in that location and that would require underground storage tanks. Town Mgr. Fleetwood said Mr. Wyatt is correct.

Commission Member Wilson noted she did not see where there is a definition of warehouse in the code. A conversation ensued.

Deputy Mayor Lenox stated the next step would be the Mayor and Commissioners and if they go along with the approach then the next step would be a special exception to the Maryland Board of Zoning Appeals and they would seek approval for the special exception. Commission Member Outten informed Mr. Wyatt that he would then appear back in front of the Planning and Zoning Commission with a site plan. CDC Hardin added it would have to be by resolution adopted into the zoning regulations and then Mr. Wyatt can ask for a special exception.

Commission Member Outten asked Mr. Wyatt the number of employees he currently has. Mr. Wyatt answered eight. She further asked Mr. Wyatt how many employees drive company vehicles. Mr. Wyatt further answered three. The other five employees will be picked up by company trucks. Mr. Wyatt stated his office is at another location and will continue to be the other location across the street; the Greg Ferrier Complex.

Commission Member Outten noted what Mr. Wyatt's letter said about employees driving company vehicles. Ms. Wyatt responded that was when they had different employees that worked for them that drove. They have changed how out of town employees drive together now in company vehicles. Commission Member Outten responded her concern is there are no facilities for employees at all. A conversation ensued.

CDC Hardin addressed Commission Member Outten's concern. He stated if there are going to be employees present where Mr. Wyatt is proposing at any time, he has to provide them facilities. So, now they are back to the other issue where Mr. Wyatt cannot have porta-potties, etc. for the employees. CDC Hardin further stated Mr. Wyatt has to have a facility according to Wicomico County according to the Town of Delmar's ordinance. Mr. Wyatt responded the guys will be there less than thirty-five minutes in the morning and less than that in the afternoon; coming to pick the trailers up and what they need for the day and go. Mr. Wyatt further responded the operations are at the Greg Ferrier Complex. A conversation ensued.

Deputy Mayor Lenox thanked Mr. Wyatt for all his efforts. He clarified to Mr. Wyatt he would need: 1.) Text amendment which is legislative through the Mayor and Commissioners which would be setup for essentially a contractor's yard and a special exception and it goes back before the Board of Zoning Appeals at that point assuming everything works out. 3.) Mr. Wyatt will continue with the challenge of dealing with the adjacent property owners, utilities and try to make everything happen on that end.

Town Mgr. Fleetwood confirmed and clarified April 10th will be the next Mayor and Commissioners meeting and Mr. Wyatt is invited to appear at that meeting. CDC Hardin and Town Mgr. Fleetwood further clarified to Mr. Wyatt that the text amendment will have to be done before anything else will happen.

Public Comments –

None.

Commission Comments –

1. Commission Member Wilson noted Sara Bynum-King was Citizen of the Year, the event was very successful, everyone had a good time and we wish her all the best.

Adjournment –

Deputy Mayor Lenox called for a motion to adjourn the meeting. The motion was made/seconded (Jones/Wilson) and carried by roll call vote of 4 Ayes 1 Absent (Johnson).

Submitted by:

Vondell Spencer

Clerk of Council