

MINUTES: Meeting of the Planning Commission of the Town of Henlopen Acres held on **Monday, March 21, 2011 10:00 a.m.** at Town Hall on 104 Tidewaters in Henlopen Acres, Delaware

PRESENT:

John Barto	Planning Commission Chairman
Mary Jane Lyons	Planning Commission
Dick Thompson	Planning Commission
Connie Boland	Planning Commission
Wanda Davis	Mayor (member ex-officio)
Thomas Roth	Town Manager
Sharon Karl	Town Clerk
David Hill	39 Rolling Road
Bob Reed	96 Tidewaters
Christine Moore	14 Tidewaters

ABSENT:

Pete Brockstedt	Zoning Officer
James Maloney	Planning Commission

[The Minutes Are Not Verbatim]

1. Call to Order

Chairman Barto called the meeting to order at 10:03 a.m. followed by Pledge of Allegiance.

2. Approval of Planning Commission Meeting Minutes of Monday, January 24, 2011.

Chairman Barto asked everyone to review the minutes for any corrections or comments. There being none, Commissioner Thompson made a Motion to accept the Minutes. Commissioner Lyons seconded the Motion. The Motion was approved.

3. Old Business

Continued discussion on “two-story” definition from April 12, 2010 and Definition of living space and/or living area

Discussion continued on defining “two-story” and “living space” and/or “living area” from April 12, 2010 meeting in an attempt to improve the definition of “living space”. Mr. Roth started the discussion by saying that the code refers to “living area” and FEMA refers to “living space” and in our code “living space” is an undefined term. Mr. Barto said that “living space” is the 6,000 square feet as we define it in the ordinance but keep in mind that the 6,000 square feet includes the garage. Mayor Davis said that more than a couple of times where the garage was converted into “livable space”. Mr. Reed said that the 6,000 square feet is floor area and asked if that was the same thing as “living space”. Mr. Barto said that “living space” may not be the term we want to use, again, the 6,000 square feet is the floor area and maybe that would be a better term to transition to rather than “living space”.

Mr. Roth read the definition of §130-19 F. “The maximum square footage of the total floor area of a dwelling unit and all other structures on a lot shall not exceed 6,000 square feet, including all that which is under roof, excluding an uninhabitable attic and/or uninhabitable basement”. Mayor Davis said that “floor area” is defined in the code book under §130-4 and to answer Commissioner Boland’s question she said that the definition of “uninhabitable attic and uninhabitable basement” are also found there. Mr. Barto said that since we have a good definition of “floor area” we should use that term rather than using the term “living space” or “living area”. This option would clean up the ordinance and make it consistent. Mr. Barto said that we are not trying to change critical elements of the ordinance but we are just trying to

word craft. Commissioner Thompson asked if it is the objective to go through the code and substitute “floor area”. Mr. Roth said that §130-58 refers to “living area” and §130-9 refers to “living quarters” so they would be changed to “floor area”.

Mr. Reed said that it is his opinion that the “two story” is the most critical definition. He said he does not matter what the use of the “floor area” is, the purpose of having a “two story” limit is so neighbors do not have to look out their windows at a three story house. Mr. Reed said that it is a big gray area and that he would like to see it cleared up. Discussion ensued about sloping lots, flat lots, corner lots, homes on the canal and others in the flood plain and the role of the Board of Adjustments to decide appeals where it is alleged there is an error; to hear and decide special exceptions; to authorize upon appeal, in specific cases, a variance that will not be contrary to the public interest where, owing to special conditions or exceptional situations, a literal interpretation of the provisions of the chapter will result in unnecessary hardship or exceptional practical difficulty to the owner of the property. Mayor Davis said that even with a variance the requirement that their home not exceed the maximum 6,000 square feet of “floor area” would still apply.

Mr. Barto redirected the discussion back to “floor area” and asked what the consensus was on using the term “floor area” and eliminating other terms like “living area” having one term that will be substituted for those other terms in the code. **Mr. Thompson made a motion to put forward a proposal to the Mayor and Board of Commissioners to change the wording in the Zoning Code to use “floor area” as terminology throughout. Mrs. Boland seconded the motion. The motion passed unanimously. Chairman Barto pointed out that on page two of the January 24, 2011 minutes that the Planning Commission also put forward a proposal to the Mayor and Board of Commissioners that the Zoning Code (§130-58) be changed (or added) as follows; “if the livable first floor, as defined by FEMA, is more than the required “base flood” plus 3 feet and the area beneath has a clearance of more than 6-1/2 feet, as defined by the Zoning Code, then that area beneath the first floor will count as total floor area toward the maximum 6,000 square feet”. Mr. Barto said that makes two proposals that the Planning Commission is making to the Board of Commissioners.**

Mr. Barto, in an attempt to address Mr. Reed’s issues, said that it has been his experience that an ordinance for each and every occurrence can’t be legislated that is why we have a general ordinance where people know the parameters and then if an owner wants to appeal the mechanism is through the Board of Adjustments. It was decided by everyone to give the subject more thought and have it placed on the Agenda May 9th.

4. New Business

Mr. Roth said that the State Office of Planning requested an update of our Comprehensive Plan and that he will make sure whoever does not have a copy gets one to review before the May 9th meeting. The date of the next Planning Commission Meeting was set for May 9th. No further new business.

5. Adjournment

Commissioner Boland made a motion to adjourn, Commissioner Thompson seconded, and the meeting was adjourned at 11:31 am.

Approved: _____, 2011