

**MINUTES:** Meeting of the Planning Commission of the Town of Henlopen Acres held on **Monday, January 24, 2011 10:00 a.m.** at Town Hall on 104 Tidewaters in Henlopen Acres, Delaware

**PRESENT:**

John Barto	Planning Commission Chairman
James Maloney	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
Larry Sweigert	Rehoboth Art League

**ABSENT:**

Mary Jane Lyons	Planning Commission
Dick Thompson	Planning Commission
Pete Brockstedt	Zoning Officer

**[The Minutes Are Not Verbatim]**

**1. Call to Order**

Chairman Barto called the meeting to order at 10:00 a.m. followed by Pledge of Allegiance.

**2. Approval of Planning Commission Meeting Minutes of Monday, June 7, 2010.**

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

**3. Old Business**

**a. Continued discussion on “two-story” definition from April 12, 2010**

Chairman Barto started the discussion with issues that Mr. Reed raised at the April 12, 2010 meeting about the height of the area under the lowest floor above grade in the homes on the flood plain referring to a schedule, compiled by Mr. Roth, on Flood Elevations. Mr. Barto referenced a statement that he had made at the April 12, 2010 meeting that “a survey was done of all the lots and they came up with a maximum based on the flood plan management map of what would be the tallest home and none of the homes could exceed 36 feet” and said he would like to correct that because according to the flood elevation schedule there are several homes that have a 41 feet maximum height.

Mr. Roth explained that the categories on the “flood elevation schedule” were taken from the FEMA elevation certificates for the properties listed. He said that “average lot grade” is what the grade on that lot is, above sea level. The “base flood” is a FEMA number which means minimum height of finished first floor of livable space above sea level. Our Code states that the first floor needs to be at “base flood” plus three feet. Mr. Roth said looking at the first property on the schedule, 31 Tidewaters, the “base flood” is 6 feet, therefore their first floor of livable space would have to be 9 feet. The 1<sup>st</sup> floor elevation for 31 Tidewaters is recorded at 12.6 feet on the schedule.

Mr. Reed said that the “maximum height” is the “base flood”, required FEMA elevation, plus 33 feet, and that if you take the “maximum height” minus the “average lot grade” then you get the height of the lot that is permissible on each of the addresses on the schedule which for 31 Tidewaters is 34.3 feet. Mr. Reed said that these homes measure close to street elevation, which is the ordinance, comparable to center of the road. Mr. Reed said the “1<sup>st</sup> Floor Elevation’s” are 9, 10 or 11 feet above existing grade with a finished first floor. Subtracting from that the height of the ground, using 31 Tidewaters as an example, means they are required to be 4.3 feet above grade (9ft. – 4.7ft.), and in the flood zone someone who is building a new house has an irresistible incentive to raise the basement ceiling a foot or two higher so they can have a full basement area that is not counted as livable space, which in turn raises the first floor up higher, then, in order to conform to the building height requirement, they lower the pitch of their roof, (squashing the roof), which hurts the curb appeal of the house.

Mr. Reed said that if the rules were such that when someone building in the flood plain had to count the area underneath the first floor of the house as livable space once they got more than 6 ½ foot of head room, in spite of the fact that it was below flood elevation, then this problem would not exist. People would build their house to the height that is required and then maximize what is above that and keep those houses from being up out of the ground more than is necessary.

Discussion ensued about what a basement is or is not, having no more than two floors of livable space above grade and other issues discussed at the April 12, 2010 meeting. Mrs. Boland made a **motion** that the Planning Commission recommend to the 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”**. Mayor Davis seconded the motion. The motion passed 3 for, 0 against with Commissioner Maloney abstaining.

Discussion continued on “two-story” definition from April 12, 2010. Mr. Hill liked the simplicity of Mr. Reed’s recommendation of allowing two floors of living space with uninhabitable space of 6-1/2 feet allowed below, period and thought this would eliminate any need for a building code clarification, but the contour of certain lots must also be considered. Mr. Roth suggested that the Planning Committee could recommend reconciling the definition between the International Residential Code use of the term, “living space” and our Code’s use of the term “living area”.

Mr. Reed said that we have to figure out what we want the end result to be and make the rules such that we end up that way. He stated that the consensus seems to be that we want to eliminate any house from being three stories on any side except when they back up to the canal, because the houses along the canal do not subject a neighbor to having to look at that less attractive side of the house. Mr. Barto said that we tried to design the ordinance relevant to every sloping lot, not differentiating between the canal and a corner lot. It was decided by everyone that further discussion on the topic of “living space”, “living area” and the “two story” question be tabled until the next Planning Commission meeting March 2011.

#### **4. New Business**

No new business.

A date of March 21, 2011 was set for the next Planning Commission Meeting.

#### **5. Adjournment**

Commissioner Boland made a motion to adjourn, Commissioner Maloney seconded, and the meeting was adjourned at 11:35 am.

Approved: \_\_\_\_\_, 2011