

Beverly Shores Plan Commission Minutes

February 7, 2022

- A. The virtual meeting of the Beverly Shores Plan Commission was called to order at 6:35 p.m. and broadcast to the public by Microsoft Teams software.
- B. All members were present virtually: John Blackburn, Joe Kapacinskaskas, Greg Lyman, Donna Norkus, Larry Stanton, Tom Weber and Bob Young. Also present was Ellen Hundt, Town Clerk and Recording Secretary. A quorum was determined present for the meeting.
- C. The public was able to participate and observe the meeting through the Teams software pursuant to prior email notification of the agenda and virtual link.
- D. Title VI Survey Availability on Town Website was discussed, and the public was encouraged to participate.
- E. Outgoing member Greg Brown was thanked for his service to the Plan Commission. Bob Young was welcomed to the Plan Commission
- F. Election of Officers.
 1. President. Nominations were taken for President. Commissioner Norkus nominated Commissioner Lyman for President, Commissioner Stanton seconded the nomination. No other nominations were made. Roll call vote: Commissioner Blackburn-yes, Commissioner Kapacinskaskas-yes, Commissioner Norkus- yes, Commissioner Stanton-yes, Commissioner Weber-yes, Commissioner Young-yes and Commissioner Lyman-yes. Motion is passed 7-0. Commissioner Lyman is named President.
 2. Vice President. Nominations were taken for Vice President. Commissioner Norkus nominated Commissioner Kapacinskaskas for Vice President, Commissioner Weber seconded the nomination. No other nominations were made. Roll call vote: Commissioner Blackburn-yes, Commissioner Kapacinskaskas-yes, Commissioner Norkus-yes, Commissioner Stanton-yes, Commissioner Weber-yes, Commissioner Young-yes and Commissioner Lyman-yes. Motion is passed 7-0. Commissioner Kapacinskaskas is named Vice President.
 3. Recording Secretary. Nominations were taken for Recording Secretary. Commissioner Lyman nominated Ellen Hundt, Commissioner Norkus seconded the nomination. No other nominations were made. Roll call vote: Commissioner Blackburn-yes, Commissioner Kapacinskaskas-yes, Commissioner Norkus- yes, Commissioner Stanton-yes, Commissioner Weber-yes, Commissioner Young-yes and Commissioner Lyman-yes. Motion is passed 7-0. Ellen Hundt is named Recording Secretary.
 4. Plan Commission appointment to the BZA. Commissioner Stanton nominated Commissioner Lyman for the BZA appointment, Commissioner Norkus seconded the nomination. No other nominations were made. Roll call vote: Commissioner Blackburn-yes, Commissioner Kapacinskaskas-yes, Commissioner Norkus- yes, Commissioner Stanton-

yes, Commissioner Weber-yes, Commissioner Young-yes and Commissioner Lyman-yes. Motion is passed 7-0. Commissioner Lyman is named the Plan Commission appointment to the BZA.

G. Review of previous meeting minutes.

Minutes of the December 6, 2021, meeting were reviewed. Commissioner Stanton moved to accept, seconded by Commissioner Weber. Roll call vote: Commissioner Blackburn-yes, Commissioner Kapacinskas-yes, Commissioner Norkus- yes, Commissioner Stanton-yes, Commissioner Weber-yes, Commissioner Young-yes and Commissioner Lyman-yes. Motion is passed 7-0.

H. Old Business

1. Mackin Pozzi Subdivision Modification. An application was filed before the Plan Commission to modify an existing 2012 subdivision in the Commercial District. The revised application was filed on November 10, 2021. The application was sent to the Building Committee for review of the technical conformity with the standards fixed in the Subdivision Control Ordinance. On December 11, 2021, the Building Committee reviewed the application and determined that the proposed modification of the 2012 subdivision would be in technical conformity with the standards fixed in the Subdivision Control Ordinance.

John Mackin appeared to discuss the modification. In 2012 a three vacant lot subdivision was approved by the Plan Commission in the Commercial District and the plat was recorded. Lot 2 is owned by John and Patricia Mackin as well as the adjoining property at 204 Quigley, where their house is located. 204 Quigley is outside the subdivision. The purpose of the modification would be to remove 9200 sq. ft. from Lot 2 and add that property to 204 Quigley so that 204 Quigley would be a conforming lot under the Town Code consisting of 20,000 sq. ft. The modified lot 2 would still have 23,000 sq. ft. All three owners of the subdivision lots joined in the petition. The subdivision lots are vacant land, and no proposal was submitted to develop these lots.

The Plan Commission determined that the application was for a minor subdivision under the Town Code 155.151 since no new public way will be opened and the petition otherwise complies with the Subdivision Control Ordinance and the Town Code. Since it is a minor subdivision primary approval can be granted without public notice and hearing. The General and Specific Subdivision Control Regulations were reviewed and discussed by the Plan Commission. The Commissioners discussed whether the application was consistent with the Comprehensive Plan, in particular the purpose of the application was to create conforming lots under the Town Code, 20,000 sq. ft., one of the highest priorities of the plan. Also considered was the current conditions and character of the structures in the vicinity, conservation of property values and responsible development and growth.

The standards of 155.158 were read and discussed. After discussion was completed Commissioner Stanton made a motion to make the following findings:

- That the proposed subdivision will not adversely affect the community,

- That the use and value of the area adjacent to the subdivision will not be affected in a substantially adverse manner,
- That the zoning district will not be disrupted or harmed,
- That the approval will not be injurious to the public health, safety, and general welfare of the community, and
- That the resultant lots in the subdivision will not violate any of the provisions of 155 of the town Code solely as a result of the proposed modification to the subdivision.

Commissioner Stanton further moved to grant Primary Approval to the proposed subdivision. Commissioner Kapacinskas seconded the motion. Roll call vote: Commissioner Blackburn-yes, Commissioner Kapacinskas-yes, Commissioner Norkus-yes, Commissioner Stanton-yes, Commissioner Weber-yes, Commissioner Young-yes and Commissioner Lyman-yes. Motion is passed 7-0. The applicant was reminded that the procedures for secondary approval would have to be followed before the plat for the new subdivision could be recorded.

2. Continued Discussion of the Comprehensive Plan. Included in the discussion was the current ordinance requirements for Commercial District and the need to plan for a sewer line in both the commercial district and the residential district. The Commissioners agreed to continue these discussions at the next meeting.
 - I. New Business. The members discussed the Rules of Procedure and began to discuss revisions to the Rules. The Commissioners agreed to continue these discussions at the next meeting.
 - J. The next meeting date is scheduled for March 7, 2022.
 - K. Commissioner Norkus moved to adjourn the meeting; Commissioner Blackburn seconded. Roll call vote: Commissioner Blackburn-yes, Commissioner Kapacinskas-yes, Commissioner Norkus-yes, Commissioner Stanton-yes, Commissioner Weber-yes, Commissioner Young-yes and Commissioner Lyman-yes. Motion is passed 7-0. Meeting adjourned at 7:33 pm.

Beverly Shores Plan Commission Minutes

March 7, 2022

1. The meeting of the Beverly Shores Plan Commission was called to order at 6:30 p.m. at the Beverly Shores Administration Building and broadcast to the public by Microsoft Teams software:
 - a) The following members were present in person: John Blackburn, Joe Kapacinskas, Greg Lyman, Donna Norkus, Larry Stanton and Tom Weber. Also present in person was Ellen Hundt, Town Clerk and Recording Secretary.
 - b) Bob Young was present and participated virtually through the Teams broadcast.
 - c) The public was able to attend in person or participate and observe the meeting through the Teams software pursuant to prior email notification of the agenda and virtual link.
2. Review of previous meeting minutes.

Minutes of the February 7, 2022, meeting were reviewed. Commissioner Weber moved to accept, seconded by Commissioner Kapacinskas. Roll call vote by Commissioners: Blackburn yes, Kapacinskas yes, Norkus yes, Stanton yes, Weber yes, Young yes and Lyman yes. The motion passed by a 7-0 vote.
3. Old Business
 - A. Continued Discussion of the Comprehensive Plan. Included in the discussion was the current ordinance requirements for Commercial District and the need to plan for a sewer line in both the commercial district and the residential district. The Commissioners agreed to continue these discussions at the next meeting.
 - B. Plan Commission Rules of Procedure. The Commissioners reviewed and discussed a proposed revision to the Rules of Procedure. Commissioner Weber moved to adopt the revised Rules of Procedure, Commissioner Stanton seconded. Roll call vote by Commissioners: Blackburn yes, Kapacinskas yes, Norkus yes, Stanton yes, Weber yes, Young yes and Lyman yes. The motion passed by a 7-0 vote.
4. New Business

Dave Wagner, the Beverly Shores Building Commissioner, appeared to discuss a question the Building Site Committee had raised concerning driveways within a side yard setback. After extensive discussion, the Commissioners decided to continue the discussion at the next meeting to determine whether the Code should be revised on this issue.
5. The next meeting date is scheduled for April 3, 2022.
6. Commissioner Blackburn moved to adjourn the meeting, Commissioner Stanton seconded, Roll call vote by Commissioners: Blackburn yes, Kapacinskas yes, Norkus yes, Stanton yes, Weber yes, Young yes and Lyman yes. The motion passed by a 7-0 vote. Meeting adjourned at 7:54 pm.

Beverly Shores Plan Commission Minutes

June 13, 2022

1. The meeting of the Beverly Shores Plan Commission was called to order at 6:32 p.m. at the Beverly Shores Administration Building:
 - a) The following members were present in person: Joe Kapacinskas, Donna Norkus, Larry Stanton, Greg Lyman and Tom Weber.
 - b) John Blackburn and Bob Young were absent.
 - c) Town Attorney Connor Nolan was also present.

2. Review of previous meeting minutes.

Minutes of the May 2, 2022, meeting were reviewed. Commissioner Stanton moved to accept, seconded by Commissioner Kapacinskas. A vote was taken. The motion passed 5-0.

3. Public Hearing on a Plan Commission initiated Recommendation for Amendment to the Zoning Ordinance related to driveways in a side yard setback in the residential district.

Commissioner Lyman read the Notice for Public Hearing that was published as required by law. The Notice was previously posted at the Town Hall and posted to the Town web site. Commissioner Lyman gave a few opening remarks on the background of the subject matter for the public hearing. The Building and Site Committee and the Building Commissioner had approached the commission to request a clarification for driveways in the residential district, specifically a driveway located in a side yard setback. The current code provisions do not permit a driveway in the side yard setback. Although, the current Code provisions do permit certain other structures, such as; a porch, paved patio, sidewalks, eaves etc... to extend four feet into a setback, the Code is silent on driveways. After discussing the matter for several months, the Commissioners initiated a petition to amend the zoning ordinance to permit a driveway to extend into one side yard setback up to four feet in addition to one of either the front or rear yard setback.

The public hearing was opened.

Speaking in favor of the proposed amendment was Scott Vliek 21 S Beach. He indicated although he is a member of the Building and Site Committee, he was speaking on his own behalf. He indicated the amendment would clarify the Code and was in favor of the four-foot extension into the side yard setback.

Speaking against the amendment was Peg Oberle, 201 E. Lakefront, who stated that a driveway should not be permitted in the side yard setback at all. She was worried that the placement of the driveway any closer than 15 feet from the neighboring property lot line would impact the neighbor's enjoyment of their property.

Speaking against the amendment was Deb Kleban, 419 E. Lakefront, who did not want any restriction on the location of the driveway and argued that a driveway should not be treated as a structure and therefore not subject to the setback requirements.

Speaking against the amendment was Mark Weber, 5 S. Merrivale, who is also the Architect representing Deb Kleban and Paul Rupke on a current construction project on the Lakefront. Mark presented a model from the project to demonstrate that the street view was improved if a garage door does not face the street. He argued that prohibiting driveways in the side yard setback would force the driveway into the center of the lot, in some parcels, thereby requiring the garage door to face the street. He also mentioned the circumstances of a corner lot where it might be advisable to enter from the side yard.

Paul & Susan Zucker, 6 S. Merrillvale, stated they were also against any restriction on the location of a driveway and were concerned that the amendment would make driveways non-conforming causing future issues for current owners.

Matrona Malik, 603 E Lakefront, did not speak either for or against the amendment, but stated that the Commission should take into account that a driveway can not be placed on a septic field so that may impact where the driveway could be located.

Each attendee was given the chance to speak again after listening to the other comments. Thereafter the public comment portion of the hearing was closed.

One written comment had been received from Michael McCurdy, 41 S. Oval, objecting to the definition of a driveway as a structure and objecting to any restriction on the location of a driveway.

The Commissioners then began their discussion. It was first pointed out that many of the objections did not apply to the proposed amendment before the commission. A driveway is defined as a structure in the Code, that issue is not a subject of this public hearing. The issue before the Commission was whether to explicitly permit a new driveway to extend into a side yard setback by four feet similar to a sidewalk, porch, patios etc. and to define "setback side" and "setback rear" in the Code to help clarify the ordinance. This proposed amendment would loosen the current restrictions on the location of a driveway to permit it to extend four feet into a side yard setback. Connor Nolan, the Town Attorney, indicated that the Commission could not expand the hearing to revisit the definition of structure since it is in a different code section than provided under the Notice. Second, homeowners who have special circumstances that necessitate the driveway to be located closer to the lot line can request a variance from the BZA. Third, it was pointed out that this change would not affect any previously approved driveway.

As this discussion was continuing a tornado warning siren sounded. After checking on the threat the Commissioners decided the prudent action would be to continue the hearing until the next scheduled meeting to continue this discussion.

Commissioner Norkus moved to continue the public hearing until the next meeting, Commissioner Weber seconded the motion. A roll call vote was taken and the motion passed 5-0.

4. The next meeting date is scheduled for August 1, 2022.
5. Commissioner Norkus moved to adjourn the meeting, Commissioner Stanton seconded, the motion passed 5-0. Meeting adjourned at 7:24 pm.

Beverly Shores Plan Commission Minutes

August 1, 2022

1. The meeting of the Beverly Shores Plan Commission was called to order at 6:32 p.m. at the Beverly Shores Administration Building:
 - a) The following members were present in person: Joe Kapacinkas, Donna Norkus, Larry Stanton, Bob Young, Greg Lyman and John Blackburn. Ellen Hundt, Recording Secretary was also present in person and monitored the Teams Broadcast to the public.
 - b) Town Attorney Connor Nolan was also present.
2. Review of previous meeting minutes.

Minutes of the June 13, 2022, meeting were reviewed. Commissioner Kapacinkas moved to accept, seconded by Commissioner Norkus. A vote was taken. The motion passed 6-0.
3. Commissioner Lyman thanked Tom Weber for all the work and contribution he has made to the Plan Commission and the Town over the past three years. Tom resigned because he moved out of Beverly Shores
4. Continuation of the Public Hearing on a Plan Commission initiated Recommendation for Amendment to the Zoning Ordinance related to driveways in a side yard setback in the residential district. The Building and Site Committee and the Building Commissioner had approached the commission to request a clarification for driveways in the residential district, specifically a driveway located in a side yard setback. The current code provisions do not permit a driveway in the side yard setback. Although, the current Code provisions do permit certain other structures, such as a porch, paved patio, sidewalks, eaves etc... to extend four feet into a setback, the Code is silent on driveways. In the last meeting the public hearing was opened and those who wished to speak in favor and against were given the opportunity to speak and then given a second opportunity to speak after listening to the other comments. Commissioner Lyman summarized the comments that had been made.

Commissioner Lyman then addressed some of the comments:

- A driveway is a Structure under the current Code provisions. Several residents had argued it should not be a structure. This hearing was not noticed to discuss that issue and the Town Attorney had indicated that it would not be permissible to discuss that issue since it involves a different section of the Code.
- Structures are currently limited by the setback requirements.
- The proposed amendment that is the subject of the hearing expands the possible locations for a driveway in the residential district and codifies the long-standing practice of the Building Commissioners of Beverly Shores. The proposal permits a driveway to extend four feet into a side yard setback similar to a patio or sidewalk.

It also provides that the driveway may be located in the front or rear yard setback as applicable.

- Since the proposal expands the locations for a driveway it does not create non-conforming structures, which was an argument raised by several residents.
- Many communities limit how close a driveway can be placed from a neighbor's lot line. Placing a driveway on or near the lot line impacts a neighbor's enjoyment of their property and that is one of the reasons why there are setback requirements in the Code. In the meetings leading up to the public hearing the Commissioners all disagreed with those residents that argued there should be no restriction on the location of a driveway.
- After listening to the public comments in the last meeting, it was felt that in a corner lot situation the driveway should also be permitted in the side yard setback that abuts the street since that would not impact a neighbor's enjoyment of their property. Commissioner Lyman indicated he had asked the Town attorney to draft optional language that would cover this situation. The optional language was read.
- If there are special circumstances that would support a driveway extending further into a setback a petition could be filed with the BZA for a variance.

The Commissioners then continued their discussion on the proposed amendments. It was first pointed out that many of the objections did not apply to the proposed amendment before the commission. A driveway is defined as a structure in the Code, that issue is not a subject of this public hearing. Commissioner Stanton indicated that he supported the proposed amendment he indicated that he supported the optional language for a corner lot. He acknowledged that this was an expansion of the possible locations for a driveway so this proposal would not create a non-conforming structure. He indicated the comments concerning a non-conforming structure were inaccurate. When a change is made in the Code that is more restrictive than the existing code provisions, a current legal structure could continue so long as future changes did not make it more non-conforming. If a current driveway was located ten feet from the property line it could not be moved closer to the lot line. It could be resurfaced.

Commissioner Blackburn agreed with the optional language concerning a corner lot and agreed with the proposed amendments and felt it was important to consider the impact to a neighbor's property in deciding the possible location for a driveway. He agreed that the policy was good and that if there were special circumstances the BZA was the appropriate body to review it.

Commissioner Norkus also agreed with the proposed amendment and the optional language for a corner lot. She indicated the proposed amendments were important to give clarification to the Building Commissioner and the Building Site Committee by codifying the existing practice and giving guidance when a side yard setback was involved. She indicated that the arguments concerning aesthetics were missing the point. Neither this amendment nor the existing code provisions required a certain aesthetics.

Commissioner Kapacinskas indicated he supported the proposed amendments and supported the optional language for a corner lot. He thought the public comments suggesting setbacks should not be applicable to a driveway or that the driveway would be forced into the center of the lot were not correct. There were plenty of options for the placement of a driveway permitted under the proposed amendments. The proposed amendments increase the number of options in the current ordinance. He also felt guidance to the Building Site Committee was important and this proposal expanded the possible locations to cover most if not all situations. If exceptions were needed the BZA was the appropriate body to consider the exceptions.

Commissioner Young also agreed with the proposed changes to the Code and agreed with the optional language for a corner lot. He stated the proposal to extend four feet into the side yard setback was consistent with the language for other structures such as a patio and was a good balance to protect the interest of the landowner and the neighbor.

After completion of the discussion, Commissioner Stanton moved that the Plan Commission certify a favorable recommendation to the Town Council to modify the zoning ordinance as discussed. Commissioner Norkus asked him to consider a friendly amendment to include as revised by the language relating to corner lots. Commissioner Stanton accepted the friendly amendment and Commissioner Norkus seconded the motion. The proposed amendment language including the optional corner lot was read. A roll call vote was taken, Commissioner Kapacinskas-yes, Commissioner Stanton-yes, Commissioner Blackburn-yes, Commissioner Norkus-yes, Commissioner Young-yes and Commissioner Lyman-yes. The motion passed 6-0.

5. Continued Discussion of Comprehensive Plan.

Former commissioner Tow Weber appeared to discuss his work on a summary of the issues with the current septic disposals in Town and options related to possible sewer systems. Tom mentioned he had been a member of a plan commission in Texas that transitioned to sewers and had a good deal of background on the subject. The summary was discussed at length. The commission expressed its gratitude for his work and analysis. The Smith Group presentation to the community was discussed. The presentation discussed the current and expected problems as the beachfront currently exists. The lack of sand for the beach and protection of the road will continue to be a problem and will most likely get worse unless some action is taken. A report should be completed in the next few months and will be an important part of the Comprehensive Plan. The report will include a discussion of the problem and what would occur if no future action is taken. It then will discuss maintenance, short term goals and options, mid-range goals and options as well possible options for the long term. All options will require a collaborative approach with the National Park.

6. The next regular meeting date would fall of Labor Day so the meeting was scheduled for September 19, 2022.

7. Commissioner Stanton moved to adjourn the meeting, Commissioner Kapacinskas seconded, the motion passed 6-0. Meeting adjourned at 7:42 pm.

Beverly Shores Plan Commission Minutes

September 19, 2022

1. The meeting of the Beverly Shores Plan Commission was called to order at 6:32 p.m. at the Beverly Shores Administration Building:
 - a) The following members were present in person: Joe Kapacinskas, Donna Norkus, Larry Stanton, Bob Young, and John Blackburn. Ellen Hundt, Recording Secretary was also present in person and monitored the Teams Broadcast to the public.
 - b) Greg Lyman was present virtually through the Teams broadcast.
2. Review of previous meeting minutes.

Minutes of the August 1, 2022, meeting were reviewed. Commissioner Kapacinskas moved to accept, seconded by Commissioner Norkus. A vote was taken. The motion passed 5-0.
3. Continued Discussion of Comprehensive Plan. The latest draft was discussed and suggested changes were made.
4. The Commissioners decided to reschedule the next regular meeting date to October 17, in order to give an extended time to review the draft of the proposed comprehensive plan and to give the new appointment to the commission time to review the draft.
5. Commissioner Norkus moved to adjourn the meeting, Commissioner Young seconded, the motion passed 6-0. Meeting adjourned at 7:32 pm.

Beverly Shores Plan Commission Minutes

October 17, 2022

1. The meeting of the Beverly Shores Plan Commission was called to order at 6:31 p.m. at the Beverly Shores Administration Building:
 - a) The following members were present in person: Joe Kapacinskas, Donna Norkus, Larry Stanton, John Blackburn, David Phelps and Greg Lyman. Ellen Hundt, Recording Secretary was also present in person and monitored the Teams Broadcast to the public.
 - b) Bob Young was absent.
2. Review of previous meeting minutes.

Minutes of the September 19, 2022, meeting were reviewed. Commissioner Norkus moved to accept, seconded by Commissioner Kapacinskas. A vote was taken. The motion passed 6-0.
3. Continued Discussion of Comprehensive Plan. The latest draft was discussed, and changes were proposed. A new draft will be prepared and discussed at the next meeting.
4. Commissioner Blackburn moved to adjourn the meeting, Commissioner Stanton seconded, the motion passed 6-0. Meeting adjourned at 7:17 pm.

Beverly Shores Plan Commission Minutes

November 7, 2022

1. The meeting of the Beverly Shores Plan Commission was called to order at 6:30 p.m. at the Beverly Shores Administration Building in the Town Clerk Treasurer's office:
 - a) The following members were present in person: Joe Kapacinskas, Donna Norkus, Larry Stanton, John Blackburn, and Greg Lyman. Ellen Hundt, Recording Secretary was also present in person and monitored the Teams Broadcast to the public.
 - b) David Phelps and Bob Young were present virtually through the Teams broadcast.
2. Review of previous meeting minutes.

Minutes of the October 17, 2022, meeting were reviewed. Commissioner Kapacinskas moved to accept, seconded by Commissioner Blackburn. A roll call vote was taken. The motion passed 7-0.
3. Continued Discussion of Comprehensive Plan. The latest draft was discussed, and changes were proposed. A new draft will be prepared and discussed at the next meeting.
4. Commissioner Stanton moved to adjourn the meeting, Commissioner Norkus seconded, a roll call vote was taken and the motion passed 7-0. Meeting adjourned at 7:26 pm.

Beverly Shores Plan Commission Minutes

December 5, 2022

1. The meeting of the Beverly Shores Plan Commission was called to order at 6:30 p.m. at the Beverly Shores Administration Building:
 - a) The following members were present in person: Joe Kapacinskas, Donna Norkus, John Blackburn, and Greg Lyman. Ellen Hundt, Recording Secretary was also present in person and monitored the Teams Broadcast to the public.
 - b) David Phelps and Bob Young were present virtually through the Teams broadcast.
 - c) Larry Stanton was absent.
2. Review of previous meeting minutes.

Minutes of the November 7, 2022, meeting were reviewed. Commissioner Blackburn moved to accept, seconded by Commissioner Norkus. A roll call vote was taken. The motion passed 6-0.
3. Continued Discussion of Comprehensive Plan. The latest draft was discussed, and changes were proposed. A new draft will be prepared and discussed at the next meeting.
4. Commissioner Blackburn moved to adjourn the meeting, Commissioner Kapacinskas seconded, a roll call vote was taken and the motion passed 6-0. The meeting adjourned at 7:06 pm.