

## Beverly Shores Plan Commission Minutes

June 28, 2021

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, Greg Lyman, Tom Weber, Donna Norkus, Joe Kapacinskaskas and Larry Stanton. Also present in person was Ellen Hundt, Town Clerk and Recording Secretary, Connor Nolan, Town Attorney.
- b) No member participated by electronic means.
- c) The following Member was absent: Greg Brown.
- d) The public was able to attend, participate and observe the meeting through the Teams software and had been invited to attend and participate by published notice as well as prior email notification of the agenda and virtual link.

Review of previous meeting minutes.

Minutes of the June 7, 2021, meeting were reviewed. Commissioner Norkus moved to accept, seconded by Commissioner Kapacinskaskas. Roll Call vote taken, John Blackburn-yes, Greg Lyman-yes, Tom Weber-yes, Donna Norkus-yes, Larry Stanton-yes and Joe Kapacinskaskas- yes; the motion passed unanimously.

Old Business

Review and revision of the Building Permit Application Form and Building Permit Fee Calculation Form. After discussion and review Commissioner Weber moved to adopt the revised Building Permit Application Form and Building Permit Fee Calculation Form. Commissioner Stanton seconded the motion. A roll call vote was taken: John Blackburn-yes, Greg Lyman-yes, Tom Weber-yes, Donna Norkus-yes, Larry Stanton-yes and Joe Kapacinskaskas- yes; the motion passed unanimously.

Public Hearing.

Pursuant to prior publication of notice as required by law a public hearing was held on Plan Commission Docket 21-1 a Plan Commission Initiated Recommendation for an Amendment to the text of the Zoning Ordinance related to:

Revision to the definition of fence and bulk regulations for Fences § 155.003, § 155.086,

Revisions of sections affecting Steep Slopes and consolidation into new sections §§ 155.140-155.145,

Building Permit revisions § 155.058, § 155.059, § 155.065, § 155.198,

Contractor registration revisions § 155.042, § 155.067,

Maximum Building Height revision from 40 feet to 35 feet, § 155.082,

Revision of the Lot Coverage provisions to a maximum of 30%, § 155.003,

Revision of the driveway provisions § 155.138,

A violation of any these sections shall be subject to the penalty provisions of Sections 10.97, 10.98 of the Beverly Shores Town Code and 155.999 of the Zoning Ordinance.

Commissioner Lyman gave a summary of the background for the proposed changes:

- The Building Commissioner and the chair of the Building and Site Committee had approached the Plan Commission to request a review of the Building Code because of reoccurring difficulties in applying certain provisions.
- The Plan Commission spent more than a year reviewing, gathering input, and revising these sections.
- The proposed revisions to the text were submitted to the Town attorney for review and revision.
- These proposed changes were then posted on the Town's web site for the public to review.
- The Public Hearing was scheduled, and Notice published as required by law.
- The problems raised were identified for each section and a brief description of the proposal was summarized.

The Public Hearing was opened. Members of the public were permitted to voice their opinions and questions concerning the proposals both for and against. The following residents spoke in person or virtually:

- Scott Vliek in general supported the changes. He had questions concerning the apron concept for the driveway, the definition of steep slopes and the requirement to identify slopes on the topo less than 33%.
- Saundra Linn in general supported the changes. She had concerns about the new contractor registration provisions. She indicated it was difficult to find contractors in this environment and did not want to make it more difficult. She suggested a minimum dollar amount for the project before requiring registration.
- John Dumelle in general supported the changes. He had questions concerning the cost to the property owner to provide a geotechnical report for the steep slope provisions and whether the definition of steep slope had changed from the prior version.
- David Phelps in general supported the changes. He had a question concerning whether garbage enclosures were regulated by the new fence provisions and several comments concerning the steep slope provisions. He commented that the steep slope provisions should have more protection for dune topography and

aesthetics of the dunes and was also concerned about the sand displacement provisions in the new proposal. He commented that the amount of sand displacement permitted under the proposal was too great to protect the dune.

- Paul Zucker in general supported the new changes. He had concerns about the impact of the driveway provisions and building height changes to existing homes. He also agreed with David Phelps comments about dune topography as it related to steep slopes.
- Mary Fulghum in general supported the changes. She had a question concerning the viable alternative site language in the steep slope provision. She asked whether the Building and Site Committee's opinion on this issue would be binding on the BZA or whether the BZA could render its own interpretation.

Everyone who requested an opportunity to speak was given the opportunity. The Public Hearing was then closed. No written comments or questions had been submitted prior to the hearing.

The Commissioners thanked all the residents for their input then discussed the public comments and attempted to answer the questions raised in the hearing.

- The driveway apron was discussed, the maximum 2 car apron by the garage was in addition to the maximum width of the driveway as was the radius by the street. The steep slope definition was only clarified; it was still a one-foot vertical rise in a three-foot horizontal plane on a dune at least twenty foot in height. The Commissioners explained why the topo map needed to show slopes less than 33%.
- The Commissioners explained why it did not agree with the minimum dollar amounts for the contractor registration and indicated that other communities had similar provisions.
- The Commissioners acknowledged there was a cost to the geotechnical report but explained the need for the report. The definition of steep slope raised by the question had not changed in the proposed revision.
- The Commissioners explained in detail the steep slope changes. The steep slope sections were being consolidated in sections 155.140- 145 to help B&S Committee review projects. These provisions should not be read in isolation; the other requirements of the Zoning ordinance still applied to steep slope projects. In particular, the Dune topography provisions in section 155.131 must be met. A steep slope project review under the proposal would be: If there is a steep slope impacted by the buildings or construction activity, then the B&S Committee would first decide if there was a practicable alternative site on the building lot that would have no impact or less impact to the steep slope. If so, the committee would require approval on the use of that site. If the property owner did not agree, they could petition the BZA for a variance. Second if there is no practicable alternative site, the property owner would have to provide a geotechnical engineering report to show the site plan, placement of building and construction activities would not

cause damage to the dune, roadway, or neighboring properties. Third, if the first two are satisfied no more than 120 cubic yards of sand could be displaced for a septic and no more than 180 cubic yards of sand could be displaced for all structures combined. If the property owner's request was greater than these maximums, they would have to request a variance from BZA.

- Section 51.02 controls garbage enclosures, it is not a fence.
- Section 155.010 addresses existing structures that might become non-conforming pursuant to the proposed changes.
- The BZA would render its own interpretation of the relevant ordinances in the case where a variance is requested.

Following discussion, Commissioner Norkus moved to certify the proposal to amend the text of the Zoning Ordinance to the Beverly Shores Town Council. Commissioner Weber seconded. Roll Call vote taken, John Blackburn- yes, Greg Lyman-yes, Tom Weber-yes, Donna Norkus-yes, Larry Stanton-yes and Joe Kapacinskas- yes; the motion passed unanimously.

The next meeting date is scheduled for August 2, 2021.

Commissioner Blackburn moved to adjourn the meeting; Commissioner Kapacinskas seconded. John Blackburn- yes, Greg Lyman-yes, Tom Weber-yes, Donna Norkus-yes, Larry Stanton-yes and Joe Kapacinskas- yes; the motion passed unanimously. Meeting adjourned at 7:38 pm.

CERTIFICATION AND REPORT TO  
THE TOWN COUNCIL OF BEVERLY SHORES

CERTIFICATION TO: THE HONORABLE ELLEN HUNDT, CLERK-TREASURER  
TOWN COUNCIL OF THE TOWN OF BEVERLY SHORES

FROM: GREGORY LYMAN, PRESIDENT OF THE PLAN COMMISSION  
ELLEN HUNDT, PLAN COMMISSION RECORDING SECRETARY

DATE: June 28, 2021

DIGEST: AN AMENDMENT INITIATED BY THE PLAN COMMISSION TO THE TEXT  
PORTION of the ZONING ORDINANCE

PURPOSE: To update and clarify six areas of the Building Code and to bring these  
provisions in line with similarly situated nearby communities. Attached is  
the proposal and recommended amendments

SECTIONS AFFECTED: Chapter 155 of the Town Code, amendments to Sections: .003, .034, .037,  
.042, .055, .058, .059, .065, .067, .082, .086, .131, .138, .198, creation of  
new Sections: .140, .141, .142, .143, .144 and 145.

Date of Plan Commission Action: June 28, 2021, following a Public Hearing on that date

Action taken by Plan Commission: Vote to Certify its Proposal and Recommendation to Amend  
the text of the Zoning Ordinance

Vote: In Favor: 6  
Against: 0

Ellen Hundt, Plan Commission Recording Secretary: (s) Ellen Hundt

Gregory Lyman, Plan Commission President: (s) Gregory Lyman