

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.