

1 Meeting Minutes
2 Town of Dewey Beach Planning Commission Public Hearings
3 Meeting Date: November 16, 2013
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5 The meeting was called to Order by Vice-Chair David King (10:04 am), followed by the Pledge of
6 Allegiance and Roll Call. Commission members present: Jim Dedes, Don Gritti, Chuck McKinney, Mike
7 Paraskewich, and Marty Seitz. Also in attendance were Mayor Diane Hanson, Kara Nuzbach, Georgia
8 Leonhart, Beverly Corelle, and Kevin Monigle.
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10 **Minutes.** Draft minutes for the Planning Commission’s September 28, 2013 meeting were approved by
11 unanimous voice vote.
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13 **Purpose:** The purpose of this meeting is to hold a series of public hearings followed by Planning
14 Commission discussion and votes regarding four draft ordinances to amend the Town’s zoning and
15 floodplain code in response to increased flood severity and sea-level rise. The draft ordinances under
16 consideration today were developed during the three prior Planning Commission meetings on sea-level
17 rise with substantial discussion and input from members of the Commission and the public.
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19 **Public hearings and Planning Commission Discussion.** At the start of each public hearing the essential
20 parts of the draft ordinance under consideration was read.
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22 **Public Hearing and Planning Commission discussion: 1) Alignment of language used in Town code**
23 **with that used by FEMA in its publications and flood insurance rate maps.** At the opening of the
24 public hearing on this draft amendment King noted that this is largely a housekeeping amendment to help
25 town property owners and potential buyers correlate Town zoning and floodplain management code with
26 FEMA (Federal Emergency Management Agency) and NFIP (National Flood Insurance Program)
27 regulations by amending the Town Code’s language; for example, to make it clear that the Town’s
28 “general floodplain areas” are those areas indicated on FEMA Flood Insurance Rate Maps (FIRMs) as AE
29 special hazard areas or flood zones.
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31 There was no public comment and the public hearing was closed.
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33 There was no substantive Commissioner discussion on this matter; a motion was made and seconded to
34 approve this draft and to forward it to the Town Commissioners with a recommendation for their
35 approval. This motion was passed by unanimous voice vote.
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37 **Public Hearing and Planning Commission discussion: 2) Building permit fee reduction.** At the
38 opening of the public hearing King noted that the intent of this draft ordinance is 1) to provide financial
39 relief to owners of residential-use properties within FEMA-designated flood zones that suffer significant
40 flood damage, and 2) to encourage owners of residential-use properties within FEMA-designated flood
41 zones to implement appropriate retrofit measures to increase resilience to future flooding, by reducing all
42 building permit fees for such repairs and/or retrofit projects. And that the two details that might be subject
43 to comments/discussion here are the degree of building-permit fee reduction (set at 50% in the draft) and
44 the threshold for qualifying for such a fee reduction (set at a minimum cost of qualifying repairs and/or
45 retrofitting of \$5,000 in the draft).
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47 There was no public comment and the public hearing was closed.
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49 During subsequent Commissioner discussions:

- 1 • Gritti noted that the degree of fee reduction of 50% was suggested initially by the Town
2 Building/Code Enforcement Official as what is being done in other parts of the country;
3 • Dedes (who also acts as Assistant Town Manager) noted that he contacted counterparts in
4 neighboring towns: S. Bethany waives fees for emergency repairs from storms, but requires
5 approval by the Town Commissioners; Fenwick leaves this decision up to the discretion of the
6 building official. He also noted that in discussions with the Town Manager and Building/Code
7 Enforcement Officer 50% seemed a reasonable compromise to provide relief to property owners.
8 • Seitz noted that the amount of the permit was small in terms of the costs of rebuilding, but that it
9 is important that the Town be seen as supporting reconstruction and improving resilience to future
10 storm damage.
11 • Paraskewich commented that the way that the \$5,000 threshold is calculated should be clear; it
12 should be consistent with how normal building permit fees are calculated. There was consensus
13 that the level of a 50% fee reduction and a \$5,000 threshold were both reasonable and
14 appropriate.
15 • There was some question as whether the reduced fee was to be assessed a) only on the amount of
16 the cost of qualifying repairs/retrofitting exceeding the \$5,000 trigger threshold, or b) on the full
17 amount of the cost of qualifying repairs/retrofitting . The Commission consensus (4 to 2) was
18 that the reduced fee rate should be applied to the full amount of the cost of qualifying
19 repairs/retrofitting.
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21 A motion was made to approve this draft ordinance as amended to clarify that the \$5,000 threshold
22 determination is to be calculated as per normal building permit fees for recommendation to the Town
23 Commissioners for their approval, with a friendly amendment to the motion to clarify that the reduced fee
24 be applied to the full cost of qualifying repairs/retrofitting. These motions were seconded and passed by
25 unanimous voice vote.
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27 **Public Hearing and Planning Commission discussion: 3) elevation of encroaching residential-use**
28 **structures in flood-prone area.** At the opening of the public hearing King noted that the intent of this
29 amendment is to provide conditional-use relief for owners of residential-use structures within FEMA-
30 designated flood zones that encroach in required yards, i.e., setback areas, and cannot be elevated to
31 NFIP.FEMA/Town base flood elevation standards due to the prohibition of any expansion “either
32 vertically or horizontally in the setback area” in Section 185-60 B. Currently, individual relief from this
33 zoning restriction must be sought from the Board of Adjustment based on non-financial hardship. This
34 amendment establishes a process under which a more straightforward path is provided in the zoning code
35 for all owners or property meeting certain criteria. However, this amendment would not prevent or
36 prohibit owners of non-qualifying structures, owners of structures not located in a flood zone, owners of
37 structures that could be moved so as to no longer encroach in any setback, and owners who wish to raise
38 their building higher than the minimum required building elevation from seeking such relief from the
39 Board of Adjustment; just as they would do now. King also noted that an issue to address in this hearing
40 was the extent of applicability, i.e., within the “coastal floodplain” or all “flood-prone areas” (as likely to
41 be required by DNREC).
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43 There was no public comment and the public hearing was closed.
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1 During subsequent Commissioner discussions:

- 2 • A consensus to apply to all flood-prone areas.
- 3 • Requests were made to clarify the “0.1 foot” (one-tenth of a foot) allowed variance, and the
4 distinction of FEMA “base flood elevation” and the Town’s “base flood elevation” (i.e., the
5 building elevation requirement which includes a one-foot freeboard what is being proposed
6 herein) everywhere as appropriate.
- 7 • Discussion was held about extending this relief to owners of encroaching structures who could
8 relocate their house on their lot so as not to encroach in any setback. In opposition, it was noted
9 that they always have recourse to the Board of Adjustment (as an individual), that it is the
10 objective of the zoning code to encourage non-conforming structures to come into conformity,
11 and that this restriction protects the interests of the Town within the zoning code.
- 12 • A request was made to clarify the intent of B. 1. b) on page 2, to amend, “If the structure can be
13 relocated on its lot or parcel so as not to encroach ...” so as not to require the demolition or
14 movement of any other structure on the same lot.”
- 15 • There was a strong but minority interest expressed in providing zoning relief to all owners of
16 residential property in a flood zone to elevate their existing structure (no increase in number of
17 floors, square feet of habitable area, of overall building height) to meet minimum flood elevation
18 standards (FEMA’s BFE plus the Town freeboard).
- 19 • Discussion of B. 1. h) on page 4 resulting in the consensus to remove the final phrase, “unless
20 specifically approved in Town building permit(s) bearing original signatures of the Town
21 Building Official and Town Mayor.”

22 A motion was made to approve the draft ordinance amended as per the above noted points and
23 recommend to the Town Commissioners for their approval and adoption. This motion was seconded and
24 approved by unanimous voice vote.

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26 **Public Hearing and Planning Commission discussion: 4) rebuilding without elevating.** At the
27 beginning of the public hearing King noted that the intent of this ordinance is to serve to align Town
28 zoning code, specifically Section 185-59, with FEMA/NFIP requirements that when repairing or
29 rebuilding residential structures in a floodplain that suffer substantial damage such structures must be
30 elevated to local minimum elevation requirements, and points to the amended Section 185-60 B for
31 criteria and process. It also specifies that in elevating and rebuilding the final height of the structure shall
32 not exceed the Town’s 35’ maximum height limit.

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34 There was no public comment and the public hearing was closed.

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36 During subsequent Commissioner discussions:

- 37 • A question was raised about the 10 year provision in A.1. It was based on an incorrect assumption
38 that one is required to have flood insurance and that FEMA aggregated flood loss costs over a
39 period of 10 years as part of its requirement for building elevation. The consensus was to align
40 the language here with FEMA requirements.
- 41 • Paraskewich explained that lenders require flood insurance on a mortgage. Also, as a participant
42 in the National Flood Insurance Program’s Community Rating System (which provides the
43 Town’s property owners subsidized flood insurance) the Town must require all new construction,
44 and substantial improvements and repairs in a flood zone to meet FEMA standards, including the
45 requirement to elevate substantially damaged properties to minimum flood elevations (FEMA’s
46 FIRM elevation plus Town freeboard height) as part of its repair.

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- King noted a need to make the same clarifications here as discussed related to the previous ordinance.

A motion was made to approve the draft ordinance amended as per the above noted points and recommend to the Town Commissioners for their approval and adoption. This motion was seconded and approved by unanimous voice vote.

Adjournment. There was a motion to adjourn; seconded and passed by unanimous voice vote (11:50 am). The next Planning Commission meeting was scheduled for 2:00 pm Saturday January 11, 2013, at the Life Saving Station.