

**TOWN OF ELSMERE
PLANNING COMMISSION
MEETING MINUTES
November 5, 2019
6:30 P.M.**

CALL TO ORDER: The Planning Commission Meeting was called to order at 6:30 PM.

PLEDGE OF ALLEGIANCE:

MOMENT OF SILENT PRAYER FOR THOSE WISHING TO DO SO:

ROLL CALL:

CHAIRMAN	CHARLES LINDELL	PRESENT
COMMISSIONER	ROBERT ANDERSON	PRESENT
COMMISSIONER	LEON BACKER	ABSENT
COMMISSIONER	JOSE MATTHEWS	PRESENT
COMMISSIONER	KRISTA NUSCHKE	ABSENT
COMMISSIONER	MARY STEPPI	PRESENT
COMMISSIONER	VACANT	

PUBLIC COMMENT:

None

APPROVAL OF MINUTES:

Approval of the minutes from the September 3, 2019 and October 1, 2019 Planning Commission Meeting

ACTION: Commissioner Mathews made a motion to approve the minutes from the October 1, 2019 Planning Commission meeting. The motion was seconded by Commissioner Steppi.

VOTE: 4 in favor, 2 absent and 1 vacancy Motion carried

Lindell – Yes, Anderson – yes, Backer – Absent, Matthews – Yes, Nuschke – Absent, Steppi – Yes

NEW BUSINESS:

Introduction of the new Code Enforcement Officer Victor Morgan.

Code Enforcement Officer Allen handed out a tentative schedule for the Planning Commission meetings.

Review Petition 19-09, Tax Parcel Number 1900-400-611

Code Officer Scott Allen read the summary analysis.

Chairman Lindell requested the applicant to come up to the podium.

Applicant Mr. Jordan Teich stated that he would like to request a variance to the maximum lot coverage in order to install a concrete patio and sidewalk in the rear of his yard. His current lot coverage is 38% and he would like the approval to be at 57%.

Chairman Lindell asked Mr. Teich to explain his request or hardship as to why he would like to expand this lot coverage to almost 20% over allowable coverage.

Mr. Teich responded that the property is always muddy and icy in the winter and that the access to the back-parking lot and taking trash cans to the curb is very challenging. That his uncle who has had hip replacement has fallen twice, once in the mud and once in the icy condition.

Chairman Lindell asked how the sidewalk would help with these conditions.

Mr. Teich responded that the sidewalk can be maintained and cleaned during the bad weather as to where muddy icy conditions cannot.

Mr. Teich stated that there is a small patio that leads from the basement to the outside and if removed will cause even more flooding and icy conditions. That he could reduce the size of the sidewalk, but it won't reduce by any dramatic means.

Chairman Lindell asked what type of material Mr. Teich is proposing to use to build the sidewalk and patio.

Mr. Teich stated his hard surface area was planning on Concrete with a Gravel base.

Chairman Lindell asked what your plan is about the run off from the new concrete to your neighbors and if there is any grass remaining if he is granted the petition.

Mr. Teich said there is still grass remaining on both sides of the sidewalks and out front.

Chairman Lindell said he understands his hardship, but our Code doesn't allow for us to increase non-conforming coverage. Has he thought about what he would do if the petition were denied?

Mr. Teich stated they do not know what they would do. They entertained a gravel sidewalk but is still muddy, icy and not safe. Thought about pavers which are impervious. They may continue to walk on the tarp that currently have on the ground.

Chairman Lindell asked so your hardship is for your uncle who has mobility issues due to his hip replacements.

Mr. Teich responded yes that is a portion but overall access to the back-parking lot is needed. Most residents in that area have sidewalks and back patios.

Commissioner Anderson asked to explain to the board what type of sidewalk, patios or hard services the neighbors have.

Mr. Teich responded that the 3 units to the right all have sidewalks that lead to the back and patios. One has a patio bigger than his proposed. To the left the neighbor has a wooden access to the back and the property after that has access to the public sidewalk.

Commissioner Mathews thanked Mr. Teich for coming out cooperating and explaining your hardship.

Chairman Lindell asked if there are any comments from the Code office.

Code Officer Allen responded that he had no comments or questions.

Town Manager Giles stated he had some questions and comments.

Town Manager Giles asked Mr. Teich if had an end unit or does he have a house on both sides.

Mr. Teich responded that he has properties on both sides of his house. That he is not an end unit.

Town Manager Giles asked where the sidewalk will start and finish.

Mr. Teich stated it will start from the patio and go out to the gravel parking lot.

Town Manager Giles asked that your paperwork states you are requesting to build a patio and a sidewalk. He asked what the plan for the runoff of water from this new impervious material is being used.

Mr. Teich stated the only additional coverage will be the sidewalk and they plan to place gravel next to it to use for the drainage and as well around the patio.

Town Manager Giles stated that your water runoff is still going to go somewhere, and it will runoff to your neighbors. Its all grass and any amount of concrete will move it and displace it somewhere else.

Mr. Teich stated that the gravel that he intends to put on the side of the sidewalk and the patio is more absorbent than compacted earth. That's why he and several neighbors have made the parking area more gravel and that it has helped with the drainage.

Town Manger Giles asked if he is running the patio across the 5-foot easement across his property.

Mr. Teich stated that the problem is that the water overflows to them since they are downhill and receive all the run off water from the properties above them and specifically stating that Seasons has created more run off.

Town Manager Giles stated that Season had to provide a run off water collection to be approved by the Planning commission and the Board of Adjustment.

Mr. Teich asked does Seasons have a cistern in place. He stated that when he drives by there it does not appear that there is a cistern in place. That whenever it rains the roads by Seasons are flooded and it drains downhill of which his property is downhill.

Commissioner Anderson asked Mr. Teich if he has had any backing from his neighbors as to a yes or no.

Mr. Teich stated that he does not currently have any letters, but several neighbors asked him if they needed to be there on his behalf and he stated no he didn't think they needed to be here. He said that would if they needed to.

Commissioner Lindell asked about the patio that is already existing included in the 38% coverage.

Code Officer Allen responded that no it is not. The patio and sidewalk will increase the coverage to 57%. He stated that the patio was built with out a permit and a Cease and Desist had been placed on the property.

Chairman Lindell asked Mr. Teich did you remove the old concrete and replace it with new concrete.

Mr. Teich states that yes, he had taken out several pieces of uneven concrete pads that were all uneven and creating ponding issues and made it one concrete piece.

Town Manager Giles asked how to do your neighbors take their trash out when you have taken over their easement area.

Mr. Teich responded that his patio did not create an issue that most of the properties have fences between the property through the easement. That they take their trash directly from their back door and take it out to the alleyway. That the easement is perpendicular, and the fences are now in the way.

Town Manager Giles stated that the easements are there for individuals to take their trash out and for the Fire department to get to the rear of the properties.

Mr. Teich stated that what he has done has not altered the access to the back of the house, but he made it easier and safer to access. That the concrete being one level instead of multiple levels is safer.

Chairman Lindell asked about the timing of the Cease and Desist as to has the sidewalk been done yet.

Code Officer Allen responded that he could not tell that he placed the Cease and Desist order on the entire project.

Chairman Lindell asked Mr. Teich has the sidewalk been done yet.

Mr. Teich responded that no it has not.

Chairman Lindell asked if the Petition is denied will he have to tear up the patio.

Town Manager Giles responded that we would probably have to have Mr. Teich modify the patio and come back before the Board of Adjustment. Unless he could justify a reasonable hardship.

Commissioner Anderson asked did Mr. Teich have any before and after photos.

Mr. Teich responded no he does not.

Chairman Lindell asked if there were any public comments.

Councilwoman Sally Jensen from the 2nd district, 504 Baltimore Avenue stated she has heard no comments for or against the proposed project.

Chairman Lindell asked if there were any more public comments.

Mr. Teich uncle stated that the back of the property was very unsafe when it rained and froze in the wintertime that they were walking at times on tarps to avoid the mud. That what his nephew is asking for is not harming anyone and that all the other neighbors have the same sidewalks as he is proposing.

Town Manager Giles stated that yes safety is important, but the Code is the law and that it states that you cannot build on a nonconforming property. That is the code which is the law.

Town Manager Giles stated that the Town does care about the residents safety but if they start giving out Variances to everyone the town can lose funding. That we could potentially run the risk of the Residents not being able to get flood insurance,

Town Manager Giles stated that Code Office Allen said the allowance of tonight's meeting was due to a handicap accessibility issue due to the multiple surgeries of the resident. That is considered a real hardship but otherwise, the Planning Commission does not have the authority to approve the request due to the code.

Mr. Teich responded that we did present the hardship in the fact that his uncle has had a knee replacement, hip replacement, and his father is aging and will need hip replacement soon.

Town Manager Giles stated in the last sentence you proved a hardship that will allow the planning commission to vote on this petition.

Chairman Lindell asked are there any other public comments with no comments.

Commissioner Anderson made a motion to approve the Petition 19-09 providing pervious material on the side of the patio and sidewalk agreeing with NPDS standards. Also, number two Elsmere Code 225-C based on the hardship to approve to the Board of Adjustment.

OLD BUSINESS:

Review of the Comprehensive Plan

Mr. O'Neill presented a brief review of last month's meeting agenda on the Topic of Transportation.

Mr. O'Neill presented the agenda for this evening consisting of Environmental features map and identify key areas of focus for natural resources and parks. Identify key areas of focus for housing, Mr. O'Neill handed out the agenda for tonight's meeting and draft recommendations for Environment, Community Facilities and parks, and housing.

Mr. O'Neill stated that Commissioner Steppi made mention that this information was not handed out ahead of time and that the planning commission members were not aware of the topics to be discussed at tonight's meeting.

Mr. O'Neill asked if there were any questions from last month's meeting.

Chairman Lindell asked about Vision Zero and that were we going to continue with that vision.

Mr. O'Neill stated that his recollection was that we were going to make it important but with a modified version. That yes, we have a goal and a vision with that objective of vision zero.

Commission Steppi stated that she would like to make it presented that the safety of the children in the town and Residents are important.

Mr. O'Neill asked if there were any questions regarding his handout about Environmental Resources, parks and community facilities and housing, Any areas of concern.

Commissioner Steppi stated that the Parks should be evaluated and what are the most used parks and enhance them. Maybe utilize some of the other parks for better space.

Mr. O'Neill stated that he had an interesting fact from DENREC that they have received multiple complaints about flooding.

Town Manager Giles stated that the multiple complaints are coming from the same individual.

Chairman Lindell questioned flood ready communities.

Town manager Giles stated the town has already adopted the plan.

Chairman Lindell said that we need to find a way to attract individuals to the parks and utilize them maybe a craft show, sporting events, maybe frisbee golf. He stated that large functions do have parking issues.

Town Manager Giles stated that maybe downsizing some of the parks. That we have 7 parks in 1 square mile.

Town Manager Giles stated possible building housing in the parkland. Build raised housing as to not create flooding issues. That the contractors want to build they will figure out how to and still be NPDES compliant.

Mr. O'Neill presented housing and slides that showed the population projection versus the actual. The town outgrew the projection. To take that in mind. That the projection showed no growth but, the Town grew 7 percent.

Town Manager Giles stated that redevelopment should be investigated. That a lot of the houses are just too small that people are not looking for this style of houses that were built during the end of the war.

Mr., O'Neill provided a quick review of the meeting agenda for the environment, Community Facilities, parking, and housing. He asked if there were additional questions or comments.

Chairmen Lindell asked if there were any questions regard the sea level rising.

Mr. O'Neill stated he reached out to DENREC about that issue and will reach out again to them. It does not affect us as much as Kent and Sussex counties.

Chairman Lindell questioned the participation in the CDPG program.

Town Manager Giles stated that we do participate in the program.

Mr. O'Neill reviewed that the January meeting will be on Land Use and zoning. He discussed the timing of submitting the rough draft of the Comprehensive Plan to council to review.

Commissioner Steppi asked should we have another open house in 2020.

Mr. O'Neill stated that we do not have to have another open house just to continue to provide public outreach.

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS:

None

PUBLIC COMMENT:

None

ADJOURNMENT:

ACTION: Commissioner Anderson made motion to approve the petition with the conditions to place the pervious material on the sides of the sidewalk and the patio. The motion was seconded by Commissioner Mathews.

VOTE: 3 in favor, 2 absent, 1 Opposed and 1 vacancy Motion carried

Lindell – Yes, Anderson – Yes, Backer – Absent, Matthews – Yes, Nuschke – Absent, Steppi – No

At this time, the meeting was adjourned.

These minutes summarize the agenda items and other issues discussed at the October 01, 2019 Planning Commission meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

CHARLES LINDELL, CHAIRMAN

LEON BACKER, SECRETARY