



Tuesday August 16th 2022 – Planning Commission Public Meeting

A quorum is in attendance

Present: Planning Commission Members: Cuteri, Griffith, Weir
Certified Community Planner: Laura Ludwig, HRG Engineering
Solicitor: Vogel, Tucker Arensberg
Secretary: DiNuzzo

Mr. Cuteri began the meeting at 7:00 PM.

Mr. Vogel opened the meeting informing the public they're there to discuss the amended ordinance. This is a procedure called by the municipal planning code. A brief overview as to why we are here; the Township has an ordinance that was passed in 1994. There was a small technical amendment passed in 2007 due to some litigation involving Shannopin Country Club. There was a further tweak in the ordinance in 2019. Our zoning ordinance is unique, with having 1 zone. Both Council and the Planning Committee want to update this. The approval process of this is, we'll have this meeting and take input, the planning committee may or may not make changes. At the end of the meeting, we'll have a better idea on whether or not there will be a need for an additional meeting. Once it goes through the Planning Committee, then this ordinance is proposed to Borough Council, which can happen at any Council meeting. After that, then this goes down to Allegheny for their review. It would be best to wait for the review to be complete by Allegheny before going through another potential editing process. Once this is in a good standing format, then there will be a Public Hearing and if there are no further changes, this will be adopted by Council. When we have a hearing, notice will be given in the paper and if there are any individual parcels, they would also be notified. Mr. Vogel suggested that for the meeting itself, Mr. Cuteri will go over this by section and take input from the public. Once we're done with each section, keep comments to that particular section. If we keep going back and forth, there's a good chance we'll lose comments and it will be difficult to follow. Also, we would appreciate if comments would be limited to just a couple of minutes so we can get through this. The Borough secretary will be taking minutes of this meeting, it's being recorded and we can proceed from there.

Mr. Cuteri stated that we'll start with article 1 and if you would like to talk to stand up and give us your name and address and you can proceed with your comments. Mr. Vogel asked Ms. Ludwig if she wanted to explain and changes that occurred to article 1. Ms. Ludwig stated that she thinks what we did mostly with article 1 is just make sure it was consistent with the multi-municipal comprehensive plan that the Borough did with the neighboring communities. These are basically just like a visioning statement in a way of land use over all within the Borough. It does make reference to the joint comprehensive plan. We may have added a little language here, but again these are more goal objective statements for what you want the zoning ordinance to achieve.

1. Public Comment:

Article 1

Mr. Cuteri asked the public if there was anyone with comments on Article 1. Dave Raves at 6 Lynton Lane who is also the chairman of the Zoning Hearing Board handed the Planning Committee various notes he had compiled while reviewing the drafted zoning ordinance. Mr. Raves noted that in section 104 A, there's a reference to the Boroughs comprehensive plan, it should be the joint comprehensive plan. He also added that most of his notes are in the definitions. Mr. Cuteri thanked Mr. Raves.

Ron Scott at 6 Clovelly asked about the under-ground electric on page 2 in 105 B. the elimination of overhead utility lines. Does this mean the lines coming into your house? Mr. Vogel stated that he did not believe that meant the lines coming into the house. It had to do with if there's a way to have the electric lines underground. We're not saying we're going to do that but. Mr. Cuteri reminded the public that this is for community objectives. We're part of the comprehensive plan. Where the Boroughs come together and establish the zoning districts. This is what allows us to have a primarily single-family residential district. So,

some of these objectives are from the comprehensive plan. They apply to all the Boroughs that are in that plan. Ms. Ludwig added something to take away from that is the elimination of visual or physical blight so like overhead utility lines is an example, but also mentions unbroken pavement, dilapidated structures, things like that. But a lot of communities do want that.

Article 2

Mr. Cuteri announced that since there were no more comments for article 1, they would move on to article 2. He also noted that he had a comment from Dave Raves within the garage definition, section 512. Mr. Raves added that mobile home is not defined. Megan Thompson at 15 Penhurst recommends and comments to section 2, is that the Planning Committee thoroughly review section 2 for defined terms that are not used in the document and delete them. If they should be used in an ordinance that is past further, they should be defined in that time. That's how most legal documents work. Also, make sure the section references and table of contents are updated. We provided these comments to the Planning Commission via redline PDF at that last planning meeting 14 months ago and they were not incorporated. Mr. Cuteri thanked Ms. Thompson.

Ms. Thompson also added that an accessory dwelling and non-conforming use, the defined term used later is existing legal non-conforming dwelling unit. I'm not sure how Council can go back to something that was before 1994. What happens if there something that's conforming between the reenactment of 1994 and this ordinance. Then you are essentially taking from them, the residents. What they did in that time between 1994 and this ordinance. I'm not sure that legally the Borough should - Mr. Vogel interrupted. No, legally if you have a prior non-conforming unit, even if the ordinance changes, that prior non-conforming unit continues. If something was permitted use 20 years ago, and it's not permitted now, that person could continue prior non-conforming use. Ms. Thompson responded, understood, but what Mr. Raves was saying and I agree with him, there are legal non-conforming use, it says only units constructed and approved prior to the adoption of the 1994 zoning ordinance shall be considered legal non-conforming. What about units after 1994? Mr. Cuteri responded well from 1994 did not allow accessory dwellings. You were allowed one principal use per lot; and I could not find any other zoning information prior to that. So, 1994 is when it was not permitted. But there were people who had apartments above garages at that time, so those are legal. Ms. Thompson stated so you need to address it at that time. We're now talking about 25 years later, and you're going to go back to someone who constructed something in 1995, that the Township has not said that's non-conforming and now they can't use it for that purpose? Mr. Cuteri responded no, if they had permission to build it, they would be permitted. If they got a permit for it, then it was approved by zoning, right?

Bert Fary at 11 Oxford Road interrupted – I think both of you are talking on the same page because the ordinance should say anything built prior to the enactment of this proposed ordinance, but that language was changed and it says before the enactment of 1994 ordinance, so now you've created a noncompliance gap. So now its retroactive when this passes. Mr. Cuteri asked Mr. Vogel if he understood the issue and could advise on it, he indicated he did. Ms. Ludwig stated we should just take out that sentence.

Mr. Raves stated, the definition of a parking pad. It defines a parking pad as only in the front yard. I don't know if you want to limit that to just the front yard. Mr. Cuteri responded well; driveways are permitted. So, if you had a driveway, you'd be parking on the driveway. Are you going to put a parking pad in the rear of the property? Mr. Raves responded, why not? Mr. Cuteri stated we'll take that under advisement. This really was addressing people who wanted a pull off in their yard. Mr. Raves added I understand that, but the definition of a parking pad is not defined anywhere else.

Mr. Raves added my only other comment in the definitions is the rehabilitation facility. It references group care facility, but there's nothing in the definition in group care facility that talks about a rehabilitation facility. I don't know if you're trying to say a rehabilitation facility is a group care facility or not. Ms. Thompson added, to Mr. Raves point, there is another definition that is defined but not used throughout the document. Mr. Vogel asked Ms. Thompson if Ms. Thompson had any other comments for article 2. Ms. Thompson replied no, I just suggest the committee go back to my extensive markup, define terms that aren't used throughout the document that was provided.

Article 3

Mr. Cuteri stated, Dave you have quite a few on this one. Mr. Raves replied I do. This is an ordinance, 305 D you use the word 'please', I suggest you really don't use the word please. The next comment relates to sections 307, 308 and 309; they all have tables with setbacks and heights limitations. You have height in there but, the height of what? The height of any structure? The height of the principal structure? Accessory structure? Mr. Cuteri responded, I think accessory structures are in a different section, so it's the primary structure. But we'll check that.

Mr. Raves stated my next comment related to 311 and 313 tables. You have a conservation, a COS district, but that is not listed in those tables of use. Ms. Ludwig responded because you can't build anything in it. Mr. Raves replied, my suggestion is list it and leave it blank, because that's how you define when uses are allowed or not. If we don't put it in, then it's like well, can I put anything in a COS or nothing in a COS?

Mr. Raves stated in 314 D 1, it talks about decks and porches. Delete the reference to a deck. Because a deck is defined as a paving or platform without a roof.

Ms. Thompson added 315 B we have the same issue on the 1994 ordinance and the 315 A discussed in the definition section. Mr. Cuteri asked, am I in the correct 315 A, B, C, where it talks about the retaining wall height? Or is that the wrong reference? Mr. Raves replied 315 A, B, C, this is about landscaping and fencing. Mr. Cuteri responded; well, it says retaining wall. Is that what we're referring to? A retaining wall of any height? Mr. Raves responded, if it's over 4 feet you need a protective barrier. What was added in July was landscaping hedges that provided a safety barrier must be approved by Council. What's the process to get that approved? Is it the zoning officer making that decision? It's going to take 4 months to get an approval from Council for hedges instead of a fence. Mr. Cuteri responded, okay we can eliminate that, disregard the fence, is that what you're suggesting? Mr. Raves responded no, I'm suggesting hedges that's fine, but why do I have to go to Council, can't I go to the zoning officer for that determination? Mr. Cuteri responded, yeah, we could probably change that. Ms. Ludwig added the Planning Commissioner or Council would require coming to a meeting, a zoning officer would just submit to the Borough. Mr. Cuteri responded we'll definitely take that into consideration.

Mr. Raves stated that 315 C 2, which talks about private garages. Mr. Vogel agreed that Mr. Raves note makes sense. Mr. Fary stated that he had a question regarding 315 C. What is the objection in having a living space over a detached garage? There no restrictions in having that space over an attached garage. Mr. Cuteri responded, well, an attached garage is part of the house. So, it's a single dwelling unit. But when you call it a separate structure, it becomes a second dwelling unit. Ms. Thompson added, it doesn't necessarily become a dwelling unit. This is when you have to check your defined terms. A dwelling unit includes a kitchen, and like separate cooking spaces. Living space does not necessarily have to have a kitchen. Mr. Cuteri agreed. Ms. Thompson continued; you could have an office with a bathroom above your garage. Mr. Cuteri responded, well I take it back, you were talking about living space not a dwelling space, my mistake.

Mr. Fary stated, our current ordinance already prohibits short term rentals. So, you can't Airbnb an accessory structure. So, I guess I wanted to start with an objection with having a general living space, a space above a detached garage where you don't have a kitchen. Mr. Cuteri responded no, I don't think there is, and I realized looking through the comments I got prior to this meeting, that we're probably not allowing for that to be built. Berardi had something like that approved a couple of years ago. It could be an office or living space, but it can't be a dwelling unit. You can't provide something where people can actually live there with a kitchen and a bath and everything. Mr. Scott added they would have to have their own address. Mr. Cuteri stated well, it has to do with the comprehensive plan. We're a single-family zoning district. So, when you put two dwelling units on one property, it's no longer a single family. Mr. Scott replied, so as long as they're not living there. Mr. Cuteri added I think what cause a lot of this is, when we defined the garage we gave it a height limit, the second floor is something we're going to have to look at from the planning commission, to adjust that. Mr. Fary stated, so it sounds like there's an agreement that the committee would be approving of a living space above a detached garage. Mr. Cuteri stated, I don't think it was ever intended to prohibited

that, but it was to be clear that you can only have a single-family property. You can't have multiple dwellings on one property.

Mr. Scott noted the height of the garage is terrible, Mr. Cuteri added, well, that what I was just saying, it will be adjusted to accommodate a second story and everything else. Mr. Fary added what about a proposal that it's a certain percentage of the primary dwelling unit? Your accessory structure cannot be taller than 85% of the primary dwelling unit. Another question about square footage, why isn't that also tied into the plot and land size vs. Mr. Cuteri interrupted we have notes and will be looking at ways to address the second story on the garage and the size is related to different property, plus the properties are small in the Borough but there are some larger properties. Mr. Fary responded, you say you'll look into it but you all have been Mr. Cuteri interrupted, we're going to look at it and readjust because there are things we missed.

Mr. Scott added I think all these regulations are to prohibited someone from making a living space above their garage. Just say you can't do that, have the ordinance say you're not going to have a second residence above your garage. Mr. Cuteri stated the point we're trying to make is it can't be a dwelling unit with a kitchen and bath where somebody can physically live there, but you can have an office.

Jacquelyn Neunder at 5 Biddeford Road would like to propose that any second story dwelling pieces of detached garages, might Council or the Planning Committee consider requesting or putting in here that sky lights should be used if it's going to overlook into a neighbor's property and that main structure windows facing into your own property, to allot for people to still maintain their privacy but then people who have been effected by Covid have people working from home more and have a different life than they had 5 years ago, 10 years ago 15 years ago – are able to do what they need to do within their property limits. But then still have something visually pleasing and accommodate the privacy of their neighbors. Because in this neighborhood, I get it, I can see into everyone's yards. It's a neighborhood, you're not going to have total privacy. That brings me to my point about fences [inaudible]'s code has 330-604, rear fences shall not exceed 8 feet in height and Ben Avon has code 2000-409 rear fence yard should not exceed 6.5 feet, front yard should not exceed 3.5 feet. If we have a concern for privacy and how people want to live within their use and their space, and how they want to keep their yard or not keep their yard, Council should consider how we're allowing fences to be used in the neighborhood. Mr. Cuteri responded what sections are you referring to? Mrs. Neunder responded section 315 E and A.

Ms. Thompson added sky lights, that should really only be restricted when you're talking about non-conforming garages that sit on the property line. If someone builds a garage with sufficient setbacks, that's no different than building an addition onto your house; and we don't really prohibit people from having windows facing your neighbor's property on an addition to your house, so long as it's according to the setbacks.

Susann Schneider at 7 Biddeford Road asked, so are we talking about the garages that currently are in accordance with their location in the yard? Or are we talking about any garages? Ms. Thompson responded, so I think there's two separate issues; I think there's the garages that are currently in place that may not be conforming with the respect to set backs, and being able to finish a living space above there. I understand that people in the neighborhood have concerns that if my garage is on the property line, they don't want a window facing their property line because that's super close. But there are revisions in here that people in our neighborhood with sufficient property could build a structure and I don't think that we should limit them in building a new detached garage if their property allows for it. Because we do as a neighborhood, have a maximum lot coverage of 25%. So, I think that there are a lot of ways that our ordinance protects over development, losing the character and feel of the neighborhood that we all moved here for, without a burden on people's rights.

Mr. Fary stated that goes back to the question I raised earlier, I just don't see the distinction really between a detached garage and an attached garage for the most part. If you're limited to the 25% overall property coverage. What difference does it make if I attach 5 car garage or I build a detached garage but then now I'm only limited to 675 square feet. If I'm still limited over all 25% coverage, what difference does it make? I don't understand the concern about detached garages or you can do something much bigger as long as it's attached to your house. You could put a breezeway between, what does that really accomplish? Ms. Ludwig responded, I think in general it's because the detached is considered an accessory structure and not

part of the primary structure, but I do get your point about lot coverage. Typically, the ordinances are more restrictive for accessory structures, in terms of size. Mr. Cuteri responded, there are other ways to limit the size as opposed to giving dimensions of square footage, and that's what you're referring to.

Mrs. Neunder stated I personally would rather see more car garages than 2 car garages over a dilapidated shed that deteriorates over time. I think the extra accessory structure of a 3-car garage is a better fit for someone and I think it lasts longer and is better maintained for storage all around.

Janae Smith at 22 Banbury Lane asked AI to better explain lot coverage. When you say 25% so the two structures on the property meet 25% or less of the overall property? Is that square footage wise? Does that include the living square footage wise? Mr. Cuteri responded that would be the foot print of the building. Ms. Smith continued, and I do have a question on page 36 on table 1-R; is that referring to the setbacks on the sides or one side of the accessory garages? Mr. Cuteri responded no, that's just establishing minimum lot size, which pretty much all the lots are established in the Borough. So, if you were to create new lots or subdivide a property, you need to have a minimum lot size. Ms. Ludwig added, that's just for the primary structure. Ms. Smith asked, where are the setbacks for accessory structures? Ms. Ludwig responded it just varies by type of accessory structure. So, there's not like a table. We can try and create a table. Mr. Cuteri added section 314 gives general provisions for accessory structures that goes by type and what's allowed. Does that answer your question? Ms. Smith asked, so if someone wants to build a 2-car garage with a living space on top, it would be very large, you're saying it only has to be 5 feet away from my property line? Mr. Cuteri responded, until we look at everything, we have to look at that. We didn't consider a second story on a garage when we were going through this. So, it has to be thought through, what makes sense.

Kenneth Bernauer at 23 Banbury Lane stated that he has several issues with the height being 12 feet. I know you keep saying it's a work in progress but you need to make it higher so I can get a truck in. I really don't like my car sitting out and I'm probably 10 feet away but I'm about 6 or 7 feet from the line. But, in here it also says that, if something happens to the garage or if it's semi destroyed if it's more than 55% then I'm not allowed to rebuild it. Now you're taking away the value of my property by doing that. Mr. Vogel stated normally that's standard on a nonconforming use. Mr. Fary added in the current ordinance now, it's at least a 1-year grace period. Mr. Cuteri responded, the timing you're referring to is legal nonconforming use. Mrs. Neunder stated you're opening it up for people to make Molotov cocktails and throw them at their neighbor's garages if they don't like it, that's what it's going to come down to; I don't like it, I don't want it, I'm destroying other people's properties unfortunately.

Mr. Cuteri asked the public to get back to the sequence of what we're doing. We'll address all these issues. That particular article, we said last time we were going to change it, we were going to a 1-year period to rebuild, and it was missed in the edit. Steve Stiller pointed this out to me a couple weeks ago, I did not want to edit it, because I didn't want people to think we were changing things mid-stream. But that article only really related to legal nonconforming use and we were taking all that 50% stuff out to rebuild it within one year, or to start rebuilding it within one year. So, there was a decision to take that out and change it and we missed that. Mr. Vogel added we're going to incorporate the changes and republish it and probably have another meeting on it. Mr. Bernauer stated on my street alone, there are 17 detached garages out of 23. Mr. Cuteri interrupted yes, but you have to understand that existing structures, this is for new construction. Ms. Thompson added but also, to this point, he would like to – I don't want to speak for you but, he would like to add up, correct? Mr. Bernauer responded, I only have 6.5 feet ceiling, I can't put anything in it. Mr. Cuteri responded right, and I said we're going to look into that because we're going to consider a second story and the garage height. Bobby Thompson at 15 Penhurst road stated he would recommend a height number over a percentage.

Richard Hickman at 11 Oxford Road referred to page 331, he questioned on how the side yard is the front yard, so there's no set back on that. Mr. Cuteri asked what are you referring to, the diagrams? Mr. Hickman said the corner lots. I guess before there was a restriction line. Mr. Cuteri stated the only zoning ordinance allowed for the sum of your side yard had to equal 40 feet, and one could be on less than 10. So, we changed that so your side yards could be as small as 10. So, he has a corner lot, so both of those are referred to as front yard. Ms. Thompson then stated so that's 40 feet on each side. Mr. Hickman added so I already have setbacks from the other property lines. Ms. Ludwig stated I mean typically corner lots you would have two fronts and two sides. You have a structure there now though? Is already on the lot? Mr.

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Hickman said yes [inaudible] if I build an addition or anything. Ms. Ludwig responded I mean corner lots are historically are more limited in what you can do, it can be a pain and that's typically – you don't have a rear yard, you have two sides and two fronts. Mr. Hickman stated now you're saying I only have two fronts. Mr. Cuteri responded I think you're making a good point. Keep in mind, what you're saying if you were to tear down your house and build a new house, you might be forced into that, but I don't think you're required to do that but we could change and make sure. Because basically your side yard is in line with what's on that street. The idea wouldn't be to make you set back 40 feet; you wouldn't be able to build anything. I don't know how we're going to word it, but we're going to try and correct the problem.

Mr. Scott stated he has a problem. I addressed the county, I'm 6 Clovelly, but my front door faces my neighbor and my back door faces my other neighbor. They have me listed as 6 Banbury, because that driveway is a paper street. If I had moved the garage back 15 feet. Mr. Cuteri stated I don't think that paper street is even on the map. Banbury extends past your property there? Mr. Scott responded well it goes back to the driveway there.

Mr. Raves stated the question is, how many sheds do you want? Mr. Cuteri responded I think there's a limit to accessory structures. I'm not sure where it is. Ms. Thompson responded it's one accessory structure per lot. You can have a shed; you can have a garage. You can have one of each accessory structure.

Mr. Raves continued 315 A-J, which refers to solar energy systems. Mr. Cuteri responded it says here about advertising. Mr. Raves responded; it says here about reasonable identification. What is defining reasonable? Is that a 10 by 12 sign on top of the roof? Or? Mr. Cuteri responded there's a whole section on signs. Mr. Raves continued page 345 solar energies shall not display advertising except for reasons for identification. I'm questioning who gets the authority. My suggestion is allowed surface mounted advertising. Mr. Cuteri responded, I think what it was referring to was name plates on equipment, so you know whose product it is. So, we should clarify in that way. Ms. Thompson asked solar panels would be permitted on the front of a structure? Mr. Cuteri responded I think it's permitted on the roof. Ms. Thompson continued, but it also says the zoning board will have the final say in it. So, I just didn't know what the outline is that they would consider with solar. Mr. Scott added solar is only effective if it's on the south side of the roof.

Jay Christian at 21 Banbury Lane had a question about 315 J 2, my thought was down the road we were thinking of solar, our house roof is pretty steep so it would actually not be allowed and I didn't really understand that. Anthony Lamparelli at 5 Biddeford Road stated he actually had the same concern.

Scott Dismukes at 22 Clovelly stated I'm probably the only one with a solar system, I would ask that you reconsider. If I wanted to put up a pergola in our backyard provided, we met the setback requirements, I would ask that we would reconsider, being able to do that, in 315 J2. Mr. Cuteri thanked Scott.

Mrs. Neunder stated my only question is, do we want to limit solar panel walls? Say a potential structure size that no one sees, would that be something better for our community? Because there are a lot of very mature trees in our neighborhood. Mr. Cuteri responded there just needs to be some sort of approval process, if you're putting stuff on walls and everything. I'm sure a lot of people don't want to live in a solar farm. It's great to be able to add solar. These are all great and interesting ideas.

Ms. Thompson asked dark sky is used as a defined term but not defined in the document. Mr. Cuteri responded; we'll add that to the definitions.

Mrs. Neunder asked if geothermal is defined anywhere. Mr. Cuteri replied no. do you have a lot big enough to do geothermal? I'm not sure if it would be a zoning issue or a county issue. Ms. Ludwig added I don't think that was brought up at all. I found one definition for it in renewable energy source.

Mr. Bernauer has a question about pools. He didn't think that we were allowed to have pools. Ms. Ludwig responded pools are allowed, just not in your front yard; it can be inground or above.

Article 4

Mr. Fary states in 406 A, with reference to the 1994 ordinance. Ms. Thompson stated 406 B, is not a complete sentence. Mr. Vogel stated Dave, on your section regarding 403. Why have special exceptions in

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407, that does not permit special exceptions. Mr. Raves stated only conditional uses. Mr. Vogel replied, sometimes they're putting in the road for a special process. Mr. Raves responded, but we don't have any special exceptions. In 407 A, it should be listed as joint. It also talks about if a use is not listed, they can be permitted by the Borough. What is that process? Does it go to Council? Does it go to Planning Commission? Does the Zoning Officer? Mr. Vogel stated I would probably suggest that if a use isn't listed, that would be treated as a conditional use. Mr. Raves stated, then I would want it consistent. Mr. Vogel replied, that's just my suggestion and I've seen it done elsewhere.

Ms. Thompson stated, also, in 406 D, it says that legal non-conforming accessory dwelling shall meet the setback of the area requirements, but they're non conforming, perhaps don't need setbacks? Mr. Cuteri responded, I think that D was to go under B, it was the requirements on approving or changing of a non-conforming use for B.

Ms. Schneider stated, under 406 D, does that go to table R? Mr. Cuteri responded no, that paragraph is part of paragraph B, it's just above. It says it you are modifying or improving a non-conforming use, then you have to meet those setbacks. Those paragraphs were separated. Mr. Fary added logically you can take setbacks out of there because it's a nonconforming use. Mr. Cuteri responded could be. We'll have to reword that. Its specifically talking about that type of property, a nonconforming use. Does that make sense or no? this is under accessory dwelling; it's only referring to the accessory dwelling. Because there are some properties that have built garages with residences above them before 1994. So those are existing, so those are legal, but they're nonconforming to the zoning ordinance. So, this talks about if you're going to improve that or change it then you have to comply to the setback requirements. But that's going to be adjusted once we reword this. Ms. Schneider responded so if you have a garage right now, how does that fit in to this setback? Mr. Cuteri responded well this does apply to that because this is only for existing nonconforming use. Your garage is a legal use and if you're going to change or expand it, you go through the zoning ordinance for what required for that and your construction. So, it would be those setbacks for accessory structures. That are defined in those charts. Anything else on 4?

Article 5

Mr. Raves stated aesthetics is governed by the zoning ordinance. Aesthetics is not a function of zoning. Mr. Vogel replied, I think that's the philosophical argument made elsewhere, it's common. Mr. Raves replied, theoretically, I should be able to build my house out of cinder blocks. Mr. Vogel stated Mr. Raves is referring to 507, his comment is aesthetics is not a function of zoning. Ms. Ludwig added, it just talks about exterior finishes. Planned missionary block or poured concrete should not be considered a finished product. Maureen Sweeney at 40 Wilson Drive agrees, feels very HOA type restrictions and that's not what we're about. Aesthetics and heights restrictions should not be included in this. Mr. Vogel replied, Maureen I guess my only comment to that is, it comes down to what would the community want. I mean, Ben Avon Heights is unique. It's kind of more of what a community feel is. Ms. Sweeney replied, with all due respect though, it has to be clear that we have to have public safety rationales on some restrictions. Purely aesthetic type restrictions are not something that is legal. Mr. Cuteri asked, you're saying health and safety? Ms. Sweeney responded health and safety you have to have some sort of rationale; purely aesthetic decision is not something that is really zoning. Mr. Cuteri responded, okay we'll look into that.

Mr. Cuteri stated, 509 B? Mr. Raves responded the ordinance right now does not define how to get the permit. Do you go to the zoning officer? Ms. Ludwig responded, yeah you go to the zoning officer, it's a zoning permit. Mr. Cuteri responded okay, so maybe we're not explicit, it should be the zoning officer.

Mr. Vogel stated 501, which is performance standards. I was also curious about that between, I would suggest a changed between 60 to 75. Mr. Fary stated well the current one is 75, 60 – the way decibel system works, it's significantly lower than our conversation now. So, it seems a bit over restrictive. Ms. Thompson stated I guess I would turn that question back to the planning committee, was there a significant concern? Or discussion regarding pulling it back or was it just because that's what this document had? Mr. Cuteri responded well when you go from 60 to 70, you are doubling the level of sound. The idea is you want something to enforce if you're having noise problems in your locale. If you raise it up, there will be a lot of noise. There have been issues in the past with parties and such. If you don't have some limit then, they can do whatever they want. Mr. Hickman asked wo's going to come around and check? Mr. Cuteri responded no, what happens is, if people are being rowdy then they're going to call the cops, they will check to see if you're

in the range or not. I guess that could maybe be in an ordinance and not zoning. Mr. Vogel responded yes; I've seen it done both ways on it. Sometimes it's just a little easier logistically to do noise under a separate ordinance as opposed to a zoning ordinance. Mr. Cuteri added, it really deals with night time when people are trying to sleep. The Borough can do it by ordinance. Mr. Vogel added but I think when we do that, we want to make sure that we do have a separate ordinance for noise in place. Sometimes that gets lost in the shuffle. Mr. Cuteri added some of this had to do with electric generators and they have to be periodically run.

Mr. Stiller stated if it's going to be enforced by police, shouldn't it be in an ordinance? Mr. Cuteri responded that's what we're saying, it would be a Council ordinance. Mr. Vogel added, opposed to the Zoning Officer coming by. Just a reminder Steve, we're going to need a noise ordinance from Council. Ms. Thompson stated shall I suggest putting a place holder in here and referring to the ordinance? Mr. Vogel responded no. if we take it out on republication, but we don't have a noise ordinance, the noise ordinance is usually a lot easier procedurally. Ms. Thompson stated I just find the ordinances on the website overwhelming, so like for me, the less ordinances, the better. Where you can cross reference. Mr. Vogel replied, there's a conflict in making things simple and in one place and being practical. As far as enforcement, again, enforcement of noise ordinance, officer or police. Police would normally have more access to those things. Mr. Cuteri asked, other comments on article 5?

Ms. Sweeney stated she had a question on 512. You're saying that timber harvesting [inaudible] so that's illegal. Mr. Vogel responded, you're right. Mr. Cuteri stated so we should strike that? Mrs. Neunder stated 502 D, number 2 says that evergreens must be planted at a minimum of 6 feet high, do we really need to regulate that? Mr. Cuteri asked what section are we looking at. That's part of a subdivision or land development. Mr. Vogel added that's in there because we're subject to the county saldo. Ms. Ludwig added but it would apply to Shannopin if they were to. Mr. Cuteri stated it doesn't apply to your personal lot, it's for subdivision. So, we were trying to plan if Shannopin went out of business and they sold the property. We would have to have something in there. Did that scare some people? Joe Dawley at 19 Canterbury asked the generator requirement, you can just test it between noon and 1 pm? Mr. Cuteri responded, well generators, that has to do with the sound ordinance, the usually run between 78-100 decibels. So, the idea is, if you're going to test it, you have to do it at that time but, you're exempt if it's running during a power outage. You don't need a service guy to run it. Mr. Stiller stated are you taking the noise out? Mr. Cuteri responded yeah; we're taking the noise out anyways. It's not an issue.

Article 6

Ms. Schneider stated she just had a question. Has there ever been a consideration in making like a street like Oxford one side parking only? Mr. Cuteri responded well it's not really wide enough, to have parking on one side. Ms. Schneider continued, because there are days where there is no way a fire truck can get through that street. It's probably not just Oxford, I'm sure there are other streets. Mr. Cuteri responded, that's really a Council issue, nothing to do with us, so. Ms. Schneider responded; I know but I saw parking so I thought I'd bring it up. Mr. Cuteri responded yes, that has been a long-time issue with parking on the streets. But Council has debated that for years. Kelly Kokoski at 10 Stratford Road stated I was told my house is only zoned for one car, so people seem to have issues with the two cars parked there, so I don't know if we have to ask for an exception to be able to park two vehicles. I've never seen where the house is only zoned for one car. Mr. Cuteri responded we have properties in the Borough that cannot have parking but your garage probably doesn't hold a car, but again, that gets into a Council issue as opposed to a zoning. You're not zoned one car, that's not a thing. You just have a garage that you can't get a car in. So, you're forced to park on the street. Ms. Kokoski then asked, so we are not zoned for one car. It's never been? Mr. Vogel responded, no.

Article 7

Ms. Thompson stated I know we talked about this last meeting, there was some conversation about you really can't prohibit what we put on our property because of freedom of speech. But it seems like you're trying to do so anyway. There's not an exemption for flags for universities or sports teams, and also like the new temporary yard signs that don't exceed 4 feet total gross area and then provide youth activities or events and or sports teams signs are permitted on residential property for a maximum period of 60 days. Number of signs shall not exceed the number of children under the age of 18 that reside in permanent residents, sorry Dickson no signs in your front yard for Ellis. Section 704 -13. Mr. Vogel stated we'll strike that last sentence, that's absurd. Ms. Sweeney added, along those lines, I had that same concern, also on 704 sub-

A 11, it seems to prohibit political signs on private property and a time restriction, it can only be up for a certain amount of time. If I want to put a sign up on my property, I can do so without a time period on that. I just think you need to make it clear that you're referring to public property, not private property. Mr. Vogel replied this sentence says Borough owned structures, planters, yeah. Ms. Sweeney continued I had the same comment about 13 I think your limit on how long something can be on my property and I don't think the Borough has the right to say how long something can be on private property. Mrs. Neunder added, and some seniors are 18 for 6, 7, 8 months of their senior year in high school so I get that. Mr. Cuteri responded; we're striking that. Mr. Lamparelli stated in section 706 C, limiting the height. Ms. Thompson stated but back to Maureen's point on that, is that we're talking about what is permitted in 705, and 704 A is exempt signs, so it's not clear what is an exempt sign which would therefore be permitted under there. Ms. Ludwig responded, so exempt signs are exempt from the regulations; and prohibited signs are not allowed at all. Mr. Cuteri added it says these are exempt from these regulations. Ms. Thompson responded so you can have an American flag and two Trump signs and you're good? I'm just trying to verify. Yes.

Article 8

Mr. Fary stated I thought we already stated that we would have a 1-year grace period. Ms. Ludwig responded, yes. Mr. Vogel added in 804 B, change Boroughs to counties.

Article 9

There were no comments

Article 10

There were no comments

Mr. Vogel stated, what's going to happen I think is that changes will be made, we'll have another meeting on this. I think that if, what will happen, correct me Al, this will be revised and republished. We'll have another meeting just like this, so we can go through this. It seems as if most everyone is on the same page, of all the big issues. I think as long as we get the consensus worked out, but we're going to have another meeting like this. Ms. Ludwig added and that would be before we send this to county. Mr. Thompson requested the next revision of this be redlined. Mr. Cuteri replied we had published this with all the redlines, I don't know, it was put on the website, right? Mr. Thompson responded that was not a total redline of what was presented from last meeting. Mr. Cuteri responded no this is a redline of the changes we made, that reflect this. Mr. Thompson continued, no, it's not even, the last document we presented at the meeting 14 months ago was drafted May 11th 2020. This is a blacklined document drafted October 30th 2020. So, it's not the same. Mr. Vogel responded what's going to happen is we're going to take the document that was put out today, and any redlines will be from what was discussed after taking in our discussion tonight. Mr. Cuteri added that's what you're going to get, you're going to get this July version that we've gone through with all the changes we've talked about we're going to adjust those and you will see those in the redlined change from this document. But we're not going to go back to the last one, and try to fix it.

Mrs. Neunder stated I understand there is a legal time requirement for notifying for these, but I know that there were quite a few members from our community who could not be here because vacations and other things were planned out. Could we have 3 months to review. Mr. Cuteri responded it's not going to be that long until the next meeting. We'll make sure it goes in the email, because we're not going to drag this out for 4 more months. Ms. Ludwig responded, we were sent email comments and they were shared so we'll look at those. Mr. Vogel stated for the noticed requirements, I mean we're talking about at least a 3 week if not a month advanced notice, and simply because the notices are in the citizen and on the website. Ms. Ludwig added and I mean for the next public meeting may be sooner but the actual public hearing? There are different requirements for that. So that will be more in advanced. Mr. Vogel added the process is, well get something here for the planning commission to present to Council and then we'll send it down to the county and wait for their comments before we have a hearing; because you never know what the county has, but also if the county raises something and let's say we have a good reason for not changing it, you always have a potential liability problem. Mr. Cuteri thanked the public for their input.

Meeting ended at 8:37pm

**Ben Avon Heights Borough
12 Lynton Lane
Pittsburgh PA 15202**

The next scheduled meeting TBD

Jessica DiNuzzo, Secretary