



Borough of Ben Avon Heights

Tuesday, June 6th, 2023 – Special Meeting – Planning Commission

A quorum is in attendance

Present:

Planning Commission: Cuteri, Griffith

Council Members in attendance: Brown, Dawley, Lope, Neunder, Radcliffe, Stiller

Consultant: Laura Ludwig

Mayor: Dismukes

Solicitor: John Vogel

Secretary: DiNuzzo

Residents: Susann Schneider 7 Biddeford, Betsy Radcliffe 14 Wilson, John Radcliffe 14 Wilson Drive, Janae Smith 22 Banbury, Jim Georgalas 15 Banbury Lane, Scott Dismukes Clovelly Drive, Joe Dawley 19 Canterbury Lane

Call to Order: Mr. Cuteri started the meeting at 7pm

- 1. Public Comment:** Mr. Vogel noted that each resident has a maximum of 3 minutes to speak. Betsy Radcliffe at 14 Wilson presented her concerns over that she feels this current document is unconcise. She noted many items throughout the document state to see the chart, and they do not exist. She also noted there is no definition for a zoning permit. She also noted the tri-state ordinance is not available on our website for review.

John Radcliffe at 14 Wilson Drive wanted to know what the next steps Mr. Cuteri would take over these concerns. He also stated he had an issue with the section on fences and walls.

Joe Dawley at 19 Canterbury Road had concerns was over how they plan to keep track and process the comments from the public. He admitted he's having trouble keeping track of the changes; he's like to see a summary document.

Janae Smith at 22 Banbury Lane came with concerns over if playground structures are considered temporary or permanent. She's concerned because some can be very large. She also brought up her concerns over the setbacks, and why they reduced them in the current drafted ordinance.

Jim Georgalas at 15 Banbury Lane came to state he thinks the current ordinance is working just fine, and heard there was a governmental mandate to do so and would like to see this list.

Susann Schnieder at 7 Biddeford came with concerns over adding rooms over garages, because how can you enforce that sewage and plumbing isn't added and people aren't living in them. If these are built too tall or too close to the property line, what would the course of action be to correct them?

Planning Commission began their working session with Council.

Mr. Cuteri noted that he planned to go through the worksheet that Mr. Brown had created of all the comments that had been collected for the May 26, 2023 deadline. He also added that many comments were redundant. Mr. Brown added that in section 312 E 3, specifically states *in no instances shall an accessory building have the same or similar use as the principal use, unless constructed under previous ordinances or and having zoning approval for such use.* He added there is no prior ordinance that allows a second dwelling unit, the only other exception would be zoning approval. There is no possibility of having a dwelling above your garage, something that is completely residential. He feels we should clean this up a bit so it's very straight forward in stating there is no living

dwelling unit in any accessory structure. Mr. Radcliffe added he would like verbiage added so there is no plumbing in a garage which would prevent that issue of the space above becoming a living dwelling unit. Mr. Cuteri noted that it seems on most of these issues, the community is divided and Council will need to be the ones to make the final decision. Mr. Brown noted the way it currently reads, he feels it clearly states it cannot be used as a living dwelling unit. Discussion took place. Mr. Cuteri stated as the planning Commission, they would not accept the change and that the language is unambiguous.

Mr. Cuteri moved onto the next item they would be discussing, on page 6 adding the words manmade object having ascertainable stationary location. Mr. Cuteri feels this section is very clear, so they will not make that change. Mr. Radcliffe disagrees, he noted Ms. Smith mentioned these large play structures that can go right up to the property line that have no height restrictions. Mr. Brown added that that statement is not true, accessories have to be a certain setback, and height. He also doesn't feel you need to add man made. Mr. Radcliffe then read the definition of structures on page 22. Mr. Brown noted that if they capitalize structure in the accessory structure definition so you know that it refers to the other definition.

Mr. Cuteri noted the next comment was to eliminate alleys. He was concerned since we do have paper streets. He was okay with removing the word alleys.

Mr. Cuteri noted the next comment was about basketball courts. He feels there are only a few properties large enough to accommodate these. Mr. Brown noted he feels there should be some definition as some people have a basketball hoop, does that count as a basketball court? Mr. Cuteri stated that a basketball hoop might go in someone's driveway, a basketball court would be different. Discussion took place. Mr. Brown added he suggested in table 5 remove P under the R column. Ms. Ludwig questioned if Council would like a definition of sports courts added.

Mr. Cuteri moved onto car ports. Mr. Brown added he personally would not like to see it allowed as an accessory structure. Mr. Cuteri explained that the language in the ordinance allows a car port if attached to the primary structure. An it was agreed car ports would not be permitted as an accessory structure. Mr. Cuteri moved onto Decks and dwellings. Mr. Brown suggested changing the definition of deck to a free-standing board, attached to an accessory structure or attached to a primary structure, then it's covered as well under table 5. Mr. Radcliffe added we do not want decks on garages. He also suggested making a list of what a deck can be attached to. Mr. Cuteri indicated that decks were not intended to be permitted on accessory structures.

Mr. Cuteri moved onto garages and occupiable space. He noted that occupiable space does not mean a living dwelling. Mr. Radcliffe noted there is no current definition of occupiable space, would that be added? Mr. Cuteri confirmed that could be added.

Mr. Cuteri moved on to firewood rack. Ms. Ludwig noted she did a quick search on the definition of a firewood rack, she also noted that she has never put a definition or regulations on a firewood rack. Mr. Radcliffe presented a photo of a firewood rack, that was a small one. Mr. Cuteri noted the zoning officer is not going to go around and regulate that, therefore if you want someone to enforce it, you're going to have to have the police do so, which would need to be a different ordinance. Ms. Ludwig did note it can be added to have property maintenance in the language of a firewood rack.

Mr. Cuteri moved onto front yard setbacks. Mr. Radcliffe provided different visuals to discuss and show fences. Mr. Radcliffe added that the front yard should be facing the street with the property address. Discussion took place. Mr. Brown noted that the drafted zoning ordinance is stricter with setbacks, the only thing that changed between the two is the amount on the side yard. Current ordinance says a total of 40 feet and only one side should be at least 10 feet. After more discussion, Mr. Brown noted that he hears the point of the residents, he understands. At this point it is up to Council to make the decision. Mr. Stiller noted that they were tabling garage height and setbacks.

**Ben Avon Heights Borough
12 Lynton Lane
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Mr. Stiller noted that Mr. Dismukes had a question about solar panels that was a little confusing and asked him to explain his question. Mr. Dismukes explained that solar panels are only allowed on the primary structure or a garage, which it means it's excluded anywhere else. He's concerned with house this is written.

Many items we discussed. Mr. Cuteri indicated that planning commission would update the ordinance from all that was discussed today, that planning commission would provide a response to the lengthy comments list and that Mr. Cuteri would draft the response to County (reviewed by solicitor) once the final Planning Commission Ordinance has been completed. Then the ordinance and county response will be offered to council for re-submission to the County. Mr. Cuteri indicated once that re-submission has been made, the ordinance will then be in Councils hands.

Mr. Brown requested the drafted zoning ordinance be updated for the July 2023 Council meeting. There will be no update for Council at the June 2023 meeting.

2. Meeting adjourned at: ended at 9:30 pm

Jessica DiNuzzo, Secretary