Town of Greenwood

Minutes

Planning Commission

**Wednesday Dec. 16, 2020**

**PUBLIC MEETING**

**Call to order:**

Commission Chair Jennifer Nelson called the meeting to order at 6:32 pm.

**Commissioners Present:**

Jennifer Nelson, Leon Rust, James Westhoff

**Officials Present:**

Town Manager, Hal Godwin and Robert Palmer, Town Engineer

**Opening Remarks:**

Town Manager Hal Godwin opened the discussion by verifying each member had received the packet of information pertaining to the expansion and building of the Cove subdivision. Mr. Godwin introduced Derick Parker of Bay to Beach Builders, the owner of the land and his engineer John Murray. Mr. Godwin explained that the Town of Greenwood wants this project to succeed but this project has gotten complicated with the flood plain issue. Mr. Godwin has had contact with David Warga from the County and was not able to work with him in order to accomplish any issues. Mr. Godwin then reached out to Todd Lawson and Jeff Shockley at the County and they suggested the Town have a M.O.U.. Mr. Godwin stated the only other town in Delaware that he is aware of that has a M.O.U. is Slaughter Beach. Mr. Godwin had a meeting with Bob Palmer, the Town Engineer stated the subdivision ordinance allows Planning and Zoning to award the variances not just the Board of Adjustments. Mr. Godwin stated that Warga has the Town in a corner and when Mr. Godwin relayed to Todd Lawson what Warga had told him to do Warga denied it so DNREC implied Mr. Godwin was a “liar”.

**New Business:**

Mr. Parker stated he builds homes in flood plain areas weekly and he has previously worked with Jeff Shockley. They are very familiar with elevation certification, flood vents required etc. and they always follow the criteria required. Mr. Parker stated in his 20 years of being in business he has never encountered a lot that is totally unbuildable due to being in a flood zone. There are always criteria that can be met that makes the lots buildable at a safe flood safe level. Mr. Parker stated if he can obtain the building permits from the town, he will then obtain a county permit and Jeff Shockley and Mr. Parker feels this is a “bunch of red tape”. Mr. Godwin stated he wants to make sure that the Town of Greenwood is off the hook with DNREC if the Town grants the permits.

Mr. Murray stated he feels there may be an issue with wordage/definition of the difference of flood plain and floodway. In a zone X it is stated there is a .2% annual chance of a flood. Mr. Murray also read from C-3B Section 5.5A which was provided by Mr. Palmer to discuss the wordage clarifications. In a letter from Beacon Engineering dated 12-9-20 it was stated the possibility of no improvements beyond the floodway line including fill and the potential to make lots 38-48 a permanent conservation easement which would keep the area still part of the deeded property but would implement a deed restriction stating that area is not to be disturbed. Mr. Godwin stated he and Mr. Palmer had had several discussions concerning this situation and are still not in agreement as Mr. Palmer would like to remove the area from the deeded lot completely and Mr. Godwins argument is that this would reduce the size of the lot making it more difficult to meet setbacks for building. Mr. Godwin stated he is aware of other Towns adding a restriction to the deed but it must be on the deed to that will transfer to any future owners as well. Jen Nelson expressed concern and asked if these items need to be met just to please DNREC. Mr. Murray stated if it is approved to designate the floodway on the deed there should also be a legal exception stating in the event of a hazard situation such as a fallen tree, the owner may remove the hazard from the floodway area.

Mr. Godwin stated the town needs the ability to issue the building permits with the assurance that FEMA has made an approval. Mr. Parker stated he would have to meet all requirements including FEMA or he would not be able to obtain Certificate of Occupancy documents for the homes and Jeff Shockley from the County would not issue documents without the meeting of all requirements as well. Mr. Godwin also expressed that he wants the homeowner to be able to obtain the current flood insurance as well with the approved documents as to look out for not only Mr. Parker but the residents as well. Mr. Westhoff asked Mr. Parker if the area marked as the floodway was removed from each lot would Mr. Parker have a home design to fit the lot or could the lots be re-designed more of a vertical than horizontal shape and Mr. Parker stated no because he would then lose lots. Mr. Murray stated the previous plans for the lots were presented and reviewed by the Town in 1997, 1998 and 2002 to approve the design. Mr. Murray stated the layout that was approved would be kept as there was a lot of time and money spent on the design and they do not want to re-structure. Mr. Westhoff also asked who would be the “floodway police” that would enforce no disturbing of the floodway areas designated and Mr. Godwin stated as Code Enforcement he would be responsible for that. Mr. Palmer suggested that Mr. Murray reach out to FEMA in order to ensure the Town of Greenwood would be covered of any and all liability.

Jen Nelson made the recommendation that Mr. Parker and Mr. Murray start by contacting FEMA to discuss the possibility of floodway easements on the lots. Mr. Palmer stated that before the Town grants any variances they should consult with FEMA and the Town attorney. Mr. Palmer asked Mr. Parker to consider developing the subdivision in multiple phases as planned and to defer lots 38-48 until a solution is reached. Mr. Parker stated he will not do that. Mr. Godwin asked the Planning Commission members if they may consider granting an approval with conditions. The conditions would be written   
FEMA approval. This would give Mr. Parker the opportunity to come back with all final documents for approval as it is December and Mr. Parker would want to break ground to begin building in the Spring. Mr. Palmer expressed two concerns he has which would be the Towns insurance rating with FEMA and the future enforcement on the floodway areas that would fall on Town administration. Mr. Palmer stated that FEMA checked the lines in 2015.

Jen Nelson asked for a motion to approve the sketch plan with conditions which include they must provide documentation from FEMA that the plan has been reviewed and approved for the floodway deed restrictions. At the next meeting the Parkers will submit their full package for approval. Mr. Westhoff made the motion and Leon Rust made the second. The meeting was adjourned at 7:35 pm..

Attested \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Town Manager