

Borough of Ben Avon
7101 Church Avenue, Ben Avon, Pennsylvania, 15202
Minutes – Special Council Meeting – February 7, 2008

Council Members Present

Todd Smith, Dan Herchenroether, Judy Konitsney, Ken Opiery, Lloyd Corder, Sue Weiss

Council Members Absent

Mark Colenbrander

Others Present

Ken Opiery, Sr., Mayor
Chuck Perego, Borough Solicitor
Carmella Hallstein, Borough Secretary

Call to Order

Council President Ken Opiery, Jr. called the meeting to order at 7:00 p.m.

Public Participation

Mr. Schwartz from Environmental Planning and Design (EPD) addressed council about the proposed joint zoning ordinance for Ben Avon, Avalon and Bellevue. Mr. Schwartz presented and reviewed the ordinance and zoning map. He stated that EPD started with base maps from 1932 that were the borough's parcel maps. Mr. Schwartz stated that the county at that point did not have their lots digitized into computerized files. He stated that the computerized files are now available and EPD should be receiving these files from the county within a few weeks.

Mr. Schwartz stated that the project started several years ago when EPD began drafting a joint comprehensive plan for Ben Avon, Avalon and Bellevue, which was then adopted by all three communities. He stated that a comprehensive plan is a blueprint or a vision of where you want to go as a community and because this is a joint plan, it is joint vision. Mr. Schwartz stated that during the planning process several keys items were reviewed and addressed.

- Within the three communities, there were 26 different zoning districts. There were very subtle differences between the 26 districts so they were consolidated, which will help with efficiency in terms of administration. There are 10 zoning districts in the proposed joint ordinance.
- In terms of approvals through the planning commissions or the zoning hearing boards, Ben Avon has less than 5 in a year, Avalon has about 20 and Bellevue has about 35. There is an opportunity over time, to share some resources and use them more efficiently.
- All three communities are built-out with the majority of land already developed. You need to bring together commonality and uniformity between the three communities but there is a potential for problems when you change zoning provisions like setbacks.
- Existing nonconforming uses were reviewed. The existing zoning for minimum lot size in each of the three communities was compared to the actual lot sizes to determine where the nonconformance was in each community. Avalon changed their zoning in the 1970's to make the minimum lot size bigger, which virtually made the entire

community nonconforming in terms of lot size. To help remedy some of these problems, the minimum lot sizes could be adjusted in some of the zoning districts.

- There are three residential zoning districts in the proposed joint ordinance, RL, RM, and RH. The proposed minimum lot size for these districts is 6000 sq. ft., 3500 sq. ft. and 2000 sq. ft., respectively. There may be lots in Ben Avon that could possibly be subdivided when the minimum lot size is reduced. This issue will be reviewed to determine how many parcels could actually be subdivided. To remedy this problem the proposed minimum lot size may have to be increased, which would cause some additional nonconformance.
- In the proposed joint ordinance, the setbacks were changed in some cases. Contextual setbacks may be used instead, which would require setbacks to match the average of the block. This would allow for less variation and a setback standard that could be customized for each community.
- The Municipalities Planning Code (MPC) is the enabling law that gives municipalities the power to establish zoning. The MPC defines specific definitions, which have been included in the proposed ordinance. Case law, specifically recent case law, was reviewed and terminology that came out of these cases was incorporated in the ordinance. In terms of administrative and procedural items such as required advertisement periods, the contemporary and most recent standards were included in the ordinance.
- There are different land uses, permitted (P), conditional (C) and special exception (S). A permitted use is a use that is permitted by right as long as it complies with zoning. A conditional use is a use that is permitted by right, but must be reviewed more stringently because there are some peculiarities with it and conditions need to be defined. There are many different conditions such as design criteria, setbacks standards, parking, buffer areas and lighting. Uses that are classified as conditional go to the planning commission for review. The planning commission then makes a recommendation to the elected body (council). The elected body must approve all conditional uses. A special exception use must go to the zoning hearing board for approval. The elected body does not have any control over the decision process for a special exception use. Items that have a great amount of significance to the community should be classified as a conditional use so that the elected body has control over the decision process.
- The three communities will share a planning commission and a zoning ordinance, but each community will have its own zoning hearing board.
- By law, you must accommodate all land uses. If you do not reasonably accommodate all uses somewhere within your community, then they are permitted anywhere. It is very difficult to determine all possible uses, so "all other uses" has been added to the proposed ordinance as a permitted land use.

Mr. Schwartz presented and reviewed a tentative timeline for completion of the project.

- February / March receive and analyze comments received from the steering committee members and community officials
- April prepare integrated draft
- May hold public review and public meetings
- June refine ordinance document for public comment
- July / August hold final public review in preparation of public hearings and adoption
- September / October hold public hearings and adopt ordinance

Old Business

Quite Zone Request for the Emsworth Locks and Dam Crossing

Mr. Herchenroether stated that Mike Clark, a resident of the borough scheduled a meeting between the Army Corps of Engineers, Norfolk Southern Railroad and the Federal Railroad Administration to discuss the issue of the train horns that are blown at the private road crossing at the Emsworth Locks and Dam. The meeting will be held on Monday February 25, at 11 a.m. at the locks and dam. Mr. Herchenroether stated that Norfolk Southern responded to the borough's letter about creating a quite zone and in that response stated that they had determined that, the interest of safety is best served by continuing to sound the locomotive horn at the crossing. He stated that based on this response the meeting may be futile, but Norfolk Southern was still willing to attend the meeting. Mr. Herchenroether stated that he would like to represent council at the meeting. Council agreed to have Mr. Herchenroether act as Ben Avon's representative at the meeting. Mr. Herchenroether stated that he would invite a representative from Emsworth to attend the meeting.

Adjournment

Motion: Mr. Herchenroether; Second: Mrs. Weiss; Motion carried by unanimous voice vote to adjourn the meeting at 8:30 p.m.

Respectfully submitted,

Carmella Hallstein

Borough Secretary