



Within the table in the current Code, the minimum side yard setback is 6 feet, but the aggregate total has to be 16 feet. Minimum is not mentioned. This could infer that only 16 feet is required for total side yard setbacks. Depictions were shown of various lots with the proposed changes to the side yard setbacks. A 100 foot deep x 100 foot wide lot with side yard setbacks of 16 feet on each side would have a buildable area of 5,100 square feet. A 92 foot deep x 100 foot wide lot with side yard setbacks of 16 feet on each side would have a buildable area of 4,556 square feet. An 84 foot deep x 100 foot wide lot with side yard setbacks of 12 feet on each side would have a buildable area of 4,484 square feet or 4,012 square feet if the setbacks on each side are 16 feet. A 76 foot deep x 100 foot wide lot with side yard setback of 8 feet on each side would have a buildable area of 4,284 square feet or 3,468 square feet if the setbacks on each side are 16 feet. Depictions were shown of irregular shaped lots that would not accommodate the 4,000 square foot rectangle requirement. The following type of lots would be exempt under the proposed ordinance:

- (1) A 5,912 square foot irregular lot with a width of 104.04 feet at the street would have a lot area to width ratio of 56.82.
- (2) A 5,052 square foot irregular lot with a width of 89.50 feet at the street would have a lot area to width ratio of 56.45.
- (3) A 5,094 square foot irregular lot with a width of 73.27 feet at one street would have a lot area to width ratio of 65.59.

The required yards without adjustment for a 5,121 square foot irregular lot would 19.52 feet. The required side yards for a 5,121 square foot irregular lot with a lot area to width ratio of 83.95 would be 17.75 feet.

- (4) An irregular parcel consisting of two lots with a total width of 144.23 feet at the street and is 10,470 square feet would have a lot area to width ratio of 72.59.
- (5) A 7,844 square foot irregular lot with a width of 157.08 feet at the street would have a lot area to width ratio of 49.94.
- (6) A 5,515 square foot irregular lot with a total lot width of 66.85 feet at the street and convergence of side lot line at 17.1 degrees would have a lot area to width ratio of 82.50 or a lot area to width ratio of 65.40 less the convergence of side lines.
- (7) A 5,517 square foot irregular lot with a total lot width of 65.28 feet at the street and convergence of side lot lines at 14.0 degrees would have a lot area to width ratio of 84.51 or a lot area to width ratio of 70.51 less the convergence of side lines.
- (8) A 5,469 square foot irregular corner lot with a width of 96.63 feet at one street would have a lot area to width ratio of 56.60.
- (9) A 7,926 square foot irregular corner lot with a width of 136.46 feet at one street would have a lot area to width ratio of 58.08 feet.

An irregular corner parcel consisting of two lots with a total width of 57.17 feet at the street and is 9,951 square feet would have a lot area to width ratio of 174.06. The required total of side yards would be 18.29 feet.

A 5,854 square foot irregular corner lot with a lot width of 62.68 feet at one street would have a lot area to width ratio of 93.40. The required total of side yards would be 20.06 feet.

Commissioner Bill Sargent said that he would like to go through each case to confirm that it is reasonable and then review the language.

Mayor Cooper noted that the figures for the front yard and the square feet which are needed to do the calculation should be located on every survey. For those properties where the convergence makes a difference, the bearing of one side yard can be subtracted from the other side yard bearing which would result in the convergence. Lots with a smaller front lot line and a greater rear lot line are not disadvantaged because they are probably at 50 feet across the front lot line and would fall into the Lot Area to Width Ratio equal to or exceeding 92.

Commissioner Patrick Gossett thought that this addresses the Planning Commission's question with regard to issues with bulk and the setbacks.

Commissioner Stan Mills had hoped that more information would have been provided by the Planning Commission with regard to seeking out how other municipalities do this. In moving forward, it would behoove the Commissioners to hire a professional for some of these things, specifically to provide alternatives to know what other municipalities have done, to see how they mesh with the current Code, what the impacts are and

whether or not the Commissioners should be looking at other things at the same time. The lot frontage plus lot area formula appears to work on all the examples he had done. This formula does not address bulk in every instance. The Planning Commission's recommendation had an increase in the setbacks and a concurrent increase in the minimum side yard setbacks. Its formula for a 100 foot wide lot, the minimum side yard setback would be 12 feet. With the new proposed formula, the current minimum side yard setback of 6 feet would not be changed. The new proposed formula would increase the side yard setbacks for certain properties which Commissioner Mills was unsure with everything that is currently required to be out of the setbacks if they should be included in the proposed ordinance. Consideration should be given to exempting flat items up to the current setbacks such as garden edging, patios, trellises, gazebos, etc. The current setback should be allowed to be maintained without adhering to the increasing setback. This would apply to any increase in the side yard setbacks emanating from implementing the new rule. Building Inspector Terri Sullivan said the definition of structure would need to be changed. The definition of structure determines what can be located in a setback.

Commissioner Bill Sargent said that what is being proposed should apply to the main house structure, possibly a swimming pool and any outbuilding such as a concrete building.

Commissioner Mills referred to the definition of structure in the Code. Part of the concern with what is being proposed goes to grandfathered structures. Many properties will be impacted by this proposed ordinance by virtue of existing structures and being grandfathered of which no things will be able to be done in the future. This may result in more Board of Adjustment cases. More consideration should be given to what the Commissioners are additionally requiring to stay out of the setbacks.

Mayor Cooper noted that with regard to notifying property owners, the resolution and ordinance would be published in the newspapers, and a public hearing would be held. Commissioner Mills thought that a letter should be sent out to everyone trying to explain what the proposed ordinance is all about and how it will affect them. The City is obligated to tell those who may be impacted or will be impacted. Commissioner Gossett said that with regard to grandfathering, one of the purposes of the change in setbacks is to address bulk, light, health, air, streetscape, etc. of the public thoughts and what is going on in the community. A new standard would be created to improve the health of the community.

Mayor Cooper will forward his presentation to the Commissioners for their review.

Commissioner Lorraine Zellers asked if some of the diagrams from the presentation could be incorporated in the Code so that people could look them. Doing this would help to explain the formula a little better. Other municipalities have been doing the proportional setbacks for lots that are smaller, not larger. Diagrams were also provided in their codes.

Ms. Sullivan said that the typical things which are affected in side yard setbacks are propane tanks, patios, pools, etc.

Commissioner Toni Sharp had received comments from people wondering what the impact for be if there are plans in the pipeline. City Solicitor Mandalas noted that if there has been vested time with an engineer or architect, those plans would not be considered to be in the pipeline. The plans and applications would be considered in the pipeline when they are submitted to the building inspector's office. Generally, when a zoning ordinance is in paper form, on the table and being discussed, the pending ordinance doctrine comes into effect. When there is an ordinance pending and the Commissioners are considering it, the building official cannot accept any new applications which would be subject to the ordinance. City Solicitor Mandalas read Section 270-84(C). Mayor Cooper said the doctrine has been interpreted that once a public hearing is set, no new applications can be accepted. It would not be triggered at this point.

Mr. Walter Brittingham, 123 Henlopen Avenue, said that this will create additional work for Building & Licensing. If this will require additional computation, it should be required to be put on the surveys. There needs to be additional consideration for parking.

This item will be placed on the agenda for the next Workshop Meeting.

## **NEW BUSINESS**

There was none.

## **CITY MANAGER'S REPORT**

There was nothing to report.

## **COMMITTEE REPORTS**

Commissioner Mills of Chair of Communications Committee discussed Committee recommendations for Commissioner agenda language that clarifies whether or not the public can voice comments. A memo dated October 4, 2013 from the Communications Committee along with samples of Agendas was distributed to the Commissioners prior to the meeting. The memo was in regard to Committee recommendations regarding Board of Commissioners agenda language that clarifies whether or not the public can voice comments. The Committee offered the following recommendations to optimize communications with the public in attendance at Commissioners' Workshop and Regular Meetings: Make minor edits to the agendas to better reflect the processes already in place and clarify for the public whether or not they are allowed to speak on agenda and non-agenda topics and if so, when. Samples agendas were provided with proposed new language inserted.

Commissioner Zellers said that this is an easy way of letting the public know and provides better clarification. Citizen input would be important during the Workshop Meetings. Commissioner Sargent said that this would be memorializing what the Commissioners do. Commissioner Gossett commented that on a Workshop Meeting agenda, putting public discussion in writing is helpful; but the location of it on the agenda should be towards the bottom as an informational aspect. Votes are not taken at Workshop Meeting so the wording should be changed. For citizen comment, the full name and address must be stated, and it would be limited to three minutes at the discretion of the Chair. The public discussion should be limited to Old Business, New Business and perhaps Committee Reports. Public discussion should be changed to citizen comment. Commissioner Hunker agreed. Mayor Cooper thought that this is unnecessary. It should be limited to certain areas of the agenda. If this is to be done, there should be a time limit. Any comments from the public taken from the floor should not be discussed or debated. Discussion ensued.

Commissioner Mills said that the changes will be made and will be presented at the October Regular Meeting.

## **CITY SOLICITOR'S REPORT**

There was nothing to report.

## **COMMISSIONER ANNOUNCEMENTS/COMMENTS**

Commissioner Mills commented that the pipe the dredge uses to discharge sand on to the beach was located on a Rehoboth Beach section. Mayor Cooper said that there are two dredges working at Liberty Island, etc. He thought they may start in Rehoboth before they are finished in Dewey Beach.

Mayor Cooper provided an update on the citywide reassessment. Information is currently being compiled. The City is waiting on a draft letter that will be sent to everyone. It is anticipated that fieldwork will begin on October 15, 2013.

Mr. Howard Menaker, 16 Dover Street, thought a letter to the residential property owners is essential.

Commissioner Gossett provided an update on the City Manager's search. October 4, 2013 was the closing date for accepting applications. One hundred applications have been submitted. He reminded the Commissioners of the process. A Special Meeting will be held on October 18, 2013 at 2:00 p.m. where the top candidates will be brought forward from the list.

## **DISCUSS ITEMS TO INCLUDE ON FUTURE AGENDAS.**

An item to be included on a future agenda is and executive session regarding City court cases.

The next Regular Meeting will be held on October 18, 2013 at 7:00 p.m.

There being no further business, Mayor Cooper adjourned the meeting at 10:42 a.m.

**Respectfully submitted,**

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**(Lorraine Zellers, Secretary)**