



Borough of Ben Avon Heights

Thursday, June 17th, 2021 – Planning Commission Meeting

A quorum is in attendance

Present:

Planning Commission Members: Cuteri, Griffith, Weir

Certified Community Planner: Laura Ludwig, HRG Engineering

Mayor: Dismukes

Solicitor: Vogel, Tucker Arensberg

Secretary: DiNuzzo

Residents:

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

Introduction & History: Mr. Cuteri called the meeting to order. He reminded the room that this meeting is a public meeting for the planning commission, regarding the new zoning ordinance. Mr. Cuteri asked the table to introduce themselves. Michael Wier, resident, and member of the planning commission. Laura Ludwick, planning consultant with HRG. Michael Rovitto, 1 Wilson Drive, and a member of the zoning hearing board. Al Cuteri, Chair of the Planning Board. John Vogel, Borough Solicitor. Scott Dismukes, Borough Mayor. Jessica DiNuzzo, Borough Secretary. Justin Griffith, member of the planning commission.

I have served on council for 25 years, along with serving on the zoning hearing board, and the planning commission. Ben Avon Heights has an archaic and outdated zoning ordinance which is problematic. It has been my and councils Intention is to create a new zoning ordinance that is legally compliant and that would protect the value of property, quality of life and general enjoyment by the residents of Ben Avon Heights Borough. The 1975 Comprehensive plan, on which our original zoning ordinance was based was developed in concert with Ben Avon and Avalon and is no longer and has been invalid for some time. The current Zoning ordinance is based on that comprehensive plan, which as out of date. In 2011 we engaged a law firm to assist in updated the zoning ordinance as much as could be done which resulted in the 2012 amendment to the ordinance to bring it in line with concerns at that time, but we realized that was a temporary measure.

We have a unique situation with a predominantly residential Borough which is not typical. To comply with zoning requirements, we became part of the new comprehensive plan that included Bellevue, Ben Avon, Avalon, and Ben Avon Heights which was completed in July 2017. This was a necessary pre-cursor to a new zoning ordinance. In 2019 we retained HRG Engineering to evaluate the current ordinance and comprehensive plan to help us with a plan to create a new zoning ordinance which is the subject of tonight's public hearing.

Please keep in mind the following rules: We are here to listen to the residents and get your input. We will not make any formal decisions tonight. We will consider all comments and make our recommendation to council. The Zoning Officer of Ben Avon Heights has reviewed the ordinance and had only one minor clerical comment. If you wish to tell you need to Identify yourself by name and your address of residence. Only residents of Ben Avon Heights will be heard. Please keep your comments brief and to the point. We are not setting a limit on speaking time, but we reserve

the right to stop repetitive or irrelevant comments in the concern to be efficient and allow all to speak who so wish to. Laura Ludwig will present the zoning ordinance and then we will open the floor for public comment.

- 1. Presentation:** Ms. Ludwig presented those attending the meeting with a power point presentation of an overview and background of the zoning ordinance changes. Ms. Ludwig informed those present that the Borough contracted with HRG back in 2019 to conduct a zoning audit of the current zoning ordinance. Based on the findings of that audit and the comprehensive plan completed in 2017, this new drafted zoning ordinance and map were developed. Monthly meetings were held over the last year or so, made up of Borough council members, the mayor and some public attended. Members went through page by page as they continued to draft the document. The purposes of a zoning ordinance is to promote, protect and facilitate public health, safety, wealth, morals and welfare of the community; to encourage and coordinate practical community development and proper density of population; to prevent things such as overcrowding of land, or light; danger, congestion of travel or transportation; to provide for various housing types and the land uses; to accommodate reasonable overall growth and to preserve any agriculture lands such as farm lands, steep slopes, things like that. The provisions within the zoning ordinance should reflect the policy, and be consistent of their community objectives, that are outlined in the 2017 comprehensive plan. It should consider the character of the community and consider the needs of the residents, and the various neighborhoods within. Typical content you see in a zoning ordinance, are zoning map, zoning districts, area, and regulations, permitted uses and other use types, definitions and terms, signage, parking, and zoning ordinance.

The zoning map: The Borough previously was entirely residential, and Ms. Ludwig did not believe the Borough had an official zoning map; the Borough was part of the joint comprehensive plan in 2017, with the neighboring Boroughs. The zoning districts that are proposed on the new map, is "R" for residential, which is still most of the Borough; Conservation and open space, which are steep slopes, and non-developmental parcels that the Borough owns; Community recreation which is the Borough Park; Private recreation which is Shannopin country club; All other areas are counted for in the neighboring Boroughs. Ms. Ludwig noted that this zoning map is simple, with the majority being single family residential.

Zoning ordinance table of contents: Ms. Ludwig noted that the table of contents are typical and standard. There are general provisions, there's definitions, district regulations for the specific zoning districts on the map, different regulations within regulations on fencing and on accessory structures like sheds; standards and criteria's, supplemental regulations, information on parking which for the most park is only applicable to Shannopin; language on signage, and the standard zoning ordinance back matter. General provisions, gives a summary of development objectives and the purposes of zoning. Article 2 is definitions, the currently ordinance was last written in the 60-70's so it was time to give it an update. Some of the terms were updated and modernized, and certain terms were added, with specific sign types, wireless facilities, and visuals for fencing your yard; tables were also added. Article 3 is the district regulations, so it has statements of those 4 zoning districts and provides the area in multicables; previously this was not in a table format. There are some general standards for accessory uses, like sheds fences and solar panels. Article 5 is supplemental regulations, with some performance standards, and some exemptions. Article 6 deals with parking, parking ratios, a single-family dwelling is 2 units which is very common, and private recreation which would be for Shannopin. Signage, we did add some language on the permitting process for getting a sign and the procedures associated with that, mostly applicable to businesses so that would be Shannopin; and then some language added on for signs that are prohibited like A frame signs and digital signs. The last section is very standard language on information on the regulation and procedures for any non-conforming structures or lots, required permits and penalties if you don't get a permit, very standard language. The last part is dedicated to the zoning hearing board, and processes for that.

- 2. Public Comment:** Jim Georgalas 15 Banbury Lane, has a very limited issue right now to look at as he has not had the opportunity to see all this. My issue is, the political signs; and what has me concerned about that is, a couple years ago I wouldn't be sitting here raising a fuss, I don't know what the fear is with political signs to begin with but, they just happened and maybe they stayed up on the property a little too long, but then they left and nobody was hurt or what have you and if you were for democrat or republican or libertarian – that's what makes it interesting. But times have now changed, we're living under a period of people like us cannot

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get our own idea published to the community, without much more effort than before. The internet has now really let us down, it's controlled, what you can say – you can say something perfectly right about the efficacy of an experimental or off labeled drug by a peer reviewed group and you will be cut off – and that's not political but I'm just saying that something so apolitical is a subject of discrimination.

What I can see in this ordinance is that you're discriminating against political signs and you're doing it in an arbitrary and capricious manner; because you've had no findings of fact based on any basis that these signs are harmful in any way, or that they offend the community. I might be very offended by Halloween decorations, okay but it seems like in this thing Halloween decorations are okay but political signs are not. That is my primary concern that we shouldn't have limitations other than danger to the public as to what you say on your property. There's a supreme court case that says the most important first amendment right exercise is when someone puts a sign in their yard, because not only are they making a statement, which they can do anonymously, or other ways in a public square, they're putting it on their property which shows their dedication to that idea. I think it's a very important thing, and more important over time, that we really respect and celebrate political statements. Your solicitor and I went to the same school, and I think he was a little bit later in there, and there used to be debates on communist vs democrat, to no end; well, that doesn't happen anymore, you can't do that at a college. You're either on one side or the other side and the other side is for voting. That's my concern about signs.

Ms. Ludwig responded that she would leave it up to Mr. Vogel too, but it is an exempt sign it would be considered temporary if I'm not mistaken. There are temporary signs on public property and there are temporary signs on residential property. Mr. Georgalas added that public property – you can control what you want. Mr. Cuteri added what we're saying is it's not, you can put political signs up. We're not excluding them. Mr. Georgalas added that he thought there were limits in size and the duration. Mr. Cuteri responded that yes, that has always been the case.

Megan Thompson 15 Penhurst added that she read the sign thing, she agrees with you, the way that the definitions and this wording, like a flag is only considered a flag of the state, federal or local government; so technically somebody couldn't have like an Ohio State flag hanging outside their house, or a Penn State flag hanging outside of their house; and then with the temporariness of the sign – like we have signs for our kids' school, like my kids a kind kid and I put that in my front yard. I should be able to have that in my front yard for more than 5 days. And if he wants to hang a political sign, he should be able to hang a political sign for more than 5 days Mr. Cuteri responded that no, it is not 5 days. Ms. Thompson responded that it is 5 days. It states that it shall not exceed 5 days and shall be removed immediately after. Maybe that's not the intent, but legally speaking, that is how it reads. I think that's why this conversation needs to happen because there are definitions that don't work and legal terms that need to be tweaked in this document to make it, as a lawyer I don't want to say oh we didn't intend that because there's always an argument in that's how it's written. Mr. Dismukes asked if that's an issue on public property or private property. Ms. Thompson responded, private property. Mr. Dismukes then asked and the way the definition reads from your review.

Ms. Thompson began to read temporary signs on residential property, a temporary sign not exceeding 6 square feet - fine, and total gross area for each exposed based may be permitted for a period to not exceed 5 days and shall be removed immediately after termination of the activities, service project or event of, provided that the if safely installed. The use of the word and, it needs to be, if it is specific to an event, so you can have your sign, but if it's specific to an event it must be an or, that cause just needs to be re-worked. Mr. Cuteri responded that the temporary signs that Ms. Thompson is referring to here and maybe we need to clarify the definitions for people who are having a sale at their house or a yard sale, or something like that, that was the intent, it had nothing to do with if you put up a sign about your child or something. So, we will clarify; the idea of this was like hey, I'm having a yard sale or, I'm having a sale of all my furniture or something like that, that's why it refers to the activity, or event so those signs don't sit there for 3 or 4 weeks. That was the intent of that. So, if we look at the definition of temporary signs maybe it needs to be clarified.

Mr. Vogel added that there must be some reconciliation because under the definition of temporary sign, it says any sign advertised or displayed constructed of cloth canvas, light fabric, cardboard, wallboard, displayed for a period of not exceeding more than 31 days. Temporary signs shall be permitted to advertise

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openings distress sales, change in ownership, or temporary businesses which have been approved by the planning commission and Borough council or zoning hearing board. On this one, on the temporary signs, this is not dealing with political signs. I think this is just dealing with if it's rummage sale next Tuesday. I think that for the most part, for having signs on your property, for let's say a political statement or otherwise, on your property, the government gives you a lot of deference. That's not something that this is supposed to, govern. The two things really are, are someone who decides to make this a billboard for their home remodeling or babysitting or something like that, that's kind of the first issue behind this: the second one with signs on public property, that's really dealing with political signs but on the public property itself.

Mr. Georgalas asked what the limitations were on private property for the political signs. Mr. Dismukes replied that it's really size, and there is some component of offensive content. Someone in the audience asked who defines what's offensive. Mr. Dismukes responded; well, I do. Ms. Ludwig spoke up and stated that that language had been taken out. Mr. Vogel responded that I think as far as the offensive comment goes, that's always a tough thing and it's not in here because I know in other communities, where you will see, someone will say 'blank this candidate', the owners of property have a lot of leeway with things like that; it's unpleasant, no one may like it but I think if you go to court on it, the Borough will lose. I think that's why when we're talking about the political signs, we're very careful of not putting limits on private property, because again on private property – Mr. Georgalas interrupted so this doesn't really address this, on private property and political signs. Mr. Vogel responded that no, it doesn't address it because it's difficult to address. Mr. Georgalas responded okay I read that quickly and I apologize. We can get a PDF of this, right? Mr. Cuteri replied that yes, you can currently download it from our website. Mr. Vogel added that just as a note, again, for everybody here it's on the Borough website, because it's about 100 pages, it would be an expensive way to add up to make the copies of it. But if it's dire or difficult, we'll get you a paper copy, call up the Borough manager.

Ms. Thompson responded that along those lines, I know this is a working draft, but just as a general read through of this, there's a lot of inconsistencies like that, and there's a lot of definitions that are in the front that are not used throughout the document, so I guess as a resident that is paying, using tax payers dollars to have this drafted, I would like a through proofing of it to ensure it's really saying what we're intending it to say and it's like tight and we're not extraneous references or definitions that have not been used in the document. Ms. Ludwig responded that she thinks that there are some that the Borough just opted to keep in there because should someone come through and want to put say a wireless communication facility, you define it, but you don't permit it anywhere. So that would have you covered, you know what I mean? Mr. Cuteri added if you don't have certain information defined, then it creates problems in the future when people are filling out applications for things we have not thought about or provided for in the zoning ordinance. So, we have gone through and stripped out a lot of stuff that was irrelevant, I mean the original was what, about 160 pages and we got it down to about 95. But we'll look at it again, I'm not saying we won't but, keep in mind some of these things, in my experience in zoning issues, and zoning components and all that, it's better to have things clearly defined so it's clear to people, what is and is not permitted, so that we have a defensible position; even though it may not be part of a specific text, we have it in the zoning ordinance.

Mr. Dismukes asked if we have a method to obtain public comment on this. For example, whatever you find out, send to us. Mr. Cuteri responded, Scott that's the purpose of this meeting is to obtain public comment. Ms. Thompson added that she has notations throughout the document, we can sit here and go through each one, but I don't think anyone wants that; but I do think that's what Mayor Dismukes is saying is that Mr. Dismukes interrupted and stated that we have spent a lot of volunteer time, we don't get paid. We've spent a huge amount of time. If you want to contribute to that process, I encourage you to do that. Mr. Cuteri asked if Ms. Thompson would like to send her comments along to the Borough email and Ms. DiNuzzo will then share with the committee.

Joe Rattay from 19 Biddeford Road stated he had kind of similar statements - one on the sheds; they say the actual height and 150 square feet maximum 12 foot, okay. But they say swimming pools are related to the backyard, there are no restrictions on sheds as to how many sheds you can have, where they can be placed. Mr. Cuteri responded that sheds are an accessory structure and they're defined Mr. Rattay interrupted then I can put 5 sheds in Mr. Cuteri interrupted that no, you can't it's an accessory structure and

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you're only permitted one per property. Mr. Rattay responded that it doesn't say that but, in all the limitations it's doesn't say one. I read through all the limitations, and it doesn't say one. It mentions 3 different types, one mentions a pool shed, one mentions a tool shed and one mentions a third shed type, so really you can have one of each?

Mr. Cuteri responded that, no, some of those are defined and only permitted in the private recreational use for Shannopin club, and then there's one for the residential properties, that has limited size as well; we must accommodate the types of facilities they need here at Shannopin as well as what you might put on your personal property. But just because it's in there doesn't mean you have to look at the restrictions, and permitted uses for residential related types of structures, and that's how it's controlled. Mr. Rattay replied so your only limited to the ratio? Mr. Cuteri responded no that's not what I'm saying. To have an effective zoning ordinance we don't write about the shed and then give you all the criteria for where that can go. The criteria in where that can go is in other sections of the zoning ordinance. Because it covers more than just sheds. It covers setbacks for the residential, for the different uses' groups, whether it's recreational so, don't assume because there are three definitions of sheds in there that you can put any one of those sheds on your residential property. The zoning ordinance doesn't allow that. Do you understand what I'm saying? Mr. Rattay responded that he slightly understands. I know what you're trying to point out, the other thing is it doesn't mention what it can be constructed of. Mr. Cuteri responded that well they're supposed to be constructed of materials from the main residents, I think that's covered in the ordinance. Mr. Rattay responded that he did see that but thought that meant garages. Ms. Ludwig added that you would be limited to one shed. There's not more than one accessory structure by type. So, you could have a pool and you can have a shed, but you can only have one. Mr. Rattay responded so I can't have a pool shed for my tools and a bike shed for my bike, no. Mr. Cuteri replied to no. you'd have to combine them. Ms. Ludwig added, not without getting a variance. Mr. Cuteri added that yes, you would have to go through the variance process.

Mr. Rattay responded that the second item is like that is, personally I do not believe that we should have car ports in our front yards, that should not be allowed. I mean it lowers the value of the property. All I see are limitations, it's 50% of the frontage, but it doesn't say how deep it can go. Mr. Cuteri replied, I'm sorry what are you talking about, driveways? Ms. Ludwig added car ports. Mr. Rattay added parking pads. It says you're allowed 50% of your home frontage - each parking space provided for parking vehicles through the ordinance must have not greater than 50% of the width of the front of the dwelling or building located on the same lot. It doesn't say anything about the depth. So, technically the way I'm reading this is you can have 50% of your front yard width wise but it could go up to your front door for a parking pad? There needs to be, the way I see park pads, I'd rather not see them at all as I think it devalues the property. I think there needs to be at least 5 stipulations as to an exact limit of a particular pad, stipulated as what type of vehicles are allowed to be parked there, it says car but if someone parks a motorcycle that's a totally different class of vehicles, so if you allow motorcycles then you're going to have to allow RV's and boats and campers and anything else. But I think you need to limit by class, of vehicles, the penalty and fee for violations for that, what the pad can be constructed of, and I said I would prefer an exact size if you're going to allow them at all.

Mr. Cuteri responded that it says here that on street parking shall not be permitted any residential yard except on a permitted driveway. Residential driveways are an accepting to the design allocation standards established in Ben Avon Heights Borough construction standards in the county SALDO. Mr. Rattay replied well the definition says here the term parking space shall include but limit to parking pad, driveway or other areas provided for parking vehicles. Mr. Cuteri responded right, that's the definition of the term. Mr. Rattay then added, not greater than 50% of the width of the front of the dwelling or building structure located on the lot. So basically, you can create a pad. Mr. Cuteri responded, you're in the definition of parking. That's what I'm trying to explain, the definition describes what that term means and then it is restricted by the other things in the ordinance. Where we said where all the parking requirements are, lot layout and design standard for the parking, number of parking spaces, that's covered in that area. Mr. Rattay responded that was about commercial it had nothing to do with residential. Mr. Cuteri responded no, a lot of it is commercial but there is some residential in there as well. Mr. Rattay responded, right and there's no restrictions on it other than the 50% frontage. And I don't think it should be allowed. And there's no limits on what type of vehicle can park on it. You need to limit it by vehicle class.

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For as many people that are here, to print this out, I think we deserve a paper copy that should have been at this meeting because for us to all go by, we can't all be looking at a computer looking at this, it wouldn't cost that much and then you could all say go to page 42 and see what this actually reads, we're doing this all blinded by hearsay. But I did print out the grave concerns of the actual ordinance. Mr. Cuteri replied, what are the three sections you, do you have the section number? Mr. Rattay responded no, I just printed it out, the term for parking space which was number 3 on that chart. Ms. Ludwig added that he's on page 66 in section 605 single family parking. Mr. Rattay added and item number 4 and item number 5 under each provided space. So basically, we need to limit, I'd rather exclude them all together, or limit the size, how many you can have, the vehicle class, the penalty and fee for violations and the list of acceptable construction materials. Mr. Cuteri responded that we'll investigate that.

Mr. Georgalas asked if he could ask quickly about this, what are the car rules. Of everything he stated, currently what are we allowed to do I don't know. Can we have three cars in our driveway or. Mr. Cuteri responded that there is not a lot of restriction, I'd have to pull up the existing ordinance. Mr. Rattay added his concern is not a driveway, you can park whatever you want in your driveway. I'm not okay with turning your front yard into a parking lot. Mr. Cuteri responded that no, it's prohibited. You can't park in your yard. Mr. Rattay responded that if you put in a parking pad, that's allowed. Mr. Cuteri replied yes, but it had a restricted size. Mr. Rattay replied that it does not say that. Mr. Cuteri responded that it does, it's 50% of the front width of your structure. So, if you have a two-car garage, there's 20 feet. You must understand most of the houses in this Borough are less than 35 feet wide. If we were to say it must be much smaller some might not be able to fit a driveway in the front. Mr. Rattay added that he's not talking about driveways, he's talking about parking pads. Mr. Dismukes added what he's saying is the length of the pad is restricted to 50% of the width of the structure, but the width of the pad, the depth is not restricted. So, it could go from the curb, all the way to your front door, and that's what he's worried about. Mr. Cuteri responded, well that's a driveway. We'll look at that Joe.

Ms. Thompson added that to his point recreational vehicles, the defined term, but it's not used in the document, so I don't know if there was an intent to limit the parking of recreational vehicles in front of your home at some point but, now it's not used in the document. Mr. Cuteri replied that we will investigate this. Recreational vehicles and the driveway size. Mr. Thompson stated that she just wanted to ask a question about how this is, you're going to take public comment, do we have, after its revised, do we as, Borough residents have an opportunity to review the revised zoning, and will there be another meeting on that? Mr. Vogel responded that yes. Mr. Dismukes added that this is a draft, this is not final for public notice of common, and when we get it back from the county, right? Depending on – Mr. Vogel interrupted we may have another meeting before we get to the county. Because the idea is that when you send it down to the county, they pick up on any inconsistencies and things like that and then they'll respond back. We may have this little go-around here before we send it downtown. Once we do and it comes back, we'll probably revise it again. But there's going to be an opportunity to do this, if you have this now, or over the next couple of days, whatever questions you have and let us know about this. Because human nature being what it is, if we go the next month or so, come up with something, and then there are more comments on different items, that just makes the process even longer. Any comments you have on there if you can get it to us at one time. If you could send it to the Borough email.

Lester Hebert at 9 Briar Cliff Road asked if there was a rush to get this done. Mr. Cuteri responded that yes, there is a time frame. Mr. Hebert responded why. Mr. Cuteri replied because we need to meet the deadlines we created; we've already started the process. Is there a concern about the time frame? Mr. Hebert responded that yeah, I don't want it to go to Allegheny and then we must re-start the process, I'd like the opportunity to comment again. Mr. Cuteri responded that yes, we're saying you will. Mr. Vogel stated that the idea is, on doing these ordinances, they take a lot of time and the problem that sometimes happens is that you either get bogged down in the process and then nothing moves, and then someone comes in with a development or wants to do something and there's really nothing you can do about it because you haven't really enacted anything yet. So again, we're trying to move this along because if, we're not going to get unanimity on this, the comments made have been excellent, but we need a general rough consent on these ideas. When we come back and get something from the county, I was involved in a zoning ordinance for a 20,000-population community, and we went through the county 3 times. The third time they went around

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we said no, we like what we wrote and that was it. So, I think what we plan to do on this is, to get the input to go through it again, what I would say is, if you have the comments now, make them and send them out to us.

Ms. Thompson asked, I don't know if this is legal or not, but can you post like on the Borough website the comments on this draft are due no later than, to keep your process moving? So, then you have a defined period and then if you miss that period that's on the resident. Mr. Cuteri responded, yeah well, the idea is that we advertised this a few weeks ago, and put it on the website to have comments today, so, we'll be glad to put another deadline out, like maybe a week? Keep in mind we're going to look at this, on how this will structure and make sense too. We're not going to be the final say on it, we're going to make recommendations to council. Because council put this zoning ordinance together. Do you want to do a week? Is a week enough? Ms. Thompson replied that yeah no, I just suggested for your benefit, so that you're saying you don't want the process to be drawn out, I was just saying that maybe it makes sense to put some deadlines around it if you don't want the process to be drawn out. So, you give residents expectations. Mr. Cuteri responded that well I agree. Well, this was the deadline, but we'll make another one.

Mr. Vogel added with the recommendation A1, otherwise if we gave comments in two weeks on something like this, would that be good? Mr. Cuteri responded, yeah let's do that. Mr. Mihalko added at least prior to the next council meeting because it's going to be discussed there. Mr. Cuteri reminded Mr. Mihalko that this would be planning commission, which would then take it to council so, we'll say two weeks, Jessica can you send out an email? Send an email blast, if they have any comments, please submit them in writing. Ms. DiNuzzo asked for confirmation, so July 1st? Mr. Cuteri responded Yeah, sounds good. And ask them to reference the section that they're commenting on, so we know what section they're talking about.

Mr. Georgalas stated I keep saying when it goes to the county as if that's the oracle of del phi or something, what are the standards of the county? Mr. Vogel responded what the county does is the county makes recommendations, we don't necessarily have to accept them. However, let's say that down the road someone challenges an aspect of our ordinance, and someone finds out, oh the county told you this was going to happen, and we didn't do anything; the county's opinion and comments are advisory. But, for the most part they are a professional staff who does this and again, for the most part they're able to point out inconsistencies, or things that are not logical. Once they get into the areas, I remember once they didn't like the act of God use. They second time around they decided, you know what we're going to use the term act of God in there and they ignored it; I don't think they're going to get sued over that. Mr. Dismukes asked John, if we could back up, as I suspect there are some people here who don't understand why you must go to the county, can you explain that please?

Mr. Vogel responded yes, the reason you must go through county is because that is part of the process and the municipalities planning code. But in addition to that, it is a process in which they can make sure that this is an operative document that meets legal requirements. So that's the biggest reason why the county wants to review and have a say in this. Mr. Georgalas asked but if you agree on pads, the size of pads, his argument one way or the other, the county may say that's not a good idea, that's not enough pads, but you can still stick to your story. Mr. Vogel responded yes. Mr. Cuteri added I want to add some clarification too for John, the pad size thing I understand but the size and recreational vehicle, we're putting together an ordinance, a separate ordinance about what can be parked in your site and not having junk vehicles and stuff like that. The reason we're doing that separate from the zoning ordinance is because then it can be enforced by the police. If it's in the zoning ordinance we're kind of limited with the zoning officer enforcing those types of things. So, if somebody has a car on blocks in their driveway, they must do work inside the garage, or it can't be parked on their yard type of thing. So, those comments about the recreational vehicles and stuff, will be appearing in the ordinance we're drafting now they'll be a separate Borough ordinance that can be enforced by the police department. Because the police can't enforce anything in the zoning ordinance. Just to clarify that point, you won't see that coming into this but, we will be addressing it.

Mr. Ludwig added that we can make a reference to that, within the regulations. And then just to follow up on the county review and how that process works I think, like why we did this tonight was then we can make changes. Because even the MVPC will stipulate so, once the county gets it that's when the clock starts ticking if you will, so they have so many days to review, and the municipality has to hold the hearing

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within so many days, advertise within so many days; so, if you make any substantial changes from that first draft that they see, you have to then send it back again. So, why we held off on sending it was so we could get comments tonight and fix some things and then send it off. I think it's helpful, but I just wanted to clarify. Not that you must make any changes that they recommend, or suggest but, it's just sort of part of the process.

Mr. Georgalas stated well that brings us back, why are we doing this? Is there some mandate that we must review and change the ordinance, or can we just stick with the ordinance we've had? Mr. Cuteri responded well the ordinance we have is not very good. And it's based on a comprehensive plan that was done 40 years ago so that's out of date. So, we have no basis for our zoning ordinance right now. For our municipality to have a zoning ordinance without the comprehensive plan we just did, we would have to allow every type of building use Mr. Vogel interrupted, I would not go that far. We did a multi municipal comprehensive plan in 2017. As part of the process, we need to redo the zoning ordinance. And again, like many documents, this document was done in the early 70s, so we're talking 40 years. Mr. Georgalas replied, yeah but it seemed to work well. Mr. Cuteri responded well, no it didn't. I've had a lot of issues. Mr. Dismukes added that if we look at the Borough of Ben Avon Heights by itself, and if we're only zoned residential, that's exclusionary from a constitutional standpoint for all other uses. Mr. Georgalas responded oh yeah, I understand that. Mr. Dismukes continued, so we expand the boundary and do a comprehensive plan with joining municipalities so we can demonstrate within that boundary, that those uses are accommodated. And that allows our community to maintain its current, rather than somebody being able to say, you're unconstitutional and we want to put in a senior care facility next to your house. Mr. Georgalas responded yeah, when my dad was the solicitor of Bellevue, he did the same comprehensive plan for Bellevue. Mr. Dismukes continued, that's the reason why we did the comprehensive plan. And now why we need to update the zoning ordinance, to accommodate and be modernized – is that fair?

Mr. Georgalas responded but there's not federal mandates involved? Members responded no. Ms. Ludwig added but it's a common practice for municipalities to update or amend their zoning ordinances. Mr. Georgalas responded well, I've read the current one and I guess there would be some problems but, if you look over the Borough, that's the result. It seems pretty good to me, I don't know. I'm not picky though. Mr. Cuteri replied there's a lot of stuff in there that's not clearly defined, and a lot of speculation and people interpret different things so, we're trying to make something that's fair, and comprehensive, and so everyone can understand it, it was an old document.

Bert Fary at 11 Oxford Road, stated that part of the consideration for a zoning ordinance is the character of the community. This new ordinance is going to put a lot of homeowners in a situation where they have a non-conforming use on their property; whether it's the height of a garage or square footage, setbacks, things like that. In addition to that, with the new ordinance if any of those non-conforming uses are destroyed over 50% of their value you cannot rebuild it. The current ordinance allows to rebuild within one year. So, I guess my question is, that's going to end up changing the character of the community, why not retain the ability to rebuild the non-conforming uses within a year, if it's done outside the control of the homeowner like it's written currently? Mr. Cuteri responded, well the existing structures for the most part if they're in conformance with the current zoning ordinance, will still be in conformance. It's only if you build new or do additions when you must conform. Mr. Fary responded that's not true. Garages are limited to 12 feet, and 600 and some square feet so, Mr. Vogel interrupted I'm not sure I understand your question. If you had a non-conforming use Mr. Fary responded, no, if you had a conforming use now, this new ordinance would make non-conforming, Mr. Vogel responded yes, Mr. Fary continued, so if you get grandfathered in, it gets destroyed beyond 50% of its value the new ordinance language says that I cannot rebuild that structure anymore. The current ordinance says I can within one year. Mr. Vogel responded, okay. Mr. Fary continued, so my concern is, in a sense is almost a taking. But, what's the issue with the current language that allows me to rebuild that and to keep the character of the community within one year.

Mr. Cuteri responded so you're saying we're saying we cannot re-build? I don't know if that's in there, where is that? Ms. Ludwig responded 803 D. Mr. Fary added and the current section is 8.3 in restoration and non-conforming uses. So, things like that I think need more consideration because I don't really think that's the intent. Mr. Dismukes added that's a fair comment. Mr. Fary added that it's not just for garages but I just pointed it out as my garage would be a non-conforming use now but, I mean there are

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other people who have additions on their property currently that if something were to happen to that house, if it were to burn down, their setback, to rebuild their house in the same foot print, they would no longer be in conformance with the 15% set back rule. Also, people have garages on their property line so. Mr. Cuteri responded Okay that's a good and fair point. Mr. Dismukes added that's a fair and that's why we take public comment, thank you. Mr. Vogel added, I will say this, I will say that how the language is in there, for the most part I think that's usually standard language. Mr. Fary stated that he does not disagree with that, but just back to the point it's currently allowed, and we're trying to maintain the character, I guess what's the reservation of leaving that language the same for that section.

Mario Plaza-Ponte 3 Biddeford Road added on a similar note, what is the intent or motivation to add that language. Mr. Vogel replied I think what happens is when you have an indifferent community, you may have things where there may be a use that is junky or doesn't really fit in the community and that's a way of making sure things are more uniformed in the community, that if it gets knocked over, destroyed, things like that, that you can – that use is out of the way. Mr. Plaza-Ponte responded so it's a matter of conformity, maintaining consistency and character. Mr. Vogel responded, yes, consistency in maintaining consistency and character and I will also say, with the idea of eliminating uses that may no longer fit in the community. I mean, let's say if you have a horse barn or something like that. Mr. Fary added there is one in the neighborhood. Mr. Vogel responded, "I'm not surprised".

Mr. Fary stated I think another question on a similar topic is, for secondary structures on your property – so a garage if it is two stories, what is the reservation of having a living area on the second floor of a garage, that's detached? Ms. Klimchak added, that's my question as well. Mr. Fary continued, not that you're you know, I understand you're restricting it so you can't Airbnb it out or something like that, but a general living area above a garage what is the reservation with that; if you have an attached garage, you can have a living area on the second floor but if it's detached, you can't. Mr. Cuteri responded you are then creating a second residential so you can't, it's no longer a single family. Mr. Fary responded no, not like a unit that has a kitchen, a bathroom, and all that but, just - Mr. Cuteri interrupted well if it doesn't have a kitchen or a bathroom it's not a living space. Mr. Fary responded no, that's not the way it's written.

Ms. Thompson added so, with respects to that topic, I feel like there are many other ways to accomplish the Borough goal of promoting the public health, safety, morals, and welfare of our community, then prohibiting me from making the best use and value of my property. You can prohibit us from renting it to somebody, you can continue to maintain that it is a single-family zone, but if I have a space above my garage, that I want to finish, I should be allowed to finish it, and if my kids come home from college, they should be allowed to live there if they want because they're my blood relative and that's still a single-family use. I feel like the Borough is overstepping and inhibiting my right to get the highest and best use of my property. Mr. Hebert stated I think I'd like to add, if everybody could raise their hand in the room who has a problem with that. A problem with the way that it's written, that's why I'm here. For the record, 1, 2, 3, 4, 5 - Mr. Cuteri interrupted, excuse me. Wait a minute, please, this is a comment period, you don't get to decide everything, we're trying to get input and we want to hear your comments. But you don't; get to vote on changes. but let's not turn this into we're voting on this. So, let me ask this question, what's the limit on making the highest best use? Maybe I should put 5 apartments in. There must be some limit to maintain the character of this residential area and community. Ms. Thompson added right, and there are so many other limits that maintain that Mr. Cuteri interrupted, I'm just asking a question, I'm just asking a question. Ms. Thompson continued, that you are prohibiting me to let my kids have a space above the garage, like doesn't, it's overreaching. Mr. Cuteri responded well I don't know that that's specifically prohibited in the zoning ordinance. Many residents responded, yes, it is. Mr. Cuteri continued, what's prohibited is creating a secondary residential.

Ms. Thompson responded, nope, so that's the other comment about this is supposed to be a public comment, whenever anybody makes a comment AI, your first response is, no that's not what it says. Mr. Cuteri replied well give me specifics, gave a very good example he said look at this section and it said it was wrong, I mean, I'm not saying it's perfect, I'm trying to equate what you're saying and what we went through while developing this and I don't think that was specific to it. Mr. Fary added on page 43 in the draft, there's a section for garages, private garages. Anthony Lamparelli at 5 Biddeford added the garage can only be 12 feet and dwelling units are not permitted, so post covid world, if we don't escape our house for a home office

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than if we're mandated to work from home, which I am now, I would like to be able to turn the space above my garage into an office. Instead of what it is now, a closet in our bedroom. So, if we decide to have another child, we don't have any offices, right? We have no space. Mr. Hebert added and maybe you want to throw a shower in there, who cares. Ms. Thompson added or if you want to have a late-night snack, you should. I mean it's still, limited. A resident asked you're then adding ac, and heating to a garage to make it habitable, am I right? Mr. Lamparelli continued, I'm okay with having restrictions on what it looks like and not being able to rent it out but, to not be able to have a home office, on my property I mean it's kind of. Mr. Georgalas added they want to put the kids in the garage what could be wrong with that?

Ms. Klimchak asked if this space conversation we're having now applies to basements? In terms of an accessory dwelling or basement, you don't want an apartment added to a basement? Ms. Thompson stated well, as I read it an accessory dwelling would be considered a basement, apartment, with a separate door to the outside. Which, yes, as it reads now you could not have a basement apartment with a separate door that leads outside for in-laws or college or adult children; that would also be prohibited as this currently reads. Ms. Klimchak asked Ms. Ludwig if that was accurate what Ms. Thompson was saying. Ms. Ludwig responded that she would have to double check to make sure. Ms. Klimchak replied that she just wanted to be clear about the basement, because that's even more common to look at your unused space in your house. Ms. Thompson added, Al that can be found in the definition of accessory dwelling unit. Mr. Cuteri responded, so let me understand the thinking behind this; so, you want to be able to provide living accommodations for family members but not to rent out to other people. Ms. Thompson responded yes, 100 percent.

Jennie Liska at 19 Banbury stated that in this document there is a reference to ordinance 316 which says it governs rentals. I've never seen that ordinance, I've asked for all ordinances that apply to me as a homeowner in this community several times, I've never had 316 sent to me, but there is a 316 according to this document; so, I would think 316 would be where we say you cannot rent separately an accessory dwelling unit to a non-family member or whatever. I don't know for sure, since I haven't seen it but, I just wanted to point out that that exists, and I also related to that would like to ask that we have a website and all these ordinances listed on it, when this one is finished where we can go as homeowners and pull up these documents and reference them so we know what we're being held to. Also, when I did ask for the ordinances, this was 2017, I was sent an ordinance 100 which is the zoning ordinance, which it predates the current zoning ordinance, but I was sent it like this applies to me. So, I read it, and it was scanned badly but generally I knew what it said; and so, the website here says that this ordinance is going to supersede 340 whatever, the number that's on the website, and all subsequent amendments. I just want to know how we govern these documents, and how we know which ones are expired and which ones are current and like where that gets documented so that we can reference it. And then we're not emailing around ordinance 100 from like 1952. You don't have to answer it right now I just want it to be on the record that I look to have that governed a little better.

Ms. Ludwig replied that a lot of municipalities codify all their ordinances, like larger municipalities, so they're all like you can go on ecode360.com and they're all listed there and there the grading ordinance and the subdivision ordinance and every ordinance from here to the sun, you know what I mean, even the ones in the police and everything and not so much like a zoning officer or code officer would enforce. I don't know if that's something that the Borough would want to consider or if you've looked at it in the past but, you know that way there are all maintained. You send updates to that company, and they update it for you. For example, if we amended this this and this, they manage it. Mr. Vogel added without making this a separate topic, over the past number of years as things have gotten more fluid, we can put more and more ordinances on there. Several years ago, our firm was given the ordinances and we put them on CDs and copied them; well, within a year or two the CDs became corrupted, so there went that project. But I think maybe we could do something like that long term, as far as putting it in code, um, that may be logistic. It may prove to have logistical differences. But for a community that's been around for over 100 years, we maybe do 3 ordinances a year in a busy year, so. We understand your point and I think long term we would list all the ordinances we would probably mention that, but we would also say that, if one of them mentions zoning, or plumbing or things like that you really must go through all of them that mention that word so. Mr. Cuteri added, yeah and we do have a directory of the ordinances that we should probably put on the website.

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Because part of that process was to organize what we have. A lot of the ordinances we couldn't find and had a hard record of them. But there are some 400, or 342 on record.

Ms. Liska added the problem is right now is you move into this neighborhood, and you don't realize until you start getting sited. And you only get sited when one of your neighbors decides that you're doing something wrong. And that's not how I want to be, I want to be a good neighbor, I want to be able to read the ordinances and speak. Mr. Dismukes interrupted, Jennie, Jennie, your issue has moved away from the planning commission, to council, and that's an appropriate issue for council, and I would recommend that we address it in council meeting. It's something that I've been pushing for a long time, and we haven't accomplished that. Ms. Liska responded, that's fair, I'd be happy to.

Ms. Klimchak spoke up, can we go back to the garage living topic? Mr. Georgalas replied that I was going to say, a good idea is, if there are so many municipalities that do have their ordinances codified, as you go through looking, it's very useful for comparing, you know like this might be better or worse but at least you can see how other people deal with it. And they're all over the place, just municipalities like us, look. Ms. Klimchak continued, the reason I brought up basement is because we happened to have an exterior entrance just into our basement, we have windows, and I would not want to let's say submit permits to say we would like to add a bathroom down there, or finish the space to have a nice recreational area, maybe you know, bar, kitchenette, the kind of things people love to do, if you could really build out your basement. I wouldn't want that to be perceived that I'm putting in an apartment. I'm trying to just expand the usage of my house but if I put in a bathroom and I put in a bar that happens to have a refrigerator and running water and suddenly I have a nice little extra space. But I have no interest in turning it into a rental. Mr. Cuteri replied I think we have people who have put in windows and everything in their basement and everything, if we have something in here written that says you can't do that, then I think we can correct that because it should be your living space; I think the issue is we're just trying not to create an apartment building environment because that decreases property value, that's the concern. Ms. Klimchak replied, I absolutely agree. Mr. Cuteri continued, if it's family members and stuff like that, that's not the deal.

Ms. Thompson added I think everybody's, well I can't speak to everyone but people that I have spoken with, the issue is power defining, can't we just limit on single family, can't we hang our hat on this on a single-family property. Mr. Cuteri responded, yeah. Ms. Thompson continued, instead of you trying to restrict on how you finish your space. Mr. Vogel responded very easily you can make it a single-family dwelling becomes a multifamily dwelling. Ms. Thompson responded but if you can't rent it to somebody, and I mean like right, Mr. Cuteri added well the other factor is the building code, we don't control the building codes either. That can step in and change what you think you're doing into something you're doing because of the building code. But I'm not saying that this is a problem, I'm saying we need to define what single family means, a little broader definition, that should alleviate some of the concern you have. I mean I know someone right now, has a permit to rebuild a garage and they're putting a workout space above and an office area, and that's fine, I don't believe this ordinance prohibits that. It's just you can't have a business where you have people coming to park and deliver materials, and things like that. That's what we mean by nonimpact business, everyone is now working out of their home, but it can't become a commercial establishment and start all this traffic and cause problems in the neighborhood. So, we're trying to put a stop against that. Ms. Klimchak stated and with the example you just gave of workout space, that must be within the 12-foot height, right? Mr. Cuteri added well he's under the current ordinance and we were just looking at accessory structure heights. Ms. Klimchak continued, so what was the decision of the 12 feet, that seems, for certain homes that seems not tall enough to be architecturally to scale. Mr. Cuteri responded well, the thing is we were looking at a garage you don't want it as tall as a house, but if you're just building a garage, or if you're building more than a garage, then yeah, you need more than 12 feet.

Ms. Thompson asked would it make more sense to instead of 12 feet, to say it can't exceed 80 percent of the height of your house or it can't exceed x y z of your house? I also feel like the restriction on a 675 square foot garage which is basically a 2-car garage, that should also be if you have the space, and you can maintain setbacks, and you can maintain the green space that the Borough the percentage of green space that you have to have, why are we limiting somebody that has an acre of property to put a 2 car 12-foot-high garage, when that's going to look silly architecturally to their home. Mr. Plaza-Ponte state he thinks the prior ordinance allowed a height to not exceed the height of the main home. Mr. Fary added yeah, I think

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it was 2 and a half stories and 35 feet, I think. Mr. Plaza-Ponte continued right, so leaning towards the old ordinance should provide ample room for people to use their property as they need to. Jed Hottenstein from 21 Wilson Drive then stated that I'm just not too sure I have a 600 square foot structure with a 12-foot ceiling. Where is the 12 feet measured from? I have 600 square foot and a 12-foot roof. Mr. Fary stated I think the current ordinance has how you measure it, I don't this one has how you measure it. Mr. Hottenstein responded that it just has maximum height, 12 feet. I mean the garage section has a private garage of 600 square foot or 670 square foot max footage with 12-foot max height. Mr. Fary added I think the current ordinance measures it from the base to the eaves. Mr. Hottenstein added it doesn't say that in the draft one. Yeah, okay current, that's fine.

Ms. Thompson added yeah so to the character to our house, that would mean that a flat roof garage, which, nobody wants to see a flat roof garage in our neighborhood, that's not going to look nice. Mr. Cuteri added that a garage door is 7 and a half 8 feet max so, you do have constraint on that. But if it's just a garage. But if you have a two story, then it's going to have to be a lot taller than 12 feet. Mr. Lamparelli stated we have a 1 story garage, and it matches our house, with the peak right, and it's well above 12 feet. I think it would look goofy with our house to have, Mr. Vogel interrupted, but then again it would be a prior nonconforming use language onto structure, you're still going to have that. Mr. Lamparelli responded yeah, but I think if someone wanted to add a garage, I think it would be better than a flat roof. Mr. Cuteri responded I think this is just attached structures to, this isn't part of the house what we're talking about. Mr. Lamparelli continued if someone wanted to come in and you know, redo the garage, if someone moved into our home and redo the garage and they would have to have a flat pitched roof I mean it would look horrible in the neighborhood, I think. It just wouldn't match the house. Mr. Hebert added yeah like my neighbor doesn't have a garage and they want to add a garage, I prefer they would add a nice structure and it's going to be bigger to match the home. Ms. Thompson added, and not everyone has the option to make an attached garage to their home.

Mr. Ratty asked I don't know I've lived here for a long time; how many new properties are going up and building garages? Mr. Cuteri responded I think there are two lots that are double lots. Ms. Thompson added but there are people that have property that could put a garage on it and why are we prohibiting them? Mr. Cuteri responded well yeah, a lot of the issues they would run into are cover issues and setbacks and all of that, and so that was part of the thinking in setting a size that was reasonable for what's possible in the Borough but, there are some properties that are large so, yeah, those properties could be adding garages, most of them have them on the property so. Ms. Thompson added, I would say in that instance that's another instance where we can limit things with other, there's already enough limitations in here that are going to, you are going to have to have so much green space, why are we like. Mr. Cuteri responded you must give some control and people can apply for variances. Variances are granted quite often, when it's reasonable for the property because you can't predict every situation for every property. What may make a lot of sense on one property doesn't comply. You can say I want a variance and another property say no we can't grant that, that's why we wrote the ordinance. It's a little hard to be just to say to anything and then you have no control over it. Mr. Fary responded I don't think it should say do anything, but I think you can make it instead of a fixed square table, it's a variable square footage based on your property square footage. Mr. Cuteri responded yeah, that's why I think we can look at the lot coverage requirements and stuff and then that would be the value factor.

Mr. Mihalko at 3 Briar Cliff Road asked have you touched on, obviously there have been a lot of comments about the character of the neighborhood and one of the beautiful things about this neighborhood is, I've been here for 38 years, is we have all the different architecture and I think whenever we were writing this and going through the compliance and code for this, I think that the object was for accessory sheds to limit the heights and I think the garage came into the play because they didn't want people building a second floor and all this stuff when they were actually doing the planning, but and it answer everybody's questions I think and Al touched on it is, the variances for somebody to have a house with a 12 12 foot pitch and we're going to restrict you to put a 4 and 12 pitch because basically a 12 foot height ceiling or 12 foot high roof is a 4 and 12 pitch and that would look silly next to a 12 and 12 house. So obviously that's going to be looked at an as needed basis, we're going to have to look at that. Ms. Thompson responded I 100 percent agree with that, and I don't really like the thought of you can apply for a variance, I mean I have lived in this

neighborhood for not very long and it's not hard to see a lot of it is based on who you know and who likes you in what you're granted in this neighborhood. And I'm sorry but that's a blanket statement, I mean it's a small community and that's kind of how things.

Mr. Cuteri interrupted I don't really think it is that way. I mean I served on the zoning board, there's a lot of people that come, there are a lot of people that do things that don't get permission to do, and they just do them, okay. And sometimes the ordinance doesn't cover and there's nothing you can do about it, okay. I mean like, I'll give you one specific example, there is a wall on Oxford, okay, but according to the current zoning ordinance it's okay even though it's like 6 feet tall on the roadside: because on the resident side, it's within the 4 feet limit, okay. And that was a big controversy. Yeah, our ordinance didn't cover it because we couldn't argue against our own ordinance and so it was legal. It's not what we intended, it's not what we wanted. So that's the reason, you try to be as specific as you can, without getting too prohibited but, these are the kinds of anomalies in the old ordinance that, things just aren't the way they used to be, where people could use good judgment. Now you have to kind of control or else you're going to get some crazy stuff. Mr. Rivitto at 1 Wilson Drive added and that's the risk you take with the zoning hearing board, that the homeowner must prove hardship, and I think that some member could say no I'm following the law to the T, that's not hardship, where others may say that. Mr. Lamparelli added I wouldn't want to have to get a variance to get an office above my garage if someone on the zoning. Mr. Cuteri interrupted well you wouldn't need to; I'm just saying you try to get an ordinance that covers the general information, but you can't be specific to every property, or you couldn't write something like that. Mr. Lamparelli continued, it's just important because it's an expense, right. So, it's not something I plan on doing in the next 5 years, but you know 10 to 15 years from now, I don't know who's going to be on the zoning board either, or what relationships are going to have but, maybe we don't like each other or there's the chance that happens I don't know, I don't really want to depend on getting a variance based on my personal relationships with someone. Which unfortunately happens though, I lived in a neighborhood in Buffalo that did the same exact thing as this and you can't get anything done unless you know someone or have a good relationship with people and there's other things; people ended up leaving the neighborhood because the value of homes dropped, I mean people just stopped taking care of their houses. I'm not saying that's going to happen here, but over time, it's not intended in this document, but it could happen in 20 or 25 years.

Mr. Cuteri responded I agree, the point I was trying to make was you try to write the ordinance so that it generally keeps the neighborhood the way you want it, but it doesn't mean it has to be so specific that you can't do anything else. Yeah, there's a variance process, I remember reviewing things where they wanted to come out 5 inches and I was like okay no problem and it wasn't a hardship it was just; they were right at the setback. Well 5 inches doesn't mean anything but, I hear what you're saying but it just becomes a judgement call with the zoning board, so. It could be a problem, I know, I understand that. Bobby Thompson at 15 Penhurst stated I've argued that what the ordinance are doing is the exact opposite, it's being too strict, it's being too specific with 12 feet, 650 square feet like, that's an arbitrary amount, of both dimensions. So, to the point of the variances or whatever, what makes sense relative to the property. So, saying 12 feet, and saying 650, might apply to 15 houses appropriately in this neighborhood, where you know Jed's property if you put that building on Jed's property it would look like an outhouse. Um so, using the variances or using percentages relative to the size of the house, leaves it vague enough where you meet the needs of keeping it consistent but allows for the flexibility of the homeowner to do what they, Mr. Cuteri stated I'm not disagreeing with the garages I think there needs to be a way to say you know the percentage of the property, which makes sense. Mr. Thompson continued, to add specific language to the ordinance. Mr. Cuteri continued, but I understand when you write the percentage and you have a small lot, the percentage might need to be bigger and then you must go through each property, you know what I mean? That's what makes it complicated but I'm not saying it can't be done, because if you have a 5,000 square foot lot, it can't have the same percentage coverage as the 1,000 because that lot would be full boarder to boarder. But I'm sure we can find lines that can make it work.

Mr. Lamparelli stated it does say that you can't build over your garage, I think it's page 49 I believe. Mr. Cuteri asked what is that? Mr. Lamparelli responded its section 315. Restricted and not permitted any dwelling which I assume a home office is a dwelling unit, right? Mr. Cuteri responded, no it's not. A building unit is where someone lives, spends the night, sleeps, that's a dwelling unit. An office is not that. Mr.

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Lamparelli continued okay so my son when he goes up, and again, college, example, we could put a bedroom in there. Mr. Fary added I think it goes back to the definitions that it's not clearly defined. Ms. Thompson added yeah, it's really 315 C 1, it talks about residential living area. Mr. Rattay added I don't think it's about a son or college, what happens that son gets married, and they want to start raising a family, and now you turn it into a two-family unit. Mr. Lamparelli added I think it's important to note it's not a multi-family. We must keep it single family, I think we all agree with that. Mr. Thompson added, right so we just need to define the intent. Not just say this is what we meant to say. Mr. Cuteri responded I think those were all good comments. Ms. Klimchak added I think more likely as the gym or home office or the rec room than somebodies going to build a garage and want to put a kitchen and a bathroom, could it? Would that be allowed? Mr. Vogel replied when you're mentioning the intent and that's the problem because we can all agree that this is what we want to do, and then there's someone who comes up there, the reason why these ordinances get bigger and bigger over the years is that everybody thinks you're all on the same page and someone comes up and they come up with a technicality and so then the rule book gets bigger and bigger and bigger and bigger. So, the way they have the dwelling units, single unit providing complete independent living facility for one or more persons, so, I mean that's kind of the basics of where we are on this. It's just that we want to make sure that it doesn't become a slippery slope, I know we defined family in here, but you don't want someone to be clever and come back and say they have the equivalent of a fraternity house. Ms. Thompson responded I mean you could restrict the how many occupants you can have in an accessory dwelling? So, if you wanted to have your in-laws in an apartment, no more than three people in an accessory dwelling, so somebodies not raising another family in an accessory dwelling, but they're your grandkids and whatever but, there's other ways to restrict.

Mr. Cuteri responded yeah, I mean I don't know what's legal and not legal in that regard, and we don't want to be in the business of policing everyone's lifestyle either so, we just want to make it so what you're building is reasonable, you don't overpopulate the parcels that are small, that should be the goal. You want to be able to use your property for what you can maximize the use 300 percent, um so I think we need to kind of sort through that a little more, so it makes sense. Mr. Vogel added what we have as family as a definition, an individual two or more persons related by blood marriage or adoption, no more than 3 unrelated persons living as a single housekeeping unit. Family may also include domestic servants and gratuitous guests, forego restrictions don't apply to people with disabilities. So, you can't, there are limits, and the government does enforce them. There are many communities that have them, and this would be an attractive community, a walking community, within Ben Avon Heights. It would be attractive for let's say, organizations that specialize in special needs people. But you know we can't discriminate against that but. Mr. Plaza-Ponte added but that definition recalls building a separate structure, as opposed to having a livable space above a garage which has many different uses and not necessarily. Mr. Dismukes added I don't think that comment changes our intent, that this is a single-family resident's community. And through interpretation and presumption we're trying to change that. I for one disagree. Mr. Plaza-Ponte responded yeah no; I'm not saying that. I'm saying that you have one mailbox, and you have one family living in that property. But to have a livable structure above the garage in my view doesn't fall within the definition of being a separate family. Mr. Cuteri responded well your conflating current family and residential units. They are not the same thing, and they don't, one doesn't inform the other. If you have two residents on one property Mr. Plaza-Ponte interrupted the spirit of what you're trying to accomplish by embracing this new language, right? Prohibiting.

Mr. Fary added because you use the term living area, and it's an undefined term. So that could be a separate resident, or it could be a man cave. I mean, it's a living area. Mr. Cuteri responded no it's not a living area it's accessory residential. Mr. Fary added it talks about it on page 43 whereas the private garage restrictions, it says no part of an accessory garage shall be occupied as a residential living area. Mr. Cuteri responded residential, yeah. Mr. Fary continued a residential living area is an undefined term. Mr. Dismukes responded send us some suggestions. Send us some suggestions. Ms. Ludwig responded I think the difference that needs to be made is the difference between maybe a dwelling unit, where someone sleeps overnight to maybe living areas, I don't know and you must decide what you want to permit or not, you know what I mean? I think that we can make it, they are two different things, right? But it's what you guys feel comfortable with allowing above that garage. Mr. Vogel stated permanent provisions for living, sleeping, eating, cooking, and sanitation. Mr. Rattay added you could just limit it to just prohibit eating and cooking,

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you know. If you really are going to use it as an office or something, you don't need an oven and a refrigerator. That would be one way to limit. Because otherwise you're going to have more cars on the property and you're going to need bigger parking pads. Mr. Cuteri added, no we're eliminating parking pads, you'll have to shuttle down to the mall. Mr. Georgalas added it all comes down to parking pads, everything comes down to parking pads.

Mr. Cuteri asked the public if there were any more comments. This has been very helpful; I think this has given us a lot to think about. Mr. Hottenstein added I just have one question about noise level, 60 decibels, where did that number come from? Mr. Cuteri responded I think that's industry standard, isn't it? Mr. Hottenstein responded; 60 decibels is an industry standard? Ms. Ludwig responded residential usually is somewhere between like 60-70ish, for residential on a sliding scale. There are certain exemptions in there that are written, so. Mr. Hottenstein added well a normal conversation like this is about 75-80 decibels. Ms. Ludwig continued, I think it depends on to on what the unit of measurement is and how you measure. Mr. Hottenstein continued its distance it's sound, and that's why I'm saying in the thing it's saying at the street, in the zoning draft, it says at the street, measure it, so, the larger the yard you can make more noise in the center of the yard, instead of the edge of the yard because it's the distance. So right now, we're at 75 decibels, right in this room. Mr. Mihalko stated well I can't use a leaf blower. Mr. Hottenstein responded can't use a leaf blower. Can't turn your car on in your garage. Mr. Lamparelli asked if there were time limitations. Ms. Thompson added, can't have three kids. Mr. Cuteri added, no mothers-in-laws. Mr. Mihalko added I think I hit 90 today when I was talking to my wife. Mr. Dismukes added you probably deserved it. Mr. Georgalas added he's living in the garage now. Mr. Hottenstein added it's in section 501. Mr. Lamperelli added aren't air conditioners and if you lose power, generators, even if it's running over night, because you would, it's going to be loud. Mr. Mihalko added I think you guys are reading into this too much, I mean we as council members spent hours and hours going over all this stuff. Mr. Lamperalli stated that I've seen this happen in neighborhoods and it turns sour quickly. You have people who don't get along, I think the sounds bearings you can go to the cops for that right? Doesn't it say that in one of the, you can call law enforcement and then you're getting law enforcement called to your house. I mean, people can do it and they do. Mr. Cuteri responded, okay we'll look at 501. Ms. Ludwig added I mean there are certain restrictions, I mean there are exemptions, like in number 2, a noise emanating from construction or maintenance. If you're mowing your lawn or leaf blowing that would be maintenance. If you're not doing it at midnight that's okay. Mr. Hottenstein what about parties being at a normal level? Again, it gets back to who wants to complain and who wants to, and who's friends and who isn't friends. Mr. Dismukes added, just be a good neighbor. It's not even who your friends with, just be a good neighbor and human being.

Mr. Fary added I think 60 decibels is very low. That's normal conversation. Mr. Cuteri responded I don't believe so. Mr. Fary replied it is. Ms. Ludwig added it depends on the unit. Mr. Vogel added we'll investigate that. Mr. Hottestein noted he's got it right here. We will investigate it and figure it out.

Ms. Klimchak asked I was just wondering if you would think about after creating the next draft, is there any reason not to send out a quick email to all the residents attaching that and saying, FYI, we're doing this, read it if you'd like; many people might not but, it would be very easy not to check the website. It would be very easy, I only know about this because of a friend. Mr. Cuteri asked, did we not email everybody? No, we didn't. Sorry, yeah, we should have announced that, I thought that it had been announced, but we will do that for sure. Ms. Klimchak added an actual copy? Mr. Cuteri replied yeah, for sure. Mr. Thompson asked is it possible, so we have this version, right? So, any changes that go into it, can you redline it? Like just put it in a different font so that we know where the changes are? Ms. Ludwig stated we can just use track changes. Mr. Thompson continued, that was the hardest part looking at the old one and the new one. Mr. Vogel added we thought about that but when converting the old to word it was useless. It was just so different.

Mr. Cuteri asked do we need to suggest these changes to council? Mr. Vogel responded yeah, we'll suggest changes to council we'll work on that, what I think will happen is, we'll work on that with council, and we'll probably need another meeting likes this and then that way, I would encourage people to send your stuff in because again, what ends up, if we have consensus now that's good but what makes it kind of more difficult to change things is if we're at the last minute someone will come up with a very minor error. Mr. Thompson responded I mean personally I would rather more of this part before it goes to county if it goes longer than. I mean we've been operating off the same ordinance for 40 years, we can wait another 4 weeks,

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or whatever the case may be to get this right, so when we do go to county, that's it, except for maybe what they say. Mr. Fary added so if we do have comments to, we just send those straight to Jess? Mr. Cuteri responded yeah send them to the Ben Avon Heights email address. Mr. Fary responded, sorry Jess. Ms. DiNuzzo responded it's okay.

Mr. Cuteri responded does anyone else have any other comments? Mrs. Neunder responded so isn't it important that each member here, who has an issue with the same thing that it be spoken from each member of the community, so that even though you know your neighbor might be saying something about lighting or whatever, it's important for everyone to say that so that we know who in the community has a problem with what? Mr. Vogel responded no; I would not want to do that. Because then its, if it's something where you listen to A and not B because I had to talk to council, if you send in your comments, we'll count these because they may be 6 people who bring up a comment that may or may not be good. But there may be a lot of people who brought up some very singular issues, and that individual has done that and that is what they have been exceptionally fair comments on things we're going to work on so. Mrs. Neunder responded I guess my question is there's a comment made that only 10 people are here to say they disagree on something it's important for you to keep it on your list and to send it in to Jessica. Mr. Vogel responded oh yeah if someone is against A or you know or wants this, please send it in but, we're not literally going to, at the end of the day we're not going to say alright, we're going to account for what people want or what we think is reasonable. But we don't want to have to say well, 5 people wanted A, we really thought this should be changed but 1 person wanted B but, so 5 is greater than 1. Mr. Cuteri added Jackie my comment was not, every comment we get will be reviewed and if it makes sense we're going to incorporate, if we think it's already covered, we'll clarify it. Mt point was, we're a small group, we can't decide for the whole community and the plan is we must go back to council, which you guys remember is up to, because you know the process we go through, we read through this to make sure it's fair and reasonable. And I apologize if my sarcasm was taken as being a wise guy, I apologize, I tend to do that but, it's not meant to be mean. I really do appreciate everyone's input; I think you've put a lot of thought into this. Mr. Stiller at 21 New Brighton asked if the comments are going to be shared with the council or is that just going to go to the planning commission? Mr. Cuteri responded; no, they'll see everything. Mr. Cuteri responded so the next steps are over the next two weeks, tell anybody you talk to, we'll send out the current drafted ordinance so everybody can look at and say, look it wasn't clear that this was to be commented on, please comment, send your comments to. Mr. Vogel added and maybe as part of that saying, we will be within this, we will be discussing some of the topics that were raised just so people think, well you completely forgot all about this. But that may be good to send the document and all the points saying, we are going to revisit these issues. Mr. Cuteri added what was brought up today, so people know what we're talking about. Ms. Thompson added I would like to also put parameters around what are acceptable comments, like you said would be helpful to have section references or black lines, so people just aren't giving you like, I don't like this. Mr. Cuteri asked anything else? Anyone else? Alright, thank you very much. I appreciate it.

Meeting ended at 9:50 pm

The next scheduled meeting TBD

Jessica DiNuzzo, Secretary