

Planning & Zoning Committee Meeting

August 23, 2023

Present: Wayne Stover, Bill Brockenbrough, Tom Ruppert, Kenny Getty, Robert Cote, Sue Muncey, and Sharon Cruz from Verdantas were in attendance.

1. **Call to Order:** Mr. Stover brought the meeting to order at 7:00 p.m.
2. **Pledge to the Flag:** Mr. Stover led the pledge.
3. **Approval of Minutes:**

Mr. Ruppert made a motion to approve the meeting minutes of 07/26/23 in their written form. Mr. Getty seconded the motion. Motion carried unanimously.

4. **Determination of Quorum:** Mr. Stover stated a quorum was present. Mr. Burnett was excused. Mr. Ruppert, Mr. Brockenbrough, and Mr. Getty were present along with Mr. Stover.
5. **Old Business:** No old business to discuss.
6. **New Business:**
 - a. **Discuss and Vote Increasing the Road Width on Future Development. (Letter from Street Committee).**

Mr. Stover stated everyone has a copy of the letter from the Streets Committee. So evidently, they are having problems in some of the developments that the fire trucks cannot get around in them. They are having worse problems in the cul-de-sacs and the turns. That's where their main problem is at. Mr. Brockenbrough stated the streets are 34' wide. Mr. Stover stated it was previously 23' – 28'. Mr. Stover stated when they originally started, it was 22' then went to 28'. Since then, they have made it wider. Should we try to make them wider than what we have? If we make it wider, the developers will have to do that, but they are going to lose a lot of space. Mr. Cote stated the intent of Councilman Carrow is not to go back and look at anything that is already in the works, but for future requests. Mr. Stover stated that was what he was talking about. This is just for the future. Do we leave them at 34' or do we try to increase them? It was brought up at the last meeting maybe adjust the turns at 50' each way of the turn. There would be a yellow line painted so nobody can park within that 50'. Fire trucks keep getting bigger it seems like. Would that be sufficient? Mr. Getty stated he thinks it would be. He went out to Longwood Lane. They actually didn't have any trouble before. Apparently, there are videos and photos of them out there. It was a little disappointing. I hoped there would be some issues, but I guess there weren't. It would be kind of interesting to see if the 50' would be enough. I think it probably would. Mr. Brockenbrough stated he thinks 34' is plenty wide enough in most cases. We could add a requirement that the streets should be usable by a fire truck with a 10' margin on each side to

allow for parked vehicles. Just require they use a turning template to check. Mr. Brockenbrough stated his issue is what do they want to see exactly? My impression was that this came from a specific incident where the street was not signed with parking prohibitions that should have been. Mr. Cote stated there have been several incidents that kind of sparked this, and they all basically come from apparatus trying to respond. Longwood Lane would be one example that they have brought to us. This is where the conversation went in the past Street Committee Meeting. Mr. Brockenbrough asked if they were 34' streets or narrower. Mr. Cote stated they are narrower. Mr. Cote stated he looked at the Longwood Lane plans today, and he has them readily accessible. Mr. Cote stated if he wasn't mistaken, the right of way on Longwood Lane is 50' total, so there is no way we can even have 34'. That street is less than 34'. Mr. Cote had Sharon Cruz, our engineer from Verdantas, here to help out in case he fumbles through this. This is not his expertise. The roadway width is from the center line, and we are just talking the paved area. Then the right of way is the entire basically tip to tip. When he looked at Longwood Lane, it was less than 34'. When he looked at Ovations, we know for a fact and that was supported in the email that Sharon sent to us, that it was actually approved by the Planning Commission to deviate from the 34' down to 28'. So without knowing everything and not being an expert like this panel is right now in my mind as he read this letter from Councilman Carrow and doing the digging that he's done from his position to include trying to see if I found any differences in the ordinances over the last 20 – 25 years like you asked. I have one from 2006, and I have one from now and nothing has changed. So, my thought process was, and this can be just a starting point for the discussion, not the end all be all. I think we just need to uphold and not deviate from the book. Uphold the standards. Follow the rules and regulations of DelDOT. From what is written in the book right now and not allow these deviations to basically shrink down that width, I think if we uphold the standards that we have that are also in line and this is where I'll defer to you if I am saying this incorrectly. We follow the rules and the regulations of DelDOT, the State agency. Mr. Brockenbrough stated he sees two things. Section 5432 refers to standards higher than DelDOT. Section 5433 refers to DelDOT. Some standards are wider than DelDOT's. Mr. Cote did research that particular comment prior to coming in today. I'm going to try to say what I've determined the way I interpret it as the Zoning Administrator. I will turn it over to Sharon as well. I see the design standards for municipal. Widths for right of ways and roadways shall be as set forth in Table 3. However, 5433 construction standards versus design standards, I see this as what is required. For the base coat, what might be required for thickness of the asphalt, the actual road itself, not the dimensions. Ms. Cruz stated she would agree with that. One thing with DelDOT standards referenced in the code would be the absolute minimum standards. The Town can have a greater standard, a more restrictive standard than with the 34' being more restrictive. Mr. Brockenbrough stated if we need to change code it is to stay in 5433 except where 5432 specifies a different standard. Ms. Cruz stated to clarify what the standard itself is for between the roadway width and the construction standards. That clarification in the code itself clears up some things. One thing to keep in mind, and I think this comes into play with Ovations, is Ovations is a cluster subdivision. The Planning Commission gave Council the right to provide flexibility and relief from some of those standards to allow for a better development with more open space. I think that is why Ovations might have been granted the width reduction in the street. But I think as you are seeing now that a two-edged sword where that width is now impeding the

emergency vehicles from actually accessing in an emergency. Mr. Brockenbrough asked if the streets had been clear of parking per the plan, would the trucks have gotten through? Mr. Cote stated that is a great question. He did some research on that as well with the help of Sharon and determined that throughout that development one sided or one side of the street parking is what is actually required. However, those signs are not up yet, and they will not be up because right now that development has not been turned over to the Town of Clayton. We do not own those streets. The Public Works Department do not own those streets which means the Police Department cannot enforce those types of violations. We just did this with Grain Mill Station about a month and a half ago. We had them come to the Town to request that the Town accept those streets. Prior to that we could not enforce anything. Does that make sense? Mr. Brockenbrough stated yes and he sees that that is a problem. He is not sure if that is a problem for this committee. Mr. Cote stated he concurs but from the research he was doing he thinks that was one of the stipulations that the Planning Commission from years ago approved the 34' to 28'. We will go to 28'; however, when the development is done, parking needs to be limited to one side of the road per the plans and that will suffice and allow emergency apparatus to respond. Right now, and I am not trying to go against what our Councilman is saying and requesting here, but I just think if we stick to what is written in the book, I think we might be pretty safe. That is why he wanted to bring that up for discussion and see where it goes. Ms. Cruz stated that she has seen in numerous municipalities is the problem with people who do not want to park in their garages, so they end up parking on the street which means there is inadequate parking as a result. Mr. Brockenbrough stated he has no cars in his garage, and he has a two-car garage. There is no room and one of them will not fit. We need to look at our subdivision code for off-street parking. We need to clarify 5433. Section 5432 governs. Mr. Stover stated that is one of the worst parts is to put a restriction on. When they do take over the streets, they cannot park within 50' of the turn. Is that something we can send to Council to see if they would want to approve that. Mr. Brockenbrough stated we could do for the existing narrow streets. That is something to suggest. We could suggest that to the Street Committee – the cul-de-sacs. Mr. Getty stated it just loops around. Mr. Stover stated he has not heard of any problems in the other older subdivisions. Mr. Getty stated he thinks it was Providence Crossing. Mr. Stover stated we cannot do anything until the streets are taken over. Mr. Getty stated the problem with Ovations was strictly because there was a party and 200 people were in this house. Mr. Stover stated if they are getting complaints, there is nothing we can do. It is up to the HOA to deal with it until the Town takes it over. Mr. Cote stated it still seems like there is 34'. Two vehicles should be 6.8'. There should still be plenty of room. Mr. Stover stated 20 years ago it was only 22'. Mr. Ruppert stated 20 years ago we didn't have the fire apparatus and the Town didn't have the type of equipment that they are getting. Now that they are somewhat massive, we have just not grown with the equipment. Mr. Cote had a question whether it be to the Commission or to Sharon. The 34' that we keep going back to, whether it is a connector street or an access street, we are looking at the other than multi-family residential. That is our line item for this no matter which one, whether it is connector or access street, is 34' feet. Is that the going normal range? He stated he doesn't know what Smyrna, Dover, or DelDOT is like. Where do we fall with our peers, with other municipalities? What is the norm? Ms. Cruz stated in a lot of the municipalities that she deals with 34' is just a basic road width. It allows for parking and for the movement of

emergency vehicles around the parked cars there. A lot of the municipal streets you are seeing are still 24' to 28'. That came into play about 20 years ago because the fire companies requested it, especially Kent County. Mr. Cote stated that brings him to the follow up question for why he asked the first question. If we were to stick to the 34' that is already in there and we wouldn't have deviated, we might not be having this conversation right now. Is that a safe assumption? Mr. Stover said yes. Mr. Cote stated that is why he asked. Ms. Cruz stated the other thing is even with the 34' if you are going to allow parking on the road do you restrict the one side only just because the vehicles have been getting larger? People drive larger vehicles, and it is harder to fit into the narrower spaces. There are some subdivisions where they have designated the parking area at seven feet and most of the larger vehicles can't fit. If you are still concerned with emergency vehicles like the fire trucks getting larger, especially when they have to set up the outriggers, then possibly restrict the parking to one side of the street and you shouldn't have a problem. Mr. Brockenbrough stated he has never driven a fire truck. Thirty-four feet is ample on a straight road. Curves are where you have an issue. A longer vehicle might take up more of a wider piece of the curb. Ms. Cruz stated they do. Mr. Brockenbrough stated because you cannot parallel park right up against the curb. Mr. Getty stated when the compartment door is open, you are looking at another three feet probably on each side at least. Ms. Cruz stated the outriggers are a problem. More depending on the size of the truck and that would be a question to ask the fire department. Mr. Getty stated companies are starting to go to rope doors because it is a good or better idea. Mr. Brockenbrough stated then you go to 40'. He thinks 34' you tend to have speeding problems. You swap one public safety problem for another. Mr. Cote stated Longwood Lane's roadway is 26' wide, 13' on each side of the center line with 5' sidewalks and 8' in-between. We are roughly talking about 52'. Mr. Cote stated with 13' on each side with those vehicles that are parking halfway onto the street is why we are having this entire discussion. These plans were approved back in 1997. So, 26' for Longwood Lane and 28' for Ovations. Mr. Stover suggests staying with the 34' for now until we do a review later. Leave things alone as they are now and then maybe send to the Streets Committee. A short-term solution is to put yellow curbing. Paint 50' back from each turn no parking on the street. Mr. Stover stated that is the only thing he feels we can do at this time. Mr. Getty stated your opinion is at 34'. Ms. Cruz stated 34' is a very wide paved street for just a subdivision. That should be sufficient. Mr. Getty stated it wasn't followed there. Ms. Cruz stated it isn't being upheld with. With the subdivision that has already been approved, there is nothing you can do about those. Moving forward, if you adhere to the 34' and take precautions where there are issues with space it should solve that problem. Mr. Cote stated his recommendation to the Commission would be to respond to Councilman Carrow with upholding what is currently or enforcing what is currently written in the Subdivision Ordinance right of way and roadway with the table. Thirty-four feet to be followed in future development planning. If not the Streets Committee or Council needs to ask him to hire an engineer to do a deeper dive study as to why 34' doesn't work. If from what he is hearing, if we would have just stuck with the 34' feet, we might not be here today. Mr. Brockenbrough stated he believes the 34' is adequate if we follow it. It may be excessive, but that is something to look at in the future. Mr. Brockenbrough asked do we need to modify 5433 to clarify 5432. Mr. Cote stated he can't say yes or no because he saw it as two different things. He saw 5432 talking about right of way and road width and 5433 as the construction meaning like depths and so. Mr. Ruppert

stated materials and things. Mr. Brockenbrough stated he asked that because he believes that may have been what happened. How we got those 28' wide streets, the State standards allowed for that. Mr. Cote stated that was the part he wasn't picking up. We can definitely make a recommendation to Council to update that. Mr. Brockenbrough stated people focused on that. Mr. Cote asked how would you recommend wording that? Mr. Brockenbrough stated off the top of his head, municipal streets should be constructed to current State standards for the type of road being constructed. Section 5432 specifies a different standard. That standard prevails. Just refer the reader of 5433 back to 5432 or maybe to Table 3. Mr. Ruppert stated he thinks it would be confusing. Construction needs to be labeled as means and methods to build the road. Mr. Cote stated while talking to his Public Works Director the way he sees the construction standard, from his perspective, is a town-owned and maintained street and a state-owned maintained street by DelDOT. So our intent as a town when our previous Town Foreman who was here 34 years and our current Director of Public Works who has got over two decades with us now, is even though it is our street, whenever we do any type of maintenance or construction like a sewer project or anything like that and we break those streets, when we put them back together they are building according to DelDOT standards. That is what we are trying to say with that one little bullet statement. Sharon and I might need to work offline on that on how to maybe figure that out and bring it back. I would have to unpeel that one a little further. Does anyone else have a suggestion or a way? Mr. Brockenbrough stated he is willing to leave it for Rob and Sharon to get back to us if you don't feel an urgent need to make a recommendation tonight. Mr. Stover stated so your motion is to have Sharon and Rob get back to us in a future meeting. Mr. Brockenbrough stated on how to modify 5433 and 5432. To clarify them. Mr. Cote stated for the purpose of this he wanted to completely understand. Those are State standards, right? I don't want to refer to this but then it handcuffs my Public Works team or future contractor. Mr. Ruppert stated that's right. Mr. Cote responded to make sure we are doing it.

Mr. Brockenbrough made a motion to have Ms. Cruz and Mr. Cote to get back with the Committee on how to modify Section 5433 and 5432 – to clarify. Mr. Ruppert seconded the motion. Motion carried unanimously.

b. Workshop to Discuss and Make Suggestions to the Town of Clayton's Comprehensive Plan

Mr. Stover stated we have been going over this for the past two – three months. Is there anything we want to tackle further tonight? We have suggested to Mr. Cote we don't want to bring in these extra farms that we are talking about. We had suggested that it is about time you bring in the State Planning, the University of Delaware. Bring them in to advise us some on where we are going from here. Mr. Cote stated he did reach out to the University of Delaware Institute for Public Administration and let them know what we have been doing over the past three to four months with these workshops and inform them that an update could potentially be coming down the road rather than a review. So, they are aware that it is on our radar to do that. They can easily come down here and advise us when we feel it is the right time. My suggestion to the team from everything that we've done for the past three to four workshops is going through the comprehensive plan, just a couple sections at a time, even though it may or may not have been already talked about and say what type of edits do we want to make here. Let us just go through

and we can bring it up on a Word document and just start chopping away at this. Do a couple sections at a time and actually have a red line document. Once we get to that document, the comp plan, we push it to IPA and have them take a look at it and then come back to us in one of these workshops and say okay that is great. Here is where you are at. Let us tweak this. Let us take away this or that suggestion and at that point we have a product for them. We are having a lot of discussions right now, but I don't know if we actually have anything written down. Mr. Stover stated no we don't.

Mr. Ruppert asked Mr. Cote if he was satisfied that we dealt with the first problem – road widths. He stated he looked a little puzzled like you have not quite got where you want us to be. Mr. Cote asked with permission from the Chair if we could go back to Item A. Mr. Cote stated we did vote for Ms. Cruz and himself to look at Section 5432 and 5433, but I don't know if we decided on an answer for Councilman Carrow's request. Do we want to actually put on record we recommend enforcing the 34' that is already on there or do we want to raise it up, lower it down? That is where he was going with that. He wanted to make sure that we were able to tonight or if you wanted us to get back to you. Mr. Stover stated that was the way he intended once you guys get back to us on that. Then we can give our recommendations to Mr. Carrow. I want him to do in the future what we are looking at. Mr. Cote stated so the motion was intended to capture all of that. Mr. Ruppert stated thank you. You looked very puzzled there for a minute. Mr. Stover stated no intent. We didn't mean that. Mr. Cote stated it was okay.

Mr. Stover started discussing the comp plan. Ms. Cruz stated that with the review it would help the Planning Commission with understanding where things started and what those charges are and to make sure that the language is where you want it to be moving forward with your changes. Mr. Cote stated with that being said, Mrs. Muncey and I can reach out to IPA and get this in a Word document, and we keep track of changes and reviews. So doing this tonight might not be feasible. Maybe we could begin the next workshop. At that point hopefully all five members will be here, and we can bring it up on the screen and we can just go through it and make all those edits like Ms. Cruz was saying. Mr. Cote stated his recommendation for tonight would be to just keep discussing. I think the last time we were here we talked about annexation. We can make the updates from start to finish and then get IPA involved and you can get this thing moving. That would be a suggestion to the Commission. Mr. Brockenbrough stated when we get to the annexation areas it would be good if we could look at the map on the screen and highlight parcels. Mr. Cote stated an interactive map where he could highlight the zones. Mr. Brockenbrough agreed. Mr. Stover stated at the last workshop whatever farm it was we had like four of them that we wanted to recommend putting in the comprehensive plan. Mr. Stover asked if the Charter changes ever went through where the town could approach them. Mr. Cote stated almost – about 66% of the way through. The House passed it. The Senate passed it. It has gone through the General Assembly. It is waiting for the Governor's signature. Mr. Stover stated so right now we can just recommend stuff we can't pursue. Mr. Cote stated we anticipate it being signed shortly. Mr. Stover stated with that being said, we have pretty much done all that we can do tonight. We will keep the meetings monthly until we get through this. Mr. Cote stated prior to next month's meeting, we will reach out and get a document that we can edit, and we will begin at the front of the book. We can have the previous minutes available. Mr. Cote stated after we have made a substantial amount of changes to the document, we get IPA down here to give us a vector check. One or two visits are included in our contract. Mr. Stover stated that two meetings

were included then it was about \$300 per meeting. Sometimes they are generous and don't charge us at all.

7. **Next Meeting:**

Mr. Stover stated the next meeting will be September 27, 2023, at 7:00 p.m.

8. **Adjournment:**

Mr. Brockenbrough made a motion to adjourn. Mr. Ruppert seconded the motion. Motion carried unanimously. Meeting adjourned at 7:43 p.m.

Recording Secretary,

Sue Muncey