

The regular meeting of the Bay Head Planning Board was held on Wednesday, April 21, 2010 at 7:30 p.m.

Mr. Shore read the following statement: “Pursuant to the applicable portions of the NJ Public Meetings Act, adequate notice of this meeting was mailed to the Ocean Star and posted in the corridor of this building and filed with the Bay Head Borough Clerk.”

**Roll Call: Brian Shore, William Furze, David Kellogg, Mayor Curtis, Peter Harrington, Jennifer Barnes, Verity Frizzell, Edward Convey
Engineer – Susan Brasefield Attorney – Steven Zabarsky, Esq.
Absent: Kathleen Tell, Bart Petrillo, Patricia Wojcik**

The April 21, 2010 minutes were approved on a motion by Mayor Curtis and seconded by Ms. Barnes and passed with all in favor.

Mr. Shore stated the Board had for review Resolution of Mr. Thomas Quinn, 548 East Avenue, Bay Head, NJ a/k/a Block 62, Lot 14 which was approved at the meeting of March 17, 2010.

**Mayor Curtis motioned, seconded by Mr. Furze that the Resolution be approved and passed on roll call vote as follows: YEAS: Shore, Furze, Mayor Curtis, Barnes, Frizzell
NAYS: None.
NOT VOTING: Convey**

The first application, 2010-04, property located at 227 Osborne Ave., Block 2, Lot 23 was for Mr. and Mrs. Akersten.

Mr. Bill Gage will be representing their application.

The following were marked into evidence:

- A-1 Application**
- A-2 Survey, dated 7/28/2006**
- A-3 Minor Subdivision Map, dated 2/20/2010**
- A-4 Concept Design Plan 4/9/2010**
- A-5 Letter prepared by Mr. Gage, dated 4/9/2010**
- A-6 Review Letter from the Planning Board Engineer, dated 4/9/2010 – Deeming the application complete**
- A-7 Review Letter from Planning Board Engineer, dated 4/16/2010**
- A-8 Proof of Service**
- A-9 Proof of Publication**

The property located at 227 Osborne Ave. contains one (1) two-family dwelling with a separate garage. The applicant proposes to subdivide the property into two (2) conforming lots. The existing dwelling will remain on one (1) lot and will require a variance for the combined side yard setback. The Akersten’s propose that the existing garage remain on the second lot with the understanding that a new single family dwelling will be constructed in the future. Variances are required for the accessory structure to remain.

Mr. Zabarsky confirmed that the applicant was not requesting a Use Variance for the garage on Lot 24.01

Mrs. Akersten was sworn in by Mr. Zabarsky.

Mrs. Akersten stated they own the multi-family, colonial cape residence located at 227 Osborne Ave. It is a rental with one tenant upstairs and one tenant downstairs but proposes to eliminate the two-family use on the existing structure. The kitchen on the second floor will be eliminated if the subdivision is approved. Her son would like to build a house on the east side of the property where the garage is located. It would continue to be used for storage only and is not heated. The driveway that currently exists will stay the same and will not be moved if the garage remains.

Mr. Burdick, professional engineer and planner was sworn in by Mr. Zabarsky.

Mr. Burdick has reviewed the application and the letter from the Board Engineer. The subdivision will cut a 100' wide lot into two 50' lots to comply with the lot width requirements of the ordinance. Combined side yard setbacks are required to be 16', however, the newly created lot line will result in a combined yard setback of 13.87'. The only way to avoid that variance would be to widen the lot causing a worse lot width variance or to cut off a portion of the existing home which would be an undue hardship on the applicant. He also pointed out that the setback to the principal building which would be constructed on the adjacent lot will likely be at least 17' due to the existing driveway which will be maintained, thus the impact would be lessened.

Mr. Furze referenced Ms. Brasefield's review letter, dated April 16, 2010. The proposed combined side yard setback on Lot 23.01 should be corrected to 13.82 ft., not 13.87 ft. Then the application can be memorialized correctly.

Mr. Burdick stated the applicant plans to construct a single family home on the newly created lot and wishes to keep the garage, which is in good condition to that new home. Since the applicant does not intend to leave the garage as a principal use at the site, he will accept the condition of approval that the home will be begun within 1 year of approval or a time which the Planning Board believes is appropriate. With regards to the building and lot coverage, they will conform. The board should be aware the on the Conceptual Plan, he had transposed two of the numbers in the building/impervious coverage calculations. The building coverage for lot 24.01 is actually 26.1%, not 42.8% as shown in the zoning notes. Impervious coverage for lot 23.01 is actually 42.8%, not 26.01% noted. We will switch those numbers to make sure that the record is accurate, but no building coverage variance is requested or required.

The other variance that the proposed lot line will create is a side yard setback to the existing garage which the applicant wants to keep at the site. Required side yard setback is 4' and the proposed lot line would result in a side yard setback of 2.91'. The ways to avoid the variance are to either move or reduce the size of the garage or to move or angle the new lot line which is undesirable. Since the variance is relatively minor, 1.1' they believe the variance is advisable.

Mr. Burdick on behalf of the applicant requested a variance for the height of the existing garage which is 16.6' vs. 16' required. This is an existing condition and the garage is in good condition, therefore, Mr. Burdick requests the variance be provided.

Mr. Burdick stated that the ornamental well on lot 24.01 will likely be removed for the new home. Basically this is more of a lawn ornament than a structure, but if the Board would like it removed they will accept that condition.

Mr. Burdick stated with regards to the variances, the board should be aware that they are all due to the applicant's desire to maintain the existing structures of the site. The new lot line will create the need for side yard variances but since the structures are existing conditions and will not change, the practical effects of them are de minimus. The negatives of the application are minimal since they are existing conditions and the setback variances are in the middle of the property. He stated ultimately both lots will conform.

Mr. Furze stated that asking for variances in a zone with a very liberal requirement is a lot to ask for.

Mr. Gage stated it is up to the Board if it is appropriate under the circumstances.

Mr. Furze would like the Board to think about Osborne Ave. as the last thresh hold of underdeveloped lots. The area is becoming very dense.

Mr. Furze agrees the garage serves as a buffer to the railroad, which is a good thing.

Mr. Zabarsky stated there should be a specific condition added to the Resolution that the garage shall be removed if the new house does not break ground within a one year period.

Mr. Shore opened the floor for public comment

Mr. Ron San Fillipo was sworn in by Mr. Zabarsky.

Mr. San Fillipo stated he is the property owner at 221 Osborne Ave. and feels the variance has no detriment. Confirming the fact that the new house will be no higher than 35', he feels the new home would be an improvement. He supports the removal of the one tree in the northeast lot because it is falling down anyway. Mr. San Fillipo stated that the existing garage is in great condition and serves as a tremendous buffer to the railroad. He supports their effort.

Mr. Gage's closing comment was the variances are not detrimental. It is a modest Bulk Variance and is eliminating a nonconforming use. The benefits out weigh any detriments. He stated the Akersten's new home will be a traditional, cedar shake colonial, nothing contemporary.

There being no further public comment, Mr. Shore polled the Board members.

Ms. Barnes: In Favor, they are minor deviations and the Akerstens have done their best to comply.

Mr. Kellogg: In Favor for the same reasons.

Mayor Curtis: In Favor

Mr. Furze: In Favor

Mr. Convey: In Favor
Ms. Frizzell: In Favor
Mr. Harrington: In Favor
Mr. Shore: In Favor

A motion was made by Mr. Kellogg and seconded by Ms. Barnes to approve the application.

Roll Call:

YEAS: Shore, Furze, Kellogg, Curtis, Harrington, Barnes, Frizzell, Convey

NAYS: None

New Business:

Review of Ordinance 2010-06

Mayor Curtis stated that Ms. Barnes introduced Ordinance 2010-06 to Council on April 5, 2010. The ordinance increases the number of Planning Board Alternates to four. The second reading and public hearing will be at the Council Meeting on May 3, 2010.

The Planning Board Members unanimously approved Ordinance 2010-06.

Old Business:

Planning Board, Reduction of Costs

Ms. Barnes reviewed her comments, as stated in her e-mail dated April 9, 2010, to the fellow Planning Board Members.

It was agreed by the Planning Board Members that Mr. Petrillo will review Planning Board applications and write, in memo outline form, the deemed complete letter.

Mr. Petrillo will contact Susan Brasefield, Board Engineer, with any questions he may have concerning an application. Susan Brasefield will receive a copy of all applications to have on hand as needed.

Any applications with subdivisions or site plans will be reviewed and deemed complete by Susan Brasefield, Board Engineer.

Mr. Zabarsky will draft the Resolution.

Mayor Curtis stated he would like to rotate one Board Member per month to assist Mr. Petrillo in reviewing the applications. Mr. Zabarsky stated this does not have to be formalized. Mr. Petrillo may contact any Planning Board Member at any time.

Mr. Shore stated that escrow fees will also be reviewed. Ms. Tuzzolino, Clerk to the Planning Board, confirmed that escrow funds often fall short for processing the professional fees paid by the applicants.

A motion was made by Mayor Curtis and seconded by Ms. Barnes that Mr. Petrillo will review Planning Board applications and write the deemed complete letters.

Roll Call: All in Favor

Porch Ordinance

It was agreed upon by all Planning Board members to have no further discussion pertaining to a porch ordinance at this time.

Demolition Delay Ordinance

The Demolition Delay Ordinance Committee will meet on Tuesday, May 11, 2010.

A motion was made by Mayor Curtis, seconded by Ms. Barnes to pay the following vouchers:

Maser/548 East Ave.	444.00
Maser/Public Attendance	148.00
Zabarsky/Public Attendance	
Draft and Review Letter to	
Mayor and Council	
Re: Alternate Members	240.00

There being no further business the meeting adjourned.

Respectfully Submitted,

**Laura Tuzzolino
Board Clerk**

