

Bay Head Planning Board

March 17, 2010

The regular meeting of the Bay Head Planning Board was held on Wednesday, March 17, 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, Mayor Curtis, Bart Petrillo, Jennifer Barnes, Verity Frizzell, Patricia Wojcik, Edward Convey
Engineer – Susan Brasefield Attorney - Steven Zabarsky, Esq.

Absent: Peter Harrington

Other: Kathleen Tell arrived at 8:24 p.m., after the Resolutions and Application

The February 17, 2010 minutes were approved on a motion by Mayor Curtis and seconded by Mr. Furze and passed with all in favor.

Mr. Shore stated the Board had for review Resolution of Mr. Douglas and Patricia Applegate, 137 Park Avenue, Bay Head, NJ a/k/a Block 16, Lot 13 which was approved at the meeting of February 17, 2010.

Ms. Barnes motioned, seconded by Mr. Petrillo that the Resolution be approved and passed on roll call vote as follows: YEAS: Shore, Furze, Curtis, Petrillo, Barnes, Frizzell, Convey

NAYS: None.

NOT VOTING: Wojcik

Mr. Shore stated the Board had for review Resolution of Mr. Jamie Paradise, 101 Bridge Avenue, Bay Head, NJ a//k/a Block 45, Lot 13 which was approved at the meeting of February 17, 2010.

Correction by Ms. Frizzell: Page 8, Item 18. Delete wording “but rather there shall be a hip roof”. Should Read: “The plan shall be amended to be consistent with the elevations as shown and no deck shall be located off the second floor”.

Addition by Ms. Frizzell: Page 8, Item 20. However the “deck and condensing units” shall conform to the zoning ordinance requirements and not be closer than 6 feet to the side yard setback.

Mr. Convey motioned, seconded by Ms. Frizzell that the Resolution be approved and passed on roll call vote as follows: YEAS: Shore, Furze, Petrillo, Frizzell, Convey

NAYS: None

NOT VOTING: Curtis, Barnes, Wojcik

The first application, 2010-03, property located at 548 East Ave., Block 62, Lot 14 was for Mr. Thomas Quinn.

Mr. Convey recused himself on the application.

Mr. Quinn would be representing his application.

The following were marked into evidence:

- A-1 Application
- A-2 Survey of property, dated 2/16/1998
- A-3 Letter by applicant attached to the application
- A-4 Photos
- A-5 Review Letter form Board Engineer, dated March 2, 2010
- A-6 Proof of Service
- A-7 Proof of Publication

Mr. Quinn was sworn in by Mr. Zabarsky.

Mr. Quinn stated he is a long time resident of twelve years. They have a classic, Bay Head house and have remodeled the footprint that they have. The family is in the home through the whole summer and would like to place two, energy efficient condensing units on the North side of his property. This is a thin area that is not used and would impact the neighbors minimally. The area has shade and would be the most energy efficient place for the units. Mr. Quinn proposed to place lattice around the units to dampen the noise.

The South side has a driveway that he would like to keep so it does not interfere with his off street parking. Placement in the front of the property would not be aesthetically pleasing to the community. Placement on the rooftop would be visible and noisy. The back patio is used all the time. There is no other place along the footprint of the outside of the property that he would be allowed to put the units. The particular area that he is requesting is in the setback.

Mr. Quinn stated if placed in the Northwest rear it would hit the shower. If placed in the North rear he would not have enough room and would have to cut down a tree.

Mr. Furze asked if Mr. Quinn had been told how high above grade the units would have to be placed. Mr. Quinn answered one foot above grade is where his flood is.

Mr. Furze asked if the two condensing units are energy efficient. Mr. Quinn stated the units are highly efficient, sea coast models.

Mr. Shore recommended placement of the condensing units under the front porch. Mr. Quinn stated, in talking with the air conditioning guys, there would not be enough clearance.

Mr. Furze stated it would not be level enough and would have to be above base flood elevation.

Mr. Petrillo stated he would rather have the units placed in the setback, in the front, behind the bushes than two feet off the neighbor's property line, if it can't go under the porch.

Mr. Quinn stated if the units were placed by back end of the driveway they would undergo full sun exposure. There would be less of a negative impact if placed by the rear neighbors.

Mr. Petrillo stated there is room at the end of the driveway. Mr. Quinn said that would affect the parking.

Ms. Frizzell asked about placement under the rear stairs. Mr. Quinn stated the two units would not fit. The units are too long for the length of the stairs.

Mr. Furze asked if the units would be placed near neighbor's windows. Mr. Quinn stated, yes.

Mr. Shore inquired about placing the units in the indoor attic space. Mr. Quinn stated there is no room.

Mayor Curtis stated the neighbors would be running their air conditioners at the same time if it is hot anyway.

Mr. Quinn stated they would not be using the air conditioning all the time.

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

Ms. Barnes: In Favor, Ms. Barnes understands Mr. Quinn is trying to please the aesthetic factor and trying to appease the neighbors but still questions why he is so against placing the units against the house by the back patio. Mr. Quinn stated they would take up too much room.

Mr. Petrillo: Not In Favor, The units are in the setback, two feet off the property line. They will echo. He is concerned about the neighbors to the North. He feels there are other options by the driveway.

Ms. Wojcik: In Favor, but hopes there is not an echo.

Mayor Curtis: In Favor, The Mayor has no objection to the application. The placement is best for the preservation of the machinery due to the salt air. The shielding by the lattice will deaden the sound. The neighbor's windows will also be closed the same time

Mr. Quinn's units are in use. Mayor commended Mr. Quinn for keeping the driveway and not increasing parking on East Ave. The Mayor feels the right spot has been chosen. Mr. Furze: Not In Favor, there is a concern about the proximity of the property line, same as the zoning officer. He would rather the units go the Southwest corner on the gravel so you do not encumber your brick patio and further from the setbacks. There would still be room for four cars and the units would not be so close to the neighbor to the North.

Ms. Frizzell: In Favor and agrees with the Mayor. It is the best alternate location.

Mr. Shore: In Favor and felt Mr. Quinn did his homework. There was a concern for the neighbor to the North, but stated the Mayor had a good point. The neighbors will have their windows shut. If the air conditioners are as close to the ground as possible so they are standing up high in the air, Mr. Shore is in favor of the application. The platform should be at the minimum height requirement of construction.

A motion was made by Mayor Curtis and seconded by Ms. Frizzell to approve the application.

Roll Call:

YEAS: Shore, Curtis, Barnes, Frizzell, Wojcik

NEAS: Furze, Petrillo

Not Voting: Convey

Mr. Zabarsky stated the vote of five to two in favor. The application is granted. A resolution for the memorializing of 548 East Ave. will be considered at the next Planning Board meeting.

New Business:

Planning Board Fees

Mr. Shore referenced the Mayor's March 9th letter discussing Planning Board fees associated in filing for an application with the Planning Board. Ms. Barnes stated there was a meeting on March 4, 2010 to discuss the Planning Board fees. Mayor Curtis, Mr. Petrillo, Mr. Applegate and Ms. Tuzzolino were present. Ms. Barnes stated sometimes the fees are too high and cost prohibitive. There is a need to further discuss this with the Financial Committee to see if they would be agreeable to review the Planning Board fees. The forming of a sub committee was discussed.

Mr. Shore would like suggestions about addressing the overall fees and does not agree on a sub committee. Rather, have Bart review the application, state there is a grey area for a full application and then the entire Planning Board can discuss if a full application is needed.

Mr. Shore is concerned for what the applicants pay out of pocket for our professionals and feels there is room for improvement.

Ms. Frizzell would like the professional's fees reviewed.

Mr. Shore inquired about the legal perspective. Mr. Zabarsky stated this process can not be done. Based on the zoning ordinance, if it does not conform a variance is needed based on the ordinance.

Ms. Tell stated if it a small variance use discretion and have no professional fees.

Ms. Wojcik stated 95% of the time there is not enough Escrow put up to cover paying for the professional's fees. Ms. Wojcik feels adjustments need to be made.

Mr. Petrillo stated for deteriorating stoops and little roof tops if they want to replace it give a little lead way, if encroaching "replace it in place". It can be no bigger and replace it one board at a time.

Mr. Furze stated look at the Land Use Ordinance and mentioned "replace in kind". You would have to verify what was already there.

Mr. Shore stated that the ordinance can be adjusted and inquired if there are any other areas for adjustments to be made in addition to a porch tear off or a rebuild.

Mr. Furze stated the Land Ordinance should be reviewed.

Mr. Zabarsky stated a grandfather clause to certain zoning ordinances can be made.

Demolition Ordinance

Mr. Shore stated the Mayor asked to revisit the Demolition Ordinance and that a committee will be formed. There will be both Council and Planning Board representation. Andrea Tingey from the NJ Historical Preservation Office will be presenting at an upcoming meeting. Mr. Shore stated the realtors can hold an advisory role and make a presentation. Mr. Shore would like contrary reviews and asked that all Planning Board Members come prepared with their ideas at the next Planning Board Meeting.

Mr. Petrillo has concerns with the historic home, demolition issue. If you buy a home and renovate more than 50% of the structure you have to bring all of it into conformity. It is easier to tear it down and build a house that will conform. Clarification is needed.

Mr. Shore stated this definitely needs to be explored. There will be this committee, but we would like full Planning Board input as to the guidelines needed to develop this ordinance.

Porch Ordinance

Ms. Frizzell sent a copy of the porch ordinance from Pt. Pleasant Borough.

Mr. Furze posed the questions, how big does the porch have to be? Where do we draw the line?

Ms. Tell stated little porches are not aesthetic and that overhangs should be reviewed also.

Mr. Petrillo stated that if there is a roof over it, it needs to be included in the building coverage.

Mr. Shore's question was how big does the porch have to be to be allowed in the setback? The Applegate application was discussed as an example. Mr. Shore feels there is room for modification to the ordinance.

Mr. Shore stated that there should be no exceptions for the building coverage, but there can be an exception for the setback.

Mr. Zabarsky stated to think of a maximum, not a minimum exception for the setback. Four feet was discussed.

Mr. Shore would like a final decision to be made at the next meeting.

It was confirmed that the wording in Ordinance 2008-16 is correct in stating apartments attached to a business in the B-1 zone can be “within” a store.

A minimum square footage per unit for multiple apartments should be required. The residential dwelling units should be a minimum, 500 square feet each. The Mayor wanted to confirm that all current units under 500 square feet be grand fathered.

Mr. Zabarsky will send a letter to the governing body to modify the ordinance as discussed.

Mayor Curtis offered the following Resolution to go into executive session.

WHEREAS, the Open Public Meetings Act, N.J.S.A. 19:4-12, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Planning Board of the Borough of Bay Head, in the County of Ocean, State of New Jersey, as follows:

1. The public shall be excluded from the discussions of and actions upon the hereinafter specified subject matter.
2. The following subject involves matters of attorney/client privilege:

Personnel

3. It is anticipated that the matter discussed will be made public within 60 days.
4. This Resolution shall become effective immediately.

The Governing Body went into Executive Session at 9:30 p.m. At 9:40 p.m. the Governing Body came out of executive session and resumed the regular meeting.

The motion was made by Mr. Furze and seconded by Ms. Frizzell to come out of executive session.

Mr. Shore called regular session back in order.

The motion was made by Ms. Barnes and seconded by Ms. Frizzell to hire our Planning Board Attorney at the rate of \$150.00/hour retroactive back to 1/20/10. All in favor.

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

Maser/101 Bridge Ave.	370.00
Maser/137 Park Ave.	444.00
Zabarsky/Public Attendance	180.00
Zabarsky/548 East Ave.	45.00
Zabarsky/137 Park Ave.	270.00
Zabarsky/Litigation for Mauro	765.00

There being no further business the meeting adjourned.

Respectfully Submitted,

Laura Tuzzolino
Board Clerk

