

The regular meeting of the Bay Head Planning Board was held on Wednesday, September 15, 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.”

Mr. Zabarsky administered the Oath of Allegiance for Mr. Frederick Applegate as the fourth Planning Board Alternate.

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

The August 18, 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 the Amended, Adopted Resolution 2008-10 of Mr. and Mrs. John Critelli, 416 West Lake Avenue, Bay Head, NJ a/k/a Block 16, Lot 17.

Mr. Petrillo stated the neighbor to the north reviewed the plans and stated they were supposed be reducing the size of the garage. Mr. Petrillo stated that the Planning Board tape and the minutes clearly state the garage will be shortened to 33.8 inches and six feet off the northern property line. Mr. Petrillo stated the homeowner was in agreement and submitted the new plans reflecting the changes. These plans were approved by Mr. Petrillo.

**Mr. Kellogg motioned, seconded by Ms. Barnes to amend Resolution 2008-10 and passed on a roll call vote as follows: YEAS: Shore, Petrillo, Kellogg, Mayor Curtis
NAYS: None**

Mr. Zabarsky stated the amended resolution will be adopted at the next scheduled Planning Board Meeting.

Mr. William Gage, representing both the 98 Osborne Ave. application, 2010-07 and the 336 Main Ave. application, 2010-08 addressed the Board. Mr. Gage stated there were errors on noticing for both the applications.

Mr. Gage requested a special meeting for the hearing of these two applications before the next scheduled Planning Board meeting scheduled on October 20, 2010. The Board agreed to a special meeting on Wednesday, October 6, 2010 at 7:30p.m.

Mr. Zabarsky stated not all necessary parties were correctly notified and by applicable law, the applications can not be heard. Mr. Zabarsky requested re-notification of the Carluccio application and the Harvey application for the October 6, 2010 meeting.

The Planning Board Clerk will notice the newspaper for the Special Planning Board meeting to be scheduled on Wednesday, October 6, 2010 at 7:30 p.m.

A motion was made by Ms. Tell and seconded by Mr. Petrillo to have the Special Meeting on Wednesday, October 6, 2010 at 7:30 p.m.

Roll Call:

YEAS: Shore, Furze, Kellogg, Tell, Mayor Curtis, Mr. Petrillo, Ms. Barnes, Ms. Wojcik, Mr. Convey

NAYS: None

The first application, 2010-09, property located at 627 East Ave., Block 66, Lot 11 and 11.01 was for Mr. and Mrs. Arthur Metzler.

Mr. Steven A. Pardes stated he would be representing the application.

Mr. Pardes stated the application is both a C and D Variance for an existing non conformity.

The following were marked into evidence:

A-1 Application

A-2 State of New Jersey Department of Environmental Protection, Coastal General Permit Plan, issued May 5, 2010

A-3 Survey, dated November 10, 2009

A-4 Plot Plan and Coastal General Permit Plan submitted by Lindstrom, Diessner & Carr, P.C., dated August 10, 2010

A-5 Architectural Drawings 1-6, submitted by The Lederer & Wright Partnership, dated July 16, 2010

A-6 Letter from the Planning Board Engineer, dated September 1, 2010 - Deeming the application complete

A-7 Review Letter from the Planning Board Engineer, dated September 9, 2010

A-8 Proof of Publication

A-9 Proof of Service

A-10 A series of color photos with heights given

A-11 Area photo of subject property and neighborhood

A-12 A color rendering of proposed structure to be built

Mr. Pardes stated there was an informal hearing about five months ago. Mr. & Mrs. Metzler are back to the Planning Board with a specific proposal. There were two Variances at issue, one being the lot frontage Variance is four feet short of the 100 feet that is required. There is no way to gain frontage so this is an existing non-conformity. The second Variance is the D-6 Variance for height. The height is 10% over what the ordinance permits. By state statute it is a D-6 Variance or Use Variance. The height will however, be reduced with the proposed house to be built.

Mr. Lederer, the applicant's Architect, was sworn in by Mr. Zabarsky.

Mr. Pardes asked Mr. Lederer to review the current condition of the home at 627 East Ave.

Mr. Lederer, referring to exhibit A-11, described the current home as an ocean front property, 96.07 feet wide by 270 feet deep. It is presently a two story house with a large wrap around porch. The present height is 40.9 feet above the street.

Mr. Lederer, referring to exhibit A-10, described the current home in disrepair and structurally inadequate. The porch structure is in dangerous condition. It is on a regular foundation. The basement is below the base flood elevation which could cause insurance issues if there are hurricanes and flooding.

Mr. Pardes questioned Mr. Lederer as to his mission given for the new home.

Mr. Lederer stated he was to look at the current home and its condition and to accomplish the design criteria. It became evident that the current design criteria, as far as living space would not work therefore, Mr. and Mrs. Metzler decided to take the structure down and build a new structure with the style and character of Bay Head.

Mr. Shore asked Mr. Lederer to talk about the outside of the new home.

Mr. Lederer referenced evidence A-12. The new home is to have Bay Head features, classic shingle style, shingled walls and roof, classic white trim and windows, double hung windows and casement windows. The first level is a split level. In the ocean front section there are transom windows with a diamond pattern over the double hung windows consistent with the style. There will be a large ocean front porch. The main level is at dune level so there is a stairway to an opened, covered porch that has an entrance and which continues south. There is a stairway to enter around the south side. To the east is a very large covered, partially screened, partially opened porch. The porch will have a compatible Bay Head scheme.

Mr. Kellogg confirmed with Mr. Lederer that the home is in the VE flood zone with a base flood elevation of 13, but by the New Jersey add on code the minimum is one foot above sea level or elevation 14.

Mr. Kellogg confirmed with Mr. Lederer the home would have to be built 6.1 feet above East Avenues' flood elevation of 7.9 to meet the flood requirement.

Mr. Shore asked Mr. Lederer to explain the garage.

Mr. Lederer stated the garage is the lower level, below the base flood elevation, but will be built with break away walls. Anything built above will be supported by pilings.

Mr. Shore confirmed with Mr. Lederer that the new home would be a two and a half story structure.

Ms. Tell confirmed with Mr. Lederer that the ceiling height in the living floor of the home is 9.6 feet. The ceiling height on the second floor and over the garage is 8 feet. There is a small third level under the roof that is the half story.

Mr. Lederer stated to Ms. Tell that the roof line is the same if you are looking at the home from the street.

Mr. Shore asked Mr. Lederer how the new home would compare in both size and height to the surrounding houses.

Mr. Lederer referenced evidence A-10 to compare the heights of the surrounding homes to the new home to be built. The skyline of East Ave. is well in excess of 35 feet. Any reduction in the height of the proposed home would be uncharacteristic of the style. The existing height of the current home is 40.9 feet. The proposed height for the new structure is 39.1 feet, nearly two feet lower.

Mr. Lederer stated the side yard setback requirement is 10 feet. The existing is 9.4 feet. The proposed side yard setback is 11.6. The current non-conformity would be eliminated.

Mr. Pardes and Mr. Lederer addressed the Planning Board Engineer's letter, dated September 9, 2010. Items two through four had been discussed in Mr. Lederer's testimony and are in compliance.

In reference to item four of the review letter, Mr. Lederer stated there is no landscape plan as of yet but will include native, ocean front type plants along East Ave. and down the side lines of the property. The landscape will honor the dune by planting dune grass on the east side. There will be a soft hedge structure to privatize the pool area.

Mr. Lederer stated that the pool placement will comply with the swimming pool ordinance. The pool heater equipment will be placed in the crawl space or the garage. The fence surrounding the pool by the shrubs will be six feet high as the ground steps up the fence will be five feet high.

Mr. Lederer stated the walkway and the dune platform will be replaced to conform to all requirements of the Borough of Bay Head Dune Ordinance.

Mr. Lederer confirmed the placement of the HVAC equipment will be in the crawl space.

Mr. Pardes stated items 12, 13 and 14 of the review letter are standard conditions by which the new home would comply.

Mr. Shore confirmed with Mr. Lederer that the new home will be a little wider than the other surrounding houses.

Mr. Shore confirmed with Mr. Lederer that there will be one fireplace just inside the main living space.

Mr. Kellogg asked Mr. Lederer why the crawl space has head room of five feet. Is that typical?

Mr. Lederer confirmed that is not typical. The five foot crawl space is for the view, because of the dune structure.

Mr. Pardes stated due to the unusual topography, the dune, the additional height is needed. Mr. Pardes confirmed with Mr. Lederer, if the Variance for the height was granted there would be no harm to the public welfare or hardship for safety, light, air or traffic.

Ms. Tell inquired about the location of the new garage.

Mr. Lederer sated the current garage is 24 feet back from the property line. The new garage will be 37 feet back from the property line. The garage is going to be moved back 13 feet.

Ms. Tell confirmed with **Mr. Lederer** that the south edge of the garage to the walkway was 30 feet, the structure and the garage is 26 feet and the depth from the front of the garage to the ocean was 90 feet to the bulk of the house and 93 feet to the bay.

Mr. Pardes confirmed with **Mr. Lederer** the Building Coverage proposed is 19.4%, a maximum of 35% allowable in that zone. The Lot Coverage is 32.2% v. 50% allowable.

Ms. Wintersteen inquired about the heights of the homes on the other side of the street.

Ms. Tell stated the two houses to the north and the two houses to the south each have attached garages. There is an appreciation of height. The height is further removed from the street with the small, single story structures closer to the street. The higher structure is the main structure and is further back.

Mr. Lederer agreed with **Ms. Tell's** comments.

Mr. Lederer stated that the new home has a visually diminishing roof line. The height is set further back with the new home.

Mr. Zabarsky stated that on the application and on the plans there is a garage 3.7 feet from the property line. The existing detached garage as an accessory structure at a setback is being eliminated. This is a removal of a variance condition on the property.

Mr. Pardes explained that this Use Variance is not traditional. The topography compels the Use Variance for height because of the need to see over the dune to view the ocean.

If the Planning Board turns down the application the Board would be denying the community the benefits of the reduction in height, the elimination of the side yard setback variance and the elimination of the non conforming setback as to the accessory garage.

Mr. Zabarsky stated that if the Board Members feel the Use Variance for height does not impair the zone ordinance or public welfare then the applicant meets the negative criteria under the statute.

Mr. Shore opened the floor for public discussion.

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

Mr. Kellogg: Has always been a believer, if you are going to rip down a house and start clean you should comply, however, seeing the evidence tonight agrees there is unusual topography. With the Use Variance the positive criteria has been proven and the remaining non conformities are less obtrusive.

Mr. Petrillo: Yes, agrees with **Mr. Kellogg.** There is the hardship of the elevation and the dune. **Mr. Petrillo** likes the reduction in non conformities. The home has a great design, in favor with the application.

Ms. Wojcik: Is very satisfied and feels the new home will be an asset to the town.

Ms. Tell: No, the problems of topography do not explain the home being 39 feet high on the north side. The neighbor to the north receives no light. The scale of the home on the north side is staggering simply to address the questions of topography. The home changes the sense of the neighborhood, against the application.

Mr. Furze: Mr. Furze is concerned about the imposing structure to the resident to the north. He is reluctantly in favor.

Mr. Convey: The topography issue was addressed well, Yes.

Ms. Wintersteen: Agrees with Mr. Kellogg that they proved special consideration for the topography.

Mr. Applegate: Being in the building business for about forty years, he understands

Mr. Lederer's concerns about the roofline. You can't change that. Yes.

Mr. Shore: Has some reservations but the applicant has decreased the existing non-conformities, in that regard, Yes.

A motion was made by Mr. Petrillo and seconded by Ms. Wojcik to approve the application.

Roll Call:

YEAS: Shore, Furze, Kellogg, Petrillo, Wojcik, Convey, Wintersteen, Applegate

Nays: Tell

Not Voting: Mayor Curtis

Demolition Delay Ordinance

Mr. Shore stated the next Committee meeting will be held on Tuesday, September 28, 2010 at 7:00 p.m.

Mr. Shore opened the meeting for public discussion. There were no comments or questions.

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

Maser/41-45 Mount LLC	74.00
Maser/98 Osborne	296.00
Maser/227 Osborne	148.00
Remington Vernick & Vena/ 227 Osborne Ave. Review Minor Subdivision	120.00

There being no further business the meeting was adjourned.

Respectfully Submitted,

Laura Tuzzolino
Board Clerk

