

The meeting of the Bay Head Planning Board was held on Wednesday, March 16, 2011 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, Bart Petrillo, Peter Harrington, Jennifer Barnes-Gambert, Verity Frizzell, Patricia Wojcik, Edward Convey, Kathleen Wintersteen, Fred Applegate

Absent: David Kellogg, Kathleen Tell, Mayor Curtis

Engineer – Susan Brasefield

Attorney – Steven Zabarsky, Esq.

The February 16, 2011 minutes were approved as corrected and passed with all in favor.

Mr. Shore stated the Board had for review Resolution of Heritage Properties International, 666 East Avenue, Bay Head, NJ a/k/a Block 63, Lot 39 which was approved at the meeting of February 16, 2011.

Ms. Wojcik motioned, seconded by Ms. Wintersteen that the Resolution be approved as corrected and passed on a roll call vote as follows:

YEAS: Furze, Harrington, Barnes, Frizzell, Wojcik, Wintersteen, Applegate

NAYS: None

NOT VOTING: Shore, Petrillo, Convey

The first application, 2011-04, property located at 618 East Ave., Block 63, Lot 16 and 17 was for Angela Schroeder.

Mr. William Gage stated that he would be representing the application. He stated that the applicant has already received a building permit to build an addition onto their house. In addition, they would like to construct a second floor balcony onto the front of their house. He stated this application is for a front yard setback variance because the original house, when built, was built in such a manner that it encroached upon what is now the front yard setback. That will be the only non conforming condition that is impacted by this application. There is presently a non conforming condition regarding the north side setback, however, the Board can see from the plans we will show in a few moments, that the proposed construction does not impact that setback situation. Mr. Gage confirmed that the front yard setback of 9.4 is from the railing of the porch itself. It does not go to the front steps. So the front steps, if you look at the scale, is four feet in front of the house. So the front yard setback would probably be 5.4 feet to the front steps discounting about twelve inches or so because you are allowed to have up to twelve inches or so.

Mr. Gage stated the two witnesses he has are Mr. Schroeder who will be testifying on behalf of his wife, the title owner of the property and Mr. Justin Brown, architect, who will be testifying on behalf of Christopher Rice who was not able to attend.

The following were marked into evidence:

A-1 Application, dated January 20, 2011

A-2 Denial letter from Zoning Department's Mr. Petrillo, dated December 7, 2010

A-3 Deed Restriction, dated September 19, 1905

A-4 Survey, dated February 10, 2011

A-5 Architectural Drawings 1-5, dated December 22, 2010

A-6 Letter from the Planning Board Engineer, dated February 18, 2011, deeming the application complete

A-7 Review letter from the Planning Board Engineer, dated March 10, 2011

A-8 Proof of Service

A-9 Proof of Publication

Mr. Schroeder was sworn in by Mr. Zabarsky.

Mr. Zabarsky confirmed that there are ten Planning Board members in attendance so Mr. Applegate can fully participate in all discussions and questions but he will not be able to vote.

Mr. Gage confirmed with Mr. Schroeder the following: The applicant had purchased the property immediately to the south of this property. Mr. Schroeder confirmed that he has received a building permit to add onto their existing house. On the drawings that were submitted for the permit, all setback calculations, lot and building calculations and height calculations were approved. They were given a building permit without variance relief.

Mr. Gage stated that there are two garages on the northern property or new lot.

Mr. Schroeder stated that the garage on the south side will be removed within thirty days.

Mr. Gage stated he is showing Mr. Schroeder one of the plans marked as part of A-5. This is the front and side elevations of the proposed house.

Mr. Gage requested Mr. Schroeder turn his attention to the proposed balcony over the front porch. You can see from both of these elevations that the balcony is built so that it is recessed in somewhat. Therefore, it does not go to the edge of the house. Wherever the front setback is to the current house, this will be short of that. Regarding the north side of the property, it does not go to the edge of that part of the roof either so it is recessed in from there.

Mr. Gage stated that the proposed balcony will not encroach any further into the front yard setback or on the side setback and there will be no increase as far as lot coverage or building coverage.

Mr. Schroeder agreed with Mr. Gage.

Mr. Schroeder confirmed with Mr. Gage that the reason they would like to add the balcony is because they are lucky enough to have an unobstructed view of the ocean. They also like the foot traffic, walkers, runners, bikers on East Avenue.

Mr. Furze asked if the 34.99% existing building coverage was calculated considering the garage.

Mr. Gage stated that the garage is not counted as building coverage because that garage is going to be gone by the end of this project.

Mr. Furze asked Mr. Gage if the 4.37 foot that is existing on the north, is that to the dormer of the second floor? There is an overhang there.

Mr. Gage stated that the eve protrudes further then the dormer.

Mr. Furze stated that neither the site diagram nor the survey prepared by the architect have dimensions on them. There seems to be some drafting errors. The twenty eight feet to the rear property line is in conflict with the survey. It is listed as Lot 16 and 17. There is no Lot 17.

It was confirmed by Mr. Schroeder that it is now one lot.

Mr. Furze's point is we have numerous applications before the board. It is very difficult for us to quantify lot coverage. We have to rely on the professionals to be honest. There are no dimensions. We have no way to know if they are correct.

Mr. Gage confirmed that all the setbacks, lot coverage and height were all reviewed at the time the building permit was approved. This particular proposal has no impact upon that part of the construction.

Mr. Furze agreed with Mr. Gage.

Mr. Shore stated that as a general rule the Board needs cleaner plans.

Mr. Furze stated that the Board needs the proper tools.

Mr. Gage will have Mr. Rice and Mr. Lynch contact Mr. Petrillo's office to confirm all the requirements are accurate.

Mr. Furze stated this would be appreciated.

Ms. Frizzell stated that the deed restriction says that the building can not be more then ten feet to the street and it is 9.7 feet. What happens with that?

Mr. Gage stated that the deed restriction is not something really before the board. That is a private restriction that only the other party to that restriction can enforce.

Mr. Gage confirmed to Mr. Convey that the reason the deed restriction is included is because it is part of the application.

Mr. Zabarsky stated to Mr. Shore that the Board just needs to know if there are any restrictions on the property. It is that simple. The Board has the right to review any restrictions that are contained within the property that would limit the use and or access or construction on the property by the applicants if the applicant is requesting an application for development. Mr. Gage, in this particular case, is saying the fact that the deed restriction that the building can not be more then ten feet to the property line it is not something enforceable by the Board. You are either going to grant the variance or not.

Mr. Gage stated that the deed restrictions were put in place before there were zoning laws but they are still active records.

Mr. Furze stated that there is an 11.63 minimum dimension on the southern property line that looks like the setback line (top left side of the site plan).

Ms. Brasfield asked if it was done to have the sixteen feet, minimum combined setback?

Mr. Gage stated that in this case since there is a 4.37 feet on the north side then they concluded you must have an 11.63 on the south side.

Mr. Shore confirmed that there are no plans to put a roof on, no screens and no windows.

Mr. Schroeder stated that is correct, just a railing.

Mr. Shore opened the meeting for public comment.

There being no public comment Mr. Shore caucused the Board.

Ms. Barnes: In Favor

Mr. Petrillo: In Favor

Ms. Wojcik: In Favor

Mr. Harrington: In Favor

Mr. Furze: In Favor

Ms. Wintersteen: In Favor

Ms. Frizzell: In Favor

Mr. Convey: Has no issues

Mr. Shore: In Favor, He would do the same thing

There was a motion by Ms. Barnes a second by Mr. Convey to approve the application.

Roll Call:

YEAHS: Shore, Furze, Petrillo, Harrington, Barnes, Frizzell, Wojcik, Convey, Wintersteen

NAYS: None

Mr. Shore stated the next application, 2011-06, property located at 30 Karge St., Block 33.01, Lot 1 was for Mr. William Gluck.

The following were marked into evidence:

A-1 Application, dated March 4, 2011

A-2 Survey, dated February 10, 2011

A-3 Architectural Drawings (Sheets 1, 8 and 9 of 16), dated December 2, 2010

A-4 Letter from the Planning Board Engineer, dated March 7, 2011, deeming the application complete

A-5 Review letter from the Planning Board Engineer, dated March 10, 2011

A-6 Proof of Service

A-7 Proof of Publication

Mr. Zabarsky marked into evidence the following:

- A-8 Colored rendering, side elevation of 30 Karge, by Design Group
- A-9 Colored rendering, same property and group, front elevation
- A-10 Historical Photos

Mr. William Gluck was sworn in by Mr. Zabarsky

Mr. Gluck stated that he and his wife purchased this property in September, 2008.

Mrs. Margaret Gluck was sworn in by Mr. Zabarsky.

Mrs. Gluck stated that they were there to ask for a variance on a preexisting agreement that they had or a permit that they already had in place. During the construction of the house the center of the house collapsed. It is an 1800 house, the winter was horrible, they were doing construction on it and part of the inside fell, which brought us this variance. The center of the house fell so it gave up more then 50% of the property. They are doing it in sections because of the rules that you have here. So when that happened the town was alerted. They had to stop the construction. We want to go ahead with the work that we were already given permission to do under the building permit. We are trying to reenact the porch. It is very important to them. They plan to retire here.

Mr. Shore asked Mrs. Gluck, why they did not just tear down the house?

Mrs. Gluck stated because they wanted to keep the character of the house and the footprint of the house. They have done that painstakingly. They wanted to keep it historical. The front part of the house was historical. Then they added the middle. Then they added the garage part of the house. We are not destroying a historical site.

Mrs. Gluck confirmed with Mr. Shore that the new house will be the same as the old house. It will be the same footprint.

Mr. Shore confirmed with Mrs. Gluck that there will be no increase in lot coverage or building coverage. The setbacks will remain the same. It is just the front porch that is infringing into the setback. The existing front yard setback to Karge St. is 9.1 feet where 20 feet is required. This is an existing condition. The existing porch and steps to be replaced are located within the required front yard setback.

Ms. Wintersteen asked Mrs. Gluck, exactly what happened when you started to renovate the house?

Mrs. Gluck stated that a new foundation was put in because the old foundation was built on sand and it was giving in. When they were up on the second floor, taking the second floor down one of the framers actually fell through the second floor. That took part of the building down.

Mrs. Gluck confirmed with Ms. Wintersteen that they were putting a new foundation in and renovating the inside of the house.

Ms. Frizzell stated that when you replace the old framing with the new framing it has a different dimension. So your house has grown about ten inches because you have deeper framing then you had originally. Your original framing was eight inches deep. The new

floor framing is twelve inches deep. So your house has gotten taller. Ms. Frizzell's concern is now will it be too tall?

Mr. Petrillo stated that once they set the top ridge pole they have to certify the height on that building before they get their final CO. If it is higher than 35 feet it needs to be adjusted.

Mr. Convey stated that the applicant should give due diligence now.

Ms. Frizzell stated that the applicant should make sure they measure from the lowest crown not the highest crown.

Mr. Harrington stated that on the historic nature, this house is considered a contributing structure to the historical designation of Bay Head. It's done, 30 Karge is done. Just because it is old doesn't mean it's good. Mother Nature did what it did and has caused the place to fall down. This scenario is motivation for us to put a stop where we can.

Ms. Frizzell asked Mr. Zabarsky, because the house was more than partial destruction don't we have to grant any other variances that might exist on the property?

Mr. Zabarsky stated, no. Once it is more than partial destruction it is like it is a vacant lot.

Ms. Frizzell stated that if we approve this application as it is then anything that used to be an existing condition would have to be a new variance.

Mr. Zabarsky stated this is correct.

Ms. Frizzell asked Mrs. Gluck how many parking spaces they have.

Mrs. Gluck stated they have two parking spaces.

Ms. Frizzell stated that technically speaking the garage is not really big enough for a parking space. This is a variance for parking.

Mr. Petrillo stated that they have a driveway.

Mr. Zabarsky stated that the cars can be parked two deep.

Mr. Zabarsky stated that the real issues are the lot coverage of 41.1 where 35 is the max and front yard setback of 9.1 where 20 ft. is the minimum requirement.

Mr. Zabarsky confirmed to Mr. Shore that when you have a lot that has a required square footage area to build a house on it or to conform to the zoning requirements to building a structure on it the issue becomes is there any property the land owner can acquire from either the adjacent property owner to make the lot bigger to conform to the zoning requirements or does any adjacent property owner want to buy the lot in question. This is usually typical for a vacant lot as opposed to a lot where there is a house existing.

Mrs. Gluck stated that there is none.

Mr. Zabarsky stated that their burden with regard to meeting the variance requirements for area would be met.

Mr. Shore opened up the floor for public comment.

Mr. Douglas Applegate, Construction Official, was sworn in by Mr. Zabarsky.

Mr. Applegate stated that the applicant jumped through every hoop. They had seven or eight different foundation inspections. They have always checked with Bart or himself. They meant all along to go the historic route. This house is a dog. It had 2x3 rafters in it. Its held together for 120 years, why he does not know. They wanted to do it right and it did fall down on them. It was unintentional. He wanted to state as Construction Official that they did go to the letter of the law we asked them to go to.

Mr. Applegate confirmed with Ms. Wintersteen that there was nothing they could have done to stop this from happening. They did everything they could along the way.

There being no further public comment Mr. Shore caucused the Board.

Mr. Applegate: In Favor

Ms. Frizzell: Ms. Frizzell was amazed when she had gone there and there was no house but now knows why. Yes, if the height is ok.

Ms. Wintersteen: Yes, agrees with Ms. Frizzell. When Ms. Wintersteen had gone there she was looking for the before and did not see any before. Ms. Wintersteen did not know what had happened there. Ms. Wintersteen was glad they came here and explained it and wished the applicant luck.

Mr. Convey: The explanation satisfied him. There was not much else you could do, In Favor.

Mr. Furze: He hopes the applicant understands the passion for historic homes right now. We have seen some bad turns. There is a great concern we are losing our heritage. Good for you. Enjoy it. In Favor.

Mr. Harrington: Yes

Ms. Wojcik: Ms. Wojcik thinks it is lovely. In Favor.

Mr. Petrillo: Yes, he commends them for choosing to restore it. In Favor of it.

Ms. Barnes: Ms. Barnes had worked with the Zoning Official and the Building Official and knows their intentions were good from the start. It is a gorgeous home. The Borough, presently, does not have any type of historic preservation ordinance so in her mind she applauds their efforts to construct this home so it fits into the character of Bay Head and wishes them well. In Favor.

Mr. Shore: In Favor of the application. To repeat what Mr. Harrington had said, not all that is old is good. You had gotten yourself into a little rats nest there and you're doing the best you can. It is a pretty house. It's fitting with Bay Head.

There was a motion by Ms. Barnes and a second by Mr. Petrillo to approve the application.

Roll Call:

YEAHS: Shore, Furze, Petrillo, Harrington, Barnes, Frizzell, Wojcik, Convey, Wintersteen

NAYS: None

New Business: None

Old Business:

Historic Preservation Ordinance:

Mr. Shore stated they had their initial meeting with Mr. McCabe. As a result of the meeting we had already supplied to Mr. McCabe a lot of information on Bay Head itself. He is going to draft an ordinance for us, a Historic Preservation Ordinance. As part of that Mr. McCabe would like the Board to answer some specific questions. This same questionnaire is being distributed to the town council so we are getting input from all parties.

Mr. Shore discussed the questionnaire with the Planning Board Members.

Mr. Shore stated that from these questionnaires Mr. McCabe will draft an ordinance and present it back to the committee where it will be reviewed. Then it will be distributed to the Planning Board and Council. Then it will go through a first and second reading.

The vouchers were approved with all in favor.

There being no further business the meeting was adjourned.

Respectfully Submitted,

**Laura Tuzzolino
Board Clerk**

