

**The meeting of the Bay Head Planning Board was held on Wednesday, September 21, 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, Kathleen Tell, Mayor Curtis, Bart Petrillo, Jennifer Barnes-Gambert, Edward Convey, Kathleen Wintersteen,  
Absent: David Kellogg, Peter Harrington, Verity Frizzell, Patricia Wojcik, Frederick Applegate  
Engineer – Susan Brasefield Attorney – Steven Zabarsky, Esq.**

**The August 17, 2011 minutes were approved as amended on a motion by Edward Convey and seconded by Mayor Curtis and passed with all in favor.**

**Mr. Shore stated the Board had for review the Informal Review for Sharon Clayton, 512 Main Avenue, Bay Head, NJ a/k/a Block 57, Lot 10.**

**Mr. Shawn Clayton, son of Sharon Clayton was sworn in by Mr. Zabarsky.**

**Mr. Zabarsky confirmed Sharon Clayton is the sole owner of the property.**

**Mr. Clayton addressed the Board. He stated that the garage has a toilet, plumbing and electric already if needed. Right now it is just used as storage. He asked the Board for their thoughts about converting it into an owner occupied unit.**

**Mr. Shore confirmed with Mr. Clayton that currently, it is an accessory building.**

**Mr. Shore stated that as the Land Use laws are written, there can only be one principal structure.**

**Mr. Zabarsky confirmed with Mr. Clayton that the first building itself is five apartments and an office in the front which is the Real Estate office.**

**Mr. Petrillo confirmed it is the B-1 zone. Years ago, when the structure was a restaurant, there was litigation. He also stated that there are some court documents. He would need to check to see if there are any restrictions on how the accessory structure can be used.**

**Mr. Zabarsky stated, assuming that there is no outstanding court orders, if you are looking to use that structure as a principal use in a B-1 zone you would need two variances. Two principal structures and two principal uses on one lot. It would probably be two use variances.**

**Mr. Clayton stated it would be a stand alone cottage for either his mother or family members to use. That is all.**

**Mr. Furze asked Mr. Clayton if the cottage would meet the setback requirements.**

**Mr. Clayton stated probably not.**

**Mr. Shore stated to put an addition on the Board would need to grant you a variance on those setbacks.**

**Mr. Shore stated to Mr. Clayton with an Informal Review, the Board can not say yes or no or which way they would go, but it is clear that you would have some hurdles to overcome. It would be a tough road. You have a lot of variances, dual uses on a single property.**

**Mr. Petrillo stated that if the garage is non-confirming then you are going to need a variance for setbacks, if you want to put on a second story then you would need a height variance and a use variance. It would also have to be confirmed if there are any restrictions put on it from the court way back when. The court file would have to be pulled.**

**Mr. Shore agreed. It would be a great start to see if there are any restrictions based on that court ruling. That may tell you one way or another which way to go.**

**Old Business:**

**Historic Preservation Ordinance**

**Mr. Shore stated that Mr. McCabe, unfortunately, had some family matters or health issues. He has been unable to work for the last four weeks but is back in the office now. He is going to put together a summary of the notes that came out of that meeting and make some ordinance revisions. Once received, Laura will schedule a meeting for the Historic Preservation Ordinance Committee.**

**Mr. Shore stated that since coming out of that meeting and in discussions with other people, the way the ordinance as written now is such that the commission would be a strong commission. In other words, they would have final say. Mr. Shore thinks at this point that he would be more comfortable if it were a weak commission. The commission would make a recommendation to the Board and then the Board would act. Mr. Shore thinks the ordinance, as written, has taken too much power away from the Planning Board. That is one thing he is going to bring to the next committee meeting.**

**Ms. Tell stated they should look at expanding the obligations of the commission, to have them do things like creating a welcome wagon, meeting new owners and giving them information about their house, in a welcoming and educational way.**

**Ms. Tell also wondered, if in a fiscal way, we could provide some temporary relief like real estate taxes to those who preserve a historic home. Things that entice rather than demand would be very helpful.**

**Ms. Tell stated that none of the feasibility factors that Mr. McCabe supports in the ordinance related to economic feasibility. Mr. McCabe stated that Peter Verniero, Attorney General of the state, issued an opinion letter that is still binding that prohibits consideration of economic feasibility. This is hard to believe. This is a non starter.**

**Mr. Shore agreed and thinks that we should take cost into account when we are looking at the feasibility of a demolition or rehabilitation.**

**Mr. Shore stated to Mr. Convey that the commission would all be volunteers. They would be budgeted to hire professional on an as needed basis. We do not have those figures. It would not be as large as the Planning Board budget.**

**Mr. Shore confirmed that the committee itself was formed by the Mayor over a year ago. The first go around of the draft was done by a sub-committee.**

**Ms. Wintersteen stated that many people in the room at the last meeting knew a lot more about it then she did. They had to have seen something that she did not see.**

**Mr. Shore confirmed that the Planning Board has all the documents that were produced by that committee.**

**Ms. Tell stated that she does not remember anyone asking questions about the content of the document. This topic has been discussed for years. There had been a previous ordinance drafted about five years ago. It has been percolating for so long it really had developed.**

**Ms. Wintersteen stated that makes sense.**

**Mr. Shore opened the meeting for public discussion.**

**Mr. Edward King, 500 Main Avenue, addressed the Board. He commented that the knowledge the public expressed were from some people that live in towns that have historic preservation ordinances. Susan Bristol has been on a historic preservation commission for years.**

**A suggestion Mr. King had for the Mayor is maybe expand the committee within the limits of the Sunshine Law so there are more people on Planning Board and Council to contribute at the committee meetings. There are several people that seem to be interested in it both negatively and positively.**

**Mayor Curtis will take it into consideration.**

**Mr. Shore closed public comment.**

**Mr. Shore 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:**

**Legal**

3. **It is anticipated that the matter discussed will be made public at some point in the future.**
4. **This Resolution shall become effective immediately.**

**Mayor Curtis moved this Resolution be approved. The motion was seconded by Mr. Petrillo and passed on roll call vote. YEAS: Brian Shore, William Furze, Kathleen Tell, Mayor Curtis, Bart Petrillo, Jennifer Barnes-Gambert, Edward Convey, Kathleen Wintersteen  
NAYS: None**

**The Planning Board went into Executive Session at 8:15 p.m. At 8:27 p.m. the Planning Board came out of executive session and resumed the regular meeting.**

**The motion was made by Ms. Tell, seconded by Mr. Petrillo to come out of executive session.**

**Mr. Shore called regular session back in order.**

**There was a motion made by Mr. Petrillo, seconded by Mayor Curtis to pay the following vouchers:**

<b>Zabarsky/530 Main Ave.</b>	<b>1,605.00</b>
<b>McCabe &amp; Associates Inc./ Work Task #5</b>	<b>750.00</b>

**There being no further business the meeting was adjourned.**

**Respectfully Submitted,**

**Laura Tuzzolino  
Board Clerk**





