

The meeting of the Bay Head Planning Board was held on Monday, August 26, 2013 at 7:30 PM.

Mr. Furze 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 the Borough of Bay Head, and filed with the Bay Head Borough Clerk.”

Roll Call: William Furze, Verity Frizzell, Kathleen Tell, William Curtis, Brian Magory, Bart Petrillo, Patricia Wojcik, Edward Convey, William Tubbs, Kathleen Wintersteen.
Absent: Peter Harrington, Robert Hein, Frederick Applegate.

The July 15, 2013 minutes were approved on a motion by Mayor Curtis and seconded by Mr. Magory.

Roll Call:

YEAS: Furze, Frizzell, Tell, Curtis, Magory, Wojcik, Tubbs, and Wintersteen.

Mr. Furze stated that there were 3 Resolutions for approval.

The Resolution for Robert J. & Kathleen Zatta, 449 West Lake Avenue was approved on a motion by Ms. Frizzell and seconded by Mr. Magory.

Roll Call:

YEAS: Frizzell, Curtis, Magory, Wojcik, Tubbs, Wintersteen.

The Resolution for Peter C. & Kristen Gerhard, 447 East Avenue was approved on a motion by Ms. Frizzell and seconded by Mr. Magory.

Roll Call:

YEAS: Curtis, Magory, Frizzell, Wojcik, Tubbs, Wintersteen.

The Resolution for Kathryn Jaenicke, 106 Meadow Avenue was approved on a motion by Ms. Frizzell and seconded by Ms. Wintersteen.

Roll Call:

YEAS: Wojcik, Wintersteen, Frizzell, Tubbs.

Mr. Furze stated that the Board had 1 application for review, that being the application for Alison Amelchenko, 126 Osborne Avenue. He then recused himself since he is a homeowner within 200 feet of the applicant. Ms. Frizzell stepped in to facilitate.

Roberta A. Burcz, Esq., the attorney representing Ms. Amelchenko with her application, requested an adjournment to the next Planning Board meeting in September inasmuch as she wished to explore whether an adjoining property owner might desire to purchase the property. She also asked that the applicant not have to re-notice before the next meeting.

Mr. Zabarsky concurred there would be no additional notice required if adjourned to the next meeting on September 16, but if it was to be carried further, the applicant would have to re-notice.

Members of the public indicated they would be unable to appear at a later meeting, but wished to be heard. Ms. Frizzell opened the meeting for public comment in order to accommodate them.

Brian Shore, 128 Osborne Avenue, was sworn in by Mr. Zabarsky.

Mr. Shore questioned the legality of whether there ever was a 2-family residence and wanted to know if there was any documentation of its use thereof. He questioned whether it still qualified as grandfathered 2-family use, given it has not been occupied. He voiced his concerns about whether there were wetlands or a drainage easement on applicant's property; if there were wetlands it would show on the map with a pink flag from NJ Transit. He noted the property is very wet there and adjacent to a drainage ditch, but the plans contain no information about drainage.

Anthony Stamos, 130 Osborne Avenue, was sworn in by Mr. Zabarsky.

Mr. Stamos was concerned with drainage easement as pertains to a subdivision map by Elbert Morris dated Dec. 13, 1965 which showed no easement. He said there was no demarcation as to an easement and nothing showed up in a title search.

Mr. Zabarsky corrected him, stating that in the title binder from Lafayette Title, they picked up a 10' easement which is in the file tax map. Mr. Stamos may explore the issue further.

Mr. Larry Witlen stated he would not be available for next month's meeting inasmuch as he would be in Denver until March. Mr. Zabarsky informed him to send a neighbor or attorney in his stead.

Mr. Witlen then questioned whether the rear of the building was encumbered by an easement and was informed by Mr. Zabarsky there wasn't according to the map; the inspection documents were on file. He stated his biggest concern was the height of the building.

Larry Witlen, 500 Delaware Avenue, Point Pleasant Beach, was sworn in by Mr. Zabarsky.

He stated he lives adjacent to the applicant and there are no common borders. He was pleased the building would be moved 10' but not about the increased height, for privacy reasons. He also expressed concern about drainage, especially if the driveway is to be blacktop and therefore impervious, as absorbing water would be worse.

Ms. Frizzell noted there is a gravel driveway in the plans and that the height of the proposed building is within ordinance allowances.

Douglas Blonsky, 120 Osborne Avenue was sworn in by Mr. Zabarsky.

Mr. Blonsky stated he is a licensed landscape architect. His biggest concern was drainage; He said the drainage pipes into Twilight Lake are blocked and damaged. As a result, the neighborhood suffers frequent severe flooding so until the Borough corrects the drainage flow into Twilight Lake, the neighborhood cannot withstand any changes that would add to the current drainage problems. He felt the applicant's intentions to put in a pool showed arrogance by her, her architect and her engineer He appreciates that the driveway is an impervious one and that the plans are for a smaller house.

His real issue was with the way the property is being taken care of; he felt the principal structure was full of mold and there are paints and chemicals in the shed. He wanted to know if the house was for speculation for the applicant to sell. He noted that there is no elevation in any of the plans for the pool, landscape or drainage.

Mrs. Tell stated pools displace ground water but create a basin that can catch water.

Mr. Magory stated that when pools are filled, getting rid of excess water is done through the skimmer.

Mrs. Tell and Mr. Magory briefly discussed whether studies were available to help the Board assess whether pools aggravate flood risk; no studies are known but they will consult the Borough Engineer.

Mr. Blonsky objected to the fact that the applicant had not provided any witnesses to provide further information regarding these issues.

Mr. Zabarsky informed Mr. Blonsky that Ms. Burcz was here as the attorney for the applicant; she had no witnesses or experts and was there on behalf of the applicant in order to request an adjournment.

Mayor Curtis expressed concern about the alleged hazardous conditions on the property. Though a police rather than a Planning Board matter, Mayor Curtis cautioned against delaying repairs.

After discussion, a Motion was made by Ms. Frizzell and seconded by Mrs. Tell to allow the adjournment to September 16, 2013 on the condition Ms. Burcz notify the Planning Board Clerk by September 11, 2013 as to whether she will be prepared to proceed at that point so interested parties can plan accordingly. Mayor Curtis stated if it needs to be carried for any additional time, i.e., 2 months, he wanted the applicant to know she would have to re-notice in conformance with the law.

Roll call:

YEAS: Frizzell, Tell, Magory, Petrillo. Wojcik, Convey, Tubbs, Wintersteen.

NAYS: Mayor Curtis

Old Business:

Mrs. Tell brought up amendments to Ordinances which the Board recommended to the Borough Council from the March or April, 2013 meeting. Among other things, these were to ensure that no commercial property would be converted to residential use without a variance.

Mayor Curtis said they were presented to Council and that the Council would likely discuss the recommendation at the September 3, 2013 Council meeting.

Mr. Zabarsky provided a thorough analysis of the NJ Supreme Court's ruling in the Mauro case. He requested it be on next month's agenda for a Resolution on the Mauro application to be voted on again because technically, it is in effect. He suggested the Board adopt the same Resolution, and acknowledged the Board's obligation to grant same to Mr. Mauro. He stated we are basically being ordered to do so and to reinstate the first approval; the Court said the Board "got it right the first time".

Mr. Furze opened the meeting for public discussion.

Brian Shore stated Mauro was similar to Amelchenko and encouraged the Board to review, especially as to the amount of the frontage.

Ms. Frizzell stated that she, Sue Brasefield the Borough Engineer, and Mr. Furze, reviewed the checklist for applications and have a number of proposed revisions in mind.

Mr. Zabarsky suggested she e-mail it to the Board members; the Board has the right to adopt rules and regulations by Resolution, and further suggested that the Board discuss amongst themselves as to their thoughts.

One recurring issue, per Ms. Helbig, concerns the applicant's responsibility for bearing the costs for both legal and engineering review by Borough professionals. The Borough currently collects escrow fees from applicants, but these fees sometimes fall short. One resident has failed to pay his bill for the overage and was nevertheless issued a building permit.

Mr. Zabarsky offered there is a procedure in the Statute to collect fees. If building permits have been issued, they should be rescinded until payment is made.

There was further discussion about Planning Board fees being amended, and Mrs. Tell asked Ms. Helbig to provide recommendations on how to improve the escrow system to avoid future problems.

New Business:

Mrs. Tell asked the Board to consider whether we should re-visit the height regulations adopted after Sandy. The Borough loosened height restrictions to enable residents to meet

FEMA and insurance requirements, but we confront the risk that people may build higher than safety or insurance would require in an effort to capture a view. Mrs. Tell stated that when the height regulations were amended, they were 32.5' above BFE, the old was from the crown of the road. She proposed the Board consider including a requirement that the first floor start at a level of BFE+2. By imposing a standard point at which the first floor be built, we may avoid unnecessarily high buildings which block air and light for neighbors and ruin streetscape.

Mr. Petrillo thought it was enough to set a height limitation as the Borough had done.

Ms. Frizzell stated that insurance companies are providing incentives for homeowners to go as high as BFE+3. Given the difficulty of addressing competing interests, there was no support for revising the standards.

Mrs. Tell next asked the Board to consider whether we should limit impervious coverage on the ground level of elevated buildings, i.e., if the Borough requires that half of the ground level remain pervious, residents would gain the advantage of greater water absorption. This might help offset the detriment to the streetscape and feel of our town. This would need more thought.

Reopen public discussion:

Susan Sarland, 541 Lake Avenue, was sworn in by Mr. Zabarsky.

Ms. Sarland wanted to follow-up on what the level is for the raising of homes, and if they are being raised too high. She questioned whether there is a process in place and whether they meet with streetscape. She also asked about receiving notice for a variance if someone was to raise their home.

Mr. Furze stated it is 32.5' above BFE, without taking into account streetscape or neighbors.

Ms. Tell indicated the Borough does not do anything until the house is built.

Mr. Petrillo stated if lifting, it is the same now as before; that he sees the new foundation plan.

Joanne McAleavey, Susan's mother, 541 Lake Avenue, was sworn in by Mr. Zabarsky.

She wanted to know if neighbors could see what applications have been filed.

Mr. Zabarsky told her to go to the Board Clerk; they are open public information.

The following vouchers were paid on a motion by Mr. Magory and seconded by Mayor Curtis:

Zabarsky/Gross	\$ 150.00
Zabarsky/Shopper's Wharf	165.00
Maser/Amelchenko	375.00
Maser /Jaenicke	525.00
Maser/PB OE	150.00
Maser/Gerhard	1,125.00
NJPO/Hein	140.00

There being no further business, the meeting adjourned on a motion by Ms. Wojcik and seconded by Ms. Frizzell.

Respectfully submitted,

Hannah Helbig/Claire Hense

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