

Bay Head Planning Board
August 20, 2014

The meeting of the Bay Head Planning Board was held on Wednesday, August 20, 2014 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, Edward Convey, William Curtis, Bart Petrillo, Robert Hein, Kathleen Wintersteen, William Tubbs, John Henry Morris, Frederick Applegate
Absent: Patricia Wojcik, Thomas Charlton

Mr. Furze stated the Board had for review the **Resolution** of Helen Sanford Brown, 683 Lake Avenue, a/k/a Block 59, Lot 37 which was approved at the meeting of July 16, 2014. A motion was made by Kathleen Tell and seconded by William Furze to approve the Resolution, subject to amendment at a later date as to the height of the back deck. Roll call: YEAS: Kathleen Tell, William Furze, William Curtis, Bart Petrillo, Kathleen Wintersteen, William Tubbs, John Henry Morris. Absent: Thomas Charlton

Mr. Furze stated the Board had for review the **Resolution** of Richard Silverman, 300 East Avenue, a/k/a Block 33, Lot 6 which was approved at the meeting of July 16, 2014. A motion was made by Mayor Curtis and seconded by Robert Hein to approve the Resolution as amended. Roll call: William Curtis, Robert Hein, William Furze, Bart Petrillo, Kathleen Wintersteen, William Tubbs, John Henry Morris, Frederick Applegate. Absent: Thomas Charlton

Mr. Furze stated the Board had for review two applications this evening.

First is the continuance of the **application** of Amy Wardell Iverson, 42 Bristol Place, a/k/a Block 82, Lot 3.

George D. Iverson, husband of the applicant, came forth and was sworn in by Mr. Greitz.

Mr. Iverson stated that his wife provided a notarized statement to the Board Clerk authorizing him to speak in her behalf. Mr. Iverson further stated they are asking for a 25 foot setback at the front of the house and asking to keep the pre-existing structure, the garage.

The following items were marked into evidence:

- A-7 Amended application dated 7/30/14
- A-8 Amended zoning drawings dated 7/30/14
- A-9 Review letter from Board Engineer dated 8/8/14
- A-10 Hearing Notice Affidavit dated 8/12/14
- A-11 Affidavit of Publication

A-12 Large poster board of page A0.0

Mr. Iverson stated the property is only 95 feet wide, whereas 100 feet are required, and that he and his wife cannot obtain the additional five feet required. Mr. Iverson further testified that the proposed placement of the new dwelling will be 25 feet from the street based upon their desire to utilize more space for the backyard. He indicated the other houses in the neighborhood are towards the front of their property as well, so the applicant's proposed placement of the dwelling will be in conformity with the neighborhood.

Jack Vitale, 1710 Rue Mirador, Point Pleasant, NJ was sworn in by Mr. Greitz

Mr. Vitale testified that the proposed cupola will be in the center of the house and will provide windows for air flow, but there will be no habitable space in the cupola.

Mr. Furze opened the meeting to public comment; there was none.

A discussion ensued with regard to cupolas and Mr. Hein suggested the Board should look at the interpretation of what constitutes a cupola. Mr. Petrillo stated what is included in the definition are bell towers, belfries, cupolas, doors, chimneys or whatever is above the roofline, and they do not count in the calculation of the height provided they are not habitable. Mr. Furze pointed out that the Board previously mentioned the eave in the front, and applicant indicated she was willing to cut it back to one foot.

A motion was made by Verity Frizzell and seconded by Kathleen Wintersteen to approve the application as amended with regard to the eave being recessed to one foot. Roll call: YEAS: Verity Frizzell, Kathleen Wintersteen, William Furze, Kathleen Tell, Edward Convey, William Curtis, Bart Petrillo, Robert Hein, William Tubbs, John Henry Morris, Frederick Applegate. Absent: Patricia Wojcik, Thomas Charlton

Mr. Greitz stated he was going outside to make an announcement that the Atlantic Pier Company application was ready to be heard.

Mr. Greitz returned and stated that prior to taking roll call, we noticed the numerous crowd in the room, and we indicated to those who were present for the Atlantic Pier Company application that this applicant would be heard after the continuance of the first application, namely that of Iverson. The crowd was asked to step outside in order that the Iverson application could continue as the crowd exceeded the capacity for the Fire House. Mr. Greitz indicated he had informed the crowd he would come back outside to announce that Atlantic Pier would begin, which he had just done. He indicated numerous people followed him back inside and there were still more. He confirmed with the Chairman that the fire house is limited to 96 people and it appears as though we had exceeded that number. He checked with Chief Joe Todisco of the Bay Head Fire Department who confirmed that at his last count, we exceeded 100 people.

Mr. Greitz indicated, and Mr. Furze agreed, that at that point in time we would need to find a venue large enough to house all of the interested parties.

Steven Barcan, Esq., attorney for **applicant** Atlantic Pier Company, Inc., stated he agreed that this application needs to be carried and he is requesting it be carried to a date certain of September 17, 2014 with no additional notice required. He requested a special meeting, and possibly two meetings in September. Mr. Barcan requested if Edward Liston, Esq., attorney for the opposor, has procedural comments, procedural objections or deficiencies, he would like to know now before coming back in September and finding that out, for purposes of expediency.

Mr. Greitz stated that while he would agree with him, we have exceeded the capacity for the building. Additionally, Mr. Greitz indicated this is a use variance application. He indicated this application would be a 7 member Board, not a combined Board, and would be a 5 out of 7 situation, not a 6 out of 9, when this application proceeds.

Mr. Liston wanted to clarify that the Mayor and the council member may not participate in the vote, which was confirmed by Mr. Greitz, and Mr. Liston further wanted to comment on something said by Mr. Barcan. He pointed out that with regards to re-noticing, applicant would have to do so because it is a different venue, thereby rendering the original notice deficient. Mr. Barcan requested, and Mr. Greitz agreed, to request Mr. Liston to provide any procedural deficiencies within one week of the new notice.

Mr. Greitz announced to the audience that the application was adjourned based upon the number of people in attendance as the head count exceeded capacity, and that the Board will find a date and location in order to hear this application. He stated it would be published in the newspaper and posted as required. Mr. Liston indicated he was asked by an audience member to have it posted on the Borough's website; Mr. Greitz stated we would make that request of the Municipal Clerk though the Board doesn't have any control over the Borough's website.

A motion was made by Verity Frizzell and seconded by Kathleen Wintersteen to adjourn and carry the application with the understanding it will be publicly re-noticed, and the date, time and place will be determined forthwith. Roll call: YEAS: Verity Frizzell, Kathleen Wintersteen, William Furze, Kathleen Tell, Edward Convey, Bart Petrillo, William Tubbs, John Henry Morris, Frederick Applegate. Recused: William Curtis, Robert Hein. Absent: Patricia Wojcik, Thomas Charlton

Under **New Business**, Mr. Furze advised the Board that at the end of the last meeting, a gentleman asked why we do not allow decks that are one foot above the grade to be excluded and he advised him it was because of visual obstruction. Mr. Petrillo stated that for decks above 12 inches, it was changed a while back because there was an applicant he denied because he had a detached deck in the back of the yard and it was four feet above the ground. Mr. Petrillo stated it was his understanding that once it got to a certain height, then it became building coverage, but the Ordinance stated that at that point, if it was uncovered, it did not count to coverage regardless of how high it was. The Board allowed it but they changed the Ordinance.

Mr. Furze opened the floor to the public for any new business, questions or comments; there were none.

Ms. Frizzell indicated when we did the Bryan application, the plans had two 3rd floor decks which exceeded the area and stated one of the conditions of the Resolution was they reduce the decks to 75 square feet total, and she didn't think they did that. Mr. Petrillo was requested to check the plans for compliance. Mr. Furze indicated he also had been approached with questions about that property and asked Mr. Petrillo to check to be sure they were in compliance when on his daily rounds. Mr. Petrillo stated that other than the decks, the as-built survey basically complies but he will take another look at the decks. He stated that as to the front setback, he had them certify that three times so it complies with the Resolution.

Mr. Furze stated one of the questions raised to him was with regard to the concrete retaining wall on the north side of the property. The question was is it at the right height for its setback from the property line, and Mr. Furze felt that to his eye, it was not. Mr. Petrillo stated if it is not a retaining wall, it comes under the fence Ordinance – if it's 3 feet in the front yard setback and then they it can go to 6 feet, whether it be a fence or a wall. Mr. Furze said without benefit of a survey, it appears as though the 6 foot segment is too close to the front property line. Mr. Petrillo stated he would take a look at it.

A motion was made by Bart Petrillo and seconded by Robert Hein to approve the **vouchers**. All in favor.

The meeting adjourned on a motion by Kathleen Tell and seconded by Edward Convey. All in favor.

Respectfully submitted,

Claire S. Hense