

**Bay Head Planning Board**  
**November 5, 2014**

The meeting of the Bay Head Planning Board was held on Wednesday, November 5, 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, William Curtis, Patricia Wojcik, Robert Hein, Kathleen Wintersteen, William Tubbs, John Henry Morris, Thomas Charlton, Frederick Applegate

Absent: Edward Convey and Bart Petrillo

Mr. Furze stated the Board had for review the **Resolution** of Turton Realty Associates, 88 Bridge Avenue, a/k/a Block 22, Lot 1 which was approved at the meeting of October 22, 2014. A motion was made by William Curtis and seconded by Kathleen Tell to approve the Resolution as amended. Roll call: William Curtis, Kathleen Tell, William Furze, Verity Frizzell, Robert Hein, John Henry Morris. Absent: Edward Convey, Bart Petrillo

Mr. Furze stated we have one **application** on the agenda this evening, that being the one of Harry and Pauline D. Demas, 309 Main Avenue, a/k/a Block 33, Lot 3.

**William Gage, Esq.**, Lake Avenue, Bay Head, NJ, attorney for the applicants came forth. He stated the applicants are seeking to install a 13x18 foot swimming pool, although there are several non-conforming conditions existing: The front yard setback is 14.3' where 20' is the minimum required; the north side setback to the air conditioning units and outside shower is 2.35' where 6' is required; there is building coverage of 43.07% where 35% is the maximum permitted; and an impervious lot coverage of 62.78% where 50% is the maximum permitted. Mr. Gage stated the installation of the swimming pool will not exacerbate the present non-conforming impervious coverage because the applicants propose to remove a corresponding amount of impervious coverage so that there will be no net increase

The following items were marked into evidence:

- A-1 Development application
- A-2 Survey
- A-3 Variance plan
- A-4 Letter of denial from Zoning Officer
- A-5 Height elevation letter from Michael T. Cannon, PE & LS dated 9/30/14
- A-6 Review letter from Board engineer dated 10/16/14
- A-7 Letter from William T. Gage, Esq. dated 10/24/14
- A-8 Pool variance plan updated 10/22/14
- A-9 Second review letter from Board engineer dated 10/24/14
- A-10 Hearing Notice Certification dated 11/4/14

A-11 Affidavit of Publication dated 10/25/14

Mr. Gage called the following as witnesses, who were sworn in by Mr. Greitz:

**Pauline D. Demas**, 309 Main Avenue, Bay Head, and caused to have A-12, a colored photograph of the southeast corner of the rear yard, marked into evidence.

**Elizabeth Demas-Anderson**, the Demas' daughter and whose husband did some of the building at applicants' premises.

**Michael T. Cannon**, P.E., Planner & P.L.S., The Cannon Group, P.C., Brick, N.J. was sworn in as an expert witness.

After testimony, questions and discussions among Board members, Mr. Greitz and Mr. Gage, including the issue of fencing, it was agreed that the applicants will return with a revised pool variance plan as well as a survey with all setbacks and coverage calculations, and that the Board engineer will provide a revised review letter. A motion was made by Verity Frizzell and seconded by Kathleen Wintersteen to carry the application to the December 17, 2014 meeting, with no re-notice required. All in favor.

Under **Old Business**, Mr. Furze brought up footnote 6 in the Land Use Appendix A, Schedule of Area, Yard and Building Requirements. He indicated some of the discussions the Board has had lead us to believe that not only should we have said the side yards combined should be 1/3 of the lot width, but should also include there should be no less than six (6) feet for one. The other is that apparently footnote 6 was a little misleading to one of our applicants. It shows up in "Each side yard depth" and "Combined side yard depth". Mr. Furze suggested removing footnote 6 from the "Each side yard depth" column, and suggested the Board might want to put a footnote 6 way over by the "Zone" under R-100-OF, but thinks leaving it under the 25 "Combined yard depth" would be appropriate since the language directs it to that condition.

Ms. Frizzell suggested if we leave the sentence as written, we take it off of the "each side yard depth". If we add the caveat that no side yard shall be less than six (6) feet, then we leave the footnote at the "each side yard". It was agreed the six (6) foot should be in this requirement, but Ms. Frizzell said if we are putting in the six feet, we don't need to remove the footnote from the column on "each side yard".

Ms. Tell said if we plan to substantially change something which was not a scribe's error, it would need to go to Council. Ms. Frizzell proposed we send a letter to Council indicating we would like to amend this footnote, stating that in no case should it be less than six (6) feet. She stated we should remove the 6 from "Each side yard setback" until we change the language. Mayor Curtis stated it goes to Council, it comes back to the Board and then goes back to Council.

Ms. Frizzell stated she believed it was intended to affect the side yard setback but nowhere did it say there is an absolute minimum; the intent was the side yards would adjust but we never said what exactly the absolute minimum is. Ms. Frizzell will compose a letter stating the Board

would like to revise footnote 6, which the Clerk will send to the Council. It will advise the Council we wish it to say “in no case less than six (6) feet”, that is the intent we wish it to say. Ms. Frizzell said she will prepare it, the Clerk will e-mail to all members before the next meeting to get their approval, and then the Clerk will prepare the letter for Council.

Under **New Business**, Kathleen Tell indicated she was disturbed to find out about the giant masonry wall around the one house this evening. Our Statute 147-6(f) states one can have fences or walls in the front part of their property not to exceed three (3) feet, and then it says that fences located outside that area, just around the pool, can be six feet. It significantly does not say “walls can be”. She feels from a stormwater management perspective, it is not a good idea for people to be walling off their properties and we need to change that. She stated the water diversion is a problem, which is a detriment to Bay Head. Mr. Furze stated he did not think it was intended to prohibit walls and they are seen all around the town.

Ms. Frizzell brought up retaining walls and the grading of properties. Mayor Curtis brought up the Theresa’s South property with an approximately 2 foot wall around it. He stated that is what saved their property during the storm, and questioned why anyone would prevent somebody from protecting their property. Ms. Tell stated she would look up other towns’ ordinances which deal with water run-off and altering of existing grade, and walls and bulkheads; Mr. Furze stated he would take a look as well. Mayor Curtis indicated he liked the idea of adding something in there about stormwater management.

**More New Business:** Mr. Hein addressed Ms. Brasefield, and stated that we spoke previously about the neighbors’ structures, even if just the edges of their houses or something are shown on there, and we clearly need to have the numbers on the maps. He suggested if she is having discussions with them, to tell them to put the numbers on there. Ms. Brasefield said that from now on, instead of just going through the checklist for completeness when doing a review, she will not deem the application complete until they show all of those things. She mentioned some might balk, but Mr. Furze and Ms. Frizzell thought it reasonably inferable that when you have a setback requirement, those dimensions should be shown on the plan. They didn’t think it needs to be in black and white. Ms. Frizzell said they should also have the dimensions (length) of the building on the plans so the Board engineer does not have to scale it; the numbers should be on there. Ms. Tell stated that our checklist enables us to ask for such other information as may be required by the approving authority. She didn’t understand why we couldn’t add “by the Board Engineer”.

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

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

Respectfully submitted,

Claire S. Hense