

**Bay Head Planning Board**  
**October 15, 2014**

The meeting of the Bay Head Planning Board was held on Wednesday, October 15, 2014 at 7:00 PM at the G. Harold Antrim Elementary School, 401 Niblick Street, Point Pleasant Beach, NJ.

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, Bart Petrillo, Robert Hein, Kathleen Wintersteen, William Tubbs, John Henry Morris, Thomas Charlton, Frederick Applegate

Absent: William Curtis and Patricia Wojcik

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

First is the continuance of the **application** of Althea C. Smith, via her son Ted Smith, 525 East Avenue, a/k/a Block 65, Lot 7.

**F. Bradford Batcha, Esq.**, attorney for the applicant Althea C. Smith, came forward. Mr. Batcha indicated he was there with Althea Smith's son, Ted Smith, who is there and acting on her behalf. He stated applicant is there because she desires to build a new home as the prior one was damaged by the storm. Mr. Batcha clarified that Mr. Ted Smith signed the development application as he has Power of Attorney for his mother, Althea C. Smith.

The following items were marked into evidence:

- A-1 Development application
- A-2 Survey
- A-3 Plot plan revised on 10/2/14
- A-4 Architectural site plan revised 10/2/14
- A-5 Letter from M3 Architecture, LLC dated 9/18/14
- A-6 Review letter from Board engineer dated 9/24/14
- A-7 Memorandum from Board engineer dated 10/10/14
- A-8 Hearing Notice Affidavit
- A-9 Affidavit of Publication

**Theodore L. Smith, III**, 520 Main Avenue, Bay Head, NJ was sworn in by Mr. Zabarsky, who asked Mr. Smith to clarify that he signed the development application on behalf of his mother, Althea C. Smith, for whom he holds Power of Attorney; Mr. Smith did so.

Mr. Smith stated the property in question has been in his family for over 70 years, having been purchased by his grandmother and her sister, and that his 82 year old mother has resided in the house and has used it as her sole residence for over 30 years. She has been displaced since the storm and desires to return to the home once it is complete. Mr. Smith further stated they have the smallest oceanfront lot in Bay Head and they have worked with an architect to construct a

home that meets his mother's needs. He testified that they were originally thinking to lift the house within its footprint but due to the severity of the damage, and upon the advice of an engineer that the house was structurally not sound, they discovered it would have to be razed and re-built. He stated they feel the new house they are presenting is aesthetic for Bay Head, has a much smaller setback than they had previously, and because it is further back, they lose their garage. There are greater setbacks with the newly proposed house.

**Michael J. Burke**, 3 Yard Avenue, P.O. Box 121, Farmingdale, NJ, licensed architect, was called as expert witnesses by the applicant, and gave his testimony.

Mr. Furze asked if there was any public comment; there was none.

A motion was made by Bart Petrillo and seconded by Kathleen Wintersteen, to approve the application.

Roll Call: YEAS: Bart Petrillo, Kathleen Wintersteen, William Furze, Verity Frizzell, Edward Convey, William Tubbs, John Henry Morris. NAYS: Kathleen Tell, Robert Hein

As at the September 17, 2014 meeting, Robert Hein recused himself since this is a use variance and being a member of the Council, and Class III, is not allowed to adjudicate for this application.

Mr. Furze stated next is the continuation of the **application** of Atlantic Pier Company, Inc., 72 Bridge Avenue, a/k/a Block 25, Lot 4, Donna M. Jennings, Esq. as attorney for applicant, and Edward F. Liston, Jr., Esq. as attorney for several objectors.

Mr. Furze gave a short recap of the September 17, 2014 meeting. He stated Mr. Liston, representative of some of the objecting townspeople, had questioned several of applicant's expert witnesses, at which time Mr. Liston stated he did not question any of the applicant's expert witnesses. He further stated the only person he questioned was Mr. Hesse, and that he wasn't finished with him and would like to start with him.

There was murmuring from the audience at which time Mr. Zabarsky admonished the audience, whether applicants, witnesses, objectors or interested parties, to not make comments and do not create a stir as we need to do a verbatim recording, as does the court reporter provided by applicant, of all testimony and statements. He instructed that the procedure of this Board is that applicant is provided the opportunity to present their application in full, without interruption, and that any witnesses who testified are subject to questioning from any interested party, objector or attorney hired on behalf of any interested party or objector. He recalled that at the September 17, 2014 meeting, Mr. Liston questioned Mr. Hesse and then stated he had no further questions, but if Mr. Liston had additional questions, he was allowed to cross-examine Mr. Hesse at this time.

**Lawrence Hesse**, 356 West Lake Avenue, was sworn in as a witness. Mr. Liston continued his cross-examination of Mr. Hesse. After his cross-examination, the following audience members had questions of Mr. Hesse:

**Lauren Payne**, 47 Mount Street, Bay Head, **Shannon Curtis**, 800 Bay Avenue, Bay Head,

**Hugh Ames**, 46 Osborne Avenue, Bay Head, **Nancy Simpson**, 401 Lake Avenue, Bay Head, **Basil Williams**, 449 Lake Avenue, Bay Head, **Tim Coyle**, 1312 Bay Avenue, Bay Head and **Maria Ritter**, no address given

The following expert witnesses were cross-examined by Mr. Liston:

**James Kennedy**, 211 Maple Avenue, Red Bank, NJ, licensed professional engineer

**James J. Monteforte**, 733 Route 35, Ocean Township, NJ, licensed architect. After his cross-examination, the following members of the audience had questions of Mr. Monteforte:

**Linda Harrington**, 512 Club Drive, Bay Head, **Tim Coyle**, 1312 Bay Avenue, and **Harry Typaldos**, 345 Main Avenue.

Cross examination continued by Mr. Liston of the following:

**John Rea**, president of McDonough & Rea Associates, traffic and transportation engineers, 1431 Lakewood Road, Manasquan, NJ, licensed professional engineer. The following audience members had questions of Mr. Rea:

**Carol Tassini**, 193 Park Avenue, **Arrigo Conti**, 528 West Lake Avenue, **Hugh Ames**, 46 Osborne Avenue, **Basil Williams**, 449 Lake Avenue, **Nancy Simpson**, 401 Lake Avenue and **Bob Dawson**, 76 Bridge Avenue.

After a fifteen minute break, cross-examination continued of the following by Mr. Liston:

**Christine Nazzaro Cofone**, principal and owner of Cofone Consulting Group, 125 Half Mile Road, Ste. 2, Red Bank, NJ, licensed professional planner. The following audience members had questions of Ms. Cofone:

**Carol Tassini**, 193 Park Avenue and **Hugh Ames**, 46 Osborne Avenue.

The following people were called as expert witnesses on behalf of the objectors, gave their testimony, and were also cross-examined by Ms. Jennings:

**Gordon Meth**, 7 Campus Drive, Suite 300, Parsippany, NJ, professional engineer and professional planner.

**Andrew Thomas**, P.O. Box 363, Brielle, NJ, licensed professional planner, who caused to have O-1 marked into evidence, which is a colored aerial map from the NJDEP from 2012, with three identifiers on it. The following audience member had questions for Mr. Thomas:

Shannon Curtis, 800 Bay Avenue.

Thereafter, Board members John Henry Morris and Kathleen Tell also had questions of Mr. Thomas.

Mr. Liston indicated he intends to call one of his clients as a witness at the next meeting

A motion was made by Kathleen Tell and seconded by Verity Frizzell to adjourn and carry the application without further notice to Wednesday, November 19, 2014 at 7 p.m., same location. Roll call: YEAS: Kathleen Tell, Verity Frizzell, William Furze, Edward Convey, Bart Petrillo, Kathleen Wintersteen, William Tubbs, John Henry Morris.

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

Respectfully submitted,

Claire S. Hense