

**Bay Head Planning Board**  
**April 20, 2016**

The meeting of the Bay Head Planning Board was held on Wednesday, April 20, 2016 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, Edward Convey, Kathleen Tell, Patricia Wojcik, Bart Petrillo, John Henry Morris, Robert Hein, Kathleen Wintersteen, Mark Durham, Neil Devesty, Thomas Charlton

Absent: William Curtis, Frederick Applegate

The March 16, 2016 **Minutes** were approved on a motion by Kathleen Wintersteen and seconded by Bart Petrillo, with all in favor.

Mr. Furze stated that the first of two **applications** on the agenda this evening is that of Lawrence and Beth Cofsky, 735 East Avenue, a/k/a Block 80, Lot 5.

Mr. Hein recused himself as he is a Class III member and therefore prohibited from sitting on a use variance application. Mr. Zabarsky gave procedural instructions.

**Christopher J. LaMonica, Esq.**, 44 Princeton Avenue, Brick, NJ, attorney for the applicants, came forth.

Mr. LaMonica stated this is a corner lot on East Avenue and Egbert Street, and applicants are proposing modifications to the existing single-family residence which will include the lifting of the structure, addition of a screened porch, construction of a pool and cabana, and the removal of the large detached garage in the northwest corner of the property. Mr. LaMonica further stated that removal of said detached garage will eliminate a significant non-conformity on the property, noted previously in prior activity before this Board on July 21, 2004. Mr. LaMonica stated it presents a more aesthetically pleasing front yard area which is more open and more consistent with the existing neighborhood scheme, especially given the fact this is a corner property.

Mr. LaMonica then made a motion to correct applicants' address. The correct name of the town should be Westport, not Westwood; it was so amended.

The following items were marked into evidence:

- A-1 Development application
- A-2 Survey from Lindstrom, Diessner & Carr, P.C. dated 11/24/15
- A-3 Architectural plans from Aquatecture Associates, Inc. dated 4/6/16
- A-4 Plot plan from Lindstrom, Diessner & Carr, P.C. dated 4/6/16
- A-5 Review letter from Board Engineer Susan Brasefield, P.E., P.P. dated 4/13/16
- A-6 Hearing Notice Affidavit

- A-7 Affidavit of Publication
- A-8 Poster board of 6 colored photographs taken 4/20/16 and aerial view from Google Earth
- A-9 Existing and proposed two (2) building sections
- A-10 Copy of plot plan marked in red to re-stripe parking areas

Mr. LaMonica called the following as witnesses, who were sworn in by Mr. Zabarsky and who gave their testimony:

**John C. Amelchenko**, licensed architect in New Jersey, from the firm of Aquatecture Associates, Inc., 421 River Avenue, Point Pleasant Beach, NJ, who caused to have A-8 and A-9 marked into evidence.

**Charles E. Lindstrom, P.E. & P.P.** from the firm of Lindstrom, Diessner & Carr, P.C. , 136 Drum Point Road, Brick, NJ, who caused to have A-10 marked into evidence.

**Beth Cofsky**, 735 East Avenue, Bay Head, NJ.

Mr. Furze opened the meeting to the public for comments. The following person was sworn in by Mr. Zabarsky and gave his testimony:

**William Gage**, 115 Bridge Avenue, Bay Head, NJ.

After the Board members were caucused, a motion was made by Edward Convey and seconded by Bart Petrillo to approve the application. Roll call: YEAS: Edward Convey, Bart Petrillo, William Furze, Patricia Wojcik, John Henry Morris, Kathleen Wintersteen. NAYS: Kathleen Tell

Mr. Furze stated that the second **application** on the agenda this evening is that of Playa Bowls, LLC, regarding 62 Bridge Avenue, a/k/a Block 25, Lot 5.

The following witness was sworn in by Mr. Zabarsky and gave his testimony:

**Lawrence Hesse**, 356 West Lake Avenue, Bay Head, NJ, President of Atlantic Pier Co., Inc.

Mr. Hesse stated they have prior approval for the Bay Head Shopper's Village at 62 Bridge Avenue, for which they are still working on construction plans. He further stated the building in question has been previously approved as a retail establishment and is currently being used as a construction office. Mr. Hesse indicated they have future tenants who desire to have a preview of their goods and services and therefore are willing to do so for the time being, even though these buildings are going to be demolished. He has met with these applicants who have an established business in Belmar. There will be no changes to the site which is in the rear of the old Mark, Fore & Strike building, not the building behind the old Diane Turton, Realtors which housed Del Mar East last summer. Del Mar East will move to the front of the old Mark, Fore & Strike building this summer.

The following items were marked into evidence:

- A-1 Development application
- A-2 Plans from Joel E. Bartlett, registered architect, dated 4/20/16
- A-3 Review letter from Board Engineer Susan Brasefield, P.E., P.P. dated 4/13/16
- A-4 Hearing Notice Affidavit
- A-5 Affidavit of Publication
- A-6 Packet with color photographs of samples of products, store layout and signage

The following witnesses were sworn in by Mr. Zabarsky and gave their testimony:

**Robert Giuliani**, 804 Ocean Avenue, Belmar, NJ, who caused to have A-6 marked into evidence.

**Abby Taylor**, 804 Ocean Avenue, Belmar, NJ

Mr. Furze opened the meeting to the public for comments. The following person was sworn in by Mr. Zabarsky and gave her testimony:

**Marie O'Neill**, 80 Bridge Avenue, Bay Head, NJ.

A motion was made by Kathleen Tell and seconded by Edward Convey to approve the application. Roll call: Kathleen Tell, Edward Convey, William Furze, Patricia Wojcik, Bart Petrillo, John Henry Morris, Kathleen Wintersteen.

Under **Old Business**, Bart Petrillo brought up the proposed change to the Ordinance regarding footnote 6 of "Land Use Appendix A". He said he spoke with Councilman Hein who said it needs to be brought to the Council for a vote as a Resolution will have to be written. It will thereafter come back to the Board for our approval, and then go back to them. This has not been done as of yet.

Secondly, Mr. Petrillo stated there is a new issue to address regarding adjusting one of our Ordinances. After Superstorm Sandy, because houses needed to be raised above base flood, we amended the Ordinance to say stairways to and from the first floor would be able to encroach seven feet into the front yard setback and four feet into the side and rear yard setbacks. When written, we failed to put in there that only applies to houses being raised. He now has people coming in wanting to put a set of stairs in their six foot yard setback and when they are being told no, they are citing the Ordinance. Mr. Petrillo further stated he attended those meetings and the intent was to allow people to do that if they were raising their house, not an existing house not being raised.

Mr. Zabarsky stated that after Superstorm Sandy, the State passed a Statute that specifically provides if you are going to raise your house and are not going to add habitable space, in order to meet the new zoning requirements under FEMA, you can allow an egress and ingress to be so constructed as reasonably necessary to get into your structure. Raising a house will require that type of stairway. You don't need a variance if you encroach into the setback as long as your stairway is reasonably necessary for ingress and egress. Mr. Zabarsky further stated that if the

local governing body passed the Ordinance prior to the Governor making the Statute, the State pre-empts it. It does not apply if you do not raise your house. He advised the Planning Board may want to repeal our Ordinance. Mr. Hein stated he will introduce it at the next Council meeting if we put it into writing.

Thirdly, Sue Brasefield announced the Council is working on a post-Sandy grant report and there will be an open forum public meeting on May 10, 2016. There are separate projects in it to plan for rehab after Superstorm Sandy. There is grant money available for future projects which the Borough is trying to obtain, one of which is attempting to re-do Ordinances which have to be done in a year anyway. There are downtown improvements for the shopping district; bicycle paths are a possibility. Ms Brasefield welcomed ideas to be added. The report has not been completed as of yet.

As to the August 17, 2016 meeting, Mr. Hein stated the Fire House is not available that entire week due to the annual Clam Bake. Mr. Furze said we can discuss other options at a later date.

Mr. Hein requested clarification about the argument about going three (3') feet from the State rule. Mr. Furze indicated he has not seen it in writing. Ms. Brasefield stated she has attended FEMA meetings wherein FEMA is recommending to people to raise it three feet, and she indicated she will look to see if there is any State Statute regarding that. A further discussion ensued among members.

A motion was made by Kathleen Tell and seconded by Neil Devesty to approve the **voucher**. All in favor.

There being no further business, the meeting **adjourned** on a motion by Neil Devesty and seconded by William Furze. All in favor.

Respectfully submitted,

Claire S. Hense