

Bay Head Planning Board
December 21, 2016

The meeting of the Bay Head Planning Board was held on Wednesday, December 22, 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, William Curtis, Bart Petrillo, John Henry Morris, Robert Hein, Mark Durham, Neil Devesty, Thomas Charlton Absent: Kathleen Wintersteen, Frederick Applegate (Patricia Wojcik joined the Board 20 minutes into the meeting)

A motion was made by William Curtis and seconded by Robert Hein to carry the vote for approval of the October 19, 2016 **Minutes** to the next meeting, namely, January 18 2017. All in favor.

Mr. Furze stated the Board had for review one **Resolution** this evening, that of Gary and Teresa Esoldi, regarding 126 Osborne Avenue, a/k/a Block 1, Lot 47 which was approved at the meeting of November 9, 2016. A motion was made by Edward Convey and seconded by Kathleen Tell to approve the Resolution. Roll call: YEAS: Edward Convey, Kathleen Tell, William Curtis, Bart Petrillo, John Henry Morris, Robert Hein, Mark Durham, Neil Devesty. Absent: Patricia Wojcik

Mr. Furze stated that the first of two **applications** on the agenda this evening is the continuation of that of Patrick & Shannon Waters, 41 Egbert Street, a/k/a Block 55, Lot 12.

Edward F. Liston, Jr., Esq., 207 Hooper Avenue, Toms River, NJ, attorney for the objectors Rantz, Murray, Madrid and Mastrangelo, came forth. Mr. Liston stated he had two additional witnesses this evening.

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

Karen Skelly, 907 Brooks Road, Point Pleasant, NJ

Luz Zavala-Rose, 172 Cottage Place, Brick, NJ

Both witnesses were cross-examined by **William T. Gage, Esq.**, 536 Lake Avenue, Bay Head, NJ, attorney for applicants.

After summations by both Mr. Liston and Mr. Gage, Mr. Furze had a question regarding a regulatory issue which was answered by Mr. Zabarsky. After the Board discussed the application amongst themselves and was then polled by Chairman Furze, a motion for a Certificate of Non-Conformity to allow the sink and toilet, but not the shower, was made by Edward Convey and seconded by Thomas Charlton. Roll call: YEAS: Edward Convey,

Thomas Charlton, William Curtis, John Henry Morris, Robert Hein, Mark Durham, R. Neil Devesty NAYS: William Furze, Kathleen Tell.

Mayor Curtis mentioned Board member Bart Petrillo is retiring from the Board after 17 years, and from his position as Zoning and Code Enforcement Officer after 18 years. The Mayor wanted to acknowledge Mr. Petrillo's contributions and service to the community, and thanked him for his many years of service.

Mr. Furze stated that the second **application** on the agenda this evening is that of Bradford H. Fritts, regarding 330 East Avenue, a/k/a Block 33.01, Lot 10.

William T. Gage, Esq., 536 Lake Avenue, Bay Head, attorney for the applicants, came forth.

Mr. Gage stated Mr. Fritts and his wife desire to construct a shed on the west side of the property for storage purposes. He stated currently the property is non-conforming as to building coverage. He further stated back in 2006 an application was made by the former owners of the property to, among other things, reconstruct the porch and to build a garage in substantially the same place which is desired currently. At that time, they revoked their application for an 11' x 22' garage, whereas the shed being proposed in this application is 11' x 18'

The Board Clerk marked the following items into evidence:

- A-1 Development application
- A-2 Survey from William Held Associates dated 12/16/14
- A-3 Plans from Feltz & Frizzell dated 9/2/16
- A-4 Resolution #2006-04 dated 7/19/06
- A-5 Deed restrictions, esp. page 6, dated 3/11/31
- A-6 Review letter from Susan S. Brasefield, Board Engineer, dated 12/14/16
- A-7 Hearing Notice Certification
- A-8 Affidavit of Publication

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

Bradford H. Fritts, 330 East Avenue, Bay Head, NJ, who caused to have A-9, a series of 5 colored photographs of the interior of the house, entered into evidence;

Verity L. Frizzell, 2315 Bridge Avenue, Point Pleasant, NJ, licensed architect in the States of New Jersey & Texas.

A motion was made by John Henry Morris and seconded by R. Neil Devesty to approve the application. YEAS: John Henry Morris, R. Neil Devesty, William Furze, Edward Convey, Kathleen Tell, Patricia Wojcik, William Curtis, Bart Petrillo, Robert Hein

New Business

Mayor Curtis asked Mr. Zabarsky about a gentleman who called him on John Younghans' behalf to get a committee of this Board to waive certain requirements.

Susan Brasefield stated the flood plains are determined by FEMA, by our flood mapping. Our Ordinance reflects that the height has to be 32.5 feet above that BFE. Our Ordinance also says the first floor, or the finished floor, there has to be one foot (1') freeboard above the flood elevation. She further stated that apparently there is a provision that a municipality can have a committee that allows an individual to not build to the required flood plain for hardship reasons. Ms. Brasefield said Mr. Younghans initially suggested to her that he was informed the Planning Board has that ability and she informed him she looked into it and there has to be an Ordinance passed.

Mr. Zabarsky stated therefore it is not mandatory, but an enabling statute, and the Board can or doesn't have to. Ms. Brasefield said her concern is it could jeopardize our CRS rating. Mrs. Tell suggested we might like to have it for some historic buildings, but Mr. Zabarsky said that is the governing body's issue and is not mandatory.

Mr. Furze stated he noticed on our website that the names of the newest Board members were not indicated. The Mayor suggested the Clerk get in touch with Liz Niederberger who handles the website, but we should definitely wait until the new year when all members are in place.

Mr. Furze stated this is technically Old Business, but the Board did not put the limitation of the driveway and he would be willing to draft something limiting the size of curb cuts for driveways.

Susan Brasefield stated the Borough has 5 Post-Sandy planning grants and that Maser Consulting is working on 4 of them – the Master Plan, updating zoning ordinances, and 2 neighborhood plans, 1 each for Twilight Lake and the bay front. Remington-Vernick is working on the 5th one which is for flood plain management. Maser started with the Master Plan update and the Board all received copies of the draft however, earlier this week, there was a Committee meeting attended by Board members Mayor Curtis, Mr. Hein and Mr. Charlton. She stated there were quite a few comments and they are in the process of re-drafting that now and are planning to have a re-draft ready the second week of January, 2017, and to e-mail it to the Clerk so she can send on to members. Ms. Brasefield said she would also provide a copy for everyone's packets for the January meeting.

Mr. Furze stated he works during the day so is unable to attend any day meetings. Mayor Curtis suggested the next time we meet it should be in the evening so all members can participate and Ms. Brasefield agreed. Ms. Brasefield stated she met with Bart Petrillo, the Zoning Officer, to get suggestions for the zoning ordinance. She stated that in getting back to the curb cuts, that is one of the items she is looking to revise. She has a list of a number of things from meetings and had questions for Mr. Petrillo who gave some additional information. Ms. Brasefield stated what they plan to do a draft in track (spelling?) so members can see what they crossed out and what they add, and then will provide it to Board members to look at and comment regarding any proposed changes. Additionally, she requested all Board members to send her any suggestions in writing, if they have any as of yet.

Ms. Brasefield additionally indicated they have already started working on the neighborhood plans but are first going to concentrate on finishing up the Master Plan report and the zoning regulations. Ms. Brasefield stated she will work with the Municipal Clerk and Planning Board Clerk to coordinate a meeting date and time.

Under **Old Business**, Mr. Petrillo mentioned Playa Bowls had come before the Board previously and requested an extension as they were originally approved for business until the beginning of September, 2016, which extension the Board granted until December 31, 2016. He indicated they have submitted another application to extend beyond December 31, 2016 but because they can't get on the agenda until January or February, 2017, he wondered if the Board could extend until such time as they are heard. Mr. Zabarsky said if they stay open beyond December 31, 2016 it becomes a Code Enforcement issue and is out of the Board's hands; it's up to the Mayor and Council as to what, if anything, they would like to do. He wanted to know the queue information for the January meeting and was informed of same.

In light of the queue information, Mr. Zabarsky stated that if an applicant has not posted all of their escrow monies they cannot be deemed complete and if they were erroneously deemed complete, they should not get a review letter.

Mr. Hein stated he will need a full schedule of the Board's 2017 meeting dates in order to have them approved and put onto the Fire Company's calendar; the Board Clerk stated she would get that to him.

A motion was made by William Curtis and seconded by R. Neil Devesty to approve the **vouchers**. All in favor.

There being no further business, the meeting **adjourned** on a motion by Kathleen Tell and in his final vote as a Board member, it was seconded by Bart Petrillo. All in favor.

Respectfully submitted,

Claire S. Hense