

Bay Head Planning Board
May 18, 2016

The meeting of the Bay Head Planning Board was held on Wednesday, May 18, 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."

Mr. Furze next read the following statement: "Pursuant to 40:55D-24, the Planning Board has the authority to hire its own legal counsel. It may employ or contract for Gregory P. McGuckin, Esq. to serve as alternate or conflict Planning Board attorney. Compensation will be the same as the rate and compensation to Steven A. Zabarsky, Esq., our Board attorney." He thereafter welcomed Mr. McGuckin as alternate Planning Board attorney in Mr. Zabarsky's stead for the evening.

Roll Call: William Furze, Edward Convey, Bart Petrillo, John Henry Morris, Robert Hein, Kathleen Wintersteen, Mark Durham, Thomas Charlton, Frederick Applegate
Absent: Kathleen Tell, Patricia Wojcik, William Curtis, R. Neil Devesty

The April 20, 2016 **Minutes** were approved on a motion by Bart Petrillo and seconded by Kathleen Wintersteen, with all in favor.

Mr. Furze stated the Board had for review two **Resolutions** this evening, the first being that of Lawrence Cofsky, 735 East Avenue, a/k/a Block 80, Lot 5 which was approved at the meeting of April 20, 2015. A motion was made by Bart Petrillo and seconded by Edward Convey to approve the Resolution. Roll call: YEAS: Bart Petrillo, Edward Convey, William Furze, John Henry Morris, Kathleen Wintersteen. Absent: Patricia Wojcik.

Mr. Furze stated the Board had for review the **Resolution** of Playa Bowls LLC, 62 Bridge Avenue, a/k/a Block 25, Lot 5 which was approved at the meeting of April 20, 2015. A motion was made by John Henry Morris and seconded by Edward Convey to approve the Resolution. Roll call: YEAS: John Henry Morris, Edward Convey, William Furze, Bart Petrillo, Kathleen Wintersteen. Absent: Kathleen Tell, Patricia Wojcik.

Mr. Furze stated that the sole **application** on the agenda this evening is that of Noon Designs, Inc. regarding 524 Lake Avenue, a/k/a Block 53, Lot 1.

Mr. Hein recused himself as he is a Class III member and therefore prohibited from sitting on a use variance application, and Mr. Durham recused himself as he is a neighbor to these premises.

Roberta Anne Burcz, Esq., Point Pleasant, NJ, attorney for the applicant, came forth.

The following items were marked into evidence:

A-1 Development application w/attachments

- A-2 Review letter from Board Engineer dated 5/12/16
- A-3 Affidavit of Service w/Hearing Notice
- A-4 Affidavit of Publication
- A-5 Photo gallery of existing premises
- A-6 Proposed colored logo and sign
- A-7 Colored photos of product offerings
- A-8 Computer generated proposed floor plan
- A-9 Chart of possible floor plan

Ms. Burcz stated her clients occupy a portion of the first floor of the former Applegate's Hardware store as of about six months ago. They have a retail establishment which sells gift items, i.e., jewelry, home goods, art work and so forth. They are here because they desire to serve coffee, cold beverages, yogurt, biscotti and the like. There will be no cooking on premises other than coffee will be brewed on the premises, bagels will be toasted. There will be no assembly of nor cooking of food. As Ms. Burcz understands it, the way she reads the zoning Ordinance, it doesn't differentiate between that type of use and an actual restaurant, so they are here for a change of use and any ancillary variances needed, because the location is less than fifty feet from a single family residence.

Ms. Burcz further stated that with regard to off street parking, it is the Board's precedence to allow business applicants to use the municipal lot, which is in close proximity to this applicant's premises, in order to satisfy the off street parking requirement.

Ms. Burcz called the following as witnesses, who were sworn in by Mr. McGuckin and who gave their testimony:

Maie Liis Webb, 342 Cedarcroft Drive, Brick, NJ

Nora Alexander, 156 Whipple Avenue, Barrington, RI

Mr. Furze opened the meeting to the public for comments. The following persons were sworn in by Mr. McGuckin and gave their testimony:

Kate Lee Cutler, 55 Mount Street, Bay Head, NJ

Mark Durham, 520 Lake Avenue, Bay Head, NJ

John Younghans, owner of the building at 524 Lake Avenue, Bay Head, NJ

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

Mr. Furze stated we have an **Informal application** by Patrick and Shannon Waters, who are contracted to purchase 41 Egbert Street, Block 72, Lot 10.

William T. Gage, Esq., 536 Lake Avenue, Bay Head, NJ, attorney for the Waters', came forth.

Mr. Gage stated there are 2 structures on the property, one is the main house in the front of the property and the other is a small cottage in the rear. He stated before committing to the purchase, his clients would like some degree of comfort that the rear cottage can be used for sleeping purposes. Mr. Gage stated he informed his clients that in an informal hearing, the Board cannot give a binding Resolution nor say anything to which they would be committing themselves. However, they are trying to come up with a general sense that if and when a formal application is brought before this Board, they would like to know what the likelihood would be in order that they can discuss whether or not they will go forward with the transaction.

Mr. Gage further stated if this were a formal application, the first thing he would ask for would be an interpretation of the Bay Head zoning ordinance pursuant to subsection B of the Statute, which stipulates there can only be one residential building upon a lot. He expounded upon the ordinance. He stated his clients have no intention whatsoever of renting out either one of the buildings, and certainly not to separate individuals.

The following persons were not sworn in, but gave their statements as follows:

Patrick Waters stated they would like to use the cottage as overflow and install drywall and upgrade the bathroom. He would like to make it habitable for sleeping and weekend guests. There is currently electricity and hot water in the cottage.

Doug DiPietro, the current owner of the premises, stated he has no knowledge of a kitchen. When he purchased several years ago from the former owner, Judy Davis, the cabinets were already hanging but nothing below them. He stated he was unsure if there was plumbing, as he had not looked in that corner in quite a bit of time. After Sandy, they piled items in the back corner.

Under **Old Business**, Mr. Furze stated Mr. Petrillo has remanded to him modifications to some language he was asked to generate, regarding changes in wording to Chapter 147 of the Code book, which would be presented to the Council. Discussion ensued regarding the R-100 oceanfront zone, more specifically, Chapter 147-6 subsection H, page 4. It was the general consensus of the members present that this be presented to the Council. Mr. Hein agreed to send it electronically to Mr. Furze for review and forwarding to the Clerk to send to Council.

The meeting was opened for **Public Discussion**.

Kurt Herdes, certified landscape designer for over 20 years, stated he met with Messrs. Petrillo and Curtis in late January regarding a Meadow Avenue homeowner's property. He was thereafter sent to Susan Brasefield, the Board's engineer. He had some of his suppliers reach out to Ms. Brasefield and send information regarding permeable pavers where there is a coverage issue.

After questions from the Board and answers and explanations by Mr. Herdes regarding the use and maintenance of the pavers, it was agreed it would be difficult to regulate, inspect, and enforce maintenance in order for the pavers to remain permeable.

Mr. McGuckin stated unfortunately things move slowly in public agencies, and it might be a while before other towns, counties and the state can catch up. He stated especially small towns, even if it is proven to work, in order to enforce it. Mr. Petrillo stated it would take a change to our Ordinance, which in this particular case, would not help him at this point in time as that takes a while. It was suggested these homeowners could apply for a variance for the coverage, and submit the technical information regarding these pavers as the Board just doesn't know enough about them at this point.

A motion was made by Kathleen Wintersteen and seconded by Thomas Charlton to approve the **vouchers**. All in favor.

There being no further business, the meeting **adjourned** on a motion by Frederick Applegate and seconded by John Henry Morris. All in favor.

Respectfully submitted,

Claire S. Hense