

**Bay Head Planning Board**  
**September 21, 2016**

The meeting of the Bay Head Planning Board was held on Wednesday, September 21, 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, John Henry Morris, Robert Hein, Kathleen Wintersteen, Mark Durham, R. Neil Devesty, Thomas Charlton, Frederick Applegate  
Absent: Patricia Wojcik, Bart Petrillo

The August 17, 2016 **Minutes** were approved on a motion by Mayor Curtis and seconded by Robert Hein, with all in favor.

Mr. Furze stated the Board had for review one **application** on the agenda this evening, that being the continuation of Michael and Denise Brandes who are under contract to purchase the property located at 608 Lake Avenue, a/k/a Block 55 in Lot 12.

Applicant **Michael Brandes**, 18 Olcott Avenue, Bernardsville, NJ, came forth and was sworn in by Mr. Zabarsky. Mr. Brandes stated he and his wife, Denise, are contract purchasers of the premises in question. He further stated he is also the architect for this project.

The following items were marked into evidence:

- A-8 Survey from William H. Doolittle last revised 8/18/16
- A-9 Plot plan from Charles E. Lindstrom, L.S., last revised 8/24/16
- A-10 Plans for "Brandes Boat Barn" from Brandes Maselli dated 8/26/16
- A-11 Review letter from Susan S. Brasefield, Board Engineer, dated 9/14/16
- A-12 Copy of Deed dated 1/31/1995 between Ehlers and Seeburger, with metes and bounds description cited from a prior Deed between Applegate & Seeburger dated 5/13/1969

Mr. Brandes stated they are presenting modified plans for the property. They took into consideration the Board's comments as well as public concerns heard at the previous meeting in August, and have made adjustments. Mr. Brandes listed the adjustments. Mr. Brandes caused to have A-13, a poster board with colored drawings of pictures of the house as seen on the first and second pages of the plans, marked into evidence.

The meeting was opened to the public for any comments; there were none.

After the Board members were caucused, a motion was made by Kathleen Tell and seconded by Robert Hein to approve the application. Roll call: YEAS: Kathleen Tell, Robert Hein, William

Furze, Edward Convey, William Curtis, John Henry Morris, Kathleen Wintersteen, Mark Durham, and R. Neil Devesty.

## **New Business**

Mr. Furze brought up the issue of curb cuts and stated the Board needs to regulate the type of curb cuts allowed in town. Ms. Brasefield said as it now stands, if there is a corner lot, the homeowner can elect to have a driveway on each corner. Mr. Zabarsky stated most towns have a twelve (12') foot maximum curb cut for any single side. Ms. Brasefield shared that Maser Consulting will be taking a look at the Ordinance; she would add it to the list of Ordinances being reviewed.

Kathleen Tell brought up the Bay Head cell tower Ordinance. Ms. Brasefield stated there is an issue with how to interpret the half story and we need to clarify that and revise the Ordinance; Maser will be taking a look at that as well.

The roof slopes were discussed. Ms. Brasefield stated the way we've been interpreting it is whatever the second story square floor area is, the third story has to be less than 40% of the second story. She stated we are seeing more and more applications coming in with a third story straight up, maybe not for the whole area but for that 40%. She has discussed this with Mr. Petrillo as to what is the right thing to do. She believes we need to fix the wording so people can understand it. This is another item on the list which Maser will review.

## **Old Business**

**Camryn Holdings, LLC**, regarding 107 Bridge Avenue, a/k/a Block 45, Lot 11, was discussed. Mr. Zabarsky stated that upon further review, a couple of observations were made. First, the State Municipal Land Use Law, which in essence is an enabling statute, has language in 40:55D-10.1 which specifically says: "The Planning Board *shall* grant an informal review of a concept plan for development for which a developer plans to submit an application for development", which is mandatory language. Mr. Zabarsky stated this is a Planning Board function which primarily deals with developers who come in with a site plan or a subdivision. The intent of the informal is to get a feel for what may or may not work. Mr. Zabarsky further stated that the Zoning Board of Adjustment has no statutory authority whatsoever to conduct an informal hearing.

Secondly, Mr. Zabarsky clarified that when this Board sits as a Zoning Board, which is for an application that only involves bulk variances, or an application which involves a use variance, even if associated with a site plan or subdivision, that is purely a Zoning Board function. Under our Ordinance, the Board has been given the authority to strengthen the enabling statute to sit as a Zoning Board for those functions of a Zoning Board, where the Zoning Board has exclusive jurisdiction, which is for C and D variances.

Mr. Zabarsky stated the third aspect is if anyone comes in with plans for an informal hearing and it has to do with bulk variances or involves a use variance, they should not be here as that is

really a Zoning Board function and this Board does not have the statutory authority to conduct informal hearings.

Mr. Zabarsky noted he looked in our Ordinances and although he knows the Board Clerk said there is a fee schedule somewhere for an informal, there is nothing in our current Land Use Ordinance that provides for informal hearings. The Mayor stated the fees are in the Municipal Ordinance. Mr. Zabarsky went on to state we did adopt an Ordinance which does away with the Zoning Board and which says the Planning Board now has the function of the Zoning Board, although there is no provision in our Ordinance for informal hearings. He suggested we need to adopt an Ordinance that provides for the procedures and guidelines as to how the Planning Board would conduct an informal hearing.

After a discussion among members, it was stated by Mr. Zabarsky that maybe the informal plans would first go to the Zoning Officer for determination as to whether any bulk or use variances are being required, remembering you can have a site plan with a bulk variance which is a Planning Board function, you can have a subdivision with a bulk variance which is a Planning Board function, but you can't have a use variance with anything else as that is clearly a Zoning Board function.

Mr. Zabarsky stated the reason we are giving Camryn as to why we cannot hear their informal, should be incorporated into the proposed Ordinance. It was agreed Mr. Zabarsky will prepare a letter to the applicants informing them we cannot grant their informal because they are asking for a use variance. It was further agreed Mr. Zabarsky will start drafting an Ordinance regarding informal hearings.

Mr. Furze opened the meeting to **Public Discussion**

**Rodney Madrid**, 37 Egbert Street, stated Mr. Petrillo was supposed to find some records with regards to the back building for the Waters application. The Clerk stated she was not aware he was able to find anything. It was suggested he check with the office later in the week.

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

There being no further business, the meeting **adjourned** on a motion by Mayor Curtis and seconded by Kathleen Wintersteen. All in favor.

Respectfully submitted,

Claire S. Hense