

**Bay Head Planning Board**  
**April, 2017**

The meeting of the Bay Head Planning Board was held on Wednesday, April 19, 2017 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, Kathleen Tell, John Henry Morris, Patricia Wojcik, Mark Durham, Robert Hein, Thomas Charlton, Neil Devesty  
Absent: William Curtis, Frederick Applegate

Mr. Furze stated that he was under the impression we were going to hear 3 applications this evening but he was just handed a letter from R.C. Shea & Associates, on behalf of Katherine O'Hara and Amanda Murphy, requesting their application be carried and additionally asking it be carried without further notice. Mr. Zabarsky stated that Mr. McLaughlin, who represents the interested party, did not object to this matter being carried.

A motion was made by Kathleen Tell and seconded by Robert Hein to carry this application to the next regularly scheduled meeting on May 17, 2017, and without further notice. All in favor.

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

**Joseph W. Pandozzi**, who indicated he was here as Manager of Atlantic Pier Co., the owner of the property in question and where Playa Bowls now sits, came forth.

The following items were marked into evidence:

- A-1 Development application
- A-2 Resolution #2016-02 dated May 18, 2016
- A-3 Resolution #2016-07 dated November 9, 2016
- A-4 Review letter from Susan S. Brasefield, Board Engineer, dated February 10, 2017
- A-5 Heating Notice Affidavit
- A-6 Affidavit of Publication
- A-7 Letter from Joseph W. Pandozzi of Atlantic Pier Co. dated April 5, 2017 with four colored photographs
- A-8 Survey from John T. Luts dated March 21, 2017
- A-9 Site plan from Kennedy Consulting Engineers, LLC dated April 4, 2017
- A-10 Review letter from Susan S. Brasefield, Board Engineer, dated April 13, 2017

Mr. Pandozzi was sworn in by Mr. Zabarsky and then gave some back history of applicants' previous applications. He stated that last year they built Charlie's of Bay Head restaurant and have used what is known as the Bay Head Shoppers Village property as a laydown area and area

of refuse for tenants who occupy both 64 and 68 Bridge Avenue, the old office in the back and half the garage. He indicated some things have changed since then – Charlie’s has been completed and has been open for several months, the “laydown area”, which was available last year with dumpsters for the trash, will no longer be available because of construction fencing. He indicated they have designated spots for tenants to park but there will no longer be access to the construction site or the containers.

Mr. Pandozzi stated they have a responsibility to provide containers to their tenants so they looked at the entire site to look for the most advantageous area to put the containers and what they have constructed, which is behind 68 Bridge Avenue and cannot be viewed from the street, is a white structured area with a roof which will house their containers. He stated that is the only place on the property where it could be placed and they plan to pick up the refuse on a daily basis with their own pneumatic tire container trucks, which is the same procedure used for the restaurant, and this will be accomplished between 7 am and 10 am.

Mr. Pandozzi wanted to remind the Board that this is all over on September 8, 2017 when all leases end, as at that point, all tenants are out and they go into Phase 2 of the construction of Shopper’s Village and those shops come down. He additionally indicated that within the next week and one-half, the construction site would be fenced.

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

**Robert Giuliani**, an owner of Playa Bowls, 804 Ocean Avenue, Belmar

**Abby Taylor**, an owner of Playa Bowls, 804 Ocean Avenue, Belmar

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

**Ellen Tobin**, 50 Bridge Avenue, Bay Head

A motion was made by Kathleen Tell and seconded by Neil Devesty to close the meeting to the public, with all in favor. The Board was polled and thereafter a motion was made by Kathleen Tell and seconded by Patricia Wojcik to approve the application with the conditions discussed during the hearing. Yays: Kathleen Tell, Patricia Wojcik, William Furze, John Henry Morris, Mark Durham, Robert Hein, Thomas Charlton, Neil Devesty. Nays: None

Mr. Furze stated the next **application** on the agenda is that of 700 Clayton Avenue Securities Trading Co., L.P. regarding 700 Clayton Avenue, Block 67, Lot 6.

**William T. Gage, Esq.**, 536 Lake Avenue, Bay Head, came before the Board and stated he was asked to lend a small hand with this application. He stated that Mr. Warnken is representing the applicant. He further stated applicant is the owner of the properties located at 700 Clayton Avenue and 77 Johnson Street.

Mr. Gage stated that some time ago, back in 1925 when these 2 lots were 1, a riparian grant was issued to this property. The property was subsequently subdivided once in 1962 and the second time in 1988. Mr. Gage stated that during those occasions, there is no indication of any subdivision of the riparian lot. Mr. Gage further stated that a couple of years ago, in 2015, he appeared on behalf of the application for subdivision of the upland lot and he knows on the subdivision map that was provided in that file, it did show a riparian lot line going due west from where the dividing line of the upland lot was. Mr. Gage stated his recollection is they did not speak too much about it that evening as it was not the main focus of the application. The main focus of that application was to change the lot lines of the upland lots.

Mr. Gage further stated that in speaking with the Tax Office, he suspects that sometime before 2014 and after 1988, the Tax Assessor took what were riparian lots and simply, if you have a Lot 6 on the upland, they declared the riparian lot be 6.01, and that is probably what happened on an administrative level rather than by a land use application. Mr. Gage stated that in any event, the applicant now wishes to reconfigure that riparian lot line and as he understands it, the applicant was before the Board in March at which time the Board concluded they did not have jurisdiction in order to perfect the subdivision, believing it was not within the province of the Planning Board. Mr. Gage stated that afterwards, he, Mr. Warnken and Brad Batcha, Esq. did some additional research which led to the conclusion that the Board does, in fact, have jurisdiction. Mr. Gage cited 2 cases in support of this claim.

Mr. Zabarsky informed the Board that everything Mr. Gage just stated, he sent to the Board in a letter dated April 17, 2017 and he attached the document from Mr. Cuccia that Mr. O'Donnell, who is an engineer and is in the audience, was kind enough to send to him.

The following items were marked into evidence:

- A-1 Development application
- A-2 Survey from Charles A. Fernicola, P.L.S. dated 11/15/16
- A-3 Minor subdivision for property by Charles A. Fernicola, P.L.S. dated 2/15/17
- A-4 Review letter from Susan S. Brasefield, Board Engineer, dated 3/3/17
- A-5 Affidavit of Publication
- A-6 Notice of Hearing
- A-7 Letter from Steven A. Zabarsky, Board Attorney, dated 4/17/17
- A-8 Letter from Chad Warnken, Esq., with attachments, dated 4/18/17

After Mr. Zabarsky went through Mr. Warnken's letter and his own letter, he stated that the Board did not say it did not have jurisdiction at this time, what the Board said was they were not sure and Mr. Zabarsky said he wasn't sure. He stated the Board and he said they needed to look into it. Mr. Zabarsky further stated that Ms. Brasefield raised an issue in her letter of whether there was a bulk variance required for lot width and he did not think there was. Mr. Zabarsky stated at this point applicant is asking for what he will call an adjustment – either a subdivision of the major riparian, or an adjustment to the line as it currently appears on the platted map.

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

**James Kellogg**, 700 Clayton Avenue, Bay Head

**Elizabeth Kellogg Winterbottom**, 10 Barberry Lane, Short Hills

Once the Board was polled, it was opened to the public for comments; there were none. A motion was made by Patricia Wojcik and seconded by John Henry Morris to approve the application. Yays: Patricia Wojcik, John Henry Morris, William Furze, Kathleen Tell, Mark Durham, Robert Hein, Thomas Charlton, Neil Devesty. Nays: None

Under **Old Business**, Board Engineer Susan Brasefield stated that the two neighborhood plans, the Master Plan, the Hazard Mitigation Plan being done by Remington, Vernick & Vena, and the zoning ordinances, are all included in the post-Sandy grants and the deadline for the grants is the end of May, 2017. She further stated they pressed for an extension of time but the DCA is not providing any extensions of time, that once that is submitted to the DCA and we meet the requirements for getting the grant money, we are still able to make changes to that as there are no constraints to making changes.

Ms. Brasefield further stated that both she and the engineer from Remington, Vernick & Vena were speaking to Municipal Clerk Patricia Applegate and Board Clerk Claire Hense about scheduling one more meeting that is a public hearing for everything, so that we have a record that we did that, and therefore we will have to coordinate a date for that. Gerald DeFelicis of Maser Consulting stated it was his understanding the Board needs to approve the plans, but in their discussions with the DCA, they basically said that so long as they (DCA) approve them, the Borough will be reimbursed. Ms. Tell asked for a reiteration of what has to be in by the end of May, and Ms. Brasefield stated the Master Plan, the two Neighborhood Plans, which we started to talk about at our last meeting, the Zoning which we still have not received a draft of as of yet, and the Hazard Mitigation Plan which Remington, Vernick & Vena have prepared. Ms. Brasefield stated they have been reviewing it with Council members.

Mr. Charlton wanted to know if there were other outreach requirements seeing as how she mentioned meetings, and he wanted to know if there were other things which were supposed to happen that were included in the scope of work that needs to be done, and Ms. Brasefield stated there is no requirement but she felt when we do the public hearing, it would be beneficial to send notice to the Business Association so they are aware of it. Mr. Hein wanted to know if we had a date yet and Ms. Brasefield stated we did not.

Mr. DeFelicis stated he is currently working on the Zoning Ordinances and is hoping to get them out to everyone within the next week, and as far as the billing to the grant number, as of May 31<sup>st</sup>, he and Sue can no longer bill to the project. He further stated if the Board wanted to continue planning on this, it would have to be on the Borough's time. Mr. Hein stated that in other words, we would need to get all the changes in by the middle of May to get them done by the end of May. Mr. Hein indicated both he and Mr. Charlton have lots of specific comments, corrections and inadequacies. Ms. Brasefield stated she would go over them with them.

More discussions ensued regarding the Borough's shallow water table and historic preservation. Mr. Hein stated it was an interesting document, completely what was not proposed and not what

he expected, but wants to try to at least make this good because we only have so many days. He stated he is conceding we completely missed the mark on the Plan so now wants to make it a decent document so we can at least get something out of the grant. Mr. Charlton's concern was if we try to change it now, we will get nothing. Mr. Hein further stated he didn't understand why he is first seeing a Neighborhood Plan ten plus months into the project, and stated he is very disappointed. Mr. Hein additionally stated that it is so late now, there is no ability to change it and with the time we have, we need to make this document work.

Mr. Furze pointed out that in theory, there will be other opportunities – we don't have to re-do the Master Plan according to the schedule - the Board can do whatever it would like but it would be on the Board's "dime". Mr. Furze stated what we really want to know is what we are getting from our engineering consultants. He wanted to know if they could put it to good use to benefit the Borough, e.g., how can they maximize the benefit to the Borough. Mr. Furze further stated that maybe proposing niceties to the tune of \$7,000,000. might be "pie in the sky" but at least it's on the table, and maybe the Board can implement ten percent of it, or something in that nature. He stated maybe the Board can pick and choose, and maybe that is the benefit we are going to get.

Mr. DeFelicis stated that normally is the benefit of these documents - we now have a document so when some grant becomes available, we can state we have this and we want to pursue it.

There was a discussion about whether or not the Board is close to finalizing the Master Plan re-examination. Mr. Furze stated we have to ask ourselves what the body of work looks like right now and ask if we are deriving some benefit from it, and if so, then by all means yes and we should promote it. Mr. Furze felt it was great as a document, and stated to Mr. Hein that if he, as the liaison to Council, felt it was flawed, he suggested the Board do whatever it can do to quickly fix it. Mr. Furze further stated an engineering solution might not be within our reach right now because the solutions might not be to anybody's liking. He suggested maybe there could have been a couple of options such as it needs further study.

Mr. DeFelicis stated that with regard to the Master Plan re-exam, basically the Borough should go back to the last Master Plan, take a look at that to see what we did, what we accomplished, and come up with some new goals and make some recommendations moving along to the future. Mrs. Tell stated the Planning Board has to adopt the Master Plan, and Mr. DeFelicis pointed out that the neighborhood plans and zoning ordinance changes go to Council. Mr. Charlton suggested a meeting to go through things page-by-page with Ms. Brasefield, and whomever can make it would be welcome. A meeting was tentatively scheduled for the following Wednesday afternoon and Ms. Brasefield agreed to e-mail everyone. Mr. DeFelicis stated there should probably be a public meeting the first week of May. Mr. Hein stated that the Municipal Clerk would need to assist them in getting word out to the town.

Mr. DeFelicis stated they met with Bart Petrillo, the former Zoning Officer, before his retirement. The meeting occurred on December 19, 2016, and they went through a lot of things and he had some notes from their meeting especially with regards to the placement of fill, landscape recommendations, and percentage of landscaping in front yards as far as no solid fences in front yards. Mr. DeFelicis stated that he has pulled some things – the setbacks and yard

encroachments; the curb cuts as far as limiting the amount of curb cuts per lot, even on corner lots, to 24 feet per lot; maybe moving the fill definition to another section; roof decks; and signs, especially those in residential zones. He stated Mr. Petrillo had given his concerns about sizes, and construction signs versus sale signs. Mr. Furze stated no construction signs are allowed, but referred to flags which call attention to a place and should be considered a sign, and these are things we can work upon.

Mrs. Tell stated Maser Consulting is working on our zoning ordinances through the DCA and that is something which needs to be completed by the end of May. Mr. Hein pointed out the meeting was on December 19, 2016, four months ago, and would appreciate if Mr. DeFelicis would send the proposals to everyone right away so the Board could work on it. Mr. Furze stated the Board could also benefit from their experience in other localities – how we measure up to their bulk requirement standards. He further stated we are talking again about possibly reducing lot and building coverage, maybe increasing setbacks because of the fact people are elevating their homes – and asked how we stack up to similar communities. Mr. DeFelicis stated there is a whole list of recommendations in there, to which Mrs. Tell replied it would be very helpful if the Board could read that.

Mrs. Tell stated it should also include a review of our cell antenna policy and regulations for riparian lots. Mr. Furze requested an electronic measurable copy of a grading plan for which he has been pushing for ten years and he'd like to see that in there as a requirement. Mrs. Tell stated we should hopefully have the revisions by week's end so Board members could review same over the weekend. Ms. Brasefield confirmed she had all the Board members' e-mail addresses and would send them directly. Mr. DeFelicis stated they will send two documents – one of the ordinance reviews based upon their meeting with Mr. Petrillo, and the other is what he is working on with recommended wording for some of the things they talked about both with Bart Petrillo, and in this other second page of the recommendations to the Master Plan. Mr. Charlton requested they send out what they have and not wait – maybe say the riparian is still coming but don't hold it up because of that. Ms. Brasefield stated as far as building on the riparian, she thought the only things that could be built on it are docks or walkways, but she would look into it tomorrow.

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

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

Respectfully submitted,

Claire S. Hense