

Bay Head Planning Board
February 21, 2018

The meeting of the Bay Head Planning Board was held on Wednesday, February 21, 2018 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, Christopher Parlow, Patricia Wojcik, Neil Devesty, Robert Hein, Thomas Charlton, Kirsten Hinds, John Henry Morris, Kevin Feehan, Rick McGoey
Absent: William Curtis, Mark Durham

The September 20, 2017 **Minutes** and September 27, 2018 **Minutes** were approved on a motion by Neil Devesty and seconded by Thomas Charlton, with all in favor.

Mr. Furze stated the Board had one **Resolution** for review this evening, that of Bryan and Florence McFadden, 134 Bridge Avenue, a/k/a Block 16.01, Lots 5 & 6, which was approved at the meeting of January 17, 2018.

Mrs. Hinds stated she thought there was a date agreed to as to when the applicants needed to move the garage and she thought it was six months. Mrs. Tell pointed out that on page 2, 2nd line in the proposed Resolution, it should state "IN" the garage. Mr. Greitz said he would bring these to Mr. Zabarsky's attention.

A motion was made by Kevin Feehan and seconded by Christopher Parlow, to approve the Resolution, as amended. Roll call: YEAS: Kevin Feehan, Christopher Parlow, Neil Devesty, Robert Hein, Thomas Charlton, Kirsten Hinds, John Henry Morris

Mr. Furze stated the Board received a letter from counsel for Mark and Michelle Bingham, who are requesting the matter be carried to the next meeting for which they will again have to notice. The Clerk stated Mr. Jackson, their attorney, indicated they may be changing their plans as to the front porch so they may be coming back in with a new application. Mr. Greitz stated there was some back-and-forth between Mr. Jackson and Mr. Zabarsky about whether or not the notice was sufficient, if there was too much information, or if the information was inaccurate. Thereafter, Mr. Furze stated he is making a motion to modify the agenda and put this matter on for next month; all were in favor, no objections.

Mr. Furze stated the first **application** to be heard this evening is the continuation from last month of that of Judy Davis for 463 Club Drive, LLC, 463 Club Drive, a/k/a Block 49, Lot 9.

Judy Davis, 509 West Lake Avenue, Bay Head, came forward and was sworn in by Mr. Greitz.

The following items were marked into evidence:

- A-7 Set of plans belonging to Steven Zabarsky, Esq., which were marked by the architect, Benjamin Kracauer, at the last meeting (1/21/18);
- A-8 Memo from applicant Judy Davis dated 2/1/18
- A-9 Two page "Explanation of Changes since 2016 variance Resolution for Bay Head Planning Board" submitted by applicant;
- A-10 Architectural Elevation and Improvements from Archimuse Architects dated 2/21/18
- A-11 Review letter from Board Engineer Susan S. Brasefield, P.E., P.P., dated 2/15/18
- A-12 Poster board with 3 colored pictures marked "2016 approved plans", "Before" and "Current"

Ms. Davis stated that when the framing was accomplished for the addition to the front of the house, it appeared to be out of proportion to the remainder of the house. Ms. Davis stated that the new design adds another bedroom to the bedroom and the bathroom, not that she wanted to do so, "but that's the way it worked out". Ms. Davis stated she believes it looks better and her neighbors seem to feel it looks better as well, and it is more a farm style. Ms. Davis further stated she seems to do better with things that are built rather than things on paper.

Mr. Furze pointed out that what was built, as depicted in a photograph in exhibit A-12, was what was approved by the Board and referring to her modification as depicted in another photograph on the same board, stated he hoped she realized that her Resolution stated that any deviation from the approved plans needed to come before the Board again and that is why she was here before the Board. Mr. Furze stated Ms. Davis, her contractor and her architect took it upon themselves to make these changes and then came back to the board later. Ms. Davis stated they were trying to solve a problem and went around in circles and yes, that is exactly what happened. Ms. Davis stated she did not recall that part of the Resolution.

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

Benjamin Kracauer, licensed architect in the State of NJ, of Archimuse, 139 Fulton Street, New York, NY

A motion was made by Kathleen Tell and seconded by Christopher Parlow, to open the meeting to the public, with all in favor.

The following person was sworn in by Mr. Greitz and gave her testimony:

Marylou Visceglia, 461 Club Drive

Thereafter the meeting was closed to the public and the Board was polled. A motion was made by Robert Hein and seconded by Neil Devesty to approve the request of the amended approval based upon the revised building plans. Yays: Robert Hein, Neil Devesty, Kirsten Hinds, Kevin Feehan. Nays: William Furze, Kathleen Tell, Christopher Parlow, Thomas Charlton, John Henry Morris

Mr. Furze stated the second **application** to be heard this evening is that of Playa Bowls, LLC regarding property located at 62 Bridge Avenue, a/k/a Block 25, Lot 5.01. 9:10:44

There was discussion about whether or not the applicant requires an attorney in light of the fact they are an LLC. After much back and forth, Mr. Furze opened the meeting to the public. The following people were sworn in by Mr. Greitz and gave their testimony:

Roberta A. Burcz, 203 Osborne Avenue, who stated a question was raised at the very beginning as to whether an LLC needs to have legal representation. Ms. Burcz stated that Rule 1:21 states all LLC's, corporations, limited partnerships, etc. must be represented by counsel before any public proceedings. She further stated an LLC seeks limited liability for a corporation and although unfortunate, she did not think the Board should waive this requirement and proceed with the application.

Louis Goetting, 415 Lake Avenue

Mr. Greitz stated that Mr. McGoey resides within 200 feet of the property in question and therefore is not eligible to sit on the dais or to vote, and further stated the application is null and void at this point and the applicant needs to re-advertise for next month's meeting.

Old Business

Mr. Furze stated because Mr. Zabarsky is not here this evening, we do not have an update on the Rantz v. Planning Board matter, and will get that next month as Mr. Greitz did not have that information.

Robert McGuckin of Tilson Technology, authorized representative of Verizon Wireless, came forth requesting an update of the status of the Board's recommendation to the Council. Mr. Furze stated the Planning Board, unanimously, has issues with not having any kind of outlet with what they are proposing and each time the Board asked if they (Verizon) could do something differently, the Board was told "no, that's the way we have to do it". Mr. Furze advised Mr. McGuckin that is what has been expressed to Council and he does not know if Council is in full agreement with the Board or not, but believes they are and therefore cannot give him a revised status right now. Mr. Furze further stated the Board is looking for some options which apparently are not being offered for various reasons – aesthetic, functional, historic homes in the area where the proposed poles are to be located. Mr. Furze stated if there was something they could offer as an alternative – something more aesthetically pleasing, more functional, a little bit more sensitive to the character of Bay Head, that would be appreciated but it's just that the Board has met with them three times and we have not been able to come to an agreement, and that is what the Board is looking for right now. Mr. Furze mentioned the Board has not yet heard back from Council. Mr. Hein is our liaison to Council but he excused himself, otherwise he would still be here, but Mr. Furze stated he would check with him the next morning to see if they could come up with something, but we would like another recourse as the Board does not believe it fits with the character of Bay Head.

Mr. McGuckin stated coverage and capacity are the issues, especially data. Mrs. Tell told Mr. McGuckin the Board has some factual questions. Mr. McGuckin agreed he would take this information back to Verizon. Mr. Furze stated the Board would like to hear back from them to

see if there is something we can mutually agree upon, and Mr. McGuckin stated he would forward that along as well.

New Business

The Board reviewed Ordinance #2018-03 entitled “Ordinance of the Borough of Bay Head, County of Ocean, State of New Jersey, Amending Chapter 126 of the Municipal Code of the Borough of Bay Head, entitled “Flood Damage Prevention”. Mr. Parlow stated it has already been introduced at Council and because he drafted it, he gave the Board a brief explanation of the changes to the maps from September 29, 2006 and June 20, 2018. Mr. Parlow further stated that this Ordinance states if the preliminary maps change, then we still use the best available data. Mr. Parlow suggested if any action is necessary, it could be a letter or memo submitted to Council stating the Ordinance has been reviewed and there is no objection to this particular Ordinance. Mr. Furze suggested we wait until we have a full complement of the Board before getting back to Council. Mr. Parlow stated he believes the public hearing is not until April 2, 2018 so the Board has time for the March meeting to take action.

Mr. Furze stated the Board was copied on a letter Ms. Rhyne to the Mayor and Council, dated January 30, 2018, and asked Board members to please read it. Ms. Wojcik stated she agreed with Ms. Rhyne.

Mr. Furze stated the Board received a letter from Trileaf, environmental, architectural, engineering dated February 8, 2018 and stated they are asking the Board to weight in on the impact as far as the historic component for their partnership’s intent to replace a small existing utility pole on Twilight Road with a larger 34 foot pole containing equipment, much like the nodes the Board was talking about, and adding another four feet, for a total of 38 feet. Ms. Tell confirmed it is a contributing structure in the historic registry. Mr. Furze stated he believes this ties in closely with the Board’s issues with Verizon Wireless and he believes we need some help addressing these matters. Mrs. Tell stated she believed the Borough was considering obtaining counsel and that lawyer would presumably address problems such as this and guide us in the enacting of an ordinance.

Mr. Parlow stated Trileaf is asking for any historical information on this property. Mrs. Tell stated the bigger question is it would be useful to have advice of counsel. Mr. Feehan stated they met with an attorney at the Mayor’s recommendation – the Council and Planning Board, a proposal was submitted to the Mayor which was lacking in information and the Mayor has asked for more detail, and he did not believe there has been anything received back as of yet. Mrs. Tell suggested the Borough speak with other lawyers.


Mr. Furze opened the meeting to **public discussion**.

Roberta A. Burcz, Esq. came forth and asked about the signing of the maps for McFadden and was advised by Mr. Furze that they had already been signed.

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

The meeting **adjourned** on a motion by Kevin Feehan and seconded by Patricia Wojcik. All were in favor.

Respectfully submitted,


Claire S. Hense