



# BOROUGH OF BAY HEAD

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## PLANNING BOARD

### MEETING MINUTES September 20, 2023

The regular meeting of the Borough of Bay Head Planning Board was held on September 20, 2023 at 6:30pm in the Municipal Building, 83 Bridge Avenue, Bay Head, New Jersey.

#### **Pledge of Allegiance:**

Mr. McGoey asked everyone to stand and join in the Pledge of Allegiance

#### **Open Public Meeting Act:**

Mr. McGoey read the following statement:

In accordance with the applicable portion of the New Jersey Public Meetings Act, notice of this meeting has been mailed to the Ocean Star. It is posted in the corridor of the Town Hall and filed with the Bay Head Clerk.

This meeting is being recorded.

There will be an opportunity for the public to comment at various points of the meeting. The public will be limited to five minutes per person.

#### **Roll Call:**

Present were: Jones, Durham, Wojcik, Feehan, Curtis, McGoey, Frizzell, Younghans, Gilman, Doane, Clement, Wolleon, Akersten,

Absent: None

#### **Minutes:**

McGoey: First on the agenda is minutes. Do we have a motion to approve the August 16th, 2023 Minutes. Motion by; Younghans, Second by Curtis; Vote was by consensus: All votes in favor, None opposed: Motion Passes.

#### **New Business:**

McGoey: We will be having an organizational change, Sue Brasefield, the Board Engineer, has decided to move. Susan was the Planning Board engineer for over twenty years. Her service to the board over the twenty years has been invaluable. Publicly I would like to thank Sue for her outstanding work with the Bay Head Planning Board. Collier's Engineering has provided a replacement for Sue, Bob Mullin.

Bob Mullin: I have worked for many planning boards in Ocean and Monmouth Counties. I look forward to working with Bay Head Planning.

McGoey: We will need a motion to appoint Bob Mullin as Planning Board Engineer. Motion by; Feehan,



# BOROUGH OF BAY HEAD

---

## PLANNING BOARD

Second by Wojcik; Vote was by consensus: All votes in favor, None opposed: Motion Passes.

### **Applications:**

McGoey: One application PBA-23-07 is on the agenda tonight, 193 Park Ave, Block 12 Lot 53. A notice was received from a neighbor who is unable to attend this evening. He would like the opportunity to be present to provide comments on the Application. He is available for the October 18 meeting.

Gage: William Gage, esquire, representing Bruce & Lorne Kennedy stated he spoke with his clients. There is a concern that one of the professionals, the engineer, may not be available for the October 18 date. Board has a reputation for showing fair play to all parties. If the board feels an adjournment of the application is the best course of action, we have no objection.

McGoey: We will need a motion to adjourn to the October 18 meeting.

Zabarsky: Mr. Chairman for the record, you contacted me upon receipt of a letter from Graham and Sarah Wallis. The letter was not disseminated to the board members, as it is inadmissible because the letter or document will be subject to cross examination. The Wallis did a follow email requesting to adjourn to the October 18th meeting, so that they could attend the meeting. A copy of the letter was supplied to Mr Gage with the neighbor's email with their permission. Subsequently an email was sent to Mr. Erbe asking for an adjournment to the Oct 18th meeting. This would be a motion to adjourn the matter at the request of the adjacent property owners. No additional notice will be required.

McGoey: Do I have a motion to adjourn this application to the October 18 meeting? Motion by; Durham, Second by Wojcik; Roll Call vote: Votes in favor, Jones, Durham, Wojcik, Feehan, Curtis, McGoey, Frizzell, Gilman, Wolle None opposed: Motion Passes.

John Caricato, a member of the public, stated he has an interest in the Application for 193 Park Avenue. He lives at 186 Bridge Ave. He stated he can come back for the October meeting.

### **Old Business:**

#### **228 Main Avenue:**

McGoey: The Planning Board received a letter requesting an Extension for Resolution 2022-07 for Block 27 Lot 8 at 228 Main Ave, Bay Head NJ. This Resolution has a Condition which states the construction must start within one year. The letter says construction will not start within the required one year.

Gage: William Gage, esquire, representing Mr. and Mrs. Covello, the owner of 228 Main Avenue, stated he does not want to waste the Board's time with the extension. He indicated he identified a resolution where an extension will not be needed.

Zabarsky: I had a conversation with Mr. Gage today. The ordinance which he identifies correctly in his letter



# BOROUGH OF BAY HEAD

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## PLANNING BOARD

states § 147-30:

**Expiration of variance.** Any variance from the terms of this chapter granted by the Planning Board permitting the erection or alteration of any structure or structures or permitting a specific use of any premises shall expire by limitation, unless such construction or alteration shall have been actually commenced within one year from the date of the adoption of a written resolution by the Planning Board, as long as the building permit is issued within the one-year period. That will satisfy the condition.

McGoey: Based on this discussion, no action on the extension request needs to be taken.

### **2 Mount Street Hearing**

McGoey: There is updated status of the hearing in NJ Superior Court on the appeal of the Board decision to allow withdrawing the Application for 2 Mount Street. Briefs for the hearing have been filed. Dates have been set for oral briefs and the court case.

### **Atlantic Pier Hearing**

Zabarsky: The appeal of the decision of the NJ Superior Court overturning the Planning Board's decision on the Atlantic Pier Application is pending in the NJ Appellate Court. There is no change in the status of this Hearing. Briefs have been filed and we are waiting for a date for oral arguments.

### **Brennan vs Burke and Bay Head Planning Board Hearing**

Zabarsky: The court case of Brennan vs Burke & Bay Head Planning Board remains in the Appellate Division of New Jersey. The Superior Court upheld the Planning Board decision of approving the Burke Application. An appeal was filed by Brennan (and others). Briefs have been filed with the Appeals Court. A date for oral arguments has not been set.

### **Burke vs Bay Head Planning Board and Bay Head Hearing**

Zabarsky: The court case of Burke vs Bay Head Planning Board and Bay Head remains in US Federal Court. Burke is appealing a Condition of the Planning Board decision associated with their approved Application. This case has been moved from NJ Courts to Federal Court. The court stayed moving forward until the outcome of the Brennan case.

### **Open to Public**

McGoey: The meeting was opened to the public and the public was asked if there were any comments. Hearing no comments, is there a motion to close the public portion of this meeting? Motion by Frizzell; second by Feehan. Vote was by consensus: All votes in favor, none opposed: Motion Passes.



# BOROUGH OF BAY HEAD

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## PLANNING BOARD

### Approve Vouchers

McGoey: There are vouchers to approve. Are there any questions on the vouchers? Motion to approve the vouchers was made by Curtis, Second by Frizzell, Vote was by consensus: All votes in favor, none opposed: Motion Passes

Younghans: Any consideration for a hybrid meeting format? A brief discussion followed with no decisions made about making meetings available by live streaming.

McGoey: The next meeting will be Wednesday, October 18, 2023 6:30pm at Borough Hall. Do we have a motion to adjourn? Motion made by Wojcik; second by Wolleon. Vote was by consensus: All votes in favor, None opposed, Motion Passes

Meeting ended 6:56pm

*Darren Erbe*

Darren Erbe

Planning Board Secretary