

TOWNSHIP OF OCEAN
PLANNING BOARD
REGULAR MEETING
October 2, 2008

Meeting began at 7:30 PM

Pledge of Allegiance

STATEMENT: Pursuant to the provisions of the New Jersey Open Public Meetings Act, sending copies of the notice of the meeting properly provided adequate notice of the meeting to the Times-Beacon and the Atlantic City Press. Notice was posted on the bulletin board in the Administration Building.

The meeting of the Ocean Township Planning Board was held on the above date and time; Chairman Anepete presided and called the meeting to order.

ROLL CALL

Members Present: Vincent Anepete Richard Reilly Craig James
Ralph Avellino Dennis Tredy
Robert Knowles Lee Eagles

Members Absent: James Eckert, Rita Sweeney, Daniel VanPelt, Gordon VonSchmidt.

Chairman Anepete asked for a motion to approve the minutes of the September 4, 2008 regular meeting. Dennis Tredy made a motion to approve. Ralph Avellino seconded the motion. All in favor: (aye) Tredy, Avellino, James, Anepete.

Chairman Anepete asked for a motion to approve the vouchers. Ralph Avellino made a motion to approve the vouchers. Robert Knowles seconded the motion. All in favor: (aye) Avellino, Knowles, Reilly, Tredy, Eagles, James, Anepete.

Correspondence is available in the board office.

BOARD COMMENTS

Mr. Tredy explained that the Ordinance Sub-Committee had met and referred the board to the memo provided in their packet that was addressed to the Township Committee regarding a possible trash ordinance and also a possible trailer storage ordinance. The suggested trailer storage ordinance that had been written up several years ago was thought to be an actual ordinance, but it was discovered recently by the sub-committee that it had never been made an ordinance. The sub-committee discussed this at their last meeting and decided they would like to recommend to the Township Committee that they create an ordinance that covers these types of issues. The ordinance should cover

construction equipment being kept on residential property. A possible acreage requirement could be put in the ordinance so that property west of the parkway where residents made need heavier machinery for their land would be considered.

Chairman Anepete: What we are doing here by this memo is asking the Township Committee to create an ordinance.

Discussion by the board took place as to what they would and would not like to be considered in this ordinance.

Mr. Avellino explained in his files at home, he came across a letter from Larry Leonard (with the suggested ordinance attached) dated about four years ago and he thinks Mr. Leonard had asked it to be considered at that time, but it never was adopted as an ordinance. Between small construction trailers and trucks and u-hauls, cement mixers, landscapers with trailers, there would be quite a few violations in town.

Mr. Tredy stated that one of the requirements we are asking for in the ordinance would be vehicles over six (6) tons.

Mr. Eagles feels that this is a very important subject. How do we promote this in the right way?

Mr. Tredy stated that Route 9 would not be affected by this ordinance as it's a commercial zone, but other ordinances are already in affect and should take care of Route 9. This ordinance would be geared towards residential property.

Mr. Knowles feels the ordinance might include that prohibiting parking within any setback of the property.

Mr. James asked what if the equipment is fenced in the backyard would that still remain an issue. Mr. Tredy answered that they would not be allowed with this type of ordinance.

Mr. Knowles added that the shed ordinance also goes hand-in-hand with this ordinance. Because of the restrictions with the shed ordinance, people are taking old boats and turning them into storage units. Mr. Knowles addressed that people also use motorcycle trailers as sheds and leave them parked in their driveway indefinitely.

The board agreed that the reason behind the ordinance is trying to keep construction equipment out of residential areas.

Mr. Reilly added that at the same time, for many of our residents, their truck, van or trailer is their livelihood and if they are not allowed to park their truck or van in their driveway, they're out of business.

Chairman Anepete suggested that the board take time between now and the next meeting to gather their thoughts and ideas about what they'd like to see in this ordinance and the

language it should be presented in and revisit this at the next meeting and give this the time it deserves.

Mr. Knowles added that he thought Lacey established a place where people could park their trailers. That might have some merit to explore. Liability questions would have to be addressed and safety issues as well.

Mr. Reilly asked if there is any ordinance about people selling cars on their property. Mr. Tredy said that the only place you cannot sell a car is on commercial property and the commercial property does not happen to be a car lot. Mr. Reilly said if you are going to start addressing the trailer issues then you need to look at this as well. Many times cars, boats and trailers are parked not in driveways, but across lawns of either grass or stone that are unsightly as well.

Mr. Knowles suggested we contact other communities to see how they are handling similar issues.

Mr. Tredy explained that the ordinances of the town are in different sections and the selling cars etc., are addressed in another section. We are just trying to take the ordinance review section at a time.

Mr. Avellino brought up that Dock Avenue would be a good example. Dock Avenue lots are 50' wide and with 10' setbacks on each side. If someone is parking their truck or trailer on their property, there is no room.

Mr. Reilly agrees that we should reach out to the adjoining towns to see how and if they address similar problems in their municipalities and what they have come up with.

Chairman Anepete suggested that we get our thoughts together and continue this discussion at the next meeting. Look at the proposed ordinance as it was originally written and make any changes that you think would be appropriate.

Tree Ordinance – Wayne McVicar will create the final draft. Wayne McVicar addressed the board. What was considered was Stafford's Tree Removal and Reforestation Ordinance and the sub-committee looked at those and had some suggestions. The only restriction the committee had was that no clearing could occur within any buffer areas or wetlands or wetland buffer areas. Another section reviewed was reforestation. The committee felt if it was a lot less than 20,000 SF that a developer would be required to do a tree removal plan and also to do reforestation for an individual lot. However, if you had a single family homeowner less than 20,000 SF with an existing dwelling, he would not be required to do reforestation. The ordinance that would be adopted would replace the existing tree ordinance while incorporating some of the good points and also dove-tail so that the site plan and subdivision ordinance make reference to this section for the tree removal plan.

Redevelopment Entity – Chairman Anepete reported that he and several other members have been attending the Redevelopment meetings. They have been presented with additional projects. Committeeman Reilly explained that the companies that were interested in pursuing the RFP were required to attend a pre-submission meeting. Nine of the companies that have completed RFP's came to the meeting. The intention was for them to get an overview from our Planner as to what the view, intent and vision was of the Town Center. The next step for the companies is October 17th when they are expected to have their final submission in response to the RFP as to what their view, vision and plan would be if they were the successful bidder. How the review process by the Redevelopment Entity will occur will be a subject at the upcoming Township Committee Meeting.

The board had a discussion on what would be heard at the next Redevelopment Meeting. There will be an applicant coming in for a commercial/residential complex of about eight stores and four residential above it. It is on the east side of Route 9, close to the rear entrance of Greenbriar.

Chairman Anepete reiterated that if any one of the board members who have volunteered to attend the Redevelopment meetings cannot attend, please notify the secretary so that other members can be contacted if they wish to attend as a quorum cannot be present.

OLD BUSINESS

Iszari Development, Block 62, Lot 4.02, Docket No. 02-08-PB, Amended Site Plan carried from September 4, 2008 meeting.

Committeeman Reilly acknowledged the letter copied to all board members from the applicant's attorney Mr. Ronald Bennardo, asking for the application to be carried until the November 6, 2008 meeting.

Mr. Tredy spoke that the last time Mr. Bennardo came before the board and asked it to be carried, I had agreed to carry it for another month. Now, there is no real good reason to carry it.

Mr. Yost gave this history of this application. It was presented originally June 5, 2008. At that time, there was a sense that the board wanted to hear from the actual operator, he was not present. The board felt given the reasons the application was in front of us, we needed to hear from the actual operator. We carried it until July 3, 2008. Mr. Bennardo appeared at that time and indicated that they could not locate or reach the actual operator and asked that it be carried until September 4th meeting as Mr. Iszari would be out of the country in August. At that point the board consented to carry it until the September 4th meeting. That was last month and at last months meeting, there was a letter sent in by Mr. Bennardo requesting that it be carried. There hasn't been any substance of activity on the application for approximately 3 pushing 4 months.

Mr. Knowles added that we asked him in good faith to clean up the property which he has made no attempt to do at all. Mr. Knowles feels that he likes to give the applicant fair warning as to what is going to happen. My first reaction is we'll extend it to November, if no representation occurs that evening, it will not be carried again.

Mr. Reilly spoke that the letter came from the attorney representing this individual. Is it a fair presumption that his attorney would certainly have counseled him that a board just doesn't continue to keep rolling this application over time after time and must have given him some inkling that there is a point where they are just going to stop?

Mr. Yost answered that he felt that was very fair. I certainly would. I don't just sit as a council for your board, sometimes I represent applicants in front of other boards and I certainly would and I would be surprised he if didn't. He's a fiduciary, an agent of the client, so he'd be obligated to give his best advice as to how he should be proceeding. Reading between the lines, which I think is fair, based on what statements were made in front of us the last time they actually appeared, he seemed to understand that he had to get the application moving and Mr. Bennardo stated that my client cannot locate his tenant, we don't know where he is. We made it pretty clear that we needed hear from the tenant because they were after a design waiver if I recall for the loading dock and how can you really make a decision on whether you are going to do that unless you know what is coming in and going out, what size trucks, storage, hours, that type of thing. I think they understood that. I know that Mr. Reilly also raised some issues he wanted to hear about what they planned to do about the lighting and there was a lot of expression about property clean up and all of that. One thing that has been eluded to here which I think is also in play is the concept that maybe they are shielded from enforcement while they have an application pending. There is a provision in the land use law that provides there is a stay on proceedings. In other words, if there is a court summons issued by the Zoning Officer, an appeal for that is filed, there would be a stay under 40:55 P-75 of all enforcement in the municipal court in that proceeding until such time has the matter was heard and determined by the Zoning Board. I think the statute only operates for whatever it is that they are appealing from. It's not directly on point for what our situation is here because I think the application is an amended site plan. I don't know that they are actually appealing from anything. But I think that there were resolution compliance issues that are in play and we kind of back into the same situation if they are asking to amend the site plan, we are kind of backing into those resolution compliance issues so there may be a perception that as long as the application is pending, we really can't do anything through Code Enforcement. So that is something else the board should take into consideration that perhaps carrying it on an indefinite basis may be hampering Code Enforcement.

Committeeman Reilly added to Mr. Knowles's question, given what Mr. Yost just mentioned, the attorney should have alerted the client that you're walking a pretty thin line as you keep asking for extensions.

Mr. Knowles said he is in agreement with that and he feels from past classes taken which the speaker was Mr. Bennardo he feels that he is very well informed so I'm confident that he did do that.

Mr. Yost: I would indicate that there are two ways to handle it. If the board was inclined to dismiss it, you could dismiss it without prejudice and he can make an application to reinstate it. Or you could dismiss it with prejudice. I don't know that that is the best way to do it. He may have some explanation that the board would be satisfied with but certainly if the board was inclined not to continue this exercise, to dismiss it without prejudice and then send a letter to Mr. Bennardo that says we did this without prejudice. You have to tell us if you want to come back in and you'll have to re-notice, talk to the board secretary to see if there are any fees involved and then if anyone from the public was following it.

The Chairman entertained a motion to that effect and if it were to be approved, asked the board secretary to send a letter to that effect.

Mr. Knowles made a motion to dismiss the application without prejudice.

Before the motion goes forward Mr. Tredy verified with Mr. Yost to deny without prejudice frees up the township if they want to go back to court or whatever?

Mr. Yost answered "yes".

Mr. Tredy seconded the motion. All in favor: (aye) Knowles, Tredy, Avellino, Reilly, James, Anepete.

Mr. Avellino asked the board secretary about the carved sign on the Iszari Property that the letter from Zoning Officer refers to. Board secretary answered that it is the sign that sits on the edge of the property. It's a new sign; it's raised lettering instead of engraved.

PUBLIC COMMENT

Seeing None.

Chairman Anepete directed the meeting back to Board Comments if the board wanted a general board discussion.

Mr. Eagles wanted to point out to the board his opinion. One of my biggest concerns here is it seems that every one of the projects that comes before us or is going to be coming before us is a combination of residential and commercial and what I called mixed-use development of commercial with residential over the commercial. Again, it's my opinion, I haven't seen the demographics, but we're having a tough time getting our Shoprite done and I think we're putting too much commercial on line without enough residential behind us. I also very much question and I understand all our COAH responsibilities here, but I really have a tough time understanding how we put

commercial on Route 9 with cars going by at 50 MPH and I don't seem them slowing down. Then we (and I exaggerate) have a Chinese Restaurant with woks going and then we want someone to buy an apartment above and smell all the Chinese food. I really think that we should examine some of this stuff because my big fear is we're going to have a bunch of empty store fronts on Route 9 based on the economics. Today going forth for a number of years as I perceive it and hopefully I'm very wrong on all this. But I think going forth on some of these projects, I think we really have to start to think a little differently on how we approach all this honestly and again, it's my opinion, but I think we all know that we're in for some tough economic times based on everything that has been going on these past two weeks and I don't want to see us approve stuff on Route 9 that is going to be vacant because we have a lot of vacancies already at the Shoprite. I think as a prudent board, we ought to look at all these projects very closely and get some very supportive data on how we go forth.

Mr. Avellino said he thought the Shoprite area was 80% rented and I don't call that empty stores.

Committeeman Reilly agreed.

Mr. Eagles feels it is not 80% rented.

Committeeman Reilly said from what he was told yesterday by Deputy Mayor Kraft when we walked the property, the impression I got from him is that a substantial part of the stores are rented. From what I understand, the restaurant that is going in there extended their requirement to 7000 SF which is pretty substantial. The Dunkin Donuts of course we know about, GameStop, there is a cleaners coming in, a nail place, an Italian Pizza/Restaurant place. The impression I got from the Deputy Mayor was they were doing quite well in filling the space up. I can't specify whether it was 50, 60 or 70%, but he came away quite impressed with the progress that's going on.

Mr. Eagles said he talked to the broker and know exactly what the vacancy is over there and what they are advertising. I asked him specifically what signs, what have we pulled permits on, and we're about on the same length, but we don't have any credit tenants over there. Dunkin Donuts is the only credit tenant over there along with the Shoprite. My concern is we're going to have tenants in and out of there based on his rents.

Mr. Avellino said first of all you're not going to rent stores at \$40.00 per SF.

Mr. Eagles said they are quoting \$22.00 per SF and I doubt.....

Mr. Avellino said that is the basic price, but then you have all the extras added on to it. It's another \$39 and change.

Mr. Eagles said I don't think in our basic economic climate that this is going to last. I am very concerned about that.

Chairman Anepete commented that it's a brick wall we've run into economically and things looked a lot better when the projects were proposed. So unless we have crystal balls, we don't know where it's going to go. If it comes back, wonderful, if it doesn't then your predictions may come true.

Mr. Avellino said we've had a lot of empty stores in town for 30 years. A lot of vacant property on Route 9 for 30 years. I don't think we're going backwards. With the economy the way it is, I think we've done quite well for a small town.

Mr. Eagles agreed that we've done very well, but I think we need to build on what we have and let's build on the residential to bring the bodies to support the commercial.

Mr. Avellino said he never heard of it stated that way. I don't believe that because the next thing you know you've got schools. Then you've got the infrastructure, that's going to go up. Let's look at the whole gambit, not just bringing people into town because that scares me.

Mr. Eagles said isn't this what we designed the new town center for? We have controlled what the total residential should be in this town going forth and we're done, but the point is let's bring in the residential first to a certain point to support the commercial and let's not do the zigzag of what I call between Stafford and Lacey we look like the checkerboard out here. How come everybody else's town is together? We have to put together the commercial out here that we have and let's fill what we have and clean up what we have. Let's not produce more. That's my only point in this thing. If you watch Fox news like I do religiously now we're not going to bring in a lot of residential anyhow for a lot of years because no one is buying houses anyplace and in a place like Waretown, I don't foresee all this happening that quickly anyway. So let's not overload Route 9 with a bunch of empty stores because we've got a lot of empty stores out there already.

Mr. Tredy said what you're saying is basically contrary the way I see it to the way development takes place. This town for as long as I've lived here has always craved commercial development because commercial development doesn't put any pressure on the town. It brings people here eventually. If we had 10 restaurants in Waretown, I wouldn't complain hey we've got too many restaurants, I'd say hey that's going to bring people to town and then they are going to stop at CVS etc., and Waretown's a nice place, I'd like to buy a house down here. That is the way development has been continuous here. You say about a checkerboard pattern, that's because for 50 years people moved to Lacey because of the interchange, they moved to Barnegat because of the low prices and interchanges with the Parkway and we didn't have it. Now we have it, people are starting to come in as you can attest to with Greenbriar.

Mr. Eagles said I don't disagree with you, what I'm saying is in our present economic climate, I'm going to be very interested to see what happens and comes back with the RFP's for the town center. I analyzed the town center for some of these people – I don't know how they would make money here and I want to see who even comes back to bite.

I don't see anyone coming back to bite without a road permit in place for Volunteer Way because if you don't have the infrastructure for the whole thing, I don't know whether it's going to happen or not. And I don't know where anyone is going to get any money to build this thing right now period. To me, it's going to be very interesting to see this will be the first answer to the whole thing – if anyone even comes back at the end of the month and says “I want to do the project”.

Mr. Tredy said that's a different statement now. That's saying that they may not be able to do it.

Mr. Eagles said he's combining the whole thing together.

Committeeman Reilly said we've have three developers come to the Redevelopment Entity with combination residential and retail, two of which are rather substantial numbers of units. I don't think they would be spending that kind of money in this kind of a market to take their project at least to that point if they didn't think they could be successful once it was approved, built and be able to sell it and rent the space. I'm going to give them the benefit of knowing a little bit more than I do from that perspective. We've got now two and a third coming up and if they are willing to commit their money, then they must anticipate that they can make a profit out there.

Mr. Eagles stated that he wanted to bring up here again...

Chairman Anepete stated this discussion is getting on and on. It's very enlightening; I'm hearing philosophy of how the town should be moving forward and hearing differing opinions which is always healthy. I like to see it all, but I suggest that we take this to the Town Committee or the Redevelopment Entity who actually make these plans and considers them instead of the Planning Board who is suppose to react to what is proposed. We do have a Master Plan in place which is a total vision of how we build out and that Master Plan is encompassing all these arguments.

Chairman Anepete asked for a motion to adjourn. Mr. Tredy made a motion to adjourn. Mr. Reilly seconded the motion. All in favor: (aye).

Meeting ended at 8:26 PM.

Respectfully submitted:

Beth Laramée – Board Secretary