

TOWNSHIP OF OCEAN
PLANNING BOARD
REGULAR MEETING
August 6, 2009

Meeting began at 7:30 PM

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.

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.

ROLL CALL

| | | | |
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| Members Present: | Vince Anepete | Robert Knowles | Dennis Tredy |
| | Ralph Avellino | Richard Reilly | Craig James |
| | James Eckert | Rita Sweeney | |

Members Absent: Ron Negra, Gordon VonSchmidt, Lee Eagles

Chairman Anepete asked for a motion to take action on the minutes of the July 2, 2009 Regular Meeting. Mr. Tredy made the motion to approve the minutes. Mr. Avellino seconded the motion. All in favor: (aye) Tredy, Avellino, Eckert, Knowles, Reilly, Sweeney, Anepete.

Chairman Anepete asked for a motion to take action on the voucher list. Mr. Eckert made a motion to approve the vouchers. Mr. Reilly seconded the motion. All in favor: (aye) Eckert, Reilly, Avellino, Knowles, Sweeney, Tredy, James, Anepete.

Correspondence list was attached in the board's packet and the Chairman offered that if anyone would like to review the correspondence it is always available in the board office.

BOARD COMMENTS

Mr. Tredy asked for Chairman Anepete to explain a letter the board received from Mr. Yost regarding the Ocean Township Minor Subdivision. Chairman Anepete explained that originally there was an item on the agenda for the solar farm project which was forwarded to the Planning Board from the Redevelopment Entity. However the application needed a Certificate of Filing from the Pinelands Commission. Mr. Reilly expanded that without the Certificate of Filing from the Pinelands, it cannot move forward. We are hoping the application will move through the

approval process quickly and then be back before the Planning Board. The application is for moving the property line to clearly define the area to be developed and the preserved area will be extended.

OLD BUSINESS

Resolution 11-09-PB, Docket No. 01-09-PB, Lange Minor Subdivision, Block 99, Lot 1.01, 2 Shore Drive

Mr. Avellino made a motion to approve Resolution 11-09-PB. Mrs. Sweeney seconded the motion. All in favor: (aye) Avellino, Sweeney, Eckert, Knowles, Reilly, Tredy, Anepete.

NEW BUSINESS

DelPrete/Casey, Block 171, Lot 1, Docket No. 02-09-PB, Minor Subdivision, Sheridan Street.

Mr. Knowles stepped down as he has a conflict with this application and left the meeting.

Mr. Tom Monahan, Gillmore & Monahan approached and introduced Mr. Robert Harrington, Engineer for the project. He reviewed the application as a Minor Subdivision for two parcels of land which are on the water. They are not to be developed. Aerial photo was marked as A1 into evidence. Mr. Harrington was sworn in by Mr. Yost. Mr. Harrington's credentials were accepted by the Chairman. Mr. Harrington identified the upland area as Mr. DelPrete's house and the lot next door is still vacant. The parcel along the beach is the lot which we are looking to subdivide into two pieces. Each piece would be associated with the upland lot for the purpose of water access. Minor Subdivision plan was marked into evidence as A2. Mr. Harrington explained the Minor Subdivision map. The beach area would be non-conforming, non-buildable. It is just to give Lot 12.03 some beach access. Sheridan Street is currently a sand road. Dollmore is paved. Mr. Monahan noted the bollards on each end of Sheridan Street. They are cemented in and permanently installed. There are four on each end to prevent vehicles from entering Sheridan Street. These were put in by the township. There is bicycle and walking access only. The criterion for a buildable lot is not met. Zone is a WD Zone and requires 12,500 SF. Each of these pieces is 3000 SF for Lot 1.01 and 4700 SF for Lot 1.02. They would be substandard lots by the ordinance requirement. The applicant does not intend them as building lots. They do not stand alone. They are associated with the upland lots and the applicant would agree to the restriction that they would be not for construction. They could install a dock perhaps, but never build a house. The lot would be deeded to the upland owners with the restriction that it could not be built on. It would give the upland owner access to the water.

Mr. McVicar spoke about Sheridan Street which is 20' wide. The township has put up the bollards. Our ordinance requires there be a dedication to give a full 50' right-of-way. Mr. McVicar is requesting that the applicant go to the Township Engineer and have the Township Engineer give us a letter indicating that they would not require additional dedication. This is primarily to Sheridan Street, but also applies to the two stubs that go into the water at both

Demmy and Dollmore because they are both 40' right-of-ways. Mr. Monahan said they would agree to that. Mr. McVicar reviewed his letter of July 16th for Design Comments and all items in the letter were addressed or will be.

Mr. Tredy inquired about the bollards and that the township could take them down in the future, changing the use of the road. Mr. Monahan agreed to address the road issue with the Township Engineer and acquire the letter Mr. McVicar requested. Mr. Tredy thought the applicant might have some history on the bollards. Mr. Al DelPrete, 117 Dollmore Avenue approached and was sworn in by Mr. Yost. Mr. DelPrete thought they have been there close to a year, maybe a little more. The township put them in. Mr. DelPrete said he had no idea why they were put in and did not request the bollards be put in. He only made a request to vacate the road. Mr. Tredy asked Mr. DelPrete if in the future he had any plans of requesting the town to vacate the road once the property is subdivided. Mr. DelPrete said right now it is used as a bicycle path and pedestrian traffic and that is the way it is going to remain as far as I'm concerned. Mr. Tredy asked that considering it currently is a public right-of-way for bicycling and walking, would Mr. DelPrete object to people coming and putting chairs and sitting. Mr. DelPrete answered that he has no way of throwing people off the road, but I do have "No Trespassing" signs on the beach, that is my property.

The board had further discussion regarding the bollards and the possible removal of them. Mr. Reilly tried to recall the genesis of the bollards. He believes that back when there was a prior owner of the Galley Grill there were issues brought to the Township Committee from the residents regarding how the road was being used either by the owner or the patrons using the restaurant. There was a concern from the residents and they asked if the road could be restricted. As a result, the bollards were put in. Township Committee meetings would reflect the minutes.

Mr. John Casey approached and was sworn in by Mr. Yost. Mr. Casey confirmed what Mr. Reilly stated about the bollards. Mr. Casey feels the Township was trying to de-commercialize the street. Mr. Casey feels the bollards help protect what happens as a result of the restaurant if there were to be overflow parking. As the owner of the property, he feels the bollards should remain.

Mr. Tredy made a motion to open to the public. Mrs. Sweeney seconded the motion. All in favor: (aye).

Sandra Varga, 110 Dollmore Avenue approached and was sworn in by Mr. Yost. Ms. Varga spoke on the bollards. Ms. Varga was concerned about the fire trucks not being able to go through. Ms. Varga was told that the bollards bend, but now being told they are permanent, she has concerns with them. She doesn't feel they are necessary and would like to have them removed.

Ken Varga, 110 Dollmore Avenue approached and was sworn in by Mr. Yost. Mr. Varga spoke on Sheridan Street. Mr. Varga felt it has never been paved because that street changes constantly as the weather changes and as the normal cycle of years go by. Mr. Varga feels that the restricting of the street has (whether intentional or unintentional) restricted people from thinking they can walk there. You believe it is private property. Fires concern Mr. Varga as well. He

would like to see the bollards removed. He also doesn't feel creating any further undersized lots in town is beneficial.

Ken Varga II, 114 Dollmore Avenue approached and was sworn in by Mr. Yost. Mr. Varga had several concerns. He feels the bollards are unnecessary. It is implied as restricted property because of the bollards and the "No Trespassing" signs on the beach. It puts a wall up and shuts down the beauty and the allure of that area. If docks were ever allowed to be put on the beach lot(s), it would significantly change the landscape. He feels the subdivision is unnecessary.

Mr. Tredy made a motion to close to the public. Mrs. Sweeney seconded the motion. All in favor: (aye).

Mr. Monahan addressed the board and reminded the board that this is a Minor Subdivision. The bollards have nothing to do with this application. He feels this issue is with the town and has nothing to do with this subdivision. The applicant takes no position with whether they stay or not.

Chairman Anepete stated that the Planning Board is not considering in any way the bollards having anything to do with the application. It is something we are just trying to gather information on. The application will be evaluated completely on its own merits.

Mr. Tredy reopened to the public. Mrs. Sweeney seconded the motion. All in favor: (aye).

Mr. Varga approached and addressed the board again concerning the subdivision. He feels that there could be a possibility that the owner could go before CAFRA and get a permit to infill adjacent to it and create a conforming lot.

Mr. Monahan answered that we indicated they are non-buildable lots and will be deed restricted.

Mr. Tredy mentioned that there have been deed restrictions in the past that have been applied by this board and overturned at judicial levels.

Shawn Denning, 145 Morey Place Road approached and was sworn in by Mr. Yost. Although Mr. Denning does not live in this area, he knows the area well. In the past it was always known as an open area however now it feels blocked off. Since the bollards were installed, no one walks the road, rides their bike or walks their dogs there anymore. It's been directed that it's private property, it's perceived to be that way now. Mr. Denning does not think the subdivision is necessary. If it is granted, then he would request the bollards come down, but more so that there be an identifier as to where the roadway is.

Chairman Anepete addressed the public concerned with the bollards and suggested that they attend a Township Committee meeting and address the issues to the Town Committee and the Mayor because they have the power to have the bollards removed. That is not something within the authority of the Planning Board.

Mr. Reilly added that the Planning Board is not the forum to decide if the bollards should be removed or should stay. Mr. Reilly recalled there were a number of residents that complained about the road and the previous owner of the Galley Grill. It was felt that that the bollard solution was the easiest way to prohibit vehicles from going on that road for the safety of the residents and eliminate the abuses that were taking place. If enough residents feel there is a change there, then come to the Township Committee meeting and make their feelings known and give the Township the opportunity to reconsider that decision.

Mr. Varga II spoke again and disagreed with the misuses of the road to the point where bollards were warranted.

Mrs. Sweeney made a motion to close to the public. Mr. Tredy seconded the motion. All in favor: (aye).

Mr. Monahan explained that the lot next to Mr. DelPrete's house will be sold and built on and the new owner would then own that lot and the smaller lot on the beach if it is subdivided. The beach lots will be deeded to the property where the houses are/will be.

Discussion by the board that the subdivision doesn't combine the square footage of the lots. By subdividing an already small, non-conforming lot, it would be made smaller and the only advantage would be monetary. Mr. Monahan added that the trade off would be that it would be deed restricted and a house would never be built on those pieces of land.

Mr. Avellino had reservations based upon past experiences of the board with deed restrictions. Mr. Yost explained that the past case had other facts involved with other contracts. Mr. Yost said he doesn't feel that the board can take the experience we had in that particular case and say that deed restrictions do not have meaning. There was other litigation involved in that past case. Mr. Monahan's client is offering a deed restriction which Mr. Yost felt would be enforceable if the rationale for giving it was a good reason. Mr. Yost felt comfortable with this deed restriction.

Chairman Anepete directed the board to and read a portion of Item E, #7 on Mr. McVicar's letter regarding undo hardship. Chairman Anepete does not see any hardship and the applicant has not made a hardship case that the Planning Board could resolve for them. This piece of land can be utilized by the applicant and if they sell the other lot they can give access to their neighbor to use the waterfront piece of beach. Mr. Tredy added that the Mr. Monahan testified that they have no intention of building anything on the property so there is no hardship. Subdividing an undersized lot into two undersized lots flies in the face of zoning. Chairman Anepete asked for any other board comments.

Chairman Anepete was asked if he would allow Mr. Casey to speak again. Chairman Anepete allowed.

Mr. Casey approached and spoke again. He gave history of the property. Mr. DelPrete lives on the one lot and plans to stay there and Mr. Casey and Mr. DelPrete are going to develop the other lot. Subdividing the lots makes the lot to be built on much more saleable. It has been for sale for

quite a while and they have a person, who wants to build a house there, but they don't want to share the beach, they want to own part of the beach. Mr. Casey reiterated that the bollards have nothing to do with them and feels that nothing is going to change; they only want to put a line in the sand. Mr. Casey feels it's a simple matter.

Chairman Anepete stated that we are open to the public again.

Mr. Varga approached and spoke again asking if there was knowledge of riparian rights and how far they extend into the water. 100' feet was stated although not shown on the map. Bulkhead issues were discussed as to whether or not a bulkhead could ever be put in.

A motion to close to the public was made by Mr. Tredy and seconded by Mrs. Sweeney. All in favor: (aye).

The Board talked about the application further that there does not appear to be any hardship except monetary. Mr. Tredy stated he did not think monetary hardship comes into play when dealing with land use.

Mr. Tredy made a motion to deny the application. Mrs. Sweeney seconded the motion. All in favor of a denial: (aye) Tredy, Sweeney, Avellino, Eckert, Anepete. Votes against the motion: Reilly, James.

Mr. Tredy recommended that a letter be written to the Township Committee indicating the complaints that were raised regarding the bollards at the meeting. Mr. McVicar added that he felt a letter would be warranted and perhaps that the Committee revisit this decision. Mr. Yost added that an inquiry could be made by the committee and perhaps have the residents weigh in on it.

Mr. Tredy made this recommendation into a motion. Mrs. Sweeney seconded the motion. Mr. McVicar added that the "No Trespassing" signs make it appear that there is not access which is why I wanted a sign that said there is access on the street. The bollards have the effect of taking and they took the street away by placing the bollards. Mr. Reilly suggested that if they feel very strongly about the bollards, they should come to the Township meeting and have residents come and express their pleasure or displeasure.

A vote on the motion was made. All in favor: (ayes) Tredy, Sweeney, Avellino, Eckert, James, Anepete. Abstain: Reilly.

Chairman Anepete asked the secretary to draft a letter for his review.

A motion was made by Mr. Avellino to open to the public. Mr. Tredy seconded the motion: All in favor: (aye).

PUBLIC COMMENT OPEN

Seeing None.

A motion was made by Mr. Reilly to close to the public. Seconded by Mr. Avellino. All in favor: (aye).

PUBLIC COMMENT CLOSED

A motion to adjourn was made by Mrs. Sweeney and seconded by Mr. Avellino.

Meeting ended at 8:44 PM.

Respectfully submitted,

Beth O'Connor
Secretary