

TOWNSHIP OF OCEAN
PLANNING BOARD
REGULAR MEETING
August 5, 2010

Meeting began at 7:30 PM

The meeting of the Township of Ocean's Planning Board was held on the above date and time. The meeting was called 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 Press of Atlantic City and the Asbury Park Press. Notice was posted on the bulletin board in the Administration Building.

ROLL CALL

Members Present: Anepete, Avellino, Eckert, Lachawiec, Sneddon (late 7:40), Sweeney, Tredy, Bynoe, James

Members Absent: Knowles, VonSchmidt

Professionals Present: Steve Yost, Attorney and Wayne McVicar, Engineer

Chairman Anepete asked for a motion to take action on the minutes of the Regular Meeting of July 1, 2010. Mr. Tredy made the motion to approve the minutes. Mrs. Sweeney seconded the motion. All in favor: (aye) Tredy, Sweeney, Avellino, Lachawiec, Bynoe, James, Anepete.

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

Correspondence is available in the board office for anyone wishing to view.

BOARD COMMENTS

Topics from the Professionals. Mr. McVicar spoke about outside agency approvals and an approval that is never seen on the Engineering review letter which is a COF (Certificate of Filing). This COF comes from the Pinelands Commission. Any project located within the Pinelands, cannot be reviewed before the Pinelands issues a COF.

Mr. Yost provided handouts and reviewed in detail the purpose of the MLUL through the handouts.

Sign Ordinance Sub-Committee Discussion. Mr. Avellino spoke regarding the report provided to all members from the sign ordinance sub-committee. Mr. Avellino reviewed the changes the sub-committee is suggesting. Chairman Anepete had several suggestions that will be added to the report

before the final is sent on to the Township Committee. Mayor Lachawiec brought up the fact that POW or Armed Services flags should be exempt from any sign ordinance. There was a brief discussion regarding balloons on signs (possibly check into biodegradable balloons). Mr. Avellino also updated the board regarding state signs on Route 9. State signs cannot be put up on Route 9 unless a particular business is located on a cross street of Route 9. Chairman Anepete reiterated that the sign ordinance should be more business friendly which is why this review is currently taking place. Mr. Sneddon made a motion to forward the adjusted report to the Township Committee. Ms. Sweeney seconded the motion. All in favor: (aye) Sneddon, Sweeney, Avellino, Eckert, Lachawiec, Bynoe, James, Anepete. Abstain: Tredy. Chairman Anepete thanked the sub-committee again for all their hard work and time.

OLD BUSINESS

Draft Fertilizer Ordinance. A motion was made to table this discussion until the September meeting by Mrs. Sweeney, seconded by Mr. Avellino. All in favor: (aye) Sweeney, Avellino, Eckert, Lachawiec, Sneddon, Tredy, James, Anepete. Abstain: Bynoe.

NEW BUSINESS

Green Minor Subdivision. Block 186, Lot 5, 85 Illinois Avenue, Docket No. 05-10-PB.

Mr. Bennardo, Attorney for the applicant approached and spoke. Mr. Bennardo called Jason Marciano, Engineer as a witness. Mr. Marciano was sworn in by Mr. Yost. Mr. Marciano gave his credentials which were accepted by the Chairman.

The 200' neighborhood map was marked A-1 into evidence. Mr. Marciano gave brief detailed testimony of the neighborhood map. This area of town was created by subdivision in 1921, called map of Bay Haven recorded in 1921.

A-2, Neighborhood Photos, was marked into evidence. Mr. Marciano went through the small booklet of 16 pages, each page showing 2 photographs. Photographs are of the homes within the 200' list, depicting how the neighborhood looks today.

The applicant intends to build a single family residence on the subdivided lot. The architectural rendering was admitted into evidence and marked as A-3. The rendering shows front and side views and a proposed floor plan. Second floor would currently be only attic space. The size home is consistent with other homes in the area. The square footage of the home is approximately 1,000 SF which does not include the 2nd floor.

A-4 is the Lot Size Map admitted into evidence. Mr. Marciano described the zoning in the neighborhood. The property is within the R1-A Zone. Applicants request to subdivide would create two lots both to be 60 x 80. Mr. Marciano explained that 54% of the surrounding neighborhood has lots that are 60' in width. Also, 79.3% of the surrounding neighborhood has lots that are 80' in depth. None of these lots have the 12,500 S.F. that is required. There are 7 lots that do meet the 12,500 S.F. zone requirements. Mr. McVicar inquired about lots that were not colored on the map. Mr. Marciano explained that they were lots that did not meet the 60 width, 80 depth, or 12,500 SF analyses he was looking at. Mr. Tredy added that in terms of square footage those lots without color are larger then those proposed in this application. The lots that have identical depth, width and area are 41%. 41% represents lots outside of the 500' radius shown but within the R1-A zone.

Subdivision Map was marked as A-5 into evidence. Mr. Marciano described the existing structure and what the applicant is proposing to do and the variances that would be needed. The existing dwelling is skewed 4.7 feet off the easterly property line which would require a variance. A concrete patio extends to the edge of the property line which would require a variance. The driveway that hugs the property line – 2/10's of a foot from the right property line which would require a variance. These three are existing conditions. Shed will be moved to the back left corner which would be a conforming as an accessory structure. The side setback to the right would be shy of 13' between structures, closer than the side setback would allow. There is 26' to the west between structures. The new house proposed would maintain the 10' set-back as required which would put the new house at 17' between those structures. Mr. Marciano testified that it is beneficial to subdivide and create a rear yard setback for both lots which would create a 20' setback on both lots creating a 40' open space corridor. Other lots in this area that are street to street lots are utilizing the rear lots for larger structures. The house the applicant is proposing to build would meet with all the setback requirements and Mr. Marciano felt it would not prevent neighbors from utilizing their properties as they are now. Mr. Marciano spoke about the medium and high density descriptions in the ordinance that describes the R1-A Zone. Chairman Anepete asked Mr. Marciano to clarify his definition of the difference between medium and high density. High density Mr. Marciano clarified he felt is something under 5,000 SF, medium would be 10,000 – 20,000 SF, quarter to half acre lots. Low would be over 2 acre requirements. Mr. Bennardo asked Mr. Marciano his opinion as to whether or not the granting of this subdivision would lead to having a plethora of other similar applications. Mr. Marciano said the lots in this area have medium to large detached garages or pools and for them to want to develop they would have to lose something. Others may have a similar lot, but they have more improvement of the lot. The right-of-way widths for both streets were resolved by way of approaching the Township Engineer. The Township Engineer's letter felt they did not see a need to widen the road.

Mr. McVicar stated that looking at the block that this application is in the center of, to the east there are 3 lots that are the same size as the existing lot. To the west there are two smaller lots and two larger full size lots. Looking at that immediate area, Mr. McVicar asked Mr. Marciano if the existing lot conforms to the immediate neighborhood. Mr. Marciano answered yes in equal size and shape of the property. Mr. McVicar added that the houses which have accessory structures could take down the structures and make the same type of application. Mr. Marciano feels the smaller lots have a population that fit that need for downsizing or starting out in a small home.

The application has received County Planning Board approval.

Mr. Marciano was asked about utilities extending upstairs into the attic section of the proposed house. Mr. Marciano answered that there is an 8' head room in the center of the structure but he feels that if someone wanted there is ample square footage for someone want to make a half bath and two bedrooms. There is potential for expansion. There is a staircase from the living room to the second floor; however there is no exterior staircase.

Mr. McVicar spoke that the existing property has several existing variance conditions. Mr. McVicar asked if the owner has given any thought to removing the existing structure and creating home two homes similar and eliminating several variances. Mr. Bennardo did not feel the Greens had considered this as an option.

Mr. Bennardo introduced Mrs. Lorraine Green, applicant. Mr. Yost swore in Mrs. Green. The house was purchased in 2008. No additions or changes have been made to the footprint of the home. Mrs. Green testified that she originally had a family member that they were going to build the house for, but

she is unsure if that is going to happen now. Mrs. Green also stated that it may be possible that they would finish off the second story of the proposed house. It is feasible to put a bedroom or two upstairs. The home would be sold if their family member does not move in, not rented. The home on Illinois Avenue has a tenant renting it. Mrs. Green has not given any thought to tearing down the existing home as Mr. McVicar asked prior.

Mr. Avellino made a motion to open to the public. Mr. James seconded the motion. All in favor: (aye) Avellino, James, Eckert, Lachawiec, Sneddon, Sweeney, Tredy, Bynoe, Anepete.

PUBLIC COMMENT OPEN

Mr. Kris Pistone, 84 Adriatic, approached and was sworn in by Mr. Yost. Mr. Pistone spoke against the subdivision. Mr. Pistone has had flooding issues in the past and feels if a house is built the flooding will be detrimental. He also is concerned that the other street to street lots will also come for subdivisions if this one is passed and the streets are too small as it is with parking being difficult. Mr. Pistone has stated that there is only one drain at the opposite end of the Adriatic and it cannot handle the water.

After brief discussion by Mr. Pistone, Mr. Yost and Mr. Bennardo, a motion was made to close public comment by Mr. Tredy. The motion was seconded by Mrs. Sweeney. All in favor: (aye) Tredy, Sweeney, Avellino, Eckert, Lachawiec, Sneddon, Bynoe, James, Anepete.

PUBLIC COMMENT CLOSED

Mr. Tredy spoke about the application. He would like to know the percentages of how many would be larger than the 60x80 lots at the 200' mark. Mr. Tredy didn't feel that all the information was brought forward in testimony. Mr. Tredy also spoke that there were nothing brought up in testimony about a hardship as far as why the subdivision should be created. Mr. Bennardo answered that based on a an analysis of a C1 Hardship Variance, the lot itself has exceptional narrowness, topography, the availability of land to add to, to which there is none; From a C1 analysis it is only 60' and can't be widened and the fact that it is so deep at 160 which is an odd situation and that invites the subdivision. Mr. Tredy spoke that it is only odd if there are no other lots that are the same size. In the 200' area, there are a lot of lots that are similar. Mr. Bennardo doesn't feel the 200' list makes the neighborhood which is why the analysis was done on the entire zone. Mr. Bennardo went into further detail describing other homes in the area that are making use of their entire property. The Green's rear yard is essentially a vacant, usable lot. So to make efficient use of the land which is one of the goals of planning and zoning, that area invites the construction of another house that will service the residents of Waretown.

Mr. Avellino added that the applicant would be taking an already undersized lot and making two even more undersized lots.

Mr. Bennardo stated they are not stating a C1 Hardship Variance. A C2 is not a Hardship. There are benefits to subdividing the property.

Mr. Tredy spoke that if this was an isolated undersized lot, he could understand what Mr. Bennardo was speaking about, but the fact that the applicant would be creating the lot it doesn't go along with the idea of what the township created many years ago in zoning. In trying to calculate the final build out

of the township, and in order to do so, some zones were created, such as this one for a particular reason.

Chairman Anepete asked for a polling of the board. Mayor Lachawiec feels the subdivision would be an improvement to the neighborhood and that he knew of the family. Chairman Anepete asked Mayor Lachawiec if he knew the applicant's personally and asked him if he should possibly recues himself. Mayor Lachawiec stated for the record that he does not know the Green's personally, he is aware of the neighborhood as he lives in that neighborhood and knows of them. Mr. Yost added if he is a personal friend, he should recues himself but if he is acquainted with the Green's, it's a small town, then as long as he is comfortable with sitting on the application that it would be acceptable. Mayor Lachawiec said he is only acquainted with the applicants. Mr. James feels at this time he is against the application. Mrs. Sweeney felt it was a very good presentation but has concerns that it is one of 7 properties in the immediate area that could also subdivide if this one is allowed. Chairman Anepete feels to go against the zoning by creating smaller lots is a dilemma. Chairman Anepete also commented that it's a nice building and taxable structure for the township. Mr. Avellino feels subdividing an undersized lot into two undersized lots is his dilemma. Mr. Tredy doesn't feel he has enough information to vote on this application. He would like to have answers regarding percentages and facts he asked about prior in the meeting. At this point he doesn't see a substantial reason to change the zoning decisions made previously. Mr. Eckert would be in favor of it at this time. He feels the house would be an addition to the neighborhood however is not convinced because of creating smaller lots with the subdivision. Mr. Bynoe feels the house they are proposing would be good for the neighborhood and if the drainage concerns are adequately addressed, he would be in favor of the application. Mr. Sneddon is familiar with the neighborhood and the flooding issues. He feels if there were not a flooding issue he would be in favor of it, however he feels building on this lot will add to this flooding and he cannot support it.

Chairman Anepete asked the applicant if they would consider coming back before the board with the information that Mr. Tredy asked for. Chairman Anepete doesn't feel he has enough information to make a decision at this point. Mr. Bennardo agreed. Mr. Tredy asked Mr. Bennardo to also check into the subdivision of these lots. Mr. Bennardo checked previously but there was no record of this at the township.

Mr. Yost asked Mr. Bennardo if the applicant would be willing to waive any time restrictions. Mr. Bennardo answered "yes".

A motion to carry the application was made by Mr. Eckert, seconded by Mr. Bynoe. All in favor: (aye) Eckert, Bynoe, Avellino, Lachawiec, Sneddon, Tredy, James, Anepete.

The board took a break at 9:45 P.M. Mr. James left the meeting.

The board resumed at 9:55 P.M.

The secretary read Resolution 17-10 to move into Closed Session. A motion was made by Mr. Avellino, seconded by Mrs. Sweeney to move into Closed Session. All in favor: (aye). The board then moved into Closed Session at 9:56 P.M.

The board returned into Open Session at 10:47 P.M. A motion to adjourn was made by Mr. Avellino, seconded by Mayor Lachawiec. All in favor: (aye).

Meeting was adjourned at 10:48 P.M.

Respectfully submitted,

Beth O'Connor
Secretary