

**ZBA Meeting 6-16-2011**

**TOWNSHIP OF OCEAN  
Zoning Board of Adjustment  
Regular Meeting  
June 16, 2011**

**7:00 P.M.**

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

The regular meeting of the Zoning Board of Adjustment was held on the above date and time; Chairman John Petrosilli called the meeting to order.

**ROLL CALL**

Members Present	Ronald Bruno	Stanley Bystrek	Edward Covitz
	Anthony DeAlmeida	Robert Lange	Raymond Roskowski
	Stan Anderson	John Petrosilli	

Absent: Aaron Shapiro

**Pledge of Allegiance**

Chair asked if everyone read the minutes. Chair stated that on page four it states that Mr. Rosica came forward and it should have been Mr. Hyer.

Edward Covitz made a motion to approve the minutes with the change, Bob Lange seconded it. Roll Call (Ayes) Covitz, Lange, Bruno, Bystrek, DeAlmeida, Roskowski, Petrosilli

Chair asked for a motion to approve the bills.

Tony DeAlmeida made a motion to approve the bills and Ed Covitz seconded it. Roll Call (Ayes) DeAlmeida, Covitz, Bruno, Bystrek, Lange, Roskowski, Petrosilli

Chair stated that there was one piece of correspondence

**BOARD COMMENTS**

Chair asked if everyone had gotten their new picture id. The members all answered yes.

**OLD BUSINESS**

None

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### NEW BUSINESS

Docket No. 08-11-BA  
Larry Rosica  
Block 96, Lot 43  
17 Nautilus Road  
Lot Width and Lot Coverage

Chair asked the board members to write down their questions for a later time so that they can hear the case first and then address their questions.

Chair asked Mr. Santos if he wanted to cross-examine during their presentation or after they presented. Mr. Hyer stated he would prefer after and it was agreed upon.

Mr. Hyer stated that he represents Mr. Rosica and Mr. Hyer asked to bring his engineer to the stand first. Attorney Rumpf swore Mr. Harrington from East Coast Engineering in.

Mr. Harrington stated his qualifications and the board accepted them.

Under Mr. Hyer's questioning Mr. Harrington stated that this vacant lot is in the new section of Holiday Beach lagoon section R1A zone. The requirements of the R1A zone are 12,500 feet 20-foot rear, 10-foot side and 25-foot front. Lot coverage is 30 % and 50% impervious coverage. Our application tonight is asking for a variance for width and lot size. There is a dock on the land ward side and a lower dock on the waterside, which there were, permits from DEP. The footprint for the house is 1,500 feet. They meet all of the setback requirements of front, rear and sides. Lot coverage is 30 % and they are proposing 30.008% .

Mr. McVicar stated that he mentioned that if they reduce the bump out by ½ inch they would be at 30%. Mr. Harrington agreed to make a reduction to meet the 30%

Mr. Harrington stated that the impervious coverage is 50% and they are at 41%. The height requirement max is 35 feet and they are proposing 34.83.

The property is in a flood zone at elevation 6 the existing property is elevation 3. So the house would have to be 4 feet above the existing ground.

Mr. Harrington verified the house plans presented and explained them. The 7 pages of plans were marked as Exhibit A-1 and dated. The neighborhood and lot sizes were described. Out of all of the 84 lots in the neighborhood only 5 lots conform to the lot

requirements. There are 28 lots that have homes that are not ranch style. There are 12 that are stilted on piling or on a garage at the lower level. It is typical to use the lower level as storage or garage. Within the 200 feet there are no lots that conform to the 12,500 area square feet. There are 18 lots that are 50 foot wide and 5 lots that are larger than 50 foot wide. There was a subdivision of a 100-foot wide lot, which made 2 lots that are 50 foot wide and about 150 feet deep. The Planning Board's resolution only stated that the houses to be built on those lots are to meet the requirements of the R1A zone.

Mr. Harrington stated that there are two additional lots that front Lighthouse Drive that may be within the 200 radius by about a foot so they were included in the notification.

Mr. Hyer showed Mr. Harrington a multi page exhibit, which is marked as Exhibit A-2, which is a booklet of photos of the neighborhood, which are all in the R1A zone, and all are Holiday Beach Lagoon Houses. Mr. Harrington stated that yes they are and he described them to the board and stated that the photos were taken in February and May. Mr. Harrington described the area houses and explained what the photos depicted. Exhibit A-3 was presented which is the portion of tax map, which identifies the block, lot, address as well as the owner's names. It was stated that Mr. Harrington said that public water and sewer service all of these houses and that there are no environmental issues as to having houses on these properties.

The house to the left is approximately 16 feet from the applicant's property line. The side setback of the house on the left is 4.8 feet. The required set back is 10 feet.

The applicant's house would provide adequate light and air to the neighbors.

Mr. Harrington stated that most of the newer structures are multi level construction. He felt that the house that is being proposed would be similar to others in the neighborhood.

Mr. Harrington described how the drainage of the lot would be directed. It would not impact the neighbor on the left side and he would follow the existing grade. Environmentally there is no reason that he is aware of that the house could not be built. There is no vacant land for the applicant to purchase to increase the size of this lot.

Chairman Petrosilli asked the board if they had any questions for Mr. Harrington. Chair asked how many houses on Nautilus were at 35 feet. Mr. Harrington said he did not measure but there are several that look to be 35 feet. Chair said that the proposal seems to be 3 stories. It was explained by Mr. Harrington that one is for garage and storage. Chair asked about the direction of the drainage from the downspouts. Mr. Harrington said that the rear would go towards the lagoon the front would go towards the front yard.

Mr. Harrington stated that property proposes a driveway so that two cars would park in the driveway and the footprint of the house would allow for other parking so there wouldn't be on street parking.

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Mr. McVicar said that most of his items were addressed. There was some correspondence from neighbors that asked if they would be interested in purchasing any of the property. A-4 letter to Mr. James & Katherine Trainor and A-5 letter to Adam DiBella.

Mr. McVicar asked what Mr. Harrington felt was positive and he stated that the positive criteria is that it is new construction and would be aesthetically pleasing, no off street parking, with the garage and storage area no need for shed.

Mr. Harrington said that he sees no negative criteria.

Chair asked about on page number 2 accessory structure, Mr. Hyer said that the owner is here and stated that the Tiki bar would go.

Robert Lange asked when the zoning was changed to make this lot non-conforming.

James Trainor stated that he had a copy and upon instruction from the board's attorney he handed it to the board's engineer. Mr. McVicar said he was handed a copy of the old schedule "B" dated November 1994, which R1A zone was minimum lot size 8,000 square feet 80 foot width. Also the revised Schedule "B" dated September 2005 and that indicates minimum lot size is 12, 500 feet with 80-foot width.

The document was marked as Exhibit O-1 dated with today's date.

Mr. Santos came forward and stated that he represents Mr. DiBella. He came forward to cross-examine Mr. Harrington.

Mr. Santos stated that if he recalled the architectural plans submitted called for a minimum of 3 foot grading, he asked Mr. Harrington if that was correct.

Mr. Harrington said yes.

Mr. Santos stated that the height line would be measured from the finished grade isn't that correct.

Mr. Harrington said yes

Mr. Santos stated then in essence the house would be 38 feet above grade level.

Mr. Harrington said no it would be 34.8, which includes the 3-foot grade already.

Mr. Santos asked how many bedrooms do the plans call for.

Mr. Harrington said that there are five bedrooms.

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Mr. Santos said that he believed that there are two parking places with additional in the garage. Is that correct?

Mr. Santos asked . What would be the total amount of spaces?

Mr. Harrington said at least three.

Mr. Santos asked about the soil and to whether the soil would be able to support the structure.

Mr. Harrington said he would guess it could. He said that it is designed to be structurally sound.

Mr. Santos stated that Mr. Harrington included Beacon Drive as lumped into the neighborhood, is that correct?

Mr. Harrington said yes it is.

Mr. Santos asked if Beacon Drive is developed with homes on both sides?

Mr. Harrington said no, homes are on the south side, which is the lagoon side and across the street is natural area.

Mr. Santos said that Nautilus has development on both sides, is that correct?

Mr. Harrington said yes it is.

Mr. Santos - in fact with the exception of a few vacant lots it is for the most part fully developed?

Mr. Harrington said yes, there are about four lots along Nautilus that are still vacant.

Mr. Santos, in response to questions about drainage you said that provided for a retention wall on the eastern portion of the property, is that correct.

Mr. Harrington said yes a retaining wall.

Mr. Santos, how would you propose to direct drainage that seeps towards the retaining wall.

Mr. Harrington said it wouldn't flow towards the retaining wall, the retaining wall would be installed to raise the grade at the center of the lot so that runoff water would flow

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northerly towards the lagoon and southerly towards the street and not easterly towards Mr. Trainor's house.

Mr. Santos asked what your response was to the drainage on the westerly side.

Mr. Harrington stated that the existing grade has a little more slope in the south direction so a retaining wall is not necessary.

Mr. Santos said that Mr. Harrington mentioned that there were several lots that had some newer construction on them is that correct?

Mr. Harrington said yes

Mr. Santos asked if he knew if any of the newer homes were built on vacant lots.

Mr. Harrington said that he did not know.

Mr. Santos asked what the zoning requirement is for the R1A zone.

Mr. Harrington said that it is minimum lot size is 12, 500 square feet.

Mr. Santos said the width of this lot is? And the size of the lot is?

Mr. Harrington said the width is 50 feet and the size of the lot is 5000 square feet.

Mr. Santos said that the architectural plans before the board make use of 100% of the zoning allowances.

Mr. Harrington said no he would not say that. We are at 100% of the lot coverage but we have not gone over the setbacks. I wouldn't characterize it in percentages.

Mr. Santos asked how many three-story dwellings are on Nautilus.

Mr. Harrington said he didn't believe that there are any in the same category on the lagoon side of Nautilus.

Mr. Santos said could we say that all of the homes on the lagoon side of Nautilus are between one and one half stories.

Mr. Harrington said there are no homes that are three levels between their house and the bay.

Mr. Santos asked what the style of homes on the lagoon side of Nautilus.

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Mr. Harrington said that it is mixed. There are multi story structures as well as capes and ranches. There are more one-story homes than two story homes. However, new construction is multi story.

Mr. Santos asked how the property is being used at this time.

Mr. Harrington, said that there is a bulkhead and electric and a boat is kept there.

Mr. Santos asked if the current purchaser is using the lot. Mr. Harrington said yes he thought he was.

Mr. Santos asked if he was giving the owner any compensation for that and Mr. Harrington said he did not know.

Mr. Santos asked if there was any reason why a dwelling could be built on this property without a third level.

Mr. Harrington said no there was no reason.

Mr. Santos asked if Mr. Harrington was a Professional Planner, had any formal training in municipal land use law or land use techniques.

Mr. Harrington said no he was not a Planner and had no formal training in land and use law. He based his opinion on his years of experience.

Mr. Santos is it your opinion that there is no impact on light, air or open space.

Mr. Harrington said that is correct. Mr. Santos asked what his basis is. Mr. Harrington said his experience of over twenty years in preparing these plans.

Mr. Santos asked if he had done any measurements or done any investigation as to shadows or what impact this dwelling would have on the butting property owners to the east and west.

Mr. Harrington said no.

Mr. Santos asked if it was fair to say that a 34.8 house would at least have some impact on light for both sides of the property given the east west direction of the sun.

Mr. Harrington said "I just said I didn't investigate that so I don't know"

Mr. Santos said that you had no problem with writing your opinion that it had no problem.

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Mr. Harrington said it meets the requirements, the setback requirements, and there is adequate space between our building and the property line as well as our building and the other structures.

Mr. Santos said with the setbacks proposed you do comply with zoning and for the Trainor property I believe you said it is a 4.8 setback, is that correct?

Mr. Harrington yes

Mr. Santos said so on that side the distance between the two dwellings would be approximately 4.8 feet ?

Mr. Harrington said no it would be 11 feet.

Mr. Santos said he stands corrected.

Mr. Santos said on the other side it would be approximately 26 feet?

Mr. Harrington said yes to the bump out.

Mr. Santos asked what is the length of this structure.

Mr. Harrington said what is showing on the plans is 43.8 feet.

Mr. Santos asked and how wide is it.

Mr. Harrington said it is 28 x 50 with deck

Mr. Santos asked if Mr. Harrington did any parking studies to determine if there is any parking congestion on Nautilus?

Mr. Harrington said he didn't, he said that we devised the required off street requirements. So we would not have an impact .

Mr. Santos, asked if this is going to be used as a year round residence.

Mr. Harrington said he did not know.

Mr. Santos asked if the applicant resides in Waretown

Mr. Harrington said he didn't believe so.

Mr. Santos said with a five-bedroom house if there are five adults there with five different cars would they all be able to fit the lot.

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Mr. Harrington said that one could be in the garage and four could fit on the property.

Mr. Santos said that according to his discussion with the engineer they are going to reduce some of the square footage of the house is that correct?

Mr. Harrington reiterated that the only variances that they are seeking are for lot area and lot width.

Mr. Santos said that he was finished with Mr. Harrington

Chairman called a five-minute recess.

Chairman Petrosilli reminded both sides that there is an 11:00 deadline.

OPEN TO THE PUBLIC for any questions to Mr. Harrington.

Mr. Jim Trainor Lot 42, Block 96 said he had one. He said that Mr. Harrington said that the house going up across the lagoon needed a variance. Mr. Trainor said that it did not. It was a tear down he did not need a variance and he did not get one.

Evo Kurt, 10 Nautilus Road, questioned Mr. Harrington regarding multi story homes and the pictures provided.

Adam Dibella Jr. questioned with respect to the property that is on the east would you be able to right now say there is no impediment with respect to the sun. He asked what time the sun would come in to his father's windows.

Mr. Harrington said he would have no idea.

Chairman closed Public Session

Mr. Hyer's called Mr. Rosica to the stand. Attorney Rumpf swore him in. Mr. Rosica said he is an avid fisherman and would like to move here as soon as I can.

He saw the property advertised for sale and he called Mr. Cusick and purchased it.

Mr. Rosica stated that he was told of the requirements and he decided to build within the setbacks so that he could build this house.

Mr. Rosica said it is approximately 2500 square feet living space. He designed so that the bottom would be open to please the neighbors.

If the board grants this application do you understand that you would have to build within the current R1A requirements.

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Mr. Rosica said that he would and he would take the Tiki Bar down.

Mr. Rosica said he has been coming down for thirty years and he feels that his house would be compatible with the neighborhood.

Chairman asked if the board had any questions.

Chairman asked about the square footage of the house and if he had downsized.

Mr. Rosica stated that the footprint is 1500 square foot with 2500 square feet of living space. He said that the house across the lagoon is almost a mirror image.

Chairman said his concern was this side of the lagoon

Mr. Santos asked if his contract could be cancelled if his variance did not get approved.  
Mr. Rosica said yes

Mr. Santos asked questions of his personal information as to his employment, boats that he has, how he met Mr. Cusick.

Mr. Santos asked if the 2500 square feet included the garage and storage space.

Mr. Rosica did not know he said it would be on the plan.

Mr. Santos asked if Mr. Harrington could answer this question. Answers are 779 square feet for garage and storage that is in addition to the living space.

Mr. Rosica said he and his wife would be the occupants of this house.

Mr. Santos questioned Mr. Rosica as to what he was aware of pertaining to his neighbors, views, windows etc.

Jim Trainor asked why he didn't buy the lot across from his lot. Mr. Trainor said are you aware that you had your SUV and five pick up trucks on your property on the 22<sup>nd</sup> of last month? Chairman Petrosilli said this wasn't relevant and Mr. Trainor said it seemed to be problem and he wanted to know if Mr. Rosica was aware. Mr. Rosica said he didn't recall.

Chairman asked Mr. Rosica is he was the general contractor on this job and he said yes he hoped to be if he got an approval for this.

Robert Lange said that he had been here forty years and all of these home used to be small vacation homes. What he has seen is a lot of these people used to come down on vacation and what they are doing now is they are retiring and they are upgrading and the

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land's taxes are high and they want to build their dream. This is what is happening on the water in fact all of New Jersey on the water.

Tony DeAlmeida stated that if you stay 10 feet off of the property line it makes no difference with the shadowing.

Mr. Beneciale, 3 Nautilus Road was sworn in and he stated that he was in favor of Mr. Rosica's proposed project.

Mr. Santos objects

Mr. Beneciale said he is in favor because it is progress and will add to the property value of other homes in the neighborhood.

Mr. Santos questioned Mr. Beneciale as to his house location.

Mr. Santos asked if Mr. Beneciale would admit that the majority of the houses are on the lagoon side of the lots are generally smaller in character.

Mr. Beneciale stated "but that is going to change, things are different now".

OPEN TO PUBLIC

Seeing none

CLOSED TO PUBLIC

Chairman asked if anyone on the Board had any questions.

Mr. Santos cross-examined Mr. Adam DiBella, 15 Nautilus Road, .who has been at that address since 1954. They presented Exhibit 0-2 through Exhibit 0-20. DiBella explained what the pictures were. Exhibit 0-21 is three pictures of inside the bedrooms two were from inside up against the glass and three from outside with him up against the house in the same location. He also presented Exhibits 0-22 through 0-26. He explained how the neighborhood was developed because his house was the first one there.

He spoke to the general height and structure of the homes in the neighborhood.

Chairman asked if Mr. Hyer said had any questions, if anyone in the audience did.

Bob Cusick came forward. He is the caretaker of his parent's home at 22 Beacon. He said that he sees plywood on Mr. DiBella house he has plywood on the windows.

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Bob Lange asked if he thought it would have been fair if the other people in the township didn't want him to build the house. Mr. DiBella said he didn't understand.

Tony DeAlmeida asked if they built a two-story house wouldn't that block the light also. And what about the big maple tree? Mr. DiBella said he supposed it would.

OPEN TO PUBLIC

Mr. Trainor said that he thinks Mr. Rosica is a nice guy. But he stated that when he goes out fishing at 4:00 in the morning and trucks pulling on the property he keeps waking us up. He said that he has pictures of all of the trucks on the property and there is going to be a parking problem. Exhibit Trainor – 1 thru 3. dated May 22<sup>nd</sup> showing 5 SUV's by Mr. Trainor.

Mr. Ed Suschke has lived here for 10 years he would like to address Mr. Trainor's issues. I had Mr. Rosica keep his boat at my house for three years, you can't find a more considerate person, he was quiet, and never woke us up at 4:00 even though he went out fishing all of the time . People should look at their own properties, we have people with real eyesore properties. Building a new home is an improvement for the neighborhood.

Bob Cusick caretaker of two houses, he is in favor of this application.

Dory Labor, 7 Nautilus Road I have been here since 1957 just because she can't afford a big house doesn't mean she doesn't have a nice home.

Evo Curdy he is not against progress but to see a big structure in between all of the other ones is not nice.

Mr. Hyer made his closing statement, Waretown has a master plan, and ordinances and the property owners didn't do that. Each zone has its own requirements and the purpose of zoning is to be fair to everyone. Mr. Hyer explained what the rights of everyone are.

Mr. Santos made his closing statement, the zoning was upgraded to 12, 500 lot minimum. This is to help prevent overbuilding. He stated that the board should protect the residents of this neighborhood. Denial of this application does not mean he can't build something else.

Mr. Roskowski asked what size house could be built on that property? The answer was nothing.

Chairman Petrosilli made the comment regarding looking at both sides of the application.

Motion was made by Tony DeAlmeida to approve the application, Ron Bruno seconded it.

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Attorney Rumpf said that now that you have a motion and second he would like to ask the board why they believe that the application should be approved.

Tony DeAlmeida stated that the board has always seemed to approve the undersized lots, they are not asking for any other variances other than the lot and that is his reasoning.

Ron Bruno said he felt that the applicant presented a very good case. They showed a lot of evidence that there are other three story homes and he felt it would help the neighborhood.

Bob Lange said he feels that they have an obligation, because the hardships that the township's 2005 put on all the property owners. When they go to sell their house the person that wants to put one of these nice houses up, in my opinion they could still put up a nice ranch or a two story but they have the right according to the Planning Board's rules which they set. They are not asking for any variance. Every picture that was shown the shadow line was not even over the line. I don't feel it is a hardship on the neighbors. I don't feel it will hurt their property value in the future.

Chairman Petrosilli said he felt the opposition presented a very good case and the board should look at the homeowners that are in the area and consider their side of the story too. The applicant could have considered a smaller house and he can still consider a smaller house. So we the board needs to look at that side of the picture too.

Roll Call (Ayes) DeAlmeida, Bruno, Bystrek, Covitz, Lange, Roskowski.

(No) John Petrosilli

Chairman Petrosilli told Mr. Rosica that his application has been approved.  
Board have any other comments?

Seeing none,

Motion to Adjourn

Meeting adjourned at 10:52 P.M.

Respectfully Submitted

Laurie Clune  
Recording Secretary  
LC/ld