

TOWNSHIP OF OCEAN  
PLANNING BOARD  
REGULAR MEETING  
June 5, 2008

Meeting began at 7:37 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	Robert Knowles	Gordon VonSchmidt
	Ralph Avellino	Richard Reilly	Craig James
	James Eckert	Dennis Tredy	

Members Absent: Rita Sweeney, Daniel VanPelt, Lee Eagles

Chairman Anepete asked for a motion to approve the minutes of the May 1, 2008 regular meeting. Dennis Tredy made a motion to approve. Richard Reilly seconded the motion. All in favor: (aye) Tredy, Reilly, Avellino, Eckert, Knowles, James, Anepete.

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

Abstain: Gordon VonSchmidt

**BOARD COMMENTS**

**Proposal of Ordinance Subcommittee** was discussed. Laurie Clune, Zoning Officer, would like to get a subcommittee together to review and possibly update some ordinances. She would like to meet during office hours. Volunteers for the subcommittee are: Chairman Anepete, Dennis Tredy, and Ralph Avellino. Mr. McVicar offered his services as Engineer as well. Mr. Yost also offered his services in case the need ever arose. Chairman Anepete suggested that the subcommittee write up the ordinances how they feel they should be worded and then let Mr. Yost review before the board reviews to check the legality.

**Synopsis of Landscape/Tree Ordinance** prepared by Wayne McVicar. Mr. McVicar is looking for some direction regarding our tree ordinance. Does the board want to take our existing 12.12 ordinance and modify it with incorporating parts of Stafford's ordinance and make ours better? Or do we want to toss our existing 12.12, adopt Stafford's entire ordinance with modifications. Mr. McVicar reviewed his synopsis. Chairman Anepete commented that he recalls the board's consensus of not having a lot of red tape involved with the tree removal process or the expense of having to get a permit. The board also felt that homeowners with 20,000 SF lot would be the limit to what they would consider to be standard. Laurie Clune had conveyed to Mr. McVicar that she would be comfortable with 8,000 SF. Chairman Anepete was happy with the 20,000 SF which is 100x200 or just over 140x140 lot. Stafford's ordinance has certain clearing permitted on any lot regardless of size, however, not in the set-backs. By using the setbacks, you're protecting your neighbor by maintaining a buffer. Chairman Anepete commented that in the past we were discussing writing our own ordinance and incorporating some of Stafford's ideas that are applicable to us. Not just adopting Stafford's. We can incorporate what we like from Stafford's into 12.12 which is our ordinance. Mr. McVicar explained further about Stafford's ordinance that any subdivision site plan, minor or major, a tree removal plan has to be prepared. A surveyor would go out and identify the tree(s) by species and size and show what is to be removed. This tree removal plan gets approved during the site plan review process which takes the burden off the Zoning Officer. Also part of this plan is the restoration that has to be done. Requirements would be on-site, off-site on township properties, or a contribution fund. Mr. Tredy expressed his concern regarding that ordinance. Chairman Anepete suggested that with the ordinance subcommittee just talked about, they review the tree ordinance and give Mr. McVicar more direction in creating a draft of the proposed ordinance to bring back before the board. Mr. Avellino stated that he feels people are fed up with the government and being told what to do and what not to do on their property. Mr. Knowles added that he would like a representative from the Environmental Commission sit in on that particular meeting when the tree ordinance is worked on. Chairman Anepete said he felt that Mr. Knowles would be the one to sit in on the meeting.

#### **OLD BUSINESS**

**Resolution No. 16-08-PB, Docket No. 01-08-PB, Gary Schurig, Block 90, Lots 10 and 13.01, 9 Capstan Road, Minor Subdivision.**

Mr. Tredy made a motion to approve the resolution. Mr. Knowles seconded the motion. All in favor: (aye) Tredy, Knowles, Avellino, Eckert, Reilly, James, Anepete.

#### **NEW BUSINESS**

**County of Ocean, Wells Mills Park Minor Subdivision, Block 15, Lot 2, Docket No. 07-06-PB, Time Extension Request.**

Mr. Yost stated that this is the tail-end of a courtesy review that should have been resolved a long time ago. The Mylar was not released by the previous board engineer. When one branch of government appears before another branch of government,

traditionally the culture is that professional fees are waived. Mr. Yost did not feel that it was necessary for Mr. Mathis to appear before the board.

Mr. Knowles made a motion to approve the time extension. Mr. Eckert seconded the motion. All in favor: (aye) Knowles, Eckert, Avellino, Reilly, Tredy, VonSchmidt, James, Anepete.

**Iszari Development, Block 62, Lot 4.02, Docket No. 02-08-PB Amended Site Plan.**

Mr. Bernardo, attorney for the applicant, addressed the board acknowledging several procedural issues they created: Engineer's review letter was done recently and the board did not have normal timeframe to review it, this matter was noticed without clearance from the board secretary, and because of that, there was monies needed last minute to get the applicant's escrow accounts current. Checks can be written this evening. They had reviewed Mr. McVicar's review letter and felt there were issues they could address during the month and asked to be carried and to formally start at the next meeting. However, because Mr. Iszari is present, as well as their Engineer, they asked if they could have some informal conversations with the board they would be better prepared next month to address the issues that are significant for their presentation.

There was discussion and Mr. Yost felt that we could proceed on a formal basis with the understanding Mr. Bernardo indicated. Witnesses would be sworn in, we would take testimony on the record and we can start to flush out the issues. Mr. Yost spoke to Mr. Bernardo before the meeting. Mr. Yost explained that he received a call from the board secretary indicating that they noticed the paper without consent from her. Mr. Yost spoke to Mr. McVicar to see if he would have a chance to do the review. Mr. Yost felt that if the agenda was light and Mr. McVicar could do the review, that we would make good use of the board's time on an otherwise slow night and maybe the applicant could get their application started. That was the rationale.

Chairman Anepete asked for the board's opinion on whether they would like to proceed in this fashion. The consensus was that the board could go ahead and formally hear the application.

Mr. Avellino spoke regarding the 10-day minimum to have paperwork submitted to the secretary. Mr. Yost said he took part of the responsibility. With the way the process unfolded with the applicant having noticed and discussing with the board secretary and our engineer and knowing there was nothing else on the agenda, when I spoke with Mr. McVicar he indicated that initially he didn't think it was that complicated. Mr. Yost said he is aware of the 10-day rule, sometimes we relax it, sometimes we enforce it depending on how complicated the application is. Chairman Anepete has instructed the Mr. Yost and the board secretary that we shouldn't rush these procedures in the future and if it falls like it's a call either way that they will err on the side of the board.

Robert Romano, Applicants Engineer, from the firm of Ernst, Ernst and Lissenden in Toms River was sworn in by Mr. Yost.

Mr. Romano spoke: The site is on Route 9, across from Seneca Blvd it's very close to the Barnegat border; I believe just one lot away. It's the southern end of Waretown located on the West side. Presently there is a karate school of 2000 SF, 1000 SF vacant, 2000 SF home entertainment center, 3000 SF beauty salon.

Mr. Bernardo said the real purpose of the application is to get an approval so that the deli can operate in the existing building.

Mr. Romano said his understanding is that the tenants have been changing, there have been zoning permits issued for various uses that have been going into there and building permits for any renovations that were being done. At this point, the deli was proposed, it was presented to the Zoning Officer and the Zoning Officer said this should go back before the board. There are questions about how much parking is on site and questions about a loading area. We show a loading area in the rear and ask for a waiver on the loading area and the use itself, we're not sure whether it's to be considered a shopping area or a series of retail stores. Mr. Bernardo stated that the review letter done by Mr. McVicar calls this building a shopping center. Mr. McVicar stated that under prior resolutions that is where we initially took the stance that the use would be considered a shopping center and that was done in part to avoid going to CAFRA because based upon the 10,000 SF you need 50 spaces and we made it 49 spaces to stay away from CAFRA. That was the board's opinion at that time. It is classified as a shopping center with a waiver for the number of parking spaces. The applicant has no disagreement with that and they are looking to confirm that same relief because they do need a waiver for the number of parking spaces. Mr. Romano shows 40 parking spaces currently on the site. There are 8 on the southerly side, 24 along the front (2 handicapped), 8 spaces along the northern side. There is room for 2 additional spots that can be created without utilizing the rear. Mr. Romano stated that they have shown there could be employee parking in the rear – 6 spaces which would give the building 48 spaces on the site. Mr. Bernardo clarified that right now there is no designated parking in the back. Mr. Romano confirmed that there is none. Mr. Bernardo asked that the lack of parking or demarcation related to the installation of sprinkler system in the building. Mr. Romano said the previous application was for a senior care installation which was a daycare. At that point, there was going to be a side entrance with a drop off area. The sprinkler systems were part of allowing that use in there as well as the requirement for a fire lane behind the building. In lieu of having an open area in the back, I assume was being used for deliveries on prior uses and possibly loading, it would be used as a fire lane with parking. Mr. Romano said under the uses that are in the building right now he doesn't believe under building code requiring any sort of sprinkler systems. Adult care was considered institutional use and since there would be people living in there for up to 12 hours a day, that would require a sprinkler system. The building itself doesn't require sprinklers; it was the use which is why sprinklers were needed.

Mr. Tredy stated that he felt that Mr. Romano was wrong in respect to the reason for the sprinklers. I believe that was arrangement on part of the resolution because of the fact that there wasn't enough parking spaces. Once the sprinklers were installed then the rear

of the building was to be used for parking. Mr. Tredy asked for clarification from Mr. McVicar.

Mr. McVicar agreed with Mr. Tredy. He referenced his letter on page 4 in the center was an excerpt from the resolution.

Mr. Romano didn't understand how the parking spaces were tied to the sprinkler system.

Mr. McVicar stated this is a mute point as the letter from the Fire Chief said he would not permit parking in the rear of the building.

Mr. Bernardo showed Mr. Romano a picture and asked him to identify it.

Mr. Romano stated that it was a picture of the rear of the building.

Mr. Yost marked into evidence Mr. Romano's charts as A-1 and the photograph of the rear of the building as A-2.

There are 42 parking spaces on the site if the 2 additional ones are added. Currently there are 40.

Mr. Bernardo asked if Mr. Romano felt a delicatessen was considered to be intensive use from a traffic standpoint.

Mr. Romano answered at certain times. There is some traffic perhaps Saturday morning and probably around lunchtime. All in all, no and in overlapping with other uses in a shopping center type set up. I'd say there would be some intensity on Saturday morning.

Mr. McVicar asked Mr. Romano how delicatessens are addressed in other town's that you've worked in?

Mr. Romano said a lot of it depends on whether they are going to have tables, no tables, and a lunch counter type of operation vs. a specialty food operation.

Mr. McVicar said that brings up the next question. What are we doing here?

Mr. Romano said that we were hoping to have the delicatessen operator here tonight but he could not make it.

Mr. Bernardo said he spoke to the prospective tenant Mr. Siculietano and he faxed a statement of operations. He submitted the copies to the board. He stipulates in his statement that there will be no tables or booths or any seating.

Mr. Romano read the statement into the record.

Mr. Yost marked into evidence the statement of operations as A-3.

Mr. Bernardo asked Mr. Romano if he felt that based on the uses the property currently being used, if the deli operated in the basis that this tenant is representing, would the 42 parking spaces be sufficient and safe.

Mr. Romano stated he thought it would be. The beauty salon does worry him a little with Saturday morning operation, but there is plenty of area around the site and the circulation of the site is good with no dead-ends. You can go around the back of the building without having to go back on the highway which he feels is a big plus for this site. Delivery wise and loading wise, you park your truck, you deliver your goods and you drive away. Mr. Romano offered to meet with Mr. Jones, Fire Chief.

Mr. Reilly asked if they knew where the employees of the beauty salon park now.

Mr. Romano did not know.

Mr. Reilly also raised the question of the vacant property and what kind of use that would be in generating parking and circulation.

Mr. Romano stated that it's only 1,000 SF, so it wouldn't be a big operation.

Mr. Reilly added that he also feels the karate school will be busy on a Saturday morning.

Mr. McVicar also said that occasionally karate does testing for belts in which case there will be a lot of cars there.

Mr. Reilly said he felt it's fair to say if you're going to have parking challenges it's going to be on a Saturday between the salon, the delicatessen and the karate school.

Mr. McVicar asked if deliveries could occur before the other stores opened.

Mr. Romano said yes deliveries could be limited to 7:00 – 9:00 AM for example.

Mr. McVicar and Mr. Reilly both agreed that would help.

Mr. Tredy offered to Mr. Bernardo a statement of operation previously faxed to Mr. Gasiorowski's office that was included in the planning board packet from Mr. Siculietano.

Mr. Romano stated that there were a lot of site details left over from the previous owner. Mr. Romano stated that he doesn't know what to do with all of that.

Mr. Yost sworn in Mr. Isen Koldza. 142 West 46<sup>th</sup> Street, New York, NY 10036, one of the principles of Iszari Development LLC.

The property was purchased almost two years ago. Mr. Koldza became aware after closing on the property that this building had a long history with several appearances

before this board. There are issues with light fixtures appearing to be located off the rear of the property and was a condition of prior approval that that condition be corrected. Mr. Koldza stated he would correct that.

Mr. Bernardo asked him if he had a time frame for getting that corrected.

Mr. Koldza said he has to get an electrician and he isn't sure how busy he is at this time. However they will do it.

Mr. Bernardo clarified that there are significant issues with the lighting that have to be addressed.

Mr. Koldza said "yes".

Mr. Bernardo stated that Mr. McVicar also rose in his letter that there was orange construction fencing that was rolled up near the chain link fence with child toys in the area and also on the opposite side behind the property. You became aware that this was something your beauty salon tenant was doing for patrons or employees and you now have already taken steps to address that and it will be removed from the property?

Mr. Koldza: "yes".

Mr. Bernardo: Mr. McVicar stated in his letter that the trash enclosure is missing gates and is need of maintenance and repair. You took a look at that also and will take care of that as well.

Mr. Tredy asked about the bollards also bent over?

Mr. Romano noted "remove and replace".

Mr. Bernardo: Also, just general maintenance of the site. There are significant weeds.

Mr. Koldza: I was there a couple of days ago and I called my landscaper. He never returned my calls. I just called him again.

Mr. Tredy asked if he had someone that came regularly.

Mr. Koldza: Yes, One of a Kind Landscaping. I assume he is sick, or he lost his company.

Mr. Tredy said you might want to look for someone else.

Mr. Koldza: I did, the neighboring car building, I'm going to try to use the same guy.

Mr. Reilly asked to come back to the lighting. We have very specific standards for lighting. I'm not comfortable with the answer I received. I am looking for a commitment

that the lighting be installed within a reasonably short period of time. If you talk to our board secretary or code enforcement they can give you the details on how this lighting can be ordered and installed.

Mr. McVicar wanted to point out that there are two different types of lighting. There is the acorn lighting that you are describing. Plus, there are on-site existing shoe box fixtures that were to be removed and then an architectural fixture to be put up to replace those. You'd have both types of lighting together across the front.

Mr. Reilly asked why we would need both?

Mr. McVicar stated the acorn is architectural to go with the town's theme whereas the other fixtures were intended for illumination purposes.

Mr. Reilly my question back to your client is what kind of commitment would be made as part of this application?

Mr. Bernardo suggested that essentially we are presenting our case this evening. And my thought is if we hold this open until next month, Mr. Iszari would have the opportunity to get specific with the contractors and get proposals and be able to show that he has in fact retained people to do that which has to be done.

Mr. Reilly agreed that certainly we would be coming together in another 30 days. I was just laying out an expectation of what I would expect a month from now rather than the nebulous.....

Mr. Bernardo agrees that if he contacts a person and gets a contract to have the acorn lighting installed and that were presented to the board, you'd see that he's really going to do it. And with the trash enclosure, the landscaping, those things should be able to be ironed out before we appear again.

Discussion took place regarding why Stetson Automotive had to install 3 acorn lights and this building would require 6. Mr. McVicar explained that originally this was laid out at not looking at one lot, but a series of lots, so that the lights were 50 feet apart from each other. Mr. VonSchmidt offered that it's 55 feet apart.

Mr. Yost stated that there seems to be an acknowledgement that the applicant will be back with additional information at the next meeting. We have A-3 here which is representation from the actual operator of the delicatessen. It would be my recommendation to the board that if the applicants going to be back next month that Mr. Siculietano should be here to be put under oath to make representations because it seems as though the focus of the problem here seems to be the delivery and loading zone. That is the operator that is actually going to be operating there and there has been an acknowledgement by Mr. Romano a number of times that he can't quite represent exactly what the operator is going to do. The only person that can represent that and should represent before the board would be the operator who would be put under oath and then

we have a record there so if and when the board hopefully would evaluate the application and chose to grant relief to the applicant, if it's appropriate, we would have a record so that when I draft the resolution and it incorporates the representations that the applicant makes, you've got the actual operator stating when the deliveries are going to come, what he's exactly going to do, what's going to be in there and you will have a stronger basis to make sure that the granting of a waiver is the right thing to do or that there is a basis for not granting a waiver.

Mr. Avellino rose an issue concerning the size of trucks and that we cannot guarantee what size trucks are going to go in there. Mr. Koldza explained of his experiences in the restaurant business and how he sets the deliveries and the times his vendor delivers. Mr. Avellino is concerned that a 40 foot delivery truck was making furniture deliveries 9 years ago to the furniture store and it could happen again. He wanted the board to be aware that it could happen again.

Mr. Knowles said the biggest problem he sees is how are you going to deal with the number of parking places?

Mr. Bernardo said there is 42 and that is all there is available. There is no place to put additional spaces. It's a matter of the site working or not. I know it doesn't factor in technically, but Mr. Iszari paid \$1.825 million for this site thinking he had a fully ready-to-go retail center. Now he struggles every time he wants to put a tenant in there he has to come before some kind of a board. We think we're making progress by finally getting an acknowledgement that it's a retail center and almost fully tenanted if we can get this deli in. He's under severe hardship suffering as a result of this long history that unfortunately he's the tail end of. We can't get more parking spaces; it's just the reality of it. With our experience and testimony and seeing that sites do work, it's our hope that the board will see it's way to grand an approval to continue the waiver. At one time it was waived 50 being required and 40 provided and now we have 49 required and 42 provided and it's the best we can do. We will have the deli operator here next time, he will stipulate no tables, no booths, and no sitting so there won't be an invitation for people to linger in the place. It'll be in and out and hopefully his information will let the board conclude that under the circumstances we'll have adequate parking.

Mr. McVicar added that perhaps we could limit the size of the delivery truck so that if the zoning officer noticed a large truck, it would be subject to violation.

Mr. Bernardo offered that we can make requests, but if someone sends a larger truck then what we'd like, we won't know that until he shows up at our site. I would agree to it I suppose on behalf of the client, but I don't want to mislead anyone either.

Mr. Reilly asked how many parking spaces would be used by employees from the various stores that are there right now. He said he had 3 employees, how many operators does the salon have? I'm guessing the karate might have 1 of 2. You could by stretching it use up 10 of your 40 spaces by employees.

Mr. Tredy suggested maybe you could make arrangements to park across the street in Indian Plaza where there is abundant parking.

Mr. Reilly said I think you need to look at what is truly available customer parking.

Mr. Knowles felt that history has shown that the board is willing to work with the size of the small lot. In good faith, he doesn't see why the landscaping and the clean-up around the property can't be addressed immediately which would show the owner is making a sincere effort with everything that needs to be done.

Mr. Yost asked that the applicant stipulates that there be no time restrictions on hearing the application?

Mr. Bernardo said "certainly."

Chairman Anepete asked for a motion. Mr. Knowles made a motion to carry the application to the next meeting. Mr. Reilly seconded the motion. All in favor: (aye) Knowles, Reilly, Avellino, Eckert, Tredy, VonSchmidt, James, Anepete.

Checks were written by Mr. Iszari for the outstanding escrow accounts.

#### Public Comment

Seeing none.

There was brief discussion about CVS and lighting issues. Mr. Reilly said he thinks that Mr. McGuckin is handing that with the new owners there. Approvals run with the land.

Chairman Anepete asked for comments from the board. Mr. Avellino would like to make a statement. We are not an enforcing agency, I've been told that numerous times. But, the decisions that we make on this board, put the burden on our construction office. Whatever decision we make, they have to enforce it one way or the other. If we keep making these resolutions here, they line up, there is no way in hell that they can keep up with it, there is no way. Mr. Knowles asked for a clarification on what Mr. Avellino meant. Mr. Avellino clarified about changing the parking, the loading, etc...they are all listed here. There is only one man to do that. Further discussion took place regarding the code enforcement officer and his hours as part-time building inspector. Mr. Knowles feels that it is important to fill the slots and not have vacant slots and because they are so standard in size, we are going to have to give that a lot of consideration to help those people. It's not their fault because that is what they have to work with. That's why variances come in. We don't want to see a bunch of empty stores and places overgrown.

Mr. McVicar stated that it's important that the proper steps get followed. The site plan has to get through and approved, revised with all the comments from the board, go through Resolution Compliance so that they are signed off. At that point then the Township Engineer makes sure that the improvements that are on the plan, get installed.

Once the site plan is approved and signed off by the chairman, the site plan will have everything on there that has been agreed to by the board. Then that plan which has been signed by me (Mr. McVicar), and the chairman, copies go to construction code official, the township engineer. The bond for improvements have to be posted, the inspection escrow has to be posted. Then when that occurs then the contractor can get his building permits and start developing the site. The township engineer will inspect to make sure that the improvements are done on the approved site plan. A lot of times we get stuck in Resolution Compliance and it never gets finished, and then the contractor runs ahead and starts building.

Discussion took place about C.O.'s and temporary C.O.'s and whether it can be controlled that way. Until all matters are taken care of, no C.O.'s are issued? What's happened in the past is applicant comes in asking for a temporary C.O. saying "I'll be back next month" and that is how we get ourselves in trouble. Case and point is CVS.

Tape #2 was very short, but it did not record.

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

Respectfully submitted by:

Beth Laramee  
Board Secretary