

TOWNSHIP OF OCEAN
PLANNING BOARD
REGULAR MEETING
August 2, 2012

Meeting began at 7:00 PM

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

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 Asbury Park Press and the Atlantic City Press. Notice was posted on the bulletin board in the Administration Building.

ROLL CALL

Members Present:	Anepete	Shapiro	Tredy
	Avellino	Sneddon	Wetter
	Bonamassa	Sweeney	Petrosilli
			Collamer

Members Absent: Eckert

Professionals present: Steve Yost, Jim Oris and Scott Taylor

Chairman Anepete asked for a motion to take action on the minutes of the Regular Meeting of July 3, 2012. Mr. Sneddon made the motion to approve the minutes. Mrs. Sweeney seconded the motion. Roll Call: (aye) Sneddon, Sweeney, Avellino, Bonamassa, Tredy, Wetter, Petrosilli, Collamer.

Chairman Anepete asked for a motion to take action on the revised voucher list. Mr. Avellino made the motion to approve the vouchers. Mr. Sneddon seconded the motion. Roll Call: (aye) Avellino, Sneddon, Bonamassa, Shapiro, Sweeney, Tredy, Wetter, Anepete.

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

BOARD COMMENTS

Topics from the professionals. Mr. Oris handed out information from the MLUL regarding Referrals to the board. The copies are from the Cox book. Mr. Oris discussed the three areas in which the board would be entertaining a referral from the Governing Body and/or other public entities wherein the board is being asked for their review and recommendation on specific types of actions. Zoning Ordinances, Other Matters by Ordinance and Capital Improvements and Review of Capital Projects were all reviewed.

OLD BUSINESS

Review of Township Ordinance 2012-16 – Amending Title 18 “Zoning” of the Township of Ocean to Define the Type of Restaurant Uses Permitted as an Accessory Use to Marinas in the Waterfront Development (WD) Zone District - Mr. Oris gave some background on this ordinance. The governing body is seeking to further define the permitted uses in the WD Zone. This is not specific to any one particular site. Mr. Taylor added there is also a housekeeping change under General Intent. In 2010 the Governing Body modified the ordinance to remove townhouses from the list of permitted uses. The General Intent at that time still had language in there that talked about the selected development of townhouse dwellings. The ordinance would now be in compliance with the modifications made in 2010. Chairman Anepete asked for clarification under F) #4. Mr. Oris clarified that clubhouses/meeting areas would be able to serve alcohol to their members; this would provide them the ability to do so. There are two private clubs in town that have marinas. Chairman Anepete suggested the language should be clearer. Mr. Oris would make a note to discuss the Township Attorney. Any entity that would comply with the Township’s requirements for a club license and NJSA 33:1-12, could apply for a club license and serve alcoholic beverages. That does not mean that every marina can obtain a liquor license. There are clubs that have a marina use. A marina would not be able to obtain a club license because it is a for-profit business. Mr. Yost clarified that the intent of the ordinance is to allow alcoholic beverages to be given to members within the context of the club, but not to permit the general sale of alcohol in that zone to members of the general public. Mayor Tredy agreed that this was a good point.

A motion to refer the ordinance back to the township committee with a recommendation that the language become more specific on private club and marina was made by Mr. Shapiro, seconded by Mr. Bonamassa. Roll call: (aye) Shapiro, Bonamassa, Avellino, Sneddon, Sweeney, Tredy, Wetter, Petrosilli, Anepete.

Review of Township Ordinance 2012-17 – Amending Title 18 “Zoning” of the Township of Ocean to Provide Bedroom Limitations within Dwelling Units in the Planned Residential Development (PRD) Zoning District and Within a Planned Retirement Community (PRC) – After a detailed discussion, it was decided to table this ordinance until later in the meeting to as not to keep the applicant and his professionals waiting. A motion was made to table to later in the meeting was made by Mr. Shapiro, seconded by Mrs. Sweeney. Roll call: (aye) Shapiro, Sweeney, Avellino, Bonamassa, Sneddon, Tredy, Wetter, Anepete.

Review of Township Ordinance 2012-18 – Amending Title 18 “Zoning” of the Township of Ocean Code to Permit Limited-Scale Commercial and Office Development as a Conditional Use in the Bayfront Conservation (BC) Zone District – Mr. Oris explained that the BC Zone has several areas that are East of Route 9. There are certain sections that front on Route 9 and those sections are further south. These conservation areas have very little development potential. This ordinance provides a conditional use wherein an applicant can come before the board, not have to go for a variance if they provide or comply with the conditional use requirements. This is enhancing that ability to develop on a limited scale but at the same time promote conservation in these zones which was the original intent of the underlying zoning. After a detailed discussion a

motion was made by Mr. Petrosilli, seconded by Mrs. Sweeny to refer the ordinance back to the Township Committee. Roll call: (aye) Petrosilli, Sweeney, Avellino, Bonamassa, Shapiro, Sneddon, Tredy, Wetter, Anepete.

OLD BUSINESS

None.

NEW BUSINESS

South Harbor Marine, 116 Oregon Avenue, Block 200, Lots 24 & 25.01, Minor Site Plan, Docket No. 04-12-PB

Mayor Tredy recused himself from this application as the applicant's attorney is also the Mayor's attorney on a current matter. Mayor Tredy left the meeting room.

Chairman Anepete spoke that the application for South Harbor Marine may be effected by one the ordinances previously discussed. Chairman Anepete wanted to the board to be reminded that any discussion previously about the ordinance will not affect this applicant as it has not passed yet through the Township Committee.

Mr. Hyer, attorney for the applicant approached. Mr. Oris began the review process of his review letter. Applicant has applied for a Minor Site Plan. Mr. Oris listed the documents submitted in support of the application. The application is within the WD Zone. Site is bounded to the North by Oregon Avenue, directly across from Oregon Avenue is a commercial marine use which is represented as operating in conjunction with the subject site and is shown to be under common ownership with the subject properties. Residential properties are located directly to the west of the site. The eastern portion of the site is bounded by a commercial marine use providing boat slips with access to a lagoon which forms the southern site boundary and there is another commercial marine use located across the lagoon from the subject property along with residential development. The subject lagoon is referred to as South Harbor Basin. The actual plan shows the site to contain four structures. The applicant has indicated that some of the structures have already been removed.

Mr. Paul Kavka, DW Smith Associates approached and was sworn in by Mr. Yost. Mr. Kavka resides at 110 Oregon Avenue. Mr. Kavka gave his credentials. Chairman Anepete accepted his credentials. South Harbor Marine is a neighbor of Mr. Kavka. Mr. Kavka presented to the board a photograph taken in November, 2006 of the site showing all four buildings located on the property. This photograph was marked into evidence as P-1. Mr. Kavka spoke regarding the four buildings. The two most westerly buildings have been taken down. Mr. Kavka explained the current operation of the site. The existing marina is a family owned business that the Mackie family has owned and operated since 1968. There are 13 boat slips, a bait/tackle shop, the marina sells gas and there is a boat ramp. CAFRA permit was obtained and is allowing the applicant to replace the same square footage as was originally there which totals approximately 3,735 SF. Permit was originally granted to put back two buildings, one being 2,080 SF and the other 1,500 SF. Since then, the plan has changed to take down all four buildings and put one

building back up. 2,080 SF building would be built. 2 ½ story structure conforming with current zoning, 32x60 footprint. First floor is intended to be a retail open space with the office and bait/tackle. The second story is intended to be the residence for the owners. By tearing down the first two buildings it allows for additional parking. A waiver is being sought for the landscaping as the elevation for most of the area is at elevation 4 and flood elevation is 6. The intent is to keep the change as minimal as possible. The applicant is requesting three variances: maximum impervious coverage, front setback and rear setback. Two lots currently exist which are going to be consolidated into one lot which will then meet the minimum square footage requirement of 15,000 SF. Current configuration of the site is building or gravel. All the uses the applicant is proposing currently exist. There are variances that currently exist. Some are being eliminated. The minimum lot size of 15,000 SF will be increased to 17,454 SF. Lot frontage is supposed to be 150 feet which will now be 251 feet of frontage. The side yard will be a 10 setback; there was an encroachment with the old one which used to be zero. Three variances eliminated. Maximum allowable building coverage is 30% in this zone and the applicant is proposing only 12% from the original 21% as well as raising the finished floor to elevation 7 where it currently is below flood elevation. The small fuel tank/pump structure will remain.

Mr. Oris spoke to the board that the applicant has applied for a Minor Site Plan and sought waivers for any and all other items. The board professionals have reviewed the applicant's request for waivers and while they found that many of the waivers may be suitable for consideration of the board, in fact, this proposal involves more than five parking spots to technically it should be considered a Major Site Plan which the board can hear but the board should consider granting waivers. Technically it would be a Major Site Plan application with the board's consideration of any of these waivers that they may wish to consider granting. Those waivers are located in the Engineer's report (pages 5 & 6).

P-2 – artist rendering was marked into evidence.

The proposed structure will be compliant with all flood hazard regulations including any accessory equipment. Mr. Kavka addressed the submission waivers listed in T&M's review letter. These documents have not been submitted.

Survey – A boundary survey from 1997 can be provided, if that will suffice, it can be provided.

Existing/Proposed Contours – One contour on the site, it is relatively flat. Topography can be provided, just not contours. This could be eliminated as a waiver and added to the plan.

Parking/Loading & Circulation Layout – Parking and operation has functioned for many years. The requirement for parking going strictly by the ordinance is 30 parking spaces. The applicant can provide that on site there are approximately 20 spaces. Across the street (not part of this application) there is basically an open lot that stores boats and trailers and almost 15 spaces there. There are no bumper blocks or bollards. Mr. Oris asked if Mr. Kavka could delineate on a plan how the site would function in terms of where cars park or where you expect cars to park, where delivery and loading would occur because we would like to at least identify that as you are representing that the site will function at a minimum standard. Mr. Kavka agreed. Mr. Taylor added it could be flexible in a note to say to maintain that at least 30 spaces are provided.

On-Site Grading and Drainage – Spoken about prior. No change in grading or drainage. Relatively flat site at the end of the road. Water flows across the parking lot into the lagoon. P-3 was marked into evidence – Site Plan. Any and all grading would be limited to and related to the construction of the building which is the only structure that you are proposing. There is no other impact on any adjacent property owners. There will be a net reduction in building coverage. With spot elevations being provided, the building department and township engineer would be able to evaluate the grading and ensure that it meets the design intent. There will be some grading around the building – where the handicapped parking spaces are.

Architectural Plans – Current elevation (P-2) is the only one that exists at this point. Mr. Kavka spoke in further detail about the thoughts for the building. The building will be the same distance off the road of the current buildings. The variance is needed only for the northeast corner. The current building is 12' off of the right-of-way of Oregon Ave, and 7' off the bulkhead. The new building will on the northeast corner will go into the right-of-way slightly as well but will be 15' off the bulkhead. The current building is close to 35' in elevation and the proposed building will not exceed 35' in accordance with the ordinance.

Landscape Plan – The grade on the site is below flood elevation. It floods several times a year. To maintain landscaping and the traffic in the parking areas, the applicant does not feel it would be suitable to landscape.

Mr. Taylor inquired about head on parking if the building was relocated back several feet. After discussion with Mr. Kavka it was determined the applicant would rather leave the building where it is proposed.

At this time, Thomas Mackie, 116 Oregon Avenue was sworn in by Mr. Yost. Mr. Mackie spoke regarding the site and how the parking works. There is no parking in front. Boat trailers park across the street. Parking was discussed further by Mr. Mackie. Entrances will be on the east and west side, nothing on the street side, that will only be glass and windows.

Mr. Taylor spoke that residential uses are not specifically permitted in the zone. The apartments above are purely accessories to the marina use, for use or occupancy only by the owner or caretakers, other employees with direct relationship to the marina operation. It is Mr. Mackie's full time residence. Mr. Mackie stated he had no objection to that; he has no intentions of renting out either apartment.

Typical seasons for bait/tackle and marine store is April to end of September. It depends on the availability of fishing. Mr. Mackie would like the option of having the retail space open year-around. Hours of operation are typically an hour before sunrise till sunset. 5:00 AM – 5:00 PM. Applicant is open by appointment for gas 24-hours a day. Retail can be 5:00 AM to 7:00 PM on the hours of operation. Deliveries are weekdays between 8:00 and 4:00. Sometimes fuel deliveries come on weekends. There is no outside storage of any materials. Mr. Mackie would like to reserve the right to put boats in the parking area where the boat slips are in the off season (winter boat storage). Trash pickup is keep across the street every two weeks. In the event that one site or the other is sold, Mr. Mackie would accept a condition that this site would have its

own stand-alone refuse container. Mr. Mackie also agreed that all deliveries and trash pickup would be during business hours.

Mr. Kavka spoke regarding the other waivers. Mr. Kavka is immediately west of the property and doesn't mind not having a buffer. To the east and south are lagoons and across the street to the north is the parking and boat repair shop. Mr. Mackie spoke that he does not have an architect yet as he wanted to make sure the application would be given the go ahead before spending anymore money. The goal would be to begin in October if everything was in order and up and running again in April.

Mr. Oris answered a question regarding the survey. Typically an applicant would be required to provide a survey that is current or within six months of having completed the survey. This survey is quite dated. Mr. Oris suggested that they should provide or at least for safety sake, have a current survey from which to stake the building. The bank will require that as well. It seems as though the applicant is looking for preliminary approval of a Major Site Plan with many waivers and if the board were to consider granting those waivers that might be an appropriate action to just grant preliminary approval. When the applicant has further detail, he can resubmit for final Site Plan approval at that time. There are several items that are not shown on the plan with regard to details of construction or sewer/water service, demolition permits, etc... Mr. Oris suggested that may be the way to proceed. Mr. Yost added in the past when an applicant has asked for waivers, the board determined that they would make a threshold decision on the waivers before hearing the application. The reason for all the requirements is so the board has adequate information and their professionals have what they need in order to make an assessment on a particular site plan application. Based upon the facts, some of the strict reading may not make sense, so you really need to hear what it is the applicant wants to do. It is valid to not spend all this money on an application that may not be approved. Mr. Yost feels Mr. Oris' suggestion is valid if the board wanted to consider this.

CAFRA permit is still good under the permit extension act. Mr. Mackie asked for clarification that the footprint is acceptable as the plans will be drawn from that and know that the parking is also acceptable. The next step for Mr. Mackie would be the survey and architectural plans. Mr. Taylor spoke that if the board grants a Preliminary Site Plan approval that means the board is satisfied with the waivers being requested, with the discussion and description of the parking, the layout and circulation, the building location, etc., approving those variances and then deferring any of those minor items of lighting, signs, sides of building, etc..could happen on the Final Site Plan. Mr. Taylor added that he had touched on a majority of the comments throughout the night; there were a few that were missed, minor details. Mr. Taylor asked if Mr. Kavka would be agreeable to the comments in his letter and Mr. Oris' letter that were not specifically changed otherwise. Mr. Kavka agreed to work with both offices to resolve any issues. Mr. Oris reviewed that with regards to parking the applicant has stated there is sufficient parking, the calculation is 30 spaces and between both sides parking is adequate.

A motion to open to the public was made by Mr. Avellino, seconded by Mrs. Sweeney. Roll call: (aye) Avellino, Sweeney, Bonamassa, Shapiro, Sneddon, Wetter, Petrosilli, Collamer, Anepete.

PUBLIC COMMENT OPEN

Fred Brueggemann, 2 Point Road, was sworn in by Mr. Yost. Mr. Brueggemann spoke in favor of the application.

Tom Leaming, 91 Marine Road, was sworn in by Mr. Yost. Mr. Leaming spoke in favor of the application and commended Mr. Mackie for these improvements.

Spencer Hondros, 65 Pennsylvania, was sworn in by Mr. Yost. Mr. Hondros spoke in favor of the application; however was not happy with the process.

Chairman Anepete asked Mr. Oris to provide clarity as to why Mr. Mackie needed to go through this process since it was brought up by Mr. Hondros. Ocean Township has ordinances that protect all the citizens, not only the business persons but the residents as well. The board has an obligation to implement and oversee applications on a fair and judicious matter across the entire town. Mr. Taylor and Chairman Anepete made comments as well.

A motion to close to the public was made by Mr. Avellino, seconded by Deputy Mayor Wetter. Roll call: (aye) Avellino, Wetter, Bonamassa, Shapiro, Sneddon, Sweeney, Petrosilli, Collamer, Anepete.

PUBLIC COMMENT CLOSED

Chair asked for a motion to take action on this application. Mr. Shapiro made a motion to approve the design waivers requested, seconded by Mr. Sneddon. Roll call: (aye) Shapiro, Sneddon, Avellino, Bonamassa, Sweeney, Wetter, Petrosilli, Collamer, Anepete.

Some of the submission waivers the applicant has agreed to provide so Mr. Oris would like to revisit those. At a future submission for final Site Plan, the applicant would provide a survey, existing and proposed elevations and a plan that would depict the parking and loading and circulation as well as on site grading, architectural and landscape plans. Under Preliminary approval they would be waived, but they would be submitted as a part of a future Final Site Plan application. This would be a condition. A motion was made by Mr. Shapiro, seconded by Mrs. Sweeney. Roll call: (aye) Shapiro, Sweeney, Avellino, Bonamassa, Sneddon, Wetter, Petrosilli, Collamer, Anepete.

A motion was made by Deputy Mayor Wetter, seconded by Mrs. Sweeney to approve the Preliminary Major Site Plan approval with variances requested noting all the design waivers and submission waivers that had just been granted. Roll call: (aye) Wetter, Sweeney, Avellino, Bonamassa, Shapiro, Sneddon, Petrosilli, Collamer, Anepete.

At this time, 8:56 PM, a five minute break was taken.

Back in session, Mayor Tredy had returned to the dais.

Chairman Anepete suggested that the board enter into Closed Session. Secretary read into the record Resolution 13-12 to move into Close Session. A motion was made by Mr. Sneddon, seconded by Deputy Mayor Wetter to move into Closed Session. Roll call: (aye) Sneddon, Wetter, Avellino, Bonamassa, Shapiro, Sweeney, Tredy, Petrosilli, Anepete.

CLOSED SESSION

The board reconvened after Closed Session at 9:48 PM.

A motion was made by Mr. Avellino to recommend to the Township Committee to modify Township Ordinance 2012-17, seconded by Mrs. Sweeney. Chairman Anepete spoke for the motion. Mr. Yost revisited Mr. Bonamassa's concerns regarding the amount of non-conforming residences that this ordinance would create and that Mayor Tredy felt the committee may be receptive to adding a grandfather into the ordinance to prevent that type of a burden on the homeowners and our Zoning Officer. Roll call: (aye) Avellino, Sweeney, Bonamassa, Shapiro, Sneddon, Tredy, Wetter, Anepete. Abstain: Petrosilli.

A motion to adjourn was made by Mr. Bonamassa, seconded by Mr. Sneddon. All in favor: (aye).

The meeting was adjourned at 9:51 PM.

Respectfully submitted,

Beth O'Connor
Secretary