

TOWNSHIP OF OCEAN
PLANNING BOARD
REGULAR MEETING
June 7, 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 (arrived at 7:12 PM) |
| | Avellino | Sneddon | Wetter |
| | Bonamassa | Sweeney | Petrosilli |
| | | | Collamer |

Members Absent: Eckert

Professionals present: Steve Yost, Jim Oris and Michelle Taylor (arrived at 7:30 PM).

Chairman Anepete acknowledged that Mr. Knowles resigned from the board. Mr. Collamer was welcomed by the Chairman and sworn in by Mr. Yost.

Chairman Anepete asked for a motion to take action on the minutes of the Regular Meeting of February 2, 2012. Mr. Avellino made the motion to approve the minutes. Mrs. Sweeney seconded the motion. Roll Call: (aye) Avellino, Sweeney, Bonamassa, Wetter, Petrosilli, Anepete.

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

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

BOARD COMMENTS

Topics from the professionals. Mr. Yost spoke on evidence. The board makes decisions based upon evidence. The board sits as judges. Strict rules of evidence don't always apply because it is an administrative proceeding. We are required by law to make decisions based upon what is presented by the applicant. The applicant's have the burden of proof to present evidence in front of the board on their applications as to why they should be granted relief under statues if there is a variance or waiver request. There is an appeal process. The board is not always the last word on what happens. A clean record needs to be kept. As members of the community a base of knowledge is brought of the community and law recognizes that it is appropriate to bring any outside knowledge to the table.

OLD BUSINESS

None.

NEW BUSINESS

Russomanno, Block 41, Lot 38.02, Waiver of Site Plan, Change of Use, Docket No. 03-12-PB

Mr. Bennardo, attorney for the applicant approached. Mr. Yost swore in Mr. Bruce Connell of Birdsall Engineering, Barnegat, NJ. Mr. Yost spoke to Mr. Bennardo regarding the notice requirement. A question had been raised as to whether the Turnpike Authority was anywhere near the applicant's property. The property is not within 200' of the Turnpike Authority and was listed on the utilities list therefore the applicant did not notice the Turnpike Authority. The remaining 200' list was noticed properly. A conflict issue was also discussed as Birdsall is doing work for the committee. Mr. Connell is working on the bulkhead replacement at the end of Bryant Road. There are no projects being worked on within the area of this parcel that would have any impact. Mr. Connell spoke with Administrator Breeden previously and he had no objection. Mr. McGuckin also felt there were no specific rules to prohibit Birdsall as they are the engineer for Special Projects. Mr. Oris also agrees.

Mr. Connell's credentials were accepted by the Chairman. Photos were marked into evidence taken by Mr. Connell.

- R-1 Southwesterly view from the Rail Trail.
- R-2 Southern view towards the building from the driveway access.
- R-3 Southern view toward the building from the driveway access.

Mr. Connell gave the past history on the property. Prior to the daycare it was an insurance building and real estate office. The building has always been a business of some sort. No proposed site improvements, however, the parking spaces that do not have the current requirement for a van accessible handicapped parking space can be restriped and maintain the 7 parking spaces. Proposed use is for a consignment shop which would sell used clothing, household items. This sort of consignment shop is not typically as busy as if it were a consignment shop associated with a non-profit organization. They tend to create greater traffic than the privately owned consignment shops. There is room to expand the parking however the applicant is not proposing to do so at this time. If it becomes a problem, the applicant could come back before the board to address the parking issue. Mr. Connell feels that 7 parking spaces are sufficient. Mr. Oris pointed out that this particular project is located within the Town Center Zone. As such, applications would normally go in front of the Redevelopment Entity if the Redevelopment Entity felt it was something of interest. The Redevelopment Entity has indicated that it is not an application that they have an interest in. So as such, the Town Center Zoning regulations as a part of a redevelopment project are not applicable. Mr. Connell's testimony relative to the number of parking spaces that are required are really as to what is pertinent as whether the board feels that is appropriate based on what he is describing as the use and based on the function of the site itself. There is no real standard to guide it to in as much as the Township Redevelopment Zone does not have a parking standard for this use. Mr. Connell addressed the parking spaces and the access easement. It is not a dedicated street. It is actually an access drive to get into the property. This property does not actually front on Route 9. It is located just to the west of the Rail Trail. The access easement is partially on the grass and partially on the roadway. Seven spaces can be provided and have the van accessible handicap parking spaces and still stay within the property lines of the property. The main entrance will be the doorway that is located in northerly facing wall. The handicap parking spaces will be moved to that area. There are concrete curb stops as there is a parking space directly on the door entrance. Curb stops are currently 6' from the building. Mr. Connell suggested the curb stops could be moved another 3' further away from the building as Chairman Anepete saw a problem with the door opening out. Mr. Petrosilli asked if it would be feasible to put a striped walkway from the doorway out so that no one would park directly in front of the door. Mr. Connell stated they believe they could do that. Mr. Petrosilli also inquired about putting a gravel parking area in the rear. There is a well in the grass area, but it could be worked around if it came to that. Mr. Oris addressed items #2-#5 in the review letter, which dealt with parking. Mr. Oris clarified that there is an access easement and a private driveway. Mr. Bennardo confirmed that there is a deeded easement which allows the property owner the rights to utilize the access driveway and access easement,

however it could not be produced at this time. Mr. Yost added that a condition of approval down the road would be a copy of that deeded easement. Mr. Oris continued that a concern is that cars will be making parking maneuvers on a driveway which currently does not have a lot of traffic but at some point in time when the site is constructed (Mackres site) would the site still be able to adequately access their parking. Mr. Connell answered that it depends on the intensity of the development that goes in – currently it is not a problem. If it does become a significant improvement then it could be a concern. Mr. Oris asked if any future development that is proposed would the applicant have an ability to add parking or provide some way of addressing their access points in conjunction with that future application. Mr. Connell stated that the parking would then probably have to be moved to the rear area. It could be accommodated.

Loading and deliveries are limited. Small regular vehicle deliveries are anticipated – no large pallets of materials or such. The largest vehicle would be a UPS truck.

Mayor Tredy questioned how to get an applicant to return if parking becomes a problem if they have an approved site plan. Mr. Oris explained that when and if a future development were to occur that applicant may be asked to take a look at access points that effect neighboring properties. The board could ask the applicant to coordinate with the neighboring properties. This application can be looked at as a stand-alone and the next application the board would have the option of asking that applicant to coordinate with the Russomanno's. If the site's parking is inadequate for the current consignment business, the parking could be green-banked. A layout could be provided. It could be subject to the Zoning Official determining there is an issue and asking for the green-bank parking to be installed. The number to be green-banked could be at the board's discretion. The majority of the property is behind the building. There are no site specific details for the requirement of buffers because this is in the Town Center Redevelopment Zone. No traffic count was done on this road.

Mr. Oris spoke that if significant improvements are added to the site, then it is no longer a Site Plan Exemption. The applicant is requesting approval to be exempt from a site plan approval. They want approval to move forward with the use that they are proposing and they were not considering any site plan improvements. If we were to move the parking, more than likely we would then require a site plan approval, then there would be other requirements – it would be much more involved. Item #6 refers to the refuse dumpster. The dumpster is gone. They intend to keep the garbage inside. They will take care of the pick-up of garbage removed from the site. Item #7 refers to playground area. Mr. Connell explained what they hope to do is to use the playground area for outside sales of outside toys, furniture, etc. Mr. Oris stated that the applicant is looking to have outside storage and outside sales areas. Mr. Connell answered yes for toys. They would like to keep the playground so the patrons could use it. Item #8 – signage. The existing sign will be used that are on the building. They are lit with a flood light – no neon, no flashing lights. Only verbiage is being added to the sign.

Mr. Russomanno approached and was sworn in by Mr. Yost. Item #9 – employees. Mr. Russomanno spoke that the only employees would be Mr. Russomanno and his wife only. No employees. The hours of operation would be 9:00 AM – 6:00 PM, seven days a week. There is no peak hour of operation. Sales will be all household items, clothes to small kitchen appliances, furniture, playground toys. Mr. Russomanno acknowledged that he cannot have another structure or trailer on site without approval from the board. Chairman Anepete asked if there would be an active play area for children. Mr. Russomanno answered no, they don't have insurance for that. Mr. Oris summed up the area to be new and used playground equipment and patio furniture. The board is concerned that the outside area not become a junkyard. Mr. Sneddon confirmed that the business would not be dealing with gold or jewelry of any worth, only costume jewelry. This would not be a pawn shop. Mr. Oris submitted outside sales can become problematic and would the board want to have some sort of buffering along the fence line. Mr. Oris wanted to also confirm that nothing is being rolled out into the parking area for outside sales for daily sales. Mr. Bennardo said they would accept that as a condition in a resolution. Item #10 site lighting. Mr. Russomanno spoke there is a street light on a pole, 2 mounted lights on each end of the building and motion sensor lights. The board discussed the mechanism to prevent stolen property from being sold. All pertinent information from customers will be taken by the applicant. The applicant is looking into buying closed out items such as clothing in the future.

The board spoke about the fencing to provide a screening from the outside sales area. There is currently an existing hedge along the area. Mr. Oris recommended to the board that if outside sales is allowed that they be very specific with what is permitted. Item #11 – septic/well. Previous use was an office, then a daycare. The existing septic system is adequate for this use. Mr. Oris agreed that it is acceptable.

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

PUBLIC COMMENT OPEN

Mr. Nick Mackres, 9 Halsey Avenue, Bayville, NJ approached and was sworn in by Mr. Yost. Mr. Mackres is a shareholder in Mackres Family LLC, the adjacent property. Mr. Mackres has no issue with the Russomanno's doing business. There is a deed for an easement. Mr. Mackres' concern is future development. They do plan to use that road for an amended application to be filed in the near future. Their application is for 250 apartments, 50 townhomes, and 50,000 SF of commercial. There is one parking spot currently on the Mackres' property that they are concerned about. Current plan is to leave the road as is.

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

PUBLIC COMMENT CLOSED

Mr. Bonamassa asked about the parking lot and the restriping. Mr. Connell answered that the restriping of the parking lot will eliminate the concern that Mr. Mackres has as far as that parking space being on his property. 7 parking spaces will still be able to be maintained.

Mayor Tredy questioned about the clothing dumpsters. Mr. Russomanno said no, that would be bad for business. Mayor Tredy requested that this be placed in the resolution.

The board went back to outside sales. Chairman did not see a problem as long as it is shielded from the highway. Mr. Avellino thought it would create a problem with the rest of the thrift shops in town. Mr. Sneddon felt as long as it is done by Resolution there wouldn't be a problem. The applicant came before the board and is presenting a plan for outside sales where the other consignment shops in town have not done so. There is an ordinance that prohibits outside sales, however the board has the approval to relax that condition for this applicant and if any of the other consignment shops wish to do the same, they would have to come in front of the board for relief also.

The applicant will provide screening and understands the board's concerns. The resolution will state the applicant needs to provide a shielding along the fence line of 6'. Ms. Taylor asked that if evergreen greens are to be used that other evergreen shrubs will also be used. Mayor asked for a combination of solid vinyl fence – 6' and landscaping in the front. Security is a minimal risk acknowledged by the applicant. Taylor Design would be happy to review a plan. A condition will be made that any outside storage does not happen until adequate screening is provided.

Mr. Sneddon made a motion to take action on the application as an approval, seconded by Mrs. Sweeney. Mr. Yost made some clarifications on the motion. A deeded easement provided, restriping of the parking areas for seven spaces and handicap spaces, remove the area that is on the Mackres property, provision to green-bank some additional parking in the opinion of the Zoning Official it could be then be kicked back to the board for determination, removal of the dumpster, no clothing disposal bins, no outside merchandise in parking area, solid 6' vinyl fence to be erected in the front area where presently is the shed prior to any outside storage and plantings to be approved by the Landscape Architect, garbage will be stored inside and they will dispose of same. Roll call: (aye) Sneddon, Sweeney, Bonamassa, Shapiro, Tredy, Wetter, Petrosilli, Anepete. No: Avellino.

At time a five minute break was taken at this time.

Mayor Tredy inquired to Mr. Yost that the applicant Mrs. Ballance works for the township and as an employer Mr. Yost recommended Mayor Tredy and Deputy Mayor Wetter recused themselves. Mr. Collamer also recused himself. The board discussed if the recused members should stay in the room. One thought is a board member by being in the room could influence the board and on the other hand, an applicant has the right to be present at their own application if they have an interest in it. There is no case on point. The better practice suggested in Cox is the board member who is the applicant have another family member act on their behalf. Mr. Yost didn't feel this was an absolute requirement. Chairman Anepete wanted it on the record that it was considered. Mr. Collamer is also a new board member and not someone who has been sitting on the board for a long time so his presence shouldn't be intimidating or influential to the board in any way.

Ballance/Collamer Minor Subdivision, Block 52.01, Lot 23.01, Docket No. 02-12-PB

Mr. Wiedeke approached and called Mr. Daniel R. Collamer, 24 Bay Parkway as a witness. Mr. Collamer was sworn in by Mr. Yost. Mr. Collamer and Mrs. Ballance entered into a contract for Mr. Collamer to purchase property. C-1 was marked into evidence.

C-1 Contract between Mr. Collamer and Mrs. Ballance

Mr. Rob Harrington, East Coast Engineering approached and was sworn in by Mr. Yost. Chairman Anepete accepted Mr. Harrington's credentials. Mr. Harrington described the application for the board. The application is a two lot Minor Subdivision. It is at the end of Johnson Street also known as Dogwood Lane. C-2 was entered into evidence.

C-2 Copy of Minor Subdivision Map

Property is located in the R-2 Zone. It is a dirt road. One single house is located here currently. Total property is just over 5 acres. The R-2 Zone is a two acre zone. The applicants are proposing dedication of some property near where Johnson Street intersects the southern boundary. A single property line cutting off a two-acre piece on the easterly side and the balance 3.7 acres on the westerly side. There will be no variances required – both lots are conforming. The existing house fits within all the setbacks so no bulk variances are required. Mr. Harrington stated the nearest paved intersection is where Johnson Street intersects Railroad Ave – about 800 ft – to pave that with a 30' cartway would probably be over \$60,000. A variance is being requested from that requirement. Mrs. Ballance purchased the property in 1967 and surveys from that time show the dirt road in the same location. C-2 was marked into evidence.

C-3 Deed for property.

Mr. Wiedeke asked about the right-of-way in the middle of the tract of property. The deed does not reflect the right-of-way in any way. Mr. Harrington has done research regarding the right-of-way and he was unable to find any evidence of a right-of-way. None of the deeds looked at referred to a right-of-way. Mr. Harrington took a guess to say that the township drew something around the dirt road, but he is not sure if it was ever required as a right-of-way. Johnson Street where it extends out to Railroad Avenue is also that same dirt road. In 1991 the adjoining lot 3 was subdivided. On that map, there is a dedication of a half width of the right-of-way for Johnson Street. That gave Mr. Harrington a clue that there was no right-of-way there. C-4 was marked into evidence.

C-4 Sheet 9 of the Ocean Township Tax Map – the current Tax Map.

The tax map does not show a right-of-way on the property. The applicant's professionals have no evidence of that right-of-way existing and there is no evidence from the town that it exists. This property was the subject of

an application in 2008. The application did not move forward but at the time when the map was drawn and Mr. Harrington's office prepared that map, the tax map showed a right-of-way through the middle of the property. There were two lots. When that application was made, the tax assessor looked at it and decided there was no evidence of the right-of-way and subsequently consolidated and Mrs. Ballance now has a single lot (23.01).

Mr. Harrington explained that the applicant is proposing to do a cul-de-sac in an effort to become more conforming because the properties all follow the dirt roads and tree line. It is an awkwardly shaped property. In the effort to be more conforming going back to the Minor Subdivision of Lot 3, the dedicated right-of-way, the applicant respected that right-of-way and how it would intersect the property if it were to be extended and by applied a cul-de-sac bulb to make it more conforming. The township would get that property at the end of the dirt road, a dedication from Mrs. Ballance to the Township as a right-of-way. No improvements are proposed in that area. The dirt road would remain as is but the Township would get the right-of-way and if further development happens on the east side it would align. Currently the dirt road comes right up to the center of the proposed cul-de-sac. There is a utility pole there that services adjoining Lot 1. It is wooded now. Lot 1, adjoining to the west is owned by the town. Property to the north is owned by the town.

Mr. Oris recapped that the applicant is stating correctly that the right-of-way by deed does not exist. Mr. Harrington and Mr. Oris described the adjoining owner properties counter-clockwise. If the right-of-way were to exist, it wouldn't serve any function as the Township has frontage on Route 532.

The telephone pole will stay where it is. It currently has overhead wires that service the house on Lot 1 as well as Mrs. Ballance's house. There are currently 3 houses serviced by the road with one additional house proposed. Mr. Harrington spoke about emergency service vehicles. There would not be a problem accessing with emergency vehicles. There is more than enough room to turn around on site. Monuments will be required, proposed 5. Mr. Harrington will verify with Mr. Oris's office that this number will be sufficient. The original deed is not as accurate as we can currently survey. Existing house has well and septic close to the house. It is well over 50' from any property line. Proposed house will also have new well and septic. Mr. Harrington described the trees being left in the center of the property. They will ask for a waiver if need be for the trees. Mr. Harrington hopes that since the vast majority of the property is wooded, there will not be a need to add any additional street trees.

The intent is once a home is built on the new lot there would access their property through the new dedicated cul-de-sac bulb. Mr. Oris asked if the applicant would consider clearing the cul-de-sac and making the bulb driveable. Mrs. Ballance approached and was sworn in by Mr. Yost. The mail gets delivered to the post office. No deliveries are received at the house. Any garbage is brought to the end of the road. Mr. Collamer would follow suit. Mr. Petrosilli asked about the accessory building shown on the plan. That is on township property, clarified by Mr. Wiedeke. The contract between Collamer and Ballance – Mr. Collamer is buying westerly portion and the residence and Mrs. Ballance will retain the rest and is going to get a new house on her lot.

Mr. Yost spoke that the board has a threshold question. The board has to initially make a determination if the applicant has essentially shown that there is no right-of-way status that existed on the road because if there is a right-of-way, the board doesn't have the power to just forgive that. That would have to be done by Township ordinance. Mr. Oris added that the applicant has also presented that the township's Tax Assessor has affirmatively removed that portion from the tax map based on his due diligence. It would not have been done without some sort of investigation. Chairman Anepete asked the board if they are satisfied. Yes was stated by multiple members.

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

PUBLIC COMMENT OPEN

Mr. Bill Irving, 80 Railroad Avenue approached and was sworn in by Mr. Yost. Mr. Irving showed his property and the road that is cut through. Mr. Irving asked if when the cul-de-sac is put in, he requested that they take where the road goes through his property and move it up further. The second issue is the road was dedicated to the town. In 1985, 1,000 FT by 25 FT wide was donated by Mr. Irving. Mr. Oris verified that the dedication Mr. Irving is referencing is shown on the map. Mr. Wiedeke explained they are not looking to clear the cul-de-sac right now as it would actually be an eye-sore clearing a large section and then not having it paved. It could possibly create more problems. Mr. Oris spoke to Mr. Irving regarding his concern that the township's driveway to the township owned property is on his. Mr. Oris said it would ask the Township to look into that to see if they wanted to relocate that driveway so it doesn't traverse Mr. Irving's property through the DPW and the Township Committee.

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

PUBLIC COMMENT CLOSED

Mr. Petrosilli inquired about septic and well and if they would be required to hook up to the water and sewer. Mr. Oris suggested that a letter can be sent to the MUA and confirm that they have no interest in providing water and sewer to the new lot.

A motion was made by Mr. Sneddon to approve the application, seconded by Mr. Avellino. Mr. Oris spoke that the applicant is before the board for a conforming Minor Subdivision with the exception of frontage on an improved road which the applicant is seeking a variance for, Mr. Wiedeke added a dedication of the cul-de-sac. Mr. Oris noted that this is on the plan. Roll call: (aye) Sneddon, Avellino, Bonamassa, Shapiro, Sweeney, Petrosilli, Anepete.

A motion was made by Mrs. Sweeney, seconded by Mr. Sneddon to open to the public. All in favor: (aye)

PUBLIC COMMENT OPEN

Seeing none.

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

PUBLIC COMMENT CLOSED

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

Meeting was adjourned at 9:24 PM.

Respectfully submitted,

Beth O'Connor
Secretary