

MEETING MINUTES

TOWNSHIP OF OCEAN REDEVELOPMENT COMMITTEE

MARCH 25, 2010
5:30 PM

1. CALL TO ORDER

- ROLL CALL

Dennis Tredy X Joseph Lachawiec X .

FLAG SALUTE

OPEN PUBLIC MEETING ACT – PURSUANT TO THE PROVISIONS OF THE NEW JERSEY OPEN PUBLIC MEETING ACT, ADEQUATE NOTICE OF THIS MEETING WAS PROPERLY PROVIDED BY SENDING COPIES OF THE NOTICE OF MEETING TO TWO NEWSPAPERS, THE ASBURY PARK PRESS AND THE PRESS OF ATLANTIC CITY. THE NOTICE WAS POSTED AT THE OFFICE OF THE TOWNSHIP CLERK AND ON THE BULLETIN BOARD OF THE ADMINISTRATION BUILDING.

MEETING MINUTES

Approval of the Meeting Minutes of December 10, 2009

Motion to approve was moved by Deputy Mayor Tredy, seconded by Mayor Lachawiec.

Roll Call: Tredy: Yes, Lachawiec: Yes

REGULAR MEETING

OLD BUSINESS

- Diamond Developers
 - o Tradewinds at Waretown
 - Block 131, Lot 4

Tom Monahan, Gilmore and Monahan, stated the applicant has been in front of Redevelopment three times. The last time Redevelopment wanted to review the architectural designs and materials.

Bruce Englebaugh, Minnow and Wasco Architects, is sworn in. Mr. Englebaugh is a principal of Minnow and Wasco Architects, which was founded in 1995. Mr. Englebaugh became principal in 1998. Mr. Englebaugh is a registered architect in the states of Pennsylvania, New Jersey, Maryland and Delaware.

Mr. Englebaugh stated the rendering on the top is the entrance into the project. Memorial Drive is on the other side of Route 9 and opposite this entrance. Columns identify the main entrance into the project. There is stone on the lower portion of the towers, with flat-board siding above. A1 is the architectural rendering from the entrance on Route 9.

Mayor Lachawiec stated the project is across from the Shop Rite. The southern boundary is Birdsall Street and the northern boundary is the border current with the Thirsty Mallard property.

Mr. Englebaugh stated there are residential units above on each side, clad with horizontal siding. There are fiberglass shingles on top and a cupola on each side. The roofscape is punctuated with roof warmers. The building has railings and balconies and a colorful streetscape with canvas awnings. There is a lot of glass to activate the pedestrian plaza with lots of color.

A2 is building Type A. There are two buildings that flank the main entrance. There are COAH residential units and 30 dwelling units. There is another entrance going north on Route 9. The retail building fronts the site, with residential units above. Behind are Buildings 1, 2, 3 and 4, depicted on A2. Type A buildings are all residential.

A4 is the material sample board for Building Type A, residential units. The gable roof shingle is referred to as weathered wood. The top of the cupola or the top of the towers will be copper. The windows are a white vinyl. A photo and sample is shown of the stone, referred to as buff. A vinyl siding sample is shown.

A5 is the material board for Building B, commercial building. The colors are similar with the copper and weathered wood. The stone sample is different but very similar in color to Building Type A. Roof, railing and window colors are the same. The siding is a little different color called cameo.

Deputy Mayor Tredy inquired why the developer chose different colors.

Mr. Englebaugh stated it gives variety. The additional color and stone colors are nice, as long as they are compatible.

Deputy Mayor Tredy inquired the price range of the condominiums.

Anthony Garofalo, Managing Member of Diamond Developers, is sworn in. The initial estimates were a low \$300,000 sale price. Since the market has inclined, the estimated sale price is a high \$200,000 sale price.

As a Managing Member, Mr. Garofalo owns the company and runs its operations.

Mayor Lachawiec requested an updated Community Impact Statement and Fiscal Impact Analysis. Mr. Garofalo will provide the updated analysis.

Dave Roberts, Township Planner, stated this application has worked its way through a number of reviews. The project is in the Route 9 Phase I Redevelopment area. The town agreed to the street layout and the idea of retail with residential above facing Route 9, the number of units and the number of COAH units.

Deputy Mayor Tredy inquired if Redevelopment has the ability to hold off on the ordinance until the Planning Board reviews it.

Mr. Roberts stated redevelopment plans are reviewed on a site-by-site basis as opposed to a master redevelopment plan. The governing body can work the redevelopment process in the way it sees fit. Normally the plan comes before the site plan application. There is no set way of doing it.

Deputy Mayor Tredy feels the Planning Board's members should have more authority in the process.

Mayor Lachawiec requested the developer explain the other small building in the back of the site.

Mr. Englebaugh referred to Building C. It is a one-story retail building, about 5,000 square feet. The building in the back is the clubhouse and is 1,308 square feet and is a one-story building.

Mayor Lachawiec inquired how many residential units are in the project.

Mr. Englebaugh stated 115 units plus 29 COAH rental. The clubhouse is designed for family parties. It is not oversized.

The 5,000 square foot retail may have one shop or may be subdivided.

Mr. Roberts stated there were two variations in the earlier version of the plan. One showed a roundabout at Route 9. The other showed a straight intersection. After a meeting with the Department of Transportation, it was decided a roundabout would not be feasible.

Scott Taylor, Township Landscape Architect, stated the site is laid out so at any point in the future, the roundabout could still fit within the confines of the building configuration.

Deputy Mayor Tredy inquired if the commercial parking is adequate.

Jim Oris, Township Engineer, stated the proposal has 366 parking spaces. Shared spaces are proposed with the retail, non-residential use.

Graham MacFarland, Professional Engineer, Planner, Certified Municipal Engineer is sworn in. The project has a total of 366 parking spaces on site. Based on the ordinance requirements, without any parking reduction for shared spaces, the developer has taken a reduction of 50% of the retail parking space as shared parking. That gives the developer a credit of 56 parking

spaces, resulting in a need of 340 spaces required for the site. The developer is confident there is ample parking for this project.

Deputy Mayor Tredy inquired if the residential parking is assigned.

Mr. MacFarland stated each unit will be assigned one parking space. The other spaces would remain free. It is not appropriate to assign two spaces for each unit, where spaces could be underutilized.

Mayor Lachawiec is concerned about the 56-stall reduction and retail units sharing spaces. If a retail shop expects its customers to park outside or near the shop, 56 residential persons could utilize the spots and go out of town for a week.

Mr. MacFarland stated the current regulations and Township ordinance states for each one-bedroom apartment, the developer is to provide 1.8 spaces. For each two-bedroom apartment the developer is to provide 2.0 spaces and for each three-bedroom apartment the developer is to provide 2.1 spaces. One space is provided for every 250 retail square feet, which is 4 spaces per 1,000 square feet.

Mayor Lachawiec clarified that there should be plenty of parking for everybody.

Mr. Roberts stated the Planning Board will address the parking issue in detail.

Mr. Taylor stated several comments within his report are minor and technical. There are a few related to streetscape that can be deferred to the Planning Board.

Deputy Mayor Tredy suggested this application be scheduled at the next Redevelopment Meeting on a different day than the Township Meeting.

A motion to carry the Diamond Developers - Tradewinds at Waretown application to the next Redevelopment meeting was moved by Deputy Mayor Tredy, seconded by Mayor Lachawiec.

Roll Call: Tredy: Yes, Lachawiec: Yes

- Bayfront Marina and Yacht Basin
 - Block 181.01, Lot 7

Deputy Mayor Tredy stated the last time this applicant was before Redevelopment was November 2008. Please start from the beginning.

Keith Boyce, Management Member of LLC is sworn in. Mr. Boyce purchased the property 1 ½ years ago, cleaned up the property and has been operating the restaurant in capacity for breakfast, lunch and dinner. Parking can be accommodated by receiving County approval to use

the culdesac as parking. Robert Harrington, East Coast Engineering, met with the County and received permission from the County to use the culdesac as parking.

Township Attorney McGuckin stated the culdesac is a public right-of-way. Township Attorney McGuckin inquired if Mr. Boyce has an easement permit.

Mr. Boyce stated the Engineer has all the paperwork.

The applicant did go before the Ocean County Planning Board and provided a copy of the meeting minutes. The comment from the Ocean County Planning Board is “the applicant should not be allowed to count the parking within the County right-of-way towards the parking requirement. The developer is required to delineate parking spaces within the right-of-way of Bryant Avenue, however, the developer will not be permitted to include those parking spaces toward the required number of parking spaces.” The applicant needs to count the parking provided and it would be exclusive of the County right-of-way parking.

Township Attorney McGuckin stated the County is not going to stop the parking there but it can not be used for calculation purposes.

Township Attorney McGuckin inquired if Mr. Boyce is the owner of the property or managing member.

Mr. Boyce stated it is an LLC and he is one of the managing members.

Robert Harrington, East Coast Engineering, is sworn in. This site is formerly known as Al's Fishing Station. There is no definition to the parking area. There is a utility pole in the middle of Bryant Road. The County was asked to move the utility pole and they said no. The County wanted a teardrop-shaped island painted around it, with arrows on the pavement, so cars would be directed around it. This building has been used as a food establishment throughout the years, with docks, boat slips and boat rentals. At one time there were permissions for a 39-slip marina. The intent is to run the restaurant as is. The previous owner had violations. Parking behind the building was agreed to by the previous owner, with stone parking and wheel stops. There is an apartment on the second story of the building with no stairway access on the outside. The applicant applied for a permit to install an exterior staircase but was told he needed approval from the Redevelopment Committee. The previous site plan was never perfected authorizing that use. The apartment has not been used since the applicant took over.

Jim Oris, Township Engineer, suggested the applicant's Engineer provide an overview of the application that is proposed, uses, hours of operation and old marina use.

Mr. Harrington stated currently the building is being operated as a restaurant. The applicant hopes to rent boats for crabbing and fishing and have a few slips available for seasonal renters. The restaurant use parking is based on one space per 100 square feet. The restaurant is 1900 square feet including the kitchen. That requires 19 spaces. Between the boat rentals and boat slips the applicant is hoping to have 12-14 spaces. It will vary on the amount of boat

slips/rentals. There will be one parking space per rental. Mr. Harrington pointed out the trash enclosure, the fence, stairs to the apartment and the one-bedroom apartment. The DEP approval from 1989 or 1990 stated 39 slips. The applicant does not intend to operate 39 slips due to the parking.

Deputy Mayor Tredy stated the last approved site plan indicated there was no marina.

Mr. Harrington stated the previous owner agreed to that. Mr. Boyce is hoping to rent fishing boats – not a full marina. The applicant has delineated spaces on Bryant Road, behind the building and on Demmy Avenue for employees only.

Deputy Mayor Tredy stated Demmy Avenue is a residential zone and the applicant is trying to use the parking on that side to increase the parking space numbers.

Mr. Harrington stated the applicant is not proposing anything that has not been previously done at the site.

Mr. Oris stated Mr. Harrington is indicating that there is a pre-existing condition. If there is a variance associated, it might be considered pre-existing, nonconforming.

Deputy Mayor Tredy stated the Land Use Board or the Planning Board understood there was an abandonment of the marina use a few years ago. That is why the owner came in with a new site plan. The board had the authority to limit what was going on there.

Mayor Lachawiec inquired if the 16 parking spaces behind the restaurant are existing.

Mr. Harrington stated yes. Parking for this site has never been delineated over the years. Parking was all over the place on Bryant and behind the building. The applicant went to the County to delineate safe parking.

Township Attorney McGuckin inquired if the applicant has an approved site plan from the Land Use Board.

Mr. Harrington stated approval was received but never perfected.

Township Attorney McGuckin stated the previous approval did not include a boat slip or an apartment. That approval, that was granted but never perfected, had a lot of give-and-take between the prior property owner and the board as to what would be permitted there and what would not be permitted there. The applicant's proposal is an extension of what was previously approved. It appears the applicant received approval from the Land Use Board and a resolution was adopted but never followed through on the site plan.

Deputy Mayor Tredy stated the previous owner was forced to go before the Land Use Board due to summonses. The resolution from that time states the maximum use allowed for this site.

Mr. Harrington stated aside from the boat slips, the application is the same. The parking, trash enclosure, fence and landscaping are all the same.

Deputy Mayor Tredy stated the restaurant size has doubled since then. How will the applicant deal with the DEP's administrative fines.

Mr. Harrington stated the applicant intends to address the fines and is taking little steps to try to accomplish everything.

Deputy Mayor Tredy stated the applicant's problems are due to illegal construction without permits.

Mr. Boyce stated he was told by the Mayor he could do certain things to the building. Without boat slips and rentals, Mr. Boyce will go out of business. The previous owner holds the mortgage and will take the property back. Mr. Boyce stated he was violated due to installing a boardwalk to the bathrooms outside and is dealing with it. The property has been a boat rental facility and marina since 1924. Mr. Boyce is here to develop the property to invite customers to enjoy themselves at the Jersey Shore.

Township Attorney McGuckin inquired what improvements have been made since Mr. Boyce purchased the property.

Mr. Boyce stated he cleaned the property up, removed junk boats and opened the property up. The Police and Fire Dept. could not access the property for Founder's Day. Mr. Boyce opened the bathrooms to the public for Founder's Day. Mr. Boyce stated two windows were installed without a permit and he was violated for it.

Deputy Mayor Tredy stated the applicant did work without permits. That is not being a good citizen.

Mayor Lachawiec stated testimony for Diamond Developers and Bayfront Marina has ended and will move to public comment.

PUBLIC COMMENT

Motion to open to the public was moved by Deputy Mayor Tredy, seconded by Mayor Lachawiec.

Roll Call: Tredy: Yes, Lachawiec: yes.

Lawrence Frank, Waretown, stated since the owner took over, Bayfront Marina has been cleaned up and has been an asset to the town. The previous owner was not qualified to operate the business. The new owner could use the town's help to get the property going again.

Dr. John Castronova, 83 Pancoast Road, the place was a dump before. The owner is trying to do the best he can. The property is an asset to this community. The pier is a disgrace. The owner has done a better job fixing up the restaurant than the town has done fixing the pier.

Deputy Mayor Tredy stated the town is trying to save tax dollars.

Michele Nelson, 112 Demmy Avenue, stated the property is right across the street and has no problem with parking. The previous owner was a slob. The property was disgusting. The new owner has cleaned up the restaurant and the food is great. If the town does not approve this application, the old owner is going to come back with the old boats and it will look like a junk yard.

Martin Sedlacko, 83 William Drive, Forked River. Mr. Sedlacko represents a volunteer organization called Reclam the Bay. It is the volunteer portion of the Barnegat Bay Shelter Restoration Program. Next to the town's gazebo is the DEP Clam Lease. There are 1.4 million clams growing outside the gazebo in lease-restricted water. Trespassers disturb the clams. Mr. Boyce is extremely supportive of the clams. The staff watches the area and there have been very little problems since Mr. Boyce took over the property. Mr. Boyce provides information about restoring the bay to the public. Mr. Boyce wants to restore a historic operation in small boat rentals for people who do not live on the water.

Jessie Goldstein, 1576 Julia Court, Toms River, discussed the re-opening of the old Big Ed's BBQ. The current owner is the same owner when it was Big Ed's BBQ. The owner changed operators without the consent of the bank or the landlord and sublet to Casey's Lobster Pot. At that time, Mr. Goldstein immediately started eviction proceedings. The owner is having a hard time getting the permits to open it. The property is not being sold and the title is not being changed. The corporation is not being sold. The owner would like to reopen as a sports bar.

Township Attorney McGuckin stated there was a proposed change of use, which was withdrawn. The owner has now requested to open a sports bar. The triggering mechanism for review by the Redevelopment Agency is exterior improvements, architectural improvements and change of use. The owner has now indicated they do not wish to make exterior changes. Mr. Goldstein is stating the owner would like to complete the permits and reopen.

Mr. Goldstein stated the owner has no dealings with Casey's Lobster Pot. Eviction proceedings were implemented immediately. The owner would like the blessing of the town. The owner would like to open a sports bar like High Velocity in Beachwood. There is a liquor license at the location. There will be food and a game room. There is a back room for banquets, karaoke or bands. It will absolutely be a restaurant.

Township Attorney McGuckin stated if the plan is different than the ordinance, it will be a problem once it opens. Redevelopment should look into the back room area in particular.

Mr. Goldstein stated there was a purchase offer for the property, in which the use was not approved by the Township. That is where the zone was amended to include that particular use.

The property is not being sold and the owner would like to reopen it better than ever before and make it a family place.

Township Attorney McGuckin stated Big Ed's was a sit down restaurant. Proposing a sports bar with a back room is different.

Mr. Goldstein stated it was a banquet area.

Township Attorney McGuckin stated the entertainment would be an issue.

Mayor Lachawiec inquired if this is a courtesy review of the matter.

Township Attorney McGuckin stated there has been nothing on the record until tonight as to what is going to happen in the back room. If it is a catering and banquet hall facility, that is clear. It is not clear what an entertainment hall is. That would trigger Redevelopment, as it is a use change.

Mr. Goldstein stated the restaurant is going to be exactly what Big Ed's was, without a barbeque. It will be sports-oriented to attract more people, and it will be family oriented.

Township Attorney McGuckin suggested designating members of the governing body, the Zoning Officer and the town's professionals to review the proposal. This matter will be discussed in executive session tonight.

Bernadette Hanson, 113 Demmy Avenue, The Bayfront Grill has made an effort to turn the property around and it is a positive thing. Mr. Boyce has been a good neighbor to everyone.

Mr. Berdini, 110 Demmy Avenue, has spoken against the restaurant's previous owner. The Berdini's are 110% behind the new restaurant owner. Everything the owner has done to open the restrooms up to the public has been for the good of the town.

Larry Gelmis, 9 Hard Penn Court, Flemington, NJ, purchased property at 116 Demmy and objects to the parking at the restaurant. Demmy was residential. Now it is commercial with lots of traffic and noise and more pollution.

Al DelPrete, 117 Dollmore, is not against the restaurant, however, there should be a separation between commercial and residential. There should be a fence put up to create a line between commercial and residential.

Motion to close to the public was moved by Deputy Mayor Tredy, seconded by Mayor Lachawiec.

Roll Call: Tredy: Yes, Lachawiec: Yes

BOARD COMMENTS

Mayor Lachawiec requested Township Clerk Ambrosio schedule the next Redevelopment Meeting on a day when there are no time restraints.

Township Attorney McGuckin stated the next step is for a member of the governing body, the Township Attorney, Zoning Officer, Township Planner and Engineer to review the sports bar plan. If there are no changes in parking or any other use restriction, the applicant does not have to go before Planning.

CLOSE

Motion to adjourn Redevelopment Meeting was moved by Deputy Mayor Tredy, seconded by Mayor Lachawiec.

Roll Call: Tredy: Yes, Lachawiec: Yes

Signed and Submitted:

Diane B. Ambrosio, RMC
Township Clerk

Date