

City of Cape May Planning Board Meeting Minutes
Tuesday – February 25, 2014

Opening: The meeting of the City of Cape May Planning Board was called to order by Chairman William Bezaire, at 7:00 PM. In compliance with the Open Public Meetings Act, adequate notice was provided.

Roll Call:	Mr. Bezaire, Chairperson	Present
	Mr. Shuler, Vice Chairperson	Present
	Mr. Jones	Present
	Mayor Dr. Mahaney	Present
	Mrs. Nelson	Absent
	Mr. Murray	Absent
	Mr. Elwell	Present
	Ms. Weeks	Present
	Mr. Winkworth	Absent
	Mr. Dr. France, 1 st Alernate	Absent
	Mr. VanDeVaarst, 2 nd Alternate	Present

Also Present: George Neidig, Esquire – Board Solicitor
Craig Hurless, PE, PP, CME Associate – Polistina & Associates
Mary L. Rothwell, Board Assistant/Zoning Officer
Edie Kopsitz, Recording Secretary

Business: **City Council Ordinance #277-2014**
 Regulating Event Houses in the City of Cape May

Mayor Dr. Mahaney indicated all the Board Members had received a copy of the ordinance that had been published in the paper to regulate event houses in the City of Cape May. This is a very comprehensive ordinance and came about from a significant number of complaints due to noise and safety issues due to houses used for large destination events as opposed to whole house rentals in the City of Cape May.

In an attempt to address the issue, City Council met with three members of the public, to discuss the ordinance. It defines an event house, and on page 6 states very clearly what an event house is. To be an event house, the dwelling unit used is for an event or habitable purposes; used, maintained and advertised as a destination location for a gathering of guests. The types of events that occur at event houses are weddings, receptions, celebrations and retreats. What triggers the ordinance is when there are 30 people. The maximum number of indoor guests allowed at an event house is 50, outdoor guests is 125. The ordinance restricts event houses to the C3 zone, of which there are already 2 event houses along the beach. The use of these houses is more in line with the hotels and motels that usually host these types of events.

In the ordinance, Article 3 lists the requirements and conditions of obtaining an event house license. The City intends to be cooperative and very efficient in handling these in that the event

house owner would register with the City to gain approval through the licensing office and the City Clerk for an event house license, at a cost of \$300.00 per year.

There are a series of inspections, A through D, under §310-24, page 3. If this ordinance is approved there will be a fee of \$75.00 for each of the three events that can be held at an event house during a calendar year, with no events allowed in July and August because of peak season.

Mayor Dr. Mahaney also noted there are restrictions in the R3 zone. An important factor in this is that as a committee, they were approached by a number of individuals both in and out of town that previously committed to events for the summer of 2014. In the ordinance there is a provision that states if there is a signed contract for an event prior to January 1, 2014, a copy needs to be delivered to City Council and the City Clerk's office by February 15, 2014. That event will go through the normal process and we will honor those events as a way to make certain that no one's long term plans were a disadvantage; however that event must occur before December 31, 2014.

This ordinance was introduced on February 18, 2014 and is now coming to the Planning Board with the 35 day stipulation. It is due to come up for a second read of public hearing at the City Council's public meeting on Tuesday, March 18, 2014.

Chairman Bezaire questioned a provision in the ordinance regarding parking; that it has to be provided on site or shuttled from somewhere else in town. Mayor Dr. Mahaney confirmed that for events held during the last few years, that has been done at other properties in the past, and that each house and its capabilities has to be looked at with regards to how big the event is.

Motion made to approve City Council Ordinance #277-2014 by Mr. Shuler, seconded by Mr. Jones and **carried 7-0**. Those in favor: Mr. Elwell, Ms. Weeks, Mayor Dr. Mahaney, Mr. Jones, Mr. VanDeVaarst, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

**Resolution: Osprey Landing Condominium Association, LLC
Block 1061, Lot 101 & Qualifiers**

Mayor Dr. Mahaney motioned that there be an additional clause added to the resolution that the planning Board retain jurisdiction over this particular property based on the number of variances, the uniqueness of the project and the overall complexity of the project, to ensure the initial intent of the approval is maintained. As well, jurisdiction should also be retained for further applications that come before the city. The Board has worked very hard to take a property that was formerly approved with what wasn't the best design, and the applicant worked with the city to come up with a design to make the property not only sellable for individual units, but also make the property much more compatible with the neighborhood, the city's uses and more pleasing and easier to service especially from a public safety standpoint.

George Neidig recommended a motion be made for the Board to retain jurisdiction over the property, except in the event of a use variance.

Mayor Dr. Mahaney motioned that the Planning Board retain jurisdiction over the Scarborough application except for cases in which a use variance is requested, seconded by Mr. VanDeVaerst and **carried 6-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mayor Dr. Mahaney, Mr. VanDeVaerst, Mr. Shuler, Mr. Bezaire, Mr. Winkworth. Those opposed: None. Those abstaining: Mr. Jones.

**Application: Thomas DiDonato, 1105 Pittsburgh Avenue
Block 1172, Lot 4
Major Subdivision with Variances**

George Neidig indicated for the record that Ms. Weeks had reviewed the cd's from this application from October 22, 2013 and December 10, 2013 and has signed a certification indicating so.

For the record, Louis Dwyer Esquire stated he had applicant Thomas DiDonato present and Vincent Orlando.

Vincent Orlando was sworn in and clarified his credentials for the record. Thomas DiDonato was also sworn in and clarified his credentials for the record.

Craig Hurless, Board engineer, was sworn in and clarified his credentials for the record.

Lou Dwyer recapped what occurred at the last hearing. He asked Mr. Orlando to take the Board through the positives and negatives of the subdivision. Mr. Orlando discussed the number of lots based off of definition 59-43C1, which provides a detailed formula to determine the number of lots. The density permitted is 15; they are requesting 14, 1 less than the permitted density. As Lou Dwyer indicated, as an exclusionary development, lot area, frontage and width can be reduced as per ordinance requirements. He stated there are two ways for the Board to consider the variance, either a C1 hardship or a C2. He believes C2 would be the right method to determine variances. Mr. Orlando then detailed his charts and diagrams of the property for the Board. The Board then asked Mr. Orlando numerous questions about the lots and the variances being requested.

Sal Perillo, 29 Harbor Cove, stated he was there representing he and his wife. He asked Mr. Orlando to proceed to the Board where the plans were displayed for the storm water drainage, while he questioned him in great detail about same. Mr. Perillo was concerned what would happen if the system did not function properly or failed, what would happen to any storm water. Mr. Orlando clarified that currently, the storm water does go into the Harbor Cove system. When rainfall hits the ground in that area, it goes into the right of way, into the drainage. He stated they are proposing if you pave a portion and have a sidewalk the same amount of water goes there, just a little quicker. Mr. Perillo questioned the proposed use of pervious pavers; Mr. Orlando stated if they used regular asphalt the system would have to be made larger. They opted not to do that because the pervious pavers were a better alternative for storm water management.

Mr. Perillo noted an exhibit for the record, **O8**, the City of Cape May Fire Department letter to the Planning Board dated October 22, 2013. George Neidig noted that a letter had come out two days ago (February 22, 2014) from the fire department.

Mr. Perillo then wished to discuss the variances being sought. He noted exhibit **O9**, a review letter dated August 29, 2013, not the most recent review letter, that was a review of a plan prepared by Mr. Orlando's office. He stated that plan is identical to the plans that are currently being presented to the Board. It proposed 14 lots, same size and configuration of the lots that are currently before the Board. Mr. Orlando stated that was incorrect. Mr. Perillo began to review prior plans. Lou Dwyer objected as it had nothing to do with the plan that was currently being presented to the Board. Lou Dwyer asked Mr. Orlando a few questions about affordable housing ordinances he has worked on in the past compared to what they are proposing. Exhibits **O10, O11, O12 and O13** were presented and discussed in detail. Discussion ensued regarding the configuration along Harbor Cove as it relates to on and off street parking and was debated at length.

Mr. Perillo called John Pagenkopf, a Licensed Principal Planner, as a witness, to discuss the 41 variances requested across the 14 lots, both negative and positive criteria. Mr. Pagenkopf disputed the variances were appropriate under C-2 criteria. He also answered questions regarding the storm water system, the density on Pittsburgh Avenue, and the common shared driveways the applicant was proposing.

Lou Dwyer cross examined Mr. Pagenkopf regarding exclusionary zoning provisions of Cape May's ordinance, specifically the section regarding floor area ratio, building height and setback requirements.

Chairman Bezaire asked Mr. Orlando a few more questions regarding the Fire Chiefs letter put into exhibit earlier, specifically regarding the parking at Harbor Cove. Lou Dwyer and Mr. Perillo also asked Mr. Orlando questions regarding the parking at Harbor Cove.

The meeting was opened to the public at 9:28 PM.

Mark Lomanno, 1450 Missouri Avenue, was sworn in. His preference would be fewer units than more units, and felt the affordable housing would be best suited built someplace else because they would bring other property values down.

Ray Taylor, 42 Harbor Cover, was sworn in. His concerns were with the granting of the variances and the parking difficulties that already exist. He believes it will be a bottle neck for the neighbors to share the driveway. He also wanted the Board to consider the conflict in the architecture being proposed.

Mary Perillo, 29 Harbor Cove, was sworn in. Her concerns are with the density being proposed across the street. She noted all the migratory birds that can be found on that property and expressed her concerns with the drainage going into the wetlands.

Cathleen Brown, 1430 Missouri Avenue, was sworn in. She also stated concerns regarding the wetlands and the migratory birds. She expressed that the Master City Plan states to preserve, protect and have green areas, and to please consider what this type of plan will do to the area.

Mary McKinney, 33 Harbor Cove, was sworn in. She stated she has lived at her address since 2003. She noted there already is a drainage problem on the street and believes the problem will be exacerbated by the proposed plans. She urged the Board to consider a less concentrated area of homes, and the wetlands preservation for the area.

Lou Dwyer asked Mr. Orlando to respond to some of the questions asked by members of the public.

The meeting was closed to the public at 9:40 PM.

Craig Hurless reviewed his latest review memorandum dated December 14, 2013, noting this is his 9th review regarding this application. All variances requested were summarized. Section §59-43 was also reviewed. Under the general review comments, only comments that were not previously discussed were reviewed; item numbers 4,9,10,14,17,23 and 25 through 34.

Discussion occurred regarding Craig's review and a decision was made to move the vote to the next schedule meeting on April 8, 2014.

Motion made by Mr. Elwell to move the vote to April 8, 2014, seconded by Mr. Jones and **carried 7-0**. Those in favor: Mr. Elwell, Ms. Weeks, Mayor Dr. Mahaney, Mr. Jones, Mr. VanDeVaarst, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

Motion made to adjourn by Mike Jones, seconded by Mr. VanDeVaarst, with all in favor, at 10:30 PM.

A verbatim recording of said meeting is on file at the Construction/Zoning Office.

Respectfully submitted: Edie Kopsitz, Technical Assistant.
Jill Devlin, Board Secretary