

**City of Cape May
Planning Board Meeting
Minutes – Tuesday – March 13, 2012**

Opening: The meeting of the City of Cape May Planning Board was called to order by Chairman 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
Mayor Dr. Mahaney		Present
Mr. Elwell		Present
Mrs. Nelson		Absent - excused
Mr. Jones		Present
Ms. Weeks		Present
Mr. Murray		Present
Mr. Winkworth		Absent - excused
Dr. France,	1 st Alternate	Absent - excused
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

Minutes:

February 14, 2012

Motion made by Mr. VanDeVaarst to approve the minutes of February 14, 2012 as presented. Seconded by Mr. Jones and **carried 8-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray, Dr. Mahaney, Mr. Jones, Mr. VanDeVaarst, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

Resolutions:

Broadway Beach LLC, Block 1016 Lot 13

Motion made by Mr. Murray to approve Broadway Beach Resolution as presented. Seconded by Mr. VanDeVaarst and **carried 7-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray, Dr. Mahaney, Mr. Jones, Mr. VanDeVaarst and Mr. Shuler. Those opposed: None. Those abstaining: Mr. Bezaire.

BUSINESS:

Presentation Madison Avenue Water Tank

Mayor Dr. Mahaney and Mr. Murray recused themselves from the presentation.

City Manager Bruce MacLeod was present along with Marc DeBlasio and Edward Dennis the City Engineer's from the offices of Remington, Vernick and Walberg. Mr. MacLeod presentation explained in detail the rehabilitation work to be completed of the Madison Avenue Water Tank (Madison and Columbia Avenue's) with the inclusion of the removal of three (3) existing cellular antennas and the construction of a temporary structure for the cellular antennas. Details of the permanent and temporary portions of the project were verbalized by Mr. DeBlasio and Mr. Dennis, using a site plan by Advantage Engineers dated February 16, 2012 with a revision date of March 12, 2012; Z-1 (Site Plan) and S-1 (Elevations), along with photographs denoting the placement of the temporary 100 foot high pole (ballast design) with four (4) steel legs with concrete pads for the Cellular antennas. Mr. Dennis noted for the record the height of the water tower is 130 feet stating the 100 ft. pole would not be an obstruction. It was emphasized that the expense of the wireless antennas (including the submitted Plans by Advantage Engineers) is at no cost to the City. Mr. Dennis informed the definitive time frame of the proposed scope of work, clarifying the bid will go out by the end of March, award by April with the Contractor under contract by May, with no construction during the summer season and actual physical rehabilitation of the Water Tank commencing on September 10th.

Members were positive on the rehabilitation. Several questions were put forth to the City Manager and City Engineers to which their concerns were addressed regarding the following; security fences, confirmation of heights, length of project, hurricane season while rehabilitation is commencing, degradation in revenue, monthly rental fee paid by Wireless Cellular companies, visual effects, details of construction, surface disturbance to which MacLeod, Mr. DeBlasio and Mr. Dennis responded addressing all the concerns of the members.

Motion made by Mr. Shuler for approval of the plans as presented. Seconded by Ms. Weeks and **carried 6-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Jones, Mr. VanDeVaarst, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

Mr. Neidig inquired if a Resolution is required with Mr. MacLeod responding the minutes will reflect the motion of approval and a Resolution will not be needed.

Dr. Mahaney and Mr. Murray returned to resume their duties as members.

R1 Zoning District – Discussion and possible action on changes to the R1 Low-Density Residential District, lot coverage requirements under § 525-14B (2) (a) [2], of the City Cape May Code.

Louis Dwyer, Esquire representing several property owners on Cape May Avenue. He gave a brief history of the previous meeting held on September 27, 2011 that did not have enough votes to move forward to the governing body. He stated the purpose is to request reconsideration of an increase in lot coverage to 40% within boundaries that front on Cape May Avenue including blocks 1106, 1107, 1108, 1109, 1114 and portion of Blocks 1105, 1119, 1120, 1134, 1135, 1150 and 1151 that is currently 30%. Mr. Dwyer explained the planning rationale for the limited overlay is the fact that the lots on Cape May Avenue are generally conforming to minimum lot size requirements or are larger creating an ample amount of green or open space even with the coverage increased to 40%. He believes it is appropriate and not excessive. He gave comparatives with the R2 Zone lot coverage of a 7,500 square foot lot to a R1 9,300 square foot lot. He believes the overlay will address any of the concerns that were against this application the first time.

Board Engineer, Craig Hurless then reviewed his report of February 21, 2012 clarifying the description for the membership, which he clarified it, was an update of his formal analysis. He addressed the Zoning Chart on page 3 addressing the Zoning Districts for R1, R1A clarifying the overlay, R2, R3, R3A, R4, R5 and RS lot coverage's for a single family maximum, minimum, effective maximum and open space (lot size maximum coverage). He stated the City has recognized different treatments within a specific zoning district. He clarified that the R1 district along Cape May Avenue is in fact located along two (2) separate right of ways with municipally owned open space land in the center with abundant green space more so than any other municipal street in the area.

Mr. Dwyer requested that his clients (that are the majority of the audience) stand and be recognized. Mr. Neidig acknowledged that a large majority stood up and were recognized.

Chairman Bezaire opened the Public Portion of the meeting at 7:35pm: Evelyn Lovitz, 1012 Cape May Avenue believes individual needs should be obtained through variances. **Ron Tupper, 1209 Cape May Avenue**, was positive on the application thanking the members for their consideration of the modest request. **Charles Prentice, 1053 Virginia Avenue**, would like the members to consider other sections in R-1 Zoning District. **Public portion was close at 7:40pm.**

Member discussion ensued with concerns of spot zoning with Mr. Hurless responding that Cape May Avenue unique features of a lot of open space. Members Bezaire and Murray made comments on how all of R1 should be increased to 40% and stated that's how they voted previously. The majority of members feel this is a modest request acknowledging other sections of the R1 but the advertised application is only applicable to the R1 Zone along Cape May Avenue. People in the audience began asking questions aloud when **Chairman Bezaire open the Public portion so further comments could be heard, Lester Katanis, 30 Harbor Cove**, was supportive of Cape May Avenue request but not sure he would want it for Harbor Cove Area, **Dan Lavecchia 1312 Cape May Avenue**, asked if pools were considered in the lot coverage and Mr. Bezaire and the Mayor responded it was. **Raymond Kaller, 42 Harbor Cove** commented on another section not pertaining to the R1. Mayor Dr. Mahaney expounded on R1 Zoning history and state he has restudied the area since it was last presented, met with Mr. Hurless and Vice Chairman Shuler due to the

numerous request to revisit this issue and is in favor of the R1 Zone being increased in the Cape May Avenue Section only due to the uniqueness of the area. He feels the other sections of the R1 districts should be examined with an in depth study and discussed at another time. Chairman Bezaire does not agree feels it is piece-mealing and it is not taking a whole town approach and the same argument could be made for all sections in R1.

Motion made by Mr. Murray to recommend to the Governing Body that they reconsider the zoning of Cape May Avenue to reflect a 40% lot coverage rather than the 30% lot coverage. Seconded by Mr. Jones and **carried 6-0.** Those in favor: Mr. Murray, Dr. Mahaney, Mr. Jones, Mr. VanDeVaarst, Mr. Shuler and Mr. Bezaire. Those opposed: Mr. Elwell and Ms. Weeks. Those abstaining: None.

Members voiced their reasons for the record.

Chairman Bezaire called for a 5 minute recess at 8:10pm. The meeting resumed at 8:15pm.

Application:

**Holl/Emery “Oyster Bay Restaurant”, 613-615 Lafayette Street
Block 1060 Lots 3.01, 6.02, 30 & 31
Site Plan & Hardship Variance**

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

Louis Dwyer, Esquire representing the owners Christopher Holl and Geraldine Emery who were present along with professionals Joseph Courter, Jr. AIA and Brian Sullivan, General Contractor/Builder were sworn in by Mr. Neidig. Mr. Dwyer explained the site is an existing restaurant (40 years) with 104 seats, including the bar in the C-1 Zoning district. They are proposing increasing to 134 seats by enclosing and existing 8ft. by 19ft. front patio and construct a 17ft. by 55ft. rear addition. He stated the applicants are one of the few properties and restaurants in the C-1 Zone and elsewhere in the City to have reasonable parking for restaurant usage. The proposal will create a larger bar area primarily to service those waiting to be seated and provide some needed additional seating. He clarified that the restaurant under the former operation, existed prior to the acquisition of the rear lot, which allows for parking and not the subject to previous Site plan application. He stated the Applicants, as a condition of Site Plan Approval will agree to consolidate the two lots.

Joseph Courter’s testimony referred to the proposed by his enlarged detailed Site Plan dated November 23, 2011 with Revision date of December 17, 2011. He clarified sheets A-1 denoting Front, rear, right elevations, sign details, trash enclosures and the delineated parking (with inclusion of bumpers and pass through driveway). He explained in detail Sheet A-2 of the Floor and Seating Plan giving the breakdown, of Dining room Area #1 (54 seats), Dining Room #2, (40 seats), Front Hi tops (6 Seats), Bar Area (26 seats) and Rear Hi-tops (8 seats). He clarified the 15 employees during the peak hours and submitted into evidence marked A-3 the seating and employee’s schedule. He then verified the negative and positive criteria

were the benefits out way the detriments. Mr. Courter alluded to the fact that the aesthetic enhancement to the building as a purpose of zoning that is being advanced in this application.

Board Engineer, Craig Hurless then reviewed his report of December 29, 2011 clarifying the description for the membership. He reviewed the Completeness review on pages 2 through 4 addressed the Details required for C & D Variances itemizing # 's - 13, 19, 27, 32 & 33 and Preliminary Site Plan, itemizing, #3, (b), (d), (j), (p), (q), (v), (x), (z) and (aa). He addressed the Zoning Charts on page 4 addressing the C-1 District (§525-22) All Uses stating Building Setback Line Lafayette street is not applicable. The general review comments on page 5 & 6; #1, #2, #3, #4, #5, #6 (void of Landscaping encourages green site were possible, #7, #8, #9, #10 (Shade Tree), #11, #12 (HPC), #13 last sentence and Lot consolidation with Mr. Hurless verbal recommendation to provide some additional detail with regards to the driveway and provide protection along the restaurant and the residence on the northern side of the driveway.

Member's questions were numerous regarding the parking entrance located Lafayette Street and people confusing Broad Street as the entrance. Mr. Hurless suggested signage stating, "DO NOT ENTER". Chairman Bezair questioned the three lots that are owned by the applicant and one lot being tied in with the restaurant; he would like it to be consolidated and feels it will help the project immensely and commended the applicant for being forthcoming with the increase in employees. Members concurred this application is an improvement to what currently exists.

Meeting was opened for public comments at 8:50pm. Karen Rispoli, 619 Lafayette Street shared concerns on the project; she resides next door and stated her house is rated contributing in the Historic District. Mrs. Rispoli indicated she has enhanced her property, disputed the measurements of the driveway as a distance of 10 feet with a 4 foot walkway, stated her house has been hit five (5) times replacing the gutters twice, she distributed photos of her property that gave views from her dining area and she wanted the members to get a visual of the closeness of the driveway. She had traffic concerns regarding the driveway and explained when the lot is full patrons tend to back out. She stipulated they are not trying to negate the application but wants her concerns addressed. Craig Hurless addressed the concern with the applicant's approval; reduce the walkway of two (2) feet with a curb on the Rispoli side to protect. Mr. Hurless further clarified a usual sidewalk with a 6 inch reveal functioning as curb, protecting the building, shifting the driveway approximately 2 feet towards the restaurant and further protects the adjacent homeowner. **Jim Rispoli, 619 Lafayette Street**, concerns of the curbing because of drainage issues and stated delivery trucks are a major concern of his. He also had discrepancies with the code concerning commercial driveways. He also inquired about a fence on the rear of the restaurant to negate foot traffic. **Gerry Emery, 613-615 Lafayette Street**, owner indicated she would not want a fence in the rear of the property and stated it would block off the flow from Broad to Lafayette Street and hinder safety and rescue vehicles. **Public portion was closed at 9:10pm.**

Motion made by Mr. Jones that the completeness waivers from Craig Hurless report dated December 29, 2011 Sections 13, 19, 27, 32 and 33 of the requirements be granted

subject to conditions. Seconded by Mr. VanDeVaarst and **carried 8-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray, Dr. Mahaney (voiced reason), Mr. Jones, Mr. VanDeVaarst, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

Motion made by Mr. Jones that the site plan waiver be granted. Seconded by Mr. Murray and **carried 8-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray, Dr. Mahaney, Mr. Jones, Mr. VanDeVaarst, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

Motion made by Mr. Jones that the parking variance for 34 spaces, where 28 are provided be granted. Seconded by Mr. Murray and **carried 8-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray (voiced reason), Dr. Mahaney (voiced reason), Mr. Jones, Mr. VanDeVaarst, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

Motion made by Mr. Elwell to impose conditions as stated in Craig Hurless report date December 29, 2011 page 2 of 5 under Completeness Review items 13, 19, 27 inclusion of grease traps, 32, 33, Site Plan Waiver page 3 – p, q, v, z, page 4 (aa), General Review Comments- 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, lot consolidation to one tract in a Deed or Plan to be approved by the Board Engineer. Added conditions reviewed by Mr. Neidig; Applicant will provide additional detailing of the driveway and protection on the northern side of the driveway by limiting the sidewalk by 2 feet by providing curbing on north side of the driveway to the satisfaction of the Board Engineer, applicant shall provide a DO NOT ENTER SIGN from Broad Street, sidewalk next to building will have a topography of existing and proposed and chain link fence is depicted on the survey, solid fencing may be appropriate along the residential side. Seconded by Ms. Weeks and **carried 8-0.** Seconded by Mr. Murray and **carried 8-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray (voiced reason), Dr. Mahaney (voiced reason), Mr. Jones, Mr. VanDeVaarst, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

Motion made by Mr. Jones, Seconded by Mr. VanDeVaarst to adjourn the meeting at 9:25 PM with all in favor.

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

Respectfully submitted: Edie Kopsitz, Recording Secretary