

**BOROUGH OF WEST CAPE MAY
PLANNING-ZONING BOARD
REGULAR MEETING – September 8, 2015**

The Regular Meeting of the Borough of West Cape May Planning-Zoning Board, held at the Municipal Building, 732 Broadway, was called to order by Chairman Mulligan at 7:06 PM. After reading the Open Public Meetings Act of 1975 he led all present in the flag salute.

ROLL CALL:

Members:

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|----------------|---------|---------------|---------|
| Doris Jacobsen | present | Kevin O’Neill | present |
| Art Joblin | present | Diane Rea | absent |
| Pam Kaithern | present | Carole Sabo | present |
| Mark Kulkowitz | present | Alternates: | |
| Barbara Lamb | present | TJ Belasco | absent |
| Paul Mulligan | present | Lisa Roselli | present |

Also Present: Elaine L. Wallace, Recording Secretary
Brock Russell, Board Solicitor
Ray Roberts, Board Engineer

Review of Ordinance 502-15: On motion of Mark Kulkowitz, seconded by Carol Sabo, and approved unanimously on roll call vote, the aforementioned ordinance was found substantially consistent with the master plan.

Minutes: On motion of Art Joblin, seconded by Doris Jacobsen, the minutes of the August 11, 2015 meeting were approved on roll call vote as follows: Kulkowitz abstaining, all remaining members present voting in the affirmative.

Resolutions:

0015-15 Ryan Griffin, Application 006-16, Block 55, Lot 16.02, 3 Landis Avenue: On motion of Mark Kulkowitz, seconded by Barbara Lamb, the aforementioned resolution was approved as amended on roll call vote as follows: Roselli abstaining, all remaining members present voting in the affirmative.

0016-15 Bernard Dera, Application 008-15, Block 55, Lot 27, 313 Sixth Avenue: On motion of Mark Kulkowitz, seconded by Kevin O’Neill, the aforementioned resolution was approved as amended on roll call vote as follows: Kulkowitz and Roselli abstaining, all remaining members present voting in the affirmative.

0017-15 Jane Saggiomo, Application 009-15, Block 41, Lot 3, 239 Fourth Avenue: On motion of Art Joblin, seconded by Mark Kulkowitz, the aforementioned resolution was approved on roll call vote as follows: Roselli abstaining, all remaining members voting in the affirmative.

Application 010-15, Lazo Investments, LLC, Block 30, Lot 4, 102-104 Sunset Blvd
Pete Lazos, property owner, his daughter Metaxia Lazos, and their architect Louis DeGregoria

appeared before the board to present the application and were sworn in by Solicitor Russell. The applicant asked to amend the application to show Pete Lazo as the applicant instead of Lazos Investments, LLC. Mr. DeGregorio presented the plans for the project. The applicant wishes to replace the roof, enclose the area between his building and the neighboring building, and build an enclosure for trash on the Broadway side of his property. He applied for variances for side yard setback, and rear yard setback. The property has an easement in the rear which is expressly for temporary storage of trash and recyclables. The proposed expansion would not include the easement area. The owner did not make application to the Historic Preservation Commission or the Cape May County Planning Department. Board Engineer Ray Roberts was sworn in and reviewed his report. He asked that the all plans be revised to show the correct setback for the proposed addition. Mr. Roberts also raised concerns about the parking layout and requirements based on square footage and seating capacity for the property. He questioned the height of the proposed trash enclosure and whether it would be high enough to screen the receptacles. If it has to be higher than 4', then another variance would be required. Because there were outstanding items that needed to be resolved, revisions to be made and additional information to be provided tabling the application was considered. The applicant would like to apply for a permit to have the roof replaced, prior to getting planning board approval for the variances required for his proposed expansion.

On motion of Art Joblin, seconded by Mark Kulkowitz, and carried unanimously on roll call vote, the application was tabled to the November 10th regular meeting to allow the applicant time to revise his plans and to apply to the County Planning Board and the Historic Preservation Commission for necessary approvals.

Application 004-15, Curtis Bashaw & Jack Wright, Block 32, Lot 3, 110 Sunset Blvd

Pam Kaithern, Carol Sabo and Paul Mulligan recused themselves. Kevin O'Neill assumed the position of Chairperson. Solicitor Russell swore in applicants Jack Wright, Curtis Bashaw, and engineer Vince Orlando, who was recognized as an expert. Lou Dwyer represented the applicant. The applicant amended the original application and is seeking a D variance because gas stations are no longer a permitted use, as well as several bulk variances including building height, parking, corner lot and rear yard setbacks, and free standing sign. The current use is a gas station, but that is no longer a permitted use in the district. The applicant is also seeking preliminary and final site plan approval. The D variance is a technicality, the use is actually being decreased from 4 pumps to 2 pumps, but it triggers the need for the variance even though the use is preexisting. The applicant testified having a gas station in the community is not only convenient for residents, but is also good in the event of storms or natural disasters that could cut the town off from the mainland. The height variance is required because the applicant would prefer a more aesthetically pleasing peaked roof over the flat roof that exists. A parking variance is being requested, but in addition to that, the applicant is willing to contribute to the parking trust fund for the 4 spaces they are short as a show of good faith and to help mitigate the impact. The freestanding sign that is nonconforming is a state requirement for all gas stations. Vince Orlando reviewed the architectural plans, which show the elimination of the lighted canopy and reduction in the footprint of the gas station, as well as the addition of the second building to be used for office space and restaurant for Exit Zero. He also reviewed the site plan elements. Mr. Orlando testified the D variance is deminimus in nature and the canopy and building are both being reduced which will positively impact light, air and open space on the site. He also asserted

the applicant is improving the site and making it more aesthetically pleasing, promoting a walkable community by installing new curbs and sidewalks, and providing better use of the space with more services to the residents. Engineer Roberts was sworn in and reviewed his report. He thanked the applicant for revising the plans to take care of all the technical items he identified in his report. With regard to traffic, he asked Mr. Orlando to address the peak hours of use for the property and delivery schedules. Mr. Orlando explained the gas station would have morning and evening peak times, the office space would be used during the day and would be closed when the restaurant had its peak hours in the evening. He expects gas deliveries to peak at once per week in the height of the summer but they would be done typically in the late evenings. Mr. Bashaw asserted the site allows delivery vehicles to park onsite and not block the street. Mr. Roberts asked for clarification on whether the low speed vehicles would be parked on the site all day year round and whether that would constitute an outdoor display. The applicant also reviewed the proposed draining and landscaping plans.

The Chairperson opened a public hearing to anyone within 200' of the subject property.

Laura Mowrey, 404 Fow Avenue, was sworn in by Solicitor Russell, and asked several questions about the proposed restaurant and whether it would have outdoor dining, would be BYOB or purchase a liquor license. All seating is inside, and currently BYOB is permitted, not sure about a liquor license. She also asked about employee parking and trash collection. Trash receptacles will be inside and trash collected twice a week. She asked if there would be a "bell hose" for the gas pumps – there will not. She also had a concern about the fence on the property line shared with her house. The applicant will install a new wood fence. There will be wooden parking bollards, curb and fence to keep cars from encroaching into her yard. She also had a question about the parking trust fund. It was clarified the applicant is seeking a parking variance but has also offered to donate to the parking trust fund, even though it is not necessary for this application.

Mike Bean, 400 Fow Avenue, was sworn in and asked about whether a traffic report should be required. Ray Roberts explained the purpose of the report would be to determine if a traffic light were needed at the location, and this project would not increase traffic to that degree. Mr. Bean expressed concern over the increase in traffic and parking issues for himself and others in his neighborhood, stating it is great for the rest of the community, but not for them.

When no one else from within 200' wished to speak, the Chairperson opened the public hearing to the general public.

Joe Winters, 229 35th Street, Brigantine NJ, was sworn in and questioned the ability to contribute to the parking trust fund for new construction. Brock Russell explained the applicant has applied for a variance for parking, but is still willing to donate to the fund to help mitigate the impact. Mr. Winters asked about the conditions of the fuel tanks, which are in good shape per the NJDEP. The applicant also explained there is a 6" curb around the property and overflow controls to eliminate any impact on offsite drainage.

When no one else wished to speak, the public hearing was closed on motion of Mark Kulkowitz, seconded by Art Joblin.

Lou Dwyer summarized the application stating it will be good for the commercial district and is consistent with the vision of the master plan.

Art Joblin made a motion to approve preliminary and final major site plan approval with D2 and other bulk variances. Mark Kulkowitz seconded the motion, which was approved on roll call vote as follows: Kaithern, Mulligan, and Sabo recused, all remaining members present voting in the affirmative.

The Board took a short break from 9:37 pm to 9:40 pm.

Application 007-15, Paul Burgin, Block 21, Lot 44, 715 Broadway (Rear)

Applicant Paul Burgin joined the board along with his engineer Vince Orlando. Louis Dwyer represented the applicant. Board Solicitor Brock Russell explained this was a final site plan approval, the purpose of which is to determine whether the applicant complied with the conditions required from the preliminary site plan approval. The board will only hear from the applicant's engineer and the Board's engineer to make that determination. The Municipal Land Use Law does not provide for a public hearing on final site plan approval. There had been an error in the tax assessor's list as provided to the applicant which resulted in a number of people within 200' not receiving notice via mail for the preliminary site plan hearing date. The law says the applicant can rely on the list provided by the assessor so it is up to the applicant whether they wish to allow further public hearing. Louis Dwyer stated the applicant followed the proper procedure and is confident there is case law that supports the determination and his client does not wish to have an additional hearing. He is prepared to move forward with final approval. Vince Orlando was deemed an expert and proceeded to review the changes made to the plans to meet the conditions of preliminary site plan approval. He went over the revised drainage plan. The applicant received an LOI from NJDEP and he was permitted to fill an isolated wetland on the property and then drain the property toward Park Boulevard. Lou Dwyer provided a draft easement for that drainage. Mr. Orlando also reviewed his proposed landscaping plan. The plan includes 373 shrubs and 140 trees, but is 244 trees short according to the Borough's code. However, Mr. Orlando asserted it is not possible to plant any more trees on the property. He asked that the applicant be allowed to make a contribution to the Shade Tree Commission to allow them to plant trees throughout West Cape May to help offset the limited planting on this site. Pam Kaithern asked the applicant to seek the input of an arborist to consult on possible places for more trees and native types of trees that should be used. Mr. Burgin was amenable to that suggestion. Lou Dwyer suggested the applicant contact an arborist and get him to comment on his plans and have him submit his comments to the Board Engineer for review and approval. He will also base the proposed contribution to the Shade Tree Commission on the arborist's recommendations. Engineer Ray Roberts reviewed his revised report. He asked the applicant to revise the by-laws to agree with the declarations of covenants to make them match. Also, an escrow should be set up for the storm drainage system and Mr. Roberts would like a more detailed estimate of what the maintenance escrow should be. The escrow is necessary in case the homeowners association doesn't take care of it and the Borough were required to go out and do it. Mr. Orlando will provide that information as requested. The escrow would be released after 10 years if everything works properly. Lastly, Mr. Roberts asked how the construction will proceed. Mr. Orlando explained the 12 houses would be built over a number of years. The street, stormwater management systems, and buffering will be done first. For sites that don't

require grading, vegetation may be left in place until building begins. For sites that require grading, trees to remain will be tagged, fenced and left, and the remainder will be removed. The final coat of asphalt on the new street won't be installed until 80% of the homes are built. Each individual site will have to be landscaped before a certificate of occupancy can be issued.

Mark Kulkowitz made a motion to grant final major subdivision approval with conditions that were placed on the record. Art Joblin seconded the motion which was approved on roll call vote as follows: O'Neill recused, all remaining members present voting in the affirmative.

PRIVILEGE OF THE FLOOR: No comments.

On motion of Mark Kulkowitz, seconded by Carol Sabo, and carried by unanimous voice vote, the meeting adjourned at 10:29 PM.

Respectfully submitted,

Elaine L. Wallace
Recording Secretary