

**City of Cape May Planning Board Meeting Minutes
Tuesday, April 14, 2015**

Opening: The meeting of the City of Cape May Planning Board was called to order by Chairman Bill 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	Absent
	Mayor Dr. Mahaney	Present
	Mr. Elwell	Present
	Dr. France	Present
	Mr. Meier	Present
	Mr. Winkworth	Present
	Mr. VanDeVaarst, 1 st Alternate	Present
	Mr. Macciocchi, 2 nd Alternate	Present

Also Present: George Neidig, Esquire – Board Solicitor
Craig Hurless, PE, PP, CME Associate – Polistina & Associates
Jill Devlin, Board Assistant

Applications

**Osprey Landing Condominium Association, LLC
Opsrey Landing Development Co, LLC
c/o M. Sean Scarborough
“Spicers Creek” (f.k.a. Osprey Landing)
1263 Lafayette Street
Block 1061, Lot(s) 101.01-101.14
Block 1061.01, Lot(s) 1-8
Block 1061.02, Lot(s) 1-6
Block 1061.03, Lot(s) 1-11
Block 1061.04, Lot(s) 1**

Jim Pickering, Esquire, representing the applicant, noted he had Ed Speitel, Engineer and Sean Scarborough, Manager of Osprey Landing Development in attendance. All were sworn in and stated their credentials for the record. Craig R. Hurless, Board Engineer, was also sworn in and stated his credentials for the record.

Attorney Pickering stated he knew most everyone was familiar with this project. He asked Mr. Speitel to give a general background of the project; how many units there were, how many boat slips there were, things of that nature. Mr. Speitel gave a description of the single home community and stated the reason they were before the board again was due to the entrance on Rosemans Lane, the first two blocks on the right hand side across from where the new house is

being built. Previously it had been proposed that those two houses have garages in the back and a common driveway between the two homes. It has now been determined that it is not feasible for these two homes. It was not known how difficult it would be when originally approved to turn back to those particular houses garages or how it would impact the sidewalk next to the existing four story house. The proposal is to take the house that is on lot 2 and shift it to the east. Exhibit A1 was entered into record. Originally Lot 2 was approved with setbacks of 0 feet on the left and 5 feet on the right. The proposed change is to change the setbacks to 4 feet on the left and 1.29 feet on the right to improve access. The change is just over the 5 foot setback granted originally.

Mr. Bezaire asked if an easement was created for the sidewalk for lot 2. Mr. Meier also asked if the sidewalk was to accommodate the public and residences to their boat slips. Mr. Pickering stated it was to accommodate lot 3.

Exhibit A2 was entered into record. In addition to the sidewalk, there is a tight radius for the driveway. The previous approved plans for lot 1 and 2 had a driveway going between them with garages in the back. He asked Mr. Speitel if the proposal today was a better plan and if this would be a betterment to the development. Mr. Speitel answered yes to both questions.

Mr. Pickering also asked Mr. Speitel about the variances being requested, if they could be granted using the C2 requirements. Mr. Speitel stated the greatest benefits to granting the variances would be more air and open spaces between lots 2 and 3. There is also now a wider space between the two buildings.

The sign variance being proposed was then discussed. Currently there is a project sign on lot 101.01, the Spicers Creek Marina sign. There is also a temporary sign for Shafer Construction on lot 1061.01 Lot 1. The request for the variance is to move the temporary sign across the street to lot 101.01. Attorney Pickering stated they simply wanted to move the existing sign from where it is now and moving it across the street to be placed where the existing temporary project sign is located.

Mr. VanDeVaerst asked if both signs were about the same size, stating concerns about people being able to see when coming out of the street. Mr. Speitel stated the signs would not obstruct the view. Attorney Pickering stated to be clear, if someone were coming southerly down Rosemans Lane to Lafayette Street, there currently are two signs there; one on each side. If this variance were to be approved, the sign on the right will no longer be there; there would be a sign on the left. Mr. Speitel stated that was correct.

Mr. Meier questioned if those that would see the sign, would they be one the way out of town. Mr. Speitel confirmed the sign is dual sided; everyone would be able to see the sign.

The variance for the Deck on Lot 8 was then discussed. All of Lot 8 is owned by the association and contains a pool. The applicant is proposing a deck for the pool over the stormwater basin, which will have a rear yard setback of 3.6 feet. There would be railings and a fence around the deck along with a few tables and chairs. Attorney Pickering entered Exhibit A3 into the record and explained same in detail for the Board.

Engineers Report

Craig Hurless discussed his review memorandum dated March 20, 2015. He stated the applicant is seeking amended site plan and major subdivision with variances. The applicant was only deficient in one completeness item and that is that the site plan be provided in digital format as a condition of approval. The request for amended site plan and amended major subdivision is appropriate. The side yard setback variance being requested for Lot 2 was discussed. The request for the side yard setback variance for Lot 1 was withdrawn. Attorney Pickering confirmed with Mr. Speitel that the proposed building on Lot 1 meets the setback that was previously granted and they are going to comply with that.

Mr. Hurless stated this was an application previously approved that provided duplex's, single family attached side by side with common party walls. The applicants proposal when taking this project over was to provide single family detached houses designed specifically to fit on this property. At that time the Board considered a request from the applicants to provide fee simple lots. Creating those necessitated a list of variances to fit the project. The board determined that the variances were warranted. Craig then discussed the zoning variance chart in his report.

Mr. Elwell asked what year the changes occurred. Mayor Mahaney stated the first approval occurred in 2004 and then came back to the board within the last two years. When it came back, Mr. Scarborough was trying to clean up the project and build a project that was more affordable for market conditions. The Board at that time asked for it to be fee simple lots because the streets were going to be private and the Board didn't want private streets. Also, the way they were laid out wasn't going to work and there were problems with the utilities. The Board asked for adjustments and Mr. Scarborough and Mr. Speitel made those adjustments. In accordance with those adjustments the Board has heard this application multiple times over the past two years and granted some relief based upon the project being up to code in all aspects, being a public street project and having much more safe conditions in terms of ingress and egress to the individual units.

Members of the Board who have been on the Board for some time discussed for the new members the history of this project.

Craig then continued his review of the variances that were being requested in detail. Mr. Bezaire questioned the bay windows on the two homes, if they were two stories or one story. Mr. Speitel stated the bay window was only on the second floor. Mr. Shuler asked if the fire department needed to approve the homes. There were also questions about what type of siding would be on the homes and if the fire department approved that as well. Mr. Meier asked if any of this should be made a condition. Mr. Scarborough stated they are complying with the law. Mr. Meier then asked what the fire infrastructure was in the development. Mr. Hurless stated there were all new hydrants on site and all new water lines.

Attorney Pickering noted he was sensing concern from some of the Board members and he wanted to make it clear that Mr. Scarborough could construct the buildings as currently approved

and this issue is still present, it's even more exacerbated by the existing approved plan than by the proposed plans. Mr. Scarborough agreed.

Mr. Hurless continued his review of the variances being requested. All the general review comments should be conditions of approval. With regard to item number 3, Craig also asked that proof of filing those easements be provided as well as distinguishing the easement on lot 101.01. An additional condition should be added that the sidewalk encroachment be shown on the Fenwick plan, exhibit A1, the easement be shown on the site plan, and the easement documents should be provided for review along with evidence of filing same.

The meeting was opened to the public at 8:01 PM and subsequently closed due to no members of the public asking any questions.

Attorney Pickering summarized what the applicant was asking for and again briefly addressed concerns raised during discussion.

Mr. Elwell stated his concerns for the record regarding density and the space between the buildings.

A 10 minute recess was taken at 8:03 PM.

The meeting resumed at 8:13 PM.

George Neidig discussed the project, from its beginning to the point that Mr. Scarborough took over. The Board voted on numerous approvals that he used to build what he is building there now. He stated they are now asking for approval for a few minor things, most likely variances that just got over looked and are now simply coming back to clean up what they think should be cleaned up. He asked Craig Hurless if there was anything he knew of in his capacity that violates any building codes. Craig stated while he is not an expert on the construction codes or fire codes, standard conditions are they have to apply with all state, county and local approvals and that is attached to this plan as well. George stated his concern was with all that has been done there to the good. If the application in front of the Board were voted down, it would create a major obstacle both to the Board and Mr. Scarborough's Company that we thought had been cleaned up and save this project, for the city as well as the residents.

Mr. Elwell stated he felt Attorney Neidig should not have made his statement for fear it may sway the voters. Chairman Bezaire stated Attorney Neidig was speaking from a legal standpoint.

Mr. Shuler asked Craig if all approvals from the fire department were received. Craig stated there are no approvals from the fire department. When the applications come in, the fire department has the opportunity to comment and make recommendations. On this specific application they made no comments. On previous applications there have been. Mayor Mahaney stated they did have comments and questions on prior applications. Changes had been made in the past based on their recommendations on past applications.

Motion made by Mr. Winkworth to approve the Variance for Side Setback-C6-Block 1061.01, Lot 2, seconded by Mr. Meier and **carried 7-2**. Those in favor: Mr. Meier, Mayor Mahaney, Mr. Winkworth, Mr. VanDeVaarst, Mr. Macciocchi, Mr. Shuler and Mr. Bezaire. Those opposed: Mr. Elwell, Dr. France. Those abstaining: None.

Mr. Elwell, Dr. France, Mayor Mahaney, Mr. Winkworth, Mr. VanDeVaarst, Mr. Shuler and Mr. Bezaire stated the reasons for their vote for the record.

Motion made by Mr. Meier to approve the Variance for Rear Setback-C6-Block 1061.01, Lot 8, Deck, seconded by Mr. Shuler and **carried 9-0**. Those in favor: Mr. Elwell, Mr. Meier, Dr. France, Mayor Mahaney, Mr. Winkworth, Mr. VanDeVaarst, Mr. Macciocchi, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

Motion made by Mr. Meier to approve the Variance for Signage, seconded by Dr. France and **carried 9-0**. Those in favor: Mr. Elwell, Mr. Meier, Dr. France, Mayor Mahaney, Mr. Winkworth, Mr. VanDeVaarst, Mr. Macciocchi, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

Motion made by Mr. Meier for Amended Site Plan and Amended Major Subdivision, seconded by Mr. Shuler and **carried 9-0**. Those in favor: Mr. Elwell, Mr. Meier, Dr. France, Mayor Mahaney, Mr. Winkworth, Mr. VanDeVaarst, Mr. Macciocchi, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

Motion made by Mayor Mahaney to approve Condition on Page 3, supply site plan in digital format; General Review comments 1 through 6, with additional conditions applied to item 3, proof of filing of easements with Cape May County; item 4 to be revised to meet the Engineers satisfaction; adding number 7 to provide evidence of filing the signage easement, seconded by Mr. Meier and **carried 9-0**. Those in favor: Mr. Elwell, Mr. Meier, Dr. France, Mayor Mahaney, Mr. Winkworth, Mr. VanDeVaarst, Mr. Macciocchi, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

Mr. VanDeVaarst asked Mayor Mahaney to give a status of the low speed vehicles ordinance. Mayor Mahaney stated it had come up in the fall, it did not move at the request of the outgoing council. It was again brought up in the spring and did not move again. Currently no action will be taken. If anyone does operate a low speed vehicle this summer it would be under the state ordinance.

Before adjournment George Neidig stated for the record as attorney for the board the reason he gave advice earlier to the Board.

Motion made by Mr. Meier to adjourn the meeting at 8:35 PM, with all in favor.

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

Respectfully submitted: Jill Devlin, Board Secretary.