

Bay Head Planning Board
April 17, 2019

The meeting of the Bay Head Planning Board was held on Wednesday, April 17, 2019 at 7:30 PM.

Mrs. Tell read the following statement: "Pursuant to the applicable portions of the NJ Public Meetings Act, adequate notice of this meeting was mailed to the Ocean Star and posted in the corridor of the Borough of Bay Head, and filed with the Bay Head Borough Clerk."

Roll Call: Kathleen Tell, William Curtis, Dennis Shaning, Jacqueline Keer, John Henry Morris, Kevin Feehan, Rick McGoey

Absent: William Furze, Patricia Wojcik, Christopher Parlow, Mark Durham, Neil Devesty, Thomas Charlton.

The March 20, 2019 **Minutes** were approved on a motion by William Curtis and seconded by Dennis Shaning, with all in favor.

Mrs. Tell stated the Board had one **Resolution** for review this evening, that of Andrew and Christina Bess, regarding property located at 70 Goetze Street, a/k/a Block 68, Lot 7, which was approved at the meeting of March 20, 2019.

A motion was made by William Curtis and seconded by Jacqueline Keer, to approve the Resolution. Roll call: YEAS: William Curtis, Jacqueline Keer, Dennis Shaning.

Mrs. Tell stated there were no **applications** to be heard this evening.

Old Business

Mrs. Tell brought up the **Master Plan**, and stated she will e-mail the Master Plan to everyone when she returns home this evening. Mrs. Tell indicated it contains comments from Mr. Charlton, Mr. McGoey and herself, that they have re-written it, and if nothing else, there is a lot of food for thought and good avenues for the Board to continue to try to preserve and protect the Borough. Mr. McGoey questioned whether or not Mrs. Tell had integrated all the comments, and Mrs. Tell stated she had integrated most but there were still some comments remaining in the margins because she thought they were useful talking points, things that should be discussed a little further. Mrs. Tell stated it is in pretty good shape, and there are maybe 1/2 a dozen remaining comments in the margins for discussion.

Mrs. Tell stated it is essentially finished and stated most of the way she perceives this exercise is this will keep the Board sharp as the Board has applications before us and we can keep it in mind, looking for ways we can perhaps better guide ourselves and successive Boards which is the purpose of the Board. Mrs. Tell indicated it really is supposed to tell the story of Bay Head and it's aspirations; she felt it is "there" but obviously is up to the Board to make that decision.

Mrs. Tell further stated Maser Consulting already filed the Master Plan on the Board's behalf a long time ago so there isn't a rush to this, but the sooner the Board gets together on it, the better.

Mrs. Tell recommended if anyone has comments, they should make their comments in the margins and send them to her directly. She mentioned they could also send them to either Tom Charlton or Rick McGoey, but not to everyone. The Mayor stated they should not hit "reply to all" via e-mail but rather, should e-mail individually and it would be best to send them to Mrs. Tell. Mrs. Tell replied she could then pool all the comments and the Board would have them for final discussion at the next meeting, at which point we can publicize to invite public comment at a future meeting, and it would thereafter go to Council for their approval. Mayor Curtis stated it would then come back to the Planning Board for final passing and this process will take at least three months.

Additionally under Old Business, Mr. McGoey stated Mr. Furze gave the Board a draft of a tree ordinance and it is his understanding Mr. Furze is looking for some input from other members in order to simplify it seeing as how the one he supplied is exhaustive. Mrs. Keer stated Mr. Furze was going to look at the one from Point Pleasant Beach to try to "bring it back around" as theirs is very strict and we would not be able to do it the same way as there are not as many trees in town. Mrs. Keer stated maybe we would be able to have homeowners replace a tree if they remove one. Mr. Morris stated when Mr. Furze first brought this up and spoke about a tree on Osborne Avenue, he (Mr. Morris) drove by and observed the tree was dead center in the middle of the building envelope for both lots, including its roots, so effectively, there is not anything the Board could have done about that unless the Board directed the owner to build closer to the property line in order to spare the tree. Mr. McGoey felt in that situation, the homeowner should have the discretion because it is his or her property, but at least there should be some dialogue.

Both Mrs. Tell and Mrs. Keer had questions regarding a house on Maple Drive, with Mrs. Tell stating the entire yard appears to be impervious coverage and there appear to be building issues regarding the bottom floor. Mayor Curtis stated he believed it should go to the Code Enforcement Officer who can then touch base with the Zoning Inspector and Construction Official. Mrs. Keer questioned if the bottom floor is not living space, why does it have heat vents, further stating there is no fire block into the second floor. Mrs. Tell suggested they e-mail the Code Enforcement Officer and sit down with him. Mayor Curtis stated the Code Enforcement Officer should be going back – he has a right to go back now that it is being questioned – and has been told it has to go back to the way it originally was, but he didn't know anything about the fire code.

Mr. Shaning questioned whether or not the impervious coverage could be looked into as it appears the allotted coverage had been exceeded, whereby Mrs. Keer stated she called when they poured concrete in the back and then put slate on top of that so although it appears to be slate, there is a concrete pad underneath.

New Business, the following topics were touched upon:

The possibility of developing a mechanism by which the Borough can conduct its own surveys and retain professionals to conduct additional inspections, during construction, as the Borough

deems proper. Mrs. Tell stated that currently, the Building Department and Zoning Officer wait for an as-built survey to be supplied, on the theory that no surveyor would every risk his or her license by fiddling with the survey, but of course surveyors can make errors, and she felt it would be wise for the Borough to make periodic spot checks, or when we're hearing from residents that things don't look right. This would be to ensure errors have not been made. Mrs. Tell proposed the Borough budget for same – that there be a line item – so we could have a surveyor go out. Mayor Curtis suggested she send notice to Chris Parlow, the Borough Administrator, as ultimately he would have responsibility for the inspectors, further stating that one of the things which has bothered him for a long time is why we don't do anything until we receive the as-built surveys, and we are not the only town who does that. Mayor Curtis stated the other issue is once the County got out of the inspecting business, they are all part time, do a lot of towns, and they have time but not an unlimited amount.

Mayor Curtis stated right now, he and Chris Parlow and Dennis Shaning, as he is Councilperson to the Planning Board, are going to sit down to try to figure out how to change the norm so the Borough does not get into situations where everything is built, it looked wrong for a long time, the as-built comes in and they are within Code, which doesn't mean they are necessarily correct. Mayor Curtis stated there is one on the beach where for months, almost one year, it was observed they are into the dune, they are so far out from the other homes and should have been stopped, but we had to wait for the as-built whereby the surveyor said it was not into the dune, and then we discovered that it was. The Mayor stated everyone said they wouldn't risk their license, to which Mrs. Tell stated it is not much of a risk.

The Mayor additionally stated that especially with beachfront properties, whereby the front of the property is what faces the ocean, up until this year the Borough had been allowing it to be measured from the midpoint of the rock revetment, but nobody can find the rock revetment because no survey was performed when they uncovered it. Mayor Curtis stated a lot of them were put in in 1962 but obviously have shifted, and the DEP won't allow anyone to dig into them to find the center and without a measure which can be checked, the Borough has no assurance the setbacks are being respected. It was suggested the Ordinance be re-drafted so that in the future, we instead measure from the street.

Mrs. Keer stated as to any lot which is undersized, the Building Department cannot approve anything until it comes to the Planning Board which is the big problem of what happened next door to her. Mrs. Keer stated the Building Department approved it and it is a non-conforming lot. Mayor Curtis stated someone should make a list because these Ordinances were written a long time ago and we're trying to go through them to change them. Mayor Curtis additionally stated that Mr. Parlow has already instructed Building and Zoning that if there are any doubts, the building application should be denied and the Planning Board should decide whether or not they are able to do it, and if the Board finds they are making allowances for things, maybe we are going to have to change the Ordinances because it's not fair to make everybody come if we are changing everything.

Mr. McGoey stated the Borough should have a standing yearly contract with a surveyor so we don't have to get one for every inspection. When the homeowner is ready for a Certificate of Occupancy, we should send out our own independent surveyor and that fee should be part of the

application. Mrs. Tell stated that at any point during the construction process, if there are reasonable concerns about compliance, we could say we need a survey now. Mrs. Tell concurred with Mr. McGoey in suggesting adding an escrow requirement to cover these services.

Mr. Shaning stated with regard to the property on Maple Drive, obviously someone has pushed the envelope, the builder/owner, in more ways than one. At this point, Mrs. Keer recused herself from the discussion. Mr. Shaning went on to state the downstairs space is supposed to be part of the garage, non-inhabitable, and it sure looks nice and cozy. Mr. Shaning stated he went through the house when there was an open house hosted by the realtor, the bottom level is obviously very livable, very nice down there, and certainly habitable space. Mr. Shaning brought up how it was mentioned there was a concrete slab poured and slate placed on top of it, making it appear as though it is not in violation of impervious coverage. Mr. Shaning questioned if in fact it is impervious coverage, what recourse does the Borough have at this point in time as to the patio? Mr. Feehan stated that goes back to Code Enforcement and the Mayor stated this is another enforcement, and the Borough has made the owners of the house on the southeast corner of North and Main take out the entire driveway and part of their patio, and this was after everything was poured.

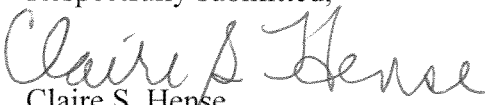
Mrs. Keer commented about the pool at this site and stated they are very high and how one can't have run-off into the neighbors' property, that she saw it the other day under the fence, and now they have plants there so it appears to be mounded from the plants. Mrs. Tell stated the run-off is another conversation the Board has had before because the laws generally are that you can't run off onto your neighbors' property. Mayor Curtis confirmed we have an ordinance regarding grading, that the Construction Department and Zoning do not get involved in grading properties, and the only people who can issue summonses are the Code Enforcement Officer and the Police.

Mrs. Tell opened the meeting for **public discussion**. The following person came forward and spoke:

Theresa Jankowski, 163 Park Avenue

A motion was made by William Curtis and seconded by Jacqueline Keer to approve the **vouchers**. All were in favor.

The meeting **adjourned** on a motion by Kevin Feehan and seconded by Rick McGoey. All were in favor.

Respectfully submitted,

Claire S. Hense