

Bay Head Planning Board

May 15, 2019

The meeting of the Bay Head Planning Board was held on Wednesday, May 15, 2019 at 7:30 PM.

Mr. Furze 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: William Furze, Patricia Wojcik, Neil Devesty, Dennis Shaning, Thomas Charlton, John Henry Morris, Kevin Feehan, Rick McGoey

Absent: Kathleen Tell, Christopher Parlow, William Curtis, Jacqueline Keer

The April 17, 2019 **Minutes** were approved on a motion by Kevin Feehan and seconded by Rick McGoey, with all in favor.

Mr. Furze stated there was one **application** to be heard this evening, that of Robert and Suzanne McMinn, 154 Grove Street, a/k/a Block 41, Lot 1.

William T. Gage, Esq., 536 Lake Avenue, came forward and stated he represents the applicants.

The following items were marked into evidence:

- A-1 Development Application
- A-2 Zoning denial dated 12/6/18
- A-3 Architectural drawings from Aquatecture dated 3/21/19
- A-4 Survey from William J. Fiore dated 12/1/18
- A-5 Review letter from Susan S. Brasefield, Board Engineer, dated 5/7/19
- A-6 Certification of Mailing with attached Hearing Notice
- A-7 Affidavit of Publication

Mr. Greitz stated that with regard to A-5, there is a change in the engineer's review letter in that it should be corrected to read Block 41, Lot 1. Mr. Furze questioned the 1.77 foot setback from Maple Drive, and stated there is a 1.77 foot setback at the one corner, but it's 1.70 feet at the northeast corner. Mr. Greitz stated we are changing page 2, number 2 in the recommendations in that the first line should read "the existing structure is located 1.77 feet from Maple Drive and 1.2 feet from the adjacent lot" and then continue with the remaining sentence, to which there were no objections. Mr. Gage stated for the record, the notice to the public and newspaper did indicate the garage is 1.2 feet from the setback. Mr. Furze stated he saw Mr. Fiore's survey and didn't see 1.2 feet anywhere, he saw a 1.96 foot on the inside footprint of the garage, and he thought perhaps the 1.2 foot was the dimension to the adjacent piece of the property line. Mr. Gage stated that be that as it may, at worst he noticed it as being more of an infraction of the Zoning Ordinance.

Mr. Gage stated the property is located at the corner of Grove Street and Holly Avenue, and that in Bay Head, when there is a corner property, that property has two front yards and two side

yards as there are no rear yards on a corner property. Mr. Gage further stated that with a corner property, the corner of the property that is the narrowest requires a front yard setback of twenty feet. In this case that would be Grove Street. The property facing the street which has the longest frontage, which in this case is Holly Avenue, requires a setback of ten feet.

Mr. Gage stated applicants are in the latter process of a renovation of their house and in order to complete this renovation, they are looking to replace the front entry steps which were once there. Mr. Gage stated the proposed steps would be 2.34 feet from the Holly Avenue property line; the façade of the house facing Holly Avenue is, and has been, 11.34 feet. Mr. Gage stated given the fact there is a required 10 foot setback on that side of the property, any steps, by definition, would require a variance relief.

Mr. Gage further stated there is an existing accessory structure on the north side of the property which has a setback of 1.2 feet or thereabouts, which structure shall not be altered in any way as a result of this application, and all of the conditions regarding this property shall be conforming and not require any variance relief.

Mr. Furze questioned if at the time the building permit was issued, was it not disclosed that the steps would have to be in compliance with the NJ Construction Code and thereby would either not be located where they intend or there should be a variance. Mr. Gage responded that is something the architect could do a much better job of answering than he could, but presumably he knew the plans submitted did show the entrance way as proposed. Mr. Furze questioned how it came to light as to why they were before the Board this evening, to which Mr. Gage responded that the Zoning Officer issued a denial letter based upon the fact that the steps on the Holly Avenue side would require variance relief. Mr. Furze questioned if the applicants proceeded at risk with the development/renovation of the property, to which Mr. Gage responded that Mr. Amelchenko, their architect, could better answer that question.

Mr. Zabarsky swore in the following witnesses, who gave their testimony:

Robert McMinn, 154 Grove Street

John C. Amelchenko, licensed architect with Aquatecture Associates, Inc., 421 River Road, Point Pleasant, who caused to have the following marked into evidence:

A-8 Colored photographs on a poster board

A motion was made by John Henry Morris and seconded by Kevin Feehan to open the meeting to the public. All in favor.

There were no comments from the public. Mr. Furze closed the meeting to the public. All in favor.

After the Board was polled, Mr. Gage addressed the Board's concerns, then conferred with his clients. He stated they would like to have a vote because they believe this is aesthetically a better alternative and they feel from a zoning perspective, it also is "almost a wash" because they

are taking up just as much mass as if they were to go the other alternative than they are at this point. Mr. Gage further stated if it was a toss up as far as which one is a more egregious variance application, they would rather go with the one they feel is more attractive.

Thereafter, a motion was made by John Henry Morris and seconded by Neil Devesty to approve the application, with the condition there be no change or expansion of the accessory structure, the garage. Yays: John Henry Morris, Neil Devesty, William Furze, Dennis Shaning, Thomas Charlton, Kevin Feehan, Rick McGoey. Nays: Patricia Wojcik

Old Business

Mr. Shaning stated at the last Council meeting, he mentioned and presented to the Council that the Board is looking at developing some sort of a tree ordinance, and there were no comments by the Council or members of the public. Mr. Furze stated he had a few ideas and will put together a simplified version for everyone's consideration.

Mr. McGoey stated he has gone through the recent draft of the Master Plan, and stated Mrs. Tell did an admirable job of incorporating the comments and pulling everything together. He encouraged the Board to get through it so the Board can move it forward and "get it off our plate". Ms. Wojcik stated we need to have a public meeting. Mr. Furze thanked Mr. McGoey and stated he has it in his in box but has not had a chance to look at it yet but he will.

There was no **New Business**

Mr. Furze opened the meeting to public discussion.

Peter Doane, 325 Lake Avenue, came forward.

Mr. Doane stated it seems as though the question about front yard steps has come up quite a bit in the past months, and there are numerous houses which still need to be lifted. He wanted to know if it can go back on the books to allow stairs if the house has to be lifted.

Ms. Brasefield answered one of the main reasons it came off of the books is there were many applications coming into the building department where people were taking advantage of that allowance – they were raising but also expanding their houses - so it wasn't a matter of they just needed the steps to get into an existing house which they were raising, they were building out the house to the maximum and then adding the steps.

Mr. Furze stated he would like to add that the question was proposed to Mr. Hein when he was still on the Board and a member of Council. Mr. Furze stated it was asked that in giving relief to the stair encroachment, what was the Council's intent, and it came back the intent was only for alterations, e.g. homes that were being elevated, not new construction. Mr. Furze stated we have since rescinded any relief from the stair encroachment, it is not in our Ordinance right now, it was taken out.


Ms. Brasefield suggested maybe we can re-write something that applies only to raising a house within the existing footprint, but excluding new construction. Mr. Furze stated that was the intent post-Sandy.

The meeting was closed to the public.

A motion was made by Neil Devesty and seconded by Thomas Charlton to approve the **vouchers**. All were in favor.

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

Respectfully submitted,



Claire S. Hense