

**City of Cape May Planning Board Meeting Minutes
Tuesday, October 9, 2018**

Opening: The meeting of the City of Cape May Planning Board was called to order by Chairman Bill Bezaire at 6:30 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. Elwell	Absent - excused
	Mr. Macciocchi	Present
	Councilmember Hendricks	Present
	Mr. Inderwies	Absent - excused
	Mr. Jones	Present
	Mayor Lear	Absent - excused
	Dr. Maslow	Present
	Dr. Wolf Alt #1	Present
	Mr. Martz Alt #2	Present

Also Present: Richard King, Esquire - Board Solicitor
Craig Hurless - Board Engineer
Tricia Oliver - Board Assistant

Minutes:

Motion was made by Mr. Jones to adopt the meeting minutes from August 14, 2018, seconded by Dr. Maslow and **carried 9-0**. Those in favor: Mr. Macchiocchi, Councilmember Hendricks, Mr. Jones, Dr. Maslow, Dr. Wolf, Mr. Martz, Mr. Shuler, Mr. Bezaire. Those opposed: None. Those abstaining: None.

Motion was made by Mr. Jones to adopt the meeting minutes from August 28, 2018, seconded by Dr. Maslow and **carried 9-0**. Those in favor: Mr. Macchiocchi, Councilmember Hendricks, Mr. Jones, Dr. Maslow, Dr. Wolf, Mr. Martz, Mr. Shuler, Mr. Bezaire. Those opposed: None. Those abstaining: None.

Applications:

***William Reinert
347 Congress Street
Block 1031, Lot(s) 82 & 83***

Mr. Bezaire explained that he previously had recused himself from a previous application involving the subject property, but did not feel as though a conflict existed with the current application. The meeting was open to public comment in which Anita Novino, of 351 Congress Street, expressed her concern and requested that Mr. Bezaire not hear the application due to her knowledge of his business involvement with the applicant.

**Mr. Bezaire recused himself from the application per the Board Solicitor's recommendation. Mr. Shuler stepped in as acting Chair for the application.*

Robert Baranowski, Esquire, Vincent Orlando, EDA, Professional Planner, Engineer/Land Surveyor, Scott Brown, and Mr. William Reinert, property owner, as well as Board Engineer, Craig Hurless, were sworn in for the record.

Mr. Baranowski briefly detailed the proposed subdivision and mentioned the requested variances. In his opinion, the application depicts a better zoning alternative as a subdivision, contrary to the existing condition of the property. The applicant and his professionals were invited to present testimony on the issue of *res judicata*. Both the Board members and the applicant were made aware of a prior Resolution (No. 1-3-96:2) which involved a prior failed attempt that a previous owner had made to subdivide the same property.

Mr. Orlando indicated that the currently proposed lot lines were different than had been proposed at the prior subdivision application. Board Engineer, Craig Hurless, indicated that the initial application filed for the present subdivision had the same lot lines as proposed in 1996, but they were changed after the engineer indicated the lot lines were the same as previously requested. In the older subdivision application, the lot width was 47 ½ ft. for both lots, and they each had a square foot area of 5,700. In the present application, the existing home would have a 45 ft. lot, and the new lot would be 50 ft. wide. The existing home lot would be 5,400 square ft. and the new lot would be 6,000 square ft. Mr. Orlando continued with his presentation, indicated that is was in fact his belief that there had been a significant “change in circumstances” due to the new requirements considering Floor Area Ratio (FAR) as of 2003, stating that this change in City Ordinance would substantially impact the Board’s consideration of the overall size of a home built on the newly created vacant lot.

Members of the board were able to ask questions of Mr. Orlando regarding particulars for what could and/or would be constructed on the newly created lot. It was also clear that in both applications the applicant was seeking permission to build the largest structure permitted by law (i.e. the only restrictions would be those imposed by the zoning code), as opposed to a specific home of a specific size. There was also discussion regarding the Caputo Application (Resolution No. 06-12-2018:2), which was a subdivision granted in a nearby neighborhood, and this was also offered as a potential change in circumstance negating *res judicata*.

Prior to a vote, Board Solicitor, Rich King, clarified for the members of the board the standard for *res judicata* and instructed them to focus on whether there had in fact been a substantial change in the present application itself or the conditions surrounding the property. He quoted elements directly from Section 19-3.2 of the New Jersey Zoning and Land Use Manual produced by William M. Cox.

Motion made by Mr. Jones to proceed with hearing the current application and deny the presence of *res judicata*, seconded by Dr. Wolf and denied 1-6. Those in favor: Mr. Jones. Those opposed: Mr. Macchiocchi, Councilmember Hendricks, Dr. Maslow, Dr. Wolf, Mr. Martz, Mr. Shuler. Those abstaining: None.

Motion made to adjourn by Councilmember Hendricks at 7:16 PM, with all in favor.

Respectfully submitted: Tricia Oliver, Board Assistant.

****Copy of presentation available on the City of Cape May website.**