

**City of Cape May Planning Board Meeting Minutes
Tuesday, December 12, 2017**

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	Present
	Mr. Macciocchi	Present
	Councilmember Hendricks	Present
	Mr. Inderwies	Present
	Mr. Jones	Present
	Mayor Lear	Present
	Mr. Picard	Present
	Dr. Maslow Alt #1	Present
	Dr. Wolf Alt #2	Present

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

Minutes:

Motion was made by Mr. Inderwies to approve the minutes from the November 14, 2017 Planning Board Meeting, seconded by Councilmember Hendricks and **carried 7-0**. Those in favor: Mr. Elwell, Mr. Macciocchi, Councilmember Hendricks, Mr. Inderwies, Mayor Lear, Mr. Shuler, Mr. Bezaire. Those opposing: None. Those abstaining: Mr. Jones, Mr. Picard.

Discussion:

Discussion was undertaken by the Board members and professionals regarding the board's consideration of proposed City Ordinance # 335-2017: Amending the Cape May Design Standards and City Code Section 525-39 - Standards, Design Guidelines, and Criteria. It was mentioned by Board Solicitor, Rich King, that this the ordinance comes before the Planning Board due to its affects on planning code. Mr. King also stated that he was a member of a working group, comprised of representatives of the Planning Board, Zoning Board, HPC, as well as City Council, who met on countless occasions and worked tirelessly to find a balance across all platforms.

Members of the board made comments regarding the language within the amendment and mentioned the overall intent of the City's Master Plan is to push forth into a more "green" way of living. References were made to pages 2 and 3 of the document.

Discussion was opened to the public at 6:40 PM.

Christine Miller, 535 Bank Street, explained her ownership of a small "fisherman's cottage" and noted that she in fact had wanted solar panels on the roof of her home. She questioned if such things as solar panels would in fact jeopardize the historic designation of a home or effect the historic status of the City as a whole. Ms. Miller made it clear that she is in favor of solar energy and that Cape May should be proactive on the subject.

Warren Coupland (HPC Chair), 737 Washington Street, addressed the members of the Board with regard to the ongoing discussion about the ordinance. He explained that he was a member of a working group and that this group was unanimous with the wording of the ordinance. Mr. Coupland quoted the Secretary of Interior, with over 500 plus titles referring to design standards, with particulars including solar energy. He continued with a brief presentation to the board and expressed his passion in preserving the overall objective of the Historic Preservation Commission.

Members of the Board expressed their concerns with the overall wording of the ordinance.

Discussion was closed to the public at 7:06 PM.

Motion made by Mr. Elwell to accept the changes to City Ordinance No. 335-2017 as presented, seconded by Mr. Inderwies and **carried 9-0**. Those in favor: Mr. Elwell, Mr. Macciocchi, Councilmember Hendricks, Mr. Inderwies, Mr. Jones, Mayor Lear, Mr. Picard, Mr. Shuler, Mr. Bezaire. Those opposed: None. Those abstaining: None.

Applications:

* Chairman Bezaire recused himself from hearing the application . Vice Chair, Mr. Shuler stepped in as Acting-Chairperson for this application.

Cape Coachman Realty, LLC. - "Beach Shack"
205-211 Beach Avenue
Block 1019, Lot(s) 26 & 40

Representatives for the Application, as well as Board Engineer, Craig Hurless were sworn in and stated their credentials for the record. The Board also accepted the following Exhibits in this matter during the course of the hearing: A-1: Application, A-2: Full Site Plan, A-3: Full Architectural Plans, A-4: Arial Photos, A-5: Ground level photos, A-6: Survey, A-7: Shropshire Traffic Report, A-8: Elevations Rendering, A-9: Site Plan Rendering, A-10: Color Site Plan, A-11: Striping Plan, A-12: Parking Chart, and A-13: Soil Remedial Action Permit.

Anthony Monzo, Esquire introduced those of whom were present on behalf of the application. This included Lyndsy Newcomb, Esq., Professional Planner, Vincent Orlando, and property owner/applicant Mr. Curtis Bashaw. Mr. Monzo generally described the application and explained changes were made to the plan previously presented to and denied by the Board, and an effort was made to address the concerns brought to light by the Board and neighbors during the previous presentation for this property, two of which included the traffic pattern in and out of the property, as well as the parking situation.

Mr. Curtis Bashaw indicated the property was purchased in 2006. A plan was approved to demolish and build a large hotel. In 2008, due to economic hardship, the demolition plan was

abandoned and the property was opened for business after minor renovation. Mr. Bashaw continued on to explain to the membership that he wants this to be a year round facility and the new guestrooms and facilities are needed to gain a more year round economic boost, not only for his establishment, but for the City in general. The overall outdoor seating plan, as well as the function of the Rusty Nail restaurant would not change in this propose plan, and to accommodate the growing number of patrons who are using alternative forms of transportation, like bicycles, Mr. Bashaw will be adding additional bike racks at the front of the property. He also continued to explain the proposed valet parking schematic and referenced his two other properties, the Virginia Hotel and Congress Hall, both of which implement a successful valet parking system. Overall, the proposed traffic pattern, it was noted, was to create a cleaner path when entering and providing check in parking spaces.

Eric Garrabrant, Esquire cross-examined Mr. Bashaw on behalf of Seaboard Walk and Heritage Condo Association. It was determined there would be two valets during the peak hours of check in and check out. It was confirmed there are 195 indoor seats, 110 lounge seats outside, and 50 seats on 10 picnic tables. The deliveries will continue to be from Heritage Lane with ingress from Beach Avenue and ingress and egress on Heritage Lane.

Architect, Richard Stokes testified on behalf of the Applicant. The front building is presently a type of “owner’s quarters” referenced an architectural drawing labeled into record as Exhibit A5. Other changes addressed included moving the pool so it is less shaded in the summer and more enjoyable for guests. The look of the proposed changes, Mr. Stoke explained, is architecturally consistent with the spirit and style of Cape May, and it also will correct fire code issues due to existing dead end corridors. The property will be ADA compliant with an elevator and other accessibility improvements, including upgrades to the bathrooms in the Rusty Nail. Mr. Stokes continued to explain that the appearance of the rear of the building is to be unchanged (which is different than the last plan). They are also keeping all entrances to the rooms directed to the front of the property to accommodate concerns from neighbors regarding people moving in and out of rooms in the rear.

Vincent Orlando, EDA, Professional Planner described the parking directly on Beach Avenue and the parking in the rear. He indicated the County opposes “back out” parking along Beach Avenue and that the parking on the last plan presented to the Board had parking on both sides of the area inside the curb, but now only a single angled lane. He indicated the plan preserves the bike lane and will run at the same parallel area as on the rest of Beach Avenue. The dimensions of the parking lane, curb, bike path and driving lane are depicted on **Exhibit A-12** (however, it was later determined that the curb would be moved 2 ft. further from the center of the road).

He generally reviewed the zoning chart as it appears on Mr. Hurless’ report and confirmed its accuracy. He described the applicable legal standard for C1 variances and believes that C1 variances are appropriate for Variances 1, 2, 3, 4, 6, 7, 8 and 9. He then identified 6 purposes of zoning that he believes are advanced and relevant to both the C1 and C2 analysis. With specific reference to 40:55D-2, and the subsections therein The use complies also with the Zoning Ordinance, and although 11 units are being added, 16 new parking spaces are also being created. He indicated that many of the variances are existing nonconformities and will not further impact the public.

Mr. Garrabrant cross-examined Mr. Orlando with reference to **Exhibit A-10** and confirmed that parking spaces are not entirely on the property and addressed the size and shape of the outdoor

seating.

Discussion was undertaken as to whether or not the outdoor seating space would cause the project to violate §525-24(2)(g). This requires an accessory use to not exceed 25% of the floor area of the principle use. It was the opinion of the Board Solicitor and the Board Engineer that outdoor seating was controlled by the recent amendment to §525-24(h) which indicated that outdoor seating was to be subject to compliance with Chapter 412 of the Code of the City of Cape May (outdoor seating ordinance). Further, based upon the testimony of the Board Engineer, it does not appear the outdoor seating, even if included, would result in the accessory use exceeding 25% of the principle use.

A short recess was taken at 9:10 PM.

The meeting returned at 9:20 PM

Moving forward in the presentation, the testimony of David Shropshire, Traffic Engineer, indicated that there are presently 36 conflict points with the back out onto Beach Avenue. He stated that it was a significant benefit to eliminate these conflict points and essentially reduce them to two, which is what the proposed plan will do. Furthermore, the deficiency in parking is mitigated by the on street parking nearby as well as patrons who frequently choose alternative transportation, such as bicycles when coming to the property. The 5 ft. bike lane is adequate and there is more than sufficient driving lane proposed. He also agrees that presenting a plan for the valet parking would be appropriate. Mr. Shropshire also indicated that site triangle issues in the front will be substantially mitigated when the bike lane is added and the cars are further away from the exit point. It was confirmed that Heritage will still need a variance, but the left turn lane makes it less dangerous and justifies the variance.

Discussion was opened to the public within 200 feet at 10:11 PM

Frank Roddy, 215 Heritage Lane, testified that delivery trucks constantly damage the curb and landscaping and block access on Heritage Lane for residents. He expressed negative commentary regarding the application and felt as though there were several discrepancies between the submitted plans and the testimony for the application.

Tim O'Rourke, 12 Seaboard Walk Unit #12, made negative commentary on the traffic pattern proposed by the applicant.

Mitchell Levy, 215 Heritage Lane, presented questions to Traffic Engineer, David Shropshire, explaining that his own observations were inconsistent with Mr. Shropshire's testimony. He also explained a significant issue with drainage and water on Heritage Lane.

Bob Fullmer, 215 Heritage Lane, made negative commentary, mentioning his concern with the proposed landscaping and vegetation being high enough to buffer from his residence.

Discussion was opened to the public beyond 200 feet and closed at 10:39 PM.

Mr. Garrabrant addressed the membership stressing that the variances must provide a better zoning alternative, of which he did not agree it does. Mr. Monzo presented a closing reiterating the reasons why he believes this plan accommodates concerns of the neighbors and meets the appropriate standards for approval.

Board Engineer Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated December 5, 2017. Mr. Hurless explained the thirteen (13) variances required in detail (page 6 of 13):

1. §525-24B(1) Table 2 - Building Setbacks - Beach Ave.
2. §525-24B(1) Table 2 - Side Yard Setbacks - West Side
3. §525-24B(1) Table 2 - Side Yard Setbacks - Accessory Building
4. §525-24B(2) Table 1 - Lot Coverage
5. §525-49C(4) - Parking - Number of Spaces & Stacked
6. §525-59E(7) - Parking within Setbacks - Beach Ave.
7. §525-59E(7) - Parking within Setbacks - Heritage Lane
8. §525-59E(7) - Parking within Setbacks - Side Yards (both)
9. §525-49B(1) - Parking Buffer
10. §525-48E(1) - Directional Signage Area
11. §525-48H(2)(a) - Freestanding Signage - Number & Area
12. §525-48H(2)(b) - Building Mounted Signage - Area
13. §525-56A(1) - Parking in Clear Sight Triangle

The General Review Comments 1-50 were reviewed and explained in detail, with item numbers 8-12 (page 9 of 13), 14 & 15 (pages 9 & 10 of 13), and items 17-50 classified as conditions of approval; with changes referenced by the Engineer. With the addition of item number 51, addressing the issue of the wash down drain prior to seeking final approval. Also noting a site plan change indicating that a sidewalk will be installed along Heritage Lane, instead of grass as an added condition.

Motion made by Mr. Jones to approve the Preliminary Site Plan with variance approvals for §525-24B(1) Table 2 - Building Setbacks - Beach Ave., §525-24B(1) Table 2 - Side Yard Setbacks - West Side, §525-24B(1) Table 2 - Side Yard Setbacks - Accessory Building, §525-24B(2) Table 1 - Lot Coverage, §525-49C(4) - Parking - Number of Spaces & Stacked, §525-59E(7) - Parking within Setbacks - Beach Ave., §525-59E(7) - Parking within Setbacks - Heritage Lane, §525-59E(7) - Parking within Setbacks - Side Yards (both), §525-49B(1) - Parking Buffer, §525-48E(1) - Directional Signage Area, §525-48H(2)(a) - Freestanding Signage - Number & Area, §525-48H(2)(b) - Building Mounted Signage - Area, and §525-56A(1) - Parking in Clear Sight Triangle; subject to all conditions of approval discussed at the hearing and outlined in the review memorandum from Board Engineer Craig R. Hurless, PE, PP, CME, dated December 5, 2017 seconded by Mr. Inderwies and carried 9-0. Those in favor: Mr. Elwell, Mr. Macciocchi, Councilmember Hendricks, Mr. Inderwies, Mr. Jones, Mayor Lear, Mr. Picard, Dr. Maslow, Mr. Shuler. Those opposed: None. Those abstaining: None.

Motion made to adjourn by Mr. Jones at 10:54 PM with all in favor.

Respectfully submitted: Tricia Oliver, Board Assistant.

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