

**BOROUGH OF SPRING LAKE HEIGHTS
PLANNING BOARD MINUTES
November 13, 2014 at 7:00 PM**

Please stand for moment of silence and flag salute

Roll call:

Mayor Maccanico - present
Councilwoman Patricia Cindea - absent
Leonard Capristo - present
Kathleen Crippen - absent
Roy Francolino - absent
James Hackett- present
Frederic Manger - present
Robert Merriken - present
Chairman Richard Diver - present

Alt. #1 Eileen Eilenberger - present
Alt. #2 Stephen Clark – present

Also present: Planning Board Attorney, Dennis Collins & Planning Board Engineer, Joseph May

Read by Chairman:

Pursuant to the requirements of the New Jersey's Open Public Meetings Act, notice of this meeting was transmitted to the Coast Star and Asbury Park Press newspapers and posted on the boroughs website and the public notice bulletin board in the Municipal Building.

Approval of Minutes: August 20, 2014

Motion was made by Mr. Merriken to approve minutes of the meeting of August 20, 2014; seconded by Mrs. Eilenberger. Roll call taken:

AYES: Mr. Hackett, Mayor Maccanico, Mr. Manger, Mr. Merriken, Mrs. Eilenberger, Mr. Clark & Chairman Diver
NAYS: None
ABSTAIN: Mr. Capristo

Correspondence and Discussion:

The following was read into the record by Secretary, Janine Gillis:

Monmouth County and its 53 municipalities have been working on the update of the Monmouth County Multi-Jurisdictional Natural Hazard Mitigation Plan since August of 2012. The draft of the updated plan is expected to be released in the early fall. The first county wide plan was completed in 2009. The plan is a documented evaluation of the natural hazards to which a community is susceptible and the extent to which these events will occur. It identifies an area's vulnerability to the effects of natural hazards and the goals, objectives and actions required to minimize future loss. Mitigation is preparation and planning now to reduce loss of life and property later, by lessening the impacts of future disasters.

This plan allows the county and the participating municipalities to apply for pre and post disaster mitigation grant funding through FEMA.

The Draft Monmouth County Multi-Jurisdictional Hazard Mitigation Plan is available for review beginning October 17, 2014. Residents can review the draft plan for the county and its 53 municipalities by visiting: www.monmouthsheriff.org, click on the OEM icon and select Hazard Mitigation Planning.

Old Business: **Resolution 2014-13**
M2K2 1900/OMR LLC
2409 Old Mill Road
Block 44 Lot 14
Sub-Division

Motion was made by Mr. Merriken to approve Resolution 2014-13 and seconded by Mrs. Eilenberger, roll call as follows:

AYES: Mr. Hackett, Mayor Maccanico, Mr. Manger, Mr. Merriken, Mrs. Eilenberger, Mr. Clark & Chairman Diver
NAYS: None
ABSTAIN: Mr. Capristo

New Business: **Application 2014-06**
Charles Stewart
Lake Drive
Block 73 Lot 4.02
Minor Sub-Division with variances

Mr. Charles Stewart spoke to Chairman Diver and the board members, apologizing that his Attorney, Elizabeth Durkin was late to traffic issues on the parkway.

Attorney Collins spoke to the board with regard to cell tower upgrades and the borough's ordinances which requires Planning Board approval. He stated that there have been changes in legislation when a company is upgrading their existing equipment on an existing pad; it is not necessary to come before the board.

Joseph May, asked the board members to consider for discussion at our next meeting a review of some zoning issues that come up frequently: generators, driveway openings, front porches and another look at the ½ story definition.

At 7:17 P.M. the meeting was paused and resumed at 7:28 P.M., Attorney Collins stated that the publication and notice to property owners were proper.

At 7:31 P.M. the meeting was paused and resumed at 7:33 P.M.

Elizabeth Durkin, Attorney for Mr. Charles Stewart, introduced herself and apologized for her delay. Mr. Stewart gave his qualifications as an engineer and land surveyor for the project, The board accepts his qualifications.

The following were marked as exhibits:

- A-1 Minor Subdivision Map Block 73 Lot 4.02 Lake Drive consisting of 1 page revised on October 2, 2014.
- A-2 Aerial photo of site in color.

Attorney Durkin stated that Mr. Stewart is the contract purchaser of the property. She asked Mr. Stewart to describe the property and what variances he would be requesting. Mr. Stewart stated that in preparing the survey he investigated the boundaries of the property. He stated that the property is unusual in that it doesn't front on a street, so a variance would be required. It also requires a variance for minimum lot depth and front yard setback. When doing the survey research, there was a municipal right-of-way off of Seventh Ave, several neighbors on Seventh expressed that the traffic on their street was very heavy, especially during summer months. At an informal hearing before the planning board, the board had asked him to speak to the condos that are alongside the property with regard to gaining access through their driveway and parking lot which they vehemently denied. Mr. Stewart went on to say that through his research he located the easement deed which allows access through Block 73 Lot 7 (fronts on Highway 71) which is what the homeowner uses as a driveway presently.

Attorney Durkin asked Mr. Stewart why he was looking to build two homes vs. one, he replied that it does allow for 2 homes remaining within lot coverage but he felt that it would be out of character, one home would be about 7,000 square feet which is not similar to the neighborhood.

Mr. Stewart stated that he prepared an Environmental Impact Statement; he reviewed and consulted with DEP. It was determined that there are not wetlands on the property but that there is a small transition area which would not be adversely be impacted with this development. The subdivision as per DEP would require only a CAFRA permit. Mr. Stewart described the property pointing out that a prior owner was a mason, the property has a lot of concrete that had been dumped there; his intention is to clean that area out.

Mr. Stewart addressed the comments in the Technical Review letter prepared by, Mr. May dated September 11, 2014 to provide the following.

- The proposed driveway will adequately be constructed to support Fire and Rescue vehicles.
- Easement to lot B from lot A.
- The applicant will provide for street pavement and required street signs.
- Sanitary sewers are already on the property; water mains are on Route 71.
- A plan will be provided to the board's engineer to approve all storm drainage facilities.
- Applicant will provide for sidewalks and trees.
- The proposed plans provide for parking in paved driveways with aprons and curbs.
- Garbage and refuse collections will be brought out to Route 71 but will be confirmed with the Borough as to pick up.
- The applicant will provide a plan indicating infiltration system, drywells, and address water run off from adjacent condos, maintenance of system,; plan shall need approval of Planning Board Engineer.
- To maintain as much as possible all trees and shrubs in order to protect wildlife species, where necessary to remove, replace with similar sized trees or shrubbery.
- To provide a plat plan approved by Planning Board Engineer.
- To review with Planning Board Engineer all improvements with regard to entrance walks, fencing, landscaping and sheds.

Mr. Manger asked about curbs along southern part, and the water flow, Mr. Stewart explained how the water would flow from both the North & South side.

Mrs. Eilenberger asked if drainage includes roof runoff; Mr. Stewart replied yes.

Attorney Collins stated that there is a public right of way or paper street held by the borough that would give access to the lot. The applicant would like it to be made into a private drive. He went on to say that the Planning Board does not decide on this issue; Mr. Stewart would have to get approval from the Borough. Mr. Stewart would then be responsible for maintaining this drive. Mr. Hackett asked if fire trucks would be able to turn in this driveway, Mr. Stewart replied that they could pull in but would have to back out. Mr. Hackett asked about sidewalk installation and garbage pickup; Attorney Collins stated that if the Borough Council relinquished the right

of way it would be up to them as a possible condition but that decision is the Borough Council. Chairman Diver pointed out that it could be rear yard pick up. Attorney Collins reminded that the access issue is not a decision made by the Planning Board; Attorney Durkin reminded the board that if this application was granted, it's also dependent on approval by the Borough Council.

The meeting was open to the public.

John Brennan, Attorney representing Gary & Judy Skellinger introduced himself and stated that he represents the owners of 524 Highway 71, Block 73 Lot 7, who object to this application. Attorney Brennan asked to enter an exhibit to the record; Title search pages consisting of 159 pages date stamped 9-17-2014; it was marked as Exhibit O-1.

Attorney Brennan asked Mr. Stewart the name of the owner of the subject property: Mr. Stewart was Mr. Ahern and now it is the Estate of Mr. Ahern and Marianne Kelly is the executrix. Attorney Durkin clarified with Mr. Stewart that he is under contract with Ms. Kelly, Mr. Stewart replied yes. Mr. Brennan asked Mr. Stewart to look at document #141; he asked if he recognized the document, a letter appointing Marianne Kelly as the Executrix for the estate of Donald Ahern. Attorney Durkin stated that the document was a copy not an original. Attorney Collins asked Attorney Brennan the point he was trying to make. Attorney Collins stated that the question of ownership is not relevant to the board, there's a municipal record and this is beyond what the Planning Board does. Attorney Collins went on to say that a professional has done the title search and determined the owner. Again, Attorney Brennan stated that the owner is not as Mr. Stewart indicated. Attorney Collins reminded that this is not a determination that is not made by the board.

Attorney Brennan asked how Lot 4.02 came into existence, Mr. Stewart replied he had a document marked proposed sub-division, Block 73 Lot 4 Spring Lake Heights, NJ, Monmouth County prepared by Walter Harding dated October 26, 1986. Mr. Brennan asked who the applicant was; Mr. Stewart replied he did not know. Mr. Brennan stated it was Ahern & Ahern Partnership, he went onto say it was part of a subdivision when the condos were put in on Monmouth Ave & Highway 71, that sub-division created the lot known as Lot 4.02. Attorney Brennan asked him to review document #33. And if he recognized the document, Mr. Stewart replied that he had reviewed the documents months ago and that it did look familiar. Attorney Durkin wanted it on the record that the exhibits were photo copies of documents. Mr. Brennan asked if Mr. Stewart if he knew what a self-created hardship is, Mr. Stewart stated he was not, Attorney Collins stated that perhaps the Planner could address that question.

Attorney Durkin wanted to put 2 stipulations on the record; one being that Mr. Stewart is the contract purchaser and that a part of that contract it is contingent on the sellers being able to convey title.

Attorney Brennan asked Mr. Stewart about Lake Drive and how it is a right of way; Attorney Collins again stated that it is not a decision of the Planning Board. Attorney Brennan asked Mr. Stewart how it was created, Mr. Stewart replied that it is a municipal right of way as shown on the municipal tax map. Mr. Stewart replied that he did not know when it came into existence. Attorney Collins reminded Attorney Brennan that the Planning Board does not make a determination as to whether or not there's a right-of-way and who owns it. Attorney Brennan asked who conducted the title search, Mr. Stewart replied he did as a professional surveyor. Attorney Brennan asked about Mr. May's letter dated September 11, 2014 he asked Mr. Stewart if he determined the variances he would need in particular about a public street, lot frontage, Mr. Stewart stated he is very familiar with the borough's ordinance, he asked if he knew about fronting on a paved street, Mr. Stewart replied yes. Mr. Brennan asked Mr. Stewart if he was familiar with lot frontage requirements with regard to facing a paved street and if he was seeking a variance for this requirement, Mr. Stewart replied yes. .

This public period for questions was closed.

Attorney Durkin asked Allison Coffin, Licensed Planner to come forward, she was sworn in by Attorney Collins. Ms. Coffin introduced herself and gave her qualifications. Chairman Diver stated the board accepts her qualifications.

Ms. Coffin stated that she had prepared the planning report dated November 12, 2014; she stated that on page 2 a sentence should be removed regarding proposed townhouses. She went on to review her report detailing the variances needed for the sub-division. In her expert opinion, the application for a subdivision is to encourage development; the private driveway which benefits the 2 homes is not a burden on the town or the public. The access from Route 71 has the least impact on all the neighbors and she felt that is was consistent to the master plan. She felt that this subdivision is a benefit as opposed to the applicant building one large home of approximately 7,000 square feet.

Attorney Durkin asked Ms. Coffin to describe the variances the proposed sub-division would need and described the land use statues with regard to development and the requirement of being on an improved street as prepared in her report marked as exhibit A-4. Ms. Coffin stated that this relief can be granted by either Zoning or Planning Board. Attorney Durkin asked Ms. Coffin if the best access would be from Lake Drive as opposed to the easement which goes alongside the objectors property, Ms. Coffin replied yes. Attorney Durkin asked Ms. Coffin to explain what a self-created hardship; she went on to explain it. In her opinion, the proposed project is a positive impact and will improve the site.

The meeting was open to the public for questions to Ms. Coffin.

Attorney Brennan asked about the easement document; Ms. Coffin stated that she has seen it on the plan but not the actual document. Attorney Brennan asked her to read the names on the document. He then asked if her statement was that it would be burden as a private drive; she stated no the opposite.

Attorney Collins asked Ms. Coffin as a Planner, if the board created a subdivision that block the condos and provided no access to the created lot and that Lake Drive was not a public right of way and that the 10 feet of access across the neighbor's property was not created, would that mean the board created a land locked lot with no access; Ms. Coffin replied yes, if all those conditions existed.

Mr. Brennan asked Ms. Coffin if she made a determination if there was access to the east, Ms. Coffin replied she had not.

Mr. Brennan asked Ms. Coffin about Lot 7 and the proposed private driveway, how close it was to the porch and the impact it would have, it was her opinion that it was not a significant impact, the driveway is 20 feet away from their porch and 12 ½ feet off their property line.

Jackie Flynn 530 Highway 71 asked if there was any documentation on the easement for Block 73 Lot 7, Ms. Coffin stated no but that the surveyor would. Attorney Collins reminded all that a question of access is not for the Planning Board to decide.

The public meeting was closed for questions of the planner.

The meeting was open to the public for any comments.

Attorney Collins entered as an exhibit Attorney Brennan's presentation it was marked as exhibit O-1 and asked him to represent that the documents are true and accurate documents obtained from Monmouth County Website as deed book & page numbers, Attorney Brennan replied yes. The exhibit was distributed the board members.

Attorney Brennan stated that the exhibit includes copies of deeds and property's in the name Ahern and Mayfield Manor which is the condo complex. He reviewed how the property, Block 73 Lot 4.02 came into existence and where the property line actually extends to.

The meeting was closed to the public.

Mr. Manger pointed out that the homes could go to 32 feet; plans show height at 30 feet.

Mrs. Eilenberger asked for clarification as to what variances were needed; Attorney Collins stated it is for not fronting on a public street, lot depth and front yard setback.

Motion was made by Mrs. Eilenberger to approve the application; providing that all outside approvals including Planning Board Engineers review of all plans; seconded by Mr. Merriken, roll call taken:

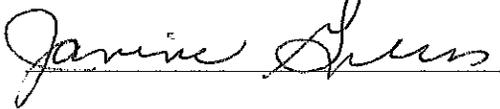
AYES: Mr. Capristo, Mr. Hackett, Mayor Maccanico, Mr. Manger, Mr. Merriken, Mrs. Eilenberger,
Mr. Clark & Chairman Diver

NAYS: None

ABSTAIN: None

Adjournment: There being no further business, on a motion by Mr. Merriken and seconded by Mrs. Eilenberger, the meeting was adjourned without objection at 9:35 p.m.

Respectfully submitted and approved:



Date: *December 17*, 2014