

**PLANNING BOARD  
TOWNSHIP OF BARNEGAT – COUNTY OF OCEAN  
STATE OF NEW JERSEY**

**MINUTES OF MEETING**

**March 27, 2012**

**7:30 P.M.**

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MEMBERS PRESENT: Ralph Dawes, (Chair) Jack Leonardo, Albert Bille, Louis Fischer, Anthony Altomare, Jan Wicks, Robert Doherty, William Wiseman, Dorothy Ryan (Alternate I), Sara Winchester (Alternate II)

ALSO PRESENT: Stacey M. Daniels, Acting Secretary to the Board, John J. Hess, P.E., P.P., C.M.E., (Birdsall Engineering, Inc.), Board Engineer, Michael McKenna, Esq., (Hiring, Gannon & McKenna), Board Attorney, Scott D. Taylor, (Taylor Design Group), Board Landscape Architect

FLAG SALUTE

OPEN PUBLIC MEETINGS ACT

NOTICE OF CURFEW

FIRE EXITS

ROLL CALL OF MEMBERS AND CONSULTANTS

BUSINESS OF THE BOARD:

- A. DOCKET NO. PB 11-11  
LAFAYETTE ASSOCIATES  
BLOCK 142.03, LOTS 2.02, 4.01  
BARNEGAT BOULEVARD  
PRELIMINARY & FINAL MAJOR SUBDIVISION**

Mr. McKenna noted for the record that the Applicant has taken certain legal positions that the Board will be taking under consideration during their Executive Session. This application is listed under Business of the Board as well as under New Business item A.

MASTER PLAN/LAND USE ORDINANCES: NONE

APPROVAL OF MINUTES: NONE

CORRESPONDENCE:

Mr. Dawes advised the Board that Danielle Novak has resigned from the Planning Board.

RESOLUTIONS:

- A. RESOLUTION NO. P-2012-6  
DOCKET No. PB 01-11  
FOUR SEASONS AT SEA CREST PINES  
(FORMERLY FIFTH AVENUE TRACT)  
VARIOUS BLOCKS & LOTS  
WEST BAY AVENUE  
DENIAL OF CONVERSION OF PLANNED ADULT COMMUNITY  
TO NON-AGE RESTRICTED DEVELOPMENT**

Mr. McKenna summarized the resolution.

Motion by Mr. Altomare to adopt; second by committeeman Bille.

Aye: Altomare, Bille, Doherty, Fischer, Leonardo, Wick, Wiseman, Dawes

Motion carried.

INFORMALS: NONE

OLD BUSINESS: NONE

NEW BUSINESS:

- A. DOCKET NO. PB 11-11  
LAFAYETTE ASSOCIATES  
BLOCK 142.03, LOTS 2.02, 4.01  
BARNEGAT BOULEVARD  
PRELIMINARY & FINAL MAJOR SUBDIVISION**

Mr. Dawes stated as Mr. McKenna commented earlier, this item will be addressed in Executive Session.

- B. DOCKET NO. PB 12-03  
K & T WARETOWN, INC.  
BLOCK 262, LOT 39.04  
OLD LOWER SHORE ROAD & ESTELOW ROAD  
WAIVER OF SITE PLAN**

Howard Butensky, Esq., representing the Applicant.

Mr. Butensky stated this application is for a waiver of site plan. The property currently is a tree farm, the Applicant wishes to utilize the farm for his landscaping maintenance business. The crews would meet at the site in the morning to receive their work orders. There is currently mulch and top soil at the site, which is used for the farm which, will not be expanded. This proposal meets the criteria of the ordinance.

Ken Warfield, Applicant, sworn.

Mr. Warfield testified that Mr. Butensky adequately summarized the application. Mr. Hess commented the Planning Board granted approval years ago to use as a tree farm, which was off site storage of landscape material for his business. The only difference with this proposal is having a few trucks based there. Mr. Taylor inquired if the storage is all remote and internal, and suggested that all storage of material and equipment be kept at least 100 feet from the road.

Motion by Mr. Altomare to open to the public; second by Committeeman Bille.

All voted aye. Motion carried.

Mr. Dawes noted for the record there was no public comment.

Motion by Mr. Leonardo to close to the public; second by Mr. Wiseman.

All voted aye. Motion carried.

Mr. McKenna charged the Board.

Motion by Mr. Doherty to approve; second by Mr. Fischer.

Aye: Doherty, Fischer, Altomare, Bille, Leonardo, Wicks, Wiseman, Dawes.

Motion carried.

**C. DOCKET NO. PB 11-32  
R. STONE & COMPANY, INC.  
STONE HILL @ BARNEGAT  
VARIOUS BLOCKS & LOTS  
CHERRY STREET & MEMORIAL DRIVE  
PRELIMINARY & FINAL MAJOR SUBDIVISION**

Mr. Dawes advised the process, which would be followed for the presenting of the application and questioning of the witnesses.

Stephan R. Leone, Esq., Carluccio, Leone, Dimon, Doyle & Sacks, LLC, representing the Applicant.

John J. Novak, Esq., representing the Objectors, Oak Hill and Holly Oaks Homeowners Associations.

Mr. Novak stated he believes there to be two issues regarding notice. The first is there are two homeowners within the 200 feet that were not noticed and feels a design waiver may have needed to be requested and was not. Mr. Leone commented that would not be a jurisdictional issue. Mr. McKenna inquired how that would be a notice issue. Mr. Novak noted the notice does not mention any design waivers, other than the generic any and all other design waivers needed. Mr. McKenna suggested the Board take a recess to address the perceived notice issues.

(Whereupon the Board took a recess; proceedings then continued as follows :)

Mr. McKenna stated himself. Mr. Leone, Mr. Novak and Ms. Daniels went through the certified list and it has been determined all names have been served. The other issue raised by Mr. Novak can be taken up during the course of the hearing, as it is not jurisdictional in nature.

Mr. Leone stated the application is for a resubdivision of an existing old subdivision that lies on the westerly side of Route 9. The initial application was for a 22 single family lot subdivision with two lots reserved for future development and one lot for a detention basin. The Applicant is amending to reduce the number of single family lots to 19.

Robert Stone, sworn.

Mr. Hess summarized his March 12, 2012 review letter.

Mr. Taylor summarized his March 15, 2012 review letter.

A-1 Field Map Yield Plan dated 3/27/12

A-2 Colored Rendering 3/27/12

Mr. Stone testified he is the owner and President of R. Stone and Company; they own the property and will be the developer. They have developed similar properties in Stafford, Little Egg, Toms River and throughout Ocean County. Mr. Stone explained what could be developed on the property, but felt the proposal is more in conformance with the existing neighborhood. Application has been made to the Barnegat Township Committee for street vacation, pending the out come of this Board's decision. There was a discussion regarding the number and size of the lots, which were previously approved for the property.

There was a discussion relative to the procedure to be followed for the presentation of the application. Mr. McKenna advised anyone who is part of the Homeowners Associations has to have their questions done through Mr. Novak, as he represents them. Mr. McKenna noted for the record who the Objectors were, who were not represented by an attorney.

Junetta Dix, Environmental Consultant, sworn

Ms. Dix placed her credentials on the record.

Motion by Mr. Fischer to accept as an expert witness; second by Mr. Leonardo.

Aye: Fischer, Leonardo, Altomare, Bille, Doherty, Wicks, Wiseman, Dawes

Motion carried.

Ms. Dix testified she made two site inspections during the course of her investigation. Through this study as well as existing published information from the DEP, she did not determine there to be any endangered habitat. The landscape maps had two hits for this property; the Barn Owl and Pine Barren Tree Frog; both species require a wet land or water habitat for breeding. This property does not contain any wetlands or wetlands buffers. The site contains no contamination or sources of contamination, ground water and soil sampling was not performed; but there was no indicators found on the property. Ms. Dix testified in her professional opinion as a professional consultant there were no restraints to prevent the Applicant from developing the property.

Mr. Novak questioned the witness regarding wildlife that currently lives there confirming there was no threatened and endangered species and inquired what happens to the wildlife when this project is developed. Ms. Dix testified some wildlife will be displaced, but some come back. The proposal minimizes the clearing on the lots and proposes a landscape plan within the township requirements, therefore having minimized adverse impacts to the wildlife. This site does not meet the characteristics for migratory songbird or raptor habitat. No evidence has been found to support guard owl or pine barons tree frog habitation on or near the site, nor is it suitable resting, nesting, feeding or breeding habitat.

Stuart Challoner, Challoner & Associates, sworn.

Mr. Challoner placed his credentials on the record.

Motion by Ms. Ryan to accept as an expert witness; second by Mr. Fischer.

Aye: Ryan, Fischer, Altomare, Bille, Doherty, Leonardo, Wicks, Wiseman, Dawes

Motion carried.

A-1 Filed Map Yield Plan

A-2 Color Rendering of Proposed Plan

Mr. Challoner identified exhibit A-1 for the record, explaining this depicts a subdivision, which had received prior approval from the township. Mr. Challoner testified to the location of the property and the surrounding area. Identifying exhibit A-2, Mr. Challoner testified regarding the proposed development and layout. The application as originally submitted consisted of 22 lots; it has been revised to 19 lots, eliminating the lot to the west of Cherry Street. Mr. Leone formally amended the application for the record. He also clarified that the street vacations are the purview of the governing body, and an application has been filed with them.

Mr. Challoner testified using exhibit A-2 pointing out the property to the north and stating it is residential development designed compliant with the RSIS. The proposed development has been designed with a residential neighborhood design, which provides for a 30 foot cart way width, sidewalk and curb on both sides of the street. There was a discussion regarding the cul-de-sacs easements in the Oak Hill Homes section and the fact that they expire when the road is extended. Mr. Challoner testified the paper street would be extended, to meet the township standards and the RSIS regulations. The new street will be Grace and have a slight curve to add character; the cul-de-sac will also be compliant with the RSIS. Extending Cherry Street through makes perfect sense as that was always the plan and is in accordance with the Master Plan. Mr. Challoner testified regarding the storm water management, stating each dwelling would have dry wells, and there will be three infiltrations systems throughout the property. Two streetlights are being proposed, but the Applicant will leave it to the Board's discretion. Mr. Challoner testified regarding two different boundary disputes and advised what the Applicant proposed to do to address them.

There are two variances being requested as part of the application. Mr. Challoner testified to the township ordinance regarding buffer requirements and explained the Applicant is proposing a 50 foot buffer around the perimeter of the property, which will be deed restricted. Mr. Challoner provided testimony on lot depth and width pertaining to corner lots. There are no approvals being sought on the west side of the property, the paper streets will remain, and the Applicant stated they would return to the Board if future development were proposed. Mr. Hess commented that the Master Plan proposes street connectivity and thinks the town would like to hold open the possibility of having a future connection with Gunning River Road.

The project will be served by city water and sewer. The property slopes from west to east, so the sewer will drain to the east. Two low/moderate incomes homes will be constructed. Roadways will be constructed in compliance with the RSIS. Every home will have drywells installed connected to roof drains. There will also be a series of underground infiltration pipes. The intent is to distribute the infiltration throughout the property. There was a discussion regarding the cart way width, sidewalks, and the retaining wall. All outside agency approvals either have been obtained or are in progress.

Mr. Challoner agreed to comply with the request for the crosswalk at Grace Place and Cherry Street. There was a discussion regarding the proposed basin fencing and the fencing, which would tie in with the fence on the property owned by K&T Waretown. The landscape wall is adjacent to the sidewalk and samples will be submitted for approval. The Applicant will fully comply with the lighting, landscaping and buffering requirements.

The Board expressed concerns about ingress and egress and inquired if they could use Hannah Lee just as an emergency access. Mr. Hess pointed out that by changing the ingress and egress you become non-compliant with the RSIS standards for maximum trips on cul-de-sacs in addition to the Barnegat Township Master Plan promoting connectivity. The proposed homes will be consistent with the existing homes in the neighborhood.

Mr. McKenna announced the application would be carried with no further notice to the April 24, 2012 meeting.

Motion by Mr. Fischer to carry; second by Mr. Wicks

All voted aye; motion carried.

(Whereupon the Board took a recess; proceedings then continue as follows:)

LITIGATION/EXECUTIVE SESSION:

Motion by Mr. Altomare to go into closed session; second by Mr. Wiseman

All voted aye. Motion carried.

Motion by Mr. Fischer to allow Mr. McKenna take the necessary steps to proceed with the Lafayette Associates litigation; second by Mr. Leonardo.

Aye: Fischer, Leonardo, Altomare, Bille, Doherty, Ryan, Wicks, Winchester, Dawes

Motion carried.

Motion by Mr. Leonardo to allow Mr. McKenna and Mr. Hess to negotiate a settlement agreement with K. Hovnanian regarding the conversion application for Sea Crest Pines; second by Ms. Ryan.

Aye: Leonardo, Ryan, Altomare, Bille, Doherty, Fischer, Wicks, Wiseman, Dawes

Motion carried.

Committeeman Bille made a motion to nominate Mr. Altomare as the Vice Chairman; second by Mr. Fischer.

Aye: Bille, Fischer, Doherty, Leonardo, Wicks, Wiseman, Dawes

Abstain: Altomare

Motion carried.

APPROVAL OF VOUCHERS: **RESOLUTION NO. P-2012-17**

Motion by Mr. Altomare to approve the vouchers; second by Committeeman Bille.

Aye: Altomare, Bille, Doherty, Fischer, Leonardo, Ryan, Wicks, Wiseman, Dawes

OPEN MEETING FOR GENERAL PUBLIC COMMENT:

Motion by Ms. Ryan to open to the public; second by Mr. Altomare.

All voted aye. Motion carried.

Mr. Dawes noted for the record there was no public comment.

Motion by Mr. Doherty to close to the public; second by Mr. Wiseman

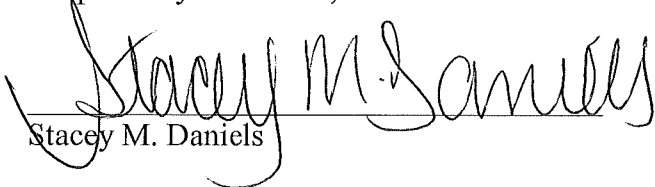
All voted aye. Motion carried.

ADJOURN MEETING:

Motion by Mr. Fischer to adjourn the meeting second by Ms. Ryan.

All voted aye. Motion carried.

Respectfully Submitted,

  
Stacey M. Daniels