

**City of Cape May  
Planning Board Meeting  
Minutes – Tuesday – September 24, 2013**

**Opening:** The meeting of the City of Cape May Planning Board was called to order by Chairman William Bezaire, at 7:00 PM. In compliance with the Open Public Meetings Act, adequate notice was provided.

|                   |  |                  |                         |
|-------------------|--|------------------|-------------------------|
| <b>Roll Call:</b> | Mr. Bezaire,                               | Chairperson      | Present                 |
|                   | Mr. Shuler,                                | Vice Chairperson | Absent - <b>excused</b> |
|                   | Mayor Dr. Mahaney                          |                  | Present                 |
|                   | Mr. Elwell                                 |                  | Present                 |
|                   | Mrs. Nelson                                |                  | Absent - <b>excused</b> |
|                   | Mr. Jones                                  |                  | Present                 |
|                   | Ms. Weeks                                  |                  | Present                 |
|                   | Mr. Murray                                 |                  | Present                 |
|                   | Mr. Winkworth                              |                  | Absent - <b>excused</b> |
|                   | Dr. France, 1 <sup>st</sup> Alternate      |                  | Present                 |
|                   | Mr. VanDeVaarst, 2 <sup>nd</sup> Alternate |                  | Present                 |

**Also Present:** George Neidig, Esquire – Board Solicitor  
Craig Hurless, PE, PP, CME Associate - Polistina & Associates  
Edie Kopsitz, Recording Secretary

**Absent:** Mary L. Rothwell, Board Assistant/Zoning Officer

**Minutes:** August 13, 2013

**Motion made by Mr. Murray to approve the minutes of August 13, 2013 as presented.** Seconded by Mr. VanDeVaarst and **carried 8-0**. Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray, Dr. Mahaney, Mr. Jones, Dr. France, Mr. VanDeVaarst and Mr. Bezaire. Those opposed: None. Those abstaining: None.

**Applications:**

**Osprey Landing Condominium Association, LLC  
Osprey Landing Development Company, LLC  
Spacers Creek (a.k.a. Osprey Landing)  
1263 Lafayette Street  
Block 1061 Lot(s) 101 & Qualifiers  
Amended Site Plan – Preliminary & Final with variances**

**Craig Hurless, Board Engineer** was sworn in and clarified his credentials for the record.

Louis Dwyer, Esquire representing the applicant Sean Scarborough owner of the Scarborough Development Company along with his professionals Edmund Speitel, Engineer and Stephen Fenwick, Architects all were sworn in by Mr. Neidig. This application was previously heard on August 13, 2013 and was tabled to be continued.

Mr. Neidig informed that the Sub Division Plan that was noticed for this evening was not placed on the Agenda. Edie Kopsitz, Recording Secretary produced the notice for the record.

Mr. Speitel gave a brief history of the application of the prior approvals using an enlarged plans on display described 7.4 acres past history beginning with the 2006 approval (marked into evidence as **A-1**) for 212 Boat slips, 2 swimming pools and 36 residential units. He updated the members as what was constructed to date, the marina building, 1 swimming pool and 8 residential units (4 story buildings). He explained in detail the comparison of **A-2** (marked for the record) the Elevation of existing and previously proposed buildings, **A-3** (marked for the record) colorized Site Plan – goals of the new site plan is to incorporate a more harmonious project that includes 2 ½ to 3 story dwellings in a walk able community with front porches and real alleys with a garage, devise a 1<sup>st</sup> class recreational Marina - 210 boat slips to be owned & operated by a single entity (Scarborough) with vehicle access to the dock 25ft drive isles allowing for vehicular and emergency vehicle access, he described in detail the vehicular flow of traffic that will be improved, the enhancement of 2<sup>nd</sup> pool & deck and the enlargement of the existing pool deck. **A-4** marked into evidence showing a plan that has a division of ownership of the property with creation of public or private roads (leaving it to the Board's pleasure). He stated there is a 5% reduction in FAR and this site plan requires no variances. Mr. Dwyer clarified the given the fact that there are other properties that have their own access via Rosemans Lane from a planning prospective it would be a betterment to the City to have the road become public. Mr. Speitel concurred and responded in detail describing the 2 landlocked parcels and they have restrictive access. He also indicated that the all the storm water basins/treatment facilities will be maintained and owned by the Marina (with a physical entity on site at all times). Creating 40 fee simple lots for ownership purposes and that the Sub Division creates the variances that will meet the C6 Standards and the purpose of the application is to propose a desirable visual environment through creative development techniques and Municipal Land Use Law.

Members were allotted time for questions throughout the presentation, to which they had several, they are as follows: Questioned the 37 lots with 3 owned by the Marina that are not contiguous, Frigate Lane has a portion that is not a public street, verification of lot size in the C6 Zoning District, requested pump station clarification on ownership (verified currently maintained by the Condo Association but if approved will be maintained), Traffic flow concerns pertaining to Rosemans Lane, requested clarification on how fuel would be delivered on site, be safely stored and environmentally protected (Mr. Scarborough responded in detail), Member Elwell voiced concerns regarding a fire of a structure and verification of a sprinkler system (Mr. Speitel responded they will meet all Code requirements). Mr. Hurless requested verification of the Fire Chief's response to the removal of three (3) parking spaces (Mr. Speitel is requesting this be placed as a condition of approval and will revise). Mayor Mahaney requested clarification on roads that were based paved and if they are built to the RSIS Standards, because the City does not want to invest tax payer

monies to rebuild the roads and Mr. Speitel responded in detail indicating that the site will be cleaned up and inspected to be a 1<sup>st</sup> class marina. Members requested clarification ownership of the lots, the development of the lots (Mr. Scarborough responded that they do not want restrictions but will have the responsibility of overseeing all construction regarding the exterior). Chairman Bezaire requested clarification regarding the square footage of the proposed lots, concerns with pools and control of vocals (parties etc.), requested clarification on the material for the Marina use parking spaces (Mr. Speitel stated shell for the less used area and paving for the others (Board Engineer recommended it curbed if it not mandated and the Members all concurred). Mayor Mahaney then brought up the issue of Rosemans Lane with concern of the width and the issue with the telephone pole (Mr. Speitel clarified the pole will be relocated and it is a 20ft wide paved road), discussion at length was undertaken. Mayor Mahaney broached the subject of City control over the alley ways because of storms so that emergency equipment & City vehicles have access. Chairman Bezaire questioned the fire rating on the walls for information purposes and Mr. Fenwick responded it will meet UCC Regulations.

Board Engineer, Craig Hurless then reviewed his 16 page report of September 9, 2013 clarifying the description for the membership of Amended Site Plan-Completeness/Preliminary & Final with Variances and Major Sub Division Preliminary & Final. The applicants are proposing 37 units (29 Single Family and 8 existing Semidetached dwelling. He reviewed the Completeness review on pages 2 and addressed the C & D Variances itemizing #4 & Conditional Use Approval and detail required for Preliminary Site Plan approval itemizing - #3 (d), (v) CAFRA with Mr. Speitel responding by the end of the year, (w) Traffic Impact and (aa) CD ROM. He addressed the Zoning Charts on pages 5, 6, 7, 8 & 9 addressing the C-6 Marina District (§525-27B) All other uses, C-6 (§525-27B) Table A Semidetached Attached (8 existing & 2 proposed, C-6 (§525-27B) Table A Single Family Detached (20 proposed Single Family-detached dwellings, R-2 Low Medium Residential District (§525-15) Table 1 All other Uses(8 proposed Single Family Dwellings, C-6 Marian District (§525-27B) Table A Semidetached Attached (was previously approved under this standard) (2 existing semi-detached dwellings. He reviewed a Zoning Variance Chart on page 8 and Parking Chart for Residential and Marina. He clarified the variances being sought as §525-27B (1) Table A – Lot Size – C6, §525-27B (1) Table A – Lot Width – C6, §525-27B (1) Table A – Lot Frontage – C6, §525-27B (1) Table A – Building Setback – C6, §525-27B (1) Table A – Side Setback – C6, §525-27B (1) Table A – Rear Setback – C6, §525-15 Table 1 – Lot Size – R2, §525-15 Table 1 – Lot Width – R2, §525-15 Table 1 – Lot Frontage – R2, §525-15 Table 1 – Building Setback – R2, §525-15 Table 1 – Side Setback – R2, §525-15 Table 1 – Rear Setback – R2, §525-52A(1) & (2) Floor Area Ratio – overall area and §525-48H – Signage (not noticed). He clarified the Design Waivers: §525-59D – Parking Surface, §525-59D – Curbing (parking & alley), §525-59F – Lighting furnishing 1.5 foot candles and RSIS NJAC5:21-4.4 Table 4.3 Driveway width-De minimums exception Road Geometry, blanket right of way, 18 ft. alleyway, curb sidewalks in public right of way. The general review comments on pages 12 through 16 – General Zoning #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11 – Traffic Parking & Circulation #12, #13, #14, #15, #16, #17, #18, #19, #20, #21, #22, #23, #24, #25, #26 – Lighting & Landscaping # 27, #28, #29, #30 – Signage # 31 (must produce on plans), Grading & Drainage &

Environmental Review # 32, #33, #34, #35, General Comments & Required Approvals - #36, #37, #38, #39, #40, #41, #42, #43 and #43.

**Chairman Bezaire called for a five (5) minute break @ 8:55pm. The meeting resumed @ 9:02pm.**

**The Meeting was opened for public comments at 9:03pm to those 200feet and beyond, Philip Rogers, 1275 Lafayette Street,** opposes Rosemans Lane becoming two (2) way and shared his concern regarding safety for both pedestrian & vehicular. **Linda Steenrod, 1011 Washington Street,** explained in detail her concerns regarding the increase in density, impact in traffic flow, requested a traffic study (Mr. Dwyer responded not expanding upon uses), expounded on the traffic pattern of Lafayette Street & Rosemans Lane, proximity of the properties, Fire Safety concerns do to the expansion, parking issues do to the density of the structures, Storm Water issues, Environmental and stated Preliminary & Final approval should not be granted in one evening and indicated that when she served on the Planning Board she was advocate of that practice. **Evelyn Lovitz, 1012 Cape May Avenue,** she is a Member of the Environmental Commission and is requesting that the applicant is adhering to the Energy Conservation section of the Master Plan. **The public portion was closed at 9:20pm.** Mayor Mahaney requested that the public concerns be addressed. Mr. Speitel then responded in detail to all concerns indicating that he has designed several marina facilities and expressed that this plan will be a positive for Cape May. **Mr. Speitel concluded @ 9:28pm.** Concerns were mention regarding the possibility of Rosemans Lane just being one way and Mr. Dwyer stated that a two (2) way flow of traffic was required by the County. The Mayor commented that Rosemans Lane is a City Street and not a County determination of a two way street. He then asked Joan Roseman who was present to express her opinion regarding Rosemans Lane. Mrs. Roseman was then sworn in @ 9:30PM and expressed her support of this application and she clarified that she wants Rosemans Lane two (2) ways.

Chairman Bezaire voiced his opinion of the applications uniqueness and the choice of a Site Plan or Sub Division. George Neidig clarified what the 1<sup>st</sup> motion should state "Preliminary Amended Site Plan & Major Sub Division approval" and move onto the variances.

**Motion made by Mr. Murray for Preliminary approval of the Amended Site Plan and Sub Division Plan.** Seconded by Mr. Jones **and carried 7-1.** Those in favor: Mr. Elwell, Mr. Murray, Dr. Mahaney, Mr. Jones, Dr. France, Mr. VanDeVaarst and Mr. Bezaire. Those Opposed: Ms. Weeks. Those abstaining: None.

Members voiced their reasons in detail for the record.

**Motion made by Mr. Jones for the approval of the 236 Variances, Parking and Floor Area Ratio that are depicted in Craig Hurless's report dated September 9, 2013 page 8 "Break down Zoning Variance Chart".** Seconded by Mr. Murray **and carried 7-1.** Those in favor: Mr. Elwell, Mr. Murray, Dr. Mahaney, Mr. Jones, Dr. France, Mr. VanDeVaarst and Mr. Bezaire. Those Opposed: Ms. Weeks. Those abstaining: None.

Members voiced their reasons in detail for the record.

**Motion by Mr. Jones to grant Completeness Waivers as stated in Mr. Hurless memorandum dated September 9, 2013 pages 4 & 5 - Details Required for “C” & “D” Variances # 4 and Details for Preliminary Site Plan #3(d), (v) and (w).** Seconded by Mr. Elwell **and carried 8-0.** Those in favor: Mr. Elwell, Mr. Murray, Dr. Mahaney, Mr. Jones, Ms. Weeks, Dr. France, Mr. VanDeVaarst and Mr. Bezaire. Those Opposed: None. Those abstaining: None.

Ms. Weeks voiced her reasons for the record.

**Motion by Mr. Elwell to grant the Design Waivers as noted in Mr. Hurless memorandum dated September 9, 2013 page 11, §525-59D – Parking Surface, §525-59D – Curbing and §525-59F - Lighting.** Seconded by Mr. Elwell **and carried 8-0.** Those in favor: Mr. Elwell, Mr. Murray, Dr. Mahaney, Mr. Jones, Ms. Weeks, Dr. France, Mr. VanDeVaarst and Mr. Bezaire. Those Opposed: None. Those abstaining: None.

**Motion by Mr. Elwell to grant the Design Waivers as noted in Mr. Hurless memorandum dated September 9, 2013 page 11, §525-59D – Parking Surface, §525-59D – Curbing and §525-59F - Lighting.** Seconded by Dr. France **and carried 8-0.** Those in favor: Mr. Elwell, Mr. Murray, Dr. Mahaney, Mr. Jones, Ms. Weeks, Dr. France, Mr. VanDeVaarst and Mr. Bezaire. Those Opposed: None. Those abstaining: None.

**Motion by Mr. Murray to allow as a de minimus exception from RSIS per Mr. Hurless memorandum dated September 9, 2013 page 12 item #4.** Seconded by Mr. Elwell **and carried 8-0.** Those in favor: Mr. Elwell, Mr. Murray, Dr. Mahaney, Mr. Jones, Ms. Weeks, Dr. France, Mr. VanDeVaarst and Mr. Bezaire. Those Opposed: None. Those abstaining: None.

**Motion made by Dr. France to impose conditions as stated by Mr. Neidig notes, the Fire Department Letter dated September 23, 2013, CAFRA reports for approval, paving of the roadways has to be substantiated by the applicant as to be appropriately paved, lot Deed restrictions, applicant professionals to meet with the County Engineer, Mayor Mahaney and Board Engineer Craig Hurless, Craig Hurless report date September 9, 2013 pages 2 of 5 under Completeness Review items (aa) CD-ROM, General Review Comments- pages 12 through 16 - 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 24, 25, 28, 29, 30, 31, 32, 33, 36, 37, 38, 39, 40, 41, 42,43, 44 along with – Pools are not to be opened to the General public and Line stripping will be provided for Rosemans Lane.** Seconded by Mr. Jones **and carried 8-0.** Those in favor: Mr. Elwell, Mr. Murray, Dr. Mahaney, Mr. Jones, Ms. Weeks, Dr. France, Mr. VanDeVaarst and Mr. Bezaire. Those Opposed: None. Those abstaining: None.

**Motion made by Mr. Murray, Seconded by Dr. France to adjourn the meeting at 10:05 PM with all in favor.**

**A verbatim recording of said meeting is on file at the Construction/Zoning Office.**

**Respectfully submitted: Edie Kopsitz, Recording Secretary**