

**City of Cape May  
Planning Board Meeting  
Minutes – Tuesday – December 11, 2012**

**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.

**Roll Call:**

Mr. Bezaire,	Chairperson	Present
Mr. Shuler,	Vice Chairperson	Present
Mayor Dr. Mahaney		Present
Mr. Elwell		Present
Mrs. Nelson		Present
Mr. Jones		Present
Ms. Weeks		Present
Mr. Murray		Present
Mr. Winkworth		Present
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

**BUSINESS:**

Disbursement of memorandum from the Historic Preservation Commission dated December 3, 2012 with an attached list of 533 Surveys of Historic Structures. Chairman Bezaire informed the Board that the list will be discussed on January 8, 2013.

**APPLICATIONS:**

**1136-1138 Lafayette Street LLC, 1136-1138 Lafayette Street  
Block 1113, Lot 9  
Requesting Preliminary & Final Site Plan, Variances & Waivers**

**Member Nelson recused herself from the application; she is within 200 feet of the proposed application.**

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

Louis Dwyer, Esquire representing 1136-1138 Lafayette Street LLC, Thomas DiDonato, Managing Member, along with their professionals Vincent Orlando, Project Planner from Engineering Design Associates and Mark Lovell, Architect of Mark R. Lovell Architect, AIA were sworn in by Mr. Neidig. Mr. Dwyer gave a brief history of the property stating the structure is a contributing structure in the Historic District which has been in a state of extreme disrepair. He explained the applicant proposes to restore the structure, add a front porch which previously existed, as well as a rear porch and pursuant to §525-44(A)(1) convert the structure to four (4) residential one (1) bedroom units. Variance relief is being sought to locate parking in the rear yard and rear yard setback. This location is the only viable on-site location and also complies with Historic Preservation Standards. A lot coverage variance is being sought to create the parking. A front yard setback is being sought to reconstruct the front porch in its former location. Mr. Dwyer mentioned the use will be utilized as affordable housing for another project or could be sold as individual units at market price.

Testimony by Mr. Orlando using the Site Plan dated October 4, 2012, sheets 1 of 4 described in detail the site improvements that include a driveway, parking for four vehicles, pavers, landscaping, grading/drainage, lighting and replacement of front porch. He explained the lot coverage allowed in a R2 Zone is 40% and the proposed is 44.9%, while describing the reasons of the increase to introduce reasonable parking and the restoring of the front porch to the size of the existing historic structure. He stated it is an existing non conformity that is not going to be exacerbated by the proposed and will be aesthetically pleasing to the streetscape. Mr. Lovell's testimony explained his proposed floor plans, building and elevations with the enlarged plans dated October 31, 2012.

Board Engineer, Craig Hurless then reviewed report dated November 8, 2012 clarifying the description of for the membership. He reviewed the Completeness review on pages 2 # 5 ( Tax Collection update), Details required for C & D Variances & Conditions #20, #21, #24, #26, #27, #30 and #31, Details for Preliminary Site Plan Approval #3 (v & w) and (aa) CD-ROM. He addressed the Zoning Charts on page 3 addressing the R2 District (§525-15) Historic Conversions. He clarified the variances being sought as §525-15B(1) Table 1 Building Setback, §525-15B(2) Lot Coverage, §525-49C(1) Parking and §525-59E(7) Parking in Setbacks . The general review comments on page 5 & 6 - #1 Existing sewer (should be on plans), #2, #3, #4 (Trash & Recycling), #5, #6, #7, #8, #9, #10, #11, #12 (require individual water/sewer lines), #13, #14, #15 and #16 comply with COAH obligations.

**Meeting opened for public comments at 7:50pm with no one coming forward the public portion was closed.**

Members were positive on the application putting forth questions to the professionals throughout the presentation. The material of the driveway was discussed at length with an ongoing debate of the use crushed stone being presented in the parking area; Mr. Dwyer stated the owner would not be adverse to using pavers. Parking configurations were discussed with Mr. Hurless expounding on RSIS for Garden Apartments and explained the Historic Conversion scenario.

**Motion made by Mr. Elwell to approve the variance for the Building Setback §525-15B(1) Table 1.** Seconded by Ms. Weeks and **carried 9-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray, Dr. Mahaney, Mr. Winkworth, Mr. Jones, Dr. France, Mr. Shuler and Mr. Bezaire . Those opposed: None. Those abstaining: None.

**Motion made by Mr. Murray to approve the variance for the Lot Coverage §525-15B(2) Table 1.** Seconded by Mr. Elwell and **carried 9-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray, Dr. Mahaney, Mr. Winkworth, Mr. Jones, Dr. France, Mr. Shuler and Mr. Bezaire . Those opposed: None. Those abstaining: None.

**Motion made by Mr. Jones to approve the variance for the Parking for the number of spaces according to the RSIS requirements §525-49C(1).** Seconded by Mr. Murray and **carried 9-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray, Dr. Mahaney, Mr. Winkworth, Mr. Jones, Dr. France, Mr. Shuler and Mr. Bezaire . Those opposed: None. Those abstaining: None.

**Motion made by Mr. Elwell to approve the variance for the Parking in the Setbacks §525-59E(7).** Seconded by Ms. Weeks and **carried 9-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray, Dr. Mahaney, Mr. Winkworth, Mr. Jones, Dr. France, Mr. Shuler and Mr. Bezaire . Those opposed: None. Those abstaining: None.

**Motion made by Mr. Murray that the completeness waivers from Craig Hurless report dated November 8, 2012 page 2 of 6 Sections 20,21,24,26,27, 30 and 31 of the requirements be granted.** Seconded by Mr. Shuler and **carried 9-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray, Dr. Mahaney, Mr. Winkworth, Mr. Jones, Dr. France, Mr. Shuler and Mr. Bezaire . Those opposed: None. Those abstaining: None.

**Motion made by Mr. Murray that the Site Plan waivers from Craig Hurless report dated November 8, 2012 page 3 of 6 Sections 3 (v), (w) be granted.** Seconded by Mr. Jones and **carried 9-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray, Dr. Mahaney, Mr. Winkworth, Mr. Jones, Dr. France, Mr. Shuler and Mr. Bezaire . Those opposed: None. Those abstaining: None.

**Motion made by Mr. Jones for approval of the Conditional Use.** Seconded by Mr. Murray and **carried 9-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray, Dr. Mahaney, Mr. Winkworth, Mr. Jones, Dr. France, Mr. Shuler and Mr. Bezaire . Those opposed: None. Those abstaining: None.

**Motion made by Ms. Weeks for Preliminary and Final Site Plan approval subject to conditions.** Seconded by Mr. Elwell and **carried 9-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray, Dr. Mahaney, Mr. Winkworth, Mr. Jones, Dr. France, Mr. Shuler and Mr. Bezaire . Those opposed: None. Those abstaining: None.

**Motion made by Mr. Murray to impose conditions for Preliminary & Final Site Plan approval per Mr. Hurless report dated November 8, 2012 page two (2) #5 Certification from the Tax Collector concerning confirmation of taxes paid to date, #31 Proposed**

**sight easements, correspondence from the County, page three (3) – (aa) CD-ROM, page five (5) – 1,2, 3, 4, 5, 6, 7, 8 ,9, 11, 12, 13, 14, 15, 16 2<sup>nd</sup> paragraph, paving section in pavers not crushed stones, bike racks, 4 inch sewer lateral & 1 inch water lateral into the property and depict reasonable storage on site.** Seconded by Mr. Jones and carried **9-0**. Those in favor: Mr. Elwell, Ms. Weeks, Mr. Murray, Dr. Mahaney, Mr. Winkworth, Mr. Jones, Dr. France, Mr. Shuler and Mr. Bezaire . Those opposed: None. Those abstaining: None.

**Chairman Bezaire requested a five (5) minute break at 8:05pm. The meeting resumed at 8:15pm. Member Nelson returned to the meeting.**

**Thomas DiDonato, 1105 Pittsburg Avenue, Block 1172, Lot 4  
Requesting Preliminary & Final Major Subdivision  
Major Site Plan & Variances**

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

Mr. Neidig wanted verification of any Attorney's in the audience representing objectors. Norman Briggs Esquire was in attendance representing the Association located next to the property appearing before the Board. Mr. Neidig explained the procedures to Mr. Briggs.

Louis Dwyer, Esquire representing Thomas DiDonato, Managing Member (who is under contract for purchase of the property/application) whom was present along with his professionals Vincent Orlando, Project Planner, Paul Simmons, Lomax Consulting Group - Environmental Impact Statement all was sworn in by Mr. Neidig. Mr. Dwyer gave a background of the property located on the corner of Pittsburg Avenue, Missouri Avenue and Harbor Cove it is a developed lot with a masonry building that was used for a telecommunication tower facility. He stated this development is owned by a non-profit organization for Military Housing and has been two (2) years of negotiations. The applicant proposes to subdivide a 100,000 square foot parcel into four (4) single family residences (8000 Sq.ft. each) and on large lot containing five (5) four (4) unit residential buildings (both are permitted uses). Mr. Dwyer stated a lot of planning went into the development, not excessive and believes it will blend into the neighborhood. He stated because of the configuration of Harbor Cove Road new lot 4.02 will have 30 feet of frontage, which will allow for reasonable access of the lot. The applicant is also seeking a floor area ratio variance, if required as a "C" variance, stating he believes that NJSA 52:27D-311 supercedes local zoning and allows the Planning Board to relax Zoning standards and to introduce low and moderate income on this site would be in conflict with the developments scheme of the immediate neighborhood.

Mr. Dwyer then gave the presentation over to Vince Orlando of Engineering Design Associates (EDA) who distributed aerial photographs marked for the record **A-1** (project site), **A-2** (Harbor Cove & Baltimore Ave) & **A-3** (Harbor Cove & Pittsburg & Missouri Avenues), indicating the massiveness of the site. He briefly explained how they came to the proposed application of 24 units and concurred with Mr. Dwyer regarding the COAH requirements. Mr. Orlando shared with Boards that 56 units could have been placed but Mr.

DiDonato was adamant he wanted it to blend in neighborhood with four (4) units on Harbor Cove and twenty (20) units on the remainder Missouri & Pittsburgh Avenue. He reviewed the two (2) variances requested and with the Site Plan of October 12, 2012 revised through November 14, 2012 sheet A-2 describing in detail the development of the four (4) single family homes that will front onto Harbor Cove Drive (similar in size to the development across the street) and will be a transition of the introduction of the twenty (20) Multi Family Residential development proposed on Missouri Avenue. He clarified that Harbor Cove on a previous application requested to become a public right of way and indicated the part of that section was to be widened, curb and sidewalk. He stated Mr. DiDonato is willing to take the burden as part of the subdivision approval. Mr. Orlando clarified the lot frontages, driveway and drive isle configurations. He justified the two (2) variances sought Lot Frontage (can be granted under the C1 criteria) and Floor Area Ratio (density control) and stated benefits outweigh any detriments. He then explained in detail Sheet A-3 Grading & Drainage Plane, Sheet A-4 the Landscaping and Lighting Plan responding to concerns from neighbors prior to the hearing. The COAH compliance will be met off site with the units just approved on 1136-1138 Lafayette Street.

Mr. Dwyer called on Mr. Simmons of Lomax Consulting Group to respond to all questions put forth from the Board. He submitted into the record marked **A-4** a Memorandum prepared by Mr. Simmons that outlines all the approvals applied for and obtained to date and their status. He indicated that any on site wetlands have been delineated and certified by the governmental agencies (State Environmental Protection and the US Army Core of Engineers) and stated CAFRA was not applicable to the site. He confirmed additional applications applied for current flood hazard program with a positive outcome as to the status. He informed the process started in September 2010. He stated they are not impacting anymore area of impervious coverage from the original configuration which is denoted in his Environmental Impact Statement dated April 2012 that was submitted with the application.

Members questioned the Applicants professional throughout the presentation regarding, FAR, Lot Coverage, Deeding clarification, control of land development, wetland protection, Landscaping, Storm water runoff (wetlands concerns) Driveway isles, ingress & egress, landfill calculations, driveway calculations, curbing, stripping on Pittsburg Avenue, confirmation of lots and their configurations and on the Housing Mr. DiDonato built across the street. Mayor Dr. Mahaney requested Mr. Simmons to clarify the wet lands delineation on the entire tract change in the last few years and informed him that maps the City of Cape May have on file denotes extensively more wet lands then is being projected in his report. The Mayor also informed Mr. Simmons that it was conducted by the State of New Jersey DEP. Mr. Simmons responded it was not uncommon for State and Federal facilities to be over conservative and stated his company's delineation was conducted as any other delineation is conducted following the 1989 Federal Federation Manual and clarified that the State of New Jersey and Federal Offices concurred with their finding. Mayor Dr. Mahaney questioned Mr. Simmons on the number of times he visited the site with Mr. Simmons responding 10 times in a 3 year period.

Chairman Bezaire recognized several people in the audience and stated the Board Engineers report has not been read into the record informing everyone that the application will be continued but wanted the public present to be heard.

**Meeting was opened for public comments to people within 200 feet at 9:45 pm. George Via, 35 Harbor Cove,** negative on the application with major concerns of how this development will affect his property (reduce the value of his home), traffic flow and safety issues. He also had concerns with Mr. Orlando's knowledge of this proposed development when he was representing Harbor Cove for their past application. Mr. Orlando addressed his concerns. **Nelson Brown, 1430 Missouri Avenue,** negative on the application, does not want to see any more multifamily (condo) development. He shared his concerns of the development that DiDonato built across the street from the proposed, not getting permanent residents and the renters' influx that has ensued due to the economy. Commented on inconsistency in the Environmental Report and a person he approached while conducting the study of the property. Mr. Simmons responded and addressed Mr. Brown's concern in detail. **Mark Lomanno, 1415 Missouri Avenue,** negative on the application and feels the notice on the application was not sufficient not giving him enough time to react. Shared his concerns with the over development, parking, renter's, water intrusions (current) and the inaccuracy of the Environmental Impact Statement pertaining to the number of structures stated. He requested verification of Mr. DiDonato status of ownership if it is only contingent upon approval of the application as presented. Mr. Dwyer responded in detail. **Lawrence Contrisciano, 1104 Pittsburg Avenue,** Positive on the application, encourages this development, what he views is an unsightly lot. He wants to view this new development proposed because it will be maintained and add to the streetscape. **Bill O'Shea, 1005 Pittsburg Avenue,** positive on the application, supports any project Mr. DiDonato creates, stated he resides full time in one of the condo's, he shared that he has never encountered a drainage issue. **Norman Briggs, Esquire** representing Harbor Cove clarified the widening of Harbor Cove will only be done if the they want to utilize off street parking. **Joe Gilmartin, 1382 Lafayette Street,** supports the application commending he applicant for downsizing the amount of structures he could have build to what is being presented this evening. **The public portion was closed for the evening at 10:23pm, with Chairman Bezaire informing the public they could return on the continuation date.**

**Chairman Bezaire announced that the continuation date for the DiDonato application will be January 22, 2013 at 7:00pm.**

**Motion made by Mr. Murray, Seconded by Mr. Jones to adjourn the meeting at 10:25 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**