

BOROUGH OF CAPE MAY POINT

Planning Board

Meeting Minutes

Wednesday, January 15, 2020 at 7:00 pm

Cape May Point Fire Hall

Pledge of Allegiance

Opening

In compliance with the Open Public Meetings Act, adequate notice of this session has been provided by official announcement in the Star and Wave Newspaper and posting of the scheduled meeting dates on the official Municipal Bulletin Board, 215 Lighthouse Avenue, Borough of Cape May Point, New Jersey.

Roll Call

Present: Mr. Greenberg, Mr. Keosky, Mayor Moffatt, Comm. vanHeeswyk, Mr. Fraatz, Mr. Casey, Mr. Hood, Mr. Yunghans, Mrs. Leming, Ms. Kelly, Mr. Sowers

Absent: Mrs. Busch, Mr. Murphy

Also Present: Rhiannon Worthington, Secretary; Mr. Nathan Van Embden, Esq., Attorney

Minutes

The minutes from the November 20, 2019 meeting were approved on a motion by Comm. vanHeeswyk and second by Mr. Greenberg. All present voted aye except for Mayor Moffatt and Mrs. Leming who abstained.

The minutes from the December 17, 2019 meeting were approved on a motion by Mr. Greenberg and second by Mr. Fraatz. All present voted aye.

Business

1. New Board members Ms. Mary Kelly and Mr. Jeff Sowers were sworn in prior to the meeting. The Oath of Office was completed by each Board member.
2. Historic Preservation Presentation by Mr. Jonathan Kinney of the Historic Preservation Office of NJDEP.
 - a. Mr. Kinney stated that he is a Historic Preservation Specialist as well as a Certified Local Government Coordinator, so he works with municipalities around the state to both develop and strengthen existing Historic Preservation Commissions. At this meeting he is presenting a PowerPoint presentation providing an overview of the historic preservation landscape within New Jersey and how the local level fits into that. A copy of the PowerPoint and video of the presentation are available on the borough website and at the municipal offices.
 - i. Why historic preservation?
 - ii. National Historic Preservation Act
 - iii. New Jersey Register of Historic Places Act
 - iv. National and New Jersey Registers
 - v. Evaluation Criteria for Both Registers
 - vi. Local Government
 - vii. Pieces of the Puzzle

b. Board Comments

- i. Mr. Casey asked Mr. Kinney for guidance on how to gauge the intent of the community prior to Planning Board action. Mr. Kinney indicated that public input was important but ultimately it would be up to the governing body how to proceed.
- ii. Mr. Casey referenced the goals in the Historic Preservation part of the Master Plan, which indicate that a commission may be “solely advisory”. He asked Mr. Kinney if he was aware of any Historic Preservation Commissions (HPC) functioning at that level. Mr. Kinney responded that he was not aware of any within the state, and that to comply with MLUL; all commissions should be classified as “weak” or “strong”.
- iii. In response to Mr. Kinney’s answer, Mr. Casey asked for confirmation that the responsibilities of a commission are selected and not automatic. Mr. Kinney responded that MLUL defines the responsibilities by statements of “shalls” (mandatory) and “mays” (optional).
- iv. Comm. vanHeeswyk asked about demolition delay. Mr. Kinney indicated there are municipalities that do have an ordinance with a demolition delay provision; Comm. vanHeeswyk requested a list of those municipalities from Mr. Kinney.
- v. Comm. vanHeeswyk asked about “just compensation” expense and if there was a provision for a trust to be created to cover potential expenses. Mr. Kinney suggested a review with CFO regarding all questions related to “just compensation”. He indicated that the concept may be explored further in MLUL outside historic preservation provisions.
- vi. Mr. Greenberg asked about the use of Planning Board as HPC instead of separate HPC. Mr. Kinney responded that he thought it might be to the town’s advantage to use the provision. At this point he is not aware of a town that utilizes it within the state, but he also has not worked with a town the size of Cape May Point.
- vii. Mr. Greenberg asked if ordinance for historic preservation could be modified over time if needed. His example was that the ordinance may simply require designation of a few properties and implement a notice requirement and demolition delay should the owners of those properties decide to make modifications, but over time, could evolve to something more detailed and involved as the needs are determined. Mr. Kinney responded yes, that Council can start small and expand as later. He also noted that in regards to demolition delay, it can only be tied to properties that are locally designated by ordinance.
- viii. Mayor Moffatt asked what the classes are for historic preservation commission. Mr. Kinney explained that a Class A is someone familiar with architecture, building and/or architectural history and a Class B is a local historian.
- ix. Mr. Van Embden asked how someone is designated as a Class A. Mr. Kinney responded that they are appointed like any other position, but formal education is not required. Working on historic structures or extensive experience in construction could count towards determining if someone can be designated Class A.
- x. Mr. Hood asked about the grant processes in the state of New Jersey. Mr. Kinney advised there are not many grant opportunities other than the Certified Local Government programs for historic preservation planning expenses. The New Jersey Historic Trust provides grant for brick and mortar expenses for non-profits and local government owned properties.
- xi. Mrs. Leming asked if the determination of historic status is made by the town or if the homeowner elects. Mr. Kinney responded that the town’s ability to designate a structure as historic resides solely in the ordinance. However, a homeowner could request their home be evaluated for historic status if they feel they meet the ordinance requirements.
- xii. Mrs. Worthington asked if there is the possibility of a mechanism within the application to have historic designation removed. Mr. Kinney stated there would not be, as historic status would be decided by ordinance.

- xiii. Mr. Greenberg asked for confirmation that this process could be completed in pieces – establishing the HPC and ordinance to delay demolition on a handful of structures, and later evolving to meet expanded needs of the community as they are determined. Mr. Kinney confirmed yes.
 - xiv. Mr. Hood asked how many municipalities in New Jersey have an HPC. Mr. Kinney stated there were 200 during the last assessment completed in the 1990s, but he would estimate presently about half of the municipalities within the state have an HPC. He added there are also 46 CLG participants.
 - xv. Mr. Van Embden asked about restrictions of alterations to historic properties. Mr. Kinney responded that the municipality determines the regulations, it is never determined by the MLUL; many municipalities and the state follow the Secretary of Interior Standards. Mr. Yunghans added that there is a list of desirable and undesirable materials in the Master Plan as well.
 - xvi. Mr. Sowers asked if there were any examples of historic preservation done by the individual homeowner? Mr. Kinney responded that most are done by preservation easement as previously discussed. Easement would follow property and they are tax deductible.
 - xvii. Mr. Keosky asked what happens if a property is demolished and redeveloped? What are the effects on the neighboring properties? Mr. Kinney responded that it all depends on the designation of the area around the structure and the designation of the structure itself. No designation would mean the municipality cannot interfere with what occurs unless it violates code or ordinance.
 - xviii. Mr. Keosky asked if the zoning could be changed on a property with change of ownership. Mr. Kinney stated it would not be determined by historic preservation. Comm. vanHeeswyk clarified that the subject property is zoned single family and is grandfathered as a hotel, so any transfer of ownership would require a new owner to comply with single family zoning.
- c. Public Comments
- i. Chris Meyerink – 421 Cambridge Avenue CMP
 - i. What are the benefits of historic preservation since there is no commercial district?
 - 1. Mr. Kinney responded that a commercial district is not required. Historic preservation isn't about the current owners, but allows the community to add a layer of protection to what is important in the town.
 - ii. Asked about how HPC is enforced?
 - 1. Mr. Kinney responded means of enforcement would be specified in the ordinance, similar to enforcement of zoning or construction ordinances.
 - ii. Comm. Robert Mullock – 202 Lake Drive CMP
 - i. Are there are any towns that require allowed time for a town to purchase/relocate a historic structure before demolition as part of their legislation? Mr. Kinney was unsure but thought it was a good idea.
 - ii. Generally, if someone demolishes a large home on a smaller property which exceeds current permitted lot coverage, the homeowner then forfeits that existing square footage and must comply with current ordinance requirements. Do provisions exist that incentivize homeowners to sell or donate the structure they want to demolish and then be permitted to retain the existing square footage? Mr. Kinney stated he believes that can be done through a preservation easement but those are managed through the New Jersey Historic Trust.
 - iii. Responded to question by Mr. Simmler, that the Borough has an understanding with St. Mary's that there would be no demolition prior to 2022.
 - iv. Stated that Cape May Point is a target for developers and contractors who want to demolish older homes to build new but avoid historic preservation regulations in neighboring communities. Historic preservation is needed due to these changing

times where properties are not passed down through generations and are purchased directly by builders and developers.

- iii. Lynn Smith – 712 Cape Avenue CMP
 - i. What if the homeowner doesn't want their home designated historic?
 1. Mr. Kinney stated that it would have to be appealed with the governing body. Since it is ordinance based, the governing body would have to take the homeowner's opinion into consideration but can still proceed with designation if they choose to do so.
 - ii. How does surrounding properties affect new construction?
 1. Mr. Kinney responded that by designating a few properties around town there would be no effect on new construction, but by designating a district or area of the town that maintains certain standards, new construction projects could be held to similar standard.
- iv. Dan Simmler – 111 Lincoln Avenue CMP
 - i. Is there currently a list of properties in Cape May Point that could potentially be designated historic?
 1. Comm. vanHeeswyk and Mrs. Worthington confirmed there was not anything presently on the website but it could be added. Mr. Yunghans advised that there is a list of 193 properties available in Master Plan identified as having some level of historic value.
 2. Mr. Kinney added that presently there was no protection for those properties. He noted that some are on the state or national register, or have been determined to be eligible to be. Comm. vanHeeswyk clarified that currently St. Peter's Church is the only structure in Cape May Point which is on the state or national registry. She also stated that because this designation does not provide protection to the structure because there is no government entity involved.
 3. Mr. Kinney added that per the state, if a property is not designated at the time of complete application, then it cannot be designated. Mr. Casey also clarified that this is the application for the demolition permit, not the actual action of demolition.
 - v. Barbara Skinnard – Cape May
 - i. Asked if environmental considerations could be included in designation. Mr. Kinney responded that it would have to be listed in the criteria in the ordinance; however, he was unsure of the benefit to having state property designated locally.
3. Resolution PB2019-03: 323 Brainard Avenue, Block 11 Lot 10.02
 - a. The resolution as amended was approved on a motion by Mr. Keosky and second by Mr. Yunghans. Mayor Moffatt, Comm. vanHeeswyk, Mr. Greenberg, Mr. Fraatz, Mr. Casey, Mr. Yunghans and Mr. Keosky voted in the affirmative.
4. Mr. Casey asked about annual report per MLUL and requested the report be available for review at the next available meeting.
 - a. Mr. Van Embden explained that the intent of the report was to review applications which have come before the Board in the prior year and identify areas where recommending an ordinance change might be appropriate. Due to the minimal number of applications that come before this Board during the year, it was never deemed necessary for this Board to complete an annual report.
 - b. Mr. Casey requested the Board review the ordinance related to Application PB2019-03, as he does not feel demolition in place is appropriately defined and disagrees with the interpretation applied to the referenced application.
 - c. Mr. Van Embden stated that the interpretation was appropriate and did not feel further review was necessary.

- d. Comm. vanHeeswyk reminded the Board that both the applicant and the attorney agreed to the interpretation.
 - e. Mr. Greenberg asked Mr. Casey what he would like to do. Mr. Casey stated he would like to have a Board discussion per MLUL 70:1 to determine if the ordinance could be understood by a lay person and that resolution should be memorialized regarding the outcome of the discussion. It is his position that the ordinance is understandable; he does not feel the stop work order received by the applicant was the appropriate interpretation.
 - f. Mr. Keosky stated that the Board deliberated thoroughly and granted the variance; he had no empathy for the applicant regarding the associated expense but was happy to review the ordinance.
 - g. Discussion occurred between Mr. Casey and Mr. Keosky indicating there was confusion about what Mr. Casey was requesting of the Board.
 - h. Mr. Greenberg asked Mr. Casey to submit to Mrs. Worthington exactly what he was requesting be reviewed so it could be added to the agenda for the next scheduled meeting and all were clear about Mr. Casey's request.
5. Mr. Fraatz asked about Board's responsibility to review the preliminary budget.
 - a. Comm. vanHeeswyk indicated she would provide copy, however, at this time, budgets were already in progress for approval.
 - b. Mr. Van Embden summarized for the Board that their purpose in reviewing the budget was to ensure expenditures were in line with the Master Plan, and was not to attempt to question or limit spending.
 - c. Comm. vanHeeswyk suggested that this review be done in September in the future so comments can be provided to the Commissioners before the first budget review is completed by Council.
 - d. Mr. Greenberg asked Mrs. Worthington to include this review into the list of annual Board activities.

Public Comment

1. Public comment was opened at 8:50 pm on a motion by Comm. vanHeeswyk and second by Mayor Moffatt.
2. Public comment was closed at 8:51 pm on a motion by Comm. vanHeeswyk and second by Mayor Moffatt.

Board Information

None

Adjournment

The meeting adjourned at 8:52 pm on the motion by Mayor Moffatt. All present voted aye.

Respectfully Submitted by:

Rhiannon Worthington

Board Secretary

Approved by Board 4/15/2020