

BOROUGH OF CAPE MAY POINT

Planning Board

Meeting Minutes

Wednesday, September 15, 2021 at 7:00 pm

ZOOM

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 Cape May Star and Wave Newspaper and continuous 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: Ms. Kelly, Dr. Pfendner, Mayor Moffatt, Comm. vanHeeswyk, Ms. Bassett, Mr. Greenberg, Mr. Murphy, Mr. Yunghans, Mr. Mullock, Mr. Sowers, Mr. Remy, Mrs. Leming

Absent: Mr. Hood

Also Present: Rhiannon Worthington, Secretary; Mr. Robert Belasco, Esq., Attorney

Minutes

The minutes from the June 16, 2021 meeting were approved with correction on a motion by Mr. Sowers and second by Mrs. Leming. All present voted aye.

Business

1. Mr. Belasco was introduced.
2. Hearing for Application PB2021-02: 419 310 Stites Avenue, Block 9 Lot 21
 - a. Applicant: Mrs. Cathleen Moore, located at 149 Municipal Drive in Phillipsburg, New Jersey.
 - b. Applicant's Representative: Mr. Jeffrey P. Barnes, Esq. of Barnes Law Group, located at 111 East 17th Street in North Wildwood, New Jersey.
 - c. Applicant's Professional: Mr. Louis J. DeLosso of Design Collaborative R. A., located at 1940 North Route 9 in Cape May Court House, New Jersey.
 - d. Mrs. Leming recused herself due to property within 200 feet.
 - e. Mr. Barnes presented the following:
 - i. Subject property is 50 x 100 for a total of 5000 square feet with an existing single-family home and garage located in R-1 zoning district.
 - ii. Applicant is seeking relief to construct a larger front porch where the existing one exists, which will increase front yard setback encroachment, and reduce building and vegetation coverage.
 - iii. Pre-existing non-conformities were listed as:
 - i. Side yard setback on primary structure, 3.8 feet where 5 feet is required.
 - ii. Side yard setback on accessory structure, 2.1 feet where 5 feet is required.
 - iii. Rear yard setback on accessory structure, 2.7 feet where 5 feet is required.
 - iv. Vegetative coverage, 51.92% where 60% is required.
 - f. Mrs. Moore was sworn and testified the following:
 - i. Subject property was purchased in 1997 by the Moores.
 - ii. It was built around 1950 by three veterans who built three neighboring houses. Only remaining cottage of the three, and they wish to keep it that way.
 - iii. Acknowledged space in rear for construction of a covered deck without a variance (38 feet where 20 feet is required), but prefers to have the porch on the front for use.

- iv. Feels the existing porch is not functional or safe. Requests to demolish the existing stoop and increase the encroachment on the front yard setback with expanded porch and new steps.
- v. Considered putting the steps off the side of porch, minimizing encroachment on the front yard, but does not find the look appealing and will be less functional.
- vi. Stated that the large tree in the front of the property would not be impacted.
- vii. Stated that they intend to maintain current vegetative coverage by removing pavers in the rear of property and portion of the driveway.
- viii. Mr. DeLosso presented his qualifications as an expert witness in regards to architecture and planning and was accepted by Mrs. Kelly. He was sworn and testified the following:
 - i. The current porch is 6'-1" deep with recessed steps. The existing porch is not code compliant as there are no railings, and overall is not attractive.
 - ii. The proposed plan is to increase the depth of the porch by 2'-5", move the steps forward out of the deck, extend the porch the length of the front of the house and add a new shed roof over the porch with railings and columns.
 - iii. Believes the proposed plan is appropriate for the home and the area.
 - iv. Attempted to meet all zoning requirements during design of the project. Due to existing conditions, the porch cannot be built within the required front yard setback. Believes that the streetscape varies in regards to the front yard setback, with some structures closer and some further from the road.
 - v. Does not view the porch as habitable space although the Borough ordinance indicates it is to be included in floor area ratio calculations. The floor area ratio (FAR) is 25.61% where 42% is permitted. The homeowners do not want to overdevelop the property.
 - vi. The existing vegetative coverage is 51.2%. By removing 286.04 square feet of pavers and gravel from various areas of the property, they will offset the proposed increase of 165.2 square feet of porch, maintaining the vegetative coverage at 51.2%. He does not believe a variance is required for vegetative coverage since the existing is being maintained.
 - 1. Mr. Belasco reviewed the vegetative numbers shown on Mr. DeLosso's drawings and Schaffer Nassar Scheidegg Consulting Engineers, and confirmed they were consistent.
 - 2. Mr. Barnes offered a condition that the applicant would provide the vegetative calculations at project completion to confirm there is no change.
 - 3. Mr. Belasco advised that the existing non-conformities could be included in the resolution.
 - vii. The existing building coverage is 28.48% and the proposed building coverage is 31.78% where 30% is permitted. A variance is requested.
- ix. Requesting variance based on the C2 criteria of items E, G, I and M.
 - i. Establish appropriate population density. Structure exists as a single-family home, will remain a single-family home and the habitable space will not increase.
 - ii. Provide sufficient space for a variety of uses. Expansion of outdoor space provides additional living space in nice weather.
 - iii. Encourage efficient use of land. Despite existing non-conformities, the lot is not being overbuilt and works within the layout.
 - 1. Mr. Barnes added that with existing vegetation and trees, the porch addition may not be noticeable. Mr. DeLosso agreed.
 - iv. Preservation of the neighborhood. Maintaining single-story, single-family structure with similar architecture to other structures in town, it does not overwhelm or change the characteristic of the neighborhood.
- x. Does not believe the granting of the requested variances will impact surrounding property owners. The property is so heavily wooded, it is not immediately obvious that the house encroaches on the front yard setback.
- xi. Agrees that the benefits of approval outweigh detriments and it will advance, not impair the ordinance. States the project is a modest attempt at enhancing the living space of a dwelling for a resident who has been there for some time.

g. Board Questions

- i. Dr. Pfendner asked if the homeowner would consider building the steps to the side of the porch to reduce front yard setback encroachment. Acknowledged it would not be as aesthetically pleasing.
 - i. Mr. DeLosso responded that the steps on the front of the porch are more symmetrical and architecturally appropriate as designed. Side access interrupts the functionality of the porch.
 - ii. Mr. Barnes asked if steps could be inset. Mr. DeLosso stated that it would decrease the depth of the porch by 2'-6", but suggested instead to leave steps where proposed and raise grade around steps to reduce depth by one step.
- ii. Dr. Pfendner asked if the property has a basement.
 - i. Mr. DeLosso stated there is and indicated that the porch structure will not affect the ability of the basement to properly ventilate.
- iii. Mr. Sowers stated that he did not believe variances should be issued for the existing non-conformities associated with the house and garage.
 - i. Mr. Barnes and Mr. Belasco agreed.
- iv. Mr. Murphy asked the final width of the driveway and if it is wide enough for a standard vehicle to access the garage.
 - i. Mr. DeLosso confirmed the driveway would be 7'-8-1/2" at the rear of the house and 8'-6" along the remainder of the driveway. The standard vehicle is 6'-6" wide.
- v. Mr. Murphy asked if there were one or two trees to consider in the front yard.
 - i. Mrs. Moore stated there were two trees in the front yard.
 - ii. Mr. DeLosso confirmed there was to be no tree work associated with the porch construction.
- vi. Mr. Murphy asked if there were plans to enclose the porch in the future.
 - i. Mr. DeLosso stated that print SP2.1 only shows a roof. Based on bugs there may be screening. Regardless, the space was already included in FAR, even though it is not habitable.
- vii. Mr. Murphy stated he prefers that the be built up or to the rear.
 - i. Mr. Barnes commented that building up potentially increases density and the rear of the property does not promote interaction with the community.
- viii. Mr. Murphy believes that the characteristic of the streetscape will change with a 10' increase into the front yard.
 - i. Mr. DeLosso corrected that existing porch depth is only increasing by 2'-6" per the plans. With the sloped ground on either side of the steps, that will decrease the number of required steps and reduce the front yard intrusion by 20". He confirmed that the sloping would not impact drainage.
- ix. Dr. Pfendner stated that she her observation of the neighboring houses that the other houses on the street come as close to the street at this one will, and that she would prefer the applicant reduce the encroachment.
 - i. Mr. DeLosso responded that he did not measure the surrounding properties and cannot confirm without visiting the street.
 - ii. Mr. DeLosso suggested that the steps be inset by one step and the surrounding grade raised enough to remove two steps, leaving only one step (10") encroaching into the front yard setback. Mrs. Moore agreed to the proposed change.
 - iii. Mr. Murphy and Mr. DeLosso further discussed and clarified questions regarding the porch and step dimensions.
 - iv. Dr. Pfendner agreed with the proposed change, adding she thought the porch would still look good and would minimize impact. She also noted that she appreciated the applicant keeping off street parking.
- x. Dr. Pfendner suggested removing the concrete around the house foundation to improve vegetative coverage.
 - i. There was discussion regarding turf pavers, vegetative and lot coverage.
- xi. Mr. Murphy lost connection from 8:17-8:26 and the hearing was paused.
- xii. Comm. vanHeeswyk expressed concern about the proposed changes to grade.
 - i. Mr. DeLosso confirmed there would be small swales on either size to assist with drainage and runoff.

- xiii. Comm. vanHeeswyk asked why the elevations are referenced NAV1929 and not NAV1988, which was the current standard.
 - i. Mr. DeLosso could not comment as he did not supply the survey. He advised that since the project did not equate an improvement of more than 50%, raising the home was not required.
 - ii. Comm.vanHeeswyk agreed that it did not have to be raised but still thought the paperwork should be presented properly, with the most accurate information.
- xiv. Comm. vanHeeswyk expressed concern about flood elevation since the project has a roof, and how this could affect flood rates and CRS should it be enclosed in the future.
 - i. Mrs. Worthington advised that the project had been reviewed by Mr. Belasco, Floodplain Manager, and that there was no impact in regards to flood unless the project triggered the 50% rule. The porch is proposed above base flood elevation and therefore any room constructed would be at the same height as the first floor.
- h. Hearing was opened to the public at 8:32 pm.
 - i. Public within 200 feet
 - i. Ms. Patricia Kennedy – 318 Stites Avenue, CMP
 - 1. Does not support the application.
 - 2. Asked questions about the increase in lot coverage and vegetative coverage as well as existing drainage concerns.
 - i. Mr. DeLosso advised that the swales would be adjacent to the walkway for drainage and pavers and gravel would be removed to address lot and vegetative coverage.
 - 3. Stated she would not find inset steps acceptable as a homeowner.
 - i. Mr. DeLosso assured her he could design it to be safe and visually desirable.
 - 4. Asked about an increase of runoff on the property.
 - i. Mr. DeLosso confirmed there would be no increase in runoff.
 - ii. General Public
 - i. None.
- i. Hearing was closed to the public at 8:36 pm on a motion by Dr. Pfendner and second by Mr. Sowers.
- j. Ms. Bassett disconnected from meeting at 8:36 pm.
- k. Findings of Fact
 - i. Mr. Sowers supported the application and summarized as follows:
 - i. Approval is requested for construction of a covered front porch to existing structure.
 - ii. The porch will increase by 2'-5" from the existing front stoop, and expanding to the width of the house.
 - iii. The vegetative coverage will not increase.
 - iv. The existing non-conformities not impacted by the porch will not be included in approval.
 - v. As discussed and agreed to during the hearing, the construction plan will be modified to include an inset step and the number of steps reduced by an increased grade.
 - vi. The front trees will not be affected.
 - ii. Ms. Kelly supported the application. She reviewed the Environmental Commission's report, which did not pose any major environmental concerns. Also indicated that she appreciated the step modification.
 - iii. Dr. Pfendner supported the application. She reviewed the negative and positive criteria. She believes the proposed construction is attractive and appropriate and maintains the original cottage, which is a positive. The modifications to the steps will create minimal imposition on the front yard setback, enhancing the streetscape. It is a negative that FAR is increased by the project but appreciates that it is still under what is permitted. She also noted that existing non-conformities are to remain as is, without any further approval provided. Thinks proposal is worthwhile – does not know how anyone survives in Cape May Point without a porch, but encourages screens because it is very buggy.
 - iv. Mr. Remy supported the application. The plans will enhance the aesthetic of the property.
 - v. Mr. Murphy supported the application. He acknowledges the applicant met items E, I and G as set forth in MLUL, but thought item M was questionable. He also stated that he appreciated the modifications made by the applicant.
 - vi. Mr. Belasco summarized for the Board that two conditions were agreed to:

- vii. Vegetation applications will be provided to the Board Secretary to confirm compliance with existing.
 - viii. Site will be regraded along the front of property near the proposed porch to reduce the step encroachment by 20" to 1'8".
 - l. Mr. Barnes declined a summary/closing comment.
 - m. Mr. Belasco recommended a motion in the affirmative to approve the applicant's request for front yard setback and lot coverage variances subject to the two conditions included in the findings of fact; the existing non-conformities are being recognized but not included in the application for variance relief.
 - i. Motion was made by Mr. Sowers and second by Mr. Remy. Ms. Kelly, Dr. Pfendner, Mr. Murphy, Mr. Sowers and Mr. Remy voted aye; Mayor Moffatt and Comm. vanHeeswyk abstained. The application was approved as modified.
3. Mrs. Leming rejoined the Board.
4. Discussion of Proposed Ordinance 08-2021: Ordinance Amending Chapter 150, Section 21 (Landscaping and Vegetation Plan)
- a. Mr. Sowers asked why crepe myrtle is not on the list provided for reference with the ordinance. His concern was that the language changes in the ordinance force a choice from the list and if you only need to plant on tree and would prefer to plant crepe myrtle, it would not be acceptable.
 - i. Mrs. Bassett and Comm. Busch were not on the call to address the question.
 - ii. Ms. Kelly stated that the requirement of the Planning Board was to review the ordinance for compliance with the Master Plan, and it appears his specific question may be more appropriate to ask about at a Commissioners' meeting. Comm. vanHeeswyk agreed and suggested that comment should be made at the public hearing for the ordinance amendment.
 - b. Mr. Murphy expressed concern about enforcement.
 - i. Mrs. Worthington was told that since it was in the zoning section of the code, Mr. McGraw would be the Enforcement Officer.
 - c. Mr. Sowers expressed concern about Mr. McGraw since he was unable to assist with the vegetative coverage on the application discussed tonight.
 - i. Mrs. Worthington advised that this would be a landscape plan review than a site survey. It would also be certified by the homeowner that the planting had been completed.
 - d. There was discussion about timing of planting and certifications, and Ms. Kelly reminded the Board that these discussions would be more appropriate at the Commissioners' meeting.
 - e. Motion was made by Ms. Kelly and second by Mrs. Leming that the ordinance was consistent with the Master Plan. All present voted aye; Mayor Moffatt and Comm. vanHeeswyk abstained.
 - f. Mrs. Worthington indicated she would notify the Commissioners of the Board's recommendation and provide copy of the resolution after the next meeting.

Public Comment

- 1. Meeting was opened to the public at 8:58 pm on a motion by Mr. Sowers and second by Comm. vanHeeswyk.
 - a. No public comment presented.
- 2. Meeting was closed to the public at 9:00 pm on a motion by Mr. Murphy and second by Comm. vanHeeswyk.

Board Information

- 1. Mr. Greenberg and Mr. Yunghans have resigned. Mr. Sowers has been moved to a full member and Mr. Remy is alternate #1.
 - a. Ms. Kelly expressed gratitude for their time with the Board and historic preservation efforts.

Adjournment

The meeting adjourned at 9:00 pm on the motion by Mayor Moffatt and second by Mr. Sowers. All present voted aye.

Respectfully Submitted by:

Rhiannon Worthington

Board Secretary

Approved by Board 11/17/2021