

# **BOROUGH OF CAPE MAY POINT**

## **Planning Board**

### **Final Meeting Minutes**

**Tuesday, June 20, 2023 at 7:00 pm**

**HELD VIA ZOOM VIDEO/AUDIO CONFERENCE**

#### **Pledge of Allegiance**

#### **Opening**

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

#### **Roll Call**

Present: Mayor Moffatt, Comm. VanHeeswyk, Mr. Remy, Mr. Murphy, Mr. Brown, Mrs. Leming, Mr. Wallace, Ms. Geiger

Absent: Ms. Bassett

Also Present: Mr. Nathan Van Embden, Esq., Attorney, Mrs. Kate Dunn, Deputy Secretary

Mr. Brown gave a brief introduction. He stated that this is a combined Planning and Zoning Board that operates in accordance with the MLUL and the chartering authority of Borough governance. Cape May Point is a small community with various opinions and respect for each other. Together, the volunteer members, Borough Officials and professional staff within the board conduct board business and welcome applicants following the operational processes that fair governance asks and we welcome public input.

#### **Minutes**

Mr. Brown asked if there were any further comments on the revised draft minutes for May 16, 2023 that had been circulated to the board members from the board secretary, for offline review and comment, prior to this meeting. No further comments were made. As a result, the minutes from May 16, 2023, were approved on a motion by Comm. Vanheeswyk and a second by Mr. Wallace.

#### **Business**

1. No new business was presented.
2. Subcommittee Updates:
  - A. Lot Coverage Awareness Committee: Mr. Brown acknowledged the attendance of John McGraw, CMP Zoning Officer, to participate in the discussion of the LCA subcommittee topic. Mr. Brown and Mr. Wallace prepared a PowerPoint presentation to discuss and clarify several issues surrounding lot coverage. After referring to the 1<sup>st</sup> slide, Mr. Brown indicated that this informal subcommittee was inherited by Mr. Wallace from out going members and Mr. Brown joined on the subcommittee. They view the objective of the committee as clarifying lot coverage and code definitions and identifying potential issues.

Referring to the 2<sup>nd</sup> slide, Mr. Brown discussed the one-page guide that was circulated to the board for review and comment prior to the meeting. Mr. McGraw has partnered with the LCA Subcommittee to develop the one-page guide. On the one-page guide, the goal was to provide

clarity on percentages and other details related to lot coverage. They are looking for this guide to be a reference for new planning board members. One suggestion from a board member was to change the first line of point A to say “This one-page summary,” instead of “this one-pager.” There was no objection from the board to make that change. Another comment from a board member was, if structure can’t be more than 30% and vegetative coverage is 60%, what is the other 10%? John McGraw responded to the question that there is no connection between the percentages. There are two stand-alone requirements, one is that the main structure can’t cover more than 30% of the lot area and the second is that at least 60% of the lot has to be covered in vegetation. Ms. Gieger believes that if the document were put out for the public to see, there may be some questions in regards to the percentages. Comm. Vanheeswyk believes that as a summary, the one-page summary states what it needs to. Mr. Remy believes the document needs to be as clear as possible so that the document doesn’t become confusing. Mr. Brown stated that is the purpose of keeping it to one page and they do want to stick to just the facts. Mr. Brown suggested that an FAQ to the one-page summary might be a good idea to do in the future where questions about items like the additional 10% could be handled. Mr. Murphy suggested adding a line to the one-page summary stating that the percentages are stand alone requirements and do not relate to each other. The board members agreed to that suggestion. The subcommittee members will make the necessary changes and have the summary circulated to the board members again. No further comments were made regarding the summary.

Mr. Brown asked for thoughts on how to use this document. He stated that originally it was intended for new planning board members. However, after getting into the document more, he thought it may be beneficial to the general public on the Borough’s Website. Several board members thought it was a good idea to have it available to the general public. Mr. VanEmbden suggested it could be part of the Zoning packet when people come and ask for permits. Mr. McGraw agreed that the document should be used as much as possible and putting it in the permit packets would be a great idea. He also suggested seeing if the document could be included in some of the Boroughs mailings. Before moving a vote, Mr. Remy had a question about existing homes. He asked if those homes were to be demolished and rebuilt, how would they fall into these guidelines what this one-page summary is stating. Mr. McGraw doesn’t believe this summary would necessarily be used for this situation. Mr. Brown indicated that the scenario of Mr. Remy’s question will be more pertinent in the 2<sup>nd</sup> part of today’s subcommittee discussion.

Decision: Finalizing the document with the two changes listed above was approved on a motion from Comm. Vanheeswyk and a second by Mr. Remy. All present voted aye.

Decision: Making the document open to the public use was approved on a motion by Comm. Vanheeswyk and a second by Mayor Moffatt. All present voted aye.

In the 2<sup>nd</sup> part of the subcommittee topic, Mr. Wallace continued the discussion with referring to the 3<sup>rd</sup>, 4<sup>th</sup> and 5th slides of the presentation. This slide refers to potential issues such as unintended consequences and a missed opportunity.

Mr. Wallace described two unintended consequences, the first one being eco pavers and the second being cantilevered houses. Starting with eco pavers, Mr. Wallace stated that the Zoning code doesn’t have anything about eco pavers in it. However, there is an assumed interpretation that eco pavers are vegetative. That interpretation brings about two consequences, one being that eco pavers can range from being considered vegetative and non-vegetative, depending on the situation. The other unintended consequence is that once eco pavers are used for a driveway, the

owner/builder could receive a ‘vegetative area credit’ and then use that area credit to increase space items such as a patio or firepit. The focus then boils down to whether eco pavers are really vegetative and are they being used as ‘green’ substitute for non-green items elsewhere.

The discussion continued with eco pavers. Comm. Vanheeswyk stated that the Borough requires driveways to be pervious. Mr. McGraw stated that if eco pavers are used for the driveway area, it counts as green or vegetative. Ms. Geiger had a question regarding what is considered as “green?” Mr. McGraw confirmed that the meaning of “green” means capable of growing. Mr. Wallace suggested that the committee is proposing to come back later with some suggestions on how to reward the use of eco pavers. Mr. Brown suggested the committee could do some more research on how the eco paver credit is being used and develop potential recommendations to the commissioners on how the code can be modified. Mr. McGraw clarified that the only place that eco pavers counts as green is in the 10ft. by 20ft parking area. Mr. Murphy pointed out that there are several different kinds of eco pavers and asked if it would be possible to give different credits for different eco pavers. Mr. McGraw confirmed that the current and past practice of the Borough is not to differentiate between credits for different eco pavers. Ms. Leming felt that the committee should not go back to properties that already have eco pavers to see what those particular properties did with the eco paver credit. She didn’t feel that visiting properties with existing eco pavers was a good idea. Mr. Wallace clarified that if there were any research to be done, it would rely on document plans that were submitted and not what is physically on the ground now.

Mr. Wallace moved on to discuss slide number 6 which refers to cantilevered houses. He stated that with these houses, there is an interpretation that the area under the second floor, that isn’t over the first floor, is also considered vegetative space or ‘green’. This would allow vegetative credit for substitutions such as more area to increase a driveway or patio. Mr. Wallace stated the result of the unintended consequences could result in a lesser percentage of vegetative land than would otherwise be expected.

The discussion continued with cantilevered houses, with Mr Wallace giving some numeric examples to illustrate how much vegetative credit might be involved

Comm. Vanheeswyk raised a question on how a patio counts as green space. Mr. McGraw stated that any area that is not capable of growing, doesn’t count as green. If a patio is surfaced with non-growing material, it would not be counted in the green area. He confirmed that you can have 40% of your lot that is not green, whether it is under the house or not, doesn’t make a difference. If 60% of the lot area is green, then it complies with the code. Comm. Vanheeswyk expressed that she would like to see this “unintended consequence” associated with ‘cantilevered’ structures addressed in the future. Mr. Wallace noted that there is not much growing under most cantilevers. Mr. Murphy referred to the 2<sup>nd</sup> bullet on page 8 in regards to the height. Mr. Wallace explained that there is no definition in the code of how high the second floor has to be.

Moving on to slide number 9, which covers renovations and vegetative coverage. Mr. Wallace explained that If an owner does a renovation of a certain scale, they must meet the vegetative coverage requirement. However, there are some exceptions. One of the exceptions is that if the lot coverage doesn’t increase by more than 10%, then the owner wouldn’t have to meet the vegetative coverage requirement. The question is, should the exception scenarios change, to reflect more of the various types of renovations that are performed currently? Comm. Vanheeswyk raised a question as to whether there could be a trigger to meet the vegetative

coverage if one is putting a certain percentage of value in renovations. Mr. Brown stated that there could be additional triggers that could be looked into.

Mr. Brown referred to slide 11 and stated that the subcommittee collected guidance on the 3 topics that were raised and would like to know if the board sees fit for the subcommittee to continue in the direction they are going to get more detailed research or recommendation about the three areas.

Mr. Brown recommended that the board vote to assess interest in formalizing the Lot Coverage Awareness Subcommittee to look further into these areas and make recommendations to the Commissioners who can then modify the code if they see fit.

Decision: The subcommittee was formalized on a motion by Mr. Remy and a second by Comm. Vanheeswyk. All present voted aye.

The subcommittee members will proceed to define scope and chartering language to describe the formal subcommittee's plans/activities, for future Board review. An additional volunteer to join the subcommittee would be welcomed. Mr Brown and Board members thanked Mr McGraw for participating in the subcommittee activities to-date and contributing to the Board meeting discussion.

- B. Completeness Committee: Mr. Murphy stated that there no applications in the pipeline.
- C. Light & Noise Committee: Barb Bassett is the sole member of this committee and was not present. No update provided.

**Board Information:**

Mr. Brown noted that if there are no applications, then we would be looking to cancel the July and August meetings.

**Public Comment**

- a. Public Comment was opened at 8:06 on a motion by Comm. VanHeeswyk and second by Mayor Moffatt.
- b. No comment
- c. Public Comment was closed at 8:07 on a motion by Comm. VanHeeswyk and second by Ms. Leming.

**Adjournment**

The meeting adjourned at 8:08 pm on the motion by Mr. Murphy and second by Comm. Vanheeswyk.

Respectfully Submitted by:

Kate Dunn

Deputy Board Secretary

Approved by Board 09/19/2023