

# **BOROUGH OF CAPE MAY POINT**

## **Planning Board**

### **Final Meeting Minutes**

**Tuesday, September 17, 2024 at 7:00 pm**

**HELD VIA ZOOM VIDEO/AUDIO CONFERENCE & AT THE CAPE MAY POINT FIRE COMPANY**

#### **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: Comm. VanHeeswyk, Mr. Remy, Mr. Brown, Mr. Rusnak, Mr. Wallace, Ms. Geiger, Mr. Murphy, Mayor Moffatt, Ms. Bassett, Dr. Farrell, Ms. Shaw

Absent: None

Also Present: Mr. Nathan Van Embden, Esq., Attorney, Mrs. Kate Dunn, 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 a variety of 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.

Ms. Shaw, a new alternate member of the board, gave a brief introduction of herself. She is a third generation resident as her grandparents and parents had property in Cape May Point. She has lived year-round in Cape May Point for about 12 years and she is excited to be back on the board.

#### **Minutes**

Mr. Brown asked if there were any further comments on the revised draft minutes for June 18, 2024 that were circulated to the board members from the board secretary prior to this meeting. No other corrections were noted. As a result, the minutes from June 18, 2024 were approved on a motion from Mr. Remy and a second from Mr. Wallace with 7 Aye votes. Mayor Moffatt, Ms. Bassett, Mr. Farrell and Ms. Bassett abstained from the vote.

#### **Business**

##### **1. Letter regarding Setbacks and Overhangs:**

- a. Mr. Brown stated that the draft letter regarding setback and overhangs that was discussed at the June 18<sup>th</sup> meeting was distributed to the board prior to the meeting. That letter was for informational purposes because the proposal on June 18<sup>th</sup> was adopted as presented from the Lot Coverage Awareness Subcommittee. The letter is a write-up of the recommendation from the LCA subcommittee referring the recommendation to the Commissioners.

##### **2. Resolution on June 18, 2024: Decision regarding Driveways & Eco Pavers**

- a. Mr. Brown explained why he chose to do a memorializing resolution versus a letter of recommendation in order to elevate the topic to the Commissioners. He stated that the original LCA proposal was not the same as the proposal that was voted on at the June 18<sup>th</sup> meeting, due to modifications stemming from board discussion. He also noted that a board member approached him after the meeting and stated that it was such a fast-moving discussion that it was a little confusing as to what was being voted on. For those reasons, it was decided to take the more conservative approach and draft the memorializing resolution that reflects the content, discussion and decision that day and use the meeting as an opportunity to go through the memorializing resolution. Only members who voted in the affirmative on the matter, can vote on the resolution. Mr. Brown noted that he voted in the negative on the topic so he will not be voting on the memorializing resolution. However, he will be facilitating the conversation regarding the resolution. There was no objection from the board for Mr. Brown to facilitate the discussion.
- b. Mr. Brown stated that the memorializing resolution is intended to capture both the original proposal from the LCA Subcommittee and why there were changes that came about from the discussion. In the closing part of the resolution, it reflects what was proposed and voted on. He asked if there were any comments or corrections on the memorializing resolution.
- c. Mr. Rusnak stated that he was the individual that contacted Mr. Brown after the fact. When he voted, he had in mind a lot coverage percentage and not an absolute ban of pavers. He stated he misunderstood the intent of the vote and he had asked Mr. Brown if there was anyway he could change his vote based on his belief and actions. He stated that he built a driveway with pavers and believes they are permeable. Even though he can't change his vote, he wanted to put on record that based on his research and conversations with different contractors, he believes that pavers are permeable and he would change his vote if he could.
- d. Mr. Wallace offered some clarifications. He stated that there are two issues that were talked about: one is permeability and the other is green. He indicated that a literature search indicates that asphalt driveways can be pervious and there are even new kinds of concrete that are pervious. It is necessary that driveways be pervious, but the second part of the discussion was around their aesthetic or vegetative aspects. This entire discussion began around the vegetative credit given to pavers. Mr. Wallace stated the proposed code states that asphalt and concrete cannot be used for driveways despite the fact that they can be pervious whereas stones and shells are permitted. When the discussion moved to pavers the issue is whether they are more like asphalt and concrete which are not permitted or stones and shells which are permitted but don't receive any vegetative credit.
- e. Mr. Rusnak stated that in retrospect, he would put pavers in the category with shells and stone.
- f. Mr. Farrell noted that in page 2 of the resolution, item 1(d) states that masonry pavers systems will not receive any vegetative area credit which he believes puts them in the same class as the shell and stones. Mr. Farrell noted he thinks this discussion is coming from the vegetative credit for something that is actually green and supporting vegetation versus a surface that may allow percolation into the ground water table but isn't going to support the growth of vegetation.
- g. Mr. Remy stated that the LCA Subcommittee discussion between the three members of the committee was about trying to make things greener rather than allowing green between different substances such as eco pavers. Mr. Brown noted that the LCA Subcommittee proposal is documented in the resolution as well.
- h. Mr. Wallace discussed residents that don't need a driveway and park on the grass and get 100% vegetative credit for parking on the grass. He stated that the eco pavers are something half-way to grass. Then there are other systems like shells and stones that are allowed in the driveway per the code, however, no vegetative credit is given. Then there is asphalt and concrete driveways that could be permeable, however, are not allowed in driveways by the proposed code. Mr. Wallace stated that the question was, how should eco pavers be classified. Should they be more like shells and stone or asphalt and concrete?

- i. Ms. Geiger stated that she has done some research since the last discussion as well. She said it's a question about how much water can filter through the pavers. She stated she went back to the Storm Water Management handbook and she read that Eco Pavers can be pervious but there are several requirements that the pavers must meet. She stated that not all paver systems are the same and what she thinks happened over time is that older homes have stone or shells. However, the newer homes have pavers, but she doesn't know if the paver systems can be considered pervious. She agrees with Mr. Wallace that the easiest way to classify pavers is to decide whether they are in the category with shells and stone or asphalt and concrete. Once the definition has been made, then it is a question of aesthetics.
- j. Ms. Bassett commented on behalf of the Environmental Commission. She stated that the EC did discuss the topic of eco pavers and the EC did send a recommendation to the Planning Board. They agree that masonry pavers should be added to part I of the Code because not all pavers are created equal. There are many different types with differing amounts of porosity. Also, the entire area's porosity will depend, not only on the pavers (size and material) themselves, but also the spacing between the pavers. Regulations specify the need for a transition layer and a storage bed. The vegetative coverage credit should also be addressed as to the correct percent percentage of the area being paved. If during the planning board discussions, pavers are deemed acceptable, the EC recommends that the Borough Engineer and/or the Flood Plain Manager, review pavers with respect to their permeability (perviousness). This is to address our concerns above and also determine what will be required to meet the DEP Storm Water Regulations.
- k. Mr. Farrell commented on the rate of infiltration depends on the amount of rainfall. If the rainfall is less, most of these systems will work and infiltrate the water. However, if the rainfall is more, most of these systems will have run off even if they are installed properly and meet the storm water management requirements.
- l. Mr. VanEmbden stated that the memorializing resolution accurately reflects what was discussed at the June meeting. He asked how this interpretation would apply to the appeal from the last Zoning Board application. Mr. VanEmbden explained that the board has been the subject of an appeal of an application that was approved to grant a subdivision with variances of two conforming size lots and the one lot with the driveway on it, will be become non-conforming. An argument for the appeal was that the board didn't have the discretion to allow the eco pavers as a means of addressing permeability and green space. He stated that this proposal says that eco pavers, if installed properly, will get a 50% credit vegetative coverage. In the case of the appeal, a 100% credit will be given for Eco Pavers for vegetative coverage requirements.
- m. Mr. Brown stated that at the time of the application of 506 Cedar Ave., the practice in the Borough was that the Zoning Officer had been granting a 100% credit for the use of Eco Pavers. This LCA proposal would change that. Mr. Brown stated that if this proposal had been referred to the Commissioners and if the Commissioners had adopted it, as recommended, then the board would be ready to grant only 50% of credit for Eco Pavers. The Planning Board went with the Zoning Officer practice of Eco Paver credit current at the time of the hearing for 506 Cedar Ave.
- n. Mr. Wallace made a motion to adopt the resolution as written. Mr. Remy seconded the motion.
- o. Mr. Murphy asked if the resolution is approved and the Commissioners move forward with the recommended changes, does that affect the appeal in any way.
- p. Mr. VanEmbden responded that there could be an argument for the appellant and an argument for the Planning Board.
- q. The resolution was approved with 4 Aye votes and 1 Nay vote.

### 3. Subcommittee Updates:

- a. **Completeness Committee:** Mr. Murphy stated that there is an application in the pipeline, application 2024-01, 415 Lincoln Ave. The Committee met on September 3<sup>rd</sup>, however, at the time they didn't finalize anything because they were waiting on reports from the Zoning Officer and Borough Engineer. They are waiting on those reports to finalize their findings.

- b. **Lot Coverage Awareness Committee:** Mr. Brown stated that the third topic that was presented on June 18<sup>th</sup> was HVAC locations. There is nothing new to report at this time other than the LCA committee will work through that topic and try and develop a new proposal.

**Board Information:** Ms. Bassett commented on the light pollution matter. She stated that the Environmental Commission had worked on this topic for a while and the recommendation has been sent to the Commissioners. Ms. Bassett stated that the recommendation was to enact a light trespassing ordinance. The full recommendation can be found on the Borough Website. She stated that bright lights shining from neighboring properties are a form of trespassing and they not only affect nature but people as well. Some studies have been cited in the full recommendation. When lights are excessive and cross into neighboring properties, they can adversely affect the residents and their environment. She stated that the Borough takes pride in being environmentally friendly with the focus on the natural environment. She stated that there are a lot of studies that show overly bright lights affect natural organisms. In the proposal, there are recommendations to reduce light trespassing and different styles of light.

Commissioner VanHeeswyk noted that NJPO is having a free class which is an advanced class for board members and it is being held virtually on October 27<sup>th</sup> from 9am to 12pm. She also mentioned the League of Municipality Conference in Atlantic City in November if any board member would like to attend.

**Public Comment:**

- a. Public Comment was opened at 7:51 on a motion by Mr. Farrell and a second by Mr. Murphy.
- b. No comments.
- c. Public Comment was closed at 7:53 on a motion by Mr. Murphy and a second by Comm. VanHeeswyk.

**Adjournment**

The meeting adjourned at 7:53 pm on the motion by Mr. Wallace and second by Mr. Rusnak.

Respectfully Submitted by:

Kate Dunn

Board Secretary

Approved by Board XX/XX/2024