

GEORGE R. DEMPSEY, JR.
Mayor

CONSTRUCTION DEPARTMENT
BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

FRANK F. DiROMA
Supervisor of Code Enforcement

JOSEPH R. DEIORIO
Municipal Administrator/
Chief Financial Officer

ALBERT "SANDY" RATZ
Construction Official

The Manasquan Planning Board held a Regular meeting at 7PM on Tuesday, July 1, 2014 in the Council Chambers of the Borough Hall, 201 East Main Street, Manasquan, New Jersey.

Salute to the Flag.

Geoffrey S. Cramer – Planning Board attorney read the Open Public Meetings Act of 1975 and that notice was given to the Coast Star and forwarded to the Website on December 12, 2013.

ROLL CALL:

Board Members Present: Chairman Neil Hamilton, Mayor's Alternate, Robert Young, Board Members: John Muly, Paul Rabenda, John Burke, Leonard Sullivan, Peter Ragan, Mark Apostolou, Kevin Thompson

Board Members Absent:

Mayor George Dempsey, Joan Harriman, Councilman Owen McCarthy, Greg Love

Professionals Present:

Geoffrey S. Cramer – Board Attorney

Raymond W. Savacool – T & M Engineer

Chairman Hamilton announced that the third application Matthew Brock has asked that his case be continued to the July 15, 2014 Second meeting with no re-notice or re-publication. There was no one in the audience for this application, member Apostolou motioned to grant the adjournment, seconded by Board member Burke.

APPLICATION #08-2014 – Windas, Rita – 59 Marcellus Avenue – Block: 70 – Lot: 26 – Zone: R-2 – Keith Henderson is representing the applicant. This is a continuation of this application. Kevin Thompson signed an affidavit that he listened to the tape of the previous meeting. As this is a Use Variance the Mayor's Alternate had to step down. The two witnesses were sworn in at the May 6, 2014 hearing. They are Rita Windas – owner/applicant and her son Ed Windas who was representing his mother. Mr. Henderson explained that he has been retained by the applicant. He was at the previous meetings but not as their representative. He understands the status of the case in that the testimony was completed and Mr. Cramer was asked to do some research on the law. He is here to sum up the facts and give his presentation of what he believes to be on this and to try to persuade the Board that this application should be granted. The applicant is seeking to convert an existing mother/daughter building into a temporary two-family dwelling with the Use to terminate when the owner's handicapped son no longer lives there. It is important for this Board to focus in that this is not a permanent relief; the applicant is not seeking permanent relief. When the son no longer lives there we would consent to a Deed

restriction that would terminate that Use. The son has resided in this home for over thirty (30) years, he is very involved in the Community, and he is employed full-time and is an usher at Saint Denis Church, despite the fact that he is developmentally disabled. Manasquan is a Community, Communities are made up of families, what's happening here is this is a family trying to keep in the same household a disabled individual who cannot take care of his own needs alone. This Board should under the Law do what it can to accommodate these circumstances. This Board has approved a number of such Deed Restrictions and here Mr. Henderson quoted past approvals. He quoted from the NJ State Statute NJSA40-55D-66.1, and NJSA40-55D-68.4. There are two purposes being advanced here, one is aiding Senior Citizens and providing for developmentally disabled persons and this meets that goal too. There is no substantial detriment to the public good; the application advances the public good and the public purposes by providing housing for the disabled. Manasquan has always stood up for its own, that's what we are asking you to do here. He became involved in this case because he personally has a handicapped son and one of the fears that everybody who has a handicapped member of the family is that when you die, where will they live? Where will they live? That's what this family is trying to provide for here. Chairman Hamilton said the snag this Board ran into and why they asked Geoff Cramer to research different scenarios and he was sure Mr. Henderson had a copy of that and the Board does as well. We were trying to find a way to consider accommodating the request of the family but on the backside know that we have definite protection for the Borough of Manasquan and the residents of that area and to protect our Zoning Laws. That something didn't run with the property, there weren't snags in the family should the individual no longer be there, that we get challenged in Court. Should another family come in and purchase that home and they could have a handicapped child as well. The Use goes on and on with the rental on one side and that's what this Board was looking for, was to get some sort of guaranteed protection to the best of the Law that we could feel comfortable that the decision we made at some point in time when the male individual no longer resides there, that all of this goes away and this again becomes a single-family home. Keith Henderson said you need purpose, and that purpose is because of the developmental disability, it's advancing that housing opportunity, so when that individual is gone he believes that Deed Restriction will be enforceable. You will have a Deed from the owner; nobody else is entitled except for the owner. Cox has lengthy discussions about the problems that this Board and many other Board's have experienced many years ago. For many years there have been laws pending in the legislature to try to get the Land Use changed to require Planning Boards to include restrictions in the Deeds. Right now if you don't and you are not required to, then a good faith purchaser for value is not subject to those. But, once you put that Deed Restriction on record the only challenge you could have is some sort of constitutional challenge to its validity and he is personally satisfied that this kind of restriction is enforceable in Court. Geoff Cramer said if the restriction is based on the developmentally disabled occupants continuing to live in the house, he is comfortable with a Deed Restriction that provides that in the event that that person moves, ceases to occupy the house, whatever, that Deed Restriction is enforceable to return the occupancy of the house to a single-family occupancy if that's how it's structured. Mr. Henderson agrees with that and this has happened in other applications that he cited. Board member Apostolou said if Mr. Henderson withdraws the application, files the Deed Restriction, comes back before us with that mechanism in place, he would have no problem

granting the relief. Mr. Henderson said he doesn't believe there is an issue anyway and that is burdensome for the applicant, they have paid all their fees, they have been here now for three (3) meetings. Mr. Henderson said that would be a condition in the Resolution, he would submit that to Mr. Cramer for review and approval, that's typically what happens. Mark Apostolou made a motion to open the meeting to the public, motion seconded by John Burke, all in favor none opposed.

Audience Members:

Jason Korth – 55 Marcellus Avenue – He lives right next door, across the driveway from the applicant. He was under the impression that there was a previous application to the Planning Board which was denied on this property. He was informed that there never was another application. He also stated that the Windas family owns another home a couple of houses down from this one and that was also a misrepresentation. Mrs. Windas stated her son can do anything in that house, he is very capable more so than she is. The Chairman said question answered.

Rich Acciavatti – 73 Marcellus Avenue – He is three houses away from the applicant. He has lived on the Street for 21 years, lived next to a two-family house for 21 years that had more than twelve (12) tenants coming in and out of it, he never had any issues, no parking or otherwise. He spoke about Bob Windas and stated that what this family is asking for is a temporary Deed Restriction. He said Mr. Henderson and Mr. Cramer stated it before, it's temporary. He is in support of the application.

Bob Conrad – 63 Marcellus Avenue – He and his wife Debbie live directly next door on the other side of the applicant. He is in favor of the application.

William Acciavatti – 73 Marcellus Avenue – He is the son of Rich Acciavatti who spoke earlier, he is a 20 year resident of this Community, attended both Manasquan Elementary and High School. Manasquan prides itself on its sense of Community, he thinks this Community needs Bob and Bob needs this Community, he is in favor of the application. Board member Apostolou made a motion to close the public portion of the meeting; the motion was seconded by member Muly, all in favor none opposed.

Chairman Hamilton asked Mr. Windas if he stated at the prior meeting that the applicant was willing to put a restriction on the age and/or number of people renting the apartment. Mr. Windas said his mother likes quiet and would like someone with the same lifestyle as she lives although legally they cannot restrict age of an applicant. Kevin Thompson made a motion to approve the application and that the attorneys get together to prepare the Deed Restriction, the motion was seconded by Board member Sullivan.

Board Members Voting Yes:

Muly, Rabenda, Burke, Sullivan, Ragan, Apostolou, Thompson, and Chairman Hamilton
No negative votes.

APPLICATION APPROVED UNANIMOUSLY

APPLICATION #18-2014 – Carr, Liam – 155 Third Avenue – Block: 169.01 – Lot: 50.04 – Zone: R-3 – Liam Carr was sworn in by Geoff Cramer along with Alan Robinson, his architect. Mr. Carr explained the relief he is seeking which is rear and side setback issues. There is an area at the rear of his house where the previous owner had installed a hot tub and he removed it after Super Storm Sandy destroyed it and now he would like to enclose that small area as an office and also to store stuff for the new baby he and his wife just had two weeks ago. Mr. Muly explained that the Technical Review Committee felt this

application is de minimus and therefore proposed the Board approve it. Mr. Muly did however tell Mr. Carr that there are no house numbers on his house and that is an Ordinance of the Town and he needs to install them. Mr. Carr said they painted the house three weeks ago and the numbers were not replaced and they will be re-installed. Board member Thompson made a motion to open the meeting to the public; the motion was seconded by Mark Apostolou, all in favor none opposed.

There was no audience participation.

Mark Apostolou made a motion to close the public portion of the meeting, the motion was seconded by Kevin Thompson, all in favor none opposed.

John Burke made a motion to approve the application, the motion was seconded by John Muly.

Board Members Voting Yes:

Chairman Hamilton, Board Members: Muly, Rabenda, Burke, Sullivan, Ragan, Apostolou, Thompson, and Young.

APPLICATION APPROVED UNANIMOUSLY

APPLICATION #20-2014 – Scerrato/Howell – 373, 375 Beachfront, 374 First Avenue – Block: 187 – Lots: 1, 2 – Zone: R-4 – Keith Henderson is the attorney representing the applicant. The owners of the property are Robert Scerrato and Marilou Howell. Mr. Cramer found the file to be in good order and accepted jurisdiction. Mrs. Howell was sworn in by Geoff Cramer. Mr. Henderson gave a brief synopsis of the application prior to her testimony. He said when you look at the application it looks daunting but it really isn't. There is no new construction, just a change in the layout of the lots. Mrs. Howell is licensed appraiser in the State of New Jersey and she will explain as to what's on her mind and why she is doing this. Essentially, you have four (4) Resolutions regarding this application, these properties are old. 373 Beachfront was built in 1922, 374 First Avenue is a two-family built up from the foundation, given a Variance in 1995, originally built in 1937. 375 Beachfront is a single-family dwelling built in 1917. Virtually all of the Variances noted on the denial letter have already been approved, what's changing in this application is there is a slight difference in the lot frontage of the properties because the lot lines are being moved over a little bit. The major thing they are trying to accomplish is if you notice on the ramp that goes up to the beach, there is a parking area right adjacent to that which accommodates four (4) cars without even touching the Borough right-of-way. You have four perfectly legal spots and two spots which Mr. Henderson refers to as accommodation spots; because the Borough respects them even though they don't always count them towards parking. The owners feel the maintenance of the property is more than they want, the second thing is given what's going on at the Manasquan beachfront, a 576-square foot house which does not conform with the flood zone requirements, the hurricane codes or anything else is not likely to develop interest, and more importantly this Board probably would not allow new houses to go up particularly when there is only 30-inches between these two homes. It occurred to her as an appraiser that probably what will happen here is that someone would want to buy both of those, knock them both down and build a big house. That's what this configuration allows, that requires a Use Variance, because you permit two houses on one lot in the R-4 Zone, but only if one of the houses are on Boardwalk and the other house is on First, this would involve two houses on Beachfront and then a separate two-family house would be located on First Avenue. There are no

plans right now except that they would like to sell off the First Avenue house to take off that burden. They still come here in the summer time but believe that holding that lot as a single lot with the two houses on it until they sell it is probably in the best interest of the Borough and the best interest and their best interest also. That in summary is really what the application is about. He then had Marilou testify about the property and her intentions. The reason they need the Use Variance is because they are putting two houses on one lot in a configuration not envisioned by your Ordinance. They want an L shaped lot. The Beachfront will be one lot with two houses with a dog leg for the parking. There were questions from numerous Board members. Board member Apostolou made a motion to open the meeting to the public, motion seconded by member Burke, all in favor none opposed. There was no audience participation. Board member Burke made a motion to close the public portion, seconded by member Apostolou, all in favor none opposed. Keith Henderson gave his closing statement. Board member Thompson made a motion to approve the application; the motion was seconded by member Burke.

Board Members Voting Yes:

Chairman Hamilton, Board members: Muly, Rabenda, Burke, Sullivan, Ragan, Apostolou, Thompson, and Young (Mayor's alternate).

APPLICATION APPROVED

Board member Muly called for a 5-minute recess.

Roll Call following recess:

Present: Hamilton, Muly, Rabenda, Burke, Sullivan, Ragan, Apostolou, Thompson and Young

RESOLUTION #19-2014 – Waring, Andrew – 376 Pine Avenue, 53 S Jackson Avenue – Block: 121 – Lot: 16.02 – Zone: R-2 – Board member Apostolou made a motion to memorialize the Resolution, motion seconded by Burke.

Board Members Voting Yes:

Chairman Hamilton, Board members: Muly, Rabenda, Burke, Sullivan, Apostolou and Thompson

RESOLUTION MEMORIALIZED

Board member Apostolou made a motion to approve the minutes of June 17, 2014 Regular and Closed Session, the motion was seconded by Kevin Thompson, all in favor none opposed.

MINUTES APPROVED

Board member Sullivan questioned the Voucher prepared by Geoff Cramer, Board Attorney regarding the general bill. There is an applicant who will be coming to the Board and there has been a lot of discussion between that applicant's attorney and the Zoning Officer regarding this applicant. It is the belief of the Board members to not burden the Tax Payers and to re-do the voucher to charge the applicant. Geoff will provide a new voucher. Leonard Sullivan made a motion to approve the other remaining vouchers, the motion was seconded by John Burke, all in favor none opposed.

VOUCHERS APPROVED

Chairman Hamilton said there was a Lavallette Resolution in their packets two weeks ago. This regards subdivision and condo lots. The Attorney looked it over as did the Council and they will just wait and see how this all comes down. The Borough has Ordinances in place to protect them.

Board member Apostolou wanted to thank Mr. Cramer for his memorandum that was included in the packets. It was very informative in explaining how the Board will handle Deed Restrictions.

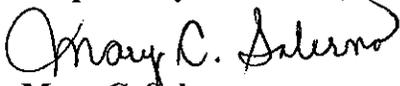
Neil Hamilton said if you brought your Brock application, save it they are coming in next meeting. He asked the Board members to check the site before the next meeting to better understand what Mr. Brock is trying to accomplish.

Leonard Sullivan asked about 125 Main Street and what was the status of that application. The Board secretary explained that she did not have new plans as yet and will contact the Architect, Brendan McHugh and the Attorney, Dennis Collins as to the status. The Board said they want the applicant to re-publish and re-notice before setting a new hearing date. Also, they will need a new Engineer's report and a new denial letter from the Zoning Officer.

Robert Young made a motion to adjourn the meeting, the motion was seconded by Mark Apostolou, all in favor none opposed.

MEETING ADJOURNED AT 8:24PM

Respectfully Submitted,



**Mary C. Salerno
Planning Board Secretary**