



Borough of Cape May Point
Zoning Board of Adjustment
Post Office Drawer 490
Cape May Point, NJ 08212

MEETING MINUTES

November 15, 2011

7:00 PM

Fire Hall Meeting Room, Yale Avenue

OPENING: In compliance with the Open Public Meetings Act of 1975, adequate notice of this meeting has been provided for by posting on Borough bulletin boards and published in the Cape May Star and Wave Newspaper on February 16, 2011.

FLAG SALUTE

ROLL CALL

Present: Stanger, Henderson, Mottola, Rice, Miranda, Keller, McGeehan, Daniels

Absent: Lambeck

Also Present: Brad Rosenthal, Secretary;

Nathan VanEmbden, Esq, Attorney – substitute for Mr. Marcolongo

MINUTES: Minutes from the October 26, 2011 Board Meeting were approved on the motion of Henderson, seconded by Keller, all present voted aye.

BUSINESS

1. Convent Application (ZB2011-03) Hearing
 - a. Representatives for the Applicant include Mr. Lou Dwyer, Esq; Mr. Steven Phillipone, P.E.,P.P. of Engineering Design Associates, and Joan Dollinger of St. Mary's by the Sea Retreat House.
 - b. Mr. Phillipone, in answer to Mr. Dwyer questions, provided the following information as the expert witness:
 - i. The applicant wishes to have an elevator in the facility where there is currently no elevator. To accomplish this, an elevator tower will be constructed and will exceed the allowable height requirements of the Borough of Cape May Point.
 - ii. The structure is currently non-conforming for a variety of reasons including height. There are four "turrets" on the building's corners that extend twelve feet above the roof line. The new elevator tower would extend four feet eight inches above the roof line and have the same architectural features as the remainder of the structure.

- iii. Due to the proposed location of the tower, only five or six properties would be able to see the new tower, and it would not be visible to the remainder of the town.
 - iv. In other municipalities with zoning districts other than R1, elevator towers would be excluded from height requirements similar to chimneys, flag poles, and TV towers which are currently excluded from height requirements in the Cape May Point R1 zone.
- c. Ms. Dollinger, in answer to Mr. Dwyer questions, provided the following information as the applicant:
- i. The Retreat House would like to (needs to) provide better access to higher floors of the facility for people and their things.
 - ii. Currently the 2nd and 3rd floors are not accessible to people who cannot navigate the stairs.
 - iii. Installation of the elevator tower will result in the loss of two bedrooms.
 - iv. The facility has served as a retreat house for the Sisters of St. Joseph of Chestnut Hill since 1909. There is no rent charged and the typical stay is from 6-8 days. There are 120 bedrooms in the facility which is almost never at capacity.
 - v. The elevator is not anticipated to increase usage of the facility, but is meant to make life more comfortable for staff and visitors.
- d. Mr. Dwyer spoke directly about the following:
- i. There is an existing Right of Way encroachment on Harvard Ave that has been there since the facility was constructed.
 - ii. The applicant is working closely and vigorously with the Borough Commission to come to a resolution on this issue.
- e. Public Comment:
- i. Thomas May, 101 Lincoln Ave
 - 1. There are elevator designs that do not require towers.
 - 2. Mr. May fears the elevator will lead to increased use of the facility exacerbating an already terrible parking situation.
 - 3. Believes that the facility requires lay persons using the facility to pay a fee.
 - 4. Referenced a prior application by the applicant, one condition which was to help mitigate the parking problem.
 - ii. Irene Schreiner, 101 Lighthouse Ave
 - 1. Has been a neighbor of the applicant since 1946 and has no objection to the project.
 - 2. Indicated that the Borough had purchased several lots from the applicant with Green Acres money and offered that purchase may be a possible reason for the encroachment issue.
 - 3. Asked about the number of rooms the facility is licensed to use, answer given of 120. Then indicated that since there are no additional rooms as a result of this application that

there is no expansion of use and therefore no negative impact.

- iii. Anthony Fucci, Marianist Retreat House
 - 1. The Marianist installed an elevator about six years ago and it has been a very good thing for the facility. He fully supports the project.
- iv. Emelia Olesen, 101 Lincoln Ave
 - 1. Questions if there has been a traffic impact study or if one is necessary.
 - a. Mr. Stanger answered that the Planning Board would need to recommend this action to Borough Commission as part of a change to Borough Ordinances.
 - b. Mr. VanEmbden answered that the necessity of a traffic impact study would be dependent on the proposed facility improvement; specifically, will the improvement increase usage.
 - 2. Expressed concern over current and future parking issues.
 - 3. Talked about different styles of elevator towers.
- v. Sarah Jordan, 309 Cape Ave
 - 1. Believes that the elevator will increase use of the facility and expresses concern about the impact to the Borough.
 - 2. Believes that the Retreat House should somehow compensate the Borough.
 - 3. Mr. Dwyer objected to these comments calling them prejudicial and making two points:
 - a. Is the height of the tower such that it will negatively affect the community?
 - b. This application need only prove no negative impact.
- vi. Public portion closed at 8:07.
- vii. Board members did not have any questions.
- viii. Mr. Dwyer provides his closing statement:
 - 1. The elevator tower, not the elevator, is the cause for this request for a variance. The requested height variance is all that should be considered.
 - 2. This application is not a request for increasing the expansion of a non-conforming use.
 - 3. This is a request for a “D” variance and as such the applicant must show that the project allows for adequate light, air, open space, and does not harm aesthetics.
 - 4. The structure already has four roof turrets which protrude higher than the proposed elevator tower.
 - 5. There is a need for an elevator at this facility.
- ix. Board Discussion:

1. Ms. Rice indicated that she believes this application will not negatively impact the Borough, that it is aesthetically fine, and that there is no substantial impact to the Borough if this variance request is approved.
 2. Comments of Ms. Rice were reiterated by several members.
 3. Mr. Stanger believes the encroachment issue is important and can be addressed as a condition of the grant of a variance.
 4. Mrs. Henderson pointed out that the elevator tower will not be visible to the majority of the Borough and points out the importance of addressing the encroachment condition.
 5. Ms. Daniels indicated that there is no expansion or significant alteration of the existing non-conforming use.
 6. Mr. VanEmbden believes the Board has to deal with the encroachment issue precisely because of the non-conforming use.
- x. Findings of Fact:
1. Expansion of D6 height variance
 2. Proposed improvements are *diminimis* as they have minimal visual impact
 3. Other variances are needed due to the existing non-conforming use
2. Resolution Requesting Borough Commission Increase the Allowable Number of Alternates
 - a. Resolution 2011-08 provided by Mr. Marcolongo and approved by the Board on the motion of Keller, second by Henderson, all present voted aye.
 3. Any and all other pending matters deemed necessary by this Board for action.
 - a. As Mrs. Henderson is leaving the Board a new completeness committee chair is needed. Ms. Rice appointed as chair with members Lambeck and Keller serving with Mr. Marcolongo.

ANNOUNCEMENTS: The next meeting is scheduled for December 20.

PUBLIC COMMENT: Megane Smith, of the Environmental Commission, would like to access and have input on Zoning Board applications in an advisory role as a member of the Environmental Commission.

ADJOURNMENT The meeting adjourned at 8:54pm on a motion by Henderson, seconded by Mottola, all present voted aye.

Respectfully Submitted by:
 Bradley T. Rosenthal
 Board Secretary
 Approved by Board 12/20/2011