

**Township of Egg Harbor  
Planning Board**

**June 20, 2011**

**Solicitor:** Christopher Brown, Esq.(Ted Strickland, Esq., in attendance for Solicitor Brown)  
**Engineer:** James Mott, P.E. (Mott and Associates), Robert Watkins, P.E. in attendance  
**Planner:** Vincent Polistina, P.P. (Polistina and Associates) in attendance

A regular meeting of the Planning Board of Egg Harbor Township was held on the above date, 6:30 p.m., prevailing time, Egg Harbor Township hall, Egg Harbor Township, New Jersey. The Chairperson opened the meeting by reading the statement in compliance with the Open Public Meetings Act.

**Roll call taken as follows:**

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| Manuel E. Aponte, Vice-Chairman, present | Joseph Lisa, 2 <sup>nd</sup> Vice-Chair., present |
| Committeeman John Carman, present        | Mayor James J. McCullough, Jr., present           |
| Charles Eykyn, present                   | Peter Miller, Township Administrator, present     |
| James Garth, Sr., Chairman, present      | Paul Rosenberg, Alt. #II, present                 |
| Frank Kearns, Alt. #I, present           | Dorothy Saslav, another engage.                   |
| Robert Levy, present                     |   |

**SUBDIVISION APPLICATION(S):**

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| 1. <b>SD 03-11</b>                            | <b>Minor Subdivision</b>      |
| <b>Maguire, Duffy &amp; Mitoulis</b>          | <b>2503/1-2</b>               |
| Zone: RG-2, 7.7 acres, sewer/water (existing) | Ridge and West Jersey Avenues |
- The applicant is proposing to divide a 7.7 acre parcel for a four lot subdivision which is at the intersection of West Jersey and Ridge Avenues. The applicant proposes the development of three single family dwellings on the newly created wooded lots. The lots will have frontage and access onto West Jersey Avenue. No development is proposed at this time for proposed remainder lot 1.01 which is at the intersection of West Jersey and Ridge Avenues. The site contains two areas of wetlands and a 300 foot wetlands buffer.

**Checklist Waiver(s):**

1. **Item #1 ( c ): Digital copy of plans**
2. **Item #3: Key Map**
3. **Item #5: Existing topography**
4. **Item #6: Names and date of 200 foot list**
5. **Item #15: Site Characteristic Map showing trees 15 inches dBh or larger**
6. **Item #17: Soil boring information**
7. **Item#19: Proposed connections to existing water supply & sanitary sewer systems**
8. **Item #22: Location of wells and septic**

**Design Waiver(s):**

1. **c94-11 Curbing**
2. **c94-38 Sidewalk**

Tim Maguire, Esq., introduced himself as both attorney and applicant. Fill-in Board Solicitor

Strickland swore in Rami Nassar, P.E., New Jersey Licensed Engineer, Mays Landing New Jersey. Engineer Nassar advised the applicant received a wetlands reduction of 120' ft., however, there is a remainder area that will be 300' ft.

Engineer Nassar stated the applicant is proposing a four (4) lot subdivision of which three (3) lots will be utilized for the construction of single-family detached dwellings. Engineer Nassar advised as conditions of approval the applicant will supply the digital copy of the plans and the topography will be shown as well as the sewer and water on revised plans. He indicated the applicant is seeking waivers from checklist item #3 which is the key map. He advised one is shown but not the correct size. He also noted the applicant will supply the 200' ft. list on the revised plans.

Engineer Nassar indicated the applicant is seeking a waiver for the site characteristics map and from the soil boring. Engineer Nassar indicated there are no variance(s) requested for this application. He also advised the revised plans will show curb and sidewalk, which will be installed on the three (3) parcels where the dwellings are proposed and the a monetary donation will be given for the curb and sidewalk requirements for the fourth (4<sup>th</sup>) larger lot where no development is proposed at this time

Board Member Aponte asked if there is any sidewalk in this area? Board Engineer Representative Watkins advised there is a house adjacent to this parcel that has curb and sidewalk.

**Motion Carman/Eykyn to grant requested checklist waiver(s) Items 2, 5, 6 and 8: Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, McCullough, Miller

**Motion McCullough/Carman to grant requested design waiver(s): Applicant will install curb and sidewalk where the three (3) proposed lots are and for which three (3) single-family dwelling detached units will be constructed. The fourth (4<sup>th</sup>) lot the applicant will make an in lieu contribution. Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, McCullough, Miller

**Motion Eykyn/McCullough to grant conditional minor subdivision approval: Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, McCullough, Miller

**PUBLIC HEARING(S):**

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| <p>1. <b><u>SD 20-04</u></b><br/><b>Antonette Gullo</b><br/>Zone: RA, 7.83 acres (Lot 10.01), 7.49 acres (Lot 10.02)<br/>Septic/Well, Applicant proposes to subdivide<br/>existing two (2)lots 10.01 and 10.02 in order to create a new lot for the construction of a single family dwelling. Existing homes on lots 10.01 and 10.02 will remain. CAFRA.</p> | <p><b>Minor Subdivision</b><br/><b>7702/10.01 &amp; 10.02</b><br/>187 &amp; 189 Asbury Road<br/>Waiver of time - <b>Not Granted</b></p> |
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**Checklist Waiver(s):**

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| <p>1. <b>Item #1( c ):</b></p> <p>2. <b>Item #2:</b></p> <p>3. <b>Item #3:</b></p> <p>4. <b>Item #5:</b></p> <p>5. <b>Item #11:</b></p> | <p><b>Digital copy of the plans</b></p> <p><b>Scale of not less than 1 inch equals 50 feet</b></p> <p><b>Key map showing land uses within 200 feet</b></p> <p><b>Existing topography extending 100 feet from property lines</b></p> <p><b>Locations of all existing structures, showing existing &amp;</b></p> |
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- proposed front, rear & side yard setback distances, & an indication of whether the existing structures & uses will be retained or removed**
- 6. **Item #14:** **Site characteristics maps including significant trees 15 in dBh or larger shown**
  - 7. **Item #22:** **Location of wells & septic systems**
  - 8. **Item #23:** **The legend for metal monuments shall include the kind of metal, diameter, length & weight per linear ft of the monuments**

**Variance Relief:**

- 1. **§225-7** **Lot Width:** the minium requires lot width required within the RA zoning district is 200 feet. In accordance with §94-3 of the Township the definition of lot width is considered the distance between the side lot lines measured by a line parallel to the front line drawn at the minium required building setback from the street line. The applicant is proposing a lot width of approximately 50 feet for Lot 10.03 and 150 feet for Lots 10.01 & 10.02, which does not meet the minium requirements.

Keith Davis, Esq, introduced himself as attorney for the applicant. He advised Ms. Gullo owns 187 Asbury Avenue, which is lot 10.01 and she is under contract to purchase a portion of lot 10.02. Attorney Davis advised through this subdivision she is creating one (1) new parcel and it is in conformance with the standards. He advised the variance relief being sought is actually for the existing parcels that front along Asbury Road (10.01 and 10.02). Attorney Davis advised each is deficient for their lot width, each parcel currently has dwellings on them, therefore the width is an existing non-conformity.

Thomas Prendergast, P.L.S., New Jersey Licensed Land Surveyor, Ocean City, New Jersey, sworn in: Chairman Garth and the Board accepted him as a licensed professional. Surveyor Prendergast referred to Exhibit A1: Subdivision Plan, advise there are existing homes located on lot 10.01 and 10.02. He advised the proposed new lot will be for the construction of a new single-family home. Surveyor Prendergast explained that Ms. Gullo is taking a portion of her lot and the contracted lot and making them into one (1) conforming parcel within the RA zone.

Surveyor Prendergast explained the applicant is seeking variance relief for the two (2) existing lots. He stated this application does not worsen the width situation of the two (2) existing parcels. Attorney Davis asked if the applicant is proposing the placement of street trees along Asbury Avenue? Mr. Predergast advised the two (2) existing parcels were created by a minor subdivision in 1997. He stated many trees still exist along the front so the applicant is seeking a waiver of placing any new in. Attorney Davis indicated the applicant is not sure what type of driveway material will be used for the new parcel, however, it will comply with the ordinance requirements.

Attorney Davis advised the applicant will provide a digital copy of the plans if this application is approved. He indicated the applicant is seeking waivers from the items listed as 2-4 because this is a minor subdivision application. Item #5 will be provided, item #6 the applicant is seeking a waiver from showing significant trees, item #7 will be provided and the applicant is seeking a waiver of monuments which is listed as item #8. Surveyor Prendergast explained all waivers

can be granted without any problems. Township Administrator Miller asked if there are no wells or septic within 100' ft. of the new lot. Surveyor Prendergast indicated there is none within 100' ft., however, there are wells and septic systems on the two (2) existing parcels and there is none on the new lot. Surveyor Prendergast advised he can add the location of these systems on the revised plans.

Township Administrator Miller asked why the monuments are not being set? Why are they not being placed in. Surveyor Prendergast advised the monuments will be placed in based on the requirements of the map filing law, however, the material we use will not be metal. He indicated the outbound monuments will be concrete, therefore, waiver relief is sought.

Board Planner Polistina stated the agenda requires a variance for proposed lot 10.03. Township Administrator Miller stated this is not correct. He advised based on the setback line for this zone the applicant meets their lot width requirements. Therefore, no variance is required for the new lot, which is designated as proposed lot 10.03.

**Motion Eykyn/Carman to open public portion. Vote 9 Yes.**

Jim DeSantis, 183 Asbury Road, Egg Harbor Township, sworn in: Mr. DeSantis asked for conformation that nothing on Asbury Avenue is going to change? Township Administrator Miller advised Mr. DeSantis what he see's today is what he will see tomorrow. Board Engineering Representative Watkins advised no changes proposed for Asbury Road. He indicated the new lot will have access off Welshire Drive.

Frank Gallo, 8 Welshire Drive, Egg Harbor Township, sworn in: Mr. Gallo stated his parcel is adjacent to the proposed. He advised this property would effect him and he is not in favor of the variance relief. Mr. Gallo explained that he looked at his property for two (2) years before he purchased it. He advised this new parcel would be detrimental. He advised this is a pristine area. Township Administrator Miller asked Mr. Gallo if he has offered to purchase the new parcel from Ms. Gullo? Mr. Gallo stated no. Township Administrator Miller explained the variance relief is not being requested for the new parcel on Welshire Drive, it is by right. He stated the relief is for the parcels on Asbury Avenue, they are of issue.

Attorney Davis indicated the minimum lot area requirements for this zone is 100,000 sq. ft. He indicated each of the lots, including the new lot, is more then 200,000 sq. ft. in area.

**Motion McCullough/Eykyn to close public portion. Vote 9 yes.**

**Motion Kearns/Eykyn to grant requested checklist waiver(s) Items #2-4, 14, and 23: Vote 9 yes:** Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, McCullough, Miller

**Motion Kearns/Carman to grant requested variance relief: Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, McCullough, Miller.

**Motion Carman/Eykyn to grant conditional minor subdivision approval: Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, McCullough, Miller

2. **SP 04-11**  
**Muslim Community Organization of South Jersey**

**Minor Site Plan**  
**1702/68**

Zone: PO-1 and RG-2, 4.85 acres, water & private septic 3052 English Creek Avenue  
 The site is located on the eastern side. Waiver of time - **Granted**  
 of English Creek Ave 215 feet north of the intersection of Brown Ave. The applicant is  
 proposing a change of use from an existing municipal community center to a cultural  
 center within an existing 3,872 sq ft building and no further development on the above  
 referenced lot. No additional improvements are proposed on the site. The site  
 currently includes 41 parking spaces.

**Checklist Waiver(s):**

1. **Item #1 ( c): Plans on CD**
2. **Item #3: Key Map**
3. **Item #10: Elevation contours extending 100 feet from property**
4. **Item #11: Location and use of existing structures**
5. **Item #15: Site Characteristics Map**
6. **Item #16: Location of Wetlands**
7. **Item #18: Storm water Management**
8. **Item #19: Sewer and Water Report**
9. **Item #20: Methods of solid waste storage and disposal**
10. **Item #23: Landscaping Plan**
11. **Item #24: Lighting and Signage Plan**

**Variance Relief:**

1. **§225-7** **Minium Lot Width:** 179.65' existing; 200' required in PO-1 Zone.
2. **§225-7** **Minium Gross Floor Coverage:** 3,872 sq. ft. existing; 5,000 sq. ft. required in PO-1 Zone.
3. **§225-7** **Side Yard parking Setback:** the required minium side yard parking setback for sites within the PO-1 zoning district is ten (10) feet. The applicant is proposing a side yard parking setback of zero (0) feet from Lot 67 (when measured to the existing sanitary sewer easement)

Keith Davis, Esq., introduced himself as attorney for the applicant, the Muslim Community Organization of South Jersey. He indicated this is an application for what was previously used as the Township's Community Center which is located at 3052 English Creek Avenue. Attorney Davis explained the Township had previously utilized the existing building located on the property as its community center. The applicant proposes to continue that use but in a private capacity for their own organization, therefore, this facility will continue to be used as a community center.

Attorney Davis stated there are some minor site plan related issues such as additional landscaping, restriping in parking lot, etc., but there will not be any expansion of the foot print to the existing building, it will remain the same size and the use will stay the same.

Attorney Davis further noted that there are some variance(s) that are being requested, but they are all related to existing non-conforming conditions of the site. He explained the property is deficient for lot width, there is a requirement for a minimum gross floor of 5,000 sq. ft. and the building is 3,800 sq. ft., and there is a side yard setback for parking. He advised the parking area is existing and there is an existing sewer easement, for which based on the ordinance requirements the setback has to be taken from the sewer easement.

Attorney Davis indicated he believes the applicant may be successful in removing the easement, so one aspect of the variance relief sought should go away. He also noted the applicant is seeking some checklist waivers.

Attorney Davis introduced the following individuals: Kaled Mohamad, Vice-president of the Muslim Community Organization of South Jersey, Rashi Ashput, also with the Muslim Community Organization of South Jersey and Rami Nassar, P.E., Schaeffer, Nassar, and Scheidegg, Mays Landing, New Jersey Licensed Engineer. Fill-in Solicitor Strickland swore in the previously named individuals.

Engineer Nassar stated currently the back section of the property is wooded. The existing building is 3,872 sq. ft., which was used as a community center since 1982. He indicated there are 41 parking spaces in the front, four (4) existing lights in the parking area, and a small amount of landscaping.

Engineer Nassar advised there are two (2) existing drive-ways which ingress and egress off English Creek Avenue, as shown on **Exhibit A1**: colored rendering of site plan sheet prepared by Engineer Nassar. Engineer Nassar advised the use of the building will not be a public community center it will be private. He indicated he understands the facility will have some ping-pong tables, some pool tables and a small library.

Attorney Davis asked if any prayer or religious services will take place in this building? Engineer Nassar stated no, he advised the way he understands the building, as it exist, does not lend itself to be a prayer home. He indicated the orientation of the building and with the bathrooms being in the wrong location does not lend itself to be a prayer site.

Attorney Davis asked if the organization currently has their services at an existing site in Atlantic City. Engineer Nassar advised this is correct. Attorney Davis again, asked if religious services will take place within the building. Engineer Nassar stated not to his understanding.

Attorney Davis asked if there were any site improvements proposed with this application? Engineer Nassar advised just some landscaping and the applicant will be resealing the parking area and striping the parking spaces.

Attorney Davis asked with the landscaping proposed, did the applicant provide a buffer, with specific emphasis on the residential uses adjacent to this site? Engineer Nassar advised there are some shrubs which are proposed along the northern part of the property to buffer the parking area and the applicant has added more landscaping along the front of the property for enhancement.

Attorney Davis asked if applicant has had meetings with the Technical Review Committee leading up to the hearing tonight? Engineer Nassar stated there had been two (2) meetings. Attorney Davis indicated that during the last Technical Review Meeting there were discussion concerning curb and sidewalk. Engineer Nassar stated this is correct. Attorney Davis asked if since this time had Engineer Nassar looked at the requirements of the provisions and can they be met here?

Engineer Nassar asked if he means if it is required. Attorney Davis explained that the applicant's professionals have taken a look at the ordinance and because no new development

is occurring then it is not required. Engineer Nassar stated this is correct. Attorney Davis asked if the applicant is able to provide sidewalk only in a particular area of the site. Engineer Nassar explained that eventually the County has plans for English Creek Avenue which includes widening and the r-o-w will be about 50' ft. from the centerline. Therefore, the applicant is proposing to construct the sidewalk only where it will eventually be so when the County improves the r-o-w or the applicant comes back with another development application for this parcel the sidewalk will be existing. Engineer Nassar also noted that should the sidewalk not fall within the r-o-w, but on the private property of the applicant then the applicant will grant an easement to the County.

Attorney Davis stated the first variance requested is for lot width. Engineer Nassar advised it is an existing lot width situation. Attorney Davis advised it is an existing condition, but he asked Engineer Nassar if it is being exacerbated in anyway because of this application? Engineer Nassar stated no. Attorney Davis asked if the applicant meets the lot area requirements. Engineer Nassar stated yes, the applicant has 4.8 acres. Attorney Davis asked what is the minimum lot area requirement? Engineer Nassar stated it depends on the use. He indicated in the front of site it is the PO zone and in the rear of the site it is zoned RG-2. Engineer Nassar advised the PO zone requires 2 ½ acres and the applicant exceeds this.

Attorney Davis stated the ordinance requires the minimum gross floor area be 5,000 sq. ft. Engineer Nassar stated this is correct. He explained that any new buildings that are constructed should be 5,000 sq. ft., however, this is an existing building and it is 3,872 sq. ft. Attorney Davis asked if the applicant is proposing any type of expansion. Engineer Nassar stated no, they are seeking variance relief

Attorney Davis stated there are two (2) elements concerning the parking setback requirements. He advised the first is the distance between the parking area and an existing sewer easement that is maintained by the Township. Engineer Nassar indicated the setbacks have to be maintained from the easement for the parking. Attorney Davis indicated it is the belief that the easement was created when there was certain sewer improvements proposed at one time. Engineer Nassar indicated this is what he understands it to be. Attorney Davis asked if the sewer easement was ever constructed? Engineer Nassar advised no.

Attorney Davis advised during the last Technical Review Meeting he consulted with the Township Administrator, Peter Miller advising the applicant will request that this easement be extinguished by the Governing Body, since it is not necessary. Engineer Nassar stated this is correct. He advised once this easement is vacated the parking setback would then be taken from the property line and this would make it 13' ft., which would then comply with the requirements. Attorney Davis stated this variance will be a temporary situation and it will go away once the easement is extinguished. Engineer Nassar stated this is correct.

Attorney Davis asked if there is still another parking variance on the northerly property line? Engineer Nassar stated yes, the setback is 6.4' ft. where 10' ft. is required, however, this setback is existing. Attorney Davis asked if the applicant is expanding this variance in any way? Engineer Nassar stated no, he advised there will be additional landscaping in this area to screen it.

Attorney Davis asked if these variance(s) can be granted without substantial detriment to the public good and the zone plan of Egg Harbor Township. Engineer Nassar stated yes, because

all the variance(s) are all existing non-conformities and they have been around since 1982. Attorney Davis asked if the positive benefits of this plan outweigh the negative impact? Attorney Nassar stated yes, because a vacant building will be utilized, the site will be improved, and the site will be nice looking.

Attorney Davis stated the applicant is seeking all the checklist waivers listed on the agenda. He indicated they can discuss each one. Engineer Nassar clarified that Item 1 will be supplied if the application is approved, therefore, it is not needed. Attorney Davis asked if all of the checklist were taken together, are they not tailored for new development? Engineer Nassar advised this is correct. He stated they are tailored for a raw piece of property for which someone wants to construct a building on it with improvements such as parking, drainage. He indicated that in this situation the site is existing building and we are just changing the use.

Engineer Nassar explained that if this building were constructed with a site plan approval in 1982 then this applicant would not have had this hearing. They could have submitted these changes administratively, however, since there was no site plan that could be found the applicant had to submit to the Board.

Attorney Davis asked if checklist waivers Item #2 - Item #11 can be granted without any negative impact and because there is no new development is proposed? Engineer Nassar stated correct. Board Engineering Representative Watkins advised the applicant does have a landscaping plan. Engineer Nassar stated this is correct, a landscaping plan was submitted so checklist Item #10 can be removed. Engineer Nassar advised on the plans submitted he noted that all existing lights will be utilized, however, if one of the fixtures should not work the applicant will correct it. He advised the applicant has enough adequate lighting based on what exist.

Township Administrator Miller asked if there was a signage plan? Engineer Nassar stated there is an existing post for a sign. Attorney Davis advised if the applicant places a sign-up it will be no larger than what was on site previously. Attorney Davis confirmed that the applicant is seeking checklist waivers Item 2-9 and #11, as they are listed on the agenda.

Board Planner Polistina stated there are some review comments, he will not go through all of them, however, he is seeking some additional landscaping and fencing be provided along the one property line. Engineer Nassar explained that during the TRC meeting fencing was discussed. He indicated there is an existing fence, therefore, the applicant is only placing the landscaping between the parking lot and the fence. He advised when the applicant returns with another development application this issue will then again be addressed.

Board Planner Polistina confirmed then that the applicant will not be providing item one (1) under review comments within his report. Engineer Nassar agreed, it will not be provided. Board Planner Polistina ask how will the applicant address review comment two within his report (the tower)? Engineer Nassar explained the tower was owned by the Township. The applicant will be taking it down. Board Planner Polistina stated the plans should indicate this. Engineer Nassar stated the revised plans do have this notation.

Board Planner Polistina asked how will trash and recycling be handled? Engineer Nassar advised everything will be inside and the applicant is not proposing any trash enclosures. He advised not much trash will be generated from this facility.

Board Planner Polistina asked what the hours of operation will be? Attorney Davis called Kaled Mohamad, and asked if he was the authorized representative of the applicant. Mr. Mohamad stated this is correct. Mr. Mohamad advised he is the vice-president of the Muslim Community Organization of South Jersey. He stated mostly the facility will be used on the weekends. He indicated during the weekdays it would be utilized in the evenings for a few hours.

Township Administrator Miller asked if the applicant's representative can place on the record from maybe Sunday through Thursday the facility will be closed by 9:00 p.m. in the evening? Mr. Mohamad stated during the weekday's he can not see the site exceeding a 9:00 p.m. closing. Township Committeeman Carman advised this is a PO zone, located along English Creek Avenue and he does not believe the applicant should be restricted to a time, especially if they want to have a late function.

Township Committeeman Carman indicated they should not be restricted to a time. Township Administrator Miller stated he was looking at the applicant to volunteer a time. Board Planner Polistina stated the board may just want to consider more screening for the lighting because of the existing residential homes in the area. Board Member Levy asked if there were any restrictions on our Community Center. The Board Professional's in unison advised no.

Mayor McCullough asked Mr. Mohamad what their normal hours were for their facility in Atlantic City. Mr. Mohamad advised the Egg Harbor Township facility will be used mostly for a family use, so probably it will not be a late use. It is mostly for the kids and trying to get the people together. Therefore, he stated he does not see it exceeding a 9:00 p.m. or 10:00 p.m. closing time.

**Motion McCullough/Eykyn to open public portion. Vote 9 Yes.**

Walter Campbell, 17 Williams Avenue, Egg Harbor Township, sworn in: Mr. Campbell referred to Exhibit A1 in order to show where his property is located? Mr. Campbell asked how many people will be occupying and using the facility at any one time? Attorney Davis advised the applicant has 41 parking spaces and that will be the maximum amount of cars at the facility. Township Administrator Miller stated they could have any where up to 100 people based on the number of parking spaces. Attorney Davis indicated the applicant will comply with what ever fire requirements there are for maximum occupancy of the building.

Mr. Campbell asked if the applicant expects the private septic and water system to handle this amount of people? Township Administrator Miller stated if it can not the applicant would have to expand their systems. Mr. Campbell stated he is concerned that the existing, primitive systems can not handle. Township Administrator Miller explained that these particular issues are not within the jurisdiction of the Board. He advised if their system were to overflow and not function the Health Department would place a restriction on them until they upgraded the system. Also, with the well water they are going to have to have it tested from time to time and if it fails there will be restrictions imposed by the Department of Health until they clean up or place a new well in. Township Administrator Miller advised the Board can not make them construct a new well or expand the septic system. He advised this is the applicant's property to operate.

Mr. Campbell asked what was the yellow line that appears on Exhibit A1? Chairman Garth stated that line shows that there are two (2) different zones. Mr. Campbell referred to Exhibit A1 and pointed to the rear of the property asking what the zone is behind his home? Board Engineering Representative Watkins advised it is a residential zone. Township Administrator Miller stated when an owner has a property with split zoning the owner can choose which zone they want to use. Therefore, he advised Mr. Campbell if in ten (10) years the applicant wants to construct something commercial in the rear of the site that abuts Mr. Campbell's side of the yellow line they can do so.

Mr. Campbell asked if the Board was going to place a requirement on the plan, as they set forth within their presentation, that no further development and no additional improvements are proposed? Township Administrator Miller indicated that any additional improvements the applicant proposes will have to come back before the Planning Board to receive approval before they can make this building larger or add more parking. He advised they would have to amend their site plan.

**Motion McCullough/Carman to close public portion. Vote 9 yes.**

Attorney Davis advised there are a few design waivers that were not discussed, which are related to curbing in the parking area. Engineer Nassar advised since the applicant has more than 20 parking spaces there is suppose to be concrete curb around the perimeter of the parking and along the aisle. He advised the applicant is keeping the parking as it currently exist, therefore, a waiver is being sought.

Engineering Representative Watkins advised these requirements would be found in Section 225 of the Zoning Code. He indicated they are actually variances that are being sought, so it would be relief from Section 225-55 A, B, and F. He further explained that Attorney Davis noticed to include "and any and all variance(s)", so this is covered.

**Motion Lisa/Rosenberg to grant requested checklist waiver(s): Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, McCullough, Miller

**Motion Aponte/Kearns to grant requested variance relief: Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, McCullough, Miller

**Motion Aponte/Rosenberg to grant conditional minor site plan approval: Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, McCullough, Miller

**MEMORIALIZATION OF RESOLUTION(S):**

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| 1. <b><u>SD 02-11</u></b><br><b>Kathryn O'Bringer Subdivision</b> | <b>Minor Subdivision</b><br><b>5953/7, 8, 11-13 &amp; 15</b><br>Cottage Road and Wilson Avenue |
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**Motion Miller/Kearns to memorialize resolution granting requested checklist waiver(s), variance relief: §225-7: Lot Area (Lot(s) 11-13 & 15): the minimum lot area for lots within the RG-1 zoning district is 30,000 sq. ft. (17,000 sq. ft. with PDC's). Lot 12 proposes a lot area of 18,000 sq. ft. which does not meet the minimum requirements and will require variance relief. The remaining lots will require Pinelands Development Credits for conformance with the requirements of the RG-1 zoning district, §225-7: Lot Width (Lot(s) 12, 13, and 15): 80' ft. existing lot widths; 100' ft. required in RG-1 zoning district, and**



**buildings: “a” and “b”, and conditional preliminary major site plan approval for pad sites designated #1, #2, #3, #4, and #5. Vote 7 Yes:** Aponte, Carman, Eykyn, Kearns, Cafero, Miller, Rosenberg.

**SUMMARY MATTER(S):**

1. Discussion of matters pertaining to the Board:
  - a. Egg Harbor Township Ordinance No. 21 of 2011: an Ordinance to Amend the Code of the Township of Egg Harbor, Chapter 94, thereof entitled, Design, Performance and Improvement Standards.

Township Administrator Miller advised Ordinance 21-2011 deals with design standards from Chapter 94, more specifically it deals with storm water facilities and buffers. He indicated this proposal indirectly came out of the “Oak Tree Plaza” application process. He indicated, if the Board will recall, one of the issues which was raised was the design relief they were granting. Township Administrator Miller advised the Board had stated, on numerous occasions during those months, that they had routinely granted certain variances. Therefore, this ordinance was prepared so that the Board does not have to do it anymore.

Township Administrator Miller stated the Board has routinely granted certain variances and waivers effecting the width of the buffer area and the location of certain structures within the buffer. This relief would depend upon the nature of the use, the amount of landscaping proposed and other types of screening that would be provided. Township Administrator Miller explained that the Board has noted the buffering on applications in order to justify a variance and/or waiver for buffer reduction and there is no specific wisdom with respect to buffer areas on commercial sites.

Township Administrator Miller indicated the Board has allowed for certain types of screening from one use to the other use and from the parking, however, in a buffer area it was vague as to what could actually be placed within it. He explained that the Board had listened to a person argue that the Board could not put a sidewalk in the buffer area. Township Administrator Miller stated that while we permit ingress and egress to be within a buffer area not all ingress and egress is through a car. He indicated it could be through pedestrian foot traffic. Thus he stated this proposed ordinance has specifically added sidewalks, bus shelters, landscaping and signs to be allowed within the buffer area. Township Administrator Miller explained it is being clarified in case someone comes back and says the Board can not put trees in a buffer area, because we are encroaching into the buffer.

Township Administrator Miller stated the Board has also dealt with storm water management issue since we identified at least ten (10) to twelve (12) commercial sites in the last few years. He indicated there have been applications where there was a side slope and the Board has allowed the applicant to install an E. P. Henry retaining wall because it maximizes the use of the property, its far more attractive, and the property owners are the entity who is responsible for maintaining it.

Township Administrator Miller advised that a 24 hour; 50 year storm design is more residential because the Township has to ensure the safety of the people living in the area and maintain the basin. He stated this liability falls with a commercial property owner, so if the water is a little higher at certain times we can grant a design variance from it. Also, the 4 to 1 slope has been

eliminated and vertical walls can go in. He explained the 15' ft. access way around the top of the basin has been eliminated. Again, this requirement was placed in for the residential areas so that the Township Public Works Department would be able to ride around and use a side winder type mover to cut the grass.

Township Administrator Miller explained that fencing is still required on the outside of the basin but it doesn't have to be with the 15' ft. pathway around. Again, he stated these are all variances granted routinely for storm water facilities on commercial sites in the past. He stated that it does provide a more attractive appearance with the retaining walls and it directly maximizes the square footage that can be taxable on a property with a limited impervious cover of building and parking lots. Again, he indicated the Township is able to maximize the use of the property. He used for an example that a commercial application has a 4 to 1 side slope and the basin has taken 20% of the property, which it would not need to do, since the building is not that large.

Township Administrator Miller stated Ordinance 21 addresses the items he has discussed. He advised that part of the Township Master Plan is to foster commercial development, provide for it to happen, and to provide realistic standards. Township Administrator Miller advised he would proffer that the amendments contained in Ordinance 21 continue to meet the Master Plan requirements and he recommends that the Board approve, endorse, and send Ordinance 21 back to Township Committee

**Motion Levy /Eykyn to recommend Ordinance No. 21 of 2011, to Township Committee for review and approval, finding it meets the requirements of the Master Plan. Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, Miller, Rosenberg

**b. Egg Harbor Township Ordinance No. 22 of 2011;** an Ordinance to Amend the Code of the Township of Egg Harbor, Chapter 225 thereof, entitled Zoning.

Township Administrator Miller stated Ordinance No. 22 deals with taking commercial uses in shopping centers were we made banks and drive-in restaurants conditional uses. He stated he believes back in the 1980's, when the original requirements were written no one knew how these things would play out. He indicated that in the intervening 20 to 25 years, you don't see a shopping center that is built that does not have pad sites. So it really should be dealt with as a permitted use in the context of an entire site development so that the Planning Board keeps control of it.

Township Administrator Miller explained with a drive-in bank there was suppose to be three (3) drive in windows with queuing for eight (8) cars in each lane. If they could not meet that condition then the applicant would have to go to the Zoning Board. Township Administrator Miller stated he does not know when the last time anybody went to a drive- in bank, but he could not remember the last time he saw 23 cars in a line let along 24 cars. He stated he can't remember the last time when he saw more the ten (10) cars at a drive-in bank within a shopping center parking lot.

Township Administrator Miller stated fast food restaurant's are here. Maybe during the age we thought they were going to go away, but they did not. So we have made them all permitted uses both fast food restaurants and drive-in banking facilities. He further explained that we have eliminated the requirement for how many cars que up in each lane Township Administrator

Miller stated with a shopping centers these uses should be a permitted use. He indicated how many drive-in windows should be at the discretion of the Board and the applicant as to whether they have one (1) lane drive-in bank or two (2) or three (3) or a fourth (4<sup>th</sup>). He stated The Board should have the discretion of saying we want to have five (5) or six (6) spaces in the line as compared to mandating eight (8).

Township Administrator Miller advised that in the various zones in the Township where they were conditional uses this Ordinance amends it to make them permitted uses. He also advised it makes the buffering on a conditional use, change. He advised an applicant had to buffer a drive-in restaurant from a bank. Township Administrator Miller indicated this is what the intent of Ordinance 22 is. He stated he believes what the Board is pretty much doing is bringing the Land Use standards up into the 21st. century from where they were before and for those reasons he would recommend that the Board support, endorse and approve Ordinance 22 and send it back to the Governing Body.

Board Member Levy asked what you would consider that was done at "Lowe's". Where they placed an "ATM Machine" in the middle of the parking lot? He indicated it is not really a drive-in bank. Township Administrator Miller advised the Planning Board allowed them to amend their site plan approval. Township Committeeman Carman stated they came in for approval. Township Administrator Miller advised since they were not a bank they did not have to meet the eight (8) spaces. The Planning Board permitted it as an accessory use.

Board Member Aponte asked if the design will still be done by the Board Engineer and Planner's? He indicated there are very poorly designed shopping malls with pad sites. He gave as an example Hamilton Township's, Consumer Square. Township Administrator Miller advised the ones the Board have done so far, such as, English Creek Shopping Center where they have pad sites for "Chickie and Pete's", the "Burger King", and the other facilities located out front, and most recently the "Wendy's" seem to work well because you can enter these sites through the shopping center and from the highway (Black Horse Pike). He also advised the pad sites the Board reviewed in "Oak Tree Plaza" seem to look like they would work well

**Motion Aponte/Kearns to recommend Ordinance #22 of 2011 to Township Committee for review and approval, finding it meets the requirements of the Master Plan. Vote 9 Yes: Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, Miller, Rosenberg**

**Motion Aponte/Levy to adjourn at 7:45 P.M. Vote 9 Yes: Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, Miller, Rosenberg**

Respectful submitted by,

Theresa Wilbert, Secretary

