

TOWNSHIP OF EGG HARBOR
PLANNING BOARD

August 20, 2012

Solicitor: Christopher Brown, Esq..

Engineer: James A. Mott, P.E., of Mott Associates (Robert Watkins, P.E. in attendance)

Planner: Vincent Polistina, P.P., of Polistina and Associates, in attendance

A regular meeting of the Planning Board of Egg Harbor Township was held on the above date, 5:30 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.

Call to Order/Flag Salute/Public Notice/Roll Call:

Manuel E. Aponte, present

Robert Levy, present

Committeeman John Carman, present

Mayor James J. McCullough, Jr., * See Below

Milas Cook, Alt #1, present

Peter Miller, Township Administrator, present

Charles Eykyn, present

Paul Rosenberg, present.

James Garth, Sr., Chairman, present

MD Shamsuddin, Alt. #II, present

Frank Kearns, present

May the record reflect: Mayor McCullough had another engagement and was not present, however, he has sent Township Committeeman Joseph Cafero in his place

OTHER MATTER(S):

1. 2012 Amendment to the Housing Element and Fair Share Plan of the Egg Harbor Township Master Plan:

Discussion, review, and public hearing for the 2012 Amendment to the Housing Element and Fair Share Plan of the Master Plan.

Planning Board Planner Polistina explained this is an amendment to the Housing Element and Fair Share Plan for the Township of Egg Harbor. He advised if the Board will recall this relates to English Creek Manor project which the Township is currently in litigation on. We have been sued under a "Builder's Remedy" suit.

Planning Board Planner Polistina stated the Housing Element passed in 2008 by the Planning Board called

for the development of that property with a total of 552 units of which 110 units would be affordable with 50% of them being moderate income and the 50% being low income.

Planning Board Planner Polistina stated since 2006 the Township has been going through this litigation and there is a form of settlement that has been proposed that he believes both parties have agreed to. He indicated this would result in the Township purchasing about 40 of the 95 acres of the property.

Planning Board Planner Polistina advised the balance of the 55 acres, or there about, would be developed at four (4) units per acre for a total of 223 units. He indicated 45 of these units would be affordable and would have the same breakdown 50% will be moderate, 50% would be low income.

Planning Board Planner Polistina stated this is the settlement the Township is currently going through the process and trying to get done administratively with all the ordinances that are required and have the amendment before you to change what was specified in the 2008 plan to the current proposal for English Creek Manor which is what has just been described.

Planning Board Planner Polistina explained the Board does have to have a public hearing on this matter and this evening has been noticed for the public hearing so if you have any questions or comments he would happy to entertain them. Otherwise, the Board can open up this matter to the public in case they have any comments related to this.

Board Member Levy asked if they are agreeable to it also. Planning Board Planner Polistina advised yes. He indicated both parties agreed to this and as long as the Court agrees and everyone is good with this. Then what has been discussed will happen.

Motion Rosenberg/Eykyn to open public portion. Vote 9 Yes.

May the record reflect no one came forward

Motion Aponte/Rosenberg to close public portion. Vote 9 Yes

Motion Rosenberg/Eykyn to adopt and to memorialize resolution for the 2012 Amendment to the Housing Element and Fair Share Plan of the Master Plan. Vote 8 Yes: Aponte, Eykyn, Kearns, Levy, Cafero, Miller, Rosenberg, Garth. 1 No: Carman

2. SP 13-12
South Jersey Transportation Authority

Atlantic City Expressway R-O-W
Milepost 9.69

Discussion/Presentation: Pursuant to N.J.S.A. 40:55D-31 the South Jersey Transportation Authority is presenting discussion to the Planning Board of Egg Harbor Township as a courtesy for their review and recommendation to establish and maintain a 34' foot high pole-mounted static billboard sign at Milepost 9.69 (Westbound) within the right-of-way for the Atlantic City Expressway. The proposed sign will be a single-face sign with a total of 672 sq. ft. When erected this billboard will be a static sign, however, it will be converted to a digital billboard sign when South Jersey Transportation Authority deems necessary.

May the record reflect: Chairman Garth advised this application will not be heard tonight. He advised no new date has been determined for rescheduling, therefore, none will be announced.

MINOR SUBDIVISION(S):

1. <u>SD 02-12</u>	Minor Subdivision
D. Mincer Properties, LLC	4004/3
Zone: RG-1, 6.57 acres, water/sewer, applicant	5056 Tremont Avenue
is proposing to subdivide above-referenced parcel into	Waiver of time – Granted
two (2) parcels. One (1) will be the development of a new detached dwelling unit and one (1) parcel for the existing detached dwelling unit. Pinelands c/f: #1981-1300.003 dated 5/31/12.	

Checklist Waiver(s):

1. Item #15: Location of all wetlands, wetland transition areas or buffers
2. Item #16: Copy of existing and proposed covenants or deed restrictions.

Reginald Floyd, Esq., of council to the Law Offices of Jim Carrol, Esq., here on behalf of D. Mincer, LLC. Attorney Floyd advised this project is a minor subdivision and there are no variances involved. He indicated the applicant's engineer will testify and put forth exhibits that show this is a straight forward subdivision of a six (6) acre lot to deal with a single family dwelling and we believe upon review and examination of the exhibits and the testimony this board can grant this application and that it will not have a deleterious effect on the planning of Egg Harbor Township.

Rami Nassar, P.E., New Jersey Licensed Engineer, Mays Landing, New Jersey, duly sworn, advised this is a minor subdivision and the property is known as 4004/3 and is approximately 6.5 acres. He advised there is an existing lot that fronts on Tremont Avenue. He indicated this subdivision will create one (1) additional

lot that which be a flag lot.

Engineer Nassar he advised the property is located in the RG-1 Zoning District and the lots comply with the requirements of this zone. He indicated the applicant is actually over the requirements because each lot will be a little over 3.2 acres. Engineer Nassar advised the parcels will be serviced by septic and well.

Engineer Nassar advised currently lot 3 has curb and sidewalk and there is a bond pending for the remaining curb and sidewalk along the flag section of the property. Board Solicitor Brown asked if the applicant is still seeking the checklist waivers listed? Engineer Nassar advised the applicant has received the Pinelands Certificate of Filing and it does not indicate there are any wetlands or wetlands buffer on the property. He further noted that there are no existing or proposed covenants/deed restrictions with respect to this site. Board Solicitor Brown asked if the applicant agrees to comply with all recommendations within the Board Professional(s) reports.

Board Engineer Watkins explained there is only one (1) comment actually and it concerns the small lot in the middle of the parcel. Engineer Nassar advised the applicant is not creating this small lot it actually exist and is landlocked.

Township Administrator Miller stated if the applicant is subdividing and leaving this parcel landlocked then he would request, as part of the subdivision approval, the Township be granted an access easement to the parcel because the Township owns that parcel. Engineer Nassar advised the property is already landlocked. Township Administrator Miller stated correct, however, the Township now has the opportunity because of the subdivision to obtain an access easement.

Engineer Nassar advised the applicant will have the ability to either provide the easement to the Township or to purchase the property from the Township. Apparently this was area was made up of many small lots and this one was not consolidated, for whatever reason.

Board Planner Polistina advised if the applicant provides an easement versus purchasing his office must review the side yard setbacks again. Do not believe there will be any issues, but cannot determine until the easement is placed on the plans. Engineer Nassar advised the proposed home may have to move in order to provide the 20' ft. easement.

Township Administrator Miller stated by the time the applicant were to revise the plans, establish the easement, have the easement reviewed by the professional's it would be cheaper to purchase the parcel.

Engineer Nassar advised he cannot speak for the applicant concerning the purchase of the parcel. Township Administrator Miller advised the Township is willing to sell the parcel for \$1,000.00. Engineer Nassar will bring to the attention of the applicant.

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

Motion Miller/Carman to grant conditional minor subdivision approval. Vote: 9 Yes Aponte, Carman, Eykyn, Kearns, Levy, Cafero, Miller, Rosenberg, Garth

2.	<u>SD 03-12</u>	Minor Subdivision
	Alvarado & Barnett, LLC	5202/14
	Zone: RG-1, 6.95 acres, sewer/water, applicant	6143 Mill Road
	is proposing a two (2) lot subdivision in order to create	Waiver of time – Granted
	two (2) detached dwelling units per lot. Pinelands c/f:	

Checklist Waiver(s):

1. Item #9: Survey datums
2. Item #17: Soil borings

Design Waiver(s):

1. §94-28H(1): Open Space/Recreation

May the record reflect: Chairman Garth announced this application is also not moving forward this evening and no new date is being announced.

SITE PLAN(S):

1.	<u>SP 11-12</u>	Minor Site Plan
	Morning Star Church	2102/20, 20.01, & 21
	Zone: RCD, 2.2 acres, septic/well, currently	2816 Fire Road
	The site contains the existing Morning Star Church	Waiver of Time – Not Granted
	with parking for 101 vehicles and a shed. Applicant is seeking remove some existing parking in	
	order to construct a 4,334 sq. ft. multi-purpose building and provide 83 parking spaces, which still	
	meets ordinance requirements. CAFRA	

Checklist Waiver(s):

1. Item #3: Key Map
2. Item #24: Lighting and signage plan

Reginald Floyd, Esq., of council to the Law Offices of Jim Carrol, Esq., Galloway Township, New Jersey, introduced himself as attorney for the applicant Morning Star Holiness Church and its application to build a community center.

Attorney Floyd advised once again, this is a pretty straight forward project. He advised Morning Star Ministries has been in existence for many years. The Church serves the community and uplifts the community. He indicated one of the reasons in the church constructing a community center is to be able to offer more community programs.

Attorney Floyd explained the current building is basically a sanctuary but by constructing the community center the church will be able to offer community enrichment programs, such as after school programs, senior programs, and things of this nature. He indicated the applicant believes upon hearing the testimony of the Engineer and the presentation of the exhibits it will be clear that by granting this application it will be a benefit to the community and not harmful and that the church is here to serve everyone.

Board Solicitor Brown advised Engineer Nassar that he is still under oath, Engineer Nassar stated he does (May the record reflect: Rami Nassar, P.E., New Jersey Licensed Engineer, Mays Landing, New Jersey also represents this applicant):

Engineer Nassar referred to an ariel photograph of the site showing existing parking, curbing, Roosevelt Avenue, and Fire Road. He advised this parcel is known as block 2102 lot(s) 20, 21.01 and 21, which is 2.2 acres located in the RCD zone.

Engineer Nassar advised this is an existing church with 101 parking spaces. He advised with this proposal some parking spaces will be eliminated in order to construct the 4,334 sq. ft. community center. Engineer Nassar explained if the members are familiar with the site there is a canopy in the rear of the church. This canopy will be used when the center is constructed so that parishioners may walk from the church to the center during inclement weather.

Engineer Nassar indicated of the 101 parking spaces 83 spaces will remain. He advised that based on the current capacity of the church only 50 spaces are need, therefore, the applicant still has ample parking for

the facility.

Engineer Nassar advise no modifications are proposed for the existing entrances or exits on site. The applicant will be improving a portion of Roosevelt Avenue to where the entrance is and then beyond that point another 10' ft. He advised this will be a paved area and it will easier to get in and out, as well as being a cleaner area since you will not have all the dirt from the street.

Engineer Nassar stated the applicant will also move the existing shed so that it stays 25' ft. from the property line. This will eliminate the need for any variance relief. Engineer Nassar stated there are a few checklist waivers that need to be addressed. He indicated the information from the key map is shown throughout the plans. He indicated the lighting and signage has been addressed. He advised existing lights are shown on plans and where they will be relocated so this waiver is not requested.

Engineer Nassar advised impervious surface is being reduced by this application. He indicated the applicant is removing more paving then adding. He indicated the applicant is reducing the impervious surface by about 500 to 600 sq. ft. so the applicant is not proposing any additional storm water management system. Engineer Nassar explained there is an existing underground recharge system is being relocated because it sits under the building and based upon the report from Board Engineer Watkins there is one comment concerning this situation. He advised the applicant does agree rather than having a cap to provide an inlet.

Board Solicitor Brown asked other then the comment concerning the recharge does the applicant agree to all the recommendations and conditions in both reports issued by the Board Professional's. Engineer Nassar stated yes. He also advised the applicant will be providing sidewalk along Fire Road, however, an in lieu contribution will be made for Roosevelt Avenue. Engineer Nassar indicated additional landscaping will be provided along the front of the property, as well as, shade trees.

Engineer Nassar stated entrance and exit signs are also proposed for the site. So the applicant is addressing the recommendations of the professional's. Engineer Nassar advised there is existing septic system on site. He advised he had contacted Atlantic County Public Health and explained the use of the facility and it was determined this septic system is big enough to handle the additional footprint of this property.

Motion Eykyn/Carman to grant requested checklist waiver Item #3. Vote 9 Yes Aponte, Carman, Eykyn, Kearns, Levy,Cafero, Miller, Rosenberg, Garth

Motion Eykyn/Rosenbergt to grant conditional minor site plan approval. Vote 9 Yes Aponte, Carman, Eykyn, Kearns, Levy, Cafero, Miller, Rosenberg, Garth

2. <u>SP 10-11 (Amended)</u> Jersey Outdoor Media Zone: MC, 5.85 acres, applicant received minor site plan approval in September, 2011 to construct a double sided billboard to be setback at a distance of 25' ft. from the R-O-W of Margate Boulevard. The existing billboard is 60' ft. in height and has one (1) 20' X 30' digital sign facing west and two (2) 10' X 30' non-digital signs facing east.	Amended Minor Site Plan 9801/13 114 Margate Boulevard Waiver of Time – Not Granted
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Applicant is now seeking to amend the minor site plan approval in order to relocate the billboard to an area outside of the wetlands. The billboard will be mounted on a single pipe column and will be cantilevered over the wetlands area. No other improvements are proposed on site. CAFRA

Checklist Waiver(s):

1. Item #12: Vehicular access
2. Item #15: Location of all wetlands area, transition area, or buffers
3. Item #18: Stormwater Management Plan
4. Item #19: Water and sewer connection
5. Item #20: Method of solid waste
6. Item #21: Location of existing wells and septic systems
7. Item #23: Landscaping plan
8. Item #24: Lighting and signage plan

Nicholas Talvacchia, Esq., advised it is his understanding that council for Mr. Levitt would like an opportunity at the next meeting to present his witnesses. Therefore, Attorney Talvacchia stated in light of this it would not make sense for the applicant to go forward this evening with their case. He advised it make sense to do all in one (1) night. So with the joint consent of Attorney Hankin he is asking this matter be carried, the Jersey Outdoor Media, matter be carried to the next available meeting.

Stephen Hankin, Esq., introduced himself by advising he is the attorney for Richard and Debbie Levitt and they join in concerning what Attorney Talvacchia has said.

Stanley Bergman, Esq., introduced himself as the attorney representing the Planning Board with respect to the Jersey Outdoor Media matter. Solicitor Bergman stated to all members whom did not hear the initial

application and they would like to vote on the amended application they get a transcript of the initial application.

Committeeman Carman stated he was under the impression that each application and amended application would stand on its own? Attorney Talvacchia advised they do. Board Solicitor Brown asked Board Secretary Wilbert if she has a recording from the initial application. Board Secretary Wilbert stated she does not. Solicitor Bergman advised it will have to stand on its own regardless.

Board Member Aponte advised he has reviewed the minutes of the meeting and both he and Board Member Levy were present for the initial application. Solicitor Bergman advised this eliminates any questions these two (2) members had. Board Member Aponte stated any concerns are now moot.

Township Administrator Miller advised the Board must pick a September meeting date because the September 17th meeting date is a high holy day. He would like to suggest the board meet on the 24th, so we can tell anyone present what the new meeting date is before they leave.

Chairman Garth stated he thought the meeting was changed to the 10th of September? Board Secretary Wilbert advised when she polled the board it was a split vote. Chairman Garth advised he cannot make the 24th. Committeeman Carman stated he cannot either. Additional member's advised they would like to have the meeting on the 10th.

Motion Miller/Eykyn to continue public hearing for Jersey Outdoor Media until Monday, September 10, 2012, 5:30 p.m. Vote 9 Yes: Aponte, Carman, Eykyn, Kearns, Levy, Cafero, Miller, Rosenberg, Garth

SUMMARY MATTER(S):

1. Discussions of matters pertaining to the Board:

Township Administrator Miller advised there are a few administrative items, however, when they are finished he would like to ask the Board to go into Close Session since Attorney Bergman is here we can discuss the Jersey Outdoor Litigation since we have the amended application before us so the Board can have an idea of what is going on.

SECTION I:

- a. **Egg Harbor Township Ordinance No. 37 of 2012:** an ordinance to amend the code of the

Township of Egg Harbor, chapter 225 zoning and create section 225-49A Affordable Housing Zone AH-RG-4.

Township Administrator Miller advised Ordinance No. 37 creates affordable housing zone for the sum of English Creek Manor, which creates an RG-4 zone in this area which provides the density for the 223 units.

- b. **Egg Harbor Township Ordinance No. 38 of 2012:** an ordinance to amend the code of the Township of Egg Harbor, Chapter 225, thereof, entitled zoning.

Township Administrator Miller advised Ordinance No. 38 is us changing the definition of lot coverage to be the same definition which is within Chapter 94, Design Standards. This Ordinance is really a housekeeping issue.

- c. **Egg Harbor Township Ordinance No. 39 of 2012:** an ordinance to amend the code of T Township of Egg Harbor, chapter 225, section 225-5, zoning map.

Township Administrator Miller advised Ordinance No. 39 concerns the corner of Ocean Heights and Zion Road. He indicated on the map lots 28, 29 and 30 are owned by the Juliano's. He indicated lot 28 is where the restaurant/bar is located, 29 is the parking lot, 30 is half cleared half woods, and lot 31 is a property that Mr. Juliano's has purchased from the recently deceased Mrs. Nickels.

Township Administrator Miller stated under the Township zoning with a slip zone the property owner could develop either way. So 30 and 31 stayed residential and the fact that Mr. Juliano controls 28, 29, 30 and 31 he develop the site commercially. However, Mr. Juliano has asked that all properties be zoned commercial for the ease of a buyer and receiving financing.

Township Administrator Miller advised if you look across the street the commercial business zone does come up as high as lot 31.

Township Administrator Miller stated these are the three (3) ordinances before the board for review for the consistency to the master plan. He advised Board Planner Polistina can advise it is consistent with the master plan since he was the author.

Township Committeeman Carman asked that Ordinance No. 37 be separated from Ordinance(s) 38 and 39 because he will not be voting in favor.

Motion Eykyn/Cafero to recommend Ordinance No. 37 of 2012 to Township Committee for review and approval deeming it is consistent with the Master Plan. Vote 8 Yes: Aponte, Eykyn, Kearns, Levy, Cafero, Miller, Rosenberg, Garth. 1 No: Carman

Motion Rosenberg/Eykyn to recommend Ordinance No. 38 and 39 of 2012 to Township Committee for review and approval deeming it is consistent with the Master Plan. Vote 9 Yes: Aponte, Carman, Eykyn, Kearns, Levy, Cafero, Miller, Rosenberg, Garth

SECTION II:

a. General public discussion:

Motion Rosenberg/Miller to open for public comment. Vote 9 Yes

May the record reflect no one came forward

Motion Miller/Rosenberg to close from public comment. Vote 9 Yes.

ADMINISTRATIVE MATTERS:

Motion Miller/Rosenberg to adjourn to Executive Session to discuss a matter of litigation involving the Planning Board: Levitt v. Jersey Outdoor Advertising et. al. Vote 9 Yes:

Motion Aponte/Miller to reconvene to regular session. Vote 9 Yes:

Motion Aponte/Rosenberg to appoint Stanley Bergman, Esq., as conflict solicitor. Vote 9 Yes: Aponte, Carman, Eykyn, Kearns, Levy, Cafero, Miller, Rosenberg, Garth

Motion Aponte/Miller to adjourn at 6:40 P.M. Vote 9 Yes: Aponte, Carman, Eykyn, Kearns, Levy, Cafero, Miller, Rosenberg, Garth

Respectfully submitted by,

Theresa Wilbert, Secretary

**Township of Egg Harbor
Planning Board**

Executive Session: August 20, 2012

Motion Miller/Rosenberg to adjourn to Executive Session to discuss a matter of litigation involving the Planning Board: Levitt v. Jersey Outdoor Advertising et. al. Vote 9 Yes: Aponte, Carman, Eykyn, Kearns, Levy, Cafero, Miller, Rosenberg, Garth

Township Administrator Miller advised the Planning Board on the status of the litigation of Levitt v. Jersey Outdoor Advertising et. al.. Township Administrator Miller also explained to the Board that Mr. Hankin (Attorney for the Levitt's) will have standing to present information to the Board. General Discussion concerning what and what cannot be done at the next meeting occurred.

Motion Aponte/Miller to adjourn and reconvene to regular session. Vote 9 Yes: Aponte, Carman, Eykyn, Kearns, Levy, Cafero, Miller, Rosenberg, Garth

Respectfully submitted by,

Theresa Wilbert, Secretary