

**TOWNSHIP OF EGG HARBOR
ZONING BOARD**

October 7, 2013

Solicitor: Stanley Bergman, Esq., present
Engineer: Matthew F. Doran, P.E., present
Planner: Edward Walberg, P.P. (Joseph Johnson, P.P., present)
Zoning Officer: Patty Chatigny, Zoning Officer, III

A regular meeting of the Zoning Board of Adjustment of Egg Harbor Township was held on the above-date, 7:00 p.m., prevailing time, Egg Harbor Township Hall, Egg Harbor Township, New Jersey. The Chairman opened the meeting by reading the statement in compliance with the Open Public Meetings Act

Roll call taken as follows:

John C. Amodeo, Class IV, present	John Haines, Class IV, Chairperson, present
Leonard Dagit, Jr., Class IV, another engage.	Norma Lombardi, Class IV, present
Anthony DiDonato, Alt. #I, present	Chrissy Martin, Class IV, another engage.
Beth Epstein, Class IV, present	Andrew Parker, Alt. #II, present
Chuck Gunther, Alt. #III, present	Paul Savini, Class IV, Vice-Chairperson, another engage.

PUBLIC HEARING(S):

- | | |
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| 1. <u>V 06-13</u> | “d” Variance |
| B & H Properties, LLC | 1802/57 |
| Zone: RG-2, 3.95 acres, applicant | 3049 Fernwood Avenue |
| Has installed a renewable energy facility with a combination of both roof mounted and ground mounted facility located on Fernwood Avenue. | Waiver of time – Not granted units at the existing RSL woodworking |

Motion DiDonato/Amodeo to “Table” application until November 4 2013, 7:00 p.m., and requiring applicant to re-notice public hearing. Vote 7 Yes: Amodeo, DiDonato, Epstein, Gunther, Lombardi, Haines

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| 2. <u>V 02-13 & SD 02-13</u> | “d” Variance & Minor subdivision |
| English Creek Manor | 3201/14 & 52, 3217/1 & 2 |
| Zone: AH RG-4, 68.6 acres, septic/well, | Winnepeg, Arizona, New Mexico and |
| Applicant is proposing to subdivide four (4) lots into three (3) lots. New proposed lot 52 will be 21.9 acres and contain the existing one-hundred and twenty nine mobile home units. Proposed lot 14 will be vacant and contain 26.2 acres proposed lot 14.01 will also be vacant and contain 40.5 acres. Pinelands c/f: #1999-0485.004, dated 9/19/13. | Green Avenue’s
Waiver of Time – Not Granted |

General Checklist Waiver(s):

- Item #7:** List of witnesses and their expertise
- Item #10:** Traffic impact report
- Item #11:** Letter of Interpretation from the NJDEP

Checklist Waiver(s) – Minor Subdivision:

- Item #2:** Plan drawn at a scale of not less than 1” = 50’ ft.
- Item #3:** Key map
- Item #11:** Location of all existing structures with front, side and rear yard dimensions
- Item #14:** Site characteristics map
- Item #15:** Location of all wetland areas

Variance Relief:

- “d” Variance:** Expansion of a non-conforming use

Jack Plackter, Esq., introduced himself as attorney for the applicant English Creek Manor. He advised this application is based upon a settlement agreement between the applicant and the Township. He advised the parcel needs "d" variance relief due to the fact that Mobile Home Parks are not a permitted use in the Township, therefore, by proposing the minor subdivision it would be considered an expansion of a non-conforming use even though no additional trailers are proposed.

Attorney Plackter advised of the three (3) lots proposed, one will retain the existing Mobile Home Park, the other will be for future development of residential units, again based upon the settlement agreement and the third lot will be sold to the Township.

Andrew Schaeffer, P.E., New Jersey Licensed Engineer, Schaeffer, Nassar, and Scheidegg, Mays Landing, New Jersey, duly sworn: Engineer Schaeffer stated he has been involved with project since 2005 and he has been involved in the settlement litigation with the Planning Board and the Township.

Engineer Schaeffer referred to Exhibit A1: rendering of site. He stated that during the lawsuit process the number of proposed units went down from 500 + units to 220 units. He stated the property across Winnepeg Avenue is also part of the agreement, however, the applicant is seeking no subdivision of this parcel.

Engineer Schaeffer stated as part of this agreement the applicant is required to subdivide the mobile home park, which is an existing 129 units. He also indicated the variance relief sought tonight is considered an expansion because the property boundary is changing, but this application is not an expansion of the number of units. He advised this application is part of the settlement agreement that requires the applicant to come to this Board based on technicality of the expansion. Engineer Schaeffer also noted the future residential development cannot be constructed until the Mobile Home Park has connected to sewer. He advised the remaining parcel, which is 40 acres, will be purchased by the Township and that land will be added to Canale Park.

Engineer Schaeffer stated the future residential development will be clustered. He advised at this point the applicant is not going for any development approvals other than the minor subdivision. He advised proposed lot 3201/14.01 will be for the park, 3201/14 is for the future development and remainder lot is the Mobile Home Park which will not be expanded with additional units.

Engineer Schaeffer advised this subdivision meets all bulk requirements, as well as, the affordable housing zoning. Attorney Plackter stated the applicant must show special reasons in seeking "d" variance relief. He stated this would include the settlement agreement and master's report. Engineer Schaeffer stated this is correct. He advised there was a third party that had to do a report to make sure this agreement was fair. He stated this report included testimony that the settlement was inherently beneficial since it was creating recreational lot and another lot would be creating affordable housing.

Engineer Schaeffer advised the future residential development will be 20% affordable housing. He then read into the record a portion of the master's report stating "special reasons" of paragraph A of report: indicates development is to encourage safety by the creation of recreation and locating residential next to residential.

Engineer Schaeffer stated the applicant must also provide adequate air, light and open space. He advised this has been accomplished because the applicant is providing a higher density than what was previously allowed. He stated this subdivision will have a bonus of open space and meets the general welfare of the Township because of the Township using the park lands as open space.

Attorney Plackter stated the settlement agreement has provision that sewer must be connected. Engineer Schaeffer stated this is a huge public safety issue. It will be connected. Attorney Plackter asked again no development is being approved. Engineer Schaeffer stated this is correct. He advised the development of the residential component of this agreement is still a long road. He advised this is a minor subdivision for public property to be created, a separate lot to be created for the trailer park and then the future lot to be developed with residential.

Engineer Schaeffer stated when the residential development occurs it will provide 45 affordable units which will not be a detriment to the public good. Board Member Lombardi asked if the zoning board will retain jurisdiction with housing plan. Attorney Plackter stated the residential use is a permitted use, however, this Board may retain jurisdiction. Board Member Lombardi asked again about sewer and water. Attorney Plackter stated the developer must include a comprehensive plan to sewer mobile home park. The Pinelands Commission and Township thought this would be a benefit and did not want the future development to be developed until it had sewer. Board Solicitor Bergman suggested this be a condition to these application(s).

Engineer Schaeffer stated the applicant has not received an approval from the MUA, however, the feasibility is there. Attorney Plackter advised everyone knows there is not a huge demand for housing and do not see anything being built for a number of years. Board Member Lombardi stated there is never enough parking within the mobile home park. She stated the excess land is being taken for the subdivision. She stated she would encourage within the cluster plan a quest for areas where additional parking could be provided, whether that application is submitted to the Planning or Zoning Board. Attorney Plackter stated it will be considered.

Board Member Amodeo asked if the Township park land will be sold to the Township or leased. Attorney Plackter stated it will be sold. He also added that part of the settlement agreement no recreation fees will be required.

Board Engineer Doran stated there is a small section of driveway on Green Avenue. Engineer Schaeffer advised he would like to discuss this in the field when it is developed. Board Engineer Doran stated he wants existing septic and wells shown. He also stated a note needs to be changed about the inlet on proposed lot 14.01. Board Planner Johnston stated curb and sidewalk is required unless deferred until major development is proposed. He advised he has been involved with application since day one. He indicated this site is included in the housing element and fair share plan and is in compliance with master plan.

Motion DiDonato/Amodeo to open public portion. Vote 7 Yes

John Calhoun, 129 Wharf Road, Egg Harbor Township, sworn in, Mr. Calhoun stated he is present as a concerned citizen and land owner. Advised he owns a parcel in this area. He indicated this area has had so many zoning changes and tax changes on his property. He stated he wants to go on record advising this is spot zoning. He stated it is commercial, residential and clustered housing. He advised he is disgruntled. He advised he is not against project. Advised he wants to go on record that this is spot zoning and how does it get done. He stated he is at a loss and looking for direction.

Board Member Lombardi asked what Mr. Calhoun would like to do. Mr. Calhoun advised he was told he could not develop on his property coming into park. Board Member Lombardi asked if Mr. Calhoun ever submitted a plan. Mr. Calhoun stated he spoke with a gentleman who worked at the Township named Randy Scheule. He advised he was nice. Stated he wants a record in case of a future law suit concerning his property. Chairman Haines suggested the applicant speak with an attorney who specializes in land use to give guidance on what can be done with property. .

Charlie Ash, 151 Winnepeg Avenue, Egg Harbor Township, sworn in: Mr. Ash stated when he moved into area we were zoned an acre. He stated nobody expected this development when they moved in. He indicated he has woods currently across and behind him. He stated Canale Park is a great place but it is big enough. Rather than destroy what we have Township owned land could be moved across the street and the residential could go to Canale Park. He stated when he heard this is a beneficial use he ask who is it beneficial to.

Mr. Ash stated he is disappointed we are the only one's here tonight. Previously the room was packed. He stated there will be a lot of traffic coming out onto Winnepeg Avenue and then to Ocean Heights Avenue. He stated he is not sure this is good for the Township. He stated when the design is proposed for the residential he will be present. He did advise the mobile home park is nice.

Lori Sarfert, Winnepeg Avenue, Egg Harbor Township, worn in: Ms. Sarfert stated she lives next to Mr. Ash. Ms.

Sarfert stated she is having a hard time with fair criteria. She indicated if the Board Members were living across from this they would be up in arms. Would never have guessed non-conforming would be affordable housing. She stated it is not going to be safe. She advised to place 223 more homes on block is insane. Ms. Sarfert stated people are risking life and limb to make a left off Dogwood. She stated this is too much housing coming onto roads.

Ms. Sarfert stated affordable housing is going where the Sheraton Inn is. She stated this is too much housing for this little area. She stated this area was acre lots and it was nice and now we are going to have 223 houses on one street. She stated the general welfare is not good for the existing homeowners. She indicated public transportation is not available to the residents in this area either. Ms. Sarfert stated this proposal is over the amount it is zoned.

Ms. Sarfert stated indicated she does not see this as beneficial and rather see somewhere else. She advised the proposed is more than what should be here. She advised she is concerned with the placement of sex offenders in low income housing and the population that will be moving into the area.

Chairman Haines stated not one person is excited by COAH or affordable housing requirements. Stated he feels for what you are saying. However, the Township is bounded by laws and these housing requirements will be placed in other neighborhoods. He advised it is the Board's decision based on the laws to determine if the applicant shows the negative and positive criteria.

Ms. Sarfert asked if this can be placed somewhere else. Chairman Haines stated no. It is part of a settlement agreement. He stated this is a major development proposal and the expense will be great to provide. He stated when they return with residential development must provide curb, sidewalk, sewer, etc.. He stated more hearings will occur and you will receive letters advising of the hearings where questions will be answered. Board Member Lombardi asked if Ms. Sarfert has septic and well. Ms. Sarfert stated yes. Board Member Lombardi stated sewer and water will be better.

Ms. Sarfert stated there is a lot of wildlife in this area. Chairman Haines stated the Township has changed and there are very few ways of stopping the development.

Mr. Ash stated not everyone sees well and septic as a bad thing. I have a water treatment system that he indicated he loves. He stated he will have a water bill and a sewer bill after development. He stated it will probably come in six (6) months after he replaces his septic system.

Mr. Calhoun asked if the future hearings will be published. Chairman Haines stated they will be. Mr. Calhoun advised the high school and the fire academy along English Creek Avenue has sewer.

Attorney Plackter stated the Township specified the park land they wanted. He indicated there applicant is not proposing the maximum amount of homes that could be. He stated there were a number of public hearings and the housing numbers were reduced. He stated he understands people are still unhappy. He indicated there where two (2) other attorneys that represented residents in this area who were present and part of the process. Attorney Plackter indicated when this project comes in for development buffering requirements will be discussed and will co-operate with the neighbors. . He stated there are a lot of good reasons for the expansion of the non-conforming use the applicant is seeking tonight.

Motion DiDonato/Amodeo to close public portion. Vote 7 Yes

Board Solicitor Bergman stated he has reviewed the Masters Report dated December 4, 2012 and the Settlement agreement that was referenced on record. He stated there was a public hearing when the Settlement Agreement was done. He advised the "d" variance is a technicality and the applicant must go through the special reasons. He indicated the fact is the use is considered beneficial based upon the open space, sewer for mobile home park and affordable housing. Again, Board Solicitor Bergman advised this application was part of settlement agreement. He advised the Board is instructed by certain terms within this agreement and must find applicant has carried its

burden. He advised the applicant will be conditioned that four (4) lots will be consolidated into three (3) and no building permits will be issued for future development until all mobile home units are connected to sewer.

Board Opinion(s):

N. Lombardi: stated many powers far more than hers has come to the conclusion for the use of land. She stated what the settlement agreement has come up with is good. She stated the future development was cut from over 500 units to 223 units and the Township will receive park land. She stated in the future the proposed residential will have curb and sidewalk and maybe provide public transportation. However, it will be many years before anything happens. Stated she encourages Mr. Calhoun to speak with right officials and to draw up what he wants. Stated the Township will not know until you make a submission. Stated this is a good project and hope the zoning board keeps oversight.

B. Epstein: stated no body is thrilled with COAH and can assure the residents when plans come before this board the application will be dissected. Stated she understands the residents are not thrilled with homes being developed by your homes. Stated the Board will do their best.

C. Gunther: stated he applauds three (3) neighbors. Advised he would encourage they stay with the results of the proposed. Board Member Gunter stated it maybe their decedents who deal with future application. Maybe neighbors will joint again.

Andrew Parker: always good to see people involved. Professionals gave good information and at this point it is a formality.

Anthony DiDonato: stated technically we are dealing with court that has made decision. Advised he does not like COAH but have to go with it.

J. Amodeo: advised he agrees to same. Heard the concerns of residents and do not take lightly. Have to remind ourselves that is a specific variance for the mobile home park and in the future will be housing but not voting on that tonight and we have to go through the formality.

Chairman Haines: stated as this project develops the residents should be there. He indicated in this case the application was submitted based upon settlement agreement and he believes professionals have addressed negative and positive criteria. Do not like COAH but have to follow the law.

Conditions of approval:

Board Solicitor Bergman stated thee will be no building permits issued for the future residential development until all units in mobile home park are connected to sewer. Board Member Lombardi stated she would also like water connection. Attorney Plackter stated this was not a condition sought by the Pinelands and the Township within the settlement agreement. Board Member Lombardi stated it should be done simultaneously. Board Solicitor Bergman stated he is knows there is a settlement agreement but the water connection would be up to the Board.

Motion DiDonato/Amodeo to grant requested general and minor subdivision checklist waiver(s). Vote 7 Yes: Amodeo, DiDonato, Epstein, Gunther, Lombardi, Haines

Motion Lombardi/DiDonato to grant "d" variance relief to allow for the expansion of a non-conforming use. Vote 7 Yes: Amodeo, DiDonato, Epstein, Gunther, Lombardi, Haines

Motion Lombardi/DiDonato to grant conditional minor subdivision approval. Vote 7 Yes: Amodeo, DiDonato, Epstein, Gunther, Lombardi, Haines

SUMMARY MATTER(S):

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| 1. <u>V 04-13</u>
<u>CN 01-13</u>
Harbor Auto Associates, LLC
dba Harbor Auto Recyclers | Appeal/Interpretation
Certificate of non-conformity
6715/4 & 4.01
Ocean Heights Avenue |
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Board Solicitor Bergman stated a letter has been submitted withdrawing this application. He advised the Board took a lot of time scheduling this application, however, the applicant never showed at hearings. Stated he would like an acknowledgment from the board concerning the withdrawn application.

Motion DiDonato/Amodeo to acknowledge Harbor Auto Associates, LLC dba Harbor Auto Recyclers have withdrawn application(s) V 04-13 and CN 01-13 (block 6715/Lot(s) 4 and 4.01) without prejudice. Vote 7 Yes: Amodeo, DiDonato, Epstein, Gunther, Lombardi, Haines

MEMORIALIZATION OF RESOLUTION(S):

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| 1. <u>V 05-13</u>
Robert Orchard | “d” Variance
5101/276
206 Asbury Road |
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Motion DiDonato/Amodeo to memorialize resolution granting requested general/“d” variance checklist waiver(s) “d” variance relief to allow for a commercial recreation facility within the RA (Rural Agricultural District) in order to convert a non-profit horse riding facility for the handicapped into a for profit horse riding facility, “c” variance relief: horse training corral or barnyard shall be within 250’ ft. of a residential dwelling not on the lot: The corral is within 90’ ft. of the adjacent single-family dwelling, and “c” variance relief: Number of parking spaces: 15 proposed; 23 required. Vote 4 Yes: Amodeo, Epstein, Lombardi, Haines.

MOTION Amodeo/DiDonato TO ADJOURN AT 8:09 P.M.: Vote 7 Yes: Amodeo, DiDonato, Epstein, Gunther, Lombardi, Haines

Respectfully submitted by,

Theresa Wilbert, Secretary

