

MINUTES OF THE REGULAR SESSION
STONE HARBOR PLANNING BOARD

February 11, 2013

4:30 p.m.

CALL TO ORDER:

The meeting was called to order by Mr. Hand, who stated that all requirements of the “Open Public Meetings Act of 1975” had been met.

ROLL CALL:

Planning Members Present

Thomas Hand
Perry Conte
Mayor Suzanne Walters
Jill Gougher
Joselyn O. Rich
Robert D. Bickford, Jr.

Board Solicitor

Andrew Catanese

Board Secretary

Patricia H. Wagner

Zoning Officer

Joanne Mascia

Alternate Present

Julian Miraglia

Board Member Absent

Wayne Conrad

Professional Planners Present

Susan Gruel
Fred Heyer

Approve Minutes

Motion by Mrs. Gougher and seconded by Mr. Conte to approve the minutes of the January 14, 2013 primary session.

Affirmative votes: Mr. Hand, Mayor Walters, Mr. Conte, Mrs. Gougher, Mrs. Rich, Mr. Bickford.

Review proposed Council Ordinance 1414, NJ Emergency Amendments to NJ Flood Hazard Area Control Act. FEMA-ABFE Maps.

On January 24, 2013, Governor Christie signed an emergency amendment to the NJ Flood Hazard Area Control Act and he advised all New Jersey municipalities to accept the new advisory base flood elevations. Mayor Walters distributed new advisory flood elevation maps to all Board members. The new map applies to all new construction and repairs to properties affected by Super Storm Sandy.

The map shows that all properties located along the bay side of Stone Harbor are now classified as being in a velocity zone or V-Zone. The new base elevations vary from 10’ to 13’ depending upon the property location within Stone Harbor.

Mrs. Mascia explained the original base elevations were established in 1929 and then revised in 1988 but the 1988 elevations are actually 1’3” less than the 1929 elevations.

In an effort to assist the Zoning and Construction Officials the Borough Council referred the following ordinance for the Planning Board’s review. It was introduced at their meeting held on February 5, 2013. It is scheduled for public hearing and possible adoption at their meeting to be held on February 19, 2013.

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ORDINANCE NO. 1416

AN ORDINANCE AMENDING ORDINANCE 1394 (CHAPTER 560,
SECTIONS 33, 35 AND 38 OF THE REVISED GENERAL ORDINANCES)

WHEREAS, Ordinance 1394 (Zoning Ordinance) was adopted on December 6, 2011 and is collectively referred to as Chapter 560 of the Revised General Ordinances of the Borough of Stone Harbor; and

WHEREAS, the State of New Jersey has adopted emergency amendments to New Jersey's Flood Hazard Area Control Act rules that set minimum elevation standards for the construction and/or reconstruction of houses and buildings in areas that are in danger of flooding; and **WHEREAS**, Ordinance No. 1394, Sections 33, 35 and 38 are hereby amended as follows:

SECTION 1.

560-33. Height regulations

A. Residential building height. In residential districts, where the curb level (NAVD 88) of a lot is less than ~~10 feet above mean sea level~~ **the FEMA ABFE current maps, NAVD 88**, then an additional one foot of building height shall be permitted for every full foot the ~~below such ten foot standard~~ **curb level is below such ABFE.**

560-35. Nonconforming lots, structures and uses.

A. Right to Continued existence and expansion in certain cases.

(4) Exception to permit raising a nonconforming structure to the advisory base flood elevation. It shall be lawful to raise a nonconforming structure which is below the advisory base flood elevation requirements of the Borough up to the advisory base flood elevation requirement (or up to one foot above) as long as the nonconforming structure is not otherwise expanded or relocated in such a manner as to increase or create a nonconformity. In so doing, the structure may be disconnected from all utilities, without losing its protected status as a nonconforming structure. This Section 560-35A(4) shall not relieve any applicant from maximum building height regulations.

560-38. Supplemental area regulations

D. Setback exceptions

(l) Notwithstanding the setback requirements set forth in Article IV above, the following shall be permitted in yard spaces in all Zoning districts:

- (a) **When elevating or constructing a building to be in conformance with ABFE FEMA Maps,** stairs or steps leading ~~directly to an entrance or to an entrance landing~~; provided that such landing shall not exceed five feet in width or depth and **further provided shall not exceed six feet in height, and further provided** that no such stairs or steps shall be located within ~~five~~ 3 1/2 feet of a property line, except in the Residential C Zoning District, where they may be placed within two feet of a side property line. **Any other stairs or steps leading directly to an entrance or to an entrance landing; provided that such landing shall not exceed five feet in width or depth and shall not exceed six feet in height, and further provided that no such stairs or steps shall be located within five feet of a property line, except in the Residential C Zoning district, where they may be placed within two feet of a side property line.**

SECTION 2. This Ordinance shall remain in full force and effect as long as the emergency amendments to the New Jersey's Flood Hazard Area Control Act rules of January 24, 2013 remain in effect.

SECTION 3. If any portion of this ordinance is determined to be invalid by a Court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

SECTION 4. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same are hereby repealed.

SECTION 5. This Ordinance shall take effect immediately upon final adoption and publication in accordance with law.

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Mr. Catanese explained that the proposed ordinance has a sunset clause. The ordinance would only be effective as long as the emergency regulations are in place. When a permanent fix comes in the ordinance would have to be reviewed and or revised.

It was noted that there will possibly be challenges to the new ABFE regulations. Mayor Walters stated they are continuing having review meetings in Atlantic and Cape May Counties.

Mrs. Mascia stated that some Borough Council members have concerns regarding properties that encase the mandatory stilts with breakaway walls. The possibility of zoning infractions exist as people may convert this space to usable kitchens, bathrooms or bedrooms. Mrs. Mascia stated that these would eventually be discovered by her as she is responsible for property transfer inspections. It was noted that the FEMA standards for break away walls are different than what is required by the construction codes standards.

Mrs. Mascia's understanding from the Borough's Construction Official is that garages are not allowed in a V Zone.

At the request of Mr. Bickford, Mr. Catanese walked the Board members through the highlights of the proposed ordinance.

- Section 560-33 A – Height regulations that we are just changing the curb “benchmark” level against which any additional height will be measured. Based upon the zone the property is located in a house may either gain or lose height.
- Section 560-35 A–(4) Nonconforming lots, structures and uses. The word advisory is being inserted in front of the phrase base flood elevation. This will provide some limited relief to raise a home even if it means encroaching on front or side yard setbacks. Typically a vertical expansion of a property into a setback area would require applying for variance relief.
- Section 560-38 D- (1) Will create two different standards for the construction and placement of stairs and landings in yard spaces.
 - Mr. Bickford wants the language in this section to reflect that the intent is to cover existing structures and new construction.

PUBLIC COMMENT

Randall Turney of 9715 Third Avenue addressed the Board. Mr. Turney's residential property is located in the Waterfront Business District and the newly created V-Zone. He had received approval from the Stone Harbor Zoning Board of Adjustment in November of 2012 to construct a new home. Recently his contractor had submitted his new construction plans to the Zoning Officer but he was turned down because they did not meet new ABFE (flood elevation) levels and building regulations. The new ABFE regulations are creating building hardships for Mr. Turney and he doesn't want to continue to expend his funds on new architectural plans and attorney fees. He asked if there is any way the Planning Board can offer him relief from the new regulations similar to what is being offered to residential homes outlined in the new proposed ordinance. Mr. Turney feels the

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property values of the residential homes in the Waterfront Business District will decrease if they are held to the new ABFE rules. He also feels the regulations regarding rear decks need further review.

Gary Thomas, a professional floodplain manager with the firm Thomas, Amey, Shaw located in Avalon, NJ spoke next. Mr. Thomas had appeared before the Board in a professional capacity many times. He feels the new ABFE maps are good for all the A zones but doesn't agree that they are good for the V Zones and he wants the V zones to be reviewed further. Mr. Thomas stated there are conflicting beginning construction measurement points in the V Zone. There is a difference with flood certificate regulations between FEMA and the construction code official. Mr. Thomas feels further meetings with FEMA, UCCO, Zoning Officer and Borough officials are needed.

The Board's planners, Fred Heyer and Susan Gruel spoke next. Mr. Gruel feels the V Zone is an area that needs to be thoroughly looked at and a review can't be accomplished in just one night. He feels the proposed ordinance is something that can work for now until a permanent solution is found.

Board members feel the Waterfront Business District V Zones should be looked at as a separate item and not be included in the proposed ordinance. Board members sympathized with Mr. Turney's predicament but they are unable to grant any type of relief at this time.

For clarification purposes the Board recommends inserting the following into the proposed ordinance as written: Section 560-38 (D)(1)(a) "When elevating **or constructing** a building to be in conformance with ABFE FEMA Maps, etc." With this suggested change the Board recommends the Council approve and adopt Ordinance 1416. Mr. Catanese does not feel that the insertion of the additional phrasing poses a substantial change to the ordinance and it would not have to be re-introduced by Borough Council.

Motion by Mr. Miraglia and seconded by Mr. Hand to recommend to the Borough Council to approve and adopt Ordinance 1416 with the insertion of "When elevating or constructing" in the first sentence of Section 560-38 (D)(1)(a).

Affirmative votes: Mr. Hand, Mayor Walters, Mrs. Gougher, Mrs. Rich, Mr. Bickford and Mr. Miraglia.

Negative vote: Mr. Conte.

Motion by Mr. Bickford and seconded by Mr. Conte for the Board to recommend that the Borough Council introduce similar relief for residential single family and two family use properties located in the Waterfront Business District, now a ABFE "V" Flood Zone.

Affirmative votes: Mr. Hand, Mayor Walters, Mrs. Gougher, Mr. Conte, Mrs. Rich, Mr. Bickford and Mr. Miraglia.

Hotel/Motel Committee

Mr. Hand and Mr. Conrad have met with the Board Planners, Heyer & Gruel to outline a course of action. Ms. Gruel and the committee members would like to schedule a meeting with all hotel & motel owners to find out what their immediate needs and concerns are. Mrs. Mascia noted both of The Reeds 97th Street parking lots are deed restricted for their use only. Mr. Hand feels the

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Borough might want to consider approaching The Reeds management about renting the air space on top of any parking structures The Reeds builds for municipal use. Mrs. Mascia noted that parking for the entire Waterfront Business District still has to be addressed.

Mr. Hand asked if anyone had information on grant monies that might be available for homeowners to raise their homes post Sandy. Grants are up to \$30,000 for each property owner to bring their homes into compliance are available. Mrs. Mascia will get more information for the Board.

Public Comment

No one spoke. Public Session Closed.

NEW BUSINESS

None

OLD BUSINESS

Mr. Conte noted that the Board had previously spent a great deal of time and effort in addressing what items could be placed in set-back areas. While he noted that Ordinance 1416 is a “temporary fix” he would like for the Board to come back and review that zoning section before any permanent changes are made to it. The Board concurred with Mr. Conte.

ADJOURNMENT

Having no further business at hand Mr. Hand called for a motion to adjourn the meeting.

A motion to adjourn the meeting by Mr. Miraglia and seconded by Mayor. Walters. All members present voted in the affirmative.

APPROVED:

ATTESTED: _____
Patricia H. Wagner, Secretary Stone Harbor Planning Board