

MINUTES OF THE REGULAR SESSION
STONE HARBOR PLANNING BOARD

August 23, 2010

7:00 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 (Delayed Arrival 7:16)
Thomas Cope
Albert Carusi
Wayne Conrad

Board Solicitor

Andrew Catanese

Alternates Present

Robert Ashman
Julian Miraglia

Board Secretary

Patricia H. Wagner

Zoning Officer

Joanne Mascia

Board Engineer

Ray Roberts

Members Absent

Kenneth Hawk

Approve Minutes

Motion by Mr. Ashman and seconded by Mr. Conrad to approve the minutes of the July 26, 2010 regular session.

All members present voted in the affirmative.

Site Plan Review:

Applicant’s Name: Silver Lake Associates, LLC
Owner’s Name: Same
Subject Property: 9709 Third Avenue, Stone Harbor
Block: 96.04 & Lot 133.01
Our File: SPR 2010-004

Attorney Vincent L. LaManna represented the applicant. Applicant seeks site plan approval for outdoor dining on the rear deck of the first floor unit (Ordinance 560-16F). Mr. Catanese swore to give testimony Aaron Nocks, 132 Drexel Road, Ardmore, PA 19003. Mr. Nocks is a principal partner of Silver Lake Associates, LLC. His restaurant, Peace a Pizza, occupies the first floor of a two story commercial/residential property located in the downtown Waterfront Business District. Outdoor dining is a permitted, conditional use in this area. No variances were being requested at the time of application was submitted.

Mr. LaManna entered into evidence:

- A-1 Stone Harbor Surveyors Plan dated June15, 2010
- A-2 August 5, 2010 memo to J. Mascia, Zoning Officer & R. McClure, DPW Supervisor from Peter Howey, President, Peace a Pizza regarding increased trash/recycle area impact.
- A-3 August 19, 2010 response memo to J. Mascia, Zoning Officer from R. McClure DPW supervisor regarding Peace a Pizza trash area.

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Mr. Nocks testified that his plans call for additional 16 seats to be used on the rear outdoor deck of the existing first floor restaurant, with the only access to the rear deck being from the restaurant itself. The proposed outdoor dining area is 220 square feet. There is no waitress or waiter service. As required by the Out Door Dining Ordinance, the applicant stated his intentions to use plants to act as a buffer from neighboring properties. He also plans to increase the number of trash/recycle containers from 5 to 9 containers and to expand the trash/recycle enclosure by five feet. Loading and unloading of deliveries will remain the same, at the front of the building. He also stated that an outdoor hanging sign and a large free standing sign on the sidewalk will be removed as he was not aware they weren't permit under current zoning requirements. He has no plans to change the rear railing, which is where he plans on putting buffering planters. He noted the restaurant was renovated this past April. There are no plans to utilize the rear dock for the restaurant. The dock is the private property of the second floor property owner.

Mr. Catanese noted there were no specific drawings submitted with the application for the trash area.

Mr. Nocks testified that there is no outdoor wash down area. He stated they have an indoor room with a large wash down sink which they use for cleaning equipment including the outdoor trash cans. They occasionally will use the south side alley to wash something off as that is where the outdoor faucet is located.

In response to a question from the Board Engineer, Mr. Nocks stated he will have the planters fastened to the railings on the north and south sides of the property to act as a buffer to the neighboring properties. They do not intend to have them on the west side (waterfront), preferring to leave the view unobstructed. Flower pots will also be placed on the deck.

The Board Engineer wants the applicant to submit a sketched out detailed plan for the trash enclosure. If the Board does grant approval this evening he wants the approval to be conditional upon a review of the sketched out plans for code compliance by the Department of Public Works and the Board's Engineer.

Public Comment

Mr. Hand opened the hearing for public comment.

Sworn to give testimony was Randall Turney, 9715 Third Avenue, Stone Harbor. Mr. Turney owns the residential property to the immediate south of Peace a Pizza. He stated the alley where the restaurant keeps the trash bins stored is not properly maintained. It is an eyesore and is constantly strewn with broken bicycles, benches and paper plates, napkins and soda cups, which then are blown onto his property. He also feels the water from the wash downed items runs off onto his property, destroying any trees and plants he has placed. He also feels parking is a problem. Mr. Turney does like the type of fencing used on Capt. Mariner's rear deck and he would not have a problem if the applicant would install something similar on their rear deck, the bigger fence the better.

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The applicant did not include a request for a variance for exceeding the fencing height requirement.

No one else spoke. Mr. Hand closed the public portion of the hearing.

The Board asked for the Board Engineer's opinion on using the alley for wash down. Mr. Roberts does not feel there is any need to use the alley for wash down as the applicant testified to using an indoor wash down area. He stated the applicants should either pick up or sweep up any other outdoor debris.

Mr. LaManna stated that drainage is a classic component of a site plan review but he does not feel water runoff is an appropriate consideration for this particular application. There is no new construction and his client is simply seeking approval for using the rear deck for outdoor dining.

Mr. Catanese noted there were no specific drawings submitted with the application detailing the buffering landscape plans for the rear deck.

Mr. Cope feels that plants would be visually pleasing, but would not work as a true buffer from the adjacent property owners. Mr. Miraglia proposed a fence with a solid bottom and a lattice frame on the top portion.

Mr. LaManna asked if the Board is proposing as a condition of approval, a 6' in height buffer fence. Would a variance be needed?

Following the Board discussion it was decided that the Board could grant without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Borough of Stone Harbor the nonconforming 6' fence height without a request for a variance. The fence will be on the south side of the building, from the HVAC platform & back, a solid 4' on the bottom and 2' open style on the top. The north side of the property will only have the 6' fence as a buffer around the outdoor dining area, as above 4' & 2'.

Motion by Mr. Cope and seconded by Mr. Ashman to grant conditional use approval for outdoor dining, subject to the fencing requirements discussed tonight.

Affirmative votes: Mr. Hand, Mr. Conte, Mr. Cope, Mr. Conrad, Mr. Carusi, Mr. Ashman and Mr. Miraglia.

Abstain: Mayor Walters (delayed arrival prohibited voting on the application)

Motion by Mr. Ashman and seconded by Mr. Carusi to grant waivers as set forth on the applicant's Site Plan Element Check List.

Affirmative votes: Mr. Hand, Mr. Conte, Mr. Cope, Mr. Conrad, Mr. Carusi, Mr. Ashman and Mr. Miraglia.

Abstain: Mayor Walters (delayed arrival prohibited voting on the application)

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Motion by Mr. Cope and seconded by Mr. Miraglia to grant Site Plan approval subject to the conditions to create the trash enclosure and contingent upon a final review by the Board's Engineer and the Department of Public Works; having no wash down area in alley; recognize pre-existing non conformities with respect to setbacks and the proposed non conformity to the fence height.

Affirmative votes: Mr. Hand, Mr. Conte, Mr. Cope, Mr. Conrad, Mr. Carusi, Mr. Ashman and Mr. Miraglia.

Abstain: Mayor Walters (delayed arrival prohibited voting on the application)

Mr. LaManna thanked the Board for their time and consideration.

Ordinance for Historic Preservation

RESOLUTION NO. 2010-005

WHEREAS, the Borough of Stone Harbor, New Jersey (the "Borough") is a barrier island with a rich assortment of historic and cultural resources typical of early to mid 20th century mid-Atlantic coastal towns. These resources are a link to the Borough's past and contribute to its social and economic vitality; and

WHEREAS, in accordance with the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-107 et seq., the Borough of Stone Harbor Planning Board (the "Board") has determined that the Stone Harbor Historic Preservation Commission should be established to provide an advisory, educational and informational role to the Borough for the preservation and overall public awareness of the Borough's historic resources.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Stone Harbor, New Jersey on this 23rd day of August, 2010 that the Board recommends adoption of the Ordinance attached hereto by the Borough Council.

BE IT FURTHER RESOLVED that the attached Ordinance is consistent with the intent and purposes of the Municipal Land Use Law and is consistent with the Borough's Master Plan.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the Clerk of the Borough of Stone Harbor and maintained by the Secretary of the Planning Board.

I hereby certify the foregoing to be an original resolution of the Borough of Stone Harbor Planning Board adopted and approved at a meeting held on 23rd day of August, 2010.

Dated: August 23, 2010

Patricia Wagner, Secretary
Stone Harbor Planning Board

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**AN ORDINANCE AMENDING CHAPTER 345 OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF STONE HARBOR AND CREATING THE
STONE HARBOR HISTORIC PRESERVATION COMMISSION**

WHEREAS, the Borough of Stone Harbor Planning Board has recommended creation of a historic preservation commission within the Borough of Stone Harbor (the “Borough”); and

WHEREAS, the Borough Council desires to create the Stone Harbor Historic Preservation Commission in order to (i) preserve the “sense of place” that is Stone Harbor; (ii) protect and enhance the Borough’s attractions to residents and visitors; (iii) foster civic pride in the beauty and notable achievements of the past; (iv) create identity and continuity for the Borough as it moves forward into the future; and (v) create a formal recognized forum for requesting outside resources and grants.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Stone Harbor, Cape May County, New Jersey, as follows:

Section 1. A new Section 560-_____ is created within the Code of the Borough of Stone Harbor as follows:

560-_____ Historic Preservation Commission

A. Findings/Establishment. Stone Harbor is a barrier island with a rich assortment of historic and cultural resources typical of early to mid 20th century mid-Atlantic coastal towns. These resources are a link to the Borough’s past and contribute to its social and economic vitality. In accordance with the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-107 et seq., the Stone Harbor Historic Preservation Commission is hereby established to provide an advisory, educational and informational role to the Borough for the preservation and overall public awareness of these resources.

B. Purpose. The Stone Harbor Historic Preservation Commission shall:

(1) Help safeguard, preserve, enhance and celebrate the Borough’s unique historic and cultural resources so that these resources will be available for the education, welfare and pleasure of all its residents, second homeowners and visitors and its future generations.

(2) Encourage the continued use of historic resources and facilitate their appropriate reuse.

(3) Promote the conservation of historic sites and areas and invite voluntary preservation of historic resources.

(4) Develop positive incentives for preservation as an alternative to demolition.

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- (5) Act in an advisory role with other groups/organizations as appropriate.
- (6) Position historic preservation as a “green” alternative to new construction.

C. Members.

(1) The Stone Harbor Historic Preservation Commission shall consist of five Regular members and two Alternate members. There shall be one Class A member, one Class B member, and three Class C members. No less than five of the seven members shall be Stone Harbor citizens. No members of the Commission shall hold any Borough office, position or employment except that one person may be a member of the Planning Board. The members of the Commission shall serve without compensation.

(2) Class qualifications shall be as follows:

(a) Class A: A person who is knowledgeable in building design and construction or in architectural history.

(b) Class B: A person who is knowledgeable of or has demonstrated interest in local history.

(c) Class C: A Borough citizen who has demonstrated interest in local history. Alternate members shall meet the qualifications of Class C.

(3) Members of the Historic Preservation Commission shall be appointed by Mayor with the advice and consent of Council. Prior to making any appointment the Mayor and Council shall elicit recommendations for membership from the Stone Harbor Museum Board and Planning Board. The Term of Regular members shall be four years and Alternate members shall be two years. A vacancy occurring otherwise than by expiration of a term shall be filled for the balance of the unexpired term only. Notwithstanding the foregoing, the term of any member of the Commission that is also a member of the Planning Board shall be for the term of membership on the Planning Board.

(4) The Commission shall annually elect a Chairperson and Vice Chairperson from its members and select a Secretary who may or may not be a member of the Commission or a Borough employee.

(5) The Commission shall adopt internal rules and procedures for transaction of its business. All meetings of the Commission shall be governed by the New Jersey Open Public Meetings Act.

D. Powers & Duties.

(1) The Stone Harbor Historic Preservation Commission shall act in an Advisory role to the Planning Board, Zoning Board of Adjustment and Borough Council.

(2) The Stone Harbor Historic Preservation Commission, in addition to duties established in N.J.S.A. 40:55D-109, shall be responsible for the following:

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- (a) Prepare and maintain an inventory of historic resources using pre-determined criteria for assessing the worthiness of these resources.
- (b) Make recommendations to the Planning Board regarding the historic preservation plan element of the Master Plan.
- (c) Advise the Planning Board on the inclusion of historic and cultural resources in the recommended capital improvement plan.
- (d) Advise the Planning & Zoning Boards on applications for development of designated historic resources.
- (e) Provide written reports on the application of zoning ordinance provisions concerning historic preservation.
- (f) Carry out advisory, educational, informational and celebratory functions that will promote historic preservation in the Borough.

E. Budget. The Borough Council shall provide for the Commission annually in its budget and appropriate such funds for the expenses of the Commission as the Council, in its sole discretion shall determine, pursuant to NJSA 40:55D-108.

Section 2. Notwithstanding the provisions of Section 560-____(C)(3) above, the Mayor with the advice and consent of Council shall determine the terms of the first members appointed to the Historic Preservation Commission so that to the greatest practicable extent, the expiration of the terms shall be distributed, in the case of regular members, evenly over the first four years after their appointment and in the case of alternate members, evenly over the first two years of their appointment, in accordance with N.J.S.A. 40:55D-107.

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 twenty (20) days after final passage and publication as provided by law.

Motion by Mr. Ashman and seconded by Mr. Cope to approve Resolution 2010-005 recommending to Borough Council the establishment of the Stone Harbor Historic Preservation Commission and the proposed amendment changes to RGO Chapter 345.

Affirmative votes: Mr. Hand, Mayor Walters, Mr. Conte, Mr. Cope, Mr. Conrad, Mr. Carusi, Mr. Ashman.

Board Discussion

Shade Tree Protection Ordinance Report

Mr. Conte & Mayor Walters reported the Advisory Committee has received a grant and the Committee is currently reviewing a list of approved professional consultants to work with.

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Zoning Revisions

Mr. Cope reported the Board's subcommittee has met and they are initially working on re-formatting from a narrative format to a tabular format. They are trying to eliminate overlapping items and they are looking at the definitions listed in order to be more consistent with NJ Municipal Land Use Law. The second part of the task is to incorporate parts of the Master Plan into the Zoning Ordinance so the Planning Board can begin to discuss the possible elimination of the light industry classification. They will also address and review the Neighborhood Business Districts and the Marina District. The third part is to review potential policy issues such as lot and building coverage, floor to area ratios and set back areas. Mr. Cope announced that former Zoning Board member Carl Wannan has joined the subcommittee. Mr. Cope will make periodical reports to the Board. The subcommittee expects this project to extend into the next fiscal year, 2011. Work Session will most likely be scheduled in 2011.

Waterfront Business District Purchase Plan

Mr. Miraglia had distributed a report that he and Mr. Conrad and Mr. Ashman prepared. Mr. Hand noted he does not feel the report should have listed personal, individual property information at this time. Mr. Miraglia stated the information shown was a result of a public property search.

Mr. Cope noted that only 25% of funding is available through Green Acres and not the 50% figure noted. That is due to the fact that the Borough does not have its own open space tax. Mayor Walters noted the upcoming budget year will have a mandatory 2% cap increase and funding options may be very limited.

Mr. Conte does not want to see a prominent parcel removed from the business district for use as a pocket park. Mr. Miraglia suggested the Borough buy a lot and then sub divide it into two 30' wide lots and sell one lot & develop the other as a pocket park.

The Board agreed the concept of a pocket park would be a welcome addition to the Business District along with a bay front walkway. At this time an exact location for the park could not be decided upon. The subcommittee will continue their research and report back to the Board at the next meeting on available funding sources for the pocket park. Mr. Catanese along with the subcommittee will prepare a draft resolution for the recommendation to Borough Council to purchase and create a pocket park in the Waterfront Business District.

NEW BUSINESS

OLD BUSINESS

Mr. Hand would like for the subcommittee on Zoning Revisions to review the installation of 6' fences that have been recently been granted in the commercial district. This could lead to having "tunnel vision" in the business district and ruin the scenic views of the bay.

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Public Session

Mr. Hand opened the meeting for Public Comment. There were none. Mr. Hand closed the Public Session.

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. Conte and seconded by Mr. Cope. All members present voted in the affirmative.

APPROVED:

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