

Planning Board Meeting 10-4-2018

**TOWNSHIP OF OCEAN
Planning Board
October 4, 2018**

7:00 P.M.

FLAG SALUTE

STATEMENT: Pursuant to the provisions of the New Jersey, Open Public Meetings Act, adequate notice of the meeting was properly provided by sending copies of the notice of meeting to the Asbury Park Press and the Press of Atlantic City. Notice was posted on the bulletin board in the Administration Building.

The meeting of the Planning Board was held on the above date and time; Chair William Sneddon called the meeting to order.

ROLL CALL

Members Present	Robert Beck	Daniel Collamer	William Edwards
	Donald Lippincott	Ben LoParo	John Petrosilli
	Michael Roche	Aaron Shapiro	William Sneddon

Members Absent: Nicholas Bonamassa, Paul Kavka

Professionals Present: Jason Worth, T & M
Scott Taylor, Taylor Design Group
Steve Yost, Esq.

APPROVAL OF MINUTES:

Aaron Shapiro made a motion to approve the minutes of the September 6, 2018 and Ben LoParo seconded them. Roll Call. (Ayes) Shapiro, LoParo, Beck, Collamer, Lippincott, Petrosilli, Roche and Sneddon.

APPROVAL OF BILLS:

Aaron Shapiro made a motion to approve the bills and Donald Lippincott seconded it. Roll Call (Ayes) Shapiro, Lippincott, Beck, Collamer, Edwards, LoParo, Petrosilli, Roche and Sneddon.

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CORRESPONDENCE: Items listed on the correspondence list that was distributed to the board members was as follows: The NJ Planner, Ocean County Soils Conservation District re: 15 Cutlass Way and Ocean County Soils Conservation District re: Waretown Self Storage Block 62 Lot(s) 3.02 and 3.03

RESOLUTIONS: Resolution No. 2018-09-PB, Docket No., 04-18-PB Robert G. Lange Jr. regarding 111 Admiral Way, Minor Site Plan Block 108 Lot 5.01
The form of the resolution was approved and voted on; Daniel Collamer made the motion to approve the resolution as it was written and it was seconded by Michael Roche. Roll Call (Ayes) Collamer, Roche, Beck, Edwards, Lippincott, LoParo, Petrosilli, Shapiro and Sneddon.

INFORMAL BUSINESS - NONE

OLD BUSINESS – NONE

Chairman - Next item is new business we have two items on the docket and I am going to take the two items and are going to take them out of order and we are going to take the first docket number 06-18-PB Daniel Collamer 24 Bay Parkway Block 65 lot 7.0, detached garage with an accessory apartment on the second conditional use

Daniel Collamer – Since I am the applicant I will need to recuse myself from the meeting for this and as I am noticed in the next application come forward I will need to recuse from that as well.

Chairman – Thank you

John Petrosilli – Mr. Chairman, I have conflict too and I am going to recuse myself from the board meeting in the best interest of the board and the applicant.

Chairman – so approved.

NEW BUSINESS

Docket No. 06-18-PB
Daniel Collamer
Detached Garage/ Accessory Structure Apartment on the second floor
24 Bay Parkway Boulevard
Block 65, Lot 7.01

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Chairman – with the matter of Mr. Collamer the board has received the information late most of the board members have not had a chance or an opportunity to research or go through the papers, so at this time the procedure that is bestowed upon the chairman at this time to postpone this matter until the following month. There is no, nothing detrimental to the applicant he has filed his application, there is no filing fees there is nothing its jus being postponed and it gives the board members the opportunity to review the plans completely so that we can have a fair and just hearing.

Steven E. Yost.- With that I think also the next meeting is what date?

Laurie Clune- November 1st.

Steven E. Yost- November 1st so Mr. Collamers' application will come on November 1st the next regular meeting, he is not required to make any public notice again because the public notice is being given to interested who would have appeared this evening so there is no public notice required.

Voice from the public – Can you speak up I can't hear you back here. Nobody else can either.

Chairman – Ok the public will have a chance to comment

Voice from the public – What date is that postponed to, I want to know.

Steven E. Yost – November 1st.

Chairman – That would be the first Thursday in November.

Ben LoParo – Can they comment tonight or do they have to come back the second time?

Steven E. Yost – The applicant?

Ben Loparo – No the people who want to comment?

Chairmen – Well there is no....

Steven E. Yost – Yeah they would have to come back, there cant be a hearing because the chairman has ruled this as a matter of procedure that the enjineer report came in too late for the board members to really consider the application to be ready to hear the testimony tonight. I think the applicanication was deemed complete last Friday was less than a week and think our engineers report was either Monday ot Tuesday of this week.

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Ben Loparo – Yeah dated October 1st, yeah

Steven E. Yost – Yeah

Chairmen – Yeah

Steven E. Yost – So I can note for the record I had a couple calls from planning board members who had expressed a concern that the paperwork came in too late and they didn't have adequate time to really take a look at it. So that is the basis and I have advised the chairman based upon basically planning board model rules that are in the back of the Cox book he has authority to make a ruling off procedural matters and this is purely a matter of procedure there is nothing substantiate of being said about Mr. Collamers applicant. Now the other thing I would add I just found out that on Tuesday that, that was going to be heard tonight and I will state that because Mr. Collamer is a member of the board and he is also the city Mayor in the municipality it presents unique problems from a legal stand point when he makes a presentation. The board realizes that he has to – everybody knows he has to stand down from the applicant but there are also some issues has to how the presentation can be made to the board and I have given advise to the board chairmen on that and I would share that advice that I was going to give to the board to Mr. Collamer he and I spoke over the telephone on the last couple of days. The other thing that I think would be necessary and that's why I passed out a couple handouts, one of the handouts there is a state statute that says that he every right to make a presentation himself, there is also commentary in Cox books from the author who is a specialist in Land Use Law who says it is a very bad idea for a lot of reason because it can give the appearance of impropriety or influence or whatever because of his position and I have shared that with Mr. Collamer as well. Now how he intends to proceed is really up to him. But that would be my advice to the board. The other thing which comes into issue is that not only that Mr. Collamer would have a conflict voting on his own application but there may be relationships with the board members that would render one of the board members in appropriate for them to vote on his application and I would like to have the opportunity to probably speak with each of you before the next hearing just to talk with you because it is very fact specific. Obviously you all know him, just because you know him or make work with that's not a substantial situation which would render you in a conflict. But there are some indirect relationships and that's why I took the trouble to printout that handout this evening and I found that just to have the board members start thinking about whether or not they possibly would be too close one way or the other. He is entitled to a fair hearing and you can't be have a pre disposition in favor of or predisposition against. So I would just like you all to start thinking about and I think like to have conversation with each of you just because we want to make sure that we have a hearing that is clean. He gets a fair hearing it is a good result, there is no litigation. One of my jobs really here for the board is to keep, is to make sure the hearings are fair, give good advice to the board and keep the board out of court. And I take my responsibilities seriously and that's what I try to keep in mind when I give advice to the board. So those are all I think pretty good reasons, in addition to what the chairman had indicated about the fact the engineer review just came in a few days ago.

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Ben LoParo – So you are going to speak to each individual board member?

Steven E. Yost – I think it is a good idea unless you think it is inappropriate.

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Ben LoParo – I am just thinking about money, that's all. Calling them and the clock is running, like could you do it after the meeting tonight? Talk to each individual member quickly and get it done?

Steven E. Yost – Yeah, well I haven't done any research on it, the only thing I can say Mr. LoParo it's what I spend speaking with each of you for five minutes is infinitesimal compared to what it would be if we end a prerogative writ case. Because something is done improperly

Ben LoParo –I know.

Steven E. Yost – You're talking about thousands of dollars as opposed to ya' know maybe a conversation that is a half hour or 45 minutes of conversations.

Ben LoParo – and this is definitely necessary?

Steven E. Yost – You want a clean record and you want to make sure you stay out of court I think so, I do.

Mr. Beck – Ok, chairman I have a couple of questions for council if I can? I don't know what the procedure has been in the past but I know we'll need proof of payment of taxes, proof of service and proof of publication that's just normal. Then it relates to a prior resolution, I think we ought to have a copy as board members of the prior resolution. I have seen cases where someone goes to the board of adjustment/ zoning board gets a resolution and then they go to the planning board. Planning board doesn't know anything about the resolution, so I just think it is appropriate that you have that resolution to look at to see if the.. Any conditions were imposed at that time. Also just for Mr. Collamers, um saving time. I wouldn't want to go to the next meeting and raise it and have him say "Well gee you could have raised it" I didn't see anything on the second floor. What's gonna be there were there any ingress and egress is from the second floor. Easy enough to address. And then finally um.....

Daniel Collamer speaks out from the audience – Excuse me if I may (Mr. Beck replies – yeah...) I don't think we should be speaking on the application at this time.

Mr Beck – No I', just, Dan I'm just telling you what I am going to say.

Daniel Collamer – I don't think you should be making any comment on the application at this point.

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Mr. Beck – I commenting on what has been submitted here, that’s what I am commenting on. And I think it is deficient but you know what I will shut up, Dan and I will raise that at the next meeting and we can then take a vote...

Daniel Collamer – continues to speak simultaneously with Mr. Beck (hard to decipher) it is not open for discussion at this time.

Mr. Beck – I will tell you another thing that I so pen for discussion as to whether this board even has jurisdiction or whether it should properly be before the board of adjustment. You’ve got conflicts in the statute

Another voice from the audience (identified as Daniel Collamer son) I am the one presenting because I am going to be buying the property.

Mr. Beck – yep, that’s ok.....No, you can present no problem. What I am saying that you have to apply for a variance here and that is right in what you are applying for a variance. And that variance has to be applied for because what you’re applying for a variance from is a provision that says “you can’t have any habitation on the second floor” Now I am also aware that right in the front of your amended 2016 it provided that you could have apartments, second floor apartment in an accessory building, fine. I kind of think that variance request is a “D” variance because it is totally prohibited on increasing any kind of area. Here you are going to increase the area, your increasing the use on the property, so that’s the question I would like to get an answer from and depending on what council says I am sure he’ll let you know.

Steven E. Yost – Mr. Beck what I will do, as you know there is a check list of things to look at. What I will do is within the next week I will look at the check list and we’ll go through it and we want make sure you’re in front of the right board, you don’t want to find out later on that your in front of the wrong board. So I will look at that and you’ll know Mr. Collamer if there is a problem because I will reach out for you,

Daniel Collamers Son speaking from the audience – What is the proper amount of time for you guys to be notified for something like this being that it is on your agenda tonight?

Steven E. Yost – Generally we’ve had historically, we use to run into this problem with some frequency and board members would complain they need the package about ten days in advance of the hearing to have time to go over it. There are members that spend a couple of hours or three hours going over the materials maybe more to prepare so when they come in they can ask intelligent questions. So when you get an engineering report two or three days before the hearing they don’t feel they’ve had adequate time to review everything no everybody can right down here and pick up and read it and you come in cold and it could be fine but they cant focus.

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Presumably Daniel Collamers son continues to speak from the audience – The reason I ask is because it is a pretty cut and dry application, just curious.

Steven E. Yost – Apparently there were board members that did not feel that way Mr. Collamer (son) it's just procedural, this is not any determination on the merits and I think even Mr. Beck comments were procedural so nobody is making any rulings, we are not talking about the merits of the application, um so unless anybody else has any comment, I think....

Daniel Collamer – I actually do, I have sat on this planning board for many years and it has been common place to have the information put before you less than a week before the board meetings on many, many, many occasions. I just want the board to bear that in mind when you do this decision.

Chairman – Ok, anyone else have any comments.

Bill Edwards – I respect the chairman's decision and it's also good to follow the legal advice because again like Mr. Yost said he is here to keep us out of trouble, that's his job. Although this is a very simple application and it is very straight forward, I have seen a lot more complicated things come before us and, but it is a good idea to wait, but um this appears to be um. I have had time to look through after picking it up and um it's pretty simple.

Chairman – ok, thank you for your comment,. Ok new business docket number 05-18-PB Chris Karamanos, 562 Route 9 block 129 lot 19.01, outdoor seating area. Gentlemen?

Docket No. 05-18-PB
Chris Karamanos
Outdoor Seating Area
562 Route 9
Block 129, Lot 19.01

Steven E. Yost – Might as well swear you in, will you raise your hand and repeat... You promise to tell the whole truth so help you God? (Reply – I do) ok, anyone else going to testify Mr. Karamanos? (Reply – yes) Can you give and spell your name for our board secretary so she can take it down in our minutes? (Reply – Karamanos) And what is your address Mr. Karamanos? (Reply – the business address or my home?) Your address? (Reply – 123..... 562 Route 9 Waretown) And you have gentlemen sitting to your right I assume he is your professional (reply – yes) you promise to tell the whole truth so help you God, Sir? (Reply- yes I do) what is your name ? (Reply – Christopher P. Rosati, with FWH Associates in Toms River NJ.) Are you a licensed engineer in the State of New Jersey? (Reply – yes I am a licensed engineer and licensed professional planner in the State of New Jersey, I have been practicing engineering since 1994 when I graduated from Rutgers University College of Engineering with a Bachelors of Science Degree in Civil Engineering. I have been with FWH Associates formerly Flannery Webb and Hanson since 1994, two years during my career I actually left the firm and I joined Leon S.

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Savakean Inc. in Neptune Township where as I served as assistant board engineer for the Township of Millstone and assistant Township Engineer and in 2006 I returned to FW Associates and I am currently a principal of the firm)

Steven E. Yost – Mr. Chairman I would submit that this gentlemen is qualifies to testify as a professional engineer.

Chairman – you may proceed.

Mr. Rosati – We are here for a minor site plan application to allow the construction of an outdoor seating area at 562 Route 9 the restaurant. Mr. Karamanos owns. It is lot 19.01 in block 129. The exhibit I have is a colored rendering of sheet one of two of the plan entitles minor site plan lot

19.01 block 129. Dated June 6th 2018 with no revision. You want me to mark that as A-1. It's just simply a colored rendering of the submitted site plan?

Steven E. Yost – yeah mark it A -1 exhibit.

From this point forward the applicants engineer makes his presentation on the outdoor seating area of the existing restaurant. Mr. Rosati explains that Mr. Karamanos is present to talk about any issues relative to the operation of the restaurant itself. Mr. Rosati will be discussing the engineering details of the application.

The applicant is proposing to take an area of the parking lot that is currently slated for several parking stalls, raising it up a little with curbing around with paving block that will be consistent with the pavers currently around the building. The seating area will be for approximately for 7 tables and roughly 1000 sf.

The overall sight is roughly 15 acres in size and the rendering only shows a portion of the property. Sheet two shows the entire site. Mr. Rosati presented an aerial photo which was marked A-2, dated 10/4/2018.

Property is in two zones C-1 and R-1A however all the activity will be located in the C-1 zone where it is permitted.

The access will be both through the restaurant – decorative aluminum gates or something- a decorative metal gate to get pedestrian access from the parking lot as well.

Mr. Karamanos- surrounding the seating area with be a 6 foot wall – with 2x2 foot pillars, decorative also shown in detail on sheet two of the submitted site plan. The treatment of the wall and the pillars will match that of the existing structure e so everything blends together from an architectural standpoint, color schemes what have you, including the paver block for the floor of the dining area.

No need for any storm water mgmt. - majority of the site drains to the rear

Not requesting any variances – conforms to the bulk standards

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No other disturbance except the outdoor seating

Relocating one of the existing handicap spots – 4 on the south side and we will need to add one and there is some additional, some striping – no parking at the south east corner of the building we are going to infringe on that a little bit and kind of restripe the area in that portion of the building to get the five required handicapped stalls.

Restaurant has existed for over 10 years – 8300 sf

Seating area approx. 1000sf

94 parking stalls required per ord.

110 parking stalls on site we may go to 108 or 109 depending on how we are going to have to reconfigure that area on the south of the building for the handicap access but again we still will have a surplus of parking.

Mr. Rosati states, “that essentially all of our application “

Mr. Worth – Issued our report on August 28, 2018 – Maybe at this time we can have Mr. Karamanos speak about the operation of this new outdoor seating facility – hours of operation – times all that sort of thing.

Liquor license and we want people to sit outside and enjoy themselves, have a drink and a cigar maybe. Hours right now are 7-10 we would like to expand hours to 7 a.m. - 12a.m. or 1 a.m.

Discuss any impacts parking is unique - out is on the north side - bulk of traffic go around the back of the building, the “in “is particularly is in the center of the building and the “out” is on the north side. Bulk of the traffic will have to go around the back of the building, around the proposed areas and exit on the north egress point. No additional need for employees parking. We do have some traffic isles that we are showing as one way and the applicant will work with your engineer to show those are adequate, applicant looking to possibly make one or two of them additional one way isle do to the distance between the parking stalls themselves.

Mr. Worth- code requires isles with two way traffic to be 24 feet wide and some of the proposed aisles are not that wide. Currently for people in the back and coming around that aisle of the building there is currently a sidewalk along the building but there is not sidewalk proposed or hatched area of the pavement on that northern side of the new patio. So the board is wondering about pedestrians and restaurant goes walking around that potentially into traffic without there being a sidewalk or something along that side of the patio.

Applicant replies with the are willing to do something – it may also give the applicant the opportunity to do some sort of enhancements – flower pot because the boards planner also had something about landscaping.

Chairman - how are they entering this outdoor area?

Mr. Rosati - there are outdoor gates on both ends of the patio and there is egress that they will need for service anyway

Mr. Worth - there are areas that are adjacent to those islands, can they be demarked to make sure cars funnel through the property

Mr. Rosati - we will work with your office with that that is a good idea. As for signage the only additional signage is for the new handicap parking

Mr. Worth - any additional lighting

Mr. Rosati - other than the lights on the stanchions there will be no additional lighting

Mr. Worth - any known drainage

Mr. Taylor – do you anticipate having any amplified music outside?

Mr. Karamanos - just a little

Mr. Taylor - no live bands that may impact neighbors?

Mr. Karamanos – No

Mr. Taylor- any street trees

Kristy - not at this time

JW - you did say you would take this opportunity

Mr. Taylor - any outdoor music would comply with local and state noise ordinances

Drainage - weep holes in the bottom of the wall

Most of the outdoor seating - we have seen a four foot wall with some lattice so it doesnt appear so much like a cave - more of an open feeling

Mr..Taylor - outdoor music

Kristy - low music

Chairman - used for family gathering

Kristy - some spring events - but no loud music

Mr. Shapiro - one comment maybe - 6 handicap spots

Mr. Karamanos - the original plan yes

Shapiro - you are reducing that to 6

Kristy - we can make that work

Mr. Taylor - you are exceeding the required parking now so that should be an issue

Mr. Rosati - we can do that absolutely

Mr. LoParo - heater outside

Edwards - what are the hours of operation - no you want to have the whole rest open

Kristy - just the outside

Chairman – currently a family atmosphere and environment- you planning any modifications

Mr. Karamanos - not at this time, people come in and want a party on a nice day but NO loud music.

Mr. LoParo – Are you going to put a heater outside?

Mr. Edwards – Does the building have a sprinkler system (fire)

Mr. Karamanos- in the basement

Mr. Edwards - could this be a change of use later on down the road –because it is more of a family restaurant that we are used to and more something like breakers.

Mr. Karamanos - Keeping it the same style I am not going to change the menu and no one will be able to go to the bar to drink – only drinking at table service only.

Mr. Lippincott – what is the seating capacity?

Mr. Rosati – 7 tables

Steven E. Yost - Mr. Karamonos on your application you are listed as the applicant and also listed as the owner and you certified to that on the application. The board secretary while we were having the meeting tonight brought to my attention that um the checks that were paid are for JDCK Management LLC and also that the plans are certified the Karamanos Family Trust. So my question for is “who are you making this application on behalf of?” This is not a trick question but the reality is if you’re representing a cooperation you can’t make the presentation on your own behalf you have to have an attorney. So how does your deed read?

Mr. Karamanos – the deed you said? My family trust.

Steven E. Yost – And who operates the restaurant?

Mr. Karamanos – JDCK

Steven E. Yost – you're making this application on behalf of whom?

Mr. Karamanos- I am not sure I can answer that question.

Steven E. Yost – I think you have to have council make this presentation – I really do. It doesn't mean that everything has been wasted but it means if you voted on it now it could be defective. I think what we have to ask you to do is come back next month with an attorney and kind of redo what we are doing now and we can ask the board for a vote? I am sorry, I am here to make sure things are done right – you certified to this and it's obvious that the application is made on behalf of your LLC. So ... I suggest to the board chairman that he ask you for your consent to carry this, since we started your application unlike the previous application which we didn't start. We started yours, we would like you to consent to have it carried to the next meeting and if you don't consent and the board has to vote now and I am going to advise the board they can't numb the testimony as present because you weren't represented by council, I am sorry.

Chairman -The question would be do you consent?

Mr. Karamanos – what choice do I have?

Steven E. Yost – No notice required – I am sorry I apologize but really it is the law.

Chairman – that concludes this – at this time I need a motion to open the meeting to the general public. Mr. Shapiro and Mr. LoParo - All in favor (Ayes) all (opposed) none

Daniel Collamer – Yes sir Dan Collamer 24 Bay Parkway, I just want to be on record of making the board aware I am quite certain that the decision that was made tonight was very arbitrary and that there have been many occasions where application shave been heard with as short notice or shorter notice and that I will be doing some research and pursuing the situation.

Steven E. Yost – Mr. Collamer just so we have a clear record to. I know you have served on the board I am sure you will recall there were a lot of complaints during those years about application that were heard on less than 10 days and the board articulated that it wasn't fair to them

Daniel Collamer – regardless of the fact this is a rare exceptions and I feel I have been singled out and I feel it arbitrary and I want that on record. Thank you

Chairman – so noted.

CLOSED TO PUBLIC

Chairman asked for a motion:

Aaron Shapiro made a motion for approval and Donald Lippincott seconded it. Roll Call (Ayes)

All (Opposed) none

