

CORRESPONDENCE:

Letter:

TO: Mr. William Galestok, PP, AICP
Director of Planning

FROM: George A. Curvan, PE
Township Engineer

DATE: July 1, 2013

RE: Site Plan Inspection
Achristavest Pier 6600, LLC
9601 Atlantic Avenue
Block 710.01, Lot 1-12.02

Handouts:

List of Hatch Mott MacDonald voucher dated July 25, 2013.

The New Jersey Planner: May/June 2013 - Vol. 74, No. 3.

Chairman Senico read the agenda for the benefit of the public.

2. Minor subdivision & hardship variance applications for the creation of two (2) newly described lots. Hardship variances needed for lot area, frontage & width, submitted by James Hanson for the location known as Block 525, Lots 73-78, 18 Cedarbrook Road.

Mr. Louis C. Dwyer, Jr., Esq., represented the applicant.

Mr. James Hanson, applicant, and Mr. William Sweeney, Licensed Land Surveyor, were sworn in by Chairman Hanson.

Mr. Dwyer explained the property is 120 x 100 with an existing single family dwelling in deplorable condition.

Mr. Dwyer had marked into evidence 16 photographs of the interior and exterior of the property.

Mr. Sweeney explained 50% of the area is smaller than what is proposed. He explained if

the subdivision was not approved it would be one of the largest lots in the area. He explained a single family dwelling could be placed on each of the lots comfortably.

Mr. Galestok read Bureau of Fire Safety comments dated July 5, 2013 in which they found this application acceptable.

Mr. Galestok explained he didn't have Cape May County Planning Board comments.

Mr. Curvan read Engineer comments dated June 19, 2013.

There was a discussion about the plan not showing parking on-site. Mr. Sweeney explained he can add a note to the plan that two (2) on-site parking spaces will be provided.

This portion of the hearing was opened to the public.

Mr. Gary Lee was sworn in by Chairman Senico.

Mr. Lee explained he is a new resident to the area and is putting an addition onto the dwelling. He explained his property is an 80 x 100 lot. He explained the property in question is in deplorable conditions. He explained his understanding is the allowed building coverage is 30%. He explained he has one comment. Maybe a minimum value of a structure could be established.

Ms. Janet Bull was sworn in by Chairman Senico.

Ms. Bull explained she has a 120-foot lot. She explained at one time the area wasn't crowded. She explained she thinks value to the neighborhood is lost if small lots are approved.

Mr. Vince DiRenzo was sworn in by Chairman Senico.

Mr. DiRenzo explained he is opposed to subdivision. He explained he thinks there are three (3) lots on Cedarbrook Road are undersized.

Ms. Susan Dilks was sworn in by Chairman Senico.

Ms. Dilks explained she opposes this application. She asked what the hardship was when the applicant knowingly purchased the property as a 120 x 100 and now wants to create undersized lots. Mr. Dwyer explained the reasons the Board can approve the application under the C.1 and C.2 criteria. He explained the current house violates all the setbacks except the front yard setback.

This portion of the hearing was closed to the public.

Mr. Dwyer had submitted into evidence a marked up tax map page.

Mr. Hanson explained he printed a spreadsheet of the street and the addresses. He explained it goes from 18 to 22 so it must have been considered at one time another house was going to be constructed.

Mr. Dwyer explained what is proposed would be consistent to the area.

Mr. St. John made a motion to conditionally approve this application. The motion was seconded by Mr. Walker.

VOTE:	Mr. Walker	YES	Mr. McNulty	YES
	Mr. Clark	YES	Mr. St. John	YES
	Mr. Sullivan	YES	Mr. Long	YES
	Chairman Senico	YES		

Motion carried.

A memorializing resolution will be prepared by the Board Solicitor for the Board to review and approve at the next scheduled meeting.

2. Preliminary & final site plan & hardship variance application for a commercial marina, seafood sales & kayak rentals (approval of existing site conditions.) Hardship variances needed for lot area, lot width & frontage, minimum storage, signage, maximum number, area, height and location & front yard setback, submitted by H & H Fisheries, LLC, for the location known as Block 822.03, Lot 7.02, 956A Ocean Drive.

Mr. Louis C. Dwyer, Jr., Esq., represented the applicant.

Mr. Louis Giansante, Esq., represents the applicants in the litigation portion.

Ms. Rachel Hansen, applicant, and Mr. John Halbruner, PE & Licensed Architect, were sworn in by Chairman Senico.

Mr. Frank Corrado, Esq., represented Cape Harbor Enterprises.

Mr. Teitler explained the procedure for tonight's meeting. He explained the last witness would be heard at 10:30 P.M. and the meeting would conclude at 11:00 P.M.

Mr. Dwyer questioned Mr. Halbruner. Mr. Halbruner explained the site is ideally suited for the existing uses on site. He explained there is kayak rentals, seafood take-out, 14 boat slips and three commercial boats. He explained the Hansen's have owned the property for nine years. He explained that each use on the property was in existence when the property was purchased.

Mr. Dwyer explained there was no record of site plan approval for this site at all. This is the reason for this application.

Mr. Halbruner reviewed the existing property conditions. He explained there is a diesel fuel tank for the commercial boat. He explained there are walk-in boxes. He explained there are several buildings on site. He explained the Board previously approved a 12 x 14 food preparation building which they are changing to a food processing and storage building. Ms. Hansen explained the hood and fryer and char-broiler are to be removed and the building would be used for storage only.

Mr. Halbruner explained there are restroom facilities and crab holding tanks on site.

Mr. Halbruner explained there is a load/unload area that is used for the commercial boat in off season only.

Mr. Halbruner explained they are proposing a 10 x 30 pier.

Mr. Halbruner reviewed the site plan with the Board. He explained that the total building coverage for the site is 10%. He explained the Ordinance allows the principal use to have a 40% building coverage and 10% for the accessory coverage. He explained 16 parking spaces are required and 22 parking spaces are provided.

Mr. Halbruner explained there isn't a trash enclosure on site. He explained they are proposing a 6 x 7 fenced trash and recycle enclosure.

Mr. Halbruner explained 20% of the patrons choose to eat the crabs on premises. He explained there is no wait staff or bus service. He explained there are 14 picnic tables. It was asked if utensils were provided? Ms. Hansen explained plastic forks and knives were provided.

Mr. Halbruner explained there are two building mount signs, five free standing signs including a banner sign. He explained two signs that appear on the site plan have been removed.

Mr. Dwyer questioned Ms. Hansen. Ms. Hansen explained there are three commercial fishing boats. She explained the largest being a 27' boat is used for conchs in the spring season and sea bass in the fall. She explained there are two 19' crab boats. She explained there are no commercial fishing activities in the summer. She explained there is a fuel tank, but used for her brother's boat. She explained they do not rent jet-skis, but they do rent kayaks and have guided nature tours. She explained people are not kayaking at dinner time. She explained as far as the guided nature tours, there are two. One is at 8:30 A.M. and the other is 10:30 A.M. She explained once a month there is a full moon tour. She explained that she does not sell kayaks. She explained when she does sell one, it would be off-site or on the Internet. She explained that most deliveries are made at Two Mile and then they truck over what will be needed. She explained there are 14 boat slips. She explained the existing uses do not conflict. She explained the kayak rentals are busy in the morning and the food sales are busy in the afternoon and evenings. She explained the flow of the uses work. She explained there haven't been any accidents in seven years and the cops have never been there. She explained there was two health related incidents and the ambulance did not have any troubles get in and out. She explained the property does not have frontage on Ocean Drive.

Mr. Corrado questioned Ms. Hansen. Ms. Hansen explained they do advertise as a restaurant. She explained they do not sell alcohol. It is BYOB. She explained they do not have a menu, but the food is listed on a board. She explained they do have water and soda and paper products. She explained they will remove four of the picnic tables. She explained there are times when the tables are full. She explained they do not have a parking attendant. She explained if they see patrons park on the other side, they will inform them they have to move.

Mr. Halbruner read the permitted uses allowed for the zone.

Mr. Dwyer asked Mr. Halbruner if all the uses on-site were permitted uses? Mr. Halbruner explained they were. He explained that jobs are created and the NJDEP encourages water related uses as does the Township Master Plan. He explained the site is ideal for what is provided. He reviewed the positive and negative criteria.

Mr. Halbruner went through the Engineer's report.

Ms. Hansen explained hours of operation in the summer are morning until 9:00 P.M., but varies with the season.

Chairman Senico called for a short recess at 8:58 P.M. The meeting was called back to order at 9:11 P.M.

Mr. Corrado had marked into evidence the deed of settlement and plan of settlement agreement. Mr. Corrado questioned Mr. Halbruner about the evidence submitted. Mr. Giansante explained this line of questioning is getting into the area of the case before Superior Court. He explained the Court is the ultimate decision maker regarding the easement. He explained that the Court could rule differently if the Board were to take into consideration this testimony regarding the easement.

Mr. Wayne Mazurek was sworn in by Chairman Senico.

Mr. Dwyer questioned Mr. Mazurek. He explained he was on Township Council when they changed the zoning along Ocean Drive. He explained that Council took into consideration that if condos were developed along Ocean Drive, eventually they would complain and the fishery would be lost. He explained they wanted to protect the fishing industry along Ocean Drive. He explained Council changed the zone along Ocean Drive to allow all the uses discussed tonight and the uses Council had envisioned. He explained that he remembers years ago going to this property eating crabs and renting kayaks. He explained that he wishes these property owners could work together.

Mr. Corrado questioned Mr. Mazurek. He asked Mr. Mazurek if he felt there were too many uses on the H & H Fisheries property? Mr. Mazurek explained again he wishes the property owner could co-exist. He explained that Cape Harbor may find the uses offensive at H & H Fisheries, but someone going to H & H Fisheries for crabs, may find the bands at Cape Harbor offensive.

The Board asked Mr. Mazurek how long ago Council changed the zoning? Mr. Mazurek explained this was his second year as a Council Member.

Mr. Dwyer questioned Ms. Hansen. Ms. Hansen explained there have been times when people have parked on her lot, order crabs then walked around to Cape Harbors bar. She explained that patrons of Cape Harbor have parked on their property if they have a band playing.

Mr. Dwyer asked Ms. Hansen if her site could sustain itself if there was just one use permitted? She explained it could not be sustained with just one use. She explained what they are doing on their property is not impeding Cape Harbors business. She explained she wishes there was a higher fence.

The Board asked Ms. Hansen how many employees they have? Ms. Hansen explained there is approximately 18 to 22 jobs. She explained there are six year round employees with the commercial fishing.

Mr. Corrado asked Ms. Hansen where the employees parked? Ms. Hansen explained they park on Ocean Drive.

Mr. Corrado explained he just wanted to state that no one is looking to shut anyone down.

Mr. David Perry, Fire Official, was sworn in by Chairman Hansen.

Mr. Corrado questioned Mr. Perry. They reviewed Mr. Perry's comment letter dated March 12, 2013. Mr. Corrado asked Mr. Perry if a piece of emergency apparatus would be able to turn around on-site? Mr. Perry explained he didn't believe it could. He explained he didn't believe a piece of emergency apparatus could turn around even if parking area was empty. There was a discussion that it would be hard to fight a fire with some of the structures on this property and the adjacent property, being close together.

Mr. Dwyer questioned Mr. Perry. Mr. Dwyer asked if a 25' wide aisle was adequate for a fire truck? He said that it was, but a truck would not be able to turn around. He explained the truck would also have to back out of the site. Mr. Perry explained a hydrant would help.

The Board asked Mr. Perry if the structures were fire rated if that would help? Mr. Perry explained it would help.

Mr. Fred Ascoli was sworn in by Chairman Senico.

Mr. Ascoli explained he owns the adjacent property which he purchased 1994. He explained the property was very trashy when he purchased. He explained he has cleaned the property and now has a marina, bait and tackle shop, restaurant, deck and deck bar.

Mr. Ascoli explained that the previous owner of H & H Fisheries property sued him. He explained that Mr. Dwyer represented him in that suit. He explained the settlement of that suit.

Mr. Corrado submitted into evidence photographs.

Mr. Ascoli explained there are a lot of small buildings on their property.

Mr. Ascoli explained there are loading and unloading zones on their property.

Mr. Ascoli explained that sometimes their customers park on his property. Sometime they park on his property to unload their kayaks. He explained delivery trucks have parked on his property. He explained there was a school tour and the bus parked on his property.

Mr. Ascoli explained he has a problem with their customers using his bathrooms.

Mr. Ascoli explained the Hansen's have filled along the fence and guardrail and have damaged his fence. He explained this has caused run-off into his property and his shop floor is cracked.

Mr. Ascoli explained he is not looking to have anyone shut down. He just wants them to be held to the same standards he was.

Mr. Corrado was finished questioning Mr. Ascoli. Mr. Dwyer explained that his cross-examination of Mr. Ascoli would probably be quite lengthy and asked the Board, because of the hour, if they would like to continue this matter to a future meeting? The Board explained the meeting would be continued. After some discussion it was determined the application would be continued until the September 19, 2013 meeting.

Mr. Walker made a motion to approve Hatch Mott MacDonald vouchers. The motion was seconded by Mr. McNulty. Motion carried.

Mr. Sullivan made a motion to adjourn at 10:54 P.M. The motion was seconded by Mr. McNulty. Motion carried.

Respectfully submitted,

Lisa A. Schubert,
Recording Secretary

A verbatim recording of said meeting is on file in Township Hall.

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE PUBLIC BODY AT ITS NEXT MEETING. THIS BOARD WILL NOT BE RESPONSIBLE FOR ANY MIS-STATEMENTS, ERRORS OR OMISSIONS OF THESE MINUTES, AND CAUTIONS ANYONE REVIEWING THESE MINUTES TO RELY UPON THEM ONLY AT THEIR OWN RISK.