

EDWARD G. DONOVAN
Mayor

CONSTRUCTION DEPARTMENT

FRANK F. DIROMA
Supervisor of Code Enforcement

THOMAS F. FLARITY
Municipal Administrator

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH

ALBERT "SANDY" RATZ
Construction Official

The Manasquan Planning Board held a Regular meeting on Wednesday, September 4th, 2019 at 7pm in the Council Chambers, 201 E Main Street, Manasquan, NJ. Chairman Neil Hamilton opened the meeting and asked everyone present to please stand and salute the Flag.

ROLL CALL:

Board Members Present:

Mayor Ed Donovan, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Leonard Sullivan, Neil Hamilton, John Burke

Board Members Absent:

Councilman Mangan, Mark Larkin, Barbara Ilaria

Professionals Present:

Al Yodakis – Board Engineer/Planner

George McGill – Board Attorney

Attorney George McGill read the Sunshine Law in its entirety.

Approval of Minutes of July 9, 2019 – Mark Apostolou made a motion to approve, seconded by Robert Young, all in favor none opposed. Neil Hamilton and Leonard Sullivan abstained.

Approval of Minutes of August 6, 2019 – Mark Apostolou made a motion to approve, Seconded by John Muly, all in favor none opposed.

Resolution #25-2019 – Luther, Brian – 376 Perrine Boulevard – George McGill explained that this Resolution is known as a finding of fact noting that no variance was granted as it was determined that the Statute that allows him to raise his house providing that it is no more than the BFE plus 3-feet as amended. Kevin Thompson made a motion to approve, seconded by John Burke, all in favor none opposed. Mayor Donovan abstained.

Leonard Sullivan made a motion to approve the vouchers seconded by Kevin Thompson

Board Members Voting Yes:

Mayor Donovan, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Leonard Sullivan, Neil Hamilton, John Burke

Application #26-2019 – Murphy, Steve – 295 First Avenue – Neil said the office received a letter from Mr. Henderson, attorney for the applicant asking to be carried to the December 3, 2019 regular meeting, he asked to waive the requirement to re-notice and re-publish. The Board granted the application to be carried but stated they must re-notice and re-

publish. Mark Apostolou made a motion to approve to carry but with re-notice and re-publication.

Board Members Voting to approve to carry:

Mayor Donovan, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Leonard Sullivan, Neil Hamilton, John Burke

APPLICATION #20-2019 – RALCO/OCLAR – 139 Union Avenue – Block: 71 – Lot: 102.1 – Zone: O – Kevin Starkey is the attorney representing the applicant. He explained that they were here for this same property in April of this year with a mixed use application. That was denied, we heard you loud and clear and went back to the drawing board and are here tonight with a fully conforming use. We are here with an application for a two-story office building, we are requesting two variances, one for the number of parking spaces and the other for parking in the front as opposed to the rear. We are not seeking retail use, this is office. He had two witnesses to be sworn in, George swore in Ray Carpenter, Engineer/Planner, Neil DuCharme, owner/applicant, and Al Yodakis, Board Engineer/Planner. Mr. Carpenter was the first to testify. He had a Board which was marked as Exhibit A-1, through A-4, this is a copy of what is in the Board members' packets. He said the lot size is 6901-square feet, required is 5000-square feet. Regarding the parking where 11 spaces are required, they are providing 7 spaces. Mr. Starkey asked Ray Carpenter to address Al Yodakis' letter. Ray Carpenter said the square footage of the structure is 3147 square-feet, that's the first and second floor. Outside wall to outside wall. On the ground floor of the structure there is a two-car garage for stacked cars, front to back and there is a little storage area off the side of the parking area and that's where Mr. DuCharme will store his bobcat. The secretary will be parked in the garage as will either him or one of his employees. Ray said it's only 176 square-feet but the stairs are only counted toward the first floor or the second floor but they can't be counted toward both. That would bring the square footage down so you would need a little less than 10 parking spaces. There is a handicapped parking space outside, we also have a space indicated for turning around, that will be a vacant space, to be marked as such. Then there are 4 parking spaces available plus the two in the garage. Greg Love asked about the space in the rear of the building and what is that to be used for. Mr. Carpenter said it's a buffer, nothing will be there. Mr. Love asked when you first pull in off #71 on the left there is kind of a bump out, what is that? Mr. Carpenter said we put the driveway to the north so the driveway lines up with the parking aisle. That will be open grass area. You couldn't use it for a parking space. Mr. Starkey continued to go over with Al's report with Mr. Carpenter. A utility easement is proposed for the water and sewer and Mr. Carpenter said it was filed on the subdivision map. The signage will comply. Regarding the drainage system, Al spoke to Mr. Carpenter and they figured out a way to accommodate the offset of the seasonal high water to the bottom of the recharge system. A concrete trench drain with truck rated castings were suggested by Al and Mr. Carpenter said they will comply. Ray said there is a discrepancy in the dimensions of the depth of the pavement section and the clearance above the recharge system, we will resolve that. Mr. Starkey asked Ray Carpenter to address the fill proposed for the site. Al asked them to explain the need to

raise the site with a retaining wall. It also appears that this creates a low area in the backyard which currently will not drain. Provisions for this area must be made. Mr. Carpenter said by raising the building and the site we have all the runoff from 90% of the lot is going to go out to Route #71. Whereas 100% of the lot used to drain to the back left hand corner of the site. The original site there is a depression back there, he has personally seen 6-inches of pooled water in that area. Once we build the building we will regrade that property line so all the water will shed off the property. Al requested grades, Ray said they will comply. There will be gutters and drains on the building, that water will go into the re-charge system. The overflow will go to #71. Al said if you are not able to demonstrate that, what are we going to do? Ray said he is pretty confident that the water will drain in the direction he is proposing. Al asked if there is any opportunity to put a yard drain back there? Ray said no, it's too low. You are talking about elevation 5 and the top of the curb in the parking lot is elevation 6.13. I've also pointed out that the water table is at elevation 4, so the opportunity to put in a stone pit or something there would not work. That's an existing condition. Al said their design is raising this so all of the impervious coverage that they are taking, they are managing it in a system underneath the driveway but they are collecting all the roof gutters as well and it's all going to be going toward #71. Is that an improvement? Yes, that will be an improvement. Mark Apostolou asked if #71 flows southward toward Brielle, toward the Creek. Al said they are putting in a pretty comprehensive drainage system under the parking lot which he is relatively happy with. It's just that low area. Mark Apostolou said he is just worried about that back neighbor. Ray said this is an improvement. Mr. Starkey said to get back to Al's report, Mark Apostolou said he would like comments on #9 again, we talked about a retaining wall, can you describe that. Mr. Carpenter said it's basically a block wall and the height of the wall is approximately 2 ½ feet above grade and at the lowest point it's 2-feet above grade. Al said what he is doing is raising the building and then in essence creating a wedge above the parking lot to come up to meet the building. Mr. Starkey proceeded with Al's report. Mr. DuCharme will address #11. #12 regards the 6-foot fence that will create a buffer to the two new houses that are going to be built and the existing neighbor behind them. Regarding garbage collection, Mr. DuCharme has an office cleaning service, when they leave at the end of the day they take the office trash with them, they don't generate much garbage. They have provided outside garbage collection, approximately 2 cans, one for each office upstairs. It will be commercial pick-up. The utilities will be underground if possible. The curb and apron details will be provided to Al for review. They acknowledge that they need Highway access from the NJDOT. They will be installing a stop sign and a stop bar at the egress at the site. Mr. Yodakis suggested recessed bulbs be provided for both sides of the parking lot to minimize light impacts. Ray Carpenter said he spoke to Mr. Yodakis and he will provide Ray with details of the lighting he is proposing. Ray doesn't particularly like shoebox lights, he wants to use something more residential looking. Al said they are fixtures where they are now LED bulbs, they will not shine onto adjacent property owners. Neil asked about a timer. Ray said they are both motion sensitive and they can be put on timers. Whichever way the Board wants them to do it they will comply. Ray Carpenter feels that for security purposes he likes motion sensitive

lighting but if the neighbors feel it's a nuisance they could disable the motion detectors. Mr. Starkey said they would put a timer on the lighting. Neil Hamilton said if after the building is constructed and the neighbors have a problem we can deal with it then. They will install fire lane marking after checking with the Fire Department, he is pretty sure it's just a matter of labeling the driveway as a Fire Lane and signing it as such. The turning lane will also be marked no parking. There are no existing trees on the property. If the sidewalk is damaged it will be replaced. All necessary outside agency approvals must be obtained for this project, this may include, but not limited to the following:

- a) Monmouth County Planning Board
- b) Freehold Soil Conservation District
- c) NJDOT – Access Permit

Neil Hamilton said going back to the lighting, are you going to have any sort of signage out there that would possibly be lit as well? Ray Carpenter said again, they haven't made up their mind what signage they will put out there, we would prefer to not have building signage. Mr. Starkey said whatever is allowed they will conform to the Sign Ordinance. Bob Young to Mr. Carpenter said before when you were pointing out where Mr. DuCharme might be putting a Bobcat you were blocking us. Could you show us that site? Ray Carpenter said if you look on A-1, behind the stairs is a low area, there is a 10 X 16 dimension, he had a little Bobcat that will fit there. Bob Young said so inside the garage. Next, Bob Young asked if on the second floor there will be a bathroom as he didn't see one indicated. Mr. Starkey said there will be one. Bob's next question goes back to Mr. Yodakis' letter #3, he is not sure we addressed the second sentence there, regarding types of deliveries and what have you. Mr. Starkey said Mr. DuCharme will address that. John Burke asked if the A/C units will be in the back and he was told yes. Mark Apostolou made a motion to open to the public, seconded by Kevin Thompson, all in favor none opposed.

Audience Members Coming Forward and sworn in by Mr. McGill:

Bruce Hollis – 91 Morris Avenue – He asked Mr. Carpenter about the ponding on the property and where is the location of that. Mr. Carpenter said he noticed it when Mr. DuCharme first purchased the property, he did an assessment with Mr. DuCharme and there was in the back corner of the lot, right opposite of the adjacent parking lot, right on the other side of the property line, there was a little pond maybe 4-5-feet in diameter, and a good 6-inches deep. There was no way for that water to get out, so by re-grading that portion of the lot, the water will now freely flow in a south westerly direction. Mr. Hollis said which is my house. Ray Carpenter said right, correct but all the water that used to flow back there from the front of the lot no longer can flow. Mr. Hollis said he has been there two years and he has not had any water flow off of that lot prior. How high will that grade be relative to the existing grade? Ray Carpenter said that far corner is not changing. He thinks you are not going to be seeing any water. Mr. Hollis said I am not seeing any water right now. Right now my lot is dry in heavy rains. I can tell you in the last 2 ½ years I have been there I have had no problem; I'm concerned that when you start to change those grades that I will have a problem. Ray asked him if he hasn't experienced any water coming on his property right now? Mr. Hollis said if you look at my lot and the lot before

it was subdivided there is almost hump so I don't have a flow coming down, if you start to change the grades on either of the lots and the third lot I'm concerned that I will wind up with water. Mr. Carpenter said we designed the two lots residential the same way we designed this lot where all the water flowing into a recharge system to drain out to #71. Mr. Hollis said so you are not going to take any of the fill that is sitting in that pile and put it onto those two lots? Mr. Carpenter said no, the fill in that corner is probably what will be used to build up the parking lot, not the backyard. Mr. Hollis said, the problem is, I'm at ground level all the way back, my house is an old carriage house. The natural grade from Morris all the way down. Mr. Hamilton said Mr. Carpenter and the Board hears what you are saying, there are Ordinances that state you can't run water from your property onto a neighbor so should there be an issue, we are going to have to get this corrected. We have to rely on the fact of what he is telling you is not going to occur. Mr. Hollis said the dentist has a catch basin on his property. Al Yodakis said that's why he asked about this before, he sees that it is lower, it's an item that concerns him. Next, Mr. Hollis asked about the lighting, what kind will there be in the back. Mr. Carpenter said there is no lighting in the rear of the building, all the lighting is in front of the building. Mr. Hollis is concerned about the parking. Mr. Carpenter said they are small offices. Mr. Hollis said in 800 square-feet you could have five or six people in there comfortably. Mr. Carpenter said it would be in Mr. DuCharme's best interest to have people occupy those offices with low intensity use.

Marilyn Perro – 142 Union Avenue – She said you were putting up a 6-foot fence on the north side of the property. Mr. Carpenter said yes. She asked if it would be extended all the way down to the sidewalk and Mr. Carpenter said you can't do that; you have to step down to 4-feet. You keep saying 90% of the overflow of the water will go onto the highway. Ray said no, I said 90% of the water that used to flow to the rear of the lot will be captured in a re-charge system or drain onto Route #71. She said she lives across the Street and has been in her house and lives two houses north of the Roberts Squan Brook and any large quick rainfall any kind of water flow, the water always runs north and east and comes up in her driveway almost to her front door. You keep saying it's going to flow south; it never flows south. Ray said it will flow east. She said east is toward her. Ray said we are going to reduce the amount of water coming toward you because all that water is going to be captured. The other thing is exactly what types of offices are allowed. Ray said he can't have high use; the way the Ordinance reads he doesn't meet the parking requirement. She is also concerned with the storage of a backhoe on the property. Ray said it's a Bobcat. Mrs. Perro said why does he need it stored there? Does he need it in the morning or late at night? The dentist's lot is always full; he has two offices upstairs also. She would love to see how that backhoe is getting out when the lot is full. She said you said you would try not to have people back out onto the Highway. Ray said they are not going to back out onto the Highway, they will have to figure that out. Mrs. Perro continued to explain about a terrible accident that happened in her front yard. She is against giving variance approval for the parking.

Kevin Comeford – 89 Morris Avenue – He wants to reiterate the drainage, he has lived at 89 Morris since 2001, the Creek is there, that water is coming up if there is a Storm. He

had 6-inches of water from one Storm and the other day 3-inches. His neighbor Bruce Hollis's house was the Carriage House for his house and he is at ground level. Be aware the water comes up and it has to go somewhere and everyone is raising their properties. He is also concerned about the parking. He had a trailer in front of his house on a Friday night with no license plates on it, he had to call the police, they called Neil DuCharme, he had it moved a few hours later, and he appreciates that. Mr. DuCharme said it wasn't his trailer, it was part of the construction crew.

Mark Apostolou made a motion to close the public portion, seconded by Kevin Thompson, all in favor none opposed.

Mr. Starkey called Neil DuCharme to testify next. He is the principal/applicant. He is also the principal who will be doing construction on the site. He proceeded to describe what his intention for the site is. Mr. DuCharme gave a history of his background, he has lived here for about 15 years, his wife has been here for over 30 years. His children attend the School here in Manasquan. His business is Construction, he started RALCO Builders on his own, he has been in business for about 12 years. They do mostly residential but recently have been doing more Commercial work which is really his background. He also owns another business which is the Salty Whale, he partnered up with a couple of other guys, despite what people have said that he likes to knock everything down, he wanted to save that building itself and the history and make it a place that it should be and a place to have fundraisers. His wife's grandmother owned it when it was the Jackson House. He saw this piece of property as an opportunity to take his office which is now on Sea Girt Avenue and make it a little more visible on Highway #71, he thought it would be a no-brainer. That's why he is here, his office is mainly himself, his assistant who is full-time. She is mostly in the office, he is in and out. Clients come in for custom new houses, they are generally there for only an hour or so. He has subs that come by to pick up checks. He wanted to have two small offices upstairs. He doesn't have a show room. His guys that have trucks take them home so there is no parking issue for them. There may be a van parked in the garage overnight. His assistant will use the garage for her car and then the two upstairs will be small offices they want to rent to offset their mortgage. Mr. Starkey then had Mr. DuCharme go through some of the points in Al Yodakis' report. He asked about deliveries, and Mr. DuCharme said the only deliveries they get to the office are UPS or FED EX, we don't have any major trucks coming in to deliver loads of lumber or anything like that, that all gets delivered directly to the jobsites. Next, the question about storage of commercial vehicles, dump trucks, bull dozers, front end loaders, and Mr. DuCharme said no not at any time, the only piece of equipment like Mr. Carpenter said will be a Bobcat which would end up being in the garage in between jobs. It's about 8-foot long by about 5-foot wide. It would take a couple of minutes to move it into the garage and the noise is minimal. Mark Apostolou asked him to stipulate that it would be parked overnight in the garage and not visible and he so did. Next, the question about a bathroom on the second floor that was raised was addressed. Mr. DuCharme said the second floor stairwell will go up to a shared access way area landing at the top of the stairs. Two doors there, two separate offices, each will have their own bathroom. They may have one or two offices broken up in their space. Al said he will need plans for the upstairs. Mr. Starkey said

going back to the garage, there will be two vehicles to be stacked and his assistant will park in one of those and Neil DuCharme will park in the other one, which would leave spaces outside for people who will be visiting the offices. His tenants will not be high intensity. Neil Hamilton said depending on who rents the upstairs assuming that you have a tenant that needs an elevator how would you fit one in there? He would lose space in the garage and also in one of the offices as well. There are no plans for an elevator. Neil Hamilton said the other thing with parking in the garage, the concept is good, but frankly he doesn't believe it will work. He can buy one vehicle going in the garage, he doesn't feel that will work, you may try it in the beginning but if the secretary needs to run an errand or go wherever, you are going to be moving vehicles. He feels the garage is capable of accommodating one vehicle. The other is having two offices upstairs, assuming you have a secretary or a one-man operation, an accountant or an attorney or whatever is up there, that's two plus downstairs is three, four people at most, you have four spots downstairs, five spots at most. So your lot is almost maxed prior to your tenants accommodating any of their clients. I understand where you are coming from, and you have certainly done a fine job in Manasquan, I've seen some of your work, you build an outstanding home. The problem is I don't think this Board can lay stock on the fact that you are always going to be there. You may get there and say you know what, this site doesn't work for me. Then you sell it and someone else is in there. In the scheme of the whole thing I think we've got to protect Manasquan, whether you or someone else is in that site tomorrow. Does it satisfy all the criteria, parking, or whatever for the future? These are things that we have to look at and I just don't think that the parking is going to work. Mr. Starkey said it's important to remember this is a commercial property, not residential and there is a fundamental difference when you have a residential property you need to have a certain amount of parking for one reason. I own a small office and I know that parking is always something people always think of and the reason is simple, you have a business purpose in owning and operating your site, it's different than residential, you can manage it. The owner decides who do you want to lease to, what the intensity of parking is, when a tenant comes in you don't let a tenant come in with a high intensity use. It's significant that this is all office property. Neil said what would you think if you were going to rent space for example, you want to rent there and you may only end up with two parking spots or maybe no spots. Wouldn't that impact whether or not you would want to rent there. Mr. Starkey said it's the business mentality that self regulates the parking. George McGill said if self-regulating always worked we wouldn't need any parking requirements if we just to rely upon that. Mr. Starkey said Mr. Carpenter touched on the fact that the garage will not be used by patrons. That still counts toward the necessary parking requirements. If you took that out and made it a car port the square footage would go down. George said we should address that now, the literal reading of the Ordinance requires 11 spots, there is no exception for gross floor area that's used for parking. Just to establish what the variance is, acknowledging your arguments as to why it works but I think we are at 11 spots. Al said 10.5 to be exact. Mr. Carpenter argued there is 176 square-feet of stairs that you are counting toward both the first floor and the second floor. You can't count both. Al said yes the Ordinance says gross area, he thinks that would be a reasonable interpretation

because yes, if there is an open area above a stair people can't inhabit that space. He agrees with that and that brings it down to 10 spaces. George said at the end of the day we have to figure out if the parking you are providing is adequate. George said we have to look at the quality of those parking spaces, we are not going to be around forever, so we have to look to the future. The next person may not do what Mr. DuCharme is proposing. Even if we say there is 5 outside, 2 inside, we have to look at the nature of the two inside and decide whether or not that is sufficient. Mark Apostolou asked if there is a way to restrict both by Resolution and in our approval that those spots shall be reserved, and shall be no storage, maybe the ones in the garage and can we be very specific and will that be enforceable. Mr. McGill said surely we can condition it and whether it's enforceable or not, if we find out that it is not being used for parking, but Code would have to know about it first of all, then later on in the years he would have to understand that it is no longer used for parking and it was required in a Resolution that's buried someplace. Enforcement is always an issue. Mark asked if the applicant would be willing to put it in a Deed Restriction. Mr. Starkey said conceptually yes if there is wording that would be acceptable. Mark A said the Deed Restriction would run with the land. Mr. Starkey said yes. George McGill said a Deed Restriction would also give the Town the ability to enforce it in record books. George said if they would consent to that, that would be a reasonable condition. Mark Apostolou made a motion to open the meeting to the public, seconded by Kevin Thompson. These comments will be to address Mr. DuCharme's testimony. Again, audience members if not sworn in previously will be sworn in by Mr. McGill.

Audience Members:

Bruce Hollis, who is still under Oath. He questioned the parking, 10 spaces required you have 7 spaces. You are still 3 spaces short, with 3 offices. Neil Hamilton said you have 6 spaces plus 1 ADA. Mr. McGill said and the reason one spot is empty is because if you pull in from #71 you would end up backing out if there were no parking spaces.

James Henry – He explained he came to the meeting a little late from what it sounds like we are adding additional parking spaces basically for a higher amount of office space. Since we are allowing a higher density would the applicant be willing to install some sort of cross walk notification across Route #71 because my kids have significant issues crossing every single day. Since we are giving them a higher yield on their investment I want to know whether or not the applicant will be willing to work with the DOT to install a crosswalk or some sort of flashing sign on Route #71 to notify there is a crosswalk there. George McGill said we are not allowed to do a quid pro quo type tradeoff if you have higher density. You can require all site improvements that are directly a result of the development. I'm not so sure that we can say that this development actually results in the need for a traffic light. I would say that that is not something that we could require. Nor could we accept it as a quid pro quo for granting the higher density. I don't want to get into that. There has been no testimony what the extent of traffic will be, but I wouldn't think that it would be to such a degree that it would require the implantation of traffic devices. That's really an issue you have to bring up to the Governing Body or to the DOT. Mr. Henry asked if there is any outdoor storage behind the building and the answer was no. He asked if there would be a conditional approval stating there would be no outdoor storage permitted behind the

building and there is no outdoor patio for the office or anything like that. Mr. Starkey said we won't violate the setback. Mr. Henry then asked if there is any outdoor lighting behind the building? Mark Apostolou said no, that's all been testified to. Mr. Henry asked for a condition to that as well, so that would be enforceable from a Zoning perspective. Neil Hamilton said that would fall under light spillage and they already testified there would be no lighting back there. Mark Apostolou made a motion to close the public portion, seconded by Bob Young, all in favor none opposed. Mr. Starkey did not have any final comments. Kevin Thompson made a motion to approve the application as seen, seconded by John Burke.

Board Members Voting Yes:

Mayor Donovan, John Muly, Greg Love, Mark Apostolou (subject to AI's review and making sure all the flooding is addressed along with the Deed Restriction), Kevin Thompson, John Burke

Board Members Voting No:

Robert Young, Leonard Sullivan, Neil Hamilton

Neil told the Board members to hold onto the Murphy application.


The Board members discussed issues that will be addressed as to changes in Ordinances to address issues that have come up in the past few months. AI will look into this.

Mayor Donovan made a motion to cancel the Special meeting of September 17, seconded by Robert Young, all in favor none opposed.

Kevin Thompson made a motion to close the meeting, seconded by Mark Apostolou, all in favor none opposed.

Meeting adjourned at 8:47pm

Respectfully submitted,



Mary C. Salerno

Planning Board Secretary