

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of December 17, 2015

Conference Room 129
Department of Community Affairs
101 South Broad Street
Trenton, New Jersey

ATTENDANCE

Board Members:

Joseph E. Doyle, Chair
Valerie Hrabal
J. Timothy Kernan
Elizabeth McKenzie
Thomas Olenik
Edward M. Smith
Janice Talley

Valentina DiPippo, Deputy Attorney General

DCA Staff:

Amy Fenwick Frank
John Lago

Guests:

Carol Livingstone	
Kevin Chambers	
Jack Bredin	
Paul Goldfinger, MD	
Sean Areia	Neptune Township
Vito Gadaleta	Neptune Township
Susan Weber	Department of Transportation

CALL TO ORDER

Joseph Doyle, Chair of the Site Improvement Advisory Board, called the meeting to order at 10:05 a.m.

OPEN PUBLIC MEETINGS ACT

Chairman Doyle announced that, in accordance with the Open Public Meetings Act (P.L. 1975, chapter 231), notice of the time, date, and place of this meeting was given to

the Secretary of State of New Jersey, The Star-Ledger of Newark, The Asbury Park Press, The Press of Atlantic City, and The Courier-Post of Camden.

ROLL CALL

The roll was called and attendance was duly noted for the record.

APPROVAL OF MINUTES

Chairman Doyle asked whether there were any corrections to the minutes of the meeting of June 18, 2015. There were none. A motion to approve the minutes was made by Ms. Talley and seconded by Mr. Kernan. All were in favor.

OLD BUSINESS

A. Application for Special Area Parking Standard for Ocean Grove, Neptune Township, Monmouth County

Vito Gadaleta, Business Administrator for the Township of Neptune, indicated that the municipal attorney had been called into court and requested a postponement of consideration of the application. Chairman Doyle explained that there is no mechanism for postponement of consideration and said that he would entertain a motion to dismiss without prejudice the matter of the Neptune Township special area standard for parking in Ocean Grove. Ms. McKenzie made a motion to dismiss this matter without prejudice, which was seconded by Ms. Hrabal. The Chairman called for a roll call vote. All were in favor.

It was pointed out, for the record, that the meeting that was to have taken place today (December 17) was not a hearing. The hearing comes later in the process of consideration of a special area standard. What had been scheduled to take place was a meeting of the streets and parking standards committee to consider the special area application. The committee would then make a recommendation to the Board. The hearing before the Board would follow that.

Residents of Ocean Grove in attendance at the meeting asked whether they would be allowed to make comments. Chairman Doyle responded that residents would be invited to speak during the public comment portion of the Board meeting. The Chairman noted that any information provided to the streets and parking committee or to the Board of a fact finding nature could be filed for future consideration of an application. In response to a request for clarification, it was noted that a future application could be the same as the application most recently submitted by Neptune Township or different from that application. It would be a new application. The residents also asked whether there is a requirement for the municipal governing body to have public hearings on the application. It was explained that the regulations for special area standards require a resolution of the municipal governing body. In this case, a completely new application would be required and all of the steps, as prescribed by the rules, must be followed.

Department staff will send those who supply their e-mail addresses a copy of the relevant portion of the regulations.

NEW BUSINESS

A. Issues with corrugated polyethylene pipe, Monroe Township, Gloucester County

Concern had been expressed over the failure of corrugated plastic piping. Mr. Kernan submitted materials and a video of the interior of plastic pipe that had failed. He also made a correction for the record; the pipe in question is polyethylene pipe, not polypropylene. Staff viewed the film, but did not yet reach out to the manufacturer or to the municipality. Chairman Doyle asked whether failure is a widespread phenomenon. Ms. Hrabal pointed out that this was well researched and discussed at the time of adoption of the rules allowing these pipe materials. She added that State agencies, including the Department of Transportation and the NJ Turnpike Authority, allow the use of polyethylene pipe and she is not aware of any problems. Manufacturers have very specific standards for the installation of this pipe. There are bedding requirements based on the size of the pipe, etc.

It was decided that the Board should continue to monitor this issue and review any information received on pipe failure to determine whether there is a problem with the pipe material or failure is caused by improper installation.

B. Exception notices: ways to promote municipal and developer responses

Chairman Doyle informed the Board that he is working on a piece on this subject for the League (of Municipalities) magazine. He said he suspects that the Board is not receiving notices of all of the *de minimis* exceptions or agreements to exceed granted by reviewers. Ms. McKenzie suggested that a clarification be issued stating whose responsibility it is to inform the Board. Chairman Doyle responded that this is the purpose of the article for the League magazine and suggested that a regulatory change be considered as a permanent reminder. Ms. Hrabal added that the problem is broader than towns not sending notifications. They don't understand the difference between *de minimis* exceptions, agreements to exceed and waivers. And they don't understand that the Board has no role in approving *de minimis* exceptions or agreements to exceed.

The Chairman indicated that he would like to establish a new committee to review the language and to see whether the rules should be clarified or simplified. Ms. McKenzie, Ms. Hrabal and Ms. Talley were appointed to the committee; Ms. Talley will serve as chair.

Discussion of the need to provide notification to the Board continued. Ms. McKenzie said that the duty to notify the Board should be part of every resolution of approval.

Ms. Hrabal recalled that a letter had been sent at some point in the past and asked whether a reminder should be sent annually. Mr. Kiernan suggested an end of the year report. Ms. McKenzie stated that the applicant should just be required to report. Ms. Talley said that a copy of the resolution of approval should suffice; the resolution should have the necessary details in it. These could be submitted via e-mail.

There was also a brief discussion about agreements to exceed. In particular, Board members expressed concern with the conditions imposed by fire companies for cul-de-sacs. Ms. Hrabal indicated that the Board should look at the relevant NFPA standard.

PUBLIC COMMENTS

Chairman Doyle invited members of the public to offer comments. With regard to the special area standard application from Neptune Township, the Chairman stated that the Board would not take comments on the application itself as it is no longer before the Board. However, the Board would accept any information that would aid the Board in its understanding of the issues for consideration of any future application.

Mr. Jack Braden, a resident of Ocean Grove, asked whether the Board's dismissal of the application without prejudice meant that the Township has to come back. In response, Ms. McKenzie pointed out that the Township does not have to come back because there is no requirement for the Township to request a Special Area Standard. Chairman Doyle added that the Board is not an enforcing Board.

Mr. Braden indicated that from 1869 until 1980 Ocean Grove acted as its own municipality. The lots were originally designed for tents for camp meetings. Then people started putting cottages on their lots. Through a court decision in 1980, Ocean Grove became part of Neptune Township. He pointed out that 50 x 100 ft lots are twice the size of the lots in Ocean Grove. Ocean Grove developed very differently from other towns in New Jersey. It featured narrow streets and small lots of 30 x 60 ft. Development was to be limited to single-family dwellings, but the Township has been approving multi-family dwellings. Mr. Braden stated that a special area standard is warranted, but development should be limited to detached, single-family dwellings. Allowing multi-family dwellings with no off-street parking is nonsense. Mr. Braden indicated that he found out about the special area standard application through a local blog even though he goes to all of the municipality's meetings.

Dr. Paul Goldfinger, a resident of Ocean Grove, informed the Board that he is "Blogfinger" and that his blog has had 2.5 million visitors since 2009. He characterized Ocean Grove as culturally separate from Neptune Township. And he said that, for years, Neptune has been ignoring the RSIS parking standards in Ocean Grove. The Township has allowed "big box condos" that threaten historic designation of Ocean Grove. Dr. Goldfinger concluded by saying this is the third time Neptune's special area standard application for Ocean Grove was dismissed without prejudice. This is disrespectful of the Board and of the residents.

In response to public comments about a failure to follow the RSIS or municipal zoning ordinances, Chairman Doyle reiterated that the Board is not an enforcing body. In the case of any standard that is violated, residents must bring the lack of compliance forward to the municipal governing body or to the court system. Several Board members echoed the fact that the Board has no role in enforcement.

Mr. Kevin Chambers, a resident of Ocean Grove, asked about notification, and specifically, whether a municipality or a developer should be notifying the Board. He used the example of a developer who wanted to build a four-story structure where only two stories are allowed without providing parking. The parking requirement was to be addressed through notice to the Board. He was unsure as to whether the developer ever filed any notice with the Board. He expressed concern with compliance with the law. He also questioned the ethics of the local officials.

Chairman Doyle and Ms. McKenzie responded by explaining that enforcement is a local issue. Towns have the ability to reduce the parking required for a specific project. There is flexibility built into the parking requirements in the rules. Notice is provided to the Board when a *de minimis* exception or agreement to exceed has been approved to enable the Board to continue to review the rules, and to make revisions, when necessary. Chairman Doyle added that any evidence of corruption should be reported to the proper agencies.

Ms. Carol Livingstone, a resident of Ocean Grove, pointed out that the decisions made affect the quality of life of the people who love Ocean Grove and have lived there for many years. On Friday afternoons, she takes Uber to pick up her grandchildren because she cannot find parking when she returns. And she tells friends who are visiting to park in Asbury Park and walk over to Ocean Grove. She stated that Ocean Grove is becoming unlivable because of the number of cars.

After Ms. Livingstone addressed the Board, the Board moved to close the public comment portion of the meeting.

BOARD MEMBER COMMENTS

Chairman Doyle noted that, at the next meeting, staff from the Department of Agriculture will make a presentation to the Board on the revised soil compaction standards. It was noted that this revised version is ready to go to the *New Jersey Register* as a proposal for public comment.

Ms. Hrabal informed the Board that the biggest change is additives (the addition of organic matter) to make the soil less compact. In revising the draft, the Department of Agriculture had two groups: one on cost and one on benefit. The group looking at benefit never came up with a benefit that could be related to the cost.

Chairman Doyle stated that, if the revised version is not substantially improved from what the Board had reviewed before, then the Board would again submit comments in

opposition to the proposed rule. He asked that the Board be kept informed as this advances. The Board may not need to have a formal meeting to discuss this; comments may be done via e-mail.

There were no further comments from Board members.

ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 11:03 a.m.

Respectfully submitted,

Amy Fenwick Frank
Secretary to the Board