



MEETING: CAUCUS 7:00PM

MEMBERS
PRESENT: Ed DiFiglia
John Duthie
David Fisher
Jeffrey Weinstein
Jemal Beale
Eric Menell
David Bodnovich
Chris Carmanica

MEMBERS
ABSENT: Joseph DiBenedetto
Estelle Klose
Jack Ades

OTHERS
PRESENT: Marc Leckstein
Jim Higgins
Bennet Matlack
Amy Stewart

Board Attorney
Board Planner
Board Engineer
Board Secretary
Recording Secretary

MEETING: TIME: 7:30PM

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SALUTE THE FLAG

CHAIRMAN'S STATEMENT

Chairman Joseph DiBenedetto announced that the notice requirements for the Open Public Meetings Law have been satisfied, a copy of the notice having been sent to the Asbury Park Press and the Coaster, and filed in the Office of the Township Clerk on March 20, 2023.



EMERGENCY NOTICE

There is an emergency exit through the courtroom doors and two exits at the rear of the room.

NO SMOKING

BOARD POLICY

No new cases will be started after 10:30PM, and no new testimony taken after 11:00PM

NOTICE

All meetings will be video and audio taped and shown on the Township of Ocean's Community Cable Channel, Channel 22 on Verizon FIOS, and Channel 77 on Cablevision. All cell phones must be turned off, or if you need to make a call, please make your call outside of the meeting room.

RESOLUTION MEMORIALIZATION

1. **Paul & Marjorie Edelson**

Block 25.24 Lot 4
209 Pinecrest Road
Oakhurst
Minor Subdivision

MOVED: Duthie SECOND: DiFiglia
IN FAVOR: DiFiglia, Duthie, Fisher,
Weinstein, Menell, Bodnovich
Carmanica

OPPOSE: None

ABSENT: DiBenedetto, Ades, Klose

INELIGIBLE: DiBenedetto & Beale

2. **Idan Chores**

Block 4 Lot 3
44 Whale Pond Road
Ocean
One Year Extension for
Subdivision Approval

MOVED: Duthie SECOND: DiFiglia
IN FAVOR: DiFiglia, Duthie, Fisher,
Weinstein, Menell, Bodnovich
Carmanica

OPPOSED: None

ABSENT: DiBenedetto, Ades, Klose

INELIGIBLE: DiBenedetto & Beale

CARRIED CASES

1. **Township of Ocean**

Block 219 Lot 19
1515 Logan Road
Ocean
Zone R-4

This is an application to subdivide a 127,501 SF tract into 7 conforming lots, 6 buildable, and one for open space and stormwater basin

Attorney for Applicant: Mr. Marty J. Arbus, Esq.

Marty Arbus, the Township Attorney, begins the meeting by advising the Board that this is a Township application, and, as the Township Attorney, he will be their representation in this matter. Before the Board Professionals begin summarizing their reports, Mr. Higgins states that, as the Township Planner, he has been disqualified from this application. In his place, Maryanne Bucci-Carter, from CME, will be the stand-in Board Planner for the purpose of this application.



Mr. Matlack starts by summarizing both his report, as well as the report written by Ms. Bucci-Carter, who is standing in for Mr. Higgins due to a conflict of interest. The Applicant is seeking to demolish and remove the existing improvements located on 1515 Logan Road and subdivide it into seven (7) lots. Six (6) of the lots will be developed with single-family homes, and the seventh lot will be kept as open space and a stormwater basin. The property is surrounded by residential and commercial properties. For the most part, this will be a conforming subdivision, as there are no variances being requested at this time outside of the subdivision. He will leave it up to the Applicant to address what has been written in his report during their testimony, and will answer any supplemental questions once they have finished.

Mr. Arbus confirms that this is a fully conforming application and that no additional variances are being requested. He reiterates that they are looking to subdivide the property into seven lots, one of which will be used for open space and a drainage basin. He mentions that there have been several issues with this property in the past, but this plan will be a tremendous resolve and will be in conformance with what is in the neighborhood right now. Sam Avakian has been retained by the Township of Ocean as representation on behalf of Leon S. Avakian, Inc., the current Township Engineer. He advises the Board that the Applicant is seeking Preliminary & Major Subdivision Approval for the 2.93-acre property located at 1515 Logan Road. In order to perfect the subdivision, the 18,500 SF building, along with impervious area and some street trees, will have to be demolished. To the west and south of the lot are wetlands, which have been reflected on the subdivision plan. Addressing Mr. Matlack's report, there will be no accessory structures on any of the lots, as the single-family dwellings will all have attached garages. As for the utilities, grading, and drainage, the lots will have public utilities, all of which will be underground. This is also something that was mentioned in Mr. Matlack's report. As for the landscaping, while there is a natural buffer, the Applicant will be adding buffer trees along the North, and street trees along Logan Road. Building and perimeter landscaping has been requested, and can be provided, however, the Applicant prefers to not have any landscaping in between the lots. Mr. Avakian advises the Board that the Applicant is in full agreement with all that has been recommended by the Board Professionals and will comply with what has been requested in Mr. Matlack's report dated February 14, 2023.

With no more testimony from the Applicant, the meeting is opened to the Board and the Public. Mr. DiFiglia is the first to speak. He has concerns regarding the wetland delineations, as the area is known to flood regularly after heavy rain fall. He asks Mr. Avakian if he is at all worried with how close the Southern lots are to the water course. Mr. Matlack quickly adds that, according to the plans, the proposed houses will be outside of the flood hazard areas, which is something he looked into during his review. He also notes that the Applicant has contacted the DEP regarding this matter. Mr. Avakian informs the Board that due to the reduction in impervious area, the basin is able to hold and maintain the stormwater, while also treating the water quality. The swales then lead to a culvert, which runs under Park Blvd., down to the pond, eventually leading out into Deal Lake. According to Mr. DiFiglia, the culvert floods and ultimately blocks traffic on Logan Rd., which he is surprised was not mentioned in the traffic report. He would like to know how the Applicant plans to prevent this, as it is such



a significant problem during heavy rain storms. Mr. Avakian explains that not only was the impervious area reduced by 7/10 of an acre, but they opened green space, which allows permeability into the ground naturally. The grading was designed in a way that will cause the water to run off into the road, and then be sent back, where it will be caught by the basin. The purpose of the basin is to catch, and hold, the water before it is released into the swales. He also adds that the grading will not add any detrimental impact to the culvert, which will be maintained by either an HOA or DPW.

With no more questions from the Board, the meeting is opened to the Public. Roy Larsen is the first, and only, resident to speak, as he lives next door to the property at 1517 Logan Road and has a few concerns. First, he would like to mention that in order to prevent any flooding onto his property, as well as the new lots that will be created, it is very important that the Township maintain the creek that is behind the subject property. It must be cleaned on a regular basis in order to prevent it from bogging up with leaves, brush, mud, etc. He feels that the best way to alleviate future flooding issues is to keep the creek as clean as possible. His next question involves his property line. Once the fencing and landscaping is removed, how will he know where his property line is located. While Mr. Matlack assures him that the project will not encroach onto his property, after much deliberation, Mr. Avakian agrees to stake his property so that he knows where 1515 Logan Road ends, and 1517 Logan Road begins. Mr. Avakian also mentions that while their plan is to stay away from removing any trees and vegetation that are mature, anything hindering the development will be removed.

With no more questions from the Board and/or the Public, Mr. Weinstein makes a motion to close the public section and approve the Application, which was seconded by Mr. DiFiglia. All are in favor.

NEW CASES

1. **West Park 35 Developers LLC**
Block 3 Lots 13-15 & 16.02
2105-2107 NJSH 35 & 777 WPA
Oakhurst
Zone C-3 O-1/80

The Applicant proposes to demolish the current vacant restaurant and construct a 4,694SF new restaurant, plus additional site improvements including the parking areas.

Attorney for the Applicant: Jennifer S. Krimko, Esq.

Ms. Krimko, a long-time resident of Ocean Township, has seen several restaurants move into this location, all of which have been unsuccessful due to inaccessibility. This application will give the Applicant, Outback Steakhouse, a chance at survival, simply by having direct access to West Park Avenue. The Applicant will be connecting the two adjacent properties, demolishing the current restaurant, which is vacant, and constructing a new, 4,694 SF restaurant in its place. There will be additional site improvements, including the parking areas. By connecting the two sites, patrons can enter, and exit, the restaurant directly through West Park Avenue, rather than having to go up and down Route 35 to get to the jug-handle.



The Board Professionals are asked to discuss their reports, beginning with Mr. Higgins, who begins his summarization. This application consists of two properties, both of which are in different zones. The first site is located within the 'C-3' Zone and is home to a commercial building, made up of a furniture store, medical office, and the existing vacant restaurant. The second site is located within the 'C-2' Zone and is occupied by a bank. The existing, and proposed, uses are permitted, and conforming, in both the C-2, and C-3 Zones. The restaurant site only has access to Route 35 Northbound, while the bank site has access only to West Park Avenue via John Huss Lane. The Applicant will need a variance for minimum front yard set-back, as well as maximum lot coverage. The ordinance permits 27% of buildable lot area, while the proposed building will have a lot coverage of 27.9%. Additionally, a variance for signage will also be needed, as the ordinance limits the number of free-standing signs to one per street frontage, and limits the area of a freestanding sign to 10% of the area of the face of the wall on which it is located, or 150 SF, whichever is less. The Applicant has requested three signs on the North side of the building, one on the West side, and one on the South side. On the North side will be a 60.7 SF 'Outback Steakhouse' sign, a mural forming the outline of Australia that is 137.81 SF in size, and a 3.8 SF directional/informational sign, which leads customers to the take-out area. The sign on the West side, which also reads 'Outback Steakhouse', is in conformance, as is both the 'Outback Steakhouse' sign on the South side of the restaurant, and the mural. Mr. Higgins states that he has no significant concerns with the proposed signage. While the murals are considered signs, they add a decorative element to the building and will not add to sign clutter.

Moving on, variances will also be needed for the landscaped islands and parking space width, as well as the drive aisle width. The site modifications being proposed call for two new landscaped islands where the properties will be connected. Strict compliance could result in the loss of 1-2 parking spaces. As per the ordinance, each parking space is to be 10' wide, while some of the spaces that have been proposed are only 9' wide, which is consistent with the existing spaces in this lot. This includes the 11 new spaces that have been proposed between the two sites. Strict compliance could result in the loss of 1 parking space, or one tree, in the bank parking lot. Reducing the width of the walkways could reduce this nonconformity, however, Mr. Higgins is not overly concerned with the width, as wider walkways allow ADA access to the site. As far as the landscaping is concerned, Mr. Higgins feels as though what currently exists is tired, old, and in need of updating. A Landscape Plan will be needed, as well as a Tree Location & Preservation Plan, both of which will be subject to his review and approval. He will be working alongside the Environmental Commission to make sure both are in compliance. Mr. Higgins' only concern is the number of parking spaces. As of right now, with the present uses, the site is in conformance. However, if the businesses were to change to something with a higher parking requirement, a variance will be needed. If the Applicant can provide a cross-easement, allowing the two sites to function as one, it will satisfy the parking requirement regardless of the use. As of right now, Mr. Higgins does not have an issue with the parking.



Before Ms. Krimko introduces her first witness, she mentions that the Applicant has had the opportunity to speak with Mr. Higgins. A 'Cross Access and Parking Easement Agreement' will be developed to protect the property in the event a new tenant enter the premises with a higher parking requirement than the previous business. Ms. Krimko states that this agreement can be a condition of approval, which will be subject to the review and approval of the Board Attorney, Mr. Leckstein.

The Board Engineer, Mr. Matlack, is next to share his report. While he does not have many concerns, he does mention that some of the parking spaces next to the furniture store are shorter than they should be, which has been noted in his report. Additionally, the Applicant is proposing to designate three parking spaces as charging stations for electric vehicles, when there should be four. As for the stormwater, he has requested additional testimony on the existing basin, specifically the functionality of the basin and whether there will be any improvements. Next, he mentions that there is some light spillage onto the property to the North, however, because the property has mature trees that can block and/or soak up the spillage, he is not overly concerned. There is a tree that is located near the parking lot of the bank that was mentioned by Mr. Higgins, as well as the Environmental Commission. He would like the Applicant to provide testimony on what will be done to protect this tree, and whether any parking spaces will have to be removed in order to do so. Lastly, there is a stormwater easement between the two properties, as well as a man hole where they are putting the access between the two parking lots. Mr. Matlack is requesting testimony on how they are going to protect the man hole and whether or not that will affect the easement.

Ms. Krimko begins by advising the Board that the Applicant will be adding additional landscaping to the site, subject to the review and approval of Mr. Higgins. They will not be removing any trees, contrary to the report written by the Environmental Commission, which said that trees will have to be removed to construct the basin. She explains that there may have been some confusion, as the basin already exists, therefore, no trees have to be removed, nor will any changes be made. All of the trees in the area of the basin will remain. As for the tree that has been mentioned by both Mr. Higgins, and Mr. Matlack, she would like to be as upfront as possible because anything can happen during construction. The contractor will do all he can to protect the tree and is planning to stay outside of its drop area, however, in the event that something does happen, she would like to stipulate now that the tree will be replaced with several trees of equivalent caliper throughout the site, subject to the review and approval of Mr. Higgins.

Ms. Krimko introduces the Applicant's Engineer, Matthew Sharo, who begins his testimony by showing an aerial map of the site and summarizing the application. Ms. Krimko asks that he talk about any potential change in grade, and whether it will be two feet or more. He states that it is going to be extremely close, as there is a two-foot drop between the two sites. As of right now, it is looking as though the change in grade will be 1.9 ft., however, this may end up changing as the project unfolds. The variance has been requested so that the property has the appropriate slope in the driveway between the two lots, which will ensure that the change in grade does not have a negative impact on the drainage. Mr. Sharo adds that the change in grade is very



minimal, to which Mr. Higgins agrees, saying that it is negligible. The variance is being requested in the event the change in grade goes an inch in the wrong direction.

Next, Mr. Sharo discusses the existing conditions of the property closest to the jug-handle. Currently, this area is being used to house all of the refrigerator equipment, AC units, condensers, etc., all of which are sitting very close to the property line. The restaurant will be located at the top of the jug-handle, and will be set back 16ft from the roadway. All of the equipment will be removed, and landscaping will be added in its place. Mr. Sharo then goes on to give a brief description of the application. Overall, the Applicant is looking to demolish the existing restaurant, which is 5,100 SF, and replace it with an Outback Steakhouse, which will be 4,963. Additionally, a cross-access will connect the two sites. The access points to Route 35 and John Huss Lane will remain the same. The only changes being made are the reduction in the size of the building, the creation of the cross-access easement, and the addition of seven new parking spaces in the bank parking lot. Altogether, there will be 92 parking spaces located in the restaurant lot, and 41 parking spaces located in the bank lot. As for the electric vehicle charging stations mentioned by Mr. Matlack, a fourth will be added to meet the statute. As for the smaller parking spaces, the stalls are located next to the furniture store's loading zone and are not in close proximity to any entrances. Typically, these spaces are used for employee parking. The new spaces that have been proposed along the front of the restaurant, as well as the ones at the cross access, will be the required 9x18. There will be an 8ft high enclosure to screen the dumpsters and other restaurant equipment. The Applicant is proposing to screen the enclosure by planting shrubs between the sidewalk and property line.

The Board voices their concern over the parking lot being used as a cut through in order to avoid traffic on the jug-handle, and ask Mr. Sharo if he has considered installing speed bumps as a way to deter this from happening. Mr. Weinstein explains that the people using the lot as a cut through will be doing so at a faster speed because they will not be looking for parking spaces. Their intention is to drive through the lot as fast as possible in order to avoid traffic on the main roads. Ms. Krimko reminds the Board that the Traffic Engineer will be providing his testimony once Mr. Sharo is finished. She also adds that there is no straight path through the parking lot. There are several twists and turns which will force the driver to go at a slower rate of speed.

Moving on, Mr. Sharo states that the Applicant will comply with Mr. Matlack's concerns regarding light spillage. They will adjust the lighting to eliminate the spillage onto the northern property line and the jug-handle. They will also reduce the height of the light pole from 25ft to the required 24ft. Additionally, they will be adding trees to the open spot at the edge of the jug-handle, in between the furniture store, to add another landscape buffer and make the site more aesthetically pleasing. While the Landscape Plan has not yet submitted to Mr. Higgins for review, it has been agreed that one will be submitted, subject to his review and approval. The trees will be planted in a way that will increase the tree canopy but will not block the view of the restaurant and retail stores. The Applicant intends to preserve all of the trees on site, which Mr. Sharo feels is feasible. There are a couple of trees that are close to where the work will take place, but they are mature trees with a good root system, so he does not feel there will be any issues. As for the stormwater, while there will be a minimal increase in



impervious coverage, it will function as it currently does. The existing basin will be cleaned up by the Applicant before the work begins. To wrap up his testimony, Mr. Sharo feels that the Outback Steakhouse will be an aesthetic enhancement to what currently exists. He feels that the proposed landscaping and the removal of the equipment will improve the site's appearance.

With no more questions for Mr. Sharo, the next witness to provide his testimony is the Traffic Engineer, Justin Taylor. Mr. Taylor is a licensed Engineer and has been recognized as an expert by the NJDOT, The Courts, and various Board throughout the State of New Jersey. Mr. Taylor begins by addressing the one question that he has heard several times throughout the meeting, which is the concern over the parking lot being used as a cut through. He acknowledges the fact that when a connection between two streets, or two parking lots is made, there is always the possibility that it will be used as a cut through. He goes on to explain that the design of the parking lot will discourage drivers from doing so, as there are multiple turns that must be made and very little, if any at all, straight roadway. Mr. Taylor does agree that a stop sign is necessary, as well as a stop bar at the new cross access point. He feels that vehicles traveling through the bank should come to a stop in order to allow the free flow of traffic, which tends to slow people down. He does not believe a speed bump is necessary, as there is only 200ft of straight roadway, which is not enough for a vehicle to reach a speed that exceeds 20 MPH.

Mr. Fisher expresses his concern, stating that due to the increased traffic on West Park Avenue, and the summer congestion, he feels that the parking lot will be used as a cut through to get to the parkway and/or Rt. 35. Mr. Taylor suggests granting Title 39, which will allow the Police Department access to the site in order to ticket people for the illegal maneuver of using the site as a cut through. He is confident that if one or two people are given a ticket, it will deter residents from using the site as anything other than a parking lot. Mr. Taylor explains that speed bumps are not often used today, as they can not only cause major damage to the undercarriage of a vehicle, but can also be a nightmare in the winter when the lot has to be plowed. They can also interfere with emergency access. He does say that it is possible to install speed humps that are 12-14 feet long, however, he is unsure as to whether or not they will fit. While there are not many options in terms of location, he will speak with Mr. Sharo to see where they will be the most effective. The ultimate goal is to limit the straight path, which will prevent drivers from gaining enough momentum to reach speeds exceeding 35MPH. Safety is the main concern. Mr. Matlack agrees and is willing to work with the Applicant to come up with ways to provide additional protection.

In addition to the cut through, the Board is also concerned with the traffic on West Park Avenue. Mr. Duthie asks if there is a way to restrict drivers from making a left-hand turn from West Park Avenue into the site. Mr. Higgins informs the Board that this is something he has already looked in to, however, he feels that restricting the left-hand turn will create more of an issue with the site being used as a cut-through. He also adds that he is unsure as to whether or not the left-hand turn can be legally restricted. According to Mr. Matlack, because West Park Avenue is a County road, the Applicant was required to submit an application to the County for review. The County advised that there is currently a plan to widen West Park Avenue and make additional lanes, which will hopefully address some, if not all, of the issues being discussed.



With no more questions from the Board or the Public, the meeting is closed. Mr. Duthie makes a motion for a positive resolution, which Mr. DiFiglia seconds. All are in favor.

The meeting ends at 9:08 PM.