

CAUCUS SESSION: 7:00 P.M. Council Chambers
Deal and Monmouth Roads, Oakhurst

DISCUSSION: **Oakhurst Country Day Estates, LLC**
Block 25.15, Lots 37, 38, 42, 44, 45
Requested Zoning Ordinance Amendment

Planning Administrator Marianne Wilensky had sent the Board Members a draft of a memo to Township Council addressing their concerns regarding the proposed zoning ordinance amendment for Oakhurst Country Day Estates. Several of the Board Members had added comments to the memo. She will incorporate all comments into the memo and send it back to the Board Members for review before forwarding it to Township Council.

DISCUSSION: **Seaview Square Subdivision Application:** The Board Members instructed Planning Administrator Marianne Wilensky to notify the applicant that they must proceed at the June 28, 2010, meeting or the application will be dismissed without prejudice because the last time they had a hearing was February of 2008. They will be able to reapply when they are ready to move forward.

REGULAR MEETING: 7:30 P.M. Public Meeting Room
Deal and Monmouth Roads, Oakhurst

MEMBERS PRESENT:	Fred Brody, Alternate I William Garofalo Warren Goode, Vice Chair Estelle Klose Stephen Levy, Alternate II Thomas Means, Chair Christopher Healy George Sariosis, arr. 8:40 P.M. John Verrilli	MEMBERS ABSENT:	Anthony Andrisano Carlo Gallelo
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OTHERS PRESENT:	Sanford Brown, Esquire, James Higgins, William Fitzgerald, Marianne Wilensky, Margo Simpson,	Board Attorney Board Planner Board Engineer Planning Administrator Planning Board Secretary Recording Secretary
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Chairman Thomas Means announced that the notice requirements for the Open Public Meetings Act have been satisfied, a copy of the notice having been sent to the Asbury Park Press, the Coaster, and the Atlanticville, posted in the Township Hall, and filed in the Office of the Township Clerk on March 31, 2010.

MINTUES FOR APPROVAL A motion was made by Thomas Means and seconded by Stephen Levy to approve the **minutes from the meeting of April 26, 2010.**

FAVOR: Brody, Goode, Klose, Levy, Verrilli, Garofalo, Healy, Means
OPPOSED: None
INELIGIBLE: None
ABSENT: Andrisano, Gallelo, Sariosis

RESOLUTION MEMORIALIZATIONS

Brian and Rosemarie Patterson
Block 1.02, Lot 60
5 Cindy Lane
Wayside
Preliminary and Final Site Plan Approval

At the request of the applicant, the Memorialization of the resolution of approval for Brian and Rosemarie Patterson will be held until the meeting of June 28, 2010.

**CARRIED to the meeting of
June 28, 2010**

Seaview Square, L.L.C.
Block 141, Lots 1, 23
Highway 35 and Route 66
Wanamassa
Zone C-4

Mona Benun
Block 60, Lot 8
80 Wickapecko Drive
Wanamassa
Zone R-1

CONTINUED CASE

Manolakis Professional Plaza, LLC
Block 33.16, Lot 3
1915 Highway 35
Oakhurst
Zone C-2

This is an application for preliminary and final site plan approval with variances.

Attorney for the applicant:
Jennifer S. Krimko, Esquire

Chairman Thomas Means disqualified himself from this application. Vice Chair Warren Goode chaired the meeting.

Jennifer S. Krimko, Esquire, representing the applicant, said that her testimony has been completed. She turned the floor over to the objector's attorney, Michael Steib, Esquire.

Mr. Steib explained that he represents Comart Realty as an objector to the application. He presented A. J. Garito, Professional Engineer and Traffic Engineer. Mr. Garito's resume was placed into **evidence O-4**.

Mr. Garito explained that he was directed to review the site plan layout and circulation plan along with the reviews of the Board's Professionals. He also reviewed the parking study done by Maser. He indicated that he has been present for the previous hearings on this application. Mr. Garito noted that the existing site has many design aspects that are not in accordance with the current zoning standards. The proposal is for a pharmacy that will take the existing site and try to make it compatible. He noted that there is parking that backs out into the public right of way on Carole Avenue. There are also thirteen parking spaces, four-feet from the right of way, which does not conform to the requirements. The aisle widths are not conforming. The zone requires a buffer of 25' landscaping between the parking spaces and the right of away that is not achievable. The curb cut on Carole Avenue is non-conforming.

Mr. Garito pointed out that the number of parking stalls provided totals 35 while 40 is the requirement. The parking along Carole Avenue that backs into the public right of way is an unsafe situation. If they make the parking spaces the required ten feet wide, then they will lose more spaces. Changing the use from general office to pharmacy will increase the intensity of the site during the day.

Mr. Garito said that he reviewed the traffic reports and they made assumptions that there would be cut-through traffic on the Comart property. The peak rates of use for a pharmacy are different hours and will produce more business throughout the day. In comparing the uses, an office use would be 126 trips a day while the pharmacy will produce 419 trips per day. This number of trips will impact the Comart property to the north. In looking at the traffic coming from all directions, the report stated that 130 trips per day would utilize the cut-through of the Comart site. In addition, 293 added trips on the weekend would visit the site.

Mr. Garito felt that the current use of the site is less intense than the proposed use and the problems on the site will be exasperated by the change. An added 132 trips through the shopping center will have an adverse impact. There is an existing substandard design on the Carole Avenue side of the building with cars backing out into the street.

Ms. Krimko noted that 132 additional trips a day averages one every five minutes. She did not feel that this number would have a negative impact. The parking on the north side of the building along Carole Avenue will be dedicated for the medical uses only.

Ms. Krimko noted that when a site plan is proposed the off-site traffic is not taken into consideration. Clients can come and go to the subject site without going through the objector's property, as this site can function on its own.

Mr. Steib felt that if a project relies on another site for access, then an easement is filed. One car every five minutes equals 35,000 cars per year. The shopping center is not built to handle this number of cars.

Ms. Krimko said that her client has no intention of using the Comart property as a cut-through.

Vice Chairman Warren Goode asked if there was any representative of Comart Realty present in the audience. Mr. Steib said that he was hired by Comart to represent their objections, which were stated in a letter to the Board dated May 10, 2010, and marked into **evidence O-5**.

In his summation, Mr. Steib said that his client's objection was two fold. First, they concede that the applicant's proposal will be an improvement to the site. The major change will be from a low intensity use to a pharmacy. He felt that the site does not accommodate mixed uses. The proposed retail pharmacy will generate more traffic to the site. With the deficient parking, this will be come a much more intense use with more cars being squeezed into small parking spaces. He felt that the use does not accommodate the mixed-use site. The proposed use pharmacy will generate more traffic. With parking being deficient it will be a much more intense use with more cars squeezed into small parking spaces. He felt that the cross-access easement does not allow cross-parking on the site.

Mr. Steib continued his summation adding that normally applicants do not utilize property offsite without obtaining an easement or get property rights. He noted that the applicant stated in a report from February that there will be traffic coming through the Comart property. They would affectively be creating an easement defacto on the Comart Realty property.

Mr. Steib said that he respectfully requests that the Board deny this application. The proper procedure would be for the applicant to get an easement from the Comart Realty Corporation.

Peter B. Bass, Esquire, representing EFM Realty, owners of the property to the south, noted that the applicant has agreed to designate parking for the offices only. He questioned how it will be enforced. People will park any place they can. Mr. Bass referred to the resolution of approval for the property in 1983 where the applicant agreed to be bound by a cross easement with the property to the south. The agreement was to provide enough parking, but not a general parking lot for the property next door. Mr. Bass said that his clients would like to keep the access to five spaces only.

Mr. Bass noted that the deed filed on September 15, 1983, talks about parking for certain designated areas to make sufficient parking for the property only. The access parking is only for the area off Highway 35 on the south side of the applicant's building and the north side of his client's building. There are signs on the applicant's building that are not legal.

Ms. Krimko pointed out that she previously moved into evidence a plan and deed that included the easement language. The traffic testimony spoke of the language on the plan. The resolution of approval for the site to the south recognized that the two sites work together as one.

Ms. Krimko said that the applicant is proposing 35 parking spaces where 40 are required. The five spaces in the cross easement give them a total of 40. It is clear that they have the right to use the parking. The signage on the building is nothing to be concerned with.

In regards to the objector's property, the applicant does not need the Comart site to access the subject site. The applicant has an existing building that has operated for years. It will be changed from office to pharmacy. Parking is a use intensity measurement. The parking is the same for office or pharmacy. The applicant is reducing the non-conformity on the site. Improvements will be made to the site at the request of the Board's professionals. The purpose of the Board is to look at the site and see if the applicant complies with the requirements. The Board cannot consider offsite impacts in making their decisions. It is not a basis for denial. An easement from the shopping center is not needed because the site is not needed to utilize the applicant's site.

A motion to close the public hearing was made by Steven Levy and seconded by Warren Goode.

FAVOR: Brody, Goode, Klose, Levy, Verrilli, Garofalo, Healy
OPPOSED: None

Vice Chairman Warren Goode explained that this is a permitted use on the site. They are not enlarging the building and are not making any basic changes to the site except improvements and will comply with the recommendations of the Board's professionals. The objector's concerns are not related to the proposal for the site.

A motion of approval was made by Warren Goode and seconded by Steve Levy.

FAVOR: Brody, Goode, Klose, Levy, Verrilli, Garofalo
OPPOSED: None
INELIGIBLE: Healy
DISQUALIFIED: Means
ABSENT: Andrisano, Gallelo, Sarios

Memorialization will take place on June 28, 2010.

Board Member George Sarios arrived at 8:40 P.M.

NEW CASE

Elliot and Lori Tawil

Block 11, Lots 12, 13, 14, 15
150 Norwood Avenue
156 Norwood Avenue
204 Maplewood Avenue
Oakhurst
Zone R-1

This is an application for a minor subdivision with no variances.

Attorney for the applicant:
Rick Brodsky, Esquire

Board Attorney Sanford Brown, Esquire, explained that this is an application for a minor subdivision. No variances are necessary and no notice is required.

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record.

Representing the applicants, Rick Brodsky, Esquire, explained that the applicants are seeking to take four tax lots and create two residential lots. One existing dwelling will be removed. Mr. Brodsky had the subdivision plan marked as **evidence A-1**. The property is on the corner of Maplewood Avenue and Norwood Avenue. Lots 14 and 15 are on Maplewood Avenue and are not owned by the Tawils. Lots 12 and 13 are on Norwood Avenue and are owned by the Tawils. The existing dwelling on lot 12 will be removed. The subdivision will create two 'L' shaped lots with one dwelling on each lot. There are no variances necessary. There are wetlands on the south portion of the property. All necessary wetlands buffers have been delineated.

A motion to close the public hearing was made by Thomas Means and seconded by Stephen Levy.

FAVOR: Brody, Goode, Klose, Levy, Sariosis, Verrilli, Garofalo, Healy, Means
OPPOSED: None

A motion of approval was made by Thomas Means and seconded by Fred Brody.

FAVOR: Brody, Goode, Klose, Levy, Sariosis, Verrilli, Garofalo, Means
OPPOSED: None
INELIGIBLE: Healy
ABSENT: Andrisano, Gallelo

Memorialization will take place on June 28, 2010.

Meeting Adjourned 9:50 P.M.

Margo Simpson
Board Secretary
Recording Secretary