

**TOWNSHIP OF DENNIS  
CONSOLIDATED LAND USE BOARD  
571 Petersburg Road  
Dennisville, NJ 08214  
(609) 861-9705**

**FEBRUARY 27, 2014**

**MINUTES**

This meeting was published in accordance with the "Open Public Meetings Act". Notice of this meeting was published in an annual meeting notice in the Cape May County Herald and posted in Township Hall.

The meeting was called to order by Chairman Stevens. The following members were present: Mr. Stevens, Mr. Watson, Mr. DiCicco, Mr. Butto, Mr. Haig, Mr. Rebmann, Mr. Crippen, Mr. Daniels, Ms. Payne and Mr. Kelly.. Also present were Frank Corrado, Esquire, Board Solicitor; Carl Gaskill, Board Engineer; and Daniel Young, Esquire, Conflict Attorney.

Mr. Corrado announced that since Mr. Pettit was not here this evening, that Mr. Kelly will vote tonight.

Mr. Corrado then administered the oath to Mr. Crippen, Ms. Payne, Mr. Morales and Mr. Kelly to their new positions. Mr. Corrado advised each of them that they will have to sign the oath and he will notarize same.

**APPLICATIONS:**

**CLARK, MARY BETH, d/b/a DANCE DYNAMICS - Block 236, Lot 6.20:**

Located on the corner of Route 9 and Woodbine-Ocean View Road in the OVC (Ocean View Center) District. Applicant seeking preliminary and final site plan approval with associated bulk variances.

Mr. Corrado advised that he has a conflict with the Clark application and Daniel Young, Esquire will serve as Conflict Attorney on this application. A Resolution appointing Mr. Young as Conflict Attorney was presented and a motion was made, seconded and carried with respect to approving same.

Mr. Corrado advised the alternates they can participate and do everything except vote.

Mr. Corrado then stepped down, and Mr. Young took a seat with the Board.

James Pickering, Esquire - attorney for applicant. Had a short conversation before meeting with Mr. Young. Mr. Young suggested putting that conversation on the record.

Mr. Pickering indicated that a member of the Board has child in the dance studio and wonders if that is a conflict. Mr. Young said the nature of same is very individualized and to make it clean, it would probably be best for that member to step down. Ms. Payne steps down as the member in conflict.

Mr. Pickering indicated that Ms. Clark operates a dance studio in Upper Township and has done very well. She hopes to move the business to Dennis Township and locate it on the vacant lot in question and construct a new building. Nice project for the Township. Property has been the subject of other applications, none of which have come to fruition. There had previously been applications for Ocean View Gardens facility at this location.

Mr. Young then administered the oath to Mary Beth Clark and Vincent Orlando, P.E.

Mr. Pickering then directed questions to Ms. Clark.

In response to Mr. Pickering, Ms. Clark testified that she has operated the business for 17 years in Seaville. Current building has 3 business located in it. Nature of business is a full service dance studio primarily 2 ½ year olds to 18 year olds. All types of dance. Have 3 dance rooms, snack bar for parents and children to hang out, and children can do homework while waiting. Promotes a family atmosphere. Property is already under Agreement of Sale. She designed the building with the assistance of Mr. Orlando and architect. Wants to make it an attractive building. Used to be a barn on the property, which gave her the idea of designing the building to look like a barn. (Color rendering marked A-1 and A-2). Building has a wrap-around porch with rocking chairs; also has cupolas on roof. Has a total of 5 rooms, 3 for dance and will rent the other 2 rooms. Has a tumbling room. Proposes having a boutique to purchase equipment for dancers to purchase. Snack bar will have microwave to warm food. but no food will be prepared. Proposes a loft for kids to hang out, be able to observe and do homework. Hours of operation will be September through May; they will hold their show at the PAC. Do have some summer hours. Primary classes are Monday through Friday from 4 pm to 9 pm. Some Saturdays in heart of competition season. Summer hours are 1 week camps. Asking for a variance for the 60% glass requirement, as the kids require bars and mirrors for the dance; also safety consideration for the children.

Mr. Pickering then directed questions to Mr. Orlando.

In response to Mr. Pickering, Mr. Orlando described the Ocean View area near the proposed facility (Sheet 2 of 7 of site plan - marked A-3). Referred to site plan and described surrounding lots - sporadic commercial development and some residential. Described property in question - owned by Franklin Bank at a point in time, was the subject of the Ocean View Gardens application. It is a vacant lot that was cleared in the mid-90s, some cherry, some cedar, nothing of any real substance on the site. Has known applicant for many years, knew what she was looking for, looked around at various sites and thought this would be a good fit. Knows traffic in this area is bad during certain hours and times of year. This facility isn't open when the traffic is bad and there is a similar traffic situation at her Seaville site. Referred to A-2 and described. Building being made complimentary to the site. Describe decorative features on the building - very important that building be useable and complimentary to the site. Discussed site triangle easements. Moving the building any closer to either road can't be done because it would fall in the site triangle. Felt building had to be moved back from the roads. Discussed variances being requested.

Mr. Pickering said that he believes this is the first application under the new ordinance and wants to take a little extra time going through the variances. Discussed the "built at" instead of set back lines.

In response to additional questions by Mr. Pickering, Mr. Orlando discussed the positive criteria. Impossible to meet certain of the requirements, causing a hardship. Parking in the rear promotes the essence of the district. Discussed negative criteria. Variances can be granted without substantial detriment to the public good, no impairment to the zone plan. Additional variances are being requested, one for signs. Proposing one free standing sign (30 sq ft), low level with stone base coping, small monument sign about 5 feet high along Route 9, outside of the site triangle. Also propose 2 building mounted signs - one on the north side and one on the south side, wooden, lit by gooseneck lights. Referred to A-3 and showed where the signs are located. Not proposing any signs on Route 9 or rear side of building. Only sign variance is for the monument sign. Discussed design standards: Glass - 60% of front facade required to be windows - believes variance can be granted, believes purpose is to show merchandise; this type of use doesn't need; windows have been provided above the porch roof line to allow additional light into building. Primary entrance to building to be on primary or secondary street - doesn't really work for this particular site due to the lot; would make it farther for people to walk; provided an emergency exit that is dressed up along the front facade. Curbing around parking lot and driveways - in this case, it is overkill; described where curbing is proposed and placement of bumper stops and reasons for not having curbing in certain places. Believes variance can be granted under the C-2, no detriments. Trash enclosures - suppose

to be masonry. Proposing 10 X 10 trash enclosure on a concrete slab, fenced in, landscaped, not visible from roadway or neighbors. Business has very little trash. Believes no detriment to the public. Falls under C-2 requirements. Better than a masonry wall, more aesthetic. 20% of site remains vegetated - propose to clear lot; will maintain as much of existing vegetation as possible, will provide some buffering, propose additional landscaping. Believes this also falls under C-2 requirements. Reviewed positive and negative criteria. Environmental assessment - requesting waiver/variance - believes not needed, went through checklist required by ordinance and nothing on this site warrants an environmental assessment. No detriment. Review positive and negative criteria. Site is not being overly developed.

Continuing in response to questions from Mr. Pickering, Mr. Orlando said that he believes the Environmental Impact Study can also be waived for same reasons stated prior. Doesn't believe that a traffic impact study is necessary - this facility is open when the traffic is not at its heaviest. Will need DOT permit for road opening. This is a destination site, has easy access for her clients and peak demands of this business do not conflict with peak demands of the roadways. Described driveways within 100 feet of this property - only a few. Described ingress and egress from site that is being proposed. Route 9 will be a right in and a right out only. 40 parking spaces are required and 49 are being proposed, with 40 spaces being more than adequate. Meet lighting requirements. Discussed drainage and described - made large and irregular to integrate into proposed landscaping. Described proposed landscaping. Discussed sidewalks - zone calls for continuous sidewalk along Route 9. This would be the first application requiring a sidewalk. Proposing to keep sidewalk off shoulder about 7 to 10 feet back and keep on applicant's property for safety reasons. Prepared to give easement for public access. (Floor plan - marked as A-4 - sheet 1 of architectural plans.) Believes applicant is ready to receive both preliminary and final site plan approval.

Mr. Pickering advised that this completed his presentation.

Mr. Stevens indicated that in listening to this application, he believes the ordinance may have some problems and he will look into that. Would like to go through each item and take care of.

Mr. Young suggested hearing the engineer's report first.

Mr. Gaskill reviewed his engineer's report (oath administered by Young). Applicant's engineer pretty much went through the report issue by issue. There are 3 existing easements - 2 for site triangles and a utility easement.

Mr. Stevens said that there is no way they can put this building on the site and meet those requirements, and wants to verify this is so.

Mr. Gaskill indicated that this Board has no control over this, traffic impact - final determination is made by State.

Mr. Stevens said he wants to have Board understand.

Mr. Gaskill advised that this is not something the Board can undo with respect to site triangles.

Mr. Young said he believes following requirements would result in a strangely configured building.

Mr. DiCicco said that he would prefer seeing the building set back on the property.

Mr. Stevens advised that he can't figure out how it could be any other way. He then asked the Board for questions/comments.

Mr. Rebmann asked if we grant variance and the State says no to triangles - does applicant have to start over.

Mr. Young advised that site triangles are already there.

Mr. Pickering directed questions regarding the site triangle to Mr. Orlando.

Mr. Orlando testified that there was a survey done on 1/13/14 by Stephen Martinelli; he determined site triangles at that time; and there should be no problem with the State.

Mr. Watson indicated that he had no problem with set back variances, (other members in agreement as well).

Mr. Gaskill asked whether or not the Board deemed the application complete. Mr. Young indicated that an application is usually not scheduled for a hearing unless deemed complete. Mr. Watson added that the applicant was asked at the work session if certain items could be ready in time for regular meeting and their answer was yes, completeness conditioned on that.

Mr. Young, Mr. Gaskill and Mr. Orlando had a general discussion regarding completeness and waivers. Mr. Young advised if waiver is requested can be complete.

Mr. Watson advised that they discussed signs at the work session, it makes sense what they want to do, but is still a variance. (No one had problem with this.)

With respect to the 60% window requirement, Mr. Watson indicated that the applicant has stated why they don't want to comply, but it is still a variance. Mr. Stevens polled the Board with respect to this matter and no Board member had a problem with the applicant's request.

Discussion of the location of the primary residence resulted in the Board members having no problem with applicant's proposal.

With respect to curbing, the applicant believes their proposal is safer, allows water to run off better, and other applications have been permitted to do what they are requesting. Again, no Board member had a problem with applicant's proposal.

Mr. Watson indicated that with respect to the masonry enclosure, the testimony and reasons given by the applicant make sense to him. All Board members were also in agreement.

Mr. Watson indicated that the applicant has testified that 20 feet of existing vegetation is to be maintained and also explained they would be adding landscaping. Mr. Stevens polled the Board and no one had a problem with applicant's proposal.

Mr. Watson indicated that with respect to the environmental assessment, the Board can either require or waive same. The applicant has stated reasons for the requested waiver. He has no problem with same, and the rest of the Board has no problem.

With respect to the traffic impact study, Mr. Watson feels this project is a dream for this site due to hours of operation and months of operation. Board members agree.

Mr. DiCicco had a question regarding vegetation. He also indicated that the roadway floods in a significant rain and he has a concern with drainage. Mr. Orlando testified that he believes that the proposed basin will benefit drainage.

Mr. DiCicco also wanted to know if there is there anything that can be done to stop drivers from cutting through the property from Woodbine Ocean View Road to Route 9. Mr. Orlando said that they could probably put a chain across, but even if they cut through, they won't gain much.

Mr. Rebmann asked if the parking lot has to be asphalt. Mr. Orlando advised that they had talked about stone, but knew that driveway would have to be asphalt. He advised that stone is only feasible in a limited area, so they decided asphalt was a better option. Cost also consideration. Mr.

DiCicco added that he feels asphalt is a better choice.

Mr. Kelly had a question about the free standing sign shifted out of easement area. Mr. Orlando advised that it has been moved.

Mr. Young said he wants to clarify some of the items in the 2/25/14 report from Mr. Fralinger, specifically items 8 through 16. Mr. Orlando indicated that he has reviewed same and agrees to make changes as requested.

Mr. Pickering confirmed that they have no problem with making the conditions as indicated by Young.

Mr. Young advised that a decision has to be made on how to handle the sidewalk easement.

Mr. Butto asked if there are any improvements going to be made by the State to that corner. Mr. Pickering advised that the applicant is not proposing any changes. Mr. Butto said that he is sure the applicant is not, but wonders what the State may do.

Mr. Stevens asked Mr. Gaskill if he has any other issues or questions in order to bring this to a conclusion.

Mr. Gaskill indicated that the applicant has responded to all of Mr. Fralinger's concerns, but will amend same if some thing is brought up.

Mr. Stevens then opened the meeting to the public.

May Brunell , Randy Clark's mother and Mary Beth's mother-in-law, testified that Mary Beth has put her heart and soul into the business and it's all about the kids.

Amy Phillips testified that she is one of Mary Beth's students, and can attest to being in a safe environment and that Mary Beth wants her students to be well rounded. She needs space to continue to grow and develop, they are a family and she hopes the application is approved.

Jess \_\_\_ testified that she is a former student and that Mary Beth is not going into this lightly, she has wanted her own place for years, something she could control and have her students grow. She wants to improve her students and the community and cares about the arts and being successful members of society. There is a representation here and there are many more who wanted to be here.

Mr. Haig asked what the summer hours would be. Ms. Clark advised they have a show the first weekend in June, the first camp is the last week of June, a week in August; Monday through Friday in the afternoon.

Mr. Haig said that he believes that in the summer months it would be important to block the driveway off after 3:00 P.M. Mr. DiCicco said he thinks the applicant should evaluate this. Mr. Orlando said that they would also need to evaluate liabilities as there is a concern with some one getting hurt on the property by blocking the driveway. Mr. Pickering added that it would also require that when some one gets there in the morning or is leaving, some one has to get out of their car in the drive aisle and risk injury. Mr. Orlando suggested that they can try to control the area with signage such a "private drive". The members of the Board agreed to the signage of the area.

Mr. Stevens then closed the public portion of the meeting and brought the matter back to the Board. There being none, he asked that a vote on the application be taken.

Mr. Young advised that the Board would first vote on the variances. He then presented a form of motion to approve the application being built to lines, and the street facade built to line. A motion to approve was made, seconded by Mr. Crippen and carried by all members voting on same.

Mr. Young then presented a form of motion to approve the free standing sign. A motion to approve was made by Mr. Butto, seconded by Mr. Crippen and carried by all members voting on same.

Mr. Young then presented a motion with respect to the facade windows. A motion to approve was made by Mr. Butto, seconded by Mr. Kelly and carried by all members voting on same.

Mr. Young then presented a form of motion granting a variance for the primary entrance. A motion to approve was made by Mr. Butto, seconded by Mr. Crippen and carried by all members voting on same.

Mr. Young then presented a form of motion granting the variance for parking area curbing. A motion to approve was made by Mr. Butto, seconded by Mr. Crippen and carried by all members voting on same.

Mr. Young then presented a form of motion granting the variance with respect to the trash enclosure. A motion to approve was made by Mr. Butto, seconded by Mr. DiCicco and carried by all members voting on same.

Mr. Young then presented a form of motion granting the variance for existing vegetation. A motion to approve was made by Mr. DiCicco, seconded by Mr. Butto and carried by all members voting on same.

Mr. Young then presented a form of motion granting a variance with respect to the environmental assessment. A motion to approve was made by Mr. Crippen, seconded by Mr. Butto and carried by all members voting on same.

Mr. Young then presented a form of motion approving the preliminary and final site plan with waivers and conditions. A motion to approve was made by Mr. Crippen, seconded by Mr. Rebmann and carried by all members voting on same.

**Other Business:**

**Discussion:**

At this point, Mr. Young stepped down, and Mr. Corrado resumed his seat as solicitor. Ms. Payne also returned to her seat on the Board.

**Estate of James Anderson - Consolidation by Deed:**

Mr. Stevens advised that the next matter before the Board was a discussion regarding the Anderson Estate.

Before beginning the discussion on Anderson, Mr. Corrado advised that this evenings application was well presented and had raised several questions that are going to be coming up and the Board is going to have to deal with them. At some point he believes the Board will probably have to go back to the Township Committee and ask for the Ordinance to be tweaked. He also said that the State set guidelines and it's not a one size fits all.

With respect to the Estate of James Anderson, Mr. Corrado provided some background to the Board members. The property is located at section of Main Street and Route 9 in Ocean View. The property is on both sides of Route 9 and Magnolia Lake is owned by Anderson and was the subject of a Court Ordered subdivision by Judge Perskie. Judge Perskie Ordered that the subdivision come back to this Board. This matter has been ongoing for a number of years. The Ordinance requires that they must comply with the Map Filing Law and, therefore, a map must be filed. Approval was previously given permitting a Deed of Consolidation to be filed, but he isn't sure that approval waived the requirement of filing a map. He suggested to Ray Went that an application be made to amend

and he originally agreed, then called back and said that the Board has already said they didn't have to file a map. Mr. Corrado asked if any members remember exactly what happened.

Mr. Gaskill advised that the Map Filing Law is now known as the Map Recordation Law and certain conditions must be met and he feels those conditions are not met. The way he sees around this is if the Resolution is amended to remove that it be submitted to the Court for recording and just record at the Township level. He understands that relief can be granted as to the Ordinance. He believes the Resolution needs to be tweaked.

Mr. Stevens said that if they just come back to the meeting in April, nothing has to be tweaked.

Mr. Corrado indicated that Mr. Went claims that the Resolution gives him the waiver. He is asking if it was the Board's intention that this subdivision be filed by Deed instead of map. If not, then they should be asked to come back. As a courtesy he agreed to ask the Board.

Mr. Watson said that he was looking at his notes and doesn't see anything.

Mr. Stevens said that the easiest way is to ask him to come back and get it done the right way. Mr. Corrado asked if everyone agrees. All in agreement.

In response to a question from the Board, Mr. Corrado said that the Ordinance says that any map that is filed must comply with the map filing law. He added that they would have to re-survey the lot and they don't want to do that. He will ask Mr. Went to notice and come back before the Board.

**Correspondence:** None.

**Resolutions:**

**GIBSON, JOHN C. - Block 120, Lot 122:**

A motion to approve was made by Mr. Haig, seconded by Mr. Crippen and carried by those members voting on same.

**Minutes:**

**Bills:**

A motion was made by Mr. Butto, seconded by Mr. Rebmann and unanimously carried to pay all outstanding bills.

Mr. Kelly said he had a question regarding the Gibson subdivision and the donation of a parcel of land to the Township. He doesn't see the benefit to the Township if they accept the donation since the parcel comes off the tax rolls, and puts the Township on the hook for other possible situations. Why does the Township accept a piece of ground that is virtually worthless. Mr. Butto said it was a requirement for open space. Mr. Watson added that the taxes on vacant lot is not what would be paid if a building was constructed., and that it may be required by Ordinance. Mr. Corrado added that when you cluster development, it's the same number of units, but spread out, and in some cases may actually increase the number of units. He believes the tax loss is minimal, if any. A general discussion followed regarding this question.

There being no further business to come before the Board, a motion to adjourn was made, seconded and unanimously carried to adjourn meeting.

Meeting adjourned at 9:35 p.m.

Carla A. Coffey

Carla A. Coffey, Secretary  
Dennis Township Consolidated Land Use Board