

TUCKERTON LAND USE BOARD

Thursday, **January 19, 2023** @7pm in Borough Hall

Mr. Morey called the Tuckerton Land Use Board meeting to order on Thursday, January 19, 2023 at 7:00pm at Borough Hall.

Open Public Meeting Act Statement

“Provisions of the Open Public Meeting Act have been complied with as notice was published in the Tuckerton Beacon and the Asbury Park Press stating the time, date and place of this meeting.”

Flag Salute

Mr. Morey led the salute of the flag.

Roll Call

Pete Gioiello, Chairman	P	Don Rocheskey, Vice-Chair	P
Mayor Marshall	P	Keith Vreeland	P
Jim McAndrew	P	Calvin Morey	P
Wayne Tonneson	P	Greg Brojack	A
Kaylyn Ullman	P	Mike Dupree (Alt #1)	P
Robert Rue (Alt #2)	P		

Reorganization

RESOLUTION 2023-1

RESOLUTION OF MEMORIALIZATION OF THE BOROUGH OF TUCKERTON LAND USE BOARD APPOINTING ROBERT G. SHINN AND THE FIRM OF WOODLAND, MC COY & SHINN, LLC AS LAND USE BOARD ATTORNEY FROM JANUARY 1, 2023 TO DECEMBER 31, 2023

Mr. Vreeland moved, seconded by Mr. McAndrew that the resolution be approved as read. It was so moved by unanimous consent of the Board.

RESOLUTION 2023-2

RESOLUTION OF MEMORIALIZATION OF THE BOROUGH OF TUCKERTON LAND USE BOARD REAPPOINTING SAMANTHA HOLLBERG AS BOARD SECRETARY FROM JANUARY 1, 2023 TO DECEMBER 31, 2023

Mr. McAndrew moved, seconded by Mr. Vreeland that the resolution be approved as read. It was so moved by unanimous consent of the Board.

RESOLUTION 2023-3

**RESOLUTION OF MEMORIALIZATION OF THE BOROUGH OF
TUCKERTON LAND USE BOARD REAPPOINTING MARK
ROHMEYER, P.E., CME, P.P. OF THE FIRM T&M ASSOCIATES AS
LAND USE BOARD ENGINEER AND PROFESSIONAL PLANNER
FROM JANUARY 1, 2023 TO DECEMBER 31, 2023**

Mr. McAndrew moved, seconded by Mr. Vreeland that the resolution be approved as read. It was so moved by unanimous consent of the Board.

RESOLUTION 2023-4

**RESOLUTION OF MEMORIALIZATION OF THE BOROUGH OF
TUCKERTON LAND USE BOARD ESTABLISHING MEETING DATES
FROM JANUARY 1, 2023 TO DECEMBER 31, 2023**

Mr. Vreeland moved, seconded by Mr. McAndrew that the resolution be approved as read. It was so moved by unanimous consent of the Board.

Mr. Vreeland motioned, seconded by Mr. McAndrew to nominate Peter Gioiello as Chairman of the Tuckerton Land Use Board for the 2023 year. It was so moved by unanimous consent of the Board.

Mr. Vreeland motioned, seconded by Mr. McAndrew to nominate Don Rochesky as Vice-Chairman of the Tuckerton Land Use Board for the 2023 year. It was so moved by unanimous consent of the Board.

Approval of Minutes

Mr. Gioiello motioned, seconded by Mr. Vreeland to accept the December 2022 Land Use Board meeting minutes. It was so moved.

INVOICES

T&M ASSOCIATES - \$246.00

11/18/2022	VP433968	OCEAN INC; B49, L5	\$246.00
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WOODLAND, MC COY & SHINN - \$1,050.00

12/08/2022	704869	GENERAL BOARD REP.	\$100.00
12/08/2022	704868	OCEAN, INC.	\$550.00
12/08/2022	704870	CORAZZA B16 L20	\$50.00
12/08/2022	704871	KEENEY MARINA	\$100.00
12/08/2022	704872	CLOVERFIELD B23 L7	\$100.00
12/08/2022	704873	CLOVERFIELD B23.01 L7.01	\$100.00
12/08/2022	704874	NYLUND INFORMAL	\$50.00

Mr. McAndrew motioned, seconded by Mr. Vreeland that the invoices be paid due to the availability of funds. It was so moved by unanimous consent of the Board.

Correspondence

Ms. Hollberg stated that the West Tuckerton Fire Department submitted a letter of approval stating that Papa D's is in compliance in regards to all emergency requirements.

New Business

APPLICATION

KEENEY'S MARINA, LLC BLOCK 33 LOT 45; ZONE B3 USE VARIANCE & BULK VARIANCE

Conflicts of interest: it was determined that Mr. Dupree's parents are within 200 feet of the property mentioned above and will be sitting out of voting.

Mr. Shinn explains that there are 7 members and they need 5 to carry the vote.

Mr. Simmons, Esq. introduced himself as the applicant's attorney and explains the history of this application. It was originally submitted in the summer as a shed and then was amended to an office structure and needs a variance to have more than one business on the property.

Robert Keeney Jr., 8 Colonial Drive, Little Egg Harbor, NJ 08087, is called as the first witness and is sworn in before the board. He introduces himself as one of the owners of the marina. He also states that he does not make a salary and that there are no other employees.

It was determined that Julia A. Matta, Mr. Keeney's Grandma, is the other owner of the marina and is not at the meeting.

The income the marina gets is from boat slips, storage, etc. and all of it goes to paying the bills and the bank.

It has been a marina since before the 1900s, the original owner was a family friend of the Keeney's and Mr. Keeney's grandpa purchased the Marina in two halves starting in 1982.

Mr. Keeney believes that they need this office space to do work because right now he is conducting all his work in the back of his truck and that is not professional.

He also explained that Mrs. Matta would use some of the office space for her insurance business however there would be no foot traffic for her business.

He believes there was an office space at some point on the property however it was destroyed in a storm in 1962.

Mr. Keeney describes the property and states that it is a clam shell stone lot with 22 boat slips and a boat ramp. It also has a bathhouse which is just a bathroom in a 10x12 structure in the parking area.

He stated he would put the office structure near the road just like all the other businesses do on South Green Street. He believes there is enough room and there is a retaining wall on the back side of the property. He believes there is around 40 feet between the retaining wall and the sidewalk. Mr. Keeney stated that he wants to put a 16x36 structure for the office.

Mr. Keeney stated that last year a building that size would have been about \$22,000 but due to inflation it would be closer to \$55,000 so he might have to downsize the structure but it would still stay within the same footprint and adhere to all the setbacks.

There is a restriction of an Atlantic City Electric pole on the left side of the property and a tree on the right side and they will be leaving both of them.

He states he is not able to move the retaining wall back without losing parking access and in turn will lose slips which will result in less income which he cannot justify.

There is flooding on the backside of the property due to being low lying and there is nothing he can do about it. This is why he wants the structure closer to the road.

Mr. Simmons asks Mr. Keeney if he is familiar with the December 6th letter (marked exhibit B1) from Mr. Rohmeyer and goes through some of the questions and concerns that were addressed.

Mr. Rohmeyer was sworn in before the board.

Mr. Keeney clarifies that he would like to get bigger dimensions than mentioned in the original plan if possible but still within the footprint and following all the setbacks.

Mr. Keeney stated that he is not planning on changing the grading of the property in anyway and currently everything is getting drained back onto his property and he does not anticipate changing this because it does not cause flooding.

Mr. Simmons stated that it is his understanding that they would need outside approval from the Ocean County Planning Board because South Green Street is a county road.

Mr. Rocheskey asked what the foundation of the structure will be. Mr. Keeney stated that it will be on sonic tubes and cinder blocks because he is looking to put in plumbing, electric, and gas. It will be anchored with rebar through the cinder block foundation. It will not be built like a shed.

Mr. McAndrew wanted to confirm that this will not be a shed. He states that there is already a shed on the property and they would go over the maximum area in the shed ordinance. He stated if it's not going to be a shed and it's going to be an office building he asked what the parking situation will be and if there will be handicapped parking.

Mr. Keeney stated that there is already parking for the marina and there is a concrete slab that can be handicap accessible. He also stated that the building will not be open to the public it is only for him and Mrs. Matta.

Mr. Keeney clarifies that this structure will only be for the Keeney's Marina business however Mrs. Matta will have a phone in there that he believes she should be able to answer calls for her insurance business. It will not be an office for the public. The slip customers will have access to it as well to pay bills and such.

Mr. McAndrew stated that there is an advertisement for Mystic insurance right now and wants to know if that will be staying. He states it needs to be clearly stated that the office will only be for the Marina.

Mr. Keeney stated that the trailer that had the advertisement for the insurance is really just for files for the Marina and that the insurance company is all remote.

It was stated that after Sandy there was a prior approval for a residential structure but it did not go through because Mr. Keeney's grandparents did not want to comply with the states requirement with the height of the house.

Mr. Keeney explains that the trailer will be taken off the property once the office structure is on the property. The bathhouse will remain however.

Mr. Keeney states that he has no intention to store any flammable substances in the office and the only partition will be for the bathroom.

Mr. Keeney stated that the maximum amount of people in the office will be 1 or 2 people at a time. The hours of operation will be 9am-5pm and if he has to stay late it would be no later than like 6pm or 7pm.

Mr. Keeney explains that the main access point will be the front door facing the street and he does not anticipate any additional vehicles with this structure or anything offloading.

Mr. Morey stated that if this is going to be a permanent structure doesn't it need handicapped parking? He asks this because he knows of handicapped people that do like to go boating.

Mr. Keeney stated that they do have handicapped accessible ramps to the boats and the slips.

Mr. Gioiello asked what the ADA requirements would be for this structure.

Mr. Rohmeyer stated that he believes it would be a building code requirement and we can make it a condition of approval if the board would like him to add handicapped spots.

Mr. Rohmeyer also states that due to the flood elevation he believes that the structure will need to be raised a little. Mr. Keeney stated that he knows and that is what the cinder blocks are for.

Mr. McAndrew asked if they need a CAFRA permit. Mr. Rohmeyer stated that that is subject to the DEP and they can get a letter of determination from them if needed.

Mr. Rohmeyer asked if the building will be higher to comply with the flood elevation requirements, what kind of steps will there be to get into the building because there are none shown on the plans right now. Mr. Keeney stated that there will be stairs and a ramp to get in and out of the structure.

Mr. McAndrew wants to know what to call this structure. Mr. Rohmeyer stated that this would be classified as a principle structure because it will be the only main structure besides the small bathhouse on the property. He also stated that he does not think it is a shed because it is a permanent structure and will not be used for storage.

Mr. McAndrew stated that if it's a permanent structure wouldn't it need to comply with other building codes. Mr. Rohmeyer stated that it would need a simple site plan and if the board wants to make specific requirements of them it can, however it is a unique case because it will only be used by the owner.

Mr. Gioiello states he believes that there will be public coming to the office. Mr. Rohmeyer suggests extending a concrete walk way to the entrance to the right of way to provide access.

Mr. Gioiello stated that the plans say 16 feet however he thinks it needs to be more like 12 feet with the steps to meet the setback requirements.

Mr. Keeney has no intention to sell any goods inside or outside of the structure.

Mr. Keeney explains that the garbage will be placed in the appropriate trashcans located down by the marina.

Mr. Keeney explains the zoning and surrounding areas around the marina.

Mr. Morey asks what exactly the board is voting on. Mr. Rohmeyer stated that he believes there was one use variance that is needed. Mr. Simmons states that he believes that each business should be able to have an office to conduct that business in.

Mr. Rohmeyer stated that in the letter he wrote that they needed a use variance for the marina and the insurance company. However if we are only purposing the marina use it would only be a minor site plan that is needed.

Mr. Simmons stated that in his amendment he wrote that there would be one individual that would take calls for an insurance company in the office.

Mr. Morey and Mr. McAndrew believe that this will be a dual use structure then. Mr. Rohmeyer states that if the Board believes that this structure will have two uses than a variance will be needed and will be subjected to any conditions that the board would prefer.

The board wants to know if this will affect the structure itself. Mr. Rohmeyer stated that that would be part of the site plan but it looks like they would be in compliance and still have room to add steps, etc.

Mr. Simmons and Mr. Keeney discuss other properties in the B3 zone and compare the size of the structures in the zone compared to the one they are proposing to put on Keeney's property.

Mr. Rohmeyer goes through the permitted B3 zone uses. He stated that Faris Concrete and the Bike Shop are not permitted uses however they may be preexisting prior to the ordinance or got permission for the use.

Mr. McAndrew stated that he does not believe that there can be two uses in the building anyway you look at it and that is not allowed. Mr. Shinn stated that that is why they are coming for a use variance and the Board can put restrictions on it such as not advertising for both businesses because we don't want to attract the public.

The Board asked how Mrs. Matta runs the insurance company now. Mr. Keeney states that everything is done online and that she does not have a set office location for it.

Mr. McAndrew still believes that it doesn't matter that all of the work is done online, if Mrs. Matta is going to be conducting any business in the structure it is a dual use.

Mr. Keeney states that Mrs. Matta doesn't only sell marina insurance, she also sells boat insurance. Mr. Rohmeyer states that if they also sell boat insurance they could argue that it is an approved use in the B3 zone. So the Board would only need to vote on the one use variance to have two uses in the one structure.

It is determined that it is a conforming structure and the Board is only voting on the use variance.

Mr. Simmons asks Mr. Keeney if all the other marinas have office buildings on their property. Mr. Keeney stated that they do. He is just trying to get his marina to fit in with all the others.

Mr. Simmons discusses some of the positive criteria. He states that he believes this is very compatible with the neighborhood because of all the other marinas on South Green Street. He continues to state that there will be no added light or noise from the structure and there should be no added traffic. Mr. Simmons believes that the zoning ordinance is met because there are a lot of uses listed in the ordinance that should be able to have an office affiliated with it. He also stated that this meets the Master Plan because they are working on upgrading the marina.

Mr. Tonneson asked if they got permission from the Board for the house they were going to put on the property. Mr. Keeney believes so but does not know off the top of his head.

Mr. Shinn asked to describe the lighting situation to make sure that there will be no lights shining into people's yard. Mr. Keeney states that the front door will have a porch light and a motion sensor flood light in the back towards the marina, but not across the creek or South Green Street.

Mr. Shinn asked if there will be any overnight occupancy. Mr. Keeney stated that there will not be any overnight occupancy and that he does not even allow boaters to stay overnight.

Mr. Rohmeyer asked if they would be open to limiting the hours and the employees for the insurance company if the board would desire that. Mr. Keeney stated that that is not a problem and that the insurance company is only a mother and daughter and they are there at opposite times.

Mr. Shinn states that if the Board says yes to the application he will put in the resolution that the insurance company is not open to the public and there will be no advertisements for it including the sign that is there now. Mr. Keeney stated that the business hours will be the same as the marina and even then they are usually done by 1pm and are closed on Tuesdays.

The Board opened the meeting to the public.

Jeff Tooker, 223 South Green Street & 327 South Green Street, Tuckerton, NJ 08087, asked if there has been any violations for the insurance business issued because it has not been in compliance for years. He states that there has never been any site plan for the parking and wants to know how they are going to park enough cars there with the boats. He also states that if there is going to be a dual use and a business, there must be handicapped accessible parking. He believes that all of these issues need to be remediated before they can apply for a variance and wants to know if that is true. He believes that it's a great idea but he does not know what is going on and is concerned about all the unanswered questions. He was told that he was not able to come to the board for his subdivision until everything on his property that was noncompliant was fixed.

Mr. McAndrew stated that they are here for a use variance and a site plan and will refer all site plan questions to the engineer.

Mr. Rohmeyer stated that regarding any violations that there might be, they would have to be reported to the code enforcement officer and handled through them.

Mr. Tooker states that he believes that they should have been issued a violation because trailers are not allowed in the B3 zone. Mr. Shinn advised that they had a temporary use permit for that trailer. Mr. Tooker advised that it has been expired for six months.

Mr. Rohmeyer stated that in the resolution they will require the old trailer to be removed to rectify the violation.

Mr. Tooker stated that he also believes that to expand the marina they need to send out certified mail to the surrounding area including the County with the site plan.

Mr. Rohmeyer stated that they will need to reach out to the County and get any approvals from them as well. If the County wants anything changed they may have to come back to the board but this is the first step.

Mr. Rohmeyer stated that the site plan was based off of a survey. Mr. Tooker states that he knows that this is technical but there needs to be a meets and bound site plan. He also believes that in the B3 zone, the first floor square footage has to be 1000 ft. so there also needs to be a variance for that. Moreover he thinks there needs to be an environmental impact study because they are on the water and believes that adding more parking spots might affect that. He also thinks that the Ocean County Health Department may want to add more bath and shower facilities if they add onto the marina as well.

He thinks that everyone that wants to expand in Tuckerton should do it correctly. He states that Keeney's Marina is great and has used there ramp many times he just wants to make sure everything is done correctly.

Mr. Keeney stated that he has more parking spots than required based on the permits from the DEP and the DOT that his grandfather got back then. He continues that the building will have handicapped parking. He goes on to say that the ramp is private so he does not see a problem with traffic backup. He also requires his clients to give him a 24 hour heads up when putting a boat in or taking it out so he can plan for it and make sure that there are no parking issues.

Mr. Simmons asks how long taking a boat in or out of that water takes and if it affects the pathways to the building. Mr. Keeney stated this process usually does not take more than a couple seconds and does not prevent any access to the front door of the building.

Mr. Morey asked if he still has the survey with the parking that was approved by the State. Mr. Keeney stated that he does not personally but can ask his grandfather to see if he does.

Mr. Rue asked if taking the old trailer off the property would free up more parking. Mr. Keeney stated that he believes it will.

Mr. Keeney stated that the proposed structure will be going on elevated ground held back by a retaining wall that was built up from dredge spoils.

Mr. Rohmeyer asks if they believe there will be any change to the environment. Mr. Keeney believes that it will not impact the environment at all so Mr. Simmons asks for a waiver.

Mr. Rohmeyer stated that there will also be a bulk variance for the smaller square footage than the zone requires. Mr. Simmons states that is why he added the testimony of the other buildings in this zone that also have less square footage.

Mr. Keeney also states that the structure can only be placed in the proposed building due to the flooding on the property.

Mr. Rohmeyer suggested that if parking is a concern to the Board members, one of the requirements in the resolution can be to show the parking on the final plans so they can be accounted for. Mr. Rohmeyer also stated that because it is such a minor improvement he believes that all other requirements could be waived from the site plan.

Mr. Keeney stated that he believes that there is a potential for 44 cars to be parked on the lot and still be in compliance.

Mr. Shinn explains that the Board will be voting for a Use Variance for 2 uses in the principle structure for the insurance business with limited use and the marina business as well as a Bulk Variance for the square footage of the structure that is smaller than the required first floor footage in the B3 zone. He explained that he will require approval from all outside agencies as usual. The Board need 5 affirmative votes to pass.

Mr. Tonneson moved, seconded by Mr. Gioiello to approve the application for both variances subject to all conditions of approval that will be laid out in the resolution to come. It was so moved by unanimous consent of the Board.

Mr. Shinn states that the motion carries and the resolution will be read at the February meeting.

Old Business

None at this time.

Informal Discussion

The Board will not be listening to any informal discussion on cannabis at this time and will wait until they get a formal request from Council to review it.

Public Forum

The meeting was not open to the public at this time.

Adjournment

Mr. Tonneson made a motion, seconded by Mr. Gioiello to adjourn. It was so moved by unanimous consent of the Board. The meeting was adjourned at 8:33pm.

Sincerely,
Samantha Hollberg
Tuckerton Land Use Board Secretary