

BOROUGH OF TUCKERTON LAND USE BOARD
August 16, 2018

In accordance with the provisions of the Open Public Meetings Act, Calvin Morey opened the meeting of the Tuckerton Land Use Board on Thursday, August 16, 2018, at 7:00 p.m. at the Tuckerton Borough Hall, 140 E. Main Street.

FLAG SALUTE: Calvin Morey led the flag salute.

SUNSHINE STATEMENT: Carol Scurman read the provisions of the Open Public Meetings Act.

ROLL CALL:

The members of the Land Use Board in attendance were Mayor Susan Marshall, James McAndrew, Keith Vreeland, Joan Rosenberg, Greg Brojack, Tom Hennaut, Peter Gioiello, Wayne Tonnesen, and Calvin Morey.

Robert Rue was absent.

MINUTES:

A motion was made by Mayor Marshall to accept the minutes of the July 19, 2018 meeting as written. Keith Vreeland seconded the motion. On roll call, all voted yes, with the exception of Tom Hennaut and Wayne Tonnesen, who abstained. The motion was carried.

INVOICES

T & M Associates totaling \$1,580.25

7/27/18 (SCL349104)	Master Plan Update	390.00
7/27/18 (SCL349105)	Zoning Map Update	332.25
7/27/18 (SCL349108)	Jon Miller Properties / B 63, L 10.04 & 19	390.00
7/27/18 (SCL349109)	Tuckerton Terr. / B 65, L 9.01 / Maj. Subdivision	351.00
7/27/18 (SCL349110)	Cooney (Wagner Est.) 45 Admiral Dr. B 51, L 14-15-16	117.00

Woodland, McCoy & Shinn totaling \$1,391.62

8/14/18 64380	Tuckerton Terr. / B 65, L 9.01 / Maj. Subdivision	50.00
8/14/18 64381	Jon Miller Properties / B 63, L 10.04 & 19	250.00
8/14/18 64382	General Board Representation - July, 2018	600.00
	Disbursements	91.62
8/14/18 64383	H2 Investments (Sheltered Cove) B 40, Lot 1 & 2	150.00
8/14/18 64385	Cooney (Wagner Est.) 45 Admiral Dr. B 51, L 14-15-16	250.00

A motion was made by Jim McAndrew and seconded by Keith Vreeland to approve the payment of bills on the availability of funds. On roll call vote, all members agreed. The motion was carried.

NEW BUSINESS

APPLICATION FOR JON MILLER PROPERTIES, LLC
MINOR SUBDIVISION MAP FILING-EXTENSION OF TIME
BLOCK 63, LOTS 10.04 & 19
330 E. MAIN ST.

Exhibits:

- A-1 Correspondence from Jon Miller requesting a letter of extension to file the map.
- B-1 Engineer Letter from Jack Mallon, Dated 7/26/18, regarding Mr. Miller's request.

Mr. Shinn addressed the board. Mr. Miller's application came before the board last year asking for site plan approval, subdivision approval and variances, including a use variance. For this reason, he asked Mayor Marshall and Councilman Vreeland to step off hearing this application.

Because Mr. Miller did not file his paperwork within the 180 day time limit, he is required to come before the board to ask for an extension of time. This request does not require noticing.

Jon Miller, 24 My Way, Little Egg Harbor, NJ, was sworn in by Mr. Shinn. He testified that once he got the approvals from this board, it took him about a year to get DOT approval for the second entrance. He was also misinformed regarding when the 180 day time limit began. He now has all approvals required.

Referring to Exhibit B-1, Mr. Shinn advised, Mr. Mallon has been in conference with both Mr. Miller and Mr. Miller's engineer. This is something that is routinely granted. If the board grants the extension, he advises it be granted to December 31, 2018. If Mr. Miller finds he needs more time, he may return to the board to request another extension.

There were no comments or questions from the board.

Public Portion was opened.

John Zabranski asked the address of Mr. Miller's business. He was told 330 E. Main St.

Public Portion was closed.

A motion was made by James McAndrew and seconded by Joan Rosenberg to grant the extension of time to December 31, 2018. On roll call vote, all members voted yes. The motion was carried.

APPLICATION FOR PRELIMINARY/FINAL SITE PLAN APPROVAL

BLOCK 40, LOTS 1 & 2
H2 INVESTMENTS, LLC (SHELTERED COVE MARINA)
910 S. GREEN ST.

Exhibits:

- A-1 Application dated 7/18/18
- A-2 Survey of Property, prepared by CME Associates, dated 1/27/17 (1 page)
- A-3 Proposed Building Location Sketch prepared by CME Associates, dated 6/7/18 (1 page)
- A-4 Sketch of new building (4 pages)
- A-6 Engineer Review Letter, prepared by John J. Mallon of T & M Associates (7 pages) dated 8/7/18
- A-7 Notices

Howard Butensky, the applicant's attorney, addressed the board. This is a conforming site plan application for Sheltered Cove Marina with no variances required. However, there are two waivers requested: an Environmental Impact Study and curbs and sidewalks. The owner of the property, Mark Hatman, had a previous commitment and was not in attendance. The project architect, Doug Rohmeyer, CME Associates, 3141 Bordentown Rd., Parlin, NJ 08859/1460 Rt. 9 North, Howell, NJ 08831 and Michael De 'Andrea, 329 Country Club Blvd., LEH, NJ 08087, who is familiar with the operation of Sheltered Cove, were sworn in by Robert Shinn. Mr. Rohmeyer was accepted as an expert in his field by the board.

Mr. Rohmeyer gave an overview of the plan using Exhibit A-3. The site is located in the B-3 Zone (Marine Commercial District) and is a permitted use. It is bordered by S. Green St. on the East, Carroll Ave. on the south, Tuckerton Creek on the west, and residential properties fronting on Anglers Rd. to the north. Access to the site is currently on S. Green St. There is one access on the southern portion of the property and a secondary on S. Green St., north side of the property. There is also access on Carroll Ave. on the south side of the site. The first principal structure is located centrally along S. Green St. It is a single story structure housing the offices, boat sales and a little maintenance and repair via an overhead door on the south side of the building.

Exhibit A-4 shows the proposed second principal structure to be located immediately adjacent to the existing structure to the south. Front yard setback will be at ten feet. The building footprint is 50 feet running east to west, and 87 feet running north to south with six overhead garage door openings that are sixteen feet tall. It is a steel structure, with a sloped roof pitched in one direction towards the road. At the back of the building (which is in the front of the property) it is 16 feet tall from grade and 20 feet tall from grade in the front of the building. The applicant proposes to pour a concrete slab for the use of this building. Similar type operations will be performed inside this building: boat storage, boat maintenance, and boat prep. It will have ceiling mounted internal lighting, be heated by natural gas hung in the upper portion of the side walls or from the ceiling, and have a small bathroom with no public access located in the rear, left side of the building. It was noted there is another bathroom located elsewhere with public access.

The applicant is also proposing to relocate the existing canopy which is currently located within the front yard setback. The plan is to pull it back to meet the front yard setback, rotate it 90 degrees and move it south of the existing secondary access on S. Green St. with a front yard distance of 10 feet. The canopy is 33 feet in depth and 60 feet in width (running along S. Green St.). In order to facilitate the two buildings, the existing gate and drive access on S. Green St. is to be moved approximately 5 feet to the south.

Land Use Engineer, Mark Rohmeyer, addressed Mr. Mallon's review letter. This application requires no variances, and asks for waivers for an Environmental Impact Study and the installation of curbs and sidewalks.

Doug Rohmeyer described the existing and proposed drainage patterns. The site is 20.8 acres over all with a very limited irregular shaped upland area. The area proposed for the new steel structure and relocated canopy generally straddle the elevation 5 contour. The steel structure has a sloping roof towards the road which will keep in kind with the existing drainage pattern on that portion of the site. The compacted parking area drains towards the gutter line of Green St. and flows to two existing drainage inlets along the edge of pavement. Once water enters those inlets it comes back through the site and penetrates the applicant's bulkhead and discharges into the marina basin. The relocated canopy will shed water side to side. A portion of it will enter those same inlets located near the corner of S. Green St. and Carroll Ave. A portion will also go into a flat grade interior to the property which follows the same discharge. It is his opinion the existing ground, which is a crushed compacted gravel, is virtually impervious so the small areas of building coverage are not adding additional impervious areas to the site and will have no impact on drainage runoff.

Mark Rohmeyer advised same use multiple principal structures are permitted. Lot coverage of 40% is permitted and with these proposed structures they are at 6%. Since the building is in the floodplain zone and they are building below the base flood elevation, the applicant must provide testimony that the structures will be able to handle any type of flooding and that all the buildings will be built to the construction code.

Doug Rohmeyer testified the proposed steel structure will be set on a concrete floor relative to the existing single-story structure at elevation 5.1. The basic flood elevation currently is 7. In order to exist in that area with their proposed use they will have to flood vent the whole enclosed storage space. In accordance with the code, there will be at least two flood openings on each exterior wall, 1 square inch per 100 feet of enclosed area. They will comply with the elevation and flood proof materials. The relocated canopy is going to be set on two courses of concrete block to anchor it down. The front end will be open with no doors. The blocks will be offset to get the required openings on the other side. It will act as a sheltered work area for services provided. The plan is in compliance with Section 166-16 and 17; with all applicable requirements regarding building in the flood hazard area in the Uniform Construction Code.

Mark Rohmeyer asked, looking at the steel structure from the road, is there any way the building could be made more appealing to the neighbors.

Mr. Butensky said they appreciate that comment. The ordinance does not define esthetics; there is a fence that screens the property from S. Green Street. To alter the building would be difficult, but they could add contrasting color to the corners and downspouts. Doug Rohmeyer added the rear of the building is set at 10 feet off the property line. The mentioned fence is an 8 foot privacy fence with slats which partially blocks the view from the road. However, the rear of the building is 16' high, so there will be 8 feet protruding over the fence. The structure will be painted a neutral color.

Mark Rohmeyer asked the board to address the waivers requested.

Doug Rohmeyer said with regard to waiver for sidewalk and curbing or contributing to the Pedestrian Safety Fund, he reviewed the existing conditions in the immediate area and there are no sidewalks they would be able to tie in to. There is some curb and gutter installed along Angler Road which serves as a drainage feature. Along S. Green St. and Carroll Ave. he believes installing curbing and sidewalks would be detrimental to drainage. They are respectfully requesting a waiver to pay in lieu because this is an existing marina in place for over 50 years. They are proposing an amendment to the site plan. He believes it would be out of line to require that much of a contribution for a small improvement. Mr. Butensky added amended site plans should be encouraged because it adds value to the property. If the ordinance was interpreted to say that a situation like this would require payment in lieu, it would have a negative effect to encourage others to come forward. For that reason he asked that monetary commitment would not be imposed.

Jim McAndrew said in February of this year there was a 180-day court order request to move the canopy back to within about 1 ½ feet within the setbacks. It still has not been moved. Mr. Butensky said that there were so many impediments to be done prior to moving it, this concept was generated. The borough was made aware of this well before this application was filed. Mr. McAndrew asked why it was not moved. Mr. Butensky said this is an enforcement issue. Mr. McAndrew said that he will enforce it.

Keith Vreeland asked if a CAFRA permit is required. Doug Rohmeyer said it is; they have been coordinating with the DEP and confirmed that it fits within a GP-9. He asked if both structures will have a full set of construction documents fully engineered and permitted, understanding the canopy structure is a permanent structure. Mr. Butensky agreed. Mr. Vreeland asked if the screened fence will be extended to screen the rest of the new structure. The applicant agreed; Mr. Shinn said that could be a condition of approval. Mr. Vreeland asked, since it's not 100% screen, will anything be stored behind these structures, up against the fence. The response was they understood. Mr. Vreeland said the new engineered building runoff is towards the street. He asked if there are gutters and downspouts on the backside of the structure on the S. Green Street side. Doug Rohmeyer said they are not depicted or designed yet, but there will be. Mr. Vreeland said he is still concerned with possible runoff issues. We are all aware of this and hopes the property owner will address it should a problem arise in the future. Doug Rohmeyer said, should the owner see an issue with ponding, he would be able to run a pipe line directly and tie it into the flat. Regarding the curb and sidewalk waiver, Mr. Vreeland said he did not agree with the comment this is a minor improvement to the property; in fact they are almost doubling the size of the structures on the property. He believes it should be enforced as it has been on other applications.

Tom Hennaut asked if the owner had thought about moving the structure to another location, less visible to the residents living on S. Green Street. Mr. Butensky responded it is located in an area that it is permitted. It was not selected arbitrarily; it fits into their business operation. While it's a large property, there are a lot of sensitive areas and there aren't that many places to go. Doug Rohmeyer added the site circulation is driving this plan. The canopy structure will have no utilities so it needs to be located close to the main structure. This is the primary area they have for maneuvering. He also pointed out, as per ordinance, the height could be an additional 20 feet higher. Mr. Hennaut questioned the possibility of a boat being transported by forklift entering a blind spot while turning and creating a safety issue by going on to S. Green Street. Mr. De'Andrea explained in detail how the boats are transported and assured the board the way the building is designed, there is no possibility the forklift driver will

encounter a blind spot and boats do not go near the road. Also, as a safety measure, they always have a second set of eyes when they move a boat.

Wayne Tonnesen asked the actual amount of impervious coverage the new steel building will create. Doug Rohmeyer testified the size of the building is 4,350 square feet. Mr. Tonnesen asked what tests have been done to determine whether the surface is impervious or not. Mr. Rohmeyer testified this is not a major development so they are not required to meet calculator deductions or runoff rates. The idea is to maintain existing drainage patterns and add additional flows. Mr. Tonnesen said he believes, due to the fact the building is sloped, the flow pattern toward the road will be increasing. He knows of a similar situation where a residential mature tree was killed because no one looked at the runoff on the neighbor's property. Doug Rohmeyer said they are about 100 feet to the inlet on the road. Mr. Vreeland said they are concentrating the runoff into a 6 inch downspout, without a chance to perk into the ground. Doug Rohmeyer said if they direct pipe it to an inlet onsite, discharged to a tidal waterway, that would ease the problem. It was agreed Mr. Rohmeyer would prepare calculations to submit to the Land Use engineer for review. It was agreed this would be a condition of approval.

Greg Brojack asked why the applicant didn't design a building that would eliminate the need for the canopy, which seems to be the biggest point of contention. Marrying a building to the existing building to extend it would be so much more esthetically pleasing than the canopy. This would also eliminate the canopy issue and its own list of problems. Mr. Butensky said the space is needed and the canopy is there. There are economic realities to consider and this plan, while not esthetically ideal, is conforming.

Wayne Tonnesen asked why this plan couldn't be moved to front on Carroll Ave. which has a restaurant directly across the street. He was told there would not be enough room for the operation of the business. Mr. McAndrew added, on Carroll Ave. there are also approximately 12 to 13 mobile homes that have been approved. Discussion followed regarding alternate layouts for the operation and the necessity of keeping the existing storage areas, the logistic problem created with separating service from the parts, service people, service riders, and keeping the service operations separate from the public for safety reasons.

Peter Gioiello questioned why the applicant doesn't take the canopy down and put up a building. He knows it's a cost factor, but the applicant is also asking for a waiver in lieu of curbs and sidewalks and the canopy is an eyesore.

Mr. Butensky asked for 10 minute break to speak to the owner. Mr. Shinn advised the board there should be no discussions off the record.

After the recess, Mr. Butensky informed the board the property owner said the tent is critical and needs to stay. He suggested the Pedestrian Safety Fund waiver request be discussed after public hearing.

Mayor Marshall asked for a description of the blocks the canopy will be set on. Doug Rohmeyer described them as large concrete blocks, 3' x 3' x 6". The tent manufacturer came up with the design to anchor the building. They will be placed 2 courses on three sides. They won't settle and will act as an anchor.

Wayne Tonneson expressed concern they are asking for a waiver from an Environmental Impact Statement even though they are disturbing close to 5,000 square feet of ground. He would like to have an environmental engineer test the soil to insure there will be no impact to Tuckerton Creek or Tuckerton Cove. To pour a pad for the building, they will be digging down three feet for footings, disturbing a lot of soil that can be presumed contaminated over the years. Doug Rohmeyer said he is not aware of any contamination on the site. The construction has to conform to the codes, all the performance standards. No excavation will go into the lagoon or the drainage system. The soil from the excavation will be contained and trucked off site. If anything comes up, it will be dealt with through the proper facilities.

Adding to the existing and proposed drainage discussion, Mark Rohmeyer said as of right now, the contour lines on the plans show where the runoff will run off to. All of the water makes its way out to the marina, the lowest point.

There are inlets on the north and south side of the existing structure. Right now any runoff goes to the roadway gutter, and then flows to each inlet and then under the property out to the marina. If we ask them to make sure everything gets collected and spit out to the lagoon, that would ensure there would be no flooding or runoff concerns. Mr. Vreeland asked how they would collect the runoff from the canopy. Mark Rohmeyer said the canopy has no gutters so they would have to have something at the base of the structure to collect the water and direct it out to the marina water via the same ground base runoff as the steel building.

Mr. Butensky said he is ready to close, subject to reopening after public testimony.

Public Portion was opened.

Robert Reinherz, 921 S. Green St. was sworn in by Mr. Shinn. Noting this is a high-traffic area with a lot of people walking down the street to fish, he wanted to know how many more bays they plan on opening and if a road study was done to determine the impact this development would have on S. Green St. Mr. De'Andrea said the additional building is not going to generate additional employees and will not increase the volume of business. Work that is being done now will be done under the cover of the building. Mr. Reinherz said he will completely lose his view with the construction of the building. Doug Rohmeyer said this marina has been in operation over 50 years. What they are proposing conforms to setbacks and is significantly lower than the maximum allowable height. Public view is not something that is protected across private property. This owner has the right to develop his property.

Gary Corriero 925 S. Green St. was sworn in by Mr. Shinn. He is happy the marina is doing well. To say you can do something doesn't mean you should do something. That structure is going to block the resident's views. To preserve the look of the area, he asked the board to ask the marina to seriously consider moving the structure elsewhere. It's an unserious proposal.

John Zabranski, 707 S. Green St. was sworn in by Mr. Shinn. He said the plastic building should have come down when it first went up a year and a half ago without permits. They took us to court when they were told they had to move it 10 feet and we conceded to moving it less to avoid more litigation. It still doesn't conform and it still should come down. Mr. McAndrew said he understands his valid argument, but that cannot be addressed at this hearing because the discussion is only about this application. Mr. Zabranski said he also took issue with them asking for waivers for curbs and sidewalks. Anytime you do an upgrade to a property, you should bring it up to today's standards. He asked that this board put an end to this tonight once and for all.

Bruce Menzen 923 S. Green St. was sworn in by Mr. Shinn. He doesn't understand why we are discussing the tent at all. They refuse to do what they are told to do. This whole thing is their fault. He should be told to make the building bigger.

Public Portion was closed.

Mr. Vreeland questioned the applicant's testimony there would be no additional boats brought to the property and service is now done on boats in all conditions of weather. He asked if workers were given days off due to weather. Mr. De'Andrea said approximately 25 days due to severe weather. Mr. Vreeland said with the new building they have picked up 25 more work orders - times 6 bays - resulting in additional work and additional boats. Mr. De'Andrea said they have reached their capacity of work; this building is just to keep the staff out of the weather.

Jim McAndrew said the canopy is 1,980 square feet which means it requires site plan approval. He wanted to make it clear that the canopy is part of this site plan application and that they are not just moving it where they would like it to be. Once it's taken down, it's no longer a structure and there are other areas that would have to be satisfied with regards to the permitting of it.

Taking in consideration Tuckerton Beach Park has just been renovated with an increase of foot traffic and most of the houses are to the north of this property, Mr. Tonnesen asked if it wouldn't make sense to have sidewalks on S. Green St. and Angler Dr. Doug Rohmeyer said there are presently no sidewalks on Angler Dr. or on S. Green St.

The closest sidewalk on S. Green St. is about .6 miles north. In front of the property, adjacent to the pavement, there is a flat shoulder. Mr. Vreeland said we are doing a site improvement and the question is, are we improving the site by adding curbs and sidewalks or putting the money into the Pedestrian Safety Fund. There are no sidewalks to connect to and adding curbing would interfere with drainage. If there are no curbs, cars will pull up on the sidewalk and crack it. The question was asked if Sheltered Cove workers park on the street. Mr. De'Andrea said one does; he said he would address that.

Robert Shinn said this site plan requires no variances. Even though we have a court order agreement, this eliminates that one variance we agreed to let them have. Under the law, this is a conforming site plan and these are principal uses. Mr. Vreeland asked the timeframe for the completion of this project. Doug Rohmeyer said, should this be approved tonight, the owner said he'd like to have it done by early spring, at the earliest. Mr. Vreeland said that means the relocation of the canopy has now been moved to early spring. Mr. Morey said the property owner has not done what this board has requested him to do and now he's back requesting approval for this new plan, so we will still have that canopy sitting where it doesn't belong. Mr. Shinn said as a condition of approval, we can require them to move the canopy to comply with the court order in the interim while working on the other structure. Mr. Butensky said an initiative they discussed would be before anything else is done, the first event would be moving the canopy to the new 10 foot setback location. Mr. Vreeland said if he applied for a building permit tomorrow, he'd have it within 30 days. Mr. Shinn said he has concerns regarding CAFRA and the fact S. Green St. is a county road. Those approvals could take months. He suggested taking the canopy down for now and put it back up when all of the permits are in place. That would eliminate code enforcement and we could vote on the site plan tonight. Mr. Rohmeyer said he had concerns the PVC material may not go back if it's disassembled. He believed the owner's plan is to have a machine move it intact.

A motion was made by Wayne Tonneson to approve the site plan based on all the discussion statements including:

- The requirement of an Environmental Impact Study

- In lieu of putting in curbs and sidewalks, contributing to the Pedestrian Safety Fund in an amount agreed upon by the Land Use and applicant's engineers

- Comply with all the conditions discussed regarding the control the runoff on the two structures

- The screening extended to the whole length of property on N. Green St.

The motion was seconded by Peter Gioiello.

On roll call vote:

- Mayor Marshall voted yes with all the conditions of approval mentioned.

- James McAndrew voted yes to the site plan which does not include the tent being removed now, however, it will go to enforcement.

- Keith Vreeland voted yes for all of the above and afore mentioned reasons.

- Joan Rosenberg voted yes.

- Greg Brojack voted yes.

- Tom Hennaut voted yes.

- Peter Gioiello voted yes.

- Wayne Tonnesen voted yes.

- Calvin Morey voted yes.

The motion was carried.

OLD BUSINESS

**RESOLUTION 2018-10
APPROVING THE 2017/2018
REEXAMINATION OF THE MASTER PLAN**

A motion was made by Jim McAndrew and seconded by Keith Vreeland to approve the resolution as written. On roll call vote all eligible members voted yes. The motion was carried.

Bob Shinn said he would publish the decision in the newspaper.

INFORMAL DISCUSSION

Keith Vreeland reported at the last Borough Council meeting the first reading for the new ordinance for RV storage and the Historic Preservation Commission that will be an advisory to this board. At this time, he will serve in an advisory capacity from a professional standpoint until we are able to afford to hire a preservation architect. Once the ordinance is past, we will also have a member of this board attend meetings and report back to Land Use. They will, however, have no voting capacity.

ADJOURN

A motion was made by Greg Brojack and seconded by James McAndrew and unanimously agreed to adjourn the meeting.

Respectfully submitted,

Carol Scurman
Land Use Board Secretary