

## MINUTES

The Town of Manteo Planning and Zoning Board met in Regular Session on Tuesday, January 10, 2012 6:00 pm. at the Manteo Town Hall, 407 Budleigh Street

The following members were present:           Chairman Bill Parker  
  Member Phil Scarborough  
  Member Beth Storie  
  Member Grizelle Fearing

The following members were absent: Member Bebe Woody

Also present at the meeting: Erin Trebisacci, Planner and Becky Breiholz, Town Clerk

Chair Parker called the meeting to order 6:00 pm

**SUBJECT:** Adoption of Agenda as presented or amended

**MOTION:** Member Fearing seconded by Member Storie to adopt the agenda as presented was approved by the following vote: Ayes: Member Parker, Fearing, Scarborough and Storie. Noes: None. Absent: Woody

**SUBJECT:** Approval of minutes Regular meeting December 13, 2011

**MOTION:** Member Fearing seconded by Member Scarborough to approve the minutes as presented was approved by the following vote: Ayes: Member Parker, Fearing, Scarborough and Storie. Noes: None. Absent: Woody

**SUBJECT:** Approval of minutes Special meeting December 29, 2011

**MOTION:** Member Fearing seconded by Member Storie to approve the minutes as presented was approved by the following vote: Ayes: Member Parker, Fearing, Scarborough and Storie. Noes: None. Absent: Woody

### PUBLIC COMMENTS

John Robbins-Puddle Lane Manteo; commented on the Town's top 10 goals, one of which is slow down growth. He would like the Board to look at the Land Use Plan and have them promote smart growth.

A dialog with the Planning Board Members and members of the audience took place on the subject of the Pirates Cove request to expand existing storage building.

**SUBJECT:** Discussion of construction of addition at Pirates Cove Ballast Point

Maintenance building. Pirates Cove Homeowners Association is requesting permission to construct a 320 square foot addition to an existing maintenance building that also houses a Town of Manteo Lift Station. The addition will be on the south side of the existing building and will be in the same architectural style. The space is unheated and will be for storage of maintenance equipment associated with the property management at Pirates Cove. Staff recommends that the Planning and Zoning Board approve this building permit in accordance with section 3-14(c) (2) of the Zoning Ordinance.

Arline Maeser Ballast Point Manteo and is here tonight to speak about the addition to the maintenance building at Pirates Cove. She commented that they had less than 48 hours to notify the homeowners of this project and believes in the ability to discuss what is happening and have a dialog. There is an obligation to inform the residents and that was not done. There is an impact on the residents, a danger to what now exists and they desire to have a dialog with their peers. We feel Pirates Cove has an obligation to inform the residents, and especially the residents who will be directly impacted by the building of the maintenance facility and that was not done. Not only are the residents impacted but also renters, guests and young children in that area. There are problems already there. Everyone in the audience is not from just Ballast Point, they represent other areas of Pirates Cove. She asked those in the audience to raise their hands that are against this addition and all those present did.

Walter Maeser Ballast Point-commented does not object to the pump house it is necessary for water and sewer, and the enclosure was done for aesthetics; but over time it has turned into a Pirates Cove maintenance building and it is his understanding that it is a commercial entity. To him the presence of that business in a residential area is a conflict. Under the guise of storage we all know that it is going to be used for more than storage. Currently they use the area for maintaining trucks, lawn mowers, golf carts and landscaping equipment. That area is the central employee station where they get their equipment out, we have pickup trucks, dump truck and employee vehicles that are parked in an area that is not a designated parking area. If any of the residents park in unauthorized area, they get tagged for doing that. It is a maintenance facility not just the lift pump. He tried to organize an effort with the residents to do away with the maintenance area and only house the pump, there are other common areas in Pirates Cove that could be used that are more safe. They were not given any notice or informed of the addition; hazardous materials are stored there; there are problems already with storm water run-off and they want to increase the foot print. Please deny the application and asked all members of the audience to raise their hands if they were against it which they did. Member Fearing asked if the by laws of the Homeowners Association require that residents be notified? Mrs. Maeser had a question, "they were under the impression that the Town of Manteo owned the pump." Planner Erin Trebisacci commented that the Town of Manteo owns the lift station and the equipment but the structure is owned by Pirates Cove. They have used that building in some manner or another as a maintenance building for the last 25 years, the only thing we require is that we can access the pumps. Staff received 53 emails from residents out of town who are opposed

to the addition.

Chair Bill Parker commented that Pirates Cove was a Planned Unit Development and the master plan was amended many times over the years as things changed, but certainly somewhere on some plan the lift station should be reflected.

Debra Tierney Spinnaker Drive and explained why none of them knew about this, "Pirates Cove was built before they enacted the NC Planned Community Act," this was an act legislated to protect communities like ours where people find themselves in the position to never be able to vote on issues". "Every year we have a homeowners meeting, we will never have a quorum we have 700 houses there." "In addition to that to change any of the by laws the Directors have to first approve the change before they can vote, so therefore our community can never have a say in anything." "Basically our Board of Directors are self appointed, when they elect them, when they want to replace someone they pick another one of their buddies that agree with everything they say basically it is a dictatorship." They have meetings and the information does not get out to the residents in a timely manner; "absolutely no one in Pirates Cove knows this is happening if it had not been for one of the people here happens to be on another Town Board would they have known about it." My statement today regarding the fact that they have contracted with or plan on contracting with a company called Gran Plan." "This is owned by a man named Glen Paul." "Glen Paul who is an unlicensed contractor, never had a license, he was already censured by the N.C. Licensing Board for General Contractors." "He got caught building structures over \$30,000." "Everything that gets fixed at Pirates Cove, they hire him and we do not know why." "I would be appalled if the Town of Manteo approves a structure and allows an unlicensed general contractor to alter a building that is over something that belongs to you." She asked if everyone in the audience agreed with her and they all raised their hands.

Suzanne Baer Spinnaker Drive is opposed to the addition. Sells real estate in Pirates Cove and the homes around the maintenance shed are not selling because of the trucks parked there, employees working out of the shed and playing music; people do not want to buy around a shed and making it bigger would affect the values of the property.

Ben Birch-Hammock Drive and wanted to find out about the temporary pumps that have been out their since Hurricane Irene. Mrs. Trebisacci responded that it is her understanding that East Hammock should be finished and West Hammock by March as the parts had to be remade from the manufacturer.

Judy Kerr-Spinnaker commented that the area is small, there are safety hazards and flammable liquids stored there and it won't take much for a spark to start a fire. Also concerns of safety with traffic issues and there is not a lot of space getting in and out of that area.

Other remarks made from the audience was that they allow two year olds to drive golf

carts while the adult holds alcoholic beverages; the employees park their vehicles in an undesignated parking area, play loud music. Member Fearing commented that she sees no answer for the loud music or parking of the maintenance vehicles. Members from the audience commented that they are dealing with that, but they are expanding the building. Other comments made were the fact that they plan on doing maintenance of the equipment there, it is not just for storage. The bylaws state they can only park in designated areas, but they park on empty lots, park where there is no parking.

Jim Kerr Spinnaker asked if this could be tabled until investigated by the EPA because of the hazardous materials. We pay a majority of the property taxes in Manteo, shouldn't we be a part of the Town of Manteo parking laws; the maintenance crew is run by someone who is also an employee of the Homeowners Association that is a conflict of interest. Also have concerns about safety. Would also like to see more police presence in Pirates Cove.

Larry Hampton-Rudder Lane; there is a big safety issue around that building there are blind corners, they are out there at 7am in the morning and it would increase the nuisance if allowed to expand the area. Suggested the Board take a ride and check the area out.

Chair Parker commented one concern was "they felt they were not notified by the Homeowners Association in time to react;" "if you had more time do you think it would have changed things." Members in the audience responded no they have no say.

Roy Hiller Ballast Point commented that yes we could have had some affect on this one decision since it is a potential EPA , CAMA and hazardous violations that they would have had a chance to bring to the attention of others. Looking at our zoning map the island where the pump station is located is in the right of way. There is no provision for a commercial facility on the right of way that seems to him to be the answer. Member Storie would like to see what was actually approved. Mrs. Trebisacci commented we built the pump station which was unattractive so Pirates Cove built the building around it and it was to be used to keep things in there. Mrs. Maeser from the audience commented that is true to keep things in there, but then it has escalated, this is not the first time we have thought this is not the proper use for that building, it escalated where lawn mowers were kept, then repairs were being made, then there was noise, they poured out stuff from their weed spray onto grass, it has been over the top.

Chair Parker commented that it has evolved over the years and may be difficult to find out how this building evolved. Does not know whether it was intentionally done, with the submission of so many plans over the years. Thinks what they all thought was a pretty straight forward addition has turned out to be not so straight forward and thinks we should let the folks have some more time. Member Storie commented that a huge concern for her is the run off caused by the fertilizers and such.

Debra Tierney commented no provisions were made by the developers to build a building to house the maintenance items. There are some other common areas, we are willing to give up the children's playground to put a building and there are other common areas this building could go besides the middle of the road.

Rosie Hampton Rudder commented that the pump out station in Roanoke Village has a fence around it that no one can access that area and I can not go there and build an addition there and is no different for Pirates Cove. Has concerns over safety issues and opposes the addition

Chair Parker commented that we have spent almost an hour on this and asked if there is a motion and Member Fearing stated she would make a motion to deny the application. Chair Parker commented why expand something that is already a problem.

**MOTION:** Member Fearing seconded by Member Storie to deny the application was approved by the following vote: Ayes: Member Parker, Fearing, Scarborough and Storie. Noes: None. Absent: Woody.

**SUBJECT:** Home Occupation at 210 Sir Walter Raleigh Street. The applicant, Rebecca Evans, is seeking permission to have a home occupation and use their house as a destination wedding site. The applicant has outlined her proposed business in the attached letter (will be made a part of these minutes) Staff has reviewed the request and the ordinance associated with Home Occupations. The definition of a home occupation is as follows:

Home occupation. A commercial activity that: (i) is conducted by a person on the same lot (in a residential district) where such person resides, and (ii) is not so insubstantial or incidental or is not so commonly associated with the residential use as to be regarded as an accessory use, but that can be conducted without any significantly adverse impact on the surrounding neighborhood. Without limiting the generality of the foregoing, a use may not be regarded as having an insignificantly adverse impact on the surrounding neighborhood if: (i) any on-premises retail sales occur, (ii) any person not a resident on the premises is employed in connection with the purported home occupation, (iii) it creates objectionable noise, fumes, odor, dust or electrical interference, or (iv) more than 50 percent of the total gross floor area of residential buildings plus other buildings housing the purported home occupation, is used for home occupation purposes. The following is non-exhaustive list of examples of enterprises that may be home occupations if they meet the foregoing definitional criteria: (i) the office or studio of a physician, dentist, artist, musician, lawyer, architect, engineer, teacher, or similar professional, (ii) workshops, greenhouses, or kilns, (iii) dressmaking, or (iv) home child care of five children or less.

According to the narrative provided by the applicant some important concerns have been addressed. However the use of tents and port-a-potties will like cause concerns

from the surrounding neighbors. And host events with up to 250 guests will likely have an adverse impact on surrounding neighbors and adjacent parking. After a thorough review of the application and the zoning ordinances, staff recommends the Planning Board deny this application for a home occupation as it does not meet the intent of the home occupation use.

Mrs. Trebisacci commented that after reviewing the ordinance more she thinks that this is more of a business and does not quite fit into the home occupation category. Our ordinance does not have an "Event Home" listed as a permitted use in B1. Becky Evans is hoping to see this get off the ground and would like to know what needs to be done. The Board discussed how to approach this as a business and how to handle issues of parking, bathrooms and impact on the surrounding neighbors. Member Storie is in favor of it but the Board needs to figure out the impact and how this can be done effectively. Mrs. Evans commented that her sons wedding was on a Sunday and how they told people to car pool; we had parking in our lot next door, parking on Sir Walter Raleigh Street, (this was a Sunday wedding so we had the downtown area) they could even use the parking lot of their law offices. She does not plan on being in charge, she will have a contract with a wedding planner who would handle all the details. They will not have access to the house. The Board would like to spend some time on drafting an ordinance for an "event house" to be a permitted use. Parking was discussed at length and there is no parking requirement in the B1 area but possibly add a caveat when adding a new use to B1 to address some of the issues of parking and bathrooms. The noise can be controlled by our noise ordinance. Mrs. Trebisacci will draft language for an ordinance for the Board to review at their next month meeting.

**MOTION:** Member Fearing seconded by Member Scarborough to table until next month was approved by the following vote: Ayes: Member Parker, Fearing, Scarborough and Storie. Noes: None. Absent: Woody.

**SUBJECT:** ABC Store Parking lot expansion The Dare County ABC Board is requesting site plan approval for a parking lot and drive way expansion. The parking lot will connect to the existing lot and will add six spaces and a trailer pull over area. Albemarle Engineering has submitted an altered storm water plan that will address the runoff from the new parking as well as the altered area where the drive is widened. The proposed lot coverage for the property is 52.5% under the allowed 55%. The proposed wider drive way does not meet the standards established in section 13-2 Access and Curb cuts. The proposed curb cut is 36 feet wide at the property line and 51feet at the apron. The standard established in the ordinance is 24 feet at the property line and 36 feet at the apron with the only exceptions being for parking lots with more than 100 spaces. There is existing non-conforming sign on the site that does not meet current size restrictions. Staff recommends that the Planning and Zoning Board deny approval for the proposed parking lot as the driveway does not meet the standards specified in the ordinance.

John Delucia with Albemarle Engineering commented that this is a very difficult driveway to access, especially with a boat or trailer. There are two lots which were owned by the County and the County traded one of those lots with the ABC Board and when it was previously approved there had been a lot of discussion about allowing one driveway for two lots. The ABC board has seen a decrease in business and thinks it is in part because of the driveway. The Board discussed the size and saw no reason for it to be as wide as Agona Street and makes no sense to make an exception and to make it larger would probably add to the safety and traffic concerns. Mr. Delucia commented that there are a lot of traffic and safety concerns in that area. The billboard sign located on that property was also discussed and Mr. Delucia commented the way he understands it is that it has a legal lease on it and as soon as that legal lease expires the billboard will be removed.

**MOTION:** Member Fearing seconded by Member Storie to deny request for the driveway expansion as it does not meet the standards in the Town ordinance. was approved by the following vote: Ayes: Member Parker, Fearing, Scarborough and Storie. Noes: None. Absent: Woody

A brief break was taken at 8:00 pm and Chair Parker called the meeting back to order at 8:10 pm.

**SUBJECT:** Discussion of uses at Magnolia Market-At the December Board of Commissioners Mid-Month meeting the Planning Board was asked to discuss possible uses for the Magnolia Market space that is in Downtown Manteo. The structure is current divided into three spaces. Unit B is rented to the Pirate Adventures Boat and they have expressed interest in renting Unit C, formerly occupied by the Ice Cream Stand. The third unit was previously occupied by Magnolia Grill. In order for the structure to be brought into compliance with FEMA standards all spaces must be unconditioned and finishes must be of flood resistant materials. Mrs. Trebisacci commented that the Town residents receive a discount on their flood insurance based on the Town's classification from CRS; a non compliant building owned by the Town could jeopardize our CRS rating. It was built as an open air market and morphed into other uses. The Board discussed the options and they all agreed that it needed to go back to unconditioned space and possibly use it as a farmers market. Consensus was also that the Pirate Adventure located there was an appropriate use for the spot. Mrs. Trebisacci will report to the BOC that the Planning Board recommends it going back to unconditioned space.

John Robbins recommended that they think about selling the facility or conduct a survey to see what the townspeople would like to see there.

OLD BUSINESS

**SUBJECT:** Discussion of beekeeping-This was discussed at last month's meeting and

a conditional use request to allow for beekeeping in the B-2 zone by applicant Winborne Evans. The applicant has since moved the bee hives but staff was to work on drafting an ordinance for beekeeping in the Town of Manteo. Mrs. Trebisacci has drafted an ordinance for the Board's discussion and will be made a part of these minutes. She based her ordinance on one she received from the Town of Pinehurst and in their ordinance they allowed for them to be located in residential areas because they believed there would be more supervision. In going over the draft ordinance item c) Location restrictions they would like to include schools, playgrounds and day care centers. Item i) Colony density lot must have a minimum 10,000 square feet, two hives; lots of 18,000 square feet or greater four hives. Item k) selected districts everyone was comfortable with residential because of more supervision in the residential areas and also could be an accessory use on property to an existing home. Mrs. Trebisacci will have a draft ordinance for the Board to review at their next meeting.

Chair Parker commented that a duplex is not an allowable use in B1 zone and would like the Board to think about allowing the use for an existing house. He also commented about items coming to the Board that are clearly not going to be approved and has a problem with that. Member Fearing commented that if it does not meet our ordinance it should not come to the Board. Mrs. Trebisacci commented that the way the ordinance is written parking lots have to come to the Planning Board and she was not sure even though it did not meet the ordinance whether she could turn it down. Mrs. Trebisacci will contact Wyatt Booth, Town Attorney and check with him.

**MOTION:** Member Fearing seconded by Member Storie to adjourn 8:55 pm was approved by the following votes Ayes: Member Parker, Fearing, Scarborough and Storie. Noes: None. Absent: Woody.

This 10<sup>th</sup> day of January 2012

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Bill Parker, Chair

ATTEST:

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Becky Breiholz, Town Clerk