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**PUBLIC AGENDA**

**MEETING AT MUNICIPAL BUILDING, 9508 SECOND AVENUE**

**WORK SESSION**

**TUESDAY**

October 1, 2019

**3:00 p.m.**

1. Meeting called to order
2. Roll Call
3. Announcement of Open Public Meeting Law
4. Salute to the Flag

5. **A & F REPORT**

**PRESENTATION** - Dune Project  
Chris Constantino – NJDEP Div of Coastal Engineering  
Erik J. Rourke – USACE.

O & E Natural Resources

Special Event - Harvest Festival (approval October 15<sup>th</sup>)

Engineer

Tax Collector

Tax Assessor

Construction & Zoning

CFO -

Administrator- Update Administrator position – in position by Dec 1st

Borough Clerk

Planning Board Report- Mayor – sub-committee reports

**Ordinance Change – Streets & Sidewalks – Marc DeBlasio, Suzanne Brown**

**Planning Board Memo – Zoning Ordinance Change Non-conforming lots - Ray Poudrier to explain**

**Shared Services – County Board of Health – possible – Solicitor to review**

**No Parking Zone – 104<sup>th</sup> Street Bridge**

6. **PUBLIC WORKS REPORT**

7. **UTILITY REPORT**

8. **DISCUSSION:**

9. Motion to adjourn

# Chapter 475

## Streets and Sidewalks

### Article II

#### Street Openings and Excavations

[Adopted 9-19-2017 by Ord. No. 1506[1]]

§ 475-4 Application; fee.

- A. Application for permission to make an excavation in any Borough street between the curblines, driveways or in any sidewalk area shall be made to the Borough Zoning Official. Such application shall be made on the required application form and shall be signed by the applicant and shall specify:
- (1) The applicant's name, address and phone number (local and out-of-town).
  - (2) The name, address and phone number of the person or firm who will be performing the work.
  - (3) The length and width of such excavation.
  - (4) The purpose for which the excavation is to be made.
  - (5) The estimated time required to complete the work and restore the surface.
  - (6) Such other information as may be prescribed by the Borough Engineer.
- B. An administrative application fee of ~~\$250.00~~ 400 and construction inspection fee of \$1,000.00 shall be paid to the Borough Zoning Office prior to the issuance of the permit for all excavations of less than or equal to six square yards. If said area to be opened, disturbed or undermined exceeds six square yards, the additional yardage shall be classified as "excess yardage," and an additional fee shall be due and payable by the applicant for all yardage in excess of six square yards at a rate of \$10 per square yard.
- C. The applicant shall be responsible to provide all additional fees associated with multiple reinspections that are necessary due to defective workmanship, lack of coordination, lack of work progression and any aspect of work that is unacceptable to the Borough. The Borough Engineer shall advise the applicant, in writing, of said additional fee, if warranted.
- D. The area to be opened, disturbed or undermined by the applicant shall be measured and determined by the Office of the Borough Engineer and the Department of Public Works.
- E. All utility companies, including companies with existing franchise agreements with public utilities, shall be required to post one general inspection escrow in an amount to be determined by the Engineer based upon the application(s) submitted and the scope of work to be performed and/or an amount estimated and projected to be completed within one (1) calendar year. The general escrow account shall be maintained by the Borough and shall have a minimum balance maintained at all times, which shall not be less than twenty-five percent (25%) of the initial escrow amount required to be posted. All escrow fund balances shall be calculated by the Engineer.-

§§ 475-7 Newly paved streets.

No permit shall be issued for any street opening which would disturb the pavement of any road having been constructed, reconstructed or overlaid until a period of seven years after the completion of said construction, reconstruction or overlay, except in the event of an emergency or hardship as described below. The seven-year period as articulated herein shall be calculated from December 31 of the year in

which said road was constructed, reconstructed or overlaid and run seven years thereafter.

- A. Emergency opening. In the event that an entity shall be required to open a street and/or roadway as a result of an emergency, said emergency opening shall be reviewed by the Borough Engineer, and if the said Borough Engineer shall determine that no such emergency existed, then the entity so opening the street and/or roadway shall have a fine imposed upon such entity in the amount of \$5,000 for the first nonemergency opening, a fine of \$10,000 for a second nonemergency opening, and a fine of \$15,000 for a third nonemergency opening.
- B. Hardship condition. In the event in which a property owner has a hardship condition which requires a street opening permit to be issued contrary to Subsection A above, the Borough of Stone Harbor may grant relief if all of the following conditions are met:
- (1) A letter addressed to the Borough, c/o Borough Clerk, is received detailing the hardship and necessity of opening the street in lieu of waiting the prescribed period of time.
  - (2) Upon receipt of the letter, a public meeting date will be set for the Borough Council to take formal action.
  - (3) The property owner making request shall serve a notice to all property owners within 200 feet, by certified mail, return receipt requested, or by personal hand delivery, a minimum of 10 days prior to the public meeting.
  - (4) The property owner shall file a copy of the notice served to adjoining property owners with an affidavit of proof of delivery of notice with the Borough Clerk at least three days prior to the public meeting. The notice must:
    - (a) Identify the property by street address and block and lot.
    - (b) State the reason for the hardship.
    - (c) State the type and size of the utility opening.
    - (d) Advise the adjoining property owners that if they have any objections, they must advise the Borough Clerk, in writing, as to their objections to proposed street opening at least three days in advance of the public meeting.
    - (e) State date and time of public meeting.
    - (f) Be approved by the Borough Clerk prior to mailing.
  - (5) The Borough Council shall consider the request at a public meeting and review all objections received in writing. Approval or denial of the request shall be through formal adoption of a resolution.
  - (6) A request based solely on economic savings shall not be considered and will be automatically denied.
  - (7) An additional fee of \$500.00 will be assessed for all street openings applications located within the asphalt pavement.

**PLANNING BOARD  
BOROUGH OF STONE HARBOR**

**RESOLUTION NO. 2019-005**

WHEREAS, Section 560-35 of the Zoning Ordinance (the "Ordinance") of the Borough of Stone Harbor (the "Borough") currently regulates nonconforming lots, structures and uses; and

WHEREAS, there exists within the Borough many pre-existing, isolated, undersized lots which do not meet the Borough's current lot area and lot frontage requirements; and

WHEREAS, in many cases, development on these isolated, undersized lots imposes a clear hardship upon the property owners, which often requires an application for variance relief to the Stone Harbor Zoning Board of Adjustment, exposing both the property owner and the Borough to significant expenditures of time and expense; and

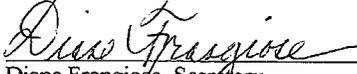
WHEREAS, the Stone Harbor Planning Board (the "Planning Board") has determined the Ordinance can be revised to provide clear relief to certain owners of isolated undersized lots while simultaneously imposing conditions to preserve adequate light, air and open space and to protect the general welfare.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Stone Harbor, New Jersey, that the Planning Board recommends adoption of the attached ordinance by the Stone Harbor Borough Council, which ordinance is consistent with the intent and purposes of the Municipal Land Use Law and is consistent with the Borough's Master Plan.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the Clerk of the Borough of Stone Harbor and maintained by the Secretary of the Planning Board.

I hereby certify the foregoing to be an original resolution of the Borough of Stone Harbor Planning Board adopted and approved at a meeting held on 16<sup>th</sup> day of September, 2019.

Dated September 16, 2019

  
\_\_\_\_\_  
Diane Frangiose, Secretary  
Stone Harbor Planning Board

BOROUGH OF STONE HARBOR  
CAPE MAY COUNTY, NEW JERSEY

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 560-35 OF THE  
REVISED GENERAL ORDINANCES OF THE BOROUGH OF STONE HARBOR  
REGULATING NONCONFORMING LOTS, STRUCTURES AND USES

WHEREAS, Section 560-35 of the Zoning Ordinance (the "Ordinance") of the Borough of Stone Harbor (the "Borough") currently regulates nonconforming lots, structures and uses; and

WHEREAS, there exists within the Borough many pre-existing, isolated, undersized lots which do not meet the Borough's current lot area and lot frontage requirements; and

WHEREAS, in many cases, development on these isolated, undersized lots imposes a clear hardship upon the property owners, which often requires an application for variance relief to the Stone Harbor Zoning Board of Adjustment, exposing both the property owner and the Borough to significant expenditures of time and expense; and

WHEREAS, the Stone Harbor Planning Board (the "Planning Board") has recommended that the Ordinance be revised to provide clear relief to the owners of isolated undersized lots while simultaneously imposing conditions to preserve adequate light, air and open space and to protect the general welfare, all in accordance with the provisions set forth below.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Stone Harbor, Cape May County, New Jersey, as follows:

**Section 1.** Section 560-35 of the Revised General Ordinances of the Borough of Stone Harbor is amended as follows (insertions are underlined, deletions are ~~stricken~~):

560-35 Nonconforming lots, structures and uses.

A. Right to continued existence and expansion in certain cases.

(1) A lawful conforming structure or use which becomes nonconforming by a change in the zoning ordinances of this Borough may be continued upon the lot or in the structure occupied.

(2) No additions to or expansion of nonconforming uses shall be permitted.

(3) Additions to or expansion of conforming structures (containing only conforming uses situated upon nonconforming lots) and additions to or expansions of

nonconforming structures (containing only conforming uses) shall be permitted without regard to lot area and lot frontage requirements as long as the addition or expansion does not create, expand or increase any nonconformity. This Subsection A(3) shall not permit the vertical expansion of any improvements located in a required setback area.

(4) Exception to permit raising a nonconforming structure. It shall be lawful to raise a nonconforming structure which is below the Borough's flood elevation requirements as set forth in Chapter 300 up to the Borough's flood elevation requirements as set forth in Chapter 300, provided the nonconforming structure is not otherwise expanded or relocated in such a manner as to increase or create a nonconformity. In so doing, the structure may be disconnected from all utilities without losing its protected status as a nonconforming structure. This § 560-35A(4) shall not relieve any applicant from maximum building height regulations, except as may be permitted by state law.

B. Abandonment/termination of nonconforming uses. Whenever a nonconforming use has been abandoned or changed to a conforming use or to a different nonconforming use, it may not revert to the previous nonconforming use nor to any other nonconforming use. Discontinuance of a nonconforming use for a period of 18 or more consecutive months shall create a rebuttable presumption of abandonment. Upon the abandonment of any nonconforming use, any subsequent use of the land or structures shall conform to the regulations of the district wherein it is located.

C. Grandfather clause for isolated undersized lots. Any isolated, undersized lot which fails to meet minimum lot area and/or minimum lot frontage requirements may be developed with a single family home without the need for lot area or lot frontage variance relief, provided the following conditions are met:

(1) In the Residential A and Residential B zoning districts, the property shall have minimum lot area of 5,000 square feet and minimum lot frontage of 50 feet.

(2) In the Residential C Zoning District, the property shall have minimum lot area of 2,200 square feet and minimum lot frontage of 40 feet; and

(3) The property shall not have been subdivided otherwise reduced in lot area or lot frontage since September 16, 1986.

~~(4) Any lot which was vacant and in compliance with the bulk requirements of the Borough's Zoning Ordinance on September 16, 1986, when the Borough's Zoning Ordinance was amended, which amendment resulted in the lot being of insufficient size (any measurement) to be built upon, may be built upon if the proposed construction complies with all area regulations except lot area and lot frontage.~~

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For the purposes of this § 560-35C, a lot shall not lose its character as an isolated lot if (i) it is only contiguous to another lot in common ownership at a point, or (ii) if it is only contiguous with another lot in common ownership having lot frontage on a different street, court or lane at one or both of the rear lot lines. This Section 560-35C shall be strictly construed to grant relief solely from minimum lot area and lot frontage requirements.

~~(2) Any lot improved with a dwelling substantially constructed by September 16, 1986, which fully complied with the Zoning Ordinance in existence at 7:00 p.m. on that date, may be altered, added to, reconstructed or torn down and a substitute dwelling replaced in its stead on that specific parcel of land, so long as the resulting dwelling complies with all provisions of the Zoning Chapter with the exception of the lot area requirement and the lot frontage requirement which went into effect after 7:00 p.m. on September 16, 1986.~~

**Section 2.** If any portion of this ordinance is determined to be invalid by a Court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

**Section 3.** All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same are hereby repealed.

**Section 4.** This Ordinance shall take effect twenty (20) days after final passage and publication as provided by law.

APPROVED:

\_\_\_\_\_  
Judith Davies-Dunhour, Mayor

ATTEST:

\_\_\_\_\_  
Suzanne C. Stanford, Borough Clerk

JEFFREY PIERSON  
*Freeholder*

KEVIN L. THOMAS, M.A.  
*Health Officer*  
*Public Health Coordinator*

ALOYSIUS ONWUKA, MD  
*Medical Director*

## CAPE MAY COUNTY DEPARTMENT of HEALTH

4 Moore Road  
Cape May Court House, N.J. 08210-1601  
(609)465-1187 after hours (609) 465-1190  
Fax: (609) 465-3933



September 9, 2019

Mayor Judith M. Davies-Dunhour  
Borough of Stone Harbor  
9508 Second Avenue  
Stone Harbor, New Jersey 08247

Dear Mayor Davies-Dunhour:

The attached shared services agreement acknowledges the Cape May County Department of Health as the provider of public health services to the residents of Stone Harbor. This agreement meets the New Jersey Department of Health mandate that each municipality within the service area maintain a current agreement for said services.

The Cape May County Department of Health currently provides and will continue to provide services under the authority of N.J.S.A. 26:1A-15 and 26:3A2-1 et seq. and N.J.A.C. 8:52 Public Health Practice Standards of Performance for Local Boards of Health. A schedule of public health services is listed in the attached agreement within Schedule "A".

Please sign and return the original executed agreement to the Cape May County Department of Health at your earliest convenience. If further assistance is needed, please contact my office at (609) 465-1206.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin Thomas", is written over a horizontal line.

Kevin Thomas, HO  
Cape May County Department of Health

**From:** Gerhard, Richard [<mailto:Richard.Gerhard@CO.CAPE-MAY.NJ.US>]  
**Sent:** Wednesday, September 25, 2019 12:04 PM  
**To:** Church, Robert <[robert.church@co.cape-may.nj.us](mailto:robert.church@co.cape-may.nj.us)>  
**Subject:** RE: No Parking at 104th Street Bridge

Four "No Parking " signs were installed at the end of the 104<sup>th</sup> St. bridge guardrails today. 9/25.19

Rich

Traffic Maintenance

**From:** Church, Robert <[robert.church@co.cape-may.nj.us](mailto:robert.church@co.cape-may.nj.us)>  
**Sent:** Tuesday, September 17, 2019 2:48 PM  
**To:** 'BoroughAdministrator@shnj.org' <[BoroughAdministrator@shnj.org](mailto:BoroughAdministrator@shnj.org)>  
**Cc:** Gerhard, Richard <[Richard.Gerhard@CO.CAPE-MAY.NJ.US](mailto:Richard.Gerhard@CO.CAPE-MAY.NJ.US)>  
**Subject:** No Parking at 104th Street Bridge

Good afternoon Jill,

I just wanted to inform you that the County did pass a resolution to establish a no parking zone on both the north and south sides of the 104<sup>th</sup> Street bridge from approach to approach. The resolution was passed at the July 23<sup>rd</sup> Freeholder meeting, resolution #580-19. Our sign crew will be installing the no parking signs shortly.

Thank you

ROBERT CHURCH, P.E.  
County Engineer  
4 Moore Road  
Cape May Court House, N.J. 08210  
Ph (609) 465-1037  
Fax (609) 465-1418  
[Robert.church@co.cape-may.nj.us](mailto:Robert.church@co.cape-may.nj.us)