

**Township of Egg Harbor  
Zoning Board**

**May 2, 2011**

**Solicitor:** George K. Miller, Jr., Esquire, present  
**Engineer:** Matthew F. Doran, P.E., present  
**Planner:** Edward Walberg, P.P., Joseph Johnston, P.P., present  
**Zoning Officer:** Patty Chatigny, present

A regular meeting of the Zoning Board of Adjustment of Egg Harbor Township was held on the above-date, 7:00 p.m., prevailing time, Egg Harbor Township Hall, Egg Harbor Township, New Jersey. The Chairman opened the meeting by reading the statement in compliance with the Open Public Meetings Act

**Call to Order/Flag Salute/Public Notice/Roll Call:**

John C. Amodeo, Class IV, working	Norma Lombardi, Class IV, present
Leonard Dagit, Jr., Class IV, 2 <sup>nd</sup> Vice-Chair., present	Chrissy Martin, Alt. #I, present
Anthony DiDonato, Alt. #II, present	Andrew Parker, Alt. #III, another engage.
Beth Epstein, Class IV, present	Laura Pfrommer, Class IV, present
John Haines, Class IV, Chairman, on vacation	Paul Savini, Class IV, Vice-Chair, present

**\*\* May the record reflect:** Board Chairman Haines is on vacation, therefore, Vice-Chairman Savini will preside over the meeting.

**PUBLIC HEARING(S):**

<b>1. V 19-05 (Amended)</b>	<b>Interpretation of previously</b>
<b>SPPF 15-06 (Amended)</b>	<b>approved condition</b>
<b>L. S. Delilah EHT, LLC</b>	<b>1502/6</b>
<b>“Ponds Edge”</b>	<b>Delilah Road</b>
<b>Zone: RG-5, 27.87 acre parcel, sewer/water,</b>	<b>Waiver of Time – <b>Not Granted</b></b>
<b>Applicant is seeking an interpretation concerning a previously approved age restricted condition with respect to the preliminary approval granted for the construction eight (8) buildings consisting of 208 (age restricted) dwelling units, with other improvements including clubhouse, pool, tennis courts and storm water management basin to be utilized as a lake feature. Pinelands.</b>	

**Major Site Plan Checklist:**

- 1. Item #20: Traffic report**
- 2. Item #21: Fiscal impact report**
- 3. §198-15(E): Egg Harbor Township Municipal Utilities Authority**

**Variance Relief:**

- 1. Height Variance: 30' ft. permitted; 50' ft. proposed**
- 2. Number of dwelling units in a garden apartment: a maximum of 20 is required; 24 and 28 dwelling units are proposed for each of the different sized buildings.**

**Design Waiver(s):**

- 1. §94-9: Community impact statement**
- 2. §94-14: Environmental impact statement**
- 3. §225-50.6(D): Cultural resource survey**

Pasquale Menna, Esq., introduced himself, advising he is representing the applicant in this matter, L.S. Delilah EHT, LLC. Attorney Menna stated he would like to thank the professional staff of the board. He indicated they have done a wonderful job in helping with this application.

Attorney Menna advised the current application is on behalf of a use variance that was granted by this board in 2007. He indicated the purpose of this application is to seek an interpretation not an amendment to the original approval.

Attorney Menna advised the applicant is here to present testimony, if the Board wants, concerning existing market conditions. He indicated based on these conditions it would be impossible to move forward and develop this site, as approved. He explained the applicant would like to, at a future time, propose market rate units, which would include seniors. Attorney Menna stated what is requested is permitted in this zoning district. He advised if the Board were to grant an interpretation going from an "over 55 development" to a market rate development the applicant will return with a complete site plan for this project if the board determines the 50' ft. height variance can be transferred.

Board Member Lombardi stated she was part of the original presentation. She asked what does the building height have to do with market rate units versus seniors? Attorney Menna indicated that based on the topography of the site, because it is a golf course, the applicant sought relief for a building height of 50' ft. Board Member Lombardi indicated this is correct and it was approved.

Vice-Chairman Savini indicated what he believes the applicant wants is for the age restriction to be eliminated, however, they need to verify that the original variance relief granted for the height was not based on the fact that the application was presented as an age restricted community. What your doing tonight is saying you want to eliminate the age restricted portion of the project. Attorney Menna advised this is correct. He also noted the applicant will return with a site plan

Board Solicitor Miller indicated the previous approval also included relief for the number of units per building. He advised the applicant must come back to the board and seek variance relief for this aspect of the application also.

Lance Landgraf, New Jersey Licensed Planner, Marathon Engineering, Atlantic City, New Jersey, sworn in: Planner Landgraf advised he reviewed the application for this interpretation and he is familiar with the previous approval. Planner Landgraf advised in 2007 the board granted a height variance that was part of the original application. He indicated this site was a pit created many years ago. In the 1990's approval was granted for the "Old Masters" golf driving range, which currently exist on site.

Planner Landgraf advised that because of the topography of the driving range and the limited amount of area the previous applicant could work with they sought a height variance, which was based on the proposed building units being placed back 120' ft. from property line.

Planner Landgraf indicated the applicant does not want the board to review their site plan and advise the 50' ft. height was contingent upon it being an over "55" community. Board Member Epstein asked if she understands, the applicant wants to keep the height variance previously granted, but construct market rate units.

Planner Landgraf indicated the applicant wants to make certain the height was not granted based on the age

restriction previously approved, but because of the topography of the property and the setback of the units from the road. Board Member Lombardi advised the previous applicant presented the age restriction to the board.

Planner Landgraf advised he understand the over "55" component was not a condition of the board. However, this applicant wants to make the board aware they are coming back with a site plan for market rate units and the height of the units will remain the same. Planner Landgraf advised the current applicant wants to make sure the board does not have a concern with the whole site plan if they take out the "55" component.

Planner Landgraf further noted the applicant will be under the density requirements. Board Planner Johnston advised the density for this area is 7.5 units per acre. Planner Landgraf advised the applicant will still be under the requirements, since they are proposing 7.3 units per acre. Again, Planner Landgraf stated the applicant wanted to discuss this issue with the Board. They wanted to come before the board first and ask for permission to keep the height of the units at 50' ft., once the over "55" component has been taken out.

Board Member Dagit asked if the topographic conditions associated with the original application are still existing? Planner Landgraf stated this is correct. Board Member Dagit asked if there was a link between the design of the buildings and the age restriction that was proposed? Board Solicitor Miller advised the applicant has received variance relief for the number of units proposed for each building. He explained if this applicant does return with market rate units this could change. Board Member Dagit indicated then it would be up to the board to.

Board Member DiDonato asked if this applicant is proposing the same number of units in each building. Planner Landgraf stated this applicant, when returning with the site plan, would have to either seek variance relief for the number of units they are proposing or they will eliminate units.

Board Solicitor Miller indicated the new mix has to be approved by the board. Board Member DiDonato asked if the applicant wanted to provide an upscale facility then the units may have to be bigger. Planner Landgraf state the number of units per building was based on the over "55" age restriction component. He indicated this will not be the same situation for the new site plan, therefore, either the applicant has to provide another argument for the number of units proposed for each building or cut down the number of units for each building, which is more then likely.

Board Member Lombardi stated the buyer is purchasing active market rate dwellings. She asked what the ratio will be of studios, one (1) and two (2) bedrooms? Planner Landgraf stated this information will be part of the site plan application. He indicated the applicant is before the tonight to make sure they are able to keeping the ceiling of 50' ft. so that a parking garage can be on the bottom and units can be on top with respect to the building design.

Board Solicitor Miller indicated the number of units and configuration of the buildings will have to be re-approved. He indicated the board must approve the type and mix of the units also. Attorney Menna stated the applicant would like to reserve all these options until time of site plan.

Vice-Chairman Savini explained if the board is to remove the age restriction component then the applicant must come back to the board and provide the size of the units. Board Member DiDonato asked if these will be five (5) story buildings? Planner Landgraf advised parking is proposed on the bottom and there will be four (4) floors above. Board Member Martin indicated she does not have a problem with what is being asked.

Board Member Pfrommer explained that children in schools are a concern. She did however state that based on the design of the development there may not be many children. Planner Landgraf explained that when the site plan is submitted the Board Planner has asked that a fiscal impact report be submitted. Board Member Pfrommer asked how much control does the board have over the mix of units in a building? Board Planner Johnston advised the board has the ability to determine how many units can be in each building. Board Member Dagit stated he understands the topography of the site and that the applicant is coming in seeking this interpretation, however, when the applicant comes back they must deal with a lot of issues.

Attorney Menna stated he understands and the applicant will work with the board professionals. Board Member DiDonato indicated he has no problem with what is being requested. Board Member Lombardi indicated the previous applicant was granted an age restricted development and it was approved as such.

Board Member Epstein stated she has big issues with over crowding of school's and making sure curb and sidewalks are provided. Attorney Menna advised the applicant respects the comments of the board. He noted these are legitimate concerns and they will be addressed at time of site plan. Attorney Menna advised education is a large funding issue and there are constraints on communities.

Attorney Menna explained the height of the proposed buildings were based on the topography of the site not on the over "55" proposal. He also noted that in 2007, no one would believe the market would be what we have today. Board Member Martin advised whether or not this development has children is not this board say. She stated she does not want to give the appearance that children are not welcomed.

Board Engineer Doran advised there was not much to review. He indicated this interpretation review is for the Board Planner, who will also address density issues. Board Planner Johnson asked if the architectural features going to the same as they were for the over "55" development? Planner Landgraf stated yes, the exterior will remain the same.

Board Planner Johnston stated when the board reviewed the height variance the looked at the topographic conditions of the site and the architectural features of the building. He stated if the architectural design is changed then that would be a concern. Board Member Lombardi indicated she remembers the discussion with respect to the lake. She stated now the applicant is looking at a development with children and there is a 12' ft. lake in it. Board Planner Johnston advised the lake was also a comment outlined in his review. Board Member Lombardi she stated the applicant provided a great upscale presentation, however, she is concerned with the safety of the lake.

Board Planner Johnston advised the lake was not an issue related to the height of the building. He indicated the board looked at this application originally as an over "55" development. Board Planner Johnston indicated the board has say with the number of units that will be contained in each building, however, the board does not have a say with the number of units proposed for the overall site. He indicated this is a density issue set by zoning. He indicated the board has a say with respect to the recreation that will be proposed, what type of buffering and landscaping will be proposed, and the water feature. He advised if the Board accepts that the height of the buildings were based upon the topography of the site and not on it being an over "55" development, then the board will have no further say with respect to height.

Board Planner Johnston advised if the buildings have to shrink. He wants to make sure they are proportioned to the architectural design. Board Member Dagit advised density is set by zoning. He indicated if the applicant does not receive the height they could come back with a larger amount of units and it could end up being an application for the Planning Board. Board Solicitor Miller stated if the applicant returns to the

board and substantially changes the design of the site it may create an issue for additional variance relief. Board Member Dagit stated the applicant could return with a four (4) story building, again, it could be a Planning Board application. He advised in reality the Board can not shut down residential development because they are not pleased with additional children in the school system.

Zoning Officer Chatigny stated she believes Board Planner Johnston addressed her concerns. She indicated if the Board were to grant the interpretation then the applicant must come back for site plan approval.

**Motion Dagit/Lombardi to open public portion. Vote 7 Yes**

**May the record reflect no one came forward.**

**Motion Dagit/Lombardi to close public portion. Vote 7 Yes**

Vice-Chairman Savini asked Attorney Menna if he had any closing comments. Attorney Menna advised he would like to thank the board and their professionals. He indicated there are many issues concerning this application and it will be lengthy. He advised if the board were to grant a favorable interpretation the applicant wants to deal with each issue in a practical manner. He advised some of these issues the board has control over and others can not be because they would be controlled by the State Legislation. Attorney Menna advised that because of the economic issues currently happening the only way the applicant can develop this site is by proposing market rate units.

Attorney Menna advised there are safety issues with respect to this site and they will be addressed. He indicated the applicant wants an opportunity and the site plan will not be a short presentation and Egg Harbor Township will be proud of the development being proposed.

Board Solicitor Miller advised the board granted height variance relief based on many factors, such as the topography, the neighbors, buffering, the fire department and the senior citizen component was attractive. He indicated there has been representation made by the applicant's professional's that the aesthetic look of the buildings will not change. He did note, whom ever makes the motion it should include that the architectural design of the buildings not change from what was previously approved.

**Board Opinion(s):**

**N. Lombardi:** 50' ft. is fine, however, she does not want to see a dimension of children being added to this site. She indicated the grandparents would have watched the children. She indicated she is not in favor by proposing market rate units with children versus an over 55 development

**B. Epstein:** indicated she believes in the letter of the law. She indicated the attorney has indicated the height grant previously was not based on the fact this was an over 55 development. She stated she is conflicted and stuck in a catch 22.

**C. Martin:** stated the board should say yes, as long as, aesthetics are not changed. She indicated she sees no issue with the height.

**A. DiDonato:** was presented well. Issues can be hashed out at a later time. There is a safety concern but applicant will have a chance to address. Stated he has no problem with

allowing market rate.

**L. Dagit**

advised the topography has not changed and this was the reason for the 50' ft. height of the buildings. He advised the board to understand why they are present. He indicated it was not to be an alarmist for a water feature. He indicated Egg Harbor Township has more watered areas than any other town in New Jersey. He indicated the water feature will be address with future site plan.

**L. Pfrommer:**

do not have a problem with height and lake. She indicated she is afraid a door can be opened to something undesirable. She indicated an over 55 development is desirable.

She advised she would like to keep this site spectacular with younger people, but as time goes on and your client is not able to sell will there be an apartment type use at this facility. Attorney Menna indicated that at a planning and zoning standpoint this will be an issue that will be addressed at time of site plan.

Attorney Menna indicated there are changes that were cautioned by this board specifically dealing the way the buildings will look. Board Solicitor Miller indicated it is a bigger risk than this. If the applicant were to propose T1-11 to side the buildings with and that was not what had been previously approved. The board could deny site plan and then the variance would not be any good.

Board Member Dagit advised all the specifics can be outlined within the resolutions. Board Member DiDonato asked if these issues can be addressed now or later. Board Solicitor Miller indicated it will be later. Board Member Pfrommer indicated everyone likes children, but....Board Member Lombardi indicated that she was agent for a high rise on the boardwalk. She indicated when someone comes in on the 16<sup>th</sup> floor she explained how restricted the building would be for a child. She indicated she does not believe this development is conducive to children. Attorney Menna indicated due to the proposed nature of the site there may not be many children from this development. Board Member Lombardi indicated this may be, but it is opening the door.

**Vice-Chairman Savini:**

stated his feelings were mixed in beginning. He advised Board Solicitor Miller explained that the site plan can be looked at it in the future. He advised the board often looks at non-age restricted development, however, the price points of this development may restrict the number of families with children. He indicated this development may be open to the 40 to 55 age range, whom do not have children and are casino employees

Board Solicitor Miller indicated that usually a motion for an interpretation is either yes or no. He stated this height variance has to run with the use of the site not just the architectural design. He indicated, however, that the applicant was forewarned that the aesthetics of the buildings will have to be on the same level as previously approved.

Board Member Lombardi stated the applicant submitted renderings previously. She stated the Board should

have an idea of what will be proposed. She indicated she would like to include this as a condition of the motion.

**Motion Dagit/ DiDonato to grant the requested interpretation for the 30' ft. height to be amended to 50' ft. and making the explicit design criteria for the original variance carry forward with any new site plan and requiring renderings be part of any future submittal(s). Vote 6 Yes: Dagit, DiDonato, Epstein, Martin, Pfrommer, Savini. 1 No: Lombardi,**

**MEMORIALIZATION OF RESOLUTION:**

<b>1. <u>V 01-11</u> <u>SD 01-11 &amp; SP 01-11</u> Wallace/Suevo</b>	<b>“D” Variance Minor Subdivision and Minor Site Plan 6901/43 &amp; 44 1712 and 1716 Somers Point-Mays Landing Rd.</b>
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**Motion Savini/Dagit to memorialize resolution granting requested checklist waiver(s): “D” variance, minor subdivision and minor site plan, “D” variance relief: to allow for the expansion of a non-conforming use within the R1 Zoning District, “c” variance relief: Impervious Coverage: 10% permitted; 50% proposed (lot #43) Front Yard Setback (lot #43): 50' ft. permitted; 44.4' ft. proposed for new bldg.; 44' ft. existing for current bldg. Front Yard Parking Setback: 25' ft. required; 22' ft. proposed (lot #43) Side Yard Parking Setback: 25' ft. required; 22' ft. proposed (lot #43) Parking Space Location: 10' ft. from bldg required; -0- feet from bldg. proposed. Number of Parking Spaces: 29 spaces required; 6 spaces proposed (Lot #43) Number of Building Mounted Signs: 0 signs permitted; 1 sign existing (Lot #43) Building Mounted Sign Area: -0- sq. ft. permitted; 31.5 sq. ft. existing (Lot #43) conditional minor subdivision approval, and conditional minor site plan approval. Vote 5 Yes: Dagit, Epstein, Martin, Pfrommer, Savini.**

**MOTION Savini/Dagit TO ADJOURN AT 8:15 P.M.: VOTE 7 Yes: Dagit, DiDonato, Epstein, Lombardi, Martin, Pfrommer, Savini.**

Respectfully submitted by,

Theresa Wilbert, Secretary

