

**TOWNSHIP OF COLTS NECK
TOWNSHIP COMMITTEE MEETING
FEBRUARY 8, 2012
7:30 P.M. AT TOWN HALL**

The meeting of the Colts Neck Township Committee was called to order at 7:30 p.m. by Mayor Engel followed by a salute to the flag. The following statement was read by Township Clerk Bowden: "The notice requirements of the New Jersey Public Meetings Law has been satisfied by forwarding a News Release to the Asbury Park Press on December 14, 2011 stating the meeting of the Colts Neck Township Committee would be held February 8, 2012 at 7:30 p.m., Colts Neck Town Hall, 124 Cedar Drive, Colts Neck, New Jersey. The notice requirements have been posted on the Township bulletin board and a copy is on file in the Office of the Township Clerk."

Roll call by Mr. Bowden indicated the following:

Present: Mayor Jarrett Engel; Deputy Mayor Michael Fitzgerald; Committeemen Russell Macnow, James Schatzle and Thomas Orgo

Also Present: Administrator/Municipal Clerk Robert Bowden, Deputy Municipal Clerk Beth Kara, and Township Counsel John O. Bennett, III, Esq.

Absent: None

1. **ANNOUNCEMENT:** Mayor Engel announced the 2012 Budget Workshop session scheduled for February 15, 2012 is cancelled. The first budget workshop session will be held on February 22, 2012, 7:00 p.m., Town Hall.

2. **MAYOR'S PROCLAMATION:** READ ACROSS AMERICAN IN NEW JERSEY. Mayor Engel proclaimed March 2, 2012 as "Read Across America Day" within the Township of Colts Neck. As part of the National celebration on what would have been the 108th birthday of Theodor Seuss Geisel (Dr. Seuss), a State-wide initiative to promote reading and adult involvement in the education of the community's students is being conducted. By this proclamation, the Township Committee of the Township of Colts Neck is calling on its citizens to assure that every child is in a safe place reading together with a caring adult on March 2, 2012. In addition, the Township Committee endorses NEA's Read Across America and Read Across America-NJ, and recommits our community to engage in programs and activities to make America's children the best readers in the world.

3. **ORDINANCE 2012-3:** AN ORDINANCE AMENDING CHAPTER 16, PEDDLERS, CANVASSERS AND SOLICITORS was read by title at first reading by Mayor Engel. Mr. Bowden stated the draft of this ordinance has been discussed for the past several meetings. In summary, the ordinance sets the cost of an application fee at \$100, updates the existing ordinance to reflect the Police Department review in the approval process, and includes a "no knock" process for solicitations at residences and businesses. Mr. Macnow made a motion to approve, seconded by Mr. Fitzgerald and unanimously carried. Mayor Engel set the public hearing February 29, 2012.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Engel			X			
Fitzgerald	S		X			
Macnow	M		X			
Schatzle			X			
Orgo			X			

M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent

4. **RESOLUTION 2012-34:** RESOLUTION AUTHORIZING FORMAL TRANSFER OF FUNDS, 2011 MUNICIPAL BUDGET was read by title by Mayor Engel. Mayor Engel stated a total of \$5,400 was transferred from the following accounts: Elections, Other Expenses (\$1,000); Tax Assessment Administration, Salaries and Wages (\$2,400) and Streets and Road Maintenance, Other Expenses (\$2,000); to the following accounts to cover additional expenses: Police Department, Other Expenses (\$2,000); Electricity (\$2,000); and Natural Gas (Fuel Oil) (\$1,400). Mr. Macnow made a motion to approve, seconded by Mr. Fitzgerald and carried by Mayor Engel, Messrs. Fitzgerald, Macnow, and Schatzle; Mr. Orgo abstained.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Engel			X			
Fitzgerald		S	X			
Macnow	M		X			
Schatzle			X			
Orgo					X	
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						

5. **MOTION TO ADOPT A CONSENT AGENDA:**

6. ***RESOLUTION 2012-34:** RESOLUTION AUTHORIZING ACCEPTANCE OF PERFORMANCE GUARANTEE, ZONING BOARD APPLICATION NO. 858 (COLTS NECK REFORMED CHURCH)

Mr. Macnow made a motion to approve, seconded by Mr. Schatzle and unanimously carried.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Engel			X			
Fitzgerald			X			
Macnow	M		X			
Schatzle		S	X			
Orgo			X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						

7. **DISCUSSION:** ZONING BOARD OF ADJUSTMENT 2011 ANNUAL REPORT Mr. Timothy Anfuso, Township Zoning Officer, discussed the highlights of the 2011 Annual Report, a copy of which is appended. Mr. Anfuso stated recommendations 1 (reporting contractor violations to the Department of Community Affairs) and 2 (conducting a study to determine if the swimming pool exemption on lot coverage calculations should be repealed) are the same as in the past year, while the third recommendation (an ordinance amendment that would increase the building height for large estate homes on ten acre lots or greater determined on a case-by-case basis through the variance process and requiring larger setbacks for taller houses) is new. Mr. Orgo questioned the cost of the variance process. Mr. Anfuso responded approximately \$1,000 to \$1,200, if done by the applicant. Mr. Anfuso noted there are occasions when height is the only variance. Mr. Schatzle questioned why recommendation 1 was not implemented, noting builders repetitively breaking the rules are not being reported. Mr. Bowden responded only one case was heard last year, while in the prior year three cases were heard. Mr. Fitzgerald stated a pool was built where it shouldn't be, and the applicant modified the pool to comply. Mr. Fitzgerald stated he wants to suspend non-complying contractors' ability to work in this town for three years. Mr. Schatzle stated he wants to change the perception of the resident/contractor to "do it and ask for forgiveness." Counsel Bennett stated if errant contractors were reported to DCA, it would protect residents

that may be prospective clients. Mr. Anfuso stated contractors are summonsed and brought into court. Discussion ensued regarding the active violations at The Orchards, which were discovered by Mr. Anfuso. Discussion ensued regarding the reporting responsibility to DCA. Mr. Fitzgerald suggested completing the DCA reporting form at the Township Committee meeting when an applicant asks for relief.

8. **DISCUSSION:** AMEND DEVELOPMENT REGULATIONS ORDINANCE, APPLICATION COMPLETENESS. Mr. Anfuso provided a draft ordinance to amend the Township's completeness checklist requirements and other housekeeping revisions. The ordinance clarifies when an application for development is deemed complete for review. Mayor Engel questioned if any applications are in process that would be impacted, to which Mr. Anfuso responded in the negative. The second revision clarifies and defines the term "change of use" in relation to site plan approval for interior building alterations as a movement to any activity that can be classified as a lower category on the following: single family residential; two family residential; multi-family residential; business, office, professional office or retail; medical office; industrial. Discussion ensued with Counsel Bennett questioning the various categories of offices and the site plan requirements when changing uses. Counsel Bennett suggested reviewing each change. The third change would clarify the procedure of performing a Zoning review on an application for a building permit. The fourth change updates the completeness checklist to include all items and procedures currently required but not specified by ordinance. Discussion ensued, and the Governing Body agreed unanimously with changes one through four. Mr. Bowden stated he will place this ordinance on the next Township Committee agenda and asked Mr. Anfuso to provide a summary for legal publication.

9. **DISCUSSION:** AMEND DEVELOPMENT REGULATIONS ORDINANCE, SITE INVESTIGATIONS AND SOIL SAMPLING. Mr. Anfuso stated more municipalities are requiring soil sampling as part of the development application process. While the testing will increase the cost of the application process, the Long Range Planning Committee believes the benefits obtained by ensuring future residential developments are free from contamination far exceed the cost of sampling for historic pesticide contaminations. Mr. Anfuso stated the major requirements of the ordinance include soil sampling for residential developments with three or more lots (commercial developments and minor subdivisions exempt), evenly dispersed soil samples except for areas containing freshwater wetlands or floodplains, a survey for underground drums and tanks must be performed, all samples must be tested for all contaminants contained in the NJDEP Soil Cleanup Criteria, contamination exceeding established NJDEP levels require a remediation plan and complete remediation must be accomplished before the start of development, and the developer may choose to perform a Phase I Environmental Assessment as an alternative to soil sampling. Mr. Macnow stated this ordinance was proposed at Long Range Planning by a member who encountered tainted soils. Other municipalities had this issue and the Millstone ordinance was used as a guide. Mr. Macnow stated this probably won't impact many property owners; however, it is better to enact before than after a situation presents itself. Mr. Bowden stated this ordinance will be on the next meeting agenda for introduction.

Mr. Fitzgerald expressed his concern about there being no overall limit to the grade of a house, noting there could be a 35 foot house on a huge mound with no end limit. Mr. Fitzgerald is concerned about future properties with at grade basements. Mr. Anfuso spoke of the septic system, gravity flow and the groundwater table. Mr. Fitzgerald stated there should be an outer limit to the fill and asked Mr. Anfuso to bring this back to Long Range Planning to address.

Mr. Schatzle told Mr. Anfuso his work is greatly appreciated. At this point, Mr. Anfuso excused himself and left the meeting.

10. **DISCUSSION: CHANGES TO SCHOOL BOARD ELECTIONS (P.L. 2011, c.202)** Mr. Bowden stated both Local and Regional School Boards have changed the School Board Elections to November, which will save the taxpayers a great deal of money. Mr. Bowden advised the term appointment for anyone on the School Board with an expiration in April has been extended to November. Mr. Bowden stated no action is required by the Governing Body.

11. **DISCUSSION: FILM PERMIT ORDINANCE** Mr. Bowden stated the comments of the Governing Body to permit discretion on the fee schedule by the Township Administrator has been incorporated in the draft ordinance presented tonight. Mr. Orgo questioned how the Township would know of filming within the Township. Mr. Bowden responded filming would grab the attention of the Police, and most film groups contact Town Hall seeking pre-approval. Mr. Bowden stated this ordinance will be on the next meeting agenda.

12. **ADMINISTRATIVE REPORT:** Mr. Bowden had nothing further to add to his Administrative Report.

13. **MOTION TO APPROVE VOUCHERS:** Mr. Fitzgerald reviewed the vouchers and stated he recommends approval as follows:

Animal Control	\$602.37
Capital Fund	\$4,786.66
Construction Trust	\$12,178.35
Current Fund	\$2,447,495.56
Grant Fund	\$6,042.41
Trust Fund	<u>\$8,709.24</u>
TOTAL APPROVED:	\$2,479,814.59

Mr. Schatzle made a motion to approve, seconded by Mr. Macnow, and unanimously carried. Mr. Macnow abstained from approving any T&M Associates bills.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Engel			X			
Fitzgerald			X			
Macnow		S	X*		X*	
Schatzle	M		X			
Orgo			X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						

14. TOWNSHIP COMMITTEE REPORTS

Mr. Macnow reported the American Cancer Society Relay For Life kick off event is scheduled for February 28, 6:00 p.m. to 8:00 p.m. at Bucks Mill Park. Mr. Macnow urged the public to attend.

Mr. Fitzgerald reported the Architectural Review Committee may seem picky with the recommendations for shutters, siding etc.; however, the review does make a difference. Mr. Fitzgerald noted the Committee was able to advise homeowners of recalled materials planning to be used. Mayor Engel commented he also recalled a similar situation where the Architectural Review Committee provided invaluable information on proposed materials to a homeowner prior to commencing work.

Mr. Fitzgerald asked Mr. Bowden to speak with the Marlboro Administrator to discuss possible membership discounts for Colts Neck residents at the Marlboro Swim Club.

Mr. Orgo reported the Colts Neck Business Association (CNBA) is working on a sign ordinance. In addition, they are preparing a pamphlet welcoming new businesses to the community and advising of contacts at Town Hall and the CNBA. Mayor Engel stated this initiative was inspired by Freeholder Arnone and the Grown Monmouth Program. Mayor Engel stated he and Mr. Orgo would be meeting with the CNBA to discuss the approvals process within the Township.

Mr. Schatzle reported Mr. Frank, the Township's Health Officer, is to be commended for taking the initiative to obtain certification as a Specialized Health Educator, a service previously provided to the Township through a shared service agreement until that person was laid off.

Mr. Schatzle reported the annual Rabies Clinic was very successful.

Mayor Engel reported the deer population is on the rise, as are motor vehicle accidents involving deer and the incidence of lymes disease. A special sub-committee comprised of Thomas Orgo, Jarrett Engel, Brian Grant, Kevin Sauter, Thomas Frank and Thomas Hennessy has been formed to review all aspects of deer population management and control and will report their findings and recommendations to the Township Committee by September 1, 2012. The review would include, but not be limited to, estimating the actual deer population within Colts Neck and evaluating various deer management options, both lethal and non-lethal. Mayor Engel stated with the damage to human life, automobiles and property, it is now time to act.

Mayor Engel thanked Mr. Schatzle for volunteering as a member of the New Jersey State League of Municipalities Emergency Task Force Team. Mr. Schatzle will be attending the Task Force meetings and reporting back on what is happening within the State.

Mr. Macnow reported Route 34, southbound, will be paved between the intersection of Route 537 and beyond the Public Works yard by summer. Mayor Engel noted the Township owes thanks to Assemblywoman Caroline Casagrande for her follow-up with the State.

15. COMMENTS FROM THE PUBLIC

With no further comments, Mayor Engel opened the meeting to public comment.

Ms. Virginia Amend, Editor of the Colts Neck Calendar and a resident, questioned if the Laird's Apple Jack facility was being zoned light industrial. Mr. Macnow responded the property is already zoned light industrial, and Long Range Planning is discussing some of its uses. Ms. Amend questioned if John Vig will be honored for 29 years as a volunteer on the Environmental Commission. Mayor Engel responded he will look into it. Ms. Amend questioned if the labor union contracts were on the website. Mr. Bowden advised they were on the State website. Ms. Amend requested the link, and Mr. Bowden advised he will provide that to Ms. Amend. Ms. Amend stated she would like all contracts on the website. Mayor Engel stated we are looking into it. Mr. Bowden advised the contracts are public documents and he is willing to make anyone a copy under OPRA.

Mr. Vince Domidion, County Planning Board Chair and a resident, stated he commends establishing the deer population committee, noting the deer are destroying the future forest of our county. Mr. Domidion stated the trees and

lawns don't get to grow since deer are dining on them, and the natural predators of deer have been eliminated. Mr. Domidion stated as the Township Committee goes through the budget process, it is good to see what others are doing. Mr. Domidion referred to the Marlboro Pool Club, noting the information provided in a February 8, 2012 News Transcript article may be a good bargaining tool when exploring the possibility of Colts Neck families joining that pool club. Mr. Domidion read what Marlboro Mayor Hornik was quoted as saying in the same February 8, 2012 News Transcript article, "With the cost of the difficult financial times we are facing, as we continue to shrink the size of the government and watch every tax dollar that is collected, we are going to have to move toward a philosophy of what we call self-sustained programming for a lot of our programs. Programs that cannot fully fund themselves present economic hurdles for the township." Mr. Domidion stated the sentiment towards self-sustaining programs is gaining support. Mr. Domidion stated the Township may want to consider raising the height of fences and walls and further setbacks to protect landscaping against deer.

Ms. Alison Antenucci, a resident, stated she runs a small contracting company in Town. She stated the additional layer of review by the Architectural Review Committee results in delayed projects. Ms. Antenucci noted if a monthly meeting is cancelled, the project is set back further to the following month. Ms. Antenucci questioned if a customer likes a look, does the Architectural Review Committee have the authority to disprove its use? Mayor Engel responded in the negative. Ms. Antenucci stated you cannot prevent a house from being built you don't like.

Mr. Fulton Wilcox, a resident, stated with regard to Closed Session minutes, minutes should be released at some point. Mr. Wilcox noted the recent release of documents from North Korea. Counsel Bennett stated no action can be taken in Closed Session, and the minutes are very general and will not give a sense of discussion; to release minutes, many issues would have to be redacted. Counsel Bennett stated the cell tower litigation already spans 3+ years and is not near completion. Mr. Schatzle stated there is nothing in Closed Session that isn't eventually discussed fully in Open Session. Mr. Fitzgerald noted if a flavor of what's being discussed in Closed Session were given in Open Session prior to issue conclusion, it would adversely impact negotiations; however, once the negotiation concludes, it is discussed in Open Session.

Ms. Susan Wilcox, a resident, stated this is how rumors start, which are the basis of underground meetings.

Hearing no further comments, Mayor Engel closed the meeting.

- 16. RESOLUTION 2012-36: EXECUTIVE SESSION.** Mr. Fitzgerald made a motion to approve, seconded by Mr. Orgo and unanimously carried by voice vote. Mr. Bowden stated the Governing Body was not anticipated to return in public session for formal action this evening.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Engel			X			
Fitzgerald	M		X			
Macnow			X			
Schatzle			X			
Orgo		S	X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						

The public meeting adjourned at 9:10 p.m.

Motion by Mr. Orgo, seconded by Mr. Fitzgerald, and unanimously carried to adjourn Closed Session.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Engel			X			
Fitzgerald	S		X			
Macnow			X			
Schatzle			X			
Orgo	M		X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						

Motion by Mr. Orgo, seconded by Mr. Macnow, and unanimously carried to reconvene in public session and adjourn meeting.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Engel			X			
Fitzgerald			X			
Macnow	S		X			
Schatzle			X			
Orgo	M		X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						

Meeting adjourned at 10:00 p.m.



Robert Bowden, Administrator/Municipal Clerk

Attachment

Zoning Board of Adjustment

2011 Annual Report

During the December 15, 2011 and January 19, 2012 regular meetings the Zoning Board of Adjustment reviewed its decisions and formulated recommendations for amendments to the Development Regulations. These recommendations and a summary of the Board's activity for 2011 are set forth herein.

A. 2011 Summary of Activities

1. This Annual Report covers the year January 1, 2011 through December 31, 2011.
2. During this time span, the Colts Neck Township Zoning Board of Adjustment held twelve (12) regular meetings.
3. The Zoning Board of Adjustment acted on a total of 27 applications. Of that, 21 applications were approved (78%), three were denied (11%) and three were dismissed without prejudice (11%). Although this appears to be a very high approval ratio, only 15 applications (56%) were approved as submitted. The remaining applications were only approved after the requests were modified by the applicants (see B9 below).

It should be noted that 27 applications heard was a slight increase from 2010 where the Board heard 25 applications.

4. Attachment No. 1 is an Approval/Denial table which depicts the Board's activity for 2011. The chart highlights the various types of applications versus zone district.
5. Attachment No. 2 is a listing of each application heard in 2011.

B. Trends that are evident from the Approval/Denial Table

1. The AG Zone produced the most applications with nine (33%). This is a change from the past where the A-1 Zone and A-1 Cluster Developments historically generate the most applications.
2. The A-1 Zone and A-1 Cluster Developments generated six and five applications (32%) and (19%) respectively. This is slight decrease from last year where the A-1 Zone and A-1 Cluster Developments produced ten and seven applications, respectively.
3. Additions were the most common type of application and accounted for eight applications or 30% of the total. Use variances were the second most common application heard with five (19%). This is a change from previous years where use variances typically accounted for very few applications and inground pools are historically the most common type of application heard.
4. Building height accounted for zero applications (0%). Last year building height generated two applications. This is not surprising due to the correct economic conditions. Very few large estate homes are currently being constructed.

5. The 90 foot rule accounted for four applications or 15% of the total. This is a decrease from last year where the 90 foot rule accounted for 20% of the total.
6. The 6% building coverage regulation in A-1 Cluster Developments accounted for one application or 4%. This is a slight decrease from 2010 where the 6% building coverage accounted for 8% of the applications.
7. Five applications involved total lot coverage (19%). This is an increase from last year where 12% of the applications involved total lot coverage, but is more consistent with the Township's historical average.
8. One application (4%) involved construction without proper municipal approvals and/or not in accordance with the approved plans. This is a decrease from 2010 where four applications involved improper construction.
9. It should be noted that the approval/denial table and the above described statistics reflect only the Zoning Board's final decisions. What is not reflected in the statistics is that the Board has been proactive when reviewing each application. Instead of simply denying applications that contain a few problems, the Board and Staff have worked with applicants towards improving the project. This process serves to save everyone time, money and distress. The policy of conditioning approvals to minimize adverse impacts has resulted in a high approval ratio. In many cases the need for a variance is eliminated due to Staff's suggesting alterations to a proposal which avoids a variance request altogether. Staff has also tried to advise applicants, when in Staff's opinion and past experiences, the application would have virtually no chance of passage.

Zoning Board Recommendations for Zoning Ordinance Amendment or Revision

1. In the past the Board recommended the Township adopt an aggressive policy toward enforcing its Zoning and Building Codes through violations, fines and reporting complaints to the Department of Community Affairs. The Board is pleased that the Township has partially implemented this recommendation by hiring a Building Compliance Inspector. This inspector now field verifies that each project is constructed in accordance with the approved plans.

The second half of this recommendation was to file a complaint with the NJ Department of Community Affairs with the intent to revoke or suspend a builder's certificate when contractors intentionally perform improper or illegal work. The Zoning Board questions if the Township has reported any contractor violations to the Department of Community Affairs.

This year the Zoning Board heard one application involving improper construction. This application involved the construction of a detached garage addition to a pool cabana where the property owner poured the slab without approvals. This is just one example of what occurred this year. However, the Zoning Board believes that the Code Enforcement Officer and Building Subcode Inspectors routinely encounter structures that are improperly installed. The Board believes that builders will not perform improper work once they realize they will be reported with the intent to suspend their certificate.

2. The Township's definition of lot coverage includes all areas of a lot covered by buildings, structures and paved surfaces including but not limited to driveways, parking areas, sidewalks, patios and

decks. However, the definition specifically excludes the water surface of swimming pools. The Board questions why swimming pools are exempted. Although one of the underlying purposes of lot coverage is to reduce runoff, and pools generate virtually no runoff, the Board also believes pools obstruct infiltration, which is another purpose of lot coverage. Finally, lot coverage is also intended to provide light, air and open space as well as to create a desirable visual environment. Excluding large pools from the lot coverage calculations allows additional improvements to be constructed, which could result in overdevelopment and detract from the appearance of the property and neighborhood.

The Zoning Board recommends that the Township conduct a study to determine if the swimming pool exemption should be repealed. The Township Planner has begun to analyze this issue. Of the 158 applications submitted for building permit, 78 applications (49%) did not have pools, 57 applications (36%) contained pools but would not require a variance and 23 applications (15%) contained pools and would require a variance if the water surface was included in the lot coverage calculations. The Zoning Board believes this study should continue and does not support a change if it would result in a hardship to Township residents by creating a large number of nonconforming properties.

3. The Zoning Board has been advised that the Long Range Planning Committee is reviewing an ordinance amendment that would increase the building height for large estate homes on ten acre lots or greater. Although, the Board agrees that these large estate homes need additional building height to maintain architectural balance as well as a proper roof pitch, it questions if the additional height should be entitled by ordinance. The Zoning Board believes that it is more appropriate to review the additional building height for large estate homes on a case by case basis through the variance procedure. This way the unique individual circumstances of each site, structure placement, screening, setbacks as well as surrounding land uses would be considered in allowing the additional height.

However, if the Township proceeds with amending the building height requirement, the Zoning Board recommends that the principals of the 90' rule be incorporated into the ordinance. This would advance the principal that taller houses require larger lots and greater setbacks. This prevents a property owner from constructing a taller house on the minimum front or side setback line currently required for a 35' house. Requiring larger setbacks for taller houses will also avoid the appearance of overdeveloping lots and will help maintain the Township's scenic and rural character.