

OUR TOWN

important Issues Presented by the
Old Corlies Avenue Preservation Alliance
January 2010

BASIS FOR NEPTUNE BOARD OF ADJUSTMENT TO RESCIND ITS APPROVAL OF THE APPLICATION FOR A CAR WASH/ OIL CHANGE / LUBE FACILITY AT 1019 OLD CORLIES AVENUE



Before

After

On September 21, 2007 the Neptune Township Board of Adjustment (BOA) finalized a decision to approve an application for a car wash / oil change / lube facility to be built on 1019 Old Corlies Avenue, the site occupied by an historic, 164-year-old, 11-room, Victorian-style house which was one of the core remaining structures from the earliest settlement in what became Neptune Township. Consecutively known as Trap, Shark River Village, Greenville and Hamilton, it was from here that colonial settlement of the area began and grew. Also, it was from here that the Methodist minister, Rev. William B. Osborn, held the first Camp Meeting at what has become Ocean Grove.

The BOA's decision, despite valid testimony in opposition, so angered residents of the area that they formed the Old Corlies Avenue Preservation Alliance (OCAPA) that contested the decision in court. In the beginning, even the Township Committee joined with OCAPA and went to court against its own BOA in trying to save the house. The

effort failed and on October 2, 2007 the house was demolished. OCAPA continues to fight the decision and currently the case is before the State Court of Appeals. The fact that OCAPA has presented at least three petitions to the Township, each with hundreds of signatures in support of its efforts, demonstrates the sizable public support that it has.

There is a condition in the BOA's Memorialization of its decision that states that it is "o. SUBJECT TO ALL REPRESENTATIONS AND TESTIMONY OF THE APPLICANT BEING TRUTHFUL AND ACCURATE". It is obvious that there are numerous instances where the testimony of the representatives for the applicant were neither truthful nor accurate, and that these had a significant impact in swaying the outcome of the decision. It is believed that the BOA must be aware of at least some, if not all, of these by now and has more than adequate reason to rescind their approval of the application, make the threat of the car wash/oil change/lube facility go away and open the door for the Township Committee to rezone the property single-family residential as they were petitioned to do by OCAPA and hundreds of signatories. The people along Old Corlies Avenue realize that loss of this property to commercialization will severely damage the historic and residential character of their community.

It is the position of OCAPA that the BOA's decision was part of a QUID PRO QUO DEAL between the applicant and the BOA, or at least its engineers, in which they *arranged before the hearings* the approval of the application in exchange for 619 feet of unnecessary storm sewer infrastructure along Old Corlies Avenue. OCAPA believes that the Administrative Officer of the BOA knew of this pre-hearing agreement when, early in the hearings, she expressed surprise at the many

objectors present (pre-OCAPA) and told a number of them that this was a "done deal". OCAPA believes she knew this because, before the hearings on the application even commenced, the applicant and the representatives of the BOA and the County had met on site and agreed on the storm sewer (p. 18, hearing I), i.e., THE DEAL.

In order to facilitate the DEAL, the BOA granted four variances and allowed a use (i.e., car wash/lube) in the C-5 zone where it is not permitted.

What they did in agreeing to the DEAL (ie. the placing of the storm sewer along Old Corlies Avenue) was to convert a small, less than an acre (the size of the 1019 property) easily manageable stormwater matter into a large 14-acre or more matter with real and potentially severe environmental consequences. The consequences, in addition to those from actual construction, are that the enlarged area to be served by the proposed storm sewer would cause the washings and spills from the yards, streets, roofs and a gasoline station (with a documented and uncorrected petroleum contamination problem) to be discharged directly into Shark River Brook. The Brook is classified FW-2, Trout Maintenance, Category I, by the NJDEP, because of its unique biological character, its use as a major source of our public potable water supply, and its being the core of Monmouth County's Shark River Park.

It is difficult to believe that the BOA would be part of such a deal, especially when it violates the township's own stormwater management ordinance and since there is a more practical, environmentally sound, less expensive, less health threatening, and more neighborhood compatible alternative available. The alternative is that of an existing storm sewer that could readily be connected to in the

dirt shoulder about 75 feet downgrade from the car wash site along Route 33. This alternative storm sewer already discharges into a multi acre stormwater detention/infiltration basin on Wells Brook, a stream of lower classification and lesser uses. This alternative was never mentioned in the hearings

OCAPA believes that the BOA, or those who conceived of the DEAL, tried to justify it by having the applicant's professionals misrepresent the facts about existing conditions along Old Corlies Avenue and claim that the proposed storm sewer was necessary to correct them. For example, John A. Paulus, a professional engineer and professional planner for the applicant, a principal with Dynamic Engineering Consultants (ref. Hearing I, p.18) states "There's some soil disturbance, soil erosion that you'll see." referring to Old Corlies Avenue. Again, on p.38 he states "---, and if you come along Old Corlies Road, you will see there's a drainage ditch on the north side of the road, and essentially there's soil erosion along the road bed itself,---". Again, at the second hearing (May 16, 2007 p.13) he states "---, and you'll see substantial erosion up and down Old Corlies Road" "So (referring to Old Corlies Avenue and the proposed storm sewer) its helped eliminating and mitigating any soil erosion that currently occurs."

None of these statements are true. There has never been an erosion problem along this stretch of Old Corlies Avenue and Mr. Golub tried to set the record straight by testifying in the later public questioning portion of the second hearing(5/16/07), p.26, "There is no ravine along Old Corlies Avenue. I know that watershed better than he does, probably better than most of the people who live in this town.---These folks live on Old Corlies Avenue, not Old Corlies Road, they know of no ravine. The water may drain along

the surface, but there's no erosion. That's basically a sales pitch that's being told to you as a way of producing this or moving this plan further ahead."

Later, in answer to BOA member Sears' question (Hearing 2, p. 37) "Is there or is there not a ravine off Old Corlies?" Mr. Lobosco, BOA Engineer, answered, "There's not really a ravine there. I think they meant that because there's no curb, water travels along the edge of the pavement and it could possibly erode the soil. But I hadn't noticed any erosion." Then Mr. Pape, attorney for the applicant, states, "The storm water system that is offered by the applicant came as a result of prompting from your engineer that we solve that. So that was a report that we received a few months ago. That's why we added it in."

Mr. Paulus failed to bring to the attention of the BOA the fact of the existence of the alternative storm drain connection only 75 feet away in the dirt shoulder along Route 33. Also, the BOA's engineers, Matt Shafai and Louis Lobosco, also failed to bring this same fact to the BOA's attention. Furthermore, they, as well as the BOA's attorney, failed to advise the BOA of the consequences of the 619 feet of storm sewer and its impact upon the Shark River Brook and its environs. The township's own ordinance (04-23) requires an environmental impact statement for projects of this magnitude, but one was never required to address the expanded area of impact resulting from the quid pro quo deal.

Apparently, these omissions of pertinent facts had the desired effect on those members of the BOA that were not familiar with the subject area since BOA member Johnson in a question to Mr. Paulus refers to the alleged drainage ditch as the "trench that comes from Gully Road to this site" (Hearing 2, p.18).

Later, during Mr. Pape's attempt to

summarize the hearings, (Hearing 3, p.69) he sheds further light on the quid pro quo deal when he stated (referring to Mr. Paulus' testimony) "He also indicated that at the request of both the Township and of the County, that he had designed an extensive storm water system that handled existing storm water issues along Old Corlies and that it traveled some 500' away from the site." Apparently, the fact that there were no storm water issues along Old Corlies Avenue seems to have been ignored by Mr. Pape since later in his summarization (Hearing 3, p.72) he perpetuates the factual inaccuracies of the applicant's professionals by stating "The storm water system addresses not only the on site condition but the regional existing problem." Again, there is no existing storm water problem along Old Corlies Avenue nor any regional storm water problem that the proposed storm sewer would have relevance to. And, the storm water from the proposed car wash could easily be handled by connecting to the existing storm water system along Route 33.

Also, Mr. Pape states in his summary, "With regard to the historic building, ---and in fact, this building is in disrepair and the property has been offered for sale, it's been on the market for sale for many years." This again is inaccurate. The building was not in disrepair. It had excellent structural lines and the owner, Paul Politan, had put a new roof on it about one year before the hearings. Also, according to the records of the Township's Code Enforcement Officer, it was being lived in during the last few months before it was demolished. Furthermore, there was never any outward evidence that it was for sale.

The public made it known that there were "untruthful and inaccurate" representations of the facts in Mr. Pape's testimony and the stenographer recorded their

shouts, "There were lies in that!"; "There were lies in that!"

Ergo, there was no justification for the lengthy storm sewer and no basis for the quid pro quo deal that they were trying to foist upon the public, and the "untruthful and inaccurate" testimony given to try to support it should be more than adequate basis for the BOA to rescind approval of the application.

The consequences of the BOA's misled decision are great. Without their approval the 164-year-old, historic Victorian-style house might not have been demolished and its presence as one of the historic features of the Hamilton area maintained; the quality and uses of Shark River Brook would not be threatened; the community would not be threatened with an unwanted incursion of a commercial establishment; the community would not be damaged and inconvenienced by the tearing up of the road and their front yards during and after construction of the unnecessary storm sewer; and OCAPA would not have had to expend the large amount of time and money it has taken to fight the BOA's decision.

A further consequence is the impact this case has upon the credibility of the BOA. This unit of government is supposed to objectively judge the applications that come before it. When they conceive of or go along with DEALS such as this, their credibility is damaged and their objectivity in judging future applications that come before it will be suspect.

Furthermore, the Township Committee can rezone the 1019 Old Corlies Avenue property to single family residential NOW; courts have historically upheld sudden zoning changes even while a case is on legal appeal.

The Old Corlies Avenue Preservation Alliance

If, after reading this issue of *Our Town*, you agree that the information upon which the Neptune Board of Adjustment made its decision was untruthful and inaccurate, and that it should rescind its approval of the car wash / oil change/ lube facility application, please sign, date, and mail or hand deliver the original to Mr. and Mrs. Kevin Eldridge, 1012 Old Corlies Avenue, Neptune, NJ 07753, attention: OCAPA by **February 14th**. Downloads are also available from our web site: ***www.oldcorlies.com***. ***OCAPA thanks you for your continued support.***

We, the undersigned tax payers and residents of the Township of Neptune, County of Monmouth, State of New Jersey, and all other persons in the effected area, petition any and all of our elected government representatives to support and aid in the rescission by the Neptune Board of Adjustment of their approval of the application by Old Corlies Road LLC, for the car wash/oil change/lube facility at 1019 Old Corlies Avenue (Lot 2, Block 10015); in an effort to preserve and protect the residential and historic character of the Hamilton community from commercialization, and its environs from degradation.

Name(s): _____

Address: _____

Tel #: _____ Date: _____

(More than 1 person may sign per household.)