

BOROUGH OF WILDWOOD CREST
Planning Board
Meeting Minutes – 7 December 2022 5 p.m.

The following are the minutes of the Wildwood Crest Planning Board as held on Wednesday December 4, 2022, at Borough Hall. The proceedings of the meeting are recorded and available for public inspection.

Chairman Mr. Davenport called the meeting to order at 5:00 p.m., lead the Pledge of Allegiance and read the statement of compliance with the open Public Meetings Act.

Roll call:

Patrick Davenport: present	Barbara Hunt: present	Brian Melchiorre: present
Don Cabrera: present	Joe Franco: absent	Angela Daniels: present
Gerry D'Antonio: present	Fred Mettler: absent	Pete Cava: absent
William Bumbernick: absent	Brian Stuart: present	Vince Tenaglia: present
Bradley Vogdes: absent		
Board Secretary Pamela Riper: present		
Solicitor David Stefankiewicz: present		
Engineer Joe Mohnack: present		

Minutes:

Mr. Stewart moved to dispense with the public reading of the minutes of the meeting of 2 November 2022 and approve as distributed, Mr. Melchiorre second, minutes approved as distributed

Patrick Davenport: yes	Brian Melchiorre: yes	Brian Stewart: yes
Don Cabrera: abstain	Angels Daniels: abstain	Vincent Tenaglia: abstain
Barbara Hunt: abstain	Gerry D'Antonio: yes	

Applications to be presented to the Board:

PB-22-09 for 304 E. Preston a/k/a blk 144.01 lot(s) 18.02 & 19.01 in Zone R-2 owner Regina Caristo; seeking 'C' variance relief relation to maximum building coverage, and maximum deck frontage, to extend an existing first-floor deck and second-floor deck by approximately 9.6ft. on each side.

The Applicant was represented by John Amenhauser, Esquire who outlined the nature of the application and the relief sought in connection with same.

Mr. Amenhauser advised the Board that the subject property is located in the R-2 zone and same is currently developed with a two-story single-family dwelling.

The Applicant is proposing to expand a first-floor deck and second-floor deck by approximately 9.6ft. on each side.

In connection with this proposal, Mr. Amenhauser advised the Board that the Applicant is requesting 'C' variance relief in relation to:

Maximum lot coverage (65% is permitted whereas 67.5% is proposed);

Maximum building coverage (35% is permitted whereas 36.7% is proposed); and

Maximum deck frontage (66.6% is permitted whereas 88.9% is proposed)

Mr. Amenhauser presented the existing and proposed building renderings for the benefit of the Board.

Matthew Hender, P.P., L.L.A. of Engineering Design Associates, P.A. was present at the meeting on behalf of the Applicant. Mr. Hender was accepted by the Board as an expert in the field of land planning and he was sworn in to testify in connection with the Applicant's proposal and the basis upon which variance relief is requested.

Mr. Hender reviewed the existing site conditions for the benefit of the Board.

Mr. Hender testified that the site is developed with a single-family dwelling and a detached accessory garage.

The lot contains approximately 4,200SF whereas 3,200SF is the minimum lot area required.

Mr. Hender advised the Board that the site currently complies with all applicable area and bulk requirements of the R-2 zone with the exception of an existing non-conforming 3.5ft. side yard setback. This pre-existing non-conforming condition is not impacted by the Applicant's proposal.

Mr. Hender advised the Board that the proposed expanded decks will be inset and will meet the required 5ft. side yard setback.

Mr. Hender testified that the Applicant's proposal to increase the size of existing decks will result in a structure that's more in keeping with the surrounding neighborhood and the overall "seashore architectural design" that's common throughout the Borough.

Mr. Hender confirmed the variance relief requested in connection with this Application.

A 10ft. front yard setback is required and will be maintained in connection with the Applicant's proposal.

Mr. Hender opined that several of the purposes of zoning, outlined within N.J.S.A. 40:55D-2, are advanced in connection with this application and support the relief sought by the Applicant as it:

Provides adequate light, air and open space as the proposed decks will provide expanded outdoor opportunities for the owner to utilize the property while maintaining compliant setbacks in connection with same; and

Promotes a desirable visual environment through creative development techniques and good civic design and arrangement as the proposed improvements will incorporate architectural elements which are in keeping with the Borough and the surrounding neighborhood.

Mr. Hender testified that there are several neighboring properties which are developed with decks which exceed the permitted 66% deck frontage requirement.

The Board advised Mr. Hender that said structures/decks were constructed prior to an Ordinance change enacted by the Borough limiting the size of upper floor decks.

Mr. Hender further opined that the application can be granted as there are no substantial detriments to the public good and the application does not impair the intent and/or purpose of the zone plan or zoning ordinance as the proposed development is consistent with the surrounding neighborhood and the proposed use is permitted within the zone.

Mr. Hender testified that the requested variances associated with the increase in lot and building coverages are de minimis as there is increase in the overall building footprint and no additional living space is being added.

Regina Caristo, the Applicant and owner of the subject property, appeared and she was placed under oath to testify before the Board.

Ms. Caristo advised the Board that she purchased the subject property in July of 2018 and the property is utilized primarily as a second home.

Ms. Caristo testified that the proposal to expand the decks will allow her family to better utilize existing outdoor spaces.

The existing decks provide limited space and increasing the size of the decks would allow the Applicant to install sliding doors to provide access to the deck from both second-floor bedrooms.

Ms. Caristo indicated that her mother currently resides with her and allowing access to the second-floor deck from the existing second bedroom would provide an easier means of access to same.

In response to a question posed by the Board, Ms. Caristo confirmed that the existing decks will be maintained and expanded.

She further confirmed that the second-floor deck will be supported by columns that will be installed on existing concrete.

A question arose in relation to the public notice that was served in connection with the Application.

Mr. Amenhauser advised the Board that the Applicant originally filed this application without an attorney, and he confirmed that he prepared a revised public notice after he was retained by the Applicant to ensure that same complied with the legal requirements of the Municipal Land Use Law.

In response to a question posed by the Board, Mr. Hender testified that the existing deck measures approximately 33% of the width of the home.

Board Member Hunt noted that the deck could be expanded and still meet the required 66% width requirement.

Mr. Hender testified that the Applicant is proposing a deck which exceeds the 66% requirement in order to provide access to the deck from the existing second bedroom, and the expansion proposed by the Applicant provides a more symmetrical appearance.

The proposed expansion amounts to approximately 106SF.

Board Members reviewed the history of the Borough's Ordinance and the basis for the 66% deck width limitation that is imposed within the Ordinance.

Board Member Stuart inquired if the Applicant had considered removing any existing concrete in an effort to maintain compliant lot coverage.

In response, Mr. Hender advised the Board that the Applicant had considered reducing existing lot coverage and would be willing to remove 106SF of concrete from the rear yard in order to eliminate the need for a lot coverage variance.

Mr. Amenhauser advised the Board that the Applicant would withdraw the request for a maximum lot coverage variance and will ensure that same will conform to the 65% coverage requirement. Borough Engineer Marc DeBlasio, P.E., P.P., C.M.E., prepared an Engineer's Report dated October 26, 2022 which was received by the Board and which is incorporated herein as fact. Joseph Mohnack, P.E., a professional engineer and employee with Mr. DeBlasio's office, appeared at the meeting and reviewed said Report for the benefit of the Board, and he note the conditions outlined therein. As a condition of approval, the Applicant will comply with any and all comments/conditions set forth within the Engineer's Report.

Mr. Mohnack advised the Board that the requested building coverage variance is de minimis as it amounts to a 1.7% increase in building coverage, but no additional habitable space is proposed in connection same.

Mr. Mohnack confirmed that the expansion of the proposed decks will not encroach into the required front yard setback.

He confirmed that the second-floor deck expansion exceeds the limits imposed within the Ordinance and that the expansion of the proposed decks will not encroach into the required front yard setback. He also noted that the building does not come close to exceeding maximum permitted building height which should be taken in to consideration in relation to the requested variance relief.

The Meeting was opened to the public for comment. No members of the public addressed the Board in connection with this application. Accordingly, the public portion of this application was closed.

Board Solicitor David Stefankiewicz, Esquire reviewed the variance relief sought by the Applicant and provided the findings of fact for the record.

Findings of Fact accepted on motion of Ms. Hunt and 2nd by Mr. Tenaglia

Patrick Davenport: yes

Brian Melchiorre: yes

Brian Stewart: yes

Don Cabrera: yes

Angels Daniels: yes

Vincent Tenaglia: yes

Barbara Hunt: yes

Gerry D'Antonio yes

The Board accepted the findings of fact and thereafter opened the Application up for deliberation.

A majority of the Board finds that the purposes of zoning outlined by Mr. Hender would not be advanced in connection with this Application and they do not support the relief sought by the Applicant.

The majority further finds that the proposed variance relief presents a substantial detriment to the zone plan and zoning ordinance and same outweighs the positive criteria put forth by the Applicant.

On Motion of Ms. Hunt and 2nd by Ms. Daniels to approve the variance relief relation to ~~maximum building coverage, and~~ maximum deck frontage, to extend an existing first-floor deck and second-floor deck by approximately 9.6ft. on each side.

Patrick Davenport: no

Brian Melchiorre: no

Brian Stewart: no

Don Cabrera: yes

Angels Daniels: yes

Vincent Tenaglia: no

Barbara Hunt: no

Gerry D'Antonio no

Ms. Daniels recuses herself from the application hearing

PB-22-10 for 5611 Pacific Avenue a/k/a blk 11.01 lot(s) 11 & 12 in Zone R-2 owner Blue Bee Pro; seeking minor subdivision and "c" variance. The subdivision will require variance for minimum required lot depth as the presently existing lot has 70' of depth and the two (2) newly proposed lots will also have 70' of depth. In addition, both newly proposed lots will require variance relief for maximum building height and building coverage.

The Applicant was represented by John Amenhauser, Esquire who outlined the nature of the application and the relief sought in connection with same.

The Applicant is proposing to demolish the existing structure located on site in order to subdivide the subject property to create two (2) 50ft. x 70ft. lots suitable for the development of single-family dwellings.

Mr. Amenhauser advised the Board that the subject property is located in the R-2 zone and same is currently developed with a multi-use dwelling consisting of a ground floor commercial unit and residential units above.

In connection with this proposal, Mr. Amenhauser advised the Board that, in addition to minor subdivision approval, the Applicant is requesting 'C' variance relief in relation to:

Maximum building coverage (35% is permitted whereas 40.3% is proposed);
Maximum building and deck coverage (45% is permitted whereas 46.5% is proposed);
Maximum building height (32ft. is permitted whereas 35ft. is proposed);
Maximum height of building eave (23ft. is permitted whereas 26ft. is proposed);
To permit a modulation of 2ft. of building walls of less than 20% where 20% is required.
Minimum lot depth (100ft. is required whereas 70ft. is proposed); and
Maximum curb cut width (10ft. is permitted whereas 18ft. is proposed).

Mr. Amenhauser presented 3d renderings of the proposed single-family dwellings which were received by the Board and which were marked as **Exhibit A-1**.

Scott Brown, P.E., of Ransom Consulting, LLC was present at the meeting on behalf of the Applicant. Mr. Brown was accepted by the Board as an expert in the field of land planning and he was sworn in to testify from the proposed site plan, consisting of two (2) sheets, dated October 21, 2022, and last revised November 23, 2022, which was received by the Board, and which is incorporated herein as fact.

The Board is also in receipt of architectural plans prepared by Ronald D. Franke, R.A., consisting of three (3) sheets, dated October 18, 2022, and last revised November 23, 2022, which was received by the Board, and which is incorporated herein as fact. Mr. Franke was not present at the meeting.

Mr. Brown reviewed the existing site conditions for the benefit of the Board.

Mr. Brown testified that the subject property is a corner lot located at the intersection of Lavender Road and Pacific Avenue and same is currently developed with a mixed-use structure which consists of commercial unit on the ground floor and residential units above.

Mr. Brown advised the Board that the existing structure amounts to a pre-existing non-conforming use as the commercial use is not a permitted use in the R-2 zone.

Mr. Brown reviewed and confirmed the variance relief sought in connection with this application.

Mr. Brown advised the Board that the proposed subdivision would result in a lot providing 70ft. of frontage along Pacific Avenue, and he confirmed that the structure is oriented to front along Pacific Avenue as required by the Borough's Ordinance.

The Borough's Ordinance requires that structures constructed on lots fronting along north-south streets face said north-south streets.

Mr. Brown opined that several of the purposes of zoning, outlined within N.J.S.A. 40:55D-2, are advanced in connection with this application and support the relief sought by the Applicant as it:

Encourages municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;

Provides adequate light, air and open space as the proposed decks will provide expanded outdoor opportunities for the owner to utilize the property while maintaining compliant setbacks in connection with same; and

Promotes a desirable visual environment through creative development techniques and good civic design and arrangement as the proposed improvements will incorporate architectural elements which are in keeping with the Borough and the surrounding neighborhood.

Mr. Brown testified that the Applicant's proposal will eliminate an existing non-conforming structure and use and replace same with permitted single-family dwellings.

Mr. Brown advised the Board that the Applicant's proposal would create two lots which meet required minimum lot area despite the fact that the lot depth is deficient.

Mr. Brown opined that the proposed single-family development is permitted in the R-2 zone and the proposed lot orientation is consistent with the size of lots in the surrounding neighborhood.

Mr. Brown further opined that the application can be granted as there are no substantial detriments to the public good and the application does not impair the intent and/or purpose of the zone plan or zoning ordinance as the proposed use is permitted within the zone and the development will eliminate a pre-existing non-conforming use.

Mr. Brown testified that the proposed lot orientation will improve the aesthetics of the surrounding neighborhood.

Dimitry Kaptsov, the Applicant and principal of Blue Bee Pro, LLC, appeared and he was placed under oath to testify before the Board.

Mr. Kaptsov testified that he has developed several properties throughout the Borough and the majority of those structures are single-family dwellings.

Mr. Kaptsov opined that single-family dwellings are the preferred type of residential dwelling units in Wildwood Crest.

Mr. Kaptsov testified that he purchased the subject property with the intent to subdivide same in order to develop single-family dwellings.

He advised the Board that the proposed structures will provide compliant off-street parking. He indicated that the proposed off-street parking will be provided off of the Lavender Road rather than Pacific Avenue in order to address safety concerns.

Mr. Kaptsov testified that he developed a similar 70ft. x 100ft. property several years ago with single-family dwellings which was well received by the Board. He indicated that he is utilizing a similar design in connection with this proposal.

A discussion ensued between the Board and the Applicant in regards to the Borough's Ordinance which requires lots fronting on North-South streets to be constructed with dwellings that front onto same.

A discussion ensued in relation to the designation of a rear yard and the fact that the lot fronting on to Pacific Avenue contains frontage along two streets.

Board Members raised concerns in relation to the proposed lot orientation and the variance relief requested in connection with same. The Board took issue with the proposed lot depth and indicated that requested variance relief is precipitated by the creation of non-conforming lots.

Board Members questioned whether the Applicant had considered subdividing the parcel in order to orient both lots towards Pacific Avenue which would alleviate a significant number of variances sought in connection with this application.

In response to a question posed by the Board, Mr. Kaptsov testified that the proposed increase in building height is not too tall in his opinion, and that it is smaller than neighboring structures.

Borough Engineer Marc DeBlasio, P.E., P.P., C.M.E., prepared an Engineer's Report dated November 7, 2022, and revised December 1, 2022, which was received by the Board and which is incorporated herein as fact. Joseph Mohnack, P.E., a professional engineer and employee with Mr. DeBlasio's office, appeared at the meeting and reviewed said Report for the benefit of the Board, and he noted the conditions outlined therein.

Mr. Mohnack reviewed the proposed lot orientation and he confirmed the variance relief sought in connection with the Application.

As a condition of approval, the Applicant will comply with any and all comments/conditions set forth within the Engineer's Report.

Mr. Mohnack reviewed the provisions in the Ordinance pertaining to the lot platting orientation for the benefit of the Board and how same applies to the lot orientation proposed by the Applicant.

He confirmed that the intent of the Ordinance is to ensure that the front of a structure faces the north-south street.

The Meeting was opened to the public for comment.

Jim Moore, Esquire, an attorney representing Mark Anderson, the owner of 207 E. Lavender Road, appeared before the Board.

Mr. Moore distributed photographs of the Anderson's property which were received by the Board and which were marked as **Exhibit Anderson-1**.

Mr. Moore advised the Board that the Anderson property is located directly to the east of the subject property.

He advised the Board that the Anderson's are opposed to the Applicant's proposal as same is inconsistent with the surrounding neighborhood and the proposed variance relief and lot layout will substantially impair the light, air, and open space enjoyed by his clients.

Mr. Moore indicated that the R-2 zone includes a variable lot size requirement that gets smaller as you progress south through the Borough. He indicated that the Ordinance includes provisions in order to preserve and protect the lot depth of individual neighborhoods, and the Applicant's proposal contravenes the intent of this Ordinance.

Mr. Moore advised the Board that the Applicant is proposing to create two (2) undersized lots which provide no benefits to the Borough or the surrounding neighborhood, and amounts to a proposal to circumvent the requirements of the Ordinance which serves to benefit only the Applicant.

Mr. Moore cited directly to the Borough's plat plotting Ordinance and he argued that the proposal put forth by the Applicant is contrary to same.

Mr. Moore argued, based upon current case law, that the Applicant's proposal is simply not a better zoning alternative compared to what is permitted and what could be constructed on site.

No additional members of the public addressed the Board in connection with this application.

Accordingly, the public portion of this application was closed.

In summary, Mr. Kaptsov advised the Board that he disagreed with the objections and characterizations raised by Mr. Moore.

Board Solicitor David Stefankiewicz, Esquire reviewed the variance relief sought by the Applicant and provided the findings of fact for the record.

Findings of Fact accepted on motion of Mr. Tenaglia and 2nd by Mr. Stewart

Patrick Davenport: yes

Brian Melchiorre: yes

Brian Stewart: yes

Don Cabrera: yes

Angels Daniels: yes

Vincent Tenaglia: yes

Barbara Hunt: yes

Gerry D'Antonio yes

The Board accepted the findings of fact and thereafter opened the Application up for deliberation.

During deliberations, The Board expressed concerns in relation to the proposed orientation of the subdivision and the creation of two (2) non-conforming, undersized lots.

The Board found that the 'C' variance relief sought in connection with this proposal are related to the fact that the Applicant is proposing to orient the lots in a manner that is inconsistent with the Borough's plat plotting Ordinance.

The Board finds that the purposes of zoning outlined by Mr. Brown would not be advanced in connection with this Application and they do not support the relief sought by the Applicant.

The Board further finds that the proposed variance relief presents a substantial detriment to the zone plan and zoning ordinance and same outweighs the positive criteria put forth by the Applicant.

The Board agreed that the Applicant is creating a hardship and the need for variances when a conforming subdivision could be proposed. The Board agreed that the Applicant's proposal does not amount to a better zoning alternative compared to what is permitted and could be developed at the subject property.

Major Cabrera excused himself from meeting at 6:47pm

On Motion of Ms. Hunt and 2nd by Mr. Melchiorre to approve minor subdivision approval, and 'C' variance relief relation to maximum building coverage, maximum building and deck coverage, maximum building height, maximum height of building eave, to permit a modulation of 2ft. of building walls of less than 20% where 20% is required, minimum lot depth, and maximum curb cut width, in order to subdivide the existing parcel to create two (2) non-conforming 50ft. x 70ft. lots for the development of single-family dwellings

Patrick Davenport: no

Brian Melchiorre: no

Brian Stewart: no

Don Cabrera: absent

Angels Daniels: abstain

Vincent Tenaglia: no

Barbara Hunt: no

Gerry D'Antonio no

Ms. Daniels return to meeting.

Open to public comment:

Mr. Davenport opens the meeting up to the public. No comments.

Resolutions memorializing Board actions:

None

Administrative Resolutions:

None

Old Business:

Condo/Hotel Conversion

Bike Connectivity Path

Bulkheads

New Business

Pat Davenport updates the Board on a prior Planning Board Resolution PB-22-04, 418 E Farragut Avenue. Proposing to construct two (2) multi-family dwellings. Part of the condition required approval from the affordable house council. The Commissioners approved an agreement that the owners of the property purchase two rentable units that are deed restricted, in the borough, that meet the fair share housing requirements. They will not receive a CO until that condition has been met.

The next regularly scheduled meeting is 10 January, there are no applications scheduled at this time to go before the board on that date.

On motion of Mr. Melchiorre, second by Mr. Tenaglia and unanimous voice vote, the Chairman adjourned the meeting 7:00pm.

Pamela Riper
Planning Board Secretary