

BOROUGH OF WILDWOOD CREST
Planning Board
Meeting Minutes – 13 February 2024 5 p.m.

The following are the minutes of the Wildwood Crest Planning Board as held on Tuesday February 13, 2024, at Borough Hall. The proceedings of the meeting are recorded and available for public inspection.

CALL TO ORDER:

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: absent	Joe Franco: absent	Angela Daniels: present
Gerry D’Antonio: absent	Fred Mettler: absent	Pete Cava: present
Brian Stuart: absent	Vince Tenaglia: present	Bradley Vogdes: present
Jane Reynolds: absent		
Board Secretary Pamela Riper: present		
Solicitor Rob Belasco: present:		
Engineer Will Hanson: present		

MINUTES:

Mr. Cava moved to dispense with the public reading of the minutes of the meeting of 9 January 2024 and approve as distributed, Ms. Hunt second, minutes approved as distributed.

Patrick Davenport: yes	Barbara Hunt: yes	Brian Melchiorre: yes
Angela Daniels: abstain	Pete Cava: yes	Vince Tenaglia: abstain
Bradley Vogdes: yes		

APPLICATIONS:

Application PB-24-02 for 7606 Seaview Avenue a/k/a blk 105 lots 3 & 4 in Zone R-2 owner Gary and Theresa Calibey; seeking extension of minor subdivision approval for Resolution PB-23-12.

The Applicant was represented by Lyndsy Newcomb, Esquire of the Law Firm of Monzo Catanese DeLollis, P.C.

The subject property is an 80ft. x 100ft. located in the R-2 Zoning District and it is currently developed with a single-family dwelling.

On July 5, 2023, the Applicant appeared before the Board requesting minor subdivision approval to subdivide the subject property to create two (2) fully conforming 40ft. x 100ft. lots.

The Applicant testified that they intend to construct single-family dwellings on each of the newly proposed lots.

The proposed single-family dwellings will comply with all applicable bulk conditions within the R-2 zone.

The proposed subdivision complied with all applicable area and bulk requirements within the R-2 zone, and, accordingly, the Applicant’s proposal amounted to a “by-right subdivision.”

The minor subdivision approvals were memorialized within Resolution PB-23-12 on August 2, 2023.

Ms. Newcomb advised the Board that the Applicant has not yet had an opportunity to file the approved subdivision plat and is requesting an extension in order to protect the prior minor subdivision approval, and to afford the Applicant additional time to perfect the subdivision in question.

As outlined within N.J.S.A. 40:55D-47(d), minor subdivision approvals expire 190 days from the date on which the Board’s Resolution is adopted.

N.J.S.A. 40:55D-47(f) and (g) permit a Board to “...extend the 190-day period for filing a minor subdivision or plat if the developer can prove to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals...”

In light of the delays experienced by the Applicant, Ms. Newcomb requested that the Board extend the deadline to file the approved subdivision plat for an additional 180-days, or until August 6, 2024.

The Applicant was reminded that the Borough’s ordinances require the payment of a fee of \$100 per lot for tax map maintenance purposes, and satisfaction of the tax map maintenance fees were previously made a condition of approval.

As a condition of approval, the Applicant will ensure that the existing structure located on site is demolished prior to the filing of the plan of subdivision.

As a condition of approval, the Applicant will obtain lot numbers and property addresses from the Borough Tax Assessor and reflect same on revised plans prior recording the plan of subdivision.

The Meeting was opened to the public for comment.

No members of the spoke out in favor or against the application, and accordingly the public portion of the meeting was closed.

The Board accepted the findings of fact and thereafter opened the Application up for deliberation. During deliberations members of the Board found that the Applicant's request for a 180-day extension of the deadline to file the approved minor subdivision plat to be reasonable.

On Motion of Ms. Tenaglia and 2nd by Mr. Vodges to for approval

Patrick Davenport: yes

Barbara Hunt: yes

Brian Melchiorre: yes

Angela Daniels: yes

Pete Cava: yes

Vince Tenaglia: yes

Bradley Vogdes: yes

Application PB-23-14 for 6501 Ocean Avenue a/k/a blk 50.04 lots 3, 4, 7 & 8 in Zone M-1A owner Mahalo Wildwood Crest, LLC; seeking "C" variances, preliminary & final site plan approval.

The Applicant is proposing to renovate an existing 5-story hotel, reconstruct the existing first-floor lobby, reconstruct a second-floor pool/patio area, and construct a 5-story addition to the hotel. The renovated hotel is proposed to contain a total of 64 individual hotel rooms.

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

At the Board's December 6, 2024, meeting, prior to hearing the presentation associated with the Applicant's proposal, an objector, Compass Family Resort, represented by Nic Talvacchia, Esquire, raised a potential res judicata issue regarding the pending application and similarities to a prior application that was heard and denied by the Board at its June 7, 2023, meeting, and memorialized as Board Resolution PB-23-11.

It should be noted that there was also a prior application filed by the Applicant that was heard in March of 2020. That application was approved by the Board and was subsequently appealed to the Superior Court by the owners of the Compass Family Resort.

The Court determined that the Board's decision was not arbitrary, capricious, and unreasonable, that same was supported by the record developed by the Board, and the Court entered an Order, dated February 8, 2021, upholding the Board's approval of the Application.

On March 16, 2021, the owners of the Compass Family Resort filed a Notice of Appeal with the New Jersey Superior Court – Appellate Division. Said appeal was dismissed with prejudice on December 22, 2022, as the appeal ultimately became moot due to required site plan modifications imposed upon the Applicant by the New Jersey Department of Environmental Protection.

In connection with the issue of res judicata, on December 5, 2023, Mr. Talvacchia submitted a legal brief outlining arguments asserting that the Board was barred from hearing the application on the grounds that same was substantially similar to the application that was heard and denied on June 7, 2023.

Mr. Talvacchia acknowledged that the Application before the Board was modified to address prior concerns raised by the Board, including modifying the overall traffic/parking circulation plan, reducing the overall number of proposed hotel rooms from 66 to 64, improved the overall off-street ratio of parking spaces to hotel rooms, reduced the number of back out parking spaces, and increased the proposed setback along Ocean Avenue from 0ft. to 5ft.

Mr. Talvacchia argued that while there have been modifications/improvements to the proposed development, they were not substantial enough to view this as a new application, and same should therefore be dismissed on the grounds of res judicata.

In response, Mr. Corrado argued that the Applicant has submitted a substantially modified application which does in fact address concerns raised by the Board in relation to off-street parking and the proposed Beach Avenue setback.

Mr. Corrado indicated that the appropriate res judicata test is a qualitative analysis rather than a quantitative analysis.

Mr. Corrado argued that the modifications made to the June 2023 proposal are a substantial improvement compared to what was originally presented in June 2023.

Mr. Corrado noted that, at the time of the June 2023 hearing, a majority of the Board took no issue with the proposed 11ft. front yard setback from Rosemary Road.

Based upon the modifications made to the plans, Mr. Corrado asserted that the application before the Board is a substantially modified proposal and as such is not barred by the doctrine of res judicata.

The Board deliberated and ultimately determined that the modifications made by the Applicant were incorporated to address concerns previously raised by the Board at the June 2023 hearing.

The Board determined that the overall reduction of the number of hotel rooms, the change in the parking plan and circulation, and the increased Beach Avenue setback were substantial and warranted treating this as a new application.

Accordingly, the Board determined that the application was not barred by the doctrine of res judicata.

The hearing was ultimately continued to the Board's February 13, 2024, regularly scheduled meeting.

Mr. Corrado reiterated the modifications that were made to the Application to address the Board's concerns that were raised at the time of the June 2023 hearing.

Mr. Corrado advised the Board that the number of hotel rooms was reduced from 66 to 64, the Ocean Avenue setback was increased from 0ft. to 5ft., and the Applicant has submitted two parking plans which meet or exceed a one (1) parking space per hotel room ratio.

Eustace Mita, the principal of Mahalo Wildwood Crest, LLC, appeared and he was placed under oath to testify before the Board.

Mr. Mita discussed the history of his ownership of the subject property and his ties to the community. He indicated that he has owned and operated several hotels over the years both on the island and elsewhere in Cape May County.

Mr. Mita discussed the prior applications associated with the subject property and the litigation that has been instituted challenging same.

He apologized to the Board and the Borough for the condition that the subject property has been in since 2019 and indicated that he's hopeful that the Board will see fit to approve his revised application so that he can proceed with renovating the existing hotel.

Mr. Mita testified that the original proposal that was approved by the Board in 2020 included a total of 70 hotel rooms. He indicated that the application presently before the Board proposes to reduce the overall number of hotel rooms to 64.

Mr. Mita further testified that he elected to increase the Ocean Avenue setback in response to concerns raised by the Board at its June 2023 hearing.

Mr. Mita advised the Board that he also developed two (2) alternate parking plans to address the Board's concerns that were previously raised about the overall number of off-street parking spaces and the size of proposed parking spaces.

He indicated that the proposed hotel amounts to one of the first new hotels within the Borough in over 50 years. Steven J. Tomasetti, R.A., was present at the meeting on behalf of the Applicant. Mr. Tomasetti was accepted by the Board as an expert in the field of architecture and he was sworn in to testify with respect to the proposed architectural plans, consisting of two (2) sheets, dated August 2, 2023, which were received by the Board, and which are incorporated herein as fact.

Mr. Tomasetti distributed the following exhibits which were received by the Board, and which are incorporated herein:

- Exhibit A-1 – Proposed Floor Plans associated with each proposed floor of the hotel.
- Exhibit A-2 – Proposed Architectural Elevations.
- Exhibit A-3 – Proposed Floor Plans depicting the proposed pool deck and 1st floor hotel floor.
- Exhibit A-4 – Proposed 3D rendering of the pool deck and renovated Hotel viewed from the Beach.
- Exhibit A-5: Proposed Architectural Elevation from Ocean Avenue

Mr. Tomasetti reviewed the proposed floor plans for the benefit of the Board.

Mr. Tomasetti advised the Board that the proposed plans are similar to what was presented back in June of 2023 with revisions to address concerns that were raised by the Board.

A total of fifty-five (55) hotel rooms currently exist on site and the Applicant is proposing to renovate these rooms, and to construct nine (9) additional hotel rooms on site for a total of sixty-four (64) units.

Mr. Tomasetti testified that the Applicant has revised the proposed parking layout, eliminated back-out drive aisles, eliminated tandem handicap parking spaces, improved the overall off-street parking to hotel unit ratio to 1 space per hotel room, and reduced the size of the addition adjacent to Ocean Avenue.

Mr. Tomasetti indicated that three (3) 257SF rooms previously proposed on the 1st floor were eliminated, an existing 1st floor concession was eliminated, and a vending machine/laundry room was relocated to the 3rd floor. He further indicated that smaller rooms which were previously located on the 3rd and 4th floors were consolidated with adjacent rooms to reduce the overall number of hotel rooms.

Mr. Tomasetti reviewed the revised floor plan which was marked as Exhibit A-1, and he reviewed the various unit layouts proposed by the Applicant. More specifically:

- Unit Floor Plan A consists of sixteen (16) existing undersized hotel rooms that are 305SF. It should be noted that former Unit Floor Plan B was consolidated with Floor Plan A.
- Unit Floor Plan C consists of thirty (30) existing hotel rooms that are 437SF in size.
- Unit Floor Plan D consists of four (4) handicap accessible hotel rooms that are 535SF in size.
- Unit Floor Plan E consists of two (2) hotel rooms that are 694SF in size.
- Unit Floor Plan F consists of twelve (12) hotel rooms that are 420SF in size.

Mr. Tomasetti noted that all of the new hotel rooms now exceed the minimum required unit size set forth within the Borough's Ordinance.

Mr. Tomasetti testified that the Ocean Avenue front yard setback increased from 0ft. to 5ft. consistent with the existing building.

He proceeded to review the exterior architectural elevations noting that the design is similar to prior iterations of the Hotel; however, the elevation marked as Exhibit A-2 reflects the increase in the Ocean Avenue setback. Mr. Tomasetti reviewed the architectural elevations and modified floor plans which were marked as Exhibits A-3, A-4, and A-5. He noted that the designs are like what was presented back in June of 2023, and he highlighted the modifications made to the pool deck, concession area, and relocation of the vending machines and guest laundry room.

In response to a question posed by the Board, Mr. Tomasetti testified that no cooking will take place within the concession stand, and all available food will be prepackaged.

He reviewed the design of the structure, the architectural features, and exterior materials which will be incorporated into the redesign of the existing structure.

Mr. Tomasetti advised the Board that the Applicant's proposal to reconstruct the pool deck will result in an 11ft. front yard setback to Rosemary Road, which is identical to what was previously proposed in June 2023.

He acknowledged that the Borough's Master Plan and zoning ordinance allows for the vertical expansion of hotels, but he indicated that the existing structure is unable to structurally support the vertical expansion of the existing hotel. He indicated that the Applicant would realistically need to demolish the existing structure and construct a new building to expand vertically as opposed to horizontally.

With respect to signage, Mr. Tomasetti testified that the Applicant is proposing façade signs along Ocean Avenue and Rosemary Road. He indicated that a third sign is also proposed along Rosemary Road for wayfinding purposes.

All three (3) signs are proposed to be backlit with a matte finished tile on the wall to prevent glare/reflection.

Vincent Orlando, P.E., P.P., L.L.A., C.M.E. with Engineering Design Associates, P.A. appeared before the Board on behalf of the Applicant. Mr. Orlando was accepted by the Board as an expert in the fields of engineering and land planning and he was placed under oath and testified from the proposed site plan, consisting of seven (7) sheets, dated August 15, 2022, and last revised January 16, 2024, which was received by the Board, and which is incorporated herein as fact.

Mr. Orlando discussed and identified modifications to the proposed site plan in comparison to the site plan which was presented to the Board in June of 2023.

Mr. Orlando indicated that following the June 2023 hearing, the Applicant redesigned the proposed off-street parking arrangement to improve circulation, the overall parking space to hotel room ratio, and to eliminate back-out drive aisles and tandem handicap parking spaces which the Board took issue with.

Mr. Orlando distributed a colored site plan which depicted two (2) proposed off-street parking arrangements which was received by the Board and marked as **Exhibit A-6**.

Mr. Orlando reviewed parking plan A for the benefit of the Board.

Parking plan A would require the provision of valet parking.

Ingress/Egress is located off Rosemary Road and Beach Avenue.

All parking spaces along Rosemary Road are now internal parking spaces which do not back-out on to Rosemary Road.

Back-out parking is maintained along Ocean Avenue.

The parking area contains parking lifts and stacked parking spaces. The parking lifts require that a vehicle be parked and raised by the proposed lift to provide an additional parking space below. A total of six (6) parking spaces are associated with said parking lifts. Mr. Orlando distributed a packet of two (2) photographs depicting the scissor parking lifts in question which was marked as **Exhibit A-7**.

There is a total of seventeen (17) stacked parking spaces.

A drive aisle with a maximum width of 38ft. and a minimum width of 24ft. is provided. There are no turning concerns and there will be ample space to facilitate staging and drop-off/pickup.

A total of sixty-six (66) off-street parking spaces are proposed to service sixty-four (64) hotel rooms. Four (4) of the proposed off-street parking spaces are 7.5ft. x 18ft. and the remaining spaces measure 8ft. x 18ft.

Landscaping is provided as a visual buffer to Rosemary Road.

Mr. Orlando reviewed parking plan B for the benefit of the Board.

No valet parking component is provided.

The proposed parking arrangement provides for one-way traffic with an individual entrance point and individual exit point located along Rosemary Road.

The proposed drive aisles are a maximum of 19ft. wide and a minimum of 15.75ft. wide.

A total of sixty-four (64) off-street parking spaces are proposed to service sixty-four (64) hotel rooms. Four (4) of the proposed off-street parking spaces are 7.5ft. x 18ft. and the remaining spaces measure 8ft. x 18ft.

Parking Plan B will require more turning movements; however, there are no concerns for vehicle conflict.

No landscape buffering is provided along Rosemary Road.

In response to a question posed by the Board, Mr. Orlando testified that there is no available space to provide additional parking for plan A. He indicated that the drive aisle would need to be reduced to 20ft. which would potentially allow for two (2) more parking spaces at the expense of the proposed queuing/staging area.

In response to a question posed by the Board, Mr. Mita testified that he intends to utilize valet parking regardless of whether the Board were to approve plan A or B, as valet parking is a service which guests are accustomed to at his hotels.

A group of Board Members expressed concerns regarding the utilization of parking lifts. Mr. Orlando indicated that the lifts would only be operated by the Applicant's employees, and the lifts themselves contain a locking mechanism for safety purposes which requires a key to operate.

Mr. Orlando indicated that the proposed parking arrangement is consistent with parking provided by neighboring hotels, and he indicated that nearly all hotels/motels located within the Borough provide deficient off-street parking.

Following a discussion between the Applicant and the Board regarding the pros and cons associated with each parking plan, a majority of the Board indicated that they preferred parking plan B over parking plan A.

Mr. Orlando reviewed the 'C' variance relief sought by the Applicant.

He noted that the subject property contains several pre-existing non-conforming conditions which are not being exacerbated by the Applicant's proposal.

Mr. Orlando reviewed the variance relief requested by the Applicant by group.

With respect to setbacks, Mr. Orlando testified that the Applicant is proposing an 11ft. front yard setback along Rosemary Road whereas a 30ft. setback is required, a 5ft. front yard setback is proposed to Ocean Avenue whereas a 20ft. setback is required, a pool deck setback of 11ft. is proposed whereas 16ft. is required.

Mr. Orlando advised the Board that in 2020, the Board approve a 0ft. setback along Rosemary Road; however, the Applicant was required to revise the previously approved plans in response to an NJDEP requirement that a 15ft. view corridor be maintained by the Applicant.

Mr. Orlando indicated that the current CAFRA permit issued by the NJDEP requires an 11ft. setback be maintained to Rosemary Road, and a 4ft. setback be maintained along the adjacent southern side of the property.

Mr. Orlando 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 granting the setback variance 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 sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial, and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens; and

Promotes a desirable visual environment through creative development techniques and good civic design and arrangement.

He advised the Board that the Applicant's proposal is consistent with the Borough's Master Plan which recognizes a need to preserve and maintain existing hotels/motels throughout the Borough.

Mr. Orlando acknowledged that the Master Plan allows for the vertical expansion of existing hotels; however, he noted that the Master Plan also calls for greater flexibility to maintain hotels and to allow for the renovation and expansion of same which allows the Board to grant variance relief to facilitate the goals and objectives of the Master Plan where appropriate.

The 2012 Master Plan recognized that the loss of hotels/motels within the Borough was detrimental to the Borough's future and its tourist economy.

He indicated that the subject property is an appropriate location for the hotel use as same is permitted in the M-1-A zone, and the subject property has been developed with a hotel for decades.

Mr. Orlando further opined that the setback variances 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.

He testified that the Applicant's proposal is a better zoning alternative than tearing down the existing structure to construct a new hotel. Moreover, he noted that many hotels that exist throughout the Borough encroach into the 30ft. view corridor, and nearly all have off-street parking located within same.

With respect to the requested parking variances, Mr. Orlando reviewed the variances associated with the proposed off-street parking arrangement. More specifically, the Applicant is requesting the following variance relief:

Minimum raised curb;

To forgo providing an off-street loading zone;

Minimum off-street parking;

To permit tandem parking;

To not provide a landscaped parking area;

Minimum driveway dimension; and

Minimum drive aisle width.

Mr. Orlando testified that the current site contains a total of fifty-three (53) parking spaces of which thirty-eight (38) back out onto public roadways.

He advised the Board that the Applicant's proposal increases the number of overall off-street parking spaces and reduces the number of back-out parking spaces to twenty-one (21), while also maintaining a one (1) parking space to one (1) hotel room ratio.

Mr. Orlando 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 granting the parking variance 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 sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial, and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens; and

Promotes a desirable visual environment through creative development techniques and good civic design and arrangement.

Mr. Orlando further opined that the setback variances 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.

Mr. Orlando testified that many of the existing hotels in the Borough maintain parking to room ratios of .8 to 1, and he indicated that 8ft. x 18ft. parking spaces are consistent with the size of parking spaces provided by existing hotels throughout the Borough.

Mr. Orlando further testified that the Applicant is proposing to renovate and maintain an existing Hotel, consistent with what's identified as a goal within the Master Plan. He indicated that the Applicant is increasing the overall number of parking spaces, and the overall parking plan far exceeds that which exists elsewhere within the Borough.

He indicated that the Applicant's proposal results in a safer environment for pedestrians and motorists through the elimination of back-out parking spaces and the creation of more off-street parking and larger, albeit undersized, parking spaces.

He argued that the parking plan B is a better zoning alternative in comparison to what previously existed on site, and the proposal will result in the creation of additional on-street parking spaces for use by the community.

Finally, with respect to variances requested in relation to the Applicant's sign package, Mr. Orlando confirmed that the following variances are required:

Minimum number of signs;

Maximum individual sign area; and

Maximum total sign area.

Mr. Orlando testified that the signs proposed by the Applicant are proportionate to the façade of the structure. He indicated that the proposal to install three (3) signs on site is intended for wayfinding purposes and to help brand the site.

Mr. Orlando further testified that the signs proposed by the Applicant will positively impact traffic in the surrounding community by allowing motorists to easily identify the hotel.

In response to a question posed in relation to signage, Mr. Orlando testified that the proposed signs are proportionate to the structure, and he indicated that there is ample space on the façade to facilitate the signs proposed by the Applicant.

Mr. Orlando 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 granting the sign variance relief sought by the Applicant as it:

Encourages the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight; and

Promotes a desirable visual environment through creative development techniques and good civic design and arrangement.

Mr. Orlando further opined that the sign variances 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.

Borough Engineer Marc DeBlasio, P.E., P.P., C.M.E., prepared an Engineer's Report dated February 8, 2024, which was received by the Board, and which is incorporated herein as fact. Will Hanson, 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. As a condition of approval, the Applicant will comply with all comments/conditions set forth within the Engineer's Report.

Mr. Hanson summarized the Applicant's proposal and the required variance sought in connection with same.

Mr. Hanson advised the Board and the Applicant that a permit modification will be required from the NJDEP regarding the existing CAFRA permit.

Mr. Orlando indicated that he believed that the NJDEP would favorably review the modification as the project is being improved and the overall number of units is reduced.

In response to a question posed by Mr. Hanson, Mr. Orlando confirmed that an 8ft. x 16ft. trash enclosure is provided on site. He indicated that if trash/recycling collection becomes problematic the Applicant will contract with a private hauler.

Mr. Hanson noted that the Applicant's proposal, including parking plan B, provides limited landscaping on site. He recommended that the Applicant evaluate potential areas where landscaping could be incorporated on site. As a condition of approval, the Applicant proposed petitioning the Board of Commissioners to pursue approvals to reduce the size of the sidewalk within the public right-of-way to provide a 4ft. landscape buffer on site. Alternatively, the Applicant agreed to petition the Board of Commissioners to expand the size of Rosemary Road to facilitate more on-street parking.

Mr. Orlando advised the Board that the Applicant would install hanging lattice and greenery in the event efforts involving the Board of Commissioners prove unsuccessful.

At the conclusion of the Applicant's presentation, the Meeting was opened to the public for comment. One (1) objector, The Compass Family Resort, was present at the meeting who was represented by Nic Talvacchia, Esquire.

Mr. Talvacchia advised the Board that his clients were opposed to the Application and development proposed by the Applicant. He indicated that his clients are in favor of development but contend that the Applicant's proposal amounts to a substantial overdevelopment of the property to the detriment of the public and neighboring property owners.

He indicated that the objectors' concerns were primarily related to the proposed Rosemary Road setback and the significant deviation from the goals and objectives of the Borough's Master Plan concerning the preservation of a 30ft. view corridor.

Mr. Talvacchia advised the Board that the governing body has elected to maintain the 30ft. required view corridor over the years and the Board has repeatedly included reference to the preservation of same within its Master Plan and subsequent Reexamination Reports.

He noted that that the Master Plan and Reexamination Reports recognizes and affords an applicant the ability to renovate an existing hotel and expand same vertically up to 85ft., but they do not speak to an ability to encroachment within the required 30ft. view corridor.

Mr. Talvacchia reviewed and discussed the variance relief requested by the Applicant. He noted that many of the required variances were self-created by the Applicant in connection with the decision to renovate the site without obtaining final approvals.

Mr. Talvacchia proceeded to cross-examine Mr. Tomasetti in relation to the testimony that he provided in support of the Applicant's proposal and the relief sought in connection with same.

Mr. Tomasetti reiterated his prior testimony that the existing structure cannot feasibly support an additional floor. He testified that structural issues exist which make it impractical to construct an additional floor.

In response to question posed by Mr. Talvacchia, Mr. Tomasetti acknowledged that he is an architect and not a structural engineer, and that he doesn't have the requisite license to opine on the stability and/or structural integrity of the existing structure.

Mr. Tomasetti also acknowledged and agreed that the Applicant could demolish the existing structure and construct a new building that could take advantage of the ability to increase the height of hotels and motels as contemplated in the master plan. He indicated that the costs associated with this course of action would be substantial and would likely result in the project being abandoned.

Mr. Talvacchia reviewed Exhibit A-5 depicting a rendering of the proposed pool deck and pool with Mr. Tomasetti.

Mr. Tomasetti acknowledged that the proposed pool deck is taller and larger in size than what previously existed on site.

Mr. Tomasetti testified that the columns that are proposed to support the pool deck are in line with existing structural supports, and essentially consist of a central single support column.

Mr. Tomasetti confirmed that the proposed pool deck will have an impact on the view corridor, and the views of the beach from the neighboring Compass Family resort; however, he highlighted that view from Ocean Avenue is open in certain areas and there is a view of the Beach.

In response to a question from Mr. Talvacchia, he acknowledged that vehicles will be parked on the ground level which will have an impact on views down Rosemary Road, but he indicated that historically vehicles were already parking in these locations.

Following the cross-examination of Mr. Tomasetti, Mr. Talvacchia proceeded to cross-examine Mr. Orlando in relation to the testimony that he provided in support of the Applicant's proposal and the relief sought in connection with same.

Mr. Talvacchia reviewed Exhibit A-4, depicting the proposed pool deck, with Mr. Orlando.

Mr. Orlando testified that the sun/pool deck previously existed on site, and he recognized that same was demolished some time back in 2020 after the Applicant received prior approvals.

Mr. Orlando testified that the submitted site plans contain an existing condition plan which depicts improvements that originally existed on the site back in 2019/2020. He acknowledged that the pool deck and parking areas are depicted on the existing condition plan even though they have since been demolished/removed.

Mr. Orlando indicated that the prior improvements were included for reference purposes, and he argued that same were relevant given the history of this project, specifically the prior approval and subsequent appeal/application process that ensued.

In response to a question posed by Mr. Talvacchia, Mr. Orlando testified that the Borough's Ordinance would allow the Applicant to reconstruct the prior non-conforming elements of the property provided same were reconstructed identically to what previously existed.

He agreed that the section of the Ordinance in question would not apply since the proposed pool deck and parking arrangement have been modified and are larger than what previously existed.

Mr. Orlando agreed that variances associated with a swimming pool in a front yard, the minimum pool deck setback, the minimum front yard setback to Beach Avenue, and maximum lot coverage were identified as pre-existing non-conforming conditions; however, he acknowledged that the modifications made to these conditions necessitate variance relief to proceed with the Applicant's proposal.

In response to questions posed about the purposes of zoning identified by Mr. Orlando in support of the requested variance relief, Mr. Orlando testified that purpose (G) absolutely applies as the hotel use is a permitted use in the M-1-A zone, and the location has housed a hotel for decades.

Mr. Orlando further testified that variance relief is required due to the existing site conditions and the configuration of the existing structure. He reiterated that the Master Plan encourages flexibility to encourage the redevelopment, renovation, and maintenance of existing hotels.

A discussion ensued between Mr. Talvacchia and Mr. Orlando regarding the meaning and intent of the reference to "flexibility" in the Master Plan.

Mr. Orlando acknowledged that the Master Plan is a recommendation from the Board to the Governing Body, and that the Governing Body could have modified the Ordinance to address the view corridor and the ability to encroach within same.

Mr. Orlando opined that the reference to flexibility specifically allows a Board to consider the individual merits of applications to determine what is appropriate in regard to furthering the goal of preserving and maintaining existing hotels in the Borough. Moreover, he indicated that the Board has the authority to grant variance relief in furtherance of said goals.

With respect to purpose (I), Mr. Orlando reiterated that the overall redevelopment of the existing hotel includes substantial aesthetic enhancements and seeks to renovate an existing dilapidated structure which in turn will promote a desirable visual environment.

He acknowledged that there are alternative uses that could be constructed at the subject property.

In response to a question posed by Mr. Talvacchia, Mr. Orlando disagreed that the Applicant is required to show that the Applicant's proposal amounts to a better zoning alternative in comparison to what could be constructed on site.

Mr. Talvacchia raised concerns about the proposed parking layout and the size of off-street parking spaces.

Mr. Orlando agreed that all the existing and proposed parking spaces are undersized, but some are serviceable. He confirmed that support columns do not impact the width of proposed parking spaces.

Peter Steck, P.P., a professional planner, appeared on behalf of the objectors and he was placed under oath to testify before the Board. Mr. Steck was accepted by the Board as an expert in the field of land planning.

Mr. Steck distributed a packet containing nine (9) pages which was received by the Board and marked as **Exhibit O-1**. Exhibit O-1 contained the following documents:

Google Earth photos of the subject property.

An analysis of the modifications made to the site plan.

An analysis of parking plan A vs. B.

An existing condition analysis.

View Corridor impact analysis.

A review of what is permitted in the M-1-A zone vs. what is proposed.

Aerial photographs of the subject property.

A view depicting the anticipated impact that the Applicant's proposal will have on the Rosemary Road view corridor when viewed from Compass Motel.

An analysis of the Borough's Master Plan and Reexamination Reports.

Mr. Steck reviewed and discussed existing and proposed site conditions for the benefit of the Board. He indicated that while the Applicant may have a CAFRA permit which approved an 11ft. setback to Rosemary Road, the Borough is permitted to have more stringent requirements which it does.

Mr. Steck noted that the subject property is a conforming, oversized parcel of land which contains three (3) front yards.

He noted that demolition of the former Ocean Holiday Hotel started in 2019, and he identified several pre-existing non-conforming conditions, including the parking area, front yard pool, and pool/sun deck, which have been eliminated by the Applicant as a result of renovations to the site and existing structure.

Mr. Steck testified that the Applicant's proposal is more akin to an entirely new structure than the renovation of an existing hotel.

Mr. Steck indicated that there are now two (2) pools proposed where previously there was one (1), the pool deck itself was enlarged, and the reconfigured parking arrangement provides no parking spaces that meet the minimum required parking space size of 9ft. x 18ft.

Mr. Steck disputed the Applicant's position that the existing structure can't accommodate an additional floor as the Applicant previously submitted an application, that was subsequently withdrawn, that proposed an additional floor.

Mr. Steck testified that there are many hotels throughout the Borough which maintain view corridors towards the beach. He indicated that the Compass Hotel doesn't have an outdoor area on site so the loss of the view of the beach will have a significant impact on the operation of their business.

Mr. Steck reviewed and discussed the history of the Borough's Master Plan and subsequent Reexamination Reports. He reiterated testimony presented by Mr. Orlando in relation to the Master Plans goals and objectives and the identified need to maintain and preserve existing hotels.

Mr. Steck testified that the Master Plan specifically allows for the vertical expansion of existing hotels to facilitate renovations of same. He indicated that the Applicant's proposal to expand horizontally in to required setbacks presents substantial detriments to the public good, the zoning plan, and the zoning ordinance.

Mr. Steck opined that the benefits associated with the Applicant's proposal are substantially outweighed by the detriments that he identified during his review of the relief sought.

Mr. Steck contradicted the purposes identified by Mr. Orlando and he provided testimony regarding why said purposes are not advanced in connection with the Applicant's proposal.

Mr. Steck took issue with the Applicant's representations about pre-existing non-conforming conditions, and he indicated that many of these conditions are being exacerbated in connection with the Applicant's proposal.

With respect to the proposed parking layouts, Mr. Steck testified that Plan A requires substantial maneuvering to ensure that the scissor lifts and tandem parking spaces function properly.

He indicated that the parking area lacks sufficient clearance and would preclude large vehicles and vehicles with rooftop travel carriers from parking on site.

With respect to proposed parking plan B, Mr. Steck indicated that that the plan is substandard, and does not address the needs of the proposed hotel. The parking spaces are all undersized, the drive aisles are substandard, and the arrangement requires substantial maneuvering to safely access the parking spaces and to enter and exit the site.

Mr. Steck opined that the Applicant's proposal amounts to an overdevelopment of the subject property.

David Shropshire, P.E., P.P. of Shropshire Associates, LLC, appeared and he was placed under oath to testify before the Board. Mr. Shropshire was accepted as an expert in the field of engineering, specifically traffic engineering, and he provided testimony in relation to concerns associated with the Applicant's proposed off-street parking arrangement.

Mr. Shropshire testified that neither of the proposed parking plans complies with generally accepted traffic engineering standards.

Mr. Shropshire further testified that both proposals are inconsistent with the Borough's Ordinance as the parking spaces are all undersized, the drive aisles won't functional properly and are also undersized, and the fact that the applicant is providing one (1) off-street parking space per hotel unit is irrelevant as the requirement is 1.2 spaces per hotel room.

With respect to parking plan A, Mr. Shropshire testified that the utilization of scissor lifts and tandem parking calls into significant question the functionality of the proposed parking arrangement.

He indicated that a total of twenty-eight (28) parking spaces are impacted in some capacity by the lifts and tandem parking spaces.

Mr. Shropshire raised additional concerns pertaining to on-site circulation and the impact that the proposed queue location will have on parking spaces and maneuverability through the drive aisles.

Mr. Shropshire advised the Board that parking plan B, which was favored by the Board, provides non-complaint drive aisles as a 20ft. minimum drive aisle is required whereas the drive aisle proposed by the Applicant in connection with Plan B measures 19ft. at its widest point and 15.75ft. at its narrowest point.

Mr. Shropshire opined that the only way that parking plan B could conceivable work is if it functioned as an exclusively valet parking lot; however, he indicated that the circulation would require vehicles to leave the site to drive around the block if they were unable to locate parking and needed to drive back around the parking lot resulting in conflicts with other vehicles and pedestrians.

Mr. Shropshire testified that the location of the eastern stair tower will negatively impact the ability for patrons, or valet parking attendants, to access the adjacent undersized parking spaces.

Moreover, Mr. Shropshire testified that there are five (5) undersized parking spaces adjacent to the proposed handicap parking spaces which will impact access to the ADA compliant parking spaces.

Mr. Shropshire opined that both proposed parking plans are detrimental to the Borough and the surrounding neighborhood.

George Pawlowski, Jr., an owner of the Compass Family Resort, appeared and he was placed under oath to testify.

Mr. Pawlowski indicated that the encroachment within the Rosemary Road view corridor will negatively impact his business and set a dangerous precedent for future hotel/motel development within the Borough.

He discussed the history of his family's ownership and operation of the Compass.

Mr. Pawlowski testified that the parking arrangements proposed by the Applicant will not function properly and will result in vehicles parking on the streets and throughout surrounding residential neighborhoods.

Mr. Pawlowski advised the Board that the Borough has zoning Ordinances for a reason, and he believes that the Applicant should be required to comply with same.

Paul Pawlowski, an owner of the Compass Family Resort, appeared and he was placed under oath to testify.

Mr. Pawlowski echoed the concerns raised by his brother.

Mr. Pawlowski opined that the Applicant is requesting an excessive number of variances and is choosing to ignore the fact that the subject property could be renovated to include an additional floor without encroaching into the Rosemary Road view corridor.

Mr. Pawlowski testified that the Applicant's proposal is contrary to the Borough's Master Plan and the parking proposals will create dangerous conditions for pedestrians and other motorists.

At the conclusion of Mr. Talvacchia's opposition presentation, a total of fourteen (14) individuals addressed the Board in connection with this Application. Two (2) individuals spoke in support of the Application (1 of those individuals expressed significant concerns regarding the proposed parking arrangement), and twelve (12), expressed significant concerns and objections to the Application. The objectors raised concerns in relation to:

The impact that the proposed development would have on the surrounding neighborhood.

The number of variances sought in connection with the Applicant's proposal, and specifically in relation to the proposed intrusion into the required 30ft. Rosemary Road setback.

Impacts that the proposed development would have on the Rosemary Road view corridor and the precedent that allowing an encroachment within same will have on future hotel/motel development.

Concerns in relation to the proposed off-street parking arrangement, the size of proposed off-street parking spaces, and the ability to safely access off-street parking spaces considering the size of proposed drive aisles and access points.

The overdevelopment of the site itself.

Deviations from the goals and objectives of the Borough's Master Plan and the impact that the proposed development would have on the development/renovation of hotels in the future.

No additional members of the public addressed the Board in connection with this application. Accordingly, the public portion of this application was closed.

At the conclusion of the public portion of the meeting, both Mr. Talvacchia and Mr. Corrado presented closing arguments reiterating the testimony and arguments presented by their clients and professionals.

Board Solicitor Robert Belasco, Esquire provided the findings of fact for the record.

He reviewed the variance relief sought by the Applicant and reiterated the conditions of approval which the Applicant agreed. The Board moved to accept the findings of fact.

Findings of Fact accepted on motion of Ms. Daniels and 2nd by Mr. Vodges

Patrick Davenport: yes

Barbara Hunt: yes

Brian Melchiorre: yes

Angela Daniels: yes

Pete Cava: yes

Vince Tenaglia: yes

Bradley Vogdes: yes

The Board opened the Application up for deliberation.

During deliberations, a majority of the Board took no issue with the proposed 11ft. setback along Rosemary Road. The Board indicated that the proposed setback was adequate and preserved a sufficient view corridor.

Moreover, the Board acknowledged that there are hardly any existing hotels/motels within the Borough that comply with the 30ft. view corridor setback requirement.

The Board agreed that the Master Plan calls for flexibility in relation to the renovation of existing motels in order to maintain and preserve same, and they disagreed that horizontal expansion would impair the intent or purpose of the zone plan in light of the goals and objectives identified to maintain and preserve existing hotels.

The Board agreed that increasing the Ocean Avenue building addition setback from 0ft. to 5ft., consistent with the façade of the existing structure was an improvement and resolved a prior concern raised by the Board at its June 2023 meeting.

The Board engaged in an additional discussion regarding the proposed parking arrangement. A majority of the Board acknowledged that proposed parking plan B, while not perfect, is an improvement over what was presented back in June 2023, and resolved the majority of the Boards concerns in relation to one-way back-out drive aisles and back-out parking spaces.

Two (2) Board Members indicated that the parking arrangement is not functional, and the site and parking issue could be improved through the elimination of hotel rooms.

These Board Members indicated that the Applicant's proposal has improved, but the modified proposal amounted to an overdevelopment of the site to the detriment of the Borough and neighboring property owners. A majority of the Board agreed that the modifications to the proposal that were made by the Applicant following the denial of the prior application in June 2023, significantly improved the overall project and addressed their prior concerns.

These Board Members recognized that nearly all adjacent hotels, and hotels throughout the Borough for that matter, contain parking spaces which are similar in size and consistent with the Applicant's proposal.

The majority of Board Members agreed that a parking ratio of one (1) space to one (1) hotel room was appropriate for the site and presented no detriments to the public good, nor would it impair the intent or purpose of the zone plan and/or zoning ordinance.

The majority agreed that preserving an existing hotel within the Borough is consistent with the Master Plan and is vital to sustaining the Borough's tourism industry.

A majority of the Board found that the approval of the application, subject to the conditions of approval set forth herein, would be in the best interests of the Borough as the Applicant established that various purposes of zoning would be advanced in connection with this Application.

The Board further found that the proposed Application would not impair the intent or purpose of the City's zoning ordinance or zone plan and there are no substantial detriments to the public good or the surrounding community.

Moreover, while the majority of the Board acknowledged that the Applicant's proposal is not a perfect project/application, the benefits of granting the variance relief sought by the Applicant outweighs any potential detriments.

On Motion of Mr. Tenaglia and 2nd by Ms. Daniels to approve

Patrick Davenport: no

Barbara Hunt: yes

Brian Melchiorre: no

Angela Daniels: yes

Pete Cava: yes

Vince Tenaglia: yes

Bradley Vogdes: yes

RESOLUTIONS MEMORIALIZING BOARD ACTIONS:

None

ADMINISTRATIVE RESOLUTIONS:

None

OLD BUSINESS:

Bike Connectivity Path

Fence Ordinance

NEW BUSINESS:

None

OPEN TO PUBLIC COMMENT:

None

ANNOUNCEMENTS: The next regularly scheduled meeting is 6 March, there is one application scheduled at this time to go before the board on that date.

ADJOURN: On motion of Mr. Tenaglia, second by Mr. Cava and unanimous voice vote, the Chairman adjourned the meeting 10:00pm.

Pamela Riper

Planning Board Secretary