

**WILDWOOD CREST LAND USE BOARD MEETING
ZONING BOARD OF ADJUSTMENT
Meeting Minutes – 25 April 2017
Borough Hall, 6101 Pacific Avenue**

draft

Chairman Pete Cava called the meeting to order at 5:00 pm, led the Pledge of Allegiance, and read the Open Public Meetings Act and announced emergency exits.

Secretary Rogers took roll call: Carr; present; Cava, present; Hornsby, absent; Seijas, present; Compare, absent; Stuart, present; Levy, present; Tenaglia, absent; Rosenfeld, present; Solicitor Robert T. Belasco, Esq., present; Zoning Officer Malia, present; Secretary Rogers, present. A quorum was declared.

Minutes from the meeting of 21 March were distributed for review and approval or correction. Mr. Carr moved to approve the minutes as distributed; Mr. Seijas seconded. Roll call: Carr, yes; Seijas, yes; Stuart, abstain; Levy, abstain; Rosenfeld, yes; Cava, yes. Minutes approved.

There were four applications to come before the Board:

ZB-17-04-04: Seven Shes Development, LLC; contract purchasers of the property located at 451 E Louisville Ave, a/k/a blk 100.02, lots 15, 17, 19; seeking extension of approvals memorialized as ZB-14-20; represented by Ronald J. Gelzunas, Esq. Mr. Gelzunas presented a letter stating that the contract purchaser has become the owner of the subject property; the applicant is now "Seven Shes Louisville, LLC". He explained the nature of the prior approval for which the applicant is seeking a one year extension, and further stated that while the variance relief will remain in effect, the site plan approval will expire, the applicant intends to apply for an extension of CAFRA approval or may need a new approval which can be a six to eight month process. If this development is pursued, the building will be constructed in compliance with current building code. Solicitor Belasco said the extension time frame would begin on June 30, and that the extension is approvable if the Board feels the applicant is acting in good faith.

Mr. Carr moved to approve the one year extension, Ms. Levy provided the second. Roll call: Carr, yes; Seijas, yes; Stuart, yes; Levy, yes; Rosenfeld, yes; Cava, yes. Extension approved.

ZB-17-04-01: Mary McKenna, owner of the property located at 113 E Nashville Ave.; a/k/a blk 113, lot 9; seeking "c" variance relief to expand front porch into front yard setback, and increase lot coverage to 90%. Mrs. McKenna and contractor Archie Garnett were sworn in. Mr. Garnett testified that Mrs. McKenna bought the house out of foreclosure about three years ago, and in the interim has replaced concrete on the property and is trying to fix it up. He described it as a three bedroom rancher that was built in 1955 and has had several additions since and said the extension of the porch would create esthetic appeal. In answer to Mr. Seijas, he said the porch will be 5' deep at the smallest dimension and 12' deep at the greatest dimension. Zoning Official Malia noted this will create a front yard setback of 8.9' where 10' is required, and the lot coverage will increase from 84% to 90% where 65% is permitted. In answer to Mr. Carr, Mrs. McKenna said the 84% coverage was in place when she purchased the house. Mr. Malia added the porch extension would increase building coverage to 60% where 45% is permitted. In answer to Mr. Cava, Mr. Malia said that even if the porch met the required setback variance relief would be needed for excess lot coverage. Mr. Malia read his report, attached hereto and made part hereof, into the record.

In the public portion Ed Chadrow, neighbor at 111 E Nashville Ave., said he has no objection to the application. Jennifer Daily, Mrs. McKenna's daughter, said other neighbors have comfortable outdoor seating, and they want to create a safer environment for the grandchildren.

Solicitor Belasco reiterated the variance relief being sought to the Board.

In deliberation, Board member Stuart said that while he sees the prospect for improvement and recognizes the pre-existing conditions, the porch could be built in compliance with setback requirements, and asked if any concrete could be removed to create greenspace. Ms. Levy added that greenspace is important, and she is concerned about the setback. Mr. Seijas agreed the porch would improve the appearance of the house, but said the encroachment into the front

yard setback is concerning. Mr. Cava said while he likes the concept of a front porch, the amount of lot coverage is concerning and “flies in the face of regulations.” Mr. Carr asked if the Board thought addition of the porch could outweigh the increase in lot coverage.

During the course of deliberation, the applicant, her daughter and the contractor interjected with responses to the Board.

Solicitor Belasco read the findings of fact into the record.

Mr. Seijas moved to accept the findings; Mr. Stuart provided the second. Roll call: Carr, yes; Seijas, yes; Stuart, yes; Levy, yes; Rosenfeld, yes; Cava, yes. Findings accepted.

Mr. Rosenfeld moved to approve the application; Mr. Carr provided the second. Roll call: Carr, yes; Seijas, no; Stuart, no; Levy, no; Rosenfeld, yes; Cava, no. Application denied.

ZB-17-04-02: Besst in the Crest, LLC, owner of the property located at 7200 Ocean Ave.; a/k/a blk 94.02, lots 2>9.01; seeking “d” variance relief to place a takeout window within the exterior wall of an existing motel coffee shop; represented by Andrew Catanese, Esq. Siting conflicts, Mr. Stuart and Mr. Carr recused. Mr. Catanese introduced Vince Orlando and asked that he be qualified as an expert. Mr. Catanese asked the Board to consider the need for a “d” variance, noting that considering there are only four Board members present to hear the application, if “d” relief is needed they will be asking for continuation. Philip John, who will be operating the restaurant, was sworn in. He described the project and explained the need for such a window to relieve crowding at the entrance to the restaurant and avoid patrons lining up on the street. He said they propose to construct a room of approximately 8 X 8 sq ft with a glass roll-up garage-type door on the Rambler Rd side of the building specifically for take-out pickup. He said the restaurant would still operate primarily as a sit-down establishment. The Board deliberated with input from the Zoning Official the need for a “d” variance. Mr. Seijas said he feels the Board should follow the lead of the Zoning Official as there is no way to clearly override his opinion. The Board Solicitor, Zoning Official and Board members concurred that “d” variance should be sought as a “walk-up window” is not a permitted use in the M-1B zone.

Ms. Levy moved to continue the application to the meeting of 16 May without prejudice and without need for the applicant to re-advertise or notice the public, and with the applicant waiving all time constraints on the Board to act within 45 days; Mr. Seijas provided the second. Roll call: Carr, recused; Seijas, yes; Stuart, recused; Levy, yes; Rosenfeld, yes; Cava, yes. Continuation approved and memorialized as Resolution ZB-A-17-09.

ZB-17-04-03: 308 E Stanton Ave, LLC owner of the property located at 308 E Stanton Ave.; a/k/a blk97.01, lot 16; seeking “c” variance relief to extend first floor roof into the front yard setback; represented by Andrew D. Catanese, Esq. Matthew Sprague, Architect, was sworn in and qualified as an expert. Mr. Catanese explained that they will be pursuing both “c”1 and “c”2 considerations for variance relief. Mr. Sprague described the project as the construction of a shed roof over and existing patio entrance, keeping in line with the existing front room roof. He said 75 sq ft of area would be added to building coverage, and there would be no increase in lot coverage as there is a patio beneath. He said the proposed setback to the roof is 6’. Currently, there is an awning used over the area in the summer, and it extends to the front edge of the patio; the roof would not extend as far as the awning. Mr. Catanese noted that the roof would enhance light, air and open space in this regard and promote a desirable visual environment and general welfare of the community as there would be no increase in lot coverage or encroachment. He opined that there would be no detriment to the zone plan in the granting of this relief. In answer to query from Ms. Levy, Mr. Sprague said the porch will not be enclosed and remain as an open porch. Zoning Official Malia read his report, attached hereto and made part hereof, into the record. No members of the public spoke for or against the application.

Solicitor Belasco reviewed the variance relief sought and read the findings of fact into the minutes.

Mr. Rosenfeld moved to accept the findings of fact; Ms. Levy provided the second. Roll call: Carr, yes; Seijas, yes; Stuart, recused; Levy, yes; Rosenfeld, yes; Cava, yes. Findings accepted.

Mr. Carr moved to approve the application; Mr. Rosenfeld provided the second. Roll call: Roll call: Carr, yes; Seijas, yes; Stuart, recused; Levy, yes; Rosenfeld, yes; Cava, yes. Application approved.

There was one resolution memorializing Board action:
ZB-17-07: memorializing approval with conditions of application ZB-17-03-01: Monarch Condominium Association, 5501 Atlantic Ave.; a/k/a blk 6.03, lot, 21; seeking "c"1 variance relief. Mr. Seijas moved to approve the resolution; Mr. Rosenfeld provided the second. Roll call: Roll call: Carr, yes; Seijas, yes; Stuart, abstain; Levy, abstain; Rosenfeld, yes; Cava, yes. Resolution memorialized.

There were no administrative resolutions.

There was no old business.

Under new business, the Solicitor explained the need to hire a conflict attorney for the Alfe appeal. He said Avery Teitler, Esq. of Ocean City had been vetted for the position. On motion of Ms. Levy and second by Mr. Stuart and unanimous vote, the Board approved the recommendation of Avery Teitler, Esq. as conflict attorney for this matter.

No members of the public spoke.

The secretary informed the Board that there will be meeting on May 16.

On motion of Ms. Levy, second by Mr. Rosenfeld, and unanimous voice vote the Chairman adjourned the meeting by affirmative voice vote at 7 p.m.

Secretary