

WILDWOOD CREST LAND USE BOARD MEETING
ZONING BOARD OF ADJUSTMENT
Meeting Minutes – 19 December 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; Seijas, absent; Stuart, present; Levy, absent; Mettler, present; Tenaglia, present; Rosenfeld, present; Bumbernick, present; Solicitor Robert T. Belasco, Esq., present, Zoning Officer Malia, present; Secretary Rogers, present. A quorum was declared. Also in attendance was Avery Teitler, Esq., conflict attorney for the board.

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

There was one application to come before the Board:

ZB-17-10-01: Rose Alfe, owner of the property located at 116 W Forget-me-not Rd; a/k/a blk 55, lots 24.02 & 25; seeking "c" variance for lot area, lot width, lot frontage, sideyard setback, combined sideyard setback, rear yard setback, lot coverage, number of parking spaces, curb cut size, concrete/paver (impervious) coverage, HVAC buffer, jog in the wall and shed setback; to raise, renovate and vertically expand the existing two family dwelling located on a 37.5' X 100' lot in the R-2 Zoning District. Applicant represented by Ronald J Gelzunas, Esq. Board Solicitor Belasco informed the Board and applicant that he has a conflict and would step down for the hearing; Avery Teitler, Esq. presided as attorney for the Board. Mr. Gelzunas asked to have Vince Orlando and Joseph Garramone sworn in and qualified as experts. Mr. Orlando said he is with Engineer Design Associates and is a licensed engineer, planner, and landscape architect for 32 years, and has previously appeared before this Board and has been qualified as an expert. Mr. Garramone said he a licensed architect and planner for more than forty years, and has previously appeared before this Board and has been qualified as an expert. Chairman Pete Cava in agreement with the Board recognized their expert status. Msrs. Orlando and Garramone were sworn in. Rose Alfe, owner of the property, was sworn in. Mr. Gelzunas described the current structure as old and out of date and in need of renovation.

Mr. Garramone showed sheet A-1 of the architectural plans saying a vertical expansion is sought in the existing footprint. He described the site plan, noting the existing shed will be removed and replaced with grass to reduce impervious lot coverage. A proposed landscape plan was distributed and marked as Exhibit A-1. Mr. Garramone described the proposed revisions, noting the creation of a walkway on the west side of the building, lawn area where the shed was located, and additional front yard landscaping. He said this will reduce impervious coverage to 90%. Mr. Garramone showed sheet A-2 of the architectural plans and described the proposed interior configuration of the structure. He added that they propose to raise the structure to current FEMA standards. He noted the structure is 3.8' from the property line on the east side. Mr. Garramone said from the street the structure appears as a single-family home. Mr. Gelzunas added that it is not a typical side-by-side duplex, but rather a front and back configuration.

Mr. Orlando described the site noting the variance relief sought for pre-existing conditions as the area of the lot (6000 sq. ft. is required for duplex construction and the lot area is 3750 sq. ft.), lot width and frontage (60 ft. is required for duplex construction where 37.5 ft. exist), lot coverage (65% maximum coverage is permitted where 100% exists), building coverage (45% is permitted), insufficient offstreet parking and a nonconforming structure. He said the existing conditions created a challenge in design. He said the proposed addition will not exacerbate these conditions. Mr. Orlando noted that although four parking spaces are required, this property has existed "for years" with three offstreet spaces, and, siting sheet A-1, there is no way to increase parking. Mr. Orlando acknowledged that variance relief is required for the parking shortfall. Mr.

Orlando said the total lot coverage will be reduced from 100% to 90% where 65% is permitted. He said the front yard coverage will be increased to 30% as required. *(Note: per Land Use Ordinance section 85-69 - 50% is the maximum permitted impervious coverage in a front yard; 30% is the minimum for grass, plantings or mulch, the remaining 20% may be stone.)* Mr. Orlando noted the proposed addition of a second floor to the structure will create dwelling units larger than required. He pointed out Land Use Ordinance section 85-40c. which recognizes nonconforming structures, although it is specific to single family residences, opining that this application complies with the intent of the ordinance. He said as it is their intent to raise the structure, it can be moved from the current 3.8' setback to a 4' setback. Mr. Gelzunas noted that moving the structure to the 4' setback would create a setback of 3.2' to the entry stairs on the west side. Mr. Gelzunas asked Mr. Orlando about negative impact. Mr. Orlando said the Borough ordinance provides an avenue for improvement, and it is the purpose of the ordinance to encourage rehabilitation, noting it recognizes undersized lots. Mr. Gelzunas said the proposed project will create a more viable year-round residence. Mr. Orlando added the proposal will upgrade the structure, bringing it up to code, and address issues pertaining to flood and resiliency. He opined Mr. Garramone's rendition has captured this transformation. Mr. Orlando opined that this project would provide no substantial detriment to the zone plan, although it is an expansion of a two-family dwelling. He added the elements of single family and two-family development are intertwined. Mr. Orlando explained that the c(1) and c(2) criteria both apply and by way of explanation quoted the MLUL. He said approval of this project would lead to better esthetics and improved visual impact in the neighborhood, and benefit the community by raising the structure to current FEMA standards. He opined that purposes of the act a, b, i and m would be satisfied as the proposal provides appropriate development in an appropriate location, promotes public safety, improves the visual environment and provides efficient use of the land. Addressing the negative criteria, he said there would be no detriment to the zone plan as there is a specific ordinance section addressing such expansion which in itself ratifies the negative criteria; and this expansion provides no substantial detriment to the public good. He opined that while there will be impact, it will not be substantial. Board members posed questions to the applicant. Board Vice-Chairman Bill Carr asked about the fence. Mr. Orlando answered it encroaches 18" on the subject property, but measurements are taken to the property line, not the fence. He noted the fence belongs to the applicant and can be moved. In answer to a query from Board Chairman Cava, Mr. Orlando said the tree in the front yard will be removed in order to create an access walkway. He described the landscape plan on Exhibit A-1. Mr. Orlando said the parking area will be 27' wide, allowing for three vehicles to park. Board member Tenaglia opined the added greenery will enhance the appearance of the property and noted there are currently three parking spaces. Board Vice-Chairman Carr said there are nine structures on each side of the street, many of which are multi-family dwellings, and the street is currently saturated for parking. Mr. Tenaglia commented that it is not proposed to change what exists. Mr. Orlando said they recognize the nonconformity, and the proposed expansion entitles the relief which is included on the application. In answer to Board member Bumbernick, Mr. Garramone explained the dormers on the third floor are for esthetic purpose and do not increase living space. Mr. Carr said raising the unit will block sunlight to the structure on the east side. Mr. Orlando referred to the photo on the plan saying the addition is behind the window of the next-door property, reiterating that if this were a single-family home it would be in compliance. Board member Mettler said this structure was built sixty years ago when the zoning ordinance was different and currently this lot does not support a duplex, and he feels references to the ordinance pertaining to single-family development are inappropriate as they are seeking to expand a duplex. He added the ordinance was changed for a reason referencing setbacks, height and parking, saying they propose to squeeze something that was ok years ago into today' s standards. Mr. Gelzunas replied they tried to couch it in comparison as he outlined the purpose of the testimony noting relief sought for pre-existing conditions, and said he would carve out what is being exacerbated including side and rear yard setbacks. He said that raising the building, moving the bedrooms to the second floor and creating more first floor living space will yield a more modern and beautiful structure better suited to the community. He asked the Board to consider which building will be there for the future and which building will exist. Board member Bumbernick said he felt the applicant was trying to fit a square peg into a round hole, trying to make the building nicer; the alternative would be to tear the building down and build a single-family. He said feels

this is an opportunity and better for the community. In clarification of Board concerns, Rose Alfe said she at one time lived in the front unit and had converted it from a three bedroom to a two-bedroom unit, but the intent is to return it to a three-bedroom unit.

Zoning Official Patrick Malia read his report, attached hereto and made part hereof, into the record and reiterated the twelve variances sought.

In the public portion, John David Turzanski, owner of 114 W. Forget-me-not Rd., testified that he was there with his attorney. Mr. Turzanski said he bought his property in June to live here year-round. He described his property, noting the air-space and dependence on breezes. Mr. Turzanski outlined his reasons for choosing to live in Wildwood Crest including lack of overcrowding. He said, if approved, this project would bring a wall to within 5.5' from his home. Mr. Turzanski presented photos of the properties to the Board; these were labeled as Exhibits O – 1,2,3,4. Mr. Turzanski described the difficult parking situation in the neighborhood, and entered an emotional plea to the Board and described his concern that the granting of this relief and subsequent development would decrease his property value.

Gene Boyd, owner of 118 W. Forget-me-not Rd., described his property as a “mirror image” of the subject property. Mr. Boyd said he felt granting the variance relief would lead to an improvement in the area as the neighborhood has not been revitalized. He said his property contains two year-round rentals and parking is not a problem for them. In answer to Board Chair Cava, Mr. Boyd said he has turned the entry steps into his property, but has retained 14.4' between his property and the subject property.

In rebuttal, Mr. Gelzunas and Mr. Orlando noted Exhibits O-1,2,3,4 saying the fencing will be moved; and showing the only encroachment on the sunlight next door will be to a small window saying 50% of Mr. Turzanski's building would not be affected. Mr. Orlando opined this does not constitute a “substantial” impact. He asked the Board to “divorce” themselves from the use and look at the structure. In answer to Mr. Gelzunas, he said if the structure were demolished and a single-family home were constructed, it would have more of an impact. He said the Board needs to balance the proposed construction against what could be built on the site.

Summarizing, Mr. Gelzunas said that they propose to create more living space, not increase occupancy. He said most of the variances are for pre-existing conditions, and only three exacerbate these conditions. He asked the Board to consider the impact of a new structure, saying he feels the relief creates a negligible difference.

Acting Solicitor Teitler read the findings of fact into the record, listing the twelve variances sought; and noting the conditions of approval as removal of the shed, relocating the building to a 4' setback on the east side, and adherence to landscaping plan as depicted on Ex. A-1.

Mr. Carr moved to accept the findings of fact; Mr. Rosenfeld seconded. Roll call: Carr, yes; Mettler, yes; Stuart, yes; Tenaglia, yes; Rosenfeld, yes; Bumbernick, yes; Cava, yes. Findings accepted.

Board member Bumbernick opened deliberation by reiterating his previously-expressed opinion, adding that what could be built would be more of a detriment, and he feels granting the relief would be beneficial to the community.

Mr. Tenaglia said granting the relief would increase curb appeal and create a more attractive building with more viable living space.

Mr. Stuart said the rendering presented was nice, and the pictures tell the story – the houses are close. He said zoning ordinance regarding duplex construction was in place for a reason, noting a 60' lot frontage is required. He opined that this proposal does not fit the zoning purpose and is not in keeping with the direction the community is moving, saying the comparison to single-family development was not correct as this is a duplex and its expansion is not in keeping with community goals.

Mr. Rosenfeld sited the esthetic improvements and additional greenspace.

Mr. Mettler said he can see both sides – the rendering looks nicer, but it is a duplex on a 37.5' wide lot. He referenced the number of variances sought, noting a single-family home would require only two parking spots. He said the values of the properties on both sides would be likely be impacted in opposite ways.

Mr. Carr said the granting of this relief would not advance the purposes of zoning or the Land Use Ordinance of the Borough.

Mr. Cava said while the proposed structure has a pleasing design, he agrees that the purpose of zoning would not be advanced by granting relief. He further noted the amount of lot coverage and number of variances.

Acting Solicitor Teitler called for a roll call vote on the application, requesting members to state whether they were in favor or against and stating the reasons for the vote.

Mr. Mettler moved to take action on the application; Mr. Stuart provided the second.

Roll call:

Mr. Carr said he is against granting the relief as doing so would not advance the purpose of the Land Use Ordinance or Purposes of the Act;

Mr. Mettler said he is against granting the relief as it is a duplex on a 37.5' wide lot and referenced the number of variances sought;

Mr. Stuart said he is against granting the relief as doing so would not advance the purposes of zoning, and the detriments to the zone plan outweigh the benefits;

Mr. Tenaglia said he is in favor of granting the relief as it is an existing duplex and the proposal would yield a nicer structure;

Mr. Rosenfeld said he is in favor of granting the relief as it would enhance the community;

Mr. Bumbernick said he is in favor of granting the relief as the existing building is nonconforming and enhancing it would benefit the community;

Mr. Cava said he is against granting the relief as it does not advance the purposes of zoning siting the number of variances sought.

There were three votes in favor of granting the variance relief, and four against. Application denied.

Mr. Turzanski approached the Board and thanked them for their action.

Mr. Belasco presided as Solicitor for remaining business.

There was one resolution memorializing Board action:

ZB-17-24: Memorializing approval of application ZB-17-11-01: Kirk Hewitt, owner of the property located at 206 W. Morning Glory Rd.; a/k/a blk 9, lot 44; in the R-2 Zoning District seeking "c" variance relief was accepted on motion of Mr. Carr, second by Mr. Mettler and roll call vote: Carr, yes; Mettler, yes; Stuart, yes; Tenaglia, abstain; Rosenfeld, yes; Bumbernick, abstain; Cava, yes.

There were no administrative resolutions.

There was no old business.

There was no new business.

No additional members of the public spoke.

The Board will meet on 16 January 2018 for the purpose of reorganization. There are no applications to come before the Board on that date; the Board will memorialize action of 19 December.

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

Secretary