

WILDWOOD CREST LAND USE BOARD MEETING

ZONING BOARD OF ADJUSTMENT Meeting Minutes – 15 December 2020 Borough Hall, 6101 Pacific Avenue

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Chairman Seijas 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: Bumbernick, absent; Levy, absent; Mettler, present; Rosenfeld, present; Seijas, present; Stuart, absent; Tenaglia, present; Franco, absent (Mrs. Franco entered the meeting at 5:14 p.m.); Vogdes, present. Solicitor Robert T. Belasco, Esq., present; Secretary Rogers, present, Board engineer Marc DeBlasio and Joe Mohnack of DeBlasio & Associates, present. A quorum was declared.

Minutes from the meeting of 17 November were distributed for review and approval or correction. Mr. Vogdes moved to approve the minutes as distributed; Mr. Rosenfeld seconded. Roll call: Mettler, abstain; Rosenfeld, yes; Tenaglia, abstain; Vogdes, yes; Seijas, yes. Minutes approved as distributed.

There were two applications to come before the Board:

ZB-20-12-01: Michael & Sharon Cunningham, owners of the property located at 118 E Palm Rd., a/k/a blk 60, lot 30.02, in the R-2 zoning district seeking “c”2 variance relief to increase curb cut to 17’ feet in width. Mr. and Mrs. Cunningham approached the board and were sworn in. Mr. Cunningham said they are applying for relief under the “flexible c” criteria in order to extend the existing curb cut in front of their property to gain better and safer access to the driveway. Mr. Cunningham showed photos of the house and driveway which were included in the application packet explaining that the driveway access is offset making it nearly impossible use the left side driveway and garage, noting also the structural pillar between the garage doors. He said Mrs. Cunningham regularly parks in the street because of this situation; she agreed. Mrs. Cunningham said granting this relief will allow her to remove her car from the street and open up a parking space. Mr. Cunningham showed the on street space between 116 and 118 E Palm Rd noting it is 17’ in length while 18’ is required for a legitimate parking space, and this will be created if relief is granted. He testified the space between 118 and 120 is not sufficient to provide three legitimate parking spaces and granting the extended curb cut will not compromise two legitimate parking spaces on the street on that side of their property.

Board Engineer DeBlasio read his report into the record asking if a street opening permit will be required. Mr. Cunningham replied he has been told not as the intended scope of work will not affect or compromise the gutter. He agreed all work will be done to the borough’s specifications. In the public portion Matthew Shook, owner of the property at 129 E. Palm Rd., was sworn in and said he objected to the relief as the applicant has not proved hardship. Solicitor Belasco explained the application was being presented under the “c”2 criteria, and the applicant must demonstrate the benefits of granting relief outweigh the detriments. Kevin Kelly, owner of the property at 113 E. Palm Rd. was sworn in and also objected saying one on street space will be eliminated. Peggy Bender, owner of the property located at 131 E. Palm Rd., was sworn in and expressed agreement with the other members of the public.

Sharon Cunningham interjected saying there are not three legitimate spots in that area, and if a third car parks there it is up against the curb cut making it more difficult to use their driveway.

Board member Tenaglia she call the police when this occurs.

In deliberation board members agreed they see no harm to the zone plan in granting the relief sought and doing so would promote public safety. Board members also questioned the reduction of curb cut dimensions to 10’ from 12’.

Board solicitor Robert Belasco read the findings of fact into the record, noting the relief sought, applicant testimony and public comment including the review and approval of the curbing installation as a condition of approval.

Mr. Tenaglia moved to accept the findings of fact, Mr. Vogdes seconded. Roll call: Mettler, yes; Rosenfeld, yes; Tenaglia, yes; Vogdes, yes; Franco, recuse; Seijas, yes. Findings accepted.

Mr. Tenaglia moved to approve the application, Mr. Vogdes seconded. Roll call: Mettler, yes; Rosenfeld, yes; Tenaglia, yes; Vogdes, yes; Franco, recuse; Seijas, yes. Application approved with conditions.

ZB-20-12-02: James Mikula, contract purchaser of the property located at 407-415 E Atlanta Ave, a/k/a blk 98.02, lots 7-12, in the M-1B zoning district, seeking "d"5 and "c"2 variance relief to construct a 24 unit multi-family dwelling with excessive building and lot coverage. Applicant represented by Andrew D. Catanese, Esq. Mr. Catanese described existing conditions on the site as a 21 unit motel and two other buildings each containing three units. He said the applicant is proposing one twenty-four unit residential structure and is seeking variance relief under the "c"2 criteria for lot coverage and building coverage, and "d"5 relief for density noting the applicant must prove the site can accommodate the more intense use. He said the applicant, James Mikula, was present in the room and available to testify if needed; and Vincent Orlando who has previously been recognized as an expert by this board, was worn in. Mr. Orlando described the property as 300'X100', 30,000 sq. ft., in the beach block currently containing 27 units with 27 parking spaces. He described the Coastal colors development to the south across the street and entered exhibit A1 – a photo of Coastal colors – into the record saying the density there is 72 units with 1500 sq. ft. of land per unit. He further pointed out Ocean Harbor as 24 units with 958 sq. ft. of land per unit, and Crest Condos as 10 units with 1000 sq. ft. per unit, saying the average in the area is 1158 sq. ft. of land per unit. He showed the conceptual site plan (included in the application packet) describing the proposed building as a 260' x 60' structure containing 24 units with 59 parking spaces mostly under the building; two of these spaces will be barrier free. Mr. Orlando said this exceeds the parking requirements for the number of proposed units. He said a one way clockwise circulation pattern for the parking area will be provided with one ingress and one egress; each unit will have a 4' x 10' dedicated storage locker; a bike rack for 15-20 bikes will be provided; trash and recycling area will be under the building; landscaping will be provided. Mr. Orlando said the proposed building coverage is 56% where 40% is allowed, and this includes the pool deck and pool; proposed lot coverage is 73.3% where 70% is allowed. He noted additional open space could be created by the removal of parking spaces. He said Coastal Colors has 65% building coverage, Ocean Harbor has 65% building coverage and 70% lot coverage, and Crest condo has 75% building coverage and equal lot coverage. Mr. Orlando said under the relaxed "d"5 standard the board should determine if the lot can accommodate the increased density noting no variance relief is sought for setbacks. He opined the proposed design does not compromise light, air and open space, is compliant for height and advances six purposes of zoning: a. it advances the general welfare of the community, c. provides adequate light, air and open space, e. provides appropriate density for the area (noting the density of nearby properties), g. is an appropriate use as multi-family residential development is permitted in the zone, i. promotes a desirable visual environment as the new construction will provide an esthetic enhancement, and m. provides an efficient use of the land. Under the negative criteria, Mr. Orlando opined there will be no detriment to the neighborhood as the use is consistent with other development in the area and will be no detriment to the zone plan as the use is permitted in the zone. He added removing older structures benefits the community. Answering Mr. Catanese, Mr. Orlando further opined the board should recognize the balance of the positive and negative criteria as it relates to granting the relief.

Answering questions from the board, Mr. Orlando said he did not recall a density variance for Coastal Colors, however, it is a mixed use property and did require site plan approval. He said the current onsite parking is not comprised of compliant spaces. Chairman Seijas opined the visual impact of the proposed structure will be less, adding the proposed lot coverage is over by 986 sq. ft., but this includes the pool and pool deck. Answering Mrs. Franco Mr. Catanese said the proposed units have three bedrooms, and some have a den. Mr. Seijas again noted proposed height and setbacks are conforming. Mr. Orlando said landscaping facing Atlanta Ave is proposed

and additional on street parking can be created. Mr. Mettler said he understood why comparisons to nearby properties were being made, but the current ordinance is clear on lot and building coverage and it appears what was being proposed is no longer what the borough wants. Mr. Seijas said he perceives a difference between demolition and replacing and building on a vacant lot. Mr. Mettler said the site currently has a lot of open space and demolishing the structure creates a vacant lot, adding he would like to development with the neighborhood and the land use ordinance would permit 16 units; 24 are being proposed which is a 50% overage. Mr. Tenaglia expressed agreement adding the master plan was changed for a reason. Mr. Seijas asked if the benefits outweigh the detriments, can this excess be allowed? Mr. Tenaglia said the planning board apparently thinks these are detriments noting it goes against the master plan. Mr. Orlando said the applicant could construct 16 3000 sq. ft. units, but that is not in keeping with the character of the neighborhood and he intends to upgrade an antiquated building. Mr. Tenaglia pointed out the other dissimilar buildings in the area. Mr. Seijas said he saw it differently pointing out the benefits of modern construction and increased parking. Mr. Tenaglia said he agreed with the parking aspect but could not accept the excess units.

Board Engineer Marc DeBlasio read his report into the record (attached hereto and made part hereof) noting approval of the variance relief would necessitate and application for site plan review. He also asked about CAFRA requirements. Mr. Orlando replied there is no CAFRA requirement as the proposed development is more than 150' from the bulkhead.

In the public portion twelve people spoke:

Robert Pontbriand, owner of unit 302 at 405 E Atlanta Ave, was sworn and said the comps were "cherry picked" and did not represent the entire neighborhood, it is a very congested street and this development will only add to the problems.

Margaret Sorrentino, owner of unit 103 at 405 E Atlanta Ave, was sworn and said the notice was only received the Friday before the meeting and this did not allow sufficient time for neighbors to view the plans, although she did see the plans, she said the site is not suitable for the proposed density.

Kenneth Hays owner of a unit at 404 E Farragut Rd was sworn and said their building could be adversely affected by the proposed development.

John Harry, owner of unit 102 at 405 E Atlanta Ave, was sworn in and asked about setbacks and ownership of the building/units.

Maria D'Imperio, owner of unit 302 at 405 E Atlanta Ave, was sworn in and objected to a project of this magnitude being proposed on the street, questioning the density and noting the existing motel (Mark 1) is always full and is well-maintained.

Bill Radice, owner of unit #2 at 404 E Farragut Rd, was sworn in and expressed agreement with Mr. Hays noting negative impact on their property.

Philip John, owner of 304 E Stanton Rd, was sworn in and expressed support for the project saying that multi-family development has had a positive impact in the borough.

Susan Roszkowski, owner of 196 W Pittsburgh Ave, was sworn in and said the project looks lovely and will enhance the town and increase ratables.

Frederick DiAntonio, of 4701 New Jersey Ave, was sworn in and said he is the broker involved in the project saying the existing units are too small to support the existing use, and the proposed development suits the area.

Kathleen Chiolo, owner of 212 E Newark Ave, was sworn in and said the applicant is investing a lot of money in the town and this development would increase ratables.

Deborah John, owner of 304 E Stanton Rd, was sworn in and said the impact of condos has been good and in a tourist town people don not want small units, adding if this becomes residential people will stay for a week.

The public portion was closed.

The applicant requested and was granted a ten minute break.

Upon reconvening the meeting, Mr. Orlando addressed some concerns of the public and attempted to clear up some misconceptions.

Mr. Catanese summarized the application saying it could be one story taller also noting the relaxed standard for density, the increased parking and excess parking proposed, opining the proposed project is appropriate for the area.

Solicitor Belasco read the findings of fact into the record noting the specifics of the application including the bifurcation of the variance and site plan portions, reminding the board this hearing was to address the variance consideration only. He listed those testifying including Mr. Orlando and members of the public, identified the exhibits as A-1-2-3, the engineer's report and any conditions agreed.

Mr. Seijas expressed the board's thanks to members of the public for taking an interest.

Mr. Rosenfeld moved to accept the findings, Mr. Mettler provided the second. Roll call: Mettler, yes; Rosenfeld, yes; Tenaglia, yes; Vogdes, yes; Franco, yes; Seijas, yes. Findings accepted. Opening deliberation Mr. Mettler said he is not opposed to the project or development, however, those who will be most impacted were those who expressed concern about this development; those who expressed support were not from the immediate area. Mr. Seijas said the public who spoke against were mostly from the same building. Mr. Mettler said allowing the increased density to 50% more than permitted by the master plan and land use ordinance takes away the credibility of the master plan. In discussion board members expressed agreement with Mr. Mettler noting that if the Mark 1 (including the two outbuildings) were to be demolished vacant land is created so there is no consideration for what is currently on the parcel. Mr. Seijas said he appreciated the deliberation and board comments but saw the benefit as investment in the town and motels are struggling. Mr. Tenaglia rebutted saying this past summer was not as predicted and his motel was full in July and August. Mr. Mettler concluded saying he is in favor of a project but not of this magnitude.

Noting the direction of the board, Mr. Catanese asked for an adjournment of the hearing to the meeting of 19 January 2021 without need to renotice or republish and waiving time constraints on the board. On motion of Mr. Vogdes, second Mrs. Franco and roll call vote: Mettler, yes; Rosenfeld, yes; Tenaglia, yes; Vogdes, yes; Franco, yes; Seijas, yes; the adjournment was approved and memorialized as resolution ZB-A-20-17.

There were no resolutions memorializing board action.

There were no administrative resolutions.

There was no old business.

Under new business the secretary asked if it is possible to request an electronic copy of applications and plans. Solicitor Belasco said this is common practice in other municipalities and should not be problematic.

Chairman Seijas thanked the board for their participation and good deliberation during the meeting.

No members of the public spoke.

There are two applications to come before the Board on 19 January 2021, the board will meet on that date. Under current conditions it is anticipated this will be an in person or partially virtual meeting.

On motion of Mr. Vogdes, second by Mr. Tenaglia, the meeting adjourned by affirmative voice vote at 8:20 p.m.

Deborah Rogers, Secretary