

City of Cape May Planning Board Meeting Minutes
Tuesday, April 10, 2018

Opening: The meeting of the City of Cape May Planning Board was called to order by Chairman Bill Bezaire at 6:30 PM. In compliance with the Open Public Meetings Act, adequate notice was provided.

Roll Call:

Mr. Bezaire, Chairperson	Present
Mr. Shuler, Vice Chairperson	Absent - excused
Mr. Elwell	Present
Mr. Macciocchi	Present
Councilmember Hendricks	Present
Mr. Inderwies	Absent - excused
Mr. Jones	Present
Mayor Lear	Present
Dr. Maslow	Present
Dr. Wolf Alt #1	Present
Mr. Martz Alt #2	Present

Also Present: Richard King, Esquire - Board Solicitor
Craig Hurless - Board Engineer
Tricia Oliver - Board Assistant

Applications:

Adis, Inc. - "La Mer Beachfront Inn"
1317 Beach Avenue
Block 1146, Lot(s) 6, 7, & 10-24

Mr. Richard Hluchan, Esquire, Mr. Gus Andy, property owner, Mr. Matt Hender, Licensed Landscape Architect/Professional Planner, and Board Engineer, Craig Hurless, were sworn in for the record.

Representative, Richard Hluchan, Esq. briefly detailed the previous approval for preliminary site plan, in July 2015 and the final site plan approval given in October 2015 for the subject property. He mentioned that although neighbors appealed the approvals twice, Judge Mendez upheld the decision of the City's Planning Board. The new application before the members, he continued, was a change to an originally approved entryway. The change, Mr. Hluchan went on, is a forty (40) foot difference in location of an entryway that was on the corner of the building, now proposed to the center of the front of the building.

Professional Planner and Landscape Architect, Mr. Matt Hender, detailed the previously approved site plan [A-1] with variances granted as well. Mr. Hender stated that the new plan proposed eliminates the serpentine type walkway at Pittsburgh Avenue. The changes, he noted, are triggered by the redesign of the interior layout of the restaurant. It was Mr. Hender's opinion that the new architectural plans proved more aesthetically appealing with a centered doorway instead.

Brief discussion was undertaken about handicap accessibility and clarification was given by Board Engineer, Craig Hurless, regarding the setback of the proposed entryway.

Discussion was opened to the public at 6:53 PM.

Matthew Glenn, 1404 New Jersey Avenue, and representative, **Brian Murphy**, were sworn in.

On behalf of Mr. Glenn, Mr. Murphy questioned the viability of the handicap accesses according to the proposed plan. He detailed the New Jersey state laws regarding ADA compliant parking spaces and stated that he believed the entire parking plan must be reconfigured due to moving the entry, creating a different distance of the previously approved ADA compliant parking spaces to the new entry. It was the opinion of both Mr. Glenn and Mr. Murphy that the ADA compliant parking was a concern with a previous application for the subject property, but it was in fact missed.

Discussion ensued once more regarding the ADA compliant parking configuration and changes were suggested with Board Solicitor, Rich King, Esq. noting that a reconfiguration could in fact become a condition of approval if the members of the board chose so.

As short recess was taken at 7:24 PM.

The meeting returned at 7:31 PM.

Mr. Hender continued his presentation to the board showing a rendering of parking changes, and answered cross examination from Mr. Murphy.

Discussion open to the public continued at 7:42 PM.

Matthew, Glenn, 1404 New Jersey Avenue, was not supportive of the application and mentioned the issue of “res judicata” as well as the quality of life within the surrounding neighborhood being impacted negatively. It was Mr. Glenn’s opinion that the members of the Planning Board did not understand or care about preserving the residential neighborhood.

James Testa, 1501 Beach Avenue, was negative regarding the application stating that it is the Planning Board’s job to be conscious of the surrounding neighborhood and the R-1A zoning district that the subject property is in.

Discussion was closed to the public at 7:51 PM.

Board Engineer Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated March 8, 2018. Mr. Hurless explained the amended site plan and one (1) additional variance required in detail, also quickly noting the six (6) variance previously granted during preliminary site plan approvals:

1. §525-24B(1) Table 2 - Building Setbacks - Beach Avenue

The General Review Comments 1-5 were reviewed and explained in detail, and all were classified as conditions of approval; with addition(s) referenced by the Engineer.

Motion made by Mr. Jones to approve the Preliminary and Final Site Plan with variance approval for §525-24B(1) Table 2 - Building Setbacks - Beach Avenue; subject to all conditions of approval discussed at the hearing and outlined in the review memorandum

from Board Engineer Craig R. Hurless, PE, PP, CME, dated March 8, 2018 seconded by Mr. Elwell and carried 8-1. Those in favor: Mr. Elwell, Mr. Macciocchi, Mr. Jones, Mayor Lear, Dr. Maslow, Dr. Wolf, Mr. Martz, Mr. Bezaire. Those opposed: Councilmember Hendricks. Those abstaining: None.

Paul, Susan, & Edward Johnston - "The Cove Restaurant"
405 S. Beach Avenue
Block 1012, Lot(s) 13 & 14

**Dr. Maslow recused himself from the application due to living within 200 feet of the subject property.*

Mr. Jeff Barnes, Esq., as well as, Mr. Paul Johnston and Mr. Edward Johnston, property owners, and Mr. Matt Hender, Licensed Landscape Architect/Professional Planner, were sworn in for the record.

Mr. Jeff Barnes, Esq., representing the Applicant, reviewed the project. He reviewed the prior approvals in 1997 and 2009 and also indicated that the 27 spaces are becoming 30 spaces because the required size of the parking stalls are reduced by ordinance and therefore more spaces can fit in the same amount of land. One of the handicapped parking spaces in the front will be relocated to the back.

Mr. Hender then testified in regards to the seating, mentioning a typo on the plans presented to the board, which indicated only 84 total seats. He indicated that 96 seats presently exist between the interior space and enclosed porch, and confirmed that there are 30 outdoor seats proposed. Mr. Hender continued on to detail the site plan and indicated there are no additions or alterations to the building.

Board Engineer, Craig Hurless, clarified that the applicants intended to have the outdoor seating in an area that was actually remaining a parking lot, which is specifically not permitted by the outdoor seating ordinance.

Brief discussion was undertaken regarding the outdoor seating. Board Solicitor, Rich King, Esq., indicated that if the outdoor seating was permanent and not part of parking, it would not require a variance and it would add no new parking requirement under the current version of the ordinance. This was confirmed and agreed by all present.

Mr. Johnston then addressed the board with his explanation of the proposed border of the outdoor seating. The application proposes 6 flower pots and parking bumpers, however, it was clarified by Board Engineer, Craig Hurless that regards to safety considerations, it is strongly suggested that a 6-inch-high curb and balusters are installed, intending to both provide some level of protection from the roadway as well as a barrier for people who may inadvertently step into the roadway.

As short recess was taken at 8:36 PM.

The meeting returned at 8:41 PM.

After consultation, the Applicant agreed that the outdoor seating is to be permanent and they will construct a barrier satisfactory to the Board Engineer's suggestions; which would include balusters

6 ft. on center with 6-inch-high curbing and flower pots and chains connecting the balusters so as to create a barrier for pedestrians. The Applicant also agreed that any approval would be preliminary, and between the preliminary and the final approval there may be discussions between and among the engineers to develop a barrier that may move the curb towards Beach Avenue. In addition, some of the balusters on the “return” from Beach Avenue to the restaurant may be removable so as to facilitate the clearing of sand that builds up in this area.

Board Engineer, Craig Hurless, strongly recommended to the membership that the board only consider preliminary approval at this time, particularly in light of open issues pertaining to an easement and also the request for the relocation of the curbing.

Brief discussion ensued regarding the issue of an easement involved on the subject property, brought to light by Mr. Hurless.

Board Engineer, Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated March 22, 2018. Mr. Hurless explained the eight (8) variances required in detail (page 5 of 8):

1. §525-24B(2) Table 1 - Lot Coverage
2. §525-49C(2) & (11) - Parking - Required Number
3. §525-59E(7) - Parking - Rear Yard Setback
4. §525-59E(7) - Parking - Side Yard Setback
5. §525-49A & 59D - Parking - Surface
6. §525-49B(1) - Parking Buffer
7. §525-24B(1) Table 1 - Access. Structure Setbacks, Rear
8. §525-24B(1) Table 1 - Access. Structure Setbacks, Side

Mr. Hurless noted item 2 of his Review Comments for Variances (page 5 of 8) should be classified as a condition of approval. The General Review Comments 1 and 2, as well as numbers 4 through 20 were reviewed and explained in detail, and all were classified as conditions of approval; with the exclusion of item number 17, as the subject property is in fact not within the Historic District.

Motion made by Mr. Elwell to approve the Preliminary Site Plan with variance approval for §525-24B(2) Table 1 - Lot Coverage, §525-49C(2) & (11) - Parking - Required Number, §525-59E(7) - Parking - Rear Yard Setback, §525-59E(7) - Parking - Side Yard Setback, §525-49A & 59D - Parking – Surface, §525-49B(1) - Parking Buffer, §525-24B(1) Table 1 - Access. Structure Setbacks, Rear, and §525-24B(1) Table 1 - Access. Structure Setbacks, Side; subject to all conditions of approval discussed at the hearing and outlined in the review memorandum from Board Engineer Craig R. Hurless, PE, PP, CME, dated March 22, 2018 seconded by Mr. Jones and carried 8-0. Those in favor: Mr. Elwell, Mr. Macciocchi, Councilmember Hendricks, Mr. Jones, Mayor Lear, Dr. Wolf, Mr. Martz, Mr. Bezaire. Those opposed: None. Those abstaining: None.

Motion made to adjourn by Mr. Jones at 9:35 PM with all in favor.

Respectfully submitted: Tricia Oliver, Board Assistant.

****Copy of presentation available on the City of Cape May website.**