City of Cape May Zoning Board of Adjustment Meeting Minutes
Thursday, February 28, 2019

Opening: In compliance with the Open Public Meetings Act of 1975, adequate notice of the meeting was provided. Chairperson Hutchinson called the meeting to order at 6:00 P.M.

Roll Call: Mrs. Hutchinson, Chairperson Present
Mr. Murray, Vice Chairperson Present
Mr. Iurato Present
Mrs. McAlinden Absent -- resigned
Mrs. Werner Present
Ms. Hesel Present
Mr. Van de Vaarst Absent -- excused
Mrs. Lukens (Alt. 1) Present
Mrs. Nelson (Alt. 2) Present

Also Present: Richard King, Board Solicitor
Craig Hurless, PE, PP, CME, Board Engineer
Tricia Oliver, Board Assistant

Minutes:

Motion made by Mr. Murray to adopt the meeting minutes of November 8, 2018, seconded by Mrs. Werner and carried 7-0. Those in favor: Mr. Iurato, Mrs. Werner, Ms. Hesel, Mrs. Lukens, Mrs. Nelson, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

Resolutions:

Motion was made by Ms. Hesel to adopt Resolution number 02-28-2019: 1, Kristen Donahue, 810 Dale Place, seconded by Mrs. Nelson and carried 7-0. Those in favor: Mr. Iurato, Mrs. Werner, Ms. Hesel, Mrs. Lukens, Mrs. Nelson, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

Motion was made by Mrs. Lukens to adopt Resolution number 02-28-2019: 2, Stephanie and Michael MacRae, 1136 Idaho Avenue, seconded by Mrs. Werner and carried 7-0. Those in favor: Mr. Iurato, Mrs. Werner, Ms. Hesel, Mrs. Lukens, Mrs. Nelson, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

Applications:

Timothy and Maureen Rafter
931 Sewell Avenue
Block 1089, Lot(s) 40
Board Engineer, Craig Hurless, Applicant’s Representative, Jeffrey Barnes, Esq., Architect, Blane Steinman, and Professional Planner/Engineer, John Helbig, were sworn in for the record.

Mr. Jeffrey Barnes, Esq. introduced the application, detailing that the current structure is a 3 or 4-unit apartment complex, with no parking, but is in fact a permitted use in the zone as of construction around 1925. Mr. Barnes explained that converting the apartments to a single family dwelling, including necessary off street parking, will not change the footprint of the building.

Mr. Blane Steinman, Architect, reviewed the change of parking configurations to show a fourth parking space by extending pavers towards the back with a 12 ft. curb cut. Mr. Steinman generally reviewed the interior design, as well as noting a decreased FAR, and the prior approval from the Historic Preservation Commission.

John Helbig, Project Engineer, then testified that the challenges are unique to this parcel due to the building being constructed as acceptable when built, and they are actually reducing the side yard to some extent. He continued on to explain that even though there is an increase in impervious coverage, it was only done to comply with parking requirements. Mr. Helbig also expressed to the membership that in regard to the FAR, he believed the site can accommodate the intensity of the use given the added drainage and the decrease in intensity, because it is going from the more intense apartment use which was not permitted to the permitted residential use.

Board Engineer Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated January 14, 2019. He reviewed the six (6) variances required in detail (page 3 of 5), and detailed the elimination of the parking variance based off of the testimony and revised plans presented:

1. §525-16.1B(1) Table 1 - Lot Size
2. §525-16.1B(1) Table 1 - Building Setback
3. §525-16.1B(1) Table 1 - Rear Yard Setback
4. §525-16.1B(1) Table 1 - Side Yard Setback
5. §525-16.1B(2) Table 1 - Lot Coverage
6. §525-52 - Floor Area Ratio (FAR - d(4))

The General Review Comments 1 and 2, as well as 5 and 6 (page 4 of 5), and comments 7-14 (page 5 of 5) were reviewed and explained in detail, with all items being classified as conditions of approval.

Discussion was opened to the public within 200 feet and beyond at 6:48 PM, and closed with no public coming forward to comment.

Motion was made by Mrs. Nelson to approve §525-16.1B(1) Table 1 - Lot Size, §525-16.1B(1) Table 1 - Building Setback, §525-16.1B(1) Table 1 - Rear Yard Setback, §525-16.1B(1) Table 1 - Side Yard Setback, §525-16.1B(2) Table 1 - Lot Coverage, §525-52 - Floor Area Ratio (FAR - d(4)) variances, with all variances 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 January 14, 2019, seconded by Mr. Murray and carried 6-1. Those in favor: Mrs. Werner, Ms. Hesel, Mrs. Lukens, Mrs. Nelson, Mr. Murray, Mrs. Hutchinson. Those opposed: Mr. Iurato. Those abstaining: None.
A short recess was taken at 6:57 PM.

The meeting resumed at 7:02 PM.

Cape May Arcades, Inc.
“Victoria Arcades”
406 Beach Avenue
Block 1000, Lot(s) 29.02

Anthony Monzo, presented the application, Engineer, Lou DeLosso, Property Owner, Peter Tiburzio, and Property Manager, Jim McDowell, were sworn in for the record. Board Engineer, Craig Hurless remained under oath.

Mr. Anthony Monzo, Esq., summarized the application, indicated the site presently has 104 arcade games and 59 restaurant seats, but is proposing 73 arcade games and 100 restaurant seats. He distributed Exhibits A-1 – Existing Floor Plans, A-2 – Sign Detail, and A-3 – Proposed Plan. Mr. Monzo described two conditions applied to a 1978 approval which were the front and rear porches were not to be enclosed and there was only one sign for the arcade. The application before the board is in fact now proposing to enclose the rear porch and add a second sign. Mr. Monzo testified that amusements are the only permitted use in this zone and a restaurant is not a permitted use, however, there are several other restaurants located within the same zoning district.

Applicant Peter Tiburzio, Jr. stated that his family has owned the building since 1976 and he attended the hearing of the 1978 application. He stated that the existing building needs renovation, and they do not need as many machines, as they want to focus on the restaurant. He said that arcade noise cannot be heard by adjoining properties.

The Applicant then introduced its engineer, Louis DeLosso, A.I.A., P.P., who was accepted as an expert professional planner and architect. Mr. DeLosso described the stucco coming off the framing and said that the property needs maintenance. He said they were enclosing the back porch and that restaurants are not permitted in the zone. However, the applicant is preserving the permitted use by making the improvements and extending the life of the arcade. He went on to say that the applicant believes there will be a better visual impact, that there will not be a negative impact to the area and the restaurant that will be code compliant. Mr. DeLosso said they are expanding the portion of the property used for the non-permitted use.

Mr. Tiburzio explained that the arcade had food in the back when they purchased the property and that they want to focus more on food. He stated that food and the arcade go together for a family friendly atmosphere. The porch will prevent sand from intruding into the property. The plan includes large sliding windows and approximately 882 sq. ft. of porch being enclosed.

There was discussion on the signage with explanation that one of the signs is going to be for advertising the arcade, and the second sign is going to be solely to advertising the dining. The content of the dining sign will be unknown until the tenant is secured. However, the total sq. ft.
for the signs will be 36.5, the signage for the dining use will be 7 ft. X 1.5 ft., and the signage for the arcade will be 2 ft. X 13 ft. The lettering on the signage will be as shown on Exhibit A-2.

There was also a discussion regarding the building front. Mr. DeLosso stated that there will be no projection beyond the existing front wall, however the existing overhang and columns are being removed. The use will not encroach onto the Promenade, and the applicant reserves the right to request outdoor seating consistent with that permitted in 2008, but no more. The applicant stated that they are reducing the number of rides for children on the concrete apron from six to about two or three.

Jim McDowell, the manager of Victoria Arcade, was sworn in for the record. Mr. McDowell testified regarding patio seating stating that there currently are eight to ten seats and that the tenant who operates the restaurant applies for the patio seating not the owner of the property.

Craig Hurless, Board Engineer, expressed his concern that the application is an increase in intensity of a non-confirming use when the zoning is specific to arcade use to the point that the use was changing from having the arcade with food secondary to a restaurant with an arcade secondary. There was discussion on whether the Board can vote on the maximum permitted amount of seating to be limited to that which was approved in the past if the application is approved.

Mr. DeLosso stated that he believed the parking satisfied the C (1) hardship requirements and stated his reasoning.

Elevation was discussed including the implications of the various datum calculations. It was determined the Application did not need a variance.

Board Engineer Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated January 22, 2019 and made a correction to the number of proposed games to 73 (not 72). He reviewed the zoning requirements (page 3 and 4 of 7) of the Beach Strand District and signage. He reviewed (4) variances required in detail (page 4 of 7) and also confirmed with Attorney Monzo that interpretation of the Zoning Ordinance and 1978 Resolution that had been requested was no longer needed:

1. §525-30A(1) Use Variance
2. §525-30A(1) (c) [7] Device Distance to Entrance
3. §525-49C & §525-30A(1) (c) [3] Parking
4. §525-48H(2)(b) Attached Signage

The General Review Comments 1-12 (pages 6 and 7 of 7) were reviewed and explained in detail, with all items being classified as conditions of approval.

Attorney Monzo stated that there is no place on the site to place bicycle parking but that the applicant would be willing to provide bicycle racks on public property.

The Board asked about the square footage of the restaurant.
Discussion was opened to the public within 200 feet and beyond at 8:50 PM, and closed with no public coming forward to comment.

Attorney Monzo made closing comments on the application.

**Motion was made by Mr. Murray to approve waiver of site plan approval, §525-30A(1) Use Variance, §525-30A(1) (c) [7] Device Distance to Entrance, §525-49C & §525-30A(1) (c) [3] Parking and §525-48H(2)(b) Attached Signage, with all variances 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 January 22, 2019, seconded by Mrs. Werner and carried 6-1. Those in favor: Mrs. Werner, Ms. Hesel, Mrs. Lukens, Mrs. Nelson, Mr. Murray, Mrs. Hutchinson. Those opposed: Mr. Iurato. Those abstaining: None.**

The board members voiced their reasons for their votes for the record.

**A short recess was taken at 9:11 PM.**

**The meeting resumed at 9:15 PM.**

**John and Christine O’Connor**

**1129 New York Avenue**

**Block 1117, Lot(s) 21**

Attorney Jeffrey Barnes introduced the application on behalf of the applicant and described the property as a “Sears” prefab home, built in 1910, that is in the historic district. Attorney Barnes stated that approval by the Historic Preservation Commission has been granted for this project, which is four square feet less than the existing home. Mr. Barnes stated that a detached garage with three off street parking spots being created is proposed and that nine variances total are being sought for the application.

Engineer Jason Sciuullo and Architect Blaine Steinman were sworn in for the record and Board Engineer, Craig Hurless, remained sworn in on the record. Architect Steinman detailed the floor plans—existing versus proposed and the elevations existing versus proposed as well. Mr. Steinman also noted that the “garage” will be used solely for storage as it is not big enough for a car.

Engineer Sciuullo detailed his professional background and was accepted as an expert. Mr. Sciuullo testified regarding the variances requested and stated that some existing non-conformances have been lessened in the project but exist nonetheless.

Exhibit A-1 was presented as a site, or plot, plan in color.

Board Engineer Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated January 25, 2019. He reviewed the Table on page 3 of 6 and made corrections as follows: 2.3
feet exist on the Building Setback Line on Reading and 2.8 ft. is proposed, which is improved but still non-conforming and the Lot Coverage was initially proposed at 46% but is now proposed at 48.3% to include the additional one spot for parking with the parking variance no longer being required and the nine (9) variances required in detail (page 3 of 6) plus the two sight triangle variances required:

1. §525-15B(1) Table 1 – Lot Size
2. §525-15B(1) Table 1 – Lot Width & Lot Frontage
3. §525-15B(1) Table 1 – Building Setback – New York Avenue
4. §525-15B(1) Table 1 – Building Setback – Reading Avenue
5. §525-15B(1) Table 1 – Side Yard Setback
6. §525-15B(2) – Lot Coverage
7. §525-49C – Parking
8. §525-54A(3)(f) – Detached Garage – Front Yard Setback
9. §525-52 – Floor Area Ratio (FAR) – “D” Variance
10. §525-56A(1) – Sight Triangle Variance for Corner
11. §525-56A(1) – Sight Triangle Variance Driveway/Pole

General Review Comments 1-10 (pages 5 and 6 of 6) were reviewed and explained in detail by Engineer Hurless with all items being classified as conditions of approval.

Discussion was opened to the public within 200 feet and beyond at 10:10 PM, and closed with no public coming forward to comment.

Motion was made by Mr. Murray to approve variances §525-15B(1) Table 1 – Lot Size, §525-15B(1) Table 1 – Lot Width & Lot Frontage, §525-15B(1) Table 1 – Building Setback – New York Avenue, §525-15B(1) Table 1 – Building Setback – Reading Avenue, §525-15B(1) Table 1 – Side Yard Setback, §525-15B(2) Lot Coverage, §525-54A(3)(f) Detached Garage – Front Yard Setback, §525-52 Floor Area Ratio (FAR) – “D” Variance, §525-56A(1) – Sight Triangle Variance for Corner, 525-56A(1) – Sight Triangle Variance Driveway/Pole, with all variances 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 January 25, 2019, seconded by Mrs. Lukens and carried 7-0. Those in favor: Mr. Iurato, Mrs. Werner, Ms. Hesel, Mrs. Lukens, Mrs. Nelson, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

Motion made by Mr. Murray to adjourn the meeting at 10:15 PM with all in favor.

Meeting Conducted by: Tricia Oliver, Board Assistant

Respectfully Submitted by: Karen Keenan, Board Secretary