City of Cape May Zoning Board of Adjustment Meeting Minutes
Thursday, April 25, 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 PM.

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 Present
Mrs. Lukens (Alt. 1) Present
Mrs. Nelson (Alt. 2) Present

Also Present: Richard King, Board Solicitor
Craig Hurless, PE, PP, CME, Board Engineer
Edie Kopsitz, Acting Board Assistant
Karen Keenan, Board Assistant

Resolution(s):

Motion was made by Mr. Van de Vaarst to adopt Resolution number 04-25-2019: 1, Christopher Gillin-Schwartz, 2 Liberty Street, seconded by Ms. Hesel and carried 6-0. Those in favor: Mr. Iurato, Mrs. Werner, Ms. Hesel, Mrs. Lukens, Mrs. Nelson, and Mr. Murray. Those opposed: None. Those abstaining: Mrs. Hutchinson.

Application(s):

Victoria Allison
905 Beach Avenue
Block 1081, Lot(s) 24

Board Engineer, Craig Hurless, Applicant’s Representative, Robert Belasco, Esq., Architect, Vincent Orlando, PE and property owner, Victoria Allison, were sworn in by Richard King, Esq. for the record.

Mr. Belasco, Esq. introduced the application, detailing that the current structure is a 3-story 8-bedroom seasonal single family home that they propose to remain a 3-story 8-bedroom home. The plan is to raise the existing structure to comply with FEMA flood requirements and construct a 385 sq. ft. addition to the rear of the property on the existing footprint. Variances are impacted in the rear yard by the stairs that will allow ingress and egress to the rear of the property. He
continued to summarize the proposal to renovate the existing structure including the roof height (increase from 38.7 feet at present to 43 feet), side yard setback, rear yard setback and parking variances sought. He stated that the proposed structure will increase the off street parking to four spaces from the current two off-street spaces that currently exist, but the ordinance will only allow three spaces to be counted. Mr. Belasco went on to explain that Ms. Allison did pay into the City of Cape May’s Parking Trust Fund, and one street parking space has been allocated to this property.

Ms. Allison explained the current use of the property and the one-time $5,000 payment, approximately 15 years ago, to the City for a permit to park on the mouth of the driveway. Board members and Mr. Hurless asked for details on this arrangement. It was clarified that the payment was not into the Parking Trust Fund but for a permit.

Mr. Orlando, Architect, reviewed the variance plans specifically raising the building to meet the FEMA flood zone requirements and an additional amount to accommodate more parking. He clarified actual height of the building height currently is 39.11 feet and the proposed height is 43 feet 10 inches, so they are seeking a C variance.

The latest memorandum by Engineer Craig Hurless, PE, PP, CME dated March 20, 2019 was distributed to the board members, so all board members had the most up-to-date information.

Mr. Orlando went on to testify that the second variance they are seeking is a rear yard setback, which is needed only for the stairs that must be extended to accommodate the new height and that the two existing nonconforming side yard setbacks are not being exacerbated by the application. There was discussion on the requirement of a variance, but it was determined by the Board Engineer and the Board Counsel that the variance is required. There also was discussion on the requirement of a parking variance and RSIS, and Mr. Orlando stated that they do have enough parking onsite and on street to meet the parking requirement. He went on to state that the Board could look at the variances under both C-1 and C-2; the height requirement would be a C-2 variance with the benefits outweighing any detriment and not have a negative impact on the purposes of Zoning, the Zone Plan or the Zoning Ordinance and the C-1 variance is for preexisting nonconformance because of the location of the existing building. He also discussed the parking variance sought.

There was discussion regarding the landscaping in the front yard, and the applicant agreed to install landscaping, to prevent parking on the lawn, to the satisfaction of the Board Engineer.

Board Engineer Craig Hurless, PE, PP, CME, discussed Mr. Orlando’s comments on the Residential Site Improvements Standards (RSIS) on parking calculations and that the standards for parking for a 5-bedroom unit does not mean 5 or more bedroom unit applies simply because the standards do not list for higher bedroom amounts, and the application proceeded with Mr. Hurless’ interpretation and calculations.

Mr. Hurless then summarized his memorandum dated March 20, 2019. He reviewed the variances required in detail (page 4 of 5):
1. §525-16.1B(1) Table 1 – Rear Yard Setback
2. §525-16.1B(1) Table 1 -- Side Yard Setback
3. §525-19.1B(2) Table 1 – Building Height
4. §525-49C -- Parking

The General Review Comments 1-4 (pages 4 and 5 of 5), as well as 5-12 (page 5 of 5) were reviewed and explained in detail, with all items being classified as conditions of approval. Mr. Hurless asked the applicant for clarification on the number of legal bedrooms that exist at the property, as there have been conflicting numbers in the application materials. Ms. Allison testified that there are eight bedrooms existing at the property, and eight bedrooms have always lawfully existed at the property. The applicant further agreed to update the FAR and RSIS on their plans.

**Discussion was opened to the public within 200 feet at 7:05 PM.**

**Ed Shinn,** 911 Beach Avenue, expressed his concern about the back yard setbacks, tenant use of family room as a bedroom and parking issues he has observed. Mr. Shinn requested a gate to be eliminated from the northeast side and to be listed as an additional insured under the contractor insurance. The applicant agreed to eliminate the northeast side gate and add Mr. Shinn as an additional insured under contractor liability insurance.

**Discussion was opened to the public beyond 200 feet at 7:20 pm and closed with no public coming forward to comment.**

Members were allotted time for questions to the applicant and their professionals.

**Motion was made by Mr. Murray to grant the variances §525-16.1B(1) Table 1 - Rear Yard Setback, §525-16.1B(1) Table 1 - Side Yard Setback, §525-19.1B(2) Table 1 – Building Height, and §525-49C - Parking 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 March 20, 2019 and that the landscaping will be designed in such a way that it will inhibit parking on the lawn portions of the property to the satisfaction of the Board Engineer, that they will eliminate the gate on the northeast side of the house, and that the application will make the Shinns additional insureds on any house lifting policy of insurance** seconded by Ms. Hesel and carried 7-0. Those in favor: Mr. Iurato, Mrs. Werner, Ms. Hesel, Mr. Van de Vaarst, Mrs. Lukens, Mr. Murray Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

For the record, members voiced their reasons for their votes in the positive and expressed their concern about the height and the importance to accommodate the off street parking.

Mrs. Hutchinson called for a recess at 7:25 PM

The meeting resumed at 7:35 PM.
Attorney Ronald Gelzunas presented the application and introduced the applicant, Tom O’Hara, sole member of 555 Elmira LLC, and Engineer John Kornick, who were sworn in by Solicitor King. Board Engineer Craig Hurless remained under oath.

Engineer Kornick was recognized as an engineer for the record. Mr. Kornick described the application as converting commercial property to residential and stated that the previous owner of the site said it was contaminated. He went on to say that the site has subsequently been retested and was found to be free of environmental concerns in both soil and groundwater.

Engineer Kornick said the plan is to construct three single family dwellings, and he presented Exhibit A-1, Site Rendering Plan. The types of properties on Elmira Street, storage tanks, traffic flow, zoning and the variances sought were described in detail. Mr. Kornick introduced Exhibit A-2, a December 23, 2016 environmental report prepared by Suzanne Wicker. Mr. Kornick described the layouts and floor plans of the three properties.

Board Engineer Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated April 2, 2019. Engineer Hurless identified the project as a major subdivision with use variances and described his review of the application including details required for “C” and “D” variances 3, 20, 27, 28, and 29 as conditions of approval. Mr. Hurless also listed the details for minor and major subdivision approval on pages 3 and 4 of 9 and preliminary site plan approval on page 4 of 9. The Zoning Requirements on pages 5 and 6 of 9 were reviewed and the variances required in detail (page 6 and 7 of 9):

1. §525-26 - Use Variances (x3) Single-Family Detached Dwelling
2. §525-26C(1) Table 1 - Lot Size (x3)
3. §525-26C(1) Table 1 - Lot Width & Lot Frontage (x3)
4. §525-26C(1) Table 1 - Side Yard Setback (x6)

Chris McDuall, Builder, was sworn in for the record. Builder McDuall stated that the three homes will be built of similar style as shown in the plans but not three identical “cookie cutter” homes.

Mr. Hurless then reviewed and explained in detail the General Review Comments 1-4 (page 7 of 9) and comments 5-24 (pages 8 and 9 of 9), with all items being classified as conditions of approval. The second sentence in Item # 3 on page 7 of 9 was changed to read “The 50% credit for permeable construction is permitted for these three sites”, and the second sentence in Item # 5 on page 8 of 9 was changed to read “The maximum floor area ratio for single family dwellings is .40.” The applicant intends to remove one unhealthy tree which is outside the footprint, and they will mitigate according to the ordinance, a 2 for 1 replacement, which makes a change to Item # 20. Item # 21 was changed to: “Any required approval should be conditioned on all other necessary State, County, and local approvals including NJDEP and CAFRA.”
There was discussion on applying Zone R-3 standards for single family dwellings for this application with Attorney Gelzunas and the Board Members.

Discussion was then opened to the public within 200 feet and beyond and closed with no public coming forward to comment.

Motion was made by Mr. Murray to approve the Use Variance and associated bulk variances, as outlined on the review memorandum from Board Engineer Craig R. Hurless, PE, PP, CME, dated April 2, 2019 with waivers # 27 on page 2, conditions 3 and 20 on page 2, 28 and 29 M, Q, S, I, H, J, 3(v), and Items 1 through 24 on pages 7 to 9 with the following changes: Item 3) 50% credit for permeable construction; Item 5) The maximum floor area ratio for single family dwellings is .40; Item 20) The Applicant shall review the site with the Board Engineer to ensure compliance with the tree ordinance; Item 21) Any required approval should be conditioned on all other necessary State, County and local approvals including NJDEP and CAFRA; and Item 25) The applicant will comply with the R-3 Standards for single family dwellings; Item 26) The houses will be substantially similar to what was presented but not identical to each other, and the Board Engineer will determine administratively if the deviation is too substantial; and Item 27) The deeds will make clear all subsequent owners are to comply with the resolution approving this project, seconded by Mrs. Lukens and carried 7-0. Those in favor: Mr. Iurato, Mrs. Werner, Ms. Hesel, Mr. Van de Vaarst, Mrs. Lukens, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

Members voiced their reasons for their votes in the positive for the record.

Motion made by Mr. Murray to adjourn the meeting with all in favor.

Meeting Conducted by Edie Kopsitz, Acting Board Assistant

Respectfully Submitted by Karen Keenan, Board Assistant