

City of Cape May Zoning Board of Adjustment Meeting Minutes
Thursday, July 27, 2017

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	Present
	Mrs. Werner	Present
	Ms. Hesel	Absent - excused
	Mr. Van de Vaarst	Present
	Mr. Mullock (Alt. 1)	Present
	Mrs. Lukens (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 minutes of June 22, 2017, seconded by Mr. Van de Vaarst and **carried 7-0**. Those in favor: Mr. Iurato, Mrs. McAlinden, Mrs. Werner, Mr. Van de Vaarst, Mr. Mullock, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

Resolutions:

Motion made by Mr. Murray to approve Resolution number 07-27-2017:1, Martha Robinson & John Azar, 2 Swan Avenue, Block 1100, Lot(s) 1, seconded by Mrs. Werner and **carried 6-0**. Those in favor: Mr. Iurato, Mrs. McAlinden, Mrs. Werner, Mr. Van de Vaarst, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: Mr. Mullock.

Motion made by Mrs. McAlinden to approve Resolution number 07-27-2017:2 Donato & Patricia Giusti, 1209 Maryland Avenue, Block 1133, Lot(s) 29 & 30, seconded by Mr. Iurato, and **carried 6-0**. Those in favor: Mr. Iurato, Mrs. McAlinden, Mrs. Werner, Mr. Van de Vaarst, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: Mr. Mullock.

Motion made by Mr. Van de Vaarst to approve Resolution number 07-27-2017:3 Cape Elmira Owner 2, LLC, 527 Elmira Street, Block 1061, Lot(s) 10, seconded by Mr. Iurato and **carried 6-0**. Those in favor: Mr. Iurato, Mrs. McAlinden, Mrs. Werner, Mr. Van de Vaarst, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: Mr. Mullock.

Applications:

***Devon & Sean Perry
723 Page Street
Block 1077, Lot(s) 12***

Stephen R. Nehmad, Esquire, Bill McManus, Licensed Landscape Architect, Professional Planner and Certified Flood Plain Manager, and Board Engineer Craig Hurless, PE, PP, CME were sworn in and stated their credentials for the record.

Representative for the applicant, Stephen R. Nehmad, Esquire, gave a brief overview of the existing single family dwelling and the proposed additions and raising of the home to flood elevation requirements. Mr. Nehmad explained that the lot itself is the smallest on Page street and this in fact triggers the requirement of variances sought by the applicant.

Mr. McManus, referring to Exhibit A-1 (an aerial photo of Page Street including neighboring lots and roads), stated that Page Street is small and narrow, typical to that of an alleyway, inconsistent with the width/size of surrounding local roads. He continued to explain that the variances sought for both setbacks are triggered by pre-existing non-conformities of the current dwelling and such non-conformities existing will not change, they would be staying the same with the proposed site plan; depicting these details with Exhibit A-2 (photos of the existing dwelling).

He went on to reference architectural renderings (Exhibit A-3) stating that a neighboring home also looks as though it too is raised slightly above the standard BFE. Continuing his explanation, Mr. McManus summarized the proposed floor plan adjustments of what were referred to as modest additions to the existing foot print of only about 800 square feet (Exhibit A-4), expanding roughly another 300 or so square feet. It was again indicated by Mr. McManus, on Exhibit A-5, of both a survey plan and variance plan, what variances were being sought for the application.

Both Mr. McManus and Mr. Nehmad addressed the required parking spaces according to RSIS (3 spaces required), stating that the existing non-conformity of having only 2 parking spaces would technically stay the same in the proposed plans, since in accordance with RSIS, a one car garage and driveway combination counts only as 2 off street parking spaces, not 3; even though there is physically room for 3 spaces.

Board Engineer Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated June 21, 2017. He reviewed the four (4) variances required in detail (on page 3 of 5), §525-19B1B(1) Table 1 Building Setback, §525-19B(1) Table 1 Side Yard Setback, §525-49C(1) - Parking, and §525-54A(3)(e) Accessory Building Distance from Adj. Building, addressing that the variance sought for parking is a technicality due to the requirements of RSIS (Residential Site Improvement Standards). Mr. Hurless also reviewed the checklist items for the C and D variances (on page 2 of 5), with waiver request for item 19 being supported.

1. §525-19B(1) Table 1 Building Setback
2. §525-19B(1) Table 1 Side Yard Setback
3. §525-49C(1) Parking
4. §525-54A(3)(e) Accessory Building Distance from Adj. Building

The General Review Comments 1-13 (on pages 4 & 5 of 5) were reviewed and explained in detail; eliminating item number 7, as there is no sidewalk at the site. Item numbers 18 and 33 (on page 2 of 5), numbers 1-6, and 8-13 (on pages 4 and 5 of 5) were classified as conditions of approval.

Discussion was opened to the public within 200 feet and beyond at 6:44 PM, and closed with no public coming forward to comment.

Motion was made by Mr. Mullock to approve §525-19B(1) Table 1 - Building Setback, §525-19B(1) Table 1 - Side Yard Setback, §525-49C(1) - Parking, and §525-54A(3)(e) - Accessory Building Distance from Adj. Building variances with waiver number 19 (page 2 of 5) being granted 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 June 21, 2017 seconded by Mr. Murray and carried 7-0. Those in favor: Mr. Iurato, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Van de Vaarst, Mr. Mullock, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

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

***John Foley, Jr.
1304 Pittsburgh Avenue
Block 1159, Lot(s) 20***

Mr. John Foley, Jr., property owner, was sworn in for the record.

Mr. Foley detailed the circumstances surrounding the variances sought, including that upon hiring Dennisville Fence, in November 2016, to replace what was a previously existing fence on his newly purchased property, he was told by this company that any and all construction permits to do so would be taken care of by them and that the homeowner (the Foley's) did not have to execute such duties. The fence was constructed without proper permits, unknowing to Mr. Foley.

Explaining that the overall purpose for the fence is primarily for the safety of his two young children and dog, Mr. Foley sought relief from two zoning requirements in the R-4 district. He also presented photos of the constructed fence, including that a 10' wide gate was included for accessibility of the Fire Department if need be. Photos of the home from years past were also presented to the board in order to reference that the home did in fact have a fence in the same location at one point, and fence posts were still standing on the property at the time the Foley's purchased the home.

Mr. Foley summarized by explaining that the fence is a more aesthetically pleasing view for both Pittsburgh and Wisconsin Avenues and presented Exhibit A-1, a photo of a neighboring property with a fence looking identical to what was constructed on his property.

Board Engineer Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated July 3, 2017. He reviewed the checklist items for the C and D variances (page 2 of 5), with waiver requests for item numbers 1, 4, 5, 8, 13, 14, 15, 18-28, 32, and 33 being supported. Mr. Hurless explained the two (2) variances required in detail (pages 4 of 6):

1. §525-17A(2)(a)[2][d] Structure within 5' of Property Line
2. §525-17A(2)(a)[2][e] Structure Between Building Setback Line & Street Line

The General Review Comments 1-12 (pages 4 & 5 of 5) were reviewed and explained in detail, with item numbers 1-10, and item number 12, being classified as conditions of approval.

Motion was made by Mr. Van de Vaarst to approve §525-17A(2)(a)[2][d] Structure within 5' of Property Line, §525-17A(2)(a)[2][e] Structure Between Building Setback Line & Street Line, with waivers for item numbers 1, 4, 5, 8, 13, 14, 15, 18-28, 32, and 33 being granted, 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 July 3, 2017, seconded by Mr. Murray and carried 7-0. Those in favor: Mr. Iurato, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Van de Vaarst, Mr. Mullock, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

Members of the Board stated their reasons for the record, for their vote in the positive on this application.

A short recess was taken at 7:10 PM.

The meeting resumed at 7:16 PM.

***Sharon Magraw
619 Hughes Street
Block 1058, Lot(s) 29***

The representative for the applicant, Thomas Keywood, Esquire, Joseph Ross, Architect, and Michael Walters of M.A.W. Builders, were sworn in and stated their credentials for the record.

Thomas Keywood, Esquire, gave a brief summary of the two (2) current dwellings on the property that once served as a guest house, and had been used as both a guest house and two single family detached dwellings in the past. Mr. Keywood continued on to explain that the applicant intends to keep both dwellings as space for her own family and will not be applying for a mercantile license, as her intention is not for rental purposes.

Mr. Ross detailed proposed site plans for both dwellings and commented that if the smaller of the two structures, called the "Little Dove," did not exist, the need for certain variances would not be triggered. The overall site plans, he continued, do not illustrate enlarging either of the two dwellings; only interior and exterior improvements are proposed, and a new front elevation (shown in Exhibit A-1 showing the removal of the porch). Both Mr. Ross and Mr. Keywood expressed the necessity of the use variance, stating that without such variance being granted, the "Little Dove" becomes useless and falls into abandonment on the property; both dwellings are in fact contributing structures in the Historic District.

Also addressed were the concerns of neighbors on two (2) items proposed in the application. The first being a second floor rear porch that would overlook a neighboring yard, intruding on privacy, and the second being a front, street side parking space that encroached into the line of sight of a neighboring driveway. Both of these items were removed from the site plans and revised site plans will be submitted.

A lengthy discussion ensued between the Board and the professionals speaking on behalf of the application regarding possible deed restrictions on the property to ensure that the applicant would not subdivide the land into two separate lots for resale or to construct condominiums. The applicant was agreeable with such a restriction and expressed that this was never her intention when purchasing the property.

Board Engineer Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated July 11, 2017. He reviewed the checklist items for the C and D variances (page 2 of 5), with waiver requests for item numbers 26 and 27 being supported. Mr. Hurless explained the five (5) variances required in detail (pages 3 of 5):

- | | |
|------------------------|-----------------------------------|
| 1. §525-19A | Use Variance (Two Principal Uses) |
| 2. §525-19B(1) Table 1 | Rear Yard Setback - White Dove |
| 3. §525-19B(1) Table 1 | Rear Yard Setback - Little Dove |
| 4. §525-19B(1) Table 1 | Side Yard Setback - Little Dove |
| 5. §525-19B(2) | Lot Coverage |

The General Review Comments 1-8 (on pages 4 & 5 of 5) and the addition of number 9; enforcing a deed restriction eliminating the option to subdivide the property or to construct condominiums. The addition of number 10; a revision of lot coverage should be provided, and number 11; submission of revised plans to include the removal of the second floor rear porch and removal of a parking space (indicated as parking space #2 on site plans), were reviewed and explained in detail, with each of those items being classified as conditions of approval.

Discussion was opened to the public within 200 feet at 7:55 PM

Representative, Stephen R. Nehmad, Esq., for Richard Fox, 615 Hughes Street, spoke in opposition of the application based on only one particular proposed second floor deck (that the applicant had agreed to eliminate) of which he stated invaded the privacy of his backyard since the deck would in fact overlook his property. Mr. Nehmad expressed that his client would be in favor of this application with the elimination of the proposed rear second floor deck.

Tom Carroll, 625 Hughes Street, spoke in favor of the application, but did have a concern with the proposed third parking space (roadside), as this space blocks his line of sight from his driveway.

Suzanne Zeigler, 624 Hughes Street, spoke in opposition of the application, citing that she was opposed to the removal of a small roof area that was built years ago attaching each dwelling. (It was explained to Ms. Zeigler that this was in fact not proposed by the applicant and the roof would remain intact.)

Discussion was opened to the public beyond 200 feet and closed at 8:09 PM

Motion was made by Mr. Murray to approve §525-19A Use Variance (Two Principal Uses), §525-19B(1) Table 1 Rear Yard Setback - White Dove, §525-19B(1) Table 1 Rear Yard Setback - Little Dove, §525-19B(1) Table 1 Side Yard Setback - Little Dove, §525-19B(2) Lot Coverage, with waiver to item numbers 26 and 27 being granted, subject to all conditions of approval as discussed at the hearing and outlined in the review memorandum from Board Engineer Craig R. Hurless, PE, PP, CME, dated July 11, 2017, seconded by Mr. Mullock and carried 7-0. Those in favor: Mr. Iurato, Mrs. McAlinden, Mrs. Werner, Mr. Van de Vaarst, Mr. Mullock, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

Members of the Board stated their reasons for their votes in the positive for the record.

Motion made by Mr. Van de Vaarst, seconded by Mr. Murray, to adjourn the meeting at 8:30 PM with all in favor.

Respectfully Submitted, Tricia Oliver/Board Assistant.