

**City of Cape May Zoning Board of Adjustment Meeting Minutes**  
**Thursday, July 28 2016**

**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 6:30 P.M.

<b>Roll Call:</b>	Mrs. Hutchinson, Chairperson	Present
	Mr. Iurato, Vice Chairperson	Present
	Mr. Murray	Present
	Mrs. McAlinden	Present
	Mrs. Werner	Present
	Ms. Hesel	Present
	Mr. Mullock Alt. 1	Present
	Mr. Pontin Alt. 2	Present

**Also Present:** Richard King, Board Solicitor  
Craig Hurless, PE, PP, CME, Board Engineer  
Erin Burke, Board Assistant

**Minutes**

**Motion was made by Mr. Iurato to approve the meeting minutes of June 23, 2016**, seconded by Mr. Murray and **carried 7-0**. Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

**Resolutions**

**Motion was made by Mr. Mullock to approve Resolution Number 07-28-2016:1 Jeffrey Bagley, 825 Beach Avenue, Block 1067, Lot(s) 8**, seconded by Mrs. Werner and **carried 7-0**. Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

**Motion was made by Mr. Iurato to approve Resolution Number 07-28-2016:2 Horger, Inc., 200 Madison Avenue, Block 1097, Lot(s) 6.02 & 7**, seconded by Mr. Mullock and **carried 6-0**. Those in favor: Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, Mrs. Hutchinson. Those opposed: None. Those abstaining: Mr. Murray.

**Motion was made by Mr. Iurato to approve Resolution Number 07-28-2016:3 Gregory Lewis and Cristina Muguruza, 344 Congress Street, Block 1062, Lot(s) 8**, seconded by Ms. Hesel and **carried 6-0**. Those in favor: Mr. Murray, Mrs. McAlinden, Ms. Hesel, Mr. Mullock, Mr. Iurato, Mrs. Hutchinson. Those opposed: None. Those abstaining: Mrs. Werner.

## Applications

*Lance and Bonnie Pontin*

*30 Gurney Street*

*Block 1056, Lot(s) 4*

*(Continued from June 23, 2016 Zoning Board meeting)*

It was announced that the application of Robert Anderson, 1240 Washington Street, Block 1128, Lot(s) 24-27, appealing the decision of the City of Cape May Historic Preservation Commission would be tabled until the next scheduled Zoning Board of Adjustment meeting on August 25, 2016 at 6:30 PM in the City Hall Auditorium. It was announced for the record that the applicant would not have to re-notice the public or re-publish in the newspaper, and that all time constraints have been waived.

Board Member Lance Pontin recused himself from hearing the application due to the fact that he is the applicant.

Richard Mairone, Esquire, Stephen Fenwick, Architect, and Board Engineer Craig Hurless, PE, PP, CME, were sworn in and stated their credentials for the record.

Richard Mairone, Esquire, introduced himself as the substitute attorney for the applicant, appearing for Christopher Baylinson, Esquire, who could not make it to the meeting.

Ray Went, Esquire, the representative for the objectors to the application Joan and Fred Echevarria, 28 Gurney Street ("The Gingerbread House"), submitted a packet of exhibits labeled E-1 through E-22 for the Board's consideration. Stephen Fenwick, Architect, was brought forward for cross-examination. Mr. Went questioned Mr. Fenwick about the floor area ratio of the proposed addition to the existing accessory building. Mr. Fenwick maintained that the floor area ratio argument is irrelevant because the applicant is not seeking to add or subtract any dwelling units to the existing property. Mr. Mairone echoed those sentiments, stating that floor area ratio calculations do not apply to guests houses. Board Engineer Craig Hurless and Board Attorney Richard King agreed with the applicant that the floor area ratio argument does not apply to this application. Mr. Went also questioned the proposed guttering system, and Mr. Fenwick expounded on the topic.

Barbara Woolley-Dillon, licensed professional Planner for the opposition, and Joan and Fred Echeverria, 28 Gurney Street, were sworn in. Ms. Woolley-Dillon testified at Mr. Went's questioning to her observations and concerns with the property in question and proposed work. Ms. Woolley-Dillon referred to **Exhibits E-1 through E-15 (numerous aerial and street level photographs)**, **Exhibit E-17: Floor Area Ratio calculations** (prepared by herself), and **E-18: Density issues**, while emphasizing the density of not only the property but also the surrounding neighborhood. Ms. Woolley-Dillon opined that a D-1 variance may be necessary for the application, opining that the accessory out-building in question qualifies as a second principle structure on the property, which is not permitted by ordinance. Ms. Woolley-Dillon discussed the numerous Purposes of Zoning, and opined that the applicant is inconsistent with or contradicting seven (7) of the Purposes of Zoning: a, b, c, e, h, i, and Preservation of Neighborhood Character.

She emphasized the impacts on the neighbors' privacy, light, air, and open space, and stressed that the proposed project does not align with the Master Plan for the City of Cape May.

The representative for the applicant, Richard Mairone, Esquire, cross-examined Ms. Woolley-Dillon. At Mr. Mairone's questioning, Ms. Woolley-Dillon testified that the conservation of historic sites and districts is a purpose of zoning that satisfies the positive criteria for D variance relief, and that the preservation of the Stockton Row Cottages (historic properties in the neighborhood, including the applicant's and the opposition's properties) is in the general welfare of the City of Cape May. Mr. Mairone questioned the "intensity" versus "density" of the neighborhood and properties therein, stating that the applicant's lot ("The John Wesley Inn") is approximately 65% larger than the opposing neighbor's lot ("The Gingerbread House").

Extensive discussion then ensued regarding **Exhibit E-23: Resolution number 09-30-2010:1 (prior Zoning Board approval of 30 Gurney Street)**, specifically the classification of structures on the lot in question as principle versus accessory. Board Engineer Craig Hurless and Board Attorney Richard King clarified that the 2010 resolution dealt with the existing principle structure ("The John Wesley Inn") connecting to the garage/apartment structure, and did not deal with the accessory out-building in question with the current application.

Joan and Fred Echeverria, 28 Gurney Street ("The Gingerbread House") then gave a brief history of their bed and breakfast, and described in detail how it operates currently, referring to **Exhibit E-22: Excerpt from "Fine Homebuilding" magazine article**. The Echeverria's were presented with an offer by the Pontin's to also add additional space to their attached building for an office, but the Echeverria's declined. Mr. Echeverria testified regarding the history of the adjoining structure in question, which he originally built in 1983-1984, referring to **Exhibit E-20: Photographs of previous structure and the construction of current structure** and **Exhibit E-21: Zoning Board approval notice for the granting of variances to allow for construction of an adjoined garage**. Mr. Went pointed out that in this approval letter, it states that "The proposed structure will be utilized solely for storage and those uses customarily associated with garages accessory to residential homes." **Exhibit E-24: "Cape May in Vintage Postcards" page 32** was passed around to the Board members to show what Mr. Echeverria was attempting to emulate for the design of the adjoining structure. Mr. Echeverria also discussed **Exhibit E-25: photo-rendering of proposed addition by Mr. Echeverria**. Mrs. Echeverria then voiced concerns regarding snow load affecting the roof of her structure if the adjoining structure is raised, and testified at length regarding the history of other B&Bs located in the City of Cape May. Mrs. Echeverria stressed that the historic nature of the neighborhood must be preserved.

Mr. Mairone questioned if the Echeverria's possessed an off-site storage facility, and Mr. Echeverria testified that they own a off-site storage unit with very little in it.

**A short recess was taken at 8:20 PM.**

**The meeting resumed at 8:30 PM.**

**Discussion was opened to the public within 200 feet at 8:30 PM.**

**Ted and Mary McKenney, 25 Ocean Street**, were sworn in and spoke in support of the application, stating that the changing of the times calls for new necessities in the B&B industry.

**Laurice Albed, 16 Gurney Street**, was sworn in and objected to the application, voicing concerns over "chipping away" at the historic nature of the City.

**Theresa Schu, 29 Gurney Street** (directly opposite of the "John Wesley Inn"), was sworn in and spoke in favor of the application, commending the Pontin's for improving the property over the course of their ownership.

**Don Kissling, 24 Stockton Place**, was sworn in and commented that the application should be postponed until the Master Plan is reexamined.

**Joe Gigonetti, 23 Ocean Street ("Beauclair's B&B")**, was sworn in and spoke in support of the application, commenting that adequate storage space is essential to the operation of a successful B&B.

**Zelda Weisman, 22 Gurney Street**, was sworn in and questioned if the Board were to approve the application, would the structure have to conform to certain aesthetic ideals. Board Attorney Richard King answered that the structure would be subject to review and approval by the Historic Preservation Commission.

**Jay Schatz, 25 Gurney Street**, was sworn in and questioned rhetorically how much house can one put on a property?

**Eleanor Decurtis, 24 Gurney Street**, was sworn in and objected to the application, voicing concerns regarding the historic aesthetics of the proposed work and property.

**Andrew Bares, 613 Columbia Avenue ("The Harrison B&B")** was sworn in and spoke in support of the application, applauding the Pontin's for their property and maintaining that everyone runs their B&B differently, and that storage is a major issue for B&B owners.

**Discussion was opened to the public beyond 200 feet at 8:50PM.**

**Archie Kirk, 805 Stockton Avenue**, was sworn in and spoke in support of the application, emphasizing that storage is a major issue for all B&B owners, and that it is a love of Cape May that drives most B&B owners to continue their business.

**Harry Bellangy, 511 Pearl Street**, was sworn in and spoke in favor of the application, also detailing the need for adequate storage for B&B owners.

**Doug Carnes, 1205 Beach Avenue** (family owns the "Wilbraham Mansion" in West Cape May), was sworn in and spoke in support of the application, maintaining that if the Board chooses to approve the application, they should make it a condition that the applicant use black-out windows on the accessory building to protect the neighbors' privacy. He emphasized that successful B&Bs create more income for the City as a whole.

**Kathy Sigerson, 41 Yacht Avenue**, was sworn in and voiced concerns over the precedent that this application would set if it were to be approved.

**Bob Kriebel, 1106 New York Avenue**, was sworn in and echoed Ms. Sigerson's concerns of the precedent-setting nature of this application.

**Discussion was closed to the public at 9:00 PM.**

Board Engineer Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated May 26, 2016. He reviewed the checklist items for the C and D variances (page 2 and 3 of 5), with waiver items 20, 21, 24, 26, 27, and 33 being requested and granted. A verbal addition was made to item number 28 requiring the applicant addresses the gutter and drainage system issues for positive outflow to the street. Mr. Hurless explained the five (5) variances required in detail (pages 3 through 5 of 5):

1. §525-4A(4)(a), Building Height (N.J.S.A. 40:55D-70(d)(6))
2. §525-19B(1) Table 1 Lot Size
3. §525-19B(1) Table 1 Lot Width & Lot Frontage
4. §525-54A(4)(b) Rear Yard Setback
5. §525-54A(4)(b) Side Yard Setback

The General Review Comments (page 5 of 5) were reviewed and explained in detail, with a verbal addition of item number 8.) The use of black-out windows on the accessory structure. All items were classified as conditions of approval.

Mr. Went questioned the black-out windows added as a condition of approval, and Mr. Fenwick clarified.

**Motion was made by Mr. Murray to approve the §525-4A(4)(a), Building Height (N.J.S.A. 40:55D-70(d)(6)) variance**, seconded by Mr. Mullock, and denied 4-3. Those in favor: Mr. Murray, Mrs. McAlinden, Ms. Hesel. Those opposed: Mrs. Werner, Mr. Mullock, Mr. Iurato, and Mrs. Hutchinson. Those abstaining: None.

Mr. Murray and Ms. Hesel voiced their reasons for their votes in the positive. Mrs. Werner, Mr. Mullock, Mr. Iurato, and Mrs. Hutchinson voiced their reasons for their vote in the negative.

It was announced that the application of Edward and Karen McAllister, 3 Mount Vernon Avenue, Block 1017, Lot(s) 5 & 7, would be tabled until the next scheduled Zoning Board of Adjustment meeting on August 25, 2016 at 6:30 PM in the City Hall Auditorium. It was announced for the record that the applicant would not have to re-notice the public or re-publish in the newspaper, and that all time constraints have been waived.

*Paul and Kristine Gentilini  
202 Queen Street  
Block 1083, Lot(s) 15*

Board member William Murray recused himself from hearing the application due to his living within 200 feet of the applicant.

Julius N. Konschak, Esquire, Mark Gibson, Engineer with Gibson Associates PA, Blaine Steinman, Architect with Blaine Steinman Architects, Paul and Kristine Gentilini, applicants, were sworn in and stated their credentials for the record.

The representative for the applicant, Julius N. Konschak, Esquire, gave a detailed explanation of the proposed demolition of the existing home on the property, the construction of a new two-story, 4 bedroom dwelling, and the variances being sought. Mr. Konschak confirmed that the applicant had already received conceptual approval from the HPC on June 20, 2016.

Mark Gibson, Engineer with Gibson Associates PA, testified that his office prepared the existing survey of the property and the variance plans submitted to the Board in their packets. He stated that the proposed dwelling is a completely flood-compliant building, with the ground floor only being used for storage and/or parking as required. The proposed home is three (3) feet below what is permitted for building height. Mr. Gibson stated that the proposed home meets the front yard and rear yard setback regulations for the zone, complies with lot coverage restrictions, and brings the side yard setbacks into compliance. Mr. Gibson opined that the proposed work would not interfere with anyone's light, air, and open space, and would benefit the surrounding neighborhood. Mr. Gibson testified to the size of the existing home versus the proposed home, referring to **Exhibit A-1: Ground floor chart**.

Blaine Steinman, of Blaine Steinman Architects, described the floor plan, front and rear elevations of the proposed home in detail, referring to the plans submitted in the Board members' packets. Plans include 4 off street parking spaces, where only two currently exist. Mr. Steinman testified that the proposed home is modest and in keeping with the surrounding neighborhood. Mr. Steinman testified that the proposed home is 6% over the 40% requirement for floor area ratio for the zone, and that the property is able to accommodate the problems associated with having a FAR that is larger than that permitted by ordinance (*Coventry Square v. Westwood Zoning Board of Adjustment*). He testified that special reasons exist for the granting of the D(4) variance, and detailed those reasons. Vice-Chairman Peter Iurato questioned why the proposed home, as new construction, has a floor area ratio that is over what is required by ordinance. Board Attorney Richard King explained that the Zoning Board addresses over-development of properties by enforcing the FAR regulations, so the applicant must testify as to why this lot is able to accommodate a FAR that is larger than what is required. Mr. Gibson detailed page 2 of his survey which is a survey of surrounding properties, and approximated their FARs for comparison. Mr. Iurato stressed his concern with new construction that does not comply with the FAR requirements.

Paul Gentilini, applicant, offered a brief history of the ownership of the property in question, and their attempts to renovate it in recent years. He maintained that as a family of four, they plan to use the proposed home as a year-round residence.

**Discussion was opened to the public within 200 feet at 10:32 PM.**

**Connie Fontaine and Victoria Johnson, 206 Queen Street**, were sworn in and objected to the application, voicing concerns with the proposed floor area ratio, and with lack of visibility from their home as a result of the proposed construction. Board Member Lance Pontin asked if their house is flood compliance, and they answered that their house had been raised.

**Don Kissling, 24 Stockton Place**, spoke in support of the application, stating that the construction of a historically-styled home should be encouraged in Cape May.

**Discussion was opened to the public beyond 200 feet and subsequently closed at 10:40 PM.**

Board Engineer Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated June 7, 2016. Mr. Hurless explained the three (3) variances required in detail (pages 3 of 4):

1. §525-16.1B(1) Table 1 Lot Size
2. §525-16.1B(1) Table 1 Building Setback - Queen Street
3. §525-52 Floor Area Ratio (FAR) - N.J.S.A. 40:55D-70(d)(4)

The General Review Comments (page 4 and 5 of 5) were reviewed and explained in detail, with a verbal addition of item number 12) Building height must be shown on plans. All items were classified as conditions of approval. Mr. Hurless clarified that the mass showing with the proposed building plans, which will be seen by the Board more often as applicants seek to conform to current flood code. The ground floor is not habitable space, and usually is used for storage and parking.

**Motion was made by Mrs. McAlinden to grant the §525-16.1B(1) Table 1 Lot Size, §525-16.1B(1) Table 1 Building Setback - Queen Street, and §525-52 Floor Area Ratio (FAR) - N.J.S.A. 40:55D-70(d)(4) variances, subject to condition of approval items 1-12 (page 3 and 4 of 4)**, seconded by Mr. Mullock, and **denied 3-4** (due to the D(4) variance requiring five (5) votes in the positive). Those in favor: Mrs. McAlinden, Ms. Hesel, Mr. Pontin, Mrs. Hutchinson. Those opposed: Mrs. Werner, Mr. Mullock, Mr. Iurato. Those abstaining: None.

Mr. Mullock and Mr. Iurato voiced their reasons for their votes in the negative for the record. Mr. Pontin and Mrs. Hutchinson voiced their reasons for their votes in the positive for the record.

**Motion to adjourn was made at 11:10 PM with all in favor.**

**Respectfully Submitted, Erin Burke/Board Assistant.**