

**City of Cape May Zoning Board of Adjustment Meeting Minutes
Thursday, March 24, 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.

Roll Call:	Mrs. Hutchinson, Chairperson	Present
	Mr. Iurato, Vice Chairperson	Present
	Mr. Murray	Present
	Mrs. Inderwies	Absent-Excused
	Mrs. McAlinden	Present
	Mrs. Werner	Present
	Ms. Hesel	Present
	Mr. Mullock Alt. 1	Present
	Mr. Pontin Alt. 2	Absent-Excused

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 February 25, 2016, seconded by Ms. Hesel and **carried 5-0.** Those in favor: Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Iurato, Mrs. Hutchinson. Those opposed: None. Those abstaining: Mr. Murray, Mr. Mullock.

Resolutions

Motion was made by Mr. Iurato to approve Resolution Number 03-24-2016:1 Lawrence A. Pray Builders, Inc., 926 Kearney Avenue, Block 1082, Lot(s) 8, seconded by Mrs. Werner and **carried 5-0.** Those in favor: Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Iurato, Mrs. Hutchinson. Those opposed: None. Those abstaining: Mr. Murray, Mr. Mullock.

Applications

*Lisa Caselton and Stephen Console
215-217 Perry Street
Block 1038, Lot(s) 5, 6*

Jeffrey Barnes, Esquire, Vince Orlando of Engineering Design Associates, PA, applicant Stephen Console, and Craig Hurless, Board Engineer, were sworn in and stated their credentials for the record.

The representative for the applicant, Jeffrey Barnes, gave a brief history and overview of the property in question, detailing the proposed demolition of the existing front porch and construction of a new front and side porch, the relocation of an existing curb-cut, creation of new paver patios and walkways, a new six (6) foot wide arbor and a fence. The property is currently listed as a historic structure. The applicant seeks to merge Lot 5 (currently developed) and Lot 6 (mostly vegetation) into a single lot. The applicant seeks two variances that are pre-existing non-conformities: §525-19B(1) Table 1 Building Setback, and §525-19B(1) Side Yard Setback. Mr. Barnes stated that the project does not exacerbate these pre-existing non-conformities, rather the Side Yard Setback will actually improve as a result of the proposed project. Joe Gittle, Draftsman and Designer for Blain Steinman, Architects, clarified his credentials for the record, and the Board recognized him as a Draftsman. Mr. Gittle expounded on what currently exists on the property in question and what is proposed in the current application. Chairperson Hutchinson questioned the water-run off pattern of the proposed porch roof, and Mr. Gittle stated that gutters would re-direct water to the side of the yard into the landscaped area. Board Member William Murray questioned what is currently located in the lot next to the developed lot, and Mr. Gittle responded that only landscaping and grass are existing, with a paver walkway and driveway proposed for golf-carting purposes.

Vince Orlando, partner of the firm Engineering Design Associates, clarified his credentials for the record. Mr. Orlando explained that his office provided the landscape plan that was implemented by Mr. Steinman on his plans for the property, and that his role at this hearing is to provide professional testimony as it relates to the variance relief being sought by the applicant. Mr. Orlando went on to briefly detail some minor modifications that must be made to the landscaping plans as per the Board Engineer's request. He then expounded in detail upon the two variances being sought by the applicant and why those variances should be granted, citing the C-1 Hardship and C-2 Substantial Benefit criteria within the Municipal Land Use Law. Mr. Orlando stressed that the proposed plans would create a more desired visual environment for the property and the City, and that the proposed consolidation of the two lots in question would decrease the density and decrease the non-conformity as it relates to lot area.

Craig Hurless, PE, PP, CME, Board Engineer then summarized his latest memorandum dated March 23, 2016. He reviewed the checklist items for the C and D variances (page 2 of 4) and stated that Item 33 had been verbally addressed by Mr. Orlando in his testimony, and that more information must be added to the landscaping plan as a condition of approval. Mr. Hurless further explained the two variances required and why they are required. The General Review Comments (page 3 of 4) Items 1-15 were reviewed and explained in detail. Mr. Orlando questioned the placement of the two (2) street trees required (Item 11), and discussion ensued. Mr. Orlando stated that the applicant and representatives comply with Mr. Hurless' remarks.

Discussion was opened to the public within 200 feet at 6:55 PM.

Holly Kirk, 213 Perry Street, was sworn in and voiced support for the applicant's proposed work, stating that whatever work that is done will be an advantage to the community.

Discussion was opened to the public beyond 200 feet and subsequently closed at 6:58 PM.

Motion was made by Mr. Iurato to approve the variances for both §525-19B(1) Table 1 - Building Setback, and §525-19B(1) Table 1 - Side Yard Setback, seconded by Mr. Murray, and **carried 7-0**. Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, and Mrs. Hutchinson. Those opposed: None. Those abstaining: None. Board Member William Murray voiced his reasons for his vote in the positive for the record.

Motion was made by Mrs. Werner to approve Conditions of Approval numbers 1-15, seconded by Mr. Murray, and **carried 7-0**. Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, and Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

Lawrence A. Pray Builders, Inc.
1025 Idaho Avenue
Block 1105, Lot(s) 33

Christopher Baylinson, Esquire, Stephen Fenwick of Fenwick Architects, and applicant Lawrence A. Pray were sworn in and stated their credentials for the record.

The representative for the applicant, Christopher Baylinson briefly detailed the proposed demolition of the existing home and detached garage and construction of a new single family home, and cited that the only reason the applicant is being heard by the Board is to seek variances related to the existing non-conformities of lot area and lot width. He stressed that the proposed home complies in all respects to the zoning ordinances and in fact improves upon several existing conditions of the property.

Stephen Fenwick further clarified his credentials for the record. He went on to describe the proposed home and garage, and detail the existing conditions and zoning of the property, referencing the architectural plans presented on a poster. Mr. Fenwick responded all questions put forth by Mr. Baylinson, testifying in detail how the proposed plans meet all the bulk requirements, and that the proposed plans actually bring the property more into compliance with the zoning regulations than what currently exists on the lot, which in turn would benefit the City of Cape May. Mr. Fenwick affirmed that nothing could be done about the existing lot size and lot width of the property in question to increase compliance.

Board Attorney Richard King and Board Member William Murray questioned the accuracy of the Side Yard Setback measurement listed in the Board Engineer's review of the property in question dated February 4, 2016, and Mr. Fenwick clarified that the correct proposed measurement for the Side Yard Setback is six (6) feet rather than nine (9) feet. Mr. Mullock questioned the location of the outside shower, and Mr. Fenwick clarified.

Craig Hurless reviewed his latest memorandum dated February 4, 2016. He gave a brief explanation of the application, further detailing the proposed demolition of an existing non-conforming structure on an undersized lot, and construction of a conforming structure on an undersized lot. Mr. Hurless stated that all zoning requirements have been met based off of the proposed plans, so the variances sought only relate to lot size rather than the proposed structure. Vice-Chairman Peter Iurato questioned a typographical error in the Zoning Chart within Mr.

Hurless' review, and Mr. Hurless clarified and corrected that error and another within the chart. Mr. Hurless affirmed that the three variances necessary are Lot Size, Lot Width, and Lot Frontage, and that since both the adjoining lots are developed, no additional lands could be acquired to satisfy the requirements. He then reviewed the General Review Comments (page 4 of 5) Items 1-11, classifying all as conditions of approval. Mr. Hurless also detailed the Checklist Waivers (page 2 of 5). Item 12 had been provided, with waivers requested being supported and granted for Items 20, 21, 24, and 26.

Discussion was opened to the public within 200 feet at 7:17 PM.

Tom Christie, 1016 Cape May Avenue, was sworn in and spoke in support of the proposed plans. He stated that the proposed construction would undoubtedly be an improvement on what is existing. His only concern is for the water drainage, and asked that the water drain from the back to the front of the property to the street due to water-gathering issues in the back of the properties located in the area. Mr. Hurless and the applicant/representatives agreed to add that the garage should be guttered as Item 12 as a condition of approval. Mr. Christie also questioned the location of the proposed A/C unit, and whether the existing chain-link fence would stay or be replaced, and discussion ensued.

Discussion was opened to the public beyond 200 feet and subsequently closed at 7:20PM.

Motion was made by Mr. Iurato to approve all three variances: §525-15B(1) Table 1 - Lot Size, §525-15B(1) Table 1 - Lot Width, §525-15B(1) Table 1 - Lot Frontage, seconded by Mr. Murray, and **carried 7-0**. Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, and Mrs. Hutchinson. Those opposed: None. Those abstaining: None. Board Member William Murray voiced his reasons for his vote in the positive for the records. After casting her vote in the positive, Chairperson Hutchinson stated that she has been conversing with Mayor Dr. Mahaney regarding the frequency of applicants having to go before the Zoning Board of Adjustment solely to seek variances for pre-existing undersized lots, and that this issue will hopefully be evaluated during the Master Plan Re-examination. Mr. Murray echoed Chairperson Hutchinson's comments.

Mr. Fenwick and Mr. Hurless discussed a provision within the ordinances that allows the "grandfathering" of non-conforming structures and non-conforming lots for further clarification.

Motion made by Mrs. McAlinden to approve Completeness Waivers 20, 21, 24 and 26, seconded by Mr. Iurato and **carried 7-0**. Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, and Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

Motion made by Mr. Iurato to approve the Conditions of Approval Items 1-11, with a verbal addition of Item 12: "Garage will be guttered and connected to the drainage system", seconded by Mrs. Werner and **carried 7-0**. Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, and Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

The Board took a short recess at 7:30 PM.

The meeting resumed at 7:38 PM.

*James and Elena Harris
27 Second Avenue
Block 1014, Lot(s)*

James Harris, applicant, was sworn in. The representative for the applicant, Christopher Baylinson briefly highlighted the proposed demolition of the existing structure located on the above-referenced property, and the construction of a new, three (3) story, 1,382 square foot dwelling containing three (3) bedrooms. He stressed that the undersized nature of the lot is very restrictive for development, and that the proposed home is average in height when compared to the surrounding homes in the area.

Stephen Fenwick again further clarified his credentials for the record, and testified that the proposed property had been granted full final Historic Preservation Commission approval prior to being heard at this meeting. He explained that as a "Contributing" historic structure, the existing home would be incredibly difficult to renovate due to the fact that the owner would not be able to obtain a Certificate of Occupancy due to the low ceiling heights. Additionally, one wall of the existing home is within five (5) feet of the property line, which does not meet fire code. The existing home also has a basement, which is not appropriate in the flood zone. Mr. Fenwick responded all questions put forth by Mr. Baylinson, discussing in detail the various structural deficiencies of the existing structure and property while referencing a full set of plans, dated October 13, 2015, set forth as **Exhibit A**. He explained that they attempted to keep the "spirit" of the existing historic home in the proposed new home, and to improve upon all aspects as much as possible to make the proposed property and structures as compliant as possible, given the restrictive nature of the existing undersized lot. Board Engineer, Craig Hurless, clarified the front yard setback for the record and explained why a variance was not necessary. Mr. Fenwick and Mr. Baylinson stressed that the zoning requirement of an 850 square foot floor area for the first floor would substantially violate nearly all setback requirements for the property, due to the existing lot being undersized. The applicant proposes a floor area ratio of 598 square feet so as to increase compliance with the bulk standards due to the small size of the lot. A shed exists currently on the property, and the applicant proposes to reconstruct the shed in the same location with a sloped roof. Mr. Fenwick and Mr. Baylinson thoroughly explained these changes and all other improvements, while detailing the variances being sought. Vice Chairman, Peter Iurato, questioned the rear yard setback, and Mr. Fenwick and Mr. Hurless clarified. Board Member Claire McAlinden questioned the roof-line of the proposed home and ceiling height of the top floor, and Mr. Fenwick clarified that the uppermost story is habitable space, and explained the layout on the plans. Discussion ensued. Mr. Baylinson and Mr. Fenwick opined that the proposed plans offer an aesthetic enhancement consistent with the historic context of the community and surrounding structures.

Mr. Fenwick stated that a prior application for the above-referenced property had initially gone before the HPC, and had been denied. He provided preliminary renderings of the design of the

initial structure that was denied, set forth as **Exhibit B**, as a source of comparison for the current proposed design.

Board Member William Murray questioned the size of the proposed house compared to the surrounding homes, and Mr. Fenwick clarified that the proposed home will maintain continuity with the surrounding homes both in size and appearance.

Board Member Dillon Mullock questioned if the HPC approved the use of vinyl for the railing and lattice, and Mr. Fenwick answered that they had.

Applicant James Harris testified regarding the original rendered house design submitted to the HPC and subsequently denied (**Exhibit B**). Mr. Harris explained that once HPC denied the initial application, he wanted to start over with a new architect and a new proposed design for his property and home, resulting in the present application. At Mr. Murray's questioning, Mr. Baylinson testified that the purpose of showing the original home design denied by HPC is to show the modesty of the current application and design of the proposed house, and to also show that they are taking the City into consideration with the current proposed structure.

Craig Hurless reviewed his latest memorandum dated January 4, 2016. He gave a brief explanation of the application, and reviewed the Completeness Review (page 2 of 6) Items 5, 12, 20, 21, 25, 26, and 28. It was verified that Item 5. "Proof that all taxes are paid", and Item 6. "Certified property list", had already been provided. Mr. Hurless supported all waivers requested except for Item 28. "Design calculations showing proposed drainage facilities", citing that this neighborhood is infamous for drainage issues, which is why Item 28 should be a condition of approval. Mr. Fenwick did not feel as though stormwater calculations were necessary since they are proposing to reduce lot coverage overall, and discussion ensued. Mr. Fenwick and Mr. Baylinson described the proposed pavers to be used on the property that assist with drainage, and produced sample pavers for the Board to view. Board Member William Murray echoed Mr. Hurless' statements and concerns, agreeing that there is an issue with flooding in the property area. Applicant James Harris questioned the flooding and drainage patterns in the area, stating that he had lived at the property for fourteen (14) years without an issue, and Mr. Hurless explained that the entire block experiences issues, not solely the property in question. Board Attorney Richard King ultimately recommended that the stormwater issues be addressed by the applicant to the satisfaction of the engineer.

Mr. Hurless then moved on review the variances being sought for this application, discussing them in detail, with amendments being made to his report regarding the side yard setbacks, changing the status from "conforming" to "non-conforming". He addressed in detail Item 6 (page 4 of 6) — the "D(4) Use" variance being sought relating to floor area ratio. He cited past court cases Coventry Square v. Westwood Zoning Board of Adjustment and Randolph Town Center v. Township of Randolph that have established the criteria for granting this specific variance. Mr. Hurless then reviewed his General Review Comments 1-7 (page 5 of 6), with a verbal addition of item number 8) "Reduction in width of driveway curb-cut", classifying all as Conditions of Approval. The applicant agreed to comply with all conditions.

Discussion ensued as to the position of the proposed location of the proposed reconstructed shed. Board members, the Board Engineer, the applicant and his representatives all thoroughly discussed the potential relocation of the shed to increase setback compliance, and ultimately a consensus was reached that the shed should not be relocated from its existing location.

Discussion was opened to the public within 200 feet at 8:36 PM, then beyond 200 feet, and subsequently closed with no members of the public coming forward.

Motion was made by Mr. Iurato to approve the "D" variance for Floor Area Ratio, seconded by Mr. Murray, and **carried 6-1.** Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, and Mrs. Hutchinson. Those opposed: Mr. Iurato. Those abstaining: None. Chairperson Hutchinson and Board Member William Murray voiced their reasons for their in the positive for the record.

Motion was made by Mr. Murray to approve §525-15B(1) Table 1 Lot Size variance, seconded by Mr. Iurato, and **carried 7-0.** Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, and Mrs. Hutchinson. Those opposed: None. Those abstaining: None. Vice Chairman Peter Iurato and Board Member William Murray voiced their reasons for their votes in the positive for the record.

Motion was made by Mrs. McAlinden to approve §525-15B(1) Table 1 Lot Width and Frontage variances, seconded by Mr. Mullock, and **carried 7-0.** Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, and Mrs. Hutchinson. Those opposed: None. Those abstaining: None. Board Member William Murray voiced his reasons for his vote in the positive for the record.

Motion was made by Mrs. McAlinden to approve §525-15B(1) Table 1 Habitable Ground Floor Area (Minimum) variance, seconded by Ms. Hesel, and **carried 7-0.** Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, and Mrs. Hutchinson. Those opposed: None. Those abstaining: None. Board Member William Murray voiced his reasons for his vote in the positive for the record.

Motion was made by Mr. Murray to approve §525-15B(1) Table 1 Rear Yard Setback variance, seconded by Mrs. Werner, and **carried 7-0.** Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, and Mrs. Hutchinson. Those opposed: None. Those abstaining: None. Board Member William Murray voiced his reasons for his vote in the positive for the record.

Motion was made by Mr. Iurato to approve §525-15B(1) Table 1 Side Yard Setback (each side and total) variances, seconded by Mr. Murray, and **carried 7-0.** Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, and Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

Motion was made by Mrs. Werner to approve §525-15B(2) Lot Coverage variance, seconded by Ms. Hesel, and **carried 6-1.** Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, and Mrs. Hutchinson. Those opposed: Mr. Iurato. Those abstaining: None.

Motion was made by Mr. Iurato to approve §525-54A(4) Accessory Shed - Rear Yard Setback, §525-54A(4) Accessory Shed - Side Yard Setback, and §525-54A(3)(e) Accessory Shed - Distance to Adjacent Building variances, seconded by Mr. Murray, and **carried 7-0.** Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, and Mrs. Hutchinson. Those opposed: None. Those abstaining: None. Chairperson Hutchinson voiced the reason for her vote in the positive for the record.

Motion made by Mr. Murray to approve the Waiver Items 20 (as a condition of approval), 21, 25, 26, and 28 (page 2 of 6), and Conditions of Approval Items 1-7 (page 5 of 6), with a verbal addition of Item 8 (page 5 of 6): "Reduction of curb-cut", seconded by Ms. Hesel and **carried 7-0.** Those in favor: Mr. Murray, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mr. Mullock, Mr. Iurato, and Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

Motion made to adjourn at 8:50 PM by Mrs. McAlinden with all in favor.

Respectfully Submitted, Erin Burke/Board Assistant.