

BOROUGH OF SURF CITY LAND USE BOARD
813 Long Beach Blvd
March 28, 2018
7:00pm

The meeting was called to order, followed by a salute to the flag.

Chairman Hartney had requested that all members of the Board and the public remain standing for a moment of silence for Board member Barbara Sedlacek, who recently passed away.

Roll call reflected the following members to be present: Peter Hartney, Sandra Klose, Alan Mannherz, John McMenamin, Fred Peters, James Russell, Emil TumSuden & David Wright.
Absent: Gavin Hodgson.

Also, present: Board Engineer, Frank Little, Jr. and Board Attorney, Kevin Quinlan.

The Open Public Meeting Statement was read by Chairman, as follows: in compliance with the “Open Public Meetings Act” of the State of New Jersey, adequate notice of this meeting of the Borough of Surf City Land Use Board has been provided to three newspapers & published in the February 1, 2018 edition of the Beach Haven Times.

Mr. Russell moved to approve the February 28, 2018 meeting minutes. Mr. Mannherz seconded that motion. With a vote in the affirmative, the minutes were approved as presented.

Roll call vote reflected the following in favor: Mr. Hartney, Mrs. Klose, Mr. Mannherz, Mr. McMenamin, Mr. Peters, Mr. Russell, & Mr. TumSuden. Nays: none. Abstained: Mr. Wright.
Absent: Mr. Hodgson.

Mr. Wright was sworn in by Counselor Quinlan.

Thomas & Lois Tucci of 115 North Ocean Avenue, block 11 lots 3 & 4, reappeared before the Board to request variances for lot coverage & the side yard setback. They were represented by Brian Giblin, Esq. The applicant had testified that the maximum amount of reductions for lot coverage were being proposed; any further reductions would result in structural issues. John Montoro, architect for the applicant, confirmed the same.

Board members had asked various questions about the proposal.

Mr. Russell moved to open the meeting to public comment. Mr. Peters seconded that motion. With a vote in the affirmative, the meeting was open to public comment. There were no comments from the public. Mr. Russell moved to close the meeting to public comment. Mr. Wright seconded that motion. With a vote in the affirmative, the meeting was closed to public comment.

Mr. Peters moved to deny the request for variances for forty percent coverage and set back relief. Mrs. Klose seconded that motion and with a vote in the affirmative, the request was denied.

Roll call vote reflected the following:

Mr. Hartney: I vote in the affirmative of the resolution to deny the application. This does not advance, but is a detriment, to the Master Plan, land use law and ordinances with the intent and desire to reduce density.

Mrs. Klose: I agree to deny the application, this does not advance the Master Plan.

Mr. Mannherz: I vote yes, to deny the application. My reasons echo those of the Chairman. This does not advance the purpose of the Borough land use law. The Borough Ordinances are very clear about thirty-five percent lot coverage.

Mr. McMenamain: I vote to deny based on what Mr. Mannherz said. Three hundred fifty square feet is too much.

Mr. Peters: This does not meet the criteria to provide a variance, so I vote to not approve the application.

Mr. Russell: I vote yes, to deny the application. Based on the reasons stated by the other Board members. The building is too much for the lot.

Mr. TumSuden: I vote yes, to deny. The Borough ordinances are very clear about the thirty-five percent lot coverage.

Nays: none. Abstained: Mr. Wright. Absent: Mr. Hodgson.

Greg and Colleen Gerrit appeared before the Board to request a use and various bulk variances for the Surf City Hotel, LLC located at 800 Long Beach Boulevard, block 30 lots 15 through 20. They were represented by Attorney Richard Visotcky.

Mr. Peters resides within 200 feet of the property in this application; therefore, he recused himself. Chairman Hartney & Mr. Russell also recused themselves as the Class I and Class III members, respectively. Mr. Visotcky expressed his concern that there would only be a five-member board available to hear this application. With a quorum present, Mr. Gerwitz chose to proceed with the proposal.

The applicants were requesting a use variance for a sixty-seat outdoor dining deck. They were also requesting bulk variances in relation to set backs, lot coverage, parking stall size, & the total number of parking spaces required. The hours of operation of the outside deck would be 11 a.m. until 9 p.m. or sunset. Counselor Quinlan spent a considerable amount of time inquiring on the specifics to operation. After a lengthy discussion, Mr. Gerwitz agreed that the beach bar

security would enforce that the deck remained closed after the permitted hours, no later than 9 p.m. each night. He also stated that any music would end by 8 p.m. each night.

Discussion ensued about employee totals, fencing, & parking space designation.

Mr. Wright motioned to open the floor to public comment. Mr. TumSuden seconded that motion. With a vote in the affirmative the public comment portion of this application was opened.

Ginny Coll of 39 N. 9th Street complimented the ongoing interior renovations. She had concerns about the loss of vegetation and closing procedures. Mrs. Coll would like to see that outdoor dining be concluded prior to the start of any Beach Club entertainment.

Drew Steck of 22 N. 9th Street had concerns about noise with 60 seats being proposed. He also had concerns about ingress/egress, parking, & lighting. His concerns brought attention to the fact that there was a parking space in the way of driveway. Mr. Little advised the plans would need to be revised. Mr. Steck also indicated his dissatisfaction that there were not any plans to control birds, other than the promise of bussing tables. He said he knew what he was getting into when he bought this house next to the Hotel. However, his concerns are for the future and what these plans would bring.

Joanne Moynihan of 31 N. 8th Street explained that she also knew what she was getting into when she bought a home next to the Hotel. She stated that she is used to the noise in the evening, but now it will be all day. Mrs. Moynihan said people smoke in the parking lot during the late hours and create noise. She also had an existing issue with the Beach Club doors being open while bands played.

Katharine Shackleton, Esq. was present to represent Douglas & Tamara James of 5 N. 8th Street. She made the argument that the Borough has an ordinance that expressly states that there is no outside seating in Surf City. If someone is looking for a use variance and the hardship is uniform across the zone; it applies to the whole zone, the hardship is not to the property. It would have to be properly addressed to the Governing Body, not to this Board. When the rule applies to the entire zone, it cannot be applied on a case by case basis. She concluded that it would be considered spot zoning.

Al Boyd of 28 N 8th Street had concerns about parking, noise & fire safety. He inquired if the decking would be sealed to keep rodents away from scraps of food.

Kristy Raber of 342 N 3rd Street is a teacher, school board member, and a bartender at the Hotel. She explained that she rides her bike to work and to most places, locally. Expressing that most visitors and residents did the same. In her opinion, if there was outdoor seating in the middle of

the island people would be shuttling there instead of elsewhere. Ms. Raber would like to volunteer herself to take more shifts, rather than the hotel to add more employees. She suggested the Board come up with specific decibel number to address noise concerns.

Dan Malay owns a business at 8 N. Long Beach Boulevard & is a member of the Surf City Business Cooperative. He stated that a study conducted, reflected that the outdoor seating ban is the single most challenging ordinance for business owners. He claimed that he was informed that to change the ban, the Land Use Board must make the recommendation to change the ordinance.

Debra Carroll of 234 N 6th Street also works at the Hotel and was upset that the Board Attorney advised that commenters cannot speak for others. Counselor Quinlan advised her that the requirement was state law. She claimed that musicians play on the streets all over town and serve free food at the same time. Mrs. Carroll stated that she wished Surf City would change, the way the rest of the world has, by making changes.

Robert Burnett of 52 S. 1st Street commented he was a Hotel patron and that almost all people ride their bikes or walk to the Hotel.

David Bonanni of 1910 Sunset Avenue stated he and his family would like to eat outside. He thinks the Hotel is a great venue for it and would like to see this application approved.

Mr. TumSuden moved to close the public comment portion section of this application. Mr. Wright seconded that motion. With a vote in the affirmative, the public comment portion was closed.

Counselor Quinlan reviewed the application. Mrs. Klose moved to approve the use variance for outdoor dining. No one seconded that motion. The motion failed.

Mr. McMenamain moved to deny the use variance for outdoor dining. That motion was seconded by Mr. TumSuden. With a vote in the affirmative, the application was denied.

Roll call vote reflected the following:

Mrs. Klose: I vote no, because I was for it.

Mr. Mannherz: I vote yes, to deny the use variance. I appreciate what they have done for the property and I wish them very well. I don't see in the testimony where there is hardship or how it promotes the zoning ordinances.

Mr. McMenamain: I vote yes, it did not meet criteria that falls under the hardship.

Mr. TumSuden: I vote yes, it is a conflict of the zoning laws. Parking is quite restrictive there and they seem to be using a lot more land there, in the setback.

Mr. Wright: I vote yes. I believe that there was not a positive direction in being non-compliance with our ordinances. There was more coverage added, bigger parking deficit, the set-backs and the use variance; most applicants give us something. This was all in a very negative direction.

Nays: none. Abstained: none. Absent: Mr. Hodgson. Recused: Chairman Hartney, Mr. Russell & Mr. Peters.

Chairman Hartney, Mr. Russell, & Mr. Peters had rejoined the Board.

Public comment had not been opened since there was no one in attendance to comment.

Mr. Russell motioned to approve to pay the bills. Mrs. Klose seconded this motion. With a vote in affirmative, the bills were approved to be paid.

Roll call vote reflected the following in favor: Mr. Hartney, Mrs. Klose, Mr. Mannherz, Mr. McMenamin, Mr. Peters, Mr. Russell, Mr. TumSuden & Mr. Wright. Nays: none. Abstained: none. Absent: Mr. Hodgson.

Mr. Russell moved to approve Resolution 2018-05. Mrs. Klose seconded this motion. With a vote in the affirmative, the Board entered executive session to discuss legal matters.

RESOLUTION 2018-05

WHEREAS, Section 8 of the "Open Public Meetings Act" N.J.S.A. 10:4-12(b) (1-9) permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the Land Use Board is in the opinion that these circumstances exist; and

WHEREAS, prior to the exclusion of the public from a meeting of the Land Use Board it is required that the Board adopt a Resolution stating the general nature of the subject to be discussed; and

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey, as follows:

1. The public shall be excluded from discussion of this subject matter.
2. The general nature of the subject matter to be discussed is in relation to potential litigation.
3. Minutes will be kept. Once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes can be made public under the advice of Counsel for the Land Use Board.
4. The Board will not take official action during this session.
5. The Board will return to the regular session where action may or may not take place.
6. This resolution shall take effect immediately.

Mr. Wright moved to exit executive session. Mr. TumSuden seconded this motion. With a vote in the affirmative, the executive session was over. No official action was taken.

Mrs. Klose motioned to adjourn the meeting. Mr. Russell seconded that motion. With a vote in the affirmative, the meeting was adjourned.

Respectfully submitted,

Christine Hannemann, RMC/CMR

Land Use Board Clerk