

BOROUGH OF SURF CITY LAND USE BOARD  
813 Long Beach Blvd  
June 27, 2018  
7:00pm

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

Roll call reflected the following members to be present: Peter Hartney, Gavin Hodgson, Paul Hoover, Sandra Klose, Alan Mannherz, John McMenamin, Fred Peters, James Russell, Emil TumSuden & David Wright. Absent: none.

Also, present: for the Board Engineer, Robert Romano. and Board Attorney, Kevin Quinlan.

The Open Public Meeting Statement was read by Chairman Hartney, 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.

Mrs. Klose moved to approve the May 23, 2018 meeting minutes. Mr. Russell 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, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. McMenamin, Mr. Peters, Mr. Russell, & Mr. TumSuden. Nays: none. Abstained: Mr. Wright. Absent: none.

Mr. Mannherz moved to memorialize Resolution 2018-11 for SC North, LLC. Mr. Russell seconded that motion. With a vote in the affirmative, the following resolution was memorialized as presented.

Resolution 2018-11 of the Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey interpreting section 30-5.2 and granting amended preliminary and final site-plan approval to Enzo Pavese for premises identified as lots 2, 3 & 5, block 6.

WHEREAS, Enzo Pavese has made this application affecting premises identified as Block 6, Lots 2, 3 & 5 on the official tax maps of the Borough of Surf City and has standing to make the application.

WHEREAS, Enzo Pavese has represented that he has been authorized to make the foregoing application and is authorized, on behalf of the property owner, SC North LLC.

WHEREAS, the applicant was represented by James Raban, Esq.

WHEREAS, James Brzozowski was qualified as an expert in planning and engineering.

WHEREAS, the applicant had previously applied to the Borough of Surf City Land Use Board for Variances and Preliminary and Final Site-plan approval by Resolution 2016-4 on January 27, 2016 and memorialized on February 24, 2016. The applicant was later granted amended Preliminary and Final Site Plan Approval by Resolution 2017-10 on July 26, 2017.

WHEREAS, the applicant has applied to the Borough of Surf City Land Use Board for an interpretation to determine, whether or not, a yoga studio is a permitted use, for waiver of the requirement for a new site plan to be prepared and presented, and for Amended Preliminary and Final Site Plan approval; and

WHEREAS, the following exhibits were marked into evidence and admitted by the board;

- Al. The application, consisting of 3 pages.
- A2. Site Plan prepared by Horn, Tyson and Yoder, Inc. Dated 11/9/15 with the last revision dated of 7/19/17.
- Bl. Board Engineer letter dated May 15, 2018.

WHEREAS, the site is located in the Business Zone.

WHEREAS, all interested parties were given an opportunity to be heard and several members of the public spoke in favor of the Application.

NOW THEREFORE, be it resolved by the Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey, the Board makes the following findings of fact:

1. The applicant is authorized to represent the property owner and has standing to make the application.
2. The exhibits have been properly introduced and moved into evidence.
3. The application is deemed complete and Jurisdiction lies within the Surf City Land Use Board.
4. The proposed use as a yoga studio is a permitted use under \*30-5 and a use variance is not required.
5. The applicant's request for a site plan waiver is granted and the Board waives any requirement that the Applicant submit a revised or amended site plan. This is an existing structure which was newly constructed in compliance with prior approval of this board.

6. The applicant's expert, James Brzozowski, P.E. P.P. testified that the parking requirements are consistent with the prior site-plan approval and no new variances are required and parking is adequate for the proposed use as a yoga studio.
7. The applicant's expert further testified that there are no proposed changes to the exterior of the building and the proposed use is consistent with other approved uses in Ordinance 30-5.
8. Katie Ribsán was sworn and testified that she is the leasee of the premises and has 6 plus years of experience in operating a yoga studio. She further testified as to the nature of the business, hours of operation, number of employees and compatibility with adjacent businesses. Ms. Ribsán further testified that only one class will be run at a time.
9. Joan Dozor was sworn and testified that she is the co-owner of the Yoga Studio and an adjacent business and that she has not experienced any issues with parking. Ms. Dozor further testifies that given the hours of operation of the Yoga Studio and adjacent businesses the uses are complimentary.
10. The contents of Resolution 2016-4 and 2017-10 to the extent not modified or amended herein, are incorporated into this resolution and remain unchanged.

NOW, THEREFORE, BE IT RESOLVED that the applicant is granted Amended Preliminary and Final Site-Plan approval subject to the forgoing conditions and findings of fact.

IT IS FURTHER RESOLVED that the comments and conditions set forth in the Board Engineer's Review Letter dated May 15, 2018 is incorporated herein.

IT IS FURTHER RESOLVED that Resolutions 2016-4 and 2017-10 are herein and in full force and effect as if set forth at length herein. If there are any contradictions between Resolutions 2016-4 and Resolution 2017-10 and this Resolution the provisions of this Resolution shall prevail.

IT IS FURTHER RESOLVED that the contents of the preamble is adopted and made part of this resolution.

IT IS FURTHER RESOLVED that this Approval is expressly contingent upon the applicant complying with the following, if applicable:

1. Proof of payment of real estate property taxes;

2. Payment of any outstanding professional fees;
3. Obtain any and all local building permits and pay all associated fees;
4. Posting of any performance guarantees and inspection fees,
5. Ocean County Planning Board approval,
6. Compliance with Flood Zone Regulations, and
5. Obtain any other outside agency approval as required.

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

Mr. Peter moved to approve Resolution 2018-12. Mr. Russell seconded that motion. With a vote in the affirmative, the following resolution was approved as presented.

WHEREAS, the Governing Body of the Borough of Surf City has requested the Land Use Board to review Ordinance 2018-10; and

WHEREAS, Ordinance 2018-10 will amend the Revised General Ordinances of the Borough of Surf City, County of Ocean, State of New Jersey, 2000 in Chapter 30 as it pertains to "Zoning" sections: 30-10.1 and 30-10.3; and

WHEREAS, the Land Use Board members have reviewed Ordinance 2018-10 at a public meeting on June 27, 2018; and

NOW, THEREFORE, BE IT RESOLVED that it is the finding of the Land Use Board of the Borough of Surf City that Ordinance 2018-10 is consistent with the intent and purpose of the Master Plan.

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

Gavin Hodgson & John McMenemy had left them the room to recuse themselves from the following case.

Francis R. & William D. Hodgson of FHW Land Acquisition LLC appeared before the Board for a minor subdivision. They had requested to reorient lots 3 & 4 of block 100 from facing Barnegat Avenue to facing North 4<sup>th</sup> Street. Board members had asked various questions about curbing, water & sewer.

Mr. Russell moved to open the application to public comment. Mr. Mannherz seconded that motion. With a vote in the affirmative, the meeting was open to public comment. The public present did not comment. Mr. Russell moved to close the application to public comment. Mrs. Klose seconded that motion. With a vote in the affirmative the public comment portion of this application was closed.

Mr. Wright moved to approve the request to subdivide and reorient lots 3 & 4 of block 100. Mr. Russell seconded that motion. With a vote in the affirmative the application was approved.

Roll call vote reflected the following in favor:

Mr. Hartney: Yes, the reorienting of the lots, they will continue to remain conforming. They fit with the Master Plan as they provide a better schematic in terms of the neighborhood.

Mr. Hoover: Yes, I think subdividing those lots would be beneficial.

Mrs. Klose: Yes, I agree. The lots are conforming and fit with Master Plan.

Mr. Mannherz: Yes, as the Chairman mentioned it would be much safer for the ingress and egress to be on N. 4<sup>th</sup> Street. There was testimony that new homes would be constructed conforming the Borough Zoning & Building Ordinances.

Mr. Peters: Yes, for the previously mentioned reasons.

Mr. Russell: Yes, it is a benefit to the community to put single family homes there.

Mr. TumSuden: Yes, it is a benefit the community.

Mr. Wright: Yes, I would like to elaborate on the safety factor. Putting the lots in a north/south direction people will be parking on side streets and not on Barnegat Avenue.

Nays: none. Abstained: none. Absent: none. Recused: Mr. G. Hodgson & Mr. McMEnamin.

Mr. Mannherz moved to memorialize Resolution 2018-13. Mr. Russell seconded that motion. With a vote in the affirmative, the following resolution was memorialized as presented.

Resolution 2018-13 of the Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey granting minor subdivision approval to FHW Land Acquisition LLC for premises identified as lots 3-4, block 100.

WHEREAS, William D. Hodgson Sr. and Francis R. Hodgson Sr. are the members of FHW Land Acquisitions Co. LLC (company) the owner of premises identified as Block 100, Lots 3 and 4 on the official tax maps of the Borough of Surf City and have standing to make the application.

WHEREAS, William D. Hodgson, Sr. has represented that he has been authorized to make the foregoing application and is authorized, acting alone, to speak on behalf of the Limited Liability Company and to bind the company.

WHEREAS, the applicant has applied to the Borough of Surf City Land Use Board for approval of a minor subdivision where two conforming lots exist, and two conforming lots are proposed.

WHEREAS, there presently exists two conforming building lots and the applicant proposes to demolish the existing duplex and reorient the dividing property line from an east/west orientation to a north south orientation. The resulting lots shall be conforming in all respects and no variances are sought.

WHEREAS, the applicant submitted the following exhibits and evidence which was admitted by the board:

1. Application (2 pages),
2. Affidavit of Non-Collusion,
3. Affidavit of Ownership,
4. Copy of Tax Map Sheet 16,
5. Copy of Minor Subdivision Map prepared by Nelke/Tyszka Land Surveyors, Inc. dated 6/8/18.
6. Four color photographs.

WHEREAS, the board engineer's letter dated 6/21/2018 was marked and admitted into evidence as B-1.

WHEREAS, the site is located in the RA-Residential Zone and the proposed lots conform with the Ordinance requirements and no variances are being sought or needed.

WHEREAS, the curbing shall be installed along the frontage of the property. Driveway access is limited to forty (40) percent of the lot frontage.

WHEREAS, the existing water and sewer laterals will be used for new Lot 3.01 and new water and sewer laterals will be installed for new Lot 4.01.

WHEREAS, all interested parties were given an opportunity to be heard.

NOW THEREFORE, be it resolved by the Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey, the Board makes the following findings of fact:

1. The applicant is authorized to represent the property owner and has standing to make the application.
2. The exhibits have been properly introduced and moved into evidence.
3. The application is deemed complete and Jurisdiction lies within the Surf City Land Use Board.
4. The board considered and determined that the application is properly heard as a Minor Sub-Division and no variances are required.
5. Installation of curbs are required along the lot frontage.
6. The proposed lots are consistent with the master plan and ordinances of the Borough of Surf City; the approval of the minor sub-division can be granted without detriment to the public; and the benefits of granting the minor sub-division outweigh any detriment.

NOW, THEREFORE, BE IT RESOLVED that the application for Minor Sub-Division approval is hereby Granted subject to the forgoing conditions and findings of fact.

IT IS FURTHER RESOLVED that the contents of the preamble is adopted and made part of this resolution.

IT IS FURTHER RESOLVED that this Approval is expressly contingent upon the applicant complying with the following, if applicable:

1. Proof of payment of real estate property taxes;
2. Payment of any outstanding professional fees;
3. Obtain, all, local building permits and pay all associated fees;
4. Posting of any performance guarantees and inspection fees,
5. Ocean County Planning Board approval and
5. Obtain any other outside agency approval as required.

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

Diane and Eric Weinberg appeared before the Board for lot coverage and set back relief for 32 N. 21<sup>st</sup> Street, block 52, lot 14. They were represented by their attorney, Stu Snyder. Chairman Hartney had raised attention to the fact that the pictures submitted to the Board did not reflect

the current state of the property. Counselor Quinlan explained the position of the Board. Discussion ensued.

Mr. Wright moved to carry the application to the July 25, 2018 meeting so that sufficient photos could be submitted. Mr. TumSuden seconded this motion. With a vote in the affirmative the application was carried until the July 25, 2018 meeting without any further notice being necessary.

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

Carmen Chiclana, of 1508 Central Avenue, appeared before the Board for lot coverage and set back relief. She was represented by her attorney, Richard Visotcky. Mr. Visotcky expressed that his client proposed a front yard setback of 8.3 feet where 10 feet is required so that she could construct a front porch the length of the house. Mr. Brzozowski, engineer for the applicant was sworn in to testify to the existing conditions of the property. The property is non-conforming with an area of 4,800 square feet where 5,000 square feet is required. The side yard set back has a shower encroaching at 4.2 feet where 5 feet is required. The detached garage encroaches the rear yard set back at 4.7 feet where 5 is required. The proposed lot coverage is 35.9 percent where 35 percent is permitted. Jay Madden, architect for the applicant is sworn in and testifies in relation to the application. The proposed porch is to be 6.7 feet wide by 30 feet long.

Board members had various questions about the length & width of the porch. Mr. McMenamin asked Counselor Quinlan to review any hardships on this application.

Mr. Wright moved to open this application to public comment. Mr. Russell seconded this motion. With a vote in the affirmative, the public comment portion was opened.

Fred Brian Dumont, of 1512 Central Avenue, spoke in support for the project as observed many houses surround them have porches the length of the home. He complimented Ms. Chiclana stating she cleaned up the property nicely.

Maurice "Moe" Logue, of 205 N. 16<sup>th</sup>, Street agrees with Mr. Dumont. He supports Ms. Chiclana's project stating it will be an improvement to the neighborhood.

Mary Jo Nichols, of 1507 N. Central Avenue, spoke in support of the project. She has no problem with a front porch and hopes the application passes.

Tracy Beck O'Donnell, of 124 N. 16<sup>th</sup> Street, supports the project and stated the house would be charming with a porch. She is thrilled that this house will not be replaced by a "monster" house.



Mr. Russell moved to open this application to public comment. Mrs. Klose seconded this motion. With a vote in the affirmative, the public comment portion was closed.

Mr. Wright moved to approve the requests for set back relief and to exceed lot coverage. Mrs. Klose seconded this motion. With five votes in the affirmative and four votes for denial, the application was approved.

Roll call vote reflected the following:

Mr. Hartney: In a year, you (Ms. Chiclana) have been able to gain such an amount of neighbor support; it speaks volumes. I recognize the services you have provided as a police officer. In terms of the application, the lot coverage area is not an issue for me. What I have difficulty with is, that it goes in to the setback. There are other alternatives. If there were no other alternatives to the porch so that it didn't encroach on the setback. There are non-conformities that exists already in the setback. Another non-conformity would be added. The setbacks are there for a reason. A real concern would be the safety of the neighbors on all sides. In my experience as a fire fighter in the Borough the setbacks have saved a lot of homes. If we encroach upon that it becomes significant. There are other opportunities to construct a front porch that would meet the requirements. I vote no.

Mr. Hodgson: Thank you for your service to NYPD. Given the information presented tonight, setbacks and lot coverage are very important in this town. Although, I am sure it would be lovely given the testimony of the neighbors. We do have setback and lot coverage requirements for a reason, so given that, I vote no.

Mrs. Klose: Thank for your service. I think the porch will be a very nice little touch to that house I am going to vote yes, go for it.

Mr. Mannherz: It concerns me with the setbacks and lot coverage. But with the expert testimony from Mr. Brzozowski and Mr. Madden, and at times neighbors' testimony, does have some influence. I vote yes. I think it will be an improvement to the neighborhood and to the house. As it was said earlier, it goes from a cracker box to a gingerbread house. I looked at the property, and I have to agree that, it will a very aesthetic improvement. Testimony indicated that it was not practical to shorten the depth of the porch because of aesthetic and future use needs. The properties in that area are older properties and I think it is keeping it with the style and design of that part of town.

Mr. McMenamin: I am a stickler on the setbacks. There is a remedy to the situation, eliminate the bay windows. I agree with the Chairman.

Mr. Peters: Everything considered, expert testimony and the neighbors. I am going to vote yes.

Mr. Russell: I vote yes too. Besides the great testimony from the neighbors, I think it will be an improvement.

Mr. TumSuden: This is a tough one. I agree with setbacks and Peter had mentioned that lines for fire service. The front lines will not really affect fire service. But then we are not complying with the Borough Ordinances, unfortunately, I have to vote no.

Mr. Wright: I feel it would be a financial hardship to get rid of something. I feel that Jay did a phenomenal job designing the front porch. With that and all the testimony, I vote yes.

Mr. Hoover was advised as an alternate, his vote does not count.

Abstained: none. Absent: none.

Mr. Hodgson left the room to recuse himself as he represents the contract buyer in the transaction for the following property.

Mr. Russell lives within 200 feet of the property. He recused himself and joined the public present to hear the application.

Joseph Pintimalli, the contract purchaser for 32 N. 4<sup>th</sup> Street, appeared before the Board for lot coverage and setback relief. He was represented by James Raban, Esq. Mr. Raban expressed that his client intends to demolish the existing duplex and construct a single-family dwelling. The property has an undersized lot area of 3,000 square feet where 5,000 is required. It has 30 feet of frontage where 50 feet is required. A combined side yard setback of 10 feet is being proposed where 15 feet is required. The proposed lot coverage is 39.15 percent where 35 is required. The existing lot coverage is 41.4 percent; the applicant proposes a reduction.

Board members asked various questions about the number of bedrooms, lot coverage, and the mechanicals of the home.

Mr. Mannherz moved to open the floor to public comment. Mrs. Klose seconded this motion. With a vote in the affirmative, the public comment portion of this application was opened.

James Russell, of 28 N. 4<sup>th</sup> Street, spoke in support of the project. He stated that the lot size cannot be changed, this improvement would really benefit the neighborhood. The Borough would be gaining a lot by removing the duplex use of the home. He felt it would improve the value of the homes on that street. When asked by Mr. McMenamin where he would suggest the air conditioning units be placed, Mr. Russell replied that he would like to see it mounted in the rear yard or on the roof.

Frank Shelly, of 40 N. 4<sup>th</sup> Street, commented that he felt it would be an improvement and would like to see the utility line be taken underground. Counselor Quinlan advised that the Board did not have jurisdiction in that regard.

Paula Hughes, 44 N. 4<sup>th</sup> Street, had concerns about the nonconformities. She questioned why the new home will not be completely conforming to Borough standards. Ms. Hughes asked various questions about what counted toward lot coverage. Her main concern is the side yard setbacks being so close. Chairman Hartney asked Mr. Pagnotta to clarify what type of home would exist if the setbacks were to be conforming. Mr. Pagnotta stated it would neither be economical nor practical to build a home that is 15 feet wide.

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

Mr. McMenemy moved to approve the request for relief for lot coverage and setbacks. Mr. Mannherz seconded this motion. With a vote in the affirmative, the application was approved.

Chairman Hartney: In hearing the testimony of this application and considering the existing size of the lot, the fact that there are no other properties to make this lot conforming, the proposal will remove a significant nonconformity from the Borough, and support from the neighbors then I would vote yes.

Mr. Hoover: Two reasons I will also vote yes. Because it is going from a duplex to a single-family home and it will definitely be an improvement to the neighborhood.

Mrs. Klose: Ditto, Mr. Hoover.

Mr. Mannherz: I vote yes, it concerns me when any property is over the thirty five percent lot coverage. If we were dealing with a fifty by a one hundred lot and you were over by four or five percent, that would be a much greater detriment to zoning laws. Mr. Pagnotta designed a very nice house and accommodated Mr. Little's concerns about parking. It was already stated that this going from a duplex to a single-family home and should produce less density. It is definitely an improvement to the neighborhood.

Mr. McMenemy: It will be in the same foot print with less lot coverage and less bedrooms; I vote yes.

Mr. Peters: I will vote yes for reasons given.

Mr. TumSuden: I will vote yes. It is an improvement to the property with removing the duplex and having a new building.

Mr. Wright: I vote yes, what else can be done with a thirty-foot lot.

Abstained: none. Absent: none. Recused: Mr. Hodgson and Mr. Russell.

Mr. Wright moved to memorialize Resolution 2018-14. Mrs. Klose seconded that motion. With a vote in the affirmative, the following resolution was memorialized as presented.

Resolution 2018-14 of the Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey granting variance approval to Joseph Pintimalli for premises identified as lot 14, block 20.

WHEREAS, Joseph Pintimalli is the contract purchaser of the premises identified as Block 20, Lot 14 on the official tax maps of the Borough of Surf City and have standing to make the application.

WHEREAS, the applicant was represented by James Raban, Esq.

WHEREAS, the applicant has applied to the Borough of Surf City Land Use Board for approval to demolish an existing duplex and construct a single-family home on an undersized lot.

WHEREAS, the following variances are required;

1. Lot area of 3,000 sq. ft. where 5,000 sq. ft. is required.\*
2. Lot frontage of 30 ft. where 50 ft. is required.\*
3. Proposed combined side yard setback of 10 ft. where 15 ft. is required.
4. Proposed lot coverage of 39.15% where 35% is permitted.

\*denotes a pre-existing non-conformity

WHEREAS, the site is located in the RA-Residential Zone.

WHEREAS, In support of the application, the following exhibits were offered and entered into evidence:

- A-1 Application (3 Pages).
- A-2 Color photos (4).
- A-3 Variance Plan prepared by Nelke/Tyszka, LLC dated 5/1/18.
- A-4 Architectural drawings prepared by Pagnotta dated 5/1/18 and revised 6/21/18 consisting of 2 pages.
- A-5 Color Photo of existing conditions (2).

A-6 Color artist rendering of proposed structure. B-1 Board Engineer Letter dated 6/21/18.

The foregoing exhibits being marked and admitted into evidence.

WHEREAS, the applicant, Joseph Pintimalli was sworn and testified he is under Contract to purchase the subject premises. He also testified that the property is owned by the Estate of Eleanor Ferguson who has authorized this application.

WHEREAS, Mr. Pintimalli testified that the parking is improved allowing two vehicles to be parked on site.

WHEREAS, Mr. Pintimalli amended the plans to remove the mezzanine deck on the roof and provided for a garage on the ground level.

WHEREAS Leon Tyszka of Nelke/Tyszka Land Surveyors, LLC. was sworn and qualified as an expert in surveying.

WHEREAS, Mr. Tyszka testified and offered the following opinions:

1. That the proposed structure would be constructed in compliance with all applicable flood elevation requirements.
2. That the adjacent properties are fully developed and there is no opportunity to acquire additional property to bring the property more into conformity.
3. That the proposed structure would be consistent with the neighborhood scheme.
4. That the new structure would be in conformity with current building and safety regulation.
5. Removal of the existing non-conforming duplex removes a pre-existing non-conforming use and is consistent with the permitted uses.
6. The proposed structure is consistent with the master plan wherein the proposed development improves the quality of housing stock in the Borough and brings the structure into compliance with modern construction regulations.
7. The proposed lot coverage of 39.15% while in excess of that permitted it reduces the existing lot coverage of 41.4% which is a pre-existing non-conformity.
8. The applicant proposed removing two pre-existing non-conformities and thereby bringing the lot more into compliance. The applicant proposes increasing the front yard setback from 8.6 feet to the required 10 feet. The applicant also proposes increasing the side yard setback of 4.9 feet to the required 5 feet.

9. The benefits of granting the requested variances outweigh the detriment in that the pre-existing non-conformities are reduced or eliminate, improvements in aesthetics, upgrading to modern construction codes, removal of the nonconforming use as a duplex, and the removal of two pre-existing non-conforming conditions and the reduction of the non-conforming lot coverage substantially outweigh any detriment in open air and light caused by the larger and taller structure.
10. The purposes of the zone plan and master plan are advanced in that the proposed development improves housing stock, is better development of a unique lot and reduction of pre-existing non-conformities.

WHEREAS Michael Pagnotta, AIA of Pagnotta Architectural Construction was sworn and qualified as an expert in architecture.

WHEREAS, Mr. Pagnotta testified that the aesthetics of the proposed structure will be significantly in keeping with other structures in the neighborhood and an improvement over the existing structure.

WHEREAS, Mr. Pagnotta testified that the amendments to the plan removing the roof top mezzanine deck and providing parking on the ground floor would not cause the structure to exceed the permissible building height.

WHEREAS, Mr. Pagnotta testified that removing the pre-existing non-conforming duplex use brings the property more into compliance with the zone requirements. Mr. Pagnotta further testified that reducing the number of bedrooms from six (6) in a duplex to four (4) in a single family home is a significantly less intense use.

WHEREAS, Mr. Pagnotta testified that to reduce the building width to comply with the combined side yard setback of fifteen (15) feet would result in an aesthetically unappealing structure which lacked utility.

WHEREAS the property is presently serviced by borough water and sewer.

WHEREAS, the hearing was opened to the public and all interested parties were given the opportunity to be heard.

NOW THEREFORE, be it resolved by the Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey, the Board makes the following findings of fact:

1. The applicant is authorized to make the application and has standing to make the application

2. The application is deemed complete and Jurisdiction lies within the Surf City Land Use Board.
3. Proof of service as required by law upon the appropriate property owners and governmental bodies has been provided and determined to be in proper order.
4. The board takes notice that the adjacent properties are fully developed and there is no opportunity to acquire additional property to negate the need for a variances.
5. The witnesses offered credible testimony that the negative criteria has been satisfied in that positive impact on the aesthetics, the neighborhood scheme, upgrading of building construction, removal of pre-existing non-conforming use, reduction in pre-existing lot coverage excess, removal of two pre-existing nonconforming setbacks outweigh any potential detriment to the public good, ordinances and master plan.
6. Concrete curb and sidewalk is required along the lot frontage. Applicant requests a waiver from the requirement to install sidewalk whereas same would be inconsistent with adjacent properties and serve not legitimate purpose.

NOW, THEREFORE, BE IT RESOLVED that the application for the following variances are hereby granted:

1. Lot area of 3,000 sq. ft. where 5,000 sq. ft. is required.
2. Lot frontage of 30 ft. where 50 ft. is required.
3. Lot coverage of 39.15% where 35% is permitted.
4. Combined side yard set back of 10 ft. where 15 ft. is required.

IT IS FURTHER RESOLVED that the contents of the preamble and board engineer review letter dated June 21, 2018 is adopted and made part of this resolution; and

IT IS FURTHER RESOLVED that this Approval is expressly contingent upon the applicant complying with the following, if applicable:

1. Proof of payment of real estate property taxes;
2. Payment of any outstanding professional fees;
3. Obtain any and all local building permits and pay all associated fees;
4. Posting of any performance guarantees and inspection fees, and

5. Obtain any outside agency approval as required.
6. Compliance with applicable flood zone regulations, and
7. Curbing as may be required by the building department under applicable ordinances.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the applicant, building department and Borough Clerk by the Board Clerk.

BE IT FURTHER RESOLVED that notification of this favorable resolution shall be published in an official newspaper of Surf City Borough by the Land Use Board Clerk within ten (10) days of its passage.

Abstained: none. Absent: none. Recused: Mr. Hodgson and Mr. Russell.

Mrs. Klose moved to pay the bills. Mr. Mannherz seconded that motion. With a vote in the affirmative the bills were approved to be paid.

Mrs. Klose moved to pay the bills. Mr. Russell seconded that motion. With a vote in the affirmative the bills were approved to be paid.

Respectfully submitted,

*Christine Hannemann*

Christine Hannemann, RMC/CMR

Land Use Board Clerk