

BOROUGH OF SURF CITY LAND USE BOARD
813 Long Beach Blvd
August 22, 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: Gavin Hodgson, Paul Hoover, Sandra Klose, Alan Mannherz, John McMenamin, Fred Peters, James Russell, Emil TumSuden & David Wright. Absent: Peter Hartney.

Also, present: Board Attorney, Kevin Quinlan.

The Open Public Meeting Statement was read by Vice Chairman Mannherz, 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 July 25, 2018 meeting minutes. Mr. Wright seconded the motion. With a vote in the affirmative, the minutes were approved as presented.

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

Mr. Russell moved to memorialize Resolution 2018-18 for Higgins, et al. of 18 N. 14th Street. Mr. TumSuden seconded the motion. With a vote in the affirmative, the following resolution was approved as presented.

Resolution of the Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey denying an application by Michael Higgins for minor subdivision with variances for premises located at 18 N. Street, Block 40, Lots 6 & 8

WHEREAS, Michael Higgins has applied for Minor Subdivision and Variances for Block 40, Lots 6 & 8; and

WHEREAS, the applicant is co-owner of the subject premises and represents that he has the authority to act on behalf of the co-owners and has standing to make the application; and

WHEREAS, an application and supporting documents had been submitted to the Board and deemed complete by the Board Engineer and Attorney; and

WHEREAS, proof of service as required by law upon appropriate property owners and governmental bodies has been provided and determined to be in proper order; and

WHEREAS, required notice was published in the official newspaper of the Borough advising of the nature, time and date of the application and satisfactory proof of same provided; and

WHEREAS, a public hearing was held on July 25, 2018 at which time testimony and exhibits were presented on behalf of the applicants; and

WHEREAS, all interested parties were given the opportunity to be heard; and

WHEREAS, the Surf City Land Use Board makes the following findings of fact:

1. The applicant was represented by Stuart Snyder, Esquire.
2. Michael Higgins testified that he is co-owner of the subject property with several family members and has the authority to testify on behalf of himself and his co-owners.
3. The Applicant's professional, James Brzozowski, P.P, P.L.S. of Horn Tyson and Yoder Inc. was qualified as an expert in planning and testified on behalf of the application.
4. The applicant proposes to re-subdivide the property by creating two new lots with dimensions of 60' x 100' and 40' x 100'. The two-existing single, family homes shall remain. The following variances are required:
 1. Proposed Lot 6.02 with a lot area of 4000 sq. ft. where 5000 sq. ft required.
 2. Proposed Lot 6.02 with a lot width of 40 ft where 50 ft is required.
 3. Proposed Lot 6.02 lot coverage of 40.9 % where 35% is permitted.
7. The following exhibits were identified and moved into evidence:
 - A-1 Application (4) Pages
 - A-2 Minor Subdivision Map prepared by Horn Tyson and Yoder dated 10/5/17.
 - A-3 Color Photos (6)
 - A-4 Tax Map
 - A-5 Site Plan prepared by Michael J. Higgins, AIA dated 12/30/02 and revised 12/30/03 and 7/20/04.

B-1 Board Engineer Review Letter dated July 12, 2018.

8. The board finds that the applicant failed to satisfy his burden of proof under N.J.S.A. 40:55D-70(c) in that the applicant failed to offer credible testimony that the purpose of the Land Use Law would be advanced by deviation from the zoning ordinance requirement, that the variances could be granted without substantial detriment to the public good, that the benefits of granting the variances would substantially outweigh the detriment, nor that granting of the variances will not substantially impair the purpose and intent of the zone plan and/or zoning ordinances of the Borough of Surf City.
9. The board finds that the proposed lot coverage of 40.9% would be detrimental to the public good and would impair the purpose and intent of the zone plan, ordinances and master plan of the Borough of Surf City.
10. The board finds that even taking in to consideration the light and air easement proposed by the applicant, the proposed side yard setback would be detrimental and would negatively impact open air, light and view of the surrounding properties. This being a fundamental purpose of the side yard setback requirements. The board finds this to be a specific and substantial detriment to the public good.
11. The board finds that any hardship is self-created. The construction of the dwelling to the south west in 2003 could have been done in such a manner as to negate the necessity of a side yard setback.
12. The board has reviewed and adopts the engineering reports of Owen Little and Associates dated June 21, 2018 which comments therein shall be incorporated herein as if set forth in length in this resolution.

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 application for re-subdivision and variance relief is hereby denied.
2. The applicant shall publish notice of this denial within 14 days from the date hereof.

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

Mr. Russell moved to memorialize Resolution 2018-19 for Diane & Eric Weinberg of 32 N. 21st Street. Mr. Peters seconded the motion. With a vote in the affirmative, the following resolution was approved as presented.

Resolution of the Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey denying an application by Eric and Diane Weinberg for bulk variances for premises located at 32 N. 21st Street, Block 15, Lot 11.

WHEREAS, Eric and Diane Weinberg have applied for bulk variances for Block 15, Lot 11; and

WHEREAS, the applicant are the record owners of the subject premises and have standing to make the application; and

WHEREAS, an application and supporting documents had been submitted to the Board and deemed complete by the Board Engineer and Attorney; and

WHEREAS, proof of service as required by law upon appropriate property owners and governmental bodies have been provided and determined to be in proper order; and

WHEREAS, required notice was published in the official newspaper of the Borough advising of the nature, time and date of the application and satisfactory proof of same provided; and

WHEREAS, this matter was initially heard at the June 27, 2018 regular meeting of the Surf City Land Use Board. During that hearing the Board raised concerns regarding the accuracy of the exhibits submitted whereas significant construction had occurred on the dwelling. The matter was carried until the July 25th regular meeting and the applicant was requested to submit photos showing the current condition of the dwelling. An announcement was made at the June 27, 2018 meeting that no further notice would be provided.

WHEREAS, a public hearing was held on July 25, 2018 at which time testimony and exhibits were presented on behalf of the applicants; and

WHEREAS, all interested parties were given the opportunity to be heard; and

WHEREAS, the Surf City Land Use Board makes the following findings of fact:

1. The applicant was represented by Stuart Snyder, Esquire.

2. Eric Weinberg testified that he is the owner of the subject property with his wife and has the authority to testify on behalf of himself and his wife.
3. Eric Weinberg testified that the property was purchased in 1996 and they are seeking to raise and modernize the structure.
4. The applicant's professional, Leon Tyszka P.L.S. was qualified as an expert in surveying and testified on behalf of the application.
5. The applicant's builder, Daniel Sheplin of Shepco Construction, was sworn and testified on behalf of the applicant.
6. The applicant proposes to raise and relocate the dwelling with additions and alterations. A variance for side yard setback where 5' is required and 2.48' is proposed.

The plan as submitted also required a variance for lot coverage where 35% is permitted and 36.4% is required. At time of hearing the applicant agreed to revise the plan to bring lot coverage into compliance with the ordinance and withdrew the request for a variance for lot coverage.

7. The following exhibits were identified and moved into evidence:
 - A-1 Application (5) Pages including check list.
 - A-2 Color Exterior Photos (6)
 - A-3 Variance Plan prepared by Nelke/Tyska dated 12/12/17.
 - A-4 Architectural Plans prepared by Mark Winford, ALA dated 9/18/17 and revised 12/9/17.
 - A-5 Color Photos (4)
 - A-6 Color Exterior Photos (4).
 - B-1 Board Engineer Review Letter dated 6/21/18.
8. The board finds that the applicant failed to satisfy his burden of proof under N.J.S.A. 40:55D-70(c) in that the applicant failed to offer credible testimony that the purpose of the Land Use Law would be advanced by deviation from the zoning ordinance requirement, that the variances could be granted without substantial detriment to the public good, that the benefits of granting the variances would substantially outweigh the detriment, nor that granting of the

variances will not substantially impair the purpose and intent of the zone plan and/or zoning ordinances of the Borough of Surf City.

9. The board finds that the providing for only 2.48 feet between the stairs/landing and the property line would be detrimental to the public good and would impair the purpose and intent of the zone plan, ordinances and master plan of the Borough of Surf City.
10. The board finds that the proposed side yard setback would be detrimental and would negatively impact open air, light and view of the surrounding properties. This being a fundamental purpose of the side yard setback requirements. The board finds this to be a specific and substantial detriment to the public good.
11. The board has reviewed and adopts the engineering reports of Owen Little and Associates dated June 21, 2018 which comments therein shall be incorporated herein as if set forth in length in this resolution.

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 application for variance relief is hereby denied.
2. The applicant shall publish notice of this denial within 14 days from the date hereof.

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

Mr. Russell moved to approve Resolution 2018-20 to authorize the release of various escrow funds. Mr. Peters seconded the motion. With a vote in the affirmative, the following resolution was approved as presented.

WHEREAS, the Borough is in receipt of escrow bonds posted pertaining to professional fees and/or performance guarantees; and

WHEREAS, the Borough Engineer has completed the required inspections and certified that all improvements have been completed for performance guarantee bonds; and

WHEREAS, the Land Use Board Members have agreed with the recommendation that the professional invoices pertaining to the following listed applications have been received and all professional fees have been satisfied for the dockets listed below; and

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Surf City recommends that the following listed escrow bonds be released to the corresponding applicants with the balances to be released to the Borough of Surf City.

<u>APPLICANT</u>	<u>Docket Number</u>	<u>TYPE OF BOND</u>	<u>AMOUNT POSTED</u>	<u>AMOUNT TO BE RELEASED TO APPLICANT</u>	<u>AMOUNT TO BE RELEASED TO BOROUGH</u>
The Pavese Group	15-05	Performance Guarantee	\$40,590	\$40,590	0
Raban & Raban, LLC	18-07	Professional Bond	\$1,500	\$187.09	\$1,312.91
Carmen Chiclana	18-06	Professional Bond	\$1,500	\$300.72	\$1,199.28

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

Mrs. Klose moved to approve Resolution 2018-21 acknowledging the review of Ordinance 2018-13, amending section 30-5.2(f) Principal Uses and Buildings Permitted. Mr. Wright seconded the 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 2018-13; and

WHEREAS, this ordinance 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 in Section 30-5(f); and

WHEREAS, The Land Use Board members have reviewed Ordinance 2018-13 at a public meeting August 22, 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 2018-13 be tabled until further review.

BE IT FURTHER RESOLVED, that the Board Attorney is directed to advise the Municipal Clerk of the findings.

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

Counselor Quinlan had new business for the Board to discuss in relation to Resolution 2018-11 for Enzo Pavese of SC North, LLC. Mr. Pavese was present, without Counsel. Counselor Quinlan asked the Board to recollect the May 23, 2018 meeting; he asked if it was their intention to have art classes as a permitted use at the yoga studio. It was determined that the Board did not differentiate between the art and the yoga classes. The only stipulation given at the May 25, 2018 meeting was that they did not occur simultaneously.

Mrs. Klose moved to authorize Counselor Quinlan to draft a letter to the Borough Zoning Officer to advise her that the Board intended to permit art classes at that location with the contingency that only one class would occur at a time. Mr. Peters seconded the motion. With a vote in the affirmative, Counselor Quinlan would draft the letter.

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

Mrs. Klose moved to open the public comment portion of the meeting. Mr. TumSuden seconded the motion. With a vote in the affirmative, public comment was opened. None of the public present came forward to comment. Mr. Wright moved to close public comment. Mr. Russell seconded the motion. With a vote in the affirmative, public comment was closed.

Mr. Wright moved to pay the bills. Mr. TumSuden seconded the motion. With a vote in the affirmative, the bills were approved to be paid.

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

Respectfully submitted,

Christine Hannemann, RMC/CMR

Deputy Clerk