

BOROUGH OF SURF CITY LAND USE BOARD
813 Long Beach Boulevard
April 24, 2019
7:00 pm

The meeting was called to order.

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

Also, present: Board Engineer, Frank Little, Jr. 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 Board of Surf City Land Use Board has been provided to three newspapers & published in the January 31, 2019 edition of the Beach Haven Times.

Chairman Hartney also read the following statement: this meeting is a judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the Borough of Surf City Land Use Board may legally consider in reaching a decision. Decorum appropriate to a judicial hearing must be maintained all the time.

Mr. Russell moved to approve the March 27, 2019 regular meeting minutes. Mr. Peters seconded that motion. With a vote in the affirmative, the minutes were approved as presented.

Mr. TumSuden was present as of 7:02 PM.

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

The Board acknowledged a letter from Rich Visotcky, Esq. advising of the withdrawal of the application for Docket 19-04: Richard Heward and Wendy Kouba of 344 N. 13th Street seeking relief of setbacks. Mr. Wright moved to formally acknowledge the withdrawal of Docket 19-04. Mr. Russell seconded that motion. With a vote in the affirmation, the advisory was acknowledged.

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

Mr. Russell moved to approve the memorialization of Resolution 2019-04 for Docket 18-14: Michael & Julie Curcio of 1801 N. Ocean Avenue in relation to relief of setbacks and lot coverage. Mr. TumSuden seconded that motion. With a vote in the affirmative, the resolution was approved as follows.

RESOLUTION OF THE LAND USE BOARD OF THE BOROUGH OF SURF CITY, COUNTY OF OCEAN, STATE OF NEW JERSEY GRANTING VARIANCE APPROVAL TO MICHAEL AND JULIE CURCIO FOR PREMISES IDENTIFIED AS LOT 1, BLOCK 50.

WHEREAS, Michael and Julie Curcio are the owners of the premises identified as Block 50, Lot 1 on the official tax maps of the Borough of Surf City and have standing to make the application.

WHEREAS, the applicant was represented by Richard P. Visotcky, 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.

WHEREAS, this application first came before the board on January 23, 2019 wherein the applicant was seeking approval to raise and renovate the existing duplex and convert same to a single-family home. The application was heard at the January 23, 2019 hearing at which time the matter was carried for revisions to the proposed plans. In the interim, discussions arose regarding a desire of the Borough of Surf City to acquire a portion of the property which extended into Ocean Terrace. Since that time, the applicant has submitted revised plans which provide for the demolition of the existing structure and reconstruction of a new single-family dwelling which substantially complies with the zoning requirements and provides for the dedication of 400 square feet of the applicant's property to the Borough of Surf City for the widening of Ocean Terrace.

The application was heard at the March 27, 2019 regular meeting of the Surf City Land Use Board. Due to the significant modifications to the plans as originally submitted the applicant was required and did provide new notice as required.

WHEREAS, the following variances are required;

1. Proposed side yard setback of 4 feet on Ocean Terrace, where 5 feet is required.
2. Rear deck to extend 7.5 feet past the ocean side building and bulkhead line.
3. Proposed lot coverage of 40.4 percent, where 35 percent is permitted. *

*denotes a pre-existing non-conformity where existing lot coverage of 47.2% exists.

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 Variance Plan prepared by Nelke/Tyszka; LLC dated 10/3/18.
- A-3 Architectural drawings prepared by Rob Roth Architects; Inc. dated 10/18 consisting of one page.
- A-4 Color photos (4).
- A-5 Variance Plan prepared by Nelke/Tyszka; LLC dated 3/7/19.
- B-1 Board Engineer Letter dated 1/17/19.
- B-2 Board Engineer Letter dated 3/7/19.

The foregoing exhibits being marked and admitted into evidence.

WHEREAS Rob Roth, AIA of Rob Roth Architects, Inc. was sworn and qualified as an expert in architecture.

WHEREAS, Mr. Roth 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 use will be less intense than the pre-existing use. The number of bedrooms is being reduced from six to five.
8. The proposed ocean side deck will remain open and not enclosed. The deck is in line with the deck on the property to the north.

9. The proposed lot coverage of 40.4 percent while in excess of that permitted, it reduces the existing lot coverage of 47.2 percent which is a pre-existing non-conformity.
10. The benefits of granting the requested variances outweigh the detriment in that the pre-existing, non-conformities are reduced or eliminated, improvements in aesthetics, open air and light, upgrading to modern construction codes, removal of the non-conforming use as a duplex, and the removal of pre-existing nonconforming conditions and the reduction of the non-conforming lot coverage substantially outweigh any detriment in open air and light caused by the proposed structure.
11. The dedication of the 10' by 40' portion of the property to be utilized for the widening of Ocean Terrace will provide for safer ingress and egress for emergency vehicles to the subject property and surrounding properties.
12. 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, reduction of pre-existing non-conformities and the widening of Ocean Terrace.

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 variance.
5. The witnesses offered credible testimony that the negative criteria have been satisfied in that positive impact on the aesthetics, open air and light, the neighborhood scheme, upgrading of building construction, removal of preexisting non-conforming use, reduction in pre-existing lot coverage excess, removal of pre-

existing non-conforming setbacks outweigh any potential detriment to the public good, ordinances and master plan.

6. The dedication of a portion of the property to the Borough of Surf City for the widening of Ocean Terrace is a substantial benefit to the subject property, neighboring properties and the Borough of Surf City.

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

1. Lot coverage of 40.4 percent is provided, where 35 percent is permitted.
2. Side yard setback along Ocean Terrace where 4 feet is provided, and 5 feet is required.
3. Encroachment of the rear open deck beyond the rear building bulkhead line by 7.5 feet.

IT IS FURTHER RESOLVED that the contents of the preamble and the board engineer review letter dated 3/18/19 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.
8. The applicant dedicating a 10 feet x 40 feet portion of the property along Ocean Terrace to the Borough of Surf City in perpetuity.

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.

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

Mr. Russell moved to approve the memorialization of Resolution 2019-09 for Docket 19-01: Surf City Hotel of 800 N. Long Beach Boulevard for preliminary and final site plan approval. Mr. Peters seconded that motion. With a vote in the affirmative, the resolution was approved as follows.

RESOLUTION OF THE LAND USE BOARD OF THE BOROUGH OF SURF CITY, COUNTY OF OCEAN, STATE OF NEW JERSEY GRANTING A PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL TO SURF CITY HOTEL, LLC FOR PREMISES LOCATED AT LOTS 15-20, BLOCK 30.

WHEREAS, the Surf City Hotel, LLC is the owner of the premises identified as Block 30, Lots 15-20 on the official tax maps of the Borough of Surf City and have standing to make the application.

WHEREAS, the applicant has applied to the Borough of Surf City Land Use Board for Preliminary and Final Major Site Plan Approval to convert a portion of the existing interior dining room to an open-air covered porch to accommodate open air dining.

WHEREAS, the following pre-existing non-conformities exist on the site:

1. Existing front yard setback on North 9th Street is 9.97 feet, where 10 feet is required.
2. Existing front yard setback on Long Beach Boulevard is .15 feet, where 10 feet is required.
3. Existing front yard setback on North 8th Street is 5.95 feet, where 10 feet is required.
4. Existing building coverage is 52.8%, where 35% is the maximum permitted.
5. Existing parking spaces are 18, where 162 spaces are required.

WHEREAS, the site is located in the Business Zone and Residential Zones. The proposed development is to occur solely on the portion of the property located in the Business Zone. The proposed use is a permitted use in the zone and no new bulk variances are being sought.

WHEREAS, the applicant is not proposing any modifications to the footprint of the structure. The proposed site improvements include the conversion of a portion of the existing interior dining room to an open-air porch to be utilized for open air dining.

WHEREAS, the applicant was represented by Richard Visotcky, Esq.

WHEREAS, the applicant's architect, Craig Brearley was qualified as an expert and testified as an expert in architecture.

WHEREAS, the applicant's professional engineer planner, James Brzozowski, P.E., P.P. of Horn, Tyson and Yoder, Inc. was qualified as an expert and testified as an expert in engineering and planning.

WHEREAS Colleen Gewirtz is a member of Surf City Hotel, LLC (Company) and has testified that she has the authorization of the other member of the Company to act on behalf of the Company and to bind the Company.

WHEREAS, Mr. Brearley testified that the foot print is not being expanded by the proposed improvements nor is there any intensification of use of the premises. Changes are cosmetic and not an expansion of the structure. The total number of seats is not being increased.

WHEREAS, Mr. Brearley further testified that the pre-existing conformities will not be expanded. No new signage is proposed, and the new dining area will not be accessible from the exterior of the building. All changes are interior and do not increase seating.

WHEREAS, Mr. Brzozowski, testified to the following conditions:

1. All exterior lighting will be recessed or shielded so as not to shine on adjacent properties or roadways.
2. Parking shall be reconfigured per the plan; however, the total number of spaces shall remain the same. The only exception being the addition of two (2) handicap accessible spaces.
3. Applicant is seeking a design waiver for parking stall size to the east of the property where 9' x 20' is required and 9' x 19' is proposed. Mr. Brzozowski testified that the reduced stall size will not negatively impact the ingress or egress from the site but will improve same by providing a wider drive aisle.

WHEREAS, Mr. Brzozowski further testified that the pre-existing non-conformities will not be expanded.

WHEREAS, the applicant, Colleen Gewirtz testified that there will be no amplified music in the covered porch, nor will there be access from the exterior of the building to the covered porch.

WHEREAS, Mrs. Gewirtz further testified that the covered porch will be utilized for dining only and will be closed to patrons at 10 p.m.

WHEREAS, the Land Use Review Board considered this application at a public hearing on March 27, 2019. The following Exhibits were marked into evidence as follows:

- A-1 Application (3 pages including check list).
- A-2 Site Plan prepared by Horn, Tyson and Yoder, Inc. Dated 1/22/19 and revised 1/12/19.
- A-3 Architectural Plans prepared by Craig W. Brearley dated 12/28/18 consisting of two pages.
- A-4 Color Photos (4).
- B-1 Board Engineer Review letter prepared by Frank Little of Owen Little and Associates, Inc. dated March 18, 2019.
- B-2 Board Engineer Review letter prepared by Frank Little of Owen Little and Associates, Inc. dated February 9, 2019.

WHEREAS, 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 applicants are the owners of the property which is the subject of this application and have standing to make the application.
2. The property owner is named and made a party to the application.
3. The application is deemed complete and jurisdiction lies within the Surf City Land Use Board.
4. 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.
5. The Board considered and determined that the application is properly heard as a Preliminary and Final Major Site Plan. The Board further waives the design standards applicable to site plans.
6. The Board finds that the proposed use is no more intense than the existing approved use.
7. No variances are being sought.

8. The covered porch shall only be accessible from the interior of the building. No amplified music shall be utilized. The covered porch shall be used for dining only and shall be closed to patrons at 10 pm.
9. All lighting shall be recessed or shielded so as not to impact adjacent properties or roadways.
10. The parking stalls located to the east shall be 9 feet x 19 feet.
11. The total number of seats shall remain at 403.

NOW, THEREFORE, BE IT RESOLVED that the application for Preliminary and Final Major Site Plan Approval with design waivers is hereby granted subject to the foregoing conditions and findings of fact.

IT IS FURTHER RESOLVED that the contents of the preamble 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. The applicant shall publish notice of this decision in the official newspaper of the Borough of Surf City within 14 days of the date hereof and provide a copy to the Board Secretary.

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

Mr. Little reviewed the draft of the Master Plan for the benefit of the Board. Mr. Russell moved to approve Resolution 2019-10 for preliminary approval of the Master Plan, authorizing a public hearing. Mr. Mannherz seconded that motion. With a vote in the affirmative, the resolution was approved as follows.

RESOLUTION OF THE LAND USE BOARD OF THE BOROUGH OF SURF CITY, COUNTY OF OCEAN AND STATE OF NEW JERSEY AUTHORIZING NOTICE OF HEARING OF MASTER PLAN RE-EXAMINATION REPORT

WHEREAS, the New Jersey Municipal Land Use Act Law (N.J.S.A. 40:55D-89) requires that a municipality, by the Land Use Board, provide a general re-examination of its Master Plan and development regulations every ten years; and

WHEREAS, a sub-committee of the Land Use Board of the Borough of Surf City has undertaken a general re-examination of the Surf City Master Plan by engaging Frank Little Jr., P.E., P.P., C.M.E., of Owen, Little and Associates, to prepare a Master Plan Re-examination Report; and

WHEREAS, Frank Little Jr., P.E., P.P., C.M.E., has prepared a Master Plan Re-examination Report dated April 17, 2019, attached hereto; and

WHEREAS, copies of the Re-examination Report will be available for public inspection in the Office of the Municipal Clerk during regular business hours; and

NOW, THEREFORE, BE IT RESOLVED that the Land Use Board of the Borough of Surf City hereby authorizes and directs the Board Clerk to provide adequate notice, pursuant to N.J.S.A. 40:55D-13, of a public hearing to be on held Wednesday, May 22, 2019 at 7:00 pm in the Council Chambers at Borough Hall.

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

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

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

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

Respectfully submitted,

Christine Hannemann, RMC/CMR/QPA
Land Use Board Clerk