

BOROUGH OF SURF CITY LAND USE BOARD
813 Long Beach Boulevard
September 25, 2019
7:00 pm

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, Alan Mannherz, John McMenamin, Fred Peters, James Russell, Emil TumSuden & David Wright.
Absent: Paul Hoover & Sandra Klose.

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. Mannherz moved to approve the May 22, 2019 regular meeting minutes. Mr. Russell seconded that motion. With a vote in the affirmative, the minutes were approved as presented.

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. Wright moved to approve Resolution 2019-14 releasing various escrow bonds. Mr. Russell seconded that motion. With a vote in the affirmative, Resolution 2019-14 was approved, as follows.

WHEREAS, the Borough is in receipt of escrow bonds posted pertaining to professional fees, performance guarantees and inspection fees; 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</u>	<u>Type</u>	<u>Posted Amount</u>	<u>Amount to Applicant</u>	<u>Amount to Borough</u>
Weinberg	18-04	Professional	\$2,022.33	\$0.00	\$2,022.33
Walter's	19-02	Professional	\$1,500.00	\$941.68	\$558.32
Gewirtz	19-01	Professional	\$1,500.00	\$71.09	\$1,428.91
Gausz	19-03	Professional	\$1,500.00	\$483.65	\$1,016.35
Tomko	18-10	Professional	\$4,044.33	\$60.00	\$3,984.33
Malay	18-12	Inspection	\$1,000.00	\$763.75	\$236.25
Tomko	18-10	Performance	\$4,794.00	\$4,794.00	\$0.00
Tomko	18-10	Inspection	\$575.10	\$215.10	\$360.00
Curcio	18-14	Professional	\$2,722.68	\$0.00	\$2,722.68
Peters	19-04	Professional	\$1,500.00	\$712.46	\$787.54

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.

Stacey and Andrew Jordan of 1417 N. Ocean Terrace, Block 41 Lot 4, were present to seek relief for lot coverage and setbacks to build a new single-family home. They were represented by their attorney, Stuart Snyder. Mr. Snyder also explained that the CAFRA permit issued by the NJDEP would not permit the home to be built to the building line set by the Borough. Chairman Hartney commented that a copy of the referenced permit was not submitted to the Board. Stacey Jordan explained that she would like the variances for aesthetic purposes.

Leon Tyszka, NJ licensed surveyor, testified to questions in relation to the side yard setback & the proposed decks. Craig Brearley, NJ licensed architect, described the proposed improvements. He further explained the increase in lot coverage is to accommodate the layout with consideration to the aesthetics. Chairman Hartney pointed out that the bedroom called a bunk room is only 75 square feet and does not meet the requirements of the Borough Ordinances. The architectural plans would be amended to be in conformance with all Borough

Ordinances with the exception of any granted zoning relief. Mr. Hodgson established that the only request for relief would be for lot coverage.

Mr. Russell moved to open the meeting to public comment. Mr. TumSuden seconded the motion. With a vote in the affirmative, public comment was opened.

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.

Nick Caricato of 15 N. 15th Street, was present to express his concern about the proposed plan in relation light and air.

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

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. Peters moved to approve the application, as amended. Mr. McMenamin seconded the motion. Roll call reflected the following votes, denying the application:

Mr. Hartney: While the building and design is an improvement to the neighborhood and the removal of the duplex is a positive aspect of meeting the zoning ordinances. In tearing down the building, the requirement is to meet the zoning ordinances in terms of coverage, etc. that the Borough has set forth. I think that in approving this application, it would be detrimental to the zoning ordinances and master plan. It would be approving another non-conformity. We are removing non-conformities and we are starting over. Mr. Brearley has testified that without the accoutrements we come close to the 35 percent; 35.1 percent, that is close. I don't believe that just simply removing an existing non-conformity, that it empowers us to create other non-conformities that would be detrimental to the Borough zoning and master plans. So, I vote no on the motion.

Mr. Hodgson: Mirroring what Mr. Hartney said, here in town we are looking for conforming, not more conforming. I think that lot coverage is sacred in this town. And for the purpose of aesthetics, I don't think that the positive outweighs the negative of approving a non-conformity with 37 percent lot coverage. So, for those reasons, I also vote no.

Mr. Mannherz: I have to concur with Mr. Hodgson and Mr. Hartney in that creating non-conformities is not acceptable. As Mr. Brearley testified, there are a few things that could be removed in order to get more into conformity with the lot coverage. I can understand the

aesthetics that Mrs. Jordan mentioned are desirable. We are trying to uphold the ordinances as far as lot coverage. So, I would have to vote no.

Mr. McMenamain: I look at it this way, if they shifted this building two feet south, I think it would have more of detrimental impact to the neighbors. Since they have the combined yard setback, I think the aesthetics are an improvement to the area. I vote yes for this.

Mr. Peters: I vote yes. Getting rid of the duplex and the setbacks are not major, given the property size.

Mr. Russell: Its difficult because there are improvements to the property. I am having a hard time understanding how an architect, knowing that this Board requires 35 percent and we have people coming in here and asking us for more. Mr. Caricato made a good point regarding the air and the wind from the ocean coming through. We have to maintain, what this Board has always maintained, the proper density for a lot. I am going to have to vote no.

Mr. TumSuden: I also vote no. We have ordinances in place for a reason. They can remove some of these overhangs and come within the 35 percent.

Mr. Wright: I agree with everybody else and I vote no.

Abstain: none. Absent: Mr. Hoover & Mrs. Klose.

Joyce Panzone, an owner of Panzone's located at 2117 Long Beach Boulevard, Block 48, Lot 14 was present for preliminary and final site plan approval. She was represented by her attorney, James Raban. He requested that variances be granted for the existing non-conformities. Jim Brzozowski, NJ licensed engineer, was present to ascertain to the conditions of the site.

Joyce Panzone, of 1911 West Avenue in Beach Haven, explained that the upstairs was comprised of an apartment and an office. She also confirmed the seating plan has existed since she and her late husband took ownership of the building.

Todd Elsasser, of 1718 Newell Avenue in Manahawkin, testified to the conditions of the rear of the building. Chairman Hartney noted the plan should be reflect what exactly exists.

Counselor Quinlan explained to the Board an approval with no proposed changes allows the current non-conforming conditions to continue in perpetuity. Counselor Quinlan also explained that the Board would not be granting any approvals in relation to the improvement encroaching the neighboring property.

Mr. Wright moved to open the application to public comment. Mr. Russell seconded that motion. With a vote in the affirmative, public comment was opened. There were no comments.

Mr. TumSuden moved to close the application to public comment. Mr. Wright moved to close public comment. With a vote in the affirmative, public comment was closed.

Mr. McMenamain & Mr. Hodgson sought clarification in relation to the equipment in the rear of the building. Mr. Brozowski located the equipment on the plan for the benefit of the Board.

Jillian Panzone-Elsasser of 1718 Newell Avenue in Manahawkin, also testified to the location of the equipment.

Mr. Peters moved to approve the application. Mr. Wright seconded that motion. Roll call reflected the following votes, approving the application:

Mr. Hartney: Yes, through the testimony given, these are pre-existing conditions that go back 35 years to 1984. In addition, over the course of the past year the applicant has made effort to reduce the number of inside seats so that they can have outside seats, decreasing the intensification of the inside use. I approve the application.

Mr. Hodgson: Mirroring what Mr. Hartney said, I vote to approve the application. The pre-existing conditions haven't changed since 1984 given the testimony of the owners.

Mr. Mannherz: I vote in favor of the site plan approval for reasons enumerated by Mr. Hodgson and Mr. Hartney.

Mr. McMenamain: I vote to approve the application for the same reasons as stated by Mr. Hartney, Mr. Mannherz and Mr. Hodgson.

Mr. Peters: I approve the application; I concur with the previous reasons.

Mr. Russell: I feel the applicants have more than proven themselves. I am somewhat prejudice because over the years I have certainly enjoyed their product. I have no problem with the seating arrangement. I am happy to vote yes.

Mr. TumSuden: I vote yes. The applicant hasn't changed or added anything.

Mr. Wright: I approve. Thirty-five years is a long time.

Abstain: none. Absent: Mr. Hoover & Mrs. Klose.

Counselor Quinlan advised the Board in relation to accepting and reviewing architectural plans.

Mr. Russell moved to approve the payment of the bills. Mr. TumSuden seconded that 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. McMenamain, Mr. Peters, Mr. Russell, Mr. TumSuden & Mr. Wright. Nays: none. Abstain: none. Absent: Mr. Hoover & Mrs. Klose.

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

Respectfully submitted,

Christine Hannemann, RMC/CMR/QPA

Land Use Board Clerk