

BOROUGH OF SURF CITY LAND USE BOARD
813 Long Beach Boulevard
February 26, 2020
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: Gavin Hodgson, Sandra Klose, Alan Mannherz, Mr. Russell & Emil TumSuden. Absent: Peter Hartney, Paul Hoover, John McMenamin, Fred Peters, & David Wright.

Counselor Quinlan administered the oath of office to Mrs. Klose.

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 Board of Surf City Land Use Board has been provided to three newspapers & published in the January 30, 2020 edition of the Beach Haven Times.

Vice Chairman Mannherz 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 January 22, 2020 regular meeting minutes. Mr. TumSuden seconded that motion. With a vote in the affirmative, the minutes were approved as presented.

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

The Board discussed a letter from the Borough Clerk/Administrator seeking their opinion in relation to measuring grade elevation. Counselor Quinlan will draft a letter to reflect the Board's opinion for the Governing Body to review.

Mr. Russell moved to approve Resolution 2020-05. Mr. TumSuden seconded that motion. With a vote in the affirmative, the following resolution was approved.

RESOLUTION OF THE LAND USE BOARD OF THE BOROUGH OF SURF CITY, COUNTY OF OCEAN, STATE OF NEW JERSEY GRANTING VARIANCES TO JOAN QUIGLEY MONNIG FOR PREMISES IDENTIFIED AS LOT 2, BLOCK 78.

WHEREAS, Joan Quigley Monnig is the owner of premises identified as Block 78, Lots 2 on the official tax maps of the Borough of Surf City and have standing to make the application.

WHEREAS, the applicant was not represented by an attorney.

WHEREAS, the applicant has applied to the Borough of Surf City Land Use Board for variances to construct a new single-family home on an undersized lot.

WHEREAS, the following exhibits and evidence were admitted by the Board:

- A1. Application (amended).
- A2. Variance Plan prepared by Najarian Associates dated 12/5/19.
- A3. Architectural Plans prepared by Walter's Architecture dated 10/17/18 last revised 8/22/19.
- A4. Color Photos (5).
- Bl. Board Engineer Letter dated 1/14/20.

WHEREAS, the site is in the RA Zone.

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 through her power of attorney is the owner of the premises 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 property is currently a duplex on an undersized lot.
5. The following variances are required:
 1. Lot Area of 3,375 S.F. where 5,000 S.F is required*
 2. Lot Width of 45 FT where 50 FT is required. *

*Pre-existing non-conformities which are not being increased.
6. Danielle M. Clark was sworn and testified that she is the Power of Attorney for her mother, Joan Quigley Monnig and is authorized to make this Application on behalf of her mother. Ms. Clark further testified that her mother is alive, and the Power of Attorney has not been revoked.
7. Ms. Clark further testified that the existing duplex would be demolished, and a new single-family home would be constructed which will comply with all setback and height requirements.
8. John Freeman, P. E. of Najarian Associates, was sworn and qualified an expert in engineering.
9. Mr. Freeman testified and the board took judicial notice that the adjacent properties are fully developed and there is no opportunity to acquire additional land to reduce and/or limit any of the pre-existing non-conformities.

10. Mr. Freeman further testified that the Variance Plan would be revised as follows:
 - a. Three nine x twenty stacked parking spaces will be provided on the southernly side of the lot.
 - b. The Zoning Table will be revised to remove the reference to combined side yard setbacks.
11. Arnold Boyle, Jr. A.I.A. of Walters Architecture was sworn and qualified as an expert in architecture.
12. Mr. Boyle testified that the proposed building would be aesthetically appealing and fit in with the neighborhood scheme.
13. Mr. Boyle further testified that the plan would be revised to remove the knee wall on the roof and replace with a railing. The building would comply with the height requirements of the borough ordinances and no variance was being sought nor granted for height.
14. Applicant shall comply with all applicable Flood Zone regulations.
15. The Board finds that the benefits of removing the pre-existing duplex and construction of an aesthetically appealing structure which will comply with current building and flood elevation requirements outweigh any detriment by granting the variances for the pre-existing lot size and width.

NOW, THEREFORE, BE IT RESOLVED that the Board grants the variances set forth above as being pre-existing non-conformities which are not intensified by the proposed improvements.

IT IS FURTHER RESOLVED that the comments and conditions set forth in the Board Engineer' s Review Letters dated January 14, 2020 are incorporated herein.

IT IS FURTHER RESOLVED that the Variance Plan shall be amended to depict three (3) stacked parking spaces measuring nine feet by twenty feet along the southerly property line. The Variance Plan shall further be revised to remove the reference to 'combined side yards' in the Zoning Table. The Architectural plans shall be revised to remove the knee wall and replace with a railing in compliance will applicable borough ordinances.

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; and
2. Payment of any outstanding professional fees; and
3. Obtain all local building permits and pay all associated fees; and

4. Posting of any performance guarantees and inspection fees; and
5. Ocean County Planning Board approval; and
6. Compliance with Flood Zone Regulations; and
5. Obtain any other outside agency approval as required.

Notice of this decision shall be published 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. Hodgson, Mr. Mannherz, Mr. Russell, & Mr. TumSuden. Nays: none. Abstentions: Mrs. Klose. Absent: Mr. Hartney, Mr. Hoover, Mr. McMenamain & Mr. Peters.

James Raban, attorney for Bette Kish of 233 N. 6th Street, was present to seek relief of setbacks on a pre-existing nonconforming lot. Leon Tyszka, licensed surveyor, was sworn in and explained the conditions of the property and the proposed plan. Mr. Mannherz pointed out that the architectural plans do not match the measurements given in the variance plan. Mr. Raban assured the Board that the measurements of the stairs & landing will comply with Borough Ordinances, as will the lot coverage. Mike Pagnotta, A.I.A., testified to the plans.

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

Mary Louise Hugamire, of 257 6th Street, questioned the lot coverage. Mr. Mannherz responded that the proposed plan is within the allowable lot coverage.

Mike Marino, of 229 N. 6th Street, voiced concerns about rainwater run-off. He would also like to request that the Board grant him permission to use their property for his use as a driveway. He has concerns about the extra five feet the applicant is requesting. Counselor Quinlan answered that the Board cannot direct the applicant to apportion his driveway to him.

Mary Ellen McCann, of 237 N. 6th Street, spoke about supporting all her neighbors

Peter Incardone, of 238 N 6th Street, wished the applicant the best of luck. He claimed that there are three issues the Board was not aware of: the new construction of the inground pool from the house behind Ms. McCann floods her property and the proposed plan affects the air and light.

Mr. Russell moved to close the application to public comments. Mrs. Klose seconded that motion. With a vote in the affirmative, the public hearing was closed.

Mr. Hodgson moved to approve the application. Mr. Russell seconded the motion. A roll call vote reflecting the following.

Mr. Hodgson: Given the testimony of the experts, I am going to vote yes. 30 x 100 lots are hard to develop on. A fifteen-foot-wide house is not feasible. A five-foot setback is pushing it. Given the houses around it, as it is right now, I think it is beneficial to the master plan of the town and the overall aesthetics in the neighborhood. Which is why I am voting yes.

Mrs. Klose: I am going to vote yes, as well. It is a nonconforming condition. I am happy that they are complying with thirty five percent lot coverage and height requirements. The house looks very nice, I think it will be a very nice addition to our town. So, I vote yes.

Mr. Mannherz: I also vote yes, for reasons previously stated. Expert testimony indicated that they would conform with all the Borough Ordinances. It is a tough decision, as Mr. Hodgson mentioned, to deal with a thirty-foot-wide lot. Mr. Raban also added that the setback on the eastside is increasing by a foot. And with the neighbors concerns about run-off, the applicant has to follow the Borough Ordinances for that purpose. It will improve the housing stock. So, I vote yes.

Mr. Russell: I believe it is going to be a positive improvement on the neighborhood. It is a beautiful home. The positive criteria have been met. I am going to vote yes. This is a tough thing for this group. When we get these small lots, it is not easy for us to go along with this. But there are exceptions and I think this should be one of them.

Mr. TumSuden: I reluctantly vote yes. Undoubtedly, this lot was probably laid out back when there was a railroad through this town. There is development on both sides, so there is no opportunity to make the lot bigger. And as previously stated, a fifteen-foot-wide house would not be very comfortable. I vote yes, so as long as, both five-foot setbacks remain free of all utilities.

Nays: none. Abstentions: none. Absent: Mr. Hartney, Mr. Hoover, Mr. McMEnamin, Mr. Peters & Mr. Wright.

Stuart Snyder, attorney for Dan Malay of How You Brewin located at 8 N. Long Beach Boulevard, was present to seek a site plan waiver with parking variances. Mr. Snyder gave a brief history about prior approvals and the renovations that have taken place. The applicant is seeking to increase seating from forty-nine to sixty-five. James Brzozowski, P.E. & P.P., testified on behalf of the applicant that this request was not a detriment to the Borough master plan. Matthew Davis, A.I.A., was sworn in to discuss the fact that the original approved design revealed railing to be installed on the platform around the building. It was established that the railing will be removed from the plan and the matter be directed to the Building Department. The Board also determined that the structure identified as a water/fire pit feature shall comply with Borough Ordinances.

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

Mr. Hodgson moved to approve the application for parking with the stipulation it remains a self-service take out restaurant. Mr. TumSuden seconded the motion. A roll call vote reflecting the following.

Mr. Hodgson: I vote yes. Mr. Snyder pointed out that they are taking the high road (by seeking appropriate approvals) but this is how we run the town and how it is expected to be done. We are very strict with parking in this town. However, given the type of business that it is, he is still

maintaining the master plan and the goal of the town, which is to increase business. I am happy that he is doing well, and I am happy that he is expanding. I vote yes.

Mrs. Klose: Yes, ditto.

Mr. Mannherz: I also vote yes. As the testimony was given, that this is not expected to adversely impact business itself but a methodology to try and increase the throughput of the business. Testimony of the participants in that business and the transient nature of the business. According to the Master Plan. as Mr. Hodgson has mentioned, we try to support where can, where we're able to. So, yes.

Mr. Russell: I vote yes, also, for reasons previously stated.

Mr. TumSuden: I'll vote yes. The business has certainly been an asset to the community with all the improvements. If they can move the traffic through there quicker with a little bit of extra help, I see it as an advantage. So, I vote yes.

Nays: none. Abstentions: none. Absent: Mr. Hartney, Mr. Hoover, Mr. McMenamin, Mr. Peters & Mr. Wright.

Mr. Hodgson moved to open the meeting to public comment. Mr. TumSuden seconded that motion. With a vote in the affirmative, public comment was opened. There were no comments. Mr. Russell moved to close the meeting to public comment. Mrs. Klose seconded that motion. With a vote in the affirmative, public comment was closed.

Mrs. Klose 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.

Mrs. Klose moved 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/QPA

Borough Clerk/Administrator