

BOROUGH OF SURF CITY LAND USE BOARD

813 Long Beach Boulevard

August 26, 2020

4:30 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, Paul Hoover, Sandra Klose, Alan Mannherz, Fred Peters, James Russell, & Emil TumSuden. Absent: John McMenamin & David Wright.

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 August 13, 2020 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 July 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. Hartney, Mrs. Klose, & Mr. Mannherz. Nays: none. Abstentions: Mr. Hodgson, Mr. Hoover, Mr. Peters Mr. Russell & Mr. TumSuden. Absent: Mr. McMenamin & Mr. Wright.

Mr. Russell moved to approve Resolution 2020-12. Mrs. Klose 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 MINOR SUBDIVISION APPROVAL AND VARIANCE FOR SIDE YARD SETBACK TO SIBCO HOLDINGS, LLC FOR PREMISES IDENTIFIED AS LOTS 13 and 15, BLOCK 43.

WHEREAS, Sibco Management, LLC & Sibco Holdings LLC are the owners of premises identified as Block 43, Lots 13 and 15 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 of a minor subdivision where two lots exist, one conforming and one non-conforming and two conforming lots are proposed.

WHEREAS, there presently exists two building lots. The existing Lot 15 exceeds the required lot area with 6,000 sq. ft. where 5,000 sq. ft. required and lot width of 50 feet where 60 feet is existing. The existing Lot 13 is non-conforming whereas the lot area is 4,000 sq. feet where 5,000 sq. feet is required and lot width is 40 feet where 50 feet is required. The applicant proposes to relocate the dividing property line 10 feet to the west. The resulting lots will each be 5,000 sq. ft. where 5,000 sq. ft is required and will have lot width of 50 ft. where 50 feet is required. The existing building on lot 13 will remain as will the pre-existing non-conforming side yard setback of 4.1 feet where 5 feet is required. The existing structure on lot 15 will be demolished and the new structure shall comply with all set back and lot coverage requirements.

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

1. Application.
2. Minor Subdivision Map prepared by Horn, Tyson and Yoder, Inc. dated 11/6/19.
3. Color Photos (6).
4. Borough Engineer Review Letter dated March 26, 2020.

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

WHEREAS, curbing and sidewalk shall comply with borough ordinances.

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

WHEREAS, James D. Brzozowski, P.E. of Horn Tyson and Yoder, Inc. was sworn and qualified as an expert in professional planning.

WHEREAS, Mr. Brzozowski testified that the pre-existing non-conforming side yard setback is not intensified by the proposed minor subdivision.

WHEREAS, Mr. Brzozowski further testified that the new lots would be more in conformity and consistent with other lots within the neighborhood than the existing lots.

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 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 with variance for pre-existing side yard setback of 4.1 feet where 5 feet is required.
5. Installation of sidewalks and curbing shall comply with borough ordinances.

6. The proposed lots are consistent with the master plan and ordinances of the Borough of Surf City; the proposed lots created by the subdivision are compliant with applicable ordinances. The requested side yard variance can be granted without detriment to the public; and the benefits of granting the variance outweigh any detriment.
7. The proposed lots are more in conformity with the requirements than the existing lots.
8. The proposed lots are more in conformity with the existing neighborhood scheme and lot sizes.

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

IT IS FURTHER RESOLVED that the contents of the preamble and board engineer review letter dated March 26, 2020 are 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 and
6. Obtain any other outside agency approval as required.

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. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Peters, Mr. Russell, & Mr. TumSuden. Nays: none. Abstentions: none. Absent: Mr. McMenamin & Mr. Wright.

Mr. Russell moved to approve Resolution 2002-13. Mrs. Klose 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 VARIANCE APPROVAL TO JOHN AND CATHERINE LAWLOR FOR PREMISES IDENTIFIED AS LOT 6, BLOCK 43.

WHEREAS, John and Catherine Lawlor are the owners of the premises identified as Block 43, Lot 6 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 Visotcky, Esq.

WHEREAS, the applicant has applied to the Borough of Surf City Land Use Board for a variance for entry stairs which exceed allowable encroachment of 25 S.F. with 39.3 S.F. proposed and encroachment of 5.9 feet into the front yard where 5 feet is permitted.

WHEREAS, the following variances are required;

1. Encroachment of 5.9 feet is proposed where 5 feet is permitted. \*
2. Area of encroachment of 39.3 S.F. where 25 S.F. 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.
- A-2 Variance Plan prepared by Horn Tyson and Yoder dated 1/16/20.
- A-3 Architectural drawings prepared by Robert Stack Architect dated 3/5/20.
- A-4 Color Photos (4).
- A-5 Zoning Denial Letter dated 3/9/20.
- A-6 Color Photos (4).
- B-1 Board Engineer Letter dated 3/16/20.
- B-2 Construction file.

The foregoing exhibits being marked and admitted into evidence.

WHEREAS, Robert Stack, AIA was sworn in and qualified as an expert in architecture design.

WHEREAS, Mr. Stack testified that the proposed stairs would not encroach any further into the setback than the pre-existing stairs.

WHEREAS, Mr. Stack further testified that the number of risers was reduced by one and the area of the landing was reduced.

WHEREAS James Brzozowski, P.E., P.P. of Horn Tyson and Yoder Inc. was sworn and qualified as an expert in Planning and Engineering.

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

1. That the proposed stairs were a better planning option in that the re-orientation provided for a safer ingress and egress.
2. That the proposed structure would be consistent with the neighborhood scheme and was an aesthetic improvement over the pre-existing stairs and landing.
3. The proposed stairs and landing would not have a detrimental impact on open air and light.
4. There is sufficient area between the stairs and the edge of pavement that safety is not a significant concern.
5. The benefits of granting the requested variances outweigh the detriment in that the improvements in aesthetics, improvements in ingress and egress, outweigh any detriment.

WHEREAS, the applicant, John Lawlor was sworn and testified he is the owner of the subject property with his wife.

WHEREAS, the applicant testified that the existing configuration of the stairs is problematic whereas the abrupt turn makes ingress and egress more difficult.

WHEREAS, the hearing was opened to the public and all interested parties were given the opportunity to be heard. Four members of the public were sworn and testified 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 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 witnesses offered credible testimony that the negative criteria have been satisfied in that positive impact on the aesthetics, the neighborhood scheme and improvement in ingress and egress outweigh any potential detriment to the public good, ordinances and master plan.

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

1. Encroachment of 5.9 feet is proposed where 5 feet is permitted.
2. Area of encroachment of 39.3 S.F. where 25 S.F. is permitted.

IT IS FURTHER RESOLVED that the contents of the preamble and board engineer review letter dated March 16, 2020 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

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. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Peters, Mr. Russell, & Mr. TumSuden. Nays: none. Abstentions: none. Absent: Mr. McMenamin & Mr. Wright.

Stuart Snyder, attorney for Romano & Associates, LLC of 1515 Sunset Avenue had been scheduled to be heard this agenda to request relief of lot coverage for a property with existing nonconformities. A letter had been received from Mr. Snyder requesting to carry the application to the September 23, 2020 meeting. Mr. Russell moved to approve the request. Mrs. Klose seconded the motion. With a vote in the affirmative, the request was approved.

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

Jim Raban, attorney for Ziman Development, Inc. of 15 N. Ocean Avenue, Block 11 Lots 3 and 4, was present to request a minor subdivision. The applicant is requesting two 60 x 100 lots with a 15-foot-wide easement to the interior lot. The current lots are 40 x 100 and 70 x 100. The standard easement required is 25 feet. James Brzozowski, P.E., P.P., was sworn in to explain the conditions of the properties and the proposed 15-foot-wide easement. Board members discussed factors concerning the easement. Michael Ziman, vice president of the corporation, was sworn in to testify to the conditions of the properties and the application. After a brief recess, Mr. Raban returned and requested to amend the application to reflect a 15-foot-wide easement, as required.

Mr. Peters moved to open the application to public comment. Mr. Russell seconded that motion. With a vote in the affirmative, the public hearing was open. Evan Pickus, Esq. was present to

represent his clients, the property owners of 14 N. 1<sup>st</sup> Street. He expressed concerns about view obstructions and density. With no further comments, Mrs. Klose moved to close the application to public comments. Mr. Mannherz seconded that motion. With a vote in the affirmative, the public hearing was closed.

Mrs. Klose moved to approve the application as amended. Mr. Russell seconded that motion. A vote in the affirmative reflected the following votes.

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

Mrs. Klose moved to approve the payment of the bills. Mr. Wright 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. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Peters, Mr. Russell, & Mr. TumSuden. Nays: none. Abstentions: none. Absent: Mr. McMenamin & Mr. Wright.

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