

BOROUGH OF SURF CITY LAND USE BOARD
813 Long Beach Boulevard
September 23, 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, Sandra Klose, Alan Mannherz, John McMenamin, James Russell, Emil TumSuden & David Wright. Absent: Gavin Hodgson, Paul Hoover, & Fred Peters.

The Board Attorney, Kevin Quinlan Esq. and the Board Engineer, Frank Little, Jr. P.E., P.P., C.M.E., were both present.

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 September 3, 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. Hoover announced that he was present for roll call and had experienced technical difficulties.

Mr. Russell moved to approve the August 26, 2020 regular meeting minutes. Mr. Mannherz 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. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, & Mr. TumSuden. Nays: none. Abstentions: Mr. McMenamin & Mr. Wright. Absent: Mr. Hodgson & Mr. Peters.

Mr. Russell moved to approve Resolution 2020-14 memorializing the approval for a minor subdivision, as requested by Ziman Development Inc. of 15 N. Ocean Avenue. Mrs. Klose seconded that motion. With a vote in the affirmative, the resolution was approved as presented.

RESOLUTION OF THE LAND USE BOARD OF THE BOROUGH OF SURF CITY, COUNTY OF OCEAN,
STATE OF NEW JERSEY GRANTING MINOR SUBDIVISION APPROVAL TO ZIMAN DEVELOPMENT
INC. FOR PREMISES IDENTIFIED AS LOTS 3 AND 4, BLOCK 11.

WHEREAS, Ziman Development Incorporated (company) is the owner of Lots 3 and 4 in Block 11 and have standing to make the application.

WHEREAS, Michael Ziman was sworn and testified that he is the Vice President of the Company and represented that he has been authorized to make the foregoing application and is authorized, acting alone, to speak on behalf of the Company and to bind the Company.

WHEREAS, the applicant was represented by James S. Rabin, Esq.

WHEREAS, the applicant has applied to the Borough of Surf City Land Use Board for approval of a minor subdivision where two conforming lots exist, and two conforming lots are proposed with a 25-foot access easement to Lot 3. The applicant proposes moving the dividing line ten feet to the south to create two 60-foot-wide lots.

WHEREAS, the applicant amended the application to provide for a 25-foot-wide access easement across lot 4 which complies with the applicable ordinance.

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

1. Application,
2. Variance Plan prepared by Horn Tyson and Yoder dated 6/1/20,
3. Zoning Map,
4. Color Photos (4),
5. Deed dated 7/2/20
6. Board Engineer Review Letter dated 8/19/20.

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

WHEREAS, all interested parties were given an opportunity to be heard. An objector represented by counsel did testify against the relief sought.

WHEREAS, James D. Brzozowski, P.E., P.P. was sworn and qualified as an expert in planning.

WHEREAS, Mr. Brzozowski testified in favor of the granting of the relief requested in that two conforming lots would be created, and no variances nor waivers are requested.

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 the owner of the property 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 Board considered and determined that the application is properly heard as a Minor Sub-Division without variances or waivers.
5. The proposed lots meet the requirements of the borough ordinances.

NOW, THEREFORE, BE IT RESOLVED that the application for Minor Sub-Division without variances is hereby Granted subject to the forgoing conditions and findings of fact.

IT IS FURTHER RESOLVED that the applicant shall record an easement or corrective Deed in the Ocean County Clerk's Office providing for a 25-foot access easement.

IT IS FURTHER RESOLVED that the contents of the preamble are adopted and made part of this resolution.

IT IS FURTHER RESOLVED that the contents of the Board Engineer review letter are incorporated herein.

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 (ten) days of its passage.

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

Mr. TumSuden moved to approve Resolution 2020-15 acknowledging Ordinance 2020-07 to be substantially consistent with the Borough Master Plan. Mr. Russell seconded that motion. With a vote in the affirmative, the resolution was approved as presented.

WHEREAS, the Governing Body of the Borough of Surf City has requested the Land Use Board to review Ordinance 2020-07; and

WHEREAS, Ordinance 2020- 07 an Ordinance amending an Ordinance of the "Revised General Ordinances of the Borough of Surf City, County of Ocean, State of New Jersey, 2000" Chapter 30 entitled Zoning sections 30-11.2(i) & 30-15.6(c).

WHEREAS, the Land Use Board members have reviewed Ordinance 2020-07 at a public meeting on September 23, 2020; and

NOW, THEREFORE, BE IT RESOLVED that it is the finding of the Land Use Board of the Borough of Surf City that Ordinance 2020-07 is consistent with the intent and purpose of the procedures of the Land Use Board.

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

Stuart Snyder, attorney for Joseph Romano of Romano & Associates, LLC, was present to seek a variance for lot coverage. The lot area of 1515 Sunset Avenue, Block 78, Lot 3 is 3,375 square feet, where 4,000 square feet is required. Mr. Romano secured a building permit to add cantilevers and remove stairs. Mr. Snyder stated that lot coverage had been reduced. Mr. Romano was sworn in to attest to the conditions surrounding the work and the certificate of occupancy (CO). When Mr. Romano applied for the CO, the zoning officer issued a denial for occupancy. The denial was based on the determination that a zoning permit was required prior to the start of the project and was not applied for.

Mr. Hartney & Mr. Mannherz had questions about lot coverage. Through testimony, Mr. Romano stated at playroom had been added. Mr. Little specified that the project added an additional ten feet to the lot coverage and was de minimus.

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

Mr. Wright moved to approve the application. Mr. Mannherz seconded that motion. With a vote in the affirmative, the application was approved. Roll call vote reflected the following votes.

Mr. Hartney: While I've said at the beginning, this is certainly a long and winding road to get here. And in hearing the path that this application has taken to appear before this board, there are a number of things to consider. Considering, under the C-2 variance; it is a unique lot and would normally appear before this board as such. Under the C-1 variance; in listening to Mr. Romano's testimony, the evidence is sufficient and understanding that there were missteps, as the best way to characterize them, made in the process to get here. That in terms of the lot coverage and area, I would agree with Mr. Little's assessment and his testimony that ten square feet is de minimus, as over 3000 square feet. And one of the factors in our master plan, one of the goals of our master plan, is to improve the housing stock of the Borough. I think that this does certainly improve the housing stock in the Borough based upon Mr. Romano's testimony, of his experience in purchasing the house and based upon the evidence presented by the pictures that were provided as evidence for this application. In essence, any other remedy would be detrimental to both the applicant and the Borough. And so, I would vote yes for this application.

Mrs. Klose: I'm going to vote yes; I agree with everything that Chairman Hartney had said. But I would like to add one thing. And that is, I walk the dog on Sunset almost every day and I can say

that I would be around that street thinking that is such an anomaly and such an ugly house. So, I'm going with yes, I think it looks great. It just adds to the neighborhood.

Mr. Mannherz: I vote yes, as well. I concur with Mr. Hartney's comments. It is a big improvement to the existing home. According to Mr. Little, the ten foot over the original house is de minimis, I concur. I visited the site and in my humble opinion, there does not appear to be any negative impact on any of the neighbors and it is definitely an improvement to the community.

Mr. McMEnamin: First, when I was looking at this application and I thought that we were going to be reducing the coverage. But, apparently, we are increasing it. It looks like it is already over about 11.87 percent and then we are adding another ten square feet on top of that. It feels like it is more of a creeping violation. And there was a lot of talk about what people thought the measurements were, without any hard facts. For those reasons, I am going to vote no.

Mr. Russell: This is a tough one. As far as Surf City is concerned, lot coverage is sacred. And I have a tough time approving lot coverage, I always have. To make it short and sweet, I'm going to have to vote no on this.

Mr. TumSuden: This whole thing seems to be quite a mix up from the Building & Zoning Departments. There seems to be quite a bit of confusion concerning lot coverage. I am also going to vote no.

Mr. Wright: Yes, I agree with Mr. Hartney's testimony. I also feel sorry for Mr. Romano because the department he had to rely on here in town – kind of let him down and let us all down. So, I don't think he's the factor in the added coverage. It was something that was brought on early in his building process and it wasn't picked up by anybody. So, I think for ten square feet, we should just let it go. So, I vote, yes.

Abstentions: none. Absent: Mr. Hodgson, Mr. Hoover, & Mr. Peters.

Mr. Hartney called for any comments from the public. There were none.

Mr. Russell moved to pay the bills. Mrs. Klose 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, Mrs. Klose, Mr. Mannherz, Mr. McMEnamin, Mr. Russell, Mr. TumSuden & Mr. Wright. Nays: none. Abstentions: none. Absent: Mr. Hodgson, Mr. Hoover & Mr. Peters.

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

Borough Clerk/Administrator