

BOROUGH OF SURF CITY LAND USE BOARD  
Remote Meeting via Go To Meeting™  
February 24, 2021  
7:00 pm

Chairman Hartney called the meeting to order, all present joined him in saluting the Flag.

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

The Board Engineer, Frank Little, Jr. and the Board Attorney, Kevin Quinlan, were 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 the February 3, 2021 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 January 27, 2021 regular and reorganization minutes. Mr. TumSuden seconded the motion. With a vote in the affirmative the minutes were approved.

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

Mr. Russell moved to approve Resolution 2021-04. Mrs. Klose seconded the motion. With a vote in the affirmative the following was approved.

WHEREAS, the Governing Body of the Borough of Surf City has requested the Land Use Board to review Ordinance 2021-05; and

WHEREAS, Ordinance 2021-05 amends Section 30-6.4(B) and Section 30-7.4(B) entitled Zoning - Building Area & Dimensions revising minimum slab elevations; and

WHEREAS, the Land Use Board members have reviewed Ordinance 2021-05 at a public meeting on February 24, 2021; and

NOW, THEREFORE, BE IT RESOLVED that it is the finding of the Land Use Board of the Borough of Surf City that Ordinance 2021-05 is consistent with the intent and purpose of the procedures of the Borough Master Plan.

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

Mr. Russell moved to approve Resolution 2021-04. Mrs. Klose seconded the motion. With a vote in the affirmative the following was approved.

WHEREAS, the Governing Body of the Borough of Surf City has requested the Land Use Board to review Ordinance 2021-06; and

WHEREAS, Ordinance 2021-06 revising the Stormwater Control Chapter; and

WHEREAS, the Land Use Board members have reviewed Ordinance 2021-06 at a public meeting on February 24, 2021; and

NOW, THEREFORE, BE IT RESOLVED that it is the finding of the Land Use Board of the Borough of Surf City that Ordinance 2021-06 is consistent with the intent and purpose of the procedures of the Borough Master Plan.

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

Rich Visotcky, Esq. appeared before the Board for Steven and Lisa Forlano of 260 N. 15<sup>th</sup> Street, Block 77, Lot 6 to seek relief of the side yard setback for an elevator installation. The application was carried from the previous meeting to allow the applicant to submit completed architectural plans. Mr. Brearly reviewed the revised plans and provided testimony that the request was de minimus. There was discussion in relation to the cost and practicality of the proposed location of the elevator.

Mr. Hartney asked Mr. Brzozowski to reconcile this request in terms of the Master Plan. Mr. Brzozowski offered that an elevator installed in the rear yard places it closer to a neighboring property. He further explained that the neighbors next to the Forlano's have an oversized side yard to make up for the difference. Mr. Hartney reminded Mr. Brzozowski that the Board could not consider the neighboring properties outside of the Forlano ownership. Mr. Hartney also reaffirmed that the Borough Ordinances provided for relief for elevator units of the rear setback and lot coverage, up to thirty-six square feet.

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

The following members were in favor: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. McMenamain, Mr. Russell, Mr. TumSuden & Mr. Wright. Nays: none. Abstentions: none. Absent: Mr. Wachter.

Robert Riley, 254 N. 15<sup>th</sup> Street, stated that they were "perfectly fine" with the elevator.

Nick Caricato, 15 N. 15<sup>th</sup> Street, stated that the elevator would not impede safety.

Cheryl Pallante, 239 N. 15<sup>th</sup> Street, spoke in support of the proposed elevator location.

John DeMarco, 1413 Sunset Avenue, as the adjacent property owner he had no concerns for safety or aesthetics. He supported the project and recommended that the Board approve the proposal.

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

The following members were in favor: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. McMenamain, Mr. Russell, Mr. TumSuden & Mr. Wright. Nays: none. Abstentions: none. Absent: Mr. Wachter.

Mr. Mannherz moved to approve the application. Mr. Hoover seconded the motion. Roll call reflected the following votes.

Mr. Hartney: Listening to the public comment, it reminded me that many neighborhoods here in Surf City are populated with people like the Forlano's. They talk about how good their neighbors are and it is encouraging to hear. In light of the testimony provided by Mr. Brzozowski, Mr. Brearly and in light of the fact that the duty of this Board is to set aside the good neighbors people are and look at the application in terms of the facts that are before us, in the application and the body of law that governs it. Mr. Brearly spoke of other possibilities, that this is the most practical. Given that there are other possibilities and, in my opinion, Mr. Brzozowski was not able to hurdle the bar of advancing the Master Plan or the minimum of maintaining the Master Plan and Zoning Ordinances. And I believe that Ordinance 30 - 11.2(h) is clear in its plain language, that the only encroachment may be in a rear yard and the granting of variances for this application would be detrimental to the plan. And so, I vote no for this resolution.

Mr. Hodgson: I would like to agree with Mr. Hartney, I am going to vote no. It is not the duty of the town to remedy a house layout. We have a setback law in place for a reason, and that's why we maintain those setbacks throughout. Today, it's an elevator, I mean, we can make an argument for anything. But, the reason we have, the setbacks we have, are to maintain the masterplan at a town. So, I also vote no.

Mr. Hoover: I feel this is not a perfect situation, but it makes sense to me, to have the elevator where it is on the plans. And listening to all the neighbors and stuff, I believe it should be able to go where it says. So, I vote yes.

Mrs. Klose: Well, I'm sure that the place of the elevator is the optimum place. However, this is why we have the Master Plan. And I think it's still a detriment to the plan. I'm sorry, I'm voting no.

Mr. Mannherz: I vote, yes. I do not think that it's a detriment to the master plan based on Mr. Brzozowski's testimony from today and last month. Last month, he testified that the light, air and open space would not be adversely affected. Mr. Brearly has testified that this is the best, practical place for the elevator. It makes sense from a practical purpose to have the elevator doors open into a heated existing space, instead of outside. Yes, the ordinance does state that it can encroach the rear yard setback. That is ideal if a house is designed to accept that. I do not know how many people want to have the public tramping through their bedrooms if they need to use the elevator. If you take a look at the architectural drawings, the elevator shaft itself does not go higher than the lower roof of the house. As Mr. Brzozowski testified, it does not affect their rear yards at this time of the adjacent neighbors, which we had one of the neighbor's adjacent to the east side, testify in or give their opinion in a positive fashion. The Borough allows thirty-two square foot generator and air conditioner platforms to encroach into side yards. This elevator is proposed to be less than thirty-two square feet. So, for all those reasons, I think it's a good idea and I vote yes.

Mr. McMenemy: I would have to agree with Sandy Klose that it does not align with the Master Plan of the town. And with Mr. Hartney's interpretation of Ordinance 30-11.2(h). And also, I believe we had a similar situation last year with the Kennedy's. While it wasn't optimal, they moved the elevator to the rear of the house. So, I have to vote no.

Mr. Russell: We definitely have an encroachment. This proposal does affect our Master Plan and there are other options. This elevator can be relocated. And therefore, I vote no.

Mr. TumSuden: After listening to the testimony here and after reading the Master Plan, I also vote no.

Mr. Wright: I agree with everything Alan said and having worked with the first aids squad emergency last few years, the little distance that seems from a relocation to this location, getting someone out, it seems like the optimal situation where the prints show located. So I would vote yes.

Abstentions: none. Absent: Mr. Wachter. The application was denied; variances were not granted.

Harvey York, Esq. was present to represent Danielle Clark who holds POA for her mother Joan Monnig of 1511 Sunset Avenue. The matter was carried from the January meeting for the applicant to submit revised plans. Mr. York reminded the Board that the applicant dropped the request for additional variances. The home would be built to conform to all of the Borough zoning ordinances. There was a discussion confirming that the knee wall would conform to the Borough height limitations and the AC platforms would be reduced to one platform.

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

The following members were in favor: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. McMenamain, Mr. Russell, Mr. TumSuden & Mr. Wright. Nays: none. Abstentions: none. Absent: Mr. Wachter.

Cheryl Pallante, 239 N. 15<sup>th</sup> Street, stated that she has real concerns about the size of the house. Mr. Russell moved to close public comment. Mr. TumSuden seconded the motion. With a vote in the affirmative, public comment was closed.

The following members were in favor: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. McMenamain, Mr. Russell, Mr. TumSuden & Mr. Wright. Nays: none. Abstentions: none. Absent: Mr. Wachter.

Mr. Hoover moved to approve application. Mr. Wright seconded the motion. Roll call vote reflected the following.

Mr. Hartney: I vote yes for the motion to approve, as there are no variances necessary. It meets all the bulk requirements of the ordinances and it satisfies what we need to do for this Board.

Mr. Hodgson: I vote yes, there are no variances being requested. So I vote yes, as written.

Mr. Hoover: I vote yes. The applicant meets all of the requirements. I concur with Mr. Hartney.

Mrs. Klose: Yes, I'm going to vote yes. The existing non conformity was granted prior and the lot with the existing non conformity was granted prior. I'm happy that they are lowering the height and that there is only thirty-five prevent lot coverage. I'm sorry for the neighbor who thinks that they can put 7, 10, 12, 19 bedrooms in this house. But there's not much we can do about how many bedrooms are in the house when they conform to all the other regulations. So, I am voting yes.

Mr. Mannherz: I vote yes.

Mr. McMenamain: I vote yes for the same reason; due to the fact it conforms with all of the regulations.

Mr. Russell: I reluctantly vote yes too, because we have no control of how many bedrooms person puts in a home. This property, met all of the specifications and ordinances that are required by the town. So, I vote yes.

Mr. TumSuden: I vote yes. According to the testimony, the structure will meet all of the Borough Ordinances. So, I vote yes.

Mr. Wright: I vote yes in agreement with all of the Board members that have voted so far.

Abstentions: none. Absent: Mr. Wachter. The application was approved.

Mr. Russell moved to approve the bills. Mrs. Klose seconded the motion. With a vote in the affirmative, the bills were approved to be paid.

The following members were in favor: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. McMenammin, Mr. Russell, Mr. TumSuden & Mr. Wright. Nays: none. Abstentions: none. Absent: Mr. Wachter.

Mr. Russell moved to memorialize the approval for the Monnig-Clark application, 1511 Sunset Avenue. Mr. Mannherz seconded the motion. With a vote in the affirmative, the following was approved.

RESOLUTION OF THE LAND USE BOARD OF THE BOROUGH OF SURF  
CITY, COUNTY OF OCEAN, STATE OF NEW JERSEY GRANTING  
APPROVAL TO CONSTRUCT A SINGLE-FAMILY HOME ON AN  
UNDERSIZED LOT 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, Lot 2 on the official tax maps of the Borough of Surf City and has standing to make the application.

WHEREAS, the applicant was represented by Harvey L. York, Esq. of Novins, York, Jacobus and Dooley.

WHEREAS, the applicant has applied to the Borough of Surf City Land Use Board for approval 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 11/19/20 with last revised 2/8/21,
- A3. Architectural Plans prepared by Walters Architecture dated 10/17/18 last revised 2/6/21,
- A4. Color Photos (12),
- A5. Enlargement of Variance Plan.
- A6. Zoning Permit Application dated 11/21/20. A-7.  
Tax Map - Sheet 11
- B1. Board Engineer Letter dated 1/11/21, B2.  
Board Engineer Letter dated 2/16/21.

WHEREAS, the site is located 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 was the subject of a prior approval in Resolution 2020-05 wherein the following variances were granted:
  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.
5. The Application was heard at the January 27, 2021 regular meeting of the Surf City Land Use Board at which time the Applicant moved to amend the application to remove all variance requests. That hearing was continued until the February 24, 2021 meeting wherein same proceeded without variance request.
6. Jennifer White, P. E. of Najarian Associates was sworn and qualified an expert in engineering.
7. Ms. White testified that the plans would be revised to depict one air conditioning platform which shall conform to the ordinance.
8. Ms. White 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.
9. Ms. White further testified that as amended the Applicant is not seeking nor requires any variances whereas same complies with all bulk requirements.
10. Applicant shall comply with all applicable Flood Zone regulations.

NOW, THEREFORE, BE IT RESOLVED that the Board grants approval for the construction of a single-family home on an undersized lot in area and width which shall comply with all other applicable zoning ordinances.

IT IS FURTHER RESOLVED that the comments and conditions set forth in the Board Engineer's Review Letter dated January 16, 2021 are incorporated herein.

IT IS FURTHER RESOLVED that the Plans shall be amended to depict an air conditioning platform in compliance with the ordinance.

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;
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,
6. Compliance with Flood Zone Regulations, and
7. 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. Hartney, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. McMenemy, Mr. Russell, Mr. TumSuden & Mr. Wright. Nays: none. Abstentions: none. Absent: Mr. Wachter.

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

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

Respectfully submitted,



Christine Hannemann, RMC/CMR/QPA

Borough Clerk/Administrator