

BOROUGH OF SURF CITY LAND USE BOARD
Remote Meeting via Go To Meeting™
March 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, Paul Hoover, Sandra Klose, Alan Mannherz, James Russell, & David Wright. Absent: Gavin Hodgson, John McMenamin & Emil TumSuden. George Wachter entered the remote meeting during the OPMA statement.

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 February 24, 2021 regular meeting minutes. Mrs. Klose seconded the motion. With a vote in the affirmative the minutes were approved.

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

Mr. Mannherz moved to approve Resolution 2021-06. Mr. Hoover 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 2021-07; and

WHEREAS, Ordinance 2021-07 revising pool equipment provisions and slab elevation requirements in Section 11.2(l), Section 6.4(b) and Section 7.4(b) of Chapter 30 entitled Zoning; and

WHEREAS, the Land Use Board members have reviewed Ordinance 2021-07 at a public meeting on March 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 2021-07 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. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. Wachter & Mr. Wright. Nays: none. Abstentions: none. Absent: Mr. Hodgson, Mr. McMenemy & Mr. TumSuden.

Mrs. Klose moved to approve Resolution 2021-07 memorializing the denial for Steven and Lisa Forlano of 260 N. 15th Street, Block 77, Lot 6. Mr. Russell 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 DENYING VARIANCE APPROVAL TO STEVEN AND LISA FORLANO FOR PREMISES IDENTIFIED AS LOT 6, BLOCK 77.

WHEREAS, Steven and Lisa Forlano are the owners of the premises identified as Block 77, 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 P. Visotcky, Esq.

WHEREAS, the applicant has applied to the Borough of Surf City Land Use Board for a variance for side yard setback where 10 ft. is required and 5.2 ft. is proposed to accommodate the construction of a residential elevator.

WHEREAS, an application and supporting documents had been submitted to the Board and deemed complete by the Board Engineer and Attorney.

WHEREAS, proof of service as required by law upon appropriate property owners and governmental bodies has been provided and determined to be in proper order; and

WHEREAS, required Notice was published in the official newspaper of the Borough advising of the nature, time and date of the application and satisfactory proof of same provided; and

WHEREAS, this matter was initially heard at the January 27, 2021 regular meeting of the Surf City Land Use Board. During that hearing the Board raised concerns regarding the architectural plans which did not show the entire floor plans. The matter was carried until the February 24, 2021 regular meeting to afford the Applicant the opportunity to submit complete architectural plans. An announcement was made at the January 27, 2021 meeting that no further notice would be provided.

WHEREAS, the Applicant submitted revised architectural plans prior to the February 24, 2021 meeting.

WHEREAS, In support of the application, the following exhibits were offered and entered into evidence:

A-I Application.

A-2 Variance Plan prepared by Horn Tyson and Yoder dated 9/21/20. A-3 Architectural Plans prepared by Craig W. Brearley dated 11/5/20.

A-4 Color photos (4).

A-5 Architectural plans prepared by Craig W. Brearley dated 11/5/20 and revised on 2/4/21.

B-1 Board Engineer Letters dated 1/12/21, 2/16/21 (revised 2/19/21).

WHEREAS Craig W. Brearley, AIA. was sworn and qualified as an expert in architecture.

WHEREAS Mr. Brearley testified in support of the Application.

WHEREAS Mr. Brearley, when questioned as to whether the elevator would be relocated in the rear yard area as permitted by ordinance, opined that the cost to relocate the elevator to the rear yard could be accommodated and would cost 'slightly more' than the location proposed.

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

WHEREAS Mr. Brzozowski testified in support of the Application.

WHEREAS, the hearing was opened to the public and all interested parties were given the 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 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 Board takes notice that the adjacent properties are fully developed and there is no opportunity to acquire additional property to negate the need for a variance.
5. The Board finds that the applicant failed to satisfy his burden of proof under N.J.S.A. 40:55D-70(c) in that the applicant failed to offer credible testimony that the purpose of the Land Use Law would be advanced by deviation from the zoning ordinance requirement, that the variances could be granted without substantial detriment to the public

good, that the benefits of granting the variances would substantially outweigh the detriment, nor that granting of the variances will not substantially impair the purpose and intent of the zone plan and/or zoning ordinances of the Borough of Surf City.

6. The Board finds that the testimony of the Craig Brearly, AIA that the cost associated with locating the elevator in the rear yard, as permitted by ordinance, would be 'slightly more' than the proposed location does not support granting the variance.

7. The Board finds that the proposed side yard setback would be detrimental and would negatively impact open air, light and view of the surrounding properties. This being a fundamental purpose of the side yard setback requirements. The Board finds this to be a specific and substantial detriment to the public good.

8. The Board finds that the ordinance specifically permits location of elevators in the rear yard area and sufficient evidence has not been submitted to support the granting of a variance from the ordinance.

9. The Board finds that locating the elevator in the rear yard is a better zoning option and would not require a variance.

10. The Board has reviewed and adopts the engineering reports of Owen Little and Associates dated February 16, 2021 and revised February 19, 2021 which comments therein shall be incorporated herein as if set forth in length in this resolution.

NOW THEREFORE BE IT RESOLVED by the Land Use Board of the Borough of surf City, County of Ocean, State of New Jersey that the application for variance relief is hereby denied.

NOW THEREFORE BE IT RESOLVED that notification of this Resolution denying the relief requested be published in official newspaper of the Borough of Surf City by the Land Use Board Clerk.

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

Jim Raban, Esq. appeared before the Board for FHW Land Acquisitions, LLC of 1709 Long Beach Boulevard, Block 44, Lots 9 and 10 approval for Preliminary and Final Site Plan review. There was discussion in relation to the location of the HVAC, the amount of parking spaces provided, and proposed lot size.

The variance for lot coverage was rescinded by Mr. Hodgson from sixty-six square feet to the original proposed dimensions of sixty-four and one-half square feet.

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

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

There were no comments.

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

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

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

Mr. Hartney: Yes, on the motion to approve. I find that, in this application, one of the struggles that we have in all the applications is parking. This is one of the ones that gets the closest to the actual number of required parking spaces, which is a rarity in the borough. The reduced size is actually a benefit because it puts more parking as Mr. Little opined, it puts more parking onto the lot. Having the parking spaces that twenty foot reduces the number of parking spaces, which would be detrimental to the zone plan. The application, in my opinion, is doable with the variance.

Mr. Hoover: I vote yes, too. I believe that the lot sizes and the parking at nine by eighteen is more that appropriate and as discussed by the township engineer, that most other towns use this nine by eighteen size. I also believe this would be an upgrade and a benefit to the town, this project. I vote yes.

Mrs. Klose: I will vote yes, as well. I agree with Mr. Hoover that I don't see a big problem with lot coverage or with parking. I vote yes.

Mr. Mannherz: I vote yes for the reasons that have been previously states. It's a rare opportunity when commercial and residential properties can also have some off-street parking, appreciation to the application, and the professionals were trying to fit in safely as many parking spaces that can be put in. I think the new structure will conform to the borough's masterplan, and it is a good thing that surf city is still so much alive and well with business opportunities as well as residential properties.

Mr. Russell: I can see that the benefits far out way the detriments. The building is a bit of an eyesore, it's been there for years, this is a vast improvement. A point of interest is always in order, because this lot or this building is on a county road. The Ocean County Planning Board has already approved this proposal and because of all of these factors, I too, vote yes.

Mr. Wachter: I vote yes.

Mr. Wright: I don't know what I can add to what has been said, so all I'll say is yes.

Abstentions: none. Absent: Mr. Hodgson, Mr. McMenamín & Mr. TumSuden.

Thomas Miller appeared before the Board for self-representation of 111 N. 3rd Street, Block 14, Lot 9 to seek relief for bulk variance. There was a discussion in relation to the size of the proposed deck and raising of the home.

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

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

There were no comments.

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. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. Wachter & Mr. Wright. Nays: none. Abstentions: none. Absent: Mr. Hodgson, Mr. McMenamín & Mr. TumSuden.

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

Mr. Hartney: This application is one of those that are very difficult, because of the pre-existing conditions, which are there, and we can't do anything about. It comes to coming down to the best solution possible, excusing it because they can't raise the house and not be able to get in and out of it. I believe that the application presented before us this evening is a reasonable plan that doesn't exacerbate on the non-conformities on the westerly side in with the house on the easterly side in terms of the desk. The applicant has been testified that there will be no livable space underneath, so it doesn't increase the intensity of the use of the property. Therefore, it's the best solution that, I think, we can come up with this.

Mr. Hoover: I vote yes, and no, I'm not sure I could add anything to what Mr. Hartney just said, so I concur with what he just said, yes.

Mrs. Klose: I know this house. It's one of the last cutest houses in Surf City. I love it. I know you want to raise it, my question was: how are you going to get into it if you don't have steps. I agree with Peter, I'm happy you're keeping the house. I love it. It's going to be nice to walk by when I go to Scojo's and get breakfast when they're ready for me. Thank you. I vote yes.

Mr. Mannherz: I vote yes, for reasons that have already been stated. I believe the applicant has tried to work within the ordinances of the Borough. And it's going to be an improvement and much more of a utility for the family, so yes.

Mr. Russell: I think Mr. Hartney, our Chairman, put it very well, expressed exactly what most of us feel. Quite naturally, I vote yes also.

Mr. Wachter: I vote yes.

Mr. Wright: I concur with everything formerly said, so I vote yes.

Abstentions: none. Absent: Mr. Hodgson, Mr. McMenamin & Mr. TumSuden.

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

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

Respectfully submitted,



Christine Hannemann, RMC/CMR/QPA

Borough Clerk/Administrator