

BOROUGH OF SURF CITY LAND USE BOARD
Remote Meeting via Go To Meeting™
January 27, 2021
7:00 pm

The meeting was called to order. Kevin Quinlan, Esq. administered the oath of office to Paul Hoover, Sandra Klose, John McMEnamin, James Russell, and George Wachter.

All present joined Chairman Hartney in saluting the Flag.

Roll call reflected the following members to be present: Peter Hartney, Gavin Hodgson, Paul Hoover, Sandra Klose, Alan Mannherz, James Russell, George Wachter & David Wright. Absent: none. Mr. McMEnamin and Mr. TumSuden were present but experiencing technical difficulties during roll call.

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 December 10, 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.

Counselor Quinlan opened the nomination for the position of Chairman. Mr. Russell nominated Mr. Hartney. Mrs. Klose seconded the motion. With a vote in the affirmative, Mr. Hartney was nominated for Chairman

Roll vote reflected the following in favor: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. Wachter & Mr. Wright. Nays: none. Abstentions: none. Absent: none. Mr. McMEnamin and Mr. TumSuden were still experiencing technical difficulties.

Chairman Hartney opened the nomination for the position of Vice Chairman. Mr. Russell nominated Mr. Mannherz. Mrs. Klose seconded motion. With a vote in the affirmative, Mr. Mannherz was nominated for Vice Chairman.

Roll vote reflected the following in favor: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. Wachter & Mr. Wright. Nays: none. Abstentions: none. Absent: none. Mr. McMEnamin and Mr. TumSuden were still experiencing technical difficulties.

Chairman Hartney opened the nomination for the position of Board Secretary. Mr. Mannherz nominated Mrs. Klose. Mr. Russell seconded the motion. With a vote in the affirmative, Mrs. Klose was elected to be the Board Secretary.

Roll vote reflected the following in favor: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. Wachter & Mr. Wright. Nays: none. Abstentions: none. Absent: none. Mr. McMEnamin and Mr. TumSuden were still experiencing technical difficulties.

Mr. Russell moved to approve Resolution 2021-02. Mrs. Klose seconded that motion. With a vote in the affirmative, the following resolution was approved.

WHEREAS, pursuant to the provisions of N.J.S.A. 19:44A-20.5 the Borough of Surf City Land Use Board will need the following professional services as non-fair and open contracts:

Land Use Board Attorney
Land Use Board Engineer; and

WHEREAS, the Chief Financial Officer has determined and certified that the value of the acquisition may exceed \$17,500, the maximum amount of the contract to be awarded under this resolution is set forth in the 2021 Municipal Budget; and

WHEREAS, funds are available for this purpose as certified by the Chief Financial Officer; and

WHEREAS, the listed individuals have submitted a proposal indicating they will provide the related services per their schedule of rates as attached or included in the agreement; and

WHEREAS, the listed individuals have completed and submitted a Business Entity Disclosure Certification. This certifies that they have not made any reportable contributions to a political or candidate committee in the Borough of Surf City in the previous one year. Also, that the contract will prohibit them from making any reportable contributions through the term of the contract, and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) authorizes the award of contracts for professional services without competitive bids and requires that the resolution and contracts for each professional be made available for public inspection.

NOW, THEREFORE, BE IT RESOLVED by The Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey, as follows:

1. That the following professionals be appointed for the Land Use Board of the Borough of Surf City for a term of one (1) year, commencing January 1, 2021 and ending December 31, 2021.

Kevin Quinlan, Esq. - Land Use Board Attorney
Frank Little and the firm of Owen Little - Land Use Board Engineer; and

2. The Board Chair and the Board Secretary are hereby authorized and directed to execute the attached agreements with said professionals.

3. These contracts are without competitive bidding and are awarded as a professional service in accordance with N.J.S.A. 40A:11-5(1) (a) (i) of the Local Public Contracts Law because it is for services to be performed by a person(s) authorized to practice a recognized profession.

4. A notice of this action shall be printed once in the official newspaper of the Borough of Surf City

5. This resolution takes effect January 1, 2021.

6. A certified copy of this resolution shall be provided by the Clerk of the Board to the Chief Financial Officer and to each professional.

7. That a certificate of availability of funds executed by the Chief Financial Officer is annexed hereto.

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

Mrs. Klose moved to approve Resolution 2021-01. Mr. Russell seconded that motion. With a vote in the affirmative, the following resolution was approved.

WHEREAS, the Open Public Meetings Act is the law of the State of New Jersey. It provides for adequate public notice to be given for meetings of the Land Use Board of the Borough of Surf City; and

WHEREAS, the Board is required to adopt a resolution to schedule regular meetings. the Board wishes to adopt, without limitation, its basic rules and regulations by this Resolution.

NOW, THEREFORE, BE IT RESOLVED the regular scheduled meetings of the Land Use Board of the Borough of Surf City shall be held at 7:00 p.m. on the fourth Wednesday of each month, except in cases of legal holidays or for other reasons when the meeting date may be hereinafter set forth. The public may only participate at such times as set forth in the agenda of the meeting or at the discretion of the presiding officer or chairperson. All meetings will be conducted on a remote platform called GoTo Meeting. Further notice will be given in the event in person meetings are permitted to resume. All attendees are asked to mute their phones until the open public comment portion of the meeting.

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The Access Code for all regular Land Use Board Meetings: 763-767-973

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Wednesday, February 24, 2021 Wednesday, March 24, 2021

Wednesday, April 28, 2021 Wednesday, May 26, 2021

Wednesday, June 23, 2021 Wednesday, July 28, 2021

Wednesday, August 25, 2021 Wednesday, September 22, 2021

Wednesday, October 27, 2021 Wednesday, November 24, 2021

Wednesday, December 22, 2021

Pursuant to this Resolution, the following dates for meetings shall be hereby adopted:

BE IT FURTHER RESOLVED that each applicant submit an application, all exhibits and documentation in PDF format to be posted on the Borough website for public participation.

BE IT FURTHER RESOLVED that the Land Use Board meetings shall adjourn no later than 10:30 p.m. with no further testimony being taken or other business conducted unless ordered at the discretion of the Board.

BE IT FURTHER RESOLVED that in the event regular public meetings and/or additional meetings must be held at a date, time and place other than as set forth herein due to unforeseen circumstances; the same shall be held at a date, time and place as set by the Chairperson.

BE IT FURTHER RESOLVED that each applicant on the agenda that is scheduled shall have a maximum amount of time available to present testimony, witnesses and other proofs in support of its case. This shall include the comments of objectors or supporters. The maximum amount of time is of one (1) hour for each meeting the applicant appears on the agenda. The one (1) hour rule shall be enforced by the Board with any deviation allowed being solely in the discretion of the Board.

BE IT FURTHER RESOLVED that notice is hereby given that all forms in relation to the Initial Submission Checklist are available to the public for use in making application to the Board. Said related forms and sheets are offered as an aid to the applicant with the understanding that same do not represent the ordinances of the Borough in entirety. The complete legal burden is of the applicant; that it is still incumbent upon the applicant and/or his or her representatives to apply for and present their case appropriately pursuant to the rules and applicable ordinances and law.

BE IT FURTHER RESOLVED that the Board requires that all applications and appropriate plans in support thereof be filed with the Board Clerk as set forth in the Land Development Ordinance prior to any regular Board meeting and hearing. The Board Clerk has the discretion and authority to advise the applicant of a specific hearing date to appear before the Board provided there has been a determination by the Board Engineer and Board Attorney that the application and plans are deemed complete. The Board Clerk will forward all completed applications prior to the hearing date.

BE IT FURTHER RESOLVED that an informal review of concepts of plans for development as permitted by law may be requested by a developer and may be scheduled by the Board Clerk for a Board meeting at a date and time at the discretion of the Chairperson.

BE IT FURTHER RESOLVED Beach Haven Times, The Asbury Park Press and Atlantic City Press are hereby designated as the official newspapers to provide notice on matters of the Board.

This Resolution shall be published & posted not later than seven (7) days after its adoption, as required by law.

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

Mr. Russell moved to approve the October 28, 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. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, & Mr. Wright. Nays: none. Abstentions: Mr. Wachter. Absent: none. Mr. McMenamain and Mr. TumSuden were still experiencing technical difficulties.

Mr. Russell moved to approve Resolution 2021-03. Mrs. Klose seconded that motion. With a vote in the affirmative, the following resolution was approved.

WHEREAS, the Governing Body of the Borough of Surf City has requested the Land Use Board to review Ordinance 2021-01; and

WHEREAS, Ordinance 2021-01 amending Section 11.1 (I) of Chapter 30 entitled Zoning to provide for open guards and rails to be permitted for decks that exceed maximum building heights; and

WHEREAS, the Land Use Board members have reviewed Ordinance 2021-01 at a public meeting on January 27, 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 2021-01 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. Russell, Mr. Wachter & Mr. Wright. Nays: none. Abstentions: none. Absent: none. Mr. McMenamain and Mr. TumSuden were still experiencing technical difficulties.

Rich Visotcky, Esq. was present to represent Steven and Lisa Forlano of 260 N, 15th Street, Block 77, Lot 6 and to seek relief of the side yard setback. The couple would like to install an elevator on the east side of the property within the ten-foot setback. John Brzozowski, P.P., P.E testified that the elevator would encroach the side yard setback by 5.2 feet with an area of 29.3 square feet. Mr. Brzozowski claimed that the proposed location was the most logical spot.

Mr. Hartney reference the Borough Ordinance that provides for elevators to encroach the rear setback. Mr. Mannherz pointed out that there was a discrepancy in lot coverage certifications between the variance and architectural plans.

Craig Brearly, licensed NJ architect was sworn in to address the lot coverage and overall layout of the house. He testified that the lot coverage would be adjusted on the architectural plans to the site plan.

Mr. Hodgson highlighted that there had been the photographs submitted reflected decks on the home, however, the architectural plans did not reflect the rear decks. He went on further to explain that the argument that the applicant was presenting was the inability to locate the elevator in the rear of the property and the ability to see that argument on the plans.

Mr. Forlano was sworn in, his testimony was inaudible at times.

Mr. Visotcky requested that the Board consider to carry the application to submit architectural plans with the agreed revisions. Mr. Mannherz moved to approve the request. Mr. Hodgson seconded the motion. With a vote in the affirmative, the request to carry was approved, no further notice is required.

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

Danielle Clark applied, by Power of Attorney, for Joan Quigley of 1511 Sunset Avenue seeking relief for lot coverage, height, frontage, and area. She was represented by Harvey York, Esq. The lot is a preexisting nonconformity with a prior resolution of approval, memorialized at the February 26, 2020 regular meeting. The applicant submitted a building permit outside of the terms of the approved resolution, referring them to the Land Use Board to appeal. Mr. York contended that Board approval was not required, citing cases from the Cox Manual. Counselor Quinlan maintained his position that the applicant would need to provide proper notice and seek an additional variance. He explained that the Board could enforce the prior approval.

Jennifer White, P.E., was sworn in and testified to the existing and proposed conditions of the property. Mr. Hartney inquired about the first floor BFE. Mr. Hodgson inquired about the height of the buildings on the surrounding properties and within town. Mr. Mannherz called attention to the fact the knee wall was not permitted, as per the prior Board approval.

Nicholas Graviano, PP, AICP, JD, was sworn in to testify the existing and proposed conditions of the property. He stated that no hardship was required to approve the request.

Board members raised questions about lot coverage, height and density.

Michael Clark was sworn in.

Mr. Mannherz moved to provide relief for lot frontage and area. Mr. Hoover seconded that motion. A vote in the affirmative reflected the following votes.

Hartney: In looking at this at this application, at first, I thought of this as of an intensification of use. It does remove a pre-existing duplex from the property. While there was no professional testimony provided on the negative criteria, it appears to me that it does address the zoning plan. The size of the bedrooms is sufficient, so they don't increase the intensification of use, in my opinion. It meets all the other requirements as noted with the additions and changes we made. So, I say yes.

Hodgson: Given the reasons that Mr. Hartney highlighted, it doesn't increase existing setbacks. It is conforming and manages to remove the existing non-conformity of the duplex. It conforms to the Master Plan and what we are trying to do in the town. I vote yes.

Hoover: I vote yes for the same reasons that the gentleman before me mentioned. It meets all of the criteria: setbacks, the height and the removal of the duplex. I believe it will improve the aesthetics of the neighborhood.

Mannherz: I vote yes for the reasons that have been so eloquently put forth by the prior members voting.

McMenamin: I vote yes for the same reasons.

Russell: I vote yes for all of the reasons previously stated.

TumSuden: I vote yes, the plans submitted the proper setbacks. Unfortunately, they can't do anything bigger with the limited lot size.

Wright: I vote yes also. I agree with Mr. Hodgson. I hope this doesn't set a precedent for the densities that are being proposed as we go further down the road. How many bedrooms can be fit in a 50 x 100 lot? I am worried the about parking. Since it meets all the other criteria, I vote yes.

Abstentions: none. Absent: none.

Mr. Russell 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. McMenamin, Mr. Russell, Mr. TumSuden, Mr. Wachter & Mr. Wright. Nays: none. Abstentions: none. Absent: none.

Mr. Hoover 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