

BOROUGH OF SURF CITY LAND USE BOARD  
Remote Meeting via Go To Meeting™  
April 28, 2021  
7:00 pm

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

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

The Board Engineer, Frank Little, Jr. and the Board Attorney, Kevin Quinlan, were also 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. Hoover moved to approve the March 24, 2021 regular meeting minutes. Mr. Mannherz seconded the motion. With a vote in the affirmative, the minutes were approved.

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

Mr. Wright moved to approve Resolution 2021-10. Mr. TumSuden 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 2021-10; and

WHEREAS, Ordinance 2021-10 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 2021-08 at a public meeting on April 28, 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 2021-08 is consistent with the intent and purpose of the procedures of the Borough Master Plan.

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mr. Mannherz, Mr. McMenamin, Mr. TumSuden & Mr. Wright. Absent: Mrs. Klose, Mr. Russell & Mr. Wachter.

Mr. TumSuden moved to approve Resolution 2021-11. 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 2021-08; and

WHEREAS, Ordinance 2021-08 establishing Chapter 15 entitled “Sale of Cannabis Prohibited”; and

WHEREAS, the Land Use Board members have reviewed Ordinance 2021-08 at a public meeting on April 28, 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 2021-08 is consistent with the intent and purpose of the procedures of the Borough Master Plan.

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

Mr. Wright moved to approve Resolution 2021-09, memorializing the approval for Tom Miller of 111 N. 3rd Street, Block 14, Lot 9, 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 VARIANCE APPROVAL TO THOMAS F. MILLER FOR PREMISES IDENTIFIED AS LOT 9, BLOCK 14.

WHEREAS, Thomas F. Miller is the owner of the premises identified as Block 14, Lot 9 on the official tax maps of the Borough of Surf City and has standing to make the application.

WHEREAS, the applicant was not represented by legal counsel.

WHEREAS, the applicant has applied to the Borough of Surf City Land Use Board for variances to construct front and rear decks on the subject property along with a staircase.

WHEREAS, the following variances are required;

1. Lot area of 3,000 square feet where 5,000 square feet is required.\*
2. Lot frontage of 30 feet where 50 feet is required.\*
3. Side yard setback of 2.8 feet where 5 feet is required.\*\*
4. Side yard setback of 8.6 feet where 10 feet is required.\*\*

\*denotes a pre-existing non-conformity which is not intensified by the proposed development.

\*\*the proposed side yard setback for the decks while consistent with the pre-existing building setback represents an expansion of 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 Gravatt Consulting Group dated 1/5/21.

A-3 Color Photos (4).

A-4 Zoning Permit Denial.

B-1 Board Engineer Review Letter dated 3/16/21.

The foregoing exhibits being marked and admitted into evidence.

WHEREAS, Thomas F. Miller was sworn and testified that he is the owner of the subject property.

WHEREAS, Mr. Miller testified that there are no internal stairs necessitating the provision of an exterior means of access.

WHEREAS, Mr. Miller testified the plans would be amended to identify the building coverage confirming no variance for lot coverage is required.

WHEREAS, Mr. Miller testified that the chimney and shed would be removed and the plan revised to reflect same.

WHEREAS, Mr. Miller testified that the ground floor would be used for storage only and not contain living space.

WHEREAS, David Leonetti was sworn and testified that he is the owner of LBI House Raising.

WHEREAS, Mr. Leonetti testified as to the proposed development and the necessity of locating the decks and stairs as proposed.

WHEREAS, the hearing was opened to the public and all interested parties were given the opportunity to be heard. John Gausz was sworn and testified that he is a neighbor to the subject property and testified in support 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 have been provided and determined to be in proper order.
4. The witness offered credible testimony that the Board finds satisfies the negative criteria in that the 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.
5. The Board further finds that the increases in the pre-existing non-conformities do not significantly impact open air and light in that they do not extend any further than the existing structure.

NOW THEREFORE BE IT RESOLVED that the following variance are hereby granted.

1. Lot area of 3,000 square feet where 5,000 square feet is required.
2. Lot frontage of 30 feet where 50 feet is required.
3. Side yard setback of 2.8 feet where 5 feet is required.
4. Side yard setback of 8.6 feet where 10 feet is required.

IT IS FURTHER RESOLVED that the contents of the preamble and board engineer review letter dated March 16, 2021 is adopted and made part of this resolution; and

IT IS FURTHER RESOLVED that the applicant shall submit a revised variance plan which identifies the lot coverage and removal of the shed and chimney.

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 call reflected the following in the affirmative: Mr. Hartney, Mr. Hoover, Mr. Mannherz, Mr. McMenamin & Mr. Wright. Nays: none. Abstained: Mr. Hodgson & Mr. TumSuden. Absent: Mrs. Klose, Mr. Russell & Mr. Wachter

Robert Rue, Esq. was present to represent Todd Kostrub of 1719 Long Beach Boulevard, Block 44, Lot 12 for Special "D" Variance. There was discussion in relation to the availability of digital plans. Board Attorney Quinlan advised that Borough Hall is open, therefore all documents have been available to the public.

The applicant proposed to raise the existing structure 7.3 feet in order to comply with FEMA requirements, as well as remove the existing deck and shed. The applicant also proposed new decks, stairs, and outdoor showers. The existing duplex is not a permitted use on the existing lot size, as well as the construction of decks may be considered an expansion of a non-conforming use. A variance is required for the proposed front yard setback, as well as, the proposed side yard setback.

Mr. Wright moved to open public comment. Mr. Hoover seconded the motion. With a vote in the affirmative, public comment was open. The vote reflected the following ayes: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mr. Mannherz, Mr. McMenemy, Mr. TumSuden & Mr. Wright. Nays: none. Abstain: none. Absent: Mrs. Klose, Mr. Russell & Mr. Wachter. There were no comments. Mr. Wright moved to close public comment. Mr. TumSuden seconded the motion. With a vote in the affirmative, public comment was closed. The vote reflected the following ayes: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mr. Mannherz, Mr. McMenemy, Mr. TumSuden & Mr. Wright. Nays: none. Abstain: none. Absent: Mrs. Klose, Mr. Russell & Mr. Wachter.

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

Mr. Hartney: In terms of this application, the raising of these pre-existing non-conforming, that movement does decrease in pre-existing non-conformities. The applicant has testified that it will not be an increase in testification of use. Increased land area, which still covers lot coverage, which still falls under the maximum allowed, is to facilitate the raising of the structure. The addition of the bathroom that Mr. Brzozowski and Mr. Little have both testified that it is within the setbacks of the Borough that proposed the shower outside. There is no impact upon our ordinances, or a Master Plan and it improves the property which is a goal of the Master Plan to improve the existing housing stock by raising it. I vote yes.

Mr. Hodgson: I vote yes for the reasons that Mr. Hartney brought forth. I think it's going to be a positive impact on the town.

Mr. Hoover: I think this is in line with the Master Plan. It will bring the house above flood, make an overall improvement for the property, and also increase the parking for the property. I vote yes.

Mr. Mannherz: I vote yes. I concur with Mr. Hartney's comments, as well as the testimony of the witnesses. Also, for the safety, flood, and storage abilities for the raising the property. And, yes it will definitely be an improvement.

Mr. McMEnamin: I'm going to vote no for the following issues. I think it's a non-conforming structure, a non-conforming use, on a non-conforming lot. My biggest concern is the location of that stair tower, that fifty square feet. I think the plans could have been altered a bit to bring more into compliance by moving it a bit North. So, we didn't encroach on the South side of the property line. I vote no.

Mr. TumSuden: I vote yes for previous stated reasons.

Mr. Wright: I vote yes with the testimony that has been presented before me.

Abstentions: none. Nays: none. Absent: Mrs. Klose, Mr. Russell, & Mr. Wachter.

There were no bills to be paid.

Mr. Wright moved to adjourn the meeting. Mr. TumSuden seconded the motion. With a vote in the affirmative, the meeting was adjourned. The vote reflected the following ayes: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mr. Mannherz, Mr. McMEnamin, Mr. TumSuden & Mr. Wright. Nays: none. Abstain: none. Absent: Mrs. Klose, Mr. Russell & Mr. Wachter.

Respectfully submitted,



Christine Hannemann, RMC/CMR/QPA

Borough Clerk/Administrator