

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

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 June 10, 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.

Mrs. Klose moved to approve the May 26, 2021 regular meeting minutes. Mr. Russell 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, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. TumSuden, Mr. Wachter & Mr. Wright. Nays: none. Abstained: none. Absent: Mr. Hodgson & Mr. McMenamin.

Mr. Russell moved to approve Resolution 2021-15, memorializing the denial for Glenn and Virginia Friedman of 23 N. 16<sup>th</sup> Street, Block 43, Lot 9. Mrs. Klose seconded the motion. With a vote in the affirmative, the following was approved.

WHEREAS, Glen and Virginia Friedman are the owners of the premises identified as Block 43, Lot 9 on the official tax maps of the Borough of Surf City and have standing to make the application.

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

WHEREAS, the applicant has applied to the Borough of Surf City Land Use Board for a variance for rear yard setback for a waterfall feature where 5 feet is required, and 4 feet is proposed.

WHEREAS, an application and supporting documents had been submitted to the Board and deemed complete by the Board's 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, the following exhibits were offered and entered into evidence:

- A-1 Application.
- A-2 Variance Plan prepared by Ten10 Architecture dated 4/1/21 with no revisions.
- A-3 Tax Map.
- A-4 Color photos (4).
- B-1 Board Engineer Letters dated 5/14/21.

WHEREAS Daniel Wheaton, AIA, P.P., was sworn and qualified as an expert in planning. Mr. Wheaton, testified in favor of the Application.

WHEREAS Mr. Wheaton testified as follows:

1. There are existing non-conformities as follows:
  - a. Minimum lot area where 5,000 square feet is required and 4,000 square feet is existing.
  - b. Minimum lot frontage of 50 feet is required and 40 feet is existing.

Mr. Wheaton testified that the pre-existing non-conformities are not being expanded.

2. The proposed installation of the waterfall feature would not impact surrounding properties in regards to open air and light.
3. That the granting of the variance can be granted without substantial detriment to the zone plan, ordinances and master plan of the Borough.
4. The Variance Plan zoning table incorrectly identifies a lot depth of 80 foot where 100 foot is required. The existing lot depth is 100 foot as shown on the tax map.

WHEREAS John Kline of Kline Brothers, LLC was sworn and testified as follows:

1. The waterfall feature would be approximately 36 inches long, 30 inches wide and 33 feet in height.
2. That the pool could have been located in such a manner that a variance was not required.

WHEREAS, the hearing was opened to the public, and all interested parties were given

the opportunity to be heard. No interested parties spoke.

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 witnesses establishes that the conditions necessitating a variance were self-created and not a hardship due to the uniqueness of the property.
7. The Board finds that the proposed rear 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 rear yard setback requirements. The Board finds this to be a specific and substantial detriment to the public good.
8. The Board finds that proposed pool and waterfall feature could have been constructed in a manner not requiring variance relief.
9. The Board has reviewed and adopts the engineering report of Owen Little and Associates dated May 14, 2021, as amended at time of hearing, 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 call reflected the following in the affirmative: Mr. Hartney, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. Wachter & Mr. Wright. Nays: None. Abstained: Mr. TumSuden  
Absent: Mr. Hodgson & Mr. McMenamin.

James Raban, Esq. was present to represent Daniel and Donna Bonanni of 255 N. 14<sup>th</sup> Street Block 77, Lot 1 seeking relief of the front yard setback. There was discussion in relation to the size of the proposed generator and air conditioning platform, as well as the location in relation to the flood plan.

Bruce Jacobs, PE, PP was introduced as the applicant's engineer. It was mentioned that the current property is one story that measures at 3,000 square feet. The applicant is proposing to add a second floor to the existing structure, as well as expand the size of the generator platform.

The applicant revoked his original dimensions of 4 feet by 8 feet for the platform, and will adhere to the 16 square feet that is following Borough ordinance. the applicant would not be going over the 36.1% lot coverage that was originally approved in 2016.

Mr. TumSuden moved to open public comment. Mr. Mannherz seconded the motion. With a vote in the affirmative, public comment was open. The vote reflected the following ayes: Mr. Hartney, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. TumSuden, Mr. Wachter & Mr. Wright. Nays: none. Abstained: none. Absent: Mr. Hodgson & Mr. McMenamin. 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 vote reflected the following ayes: Mr. Hartney, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. TumSuden, Mr. Wachter & Mr. Wright. Nays: none. Abstained: none. Absent: Mr. Hodgson & Mr. McMenamin.

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

Mr. Hartney: Yes, this application has met the negative criteria, by permitting a variance. By placing the generator platform in the most appropriate place, without creating any undue hardship upon the applicant and the existing non-conformities are there, and that is what we have to deal with. I vote yes.

Mr. Hoover: I vote yes. They are not changing the building footprint at all. It's hard to do anything with an undersized lot. I do not see a problem with this.

Mrs. Klose: I approve also. The generator platform's exactly in the right spot. For this house, this is perfect, on the side where the electric is. It's not going to annoy any of the neighbors to run. I like the fact that we are not increasing the footprint, just raising the house up.

Mr. Mannherz: I vote yes, as well for the reasons that were previously stated.

Mr. Russell: I vote yes, also. The house is going up, Mr. Bonanni met the criteria. And those of us who know him, know what he has done for the community. Thank you.

Mr. TumSuden: I vote yes. They are not increasing the footprint. Therefore, I vote yes.

Mr. Wachter: I vote yes for the reasons previously stated.

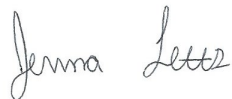
Mr. Wright: I vote yes for all the reasons previously stated. It's weird to vote on an application like this, to vote on the space in front of the steps, you can park your car there sideways. Congratulations and good luck.

Abstentions: none. Nays: none. Absent: Mr. Hodgson & Mr. McMEnamin.

Mrs. Klose moved to approve the bills. Mr. Russell seconded the motion. With a vote in the affirmative, the bills were approved to be paid. The vote reflected the following ayes: Mr. Hartney, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. TumSuden, Mr. Wachter & Mr. Wright. Nays: none. Abstained: none. Absent: Mr. Hodgson & Mr. McMEnamin.

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

Respectfully submitted,



Jenna Letts

Land Use Board Clerk