

BOROUGH OF SURF CITY LAND USE BOARD  
813 Long Beach Boulevard  
July 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, James Russell, Richard Savianeso, Emil TumSuden & David Wright. Absent: Sandra Klose & 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 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.

Mr. Savianeso was sworn in by Mr. Quinlan as an Alternate Land Use Board Member.

Mr. Russell moved to approve the June 23, 2021 regular meeting minutes. Mr. TumSuden 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. Russell, Mr. TumSuden & Mr. Wright. Nays: none. Abstained: Mr. Hodgson, Mr. McMenamin & Mr. Savianeso. Absent: Mrs. Klose & Mr. Wachter.

Mr. Russell moved to approve Resolution 2021-16, memorializing the approval for Daniel and Donna Bonanni of 255 N. 14<sup>th</sup> Street, Block 77, Lot 1. Mr. TumSuden seconded the motion. With a vote in the affirmative, the following was approved.

WHEREAS, Bruce Jacobs, Professional Land Engineer of Gravatt Consulting Group was sworn and qualified as an expert in engineering.

WHEREAS, Mr. Jacobs testified as follows:

1. The request for variance relief to expand the air conditioning platform is withdrawn and the plan will be revised to reflect same.
2. The proposed development will not impair the open air and light of adjacent properties and the footprint of the dwelling is not being expanded.
3. The proposed construction will comply with all applicable flood regulations.

4. The proposed development will be consistent with the neighborhood scheme.
5. The pre-existing non-conformities are not being expanded.
6. The adjacent properties are fully developed and there is no opportunity to acquire more property to remove or reduced the pre-existing non-conformities.
7. The plan will be revised to accurately reflect the lot coverage of 36.1 %.
8. The variances are needed due to the uniqueness of the property being 3,000 SF.
9. The variances can be granted without substantial detriment to the zone plan, zoning ordinances, Master Plan and public good.
10. The benefits of granting the variances outweigh any detriment.

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

WHEREAS, Mr. Brearley testified as follows:

1. The proposed improvements are consistent with the neighborhood scheme.
2. The location of the generator is preferable to other possible locations, which may or may not also require variance relief, due to distance to adjacent properties.

WHEREAS, Daniel Bonanni was sworn and testified as follows:

1. He is the owner of the property along with his wife.
2. They have owned the property since 2001.
3. There is no adjacent land available for purchase.
4. The request for variance relief for expansion of the air conditioning platform is withdrawn.

WHEREAS, the hearing was opened to the public, and all interested parties were given the opportunity to be heard. There was no public comment.

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.
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 (if required) has been provided and determined to be in proper order.
4. The witnesses offered credible testimony that the Board finds satisfies the positive and negative criteria in that the positive impact on the aesthetics, the neighborhood scheme and location of generator away from adjacent properties outweigh any potential detriment to the public good, ordinances and master plan.

5. The proposed second floor addition does not increase the footprint of the dwelling, nor does it negatively impact the open air and light of the adjacent properties.
6. The uniqueness of the undersized lot represents a hardship.
7. The location of the generator platform in the front yard along Sunset Boulevard which requiring variance relief, represents a better planning alternative in that it locates the generator away from the neighboring properties and reduces any impact upon those properties.
8. The Board further finds that the pre-existing non-conformities are not increased by the proposed improvements.
9. The Variance Plan shall be amended to remove the reference to the expansion of the air conditioning platform and reflect that lot coverage of 36.1% is unchanged.

NOW, THEREFORE, BE IT RESOLVED that the application for variance relief for expansion of an undersized lot for the construction of a 24 ft. by 36 ft. second floor addition and encroachment of the generator platform 4.3 ft. into the front yard is hereby granted.

IT IS FURTHER RESOLVED that the contents of the preamble and board engineer's review letter dated May 13, 2021 is adopted and made part of this resolution; and

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. Russell, Mr. TumSuden & Mr. Wright. Nays: none. Abstained: Mr. Hodgson, Mr. McMenamain & Mr. Savianeso. Absent: Mrs. Klose & Mr. Wachter.

James Raban, Esq. was present to represent Intrepid Ventures, LLC of 2400 Long Beach Boulevard, Block 59, Lot 15 seeking relief of a minor subdivision. There was discussion in relation to the size of the interior or external properties, as well as the current status of what is allowed on the property.

Leon Tyszka was introduced as the applicant's engineer. It was mentioned that the one property will be split to the two proposed properties, one equaling 5,000 square feet and one equaling 4,698 square feet.

There was further discussion in relation to the curb cut, as well as the paved section of the easement. Mr. Raban explained that the easement, as well as the paved section of the easement, is not recognized by the Borough of Surf City and belongs to each individual property depending on location. It was discussed by Mr. Quinlan that there was no documentation on the deeds of the properties in relation to the easement. It was also mentioned that there is no written history of when the 302 square feet was lost from the property and that it was most likely due to the construction and expansion of the roadway.

Mr. Russell 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, Mr. Mannherz, Mr. McMenamin, Mr. Russell, Mr. Savianeso, Mr. TumSuden & Mr. Wright. Nays: none. Abstained: none. Absent: Mrs. Klose & Mr. Wachter.

Kevin Amerio of 43 N. 24<sup>th</sup> Street had concerns on the hardship of the property, as well as the future size of the homes being constructed.

Gary Gerlla of 14 N. 24<sup>th</sup> Street had concerns on the location of the future homes in relation to the boulevard and the sight triangle.

Michael Ottavio of 42 N. 25<sup>th</sup> Street requested a copy of the existing easement and stated that most homeowners use that as a roadway.

Alison Lang of 22 N. 25<sup>th</sup> Street had discussed the easements necessity due to the lack of parking available on 25<sup>th</sup> street.

Mr. Russell 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. Hoover, Mr. Mannherz, Mr. McMenamin, Mr. Russell, Mr. Savianeso, Mr. TumSuden & Mr. Wright. Nays: none. Abstained: none. Absent: Mrs. Klose & Mr. Wachter.

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

Mr. Hartney: I vote yes on the motion to approve the application, hearing the public presentation there are legitimate concerns about the area of the property, but the facts of the law and this application showed me that they meet the criteria required under law to grant the

application. Without any hardship, or detriment to the Borough Masterplan or local zoning ordinances.

Mr. Hoover: I vote yes for approval. Mr. Hartney put it in his words what I was thinking.

Mr. Mannherz: I vote yes to approve. Our ordinances state that any plot created for residential use shall have a minimum area of 5,000 square feet, but from testimony that was presented here tonight, that historically this property that is adjacent to Long Beach Boulevard, was conforming and was subsequently reduced as a result of the County coming in. I hate to see another business hit the dust, but this is something which will conform with all the appropriate setbacks. I say yes.

Mr. McMenemy: I would second Mr. Mannherz's statements, and vote yes.

Mr. Russell: I vote yes for basically the same reasons as the rest of the board.

Mr. Savianeso: I abstain as a new member.

Mr. TumSuden: I vote yes. The original lot pre-conformed before the road was widened by the county. The corner of the lot was taken and they had no control over it. I vote yes.

Mr. Wright: I vote yes for the same reasons that were expressed.

Abstentions: Mr. Savianeso. Nays: none. Absent: Mrs. Klose & Mr. Wachter.

James Raban, Esq. was present to represent Luke and Dona Cunningham of 509 Drexel Avenue, Block 16, Lot 4 seeking relief of a bulk variance. There was discussion in relation to the non-conforming lot size, as well as the existing non-conformities lot percentage. The existing structure is already at 35%. It was stated that the applicant will not be expanding footprint of property, will only be looking to gain living space by adding to the top of the existing structure.

Daniel Wheaton of 10ten Architecture was present to explain further the plans. It was discussed that the applicant will be adding two bedrooms and one bathroom to the top of the property, adding a half floor to the property. They will be amending the plans to show the 20 foot curb cut. There were questions in regards to the existing bedrooms, only one bedroom shown on plans. There are currently three bedrooms, two bedrooms being on the ground floor.

Robert Musnuc was present to explain the existing structure and the planned addition to the non-conforming structure. There was further discussion in regards to the current shed location. It was decided that the shed will be relocated to be out of the setback.

Mr. Russell moved to open public comment. Mr. TumSuden 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. Russell, Mr. Savianeso, Mr. TumSuden & Mr. Wright. Nays: none. Abstained: none. Absent: Mrs. Klose & Mr. Wachter.

Susan Matthews of 510 Central Avenue had concerns of the shed placement, as well as residents maxing out properties. She also had questions on lot sizes and non-conforming properties.

Mr. Mannherz 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. McMenamin, Mr. Russell, Mr. Savianeso, Mr. TumSuden & Mr. Wright. Nays: none. Abstained: none. Absent: Mrs. Klose & Mr. Wachter.

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

Mr. Hartney: Yes, I vote to approve this application. The applicant has, to the testimony provided by the experts, has met the negative criteria. In my opinion, the moving of the shed removes a non-conformity and it does not increase the intensity of the use. It stays within the footprint, so I say yes.

Mr. Hodgson: I also vote yes with Mr. Hartney. With the movement of the shed, it eliminates the prior non-conformity. Initially they are not expanding on any conformities. The small lots are tough, that's why we have the zoning board, to make judgement calls on the lot coverage of 1,500 square feet, which is still smaller than the average footprint on a 15 by 100. With that in mind, I vote yes.

Mr. Hoover: I vote yes. They are not changing the footprint of the building; I don't believe there is any negative impact on the surrounding properties. Like everyone else has said so far, the moving of the shed will help comply with the setbacks. I vote yes.

Mr. Mannherz: I vote yes with the reasons that have been previously stated by board members.

Mr. McMenamin: I also vote yes for the Same reason as Mr. Mannherz.

Mr. Russell: I vote yes, too, along with what the rest of the board has stated. I think they are good ideas with good things to follow.

Mr. Savianeso: I vote yes with all of the Board members. It is going vertical, I don't see any impact.

Mr. TumSuden: I also vote yes. Having the shed comply with the setbacks and staying within the existing limits of the existing property. I vote yes.

Mr. Wright: I vote yes also.

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

James Raban, Esq. was present to represent Stuart Snyder of 2100 Long Beach Boulevard, Block 53, Lot 19 seeking relief of a bulk variance. There was discussion in relation to revised plans that were submitted. The applicant is proposing the demolition of the existing structure and constructing a new single-family home. Leon Tyszka was present to explain further the plans submitted. It was discussed that the undersized lot currently has a one-story frame with an office.

There was further discussion in regards to the size of the current structure. Mr. Hartney questioned the current building height shown on the plans, stating that the existing structure is not 33 feet. It was agreed upon by the applicant that the existing structure was not 33 feet. The applicant went on to state that the curbing will be fixed and the parking situation will not change. Mr. Little confirmed that there are currently three parking spaces and that is not subject to change.

Mr. Wright moved to open public comment. Mr. Russell 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. McMEnamin, Mr. Russell, Mr. Savianeso, Mr. TumSuden & Mr. Wright. Nays: none. Abstained: none. Absent: Mrs. Klose & Mr. Wachter.

Oakie Whitcraft of 2103 Long Beach Boulevard stated that the proposed structure would be an asset and better than the current structure.

Mr. Wright moved to close public comment. Mr. Russell 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. McMEnamin, Mr. Russell, Mr. Savianeso, Mr. TumSuden & Mr. Wright. Nays: none. Abstained: none. Absent: Mrs. Klose & Mr. Wachter.

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

Mr. Hartney: Hearing the testimony of Mr. Raban and Mr. Tyszka, they have satisfied, in my opinion, the negative criteria of this application, so therefore I vote yes to approve it.

Mr. Hodgson: I also vote yes, I know Stu almost passed out when he heard me say that I'm voting yes, too. It conforms with everything other than a substandard lot, which is preexisting and nothing you can do about that. That is why I vote to approve, and we look forward to seeing you this fall, Stu.

Mr. Hoover: I vote yes, can't control lot size, it's preexisting. Nothing to do but approve.

Mr. Mannherz: I vote yes as well. I think it would be detrimental to the masterplan, it would be a major improvement in that location, and all the concerns that were expressed by the Borough Engineer has been satisfied.

Mr. McMEnamin: I vote yes. I believe it's going to be a great improvement to the property.

Mr. Russell: I believe vote yes also, I agree with Mr. Whitcraft, he hit the nail on the head. It will definitely be an improvement. It's good to see you back Stu.

Mr. Savianeso: Yes, I approve. It is definitely an improvement over the existing building.

Mr. TumSuden: I vote yes, it is a small lot. You can't change the lot, there is construction on all sides of it. I vote yes.

Mr. Wright: I vote yes also, and I agree with Oakie's comment. I don't know who laid these lots out, but someone was trying to squeeze as much as they can in this Borough. You're stuck with this, so I vote yes.

Mr. McMenammin moved to memorialize the approval for the Stuart Snyder application, 2100 Long Beach Boulevard, Block 53, Lot 19. Mr. Russell seconded the motion. With a vote in the affirmative, the motion was approved.

WHEREAS, Stuart and Catherine Snyder are the owners of the premises identified as Block 53, Lot 19 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 variance to construct a single-family residence with home office. Variances for Lot Area of is required.

WHEREAS, the lot area of 3,600 sq. ft. is less than the required 5,000 sq. ft. and a variance for the pre-existing condition is required.

WHEREAS, the site is in the Business 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 Nelke/Tyszka dated 6/11/21 and revised 7/19/21.
- A-3 Architectural drawings prepared by Studio Tagland Designs dated 6/9/21.
- A-4 Color Photos (4)
- A-5 Tax Map
- B-1 Board Engineer Review Letter dated 7/6/21 and revised 7/22/21.

The foregoing exhibits being marked and admitted into evidence.

WHEREAS, Leon Tyska, a Professional Land Surveyor was sworn and qualified as an expert in surveying.

WHEREAS, Mr. Tyska testified as follows:

1. The request for variance relief to expand the air conditioning platform is withdrawn and the plan will be revised to reflect same.
2. The property is a pre-existing undersized lot.
3. Curbing will comply with the borough ordinances.
4. Substandard curbing to be replaced.
5. The pre-existing non-conformity is not being expanded.



6. The adjacent properties are fully developed and there is no opportunity to acquire more property to remove or reduced the pre-existing non-conformity.
7. The plan will be revised to accurately reflect the existing building height is 13.4'
8. Variance relief is required due to the unique pre-existing undersized nature of the lot.

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 applicants are authorized to make the application and have standing.
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 (if required) has been provided and determined to be in proper order.
4. The proposed home/office use is a permitted use.
5. The witnesses offered credible testimony that the Board finds satisfies the positive and negative criteria in that the positive impact on the aesthetics, the neighborhood scheme and improvements in housing stock outweigh any potential detriment to the public good, ordinances and master plan.
6. The uniqueness of the undersized lot represents a hardship.
7. The Board further finds that the pre-existing non-conformities are not increased by the proposed improvements.
8. The Variance Plan shall be amended to existing building height of 13.4 ft.

NOW, THEREFORE, BE IT RESOLVED that the application for variance relief for construction of a single-family home with home office on an undersized lot is hereby granted.

IT IS FURTHER RESOLVED that the contents of the preamble and board engineer's review letter dated July 22, 2021 is adopted and made part of this resolution; and

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.

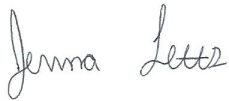
BE IT FURTHER RESOLVED that notification of this favorable resolution shall be published in an official newspaper of Surf City Borough by the Land Use Board Clerk within ten (10) days of its passage.

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

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

Mr. Russell moved to adjourn the meeting. Mr. Hoover 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. McMenamain, Mr. Russell, Mr. Savianeso, Mr. TumSuden & Mr. Wright. Nays: none. Abstained: none. Absent: Mrs. Klose & Mr. Wachter.

Respectfully submitted,



Jenna Letts

Land Use Board Clerk