

BOROUGH OF SURF CITY LAND USE BOARD

813 Long Beach Boulevard

September 22, 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, & David Wright. Absent: Gavin Hodgson, John McMenamin, Richard Savianeso, Emil TumSuden & George Wachter.

The Board Attorney, Kevin Quinlan, was 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 August 25, 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, Mrs. Klose, Mr. Mannherz, Mr. Russell & Mr. Wright. Nays: none. Abstained: Mr. Hoover. Absent: Mr. Hodgson, Mr. McMenamin, Mr. Savianeso, Mr. TumSuden & Mr. Wachter.

Mr. Russell moved to approve Resolution 2021-21, memorializing the approval for Gerald Brubaker of 1616 N. Barnegat Avenue, Block 79, Lot 20. Mrs. Klose seconded the motion. With a vote in the affirmative, the following was approved.

WHEREAS, Gerald and Margaret Brubaker are the owners of the premises identified as Block 79, Lot 20 on the official tax maps of the Borough of Surf City and have standing to make the application.

WHEREAS, the applicants were unrepresented.

WHEREAS, the applicants have applied to the Borough of Surf City Land Use Board for variances to construct a second story uncovered deck on the rear of the existing two (2) story residential dwelling.

WHEREAS, the proposed development is an expansion of a non-conforming structure and variance relief for following conditions is required:

1. Lot area of 3,200 sq. ft. is provided where 5,000.00 is required. *
2. Lot width of 41.74 ft. is provided where 50 ft. is required.*
3. Lot depth of 80 ft. is provided where 100 ft. is required. *
4. Lot frontage of 41.74 ft. is provided where 50 ft. is required. *
5. Side yard setbacks of 3.1 ft. and 12.5 ft. is provided where 5 ft. and 10 ft. is required.*

*Denotes pre-existing non-conformities which are not being expanded.
WHEREAS, the site is in the RA (single family) Zoning District.

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

- A-1 Application.
- A-2 Variance Plan prepared by Gravatt Consulting Group dated 1/21/21 and revised 3/11/21 and, 3/22/21.
- A-3 Hand drawn partial floor plan dated 3/9/21. A-4 Color Photos (7).
- A-5 Tax Map.
- B-1 Board Engineer Review Letter dated 5/14/21.

The foregoing exhibits being marked and admitted into evidence. WHEREAS, Gerald Brubaker was sworn and testified as follows:

1. He is the owner of the subject property along with his wife, Margaret Brubaker and is authorized to act on her behalf.
2. The proposed addition of the deck will not expand the existing footprint.
3. There is no proposed increase in the pre-existing non-conformities.
4. The Plan will be revised as follows:
 - a) Lot coverage is 29.25%.
 - b) Lot frontage is 41.74 ft.
 - c) Building height 25 ft.
 - d) Side yard setback of 5 ft. and 10 ft. required.
5. The adjacent properties are fully developed and there is no opportunity to acquire more property to remove or reduce the pre-existing non-conformity.
6. The proposed addition is consistent with other dwellings in the

neighborhood.

7. The proposed deck will remain uncovered and not used as heated living space.

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) have been provided and determined to be in proper order.
4. The Board finds that the applicant has satisfied 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.
5. The uniqueness of the undersized lot and pre-existing non-conformities represents a hardship.
6. The Board further finds that the pre-existing non-conformities are not increased by the proposed improvements.
7. The Applicant shall provide a revised plan correcting the lot coverage, building Height, lot width and side yard setbacks of 5ft and 10 ft.
8. The proposed deck will remain uncovered and not used as heated living space.
9. Being that the subject property is a corner lot, the Board finds that the proposed deck will not have any negative impact on open air and light of adjoining propellies.

NOW, THEREFORE, BE IT RESOLVED that the application for variance relief for construction of an uncovered second story deck is hereby granted.

IT IS FURTHER RESOLVED that the contents of the preamble and board engineer's review letter dated May 14, 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, Mrs. Klose, Mr. Mannherz, Mr. Russell & Mr. Wright. Nays: none. Abstained: Mr. Hoover. Absent: Mr. Hodgson, Mr. McMenamin, Mr. Savianeso, Mr. TumSuden & Mr. Wachter.

Mr. Russell moved to approve Resolution 2021-22, memorializing the approval for Daniel and Sue DeMarco of 311 N. 14th Street, Block 110, Lots 6 & 6.01. Mrs. Klose seconded the motion. With a vote in the affirmative, the following was approved.

WHEREAS, Daniel and Sue DeMarco are the owners of the premises identified as Block 110, Lots 6 and 6.01 on the official tax maps of the Borough of Surf City and have standing to make the application.

WHEREAS, the applicants were represented by James S. Raban, Esq.

WHEREAS, the applicants have applied to the Borough of Surf City Land Use Board for variances to construct a 22 ft. by 14.5 ft. cabana adjacent to the bulkhead on the north side of the property along N. 14th Street.

WHEREAS, the proposed cabana is to be located within 10 ft. of the existing bulkhead where 20 ft. is required. A variance is required.

WHEREAS, the site is in the R-A (single family) Zoning District.

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

A-1 Application.

A-2 Variance Plan prepared by Nelke, Tyszka Land Surveyors, LLC dated 6/7/21 and revised 6/25/21.

A-3 Architectural Plans prepared by Craig Brearley, Architect and dated 6/9/21.

A-4 Color Photos

(4). A-5

TaxMap.

B-1 Board Engineer Review Letter dated 8/5/21.

The foregoing exhibits being marked and admitted into evidence.

WHEREAS Leon Tyszka, P.L.S. was sworn and qualified as an expert in Professional land surveying and testified as follows:

1. The proposed cabana could be relocated to the southeast without the need for variance relief.
2. The property is uniquely shaped with the location of the street end bulkhead and perpendicular bulkhead along the northerly property line which necessitates the need for variance relief.
3. The property fronts along N. 14th Street and the closest structure to the north of the proposed cabana is located across N. 14th Street.

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 Board finds that proposed location of the cabana is a better zoning alternative than relocation of the cabana 5 ft. to the southeast which would locate the cabana 20 ft. from the property bulkhead and not require variance relief but be a less desirable location.
5. The property is uniquely situation in that the N. 14th Street bulkhead is set back along the northerly property line of the subject property and perpendicular to the property bulkhead necessitating variance relief.

6. The Board finds the Application satisfies the positive and negative criteria in that the positive impact on the aesthetics being that the cabana is located closer to the bay rather than being located in front of the dwelling outweigh any potential detriment to the public good, ordinances and master plan.
5. The impact upon adjacent properties is insignificant in that the proposed location of the cabana is located along the public roadway and street end and represents a better planning alternative than locating the cabana to the southeast without variance relief.

WHEREAS the public was given an opportunity to be heard and several members spoke against the granting of the variance relief.

NOW, THEREFORE, BE IT RESOLVED that the application for variance relief for construction of a 22 ft. by 14.5 ft. cabana is hereby granted.

IT IS FURTHER RESOLVED that the contents of the preamble and board engineer's review letter dated August 5, 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, Mrs. Klose, Mr. Russell & Mr. Wright. Nays: none. Abstained: Mr. Hoover & Mr. Mannherz. Absent: Mr. Hodgson, Mr. McMenamin, Mr. Savianeso, Mr. TumSuden & Mr. Wachter.

Mr. Wright moved to approve Resolution 2021-23, memorializing the approval for Michael and Theresa Lusty of 1601 Sunset Avenue, Block 79, Lot 1. Mr. Russell seconded the motion. With a vote in the affirmative, the following was approved.

WHEREAS, Michael and Theresa Lusty are the owners of the premises identified as Block 79, Lot 1 on the official tax maps of the Borough of Surf City and have standing to make the application.

WHEREAS, the applicants were represented by Nicholas F. Talvacchia, Esq.

WHEREAS, the applicants have applied to the Borough of Surf City Land Use Board for variances to demolish the exiting duplex dwelling and construct a new two-story single-family dwelling with a rooftop deck.

WHEREAS, the proposed development is on a non-conforming lot and variance relief for following conditions is required:

1. Lot area of 3,750 sq. ft. is provided where 5,000 is required. *
2. Lot width of 49.96 ft. is provided where 50 ft. is required. *
3. Uncovered ornamental steps and platform of 57 sq. ft. is proposed where 25 sq. ft. is permitted.

*Denotes pre-existing non-conformities which are not being expanded. WHEREAS, the site is in the R-A (single family) Zoning District.

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

- A-1 Application.
- A-2 Variance Plan prepared by Nele, Tyszka Land Surveyors, LLC dated 4/8/21 and revised 8/6/21.
- A-3 Architectural Plans prepared by Michael Pagnotta Architectural and Construction dated 7/28/21.
- A-4 Color Photos
- (5). A-5 Tax Map.
- A-6 Color Rendering.
- B-1 Board Engineer Review Letter dated 8/5/21.

The foregoing exhibits being marked and admitted into evidence.

WHEREAS, Theresa Lusty was sworn and testified as follows:

1. She is the owner of the subject property along with her husband, Michael Lusty and is authorized to act on his behalf.
2. There is no adjacent property available to acquire to reduce or eliminate the pre-existing non-conformity.

3. The property is currently a duplex on an undersized lot. The proposed dwelling will be a single-family dwelling.

WHEREAS Michael Pagnotta, AIA, P.P. was sworn and qualified as an expert in architecture design and professional planning and testified as follows:

1. The adjacent propellies are fully developed and there is no opportunity to acquire more property to remove or reduce the pre-existing non-conformity.
2. The proposed construction is consistent with other dwellings in the neighborhood.
3. The proposed single-family dwelling will comply with all current flood and construction requirements.
4. The air conditioning units will comply with applicable ordinances and no variance is requested.
5. Curb cut shall comply with applicable ordinances.
6. The shed to be removed.
7. The proposed improvements will comply with the sight triangle.
8. The variances can be granted without substantial detriment to the zone plan, ordinances and master plan of the Borough of Surf City.
9. The benefits of granting the relief requested such as improvements in aesthetics, bringing the property into compliance with current flood elevation requirements and building codes, improvements in housing stock and the removal of a pre-existing non-conforming duplex, outweigh any detriment.

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 Board finds the Application satisfies the positive and negative criteria in that the positive impact on the aesthetics, the neighborhood scheme, removal and a pre-existing non-conforming duplex, compliance with current flood elevation requirements and improvements in housing stock outweigh any potential detriment to the

public good, ordinances and master plan.

5. The uniqueness of the undersized lot and pre-existing non-conformities represents a hardship.

6. The Board further finds that the pre-existing non-conformities are not increased by the proposed improvements.

7. The Applicant shall provide a copy of the rendering introduced at the time of the hearing.

WHEREAS the public was given an opportunity to be heard and one member spoke in favor of the Application.

NOW, THEREFORE, BE IT RESOLVED that the application for variance relief for construction of two-story single-family dwelling is hereby granted.

IT IS FURTHER RESOLVED that the contents of the preamble and board engineer's review letter dated August 5, 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.

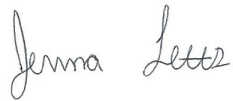
Roll call reflected the following in the affirmative: Mr. Hartney, Mrs. Klose, Mr. Mannherz, Mr. Russell & Mr. Wright. Nays: none. Abstained: Mr. Hoover. Absent: Mr. Hodgson, Mr. McMenamin, Mr. Savianeso, Mr. TumSuden & Mr. Wachter.

Mrs. Klose 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. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell & Mr. Wright. Nays: none.

Abstained: none. Absent: Mr. Hodgson, Mr. McMEnamin, Mr. Savianeso, Mr. TumSuden & Mr. Wachter.

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. Wright. Nays: none. Abstained: none. Absent: Mr. Hodgson, Mr. McMEnamin, Mr. Savianeso, Mr. TumSuden & Mr. Wachter.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jenna Letts".

Jenna Letts

Land Use Board Clerk