

BOROUGH OF SURF CITY LAND USE BOARD  
813 Long Beach Boulevard  
August 24, 2022  
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, James Russell, Jaime Ryan, Richard Savianeso & George Wachter. Absent: Sandra Klose, Emil TumSuden, & David Wright.

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 January 13, 2022, 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. Russell moved to approve the July 27, 2022 regular meeting minutes. Mr. Ryan seconded the motion. With a vote in the affirmative, the minutes were approved.

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

Mr. Russell moved to approve Resolution 2022-08. Mr. Wachter 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 2022-06; and

WHEREAS, Ordinance 2022-06 adding section 18 of Chapter 30 entitled Zoning to provide for a permitting process for PODS in the residential zone only; and

WHEREAS, the Land Use Board members have reviewed Ordinance 2022-06 at a public meeting on August 24, 2022; and

NOW, THEREFORE, BE IT RESOLVED that it is the finding of the Land Use Board of the Borough of Surf City that Ordinance 2022-06 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. Russell, Mr. Ryan, Mr. Savianeso & Mr. Wachter Nays: none. Abstained: none. Absent: Mrs. Klose, Mr. TumSuden & Mr. Wright.

Mr. Hodgson moved to approve Resolution 2022-09. Mr. Russell seconded that motion. With a vote in the affirmative, the following resolution was approved.

WHEREAS, on April 20, 2022 Three I& F submitted an application for a bulk variance to the Land Use Board of the Borough of Surf City; and

WHEREAS, on May 25, 2022 Frank Little, P.E. deemed the application "incomplete and required the submission of the location map, zoning schedule reflecting the existing and proposed conditions with indications for any/all zoning deficiencies for the entire property, all required signature blocks, parking calculations for all uses on the property, including required and provided, all parameters associated with the commercial uses including but not limited to refuse management, off street loading, hours of operation, lighting, vision clearance at the corner, FEMA flood zones (preliminary and effective); and

NOW, THEREFORE, BE IT RESOLVED, by the Land Use Board of Surf City that application 22,01 be dismissed.

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

Mr. Hartney noted that a CAFRA permit application for the LBI Consolidated School District, 201 20<sup>th</sup> Street, Ship Bottom, Block 60, Lot 2 is available at the Municipal Building for public view.

James Raban, Esq. was present to represent Edward and Ivy Wentzheimer of 18 N. 14<sup>th</sup> Street, Block 40, Lots 6 & 8 seeking a minor subdivision. It was noted by Mr. Raban that this subdivision does not require variances and is therefore a subdivision by right.

Mr. Quinlan explained that an application for minor subdivisions without variances, although it is still required to come before the Board in Surf City, they do not always need to present a case in other municipalities. Mr. Raban stated that Mr. Brzozowski is not in attendance for this case. It was noted by Mr. Quinlan that Mr. Little has reviewed the application and Mr. Brzozowski has a written testimony.

Mr. Raban explained that the property currently has two lots that have two new single-family homes with separate tax lots that are filed onto one tax bill. There is one home that is situated on the southerly portion of the lot that faces Ocean Terrace and another house located on the corner that fronts on North 14<sup>th</sup> Street. The applicant is looking to reorient lot 8 into lot 6.01 and to have it face Ocean Terrace. The house on lot 6 will remain. A new single-family home will be constructed on the new 6.01 lot and will conform with all building and zoning regulations. Mr. Raban further stated that there had been a previous Land Use Board application to subdivide this property that was not approved. Mr. Hodgson stated that the applicant at that time was going to subdivide the lots 60 feet by 40 feet, which was not approved by the board.

Mr. Wentzheimer confirmed that the home on lot 6 will remain the same. He confirmed that a new single-family home will be constructed facing Ocean Terrace. Mr. Mannherz questioned the time frame of the construction of the new single-family home. Mr. Wentzheimer stated

Mr. Little stated that he reviewed the application and it is conforming and that he does not have any objections. Mr. Hodgson questioned that it does not become deeded with two separate lots until the existing home is demolished. Mr. Little explained that it can become two separate deeded lots if the applicant posts a bond for the demolition of the building. It is not required to post a bond for them to demolish the existing home.

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

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

Mr. Hartney: Yes, as this is creating two conforming lots, it is improving a non-conforming situation that we have dealt with a number of times before this Board. no variances are associated with it, the demolition is going to be good. It will fit.

Mr. Hodgson: I vote yes for the reasons Pete said and with two 50x100's, everything conforms.

Mr. Hoover: I vote yes. It is a win-win situation.

Mr. Mannherz: I vote yes for reasons previously stated.

Mr. Russell: I vote yes for all the reasons that were mentioned.

Mr. Ryan: Yes, I vote yes for all the reasons states. I also walk by the house everyday to walk my dogs so I am very familiar with it.

Mr. Savianeso: I vote yes also; I agree with Pete.

Mr. Wachter: Yes, also for reasons previously stated.

James Raban, Esq. was present to represent Joan Weidner of 236 N. 1<sup>st</sup> Street, Block 63, Lot 16 seeking relief of the side yard setback. It was noted by Mr. Raban that the applicant is seeking to put a 5.4 foot by 5.8 foot elevator shaft on the westerly side of the existing new single-family home. Mr. Raban stated that the elevator would go behind the entrance of the home, one-tenth of a foot into the set back.

Jeff Daum was sworn in as the applicants engineer. He stated that the existing home is built to almost the full coverage allowed. The allotted area is 5,000 square feet where 5,000 square feet is

required. The home has 50 feet of frontage where 50 feet is required. the front yard set back is 20.3 feet where 10 feet is required. The side yard setback is approximately 5 feet where 5 feet is required. The proposed elevator shaft is 4.9 feet, therefore it will be in the set back by one-tenth of a foot more than allowed. Mr. Daum stated that the side yard setback on the other side of the property is 16.6 feet where 10 feet is required, and will have open space there. The rear yard setback is 17.3 where is 25 feet. Mr. Daum explained that the applicant is asking for 36 percent lot coverage where 35 percent is permitted.

Mr. Hartney explained that the Borough Ordinances do not recognize combining setbacks to equal 15 feet, they are separate as 5 feet and 10 feet. Mr. Daum stated that the applicant is aware of the setback requirements and that the side where 10 feet is required will remain the larger side with 16.6 feet. Mr. Daum explained that the lot coverage variance the applicant is seeking is not an issue because the same amount of coverage would be permitted in the rear yard. Mr. Daum further explained that the same amount of lot coverage would be permitted, except it is not because of the wording of the Ordinance. The second variance the applicant is seeking is the tenth of a foot that the elevator is going to go over in that space.

Mr. Quinlan questioned whether the elevator increased the safety in the residence. Mr. Daum stated that by increasing the accessibility to the house the applicant is increasing the benefit to the house. He stated that the elevators are a benefit to the town. Mr. Hartney stated that, if approved, the Board would be creating two non-conformities on one lot and that the Ordinance is clear. Mr. Hartney further explained that, although the applicant is the current homeowner, the property could be sold and the Borough would be stuck with the non-conformities. Mr. Hartney stated that in the rear yard, the elevator is permitted and would not be considered a non-conformity. Mr. Raban stated that the benefits of the proposed elevator outweigh the detriments.

Sara Jennings was sworn in as the applicant's architect. Ms. Jennings stated that the elevator is the smallest ADA compliant with wheelchair accessibility and it would be more costly to put in into the home. She continued stating that the proposed location is the best option due to the piling placement. Mr. Mannherz questioned if all the windows need to be removed for the proposed elevator location. Ms. Jennings stated that the windows in the downstairs will need to be removed and the windows in the upstairs would need to be relocated or removed and that it would be equivalent to the number of windows needed to be removed if the elevator was to be placed in the rear yard. Mr. Raban stated that it would impact the large window in the master bedroom. Ms. Jennings confirmed that the large window would be off-center and it would be a bigger cost to move it. Mr. Hodgson questioned that if the bands are on the interior of the piling. Ms. Jennings stated that they are on the exterior and that it is more difficult for locations because of that. She explained that the band would need to be cut back and there would need to be a new joist, that four joists would need to be cut back. Mr. Hodgson explained that going over the setbacks and lot coverage is difficult and that there are reasons why those percentages are put into place.

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

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

Mr. Hartney: I vote no on the motion to approve the variances. I do not feel that the applicant has met the negative criteria to satisfactorily say yes to it. With the colloquy, I find that the setbacks are hard, the lot area is a hard number. There is no benefit to the zoning plan, we would end up with a non-conforming property. The ordinances already provide, there has been testimony that there are other possibilities within the residence to place an elevator, it is not like this is the only place within the building to place an elevator. We would be going forward into the future, the Borough would have a property that has two non-conformities on it.

Mr. Hodgson: I also vote no. Based on what Mr. Hartney said. I understand that the ordinance is written for the back and that allows for over lot coverage, that 35% is the setback. In Surf City, setbacks and lot coverage are very important. Whether it is an inch, a foot, 5 foot 10 foot set backs are the rules and that is why I have to vote no.

Mr. Hoover: I vote yes. I agree with a lot of the things Pete has said and disagree with some, but in my opinion the coverage is so small and I know it's over, I know an inch or a foot, but at some point, you have to make a decision. In my point, there is no real negative impact to this, so I vote yes.

Mr. Mannherz: I vote no. I think it will be a detriment to the Borough Ordinances. As Mr. Hartney stated, there has been testimony that there are other options to place the elevator in the rear of the building that is allowed by Borough Ordinance. Testimony results have provided that the number of windows would be similarly affected, so I vote no.

Mr. Russell: I am going to also vote no. I was in the construction business all my life. I really believe there is an easier way to do it, to sink that elevator shaft an inch and a half back into the house, without taking all of the structures that was mentioned out of the picture. Because of the Ordinances that we have here in town, it is always looked down on elevator shafts that are too large. I vote no.

Mr. Ryan: For the reasons that Jim just mentioned with the construction, I am also voting no. I feel that it could move in and eliminate at least the setback issue.

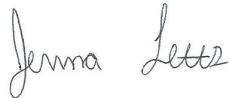
Mr. Savianeso: I'm going to vote no also. The engineer did state that it could go on the side but be moved into the home more at some more of the cost, but that is not the issue here.

Mr. Wachter: I'm going to vote no for the same reason. I think that it could be moved in an inch and a half.

Mr. Russell moved to approve the bills. Mr. Mannherz seconded the motion. With a vote in the affirmative, the bills were approved to be paid. 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. Russell, Mr. Ryan, Mr. Savianeso & Mr. Wachter Nays: none. Abstained: none. Absent: Mrs. Klose, Mr. TumSuden & Mr. Wright.

Mr. Russell moved to adjourn the meeting. Mr. Mannherz seconded the motion. With a vote in the affirmative, the meeting was adjourned. 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. Russell, Mr. Ryan, Mr. Savianeso & Mr. Wachter Nays: none. Abstained: none. Absent: Mrs. Klose, Mr. TumSuden & Mr. Wright.

Respectfully submitted,

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

Jenna Letts

Land Use Board Clerk