

BOROUGH OF SURF CITY LAND USE BOARD

813 Long Beach Boulevard

August 23, 2023

7:00 pm

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

The following members were present: Peter Hartney, Gavin Hodgson, Paul Hoover, Alan Mannherz, James Russell, Richard Savianeso, David Wright, John Franzoni & Jaime Ryan. Absent: Sandy Klose & George Wachter.

The Open Public Meeting Statement was read by Chairman Peter 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 2, 2023 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 March 22, 2023 regular meeting minutes. Mr. Hoover seconded the motion. With a vote in the affirmative, the minutes were approved.

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

Mr. Russell moved to approve Resolution 2023-06. Mr. Hoover seconded that motion. With a vote in the affirmative, the following resolution was approved.

WHEREAS, the Borough is in receipt of escrow bonds posted pertaining to professional fees, performance guarantees and inspection fees; and

WHEREAS, the Land Use Board Members have agreed with the recommendation that the professional invoices pertaining to the following listed applications have been received and all professional fees have been satisfied for the dockets listed below; and

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Surf City recommends that the following listed escrow bonds be released to the corresponding applicants with the balances to be released to the Borough of Surf City.

<u>Applicant</u>	<u>Type</u>	<u>Posted Amount</u>	<u>Amount to Applicant</u>	<u>Amount to Borough</u>
Three I and F	Professional	\$3,371.68	\$985.74	\$2,385.94
Todd	Professional	\$2,128.75	\$737.49	\$1,391.26
Witt	Professional	\$1,500.00	\$498.85	\$1,001.15
Wiedner	Professional	\$1,500.00	\$433.75	\$1,066.25
Dabakian	Professional	\$1,500.00	\$890.00	\$610.00
TLC and Holding LLC	Professional	\$5,217.25	\$750.00	\$4467.25

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

Mr. Russell moved to approve Resolution 2023-07. Mr. Mannherz seconded that motion. With a vote in the affirmative, the following resolution was approved.

WHEREAS, on May 2, 2023 James and Suzanne Procaccino submitted an application for relief of the front yard setback to the Land Use Board of the Borough of Surf City; and

WHEREAS, on May 25, 2023 Kevin Quinlan, ESQ deemed the application incomplete pending the submission of a list of variances being sought, a full copy of the survey and a copy of the noted easement; and

WHEREAS, on June 30, 2023 James Procaccino made note to withdrawal his application; and

NOW, THEREFORE, BE IT RESOLVED, by the Land Use Board of Surf City that application 23-02 be dismissed.

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

Mr. Russell moved to approve Resolution 2023-08. Mr. Wright seconded that motion. With a vote in the affirmative, the following resolution was approved.

WHEREAS, the Municipal Land Use Law statutory requirement permits 120 days for a Land Use Board to act on a complete application; and

WHEREAS, the application currently states submissions less than 45 days prior to the meeting date will not be heard until the next meeting date if complete; and

NOW, THEREFORE, BE IT RESOLVED, by the Land Use Board of Surf City that the application be amended to reflect that submission 45 days prior to a regularly scheduled meeting does not guarantee the Land Use Board application be placed on the agenda for the next meeting.

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

Mr. Hartney and Mr. Russell recused themselves from the remainder of the meeting due to the applications being "D" Variances.

James Raban, Esq. was present to represent Anchor Trading Corp. of 2012 N. Long Beach Boulevard, Block 52, Lot 22 for preliminary and final site plan approval. There was discussion in regards to the current residences above the commercial property. It was mentioned that there are currently two apartments. It was noted by Mr. Raban that the applicant is looking to expand the square footage of the existing apartments.

Jason Marciano was sworn in as the applicants engineer. He stated that the property the applicant is not looking to alter the footprint of the structure and the front and side yard setbacks will not be altered from current. He mentioned that there are existing non-conformities in the front and sides of the property.

Mr. Marciano mentioned that there is currently a trailer on the rear property line which provides extra storage as well as a storage tent that is 1.03 ft off the rear property line. He stated that these were part of the existing 50% lot coverage and the applicant is proposing to keep it the same. It was mentioned that there are a total of 9 bulk variances being proposed.

Michael Strunk was sworn in as the applicant's architect. He mentioned that the stairs will need to be changed and there are other areas that will need to be brought to fire code.

Michael Nichols was sworn in as the property's owner. He stated that the deliveries and trash pick-up are done in the rear of the building. He mentioned that employees will park off-site.

It was explained by Mr. Quinlan that this application is a D variance no hardship application and would need five approved votes to pass.

Mr. Hoover moved to open public comment. Mr. Wright 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. Savianeso, Mr. Wright, Mr. Franzoni & Mr. Ryan. Absent: Mr. Hartney, Mrs. Klose, Mr. Russell & Mr. Wachter.

Frank Lisella of 48 N. 21<sup>st</sup> Street stated that it would be a benefit to the town and businesses.

Tom Daugherty of 116 N. 10<sup>th</sup> Street stated that it would be good for the community.

Dan Malay of How You Brewin at 8 N. Long Beach Blvd stated that the application elevates labor pressures and keeps the property substantially commercial.

Mr. Wright moved to close public comment. Mr. Hoover seconded the motion. With a vote in the affirmative, public comment was open. The vote reflected the following ayes: The vote reflected the following ayes: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mr. Mannherz, Mr. Russell, Mr. Savianeso, Mr. Wright, Mr. Franzoni & Mr. Ryan. Absent: Mr. Hartney, Mrs. Klose, Mr. Russell & Mr. Wachter.

Mr. Hodgson made motion to deny the application. Mr. Wright seconded the motion. Roll call reflected the following votes:

Mr. Hodgson: While we appreciate the Surf City businesses, and I thank the Nichols for their commitment to Surf City, the criteria presented tonight for a D variance seems to benefit not the town, but the owner. The criteria presented for safety and stairs and to bring it up to code, I would encourage the owner to do those things for his own family and business. there are negative impacts. I know that the gentleman testified that it would positively affect air and light, but I don't understand how taller, wider building wouldn't negatively impact open air and light. There's zero parking on the property, parking is a problem. It isn't fair to place an undo burden on the side streets where these residential owners are parking as well when we have an ordinance requiring parking for all new site plans. I understand that this is a preexisting condition, which kind of segways into my next point, which is the zoning board's goal is to minimize non-conformities and illuminate non-conformities whenever possible. this had 9 existing non-conformities. They asked to expand those non-conformities. There was no effort to alleviate these non-conformities. There's talk of the 743 minimum square footage. That's a minimum for creating new apartments. If there's a preexisting standard sized apartment, would everyone in town that has one, including duplexes get one? on the bayside, do they get to expand? Its for that 743 pre-minimum bringing it to conformity is for new site plans. It is for those reasons that I am going to vote yes.

Mr. Hoover: I hear what Mr. Hodgson is saying and I agree with some of it and I disagree with some on it. I think that it is a positive for the town. I think there are good and bad points, and I think the good outnumber the bad. I vote no.

Mr. Mannherz: I also vote no to approve. I agree with the testimony that was presented by Mr. Marciano and Mr. Nichols. I believe that it proves that it is a value to the business and the town and that the testimony has satisfied the positive/negative criteria. Mr. Marciano's testimony was thorough with that and as Mr. Quinlan mentioned about the special requirements for a D variance, I believe that several of those have been satisfied as well. I vote no to do it.

Mr. Savianeso: I am going to vote no to approve. It's been existing dealing the zero parking. I was waiting to hear some comments from the public that would denounce it and none of the neighbors are complaining. I say we approve it.

Mr. Wright: I also vote yes to deny. We love the place, we are a block away, we go a few times a week. It's a parking nightmare, like demolition derby on weekends just to get out of there. The parking that's there, when you're trying to get out of there, the cars are coming off the boulevard at about 35 mph. my wife was hit there two years ago and just for the parking sake, you are expanding the density of the non-conformity with more bedrooms. Motion to deny.

Mr. Franzoni: I am voting yes to deny for the same reasons that Gavin stated. I love the store, it's a great place but you already have 9 non-conformities. To have a few that's fine, but you have two apartments on top of the big store with no parking, it's pushing the envelope. Its too much for the property.

Mr. Ryan: I'm voting no against the negative. I think Anchors been a great benefit to the community. I think it would continue to be for generations to come based on the testimony. If those apartments are more livable or safe, all the non-conformities that are there are challenges that the Nichols family has to deal with every day and they don't get any worse just by opening a bit more space. For that reason, I vote no on the negative.

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

Mr. Hodgson: No

Mr. Hoover: Yes

Mr. Mannherz: Yes

Mr. Savianeso: Yes

Mr. Wright: No

Mr. Franzoni: No

Mr. Ryan: Yes

James Raban, Esq. was present to represent 2200 LBB, LLC of 2200 Long Beach Boulevard, Block 57, Lot 19 for bulk variances. There was mention that the current use is mixed commercial and residential. Mr. Raban stated that the applicant is seeking a variance for parking, proposed 14 spaces where 16 are required. it was mentioned that the proposed structure will be 8,500 sq. ft. and will have 2 commercial units with 2 residences above.

Jason Marciano was sworn in as the applicants engineer. He stated that the proposed structure will not be over lot coverage or any setbacks. He stated that they will be at 29.9% lot coverage and

that all bulk variances are met. He mentioned that there is existing depressed curbing that the would like to replace and move the depressed curbing 12 ft over from where is currently opens.

John and Susan Brophy were sworn in as the applicants' owners. They explained that there will be a bookstore in one commercial unit and that they do not know what will be going in the other commercial unit. The applicants stated that they will not be selling or serving food in their bookstore.

Mr. Ryan moved to open public comment. Mr. Wright 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. Savianeso, Mr. Wright, Mr. Franzoni & Mr. Ryan. Absent: Mr. Hartney, Mrs. Klose, Mr. Russell & Mr. Wachter.

Susan Hennessey of 117 N. 22<sup>nd</sup> Street stated that there is bad traffic on 22<sup>nd</sup> street without two commercial units there.

Colleen Deval of 38 N. 22<sup>nd</sup> Street stated that 22<sup>nd</sup> street is very busy and there is no parking.

Judy Nichols of 2012 N. Long Beach Blvd stated that she loves the idea for the businesses.

Mr. Wright moved to close public comment. Mr. Ryan seconded the motion. With a vote in the affirmative, public comment was open. The vote reflected the following ayes: The vote reflected the following ayes: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mr. Mannherz, Mr. Russell, Mr. Savianeso, Mr. Wright, Mr. Franzoni & Mr. Ryan. Absent: Mr. Hartney, Mrs. Klose, Mr. Russell & Mr. Wachter.

There were questions about the signage above the doors. It was explained by Mr. Brophy that there will be 3x18 ft signs above each entrance at the front and rear of the building. The signs will have lights aimed at them. it was noted that there will need to be a variance for the signs and everything must comply with building standards. It was mentioned by the applicants that there will be low fencing on the side where the parking spots are located.

Mr. Hoover moved to open public comment. Mr. Wright 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. Savianeso, Mr. Wright, Mr. Franzoni & Mr. Ryan. Absent: Mr. Hartney, Mrs. Klose, Mr. Russell & Mr. Wachter. Mr. Wright moved to close public comment. Mr. Ryan seconded the motion. With a vote in the affirmative, public comment was open. The vote reflected the following ayes: The vote reflected the following ayes: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mr. Mannherz, Mr. Russell, Mr. Savianeso, Mr. Wright, Mr. Franzoni & Mr. Ryan. Absent: Mr. Hartney, Mrs. Klose, Mr. Russell & Mr. Wachter.

Mr. Wright made motion to approve the application. Mr. Hoover seconded the motion. Roll call reflected the following votes:

Mr. Hodgson: I'm voting yes. The issue for me was parking originally. The parking by narrowing it from 20 ft to 18ft, however it's to accommodate the drive aisle which is something that is usually overlooked when discussing parking. They are increasing the open air and light by increasing the setbacks compared to the current structure. While listening to the testimony of the neighbors and other taxpayers in town, I think they are understanding the options that are presented to the owners. Their concerns are going to be more alleviated with two smaller retail and residential versus single use, a building that could be the size of Joe Pops in that location. Where this is although a big building, its significantly less intrusive. I vote yes.

Mr. Hoover: I vote yes for some of the reasons that Gavin has stated. Mostly it's the lot coverage thing to this board and they are well under the lot coverage. Parking is good and on and because of the curb that they are going to do, not that it counts, but it does count, off-site parking helps. All the set backs are good. to me, this is a positive improvement to the town and to the applicants.

Mr. Mannherz: I also vote yes for reasons that have already been stated. The applicant has listened to the concerns of the board and have made the adjustments accordingly. The ascetics of the building, to me outweigh the current ascetics of the building now. Accommodating ordinances by creating as many parking spaces as possible I think it's a very positive thing. Safety and fire and code issues will be met which should satisfy some of the D variances. So, yes.

Mr. Savianeso: I also approve it. I think its great for an oversized lot to keep small businesses in town. It does not matter, but they are improving boulevard parking. So, yes, definitely approve.

Mr. Wright: Yes, I feel the structure there seems done. I know the previous owner and there are a lot of problems going on with the building. I complement the architect and engineer, I think they did a beautiful job on planning and planning out what to propose so I vote yes.

Mr. Franzoni: I vote to approve. It's a nice big lot and its ascetically pleasing building and to address the concerns about the variance with having two apartments rather than one structure, you could have a five-bedroom apartment up there and meet the criteria. You could have 30 people using it. Its not going to be invasive to the community. Two or three bedrooms will be less invasive and more than likely be people living and working there.

Mr. Ryan: I vote yes for the reasons mentioned earlier from my fellow board members. I think it will be a great addition to our Surf City community. I would love to see it.

Mr. Hoover moved to approve the bills. Mr. Hodgson seconded the motion. Roll call reflected the following in favor: Mr. Hartney, Mr. Hodgson, Mr. Hoover, Mr. Mannherz, Mr. Russell, Mr. Savianeso, Mr. Wright, Mr. Franzoni & Mr. Ryan. Absent: Mr. Hartney, Mrs. Klose, Mr. Russell & Mr. Wachter.

Mr. Hoover moved to adjourn the meeting. Mr. Hodgson seconded the motion. With a vote in the affirmative, the meeting was adjourned. Roll call reflected the following in favor: Mr. Hartney, Mr.

Hodgson, Mr. Hoover, Mr. Mannherz, Mr. Russell, Mr. Savianeso, Mr. Wright, Mr. Franzoni & Mr. Ryan. Absent: Mr. Hartney, Mrs. Klose, Mr. Russell & Mr. Wachter.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jenna Letts". The ink is dark and the handwriting is fluid.

Jenna Letts

Land Use Board Clerk



