

BOROUGH OF SURF CITY LAND USE BOARD

813 Long Beach Boulevard

January 22, 2025

7:00 pm

The meeting was called to order. Kevin Quinlan, Esq. administered the oath of office to Paul Hoover, Sandra Klose & James Russell.

All present joined Chairman Hartney in saluting the Flag.

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

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 December 12, 2024 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.

Counselor Quinlan opened the nomination for the position of Chairman. Mr. Russell nominated Peter Hartney. Mr. Wright seconded the motion. With a vote in the affirmative, Mr. Hartney was nominated for Chairman.

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. DeBenedetto, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, , Mr. Russell, Mr. Savianeso, Mr. Wright & Mr. Franzoni. Abstained: None. Absent: Mr. Ryan.

Chairman Hartney opened the nomination for the position of Vice Chairman. Mr. Russell nominated Alan Mannherz. Mr. Wright seconded motion. With a vote in the affirmative, Mr. Mannherz was nominated for Vice Chairman.

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. DeBenedetto, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, , Mr. Russell, Mr. Savianeso, Mr. Wright & Mr. Franzoni. Abstained: None. Absent: Mr. Ryan.

Chairman Hartney opened the nomination for the position of Board Secretary. Mr. Mannherz nominated Sandra Klose. Mr. Russell seconded the motion. With a vote in the affirmative, Mrs. Klose was elected to be the Board Secretary.

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. DeBenedetto, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, , Mr. Russell, Mr. Savianeso, Mr. Wright & Mr. Franzoni. Abstained: None. Absent: Mr. Ryan.

Mr. Russell moved to approve Resolution 2025-02. Mr. Hoover seconded that motion. With a vote in the affirmative, the following resolution was approved.

WHEREAS, pursuant to the provisions of N.J.S.A. 19:44A-20.5 the Borough of Surf City Land Use Board will need the following professional services as non-fair and open contracts:

Land Use Board Attorney

Land Use Board Engineer; and

WHEREAS, the Chief Financial Officer has determined and certified that the value of the acquisition may exceed \$17,500, the maximum amount of the contract to be awarded under this resolution is set forth in the 2025 Municipal Budget; and

WHEREAS, funds are available for this purpose as certified by the Chief Financial Officer; and

WHEREAS, the listed individuals have submitted a proposal indicating they will provide the related services per their schedule of rates as attached or included in the agreement; and

WHEREAS, the listed individuals have completed and submitted a Business Entity Disclosure Certification. This certifies that they have not made any reportable contributions to a political or candidate committee in the Borough of Surf City in the previous one year. Also, that the contract will prohibit the them from making any reportable contributions through the term of the contract, and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) authorizes the award of contracts for professional services without competitive bids and requires that the resolution and contracts for each professional be made available for public inspection.

NOW, THEREFORE, BE IT RESOLVED by The Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey, as follows:

1. That the following professionals be appointed for the Land Use Board of the Borough of Surf City for a term of one (1) year, commencing January 1, 2025 and ending December 31, 2025.

Kevin Quinlan, Esq. - Land Use Board Attorney

Frank Little and the firm of Owen Little - Land Use Board Engineer; and

2. The Board Chair and the Board Secretary are hereby authorized and directed to execute the attached agreements with said professionals.

3. These contracts are without competitive bidding and are awarded as a professional service in accordance with N.J.S.A. 40A:11-5(1) (a) (i) of the Local Public Contracts Law because it is for services to be performed by a person(s) authorized to practice a recognized profession.

4. A notice of this action shall be printed once in the official newspaper of the Borough of Surf City

5. This resolution takes effect January 1, 2025.

6. A certified copy of this resolution shall be provided by the Clerk of the Board to the Chief Financial Officer and to each professional.

7. That a certificate of availability of funds executed by the Chief Financial Officer is annexed hereto.

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. DeBenedetto, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, , Mr. Russell, Mr. Savianeso, Mr. Wright & Mr. Franzoni. Abstained: None. Absent: Mr. Ryan.

Mr. Mannherz moved to approve Resolution 2025-01. Mr. Russell seconded that motion. With a vote in the affirmative, the following resolution was approved.

WHEREAS, the Open Public Meetings Act is the law of the State of New Jersey. It provides for adequate public notice to be given for meetings of the Land Use Board of the Borough of Surf City; and

WHEREAS, the Board is required to adopt a resolution to schedule regular meetings. the Board wishes to adopt, without limitation, its basic rules and regulations by this Resolution.

NOW, THEREFORE, BE IT RESOLVED the regular scheduled meetings of the Land Use Board of the Borough of Surf City shall be held at 7:00 p.m. on the fourth Wednesday of each month, except in cases of legal holidays or for other reasons when the meeting date may be hereinafter set forth. All meetings will be held at the Borough Hall Council Chambers located at 813 Long Beach Boulevard in Surf City, New Jersey. The public may only participate at such times as set forth in the agenda of the meeting or at the discretion of the presiding officer or chairperson.

Pursuant to this Resolution, the following dates for meetings shall be hereby adopted:

Wednesday, February 26, 2025 Wednesday, March 26, 2025

Wednesday, April 23, 2025 Wednesday, May 28, 2025

Wednesday, June 25, 2025 Wednesday, July 23, 2025

Wednesday, August 27, 2025 Wednesday, September 24, 2025

Wednesday, October 22, 2025 Wednesday, November 26, 2025

Wednesday, December 17, 2025

BE IT FURTHER RESOLVED that the Land Use Board meetings shall adjourn no later than 10:30 p.m. with no further testimony being taken or other business conducted unless ordered at the discretion of the Board.

BE IT FURTHER RESOLVED that in the event regular public meetings and/or additional meetings must be held at a date, time and place other than as set forth herein due to unforeseen circumstances; the same shall be held at a date, time and place as set by the Chairperson.

BE IT FURTHER RESOLVED that each applicant on the agenda that is scheduled shall have a maximum amount of time available to present testimony, witnesses and other proofs in support of its case. This shall include the comments of objectors or supporters. The maximum amount of time is of one (1) hour for each meeting the applicant appears on the agenda. The one (1) hour rule shall be enforced by the Board with any deviation allowed being solely in the discretion of the Board.

BE IT FURTHER RESOLVED that notice is hereby given that all forms in relation to the Initial Submission Checklist are available to the public for use in making application to the Board. Said related forms and sheets are offered as an aid to the applicant with the understanding that same do not represent the ordinances of the Borough in entirety. The complete legal burden is of the applicant; that it is still incumbent upon the applicant and/or his or her representatives to apply for and present their case appropriately pursuant to the rules and applicable ordinances and law.

BE IT FURTHER RESOLVED that the Board requires that all applications and appropriate plans in support thereof be filed with the Board Clerk as set forth in the Land Development Ordinance prior to any regular Board meeting and hearing. The Board Clerk has the discretion and authority to advise the applicant of a specific hearing date to appear before the Board provided there has been a determination by the Board Engineer and Board Attorney that the application and plans are deemed complete. The Board Clerk will forward all completed applications prior to the hearing date.

BE IT FURTHER RESOLVED that an informal review of concepts of plans for development as permitted by law may be requested by a developer and may be scheduled by the Board Clerk for a Board meeting at a date and time at the discretion of the Chairperson.

BE IT FURTHER RESOLVED Beach Haven Times, The Asbury Park Press and Atlantic City Press are hereby designated as the official newspapers to provide notice on matters of the Board.

This Resolution shall be published & posted not later than seven (7) days after its adoption, as required by law.

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. DeBenedetto, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, , Mr. Russell, Mr. Savianeso, Mr. Wright & Mr. Franzoni. Abstained: None. Absent: Mr. Ryan.

Mr. Russell moved to approve the December 16, 2024 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. DeBenedetto, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, , Mr. Russell, Mr. Savianeso, Mr. Wright & Mr. Franzoni. Abstained: None. Absent: Mr. Ryan.

Under regular business, Letter from Michael Ottavio of 42 N. 25th Street was read.

Mr. Mannherz moved to approve Resolution 2024-16. Mr. Wright seconded that motion. With a vote in the affirmative, the following resolution was approved.

WHEREAS, Robert and MaryAnne Riley are the owners of the premises identified as Block 77, Lot 4 on the official tax maps of the Borough of Surf City also known as 254 N. 15th Street 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 two second story dormers over a portion of the first floor and an 85 sq. ft. addition over the garage. The following variances are required:

1. Lot Area of 3,000 sq. ft. where 5,000 sq. ft. is required. This is a pre-existing non-conformity which is not being expanded.
2. Lot Width of 40 ft. where 50 ft. is required. This is a pre-existing non-conformity which is not being expanded.
3. Minimum Front Yard Setback where 5.1 ft. exists to the front porch on North 15th Street where 10 ft. is required. The front yard setback to the proposed dormers is 9.9 ft. where 10 ft. is required.
4. Minimum Front Yard Setback where 9.9 ft exists to Sunset Avenue where 10 ft. is required.
5. Maximum Building Lot Coverage of 41.5% is existing where 35% is permitted. WHEREAS, the site is in the RA Zone.

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

- A-1 Application.

- A-2 Variance Plan prepared by JBA Architecture and Consulting dated 10/5/24.
- A-3 Plan of Survey prepared by Louis Lehman, PA dated 10/2/24.
- A-4 Architectural Plans prepared by JBA Architecture and Consulting dated 8/22/24.
- A-5 Color Photos
- (4). A-6 Tax Map.
- A-7 Google Maps Street View dated 8/23.
- B-1 Board Engineer Review Letter dated 11/8/24.

The foregoing exhibits being marked and admitted into evidence.

WHEREAS James D. Kavanaugh, AIA was sworn and qualified as an expert in architectural design and testified as follows:

1. The proposed addition will increase the number of bedrooms from 3 to 4.
2. The roof will be raised but comply with height requirements.
3. The roof line of the addition over the garage will be consistent with the house roof line.
4. The existing lot is undersized as to lot width and lot area which creates a non-self-created hardship.
5. Adjacent properties are fully developed and there is no opportunity to acquire any additional property.
6. The proposed addition will be aesthetically appealing and consistent with the neighborhood scheme.
7. The proposed addition will be an improvement in housing stock.
8. The benefits in improvements in housing stock and aesthetics outweigh any detriments, which are not substantial.
9. The proposed addition will not impair open air and light whereas it will not increase building height or setbacks.
10. Presently there are three non-conforming off-street parking spaces along North Fifteenth Street.
11. The plan will be revised to show a conforming off-street parking space along the westerly property line.

WHEREAS, Robert Riley was sworn and testified as follows:

1. He owns the property with his wife.
2. He is authorized to speak on behalf of himself and his wife and has authority to bind same.
3. The air conditioning unit is located under the deck.

4. There are presently 3 bedrooms and 4 are proposed.

WHEREAS the public was given an opportunity to be heard and no interested parties testified.

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 and publication as required by law has been provided and determined to be in proper order.
4. The pre-existing non-conformities of lot area and lot width are not being expanded.
5. The proposed renovations are not a significant increase in density.
6. The plans shall be revised to show one off-street parking space along the westerly property line.
7. The proposed development represents an improvement in the housing stock and is an aesthetic improvement consistent with the neighborhood scheme.
8. The pre-existing undersized lot size and lot width represents a hardship which is not being increased.
9. The footprint and overall height of the existing dwelling is not being expanded.
10. Being a corner lot, the impact on adjacent properties is minimal.
11. The benefits of granting the relief requested outweigh any detriment. The Board specifically finds benefits of improvements in housing stock and aesthetics.
12. The granting of the relief will not impair the purpose of the master plan or ordinances of the Borough.
13. There is no detriment to open air and light of adjacent properties whereas neither the overall height nor lot coverage is being expanded.

NOW, THEREFORE, BE IT RESOLVED that the application for variance relief to construct two second story dormers over a portion of the first floor and an 85 sq. ft. addition over the garage is hereby granted.

IT IS FURTHER RESOLVED that the contents of the preamble and Board Engineer's review admitted as B-1 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.
7. Submission of a revised plan depicting the conforming off-street parking and correcting lot coverage of 41.4%.

Roll call reflected the following in the affirmative: Roll call reflected the following in the affirmative: Mr. Hartney, Mr. DeBenedetto, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. Wright. Abstained: Mr. Hodgson, Mr. Savianeso, & Mr. Franzoni. Absent: Mr. Ryan
Mr. Mannherz moved to approve Resolution 2024-17. Mr. Wright seconded that motion. With a vote in the affirmative, the following resolution was approved.

WHEREAS, the Applicant, Surf City Hotel, LLC, makes this Application with the authorization of the property owners of premises identified as Block 30, Lots 15-20 on the official tax maps of the Borough of Surf City and have standing to make the application.

WHEREAS, the Applicant was represented by Christopher J. Dasti, Esq. of Dasti and Staiger.

WHEREAS, the applicant has applied to the Borough of Surf City Land Use Board for Preliminary and Final Major Site Plan Approval and variances for Minimum Side Yard Setback, Maximum Lot Coverage, Parking and Special Reasons “D” Use Variance to construct an exterior pavilion and seating area to the southeast corner of the Surf City Hotel which will remain. A 1,461 sq. ft. framed pavilion will provide space for 100 exterior seats in lieu of 100 interior seats that are part of the existing 403 seats onsite with the total number of seats on site not increasing.

WHEREAS, the subject property is located within both the RA – Residential Zone and the B- Business Zone. The proposed pavilion will be located within the B- Business Zone.

WHEREAS, the following variances are required:

1. Special Reasons “D” Variance for Maximum Outdoor Seating of one hundred (100) seats
where 24 are permitted.
2. Minimum Side Yard Setback of 10 ft. is required whereas 3.4 ft. is proposed to

the new Pavilion adjacent to North Eighth Street. The existing set back to the building adjacent to North Eighth Street is 5.95 ft.

3. Maximum Lot coverage of 59.0% where 53.9% is existing and 35% is permitted.
4. Minimum parking spaces of 15 where 18 are existing and 164 are required.

WHEREAS, the Land Use Board considered the Application at the December 16, 2024 meeting at which time the following exhibits were marked and entered into evidence:

A-1 Application.

A-2 Site Plan prepared by Horn, Tyson and Yoder, Inc. dated 1/22/19 last revised 11/27/24. A-3 Architectural Plans prepared by CWB Architecture dated 1/9/24 last revised 11/29/24. A-4 Color Photos (4).

B-1 Board Engineer Review Letter dated 12/9/24 and amended to reflect 164 required spaces rather than 163 in paragraph 2.

The foregoing exhibits being marked and admitted into evidence. WHEREAS Greg Gewirtz was sworn and testified as follows:

1. He is a member of the Applicant Surf City Hotel, LLC (Company) and has testified that he has the authorization of the other member of the Company to act on behalf of the Company and to bind the Company.
2. The restaurant business has changed as a result of Covid with businesses having to adapt to customers desire for more outdoor dining options.
3. To stay viable, it is necessary for eating establishments to offer outdoor dining options.
4. The total seats will not exceed 403.
5. Additional employees will not be required whereas the total number of seats on site is not increasing.
6. The proposed permanent pavilion is an aesthetic improvement and a safer alternative over the temporary structures permitted under the Covid order and new State statute permitted out-door seating.
7. No live music or amplified music will be permitted in the outdoor seating area. Applicant will comply with the Borough noise ordinance.
9. The existing/proposed planters shall be maintained to act as a
8. The outside seating area will be cleared out by 10 p.m. It will operate from 12 noon to 10 p.m.
10. The sliding glass doors on the south side of the covered porch shall be closed during indoor performances.

WHEREAS, the Applicant's Architect, Sarah Jennings, R.A. of CWB Architecture was sworn and qualified as an expert in architectural design and testified as follows:

1. The roof of the pavilion will be permanent.
2. Outdoor seating area will be for seating only. No bar will be allowed.
3. The structure is freestanding.
4. The proposed paver floor is safer and more handicap accessible than the existing stone surface.
5. The pavilion's location and height were determined for the aesthetics and better handling of rain water runoff.

WHEREAS, the Applicant's Professional Engineer/Planner, James Brzozowski, P.E., P.P. of Horn, Tyson and Yoder, Inc. was qualified as an expert in professional engineering and planning and testified as follows:

1. The undersized parking stall will be increased to nine (9) feet. The plan will be revised to depict the parking stall size of the spaces located in the RA Zone south-east corner are nine (9) feet by twenty (20) feet.
2. Parking is being reduced from 18 to 15 spaces including a van accessible space.
3. Full-height curb will be installed along North Eighth Street which will also increase on-street parking. Twenty-four-foot depressed curb will remain for driveway access.
4. The proposed building coverage is substantially less than the existing coverage with the temporary tent utilized in 2021-2024.
5. The proposed pavilion will be located entirely within the Business Zone.
6. A special reasons "D" variance can be granted as the proposed development advances the purposes of the Master Plan. Specifically, the granting of the "D" variance promotes and maintains an existing business, promotes health and safety, is an appropriate use of the site which can support the proposed use and serves a public need for safer outdoor dining options.
7. Granting of the variances will not create any negative impacts or substantial detriments to the zone plan, ordinances and master plan of the Borough.
8. The site is particularly suited to the proposed use and has functioned in this capacity for the past six years.
9. Given the unique nature of the lot and the existing improvements on site and off, create a hardship.
10. Curb waiver is not required.
11. The existing non-conforming parking spaces along North Ninth Street to remain.

WHEREAS, all interested parties were given the opportunity to be heard. Interested parties spoke out against and in favor of the Application.

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 the owner of the business operating on the site and has the authorization to make this application.
2. The Application was deemed complete and 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.
3. The Board has Jurisdiction to hear the Application.
4. The Board considered and determined that the Application is properly heard as a Preliminary and Final Major Site Plan with bulk variances and a Special Reasons "D" variance.
6. The Board finds that the proposed use is no more intense than the existing approved use.
7. All lighting shall be recessed, placed or shielded so as not to impact adjacent properties or roadways.
8. The total number of seats shall remain at 403.
9. No outdoor music or amplified music is permitted in the pavilion.
10. Service in the pavilion area shall be between 10 a.m. and 10 p.m. Customers shall vacate the outdoor seating area by 10 p.m.
11. The benefits of granting the variance outweigh any detriments, which if any, are not substantial.
12. There are no detrimental impacts on open air and light.
13. Improvements in aesthetics and safety are improvements.
14. The proposed outdoor seating does not increase the density or use whereas the total number of seats on-site remains 403.
15. The installation of a full-height curb along North Eighth Street will increase safety and add on-street parking.
16. Curb stops to be installed at all parking stalls.
17. Granting the relief requested will promote and/or retain and existing commercial use in the Borough
18. Approval by the Land Use Board shall be required should the Applicant/owners seek in increase the number of outdoor seating.
19. The site plan shall be revised to show the correct parking stall size.

NOW, THEREFORE, BE IT RESOLVED that the application for Preliminary and Final Major Site Plan Approval, bulk variance and Special Reasons "D" Variance are hereby Granted subject to the forgoing conditions and findings of fact.

IT IS FURTHER RESOLVED that the contents of the preamble and Board Engineer's

review letter admitted as B-1 are 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.

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

Mrs. Klose moved to approve Resolution 2024-19. Mr. Russell seconded that motion. With a vote in the affirmative, the following resolution was approved.

WHEREAS, Ziman Development, Inc., is the contract purchaser of property identified as Block 9I, Lots 20, 22, 24 and 24.01 on the official tax maps of the Borough of Surf City also known as 258 N. 23rd Street and is authorized by the property owner to make this 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 Minor Subdivision approval. The Applicant proposes to demolish the existing residential structure and all associated improvements and subdivide the property into two (2) single family buildable lots.

WHEREAS, the property is in the RA (Residential) Zone.

WHEREAS, a public hearing was held on the Application on December 16, 2024 at which time exhibits were admitted into evidence and testimony was provided.

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

- A-1 Application.
- A-2 Minor Subdivision Map prepared by Horn, Tyson and Yoder dated 9/18/24.
- A-3 Color Photographs (7).
- A-4 Turning Radius Diagram prepared by Horn, Tyson and Yoder dated

_____.

B-1 Board Engineer Review letter dated 11/20/24.

WHEREAS, Edward F. Liston, Esq. representing an interested party questioned whether the Board has jurisdiction to hear the matter whereas the Notice was not specific that variance relief was requested pursuant to N.J.S.A. 40:55D-60(c) and therefore the Notice was defective depriving the Board of Jurisdiction.

WHEREAS, counsel for the Board opined that the Notice was adequate to reasonably place interested parties on notice of the nature and extent of relief requested and therefore the Board has jurisdiction to hear the Application.

WHEREAS, the Board interpreted ordinance §29-8.5 as requiring any easement to maintain 25' for the entire length of the easement and therefore the Applicant requires a variance for the access easement of less than 25' for a portion of the existing easement.

WHEREAS, James Brzozowski, PE, PP, of Horn, Tyson and Yoder, Inc. was sworn and testified as follows:

1. The existing easement is 25' in width at the dividing line between Lot 18 and proposed new lot 24.03 but reduces to 20' over a portion of Lot 16.
2. A hardship exists due to the existing easement and other existing conditions of the property.
3. The easement is sufficient to support 2 residential lots.
4. Emergency vehicles would access the two proposed lots in the same manner as they currently are able to access the existing single-family dwelling located on Lots 20, 22 and 24.
5. The Turning Radius Overlay marked as Exhibit A-4 shows the ability of various sized emergency vehicles to access the new lots.

WHEREAS, the hearing was opened to the public and several interested parties testified against the granting of the subdivision and variance relief citing safety concerns and increase in intensity of use.

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 Application was deemed complete, and the Applicant is authorized to make the Application and has standing.
2. Proof of Service and publication as required by law has been provided and determined to be in proper order.
3. A variance is required for easement width of 20 ft. where 25 ft. is required.
4. The Board has jurisdiction to hear the Application for minor subdivision with variance for easement width.
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 variance could be granted without substantial detriment to the public good, that the benefits of granting the variance 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. Specifically, the Board finds that the increase in density and lack of sufficient access for emergency vehicles creates a significant safety issue and is a significant detriment which outweighs any benefits which are solely to the Applicant.

6. The Board has reviewed and adopts the engineering reports of Owen Little and Associates dated November 20, 2024 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 subdivision and variance relief is hereby denied.

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

Mr. Russell recused himself from the application.

James Raban, Esq was present to represent Adam Heydt and Fatema Hagheshi of 25 N. 3rd Street, Block 20 Lot 9. It was stated that the current residence is located on a 30x100 lot. It was also stated that a parking variance is not needed. It was further mentioned that the applicant is seeking to place a 10x20ft pool within the 10ft setback in the rear of the property.

Jason Marciano was sworn in as the applicants engineer. He stated that the proposed residence will have a car park located below the two-story structure. Arnold Boyle was sworn in as the applicant's architect. He stated that the proposed structure would be at 34.9% lot coverage and would be within the allowed height. It was mentioned that the narrow lot is the hardship in regards to the variance request. It was also decided by the applicant to withdrawal the request for a pool in the setback.

Mr. Wright mad a motion to open public comment. Mrs. Klose seconded the motion. Roll call reflected the following in the affirmative: Mr. Hartney, Mr. DeBenedetto, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Savianeso, Mr. Wright & Mr. Franzoni. Abstained: None. Absent: Mr. Ryan. Mr. Wright made motion to close public comment. Mr. DeBenedetto seconded the motion. Roll call reflected the following in the affirmative: Mr. Hartney, Mr. DeBenedetto, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Savianeso, Mr. Wright & Mr. Franzoni. Abstained: None. Absent: Mr. Ryan.

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

Mr. Hartney: interesting, I have concerns about the side yard setback with the air conditioning unit, but there's no variance requirement. The pool has been removed. The parking spaces has been adjusted. My real concern was the bedrooms and now we have a paper trail. I will vote yes.

Mr. DeBenedetto: I'm going to vote no. we have a masterplan in order to keep Surf City spacious and open. We're talking about an extensive area; it's a lot of property. It sounds like nothing, five feet, but we denied folks for disability reasons, elevators on side setbacks and had them put them on the back of the house in order for us to maintain that spacing. I have a small lot myself, so I think I would be upset with the town and the Board if we approved that. my answer's no.

Mr. Hodgson: After review, it's tough because it's 30 by 100. The way I look at it, it's one variance, either 20ft wall in the front or the setbacks on the side. What I usually refer to is open air and light. The ordinance is written in my estimation to maintain 15ft side between any two houses at any given time. Right now, it exists that the house next door has 10 feet so there's a 15ft, but that's going to hinder the neighbor next door who has a conforming lot. So, the long short of it is, even though it is a difficult lot, I would prefer a skinny house on a skinny lot then an overbuilt house on a skinny property. For that reason, I vote no.

Mr. Hoover: I'm going to vote no also. I'm going either way, but after listening to a couple of the other gentleman and their responses, I have to agree with what they said, no.

Mrs. Klose: I'm going to vote yes, because I look at this poor little lot and what else are you going to do with it. And if you looked at the pictures of the neighbors, that's a pretty big house sitting next to it. I'm going to vote yes.

Mr. Mannherz: I also vote yes. The applicant was understanding in reorienting the pool to conform with ordinances. Currently the house has a problem with any off-street parking and they've accommodated for that. Clarification was made in regards to the ground floor open area. Being a 30x100ft lot, it's a very difficult lot to work with. I think the applicant and architect and engineer did a great job in working with resources they had, that it will improve the housing stock.

Mr. Savianeso: It's tough but I have to vote no. It's unfortunate, it's a 30ft lot, but its know that anyone who purchases a small lot is limited to what they can build. I'm going to have to vote no.

Mr. Wright: I agree with the gentlemen that also voted no. It's a clean slate you're starting with; I just think that they can comply with the ordinances a little bit.

Mr. Franzoni: I have to vote no for the reasons most of the other members gave. I just think it's a 30ft lot, you can't get a 2300sqft house there. Its too much going on for e 30ft lot and it's always been a 30ft lot. The masterplan just doesn't allow for that.

James Raban, Esq was present to represent James and Alicia Callan of 1615 Sunset Avenue, Block 79 Lot 3. It was stated that the current residence is located on a 50 by 75 ft lot. It was mentioned that the current setbacks will remain the same. He stated that they are seeking relief of a setback and a ground floor variance.

Jason Marciano was sworn in as the applicants engineer. He stated that the property has pre-existing non-conformities. He stated that the applicant is seeking to add a second-floor area to the existing home. He further stated that the building height and lot coverage will remain the same.

Sarah Jennings was sworn in as the applicant's architect. She stated that the applicant is seeking to redo the existing deck with a covered area on the south side. She further mentioned that the proposed lot coverage will be 1804sqft. She stated that there will be an updated staircase going to the rooftop deck. She stated that the current front yard set back of 9.4ft will remain the same.

Mr. Russell mad a motion to open public comment. Mrs. Klose seconded the motion. Roll call

reflected the following in the affirmative: Mr. Hartney, Mr. DeBenedetto, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. Savianeso, Mr. Wright & Mr. Franzoni. Abstained: None. Absent: Mr. Ryan. Mr. Wright made motion to close public comment. Mr. Klose seconded the motion. Roll call reflected the following in the affirmative: Mr. Hartney, Mr. DeBenedetto, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. Savianeso, Mr. Wright & Mr. Franzoni. Abstained: None. Absent: Mr. Ryan.

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

Mr. Hartney: I say yes to the motion, it decreases the nonconformity that is existing on the property almost to completely complying, they've made the adaptations for 20ft lots. It does improve the housing stock by improving the building. The other pre-existing non-conformities that are there are pre-existing.

M. DeBenedetto: I vote that we approve. I think they've done a great job in trying to get the 35% with what they started with. I think the design looks great. I think they did everything they possibly could do to stay within the constraints given. I vote we move forward.

Mr. Hodgson: I also vote yes to approve. Its worth noting that this application is 37% lot coverage and they're moving more towards conformity as apposed to some applications that have come in trying to cheat over that number. For that reason, I vote yes.

Mr. Hoover: I also vote yes for the reasons that have been said. Coverage is less than the existing was. Setbacks are existing, not much they can do with that. they did everything they could to keep it to the ordinances as possible. I vote yes.

Mrs. Klose: I also vote yes for all the reasons that were already stated.

Mr. Mannherz: I also vote yes for reasons previously stated. The existing setbacks are minimal and the design is very aesthetic, so it's an improvement.

Mr. Russell: I also vote yes for all the reasons of the Board. I also think the architect did a very nice job.

Mr. Savianeso: I'm going to vote yes for the previous reasons. It's a beautiful building.


Mr. Wright: I vote yes also. It's a shame, you were within inches of conforming, and had to come here. Yes.

Mrs. Klose moved to approve the bills. Mr. Russell seconded the motion Roll call reflected the following in the affirmative: Roll call reflected the following in the affirmative: Roll call reflected the following in the affirmative: Roll call reflected the following in the affirmative: Mr. Hartney, Mr. DeBenedetto, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. Savianeso, Mr. Wright & Mr. Franzoni. Abstained: None. Abstained: None. Absent: Mr. Ryan.

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

Mr. DeBenedetto, Mr. Hodgson, Mr. Hoover, Mrs. Klose, Mr. Mannherz, Mr. Russell, Mr. Savianeso, Mr. Wright & Mr. Franzoni. Abstained: None. Abstained: None. Absent: Mr. Ryan.

Respectfully submitted,

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

Jenna Letts

Land Use Board Clerk