

Zoning Board of Adjustment Minutes
Regular Meeting:
February 11, 2013
6:30 p.m.

The Regular Meeting of the North Wildwood Zoning Board was held on the above date & time. Adequate notice of this meeting was submitted to the official newspaper of the City of North Wildwood (AC Press). An Agenda was posted on the main bulletin board at City Hall, on the bulletin board at the Planning/Zoning Office and on the City website.

A) CALL TO ORDER & OPEN PUBLIC MEETING STATEMENT

Chairman Flynn called the meeting to Order & read the Open Public Meeting Statement to the Board & members of the public.

After the Pledge of Allegiance, Chairman Flynn made an announcement to turn off all cell phones for all Board members & members of the public.

B) PLEDGE OF ALLEGIANCE

Chairman Flynn led the audience in reciting the pledge of Allegiance to the Flag.

C) ROLL CALL

Roll call of the Board members then commenced.

CHAIRMAN JAMES M. FLYNN	PRESENT	MR. JOE RULLO	PRESENT
V. CHAIR. JODIE DIEDUARDO	PRESENT	MR. JOHN T. DAVIS	PRESENT
MR. GEORGE GREENLAND	PRESENT	MR. GERALD BOYLE	PRESENT
MS. BARBARA HAAS	PRESENT	MS. SHARON CANNON (II)	PRESENT
MR. ROBERT BERARDO (I)	PRESENT	MR. TIMOTHY BARRY (III)	PRESENT
MR. DOUG HALEY (IV)	PRESENT		

MR. DEAN MARCOLONGO (ATTORNEY)	PRESENT
MR. RALPH PETRELLA (ENGINEER)	PRESENT
MS. ELIZABETH TERENIK (PLANNER)	PRESENT
MR. J. ERIC GUNDRUM, (BOARD SECY.)	PRESENT

D) SWEARING IN OF PROFESSIONALS:

The Board Solicitor conducted the truth swearing of the professionals of the Board necessary for tonight's meeting.

E) MOTIONS FOR ADJOURNMENTS: None presented.

F) NEW BUSINESS APPLICATIONS:

Application No. Z-13-1-1

Christian Deegler

BLOCK 156, LOT 1

LOCATION: 235 West 3rd Avenue

Reconstruction of new dwelling unit – “d - Use” variance with
“c” Variance Relief – BB Zoning District

Due to conflict of interest, Vice-Chairperson DiEduardo will not participate in the proceedings of this application. She would not vote on the incomplete/complete determination.

The Board Solicitor gave a brief summary of the application before the Board. Due to the Review Committee deeming the application as an “incomplete,” the Board must make determination to hear the application. The application was submitted due to restoration efforts as part of the Superstorm Sandy and based on the Zoning Official determination, requires a Use Variance for what is being proposed. The Board will make determination to either hear or not hear the application. The Board tonight will hear the application for determination of completeness by seven (7) members of the Board.

Jeffrey P. Barnes, Esq. of the law office of Stefankiewicz & Barnes, LLC appeared on behalf of the Applicants & explained the nature of the application to the Board. He stated the property has existed for some time and has subsequently condemned by the North Wildwood Construction Official due to storm damage. Five (5) total variances are being requested as part of the application. Three (3) “d”-Use variances are needed. Parking is a major issue of the Review Committee also.

Chairman Flynn questioned whether plans were on-file with the Board Secretary. The Board Secretary, Board Engineer & Board Solicitor explained the situation of the plan revision. The Board members received the letter of “incomplete” of the Review Committee from the Board Secretary. Board Engineer did not have enough time to review the revised plan submittal. Board Planner did review the revised application & provide report on same.

After hearing testimony, Chairman Flynn stated he was uncomfortable reviewing the application tonight due to incomplete determination. After polling of the Board members, the application was not heard tonight. Board members Ms. Cannon, Mr. Barry & Mr. Haley did not participate in the discussion due to the quorum of the Board. The application is deemed incomplete and adjourned to the next meeting. A special meeting was requested by Mr. Barnes and the Board was scheduled for February 25, 2013. The Board Solicitor announced that no further public notice is required to the 200 foot property owners.

Application No. Z-12-11-1

Scott Peter

BLOCK 212, LOT 1

LOCATION: 815 New Jersey Avenue

“d - Use” variance with “c” Variance Relief – GB Zoning District

Board member Tim Barry, due to a conflict of interest, steps down from the dais and was seated in the audience section of the room.

Louis Dwyer, Esq., appeared on behalf of the applicants & explained the nature of the application to the Board. Scott Peter of 745 West Montgomery Avenue, Wildwood, NJ has applied to the Board for minor subdivision approval (to create two (2) lots from one (1) lot), a Use variance for a use not permitted in a zone (a single family & duplex dwelling in the General Business (GB) Zone) and bulk variances for rearyard setback (10 ft. 3 in. proposed where 15 ft. is required) and number of parking spaces (four (4) proposed where five (5) are required) to construct a single family dwelling & duplex dwelling, commonly known as 815 New Jersey Avenue, North Wildwood.

Mr. Dwyer advised that the subject property is located between 8th & 9th Avenues on New Jersey Avenue. The property was last used as a gasoline/service station approximately 10 years ago. That building was demolished & the property has been for sale since that time. Mr. Dwyer advised that a prior developer had obtained preliminary & final site plan approval by Resolution P-05-6-4(A) on July 15, 2005 to develop two (2) commercial units on the 1st floor with four (4) residential units above. That project was never built. Mr. Dwyer advised that the Applicant, who is now the owner of the subject property, is requesting minor subdivision approval to divide the property into two (2) parcels, the parcel adjacent to New Jersey Avenue would be 40 ft. x 100 ft. and the property to the east would be 60 ft. wide x 100 ft. deep. The Applicant proposes to develop a single family dwelling on the lot adjacent to New Jersey Avenue and a duplex on the larger lot.

Harold E. Noon, Jr., a professional land surveyor & professional planner, with GEOSURV New Jersey, LLC appeared, was sworn & testified from his minor subdivision plan consisting of two sheets dated November 12, 2012 and last revised December 20, 2012 which were received by the Board and incorporated as fact. Mr. Noon testified to the development in & around the subject property which he described as a mix of residential & commercial uses. Mr. Noon testified that in his opinion, given the new Advisory Base Flood Elevation (ABFE) Maps that have been proposed by FEMA and adopted by the State of New Jersey, it is unlikely that commercial construction would occur on this site and that the site is better suited for residential use. He opined that raising a commercial structure to fit the ABFE would simply be impractical. During the course of the hearing, Board Solicitor Marcolongo had the Applicant acknowledge that FEMA had issued new ABFE Maps and that the Applicant was assuming the risk of developing during a time when FEMA regulations & base elevation mapping is in a state of flux. Mr. Noon testified that the proposed development includes closing all curb cuts on New Jersey Avenue which would increase parking on New Jersey Avenue and that all curb cuts servicing the residences would be on 9th Avenue. He further testified that the structures themselves would be oriented to 9th Avenue. Addressing concerns of the Board's Professionals, Mr. Noon testified that the Applicant has proposed an attractive façade adjacent to New Jersey Avenue so that the side of the building would not be a large blank wall.

Board Engineer Petrella spoke to the proposed application, specifically testifying from his review memorandum of February 1, 2013 which was received by the Board & incorporated as fact. Mr. Petrella was of the opinion that a parking variance was needed for the duplex since four (4) spaces were proposed and five (5) are required pursuant to the Residential Site Improvements Standards. Mr. Petrella also requested that the plans be revised to widen the curb cut servicing the duplex to 20 ft. to provide easier access to same. The Applicant agreed to revise his plans accordingly. Board Planner

Terenik, testified as to the application and from her review memorandum of January 31, 2013 which was received by the Board & incorporated as fact. Ms. Terenik noted that the adjacent properties had recently been rezoned from R-2 to R-1.5 but the subject property continues to remain in a commercial zone (GB) although the commercial zone has been renamed (CBD). She testified that the zoning change was as a result of the most recent Master Plan Examination which continues to express the City's intent to have commercial development along New Jersey Avenue. The Board members spoke to the finding that the City of North Wildwood has recently approved a new Master Plan. The Master Plan Examination resulted in the modification of the Zoning Ordinance whereby the zone where this property is located was changed from a GB Zone to the Central Business District (CBD). The "Time of Application Rule," however, requires that this application be reviewed using the GB Zone requirements. Regardless of whether this application was heard under the GB Zone requirements or the CBD requirements, residential development is not permitted on the 1st floor and must be constructed on a 2nd or 3rd floor above a commercial unit to be a permitted use in either GB or CBD Zoning District.

Applicant, Scott Peter appeared, was sworn & testified on behalf of the application. Mr. Peter testified that he has been a builder in the Wildwoods for approximately 12 years & is proud of the unique & aesthetically pleasing structures that he has constructed. Mr. Peter testified as to the proposed minor subdivision and stated that he believed that it would be easier to construct a single family dwelling adjacent to New Jersey Avenue and provide for the appropriate aesthetics adjacent to New Jersey Avenue to avoid a large blank wall for the traveling public. Upon questioning from the Board, Mr. Peter testified that he has oriented the two (2) residential structures to 9th Avenue since it is easier to back onto the side street rather than the County Road (New Jersey Avenue). He further testified that he intends to close off all curb cuts on New Jersey Avenue which will provide additional parking along the main thoroughfare. In terms of aesthetics, Mr. Peter testified that the proposed duplex has a Victorian feel to same and that he is proposing significant landscaping on both properties particularly along New Jersey Avenue. In support of the application, Mr. Peter testified that the prior approval for development on this lot provided for six (6) residential and commercial units and he is reducing the density in half since only three (3) units would be developed. He further testified that in order to accommodate neighbors to the east he had provided a 10 ft. side yard setback for the duplex and will develop a vinyl fence. Upon questioning from the Board regarding the prior use of this property as a service/gas station, Mr. Peter advised that he has obtained a No Further Action (NFA) Letter from the NJDEP. During the hearing and based upon questioning from the Board, Mr. Peter agreed to revise his plans so that the single family dwelling would have only four (4) bedrooms and thus need only two (2) parking spaces therefore reducing the need for a parking variance for same. He also agreed to revise the minor subdivision plan to remove the crosswalk that is shown on same and to revise both sets of plans so that the curb cuts were consistent with one another on 9th Avenue. The subdivision plan would also be revised to evidence that this application was submitted to the Board and provide a signature line for the engineer. The Board was also in receipt of floor plans & elevations for the proposed single family dwelling & duplex created by Atlantes Planning & Architects consisting of two sheets dated November 2012 which were received by the Board and incorporated as fact.

Chairman Flynn then opened the application to the public for comment, which time the following members of the public came forward to testify:

Anthony Serpentelli of 12th Avenue, North Wildwood appeared, was sworn & testified in favor of the application specifically noting that there was too many commercial units on New Jersey Avenue that were currently vacant & additional commercial units were not necessary.

Regina Augustino of 107 East 8th Avenue, North Wildwood appeared, was sworn & testified that the proposed development is good for the neighborhood since this lot has remained vacant for a long period of time and there are too many vacant commercial units along New Jersey Avenue.

Kathlee Del Conte of 105 East 9th Avenue, North Wildwood appeared was sworn & testified that she would prefer two (2) single family dwellings rather than a single family dwelling and a duplex and expressed concern as to the number of parking spaces.

Dennis Salwach of 7th Avenue, North Wildwood appeared was sworn & testified that he believes that the property should be developed with two (2) single family dwellings.

John Augustino of 107 East 8th Avenue, North Wildwood appeared was sworn & questioned the Board as to which current zoning district the property is located.

There being no further public comment, the public portion of the meeting was closed by Chairman Flynn.

In response to the public questioning, the Applicant testified that financial considerations of the application did not permit him to construct two single family dwellings on the site and the duplex is financial necessary. He further testified upon questioning from the Board that the duplex would be developed as a condominium with limited common areas.

The Board members then discussed & summarized the application as presented. The Board then discussed the finding of facts on the Variance(s) application. Each Board member gave reasoning for their view of the facts and the application as it relates to each variance. Each Board member reiterated their reasoning of positive & negative reasons for each variance(s) as requested by the application. Ms. Haas "volunteered" for the finding of facts. Ms. Haas reiterated to the address and Block & Lot of the property as stated in the application. The Zoning District is GB. The Board did hear from several members of the public. The Board has determined that the Applicant has failed to demonstrate special reasons for the granting of a Use variance for the development of a use not permitted in a zone, specifically, the development of a sole single family dwelling & duplex dwelling in a commercial zone. The Board finds that the Applicant has not sustained its burden of proof in evidencing special reasons pursuant to NJS 40:55D-2 by showing that the purposes of zoning would be advanced by the granting of the Use variance requested by the Applicant for a use not permitted in a zone. The Board specifically finds that it is clear that it is the legislative intent of the City of North Wildwood that commercial development be permitted & encouraged along New Jersey Avenue and that the Applicant's proposal does not meet those goals & intentions. As such, the proposed development cannot be granted without substantial detriment to the public good & without substantially impairing the intent & purpose of the Zoning Map & Land Development Ordinance. The Board specifically finds that the proposed development is not compatible with the neighborhood or this specific location and would further hinder the goal of encouraging commercial development along New Jersey Avenue.

No additions or correction to the finding of facts. The Board accepted the finding of facts, as motioned by: Mr. Davis, seconded by Mr. Greenland. No discussion on the facts. Carried by an affirmative roll-call vote by the Board members. Ms. Cannon, Mr. Berardo & Mr. Haley did not need to vote on the finding of facts.

Motioned by: Mr. Davis, seconded by Mr. Rullo. The Chairman called for any discussion or corrections to the Resolution. The Board proposed no corrections, additions or comments to the Resolution. Based on the roll-call vote of the Board members that were present at the meeting. Mr. Davis, Ms. Haas, Mr. Greenland, Mr. Davis & Chairman Flynn voted yes on the application. Mr. Boyle, Mr. Rullo & Vice Chairperson DiEduardo voted no on the application. The application did not pass approval of the Board. Mr. Berardo, Ms. Cannon & Mr. Haley did not participate in the voting due to a full quorum of the Board.

G) PUBLIC PORTION:

The Chairman then opened the meeting for general public comment; no other members of the public were in attendance at this time. The Chairman offered any comment from the Board members. None was offered. The Chairman then closed the public portion of the meeting.

H) APPROVAL OF MINUTES:

Approval of January 14, 2013 regular meeting minutes. The Board Solicitor called for any discussion or corrections to the minutes. The Board proposed no corrections, additions or comments to the minutes. Motioned by: Vice Chairperson DiEduardo, seconded by Mr. Greenland. The Board members present voted & carried the minutes on an affirmative roll-call vote, with Mr. Davis & Ms. Cannon abstaining due to last month's meeting absence. Mr. Barry was excused.

I) MEMORIALIZATIONS:

Application No. Z-12-11-2

Michael & Michelle Gaffney

BLOCK: 413, LOT NO: 3

LOC. 504 East 13th Avenue

"d" Use Variance w/ "c" Variance relief

Michael & Lorraine Gaffney residing at 504 East 13th Avenue, North Wildwood, have applied to the Board for use variances for two (2) principal uses on a lot & an expansion of a non-conforming use together with bulk variances for sideyard setback (3.9 ft. and 4 ft. proposed where 6 ft. is required), rearyard setback (3.7 ft. proposed where 10 ft. is required), lot coverage (87.6% proposed where 80% is required) width of parking spaces (8.8 ft. proposed where 9 ft. is required) and number of valid parking spaces (four (4) proposed where six (6) is required) to construct a 1 ½-story addition to a rear cottage at 504 East 13th Avenue, North Wildwood, NJ.

Motioned by: Mr. Rullo, seconded by Mr. Boyle. The Chairman called for any discussion or corrections to the Resolution. The Board proposed no corrections, additions or comments to the Resolution. Vice-Chairperson DiEduardo, Mr. Davis & Ms. Cannon abstaining due to last month's

meeting absence. Mr. Barry was excused. All other present members voted in the affirmative on roll call vote.

D) UNFINISHED BUSINESS: None presented

K) COMMUNICATIONS: None presented.

The Board Secretary announced following re-appointments to the Board:


Vice – Chairperson Jodie DiEduardo –	12/31/2016
Board Member Bob Berardo (Alternate No. 1)	12/31/2014
Board Member Timothy Barry (Alternate No. 3)	12/31/2014

L) REPORTS: None presented

M) MEETING ADJOURNED:

Meeting was adjourned at 8:55pm, on motion by Mr. Rullo & seconded by Mr. Davis and carried on an affirmative vote by the Board members.

APPROVED: 3/12/13
Date


J. Eric Gundrum
Board Secretary

This is an interpretation of the action taken at the meeting by the Secretary, and not a verbatim transcript.