

Zoning Board of Adjustment Minutes
Special Meeting:
February 25, 2013
6:30 p.m.

The Special Meeting of the North Wildwood Zoning Board was held on the above date & time. Adequate notice of this special 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	ABSENT	MR. JOHN T. DAVIS	PRESENT
MR. GEORGE GREENLAND	PRESENT	MR. GERALD BOYLE	PRESENT
MS. BARBARA HAAS	PRESENT	MS. SHARON CANNON (II)	ABSENT
MR. ROBERT BERARDO (I)	PRESENT	MR. TIMOTHY BARRY (III)	PRESENT
MR. DOUG HALEY (IV)	ABSENT		

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, Mr. Barry will not participate in the proceedings of this application.

Jeff 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 was a major issue of the Review Committee when reviewing the application.

Christian Deegler residing at 235 West 3rd Avenue, has applied to the Board for final siteplan approval together with Use variances for more than one (1) principal structure on a lot, a Use not permitted in a zone, (a triplex in the Bayside Business {BB} Zoning District), floor area ratio (0.8647 sq. ft. proposed where 0.75 sq. ft. is permitted) together with bulk variances for frontyard setback (4.31 ft. proposed where 10 ft. is required), rearyard setback (2.28 ft. proposed where 15 ft. is required), sideyard setback (1.97 ft. proposed where 6 ft. is required), width of structure (15 ft. 4 in. & 15 ft. 8 in. proposed where 20 ft. is required) to permit a clamshell parking surface, to construct a triplex on a lot containing an existing marina with accessory structures and a second principal structure at property located at Block 156, Lot 1 commonly known as 235 West 3rd Avenue.

Mr. Barnes advised that the Applicant is the owner of the subject property which is located in the BB Zone. The property has had numerous principal uses & structures on same for many years including a triplex, marina with associated structures for fuel area and a 2-story frame building used for storage & residential use. The property contains an eighteen slip marina with accessory structures including docks, ramps, decking, crab stand, bait shop & raw bar. There is also a two story frame residential structure. The subject property is located at the westerly end of 3rd Avenue directly adjacent to the back bay. The property is located at the end of a dead end street. Mr. Barnes further explained that the recent Hurricane Sandy had done substantial damage to the triplex. The City of North Wildwood had condemned the property and ordered that the triplex be demolished on or before November 29, 2012. It is the Applicant’s desire to construct a new triplex generally on the site of the prior triplex. The new triplex would be approximately 2-times the gross square footage of the old triplex.

Louis DeLosso, a registered architect & professional planner with The Design Collaborative appeared, was sworn & testified on behalf of the application. Mr. DeLosso testified from the PowerPoint presentation marked as Exhibit A-1. Mr. DeLosso testified that the subject property had been used as a marina since at least 1960 based upon photographs of the subject property. The PowerPoint presentation evidenced the reconstruction of the triplex in 1996 and showed the building both before & after Hurricane Sandy. The PowerPoint presentation also evidenced the accessory

structures on site related to the marina. Mr. DeLosso testified as to the proposed triplex on the site which will be developed to meet FEMA's new Advisory Base Flood Elevations and, as a multi-family dwelling, comply with the Americans with Disabilities Act. Mr. DeLosso testified that while the subject property is located in a V 11 Zone, the building is being constructed to V 13 Zone standards and still complies with the North Wildwood height limitations. Mr. DeLosso testified that the Applicant originally proposed a quadraplex on this site, however, they decided to basically replace the destroyed triplex with a new triplex.

The Applicant, Christian Deegler appeared, was sworn & testified on behalf of the application. Mr. Deegler testified that he purchased the property in 1997 and at that time the main structure contained 5 units, however, he renovated same & converted it into a triplex. Each unit in the triplex had three (3) bedrooms and two (2) baths. Upon questioning from the Board Mr. Deegler explained the use of each accessory structure associated with the marina which is located directly adjacent to the bulkhead.

Mr. DeLosso spoke that the new triplex is generally on the same footprint as the prior structure although he acknowledged that the footprint is approximately 10% larger with most of the new area on the easterly side of the building. He noted that while the square footage of the building has increased significantly, that lot coverage has increased by only 10%. Displaying from the floor plans & elevations, Mr. DeLosso testified that three (3) units will be developed with each unit having its own entrance, three bedrooms and its own trash & recycling areas. The HVAC systems will be located on the easterly side of each unit's roof. He further testified that given the type & height of the structures, each structure will contain sprinkler systems. Mr. DeLosso testified that the setbacks for the new structure are generally the same as the prior structure. He noted that the old structure was 27.22 ft. from the east property line whereby the new building is 18.78 ft. from the east property line to the proposed stairs.

The Board questioned whether the accessory structures along the bulkhead were on City property or beyond the property line. Mr. Barnes marked as Exhibit A-3, a North Wildwood Ordinance No. 1427 vacating Delaware Avenue adjacent to this property which increased the size of the Applicant's property, therefore, all of the accessory structures except for the crab stand are located on the Applicant's property. Mr. Deegler further testified as to the improvements that he has done on the property since the time that he purchased same. These improvements included replacing the bulkhead, renovating the principal structure into the triplex, renovating the secondary principal structure on site and adding the crab stand, bait shop & raw bar. Mr. Deegler explained the purpose & use of each of these accessory structures and noted that over time the raw bar had been enclosed on 3 sides & a roof was developed above it.

Significant discussion took place between the Board Members, Applicant and the attorneys regarding the proposed parking plan with Mr. Deegler testifying that there have generally been no parking problems in the past except during Irish weekend. Upon questioning from the Board, Mr. Deegler testified that he had no complaints regarding parking & noise during his ownership of the property. Each year he has obtained Mercantile Licenses for all of the Uses on site and he anticipates having the same tenants on site that he had last year. Each tenant receives 1 boat slip at the marina as part of their tenancy.

Discussion as to the variance for the clamshell parking, Mr. Deegler testified that the clamshells provide for appropriate storm water percolation and, if the property is paved, flooding in the street will increase. He further testified that the clam shells had been there for many years and is ground down such that dust is not a problem in & around the property.

Mr. DeLosso testified as to the variances requested by the Applicant. Mr. DeLosso opined that special reasons exist for the granting of the use variances noting that density on the site will remain the same, the proposed development is compatible with the neighborhood, that the proposed use provides for an appropriate location for a variety of uses, that the proposed development is more aesthetically pleasing thus providing for a desirable visual environment, that the raised building protects the public and residents from flooding & provides for the general welfare of the public and that the new building will be brought up to code and sprinkled. Mr. DeLosso further testified that the site itself is sufficiently large & unusually located so that the request for a floor area ratio variance can be granted since the lot can accommodate the difficulties associated with the greater square footage. He further testified that the relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent & purpose of the Zoning Map & Land Development Ordinance

A five (5) minute recess was granted by the Chairman Flynn to change batteries in the wireless microphone. At the conclusion of the recess, the testimony on the application continued.

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

Charles Delaney of 3rd Avenue, North Wildwood appeared was sworn & testified in favor of the application. He noted that the clamshell parking lot had been there for at least 25 years and was never a difficulty and there have never been parking problems at this site.

Sam Eckman of 4th Avenue, North Wildwood, appeared, was sworn & testified in opposition to the application. Mr. Eckman submitted photographs marked as P-1 & P-2 evidencing flooding in & around the property. He further marked as Exhibit P-3, a plan to accompany the waterfront development application of Engineering Design Associates consisting of one sheet dated October 22, 1997 and last revised May 5, 1998 which evidences 17 parking spaces on site. He suggests that the Applicant be required to provide the number of parking spaces previously proposed.

Nicholas DePetris of 3rd Avenue, North Wildwood appeared, was sworn & testified that he took the photographs shown by Mr. Eckman marked as Exhibits P-1 & P-2.

Bill O'Connell of 2nd Avenue, North Wildwood appeared was sworn & testified in favor of the application. He noted that he has been a customer of Mr. Deegler for 10 years and there are no parking problems in this area.

Fred Delaney of 3rd Avenue, North Wildwood appeared was sworn & testified in favor of the application stating that there was never a difficulty with parking and that the clamshell parking lot is appropriate.

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

Board Planner Terenik, testified as to the application and from her review memorandum of February 18, 2013 which was received by the Board & incorporated as fact. The Applicant is the owner of the subject property and has standing to come before the Board requesting final siteplan approval, Use variances for more than one (1) principal use or structure on a lot, a Use variance for a "use" not permitted in a zone, a floor area ratio variance & variances for frontyard setback, rearyard setback, type of parking surface and width of structures to construct a triplex on the subject property which is located in the Bayside Business Zoning District.

Board Engineer Petrella spoke to the proposed application, specifically testifying from his review memorandum of dated February 5, 2013 & last revised February 20, 2013, which was received by the Board & incorporated as fact. Mr. Petrella confirmed that the property could be rebuilt in-kind as prior to the Storm. Mr. Petrella was of the opinion that a parking variance was needed for the triplex 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.

With the conclusion of the Board professionals testimony, Mr. Barnes summarized his application to the Board.

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 BB. The Board did hear from several members of the public. The Board has determined that the Applicant has 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 tri-plex residential dwelling & commercial marina with restaurant in the BB Zoning District. The Board finds that the Applicant has sustained its burden of proof in evidencing special reasons pursuant to NJSA 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 Beach Creek Waterway and that the Applicant's proposal does not meet those goals & intentions. As such, the proposed development can 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 compatible with the neighborhood and this specific location and would further enhance the goal of encouraging commercial & residential development along Beach Creek Waterway at the end of 3rd 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.

Motioned by: Mr. Boyle, 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 an affirmative roll-call vote of the Board members that were present at the meeting. The application of Christian Deegler for final siteplan approval, Use variances for more than one (1) principal structure on a lot, a Use not permitted in a zone & floor area ratio together with bulk variances for frontyard setback, rearyard setback, sideyard setback, parking surface & width of structures is hereby granted & approved subject to the following terms & conditions of the forthcoming Resolution. Except for the variance relief requested, the application meets the standards of the ordinance & the Applicant is entitled to final siteplan approval for the proposed development

The application was then subject to a variance approval on the clamshell parking lot. Motioned by: Ms. Haas, 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 an affirmative roll-call vote of the Board members that were present at the meeting. Mr. Boyle was not in favor of the variance relief requested to permit a clamshell parking lot, however, they were in favor of the remainder of the application.

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:

The Board Secretary requested deferment of the approval of February 11, 2013 regular meeting minutes to the March meeting due to the short time span between the meetings. The Board allowed the request.

I) MEMORIALIZATIONS: None presented

J) UNFINISHED BUSINESS: None presented

K) COMMUNICATIONS:

The Board Secretary announced the receipt of a County of Cape May letter regarding the new FEMA ABFE Flood maps & reservations of same. The item was for general discussion only and no formal action was required of the Board.

L) REPORTS: None presented

M)

MEETING ADJOURNED:

Meeting was adjourned at 10:57pm, on motion by Mr. Rullo & seconded by Mr. Berardo and carried on an affirmative vote by the Board members.

APPROVED:

5/15/13
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.