

North Wildwood Planning Board
Regular Meeting: February 8, 2017
7:00 p.m.

The regular meeting of the North Wildwood Planning Board was held on the above date & time. Adequate notice of this regular meeting was submitted to the official newspaper of the City of North Wildwood (AC Press) & local newspapers. An Agenda was posted on the main bulletin board at City Hall, well in advance of the meeting date & on the City web site.

A) CALL TO ORDER

Chairman Davis called the meeting to order.

B) OPEN PUBLIC MEETING STATEMENT

Chairman Davis read the Open Public Meeting Act statement.

C) PLEDGE OF ALLEGIANCE

Chairman Davis led the audience in reciting the Pledge of Allegiance to the Flag.

D) ROLL CALL

Chairman Robert Davis	Present	Mayor Patrick Rosenello'	Absent
Vice Chair Jodie DiEduardo	Present	Mayor's Designee Doug Miller	Present
Chief Matt Gallagher	Absent	Mr. William Green	Present
Mr. John Harkins	Present	Councilman David Del Conte	Present
Mr. George Greenland	Present	Mr. James M. Flynn	Present
Mr. Bill Auty (Alt. 1)	Absent	Mr. Bill O'Connell (Alt. 2)	Present
Mr. Ron Peters (Alt.3)	Present	Ms. Haas (Alt. 4)	Absent

Mr. Dean Marcolongo (Board Solicitor)	Present
Mr. Ralph Petrella (Board Engineer)	Present
Ms. Brian Murphy (Board Planner)	Present
Eric Gundrum, (PB Secretary)	Present

The Board Solicitor announced that the Board quorum has been established.

D) SWEARING IN OF PROFESSIONALS:

The Board Solicitor did conduct the truth swearing of the Board's professionals as it was necessary for tonight's meeting.

MOTIONS FOR ADJOURNMENTS:

Z-16-1-1 In Plaza Advertising, LLC

Block 317.01, Lot 10

511 East 17th Avenue

RH Zoning District

Minor Siteplan approval with Use Variance approval &

Several setback "c" variances

This application was announced by the Board Secretary upon request of the applicant's experts by email in advance of the meeting. The application will be adjourned for next month's meeting for the March 8, 2017 meeting.

E) MEMORIALIZATIONS:

Z-16-11-4 Richard Gilson

Block 116, Lot 8

320 West 16th Avenue

Use (Height) Variance approval - new home construction

Richard Gilson, residing at 320 West 16th Avenue, has applied to the Board for a D-6 height variance (29.1 ft. proposed, where 24 ft. is permitted) a total sideyard setback variance (8 ft. proposed, where 10 ft. is required) to demolish an existing single-family dwelling & construct a new single-family dwelling at Block 116, Lot 8, commonly known as 320 West 16th Avenue.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by: Mr. Green & 2nd by Mr. Greenland. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Mr. Miller, Councilman DelConte, Vice Chair DiEduardo, Mr. O'Connell & Mr. Peters abstained from the vote. Based on the majority roll-call vote being affirmative, the memorialization of the Resolution was approved by the Board.

P-16-11-5 JFM Investments of Wildwood, LLC

Block 6.01, Lot 1

207 West Spruce Avenue

Minor subdivision approval with "c" variances

JFM Investments of Wildwood, LLC, doing business at 5202 Lake Road, Unit A, Wildwood, NJ had applied to the Board for a minor subdivision approval (to create two (2) lots from one (1) lot), together with variances for lot frontage (41 ft. proposed, where 60 ft. required) & lot width (45.24 ft. proposed, where 60 ft. is required) to construct two (2) duplexes on property located at Block 6.01, Lot 1, commonly known as 207 West Spruce Avenue.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by: Mr. Harkins & 2nd by Vice Chair DiEduardo. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments

to the motion. Councilman DelConte, Mr. O’Connell & Mr. Peters abstained from the vote. Based on the majority roll-call vote being affirmative, the memorialization of the Resolution was approved by the Board.

P-16-11-3 Rivero Asset Preservation Trust

Block 278, Lots 5 & 6
310 & 312 East 4th Avenue
Minor subdivision approval with “c” variances

Michael & Victoria Rivero Asset Preservation Trust doing business at 2216 South Juniper Street, Philadelphia, PA has applied to the Board for minor subdivision approval to realign lot lines between two (2) lots, together with variance relief for rearyard setback (9.6 ft. existing, where 10 ft. is required) & rearyard setback to pool equipment (3.8 ft. proposed, where 6 ft. is required), for property located at Block 278, Lots 5 & 6, commonly known as 310 – 312 East 4th Avenue.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by: Mr. Greenland & 2nd by Mr. Miller. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Councilman DelConte, Vice Chair DiEduardo, Mr. O’Connell & Mr. Peters abstained from the vote. Based on the majority roll-call vote being affirmative, the memorialization of the Resolution was approved by the Board.

F) **NEW BUSINESS:**

Board member Mr. Peters had a conflict of interest on the foregoing application & removed himself from the Board dais & sat in the public section of the meeting room.

P-16-12-1 Paul Versaggi

Block 216, Lot 10
125 E. Fifth Avenue
R-1.5 Residential Zoning District
Minor subdivision approval

Paul Versaggi residing at 603 Chinook Drive, Downingtown, PA has applied to the Board for minor subdivision approval to create two (2) lots from one (1) existing lot at Block 216, Lot 10, commonly known as 125 E. 5th Avenue.

Paul Baldini, Esq. of Wildwood, NJ appeared on behalf of the Applicant & explained the nature of the application to the Board. Mr. Baldini advised that the Applicant proposes to subdivide the existing 100 ft. x 100 ft. lot into two (2) 50 ft. x 100 ft. conforming lots for future sale. The Applicant is the representative of the Estate of Domenick & Josephine Versaggi, the owners of the subject property which is located in an R-1.5 Zone. As such, the Applicant has standing to come before the Board requesting minor subdivision approval to create two lots from one existing lot. Paul Versaggi appeared, was sworn, & testified on behalf of the application. Mr. Versaggi testified that the subject property has been in his family since 1950. It is the family’s intent to reside in the home through the summer of 2017 & thereafter demolish the existing dwelling for future sale.

Mr. Baldini proposed a “special condition” per the request of the family - It is the family’s intent to reside in the home through the summer of 2017 & thereafter demolish the existing dwelling for future sale. However, the subdivision needs to be filed to the County with 180 days of the Board’s approval under the Land development Ordinance and the NJ Municipal Land Use Law (NJSA 40:55D-1 et. seq.). Thus, the Board granted approval with following conditions;

1. All existing structures on the subject property will be removed no later than December 1, 2017. And if said structures are not removed prior to that date the subdivision approval will be deemed null & void regardless of the filing of the subdivision plan. No construction permits shall be issued with regard to the subject property until all structures on the subject property have been demolished & removed.

The Board is in receipt of minor subdivision by Mark G. DeVaul, LLC, a professional land surveyor, dated October 20, 2016 & last revised January 17, 2017 which is incorporated as fact.

The Board is in receipt of review memorandums of Mr. Petrella, Board Engineer, dated January 30, 2017 and by Mr. Murphy, Board Planner dated January 31, 2017 which are incorporated as fact. Mr. Petrella, opined that the proposed development is a by-right subdivision as no variance relief is required.

Chairman Davis then opened the application for general public comment. No members of the public testified to the application. No further comment was offered. Chairman Davis closed the public portion of the application.

The Board members then discussed & summarized the application as presented. The Board then discussed the finding of facts on the subdivision application. Each Board member gave reasoning for their view of the facts & the application as it relates to the application. Mr. Greenland “volunteered” for the finding of facts. Mr. Greenland reiterated to the address and Block & Lot of the property as stated in the application. The Zoning District is R-1.5. The Applicant has standing to appear before the Board requesting minor subdivision approval. The Board finds that proposed lots are fully conforming. The purposes of the zoning law would be advanced by the proposed development, the Applicant has satisfied the requirements for minor subdivision approval. No additions or correction to the finding of facts. No discussion on the facts.

The Board Solicitor called for a motion to approve the application as discussed. Motioned by: Mr. Flynn & 2nd by Mr. O’Connell. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the application was approved by the Board.

At the conclusion of the application, Mr. Peters returned to his seat & participated in the rest of the meeting.

P-16-12-4 John Cole

Block 183, Lot 15

125 West 7th Avenue, North Wildwood, NJ

R-2 Residential Zoning District

Minor subdivision approval

John & Joann Cole residing at 125 West 7th Avenue, have applied to the Board for minor subdivision approval to realign lot lines between adjacent properties for properties located at Block 183, Lots 15 & 1, commonly known as 125 West 7th Avenue. The property is located in the R-2 Zoning District.

Charles Sandman, Esq. appeared on behalf of the Applicant & explained the nature of the application to the Board. Mr. Sandman advised that his clients wish to sell 20 ft. of their land to their neighboring property owners who will consolidate that land into their lot to increase the size of same. Mr. Sandman asserted that this was a by-right subdivision.

John Cole appeared, was sworn, & testified on behalf of the application. Mr. Cole advised that he & his wife are the owners of Lot 15 which is a 60 ft. x 100 ft. lot. It is their intention to sell the westerly 20 ft. portion of their lot to the neighboring property owners William & Victoria Bolle. This would reduce Lot 15 to a 40 ft. x 100 ft. lot and increase Lot 1 to a 60 ft. x 100 ft. lot. Both lots would remain as fully conforming lots. Upon questioning from the Board, Mr. Cole testified that he understands that the existing curbcut would be removed & a new curbcut will be constructed on his new reduced property to provide for two (2) conforming parking spaces as set forth on the subdivision plan.

William Bolle of 127 West 7th Avenue, appeared, was sworn, & testified on behalf of the application. Mr. Bolle confirmed that he desires to purchase 20 ft. of land from the Cole's and consolidate same into his lot to provide him with a larger side yard.

The Board was in receipt of review memorandums of Mr. Petrella, Board Engineer, dated January 30, 2017 & from Mr. Murphy, Board Planner, dated January 4, 2017 which was incorporated as fact. Mr. Petrella & Mr. Murphy relied on the substance of their reports at the meeting.

Chairman Davis then opened the application for general public comment. No members of the public testified to the application. No further comment was offered. Chairman Davis closed the public portion of the application.

The Board members then discussed & summarized the application as presented. The Board then discussed the finding of facts on the subdivision application. Each Board member gave reasoning for their view of the facts & the application as it relates to the application. Mr. Greenland "volunteered" for the finding of facts. Mr. Greenland reiterated to the address and Block & Lot of the property as stated in the application. The Zoning District is R-2. The Applicant has standing to appear before the Board requesting minor subdivision approval. The Board finds that proposed lots are fully conforming. The purposes of the zoning law would be advanced by the proposed development, the Applicant has satisfied the requirements for minor subdivision approval. No additions or correction to the finding of facts. No discussion on the facts.

The Board Solicitor called for a motion to approve the application as discussed. Motioned by: Mr. Green & 2nd by Mr. O'Connell. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the application was approved by the Board.

Z-16-1-1 In Plaza Advertising, LLC

Block 317.01, Lot 10
511 East 17th Avenue
RH Zoning District
Minor Siteplan approval with Use Variance approval &
Several setback "c" variances

This application was announced adjourned for next month's meeting at the beginning of the meeting by the Board Secretary.

Vice Chair DiEduardo had a conflict of interest on the foregoing application & removed herself from the Board dais & sat in the public section of the meeting room.

Z-16-11-2 Thomas Uhl

Block 137, Lot 18
203 W. 22nd Avenue
R-2 Zoning District
Minor Siteplan approval with Use Variance approval &
Several setback "c" variances

Thomas Uhl residing at 203 W. 22nd Avenue, has applied to the Board for a D-2 use variance for the expansion of a nonconforming use (renovations to a 2nd principal structure on a lot) preliminary & final siteplan approval & variances for rearyard setback (9.23 ft. proposed where 10 ft. is permitted), sideyard setback (3.1 ft. proposed where 10 ft. is required), number of parking spaces (four (4) spaces proposed where five (5) is required) & distance between buildings (7 ft. 4.5 in. proposed where 8 ft. is required) for property located at Block 137, Lot 18, commonly known as 203 W. 22nd Avenue. The property is located in the R-2 Zoning District.

Andrew Catanese, Esq. of the law offices Monzo, Catanese & Hillegass, Cape May Court House, NJ appeared on behalf of the Applicant & explained the nature of application to the Board. Mr. Catanese advised that the subject property is an oversized lot in the R-2 Zoning District, specifically being at 80 ft. x 100 ft. lot. The Board was in receipt of an existing condition survey of Guzzi Engineering Assocs. dated July 7, 2016 which was received by the Board & incorporated as fact. He advised that the Applicant is requesting preliminary & final siteplan approval, a D-2 Use Variance & multiple bulk variances to renovate a rear structure that exists on the subject property & constitutes a 2nd principal structure.

Mr. Catanese & Board Solicitor Marcolongo discussed portions of the Land Development Ordinance (Ordinance), specifically Section 276-16(a)(4) which seems to suggest that detached residential cottages are be permitted in the R-2 Zoning District. Solicitor Marcolongo opined that these detached cottages are also discussed in Section 276-16(b)(11) only as conditional uses & since the

Ordinance does not have conditional use standards that this sections is, in fact, a nullity. Mr. Catanese advised that he wished to point to these sections & to preserve his rights for an appeal in the event that the application was denied. However, he noted that he is, in fact, requesting the D-2 Use Variance for the expansion of a nonconforming use & had advertised for same. The Applicant is now proposed to redevelop the rear duplex which is in a dilapidated & hazardous condition.

Patricia Uhl of 203 W. 22nd Avenue appeared, was sworn & testified on behalf of the application. She testified that the subject property had been in the Uhl family for more than 45 years & approximately 20 years ago had been purchased by her husband Thomas Uhl & her sister-in-law. Since that time they have attempted to utilize the property in a joint manner. However, they could never agree on the continued use & renovations to the subject property. Mrs. Uhl testified that over the years her husband & she had been successful in renovating the principal structure immediately adjacent to 22nd Avenue, but that no renovations had been done to the rear duplex as a result of difficulties with their in-laws. She noted that the rear building had been damaged from flooding numerous times over the years but insurance proceeds were never used to complete the renovations to the rear structure. Finally, Mrs. Uhl testified that in May of 2016 her husband & she were successful in purchasing the property from their in-laws & now is in a position to completely renovate the property including the rear duplex. She testified that they were not sure whether they planned to rent out this structure or that same will be used by family members but they did wish to proceed with renovations at this time. Mrs. Uhl testified that she has two (2) children and, as such, she has interest in developing a duplex in the rear of the building so that each child would have access to one-unit. Upon questioning from the Board, Mrs. Uhl testified that the rear unit is, in fact, a duplex & had been taxed by the City as same. She noted that each unit had its own utility meters.

Matthew Sprague, a registered architect with Matthew Sprague Design, LLC., Wildwood, NJ appeared, was sworn & testified from his development plans, dated October 1, 2016 & last revised January 20, 2017, which were received by the Board & incorporated as fact. Mr. Sprague testified as to the existing conditions of the rear duplex. He testified that it is a side by side duplex with two-bedrooms in each unit. The 2nd bedroom was simply a sleeping area in the attic. Mr. Sprague testified as to the proposed renovations of the rear duplex stating that the most important element of same was to raise the building approximately 6ft. above grade & same above base flood elevation (BFE). Once the decision had been made to raise the building at least 6 ft. above grade, the decision was made to raise the building slightly higher so that a garage could be developed below the residential units. Mr. Sprague testified that the proposal is to construct a duplex with one (1) residential unit above the other. He noted that portions of the existing building would be used in the redevelopment of the structure & that the roof would be removed. He testified that large portions of the existing structure are in a hazardous condition & the plan is to construct a new building which will be fully code compliant. Mr. Sprague testified as to the existing nonconforming conditions of the rear duplex. He noted that the existing rear deck is quite close to the rear property line & that would be removed providing for a larger rearyard setback. The structure would be moved to the west to provide for a larger sideyard setback & which would allow for the development of windows on that side of the building. In addition, a dilapidated shed would be removed. Mr. Sprague spent substantial time discussing the new parking plan for the property. They are proposing to remove the existing curbcut & construct a new double wide curbcut which will provide for one (1) parking space within the garage & three (3) parking spaces in front of the garage. He acknowledged that this stacked parking was not the best parking plan but it is certainly better than the existing conditions on site. Upon questioning from the Board, Mr. Sprague

confirmed they would be raising the existing structure & not demolishing same. He further testified that the new units would be modest in size. Testifying as to the variance relief requested, Mr. Sprague noted the increase in the rearyard & sideyard setbacks, the increase in off street parking & the building would be constructed above BFE. He also noted that the subject property is an oversized lot containing 8,000 sq. ft. and, in his opinion, the lot can accommodate the difficulties associated with the proposed development. Mr. Sprague testified that the building coverage is only increasing slightly and would result in 31.2% of building coverage where 70% is permitted. He believes that this provides for adequate light, air & open space. Mr. Sprague testified that the proposed duplex could be built to 36 ft. above BFE; however, the Applicant is proposing 29.1 ft. above BFE. He further noted that the same number of bedrooms will exist at the property. Testifying as to the special reasons for the Use Variance, Mr. Sprague testified that the proposed development provides for the public, health, safety & welfare by resolving many safety issues in the new building, would result in construction above BFE, would provide for adequate light, air & open space, a desirable visual environment & the increased off-street parking will promote the free flow of traffic. Testifying as to the bulk variances, Mr. Sprague noted that the special reasons set forth above would also support the granting of the "C-2" variances. Mr. Sprague further testified that he believes the bulk variances relief could be granted under the "C-1" criteria since the existing location of the single-family house & the duplex effects the development on this property. Mr. Sprague testified that he believes that the relief requested can be granted without substantial detriment to the public good & without substantially impairing the intent & purpose of the Zoning Map & Ordinance. Significant questioning took place between the Applicant, the Applicant's attorney & Mr. Sprague regarding the existing number of bedrooms on site, noting that the attic was probably converted to an additional bedroom illegally. The questioning also noted that the proposed stacked parking would be problematic, particularly if the duplexes were rented out to nonfamily members.

Chairman Davis polled the Board, posing the hypothetical question, that if the Use Variance was granted, whether the Board would be inclined to allow for the construction of a new building rather than attempting to reuse portions of the existing duplex. By a straw vote the Board agreed, unanimously, that if the variance relief was granted the Applicant would be permitted to construct a brand new structure.

The Board was in receipt of a review memorandum of Mr. Petrella, Board Engineer dated January 30, 2017 which was incorporated as fact. Mr. Petrella, suggested that there was a possibility of developing two (2) off-street parking spaces to the west side of the existing single-family structure, however, he noted that the necessary curbcut would cause the loss of one (1) on-street parking space. The Board was in receipt of a review memorandum of Mr. Murphy, Board Planner, dated February 3, 2017 which incorporated as fact. Mr. Murphy, appeared, was sworn & testified from said report. Mr. Murphy expressed concerns regarding the stacked parking & asked the Board to consider the fact that the duplex unit could be sold as condominium units. He further noted that the height of the building would be increased which could be problematic to the neighbors.

Chairman Davis then opened the application for general public comment. The matter was opened to the public at which time several members of the public came forward to testify as follows:

Lynn Oats of 206 W. 22nd Avenue, North Wildwood, NJ appeared, was sworn & testified in favor of the application. She testified that she resides directly across the street from the property & she desires to have this eyesore of a structure removed.

Joseph Contino of 2106 New York Avenue, North Wildwood, NJ appeared, was sworn & testified in favor of the application. He confirmed that the existing structure is an eyesore but expressed concerns that the Applicant developed the property to insure the stormwater runoff remains on this lot.

Jim Jones of 2110 New York Avenue, North Wildwood, NJ appeared, was sworn & testified in favor of the application.

No further members of the public testified to the application. No further comment was offered. Chairman Davis closed the public portion of the application.

The Board members then discussed & summarized the application as presented. The Board then discussed the finding of facts on the subdivision application. Each Board member gave reasoning for their view of the facts & the application as it relates to the application. Mr. Greenland “volunteered” for the finding of facts. Mr. Greenland reiterated to the address and Block & Lot of the property as stated in the application. The Zoning District is R-2. The Applicant is the owner of the subject property and, as such, has standing to come before the Board requesting preliminary & final siteplan approval, a D-2 Use Variance with the expansion of a nonconforming use & variances for rearyard setback, sideyard setback, number of parking spaces & distance between buildings to raise & reconstruct a rear duplex on the subject. The Board agreed unanimously that in the event the Use Variance was granted that the Applicant could completely demolish the existing duplex & construct a new building in accordance with the plans of Matt Sprague Design, LLC which was received by the Board and incorporated as fact. Three (3) members of the public spoke in favor of the application. The Board finds that the Applicant has sustained Her burden of proof with regard to the D-2 Use Variance for the expansion of a nonconforming use based upon the plans submitted & the testimony received. Specifically, the Board finds that the proposed development will be constructed above BFE which promotes the protection of same from flooding. In addition, the proposed development would be a safer structure promoting the public, health, safety & welfare, will promote a desirable visual environment, and since coverages are well below the permitted coverages within the zone, the proposed development promotes adequate light, air & open space. With regard to the bulk variances, the Board finds that the special reasons set forth above would also support the variance relief for rearyard setback, sideyard setback, number of parking spaces & distance between buildings. The Board finds that since the proposed development is similar to that which currently exists on the site, the relief requested can be granted without substantial detriment to the public good & without substantially impairing the intent & purpose of the Zoning Map & Ordinance. No additions or correction to the finding of facts. No discussion on the facts.

The Board Solicitor called for a motion to approve the application as discussed. Motioned by: Mr. Green & 2nd by Mr. Harkins. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the application was approved by the Board, with Mr. O’Connell voting “no.” Mr. Miller & Councilman DelConte did not need to vote.

At the conclusion of the application, Vice Chair DiEduardo returned to her seat & participated in the rest of the meeting.

At the conclusion of the application, the Board took a five-minute recess. At the conclusion of the recess the Board went back to open session of the meeting.

G) PUBLIC PORTION:

Chairman Davis then opened the meeting for general public comment. No public members wished to speak on behalf of the meeting or to the Board at this time. No comment was offered. Chairman Davis closed the public portion of the meeting.

H) APPROVAL OF MINUTES: – January 11, 2017 Re-Organization & Regular meeting

The Board Solicitor presented to the Board the approval of January 11, 2017 Re-Organization & Regular meeting minutes. The Board Solicitor called for any discussion or corrections to the minutes. No discussion or corrections to the minutes. Motioned as proposed by Mr. Harkins & 2nd by Mr. Greenland. Councilman DelConte & Mr. O’Connell abstained due to absence from last month’s meeting. Based on the affirmative majority roll-call vote of the Board members to memorialize the Meeting Minutes, the Meeting Minutes were approved.

There was discussion of several Resolutions “standard conditions, i.e. “boilerplate language,” which was clarified by the Board Solicitor. There was no corrections to the minutes. As it relates to the memorialization of Resolution of Approval for:

P-16-11-5 JFM Investments of Wildwood, LLC
Block 6.01, Lot 1
207 West Spruce Avenue
Minor subdivision approval with “c” variances

It was clarified that as a condition of approval;

1. The Applicant shall submit a landscaping plan to the satisfaction of the Board Engineer creating additional landscaping on the south side of the duplex on proposed Lot 1.01.
2. The Applicant shall add additional architectural elements to the south side of the building on proposed Lot 1.01 to create a more aesthetically pleasing visual element, with said architectural elements creating to the satisfaction of the Board Engineer.

I) UNFINISHED BUSINESS:

Mr. Green wanted to discuss stormwater run-off water as it pertains to the application review of the Board. Mr. Petrella clarified that stormwater is reviewed & can be a condition of approval that can be applied by the Board.

J) COMMUNICATION(S):

Future Master Plan amendments/planning:

Chairman Davis requested as an agenda item be placed on the agenda that the Board could comment on new Master Plan topics and/or Ordinance amendment suggestions. The Board Secretary would keep a list of Ordinance amendment suggestions. The Board Secretary distributed a list of possible amendments to the Ordinance for review by the Board. The listing was requested by the City Administration. Chairman Davis recommended that this discussion be left on the Agenda for future discussion of the Board.

The Board Secretary updated the Board on a recent NJ Supreme Court decision on the gap issue. See In Re Declaratory Judgement Actions filed by Various Municipalities, County of Ocean, Pursuant to the Supreme Court's Decision in Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015), Docket No. 077565 (2017). The Court has affirmed, in part, & reversed, in part, the decision of the Appellate Court Division & may have expanded the Mount Laurel doctrine to include, with some important exceptions, low & moderate income (LMI) households created during the 16-year gap period. The so-called "gap" period does not result from any failures of local government. This "gap issue" arises out of Council on Affordable Housing's (COAH) inability to promulgate 3rd Round regulations from 1999 to the present or make any final determination as to state & regional housing need, as well as constant litigation by certain groups. The Fair Housing Act (FHA) defines a municipal obligation to include present & prospective need, and when it has developed a plan to address both those needs, a town should be deemed compliant & allowed to proceed. This is a complicated decision, which will be discussed & debated for months to come. The Court indirectly, by assigning a new & unrealistic affordable housing obligation on municipalities. The Court may have expanded the Mount Laurel doctrine, beyond the plain language of the FHA & applicable regulations, to redefine "present need" to include, in addition to substandard or crowded units, a "component that addresses the affordable housing need of presently existing NJ [LMI households], which formed during the gap period." However the courts also put limits on calculating this component, by directing that, "the trial courts must take care to ensure that the present need is not calculated in a way that includes persons who are deceased, who are income-ineligible or other are no longer eligible for affordable housing, or whose households may be already captured through the historic practice of surveying for deficient housing units within the municipality."

By way of background, this past summer the Appellate Division held that municipalities were not responsible to zone for a "separate & discrete" amount of LMI households created during a 16 year gap, during which COAH did not promulgate substantive 3rd Round regulations. Rather, the only portion of those households that would be zoned for would be "present need," i.e. LMI households living in crowded or substandard housing. In doing so, the Appellate Division focused on a clear reading of the Fair Housing Act & applicable regulations. The Court ruling, however, has added to a very complicated, process, which will require the expenditure of further resources at the local/municipal level. **The Court in this decision once again invited the Legislature to revisit the issue & provide necessary reforms.**

The Board Secretary announced that the Nino's property was advertised for demolition by the City, with re-payment of demolition costs be filed as a lien on the property.

The Board then voted to enter into Executive Session to discuss litigation regarding Affordable Housing. Motion to enter Executive Session to discuss litigation: Motioned by Vice Chair DiEduardo, 2nd by Mr. Greenland, with no further discussion. All Board members voted in the affirmative by roll-call vote to enter Executive Session. The Board entered Executive Session at 8:57pm.

The Board entered Open Session of the meeting at 9:30pm. Motioned by Vice Chair DiEduardo, 2nd by Mr. Harkins, with no further discussion. All Board members voted in the affirmative by roll-call vote to enter Open Session.

K) REPORTS: None presented.

L) MEETING ADJOURNED:

Meeting was adjourned at 9:31pm, on motioned by Mr. Green & 2nd by Vice Chair DiEduardo. Based on the affirmative roll-call vote of the Board members, the motion to adjourn was approved.

APPROVED: _____

3/15/17
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.