

North Wildwood Planning Board
Re-Organization & Regular Meeting:
January 10, 2018
7:00 p.m.

The Re-Organization & Special Meeting of the North Wildwood Planning Board (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 & on the City web site. Notice of same was forwarded to local newspapers for their notice as a as afforded under the Open Public Meeting Act requirements.

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, Mr. Miller	Present
Chief Matt Gallagher	Present	Mr. William Green	Present
Councilman David Del Conte	Present	Mr. John Harkins	Absent
Mr. George Greenland	Present	Mr. James M. Flynn	Present
Mr. Bill Auty (Alt. 1)	Present	Mr. Bill O'Connell (Alt. 2)	Present
Mr. Ron Peters (Alt.3)	Present	Ms. Haas (Alt. 4)	Present

Mr. Nathan Van Embden (Board Solicitor)	Present
Mr. Ralph Petrella (Board Engineer)	Present
Ms. Brian Murphy (Board Planner)	Present
Eric Gundrum, (PB Secretary)	Present

E) SWEARING IN OF PROFESSIONALS:

The Chairman & Board Solicitor did conduct the truth swearing of the professionals of the Board; Mr. Petrella, Board Engineer & Mr. Murphy, Board Planner for it was necessary for tonight.

F) ORGANIZATION MEETING – ANNUAL APPOINTMENTS FOR 2018

Election of Chairman & Vice Chairman

The Board Secretary announced the selection of Chairman of the Board position.

Board members Mr. Green nominated Chairman Davis, with Mr. O'Connell with a 2nd nomination for Chairman Davis. No other nominations. Motion to re-elect Mr. Davis as Chairman: Motioned by Mr. Green, 2nd by Mr. O'Connell. All Board members voted in the affirmative by roll-call vote on the Chairman's nomination, with Mr. Davis abstaining on the nomination. Upon conclusion of voting, Chairman Davis thanked the Board members for his nomination.

The Board Secretary announced the selection of Vice-Chair of the Board position.

Board members Ms. Haas nominated Vice Chair DiEduardo, with Mr. Green with a 2nd nomination for Vice Chair DiEduardo. No other nominations. All Board members voted in the affirmative by roll-call vote on the Vice Chair's nomination, with Ms. DiEduardo abstaining on the nomination. Upon conclusion of voting, Vice Chair DiEduardo thanked the Board members for his nomination.

Notice Designation of Official Newspapers

The Board Secretary made announcement that the official newspaper for the City as well as the Board, including notices of public meetings, shall be the Atlantic City Press newspaper. The Cape May County Herald & Wildwood Leader newspapers will serve as special notices of the Board, such as special meetings, cancellations etc. All notices of meetings of the Board shall be posted on the bulletin board in the lobby of City Hall, on the City website & as filed with the City Clerk.

Notice of Scheduled Meetings for 2018 Calendar Year.

The Board Secretary announced Board Resolution No. PB-05-2017 for the Schedule of Meetings for the 2018 Calendar Year. Meeting times & dates were not changed. Based on the passage of the Resolution by the Board, notice has been sent to area newspapers to reflect the schedule & timing of meetings & will be certified by the Board Secretary.

Resolution No. PB-01-2018 - Resolution Appointing Board Secretary

Chairman Davis presented Board Resolution No. PB-01-2018 appointing Eric Gundrum as the Board Secretary for the Board & charged with the responsibility of performing all duties of the Board Secretary to the best of his ability. The anticipated term of this service shall commence January 2, 2018 & end December 31, 2018.

Motion to elect Eric Gundrum as Board Secretary: Motioned by Mr. Green, 2nd by Ms. Haas, with no other nominations. All Board members voted in the affirmative by roll-call vote on the Board Secretary's nomination. Board Secretary Eric Gundrum thanked the Board members for his nomination.

Due to large public attendees, Chairman Davis requested the Board's approval to change the Order of the Agenda. Annual Appointments for 2018 will be deferred to later in the Agenda. Mr. Green made a motion, 2nd by Ms. Hass to change the order of the Agenda. The Board members voted in the affirmative by roll-call to change the Order of the Agenda.

D) MEMORIALIZATIONS: –

Z-17-8-1 Richard Kaye

Block 150, Lot 2

809 Beach Creek

R-2 Zoning District

Use Variance, with rearyard & sideyard setback variances,
siteplan approval

Richard Kaye, of 809 Beach Creek Avenue has applied to the Board for the removal & replacement of an existing single-family dwelling on a lot that currently has two (2) single family dwellings in a condominium setting. Originally requested relief included the D-1 Use Variance for the existing non-conforming condition of two (2) primary residences on a single lot & associated relief was sought for sideyard & rearyard setback variances associated with the structure to be rebuilt or replaced. This property is designated as Block 150, Lot 2 commonly known as 809 Beach Creek Avenue and is located in the R-2 (Residential) Zoning District. The Board has determined that the Applicant has met the requirements for Preliminary & Final Siteplan Approval so long as the Applicant complies with the terms & conditions set forth in Resolution of Approval undergoing memorialization at tonight's meeting.

The Board Solicitor called for a motion to approve the memorialization as discussed. Motioned by: Vice Chair DiEduardo & 2nd by Ms. Haas. 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 abstained from the vote. Based on the majority roll-call vote being affirmative, the memorialization was approved by the Board.

Z-17-9-1 Vincent & Michelle Iovine

Block 324, Lot 3

414 East 2nd Avenue

OS Zoning District

Use Variance, with rearyard & sideyard setback & parking variances,
siteplan approval

Vincent & Michelle Iovine of 5 Georgian Drive, Cinnaminson, NJ, have applied to the Board for Preliminary & Final Siteplan Approval, D-2 Use Variance & Bulk Variance(s) for rearyard & sideyard setbacks as well as variance(s) for the number of parking spaces for property designated as Block 324, Lot 3, commonly known as 414 E. 2nd Avenue, and is located in the OS (Oceanside) Zoning District. The Board has determined that the Applicant has met the requirements for Preliminary & Final Siteplan Approval so long as the Applicant complies with the terms & conditions set forth in Resolution of Approval undergoing memorialization at tonight's meeting.

The Board Solicitor called for a motion to approve the memorialization as discussed. Motioned by: Vice Chair DiEduardo & 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. Mr. Miller & Councilman DelConte abstained from the vote. Based on the majority roll-call vote being affirmative, the memorialization was approved by the Board.

G) NEW BUSINESS: –

Z-17-11-1 Shude, L.L.C. aka Salty Mermaid

Block 133, Lot 1

2507 Delaware Avenue

R-2 Zoning District

Use Variance – expansion of Non-Conforming Use/siteplan approval

New outdoor seating area.

Shude, LLC of 14601 Mockingbird Drive, Darnestown, MD, has applied to the Board for Preliminary & Final Siteplan Approval & D-2 Use Variance for property located at Block 133, Lot, commonly known as 2507 Delaware Avenue, and located in the R-2 (Residential) Zoning District.

Ronald J. Stagliano, Esq. of appeared on behalf of the Applicant & explained the nature of the application to the Board.

Mr. Stagliano advised that his client was a corporate entity owned by a brother & sister, Eric Persson & Sondra Barbour, who sought to take over this long-standing but recently unoccupied bar & tavern facility and restore it to a functioning attractive neighborhood establishment. The property has historically been operated as Tony's Island Cafe, Bar & Club and as O'Boyles bar & tavern and then the Applicant purchased the property in March of 2017. The property has operated as a bar/tavern facility for 50-60 years at this location. A stand-alone single-family residence is located on the same lot frontage on 26th Avenue & no changes are proposed for that structure & use. Mr. Stagliano advised that the property is located in a R-2 (Residential) Zone, is a pre-existing but non-conforming use & his client intends to expand the property which will trigger a D-2 Variance application. He described the old configuration of the property as a "little tired" and the Applicant seeks to make substantial improvements with significant improvements to the building including landscaping, electrical, kitchen and fire safety along with two (2) new restrooms to be installed in the old portion of the existing building and outdoor seating area, subject of the expanding of the use, thus requiring the Use Variance application. There is no off-street parking provided & the Applicant seeks variance from such requirement. Furthermore, the Applicant seeks to put a modest identifying sign on the property where the R-2 Zone does not permit signage of any kind.

It was noted by Counsel that the property is situated on the very edge of the R-2 Zoning District & across the street is the Acme Shopping Center which is in an SC (Shopping Center) Zoning District which caters to a commercial use. Delaware Avenue is the zoning district boundary. The ROSE Zoning District is located just down the road and contains parks & street parking which are supportive of the Applicant's anticipated draw for pedestrian traffic.

Mr. Stagliano introduced William C. McLees, AIA, the Architect for the project. Mr. McLees has maintained offices in Somers Point, NJ for the last 20 years as a Registered Architect licensed in NJ & PA and has a long history of appearing before this Board & was accepted as an expert.

Mr. McLees referred to his siteplan submitted with the application indicating that there will be an expansion of the covered outdoor seating to the north of the existing bar with a new deck, covered walkway & modest extension of the concrete area to allow for egress & trash can enclosure. Mr. McLees testified that he thought that the outdoor seating area will be compatible with the adjacent residential use and certainly compatible with the adjacent commercial use across the street. He described the buffering effect of plantings and indicated that the depressed curb areas supporting the existing garage would be reduced to be used for trash removal. As far as Siteplan Sheet A-1, the seating area was depicted & Mr. McLees described the planting area which was intended to soften & buffer the building from its residential neighbors. This would result in a slight reduction in the total lot coverage on the property with expanded planting on the northeast toward 25th Avenue which would have additional expanded plantings & grassed areas. The Applicant agreed that all of the plantings will be irrigated & further agreed to restore on an annual basis any plantings which might be damaged or destroyed by weather or flood events. The Architect's testimony described the integration of the building into a whole with external improvements to define the entrance including the signage. The signage would not exceed 50 sq. ft. and would be face-mounted & have gooseneck lighting shining down on it.

Special reasons presented by the Applicant include aesthetic improvement, significant code and safety enhancements and compatibility with the neighborhood. The Applicant asserted that no negative impact or limitations to the Master Plan & Zoning Map would be sustained as a result of the application. They point to Paragraph (a), (b), (c), (i) & (j) of the positive criteria of the NJ Municipal Land Use Law (NJ-MLUL, NJSA 40:55D-1 et. seq.).

Chairman Davis asked the Applicant if they proposed a fence along the 25th Avenue side & the answer was "no"; landscaping is proposed with a lawn area.

Questions by Board members were asked about acoustic mitigation & whether music would be played and the Applicant indicated that they would have acoustic music which would cease at 10:00 p.m. on any given day. Other questions that were raised & answered included whether or not new exhaust fans were contemplated & the answer was "no". The new covered deck area will have ceiling fans but not exhaust fans. Questions regarding how inclement weather might impact the proposed improvement were posed. The Applicant indicated that they may use vinyl rollups. When discussing some possible garage door type installations, it was determined that might render the property a permanent structure rather than open-air deck & require the Applicant to meet significantly more stringent requirements; so, the Applicant made it clear that their intention was keep this as an open deck.

Mr. Petrella asked about the Applicant's compliance with the FEMA rules often called the 50% Rule on expansion/additions, which would indicate that the Applicant was not subject to meeting FEMA requirements if the improvements to the property amount to less than 50% of the fair market value of the property as a whole. The Applicant indicated that they comply with that Rule.

An important issue concerning a discrepancy between the plans & the renderings arose in the description of the solid wall facing the residential use to the northeast along the shared lot line with Lot 2 which fronts on 25th Avenue. The discrepancy between the depictions & the plans was resolved by the Applicant indicating that they would install a solid wall to the top of the structure to create a solid barrier between the activities of the deck area and the residential sections starting on Lot 2. That residential property has a fence extending toward 25th Street. There is no contemplated additional fencing intended to be installed.

The Planning Report, which was incorporated as fact, from Brian Murphy, Board Planner was discussed by the Board & the Applicant. It was specifically noted that the identification of a proposed one-year lease for 90 parking spaces with an option for an additional year was unartfully executed & the number of parking spaces was intended to read 20 spaces according to the Applicant and it was made clear that the form of lease had been signed but was for a one-year period with a one-year extension and many provisions including consideration, the date & other material terms had not been filled in correctly.

The Engineering Report, which was incorporated as fact, of Ralph Petrella, Board Engineer, stated the Applicant indicated their agreement to comply with the conditions & issues raised by Mr. Petrella. Mr. Petrella indicated that he calculated that 9 new parking spaces would be required by virtue of the improvements proposed by the Applicant but by virtue of bringing this matter before the Board as an expansion of a non-conforming pre-existing use, then the total spaces that would be calculated by the current rules would be a total of 28 spaces of which the Applicant provides no off-street parking. Mr. Petrella asked questions about the trash enclosure; whether it was closed on three (3) sides. The Applicant answered "no" it was enclosed on all four (4) sides with a low sloped roof on top. The trash enclosure would be about 12 ft. x 8 ft. with 8 ft. double door gate housing a dumpster & trash cans. The dumpster will be installed inside of a trash enclosure area as discussed above in substantially the same location as the trash storage is currently located.

Both Sondra Barbour & Eric Persson were sworn & testified as to their goals & intentions for the renovation of this facility. They testified as to their attempts to obtain a lease for 20 parking spaces in the commercial parking lot servicing the Acme across the street & submitted a lease prepared by the Landlord to show their good faith efforts to make such arrangements. It was explicitly established that while a one-year agreement had been achieved, there was no guarantee that the lease would extend beyond the express limited term of one year. The Applicant testified that their outdoor dining area utilization was intended to be seasonal; operations outside would extend to no later than 10:00 p.m. They indicated that they were familiar with the Noise Ordinance that provides that after 10:00 p.m. there would be no seating in that location. The Applicant further confirmed that they will not pursue permanent garage doors but would investigate roll-down vinyl for protection against inclement weather & during the "shoulder" season to extend the outdoor deck usage. There is no provision for heat or air conditioning servicing the deck area and, again, reiterated that no one will be outside after 10:00 p.m. They indicated that their target audience was a family audience & neighborhood clientele. This is a "restaurant with a bar" rather than a "bar with food" according to Ms. Barbour. The Applicant further indicated that they hope to entice pedestrian & bicycle traffic and allow parking at the supermarket across the street if those arrangements can be made. Although the

siteplan does not reflect a bicycle rack, it was the intention of the Applicant to install one & they expanded their application request to include approval of a bicycle rack where it might be convenient. The Applicant further modified its application to indicate that trash disposal including the dumping of glass & bottles would not occur after 10:00 p.m.

Chairman Davis then opened the application for general public comment. at which time the following members of the public came forward to testify:

1. Tim Bialosky of 25th Street, a neighbor to the property, expressed some concern about privacy & noise and indicated his wish that the wall facing towards his property go "all the way to the top" so as to limit the transmission of noise from the deck area.
2. David Thompson of 228 W. 27th Street, also identified as a neighbor, indicated that he historically had resided in this neighborhood & he thought it was nice to have this facility back up & running. He indicated that he thought that the deck & renovated property would be an asset.
3. James Kerrigan of 218 E. 4th Street, spoke in favor of the Applicant saying that the applicant has a history of following through & being a good neighbor & he indicated that the Applicant would be an asset & a benefit to the community.

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 Use Variance/siteplan 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 subject property is a historic tavern with over 50 years of operational history & perhaps much more. The Applicant is the owner of the subject property, as such, has standing to appear before the Board requesting siteplan approval & Use Variance to expand a non-conforming use of the property. The Board finds that the Applicant further seeks variances for existing non-conformities for frontage, width, depth, front & sideyard and existing parking, all which are existing non-conforming conditions which are not exacerbated by the proposed development except, of course, for the parking requirement which is increased by virtue of the parking formula by 9 spaces. Additionally, variances for off-street parking where the total of 28 parking spaces are required & none are provided and for a sign variance where no sign is permitted & seek to install a sign not to exceed 50 sq. ft. on the front of the building, and to be illuminated by gooseneck lighting extending from the side of the structure. Furthermore, the Board finds that the Applicant will need an encroachment agreement with the City of North Wildwood to recognize the existing encroachment along Delaware Avenue for handicapped access, which encroachment is not being proposed to be expanded. The purposes of the zoning law would be advanced by the proposed development in that the nonconforming expansion of outdoor seating. The Board finds that except for the variance relief request, the Applicant has satisfied the requirements for siteplan application 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. The siteplan application of SHUDE, LLC for a D-2 Use Variance for expansion of an existing non-conforming use is hereby granted & approved subject to the following terms & conditions of the resolution of Approval. Motioned by: Vice Chair DiEduardo & 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. Based on the majority roll-call vote being affirmative, the siteplan application was approved by the Board. Mr. Miller & Councilman DelConte were not required to vote.

Chairman Davis then called for a five (5) minute break, with the Board being affirmative in majority in voting for a break in the meeting.

H) PUBLIC PORTION:

Chairman Davis then opened the meeting for general public comment. No members of the public were in attendance at this time. No comment was offered. Chairman Davis closed the public portion of the meeting.

I) APPROVAL OF MINUTES: – October 11, 2017 & November 9, 2017.

The Board Solicitor presented to the Board the approval the October 11, 2017 & November 9, 2017 regular Meeting Minutes. The Board Solicitor called for any discussion or corrections to the minutes. Mr. Green requested correction to the minutes on the aspect of the Rio Grande Ave Corridor project by the County of Cape May, which was subsequently deleted for clarification on the lack of project progress. Mr. Green mentioned whether a Board Sub-Committee was warranted. The Board consensus was no Sub-Committee was needed. Motioned as proposed by Mr. Harkins & 2nd by Mr. Greenland. Vice Chair DiEduardo abstained on voting of the October 11, 2017 meeting minutes approval due to absence from last month's meeting. Mr. Auty, Ms. Haas & Mr. O'Connell abstained on voting of the November 9, 2017 meeting minutes approval 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.

The Board Secretary requested deferment on the approval of the November 15, 2017 & December 13, 2017 Meeting minutes, due to computer software problems developed to the upgrade of the Board Secretary's computer. The Board agreed to the deferment until next meeting.

J) UNFINISHED BUSINESS: – None presented.

K) COMMUNICATION(S):

The Board Secretary provided copy to the Board members of questions & City provided answers to those questions as originally requested by the Master Plan planner consultant. These questions were to form a basis of the Master Plan, however were written in a way, which covered topics of the "Wildwoods" in general, rather than focusing on just North Wildwood objectives of the Master Plan.

Chairman Davis mentioned that the Master Plan consultant will work diligently on the Master Plan Re-Examination after the 1st of the year, with the selection of new Board Solicitor.

Chairman Davis requested an update on the Builder's Remedy/Marina Bay Tower's affordable housing lawsuit. The lawsuit is still being litigated/pending. The Special Master should be notified on any large-scale development projects (greater than 3 units or 3 lots) which may come before the Board. The Scarce Resources Restraint Order has technically expired according to the Board Solicitor & former Board Solicitor Dean Marcolongo. Any future Master Plan amendments would be forwarded to the Special Master before adoption by the Board. The Master Plan consultant is also preparing the Affordable Housing Element of the Master Plan Re-Examination.

Mr. Green thank the Board Secretary for arranging the Board Christmas dinner.

L) REPORTS: - None presented

The Board then voted to enter into Executive Session to discuss position of Board Professionals; Board Solicitor, Board Engineer & Board Planner, for the Year 2017. Motion to enter Executive Session to discuss Board personnel: Motioned by Ms. Haas, 2nd by Vice Chair DiEduardo, 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 8:40pm.

The Board entered Open Session of the meeting at 8:53pm. Motioned by Vice Chair DiEduardo, 2nd by Ms. Haas, with no further discussion. All Board members voted in the affirmative by roll-call vote to enter Open Session.

Resolution No. PB-02-2018 - Appointment of Board Professional(s) for Year 2018

Chairman Davis introduced nominations for Board Engineer. Only one (1) Request for Proposals (RFP) was received by the Board Secretary for the position(s) of; Board Engineer. RFP's were only received by the current Board Professionals, no other outside firms submitted RFP's.

Based on the receipt of the RFP's, the Board presented Ralph Petrella, Van Note Harvey & Assocs., as the Board Engineer nomination for the Board & charged with the responsibility of performing all duties of Board Engineer to the best of his ability. The anticipated term of this service shall commence January 2, 2018 & end December 31, 2018.

Motion to elect Ralph Petrella as Board Engineer. Motioned by Mr. Green, 2nd by Mr. Greenland, with no other nominations. All Board members voted in the affirmative by roll-call vote on the Board Professionals nomination(s).

As for the RFP's received by the Board Secretary for Board Planner, two (2) RFP's were received & evaluated by the Board. Brian Murphy of MV Engineering & Susan Gruel of Heyer & Gruel Assocs submitted the RFP's. Chairman Davis requested the Board consensus on rejecting the RFP's as submitted. The Board has "re-assessed" its needs & objectives for Board Planner position, in providing that a Board Planner is only warranted on large-scale development applications, on a "as-needed basis." With such a position, the Board will request City Administration to re-introduce a new Board Planner RFP for advertisement at a future date. As such, RFP's received for the Board Planner position were rejected by the Board.

As for the RFP's received by the Board Secretary for Board Solicitor, two (2) RFP's were received & evaluated by the Board. Nathan Van Embden, Esq. & Robert J. Belasco of Stefankiewicz & Belasco, LLC submitted the RFP's. The Board Solicitor nomination for the Board will be charged with the responsibility of performing all duties of Board Solicitor to the best of his ability. The anticipated term of this service shall commence January 2, 2018 & end December 31, 2018.

Motion to elect Robert Belasco as Board Solicitor. Motioned by Councilman DelConte, 2nd by Mr. O'Connell, with no other nominations. All Board members voted in the affirmative by roll-call vote on the Board Professionals nomination(s).

Mr. Green thanked Mr. Murphy & Mr. Van Embden for their service to the Board.

Mr. Belasco thanked the Board for his nomination as new Board Solicitor.

M) MOTIONS FOR ADJOURNMENTS: – None presented.

N) MEETING ADJOURNED:

Meeting was adjourned at 8:58pm, on motion by Ms. Haas, & 2nd by Vice Chair DiEduardo, with all present members voting in the affirmative.

APPROVED: _____
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.