

North Wildwood Planning Board
Regular Meeting: September 12, 2018
6:30 p.m.

The regular meeting of the North Wildwood Planning Board (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	Absent
Chief Matt Gallagher	Present	Mr. William Green	Absent
Mr. John Harkins	Present	Councilman David Del Conte	Absent
Mr. George Greenland	Present	Mr. James M. Flynn	Absent
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. Robert L. Belasco (Board Solicitor)	Present
		Mr. Ralph Petrella (Board Engineer)	Present
		Eric Gundrum, (PB Secretary)	Present

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

E) 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.

F) MOTIONS FOR ADJOURNMENTS: - None

G) MEMORIALIZATIONS:

Z-18-4-2 Jerry Rosenberg

Block 274, Lot 9

320 E. 8th Avenue, North Wildwood, NJ

R-1 Zoning District

Use Variance – expansion of non-conforming use

The following application was presented by the Applicant before two (2) Board meetings; the June & August meetings.

The Board heard & considered the application of Jerry Rosenberg residing at 1446 Route 47, Woodbine, NJ, the contractor retained by the James & Fiorangela Hummel, Michael & Serenella Corsanico, and Frank & Maria Filippo, the owners of the property at Block 274, Lot 9, commonly known as 320 E. 8th Avenue (“Subject Property”), seeking a D(2) variance for the expansion of a non-conforming use, ‘C’ variance relief with respect to the minimum sideyard setback (eight (8) ft. is required whereas five (5)ft. is proposed) and to address a pre-existing non-conforming rearyard setback (10ft. is required whereas four (4) ft. is existing & proposed), in order to construct a 2nd floor addition to an existing rearyard accessory one-story dwelling located on site. The Board is in receipt of a siteplan and floor plans & elevations prepared by Joseph S. Benedetto, Architect, of Benedetto Associates, dated February 16, 2018, which are incorporated as fact. The original application was disapproved/denied by the Board.

The Board Solicitor called for a motion to approve the memorialization of the disapproval/denial Resolution as discussed. The Use Variance application denial of Jerry Rosenberg is hereby approved for memorialized subject to the Resolution. Motioned by: Mr. O’Connell & 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. Ms. Haas abstained on the vote to memorialize the Resolution. Based on the majority roll-call vote being affirmative, the memorialization of the Resolution was approved by the Board.

H) NEW BUSINESS:

P-18-5-2 Children Fresh Air Home

Block 271, Lot 10

1100 Surf Avenue

R-1.5 Zoning District

Minor Subdivision Approval

The Board heard & considered the application of Children’s Fresh Air Home, Inc. doing business at P.O. Box 413, 311 Ardmore Avenue, Haddonfield, NJ, owner of the property located at 1100 Surf Avenue, a/k/a Block 271, Lot 10, seeking minor subdivision approval to subdivide the existing 100’ x 156’ lot into two (2) new lots, proposed Lots A (114.5’ x 100’) & B (40’ x 100’).

Kevin J. DiMedio, Esq., of DiMedio Law located in Haddonfield, NJ appeared on behalf of the Applicant & outlined the nature of the application. Mr. DiMedio indicated that this minor subdivision application is a by-right subdivision as the Applicant is proposing to create two (2) conforming lots & no

variance relief is requested or required in connection with same. Mr. DiMedio advised the Board that the subject property was constructed approximately 100 years ago & the building located on site is currently in need of significant renovations. Mr. DiMedio indicated that the Applicant intends to sell the newly created 40' x 100' subdivided lot in order to raise funds to renovate the existing structure located on-site. Mr. DiMedio advised the Board that the subdivided lot is currently under contract to be sold contingent upon the approval of this minor subdivision application.

Dante Guzzi, P.E. with Dante Guzzi Engineering Associates, LLC, appeared before the Board. Mr. Guzzi was placed under oath & testified from the plan of minor subdivision submitted to the Board consisting of one (1) sheet dated November 16, 2017 which was received by the Board & incorporated as fact. Mr. Guzzi testified that the subject property is located at 1100 Surf Avenue, a/k/a Block 271, Lot 10, located in the R-1.5 Zoning District, measuring 156' x 100' (15,600 SF). Mr. Guzzi advised the Board that the Applicant is seeking the Board's approval in order to subdivide 40' x 100' from the rear of the subject property located along 11th Avenue. He indicated that no variance relief is requested or required in connection with this application as the proposed lots created as a result of this minor subdivision fully conform to the bulk standards within the R-1.5 Zoning District. Mr. Guzzi testified that the Applicant originally proposed to create two (2) lots measuring 116' x 100' & 40' x 100'; however, an issue with an encroaching fence located between Lot 9 & Lot 10 lead to the filing of a civil lawsuit in the Cape May County Superior Court under Docket C-30-18. As a result of a settlement reached between the Applicant & the owner of Lot 9, the Applicant agreed to give approximately 1.5' x 100' (150SF) of the subject property to the owner of Lot 9 in order to settle the dispute associated with said lawsuit. As a condition of approval the Applicant agreed to provide the Board with a copy of the filed Consent Order outlining the terms & conditions of the settlement reached between the Applicant & the owner of Lot 9 which resolved the aforementioned civil lawsuit. Mr. Guzzi further testified that, as a result of the aforementioned settlement agreement, the conforming lots would be moved approximately 1.5ft., and both proposed lots will still conform to all of the bulk standards of the R-1.5 Zoning District. Stated otherwise Lot 9 will receive an additional 1.5' x 100' in connection with the aforementioned settlement agreement. As a condition of approval the Applicant agreed to submit a revised plan of minor subdivision which accurately depicts the location of the proposed lot lines associated with this minor subdivision.

As a condition of approval the Applicant agreed to file conforming deeds with the Cape May County Clerk's Office depicting the revised lot lines & dimension of proposed lots A & B and Lot 9.

Chairman Davis questioned the Applicant regarding when the anticipated repairs to the existing structure located on site would commence. In response, Mr. DiMedio indicated that a real estate closing was scheduled in the near future in connection with the proposed 40' x 100' lot & that repairs were projected to begin shortly thereafter. Mr. DiMedio informed the Board that plan is to renovate the existing structure in its current location & there are no plans to modify and/or expand the existing structure at this time.

The Board was in receipt of a review memorandum prepared by Board Engineer, Mr. Petrella, dated July 2, 2018 which was received by the Board & incorporated as fact. Mr. Petrella concurred that the application was in fact a by-right subdivision.

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

The Board members then discussed & summarized the application as presented. The Board then discussed the finding of facts on the Minor 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. No variances are sought or required in connection with this application. The proposed subdivision meets the standards of the Ordinance. No members of the public spoke out in favor of or against the application. The Board finds that the proposed subdivision is a by-right subdivision. The Board has determined that that the Applicant has met the requirements for minor subdivision approval so long as the Applicant complies with the terms & conditions set forth in the forthcoming Resolution of Approval. No additions or correction to the Finding of Facts. No discussion on the facts. This Finding of Fact is intended to memorialize the foregoing findings & conclusions made by the Board during its September 12, 2018 Special Meeting for this application.

The Board Solicitor called for a motion to approve the application as discussed, the Use Variance/siteplan application of Children Fresh Air Home. Motioned by: Mr. Harkins & 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 application was approved by the Board.

P-18-5-2 Joseph McGinnis & Jayne Carrelli

Block 246, Lot 8
218 East 5th Avenue, North Wildwood, NJ
R-1 Zoning District
“c” Variances – New swimming pool

The Board heard & considered the application of Joseph McGinnis, II and Jayne Carrelli residing at 419 Cedar Avenue, Feasterville, PA, owners of the property located at 218 E. 5th Avenue, a/k/a Block 246, Lot 8, seeking ‘C’ variance relief for the distance of a swimming pool to a building (8ft. is required whereas 4ft. is proposed), sideyard setback (each) (8ft. is required whereas 4.6ft. and 4.7ft. are existing & proposed), and sideyard setback (total) (20ft. is required whereas 9.3ft. is existing & proposed), in order to construct a swimming pool in the rear yard of the property.

The Applicant, Joseph McGinnis, II, was self-represented in connection with this application. Joseph McGinnis, II was placed under oath & he was sworn in to testify before the Board. Mr. McGinnis testified that he owns the subject property with his sister, Jayne Carrelli. He indicated that they are seeking the Board’s approval in order to install a swimming pool in the rear yard of their property.

Dante Guzzi, P.E., with Dante Guzzi Engineering Associates, LLC, appeared before the Board. Mr. Guzzi was placed under oath & testified from the variance plan submitted to the Board consisting of one (1) sheet dated March 23, 2018, & revised August 13, 2018, which was received by the Board & incorporated as fact. Mr. Guzzi informed the Board that the subject property is currently developed with a three (3) story single family dwelling which conforms to all bulk requirements of the R-1 Zoning District with the exception of the existing sideyard setbacks. Mr. Guzzi advised the Board that the Applicants are proposing to construct a swimming pool in the rearyard of the property which will conform to the rearyard & sideyard setback requirements of six (6) feet associated with swimming pools. He noted that the Applicants comply with all lot & building coverage requirements. Mr. Guzzi testified that the Applicants are requesting ‘C’ variance relief in

connection with the distance of the proposed swimming pool to the existing building located on-site. Mr. Guzzi further testified that the proposed swimming pool is an accessory use which is proposed to be located a distance of four (4) feet from the existing structure whereas the City's Ordinance requires that an accessory use be located a minimum of eight (8) feet from the existing structure. Mr. Guzzi noted that the non-conforming sideyard setbacks associated with the primary use located on-site are the result of pre-existing conditions which are not being exacerbated or increased in connection with this application. Mr. Guzzi indicated that the proposed swimming pool will be surrounding by a fence. He noted that no new structures are proposed in connection with this application. Mr. Guzzi testified that the Applicant is seeking relief from the Board based upon a hardship as the Applicants are unable construct a swimming pool which complies with the setback requirements in the R-1 Zoning District. He indicated that relocating the proposed swimming pool in order to conform to the minimum distance requirement for an accessory use to a building would result in the Applicants requiring 'C' variance relief for the rearyard setback and/or the sideyard setback. Mr. Guzzi opined that the variance relief & waivers sought by the Applicant can be granted as they advance several of the special purposes of Zoning as set forth within N.J.S.A. 40:55D-2, namely:

- a) The project will provide adequate light, air & open space as the proposed swimming pool is an in-ground pool which will maintain and promote light, air & open space; and
- b) The project will promote a desirable visual environment through creative development techniques & good civic design and arrangement as the swimming pool will improve the aesthetics of the rearyard.

Mr. Guzzi further opined that the application can be granted as there is no substantial detriment to the public good & the application does not substantially impair the intent & purpose of the Zoning Map and the Land Development Ordinance as the proposed development is consistent with the surrounding neighborhood.

Board Secretary Eric Gundrum informed the Board that an existing fence located along the sideyard measures approximately six (6) feet whereas the City's Ordinance only permits a five (5) foot fence along the sideyard. In response, Mr. McGinnis testified that the fence in question is owned by the neighboring property located to the south of the subject property. Mr. McGinnis confirmed that the six (6) feet fence in question does not extend beyond the front of the existing structure.

Mr. McGinnis testified that the proposed swimming pool will be approximately five (5) feet deep. In response to safety concerns raised by the Board in connection with the proximity of a 2nd floor rear deck to the proposed swimming pool, Mr. McGinnis testified that the deck in question is located off of a bedroom that can be locked & secured. Mr. McGinnis further testified that the mechanical equipment associated with the swimming pool will be located on an existing platform which currently contains the HVAC mechanical equipment.

The Board was in receipt of a review memorandum prepared by Board Engineer, Mr. Petrella, dated August 31, 2018 which was received by the Board & incorporated as fact. Mr. Petrella testified that the Applicant had addressed the items set forth within the aforementioned review memorandum to his satisfaction.

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

The Board members then discussed & summarized the application as presented. The Board then discussed the finding of facts on the Minor 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. The Applicant is seeking Minor Variance approval in order to install a swimming pool in the backyard of their residence. A “c” variance is sought or required in connection with this application. The proposed variance meets the standards of the Ordinance. No members of the public spoke out in favor of or against the application. The Board finds that the proposed variance is justified. The Board has determined that that the Applicant has met the requirements for variance approval so long as the Applicant complies with the terms & conditions set forth in the forthcoming Resolution of Approval. No additions or correction to the Finding of Facts. No discussion on the facts. This Finding of Fact is intended to memorialize the foregoing findings & conclusions made by the Board during its September 12, 2018 Special Meeting for this application.

The Board Solicitor called for a motion to approve the application as discussed, the Variance/siteplan application of McGinnis & Carrelli. Motioned by: Chief Gallagher & 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 application was approved by the Board.

**Planning Board proposal for Zoning Amendment
for the Marina Bay Tower project, pursuant to Court Order**
Marina Bay Redevelopment Plan
Block 152, Lot 1
Manufacturers & Traders Trust Co. vs. Marina Bay et. al.
Court Docket No. CPM-F-049229-14

At the suggestion of the Board Solicitor, the following Agenda topic was tabled. This Agenda topic is part of on-going litigation.

I) **PUBLIC PORTION:**

Chairman Davis then opened the meeting for general public comment. No further 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.

J) **APPROVAL OF MINUTES:** –

The Board Secretary presented to the Board the approval of August 8, 2018 Meeting minutes. The Board Secretary called for any discussion or corrections to the minutes. A minor correction was noted to a street address in the Communication portion of the Meeting Minutes & corrected upon adoption. No further discussion to the minutes. Motioned as proposed by Mr. Harkins & 2nd by Mr. Greenland. Based on the affirmative majority roll-call vote of the Board members to memorialize the Meeting Minutes, the Meeting Minutes were approved.

K) **UNFINISHED BUSINESS:** None presented.

L) COMMUNICATION(S):

DRAFT Master Plan Re-Examination document as prepared by consultant

The Board Solicitor gave a brief update on the status of the Master Plan Re-Examination. It is expected a draft Master Plan document, with potential public hearing at the October meeting. The Board Chairman express his desire to conclude this task.

M) REPORTS: None presented.

Mr. O’Connell requested clarification as to where the swimming pool & cantilever decks, where the measurement would be made. It was clarified that the closest extent of the deck edge to the edge of swimming pool is where the measurement would be made. The Board Engineer & Board Secretary explained how setbacks are measured.

The Board then voted to enter into Executive Session to discuss pending litigation related to Marina Bay Towers lawsuit. Motion to enter Executive Session to discuss Board personnel: 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 Executive Session. The Board entered Executive Session at 7:08pm.

The Board entered Open Session of the meeting at 7:04pm. 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.

N) MEETING ADJOURNED:

Meeting was adjourned at 8:06pm, on motioned by Vice Chair DiEduardo & 2nd by Ms. Haas. Based on the affirmative roll-call vote of the Board members, the motion to adjourn was approved.

APPROVED: 10/11/18
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.

