

North Wildwood Planning Board
Regular Meeting: May 13, 2020
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.

As a result of guidance provided by Governor Murphy & the State of NJ, in an attempt to combat the COVID-19/Coronavirus outbreak, the Board meeting *scheduled for Wednesday, May 13th, 2020, 6:30pm*, as provided on the Agenda herein has been moved to [Zoom.us](https://zoom.us), a Cyber/Teleconference Meeting Platform. Members of the public could join the meeting by computer, phone, or tablet/smartphone. Notice of same & instructions on how to attend were provided to members of the public & will also still be able voice their concerns, opinions, & questions during the public comment period, after stating their name & address once the public comment period has opened.

Ron Simone, City Business Administrator acted as the mediator of the Zoom.US platform & controlled the logistics of the meeting through the Zoom.us software.

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	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 not necessary for tonight's meeting.

F) MOTIONS FOR ADJOURNMENTS:

Application No. Z-19-11-1 - Wynnefield Development, LLC

428 E. 22nd Avenue

Block 291, Lot 10 & 11

SPRA Zoning District

Minor Subdivision approval, preliminary & final siteplan approval w/ "c" variance approval

The Board Secretary & the Board Solicitor announced adjournment of the above referenced application by written request of the Applicant's agent. Notice requesting adjournment was received in a timely manner before the Board hearing. The request for adjournment also provided for time limit waiver under the NJ Municipal Land Use Law {NJ-MLUL} (NJSA 40:55D-1 et. seq.) & the Ordinance (Chap. 276-1 et. seq.). The Board Solicitor announced to the public that this application will be adjourned to the June 10th meeting & no further public notice will be or is required to be provided. With that being said, the application was adjourned.

G) MEMORIALIZATIONS: None provided.

H) NEW BUSINESS:

Application No. P-2020-3-2 – Greg Haines, Sr.

328 East 8th Avenue

Block 274, Lot 12

R-1 Zoning District

"c" variance for oversize shed & new sideyard doorway entrance

The Board heard & considered the application of Gregory S. Haines, Sr. (Applicant), residing at 323 Beech Avenue, Woodbury Heights, NJ, owner of the property located at 328 E. 8th Avenue, a/k/a Block 274, Lot 12 (Property), seeking 'C' variance relief in relation to minimum sideyard setback (six (6) ft. is required whereas four (4)ft. is proposed), and in connection with the size of a proposed accessory shed (150SF is permitted whereas 288SF is proposed), in order to replace & existing accessory shed with a new shed/pavilion structure & to replace the existing sideyard stairs & landing

The Applicant, Gregory S. Haines, Sr., was self-represented in connection with this application. Mr. Haines was placed under oath & he was sworn in to testify before the Board. Mr. Haines reviewed the nature of the application & the relief sought in connection with the same for the benefit of the Board. Mr. Haines testified that an existing 10' x 18' (180SF) accessory shed currently exists on site. He indicated that the shed has fallen into a state of disrepair & needs to be replaced. Mr. Haines testified that he is proposing to replace the existing shed with an all-in-one 12' x 24' (288SF) shed/pavilion combination structure. He advised the Board that the shed portion of the structure measures 12' x 10' (120SF) & the pavilion portion 12' x 14' (168SF). Mr. Haines testified that he is also proposing to replace existing exterior stairs & a landing located in the sideyard of the property. He advised the Board that the stairs & landing provide access to the kitchen & provide a 2nd means of ingress/egress to the structure. Mr. Haines further testified that the proposed stairs & landing will be slightly larger than what currently exists on site, and the stairs will encroach into the sideyard

setback. Mr. Haines advised the Board that a minimum six (6) ft. sideyard setback is required whereas four (4) ft. is proposed. Mr. Haines testified that the home was originally constructed in the 1950's. He advised the Board that he purchased the Property in November of 2018, and just recently completed renovations to the interior of the home. He advised the Board that he is now focused on improving the exterior aesthetics.

In response to a question from the Board, Mr. Haines testified that the proposed shed will be used primarily for storage as the primary structure does not provide much space for storage. He stated that the pavilion portion of the structure will provide his family with an area where they can sit outside to enjoy the fresh air. In response to a question raised by the Board, Mr. Haines testified that a foundation for the proposed accessory structure exists on site. He advised the Board that he stopped construction when he learned that a permit & variance relief was required in order to comply with the City's Land Development Ordinance.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated May 4, 2020, which was received by the Board & which is incorporated herein as fact. Mr. Petrella reviewed & confirmed the relief sought by the Applicant for the benefit of the Board. Mr. Petrella confirmed that a sideyard setback variance is required as the proposed stairs are wider than the stairs that currently exist on site. Mr. Petrella advised the Board that the accessory structure proposed by the Applicant is unique in the sense that it's essentially two (2) structures combined in to one. Mr. Petrella advised the Board that the combined structure, specifically the size of the structure, is not permitted as it exceeds maximum permitted square footage; however, he noted that if the structures were separate, they likely would not require any variance relief.

Chairman Davis then opened the application for general public comment.

As a result of guidance provided by Governor Murphy & the State of NJ, in an attempt to combat the COVID-19/Coronavirus outbreak, the Board meeting as provided on the Agenda herein had been moved to [Zoom.us](https://zoom.us), a Cyber/Teleconference Meeting Platform. Members of the public could join the meeting by computer, phone, or tablet/smartphone. Notice of same & instructions on how to attend were provided to members of the public & will also still be able voice their concerns, opinions, & questions during the public comment period, after stating their name & address once the public comment period has opened.

Two (2) members of the public addressed the Board in connection with the application via the [Zoom.us](https://zoom.us), a Cyber/Teleconference Meeting Platform,

- A) Lynn Colubriale, owner of the property located at 326 E. 8th Avenue, appeared & she was placed under oath to testify before the Board. Ms. Colubriale testified that the current owners have done a great job improving the structure. She indicated that she has no objection to the size of the proposed accessory structure or the proposed sideyard setback.
- B) Shirley Collings, owner of the property located at 315 E. 8th Avenue, appeared & she was placed under oath to testify before the Board. Ms. Collings reiterated the comments made by Ms. Colubriale, and she indicated that the existing shed is an 'eyesore' & needs to be replaced. She advised the Board that she has no objection to the proposed development.

With no further public members wished to speak on behalf of the meeting or to the Board at this time, no further 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 application. Each Board member gave reasoning for their view of the facts & the application as it relates to 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 R-1. The Applicant is the owner of the property & has standing to come before the Board in order to request 'C' variance relief. The Applicant was self-represented in connection with this Application. The Property is an undersized lot located in the R-1 Zoning District at 328 E. 8th Avenue, a/k/a Block 274, Lot 12. The Applicant is proposing to replace an existing accessory shed with a new shed/pavilion structure & to replace an existing sideyard stairs & landing located on site. In connection with this application, the Applicant is seeking 'C' variance relief in relation to:

Minimum sideyard setback (6ft. is required whereas 4ft. is proposed); and

The size of a proposed accessory shed (150SF is permitted whereas 288SF is proposed).

The Board received testimony from the Applicant, Gregory S. Haines, Sr., who reviewed the history of the property & outlined the nature of the Application for the benefit of the Board. Mr. Haines testified that the existing accessory shed located on-site needs to be replaced due to damage, and he indicated that the proposed shed will provide the family with much needed storage space & an outdoor area where the family can enjoy the fresh air. Mr. Haines testified that the existing stairs & landing located in the sideyard are approximately 70 years old & need to be replaced for safety reasons. The Board found Mr. Haines' testimony to be credible & persuasive. The Board reviewed a survey of the existing conditions located on-site, and a drawing prepared by Mr. Haines depicting the proposed location of the new accessory structure & the location of the proposed sideyard stairs & landing. These documents were received by the Board & are incorporated herein as fact. Two (2) members of the public addressed the Board in connection with this Application. Both individuals indicated that they supported the Applicant's proposal, and they noted the improvements that the Applicant has made to the Property since purchasing same in 2018. The Board finds that a hardship exists with respect to this Applicant due to the fact that the existing structure is located on an undersized (40x100) lot which impacts the Applicant's ability to comply with the area & bulk requirements within the R-1 Zoning District. The Board finds that a hardship exists with respect to this Applicant due to the fact that the existing structure is located on an undersized lot which impacts the Applicant's ability to comply with the area & bulk requirements within the R-1 Zoning District. The purposes of zoning law would be advanced by the proposed development in approval of the application. The Board finds that the Applicant has satisfied the requirements for seeking 'c' variance relief siteplan approval. The Board further finds that the proposal is compatible with the surrounding neighborhood & that the requested relief can be granted without substantial detriment to the public good & without substantially impairing the intent & purpose of the Ordinance & Zoning Map. Furthermore, the Board finds that the purposes of the NJ-MLUL will be advanced by the application & the benefits of granting same substantially outweigh any potential detriments. No additions or correction to the finding of facts. No discussion on the facts. The Board accepted the findings of fact.

The Board Solicitor called for a motion to approve the Resolution as discussed. Motioned by: Ms. Haas & 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.

Application No. Z-2020-3-1 - Cecil Creek Properties, LLC

225-231 W. 10th Avenue

Block 149, Lot 1 & 23

Bayside Business (B/B) Zoning District

Conditional Use approval – expansion of existing marina/restaurant w/ residential apartments

The Board heard & considered the application of Cecil Creek Properties, LLC (Applicant), doing business at 6810 Atlantic Avenue, Wildwood Crest, NJ, owner of the property located at 231 West 10th Avenue,

a/k/a Block 149, Lot 1 (Property), seeking preliminary & final siteplan approval, conditional use approval in relation to the existing restaurant use located on site, a D(2) Use Variance for the expansion of a pre-existing non-conforming use, 'C' variance relief in relation to the minimum rear yard setback (15ft. is required whereas four (4)ft. is proposed), minimum front yard setback (10ft. is required whereas 9.26ft. is existing & proposed), minimum side yard setback (six (6)ft. is required whereas 0ft. & 49.45ft. are existing and proposed), maximum lot coverage (75% is permitted whereas 100% is existing & proposed), minimum accessory building distance to other buildings (four (4) ft. is required whereas 1.7ft. is existing & proposed), and a waiver to permit a crushed stone parking area rather than a paved parking area, in order to construct a new 2nd level open deck with sixty-four (64) additional outdoor seats & a new multi-use 1st floor deck. The Property is located in the Bayside Business (BB) Zoning District.

Andrew Catanese, Esq., of the law offices of Monzo Catanese Hillegeass, P.C. appeared on behalf of the Applicant. Mr. Catanese outlined the nature of the application and the relief sought in connection with same. Mr. Catanese stated that the Property is located at 231 West 10th Avenue located in the City's Bayside Business (BB) Zoning District. It is currently developed with an existing bayfront restaurant known as "The Surfing Pig," two (2) residential apartments, and a 2nd building that provides services to an on-site marina, South Dock Marina.

Mr. Catanese indicated that the Applicant is proposing to construct a new 2nd level open deck with sixty-four (64) additional outdoor seats, and a new multi-use 1st floor deck with additional bathrooms. He indicated that the existing building located on the northeastern portion of the site that services the marina will be eliminated & those services will be relocated to the proposed 1st floor multi-use deck. No new uses are proposed, and all existing uses will be consolidated to the main restaurant structure. In connection with the Applicant's proposal the Applicant is requesting preliminary & final siteplan approval, conditional use approval in connection with the existing restaurant & proposed expansion, a D(2) expansion of a non-conforming use variance, C variance relief in relation to minimum rear yard setback & to address pre-existing non-conforming conditions which will not be increased or exacerbated in connection with this application, and a waiver to permit a crushed stone parking lot.

Mr. Catanese stated that the Applicant's proposal will eliminate the 2nd non-conforming structure located onsite & it will increase the number off-street parking spaces bringing the site into closer compliance with the requirements of the zone. Mr. Catanese informed the Board that the City's BB zone permits principal buildings to contain more than one permitted use provided said building does not exceed building coverage & so long as no more than three (3) permitted exist in said building. Mr. Catanese indicated that the Applicant is proposing to complete this project in two (2) phases. Phase One will consist of the construction of the 2nd-floor deck & additional outdoor seating, and construction would commence immediately. Phase Two will consist of the construction of the 1st-floor multi-use deck, the additional bathrooms, increased off-street parking, and demolition of the northeast building, anticipated to be completed following the 2020 summer season, depending upon the status of the ongoing Coronavirus pandemic & the Applicant's financial ability to proceed.

In light of the Coronavirus pandemic, Mr. Catanese advised the Board that the Applicant is requesting permission to use the proposed 2nd level deck this summer & possibly next summer without having to complete Phase Two. Accordingly, the Applicant proposed that the D (2) variance to permit the expansion of the restaurant during Phase One automatically expire at the end of the summer of 2021. It should be noted that a D (2) variance is also requested in connection with Phase Two to permit the proposed development & to maintain the two (2) existing 2nd-floor apartments located on site.

Matthew Sprague, R.A. with Matthew Sprague Design, LLC appeared before the Board on behalf of the Applicant. Mr. Sprague was accepted by the Board as an expert in the field of architecture, and he was placed under oath & testified from the proposed architectural plan & building elevations, consisting of two (2) sheets, dated February 15, 2019, and revised March 29, 2020 & April 16, 2020, which were received by the Board & which are incorporated herein as fact.

Vincent Orlando, P.E., P.P., L.L.A., C.M.E. with Engineering Design Associates, P.A. appeared before the Board on behalf of the Applicant. Mr. Orlando was accepted by the Board as an expert in the field of engineering & he was placed under oath & testified from the proposed siteplan, consisting of three (3) sheets, dated March 27, 2020, and revised April 17, 2020, which was received by the Board & which is incorporated herein as fact.

William Bumbernick, an owner & the principal of Cecil Creek Properties, LLC, appeared before the Board & he was placed under oath to testify. Mr. Bumbernick testified that The Surfing Pig is a ninety-six (96) seat restaurant/bar that generally operates from late March until the end of October. The restaurant/bar is open seven (7) days a week during the summer season & on weekends during the shoulder season from 8am until 10pm. Mr. Bumbernick testified that two (2) residential apartments are located on-site above the restaurant, and there is a 2nd structure that services the marina. He advised the Board that one (1) of the apartments is always rented/occupied by the site's general manager. Mr. Bumbernick advised the Board that he's contemplated filing this Application for several years, and he indicated that the Coronavirus pandemic & the complications associated with indoor gatherings & seating during the Corona-19 virus pandemic prompted him to file pursue this application at this time. Mr. Bumbernick testified that complying with current social distancing regulations will likely significantly impact the restaurant's ability to operate at full capacity. He further testified that the loss of indoor seating would significantly impact the financial viability of the business. Mr. Bumbernick testified the Board that adding an additional sixty-four (64) outdoor seats will allow the restaurant to comply with social distancing regulations while also ensuring that the business can be sustained. Mr. Bumbernick testified that the restaurant is located adjacent to a residential neighborhood & he indicated that over the years he's modified the operation of the business in an effort to address concerns raised by neighboring property owners. More specifically, he indicated that the restaurant limits live music to solo acts in an effort to minimize the noise impact on the surrounding residential neighborhood, the restaurant closes at 10pm whereas it could remain open until 12pm, and he's endeavoring to increase available off-street parking in connection with this Application.

In response to a question posed by the Board, Mr. Bumbernick testified that the structure that services the marina houses a boat rental business, a tackle shop, and walk-in coolers that are utilized by the restaurant. He indicated that the proposal is to eliminate that structure & combine all three (3) uses (restaurant/apartments/marina) within the restaurant structure. Board Members inquired what methods the restaurant would implement in an effort to comply with social distancing requirements. In response, Mr. Bumbernick testified that the restaurant industry is still awaiting guidance from the Governor's office; however, he indicated that the restaurant hopes to utilize technology in an effort to minimize customer interaction.

Mr. Sprague reviewed the existing & proposed floor plans and building elevations for the benefit of the Board. Mr. Sprague testified that Phase One of the project will consist of the construction of the 2nd-floor open deck over the restaurant's existing roof. A portion of the 2nd-floor deck will contain a covered bar, and two (2) new stairwells will be constructed in order to provide access to said deck. He advised the Board that the existing stairwell does not comply with current the current construction code. Mr. Sprague further testified that Phase Two of the project will consist of the elimination of the structure located on the northeast portion of the site that services the marina, the construction of the multi-use 1st-floor deck, and the construction of two (2)

1st-floor, handicap accessible bathrooms. As a condition of approval, the Applicant must flood proof said bathrooms up to design flood elevation & install a back-flow preventer valve. Mr. Sprague further testified that the 2nd-floor deck will be expanded by approximately 20SF in the location above the newly proposed bathrooms, and this area will serve as a landing to the 2nd-floor deck. Mr. Sprague advised the Board that the proposed 1st-floor deck will contain a service ramp in order to receive deliveries to the site. Mr. Sprague indicated that a six (6) ft. privacy wall is proposed along the rear of the 1st floor & new 2nd-floor open deck. As a condition of approval, the Applicant will extend said privacy wall down the stair well in an effort to provide a noise buffer to the adjacent residential neighborhood.

Mr. Orlando advised the Board that he was retained by the Applicant in order to prepare the siteplan associated with the proposed phased development. He reviewed the existing & proposed site conditions for the benefit of the Board, and he reviewed the relief sought in connection with this Application. Mr. Orlando testified that during Phase One, the site will be maintained as it currently exists with the exception of the construction of the proposed 2nd-floor open deck & the addition of sixty-four (64) outdoor seats. He further testified that the Phase Two will consist of the elimination of the structure that services the marina, the addition of ten (10) off-street parking spaces, and the construction of the 1st-floor multi-use deck that will be used to service both the marina & the restaurant. Mr. Orlando advised the Board that pursuant to the City's Land Development Ordinance, open air seating is not calculated into off-street parking requirements resulting in the need for no additional off-street parking in relation to the additional seats. Mr. Orlando testified that the Property currently contains three (3) pre-existing uses; a restaurant/bar, two (2) residential apartments, and a 2nd structure that services the marina. He advised the Board that in order to maintain the marina structure & expand the restaurant, the Applicant requires a D (2) Use Variance for the expansion of a non-conforming use variance as the three (3) uses exist on site along with two (2) principal structures. He further advised the Board that the eliminating the marina structure & combining all three (3) uses into the main structure during Phase Two also necessitates a D (2) Use Variance expansion of a non-conforming use in order to maintain the pre-existing non-conforming 2nd-floor residential apartments. Mr. Orlando further testified that the existing residential apartments are an integral part of the facility & the marina operation. He opined that the residential apartments provide added site security & promote the general welfare of the community as a manager is on-site essentially round the clock for security & safety purposes. Mr. Orlando testified that the Applicant is also requesting conditional use approval to permit the continued operation of the restaurant as restaurants, taverns & bars are permitted only as conditional uses in the BB Zoning District. He noted that the conditions attached to restaurants in the BB Zoning District are minimal & simply require service to the general public, and that the structure be used in a general commercial nature. Mr. Orlando testified that the Applicant meets both conditions thereby, and he noted that the restaurant use was previously approved thereby justifying the Applicant's request for conditional use approval. Mr. Orlando advised the Board that, in addition to preliminary & final siteplan approval, conditional use approval, and D(2) variances, the Applicant is also requesting 'C' variance relief in connection with the minimum rear yard setback as 15ft. is required whereas 1.14ft. exists, & four (4)ft. is proposed to the new stairs that will provide access to the 2nd level deck. He indicated that the Applicant is also requesting 'C' variance relief to address pre-existing non-conforming conditions which will not be impacted in relation to this application. More specifically:

- a. minimum frontyard setback (10ft. is required whereas 9.26ft. is existing & proposed);
- b. minimum sideyard setback (6ft. is required whereas 0ft. and 49.45ft. are existing & proposed);
- c. maximum lot coverage (75% is permitted whereas 100% is existing & proposed); and
- d. minimum accessory building distance to other buildings (four (4) ft. is required whereas 1.7ft. is existing & proposed). It should be noted that this condition will be eliminated during Phase Two.

Mr. Orlando advised the Board that the Applicant is also requesting a design waiver to permit a crushed stone parking area rather than the required paved parking area. He advised the Board that crushed stone is

currently used in the existing parking area. Mr. Orlando testified that the proposed 2nd-floor open deck is essentially a vertical expansion of the existing building footprint. He indicated that the proposed stairs will be constructed in the same location as existing stairs that are used to access the 1st floor of the restaurant. Mr. Orlando testified that the Property is an oversized lot which contains a total lot area of approximately 16,000SF whereas a minimum lot area of 3,000SF is required. He advised the Board that the building could be constructed to a maximum of 36ft. tall, but it would have a negative impact on adjacent properties. He advised the Board that the current structure is approximately 20ft. tall, well below maximum permitted building height. He further noted that the site is significantly under maximum permitted building coverage as 36.2% exists whereas 60% is permitted which maintains and promotes light, air & open space. Mr. Orlando opined that several of the purposes of zoning, outlined within N.J.S.A. 40:55D-2, are advanced in connection with this application & support the relief sought by the Applicant as it:

- a. Encourages municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, & general welfare as the proposal enhances the use of waterfront development;
- c. Provides adequate light, air & open space as the proposed 2nd-floor deck is an open deck to be constructed within the existing building footprint. It will not create more mass, and building height is significantly below what could be constructed on-site; and
- d. Ensures that the development of individual municipalities does not conflict with the development & general welfare of neighboring municipalities, the county & the State as a whole as this is an appropriate location for this use & the BB zone encourages the clustering of uses under one roof.

Mr. Orlando testified that in his professional opinion the benefits of approving this application substantially outweigh any potential detriments. He further opined that the relief sought by the Applicant can be granted by the Board as there is no substantial detriment to the Land Development Ordinance, Zoning Map or the public good as the D(2) Use variances are sought in order to maintain existing uses, and the project will eliminate existing non-conforming conditions associated with the 2nd structure that services the marina. Mr. Orlando opined that the existing residential uses located on site are a benefit to the public & the surrounding residential neighborhood as they provide site security & they already exist. In response to questions posed by the Board, Mr. Orlando testified that one of the residential apartments contains three (3) bedrooms and the other one (1) bedroom. He further testified that a total of seventy-eight (78) boat slips exist on site which are rented seasonally.

Mr. Bumbernick testified that ten (10) of the marina's boat slips are dedicated to the boat rental business, and some are utilized by wave-runners. He advised the Board that the goal has been to reduce the number of seasonal boat slip rentals in an effort to make more boat slips available for individuals to patronize the restaurant by boat. Mr. Bumbernick advised the Board that BBQ cooking that is done on-site is conducted within the commercial kitchen in a pre-existing smoker that existed in the structure prior to his acquisition of same. He further indicated that deliveries to the restaurant are received right off of 10th Avenue in front of the restaurant. In response to a question raised by the Board in relation to off-street parking, Mr. Bumbernick testified that following the completion of Phase Two, no angled parking will exist on site, and he stated that all off-street parking will be 90-degree pull in parking. In light of the parking concerns raised by the Board, the Applicant agreed, as a condition of approval, that any approvals received in connection with this application are conditioned upon the elimination of the accessory shed within two (2) years or the zoning approval will expire & a mercantile license will not be issued for the continued use of the 2nd level deck. As a condition of approval, the Applicant will also post a performance bond for the demolition of the shed & completion of the parking lot.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated May 4, 2020 which was received by the Board & which is incorporated herein as fact. Mr. Petrella reviewed & confirmed the relief sought by the Applicant for the benefit of the Board. The Applicant advised the Board that there was no objection to complying with the comments/conditions set forth within Mr. Petrella's review memorandum.

Chairman Davis then opened the application for general public comment.

As a result of guidance provided by Governor Murphy & the State of NJ, in an attempt to combat the COVID-19/Coronavirus outbreak, the Board meeting as provided on the Agenda herein had been moved to [Zoom.us](https://zoom.us), a Cyber/Teleconference Meeting Platform. Members of the public could join the meeting by computer, phone, or tablet/smartphone. Notice of same & instructions on how to attend were provided to members of the public & will also still be able voice their concerns, opinions, & questions during the public comment period, after stating their name & address once the public comment period has opened.

- A total of thirty-two (32) members of the public addressed the Board in connection with the application:
- a. A total of seven (7) individuals spoke out in support of the application & the relief sought in connection with same. Supporters indicated that the property & operation of the restaurant has improved tremendously since Mr. Bumbernick acquired same. Supporters advised the Board that additional seating would improve on-site congestion issues & add additional, needed off-street parking. Supporters indicated that Applicant's proposal may not eliminate parking & traffic issues in the neighborhood, but they will be an improvement over what currently exists.
 - b. A total of twenty-five (25) individuals spoke out in opposition of the application & the relief sought in connection with same. Objectors primary concerns related to a lack of off-street parking at the Property & the impact on on-street parking throughout the surrounding residential neighborhood. Objectors raised concerns in relation to an increase volume in traffic in connection with the addition of sixty-four (64) additional seats. Objectors took issue with the fact that the restaurant exists in close proximity to a residential neighborhood. Individuals expressed concerns with the disorderly conduct of patrons of the restaurant, littering, drunken behavior & noise. By & large the main objections presented related to a lack of off-street parking & the addition of sixty-four (64) additional seats.

No additional members of the public spoke out in favor or against the application. Accordingly, the public portion of this application was closed.

In summary, Mr. Catanese informed the Board that the testimony of the Applicant & the Applicant's professionals addressed the concerns raised by the public. Mr. Catanese advised the Board that porta-potties located on site will be eliminated in connection with this project, and the trash enclosure will also be secured. Mr. Catanese indicated that based upon the existing uses & the number of restaurant seats on site there is a twenty-three (23) parking space deficit. He reiterated that the proposed outdoor seats do not impact required parking pursuant to the City's Ordinance. He further indicated that upon completion of this project the twenty-three (23) parking space deficiency will be reduced to eight (8) spaces.

In an effort to address additional concerns raised by members of the public, the Applicant agreed to the following conditions of approval:

- a) The restaurant will be closed by 10:30pm on a nightly basis;
- b) Porta-Potties will be removed prior to the issuance a Certificate of Occupancy for the proposed 1st floor bathrooms; and

c) The trash enclosure improvements will be completed during Phase One of the development.

Mr. Catanese indicated that the objectors' complaints primarily flow from the zoning regulations & the zoning designation. He stated that the restaurant is a permitted use & the Applicant's proposal improves existing non-conforming conditions on-site rather than increases or exacerbates them.

At the conclusion of the Applicant's presentation, the Board opened the application up for deliberations.

Board Member Green commended the Applicant on the improvements that have been made to the Property, and he thanked those members of the public who attended & participated in the meeting by providing their feedback & outlining their concerns.

Mr. Green stated that the Application presents a difficult decision as the Applicant has presented testimony in an effort to justify the relief that's sought; however, he indicated that in his opinion the detriments of approving this application substantially outweigh any benefits. He indicated that the parking & traffic issues are a significant detriment that negatively impacts the public & the Zoning Map. Mr. Green opined that the Applicant failed to satisfy the negative criteria & the proposal will only serve to exacerbate the negative impact on the public, Zoning Map & zoning plan.

Board Member Harkins echoed the parking & traffic concerns raised by Mr. Green. Mr. Harkins indicated that he understood & appreciated the concerns raised by the public; however, he indicated that the Applicant has taken steps to address the public's concerns & some of the concerns raised by the public are outside of the purview of the Board's jurisdiction. Mr. Harkins opined that the Applicant had met their burden as the Applicant presented purposes of Zoning that would be advanced in connection with this proposal. He indicated that the benefits of approving the application outweigh any detriments to the Zoning Map, Land Development Ordinance, or public good.

Vice-Chair DiEduardo recognized the concerns raised by the public in relation to parking & traffic issues. Vice-Chair DiEduardo indicated that she believed that the Applicant's proposal would improve issues associated with parking & traffic. She opined that the benefits of approving same outweigh any detriments to Zoning Map, Land Development Ordinance, or public good.

Chairman Davis indicated that the benefits of approving same outweigh any detriments to the Zoning Map, Land Development Ordinance, or public good. He indicated that the Applicant has presented a proposal that improves existing conditions & issues that were raised by the public.

Board Member O'Connell indicated that denying this application would only serve to maintain the parking & traffic issues that were raised by the public. He noted that the Applicant could potentially develop a larger structure on site if this Application were denied which could have more of a negative impact on the surrounding neighborhood which would only serve to exacerbate the issues raised by the public. Mr. O'Connell recognized the temporary relief enacted by the City in response to the Coronavirus pandemic permitting restaurants to temporarily relocate existing tables to the public right-of-way & parking areas. Mr. O'Connell indicated that, while the public's primary concern is in relation to parking, the application does not require a parking variance & parking is not an issue that's before the Board. Mr. O'Connell noted that the parking situation is actually improved in connection with this proposal as the parking deficiency will be reduced from twenty-three (23) to eight (8) spaces.

Board Member Peters sympathized with the concerns raised by the public, but he indicated that the Applicant's proposal does not reduce available off-street parking, it increases it. Mr. Peters acknowledged the concessions & conditions of approval which the Applicant agreed to, and he opined that the benefits of approving same outweigh any detriments to the Zoning Map, Land Development Ordinance, or public good.

Board Member Haas stated that she did not believe that the Applicant's proposal would increase the problems that people are already experiencing. She opined that the Applicant's proposal will improve these issues as additional off-street parking is proposed. Ms. Haas acknowledged the concessions & conditions which the Applicant agreed to & she indicated that the benefits of approving same outweigh any detriments to the Zoning Map, Land Development Ordinance, or public good.

The Board received testimony from the Applicant, Cecil Creek Properties, LLC, & experts who reviewed the history of the property & outlined the nature of the Application for the benefit of the Board. The Board found the Applicant's & experts testimony to be credible & persuasive. The Board reviewed a survey of the existing conditions located on-site, and a drawing prepared by the Applicant & experts depicting the proposed location of the improvements on-site. These documents were received by the Board & are incorporated herein as fact. Total of 32 members of the public address the Board regarding the application. The application requests preliminary & final siteplan approval, conditional use approval, d (2) expansion of a non-conforming use variances, 'C' variance relief, & a design waiver. The Property is an oversized 100ft. x 160ft. lot in the City's Bayside Business (BB) Zoning District. The property is developed with an existing bayfront restaurant known as The Surfing Pig, two (2) second-floor residential apartments, and a 2nd building on-site that services the South Dock Marina. The development is proposed to be completed in two (2) phases. The Applicant is requesting conditional use approval in order to maintain the existing restaurant use in light of the proposed addition of sixty-four (64) seats. The Board finds that the Applicant meets all required conditions in that the restaurant provides service to the general public, & that the structure is used in a general commercial nature. Accordingly, the Applicant is entitled to conditional use approval in connection with the proposed restaurant use. The Applicant is also requesting a d (2) expansion of a non-conforming use variance as the three (3) uses exist on site within two (2) principal structures. Eliminating the marina structure & combining all three (3) uses into the main structure during Phase Two also necessitates a d (2) expansion of a non-conforming use in order to maintain the pre-existing non-conforming 2nd-floor residential apartments. "c" variances are also required. The Board finds that the variances associated with the frontyard setback, sideyard setback, lot coverage, and the accessory building distance to other buildings are required in order to address pre-existing non-conforming conditions which the Applicant is not proposing to increase or exacerbate in connection with this Application. The purposes of Zoning law would be advanced by the proposed development in approval of the application. The Board finds that the Applicant has satisfied the requirements for seeking variance relief siteplan approval. The Board further finds that the proposal is compatible with the surrounding neighborhood & that the requested relief can be granted without substantial detriment to the public good & without substantially impairing the intent & purpose of the Ordinance & Zoning Map. Furthermore, the Board finds that the purposes of the NJ-MLUL will be advanced by the application & the benefits of granting same substantially outweigh any potential detriments. No additions or correction to the finding of facts. No discussion on the facts. The Board accepted the findings of fact, with Vice Chair DiEduardo motioning 1st, with Mr. O'Connell motioning a second.

The Board Solicitor called for a motion to approve the Resolution as discussed. Motioned by: Mr. O'Connell & 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. Board member Green voted "no" on the application.

I) PUBLIC PORTION:

Chairman Davis then opened the meeting for general public comment.

Brian Cacrracht, 220 West 10th Avenue, 2nd Floor, North Wildwood, NJ – was disappointed in the Board action on the application tonight. Wanted to know how parking can be increased or made better in the neighborhood. Has concerns regarding parking, speeding & congestion. Mr. Green was requested to answer the question of parking & traffic safety by Mr. Cacrracht. Mr. Green & Board Solicitor expounded that the Governing Body/City Council should be contacted to address the situation of parking & traffic congestion along 10th Avenue & the City Clerk should also be contacted. The Board Solicitor mentioned that City Council is the body that can address existing traffic & parking conditions. Chairman Dais requested a letter be drafted to address new stop sign to be installed at Delaware & 10th Avenue and a new resident parking program be investigated. Mr. Cacrracht also requested speed bumps to be installed on the roadway also.

With 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.

At this time, Mr. Greenland, Mr. Auty & Mr. Miller rejoined the Board meeting at this time.

J) APPROVAL OF MINUTES: –

March 11, 2020 Regular meeting minutes
March 24, 2020 Special meeting minutes
April 8, 2020 Regular meeting minutes

The Board Solicitor presented to the Board the approval the above referenced Meeting Minutes. The Board Solicitor called for any discussion or corrections to the minutes. No discussion or corrections proposed. Motioned as proposed by Mr. Green & 2nd by Mr. Harkins. Mr. Greenland & Mr. O’Connell abstained on the March 11 Meeting minutes. Mr. Miller abstained from the vote. 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):

Resolution – City of North Wildwood – Relaxing Procedures associated with Siteplan Review & Approval for Existing Restaurants for Social Distancing

Ordinance No. 1805 – Creating the North Wildwood Marina Zoning District.

Ordinance No. 1803 – Amending the Redevelopment Plan for Marina Bay Towers Project.

Ordinance No. 1796 – Open Porches, Open Decks, Stairs & Stair Landings.

The Board Secretary presented the above referenced Resolution & Ordinances to the Board members recently passed by City Council. This information required no Board action. The information was presented to update the Board members.

M) REPORTS: None presented.

N) MEETING ADJOURNED:

Meeting was adjourned at 11:30pm, 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: _____

02/11/2020

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.

