

North Wildwood Planning Board
Regular Meeting: August 12, 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.

In accordance with New Jersey Executive/Administrative Orders & guidance issued by New Jersey Governor Murphy & the State of New Jersey in response to the ongoing COVID-19/Coronavirus pandemic increasing the permitted limits on indoor gatherings, the City of North Wildwood Planning Board meeting *scheduled for Wednesday, August 12, 2020, 6:30p.m.*, as provided on the Agenda herein, was conducted as an “in person” in the meeting room located at North Wildwood City Hall. *Any members of the public who wished to attend this meeting had to be present, in-person on the date & time set forth herein. Individuals attending said meeting had to wear face masks & comply with any & all applicable social distancing regulations set forth within applicable Executive/Administrative Orders.* Members of the public wishing to testify for any application, topic and/or discussion to which is listed on the Agenda, can join the meeting by appearing in-person. Due to capacity limitations of the meeting location, individual applicants, their professionals, and members of the public who wish to speak on a specific application may be required to wait outside of the meeting room until the Board hears said application. This meeting was not be conducted virtually, on-line, by computer or by phone. Members of the public were also still be able voice their concerns, opinions, & questions during the public comment period, after stating their name & address & after being sworn once the public comment period has opened. *This meeting was be recorded as required under NJ law.*

A) 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:

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 –“d” Use Variance approval - w/ “c” variance approval

The Board heard & considered the application of Wynnefield Development, LLC, doing business at 8800 Seaview Avenue, Wildwood Crest, NJ, owner of the property located at 428 E. 22nd Avenue, a/k/a Block 291, Lots 10 & 11, seeking minor subdivision approval to relocate the existing lot line located between Lots 10 & 11, preliminary & final siteplan approval, a D(1) Use Variance to permit more than one (1) principal structure on one (1) lot & to permit the proposed residential uses in the Seaport Pier Redevelopment Area (SPRA) Zoning District, a D(5) density variance, & a ‘C’ variance in relation to maximum building height (36ft. is maximum permitted whereas of 38ft. is proposed), in order to construct two (2) residential structures, a duplex & a triplex, on Lot 10. The property is located in the SPRA Zoning District, however the application was designed & planned utilizing the Oceanside (OS) Zoning District requirements.

The Board Solicitor called for a motion to memorialize the Resolution 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. Based on the majority roll-call vote being affirmative, the memorialization of the Resolution was approved by the Board. Mr. Auty did abstain on the vote.

Application No.: Z-2020-4-1 Island West Development, LLC

1610 New York Avenue

Block 142, Lot 19

R-2 Zoning District

Siteplan approval – “d” Use Variance approval - expansion of non-conforming use – new roof & floor

The Board heard & considered the application of Island West Development, LLC (Applicant), doing business at 910 New Jersey Avenue, owner of the property located at 1610 New York Avenue, a/k/a Block 142, Lot 19 (Property), seeking a D(2) Use Variance for the expansion of a non-conforming use & ‘C’ variance relief related to minimum sideyard setback (6ft. is required whereas 0ft. is existing & proposed), minimum frontyard setback (10ft. is required whereas 0ft. is existing & proposed), minimum rearward setback (10ft. is required whereas 2.5ft. is existing & proposed), maximum building coverage (70% is permitted whereas 97.5% is existing & proposed), and maximum lot coverage (80% is permitted whereas 100% is existing & proposed), in order to construct a 1,050SF addition to provide additional storage space on site. The property is located in the R-2 Zoning District.

The Board Solicitor called for a motion to memorialize the Resolution 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. Based on the majority roll-call vote being affirmative, the memorialization of the Resolution was approved by the Board. Mr. Auty did abstain on the vote.

Board member, Mr. Harkins, identified a conflict in the next application due to the fact he resides within 200 feet of the property of the development application. Mr. Harkins stepped down from the Board dais & took a seat within the public gallery.

H) NEW BUSINESS:

Application No.: - P-2020-6-1 Sharon F. Cannon

540 West Pine Avenue

Block 74, Lot 1

R-2 Zoning District

'c' variance for swimming pool in frontyard.

The Board heard & considered the application of Sharon Cannon (Applicant), residing at 516 West Pine Avenue, Unit B, North Wildwood, NJ, owner of the property located at 540 West Pine Avenue, a/k/a Block 74, Lot 1 (Property), seeking 'C' variance relief in connection with minimum frontyard fence height (four (4) ft. is permitted whereas five (5) ft. is proposed), and 'C' variance relief to permit the installation of an inground swimming pool, pool mechanicals/equipment, and an accessory cabana structure in a frontyard located in the R-2 Zoning District.

Ronald J. Stagliano, Esq., appeared on behalf of the Applicant & explained the nature of the application to the Board. Mr. Stagliano advised the Board that the Applicant is the owner of the Property which is located in the City's R-2 Zoning District & is currently in the process of being developed with a single-family dwelling. Mr. Stagliano informed the Board that the Property is an irregularly shaped lot which contains frontage along two (2) public rights-of-way, 75ft. of frontage along Pine Avenue & 83ft. of frontage along Spruce Avenue. Mr. Stagliano stated that the City's Zoning Officer & the Board's Review Subcommittee made the determination that in light of the fact that the site contains frontage along two (2) public rights-of-way, there were two (2) front yards, two (2) side yards & no rear yard. Mr. Stagliano advised the Board that he disagrees with this position & he requested an interpretation of the City's Land Use Ordinance from the Board to determine if the Property, according to the City's Land Use Ordinance definitions, could exist without a defined rear yard. Mr. Stagliano reviewed the City's definition of a corner lot & an interior lot, noting that a corner lot contains two (2) front yards, one (1) side yard & one (1) rearyard, and he pointed out that the City's definition of an interior lot is essentially any lot that does not meet the definition of a corner lot. He further argued that the Property is without question an interior lot & should be treated no differently than a corner lot in the sense that it must contain a rear yard.

Board Solicitor Belasco read the definitions of a frontyard, sideyard & rearyard in to the record for the benefit of the Board, noting that, based upon said definitions, the Board's Review Subcommittee determined that the Property contained two (2) frontyards, two (2) sideyards & no rearyard. Mr. Stagliano asserted that the City's definitions depend upon an identifiable rearyard in order to determine what portions of the property are defined as the side & rearyards. Mr. Stagliano advised the Board that the Applicant is proposing to install a pool, pool equipment & a pool cabana in an area that the Subcommittee has determined to be a front yard, which is prohibited under the City's Land Use Ordinance. He indicated that the single-family dwelling currently under construction is oriented towards Pine Avenue which is consistent with the surrounding neighborhood. Mr. Stagliano advised the Board that the Applicant is proposing to construct a five (5) ft. fence along the front & sideyard of the proposed pool. He noted that a 15ft. wide sewer easement to the benefit of the City exists along the northwestern side of the property which precludes the proposed pool from being constructed in either that sideyard. The other sideyard on the opposite side of the house, is compliant for sideyard setback, however the width is too small for a swimming pool. Mr. Stagliano distributed a colored copy of the proposed siteplan which was received by the Board & which was marked as Exhibit A-1. He stated that fencing is proposed along Spruce Avenue & he advised the Board that, with the exception of the proposed pool, mechanicals & accessory structure, the property conforms with all area & bulk requirements within the Zoning

District. Mr. Stagliano requested that the Board interpret its Ordinance to determine if the Property does in fact have a rearyard which would obviate the need for the requested variances.

The Board deliberated the definitions within the City's Ordinance & acknowledged that this specific issue is peculiar & isolated to a limited number of properties located within the City. Board Members agreed that in accordance with the City's Land Use Ordinance definitions & the fact that the Property contains frontage along two (2) public rights-of-way, there is no defined rearyard. Accordingly, the Board determined that variance relief was required in order to install a pool, accessory structure & pool equipment in the frontyard of the Property.

Mr. Albert Mucchetti, a general contractor & the owner of CMM Builders, Inc., appeared on behalf the Applicant. Mr. Mucchetti was placed under oath & testified on behalf of the Applicant. Mr. Mucchetti testified that he is the general contractor for this project & he acknowledged that he is familiar with the site conditions. Mr. Mucchetti testified that prior to starting construction, a storm drain that tied in to the Spruce Avenue sewer system was relocated seven (7) feet off the northwestern property line in order to accommodate a larger area for the future construction of a single-family dwelling. He advised the Board that a 15-foot wide sewer easement was granted to the City of North Wildwood in order to accommodate the relocated storm drain. He informed the Board that the easement area consists of 20% of the total lot area & this area cannot be built on. Mr. Mucchetti testified that the Property contains frontage along Pine & Spruce Avenues, and he indicated that the proposed pool cannot be located in the sideyard because of the aforementioned easement & due to an inability to comply with the area & bulk requirements of the Zoning District. He noted that the structure currently under development complies with the zoning requirements of the R-2 Zoning District.

Sharon Cannon, the owner of the Property, was also present at the meeting & appeared before the Board. Ms. Cannon was placed under oath & she was sworn in to testify. Ms. Cannon testified that she grew up in the Pine Avenue neighborhood & moved back to the area approximately twenty (20) years ago. She advised the Board that she intends to reside full-time in the residence currently under construction. Ms. Cannon testified that there are several homes in the surrounding neighborhood which contain inground swimming pools, and she opined that her proposal is in character with the neighborhood. Ms. Cannon further testified that she sees no detriments if the Board approves her request to construct an inground swimming pool, locate pool equipment & an accessory structure in the frontyard. She indicated that the fact that the Property contains two (2) frontyards, two (2) sideyards & no rearyard presents a hardship.

Mr. Stagliano advised the Board that the unique nature of the Property & that fact that same contains frontage along Spruce & Pine Avenues in addition to the 15-foot sewer easement to the benefit of the City, does present a hardship which prevents the Applicant from complying with the area & bulk requirements of the Zoning District.

Ms. Cannon testified that she intends to incorporate landscaping around the exterior of the pool, inside of the property line, in order to provide a visual buffer to same. As a condition of approval, the Applicant will ensure that the Spruce Avenue fence is located at least three (3) feet from the Spruce Avenue property line to incorporate landscaping & necessary irrigation between said fence & the property line.

In light of the limited relief sought in connection with this Application, a review memorandum from the Board Engineer Petrella was not prepared. Mr. Petrella did review the relief sought by the Applicant for the benefit of the Board & he acknowledged the existence of & need for the 15-foot wide sewer easement along the northwestern side of the property.

Chairman Davis then opened the application for general public comment. One (1) member of the public addressed the Board in connection with the application:

Donna Brown, owner of the property located at 527 West Pine Avenue, was placed under oath & was

sworn in to testify before the Board. Ms. Brown expressed concerns related to drainage & flooding. She indicated that she had concerns related to fencing surrounding the proposed pool which were addressed during the Applicant's presentation. Ms. Brown was advised that grading & drainage is regulated by City Ordinance which addressed her concerns.

No additional members of the public came forward to testify in favor or against the application. No further public members wished to speak on behalf of the meeting or to the Board at this time. No comment from the Board 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-2. The subject property is located in the R-2 zoning district. The property is unique in that it contains frontage along two (2) public rights-of-way, Pine & Spruce Avenue, and contains two (2) frontyards, two (2) sideyards, & no rear yard. The Applicant is proposing the installation of an inground swimming pool, pool mechanicals/equipment & accessory cabana structure in a frontyard. The Applicant sought an interpretation of the City's Land Use Ordinance in order to determine if the property, an interior lot in the City's R-2 Zoning District, does or does not contain a rear yard. The Board entertained argument from Mr. Stagliano and reviewed the definitions of front, side & rearyard. The Board determined that based upon the definitions contained within the Land Use Ordinance, the Property does not have a defined rearyard. Accordingly, variance relief is required in order to install a pool, pool equipment & an accessory structure in a frontyard. The Applicant also requires variance relief in order to construct a five (5) foot fences in the frontyard whereas only four (4) foot fences is permitted. With respect to the 'C' variance relief sought by the Applicant, the Board finds that the Applicant has presented evidence of a hardship specific to the Property as it contains frontage along two streets & does not have a defined rearyard. The Board further found that the existence of a 15ft. wide sewer easement along the northwestern portion of the property further establishes evidence of a hardship which prevents the Applicant from installing a pool in the sideyard which justifies the granting of the aforementioned variances. The Board received one (1) public comment on the development application which was satisfied by the Board answers with the proposed project. The Board finds that the benefits of granting the relief sought by the Applicant outweighs any potential detriment to the public, and that there is no substantial detriment to the intent of the Ordinance or the Zoning Map. The purposes of zoning are advanced for the reasons set forth above as the rationale for granting of the variance for swimming pool in a frontyard as requested by the Applicant. As the Board finds that the proposed development is compatible with the neighborhood, the relief requested can be granted without substantial detriment to the public good without substantially impairing the intent & purpose of the zoning map & Ordinance. 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: 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. Based on the majority roll-call vote being affirmative, the application was approved by the Board.

With the conclusion of the development application, Board member, Mr. Harkins, has rejoined the Board for the next application.

A 5-minute break was requested by the Board due to warm temperatures of the Public Meeting Room. Upon conclusion of the break, the Board meeting was back in session.

Application No.: - Z-2020-6-2 Seven She's Development, LLC

1501 Ocean Avenue

Block 411, Lot 2

OS Zoning District

Siteplan approval – “d” Use Variance approval – conversion of motel uses to residential use.

The Board heard & considered the application of Seven Shes Development, LLC (Applicant), the contract-purchaser of the property located at 1501 Ocean Avenue, a/k/a Block 411, Lot 2 (Property), seeking preliminary & final siteplan approval, a D(1) Use Variance to permit residential apartments in the Oceanside (OS) Zoning District, a D(5) density variance, and ‘C’ variance relief in relation to the minimum frontyard setback (8ft. is required whereas 7.3ft. & 6.6ft are existing & proposed), minimum sideyard setback (8ft. is required whereas 3.7ft. is existing & proposed), minimum rearyard setback (15ft. is required whereas 3.3ft. is existing & proposed), maximum lot coverage (80% is permitted whereas 93% is existing & proposed), and off-street parking (40 off-street parking spaces are required whereas 20 off-street parking spaces are proposed), in order to renovate an existing twenty-one (21) unit motel to convert same to twenty (20) residential apartments (aka condominiums).

Andrew Catanese, Esquire of the law offices of Monzo Catanese Hillegeass, P.C. appeared on behalf of the Applicant. Mr. Catanese outlined the nature of the application & the relief sought in connection with same. Mr. Catanese stated that the Property is located at 1501 Ocean Avenue in the City’s OS (Oceanside) Zoning District & it is currently developed with a twenty-one (21) unit motels. Mr. Catanese advised the Board that the Applicant is proposing to convert the existing 21-unit motel to a 20-unit residential apartment building. Mr. Catanese noted that motels are not permitted uses within the OS Zoning District. Mr. Catanese stated that the renovations to the building will result in the removal of the existing motel front office, and the total number of units will be reduced from 21 to 20. He advised the Board that the existing building footprint will not be expanded.

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, dated June 14, 2020 & revised June 23, 2020 & July 27, 2020, which were received by the Board & which are incorporated herein as fact. Mr. Sprague reviewed the existing site conditions for the benefit of the Board. He noted that the site is currently developed with a 21-unit motel that is in need of renovations. Mr. Sprague informed the Board that the site contains pre-existing non-conformities in relation to the front, side & rearyard setback & lot coverage, and he noted that the current motel use is not a permitted use within the OS Zoning District. Mr. Sprague stated that these pre-existing non-conforming conditions will not be increased in connection with the Applicant’s proposed project. Mr. Sprague testified that the site is well below maximum permitted building coverage & he indicated that the existing/proposed structure is well below maximum permitted building height (36ft. is permitted whereas 18.5ft. is existing & proposed). Mr. Sprague further testified that the existing structure is oriented away from the adjacent intersection which maintains & promotes light, air & open space. Mr. Sprague advised the Board that the Applicant is seeking a waiver from the requirement that an existing floor plan be submitted as the proposed floor plans are identical to what currently exists on site, with the exception of the removal of a wall in order to combine two (2) existing units on the 2nd floor. He indicated that the 1st-floor plan mirrors what currently exists with the exception of the elimination of the existing motel front office which will be replaced with a den. He also noted that a trash enclosure will be erected on the southwest corner of the site. Mr. Sprague testified that a total of 22 off-street parking spaces currently exist on site. He indicated that a total of three (3) off-street parking spaces located along 15th Avenue encroach into the public right-of-way. He stated that these spaces will be replaced with one (1) horizontal conforming parking space which will eliminate the existing non-conformity. He further noted that an off-street parking space along Ocean Avenue also encroaches into the public right-of-way & this space will also be converted to a horizontal parking to eliminate the encroachment. Mr. Sprague advised the Board that a total of 40 off-street parking spaces are required in

connection with the proposed apartment use whereas a total of 20 off-street parking spaces are proposed. Mr. Sprague testified that a number of safety upgrades will be completed on-site including the replacement of existing stairs, and he noted that existing decks will be evaluated during the renovations to ensure that they are safe & not in need of replacement. With respect to the D(1) Use Variance, Mr. Sprague testified that the existing motel use is not a permitted use within the OS Zoning District. He indicated that the proposed apartment use, while not a permitted use in the zone, is more consistent with the residential uses that are permitted within the OS Zoning District. He opined that the proposed apartment use is a less intense use that will improve the surrounding neighborhood. Mr. Sprague advised the Board that a D(5) density variances is also required in light of the fact that the number of proposed apartments exceed that which is permitted in the zone. He noted that the zone permits triplexes to be constructed on lots containing 8,000SF whereas this site will contain a total of 20 units located on a 17,000SF lot. Mr. Sprague opined that the site is currently non-conforming & he reiterated that the area & bulk non-conformities are not being increased or exacerbated in connection with this application. He noted that the fact that the site is developed, together with the existing non-conforming site conditions presents a hardship to this Applicant. Mr. Sprague 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 many of the required variances address existing conditions & the Applicant's proposal will reduce the density of the site & eliminate a non-conforming use. Mr. Sprague 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 by eliminating the non-conforming hotel use & replacing it with a use that's more consistent with the permitted uses of the zone;
- b. Secures safety from fire, flood, panic & other natural & man-made disasters as the structure will be brought into compliance with current building & fire codes;
- c. Provide adequate light, air & open space; and
- g. Provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial & industrial uses & open space, both public & private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.

In response to questions & concerns raised by the Board in relation to the trash enclosure, the Applicant agreed as a condition of approval that the Master Deed & By-laws will specifically provide that the Applicant will comply with the City's trash & recycling Ordinances, and, in the event trash & recycling issues are reported to the Police Department, Code Enforcement, or Public Works, the Applicant agrees to contract with a private trash collection service to facilitate trash & recycling collection.

The Board was in receipt of a review memorandum prepared by Board Engineer Petrella, dated August 6, 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. 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.

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. 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 Oceanside (OS). The Applicant is the contract-purchaser of the Property & has standing to come before the Board in order to request preliminary & final siteplan approval, a D(1) Use Variance, a D(5) Density Variance & 'C' variance relief. The Property is located in the City's OS Zoning District at 1501 Ocean Avenue, a/k/a Block 411, Lot 2. The property is developed with an existing 20-unit motel known as the Oceanside Motel. The existing motel is a non-conforming use within the OS Zoning District. The Applicant is proposing to renovate the existing twenty-one (21) unit motel & convert same to twenty (20) apartments/condominiums. The Applicant is requesting preliminary & final siteplan approval. The existing motel use is not a permitted use & the elimination of same & the conversion of same to twenty (20) apartments/condominiums to apartments will bring the site into closer compliance with the permitted uses within the OS Zoning District. The Applicant is also requesting a D(5) Density Variance to permit a total of twenty (20) apartments on a site containing a total of 17,000SF. The Board finds that the variances associated with lot coverage, minimum frontyard setback, minimum sideyard setback, and minimum rearward setback 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 Board reviewed proposed architectural plans prepared by Matthew Sprague, R.A. Mr. Sprague testified to the existing and proposed floor plans and building elevations. Mr. Sprague reviewed the proposed renovation and conversion for the benefit of the Board. Mr. Sprague opined that the Applicant is experiencing a hardship relative to the developed site and the existing non-conforming area and bulk conditions. Mr. Sprague further opined that the application advances several purposes of zoning and that there are no substantial detriments to the zone plan, zoning ordinance, or the public good. The Board found Mr. Sprague's testimony to be credible and persuasive. The Applicant agreed to several conditions of approval. No members of the public spoke out in support of or in opposition to the application. The Board finds that the benefits of granting the relief sought by the Applicant outweighs any potential detriment to the public, and that there is no substantial detriment to the intent of the Ordinance or the Zoning Map. The purposes of zoning are advanced for the reasons set forth above as the rationale for granting of the requested variances by the Applicant. As the Board finds that the proposed development is compatible with the neighborhood, the relief requested can be granted without substantial detriment to the public good without substantially impairing the intent & purpose of the zoning map & Ordinance. 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: 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. Based on the majority roll-call vote being affirmative, the application was approved by the Board.

Planning Board recommendations to City Council

Proposed Ordinance 1814 – Land Development Ordinance

Small Wireless Facilities (Cell Phone Towers) in street right-of-way

The Board did discuss Proposed Ordinance #1814. However, since City Council did have the proposed Ordinance on the City Council's Agenda earlier in the same week on August 4, 2020 under 2nd reading & adoption, the Board felt its recommendation was not needed at this time. No Resolution of recommendations was warranted by the Board. The Board discussed the issue was for information only. There was only an informal discussion on how "5G" internet/cell phone would improve the quality of life of city residents.

I) PUBLIC PORTION:

Chairman Davis then opened the application 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 Solicitor presented to the Board the approval of July 8, 2020 Regular Meeting minutes. The Board Solicitor called for any discussion or corrections to the minutes. No further discussion to the minutes. Correction made upon adoption. Motioned as proposed by Mr. Harkins & 2nd by Vice Chair DiEduardo. 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):

The Board Solicitor gave an update of the lawsuit of Pileggi (aka Speruto) vs. Planning Board. All litigation has been finalized & the Judge ruled against the City & the Board. The Judge has ordered that the City issue a construction permit for the application.

The Board Solicitor gave an update on Marina Bay Towers litigation. All litigation is complete. The Board will expect a siteplan for the new development on the Marina Bay Towers site in the future. The Builder's Remedy lawsuit is completed. The City is moving forward to receiving substantive certification of its Affordable Housing Plan.

Chairman Davis stated that the motel conversions must be diligently looked at upon application to the Board. In particular, parking must be looked at closely. There is a concern that the Board approved this application as "apartments." Mr. Connell also mentioned the concern for duplexes as it relates to condominiums. Chairman Davis requested the Board members to consider this aspect for any future applications.

M) REPORTS: None presented.

N) MEETING ADJOURNED:

Meeting was adjourned at 8:40pm, 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: 10/7/2020
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.

