

North Wildwood Planning Board  
Re-Organization & Regular Meeting:  
January 12, 2022, 6:30 p.m.

The Re-Organization & Meeting of the North Wildwood Planning Board (Board) was held on the above date & time. Adequate notice of this meeting was submitted to the official newspaper of the City of North Wildwood (AC Press). An Agenda was posted on the main bulletin board at City Hall, on the bulletin board at the Planning/Zoning Office & on the City web site. Notice of same was forwarded to local newspapers for their notice as afforded under the Open Public Meeting Act requirements.

A) CALL TO ORDER

Chairman Davis called the meeting to order.

B) OPEN PUBLIC MEETING STATEMENT

Chairman Davis read the Open Public Meeting Act statement.

C) PLEDGE OF ALLEGIANCE

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

D) ROLL CALL

|                            |         |                              |         |
|----------------------------|---------|------------------------------|---------|
| Chairman Robert Davis      | Present | Mayor Patrick Rosenello'     | Absent  |
| Vice Chair Jodie DiEduardo | Present | Mayor's Designee, Mr. Miller | Present |
| Chief John Stevenson       | Present | Mr. William Green            | Present |
| Councilman David Del Conte | Absent  | Mr. John Harkins             | Present |
| Mr. George Greenland       | Present | Mr. Bill O'Connell           | Present |
| Mr. Bill Auty (Alt. 1)     | Absent  | Mr. Barbara Haas (Alt. 3)    | Present |
| Mr. Ron Peters (Alt.2)     | Present | Ms. DeJoseph (Alt. 4)        | Present |

|   |         |
|---|---------|
| Mr. Robert L. Belasco (Board Solicitor) | Present |
| Mr. Ralph Petrella (Board Engineer)     | Present |
| Eric Gundrum, (Board Secretary)         | Present |

E) SWEARING IN OF PROFESSIONALS:

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

F) ORGANIZATION MEETING – ANNUAL APPOINTMENTS FOR 2022

Election of Chairman & Vice Chairman

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

Board member Mr. Harkins nominated Chairman Davis, no other nominations. Motioned by Mr. O'Connell with Mr. Greenland with a 2<sup>nd</sup> nomination for Chairman Davis. Motion to re-elect Mr. Davis as Chairman, with all Board members voted in the affirmative by roll-call vote on the Chairman's nomination. Upon conclusion of voting, Chairman Davis thanked the Board members for his nomination.

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

Board member Mr. Harkins nominated Vice Chairperson DiEduardo, no other nominations. Motioned by Board member Mr. O'Connell, with a 2<sup>nd</sup> nomination for Ms. DeJoseph, with all Board members voted in the affirmative by roll-call vote on the Vice Chair's nomination. Upon conclusion of voting, Vice Chair DiEduardo thanked the Board members for her nomination.

The Board Secretary announced changes to various Board members status as to alternates & full Board members as well as welcoming new member – Board member Doug Miller was welcomed back as the new Mayor's Designee.

#### Notice Designation of Official Newspapers

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

#### Notice of Scheduled Meetings for 2022 Calendar Year.

The Board Secretary announced Board Resolution No. PB-05-2021 for the Schedule of Meetings for the 2022 Calendar Year. Meeting times were not changed. Based on the passage of the Resolution by the Board, notice of same has been sent to area newspapers referenced above to reflect the schedule & timing of meetings & will be certified by the Board Secretary.

#### Resolution No. PB-01-2022 - Resolution Appointing Board Secretary

Chairman Davis presented Board Resolution No. PB-01-2022 appointing Eric Gundrum as the Board Secretary for the Board & charged with the responsibility of performing all duties of the Board Secretary to the best of his ability. The anticipated term of this service shall commence January 2, 2022 & end December 31, 2022.

Motion to elect Eric Gundrum as Board Secretary: Motioned by Mr. O'Connell, 2<sup>nd</sup> by Mr. Greenland, with no other nominations. All Board members voted in the affirmative by roll-call vote on the Board Secretary's nomination. Board Secretary Eric Gundrum thanked the Board members for his nomination.

#### Appointment of Board Professional(s) for Year 2022

As for the Board Professional Request for Proposals (RFP'S) as issued & advertised by the City Clerk's office, RFPs received by the Board Secretary for Board Solicitor, only one (1) RFPs were received & evaluated by the Board. Robert J. Belasco of Stefankiewicz & Belasco, LLC submitted the Board Solicitor RFP.

The Board Solicitor nomination for the Board will be charged with the responsibility of performing all duties of Board Solicitor to the best of his ability. The anticipated term of this service shall commence January 2, 2022 & end December 31, 2022.

The Board members considered the RFP submitted. Motion to nominate Robert Belasco as Board Solicitor. Motioned by Mr. O'Connell, 2<sup>nd</sup> by Chief Stevenson, with no other nominations. All Board members voted in the affirmative by roll-call vote on the Board Professionals nomination. Mr. Belasco thanked the Board for his nomination as new Board Solicitor.

As for the Board Professional Request for Proposals (RFP'S) as issued & advertised by the City Clerk's office, RFPs received by the Board Secretary for Board Engineer, only three (3) RFPs were received & evaluated by the Board. Ralph Petrella, Van Note Harvey & Assocs., Edward Dennis of Remington & Vernick Engineers & Planners & Gregory R. Valesi of CME Associates submitted the RFP's. The Board Engineer nomination for the Board will be charged with the responsibility of performing all duties of Board Engineer to the best of his ability. The anticipated term of this service shall commence January 2, 2022 & end December 31, 2022.

The Board members considered the RFP's submitted. Motion to nominate Ralph Petrella as Board Engineer. Motioned by Mr. Green, 2<sup>nd</sup> by Mr. Harkins, with no other nominations. All Board members voted in the affirmative by roll-call vote on the Board Professionals nomination. Mr. Petrella thanked the Board for his nomination as new Board Engineer.

As for the Board Professional Request for Proposals (RFP'S) as issued & advertised by the City Clerk's office, RFPs received by the Board Secretary for Board Planner, no RFPs were received & evaluated by the Board.

G) MOTIONS FOR ADJOURNMENTS: – None presented.

H) MEMORIALIZATIONS: –

**Application No. Z-17-8-1(B) Richard Kaye**

809 Beach Creek

Block 150, Lot 2

R-2 Zoning District

Preliminary & Final siteplan approval, extension request (2<sup>nd</sup> extension)

The Board heard & considered the application of Richard Kaye (Applicant), owner of the property located at 809 Beach Creek - Unit 2B, a/k/a Block 150, Lot 2 (Property), seeking a one (1) year extension of prior approvals, specifically preliminary & final site plan approval, a D-1 Use variance, 'c' variance relief in relation to the distance between structures, and a waiver to construct a crushed stone parking area, which were granted by the Board on December 13, 2017 & memorialized within Resolution Z-17-8-1 on January 17, 2018. The application was deemed complete by the Administrative Officer of the Board & therefore the Applicant had standing to proceed. The property is located in the R-2 Zoning District.

The Board finds that, pursuant to N.J.S.A. 40:55D-52, the Applicant is entitled to apply for three (3) one (1) year extensions of prior approvals which can be granted at the discretion of the Board. This application

represents the Applicant's 2nd request for a one (1) year extension of the approvals granted pursuant to Resolution Z-17-8-1. In deliberation, Board members acknowledged the right of an Applicant to request a one (1) year extension of prior approvals.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by: Mr. Greenland & 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. Chief Stevenson, Mr. Green, Mr. Greenland, Mr. Miller & Vice Chairperson DiEduardo abstained from the vote. Based on the majority roll-call vote being affirmative, the memorialization was approved by the Board.

**Application No.: P-21-10-1 317 E. Hand Avenue, LLC**

645 W. Spruce Avenue

Block 47, Lot 12

R-2 Zoning District

Preliminary & Final siteplan approval, Conditional Use/Use Variance approval & minor subdivision approval

The Board heard & considered the application of 317 E. Hand, LLC (Applicant), doing business at 29 Union Avenue, Lakehurst, NJ, owner of the property located at 645 West Spruce Avenue, a/k/a Block 47, Lot 12 (Property), seeking minor subdivision approval in order to create two (2) conforming 52.5ft. x 104.37ft. lots, Conditional Use approval/Use approval, and a waiver from continuous raised curb requirements in order to construct a single family semi-detached (duplex) dwelling on each proposed lot. The property is located in the R-2 Zoning District.

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

I) **NEW BUSINESS:** –

**Application No.: Z-21-11-1 White Sands, II, LLC**

Walnut & North New York Avenues

Block 191 Lot 1.05

D&E Zoning District

Use Variance/Preliminary & Final siteplan approval – residential duplex homes as non-conforming use Modified to minor subdivision approval application (refiled Application No. P-21-11-1)

The Board heard & considered the application of White Sands II, LLC ("Applicant"), doing business at 3846 Kirkwood Road, Philadelphia, PA, owner of the property located at 141 West Walnut Avenue, a/k/a Block 191, Lot 1.05 (Property), seeking minor subdivision approval seeking to subdivide an existing 135ft. x 100ft. lot in order to create two (2) conforming lots measuring 70ft. x 100ft. & 65ft. x 100ft. The property is located in the Dining & Entertainment (D/E) Zoning District.

It should be noted that the Applicant's application initially requests minor subdivision approval & D(1) Use variances in order to permit the development of single-family semi-detached (duplex) dwellings on the newly proposed lots. During the course of the Applicant's presentation the application was amended in order to eliminate the requested Use variances & the Applicant elected to proceed with an application for minor subdivision approval.

Cory Gilman, Esq., of the Law Offices of Josephson, Wilkinson & Gilman, P.A. appeared on behalf of the Applicant & outlined the nature of the application & the relief sought in connection with same. Mr. Gilman noted that the proposed minor subdivision was a by-right subdivision as the proposed lots met all required area & bulk requirements within the D&E Zoning District. Prior to the withdraw of the use variances, Mr. Gilman advised the Board that the Applicant was proposing to subdivide an existing commercial lot, which was the subject of a prior application from June of 2018, in order to create two (2) fully conforming lots suitable for new residential development. Mr. Gilman informed the Board that since the prior application was approved, the Applicant listed the existing commercial lot for sale; however, there has been limited interest & the property has not had any legitimate offers in the past 3.5 years.

Daniel Higman, a real estate broker with Weichert Realtors, Wildwood, NJ appeared & he was placed under oath to testify before the Board. Mr. Higman advised the Board that he was the listing agent for the Property, and he reviewed the marketing history of the Property & the efforts undertaken to sell same. Mr. Higman noted that the Property was originally listed for \$799,000 & the price was subsequently reduced on two occasions in order to attract a buyer. He noted that the property has been listed for sale at a price of \$639,000 for the past 897 days & there have been no offers received. Mr. Higman testified that marketing & selling commercial properties is much more difficult than residential properties. He indicated that Property is in a neighborhood surrounding by residential properties which has impacted its marketability.

Board Members raised concerns about the proposed residential use in light of the fact that the Property was the subject of a prior major subdivision in which the applicant received several Use Variances in order to construct residential properties on neighboring lots in a commercial zone. A condition of that approval was that the Property remain a commercial property. Board members raised additional concerns in relation to the level of effort undertaken by the Applicant in order to market & sell the property as a commercial lot.

Brian Newswanger, R.A., a registered architect, appeared, he was recognized as an expert in the field of architecture & he was placed under oath to testify before the Board. Mr. Newswanger reviewed the prior approvals associated with the Property. Mr. Newswanger testified that the prior approval & the renderings presented to the Board were used in order to market the property.

Mike Mitchell, a member of White Sands II, LLC, appeared he was placed under oath to testify before the Board. Mr. Mitchell testified that he was the project manager & he developed the neighboring residential properties which were approved in connection with the prior June 2018 application. Mr. Mitchell testified that the Property was originally going to be developed with a restaurant; however, discussions with local restauranteurs never came to fruition. Mr. Mitchell advised the Boards of his own personal efforts undertaken in order to try to sell the property or attract a restaurant owner to lease & operate the site.

Board members reiterated concerns with the Applicant's proposal in light of the fact that the prior approval was granted with understanding that the Property would be maintained as a commercial use & same would be developed with a commercial use permitted in the D&E Zoning District.

Following a short recess, Mr. Gilman advised the Board that the Applicant was withdrawing the requested Use variance(s) & intended to move forward with only the proposed minor subdivision aspect of the application only. Mr. Gilman reiterated that the proposed minor subdivision was a by-right subdivision as the proposed 65ft. x 100ft. & 70ft. x 100ft. lots fully conform to the area & bulk requirements of the D&E Zoning District. He advised the Board that no variances were sought or required in connection with this proposal. As a condition of approval, the Applicant will comply with the requirements of the NJ Map Filing Law. Board Members expressed concerns about the proposed subdivision but recognized that the proposal amounted to a by-right subdivision considering the lots were fully conforming.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated January 5, 2022 which was received by the Board & incorporated as fact. Mr. Petrella confirmed that the proposed subdivision conformed to all area & bulk requirements of the D&E Zoning District, and as such was a by-right subdivision.

Chairman Davis then opened the application for general public comment. No members of the public spoke out in favor or against the application. 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 approval. 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 D/E. The Applicant is the owner of the Property, as such, has standing to appear before the Board requesting minor subdivision approval. The Board found the proposed minor subdivision plan meets the requirements set forth within the Ordinance. Mr. Gilman advised the Board that the Applicant was withdrawing the requested Use variance(s) & intended to move forward with only the proposed minor subdivision aspect of the application only. Mr. Gilman reiterated that the proposed minor subdivision was a by-right subdivision. The Board finds that the Applicant has satisfied the requirements for minor subdivision approval. No additions or correction to the finding of facts. No discussion on the facts.

The Board Solicitor called for a motion to approve the application as discussed. The minor subdivision application of White Sands, LLC is hereby granted & approved. Motioned by: Vice Chair DiEduardo & 2<sup>nd</sup> 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. Board member Mr. Greenland voted no on the application, but based on the majority roll-call vote being affirmative, the minor subdivision application was approved by the Board.

The following Board member(s) was excused from the vote or participating in the application due to identified conflict with the application; Board Member; Chief Stevenson & Mr. Miller. The following Board members did not need to vote on the next Use Variance application, for seven (7) voting members were present for a quorum; Ms. Haas & Ms. DeJoseph.

**Application No.: Z-21-11-2 North Shore Bricks, LLC**

301 New York Avenue

Block 186, Lot 2

R-2 Zoning District

Use Variance/Preliminary & Final siteplan approval – expansion of non-conforming use (restaurant)

The Board heard & considered the application of North Shore Bricks, LLC (Applicant), owner of the property located at 301 New York Avenue, a/k/a Block 186, Lot 2 (Property), seeking a D(2) Use variance for the expansion of a non-conforming use, and ‘c’ variance relief in relation to minimum sideyard setback (10ft. is required whereas 1.7ft. is proposed), minimum frontyard setback (10ft. is required whereas 0ft. & 1.6ft. are existing & proposed), minimum rearward setback (10ft. is required whereas 1.7ft. is proposed), maximum building coverage (70% is permitted whereas 89% is existing & 86.23% is proposed), maximum lot coverage (80% is permitted whereas 100% is existing & proposed), and off-street parking for six (6) spaces, in order to renovate the existing bar/restaurant located on site & construct 2nd-floor deck containing sixty-four (64) seats. The property is located in the R-2 Zoning District.

Anthony Monzo, Esq., appeared on behalf of the Applicant & outlined the nature of the application & the relief sought in connection with same. Mr. Monzo informed the Board that the Property is currently developed with the North Shore Bar & Kitchen which is located at the intersection of 3<sup>rd</sup> & New York Avenue(s). Mr. Monzo advised the Board that the Applicant is seeking approval in order to renovate the existing structure & to reconfigure the 2nd floor in order to construct an outdoor deck containing a total of 64 seats. Mr. Monzo stated that the Applicant purchased the Property approximately three years ago & has converted what was once primarily a bar known as “Casey’s on 3<sup>rd</sup>” to more of a restaurant that serves families & still maintains a neighborhood-like bar vibe.

Ryan Fitzpatrick, the principal of North Shore Bricks, LLC, appeared & he was placed under oath to testify before the Board. Mr. Fitzpatrick advised the Board that the North Shore Bar & Kitchen is open for lunch & dinner and typically begins to wind down around 10pm. Mr. Fitzpatrick testified that he purchased the Property in August of 2019; however, he has been operating the bar/restaurant since May of 2018. Mr. Fitzpatrick indicated that over the past several years he has been focused on overhauling the theme from a typical bar to more of a family friendly atmosphere. Mr. Fitzpatrick testified that he has completed several cosmetic upgrades to the site in an effort to build a brand & improve the appeal of the establishment to the general public. Mr. Fitzpatrick testified that the bars vibe is laid back, and in light of covid & the temporary expansion of outdoor seating, many of his customers want to enjoy the establishment in an outdoor setting. Mr. Fitzpatrick stated that without the “Temporary Outdoor Covid-19 Siteplan relaxation approvals,” he would have no outdoor seating on site. He indicated that he is proposing to renovate the existing 2nd floor in order to construct an outdoor deck containing 64 seats. He noted that currently under the “relaxed covid-19 temporary siteplan approvals,” he is permitted to maintain 84 outdoor seats in the public right-of-way of New York Avenue. Mr. Fitzpatrick advised the Board that there have no parking issues despite the increased outdoor seating. He stated that many of his patrons walk or ride bikes to the site & utilize ride shares have also improved accessibility to the site without the need to use personal vehicles. Mr. Fitzpatrick indicated that he has also purchased two (2) low speed vehicles to assist patrons with transportation to & from the establishment. Mr. Fitzpatrick advised the Board that he intends to call last call between 11pm & 12am and he will not have acoustic music outdoors later than 10pm.

Base on Board question, as a condition of approval, the Applicant will eliminate outdoor seating located within the public right-of-way approved under the “Covid-19 temporary siteplan resolution” at the time a certificate of occupancy is issued for the newly proposed 2nd floor deck.

Gerald Blackman, Jr., A.I.A., P.P., N.C.A.R.B., with OSK Design Partners, P.A., appeared, he was recognized as an expert in the fields of architecture & planning, and he was placed under oath to testify before the Board from the proposed site & architectural plans, dated December 17, 2021, which were received by the Board, & which are incorporated herein as fact. Mr. Blackman reviewed the existing & proposed floor plans for the benefit of the Board. He noted that the establishment currently has a total of 121 seats. Considering the available square footage, he indicated that the establishment could accommodate a total of 155 patrons; however, the posted occupancy is 200 people. As a condition of approval, 1st floor seating will be limited to 121 seats & 155 patrons; however, subject to the approval of the City’s Fire Official, the entire establishment will an occupancy limit of 200 people. Mr. Blackman testified that the existing 2nd floor is occupied by administrative offices & only utilizes 1/3<sup>rd</sup> of the available space. He indicated that the Applicant intends to demolish the existing 2nd floor to develop an outdoor seating area containing 64 seats, bathrooms, a cold & dry storage area, & an office. Access to the 2<sup>nd</sup> floor will be provided through an enclosed stairway. The 2nd floor dining area will consist of a bar & 2-top tables and will be located in the area of the northwest corner of the building. Mr. Blackman noted that a small 240SF building addition is proposed, and same is in line with the existing setback & will be no closer to the property line than what currently exists. Mr. Blackman testified that the overall building renovation will modernize the structure, improve the layout, and bring the structure into conformance with current building codes. A sprinkler system will also be installed to meet current fire code. Furthermore, the structure & amenities will be brought up to current health code standards. Mr. Blackman advised the Board that renovations on the 1st floor include the expansion of the existing kitchen which will be an open design with seats provided at a small chef counter. He noted that the existing 1st floor bar will be expanded, and an existing stage will be maintained. Mr. Blackman reviewed the existing & proposed building elevations for the benefit of the Board, and he reviewed the materials & design features that will be incorporated in connection with the proposed renovations.

Board members raised concerns in relation to sound & light impacts on neighboring properties. Mr. Blackman testified that a shield/buffer system will be constructed to control & limit potential sound & visual impacts to neighboring residential properties. In response to a question posed by the Board, Mr. Blackman stated that flood proofing will be addressed in connection with the renovations, and it’s anticipated that flood gates will be utilized in the event flooding events are predicted.

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 & to testify. Mr. Orlando reviewed the existing & proposed site conditions for the benefit of the Board. Mr. Orlando advised the Board that his involvement with the project was focused on evaluating the Applicant’s outdoor dining options. He noted that since the start of the Covid-19 pandemic, outdoor dining is now considered a necessity in the industry as many patrons desire to eat in outdoor settings due to the impacts of Covid-19. Mr. Orlando testified that the original proposal to incorporate an outdoor deck area prompted a renovation of the whole site. With respect to parking, Mr. Orlando noted that the property is located in the R-2 Residential Zoning District & there are no parking standards associated with outdoor dining. He indicated that the City’s Dining & Entertainment (D&E) Zoning District across town, permits outdoor seating & no off-street parking is required in connection with same. Mr. Orlando opined that in light of the requested D(2) expansion of a non-conforming Use variance, the Board could apply the standards of



the D&E zone standards since that zone is the most comparable & permits the type of use that exists on site. Mr. Orlando testified that a lack of off-street parking has existed for decades. He noted that many patrons arrive to the establishment by foot or by bicycle, and he reiterated that the Applicant is taking steps to address parking deficiencies by purchasing two (2) low-speed vehicles to further address the existing parking shortfall. After a brief discussion, the Board advised the Applicant that a parking variance should be requested due to the fact that the existing non-conforming use is located in the R-2 Zoning District & not the D&E Zoning District. Mr. Orlando reviewed the variance relief sought by the Applicant in connection with this proposal. He noted that a number of the variances requested are associated with pre-existing non-conforming conditions (sideyard, frontyard & rearyard setback(s), building & lot coverage). Mr. Orlando opined that the Applicant is experiencing a hardship in relation to these existing non-conformities in light of the fact that there is no way for the Applicant to bring these items in to compliance with the zoning regulations considering the site is completely built out. Mr. Orlando testified that the proposed 2nd floor deck & addition does not exacerbate the existing non-conforming sideyard setback since the addition is built in the line with, and in the same footprint of the existing structure. With respect to the D(2) Use variance & the 'c' variance relief requested, 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;
- b. Secures safety from fire, flood, panic & other natural & man-made disasters; and
- i. Promotes a desirable visual environment through creative development techniques & good civic design & arrangement.

Mr. Orlando further opined that the application can be granted as there are no substantial detriments to the public good & the application does not substantially impair the intent or purpose of the Zoning map & Land Development Ordinance. Mr. Orlando testified that the proposed renovations will be a benefit to the community, specifically the surrounding neighborhood, as the structure's aesthetics will be improved, the site will come into compliance with current construction, fire & flood codes, and adequate buffering has been provided to neighboring residential properties. Mr. Orlando further testified that the site is developed with an existing non-conforming use which the Applicant has demonstrated can accommodate the existing use & the incorporation of outdoor dining.

Board members questioned how trash & recyclables would be handled on site. Mr. Orlando advised the Board that an indoor trash storage area would be developed in the area of the SE corner of the building. As a condition of approval, the Applicant will submit revised plans to the Board Engineer & Construction Office depicting the incorporation of an indoor trash storage area in the SE corner of the building.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated January 3, 2022, 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.

Chairman Davis then opened the application for general public comment. Four (4) members of the public addressed the Board in connection with this application, namely:

- a. James Heuser, owner of the property located at 317 New York Avenue, appeared & he was placed under oath to testify before the Board. Mr. Heuser advised the Board that his property is located next to the Property. He indicated that the owner has significantly improved the operation of the

business. He advised the Board that he supports the proposed application & he has no concerns about parking issues in the surrounding neighborhood.

- b. Matthew McGinnis, owner of the property located at 210 West 3<sup>rd</sup> Avenue – Unit 210(A), appeared & he was placed under oath to testify before the Board. Mr. McGinnis advised the Board that he is in favor of the Applicant's proposal. He indicated that parking is no issues in the surrounding neighborhood & he has no concerns in relation to potential noise issues.
- c. Jermaine McGinnis, owner of the property located at 210 West 3<sup>rd</sup> Avenue – Unit 210(A), appeared & he was placed under oath to testify before the Board. Mr. McGinnis advised the Board that he supported the Applicant's proposal. He reiterated that noise & parking are not issues in the neighborhood.
- d. Steven Lennon, owner of the property located at 216 New York Avenue, appeared & he was placed under oath to testify before the Board. Mr. Lennon advised the Board that many of his concerns had been addressed during the Applicant's presentation. He raised concerns in relation to future ownership of the site if the property were sole. He questioned how deliveries would be handled on site & he indicated that he was concerned that noise could have an impact on the surrounding neighborhood; however, he advised the Board that he did support the Application.

No further members of the public wished to speak on the application at this time. No comment was offered. Chairman Davis closed the public portion of the meeting.

In response to questions & concerns raised by the Board, the Applicant agreed, as a condition of approval, that 2nd floor outdoor dining & entertainment would end at 10pm, and proposed glass doors located on the 1st floor would be closed by 10pm if a band was performing inside the restaurant. The Applicant also agreed, as a condition of approval, to visually shield & buffer equipment located on the 2nd floor.

The Board members then discussed & summarized the application as presented. The Board then discussed the finding of facts on the D(2) Use variance & the 'c' variance relief requested/siteplan approval. Each Board member gave reasoning for their view of the facts & the application as it relates to the application. Mr. Greenland "volunteered" for the finding of facts. Mr. Greenland reiterated to the address and Block & Lot of the property as stated in the application. The Zoning District is R-2. The Applicant is the owner of the Property, as such, has standing to appear before the Board requesting siteplan approval. The Property is currently developed with restaurant/bar, known as the North Shore Bar & Kitchen. The Applicant is proposing to renovate the existing bar/restaurant located on site & construct 2<sup>nd</sup> floor deck containing sixty-four (64) seats. In light of the fact that restaurants/bars are not permitted uses within the R-2 Zoning District, a D(2) expansion of a non-conforming Use Variance is required in connection with this application. With respect to the D(2) & C variance relief sought by the Applicant, the Board finds that the Applicant has presented special reasons which advance the purposes of zoning which justify the granting of the aforementioned variance(s). 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 Land Development Ordinance & Zoning Map. The Board found Mr. Fitzpatrick, Mr. Orlando & Mr. Blackman's testimony to credible & persuasive. Four members of the public spoke in favor of the application. The Board has determined that the relief requested by the Applicant can be granted as the Applicant has satisfactorily met all required conditions set forth within City Ordinance §276-16 et. seq. The Board indicated the Applicant is entitled to siteplan approval. The purposes of the Zoning law would be advanced by the proposed development in approval of the siteplan. The Board finds that the Applicant has satisfied the requirements for siteplan approval. No additions or correction to the finding of facts. No discussion on the facts.

The Board Solicitor called for a motion to approve the application as discussed. The variance application of North Shore Bricks, LLC is hereby granted & approved subject to the following terms & conditions of the resolution of Approval. Motioned by: Mr. Green & 2<sup>nd</sup> 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 Conditional Use siteplan approval was approved by the Board.

**Application No.: Z-14-8-1(A) 421 W. Spruce Avenue, LLC & DWM RE Holdings, LLC**

*(adjourned from December meeting)*

421 & 429 West Spruce Avenue

Block 102, Lots 19.01 & 19.02

R-2 Zoning District

Preliminary & Final siteplan approval to address unapproved modification/construction

- For prior issued of D(1) Use Variance & w/ “c” variances siteplan approval

The Application submitted by 421 W. Spruce Avenue, LLC & DWM RE Holdings, LLC seeks preliminary & final siteplan approval to address unapproved modifications to a previously Planning Board approved siteplan as memorialized in Resolution Z-14-8-1 in relation to the property located at 421 West Spruce Avenue, a/k/a Block: 102, Lots: 19.01 & 19.02 in the City’s R-2 Zoning District.

Jeff Barnes, Esq., of the Barnes Law Group appeared on behalf of the Applicant & he reviewed the nature of the Application & the relief sought in connection with same for the benefit of the Board. At the August meeting & based on the myriad of issues & substantial changes that were expected to the siteplan as discussed with the Board, Applicant & Mr. Barnes, that all parties decided that more time is necessary to properly submit the requested/required documentation & plans. Mr. Barnes requested adjournment of the application due to the fact the Applicant was not prepared to continue with the application based on the myriad of issues concerning the construction of the site & how it relates to the Board’s prior approval. Mr. Barnes requested time until the October meeting to submit revised documentation, which was granted by the Board at the August meeting.

At the October meeting, due to inadequate quorum of eligible voting Board members present at the meeting, Mr. Barnes, the Applicant’s attorney, requested adjournment of the application due to the fact the Applicant was not prepared to continue with the application based on the myriad of issues concerning the construction of the site & how it relates to the Board’s prior approval, well as inadequate number of eligible Board members able to vote on the application.

At the November meeting Mr. Barnes appeared on behalf of the Applicant & he reviewed the nature of the Application & the relief sought in connection with same for the benefit of the Board. Mr. Barnes provided a synopsis of the prior meetings that discussed about this application. The Applicant had to re-notice for the D(1) Use Variance & minor subdivision approval. The Dairy Queen & Don Martin Real Estate office has operated on the site without a full C/O being issued by the City ‘s Construction Official. Testimony tonight will allow the public to comment on the application for the D(1) Use Variance & minor subdivision approval. A deed of consolidation of the two (2) current lots will be produced to rescind the minor subdivision approval that was previously granted by the Board. Combining the two lots will provide a safer operation of the property. The Board set a deadline of Memorial Day 2022 to have all items that have been discussed by the Board/Applicant to resolve the case/application. All items will be completed by Memorial Day 2022, as agreed by the Applicant.

Chairman Davis reiterated that the fence & parking light illumination need to be a priority “fix.” If not completed, the Applicant will have to come back to the Board. Mr. Donald Martin, Applicant/Sole Proprietor for 421 W. Spruce Avenue, LLC & DWM RE Holdings, LLC, appeared on behalf of the application. Mr. Martin was placed under oath & he testified from a proposed Siteplan. Mr. Barnes went thru the discussion of solutions to the “noted” problems of the property. Mr. Barnes said he would contact the Board Secretary on the status of the application’s progress on the two (2) remaining issues. Mr. Martin will proceed on the corrections to the site in the meanwhile. At the end of the November meeting, Mr. Barnes requested adjournment of the application due to the fact the Applicant was not prepared to continue with the application based on the myriad of issues concerning the construction of the site & how it relates to the Board’s prior approval. The adjournment was to the Board’s December meeting.

No timely notice for adjournment or postponement was received by the Board Secretary as the application was re-scheduled for the December Board meeting. The Board Solicitor contacted Mr. Barnes by email & an adjournment request was received by the Board Solicitor at 6:35pm. Based on the adjournment request, the Board Solicitor announced adjournment of the above referenced application by request of the Applicant’s attorney/agent. The request for adjournment also provided for time limit wavier under the NJ Municipal Land Use Law {NJ-MLUL} (NJSA 40:55D-1 et. seq.) & the Ordinance (Chap. 276-1 et. seq.) as announced by the Board Solicitor. The Board Solicitor announced to the public that this application will be adjourned to the January 12, 2022 meeting & no further public notice will be or is required to be provided. With that being said, the application was adjourned for the December meeting.

The Board conducted a regularly scheduled public meeting to hear this modified application on The Board’s January 12<sup>th</sup> meeting. The Agenda for said meeting included the above referenced application which had been adjourned from the December regularly scheduled meeting. The Applicant & its professionals failed to appear at the January 12<sup>th</sup> Board meeting & no request had been received requesting that the application be adjourned again & carried to the February meeting date.

In light of the Applicant’s failure to appear before the Board, the Board took formal action to dismiss application Z-14-8-1(A), without prejudice, due to lack of prosecution. The Board noted that the notice of zoning violations outlining numerous siteplan issues/discrepancies are still pending. In order to remediate these issues or to seek additional relief, a brand-new application submittal will be required, with associated fees as required by Land Development Ordinance Fee Schedule Chapter 276-67 et. seq.

The Board Solicitor called for a motion to dismiss the application as discussed. Motioned by: Vice Chair DiEduardo & 2<sup>nd</sup> by Chairman Davis. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Chief Stevenson, Mr. Greenland, Mr. Miller, Ms. Haas & Ms. DeJoseph abstained from the vote. Based on the majority roll-call vote being affirmative, the dismissal was approved by the Board.

At the conclusion of the application, Chief Stevenson & Mr. Miller returned to the Board meeting as a voting member.

J) ZONING OFFICER REPORT:

Dan Speigel, Zoning & Construction Official for the City of North Wildwood did not have anything to report. However, he did mention that the NJ Courts due to the Covid-19 Pandemic are utilizing only “Zoom”

video conferencing software for court infractions and most cases are being postponed. All Zoning Violations/summons have been indefinitely delayed at this time.

K) PUBLIC PORTION:

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

L) APPROVAL OF MINUTES: – November 18, 2020 meeting  
December 9, 2020 meeting

The Board Solicitor presented to the Board the approval the November 18, 2020 & December 9, 2020 regular Meeting Minutes. The Board Solicitor called for any discussion or corrections to the minutes. No discussion or corrections proposed. Motioned as proposed by Vice Chair Eduardo & 2<sup>nd</sup> by Mr. Harkins. Based on the affirmative majority roll-call vote of the Board members to memorialize the Meeting Minutes, the Meeting Minutes were approved.

M) UNFINISHED BUSINESS: –

The Board Secretary presented no items for discussion.

N) COMMUNICATION(S):

The Board Secretary presented to the Board the following newspaper articles/press releases for the board's information;

Notice from Cape May County Planning Board requesting comments on the Cape May County Draft Comprehensive Plan document

News Release – Cape May County, Dept. of Tourism & Public Information – CMC continues to recover from Pandemic with record September month for tourism/Occupancy Tax statistics


The information was presented to the Board for informational purposes only, no formal Board action was required.

O) REPORTS: - None presented

P) MEETING ADJOURNED:

Meeting was adjourned at 12:00am, on motion by Vice Chair Eduardo & 2<sup>nd</sup> by Mr. Harkins, with all present members voting in the affirmative.

APPROVED: 2/10/22  
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.*

