

North Wildwood Planning Board
 Regular Meeting: July 13, 2022
 6:30 p.m.

The regular meeting of the North Wildwood Planning Board (Board) was held on the above date & time. Adequate notice of this regular meeting was submitted to the official newspaper of the City of North Wildwood (AC Press) & local newspapers. An Agenda was posted on the main bulletin board at City Hall, well in advance of the meeting date & on the City web site.

A) CALL TO ORDER

Chairman Davis called the meeting to order.

B) OPEN PUBLIC MEETING STATEMENT

Chairman Davis read the Open Public Meeting Act statement.

C) PLEDGE OF ALLEGIANCE

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

D) ROLL CALL

Chairman Robert Davis	Present	Mayor Patrick Rosenello'	Absent
Vice Chair Jodie Di Eduardo	Present	Mayor's Designee Mr. Doug Miller	Present
Chief John Stevenson	Absent	Mr. William Green	Absent
Mr. John Harkins	Present	Councilman David Del Conte	Absent
Mr. George Greenland	Present	Mr. Bill O'Connell	Present
Mr. Bill Auty (Alt. 1)	Absent	Ms. Valeria DeJoseph (Alt. 3)	Present
Mr. Ron Peters (Alt.2)	Present	Vacant (Alt. 4)	
		Mr. Robert Belasco (Board Solicitor)	Present
		Mr. Ralph Petrella (Board Engineer)	Present
		Eric Gundrum, (Board 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 presented.

G) MEMORIALIZATIONS:

Application No. P-22-4-1 Michael & Eileen Galaton

3 St. Vincent Court

Block 32; Lot 41

TH Zoning District

'c' variance relief/siteplan approval for installation of a swimming pool in the frontyard

The Board heard & considered the application of Michael & Eileen Galaton (Applicant), owners of the property located at 3 St. Vincent Court, a/k/a Block 32, Lot 41 (Property), seeking 'C' variance relief in order to permit the installation of an inground swimming pool in a frontyard & maximum frontyard fence height (four (4) feet is permitted whereas five (5) feet is proposed).

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Mr. Miller & 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 memorialization was approved by the Board. Board members Mr. Greenland & Mr. Peters abstained from the vote.

H) NEW BUSINESS:

Due to the nature of the applications requesting a Use variance & the regional Board format, Mr. Miller as Mayor's designee stepped down for the next application & took a seat in the public seating area.

Application No. Z-22-5-1 Joseph J. Cunningham, Jr., Tara Cunningham & Andrea Fortune

125 E. 14th Avenue

Block 207; Lot 14 Kiosk & Snack Bar

R-1.5 Zoning District

D(1) Use & D(3) Height/Use & 'C' variance siteplan approval

The Board heard & considered the application of Joseph J. Cunningham, Jr., Tara Cunningham & Andrea Fortune (Applicant), owners of the property located at 125 East 14th Avenue, a/k/a Block 207, Lot 14 (Property), seeking a D(1) Use variance to permit two (2) principal structures on one site, a D(6) maximum building height Use variance (24ft. is permitted whereas 26.5ft. is proposed) & 'C' variance relief in relation to minimum frontyard setback (10ft. is required whereas 6.5ft. is proposed), minimum distance from property line to garage (20ft. is required whereas 18ft. is proposed), minimum lot area (4,000SF is required whereas 3,000SF is existing and proposed), minimum lot frontage (40ft. is required whereas 30ft. is existing & proposed), minimum lot width (40ft. is required whereas 30ft. is existing & proposed), minimum rear yard setback (10ft. is required whereas 2ft. is existing & proposed), minimum side yard setback (4ft. is required whereas 2.2ft. and 2.65ft. are existing & proposed), and a design waiver for continuous raised curb (15ft. is required whereas 5ft. is proposed), in order to renovate the existing rear yard dwelling & to demolish & reconstruct the existing front yard dwelling which will reduce the number of units located on site from four (4) to two (2) units.

Jeffrey Barnes, Esq., appeared on behalf of the Applicant & outlined the nature of the application & the relief sought in connection with same. Mr. Barnes advised the Board that the Property is a 30ft. x 100ft. lot which is currently developed a two (2) unit one (1) story dwelling located in the rear yard & a two (2) unit two (2) story dwelling located in the front yard. Mr. Barnes informed the Board that the Applicant is proposing to raise the existing rear yard structure to meet base flood elevation (BFE). The structure will be renovated & the

number units will be reduced from 2 to 1. The Applicant is also proposing to demolish the frontyard structure in order to construct a new two-story structure which will contain one (1) unit. Mr. Barnes indicated that the rearward structure will not be expanded & the proposed frontyard structure will be built in substantially the same footprint as the existing building. Mr. Barnes reviewed the variance relief sought in connection with this Application.

Joseph Cunningham, the owner of the Property, appeared & he was placed under oath to testify before the Board. Mr. Cunningham reviewed the history of the Property. He indicated that he purchased the site a few years ago from his mother-in-law. He indicated that the units located on site are used primarily by members of his family. Mr. Cunningham testified that the family has grown in size & the units located on site no longer meets the needs of the family. He indicated that the units are approximately 600SF. Mr. Cunningham further testified that the structures are in need of repair & they are below the BFE. He indicated that he intends to raise & renovate the rearward structure & the front structure would be demolished & reconstructed. The proposed rearward building would be used as a "mother-in-law suite." Mr. Cunningham advised the Board that there is currently no off-street parking provided on site. He indicated that four (4) off-street parking spaces will be added in connection with this project.

John Halbruner, P.E., R.A. with The Hyland Design Group appeared before the Board on behalf of the Applicant. Mr. Halbruner was accepted by the Board as an expert in the field of engineering & architecture and he was placed under oath to testify before the Board from the proposed site & architectural plans, dated April 13, 2022 & last revised June 21, 2022, which were received by the Board, and which are incorporated herein as fact. Mr. Halbruner reviewed the existing site conditions for the benefit of the Board. Mr. Halbruner testified that the site is currently developed with two (2) structures containing a total of four (4) units. He indicated that the Applicant intends to reduce the number of units from 4 to 2 & he reviewed the proposed development associated with this Application. Mr. Halbruner confirmed that four (4) off-street parking spaces will be added which conforms to the requirements of the City's Ordinance. Mr. Halbruner reviewed the variance relief sought by the Applicant in connection with this Application. He noted that a maximum impervious coverage variance was originally requested; however, the Applicant intends to revise the submitted plans in order to comply with the maximum permitted impervious coverage. The Applicant is requesting a variance for the distance from the property line to the proposed garage as 20ft. is required whereas 18ft. is proposed. Mr. Halbruner testified that vehicles parked in front of the garage will not encroach in to the public right-of-way as a compliant 9ft. x 18ft. parking space is proposed & there is three (3) feet of additional space to the sidewalk. Mr. Halbruner testified that the rearward structure will not be expanded in connection with this application & he confirmed that the existing non-conforming rear & sideyard setbacks associated with the rearward structure will not be increased in connection with this project. Mr. Halbruner further testified that the proposed frontyard structure will have conforming sideyard setbacks. He indicated that a frontyard setback variance is requested as 10ft. is required whereas 6.5ft. is proposed to a bay window. He noted that the proposed bay window is located 10ft. above grade & the frontyard setback to the face of the structure itself measures eight (8) feet. Mr. Halbruner advised the Board that the Applicant is also requesting a D(6) height variance for the proposed structures as a maximum building height of 24ft. is permitted due to the fact that lot measures 30ft. wide. The Applicant is proposing a maximum building height of 26.5ft. for both structures.

With respect to the D(1) Use variance, Mr. Halbruner testified that the site currently contains two (2) principal structures containing a total of four (4) units. He indicated that the Applicant's proposal will reduce the density of the site as it will eliminate two (2) units. He opined that the site can accommodate the proposed use as the site is already developed with two (2) structures which currently contain a higher density. Mr. Halbruner 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. Secures safety from fire, flood, panic & other natural & man-made disasters;
- c. Provides adequate light, air & open space;
- e. Promotes the establishment of appropriate population densities & concentrations that will contribute to the well-being of persons, neighborhoods, communities & regions and preservation of the environment;
- h. Encourages the location & design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities & routes which result in congestion or blight; and
- i. Promotes a desirable visual environment through creative development techniques & good civic design & arrangement

Mr. Halbruner further opined that the application can be granted as there is no substantial detriment to the public good & the application does not substantially impair the intent or purpose of the Zoning Map & Land Development Ordinance. Mr. Halbruner testified that the proposed development will have a positive impact on the surrounding neighborhood as the density of the site is being reduced, off-street parking is being incorporated on site, and the structures will be renovated to comply with current construction, fire & flood codes.

A discussion ensued between the Board and the Applicant's professionals in regards to building height and the need to exceed what's permitted. Mr. Halbruner testified that the interior ceiling heights measure 8ft. & increasing building height above 24ft. will allow the Applicant to incorporate functional garages below the structures in order to provide off-street parking. Board Members raised concerns in relation to the proposed building height. Mr. Halbruner reiterated that the additional 2.5ft. of building height will allow the Applicant to provide compliant off-street parking. He indicated that a 30ft. wide lot is limited to a building height of 24ft. whereas a 40ft. lot would be permitted to construct a 36ft. tall structure. He opined that the additional 2.5ft. of building height will not negatively impact the surrounding community as many of the neighboring structures are 36ft. tall. Mr. Halbruner reviewed the architectural elevations & the exterior building materials proposed to be used. In response to a question posed by the Board, Mr. Halbruner testified that a height variance would still be requested in the event only one (1) structure was proposed on site in order to accommodate off-street parking. Mr. Halbruner advised the Board that the front structure will contain a total of four (4) bedrooms & the rear structure two (2) bedrooms. Based upon the number of existing units/bedrooms a total of six (6) off-street parking spaces are required whereas zero (0) exist now, & four (4) off-street parking spaces will be added in connection with this project.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated July 5 2022, which was received by the Board & incorporated as fact. Mr. Petrella reviewed & confirmed the variance relief sought in connection with this Application.

Chairman Davis then opened the application for general public comment. Two (2) members of the public addressed the Board in connection with this application, namely:

- a. James Testerman, owner of the property located at 1307 Surf Avenue, appeared & he was placed under oath to testify before the Board. Mr. Testerman advised the Board that he was in favor of the Applicant's proposal.
- b. Jamie Hennessy, owner of the property located at 117 E. 14th Avenue, appeared & he was placed under oath to testify before the Board. Mr. Hennessy advised the Board that the addition of off-street parking is a benefit to the surrounding neighborhood. He indicated that he was in favor of the project.

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 variance/siteplan approval. Each Board member gave reasoning for their view of the facts & the application as it relates to the application. Mr. O'Connell "volunteered" for the finding of facts. Mr. O'Connell reiterated to the address and Block & Lot of the property as stated in the application. The property is located in the R-1.5 Zoning District & it is currently developed with a twin single-family dwelling. The Applicant is the owner of the Property, as such, has standing to appear before the Board requesting variance/siteplan approval. The Property is currently developed with two (2) principal structures containing a total of four (4) units. The Applicant is before the Board requesting a D(1) Use variance, a D(6) maximum building height/use variance, & 'c' variance relief in order to renovate the existing rearward dwelling & to demolish & reconstruct the existing frontyard dwelling which will reduce the number of units located on site from four (4) to two (2). Mr. Halbruner testified to the variance relief sought in connection with this Application & he addressed the positive & negative criteria which he indicated supports the relief sought by the Applicant. Mr. Halbruner opined that the Property is particularly suited to accommodate two (2) principal uses. The Board found Mr. Halbruner's testimony to be credible & persuasive. At the conclusion of the Applicant's presentation the Board opened the Application up for deliberations at which time members of the Board indicated their support for the application & the relief sought in connection with same. The Board finds that the Applicant has presented special reasons which advance the purposes of Zoning which justify the granting of the variances sought in connection with the Application. The Board agreed that the Property is particularly suited to accommodate the proposed use. 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 Land Use Ordinances & to the City's Zoning Map. Mr. Halbruner & Mr. Cunningham testimony was deemed credible by the Board. The Board determined that the Applicant's proposal presented limited substantial detriments to the public good & would not impair the intent & purpose of the Zoning Map & Ordinance. The Board found that the Applicant did establish that granting the requested variance relief would advance the purposes of Zoning, to the public good, to the City's municipal Land Use Ordinances & to the City's Zoning Map. The Board finds that the Applicant has satisfied the requirements for variance/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 of 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 Resolution was approved by the Board.

After the application was concluded, Mr. Miller returned to his seat on the Board's dais to partake in Board business.

Application No. Z-22-5-2 101 East Walnut Avenue Real Estate Ventures

100 East Walnut Avenue
Block 221; Lot 4
D & E Zoning District
Concept/Informal Review & Interpretation of Ordinance

The Board heard & considered the concept review application of 101 East Walnut Avenue Real Estate Ventures for an informal review. The Board & Applicant exchange ideas & understanding of the Applicant's

proposal to be review at a Board meeting at a future date. As a concept/informal review application, no formal action or vote would occur on the application.

P-21-3-3(C) Beach Creek Marina, Inc.
(aka Ocean Bay Club @ NW Marina) – Phase 1

Block 152, Lot 1

510-610- New York Avenue

NWM Zoning District

Block 152 Redevelopment Area Zoning District

Preliminary & Final Siteplan approval -proposed restaurant & Kiosk & Snack Bar

The Board heard & considered the application of Beach Creek Marina, Inc. (Applicant), the owner of the property located at 510-610 New York Avenue, a/k/a Block 152, all lots inclusive (Property), seeking preliminary & final amended siteplan approval supplementing the Phase 1 siteplan approval previously received April 21, 2022, as memorialized in Resolution P-21-3-3(A), solely to permit the sale of alcoholic beverages in & from the existing or renovated Lighthouse/Guardhouse Building (Lighthouse Building) & the existing or renovated restaurant.

Salvatore Perillo, Esq., of the Law Offices of Salvatore Perillo, appeared on behalf of the Applicant. Mr. Perillo outlined the nature of the application & the relief sought in connection with same. Mr. Perillo indicated that the portion of the property to this application is governed in the 1st instance by the Block 152 Amended Redevelopment Plan and, to the extent it is not inconsistent, by the North Wildwood Marina Zoning regulations (NWMZ Regulations). Mr. Perillo reviewed the history of the Property & the prior April 2021 Phase One approval. He explained that the approval authorized a Phase 1 redevelopment consisting of four (4) buildings, the renovation & expansion of Marina Bay Towers (Phase 1-A), the expansion of the mixed-use boat house building (Phase 1-B), a newly designed & expanded mixed-use Lighthouse Building with a bar & food service area on the 1st floor (Phase 1-C), and a newly designed & expanded four-story Marina Restaurant/Club building which included four (4) bars (Phase 1-D). The approval was for a “phased plan” which recognized that the implementation of the redevelopment plan would take place in stages & take time.

Mr. Perillo advised the Board that the project just last month achieved an important milestone by securing approval from NJ-CAFRA permit for both Phase 1 & 2. Although the Phase 1 approval involved, among other things, the final plan for the Lighthouse & Marina Restaurant/Club buildings in their new, approved designs, he noted that the Redevelopment Ordinance specifically authorizes the renovation of the existing Lighthouse & Marina Restaurant/Club buildings, along with the extensive rehabilitation & enlargement of the existing 143 senior citizen apartment building to include 166 mixed-income dwelling units pursuant the NJ-Superior Court CMC Chancery Division’s Final Restructuring Order entered on June 10, 2020 in the matter of M&T v. MBT II et al., Docket No. CPM-F-049229-14 (Restructuring Order). Mr. Perillo noted that the Restructuring Order specifically provides that construction on the apartment complex “must commence within six (6) months after all Governmental Approvals & permits are obtained & received.” He indicated that, as a result of NJDEP’s issuance of the CAFRA Permit for Phases 1 & 2 in June 2022, the landowner will continue to seek the remaining Governmental Approvals & permits provided by the Restructuring Order.

In the meantime, Mr. Perillo indicated that certain site improvements have been completed & continue to proceed at the Block 152 property such as landscaping, reutilization of the existing Lighthouse & Marina Restaurant/Club buildings, improvements to the mixed-use marina building will allow the Applicant to make a more productive use of the property & enhance the Ocean Bay Club’s ability to market the project to lenders in order to secure financing, recognized as a requirement pursuant to the Restructuring Order, as well as to

interested renters & purchasers of the housing.

As a result, Mr. Perillo indicated to the Board that the interim renovation work to the existing Lighthouse & Marina Restaurant/Club buildings, prior to construction of the new designs for those structures approved last year by the Board, will better enable their interim utilization to sell alcoholic beverages in conjunction with & to complement the pre-existing restaurant & snack bar uses & functions while the work of obtaining all other required Governmental Approvals & permits proceeds as provided pursuant to the Restructuring Order.

Mr. Perillo advised the Board that the pending application seeks supplemental site plan approval to allow interim renovation work on the existing Lighthouse & Marina Restaurant/Club buildings which conforms to the already permitted bulk, dimensional & other technical site planning requirements provided in the Amended Redevelopment Plan & NWMZ Regulations, in order to incorporate the sale of alcoholic beverages from those existing buildings. Mr. Perillo explained that the project is at an important juncture where it needs to market the "Ocean Bay Club" project to potential lenders & also to potential renters & purchasers of the housing. To position the property, the existing Boardwalk has been repaired, new signage installed & the landscaping has been renovated. He indicated that the renovation of the existing Lighthouse & Marina Restaurant/Club are the next steps in that process in the staged establishment of the Ocean Bay Club development & redevelopment concept. Mr. Perillo explained that the application before the Board involves the renovation of the two (2) buildings, within their existing footprints. Notably, no variances or waivers are requested or required in connection with this application. Mr. Perillo advised the Board that the Lighthouse building has historically been utilized, in part, as a snack bar for many years. As part of the renovation & Ocean Bay Club marketing plan, a company related to the Applicant acquired a liquor license in September 2021, received construction permits for the interim Lighthouse renovation in October 2021, completed construction & received final inspections November 1, 2022 the City Council approved a place-to-place (pocket to site premises) transfer licensing portions of the property for the sale of alcoholic beverages including the Lighthouse & restaurant in November 2021, applied for a Mercantile Permit in May representing that food & beverages, including alcohol would be served on site, advised the City Clerk on June 2 that the Property was going to begin using the liquor license & received a Mercantile License, and opening for business with the understanding that all required approvals had been obtained. Mr. Perillo indicated that subsequently a question arose as to whether the addition of the sale of alcoholic beverages required siteplan approval. Although the Applicant did not believe siteplan approval was necessary, in a conference call with Board Solicitor Robert Belasco & City Solicitor Michael Donohue, all counsel agreed that the simplest solution was to apply for siteplan review of the utilization of the existing & renovated marina food & non-alcoholic beverages facilities -- with no enlargement to their vertical projection or horizontal footprint -- for the sale of alcoholic beverages as part of the Phase 1 redevelopment's staged implementation.

Mr. Perillo underscored that this application is a supplement to the April 2021 Phase 1 siteplan which this Board approved & does not modify or affect any of those approvals, or in any way amend the Amended Redevelopment Plan, other than to confirm that the sale of alcoholic beverages in & from the renovated Lighthouse & Marina Restaurant/Club buildings a principal permitted use under the Amended Redevelopment Plan & both a permitted conditional & accessory use to the sale of food & non-alcoholic beverages already existing & permitted at the Property. As a condition of approval, the approvals allowing the use of the existing lighthouse & restaurant buildings for food & beverage service shall be vacated when the Applicant applies for & obtains permits to proceed with Phase 1(B) & Phase 1(C) of the April 2021 siteplan approval and commences construction. Mr. Perillo advised the Board that pursuant to the NWMZ Regulations no variances are required in connection with this Application as the addition of the bar use is permitted as a conditional use so long as same takes full advantage of the waterfront location which he indicated it does. Furthermore, the proposed bar

use would occur in & from those existing food and beverage Lighthouse & Restaurant buildings which have been previously found to meet the definition of a “water-oriented” use pursuant to previous local & State NJDEP CAFRA land use approvals.

Mr. Perillo noted that one of the important goals of Amended Redevelopment Plan is “To further facilitate & expedite implementation of the Final Restructuring Plan” for the “Phase 1 Project”. The Amended Redevelopment Plan defines the Phase 1 Project as including “the renovations, expansions, construction, rehabilitation & repair of the [existing apartment complex], [as well as] improvements to the existing marina improvements, including the renovated, expanded or new Restaurant/Marina Club”, and permits those activities pursuant to “the land use, bulk and dimensional standards as set forth within the Phase I Redevelopment Overlay Zone”. He highlighted that Section B. of the Amended Redevelopment Plan entitled “Proposed Land Uses & Building Requirements” provides that “The applicable use, bulk & design standards & requirements as set forth in this Amended Redevelopment Plan . . . shall govern the use, bulk & design standards for the Phase I Project; and that Section 1(f) of Amended Redevelopment Plan establishes the Principal Permitted Uses for the Phase 1 Redevelopment Overlay Zone which specifically provides that “all non-residential uses permitted in the NWMZ District” constitute Principal Permitted Uses. As Mr. Petrella points out in his report, bars & taverns are a conditional use pursuant to the NWMZ Regulations standing alone where they are included under the Principal Permitted Uses in the sub-category of “water-oriented” uses. Absent the Amended Redevelopment Plan use regulations, the only specified condition would be the requirement pursuant solely to the NWMZ Regulations that the Applicant make a showing that those uses on the siteplan meet the criterion for “water-oriented” uses which is defined in the Land Development Code as “Development that serves the general public & derives economic benefit from direct access to the water body along which it is proposed, such as a hotel or restaurant, if it takes full advantage of a waterfront location.” Mr. Perillo reiterated that, in any event, to the extent of any conflict between the Amended Redevelopment Ordinance & the NWMZ Regulations, the NWMZ Regulations mandates that the Amended Redevelopment Ordinance “shall control”. Mr. Perillo explained that the Amended Redevelopment Ordinance for Block 152 imposes no off-street parking on the site for the restaurant & bar uses, and no variances or waivers are required.

Board Members expressed concerns in relation to the previously approved April 2021 siteplan & whether the Applicant intended to proceed with same. Board Members took issue with the fact that the proposal to incorporate a bar on site prior to the completion of the approved Phase 1 & 2 project was not discussed or presented at the time of the April 2021 Board hearing. Mr. Perillo acknowledged the Board’s concerns & indicated that the Amended Redevelopment Plan allows the Applicant to engage in interim renovations in a manner consistent with the Amended Redevelopment Plan & Restructuring Order in order to better market the site to potential lenders/investors & to facilitate the overall redevelopment of the site.

Paul Coccoziello, the owner of Beach Creek Marina, Inc., appeared & he was placed under oath to testify before the Board. Mr. Coccoziello provided the Board with an overview of the project & the history of the Property. Mr. Coccoziello advised the Board that, pursuant to the Construction Permits his company received, the Lighthouse has been appropriately renovated to allow the resumption of food & beverage service, including the sale of alcoholic beverages. He further advised the Board that his company applied for & obtained the transfer of a Plenary Retail Consumption License to accommodate that use, and same was approved by City Council. Mr. Coccoziello testified that, for the brief period of time the Lighthouse was opened, it was very popular with the clients at the marina & the public. Mr. Coccoziello confirmed that the facilities have been inspected by the County Health Department, the Division of Alcoholic Beverage Control & the NW Police Department & same have been found to be in order. His company has also applied for construction permits to renovate the existing restaurant, maintaining the existing footprint of the building. The plan for these existing buildings with their interim renovations is to offer food & alcoholic/non-alcoholic beverage service. These

renovations will afford potential lenders & potential housing renters & purchasers a preview of what is being rebranded as the Ocean Bay Club, which is intended to create an all-inclusive club/community atmosphere that's affordable for senior citizens, rich in waterside dining, social venue & recreational opportunities & open to the public & community at large. Mr. Cocozello testified that the project itself has been an enormous undertaking & is subject to the Court's Restructuring Order & attendant schedule which he indicated the Applicant has met or exceeded. Securing CAFRA permits for the entire Phase 1 & 2 components of the Ocean Bay Club project took well over a year to obtain. He indicated that the interim utilization of the existing lighthouse & marina buildings will allow the site to generate capital while also marketing same to lenders, buyers, and potential renters.

William McManus, P.P., with Duffy Dolcy McManus & Roesch, appeared on behalf of the Applicant. Mr. McManus was accepted by the Board as an expert in the field of planning, and he was placed under oath & testified before the Board. Mr. McManus reviewed aspects of the amended redevelopment plan as it relates to the existing Lighthouse & restaurant buildings. He explained that the Redevelopment Ordinance & Amended Redevelopment Plan not only addressed the Lighthouse & Marina Restaurant/Club buildings in their new designs which were approved by the Planning Board in April 2021, but allowed for uses contemplated by this application in the existing Lighthouse & Marina Restaurant building.

Mr. McManus opined that the proposed initial, interim renovations are consistent with & further the stated purposes of the Block 152 Redevelopment Plan. He also reviewed the history of the rezoning of the underlying Block 152 property to the NWMZ District which also governs, in part, development & redevelopment on the Phase 1 portion of the site. Mr. McManus testified that to the extent there is any inconsistency between the Amended Redevelopment Plan & the NWMD Regulations, the NWMD Regulations provide that the Amended Redevelopment Plan controls. He explained that the Amended Redevelopment Plan incorporated, among other things, all of the non-residential uses & accessory uses permitted in the NWMD regulations. He noted that: (1) key elements of the Block 152 Redevelopment Ordinance are (a) the goal of expanding water-oriented uses, such as dining & drinking establishments, and (b) making improvements to the marina & restaurant structures located in the Phase I Redevelopment Overlay Zone. Mr. McManus reminded the Board that the contemplated uses were recognized as permitted principal uses during the previous approval & as memorialized in Decision & Resolution P-21-3-3(A). By virtue of the previous approval, Mr. McManus reaffirmed that the existing renovated Marina/Lighthouse/Guardhouse Building & the existing renovated Restaurant/Marina Club Building will contain uses, including bar & restaurant facilities that were clearly contemplated by the previous approval in 2021. Mr. McManus testified that the approval during the previous application clearly recognized the proposed uses as satisfying the standards of the Redevelopment Ordinance & the underlying NWMZ Regulations. The section entitled: "Principal Permitted Uses" contained in the NWMD Regulations underlying the Phase I Redevelopment Overlay Zone lists conditional water-oriented uses such as restaurants, bars & taverns. Mr. McManus opined that the incorporation in the Redevelopment Ordinance of "All other non-residential uses permitted in the NWMZ District" and the listing of restaurants, bars & taverns in the NWMZ Regulations under a section entitled "Principal Permitted Uses" makes restaurants, bars & taverns principal permitted uses pursuant to the Amended Redevelopment Zone Ordinance. This conclusion, Mr. McManus testified, is supported by a key stated purpose of the NWMD Regulations is "to more effectively provide for an appropriate mix of water-dependent & water-oriented uses designed to maximize the use of the City's bayside waterfront, including vertical development, and to enhance the opportunities for economic development in the form of new & expanded housing, dining & recreational facilities in the City as part of the City's comprehensive development scheme." In addition, a key land use planning philosophy incorporated in the City of North Wildwood's Master Plan pursuant to Section 6.4.3 of the 2010 Master Plan Re-Examination is the development of bars & taverns as permitted uses in the Block 152 marina zone as part of the overarching objective of enhancing economic development & tourism – both policies reiterated & reaffirmed in the 2018

Master Plan Re-Examination report as part of the Economic Development Policy to “Utilize all the tools & powers available to the City through the *Local Redevelopment & Housing Law*, Urban Enterprise Zone & other pro- development programs to support economic development.” Mr. McManus opined that, pursuant to the Amended Redevelopment Ordinance, said uses are principal permitted uses & this is consistent with purposes & policies contained in the 2018 Master Plan. Mr. McManus noted that the City Council adopted Municipal Resolution No. 274-21 Approving Place-to-Place (Pocket to Sited Premises) liquor license transfer to locations including the existing Lighthouse & restaurant, and found, among other things, “that the premises are suitable for . . . purposes [of selling & serving alcoholic beverages]”. He opined that Municipal Resolution No. 274-21 can be viewed as consistent & in harmony with the Amended Redevelopment Plan & 2018 Master Plan. Mr. McManus testified that even if the Amended Redevelopment Ordinance & Plan were inapplicable & the Board’s review were to be solely based on the NWMZ Regulations treatment of the addition of the bar & tavern use as a “conditional use”, the only condition that needs to be satisfied is that the existing or renovated Lighthouse & Marina Restaurant/Club buildings constitute “Development that serves the general public & derives economic benefit from direct access to the water body along which it is proposed, such as a hotel or restaurant, if it takes full advantage of a waterfront location.” Mr. McManus testified that both the existing or renovated Lighthouse & the Marina Restaurant/Club buildings are located directly at the water’s edge taking full advantage of their unique location, including direct access to the waterfront walkway, unimpeded views of bayside vistas, and ready access to the marina docks. In addition, he noted that the Planning Board in April 2021 approved, as is illustrated on Exhibit A-4, the new Lighthouse & Marina Restaurant/Club buildings with restaurant & bar service facilities in essentially the same waterside location of the property abutting the boardwalk. Similarly, the NJDEP previously reviewed the proposed restaurant/food & beverage use pursuant to N.J.A.C. 7: &-1.5 AND 7: &-9.23(m) and found such use permitted pursuant to substantially the same water-oriented use definition codified in the local, Ordinance at § 267-7. As a result, the only putative condition contained in the NWMZ Regulations, i.e., that the food & beverage use be water-oriented and take full advantage of the waterfront location, has already been acknowledged by CAFRA, the Municipal Council & the local approval history of the property, and is satisfied. Mr. McManus underscored that the foregoing finding is reinforced when one takes into consideration that the accessory use provision contained in the NWMZ Regulations at Section C(14) which expressly provides that waterside dining, beverage, and bar service, in the outdoor areas of the site, including, for example, the marina docks, are permitted accessory uses. In addition, Mr. McManus noted that Section 2 the Amended Redevelopment Ordinance entitled “Accessory Permitted Uses” provides that “All uses accessory & incidental to the principal use(s)” are permitted. Moreover, Mr. McManus explained that the renovated Lighthouse building bar was an enclosed structure with service windows & that the seating for the bar was under roof but outside of the bar proper & therefore opined that the seating for the bar constituted “outdoor seating.” In his opinion, the bar could not be strictly defined as an “open air”, or “outside bar”. However, Mr. McManus noted that the NWMZ Regulations Accessory Uses section contemplates outdoor dining, seating & bars at the waterside. Mr. McManus additionally explained that the Board in its April 2021 preliminary & final siteplan approval of the Phase 1 siteplan approved 1st floor commercial uses in the new Lighthouse building which include food & beverage service with a bar; an enlarged 4-story Marina Restaurant/Club building which includes a 2-story restaurant facility with bars, keg refrigerators, wine rooms & the like; 3rd floor marina club all with food & bar/tavern facilities, 4th floor marina pool club also with food and bar/tavern facilities that connects via an elevated bridge/walkway to the proposed Phase 2 mixed-use hotel/condominium building containing additional food & beverage and bar amenities to which the Board gave preliminary siteplan approval also last April 2021. As a result, in Mr. McManus’s opinion the addition of alcoholic beverage sales & service by virtue of the acquired license being transferred for use at the property would be compatible with the existing or renovated Lighthouse & Marina Restaurant/Club buildings, the waterside site areas permitted by Municipal Resolution No. 274-21 approving the Liquor License transfer to those areas, and also with the previously approved principal uses all of which take full advantage of the waterfront location & with the goals of the City’s Master Plan.

Mr. McManus also pointed out that the Redevelopment Plan specifically exempts the existing Lighthouse & Marina Restaurant/Club from any parking requirements. Mr. McManus reiterated that the Board previously reviewed the Amended Redevelopment Plan & NWMZ Ordinance & found both to be consistent with the City's Master Plan. Mr. McManus testified that the Applicant's proposal was designed to meet the requirements of the Master Plan, the Amended Redevelopment Plan, and the NWMZ Regulations. Mr. McManus opined that the Applicant's proposal satisfies both the short/long-term goals & objectives of these documents. Mr. McManus 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 are no substantial detriments to public good, and the Applicant's proposal does not impair the intent or purpose of the redevelopment ordinance, the Ordinance or Zoning Map.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated July 5, 2022 which was received by the Board & which is incorporated for reference. Mr. Petrella reviewed & confirmed the relief sought by the Applicant for the benefit of the Board. He reviewed the history of the Board's consistency review of the amended redevelopment plan & the North Wildwood Marina district. Mr. Petrella also indicated that he agreed with McManus, that the redevelopment plan specifically exempted the existing or renovated Lighthouse and restaurant from any parking requirement. The application required no variances or waivers.

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 variance/siteplan approval. Each Board member gave reasoning for their view of the facts & the application as it relates to the application. Mr. O'Connell "volunteered" for the finding of facts. Mr. O'Connell reiterated to the address and Block & Lot of the property as stated in the application. The property is located in the NWMZ Zoning District & it is currently developed with a multi-unit senior citizen housing & marina. The Applicant is the owner of the Property, as such, has standing to appear before the Board requesting amended siteplan approval. The Property is Ordinance governed by the Block 152 Amended Redevelopment Ordinance and Plan that address zoning regulations specific to the Phase 1 portion of this site & which constitute an overlay zone within the NWMZ District. The Property is currently developed with multiple principals uses & structures & mixed-uses, specifically, pertinent here, a structure identified as the Lighthouse/Guardhouse building & an existing Marina Restaurant/Club building along with an existing apartment complex which provides affordable housing to senior citizens, and commercial space. As the portion of the Block 152 subject to this Application lies within the Phase 1 Amended Redevelopment Area of which Applicant Beach Creek Marina, Inc. is the landowner, the renovation & utilization of the existing Lighthouse & Marina Restaurant/Club buildings are deemed to be consistent with the Amended Redevelopment Plan specifically authorizes "in an effort to facilitate the implementation of the Final Restructuring Plan & in furtherance of facilitating the expeditious rehabilitation & repair of the senior housing, . . . that Beach Creek Marina, Inc., or its designee, shall have the right to make improvements to the marina & restaurant structures located in the Phase I Redevelopment Overlay Zone in accordance with applicable building requirements & allowances provided herein and/or otherwise pursuant to the NWMZ District requirements." The Applicant is requesting preliminary & final siteplan amended approval, supplementing but not altering in anyway the approvals previously received in March 2021, to (A) acknowledge that pursuant to the Amended Redevelopment Ordinance & Plan the selling & serving of alcoholic beverages are a Principal Permitted Use in & from the existing and renovated Lighthouse & Marina Restaurant/Club buildings, and (B) confirm that the use of the existing or renovated Lighthouse & Marina Restaurant/Club buildings conform with all applicable

bulk, dimensional & other civil engineering site requirements. The March 2021 approvals remain in place & are not affected by this supplemental approval. The Amended Redevelopment Plan is not in any way altered or modified by this supplemental approval. Based on the record before it, the Board finds that pursuant to the Amended Redevelopment Plan & Ordinance the sale of alcohol in & from the existing, renovated Lighthouse & existing, to be renovated restaurant are principal permitted uses. Even if there were no Amended Redevelopment Plan & Ordinance overlay zone, and only the NWMZ Regulations were applicable, the Applicant has made a persuasive showing that the existing & renovated Lighthouse & Marina Restaurant/Club buildings & the designated outdoor areas pursuant to City Council Resolution No. 274-21 with food & beverage service, including the sale of alcoholic beverages, satisfy the condition as “water-oriented” uses contained in those Regulations. The Board finds that the Applicant’s proposal is compatible with the surrounding mixed-use neighborhood & specifically meets the intent & purpose, the goals & objectives of the Amended Redevelopment Plan, the NWMZ District & the City’s Master Plan. The Board found Mr. Cocoziello & Mr. McManus testimony to be credible & persuasive. The Board determined that the Applicant’s proposal presented limited substantial detriments to the public good & would not impair the intent & purpose of the Zoning Map & Ordinance. The Board found that the Applicant did establish that granting the requested approval of siteplan would advance the purposes of Zoning, to the public good, to the City’s municipal Land Use Ordinances & to the City’s Zoning Map. The Board finds that the Applicant has satisfied the requirements for variance/siteplan approval. No additions or correction to the finding of facts. No discussion on the facts.

Chairman Davis requested that due to the situation expressed to the Board, that the Board memorialized the Resolution at tonight’s meeting so that the Applicant can proceed with construction. The Board majority agreed.

The Board Solicitor called for a motion to approve the of the Resolution as discussed. Motioned by Vice Chair DiEduardo & 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. Based on the majority roll-call vote being affirmative, the Resolution was approved by the Board.

I) ZONING OFFICER REPORT:

Dan Spiegel, Zoning Officer/Construction Official, had nothing to report for tonight’s meeting.

J) PUBLIC PORTION:

Chairman Davis then opened the meeting for general public comment. Mr. Joseph Garwryskiak 1222 West 12th Avenue spoke to the Board regarding construction occurring at 124 West 12th Avenue which has issued Construction Permit for house raising & renovation project. Said Construction was authorized by the Construction Official by issued Construction Permit. Mr. Garwryskiak described his existence in North Wildwood & construction of the house renovation. The property is an undersized lot. Mr. Garwryskiak disputes the issuance of the Construction Permit based on existing law & Ordinance requirements. Mr. Garwryskiak provided his evidence of case law & documentation as to why the construction at the property should not been authorized. It was Mr. Garwryskiak opinion’s that the owner/contractor caused total destruction & modified construction without proper construction review & authorized permits. It was Mr. Garwryskiak opinion the current construction is an expansion of the use, outside the boundaries of the issued construction permit & requires Planning Board approval.

Mr. Garwryskiak provided large amount of paper documentation, to which the Board Solicitor informed same that a review of the info is needed & a response will be forthcoming after looking into the project file. 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.

K) APPROVAL OF MINUTES:

The Board Solicitor presented to the Board the approval the June 15, 2022 Board 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 DiEduardo & 2nd by Mr. Miller. Based on the affirmative majority roll-call vote of the Board members to memorialize the Meeting Minutes, the Meeting Minutes were approved.

It is recommended that the City's Ordinances be amended so that Public Works Department be the approving authority.

L) UNFINISHED BUSINESS: None presented.

M) COMMUNICATION(S):

The Board Solicitor mentioned that the City Business Administrator requested information on how trash (and recycling) receptacles are review & approval of same. All Planning Board applications look at this specifically & the location of same. Most of the issues are existing buildings with the added aspect of the change of the City's waste hauler.

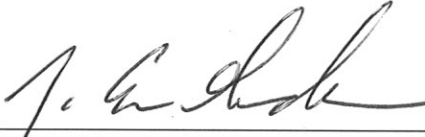
N) REPORTS: None presented.

O) MEETING ADJOURNED:

Meeting was adjourned at 10:04pm, on motioned by Mr. Greenland & 2nd Mr. Harkins. Based on the affirmative roll-call vote of the Board members, the motion to adjourn was approved.

APPROVED: _____

8/12/22
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.

