

North Wildwood Planning Board  
 Regular Meeting: June 15, 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	Present	Mr. William Green	Present
Mr. John Harkins	Present	Councilman David Del Conte	Absent
Mr. George Greenland	Absent	Mr. Bill O'Connell	Present
Mr. Bill Auty (Alt. 1)	Present	Ms. Valeria DeJoseph (Alt. 3)	Present
Mr. Ron Peters (Alt.2)	Absent	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-22-4-2 - Joe Kane**

1308 Delaware Avenue

Block 119.03; Lot 2

R-2 Zoning District

'c' variance relief in order to construct a deck which encroaches into the front & sideyard setbacks

The Board heard & considered the application of Joseph W. Kane (Applicant), the owner of the property located at 1308 Delaware Avenue, a/k/a Block 119.03, Lot 2 (Property), seeking 'C' variance relief in relation to minimum frontyard setback (10 feet is required whereas 7.1ft. is existing & 1.1ft. is proposed), and minimum sideyard setback (six (6) feet is required whereas 3.5ft. & 3.6ft. are existing & proposed), in order to construct a deck to the 1st living level along Hoffman Canal alley. The property has frontage along Delaware Avenue, but all proposed work shall involve in the rear of the property along Hoffman Canal alley. The Property is located in the R-2 Zoning District & it is currently developed with a single-family dwelling.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Mr. O'Connell & 2nd by Vice Chair DiEduardo. 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. Auty & Ms. DeJoseph abstained from the vote.

**Application No.: Z-22-3-2 - Shoreline, LLC**

404 Surf Avenue

Block 278; Lot 12

R-1.5 Zoning District

Condition Use/siteplan approval – new duplex residential construction.

The Board heard & considered the application of Shoreline, LLC (Applicant), owner of the property located at 404 Surf Avenue, a/k/a Block 278, Lot 12 (Property), seeking minor subdivision approval to create one (1) 60ft. x 106ft. lot & one (1) 50ft. x 106ft. lot & Conditional Use approval in order to construct a single family semi-detached (duplex) dwelling each proposed lot.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Mr. Harkins & 2nd by Mr. Green. 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. Auty & Ms. DeJoseph abstained from the vote.

**Application No.: P-22-4-2 - 421 W. Spruce Avenue, LLC & DWM RE Holdings, LLC**

(aka Don Martin RE office & Dairy Queen)

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

The Board heard & considered the application of 421 W. Spruce Avenue, LLC & DWM RE Holdings, LLC (Applicant), owner of the property located at 421 & 429 W. Spruce Avenue, a/k/a Block 102, Lots 19.01

& 19,02 (Property), seeking amended preliminary & final siteplan approval, 'C' variance relief in relation to maximum lot coverage (80% is permitted whereas 87.9% is proposed) & a curb cut width waiver (25ft. is permitted whereas 35ft. is proposed), in order to address deviations to an approved siteplan which resulted in the issuance of a notice of zoning violation.

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. Based on the majority roll-call vote being affirmative, the memorialization was approved by the Board. Board member Chief Stevenson abstained from the vote.

H) NEW BUSINESS:

**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).

Mr. John Amenhauser, Esq. of the DeWeese Law Firm appeared before the Board on behalf of the Applicant. Mr. Amenhauser outlined the nature of the application & identified the relief sought in connection with same for the benefit of the Board. The Applicant is proposing to install a swimming pool in a frontyard adjacent to Ash Avenue. Mr. Amenhauser advised the Board that the Applicant is the owner of the Property which is located in the City's Townhouse (TH) Zoning District & it is currently developed with a Townhome, containing two (2) units which are both owned by the Applicant. Mr. Amenhauser informed the Board that the Property is an irregularly shaped lot which contains frontage along two public rights-of-way, St. Vincent Court & Ash Avenue. In light of the fact that the site contains frontage along two (2) public rights-of-way, there are two frontyards, two sideyards, and no rearyard. Accordingly, a variance is required in order to install a proposed pool in the frontyard adjacent to Ash Avenue.

Vincent Orlando, P.E., P.P., L.L.A., C.M.E. with Engineering Design Associates (EDA), 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 & planning and he was placed under oath to testify before the Board from the proposed variance plan dated April 8, 2022 & last revised April 21, 2022, prepared by the Hyland Design Group, which was received by the Board, and which is incorporated herein as fact. Mr. Orlando reviewed the existing & proposed site conditions for the benefit of the Board. Mr. Orlando advised the Board that the Applicant is seeking approval to install a pool in the rear of the structure adjacent to Ash Avenue. In light of the fact that Ash Avenue is a public right-of-way, the proposed location of the pool is located in a frontyard & requires variance relief in order to install same. Mr. Orlando testified that Ash Avenue is not utilized as an actual roadway & it is essentially an access drive utilized by a neighboring property. He indicated that Ash Avenue is not a paved roadway & there is no curbing or sidewalk installed along same. Mr. Orlando testified that the Applicant is also requesting a variance to permit a 5ft. wrought iron fence in the front yard along the Ash Avenue property line whereas only a 4ft. fence is permitted. Mr. Orlando indicated that the neighboring property maintains a 6ft.

vinyl fence in the front yard. He advised the Board that the Applicant intends to install landscaping along the Ash Avenue property line in order to provide additional privacy & a buffer to the proposed pool. Mr. Orlando opined that in light of the characteristics & use of Ash Avenue, the proposal to install a pool at the subject property presents no detriments to the public good nor does it impair the intent or purpose of the Zoning Map or Land Development Ordinance.

Board Members questioned the location of the proposed pool equipment. As a condition of approval, the Applicant will relocate proposed pool equipment to the area where HVAC units are proposed, approximately 8ft. to 10ft. from an existing shower enclosure. Mr. Orlando opined that the Applicant is experiencing a hardship due to the unique conditions affecting the Property as it is irregularly shaped & contains frontage along two (2) public rights-of-way. Mr. Orlando testified that Ash Avenue was developed after the Property was developed, and he indicated there are no properties in the surrounding neighborhood along Ash Avenue which are impacted by this proposal.

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

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 TH 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. Mr. Amenhauser & Mr. Orlando reviewed the nature of the application; he identified the location of the proposed swimming pool with building setbacks. They provided testimony in relation to the need for variance relief. Mr. Orlando's testimony was deemed credible by the Board. The Property is unique in that it contains frontage along two (2) public rights-of-way, St. Vincent Court & Ash Avenue, and contains two (2) front, two (2) side, and no rear yard. The Applicant is proposing the installation of a swimming in a frontyard adjacent to Ash Avenue. The Board received no public comment to the variance relief sought by the Applicant. With respect to the "c" variance relief sought by the Applicant, the Board finds that the Applicant has presented sufficient justification to grant the variance relief associated with this application. The Board acknowledged that the property is an irregular sized lot with two (2) frontyards; however, 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. Green & 2nd by Vice Chair DiEduardo. 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.

**Application No. Z-22-3-1 HHN, Inc. (aka Owen's Pub)**

119 E. 17<sup>th</sup> Avenue

Block 204; Lot 13, 14, & 15

CBD Zoning District

Preliminary & final site plan approval & 'c' Variance to establish an outdoor seating/bar area

The Application submitted by HHN, Inc. proposes to permanently establish an outdoor seating/bar area & requests a preliminary & final site plan approval & 'c' Variance relief at the property located at 119 East 17<sup>th</sup> Avenue, a/k/a Block 204, Lot 13, 14, & 15 in the City's Commercial Business District (CBD) Zoning District.

John Amenhauser, Esquire of the DeWeese Law Firm appeared before the Board on behalf of the Applicant & the relief sought in connection with same for the benefit of the Board.

After several discussions on the specific use of the shipping container for the outdoor bar by the Board members, Applicant & his attorney, the Applicant requested tabling the application till the August meeting to work out detail regarding same. Board members were almost united that the shipping container was not the aesthetic building thought to be harmonic to the neighborhood. It was desirable to the most of the Board that a separate or attached building be utilized for the outdoor bar.

Mr. Amenhauser discussed the myriad of issues & substantial changes that were expected to the siteplan as discussed with the Board & Applicant & Mr. Amenhauser, that all parties decided that more time is necessary to properly submit the requested/required documentation & plans. Mr. Amenhauser 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 possible review & interpretation of the siteplan. Mr. Amenhauser requested time until the August meeting to submit revised documentation, which was granted.

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 waiver 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 August 10, 2022 meeting & no further public notice will be or is required to be provided. With that being said, the application was adjourned.

**Planning Board Resolution No. PB-08-2022** – Amendment to Land Development Ordinance – Elimination of the provision of the R-1.5 Zoning District to permit construct two-family dwellings as Conditional Uses while following the R-2 Zoning District Conditional Use standards.

Pursuant to N.J.S.A. 40:55D-26 & N.J.S.A. 40:55D-64, prior to the adoption of a development regulation, revision, or amendment thereto, the governing body is required to refer said regulation to the Planning Board for its review & comment in order to ensure that the proposed regulation, revision or amendment is consistent with the municipality's current Master Plan, and the Planning Board is required to prepare a report, to be submitted to the governing body, outlining the Board's findings in relation to the consistency of said regulation to the municipality's Master Plan.

The City of North Wildwood's governing body on June 8, 2022, the City of North Wildwood's governing body introduced Ordinance 1882, entitled "An Ordinance Amending & Supplementing Ordinance 1177, As Amended" which proposes to eliminate two-family dwellings as permitted conditional uses within the

R-1.5 Zoning District. Prior to the adoption of a development regulation, revision, or amendment thereto, the governing body is required to refer said regulation to the Planning Board for its review & comment in order to ensure that the proposed regulation, revision or amendment is consistent with the municipality's current Master Plan & pursuant to N.J.S.A. 40:55D-26, following its review of the proposed development regulation, revision, or amendment thereto, the Planning Board is required to prepare a report, to be submitted to the governing body, outlining the Planning Board's findings in relation to the consistency of the proposed regulation to the municipality's Master Plan. The Board's meeting on June 15, 2022, which was duly-noticed public meeting, the Planning Board reviewed & discussed proposed Ordinance No. 1882 to determine if said Ordinance was consistent with the City's current Master Plan, and the Board ultimately found that the proposed Ordinance was acceptable & further found that same is consistent with the current Master Plan. Accordingly, the Planning Board resolves to recommend that the Council of the City of North Wildwood formally adopt Ordinance 1882.

The Board Solicitor called for a motion to approve the Resolution as discussed. Motioned by Mr. O'Connell & 2nd by Mr. Harkins. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the Resolution was approved by the Board.

I) ZONING OFFICER REPORT:

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

The Board had several questions to the Zoning Officer regarding the Marina Bay Towers property opening a bar & restaurant in an existing structure. The Board Engineer opined that the existing restaurant & bar were still valid under the previous siteplan approval for the building of the Marina Bay Towers, however, the Board & Board Solicitor disputed this fact due to the recent Board approval of the Ocean Bay Club/Marina Bay Towers siteplan. Additionally, it was raised that the Zoning District has been changed to the North Wildwood Marina Bay Zoning District.

Board members discussed the Ocean Bay Club/Marina Bay Towers siteplan with all conditions of approval imposed upon the development plan. Several conditions of the approval have not been completed or started as apparently stated by the Board members, yet the development of the restaurant/bar was started without City approvals. Several Board members opined that the previous restaurant/bar approvals have been superseded by the new Ocean Bay Club/Marina Bay Towers siteplan approval. The "change of use" always had come to the Board for approval prior to any action by City Council.

Apparently, the City issued a mercantile license & zoning permit to open the existing restaurant/bar use that has not been open since Superstorm Sandy (10 years ago). After much discussion, the Board & Zoning Officer agreed that the use is a conditional use regarding siteplan approval by the Board. Several Board members discussed that the City issued permits/licenses. The Board Solicitor discussed that the use was "abandoned" rather to the opinion of the Board Engineer. The crux of the issue was the Zoning District has changed under the lawsuit/mediation lawsuit vs. the City. Chief Stevenson outlined the Alcohol Beverage Control Commission (ABC) requirements for the site. There is also a question about the true licensed premises of the ABC siteplan approval. A majority of the Board member(s) & Board Solicitor agreed that siteplan approval is required. The City is moving forward towards "broader" enforcement of the property. Board members debated the various construction, mercantile, ABC, planning, siteplan, etc., requirements that have not been met by the property owner. A "place-to-place" licensing to serve alcohol drinks was approved by City Council. Several Board members expressed their confusion with the Marina Bay restaurant property & opening of the existing restaurant structure when the recent overall siteplan approval envisioned a bigger & grander

restaurant building(s) as part of the new Ocean Bay Club development. The regulation of outside music in outside seating areas was used as an example of recent City Council approval utilizing several establishments that came to the Board recently. The City will move towards enforcing its requirements for approvals in the very near future.

The Zoning officer can process a change of use as long as that use is a permitted use.

The Board also hypothetically discussed the property at New York & 16<sup>th</sup> Avenue(s) that was a former liquor store. The property transferred the liquor license to the new location on New Jersey Avenue. The property, according to Board members, can no longer be a liquor store, for the use is said to be abandoned. It was expressed that this property should not open as a new liquor store. Another example of the warehouse/former Little Club as a bar, at the location of New York & 17<sup>th</sup> Avenue(s). The use was a warehouse, as per City Tax Assessor records, however garage doors were installed. The Little Club bar use was abandoned. This use was abandoned. The vertical expansion of the warehouse footprint did come to the Board approval.

As to the Marina Bay Towers restaurant/bar issue, the Board suggested that Mr. Spiegel go with the Police Department, ABC members & Code Enforcement officials as one team to resolve the opening of the Marina Bay restaurant property.

At this point in time, Chief Stevenson was excused from the rest of the Board's meeting by Chairman Davis.

Board members expressed their frustrations over the debacle of Marina Bay Towers court & siteplan approval saga & historical story. Mr. Spiegel expressed his frustrations over the proceedings of the property.

The Board & Zoning Officer also discussed house elevations not completed on the date of imposition of prohibition for the summer for house elevations. Mr. Spiegel mentioned enforcement summons are being sent to the offending properties posthaste, being sent out on the day of the start of the prohibition period. Additionally, shipping containers & "Pods" are becoming a problem, as discussed by Mr. Spiegel & the Board members. Mr. Spiegel is addressing this with City administration with amending new Ordinance giving him the enforcement authority he needs to address the situation/problem(s). The Board also mentions refrigeration outside coolers at businesses up in the Entertainment District.

J) PUBLIC PORTION:

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

K) APPROVAL OF MINUTES:

The Board Solicitor presented to the Board the approval the May 18, 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 Mr. Miller & 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.

L) UNFINISHED BUSINESS: None presented.

Mr. Green questioned if the application tonight could have benefited with a work session rather than present a formal application. The majority of the Board expressed that no conceptual review could have been done.

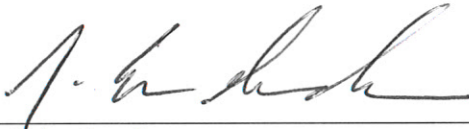
M) COMMUNICATION(S): None presented.

N) REPORTS: None presented.

O) MEETING ADJOURNED:

Meeting was adjourned at 8:25pm, on motioned by Ms. DeJoseph & 2nd Mr. O'Connell. Based on the affirmative roll-call vote of the Board members, the motion to adjourn was approved.

APPROVED: 7/14/22  
Date

  
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J. Eric Gundrum  
Board Secretary

*This is an interpretation of the action taken at the meeting by the Secretary, and not a verbatim transcript.*