

North Wildwood Planning Board
Regular Meeting: April 12, 2023
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	Scott McCracken	Absent
Mr. John Harkins	Present	Councilman James Kane	Absent
Mr. George Greenland	Present	Mr. Bill O'Connell	Present
Mr. Bill Auty (Alt. 1)	Present	Ms. Valeria DeJoseph (Alt. 3)	Present
Mr. Ron Peters (Alt. 2)	Present	Sharon Cannon (Alt. 4)	Present
	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:

Application No: Z-22-11-1 W & O Associates, LLC

431 East 25th Avenue

Block 289; Lot 8

OS Zoning District

Use Variance – dormitory housing proposed, with “c” variances for parking

The Board Secretary announced receiving an email in timely fashion from the Applicant's attorney requesting the adjournment of the above referenced application.

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 May 17, 2023 meeting & no further public notice will be or is required to be provided. With that being said, the application was adjourned.

G) MEMORIALIZATIONS:

Application No.: P-23-1-3 Jersey Development Group, LLC

228 West 14th Avenue

Block 144; Lot 8

R-2 Zoning District

Condition Use/Siteplan approval – construction of residential duplex

The Board heard & considered the application of Jersey Development Group, LLC (Applicant), owner of the property located at 228 West 14th Avenue, a/k/a Block 144, Lot 8 (Property), seeking conditional use approval in order to construct a single family semi-detached (duplex) dwelling on a 50ft. x 100ft. lot within the R-2 Zoning District & a waiver for continuous raised curb (25ft. is required whereas 20ft. is proposed).

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Mr. O'Connell & 2nd by Ms. Cannon. 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(s) Mr. Greenland, Mr. Miller, Mr. Auty & Mr. Peters abstained from the vote.

H) NEW BUSINESS:

As to the combined Board format as formulated under the NJ-Municipal Land Use Law (NJ-MLUL), Mr. Miller as Mayor's designee identified he had a conflict with the next application, stepped down for the next application(s) & took a seat in the public seating area.

Application No: P-23-3-2 City of North Wildwood

499 East 2nd Avenue (Inlet Beach/Lou Booth Amphitheater)

Block 317.03, Lots 1 & 1.01

Major subdivision approval

Inlet Conservation (I/C) Zoning District

The Board heard & considered the application of the City of North Wildwood (City), a municipal corporation of the State of NJ with offices located at 901 Atlantic Avenue, North Wildwood, NJ 08260, owner of the property identified as Block 317.03, Lots 1 & 1.01 (Property), seeking major subdivision approval to subdivide an existing 147.47-acre parcel of property in order to create five (5) individual lots.

Michael Donohue, Esq. of the Law Offices of Blaney Donohue & Weinberg, P.C. located in Avalon, NJ, & Solicitor to the City of North Wildwood, appeared on behalf of the City & he reviewed the nature of the

Application for the benefit of the Board. Mr. Donohue advised the Board that the Property is comprised of two (2) lots that are located on the Beach along the oceanfront which essentially run the entire length of the City. The lots in question are located in the IC (Inlet Conservation) & OC (Oceanside Conservation) Zoning Districts. Mr. Donohue indicated that the City is proposing to subdivide the Property in order to create five (5) conforming individual lots. The newly proposed lots are as follows:

Lot 1 – 16,186SF; Lot 2 – 1.06 acres; Lot 3 – 1.06 acres; Lot 4 – 94.91 acres; & Lot 5 – 50.08 acres.

A proposed Plan of Subdivision, consisting of two (2) sheets, dated March 29, 2023, prepared by Ralph Petrella, Jr. of Van Note-Harvey Associates, Inc., was received & reviewed by the Board, and same is incorporated herein as fact.

In light of the number of lots proposed, the City's proposal seeks Major Subdivision Approval. Mr. Donohue informed the Board that the City is preparing to renovate the Lou Booth Amphitheater & the size of the Property presents practical issues associated with NJDEP permitting fees & required public notice to property owners located within 200ft. of same. Mr. Donohue indicated that the proposed improvements to the Lou Booth Amphitheater necessitates that the City obtain a CAFRA permit from the NJDEP. The fee associated with said permit is tied to the size of the lot in question, with a maximum fee of \$32,000 permitted. He further indicated that providing notice to property owners located within 200ft. of the Amphitheater would necessitate providing notice to a substantial number of property owners who are not located within 200ft. of the Amphitheater, but who would be entitled to notice due to the size of the existing lot. Mr. Donohue opined that the proposed subdivision would remedy these financial issues & would serve to benefit the City & its taxpayers. In response to a question posed by the Board, Mr. Donohue indicated that, aside from the proposed improvements to the Amphitheater, no additional development is proposed, & the City does not intend to sell any of the newly created lots.

The Board did not receive a review memorandum from Board Engineer Ralph Petrella of Van Note-Harvey Associates, Inc. due to a conflict of interest as Mr. Petrella's firm, Van Note-Harvey Associates, Inc., is the entity that prepared the plan of subdivision in connection with this application.

Chairman Davis then opened the application for general public comment. No public members wished to speak on behalf of the application 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/minor subdivision 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 IC & OC Zoning District(s) on a conforming lot. The City is proposing to subdivide the Property in order to create five (5) lots. The proposed subdivision is requested in order to alleviate excessive permitting fees & notice requirements associated with the Property due to the size of the lots & the fact that same essentially runs the entire length of the City. The Board finds that the Applicant has presented valid reasons which advance the purposes of Zoning which justify the granting of the aforementioned approval. In addition, the Board finds that the fact that the Property meets all requirements which provides additional justification for granting the requested major subdivision approval. The Board found that the Applicant did establish that granting the major subdivision approval 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 major 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 of the Resolution as discussed. Motioned by Vice Chair DiEduardo & & 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. Board member Ms. Cannon did not need to vote.

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

Application No.: P-23-1-4 Joseph & Susan Surina

213 East 14th Avenue

Block 238; Lot 21

R-1 Zoning District

'c' variance relief for frontyard in order to construct a new front porch

The Application submitted by Joseph & Susan Surina seeks 'c' variance relief in order to construct an addition & a new front porch at the property located at 213 East 14th Avenue, North Wildwood, NJ, a/k/a Block 238, Lot 21. The property is located in the R-1 Zoning District. The application seeks a frontyard setback variance for the frontyard porch.

Applicant & his attorney, John Amenhauser, Esq., requested tabling the application till the May meeting to work out details regarding same. Board members were almost united that the non-conforming foundation location was problematic & was not the aesthetic vista thought to be harmonic to the neighborhood. It was desirable to the most of the Board that a conforming/"fresh start" of new construction would be beneficial. The property has plenty of room to accommodate the new residence. 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 May meeting to submit revised documentation, which was granted by the Board.

Previous to the May meeting, Mr. Amenhauser submitted a formal withdraw of the application in writing to the Board Secretary. The Board Secretary & Board Solicitor both announced to the Board & members of public that the application was formally withdrawn & would not be considered further by the Board.

Application No.: P-17-10-1(c) BG Capital, LLC

2203 Boardwalk

Block 291.01; Lot 1

SPRA Zoning District

Amended siteplan approval – new bar on pier deck footprint

The Board heard & considered the application of BG Capital, LLC (Applicant), the tenant of the property located at 2203 Boardwalk, a/k/a Block 219.01, Lot 1 & Block 317.03, part of Lot 1 (Property), seeking amended preliminary & final siteplan approval & a waiver to permit a ratio of 197 bar seats to 745 restaurant seats in excess of the permitted 10 to 1 restaurant to bar seat ratio set forth within the Seaport Pier

Redevelopment Plan, in order to construct three (3) new outdoor bars containing a total of forty-two (42) new bar seats.

Ms. Lyndsy M. Newcomb, Esq. appeared before the Board on behalf of the Applicant & outlined the nature of the application & the relief sought in connection with same. Ms. Newcomb advised the Board that the Applicant is the designated redeveloper & current tenant/operator of the Property which is located within the Seaport Pier Redevelopment Area. The Property is the home of the Seaport Pier which consists of a bar, a police substation, concert venues, a swimming pool & a lounge chair area. Ms. Newcomb advised the Board that the Applicant is seeking amended preliminary & final siteplan approval in order to construct three (3) new outdoor bars on site; two (2) bars are proposed to be located along the southeast side of the pier & a 3rd bar is proposed to be located in the area of the pool. No variance relief is required in connection with this application; however, the Applicant is requesting a waiver to exceed the permitted 10 restaurant seats to every one (1) bar seat ratio set forth within the redevelopment plan.

Joseph Byrne, a member of BG Capitol, LLC, was present at the meeting & he was placed under oath & was sworn in to testify before the Board. Mr. Byrne advised the Board that the proposal to construct three (3) new bars at the Seaport Pier will allow the business to address crowd control issues that have been experienced during busy nights & large-scale events. He indicated that the additional bars will allow for the provision of more seating & will eliminate large open deck areas where people tend to congregate which presents potential security concerns. Mr. Byrne testified that the Seaport Pier is planning to offer breakfast service this summer & the addition of two (2) bars along the southeast side of the Pier will allow the business to take advantage of the oceanfront location & views. With respect to the proposed pool bar, Mr. Byrne testified that same will allow the Seaport Pier to better service the needs of guests utilizing the on-site pool. He indicated that the pool bar will also provide added convenience to servers by eliminating the distance between existing bars & the pool thereby expediting service. In response to a question posed by the Board, Mr. Byrne testified that there have been no security issues over the past several seasons; however, the business is seeking to address what it perceives to be potential security/loitering issues by eliminating large open deck areas & providing further control of the sale & consumption of alcoholic beverages. Mr. Byrne confirmed that a total of forty-two (42) bar seats are proposed spread out between the three (3) proposed bars. Mr. Byrne indicated that over the course of the past five (5) years, the Seaport Pier has maintained a clean operating record. He indicated that the Pier has received two (2) citations during this timeframe & both of the citations were related to Covid-19 restrictions enacted by the State of NJ in relation to occupancy limits. He opined that the large open deck areas created difficulties in complying with the state's Covid-19 regulations & this proposal will afford the business further control over its operation. It should be noted that the Covid-19 occupancy limits have since been eliminated by the State of NJ.

Jennifer Iannacone, R.A., a registered architect with BG Capital, LLC, appeared before the Board on behalf of the Applicant. Ms. Iannacone was accepted by the Board as an expert in the field of architecture & she was placed under oath & testified from the proposed architectural plans, dated January 11, 2023, which were received by the Board & which are incorporated herein as fact. Ms. Iannacone testified that the two (2) bars proposed along the SE side of the pier are approximately 30ft. in length & same will each contain a total of fifteen (15) bar seats each. The proposed pool bar will be L-shaped, 12ft. in each direction & same will contain a total of twelve (12) bar seats. Ms. Iannacone testified that all three (3) of the proposed bars are approximately 500SF in size. She indicated that occupancy standards would allow the bars to accommodate a total of 71 occupants; however, the occupant has elected to significantly reduce the number of bar seats provided for quality control purposes. Ms. Iannacone advised the Board that the Seaport Pier Redevelopment Plan permits a restaurant seat to bar seat ratio of 10 to 1. She indicated that the Applicant received a waiver to exceed the aforementioned ratio back in 2020 & the Applicant is now proposing a ratio of 197 bar seats to 745 restaurant

seats necessitating and additional waiver to permit same to further exceed the permitted 10 to 1 ratio. The proposed ratio would be equivalent to approximately 10 restaurant seats to 3 bar seats. In response to a question posed by the Board, Ms. Iannacone reviewed the existing floor plan & she confirmed the number of bar seats and restaurant seats & their current locations. Ms. Iannacone opined that the Applicant's proposal is consistent with the Seaport Pier Redevelopment Plan.

The Board did not receive a review memorandum from Board Engineer Mr. Petrella in light of the minimal development proposed & the fact that same requires no variance relief from the Board. Mr. Petrella was in attendance at the meeting & he confirmed that the Redevelopment Agency had approved this expansion.

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

- a. Denise Foley, owner of the property located at 465 East 24th Avenue, appeared & she was placed under oath to testify before the Board. Ms. Foley expressed concerns in connection with noise she contends emanates from the Seaport Pier. She indicated that she has concerns with the addition of three (3) new bars & the impact that patrons will have on the surrounding neighborhood.

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.

In response to the concerns raised by the Public, Mr. Byrne testified that the business purchased a decibel reader & ensures that music does not play past 12pm. He indicated that the music/noise associated with the Seaport Pier is consistent with that of the general boardwalk. Mr. Byrne advised the Board that no new speakers are proposed in connection with the three (3) proposed bars. As a condition of approval, the Applicant will ensure that no new sound equipment is installed in connection with the three (3) proposed bars. In addition, Ms. Iannacone testified that the construction of three (3) new bars will serve to further buffer noise/sound as the areas where said bars will be constructed are currently open deck.

The Board members then discussed & summarized the application as presented. The Board then discussed the finding of facts on the variance/minor subdivision 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 Sea Port Pier Redevelopment Area (SPRA) Zoning District. The Applicant proposes an additional bar on the current pier footprint, within confines of the existing Sea Port Pier footprint. No expansion of the pier is expected. Amended siteplan approval is requested by the Applicant. The Board finds that the Applicant has presented valid reasons which advance the purposes of Zoning which justify the granting of the aforementioned approval. In addition, the Board finds that the fact that the Property meets all requirements which provides additional justification for granting the requested siteplan approval. The Board found that the Applicant did establish that granting the siteplan approval would advance the purposes of Zoning, to the public good, to the City's municipal Land Use Ordinances, the Redevelopment Plan & to the City's Zoning Map. 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 of 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. Board members Ms. DeJoseph & Ms. Cannon did not need to vote.

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

Application No: Z-22-12-2 Paula Jean & Joanne DiGiuseppe

324 East 15th Avenue

Block 267; Lot 11

R-1 Zoning District

Use Variance approval for construction of duplex in R-1 single-family Zoning District

The Board heard & considered the application of Paula Jean & Joanne DiGiuseppe (Applicant), owners of the property located at 324 East 15th Avenue, a/k/a Block 267, Lot 1 (Subject Property), seeking a D(1) Use variance, 'C' variance relief in relation to off-street parking (seven (7) off-street parking spaces are required whereas four (4) off-street parking spaces are proposed), minimum sideyard setback (eight (8)ft. is required whereas six (6)ft. is proposed), minimum total sideyard setback (20ft. is required whereas 12ft. is proposed), & a waiver for continuous raised curb (25ft. is required whereas 15ft. is proposed), in order to construct a single-family semi-detached (duplex) dwelling & an in-ground swimming pool. The property is located in the R-1 Zoning District, single-family home district.

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 located in the R-1 Zoning District & same is currently developed with a multi-family dwelling which contains three (3) residential units that was built in the 1940s. The Applicant is proposed to demolish the existing structure & is proposing to construct a single-family semi-detached (Duplex) dwelling. In light of the fact that duplexes are not a permitted use in the R-1 Zoning District, the Applicant is requesting a D(1) Use variance. Mr. Barnes advised the Board that the proposed duplex was designed in accordance with the R-2 Zoning District area & bulk requirements & same was designed to appear as if it were a single-family dwelling. The proposed duplex was designed in a "townhouse style" & each unit will contain 2,500SF & a total of six (6) bedrooms. Mr. Barnes advised the Board that the proposed duplex is limited to two (2) habitable floors over ground floor storage & off-street parking. Mr. Barnes reviewed the variance relief requested in connection with this Application. He advised the Board that a request for a variance in relation to the minimum distance between a proposed pool & principal structure has been eliminated as the Applicant has elected to relocate the proposed pool to comply with the requirements of the Ordinance.

Joanne DiGiuseppe, one of the Applicants and an owner of the property, appeared & she was placed under oath to testify before the Board. Ms. DiGiuseppe advised the Board that her grandfather originally built the existing structure in 1948 & her family has owned the property for the past 75 years. She advised the Board that historically her family has occupied two (2) of the existing units & the 3rd unit was either rented seasonally, or used to accommodate friends & family. Ms. DiGiuseppe testified that her family has grown significantly over the years & the existing structure no longer meets the family needs. The existing structure does not have central heat or air. Ms. DiGiuseppe advised the Board that renovating the existing structure would require that the home be raised to comply with the applicable Base Flood Elevation (BFE) & same is cost-prohibitive. She stated that the proposed structure was designed in order to ensure consistency with the surrounding neighborhood. Ms. DiGiuseppe indicated that the property currently provides two (2) off-street parking spaces which encroach into the public right-of-way.

Paula DiGiuseppe, one of the Applicants & an owners of the Property, appeared & she was placed under oath to testify before the Board. Ms. DiGiuseppe advised the Board that her family has long ties to the City of

North Wildwood & they intend to continue to utilize the proposed structure with their family. She indicated that there is no intention to rent the units, and the family is proposing to eliminate one of the existing units in order to provide additional space for their growing family.

Ms. Lauren Thomsen, R.A. of Lauren Thomsen Design, Architecture & Planning, LLC appeared on behalf of the Applicant & she was recognized as an expert in the field of architecture. Ms. Thomsen was placed under oath & she testified from the proposed Sit/Architectural Plans, dated November 10, 2022 & last revised January 23, 2023, which were received by the Board & which are incorporated herein as fact. Ms. Thomsen reviewed the existing & proposed site conditions for the benefit of the Board. She advised the Board that the proposed duplex was designed to accommodate the needs of the DiGiuseppe family, and, in effort to mirror uses permitted in the R-1 Zoning District, same was designed to appear as if it is a single-family dwelling. Ms. Thomson indicated that the proposed structure is compliant with all applicable building, fire & flood codes whereas the existing structure does not. Ms. Thomsen reviewed the proposed architectural elevations for the benefit of the Board. She indicated that each unit will contain the same amount of livable space & the structure itself was designed with an asymmetrical approach with articulating facades in order to ensure consistency with the surrounding neighborhood. Ms. Thomsen testified that there is one (1) entrance visible from the street & the 2nd unit entrance is recessed underneath of a covered porch. Ms. Thomsen reviewed the proposed floor plans for the benefit of the Board. The ground floor will accommodate off-street parking & storage space. The 1st floor of living space will contain a living room, dining room, kitchen & one (1) bedroom. The 2nd floor of living space will contain a total of five (5) bedrooms. She indicated that the proposed floor plans are identical for each unit. Ms. Thomsen testified that the structure was designed with six (6) feet sideyard setbacks whereas eight (8) feet is required. She opined that complying with the minimum sideyard setback would significantly impact the design of the structure & would limit the amount of off-street parking provided on site.

In response to a question posed by the Board, Paula DiGiuseppe testified that a total of eight (8) bedrooms are currently located on site between all three (3) existing units. She advised the Board that while six (6) bedrooms are proposed within each duplex unit, not all of the rooms will function as a bedroom; however, she indicated that it's possible that said rooms would all be occupied as bedrooms from time-to-time & she felt that it was appropriate to be up front about the situation rather than designate rooms as alternative uses.

Brian Murphy, P.E., P.P. of M.V. Engineering, LLC was also present at the meeting on behalf of the Applicant. Mr. Murphy was accepted by the Board as an expert in the field of engineering & land planning, and he was sworn in to testify with respect to the proposed siteplan & to provide justification for the requested variance relief. Mr. Murphy distributed an aerial photograph & spreadsheet which identifies a number of duplex & multi-family uses that currently existing in the surrounding neighborhood which was received by the Board & which was marked as Exhibit A-1. Mr. Murphy testified that over half of the existing lots in the surrounding neighborhood are developed with duplex or multi-family uses which contain a minimum of two (2) residential units. Mr. Murphy opined that the fact that a significant number of properties in the surrounding neighborhood are developed with duplexes & multi-family dwellings establishes that the Applicant's proposal is consistent with same. He further testified that the Applicant's proposal does not exceed applicable density requirements. Mr. Murphy testified that the fact that the structure was designed to appear as if it were a single-family dwelling is consistent with the permitted uses in the R-1 Zoning District, and he confirmed that the Applicant could build a single-family dwelling nearly identical to the size of the structure proposed. Mr. Murphy reviewed & confirmed the variance relief & waiver requested in connection with the Applicant's proposal. Mr. Murphy advised the Board that the existing multi-family dwelling located on site is a non-conforming use which provides deficient off-street parking, as neither of the existing off-street parking spaces conform with required parking space dimensions & both spaces encroach into the City right-of-way. Mr. Murphy testified that the Applicant is proposing to provide four (4) fully conforming off-street parking spaces.

He acknowledged that in order to provide said parking spaces, one (1) on-street parking space would be eliminated; however, he argued that the situation will result in a net-positive gain of parking. Mr. Murphy 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:

- b. 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;
- 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;
- g. Provides sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial & industrial uses and open space, both public & private, according to their respective environmental requirements in order to meet the needs of all NJ citizens; and
- i. Promotes a desirable visual environment through creative development techniques & good civic design & arrangement.

Mr. Murphy further opined that 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. Murphy testified that the Property is particularly suited to accommodate the proposal duplex use as a triplex currently exists on site. He argued that the Applicant's proposed amounts to down zoning the property. Mr. Murphy testified that the Property will be developed with less units, it will provide more off-street parking & the use is consistent with the neighborhood. He argued that it is unrealistic to believe that single-family development will occur given the number of pre-existing duplexes & multi-family dwellings that currently exist in the neighborhood.

In response to a question posed by the Board, Mr. Murphy testified that each unit will contain approximately 2,500SF, and same is less dense than several existing nearby multi-family dwellings. In response to a question posed by the Board, Mr. Murphy testified that there are technically six (6) off-street parking spaces provided on site; however, two (2) spaces are stacked within the garage & as such they cannot be counted.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated April 3, 2023 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. As a condition of approval, the Applicant will submit a landscaping & grading plan to the Board Engineer for review & approval.

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

- a. Dominic Meduri, owner of the property located at 421 East 15th Street, appeared & he was placed under oath to testify before the Board. Mr. Meduri advised the Board that he supported the Application & he indicated there has not been a parking issue associated with the Property.

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/minor subdivision 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 Single-Family Zoning District & same is currently developed with a multi-family dwelling containing a total of three (3) residential units. The existing multi-family dwelling

is a pre-existing non-conforming use. The Applicant is proposing to demolish the existing multi-family dwelling & is proposing to develop a single-family semi-detached (duplex) dwelling on site along with an in-ground swimming pool. In light of the fact that duplexes are not a permitted use in the R-1 Zoning District, a Use variance is requested. The proposed duplex was designed utilizing the R-2 area & bulk regulations and same was also designed to appear as if it were a single-family dwelling. Said plans were prepared by Lauren Thomsen, R.A. Ms. Thomsen appeared before the Board, she was recognized as expert in the field of architecture & she testified on behalf of the Applicant. Ms. Thomsen reviewed the existing & proposed site conditions for the benefit of the Board. Mr. Thomsen reviewed the architectural elevations/floor plans for the benefit of the Board. She advised the Board that the proposed duplex units will each provide 2,500SF & she discussed architectural features which were incorporated into the design of the structure in an effort to create a desirable visual environment. Ms. Thomsen opined that the design of the structure is consistent with existing structures in the surrounding neighborhood. The Board found Ms. Thomsen's testimony to be credible and persuasive. Mr. Murphy provided justification for the requested variance relief. Mr. Murphy discussed the existing non-conforming use in comparison to the proposed duplex. He identified a number of pre-existing non-conforming uses in the surrounding neighborhood which are consistent with the Applicant's proposal. Mr. Murphy provided testimony in relation to the positive & negative criteria which he contends supports granting the relief sought by the Applicant. Mr. Murphy opined that the Property is particularly suited to accommodate the proposed duplex use. The Board found Ms. Thomsen's, Mr. Murphy's & DiGiuseppe's testimony to be credible & persuasive. With respect to D(1) Use & '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 granting of the aforementioned variances. The Board finds that the Applicant has presented valid reasons which advance the purposes of Zoning which justify the granting of the aforementioned approval. In addition, the Board finds that the fact that the Property meets all requirements which provides additional justification for granting the requested Use Variance/siteplan approval. The Board found that the Applicant did establish that granting the Use Variance/siteplan approval would advance the purposes of Zoning, to the public good, to the City's municipal Land Use Ordinances, the Redevelopment Plan & to the City's Zoning Map. 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 of the Resolution as discussed. Motioned by Vice Chair DiEduardo & & 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. Board members Mr. Peters, Ms. DeJoseph & Ms. Cannon did not need to vote.

Application No: Z-23-1-1 802 NY Ave LLC

204 West 8th Avenue

Block 150, Lot 8

R-2 Zoning District

Use/Height Variance approval for construction of Single-family home on undersized lot

The heard & considered the application of 802 New York Avenue, LLC (Applicant), owner of the property located at 204 West 8th Avenue, a/k/a Block 150, Lot 8 (Property), seeking a D(6) Use - maximum building height variance (24ft. is permitted whereas 31.84ft. is proposed), 'c' variance relief in relation to minimum lot area (4,000SF is required whereas 3,000SF is existing & proposed), minimum lot frontage (40ft. is required whereas 30ft. is existing & proposed), and minimum lot width (40ft. is required whereas 30ft. is existing & proposed), and a waiver for continuous raised curb (15ft. is required whereas 13ft. is proposed), in order to construct a single-family dwelling on an undersized lot located in the R-2 Zoning District.

Cory Gilman, Esq. appeared on behalf of the Applicant & outlined the nature of the application & the relief sought in connection with same. Mr. Gilman advised the Board that the Property is a vacant, undersized 30ft. x 100ft. lot located in the R-2 Zoning District. The Applicant is proposing to develop the Property with a single-family dwelling. Mr. Gilman advised the Board that the proposed single-family dwelling was designed in conformance with §276-34(B)(9) which establishes modified area & bulk regulations in relation to the dimensions of undersized lots. Mr. Gilman indicated that, with the exception of building height, the proposed single-family dwelling complies with, and/or exceeds the area & bulk requirements set forth within §276-34(B)(9).

Brian Newswanger, R.A. of Atlantes Architects appeared on behalf of the Applicant & he was recognized as an expert in the field of architecture. Mr. Newswanger was placed under oath & he testified from the proposed Site/Architectural Plans, dated November 2022, & last revised January 17, 2023, which were received by the Board & which are incorporated herein as fact. Mr. Newswanger reviewed the existing & proposed site conditions for the benefit of the Board. Mr. Newswanger confirmed that the Property is an existing, undersized 30ft. x 100ft. lot located in the City's R-2 Zoning District. He indicated that the Property has been vacant for approximately a decade & the Applicant is now proposing to develop a single-family dwelling with a garage & storage space on the ground floor. Mr. Newswanger testified that the proposed frontyard setback to the structure exceeds the minimum 10ft. requirement, and the proposed garage is setback approximately 33ft. in order to facilitate off-street parking. Mr. Newswanger testified that setting the building back further than the minimum required will also ensure that the views of neighboring properties are maintained. A design waiver is requested in relation to continuous raised curb as 15ft. is required whereas the Applicant is proposing 13ft. Mr. Newswanger informed the Board that a 12ft. curb cut is proposed which will be aligned with the garage door in order to facilitate off-street parking. He confirmed that the requested waiver will not result in the loss of any on-street parking. Mr. Newswanger testified that the proposed single-family dwelling will provide 6ft. sideyard setbacks whereas four (4) ft. are permitted, a rearyard setback of 10ft. 2inches whereas 10ft. is required, and proposed lot & building coverages are well below that which is permitted in the Zoning District. Mr. Newswanger further testified that the structure was designed in an effort to maintain consistency with neighboring properties while not overdeveloping the site. With respect to the D(6) Use - maximum building height variance, Mr. Newswanger opined that the increase in building height is requested in order to facilitate off-street parking & storage space at the ground floor. Two (2) off-street parking spaces are provided on site, one (1) within the garage & a 2nd in the driveway. Mr. Newswanger testified that the proposed building height is also consistent with neighboring properties whereas a building constructed at 24ft. would appear to be out of place in comparison to existing structures within the surrounding neighborhood. He further noted that conforming lots within the R-2 Zoning District are permitted to be developed with structures up to 36ft. Mr. Newswanger reviewed the proposed floor/architectural elevations for the benefit of the Board. He advised the Board that the 1st floor of living space will contain a living room, kitchen, and one (1) bedroom, and the 2nd floor of living space will contain two (2) bedrooms & additional living space. Mr. Newswanger highlighted several architectural features which were implemented in the design of the structure in an effort to create a desirable visual environment. Mr. Newswanger distributed a packet of documents containing the proposed plans & a rendering of the structure which was received by the Board and which was marked as Exhibit A-1. Mr. Newswanger 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:

- c. 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;
- d. Secures safety from fire, flood, panic & other natural & man-made disasters;
- c. Provides adequate light, air & open space;

- 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. Newswanger further opined that 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. In addition, Mr. Newswanger testified that the Applicant is experiencing a hardship due to the fact that the Property is an undersized lot which presents practical difficulties in relation to complying with the requirements of the R-2 Zoning Ordinance.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated April 3, 2023 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. As a condition of approval, the Applicant will submit a grading plan to be reviewed & approved by the Board Engineer.

Chairman Davis then opened the application for general public comment. No public members wished to speak on behalf of the application 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/minor subdivision 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-2 Zoning District.

The Applicant is the owner of the Property & requests a D(6) Use/Height variance, 'c' variance relief & design waiver for continuous raised curb. The Property is an undersized, vacant 30ft. x 100ft. lot that is located in the R-2 Zoning District. The Applicant is proposing to develop a single-family dwelling on site. The proposed single-family dwelling was designed in conformance with §276-34(B)(9) which establishes modified area & bulk regulations in relation to the dimensions of undersized lots. Mr. Newswanger appeared before the Board, he was recognized as expert in the field of architecture & he testified on behalf of the Applicant. Mr. Newswanger reviewed the existing & proposed site conditions for the benefit of the Board. Mr. Newswanger reviewed & confirmed the variances sought in connection with this Application & testified as the basis for the requested D(6) Use - maximum building height variance. Mr. Newswanger provided testimony in relation to the positive & negative criteria which supports granting the relief sought by the Applicant. He identified several of the purposes of Zoning which he contends are advanced in connection with this Application, and he opined that there are no substantial detriments to the intent or purpose of the Zoning Map & Land Development Ordinance nor is there a detriment to the public good or surrounding community in connection with the proposed project. The Board found Mr. Newswanger's testimony to be credible & persuasive.

With respect to D(6) Use Variance & '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 granting of the aforementioned variances. Notwithstanding, the Board finds that, with the exception of building height, the proposed single-family dwelling complies with, and/or exceeds the area & bulk requirements set forth within §276-34(B)(9). In addition, the Board found that the Applicant's proposal is consistent with the surrounding neighborhood & that the site can accommodate the increase in building height as same is still below the maximum permitted building height allowed on a conforming lot within the R-2 Zoning District. With respect

to D(6) Use Variance & ‘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 granting of the aforementioned variances. The Board further finds that the Applicant is experiencing a hardship in relation to the fact that the subject property is an undersized lot which presents practical difficulties in complying with the requirements of the R-2 Zoning District. The Board finds that the Applicant has presented valid reasons which advance the purposes of Zoning which justify the granting of the aforementioned approval. In addition, the Board finds that the fact that the Property meets all requirements which provides additional justification for granting the requested Use/Height Variance/siteplan approval. The Board found that the Applicant did establish that granting the Use/Height Variance/siteplan approval would advance the purposes of Zoning, to the public good, to the City’s municipal Land Use Ordinances, the Redevelopment Plan & to the City’s Zoning Map. 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 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. Board members Mr. Peters, Ms. DeJoseph & Ms. Cannon did not need to vote.

Application No.: Z-22-10-2 John Morton

1206 Central Avenue
Block 208; Lot 13
R-1 Zoning District
Use Variance – expansion of non-conforming use, installation of swimming pool & shed to multi-unit property

The Board heard & considered the application of John & Michael Morton (Applicant), owners of the property located at 1206 Central Avenue, a/k/a Block 208, Lot 13 (Property), seeking a D(2) Use variance for the expansion of a non-conforming use, and ‘c’ variance relief in relation to minimum lot area (5,000SF is required whereas 4,500SF is existing & proposed), minimum lot frontage (50ft. is required whereas 45ft. is existing & proposed), minimum lot width (50ft. is required whereas 45ft. is existing & proposed), minimum sideyard setback (10ft. is required whereas 4.5ft. and 4.9ft. are existing & proposed), minimum rearyard setback (10ft. is required whereas 5ft. is existing & proposed), and minimum accessory building distance to other building (8ft. is required whereas 4.1ft. and 6.3ft. is proposed), in order to construct an in-ground swimming pool & to legalize a non-conforming accessory shed. The property is located in the R-1 Single-family Zoning District, and consists a multi-unit property.

Lyndsy Newcomb, Esq. appeared on behalf of the Applicant & outlined the nature of the application & the relief sought in connection with same. Ms. Newcomb advised the Board that the Property is an undersized 45ft. x 100ft. lot that is currently developed with two (2) structures containing a total of three (3) residential units located in the R-1 Zoning District. The existing multi-family use is a pre-existing non-conforming use. Ms. Newcomb advised the Board that, since purchasing the Property, the Applicant has significantly renovated the existing structures located on site without requiring variance relief. The Applicant demolished two (2) accessory structures which were attached to one of the principal structures. Subsequently, the Applicant obtained a zoning permit in order to construct a new shed which was proposed to comply with all applicable setback requirements. Ms. Newcomb advised the Board that during an inspection of the proposed accessory shed, it was determined that same had been constructed too close to the principal structure. Ms. Newcomb indicated that Applicant was unaware that there was a requirement regulating the minimum distance between a

principal & accessory structure. Despite the distance issue, she noted that the shed complies with all applicable setback requirements. The Applicant is requesting variance relief in order to maintain the accessory shed in its existing location. In addition, the Applicant is requesting a D(2) Use variance for the expansion of the pre-existing non-conforming use in order to construct an in-ground swimming pool on site.

John Morton, the Applicant & an owner of the Property, appeared & he was placed under oath to testify before the Board. Mr. Morton testified that he currently owns one of the residential units & lives on site year-round. He indicated that his brother, Michael Morton, occupies one of the other units & a tenant lives in the 3rd unit. Mr. Morton testified that he & his brother purchased the subject property in 2016 & have since replaced the roof, reconstructed the driveway, sidewalk & curbs, and completed interior/exterior renovations. Mr. Morton advised the Board that when he purchased the Property there were two (2) accessory sheds located on site which were connected to the principal structures, and said sheds have since been demolished. Mr. Morton distributed a packet of three (3) photographs depicting the former structure & sheds which was received by the Board & which was marked as Exhibit A-1. Mr. Morton testified that he recently constructed a new detached shed on site. He advised the Board that he obtained a Zoning Permit from the City & was advised that a construction permit was not required. Mr. Morton testified that after the shed was completed, he was advised that the shed had been built too close to the principal structure & either needed to be relocated or variance relief would need to be obtained from the Board. Mr. Morton advised the Board that the shed complies with the required side/rearyard setbacks; however, he indicated that he was unaware that a minimum distance was required between accessory & principal structures. In addition to seeking relief in connection with the accessory shed, Mr. Morton testified that he is also proposing to construct a 10ft. x 22ft. in-ground swimming pool on site. Mr. Morton distributed a color rendering depicting the proposed pool which was received by the Board & which was marked as Exhibit A-2.

Mr. Morton testified that a fence is proposed around the pool which will also have a self-latching gate, and concrete & landscaping is proposed around the perimeter of the pool.

Harold E. Noon, Jr., P.L.S., P.P. of GeoSurv New Jersey, LLC, appeared before the Board on behalf of the Applicant. Mr. Noon was accepted by the Board as an expert in the field of land surveying & planning and he was placed under oath & testified from the proposed site plan, dated March 12, 2022 & last revised June 13, 2022, which was received by the Board & which is incorporated herein as fact. Mr. Noon reviewed the existing & proposed site conditions for the benefit of the Board. Mr. Noon testified that the site contains a pre-existing non-conforming multi-family use which consists of three (3) residential units located in two (2) individual structures. Mr. Noon advised the Board that while the existing use is non-conforming, the site is not overdeveloped as a maximum lot coverage of 80% is permitted whereas 53.2% exists & 58.1% is proposed. Mr. Noon advised the Board that, as recently of 2018, two (2) attached accessory sheds were located on site. Said sheds have since been eliminated & the Applicant built a new detached wood shed which necessitates variance relief due to its location & proximity to the principal structure. Mr. Noon reviewed the dimensions of the proposed in-ground swimming pool & he confirmed that same meets all applicable area & bulk requirements; however, due to the fact that a pre-existing non-conforming use exists on site, a D(2) Use variance is required in connection with construction of the proposed pool. Mr. Noon 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; and
- b. Provides adequate light, air & open space.

Mr. Noon further opined that the site is particularly suited to accommodate the proposed expansion of the non-conforming use as the use exists & there is no additional living space proposed in connection with this

Application. He indicated that, in connection with the proposed pool, lot coverage will remain well below that which is permitted in the Zoning District. Mr. Noon testified that in-ground pools are common in the surrounding neighborhood, and the Applicant's proposal is consistent with same. With respect to the non-conforming accessory shed, Mr. Noon reiterated that the shed complies with the required side/rearyard setbacks, & the only property impacted by the location of same is the Applicants. Mr. Noon opined that 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.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated January 27, 2023, 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. Two (2) individuals addressed the Board in connection with this application, namely:

- a. Raymond Arnold, owner of the property located at 131 East 13th Avenue, appeared & he was placed under oath to testify before the Board. Mr. Arnold expressed concerns about the proposed pool & noise that he expects will emanate from same. Mr. Arnold indicated the he believes that the shed located on site should fully comply with the City's Ordinance. Mr. Arnold expressed concerns in connection with the behaviors of his neighbor.
- b. Ann Marie Arnold, owner of the property located at 131 East 13th Avenue, appeared & she was placed under oath to testify before the Board. Mrs. Arnold expressed concerns in connection with the location of the proposed pool & that fact that same was visible from Central Avenue. She expressed additional concerns in connection with the aesthetics of the site.

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

Mr. Morton testified that he has not received any noise complaints or summonses since he has owned the Property. As a condition of approval, a fence will be constructed along the rear property line in order to provide a buffer to neighboring properties. With respect to the shed, Mr. Morton testified that the shed was constructed in connection with a valid Zoning Permit; however, the location of the shed & the identified distance to the principal structure were incorrect & same was only discovered after the shed had been fully constructed.

City Zoning Officer Daniel Spiegel was present at the meeting & he confirmed that the Applicant did in fact obtain a Zoning Permit prior to constructing the shed. He indicated that the distance between the shed & the principal structure was not depicted on the plans that accompanied the permit application. He further confirmed that a Construction Permit was not required in order to build the shed.

In response to a question posed by the Board, Mr. Morton testified that he is proposing to construct a solid fence in front of the pool & he intends to implement landscaping in order to provide a visual buffer to Central Avenue. As a condition of approval, the Applicant will install a four (4) ft. vinyl fence with landscaping between the proposed fence & driveway adjacent to Central Avenue. Board Members expressed concerns in relation to the pool's location & the proximity of same to the driveway. As a condition of approval, the Applicant will install parking bollards between the driveway and the fence, subject to the review & approval of the Board Engineer.

The Board members then discussed & summarized the application as presented. The Board then discussed the finding of facts on the variance/minor subdivision 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 Single-Family Zoning District. The Applicant is the owner of the Property & has standing to come before the Board in order to request a D(2) Use variance & 'c' variance relief. The Property is an undersized 45ft. x 100ft. lot that is currently developed with two (2) structures containing a total of three (3) residential units, and same is located in the R-1 Zoning District. The Applicant is before the Board requesting a D(2) Use variance in order to construct an in-ground pool on site & 'c' variance relief in relation to the minimum distance between an accessory shed & other building. Mr. Noon reviewed the existing & proposed site conditions for the benefit of the Board. Mr. Noon reviewed & confirmed the variances sought in connection with this Application & he confirmed that the accessory shed complies with the required side/rearyard setbacks. Mr. Noon provided testimony in relation to the positive & negative criteria which supports granting the relief sought by the Applicant. A minority of Board Members expressed concerns in relation to the location of the pool & the fact that same, while not in a frontyard, appears to be visible from Central Avenue. He identified several of the purposes of Zoning that are advanced in connection with this Application, and he opined that there are no substantial detriments to the intent or purpose of the Zoning Map or Land Development Ordinance nor is there a detriment to the public good or surrounding community in connection with the proposed project. The Board found Mr. Noon's testimony to be credible & persuasive. In addition, the Board found that the Applicant's proposal is consistent with the surrounding neighborhood & that the site can accommodate the expansion of the pre-existing non-conforming use.

The Board elected to take two (2) votes on the relief sought by the Applicant. One vote dealt with the need for a D(2) Use variance for the proposed expansion of the non-conforming use & the construction of the pool, and the 2nd vote dealt with the 'c' variance relief associated with the accessory shed. With respect to D(2) Use Variance & '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 variances. The Board finds that the Applicant has presented valid reasons which advance the purposes of Zoning which justify the granting of the aforementioned approval. In addition, the Board finds that the fact that the Property meets all requirements which provides additional justification for granting the requested Use Variance/siteplan approval. The Board found that the Applicant did establish that granting the Use Variance/siteplan approval would advance the purposes of Zoning, to the public good, to the City's municipal Land Use Ordinances, the Redevelopment Plan & to the City's Zoning Map. 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.

For the shed approval, The Board Solicitor called for a motion to approve the of the Resolution as discussed. Motioned by Vice Chair DiEduardo & & 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. Board members Mr. Peters, Ms. DeJoseph & Ms. Cannon did not need to vote.

For the swimming pool approval, The Board Solicitor called for a motion to approve the of the Resolution as discussed. Motioned by Vice Chair DiEduardo & & 2nd 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. Based on the majority roll-call vote being affirmative, the Resolution was approved by the Board. Board member Mr. O'Connell did vote no on the application. Board members Mr. Peters, Ms. DeJoseph & Ms. Cannon did not need to vote.

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

RESOLUTION NO. PB-04-2023 – Resolution approving Land Development Ordinance amendments – Chapter 276-35 - Parking

Pursuant to the New Jersey Municipal Land Use Law (NJ-MLUL), specifically N.J.S.A. 40:55D-25 & 40:55D-28, Municipal Planning Boards are granted the authority to adopt or amend a Municipality’s Master Plan, or a component thereof; and in 2018 the City of North Wildwood Planning Board conducted a review & reexamination of the City’s Master Plan & a reexamination of the City’s Land Use Ordinance, which was reduced to writing in the form of a report entitled “Master Plan Reexamination Report (Master Plan)” dated September 2018. On April 4, 2023, the City’s governing body introduced Ordinance 1899, entitled “An Ordinance Amending & Supplementing Ordinance 1177, as Amended” which proposes to address issues associated with off-street parking throughout the City. At its April 12, 2023 duly-noticed public meeting, the Board reviewed & discussed proposed Ordinance No. 1899 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 City’s Master Plan.

The Board finds that proposed revisions to off-street parking requirements to address issues associated with safety, site accessibility & the orientation of off-street parking spaces to public roadways advances the health, safety & general welfare of the community & will address recurrent issues that have arisen in relation to off-street parking. The Board hereby recommends that proposed Ordinance 1899 be adopted by the City governing body as it finds that same is consistent with the findings & recommendations set forth within the City Master Plan Reexamination Report. Accordingly, the Board resolves to recommend that the Council of the City of North Wildwood formally adopt Ordinance 1899.

The Board Solicitor called for a motion to approve the of the Resolution as discussed. Motioned by Mr. Harkins & & 2nd by Ms. Cannon. 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, City Zoning Officer, brought up the aspect of “carports” as they pertain to being defined as a garage for required parking or as a stone-alone carport with open sides, but roofed over. The definition of “carport” is not found in the Ordinance currently & there is recommendation to maybe include one. Circumstances are that a Construction Permit application was submitted for required parking utilizing a carport which was interpreted by Planning & Zoning staff as a garage, which did not meet the minimum requirement of 20 feet from the property line.

The Board debated the aspect of carport vs. garage. The Board Engineer opinioned that as a carport, the 20 feet minimum does not apply. The purpose of the 20-foot minimum is avoid vehicles parking on the sidewalk. The Board opinioned that a carport is not a garage. The 20-foot minimum is paramount for public safety. Most of the “duplex looking like a single-family” dwelling meet the 20 foot minimum. Carport must meet the 10-foot dwelling setback. The Board debated what constitutes a “carport” which typically is a tent-like structure that is not fasten to the ground, a portable structure.

The Board settled that carports by themselves are not permitted, based on Chapter 276-5(A) – “All uses not expressly permitted in this chapter are prohibited.”

The Board was updated on the current situation with the previous application at 10th & Delaware Ave(s) with the removal of the shed, meeting approval/compliance of the Board. This originally was a Zoning Enforcement action which brought the application to the Board for approval.

Board member Mr. O’Connell brought up the sales of “Condotels.” The Board express the originally action/enactment of the Zoning Use Compliance statement/process whenever someone buys a condotel unit is put on notice of the requirements of the “Condotel” Ordinance. Mr. O’Connell express his concerns how the Ordinance will be implemented. The Board also mentioned that a future city-wide meeting of representatives of the Condotels will be notified of the requirements of the Ordinance.

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 March 8, 2023 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. Harkins. Based on the affirmative majority roll-call vote of the Board members to memorialize the Meeting Minutes. Mr. Greenland, Mr. Auty & Mr. Peters abstained from the vote.

L) UNFINISHED BUSINESS:

RESOLUTION 03-2023 – Designation of City Newspapers for public notice as required by NJ Municipal Land Use Law (NJ-MLUL) & City Land Development Ordinance

The Board has become aware of certain difficulties of the Atlantic City Press newspaper by several attorneys of development application(s)/Applicants before the Board that public/legal advertisement were not being processed by the AC Press upon submittal of same. In fact, the adjournments referenced above, are due to the AC Press not publishing public notices in a timely manner as required by the NJ-MLUL & Ordinance. Several Applicants had to requests postponements due to a failure of the Atlantic City Press newspaper to timely publish the public notice, despite the fact that the request for public notice were provided to the Atlantic City Press almost a week ahead of time. In fact, the Press has still not responded to any attorney request(s) for confirmation of publication despite numerous communications from the attorney’s office(s). Allegedly, the Atlantic City Press had a complete breakdown in processing legal/classified advertisements. Based upon the above uncertainty, the Board proposed adding the Cape May County Herald newspaper as an additional newspaper for the purpose of development application public notices in accordance with the NJ-MLUL requirements. The official newspaper(s) for the Board, including, but not limited to; Notices of Decisions of the Board, notices of public meetings & public notices required for development applications to be reviewed & approved by the Board as required by the NJ Municipal Land Use Law *{NJSA 40:55D-1 et. seq.}* & City Ordinance *{Chap. 276-1 et. seq.}*, shall be the Atlantic City Press and/or Cape May County Herald newspaper(s). The Board will amend previously approved Resolution No. 09-2022 with the hereto mentioned Resolution to add an additional newspaper to serve public noticing requirements.

The Board Solicitor presented to the Board the approval of Resolution 03-2023. The Board Solicitor

called for any discussion or corrections to the minutes. No discussion or corrections proposed. Motioned as proposed by Mr. Miller & 2nd by Mr. O'Connell. Based on the affirmative majority roll-call vote of the Board members to approve Resolution 03-2023.

M) COMMUNICATION(S):

The Board Secretary announced receipt of letter/public notice of the NJDOT Division of Maritime Resources for the Beach Creek/Grassy Sound Dredging project. This is a favorable project for the needed shallow waterways.

N) REPORTS: None presented

O) MEETING ADJOURNED:

Meeting was adjourned at 11:51pm, on motioned by Vice Chair DiEduardo & 2nd by Mr. Greenland. Based on the affirmative roll-call vote of the Board members, the motion to adjourn was approved.

APPROVED: _____

5/24/23
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.

