

North Wildwood Planning Board
Regular Meeting: May 17, 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	Absent	Scott McCracken	Present
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)	Absent	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: None presented.

G) MEMORIALIZATIONS:

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.

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 Ms. Cannon abstained from the vote.

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

2300 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.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Mr. Greenland & 2nd by Mr. Harkins. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the memorialization was approved by the Board. Board member(s) Mr. McCracken, Ms. Cannon & Ms. DeJoseph abstained from the vote.

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

324 E. 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 DiGuiseppe (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.

The Board Solicitor called for a motion to approve the memorialization 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 memorialization was approved by the Board. Board member(s) Mr. McCracken, Mr. Miller, Ms. Cannon & Ms. DeJoseph abstained from the 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.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Ms. Cannon & 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(s) Mr. McCracken, Mr. Miller, Ms. Cannon & Ms. DeJoseph abstained from the 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 rear yard 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.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Mr. Greenland & 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 member(s) Mr. McCracken, Mr. Miller, Ms. Cannon & Ms. DeJoseph abstained from the vote.

H) NEW BUSINESS:

RESOLUTION NO. PB-05-2023 – Resolution approving Land Development Ordinance amendment – Chapter 276-20.1 – Oceanside (O/S) Zoning District for restaurants serving alcoholic beverages Chapter 276-46(J) – Conditional Uses for restaurants serving alcoholic beverages in the Pier (P) & Boardwalk (B) Zoning Districts

Pursuant to the NJ Municipal Land Use Law, 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. The Board in 2018 conducted a review & reexamination of the City’s Master Plan & Master Plan Reexamination Report (Master Plan 2018) of the City’s Land Development Ordinance, which was reduced to writing, dated September 2018. Prior to the adoption of an amendment Ordinance development regulation, revision 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.

The Governing Body introduced Ordinance 1904 on May 2, 2023, which proposes to modify applicable conditions/development regulations imposed upon restaurant/tavern establishments engaged in the sale of alcohol in the OS (Oceanside), B (Boardwalk), & P (Pier) Zoning District(s) in an effort to establish regulations consistent with other Zoning Districts throughout the City, and to ensure consistent regulations with the City of Wildwood given the cohesive nature of the Boardwalk. The Board reviewed & discussed proposed Ordinance No. 1904 to determine if said Ordinance was consistent with the City’s current Master Plan, & the Board ultimately found that the proposed Ordinance was acceptable & further found that same is consistent with the current City Master Plan.

The Board hereby recommends that proposed Ordinance 1904 be adopted by the Governing Body as it finds that same is consistent with the findings & recommendations set forth within the Board’s 2018 Master Plan Re-examination Report. Accordingly, the Board resolves to recommend that the Council of the City of North Wildwood formally adopt Ordinance 1904.

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.

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: 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 Application submitted by W & O Associates, LLC seeks preliminary & final siteplan approval, a D(1) Use variance, and ‘c’ variance relief in connection with the proposed development of a three (3) story residential structure containing a total of 18 individual bedrooms to house seasonal workers at the property

located at 431 East 25th Avenue, North Wildwood, NJ, a/k/a Block 289, Lot 8. Steven Morris, Esq. appeared on behalf of the Applicant & outlined the nature of the application & the relief sought in connection with same. The Property is located in the City's Oceanside (OS) Zoning District.

Applicant & his attorney, John Amenhauser, Esq., requested tabling the application till the June meeting to work out details regarding same. Board members were almost united that the application required endorsement of the principals of the corporation owning the property as well as the Gateway 26 property where the required parking will be located & utilized. The lack of parking on-site of the Property 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 the application would be beneficial. Mr. Morris 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, off-site parking & how it relates to the Board's possible review & interpretation of the siteplan. Mr. Morris requested time until the June meeting to submit revised documentation, which was granted by the Board.

The Board Solicitor announced adjournment of the above referenced application by request of the Applicant's attorney/agent. The request for adjournment also provided for time limit wavier under the NJ Municipal Land Use Law {NJ-MLUL} (NJSA 40:55D-1 et. seq.) & the Ordinance (Chap. 276-1 et. seq.) as announced by the Board Solicitor. The Board Solicitor announced to the public that this application will be adjourned to the June 14, 2023 meeting & no further public notice will be or is required to be provided. With that being said, the application was adjourned.

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

Application No: P-23-1-2 Margaret Dempsey Mathis

223 West Chestnut Avenue

Block 159; Lot 17

R-2 Zoning District

'c' variance relief in order to raise & expand an existing single-family dwelling

The Board heard & considered the application of Margaret Dempsey Mathis (Applicant), owner of the property located at 223 West Chestnut Avenue, a/k/a Block 159, Lot 17 (Property), seeking 'C' variance relief in relation to minimum sideyard setback (4ft. is required whereas 1.92ft. & 2.75ft. are proposed), minimum rearyard setback (10ft. is required whereas 9.67ft. is proposed), minimum frontyard setback (10ft. is required whereas 9.58ft. is proposed), and a design waiver for continuous raised curb (12.5ft. is required whereas 11ft. is proposed), in order to elevate the existing single-family dwelling located on site & to construct additions to the front & rear of same building.

John Amenhauser, Esq. appeared on behalf of the Applicant & outlined the nature of the application & the relief sought in connection with same. The Property is located at 223 West Chestnut Avenue, a/k/a Block: 159, Lot: 17, in the City's R-2 Zoning District. A single-family dwelling is currently developed on site & the Applicant is proposing to elevate the existing structure & to construct additions to the front & rear of same. The Applicant is requesting 'C' variance relief to address encroachments into the required four (4) foot sideyard setback, and minimal encroachments within the required 10ft. front & rearyard setbacks. Mr. Amenhauser advised the Board that the Property is an undersized 25ft. x 100ft. lot which presents practical difficulties in complying with the area & bulk requirements of the R-2 Zoning District. Mr. Amenhauser indicated that the undersized lot creates a hardship to the Applicant which would support granting the requested variance relief.

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 Architectural Plans prepared by Pamela Fine R.A, of Fine Architecture, P.C., dated May 31, 2022, 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 testified that the Property is a 25ft. x 100ft. lot which is currently developed with a single-family dwelling. Mr. Newswanger testified that the Applicant is proposing to elevate the existing structure in order to address issues with flooding & to comply with current flood code standards. Mr. Newswanger advised the Board that the existing structure contains a number of pre-existing non-conforming conditions, namely existing sideyard setbacks, which will be exacerbated by the proposed additions; however, he advised the Board that the proposed additions will encroach no further than the existing structure. Mr. Newswanger testified that egress/ingress stairs in the front & rear yards will encroach slightly into the required 10-foot setbacks. He argued that these encroachments are de minimis & would be unnoticeable to the general public. The Applicant is also requesting a design waiver from continuous raised curb requirements in an effort to provide off-street parking on site. Two (2) off-street parking spaces are proposed which complies with the City's parking requirements. Mr. Newswanger testified that the Applicant's proposal will have no impact on neighboring properties or the general public. Mr. Newswanger opined that the Application advances purposes of Zoning, outlined within N.J.S.A. 40:55D-2, and supports the relief sought by the Applicant as it:

- b. Secures safety from fire, flood, panic and other natural & man-made disasters; and
- i. Promotes a desirable visual environment through creative development techniques & good civic design & arrangement.

Mr. Newswanger further opined that the application can be granted as there are no substantial detriments to the public good & the application does not impair the intent or purpose of the Zoning Map & Land Development Ordinance. In response to a question posed by the Board, Mr. Newswanger testified that the front & rear yard setback variances could potentially be eliminated; however, proposed stair landings would not comply with the applicable construction code.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated February 21, 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. 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 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(s). The Property is an undersized 25ft. x 100ft. lot, which is currently developed with a single-family dwelling. The dwelling contains a number of pre-existing non-conforming conditions. The Applicant is proposing to elevate the existing structure in order to address issues with flooding & to comply with current flood code standards, and additions are proposed to the front & rear of the existing structure. The proposed front & rear yard additions do not encroach into the required sideyard setbacks any further than the existing structure currently does. 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 variance approval. The Board found that the Applicant did establish that granting the variance 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 "C" Variance 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 application/Resolution as discussed. Motioned by Mr. Greenland & 2nd by Ms. DeJoseph. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the Resolution was approved by the Board.

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

213 East 14th Avenue

Block 238; Lot 21

R-1 Zoning District

'c' variance relief in order to construct a swimming pool in the rearyard

The Board heard & considered the application of Joseph & Susan Surina (Applicant), owners of the property located at 213 East 14th Avenue, a/k/a Block 238, Lot 21 (Property), seeking 'C' variance relief in relation to minimum accessory pool distance to a deck (8ft. is required whereas 6.6ft. is proposed), and minimum accessory pool distance to a garage (8ft. is required whereas 3.5ft. is proposed), in order to install an in-ground swimming pool at the subject property.

John Amenhauser, Esq. appeared on behalf of the Applicant & outlined the nature of the application & the relief sought in connection with same. The Property is located at 213 East 14th Avenue, a/k/a Block: 238, Lot: 1, in the City's R-1 Zoning District. A new single-family dwelling is currently being constructed on site which conforms to all applicable area & bulk requirements. The Applicant is proposing to install a swimming pool in the rearyard of the Property which requires 'C' variance relief as the location of the proposed in-ground swimming pool does not provide a minimum distance of eight (8) feet to other structures located on site. The Applicant previously appeared before the Board in March in connection with an application that sought multiple 'C' variances in connection with the construction/location of a proposed single-family dwelling being rebuilt without requisite building permits. That Application was ultimately withdrawn prior to the Board taking formal action on same. Mr. Amenhauser stated that the Applicant redesigned the proposed/being constructed single-family dwelling & due to being relocated on site eliminating any variance relief associated with the construction of same.

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 Architectural Plans prepared by Gillis Design Group, LLC, dated April 7, 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 testified that the Property is a 50ft. x 100ft. lot which is currently being developed with a fully conforming single-family dwelling. Mr. Newswanger testified that the previous single-family dwelling that was located on-site encroached within the minimum frontyard setback whereas the single-family dwelling under construction maintains a minimum 10ft. frontyard setback. Mr. Newswanger indicated that providing a conforming frontyard setback impacted available space in the rearyard where the Applicant intended to install an in-ground swimming pool. Mr. Newswanger informed the Board that, due to the location of the proposed swimming pool, 'C' variance relief is required as the pool does not maintain the required eight (8) feet distance to the principal structure & an existing garage. It should

be noted that the proposed swimming pool does comply with the required accessory structure side & rearyard setbacks & same fully conforms to all other applicable requirements with the exception of the distance to other structures located on site. Mr. Newswanger opined that the Applicant's proposal will have no impact on neighboring properties. He indicated that the only property impacted by the proposal is the Property. Mr. Newswanger opined that the Application advances a purpose of Zoning, outlined within N.J.S.A. 40:55D-2, and supports 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.

Mr. Newswanger further opined that the application can be granted as there are no substantial detriments to the public good & the application does not impair the intent or purpose of the Zoning Map & Land Development Ordinance. Mr. Newswanger testified that a fence is proposed around the pool for safety purposes & he confirmed that the proposed fence will comply with the applicable City Ordinance. Mr. Newswanger indicated that if the Applicant proposed to rebuild the single-family dwelling in the location of the prior home, no variance relief would be required in connection with the pool; however, multiple 'C' variances would be necessary in relation to the single-family dwelling. He opined that the revised proposal before the Board is a better use of the land & a better zoning alternative for the site.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated May 8, 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. 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 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 Zoning District(s) on a conforming lot. The Applicant is proposing to install a swimming pool in the rearyard of the Property which requires 'C' variance relief as the location of the proposed in-ground swimming pool does not provide a minimum distance of eight (8) feet distance to other structures located on site. 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 variance approval. The Board found that the Applicant did establish that granting the variance 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 "C" Variance 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 application/Resolution as discussed. Motioned by Ms. Cannon & 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.

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. With attendance of at least seven (7) full Board members in attendance, Board member alternates did not need to vote on the following application; Ms. DeJoseph & Ms. Cannon.

Application No: Z-23-3-4 White Sand II, LLC

141 West Walnut Avenue

Block: 191; Lot: 1.05

D&E Zoning District

Minor subdivision approval to create three (3) individual single-family lots & a D(1) Use Variance to permit the development of three (3) single-family dwellings

The Board heard & considered the application of White Sands, II, LLC (Applicant), owner of the property located at 141 West Walnut Avenue, a/k/a Block 191, Lot 1.05 (Property), seeking minor subdivision approval, preliminary & final siteplan approval, a D(1) Use Variance to permit the development of single-family dwellings, and design waivers in relation to maximum curb cut width – Lots 1.06 & 1.07 (20ft. is permitted whereas 22ft. is proposed), continuous raised curb requirements – Lots 1.06 & 1.07 (21ft. is required whereas 19ft. is proposed), and maximum curb cut width – Lot 1.08 (20ft. is permitted whereas 23ft. 8.25 inches is proposed), in order to create three (3) conforming lots for the development of single-family dwellings. The property is located in the Dining & Entertainment (D&E) Zoning District.

John Amenhauser, Esq. appeared on behalf of the Applicant & outlined the nature of the application & the relief sought in connection with same. The Property is located at 141 West Walnut Avenue, a/k/a Block: 191, Lot: 1.05, in the City's D&E Zoning District. In June of 2018, the subject property was created as a result of a four (4) lot major subdivision. Use variances were granted for the development of residential structures on three (3) of the proposed lots, and the 4th lot, the Property, was maintained for commercial purposes. In January of 2022, the Applicant appeared before the Board in connection with an application to subdivide the Property to create two (2) lots, and Use Variances were requested in connection with the proposed development of single-family semi-detached dwellings. The Applicant ultimately withdrew the request for Use Variance relief, and the Board voted to approve the subdivision to create two (2) conforming lots. Mr. Amenhauser advised the Board that the January 2022 subdivision approvals were never recorded & have since expired. He advised the Board that the Applicant is now proposing a three (3) lot subdivision, and is proposing to develop single-family dwellings on said lots. Mr. Amenhauser distributed a photograph depicting a rendering of the proposed single-family dwellings which was received by the Board and which was marked as Exhibit A-1.

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 proposed Site/Architectural Plans, which he prepared, dated March of 2023, last revised March 23, 2023, which were received by the Board & which are incorporated herein as fact. The Board is also in receipt of a Plan of Minor Subdivision prepared by Cape Land Surveying, dated October 11, 2021 & last revised December 30, 2022, which is incorporated herein as fact. Mr. Newswanger reviewed the existing & proposed site conditions for the benefit of the Board. Mr. Newswanger testified that the Property is an oversized, vacant lot located in the City's D&E Zoning District at the intersection of New York & Walnut Avenues. He informed the Board that, despite being located in the D&E zone, the surrounding neighborhood consists of primarily residential uses. Mr. Newswanger testified that the Applicant is proposing to subdivide the existing lot in order to create three (3) fully conforming lots suitable for the development single-family dwellings. Mr. Newswanger testified that the proposed single-family dwellings will conform to all applicable area & bulk requirements. Single-family dwellings are not a permitted use in the D&E zone, and, as such, the Applicant is requesting a D(1) Use Variance to permit the development of same. Mr. Newswanger advised the Board that the only other relief

requested in relation to the proposed single-family dwellings are design waivers to address curb cut width & continuous raised curb requirements. More specifically the Applicant is requesting the following design waivers:

- a. Proposed Lots 1.06 & 1.07:
Maximum curb cut width (20ft. is permitted whereas 22ft. is proposed); and
Continuous raised curb requirements (21ft. is required whereas 19ft. is proposed).
- b. Proposed Lot 1.08:
Maximum curb cut width (20ft. is permitted whereas 23ft. 8.25 inches is proposed).

Mr. Newswanger testified that the requested design waivers have been recommended by the Board Engineer in order to facilitate ingress & egress to access proposed off-street parking. Mr. Newswanger opined that the Property, and the proposed lots, are particularly suited to accommodate single-family dwellings as the adjacent properties, and surrounding neighborhood, consists of primarily residential uses. Mr. Newswanger testified that, despite being located in a commercial zone, there are very few commercial uses nearby, and same are primarily confined to the east along Old New Jersey Avenue. Mr. Newswanger reiterated that the proposed single-family dwellings will conform to all applicable area & bulk requirements. The homes will provide compliant setbacks, provide less building & lot coverage than what's permitted, and the buildings will not exceed maximum permitted building height. Mr. Newswanger testified that the structure proposed on the corner lot has been designed to appear as if it has two (2) fronts, and access to a proposed garage will be provided off of New York Avenue. Mr. Newswanger testified that the single-family dwellings proposed to be developed on the interior lots are similar in design & complement one another.

Mr. Amenhauser distributed revised architectural elevations & a revised siteplan which were received by the Board and which were marked as Exhibit A-2. Mr. Newswanger advised the Board that the revised siteplan & elevations were prepared in order to address comments set forth within the Board Engineer's May 8, 2023 report recommending larger curb cuts. Mr. Newswanger testified that the revised elevations depict revisions proposed to the interior lots in order to ensure that each home is unique in design. He highlighted the differences between the structures for the Board's benefit. Mr. Newswanger opined that a commercial use is not viable at the Property as it is too far removed from the core D&E Zoning District. He argued that the proposed residential uses will support neighboring commercial uses. Mr. Newswanger opined that the Application advances purposes of Zoning, outlined within N.J.S.A. 40:55D-2, and supports 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;
- c. Provides adequate light, air & open space;
- e. Promotes the establishment of appropriate population densities & concentrations that will contribute to the well-being of persons, neighborhoods, communities & regions and preservation of the environment;
- j. Promotes a desirable visual environment through creative development techniques & good civic design & arrangement.

Mr. Newswanger further opined that the application can be granted as there are no substantial detriments to the public good & the application does not impair the intent or purpose of the Zoning Map & Ordinance.

Board Members advised the Applicant that the proposed curb cuts will impact available on-street parking & the Applicant was advised that discussions with the City would need to take place to address any concerns or proposed configuration. As a condition of approval, the Applicant will confirm the on-street parking configuration with the City's Governing Body. Board members questioned whether the Applicant

intends to provide landscaping on each proposed lot. As a condition of approval, the Applicant will submit a grading & landscaping plan to the Board Engineer for review & approval. Board Members Mr. O'Connell & Mr. Greenland raised concerns in connection with the Applicant's proposal in light of the prior approvals that were received & the representations made that the Property would be maintained for a commercial use. Board Member O'Connell questioned the Applicant's efforts to market the Property for sale and/or for a commercial use & pointed to at least two (2) offers that were made to purchase the property, but which were not responded too.

Mike Mitchell, the Applicant & owner of the Property, appeared & he was placed under oath to testify before the Board. Mr. Mitchell advised the Board that the Property has been marketed for sale; however, he indicated that the offers received have been nowhere near the fair market value of the property. Mr. Mitchell testified that he received an offer from the owner the bar, Casey's on 3rd Ave; however, the offer was nearly 50% less than the asking price. Mr. Mitchell further testified that he engaged in negotiations with the owners of the bar, The #1 Tavern; however, negotiations broke down & a formal offer was never made. Mr. Mitchell indicated that he contacted the 1st interested buyer after that deal fell apart; however, the potential buyer indicated that he had begun renovations on his restaurant/bar & was no longer interested in acquiring the Property.

Board Member O'Connell raised additional concerns that the Applicant had engaged in minimal efforts to market/sell the property, and he expressed a belief that the Applicant never intended to sell the property & always had intentions to pursue residential development on the Property. He argued that the Applicant's proposal is inconsistent with the D&E Zoning District & the City's Master Plan. Board Member Greenland raised additional concerns in relation to the original approvals, and concerns he raised at the time of the original four (4) lot subdivision that the parcels should have been maintained for commercial uses. Chairman Davis reminded the Board that the original approvals allowed for a ground-floor commercial use with residential units above. He indicated that the Board and the City had concerns that the original approvals would result in vacant commercial space in a vibrant area of the City.

Mr. Newswanger testified that a bar/restaurant at the Property would present substantial detriments to the surrounding & existing residential neighborhood. He reiterated & argued that a commercial use on the Property is simply not economically viable.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated May 8, 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. Five (5) individuals addressed the Board, namely:

- a. Mark Bowser, owner of the property located at 140 West Spruce Avenue, appeared & he was placed under oath to testify before the Board. Mr. Bowser advised the Board that he supported the Application & the relief sought in connection with same. He indicated that the proposed homes are aesthetically pleasing & will complement the surrounding neighborhood.
- b. Barbara Blankenhorn, owner of the property located at 142 West Spruce Avenue, appeared & she was placed under oath to testify before the Board. Mrs. Blankenhorn advised the Board that she supported residential development on the Property. She agreed that the proposed structures are aesthetically pleasing.
- c. Lauren Bowser, owner of the property located at 140 West Spruce Avenue, appeared & she was placed under oath to testify before the Board. Mrs. Bowser supported the Applicant's proposal & the

development of single-family dwellings. She indicated that the development of the Property would serve to enhance the entranceway into the City of North Wildwood.

- d. James Blankenhorn, owner of the property located at 142 West Spruce Avenue, appeared & he was placed under oath to testify before the Board. Mr. Blankenhorn supported the project. He advised the Board that he enjoys the surrounding neighborhood & additional residential dwellings would be a welcomed addition. He expressed concerns that a commercial use would negatively impact the neighborhood.
- e. John Yerkov, owner of the property located at 4 North New York Avenue, appeared & he was placed under oath to testify before the Board. Mr. Yerkov expressed concerns about the condition of the existing vacant lot. He advised the Board that the Applicant's proposal should be approved by the Board.

No additional members of the public spoke out in favor or against the application. Accordingly, the public portion of this application was closed. 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 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 D/E Zoning District lot. The Property is currently an oversized, vacant lot. The Applicant is the owner of the Property & has standing to come before the Board in order to request minor subdivision approval, preliminary & final siteplan approval, a D(1) Use variance, & design waivers to address curb requirements. The Property is an oversized, vacant lot, located in the D&E Zoning zone. In June of 2018, the Property was created as a result of a four (4) lot major subdivision. Use variances were granted for the development of residential structures on three (3) of the proposed lots, and the 4th lot, the Property, was maintained for commercial purposes. In January of 2022, the Applicant appeared before the Board in connection with an application to subdivide the Property to create two (2) lots, and Use variances were requested in connection with the proposed development of single-family semi-detached dwellings. The Applicant is proposing now proposing a three (3) lot subdivision, and is proposing to develop single-family dwellings on said lots. The Applicant is requesting a D(1) Use Variance to permit the development of single-family dwellings on all three (3) of the proposed lots as single-family dwellings are not permitted in the D&E Zoning District. The proposed single-family dwellings conform to all applicable area & bulk requirements. Mr. Newswanger discussed the history of the Property & opined that a commercial use is not viable for the Property as the surrounding neighborhood consists of residential uses, and the site itself is not located in the core D&E Zoning District. Mr. Newswanger opined that the Property, and the three (3) proposed lots, are particularly suited to accommodate the proposed single-family dwellings. He opined that a commercial use would have more of a detrimental impact on the surrounding residential neighborhood. Mr. Newswanger also provided testimony in relation to the positive & negative criteria which supports granting the relief sought by the Applicant. He identified purposes of Zoning that he contends will be advanced in connection with this Application, and he opined that there are no substantial detriments to the public good & the Applicant's proposal will not impair the intent or purpose of the Zoning Map & Ordinance. A majority of the Board found Mr. Newswanger's & Mr. Mitchell's testimony to be credible & persuasive. Two (2) Board Members expressed concerns in connection with the requested Use variances to permit additional residential development in the D&E Zoning District. These Board Members raised concerns in relation to the Applicant's efforts to market/sell the Property to commercial buyers/tenants. Mr. Mitchell reviewed his efforts to the sell the Property & to attract a commercial use to the site. He testified that there was limited interest in the site, and efforts to negotiate with interested buyers fell apart either due to the sales price and/or changing interests/needs of said buyers. The Board received public comment from five (5) individuals, all of whom supported the Applicant's

proposal. A majority of the Board agreed that the Applicant's proposal was reasonable & appropriate in light of the lack of commercial interest associated with the site. Board Members agreed that the proposed single-family dwelling promote a desirable visual environment & would enhance the surrounding neighborhood & general welfare of the community. The Board specifically finds that the Property is particularly suited to accommodate the proposed single-family dwellings. 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 approval. The Board found that the Applicant did establish that granting the Use variance 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 "D" Use Variance, as well as minor subdivision approval. No additions or correction to the finding of facts. No discussion on the facts.

The Board Solicitor called for a motion to approve the of the application/Resolution as discussed. Motioned by Vice Chair DiEduardo & & 2nd by Mr. Auty. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the application/Resolution was approved by the Board. Board members Mr. Greenland & Mr. O'Connell voted no on the application/Resolution. Board member(s) Ms. Cannon & Ms. DeJoseph did not need to vote.

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

I) ZONING OFFICER REPORT:

Dan Spiegel, Zoning Officer/Construction Official, was excused from tonight's meeting.

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 April 12, 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 Ms. Cannon & 2nd by Vice Chair DiEduardo. Based on the affirmative majority roll-call vote of the Board members to memorialize the Meeting Minutes.

L) UNFINISHED BUSINESS:

The Board Secretary announced the adoption of City Ordinance No. 1899 – amendments to the Land Development Ordinance, Chapter 276-35 (Parking) were adopted by City Council. The Ordinance will be effective May 24, 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: _____

6/20/23
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.