

North Wildwood Planning Board
Regular Meeting: June 14, 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	Bill Auty	Present
John Harkins	Present	Councilman James Kane	Absent
George Greenland	Absent	Bill O'Connell	Present
Ron Peters (Alt. 1)	Present	Sharon Cannon (Alt. 3)	Absent
Valeria DeJoseph (Alt. 2)	Present	Scott McCracken (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-23-1-2 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.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Mr. Harkins & 2nd by Mr. McCracken. 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) Chief Stevenson & Mr. Peters abstained from the vote.

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.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Mr. Harkins & 2nd by Mr. McCracken. 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) Chief Stevenson & Mr. Peters abstained from the vote.

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.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Ms. DeJoseph & 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) Chief Stevenson, Mr. Miller, Ms. DeJoseph & 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.

Due to last month's absence, Chief Stevenson & Mr. Peters stepped down from the Board dais from participating in the next application.

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

431 East 25th Avenue

Block 289; Lot 8

OS Zoning District

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

Continuation of last month's adjourned application

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/rooming house containing a total of 18 individual bedrooms to house seasonal workers to be utilized by employees of an adjacent commercial business, Gateway 26, at the vacant property located at 431 East 25th Avenue, 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. The property is currently utilized as a parking lot.

The Applicant & his attorney, Steven Morris, Esq., requested tabling the application at the Board's May 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 had requested adjournment at the May meeting 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 at its May meeting.

Mr. Morris advised the Board that the Applicant is proposing to construct a 3-story dormitory style building, commonly referred to as a rooming house, containing a total of eighteen (18) individual rooms, each of which can accommodate the needs of two (2) occupants. A communal kitchen is proposed on the 2nd floor, communal living rooms are proposed on the 2nd & 3rd floors, and each floor will have its own bathrooms to accommodate the needs of residents. Mr. Morris indicated that the Applicant intends to utilize the rooming house to house employees of Gateway 26, as worker's housing is scarce in the surrounding neighborhood & throughout the Wildwoods.

Brian Sharpe, a member of W&O Associates, LLC, appeared & he was placed under oath to testify before the Board. Mr. Sharpe testified that he is the manager of the adjacent Gateway 26 arcade business. He indicated that, dating back to the 1980's the arcade has employed foreign students & individuals through the J-1 Visa program. He advised the Board that the J-1 Visa program requires employers to guarantee housing for employees who are approved to work in the US. He indicated that prior to the Covid-19 pandemic, there was ample housing available throughout the Wildwoods to meet the needs of the J-1 Visa program to ensure employees were guaranteed housing. Mr. Sharpe testified that during the Covid-19 pandemic the J-1 Visa program was suspended due to travel restrictions imposed by the US & foreign countries. During this time, he indicated that many of the existing residences which were utilized to house employees were renovated & converted to private residences or rentals which were marketed through online rental platforms at significantly higher rates than what was traditionally charged prior to the pandemic. Mr. Sharpe testified that in 2022, the J-1 Visa program resumed, and efforts were made to secure housing to accommodate thirty-six (36) employees; however, a housing deal ultimately fell through & the Applicant was forced to rent hotel space & residential properties at a significant expense. Mr. Sharpe expressed significant concerns in regards to the continued viability of the J-1 Visa program as many program providers now require that employers own the properties where they intend to house employees & others have chosen not to facilitate visas with employers located in the Wildwoods. He indicated that personally owning dedicated worker housing would eliminate these issues & the concerns of the J-1 Visa programs. Mr. Sharpe testified that W&O Associates is attempting to mitigate these issues by proposing the construction of its own rooming house to house employees of Gateway 26. He indicated that the only individuals who will be permitted to reside in the proposed rooming house are J-1 students and/or individuals who are employed exclusively at Gateway 26. Mr. Sharpe advised the Board that a security system is proposed to be installed which will limit access to the rooming house through a key fob system. Mr. Sharpe indicated that J-1 students typically arrive in April & generally leave in October. Accordingly, he indicated that the proposed rooming house would be open from April to October. As a condition of approval, the Applicant will only operate the rooming house from April 1st to October 31st.

In response to a question posed by the Board, Mr. Sharpe testified that nearly all of the J-1 students who travel to the United States to work do not have their own vehicles which mitigates the number of off-street parking spaces that would be needed. Notwithstanding the limited need for parking, Mr. Sharpe testified that ten (10) off-street parking spaces on a neighboring property at Gateway 26 business are proposed to be dedicated, by way of a Deed Restriction, for the exclusive use of residents of the rooming house. As a condition of approval, the Applicant will prepare & record a Deed Restriction, subject to the review and approval of the Board Solicitor, evidencing that ten (10) off-street parking spaces located within a neighboring parking lot under the Gateway 26 structure are dedicated for the exclusive use of residents of the proposed rooming house.

Board Members raised concerns about the construction & operation of a rooming house & the inability to impose occupancy restrictions on same. Mr. Sharpe testified that no outside employers would be permitted to rent space within the proposed rooming house.

In response to a question posed by the Board, Mr. Sharpe testified that, in the event the rooming house was not filled with J-1 students, open rooms would be offered to any other employees of Gateway 26.

Board Members raised concerns about the impact that the proposed development would have on parking needs if guests visited and/or stayed at the rooming house, and questioned how parking would be addressed if individuals who were not employed through the J-1 program lived in the home & had their own vehicles. Mr. Sharpe advised the Board that one (1) student on each of the proposed floors would be appointed to monitor occupancy & to ensure that only tenants were permitted in the building. He indicated that monetary incentives

would be offered to these individuals to ensure that security protocols are enforced. As a condition of approval, the Applicant will maintain an employee/tenant list subject to inspection by the City upon request.

Board Members raised significant concerns about the potential future use of the rooming house if same were approved as the use itself is not permitted in the OS Zoning District.

Board Members expressed concerns about the inability of the Board and/or the City to restrict occupancy of the rooming house, if approved, exclusively to employees of Gateway 26 as occupancy restrictions are not lawful conditions of approval. Mr. Sharpe represented that he would record a Deed Restriction to limit occupancy of the proposed rooming house to employees of Gateway 26 to address the Boards Concerned. Mr. Sharpe advised the Board that the Applicant was voluntarily proposing this Deed Restriction to address the Board's concerns, and he indicated that he would agree to a self-imposed condition of approval requiring that a Deed Restriction of this nature be recorded. As a condition of approval, the Applicant will voluntarily prepare & record a Deed Restriction, subject to the review & approval of the Board Solicitor, restricting occupancy within the rooming house to employees of Gateway 26.

Joseph Garramone, R.A. with Garramone Architects, LLC, appeared on behalf of the Applicant & he was recognized as an expert in the field of architecture. Mr. Garramone was placed under oath & he testified from the proposed Architectural Plans, dated October 21, 2022 & last revised May 22, 2023, which were received by the Board & which are incorporated herein as fact. Mr. Garramone reviewed the proposed architectural plans & elevations for the benefit of the Board. Mr. Garramone testified that the proposed rooming house will consist of three (3) stories with a building height of 39ft. The Property is located in the Coastal A flood zone, and Mr. Garramone indicated that the base flood elevation (BFE) is approximately 11ft. which impacts the ability to conform to building height requirements. Mr. Garramone indicated that, pursuant to the City's Ordinance, two (2) additional feet of freeboard must be incorporated above the BFE & additional beams & flooring increases the height of the 1st floor of livable space to BFE 15ft. Mr. Garramone indicated that the proposed roof has an average pitch of 6.5/12 whereas 5/12 is required. He indicated that the structure could be made to comply with maximum building height; however, it would significantly impact the aesthetics of the home & result in a non-compliant roof pitch. Mr. Garramone reviewed the proposed floor plans for the benefit of the Board. He advised the Board that the entrance to the proposed room house is on the ground level along with a driveway & garage. He indicated that the garage would be utilized for bicycle storage purposes. An elevator is proposed on site which will facilitate access to all three (3) floors. Mr. Garramone testified that the 1st floor of living space will consist of five (5) bedrooms, two (2) bathrooms & a mechanical room. The 2nd floor of living space will house a communal kitchen & living room, five (5) bedrooms & two (2) bathrooms. The 3rd floor of living space will contain eight (8) bedrooms, a linen room & a communal living area. Mr. Garramone reviewed the architectural elevations for the benefit of the Board. He identified several architectural features which were incorporated in an effort to create a desirable visual environment & to ensure that the proposed structure is consistent with residential uses that exist in the surrounding neighborhood.

In response to a question posed by the Board, Mr. Garramone testified that heat will be provided within the building in order to safeguard utilities during the fall/winter months.

Vincent Orlando, P.E., P.P., L.L.A., C.M.E. with Engineering Design Associates, P.A. appeared before the Board on behalf of the Applicant. Mr. Orlando was accepted by the Board as an expert in the fields of engineering & land planning & he was placed under oath & testified from the proposed siteplan, dated October 3, 2022 & last revised February 8, 2023, which was received by the Board & which is incorporated herein as fact. Mr. Orlando reviewed the existing & proposed site conditions for the benefit of the Board. He confirmed the variance relief requested in connection with the Applicant's proposal. Mr. Orlando opined that there is a

need for the type of use and development proposed by the Applicant throughout the Wildwoods as worker housing has been significantly reduced/eliminated over the years. Mr. Orlando testified that the purpose of the OS Zoning district is "... to recognize the mixed-use nature of this section of the City by providing for residential, dining, lodging, recreation & entertainment uses in appropriate locations to support the City's tourist-oriented economy. The purpose of the OS Zoning District includes supporting & fostering the City's tourist economy." He opined that the Applicant's proposal advances this purpose. He indicated that tourism is the heart of the Wildwoods economy, and in order to facilitate that aspect of the economy, the City & neighboring communities need to ensure that affordable housing is available to accommodate a viable employee base. Mr. Orlando opined that the Property, given its proximity to the boardwalk, is an appropriate location for the proposed use. He further indicated that the Property is particularly suited to accommodate the proposed use. Mr. Orlando opined that the Application advances purposes of Zoning, outlined within N.J.S.A. 40:55D-2, & 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 as there is a need for this type of housing & same will support the tourism industry;
- 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;
- 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 as the proposed use & occupancy will reduce and/or eliminate the need for vehicles in the surrounding neighborhood; and
- i. Promotes a desirable visual environment through creative development techniques & good civic design & arrangement.

Mr. Orlando further opined that the application can be granted as there are no substantial detriments to the public good & the application does not impair the intent or purpose of the Zoning Map & Ordinance. Mr. Orlando testified that a more intense use could be constructed on site without the need for Board approval. With respect to the minimum frontyard setback variance, Mr. Orlando testified that the 1st floor of the structure complies with the required setback, and the need for variance relief is associated with proposed bump-outs on the 2nd & 3rd floors.

In response to a question posed by the Board, Mr. Orlando testified that landscaping is proposed to be added to the site. As a condition of approval, the Applicant will submit a detailed landscaping plan, subject to the review & approval of the Board Engineer. A lengthy discussion took place between the Board & its professionals & the Applicant & their professionals concerning the proposed use & occupancy of the structure. Board Members expressed significant concerns that the Applicant was not the owner of the Property or the Gateway 26 parking lot which is intended to provide ten (10) dedicated parking spaces for the proposed use.

Mr. Sharpe discussed the ownership of the Property, the property which contains Gateway 26, and the parking lot. He indicated that while all properties are owned by different entities, the membership of the entities are nearly identical. He further indicated that the majority member has represented that he would agree to record the Deed Restrictions proposed by the Applicant. After additional discussion, the Applicant requested that the hearing be tabled to the meeting of June 14, 2023 in an effort to further discuss & clarify the proposed deed restriction language, and to obtain confirmation for the Board's benefit that the other entities in question were in fact going to agree to the Deed Restrictions that were voluntarily proposed by the Applicant.

The meeting was continued to June 14, 2023, at which time Mr. Morris recapped the prior month's meeting & the discussions which took place during same. He advised the Board that the Applicant had refined the language of the proposed Deed Restrictions, and he disseminated a document containing the proposed language to be incorporated within the Deed Restrictions in question.

Andrew Wiener, the managing member of Management Consortium, LLC & W&E Associates, Inc., appeared & he was placed under oath to testify before the Board. Mr. Wiener testified that he is the managing member & holds a controlling interest in the W&O Associates, LLC (the Applicant), Management Consortium, LLC (the owner of the Gateway 26 property & parking lot), and W&E Associates, Inc. (the owner of the Property). Mr. Wiener provided additional testimony in relation to the ownership interests of the entities in question & the manner in which they are connected. Mr. Wiener testified that he was in agreement with the representations made by Mr. Sharpe at the prior Board meeting in regards to recording Deed Restrictions. He confirmed that the proposed Deed Restrictions were being voluntarily offered by the Applicant as self-imposed conditions of approval to address the Board's concerns, and he represented that the conditions would be recorded in perpetuity & would be maintained for so long as the rooming house existed. Mr. Wiener testified that parking placards would be installed in the location of the proposed ten (10) parking spaces to ensure that they were used exclusively by residents of the rooming house.

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 O/S Zoning District lot. The Property is an existing, vacant 50ft. x 100ft. parcel of land which is currently utilized as a parking lot. The Applicant is proposing to construct a three-story dormitory style building, commonly referred to as a rooming house, containing a total of eighteen (18) individual rooms, each of which can accommodate the needs of two (2) occupants. The Applicant is requesting preliminary & final siteplan approval, a D(1) Use Variance to permit the development of the proposed eighteen (18) room rooming house, as the use in question is not permitted within the OS Zoning District, and 'C' variance relief in relation to minimum frontyard setback, maximum building height & off-street parking. The Applicant & his experts discussed a number of self-imposed restrictions that the Applicant was prepared to agree to in an effort to address Board concerns related to the proposed use & its inability to regulate occupancy of the structure. Mr. Orlando reviewed & discussed the variance relief sought by the Applicant in connection with the proposed development. Mr. Orlando 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 or Ordinance. With respect to the requested D(1) Use variance & 'C' variances, the Board finds that the Applicant has presented special reasons which advance the purposes of Zoning & which justify the granting of the requested variances. Moreover, the Board determined that the Property is particularly suited to accommodate the proposed use. Board Members unanimously agreed that the use of the rooming house to house employees of Gateway 26 was

vital to promoting the tourism industry, but they were concerned that approving the use could result in the approval of a rooming house which could potentially be used to house anyone interested in residing in same resulting in a substantial detrimental impact on parking & the surrounding neighborhood. Board Members agreed that housing J-1 students & other employees of Gateway 26 would not require compliant off-street parking. The Board expressed significant concerns in relation to proposed use & its inability to legally regulate occupancy within the structure. Board Members unanimously agreed that the Applicant's proposal to incorporate self-imposed conditions of approval to restrict occupancy and to dedicate off-street parking, via Deed Restrictions, addressed the Board's concerns. The Board found Mr. Garramone, Mr. Sharpe, Mr. Wiener & Mr. Orlando's testimony to be credible & persuasive. No member of the Public addressed the Board in connection with this Application. The Board specifically finds that the Property is particularly suited to accommodate the expansion of the private rooming house. 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 "D" Use Variance, as well as siteplan approval. No additions or correction to the finding of facts. No discussion on the facts.

The Board Solicitor called for a motion to approve the application as discussed. Motioned by Mr. 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.

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

Mr. Auty 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: Z-23-4-1 Wildwood Moose Lodge #585

300 West Spruce Avenue

Block 129; Lot 6

CBD Zoning District

Use Variance approval - for outdoor seating, parking lot reduction variance

The Board heard & considered the application of Wildwood Moose Lodge 585 (Applicant), owner of the property located at 300 W. Spruce Avenue, a/k/a Block 129, Lot 6 (Property), seeking preliminary & final minor siteplan approval, & a D(2) expansion of a non-conforming Use Variance, in order to construct an outdoor bar & covered patio/seating area at the existing Wildwood Moose Lodge. The property is located in the Central Business District (CBD) Zoning District.

Scott DeWeese, 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 300 West Spruce Avenue (NJSH Rt. 147), a/k/a Block: 129, Lot: 6, in the City's CBD Zoning district. The Property is a 105ft. x 205ft. parcel that is currently developed with a private fraternal/social club commonly known as the Wildwood Moose Lodge. The Moose Lodge operates as a member only restaurant/bar which is not open to the general public. The Applicant is proposing to construct a new outdoor bar & covered patio/seating area. A small uncovered multi-purpose/recreation area is also proposed adjacent to the covered patio area. Mr. DeWeese advised the Board

that the Applicant is requesting preliminary & final minor siteplan approval & a D(2) Use variance to permit the expansion of the existing restaurant/bar as restaurants engaged in the sale/service of alcohol & bars are not permitted uses in the CBD Zoning District. The Applicant originally requested a 'C' variance in order to permit a 2nd mall-mounted sign on site whereas only one wall-mounted sign is permitted; however, after concerns were raised by the Board in connection with the appearance of the proposed sign & its proximity to Spruce Avenue, the Applicant withdrew the requested sign variance & chose to eliminate the sign in question.

Joseph Gray, P.E. with CME Associates appeared before the Board on behalf of the Applicant. Mr. Gray was accepted by the Board as an expert in the field of engineering & he was placed under oath & testified from the proposed siteplan, dated March 3, 2023, and last revised May 5, 2023, which was received by the Board & which is incorporated herein as fact. Mr. Gray reviewed the existing & proposed site conditions for the benefit of the Board. Mr. Gray advised the Board that the Property is currently developed with a one-story commercial structure, which operates as private bar/restaurant. There are a total of 24 off-street parking spaces provided on site. Mr. Gray testified that the Applicant is proposing to expand the existing bar/restaurant by constructing an outdoor bar & covered patio area adjacent to the existing structure. The proposed addition/expansion is located in the eastern portion of the Property which currently contains an asphalt parking lot. Mr. Gray testified that seven (7) off-street parking spaces will be eliminated in connection with the Applicant's proposal. Four (4) off-street parking spaces will be added to the rear of the site, and a total of 21 off-street parking spaces will exist which complies with the City's off-street parking requirements. Mr. Gray testified that a D(2) Use Variance is requested in order to permit the expansion of the pre-existing non-conforming use as the service of alcohol which is not permitted within the CBD Zoning district. Mr. Gray advised the Board that the Applicant was also requesting a 'C' variance to permit a 2nd wall-mounted sign to be located on site whereas only one (1) wall-mounted sign is permitted. As noted above, this requested variance was ultimately withdrawn in response to aesthetic concerns raised by the Board & the Applicant indicated that the proposed sign would be eliminated. Mr. Gray 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. Secures safety from fire, flood, panic & other natural & man-made disasters; and
- j. Promotes a desirable visual environment through creative development techniques & good civic design & arrangement.

Mr. Gray 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. Mr. Gray testified that the Property can accommodate the expansion of the pre-existing non-conforming use. He indicated that, while bars & the service of alcohol at restaurants are not permitted in the CBD Zoning District, the existing commercial use & the service of alcohol is already occurring on site. Moreover, he testified that the existing commercial establishment is a member only club which is not open to the general public. Mr. Gray testified that the proposed outdoor bar & patio area will allow members of the club to enjoy outdoor areas similar to what took place during the Covid-19 pandemic in connection with outdoor areas that were approved by the City on a temporary basis.

In response to a question posed by the Board, Mr. Gray testified that the patio will be open on all sides in order to allow members of the Moose Lodge to enjoy the outdoor areas & surrounding neighborhood. Mr. Gray advised the Board that an existing trash enclosure will be relocated to the northern portion of the site. As a condition of approval, the Applicant will ensure that the proposed trash enclosure is fully enclosed in order to mitigate the visual impact of same. Board Members questioned whether additional lighting was proposed in the vicinity of the outdoor bar & seating area. Mr. Gray testified that outdoor lighting would be installed within the parking lot areas in order to address safety concerns. As a condition of approval, the Applicant will provide

additional lighting within the existing/proposed parking lot area & same will be adequately shielded in order to ensure that light does not impact adjacent properties.

Brad Barker, R.A. with Studio 513 Architects, LLC, appeared on behalf of the Applicant & he was recognized as an expert in the field of architecture. Mr. Barker was placed under oath & he testified from the proposed Architectural Plans, dated February 18, 2022, & last revised May 22, 2023, which were received by the Board & which are incorporated herein as fact. Mr. Barker reviewed the proposed architectural plans & building elevations for the benefit of the Board. Mr. Barker testified that the Applicant is proposing to construct a permanent outdoor space for the use of existing members of the Wildwood Moose Lodge. Mr. Barker indicated that the Applicant had previously utilized an existing parking lot as a temporary outdoor seating area during the course of the Covid-19 pandemic which was enjoyed by existing members of the Moose Lodge. Mr. Barker testified that the permanent outdoor bar/patio area is proposed to be elevated with a 42-inch railing/guardrail extended above same for safety purposes. He indicated that the outdoor bar/patio area will be secured & access to same will be provided from within the existing Moose Lodge or through a proposed gate. The proposed patio is elevated 32 inches above ground level, and within the inclusion of the proposed railing/guard rail, same will be approximately 74 inches in height. A ground-level, uncovered seating area is also proposed on site adjacent to the elevated bar/patio area. Mr. Barker reviewed & discussed the existing & proposed floor plans for the benefit of the Board.

The existing Moose Lodge contains a total of 83 indoor seats, and a total of 79 additional outdoor seats are proposed to be added in connection with this application. Board Members raised significant concerns in relation to the proposed ground-level seating area & the fact that same is only surrounded by a 32-inch wall as members of the public will be able to easily access this area during times when the Moose Lodge is not open. Board Members raised concerns about the foot traffic in the surrounding neighborhood & indicated that all outdoor areas must be adequately secured in order to prevent members of the public from accessing same. Mr. Barker testified that the uncovered seating area could be elevated to 32 inches in height, but he expressed concerns in relation to the impact on the Applicant's desired use of this area. Board Members reiterated their concerns about ensuring that members of the public are unable to access this area during times when the Moose Lodge is open, and specifically during hours when the Moose Lodge is closed. Mr. Barker testified that the proposed uncovered seating area is intended to be utilized as a multi-purpose recreation area, and he indicated that any furniture in this area would be removed at times when the Moose Lodge is closed.

After a brief recess to allow the Applicant & their professionals an opportunity to discuss an approach to address the Board's concerns, Mr. Barker testified that the Applicant would raise the existing uncovered patio area to 32 inches, consistent with the elevated outdoor bar/seating area & extend the proposed 42-inch guard rail around same. As a condition of approval, the Applicant will submit revised plans reflecting the elevation of the uncovered patio area to the same height as the outdoor bar/seating area & the extension of the 42-inch guard rail around the entire outdoor area.

Jim Hayes, the Treasurer of the Wildwood Moose Lodge, appeared & he was placed under oath to testify before the Board. Mr. Hayes advised the Board that the Applicant has owned the Property since 2012, & previously operated on an adjacent property dating back to 1949. Mr. Hayes testified that the Moose Lodge has always operated as a social/fraternal club that is restricted to members only. He indicated that the general public is not permitted within the bar/restaurant. Mr. Hayes testified that the proposed outdoor areas will accommodate the Moose Lodge's expanding membership & provide outdoor amenities which currently do not exist. In response to a question posed by the Board, Mr. Hayes testified that he anticipates that tv's will be installed in the outdoor area, and radio music will likely be played, and he indicated that it's conceivable that a musician or small band could be hired to play music. He indicated that the outdoor area will likely be closed by

9pm or 10pm on a daily basis. As a condition of approval, the Applicant will ensure that the outdoor bar & seating area is shut down on a daily basis by 10pm. He indicated that the Applicant would comply with any applicable City noise ordinance in order to regulate sound. As a condition of approval, the Applicant will ensure that no noise & amplified music will be permitted in outdoor areas after 10pm.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated June 6, 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. One (1) member of the public addressed the Board in connection with this application, namely:

Theresa Allendorf, owner of the property located at 324 West Walnut Avenue, appeared & she was placed under oath to testify. Ms. Allendorf raised concerns in relation to off-street parking. She expressed additional concerns about traffic impacts that she anticipates within the surrounding neighborhood in connection with the Applicant's proposal.

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

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 CBD Zoning District lot. Mr. Gray reviewed the existing & proposed site conditions for the benefit of the Board as well as reviewed & discussed the variance relief sought by the Applicant in connection with the proposed development. Preliminary & final minor siteplan approval & a D(2) expansion of a non-conforming Use Variance is requested. The Property is a 105ft. x 205ft. parcel that is currently developed with a private fraternal/social club commonly known as the Wildwood Moose Lodge. The Moose Lodge operates as a restaurant/bar which is not open to the general public. The Applicant is proposing to construct a new outdoor bar & covered patio/seating area. A small uncovered pavilion area is proposed adjacent to the covered patio area which will provide additional seating. A D(2) Use Variance is requested to permit the expansion of the pre-existing non-conforming use as bars & restaurants engaged in the service of alcohol are not permitted uses in the CBD Zoning District. The Applicant also originally requested a 'C' variance in order to permit a second wall-mounted sign on site; however, after receiving comments and concerns from the Board regarding the appearance of the same & its proximity to West Spruce Avenue, the Applicant withdrew this requested variance & indicated that the proposed wall-mounted sign would be eliminated from the plans. Mr. Gray also provided testimony in relation to the positive & negative criteria which supports granting the relief sought by the Applicant. Mr. Barker reviewed the proposed architectural elevations & floor plans for the benefit of the Board. Mr. Barker reviewed the design of the proposed outdoor bar & covered seating area. He provided additional testimony related to a ground level multi-purpose area located adjacent to the elevated bar/covered seating. In response to concerns raised by the Board in relation to safety & security of the proposed ground-level multi-purpose area, the Applicant agreed to elevate this area to the same level of the outdoor bar/covered seating area, & further indicated that a 42-inch railing/guardrail surrounding the bar area would be extended around the entire perimeter of the outdoor bar & all seating areas. The Board found Mr. Gray's & Mr. Barker's testimony to be credible & persuasive. One (1) member of the Public addressed the Board in connection with this Application. The Board determined that the Property can accommodate the expansion of the existing non-conforming use. Board Members agreed that the D(2) expansion of a non-conforming Use Variance private fraternal/social club promotes 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 expansion of the private fraternal/social club. 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 "D" Use Variance, as well as siteplan approval. No additions or correction to the finding of facts. No discussion on the facts.

The Board Solicitor called for a motion to approve the application as discussed. Motioned by Mr. Vice Chair DiEduardo & 2nd by Mr. O'Connell. 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. Mr. McCracken did not need to vote on the application.

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

Application: P-23-3-1 John McBride

211 East 16th Avenue

Block 236; Lot 16

R-1 Zoning

"c" variance approval - for raising & expanding a single-family dwelling with new 2nd floor addition

The Board heard & considered the application of John McBride (Applicant), owner of the property located at 211 East 16th Avenue, a/k/a Block 236, Lot 16 (Property), seeking 'C' variance relief in relation to minimum lot area (5,000SF is required whereas 4,300SF is existing & proposed), minimum lot frontage (50ft. is required whereas 43ft. is existing & proposed), minimum lot width (50ft. is required whereas 43ft. is existing & proposed), maximum building height (28ft. is permitted whereas 29.76ft. is proposed), minimum sideyard setback (8ft. is required whereas 6.5ft. & 3ft. are proposed), minimum total sideyard setback (20ft. is required whereas 15.1ft. is proposed), and minimum frontyard setback (10ft. is required whereas 7.27ft. is proposed), and a wavier for continuous raised curb (21.5ft. is required whereas 15.2ft. is proposed), in order to elevate the existing single-family dwelling located on site & to construct an addition to the rear of the structure. The Property is located in the R-1 Zoning District.

Lyndsy Newcomb, 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 211 East 16th Avenue, a/k/a Block: 236, Lot: 16, in the City's R-1 Zoning District. The Property is an undersized, 43ft. x 100ft. lot which is currently developed with a two-story single-family dwelling. The Applicant is proposing to elevate the existing structure & construct an addition to the rear of same. A new deck, garage to facilitate off-street parking, and rear addition are proposed in addition to exterior renovations to improve the appearance of the structure. Ms. Newcomb reviewed the variance relief sought in connection with the Application. She indicated that the structure located on site was originally constructed in the 1930's & there have been a number additions over the years which have impacted the aesthetic appearance of the home. Ms. Newcomb reviewed & confirmed the variance relief requested in connection with this application. She advised the Board that, based upon a recommendation set forth within the Board Engineer's June 2, 2023 Review Memorandum, the Applicant is

proposing to setback the garage an additional five (5) feet in order to accommodate additional off-street parking.

John McBride, the Applicant & owner of the Property, appeared, and he was placed under oath to testify before the Board. Mr. McBride advised the Board that he has owned the Property for approximately the past 17 years. He testified that he intends to retire in the near future, and is planning on relocating full time to the Property. Mr. McBride testified that he is proposing to elevate the existing structure in order to mitigate against flooding, and he indicated that he is also proposing to construct a small addition to the rear of the structure to accommodate the needs of his growing family. In addition to elevating & expanding the existing structure, Mr. McBride testified that he intends to renovate the exterior of the home in order to improve the aesthetic appearance.

Philip Kunz, R.A. of PDK Architects appeared on behalf of the Applicant & he was recognized as an expert in the field of architecture. Mr. Kunz was placed under oath & he testified from the proposed Architectural Plans, dated December 15, 2022 & last revised April 12, 2023, which were received by the Board & which are incorporated herein as fact. Mr. Kunz testified that, due to a number of additions over the years, the existing structure has varied rooflines & an inconsistent 1st & 2nd floor plan which has resulted in an impractical design & flow within the home. Mr. Kunz testified that the Applicant's proposal to elevate the home & construct an addition to the rear of the structure will significantly improve the design of the home & its aesthetic appearance. He indicated that elevating the home will also facilitate additional off-street parking. Mr. Kunz reviewed the existing building elevations for the benefit of the Board, and he discussed in more detail the additions that have been constructed over the years & the impact that they have had on the appearance of the home. Mr. Kunz presented a proposed architectural elevation for the benefit of the Board, and he highlighted the proposed renovations/modifications in comparison to what exists on site. Mr. Kunz advised the Board that the existing front porch & access stairs will be maintained; however, in light of the elevation, the existing stairs will be extended in order to provide ingress & egress to the home. He indicated that the garage door will be recessed five (5) feet under the existing front porch & he highlighted architectural elements that have been added for aesthetic purposes. Mr. Kunz presented proposed floor plans for the benefit of the Board, noting that the 1st floor will contain two (2) bedrooms & an expanded kitchen, and the 2nd floor will contain additional bedrooms & living space for the family. He opined that the Applicant's proposal will result in the creation of a desirable visual environment which supports the approval of the requested variance relief.

Vincent Orlando, P.E., P.P., L.L.A., C.M.E. with Engineering Design Associates, P.A. appeared before the Board on behalf of the Applicant. Mr. Orlando was accepted by the Board as an expert in the fields of engineering & land planning & he was placed under oath & testified from the proposed site plan, dated February 27, 2023, and last revised April 13, 2023, which was received by the Board & which is incorporated herein as fact. Mr. Orlando reviewed the existing & proposed site conditions for the benefit of the Board. Mr. Orlando testified that the HVAC mechanicals located in the rearyard will be relocated in order to facilitate the proposed addition. He indicated that the existing non-conforming three (3) feet sideyard setback will be expanded in connection with the proposed addition, but same will not encroach any further into the sideyard setback than what currently exists. He indicated that an existing 2nd floor porch will be moved slightly which will improve the existing setback from 9.9ft. to 12.1ft. Mr. Orlando testified that elevating the existing structure & incorporating the proposed garage will facilitate a total of six (6) off-street parking spaces, four (4) of which can be counted due to proposed stacked parking, which is compliant with the City's parking requirements. Mr. Orlando reviewed & confirmed the variance relief sought in connection with this application. He indicated that variances associated with lot area, lot frontage/width are pre-existing non-conforming conditions which are not being impacted by the proposed development. Mr. Orlando testified that the request for a continuous raised curb waiver will facilitate the installation of a curb cut to access & facilitate the proposed driveway/off-street

parking. Mr. Orlando opined that elevating the existing structure provides the best opportunity to provide compliant off-street parking on-site, and further supports the requested waiver. With respect to the proposed building height, Mr. Orlando testified that the structure will slightly exceed maximum building height; however, he indicated that the increase in height is limited to the peak of the roof. He indicated that complying with the maximum building height would prevent the incorporation of off-street parking necessitating a parking variance. Mr. Orlando opined that the Applicant is experiencing a hardship due to the undersized lot which presents practical difficulties in complying with the area & bulk requirements of the R-1 Zoning District. Mr. Orlando 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 as the existing structure & the Applicant's proposal are consistent with the surrounding neighborhood. Mr. Orlando also opined that the Application also advances purposes of Zoning, outlined within N.J.S.A. 40:55D-2, & supports the relief sought by the Applicant as it:

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

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated June 2, 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 lot. The Property is an undersized, 43ft. x 100ft. lot which is currently developed with a two-story single-family dwelling. The Applicant is proposing to elevate the existing structure & construct an addition to the rear of same. A new deck, garage to facilitate off-street parking, and rear addition are proposed in addition to exterior renovations to improve the appearance of the structure. The Applicant is proposing to elevate the existing structure & construct an addition to the rear of same. A new deck, garage to facilitate off-street parking, rear addition is proposed in addition to exterior renovations to improve the appearance of the structure. The proposed rearyard addition does not encroach into the required sideyard setbacks any further than the existing structure currently does. Mr. Orlando reviewed the existing & proposed site conditions for the benefit of the Board as well as reviewed & discussed the variance relief sought by the Applicant in connection with the proposed development. Mr. Orlando identified a number of pre-existing non-conforming conditions which are not being exacerbated in connection with this proposal, & he indicated that elevating & renovating the existing structure will ensure compliance with current flood regulations, improve the appearance of the existing structure, and facilitate compliant off-street parking. Mr. Orlando opined that the Applicant is experiencing a hardship which presents practical difficulties in complying with the area & bulk requirements of the R-1 Zoning District as the Property is an undersized lot. Mr. Orlando also provided testimony in relation to the positive & negative criteria which supports granting the relief sought by the Applicant. The Board found Mr. Kunz's & Mr. Orlando's testimony to be credible & persuasive. 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 dwelling. 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, 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 application as discussed. Motioned by Ms. DeJoseph & 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 Resolution was approved by the Board.

I) ZONING OFFICER REPORT:

Dan Speigel, Zoning Officer/Construction Official, requested an interpretation of the Board regarding Chapter 276-35(B)(6), stating: *At least 50% of the lot frontage shall be contiguous raised curb with landscaping only. The intent of the raised curb is to provide as much on-street parking as possible and to provide an open, landscaped area along the front of the property. In all zones other than R-1 and R-2 the Planning Board, at the time of site plan review, shall have the discretion to consider other than 50% contiguous raised curb. For example, if 50% raised curb would produce only one on-street parking space, the Board may consider the contiguous raised curb to be reduced to that required for one parking space (22 feet). The Board may also consider the raised curb along adjacent properties in combination with raised curb on subject property that would result in the maximum number of on-street parking spaces being provided. In all instances, the development must provide a minimum of 25% of lot frontage with contiguous raised curb and 50% of lot frontage with noncontiguous raised curb.*

In particular, the underlined sentence was subject of the interpretation, what constitutes landscaping; pavers, grass, landscaping as in shrubs & bushes, fountains, etc., or combination of both. In addition, what area constitutes the "50% of lot frontage," ie the utility strip between curb & sidewalk, the frontyard from sidewalk into the property or combination of both.

As to landscaping, the Board had varied opinions among its members, with a final determination that landscaping included grass, bushes & shrubs, not any part of hardscaping, ie a an area of paver stones, including rocks and/or pebble lawns.

As to the what constitutes 50% of lot frontage, the "utility strip" area can be grass, pavers, stone but not shrubs or bushes due to traffic sight distance. The area from the sidewalk to front building wall of the structure constitutes the frontyard and this area must be landscaping of grass, bushes and/or shrubs. No pavers are to be allowed. Raised curb defines that based on the lot size, 50% of the lot frontage at the curb line must be maintained with a full-faced curb, where driveways cannot exist, in order to maintain & preserve on-street parking.

At issue is property owner at 105 East 1st Avenue installed pavers from the curb into the frontyard, utilizing this area as a parking space. Installed landscaping was apparently removed also. The photograph, which Mr. Speigel provided to the Board, indicate a motor vehicle parked parallel to the sidewalk on the new pavers. The property owner did not submit or get approval for a Zoning Permit for the installation of pavers.

City Council adopted Ordinance No. 1899, effective May 24, 2023 which amended Chapter 276-35 which specifically prohibits parking parallel to the curb. Needless to say, the Board recommended that a violation be issued for said infraction. The Board Solicitor presented various reasons, one for no Zoning permit, for violation issuance or position that the Ordinance enacted is illegal. The Board Engineer also opined that parallel parking is also illegal under existing Chapter 276-35 parameters. Board members theorized that if the pavers were not used for parking area, then the paver area would be legal, subject to an approved/issued Zoning Permit.

Board member Mr. O'Connell stipulated that the same situation exist with Spruce Avenue (aka the old McDonalds lot). One duplex installed pavers. Pavers were installed from curb into frontyard despite approved/issued permit indicating paver CAN BE installed from sidewalk to the frontyard. Paver was expanded to the utility strip which was not part of the issued/approved permit. Mr. O'Connell stipulated that the approved landscaping plan that was approved by the Board should "override" any subsequent Zoning Permit for development other than the development's approved plans. At issue with this location, is a "d" Use Variance was approval for the overall development, with associated landscaping plan, should be paramount in the decision process of any Zoning Permit issued after the original approval. At question is how long does the original development approval stand before modifications within the confines of the Ordinance, can be made. The question based on the example, does the modification trigger amended siteplan approval or can a Zoning Permit be issued.

The Board did summarize that amendments to the Land Development Ordinance as it relates to landscaping & the preservation of landscaping might be in order for future discussion. Wildwood Crest Borough's ordinance as it relates to landscaping was mentioned as an example. The Board Solicitor will provide same to the Board for discussion at the next month's meeting. This Ordinance has maximum limitation of each for grass, stone, pavers, etc. The Board Solicitor stated that a "diminuos change" is within the purview of the Zoning Officer to decide whether amended siteplan approval is necessary.

The Board was in majority in agreement that the frontyard proper of a property in residential zones should not be used for parking.

As to the requirement of Chapter 276-35(B)(6), Mr. Speigel asked for clarification of the 50% of the Lot frontage, where is that area contained within the property, the utility strip or actual frontyard of the property? Landscaping needs to be defined in the Ordinance. By the Board's interpretation, the 50% area constitutes the actual frontyard inside the property lines. The utility strip, between property line & curb is allowed to be anything; pavers, cement, grass, as the public right-of-way. Chief Stevenson stated that blocking and/or driving on the sidewalk is illegal. The Board is adamant about the public right-of-way. Landscaping is on private property, within the property line inside the property. Hardscaping is not landscaping, with "walkways" being excluded in the frontyard.

With the Wildwood Crest Borough Landscaping ordinance to be presented to the Board, next month, the Board will discuss the issue of landscaping again at the July meeting.

Board Member O'Connell also asked how long can an owner stay in a condotel unit? Mr. O'Connell requested that this question/issue be clarified. Realtors are apparently stating different limits to potential buyers/investors of condotel units. Per Mr. Speigel, the Ordinance stipulates the units cannot be occupied & must be available for transient use, with a maximum of 20 days use by transient, except for Champagne Island/Flip-Flops Condominiums, which is allowed 30 days. As an unoccupied development, without front desk in operation, for example, shut-down during the winter months, the condotel unit cannot be used. Mr.

O’Connell stipulated that NJDCA is sending conflicting information. The purpose of the Condotel Ordinance was to prevent converted motels from becoming year-round apartments without required Zoning amenities, such as adequate parking spaces. The question of enforcement of the Ordinance were brought up by the Board members. Board members questioned the condo by-laws which are superseded by the City Ordinance. The Board Solicitor cited several examples of phone calls from realtors questioning the Condotel Ordinance. The question is the buyer has to realize that the buyer is buying a motel/hotel unit not an apartment/condo unit. Parking with condotel is the primary problem. The City needs the transient units to maintain the hotel/motel industry of the Convention Center tourism industry of the Wildwoods. The City issues a Zoning Use Compliance certificate upon a real estate sale of a condotel unit. Details & copy of the Ordinance is given when a Zoning Use Compliance certificate is issued. Condotel units are not to be owner-occupied units.

Several Board members suggested the Ordinance & its requirements needs to be clarified. There is a question whether condotel units can be used for maximum period for 20 days or zero days due to the definition of transient use. The Board Solicitor mandated that the condotel unit is a motel/hotel unit when a person buys a condotel unit. The Board members question how the definition of “use” of the property is defined whether it is condotel, fee simple or other form of ownership, as it pertains to various law of NJ under the Condominium Law. NJ Municipal Land Use Law & real estate laws.

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. DeJoseph & 2nd by Mr. Harkins. 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 changes in classification of Board members alternates status for Mr. Auty, Mr. Peters, Ms. DeJoseph, Ms. Cannon & Mr. McCracken, based on City Council action. Mr. Auty is now full Board member.

N) REPORTS: None presented

O) MEETING ADJOURNED:

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

APPROVED: _____
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.