

North Wildwood Planning Board
Regular Meeting: July 12, 2023
6:30 p.m.

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

A) CALL TO ORDER

Chairman Davis called the meeting to order.

B) OPEN PUBLIC MEETING STATEMENT

Chairman Davis read the Open Public Meeting Act statement.

C) PLEDGE OF ALLEGIANCE

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

D) ROLL CALL

Chairman Robert Davis	Present	Mayor Patrick Rosenello'	Absent
Vice Chair Jodie Di Eduardo	Present	Mayor's Designee Mr. Doug Miller	Present
Chief John Stevenson	Present	Bill Auty	Present
John Harkins	Present	Councilman James Kane	Absent
George Greenland	Present	Bill O'Connell	Present
Ron Peters (Alt. 1)	Present	Sharon Cannon (Alt. 3)	Present
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: Z-22-11-1 W & O Associates, LLC

431 E. 25th Avenue

Block 289; Lot 8

OS Zoning District

Use Variance approval – 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/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 Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Ms. DeJoseph & 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 memorialization was approved by the Board. Board member(s) Chief Stevenson, Mr. Greenland, Mr. Peters & Ms. Cannon abstained from the vote.

Application: P-23-4-1 Wildwood Moose Lodge #585

300 W. 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.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Mr. O’Connell & 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 memorialization was approved by the Board. Board member(s) Mr. Greenland, Mr. Auty & Ms. Cannon abstained from the vote.

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.

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

H) NEW BUSINESS:

RESOLUTION NO. PB-06-2023 – Resolution approving City of North Wildwood –
Municipal Public Access Plan, pursuant to NJDEP Coastal Zone Mgt rules NJAC 7:7-16.9
Board Action required

Pursuant to the New Jersey 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 Planning Board conducted a review & reexamination in 2018 of the City’s Master Plan & a Re-Examination of the City’s Land Use Ordinance, which was reduced to writing in the form of a report entitled “Master Plan Reexamination Report (Master Plan)” dated September 2018. Pursuant to N.J.S.A. 40:55D-26 & N.J.S.A. 40:55D-64, prior to the adoption of a development regulation, revision, or amendment thereto, the Governing Body is required to refer proposed development regulations, revisions, or amendments to the Planning Board for its review & comment in order to ensure that the proposed development regulation, revision or amendment is consistent with the municipality’s current Master Plan.

The City of North Wildwood, on July 12, 2023, presented & reviewed a proposed “Municipal Public Access Plan,” prepared by The Lomax Consulting Group on behalf of the City in accordance with the New Jersey Coastal Zone Management Rules, N.J.A.C. 7:7-16.9, to the Board which outlines a comprehensive public access plan for the City & which outlines the City’s vision & anticipated policies to be implemented in order to ensure that public access is provided & maintained to the City’s tidal waters & shorelines. At its July 12, 2023 duly-noticed public meeting, the Planning Board discussed the proposed “Municipal Public Access Plan,” to determine if same was consistent with & should be incorporated within the City’s Master Plan, once approved by the New Jersey Department of Environmental Protection (NJDEP) & the Board ultimately found that the proposed Municipal Public Access Plan furthers the goals & objectives of the NJ Public Trust Doctrine & further found that same is consistent with the current Master Plan.

The Board Solicitor called for a motion to approve the Board 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 Resolution was approved by the Board.

Application: P-23-5-2 MacDonald Living Trust

221 West 19th Avenue

Block 140; Lot 26

R-2 Zoning

“c” variance siteplan approval - renovate & expand the existing single-family dwelling

The Board heard & considered the application of Margaret M. McDonald Living Trust UTD January 7, 2019 (Applicant), owner of the property located at 221 W. 19th Avenue, a/k/a Block: 140, Lot: 26 (Property), seeking ‘C’ variance relief in relation to minimum sideyard setback (4ft. is required whereas 1.82ft. & 6ft. are proposed), minimum total sideyard setback (10ft. is required whereas 7.82ft. is proposed), minimum frontyard

setback (10ft. is required whereas 7.76ft. is existing & proposed), and a design waiver for continuous raised curb (15ft. is required whereas 10ft. is proposed), in order to raise the existing structure & to construct a 14ft. addition to the rear, a covered rear yard deck, and to expand the existing ½ story by constructing dormers.

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 221 W. 19th Avenue, a/k/a Block: 140, Lot: 26, in the City's R-2 Zoning District. A 1-1/2 story single-family dwelling is currently located on site. The Applicant is proposing to renovate & expand the existing single-family dwelling & same will be raised to meet the applicable Base Flood Elevation (BFE). Mr. Amenhauser reviewed the variance relief sought by the Applicant, noting that many of the conditions which require variance relief are pre-existing non-conformities which are being exacerbated by virtue of the Applicant's proposal; however, the existing conditions will not encroach any further within required setbacks than what currently exists.

Pamela Fine, R.A. of Fine Architecture, P.C. appeared on behalf of the Applicant & she was recognized as an expert in the field of architecture. Ms. Fine was placed under oath & she testified from the proposed Architectural Plans, dated January 11, 2023 & last revised February 15, 2023, which were received by the Board & which are incorporated herein as fact. Ms. Fine reviewed the existing & proposed site conditions for the benefit of the Board. Ms. Fine testified that the Property is an undersized, 30ft. x 100ft. lot which is currently developed with a 1-story cottage which is located 1.82ft. from the western property line. Off-street parking is provided along the eastern side of the property. The existing cottage is below the BFE & design flood. Ms. Fine noted that the existing front yard setback is a pre-existing non-conforming condition as a 10ft. setback is required whereas a 7.76ft. setback is provided. She noted that this condition will not be modified in connection with this application. Ms. Fine advised the Board that the existing cottage contains an open floor plan on the 1st floor, consisting of a living room, kitchen, dining room & bathroom. A finished "attic" also exists which contains two (2) bedrooms. Ms. Fine testified that the Applicant is proposing to raise the existing structure, construct a 14ft. addition to the rear & renovate the existing 1st-½-story. Compliant off-street parking will be provided as the Applicant's proposal will result in one (1) off-street parking space within a proposed garage & one (1) parking space within a driveway. The proposed renovation & addition will increase the living space available to the Applicant which will better serve the needs of their growing family. Ms. Fine opined that the Application advances several of the 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;
- g. Provides sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial & industrial uses & open space, both public & private, according to their respective environmental requirements in order to meet the needs of all NJ citizen(s); and
- i. Promotes a desirable visual environment through creative development techniques & good civic design & arrangement.

Ms. Fine 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. Ms. Fine also opined that the relief sought by the Applicant can also be granted under the 'C(1) criteria' as the Applicant is experiencing a hardship due to the fact that the Property is an undersized lot which presents practical difficulties in complying with the requirements of the R-2 Zoning requirements. Ms. Fine advised the Board that the Applicant's proposal amounts to a minor expansion without overdeveloping the site. She indicated that the proposed structure is well below maximum permitted building height. Moreover, the proposal is well below maximum permitted building coverage as 70% is permitted whereas 42% is proposed. In response to a question posed by the Board, Ms. Fine indicated that the Applicant had not considered centering the structure on the lot. She indicated that the Applicant intends to maintain the existing foundation if

same is determined to be in good condition. As a condition of approval, the Applicant will center the structure on the Property and provide a 4ft. & 3.82ft. sideyard setback if it is determined that the existing foundation needs to be replaced.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated June 29, 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 lot. The Property is a 30ft. x 100ft. lot, located in the R-2 Zoning District, which is currently being developed with one-story single-family dwelling. A finished attic, or ½-story also exists. The Applicant is proposing to renovate & expand the existing single-family dwelling & same will be raised to meet the applicable BFE. A 14ft. addition is also proposed to be constructed in the rear of the structure along with a covered rearyard deck & the existing ½ story will be expanded by constructing dormers. The Applicant is requesting the following 'c' variances: minimum sideyard setback, minimum total sideyard setback, & minimum frontyard setback. The Applicant is also requesting a design waiver for continuous raised curb. Ms. Fine, reviewed the existing & proposed site conditions for the benefit of the Board. Ms. Fine reviewed & discussed the variance relief sought in connection with the Applicant's proposal. Ms. Fine provided testimony in relation to the positive & negative criteria which supports granting the relief sought by the Applicant. She identified purposes of Zoning that she contends will be advanced in connection with this Application, and she 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. Ms. Fine also opined that that the undersized lot presents a hardship to the Applicant which also supports granting the variance relief sought by the Applicant as same presents practical difficulties in complying with the area & bulk requirements of the R-2 Zoning District. The Board found Ms. Fine's testimony to be credible & persuasive. No public comment was received in connection with this Application. 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 renovate & expand 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 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. 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 Resolution was approved by the Board.

Application: Z-23-5-3 2300 New York Ave LLC

2300 New York Avenue

Block 135; Lot 11

R-2 Zoning District

“d” Use Variance siteplan approval for tri-plex, residential building, seeks to convert an existing commercial (day-care facility) on the 1st floor of the building into three (3) residential apartments

The Board heard & considered the application of 2300 New Jersey Avenue, LLC (Applicant), owner of the property located at 2300 New Jersey Avenue, a/k/a Block: 135, Lot: 11 (Property), seeking a D(1) Use variance, and ‘c’ variance relief in relation to minimum lot frontage/width (60ft. is required whereas 40ft. is existing & proposed), minimum lot area (6,000SF is required whereas 4,000SF is existing & proposed), minimum sideyard setback (10ft. is required whereas 3.92ft. is existing & proposed), and minimum frontyard setback (10ft. is required whereas 6.67ft. is existing & proposed), in order to convert an existing mixed-use building which contains two (2) residential units & one (1) commercial unit to a three (3) unit multi-family dwelling. The property is located in the R-2 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 currently developed with a mixed-use structure that contains two (2) residential units on the 2nd floor & a commercial unit on the ground floor. The current use is a pre-existing non-conforming use as commercial uses are not a permitted within the R-2 Zoning District. The Applicant is proposing to convert the existing ground commercial floor unit to a residential unit & to maintain the two (2) existing residential units located on the 2nd floor. Mr. Amenhauser reviewed the variance relief sought by the Applicant, noting that all of the requested ‘c’ variances are associated with pre-existing non-conformities which are not being exacerbated in connection with the applicant’s proposal. The Applicant is also requesting a D(1) Use variance to permit a three (3) unit multi-family dwelling in the R-2 Zoning District where same is not a permitted use.

Pamela Fine, R.A. of Fine Architecture, P.C. appeared on behalf of the Applicant & she was recognized as an expert in the field of architecture. Ms. Fine was placed under oath & she testified from the proposed Architectural Plans, dated March 20, 2023, which were received by the Board & which are incorporated herein as fact. Ms. Fine reviewed the existing & proposed site conditions for the benefit of the Board. She advised the Board that the Applicant’s proposal involves renovations to the existing ground floor unit in order to convert same to a 3rd residential unit. No renovations/modifications are proposed to the existing units located on the 2nd floor. Ms. Fine testified that the existing commercial unit was operated as a daycare; however, the daycare use has been abandoned. Ms. Fine testified that the Applicant is proposing to reconfigure & renovate the existing 1st floor commercial unit & the proposed residential unit will contain two (2) bedrooms, an office/living room, 1.5 bathrooms, a kitchen & dining room.

In response to a question posed by the Board, Ms. Fine indicated that an existing handicap ramp would be eliminated; however, no other modifications are proposed to the exterior of the building or the site itself at this time.

Vincent Orlando, P.E., P.P., L.L.A., C.M.E. with Engineering Design Associates, P.A., also 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 and he was placed under oath to testify before the Board. Mr. Orlando confirmed that the Applicant is requesting a D(1) Use Variance in order to permit the conversion of the existing mixed-use building to a three (3) unit multi-family dwelling as same is not a permitted use in the R-2 Zoning District. He reiterated that the requested ‘c’ variances are all associated with existing conditions which are not

being exacerbated in connection with the Applicant's proposal. Mr. Orlando opined that the subject property is particularly suited to accommodate the proposed three (3) unit multi-family dwelling as the Applicant's proposal will eliminate a non-conforming commercial use in a residential zone. He indicated that the Applicant's proposal is more conforming with the surrounding neighborhood than what currently exists on site. Mr. Orlando testified that the mixed-use structure is detrimental to the neighborhood & the elimination of the commercial use will advance the goals and objectives of the City's Zoning Map & Ordinance. Mr. Orlando advised the Board that the only modifications that will be made to the site itself is the elimination of an existing handicap ramp. He indicated that removing the handicap ramp will reduce impervious coverage & will allow the Applicant to incorporate landscaping on site. Mr. Orlando opined that the Application advances several of the purposes of Zoning outlined within N.J.S.A. 40:55D-2, which supports the relief sought by the Applicant as the proposal:

- 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 citizen; and
- m. Encourages coordination of the various public & private procedures & activities shaping land development with a view of lessening the cost of such development & to the more efficient use of land.

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. In response to a question posed by the Board, Mr. Orlando testified that compliant off-street parking is provided on site. As a condition of approval, the Applicant will assign parking spaces to individual units & reflect same on revised plans.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated June 29, 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 lot. The Property is a 40ft. x 100ft. lot located in the R-2 Zoning District & it is currently developed with a mixed-use structure containing one (1) commercial unit on the ground floor & two (2) residential units on the 2nd floor. The Applicant is proposing to convert the existing ground floor commercial unit to a residential unit & to maintain the two (2) existing residential units located on the 2nd floor. The Applicant is requesting a D(1) Use Variance in order to permit the proposed three (3) unit multi-family dwelling as same is not a permitted use in the R-2 Zoning District. The Applicant is also requesting the several 'c' variances, which are all pre-existing non-conforming conditions that are not being exacerbated by the Applicant's proposal. Ms. Fine, appeared on behalf of the Applicant & she was recognized as an expert in the field of architecture, and she testified from the architectural plans. She reviewed the existing & proposed site conditions for the benefit of the Board. Ms. Fine reviewed the floor plan associated with the proposed 1st floor residential unit. She confirmed that no modifications are proposed to the two (2) existing 2nd floor residential units. Mr. Orlando, also appeared before the Board on behalf of the Applicant & he was

recognized as an expert in the fields of engineering & land planning. Mr. Orlando reviewed the variance relief sought by the Applicant in connection with the proposal to convert the existing mixed-use structure to a three (3) unit multi-family dwelling. 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. Mr. Orlando opined that the Property is particularly suited to accommodate the proposed three (3) unit multi-family dwelling. He testified that the existing commercial use is detrimental to the neighborhood as commercial uses are not permitted within the R-2 Zoning District. He testified that the Applicant's proposal to convert the existing structure to a strictly residential use is more in keeping with the surrounding neighborhood & will bring the Property into closer conformity with the Zoning Map or Ordinance. The Board found Ms. Fine's & Mr. Orlando's testimony to be credible & persuasive. With respect to the D(1) Use Variance & the 'c' variance relief sought by the Applicant, the Board finds that the Applicant has presented special reasons which advance the purposes of Zoning & which justify the granting of the requested variances. The Board further finds that the benefits of granting the relief sought by the Applicant outweigh any potential detriments to the public, and same will not impair the intent or purpose of the City's Zoning Map or Ordinance. Accordingly, the Board finds that the proposed development is compatible with the neighborhood & the site is particularly suited to accommodate the proposed three (3) unit multi-family dwelling. Board Members agreed that the proposed tri-plex 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 renovate the proposed tri-plex building. 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 application as discussed. Motioned by Mr. O'Connell & 2nd by Vice Chair DiEduardo. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the Resolution was approved by the Board. Board members Mr. Peters, Ms. DeJoseph, Ms. Cannon & Mr. McCracken did not need to vote on the application due to the Use Variance application.

Application: Z-23-5-1 Scooter Boot LLC

107 East 21st Avenue

Block 200; Lot 16

R-1.5 Zoning District

d" Use Variance siteplan approval for proposed development of a duplex, residential building, which is not permitted use in the R-1.5 Zoning District

The Board heard & considered the application of Scooter Boot, LLC (Applicant), owner of the property located at 107 East 21st Avenue, a/k/a Block: 200, Lot: 16 (Property), seeking a D(1) Use Variance, & a design waiver for continuous raised curb (30ft. is required whereas 20ft. is proposed), in order to develop a single-family semi-detached (duplex) dwelling in the R-1.5 Zoning District.

Jeffrey Barnes, 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 107 East 21st Avenue, a/k/a Block: 200, Lot: 16, in the City's R-1.5 Zoning District. The Property is currently developed with a single-family dwelling that was built in the 1940s. The Applicant is proposing to demolish the existing single-family dwelling in order to develop a single-family semi-detached (duplex) dwelling on site. Duplexes are not a permitted use in the R-1.5 Zoning District necessitating a D(1) Use Variance. Mr. Barnes discussed the Applicant's history with the Property & the length of time that it took to close on same. He stated that the Applicants were originally under contract to purchase the Property in 2021, and, at that time, duplexes were a permitted use in the R-1.5 Zoning District. Prior to closing on the Property, the former owner passed away, and the Property was subject to being probated in Pennsylvania where the former owner resided. Mr. Barnes indicated that the probate process took approximately 5-6 months & a notice of settlement was ultimately issued authorizing closing on the property in March of 2022. The Applicant's closed on the property on April 14, 2022. Mr. Barnes advised the Board that the Applicant's hired an architect with the intent of designing & developing a duplex; however, in July of 2022, the City modified the R-1.5 Zoning District & eliminated duplexes as a permitted use in the Zoning District.

Mr. Barnes then distributed an aerial photograph depicting the surrounding neighborhood which identified a number of pre-existing multi-family dwellings within same which was received by the Board & which was marked as **Exhibit A-1**. Mr. Barnes noted that 17 out of 39 existing structures within the immediate surrounding neighborhood are developed with multi-family dwellings, the most recent having been built in 2007. He argued that the Applicant's proposal, while not permitted in the R-1.5 Zoning District, is consistent with the existing uses in the surrounding neighborhood. Mr. Barnes stated that the proposed duplex complies with all applicable area & bulk regulations of the R-1.5 Zoning District & the proposed duplex was designed so as to appear as if it were a single-family dwelling in an effort to maintain consistency with the neighborhood.

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 October of 2022, and last revised June 22, 2023, which were received by the Board & which are incorporated herein as fact. Mr. Newswanger confirmed that the Applicant is proposing to develop a single-family semi-detached (duplex) dwelling. He indicated that the Applicant's proposal is in conformity with the applicable area & bulk regulations of the R-1.5 Zoning District. Mr. Newswanger reviewed the proposed floor plans for the benefit of the Board. The ground floor will consist of a garage & storage area. The proposed 1st floor will contain a living room, kitchen, dining room & a master bedroom. The proposed 2nd floor will contain a total of three (3) bedrooms & an open living area.

In response to a question posed by the Board, Mr. Newswanger confirmed that four (4) bedrooms are proposed within each unit. He also indicated that an elevator, which is referenced on the submitted plans, is not proposed in connection with this project. As a condition of approval, the Applicant will submit revised plans eliminating any reference to an elevator.

Mr. Newswanger advised the Board that the Applicant designed the proposed duplex to appear as if it is a single-family dwelling in an effort to maintain consistency with the R-1.5 Zoning District & the surrounding neighborhood. Mr. Newswanger presented a color rendering of the proposed duplex which was received by the Board & which was marked as **Exhibit A-2**. As a condition of approval, the Applicant will ensure that the duplex is constructed consistent with the color rendering which was marked as **Exhibit A-2**. Mr. Newswanger indicated that the proposed duplex contains a continuous 2nd floor deck, and only one (1) entrance is visible from the public right-of-way. He opined that the design of the proposed duplex is consistent with that of a single-family dwelling. Mr. Newswanger testified that each unit will be provided three (3) off-street parking

spaces, two (2) parking spaces will be located within the garage, and a 3rd parking space is provided within the driveway.

Vincent Orlando, P.E., P.P., L.L.A., C.M.E. with Engineering Design Associates, P.A., also 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 and he was placed under oath to testify before the Board. Mr. Orlando confirmed that the Applicant is requesting a d(1) Use Variance in order to permit development of a duplex in the R-1.5 Zoning District where same is not a permitted use. Mr. Orlando acknowledged the fact that the City enacted an Ordinance in July of 2022 which eliminated duplexes as a permitted use in the R-1.5 Zoning District. Mr. Orlando testified that the elimination of duplexes as a permitted use in this Zoning District is essentially a blanket approach which changes the Zoning throughout the entire Zoning District even though there may be certain locations within the Zoning District where the proposed use can be accommodated & fits. Mr. Orlando opined that the Property is located in an area of the R-1.5 Zoning District where a duplex is consistent with the surrounding neighborhood. Mr. Orlando referred to **Exhibit A-1**, noting that approximately 45% of the surrounding neighborhood is developed with duplexes or multi-family dwellings. Mr. Orlando testified that the proposed duplex was designed to appear as if it were a single-family dwelling & same meets and or exceeds the area & bulk requirements of the Zoning District. He indicated that the Applicant's proposal does not amount to an overdevelopment of the site & he reiterated that compliant off-street parking is provided to accommodate the use & minimize any impact on the surrounding neighborhood. Mr. Orlando noted that a single-family dwelling could be constructed on site which would be significantly larger than what is proposed by the Applicant without the need for variance relief. The Applicant is also requesting a design waiver in relation to continuous raised curb in order to provide a 20ft. wide curb cut. Mr. Orlando testified that the proposed curb cut will still allow for two (2) on-street parking spaces to be maintained. Mr. Orlando opined that the Application advances several of the purposes of Zoning outlined within N.J.S.A. 40:55D-2, which supports the relief sought by the Applicant as the proposal:

- e. Promotes the establishment of appropriate population densities & concentrations that will contribute to the well-being of persons, neighborhoods, communities & regions & preservation of the environment;
- g. Provides sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial & industrial uses and open space, both public & private, according to their respective environmental requirements in order to meet the needs of all NJ citizen; 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 indicated that the Applicant's proposal has the ability to spur development within the surrounding neighborhood.

Board Members raised concerns in relation to the fact that the R-1.5 Zoning District was modified in order to eliminate duplexes as a permitted use in the zone. The Board questioned the benefits that allowing a duplex would have in the district regardless of whether or not there are pre-existing duplexes in the surrounding neighborhood. Mr. Orlando testified that it is unlikely that the pre-existing non-conforming duplexes & multi-family dwellings would be eliminated as the benefits of maintaining a pre-existing non-conforming use are significant.

Board Members engaged in a discussion regarding the R-1.5 Zoning District & the reason why duplexes were eliminated as a permitted use. A majority of the Board indicated that permitting a non-conforming duplex

use in the R-1.5 Zoning District would be inconsistent with the Zoning Map, the Ordinance, and the goals & objectives set forth within the City’s Master Plan. Mr. Orlando testified that the Property is located in a mixed-use block where the proposed duplex fits in with the surrounding neighborhood.

James Gaffney, a member of Scooter Boot, LLC, appeared & he was placed under oath to testify. Mr. Gaffney testified that he attempted to do his due diligence prior to purchasing the Property, and he noted that the Zoning District change was not anticipated. He confirmed that there were a number of delays that were out of his control which delayed his ability to close on the property & pursue approvals for the development of the proposed duplex.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated June 29, 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.

At the conclusion of the Applicant’s presentation the Meeting was opened to the public for comment by the Board Chairman. Four (4) members of the public addressed the Board in connection with this Application, namely:

- a. James Dunlap, owner of the property located at 105 East 21st Avenue, appeared & he was placed under oath to testify before the Board. Mr. Dunlap raised concerns in relation to the development of the proposed duplex as the use is not permitted in the Zoning District. He indicated that the zoning was changed for a reason & he was opposed to the application. Mr. Dunlap expressed concerns in relation to the density of the proposed development & the potential impact on parking in the surrounding neighborhood. He indicated that he believed that the Applicant’s proposal amounted to an overdevelopment of the site.
- b. Melody Omara, owner of the property located at 106 East 21st Avenue, appeared & she was placed under oath to testify before the Board. Ms. Omara raised concerns about parking in the surrounding neighborhood. She indicated that the proposed duplex is inconsistent with the surrounding neighborhood.
- c. May Jean Ricci, owner of the property located at 103 East 21st Avenue, appeared & she was placed under oath to testify before the Board. Ms. Ricci raised concerns about the impact that the proposed development would have on parking & the character of the neighborhood. She raised additional concerns in relation to the fact that duplexes are not a permitted use in the Zoning District. She indicated that the Applicant is proposing a density which exceeds what exists in the surrounding neighborhood, and she raised concerns about the potential precedent that granting this application would set.
- d. Brendan Omara, owner of the property located at 106 East 21st Avenue, appeared & he was placed under oath to testify before the Board. Mr. Omara advised the Board that he was opposed to the Applicant’s proposal. He raised concerns about the impact that the proposed development would have on drainage.

With no additional members of the public spoke out in favor or against the application, the Board 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 R-1.5 Zoning District lot.

The Property is a 60ft. x 100ft. lot located in the R-1.5 Zoning District, and it is currently developed with a single-family dwelling. The Applicant is proposing to demolish the existing single-family dwelling in order to develop a single-family semi-detached (duplex) dwelling on site. The City enacted an Ordinance amendment in July of 2022 which eliminated duplexes as a permitted use in the R-1.5 Zoning District. Accordingly, the Applicant is requesting a D(1) Use variance approval in order to permit the development of the proposed duplex. The Applicant is also requesting a design waiver in connection with continuous raised curb as 30ft. is required whereas 20ft. is proposed. The Board is in receipt of Site/Architectural Plans prepared by Brian Newswanger of Atlantes Architects, dated October of 2022 & last revised June 22, 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 reviewed the floor plans associated with the proposed duplex. He presented a color rendering of the proposed duplex & he discussed the design of same, noting that the structure was designed to appear as if it were a single-family dwelling in an effort to maintain consistency with the surrounding neighborhood. Mr. Orlando reviewed the variance relief sought by the Applicant in connection with the proposal to develop a single-family semi-detached (duplex) dwelling on site. Mr. Orlando reviewed & discussed an aerial photograph which identified a number of multi-family dwellings located in the surrounding neighborhood. He opined that the Applicant's proposal is consistent with the surrounding neighborhood despite the fact that duplexes are no longer a permitted use in the Zoning District. 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 Land Development Ordinance. Mr. Orlando opined that the Property is particularly suited to accommodate the proposed duplex considering the fact that the surrounding neighborhood is developed with multi-family uses, and due to the fact that the proposed duplex was designed to appear as if it were a single-family dwelling. He indicated that the proposed duplex conforms to the area & bulk requirements of the R-1.5 Zoning District & he noted that a permitted single-family dwelling could be constructed on site which would be significantly larger than the dwelling proposed by the Applicant. The Board received public comment for four (4) individuals who were all opposed to the Applicant's proposal.

With respect to the d(1) Use Variance application, the Board found that the proposed duplex would be detrimental to the surrounding neighborhood as duplexes are not a permitted use in the R-1.5 Zoning District. The Board acknowledged the fact that the Ordinance was just recently modified to eliminate duplexes as a permitted use in the R-1.5 Zoning District, and the Board determined that the Applicant's proposal was inconsistent with the goals & objectives of the R-1.5 Zoning District. The Board unanimously found that the project & the requested Use Variance application was not appropriate & was contrary to the City's Master Plan, its Land Development Ordinance & the Zone Map. The Board further found that the purposes of Zoning identified by Mr. Orlando would not be advanced in connection with the proposed development. The Board found that approving this application would not be in the best interests of the City, and that the proposed Application would in fact impair the intent & purpose of the City's Ordinance & Zoning Map as there were substantial detriments to the public good, the zone & the surrounding community. The Board further found that the Property was not particularly suited to accommodate the proposed duplex use & that approving same would amount to a substantial detriment to the public good & the surrounding neighborhood. The Board did not find that the Applicant has satisfied the requirements for d(1) Use 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 application 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 negative, the Resolution was not approved by the Board. The application was disapproved.

Board members Mr. Peters, Ms. DeJoseph, Ms. Cannon & Mr. McCracken did not need to vote on the application due to the Use Variance application.

I) ZONING OFFICER REPORT:

Dan Speigel, 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 June 14, 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 Mr. Harkins & 2nd by Ms. DeJoseph. Based on the affirmative majority roll-call vote of the Board members to memorialize the Meeting Minutes. Mr. Greenland & Ms. Cannon abstained on the motion.

L) UNFINISHED BUSINESS:

Sample Landscaping regulation – Wildwood Crest Borough – Board discussion
No Board Action required

The Board Solicitor & Secretary announced the distribution of Wildwood Crest landscaping ordinance/requirements for the Board's information & discussion of same to amend the City's Land Development Ordinance in light of recent paver/parking in the frontyard events. The Board Engineer also stated he was in favor of the City adopting some of the standards of wildwood Crest's requirements. Removal of any reference to the 4x4 landscape ties is recommended. The Board Chairman stated the front of the house/frontyard of the property should not be constructed with hard impervious surfaces. The Board Solicitor also highlighted some requirements of the Wildwood Crest requirements. The City's existing ordinance requirements seem to preclude hardscaping despite what is happening in the City.

Board member O'Connell questioned how the police ticket or engage vehicles blocking the sidewalk in a parking scenario. Chief Stevenson explained how the police administers the parking/blocking the sidewalk. Chairman Davis expressed that the sidewalk must be kept clear, especially in the driveway apron area. Any parking of vehicles cannot be extended into the street, crossing the sidewalk.

The Board Solicitor & Board Engineer will draft amendments for consideration of the Board for next month meeting.

The Board Engineer remarked that side-by-side parking inside the garage without moving one car to exit should not be permitted or count toward required parking spaces. The Board was favorable to this position.

M) COMMUNICATION(S):

The Board Chairman announced discussion with City administration of eliminating the R-1.5 Zoning District & removal of the conditional use standard of permitted duplexes on 50x100/5,000 lots in the R-2 Zoning District. A discussion of the Board members on how the R-1.5 Zoning District duplexes was created did ensue. The Board Solicitor recommended that a Master Plan Re-Examination be prepared to amend the Ordinance for the removal of the permitted use in the residential zoning districts.

N) REPORTS: None presented

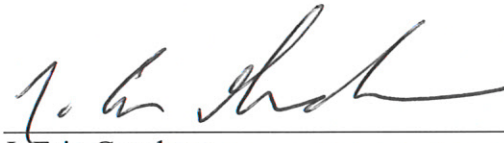
O) MEETING ADJOURNED:

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: _____

8/10/23

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.