

North Wildwood Planning Board
Regular Meeting: September 13, 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	Present
George Greenland	Present	Bill O'Connell	Present
Ron Peters (Alt. 1)	Present	Sharon Cannon (Alt. 3)	Present
Valerie 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: P-22-10-4(A) Mark Arabia & Sean Dougherty

203 Delaware Avenue

Block 156; Lot 2

R-2 Zoning District

Extension of previous granted approval per NJSA 40:55D-47(f)

Previously granted approval for minor subdivision approval & 'c' variance relief for Lot does not abut an improved street

The Board heard & considered the application of Mark Arabia & Sean Dougherty (Applicant), owners of the property located at 203 Delaware Avenue, a/k/a Block 156, Lot 2 (Property), seeking an extension of minor subdivision approvals granted on January 11, 2023 & memorialized by the Board within Resolution P-22-10-4. The property is located in the R-2 Zoning District.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by 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. Miller abstained from the vote.

Application: P-23-6-3 Jersey Development Group, LLC

234 West Chestnut Avenue

Block 158; Lot 4

R-2 Zoning District

Conditional Use/siteplan approval in order to construct single-family semi-detached (duplex) dwelling

The Board heard & considered the application of Jersey Development Group, LLC (Applicant), owner of the property located at 234 West Chestnut Avenue, a/k/a Block 158, Lot 4 (Property), seeking 'c' variance relief in relation to off-street parking (five {5} off-street parking spaces are required whereas four {4} are proposed), a contiguous raised curb waiver (25ft. is required whereas 17ft. is proposed) & Conditional Use approval in order to construct a single family residential duplex dwelling on a 50ft. x 100ft. lot within the R-2 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. Harkins. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the memorialization was approved by the Board. Board member(s) Mr. Miller abstained from the vote.

H) NEW BUSINESS:

RESOLUTION NO. PB-07-2023 – Resolution approving deletion of duplexes appearing as single-family homes on 50x100 lots as Conditional Use/Siteplan approval in the R-2 Zoning District

Board Action required

The New Jersey Municipal Land Use Law (NJ-MLUL), specifically N.J.S.A. 40:55D-25 & 40:55D-28, Municipal Planning Boards are granted the authority to adopt or amend a Municipality's Master Plan, or a component thereof. The City of North Wildwood Planning Board (Board) conducted a review & reexamination of the City's Master Plan & a reexamination of the City's Land Use Ordinance in 2018, which was reduced to

writing in the form of a report entitled “Master Plan Reexamination Report (Master Plan)” dated September 2018. On September 5, 2023, the City of North Wildwood’s City Council introduced Ordinance 1913, entitled “An Ordinance Amending & Supplementing Ordinance 1177, As Amended” which proposes to eliminate the ability to construct single-family semidetached dwellings & two-family stacked (duplex) dwellings on 50ft. x 100ft. lots as Conditional Uses in the R-2 Zoning District.

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 City Council is required to refer said regulation to the Board for its review & comment in order to ensure that the proposed regulation, revision or amendment is consistent with the municipality’s current Master Plan. Pursuant to N.J.S.A. 40:55D-26, following its review of the proposed development regulation, revision, or amendment thereto, the Board is required to assess & pass a Resolution, to be submitted to the City Council, outlining the Board’s findings in relation to the consistency of the proposed regulation to the municipality’s Master Plan. Proper notices were given to the persons & bodies as required by law, & the necessary publications were undertaken, & the proofs with respect thereto have been filed.

The Board at its September 13, 2023 duly-noticed public meeting, the Board reviewed & discussed proposed Ordinance No. 1913 to determine if said Ordinance was consistent with the City’s current Master Plan, & the Board ultimately found that the proposed Ordinance was acceptable & further found same to be consistent with the current Master Plan. The Board made the site plan following findings & conclusions as follows:

- a. With respect to Ordinance No. 1913, the Board finds that eliminating the ability to construct single-family semidetached dwellings & two-family stacked dwellings on 50ft. x 100ft. lots as Conditional Uses Standard in the R-2 Zoning District is appropriate in light of recent development trends in the R-2 Zoning District & throughout the City of North Wildwood.
- b. The Board hereby recommends that proposed Ordinance 1913 be adopted by the City Council as it finds that same is consistent with the findings & recommendations set forth within the 2018 Master Plan Reexamination Report.

Accordingly, the City of North Wildwood Board resolves to recommend that the Council of the City of North Wildwood formally adopt Ordinance 1913.

The Board Solicitor called for a motion to approve the of the Resolution as discussed. Motioned by Ms. Cannon & 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) Councilman Kane & Mr. Miller abstained from the vote.

RESOLUTION NO. PB-08-2023 – Resolution approving creation of conditional use requirements for accessory apartments in the R-1.5 Zoning District

Board Action required

The New Jersey Municipal Land Use Law (NJ-MLUL), specifically N.J.S.A. 40:55D-25 & 40:55D-28, Municipal Planning Boards are granted the authority to adopt or amend a Municipality’s Master Plan, or a component thereof. The City of North Wildwood Planning Board (Board) conducted a review & reexamination of the City’s Master Plan & a reexamination of the City’s Land Use Ordinance in 2018, which was reduced to writing in the form of a report entitled “Master Plan Reexamination Report (Master Plan)” dated September 2018. On September 5, 2023, the City of North Wildwood’s City Council introduced Ordinance 1916, entitled

“An Ordinance Amending & Supplementing Ordinance 1177, As Amended” which proposes modifying the conditions associated with the development of accessory apartments in the R-1.5 Zoning District.

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 City Council is required to refer said regulation to the Board for its review & comment in order to ensure that the proposed regulation, revision or amendment is consistent with the municipality’s current Master Plan. Pursuant to N.J.S.A. 40:55D-26, following its review of the proposed development regulation, revision, or amendment thereto, the Board is required to assess & pass a Resolution, to be submitted to the City Council, outlining the Board’s findings in relation to the consistency of the proposed regulation to the municipality’s Master Plan. Proper notices were given to the persons & bodies as required by law, & the necessary publications were undertaken, & the proofs with respect thereto have been filed.

The Board at its September 13, 2023 duly-noticed public meeting, the Board reviewed & discussed proposed Ordinance No. 1916 to determine if said Ordinance was consistent with the City’s current Master Plan, & the Board ultimately found that the proposed Ordinance was acceptable & further found same to be consistent with the current Master Plan. The Board made the following findings & conclusions as follows:

- a. With respect to Ordinance No. 1916, the Board finds that that modifying the conditions associated with the development of accessory apartments in the R-1.5 Zoning District, specifically the reducing the maximum permitted habitable floor area of accessory apartments, further advances the purpose & vision of the R-1.5 Zoning District, consistent with the City’s prior decision to eliminate the development of single-family semidetached dwellings & two-family stacked (duplex) dwellings within the R-1.5 Zoning District.
- b. The Board hereby recommends that proposed Ordinance 1916 be adopted by the City Council as it finds that same is consistent with the findings & recommendations set forth within the 2018 Master Plan Reexamination Report.

Accordingly, the City of North Wildwood Board resolves to recommend that the Council of the City of North Wildwood formally adopt Ordinance 1916.

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

Application: Z-2021-1-1(A) Sunshine Shore Properties, LLC

511 East 11th Avenue

Block 416; Lot 6

O/S Zoning District

requests extension of approvals for previous granted approvals in order to convert an existing 24-unit motel to 10 residential apartments

Extension of previous granted approval per NJSA 40:55D-47(f)

The Applicant & attorney was not present for the presentation of the application & the Board postponed the application to next month’s meeting. The application was postponed to the October 11, 2023 Board meeting.

Application: P-21-2-1(A) Jersey Development Group, LLC

132 West 3rd Avenue

Block 186; Lot 3

R-2 Zoning District

Conditional Use/siteplan approval in order to construct single-family semi-detached (duplex) dwelling

Extension of previous granted approval per NJSA 40:55D-47(f)

The Board heard & considered the application of Jersey Development, LLC (Applicant), owner of the property located at 132 West 3rd Avenue, a/k/a Block 186, Lot 3 (Property), seeking a one (1) year extension of prior approvals, specifically Conditional Use approval to construct a single-family semi-detached (duplex) dwelling on a 50ft. x 100ft. in the R-2 Zoning District, which was granted by the Board on June 9, 2021, and memorialized within Resolution P-2021-2-1 on July 14, 2021.

Jeffrey Barnes, Esq. appeared on behalf of the Applicant & outlined the nature of the application & the relief sought in connection with same. Mr. Barnes advised the Board that on June 9, 2021, the Applicant appeared before the Board & received Conditional Use approval in order to construct a single-family semi-detached (duplex) dwelling on a 50ft. x 100ft. lot in the R-2 Zoning District. The aforementioned approvals were memorialized by the Board on July 14, 2021 within Resolution P-2021-2-1. Mr. Barnes advised the Board that at the time that the Applicant received Board approval the Property was existing with a non-conforming triplex that the Applicant was proposing to demolish. Mr. Barnes indicated that, to date, the triplex has not been demolished due to complications which arose in connection with evicting tenants residing within the existing structure. He noted that the lease agreements that exist with the current tenants residing in the triplex consist of a one (1) year rental term; however, the Applicant has been unable to successfully remove the tenants from the structure which has prevented the demolition of same. In light of the issues associated with evicting the current tenants from the building, the Applicant has been unable to obtain a Construction Permits in order to proceed with the development of the previously approved duplex.

Accordingly, the Applicant is requesting a one (1) year extension of the prior approvals pursuant to City Ordinance § 276-58(L)(4).

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

No finding of fact was necessary by the Board members, as per the Board Solicitor.

Due to the difficulties experienced by the Applicant, the Applicant is requesting an extension of the prior approvals pursuant to City Ordinance §276-58(L)(4) which allows the Board to grant three (3) one (1) year extensions of prior approvals. This application represents the Applicant's first request for a one (1) year extension of the prior approvals granted & memorialized within Resolution P-2021-2-1. In deliberations, Board Members acknowledged the right of an Applicant to request a one (1) year extension of prior approvals, and determined that the request for a one (1) year extension was reasonable & appropriate under the circumstances presented by Mr. Barnes. Accordingly, the Board unanimously agreed to extend the prior approvals memorialized within Resolution P-2021-2-1 for one (1) year through July 14, 2024.

The Board Solicitor called for a motion to approve the Board Resolution as discussed. Motioned by Mr. Greenland & 2nd by Mr. Harkins. The Board Solicitor called for any discussion or corrections to the motion.

The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the Resolution was approved by the Board.

Application: P-23-6-2 Cheryl Kulpa & John Perpiglia

423 East 5th Avenue

Block 322; Lot 10

O/S Zoning District

minor subdivision approval in order to create a 40ft. x 100ft. lot & a 50ft. x 100ft. lot. The Applicant is proposing to construct a new single-family dwelling on the proposed 50ft. x 100ft. lot & is seeking 'c' variance relief for required minimum frontyard setback

The Board heard & considered the application of John Perpiglia & Cheryl Kulpa (Applicant), owners of the property located at 423 East 5th Avenue, a/k/a Block 322, Lot 10 (Property), seeking minor subdivision approval, & 'c' variance relief in relation to minimum frontyard setback – Lot 10.01 (10ft. is required whereas six (6)ft. is proposed), in order to demolish an existing single-family dwelling to subdivide the Property to create a conforming 50ft. x 100ft. lot & a 40ft. x 100ft. lot in the Oceanside (OS) Zoning District, with intentions to construct a single-family dwelling on the larger lot.

Jeffrey Barnes, Esq., appeared on behalf of the Applicant and outlined the nature of the application & the relief sought in connection with same. The Property is an existing oversized 90ft. x 100ft. lot located in the OS zoning district which is developed with a single-family dwelling. The Applicant is proposing to demolish the existing single-family dwelling in order to subdivide the property to create a 50ft. x 100ft. lot & a 40ft. x 100ft. lot. The Applicant is proposing to construct a new single-family dwelling on the proposed 50ft. x 100ft. lot. No development is proposed on the 40ft. x 100ft. lot at this time. Mr. Barnes advised the Board that the proposed subdivision is a by-right subdivision as the lots fully comply with the zoning requirements of the OS Zoning District.

In addition to minor subdivision approval, Mr. Barnes advised the Board that the Applicant is requesting 'c' variance relief/siteplan approval in relation to the minimum frontyard setback associated with the proposed single-family dwelling. He indicated that the proposed frontyard setback measured to a covered porch & 2nd floor deck encroach into the required setback; however, the setback to the face of the structure complies with the 10ft. requirement. The setback was initially proposed as four (4) ft. to the 2nd-floor deck & five (5) ft. to the covered porch; however, the Applicant agreed to increase the setbacks by two (2) ft. as outlined in more detail below. Mr. Barnes informed the Board that the corner property located adjacent to the Property is a large multi-family dwelling that is located directly on the property line which significantly impacts the Property's views down 5th Avenue. He indicated that the Applicant's proposal to construct the covered porch within the required frontyard setback would allow the Applicant to have a view of the beach/ocean without negatively impacting neighboring properties.

Paul Kates, P.E., P.P. with Kates Schneider Engineer, LLC, appeared on behalf of the Applicant. Mr. Kates was accepted by the Board as an expert in the fields of engineering & land planning & he was placed under oath & testified from the proposed Minor Subdivision Plan, dated June 26, 2023 & last revised July 13, 2023, which was received by the Board & which is incorporated herein as fact. Mr. Kates advised the Board that the single-family dwelling currently developed on the Property will be demolished in connection with this proposal. He confirmed that the Applicant is proposing to subdivide the property to create a 50ft. x 100ft. lot & a 40ft. x 100ft. which fully complies with the requirements of the OS Zoning District. Accordingly, he opined that the proposed minor subdivision is by-right.

Mr. Blane Steinman, R.A. of Blane Steinman Architect, LLC appeared on behalf of the Applicant & he was recognized as an expert in the field of architecture. Mr. Steinman was placed under oath & he testified from the proposed Architectural Plans, dated August 9, 2023 & last revised August 21, 2023, which were received by the Board & which are incorporated herein as fact. Mr. Steinman advised the Board that the Applicant is proposing to construct a single-family dwelling on the proposed 50ft. x 100ft. There is no development proposed on the 40ft. x 100ft. lot at this time. Mr. Steinman testified that the proposed single-family dwelling will contain a total of five (5) bedrooms, and same is fully compliant with the area & bulk requirements of the OS Zoning District with the exception of the required frontyard setback. Mr. Steinman further testified that the neighboring multi-family dwelling is constructed right on the property line & impedes the views/site lines from the 50ft. x 100ft. lot. He indicated that the Applicant's proposal to encroach within the frontyard setback will allow the Applicant to capture views down 5th Avenue to the beach/ocean. Mr. Steinman advised the Board that the proposed 2nd-floor deck will also encroach into the frontyard setback. Mr. Steinman presented & reviewed the proposed architectural elevations for the benefit of the Board, and he indicated that the proposed structure is consistent with neighboring structures.

In response to a question posed by the Board, Mr. Steinman testified that the proposed 2nd floor deck/overhang is only located above the front door & the middle 1/3rd of the structure. Mr. Steinman further testified that the setback to the main structure exceeds the minimum 10ft. setback requirement. He indicated that the covered porch and second-floor deck are open in order to maintain light, air, and open space, and accordingly he opined that the Applicant's proposal will not negatively impact neighboring properties.

Mr. Kates provided additional testimony in support of the requested variance. Mr. Kates opined that several of the purposes of Zoning, outlined within N.J.S.A. 40:55D-2, are advanced in connection with this application & support the relief sought by the Applicant as it:

- a. 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 & open space, both public & private, according to their respective environmental requirements in order to meet the needs of all NJ citizens;
- h. Promotes a desirable visual environment through creative development techniques & good civic design & arrangement;
- 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. Kates further opined that the application can be granted as there are no substantial detriments to the public good & the application does not substantially impair the intent or purpose of the Zoning Map & Ordinance as the bulk of the building complies with the required minimum frontyard setback & the deck is open in an effort to mitigate any impact to neighboring properties.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated August 30, 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. Four (4) individuals addressed the Board in connection with this Application, namely:

- a. Dave Clark, owner of the property located at 421 East 5th Avenue, appeared & he was placed under oath to testify before the Board. Mr. Clark advised the Board that he was opposed to the requested frontyard setback due to concerns associated with impacts to traffic & pedestrian safety.
- b. Steven Rems, owner of the property located at 415 East 5th, appeared & he was placed under oath to testify before the Board. Mr. Rems expressed concerns about the impact of the development on the surrounding neighborhood. He expressed additional concerns in relation to the proposed setback variance & the perceived negative impact that same would have on his property & views of the beach/ocean. He indicated that the Applicant's proposal would have negative impact on traffic & pedestrian safety.
- c. William Jones, owner of the property located at 417 East 5th Avenue, appeared & he was placed under oath to testify before the Board. Mr. Jones shared the concerns raised by other members of the public. He indicated that the Applicant's proposal only serves to benefit the Applicant & not the neighborhood or the City.

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

In response to public comments, Mr. Barnes indicated that the Applicant's proposal would have no negative impact on traffic or pedestrian safety as the proposed porch & deck are open. Moreover, he indicated that there is an additional five (5) ft. between the property line & the public right-of-way. Additionally, he indicated that the Applicant has no control over the manner in which vehicles are driven or how pedestrians walk down the street.

Mr. Kates advised the Board that the design of the proposed single-family dwelling took into consideration the contour of the street & the existing views of neighboring properties. Mr. Kates presented a marked up copy of the proposed subdivision plan which reflected a site line depicting the impact on the views of neighboring properties which was received by the Board & marked as Exhibit A-1. Mr. Kates testified that the site line from neighboring properties down 5th Avenue in comparison to the location of the proposed front porch would not eliminate neighboring property views of the beach/ocean. In addition, he indicated that the Applicant's proposal would not impact views any more than the existing corner multi-family dwelling already does.

In response to a question posed by the Board, Board Engineer Mr. Petrella indicated that a proposed five (5) ft. setback could potentially have a slight impact on the views of neighboring properties. Mr. Petrella further discussed the location of the public right-of-way to the property line noting that there is an approximately 22ft. between the edge of the curb & the face of the proposed structure. Board Members expressed concerns that the Applicant would install shades or shutters on the porch in the future which would impede the views of neighboring properties. As a condition of approval, the Applicant agreed not to install shutters, dormers, drapes, blinds, or any type of enclosure on the proposed porch & would record a Deed Restriction confirming same, subject to the review & approval of the Board Solicitor prior to recording. In response to the concerns raised by the Board, the Applicant also agreed to move the proposed open porch & 2nd-floor deck back by approximately two (2) ft. to further reduce potential impact to neighboring views.

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 a 90ft. x 100ft. lot.

The Applicant is proposing to construct a new single-family dwelling on the proposed 50ft. x 100ft. lot. No development is proposed on the 40ft. x 100ft. lot at this time by minor subdivision. In addition to minor subdivision approval, the Applicant is requesting 'c' variance relief in connection with the proposed frontyard setback for lot 10.01. The proposed subdivision complies with the area & bulk requirements & is therefore a by-right subdivision. Mr. Steinman reviewed & discussed the proposed floor plan/architectural elevations for the benefit of the Board. The proposed front porch & second-floor deck is open which will maintain light, air, & open space. The Applicant agreed to the following conditions of approval:

- a. The Applicant agreed not to install shutters, dormers, drapes, blinds, or any type of enclosure on the proposed porch & will record a Deed Restriction confirming same which must be reviewed & approved by the Board Solicitor prior to recording.
- b. The Applicant agreed to move the structure back by approximately two (2) feet in order to increase the proposed frontyard setback & same will be depicted on revised plans to be submitted to the Board Secretary.

The Board finds that the Applicant has presented special reasons which advance the purposes of Zoning which justify granting of the variance relief sought by the Applicant. Mr. Steinman & Mr. Kates, appeared before the Board on the Applicant's behalf, and provided testimony in relation to the Applicant's proposal. Both Mr. Steinman & Mr. Kates reviewed the existing & proposed site conditions for the Board. Both Mr. Kates & Mr. Steinman provided testimony relative to the need for a variance & they discussed in detail the O/S Zoning District, and the development that exists within the surrounding neighborhood. Mr. Kates testified to the positive criteria which he contends supports the relief sought by the Applicant & he opined that the Property is particularly suited to accommodate the proposed development. Mr. Steinman & Mr. Kates testified that in his expert opinion the Applicant's proposal presents no substantial detriments to the public good nor will it impair the intent or purpose of the Zoning Map & the Ordinance. The surrounding neighborhood is developed with a variety of uses & the block in question has majority of different uses between the O/S Zoning Districts. The Board found Mr. Steinman & Mr. Kates's testimony to be credible & persuasive. Four (4) members of the public comment was received in connection with this Application. Board Members agreed that the proposed development & new 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 development with the variance approval. 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 minor subdivision/variance siteplan approval as well as requested variance approval. The Board found that the Applicant did establish that granting the subdivision & 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 minor subdivision/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 Board Resolution of the minor subdivision as discussed. Motioned by Mr. Auty & 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.

The Board Solicitor called for a motion to approve the Board Resolution of the variance siteplan as discussed. Motioned by Mr. O'Connell & 2nd by Mr. Harkins. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based

on the majority roll-call vote being affirmative, the Resolution was approved by the Board. Board members Mr. Miller & Mr. Peters voted no on the application.

As to the combined Board format as formulated under the NJ-Municipal Land Use Law (NJ-MLUL), Councilman Kane as Class II Board member & Mr. Miller, as representative of the Governing Body identified, stepped down for the next application(s) & took a seat in the public seating area.

Application: Z-23-7-1 Cody Lubisky

130 East Walnut Avenue

Block 221; Lot 8

R-1.5 Zoning District

seeks a D(1) Use Variance & "C" variances to permit two (2) residential buildings on one (1) lot, for a total of three (3) residential dwellings. The rear building will be raised & renovated as a duplex structure, while the front building will be a new 3-story residential building

The Board heard & considered the application of Cody Lubisky (Applicant), owner of the property located at 130 East Walnut Avenue, a/k/a Block 221, Lot 8 (Property), seeking a D(1) Use Variance to permit two (2) principal structures on one (1) lot, and 'C' variance relief in relation to off-street parking (six {6} off-street parking spaces are required whereas five {5} are proposed), minimum distance between buildings (8ft. is required whereas 6.5ft. is proposed), minimum sideyard setback (6ft. is required whereas 3.49ft. is existing & proposed), minimum rearyard setback (10ft. is required whereas 4.64ft. is existing & proposed), and minimum total sideyard setback (16ft. is required whereas 9.49ft. is proposed), in order to demolish & reconstruct a single family dwelling on a site which is also developed with a separate single-family semi-detached dwelling in the rear of the property. The property is located in the R-1.5 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 a 55ft. x 100ft. lot located in the R-1.5 Zoning District. Mr. Amenhauser advised the Board that the Property is currently developed with a single-family dwelling & a single-family semi-detached (duplex) dwelling in the rear of the property. A 4th residential unit previously existed on site; however, this unit was in a state of extreme disrepair & the Applicant demolished same after purchasing the property. Mr. Amenhauser indicated that the Applicant is also proposing to renovate & raise the rear existing duplex located in the rearyard to comply with current construction, fire & flood codes.

Cody Lubisky, the Applicant & owner of the Property, appeared & he was placed under oath to testify before the Board. Mr. Lubisky testified that he purchased the Property in 2022 & he has resided in a neighboring property since approximately 1991. Mr. Lubisky advised the Board that he intends to demolish the existing single-family dwelling located on the front portion of the site, and plans to construct a new single-family dwelling in the same location. Mr. Lubisky indicated that he intends to reside in the proposed single-family dwelling. He testified that he plans to maintain the existing duplex located in the rearyard; however, same will be raised & renovated to comport with today's building codes & standards.

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 January 12, 2023 & last revised August 9, 2023, which were received by the Board & which are incorporated herein as fact. Mr. Garramone advised the Board that the existing duplex located in the rearyard is in poor shape & same is located below the base flood elevation (BFE). Mr. Garramone confirmed that the Applicant is proposing to renovate the rearyard duplex & is proposing to raise same to comply with BFE. Mr. Garramone reviewed the proposed floor plans for the benefit of the Board,

noting that the same floor plan will be utilized for both renovated units. A garage is also proposed to be added to provide off-street parking for the units whereas no off-street parking currently exists. Mr. Garramone advised the Board that the Applicant is proposing to demolish the existing single-family dwelling in the front of the property, and is proposing to construct a new 3-story single-family dwelling with a two (2) car garage on the ground floor in same location. Mr. Garramone reviewed the proposed single-family dwelling floor plans for the benefit of the Board. He confirmed that the proposed structure will not exceed maximum permitted building height.

In response to a question posed by the Board, Mr. Garramone testified that a total of eight (8) bedrooms currently exist on site, & a total of nine (9) bedrooms are proposed. Mr. Garramone reviewed & discussed the materials that are proposed to be utilized in connection with the renovation of the existing duplex & the new construction of the single-family dwelling. He opined that the Applicant's proposal will result in a significant aesthetic improvement & will result in the creation of a desirable visual environment.

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 & he testified from the proposed Variance Plan, dated July 20, 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 reviewed the variance relief sought in connection with the Applicant's proposal. He informed the Board that the existing duplex has non-conforming sideyard & rearyard setbacks which will not be exacerbated in connection with this Application; however, he acknowledged that due to the vertical expansion of the structure variance relief is requested. Mr. Orlando testified that the proposed new single-family dwelling complies with all applicable area & bulk requirements of the R-1.5 Zoning District. Mr. Orlando advised the Board that the proposed duplex will be raised to a building height of 32ft. whereas a maximum building height of 36ft. above BFE is permitted.

Board Member Mr. O'Connell raised concerns about the proposed renovations & the inclusion of a garage on the ground floor of the to be raised duplex. The Board ultimately determined that the duplex was/is a pre-existing structure & the Applicant is permitted to raise same pursuant to applicable New Jersey statutes. Moreover, the Board determined that there was no applicable regulation which would prevent the Applicant from proposing to install a ground-floor garage below the existing duplex in order to provide off-street parking.

Mr. Orlando noted that the original plans depicted a minimum distance of 2.69ft. between the proposed residential structures; however, the Applicant has modified the proposal to increase the minimum distance between structures to 6.5ft. whereas 4.2ft. currently exists. With respect to off-street parking, Mr. Orlando testified that a total of five (5) off-street parking spaces are proposed whereas six (6) are required. He advised the Board that one (1) parking space will be located within the duplex ground floor garage, one (1) space in front of the duplex garage, two (2) parking spaces within the single-family ground floor garage, and one (1) additional parking space within the sideyard. Mr. Orlando noted that the proposed driveway is approximately 60ft. long and can accommodate two (2) to three (3) additional parking spaces; however, same cannot be counted towards the minimum off-street parking requirements due to the proposed stacked parking configuration.

In response to a question posed by the Board, Mr. Orlando testified that the parking spaces would be assigned to each individual unit.

Mr. Orlando testified that the Applicant is also requesting a D(1) Use Variance to permit two (2) principal structures on site. Mr. Orlando opined that several of the purposes of Zoning, outlined within N.J.S.A.

40:55D-2, are advanced in connection with this application & support the relief sought by the Applicant as it:

- a. Encourages municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals & general welfare;
- h. 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.

Mr. Orlando further opined that the application can be granted as there are no substantial detriments to the public good & the application does not substantially impair the intent or purpose of the Zoning Map & Ordinance. Moreover, he indicated that the Applicant's proposal will serve to preserve the character of the neighborhood, and the site is particularly suited to accommodate the proposed use in light of the fact that the two (2) structures & three (3) residential units already exist on site. Mr. Orlando testified that the inclusion of off-street parking, the aesthetic enhancements to the site & surrounding neighborhood, and the elimination of the 4th unit provide justification for the requested D(1) Use Variance approval.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated August 30, 2023, which was received by the Board & which is incorporated herein as fact. Mr. Petrella reviewed & confirmed the relief sought by the Applicant for the benefit of the Board. As a condition of approval, the Applicant will provide a detailed landscaping plan to the Board Engineer for his review & approval.

Chairman Davis then opened the application for general public comment. Two (2) individuals addressed the Board in connection with this Application, namely:

- a. Mike Rose, owner of the property located at 125 East Chestnut Avenue, appeared & he was placed under oath to testify before the Board. Mr. Rose advised the Board that he was in favor of the Applicant's proposal & he commended the Applicant for proposing to cleanup & improve the site.
- b. Elise Dalicandro, owner of the property located at 121 East Chestnut Avenue, appeared & she was placed under oath to testify before the Board. Ms. Dalicandro advised the Board that she was opposed to the proposal to construct a new single-family dwelling. She raised concerns about the loss of views & the impact that the Applicant's proposal would have on traffic in the surrounding neighborhood.

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

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 55ft. x 100ft. lot. The Applicant is requesting Use Variance approval in order to raise an existing duplex dwelling on the rear portion of the lot & construct via new construction a new single-family home on the front portion of the lot. Duplexes are not permitted in the R-1.5 Zoning District, thus the Use Variance siteplan/Use Variance approval, in addition for two (2) principal uses on the property. A multi-family residential dwelling containing at least four (4) units once existed on site. This structure was demolished & the site only has the duplex & single-family home on the lot. The Applicant is proposing to construct a single-family residence/dwelling on site, and thus is requesting a D(1) Use variance to maintain two (2) principal uses on the property. Mr. Garramone & Mr. Orlando, appeared before the Board on the Applicant's behalf, and provided testimony in relation to the Applicant's proposal.

Borth Mr. Garramone & Mr. Orlando reviewed the existing & proposed site conditions for the Board. Mr. Orlando provided testimony relative to the need for a Use variance & he discussed in detail the R-1.5 Zoning District, and the development that exists within the surrounding neighborhood. Mr. Orlando testified to the positive criteria which he contends supports the relief sought by the Applicant & he opined that the Property is particularly suited to accommodate the proposed development. Mr. Orlando testified that in his expert opinion the Applicant's proposal presents no substantial detriments to the public good nor will it impair the intent or purpose of the Zoning Map & the Ordinance. The surrounding neighborhood is developed with a variety of uses & the block in question is split-zoned between the R-1.5 & D/E Zoning Districts. The Board found Mr. Garramone & Mr. Orlando's testimony to be credible & persuasive. Two (2) members of the public comment was received in connection with this Application. Board Members agreed that the proposed duplex dwelling & new 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 development of multi-unit residential dwelling(s) as a Use variance approval. 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 Use variance/siteplan approval as well as requested variance approval. The Board found that the Applicant did establish that granting the siteplan & 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 Use variance/siteplan approval. No additions or correction to the finding of facts. No discussion on the facts.

The Board Solicitor called for a motion to approve the Board Resolution as discussed. Motioned by Mr. Greenland & 2nd by Vice Chair Eduardo. 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 have to vote on the Use Variance application.

Application: Z-23-6-1 Kevin Smith, Mary Ellen McKenna & Thomas Peters

234 West 18th Avenue

Block 140; Lot 10

R-2 Zoning District

d(6) "Use"/Maximum building height variance & 'c' variance relief in order to construct single-family semi-detached dwelling

The Board heard & considered the application of Keith Smith, Mary McKenna, & Thomas Peters (Applicant), owners of the property located at 234 West 18th Avenue, a/k/a Block 140, Lot 10 (Property), seeking a D(6) maximum building height/Use variance (24ft. is permitted whereas 31.12ft. is proposed), and 'c' variance relief in relation to minimum lot area (6,000SF is required whereas 3,000SF is existing & proposed), minimum lot frontage/width (60ft. is required whereas 30ft. is existing & proposed), minimum sideyard setback (10ft. is required whereas 5ft. is proposed), and a design waiver for continuous raised curb (15ft. is required whereas 5ft. is proposed), in order to construct a single-family semi-detached (duplex) dwelling on an undersized lot in the R-2 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 an existing undersized 30ft. x 100ft. lot located in the R-2 Zoning District which is currently developed with two (2) residential structures containing a total of three (3) individual units which were built in the 1930s. The Applicant is proposing to demolish both existing structures

located on site in order to construct a two-family side-by-side (duplex) dwelling unit that was designed to appear as if it were a single-family dwelling. Each of the proposed residential units will contain a total of three (3) bedrooms. Mr. Barnes advised the Board that the Applicant is requesting a D(6) Use/maximum building height variance & 'c' variance relief due to the fact that the Property is an undersized lot. Mr. Barnes informed the Board that the R-2 Zoning District requires a minimum lot area of 6,000SF in connection with the development of a duplex whereas the Property has a lot area of 3,000SF, and he indicated that five (5) ft. sideyard setbacks are proposed whereas 10ft. is required.

Mr. Thomas Peters, one of the Applicants & an owners of the Property, appeared & he was placed under oath to testify before the Board. Mr. Peters informed the Board that he purchased the Property in 2011 along with his wife, brother-in-law & sister. He indicated that he & his family have vacationed in North Wildwood since he was a child. Mr. Peters testified that after purchasing the Property, the existing residential units were renovated in order to meet the needs of the family. He advised the Board that he & his family members intend to retire to North Wildwood in the near future, and they plan to reside at the Property. He noted that the residential units currently on site have never been rented & have been exclusively utilized by family members. Mr. Peters testified that the existing units cannot be occupied during the winter months as the structures are not energy efficient & are not heated. Mr. Peters testified that he originally planned on demolishing & rebuilding the residential structure located on the front portion of the lot & raising the rear structure; however, this plan was cost prohibitive. Mr. Peters confirmed that he is proposing to demolish both structures located on site in order to construct a single-family semi-detached (duplex) dwelling. He indicated that in designing the proposed duplex, he attempted to comply with the area & bulk requirements of the R-2 Zoning District. Mr. Peters stated that the height variance is requested due to the fact that the lot is undersized which limits the ability to construct a functional duplex. Mr. Peters testified that the proposal will also ensure that compliant off-street parking is provided on site whereas only two (2) off-street parking spaces currently exist.

Mr. Blane Steinman, R.A. with Blane Steinman Architects, LLC, appeared on behalf of the Applicant. Mr. Steinman was placed under oath, he was accepted as an expert in the field of architecture & he testified from the proposed Architectural Plans, dated May 10, 2023 & last revised August 10, 2023, which were received by the Board & which are incorporated herein as fact. Mr. Steinman confirmed that two (2) residential structures containing a total of three (3) units currently exist on site which are proposed to be demolished & replaced with a duplex. Mr. Steinman advised the Board that the existing site & structures exceeds lot coverage & experiences significant drainage/stormwater management issues which negatively impacts neighboring properties. He indicated that a stormwater management system is proposed on site in order to mitigate drainage issues. As a condition of approval, the Applicant will provide a grading & drainage plan, subject to the review & approval of the Board Engineer.

In response to questions & concerns raised by the Board, Mr. Steinman testified that the proposed building height will also allow the Applicant to accommodate duct work & ensure that off-street parking is provided on site. Mr. Steinman advised the Board that the height of the structure is consistent with existing residential structures in the surrounding neighborhood. Mr. Steinman testified that the Ordinance limits the maximum building height of undersized lots based upon the lot width of same. In this case the maximum building height is 24ft. whereas the Applicant was originally proposing a height of 34.87ft (this was reduced at a subsequent meeting to 31.12ft.). Mr. Steinman testified that the proposed building height is necessary in order to mitigate lot/building coverage issues & to ensure that each unit provides a functional living space given the limitations associated with the width of the structure. Mr. Steinman reviewed the proposed architectural elevations for the benefit of the Board. He advised the Board that the proposed structure consists of two (2) floors of living space over a ground-level carport/garage. The proposed structure provides a 9/12 roof pitch which Mr. Steinman testified establishes a more traditional appearance & will allow the Applicant to provide

nine (9) ft. interior ceilings. He indicated that a 5/12 roof pitch would create a flatter appearance & would be out of proportion with the size of the lot. Mr. Steinman testified that the structure itself was designed to appear as if it were a single-family dwelling. He reviewed the design & architectural features incorporated into same. He noted that the existing structure located on the front of the property has a building height of approximately 25ft. & if the structure were raised same would measure 31ft. The Applicant's proposal would exceed this height by approximately four (4) feet.

Mr. Steinman reviewed the proposed floor plans for the benefit of the Board. Mr. Steinman testified that a total of four (4) off-street parking spaces are proposed on site which complies with the parking requirements associated with the site.

In response to a question posed by the Board, Mr. Steinman testified that an 18ft. curb cut is proposed & no on-street parking will be lost.

Board Members expressed significant concerns about the proposed height of the structure & the fact that same exceeds maximum permitted building height by nearly 11ft. The Board & the Applicant engaged in significant discussions about the height of the structure & potential modifications to reduce the overall mass/height of the structure to address these concerns. Mr. Steinman testified that the proposed nine (9) ft. interior ceilings could potentially be reduced to eight (8) feet which would reduce the height of the overall structure. Board Members indicated that the proposed structure appears disproportionate to the site as the structure itself is significantly taller than it is wide. Mr. Steinman advised the Board that the roof pitch could be reduced to 5/12 which would further reduce the height of the overall structure.

Applicant & his attorney, Mr. Barnes, had requested tabling the application at the August 9th meeting to work out details regarding same. Board members were almost united that the application required revisions to the plans. It was desirable to the most of the Board that a conforming/"fresh start" of the application would be beneficial. Mr. Barnes requested adjournment of the application at the August meeting due to the fact the Applicant was not prepared to continue with the application based on the myriad of issues concerning the construction of the site & how it relates to the Board's possible review & interpretation of the siteplan. Mr. Barnes requested time until the September meeting to submit revised documentation, which was granted by the Board.

The Board Solicitor had announced adjournment of the above referenced application by request of the Applicant's attorney/agent. The request for adjournment also provided for time limit wavier under the NJ Municipal Land Use Law {NJ-MLUL} (NJSA 40:55D-1 et. seq.) & the Ordinance (Chap. 276-1 et. seq.) as announced by the Board Solicitor. The Board Solicitor announced to the public that this application will be adjourned to the September 13, 2023 meeting & no further public notice will be or is required to be provided. With that being said, the application was adjourned.

At the September 13, 2023 Board Meeting, Mr. Barnes reviewed the record from the August meeting & highlighted revisions that were made to the plans in order to address the Board's concerns & to reduce the overall height of the structure. The revised plans reduced the building height to 31.12ft.

Blaine Steinman, R.A. of Blane Steinman Architect, LLC appeared once again on behalf of the Applicant, Mr. Steinman was placed under oath & he testified from the revised Architectural Plans submitted in connection with this Application. Mr. Steinman testified that the reduction in building height still exceeds that which is permitted & necessitates a D(6) Use/Height variance. He advised the Board that the roof pitch was reduced to 5/12 & the interior ceilings were reduced from 9ft. to 8ft. which results in a proposed building

height of 31.12ft. Mr. Steinman testified that the Applicant also elected to incorporate a trash enclosure within the footprint of the building & they relocated proposed HVAC mechanicals to an elevation of 11ft. in the rear of the structure. Mr. Steinman reviewed the revised architectural elevations for the benefit of the Board.

John Halbruner, R.A., P.E., of the Hyland Design Group, appeared on behalf of the Applicant & he was recognized as an expert in the fields of architecture & engineering. Mr. Halbruner was placed under oath & he testified to the variances & the justification which he contends supports granting same. Mr. Halbruner testified that the density of the site is being reduced as three (3) residential units currently exist whereas two (2) are proposed. With respect to building height, Mr. Halbruner testified that the maximum permitted building height is reduced in proportion to the width of the lot. He opined that the Property is particularly suited to accommodate the proposed building height as same is consistent with the surrounding neighborhood, and the proposed structure will be compliant with applicable construction & flood codes. Mr. Halbruner opined that several of the purposes of Zoning, outlined within N.J.S.A. 40:55D-2, are advanced in connection with this application & support the relief sought by the Applicant as it:

- b. Encourages municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals & general welfare;
- c. Provides adequate light, air & open space;
- e. Promotes the establishment of appropriate population densities & concentrations that will contribute to the well-being of persons, neighborhoods, communities & regions & preservation of the environment;
- i. Promotes a desirable visual environment through creative development techniques & good civic design & arrangement; and
- n. Encourages coordination of the various public & private procedures & activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land.

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

The Board was in receipt of a review memorandums prepared by Board Engineer Mr. Petrella, dated July 28, 2023 & August 30, 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 further public members wished to speak on behalf of the meeting or to the Board at this time. No comment was offered. Chairman Davis closed the public portion of the meeting.

The Board Solicitor called for a motion to approve the Board Resolution as discussed. Motioned by Mr. Harkins & 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. Board members Mr. Peters, Ms. DeJoseph, Ms. Cannon & Mr. McCracken did not have to vote on the Use Variance application.

Application: Z-23-8-1 Denise Kalai Mattia & Thomas Mattia

214 East 23rd Avenue

Block 228; Lot 6

R-1 Zoning District

seeks a D(1) Use variance to permit a duplex residential dwelling in R-1 Zoning District

The Board heard & considered the application of Thomas & Denise Mattia (Applicant), owners of the property located at 214 East 23rd Avenue, a/k/a Block 228, Lot 6 (Property), seeking a D(1) Use Variance, 'C' variance relief in relation to off-street parking (five {5} off-street parking spaces are required whereas four {4} are proposed), and a design waiver for continuous raised curb (30ft. is required whereas 15.6ft. is proposed), in order to construct a single-family semi-detached (duplex) dwelling.

Jeffrey Barnes, Esquire appeared on behalf of the Applicant & outlined the nature of the application & the relief sought in connection with same. The Property is a 60ft. x 100ft. lot located in the R-1 Zoning District. Mr. Barnes advised the Board that a rooming house previously existed on site which contained at least four (4) residential units. The rooming house has since been demolished & the site is currently vacant. Mr. Barnes informed the Board that the Applicant is proposing to develop a duplex on site which was designed to appear as if it were a single-family dwelling. Mr. Barnes distributed a Google Maps aerial photograph which depicts the surrounding neighborhood & which identifies 60ft. x 100ft. lots that are currently developed with more than one (1) residential unit, which was received by the Board & marked as Exhibit A-1. Mr. Barnes also distributed a document identifying the development in the surrounding neighborhood & the types of uses which currently exist, which was received by the Board & marked as Exhibit A-2. Mr. Barnes noted that the block that the Property is located on is split-zoned between the R-1 & MC Zoning Districts, and there is a variety of uses that exist within same.

John Halbruner, R.A., P.E., of the Hyland Design Group, appeared on behalf of the Applicant & he was recognized as an expert in the fields of architecture & engineering. Mr. Halbruner was placed under oath & he testified from the proposed Site/Variance Plans, dated July 10, 2023, which were received by the Board & which are incorporated herein as fact. The Board is also in receipt of Architectural Plans prepared by Ronald D. Franke, R.A. of Architectural Management, Inc., dated October 1, 2022, which were received by the Board & which are incorporated herein as fact. Mr. Halbruner reviewed the existing & proposed site conditions for the benefit of the Board. Mr. Halbruner confirmed that a rooming house previously existed on site which contained at least four (4) residential units. Mr. Halbruner advised the Board that the duplex proposed by the Applicant was designed to appear as if it were a single-family dwelling & he reviewed the proposed design features for the benefit of the Board. Mr. Halbruner testified that each unit will contain a total of four (4) bedrooms, and a total of three (3) off-street parking spaces are provided for each unit; however, he acknowledged that stacked parking is not permitted within the garage which results in a total of four (4) conforming parking spaces provided on site. He noted that zero (0) off-street parking spaces were provided in connection with the former rooming house. Mr. Halbruner advised the Board that one (1) unit will also contain a den, and the other unit will contain a home office which are not intended to be utilized as additional bedrooms. Mr. Halbruner indicated that the Applicant is requesting a D(1) Use Variance as duplexes are not a permitted use in the R-1 Zoning District.

Mr. Halbruner informed the Board that the Block/neighborhood in question contains a variety of uses as it is in fact split-zoned between the R-1 & MC Zoning Districts. Mr. Halbruner testified that only three (3) of the lots located on the Block are developed with single-family dwellings. Mr. Halbruner indicated when expanding the analysis to the neighboring Block, only 10 out of 29 lots are developed with single-family dwellings. Mr. Halbruner opined that the Property is particularly suited to accommodate the duplex proposed by the Applicants as same is compatible with the surrounding neighborhood. Moreover, a multi-family

dwelling previously existed on site which Mr. Halbruner indicated provides evidence that the site can accommodate a dwelling containing more than one (1) residential unit. Mr. Halbruner testified that the proposed duplex was designed to comply with the R-2 area & bulk requirements as duplexes are not a permitted use in the R-1 Zoning Districts. Mr. Halbruner reviewed the proposed duplex in comparison to the R-2 Zoning requirements noting that the Applicant's proposal meet and/or exceeds the minimum area & bulk requirements of that Zoning District. Mr. Halbruner opined that several of the purposes of Zoning, outlined within N.J.S.A. 40:55D-2, are advanced in connection with this application and support the relief sought by the Applicant as it:

- a. Encourages municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals & general welfare;
- b. Secures safety from fire, flood, panic & other natural & man-made disasters;
- c. Provides adequate light, air & open space;
- e. Promotes the establishment of appropriate population densities & concentrations that will contribute to the well-being of persons, neighborhoods, communities & regions and preservation of the environment;
- j. Encourages the location & design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities & routes which result in congestion or blight; and
- k. Promotes a desirable visual environment through creative development techniques & good civic design and arrangement.

Mr. Halbruner further opined that the application can be granted as there are no substantial detriments to the public good & the application does not substantially impair the intent or purpose of the Zoning Map & Ordinance. Moreover, he indicated that the Applicant's proposal will serve to preserve the character of the neighborhood.

Board Members raised concerns about the fact that the Applicant is proposing to construct a duplex in the R-1 Zoning District as duplexes are not a permitted use within same. A discussion ensued between the Board & the Applicant's professionals in relation to the R-1 Zoning District & the existing development in the surrounding neighborhood. Mr. Barnes recognized that duplexes are not permitted in the R-1 Zoning District; however, he stated that the Applicant's proposal is consistent with the surrounding neighborhood which contains very few single-family dwellings. Mr. Barnes advised the Board that the Applicant's intend to reside in one of the units & will likely sell off the 2nd unit for financial reasons.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated August 30, 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 further public members wished to speak on behalf of the meeting or to the Board at this time. No comment was offered. Chairman Davis closed the public portion of the meeting.

The Board members then discussed & summarized the application as presented. The Board then discussed the finding of facts on the variance 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 a 60ft. x 100ft. lot, located in the R-1 Zoning District. The Applicant is requesting Use Variance approval in order to construct a duplex dwelling on a 6,000 sq. ft. lot utilizing the R-2 Zoning District requirements for the Use Variance approval/project. Duplexes are not permitted in the R-1 Zoning District, thus the Use Variance siteplan/Use Variance approval. A multi-family residential dwelling containing at least four (4) units existed on site. This structure was demolished & the site is

currently vacant. The Applicant is proposing to construct a single-family semi-detached (duplex) dwelling on site, and is requesting a D(1) Use variance as duplexes are not permitted in the R-1 Zoning District. Mr. Halbruner, appeared before the Board on the Applicant's behalf, and he provided testimony in relation to the Applicant's proposal. Mr. Halbruner reviewed the existing & proposed site conditions for the Board. Mr. Halbruner provided testimony relative to the need for a Use variance & he discussed in detail the R-1 Zoning District, and the development that exists within the surrounding neighborhood. Mr. Halbruner testified to the positive criteria which he contends supports the relief sought by the Applicant & he opined that the Property is particularly suited to accommodate the proposed duplex. Mr. Halbruner testified that in his expert opinion the Applicant's proposal presents no substantial detriments to the public good nor will it impair the intent or purpose of the Zoning Map & the Ordinance. The surrounding neighborhood is developed with a variety of uses & the block in question is split-zoned between the R-1 & MC Zoning Districts. The Board found Mr. Halbruner's testimony to be credible & persuasive. No public comment was received in connection with this Application. Board Members agreed that the proposed duplex dwelling promote a desirable visual environment & would enhance the surrounding neighborhood & general welfare of the community while looking like a single-family dwelling. The Board specifically finds that the Property is particularly suited to accommodate the development of duplex residential dwelling as a Use variance approval. 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 Use variance/siteplan approval as well as requested variance approval. The Board found that the Applicant did establish that granting the siteplan & 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 Use variance/siteplan approval. No additions or correction to the finding of facts. No discussion on the facts.

The Board Solicitor called for a motion to approve the 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, with Mr. O'Connell & Vice Chair DiEduardo voting no. Board members Mr. Peters, Ms. DeJoseph, Ms. Cannon & Mr. McCracken did not have to vote on the Use Variance application.

At the conclusion of the application(s), Councilman Kane & Mr. Miller returned to the Board meeting as a voting member(s).

I) ZONING OFFICER REPORT:

Dan Spiegel, Zoning Officer/Construction Official, did not have anything to report tonight.

J) PUBLIC PORTION:

Chairman Davis then opened the meeting for general public comment.

Jeff Connors of 220 West 24th Avenue, had installed a driveway/curbcut without permits. Mr. Connors does not have any parking, with parking on the street is used by the neighborhood. There is nowhere to park in front of his house. Mr. Connors was also denied a Zoning Permit application & is in court of the illegal installation of the driveway. Mr. Connors was ordered to fix the curb by the court. Mr. Connors is to apply to the Board for waivers of the Ordinance. Mr. Connors was advised that an application to the Board would be necessary for a variance for a new driveway installation that does not meet minimum requirements. Mr.

Connors was advised that the only way to apply for Variance before the Board, an application must be filed. Justifications necessary for variance approval would be necessary. Mr. Connors was grossly mistaken that he “does meet” the minimum requirements.

Mr. Spiegel spoke on behalf of incident with Mr. Connors & the history of the violation/illegal installation of the driveway. Mr. Connors does not have the adequate parking space requirements for a driveway. Mr. Connors insists that he can park parallel to the property line. Mr. Petrella mentioned that car parked must not overtake the sidewalk. Mr. O’Connell advised Mr. Connors that a disable parking space would be ideal for the occasion. The Board highly recommended that the disabled parking space would ideal to “fix” the problem. Mr. Connors insisted that the driveway would be the answer. Mr. Spiegel offered to assist Mr. Connors with his endeavors.

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 July 12, 2023 Board regular Meeting Minutes. The Board Solicitor called for any discussion or corrections to the minutes. Corrections made to Mr. Peters & Chief Stevenson attendance, as to the date of the minutes. No further 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:

Sample Landscaping regulation – Board Engineer version/amendment – Board discussion
No Board Action required

The Board Secretary announced the distribution of the Board Secretary’s version of the amendment to Chapter 276-35(B)(6). Last month the Board reviewed 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. 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 Board Solicitor recommended to the Board that the Landscape amendments be recommended for adoption to City Council for consideration.

The Board Solicitor called for any discussion or corrections to the amendment to the Ordinance in regards to landscaping requirements. No further discussion or corrections proposed. Motioned as proposed by Vice Chair DiEduardo & 2nd by Ms. Cannon. Based on the affirmative majority roll-call vote of the Board members to approve the amendment to Landscaping of the Land Development Ordinance & recommend same to City Council for consideration & adoption.


M) COMMUNICATION(S): None presented.

N) REPORTS: None presented

O) MEETING ADJOURNED:

Meeting was adjourned at 9:45pm, on motioned by Ms. DeJoseph & 2nd by Vice Chair DiEduardo. Based on the affirmative roll-call vote of the Board members, the motion to adjourn was approved.

APPROVED: 10/16/20
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.

