

North Wildwood Planning Board
Regular Meeting: May 15, 2024
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 (Cape May County Herald) & 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 DiEduardo	Present	Mayor's Designee Mr. Doug Miller	Absent
Chief Katherine Madden	Present	Bill Auty	Present
John Harkins	Present	Councilman James Kane	Absent
George Greenland	Present	Bill O'Connell	Present
Ron Peters (Alt. 1)	Absent	Sharon Cannon (Alt. 3)	Absent
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 professional as it was necessary for tonight's meeting.

F) MOTIONS FOR ADJOURNMENTS: None presented.

G) MEMORIALIZATIONS:

Application No: P-24-2-4 Cape Holdings Group, LLC

220 West 14th Avenue

Block 144; Lot 9

R-2 Zoning District

‘C’ sideyard variance & undersized lot (25x100) relief in order to develop a single-family dwelling & an in-ground swimming pool at the property

The Board heard & considered the application of Cape Holdings Group, LLC (Applicant), owner of the property located at 220 West 14th Avenue, a/k/a Block: 144, Lot: 9 (Property), seeking ‘c’ variance relief in relation to minimum lot area (4,000SF is required whereas 2,500SF is existing & proposed), minimum lot frontage/width (40ft. is required whereas 25ft. is existing & proposed), & minimum total sideyard setback (8.3ft. is required whereas 8.1ft. is proposed), and a design waiver for continuous raised curb (12.5ft. is required whereas 9ft. is proposed), in order to construct a single-family dwelling on an existing undersized lot. The property is located in the R-2 Zoning District.

The Board Solicitor called for a motion to approve the memorialization Board 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 Resolution was approved by the Board. Board member Chief Madden did not have to vote.

Application No: P-24-2-2 Brenda Melle

511 Virginia Avenue

Block 103; Lot 2

R-1 Zoning District

‘C’ variance relief in order to construct a swimming pool at the property.

The Board heard & considered the application of Brenda Melle (Applicant), owner of the property located at 511 Virginia Avenue, a/k/a Block 103, Lot 2 (Property), seeking ‘c’ variance relief in relation to minimum distance between structures (8ft. is required whereas 2.2ft. 11inches is proposed) & minimum sideyard setback (8ft. is required whereas 5ft. is proposed), in order to install a swimming pool in the rear yard.

The Board Solicitor called for a motion to approve the memorialization Board Resolution as discussed. Motioned by Mr. Greenland & 2nd by Ms. DeJoseph. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the Resolution was approved by the Board. Board member Chief Madden did not have to vote.

Application No: Z-24-1-3 John Kostakos

1103 Central Avenue

Block 240; Lot 3

R-1 Zoning District

D(1) Use variance & ‘C’ variance relief in connection with proposed house raising, garage construction & deck/porch expansion of a pre-existing non-conforming residential duplex

The Board heard & considered the application of John Kostakos (Applicant), owner of the property located at 1103 Central Avenue, a/k/a Block 240, Lot 3 (Property), seeking a D(2) Use Variance for expansion of a non-conforming, and ‘C’ variance relief in relation to minimum sideyard setback (eight (8)ft. is required whereas 4.1ft. & 12.2ft. are existing & proposed), minimum lot frontage/width (50ft. is required whereas 40ft. is existing & proposed), minimum lot area (5,000SF is required whereas 4,000SF is existing & proposed), and minimum total sideyard setback (20ft. is required whereas 16.3ft. is existing & proposed), in order to raise an existing single-family semi-detached dwelling, to construct a new 1st floor frontyard deck, a new 1st floor deck in the rear, a new 2nd floor deck along the south side of the building & to construct a new 300SF accessory garage.

The Board Solicitor called for a motion to approve the memorialization Board Resolution as discussed. Motioned by Mr. O’Connell & 2nd by Mr. Harkins. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the Resolution was approved by the Board. Board members Ms. DeJoseph & Mr. McCracken abstained from the vote. Board member Chief Madden did not have to vote.

Application No: Z-24-2-1 Louis Viscontto

100 West 17th Avenue

Block 172; Lot 16

CBD Zoning District

D(2) Use Variance & ‘C’ variance relief in order to construct a swimming pool at the property.

The Board heard & considered the application of Louis Viscontto (Applicant), owner of the property located at 100 West 17th Avenue, a/k/a Block 172, Lot 16 (Property), seeking a D(1) Use variance & ‘C’ variance relief in relation to minimum distance between structures eight (8) foot is required whereas four (4) ft. 11 inches is proposed), in order to install a swimming pool in the rearyard.

The Board Solicitor called for a motion to approve the memorialization Board 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 Resolution was approved by the Board. Board members Ms. DeJoseph & Mr. McCracken abstained from the vote. Board member Chief Madden did not have to vote.

Application No: Z-24-2-5 Michael Scheiblein

101 West 18th Avenue

Block 172; Lot 17

CBD Zoning District

D(2) Use Variance & ‘C’ variance relief in order to construct a swimming pool at the property.

The Board heard & considered the application of Michael Scheiblein (Applicant), owner of the property located at 101 West 18th Avenue, a/k/a Block 172, Lot 17 (Property), seeking a D(1) Use variance & ‘c’ variance relief in relation to minimum distance between structures eight (8) foot is required whereas four (4) foot 11 inches is proposed), in order to install a swimming pool in the rearyard.

The Board Solicitor called for a motion to approve the memorialization Board Resolution as discussed. Motioned by Mr. Greenland & 2nd by Ms. DeJoseph. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on

the majority roll-call vote being affirmative, the Resolution was approved by the Board. Board members Ms. DeJoseph & Mr. McCracken abstained from the vote. Board member Chief Madden did not have to vote.

Application No: Z-24-2-7 Kathleen Dressler

409 E. 7th Avenue

Block 307; Lot 19

R-1.5 Zoning District

D(2) Use variance in connection with the expansion of a pre-existing non-conforming use & ‘C’ variance relief in order to construct an addition duplex dwelling

The Board heard & considered the application of Kathleen Deissler (Applicant), owner of the property located at 409 East 7th Avenue, a/k/a Block 307, Lot 19 (Property), seeking a D(2) expansion of a non-conforming Use variance, & ‘c’ variance relief in relation to minimum total sideyard setback (16ft. is required whereas 12.33ft. is proposed), in order to construct an addition to the 1st-floor unit of an existing single-family semi-detached (duplex) dwelling.

The Board Solicitor called for a motion to approve the memorialization Board 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 Resolution was approved by the Board. Board members Ms. DeJoseph & Mr. McCracken abstained from the vote. Board member Chief Madden did not have to vote.

H) NEW BUSINESS:

Application: Z-23-11-1(A) 2100 NJ Ave, LLC

101 W. 21st Avenue & 2100 New Jersey Avenue

Block 168, Lots: 11 & 12

CBD Zoning District

Extension to preliminary & final approvals in connection with the properties located at 2100 New Jersey Avenue (aka Bank of America bank property). A D(1) Use Variance was approved to permit the development of a single-family residential dwelling on the new proposed 50ft. x 100ft. lots. The property is exclusively located in the Central Business District (CBD) Zoning District.

The Board heard & considered the application of 2100 NJ Ave, LLC (Applicant), owner of the properties located at 101 West 21st Avenue & 2100 New Jersey Avenue, a/k/a Block 168, Lots 11 & 12 (Property), seeking a 95-day extension of the deadline associated with recording major subdivision approvals pursuant to the NJ Municipal Land Use Law [NJ-MLUL]{N.J.S.A. 40:55D-54}. The property is located in the CBD 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 101 West 21st Avenue & 2100 New Jersey Avenue, a/k/a Block 168, Lots 11 & 12, within the City’s CBD Zoning District. On January 10, 2024, the Applicant received approvals to remove all improvements currently located at the Property & to subdivide the existing parcel in order to create five (5) fully-conforming 50ft. x 100ft. lots for the future development of single-family dwellings. At this juncture all prior improvements have been demolished & the Property is a vacant parcel of land. The Applicant also received Use variance relief in order to permit the development single-family dwellings on proposed lots 11.02 & 12.01, and a Use variance to permit the installation of

swimming pools at all five (5) proposed lots. The Resolution memorializing the aforementioned approvals was adopted by the Board in February 22, 2024.

The Applicant is now before the Board requesting an extension of the 95-day time requirement to record the approved major subdivision plat with the Cape May County Clerk's Office. Mr. Barnes advised the Board that the major subdivision approvals are scheduled to expire on May 27, 2024 unless the Applicant obtains an extension of the 95-day recording deadline or is able to record the plat prior to that date. Mr. Barnes informed the Board that the Applicant has experienced a delay in connection with the preparation of a detailed lot grading & drainage plan which needs to be included with the major subdivision plat to be recorded with the County. Mr. Barnes indicated that the delays in obtaining said grading & drainage plan have prevented the Applicant from obtaining County Planning Board approvals which are required to be in place prior to recording. He stated that it is possible, but unlikely that the plan in question will be completed prior to the expiration of the 95-day recording deadline.

Accordingly, the Applicant is requesting a 95-day extension of the time to record the major subdivision plat pursuant to N.J.S.A. 40:55D-54 to protect the approvals through August 30, 2024. Board Members expressed concerns about the delays associated with the project & the development of the approved single-family dwellings as the lot in question is currently vacant, and stands to remain vacant & undeveloped through the end of the summer. As a condition of approval, the Applicant will install silt fencing around the perimeter of the Property.

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 for the application 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 Ms. DeJoseph & Mr. McCracken did not need to vote.

Application No: P-24-3-2 Michael & Theresa Sothern

1011 Delaware Avenue

Block 148, Lot 1

R-2 Zoning District

Preliminary & final siteplan & 'C' variance relief approval to raise an existing single-family dwelling & construct a deck(s)

The Board heard & considered the application of Michael & Theresa Sothern (Applicant), owners of the property located at 1011 Delaware Avenue, a/k/a Block 148, Lot 1 (Property), seeking 'C' variance relief in relation to minimum frontyard setback – Delaware Avenue (10ft. is required whereas 5.17ft. is proposed), minimum frontyard setback – 11th Avenue (10ft. is required whereas 5.08ft. is proposed), and minimum sideyard setback to the existing structure (6ft. is required whereas 4.5ft. is existing & proposed), in order to raise an existing single-family dwelling, construct an addition to the rear of said dwelling, and to construct new decks along Delaware & 11th Avenues. The property is located in the R-2 Zoning District.

Louis Cappelli, Esq., appeared on behalf of the Applicant & he outlined the nature of the application & the relief sought in connection with same. The Property is located at 1011 Delaware Avenue, a/k/a Block 148,

Lot 1, in the City's R-2 Zoning District. The Property is currently developed with an existing single-family dwelling. The Applicant is proposing to raise the existing single-family dwelling, to construct an addition to the rear of said dwelling, and to construct new decks along the 1st & 2nd floors adjacent to Delaware Avenue & along the 1st floor adjacent to 11th Avenue. Mr. Cappelli reviewed & confirmed the variance relief sought in connection with the Applicant's proposal.

Michael Sothern, the Applicant & owner of the Property, appeared & he was placed under oath to testify before the Board. Mr. Sothern advised the Board that he purchased the Property in 2019. The existing single-family is an a-frame structure which contains living space & one (1) bedroom on the 1st floor & two (2) bedrooms on the 2nd floor. The structure has an existing porch which the Applicant is seeking to expand the length of the structure along Delaware & 11th Avenues in order to provide additional outdoor living space. Mr. Sothern testified that he is also requesting approval to construct a new deck along the 2nd floor adjacent to Delaware Avenue in an effort to take advantage of views of the bay. Mr. Sothern advised the Board that he is also proposing to raise the existing structure to comply with current flood regulations. Mr. Sothern testified that raising the structure will allow for the provision of off-street parking & storage space on the ground-floor. Mr. Sothern testified that an addition is proposed to the rear of the structure & the entire structure will be renovated. The proposed single-family dwelling will contain living space & a master bedroom on the 1st-floor, and the 2nd floor will contain four (4) bedrooms & an office.

Steven J. Tomasetti, R.A., was present at the meeting on behalf of the Applicant. Mr. Tomasetti was accepted by the Board as an expert in the field of architecture & he was sworn in to testify with respect to the proposed Architectural Plan, dated November 7, 2023 & last revised March 12, 2024, which was received by the Board & which is incorporated herein as fact. Mr. Tomasetti reviewed the existing floor plans for the benefit of the Board. He advised the Board that the project involves replacing the existing foundation in order to raise the home to meet the applicable base flood elevation (BFE). Mr. Tomasetti testified that the proposed rear addition will not materially alter the layout of the 1st floor. The primary modification on this floor involves the construction of a master bedroom. He indicated that the addition will provide access to the 2nd floor through the construction of new stairs. He confirmed that the Applicant is also proposing new decks along the Delaware & 11th Avenue(s) sides of the property. The proposed deck adjacent to 11th Avenue will be approximately 4ft. wide & the deck proposed adjacent to Delaware Avenue will be approximately 10.5ft. wide. With respect to the 2nd-floor, Mr. Tomasetti testified that the roofline will be modified to create a more aesthetically appealing structure & four (4) bedrooms will be constructed. There are two (2) bathrooms & an office also proposed on the 2nd-floor.

In response to concerns raised by the Board in regards to the fact that the office appears to serve as an additional bedroom, Mr. Tomasetti testified that there is no closet space provided within the office & there is also no door to the room. He indicated that it would be somewhat difficult to convert the office to a bedroom given the layout of the 2nd-floor. As a condition of approval, the Applicant will submit revised architectural plans modifying the doorway to the office to convert same to an archway in an effort to ensure that it does not function as a bedroom.

John Halbruner, P.E., R.A., of the Hyland Design Group, appeared on behalf of the Applicant. Mr. Halbruner was accepted by the Board as an expert in the fields of engineering & architecture, and he was placed under oath & testified from the proposed Site Plan, dated November 7, 2023 & last revised February 28, 2024, prepared by Steven J. Tomasetti, R.A. which was received by the Board & which is incorporated herein as fact. Mr. Halbruner reviewed & confirmed the variance relief that is requested in connection with the Applicant's proposal. With respect to the proposed decks, Mr. Halbruner testified that the decks are consistent with the surrounding neighborhood. He indicated that the encroachment in to the Delaware & 11th Avenue(s) setbacks

are in line with neighboring properties. The Applicant was originally requesting a sideyard setback variance in connection with the proposed 11th Avenue deck as a setback of 4.5ft. was proposed whereas 6ft. is required; however, Mr. Halbruner advised the Board that the proposed plans would be modified in order to make this setback conforming. He noted that decks are proposed along the 1st & 2nd floors adjacent to Delaware Avenue, but only along the 1st-floor adjacent to 11th Avenue. The proposed decks are transparent which will promote light, air & open space. Mr. Halbruner testified that raising the structure will allow the Applicant to provide compliant off-street parking beneath the structure. Currently one (1) off-street parking space exists, and the Applicant is proposing three (3) off-street parking spaces. He noted that an existing fence located on the property will be removed which will allow for the provision of two (2) parking spaces. He noted that there is room for potentially three (3) additional parking spaces; however, they encroach within the public right-of-way.

In response to a question posed by the Board, Mr. Halbruner testified that no on-street parking spaces will be lost in connection with this application as the Applicant intends to utilize an existing curb cut. Mr. Halbruner advised the Board that the lot itself is underdeveloped as the Applicant is well below maximum permitted lot & building coverages.

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:

- a. Provides adequate light, air & open space;
- i. Promotes a desirable visual environment through creative development techniques & good civic design & arrangement; 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. 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. Mr. Halbruner testified that the Property is already developed with an existing single-family dwelling which does not comply with applicable area & bulk regulations establishes practical difficulties which presents a hardship to the Applicant which further supports granting the requested variance relief.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated May 7, 2024 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 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 on an existing lot. The Applicant is the owner of the Property & requesting preliminary & final siteplan approval & "c" variances to build a rear addition to existing single-family residence with new outside decks on conforming lot. The Property is currently developed with an existing single-family dwelling. The Applicant is proposing to demolish the existing dwelling in order to construct a larger single-family dwelling that meets current construction, flood & fire codes. The Property is currently developed with an existing single-family dwelling. The Applicant is proposing to raise the existing

single-family dwelling, to construct an addition to the rear of said dwelling, and to construct new decks along the 1st & 2nd floors adjacent to Delaware Avenue & on the 1st floor adjacent to 11th Avenue. The Applicant is raising the existing structure in order to comply with current flood regulations. The proposed addition & renovations will result in the creation of a total of five (5) bedrooms whereas there are three (3) bedrooms in the existing structure. The Applicant is proposing to provide office space in the renovated structure which will not serve or function as an additional bedroom. The Applicant agreed to modify the entrance to the proposed office to provide an archway with no door to prevent the room from being easily converted to a 6th bedroom. Raising the structure will allow the Applicant to provide additional off-street parking & storage space on the ground floor. The proposed three (3) off-street parking spaces conform to the requirements of the City's Ordinance & the NJ -RSIS. Mr. Tomasetti reviewed & confirmed the variance relief sought in connection with the Applicant's proposal. Mr. Halbruner reviewed the existing & proposed site conditions for the benefit of the Board. Mr. Halbruner reviewed the variance relief sought by the Applicant in connection with the proposal. Mr. Halbruner outlined the basis upon which he believed the Applicant was entitled to relief. He provided testimony in relation to the positive & negative criteria which supports granting the relief sought by the Applicant. The Board found Mr. Tomasetti & Mr. Halbruner testimony to credible & persuasive. There was no public comment received. With respect to the requested 'C' variance relief, the Board finds that the Applicant has presented special reasons which justify the granting of the requested variances. Accordingly, the Board finds that the proposed development is compatible with the neighborhood, the relief requested can be granted without substantial detriment to the public good without substantially impairing the intent & purpose of the Zoning Map Ordinance. 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 does meet the criteria for variance relief for granting the requested variance/siteplan approval. The Board found that the Applicant did establish that granting the variance/siteplan 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 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 Board Resolution for the application as discussed. Motioned by Mr. Harkins & 2nd by Ms. DeJoseph. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the Resolution was approved by the Board.

Application No: Z-24-3-4 700 New Jersey Avenue, LLC

700 New Jersey Avenue

Block 182, Lot 9

CBD Zoning District

Preliminary & final siteplan approval & D(1) Use Variance approval to construct a seven (7) seat inside bar to serve alcoholic beverages in the CBD Zoning District in an existing commercial restaurant

The Board heard & considered the application of 700 New Jersey Ave, LLC (Applicant), owner of the property located at 700 East New Jersey Avenue, a/k/a Block 182, Lot 9 (Property), seeking preliminary & final siteplan approval & a D(1) Use variance in order to permit the sale of alcohol at an existing restaurant located in the Central Business District (CBD)Zoning District.

Kevin Balistreri, Esq., appeared on behalf of the Applicant & he outlined the nature of the application & the relief sought in connection with same. The Property is currently developed with an existing restaurant, d/b/a Trio North Wildwood. The Applicant is requesting a Use variance in order to permit the sale of alcohol at the existing restaurant. Mr. Balistreri advised the Board that the Applicant is proposing to construct a small, 7-seat

bar within the existing restaurant. There are no modifications proposed to the exterior of the site. Mr. Balistreri indicated that no new seats are proposed in connection with this application as the Applicant is proposing to replace seven (7) existing restaurant seats with the proposed bar seating.

Debra Gioquindo, the owner of 700 New Jersey Avenue, LLC, appeared before the Board & she was placed under oath to testify. Ms. Gioquindo advised the Board that she purchased the Property in December of 2020 & received approval from the Board in March of 2021 in order to establish Trio North Wildwood. Ms. Gioquindo testified that the restaurant is typically open from 5pm to 9:30pm during the off-season & from 5pm to 10pm during the summer months. Ms. Gioquindo testified that she is seeking approval in order to permit the sale of alcohol at the Property in an effort to elevate the dining experience for patrons. She indicated that she maintains degrees in wine tasting & wine pairing and has a desire to offer wine pairings & alcoholic beverages to customers dining at the restaurant. She further indicated that she intends to offer educational wine classes to the public. Ms. Gioquindo advised the Board that she is proposing to construct a small, 7-seat bar within the existing restaurant. She indicated that the bar will not be open after hours, nor will it function as a typical bar. As a condition of approval, the Applicant will not serve alcohol to patrons during times when food service is not available. Ms. Gioquindo testified that she is proposing to remove two (2) existing tables in order to maintain the existing number of seats.

In response to a question posed by the Board in regards to alcohol sales within exterior areas of the property, Ms. Gioquindo testified that the existing outdoor seating was approved by the City in connection with an encroachment agreement, and she indicated that the entire premises will be licensed for the sale/consumption of alcohol. No alcohol sales or consumption are proposed off-site. The Applicant advised the Board that there is a hearing scheduled before the Alcohol Beverage Control Board within two (2) weeks in order to approve the transfer of the liquor license that the Applicant is acquiring.

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 February 25, 2024 & last revised February 29, 2024, which was received by the Board & which is incorporated herein as fact. Mr. Orlando reviewed the existing site conditions of the benefit of the Board. He confirmed that the modifications proposed by the Applicant are confined to the interior of the existing restaurant. Mr. Orlando testified that a 7-seat bar is proposed to be located in the middle of the existing restaurant, and a small alcohol storage space will be provided. He confirmed that there are no other changes proposed in connection with this application. Mr. Orlando informed the Board that the Applicant received prior approvals back in 2021 which allowed for the development of the existing restaurant & which addressed all pre-existing non-conforming conditions. Mr. Orlando testified that the Applicant is not proposing a nightclub, bar, or tavern. He indicated that the proposal simply seeks to provide an additional element of service which is expected by patrons at high end dining locations. Mr. Orlando testified that the Property is particularly suited to accommodate the proposed sale of alcoholic beverages as the restaurant exists, and there are no material changes proposed to the site. He indicated that the inclusion of alcohol sales will have no impact on the overall intensity of the site. Ms. 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; and
- 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.

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 & Land Development Ordinance.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated May 8, 2024 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, Chairman Davis then opened the application for general public comment. One (1) individual addressed the Board, namely:

- a. Jeff Harkins, a representative of the PBA Local 59 located at 704 New Jersey Avenue, appeared & he was placed under oath to testify before the Board. Mr. Harkins advised the Board that the PBA is in full support of the Applicant's proposal.

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 view of the facts & the application as it relates to the application. Mr. O'Connell "volunteered" for the finding of facts. Mr. O'Connell reiterated to the address and Block & Lot of the property as stated in the application. The property is located in the CBD Zoning District on an existing lot. The Applicant is now proposing to add a new 7-seat bar to the interior of the existing restaurant & serve alcoholic beverages during dinner time hours. No changes to the exterior of the building. This new "use" required a Use Variance approval by the Board. The Applicant is the owner of the Property & requesting preliminary & final siteplan approval & a D(1) Use variance to permit the sale of alcohol at an existing restaurant located in the CBD Zoning District. The Property is currently developed with a restaurant, d/b/a Trio North Wildwood. No new seats are proposed in connection with this application as the Applicant is proposing to replace seven (7) existing table seats with the proposed bar seating. The Applicant is seeking approval to permit the sale of alcohol at the existing restaurant in order to elevate the dining experience. The Applicant will not engage in the sale of alcohol at the Property unless the restaurant is actively serving food. The existing restaurant operates between the hours of 5pm & 9:30pm during the offseason and between the hours of 5pm & 10pm during the summer season. In addition to offering alcohol for sale during restaurant service, the Applicant intends to conduct wine pairing/tasting classes on site. The Applicant's proposal will not exacerbate existing non-conforming conditions. With respect to the requested D(1) Use variance, the Board finds that the Applicant has presented special reasons which justify the granting of the requested variances. Moreover, the Board determined that the Property is particularly suited to accommodate the proposed sale of alcohol at an existing restaurant. The Board found Mr. Orlando & Ms. Gioquindo testimony to credible & persuasive. There were only one (1) public comment received, in the positive. The Applicant identified several of the purposes of Zoning which they contend are advanced in connection with this Application, & they opined that there are no substantial detriments to the intent or purpose of the Zoning Map or Ordinance nor is there a detriment to the public good or surrounding community in connection with the proposed project. 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 does meet the criteria for variance relief for granting the requested variance/siteplan approval. The Board found that the Applicant did establish that granting the variance/siteplan 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 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 Board Resolution for the application as discussed. Motioned by Chief Madden & 2nd by Mr. Auty. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the Resolution was approved by the Board. Board members Ms. DeJoseph & Mr. McCracken did not need to vote.

Application No: Z-24-2-6 Edward Fahey

318 West 16th Avenue

Block 116; Lot 9

R-2 Zoning District

D(6) Use/Maximum Building Height variance & ‘C’ variance relief in connection with the development of a single-family dwelling on an undersized 25x100 lot

The Board heard & considered the application of Edward Fahey (Applicant), owner of the property located at 318 West 16th Avenue, a/k/a Block 116, Lot 9 (Property), seeking a D(6) maximum building height/Use variance (24ft. is permitted whereas 28ft. is proposed), & ‘C’ variance relief in relation to minimum lot area (4,000SF is required whereas 2,500SF is existing & proposed), minimum lot frontage/width (40ft. is required whereas 25ft. is existing & proposed), minimum sideyard setbacks (4ft. is required whereas 3ft. are proposed), minimum total sideyard setback (10ft. is required whereas 6ft. is proposed), and a design waiver for continuous raised curb (12.5ft. is required whereas 8ft. is proposed), in order to construct a single-family dwelling on an existing undersized lot.

John Amenhauser, Esq. appeared on behalf of the Applicant & he outlined the nature of the application & the relief sought in connection with same. The Property is located at 318 West 16th Avenue, a/k/a Block 116, Lot 9, in the City’s R-2 Zoning District. The Property is currently developed with an existing single-family dwelling. The Applicant is proposing to demolish the existing dwelling in order to construct a new single-family dwelling that meets current construction, flood & fire codes. Mr. Amenhauser reviewed & confirmed the variance relief sought in connection with the Applicant’s proposal. He noted that, while the Applicant is requesting a D(6) maximum building height/use variance, the maximum permitted height in the zone is 36ft. for fully-conforming lots; however, based upon the size of the Property, the maximum building height is reduced to 24ft. whereas the Applicant is proposing 28ft from BFE. Mr. Amenhauser indicated that the proposed dwelling will be in keeping with the surrounding neighborhood, and will actually be smaller than what would otherwise be permitted in the zone notwithstanding the need for a D(6) Use variance.

Edward Fahey, the Applicant & owner of the Property, appeared & he was placed under oath to testify before the Board. Mr. Fahey advised the Board that he purchased the Property in 2017 & he has utilized same as a 2nd home with his family. Mr. Fahey testified that his family has outgrown the existing dwelling & he wants his children to each have their own individual bedrooms. The existing dwelling contains approximately 900SF of living space. The existing dwelling contains a total of three (3) bedrooms whereas the proposed single-family dwelling will contain four (4) bedrooms.

Ryan Morson, R.A., P.P., with Ryan Morson Architecture, LLC, appeared before the Board on behalf of the Applicant. Mr. Morson was accepted by the Board as an expert in the fields of architecture & planning and he was placed under oath & testified from the proposed Site/Architectural plans, dated March 11, 2024, & last revised April 24, 2024, which were received by the Board & which are incorporated herein as fact. Mr. Morson reviewed the existing & proposed site conditions for the benefit of the Board. He advised the Board that the Applicant is proposing to construct a new 2-story single-family dwelling at the Property with parking & storage provided on the ground floor. Mr. Morson confirmed that the proposed single-family dwelling will contain four

(4) bedrooms, & three (3) bathrooms. The 1st floor of living space will contain the kitchen, living room, dining room, & the proposed 2nd floor will primarily consist of bedrooms. Limited outdoor deck space is also proposed. Mr. Morson reviewed & confirmed the variance relief sought in connection with the Applicant's proposal. He advised the Board that the requested variances are necessitated by the size of the lot & the fact that the City's Ordinance requires a proportionate reduction of the size of a dwelling in comparison to the size of the undersized lot. Mr. Morson testified that the requested building height variance is required as the Zoning District allows an undersized lot the size of the Applicant's to be constructed with a dwelling that is a maximum of 24ft. tall. The proposed single-family dwelling is 28ft. tall. Mr. Morson advised the Board that conforming lots in the Zoning District are permitted a maximum building height of 36ft. Accordingly, he opined that the height proposed by the Applicant is consistent with the surrounding neighborhood & the overall Zoning Map & Ordinance. Mr. Morson 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. Secures safety from fire, flood, panic & other natural & man-made disasters;
- b. Provides adequate light, air & open space; and
- j. Promotes a desirable visual environment through creative development techniques & good civic design & arrangement.

Mr. Morson 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. He testified that the proposed home is modest in scale & provides sufficient livable space to meet the needs of the Applicant without overdeveloping the site.

In response to a question posed by the Board, Mr. Morson confirmed that the ground-floor will be an unfinished parking area that may also be utilized for storage purposes. No livable space is proposed. Mr. Morson testified that the proposed sideyard setbacks are increased compared to the single-family dwelling that currently exists on site. Board members expressed concerns about the proposed single-family dwelling & its proximity to the neighboring structure. Mr. Morson testified that the existing sideyard setback along the eastern portion of the site is 2ft. whereas 3ft. is proposed. The Ordinance requires a 4ft. setback for an undersized lot of this size. As a condition of approval, the Applicant agreed to submit revised plans increasing the sideyard setbacks to 4ft. at the ground-level which will be reduced to 3ft. at the bottom of the 1st floor of living space.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella, dated March 29, 2024 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 must submit a detailed lot grading plan which must be reviewed & approved by the Board Engineer.

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 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 on an existing lot. The Applicant is the owner of the Property & requesting preliminary & final siteplan approval & a D(6) Building Height/Use variance & "c" variances to build a new single-family dwelling on 25x100 lot. The Property is currently developed with an existing single-family dwelling. The Applicant is proposing to demolish the existing dwelling in order to construct a new

single-family dwelling that meets current construction, flood & fire codes. The proposed single-family dwelling will contain four (4) bedrooms & three (3) bathrooms. Two (2) compliant off-street parking spaces are provided on site. Mr. Fahey discussed his ownership of the Property & the basis for the proposed development. The Applicant is seeking to construct a new-single family dwelling on an undersized lot in an effort to provide a more functional living space for his growing family. The majority of the variances are required due to the fact that the Property is an undersized lot. With respect to building height, Mr. Morson confirmed that a D(6) maximum building height variance is required as a building height of 24ft. is permitted whereas 28ft. is proposed. The Board took no issue with the proposed building height as the zone permits conforming lots to be developed with structures that are a maximum of 36ft. tall. The Board took issue with the proposed setbacks of three (3)ft.; however, the Applicant agreed to increase the setbacks at the ground level from 3ft. to 4ft., and the setback would be reduced back to 3ft at the 1st floor of living space. A majority of the Board was satisfied with the concession offered by the Applicant is relates to increasing the ground floor sideyard setbacks. The Board found that the increased setback will provide adequate access to the rear of the property in the event of an emergency. Moreover, the Board determined that the Property is particularly suited to accommodate the proposed height of the structure as same is consistent with the surrounding neighborhood, and the Zoning District permits taller structures in connection with conforming lots. 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 relief requested can be granted without substantial detriment to the public good without substantially impairing the intent & purpose of the Zoning Map & Ordinance. The Board found Mr. Morrisson & Mr. Fahey testimony to credible & persuasive. There was no public comment received. The Applicant & experts identified several of the purposes of Zoning which they contend are advanced in connection with this Application, & they opined that there are no substantial detriments to the intent or purpose of the Zoning Map or Ordinance nor is there a detriment to the public good or surrounding community in connection with the proposed project. 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 does meet the criteria for variance relief for granting the requested variance/siteplan approval. The Board found that the Applicant did establish that granting the variance/siteplan 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 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 Board Resolution for the application as discussed. Motioned by Mr. Harkins & 2nd by Mr. Greenland. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the Resolution was approved by the Board. Board members Ms. DeJoseph & Mr. McCracken did not need to vote.

D) ZONING OFFICER REPORT:

Mr. Spiegel gave a status report on the Stop-Work Order issuance against the Harbor Mist Motel, doing existing motel renovations without any permits. Renovations limited to the 24-unit motel use with no implementation of the Planning Board approval. The Harbor Mist Motel did receive Planning Board approval to convert the existing 24-unit Motel to 10-unit apartments. However, the existing/current construction apparently was not utilizing the Planning Board's approval. The motel renovations were within the existing footprint, within the current motel units.

In a different discussion ensued regarding the initiation of construction of the outside deck as approved by the Planning Board as it effects the Anglesea Pub construction of its outside deck structure. Concern of the Board members was the deck was not following Planning Board approval of plans as it was being constructed to close to the property line. Discussion ensued regard the interpretation of the approval of the deck to property line & wording of same. Extensive discussion followed by the Board Secretary & Board Solicitor with several Board members that the interpterion of the approval was clear (with the Board Solicitor listening to the recording of the “approval”) & the construction was following the approved plan. Board members requested the Zoning Official to check construction currently proceeding {subsequent check by the Zoning Official confirmed construction is correct as per the approved plans}.

The Construction/Zoning Official provided an update on Seaport Inn construction whereby the planning Board denied their application to convert to apartments under a Use Variance application in the OS Zoning District. The owners of Seaport Inn have decided to convert the existing motel into a condotel with nine (9) units in light of the Ordinance passed by the city to permit same. Construction under that scenario is on-going, and the property is currently being marketed as such in the local real estate market.

Related to same regarding condotel, the Zoning Use Compliance form requests acknowledgement from realtor and/or buyer acknowledging the purchase of motel unit part of the motel rental pool.

Board member Greenland raise a question regarding a vacant lot on 5th Avenue, near the Seaport Inn just discussed. Two (2) single-family homes were approved by the Board, as suggested by the Board. Mr. Greenland saw the installation of pilings much greater than what should be installed for a single-family home. Mr. Greenland seemed satisfied with the answer from fellow Board members.

Another question by Mr. Greenland concerned 3rd & New York Avenue(s). This is the location of the renovation of the North Shore Bar. The North Shore Bar renovations occurred as an update. North Shore Bar had been approved for their expansion by the Board as well as additional seating request afterwards. Construction has halted to at this time apparently due to extensive litigation between Owner & designated contractor. Construction/Zoning Official is aware of the situation & monitoring same. Unfortunately, due to the apparent litigation, there is not much the City can do regarding the situation. The Owner apparently posts the situation from his perspective on Facebook.

J) PUBLIC PORTION:

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

K) APPROVAL OF MINUTES:

The Board Solicitor presented to the Board the approval the April 10, 2024 Board Regular Meeting Minutes. The Board Solicitor called for any discussion or corrections to the minutes. No further discussion or corrections proposed. Motioned as proposed by Mr. Harkins & 2nd by Ms. DeJoseph. Based on the affirmative roll-call vote of the Board members to memorialize the Meeting Minutes.

L) UNFINISHED BUSINESS: None presented

Draft amendments to Land Development Ordinance – separation setback for swimming pools modification, elimination of Conditional Use standard for Single-family & Duplex dwellings in the CBD Zoning District, elimination of Duplex permitted use in R-2 Zoning District utilizing the Lot Area exception along alley & canal-front lots.

The Board Solicitor presented to the Board draft amendments to the Land Development Ordinance amending sections of Swimming Pool requirements (Chap. 276-42(A); amending the CBD Zoning District, conditional use for Duplex & Single-family dwellings for deletion (Chap. 276-20(G)(o); amending the R-2 Zoning District requirements, deleting duplexes as a permitted use for the canal/alley lots (Chap. 276-16(E)(1)). The Board discussed same & felt comfortable recommending same to City Council for eventual adoption. The Board then voted on passing a Resolution adopting said amendments & recommending same to City Council.

The Board Solicitor presented to the Board the approval to the amendments proposed to the Land Development Ordinance. The Board Solicitor called for any discussion or corrections to the Resolution. No further discussion or corrections proposed. Motioned as proposed by Mr. O’Connell & 2nd by Mr. Harkins. Based on the affirmative majority roll-call vote of the Board members to approve the amendments proposed to the Ordinance.

M) COMMUNICATION(S):

City Ordinance #1932 adopted by City Council on April 16, 2024, effective April 24, 2024. Ordinance amended the Land Development Ordinance by creating MC-1 & MC-2 Zoning Districts, and deleting duplexes as permitted use.

Planning Board Secretary distributed recently adopted Ordinance by the City effecting recent amendments proposed by the Planning Board for the M/C Zoning District.

Newspaper Article – Accessory dwelling units, proposed state-wide standards for accessory dwelling units (ADU’s)

Planning Board Secretary distributed newspaper article on new State initiative in promoting accessory structures/dwellings as a new form of “affordable housing.” This initiative would create two (2) principal units on one (1) lot as an inherently beneficial use.

A question by Board member Mr. Greenland about the status of 302 Atlantic Avenue (several “for-sale” signs were seen on the property), whereby it was determined that this property is an existing apartment house that was converted to condominiums. As the discussion ensued, the status of the property was discussed among Board members. The Board was satisfied with the answer developed during the discussion.

N) REPORTS: None presented

O) MEETING ADJOURNED:

Meeting was adjourned at 9:15pm, on motioned by Ms. DeJoseph & 2nd by Mr. Harkins. Based on the affirmative roll-call vote of the Board members, the motion to adjourn was approved.

APPROVED: _____
Date

J. Eric Gundrum
Board Secretary

This is an interpretation of the action taken at the meeting by the Secretary, and not a verbatim transcript.