

North Wildwood Planning Board
Regular Meeting: December 8, 2021
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	Absent	Mayor's Designee Valerie DE Joseph	Present
Chief John Stevenson	Absent	Mr. William Green	Absent
Mr. John Harkins	Present	Councilman David Del Conte	Absent
Mr. George Greenland	Present	Mr. James M. Flynn	Absent
Mr. Bill Auty (Alt. 1)	Absent	Mr. Bill O'Connell (Alt. 2)	Present
Mr. Ron Peters (Alt.3)	Present	Ms. Haas (Alt. 4)	Present
		Mr. Robert Belasco (Board Solicitor)	Present
		Mr. Ralph Petrella (Board Engineer)	Present
		Eric Gundrum, (Board Secretary)	Present

The Board Solicitor announced that the Board quorum has been established.

E) SWEARING IN OF PROFESSIONALS:

The Board Solicitor did conduct the truth swearing of the Board's professionals as it was necessary for tonight's meeting.

F) MOTIONS FOR ADJOURNMENTS: None presented.

G) MEMORIALIZATIONS:

Application No.: P-21-9-4 Scott Peter

1301 Atlantic Avenue
Block 269, Lot 3
R-1 Zoning District
Minor Subdivision approval

The Board heard & considered the application of Scott Peter (Applicant), the owner of the property located at 1301 Atlantic Avenue, a/k/a Block 269, Lot 3 (Property), seeking minor subdivision approval in order to subdivide an existing 100ft. x 100ft. lot to create two (2) conforming 50ft. x 100ft. lots.

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

Application No.: P-21-9-3 Carl Maier

710 Ocean Avenue
Block 306, Lot 13
R-1.5 Zoning District
Variance siteplan request – minimum 8-foot separation for accessory structures – swimming pool

The Board heard & considered the application of Carl Maier (Applicant), the owner of the property located at 1301 Atlantic Avenue, a/k/a Block 269, Lot 3 (Property), seeking minor subdivision approval in order to subdivide an existing 100ft. x 100ft. lot to create two (2) conforming 50ft. x 100ft. lots.

The Board Solicitor called for a motion to approve the memorialization of the 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 memorialization was approved by the Board. Ms. DeJoseph abstained from the vote on the memorialization.

Application No.: P-21-9-2 Lance Bachman/Island Pools & Spas

450 E. 23rd Avenue
Block 290, Lot 56.01
B/R-1 Zoning District
Variance siteplan request – minimum 8-foot separation for accessory structures – tiki bar

The Board heard & considered the application of Lance Bachmann (Applicant), owner of the property located at 450 E. 23rd Avenue, a/k/a Block 290, Lot 56.01 (Subject Property), seeking ‘c’ variance relief in relation to the minimum distance of an accessory structure to other buildings (8ft. is required whereas 4.3ft. is existing & proposed), in order to maintain an existing accessory rearyard structure which is located within 8ft. of the principal structure.

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

the vote on the memorialization.

Application No.: P-21-8-2 408 Virginia, LLC

408 Virginia Avenue
Block 74, Lot 9
R-2 Zoning District
Minor subdivision approval, with “c” Lot Depth variance

The Board heard & considered the application of 408 Virginia, LLC (Applicant), owner of the property located at 408 Virginia Avenue, a/k/a Block 74, Lot 9 (Property), seeking minor subdivision approval to subdivide an existing 100ft. x 85ft. lot to create a 52ft. x 85ft. lot (proposed lot 9.01) & a 48ft. x 85ft. (proposed lot 9.02), & ‘c’ variance relief in relation to minimum lot depth for proposed lots 9.01 & 9.02 (100ft. is required whereas 85ft. is proposed), in order to construct a single-family dwelling on each newly proposed lot. The application was heard over the course of two (2) Board meetings, for which the Board did request architectural renderings for the proposed homes to be built on the proposed lots.

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. Mr. Greenland, Ms. Haas & Ms. DeJoseph abstained from the vote on the memorialization.

Application No.: Z-21-9-1 Harry Murray

139 West 1st Avenue
Block 189.02, Lot 1
R-2 Zoning District
Variance siteplan request – D(6) Use/Building Height & ‘C’ variance relief

The Board heard & considered the application of Harry Murray (Applicant), owner of the property located at 139 West 1st Avenue, a/k/a Block 189.02, Lot 1 (Property), seeking a D(6) Use Variance for maximum building height (24ft. is permitted whereas 27.78ft. is proposed) & ‘c’ variance relief in relation to the minimum frontyard setback – 1st Avenue (10ft. is required whereas 2.7ft. is proposed), & the minimum frontyard setback – New York Avenue (10ft. is required whereas 4.7ft. is proposed), in order to elevate the existing structure above base flood elevation (BFE) & to expand existing decks located in the frontyards.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Mr. Greenland & 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. Ms. Haas & Ms. DeJoseph abstained from the vote on the memorialization.

H) NEW BUSINESS:

Application No. Z-17-8-1(B) Richard Kaye

809 Beach Creek
Block 150, Lot 2
R-2 Zoning District
Preliminary & Final siteplan approval, extension request (2nd extension)

The Board heard & considered the application of Richard Kaye (Applicant), owner of the property located at 809 Beach Creek - Unit 2B, a/k/a Block 150, Lot 2 (Property), seeking a one (1) year extension of prior approvals, specifically preliminary & final site plan approval, a D-1 Use variance, 'c' variance relief in relation to the distance between structures, and a waiver to construct a crushed stone parking area, which were granted by the Board on December 13, 2017 & memorialized within Resolution Z-17-8-1 on January 17, 2018. The application was deemed complete by the Administrative Officer of the Board & therefore the Applicant had standing to proceed. The property is located in the R-2 Zoning District.

The Applicant, Richard Kaye, was self-represented in connection with the preparation & filing of this application. Mr. Kaye appeared & he was placed under oath to testify before the Board. Mr. Kaye is the owner of a residential unit in the 219 West 9th Avenue Condominium Association, which consists of two (2) residential units. A Letter of Authorization from the Condominium Association consenting to the filing of this application was received by the Board. Mr. Kaye testified that he is seeking an additional one-year extension of the prior approvals. He advised the Board that his wife recently passed away & he was having a difficult time deciding whether or not to proceed with the project.

The Board finds that, pursuant to N.J.S.A. 40:55D-52, the Applicant is entitled to apply for three (3) one (1) year extensions of prior approvals which can be granted at the discretion of the Board. This application represents the Applicant's 2nd request for a one (1) year extension of the approvals granted pursuant to Resolution Z-17-8-1. In deliberation, Board members acknowledged the right of an Applicant to request a one (1) year extension of prior approvals.

The one-year extension previously granted to Mr. Kaye was set to expire on January 17, 2021; however, on July 1, 2020, Governor Philip Murphy signed the 'Permit Extension Act of 2020' into Law in response to the ongoing Covid-19 pandemic. The Permit Extension Act of 2020 tolled the expiration of various land use approvals during the pendency of the Covid-19 Public Health Emergency, and for an additional six (6) months following the end of the Covid-19 Public Health Emergency. The Covid-19 Public Health Emergency ended on June 4, 2021 via New Jersey Executive Order 244 (2021 Murphy). Thus, prior land use approvals were set to expire on December 4, 2021 if additional extensions were not obtained.

The Board finds that Mr. Kaye is experiencing a hardship which justifies granting an additional one (1) year extension of the prior approvals memorialized in Resolution Z-17-8-1. The Board further finds that the Applicant has met the requirements of the NJ Municipal Land Use Law (NJ-MLUL) & the City's Land Development Ordinance (Ordinance) & that it is appropriate to grant the Applicant a one (1) year extension of the prior approvals received pursuant to Resolution Z-17-8-1, commencing December 4, 2021 through January December 4, 2022.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Mr. Harkins & 2nd by Ms. Haas. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the application was approved by the Board.

The following Board member(s) was excused from the vote or participating in the application due to identified conflict with the application; Board Member; Mr. Greenland.

Application No.: Z-21-10-1 317 E. Hand Avenue, LLC

645 W. Spruce Avenue

Block 47, Lot 12

R-2 Zoning District

Preliminary & Final siteplan approval, Conditional Use/Use Variance approval & minor subdivision approval

The Board heard & considered the application of 317 E. Hand, LLC (Applicant), doing business at 29 Union Avenue, Lakehurst, NJ, owner of the property located at 645 W. Spruce Avenue, a/k/a Block 47, Lot 12 (Property), seeking minor subdivision approval in order to create two (2) conforming 52.5ft. x 104.37ft. lots, Conditional Use approval/Use approval, and a waiver from continuous raised curb requirements in order to construct a single family semi-detached (duplex) dwelling on each proposed lot;

Doreen Corino, Esq., of the Corino Law Office, P.A. located in Wildwood Crest, NJ appeared on behalf of the Applicant & outlined the nature of the application & the relief sought in connection with same. Ms. Corino advised the Board that the Applicant previously received approvals identical to this proposal in September of 2019, memorialized in Resolution P-19-5-4; however, the plan of subdivision was not recorded within six (6) months of the approval, and, accordingly, the subdivision approvals expired. Ms. Corino advised the Board that the Applicant is again proposing to subdivide the existing property in order to develop two (2) duplexes, which are permitted as Conditional Uses within the R-2 Zoning District on lots that provided a minimum lot area of 5,000SF & said duplexes comply with the conditions enumerated with the City's Land Development Ordinance at §276-16(D)(1). A proposed subdivision plan consisting of one (1) sheet, was received by the Board & is incorporated herein as fact. Ms. Corino indicated that the proposed lots conform and/or exceed the area & bulk requirements within the R-2 Zoning District equating this to a by-right subdivision. She further indicated that the Applicant does not require any variances as the proposed duplexes conform to all required conditions.

Ms. Corino stated that the originally submitted plans depicted steps which encroached within the required frontyard setback; however, revised plans would be submitted eliminating these steps & ensuring that any steps would not be located within the required frontyard setback. As a condition of approval, the Applicant will submit revised plans to the Board Engineer & the City Zoning/Construction Office confirming the elimination of the encroaching frontyard stairs.

Ms. Corino indicated that a water service easement located on site will be vacated as the proposed development will incorporate & provide individual water services to each respective lot. As a condition of approval, prior to the start of construction, the Applicant will vacate the existing water easement & will contact the Wildwood Water Department in order to cap, below grade, and/or remove the water connection located on the neighboring property. The Applicant will be solely responsible for the costs incurred, & will repair the ground to its prior state after the water service is capped and/or removed.

The Board was in receipt of a review memorandum prepared by Board Engineer Mr. Petrella dated December 1, 2021 which was received by the Board & incorporated as fact. Mr. Petrella's reviewed the conditions governing the conditional use duplex & confirmed that the Applicant complies with same under the premise of submittal of revised plans. Board Engineer Ralph Petrella reviewed the continuous raised curb requirements for the benefit of the Board & confirmed that public on-street parking is not permitted along this section of NJSH Rt. 147 (West Spruce Avenue).

Board Members expressed concerns that a den proposed within each unit would be converted in the future to an additional bedroom resulting in the need for additional off-street parking. As a condition of approval, the Applicant agreed to incorporate a provision in the Condominium Master Deed/By-Laws providing that the “den” may only be utilized as a den & cannot be utilized as a bedroom, subject to the review & approval of the Board Solicitor.

Chairman Davis then opened the application for general public comment. Two (2) members of the public addressed the Board in connection with the application namely:

- a. George Greenland, owner of the property located at 630 W. Spruce Avenue, was placed under oath & was sworn in to testify before the Board. Mr. Greenland requested confirmation that the water service easement & water hookup located on his property would be removed in connection with the development of this property. The Board confirmed that the Applicant agreed as a condition of approval to vacate the easement & cap/remove the water hookup located on Mr. Greenland’s property.
- b. Father Dr. Richard Mucowski, owner of the property located at 629 W. Pine Avenue, was placed under oath & he was sworn in to testify before the Board. Father Mucowski expressed concerns in relation to on-street parking in the neighborhood. He questioned the need for the proposed den & expressed concerns that same would simply be used as an additional bedroom.

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 application. Each Board member gave reasoning for their view of the facts & the application as it relates to the application. Ms. Haas “volunteered” for the finding of facts. Ms. Haas reiterated to the address and Block & Lot of the property as stated in the application. The Zoning District is R-2. The Applicant is the owner of the property & has standing to come before the Board to request preliminary & final minor subdivision approval as well as Conditional Use siteplan approval. With respect to the Application for approval, the Board finds that the application meets the standards of the Ordinance & the Applicant is entitled to approval for the proposed development. The purposes of zoning law would be advanced by the proposed development in approval of the application. The Board further finds that the proposal is compatible with the surrounding neighborhood & that the requested approval can be granted without substantial detriment to the public good & without substantially impairing the intent & purpose of the Ordinance & Zoning Map. Furthermore, the Board finds that the purposes of the NJ-MLUL will be advanced by the application & the benefits of granting same substantially outweigh any potential detriments. No additions or correction to the finding of facts. No discussion on the facts. The Board accepted the findings of fact.

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

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

Board member Mr. Green arrived to the meeting at 7:25pm.

Application No.: Z-14-8-1(A) 421 W. Spruce Avenue, LLC & DWM RE Holdings, LLC

(adjourned from last month's meeting)

421 & 429 West Spruce Avenue

Block 102, Lots 19.01 & 19.02

R-2 Zoning District

Preliminary & Final siteplan approval to address unapproved modification/construction

- For prior issued of D(1) Use Variance & w/ "c" variances siteplan approval
- Minor subdivision approval

At the August meeting & based on the myriad of issues & substantial changes that are expected to the siteplan as discussed with the Board, Applicant & attorney of the Applicant, that all parties decided that more time is necessary to properly submit the requested/required documentation & plans. Mr. Barnes requested adjournment of the application due to the fact the Applicant was not prepared to continue with the application based on the myriad of issues concerning the construction of the site & how it relates to the Board's prior approval. Mr. Barnes requested time until the October meeting to submit revised documentation, which was granted by the Board

At the October meeting, due to inadequate quorum of eligible voting Board members present at the meeting, the Applicant's attorney, Jeff Barnes, Esq., requested adjournment of the application due to the fact the Applicant was not prepared to continue with the application based on the myriad of issues concerning the construction of the site & how it relates to the Board's prior approval, well as inadequate number of eligible Board members able to vote on the application.

At the November meeting Jeff Barnes, Esq., of the Barnes Law Group appeared on behalf of the Applicant & he reviewed the nature of the Application & the relief sought in connection with same for the benefit of the Board. Mr. Barnes provided a synopsis of the prior meetings that discussed about this application. The Applicant had to re-notice for the D(1) Use Variance & minor subdivision approval. The Dairy Queen & Don Martin Real Estate office has operated on the site without a full C/O being issued by the City's Construction Official. Testimony tonight will allow the public to comment on the application for the D(1) Use Variance & minor subdivision approval. A deed of consolidation of the two (2) current lots will be produced to rescind the minor subdivision approval that was previously granted by the Board. Combining the two lots will provide a safer operation of the property. The Board set a deadline of Memorial Day 2022 to have all items that have been discussed by the Board/Applicant to resolve the case/application. All items will be completed by Memorial Day 2022, as agreed by the Applicant. Chairman Davis reiterated that the fence & parking light illumination need to be a priority "fix." If not completed, the Applicant will have to come back to the Board. Mr. Donald Martin, Applicant/Sole Proprietor for 421 W. Spruce Avenue, LLC & DWM RE Holdings, LLC, appeared on behalf of the application. Mr. Martin was placed under oath & he testified from a proposed Siteplan. Mr. Barnes went thru the discussion of solutions to the "noted" problems of the property. Mr. Barnes said he would contact the Board Secretary on the status of the application's progress on the two (2) remaining issues. Mr. Martin will proceed on the corrections to the site in the meanwhile. At the end of the November meeting, Mr. Barnes requested adjournment of the application due to the fact the Applicant was not prepared to continue with the application based on the myriad of issues concerning the construction of the site & how it relates to the Board's prior approval. The adjournment was to the Board's December meeting.

No timely notice for adjournment or postponement was received by the Board Secretary as the application was scheduled for the December Board meeting. The Board Solicitor contacted Mr. Barnes by email and an adjournment request was received by the Board Solicitor at 6:35pm.

Based on the adjournment request, the Board Solicitor announced adjournment of the above referenced application by request of the Applicant's attorney/agent. The request for adjournment also provided for time limit waiver 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 January 12, 2022 meeting & no further public notice will be or is required to be provided. With that being said, the application was adjourned.

Board Resolution PB-05-2021

2021 Meeting Dates of the Planning Board - *Board action required*

The Board Secretary introduced Board Resolution 05-2021. N.J.S.A. 10:4-18 et. seq. requires that every public body give notice of the proposed schedule of regular meetings of said public body along with the proposed time, date & location of said meetings to be held during the succeeding year. The Board forwards the hereto referenced Resolution as follows; regular meetings of the Board shall be held on the 2nd Wednesday of each month unless otherwise indicated in accordance with the following schedule contained in the Resolution.

The Board Solicitor called for a motion to approve the memorialization of the Resolution as discussed. Motioned by Mr. O'Connell & 2nd by Ms. Haas. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the application was approved by the Board.

I) ZONING OFFICER REPORT:

Dan Speigel, Zoning Officer/Construction Official, was absent & excused by the Board.

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.

J) APPROVAL OF MINUTES:

The Board Secretary requested deferment of the Board's November 10, 2021 Regular Meeting minutes. The Board granted the request. Meeting minutes will be part of the Board's Agenda for January 12, 2022 meeting.

K) UNFINISHED BUSINESS: None presented.

Pileggi v City of North Wildwood ZBA/Planning Board
Appeal of litigation

The Board Solicitor gave an update on the above referenced litigation. No formal Board action was required.

L) COMMUNICATION(S): None presented.

The Board Secretary brought the following “informational” items to the Board attention. No formal Board action was required;

- o Newspaper Article – Sea Isle City considers pool setback Zoning Ordinance amendment
- o Cape May County Herald newspaper – request to be included in public noticing requirements
- o Board member interaction of potential Development applications

M) REPORTS: None presented.

N) MEETING ADJOURNED:

Meeting was adjourned at 7:55pm, on motioned by Mr. Green & 2nd Mr. O’Connell. 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.