

**BOROUGH OF AVALON PLANNING/ZONING BOARD**

**Minutes of Work Session/Regular Meeting of October 11, 2016**

Members Present: William Burns  
Sharon Cooper  
Michael Coskey  
James Fleischmann  
Neil Hensel  
David Knoche  
Thomas McCullough  
Michele Petrucci  
Brian Reynolds  
Susan Rhoads  
Beth Tipping

Members Absent: Sam Beddia

Chairman Hensel called the meeting to order at 7:00 p.m. and led the Board in the Pledge of Allegiance. After a roll call of members, Chairman Hensel recited the Open Public Meetings Act Statement.

The Board first addressed the proposed minutes of the September 13, 2016 meeting. Several Board members requested minor modifications to the minutes. A motion was made to approve as amended by Mr. Fleischmann, seconded by Mrs. Rhoads, with all eligible members voting in the affirmative.

The Board then considered Special Resolution PZ#16-B, a Special Resolution authorizing the Board attorney to file suit against The Marina at Avalon Anchorage, LLC to determine whether their asserted default approval is valid. An amendment was requested by the Board. A motion was made to approve the resolution as was amended by Dr. Reynolds, seconded by Mrs. Tipping, with all eligible members voting in the affirmative.

The Board then considered application PZ#16-07, an application by Richard Hoy for variances for building coverage total side yard setback, driveway width to relocate his single family dwelling to property located at Block 21.06, Lots 113.01, et al, also known as 409 22<sup>nd</sup> Street, Avalon, New Jersey. Michelle Petrucci stepped down from consideration of this matter as a result of a conflict of interest.

Michael Malinsky, Esquire of the Law Offices of Fox Rothschild, LP located in Atlantic City, New Jersey appeared on behalf of the applicant. He advised that the applicant is proposing to relocate a single family dwelling from 24<sup>th</sup> Street to the vacant lot on 22<sup>st</sup> Street. He noted that the old building, which was demolished, had several existing non-conforming conditions including building coverage and that the new building would be more conforming.

Gary Thomas, the professional planner and professional land surveyor with Thomas Amey Shaw, Inc., Avalon, New Jersey appeared and testified from his variance plan consisting of one sheet dated September 19, 2016 which was incorporated as fact. Mr. Thomas testified from Exhibit A-1, which consisted of two photographs of the existing site and Exhibit A-2, which is four photographs of the structure to be moved to the subject property.

Mr. Thomas noted that the subject property is now vacant and fronts on both 22<sup>nd</sup> Street and Barry Road and is 40 feet wide. The applicant proposes to move a two story building from its current location on 24<sup>th</sup> Street onto the vacant lot. The building will be generally centered on the lot but variance relief was required. He testified that all parking spaces will be off Barry Road and there will be a minimum of four off-street parking spaces. He noted that the applicant is raising the structure and that additional parking below the house could exist.

Mr. Thomas testified that he believed that the positive criteria could be granted for the building coverage variance will be reduced and there is an attempt to reuse an existing structure. He noted that the side yard setback variance was, in his opinion, de minimis although it was noted that Avalon measures side yard setback to the stairs and, therefore, variances for side yard setbacks and total side yard setback were required.

Chairman Hensel, expressed desire to have the applicant present the plans to the Avalon Fire Chief for his consideration and comment. The applicant agreed. Mr. Hoy was also sworn in and testified that this property was not for sale and he intends to reside in same. Mr. Hoy further testified, based upon questions from the Board that he has already reviewed the route which the building mover will use and there should be no difficulties with same. He also testified as to purposed landscaping on the site.

Mr. Thomas testified that he believes that the relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning plan and zoning ordinance, partially since the lot will be more conforming

than its previous condition. He also testified that the proposed development provides for adequate light air and open space.

Joe Maffei, the board engineer, testified from his Review Memorandum of October 4, 2016. He noted that four variances are required.

The matter was open to the public at which time, four members of the public came forward to testify, and they are:

- A. Francis Niermann of 420 21<sup>st</sup> Street, Avalon, New Jersey, appeared and was sworn in and testified in opposition to the application. He expressed concerns that the purposed development will set a precedent within the borough and noted that Mr. Hoy never lives in houses that he develops.
- B. Douglas Huntley of 444 22<sup>nd</sup> Street, Avalon, New Jersey appeared and was sworn in and testified that he had concerns regarding the height of the building and landscaping.
- C. Joseph Gonglik of 401 22<sup>nd</sup> Street, Avalon, New Jersey appeared and was sworn in and testified that he is the next door neighbor to the property. He has concerns about the house being placed on pilings for aesthetic purposes and asked if something can be done to hide the pilings.
- D. Martha Wright of 7<sup>th</sup> Street of Avalon, New Jersey appeared and was sworn in and testified in opposition to the proposed development. While she liked the idea of reusing an existing home, she felt that the proposed development included too much parking. Thereafter, the public portion of the meeting was closed.

Chairman Hensel then polled the Board for their findings of facts and conclusions of law on this matter. The Board found that the applicant had sustained its burden of proof for the variance relief requested with the Board noting that the proposed development provides more than sufficient parking, reuses an existing home, provides for adequate landscaping and is compatible with the neighborhood. A motion was made to approve the application and the Board unanimously voted to approve same with conditions.

The Board then considered Borough Ordinance No. 750-2016 which proposes to amend Chapter 27 (Zoning) of the Borough's ordinances to clarify that all zoning regulations will be considered using FEMA's most recent work maps. This is to ensure that Chapter 27 is in

conformance with Chapter 19 and to ensure that the Borough is in compliance with FEMA regulations to protect its flood insurance premium discounts. Solicitor Marcolongo had prepared Special Resolution PZ#16-C recommending the adoption of this ordinance. A motion was made to approve by Mr. Burns, seconded by Mrs. Tipping with all eligible members voting in the affirmative.

The Board next considered Agenda Item No. 9, a review of the Board's application and escrow fees. Chairman Hensel noted that it has been three years since there has been any change in the fee schedule. Board Secretary, Kimberly Mastriana testified that she has reviewed neighboring municipalities and that our fees seem to be in line with theirs. A motion was made by Mr. Burns, and seconded by Mr. Fleischmann to leave the fee schedule as it currently exists. Chairman Hensel asked Mrs. Mastriana to send a letter to Borough Council advising them that the Planning Board recommends no change to the fee schedule.

The next agenda item was the continued discussion of the Master Plan Reexamination. Joe Maffei testified as to additional changes made to his draft including adding the Green Master Plan and the historic plan into the document. Mr. Burns testified that the Master Plan should seek to encourage additional parking wherever it can be found within the Borough. Specifically, he noted that with the changes in building height, attempts should be made to find additional underneath residencies. Consideration should be given as to what incentives could be created to encourage property owners to create additional parking on their residential properties.

Mr. McCullough noted that there have been changes in the Borough's B-2 Zone and that based upon the loss of businesses in that area the Board should consider converting that area back to a residential zone. Chairman Hensel asked Mr. Maffei to review this idea with Jeff Hesley and to add a bullet point in the Master Plan Reexamination that all zoning districts should be reviewed to determine if they are still appropriate for the area.

Chairman Hensel advised he had received a memorandum from Jeff Hesley that the county is considering raising portions of Ocean Drive. This could occur in a need for the Borough to amend its lot grading requirements and permit a pitched or terraced grade which would be more conducive to development. Councilman Burns noted that only portions of Ocean Drive will be raised to avoid nuisance flooding and that while some areas may be raised as high as 10 inches, other areas will remain unchanged.

Chairman Hensel asked for public comment regarding the Master Plan Draft. Douglas Macauley of 276 22<sup>nd</sup> Street testified that the Board should consider rezoning portions of 22<sup>nd</sup> Street back into a residential zone. He is against permitting hotels in the B-1 Zone and urges the Board to maintain Avalon's community character.

Kenneth Schonberg of 249 19<sup>th</sup> Street, Avalon, New Jersey, stated that he too is against the development of hotels in the B-1 Zone and also urged the Borough do everything that it can to maintain Avalon's historic character.

Martha Wright of 632 7<sup>th</sup> Street, Avalon, New Jersey, again reiterated that she is against hotels in the B-1 Zone and stated any changes in the zoning districts permitted uses should consider the purposes of zoning set forth in NJSA 40:55D-2.

Janet Cass of 1100 Ocean Drive, Avalon, appeared and stated that she is also against permitting hotels in the B-1 Zone and also urged the Planning Board to attempt to maintain Avalon's character.

There being no further business Chairman Hensel requested a motion to adjourn at 9:40 p.m. It was noted that the Board would convene a closed session meeting to approve the closed session meeting minutes of September 13, 2016 and to address personnel issues.

Respectfully submitted,

*/s/Dean R. Marcolongo*

Dean R. Marcolongo, Esquire