

**BOROUGH OF AVALON PLANNING/ZONING BOARD**

**Minutes of Work Session/Regular Meeting of February 10, 2015**

Members Present: Sharon Cooper  
David Ellenberg  
James Fleischmann  
Neil Hensel  
Brian Reynolds  
Susan Rhoads  
Beth Tipping

Members Absent: Sam Beddia  
David Knoche  
James Lutz  
Thomas McCullough  
Michele Petrucci

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 considered the minutes of the January 13, 2015 meeting. After two small amendments, a motion was made to approve the minutes as amended by Ms. Rhoads, seconded by Ms. Tipping, with all eligible members voting in the affirmative.

The Board then considered Special Resolution 15-A appointing Neil Hensel as Chairman of the Board for 2015 and appointing Beth Tipping as Vice Chair for the year 2015. A motion was made to approve the Special Resolution by Ms. Rhoads, seconded by Dr. Reynolds, with all members voting in the affirmative.

Chairman Hensel then called Application PZ#14-10, Application of 508 22<sup>nd</sup> Street, LLC, requesting variances for lot frontage, side yard setback, total side yard setback and width of curb cut to renovate an existing duplex at 508 22<sup>nd</sup> Street, Avalon, New Jersey. This was a continuation hearing on this application which had originally commenced during the January 13, 2015 meeting and was tabled to February 10, 2015 for the applicant to revise its plans and address issues regarding coverage.

Vincent Lamanna, Esquire again appeared on behalf of the applicant. Solicitor Dean Marcolongo, Esquire confirmed that all Board Members had received the revised plans of Studio

One Architects with Sheet C-1 revised February 6, 2015. The Board was also in receipt of a new review memorandum of Joseph Maffei dated February 2, 2015. Anthony D'Angelo, a registered architect with Studio One Architects, and Joseph Maffei, Board Engineer, were both sworn in anticipation of their testimony.

Mr. D'Angelo testified as to the revisions to his plans including the addition of coverage calculations on Sheet C-1 and modifications to the zoning schedule. Mr. D'Angelo testified that he had spoken to Zoning Officer, Jeff Hesley and he believes that the porch is not considered to be habitable space since there is no heat or air conditioning servicing this area. He further noted that Sheet C-1 had been revised to confirm that the two street trees adjacent to 22<sup>nd</sup> Street would remain. Mr. Lamanna marked as Exhibit P-1, a large sheet with eight photographs of the subject property and the existing structure. Mr. D'Angelo testified that the proposed third floor addition would fully comply with all setbacks and the Borough's height limitation.

Significant testimony occurred as a result of questioning from the Board regarding the air conditioning units on the east side of the building. The Board Members expressed concerns that they would block access to the rear of the structure in the event of a fire or other emergency. Board Secretary, Jennifer Dowe advised that she has forwarded these plans to the Fire Chief for the Borough of Avalon, however, no response was forthcoming.

Mr. D'Angelo and Mr. Lamanna conferred with the applicant regarding this issue. Mr. D'Angelo advised that the applicant agreed to relocate the air conditioning units to a notch on the second floor roof approximately 6 ft, 3 inches from the property line. This would clear access to the rear yard via the easterly side of the building.

Gary Lee Thomas of Thomas Amey Shaw, appeared, was sworn and testified from his revised plans of January 26, 2015 which were received by the Board and incorporated as fact. He noted that based upon the prior hearing, his plans had been revised to ensure that the square footage calculations were correct and that same would be revised again based upon discussion at this evening's meeting.

Mr. Thomas testified that the applicant is now requesting four variances. First, the applicant is requesting a lot frontage variance proposing 40 ft where 50 ft is required. Mr. Thomas noted that this is an existing non-conforming lot which is developed on both sides so there is no additional land to purchase. Mr. Thomas testified that the applicant is requesting a side yard setback variance proposing 4.82 ft and 6.06 ft where a minimum of 8 ft per side is

required and a total of 18 feet. Mr. Thomas testified that the new proposal with the air conditioning units on the roof improves the side yard situation and that the side yard difficulty is a result of the location of the existing structure.

Finally, the applicant is requesting a variance for width of curb cut (27 ft proposed where 20 ft is permitted) and that the purpose of this variance is to provide for an additional off-street parking space. Mr. Thomas testified that he has reviewed the parking in and around the subject property and that the increased width of the curb cut would not result in a loss of a street parking space as a result of the existence of a handicap parking space to the east of this property. He noted that the development as a whole improved the site in that a front yard setback encroachment was removed as a result of the relocation of the front stairs.

Upon questioning from Mr. Lamanna, Mr. Thomas testified that he believes that the variance relief requested can be granted under both the C1 and C2 criteria. Mr. Thomas testified that he believes that the purposes of zoning are advanced in that the proposed development secures the property from fire, flood and manmade disasters, provides for adequate light, air and open space, promotes the establishment of appropriate population densities, provides sufficient space in appropriate locations for a variety of uses, promotes a desirable visual environment and promotes the recycling of materials. He further testified that he believes that the proposed development is compatible with the neighborhood and 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.

Graham Foster, a principal of the applicant, appeared, was sworn and testified that the rear extension will be a three season porch with screens and Plexiglas used in the window openings which will be removed as needed. He affirmatively confirmed that there will be no heat or air conditioning servicing this room.

Joseph Maffei, Board Engineer, testified as to the revised plans noting that with the removal of the HVAC system to the roof, the easterly side yard situation was greatly improved. Mr. Maffei's review memorandum again noted that the proposed development will be below the Borough of Avalon's base flood elevation plus 3 ft of freeboard requirement. Solicitor Marcolongo opined that the requirement that development be at base flood elevation plus 3 ft of freeboard is contained in the Borough's Flood Damage Prevention Ordinance. He noted that while the applicant need not address that issue before the Planning/Zoning Board, it will be of

concern to the Construction Official and the Flood Plain Manager, therefore, the Board this evening should not concern itself with the issue of the height of the building and the raising of same. The matter was open to the public at which time no member of the public came forward to testify.

Chairman Hensel then polled the Board for its findings of facts and conclusions of law with regard to the application. A majority of the Board were satisfied that the proposed development improved the site by relocating the air conditioning units, by removing the front stairs, increasing parking and aesthetic improvements. Concerns were expressed, however, regarding the fact that the building would not be raised and that the proposed development increased the mass of the building beyond the capacity of the lot to accommodate same.

A motion was made to approve the application for variance relief with conditions including, but not limited to, the fact that the extension to the rear would not contain heating and air conditioning. That motion was approved by a 5-2 vote.

Chairman Hensel then called Application PZ#15-02, a presentation from The Marina at Avalon Anchorage, LLC. This presentation was as a result of a request for an informal review of plans for the redevelopment of a marina and residential units at 885 21<sup>st</sup> Street, Avalon. Prior to commencement of the presentation, Solicitor Marcolongo advised that the applicant would be discussing proposed development at the subject property. NJSA 40:55D-10 (1) states that at the request of a developer, the Planning Board shall grant informal review of a concept plan which developer intends to submit. The developer is not bound by the concept plan and the Board is not bound by the review. Solicitor Marcolongo stressed the informal nature of the matter and that there will be no approvals or variances granted and no decisions made. The Board shall feel free to give certain feedback to the applicant, however, they should not state whether they would be for or against the application.

Cory Gilman, Esquire appeared on behalf of the applicant and identified the property to the Board. He stated that the applicant had previously received site plan approval together with variance relief for the development of a marina with residential units on the site. He advised that the applicant is continuing to work with the New Jersey Department of Environmental Protection (DEP) toward final approvals for the development however, based upon the discussions with the DEP, the applicant believes that they have created a better working plan.

Gary Lee Thomas, a professional planner, appeared and testified as to the previously approved site plan and the proposed modification to same. He advised that the applicant has had numerous meetings with the DEP and he believes that the DEP is supportive of the new plan which would include increased green space and several residential structures rather than one monolith. The new proposal, however, would remove the restaurant use, the sale of gasoline and there would be no boat storage or boat repairs on site. The proposed boat ramp would also be removed.

Dan Shusky, the developer's architect, stated that the new proposed plan results in three two unit townhouses, one single family dwelling and one marina office with one or two residential units above. Mr. Shusky discussed the proposed parking plan which he believes will be more than sufficient for both the marina use and the residential development. He noted that the square footage of the residential units would remain generally the same as the previously approved application. The Board was also in receipt of a proposed site plan of Thomas Amey Shaw, Inc. consisting of two sheets dated January 21, 2015. The Board and the applicant's professionals engaged in a lively discussion of ideas. The matter was open to the public. Doug McCauley of 22<sup>nd</sup> Street appeared and questioned the Board regarding the procedure for the informal review. He also expressed concerns for the continued marina operation. Dean Bekas of 21<sup>st</sup> Street desired to confirm that there will be no boat ramp associated with the new development and questioned the use of the open space and park by members of the public.

After the conclusion of the developer's presentation, the Board provided the applicant with additional feedback regarding the proposed modified development including issues regarding public access, the loss of the sale of gasoline and right-of-way issues. Travis Marshall, the general manager of the developer, also addressed the Board advising of the problems associated with the site and the problems resulting from DEP requirements. Mr. Gilman and the applicant thanked the Board for their time and feedback.

Chairman Hensel advised the Board that he would not be in attendance at the March 2015 Planning/Zoning Board meeting. He advised that the Board will be presented with a new draft Landscaping Ordinance to be considered and addressed for possible modifications. He thanked the Landscaping Subcommittee for its significant work in preparing the draft. Chairman Hensel stated that the proposed modifications to Chapters 26 and 27 will not be discussed and/or voted on at the March meeting. Chairman Hensel further advised that he would like to hold a

workshop prior to the April 2015 meeting where the Board will review a film regarding individual liability and receive a short presentation from Solicitor Marcolongo regarding findings of facts and conclusions of law.

David Ellenberg stated that considerations should be given over whether the Board has jurisdiction over Chapter 19, the Flood Damage Prevention Ordinance. Solicitor Marcolongo advised that he would research the issue and be prepared to discuss same at the April meeting.

A motion was made to adjourn at 9:59 p.m.

Respectfully submitted,  
*/s/Dean R. Marcolongo*  
Dean R. Marcolongo, Esquire