

**BOROUGH OF AVALON PLANNING/ZONING BOARD**

**Minutes of Work Session/Regular Meeting of June 13, 2017**

Members Present:

Sharon Cooper  
Michael Coskey  
James Deever  
James Fleischmann  
Neil Hensel  
David Knoche  
Thomas McCullough  
John Morrison  
Michele Petrucci  
Brian Reynolds  
Beth Tipping  
Sam Wierman

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 considered the proposed minutes of the May 9, 2017 meeting. A motion was made to approve the minutes as submitted by Dr. Reynolds, seconded by Mrs. Cooper, with all eligible members voting in the affirmative.

There were no resolutions for memorialization.

Chairman Hensel then called Application PZ#17-01, the Application of Icona Golden Inn, LLC, for property located at 7889 Dune Drive, Avalon, New Jersey. The applicant is requesting Amended Preliminary and Final Site Plan approval, a D-1 Use Variance for a use not permitted in a zone and multiple Variances and Design Waivers to permit outdoor dining within the Borough right of way located on 79<sup>th</sup> Street and the beach. Prior to the commencement of the hearing Solicitor Marcolongo advised that the first issue that needed to be addressed was whether the Board has jurisdiction to hear this matter pursuant to the Doctrine of Res Judicata. Mr. Marcolongo advised the Board that if a party seeks the same relief in the same factual setting, the Board may be prohibited from acting on an application. Solicitor Marcolongo set forth the criteria that the Board should consider in evaluation whether this application

is substantially different than the application that was presented to the Board in April 2017.

Frank Corrado, Esquire of Wildwood, New Jersey, appeared on behalf of the applicant. Mr. Corrado argued to the Board that this application was substantially different than the prior application since the applicant had reduced the number of seats from 126 seats to 84 seats, a reduction of one-third. In addition, Mr. Corrado argued that the applicant is proposing a pedestrian walkway from Dune Drive to the beach with an additional extension to the beach opening to provide for pedestrian safety.

The matter was opened to the public for comment on the issue of Res Judicata only at which time, Randy Maier of Dune Drive, Avalon, New Jersey, appeared, was sworn and testified that he would like to be heard on safety issues and had no comment regarding Res Judicata. The public portion of the meeting was then closed.

Chairman Hensel requested that the Board set forth their findings of facts and conclusions of law on the issue of Res Judicata only. The Board found that the application currently before the Board was not substantially different than the application heard by the Board in April 2017. The Board found that the reduction in the seats was not the relevant factor in this particular case. The key issue was the Board's concerns for increased traffic at the beachfront, an increase in the intensity of use, and safety of the patrons and pedestrians at this location. Solicitor Marcolongo requested a motion in the affirmative to find that the application was substantially different and that the Board had jurisdiction to hear this matter. The motion was made by Mr. McCullough and seconded by Mr. Fleischmann with a motion rejected by a five to two vote.

Frank Corrado, Esquire, on behalf of the applicant, thanked the Board for this consideration of this matter. The applicant's principal, Eustace Mita, requested an opportunity to speak to the Board and expressed his displeasure with the proceedings.

The next order of business was a discussion of the Borough's Fee Schedule regarding applications to the Board. Kimberly Mastriana, the Board Secretary, led the Board in discussion of the existing fee schedule which had not been modified in 17 years. Mrs. Mastriana advised that she had surveyed five neighboring communities to see what they charge for application and escrow fees and she has created a proposed fee schedule which is more user friendly and brings the proposed fees in line with neighboring communities.

Minor modifications were requested to the fee schedule and a motion was made to instruct the Board Solicitor to create a resolution adopting the fee schedule at the Board's July

meeting by Mr. Fleischmann, seconded by Mrs. Tipping, with all eligible members voting in the affirmative.

Chairman Hensel advised that he is creating numerous subcommittees to review the contents of Chapters 26 and 27 for content, redundancies and for effective administration. Initially, he noted that Mrs. Tipping had been charged to review the B-1 Zone to again stimulate economic growth and development in this area. Chairman Hensel opined that there was need for additional restaurants in the B-1 Zone, however, that development has been hindered by condominium associations that do not want restaurants on the first floor. Mr. Hensel requested that Mr. Marcolongo assist Mrs. Tipping in creating a plan to stimulate this type of growth.

Mr. Hensel stated that Mr. Fleischmann would chair a committee to examine the B-2 Zone and to determine whether modifications to that zone are necessary or whether, in fact, this zone should be converted to a Residential Zone.

Mr. Hensel stated that all of these zones in the Borough will be reviewed to determine whether the need for the zone still exists, and if so, what permitted or conditional uses should be allowed in the zone. He noted that Mrs. Cooper is chairing this committee and has already begun her study.

Chairman Hensel noted that the Borough's Green Team complimented the subcommittee on their work to date. He advised Board members to contact Ms. Petrucci and offer their help in continuing work in the future.

Chairman Hensel noted that regulations regarding pools continue to be problematic. He has asked Mr. Knoche to chair a committee to review all regulations regarding pools and to examine the administrative processes regarding pool permitting, landscaping and enforcement.

Chairman Hensel stated that the issue of the grading and slope of lots away from the bay needs to be addressed. He opined that the initial idea of grading lots so the stormwater flow to the street, into the sanitary sewer and then back into the bay may not be the best course of action and that this should be reviewed carefully. He also noted that enforcement of permitting during the construction of residences needs to be addressed.

Chairman Hensel requested that Dr. Reynolds revisit the Landscaping Ordinance to determine if any modifications are necessary at this time. With a large scale modification of Chapter 27, minor modifications to the Landscaping Ordinance could be easily made.

Michelle Petrucci asked the Board Solicitor whether her subcommittee needs to retain the name “Green Team” or whether they should be rebranded given the state’s Sustainable New Jersey Program. Solicitor Marcolongo advised that he would investigate that issue.

The matter was opened to the public at which time the following members of the public came forward to testify on general matters:

- A. Randy Maier of 7900 Dune Drive, Avalon, New Jersey, advised that pedestrian safety on 79<sup>th</sup> Street continues to be a problem and that the Planning Board should consider options to make this area safer.
- B. Dennis Kinslow of 7900 Dune Drive, Avalon, New Jersey, stated that he felt that a 33% decrease in the number of seats was significant and that the Board should have heard the Icona Golden Inn application. He believes that the Planning Board needs to encourage outdoor dining.
- C. Virginia Campacci of 7900 Dune Drive, Avalon, New Jersey, testified that she was in favor of the Golden Inn Application.
- D. Francine Hunt of 7900 Dune Drive, Avalon, New Jersey, testified that she believes that pedestrian safety in the 79<sup>th</sup> Street area needs to be addressed.
- E. Carolyn Smith of 7900 Dune Drive, Avalon, New Jersey, testified in favor of outdoor dining.
- F. Jim McCarron of 7900 Dune Drive, Avalon, New Jersey, also testified that pedestrian safety on 79<sup>th</sup> Street must be addressed.
- G. Martha Wright of 7<sup>th</sup> Avenue, Avalon, New Jersey, stated she had concerns regarding the modifications of the fee schedule, landscaping around pools and light pollution. She also advised that a property on 21<sup>st</sup> Street is adding a pool which could affect its parking. Solicitor Marcolongo advised that her complaint regarding this property is being investigated by the Borough at this time.

A motion was made to adjourn at 8:41 p.m.

Respectfully submitted,

*/s/Dean R. Marcolongo*

Dean R. Marcolongo, Esquire

DRM:jr