

**BOROUGH OF AVALON PLANNING/ZONING BOARD**

**Minutes of Work Session/Regular Meeting of October 8, 2013**

Members Present: Sam Beddia  
Sharon Cooper  
David Ellenberg  
Neil Hensel  
David Knoche  
Thomas McCullough  
Michele Petrucci  
Brian Reynolds  
Susan Rhoads  
Beth Tipping

Members Absent: None

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.

There were no Resolutions to be considered.

The Board first considered the minutes of the September 10, 2013 meeting. A motion was made by Mr. McCullough to approve same and was seconded by Dr. Reynolds. All members eligible to vote, voted in the affirmative.

Solicitor Marcolongo advised that the minutes of the August 13, 2013 meeting were still being amended per the request of the Board. The Board would receive these amended minutes well in advance of the November meeting. Chairman Hensel advised that Jeff Hesley and John Tracy will be at the November meeting and that the Board Members should review the minutes in preparation for the continuation application on the Giagnacova application.

Chairman Hensel requested that Solicitor Marcolongo discuss the Board's future application to the Department of Community Affairs Site Improvement Advisory Board for a special areas designation and modified residential parking standards for the Borough of Avalon. Solicitor Marcolongo had provided the Board with a memo regarding the residential site improvement standards and a draft of the appendix to an application to the Department of Community Affairs. The contents of the memos were discussed by the Board. Neil Hensel

requested that the Board Members review the memo during the month and provide Solicitor Marcolongo with any additional comments. Chairman Hensel requested that this matter be listed on next month's agenda. Dave Ellenberg suggested that Avalon's new jitney and trolley programs should be included in the application. Beth Tipping suggested that the study regarding parking on street ends could also be helpful to the application. Solicitor Marcolongo advised that an application to the Site Improvement Advisory Board must be made before December 31<sup>st</sup> of this year.

Chairman Hensel then raised the topic of the miscellaneous amendments to Chapters 20, 26 and 27 and requested that Joe Maffei review those changes. Mr. Maffei expressed concerns regarding the appropriateness of modifications requiring retaining walls between properties with dissimilar grades. Chairman Hensel suggested that this issue be tabled to next month when Mr. Hesley will be in attendance to receive his input. It was also suggested that all utility items including cable, electric and generators should be above base flood elevation and setbacks for generators should be included.

The Board then addressed the proposed modifications to Chapter 19 and the Borough's Flood Damage Prevention Ordinance. Solicitor Marcolongo advised the Board that a proposal had been made to set Elevation 11 as a flat base flood elevation for the entire Borough with an additional freeboard of a minimum of 2 ft. and a maximum of 3 ft. above base flood elevation. Chairman Hensel discussed Councilman Covington's concerns regarding a flat 11 ft. base flood elevation through the entire Borough. He advised that Zoning Officer, Jeff Hesley had similar concerns. Joe Maffei, Board Engineer, opined that FEMA's base flood elevation maps are supported by scientific data and, as such, less likely to be deemed arbitrary, capricious and unreasonable. Mr. Ellenberg advised that the concept of an 11 ft. flat base flood elevation was initiated by Sal DeSimone, the Borough's emergency flood coordinator.

Serious and significant discussion occurred between the Board Members regarding the constitutionality of a flat 11 ft. base flood elevation and the potential of litigation regarding same. It was noted, however, that raising a house to 11 ft. base flood elevation could provide for additional parking under the house which could help Avalon's parking problem. Mr. Maffei suggested that it may be easier to fix the definition of freeboard rather than establishing a flat 11 ft. BFE.

The issue of the definition of base flood elevation was opened to the public for comment. The following members of the public expressed their opinions.

1. Gerry Blackman, an architect with Olivieri, Shousky & Kiss, appeared and stated that he did not believe that a flat 11 ft. BFE was a good idea. He advised that his understanding was that Stone Harbor was adopting a zoning ordinance with a 10 ft. BFE with 2 ft. of freeboard. He expressed support for a lower BFE and a sliding freeboard standard.
2. Matt Pappas, a local builder, appeared and stated that the BFE should be in accordance with the FEMA maps. He expressed concerns that a higher BFE would damage property values and be aesthetically unpleasing. In his opinion, the savings on flood insurance premiums would not be worth the detriments to aesthetics and property values. He stated that a flat 3 ft. of freeboard may be the appropriate regulation.
3. Tom Welsh, a local developer, appeared and stated that he believes that setting the BFE in accordance with the FEMA maps is the appropriate approach. He suggested that, in the alternative, the BFE should be a flat 9 ft. together with 2 ft. of freeboard.
4. Jack Vizzard, a local realtor, stated that he understands that changes will occur as a result of the new FEMA regulations but that the evolution of the zoning ordinance should not be as dramatic as proposed by Mr. DeSimone. He encouraged the Board to act to protect the charm of the town and agreed that the savings in flood insurance premiums would not be worth the resulting detriments to the town.

After considering the issue, receiving public comment and hearing from all members of the Board, the Planning Board's unanimous consensus was that base flood elevation should be in accordance with FEMA's existing preliminary working maps and not at a flat 11 ft. BFE. The Board's opinion regarding the definition of freeboard was more scattered. Most Board Members felt that freeboard should be established as a minimum of 2 ft. and a maximum of 3 ft. above base flood elevation. Ms. Rhoads and Ms. Petrucci were inclined to set freeboard at a flat 3 ft. above base flood elevation.

A motion in the affirmative was made to recommend to Borough Council not to adapt a flat 11 ft. BFE but to define BFE in accordance with FEMA's preliminary working maps and that freeboard be defined as a minimum of 2 ft. and a maximum of 3 ft. above BFE. Said motion

was made by Mr. Ellenberg and seconded by Dr. Reynolds. The motion was approved at a 9-2 vote with Ms. Petrucci and Ms. Rhoads voting in the negative.

The Board then considered the working draft of Chapter 19, Flood Damage Prevention Ordinance. Numerous amendments to the working draft were made during the course of the discussion. A motion was made by Mr. Ellenberg and seconded by Ms. Tipping to approve the amended version of Chapter 19 and forward same to Borough Council for consideration and possible adoption. All members in attendance voted in the affirmative.

Neil Hensel advised that Ms. Petrucci has agreed to chair Avalon's Green Team and noted that Mr. Ellenberg and Dr. Reynolds volunteered to assist her.

Chairman Hensel advised that he desired to convene a closed session of the Board to discuss personnel issues. A motion was made by Dr. Reynolds and seconded by Ms. Tipping to adjourn the regular meeting and convene into closed session. All members in attendance voted in the affirmative.

The meeting was adjourned at 9:21 p.m.

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