

BOROUGH OF AVALON PLANNING/ZONING BOARD

Minutes of Work Session/Regular Meeting of April 9, 2013

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

Members Absent: Sam Beddia
James Collins
Susan Rhoads

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.

At the request of Solicitor Dean R. Marcolongo, Esquire, a motion was made to enter closed session to discuss litigation issues by Mr. McCullough, seconded by Dr. Reynolds, with all members in attendance voting in the affirmative. This motion occurred at 7:03 p.m. The closed session was terminated at 7:17 p.m. on motion by Dr. Reynolds, seconded by Mr. Ellenberg, with all members voting in the affirmative.

The Board then considered Special Resolution PB 13-C, a Resolution by the Planning Board recommending that Borough Council amend the definition of advisory base flood elevation to include advisory base flood elevation plus 2 ft. Discussion on this issue had occurred at the Board's March meeting. A motion was made to approve Special Resolution PZ 13-C by Mr. Ellenberg, seconded by Dr. Reynolds, with all members in attendance voting in the affirmative.

The Board then considered the proposed Minutes of the March 12, 2013 meeting. There were no additions, corrections or comments to same. A motion was made to approve the proposed Minutes by Dr. Reynolds, seconded by Mr. Ellenberg, with all members in attendance voting in the affirmative.

Solicitor Marcolongo had provided the Board with a memo on the issue of use variances. The memo discussed the enhanced burden of proof required for use variances for uses not

permitted in a zone. Solicitor Marcolongo discussed the decision of the New Jersey Supreme Court in the Medici v. BPR Company, 107 NJ 1 (1987) which states that when making findings of facts and conclusions of law on these types of use variances, the Board must find special reasons for the granting of the use variance, must set forth on the record why they believe that the use is appropriate at this location and 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.

Chairman Hensel advised that a subcommittee has been formed which will include Dr. Stewart Farrell, a professor with Stockton State College, to discuss modifications to Chapter 27, the Borough's Zoning Ordinance and to help protect the Borough and residents from future hurricanes. Chairman Hensel had requested that Joseph Maffei, Board Engineer, begin to review Chapter 27 to locate areas where modifications to the zoning ordinance should occur.

Joseph Maffei on behalf of the Hurricane Sandy Damage Subcommittee provided the Board with a handout setting forth their findings regarding the damage occurring from Hurricane Sandy and proposed modifications to the zoning ordinance. These changes would include increasing permitted bulkhead heights, modifications to yard exceptions to permit the raising and retrofitting of houses to protect same without the necessity of variance relief and requiring that utility connections be above advisory base flood elevation.

Chairman Hensel and Joseph Maffei advised that they would also begin working on a "Bay Ordinance" similar to the Dune Ordinance to permit and/or require higher dock poles and pilings and obtain the Department of Environmental Protection approval of same. Chairman Hensel requested that the Board Members be prepared to discuss at the next meeting additional modifications to the Borough Ordinances but, specifically, the Zoning Ordinance.

At the request of Chairman Hensel, Solicitor Marcolongo reminded the Board of the fact that they had previously recommended to Borough Council that they adopt the FEMA Advisory Base Flood Elevation Maps. This evening we had adopted a resolution recommending that the Borough require that all buildings be constructed to a minimum of advisory base flood elevation plus 2 ft. Solicitor Marcolongo said that this resolves issues related to federal regulations. Now, however, we must address state issues.

Solicitor Marcolongo advised that the State of New Jersey had recently adopted new flood hazard area control rules and, based upon same, the Borough should amend its Chapter 19 entitled "Flood Damage Control" so that same is in compliance with the state regulation.

Solicitor Marcolongo had provided the Board with the Borough's current Chapter 19, and the state's model ordinance. He asked the Board to be prepared to discuss the adoption of a modified ordinance at next month's meeting.

Chairman Hensel requested that Solicitor Marcolongo forward a copy of the proposed Chapter 19 to Sal DeSimone and John Tracy for their input.

Dr. Reynolds commented that the model ordinance discusses manufactured houses but it is possible that should be changed to factory built houses. Dr. Reynolds also suggested that we could take out manufactured home parks. It was also agreed that certain abbreviations set forth in the model ordinance should be explained.

A motion was made to adjourn at 8:27 p.m.

Respectfully submitted,

/s/Dean R. Marcolongo

Dean R. Marcolongo, Esquire