

BOROUGH OF AVALON PLANNING/ZONING BOARD

Minutes of Work Session/Regular Meeting of March 8, 2016

Members Present: William Burns
Sharon Cooper
James Fleischmann
Neil Hensel
David Knoche
Michele Petrucci
Susan Rhoads
Beth Tipping

Members Absent: Sam Beddia
Michael Coskey
Thomas McCullough
Brian Reynolds

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.

Prior to the commencement of the Board's agenda, Chairman Hensel advised that some members of the public may have received a notice that Application PZ#15-09, The Marina at Anchorage, LLC, Block 19.01, Lot 1, also known as 863 21st Street, Avalon, New Jersey was going to be on tonight's agenda. Chairman Hensel advised that the application was not on the agenda. Solicitor Marcolongo advised the Board and the public that as a result of a miscommunication with the applicant, the applicant thought that he was on this evening's agenda. The applicant sent out notices to property owners within 200 feet and published it in the newspaper; however, they were never actually placed on the Board's agenda. Solicitor Marcolongo advised that the matter would be heard at the April 12, 2016 meeting at 7:00 p.m. and that no further notice would be required.

The Board then considered the proposed Minutes of February 9, 2016 meeting. A motion was made to approve by Mr. Burns, seconded by Mr. Fleischmann, with all eligible members voting in the affirmative.

There were no resolutions for memorialization.

Chairman Hensel then called Application PZ#16-02, Dilbet, Inc., doing business as the Windrift Resort Hotel at Block 79.03, Lot 2, commonly known as 105 80th Street, Avalon, New Jersey. Said application requested modifications to an existing site plan to add a rooftop generator to the facility, relocate a trash enclosure and add a sunroom to the existing hotel resort. The application also requested variances for building height and side yard setback to the trash enclosure together with multiple submission waivers.

William R. Serber, Esquire of the law office of Serber Konschak, LLP appeared on behalf of the application and explained the nature of the application to the Board. Mr. Serber advised that the applicant desires to add a permanent rooftop generator to the facility, relocate a trash enclosure and renovate an existing sunroom on its existing footprint. The applicant would also be decommissioning Room 107 to be used for storage. In addition to minor site plan approval, the applicant was requesting variances for building height and side yard setback.

Mr. Serber first called Peter Compare, general manager of the Windrift, to testify on behalf of the application. He advised that the applicant proposes to place a freestanding generator on the top of the existing structure to service the facility during isolated outages during the summer and during winter storms. He stated that this is particularly important since when there is a loss of power; their fire suppression system is inoperative and floods. He also noted that having the generator will be a backup during large events such as weddings. He testified that he believes that the roof is the proper location for the generator to protect against flooding and for aesthetic purposes. Mr. Compare also testified as to the relocation of the trash enclosure which will make it easier for trash haulers to access same. The new trash enclosure will be enclosed and possibly air conditioned with an improved trenching facility to clean the dumpsters. The existing paper compacter in this location will be relocated to the 80th Street side of the building.

Gerald S. Blackman, Jr., a registered architect with OSK Design Partners, PA of Collingswood, New Jersey, appeared, was sworn and testified from his architectural plans which were received by the Board and incorporated as fact. Mr. Blackman testified as to the type and size of the generator and the fact that it was best placed on the roof rather than on grade. The generator will be powered by natural gas and the applicant had purchased a Sound Level I, a sound attenuation package, to limit the noise from the generator. He advised that it is a 500 kilowatt generator and a picture of same was marked as Exhibit A-1. The generator will sit on a

base approximately 2 feet above the roof and will exceed the height limits of the zone but Mr. Blackman noted that the generator equaled only 0.4% of the roof area and has been placed in the middle of the roof.

Mr. Serber marked as Exhibit A-2, a depiction of the building evidencing site lines from 79th and 80th Streets toward the top of the building. Mr. Blackman testified that if you are on 79th Street, approximately 66 feet away from the building, you can see approximately 2 feet of the top of the generator. From 80th Street you will be able to see approximately one-half of the generator. Mr. Blackman testified that the major benefit of the generator is to supply power to the fire suppression system and that same has a secondary benefit of helping with food storage. He testified that the generator will self-test itself approximately once a month for thirty minutes as an “exercise period”. Mr. Blackman noted that the top of the generator will be at 32.92 feet where 30 feet is permitted, however, it will still be 6 feet 6 inches lower than the existing elevator tower.

Testifying as to the trash enclosure, Mr. Blackman noted that the existing trash enclosure is in disrepair and unsightly. The applicant is proposing to relocate same on the 79th Street side of the building to create a more permanent structure with a roof and air conditioning system. The new trash enclosure will remove an existing encroachment into the side yard setback; however, it will still need variance relief.

Upon questioning from the Board, Mr. Blackman testified that a new natural gas line will be installed for the generator and when it is operating it will have a sound equal to that of a bus or truck. He testified that the applicant could have increased the level of the sound attenuation package, however, that would have resulted in a 30 inch taller structure. Mr. Blackman further testified that the applicant is not proposing to screen the generator since that would result in a larger footprint and there were concerns for the anchoring of the screening materials on the roof of the building.

Lewis H. Conley, Jr. of Van Note-Harvey Associates appeared and testified from the site plan that he had prepared for the application submitted to the Board. Mr. Conley testified that he believes that the variance relief can be granted under the C2 criteria finding that the purposes of zoning are advanced by the proposed development by providing for public health, safety and welfare and protecting the building and its patrons from fire. Mr. Conley testified that he believes that the variance relief 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 since the generator is less than one-half of a percent of total roof area which he deems is de minimis and that the roof is the best location for this accessory structure.

Testifying as to the variance relief for the trash enclosure, Mr. Conley stated that the existing trash enclosure encroaches into the setback and that the proposal will remove that encroachment although variance relief would still be required. Again he stated that the variance relief will be granted as the new trash enclosure will provide for the public health, safety and welfare and provide for a desirable visual environment. He noted that the new trash enclosure will remove one parking space; however, the applicant is decommissioning Room 107 which reduces the parking requirement by one. Room 107 will now be used for storage.

Joseph Maffei, Board Engineer, testified from his review memorandum of March 1, 2016 and discussed the variance relief requested. Mr. Maffei also testified that he believes that the waiver submissions requested by the applicant were appropriate.

The matter was open to the public at which time a Philip Sutcliff of Oceanview at Avalon Condos, 7929 Dune Drive, Avalon, appeared, was sworn and questioned the location of the generator but spoke in favor of the modifications to the trash enclosure.

At the completion of the hearing, the Board set forth its findings of facts and conclusions of law finding that the proposed development did provide for public health, safety and welfare, that the benefits of the variance relief outweigh the detriment 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.

A motion was made to approve the application by Ms. Petrucci, seconded by Mrs. Tipping, with all eligible members voting in the affirmative. The proposal also set forth conditions that Room 107 must be decommissioned so that there will be a maximum of 76 units on site, that the applicant comply with Mr. Maffei's review memorandum and that all development be in compliance with the plans submitted to the Board.

Chairman Hensel then requested that Mr. Maffei provide the Board with his initial draft of his Master Plan Reexamination. The Board addressed different topics that they would like Mr. Maffei to include in this report including noting a 38% drop in Avalon's year-round population and a reduction in the number of families and children living on the island. Chairman Hensel requested that the Board review this draft Master Plan Reexamination and be prepared to

comment on same at future meetings. He advised Board Members that they may wish to submit their comments to Mr. Maffei in advance of our next meeting.

Chairman Hensel opened the matter to the public for general comments and Martha Wright of 7th Street, Avalon questioned Mr. Hensel regarding the status of the landscaping ordinance. Chairman Hensel advised that a subcommittee is still completing a final draft of same and it would be discussed at a future meeting with notice to the public.

Solicitor Marcolongo advised that he would like to address certain litigations issues with the Board Members in closed session. He further advised that Mr. Burns should not participate in the closed session as a result of a conflict of interest. A motion was made to convene into closed session by Mr. Burns, seconded by Mr. Fleischmann, with all eligible members voting in the affirmative. Solicitor Marcolongo advised that the litigation involved properties on 7th Street.

At the conclusion of the closed session, a motion was made by Ms. Rhoads and seconded by Mr. Knoche to adjourn the closed session and reconvene the open session of the meeting. All eligible members voted in the affirmative. A motion was made to adjourn the public portion of the meeting at 8:57 p.m.

Respectfully submitted,

/s/Dean R. Marcolongo

Dean R. Marcolongo, Esquire