

**BOROUGH OF AVALON PLANNING/ZONING BOARD**

**Minutes of Work Session/Regular Meeting of November 14, 2017**

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

Members Absent: Sam Beddia  
Michele Petrucci

Chairman Hensel called the meeting to order at 7:00 PM 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 then considered the proposed minutes of the October 10, 2017 meeting. A motion was made to approve by Mr. Knoche and seconded by Mr. McCullough with all eligible members voting in the affirmative.

The Board then considered the minutes of the special meeting of October 16, 2017. A motion was made to approve by Mr. Knoche and seconded by Mrs. Tipping with all eligible members voting in the affirmative.

The Board then considered memorializing the minutes of the November 1, 2017 meeting. Corrections were suggested to add a comma following 'fire chief' on page two and to reference Dr. Reynolds as such on page four. A motion was made to approve the minutes as amended by Mr. Knoche and seconded by Mr. McCullough with all eligible members voting in the affirmative.

The Board members suggested that future minutes pages be numbered for easier reference.

There were three resolutions for memorialization. A motion was made to approve Resolution PZ#17-M authorizing the settlement of the litigation with Avalon Anchorage

Marina, LLC by Mrs. Tipping and seconded by Dr. Reynolds with all eligible members voting in the affirmative.

The Board then considered Resolution PZ#17-K, which authorizes administrative meetings and special committees. A motion was made to approve by Dr. Reynolds and seconded by Mrs. Tipping with all eligible members voting in the affirmative.

The Board then considered Resolution PZ#16-10A of applicant Brian Greenstein for consideration. The Board Secretary distributed copies of the resolution to the Board members to confirm that all Board members had an opportunity to review same. This was not memorialized pending verification of the length of time for which the extension was granted.

Chairman Hensel then called application PZ#17-04 of John and Lois DiMarzio who were requesting bulk variances for total side yard setback, maximum stair area, and maximum curb cut to build a single-family structure. Christopher Baylinson, Esquire of Linwood, New Jersey appeared on behalf of the applicant. Mr. Baylinson introduced the applicant's engineer, John Halbruner, who was sworn and qualified as an expert and recognized by Chairman Hensel as an expert as he has previously appeared before the Board. Mr. Halbruner testified that this was a new single-family dwelling replacing the existing single-family dwelling that would be established at a higher elevation, which would comply with current state and local requirements. The existing house is below base flood elevation. He indicated that the building would be moved to the center of the lot so that it would be three feet further from the side yard with its nearest neighbor creating two eight feet side yards. The applicant is obligated to have a total of eighteen feet of total side yard with eight feet being the minimum side yard. In this case, the applicant seeks a variance to permit sixteen foot of total side yard setback.

The applicants noted that the building is not as large as would otherwise be permitted by the ordinance on this undersized lot. The applicant suggested that the scale is proportionate to the lot size, where lot coverage is limited to 70% and the applicant proposes 69%. The recital of positive criteria asserted that the improvements will construct this building above all flood requirements and that parking will be improved to allow for four spots where none previously existed, which is an improvement to increase traffic flow. The applicant proposed that this would enhance a desirable visual

environment. The applicant suggested that the upgrading of the mechanicals and systems would enhance code compliance.

Discussions took place regarding the side stairway accessing the second floor. The Board Engineer, Joseph Maffei, was sworn and testified that he calculated the stairs to be a total of 35 square foot where the ordinance permits only 26 square foot for the stairs to be ignored in the calculation of side yard. In this case, since the square footage exceeds 26 square foot, the stairway is recognized as a side yard boundary and that would leave only 4.63 feet to the northern boundary, thus requiring a larger and more significant variance than originally proposed by the applicant.

The applicant then requested that the application be amended to ask for a further relief of variance to accommodate this stairwell, recognizing that further reductions of the size of the stairwell was not feasible. The applicant had previously noted in publication and mailings the intention to seek this relief and such other relief that might be determined necessary, so the Board has jurisdiction to consider the amendment.

The applicant further addressed the issue of negative criteria and identified that no substantial detriment to the zoning plan, zoning ordinance, or public good would be occasioned by this variance application.

Mr. Fleischmann asked where the air conditioning compressor would be located and suggested that the roof would be appropriate. Chairman Hensel raised the issue of fire safety. The applicants suggested that they could accommodate those concerns by agreeing to put the air compressor into the roofline so that it not protrude and would be out of the way from traffic and safety access.

Board Engineer Joseph Maffei called out the flared driveway as a third variance, indicating that although the drive is 20 feet wide, as it enters into the street, it flares out into 25 feet. Although it is pre-existing, a variance would need to be recognized in this matter because of the relief requested. Mr. Maffei reviewed the contents of his Engineering Report dated November 7, 2017 consisting of three pages and referencing sixteen paragraphs of notes and comments. The applicant then agreed to comply with each of these notes and comments. Finally, it was clarified that the carport must be kept as an open carport and not enclosed in order to meet FAR requirements. The Board discussed the possibility of a deed restriction against the further enclosure of the carport,

but did not pursue that further as sufficient checks and balances exist by virtue of the need for building permits if future construction were proposed.

The matter was opened to the public, at which time members of the public came forward to testify:

1. Diane Seader of 1779 Ocean Drive Avalon, New Jersey advised that she objected to the variances, and she wanted the Board to adhere to the strict requirements of the Ordinance. She suggested the following:
  - a. The footprint would obstruct views and would cause personal and financial detriment to the neighbors.
  - b. The proposed extended side bay windows would be undesirable and obstruct views.
  - c. She expressed concern about the stairwell encroaching onto the side yard. She suggested that the property was being developed to the utmost, which resulted in a tighter configuration affecting airflow and fire access, creating a fire hazard.
  - d. She argued that Avalon was losing its unique charm by allowing buildings on undersized lots.
  - e. She asserted that the four stacked car parking design gave the parking area a bad look and was a safety hazard backing out onto Ocean Drive.
  - f. She argued that the applicant should go back to the drawing board and resubmit a plan, which is compliant without variances, and she asserted that the comparative harms to the neighborhood were much worse than those proposed by the applicant.
2. Martha Wright of 632 7<sup>th</sup> Street Avalon, New Jersey testified about her concerns about the limitation of view to the general public. She suggested light, air, and open space would be impaired to the community in general, and she stated that the stairs impaired access to the backyard and could cause a fire hazard. She asserted that the proposed parking design requires coordination of drivers and that since this is a rental property, this is an unsafe plan to create stacked parking.

No other members of the public came forward to testify and the public portion of the meeting was closed. The counsel for the applicant addressed the issues raised by the

public and asserted that the house as proposed is the same width as it is now. He suggested that the elevation of the existing house is more restrictive to light and view than the re-centered configuration. He addressed the issues raised about the encroaching shower and indicated that the shower was removed. He expressed surprise that there was a concern about the parking because he believes that the creation of four spots where none were provided before would be a tremendous enhancement to a very congested parking situation in a shore community. Finally, he advised that the property is rented out only three weeks per year and is otherwise a family occupied property.

Chairman Hensel advised that normally the Board receives input from the Fire Chief on these matters. It was determined that the Fire Chief did correspond with the Board about an interior stairway but had not been asked to give an opinion on the exterior stairway. In response to the possibility of tabling the matter to get such input from the Fire Chief, the applicant's attorney conferred with his client and advised the Board that the applicant would modify its application to completely remove the side access stairway to the rear so as to render the side yard free of any obstructions of the stairs. This increases side yard on the property, and the applicant intends to install a circular stair on the rear deck of the property.

After conferring with the Board members and Joseph Maffei about the hasty change and the need for review, it was determined that the application would be tabled for input from the Fire Chief. In the mean time, the applicant will submit revised plans showing the alteration of the stairway for review by Joseph Maffei. It was determined that no additional notices or publications be made. The public was notified by the Board Chair that the continuation hearing date would be December 12, 2017. The Board Secretary confirmed that the application was well within the time period for action by the Board.

Chairman Hensel called PZ#17-03, the application of Gerald and Elaine Ermentrout, for a C-2 variance to convert a second floor deck into a home office. Mr. Coskey advised that he employed the same architect as the applicant and stepped down as a result of that conflict. Richard Hluchan, Esquire of Marlton, New Jersey represented the applicant and described the nature of the application to the Board. The applicant had applied to the Borough to acquire an adjacent parcel as referenced in their letter inquiry

marked A-1, and the Borough response of June 29, 2017 marked as Exhibit A-2 indicated that the Borough was not interested in selling a parcel to the applicant. The counsel for the applicants indicated that the applicants have the right to install a third floor, but they do not want to do this.

Gerald Ermentrout appeared, was sworn, and testified that he is retired now, but he works part-time for his company. He currently uses a small bedroom for work, but he needs a private area and dedicated space, which would be ideally satisfied by the enclosure of a small triangular deck off the master bedroom.

Blaine Steinman, the architect for the project, was sworn and testified on behalf of the application. He testified that the application is for a 70 square foot space, which would raise the building coverage only 31 square foot over the permitted square footage. He testified that this improvement would not add to impervious coverage and that the applicant could indeed construct a third-story, but this was a better way of addressing the homeowner's needs.

Joseph Maffei, Board Engineer, was sworn and testified that he calculates that the building coverage would now be 27.5% versus the 27.4% set forth in the application. He attributes this to a rounding-up error. Mr. Maffei discussed his Engineering Report dated November 7, 2017 consisting of three pages. The applicant indicated his consent to comply with all conditions and requirements set forth in that review letter. Specifically, Mr. Maffei outlined the waivers from the checklist that were requested by the applicant. He was of the opinion that all of these waivers are acceptable, as the property is already developed.

The applicant agreed to identify the existing pool, identify where equipment storage would be accomplished, identify the non-conforming outdoor shower, and describe the landscaping buffers. The applicant testified that no new sidewalk would be proposed. Mr. Maffei suggested that the reference to the sidewalk be removed from the applicant's proposal.

The matter was then opened to the public and testimony was taken from Roseann Fox of 229 70<sup>th</sup> Street Avalon, New Jersey. She indicated that she grew up at that address and now has two children, and she has no objection to the neighbors' proposal. She

describes the neighbors as being exemplary people and the improvement being minimal and non-intrusive.

Elaine Scattergood testified that this is a bad idea since the applicant seeks a variance and could still seek a third-floor.

Martha Wright testified that she philosophically is in support of the application because it appears that the third floor would overbuild the property.

The Board discussed the application and the Board indicated that the proposed development would be a very minor addition, and there would be no major impact. It was determined that it was a sensible resolution to the applicant's needs.

A motion was made to approve this C-2 variance for building coverage of 27.5% versus 27% permitted with design waivers as spelled out in the Engineering Review letter of Joseph Maffei of Engineering Design Associates by Mr. McCullough and seconded by Mrs. Cooper with all eligible members voting in the affirmative.

The meeting was opened for general public comment, at which time Martha Wright made inquiries about artificial turf, lighting, and zoning complaints regarding pilings being driven on 24<sup>th</sup> Street. She further questioned whether potted plants constitute landscaping compliance, to which the Board answered yes.

A motion was made to adjourn the meeting at 9:06 pm and convene a closed session meeting for purposes of memorializing the minutes of the previous closed session by Mr. Fleischmann and seconded by Mr. Deever with all eligible members voting in the affirmative.

Respectfully submitted,

/s/ Nathan Van Embden

Nathan Van Embden, Esquire

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