

**BOROUGH OF AVALON PLANNING/ZONING BOARD**  
**Minutes of Work Session /Regular Meeting of May 8, 2018**

Members Present: James Fleischmann  
Michele Petrucci  
James Deever  
Sharon Cooper (Vice Chairperson)  
Dr. Brian Reynolds  
Thomas McCullough  
Neil Hensel (Chairman)  
Michael Coskey  
Sam Wierman  
John Morrison

Members Absent: David Knoche  
Beth Tipping  
Sam Beddia

Chairman Hensel called the meeting to order at 7:00 PM and lead 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 April 10, 2018 work sessions/regular meeting. Corrections or changes were noted. A motion was made to approve by member Thomas McCullough and seconded by member Michele Petrucci with all eligible members voting in the affirmative.

The Board then considered the proposed minutes of the April 19, 2018 special meeting to act on resolution PZ #15 – 09A of the application by The Marina at Avalon Anchorage, LLC. Corrections or changes were noted. The motion was made to approve by member Sam Wierman and seconded by member John Morrison with all eligible members voting in the affirmative.

There were no memorializing resolutions for consideration by the Board.

Borough of Avalon planner Elizabeth McManus provided to the Board a COAH compliance briefing. The briefing was well received by the Board.

Chairperson Hensel then called application PZ #17 – 01A, the application of Icona Golden Inn, LLC, seeking preliminary and final amended site plan approval to permit outdoor dining at the site, together with variances and waivers as detailed further herein. Applicant sought use variance to allow for outdoor dining in the R – M Zoning District where outdoor dining is only permitted in the B – 1 Zoning District.

Applicant seeks hardship variances as follows:

1. Applicant seeks a variance for an awning to extend beyond an exterior wall of a building by 23.8 ft. on one side and 32.1 ft. on the other side where an extension of 6 ft. is permitted. Applicant also seeks the same awning to extend 9.5 feet beyond the property line where none is permitted, extending beyond the applicant's property is beyond the Board's authority under the outdoor dining ordinance and will require Borough Council action since it is in the right-of-way.

2. Applicant seeks 21 dining tables where 16.5 are permitted in the outdoor dining area.

3. Applicant seeks a variance for low barriers that are temporary in nature, sitting on castors that lock, beyond the property line where barriers are prohibited.

Applicant seeks to place planters 9.5 feet beyond the property line. This requested variance under the zoning code also requires Borough Council approval independent of the Planning Board.

4. Variance for a passage through the outdoor dining areas of four feet where six feet of sidewalk passageway is require.

5. Variance for 3 awning signs on one awning, one on each of 3 sides where one is permitted per awning.
6. Applicant seeks a variance allowing the playing of ambient music within the outdoor dining area of the public sidewalk where same is prohibited. In addition to the Board considering the zoning aspect and variance this also requires Borough Council action in light of the fact that outdoor music is a special conditioned imposed on the liquor license of the Applicant.

Applicant seeks the following waivers:

1. Waiver from detailing site triangles on Applicant's plans.
2. Waiver from all existing street, adjoining uses, structures, driveways, rights-of-way and easements on or within 100 feet of the site being shown on the plan.
3. Applicant seeks waiver from the requirement to provide drainage area map for existing and developed site conditions.
4. Applicant seeks waiver from submitting a traffic impact report describing anticipated traffic volume and impact on existing and proposed roads when deemed necessary by the Board. Parenthetically, Applicant's traffic engineer did testify and provide a verbal report to the Board.
5. Applicant seeks waiver from providing the Board an environmental analysis report of the site.
6. Applicant seeks waiver from providing to the Board a report summarizing the project's compliance with the Council on Affordable Housing obligations.

Applicant was represented by Frank L. Corrado, Esq. who presented the application on behalf of the applicant. Applicant presented four witnesses before the Board. Each witness was

duly sworn and if an expert accepted as an expert in their field of expertise. Eustace Mita, owner; Aloysius Gryga, Landscape Architect; Kevin Dixon Professional Planner and Traffic Engineer; and finally, Paul Drew, Executive Chef of/for Applicant.

In addition to documents submitted to the Board and plans submitted to the Board as part of the original submission of the application Applicant submitted Exhibit A1 – power point presentation.

First witness presented was Eustace Mita, chairman and owner of a Icona Golden Inn, LLC. He generally described the overall project for the renovation and modernization of the Golden Inn and specifically how outdoor dining fits into the overall project to make this resort destination a 5-star facility.

Witness Aloysius Gryga took the Board through the power point presentation detailing the project and describing the reduction in size and scope of the project from the previous project turned down by the Board.

Chef Paul Drew described the type and kind of eatery presently existing at the facility and the extent to which outdoor dining is intended to fit into the overall concept. He discussed hours of operation, nice music, how trash would be handled and the intent to keep the property looking good and clean on the exterior.

Kevin Dixon testified as traffic expert dealing with the reality of a very busy 79th Street from Dune Drive to the ocean. Much time was spent with the Board discussion over the issues addressed by Mr. Dixon wherein he described the current condition as a rather random pedestrian walkway since 79th Street is a dead-end street with no through street. Applicant proposed a walkway be created which would provide order from the disorder, would enhance safety, would create a visual area for pedestrians to go to and motorist to avoid and finally would

be considered a substantial safety improvement.

Mr. Gryga went through the use variance, special reasons and specifically detailed various purposes of the municipal land use law which would be fostered by the granting of the use variance for the allowance of outdoor dining in the R – M zone where same is prohibited. He also went through the justification of the variances aside from the use variance and discussed the need for the waivers.

As part of the presentation Applicant agreed to various conditions being attached to the granting of the variances and granting of the application.

1. Applicant agrees as a condition to build and maintain a pedestrian walkway consistent with the proposed plan, commencing from Dune Drive running east along the north side of 79th Street to the terminus of 79th Street at the beach with a turn parallel to the beach on the street to the beach entrance. This pedestrian walkway shall be maintained by Applicant in perpetuity. Should Applicant place a walkway on the south side of 79<sup>th</sup> Street, Applicant shall show same on the plans and be subject to the terms of this condition and condition #2 in the creation of the walkway; and
2. Signage on the proposed pedestrian walkway on the north side of 79<sup>th</sup> Street, will be placed and maintained by the Applicant, as agreed by the Applicant engineer and the Board engineer in perpetuity; and
3. Applicant agrees to limit any outdoor music to ambient music, not amplified and to be consistent with the liquor license special conditions; and
4. Applicant agrees to mark and place signage no parking area at the terminus of 79th Street and the beach consistent with Avalon Borough Ordinances and in

- consultation with the Chief of Police; and
5. Applicant agrees to maintain planters that are to be on locking castors and movable; and
  6. Applicant agrees to provide a railing on the right side of the ramp as one exits the brew pub; and
  7. Applicant agrees to place a railing on the step down in the center of the step as one exits the brew pub onto the public right of way; and
  8. Applicant shall meet the terms and conditions set forth in Board Engineer letter dated May 7, 2018; and Fire Chief and Police Chief comments; and
  9. Applicant shall obtain Borough approval for any relief granted by the Board which is granted over or upon Borough property with such Board relief specifically conditioned on Borough approval in whatever fashion the Borough requires; and
  10. Applicant shall revise plans to conform to all conditions herein agreed and made a part of this approval; and
  11. Applicant shall comply with all commitments made and condition of preliminary and final site plan approval contained in Resolution PZ #16-09; and
  12. Applicant must obtain all approvals required from any agency having jurisdiction over this development. If any agency changes or alters this plan as approved by the Board on May 8, 2018 then the Applicant shall appear before this Board again explaining any and all changes. If relief is sought as a result of changes made by any agency having jurisdiction over the development the Applicant shall appear before this Board requesting such relief; and

13. The approval hereby granted is specifically based upon the testimony, evidence and documentation submitted to the Board during the hearing. The Board reserves the right to modify or deem this approval null and void if, in the future, the testimony, evidence and documentation is determined to be inaccurate; and
14. No zoning or construction permits shall be issued until a signed memorialized Resolution is obtained and approval from the Board Engineer is completed.

At the conclusion of Applicant's case the Board heard from its Engineer. Board Engineer Paul E. Dietrich, Sr., P. E. was sworn and provided testimony to the Board regarding the application. Mr. Dietrich presented his letter to the Board dated May 7, 2018, which was accepted by the Board. Mr. Dietrich raised concerns regarding the redesignation of a portion of the current paved cartway that being 79th Street to a walkway. Changing this area as sought by Applicant would require approval by Borough Council. Mr. Dietrich opined that providing a pedestrian lane would help the situation at 79th Street making the area safer.

Police Chief Jeffrey Christopher was sworn and provided testimony to the Board. He testified that he does not disagree with what was said by the Applicant's professionals and a pedestrian lane would seem to be helpful.

Fire Chief Richard Edward Dean was sworn and provided testimony to the Board. He testified that the street is a dangerous condition as it now stands where he sees numerous near misses. His biggest concern was deliveries going up and down 79th Street and the fact that such delivery trucks tend to Block 79th Street creating potential crisis for ambulances and other vital services to gain access in the event of an emergency.

After the Board heard from its professionals the hearing was open to the public. Seven members of the public came forward to testify on the application as follows:

1. Five members of the public spoke in favor of the application.
2. Two members of the public spoke in opposition to the application.

At the conclusion of the public testimony the public portion of the meeting was closed.

The Board then had the opportunity to speak on the facts and findings of the application, ask additional questions and have a discussion on the pending application.

It was suggested by the Board Solicitor that approvals be taken on four separate votes particularly since the Board seemed split on some issues. Accordingly, four separate votes were held; one vote for the use variance, one for music variance, one for approval of an amendment to the preliminary and final amended site plan providing for striping on the south side of 79th Street consistent with the proposed striping on the north side of 79th Street. Finally, a fourth variance addressing the remaining hardship variances, waivers and preliminary and final amended site plan approval.

The first motion heard by the Board was a motion to grant the use variance for outdoor dining along public sidewalk where such use is permitted only in the B-1 Zoning District and applicant's property is in the R-M Zoning District. The motion was made by Thomas McCullough and seconded by member Michael Coskey with all members present and voting five in the affirmative and two in the negative. The motion carried.

The second motion heard by the Board was the motion to grant a variance allowing for ambient music in the outdoor dining area along the public sidewalk where such is prohibited under the Outdoor Dining Ordinance. The motion was made by member James Fleischmann and seconded by member Michael Coskey with all members present and voting four in the affirmative and three in the negative. The motion carried.



The third motion heard by the Board was the motion to add as a condition of approval of the preliminary and final amended site plan striping on the south side of 79th Street consistent with the proposed striping on the north side of 79th Street. The motion was made by member Dr. Brian Reynolds and seconded by Chairman Neal Hensel with all members present and voting four in the affirmative and three in the negative. The motion carried.

The fourth and final motion heard by the Board was the motion to address hardship variances, waivers, and preliminary and final amended site plan approval as sought by the Applicant.

This motion was made upon the following conditions:

1. Applicant agrees as a condition to build and maintain a pedestrian walkway consistent with the proposed plan, commencing from Dune Drive running east along the north side of 79th Street to the terminus of 79th Street at the beach with a turn parallel to the beach on the street to the beach entrance. This pedestrian walkway shall be maintained by Applicant in perpetuity. Should Applicant place a walkway on the south side of 79<sup>th</sup> Street, Applicant shall show same on the plans and be subject to the terms of this condition and condition #2 in the creation of the walkway; and
2. Signage on the proposed pedestrian walkway on the north side of 79<sup>th</sup> Street, will be placed and maintained by the Applicant, as agreed by the Applicant engineer and the Board engineer in perpetuity; and
3. Applicant agrees to limit any outdoor music to ambient music, not amplified and to be consistent with the liquor license special conditions; and
4. Applicant agrees to mark and place signage no parking area at the terminus of

79th Street and the beach consistent with Avalon Borough Ordinances and in consultation with the Chief of Police; and

5. Applicant agrees to maintain planters that are to be on locking castors and movable; and
6. Applicant agrees to provide a railing on the right side of the ramp as one exits the brew pub; and
7. Applicant agrees to place a railing on the step down in the center of the step as one exits the brew pub onto the public right of way; and
8. Applicant shall meet the terms and conditions set forth in Board Engineer letter dated May 7, 2018; and Fire Chief and Police Chief comments; and
9. Applicant shall obtain Borough approval for any relief granted by the Board which is granted over or upon Borough property with such Board relief specifically conditioned on Borough approval in whatever fashion the Borough requires; and
10. Applicant shall revise plans to conform to all conditions herein agreed and made a part of this approval; and
11. Applicant shall comply with all commitments made and condition of preliminary and final site plan approval contained in Resolution PZ #16-09; and
12. Applicant must obtain all approvals required from any agency having jurisdiction over this development. If any agency changes or alters this plan as approved by the Board on May 8, 2018 then the Applicant shall appear before this Board again explaining any and all changes. If relief is sought as a result of changes made by any agency having jurisdiction over the development the Applicant shall appear

before this Board requesting such relief; and

13. The approval hereby granted is specifically based upon the testimony, evidence and documentation submitted to the Board during the hearing. The Board reserves the right to modify or deem this approval null and void if, in the future, the testimony, evidence and documentation is determined to be inaccurate; and

14. No zoning or construction permits shall be issued until a signed memorialized Resolution is obtained and approval from the Board Engineer is completed.

The motion was made by member Thomas McCullough and seconded by member Sam Wierman with all members present and voting six in the affirmative and one in the negative.

Upon completion of the hearing Board Chairman continued with the meeting leading a discussion of attending a Wildwood zoning discussion or forum and bringing back ideas from that forum. Board discussion was had on the status of the Chapter 26 review and the progress on Chapter 27 review. Member McCullough brought up the concept of blue ways those being walkways with bay access and views and the opportunity for the Borough of Avalon to become engaged in same.

After Board comment, the meeting was open to public comment on any topic. One member from the public spoke. Martha Wright of 632 7th Avenue, Avalon, NJ appeared and was heard by the Board. Ms. Wright presented comments on her desiring a prohibition of plastic bags in Avalon as was done in Long Beach Island. She commented that she has taken trash out of the bay in the 3.5 miles she kayaks. She pulled out 644 bags from 2017. As of this point in 2018 Ms. Wright presented that she has removed 128 plastic bags along the same route.

No further comment was heard from the public and the public portion was closed.

No further business was undertaken and a motion was made to adjourn the meeting by member Sharon Cooper and seconded by member Sam Wierman with all eligible members voting in the affirmative.

Respectfully submitted,

*/s/ Paul J. Baldini*

Paul J. Baldini, Esquire