

BOROUGH OF AVALON PLANNING/ZONING BOARD
Minutes of Work Session/Regular Meeting of October 9, 2018

Members Present: James Fleischmann
 Beth Tipping
 Michele Petrucci
 James Deever
 Sharon Cooper
 Dr. Brian Reynolds
 Tom McCullough
 Neil Hensel
 Sam Wierman
 John Morrison

Members Absent: David Knoche
 Michael Coskey
 Sam Beddia

Chairman Neil Hensel called the meeting to order at 7:00 PM and lead the Board in the Pledge of Allegiance. Chairman Neil Hensel then recited the Open Public Meetings Act Statement after which a roll call of the members present was taken.

The Board then considered proposed minutes of the September 11, 2018 Work Session/Regular Meeting. Corrections or changes were noted. The motion was made to approve by member Beth Tipping and seconded by member Michele Petrucci with all eligible members voting in the affirmative.

Chairman Hensel then called application. PZ #18-03, the application of John and Lisa Mulqueen, 262 56th Street, Block 56.04, Lots 36, 38, 40, 85, 87 and 89, seeking variance relief for proposed encroachment into the rear yard accessory structure, encroachment of proposed garage where 8' is required and 5'1" is proposed for the site located in the R-1B Zone.

1. Jeffrey P. Barnes, Esquire of the Barnes Law Group, LLC with offices at 111 East 17th Street, Suite 100, North Wildwood, New Jersey 08260 appeared on behalf of the Applicants

and explained the nature of the Application to the Board. He generally explained the intention of the Applicant to demolish the existing structures and replace with a new single-family dwelling and detached garage. He further explained the intention of the Applicant was to seek only one variance for rear yard setback for accessory structure by encroaching into the rear yard for the garage where 8' is required and 5'1" is proposed. He explained to the Board that his expert witness Blane Steinman would testify as to the reasons the other proposed variances by the Board Engineer would not be required. He further stated that if the variances were deemed to be required, the Applicant would adjust the project to require only the one variance sought by the Applicant.

2. Applicant relied upon Applicant's Land Development Application previously submitted to the Board as well as Plan of Survey and Topography identified as SV-1 dated June 5, 2017 prepared by Dante Guzzi Engineering Associates and single-family dwelling architectural renderings prepared by Blane Steinman, Architects LLC. The architectural renderings identified as Floor Plan-P1, Elevations-P2, and Elevations-P3 and were prepared on July 13, 2018 and revised on August 16, 2018. A series of photographs submitted with the Application were not relied upon by the Applicant during the hearing.

3. The Applicant John F. Mulqueen and Blane Steinman were both sworn and testified on behalf of the Application. Joseph Maffei, Board Engineer, was sworn and provided testimony before the Board.

4. Blane Steinman, the architect for the project, testified on behalf of the application utilizing the revised drawings prepared by his office whereby he described the project in detail focusing principally on the new structure to be constructed and addressing the issues raised for additional variances.

5. Mr. Steinman testified that the Board Engineer's Review Memorandum of October

2, 2018 shows the need for a front yard variance for steps that are greater than 26 ft.² requiring a 15' setback with a proposed 11.67' setback. Upon review, Mr. Steinman advised that Applicant would change the plan and move the steps back toward the residence to eliminate the need for a setback variance for the front steps entering into the front yard setback. Mr. Steinman indicated that the Applicant would accept that revision as a condition of approval for the application, specifically the Applicant agrees to move the steps back toward the structure sufficient to eliminate the need for a front yard setback variance for the steps. Mr. Mulqueen indicated that as the Applicant he agreed to accept that condition.

6. Mr. Steinman then moved on to describe the interior of the proposed residential structure referring to Exhibits P1, P2, and P3. Mr. Steinman explained that for the third level the original intention was for an attic, however after reviewing the plan it was decided to make three bedrooms on that level along with a bathroom. Mr. Steinman then turned to discuss the minimum number of parking spaces required for the project. The Board Engineer's Review Memorandum of October 2, 2018 specifies six parking spaces are required where five are proposed. Mr. Steinman indicated to the Board the Applicant will accept the elimination of one bedroom by taking the walls out of the third level bedroom which is identified in the plans as Bedroom #6, thereby eliminating that bedroom as a bedroom use and reducing the required number of parking spaces to five from the six previously required. The Applicant, Mr. Mulqueen, then proposed to the Board to not only eliminate Bedroom #6 but to move the bathroom in the hallway on level three to the space previously occupied by bedroom #6 and eliminating the bathroom in the hall thereby ensuring that no future owner could merely rebuild the walls and re-create bedroom #6 leaving insufficient parking for the site. Mr. Mulqueen advised the Board that he would accept the above proposal as a condition of approval by the Board. He further addressed that he intends to ask his children to park

in the side yard and not in the street.

7. Mr. Steinman testified to the Board that he could redraw the plans to show the six bedrooms and the elimination of the seventh bedroom, the movement of the bathroom from the hallway into the area that used to be occupied by the bedroom #6 and would do so by the next meeting.

8. Applicant introduced Exhibit A1 which is a series of ten photographs each individually numbered 1 through 10. Mr. Mulqueen identified the photographs advising that he personally took the photographs approximately two weeks ago and that the photographs accurately depict the area contained within each of the photographs generally showing the condition of the property at that time. Photo #10 shows the neighbor's garage and Mr. Mulqueen's garage, both of which are many years old. The neighbor's garage has been refurbished relatively recently. The Applicant's garage, Mr. Mulqueen, testified is sixty years old, similar to the age of the house. The proposed garage in the setbacks will be smaller than the existing garage, modern electrical systems, etc. and will meet all FEMA requirements.

9. During Mr. Mulqueen's testimony regarding parking and the photographs of the existing structure, the Board asked for an explanation of the exterior door on the parking side of the proposed plan contained on P1. Mr. Steinman testified that the door is there in the event an elevator is sought to be instituted into the structure. He testified the door will swing into the driveway but will not swing into the drive aisle such as to impede a car parking there. The Board generally expressed its concern that a door swinging into the drive aisle where cars will likely be parking was unsafe and there appeared to be insufficient space for the maneuver to occur both parking of cars and opening outward of doors. There then ensued a discussion as to whether the door could move and swing inward instead of outward which could be accomplished by moving

the elevator into the structure further, utilize a pocket door, or offset the drive aisle if there is sufficient space to allow the door to swing outward but not impede the parking of vehicles.

10. The Applicant, Mr. Mulqueen, advised the Board that he would accept plan revisions to show that the door will not open into the drive aisle, whether Applicant moves the elevator further into the structure, uses a pocket door, or comes up with a different method of ensuring the door did not swing open into the drive aisle for the parking along the side of the residence. This was specifically accepted as a condition of approval.

11. Mr. Steinman then proceeded to address the issue raised in the October 2, 2018 Memorandum of the Board Engineer dealing with the maximum building coverage where 27% is required and by the Board Engineer calculations 27.7% is proposed. Mr. Steinman testified that the actual proposed percentage of building coverage is 26.9% based upon his CAD generated percentages. The reference to CAD generated percentages, Mr. Steinman explained, is a computerized program utilized by architects to calculate such figures and was not done by hand. Mr. Maffei advised the Board that he performed the calculations by scaling to the drawings submitted, which did not provide the information on them. Mr. Steinman agreed on behalf of the Applicant to place the proposed percentage on the plan and to accept that requirement as a condition of any approval by the Board.

12. Mr. Maffei then raised to the Board the fact that there was no landscaping plan submitted with the application. Mr. Blane Steinman acknowledged the landscaping plan was not submitted and agreed to submit the plan on behalf of the Applicant. He again agreed that such would be acceptable to the Applicant as a condition of any approval by the Board.

13. Mr. Steinman then addressed the maximum deck/porch building coverage raised by the Board Engineer in his Review Memorandum dated October 2, 2018 wherein he demonstrated

the ordinance requires 38% coverage and the Applicant proposes 38.4% coverage, again scaled off of the plan by the Board Engineer. Mr. Steinman testified the actual coverage was 34.2% as generated by his computerized program. He agreed to add that percentage to the Plan and agreed to accept that as a condition to any approval by the Board.

14. By this point in time the Board expressed concerns that a great deal of information was lacking from the plan and that moving forward with an application with such a large amount of information missing was not fair to the Board nor fair to the Board Engineer. However, it was agreed to allow the Applicant to complete the Applicant's case before the Board before further discussing whether there was sufficient information in front of the Board to vote on the application.

15. Accordingly, Mr. Steinman then continued his testimony addressing the issue of maximum impervious coverage noted in the Review Memorandum of October 2, 2018 by the Board Engineer as requiring a variance since 65% coverage is permitted with Applicant proposing 74.3% coverage based upon the Board Engineer scaling the plans and arriving at that calculation. Mr. Steinman testified again using his computerized program that the actual impervious coverage was 64.7%. He again agreed to note that on the plan and to accept as a condition of approval the requirement to note same on the plans.

16. Mr. Mulqueen then testified regarding his desire for the garage and the location of the garage. He testified the garage was designed to be as small as possible and still fit a car and meet the ordinance requirements for all requirements except the rear yard setback. He advised the Board that he is 65 years old and desires to retire into this home and live full-time in Avalon. The garage is designed to fit one vehicle and provide some space in the rear of the garage for his woodworking.

17. Mr. Mulqueen described various properties along 56th Street. On his side of the street he mentioned a property with a similar garage and a similar setback that was remodeled four to six years ago and was able to keep the garage in place. He indicated other homes have garage's approximate 5' from the rear line, but they are probably grandfathered based upon the age of the structures. He further testified he would move the garage 3' to the front to keep it and comply with the ordinance but to do so would present a hardship since it would impact the design of the structure and the number of parking spaces. He testified the present garage is below grade and needs to be brought up to comply with current codes and FEMA regulations.

18. In questioning from the Board, Mr. Mulqueen identified the patio area adjacent to the garage and immediately behind the residence as being on ground level and likely to be slate material. He testified to the Board that he's been working on the design of this property for approximately eleven months, had a residence on Dune Drive since 1999, and sought the 56th Street property for a quieter area.

19. Mr. Steinman was recalled by Mr. Barnes and testified that in his opinion the purposes of the Municipal Land Use Law are advanced by the grant of the variance for the rear yard encroachment of the garage and that the benefits of any deviation substantially outweigh the detriment. He proposed to the Board that the project enhanced and provided sufficient space in appropriate locations for a variety of permitted uses; the design as he designed with the encroachment presents a desirable visual environment through creative development techniques and good civic design and arrangement; the design before the Board was partially designed and developed with a view of lessening the cost of such development and to the more efficient use of land specifically where this garage proposed was less than half the size of the old garage. In reviewing the application, Mr. Steinman testified that the project will not change the character of

the neighborhood. The existing structure was outdated and outlived its natural life and needed to be brought to current standards. His plan provides for fully compliant structures meeting all of the local codes and FEMA requirements and updating the appearance of the property. Mr. Steinman testified that the new structures will have a positive impact on the neighborhood and the community.

20. He testified that in his opinion there would be no negative impact only positive back to the community.

21. Mr. Steinman testified that the 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 for Avalon. Applicant then ended its case.

22. The Fire Chief reviewed the application and submitted a written email to the Board for its consideration. The email in pertinent part provides, "I have reviewed the subject referenced application for variance for an accessory structure which would not meet the minimum rear yard setback required by Borough of Avalon Zoning Ordinances. As Fire Chief and Fire Sub Code Official I have no objections specific to fire safety with regards to the application..."

23. Mr. Maffei, the Board Engineer, was then provided an opportunity to present his Review Memorandum of October 2, 2018 to the Board. Mr. Maffei took the Board through the Review Memorandum with Mr. Maffei again renewing his concerns regarding the lack of information necessary for him to fully review the project and the variances which might be required. He also went through the comments and requirements/conditions of his letter specifically numbers 2 through 16. Applicant agreed to meet all conditions of Review Memorandum items numbers 2 through 16 and to revise the plans in accordance with those conditions.

24. The Chairman then opened the meeting to public testimony. Two members from

the public came forward and spoke in favor of the variance sought by the Applicant. No members of the public spoke in opposition to the project.

a. Ed Mancinelli of 5611 Ocean Drive, Avalon, New Jersey was sworn and testified that he had no issue or problems with the garage variance being granted by the Board.

b. Mr. Dan Thompson of 5589 Ocean Drive, Avalon, New Jersey was sworn and testified that he had no problem with the variance sought by the Applicant for placing the garage in the rear yard.

25. The Chairman of the Board determined that it was appropriate to poll the Board on whether the Board felt comfortable that there was sufficient information available for the matter to be fairly reviewed and whether the application should be postponed in its entirety. The Applicant was afforded an opportunity to address the issue prior to polling by the Board with the Applicant requesting that the Board address the variance advertised and vote on that matter and if the Board desired the Applicant would return at the next meeting with revised plans addressing all other issues raised by the Board. The Board agreed to take up the variance issue on the condition that the Applicant return at the next regularly scheduled meeting of the Board with revised plans addressing all other issues raised by the Board.

26. At the conclusion of the meeting, the Board discussed the application. The Board considered the application and voiced its opinions. The consensus was that this application presents a favorable resolution on the rear yard setback for accessory structure but is troubled by the lack of detailed information in the application. The Board concurred there is little effect upon the neighborhood and the approach is a good approach to meet the Applicant's needs and preserve the quality of the neighborhood.

The following are the conditions upon which approval is granted.

1. The Applicant shall comply with all of the terms and conditions of the Engineering Report of Joseph Maffei, Board Engineer, dated October 2, 2018.
2. Applicant shall move the steps back toward the structure sufficient to eliminate the need for a front yard setback variance for the steps.
3. The elimination of Bedroom #6 and to move the bathroom in the hallway on level three to the space previously occupied by bedroom #6, thereby reducing the number of bedrooms from 7 to 6.
4. Revise plans to show that the door on the parking aisle side will not open into the drive aisle.
5. Applicant shall add the percentage of building coverage to the plan.
6. Applicant shall submit a landscaping plan to the Board for review by the Board Engineer.
7. Applicant shall add the percentage of maximum deck/porch building coverage to the plan.
8. Applicant shall add the percentage of maximum impervious coverage to the plan.
9. The Applicant shall submit revised plans satisfactory to the Board Engineer.
10. Applicants must obtain any and all other necessary state, county, federal, municipal and other governmental approvals and comply with any and all other such laws and regulations.
11. All setbacks contained in the plan submitted to the Board are not to be deemed as deed restrictions, but are only evidence of the current requirements of the Avalon Zoning Plan and Zoning Ordinance.

12. The approval hereby granted is specifically based upon the testimony, evidence and documentation submitted to the Board during the two hearings. 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.

The motion was made by member James Fleischmann and seconded by member Dr. Brian Reynolds, with all eligible members voting in the affirmative. The motion carried, and the variance was approved.

The application was continued to the November 13, 2018 regular meeting to allow Applicant to return to the Board with revised plans and complete information for review by the Board.

Chairperson Hensel then called for report on the revisions of Borough Code 26 and 27. Board Engineer Maffei provided discussion on proposals to change stormwater management ordinance to address grading issues in managing the storm water runoff. There was a general discussion of flooding.

In discussing Chapter 26 Chairperson Hensel but forth the Boutique Motel concept again and the need for restaurants on the first floor and a provision for up to 22 rooms on the 2nd floor. There was Board discussion and a comparison to the need for Anchor Hotels in the downtown area comparisons being made to Stone Harbor and the opening of a recent downtown Anchor Hotel similar to the concept proposed in Avalon. Parking was discussed in the business district.

Chairman Hensel requested an additional volunteer to assist David Knoche in reviewing the sign ordinance with both Member Beth Tipping and Member Sam Wierman agreeing to assist.

No other new or old business was brought forward. Chairperson Hensel then opened the meeting to public comment on any topic. No one from the public provided any comment. The

public portion of the meeting was closed.

No further business was undertaken, a motion was made to adjourn the meeting with all eligible members voting in favor. The meeting ended at 9:46 PM.

Respectfully submitted,

/s/ Paul J. Baldini
Paul J. Baldini, Esquire