

**BOROUGH OF AVALON PLANNING/ZONING BOARD**  
**Minutes of Work Session/Regular Meeting of November 13, 2018**

Members Present:       David Knoche  
                              Sharon Cooper  
                              Dr. Brian Reynolds  
                              Tom McCullough  
                              Neil Hensel  
                              Michael Coskey  
                              Sam Wierman  
                              John Morrison  
                              Sam Beddia

Members Absent:       James Fleischmann  
                              Beth Tipping  
                              Michele Petrucci  
                              James Deever

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

The Board then considered proposed minutes of the October 9, 2018 work sessions/regular meeting. Corrections or changes were noted. The motion was made to approve by member Tom McCullough and seconded by member Sharon Cooper with all eligible members voting in the affirmative.

The Board then considered proposed minutes of the November 1, 2018 Special Meeting. Corrections or changes were noted. The motion was made to approve by member David Knoche and seconded by member Dr. Brian Reynolds with all eligible members voting in the affirmative.

The Board then considered Special Resolution PZ #18-F, Schedule of Planning/Zoning Board Meetings 2019. Corrections or changes were noted. The motion was made to approve by member Sharon Cooper and seconded by member Michael Coskey 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, a continuation of the hearing from October 9, 2018 wherein Applicant is seeking a variance relief for proposed encroachment into the rear yard accessory structure, encroachment of proposed garage where 8 feet is required and 5'1" is proposed for the site located in the R-1B Zone.

After confirming the status of the hearing with the Applicant's attorney the Board Engineer Joseph Maffei was sworn and testified before the Board by presenting his November 2, 2018 Memorandum to the Board. Mr. Maffei confirmed to the Board that virtually all of the missing information from the October 9, 2018 meeting has been provided with the information having been confirmed by Mr. Maffei that Applicant only needs the variance which Applicant sought.

The Board questioned Applicant as to how hot water would be made available to the outside shower attached to the rear of the garage. Applicant's professional confirmed that hot water/cold water would be available to the shower and likely by an on demand system from inside the garage.

The Board Engineer suggested that his comments 1-4 continue as conditions in the final Resolution. Applicant agreed to comply with the conditions, which are set forth in the approving Resolution.

At the conclusion of the hearing, 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 Board then accepted the Engineer's testimony and report of November 2, 2018 and relies upon the Board Engineer's confirmation that the Board Engineer now had sufficient information to update his report. Applicant agreed to accept all conditions set forth in the Board Engineer Memorandum of November 2, 2018.

Accordingly, Chairman Hensel concluded the hearing with no further action taken by the Board on the application.

Chairman Hensel then called application PZ #18- 04, the application of Joseph and Dolores Turanckas , 650 22nd St., Block 22.08, Lots 138, 140, 149 and 151, seeking variances for minimum total side yard setback where 15 feet is required and Applicant proposes 10 feet; variance from rear yard setback where 25 feet is required and Applicant proposes 23.7 feet to the deck in the rear; variance for garage setback where 18 feet is required and 15 feet is proposed by Applicant. The subject site is located in the R-2B Zone wherein Applicant seeks to construct a single-family residence.

Applicant presented its case through Attorney Corey J. Gilman, Esquire, who presented the testimony of Applicant; Applicant's architect submitted plans and documents as set forth herein;

- a. Land Development Application received by the Board October 30, 2018
- b. SZ1- Plan of Survey and Topography dated April 19, 2018, latest revision date August 23, 2018 prepared by Stephen C. Woodrow, P.L.S., with offices located at 203 South Main Street, Cape May Court House, New Jersey 08210
- c. C1 -Variance plan dated September 6, 2018 prepared by Dante Guzzi, P.E., with offices located at 203 South Main Street, Cape May Courthouse, NJ 08210
- d. V1 - Floor plans dated September 27, 2018 prepared by Stanley W. Tasey, architect

with offices located at 1731 Shore Road, Ocean View, New Jersey 08230

- e. V2 - Building elevations dated September 27, 2018 prepared by Stanley W. Tasey of the address noted above.
- f. A1- One site photo dated October 2013 from Google Maps.

The presentation of the Applicant's case relied upon the narrowness of the Lot and the side yard zigzag which occurred in the lot making compliance with the Avalon Borough Ordinances a hardship for the Applicant based upon the testimony of the Applicant and the Applicant's experts. Applicant's expert testified that the three variances sought can be granted without substantial detriment to the Avalon Zone Plan and Zoning Ordinance. He testified that the newly constructed single-family residence on the site will comply with all FEMA codes, building codes, and fire codes which is a real benefit to the Borough of Avalon. He further testified that the redesign of the property will bring the property into the neighborhood which has been substantially rebuilt over the years. Finally, Applicant's expert testified that the benefits outweigh any negative to the Municipal Zoning Plan and Zoning Ordinances. The expert testified that the relief could be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance for the Borough.

The Board accepted the Engineer's testimony and report of November 6, 2018 and relies upon the Board Engineer's testimony and conditions set forth in his report. Applicant agreed to accept all conditions set forth in the Board Engineer Memorandum of November 6, 2018.

The hearing was opened for public comment with no one from the public speaking.

The hearing was concluded by the Chairman and open to comment by Board members. After the Board discussion and comments, the hearing was closed by the Chairman and a vote on the variances requested taken by the Board. A motion was made to grant the three variances sought

by the applicant by Member Tom McCullough and seconded by Member Sam Wierman with all eligible members voting in the affirmative to grant the variances.

Chairman Hensel then called Application PZ #18–05, the application of Carlos and Blondie, LLC, 2008 Dune Drive, Block 20.04, Lots 43 through 47, 48.01, 49, 50, 52, 54, 54.01, and 55, seeking preliminary and final site plan approval with variances to approve two freestanding signs, pre-existing, where none are permitted in the zone and relief from the 50% glass façade facing Dune Drive requirement. Applicant further seeks the Board recommendation to the City Council to approve the two pre-existing freestanding signs continuing in the public right of way and recommending the relocation of three front steps located in the public right of way from the present location to the proposed location by Applicant. The subject parcel is located in the B–1 District and is commonly known as the Princeton/Circle Tavern Complex.

Corey J. Gilman, Esquire with offices located at 2699 Dune Drive, Avalon, New Jersey, 08202 appeared on behalf of the Applicant and explained the nature of the application.

In the presentation to the Board the Applicant relied upon the following:

- a. 1 of 1 survey of the premises dated August 23, 2018 prepared by Gary Lee Thomas P.L.S., with offices located at 2900 Dune Drive, Avalon, New Jersey 08202.
- b. C Cover Sheet dated September 7, 2018 prepared by William McLees Architecture with offices located at 5 MacArthur Boulevard, Somers Point, New Jersey 08244
- c. A0.1 Site Plan dated September 7, 2018 prepared by William C. McLees.
- d. A1.2 Partial First-Floor Plan dated September 7, 2018 prepared by William C. McLees.
- e. A1.2 Partial Second-Floor Plan, duplicate number, dated September 7, 2018 prepared by William C. McLees.

- f. A3.1 Building Elevations dated September 7, 2018 prepared by William C. McLees.
- g. A3 .2 Building Elevations/Sections dated September 7, 2018 prepared by William McLees.

The subject properties are located in the B-1 Zone and are a permitted use.

The subject property consists of three businesses: Princeton Bar and Grill, Circle Tavern and the Sea Grill. All three businesses are owned and operated by the Applicant. This application specifically deals with the portion of the business known and identified as Circle Tavern. William C. McLees, project Architect, was sworn and testified before the Board.

Scott Zurawski, principal of Applicant, was sworn and testified before the Board.

Mr. McLees reviewed the current conditions on the site and described the changes in detail and goals sought by the Applicant. Mr. McLees explained the need for preliminary final site plan approval to renovate the existing Circle Tavern complex. He explained to the Board the renovations include foundation repairs, relocation of office operations to the second floor, new exit stairs, demolition and reconstruction of the existing exterior patio along 21<sup>st</sup> Street, ADA entry, expansion of the patio toward Dune Drive, 142 ft.<sup>2</sup> addition, relocation of exit doors, new signage, and landscaping. No work is proposed at the existing Sea Grill Restaurant.

Two existing nonconforming conditions are noted. First, a maximum width sidewalk where 5 feet exists and 6 feet is required. Second, maximum length the building divisions where 38 feet is existing and 33 feet is required.

Mr. McLees described the Circle Tavern as an everyday neighborhood bar with the changes sought to appeal to the new demographics and is very similar to what was done at the Princeton in the previous application approximately ten years ago. Mr. McLees identified

wall-mounted signs, specifically two pole mounted signs one at the Princeton address and the other at the corner of 21<sup>st</sup> and Dune Drive to orientate patrons to the Sea Grill. Neither of these two pole mounted signs will be affected by the application or changed, however, in an abundance of caution the Applicant seeks a variance allowing the two pole mounted signs to remain as located where none are permitted. Further, Applicant recognizes the need to request permission of the Borough Counsel in order to have the two pole mounted signs in the public right of way and requests the Board to recommend to Borough Council the approval of the two pole mounted signs as they exist.

The proposed changes are designed to create more open space internally, enlarge the kitchen, remove two bars and combine the two bars into one bar and expand the outdoor patio use by also including a fire pit as part of the amenities.

Mr. McLees testified that the plans call for the entrance to be changed to move further down 21<sup>st</sup> Street as part of the elevation of the patio in order to raise the patio to be flush with the entrance to the floor area of the inside of the structure. Mr. McLees identified the area of the accessible ramp and confirmed that nothing will encroach into 21<sup>st</sup> Street. Mr. McLees described a larger bathroom area sought, adding space and fixtures in one larger combined bathroom area versus the smaller ones presently located on site. A landscaping plan is to be presented and will be modified as needed.

The rear stair area is meant to be a fire exit from the second floor servicing thirty people or less. Mr. McLees testified that along the exterior of the structure it is anticipated that a seashell style siding, adding of glass space to the exterior, although he acknowledged same will not meet the minimum glazing requirement of the ordinance. The justification for a deviation from the requirement of the ordinance in Mr. McLees's testimony is that a restaurant use will be on-site and not a typical shopping facility with the need for window spacing and viewing of wares.

Mr. McLees testified that ADA signage directing individuals to the rear for the access will be added to the plan in a fashion satisfactory to the Board Engineer.

Mr. McLees testified that there are three steps in the front of the building which presently encroach into the public right of way and are planned to be moved or relocated toward 21<sup>st</sup> Street along Dune Drive. Mr. McLees understood that the Applicant will be required to obtain an encroachment agreement from the Borough Council with regard to relocating the steps and seeks the recommendation from the Board to allow the relocation of the steps. Applicant agrees in the event the Borough Council does not approve the relocation of the steps, they will be required to remain where they are and the Applicant will design around the steps.

Mr. McLees further testified that a deviation from the 50% glass facing Dune Drive requirement meets and advances the purposes of the Municipal Land Use Law and further the benefits of any deviation substantially outweigh any detriment to the neighborhood and the Land Use Law. Mr. McLees testified there would be no negative impact if the variance was granted. He further testified that the relief could be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance, specifically when the purpose of the ordinance was to foster a shopping district and the glass requirement intended to foster easy viewing of wares being sold by the public versus the facility being an established long time restaurant.

Mr. McLees sought to justify approval of the sign variances by pointing to the fact that the signs have been there for many years, serve a public purpose by identifying uses on site and directing patrons to those specific uses on site. He also testified regarding the justification of the two freestanding signs where none are permitted as posing no negative impact on the zone, the benefits outweigh the detriment by having the signs and they serve and foster purposes of the



Municipal Land Use Law. Finally, with regard to the signs Mr. McLees offered to the Board that the Board could recommend approval by counsel particularly in light of the existence of the signs for many years and the need for people to be informed as to where different businesses on the property are located.

Mr. McLees testified that the Applicant desires to develop a second-floor to the area over the Circle Tavern similar to what was done at the time for the Princeton Grill area which would be used as office space.

Board Engineer Joseph H. Maffei testified as to his Review Memorandum dated November 6, 2018. He concurred that the glass façade requirement in the front of stores facing Dune Drive was made more for retail uses than restaurant uses. Mr. Maffei generally opined that the three variances sought could be granted and that site plan approval both preliminary and final could be granted subject to the terms and conditions set forth in his Review Memorandum of November 6, 2018. Applicant agreed to meet all of the conditions set forth in the Board Engineer's Review Memorandum of November 6, 2018.

The Avalon Volunteer Fire Department through its Chief, Richard Edward Dean, Sr., presented memorandum dated November 7, 2018 which provided a review of the subject parcel and application. Although not marked into evidence formally, the Board accepted the Memorandum from the Fire Chief dated November 7, 2018. Fire Chief Dean was sworn and testified regarding the project. He reviewed his report of November 7, 2018. He reviewed the specific conditions set forth in the report with the Board. Applicant has agreed to meet all of the recommendations of the Fire Chief that are contained in his Memorandum of November 7, 2018. Applicant agreed to fully enclose the sprinkler control room, properly sign, no storage or other use of any kind permitted in the room to be designed adjacent to the fire suppression service,

acceptable to the Fire Chief and Board Engineer in addition to the other requirements contained in the Fire Chief's Memorandum.

The matter was open to the public and three members of the public were heard in regard to the project generally supporting the project but raising concerns specifically of public urination in and around the facility.

- a. The first member of the public to testify was Andrew Buchanan of 2108 Dune Drive, Avalon, New Jersey who was sworn and testified as to the ongoing public urination problem wherein 61 public urination citations were issued within a two block area of the facility. Mr. McLees testified the occupant load for the facility and the new and improved bathroom facilities should ease the concern and make it easier for individuals to relieve themselves within the building to the extent that is feasible. Mr. Zurawski testified the concept is to expand the bathrooms and modernize them. He further testified that his bathrooms are open at all times that the facility is open to the public. His facility does not limit the bathrooms to patrons only but are open to any member of the public who should happen upon his property. The intention is for the new bathrooms to be efficient and nicer so that people will want to use them.
- b. The second member of the public to testify was Sharon Foley residing at 262 21st Street, Avalon, New Jersey who was sworn and testified that she is an owner for the past twelve years and present for five or six years in the winters. Ms. Foley testified she loves the facility and is glad the bathrooms are being addressed. She raised concerns regarding alcohol at the fire pit and noise created by individuals standing around a fire pit creating noise.

- c. The third and final member of the public to testify regarding the application is Karen Procaccinoi, 158 15th Street, Avalon, New Jersey who was sworn and testified that she runs a lot and trash is everywhere in and around the facility. She concurred that there is a problem not just with trash but public urination around the facility.

The Board is in receipt of Review Memorandum from Joseph H. Maffei, Board Engineer, dated November 6, 2018 and places great weight upon his testimony.

The Board is in receipt of Review Memorandum of Fire Chief, R. Edward Dean, Sr., dated November 7, 2018 and places great weight upon that report and the testimony of Fire Chief Dean.

The Board considers and places weight from the members of the public that spoke in reference to the application, generally favorable to the application however citing noise problems, public urination problems, and trash problems from the patrons of the establishment.

The Applicant has accepted the conditions of Mr. Maffei's report and of the conditions of Fire Chief Dean's report. Except for the variance relief sought, the Applicant meets the standards of the ordinance and the Applicant is entitled to preliminary and final site plan approval.

At the conclusion of the hearing, the Board discussed the application. The Board considered the application and voiced its opinions. Specifically the Board reviewed the conditions for variance relief as well as the potential for a recommendation on the right of way encroachments sought by the Applicant.

The Board, in general discussion, reviewed the merits of the application, the variances sought, and the request for recommendation to the Borough Council on the signs and steps encroaching into the public right of way.

After the Board discussion and comments, the hearing was closed by the Chairman and

votes taken on preliminary and final site plan and variances as follows.

A motion was made to grant preliminary and final site plan approval subject to the Applicant complying with the terms and conditions set forth in the memorializing Resolution and the need to submit revised plans satisfactory to the Board Engineer to obtain permission to proceed with the development by member Dr. Brian Reynolds and seconded by member David Knoche with all eligible members of the Board voting in favor of the motion to grant preliminary and final site plan approval with the foregoing conditions.

A motion was made to grant the requested variance for relief from the minimum glass façade where 50% is required facing Dune Drive and Applicant proposes 12% and to allow two freestanding signs at the property were done are permitted subject to the terms and conditions set forth in the memorializing Resolution by member Sam Wierman and seconded by member Michael Coskey and granted by affirmative vote of 8 members, David Knoche, Sharon Cooper, Dr. Brian Reynolds, Neil Hensel, Michael Coskey, Sam Wierman, John Morrison, and Sam Beddia and one vote of no by Member Tom McCullough

A motion was made to grant the Applicant's request for the Board to make a recommendation of approval to allow encroachment of two freestanding signs, existing, and relocation of three steps along Dune Drive in the public right of way to Borough Council by member Michael Coskey and seconded by member Sharon Cooper with recommendation granted by affirmative vote of 8 members David Knoche, Sharon Cooper, Dr. Brian Reynolds, Neil Hensel, Michael Coskey, Sam Wierman, John Morrison, and Sam Beddia and one vote of no by Member Tom McCullough.

Under old business the Board entertained a short discussion on Chapter 27 wherein a Board member recommended extending the concept of hotel/boutique hotels into the B-2 District.

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.

Chairman Hensel then called for a motion to enter into closed session to discuss personnel. The Board entered closed session at 10:10 PM. The Board reconvened the open public meeting at 10:18 PM.

Chairman announced there was no formal action to be taken as a result of the Closed Session. No further business was undertaken, a motion was made to adjourn the meeting with all eligible members voting in favor. The meeting ended at 10:19 PM.

Respectfully submitted,

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