

BOROUGH OF AVALON PLANNING/ZONING BOARD
Minutes of Work Session/Regular Meeting of March 12, 2019

Members Present: Sharon Cooper
 James Deever
 Neil Hensel
 Michelle Petrucci
 Dr. Brian Reynolds
 Beth Tipping
 Sam Wierman
 Eric Schiela
 Sam Beddia

Members Absent: James Fleischmann
 Tom McCullough
 John Morrison

Chairperson Sharon Cooper called the meeting to order at 7:00 p.m. and lead the Board in the Pledge of Allegiance. A roll call of the members present was taken. Chairperson Sharon Cooper then recited the Open Public Meetings Act Statement.

The Board then considered proposed minutes for the February 12, 2019 Work Session/Regular Meeting. Corrections or changes were noted. The motion was made to approve by member Sam Wierman and seconded by member Dr. Brian Reynolds with all eligible members voting in the affirmative.

The Board then considered memorializing Resolution for PZ #18-06, application of the Icona Golden Inn, LLC doing business at 7889 Dune Drive, Avalon New Jersey, which was approved for use variance allowing for the modification of the existing freestanding sign on Dune Drive; specifically the installation of a 3.5' x 5.5' full color electronic message center to both faces of the existing sign where same is prohibited. A motion was made to approve by member Dr. Brian Reynolds and seconded by member Sam Wierman with all eligible members voting in the affirmative.

Chairperson Sharon Cooper then called application PZ #17-05A, request of extension of

time to file the subdivision plat by Applicant Alan Klukowicz, residing at 5 Richland Drive, Caldwell, New Jersey 07006 for property known as 6088 Ocean Drive, Block 60.05 Lots 1.01 and 1.03 as shown on the Avalon Tax Map wherein Applicant seeks extension of time to July 1, 2019 to file the subdivision plat. Applicant was represented at the hearing by Cory Gilman, Esquire and relied upon the Land Development application and attendant documents thereto to justify the extension.

Applicant received prior subdivision approval on January 9, 2018. Applicant diligently applied for a CAFRA permit as required by the CAFRA permit approval process and ultimately obtained a CAFRA permit approval date November 26, 2018. Applicant submits that because of the delay in obtaining the CAFRA permit, the filing of the subdivision within the 190 day requirement was delayed.

Under N.J.S.A. 40:55D– 47F, the Planning Board may extend the 190 day period for filing a minor subdivision plat if the developer proves to the reasonable satisfaction of the Planning Board that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental entities and the developer applied promptly for and diligently pursued the required approvals. Under this Statute, the length of extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Planning Board.

After considering the application, the Planning Board has determined to grant the application for an extension of time to the requested time of July 1, 2019 since the Board finds that the requested extension is less time than the entire period of delay caused by the wait for CAFRA approval. Accordingly, the Board finds it appropriate to grant the extension to July 1, 2019.

The motion to approve the extension was made by member James Deever and seconded by member Sam Wierman with all eligible members voting in the affirmative.

Chairperson Sharon Cooper then called Application PZ #19–01, the application of Dilbet, Inc., 105 80th Street, Block 79.03, Lot 2 as shown on the Avalon Tax Map, seeking amended preliminary and final site plan approval, variance for dune setback for vertical expansion, variance for front yard setback for vertical expansion, and variance for parking where 99 parking spaces are proposed and 100 parking spaces are required, to permit the enclosure of the currently existing second and third-floor northeastern decks and the expansion to the west of the southeastern deck (Tiki Bar), to place a permanent awning over the newly created third-floor deck, a continuation of previous Windrift Preliminary and Final Major Site Plan approval, as amended, with all associated variances and designed waivers as set forth in Resolution PZ #03–28 dated June 1, 2004, PZ #03–28(R) dated January 17, 2006, PZ #10–01 dated March 9, 2010, PZ #10–14 dated February 18, 2011, PZ #11–06 dated October 11, 2011, PZ #13–10 dated May 14, 2013, PZ #13–10(A) dated December 9, 2014 and PZ #16–02 dated March 8, 2016.

Applicant was represented at the hearing by Andrew Catanese, Esquire of the firm Monzo Catanese Hillegass, P.C. located at 211 Bayberry Drive, Suite 2A, Cape May Court House, New Jersey 08210. Applicant presented three witnesses on behalf of the application.

The first witness was Peter Compare, General Manager for the Windrift who was sworn and testified. Mr. Compare testified that he has been the General Manager for approximately ten years and oversees the daily operations of the facility. He explained to the Board how the facility has seen a change with the bar's late-night traffic diminishing and ending earlier. He testified that the facility sees an evolving change to more of a dining facility and seeks to increase its capacity in that regard and less for drinking and music. He testified the facility is looking to extend the shoulder seasons with weddings and banquets describing to the Board how this has changed over time and how the proposed changes would fit into the overall plan of the facility to better serve weddings and banquets providing detailed numbers unseating capacities.

Mr. Compare testified that most people drive to the site and stay at the facility. In season there are jitney services with people also walking and biking etc. to the facility. During peak parking demand, the facility does use valet parking to assist in alleviating the parking congestion at the site. He noted to the Board that he sees less driving and drinking to and from the facility with more people being conscious of the need to obtain rides. He testified the 250 or so employees do not park on the site. They park in the neighborhood. The valet is coordinated through the center of the facility with parking on the 79th Street side and double parking behind parking spaces controlled by the facility.

The next witness was project Architect, Gerald Blackman, who was sworn and testified after being accepted by the Board as an expert. He presented a Power Point presentation to the Board dated March 12, 2019 and accepted into evidence by the Board as Exhibit A. Mr. Blackman generally described the facility. He described the 76 hotel rooms, the seating for dining and bar areas, trash control, parking etc. at the facility. He testified in general terms that the expansion of the Tiki Bar will not impinge upon the light air and open space of the facility as it is contained over top of existing developed areas of the facility.

He further spent time describing how patrons would be able to access the second and third floor levels when reconstructed, describing the areas and locations of the elevators and stairs. He further testified that the existing areas to be fully enclosed are already partially enclosed by fabric awnings and instead of fabric awnings these areas will now be solidly enclosed. Overall, the newly enclosed areas will not expand the footprint for the height of the structure. The Applicant proposes adding a total of 1,185 ft.² of additional enclosed area which requires two additional parking spaces. When factoring in the awnings Mr. Blackman testified the volume of the building will be very similar to the volume of the building with the awnings present. This is infill construction and generally will not affect negatively the light, air, space of the overall building. Applicant proposes

no covering over the Tiki Bar which shall remain open with an added 181 ft.².

Applicant's final witness was Louis Conley, New Jersey Professional Land Surveyor and New Jersey Professional Planner who was accepted as an expert, was sworn and testified.

Mr. Conley's resume was accepted by the Board as Exhibit B.

Mr. Conley also generally described the project and the ultimate need for two additional parking spaces. By relocating the fire access connection to the facility, one additional parking space was generated. Mr. Conley testified this left the project one parking space short of the required number of parking spaces. Mr. Conley, in touching upon and dealing with all three variances requested and not limiting himself only to the parking requirement, also dealt with the front yard setback and the dune setback variance request by going through the Municipal Land Use Analysis and the Avalon Master Plan Analysis, testifying to the Board in his opinion how the various criteria for the granting of whether it be a C-1 or C-2 variance was consistent and justifiable under the Municipal Land Use Law and the Master Plan for the Borough of Avalon. He took the Board to each of the elements of the Municipal Land Use Law purposes and described how they justified the variance relief sought. He further took the Planning Board through the Avalon Master Plan justifying how the Master Plan satisfied the criteria for a variance in this particular application.

Finally, Mr. Conley testified that in his opinion the benefits substantially outweigh any of the negatives to the Zone Plan and that the relief for all three variances can 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 Borough of Avalon.

Applicant ended its case and the Board heard from the Board professionals. First, the Board heard from Fire Sub Code Official Chief R. Edward Dean who was sworn and testified. He reviewed his March 8, 2019 report to the Board consisting of two pages. As a condition of

approval, Applicant agreed to comply with all comments contained in the March 8, 2019 report.

Board Engineer Joseph Maffei was then sworn and testified regarding his March 5, 2019 Review Memorandum to the Board, reviewing this project. He corrected one ministerial error in his letter advising the Board that although the letter stated a variance was needed for a maximum building height, no such variance was needed and the March 5, 2019 Memorandum was amended accordingly.

After review of the Board Engineer Report, Applicant accepted compliance with all of the Board Engineer's recommendations in his report of March 5, 2019 as a condition of approval of the application.

Chairperson Sharon Cooper then opened the hearing up to members of the public to testify in reference to the application. No one from the public spoke in favor or in opposition to the application.

The Board then engaged in general comment, in reference to the application and findings of fact with each of the Board members setting forth their individual rationale to support or not support the application. After discussion by the Board and findings, a motion was made to grant the amended Preliminary and Final Site Plan, variances for dune setback, front yard setback, and parking where 99 parking spaces are proposed in 100 parking spaces are required with the following conditions:

1. Applicant shall meet all of the conditions of the Board Engineer letter of March 5, 2019.
2. Applicant shall meet all of the conditions of the Fire Sub Code Official letter of March 8, 2019.
3. Applicant 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.

4. 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.
5. 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.

The motion to approve was made by member Sam Beddia and seconded by member Sam Wierman with all eligible members voting in the affirmative.

Under old business Chapter reviews of 26 and 27 were discussed with Board Engineer Joseph Maffei agreeing to review his notes and provide copies of the most current versions of Chapters 26 and 27 to move the matter forward.

No new business came before the Board.

No one from the public provided any public comment on any topic.

No further business was undertaken, a motion was made to adjourn the meeting with all eligible members voting in the affirmative. The meeting was closed at 8:22 p.m.

Respectfully submitted,

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