

BOROUGH OF AVALON PLANNING/ZONING BOARD
Minutes of Work Session/Regular Meeting of October 8, 2019

Members Present: James Fleischmann
Tom McCullough
Jamie McDermott
Michele Petrucci
Dr. Brian Reynolds
Eric Schiela
Sam Wierman
John Morrison
Joe Stenger

Members Absent: Beth Tipping
Sam Beddia

Chairman Jamie McDermott called the meeting to order at 7:00 p.m. and led the Board in the Pledge of Allegiance. A roll call of members present was made. Chairman McDermott then recited the Open Public Meetings Act Statement.

The Board then considered the proposed minutes of the September 10, 2019 Work Sessions/Regular Meeting. Corrections or changes were made. The motion was made to approve by member Sam Wierman and seconded by member John Morrison with all eligible members voting in the affirmative.

The Board then considered memorializing Resolution for PZ #19-09, application of Estate of Emma Conti, minor subdivision with variances for 175 38th Street. Corrections or changes were noted. A motion was made to approve by member Dr. Brian Reynolds and seconded by member Michelle Petrucci with all eligible members voting in the affirmative.

The Board then considered memorializing Resolution PZ #19-11, application 6128 ODD, LLC, seeking variance relief from rear yard setback requirement were 25 feet is required and 8'6" is proposed to structure and 8'1" is proposed to the second floor deck for the property at 6128

Ocean Drive. Corrections or changes were noted. The motion was made to approve by member Sam Wierman and seconded by member Eric Schiela with all eligible members voting in the affirmative.

The Board then considered memorializing Resolution for PZ #19-13, application of Keith Hontz for property located at 274 54th Street for an appeal of Zoning Official determination that Applicant is operating a business in contravention of Avalon Home Occupation Ordinance in a residential zone. Corrections or changes were noted. A motion was made to approve by member Tom McCullough and seconded by member Michelle Petrucci with all eligible members voting in the affirmative.

Chair Jamie McDermott then called application PZ #19-07, application by Anthony Zurawski seeking preliminary and final major subdivision, subdividing two existing lots into eight buildable single-family lots.

Applicant further seeks conditional use approval for the placement of the residential lots in the business zone. The property is located at Ocean Drive, between 20th and 21st Street, in Block 20.04, lots 64 and 68. The subject parcel is located in the B-1 Business Zone. Applicant seeks no variance relief and seeks to demolish the existing one-story retail stores, one-story deli, and the existing parking lot.

Applicant was represented by Cory Gilman, Esquire who explained the nature of the application to the Board. Mr. Gilman advised the Board that all lots will be in full compliance with the zoning code and all improvements presently on the site are to be removed. Mr. Gilman confirmed to the Board it is the Applicant's intention to provide three parking spaces per lot and will revise the plan accordingly. He confirmed the Applicant is seeking some design waivers.

The first witness called was Andrew Schaeffer, a licensed planner who was accepted by the

Board as an expert in Planning. Mr. Schaeffer testified his firm prepared the plan. He confirmed it is the intention of the Applicant to remove all improvements and create eight conforming lots. Mr. Schaeffer testified the Applicant seeks to deed restrict one lot which has driveway access for the adjacent parcel, Whitebrier parking lot, until the driveway can be relocated. Mr. Schaeffer testified in reference to Mr. Maffei's Review Memorandum of October 2, 2019 and accepted all of the terms and conditions of that Review Memorandum on behalf of the Applicant. Mr. Schaeffer testified that waivers are requested for relief from showing existing elevation contours beyond the curb line of the property. Relief from an individualized stormwater management plan for each parcel, and the submission of a model plan until each lot is to be developed. Individual plans to be provided for each lot upon development. For waiver from requirement to provide street lighting since street lighting already exists. Finally, for waiver from environmental analysis given that the subject site is fully developed. Mr. Schaeffer testified there is no set date for demolition. Applicant ended its case upon the testimony of Mr. Schaeffer.

The Board Engineer Joseph Maffei was sworn and testified. He presented his Review Memorandum of October 2, 2019 to the Board. He reviewed his terms and conditions of the Review Memorandum with the Board. Applicant accepted all of the terms and conditions recommended by the Board Engineer as conditions of approval to the application. He also confirmed the need for the four waivers noted earlier.

Chairman McDermott then opened the hearing to the public. Two members from the public spoke in reference to the application. One member of the public spoke in favor of the application and found no detriment to the neighborhood. The second person to testify inquired as to affordable housing compliance.

The Board then closed the record and entertained Board discussion and findings of fact.

During Board discussion the of issue of the deed restriction for Lot 64.06 which provides driveway access to the adjacent parcel was considered by the Board and accepted by the Board if approval were obtained.

At the conclusion of Board discussion, comment, and findings of fact, a motion was made by member Sam Wierman and seconded by member James Fleischman to approve preliminary and final major subdivision and conditional use with various conditions sought by the Applicant. Those conditions are spelled out in the memorializing Resolution. All eligible members voted in favor of the motion and the application was approved.

Chair Jamie McDermott then called application PZ #19-10, this being an application by Thomas J. Welsh, Jr. for preliminary and final major subdivision with no variance relief sought for the property located at 3601 Ocean Drive, Block 36.04, Lots 62.01, 62.02, 63, 64.01, 64.02, 65.01, 65.02, 65.03, 66.01, 66.02 and 66.03. The property is located in the R – 1C Single-Family Residential Zone. Applicant was represented by Beverly McCall, Esquire who presented the application on behalf of the Applicant and provided background information to the Board.

Applicant called as its first witness Thomas J. Welsh, Jr, who was sworn and testified that he is the owner of the subject parcel and seeks no variance relief. Any inconsistencies in the plan will be addressed to ensure that the final plan does not require variance relief.

Ms. McCall then called Gary Thomas of Thomas, Amey, Shaw, Inc. who was sworn and testified. Mr. Thomas testified that he prepared the plans for the subject parcel. Mr. Thomas has testified before the Board on numerous occasions and was accepted as an expert in land use planning. Mr. Thomas clarified that no variances are sought for any of the to be created lots and should the plans show the need for variance relief they will be changed prior to final submission to the Borough to ensure that no variance relief is sought for any of the parcels. Mr. Thomas testified

that proposed Lot 62 will require two variances for approval, which is the existing undersigned lot. The first variance, he testified to, is minimum lot area where 4400 ft.² is proposed and 5000 ft.² is required. Mr. Thomas testified the second variance required for Lot 62 is minimum lot frontage where 50 feet is required and 40 feet is proposed. Those are the only variances sought for the entire major subdivision. Mr. Thomas testified that since the site consists of 5500 ft.² per lot on average there is no density variance required although one was noticed. Board Engineer Mr. Maffei reviewed this analysis and concurred that in light of the parcel meeting the minimum square feet for the five lots sought no density variance was required.

Mr. Thomas testified historically on the smaller lot which requires variance relief there was a residence which sat on a 30 foot lot. The remainder of the parcel consisted of Jack's Bar and parking lot. Mr. Thomas testified that the new proposed lot is 40 feet, considerably less nonconforming.

Mr. Thomas testified as to the number and proximity of 40 foot lots to the subject parcel. A-1 was placed into evidence which is a group of deeds showing the undersized lots in proximity to 36/37th Street in Avalon. A-2 accepted into evidence as a portion of the Avalon Tax Map with undersized lots, again in proximity to 36/37th Street shaded in different colors. The deeds were authenticated by Beverly McCall, Esquire who indicated they are government records pulled from the county website and A-2 is a portion of the Avalon Tax Map testified to by Mr. Thomas as he being the one that colored the lot and blocks for his purposes. Mr. Thomas testified the overall site is 27,500 ft.². Mr. Thomas testified that he sees this application as a benefit variance C-2 under the Municipal Land Use Law. The biggest benefit under the Municipal Land Use Law, Mr. Thomas testified to, is the subject parcel has all lots exiting off one of the side streets and no lots exiting onto Ocean Drive. Mr. Thomas testified the plan is not detrimental to the Avalon Zoning Plan and

Avalon Zoning Ordinance. No driveways located on Ocean Drive, with all access off the side streets, was the largest Municipal Land Use Law purpose cited by Mr. Thomas. The concept he testified was to have the parcels configured best for the property to blend into the neighborhood.

Mr. Thomas testified the 40 foot lot will meet all conditions of the 50 by 100 foot lots. This lot will meet all bulk requirements and no variances are sought. The effect will be a smaller house on the 40 foot lot. Mr. Thomas testified the benefits of granting the variance outweigh any detriment that may exist. Finally, Mr. Thomas testified that he has a plan showing five fully conforming lots on the subject parcel. The plan was identified and accepted into evidence as A-3 by the Board. Ms. McCall ended the Applicant's case upon the conclusion of testimony by Mr. Thomas.

The Board then heard from Board Engineer, Joseph Maffei, who was sworn and testified. He reviewed his Review Memorandum #1 dated October 2, 2019 with the Board. The Applicant accepted all of the comments and review analysis of Mr. Maffei as conditions of approval except for the various variances detailed as the Applicant will submit conforming plans and those variances are not needed except for proposed Lot 62 minimum lot area and minimum lot frontage. Applicant further accepted as a condition of approval no driveway access to Ocean Drive on any of the parcels which shall be deed restricted.

The matter was then open to the public. Six members of the public spoke in opposition to the project. No one spoke in favor of the project. Some objectors were represented by Christopher Gillin-Schwartz, Esquire who presented to the Board 01 through 06 which is a series of exhibits providing the Board with sections of the Avalon Master Plan and Zoning Map which Mr. Gillin-Schwartz argued are relevant to the opposition to the granting of the application. The Board accepted 01 – 06 into evidence. Upon the conclusion of public comment, the Board afforded the

Applicant an opportunity to be heard.

Mr. Thomas was recalled addressing the parking issue. Mr. Thomas testified that no driveways on Ocean Drive would free up significant parking along Ocean Drive as the prior use at the property had a very large driveway interrupting parking along the site. He further testified sufficient parking would be provided in accordance with the Borough Ordinance. The Applicant then rested its case. The Board then entered into Board discussion and comment, and findings of fact. After Board discussion and comment, a motion was made by member John Morrison and seconded by member Eric Schiela to grant the application seeking preliminary and final major subdivision with variance relief for proposed Lot 62 minimum lot area where 5000 ft.² is required and 4400 ft.² is proposed and minimum lot frontage where 50 feet is required and 40 feet is proposed subject to conditions as memorialized in the memorializing Resolution. Seven members of the Board voted in favor of the motion and one member opposed. Therefore, the application was granted.

The Board then entertained discussion regarding meeting time changes for 2020. The Board agreed to change the meeting start time for 2020 from 7 o'clock in the evening to 6 o'clock in the evening after discussion amongst Board members.

The Board then entertained a discussion regarding a new proposed Zoning Enforcement Officer and change in the enforcement procedures for the Borough. After discussion, the Board determined that the ordinance was a good idea and supported the ordinance.

No other new or old business was presented to the Board.

The meeting was then open to the public. One member of the public commented to the Board. Martha Wright, 632 7th Street, Avalon, New Jersey discussed her concerns regarding starting applications after 10 o'clock at night. She advised the Board that all applications should

stop at 11 o'clock at night. She raised concerns about starting earlier than 7 o'clock at night as people who do not live in the area will be inconvenienced by having to leave work or be unable to attend. There was no further public comment.

No further business was undertaken. The motion was made to adjourn the meeting by member Sam Wierman with all eligible members voting in the affirmative. The meeting was closed at 9:58 p.m. on October 8, 2019.

Respectfully submitted,

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