

BOROUGH OF AVALON PLANNING/ZONING BOARD
Minutes of Work Session/Regular Meeting of February 11, 2020

Members Present: James Fleischmann
Chet Johnson
Jamie McDermott
Michele Petrucci
Dr. Brian Reynolds
Eric Schiela
Sam Wierman
Joe Stenger

Members Absent: Tom McCullough
Beth Tipping
John Morrison
Sam Beddia

Chairman Jamie McDermott called the meeting to order at 6:00 PM and led to 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 January 14, 2020 work session/regular meeting. Corrections or changes were made. The motion was made to approve by member James Fleischmann and seconded by member Sam Wierman with all eligible members voting in the affirmative.

The Board then considered the proposed minutes of the January 14, 2020 closed session. Corrections or changes were made. The motion was made to approve by member Dr. Brian Reynolds and seconded by member Sam Wierman with all eligible members voting in the affirmative.

Chairman Jamie McDermott then called Application PZ #19-08, an application seeking approval to connect an existing accessory structure, cabana, to the principal structure via a trellis arbor with variances sought for side yard setback where 8 feet is required and 7.63 feet is proposed

and total side yard setback where 18 feet is required and 15.63 feet is proposed by property owner Philip Bancroft 74 East 9th Street, Avalon, Block 9.01, lots 16, 19.01, 19.02, and 20. Applicant was represented by Vincent J. Morrison, Esquire with offices located in Sea Isle City. Applicant, Philip Bancroft, was sworn and testified regarding the general nature of the property, work which was performed by him in the circumstances of his purchase of the property. Christopher Halliday of Halliday Architects was sworn and testified. He was accepted by the Board as an expert in architecture. He testified he prepared the plans and specifically identified the existing irregular shape of the lot causing the hardship for the Applicant. He identified that the Applicant sought to install an outdoor grill in the cabana itself. As a means to accomplishing the task Mr. Halliday testified the Applicant sought to attach the cabana to the main structure via a trellis arbor thereby still needing side yard setback variances. Upon the completion of the presentation by the Applicant the Board heard from the Board Engineer who reviewed his report dated February 4, 2020 after being sworn. Fire Official, Richard Dean, was sworn and testified principally reviewing his letter to the Board of February 11, 2020. Upon the conclusion of all testimony the matter was open to the public. No one from the public spoke in reference to the application.

The application was granted by the Board after Board discussion and findings of fact. The application was granted with the following conditions:

1. Applicant shall comply with all of the terms and conditions of the engineering report of Joseph H. Maffei, Board Engineer, dated February 4, 2020.
2. Applicant shall comply with all of the terms and conditions of the Fire Chief report dated February 11, 2020 prepared by Richard Dean, Fire Chief.
3. Applicant shall revise plans to reflect necessary changes to the plans as a result of this hearing and conditions.

4. Applicant shall submit revised plan satisfactory to the Board Engineer.
5. Applicant shall maintain the cabana as kitchen/storage and shall not change the cabana to another type of habitable use. Applicant shall submit a deed restriction satisfactory to the Board Engineer and Board Solicitor.
6. Applicant shall install a fire suppression system in the cabana acceptable to the Fire Chief.
7. Applicant shall install an interlock on the gas line to shut appliances off in the event the doors to the cabana are closed.
8. 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.
9. 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.
10. 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 or void if, in the future, the testimony, evidence, and documentation are determined to be inaccurate.

Chair Jamie McDermott then called application PZ #20-01 an application seeking preliminary and final site plan approval to renovate unit number 241B of the existing commercial building on the northwest corner of Dune Drive and 24th Street, with Applicant seeking front yard setback to Dune Drive variance relief where 1 foot is required and Applicant proposes -5.63 feet and rear yard setback to deck variance where 25 feet is required and Applicant proposes 1.37 feet.

Applicant seeks various waivers. The Applicant is Al Fresco Ristorante, Inc., lessee to the property. The property is located at 2418 Dune Drive in Block 24.04, lot 46.0 1C – A. Applicant was represented by Vincent J. Morrison, Esquire with offices located in Sea Isle City. William O'Hara, owner of the property was sworn and testified. He testified that he authorized the Applicant to proceed with this application. He is also the owner of the properties on either side of the subject site. Mr. O'Hara testified that he has made arrangements for parking on an adjacent waffle house restaurant parking lot which he owns to provide for parking for the restaurant in the evening. He further testified that he agrees to provide for direct access from the rear of the subject parcel through the rear yard of Brian's Waffle House to 24th Street. Mr. O'Hara also agreed to create requisite handicap parking spaces in the parking area along 24th Street closest to Dune Drive. Mr. O'Hara agreed to provide additional pick up of trash if such additional pickup is necessary based upon the restaurant use. Mr. O'Hara agreed to remove a shed in the rear yard of the subject property prior to completion of construction. Mr. O'Hara recognized that the planters and decks in the front yard encroach into the Borough right-of-way and he will need to obtain from Borough Council an easement or license to continue those structures in the right-of-way.

One of the principals of Al Fresco Ristorante, Inc. was sworn and testified explaining the nature of the operation of the restaurant. Gary Thomas was sworn and testified and was accepted as an expert before the Board. He was accepted as an expert in planning. Mr. Thomas took the Board through the plans which he prepared and submitted with the application describing the proposed operation in detail. He set forth the criteria for a C2 variance identifying the Municipal Land Use Law purposes which would be advanced by the granting of the application and concluding that the benefits substantially outweigh any detriment to the Zone Plan. Finally, Mr. Thomas testified that the relief 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.

William Haryslack, licensed architect, was sworn and testified. He was accepted as an expert in his field. He reviewed the seating plan which was submitted with the application for the Board. At the conclusion of the Applicant's case the Board heard from the Board Engineer, Joseph Maffei, who was sworn and testified as to his report dated February 4, 2020 taking the Board through each of the criteria of the report. Fire Chief Dean was sworn and testified. He reviewed his report of February 7, 2020 with the Board.

The matter was open to the public with one member of the public testifying in favor of the project. At the conclusion of Applicant's case, public testimony and closing argument the Board entered into Board discussion and fact-finding. As a result, the Board entertained a motion to approve the variances and application of the Applicant with conditions. The following conditions were required by the Board:

1. Applicant agrees to comply with all of the terms and condition of Board Engineer Report dated February 4, 2020.
2. Applicant agrees to comply with all of the terms and condition of Fire Chief report dated February 7, 2020 and revised plans shall reflect said conditions.
3. Applicant agrees to obtain either a license or easement from Borough Council to allow for the intrusion into the right-of-way along Dune Drive and Applicant shall address tables/chairs in the right-of-way at the same time Applicant seeks approval from the Borough to leave the encroachments in the right-of-way.
4. Applicant agrees to provide direct access from the rear of the restaurant across Brian's Waffle House to allow direct access to 24th Street to be lighted and directionally painted as required.

5. Applicant agrees to provide appropriate handicap parking space or spaces closest to Dune Drive on 24th Street and to provide appropriate lighting for same.
6. Applicant agrees to remove one shed in the rear yard prior to completion of construction.
7. Applicant agrees to address pickup that may be required for trash creating either additional pickups or addressing trash in an appropriate fashion.
8. Applicant agrees recyclables shall not be placed in the exterior trash after 10:00 pm.
9. Applicant agrees to not utilize or cover the large rear deck currently on the property for seating/dinning or any such use and the deck is to be left empty/uncovered as is.
10. revise the plan accordingly and submit the revised plan to the Board Engineer for review and approval prior to permit.
11. 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.
12. 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.
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 an accurate.

The Board entertained old and new business of which there was none.

The Board then opened the meeting to public comment with nine members of the public

coming forward to be heard. The general theme of the members of the public coming forward to be heard was to support the creation of a motel district in or as part of the B1 Business District.

At the conclusion of public comment, the Board then entered closed session at 9:01 p.m. to discuss litigation involving pending litigation with 6128 ODD, LLC. The Board returned from close session and reopened the meeting at 9:30 p.m.

No further business was undertaken. The motion was made to adjourn the meeting by member Michele Petrucci and seconded by member Joe Stenger with all eligible members voting in the affirmative. The meeting was closed at 9:30 p.m.

Respectfully submitted,

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