

**BOROUGH OF AVALON PLANNING AND ZONING BOARD**  
**Minutes of Work Session/Regular Meeting of April 13, 2021**

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

Members Absent: Chet Johnson  
Michele Petrucci  
Beth Tipping

Chairman Jamie McDermott called the meeting to order at 6:00 PM 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 minutes for the March 9, 2021 Work Session/Regular Meeting. Corrections or changes were made. A motion was made to approve by Member John Morrison and seconded by Member Dr. Brian Reynolds with all eligible members voting in the affirmative.

The Board then considered the memorializing Resolution PZ #20-07, application of RJL, LP seeking variance for rear yard setback of pool to bulkhead for the property located at 7792 Sunset Drive, Avalon, New Jersey. Corrections or changes were made. A motion was made to adopt by Member James Fleischman and seconded by Member John Morrison, with all eligible members voting in the affirmative.

The Board then considered application PZ #20-11, application of Booth Ventures, LLC seeking variance from the requirement of a 15 foot setback from bulkhead line to pool of 5 feet

from bulkhead line to pool. Applicant amended the application during the hearing to request a variance for 7 feet. The application to amend and the variance sought was granted by the Board. This application was made for Block 22.06, Lots 124.01 and 124. The property address is 464 22nd Street, Avalon, New Jersey.

The Board heard from John Halbruner, licensed engineer and architect. Mr. Halbruner testified and authenticated the documents submitted with the application and testified regarding the 15 feet required for the pool to set back from the rear bulkhead line. He reviewed the impact of the requested variance upon the neighborhood, coming to the conclusion before the Board that the application can be granted without substantial detriment to the Zone Plan and Zoning Ordinance of the Borough of Avalon. He also testified that the application is in character generally with the neighborhood. To support the position, Mr. Halbruner pointed to the bulkhead and lagoon ordinance for the Borough as following the DEP regulations. He testified that the DEP regulations are designed to protect the bulkhead and the DEP was allowing the pool to be built closer than the ordinance permitted.

Mr. Halbruner cited several Municipal Land Use Law purposes that in his opinion were fostered by the granting of the application. He testified that the parcel as a whole, with the new residence to be built on the parcel, will be set back to the building further than required, will provide 28% of deck when 38% is permitted, and will provide less lot coverage than required. The end result is a smaller building mass on the site. Mr. Halbruner testified the pool will have no impact on open light and space. The project as a whole will protect from flood, fire, and other man-made dangers. He testified that in his opinion the plan encourages efficient use of the land.

At the conclusion of the Applicant's case, the Board heard from the Board Engineer, Joseph Maffei, and accepted his Memorandum of April 6, 2021. The Applicant accepted to meet

all the conditions contained in the Board Engineer's letter.

At the conclusion of the testimony of the Board Engineer, the matter was open to the public. One person from the public spoke in opposition to the application. Martha Wright of 632 7th Street was sworn and testified. She set forth her reasons for opposing the application.

At the end the public comment, the matter was returned to the Board for conclusions of law and findings of fact. All members of the Board were not willing to accept a 5 foot setback from the bulkhead, but were agreeable to a 7 foot setback from the bulkhead. Accordingly, the motion to grant a variance for a 7 foot setback from the rear yard encroachment was made by Member Sam Wierman and seconded by Member John Morrison with seven members voting in favor of the motion and one member voting in opposition to the motion, such that the motion carried in the variance was granted.

The Board then considered Application PZ #20-13, application of William Toler seeking variance relief to locate a swimming pool in the 15 foot rear yard setback to bulkhead. Applicant sought a variance allowing the pool to be situated 9 feet back from the bulkhead. Property is known as 4819 4th Avenue in Block 42.06, Lot 6. The property is located in the R-1B Zoning District. Applicant was represented by Christopher Baylinson, Esquire who presented the application on behalf of the Applicant. The Applicant presented three witnesses William Toler, Paul Kiss, project architect, and Matthew Pappas, project contractor.

Mr. Pappas testified the application is conforming with the DEP permits. Mr. Kiss testified that he is the project engineer and the application is consistent with DEP approval for a 9 foot setback to the bulkhead line. The new bulkhead has already been installed. Mr. Kiss testified that the Applicant has always intended to build a conforming pool, but for a change in regulations in the Borough of Avalon, the pool would have been conforming. Mr. Kiss testified

that the pool can be constructed without substantial detriment to the neighborhood and without substantially impairing the Zoning Plan and Zoning Ordinance of the Borough of Avalon. Mr. Kiss testified the pool will not impact the neighbors.

At the conclusion of the Applicant's case the matter was open to the public. No one came forward to testify from the public. The matter was closed and returned to the Board for Board comment and findings of fact.

The Board made note of the new ordinance being considered by the Borough which will change the rear setback line for pools to the bulkhead line from 15 feet to 7 feet. Since this is 9 feet from the bulkhead line and would be in compliance with the new ordinance, the Board saw the application in a favorable light. Motion to grant the variance was made by Member Sam Wierman and seconded by Member Brian Reynolds with all members voting in favor of the motion.

No old business was undertaken. A review of proposed Ordinance 819–2021 under new business was undertaken by the Board. The Board reviewed the added language from Avalon Council and opened the matter to public comment on the revisions to the proposed ordinance. Martha Wright of 632 7th Avenue was heard and commented with regard to the ordinance. The Board then voted to approve the changes to the ordinance and directed the Board Secretary to so inform the Borough Council.

The Chairman then raised under new business a potential application by Diller Home for the Blind to ensure that there would be sufficient Board members who lived outside of 200 feet of the application in order for the Board to hear the matter. It was ascertained that there would be a sufficient number of members to hear the application.

The matter was then open to public comment on any matter. Martha Wright of 632 7th

Street came forward and was heard. She testified that she has concerns about pools being too close to second floor decks. She indicated in her opinion it was an attractive nuisance and she would like to see pools set back from the deck by sufficient distance to discourage people jumping from the second floor into the pool. Ms. Wright then raised the issue concerning wind fields proposed by the Federal Government off the Atlantic Ocean. She asked the Board to consider taking a position with regard to the issue.

No further people from the public spoke during the public comment portion. There being no further business to conduct, the meeting was closed at 7:24 PM.

Respectfully submitted,

*/s/ Paul J. Baldini*

Paul J. Baldini, Esquire