

**Borough of Avalon Planning and Zoning Board
Minutes of Work Session/Regular Meeting of May 11, 2021**

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

Members Absent: James Fleischmann
Tom McCullough
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 April 13, 2021 Work Session/Regular Meeting. Corrections or changes were made. A motion was made to approve by Member Brian Reynolds and seconded by Member Sam Wierman with all eligible members voting in the affirmative.

The Board then considered memorializing Resolution PZ #20–11, application of Booth Ventures, seeking variance to place a pool 7 feet back from the bulkhead line at property 464 22nd Street, Avalon, New Jersey. Corrections or changes were made. A motion was made to adopt by Member Eric Schiela and seconded by Member John Morrison, with all eligible members voting in the affirmative.

The Board then considered memorializing Resolution PZ #20–13, application of William Toler seeking variance to construct a swimming pool 9 feet to the rear of the bulkhead line for 4819 4th Avenue, Avalon, New Jersey. Corrections or changes were made. A motion was made

to adopt by Member Sam Wierman and seconded by Member Eric Schiela, with all eligible members voting in the affirmative.

The Board then considered application PZ# 21–08, application of Challenged Children's Charities Corp. seeking variance from maximum height for accessory structure to replace existing tent dining facility with a permanent pavilion and cupola exceeding the allowable height of 12 feet. The proposed height of the cupola is 15.68 feet. Applicant called Gary Thomas who was sworn and testified. He was accepted as an expert planner. He testified the property sits on 26th Street between First and Dune Drive. There presently exists a large concrete pad which housed the temporary tent each season and was used as a dining hall for the children at the facility. It is the intention of the owner to replace the temporary tent system with a permanent pavilion. The pavilion will sit approximately 30' x 36'.

Mr. Thomas testified that the application is supported by the Master Plan for the Borough of Avalon which encourages decorative features and specifically mentions copulas as being encouraged. Mr. Thomas testified that several purposes of the Municipal Land Use Law are fostered by the granting of the application. He testified the encouragement of municipal action to guide appropriate uses in a manner which will promote public health, safety, morals, and general welfare is promoted. He testified the permanent pavilion will be more secure from fire, flood, and panic and other man-made and natural disasters. He testified that the pavilion will provide adequate light, air, and open space to the same degree as the tent.

Mr. Thomas testified the benefits of granting the variance substantially outweigh any detriment to the Zone Plan.

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, particularly since the Master Plan specifically encourages copulas which is the reason for the height variance.

At the end of the Applicant's case, the Board heard from the Board Engineer who summarized his May 4, 2021 Memorandum to the Board. Applicant accepted as a condition of approval to meet all of the conditions in the Board Engineer report.

The matter was open to the public. One person in the public spoke in opposition to the granting of the variance. No one else spoke from the public.

At the end of public comment, the matter was returned to the Board for conclusions of law and findings of fact. The Board found that the criteria for the granting of variances under a benefits variance were met by the Applicant. Accordingly, the motion to grant the height variance was made by Member Chet Johnson and seconded by Member Michele Petrucci with all eligible members voting in the affirmative.

The Board then considered application PZ#21-03, application of Thomas and Lisa Deem seeking variance relief from front yard setback to residence where 15 feet is needed and 12 feet is proposed and front yard setback to garage where 18 feet is needed and 15 feet is proposed. The Applicant was represented by Keith Davis, Esquire who presented the application to the Board.

Lisa Deem was sworn and testified. She testified that as part of the reconstruction of the property a survey was obtained, received approvals, and the residence was constructed with them taking occupancy. She indicated that no one noticed either from the Borough or the surveyors that there was a mistake made in the location of the final property line for the subject property. She then obtained the CO for the property. Sometime later, when she sought to sell the property, the potential buyer obtained a survey which described that the property was approximately 3 feet closer to the right of way than anticipated or understood from the prior survey.

Steve Martinelli was sworn and testified. He was accepted as a licensed surveyor and expert. He testified that he prepared the plan submitted with the application, describing a hash line on the survey which is 3 feet closer to the right of way and a solid line which is the actual potential property line. Both have been justified by monuments found in the ground. In an abundance of caution, the Applicant made this application for variance relief in case the survey marking line used for the placement of the residence is off.

Tiffany Morrissey was sworn and testified. She testified she is a licensed planner. She testified she is familiar with the site and has visited the site. She justified the variance relief based upon a C-1 hardship opining to the Board that multiple pins set at different locations created the issue over where exactly the property line was located. Using the most conservative property line, the Applicant needs a variance and is seeking that variance. Ms. Morrissey 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.

The Board then heard from the Board Engineer, Joseph Maffei, who reviewed the Memorandum submitted to the Board dated May 3, 2021. Applicant agreed as a condition of approval to meet all of the comments of the Board Engineer.

The matter was open to the public for public testimony, there was none.

At the end of public comment, the matter was returned to the Board for conclusions of law and findings of fact. All members of the Board were consistent in finding that it was appropriate to grant the variance under the C-1 hardship criteria. Accordingly, the motion to grant a variance for front yard setback to house and front yard setback to garage was made by Member Dr. Brian Reynolds and seconded by Member Chet Johnson with all eligible members voting in the affirmative.

The meeting was then open to public comment on any matter. Anthony Zurawski residing at 6266 Ocean Drive, Avalon, New Jersey came forward and raised issues in reference to the hotel district being created in the B-1 Zone. He requested that the Board reinstate the committee to review the ordinance to determine whether it is appropriate for a boutique hotel to be located in the B-1 District. The Chair polled the Board on whether to restart the committee and a determination was made to restart the subcommittee and move forward with reviewing whether a boutique hotel can exist in the B-1 Zone.

Martha Wright of 632 7th Street came forward and offered to the Board that for boutique hotels to be located anywhere in the B-1 District, a Master Plan review would have to be undertaken. She further opined that to limit where a B-1 Zone boutique hotel could be permitted might be considered spot zoning. Ms. Wright requested the Board consider videotaping or live streaming of its meetings. Finally, Ms. Wright raised the issue of floor area ratio and potential changes to the floor area ratio and the pending or to be pending proposed zoning ordinance review being conducted by Council over the floor area ratio.

No further people from the public spoke during the public comment portion. There being no further business to conduct, the meeting was closed at 7:23 PM.

Respectfully submitted,

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