

**Borough of Avalon Planning/Zoning Board**  
**Minutes of Work Session/Regular Meeting of August 10, 2021**

Members Present: Jay Gebauer  
Chet Johnson  
Tom McCullough  
Brian Reynolds  
Eric Schiela  
Beth Tipping  
Sam Wierman  
John Morrison  
Chuck O'Hara

Members Absent: James Fleischmann  
Michele Petrucci  
Joe Stenger  
Greg Kizeik

Chairman Gregory "Chet" Johnson called the meeting to order at 6:00 PM and led the Board in the Pledge of Allegiance. Rollcall of members present was made. Chairman Johnson then recited the Open Public Meetings Act Statement.

The Board then considered minutes for the July 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#21-07 Carlos & Blondie, LLC, 2008 Dune Drive, Avalon, New Jersey. The Board, after hearing and discussion and comment from Applicant principal Scott Zurawski, determined the memorializing Resolution should include, "Applicant shall not permanently enclose the area under the pergola and awning but shall be permitted to use a temporary barrier such as clear flexible material against inclement weather." Accordingly, no additional corrections or changes were made and a motion was made to adopt by member Brian Reynolds and seconded by member Sam Wierman with all eligible members voting in the affirmative.

The Board then took up and continued the hearing for application PZ#21-05, minor subdivision with minimum front yard frontage variance for application 2205 Harbor, LLC whose address is 2205 Harbor Avenue, Block 22.05, Lots 106.02, 107 and 108. Applicant came forward with revised plans changing the project from minor subdivision to create two new lots which can hold one duplex per lot to two lots which each will hold a single-family residence.

Gary Thomas was sworn and testified. He testified that the Applicant has reconsidered the proposed plan. He testified he prepared the revisions to the plan. The Applicant has reduced the variances to one variance for minimum lot frontage on Lot 106.02. Mr. Thomas testified Lot 107/108 will now be fully conforming. He testified proposed Lot 106.02 requires a 40-foot frontage and has a 36.83-foot frontage. The newly created lot would be approximately three feet short of the frontage required.

Mr. Thomas testified the R-2B Zone permits single-family residences. He testified all of the reasons for granting the variances previously placed on the record are even greater when the density is reduced from two duplexes to two single-family residences.

The Board then heard from Board Engineer, Joseph Maffei, who was sworn and testified. He testified consistent with his August 3, 2021, report to the Board. Applicant accepted as a condition of approval to meet all the terms and conditions of the Board Engineer Report. Applicant agrees as a condition of approval there would be no artificial grass or turf placed on the lots by the Applicant. Applicant agreed as a condition of approval to maintain the sidewalk in front of the parcels during construction or maintain and provide a pedestrian access off-street if the sidewalk needs to be removed.

The matter was open to the public. One member of the public came forward to be heard. Chris Bostard who resides at 2181 Harbor Avenue, Avalon, NJ came forward asking several

questions in reference to the project, but otherwise not opposing the project. At the conclusion of public comment, the matter was then returned to the Board for further Board discussion, findings of fact, and determinations of law.

The Board then considered the requested minor site plan, variance for minimum lot frontage and the requested waivers for stormwater management plan and landscaping plan by the Applicant. The Board made appropriate findings regarding the burden of justifying the variances. The motion was made to approve the minor site plan, grant the requested minimum lot frontage variance, and grant waivers for landscape plan and stormwater management plan. The motion to approve was made by member Sam Wierman and seconded by member Eric Schiela with all eligible members voting in the affirmative.

The Board then considered application PZ#21-12, application of Selgrath Enterprises, Inc. located at 503 and 507 21st Street, Block 20.07, Lots 143.01, 143.05, 144.01, 144.05, 145.08, and 145.12 seeking a minor subdivision without variance. Gary Thomas was sworn and testified. He testified that he is a licensed surveyor and planner. He described the existing conditions on the subject parcel to the Board. He then reviewed the subdivision plan. He confirmed to the Board that the subject parcel is known as Sylvester's Restaurant. He confirmed to the Board that the two new existing lots will be fully compliant.

Joseph Maffei, Board Engineer, was sworn and testified. He testified consistent with his Review Memorandum of August 3, 2021. He confirmed to the Board that the Applicant is permitted to build two structures of two units each, residential structures on the site. The Applicant agreed to meet all of the Board Engineer's comments. Applicant agreed to not place artificial turf at the site.

At the conclusion of the Applicant's case, the matter was open to the public. One person

from the public came forward asking questions in reference to the project which were answered by the Applicant. At the conclusion of public comment, the matter was returned to the Board for findings of fact and conclusions of law.

At the conclusion of Board discussions and findings of fact, the motion was made to approve the minor subdivision with conditions by member Tom McCullough and seconded by member Eric Schiela with all eligible members voting in the affirmative.

The Board then considered application PZ#21-06, application of Eric and Kathleen Sermarini, 2488 Ocean Drive, Block 24.09, Lot 73.2488. Applicant was seeking a front yard variance to allow a pool in the front yard of Applicant's property. Applicant was represented by Kevin Balistreri, Esquire. Gary Thomas was sworn and testified. He testified that he is a licensed surveyor and planner in the State of New Jersey. He explained the nature of the project to the Board and that he prepared the plans. He identified the existing structures on the site and reviewed with the Board the proposed location of the pool on the 25th Street side of the parcel adjacent to the 21st Street Bridge. Mr. Thomas confirmed to the Board that there is approximately 4 1/2 to 5 feet owned by the Borough between the bridge itself and the Applicant's parcel. Mr. Thomas testified that the situation of the house being located off center on the lot created a hardship. He further testified that the Applicant's property line being immediately adjacent to a bridge created a hardship for the parcel. He testified that the pool will sit 15 feet off the rear of the bulkhead with the Applicant proposing multiple trees to be placed along the bridge in the public right of way to shade and beautify the area. Mr. Thomas testified in his opinion the purposes of the Municipal Land Use Law found under subparts G and I, designing for sufficient and appropriate spaces and desirable visual are both fostered by the granting of the variance. Mr. Thomas testified Applicant seeks an inground pool. He testified

that in his opinion the benefits of granting the variance outweigh any detriment. Finally, he testified that the variances can be granted without substantial detriment to the public good and without substantial detriment to the Zone Plan of the Borough.

At the conclusion of the Applicant's case, Board Engineer was sworn and testified. He testified consistent with his report of August 4, 2021, which was accepted by the Board. He testified no variance was required for the pool equipment in light of the testimony of Mr. Thomas. The only variance required was a variance to allow the placement of a pool in the front yard of the Applicant's parcel. He testified that the subject property is fully compliant with lot area and lot width and in fact is considered an oversized lot under the Zoning Code for the Borough. He testified that the original developer of the property offset the 2-unit structure thereby lessening the setback along the frontage which the Applicant seeks relief. Applicant agreed to accept as a condition of approval for the Applicant to meet all of the comments of the Board Engineer Report.

During the hearing it was discovered that the Fire Chief had in fact issued a letter dated April 20, 2021. After allowing Applicant to review the letter, the Applicant agreed to stipulate to the letter and to meet any requirements of the Fire Chief letter. Applicant further agreed as a condition of approval to place a six-foot fence along the Applicant's property line along 25th Street, remove the 4-foot fence from the public right-of-way and place no trees and the public right-of-way all in order to ensure appropriate access to fire equipment consistent with the Fire Chief letter of April 20, 2021. Applicant would then need a variance for the fence to exceed 4 feet in addition to the other variance.

At the conclusion of the Applicant's case the matter was open to public comment. One person spoke in opposition to the application. At the conclusion of public comment, the matter

was returned to the Board for further Board discussion, findings of fact, and determination of law. The Board found the property was partially a self-created issue when the original developer offset the location of the structure toward the 25<sup>th</sup> Street side rather than locate the structure centered on the lot.

The Board then considered the requested front yard variance to allow a pool in the front yard. The Board determined that there was no hardship created in the present circumstances since the Applicant's lot is otherwise fully conforming and that there were no reasons under the Municipal Land Use Law to be advanced by the granting of the variance. Finally, the Board determined that the granting of the pool variance was not consistent with and would create substantial detriment to the neighborhood and to the Borough's own Plan. Accordingly, separate motions were made in reference to the hardship variance sought and the benefits variance sought. A motion to approve under the C1 criteria was made by member Brian Reynolds and seconded by member Sam Wierman with all eligible members voting against the motion resulting in the variance request for C1 relief being denied. A motion was then made to approve the application under the C2 criteria which was made by member Brian Reynolds and seconded by member Sam Wierman with all eligible members voting against the motion resulting in the motion failing and the application being denied.

The Chair then opened the meeting to old and new business. No old or new business was presented. The Chair then opened the meeting to the public for comment on any topic. No member of the public came forward to be heard.

There being no further business to conduct, the meeting was closed at 8:14 PM.

Submitted,

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