

Borough of Avalon Planning/Zoning Board
Minutes of Work Session/Regular Meeting of September 13, 2022

Members Present: Jay Gebauer
Chet Johnson
Tom McCullough
Michele Petrucci
Brian Reynolds
Eric Schiela
Beth Tipping
Sam Wierman
Sue Montanari
Greg Kizeik
Chuck O'Hara

Members Absent: James Fleischmann
Joe Stenger

Chair Chet Johnson called the meeting to order at 6:00 PM and led the Board in the pledge of allegiance. A rollcall of members present was made. The Chair then recited the Open Public Meetings Act Statement.

The Board then considered the proposed minutes of the August 9, 2022 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#22-08, 25 Dune Drive, LLC. Corrections or changes were made. A motion was made to approve by member Sam Wierman and seconded by member Michele Petrucci with all eligible members voting in the affirmative.

The Board then called upon Solicitor Baldini to update the Board on the boutique hotel review of the B-1 Zone. Mr. Baldini provided an update advising the Board that the Board would take the boutique hotel proposed ordinance up at the October 11, 2022 meeting at 6:00 PM. The Board would then entertain discussion on the proposed boutique hotel ordinance in the B-1 Zone including an overlay for the zone. The public was advised to return at that time to be involved in the discussion of boutique hotels and that a proposed ordinance would be posted on the Borough website.

The Board then considered application PZ#22-10 a proposed minor site plan by Applicant Thomas J. Welsh, Jr. for the property located at 397 20th Street, Block 19.05, Lots 113.02 and 114.

Mr. Welsh was sworn and testified. He testified he is proposing to subdivide the existing oversized lot into two conforming lots for the zone. He testified he intends to place 5-bedroom residences on each side of a side by side on each lot with each side having three parking spaces as required by the ordinance.

Mr. Maffei was sworn and testified consistent with his September 6, 2022 Review Memorandum. The Board entered into evidence B-1, agreement to provide easement which Mr. Welsh acknowledged he executed and would comply with as a condition of approval. He agreed as a condition of approval to amend the plan consistent with the approvals obtained by the Board and consistent with the Board Engineer's report.

Gary Thomas was sworn and testified. He testified that he will provide additional information to the plan and that he prepared the plans submitted with the proposed subdivision dated July 11, 2022 with no revisions.

The matter was open to the public. Barbara Stout of 406 20th Street was sworn and testified. She testified she opposes the application. Sue Cirino of 420th Street was sworn and testified that she opposes the proposed development providing to the Board four photographs which were placed into evidence and identified as Exhibits A, B, C, and D all of which were authenticated by Ms. Cirino.

Martha Wright was sworn and testified. She testified she resides at 632 7th Street and acknowledged that the application was a by right subdivision. She indicated she had concerns regarding flooding and drainage.

At the conclusion of public comment, the matter was returned for Board discussion and findings of fact.

The Board determined that the Applicant met all the requirements of the subdivision ordinance. Accordingly, a motion to approve the proposed subdivision with conditions was made by member Michele Petrucci and seconded by member Sam Wierman with the majority of the Board voting in favor of granting the application which was then granted.

The Board then considered application PZ#22-05 amendment to Resolution PZ#18-05, which previously granted major preliminary and final site plan approval for the applicant Carlos & Blondie, LLC whose address is 225 21st Street, Block 20.04, Lots 43 and 49. The Applicant was represented by Cory Gilman, Esquire who advised the Board that the Applicant was seeking to amend the portion of the site plan that dealt with the Sea Grill parking and outside seating areas only. The Applicant was seeking to add additional outside seating for the front and side of the Sea Grill.

Benjamin Risley was sworn and testified. He was accepted as an expert in architecture. He took the Board through the proposed plan which was prepared by his office identifying the current parking arrangements, outdoor seating areas, and general overall layout of the Sea Grill area. He testified that the proposed changes include a new enclosed stairwell on the north side of the Sea Grill building, a new roof, a clock tower, a new front entrance from 21st Street, fifteen outdoor tables with four seats per table, 6-foot-high wall screen, and the elimination of six parking spaces. Mr. Risley also testified that the Applicant seeks waivers for stormwater management, soils information, traffic impact statement, environmental information and to allow a 22-foot drive aisle for parking on the side of the Sea Grill rather than a 24-foot required drive aisle.

At the conclusion of the Applicant's case Board Engineer Joseph Maffei was sworn and testified. He testified consistent with his September 7, 2022 Review Memorandum to the Board. He testified he had no problem with the waivers sought. Applicant agreed to comply with the requirement that the proposed project setback 15 feet from 21st Street and not 17.17 feet as originally proposed. The Applicant agreed to remove certain nonconforming signs from the overall project. Finally, the Applicant agreed to install sixteen tables including tables in the front and side of the Sea Grill restaurant and any nonconforming tables would be removed.

Lizanne Tracy one of the principals of the Applicant was sworn and testified. She testified the drive aisle width had been in that configuration for thirty-one years and she did not want to lose more spaces in order to comply with the drive aisle width of 24 feet.

At the conclusion of the testimony the matter was open to the public. One member of the public came forward raising concerns as to the setbacks and dumpsters located at the adjacent facility the Princeton. A second member of the public came forward indicating that he supported the application. At the conclusion of public comment, the matter was returned to the Board for findings of fact.

The Board determined that the Applicant met all of the requirements of the site plan ordinance thereby allowing for the amendment to the major preliminary and final site plan to be approved by the Board with the waiver sought by the Applicant and with conditions as set forth on the record during the hearing. Accordingly, a motion to approve amended major preliminary and final site plan approval with waivers and conditions was made by member Eric Schiela and seconded by member Brian Reynolds with the majority of the Board voting in favor of granting the application, which was then granted.

The Board then considered application PZ#22-07 wherein Applicant sought a D-1 use variance to allow a two-family residence in the business district filed by Applicant David and Tammie Carbohn whose address is 2389 Ocean Drive, Block 23.04, Lot 68. The Applicant was represented by Cory Gilman, Esquire. Gary Thomas was sworn and testified. He was accepted by the Board as a planner and surveyor. He testified he prepared the plans and described the current site consisting of a commercial unit on the first floor and a residential unit on the second floor. He documented a number of nonconformities with the existing site. He presented to the Board Exhibit A-1, a neighborhood plan which he prepared. Essentially the plan is an overlay of the tax map with shaded areas identifying the areas of residential use both single-family and two-family residential use in the general neighborhood and in the B-1 Zoning District. He testified the plan was to place a two-family residence on the property if the approval of the Board was granted. Applicant agreed as a condition of approval to comply with all of the R-2A Zone requirements. He testified that the proposed plan would add two or three parking spaces on the street and in addition, will conform with all of the parking requirements for the R-2A Zone. He testified all of the existing nonconformities on the site would be removed and the new structure will be compliant with all code requirements.

Mr. Thomas reviewed the positive and negative criteria under the Municipal Land Use Law required to be reviewed in order to substantiate a variance. In his opinion special reasons

existed for the granting of the application wherein he testified as to five or six Municipal Land Use purposes that were fostered by the granting of the application. He further testified that in his opinion the parcel was particularly suited for the use proposed citing A-1 as evidence. He also testified as to the negative criteria and that the impact on the neighborhood was negligible at best.

He testified that in his opinion, a split lot where this property is split between the R-2A Zone and in the B-1 Business Zone creates an undue hardship on the Applicant.

Joseph Maffei, Board Engineer, was sworn and testified. He testified consistent with his September 7, 2022 Review Memorandum. Applicant agreed to comply with all of the comments of the Board Engineer's report of September 7, 2022 if the application were granted.

The matter was open to the public with two members of the public coming forward and testifying in opposition to the proposed project. At the conclusion of public comment, the matter was returned to the Board for Board comment and findings of fact. The Board determined that the Applicant failed to meet all of the requirements for the granting of a D-1 use variance. The Board determined that the Applicant failed to demonstrate that the parcel was particularly suited for the use proposed, that certain Land Use Law purposes were not advanced by the granting of the application and that the granting of the application would have a substantial detrimental impact upon the Zone Plan for the Borough. Accordingly, a motion to approve the use variance with conditions was made by member Brian Reynolds and seconded by member Beth Tipping with the majority of the Board voting in favor of granting the application by a vote of 4 to 3. This being a use variance requiring a 5-vote majority to carry the motion such that the motion failed and the application was denied.

The Board then undertook old and new business at the same time. The Board discussed potential limits on variance approval and the need for an ordinance amendment to implement same. The Board further discussed car lifts and directed the Board Engineer to review a potential ordinance barring car lifts to count as parking in Avalon and finally the Board discussed potential issues in attempts to address the parking concerns and the lack of parking as Avalon continues to develop.

Board member Petrucci in particular indicated that she wants to require more parking spaces on these applications and wants further discussion on the topic.

The matter was then open to public comment wherein Martha Wright came forward and complained to the Board about the method in which the agenda for the meetings are posted, raised her concerns as to the methodology used to adopt the Master Plan changes, and set forth in her opinion several errors that she alleged the Planning Board made in approving the amendment to the Master Plan which called for a potential boutique hotel overlay area in the B-1 Zoning District. Finally, Ms. Wright raised concerns as to applicants who use the easel to present their plans to the Board and people failing to speak into the microphone.

Elaine Scattergood came forward complaining about the approval of the Master Plan.

Douglas Macauley came forward advising the Board that a few things bothered him raising concerns over the boutique hotel district potential amendment to the ordinance and Master Plan. He complained about the microphones not being used and also wanted to see the TV screens used rather than the easel for presentation by applicants. He clearly opposed boutique hotels.

John Dunlevie came forward and reinforced what Ms. Wright had said to the Board in her comments and asked the Board to undo the approval of the Master Plan and go to electronic access.

No further comment from the public was heard and the public portion of the meeting was closed. There being no further business to conduct at the meeting the meeting was closed by motion at 8:58 p.m.

Submitted,

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