

Borough of Avalon Planning/Zoning Board
Minutes of Work Session/Regular Meeting of November 14, 2023

Members Present: Greg Kizeik
 Sue Montanari
 Chuck O'Hara
 Brian Reynolds
 Eric Schiela
 Beth Tipping
 Sam Wierman
 Eric Dechert

Members Absent: Jay Gebauer
 Michele Petrucci

Chair Eric Schiela 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. The Chair then recited the Open Public Meetings Act Statement.

The Board then considered the proposed minutes of the October 10, 2023 Work Session/Regular Meeting. Corrections or changes were made. A motion was made to approve by Member Chuck O'Hara and seconded by Member Sam Wierman with all eligible members voting in the affirmative.

The Board then considered the proposed memorializing resolution for Application of O'Hara, PZ #23-09, 1969 and 1939 Ocean Drive. Corrections or changes were made. A motion was made to approve by Member Sam Wierman and seconded by Member Brian Reynolds with all eligible members voting in the affirmative.

The Board then undertook Application PZ #23-08 variance application to allow a swimming pool in the front yard heard by the Zoning Board submitted by property owner Glen Sponaule with the address at 335 6th Street, Avalon, New Jersey found in Block 5.05, Lots 75.

The Applicant was represented by Michael Malinsky, Esquire with the property located in the R-1C Zoning District. The matter was heard before the Superior Court of New Jersey with the Superior Court of New Jersey having ruled that the subject property sits on two front yards that being 6th Street and the alley driveway to the rear of the subject property. Jon Barnhart licensed engineer and planner testified on behalf of the Application. He reviewed the criteria for a C1 variance testifying in detail how the two front yards created a particular hardship on the subject property. He further testified that the alley is not in compliance with the RSIS standards for minimum requirements to be a street.

Mr. Barnhart further testified with regard to C2 or benefits criteria to support the variance. He testified as to various land-use purposes which he claimed were advanced by the granting of the application. He testified in his opinion the positive criteria outweighed substantially any negative impact on the neighborhood. Finally, he testified that in his opinion

the variance could be granted without substantial impairment of the Zone Plan and without substantial negative impact on the neighborhood.

He submitted various exhibits in support of the application. A-1 is a tax map portion reflecting the subject property in red and A-2 is an aerial photograph of the subject neighborhood.

Joseph Maffei was sworn and testified consistent with his report of September 29, 2023 and confirming he is the Board Engineer. The Applicant accepted as a condition of approval to meet the Board Engineer's comments contained in that report.

The matter was open for public comment and Lyndsy Newcomb, Esquire came forward identifying herself as representing Carol and Charles Walsh adjacent property owners. She set forth their arguments for opposing the application arguing there is no hardship and hence no variance. She further argued to the Board that every corner lot has an issue with two front yards and there is nothing unique about having two front yards. She argued that the benefits do not outweigh the detriment to the neighborhood citing noise, lights, etc. and that in her opinion there is no basis for the relief. She then called Charles Walsh who was sworn and testified. He testified he is the adjacent neighbor to the parcel where the pool is located. He submitted a series of five photographs each identified as Walsh 1 through 5 and each showing various renditions of the Applicant's pool in the yard as well as the objector's property.

He further testified as to the impact the pool in the front yard has had on their front yard and the diminution of the quality of life in the neighborhood. He testified to noise, partying, light pollution, and other issues with the pool in the front yard.

Carol Walsh the wife of Mr. Walsh also testified confirming the negative impact the pool has in their use and enjoyment of their property.

Henry William Harris was sworn and testified. He testified as to the frat house atmosphere at the pool, the profane language, and the noise as well as arguing that the Applicant has created a self-inflicted circumstance, and he opposes the application.

Ellen Paier was sworn and testified that she is an adjacent neighbor who also opposed the application due to noise, light pollution, etc. Finally, Edmund Strogen opposed the application again identifying himself as an adjacent neighbor requesting the Borough enforce its codes.

Joseph Castellano was sworn and testified that he is the previous owner of the subject parcel and that the Walsh's are vindictive people who are not disturbed by the pool and he sees no reason not to grant the variance sought.

Dewey Robbins was sworn and testified that he is an adjacent neighbor who has lived in the area for twenty-four years and opposes the application.

Finally, Glen Sponaule was sworn and testified that he bought the property and believed the pool was legal that the developer had a CO for the residence and a CO for the pool and he

believed that the pool was legal. He indicated he does not rent the property and only uses the pool with his family.

Both parties were given an opportunity to argue closing arguments with the Applicant agreeing to add landscaping to the Walsh side of the subject property with 10-foot evergreens. He further testified that he would take the floodlight down in the rear yard and address that issue. The Board took separate motions for C1 variance relief and C2 variance relief. Both motions were defeated and the variance was denied.

The Board then called application PZ #21–16B appeal Zoning Officer's decision before the Zoning Board where the property owner Glen Sponaugle with the address of 335 6th Street, Block 5.05, Lot 75 in the Borough of Avalon sought to appeal enforcement action of the Borough seeking to require his removal of a swimming pool in the front yard without appropriate zoning permits. The Applicant requested and the Board agreed to postpone that application until the January 9, 2024 Zoning Board meeting. Announcement made during meeting, no further notice required.

The Board then undertook application PZ #23–10 variance to legalize an existing spiral staircase located within the side yard setbacks heard by the Zoning Board by Applicant Thomas Biemer whose address is 3845 Ocean Drive, Block 38.04, Lots 64.01, 64.02 and 64.03 located in the Borough of Avalon.

Mr. Biemer was represented by Robert Belasco, Esquire who explained the nature of the application to the Board. Mr. Biemer was sworn and testified with regard to the application. He testified he bought the property in 2015 with an existing single-family residence located on the property. The property was generally in the present condition it is seen with the yard being stoned and almost no green space. He testified the spiral staircase was added during the reconstruction of a portion of the structure by the builder who he hired and in good faith thought he had all the zoning permits needed to move forward with the installation of the spiral staircase. He testified he sought the spiral staircase as a means of ingress and egress from the decks particularly the second-floor deck intending to secure from fire. He testified in his opinion there is no negative impact on the neighborhood. He testified that the property in the rear yard belongs to the Borough and the property in the side yard is owned by a screen commercial business. He testified there is appropriate conforming landscaping around the inground swimming pool. He agreed as a condition of approval to provide a new survey showing the landscaping which is in place and to provide a landscaping plan with the intention of meeting the 15% pervious surface area required by the ordinance. He submitted a series of five photographs identified and entered into evidence as Exhibits A-1 through A-5 which depict the subject property.

Joseph Maffei, Board Engineer, was sworn and testified. He testified consistent with his Review Memorandum of November 3, 2023. The Applicant accepted as a condition of approval to comply with the Board Engineer comments.

The matter was open to the public and Martha Wright of 632 7th Street in Avalon was sworn and testified. She testified that she opposes the application as it does not meet the requirements for a variance. No further members of the public came forward. The matter was

returned to the Board for consideration. After consideration by the Board the application to grant the variance relief for the side yard encroachment was denied.

The Board then undertook Application PZ #23-11, an application for variance for third-floor addition and alterations heard by the Zoning Board filed by property owner Gary Smith and John Szczepaniak whose address is 419 24th Street, Units A and B, Block 23.06, Lots 118 C-A and C-B. At the request of the Applicant the matter was postponed to December 12, 2023 in order to be afforded a full Board for consideration. Announcement made during meeting, no further notice required.

There was no new or old business undertaken by the Board. The matter was open for public comment of which there was none.

There being no further business before the Board a motion was made to adjourn the meeting. The meeting was adjourned at 9:31 PM.

Submitted,

/s/ Paul J. Baldini

Paul J. Baldini, Esquire