

**BOROUGH OF WEST CAPE MAY
PLANNING-ZONING BOARD
REGULAR MEETING – July 12, 2016**

The Regular Meeting of the Borough of West Cape May Planning-Zoning Board, held at the Municipal Building, 732 Broadway, was called to order by Chairman Mulligan at 7:47 PM. After reading the Open Public Meetings Act of 1975 he led all present in the flag salute.

ROLL CALL:

Members:

Doris Jacobsen	present	Kevin O’Neill	present
Art Joblin	present	Diane Rea	absent
Pam Kaithern	present	Carol Sabo	present
Mark Kulkowitz	absent	<u>Alternates:</u>	
Barbara Lamb	absent	TJ Belasco	absent
Paul Mulligan	present	Lisa Roselli	present

Also Present: Brock Russell, Esq., Board Solicitor
Ray Roberts, Board Engineer
Theresa Enteadó, Board Secretary

MINUTES:

June 14, 2016 Regular meeting:

Chairman Mulligan asked Solicitor Russell if the letter addressed to the Board, from a resident opposing the application for Block 50, Lots 1.01, 1.02 & 2, would be part of the minutes or resolution. Solicitor Russell advised the Board that they could choose to accept and file the letter only, that this was not a public hearing and not the forum to discuss the letter.

Board members discussed the importance of the minutes and that they be a reflection of what happened at the meeting. Some members argued that the Solicitor answered a Board member’s question about abstaining and they felt that this and some other items were missing from the minutes. Other members did not want to approve the minutes and felt strongly about what they heard at the meeting. Some members didn’t think it mattered what the recording picked up, they said they heard what they heard.

After some discussion Solicitor Russell advised the board members to table the approval of the minutes and the resolution to the next meeting so they could review the recording of the meeting.

Chairman Mulligan asked for a motion to accept and file the letter from the resident. On motion of Art Joblin, seconded by Lisa Roselli, the motion to accept and file the letter was approved on roll call vote as follows: all members present voting in the affirmative.

On motion of Pam Kaithern, seconded by Lisa Roselli, the motion to table approval of the June 14, 2016 minutes was approved on roll call vote as follows: all members present voting in the affirmative.

RESOLUTIONS:

Resolution 0007-16, Kubiak/Mitchell, Block 50, Lots 1.01, 1.02, 2, 4th 5th & Bayshore:

On motion of Art Joblin, seconded by Lisa Roselli, the motion to table approval of the aforementioned resolution was approved on roll call vote as follows: all members present voting in the affirmative.

APPLICATIONS:

Application 005-16, Gary Sorin, Block 9 Lot 10, 185 E. Mechanic Street:

Mr. Gary Sorin of 101 Covered Bridge Road, New Hope, PA 18938 and owner of 185 E. Mechanic Street in West Cape May, was sworn in by Solicitor Russell. Mr. Sorin testified that he was the owner of the subject property and that he was requesting to take the property line that is currently on an angle and runs roughly a foot from the back corner of his house and straighten it out. He said it would be an even land exchange with his neighbor and they would both have the same acreage as before but it would give them a straight 8 feet from each house to the proposed property line. Mr. Sorin stated that he hoped it was as simple as it seemed and testified that the only neighbor this change would affect was in agreement and in support of the change.

Raymond Roberts, Board engineer, testified that this was a pretty straight forward application. He wanted the applicant to address the board and describe the buildings on his and the neighbors lots. Mr. Sorin testified that the building on his property, Block 9, lot 10 was a duplex and the building on his neighbor's property, Block 9, Lot 11 was a single family home. For clarity to the record, it was pointed out that the current lots were 10 and 11 and would become, for tax purposes, 10.01 and 11.01. Mr. Roberts continued, he said the reason he asked for a description of the properties was to point out that both a duplex and single family home are permitted uses in the district. He also said the request would take the property line and make it approximately 90 degrees to E. Mechanic Street and make it a more conformed lot, as far as shape is concerned, and would give the applicant the required side yard setback. Mr. Roberts testified that the proposed lot line adjustment would in no way change or exasperate any non-conformity on either lot, and the change would have no real impact when it comes to bulk requirements on either lot other than it would provide each lot an 8 foot side yard where before each had 2.5 feet.

Board member Sabo stated it was just straightening things out. Board member Roselli pointed out that it would not be 90 degrees and board engineer Roberts agreed it was an estimate. Mr. Roberts added that the applicant agreed to file this change by deed rather than by map and asked the board attorney to advise if the applicant would still need to file a minor subdivision map if he proceeded with the deed filing.

Solicitor Russell advised that as long as both deeds were signed off by the board that the county should accept it without a map. Chairman Mulligan asked what the advantages and/or disadvantages would be for each approach. Solicitor Russell stated he would prefer the map be filed because it is a more obvious way to know exactly what happened at a first look. Mr. Sorin stated he would be agreeable to whatever would please the board. After further discussion it was decided that the maps that were already submitted had the necessary signature lines and the applicant would just need to make additional copies. Mr. Roberts advised the applicant that he would need his surveyor to sign and seal the copies and he would need 6 paper copies and 2

Mylar copies.

Solicitor Russell asked for clarity on Mr. Robert's grid for variances, and Mr. Roberts explained that he was not sure which lot had the single family and that they would just need to be flipped to be accurate.

Board member Art Joblin felt it important to have the owner of the other lot, number 11, on record stating they supported and did not oppose this application. Mr. Russell swore in Carol Hauser, the owner of 601 Park Boulevard. She testified that she owned the home and that she was in support of the proposed lot line adjustment.

Board member Pam Kaithern asked the applicant if he knew where the utility lines were and if they would be affected by this lot line adjustment. Mr. Sorin testified that he did and they would not be, that they were well within the 8 feet.

Seeing no one within 200 feet of the subject property or beyond wishing to speak the motion to close the public portion was approved unanimously on roll call vote.

Solicitor Russell stated, if approved by the board, the resolution would be to approve a minor subdivision application. He said there are technical variances that are not affected by the application for certain pre-existing non-conformities. For existing lot 10 they would be front yard setback and lot depth. For existing lot 11 they would be limited to the side yard set back of an accessory use.

On motion of Lisa Roselli, seconded by Art Joblin, the aforementioned application was approved on roll call vote as follows: all members present voting in the affirmative.

Application 007-16, Wilbraham Mansion LLC, Block 4 Lot 6, 133 Myrtle Avenue:

Board Engineer, Ray Roberts wished to make a correction before the proceedings started. He directed everyone to the parking requirements on page 3 of his report. He said the required amount of spaces had to be 27 not 26 and the deficiency should read 11 not 6.

Mr. Doug Carnes, General Manager of the subject property, who resides at 1205 Beach Ave, Unit 1 in Cape May and Mr. Lewis Conley Jr., the applicant engineer, and New Jersey certified surveyor and planner, were both sworn in by Solicitor Russell. At this time, Mr. Robert A. DeSanto, Esquire introduced himself as attorney for the applicant and asked the board to look at Roman numeral five on page four of the board engineer's report. Mr. DeSanto did not agree with the comment about valet parking being a requirement and thought that perhaps Mr. Roberts was not aware of the second application and Judge Armstrong's ruling that there was no such requirement. He asked that this correction be made so the board would be properly informed. Solicitor Russell agreed. Mr. DeSanto went on to give the board a brief history of the property and the prior applications, he reminded the board that as a result of the prior approvals, both buildings were permitted to operate. He said the parking that was approved for the front building was 3 spaces and the board also granted the 12 unit building in the back approval for 12 spaces plus 1 handicapped space. Mr. DeSanto referred to both resolutions, Judge Armstrong's opinion which was incorporated into the second resolution, and Cape May County Planning Board's

waiver of site plan approval letter. Mr. DeSanto said the applicant was seeking two C-2 variances as well as waiver of site plan. He said the first variance was under section 27-15.3 area bulk requirements for hotel/motels because the standard minimum lot size for the 22 existing units plus the 4 they are seeking to create, requires 35,000 and the lot size is 29,979. Mr. DeSanto said the nature of the application tonight was to take the tea room, or banquet room, and convert it into 4 guest rooms. He explained the second C-2 variance they were seeking was variance from the parking because section 27-27.3 requires one parking space per guest room. Mr. DeSanto admitted he did not see the part of the ordinance requiring a parking spot for the manager and/or owner of the property and asked if he could amend the application to be for 5 spaces not 4. Mr. Russell advised that the board missed it the last time. Mr. DeSanto informed the board that they would soon hear testimony that there is no physical change to the footprint of the building and no physical change to the site itself. At this point the following items were submitted for the record and marked: Resolution 02-08 marked as W-1, Resolution 08-09 together with Judge Armstrong's ruling marked as W-2.

Mr. Carnes testified that the nearest streets to the property were Park Boulevard and Myrtle and identified neighboring properties, commercial and residential. He submitted the West Cape May Zoning map as W-3. Mr. Carnes testified that the current operation of the Wilbraham Mansion was as a 22 Room Bed and Breakfast/Boutique hotel with a banquet room. He said the Mansion provides breakfast in the morning and tea in the afternoon and that special events were held in the tea room. He also testified that the Fire Marshall marked the tea room capacity at 125 guests. He said following the approval back in 2009, the mansion has held various events such as weddings, birthday parties, family reunions, christenings, any reason for people to get together. He said the number of guests has ranged from as small as 20 to as large as 125 and the number of cars parked off street for the events can range from 0 to 40 depending on the event. Mr. Carnes testified, if this application were approved the Wilbraham Mansion would stop holding special events and instead rent 4 more rooms.

Mr. Carnes explained the existing layout of the back building, he said the tea room was on the first floor, the 1,950 square foot catering kitchen was also on the first floor as well as the ladies and mens room, the lobby and finally the staircases on either end. He testified the second and third floors were the exact same footprints that consisted of 3 king suites on the driveway side and 3 queen suites on the CVS side of the property, with laundry rooms and staircases on each end. At this time, the existing floor plan was marked as W-4 and the proposed floor plan was marked as W-5. Mr. Carnes advised that the proposed layout of the building would make no changes whatsoever to the second and third floors. The first floor would be converted to 3 queen suites on the driveway side and 1 king suite on the CVS side. Mr. Carnes said the proposed plan would then take about 10 or 12 feet of the lobby and include that into the rooms. He said the purpose to raise the windows several feet, was so the cars coming to park would not shine into the rooms at night. The bay window would be raised, one window would be removed since a bathroom would be constructed there, and 3 new windows would be put in for the king suite but they would be flush to the building so as not to change the area in anyway. Mr. Carnes said the kitchen would remain the same and the men's room would be made into a unisex bathroom while the ladies room would be converted into a laundry room and part storage area. Also a hallway would go down the middle and separate the right from the left. Mr. Carnes testified there would be no change to the footprint or site.

Mr. Conley testified that he made his own analysis of the subject property and found that the landscape and site areas were compliant with the approvals. He marked as W-6 the plan from the 2008 site plan approval and said it was titled "Myrtle Ave. Topographic Survey, Wilbraham Mansion Bed & Breakfast Block 4 Lot 6 West Cape May" dated July 14, 2008 – unrevised. Mr. Conley stated the site plan showed the parking, drive isles, buffering, and the large tree, all very consistent with the approval and he said everything works well and has been working well for the applicant since 2008. Mr. Conley testified that nothing needed to change on the site for the application before the board. Mr. DeSanto asked Mr. Conley, if granted would there be any affect at all on the approved site plan, and Mr. Conley replied no.

Mr. Conley said he found the West Cape May ordinance to be very consistent with the land use law and advised that one thing the code and the law try to do is encourage the design of transportation routes which will promote free flow of traffic and that was consistent with this application. Mr. Conley felt that the application if granted wouldn't only advance the purposes of zoning but it would be doing exactly what the West Cape May code anticipates and therefore would meet the positive criteria of the C-2 variance. He stated that parking also meets that criteria because there would be a net reduction of 38 or 39 parking spaces required on the street and he went on to explain the calculations.

Board Engineer, Mr. Roberts advised the Board that he stated in his report on page 2, the proposal was to make no change at all to the existing footprint of the building and no changes to the existing site plan so should the board decide to waive the site plan approval, he would have no objection to that.

A short break was observed from 9:14 to 9:18.

After the break, Mr. DeSanto clarified the point that Judge Armstrong made no determination as to the number of seats allowed, just that the room was determined to be a conference room not a coffee shop.

Mr. Carnes advised that the building currently has an ADA compliant room and he was looking to create another ADA compliant Queen suite if approved.

Mr. Roberts was asked to summarize the parking issue again, and he did so stating, the WCM ordinance for parking for hotel/motels requires one space per unit, plus a space for the manager/owner, so that would be a total of 27 units and 16 exist so that leaves 11 deficiencies. Mr. Carnes added that the net total coming off the street would be 43 minus the 4 so a net 38 spaces.

Board member Kaithern inquired about the parking contribution in the code. Mr. DeSanto thought the board could possibly consider the benefit of taking the cars off the street which the conversion to rooms would create. He thought it would be a better trade off to allow four cars to park off site rather than the possible 40 cars at times during special events. Mr. DeSanto felt the contribution was a last resort to be used by the board when there were no other alternatives.

Mr. Carnes agreed he would contribute \$5,000.00 for the 4 spaces but not \$5,000.00 for each

space.

Mr. Jim Labrusciano of 127 Myrtle Avenue, wished to address the Board. He wanted to know if the Wilbraham Mansion was properly permitted with a mercantile license. Solicitor Russell advised him, mercantile licensing was outside the board's regulations. Mr. Labrusciano asked if there was a conflict since he did business with a board member. He was advised that only if the applicant had a conflict would there be an issue, not someone speaking for or in opposition to an application. Mr. Labrusciano thought it was important to note that for special events the cars would be parked for a few hours only, while guests would be parked for the length of their stay. He also requested that the board, if they approved the application, require that the applicant use downward facing lights. Mr. Labrusciano submitted pictures to the board, which were marked as L-1. These pictures, according to Mr. Labrusciano, depicted how bright it is at night due to the main light pole at the Wilbraham Mansion. Chairman Mulligan asked Mr. Labrusciano to confirm that he was saying he did not have an issue with the off street parking when events were held. He said he did not, because people attended the events and then left, the only issue he had was the lights.

Seeing no one else within 200 feet of the subject property and no one beyond 200 feet wishing to speak the motion by Carol Sabo, seconded by Lisa Roselli, to close the public portion was approved unanimously on roll call vote.

Chairman Mulligan discussed Dark Skies Compliance and the technology of lighting from 2008 compared to that available today. Mr. Carnes advised the board that he already made changes to four of his lights, he admitted he was concerned about making further changes because of the code requirements and liability to him. Mr. Carnes agreed he would change the one light by the handicapped ramp, only if technology was available that still met code requirements.

Mr. DeSanto testified that the applicant was requesting a waiver of site plan, and a variance for three parking spaces, and was willing to pay \$5,000.00 for the parking fund in exchange for the variance for the one spot, and he was willing to change the one light post provided it was compliant. He requested that the board do the necessary balancing tests and thanked them for their time.

Solicitor Russell advised the board that the application was for a site plan waiver, a variance for minimum lot size, and parking variance because of the additional 4 units. He stated conditions would include replacing the lamppost with LED lights, assuming that complies, and payment of \$5,000.00 to the parking fund.

On motion of Carol Sabo, seconded by Lisa Roselli, the aforementioned application was approved on roll call vote as follows: all members present voting in the affirmative.

PRIVILEGE OF THE FLOOR: No comments

When no one wished to speak, the meeting was adjourned at 10:29 PM on motion of Lisa Roselli, seconded by Doris Jacobsen, and carried by unanimous voice vote.

Respectfully submitted,

Theresa Enteadó
Board Secretary