

**BOROUGH OF WEST CAPE MAY  
PLANNING-ZONING BOARD  
MINUTES - REGULAR MEETING - December 12, 2017**

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 O’Neill at 7:00 PM. After reading the Open Public Meetings Act of 1975 he led all present in the flag salute.

**ROLL CALL:**

Members:

TJ Belasco	present	Kevin O’Neill	present
Doris Jacobsen	present	Lisa Roselli	present
Art Joblin	present	Carol Sabo	present
Pam Kaithern	present	<u>Alternates:</u>	
Barbara Lamb	present	Lindsay Casale	absent
Paul Mulligan	present	Janet Payne	present

Also Present: Brock Russell, Esq., Board Solicitor  
Raymond M. Roberts, Board Engineer  
Theresa Entead, Board Secretary

**MINUTES:**

**October 10, 2017 Regular Meeting**

On motion of Paul Mulligan, seconded by TJ Belasco, the minutes of October 10, 2017 Regular Meeting were approved, on roll call vote as follows: Lisa Roselli abstaining, and all remaining members present voting in the affirmative.

**October 24, 2017 Regular Meeting**

On Motion of Carol Sabo, seconded by Paul Mulligan, the minutes of October 24, 2017 Meeting were approved on roll call vote as follows: Doris Jacobsen, Art Joblin, Pam Kaithern, Carol Sabo, and Kevin O’Neill voting in the affirmative.

**ORDINANCES:**

**Ordinance No. 530-17 Amending Sec. 27-36 of Borough Code Regarding Landscaping and Vegetation**

On motion of TJ Belasco, seconded by Art Joblin, the aforementioned ordinance was deemed substantially consistent with the Borough of West Cape May Master Plan: everyone present voting in the affirmative.

**APPLICATIONS:**

**Application 012-17, Mark Lukas & Edward Celata, 119 Myrtle Ave., Block 4, Lot 4, New Application – Preliminary & Final Site Plan with Variance Relief - Continuation**

Dorothy Bolinsky, introduced herself as attorney for the applicants. She said after the

first meeting on October 10<sup>th</sup> she met with her clients to digest and discuss the many comments made by neighboring residents. She also mentioned they met with many of the neighbors and said based on these meetings and the previous comments by residents, they decided to make several revisions to the plan. Ms. Bolinsky said the applicant did appear before the HPC and gained approval. Ms. Bolinsky described the property owned by Patricia Pierce and said the second residence on Ms. Pierce's lot is very close to the lot line. She said in order to address her concerns about noise and conflict the applicant has agreed to move the front of the building closer to Myrtle Avenue. Ms. Bolinsky said the revision has created a reduction in the building by 6 feet, the footprint by 6 feet, therefore a reduction of all 3 floors and brought the building 6 feet closer to Myrtle Avenue. She said each room was reduced by about 1 foot. Ms. Bolinsky discussed the property owned by Mr. Niemczura because this property is very close to the boundary line as well. She said the applicants have agreed to flip the interior lobby from the left side to the right side which would allow for an increase in the buffer on one side to 4 feet, and to reduce the driveway aisle from 24 feet to 22 feet so the buffer with vegetation can be increased to 4 feet, and to move the light posts away from the property line and into the subject lot by 4 feet. The applicants also have proposed reducing the number of hotel rooms from 25 to 23 and also reducing the restaurant seating from 50 to 46 seats. This last revision would allow sufficient lot coverage and remove the need for variance. Ms. Bolinsky represented that a final revision is to keep an existing hydrangea buffer and to remove the fence, originally proposed, from this area about 85 feet long in order to preserve the hydrangeas.

Board Solicitor asked Ms. Bolinsky to bring her team up to be sworn in, Mark Alden Lukas, applicant, Pamela Fine, architect, and Matthew Hender, licensed landscape architect with Engineering Design Associates were sworn in. There was a brief discussion with Board Members and the Board Solicitor about implications of accepting witnesses as experts and responsibilities of the Members relative to fact finding.

In response to a question from the Board, Mr. Hender indicated on the plan where the 7.9 foot buffer would be located. He also indicated where the hydrangea area is and testified that the applicants would be agreeable to maintaining the hydrangeas. Mr. Hender responded to another inquiry by testifying that the basement of the building will consist of office space only not living space.

Mr. Roberts responded to a question about how many people would be allowed at the pool by stating that any requirements of the pool would fall under construction and therefore the construction official's responsibility to make sure requirements are met including capacity.

Ms. Bolinsky answered another question by stating that although the revised plan shows a reduction in seats in the restaurant, there would be no change in the square footage. She also confirmed that the spa and pool were to be private and for hotel guests only.

Mr. Raymond Roberts, Board Engineer, was sworn in and testified that this was the third revision and the applicant still had to address the noise attenuating wall around the HVAC systems. He said they were asked to include this on the plans and they still have not done so. Mr. Roberts also went through each variance still required after the most recent revisions. He said a four foot buffer is being proposed but that for most of the lot north of the proposed driveway it is only a one foot buffer. He said another variance would be required for driveway width and another variance for two off street parking spaces within the front yard setback along Myrtle Avenue. Mr. Roberts testified that the ground mounted sign on Broadway proposed at 5 to 6 feet tall would also require variance as it exceeds the 4 foot maximum height allowed per the ordinance.

Mr. Lukas testified that the wall would consist of decorative bricks that would conceal the parking lot, and the sign would consist of stand-alone letters pin mounted onto the brick wall with back illumination. The letters would spell out "The Ewing". Mr. Roberts confirmed that the height of the sign/wall would not impair the sight triangle. He said a variance would still be required for a six foot fence. Mr. Roberts said a variance for lot coverage would no longer be required but one for vegetation cover was required.

In response to the question if the roof top planting was being counted in the vegetation coverage, Mr. Hender testified that yes the roof top vegetation is counted in the overall coverage and per the ordinance is allowed to be counted. Mr. Roberts asked what the ground coverage total would be without the roof vegetation and Mr. Hender said the percentage of the rooftop vegetation was only about 2 percent. Mr. Lukas testified that the planting area would not be in pots that it would be a permanent installation and create essentially a roof garden.

Board Member Joblin wanted an explanation about why the restaurant square footage has remained the same even after reducing it from 80 seats to 46 seats. Ms. Bolinsky stated the issue is that the proposal is for an existing Historical building that sits on an angle on the property and then there is the transition of the original building to a more rectangular addition. She said there must be utilization in between and the applicant has committed to limiting the number of seats to 46. She added that once fine tuning is completed for the restaurant it may be decided that another amenity will be added to use any extra space, or it could be used for restrooms. Mr. Lukas also noted that a staircase would be needed to accommodate the change of grade. In response to another Board question, Mr. Lukas testified that he would not be hosting special events such as weddings because of inadequate space. Mr. Lukas agreed to close the pool at 10:00 PM in response to another Board question. Mr. Lukas also agreed to the installation of a stop sign at the end of the drive aisle onto Myrtle Avenue.

Mr. Hender responded to a Board question about the lighting. He testified that the lighting being proposed is dark sky compliant, it is to be back shielded and downward shielded. He confirmed that the applicants would be agreeable to providing lights with whatever intensity and color temperature that the Board recommends and that the Board Engineer shall approve.

The floor was opened to residents within 200 feet and beyond. Glen Fala of 123 Yorke Avenue was sworn in and testified that the applicants did not meet with him, he wanted that on the record. He also wanted to know if the amendments made for tonight's meeting were available for public view. He was advised by the Board Secretary that the file and any amendments are always available in the Clerk's office during office hours. Mr. Fala also questioned the number of units he said at the last meeting it was stated it should be reduced to 22 and now it is 23 units and hard to understand the changes without having amendments ahead of time. Mr. Fala felt that the rooftop vegetation should not be counted in coverage. He did acknowledge that the property is on an L shaped lot but felt that shouldn't be a reason that everyone accept all the variance requests for a foot here and there, he said the applicant should just conform.

Mr. Alan Mitchell of 113 Myrtle Avenue was sworn in and asked if the hearing was preliminary. He was advised by the Board Solicitor that there is no such thing as a preliminary hearing but there is what is called preliminary approval and that preliminary and final approval can be approved together in one hearing or separated into two hearings at the Board's discretion. Mr. Mitchell asked about HPC approval specific to the removal of a barn on the property. He was advised it was a condition on the HPC approving resolution. Mr. Mitchell asked about the sight triangle conditions onto Broadway, he said the 5.9 foot wall is not permitted. Mr. Roberts

testified that this was already addressed and the wall is not within the sight triangle. Mr. Mitchell then asked if the 6 foot fence between the Albert Stevens Inn and the proposed property would be block view. Mr. Hender testified that the fence ends at the column and is outside of the sight triangle. Mr. Mitchell expressed his opinion that the porous paving option should require a maintenance plan and bond. In response, Mr. Roberts testified that even if the asphalt became impermeable the drainage system would still work as designed. He added that if the applicant was going to spend the money for the porous asphalt it would be wise to maintain it and he suggested that the Board could require a maintenance plan as a condition. Mr. Mitchell said he had photographs of neighboring properties with porous concrete that were not being properly maintained. The photos were marked as Mitchell Exhibit 1 and 2. Also entered as exhibits were a photo of the site and concrete standards of the National Asphalt Association, marked as Mitchell Exhibit 3 and 4. Mr. Mitchell also wanted on the record, his concern over the applicant's proposal to reduce units and restaurant seats but not restaurant square footage. He expressed his concern that parking would be a major issue.

Grace Della Valle, of 123 Yorke Avenue, was sworn in and questioned if a variance for parking was still required or if it was resolved with the proposed changes. Mr. Roberts explained that the applicant was proposing 33 parking spots while only 31 were required. Ms. Della Valle said that although requirements are met she fears that parking and traffic will be issues.

Paul Niemczura, of 121 Broadway, was sworn in and testified that his environmental concerns expressed at the last meeting were still relevant. He said the applicants are eliminating all most all of the vegetation on the lot on Broadway and so flooding could be a potential issue and therefore his basement a concern. He mentioned that while the change in setback may meet the ordinance requirements, it will still create a hardship for him, as 7 of the parking spaces will be extremely close to his property and they are the ones designated for the restaurant.

Robert Morris of 133 Yorke Avenue was sworn in and testified that he was concerned about the brick wall on Broadway. He mentioned how busy that sidewalk is in the summer and insisted that people will not be able to see if cars are coming out and cars will have to inch out to see if pedestrians are about to cross. He also expressed concern about trash collection and deliveries on Myrtle stating that the road is one way and there is a bike path. Mr. Morris expressed his opinion that no variances should be granted.

Robert Scott Wolfe of 277 Fifth Avenue, was sworn in and expressed concern about traffic and parking. Mr. Wolfe said back lit signs should not be allowed in the Historic District. He said they do not preserve the character of the Victorian Historic District. Mr. Wolfe mentioned that a two lane driveway is also not consistent with the character of the District.

Peter Burke, of 238 Fourth Avenue, was sworn in and testified that he did have safety concerns as well as questions about County Board approval. Mr. Burke testified that there is a no left hand turn sign and you can only turn right off of Myrtle onto Broadway. He said with this restriction, the number of parking spots, the light at Sunset, and the backup now with traffic, this is something to consider. He said he realizes this would be a county consideration but still something to think about. Mr. Burke expressed his concern with the VFC approving the smaller driveway as well as traffic backing out onto Myrtle Avenue.

Katherine Creenan of 635 Fourth Avenue, was sworn in and testified that she was concerned about the ambiance of Wilbraham Park at night. She is worried the project will disturb the quiet of the neighborhood. Ms. Creenan was glad there would be no fence on Myrtle Avenue. She also expressed concern about parking during festivals as well as storm water drainage and strongly suggested that the applicant be required to post maintenance bond for this.

Norm Roach, Borough Zoning Officer, was sworn in and testified that he was unaware of any approval for a backlit sign by the HPC. He said backlit signs are not allowed in the Historic District. Ms. Bolinsky said the plans before the HPC are the same as those before this Board. Board Member Kaithern said that is why she questioned the sign earlier, she didn't believe backlit signs were approved in the Historic District either. Ms. Kaithern asked if the applicant would be agreeable to finding an alternative should research of our code prove it not allowable and the applicant agreed.

A small recess was observed from 9:07 PM to 9:16 PM. Upon resuming, Judith Smith of 408 Third Avenue, was sworn in and testified that she is a member of the HPC and could not recall a discussion about a backlit sign or any sign for that matter.

Ms. Bolinsky said the HPC resolution wording notes a fence and wall but not a sign so there may have been some confusion and the applicant is agreeable to uphold the code.

Ed Creenan, of 635 Fourth Avenue, was sworn in and testified that he did not like the project and felt it would change the feel of West Cape May and what it was intended to be years ago. He applauded the effort of the applicant in changing the variances but felt the project would not be beneficial to the look and feel of West Cape May.

Bill Oetinger of 315 Third Avenue, was sworn in and testified that he was very concerned about traffic. He admitted his experience is with PA not NJ and wanted to know if the Borough could initiate discussion and voice concerns with the county and if so he suggested they do so.

When no one else expressed a desire to speak, the public portion was closed. Ms. Bolinsky represented that the applicants are not developers, they are members of the community who love West Cape May. She noted that change is difficult but said the Borough's Master Plan Re-examination encourages commercial districts on Broadway to support tourism and employment, and that is what this project will do. She said the plan respects the history and character of the neighborhood. Ms. Bolinsky said the narrow width on both lots create the hardship criteria and that the variances required were due to the narrow configuration. She said the use is permitted, the variances are rather *de minimus*, and the applicants meet most of the major requirements.

There was some Board discussion about the Zoning Code and the Master Plan and the intent and function of each. Board Members also expressed concerns about the square footage of the restaurant, the enforcement when violations are committed, and the requirement of maintenance bonds. Mr. Roberts reminded the Board that Borough Ordinance only requires performance bond not maintenance bond.

Solicitor Russell, advised the Board that this would be a motion to grant preliminary approval only as well as variances which are lot width and front yard setback, one for the four foot buffer, one for the driveway width, one for the two parking spaces in the front yard setback, one for the sign on Broadway, one for the 6 foot fence and one for vegetation coverage. This would be subject to all the conditions placed on the record and discussed. Solicitor Russell reminded the Board this would come back for final approval and at that time there would be no public hearing under MLUL.

On motion of Paul Mulligan, seconded by Carol Sabo, the aforementioned application was denied on roll call vote as follows: TJ Belasco, Doris Jacobsen, Art Joblin, Barbara Lamb, and Lisa Roselli voting in the negative and Pam Kaithern, Paul Mulligan, Carol Sabo, and Kevin O'Neill voting in the affirmative. For the record, Board Member Janet Payne was called on to vote in error, she was not eligible to vote and should not have been called as there were 9 members present.

**Privilege of the Floor:**

When no one else wished to speak, the meeting was adjourned at 9:57 PM on motion of Pam Kaithern and carried by unanimous voice vote.

Respectfully submitted,

Theresa Enteadó  
Board Secretary