

**BOROUGH OF WEST CAPE MAY  
PLANNING-ZONING BOARD  
REGULAR MEETING –MAY 9, 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 Vice Chair Belasco at 7:05 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	absent
Doris Jacobsen	absent	Lisa Roselli	present
Art Joblin	absent	Carole Sabo	present
Pam Kaithern	present	<u>Alternates:</u>	
Barbara Lamb	absent	Lindsay Casale	present
Paul Mulligan	present	Janet Payne	present

Also Present: Brock Russell, Esq., Board Solicitor  
Ryan A. McGowan, Substitute Board Engineer  
Theresa Enteadó, Board Secretary

**MINUTES:**

**April 11, 2017 Regular Meeting**

On motion of Paul Mulligan, seconded by Carol Sabo, the minutes of April 11, 2017 Regular Meeting were approved, as amended, unanimously on roll call vote.

**RESOLUTIONS:**

**Resolution #0008-17 Approving Amended Preliminary and Major Subdivision, for West Cape Cottages LLC, 715 Broadway (Rear), Block 21, Lot 44, App 006-17**

On motion of Paul Mulligan, seconded by Lisa Roselli, the aforementioned resolution was approved, as amended, on roll call vote as follows: all members present voting in the affirmative.

**Resolution #0009-17 Approving Bulk Variance Relief, for Glenn and Janet Deloach, 321 Third Avenue, Block 44, Lot 1.03, App 004-17**

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

**APPLICATIONS:**

**Application 007-17, Gary Sorin, 185 E. Mechanic, Block 9, Lot 10, New Application – Seeking Variance Relief – Hardship**

Mr. Gary Sorin applicant and owner of 185 E. Mechanic Street, was sworn in and testified that he was seeking variance for a small expansion of his existing deck. He explained in

2014 he obtained a variance to add a deck 11.1 feet from the rear lot line and that his proposal is to widen one side of the existing deck by four feet. Mr. Sorin said the deck, as it is now, is so small that even with a small table and only four chairs, access to the door is barely possible. He would like a functional deck that his family and friends can enjoy. Mr. Sorin also testified that he plans to put a roof over the deck and screen it in as well, he stated he felt the changes would add an aesthetic value to the neighborhood.

The Board's Substitute Engineer, Mr. Ryan McGowan, PE, CME, PP, testified that the Borough Code provides exemption of Site Plan for single family homes and so the only concern was that the applicant be heard by, and get approval from, the Historic Preservation Commission.

Mr. Sorin testified that he did apply to the HPC and that he was scheduled to be heard on May 11, 2017.

The Board briefly discussed FAR and setbacks, and Board Member Pam Kaithern asked if the lot could be subdivided. Mr. McGowan advised that it could not be subdivided without a lot size variance.

The floor was opened to residents within 200 feet of the proposed property and then to residents beyond 200 feet, seeing no one with a desire to speak, the public portion was closed.

Board Solicitor, Brock Russell, advised the Board that the property is located in the R-1 Zone, that all non-conforming conditions are pre-existing, and that the lot is an irregularly shaped one. Solicitor Russell said the motion, pending HPC approval, would be for a hardship variance to allow a four foot widening of an existing non-conforming deck together with a roof and screening.

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

**Application 005-17, Scott Peter, 512 Myrtle Avenue, Block 2, Lot 1.01, New Application – Preliminary and Final Site Plan Approval, Use Variance and Variance Relief – Hardship and Substantial Benefit**

Board Members Pam Kaithern and Carol Sabo recused themselves from this application due to the Use Variance and the Borough's Board being a combined one.

Attorney Ron Gelzunas introduced himself and spoke on behalf of the applicant. He stated the application was for a Use Variance and as such a unanimous vote would be needed since 5 members are present. He explained that the application was for a two story residential unit. At this point Scott Peter, applicant and contract purchaser who resides at 745 W. Montgomery Avenue in Wildwood, was sworn in. Sworn in as well, was Mr. Harold (Hal) Noon LLC, PLS, PSM, PP, of GeoSurv LLC, and member of the New Jersey Society of Professional Land Surveyors.

Mr. Noon testified that the lot is vacant and backs up to some potential wetlands in the rear of the property. He said although there is a commercial building next to the property, on the other three sides the surrounding buildings are all residential. He went on to describe the surrounding buildings; the development to the right has 11 buildings, to the left are 2 three unit buildings, and across the street are small cottages and duplexes. Mr. Noon testified that he used to live in this area and that it begs to be residential with no off street parking required. He said the Borough code would allow 2 residential units with one being commercial but this application proposes residential only with no commercial. Mr. Noon discussed requirements of the C2 zone as well as some requirements for the R1 zone. It was questioned if FAR would apply and Mr.

Gelzunas felt it did not, he said that requirement did not exist in the C2 district. Mr. Glezunas said the only variance is the D variance and the C variances are all absorbed in that. Mr. Noon further testified that the project would very much fit well and the area is very adaptable to a residential use. He said the proposal to create two residential living units made sense, that it fits the characteristics of the area and promotes open air and space. Mr. Noon said the two units are ok as far as density and thought a commercial unit would be out of place in the area. Mr. Noon testified that there would be no negative criteria, no detriment to zoning, and no substantial detriment to the public. He said the area has been converting to residential over the years.

Board Member Paul Mulligan asked why there was no rear lot line drawn on the plan. Mr. Noon admitted that he just forgot to draw it and showed where it would be, to the Board's satisfaction.

Scott Peter told the Board that he has been a local builder for 15 years, and in West Cape May for the last 3 years. He said he thought about this project for some time and decided a commercial use just would not fit or benefit the area. He decided on a very simple duplex, only two stories with the addition of a full landscape plan. He said he intended to use paver runners to allow for more grass and that he uses eco pavers when he can.

Board Member Paul Mulligan asked how Mr. Peter planned to market it. Mr. Peter said it would go up for sale as a duplex. Mr. Gelzunas said much like a condo form ownership. Mr. Mulligan asked why this form would be better for the Borough, and added that the Board has felt cheated in the past. Mr. Gelzunas pointed out that the duplex was a form of ownership not a use and not regulated by the Board. Mr. Noon said he's been involved with hundreds of duplex projects and they always work out very well.

Board Member Lisa Roselli asked what the nature of the commercial property was and was advised it was an accountant. To this point, Mr. Gelzunas said a residential unit most likely gets bought by a family who will keep it for years and pass it on to generations, while a commercial unit could go out of business and sit vacant.

There was some discussion on lighting and downward facing lights. Solicitor Brock Russell asked if the applicant was seeking relief for the D1 variance only. Mr. Glezunas said he'd prefer not to have to return.

The Board's Substitute Engineer, Mr. Ryan McGowan, PE, CME, PP, went over the Engineer's report, he said the application was reviewed for Use and Site Plan only and that townhouses are not a permitted use in the C2 zone. Mr. McGowan said the air conditioning unit should be moved, that an LOI is needed, and the applicant should supply testimony as to the sidewalk because of it encroaching on the front edge.

Solicitor Russel advised the Board that approval would be for Use Variance and Site Plan, with LOI as a condition.

The floor was opened to residents within 200 feet of the proposed property. Thomas Hanna, resident of 217 Myrtle Avenue, was sworn in and testified that while he did not have an issue with the residential use, he was very concerned with flooding. He said it is already an issue and that if this is approved and his property is diminished because of it, there will be litigation over it. He said the sewer backs up all the time now and he does not want to see a duplex come in and cause more issues. Mr. Hanna mentioned the many Coast Guard family homes and how the condos built have caused the Borough nothing but harm. He wished to stress his very strong concern about flooding to the Board.

Mr. Gelzunas pointed out that you can have the same size single family home as the duplex proposed here.

Carol Sabo, of 402 Broadway, was sworn in and testified that she felt the LOI should be required and she wanted to re-iterate that townhouses are not a permitted use in the C2 zone. She said the purpose of the C2 zone is to encourage a mix of commercial and residential.

Ryan Griffin, of 3 Landis Avenue was sworn in and testified that the area is currently a vacant lot that has been vacant for years. He said he feels the development would be great for that area, that a commercial property would not fit and the townhouse application would be a much better fit. Mr. Griffin was asked if he had any interest in the property and he said he is representing the application as the buyer's agent.

Pam Kaithern, of 207 Stevens Street, was sworn in and testified that the DEP approval was from 2008 which was before storms like Sandy and that a new LOI should be required. Mrs. Kaithern wanted to know what the testimony about 4 units being allowed to be built was about and what numbers they were using. She wanted to stress that townhouses are not a permitted use in the C2 zone. She asked if anyone spoke to FEMA about the flood elevations and said parking would not really be an issue for a commercial unit. Mrs. Kaithern said she did not see how this development would help the Borough and that seasonal rentals do not help. She just wanted to remind everyone that the applicant was asking for something that was not a by right or allowable use.

Mr. Gelzunas said he did not want to give the idea that they were threatening the Board, he said he did not know how or why but this property became isolated and surrounded by residential units. He said it was a very unique instance that makes the property particular and peculiarly fit for residential use.

Chairman Belasco said he and the other Board members would feel more comfortable voting if there was a new DEP LOI. The applicant agreed and Mr. Gelzunas asked that the hearing be tabled.

Norman Roach, the Zoning Official for the Borough of West Cape May was sworn in and testified that in the R1 district an applicant must have an LOI before even getting a zoning permit.

When no one further wished to speak, the public portion was closed on motion of Paul Mulligan, seconded by Lisa Roselli and approved unanimously.

On motion of Paul Mulligan, seconded by Lindsay Casale, the motion to table the hearing indefinitely was approved on roll call vote as follows: all members present voting in the affirmative.

When no one else wished to speak, the meeting was adjourned at 9:23 PM on motion of Paul Mulligan and carried by unanimous voice vote

Respectfully submitted,

Theresa Enteadó  
Board Secretary