

**BOROUGH OF WEST CAPE MAY  
PLANNING-ZONING BOARD  
REGULAR MEETING – June 12, 2018**

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 Belasco 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
Peter Burke	present	Lisa Roselli	present
Bob Hewitt	present	Carol Sabo	present
Doris Jacobsen	absent	<b><u>Alternates:</u></b>	
Art Joblin	present	Lindsay Casale	present
Paul Mulligan	present	Barbara Lamb	absent

**Also Present:**

Brock Russell, Esq., Board Solicitor  
Raymond M. Roberts, Board Engineer  
Theresa Enteadó, Board Secretary

**ORDINANCE:**

**Ordinance No. 539-18 – Amending Section 27 of the Borough Code Regarding Permitted Uses in the Commercial Districts**

On Motion of Paul Mulligan, seconded by Art Joblin, Ordinance No. 539-18 was deemed substantially consistent with the Borough of West Cape May Master Plan on roll call vote as follows: all members present voting in the affirmative.

**MINUTES:**

**May 8, 2018 Regular Meeting**

On motion of Lisa Roselli, seconded by Paul Mulligan, the Minutes of May 8, 2018 Regular Meeting were approved on roll call vote as follows: Peter Burke, Bob Hewitt, Art Joblin, Paul Mulligan, Lisa Roselli, Carol Sabo, and TJ Belasco voting in the affirmative.

**RESOLUTIONS:**

**Resolution #0007-18 Approving Minor Site Plan together with Bulk Variances, for Christopher & Patricia Winans, 137 Leaming Ave., Block 21, Lot 55, App 007-18**

On motion of Paul Mulligan, seconded by Lisa Roselli, the aforementioned resolution was

approved, as amended, on roll call vote as follows: Peter Burke, Bob Hewitt, Doris Jacobsen, Art Joblin, Lisa Roselli, Carol Sabo, and TJ Belasco voting in the affirmative.

## **APPLICATIONS:**

### **Application 008-18, Dominic Fulginiti, 122/128 Sunset Blvd., Block 33, Lots 13.01, 13.02, 14, New Application – Minor Site Plan Amendment**

Attorney Cory Gilman introduced himself on behalf of his client, 122/128 Sunset Boulevard Condominium Association and Dominic Fulginiti individually and as President of the Association. Mr. Gilman said the property is located on lots 13.01, 13.02, and 14 which is in the C-3 District. Mr. Gilman introduced Gary Thomas as a licensed surveyor and planner, and asked that he be sworn in. Gary Lee Thomas of Thomas, Amey, Shaw Inc. was qualified as an expert and sworn in. Mr. Gilman gave a brief history of the property indicating that his client first purchased lots 13.01 and 13.02 and in 1990 applied for and received site plan approval to modify and improve the two existing buildings, to improve parking and to limit the uses to commercial only. Mr. Gilman said his client later purchased lot 14, the corner lot, and again applied for site plan approval to combine all three lots as one commercial project adding a third commercial building to the site. He said this was approved in 1994. Mr. Gilman said his client was here now for amendment to this site plan approval. He said in 2013 the property was converted to the condominium form of ownership and turned into 122/128 Sunset Boulevard Condominium. Mr. Gilman said that sometime in 2014 Mr. Fulginiti required a place to live and he converted the second floor of unit two, to a unit for his own residential use. He said it was an existing area where no additions or improvements were made other than to the interior. Mr. Gilman admitted that at that time, the required permits were not obtained, and said his client is here now to obtain an amendment to site plan approval with no variances. He also said residential units above commercial units are a permitted use under the present zoning ordinance.

Mr. Gary Thomas testified that the property is on the corner of First Avenue and Sunset Boulevard with entrances/exits on First and Sunset. He said the applicant is not requesting any improvements or changes at all, only requesting the right to use the second floor, identified on the plan as unit 5 which sits above unit 2. He testified that there is no change to the outside or the footprint. Mr. Thomas said Mr. Fulginiti is only requesting approval for the use of the unit that has already had interior modifications, admittedly, without proper permits.

Mr. Gilman discussed the pre-existing non-conforming conditions that exist and said they are requesting waiver of many check list items for site plan because no exterior changes are being requested.

Mr. Thomas testified that they are currently in discussions with the County for County Planning Board approval.

Board Member Burke wanted to make sure all parking requirements were being met because the plan only shows two units designated for unit 5. Mr. Thomas said the parking spots are a first come basis, but they wanted to designate one for the owners unit. He said the Board Engineer has already indicated a schedule of parking must be added to the plan and he will comply.

Board Member Sabo asked if the residential unit is part of unit 2. Mr. Thomas testified that it is not, he said it sits on top of unit 2 but it is a separate unit all together, labeled as unit 5 on the plan, with its own entry and exit. Ms. Sabo asked if it could be separately owned. Mr. Thomas said yes.

Board Member Roselli asked for a description of the unit. Mr. Thomas said it has a kitchen and bathroom with an open layout concept. Mr. Thomas said the unit is currently unoccupied.

Board Member Mulligan asked if the residential unit had a separate electric meter installed. It was clarified that the area where unit 5 currently sits was always there and was always a two unit dwelling, even before it was modified to be a separate residential unit above, so it had the meter already. Also clarified for the record was, while the Board approves the site plan, it is the responsibility of the Construction Office to inspect and approve for CO.

Mr. Raymond Roberts, Board Engineer, was sworn in and testified that he did not object to the request for waiver of the site plan check list items because no improvements to the site that would change the footprint were being proposed. He said the minimum required gross floor area for a residential unit over a permitted use is 650 square feet. Mr. Thomas testified that he measured the unit at 824 square feet. Mr. Roberts recommended that the plan show the square footage and agreed it would be a permitted use.

Board Member Joblin discussed the County Planning Board letter saying it was not denied, only disapproved for now.

The floor was opened to residents within 200 feet and beyond. Mr. Norm Roach, Zoning & Code Enforcement Official for the Borough, was sworn in and testified that he directed the applicant to come before the Board in order to become compliant. He said if the applicant did not follow direction then a violation would have been issued. Mr. Roach also indicated that our construction official made a preliminary inspection of the unit and did not feel there would be any issues when the time comes for an official inspection.

When no one else expressed a desire to speak, the public portion was closed.

Board Member Sabo wanted to express her concerns about safety for proper ventilation. She was informed that this would be inspected by the construction office.

Board Solicitor Brock Russell advised the Board this would be site plan approval subject to all conditions noted in Mr. Roberts' review letter as well as those made during testimony, including County Planning Board approval. Mr. Russell added the condition that the unit not be occupied until the CO is obtained.

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

**Application 006-18, Charles Lomax, 125 Sixth Avenue, Block 54, Lot 12, New Application – Minor Subdivision**

Charles Lomax owner of 125 Sixth Avenue was sworn in and testified that he was requesting a minor, by right subdivision. He said originally the property was divided into two lots but at some point the lots were consolidated into one lot.

Raymond Roberts, Board Engineer, was sworn in and testified that there are some existing non-conformities caused by the location of the existing building. Mr. Roberts recommended that the applicant provide the gross floor area and the floor area ratio for the proposed lot 11.02 on a revised plan as a condition of approval. Mr. Roberts testified that proposed lot 11.01 meets all the bulk requirements and conforms 100 percent.

Mr. Lomax testified that the existing building is historic and dates back to the 1920's. He said he was unable to demolish and re-build but rather had to re-construct the home on the same footprint, leaving him no way to remedy the side yard or front yard setback.

Board Member Art Joblin confirmed, for the record, that the approval being sought is for subdivision only, that the board members are not approving any type of building on the lot. To this point, Mr. Roberts added that the proposed lot is for 5400 square feet and a single family dwelling requires 5000, so a single family is permitted however a two family proposal would need to come back and appear before the Board because it would not meet the bulk area requirements.

Board Member Paul Mulligan asked if there was a chance that the FAR on the lot with the existing building wouldn't be compliant. Solicitor Russell echoed Mr. Roberts' testimony from earlier, saying that the FAR and GFA both have to be added to a revised plan that Mr. Roberts will review, and both have to comply with regulations.

Board Member Lisa Roselli asked about the existing trees on the proposed lot. Ray Roberts said the subdivision plan requires the applicant to provide the existing trees on the lot that will remain and the applicant has done so. Solicitor Russell asked the applicant to understand that the trees that he indicated will remain on his plan, must not be removed prior to the development of the property.

The floor was opened to residents within 200 feet and beyond. When no one expressed a desire to speak, the public portion was closed.

Solicitor Russell advised the Board this would be a motion to approve Minor Subdivision, by right, with all conditions placed on the record and provided in the engineer review.

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

**Application 004-18, Lawrence A. Pray Builders Inc., 107 W. Grant Street, Block 28, Lot 3, New Application – Minor Site Plan together with Variance Relief**

Attorney Andrew Catanese spoke on behalf of the applicant stating the proposal is to construct a new single family dwelling on an existing foundation at 107 West Grant Street, which is located in the R-1 Zone of West Cape May. He said variances are required for lot depth, front yard setback and side yard setback with the front yard and side yard being pre-existing non-conformities. Mr. Catanese said the only reason site plan review is necessary is because of the proximity to wetlands and so they are requesting the site plan checklist items be waived.

Scott D. Healey, Professional Engineer, with 25 years of experience in land use was qualified as an expert and sworn in. Mr. Healey testified that he coordinated with the architect to fit a new design over the existing foundation that would require three variances. Mr. Healey said the existing concrete block foundation is 4 feet high and contains flood vents. He also said it will need to be increased to meet the base flood elevation. Mr. Healey testified that while the plans show the height of the proposed house to be 32 feet it has been revised to 31.85 to comply with the ordinance. He testified that the setbacks are in part, due to the irregular shape of the lot and discussed how the side yard setback promotes open space, light and air. Mr. Healey said a single car garage will be located in the front within the building envelope, and a 9' X 18' parking space will be located on the west side of the property, in front of the porch, which will be 100 percent on the property and not in the right of way. Mr. Healey testified that the architecture has been designed to fit the character of the neighborhood and provided photos, marked as Exhibit A-1, that show neighboring properties with non-conforming front yard setbacks as well. He presented his case for hardship and promotion of the general welfare, and argued there was no substantial impairment to zoning. He echoed Mr. Catanese on the waiver of the site plan checklist requirements stating the lot has already been developed. Mr. Healey also noted that the lot slopes toward the wetlands at the rear of the property. Clarification was made by Mr. Catanese that the 24 foot total side yard does not include the stair/landing.

Raymond Roberts, Board Engineer, was sworn in and testified that a revision, dated May 14, 2018, was made to his original review letter that addresses the applicant's revised plans. Mr. Roberts asked the applicant about his application to the DEP for a general permit. Mr. Catanese said the permit was received and submitted a copy of such for the record, marked as Exhibit A-4. Mr. Roberts acknowledged that the property is being developed fully within the existing foundation. He wanted to address the storm water drainage off the roof, stating the applicant submitted a revised plan showing a dry well recharge system. Mr. Roberts recommended that a condition of approval be made regarding recessed lighting and/or downward facing lighting. Mr. Roberts advised the Board that he was fine with a waiver of the site plan check list requirements. He also confirmed that the runoff does flow towards the wetlands and because of that and the fact that no change was being made to the site, and the recharge system being proposed, a grading plan was not necessary.

Board Member Lisa Roselli asked why no landscape plan was provided. Mr. Catanese said the applicant will comply with the ordinance. Mr. Roberts added that there will be no changes to the site with the exception of the gravel drive.

The floor was opened to residents within 200 feet and beyond. When no one expressed a desire

to speak, the public portion was closed.

Board Member Bob Hewitt asked if there was a clearing of the property. The applicant, Larry Pray, was sworn in and testified that he obtained a permit for demolition and he did remove overgrown shrubs located in the front of the property, adding that the home was vacant for many years and so there was overgrowth. He also said he kept a large holly tree.

Solicitor Russell advised board members this would be a motion to approve minor site plan together with variances, all of which are for pre-existing conditions. He said it would be subject to all conditions placed on the record and in Mr. Roberts' revised review letter.

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

**PRIVILEGE OF THE FLOOR:**

Board Member Art Joblin wanted to re-affirm that the decision to table the Lomax application until the applicant could be present was a good one.

When no one else wished to speak, the meeting was adjourned at 8:55 PM on motion of Paul Mulligan, seconded by Peter Burke, and carried by unanimous voice vote.

Respectfully submitted,

Theresa Enteadó  
Board Secretary