

**BOROUGH OF WEST CAPE MAY
PLANNING-ZONING BOARD
REGULAR MEETING – November 25, 2014**

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 7:03 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	Carole Sabo	present
Mark Kulkowitz	present	Alternates:	
Barbara Lamb	present	TJ Belasco	present
Paul Mulligan	present	Lisa Roselli	present

Also Present: Brock Russell, Esq., Board Solicitor
Ray Roberts, Board Engineer
Elaine Wallace, Recording Secretary

MINUTES: On motion of TJ Belasco, seconded by Carol Sabo, the minutes of October 14, 2014 Regular Meeting were approved on roll call vote as follows: Lamb abstaining, all remaining members present voting in the affirmative.

Application 004-14, Lawrence Pray Builders, Inc., Block 41, Lots 16.01 & 16.02, 208 Fifth

Avenue: Applicant Larry Pray, his attorney Lou Dwyer and surveyor/planner Hal Noon appeared before the board. Mr. Pray and Mr. Noon were sworn in by Brock Russell. The applicant is seeking approval of a minor subdivision of an existing 100’x150’ lot into two fully conforming 100’x75’ lots. It is a minor subdivision by right. The engineer’s report questioned if a bond would be necessary for the demolition of the existing house, but the house has already been removed. Engineer Roberts stated everything conforms and there are no variances necessary, the only issue he had was what would be done about the walkway that encroaches from the neighboring property. The applicant stated the neighbor is willing to move the sidewalk and it will definitely be moved. Pam Kaithern asked what Mr. Pray’s plans are for the mature trees on the property. He stated the ones within the building envelope would have to be removed plus maybe 3 of the good sized trees that are leaning should come down. Mrs. Kaithern asked if he would agree to have an arborist look at the trees outside the building footprint to see whether they could be saved stating the Borough is always in favor of saving mature, healthy trees whenever possible. Lisa Roselli asked for clarification on the trees, pointing out that item on the checklist was not addressed in the application. Mr. Noon pointed out the trees are listed on the fourth page of the plans submitted with the application. Mr. Dwyer stated Mr. Pray is aware of the Boroughs concerns and will take a hard look at the trees. Mrs. Kaithern asked for something more binding and Mr. Pray said he’d get an arborist to do a report on the trees, but some of them are hazardous, especially if he builds a two-story home. When the board was finished asking

questions, the Chair opened a public hearing to anyone within 200' of the property, then to the general public. When no one wished to speak, the public hearing was closed on motion of Doris Jacobsen, seconded by Mark Kulkowitz. Mr. Dwyer had no closing comments. Art Joblin made a motion to approve the minor subdivision with the condition the applicant have an arborist look at the trees not in the building envelope to determine if they could be saved. Mark Kulkowitz seconded the motion which was approved unanimously on roll call vote.

Application 003-14, Claudio Pawlus, Block 9, Lot 10, 185 E. Mechanic Street:

Applicant Claudio Pawlus was sworn in by Brock Russell. His application had been tabled at the last meeting to allow him to bring in more complete plans and additional pictures to help the board understand the conditions on the property, including the access to the first floor apartment. His application was for C variances for front yard setback and rear yard setback and there is a preexisting non-conforming side yard setback. The newly submitted plans include a driveway and parking spaces for 2 cars. It also shows the stairs being partially built into the porch and both encroaching into the front yard setback but they will still be 1' away from the right of way. Engineer Roberts had an additional issue arising from the application being for a 2-family dwelling. The lower floor apartment is conforming, but the upper unit is 2,160 square feet, which exceeds the gross floor area maximum of 1,688 square feet per duplex unit. Solicitor Russell explained that if the board finds the house is an existing single family dwelling, then the applicant would have to apply for a C variance for maximum square footage. If the Board finds the house is an existing two unit dwelling, then the nonconformity would be preexisting and an additional variance would not be needed. Mr. Pawlus explained the property was two units when he bought it and at one time had as many as 4 units because there are 4 electric meters. Pam Kaithern stated the Borough records do not show anything but a single family home there so if it was changed, it wasn't done so legally. She wants the paperwork to be done properly so the property is fully legal and conforming. It is the boards job to bring properties into conformity where they can. She also stated there is only one water/sewer service. Paul Mulligan felt it is up to the landlord whether he wants to include utilities in the rent. Mrs. Kaithern explained the water/sewer superintendent wants units to have separate service. Mr. Mulligan stated the applicant must be required to conform to the ordinances whether separate services are needed or not. TJ Belasco felt it should be considered a preexisting nonconformity. Carol Sabo stated she would like it to be properly worked out as smoothly as possible and felt it made sense to say the property is two family since that was what was there when he purchased it. Art Joblin expressed his desire for the paperwork to be clear and easily understood for the future, so he would like the resolution to show it is a two-family dwelling. Paul Mulligan felt the square footage would be an issue if it were new construction, but the house is 100 years old and the applicant isn't changing the size of the building. Mr. Pawlus asserted that if he could have built new, he would have easily complied with zoning, but because the property is contributing to the historic district he must restore the existing building. The HPC provided a letter stating they have no jurisdiction over how many units are in the building and are only concerned with the materials used and the outward appearance. Art Joblin hoped the board could resolve the matter presently and have a clear package of what is permitted on the property.

When the board had no further questions, the Chair opened the public hearing to anyone within 200' of the applicant, then to the general public. Norman Roach, Zoning Officer, testified when Mr. Pawlus came to him for permits, he considered the units as preexisting because Mr. Pawlus

didn't put in the apartment nor did he increase the square footage of the building, the conditions were as they are now. Mr. Roach said he didn't find any records showing what existed on the property, whether single family, two family or multifamily. He also asserted the HPC considered it single family because you can't tell there is an apartment just by looking from the street.

When no one else wished to speak, the public hearing was closed on motion of TJ Belasco, seconded by Mark Kulkowitz. Art Joblin made a motion, seconded by Carol Sabo, finding the property is an existing two family dwelling, so the square footage is an existing non-conformity, and approving C variances for front and rear yard setbacks and some other preexisting non-conformities with conditions as set forth in the engineer's report as well as the condition that water/sewer services will comply with Borough ordinances. Pam Kaithern asked if she could ask the zoning officer a question, but Brock Russell advised her Mr. Roach's testimony was already concluded. Mrs. Kaithern was concerned that the proper process be followed. Lisa Roselli asked what Mrs. Kaithern felt should be done. She felt a new C variance application should be submitted to keep a clear paper trail. Brock Russell explained that if a member feels the existing building is a single family home, then they should vote no to the finding that the property is a two family dwelling, which would be without prejudice. The motion was approved on roll call vote as follows: Jacobsen, Kaithern, and Lamb voting no, all remaining voting members voting in the affirmative.

Application 011-13, Wayne W. Hoffman, Block 60, Lot 6, 410 Fourth Avenue: Property owner Susan Hoffman, land surveyor Mark Gibson, and attorney John DeVincens appeared before the board. Susan Hoffman and Mark Gibson were sworn in by Solicitor Russell and Mr. Gibson was deemed an expert. The applicant is seeking approval of a minor subdivision of an existing irregular 19,656 square foot lot into two fully conforming. It is a minor subdivision by right in the R2 zoning district. One lot will be 50' x 158.2' and has an existing home. The second lot will be irregularly shaped but will be a 76.77' x 148.66 as the shortest point. The second lot would be large enough for a duplex, but the owners plan to build a single family home. Mr. Gibson testified the applicant has applied for an LOI from NJDEP and received a letter stating there are no wetland issues on the property. County Planning Board approval was also received since the property is on a County road. There is an existing shed that would be on the newly created lot line. The applicant plans to move that to lot 6.02 in full compliance with bulk regulations and Mr. Gibson will place it on the revised site plan. Also, the applicant is planning to file the subdivision using the map filing law instead of deeds. Susan Hoffman explained they plan to position the new house in the upper third of the lot closest to Fourth Avenue where there is a clearing. She is trying to take advantage of the natural tree spread along 4th Avenue and along the east and rear of the property and will save as many trees as possible. One tree and some brush are expected to be removed to make room for the shed. Engineer Roberts reviewed his report. The shed was shown on the plan as being moved onto lot 6.01, but it will actually be on lot 6.02. Mr. Roberts asked how the driveway will be handled since it will be straddling the new property line. Mr. Gibson testified the owners of both parcels are family and wish to share a common driveway. They are willing to file cross-easements for the driveways. There was some concern about 20' of the driveway being in the street right-of-way, but since it's a County road, the Borough has no jurisdiction. When the board was finished asking questions, the Chair opened a public hearing to anyone within 200' of the property, then

to the general public. When no one wished to speak, the public hearing was closed on motion of Mark Kulkowitz, seconded by TJ Belasco. Mr. DeVincens thanked the Board and expressed his appreciation to Dianne Rutherford and Elaine Wallace for their courteous cooperation, and assistance throughout the process. Art Joblin made a motion to approve the minor subdivision with the condition the applicants have cross easements to be prepared and filed subject to Brock Russell's approval; the map will be filed rather than perfecting the subdivision by deed. Mark Kulkowitz seconded the motion which was approved unanimously on roll call vote.

Informal Review for Jim & Sabine Atkins: Solicitor Russell explained the MLUL provides for informal presentation that is non-binding. Jim and Sabine Atkins explained they are currently residents of Flemington, NJ and are now retiring to the home they've owned at 713 Sunset Boulevard since 1994. They are downsizing, but still need additional storage space. They would like to build a two car garage with attic storage above. However, in order to get storage space above, the new garage would have to exceed the 15' height limit for an accessory building. The homeowners would like to apply for a variance as long as it is reasonable. Mr. Russell stated the board cannot give advice, but advised him he would need to have a map prepared showing the footprint of the structure and include the dimensions and elevations. It will need to be sealed by a certified engineer and show exactly what the applicant is proposing and the applicable setbacks, lot coverage, etc. The applicant explained he designed the second floor storage to have a height of only 6'6" which is too low to qualify as livable space, and will not have a door. Mr. and Mrs. Atkins thanked the board for their time and will proceed with preparing a formal application.

PRIVILEGE OF THE FLOOR: No comments

When no one wished to speak, the meeting was adjourned at 8:54 PM on motion of Carol Sabo, seconded by TJ Belasco, and carried by unanimous voice vote.

Respectfully submitted,

Elaine L. Wallace
Recording Secretary