

**BOROUGH OF WEST CAPE MAY
PLANNING-ZONING BOARD
REGULAR MEETING – August 11, 2015**

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 7:04 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 (7:28 PM)

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

MINUTES: On motion of Art Joblin, seconded by Carol Sabo, the minutes of **July 14, 2015** were approved on roll call vote as follows: Kaithern, Kulkowitz, and Belasco abstaining, all remaining members present voting in the affirmative. On motion of Carol Sabo, seconded by Art Joblin, the minutes of **July 28, 2015** were approved on roll call vote as follows: Jacobsen, Kulkowitz, Lamb, and Belasco abstaining, all remaining members present voting in the affirmative.

RESOLUTION 0014-15, Patricia V. Pierce & Christine Mueller, Application 007-15, Block 4, Lot 13, 128 York Avenue On motion of Kevin O’Neill, seconded by Art Joblin, the aforementioned resolution was approved on roll call vote as follows: Kaithern, Kulkowitz, Sabo, and Belasco abstaining, all remaining members present voting in the affirmative.

NEW BUSINESS:

Application 006-15, Ryan Griffin, Block 55, Lot 16.02, 3 Landis Avenue

Appearing before the board: applicant Ryan Griffin, his attorney Thomas Hillegas, architect Adam Crossland, and licensed planner Matthew Hender. The professionals were deemed experts and Mr. Griffin was sworn in by Solicitor Russell. Ryan Griffin explained he bought the house in 2014 and planned to rehabilitate it. However, it became clear the building would need such extensive work that it would be more cost effective to demolish it and build new. He hoped to build on the same footprint, but decided to move the building 4 feet to make it more centered on the property. He will not move the building any further forward, but would like to extend the open front porch by 4 feet to make it usable. Architect Adam Crossland testified the building is in too poor condition to renovate, so he recommends rebuilding. Moving the building 4 feet would make the side yard setbacks more conforming, because the current building is 6 inches from the one property line. Also, the property is triangular, which makes a very restrictive

building envelope. The proposed building will require variances for front yard setback and side yard setbacks, although the one preexisting side yard setback is being improved, both are still nonconforming. Mr. Crossland testified there will be no negative impact on light, air and open space and the new house will be in keeping with the character of the neighborhood. Matt Hender testified there were numerous variances, but much was preexisting. He testified to the C1 and C2 criteria. He explained that many of the houses in the neighborhood are also within the front yard setback, so that is not uncommon. There is no adjacent land that could be purchased to alleviate the need for variances. The proposed building will conform with modern codes and would not be detrimental to the zone plan or ordinance. He felt the positive benefits of the project would outweigh the negative. Board Engineer Ray Roberts was sworn in and reviewed his report. He explained the original plan would have required a D variance for floor area ration, but the applicant revised the plan to make the second floor of the front portion of the house open to the first floor in order to be below the 45% FAR limit. He asked that a correction be made to the plan to show the height to be 26', as it is now, instead of 28'. He also asked the applicant about lot coverage, which would be at 54% per the plan which exceeds the 40% allowable. The architect explained they did not realize the driveway contributes to lot coverage and agreed to change the surface to something pervious in order to comply with lot coverage. Mr. Roberts also asked about a landscape plan, which wasn't included. The applicant agreed to provide a compliant landscape plan that will include native vegetation and plans to keep the streetscape trees intact. There is a shed on the property that is preexisting nonconforming that the applicant plans to keep, but he is planning to remove the existing gazebo. Lastly, the engineer asked about drainage. With the change of the driveway to a pervious surface, the increased lot coverage would be 38.8%, up from 27.3%. The applicant agreed to install a recharge system to deal with the increased storm water runoff.

Chairperson Mulligan opened the public hearing to anyone within 200' of the subject property.

Tom Douglass, 706 Broadway, was sworn in by Brock Russell, and expressed concerns over the undersized nature of the lot and the fact the house is not going to remain in the same footprint but is being moved closer to his property line. He provided photos of the property, with a key which were marked "Tom Douglass Exhibit #1". Mr. Douglass was also concerned with the shed, which was installed by a previous owner without a permit. He would like to see a new shed or at least a base that would prohibit skunks from living under it.

William DeHart, 7 Landis Ave, was sworn in by Solicitor Russell. He expressed concern that if the structure was moved forward on the property, it would obstruct his view when pulling out of his driveway.

Jim Heimer, 4 Landis Avenue, was sworn in by Solicitor Russell. He was concerned that having the porch 4 feet closer to the property line would make it that much closer to his property and he feels it is already too close for privacy.

When no one else within 200' wished to speak, the public hearing was opened to the general public. When no one wished to speak, the public hearing was closed on motion of Mark Kulkowitz, seconded by TJ Belasco.

Attorney Hillegas explained the building wouldn't be moved any closer to the property line. The neighboring houses are 5.7' and 5' from the front property line. The applicant was willing to reduce his porch so it would be 6' from the property edge and behind the neighbors'. He was also willing to replace the existing shed with one of the same size in the same location with proper footing to keep animals out.

Kevin O'Neill made a motion to approve C variances with conditions. Mark Kulkowitz seconded the motion, which was approved unanimously on roll call vote.

Bernard Dera, Application 008-15, Block 55, Lot 27, 313 Sixth Avenue

Appearing before the board: applicant Bernard Dera, his attorney Tom Hillegas, land surveyor William Sweeney, and licensed planner Matthew Hender. The applicant is proposing to subdivide his property into two lots of 21,764 square feet and 21,793 square feet to be able to build two single family homes. This will require variances for lot frontage, lot area and lot width. Mr. Dera lives in one of two buildings on the property, which he bought 2 years ago. Each building has its own electric meter; he has one County approved septic system and another one pending; there is only one water service to the property. William Sweeney testified it is a nonconforming lot created by subdivision in 2005 when the previous owner placed the bulk of the land was put into County Open Space program. The applicant provided copies of letters, marked exhibits A1 and A2, sent to the neighbors the day before asking if they'd be interested in selling their property. Matthew Hender testified the existing buildings would be demolished and new dwellings would be constructed that will conform to all zoning regulations. He testified to the C1 and C2 criteria, stating the new buildings would meet all modern codes and improve the appearance of the neighborhood and the benefits outweigh the detriments. Mr. Hillegas provided photos of the property marked A3 to A10. Mr. Hender's testified his firm did soil boring and the land is adequate for septic system. Pam Kaithern and Paul Mulligan both questioned how septic systems could be installed when the state recommendation for lot size is 35,000 square feet. The Borough put the 35,000 square foot requirement into the code as a direct result of the State's recommendation. Mr. Hender stated the septic permit is based on the flow of the proposed use, not lot size. Mr. Dera stated the previous subdivision approval allowed two homes and two septic systems. Mrs. Kaithern explained that was permitted as part of the subdivision because the owner was preserving 10 acres of his 11 acre parcel through the open space program. She felt there was no benefit to the community to approve 2 undersized lots. Mr. Hender reasserted his testimony as to negative and positive criteria stating he felt there was no detriment. Board Engineer Ray Roberts was sworn in and reviewed his report, which he stated was straight forward. He concurred that the Borough adopted the 35,000 square foot requirement to meet with the State recommended minimum. He explained that part of the reason is to control development outside the sewer service area in case of septic failure. The County Health Department approves septic systems for design, but that is separate from the state recommendation for 35,000 square foot lots. Mr. Hillegas stated the applicant could rebuild the existing building right now and have new septic systems without needing approval. Art Joblin asked why the applicant had to subdivide the land if he already has the ability to rebuild both houses and have septic systems. He stated the applicant is asking the board to create two significant nonconformities by creating significantly undersized lots outside the sewer service area. Carol Sabo felt there is a sewer service area for a reason, plus there are wetlands in the area that need to be protected.

Chairperson Mulligan opened the public hearing to anyone within 200' of the subject property.

Charles Frazier, 300 Sixth Avenue/Mechanic Street, was sworn in. He was opposed to the application creating two significantly undersized lots and worried how it could impact future development. He understood the benefit to the Borough when the lot was created and a large parcel went into preservation, but this had no benefit to the Borough.

Jerusha Proctor, 306 Sixth Avenue, was sworn in and asked for clarification on the lot size requirements and asked if his lot was big enough for two houses.

When no one else within 200' wished to speak, the public hearing was opened to the general public.

Norm Roach, West Cape May Zoning Officer, was sworn in and stated he had advised Mr. Dera previously that he could repair the existing structures but could not build new without variances. He also advised him it would be unlikely to be approved for subdivision because they'd be under 35,000 square feet. Mr. Roach stated Mr. Dera was aware of this prior to purchasing the property.

James McBride, 1514 Yacht Ave, Cape May, was sworn in and testified that there were already 2 septic systems on the lot. Plus, there is a 10 acre parcel next door and a 7 acre parcel behind that won't be developed. Mr. McBride admitted he is the listing agent for the property.

Peter Burke, 238 Fourth Avenue, was sworn in and clarified that the 7 acre parcel Mr. McBride referred to could be developed if the owner so chose.

When no one wished to speak, the public hearing was closed on motion of Mark Kulkowitz, seconded by TJ Belasco.

Bernard Dera stated he is willing to make any approval contingent on him getting County approval for the septic system and is willing to limit the size of the houses built, which will be fully compliant with zoning. He stated he is attempting to make the property look better and improve the neighborhood.

Kevin O'Niell made a motion to approve minor subdivision with variance for lot size, frontage and width. TJ Belasco seconded the motion which was denied on roll call vote as follows: Kulkowitz abstaining, all remaining members present voting in the negative.

The Board took a short break from 10:13 PM to 10:17 PM.

Jane Saggiomo, Application 009-15, Block 41, Lot 3, 239 Fourth Avenue

Applicant Jane Saggiomo and her mother Loretta Saggiomo appeared before the board and were sworn in by Solicitor Russell. Jane Saggiomo explained her lot is a preexisting non-conforming lot with 2 primary uses on one lot. She would like to demolish the front home and build a new 930 square foot cottage. She plans to connect this to the existing building in the rear through a

covered deck, which would make it a conforming 2 family dwelling. She will require variances for lot frontage and lot width. She also has a preexisting nonconforming shed that encroaches minimally on the property next door, but the neighbor does not object. Board Engineer Ray Roberts was sworn in and reviewed his report. Mr. Roberts explained the rear of the property fronts Sees Alley, which means the shed in the rear has to conform with a front yard setback, so the applicant needs a variance for that as well. Solicitor Russell stated this is a preexisting nonconformity that would continue whether the board approved the new application or not. Mr. Roberts requested revised plans be provided showing the correct lot coverage of 31.4% with a maximum allowable of 39.8% for her lot. The plans had been revised already to show parking completely within the property. Art Joblin expressed concern that there is an encroachment on the neighboring property which should be cleared up.

Chairperson Mulligan opened the public hearing to anyone within 200' of the subject property.

John Haugh and Maria Notofrancesco, 241 Fourth Avenue, were sworn in and asked how close the building being demolished is from their property line. They then requested the applicant erect a retaining fence during demolition to protect their property. Applicant was amenable to the request.

Catherine Phillips, 237 Fourth Avenue, testified that she is the adjacent neighbor and she does not object to the shed encroaching on her property.

When no one else within 200' wished to speak, the public hearing was opened to the general public. When no one wished to speak, the public hearing was closed on motion of TJ Belasco, seconded by Mark Kulkowitz.

Barbara Lamb made a motion to approve application for bulk variance relief for lot frontage and width along with variance for preexisting conditions. Art Joblin seconded the motion which was carried unanimously on roll call vote.

PRIVILEGE OF THE FLOOR: No comments.

On motion of TJ Belasco, seconded by Mark Kulkowitz, and carried by unanimous voice vote, the meeting adjourned at 10:58 PM.

Respectfully submitted,

Elaine L. Wallace
Recording Secretary