

**BOROUGH OF WEST CAPE MAY
PLANNING-ZONING BOARD
REGULAR MEETING – DECEMBER 3, 2019**

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 Roselli at 7:00 PM. After reading the Open Public Meetings Act of 1975 she led all present in the flag salute.

ROLL CALL:

Members:

Art Joblin	present	Peter Burke	present
Bob Hewitt	absent	Carol Sabo	present
Kevin O’Neill	present	TJ Belasco	present at 7:28
Lisa Roselli	present	<u>Alternates:</u>	
Paul Mulligan	present		

Also Present:

Raymond Roberts, Board Engineer
Richard M. King Jr., Board Solicitor
Theresa Enteadó, Board Secretary

MINUTES:

November 5, 2019 Regular Meeting

On motion of Paul Mulligan, seconded by Art Joblin, the Minutes of November 5, 2019 Regular Meeting were approved on roll call vote as follows: Art Joblin, Kevin O’Neill, Lisa Roselli, Paul Mulligan, and Carol Sabo, voting in the affirmative.

RESOLUTIONS:

Resolution #0021-19 Approving a One Year Extension of Time for Filing of Minor Subdivision Plat for Francis P. Walls and Beth Ann Trust, 603 Sunset Blvd., Block 67, Lot 21, App 012-19

On motion of Paul Mulligan, seconded by Art Joblin, the aforementioned resolution was approved on roll call vote as follows: Art Joblin, Kevin O’Neill, Lisa Roselli, Paul Mulligan, and Carol Sabo voting in the affirmative.

APPLICATIONS:

Application 013-19, Brian and Tracey Conniff, 739 Maple Ave., Block 21, Lot 37, AND 764

Park Blvd., Block 21, Lot 41, New Application – Minor Subdivision with Variance Relief

Board Member O'Neill recused himself because he lives within 200 feet of the property for this application.

Ron Gelzunas, attorney for the applicants, referred to the property as a through lot. The lots were never formally merged by deed, however it has been used as a single lot with an accessory for many years. The applicant would like to have subdivision approval to avoid any possible issues. The applicant is seeking relief for lot depth only.

Hal Noon Professional Land Surveyor and Licensed Planner, was sworn in by Board Solicitor King. Board Engineer Roberts was also sworn in. Mr. Noon testified that the applicant is seeking variances for lot depth only. He believes the extreme right-of-way on Park Boulevard creates a hardship. He said although the depth may be lacking, the lot size will be greater than the 5,000 square feet that is required with one being 6,001 square feet and the other 6,647 square feet. Mr. Noon gave examples of neighboring lots with similar depth. Because of the similar lots in the neighborhood, he feels the variance for lot depth would not create a negative impact. He said, from the street, the properties will look conforming, in fact, oversized. The existing home on lot 41 will remain and will be an existing nonconformity and lot 37 will meet all setback requirements. The non-conformity on lot 41 will not be exacerbated in anyway by this proposal. The shed and the garage on lot 37 will be removed. The garage is in the front yard on Maple Avenue so the removal will eliminate a non-conformity. The proposal fits in with the neighborhood and there will be no detriment to the flow of light and air since all other setbacks will be met. A single family home is a permitted use in this zone and medium size homes on medium size lots is the norm for this area. All the positives outweigh any possible negative impacts. The demolition of the existing garage that is not in very good condition and the replacement with new construction will enhance the neighborhood, and create a more desirable visual environment.

Board Engineer Roberts advised the Board that the issue is the depth of the two lots. He asked the applicant to testify to the number of bedrooms on the Park Boulevard property. The applicant, Brian Conniff, was sworn in and answered that there are two bedrooms. Mr. Roberts noted the paver driveway in the Borough right-of-way and asked about parking. The applicant understands they need to provide for a parking space that is on their property and not in the right-of-way, in conformance with RSIS standards. Mr. Roberts reminded the Board the applicant will be required to submit a landscape and vegetation plan as well as a grading plan prior to the issuance of a zoning permit.

The floor was opened to residents within 200 feet of the subject property. Kevin O'Neill of 747 Maple Avenue expressed his concern for safety on Maple Avenue, saying it has become overcrowded and dangerous with speeding. He asked the applicant to consider providing two parking spaces off of Maple. The applicant was agreeable to a condition for a minimum of two parking spaces on the property.

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

Board Solicitor King advised this will be a motion to grant subdivision approval with the associated variances for front yard setback and lot depth subject to the conditions discussed by the Board and any made during testimony, including all conditions and recommendations in the Board Engineer's report.

On motion of Carol Sabo, seconded by Art Joblin, the aforementioned application was approved on roll call vote as follows: Art Joblin, Lisa Roselli, Paul Mulligan, Peter Burke, and Carol Sabo voting in the affirmative.

Application 011-19, Ronald Baker, 122 Eldredge Ave., Block 7, Lot 23, Continued
Application – Minor Subdivision with Variance Relief

At this time Board Chair Belasco, who arrived at 7:28 pm, relieved Vice Chair Roselli and called on the next applicant. Chair Belasco said this was a continuation from the November meeting and the testimony can pick up from there. Before the applicant started Solicitor King announced that Board Member Burke is recusing himself.

Attorney Catanese spoke of the concerns from the last meeting of the Board and the Public. He said revised plans, dated November 21, 2019, were submitted and they contain three primary revisions. First, the building envelope has been reduced for any future development on proposed lot B, the vacant lot. He said this was in consideration of Mr. Morgan's comments, being the property owner adjacent to lot B, with its own non-conforming side yard setback. The plans now show on the right side, next to Mr. Morgan's property, a 10 foot setback where only 6 feet is required. Also, in an effort to minimize the impact to trees on the site, the construction envelope in the back left corner has been notched out to accommodate two mature trees. Second, is the issue of off-street parking, Mr. Morgan's belief is there was once parking on the site and the Board Engineer recommends the RSIS requirements be shown. The plans have been revised to show three (3) off street parking spaces, which not only complies with Borough code but also with RSIS. Mr. Catanese said the plans show concrete slips for the parking spaces but they will allow for a revision if the HPC would like other materials used. Third, the applicant agrees to consult with the arborist before any construction on the new lot, proposed lot B.

Ray Roberts, Board Engineer, wanted to clarify for the Board that the plans show a 10 foot side yard setback however there is actually a 12 foot separation between the back of the existing house and the proposed subdivision line. He said final plans should include a list of the trees by species, as required by ordinance. There is an error on the revised engineer report on page two (2), the total side yard should show 16 feet not 12 feet. Mr. Roberts then read through his revised report.

The floor was opened to residents within 200 feet of the subject property. Mr. Morgan of 114 Eldredge was sworn in and spoke in opposition to the application once again. He feels the HPC was not notified of this application correctly. It is his opinion that the HPC will be very concerned with the new proposed driveway near the house. He would like the plans to state only a residence can be constructed in the rear of the property and not a garage. He testified that a structure on Lot A was demolished without proper approval and permit, and he thinks the applicant should be subject to fines and also be required to reconstruct it. He thinks the

application should be tabled until the HPC hears the matter and has a chance to review it. Mr. Morgan was advised that Borough Ordinance only requires an agenda be provided to the HPC. He was also advised that an application is provided to Norm Roach, the HPC administrative officer. Mr. Morgan discussed RSIS and the parking spaces required for this subdivision. He reviewed Municipal Land Use Law and the standard for a C-1 variance at length. He also discussed the Master Plan and his belief that the applicant's expert did not seem familiar with the Borough of West Cape May's Master Plan. Mr. Morgan does not consider him an expert in Planning. The applicant objected and it was clarified for the record that Mr. Guzzi is an expert engineer and planner, licensed in both in the state of New Jersey. Mr. Morgan said the lot is not shallow or narrow and no real hardship exists and none was proven by the applicant. The applicant will not be harmed in anyway. He said the lot is being called underutilized because of the location of the driveway, and therefore not truly underutilized. Mr. Morgan expressed his strong belief that historic sites and trees are an important purpose of zoning and that they are not being preserved with this application. He believes three (3) parking spaces will cause cars to have to back out. Mr. Morgan also expressed his concern about drainage and a building being constructed so close to his property. He reiterated his concern about the HPC review being held before a decision is made by this Board and his belief that there is more than adequate land for access to the garage in the rear of the property. He reminded the Board that economic hardship cannot be a consideration.

Jeff Punda of 147 Emerald Street was sworn in and testified that he moved to this home in 1985 and his property backs up to the subject property. He explained a time when the property was for sale and a sign read 5 lots, 2 houses for sale. He said the 5 curb cuts existed back then, because of the 5 lots. As lots would sell the sign would change to reflect the lots and houses left. He said it was well known that this property was meant to be subdivided. He also spoke of a 1948 Plymouth that was parked in the garage on his property not Mr. Baker's property. Mr. Punda said the garage on the Baker property could not hold a vehicle and he said a mower may have been housed in it at one time.

Barbara Morgan of 114 Eldredge Avenue was sworn in and testified that they bought their home in 2006. She said the picture that Mr. Punda referred to is not the garage in question.

Bob Belak of 110 Eldredge Avenue was sworn in and testified that he lives next to the Morgans. He said he has never observed an issue with parking on the street. He discussed the parking situation and mentioned the section of RSIS that would allow deviations. He shares a lawnmower with Mr. Baker and is in the garage often, and it could never hold a car. He said there was a small shed made out of cinderblock and used to store gardening materials, that was demolished on the property and it was less than 100 square feet. He said it was not historic based on the materials used and the time it was constructed. He said exhibit P-1 is an older picture of the Baker property and O-2 is a picture as it looks today.

Norm Roach, the Zoning Official for the Borough of West Cape May and the AO for the HPC, was sworn in, he just wanted the Board to know that accessory buildings are not shown on historic surveys.

Todd Land of 417 Broadway Avenue was sworn in and testified that he convinced Mr.

Baker to put in the double gated fence for landscaping purposes. When no one else expressed a desire to speak, the public portion was closed.

Attorney Catanese reiterated the revisions that were made to the plan. He understands HPC approval is required and thanked the Board for their time. The Board agrees that because the statute indicates that a failure to refer an application to the HPC does not invalidate a hearing, and knowing that an approval will be conditional to the HPC approval, it is not necessary to table their decision.

Solicitor King said put very simply, this is a 3.25 foot deficiency in lot frontage subdivision. He said there are structures that create side yard issues but in terms of the Master Plan and the lot sizes, they conform with the exception of the frontage. He said objectors also raised some valid points and the board members have to balance and weigh all of the information. A motion will be to grant subdivision approval with the associated variances, subject to the conditions discussed by the Board and any made during testimony, as well as all conditions and recommendations in the Board Engineer's report.

On motion of Carol Sabo, seconded by Art Joblin, the aforementioned application was approved on roll call vote as follows: Art Joblin, Kevin O'Neill, Lisa Roselli, Paul Mulligan, Carol Sabo, and TJ Belasco voting in the affirmative.

Application 010-19, Chad Desatnick, Sixth Ave., Block 55, Lots 24 & 23.04, New Application (tabled from last meeting) – Variance Relief – Hardship & Substantial Benefit

Board Member O'Neill announced he had to recuse himself. A five minute break was observed and the record resumed at 9:57:11 PM.

Martina and Chad Desatnick applicants and owners of the subject property were both sworn in. Mr. Desatnick said they were seeking relief from lot frontage. They live in the home on lot 23.04 and they purchased lot 24 in August of this year. They propose to build a single family home on the new lot but they lack street frontage. He said it is an isolated parcel but an easement was created across block 55, lot 23.01 to allow ingress and egress. He made revisions to allow for emergency vehicle turn around. Mr. King asked why the home that currently exists on lot 23.01 is not on the survey and asked for the Board Engineer's opinion. Mr. Roberts agreed that if approved the final plans should show the home. The applicant confirmed that the clam shell driveway bends off to the east and leads towards the home. Mr. King said someone has to put on the record, the distance of the existing structure from the side yard and from the easement. It is required in order to determine the findings for health and public safety. After some discussion, the applicant determined that the home is 30 feet from the property line and 10 feet from the easement. A well also exists on the property and is contained by a shed. The applicant was advised that a condition of approval would be to include the location of the home, the well, and all other structures on the plans.

Board Member asked how an easement would work if this was approved. Solicitor King said as a condition, an easement in a form to be reviewed and approved by the Board Engineer and Board Solicitor must be provided. Mr. Roberts said 20 feet is adequate for vehicles to pass

each way and for emergency vehicle passage as well. Mr. Desatnick testified that the fire chief inspected the property he also said he has a copy of the recorded deed of easement. Mr. Roberts said the previous subdivision that created lots 23.05 and 23.04 show no easement on the final plans and the Borough tax map does not show an easement either. The applicant was advised that the driveway apron must be concrete as it will be in the Borough right-of-way. Engineer Roberts reviewed his letter. Board Member Mulligan asked what the plans were for the property. Mr. Desatnick explained that their current home is no longer suitable as they are expanding their family and they would like to build a new home on the new lot and move into that home and eventually sell the other lot.

After some discussion it was agreed that if the easement were to be granted, the final approved plans should state that the easement is allowed in order to access one home only, no more than that. It should be an easement for one home on lot 24 only not a road to access other possible future subdivisions.

The floor was opened to residents within 200 feet of the subject property. Matt Notch of 291 Sixth Avenue was sworn in and testified that he did purchase and subdivide the property and that currently he and his wife live on one of the lots and Chad and Martina live on the other. He expressed concerns about the easement because it borders his property but veers away at the rear. He does not agree that 20 feet will be enough because of existing trees. Board Solicitor interrupted to say the plans show the easement as a straight line and wanted to be clear that if a straight line with certain dimensions is approved, that is how the easement must be constructed. If a 20 foot easement is approved, all 20 feet must be cleared for access.

Public portion was closed and the Board agreed that the application should be tabled and the applicant should return with a detailed plan. The applicants were agreeable and an announcement was made that the application will be continued to the February 4, 2020 meeting date.

Mandatory Land Use Training Booklets – JIF

The Municipal Joint Insurance Fund distributed Land Use training booklets and directed the board attorney to complete the training for all board members at the next available meeting. The booklets were provided and the training was completed by Solicitor King. The Board Secretary will submit the affidavit accordingly.

PRIVILEGE OF THE FLOOR:

When no one wished to speak, the meeting was adjourned at approximately 11:20 PM carried by unanimous voice vote.

Respectfully submitted,

Theresa Enteadó
Board Secretary