

**BOROUGH OF WEST CAPE MAY
PLANNING-ZONING BOARD
REGULAR MEETING – OCTOBER 6, 2020**

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 approximately 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	present	Carol Sabo	present
Kevin O’Neill	present	TJ Belasco	absent
Jim Barnes	present	<u>Alternates:</u>	
Lisa Roselli	present	Deanna Kurkowski	present
Paul Mulligan	present	Allison Morgan	present

Also Present:

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

MINUTES:

September 1, 2020 Regular Meeting

On motion of Art Joblin, seconded by Carol Sabo, the Minutes of September 1, 2020 Regular Meeting were approved on roll call vote as follows: Art Joblin, Jim Barnes, Kevin O’Neill, Lisa Roselli, Peter Burke, Carol Sabo, Deanna Kurkowski, and Allison Morgan voting in the affirmative.

RESOLUTIONS:

Resolution #0012-20 Deeming ordinance no. 585-20, Amending Section 27 of Borough Code Regarding Garage Setbacks, consistent with the Master Plan

On motion of Carol Sabo, seconded by Art Joblin, the aforementioned resolution was approved on roll call vote as follows: Art Joblin, Jim Barnes, Kevin O’Neill, Lisa Roselli, Peter Burke, Carol Sabo, Deanna Kurkowski, and Allison Morgan voting in the affirmative.

Resolution #0013-20 Deeming ordinance no. 586-20, Amending Section 27 of Borough Code Regarding the Application of the RSIS, consistent with the Master Plan

On motion of Kevin O’Neill, seconded by Peter Burke, the aforementioned resolution was approved on roll call vote as follows: Art Joblin, Jim Barnes, Kevin O’Neill, Lisa Roselli, Peter Burke, Carol Sabo, Deanna Kurkowski, and Allison Morgan voting in the affirmative.

Resolution #0014-20 Granting Variance Relief – Bulk & FAR, for William & Carole McCray, 304 Atlantic Ave., Block 40, Lot 7

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

APPLICATIONS:

Application 004-20, Tomas O’Hara, 136 Eldredge Avenue, Block 7, Lots 20 & 21, New Application – Variance Relief – Hardship, Substantial Benefit, and Use

Carol Sabo and Peter Burke are both recused because they are on the BOC. Eight voting board members remain and the applicant and applicant’s attorney are agreeable to continue. Tom Hillegass, of Monzo Catanese Hillegass P.C., filling in for Ron Gelzunas, as attorney for the applicant. The applicant, Tom O’Hara, the architect, Pamela Fine, and the board engineer, Ray Roberts, were sworn in.

Mr. O’Hara testified that he bought the property for his daughter and son-in-law. He proposes to renovate and create an open front porch that will be more in character with the neighborhood and West Cape May in general. Mr. O’Hara also testified that the rear cottage is a one-bedroom dwelling that has existed as such prior to his purchase of the property, but for how long beforehand, he is not certain. The cottage is currently occupied and will not be changed or renovated in anyway.

At this point the Board wanted to know if this is a pre-existing non-conforming use, namely two principal uses on the same lot, that pre-dates the ordinance that prohibits such a use. The applicant believes the property has existed as a duplex for 40 or 50 years. Mr. Hillegass said the proposal will not exacerbate the use of the rear unit or the condition of the property as it exists today. Approved or not there will still be two units on the property.

Board Solicitor King explained the difference of applying the D-2 standard rather than the D-1. If the applicant cannot offer any testimony that the cottage is a pre-existing non-conformity, this application will be a request for a D-1, Use variance. Mr. King suggested continuing the hearing until the applicant can provide the testimony required.

Mr. Hillegass requested a break, and the record was paused at 7:21 pm and resumed at 7:33 pm. The applicant introduced Mr. Christopher McDuell, a builder with over 30 years’ experience building custom homes and additions. It is his professional opinion that the timbers in the cottage are from the 1950’s or 1960’s. Mr. O’Hara additionally testified that the timbers in the cottage pre-date 1980, at least. He also said his direct neighbor Mr. McCoy, said the cottage was occupied prior to 1980.

Ms. Fine testified that a search on the website historicaerials.com, provided aerial snapshots of the property dating back to 1930. She said the photo from 1963 is the clearest and provides a clear picture of the cottage in the rear. She added that the original, or main dwelling,

was built in 1880.

Ms. Fine said the applicant has received approval by the HPC. The proposal is to move the main residence over to the left, making the side yard compliant, and to remove the existing sunroom and replace it with an open porch. This will be a footprint very similar to what existed. The same number of bedrooms will remain, just re-arranged, and the attic will be extended with dormers for aesthetics. The cottage in the rear will remain as is and the shed to the left of the main residence will remain as well. Ms. Fine discussed the floor plans in further detail.

Mr. Hillegass presented his variance criteria and argued that the improvements and aesthetic benefits out-weigh any possible detriments.

Board Member Hewitt asked if the cottage was grandfathered, he is concerned that it is on the back-property line. Ms. Fine said she feels the cottage dates back to the 1950's and she assumes it would be grandfathered. Mr. Hillegass said the aerial photographs prove that the cottage existed back to at least the 1950's which pre-dates the zoning ordinance. Mr. Hewitt wondered if it could have been a shed and not a cottage in the past.

Board Member Barnes asked about moving the home back. Ms. Fine explained the dotted lines on the plan and said in order to push it back far enough to comply it would be extremely close to the cottage and keeping the street scape in line with the other homes was more important.

Board Solicitor King suggested that Ms. Fine testify as to the distances for the cottage, and said there should be a structure chart schedule for that building as well.

Ms. Fine presented a survey by Dominic McGonigle dated August 5, 2019. This survey was marked as exhibit A-1. She then presented all dimensions for the cottage, the front dwelling, and the shed. Solicitor King asked if the shed was allowed in the side yard. Engineer Roberts said it is allowed.

Board Member Barnes asked about the age of the shed, the applicant said it is about 25 years old.

Board Member Roselli asked about the history of lot 20 since it is such a small narrow piece. It was speculated that it could have, at one time, been used as access or easement to a back property.

Board Member Barnes asked about the code for the distance between the house and the shed. Engineer Roberts answered that the distance between a principle dwelling and accessory is 6 feet.

Engineer Roberts said the variance for front yard setback, deals with the stairs that are considered part of the porch. Mr. Roberts said the final map should be adjusted for single family. He asked about parking spaces. The applicant testified that two parking spots are available. Mr. Roberts said there is no practical way to provide the 5 spaces required if this were new construction and the proposal will not change what already exists, the number of bedrooms

will remain the same. Mr. Roberts said the requirements for the non-conformities for the rear principal dwelling were discussed in the applicant's testimony. He has no objection to the request for waiver from spot elevation and stormwater management plan, he feels the required grading plan should address those issues. It was determined that the HVAC systems will be moved to the rear of the house. Mr. Roberts asked about the pavers. Ms. Fine said they would be pervious, and that distinction will be added to the plans. He asked about the eaves on the building, noting our recent ordinance. Ms. Fine said she would comply with the ordinance. Mr. Roberts said gutters and downspouts must be added to the plan as well. He asked about the height of the rear building and said that existing heights must be added to the charts. Finally, he advised the client to submit the Leed check list, showing the 20 points, with the final plans.

Solicitor King advised the applicant that if this application is approved, the approval is separate from and has nothing to do with the encroachment. The applicant understands that is between him and the rear property owner.

Board Member Barnes asked Mr. King if the board members were supposed to accept that the rear dwelling is a pre-existing non-conforming structure. Solicitor King advised that they are to determine the credibility of the testimony that was provided and if persuasive or not. They should ask themselves if the cottage is a pre-existing non-conforming use based on the testimony.

The applicant questioned bifurcation of the application. Board Member Joblin expressed his discomfort with splitting up the approval process and thinks it should be considered as a whole.

At this time, the applicant agreed to return next month to provide limited testimony as to the cottage and the use. Solicitor King announced the application would be continued to the November 3, 2020 meeting, no re-notice or advertisement required.

Vice Chair Roselli opened the floor to the public and when no one expressed a desire to speak the public portion was closed.

PRIVILEGE OF THE FLOOR:

Testimony and hearsay were briefly discussed, in general terms only, not relative to any application. When no one else expressed a desire to speak, the meeting was adjourned at approximately 8:53 PM carried by unanimous voice vote.

Respectfully submitted,

Theresa Enteadó
Board Secretary