

**APPROVED MINUTES
REGULAR MEETING OF THE SEA BRIGHT PLANNING/ZONING BOARD
Tuesday, November 12, 2019**

ADMINISTRATIVE MATTERS

Call to Order

Chairman Cunningham called the meeting to order at 7:31 p.m. and requested those present to join in the Pledge of Allegiance.

Opening Statement

The Chairman offered the following Compliance Statement:

The Borough of Sea Bright, in compliance with the Open Public Meetings Act, has provided the date, time, and location of this meeting to at least two designated newspapers, published same in the Asbury Park Press, the official newspaper, filed notice with the Borough Clerk, and posted notice on the bulletin board in the Borough offices and on the Borough website.

Attendance Roll Call

Present: Cashmore, Cunningham, DeGiulio, Leckstein, Smith, Bills, Wray

Not Present: DeSio, Long, Nott, McGinley

Also in attendance: Board Attorney Kerry E. Higgins, Esq.
Board Engineer David J. Hoder
Board Secretary Candace B. Mitchell

Approval of the October 8th Minutes

Councilman Leckstein offered a motion to approve the minutes, with a second offered by Mr. Smith. The motion was adopted upon the following roll call vote:

Ayes: Cashmore, Cunningham, DeGiulio, Leckstein, Bills
Nays: none
Absent: DeSio, Long, Nott, McGinley
Abstain: Smith, Wray

ITEMS OF BUSINESS

PBZB 2019-011

Application carried from October 8, 2019 with no further notice

MMJD Properties, LLC #2

26 Beach Street, Block 10, Lot 21

Application for major subdivision of property into 2 lots; variance relief for lot areas

In attendance for the application:

Kevin E. Kennedy, Esq.

Craig D. Grant, principle owner MMJD Properties, LLC

James W. Higgins, PP

Jeremiah J. Regan, AIA

Exhibits entered 8/27/19:

A-1 Jurisdictional Packet, dated 7/3/19

A-2 Plan entitled "Minor Subdivision," prepared by Charles Surmonte, P.E., P.L.S., dated 5/15/19, consisting of one (1) sheet

B-1 First Technical Review, dated 8/16/19, Hoder Associates, consisting of three (3) pages

Exhibits entered 11/12/19:

B-2 Resolution of Denial, dated 2/26/19

A-3 Photocopy of Sea Bright Tax Map, Sheet 7

A-4 Architectural Plans, prepared by Jeremiah J. Regan, AIA, License AI-10726, dated 4/15/18, revised 9/1/18 and 1/8/19, consisting of three (3) sheets

The applicant's attorney, Kevin Kennedy, briefly reviewed an earlier application regarding this property, which sought several variances, and approval of which had been denied by the Board. He explained that tonight's application seeks approval to subdivide the lot at 26 Beach Street, Block 10, Lot 21, into two lots, 21.01 and 21.02, which will require variance relief for lot size only. Each lot will be for single family purposes and will measure 1,688 sq. ft. where 1,800 sq. ft. is required.

Board Attorney Kerry Higgins noted that the Board had accepted jurisdiction of this application on 8/27/19. At that meeting the first three exhibits were entered into evidence, A-1, A-2, and B-1. The applicant had asked to carry the application to 9/10, then to 10/8, and then to 11/12/19. The requests were granted with no further noticing required.

The applicant, Craig Grant, was sworn in to testify. He answered Mr. Kennedy's inquiries, which began with verification that Mr. Grant is 80% member of MMJD Properties, LLC, and his two children are each 10% members in MMJD Properties, LLC. Mr. Grant has owned the property, which is located in the R-3 zone, since September 2017. He described the existing single-family structure on the oversized lot of 3,376 sq. ft. as old and located oddly on the lot, sitting inches away from neighboring properties. Mr. Grant described the condition of the structure as it currently exists as in very poor condition, and not FEMA compliant, having not been repaired after Superstorm Sandy. The house was built in approximately 1926, its foundation is crumbling and windows are practically non-functional. It sits 0.9 ft. from the neighboring side property and 0.3 ft. from the neighboring rear property. Approval of tonight's proposal will allow him to subdivide the lot after demolishing the existing structure. He would like to construct two conforming single-family homes on the subdivided lots. The only variance needed is for lot size.

Councilman Leckstein clarified Mr. Grant's statement and suggested the conformity of the structures should be included in the resolution as a condition of approval, with no variances needed beyond those requested this evening. He suggested approval of the subdivision should be voided if the application comes back to the Board for further variance approval. Mr. Kennedy confirmed the applicant can only build conforming homes. Ms. Higgins confirmed the lots would be deed restricted.

Councilman Leckstein asked why the applicant is asking for variance relief if he could build one conforming house on the lot now, which would require no variance relief. What are the reasons for asking for variance relief? Mr. Kennedy suggested the planner can address

those questions, and asked Councilman Leckstein if he might hold his question for the planner. Ms. Higgins stated that the question needs to be answered: why not build one conforming house on the lot rather than subdividing? Mr. Grant responded that the size of the lots and the two homes to be built would be more consistent with lot sizes and homes on that side of Beach Street, properties having 25 ft. frontage rather than the 50 ft. frontage on the oversized single lot. It's more consistent with the neighborhood.

Councilman Leckstein stated that the question he asked was not answered with that response, and, in the previous application, included in the subsequent resolution, the applicant expressed financial reasons for wanting to build two homes. Mr. Grant stated that his reason for building two homes is to have a home to retire to and another for his two children. Councilman Leckstein stated that Mr. Grant had acknowledged, and it was stated in the resolution for the first application, which was never appealed, that the applicant would like to build two homes for financial reasons. Mr. Kennedy stated that is not their testimony this evening and asked Mr. Grant if that had been his sole consideration, to which he replied that it was not. Ms. Higgins clarified that it was one of Mr. Grant's considerations, but not his sole consideration. Mr. Grant agreed.

Councilman Leckstein requested the acknowledgement that two homes are to be built for financial reasons is to be included in tonight's record, and is to be memorialized in the resolution.

No one from the Board or the public had questions for Mr. Grant, and the second witness, James Higgins, a professional planner, was sworn in. After stating his credentials as a licensed professional planner of forty years who has appeared before the board numerous times, Mr. Higgins was accepted as an expert witness.

Mr. Kennedy asked Mr. Higgins to share his observations about the proposed subdivision. Mr. Higgins offered several professional observations including the improvement of current side yard and rear yard setbacks. The two lots will be consistent with neighboring lots, and two elevated, FEMA-compliant houses will be built, which will conform with all other bulk requirements. Only the lot areas require variance approval. Each lot will measure 1,688 sq. ft. The lots have the necessary width but not the necessary depth to meet the minimum 1,800 sq. ft. lot size required in the ordinance. Approving the C2 variance will encourage the purposes of the land use law. Allowing this subdivision and building two elevated, fully FEMA-compliant houses will substantially promote public health and safety and, also, secure safety from floods and other natural disasters.

In terms of setbacks and lot coverage, light and air and open space will be significantly improved by building two structures. One conforming structure could be built. It could be 44 ft. wide with 3 ft. side setbacks, and could be 47.5 ft. deep. With two structures planned, there will be 3.3 ft. on the east and west sides of the parcel and 6.3 ft. between the structures, resulting in less lot coverage, and more light, air, and open space, which is a significant benefit.

Also, in advancement of the Land Use Law, the proposed property will promote the establishment of appropriate population densities and concentrations, with more conformity to the density that the zoning ordinance anticipates and recommends. The

zoning ordinance establishes a density of 24.2%. The existing density on the site is 12.9%, which is about half of the ordinance's anticipated density. This proposed plan is a more efficient use of the land and brings the site more into conformity with the density in the ordinance and more into conformity with most of the dwellings and lots in the existing neighborhood.

The proposed density is also consistent with the character of the area. The character of the area is a reasonable consideration in the Land Use Law, and the proposal is clearly consistent with the intent of the Land Use Law.

Mr. Higgins stated there are substantial positive reasons for granting the variance, and he sees no substantial negative impact, in his opinion.

Mr. Kennedy handed out copies of Sheet no. 7 of the tax map which includes the lot at 26 Beach Street. It was marked into evidence as Exhibit A-3. Mr. Kennedy asked Mr. Higgins whether a single-family home on the present-size lot would be less consistent with the neighborhood than building two homes on smaller lots. Mr. Higgins answered that a single-family home would be less consistent, and that this application offers a superior zoning alternative to what exists. It is perfectly in scale and consistent with the character of the area as it has developed over the years. The new structures will be fully FEMA compliant. It would be of municipal interest to approve the application, which will provide protection against more frequent storm surges like those during Superstorm Sandy. It offers an improvement to public safety. Also, building one home would be less consistent with the neighborhood. It offers a far superior zoning alternative, in Mr. Higgins' opinion.

Attorney Higgins asked questions to verify whether building two conforming homes would be a mathematical possibility. Engineer David Hoder calculated that a house with approximately a maximum coverage of 720 sq. ft. per home could be built and meet setback and coverage requirements. Ms. Higgins pointed out that those lots would be deed restricted to be two conforming homes.

Boardmember Cashmore asked for the total square footage of the existing structure. James Higgins did not know. Mr. Cashmore queried whether there would be greater open air and less lot coverage with two houses rather than building one conforming larger home. Mr. Hoder looked up the minimum GFA total in the R-3 zone to be 880 sq. ft., which could be built on two floors, and that is not a variance.

There were no questions nor comments from the public for Mr. Higgins.

Jeremiah James Regan, Licensed Architect in the State of New Jersey, who has testified before this Board many times, was sworn in to testify and was accepted by the Board as an expert witness. His architectural plans from the earlier application to the Board regarding this property were entered into evidence as Exhibit A-4. Mr. Kennedy verified for the record, with Mr. Regan, that the plans just submitted into evidence were for the first application which was denied, and they are not submitted tonight to show what is proposed. Mr. Regan utilized the plans to calculate the square footage of the existing structure. The building coverage of the existing structure is about 1,446 sq. ft., including the front porch. The actual structure is probably around 1,200 sq. ft., which is 42.83 % existing

lot coverage. Mr. Cashmore verified the permissible building space on the subdivided lots would be 1,440 sq. ft. and asked what the square footage of one fully conforming structure built in the footprint of the existing home would be. Mr. Higgins answered, about 1,700 sq. ft. Mr. Cashmore compared the square footage of building one structure of 1,700 sq. ft. with building two conforming structures, totaling 1,400 sq. ft. He concluded that renovating the existing structure would leave the non-conforming setbacks that exist and lot coverage that exists and would not be preferential to building two separate structures.

Councilman Leckstein asked for clarification about the wooden deck, and Mr. Grant stated that the deck is elevated, located on top of the first floor roof, with stairs to the ground and a wooden platform on grade. Mr. Cashmore added that it does increase the square footage.

Board Attorney Higgins offered a reminder that the Board is not approving any structures.

Boardmember Smith offered a statement about flood impact. His opinion is that two structures are a definite benefit. Mr. Higgins noted that approval of the requested variances gives the applicant the incentive to build two elevated structures which are much safer in consideration of public health and safety, as well as being conforming.

Mr. Hoder noted several approvals that will be needed if the application is approved, including CAFRA and affordable housing requirements.

The meeting was opened to public questions, and there were none for Mr. Regan.

Board Member Discussion

Mr. Cashmore asked what is considered a financial hardship. Ms. Higgins explained that the property can meet the overall square footage requirement, but because of the size and shape of the property, it cannot meet all of the requirements. Also, it can meet the width and depth requirements but not the overall 1,800 square footage requirement. Those considerations are hardships.

Mr. Smith commented on the subtleties of open space considerations in building two structures instead of one and of having lot sizes with structures that conform to the neighborhood.

Mr. Kennedy offered a summary of the application, stating that building two conforming structures on two lots is a better overall zoning alternative to building one house on the present size lot. He spoke to whether the benefits outweigh the detriments. In terms of continuity and design with homes in the neighborhood, continuity with lot sizes in the neighborhood, and flood and FEMA improvements, the benefits outweigh any detriments. The alternative scenarios of renovating the existing house or building one new house are not so great in comparison to subdividing and building two conforming houses.

Councilman Leckstein noted the inclusion of deed restrictions in that the houses eventually built must conform with the ordinance, including the agreement to all conditions such as two off-street parking spaces per unit.

Ms. Higgins summarized Mr. Cashmore's and Mr. Smith's comments and elaborated upon conditions of approval, including deed restrictions and conformity of structures. Tonight's decision is based on consideration of a variance needed for the square footage of the two proposed lots. Differences between the existing lot coverage and of lot coverage of two homes result in more open space, and in taking a very non-conforming home, also non-conforming with regard to FEMA, and having homes built which conform to all bulk requirements. The only variances being approved are for the square footage of the lots.

Determination:

Mr. Cashmore offered a motion to approve the subdivision with variance relief for lot size, seconded by Mr. Smith, and carried upon the following roll call vote:

Ayes: Cashmore, Cunningham, DeGiulio, Leckstein, Smith, Bills, Wray
Nays: none
Absent: DeSio, Long, Nott, McGinley

Meeting Announcement:

Chairman Cunningham announced the next meeting of the Planning/Zoning Board is scheduled for December 10, 2019 at 7:30 p.m.

General Public Questions and Comments

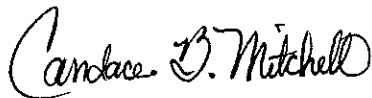
No one in the public wished to speak.

CLOSING MATTERS

Adjournment

There being no other business before the Board, the meeting was adjourned at 8:36 p.m. on a motion offered by Councilman Leckstein, a second offered by Ms. DeGiulio, and a unanimous voice vote.

Respectfully submitted,



Candace B. Mitchell
Board Secretary