

City of Cape May Zoning Board of Adjustment Meeting Minutes

Thursday, April 24, 2014

Opening: In compliance with the Open Public Meetings Act, adequate notice of the meeting was provided. Chairperson White called the meeting to order at 6:30 P.M.

Roll Call:

Mr. White, Chairperson	Present
Mrs. Hutchinson, Vice Chairperson	Present
Mr. Iurato	Present
Mr. Schmidtchen	Present
Mr. Meier	Present
Mrs. Inderwies	Present
Mr. Atwell	Present
Mrs. McAlinden, Alt #1	Present
Mrs. Pharo, Alt #2	Present

Also Present:

George Neidig, Board Solicitor
Craig Hurless, PE, PP, CME, Board Engineer
Mary Rothwell, Board Assistant/Zoning Officer
Edie Kopsitz, Recording Secretary

Resolutions: #4-24-2014 Danzi & Danzi – Block 1125 Lot 6

Motion made by Mr. Iurato to approve the resolution. Seconded by Mr. Atwell and carried 7-0. Those in favor: Mr. Iurato, Mrs. Inderwies, Mr. Meier, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchinson and Mr. White.

Applications: 412-414 W Perry Street Holdings LLC, 412-414 W Perry Street Block 1031 Lots 17, 18 & 75 Use, Hardship & Substantial Benefit Variances

Mr. White recapped that this application has been continued from the March 27, 2014 meeting of the Board. Louis Dwyer, Esquire appeared for the applicants.

Mr. Neidig swore in, Brian Murphy PE LS, Catherine Lorentz, Licensed Architect, Applicants Susan & Larry Corwin and Craig R. Hurless, PE, PP, CME of Polistina & Associates, the Board Engineer

Mr. Dwyer called upon Ms. Lorentz for testimony. She verified that the project calls for improvements to a two family contributing historic structure and two family dwellings were typical along West Perry Street. To meet FEMA standards the structure must be raised 4' feet. The proposal was approved by the Historic Preservation Commission. It includes demolishing a portion of the structure, raising the structure, relocating the structure on the lot, adding an addition; rear decks on all three stories and expanding the roof. The front steps will be 8' from the front property line and the face of the building will be 16', moving the structure back 8' from its original position. The side yards will be approximately 5' on each side, thereby improving the

setbacks. The height of the structure will be 30.9'. There will be an opened front porch. They addressed how the rear lot was acquired from the City (Lot 75, which is 50'X20') indicated they will be formally consolidated , thus creating two (2) parking spaces for each unit. A right-of way off Claghorn Place will give access to this parking area. Ms. Lorentz elaborated on the plan details of exhibit A1, that included photographs of the structure and the site plan information; and exhibit A2 showing the existing & proposed elevations of the structure.

Members questioned access off of Claghorn Place. Mr. Dwyer explained there was a right of way and a formal easement with the City, there will be no parking in the right of way. Mr. Neidig confirmed his position. Mr. Hurless indicated that a street opening permit will be required for this proposal.

Brian Murphy PE, testified that two family dwellings were common in this immediate area of West Perry Street by undertaking several site visits and studying aerial photographs; he pointed to the benefits for raising the building to FEMA standards; found that the proposed features enhances the historic structure, in keeping with the neighborhood; and bringing this 100 year old dwelling up to current building code regulations all which promotes the application. He justified the FAR relief sought; by the addition of the rear lot acquired, thus this request was diminutive. Mr. Murphy detailed how relocating the structure; enhancing the setbacks; meeting the building height; and creating on-site parking advances the purposes of zoning. He attributed no detriments were being generated as most of the improvements were proposed in the rear of the structure and visually it would enhance the view of the dwellings from West Perry Street & Claghorn Place. A detailed landscaping schedule; drainage plan and paver parking & patio area will significantly upgrade the site.

Board questions:

The FAR was again addressed further upon member's questions. Mr. Dwyer focused on the regulation that the FAR on historic structures is grandfather and may continue. He noted that the premises FAR was .52% prior to the acquisition of lot 75, therefore the .532% requested was indeed diminutive. Ms. Lorentz testified each unit will be 1993 square feet. Mr. Hurless indentified the discrepancies of the surveyor and architect zoning data from the last meeting and another survey was provided following that meeting to everyone that did not strike out the incorrect data. The members recognized that this inconsistency was a major factor in the decision making process when you consider a relief from the FAR. Ms. Lorentz also explained the third floor is being utilized as two bedrooms with a height of 6.8' which does not meet building regulations; therefore the roof expansion proposal will allow it to meet current code. Mr. Hurless verified with Mrs. Lorentz that the total FAR for both units proposed was 3986 square feet or .532%. Mr. Hurless indicated that the Board will have to determine that by adding the back lot reduced the FAR, then the improvements slightly increase that issue; the difference will have to be decided by the Board. It was determined the FAR calculations does not include a right of way area. For the record the proposed back patio side yard setbacks are 5'. Mr. Dwyer confirmed that all the lots were to be consolidated. Mr. Hurless recognized that drainage issues do exist in that neighborhood; he requested a storm water plan be submitted that exceeds the standards, confirming this applicant has submitted drainage design.

Mrs. Corwin testified that the property had been in her family since 1962; is utilized by family and friends; the structure is in need of major restoration; yet the goal was to maintain the character of the neighborhood.

Ms. Lorentz verified 600 square feet of new construction was proposed. When questioned by the membership Mr. Dwyer acknowledged that only a portion of the deed from 1988 was submitted. Mr. Murphy detailed the stone drainage trench; Mr. Hurless indicated that this applicant had addressed the additional volume of storm water retention.

Mr. Hurless review memorandum of March 17, 2014 was documented. He confirmed the applicant seeks a use variance and variances for an expansion of the nonconforming use on a nonconforming lot and reviewed the proposal for the semi-detached dwelling in the R2 Zoning District. He supported checklist items waivers on page 2 of his report, which include #20, #21, #24, #26, #27 and #32. Item #31 regarding site easements must be provided as condition if so approved. He detailed the zoning requirements table on page 3 of the report and that variances are required from §525-15A (Use Variance); §525-15B(1) Table 1 (Lot Size); §525-15B(1) Table 1 (Lot Width & Lot Frontage); §525-15 B(1) Table 1 (Building Setback); §525-15B(1) Table 1 (Side Yard Setback); §525-52 (Floor Area Ratio); § 525-49C(1) (Parking); and 525-54(A)(5) Patio & Decks, of this City's Code. This was followed by his review comments on pages 4 & 5. He then shared his general review comments on pages 5 & 6, items 1 through 12, and also specified a deed of consolidation for all the lots should be submitted and reviewed by Mr. Neidig and himself, all of which should be conditions imposed.

The Board recessed from 7:40 to 8:00 PM

Mr. Dwyer, Esquire indicated that there were a few outstanding items such as producing the entire 1988 deed and zoning chart corrections that he would like to address for the membership to review. He requested a continuance. Mr. Neidig requested the LLC information and also acknowledged Mr. Smith, Esquire who would be appearing for clients objecting to the application. Mr. Dwyer agreed to copy Mr. Smith with the additional information and he waived all the time constraints on the application.

Motion made by Mr. Schmidtchen to continue the application to June 26, 2014. Seconded by Mrs. Hutchinson and **carried 7-0.** Those in favor: Mr. Iurato, Mrs. Inderwies; Mr. Meier, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchinson and Mr. White. **Mr. Neidig announced that this application will be heard on Thursday, June 26, 2014 at 6:30 PM in the City Hall Auditorium.**

Lawrence A. Pray Builders Inc., 1069 Idaho Avenue, Block 1105 Lot 20 Hardship & Substantial Benefit Variances

Louis Dwyer, Esquire represented this petitioner. Lawrence Pray, contract purchaser who was sworn in with Stephen Fenwick, project Architect and Board Engineer, Craig R. Hurless.

Mr. Dwyer explained the lot was 6,250 square feet in size, which is an existing non conforming lot. All lots in the area are developed, therefore there were no circumstances to acquire additional

property for it to comply. The proposal calls for demolition of an existing non-conforming dwelling with regard to front & side yards. A new single family detached dwelling is proposed on this undersize lot which will require lot size and front yard setback (Philadelphia Avenue) variance relief. Mr. Fenwick testified to the details of the proposed plans. Exhibit A-1 was a color rendering of the front elevation, A-2 was plan of Mr. Fenwick labeled A-101, dated 3/10/2014, revised 3/21/2014 and A-3 labeled A-102 with same date was floor plans and all elevations. He noted that the front yard setback on Idaho Avenue will conform to the required 25 feet and impact of the setback along Philadelphia Avenue will be improved about 1 foot, making this proposed setback to the roof overhang 15 feet. The current accessory structure (shed) will be removed and a two (2) car garage is proposed, which sits back 18' from the Philadelphia Avenue side and 5' from the rear property line. Mr. Fenwick testified there were substantial improvements with regard to the proposal especially the aesthetic enhancements and the proposed development meets all other regulations required except lot size and the Philadelphia Avenue setback. Testimony was given that every effort was going to be made to retain a tree located on the left side of the driveway. Members questioned the gable style, Mr. Pray indicated there would be no third floor and the attic is located in the rear of the structure.

Chairperson White called upon Mr. Hurless for his comments. He summarized his memorandum of April 8, 2014, outlining the applicable checklist items on page 2 of 4; he supported the waivers for items #20, #21, #24 & #26. Confirming the premises is in the R2 Zoning District and variance relief from §525-15B Table 1, lot size and building setback (along Philadelphia Avenue) was required. Mr. Hurless found the drainage plan submitted was acceptable. On page 4 of 4 of his report, he delineates items 1 through 7 which should be conditions if approval is granted.

The public portion of the meeting was opened, Robert Daggett, 1040 Cape May Avenue, questioned tree retention and or tree removal for screening purposes. Mr. Pray testified he would do everything to retain the trees and a foundation is proposed for the new construction which will be a spec house. **The meeting was closed to the public with no further comments.**

Motion made by Mr. Meier to waive completeness checklist items required as outlined in Mr. Hurless report of April 8, 2014, page 2 of 4, those being items: #20, #21, #24, & #26. Seconded by Mrs. Hutchinson and **carried 7-0.** Those in favor: Mr. Iurato, Mrs. Inderwies, Mr. Meier, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchison and Mr. White.

Motion made by Mr. Meier to grant variance relief for lot size under §525-15B Table 1. Seconded by Mr. Schmidtchen and **carried 7-0.** Those in favor: Mr. Iurato, Mrs. Inderwies, Mr. Meier, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchison and Mr. White. Mr. Schmidtchen believes this proposal was reducing the footprint, thereby providing a better safety clearance at Philadelphia & Idaho Avenues, and complimented the applicant on the improvements along with other members in agreement.

Motion made by Mr. Meier to grant variance relief for building set back under §525-15B Table 1. Seconded by Mrs. Inderwies and **carried 7-0.** Those in favor: Mr. Iurato, Mrs. Inderwies, Mr. Meier, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchison and Mr. White.

Motion made by Mr. Meier to grant approval of the application with conditions outlined in Mr. Hurless report of April 8, 2014 on Page 4, items 1 through 7, along with a note added to the plan that the garage contain no living accommodations. Seconded by Mr. Schmidtchen and carried 7-0. Those in favor: Mr. Iurato, Mrs. Inderwies, Mr. Meier, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchison and Mr. White. Members agreed this would indeed be an enhancement to the neighborhood.

**Daddino, Pat & Daphne, 1213 Vermont Avenue, Block 1142 Lot 32
Hardship & Substantial Benefit Variances**

Mr. Meier recused himself from this application and Mrs. Pharo excused herself due to an early morning commitment.

Mr. Dwyer, Esquire represented the applicants in the matter. Sworn in were: applicants Mr. & Mrs. Daddino along with Mark R. Lovell, Project Architect and Board Engineer Craig R. Hurless, PE, PP & CME. Mr. Dwyer explained that the subject property was a 7500 square foot lot and the applicants are seeking a proposed second floor addition. He pointed to a prior approval received in 2007 for the premises and that our regulations require review of this project due to the further expansion. The prior approval was granted for lot coverage relief and with this proposal it will not be increased. Mr. Lovell described the project as a 550 square foot second floor addition. It was confirmed the premises is located in the R2 Zoning District and the building height allowed is 35 feet.

Mr. Hurless memorandum of March 10, 2014 was considered. He detailed the expansion on a lot that does not conform to the lot coverage requirements therefore review under §525-72E is required. He indicated the proposal calls for a second floor addition 20'X 27.5' is size with five (5) bedrooms proposed. Mr. Hurless delineated the applicable checklist items in which waivers were requested being #19, #20, #21, #24, #25, #26, #27, #28 and #33 listed on page 2 & 3 of his report and supported these waivers. He detailed the variance relief sought noting the proposal meets all the other regulations conform except the lot coverage previously approved for 42.1%. On page 4 in his general review comments he noted items #2, #3 and #4 should be conditioned on approval if granted.

Chairman White opened the meeting for public comment, Shaine Meier, neighbor to the applicant, complimented the applicants on maintaining their property; therefore the proposal causes no detriment to the neighborhood. This forum was then closed.

Motion made by Mrs. Hutchinson to waive completeness checklist items required as outlined in Mr. Hurless report of March 10, 2014, pages 3 & 4, those being: #19, #20, #21, #24, #25, #26, #27, #28 & #33. Seconded by Mr. Atwell and carried 7-0. Those in favor: Mr. Iurato, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, Mrs. McAlinden, Mrs. Hutchison and Mr. White.

Motion made by Mrs. Inderwies to grant variance relief for expansion of structure on non-conforming lot under §525-72E. Seconded by Mr. Schmidtchen and carried 7-0. Those in

favor: Mr. Iurato, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, McAlinden, Mrs. Hutchison and Mr. White.

Motion made by Mr. Atwell to grant approval of the application with conditions outlined in Mr. Hurless report of March 10, 2014 on Page 4, items: #2, #3 & #4. Seconded by Mr. Schmidtchen and **carried 7-0**. Those in favor: Mr. Iurato, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, McAlinden, Mrs. Hutchison and Mr. White.

Motion made by Mr. Schmidtchen to adjourn at 8:50 PM, carried with all in favor.

Respectfully submitted: Mary L. Rothwell, Zoning Officer

A verbatim recording is available in the Construction/Zoning Office