

**City of Cape May Zoning Board of Adjustment
Special Meeting Minutes
May 30, 2013**

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	Present
	Mr. Iurato	Present
	Mr. Schmidtchen	Present
	Mr. Meier	Present
	Mrs. Inderwies	Present
	Mr. Atwell	Present
	Mrs. Pharo, Alt 1	Absent – excused
	Mrs. McAlinden, Alt 2	Present

Also Present: George Neidig, Board Solicitor
Craig Hurless, P.E., P.P., Board Engineer
Mary Rothwell, Board Assistant/Zoning Officer
Edie Kopsitz, Recording Secretary

Applications:

Gentilini, 202 Queen Street, Block 1083 Lot 15 – Hardship Variance

Craig Hurless clarified his credentials for the record.

Paul Gentilini, owner was present along with his professional Mark Gibson, Land Surveyor and was sworn in by Mr. Neidig. Mr. Gibson using his Variance Plan dated October 4, 2012 denoting the proposed request to construct a new 12 feet x 23 feet first floor deck addition to the structure on an undersized lot that currently has an 8 feet x 18 feet deck. Renovations will also include new paver walkway; patio and landscaping that will blend in with the streetscape. He verified the Cape May Ordinance requires 6, 250 square feet lot size where 6,080 square feet exist and indicated it is a corner lot that require two (2) front yard setbacks. He indicated the positives out way any detriments and the variance requested is not out of scale with the needs of the immediate neighborhood and granting the variance will not adversely affect the existing use or usability or the adjacent or nearby properties and will maintain the integrity and character of the existing neighborhood.

Member Iurato questioned Mary Rothwell, Board Assistant/Zoning Officer regarding documentation that is included in the application; the verification of taxes paid to date and date on the Sealed Affidavit was omitted. Mary Rothwell confirmed that the taxes were current and requested Mr. Gibson clarify for the record the dates to be included on the Sealed Affidavit form (June 27, 2012, revision dates of October 12, 2012 and April 12, 2013).

Board Engineer, Craig Hurless then reviewed his report of April 9, 2013 clarifying the description for the membership. He detailed the proposal and clarified, NJSA 40:55D-70c (1) Hardship Variance. Mr. Hurless refers to his completeness review on pages 2, C & D Variances & Conditional Use Approval item #5. He addressed the Zoning table on page 2 for the R-3A District and sited ordinance §525-16.1 and clarified the standard, required, existing, proposed and status. He continued with the variances sought on page 4, §525-16.1B (1) Table 1 Building Setback and §525-16.1B (1) Table 1 Lot Size, the General Review comments on pages 3 & 4, items #1 (condition 4ft Buffer), #2 (condition), #3 (condition), #4(condition), #5(condition), #6 (HPC condition) and #7 (COAH condition).

Members were afforded time for questions throughout the application. Members were positive on the applicant with comments regarding the vegetation and site triangle with Mr. Hurless clarifying it would not affect it because it is low growing. Member Inderwies asked if the deck could be moved to another side of the structure with the applicant responding that it would then be attached to a bedroom and would bring safety concerns. Mr. Gentilini entered a copy of a photo board that was marked into evidence as **A-1**. Member Schmidtchen concurred with Mr. Hurless comments regarding the site triangle elaborating on this application and others that have come before the Board with the same request.

Chairman White opened the meeting for public comment at 6:45pm to those within 200 feet and beyond: Emanuel Iarovanta, 1006 Benton Avenue, had concerns regarding the site triangle. He distributed AASHTO site triangle diagrams marked **O-1** to which Mr. Hurless responded that the Cape May City Site Triangle restrictions are more stringent than AASHTO. The highlighted sections that Mr. Iarovanta referred were web blogs that could not be verified. With no one else coming forward the **public portion was closed @ 6:50pm.**

Motion made by Mr. Meier to grant the variance for §525-16.1B(1) Table 1 Lot Size. Seconded by Mr. Schmidtchen and **carried 7-0.** Those in favor: Mr. Iurato, Mr. Meier, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchinson and Mr. White. Those Opposed: None. Those Abstaining: None.

Motion made by Mr. Schmidtchen to grant the variance for §525-16.1B (1) Table 1 Building Setback. Seconded by Mrs. Inderwies and **carried 7-0.** Those in favor: Mr. Iurato, Mr. Meier, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchinson and Mr. White. Those Opposed: None. Those Abstaining: None.

Motion made by Mr. Schmidtchen to approve the checklist waiver as noted on Mr. Hurless completeness review report dated April 9, 2013 pages two (2) of four (4), #5. Seconded by Mr. Meier and **carried 7-0.** Those in favor: Mr. Iurato, Mr. Meier, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchinson and Mr. White. Those Opposed: None. Those Abstaining: None.

Motion made by Mrs. Hutchinson to impose the following conditions: Craig Hurless reports dated April 9, 2013 of the General Review Comment's pages 3 & 4 - #1, #2, #3, #4, #5, #6, #7 and provide the additional Landscaping plan to Board Engineer for approval.

Seconded by Mr. Meier and **carried 7-0**. Those in favor: Mr. Iurato, Mr. Meier, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchinson and Mr. White. Those Opposed: None. Those Abstaining: None.

CBB LLC, Homestead Realty, 502 Bank Street, Block 1040 Lot 3.05, Use Variance Hardship Variance, Preliminary & Final Site Plan

Craig Hurless clarified his credentials for the record.

Louis Dwyer, Esquire was representing Dagmer and Russell Chew owners along with their professionals Vincent Orlando, Engineering Design Associates (EDA) and Christina Amey, Architect who were sworn in by Mr. Neidig. Mr. Dwyer described the project site located in the C-5 district on the corner of Broad and Bank street know to Cape May as the vacated WAWA and proposes to totally renovate the premises to a Real Estate and property management offices with an apartment above and a laundry facility to be utilized by the Real Estate/Property Management (for their rental listings only). He elaborated on the laundry facility indicating it provides bedroom linens, bath towels and rugs for their rentals only and described the success of this service in the past. Mr. Dwyer also stated that interestly the C-5 Zone has bulk provision for residential uses but does not specifically list them as being permitted and indicated that this site abuts the C-1 Zone that apartments are permitted. He stated off street parking for 14 (fourteen) vehicles exists, driveway access to both streets exist, they are seeking preliminary and final site plan approval for the new uses. He stated they received Historic Preservation Commission conceptual approval and shared with the Board that HPC was elated to have a structure that will blend in with the streetscape and be an asset to the Historic District.

Ms. Amey using an enlarged color rendering of her plan dated March 21, 2013 with a revision dated of April 25, 2013 described in detail the proposed structure. Chairman White expressed how the proposed building looks so much larger and different even though it is built within the same footprint. Ms. Rothwell requested verification on the office and residential area's square footage for the record (Office area – 2,665 sq.ft & Residential Unit Area is 3,201 sq. ft) Ms. Amey responded that it was their goal to give a unique but functional look. The presentation was turned over to Mr. Orlando who referred to his plan dated February 27, 2013 sheets 1 through 6. He clarified the number of trips on the site that are being reduced do to the proposed application (Sheet 2) the reconfiguration of the parking to 21 spaces are more than sufficient, described in detail the landscaping plan (Sheet 4) that he believes that a "D" Variance should be granted referred to NJSA 40:55D-2 Purpose of the Act –(g) Provided sufficient space (for residential & commercial), (i) Desirable visual, (j) Conservation of Historic Site, (m) efficient use of land and indicated profusely that there is no detriment to the Zoning Plan or Zoning Ordinance and stated that the proposed structure maintains the character of both Zones. He explained the C-1 Variance for the setbacks basis and how it conforms to the lot and complies with the requirements of both C1 and C2 variance. Mr. Hurless requested clarification on the laundry facility and believes it is not a permitted use (under the current use regulation). Mr. Hurless stated that the Board will determine if it will be a permitted use and what use variances will be granted. Mr. Chew's responded giving testimony clarifying the need of the laundry on the facility and how it has worked at their

present location. Mr. Dwyer stated it is an accessory use. Member Meir questioned if the laundry facility would require a permit. Ms. Rothwell clarified that she was unsure of what the Mercantile License incorporates and what Uniform Construction Codes would determine if they need to obtain a permit for the laundry facility. Ms. Rothwell as the Zoning Officer is requesting guidance of the Board Engineer on this application regarding the laundry (on a case by case basis). Mr. Dwyer clarified that this laundry is only for the Real Estate Rental usage only (in house linens) and not a commercial laundry mat. Ms. Rothwell then requested clarification of the garage and Mr. Orlando responded. Chairman White wanted verification if Swain's Hardware had any issue of the proposed parking with Mr. Dwyer stating the Swain's are very copasetic to the proposed plan.

Board Engineer, Craig Hurless then reviewed his report of May 13, 2013 clarifying the description for the membership. He detailed the proposal and clarified, NJSA 40:55D-70d Use Variance, NJSA 40:55D-70c (1) Hardship Variance, NJSA 40:55D-70c Substantial Benefit Variance and Preliminary & Final Site Plan. Mr. Hurless refers to his completeness review on pages 2, C & D Variances & Conditional Use Approval item #20, #21, #24, #26 & #27 and Preliminary & final Site Plan #3 (f), (v) and (aa). He addressed the Zoning table on page 3 for the C-5 District and cited ordinance §525-26 and clarified the standard, required, existing, proposed and status. He continued with the variances sought on page 4 through 6, §525-26A Use Variance, §525-26B (1) Table 1 Building Setback, §525-26B (1) Table 1 Improvement Setback, §525-26B (1) Table 1 Rear Yard Setback, §525-49B Parking Buffer and §525-59E (7) Parking in Setback. He clarified the General Review comments on pages 6 & 7, items #1 (condition), #2 (recommend waiver re: loading §525-50), #3 (condition), #4(condition), #5(condition), #6 (condition), #7 (condition), #8 (condition), #9 (condition), #10 (condition HPC) and #11 (condition COAH).

Members were afforded time to question the applicant and the professional throughout the presentation. Members were positive on the application but requested clarification regarding the residential apartment above the Real Estate if it was their intention of owner's quarters. Mr. Dwyer responded that it is the intention of the applicant to reside in the residential apartment. Member Schmidtchen requested that the Use Variance of the Laundry and the Residential Unit be done separately explaining his reasons for the record. He also requested that the apartment not be deed restricted to owners quarters explaining in detail for the record and have the laundry facility conditioned for use of this application only.

Chairman White opened the meeting for public comment at 8:00pm to those within 200 feet and beyond: Suzanne Smigo, 1041 Illinois Avenue, positive on application and supports the Chew's on creating a pleasing building for the neighborhood. She requested clarification between C1 and C5. Mr. Dwyer responded in detail. With no one else coming forward the **public portion was closed @ 8:03pm.**

Mr. Dwyer gave his closing remarks explaining the totality of the application of the large lot, having a residential unit above the site is not an overuse the added parking to the area and indicated that the benefit to the town and neighbors will be asset to Cape May. He is requesting the granting of the variance relief and thanked the Board for hearing this application.

Motion made by Mr. Meier to grant the variance for §525-26A Use Variance for the Laundry facility. Seconded by Mrs. Inderwies and **carried 7-0.** Those in favor: Mr. Iurato, Mr. Meier, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchinson and Mr. White. Those Opposed: None. Those Abstaining: None.

Motion made by Mr. Meier to grant the variance for §525-26A Use Variance for the Residential apartment on the second floor. Seconded by Mrs. Hutchinson and **carried 7-0.** Those in favor: Mr. Iurato, Mr. Meier, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchinson and Mr. White. Those Opposed: None. Those Abstaining: None.

Motion made by Mr. Meier to grant all other bulk variances; §525-26B (1) Table 1 Building Setback, §525-26B (1) Table 1 Improvement Setback, §525-26B (1) Table 1 Rear Yard Setback, §525-49B Parking Buffer and §525-59E (7) Parking in Setback. Seconded by Mr. Schmidtchen and **carried 7-0.** Those in favor: Mr. Iurato, Mr. Meier, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchinson and Mr. White. Those Opposed: None. Those Abstaining: None.

Motion made by Mr. Meier to approve the checklist waiver as noted on Mr. Hurless completeness review report dated May 13, 2013 pages three (3) of seven (7), #20, #21, #24 & #26. Seconded by Mrs. Inderwies and **carried 7-0.** Those in favor: Mr. Iurato, Mr. Meier, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchinson and Mr. White. Those Opposed: None. Those Abstaining: None.

Motion made by Mrs. Hutchinson to grant the checklist waiver as noted on Mr. Hurless completeness review report dated May 13, 2013 pages three (3) of seven (7) (v) EIS. Seconded by Mr. Schmidtchen and **carried 7-0.** Those in favor: Mr. Iurato, Mr. Meier, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchinson and Mr. White. Those Opposed: None. Those Abstaining: None.

Motion made by Mr. Iurato that a waiver for providing a loading zone be granted as stated in Mr. Hurless report dated May 13, 2013 page six (6) of seven (7) item # 2. Seconded by Mr. Meier and **carried 7-0.** Those in favor: Mr. Iurato, Mr. Meier, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchinson and Mr. White. Those Opposed: None. Those Abstaining: None.

Motion made by Mr. Iurato to grant Preliminary and Final Site Plan approval. Seconded by Mrs. Hutchinson and **carried 7-0.** Those in favor: Mr. Iurato, Mr. Meier, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchinson and Mr. White. Those Opposed: None. Those Abstaining: None.

Motion made by Mr. Schmidtchen to impose the following conditions: The laundry facility is connected to the fact that it is for the Real Estate Office as an accessory use to the real estate office and used for the purposes of laundry for the Realtor's clients, Craig Hurless report dated May 13, 2013 page two (2) of seven of the Completeness Review # 27 & (aa), the General Review Comment's 6 & 7 - #5, #6, #7, #8, #9, # 10 and #11. Seconded by Mrs.

Inderwies and carried 7-0. Those in favor: Mr. Iurato, Mr. Meier, Mrs. Inderwies, Mr. Schmidtchen, Mr. Atwell, Mrs. Hutchinson and Mr. White. Those Opposed: None. Those Abstaining: None.

Chairman White announced the next meeting for the Zoning Board of Adjustment is Thursday, June 27, 2013 @ 6:30pm. He informed the membership he would not be in attendance.

Motion made by Mr. Meier to adjourn @ 8:20pm. Seconded by Mr. Iurato **and carried with all in favor.**

A verbatim recording of said meeting is on file at the Construction/Zoning Office.

Respectfully submitted: Edie Kopsitz, Recording Secretary.