

**City of Cape May Zoning Board of Adjustment Meeting Minutes  
June 27, 2013**

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

<b>Roll Call:</b>	Mr. White, Chairperson	<b>Absent - excused</b>
	Mrs. Hutchinson	Present
	Mr. Iurato	Present
	Mr. Schmidtchen	Present
	Mr. Meier	Present
	Mrs. Inderwies	Present
	Mr. Atwell	Present
	Mrs. Pharo, Alt 1	<b>Absent – excused</b>
	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

**Minutes: May 23, 2013**

**Mr. Schmidtchen moved to approve the May 23, 2013 minutes with noted corrections.** Seconded by Mr. Iurato and **carried 7-0**. Those in favor: Mr. Iurato, Mrs. Inderwies, Mr. Meier, Mr. Schmidtchen, Mr. Atwell, Mrs. McAlinden and Mrs. Hutchinson. Those Opposed: None. Those Abstaining: None.

**Resolutions:**

**Gentilini, Block 1083 Lot 15 - Resolution #6-27-2013:1**

**Mrs. Iurato moved to approve the Gentilini Resolution #6-27-2013:1 as presented.** Seconded by Mr. Schmidtchen and **carried 7-0**. Those in favor: Mr. Iurato, Mrs. Inderwies, Mr. Meier, Mr. Schmidtchen, Mr. Atwell, Mrs. McAlinden and Mrs. Hutchinson. Those Opposed: None. Those Abstaining: None.

**CBB LLC, Homestead Realty, Block 1040 Lot 2.05 - Resolution #6-27-2013:2 as presented.**

**Mrs. Iurato moved to approve the CBB, LLC Resolution #6-27-2013:1 as presented with the copy received June 27, 2013.** Seconded by Mr. Meier and **carried 7-0**. Those in favor: Mr. Iurato, Mrs. Inderwies, Mr. Meier, Mr. Schmidtchen, Mr. Atwell, Mrs. McAlinden and Mrs. Hutchinson. Those Opposed: None. Those Abstaining: None.

## **Applications:**

### **Sucher & Lyons, 516 Carpenters Lane, Block 1049 Lot 7 Use Variance, Amended Site Plan**

Craig Hurless clarified his credentials for the record.

Thomas Phelan, Esquire representing Mark Sucher and Jane Lyons owners along with the proposed tenant Carl Spatocco, owner of Cape May Olive Oil Company located 324 Carpenters Lane & the tenant proposed Cape May Peanut Butter Company, all were sworn in by George Neidig. Mr. Phelan explained the applicant is requesting to serve food in the establishment. The Cape May Peanut Butter Company will have several grinders (for the variety of nuts), coffee urns, toasters, flat iron crepe maker (electrical), milk machines, sink/basin, bake products to be delivered daily and stated there will be no table service. He clarified in detail the justification for the granting of the use variance by serving food in an establishment in the RS district and stated it is consistent with the Master Plan. He stated there are unique circumstances on Carpenters Lane, that it is Commercial as well as Residential Seasonal Street and indicated that the food service operation is not new to Carpenters Lane (Pilot House, Tisha's and the Pop Corn Factory). The Plot Plan of Survey dated March 25, 2013 along with the Plan of Survey by William P. Sweeney dated November 12, 2001 were perused. He indicated they have parking on site for two (2) vehicles.

Members were positive on the application but had concerns regarding the parking, number of employees, trash enclosure and tables. Discussion was entered at length regarding indoor/outdoor seating with Mr. Phelan stating "No indoor seating only a picnic table outside, comparable to other businesses on Carpenters Lane". Mr. Hurless requested clarification of the employees explaining with the seats and increase of one (1) employee it will require more parking and indicated they could be a candidate for the parking trust fund. Mary Rothwell, Zoning Officer wanted clarification on whether there will be a reduction in retail space recommending they recalculate. Member Schmidtchen recommended a brief recess be conducted so the applicant could discuss what was put forth by the Board.

**Vice Chairman Hutchinson called for a five (5) minute recess at 7:05pm. The meeting resumed @ 7:10pm.**

Mr. Phelan returned with the applicant (Sucher & Lyons) and their tenant (Spatocco, Cape May Peanut Butter Company) and concurred with the parking fund in the amount of \$15,000 for three (3) deficient parking spaces and will have 8 seats. Mr. Hurless read into the record §525-49C regarding off street parking and contributions to the Parking Fund.

Board Engineer, Craig Hurless then reviewed his report of June 6, 2013 clarifying the description for the membership. He detailed the proposal and clarified, NJSA 40:55D-70d (1) Use Variance. Mr. Hurless refers to his completeness review on pages 2, C & D Variances & Conditional Use Approval items, #5, #18, #19, #22, #23, #24, #26, #27, #28, #33 and detail required for Preliminary Site Plan Approval. He addressed the Zoning table on page 3 for the R-S District and cited ordinance §525-19 Historic Conversions and clarified the standard,

required, existing, proposed and status. He continued with the variances sought on page 3, §525-14A Use Variance (Expansion of Non-conforming use), reviewed the variances on page 4 that were previously granted and commented on the Design Waivers previously granted. His General Review comments on pages 4 & 5, items #1 (condition- modification of 8 seats indoor/outdoor), #2 (condition), #3 (condition), #4 (condition – covered dumpsters), #5 (n/a), #6 (condition), #7 (n/a) due to the parking trust, #8 (condition), #9 (condition), #10 (condition) HPC sign dimension will not change and #11 COAH.

**The meeting was opened to the Public at 7:35PM for those within 200 feet and beyond, coming forward were; Steve Perras, 1011 Lafayette Street;** was positive on the application announcing he is the co owner of Italian Garden, stating the retail store needs to be a destination and supports the proposed Cape May Peanut Butter Company expressing it promotes business for the whole family to enjoy. **Cindy Huff, 327 Carpenters Lane** supports the application and commends the applicant for introducing another business to the neighborhood. **Julie Hickman, 324 Carpenters Lane,** supports application and the proposed tenants, indicating she is the neighboring business of the Olive Oil Company and believes the Peanut Butter Company is unique and will draw a lot of business for family. **Pam Samarah, 311 Washington Street Mall,** (co owner of Madams Port & Across the Way) was positive on the application, concurring with all who came forward that it is a unique business venture and will encourage more persons to shop on the mall. **Mary Ockrymiek, 1002 Maryland Avenue,** owner of Cape May Food Tours, in favor the application, echoing others on the uniqueness of the store that will encourage/promote more people and revenue. **The public portion of the meeting was then closed at 7:45pm.**

Mr. Phelan gave a summation of proposed application highlighting its uniqueness to the area and how allowing the expansion of the Use Variance that was approved in 2003 in order to serve food will be an asset to the area.

**Mr. Meier moved for approval of the Use Variance to include food service.** Seconded by Mr. Schmidtchen and **carried 7-0.** Those in favor: Mr. Iurato, Mrs. Inderwies, Mr. Meier, Mr. Schmidtchen, Mr. Atwell, Mrs. McAlinden and Mrs. Hutchinson. Those Opposed: None. Those Abstaining: None.

Member's Schmidtchen, Meier, Iurato and Vice Chairperson Hutchinson voice their approval reason in detail for the record.

**Motion made by Mr. Schmidtchen to grant the Completeness Waivers as noted in Mr. Hurless's report dated June 6, 2013 pages 2 & 3 - #5, #18, #19, #22, #23, #26, #27, #28, and #33.** Seconded by Mr. Meier and **carried 7-0.** Those in favor: Mr. Iurato, Mrs. Inderwies, Mr. Meier, Mr. Schmidtchen, Mr. Atwell, Mrs. McAlinden and Mrs. Hutchinson. Those Opposed: None. Those Abstaining: None.

**Motion made by Mr. Iurato to grant Site Plan Waiver requirements as noted in Mr. Hurless report dated June 6, 2013 pages 2 and 3 subject to the conditions.** Seconded by Mr. Meier and **carried 7-0.** Those in favor: Mr. Iurato, Mrs. Inderwies, Mr. Meier, Mr.

Schmidtchen, Mr. Atwell, Mrs. McAlinden and Mrs. Hutchinson. Those Opposed: None. Those Abstaining: None.

**Motion made by Mr. Meier for approval with the following Conditions noted in Mr. Hurless report dated June 6, 2013 pages 4 & 5 - # 1 (maximum 8 seats), #2, #4, #6, #8, #9, #10 and #11, Parking Trust Fund \$15,000 in lieu of 3 spaces on site and food may be served on premises (not prepared by open flame or any ansul systems) and food preparation equipments shall include sink, lenders, toasters, refrigeration's system, grinders, a crepe maker, coffee pots, milk machines and there will not be any table service provided.** Seconded by Mr. Schmidtchen and **carried 7-0.** Those in favor: Mr. Iurato, Mrs. Inderwies, Mr. Meier, Mr. Schmidtchen, Mr. Atwell, Mrs. McAlinden and Mrs. Hutchinson. Those Opposed: None. Those Abstaining: None.

**Motion made by Mr. Meier to adjourn @ 8:00pm.** Seconded by Mrs. Hutchinson 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.**