

**City of Cape May Zoning Board of Adjustment Meeting Minutes
July 26, 2012**

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
	Mr. Williams, Vice Chairperson	Present
	Mrs. Hutchinson	Present
	Mr. Iurato	Present
	Mr. Schmidtchen	Present
	Mr. Todd	Present
	Mr. Meier	Present
	Mrs. Inderwies, Alt 1	Present
	Mrs. Mullins, 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

Chairman White welcomed Susan Mullins, Alternate II to the Zoning Board.

Minutes: April 26, 2012 and May 24, 2012

Motion made by Mr. Meier to accept the minutes dated April 26, 2012 and May 24, 2012 as presented. Seconded by Mrs. Inderwies and **carried 7-0.** Those in favor: Mr. Iurato, Mrs. Hutchinson, Mr. Schmidtchen, Mr. Todd, Mr. Meier, Mr. Williams and Mr. White. Those Opposed: None. Those Abstaining: None.

**Resolutions: CMQH LLC, 601 Columbia Avenue, Block 1057 Lot 24 - #7-26-2012:1
Cappelletti, 458-460 West Perry Street, Block 1031 Lot 1- #7-26-2012:2
Ternove, 719-721 Franklin Street, Block 1080 Lot 32 - #7-26-2012:3**

Motion made by Mr. Iurato to approve Resolution #7-26-2012:1 for CMQH, LLC as presented. Seconded by Mr. Williams and **carried 7-0.** Those in favor: Mr. Iurato, Mrs. Hutchinson, Mr. Schmidtchen, Mr. Todd, Mr. Meier, Mr. Williams and Mr. White. Those Opposed: None. Those Abstaining: None.

Motion made by Mr. Iurato to approve Resolution #7-26-2012:2 for Cappelletti as presented. Seconded by Mr. Meier and **carried 5-0.** Those in favor: Mr. Iurato, Mrs. Hutchinson, Mr. Meier, Mr. Williams and Mr. White. Those Opposed: None. Those Abstaining: Mr. Schmidtchen and Mr. Todd.

Motion made by Mr. Iurato to approve Resolution #7-26-2012:3 for Ternove as presented. Seconded by Mr. Meier and **carried 6-0.** Those in favor: Mr. Iurato, Mrs.

Hutchinson, Mr. Schmidtchen, Mr. Todd, Mr. Meier and Mr. White. Those Opposed: None. Those Abstaining: Mr. Williams.

Applications:

**Victorian Harbor Condominium Association, 1534 Yacht Avenue
Block 1160 Lot(s) 27, 27.01
Use/Hardship/Substantial Benefit Variance(s)
Preliminary & Final Site Plan Review**

Craig Hurless clarified his credentials for the record.

Louis C. Dwyer, Jr. Esquire representing Noel Beale, James Naughton who was present along with their professional Mathew Hender of EDA Engineering Design Associates all were sworn in by George Neidig. Mr. Dwyer described the application has an existing parking situation and elaborated that Yatch Avenue is a unique narrow dead end street located along the Cape May Harbor, which has minimal traffic flow. Mr. Dwyer explained there is no opportunity for on-street parking and parking problems are severe for existing uses. His clients are attempting to improve existing parking by reconfiguring existing parking by adding three parking spaces and improve the traffic flow. The application is to improve on site parking and make the property more compliant with required number of parking space. Mr. Hender proceeds with testimony using the site and parking plans dated November 11, 2011 displayed on a photo board for the member's perusal. He describes in detail the reconfiguration and responds to Board Members questions. He explained in detail that the benefits of creating additional parking outweigh any detriment and most of the uses along both sides of Yacht Avenue have parking which backs out onto Yacht Avenue and the back out parking has not presented a safety issue. Mr. Dwyer closing remarks states since on street parking is not available on Yacht Avenue, and given the fact the property is surrounded on all three sides by water, there is no possibility of any nearby on street parking and it would be an undue hardship to his clients if the relief is not granted. He believes the purposes of zoning will be advanced by making the drive isle larger and safer with added parking it is bringing the property more into conformity with the bulk requirements for this use.

Board Engineer, Craig Hurless then reviewed his report of June 18, 2012 clarifying the description for the membership. He detailed the proposal and clarified, NJSA 40:55D-70d (2) "Use" Variance, NJSA 40:55D-70c (1) Hardship Variance, NJSA 40:55D-70c (2) Substantial Benefit Variance and Preliminary & Final Site Plan. Mr. Hurless refers to his completeness review on pages 2 & 3, C & D Variances & Conditional Use Approval items, #23, #24, #25, #27 and #30, the details required for Preliminary Site Plan approval #3, (v) Mr. Hender responded, (w), (y) & (aa). He addressed the Zoning table on page 4 for the R-5 District "Single family detached, semidetached/two family detached" and sited ordinance §525-18. He clarified the standard, required, existing, proposed and status. He continued with the variances sought on pages 4 & 5, §525-18A Expansion of Non-conforming use, §525-18B (2) Table B Lot Coverage, §525-49A Parking General Standards, §525-49B Parking Buffer, §525-49C1 Parking Required Number, §525-59E (7) Parking Setback and §525-56

Safety Regulations – Clear sight triangle. His General Review comments on page 6, items #1, #2, #3 and #4.

The meeting was opened to the Public at 6:50 PM and closed with no one coming forward.

Members were allotted time for questions to the applicant and their professional. Concerns regarding the parking reconfiguration were discussed at length with the majority of members agreeing with the plans. Some members after reviewing the site noticed marked parking spaces on the street with a sign that stated no street parking. Mr. Dwyer stated there is no parking permitted on the street and is enforced by Code Enforcement.

Motion made by Mr. Schmidtchen to approve the both aspects of the Use Variance under New Jersey Municipal Land Use Law 40:55d-70d and Cape May City Ordinance §525-18A Expansion of a Non-conforming Use. Seconded by Mr. Meier and **carried 6-0.** Those in favor: Mrs. Hutchinson, Mr. Schmidtchen, Mr. Todd, Mr. Meier, Mr. Williams and Mr. White. Those Opposed: Mr. Iurato. Those Abstaining: None.

Mr. Iurato and Mr. White voiced their reasons for the record.

Motion made by Mr. Todd that remaining 6 Variances be granted collectively §525-18B (2) Table B Lot Coverage, §525-49A-Parking-General Standards, §525-49B Parking - Buffer, §525-49C1 Parking – Required Number, §525-59E (7) Parking Setback and §525-56 Safety Regulations-Clear sight triangle. Seconded by Mr. Meier and **carried 6-0.** Those in favor: Mr. Todd, Mrs. Hutchinson, Mr. Meier, Mr. Schmidtchen, Mr. Williams and Mr. White. Those Opposed: Mr. Iurato. Those Abstaining: None.

Motion made by Mrs. Hutchinson to grant Preliminary and Final Site Plan approval subject to the conditions that will be imposed. Seconded by Mr. Todd and **carried 6-0.** Those in favor: Mr. Todd, Mrs. Hutchinson, Mr. Meier, Mr. Schmidtchen, Mr. Williams and Mr. White. Those Opposed: Mr. Iurato. Those Abstaining: None.

Motion made by Mr. Meier to impose the following conditions: Craig Hurless report dated June 18, 2012 of the General Review Comment's pages 3 & 4 All preliminary plans shall show at least the following (aa) & page 6 - #1, #2, #3 and #4. Seconded by Mrs. Hutchinson and **carried 6-0.** Those in favor: Mr. Todd, Mrs. Hutchinson, Mr. Meier, Mr. Schmidtchen, Mr. Williams and Mr. White. Those Opposed: Mr. Iurato. Those Abstaining: None.

**Jacobson, 533 Elmira Street
Block 1061 Lot 12
Hardship/Substantial Benefit Variance(s)**

Craig Hurless clarified his credentials for the record.

Louis C. Dwyer, Jr. Esquire representing Charles and Susan Jacobson the owners whom were present and sworn in by George Neidig. Mr. Dwyer explained the owner have a modest size above-ground pool which is conforming. The applicant proposes to construct a 21' x 33.5' wood deck adjacent to the existing dwelling and above ground pool. Mr. Dwyer shared with the members that a ground level deck would look ridiculous and not be functional. He stated §525-61 requires pool decks to be setback ten (10) feet from any building. He contends the only available space for a pool deck is adjacent to the house and if the pool was not there the deck would be permitted with no variance relief needed. Mr. & Mrs. Jacobson testimony concurred with Mr. Dwyer's presentation.

Members were allotted time to question the application. They confirmed the need for the ten (10) foot setback was to allow access of emergency vehicles and apprentices. Mr. Dwyer responded it is a one (1) story structure with ample side and rear yard access. Concerns regarding the safety surrounding the pool with regards to a fence and protective locking gates to the pool were discussed at length. Mr. Hurless clarified that they have to be on the constructions drawings in order to draw construction permits. Mr. Neidig concurred with Mr. Hurless and reiterated the process of the Construction office. Members questioned the water discharge of the pool. Mrs. Jacobson stated the pool does not get drained and the same water is treated, covered and maintained over the winter.

Board Engineer, Craig Hurless then reviewed his report of May 30, 2012 clarifying the description for the membership. He detailed the proposal and clarified, NJSA 40:55D-70c (1) Hardship Variance and NJSA 40:55D-70c (2) Substantial Benefit Variance. Mr. Hurless refers to his completeness review on page 2, C & D Variances & Conditional Use Approval items, #5, #20, #21, #23, #24, #26, #27, #28 and #33. He addressed the Zoning table on page 3 for the R-3 District "Single family detached" and sited ordinance §525-16. He clarified the standard, required, existing, proposed and status. He continued with the variances sought on pages 3 & 4 §525-16B(1) Table 1 and §525-61A (2) Distance from Pool to Principal Structure. His General Review comments on page 4, items #1, #2, #3, #4, #5 Mr. Craig emphasized it will include conformances with all building codes with regards to the fence, lap locking gates etc. and #6.

The meeting was opened to the Public at 7:21 PM and closed with no one coming forward.

Motion made by Mr. Meier to approve the checklist waivers as noted on Mr. Hurless completeness review report dated May 30, 2012 pages two (2) of 4, #20, 21, 23, 24, 26, 27 and 28. Seconded by Mrs. Hutchinson and **carried 7-0.** Those in favor: Mr. Iurato, Mr. Todd, Mrs. Hutchinson, Mr. Meier, Mr. Schmidtchen, Mr. Williams and Mr. White. Those Opposed: None. Those Abstaining: None.

Motion made by Mr. Meier to grant Variances §525-16B(1) Table 1 - Lot Size pre existing. Seconded by Mr. Schmidtchen and **carried 7-0.** Those in favor: Mr. Iurato, Mr. Todd, Mrs. Hutchinson, Mr. Meier, Mr. Schmidtchen, Mr. Williams and Mr. White. Those Opposed: None. Those Abstaining: None.

Motion made by Mr. Meier to grant Variances §525-61A(2)-Distance from Pool to Principal Structure. Seconded by Mrs. Hutchinson and **carried 6-1.** Those in favor: Mr. Iurato, Mr. Todd, Mrs. Hutchinson, Mr. Meier, Mr. Schmidtchen and Mr. White. Those Opposed: Mr. Williams. Those Abstaining: None.

Member Williams stated his reason for a negative vote for the record. Member Meier and Chairman White voiced their reasons for the record.

Motion made by Mr. Meier to impose the following conditions: Craig Hurless report dated May 30, 2012 of the General Review Comment's page 4 - #1, #2, #3, #4, #5 and #6. Seconded by Mr. Schmidtchen and **carried 7-0.** Those in favor: Mr. Iurato, Mr. Todd, Mrs. Hutchinson, Mr. Meier, Mr. Schmidtchen, Mr. Williams and Mr. White. Those Opposed: None. Those Abstaining: None.

Chairman White with verification from Mary Rothwell, Board Assistant/Zoning Officer announced the next Zoning Board Meeting will be August 23, 2012 at 6:30pm.

Motion made by Mrs. Inderwies to adjourn @ 7:30pm. Seconded by Mr. Meier 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.