

**ZONING BOARD OF ADJUSTMENT
SPECIAL MEETING
FEBRUARY 28, 2018**

PRESENT: John Hutchinson, Phil Greig, Mark Fitzgerald, John Lisko, Chuck Ross and Bob Cupoli

ABSENT: Ms. Casserly, Ms. Young and Mr. Fowler

ALSO, PRESENT: Board Attorney Kevin E. Kennedy, Esq., Board Secretary April Claudio, and Zoning Officer Ted Bianchi

The secretary stated that adequate notice of this meeting of the Zoning Board of Adjustment was sent by email to our official newspapers, the Coast Star and the Asbury Park Press on December 18, 2017 and by posting a copy of said notice at the Municipal Complex on the same date.

HOWARD AND NORMA EDELMAN – 201 12TH AVENUE

Mr. Kennedy stated this is a new application, they did appear before the Board back in November 2017 but was denied. Appearing for this application was attorney Bill Shippers, engineer Rich DiFolco, and architect Brendan McHugh. Mr. Shippers submitted photos of the existing site and a computerized rendering of the proposal. The proposal is to build a new single-family home which is substantially different from the home they proposed a few months ago. Mr. Kennedy reiterated that the proposal must be substantially different from the proposal that was denied. Mr. Shippers stated his professionals will explain the changes made and how the new proposal is substantially different. They have not only changed the layout but the aesthetics. Mr. Shippers stated they've improved building coverage, impervious coverage, and front yard setback.

Mr. McHugh explained the variances being requested. Three parking spaces are required and two are proposed. The height is 2 ½ stories and under the 35 feet. They now comply with the half story ordinance. He explained the changes to the floor plan. On the second floor a bedroom and bathroom were eliminated.

Mr. Bianchi stated the roof over top the second-floor balcony requires an additional variance. He added that a variance is also needed for the flat roof above the second floor.

Mr. McHugh added the proposed square footage of the house is 2516.8 square feet. The original proposal was 3052 square feet.

Mr. DiFolco discussed photographs of the existing site and neighborhood that were submitted as exhibits. He stated drainage goes towards the north and west sides of the property. The grading is situated to ensure there are no drainage issues with the property to the south. The sidewalk and driveway will be made of brick pavers. There will be sidewalk and curb replacement for the whole property. The existing driveway apron on A Street will be removed and a new apron installed on 12th Avenue. This does not affect the number of on street parking spaces. Will make a good faith effort to place the electric service underground. He stated he feels the proposed home is undersized in comparison to the newer homes being built in the neighborhood.

Mr. Cupoli asked if there is enough space on the west side of the property to allow for all the windows proposed. Mr. McHugh explained the window arrangement. Mr. Cupoli asked if the proposed home protrudes any further out than the homes on either street. Mr. DiFolco submitted exhibit A5 from the original application which showed the setbacks of the adjacent properties. The proposed roof on the first floor is in line with the average front yard setback of the properties to the south and west.

Mr. Ross asked if pervious pavers could be used. Mr. Shippers stated they have no objection to that. Mr. Lisko and Mr. Cupoli agreed it should be a condition.

Mr. Fitzgerald asked about the crawl space underneath the house. Mr. McHugh stated there will be a 3-ft. crawl space with a concrete slab. Mr. Fitzgerald asked about the a/c units. Mr. McHugh stated they will be on the flat roof.

Mr. Greig asked for the distance from A Street to the new curb cut. Mr. DiFolco estimated about 47 feet from the driveway to the curb of A Street. Mr. Bianchi stated it is fine. Mr. Greig asked if

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the proposed pitch is sufficient. Mr. DiFolco stated it's about a 1% pitch. There would be no roof water in the southwest corner, only water would be the water that hits that area.

Mr. Fitzgerald stated there are some properties in town that have their gutters going to a sump pump that runs underground through the curb into the storm sewers. He asked if this property could do the same. Mr. Bianchi stated it is not available in all areas of town and a map would have to be obtained to see if it's an option for this property.

Mr. Hutchinson asked about the front setback. Mr. Shippers stated they lost 11.5 of porch on A Street and brought the overhang on 12th Avenue back a foot.

Public:

Joan Corallo, A Street, stated she lives in the house directly south of this property. She stated she was upset the registered letter came Monday evening and not ten days prior to the meeting. Not sure what the post office did with the letter for ten days. She stated she doesn't have a problem with the new proposal. Her only concern was drainage. Mr. DiFolco explained the drainage popups that are proposed. Ms. Corallo stated the sewer pipes used to be shared but were split. She submitted photos of her property showing the sewer clean out plugs. She wanted to make sure that when they demo the sewer that none of it is still connected to her sewer and clean outs. Mr. DiFolco stated they will do a camera inspection of the private laterals to make sure there is no crossover. If there is crossover it will be addressed. Ms. Corallo asked about protection of her house during demolition. Mr. DiFolco stated during the permit process the construction office will determine if a protection barrier is required.

Maria Florio, 115 12th Avenue, stated she loves the house. Her only concern is about asbestos on the existing house. Mr. Bianchi stated they will have to take care of the disposal of the asbestos during the permit process.

Tom Burke, 608 10th Avenue, asked for more information on the drainage popups. Mr. DiFolco explained. Mr. Burke asked about one near the outdoor shower. Mr. Bianchi stated the shower must be tied into the sewer. Mr. Burke asked how many bedrooms are proposed. Mr. McHugh stated there are three bedrooms on the second floor and a loft space on the half story. Mr. Burke was concerned about the size of the loft and the number of beds and people that could fit in it and how it affects parking and the neighborhood.

Nancy Morrissey, 1906 A Street, supports the new application. Feels the Edelmanns did their best to accommodate the Boards' concerns while still maintaining a decent amount of living space. She doesn't see the Edelmanns or their children using it as a boarding home because they have a large growing family.

Board Comments:

Mr. Cupoli stated he thinks it has been reduced drastically and the design is much better and more appealing. Fits with today's architectural scale.

Mr. Ross stated he is in favor of the application, it is an improvement to the original plan. Feels they have done as much as they could to address the drainage.

Mr. Bianchi stated the garage cannot be on same the side of the street as the primary entrance which creates another variance. Mr. Shippers agreed.

Mr. Fitzgerald stated the 50x50 lot created a problem for the Edelmanns and they've done the best they can to come up with a design to accommodate their family. Feels the Board helped them by turning them down the first time because this is a much better plan. Felt if they weren't allowed to rebuild the existing house it would be more of a concern of becoming a group rental.

Mr. Greig agreed the changes are significant especially the decrease in floor area ratio.

Mr. Hutchinson stated he is in favor of the application. He felt not approving it would be a disservice to the neighborhood.

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Mr. Lisko stated he is in favor of the application and believes the changes made are substantial. Also agreed not approving it would be a detriment to the neighborhood.

Mr. Bianchi clarified the half story does not comply with the ordinance and is considered a third floor, which is another variance.

Mr. Fitzgerald made a motion to determining the new application was substantially different from the previous application that was denied, which was seconded by Mr. Cupoli and approved unanimously.

Mr. Hutchinson made a motion to approve the application, which was seconded by Mr. Fitzgerald and approved by the following vote:

AYES: Mr. Hutchinson, Mr. Greig, Mr. Fitzgerald, Mr. Lisko, Mr. Ross and Mr. Cupoli
NAYS:

At approximately 8:47 p.m. the Board took a recess. The Board reconvened t 8:55 p.m. Roll call was taken. All were still present.

NICK FUCCILLI – LA TERRAZZA RESTAURANT, 402-408 OCEAN AVENUE

Appearing for this application was attorney Bill Shipers, Mr. Fuccilli, contractor Dave Kinsel, John Cunha from Pool and Spa enclosures, engineer Rich DiFolco, and architect Mary Hearn. Mr. Kennedy pointed out that Mr. Shipers noticed for this property as well as 400 Ocean Avenue because both are involved with the application. He asked for names of all parties involved with both properties. Mr. Fuccilli stated himself and his uncle are the owners of Fusal LLC who are the operators of La Dolce Vita and La Terrazza restaurants. They are a tenant of 400 Ocean Avenue and the property owner is Ed Lippincott who gave authorization for tonight's application. The building known as 402-408 Ocean Avenue is owned by Fuccilli Family 408 LLC who consists of Mr. Fuccilli and his sister. Mr. Fuccilli further clarified that 402-408 Ocean Avenue has the restaurant on the first floor and four apartments on the second floor and 400 Ocean Avenue has a restaurant with two apartments above.

Mr. Shipers stated Mr. Fuccilli came before this board several years ago to enclose his outdoor dining area at La Dolce Vita with a glass canopy that can be opened and closed depending on season. Mr. Fuccilli would like to do the same on the northerly portion of La Terrazza and a glass enclosure that connects the stone arch between the two buildings to have a protected entry way into each of the restaurants.

Mr. Shipers asked Ms. Hearn if there is any impact on occupancy. Ms. Hearn stated no, it will be the same. Mr. Shipers added all it does is expand the seasonal use of some of the occupancy to year-round.

Ms. Hearn stated they would like to enclose 33x11 feet of the outdoor dining area. The glass enclosure would sit on the existing low walls and enclose this area. Also, would like to add a glass roof between the two buildings. The covered area between the building would be used for housekeeping and wait stations so they no longer encroach on the dining areas. Also gives a covered entrance to employees and a covered common entrance between the two restaurants. The roof between the two buildings would sit on the lot known as 400 Ocean Avenue which is why the application is for two properties each with variances. The existing nonconforming setbacks for the enclosure at La Dolce Vita and the low walls at La Terrazza have already been approved. Variances: existing floor area ratio, front yard setback, existing side yard setback, existing total side yard setback, existing side yard setback on south side adjacent to residential property. 400 Ocean variances: floor area ratio, side yard setbacks, and existing front yard setback, which will be improved.

Mr. Cunha explained the details of the construction of the retractable enclosure.

Mr. DiFolco stated the proposed enclosure compliments the existing glass enclosure on the property to the north. It's a common occurrence for restaurants to want to install these to get

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year-round use. There is no increase in water runoff and no exacerbation of current drainage conditions. Feels it will be attractive to the neighborhood.

Mr. Hutchinson asked if the central entrance has sufficient room for the doors on each side to open. Ms. Hearn stated the two doors are offset from each other for that reason. Both meet all egress requirements.

Mr. Greig asked about snow and rain accumulating on the roof of the enclosure and sliding off all at once onto the sidewalk. Mr. Cunha stated the snow won't accumulate that much because the inside of the room is heated. Ms. Hearn stated the one at La Dolce has the same roof pitch.

Mr. Fitzgerald asked about water runoff. Mr. Cunha stated there is a gutter on the wall track that will grab water and drain it to the east and west.

Mr. Ross asked about parking. Mr. Fuccilli stated there is a huge empty lot behind La Terrazza where they sometimes have parking for employees or the apartment tenants. Ms. Hearn stated there is no curb cut for La Terrazza, only access is through La Dolce Vita's property. Mr. Fuccilli stated there is no easement just a verbal agreement for it. Mr. Shippers stated Mr. Lippencott has not been interested in granting any easements.

Mr. Cupoli asked if the doorways are handicap accessible. Ms. Hearn replied yes. Mr. Cupoli asked Mr. Cunha about electric and lightning protection for the enclosure.

Public:

Katherine Carlson, 407 Ocean Avenue Apt. 13, stated she wanted to make comments about the business. She attended the hearing when the La Dolce Vita liquor license was transferred to La Terrazza in 2014. Have had instances where people have parking in the condominium parking lot. Have had issues with clutter on the sidewalks with signage. Have had issues with privacy and liability with the properties being so close. There have been issues with loud music.

Mr. Lisko stated a lot of her concerns should be addressed with Code Enforcement.

Raymond Brooks, 407 Ocean Avenue Apt. 15, stated he doesn't object to the enclosure but has objections on the operation of the restaurant which are for another forum. He asked if it's going to increase a problem with people going to the beach. Mr. Fuccilli stated it will not it's just enclosing what's already there. Mr. Brooks was concerned about them wanting to expand the enclosure. He had issues with odors and bicycle racks. Mr. Shippers stated the business is a permitted use and felt Mr. Brooks comments are derogatory and should be handled at another forum. He added that Mr. Fuccilli would have to come back before this board if he wanted to increase the density. Mr. Brooks asked how they can't meet the floor area ratio and was worried about setting a precedent. Mr. Kennedy stated each application is viewed on its own merits.

Gene Creamer, 4th Avenue, submitted a guide on accessible parking from the State of New Jersey to the Board. He was concerned about the lack of handicap parking on 4th Avenue and Ocean Avenue. It's a wonderful restaurant but it is not accessible especially in the summer. Feels there should be one handicap parking space in front of the business. Mr. Shippers stated he doesn't disagree but that is a town issue. Mr. Fuccilli stated there are two handicap parking spots now behind La Dolce Vita.

Board Comments:

Mr. Hutchinson stated he hears the neighbors' concerns and suggest they take appropriate actions with Code Enforcement. Given the information presented doesn't see any problem with the application.

Mr. Greig agreed. Doesn't think the enclosure will affect the neighbors except for maybe containing some of the noise.

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Mr. Fitzgerald stated he appreciates the neighbors' comments however they could work with the owner or appeal to the town to address any violations. Doesn't think the application impacts the quality of life.

Mr. Ross felt some of the concerns about odors, litter and noise might be better contained. There's no increase in foot traffic or occupancy so he would be in favor of the application.

Mr. Cupoli stated it is great to see a successful business there and it's important. Thinks it will look great.

Mr. Lisko stated he is in favor of the application. Felt it's a very minor technical application. Will make the business more successful.

Mr. Bianchi suggested they may need CAFRA approval and may need fire sprinklers. Ms. Hearn stated she will review the CAFRA rules and doesn't believe it will require fire sprinklers.

Mr. Cupoli made a motion to approve the application, which was seconded by Mr. Ross and approved by the following vote:

AYES: Mr. Hutchinson, Mr. Greig, Mr. Fitzgerald, Mr. Lisko, Mr. Cupoli and Mr. Ross
NAYS:

Mr. Fitzgerald made a motion to adjourn the meeting, which was seconded by Mr. Hutchinson and approved unanimously.