

ZONING BOARD OF ADJUSTMENT

JANUARY 25, 2018

PRESENT: John Hutchinson, Charles Ross, Phil Greig, John Lisko, Judy Young, Bob Cupoli and Manny Fowler

ABSENT: Michelle Casserly and Mark Fitzgerald

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.

Workshop Discussion: None

Mr. Kennedy administered the Oath of Office to Mr. Cupoli.

Mr. Fowler made a motion to nominate John Hutchinson as Vice Chairman, which was seconded by Mr. Cupoli and approved unanimously.

Mr. Fowler made a motion to nominate John Lisko as Chairman, which was seconded by Mr. Hutchinson and approved unanimously.

Mr. Ross arrived at the meeting at 7:10 p.m.

Mr. Hutchinson made a motion to waive the reading and approve the resolution appointing a Board Secretary, which was seconded by Mr. Cupoli and approved by the following vote:

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

Mr. Greig made a motion to waive the reading and approve the resolution appointing a Board Attorney, which was seconded by Mr. Cupoli and approved by the following vote:

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

Mr. Kennedy asked the Board to reaffirm the 2018 meeting dates established at the last meeting. Mr. Cupoli made a motion to reaffirm the meeting dates as advertised for 2018, which was seconded by Mr. Greig and approved unanimously.

Mr. Greig made a motion to waive the reading and approve the minutes of the December 14, 2017 meeting, which was seconded by Mr. Hutchinson and approved by the following vote:

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

Mr. Greig made a motion to waive the reading and approve the resolution granting approvals to Mark Daloia, 603 Ninth Avenue, which was seconded by Mr. Ross and approved by the following vote:

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

Mr. Greig made a motion to waive the reading and approve the resolution granting approvals to Patrick Amoresano, 513 10th Avenue, which was seconded by Mr. Cupoli and approved by the following vote:

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

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Mr. Greig made a motion to waive the reading and approve the resolution granting approvals to Surfboard LLC, 114 Ninth Avenue, which was seconded by Mr. Ross and approved by the following vote:

AYES: Mr. Hutchinson, Mr. Ross, Mr. Greig, Mr. Lisko, Mr. Cupoli and Mr. Fowler

NAYS:

Mr. Lisko announced the application of Dariusz Targonski, 611 10th Avenue will not be heard, it is tentatively carried to the February 22, 2018 meeting. Attorney for the application, Bill Shipers, was present and stated he will re-notice for the new date.

Ms. Young arrived at the meeting at 7:22 p.m.

111 10TH AVENUE ASSOCIATES LLC – 111 10TH AVENUE

Appearing for this application was attorney Michael Rubino, engineer Rich DiFolco, architect Brian Berzinskis, planner Allison Coffin, and Nick Antipin who is one of the property owners. Mr. Rubino submitted additional exhibits: photo board, aerial photo, colored elevations, and a letter from the State DCA stating the property currently has ten units.

Mr. Rubino stated the property currently has two big structures with ten dwelling units with nineteen bedrooms. The proposal would be to demolish the two structures and put up three new buildings under the Multi Family Cluster Development ordinance. Variances: lot size, lot frontage, and lot diameter. The ordinance permits side by side homes but because of the smaller lot size they cannot do side by side. Proposing three structures with two side by side units in each structure. This creates a “use variance” for not complying with the conditional use requirements of the ordinance. The proposal would be twelve bedrooms compared to nineteen bedrooms as well as improvements to setbacks and impervious coverage. Their goal is to get rid of the multi-family summer rental use with many problems and have townhome type units that could be sold.

Mr. Antipin stated he has owned the property for about 15 years. There are two buildings on the property now, five units in each building. There are two three-bedroom units, five one-bedroom units, and three one-bedroom units. The units were purchased as rentals and continued to be used as rentals. Has been difficult to control the renters even with living there during the summer. Doesn't want to be on the animal house list anymore. Each proposed unit would only have two bedrooms. If approved will have bylaws and condominium agreements drafted for review by the Board.

Mr. Berzinskis explained the architectural design of the buildings. The two front buildings would have garage and access on the first floor, one unit on the second floor and one unit on the second floor. The third building would have two units side by side, both with a garage and two story living space above. The size of each unit is 1150-1160 square feet. Each unit will only have one full bathroom.

Mr. DiFolco explained the existing conditions. The current rear building violates the rear yard setback. The entire property violates the impervious coverage at 82%. The proposal eliminates 7 non-conformities. The proposal meets front, side, rear setback, floor area ratio, impervious coverage, and lot density. An 18ft. wide access driveway is proposed to the back of the property to allow access for the garages. Variances: lot area, frontage, and diameter. Lot size is 11,250 square feet where 14,000 square feet is required. Ordinance says to build not less than four side by side units but because of the lot size they are unable to do that and have the required parking. This proposal gives the appearance of regular homes from the street rather than an apartment style look.

Mr. DiFolco read through the Borough engineer's review letter with the Board and addressed any questions. RSIS and Borough Ordinance says they need 14 parking spaces however RSIS says you can count street parking but Borough Ordinance states you can't. The proposal is twelve onsite parking spaces and two street parking spaces. Eleven parking spaces for residents and three guest parking spaces. Two of the garages are extra deep that could be a two-car garage but it was only counted as a one car garage in their parking calculations. If count everything then it would be sixteen parking spaces, fourteen on site and two on the street. The areas not paved will be maintained as lawn, landscape beds or other landscaped area, they will not be impervious. To

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address storm water, they will drain the water from the rear of the property via gutters towards 10th Avenue and down to the catch basin at A Street. There will be less runoff after development than there was before.

Ms. Coffin stated she reviewed police logs on the property and has had some issues in the past. The current property does not have enough parking. The multifamily cluster is a permitted conditional use. The proposal is a lesser density than the current use. There is no detriment to the health, safety and welfare of the public. Feels the proposal meets the special requirements for granting a use variance. Not introducing a new multifamily use on an undersized lot but reducing the intensity of the multifamily use that exists. The reduction of density improves the overall impact of the property. The neighborhood is already a mix of multifamily and single-family homes. No detriment to light, air and space. Parking is being improved. Proposal is not inconsistent with the Borough's Master Plan.

Mr. Fowler asked what would happen if the application is not approved. Mr. Antipin stated they would probably keep it the way it is. Mr. Fowler asked about mechanicals. Mr. Antipin stated there are mechanical rooms in each building and utilities will go underground. Mr. Fowler asked if they thought about putting up less units. Mr. Antipin stated it would not be economically feasible for them.

Mr. Cupoli asked if he will retain one of the units. Mr. Antipin stated he will keep one. Mr. Cupoli asked if they will be rented this summer. Mr. Antipin stated he has not signed any leases.

Ms. Young asked why the dens aren't labeled as bedrooms when they have closets. Mr. Berzinskis stated they do not have doors. Ms. Young felt there will still be a ton of people living on this property. Mr. Rubino stated they won't be rented they will be owner occupied and with the location and price of the unit they will attract good quality.

Mr. Greig suggested drywells if approved by the Borough Engineer. Mr. Antipin agreed. Mr. Greig would like to see irrigation installed for the lawns and garden. Mr. Antipin agreed. Mr. Greig asked about the a/c condensing units. Mr. Rubino stated they will comply with the location. Mr. DiFolco stated they will all be located at the rear of the property. Mr. Greig asked about garbage collection. Mr. DiFolco stated they will have individual cans to keep in their garages. Mr. Berzinskis stated they could also create a roof area for the a/c condensers if they are unable to put them in the rear yard and pipe them to each unit.

Mr. Ross asked what would stop someone from putting a door on the den and making a bedroom. Mr. Rubino stated they will be sold as two bedrooms. Mr. Ross stated he doesn't see anyone not turning them into bedrooms and then overall it would only be a loss of one bedroom. Mr. Rubino stated if someone were to make it a third bedroom it would be in violation of the resolution. Mr. Ross was concerned about them becoming three-bedroom units which would affect the parking and density. Mr. DiFolco stated it would not affect the parking requirements.

Mr. Hutchinson asked for clarification on how these would be high end units. Mr. Antipin stated they want to use the finest materials so they will be sold to someone that appreciates it and wants to use it and not use it as a rental. Mr. Hutchinson asked if the units don't sell would they be rented. Mr. Antipin stated he won't rent them because it wouldn't be cost effective. Mr. Hutchinson asked if it could be a condition that they not be rented. Mr. Rubino stated they would agree that five units would be put up for sale by no later than completion of the first unit.

Mr. Lisko asked about the animal house status. Mr. Antipin stated he has had tenants with noise violations but has worked with the town to get bad tenants evicted. Mr. Lisko asked if approved would they forego renting this summer. Mr. Antipin stated he could not guarantee that but would like to start quickly on the project.

Ms. Young was concerned that they are just dressing up a similar number of units and not getting rid of any problems. Mr. Rubino pointed out that if they complied with the lot size requirements they would be before the Planning Board rather than this board with a conforming conditional use application. He added the ordinance recognizes this type of housing in this zone. Mr. Antipin stated he will remove the closets from the dens.

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Public:

Victoria Renner, 1106 D Street, asked what the height is. Mr. Rubino stated it's 34.85 feet. She asked why they couldn't subdivide the property and put up two single-family homes with garages that they could sell for 1.5 million. Mr. Rubino stated they could not subdivide the property and have conforming lots and homes. Ms. Renner stated the Board cannot stop him or the new owners from renting any of the units.

Alexandra Martin, 106 10th Avenue, stated it seems logical to her to put fewer units on the lot since it's undersized. She stated the property has been a problem for fifteen years. Concerned about setting a precedent of this type of use. Parking is a problem now and is concerned about it. She doesn't see anyone paying half a million dollars for these types of units. Concerned about garbage. She did not understand the multifamily cluster ordinance and why they get more impervious coverage than she gets.

Jim Ortenzio, 109 10th Avenue, lives right next door. Stated the property is despicable with garbage and excessive amount of people partying. If the homeowner's association doesn't police the property then it will become a problem again. Doesn't understand how the town has allowed it to be an animal house. Asked if the owner has tried to sell the property to someone that may want to put up a single-family home. He dreams of the property turning over. Concerned he doesn't know where a/c condensers will go, what the landscaping would look like, or what will happen to the fence. He spoke to his neighbors who didn't pick up their letters and they were just happy to hear the buildings were coming down and didn't care what was going up. Does want to see the eye sore go away.

Ms. Renner stated it is admirable that they want to change the property but suggests they listen to the public and regroup with a new application that fits the neighborhood.

Maureen Spalteholz, 120 10th, asked if they don't get approved would they consider submitting something different. Mr. Antipin stated he was not sure but thought maybe convert them to yearly rentals.

Robert Spalteholz, 120 10th Avenue, stated they could put rental restrictions in the bylaws.

Meredith Brennan, 404 11th Avenue, concerned about setting dangerous precedent. Feels the density is too much for the property.

Donna Falk, 506 11th Avenue, agreed with Ms. Brennan. Was concerned there will be no control over the units. Concerned about garbage and the number of units being too much.

Mr. Lisko asked if the units are heated. Mr. Antipin stated the front units are heated but they pulled the electric baseboards out of the rear units. Mr. Bianchi and Ms. Claudio stated if there is no heat they would need approval from the Board to add heat. Mr. Lisko stated there would technically be five-year round rentals and five seasonal rentals now vs six-year-round units proposed.

Mr. Ross asked how the owner lived on the property during all the issues with the tenants. Mr. Antipin stated it wasn't as bad as the neighbors said.

Ms. Claudio explained the animal house history of the property.

Ms. Young asked Mr. Ortenzio if he is in favor of the application or not. He stated he is in favor of it. Would be terrified of him keeping it as is and doing year-round. If the units sell for the prices he wants they will be beautiful and a homeowner's association will maintain them.

Ms. Young asked Ms. Renner if she is in favor of the application. She stated she didn't want to say either way. She would prefer two single family homes.

Ms. Young asked Ms. Falk and Ms. Martin the same questions. They are both against the application as it stands now. Ms. Martin stated she is also opposed to it staying what it is now.

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Mr. Kennedy asked if they rent it out this summer what can they do to assure there won't be any more animal house issues. Mr. Antipin stated he does try to maintain the property, he doesn't receive tickets on a regular basis.

Mr. Rubino stated two houses would be a big leap for the zone. The town has recognized by ordinance the plan they are proposing. Feels they fit the intent of the ordinance perfectly.

Board Comments:

Mr. Fowler stated the decisions the Board makes are based on the merits of the application as presented to them. He (the owner) says he is going to take down ten animal house units and put up six brand new units. Believes it will be above average. Yes, would prefer two homes but that is not what is presented. He is in favor of the application.

Ms. Young stated she is sorry the neighbors have experienced what they have in the past. Doesn't think it's healthy for a neighborhood to have so much angst about what goes on and to have neighbors talk to each other. Would like them to think seriously about coming up with different plans that will make them happy and make the unhappy neighbors happier. Agrees it will be a great improvement but will it be as good as it could be. Not sure how she will vote.

Mr. Greig stated what would really make him happy is a single-family home but understands that it won't happen. Keeps going back and forth on this case. If this goes through, there's going to be the homeowner's association plus the neighbors policing the property. Believes it will be an improvement and good for the neighbors.

Mr. Ross stated he didn't even know the M75 cluster even existed. On paper the town has allowed it. If we don't want to set precedents the town should change the ordinance to not allow it. Also on paper it's one less building than the ordinance allows. But has a hard time approving something for a property that has been animal house 4 of the last 6 years. Not sure how he will vote.

Mr. Hutchinson would like to see rental stipulations through the homeowner's association. Would like them to address the garbage location. Doesn't think it is a good idea to put in the garage. Would like to see these two conditions met for him to vote in favor of the application.

Mr. Lisko stated a lot of us have struggled with this application, which is due to the history and the density. Perhaps less units would be more palatable. While what is being proposed may not be the best solution it will be better for the neighborhood than what is there now and therefore he would be in favor of the application.

Mr. Rubino stated his client would agree to some form of rental stipulation in the homeowner's association. Mr. Antipin stated they do not want to encourage these new units to be rented.

Mr. Rubino stated they would like to carry the application to February 22nd to allow time to discuss with his client's potential rental stipulations and the effects of them.

At approximately 10:12 p.m. the Board took a brief recess. At approximately 10:20 p.m. the Board reconvened. Roll Call was taken. Mr. Fowler left the meeting.

DENNIS & YVONNE SWEET – 1304 A STREET

Appearing for this application was attorney William Shippers, architect Mary Hearn and Mr. and Mrs. Sweet. Ms. Hearn stated the lot is drastically undersized, has an easement that burdens it and overhead lines that burden it. Would like to demolish the home and build a new single-family home. There are six pre-existing nonconformities that will go away. If approved will seek 10 variances for the new house with the garage. The lot size is 1,649 square feet in the R40 zone where 4,000 square feet is required. The building coverage would only increase 2% which is equivalent to 32 square feet. The impervious coverage will reduce from 79.3% to 68%. The existing house is 773 square feet and proposing 1498 square feet. This creates a floor area ratio variance which is a "D" variance. To comply with the floor are ratio the house would have to be 1,286 square feet. Currently there is no onsite parking, proposing two parking spaces.

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Ms. Hearn stated there are high voltage power lines that affect the setbacks. Mr. Sweet has tried to work with the utility companies on the lines. The house is technically a three-story house with the garage on the first floor, bedrooms on the second floor and living space on the third floor. However, the house will look like a 2 ½ story house. The garage will allow for storage since there is no yard. No height variance is required. There is an elevator to a cupola on the roof proposed to allow access to the roof deck. Also asking for a variance for a wider curb cut so can have the look of a two-car garage instead of one large garage door. This would cause a loss of one parking space on the street. The pros of granting this application are: year-round living, parking, storage, aesthetics upgrade, a/c units comply, fire egress created, only a traditional three bedrooms 2 ½ bathroom home and the aesthetics fit with the neighborhood.

Mr. Sweet stated he is pleased the design they are proposing. He will also work to place utilities underground.

Mr. Hutchinson stated he likes the garage door design.

Mr. Ross asked about water runoff. Ms. Hearn stated there will be gutters and leaders.

Mr. Greig asked about drywells. Ms. Hearn stated it would not work.

Ms. Young stated she loves the design and while it's a lot of variances, it's a nice size home on a small lot.

Mr. Lisko stated he liked the garage doors too.

Mr. Hutchinson asked if there will be access to the unfinished attic. Ms. Hearn stated yes but only from the outside.

Public:

Mark Presto, 110 13th Avenue, stated the design is nicer than what is there now but what message is being sent by allowing a house with a lot of variances on a small lot.

Ted Protonentis, 106 15th Avenue, agreed, and added it is a nice house but there's a reason codes are in place.

Robert Denerstein, A Street, stated the house is beautiful, 100 times better than what's there now. He lives across the street and is glad someone will live there and take care of it.

Board Comments:

Mr. Hutchinson stated he understands the concerns about setting precedents but we can't do that. There are some small lots left in town and the Board does struggle with how to deal with them. He can only see positive results and feels this would improve the neighborhood.

Mr. Ross stated they do struggle with small lots but they are only gaining one additional variance. They are not exacerbating the existing use and feels it will be an improvement.

Mr. Greig agreed, and added he understands the concerns about small lots. However, there is a need for improvement and it's not a detriment.

Ms. Young and Mr. Cupoli stated they are in favor of the application.

Mr. Lisko stated it is an improvement and a good use of the property. It will be nicer and more livable.

Ms. Young made a motion to approve the application, which was seconded by Mr. Greig and approved by the following vote:

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

Ms. Young made a motion to adjourn the meeting, which was seconded by Mr. Cupoli and approved unanimously.