

**ZONING BOARD OF ADJUSTMENT
AUGUST 23, 2018**

PRESENT: John Hutchinson, Philip Greig, Charles Ross, Mark Fitzgerald, Jonathan Lisko, Judy Young, Robert Cupoli and Manuel Fowler

ALSO PRESENT: Board Attorney Kevin Kennedy, Esq., Board Secretary April Claudio, Zoning Official Ted Bianchi and Board Engineer Joseph Venezia

ABSENT: Michelle Casserly

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.

Mr. Greig made a motion to waive the reading and approve the minutes of the July 25, 2018 meeting, which was seconded by Mr. Cupoli and approved by the following vote:

AYES: Mr. Hutchinson, Mr. Greig, Mr. Fitzgerald, Mr. Lisko, Ms. Young, Mr. Cupoli and Mr. Fowler

NAYS:

Mr. Greig made a motion to waive the reading and approve the minutes of the July 26, 2018 meeting, which was seconded by Ms. Young and approved by the following vote:

AYES: Mr. Hutchinson, Mr. Greig, Mr. Fitzgerald, Mr. Lisko, Ms. Young, Mr. Cupoli and Mr. Fowler

NAYS:

Mr. Greig made a motion to waive the reading and approve the resolution granting approvals to B& Belmar 2010 LLC, Jaeger Lumber, which was seconded by Mr. Cupoli and approved by the following vote:

AYES: Mr. Hutchinson, Mr. Greig, Mr. Fitzgerald, Mr. Lisko, Ms. Young, Mr. Cupoli and Mr. Fowler

NAYS:

Mr. Kennedy announced the application for Noel Chapman, 97 13th Avenue, is tentatively rescheduled for October 25, 2018. The applicant will re-notice.

US BUILDING SYSTEMS LLC – 512 16TH AVENUE

Appearing for this application was attorney John Haulenbeek, owner Michael Trizano, and engineer Charles Gilligan.

Steve Dnistrian, 515 15th Avenue, discussed the issue with notifications in his area of town with two different applications and would be willing to work with the Board to try to address the problems. He did receive notice for this application the second time it was done by regular mail. (There has been an issue with the post office not delivering certified mail letters)

ZONING BOARD OF ADJUSTMENT

AUGUST 23, 2018

Mr. Haulenbeek stated his clients wish to build a single-family home on a vacant lot. His clients were the contract purchaser of the property when they originally filed their application but now are full owners. He submitted some photo boards of the existing property, the neighborhood, an aerial and photos of a home they built in Lake Como.

Mr. Gilligan stated they are seeking variances for front yard setback, rear yard setback and building coverage. The main structure complies with the front yard setback, however the second floor above the porch does not meet the setback. Building coverage is over by .5% which is 27 square feet. The rear yard setback doesn't conform because of the shape of the lot. It's not the whole rear line of the of house that is non-conforming. All but two houses on the block have non-conforming front yard setbacks. The proposed setback for the second floor is 14 feet. The average front yard setback is roughly 11 feet.

Mr. Trizano stated his company builds modular homes and would build a modular home here. Asking for the variances because would like to build a similar home to one they built in Lake Como. The home would have four bedrooms and two and a half bathrooms. The home will fit in with the neighborhood and be a positive addition.

Mr. Fowler asked for time factor for construction. Mr. Trizano stated it would take 8-10 weeks to bring the modular pieces in. Mr. Fowler asked about water runoff. Mr. Gilligan stated they are proposing a perforated pipe and seepage pit on the property to keep the water on the property. Mr. Fowler asked if the electric will be underground. Mr. Trizano stated they cannot do it. Mr. Fowler asked about landscaping. Mr. Trizano stated they will add some trees and shrubs. Mr. Fowler asked about the driveway. Mr. Trizano stated it will be a blacktop driveway 10x60 for three parking spaces and one space in the garage.

Mr. Cupoli pointed out they should look for a utility pole in the rear, so the electric could be put underground. Mr. Trizano stated he doesn't believe there is one. Mr. Gilligan stated the previous house was fed by the pole across the street. Mr. Cupoli asked about sump pumps in the basement. Mr. Gilligan stated they will feed into the filtration system.

Ms. Young asked some questions to clarify the variances being requested.

Mr. Greig asked if the garage is existing or new. They will be building it.

Mr. Hutchinson asked for some clarifications on the front door location. It will be on the left-hand side.

Mr. Bianchi stated the second floor over the first-floor porch is not permitted by ordinance and would be another variance.

Mr. Lisko asked how many steps onto the porch. There would be four. He asked if the four-foot concrete base could be dressed up so it's not bare concrete. Mr. Trizano stated no problem. Mr. Lisko would like it finished and not concrete.

Mr. Fowler asked about the a/c condensers. Mr. Gilligan stated they will be at the rear in the middle of the house.

ZONING BOARD OF ADJUSTMENT
AUGUST 23, 2018

Public:

Michael Sterling, 516 16th Avenue, asked for some clarification on the second-floor setback.

Steve Dnistrian, 515 15th Avenue, appreciates the development and thoughtful plans. Asked if there is any possibility to comply with the rear setback.

Mr. Gilligan stated there will be a 6 ft high new vinyl fence along the rear of the property.

Board Comments:

Mr. Fowler stated it seems to be quite attractive and he would be in favor of the application.

Mr. Cupoli agreed.

Ms. Young asked if they could comply with the rear yard setback. Mr. Trizano stated if the lot was larger they could redesign it but doesn't feel it is worth it given the angle of the rear lot line.

Mr. Fitzgerald asked about the drainage for the outdoor shower attached to the garage. They will comply. He stated it is a minor intrusion to the rear yard setback.

Mr. Greig stated he would vote in favor of the application.

Mr. Hutchinson stated the encroachment in the rear is miniscule.

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

AYES: Mr. Hutchinson, Mr. Greig, Mr. Fitzgerald, Mr. Lisko, Ms. Young, Mr. Cupoli and Mr. Fowler

NAYS:

Mr. Kennedy prepared a resolution given the delay of the application due to the noticing issue last month which he summarized into the record.

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

AYES: Mr. Hutchinson, Mr. Greig, Mr. Fitzgerald, Mr. Lisko, Ms. Young, Mr. Cupoli and Mr. Fowler

NAYS:

At approximately 8:10 p.m. the Board took a 10-minute recess. At approximately 8:23 p.m. the Board reconvened. Roll call was taken. All were still present.

EDELMAN INVESTMENT GROUP LLC – 112-114 12TH AVENUE

This is a continuation of the July 25, 2018 hearing. Appearing for this application was attorneys William Shippers and David Lonski, architect Mary Hearn and engineer Rich DiFolco.

ZONING BOARD OF ADJUSTMENT
AUGUST 23, 2018

Mr. Kennedy stated he received some communication from some members of the public that felt intimidated to speak about the application. He received an anonymous letter regarding the application which we cannot accept because it is hearsay.

Mr. Lisko stated we left off with technical witnesses giving testimony and cut off the public from asking questions to the witnesses.

There were no additional questions for the witnesses from the public.

Mr. Lonski stated they have taken into consideration some of the comments from the previous meetings and have come up with some revisions to the plans which they will present for a future meeting to allow time for the Boards professionals to review.

Mr. DiFolco stated they have revised the ground floor plan. The original plan had 24 spaces the revised plan has 40 parking spaces with two handicap parking spaces on the street. This would lessen the height of the garage. Belmar Inn currently is 41 feet and the new plan would be at or below the existing Belmar Inn height. Also, will reduce the height of the parapet on the roof. There will be a screen around the a/c units on the roof. They will fine tune the plans again before they are submitted for full review. Also removing the bump out in the street. The building will be pushed in 1 feet on the left and right side and two feet in the front.

Mr. Kennedy had advised them that if they were going to revise the plans they must be submitted 10 days before the meeting.

Mr. Lonski stated he would like to proceed with some witnesses tonight that they subpoenaed.

Mr. Shippers called up Robert Poff who is the Director of Code Enforcement. Mr. Poff stated he responded to the Belmar Inn in 2017 52 times for various violations, fights, criminal matters, etc. He confirmed the lawful occupancy of the Belmar Inn is 80 people. He stated there have been times of over occupancy. Mr. Shippers asked if there are other properties in town that are as big of a drain on town services as this one. Mr. Poff replied no. He stated he has received many complaints from the neighborhood over the last five years. He added the Belmar Inn is a drain on the community. He discussed the Belmar Inn closing in early 2018 for various violations, such as no heat in the winter. They have been working on making repairs needed to reopen. Doesn't see it getting any better. Felt removing the Belmar Inn will be a start of making that area better.

Mr. Shippers called up Ryan Dullea who is the Borough's Fire Marshal. Mr. Dullea stated he and the Board of Fire Officers from the Fire Department reviewed the plans. They determined the proposed plans would have a full suppression system where as the current Belmar Inn does not protect the occupant rooms. They had no real concerns different than concerns of other properties in town. Cannot force the Belmar Inn to install a system but new construction regulations are more stringent. The new building would be much safer. He discussed several times he investigated the property for fires and violations. There have been numerous calls for false alarms, occupants bringing in gasoline and pulling alarms. Estimated responding to issues at the Belmar Inn 50-60 times a year. They will be able to reopen if comply with the violations and pay any penalties. They have reinstated the fire suppression system and installed a second

ZONING BOARD OF ADJUSTMENT

AUGUST 23, 2018

sprinkler system. Does not recall any condominium properties in town requiring him to attend to as much as the Belmar Inn.

Mr. Shippers called up Frank Cinelli who also works in the Code Enforcement Office. Has responded to the property numerous times with Mr. Poff and Mr. Dullea and the County Board of Health. During the most recent heat violation incident they found space heaters in each room near bags of clothing creating a fire hazard and there were gas leaks in the building as well as over occupancy in the rooms. There have been issues with garbage and bug infestation. A new building would clean up a big mess.

Mr. Fowler stated Mr. Shippers gave a long presentation at the first hearing where he listed all the violations at the property over the years. Felt these three witnesses have reiterated prior testimony. Would like to move forward with the application instead of going backwards.

Mr. Cupoli asked if a dry or wet suppression system is being proposed. Mr. Bianchi stated a wet system.

Ms. Young asked about a comment regarding gas in the building. Mr. Dullea stated occupants would bring gas cans from their jobs into their rooms.

Mr. Fowler asked if there was a kitchen in the building. Mr. Dullea replied yes but it is not operational. Mr. Dullea explained the existing fire alarm system in the building. Mr. Poff was concerned that a fire will happen in the building if it remains. Ms. Young asked how likely the homes near the Belmar Inn would catch on fire if the Inn had a fire. Mr. Dullea stated it would depend on numerous factors.

Mr. Fitzgerald believed Mr. Shippers previous testimony of the violations didn't do justice as to the real problems with the Belmar Inn. Appreciated their testimony. Mr. Fitzgerald clarified earlier testimony that this building is doing the bare minimum to be open because it's an old building and follows old codes. He added the building cannot be condemned which Mr. Poff confirmed.

Mr. Greig asked if the new building would be wood construction or steel and concrete. Mr. DiFolco stated it would be a combination of wood, steel and concrete but all up to fire codes. Mr. Greig asked about relocating the tenants. Mr. Poff clarified if the property owner was unattainable the town would be responsible for relocating the tenants at the tax payers expense if they shut it down.

Mr. Hutchinson stated he appreciates their testimony and added it sounds like the Belmar Inn is a fire hazard.

Mr. Ross asked Mr. Poff and Mr. Dullea who gets summonses, the owner or occupants. Mr. Poff stated it depends on what was happening. Mr. Ross questioned why there is no behavioral change if they get so many violations. Mr. Dullea stated the owner puts band aids on. They have met with the owner numerous times to try to address all the issues. Mr. Ross asked what impact

ZONING BOARD OF ADJUSTMENT
AUGUST 23, 2018

minimal setbacks has on a fire. Mr. Dullea stated a fire depends on the setback, wind, construction material etc.

Mr. Fitzgerald asked why the property isn't an animal house. Ms. Claudio stated it was an animal house in 2007 but no longer is. She advised the animal house statute applies to summer rentals only.

Mark Presto, 110 13th Avenue, asked questions about Mr. Dullea's testimony and for clarification on selective enforcement.

Steve Bloom, 1104 A Street, asked Mr. Dullea how the fire department would get a ladder to the balconies on the proposed building. Mr. Poff and Mr. Dullea stated they would do what they must get on the property which includes going onto neighboring properties.

Maria Florio, 12th Avenue, stated Mr. Poff stated he got a lot of calls from the neighbors but she is the only neighbor and she calls the police. Mr. Poff stated she is not the only neighbor and the police would call him about her complaints. She added many of her complaints are about the rentals on the street.

Peter Terranova, 800 B Street, asked why they are wasting time hearing about the Belmar Inn when the application is for a new building. Mr. Kennedy stated there is a legal process to the application which is the Municipal Land Use Law. He explained each applicant proceeds with their case differently. Mr. Terranova asked the witnesses if they had any conversations with the applicant after receiving the subpoena. Mr. Poff stated he did not recall. Mr. Cinelli stated no. Mr. Dullea stated he did an inspection at Mr. Shipers office and reviewed the plans while there. Mr. Terranova wanted testimony from a Fire Official about fire tactical procedures.

Ellen Zavian, 9th Avenue, asked if the witnesses were being paid to attend. She asked a question regarding occupancy vs square footage.

Rose Dagayna, 9th Avenue, admires that they want what's best for Belmar but asked if it would be advantageous if a buyer put up single family homes instead. Mr. Dullea stated his fire codes do not regulate single family homes. Mr. Poff agreed with Ms. Dagayna.

Lauren Aerotakis, 102 12th, asked how many summonses were issued in the whole town in 2017. Mr. Poff explained he prepared data for this property only. She asked how many children would be a drain on the school. Mr. Poff stated he doesn't know how many children lived in the Belmar Inn last year and there are none this year.

Dennis Peras, 209 11th, asked if the files at Borough Hall are complete. Mr. Shipers stated his application consists of floor plans and elevations not full construction drawings. Appreciates what the applicant has done so far. Believes change is good. Understands the neighbors' concerns but the Belmar Inn is a drain.

Joan Corallo, 1201 A Street, stated there has been testimony of war stories of the Belmar Inn. Mr. Shipers stated this is the question portion and stated there are supreme court rulings about establishing a picture of the property and setting a foundation. Ms. Corallo asked what it will

ZONING BOARD OF ADJUSTMENT
AUGUST 23, 2018

take to permanently close the Belmar Inn. Mr. Dullea stated there is a minimum standard they must meet which they do and then there's violations which they must be given a chance to correct. Mr. Dullea stated the five reasons to shut the place down but added that they have the opportunity to correct them.

Hoda Naggjar, 104 12th Avenue, asked how old the building is. Mr. Dullea believes before 1977. She asked how long the problems have been going on. Mr. Poff stated it has been going on a very long time and gets worse every year.

Carol Costello, 14th Avenue, asked about carbon monoxide protection in the parking garage. Mr. Dullea explained the fire code. Mr. Fitzgerald stated there was previous testimony about a ventilation system. She wanted to know if it could handle the additional cars proposed.

Ms. Florio stated it wasn't always a year-round use, it was a summer use 25 years ago.

Amy Louhier asked Mr. Dullea about fire safety. He reiterated that he feels the proposed building would be safer than the existing.

Ann Bozzo, 1307 B Street, asked how the Belmar Inn is a drain on the school system. Mr. Poff stated most people that go to a hotel are transient and move their children from school to school.

John Meier, 203 11th Avenue, asked why they are bringing up all this information about the Belmar Inn. Asked if it is their goal to influence the Board. Felt they are destroying the quality of life and the testimony has nothing to do with a condo building. Mr. Lonski stated the questions are supposed to be to the three professionals. Mr. Shippers stated he previously answered it. Mr. Kennedy stated he has previously stated that different people have different thoughts on how to present their case. This is the way Mr. Shippers wants to do it and can do it.

Mr. Hutchinson stated it appears the public doesn't understand that the presentation is to the Board not the public although they can comment and react to it. There is a process that the applicant and Board must go through. The applicant can do what they want or take as much time as they want to make their case.

Ms. Dagyna asked if the other motels in town have issues, transients, etc. Mr. Dullea stated the Mayfair is working on some fire code violations and the Motor Lodge is up to the retro fit code. She asked if they get calls to the others. The Mayfair they do get complaints for.

Mr. Meier, asked if the fire department could be present to give their opinion. Mr. Dullea stated he has had meetings with them but doesn't know if they would want to testify. He added they met and discussed tactical issues and there were no concerns.

Beth Mane, 308 12th Avenue, asked how many units require fire suppression. Mr. Bianchi replied three. She asked if the condos would create a greater occupancy problem.

Ms. Aerotakis asked Mr. Dullea for some clarification on the fire violation process.

ZONING BOARD OF ADJUSTMENT
AUGUST 23, 2018

Ms. Corallo asked if they will be noticed about the plan changes and variance changes. Mr. Kennedy stated we will carry the application to a new night without any notice unless the new plans require a new notice.

Mr. Shippers stated if he has to re-notice and finalize the amendments then he doesn't want to monopolize the board, so he felt October would be a more appropriate timeframe. The application will be carried to October 25th.

Mr. Fitzgerald made a motion to carry the application, which was seconded by Mr. Cupoli and approved unanimously.

Ms. Claudio explained Susan Whelan of 1804 A Street asked for a two-year extension. They completed the improvements on the rear house but need additional time to complete the improvements to the front house.

Ms. Young made a motion to grant the extension, which was seconded by Mr. Hutchinson and approved unanimously. Ms. Claudio will prepare a writing to the applicant and place a copy in the file.

Ms. Claudio explained Sprint has asked for a special meeting. She added there is a back log of applications due to the Belmar Inn being heard over several meetings. Ms. Young was not in favor of additional meetings. Mr. Greig stated he is fine with special meetings. Mr. Lisko suggested a second meeting in October for the other applications, not for Sprint. Ms. Claudio will send the Board possible dates.

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