

ZONING BOARD OF ADJUSTMENT

JUNE 27, 2019

PRESENT: Phil Greig, Mark Fitzgerald, John Lisko, Judy Zoppi, Robert Cupoli and Tom Palmisano

ABSENT: John Hutchinson, Chuck Ross, Manny Fowler and Zoning Official Ted Bianchi

ALSO, PRESENT: Board Attorney Kevin Kennedy and Board Secretary April Claudio

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 21, 2018 and by posting a copy of said notice at the Municipal Complex on the same date.

Mr. Kennedy stated we adopted a resolution last month for Gordon Tiner that had some errors in that he will correct and reissue to the applicant.

Mr. Fitzgerald made a motion to waive the reading and approve the minutes of the May 23, 2019 meeting, which was seconded by Mr. Greig and approved unanimously.

Ms. Zoppi made a motion to waive the reading and approve the minutes of the May 28, 2019 meeting, which was seconded by Mr. Cupoli and approved unanimously.

Mr. Kennedy announced the application of Douglas and Susanne Sweeney, 1711 River Road, will be postponed to the July 25th meeting due to an error with the newspaper notice. Ms. Zoppi made a motion to carry the application, which was seconded by Mr. Fitzgerald and approved unanimously.

Mr. Kennedy stated the resolution for Down to Earth Construction, 102 Second Avenue is not complete and will have to be voted on at the next meeting.

THOMAS, ROSE & GERALYN MERCADANTE – 2004 OCEAN AVENUE

Appearing for this application was attorney Kevin Asadi, Mr. Mercadante, planner Barbara Ehlen and objecting attorney John Haulenbeek representing Dan and Linda Custode.

Mr. Asadi stated the home was constructed in 1940 as a three-family home. Mr. Mercadante is 95 years old and has lived there since WWII. There has always been a driveway on the side between this house and the house at 2002 Ocean Avenue. In 2003 a new house was built at 2002 Ocean Avenue which made that driveway non-useful, as they lost 3 ft of width. There are no off-street parking spaces now. Would like to add 44 square feet of driveway expansion to create a parking space for Mr. Mercadante or his care givers. Seeking variances for impervious coverage, expansion of a non-conforming use, number of parking spaces, parking space size and location.

Ms. Ehlen stated the parcel predates zoning regulations. There will be no changes to the footprint of the home. Only requesting a single parking space on the northeast corner off of Ocean Avenue. Proposing to widen the existing apron. Six feet of the existing driveway exists, seeking to expand 4 feet. There are two properties, 2010 and 1902 Ocean Avenue, have parking in their front yards. The location creates a need and desire to have off street parking. Provides easy access for an elderly man. Often roads get closed for races and cars have to park far way, this would alleviate the owner from having to do that. Feels this proposal is an appropriate use of the property and complies with the Master Plan. Lot coverage increase is de minimus. There are four other homes in the area with front yard parking. What is being proposed will not be visibly protrusive. A lot of people park at the end of the driveways. Hardship is losing the driveway when the neighboring property was rebuilt, and Ocean Avenue is very busy in the summer. There is no option to move the building as it is existing and sits center on the property.

Mr. Haulenbeek asked when the driveway that was on both properties was eliminated. The property has been functioning for several years without a driveway. Ms. Ehlen stated just because they have lived without the driveway doesn't mean it hasn't been a hardship. Mr.

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Haulenbeek asked how many active driveways there are along Ocean Avenue. Ms. Ehlen stated there are many but did not count them.

Mr. Haulenbeek stated Ocean Avenue is high traffic to pedestrians, was concerned about the car backing out onto the sidewalk very quickly. He asked how putting parking in the front yard advances the master plan. Ms. Ehlen stated a driveway is an appropriate use for a home, the master plan calls for off street parking, provides access for the homeowner. The site can accommodate this. Mr. Haulenbeek stated that doesn't address safety and how it fits in with Belmar. Ms. Ehlen stated there are several homes throughout town that have parking in the front yard. She added this was an active driveway, the curb cut is not new. Mr. Haulenbeek asked if any of the conformities are reduced. Ms. Ehlen stated the existing apron size does not meet code and will be brought into compliance.

Mr. Custode stated he owns the property to the south, 2006 Ocean Avenue. He is not in favor of the application. Concerned about the safety. The applicant parked on the sidewalk for two days in a row before submitting their application. Saw a child almost fall going past the driveway. Concerned about losing a parking space on Ocean Avenue. This home has five cars on the street now. They need approval from the County for the curb cut. The father is 95 years old and does not drive. The property is about 85% concrete. Concerned his property value will go down.

Mr. Asadi stated the issue of property value is not relevant to this application.

Mr. Greig asked if Mr. Mercadante drives. Mr. Asadi stated he does drive, has a car and an active license. Mr. Greig asked how much of the existing curb cut is on the Mercadante property, which is 6 ft. Mr. Greig asked if a parking space is being lost on Ocean Avenue. Ms. Ehlen stated her google image from 2018 doesn't show the spot in the street as being striped. It is shown as a driveway curb cut. Mr. Greig was concerned about losing a space with the expansion of the curb cut. Mr. Asadi stated they could look reducing the size of the curb cut.

Mr. Fitzgerald stated he lives in the area and has seen a lot of people use the area in front of the curb cut as a parking space. Sees many faces in the room that have used the space. Knows there have been no tickets issued. Mr. Asadi stated between the Mayor's Office, Police Department and Code Enforcement are not in agreement that it is a legal parking spot. His clients have been threatened to receive tickets for using it. Mr. Fitzgerald asked if the County needs to review this. Mr. Asadi stated he would have to submit a plan to the County, but they would probably issue a letter of no interest. Mr. Fitzgerald asked if any research was done on the properties that have front yard parking to see if they got approvals for that. He felt some of them were not legitimate. Mr. Fitzgerald asked what the positive criteria is to grant this. Mr. Asadi stated Ms. Ehlen spoke about that. It is a busy street in a town with a competitive parking issue. Adding a parking space is a benefit and fits with the master plan.

Ms. Zoppi asked if part of the driveway would take up part of the stone lawn. Mr. Asadi replied yes.

Mr. Palmisano questioned how even with the expansion, how a passenger will be able to open the door to get out of the car. He asked if the shrubbery will be removed so the car can pull right up to the house. Concerned a truck would not fit in the driveway. Mr. Asadi stated the standard with for a driveway is 9 ft and they are proposing 10 ft. Their engineer designed it with that in mind. Mr. Palmisano stated there is a structure (fence) on the side of the driveway that might make it harder. Mr. Asadi stated they will have to make due with it because that is all the space they have. Mr. Palmisano asked if they are going to swing over the driveway onto the existing rocks. Mr. Asadi stated it is not the type of gravel you would want to drive a car on.

Mr. Lisko asked what material will be used for the driveway. Mr. Asadi stated his client would do pavers if the Board would be happy with that. Mr. Lisko asked if any of the porch will be removed. Mr. Asadi replied no. Mr. Lisko asked if there are any standards that would say the driveway is safe or not safe. Ms. Ehlen did not find any standards.

Mr. Cupoli stated there is a minimum requirement of space between the curb cut and a street parking space which could eliminate a street parking space or reduce the size.

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Mr. Greig pointed out that the backyard was never useful as a driveway and when the retaining wall was put in it made the rest of the driveway unusable.

Public:

Mark Presto, 110 13th Avenue, asked if they would use pavers that help the impervious coverage. Would recommend there is a condition that they minimize the negative impact of the parking on the street. Could there be a condition that the driveway only be in place as long as the existing home is still standing. That way if the house is demolished a new home won't take advantage of it. Mr. Asadi stated he would agree to that.

Kevin Fay, 2002 Ocean Avenue, purchased his home in 1998. Built a new home in 2003. Mr. Mercadante has always had a narrow sidewalk between their homes, not a driveway. He did have use of a driveway that was on their property. Mr. Mercadante took him to court when he put up a fence and took away the use. They did allow him for 10 years to use 3 feet of his property. After the 10 years he put his fence back up. The tenants and occupants of the home use up all of the off-street parking spaces. Nobody in his neighborhood parks at the end of their driveway. He opposes this because it would restrict the view of Ocean Avenue from his home. Also concerned about safety and damage to his fence. Will decrease the parking area on Ocean Avenue and decrease property values.

Kathleen Fay, 2002 Ocean Avenue, stated it was never a driveway, just a space between the two homes. The space on the street where there is a curb cut is highly used.

Linda Sharkus, 400 4th Avenue, stated the fence Mr. Palmisano brought up plays an important decision in this. Will probably be blocking the sidewalk when unloading people or will be hitting Mr. Fay's fence. She suggested that Mr. Mercadante seek getting a handicap parking space on the street rather than giving this parking space that doesn't fit in with Ocean Avenue.

Joanne Russo, Wall Township, was concerned when visiting the Custodes and backing out of their driveway she won't be able to see when there is a car in the Mercadante's driveway.

Board Comments:

Mr. Greig stated there has to be a loss of a parking space on Ocean Avenue which can't happen. Will create more of a hazard than a benefit.

Mr. Fitzgerald stated it is going to be a loss of a spot on Ocean Avenue. Was concerned about the comment regarding their attempt to acquire more property through court, which was not part of anyone's testimony.

Ms. Zoppi was concerned this would set precedent. Spaces are very tight here. Not in favor of the application.

Mr. Cupoli stated he is not happy with deviating from the size of the parking space. Safety is an issue. Uncomfortable with how close it is to the sidewalk. Concerned would lose a small parking spot.

Mr. Palmisano stated his concern is safety and them pulling more into the front yard.

Mr. Lisko stated he is not in favor of the application.

Mr. Asadi asked if any of their opinions would be different if the spot in front of the curb cut is not a legal parking space. The Board replied no. Mr. Asadi pointed out that every car that exits a driveway must cross over a sidewalk so is unsure what the safety issue is.

Mr. Asadi asked to take a break. Mr. Kennedy stated we have an administrative matter we can address.

ROBERT HARRIS - 801 13TH AVENUE

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Ms. Claudio explained he submitted a letter requesting a change to his plans that the Board approved for a self-storage facility. Mr. Harris was present to explain. Got approval in November 2018 for a new 2 story building but would like to reduce the height to a one-story building.

No changes to the footprint or the site. Economically does not make sense to have the second story with elevators. Mr. Kennedy stated he is comfortable with the Board approving this administratively. Mr. Cupoli stated if they want to put the second story back they will have to come back before the Board. Motion to approve administratively per terms of George McGill's letter and testimony: Mr. Greig and Seconded by Mr. Cupoli and approved unanimously.

At 8:54 pm the Board took a recess. The Board reconvened at 9:00 pm. Roll Call was taken. All were still present.

MERCADANTE – CONTINUED

Mr. Asadi stated after conferring with his client they would like to withdraw their application.

Ms. Zoppi made a motion to dismiss the application without prejudice, which was seconded by Mr. Greig and approved unanimously.

ANN NOBLE – 219 SOUTH LAKE DRIVE

Appearing for this application was Ms. Noble and her contractor James Alburtus. Ms. Noble stated she purchased the home in September 2018. It currently has a single-family home that she plans to live in very soon. Mr. Alburtus submitted some photos for the Board to review. Ms. Noble stated she is doing an interior renovation now. Would like to turn a small year-round enclosed porch on the side of the house into a more open-air larger porch. House faces three streets with essentially no backyard. The porch would be her backyard. Would like to knock down an existing brick planter and connect the roof lines to make a nice larger porch.

Mr. Alburtus stated if any property in town deserves a wraparound porch it is this one. Positives are they are dolling up this property. There are no negatives. Seeking variance for front yard setback on 7th Avenue and building coverage. While the setback to the property line does not comply, there is over 20 feet from the porch to the corner of the street. Removing west sunporch but with new wraparound porch there is no reduction in building coverage. The porch does not block the neighbors view of the lake. No blockage of view in the site triangles for cars on the street. The porch will be a mix of composite, mahogany, and trex.

Mr. Cupoli stated the gas and electric might have to be moved. Mr. Alburtus stated they are already in the process of moving them underground.

Mr. Fitzgerald appreciated the photos Mr. Alburtus submitted to show the views from the neighbors.

Mr. Greig asked if there will be any other work done on the outside of the house. Mr. Alburtus stated all of the windows have been replaced. The siding will remain for now. Ms. Noble stated there will be extensive landscaping at some point.

Mr. Lisko asked if the deck could be shortened 2 feet. Was concerned if approved would change the prevailing setback for that street. Mr. Alburtus stated he does not see any future construction altering it as most of it is people's backyards. Mr. Lisko would like a condition that it be shortened or cut the corner. Mr. Alburtus stated he would have to redo the plans but would bring it back to the prevailing setback of 4.32 feet.

No public comments.

Board:

Ms. Zoppi stated she is in favor of the application. It looks beautiful. Mr. Fitzgerald stated he is in favor of the application. Mr. Greig stated it looks like a good plan. Mr. Lisko stated he too is in favor.

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Ms. Zoppi made a motion to approve the application, which was seconded by Mr. Greig and approved unanimously.

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