

MINUTES

Seaside Heights Planning Board

August 31, 2022

6:00 PM

116 Sherman Ave.

Court Room over Fire House

- Open Public Meetings Act Statement
- Pledge of Allegiance
- Roll Call

PRESENT: Frank C. Gorman, Steve Sanzone, Robert Triano, Vito Ferrone, David Witherspoon, Thomas Faragalli, Ted Szjenrok, Paul Firetto

ABSENT: Chris Vaz, Frank M. Santora, Peter Jarkezian

- Motion to approve minutes of August 1, 2022

Motion by Robert Triano, seconded by Steve Sanzone-all in favor.

RESOLUTIONS TO MEMORIALIZE

RESOLUTION #2022-26

BLOCK 14.01 LOT 29 – 707 131 SUMNER AVE. -BAPU, LLC./O RAKESH PATEL – ZONE: RETAIL BUSINESS (RB)

MINOR SITE PLAN WITH VARIANCES

APPLICATION #2022-05

USE VARIANCE: DENSITY/LOT AREA

VARIANCES: PARKING

FRONT YARD SETBACK

SIDE YARD SETBACK

ATTY: MATT HEAGEN, ESQ.

Motion to approve by Robert Triano seconded by Steve Sanzone

Those in favor: Robert Triano, Steve Sanzone, Frank C. Gorman, Ted Szjenrok

RESOLUTION #2022-27

BLOCK 53 LOT 5 – 212 SHERMAN AVE. -SEAN BRADY -ZONE: LOW DENSITY RESIDENTIAL (LDR)

MINOR SITE PLAN WITH VARIANCES

APPLICATION 2022-12

VARIANCE: SIDE YARD SETBACK

USE VARIANCE: HEIGHT

Motion to approve by Tom Faragalli seconded by Robert Triano

Those in favor: Tom Faragalli, Robert Triano, Steve Sanzone, Frank C. Gorman, Ted Szjenrok

RESOLUTION #2022-28

BLOCK 51 LOT 28 – 256 HANCOCK AVE. – LINDA RUETSCH – ZONE: LOW DENSITY RESIDENTIAL (LDR) USE AND BULK VARIANCES

Motion to approve by Robert Triano seconded by Tom Faragalli

Those in favor: Robert Triano, Tom Faragalli, Steve Sanzone, Frank C. Gorman, Ted Szjenrok

APPLICATIONS TO REVIEW

BLOCK 16 LOTS 6 & 9 – 701 BOULEVARD – PKH LIQUORS DBA DRIFTERS OF SEASIDE – ZONE: RETAIL BUSINESS (RB)

MINOR SITE PLAN WITH VARIANCES

APPLICATION # 2022-17

Applicant is requesting approval to provide outdoor seating for the existing restaurant with 16 picnic tables. If approved the applicant proposes to fence in the area with a 4-foot-high screening fence across the front of the property with a 6-foot screening fence across the rear of the property. There will be the addition of restrooms added to the rear of the site by installing an 8x20 foot bathroom trailer within the conforming setbacks. They propose to add a service bar which will be located under an awning. There will be string lights on the site to illuminate the property. Since there is no parking available on this site, the applicant will be requesting a variance for no parking.

VARIANCE: PARKING

ATTY: MATT HEAGEN, ESQ.

Matt Heagen, Esq. appeared with applicants and Rob Harrington, Engineer. The applicant was granted temporary relief by the Seaside Heights Mayor and Council through a special event application, which was given to businesses as a result of COVID to have outdoor seating. With this application, the applicant is attempting to formalize this to keep outdoor seating permanently. There are 2 different owners on this property. The applicant is asking for approval to put up an awning, which will span both properties. Steve Zabarsky, Esq. Planning Board attorney asked the applicants to clarify about the lots, since he is under the impression that there is NOT going to be a consolidation of the lots. The applicant said that is correct. To complete the outside area the applicants have installed mobile bathroom facilities on this property. It is hooked into the town water and sewer lines. They would like to have this available permanently as well.

Steven Zabarsky said that the application states that the property area in question is 9450 square feet, but this is the total amount of the two lots. To perfect this application, Zabarsky told the applicants that they need to provide the dimensions of lot 6 on its own because the plans that were submitted have measurements for both lots together. The plans need to be amended for lot 6, which in turn creates the need for new numbers for area and side yard setbacks.

Additionally, Steve Zabarsky pointed out that the applicant needs a use variance since the lot that only has tables and a bathroom, is not a permitted use. Due to the nature of this property/business, a condition of approval will be that Drifters has to continue operating as a restaurant. This can be done by way of an "impertinent easement" on the property and will take away the need for a Use variance.

Rob Harrington, Licensed Professional Engineer, East Coast Engineering was sworn in. As he has testified many times before this Board, he was qualified.

Matt Heagen asked Harrington to give general site plan information. Harrington stated that everything which is currently on site will remain and the only addition they will be making is the proposed awning. This awning will be installed on the north side of the building, situated over the existing bar. On the plans submitted the awning is drawn as a shaded gray rectangle with cross hatches on it. Harrington said the applicant will need a side yard setback for the awning of 2 feet, where 3 feet are necessary. In regard to the dimensions of Lot 6, Rob Harrington was able to provide information. Lot 6 is 5670 square feet. There is an existing variance on Lot 9 of 2.5 feet.

Marked for identification:

A-1 Application with all attachments

A-2 Doug Klee's engineer review letter dated 7/21/22

Steve Zabarsky asked if there should be an easement for the overhead hanging lights. Doug Klee said he believes that a blanket easement for electrical wires or a utility easement will be sufficient to cover the main power utility pole from lot 6 to lot 9.

The following are covering bullet points in Doug Klee's Engineer Review letter:

In terms of site utilization Mr. Harrington explained that there will be 10 employees inside of the business and 10 on the outside portion. There will be outdoor entertainment of light music for limited hours. There will be a storage area on site which will be for extra tables and chairs in the outside area. They will be open 7 days a week from 8:00 am to 2:00 am though currently they are open from 4:00pm to 2:00 am. They will not need anything additional for deliveries since all deliveries are made on the Blaine Ave. side of the building. Solid waste goes out on the Blaine Ave. side of the building. With regard to noise, glare, fire and safety, Harrington stated that the music will be at low volume, they are utilizing low lighting that will point in the direction of the Boulevard. For this application/property there are no fire or safety hazards to address since the facilities are outdoors. In terms of safety the property is entirely fenced in and there is no vehicle access on site.

Harrington told the Board the applicants are asking for a parking variance to have 0 parking spaces. Most customers are either riding bikes or walking to this restaurant. Lot 3, which is owned by Coffee Talk, is a private parking lot.

According to Harrington, the only architectural change will be the addition of the awning.

Point #6 on the review letter is lighting and landscaping- per Harrington there will be no off-site impact from the lighting. There are planters on the perimeter of the property. On the west side behind the building there is an existing 6-foot fence. Within that fence is a trash enclosure that is separated from the neighbor's property. There will be no new signage on the building. Doug Klee said he is good with the grading and drainage on the property. Doug asked if there is handicap access to the area. Harrington said there are pavers on this sidewalk area to access with wheelchairs.

The applicants will need variances for front setbacks on this property. There is a bike rack that is less than 10 from the front yard. The applicants should ask for a 0 foot front setback to place the bike rack legally.

All fencing on the property already exists and will be remaining there. The applicants are not proposing any additional screening. Doug Klee mentioned that the existing stockade wooden fence could use an update, but it is the neighbor's fence that has been placed on Drifter's property.

Angie Lombardi was sworn in. Her address is 222 Kearney Ave., Seaside Heights, NJ. She is the applicant but is not the owner of either of the addresses mentioned in this application. The owners of Lot 6 are Patty Hershey and Angie Lombardi-Coffee Talk. The owner of Lot 9 is TR Landholding, Rick Lee, who is a partner in Drifters. PKH Liquors are also partners in Drifters.

Angie was asked about the fence on the west of the building. She believes that the neighbors installed the fence. She verified that it is a wooden stockade fence. The applicants agreed to paint and be responsible for the upkeep of the fence for the aesthetics of the business. As a condition of any approval, if the neighbors take the fence down, the applicants then have to replace and install a new fence.

Regarding business hours Ms. Lombardi stated that they are open from 4:00pm to 12:00am right now, but can be open from 8:00am to 2:00am per their liquor license through the town.

Steve Zabarsky said he would like to know if there is a site plan for Drifters and if so, what are the hours of operation documented for Lot 9. If there are hours of operation for Lot 9, then Lot 6 cannot go beyond those hours. If there is nothing that states hours of operation in a resolution to approve site plans, then the business can be open from 8:00am to 2:00 am per their liquor license agreement.

Ken Roberts, Zoning Officer was sworn in to explain that there is a noise ordinance of 10:00 pm in this particular zone.

There were no further questions.

The Board decided to hold off on voting for this application until they are able to see the town resolution and determine what if any restrictions are imposed on this business with regard to hours of operation and entertainment.

This will be carried until the September 28, 2022 meeting for further action.

Vito Ferrone left the meeting, since he cannot vote on the remaining applications that have D Use Variances. (7:00pm)

**BLOCK 2.01 LOT 46 – 46 DUPONT AVE. – 46 DUPONT AVENUE LLC. – ZONE: RESIDENTIAL (R)
MINOR SUBDIVISION WITH VARIANCES
APPLICATION #2022-19**

Applicant is seeking approval to divide this lot, which is 40 feet by 100 feet in dimension, into two separate lots. The new lots, if approved will total 20 x 100 each and will be allocated as Lot 46.01 and Lot 46.02. If a subdivision is granted, the applicant proposes to build one single family house on each of the lots and will be requesting a use variance for the height asking for 45 feet tall where 35 feet is permitted. In addition, the applicant is requesting a 1- foot side yard set back on one side of each of the houses, where 3 feet are required.

VARIANCE: SIDE YARD SETBACK

USE VARIANCE: HEIGHT

ATTY: MATT HEAGEN, ESQ.

Matt Heagen, Esq. appeared on behalf of the applicant.

He explained that this application is for property that is 40x100 square feet. The applicant is requesting approval to subdivide the property into 2 buildable lots, 20x100 each.

Dan Wheaton, owner of 1010 Architecture, 714 N. Main St., Manahawkin who is professional architect and planner was sworn in and qualified as an expert who has testified many times before this Board.

Dan Wheaton stated that this application was done prior to the town changing side yard setbacks in an ordinance. The Planning Board Engineer, Doug Klee's review letter reflects the new zoning ordinances, but Dan Wheaton felt that he should present this application with the old zoning ordinances since that is when he completed the plans.

Wheaton stated that the applicant is seeking side yard setback variances and a height variance. This property is in the Residential Zone. They were going to ask for the building to be allowed to be built at 44 feet high, but they will make it 43 feet 9 inches so that this can be a regular height variance and not a D.

As there is a building on this property, Doug Klee stated to the Mr. Wheaton that they must remove the building before they can submit their subdivision plans for recording with the county. Wheaton said they are scheduled to demolish the house in the very near future and they already have a permit.

Steven Zabarsky marked the following for identification:

A-1 The application and all its attachments

A-2 Engineer review letter by Doug Klee dated July 20, 2022.

Mr. Wheaton went on to further explain that they chose to design the potential homes to built with peaked roofs. They fit better into the scape of the street as most of the homes there are also built with peaked roofs.

Wheaton asked to strike the use variance and will ask for a C2 Variance for height and side yard setbacks of 1 foot on one side and 3 feet on the other. Since these houses will have 4 bedrooms, they are asking for waivers for parking and will be providing two parking spaces per house. They will also be removing 2 on-street parking spaces and state that they are aware that they will have to compensate the town for that loss.

For front and rear setbacks on this property, they will be fully compliant. They also agree that they will NOT build any fences between the two houses.

There were no further questions by the Board, 200 foot radius or the general public.

A motion was made to adopt a resolution for this application with the condition that the existing house on the property will be removed before the applicant can record the subdivision with the county by Tom Faragalli, seconded by Robert Triano.

All were in favor: Tom Faragalli, Robert Triano, Frank C. Gorman, Steve Sanzone, David Witherspoon, Ted Szejnrok, and Paul Firetto.

BLOCK 2.01 LOT 22.01 – 22 DUPONT AVE. – WP PROPERTY LLC – ZONE: RESIDENTIAL (R) AND RETAIL BUSINESS (RB)

MINOR SUBDIVISION WITH VARIANCES

APPLICATION #2022-18

This applicant is requesting approval to subdivide the 4000 sq. ft. property into two lots, each measuring 2000 square feet. If approved, the new lots will be 22.02 and 22.03 on which the applicant proposes to build a single-family house on each lot. The proposed plans for these houses will require a use variance for height, asking for a height of 53.14 feet, where 49.03 feet is allowed. In addition, the applicant is asking for a variance on each new lot for side-yard setbacks on one side of the property to be 1 foot where 3 feet are required.

VARIANCE: SIDE YARD SETBACK

USE VARIANCE: HEIGHT

ATTY: MATT HEAGEN, ESQ.

Matt Heagen, Esq. appeared on behalf of the applicant. He explained that this property is in two different zones; the residential zone and the retail business zone. They are asking for approval to subdivide the property into two equal, buildable lots with height and side yard setback variances.

Dan Wheaton, owner of 1010 Architecture, 714 N. Main St., Manahawkin who is professional architect and planner was sworn in and qualified as an expert who has testified many times before this Board.

Dan Wheaton stated that this application was done prior to the town changing side yard setbacks in an ordinance. The Planning Board Engineer, Doug Klee's review letter reflects the new zoning ordinances, but Dan Wheaton felt that he should present this application with the old zoning ordinances since that is when he completed the plans.

The applicant is striking the use variance for height and will be asking for approval to build 2 homes at the height of 43.9 feet each or less where 40 feet are allowed. They are asking for this height because the best design for the homes in this area is to be built with peaked roofs to integrate into the surrounding neighborhood.

Wheaton also explained that the applicants are asking for side yard setbacks of 3 feet on one side and 1 foot on the other (westerly side) of each house.

The applicant will be building the houses with a 24-foot front yard setback to the deck on both of the houses. The rear setback will be 11 feet with 7 feet where the AC units will be located. These homes are going to be 4 stories high, so Dan Wheaton stated that he incorporated a sprinkler system into the plans of each house.

Dan Wheaton said that the plans provide 3 parking spaces on each lot, but they will be taking away 1 on-street parking space. The applicants understand that they will have to compensate for this loss.

The applicant and their professionals agree to all technical revisions stated in Doug Klee's review letter.

There were no further questions from the Board, 200 foot radius, or the general public.

A motion to adopt a resolution was made by Steve Sanzone seconded by Robert Triano. All were in favor: Steve Sanzone, Robert Triano, Frank C. Gorman, David Witherspoon, Tom Faragalli, Ted Szejnrok, Paul Firetto

**BLOCK 40 LOT 9 -1010 BOULEVARD – PANTAI LLC. – ZONE: RETAIL BUSINESS (RB)
MINOR SUBDIVISION WITH VARIANCES AND USE VARIANCES
APPLICATION #2022-14**

This property is a 60x20 foot parcel for which the applicants are requesting a "subdivision" that if approved, will be incorporated into the site plan application for Block 40 Lot 4 (application #2022-15). The lot area where this 1200 square foot parcel will be coming from is currently 5800 square feet. If the subdivision/merge of this property into Lot 4 is approved, the remaining area for lot 9 will be 4600 square feet. If the merge is approved, the applicant is proposing to build a condominium building on this space.

In addition, the applicant will be requesting a variance for this undersized lot, which if approved will be attached to a conforming lot. Applicant is also seeking a use variance for density since the current lot is 5800 square feet, that will be reduced to 4600 square feet (if the 20x60 portion is incorporated Lot 4) where 4800 square feet is required. If these requests are approved, the addition of this lot into Lot 4 will be documented by way of a deed.

**VARIANCE: UNDERSIZED LOT
USE VARIANCE: DENSITY
ATTY: MATT HEAGEN, ESQ.**

Matt Heagen, Esq. on behalf of the applicant (represents both owners) requested a postponement of this hearing without further legal notice. The engineer on this project was unavailable. A substitute engineer was going to stand in for him. At the time, the Board Secretary was unsure that there was going to be a quorum, so the substitute engineer was called off and had other plans. At the time of this hearing, the substitute engineer was unavailable. All Board members were in favor to move hearing to September 28, 2022 meeting.

**BLOCK 40 LOT 4 & 9 -1010 BOULEVARD – PANTAI LLC. – ZONE: RETAIL BUSINESS (RB)
APPLICATION #2022-15
MINOR SUBDIVISION, PRELIMINARY & FINAL MAJOR FINAL SITE PLAN WITH VARIANCES AND USE VARIANCES**

This applicant is seeking approval to build a 15-unit, 4-story condominium complex with conforming 27 spaces of off-street parking. Currently there is a motel and swimming pool on this property. The applicant has another application regarding a parcel of property on Block 40 Lot 9, which if approved

will incorporate that parcel into Lot 4, making the property's lot area 10,700 square feet. Since the applicant is planning on adding the 1200 sq. ft. parcel from lot 9 to this lot, they are seeking subdivision approval.

To build this project the applicant is requesting a variance for a Front Yard setback of 5 feet, where 10 feet are required. They are also seeking approval to build the condo complex at 42 feet high, where 40 feet is permitted.

This applicant is also asking for a Use Variance for Density. Where it is required in that zone that each unit measure 1200 square feet, the applicant seeks approval to build each unit in the condominium complex at 713 square feet.

VARIANCE: FRONT YARD SETBACK

HEIGHT

USE VARIANCE: DENSITY

ATTY: MATT HEAGEN, ESQ.

Matt Heagen, Esq. on behalf of the applicant (represents both owners) requested a postponement of this hearing without further legal notice. The engineer on this project was unavailable. A substitute engineer was going to stand in for him. At the time, the Board Secretary was unsure that there was going to be a quorum, so the substitute engineer was called off and had other plans. At the time of this hearing, the substitute engineer was unavailable. All Board members were in favor to move hearing to September 28, 2022 meeting.

Meeting Adjourned at 7:30 pm all members in favor.

Minutes are not verbatim, but a recording is available in the Borough Hall located at 100 Grant Ave., Seaside Heights.

Minutes submitted by Sherri R. Sieling, Planning Board Secretary