

MINUTES

Seaside Heights Planning Board

October 26, 2022

6:00 PM

116 Sherman Ave.

Court Room over Fire House

- Open Public Meetings Act Statement-*read by Chairman Frank C. Gorman*
- Pledge of Allegiance
- Roll Call

Present: Frank C. Gorman, Chris Vaz, Frank M. Santora, Peter Jarkezian, Robert Triano, Vito Ferrone, David Witherspoon, Thomas Faragalli, Ted Szejnrok

Absent: Steve Sanzone, Paul Firetto

- Motion to approve minutes of September 28, 2022

Motion by Robert Triano, second by Peter Jarkezian. All were in favor.

APPLICATIONS TO REVIEW

BLOCK 49 LOT 3.01 – 207 CARTERET AVE. – 207 CARTERET, LLC.- ZONE: RETAIL BUSINESS (RB) & LOW DENSITY RESIDENTIAL (LDR)

APPLICATION #2022-23

MAJOR FINAL SUBDIVISION WITH VARIANCES

This applicant is requesting approval to subdivide this 14000 square foot property into seven (7) 20x100 lots on which they propose to build seven, individual single-family homes. Presently the Mark III Motel is on this property, which will be torn down to complete this project. The applicant is asking for a height variance to build the homes at 44 feet tall where 41 feet is permitted by code. They are also asking for a variance for a side yard setback on one of the lots, proposed lot number 36.01, which is the corner lot on the Central Avenue side.

ATTY: MATT HEAGEN, ESQ.

VARIANCES: HEIGHT

SIDE YARD SETBACK

Matt Heagen appeared for the applicant. He explained that the applicant is seeking approval to subdivide his property into 7 lots to build 7 single-family homes. They are asking for height variances for each of the lots so to build the homes at a height of 44 feet high where 41 feet is allowed.

Brian Murphy, licensed engineer and planner from FWH Associates, 1856 Rt. 9, Toms River, NJ was qualified as an expert, as he has testified before the Board on several occasions. Mr. Murphy was sworn in and his information was marked for identification as follows:

A-1 The application and all of its attachments.

A-2 Doug Klee, Planning Board Engineer's review letter dated October 25, 22.

A-3 Aerial Exhibit for 207 Carteret Ave.

Mr. Murphy described A-3 as a blown up image of the area where 207 Carteret Ave. is located from Google Earth and has the property highlighted in red. This photo includes views of Carteret, Kearney,

ana Central Aves. He stated that the applicant is proposing 7 lots, each at 2000 square feet to build single family homes that will each have 4 bedrooms. Murphy said that the RSIS requires 2 ½ parking spaces for a home this size. The town ordinance is 2 parking spaces. Mr. Murphy explained that building these homes will not take away any on-street parking spaces and will in fact add 3 parking spaces for the town, on the street. One of the new lots, proposed as 36.01, on the north east corner of the property will require/asking for approval for a front setback variance along Central Ave. requesting a 3 foot setback where 10 feet is required.

The applicant is also requesting height variances for each of the lots; where 41 feet height is allowed, they are asking for 44 feet high. Mr. Murphy explained that in land use law, granting this height variance can be considered a special reason if the design is harmonious with the rest of the environment. He also said that building single family homes where there is currently a motel is a much better use of the property and will decrease noise and traffic in that area. Murphy highlighted that all properties will be wind, fire and flood compliant and that he believes that this project is in line with the Master Plan of the town. Mr. Murphy also stated that he and the applicant agree to everything in Doug Klee's review letter.

Doug Klee, Planning Board Engineer pointed out that it will be important for the applicant to include recharge trenches for storm water and to reduce drain surfaces

Chris Vaz stated that if the applicants need to open the road on Carteret and Kearney Aves., as per town ordinance they will be financially and physically responsible to pave the road from sidewalk to sidewalk, since this road was just repaved recently by the town. He also said that Public Works should review the storm water and sanitary sewer situation for recommendations and approval. This will be a condition of any resolution if accepted.

As there were no further questions or comments by the Board the meeting was opened to the 200 foot radius list and members of the audience for questions to the applicant.

Pete Pachella, 215 Carteret Ave. Seaside Heights was sworn in.

Mr. Pachella's questions were regarding water run-off onto his property. He wanted to know what the plans were to prevent that from happening. Pachella believes that according to the plans, which he viewed in the Borough Hall, the applicant's properties are being pitched in such a way that their storm water will run right onto his property.

Brian Murphy responded that that when they designed the property, they took all those concerns into consideration. In his Storm Water Report, Murphy shows that the property will be graded and the front corner will be raised so that there should be virtually no runoff.

Brian Shortino, 232 Carteret Ave. Seaside Heights was sworn in.

Mr. Shortino was in the Borough Hall to view the applicant's plans. His questions were based on what he viewed in the office. Shortino wanted to know "where is the modular retaining wall?" He said that he sees that it is a construction detail on the plans, but Brian Murphy is saying it is not in the plan right now. Murphy said when they do each lot if they feel it is necessary, they will add that detail. Mr. Shortino also wanted to know what the applicant was going to do about water runoff on other properties. Brian Murphy said that they will be reducing the impervious surface when the motel is demolished and that will help with excess water.

Shortino also felt that the notice sent out to property owners was incorrect because they asked for a side yard set back variance but now they are asking for a front yard setback variance. He then asked what is determined as a front yard. Kenny Roberts, Zoning and Code official was sworn. Roberts said that anything facing the street is a front yard.

Shortino also commented that it is unfair not to have architectural drawings because they have no way of knowing where the down spouts will be on the house. Brian Murphy said that it is not necessary for the architect to show architectural drawings.

Richard Sasso, 245 Kearney Ave., Seaside Heights was sworn in.

He wanted to know if there really was a need for a height variance. He asked why the Board doesn't make it all the same across the Board? Ken Roberts responded that the Board can only make recommendations, they cannot pass ordinances. That is for the Mayor and Council.

There were no further questions and the meeting was now open to public comments.

Brian Shortino 232 Carteret Ave., SSH stated that the proposed lot 36.03 is adjacent to the property of lot 42 and the retaining wall will be along common property lines. It is his opinion that water is going to go on the neighboring property. Shortino does not believe that the Borough should allow storm water runoff onto other properties, in this case, specifically lot 42. The westerly wall that is there keeps storm water runoff away from that property. Shortino stated that the public should be able to see the architectural plans. He also said that Doug Klee has a subdivision plan that is not in the packages that the Board members have. He feels that the whole application should be trashed.

Rich Sasso was back up to state that if we want to have a harmonious Seaside Heights, the Board should stay within the 41 foot height limit. He feels like the town will look like it is full of skyscrapers.

Pete Pachella came up once more to say that he felt the drawings presented by the applicant were vague. He is requesting that the Board take a close look at the elevations before taking any action. Pachella's opinion is that the new properties are going to be pitched toward his property and will cause problems with water on his property.

There were no further questions or comments. The Public portion of the meeting was closed.

Chris Vaz asked Doug Klee if the comments the public are making are true regarding the runoff. Doug Klee, Planning Board Engineer was sworn in. Doug stated that he is sure there will be no drainage impact, like the neighbors are concerned about. Brian Murphy is putting in inlet structures in all rear yards of the future homes and connecting them to the drain system. Chris Vaz stated that this should be a condition of any approval. The applicant must design the storm water systems so that the neighbors don't have water in their yards from these new properties.

Kenny Roberts stated that there is a catch basin at the bottom of each gutter which will drain the water. Additionally the retaining wall is part of lot 42 and will stay in place.

A motion to adopt a resolution to approve this application with the drainage stipulations as a condition was made by Thomas Faragalli, second by Vito Ferrone. Yes votes by Thomas Faragalli, Vito Ferrone, Frank C. Gorman, Chris Vaz, Frank M. Santora, Peter Jarkezian, Robert Triano, David Witherspoon, Ted Szejnrok

BLOCK 61 LOT 3 – 901-15 OCEAN TERRACE (AKA 901 BOARDWALK) – NEW CINGULAR WIRELESS PCS, LLC ("AT&T")- ZONE: RESORT RECREATIONAL (RR)

APPLICATION #2022-22

PRELIMINARY AND FINAL MAJOR SITE PLAN WITH VARIANCES

This applicant is seeking approval to build a rooftop telecommunications facility on top of the Aztec Motel. The first variance the applicant is seeking is a USE variance for the ability to install this facility which is a "d" variance. They are also seeking to build the antennae at 59.60 feet tall where 40 feet is permitted by code. This height variance is also a "d" variance as the height exceeds 10% of the permitted height. Additionally, the applicant will be requesting Front and Side Yard setback variances. For the front yard setback, where 10 feet is required, they are proposing 9.17 feet and for the left side yard setback they are asking for 7.08 feet where 10 feet is required.

ATTY: JUDITH A. FAIRWEATHER, ESQ. – PHINILISHALPERN, LLP

"D" VARIANCES: USE & HEIGHT

BULK VARIANCES : FRONT YARD SETBACK

SIDE YARD SETBACK

Board members, Vito Ferrone and Frank Santora left the meeting since there are D variances that they are unable to vote for due to their membership class.

Christopher Quinn, Esq. of Phinlishalpern, 160 Morris St, Morristown, NJ appeared on behalf of the applicants.

Mr. Quinn stated they are here for Preliminary and Final Site Plans for a rooftop telecommunication facility. They will be asking approval for a "D" Use variance and a "D" Height variance.

Stephen Zabarsky, Esq. Planning Board Attorney advised that the dual board reduced down to a full 7 member Zoning Board and for the application to be approved, they will need 5 affirmative votes.

The following were marked for identification:

A-1 The application and all attachments.

A-2 Doug Klee, Planning Board Engineer's review letter dated October 5, 2022.

Mr. Quinn explained that AT&T would like approval to install antennae on the lower interior roof of the Aztec Motel. The applicants stated that this placement be unobservable by hotel rooms. The intention is to improve the cell phone service for the increased summer population and be prepared for emergencies. Mr. Quinn will be having 3 witnesses testify about the application.

The first witness was Nicholas Barile, Civil Engineer, 976 Taber Rd., Morris Plains, NJ . Stephen Zabarsky swore him in. Mr. Barile told the Board that he has been a Civil Engineer for 20 years in site development and 15 years in wireless communications. His licenses are current and up to date.

Mr. Barile stated that it is 34 feet to the roof line of the penthouse bulkhead on the Aztec property. They would like to install a new facility at the roof level, which will have 4 different sectors of antennae; 3 on the north end on ballast frames and the 4th one mounted on the penthouse. Using SP1 of their documents, Barile said there will be a 230 square feet steel platform with equipment cabinets and a natural gas back-up generator. No one on the ground level will be able to view this platform. This apparatus is tested every couple of weeks to insure proper operating.

In regard to setback variances Barile said the applicant is asking for a front yard setback of 9'2" from the west along Ocean Terrace. For the antenna facing north, they are asking approval for a 7'1" setback.

Where the bulkhead is, the existing height is 45 feet. With the addition of the antenna, it will be 51 feet tall, which verifies that the measurement in Doug Klee's letter is correct. There will be a small, timed work light that shoots down at the equipment. This light is manually operated and turns itself off in an hour if left on. AT&T will provide the Borough with emergency contact information for any problems. Barile explained that there will be 3 Northern antennae at 44 feet high, 12 other antennae at 44 feet high and 1 array, which is 4 antennae at 51 feet tall.

Mr. Barile advised that AT&T will have a lease with the Aztec Motel. Upon expiration of this lease, which is 5 years, AT&T will take their facility down. They do have an option of extensions of several 5 year terms, so the equipment will only stay up there if they are in a current binding lease. If approved, AT&T will have 6 months after the last day of the expiration of their lease to remove the equipment.

Currently, there is a temporary facility that will be taken down and will be replaced by the items in this application if approved. All the items installed will be code compatible, fire rated, wind rated and installed safely.

Doug Klee asked about the elevations to the top of the antennae, how high above roof level will they be? Barile said that for 3 antennae it will be 10 feet, for another one it will be 11 feet and for the last one, it will be 17 feet above the roof. Barile told the Board to take a look at the photographic simulations he provides to illustrate the heights.

Stephen Zabarsky mentioned that it is important to note that this variance if approved will run with the lease, NOT with the land.

The meeting was opened to questions from the audience.

Rich Sasso, was sworn again and had questions for the Civil Engineer.

Mr. Sasso asked if there is a monetary incentive for this application. Mr. Barile said that AT&T will have a lease with the Aztec Motel and that all these types of applications have a monetary incentive because people have to pay for the service of using their phone. Mr. Sasso brought up research that states that the frequencies from the towers/antennae can cause health problems for children and the elderly and asked if they felt comfortable about that. He also asked if Mr. Barile would let his family live near a facility such as this. Mr. Barile said he would absolutely and that the emissions are minute.

The next witness is Daniel Penesso, 15 Midland Ave. Paramus, NJ and is an Radio Frequency Engineer. He stated that he is an expert about Planning and Zoning and Radio Frequency Design. Mr. Quinn asked if AT&T is licensed. Daniel Penesso answered that they are licensed by the FCC.

Quinn asked Penesso why AT&T is proposing this site at this particular location as mentioned in the application. Penesso referred to the map of the site showing that the yellow star is the proposed site. He explained that the site was chosen because of the influx of customers in this area at one time. AT&T currently has a temporary site on the Casino Pier. This site is not providing the full compliment of service to their customers so they determined they need an alternative site in the immediate vicinity of the temporary site. They also decided that the use of the site in question would be more

advantageous than building a whole new site. Penesso told the Board that this site is very important because it is dedicated to NetGear for first responders. Which will increase the safety of those living here and visiting. Mr. Penesso added for the benefit of Mr. Sasso's question, that the site will be emissions compliant.

Mr. Penesso went on to explain the logistics of placing the antennae. He said that if the antennae are more in the middle of the roof, they will need to be taller due to the way the signals get sent out from the antenna. The signals go down and ray out. If the antennae are closer to the edge of the roof, they can be shorter in size. Penesso used Sheet Z-1 to illustrate that the Delta and Alpha sectors can be moved closer to the roof edge, but the others cannot. Penesso stated that if the Board was inclined to let them move the placement of these two sectors, they would NOT need variances, because the height would comply in this zone.

A member of the board asked if 5G is included and Penesso said it is.

Another member asked why they can't just put a big antenna pole on the Casino Pier.

Penesso said that it is not feasible to put a monopole on the pier due to weight, and how far down the base would need to go down into the sand below, and CAFRA restrictions.

Also mentioned by a Board member was that the steel part that is attached to the to the Aztec building right now is kind of an eyesore. The member requested that if this application is approved that they paint the metal to match and blend into the color of the building.

Paul Ricci, Professional Planner, 177 Monmouth Ave., Atlantic Highlands was sworn in to discuss the USE variance. He stated that one of the criteria for an FCC license is if a use promotes the public good. Cellular service is well suited to this location according to Ricci as it enhances that general welfare of the public by the ability to communicate with others especially in emergencies. Research shows that over 50% of cell phone usage benefits the public. Ricci said that these facilities are passive and do not create any negative impact on the area.

Paul Ricci said that the applicants would be willing to mitigate any negative impact of the site by making the antennae shorter and moving them closer to the edge of the roof. They will also paint the part of the apparatus that is highly visible to the public.

Mr. Quinn asked Paul Ricci if the benefits of this project outweigh the detriments. Ricci said that there are no detriments to installing this project.

Chairman, Frank C. Gorman asked if there were any further questions of the Board or the public and there weren't any.

A motion to adopt a resolution was made by Robert Triano and second by Peter Jarkezian.

Yes votes by: Robert Triano, Peter Jarkezian, Frank C. Gorman, Chris Vaz, David Witherspoon, Tom Faragalli, and Ted Szenjrok.

RESOLUTIONS TO MEMORIALIZE

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

RESOLUTION 2022-31

A motion to memorialize a resolution to approve this application was made by Robert Triano, Second by Chris Vaz

Yes votes: Robert Triano, Chris Vaz, Frank C. Gorman, Peter Jarkezian, David Witherspoon, Ted Szejnrok

BLOCK 40 LOT 9 -1010 BOULEVARD – PANTAI LLC. – ZONE: RETAIL BUSINESS (RB)

MINOR SUBDIVISION WITH VARIANCES AND USE VARIANCES

APPLICATION #2022-14

BLOCK 40 LOT 9 -1010 BOULEVARD – PANTAI LLC. – ZONE: RETAIL BUSINESS (RB)

MINOR SUBDIVISION WITH VARIANCES AND USE VARIANCES

APPLICATION #2022-14

RESOLUTION 2022-32

**THESE PROPERTIES WERE CONSOLIDATED FOR PURPOSES OF THE MEETING AND THERE IS ONE RESOLUTION DETAILING THE APPROVALS THAT WERE MADE.*

A motion to memorialize a resolution to approve both applications was made by Peter Jarkezian, second by Robert Triano.

*Yes votes: Peter Jarkezian, Robert Triano, Chris Vaz, David Witherspoon, Ted Szejnrok
Chairman, Frank C. Gorman was unable to vote since he is in the 200 foot radius.*

BLOCK 49 LOT 4 -210 KEARNEY AVE. – PHILLIP GIUNTA – ZONE: RETAIL BUSINESS (RB) & LOW DENSITY RESIDENTIAL (LDR)

APPLICATION #2022-21

MINOR SUBDIVISION WITH VARIANCES

RESOLUTION 2022-33

A motion to memorialize a resolution to approve this application was made by Robert Triano, Second by Peter Jarkezian.

Yes votes: Robert Triano, Peter Jarkezian, Frank C. Gorman, Chris Vaz, David Witherspoon, Ted Szejnrok

Chris Vaz mentioned to the Board that the Borough applied for a grant to make improvements to Central Avenue. Chris asked the Board if they approve of Chairman, Frank C. Gorman signing a letter of support from the Seaside Heights Planning Board of this project. All Board members were in favor of this.

Vaz also told the Board that there are property owners and business owners that have concerns about actions taken by the Planning Board and the Mayor and Council in various matters. Chris asked for volunteers as representatives of the Planning Board to take part in a meeting with Vito Ferrone and Rich Tompkins as the Mayor and Council representatives to discuss these matters. Chairman Frank C. Gorman, Peter Jarkezian, and Robert Triano volunteer to be present at that meeting when it occurs.

Ken Roberts, Code Enforcement/Zoning Official addressed the Board regarding the 10 homes currently being built on the corners of Sampson Ave and Hirling Ave along Central Ave. The construction was at a standstill, but 2 new owners took over the projects. Ken passed out a 3 page handout with 2 architectural renderings of the outside of the houses and a map of the floor and roof plans of these homes. Ken stated that the owners were asking about making several types of changes. Mr. Roberts said that the Board approved the application to build what is in the original plans but would bring the following two items to the attention of the board for a possible administrative change.

The first item they would like to change is shown on page 2 of the handout. The owners would like to give buyers a choice to have the garage wall stop at the end of the stairs so they will have the ability to park 2 cars in their garage.

The second item is regarding the outside wooden detailing that is shown on page 1 and 3 of the handout. Page 1 shows the original plan, which has the wood screening façade installed from the roof to the ground of the house. This façade is directly in front of the main entrance door. One of the owner's felt that it might not be a safe feature, thinking that it could be a space for strangers to hide and will not be visible to the owner until they are right next to the intruder when attempting to enter their home. Page 3 of the handout shows the architectural change that eliminates the wooden facade in front of the downstairs door.

All the Board members were in agreement that these are good changes and that the potential owners should be given the choice to make these changes on their own individual homes. This property was granted an administrative change to make these modifications.

A motion to adjourn the meeting was made by Peter Jarkezian at 8:44 pm. All were 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