

September 14, 2020

Land Use Board Minutes
Beachwood Municipal Complex
1600 Pinewald Road

7:00PM



CALL TO ORDER

The interim Planning and Zoning Board Secretary, Kathryn Hutchinson called the meeting to order at 7:02pm

FLAG SALUTE:

The Flag Salute was led by the interim Planning and Zoning Board Secretary, Kathryn Hutchinson

SUNSHINE LAW:

Pursuant to the applicable portions of the New Jersey Open Public Meetings Act, adequate notice of this meeting has been given. The schedule for this meeting of the Beachwood Land Use Board is listed in the annual notice of meetings, posted on the bulletin board located in the Municipal Complex, transmitted to the Asbury Park Press and the Municipal Website on December 27, 2019.

The Vice Chairman, Mr. Paul Swindell, read the Chairman's Statement as follows:

CHAIRMAN'S STATEMENT:

This meeting is a judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the Board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times. Your comments will be limited to 5 minutes per person and we ask that you do not repeat what a previous person/objector has already objected to or commented on other than to acknowledge agreement.

ROLL CALL MEMBERS PRESENT:

Tom Abramski, Ray DiBernardo, Randy Martin, Paul Swindell, TJ Wrocklage

Professionals Present for the Municipality: Douglas Rohmeyer, PE, CME, CFM from the firm of CME Associates and Mr. Robert Ulacky, ESQ from the firm of Dasti, Murphy, Connors and Ulacky

Absent: Councilman Cairns Tom Prince, David Raimann, Mayor Roma

Alternates: Vacant

The application for Eagles Point was addressed first on the agenda. The professionals present for the applicant were Mr. Harvey York, ESQ and Mr. Matt Hockenbury, PE from the firm of MCH Engineering, Inc. Mr. York stated that the application before the board is for a single-family home on an undersized lot. Mr. York continues with the case law in support of his client's application as being Nash V. the Board of Adjustment 1984 and Dallmeyer V. Lacey Township Board of Adjustment in 1987. Mr. York stated that the applicant must prove that they have a contract to buy the property, an attempt made to avoid said variance, granting said variance would not have a negative impact on the neighbors and the community, and that an attempt to comply with nonconforming setbacks was entertained. Mr. York stated that letters were sent to the two effected property owners offering to buy a portion of the owner's property in order to avoid the necessary variance as proof of the same entered into the record as Exhibit A and B. Mr. York explained that the house was twenty-four (24) feet wide with eight (8) feet on either side of the home, not conforming with the ten (10) foot requirement set forth by the Borough. The application also does not meet the minimum requirement of twenty feet (20) between dwellings. Mr. York stated that the side set back issue is compound by the fact that the neighboring home is

only six point six feet (6.6) from their respective property line. In order for the applicant's property to meet the setback requirements it would need to be sixteen feet six inches (16.6) wide. The applicant proposed the minimum width for a house of twenty-four (24) feet wide. Mr. York asked for the applicants Engineer to be sworn in. The Borough Board Attorney, Robert Ulacky, ESQ. swore in Mr. Matt Hockenbury for his testimony. Mr. Harvey York, ESQ questioned Mr. Hockenbury. Mr. Ulacky stated that Mr. Hockenbury is a licensed Engineer and that the Board accept his credentials. Mr. Hockenbury stated that the property address was 648 Ship Avenue in Beachwood, Block 1.05 Lot 12. The home being built is a raised three (3) bedroom two (2) bathroom, 1080 square foot home. The home is twenty-four (24) feet wide and forty (40) foot deep home with of street parking. The lot is a forty (40) by one hundred (100) square foot lot or four thousand (4,000) square foot lot while the minimum requirements set forth in the Borough of Beachwood is eight thousand (8,000). The front setbacks are set at twenty point five (20.5) feet to the covered land when twenty (20) feet is required and the rear setback is twenty-six point five (26.5) feet to the rear landing when thirty (30) is required. There will be a twenty-seven (27) foot wide gravel driveway for off street parking. Mr. York asked Mr. Hockenbury to describe the draining plans for the parcel. Mr. Hockenbury stated that roof leaders will be placed which will drain into a recharge drainage. Popup drains will also be installed for the water overflow to be directed towards the front of said dwelling. Mr. Hockenbury stated that a retaining wall will also be installed to property the natural flow of drainage water from infiltrating onto the neighboring property at 640 Ship Avenue. The proposed draining plan will allow all of the water on said property to be moved from the back of the lot towards the street and away from the neighboring property. Mr. Hockenbury felt that the draining on the said property and neighboring property will be improved. Mr. Hockenbury stated that the dwelling is twenty-six point one (26.1). Mr. York questioned Mr. Hockenbury to see if there was any negative impact on the neighboring properties. Mr. Hockenbury stated no and that there would actually be an improvement to the draining at 640 Ship Avenue. The Engineer when questioned stated that the lot coverage is within two (2) feet of the normal side yard setback requirements. The Engineer stated that there are similar homes to the proposed lot and dwelling within one thousand (1000) yards.

The Board Engineer, Mr. Douglas Rohmeyer, began questioning Mr. Hockenbury. Mr. Rohmeyer asked what the finished height of the front entry staircase to grade. The response was that the finished grade went from fifty-four inches (54) to forty-six (46) inches and there being seven (7) or eight (8) feet of stair. If the stairs were moved out could there be a third on-street parking place. The applicants engineer stated that there was not enough room to move the stairs. The applicants engineer stated that the stone on the driveway was clean stone to encourage infiltration. Mr. Hockenbury stated there has not been at soil borings done to ascertain the seasonal high-water table but that if the application was approved that he would submit documentation that would prove the proper separation.

OPEN TO THE PUBLIC FOR COMMENT ON SAID APPLICATION:

On a motion by Mr. Wrocklage, seconded Mr. DiBernardo with everyone present in favor the meeting was opened to the public on matters of the above stated application.

Mr. Shane Swenson (640 Ship Avenue)- Mr. Swenson was sworn in. Mr. Swenson remarked that he did offer for the applicant to purchase his entire property.

Mr. York stated that the law only requires for a portion of the property needed to make this a conforming lot be offered for purchase. The applicant need not purchase the entire property.

Mr. Swenson stated that the new dwelling will be twelve (12) feet above his home so that the new homeowners could look right into his house. He also deliberated on the fact that one point two five (1.25) inch recharge system was not sufficient enough to address the drainage issues the new home will cause on this property. Mr. Swenson continued to question certain aspects of the proposed project such as whether or not a retaining wall can be placed directly on the property line as proposed in the plans.

Mr. Ulacky stated that structures are allowed by law to be placed on the property line.

Mr. Thomas Adams 652 Ship Avenue)- Mr. Adams was sworn in as he approached the podium. Mr. Adams addressed his unfavorable findings regarding the proposed application.

On a motion by Mr. DiBernardo, seconded by Mr. Wrocklage with all present in favor the meeting was closed to the public regarding said application.

In summary Mr. York has stated that he has proven on behalf of his client that there is no negative impact associated with this application.

Vice Chairman Swindell questioned the drainage issues. His concerns were addressed.

Mr. Wrocklage questioned the length of the railroad tie located on the edge of the property. The Engineer stated that the tie will be fifty (50) ft in length and about sixteen inches high staggering down as the tie comes forward with a four (4) inch drainage pipe.

The Board engineer stipulate that the owner must maintain the recharge stations annually to assure reliability. The applicant will need soil borings performed as well as have the stipulations in the Board Engineers letter be placed in the resolution.

On a motion by Vice Chairman Swindell, seconded by Mr. Wrocklage a roll call vote was required.

ROLL CALL VOTE

AYES-Mr. DiBernardo, Mr. Martin, Mr. Swindell and Mr. Wrocklage

NAYS-Mr. Abramski

BUSINESS OF THE BOARD

The Board Attorney gave a brief description regarding the amended resolution before the Board for Casa Nova Today, Block 2.16 Lots 3,4 and 5, 200, 208 and 212 Atlantic City Boulevard. The issue addresses the sign at the proposed location. The sign will remain.

On a motion by Mr. Martin, seconded by Vice Chairman Swindell, with one abstention from Mr. Wrocklage and all others present in favor the amended resolution number 2019-53A was approved.

AMENDED RESOLUTION OF THE LAND USE BOARD OF THE BOROUGH OF BEACHWOOD, COUNTY OF OCEAN, STATE OF NEW JERSEY, MEMORIALIZING THE BOARD'S PRELIMINARY AND FINAL MAJOR SITE PLAN, VARIANCE AND DESIGN WAIVER APPROVALS AS IT RELATES TO THE APPLICATION OF CASA NOVA TODAY, LLC FOR PROPERTY KNOWN AS BLOCK 2.16, LOTS 3, 4 AND 5, BOROUGH OF BEACHWOOD, NEW JERSEY, A/K/A 200-212 ATLANTIC CITY BOULEVARD, BEACHWOOD, NEW JERSEY

RESOLUTION #2019-53A

WHEREAS, an application has been submitted on behalf of Casa Nova Today, LLC, owner of property located at Block 2.16, Lots 3, 4 and 5, Borough of Beachwood, New Jersey; and

WHEREAS, the subject property consists of Lots 3, 4 and 5 within Block 2.16. The property is located within the B-1 Zone District and provides frontage along Atlantic City Boulevard which forms the eastern site boundary. The site is bounded to the north by Tiller Avenue and to the south by Beach Avenue. The adjacent lands to the west are developed with residential uses. The filed application proposed the removal of two of the existing structures and construction of an addition to the remaining structure resulting in a +/- 5,176 square foot commercial building. Site improvements are proposed including an asphalt parking area, new site entrances onto Atlantic City Boulevard, signage and minimal landscaping. Access to the site is also proposed from both Beach and Tiller Avenue. The applicant is proposing a commercial building for professional office and retail space which proposed uses are permitted in the zone; and

WHEREAS, the applicant having been represented by Adam D. Pfeffer, Esquire; and

WHEREAS, the subject property is located in the B-1 zone and the applicant has requested the following variances:

1. Minimum front yard setback – 25 feet required; 23.20 feet proposed.
2. Minimum rear yard setback – 25 feet required, 13.30 feet proposed.
3. The applicant has requested a variance as the proposed sign is situated within 2 feet of Atlantic City Boulevard and approximately 6 feet of Beach Avenue property line where a 10-foot minimum setback is required; the existing freestanding sign setback is 9 feet from Beach Avenue property and extends one foot over the property line on Atlantic City Boulevard.

WHEREAS, the applicant has requested the following waivers from the design standards of the Borough ordinances:

1. 17-21.2(I). Existing condition. Easements shall be 15 feet (15') in width for one (1) utility. Existing sanitary easement is ten feet (10') wide.
2. 17-21.2(I). Existing condition. Easements shall be monumented at its intersection with all existing or proposed straight line. Existing sanitary easement is not monumented on Beach Avenue and Tiller Avenue.
3. 17.21.2(W)1.A. Existing condition. Each drive shall be at least 50' or one-half (1/2) the lot frontage from the street line of any intersecting street. Beach Avenue Drive is 29.1 feet (+/-) from Atlantic City Boulevard.
4. 17.21.2(W)1.C. Existing condition. Driveway entrance or exit shall not be within 10 feet (10') of a point of tangent of the existing or proposed curb radius of that site, or within 50' from the street line of the intersecting streets. Beach Avenue is within 8 feet (8') from point of tangent, and is 29.1' (+/-) from intersecting street line of Atlantic City Boulevard. Also existing northern driveway on Atlantic City Boulevard is 21 feet (21' +/-) from intersecting street line of Tiller Avenue.
5. 17.21.2(W)4.B. Existing condition. At all intersections, the minimum curb radii shall be thirty feet (30'). Existing 5.6 feet (5.6') radius on Tiller Avenue/Atlantic City Boulevard intersection. Existing 25.1-foot radii on Beach Avenue/Atlantic City Boulevard.
6. 17.21.2(W)4.B. Twenty-five foot (25') two way-aisle is required behind 90-degree angled parking. 16.8 feet is provided behind two parking spaces due to presence of guy wire. Other areas range from 23.2 feet to 24.3 feet.

WHEREAS, the application is complete and the Board has jurisdiction; and

WHEREAS, public hearings were conducted on the application on March 26, 2018, October 22, 2018 and December 10, 2018.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Beachwood, County of Ocean, State of New Jersey, that the Board makes the following findings of fact and conclusions of law:

1. The application is complete and the Board has jurisdiction.
2. The applicant is the owner of the subject property.

3. In support of its application, the applicant has submitted the following exhibits:

A-1 A color rendering of the site improvement plans.

A-2 Sheet 3 of 9 of the site improvements plans.

A-3 Sheet 6 of 9 of the site improvements plans.

A-4 Revised site plans dated June 1, 2018.

A-5 Photos of the existing fence along westerly property line of the property.

A-6 Pictures of the existing guy wire at Atlantic City Boulevard.

A-7 Letter from the dentist currently renting space at the subject property.

A-8 Revised site plans dated November 30, 2018.

4. The Board has received the review letter from its engineer, T and M Associates, dated July 12, 2018.

5. The Board has received a copy of a letter from F.J. Baer, Jr., P.E. to the Beachwood Sewerage Authority dated October 21, 2018.

6. The Board has received a letter from the applicant's engineer, Grant Engineering & Construction Group LLC dated November 30, 2018, addressing the comments in the review letter of T and M Associates and the Beachwood Sewerage Authority letter from F.J. Baer, Jr., P.E.

7. Throughout the course of the public hearings on the applicant's site plan application, the applicant revised its plans to address the concerns of the Board. The applicant agreed that all the structures on the site would be demolished and one new building containing five (5) commercial/retail units would be constructed. The applicant's engineer, Brian Grant, testified in support of the requested setback variances and the plans were revised to bring the property into further conformity with the setback requirements. Mr. Grant testified with regard to the setback variances as well as the sign variances and he testified that the variances were required due to the size and configuration of the subject property. Mr. Grant testified that none of the requested variances or the design waivers that have been requested would create a detriment and that the benefits of granting the applicant's requested variances and design waivers would outweigh any possible detriment.

8. The Board opened the meeting to the public and public comment was received from property owners, William and Nancy Johnson; owners of the property located at 111 Tiller Avenue. Mr. and Mrs. Johnson were concerned about the rear yard setback as their house is located five (5') feet from the property line. They were concerned about traffic issues, parking issues and that there would be a safety hazard for emergency access to the property. They were also concerned about the negative effect that the proposed development would have on their property value.

9. Based on the testimony and evidence received during the public hearing, a motion to approve the applicant's request for preliminary and final major site plan approval, along with the requested variances and design waivers was made and the Board voted to approve the applicant's request. In approving the variances and design waivers, the Board finds that the purposes of zoning would be advanced by deviation from the zoning requirements and that the benefits will outweigh any detriment to the public good. The Board finds that many of the design waivers are required due to the lot configuration.

10. The approvals granted herein are subject to the conditions that the applicant comply with all representations placed on the record and subject to the applicant complying with all provisions of the review letter of T & M Associates dated July 12, 2018 and with the comments provided in the letter from the applicant's engineer, Grant Engineering and Construction Group, LLC dated November 30, 2018. In addition, the applicant agreed to the following conditions:

a. The applicant testified that the hours of operation would be during normal business hours, approximately 8:00 a.m. to 5:00 p.m. and that deliveries would be made only during business hours.

b. Trash pickup will be scheduled after 8:00 a.m. and the parking spaces near the trash pickup will be for employees only.

c. The board on board fence along Tiller Avenue will be replaced with a see-through fence in order to avoid obstruction of view for cars entering or exiting on Tiller Avenue.

d. The northerly most unit close to Tiller Avenue will be shortened by five feet and the plans will be revised for the Board Engineer's approval.

e. One exterior light will be installed over each door at the rear of the building.

f. The HVAC units on the roof will be shielded from view.

g. The applicant will provide the curbs and sidewalks as testified to by the applicant's engineer and the proposed rope fence along Route 166 will not be installed.

11. This approval is also conditioned on the applicant paying all application and escrow fees associated with the application and that the applicant comply with all outside agency approvals, including but not limited to those set forth in the review letter of the Board's engineer, T and M Associates dated July 12, 2018.

This Resolution amends Resolution #2019-53A, memorialized by the Land Use Board of the Borough of Beachwood on January 28, 2019, correcting the setback distance for the proposed sign to be approximately 6 feet as shown on the site plan, rather than 9 feet as incorrectly stated in the Resolution of Approval.

BE IT FURTHER RESOLVED that a copy of this resolution shall be forwarded to the applicant, the Building Department, the Zoning Officer and the Borough Clerk by the Land Use Board Secretary.

BE IT FURTHER RESOLVED that notification of this favorable Resolution be published in an official newspaper of Beachwood by the Land Use Board Secretary within ten (10) days of its passage.

ADMINISTRATIVE APPROVAL:

Block 1.05 Lot 12-648 Ship Avenue

Mr. Ulacky stated that Mr. Lipton submitted and received variance approval back in 2007 and 2008 but is returning to the board to seek administrative approval for the construction of crawlspaces instead of basements in the proposed lot.


On a motion by Mr. Martin, seconded by Mr. Wrocklage, with all present in favor the administrative approval was granted.


The Board Secretary was directed to place a letter stating the same as drafted by Mr. Ulacky.

On a motion by Mr. Wrocklage, seconded by Mr. Abramski, with everyone present in favor the Bill's List in the amount of \$2,691.70 was approved

On a motion by Mr. Wrocklage, seconded by Mr. DiBernardo, with everyone present in favor the meeting was adjourned at 8:02pm.

Respectfully Submitted


Kathryn Hutchinson, Board Secretary


Paul Swindell, Vice Chairman