

MINUTES OF THE REGULAR SESSION  
STONE HARBOR PLANNING BOARD

May 20, 2013

7:00 p.m.

**CALL TO ORDER:**

The meeting was called to order by Mr. Hand, who stated that all requirements of the “Open Public Meetings Act of 1975” had been met.

**ROLL CALL:**

Planning Members Present

Thomas Hand  
Mayor Suzanne Walters  
Perry Conte  
Wayne Conrad  
Joselyn O. Rich  
Robert D. Bickford, Jr.  
Jill Gougher

Board Solicitor

Andrew Catanese

Board Secretary

Patricia H. Wagner

Zoning Officer

Joanne Mascia

Alternate Member Present

Julian Miraglia

Borough Engineer

Chris Eaton

**Approve Minutes**

**Motion by Mr. Miraglia and seconded by Mr. Bickford to approve the minutes of the April 8, 2013 primary session.**

Affirmative votes: Mr. Hand, Mr. Conte, Mrs. Gougher, Mr. Conrad, Mrs. Rich, Mr. Bickford and Mr. Miraglia.

**Motion by Mr. Miraglia and seconded by Mrs. Rich to approve the minutes of the April 22, 2013 session.**

Affirmative votes: Mr. Hand, Mayor Walters, Mr. Conte, Mr. Conrad, Mrs. Rich, and Mr. Bickford.

**Approve Subdivision SD 2013-001**

**Motion to approve by Mr. Miraglia and seconded by Mr. Hand to approve Thomas Welsh Subdivision SD 2013-001**

Affirmative votes: Mr. Hand, Mayor Walters, Mr. Conte, Mrs. Rich, and Mr. Bickford.

**RESOLUTION NO. SD 2013-001**

**WHEREAS**, Thomas Welsh (the “Applicant”) has/have applied to the Stone Harbor Planning Board for minor subdivision approval to permit minor subdivision of premises known and identified as Block 109.02, Lots 41, 43, and 44, as such appear on the Stone Harbor Tax Map, and which premises are located at 10912 Second Avenue, and situated in the Residential A Zoning District; and

**WHEREAS**, a hearing on this Application was held before the Stone Harbor Planning Board on April 22, 2013, at which time the Board heard the testimony of the witnesses and considered all of the evidence presented as to the Application; and

**WHEREAS**, the Stone Harbor Planning Board, after carefully considering the evidence presented by Applicant and all interested parties, has made the following factual findings:

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1. All statements contained in the preamble are incorporated by this reference.
2. The Applicant has standing to bring this Application and the Board has jurisdiction to hear this matter.
3. The Applicant was represented by himself and Dante Guzzi, P.E., P.P.
4. No items were introduced as evidence; however, the Applicant's expert testified with respect to the Minor Subdivision Plat (SD-1) submitted with Applicant's Application.
5. The Applicant presented testimony from Dante Guzzi, P.E., P.P.
6. No one spoke for or against the application.
7. Dante Guzzi was sworn and testified as follows:
  - (a) The lot is 133' x 100', consisting of three tax map lots.
  - (b) Applicant proposes two conforming building lots fronting on 110<sup>th</sup> Street.
  - (c) All future improvements will comply with all zoning requirements.
  - (d) This is a by-right subdivision.
  - (e) The Applicant will comply with all comments of the board engineer.
  - (f) No waivers are requested.
8. The Board has determined that the proposed subdivision complies in all respects with the Borough's Zoning ordinance, making approval appropriate.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Stone Harbor on this 22<sup>nd</sup> day of April, 2013 that the application of Applicant for minor subdivision approval as aforesaid is GRANTED final approval, subject, however, to the following conditions:

- a. Submission of a revised subdivision plan in compliance with, and reflecting the comments of, the Municipal Engineer dated April 5, 2013 and further subject to the Municipal Engineer's approval of said submission.
- b. Applicant shall comply with all terms and conditions as set forth on the plan as finally approved, including demolition of the existing structures prior to filing the subdivision plat.
- c. Applicant shall obtain all necessary approvals, as appropriate, relating to the Soil Conservation Service, the Board of Health of the Municipality and/or County, the Cape May County Planning Board, CAFRA, Pinelands Regulations, and any and all other Municipal, County, State and Federal requirements.

**BE IT FURTHER RESOLVED** that a copy of this Resolution be forwarded to the Applicant and to the Planning Board for their records.

**Minor Sub-Division Application**

Case Number SD 2013-002

William D. O'Brien (Applicant)

Parcel #1: 11024 First Avenue, Block 110.01, Lots 13.01

John C. B. Weaver Family Trust

Parcel #2: 8 111<sup>th</sup> Street, Block 110.01, Lots 11.02 & 13.02

Attorney Vincent L. Lamanna, Jr. represented the applicant. Sworn to give testimony were (1) William O'Brien of 1702 Beach View Court, Bel Aire, Maryland. (2) Scott Brown, Dante Guzzi Engineering Associates, Medford, New Jersey and (3) Pamela Fine, an architect with B. Steinman Architects, LLC.

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Mr. Lamanna noted that both parcels are irregular in shape. When Mr. O'Brien purchased his property it was disclosed to him that the one large cement slab driveway overlapped onto both properties and that both property owners used it. By relocating the property line both owners will have their own driveways. As off street parking is not ideal in this block both owners will see an improvement in their parking situation. Mr. O'Brien stated he will undertake the cost for constructing both driveways.

Mr. Brown testified he prepared the minor subdivision plan submitted with tonight's application. He stated that the off street parking on the south side of 111<sup>th</sup> Street is used primarily by beach goers, leaving little available off street parking spaces for the two properties on the north side of 111<sup>th</sup> Street (applicant's properties). He also feels that by moving the lot line the properties will be more rectangular or conventional in shape. Mr. Brown testified for the applicant's need for C-1 and C-2 variances.

Ms. Fine described her firm's proposed parking design for both properties. The O'Brien property design shows an 11' curb cut on 111<sup>th</sup> Street and a 12' curb cut on First Avenue, allowing for one off street parking space each. The Weaver property will have a new 20' curb cut on 111<sup>th</sup> Street, this will allow for two cars to be parked side by side on the property.

Mr. Hand asked when the property lines were originally established. Mrs. Mascia stated she was unable to get this information.

The Board's Engineer, Chris Eaton spoke next. He commented that both lots currently conform to the zoning ordinance with the required frontage. The development plan was not submitted for approval tonight so Mr. Eaton could not make any comments on it.

Mr. Hand opened the hearing for public comments. No one spoke. Public session was closed.

Mr. Catanese summarized the application for the Board. The application is for a minor subdivision approval along with requested variances for lot area and side yard setbacks. Both variances are being requested under C-1 and C-2 criteria. Mr. Catanese is recommending the Board take three separate votes after their deliberations.

**Motion by Mr. Miraglia and seconded by Mr. Hand to approve requested variances under the C-1 standard.**

Affirmative votes: Mr. Conrad

Negative votes: Mr. Hand, Mayor Walters, Mrs. Gougher, Mr. Conte, Mrs. Rich, Mr. Miraglia

Abstain: Mr. Bickford

**Motion by Mr. Miraglia and seconded by Mr. Bickford to approve the requested variances under the C-2 standard.**

Affirmative votes: Mr. Hand, Mayor Walters, Mrs. Gougher, Mr. Conte, Mr. Conrad, Mrs. Rich and Mr. Bickford

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**Motion by Mr. Bickford and seconded by Mrs. Rich to approve minor subdivision application.**

Affirmative votes: Mr. Hand, Mayor Walters, Mrs. Gougher, Mr. Conte, Mr. Conrad, Mrs. Rich and Mr. Bickford

**NEW BUSINESS**

**Residential C Zoning Requirements**

Kimberly Park, 6 Stone Court addressed the Board. Ms. Park submitted a document to the Board outlining the concerns from property owners residing on Bower, Weber and Stone Court.

**Summary of Concerns**

"The Courts" are Unique. The ONLY recognized "distinct neighborhood" within our larger community. Recent Zone C development directly adjacent to the Courts appears to be in conflict with the "Mission Statement" and other principles that are identified in the Borough's 2009 Master Plan. We believe this development is not protecting "distinct neighborhoods" like "The Courts".

**Our Concerns:**

- Encroachment = By virtue of sheer Size and Height vs the Court's SEVERE restrictions. Loss of visual and physical "open space" between structures is changing the overall landscape. Over time with more development = the "Canyon Effect". What will this look like visually? Should structures of any kind be permitted within the 5ft setback?
- Reduction in "Court" property values as we are "surrounded" over time.
- What is the potential long term impact of this development on "The Courts" as a "unique neighborhood"? On our "quality of life" as Court residents? Will you be left with a neighborhood of investment property rentals instead of actual residents, as most of us currently are? Will we become a "neighborhood in transition" and lose our sense of community?
- As open space between structures is reduced, the chance of fire spreading will increase – How can we minimize fire risk?
- New Flood Insurance Rating and ABFEs (once approved) will only exacerbate this situation as residents are encouraged to build higher and higher foundations to minimize "recurring" costs.
- How can Zoning rules be modified to "encourage" code compliance post Sandy and reduce nonconformities within the 5ft setback, both on the Court Streets AND on the adjacent streets? Over time, this will reduce potential storm damage and benefit ALL of us, including the Borough.

We have a Vision that will support adjacent development while protecting the long term viability of "The Courts" AND support the principles and mission statement of the "Master Plan". This will require you to seriously consider whether that 40+ year old height restriction on "The Courts" is fair and equal as properties behind us are "maxed out". As the residential landscape of Stone Harbor changes, we have to adapt or jeopardize the loss of our "unique and distinct neighborhood". We do not want that to happen. We want to find a "win/win" solution that will be sensitive to our concerns AND will benefit the community as a whole.

In the interim, we respectfully request that you consider an immediate Moratorium on any permit approvals involving expansion of space in Residential Zone C until our concerns can be fully discussed in a public meeting.

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Ms. Park also showed enlarged photographs of several Court properties and the houses on the corresponding numbered streets. This was to demonstrate how newer residences being constructed on the numbered streets now dwarf the Court properties creating a canyon effect and hampering the movement of air and light on the Court streets. They also showed the close proximity of shower stalls and HVAC units to the Court property lines.

Ms. Park stated some Court residents are requesting some leeway in getting extra space in their homes, which average between 500 to 550 square feet. They want to keep the Court appearance in the front but would like to be allowed a second story in the rear; they are not asking to build a “skyscraper”.

Mr. Conte feels there are two requests being made. One to take away height from the properties on the number streets and one to give height to the Court properties.

Ms. Park agreed with Mr. Conte but further stated she would like to see all the properties be constructed proportionately to one another, so that there is also an increase in the distance between houses.

Mr. Conrad would like to see the Court properties retain their historical character. Mrs. Rich agreed and feels the Court should have been protected years ago.

Robert Weer of 38 Stone Court spoke next. He stated he supports Ms. Park presentation to the Board. He is also concerned about the encroachment of the properties on the numbered streets backing up to the Courts.

Mr. Hand suggested forming a committee to review the concerns of Ms. Park and other residents of the Courts. He asked that the committee involve the Board’s planners and the Court residents. It was decided that Mr. Conte, Mr. Conrad and Mr. Miraglia would comprise the Board’s committee.

**OLD BUSINESS**

**RGO 560-35 – Vertical Expansion of Non Conforming Lots and Non Conforming Structures**

**Resolution 2013-002**

**WHEREAS**, Section 560-35 of the Zoning Ordinance (the “Ordinance”) of the Borough of Stone Harbor (the “Borough”) currently regulates nonconforming structures within the Borough; and

**WHEREAS**, the Ordinance currently permits nonconforming structures to be expanded as long as the expansion does not “create or increase any nonconformity”; and

**WHEREAS**, the Stone Harbor Planning Board has determined that the vertical expansion of improvements located within required setback areas often has a significant negative impact upon open space, light and air, and has determined that the Ordinance should be amended to ensure that it

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cannot be interpreted as permitting the vertical expansion of structures in setback areas absent variance relief.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Stone Harbor, New Jersey, on the 20<sup>th</sup> day of May, 2013 that the Board recommends adoption of the Ordinance attached hereto by the Borough Council.

**BE IT FURTHER RESOLVED** that the attached Ordinance is consistent with the intent and purposes of the Municipal Land Use Law and is consistent with the Borough's Master Plan.

**BE IT FURTHER RESOLVED** that a copy of this Resolution be forwarded to the Clerk of the Borough of Stone Harbor and maintained by the Secretary of the Planning Board.

I hereby certify the foregoing to be an original resolution of the Borough of Stone Harbor Planning Board adopted and approved at a meeting held on 20th day of May 2013.

Patricia H. Wagner, Board Secretary

**Motion by Mr. Miraglia and seconded by Mr. Bickford to approve Planning Board General Resolution 2013-002.**

Affirmative votes: Mr. Hand, Mayor Walters, Mrs. Gougher, Mr. Conte, Mr. Conrad, Mrs. Rich and Mr. Bickford

**NEW BUSINESS**

**Generators – Set Back Areas**

The Board will investigate allowing generators to be placed in the side yard setback areas. Mr. Conrad feels they would be used in an emergency situation (power outages). Mrs. Rich and Mr. Hand noted that some generators are powered by diesel and some are by natural gas. The Planning Board, by means of Resolution. 2012-006, had recommended to Borough Council set back amendments to RGO Section 560-38 in June of 2012. This was the final work of the Zoning Ordinance Revision committee, chaired by Tom Cope. The Borough Council has not notified the Board to their decision yet.

Mr. Hand feels this request to allow generators in the set back areas should be done by the Zoning Ordinance Review committee.

**PUBLIC SESSION**

Mr. Hand opened the public portion of the meeting.

**ADJOURNMENT**

Having no further business at hand Mr. Hand called for a motion to adjourn the meeting.

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A motion to adjourn the meeting by Mr. Miraglia and seconded by Mr. Bickford. All members present voted in the affirmative.

APPROVED: July 22, 2013

ATTESTED:

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Patricia H. Wagner, Secretary Stone Harbor Planning Board