

**MINUTES OF THE REGULAR SESSION  
STONE HARBOR PLANNING BOARD**

January 11, 2021

4:30 p.m.

**CALL TO ORDER:**

The meeting was called to order by Mr. Conrad, who stated that all requirements of the "Open Public Meetings Act of 1975" had been met with the Press of Atlantic City having been notified of the Board's schedule for 2021 on December 12, 2020, and the schedule having been posted on Stone Harbor's website and the Municipal Clerk's Bulletin Board. In accordance with Executive Order No. 104 issued by Governor Murphy on Monday, March 16, 2020 limiting public gatherings, the meeting was also webcasted on the Zoom platform which also enables public participation.

**SALUTE TO THE FLAG**

**ROLL CALL**

**Members Present:**

Mayor Judy Davies-Dunhour  
Wayne Conrad, Vice-Chair  
Robert Smith, Administrator  
Robert D. Bickford, Jr.  
Lynne Dubler-via Zoom  
Charles C. Krafczek  
Kevin Fischer (Alternate II)  
Sandy Slabik (Alternate I)

**Members Not Present:**

Thomas Hand, Chairman

**Solicitor:**

Paul J. Baldini

**Board Secretary:**

Kate McGonagle

**Zoning Officer**

Ray Poudrier

**Engineers/Planners**

Kates Schneider  
Engineering, LLC

**Approval of November 23, 2020 Meeting Minutes**

Mr. Conrad requested a Motion to admit the Meeting Minutes. Motion made by Mr. Krafczek and seconded by Mayor Davies-Dunhour. Roll call taken for members present at the November 23<sup>rd</sup>, 2020 meeting. Affirmative votes: Mayor Davies-Dunhour, Mr. Conrad, Mr. Smith, Mr. Bickford, Ms. Dubler, Mr. Krafczek, and Mrs. Slabik.

**Oath of Office & Oath of Allegiance of Alternate Board Member, Kevin Fischer**

Mr. Conrad, on behalf of the Planning Board, welcomed new Board member, Kevin Fischer, Planning Board Alternate II. Mr. Baldini administered the Oath of Allegiance and Oath of Office for Mr. Fischer.

### **Nomination for 2021 Board Chairman and Vice Chairman**

Nomination by Mr. Krafczek to reappoint Mr. Hand as Board Chairman. Seconded by Mayor Davies-Dunhour. All members present voted affirmatively.

Nomination requested by Mr. Conrad to appoint the Board Vice Chairman. Nomination made by Mr. Bickford to reappoint Mr. Conrad as Vice Chairman. Seconded by Mayor Davies-Dunhour. All members present voted affirmatively.

### **Appoint Professional Services Contract Board Solicitor**

Mr. Conrad requested a Motion to appoint Professional Services Contract for Paul J. Baldini, Board Solicitor, for the year 2021. Motion made by Mr. Krafczek and seconded by Mayor Davies-Dunhour. All members present agreed and voted affirmatively.

### **Approve Resolution 2021-001 Appoint Board Solicitor**

Mr. Conrad requested a Motion to approve Resolution 2021-001, appointing Paul J. Baldini, Esquire as Board Solicitor for 2021. Motion made by Mrs. Slabik and seconded by Mr. Krafczek. All members present voted affirmatively.

### **Appoint Professional Planners & Engineer Services Contract**

Mr. Conrad requested a Motion to appoint Professional Planners & Engineer Services Contract for Kates Schneider Engineering, LLC for the year 2021. Motion made by Mayor Davies-Dunhour and seconded by Mr. Smith. All members present agreed and voted affirmatively.

### **Approve Resolution 2020-002, Appoint Kates Schneider Engineering, LLC as Planning Board Professional Planners & Engineers**

Mr. Conrad requested a Motion to approve Resolution 2020-002, appointing Kates Schneider Engineering, LLC Professional Planners & Engineer Services for 2021. Motion made by Mayor Davies-Dunhour and seconded by Mr. Smith. All members present agreed and voted affirmatively.

### **Nomination for 2021 Board Secretary**

Mr. Conrad requested a Motion to appoint a Board Secretary for the year 2021. Motion made by Mayor Davies-Dunhour to appoint Kate McGonagle as Board Secretary and seconded by Mr. Krafczek. All members present voted affirmatively.

### **Public Comment**

No one spoke.

### **Application Hearing re 329 93<sup>rd</sup> Street (Blk 93.04, Lot(s) 126, 128.01 & 128.02)**

Prior to the Hearing, Mr. Krafczek read a statement recusing himself on his own volition due to a direct conflict of interest.

The Board considered Application PB# 21-003 for a minor subdivision as well as variance relief for lot area, lot frontage, front yard setbacks and side yard setbacks.

Mr. Cory Gilman, Esq of Josephson Wilkinson & Gilman located in Avalon, NJ introduced himself to the Board. Mr. Gilman stated that he represents the Applicants, Robert Morris and Glenn Kinckner, of 329 93<sup>rd</sup> St and 331A 93<sup>rd</sup> located in Stone Harbor.

Mr. Gilman stated that Lots 126 & 128.02 of Block 93.04 (subject property) are presently non-conforming lots that form an "L" shape. Mr. Gilman further explained that Lot 128.01 is located in the center of the "L" shape. Mr. Gilman stated that the Applicants are proposing Lot 128.02 be subdivided from Lot 126 and consolidated with Lot 128.01 which will result into two less non-conforming lots of 35' x 110'. Mr. Gilman also mentioned the removal of a non-conforming structure located on Lot 128.02 and any improvements from Lot 126.

Mr. Baldini swore in Dante Guzzi, Professional Engineer, of Guzzi Engineering Associates of 203 Main Street in Cape May Court House, NJ. Mr. Guzzi described the survey and subdivision plat he prepared for The Board. Mr. Guzzi testified that Lot 126 is currently a vacant 35' x 110' lot, Lot 128.01 is a 30' x 58' lot with a single family dwelling on it, and Lot 128.02 is located behind Lot 128.01 and is a 35' x 52' with a single family dwelling that is in a state of disrepair. Mr. Guzzi further testified that the Applicants are seeking to consolidate Lots 128.01 & 128.02, and demolish the dwelling on Lot 128.02. The changes would result in one single family dwelling on a 35' x 110' lot. Mr. Guzzi stated that Lot 126 would then consist of a 110' x 35' lot which would enable the development of another single family home. Mr. Guzzi testified that if approved, the adjustment would allow for two single family homes to be located on two better conforming lots. Mr. Guzzi did include that although the lots would still be considered non-conforming, the lots would be significantly larger. Mr. Guzzi included that the existing dwelling on Lot 128.01 would require variances for a minimum front-yard setback which is currently 7.7' as opposed to the 10' requirement, a minimum side-yard setback (on the West-side) of 8.7' versus the 10' requirement, and a side-yard setback (on the East-side) of 5.3', as well as a necessary variance for the detachment from the entire parcel (Lot 126). Lot 126 would be in conformance with the exception of side-yard setbacks due to the narrowness of the lot size. Mr. Guzzi addressed negative criteria in his testimony by declaring the reconfiguration proposed would not cause detriment nor an impairment to the Borough's Zone Plan. Mr. Guzzi reiterated that the reconfiguration would allow for more conformity than what currently exists and is in alignment with the current development in the neighborhood. By removing the rear dwelling, consolidating lots and the reconstruction of the new dwelling on Lot 26, Mr. Guzzi stated that if approved, the request would promote public health safety morals and general welfare, it will allow for light air and open space, secures safety from flood, panic and other natural and manmade disasters, and would promote a more desirable visual environment.

Mr. Kates described a synopsis of his review. Mr. Kates testified that the Applicant addressed questions of completeness outlined in Article 7 of Section 345 of the Borough Code. Mr. Kates declared that most of his questions were addressed in Mr. Guzzi's testimony including the requirement of additional screening which the Applicant intends to provide. Mr. Kates stated the building, site coverage, parking requirements, landscaping, buffering zones, lot grading and drainage would be conforming. Under the caveat that the "bump out" illustrated on Exhibit P1 does not exceed 10' wide and that the refrigerator that is currently located in that area to remain in that area. Mr. Gilman agreed the outdoor shower location will be relocated on the final plan to an area that is compliant. Mr. Gilman agreed that the HVAC system and pool equipment will be in compliance with 5' side-yard setback regulations. The last condition stated is that all existing improvements on Lot 128.02 be eliminated prior to filing the plot plan. Mr. Gilman agreed to all requirements outlined by Mr. Baldini. Mr. Baldini opened Public Comment in which no one from the Public requested to be heard.

Mr. Baldini called a vote for each of the variances discussed. For C1 variance regarding appropriateness, Mayor Davies-Dunhour made a Motion to approve, Mrs. Slabik seconded the Motion. All members present voted affirmatively.

For the C2 Variance (substantial detriment and weighing out negative criteria) Mayor Davies-Dunhour made the Motion and Mr. Bickford seconded. All members present voted affirmatively. Mr. Baldini called for a final vote for granting the minor subdivision of Block 93.04, Lot(s) 126, 128.01, 128.02 resulting in creating two non-conforming lots. Mr. Bickford moved the Motion and Mrs. Slabik seconded. All members present voted affirmatively.

**Case 20-003 Remand-Charles Street Developers, LLC. 10315 Sunrise Drive**

Prior to the opening of the Hearing, Mr. Kates, Mr. Krafczek, Mr. Poudrier, and Mr. Smith were recused.

Mr. Baldini began the hearing by explaining that the Superior Court of NJ remanded the matter back to the Stone Harbor Planning Board for the sole purpose of allowing the parties in this litigation to supplement the record with additional expert testimony regarding the issue of the proposed development being consistent with the character of the neighborhood and for the PB to issue more details and/or findings with those issues. With the limitation of expert testimony, Mr. Baldini called out for attorneys that were in attendance at the meeting that objected to the case. Jack Plackter of Fox and Rothschild LLP located in Atlantic City, NJ, took the podium to ask Mr. Baldini to review Paragraph Two of the Judgment that explains the scope of the hearing. Mr. Plackter expressed that he did not agree that the scope of the hearing was limited to Experts. Mr. Baldini responded that Public Comment would most likely be open at the close of the Hearing to give the public an opportunity to speak. Brian Lozuke, Esq., an attorney of Mattleman, Weinroth and Miller, informed The Board that he is representing a contingent of neighbors of the subject property. Mr. Lozuke echoed Mr. Plackter's concerns with respect to the public portion.

Mr. Baldini then addressed an email that was received just prior to the meeting from Steven and Justine Herzog, neighbors to the subject parcel. Mr. Baldini afforded Colin Bell the opportunity to review the letter because the Objection email stated that certain plans were not subject to review at least ten days prior to the hearing. Mr. Baldini then read the letter aloud to The Board. Mrs. Herzog argued that necessary documentation was not added to the website for review until January 8, 2021. Mrs. Herzog conveyed that due to the delay in posting the site plan drawing, the Herzogs did not have enough time to prepare documentation. Colin Bell, Esq., attorney for Charles Street Development, responded by relaying that there have been no changes, and that the Application file has been on file with the Borough since February of 2020. Mr. Bell concluded his statement by answering that there have been additional Expert Reports that have been provided, but they are posted on the Borough website.

Mr. Baldini then introduced John Grady, Esq of Craig, Annin & Baxter Law. Mr. Grady stated that he is the attorney that is representing the Stone Harbor Planning Board in the case referenced. Mr. Grady responded to the Objection by stating that Judge Savio, of the Superior Court of NJ, remanded the case back to The Board for specific, narrow consideration and specific additional testimony. Mr. Grady stated that from his position, Judge Savio's decision did not reopen the entirety of the Application that was approved in February of 2020.

Mr. Baldini swore in Objector, Justine Herzog, of 10215 Sunrise Drive. Mrs. Herzog explained that she and her husband are neighbors within 200-feet of the property of 10315 Sunrise Drive. Mrs. Herzog argued to The Board that she was unable to access the documents needed in a timely fashion despite being entitled to have them within 10 days of the scheduled Hearing. Mrs. Herzog emphasized that the specific documents were important to the case and necessary for her to prepare her Objection to this Application.

Mr. Baldini then suggested adjourning the meeting for professionals to review and discuss the objection. Meeting was adjourned.

Once the Hearing resumed, Mr. Baldini declared that there is Case Law in place that suggest that a Remand requires Notice. Mr. Baldini suggested the Hearing be postponed and rescheduled for a Special Meeting on January 25, 2021. Mr. Conrad and The Board supported Mr. Baldini's

suggestion to postpone the Hearing by taking a vote. Mr. Baldini made Notice on the Record of the postponement.

**Adjournment**

Having no further business, Mr. Conrad called for a Motion to adjourn the meeting. Mayor Davies-Dunhour made the Motion and Mr. Bickford seconded.

APPROVED: January 25, 2021

ATTESTED:   
Kate McGonagle, Secretary Stone Harbor Planning Board