

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

May 23rd, 2022

4:30 p.m.

CALL TO ORDER:

The meeting was called to order by Mr. Bickford, 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 2022 on December 17, 2021, and the schedule having been posted on Stone Harbor's website and the Municipal Clerk's Bulletin Board.

SALUTE TO THE FLAG

ROLL CALL

Members Present:

Mayor Judy Davies-Dunhour
Robert D. Bickford Jr., Chairman
Tim Clay (Alternate I)
Wayne Conrad, Vice-Chair
Kevin Fischer
Jennifer Gensemer, Councilmember
Jonathan LaKose
Sandy Slabik

Solicitor:

Paul J. Baldini

Board Secretary:

Kate McGonagle

Zoning Officer:

Ray Poudrier

Members Not Present:

Engineers/Planners:

Kates Schneider
Engineering, LLC

Approval of May 9th, 2022 Meeting Minutes

Mr. Bickford requested a Motion to admit the May 9th Meeting Minutes. Motion made by Mrs. Slabik and seconded by Mr. Conrad. Roll call taken for members present at the meeting with all eligible members voting in the affirmative.

Public Hearings

PB 22-005 340 104th Street LLC, Greg Hill, Managing Member

Block 200.03 Lot(s) 535, 536, 537.01, 537.02, 538

340 104th Street

Minor Subdivision Approval

Mr. Cory Gilman of Josephson, Wilkinson & Gilman, P.A. appeared on behalf of the Applicant and was sworn in by Solicitor Baldini.

Mr. Gilman summarized the Application for minor subdivision approval and C1 and C2 variance relief. Mr. Gilman explained the Applicant is requesting Minor Subdivision approval to remove all existing improvements and to subdivide the property into two lots suitable for single family construction of each lot. Variance relief is required for the creation of lots of 5,982 ft.² and 6,200 ft.², where 6,600 ft.² is required. With the exception of the variance requested, the two lots and any future construction will comply in all other respects with the zoning ordinance.

Mr. Gilman introduced Joseph Gray, PE, of 1418 Stokes Road in Medford, NJ and Blane Steinman, licensed Architect, of 2229 Route 9 in Clermont, NJ. Both professionals appeared and were affirmed. Gregory Schneider, PE, of Kates Schneider Engineering appeared and was affirmed. All experts were accepted as experts by the Board.

Mr. Steinman confirmed that he prepared plans P-1 through P-4. P-1 and P-2 being conceptual plans for proposed Lot B and P-3 and P-4 being conceptual plans for proposed Lot A. He testified that the plans give the Board an idea of what could be built on the subdivided lots. Mr. Steinman testified that both lots will conform to all bulk requirements except lot area. He focused on the space between the two buildings which would be 20 feet-10 feet on each lot. He testified the lots would conform for height and elevation consisting of two stories. The residences on the parcels would be under 3000 ft.² which was typical for the neighborhood given the size of the lots. Mr. Steinman then presented Exhibit A-1 identified as an architectural drawing undated which shows two conceptual residences versus a single very large residence. He testified that he prepared Exhibit A-1. The Board accepted Exhibit A-1 into evidence. Mr. Steinman then took the Board through the two structures which would allow for open air, space, and light as opposed to one large building. He testified that the building coverage would be the same as one unit except one unit or two units on the lots. Mr. Steinman testified an applicant could build 6000 ft.² residence and have the same number of bedrooms as one could have if there were two lots. He testified he did not see any negative to this two separate lots as it would fit with the character of the neighborhood since smaller homes are more prevalent in that neighborhood

Joseph Gray, licensed engineer, testified the minor subdivision plan was created by his firm and took the Board through the minor subdivision plan. He confirmed the single lot size is 12,182 ft.² with the Applicant seeking to subdivide to allow for two single family dwellings. He testified the present lot is underutilized as a single two-story dwelling on that lot sits to the east side with open space on the west side of the lot. He testified there is an angled boundary line on the east

line running from the front to the rear of the parcel. He confirmed that the structure has been removed and confirmed that the prior structure was nonconforming in the rear yard. He testified the angle of the lot decreases the area of buildable space and reduces the size of the house. He testified if the lot was standard depth for A Zone two lots could be subdivided and be conforming. He testified that the issue is whether the Board wants to see two residences or one larger residence. He testified in his opinion the two smaller lots with two residences create more open light, air, and space and improves fire protection. He further testified in his opinion the two lots assist or help with flood prevention. Mr. Gray produced A-2 which was created by him showing an overlay of the Tax Map and Google Maps showing the general area of the subject parcel. A-2 was accepted into evidence. He testified that there are nine lots that do not meet area requirements on Sunset Drive going south and has single-family residences. He testified this applies to the character of the neighborhood. He testified in his opinion negative criteria and the positive criteria were both met. He cited to numerous purposes of the Municipal Land Use Law which he opined were promoted by the granting of the variances. He confirmed the docks are legal and would remain in the subdivided lots.

Gregory Hill was sworn and testified. He testified he is the principle of the Limited Liability Company owning the property. He testified he is seeking to subdivide the single parcel into two parcels to allow for larger side yard setbacks between the two buildings. He testified he seeking to keep cottage-type houses as opposed to one very long and very large structure running along the bayfront.

Board Engineer replacement Gregory Schneider then offered his report to the Board. He testified he is representing the Board Engineer and testified consistent with the Board Engineer Report of May 10, 2022. The Applicant agreed to accept all conditions of approval and compliance with all of the Board Engineer comments.

The Board then opened the matter to the public. Ten members of the public spoke in reference to the project. Nine members of the public oppose the project principally opposing the subdivision of larger lots into smaller lots which would increase traffic, create parking concerns, noise concerns, etc. in the neighborhood. One person spoke in favor of the application. At the conclusion of public comment the matter was returned to the Board.

The Board thoroughly discussed the application.

Mr. Baldini read the Motion into the record for approval of the C-1 Variance. Mr. Conrad moved the motion. Mr. Bickford seconded. Two members voted in favor of the motion and five member voted against the motion.

Mr. Baldini then read the Motion into the record for approval of the C-2 Variance. Mr. Conrad moved the motion. Mayor Davies-Dunhour seconded. Two members voted in favor of the motion and five members voted against the motion.

The Board finds that the proposed variances sought do not promote any purposes of the Municipal Land Use Law 6. The Board finds that the creation of two undersized lots does not have or provide benefits that substantially outweigh the harm to the Zone Plan. The Board finds that the relief cannot be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance particularly since the subdivision sought is in contravention of the Master Plan and Zoning requirements. The Board finds that the Applicant has not demonstrated that the variance can be justified by the unique shape or shallowness of the subject parcel and does not find there to be a hardship upon the Applicant based upon the unique shape or size or shallowness of the subject parcel.

PB 22-006, Stone Harbor Square LLC

Block 96.03 Lot(s) 95, 97, 99, 100, 101, 102, 104 & 106

261 96th Street

Granting of Site Plan Approval

Ms. Jane M. Hoy, Attorney at Law, appeared before the Board on behalf of the Applicant, Clinton C. Bunting. Ms. Hoy summarized the reason the Applicant was appearing before the Board. She relayed that the Applicant proposes to construct second floor balconies for seating adjacent to the 96th Street side of the 96th Street Bar and Grill as well as the courtyard side and second floor balconies adjacent to what is formerly known as Jack's Shack. Applicant seeks approval to construct a pergola down the center rear of the mall facing 97th Street. Applicant also seeks approval to construct a stairway to create a front entrance to the Sunglass store fronting 96th Street. Lastly, Applicant seeks relief to allow a first floor deck fronting 97th Street adjacent to the former Jack's Shack.

Ms. Hoy then called Applicant, Mr. Bunting before the Board where Mr. Baldini swore him in. Mr. Bunting testified he is a principal of the Applicant. He testified he manages the property. He confirmed the building is higher than the adjacent buildings. He seeks to continue the improvements started at the property some time ago. He testified all improvements have been approved by the Borough with his goal to have the best tenants and have them succeed. He testified he is changing the focus of the overall development to focus on hospitality with a variety of stores located in the commercial development. He described the six proposed changes to occur at the site. He described to the Board his understanding of the functionality of the six

described changes as detailed in the Applicant's application. He testified there would be no additional signage, no additional lighting, and confirmed the trash was appropriately handled confirming the location of the trash areas.

Ms. Hoy then called Daniel Scott Mascione of 1409 New Road in Northfield, NJ before the Board. He was sworn and testified. He testified he is a licensed architect and was accepted as an expert in architecture. He testified he prepared documents Z-1 and Z-2 which were submitted with the application. Z-1 was identified as Exhibit A-1. Z-2 was identified as page 2 of Exhibit A-1. Both were accepted into evidence by the Board after being authenticated by Mr. Mascione. He then presented Z-3 which was identified as Exhibit A-2. He then took the Board through the three sets of plans identifying the various areas of changes sought to be approved on the subject parcel. He identified Z-3 as a second-floor plan. He testified there would be no sound amplification in the exterior areas of the subject parcel and in particular the exterior decks. A series of photos were identified and authenticated by Mr. Mascione and accepted into evidence as Exhibits A-3 through and including A-8. Mr. Mascione testified in his opinion several purposes of the Municipal Land Use Law were advanced by the granting of the zoning variance. He cited specifically safety against fire, flood, and other man-made and natural disasters. He testified as to the aesthetic enhancements of the overall project. He testified he saw no detriment to the local area or neighborhood and that any construction work would meet all current codes. Finally, he testified in his opinion the negative criteria are addressed.

Ms. Hoy then called Gary Lee Thomas, Licensed Planner and Surveyor of 2900 Dune Drive in Avalon, NJ before the Board. Mr. Thomas was sworn and testified. He testified he prepared the site plan and survey which were submitted with the application and identified as Exhibits A-9. A-9 is a copy of the survey. A-10 is identified as a copy of the site plan consisting of three pages. Mr. Thomas testified confirming the bulk of the project is conforming and the bulk of the changes sought are conforming. He testified that the front yard setback sought along 96th Street does not conform to the ordinance. He testified the outdoor dining is here to stay in Stone Harbor and the exterior decks provide some outside dining. He testified the project meets all of the zoning criteria except for the front yard setback along 96th Street. He testified there are other objects that also encroach into the front yard setback along 96th Street such as the Marquis of the movie theater immediately adjacent to the subject parcel and the outdoor fenced in seating area of the burger place immediately adjacent to the subject parcel. Mr. Thomas provided testimony as to the compatibility of the subject project with the immediate area relative to architecture, signage, landscaping, and overall appearance. He further testified that he can

add the items accepted by the Applicant as a condition of approval to the final plans to be submitted to the Borough.

Mr. Thomas testified that several purposes of the Municipal Land Use Law are impacted and met by the granting of the front yard setback variance along 96th Street. He testified that the proposed plan protects against fire, flood, and other man-made and natural disasters. He testified that the plan promotes open light, air, and space. He testified the plan provides sufficient space in appropriate locations for a variety of commercial uses in order to meet the needs of the citizens of the Borough. He testified that the proposed plan promotes a desirable visual environment through creative development techniques and good civic design and arrangement. Mr. Thomas testified that in his opinion the benefits of the granting of a variance substantially outweigh any detriment. He based this upon the fact that he saw no detriment to the Zone Plan. In addressing the negative criteria Mr. Thomas testified that in his opinion the negative criteria of the Land Use Law in order to grant a variance are met by the proposed plan. Board Engineer substitute Gregory Schneider was sworn and testified. He testified consistent with the Board Engineer Report of May 13, 2022. His testimony was accepted by the Board.

Mr. Bunting accepted the condition of approval stipulated by the Board Engineer's Memorandum dated May 13, 2022.

The matter was then open to public comment. Three members of the public spoke in favor the application. One opposed the application based upon parking, noise, and potential alcohol issues. One member the public was neither for nor against the application.

The Board then discussed the Application.

Mr. Baldini read the Motion into the record for approval of all waivers that had been discussed by the Board Engineer, conditions accepted by the Applicant and the variance for front yard setbacks on the 96th Street. Mr. Fisher moved the motion. Ms. Slabik seconded. All members voted in the affirmative.

Mr. Baldini read the Motion into the record for approval of Preliminary and Final Site Plan approval. Ms. Slabik moved the motion. Mayor Davies-Dunhour seconded. All members voted in the affirmative.

New Business

Mr. Conrad suggested adding the discussion of setbacks to upcoming Agendas for the Board to be able to discuss the topic.

Old Business

Lot Grading Ordinance Update

Mayor Davies-Dunhour informed the Board that the ordinance will be brought before Council at the Work Session being held on May 23, 2022.

Public Comment

Mr. Bickford opened Public Comment.

Mary Packer of 111 117th Street addressed the Board with multiple concerns of various subjects affecting Stone Harbor and offered suggestions for those concerns.

Suzanne Walters of 115 92nd Street took to Public Comment to thank the Board for all that they have done.

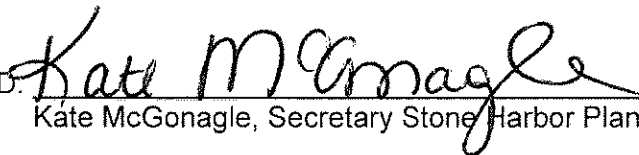
Justine Herzog of 10215 Sunrise Drive addressed the Board via the Zoom platform to express her appreciation for the Board and their decision in the 104th Street Hearing.

Adjournment

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

APPROVED: May 23rd, 2022

ATTESTED:


Kate McGonagle, Secretary Stone Harbor Planning Board