

**BOROUGH OF POINT PLEASANT
ZONING BOARD OF ADJUSTMENT
August 12, 2020**

The regular meeting of the Point Pleasant Zoning Board of Adjustment was called to Order by Chairman Coleman at 7:00 P.M. Mr. Coleman led the Salute to the Flag. He proceeded to open the meeting in compliance with the "Open Public Meetings Act".

Roll Call Vote

Members Present: Mr. Nikola Mrs. Masterson Mrs. Coulson
Mrs. Petrillo Mr. Veni Mr. Coleman Mr. Shrewsberry
Mr. Hutchinson Mr. Giordano
Attorney: Mr. Gertner
Engineer: Mr. Savacool

Minutes

07-08-2020

A motion to approve the minutes was made by Mrs. Petrillo, seconded by Mr. Nikola

Roll Call Vote

Mr. Nikola- Yes Mrs. Petrillo- Yes Mrs. Masterson- Yes
Ms. Coulson- Yes Mr. Veni- Yes Mr. Coleman- Yes

Mr. Coleman took a moment to address the audience and briefly explain the process for the Zoning Board of Adjustment.

New Business

20-07- R2T2, LLC- Block 45 Lot 1- 2613 Lakewood Rd- Site Plan & Use Variance

The above mentioned application is for a Use Variance and a Preliminary and Final Major Site Plan. The applicant is proposing a 24- unit multi-family development. The proposal is for five buildings, twelve one-bedroom and twelve two-bedroom units.

Attorney for the applicant, Matthew Ceres Esq

Mr. Ceres stated this application is for use variance, bulk variances, design waiver, preliminary and final site plan approval to permit the construction of a 24 unit multi-family housing. The property is located in the General Commercial Zone. They are seeking a Use Variance, building lot coverage 33.4% proposed, where 20 % permitted, lot width 150 allowed, where 134ft is proposed, front yard setback 35ft allowed, where 14ft proposed, rear yard 25ft required, where 11ft is proposed, impervious coverage 70% allowed, where 75% proposed, design waivers for parking stall size, parking within 25ft of intersection, 2nd use variance for 5 affordable housing, where zero are proposed. Mr. Ceres is seeking an interpretation of the COAH Overlay Zone.

Mr. Andrew Janiw 315 Route 34 Colts Neck, NJ, sworn in. The Board accepted Mr. Janiw as an expert.

Mr. Ceres questioned if the Affordable Housing Overlay Zone applies to this property? The ordinance reads the purpose of the ordinance is to permit an opportunity to develop affordable housing, not the requirement. They would be choosing to not take the opportunity.

Mr. Janiw does a lot of redevelopment and deals with overlay zones. The purpose of the overlay zone is a tool for an optional alternative zoning put on top of the underlying zoning. It is intended to be an option not a requirement. They are seeking a D1 use variance because multi-family residential is not allowed in the General Commercial Zone. The overlay zone allows for multi-family residential meeting certain conditions and to allow for affordable housing. They are asking for relief under the more stringent D1 criteria. The language for the overlay is an opportunity, we are not seeking that opportunity.

Mr. Savacool, Board Engineer was sworn in. Mr. Savacool testified the underlying zoning for this lot is the General Commercial Zone, which allows residential single-family dwellings. However, multi-family residential is not permitted. The overlay zone allows for different criteria. If they were developing under the requirements of the overlay zone they do not meet the density required or the affordable housing. If they are not proposing any affordable housing therefor multi-family units not permitted at all and a D1 use variance is required. The Board needs to tread carefully in approving any multi-family housing of this density without the applicant proposing to fulfill the towns' obligation of a court ordered agreement for affordable housing. They are proposing to develop the property with a use variance and not in accordance with the affordable housing overlay zone.

Mr. Ceres is asking if the ordinance even applies. The ordinance reads is not required, it is an option.

Mrs. Petrillo questioned if they do have the opportunity to propose affordable housing.

Mr. Janiw replied yes, but they are not taking that opportunity.

Mr. Janiw stated they have the opportunity to apply for the overlay zone or the General Commercial regulations.

Mr. Gertner stated the Board is a Quasi-Judicial Board and they need to make a decision. What is the definition of opportunity in reference to the ordinance? The Board needs to interpret the ordinance for moving forward. It is Mr. Gertner's opinion that the overlay zone is clear that the municipality was meant to provide affordable housing when given the opportunity.

Mr. Ceres respects the opinion of Mr. Gertner, but he believes the opportunity is for the applicant, not the municipality.

Mr. Giordano believes once multi-family units are proposed, the affordable housing obligation must be met. He doesn't understand why they are going this route.

Mr. Savacool believes the opportunity is for the applicant to construct multi-family units as long as they provide affordable housing.

Mr. Coleman reminded the Board that they are operating under the court order for affordable housing.

Mr. Gertner stated the overlay zone was created along the Route 88 corridor because the Mayor and Council felt it is the best place to provide affordable housing.

Mr. Coleman stated due to the amount of proposed units, five affordable housing units would be required.

Mr. Savacool replied yes.

Mr. Coleman questioned Mr. Ceres why they are not offering the affordable housing units.

Mr. Ceres stated it wouldn't be economical to move forward.

Mr. Savacool reminded the Board that economics are not a consideration for approval or denial.

Mr. Ceres reminded the Board that the applicant has a pre-existing non-conforming use and can continue to operate as Wenkes and re-open Friday.

Mr. Coleman asked for a motion on the interpretation.

Mr. Giordano made a motion that the overlay zone does in fact require affordable housing, seconded by Mr. Hutchinson

Roll Call Vote

Mr. Shrewsberry- Yes	Mr. Hutchinson- Yes	Mrs. Petrillo- Yes
Mr. Nikola- Yes	Mrs. Masterson- Yes	Mr. Giordano- Yes
Mr. Coleman- Yes		

Mr. Ceres requested a five minute recess.

Mr. Ceres stated they will be appealing the interpretation and they are requesting an adjournment to September 23rd, 2020. They are also waiving the requirement of time. NO FURTHER NOTICE WILL BE GIVEN.

A motion to adjourn was made by Mrs. Petrillo, all were in favor. The meeting adjourned at 9:15pm.

Respectfully submitted,

Sharon Morgan
Zoning Board Secretary