

**BOROUGH OF POINT PLEASANT  
ZONING BOARD OF ADJUSTMENT  
August 11, 2021**

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. Shrewsberry	Mr. Nikola	Mr. Giordano
Mrs. Masterson	Mrs. Petrillo	Ms. Coulson	Mr. Veni
Mr. Schalfer	Mr. Coleman		
Members Absent:	Mr. Nagy		
Attorney:	Mr. Gertner		

**New Business/Unfinished Business**

**21-20- Pendino- Block 318 Lot 46- 2412 Monmouth Court- Rear Yard Setback.**

**Looking to construct an addition, relief is needed for a rear yard setback, 25ft required where 15ft is proposed.**

**Stephen & Jessica Pendino were sworn in.**

**Brian Berzinskis, architect was sworn in.**

Mr. Pendino stated this is a third generational home. They are looking to construct an addition to accommodate their family. Due to the irregular shape of the lot a rear yard variance is needed.

Mr. Berzinskis testified the home is a single-story ranch. The applicants are looking to construct an addition adding a recreation room, bathroom, and enlarging the bedrooms. Due to the configuration of the existing home and the lot, relief is needed for a rear yard setback.

A-1 survey was marked into evidence. A pool is also proposed, which will comply.

Mr. Coleman questioned the pre-existing side yard setback.

Mr. Gertner replied, it can be included in the approval.

**No public comment or questions**

A motion to approve was made by Mrs. Petrillo approving any pre-existing conditions and the proposed pool will comply, seconded by Mr. Nikola.

**Roll Call Vote**

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

**21-21- Petrillo- Block 279 Lot 239- 1736A Bay Isle Drive- Lot Frontage**

The applicant is looking to construct an in-ground pool. Relief is need for lot frontage, 30ft is proposed.

Adam Steuerman, attorney for the applicant.

Robert Murzda, pool contractor was sworn in.

Mr. Steuerman stated there was a previous application before the Board to construct the home. The proposed pool complies with all setbacks.

Mr. Murzda stated he is the contractor for the pool only and the pool will comply with all setbacks.

**A motion to approve was made by Mr. Giordano, also allowing for any future accessory structures that comply be allowed without Board approval, seconded by Ms. Coulson**

**Roll Call Vote**

Mr. Shrewsberry- Yes	Ms. Coulson- Yes	Mr. Nikola- Yes	Mrs. Petrillo- Yes
Mr. Giordano- Yes	Mrs. Masterson- Yes	Mr. Coleman- Yes	

**21-23- Smith- Block 106 Lot 15- 1107 Front Street- Use Variance**

**The applicant is looking to amend his previous approval for a Bed and Breakfast use to be abandoned, allowing for an annual rental.**

John Jackson attorney for the applicant.

Donald Smith, applicant was sworn in.

A-1 Power Point was marked into evidence

Mr. Smith testified This home was built in 1885. Mr. Smith's in-laws purchased this home in the 1950's. They were renting the apartment for income year-round until 1988 the cottage became a Bed & Breakfast. At that time Mr. Smith's mother-in-law lived apartment attached to the main house. At one point the upstairs of the main house was used as a Boarding house, that use, and kitchen will be removed. The Bed & Breakfast stopped operating in 2003, when Mrs. Smith became ill. At that time the unit was used as an annual rental, until April of this year.

Mr. Robert Burdick, PP PE was sworn in.

***R.C. BURDICK, P.E. P.P. P.C.***

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SMITH  
1107 FRONT STREET  
LOT 5, BLOCK 106

POINT PLEASANT BOROUGH  
PROJECT NO. 20-8151  
AUGUST 11, 2021

This application is for the change of use at the property located at 1107 Front St. within the R-1A zone. The property contains a main house, rental cottage, an in-ground pool, a shed and a gravel parking area. The main house is a mother/daughter dwelling with separate entries for each of the living areas. A small cottage exists in the rear right of the property which has been used as a separate rental unit since at least 1951.

The applicant purchased the home from Mrs. Smith's parents in 1975 and at that time applied to the zoning board to expand the rear portion of the main building to "create suitable living quarters" for the owner's mother. That created the mother/daughter residential use which have existed at the site since 1975. The main house was construction in 1885 and has been maintained in very good condition by the applicant since they took purchased it. The Ocean County tax records indicate that the rental cottage is a one-bedroom unit built in about 1900.

In 1975 the applicant applied for and received approval to construct an addition to the "rear building" at the property and received approval for it. A copy of that approval was provided with the application and is referred to as Case: 75-8. The resolution in part states:

"There presently exists on the tract in question a two-story frame dwelling fronting on Front Street with an existing building to the rear presently used as a rental unit."

The resolution also recognized the bulk side yard setbacks of the rental unit. The board approved the addition to the rear building in order to create suitable living quarters for Mrs. Smith's mother.

Subsequent to that application, in 1993 the owner applied for and was granted permission to allow the "existing two room rental cottage to be utilized as a bed and breakfast accommodation for two guests." As part of that resolution the board recognized and affirmed that the property contains the main house with attached apartment and a rental cottage that contains two rooms. The resolution also affirms that the "cottage" has been in the applicant's family and used continuously as a rental unit since 1951.

Based on these resolutions it is clear that the Borough has recognized this property as having contained a mother daughter home and a separate residential cottage. Tax records also show the multifamily status of the property, and each unit has separate electrical services. Clearly this is a preexisting non-conforming use.

The owners used the property as a have a bed and breakfast from 1993 until 2003. Not knowing that they weren't allowed to go back to yearly rental, the applicants then began to use the cottage for year-round rental. That use continued until April this year when it was determined that the cottage should be used for bed and breakfast uses only. Since the b & b is demanding to run, the applicants are requesting that the rear cottage revert to a separate year-round rental unit.

The lot is adjacent to single family residential dwellings to the south, west, and north and to a commercial office to the east. The cottage is very close to the east property line and there are actually old landscape tie steps leading to the parking lot of the office building.

The property contains a fenced rear yard, gravel parking area, sheds, and an in-ground pool for the use of the residents. No construction is proposed as part of this application so there will be no visible change to the property.

The property contains several bulk variances as outlined in Mr. Savacool's memo. The board specifically recognized side yard setback variances and affirmed them by the 1975 resolution which in part stated:

"The enlargement of the applicant's non-conforming structure does not tend to increase the non-conformity" and stated that the relief could be granted without substantial detriment. This recognized the existing bulk variances at the site, and nothing has changed at the property which affected those conditions.

Besides side yard setback variance, the property has other bulk variances as pointed out in Mr. Savacool's memo of 8/9/21. They are for front setback to the house and porch of less than 25', side setback to the cottage, side setback to the west side of the mother daughter home, distance from shed to cottage of under 2', and building stories where 2 ½ exists and 2 are allowable in the zone. Since the property has existed in its current state since at least 1975 and the cottage from likely 1900 and since previous board approvals have been granted recognizing the configuration of the buildings, we believe that these are preexisting nonconformities and it would be a hardship on the applicant to have to move the existing buildings.

With regard to the habitability of the cottage, the board should be aware that it has been used as a separate rental unit for many years, it has facilities for full time occupancy, and it is a viable rental unit. The cottage has been in continual use since at least 1951 and no abandonment of it has occurred.

The main building has been used as a mother daughter use since approved in 1975 and the apartment area has not been rented to another party.

Off street parking is provided by the gravel parking area on the west side of the property and that area can accommodate 4 vehicles. Additional on street parking exists in the front of the building.

As the board knows variances can be granted if they advance the purposes of the MLUL but must consider both the positive and negative criteria. The positive criteria can be provided by demonstrating that the use is consistent with the purposes of the MLUL and in this case I believe that the project is consistent with goal A of the MLUL which encourages municipal action to guide the appropriate use of all lands in the state. Since the buildings have existed at the site for over 60 years and only the character of the rental occupants has changed from permanent rental to bed and breakfast and back again, I believe that it is an appropriate use of the property. I also believe that the project meets goal j of the MLUL by preserving an historic site since the home was constructed in 1886.

The applicant has faced a hardship with the demands of a bed and breakfast use and cannot continue to meet those demands. A yearly rental of the cottage will be much easier for them to maintain. Reverting the allowable use to year-round rental would alleviate the hardship.

The negative impacts of allowing the use to continue are minimal to nil since the buildings and multifamily use has existed for over 60 years and no change is proposed to that.

Based on this I believe that the relief requested can be granted without substantial detriment to the zoning ordinance, master plan or public good. I also believe that this is an appropriate use of the property since it has been used in the same or very similar manner for over 60 years. The only change is that instead of different people staying at the cottage every week or so, a more continuous resident will live there. The applicant will also be able to maintain an historic structure well over 100 years old. Based on this I believe that the use can be granted without substantial detriment to the zoning ordinance, master plan or public good.

The applicant will comply with the administrative requirements of the Engineers letter and while not onsite improvement is planned, they will repair or replace the existing sidewalks.

### **Public comments/questions**

Kenneth & Maryann Kerwin 1120 Lawrence Ave, were sworn in. Objector  
John Finley, 1120 Front Street was sworn in. Objector

Mr. Jackson reminded the Board Mr. Smith has owned this multigeneration home since the 1950's. In 1993 the two-story main house with attached apartment and a rental cottage was approved by the Board of Adjustment.

Mr. Jackson surmised this family has been entangled with this property since the 1950's. The property is beautifully maintained. The applicant and his family have always asked for

permission from the town. The affordable rents enhance the community. The positioning of this home is also a benefit. It backs up to commercial use and the cottage is permitted to be a Bed and Breakfast. This is not intensifying the use. If the application is rejected the home can exist as a mother daughter and the cottage as a Bed and Breakfast. The size of the property and the location of the rental is also a benefit.

### **Caucus**

Mr. Coleman stated this is a multi-generational use.

Mr. Giordano believes the Board can control the situation with conditions, compared to what is currently allowed or what could be proposed in the future. This is a large lot.

Mrs. Masterson would like to lock down the mother- daughter use. She is concerned that the contract purchaser isn't present.

Mrs. Petrillo wants open access to both units and remove the stove from the mother-daughter unit. The cottage is a one bedroom, she is fine with the annual rental use.

Mr. Nikola this application opened a can of worms. There is a lot of potential for this property.

Mrs. Coulson agrees with Mrs. Masterson.

Mr. Gertner stated basically the new owners are here stating their intentions, through this application. Mr. Jackson is presenting the application, through Mr. Smith.

Mrs. Petrillo has a problem with the mother-daughter.

Mrs. Schalfer stated the mother-daughter isn't a rental. It's to allow a family member to live independently, yet together.

Mr. Coleman doesn't necessarily like the Bed & Breakfast use, new people every week.

Mr. Gertner reiterated the applicant is abandoning the kitchen on the second floor that was once used for a Boarding house. They are proposing a mother-daughter use in the main house and an annual rental for the cottage.

A motion to approve the application with the stipulation that the Bed and Breakfast use is abandoned, and the stove is to be removed from the mother-daughter was made by Mrs. Petrillo, seconded by Mr. Nikola.

### **Roll Call Vote**

Mr. Shrewsberry- Yes	Mrs. Coulson- No	Mr. Nikola- Yes	Mrs. Petrillo- Yes
Mr. Giordano- Yes	Mrs. Masterson- Yes	Mr. Coleman- Yes	

A motion to adjourn was made by Mr. Veni, seconded by Mr. Shrewsberry. The meeting adjourned at 9:20PM.

Respectfully submitted,

Sharon Morgan  
Board Secretary