

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
MARCH 14, 2019**

WORKSHOP MEETING: 7:30 P.M.

Roll Call **Members Present** – Dr. Kloby, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Chairman Colangelo, Mr. Pepe, Mr. Dougherty, Ms. Drew, Mr. McGoldrick, Mr. Illiano

Members Absent – Mrs. Murray, Mr. Neff

Michael Steib was present as Board Attorney. Douglas Rohmeyer was present as Board Engineer. Mr. Steib noted that he has administered the Oath of Office for the Board's newest member, Erin Drew. The Board welcomed Ms. Drew to the Board.

Chairman Colangelo called the meeting to order and stated that the meeting is being held in compliance with the Open Public Meetings Act. Mr. Colangelo called for a moment of silent prayer followed by the Pledge of Allegiance.

Public Comment – Mr. Colangelo opened the meeting to any members of the public who wish to make comments.

Jim Krauss appeared on behalf of the Environmental Commission. He stated that the Commission reviewed the Master Plan and submitted their comments, both as a group and on an individual basis. He summarized the comments of the Environmental Commission that were submitted in relation to the Master Plan Public Hearing.

Other Business – Mr. Steib noted that there is no pending litigation.

Code Change Discussion – Open Space & Historic Structures – Mr. Colangelo stated that the Board has received correspondence from the Borough Administrator asking them to review an ordinance amendment proposed by a member of the public. He asked if anyone has any comments.

Dr. Cetron stated that he read it five times and he is finding it hard to figure out what they are trying to accomplish.

Mr. Colangelo stated that it is broad in referring to open space and he is concerned with the constant confusion about what is considered open space. Also, the power of engineering may be needed to protect neighboring properties, to put restrictions above and outside what the State or FEMA requires would make things more difficult.

Dr. Cetron stated that even if you put pilings, the property is still in the zone but the impact is mitigated. Mr. Colangelo stated the only way to take a property out of a flood zone is to raise the actual dirt itself. Dr. Cetron stated that given that FEMA doesn't restrict you building with certain safeguards, this ordinance would prevent anyone in those zones from building on their property. Mr. Pepe added that is a big section of town. There are FEMA regulations and CAFRA regulations, he thinks they should continue dealing with it. Dr. Cetron stated that it could go well beyond open space and that scares him. Mr. Colangelo agreed. Dr. Cetron stated that the Board considers a lot of different things and that is why they are requiring geotechnical reviews for certain applications.

Councilman Fligor advised that the Council is content following FEMA's ABFE's.

Mr. Colangelo asked Mr. Steib to draft correspondence stating that the Board disagrees with the proposed ordinance change. Mr. Colangelo asked if there is any objections from the Board; none were received.

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Mr. Colangelo noted there is no further business to be discussed during the Workshop Meeting.

COUNCILMAN FLIGOR MOVED TO ADJOURN THE WORKSHOP MEETING,
SECONDED BY DR. CETRON. BY VOICE VOTE ALL AGREED.

There being no further business to come before the Board, the Workshop Meeting Adjourned at
7:40 P.M.

Erin Uriarte
Planning Board Secretary

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REGULAR MEETING: 7:40 P.M.

Roll Call **Members Present** – Dr. Kloby, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Chairman Colangelo, Mr. Pepe, Mr. Dougherty, Ms. Drew, Mr. McGoldrick, Mr. Illiano

Members Absent – Mrs. Murray, Mr. Neff

Michael Steib was present as Board Attorney. Douglas Rohmeyer was present as Board Engineer.

Approval of Minutes for the February 14, 2019 Meeting

COUNCILMAN FLIGOR MOVED TO APPROVE THE MEETING MINUTES FOR FEBRUARY 14, 2019, SECONDED BY DR. KLOBY.

Ayes: Dr. Kloby, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Mr. Pepe, Mr. Colangelo, Mr. Dougherty, Mr. Illiano

Nays: None

Abstain: Ms. Drew

Absent: Mrs. Murray, Mr. Neff

Approval of Attorney's Voucher for January 2019 in the amount of \$3,280.50

DR. CETRON MOVED TO APPROVE THE ATTORNEY'S VOUCHER FOR JANUARY 2019, IN THE AMOUNT OF \$3,280.50, SECONDED BY COUNCILMAN FLIGOR.

Ayes: Dr. Kloby, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Mr. Pepe, Mr. Colangelo, Mr. Dougherty, Ms. Drew

Nays: None

Abstain: None

Absent: Mrs. Murray, Mr. Neff

PB18-06, Block 142, Lot 5, 17 Avenue D (Denholtz Custom Homes) – Application for Preliminary & Final Subdivision Approval with Variances as may be required – Mr. Steib announced that this application will be continued at a Special Meetings to be held on March 25 & 26, 2019 at 7:30 pm at the Atlantic Highlands Elementary School, 140 First Avenue, Atlantic Highlands, NJ and while no further notice is required, the applicant has re-noticed and the notices are in order.

PB16-13, Block 8, Lot 23.01, 25 Bayside Drive (Leckstein) – Completeness Waiver Hearing – Mr. Steib advised this is a request for completeness waivers.

Mr. Leckstein advised that he is the attorney for the applicant. About two years ago there was an application for development where the neighbors came together to buy the parcel from the applicant in order to prevent development on the lot. They removed something that is dangerous and prevented it from being built on. They are proposing to split the lot up, move the lot lines and make it go away. The biggest problem has been the cost of surveying all of the surrounding properties. The new applicants are requesting waivers from the application fees as well. They are doing this to make sure there is no future development. If they do not subdivide, it could go to tax sale and they will be back here with a new applicant trying to build on it.

Mr. Steib stated that the Engineer agrees with granting most of the waivers, however there are items in the report that the Engineer does not recommend granting the waivers.

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Mr. Rohmeyer referred to his report, dated January 8, 2019, item #4 and advised that the Board needs to see the full picture as to what lots are being created by this subdivision. There needs to be a mechanism to ensure the lots are consolidated. If lot 41.01 gets added to lot 41, it could become large enough for future subdivision.

Mr. Leckstein advised that the deeds will incorporate the newly formed lots. If the concern is with future subdivision, anyone can come in, buy all the lots to develop and no one can stop it. With this approval, they are asking that there be no future development. It will not create any new future subdivisions.

Dr. Cetron stated that he understands Mr. Rohmeyer's concern and asked if that can be done with full-blown expensive survey or can it be done with a zoning table on the plan. Mr. Rohmeyer stated that if it is being filed by deed, they will have to do a description of the lots being adjusted regardless, so he thinks the Board should be able to see that.

Mr. Leckstein advised that they will describe the four pieces of the pie to each of the four land owners. Dr. Cetron stated that it should include what the old lot was and what it will become. Mr. Rohmeyer stated that would be acceptable. Mr. Leckstein did not agree with describing the resulting lot.

Mr. Pepe asked if they would be creating four zombie properties or will these lots ultimately merge. Mr. Steib replied that the ultimate deeds will result in four lots where there were five. Lot 41.01 will merge with 41, lot 35.01 will merge with lot 35, etc.

Mr. Colangelo questioned the shape of lot 41.01. Mr. Steib reminded him that this is just a completeness waiver hearing.

Mr. Steib advised that if submission waivers are granted, it doesn't mean that the Board can't request it at the time of the hearing. Mr. Leckstein advised that they will present deeds so that the Board knows they will merge with the existing lots.

Dr. Cetron stated that if the applicant can submit the tentative metes and bounds as well as the statistics for the new lots, he feels that is enough to move forward.

Mr. Colangelo advised that the applicant is asking for a waiver of the application fee. Mr. Leckstein advised that the previous applicant had paid the application fee so he doesn't feel there is a new fee to be charged. Mr. Steib stated that if there is an application fee for an amendment that would apply, but this is not a new application but the escrow fees will be required. The Board may agree to waive additional escrow until the case has been heard and make escrow a condition of approval, then so be it. Dr. Cetron stated that the escrow fee is understandable but the application fee shouldn't be required.

DR. CETRON OFFERED A MOTION TO GRANT THE COMPLETENESS WAIVERS WITH THE CONDIITONS HE JUST NOTED, SECONDED BY MR. PEPE.

Ayes:	Dr. Kloby, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Mr. Pepe, Mr. Colangelo, Mr. Dougherty, Ms. Drew
Nays:	None
Abstain:	None
Absent:	Mrs. Murray, Mr. Neff

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PB18-02, Block 74, Lot 8, 58 Prospect Circle (Swanton) – Application for Bulk Variances – Mr. Steib advised that the notices for this hearing are in order and the Board has jurisdiction to hear this matter. He added that the following exhibits have been previously marked: Exhibit A-1 is the Zoning Denial letter, dated January 23, 2018; Exhibit A-2 is the Application of Jeff and Abigail Swanton; Exhibit A-3 is the Steep Slope Review prepared by CME Associates; Exhibit A-4 is the Topographical Survey, prepared by Richard E. Stockton, dated October 4, 2017; Exhibit A-5 are the Architectural Plans received January 23, 2018; Exhibit A-6 is the CME review letter dated February 2018; Exhibit A-7 is the CME review letter dated January 15, 2019; Exhibit A-8 are the Architectural plans, prepared by Catherine Franco, dated December 16, 2018; Exhibit A-9 is the Site Plan entitled “Variance Plan; Swanton Residence, 58 Prospect Avenue” prepared by AJ Garito, dated December 5, 2018.

AJ Garito was sworn in and accepted as an expert engineer. Jeff and Abigail Swanton were sworn in as the applicants.

A colored rendering of the variance plan was marked as Exhibit A-10. Six photographs of the existing property were marked as Exhibit A-11.

Mr. Garito stated that there are four variances required in relation to this application. There is an existing bi-level home on the property with a driveway and walkways. The property is pie shaped with some steep slopes in the back. The proposal includes a second floor addition, a pool, a front and rear porch and associated walkways. A small added front porch and a rear two level deck is also proposed as well as a small two foot retaining wall in the rear yard. The proposed pool would be therapeutic in nature, but also allows for the family to enjoy it as well. The proposed improvements would require four variances. The front yard setback is proposed at 21 feet where 25 feet is proposed. The side yard setback proposed is 10.5 feet where 15 is proposed, however that is an existing condition. The proposed building coverage is 18%, where 15% is the maximum permitted. The proposed lot coverage is 45.1% where 40% is permitted. Mr. Garito feels that these variances are deminimous in nature. In regard to CME’s review letter, they will comply with all outstanding comments. The proposed home will be a 4 bedroom home, which requires 2 parking spaces so they meet the off-street parking requirement.

Jeff Swanton, 58 Prospect Circle, was sworn in as the applicant and confirmed the proposed home will be a 4 bedroom home.

Mr. Garito stated that the pool equipment and air conditioner units will be within the required setbacks and will be shown on the building plans. The site currently drains toward Prospect Avenue and to the neighboring properties on either side. The applicant is proposing a swale to direct all run-off towards Prospect Circle but they would be willing to work with the engineer to install some seepage pits to provide for mitigation. There is minor steep slope area in the rear of the property and they are proposing a small, two foot high retaining wall to flatten out the area of the yard for the pool. Councilman Fligor asked for the distance from the retaining wall to the property line. Mr. Garito replied that it is about 11.6 feet to the property line. Mr. Fligor noted that the center area at the top of the circle is Borough owned.

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Mr. Rohmeyer referred to the steep slope area, his report lists the specific requirements for development in the steep slope area. A variance will be required for the maximum lot coverage. The maximum lot disturbance in the steep slope area requires a variance and that is not provided on the plan. It looks as though the entire plan is in the steep slope area so now would be the time to request that. Mr. Garito agreed that the majority of the property is proposed to be disturbed except for the footprint of the house and the area behind the retaining wall. Mr. Garito advised that they will seek that variance but the property is graded so that there will not be any adverse impacts. Mr. Rohmeyer questioned Freehold Soil Certification. Mr. Garito replied that they will seek that approval as a condition of any approval this Board may grant.

Mr. Colangelo asked if there are any questions from the public for Mr. Garito. None were received.

Catherine Franco was sworn in and accepted as an expert architect.

At this time the Board took a brief recess and reconvened at 8:24 pm. Mr. Steib announced for the record that Councilman Fligor had to leave due to an emergency.

Ms. Franco stated that the current home is a 3 bedroom home and the applicant is proposing a 4 bedroom home with an elevator lift for illness related issues. The pool being proposed is also for therapeutic reasons, however they made it big enough that the entire family can enjoy it together. The first floor will be the kitchen, living room, a small bedroom and an office. There is a deck off of the kitchen and a lower deck to be associated with the pool. There is a small bathroom in the basement and an area for the girls to use as a pool house. The second floor has the master suite with a balcony for them to watch the girls. There are three other bedrooms, so that each girl gets their own room. Two of the girls will share a bathroom and the third will have her own bathroom.

Dr. Cetron stated expressed concern with the basement area, because it is now three floors and a variance would be required.

Mr. Colangelo asked about the garage door on the left elevation. Ms. Franco stated there will be no driveway associated as that is just for storage purposes.

Ms. Franco asked for a few moments to do the calculations related to the basement. In the meantime, Mr. Steib suggested taking the next application while they do their calculations.

PB18-16, Block 115, Lot 6, 69 First Ave (69 First Realty LLC) – Application for Use Variance
– Dr. Kloby stepped down from hearing this application, as the Mayor's Designee.

Mr. Steib stated that the notices are in order and the Board has jurisdiction to hear this application. The following exhibits were previously marked: Exhibit A-1 is the zoning denial, dated October 17, 2018; Exhibit A-2 is the Application for Variance; Exhibit A-3 is the Narrative of Intent; Exhibit A-4 is a survey prepared by Thomas Finnegan, dated July 14, 2017; Exhibit A-5 is a floor plan, dated November 12, 2018; Exhibit A-6 is the CME review letter, dated December 19, 2018; Exhibit A-7 is a Site Plan for 69 First Avenue, prepared by Richard Stockton, dated January 16, 2019; Exhibit A-8 is CME review letter, dated February 14, 2019.

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Kevin Kennedy introduced himself as the Attorney for the Applicant. The applicant is proposing to use a portion of the retail space at Oyster General to be used for a facial aesthetician, which requires a use variances.

Erica Ruotolo, 69 First Ave and Principal of 69 First Ave LLC was sworn in. Ms. Ruotolo advised that she owns and operates the space at 69 First Ave. Currently there is an existing home goods store with an apartment on the second floor. The home goods store sells mostly custom furniture, handmade goods, photography and things along those lines. The previous use was a dining room for Gianni's Pizzeria. The proposal includes the front portion of the store remain a home goods store and at the rear of the store would just be a wall with a door. The facial room will be 8 ½ x 13 feet and will be accessed from the rear of the building. They will be two independently ran operations. The aesthetician is Ms. Ruotolo's closest friend and currently operates out of a space in Aberdeen, however she lives here in Atlantic Highlands. There will only be one customer at a time for the aesthetician and they will all be scheduled thru a mobile app or email. Customers will arrive by appointment only, no walk-ins. Each customer will have an appointment block range of half hours up to one and a half hours. They would like to hours of operation to be allowed seven days a week from 9 am to 8:30 pm to allow for flexibility in scheduling, however they only intend to have 4 or 5 appointments per day. The garbage would be about 1 bag of per day, mostly paper product and no medical waste is proposed. The space proposed would include a sink, a table, a hot towel machine, the products being used and a small suitcase-sized microderm abrasion machine. The only deliveries anticipated would be typical box truck deliveries such as UPS or FEDEX. The site has 2 existing parking spots on site for the apartment use, with 2 additional spots behind them. The customers of the store would utilize the municipal lot to the rear or on street parking on First Avenue. There is no new construction proposed.

Mr. Hawley asked if this use is regulated by the Health Department. Ms. Ruotolo advised they will be inspected and licensed by the State Cosmetology Board.

Mr. Colangelo asked if there are any questions from the public. None were received.

Marlena McGee was sworn in as the facial aesthetician. Ms. McGee stated that she is a licensed skincare therapist and currently operates out of Aberdeen, NJ. She is licensed by the State Cosmetology Board and the shop will obtain a shop license. There are no Department of Health Regulations for this type of use, however if Atlantic Highlands requires it, they will comply. The only refuse expected from this use would be cotton pads, paper towels, used products and the packaging materials they arrive in. There may be some sales of products to the customers who come in.

Mr. Rohmeyer advised the applicant's plans cannot provide for 4 parking stalls within the property limits, 2 of the spaces are outside the property line, therefore there are 2 legal spots on the plan. Based on the parking requirements, they are short of on-side parking, however they are within 300 feet of the Municipal Lot.

Doug Rohmeyer was sworn in as the Board Engineer.

Mr. Colangelo asked for questions from the public.

Mark Fisher, 91 Third Avenue, stated that the parking ordinance should kick in since this lot is deficient parking. Mr. Rohmeyer stated that they are within 300 feet of the Municipal Lot do they

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are not deficient. Mr. Fisher stated that if they are short they “parking in lieu” ordinance should apply.

Mr. Colangelo asked if any members of the public who wish to make a comment. None were received.

Dr. Cetron questioned when the Ordinance was passed for parking in lieu. A discussion was held regarding the parking requirements.

Mr. Kennedy stated that they do feel they have 4 spaces there and it is a much less intensive of a use than what was previously there. The applicant did notice for a parking variance out of caution but he believes that because there is no construction proposed and the residential use has parking provided, he would request a waiver from that requirement and not have to pay a fee. He would also like to look into the date of filing the application and when the Ordinance was adopted. Mr. Steib advised that the application was filed December 3, 2018. Mr. Rohmeyer stated that the second reading of the first Ordinance was in September however it was amended and he is not sure when that took effect.

Mr. Rohmeyer stated that based on floor plan calculations, there are 7.3 spaces required and only 2 are provided. He believes that under the parking ordinance, the applicant is still able to rely on the Municipal Lot to satisfy their parking requirement. If an applicant were not within 300 feet of the Ordinance and they did not meet the parking requirement, then they would have to pay.

MR. PEPE OFFERED A MOTION TO APPROVE THE APPLICATION FOR USE VARIANCE, SECONDED BY DR. CETRON.

ROLL CALL:

Ayes: Mr. Caccamo, Dr. Cetron, Mr. Pepe, Mr. Colangelo, Mr. Dougherty, Ms. Drew,
Mr. McGoldrick, Mr. Illiano
Nays: Mr. Hawley
Abstain: None
Absent: Councilman Fligor, Mrs. Murray, Mr. Neff

At this time, Dr. Kloby returned to her seat on the Board.

PB18-02, Block 74, Lot 8, 58 Prospect Circle (Swanton) – CONTINUED – Ms. Franco advised that the applicant will be seeking the variance for the third floor. She added that there will be no bedrooms in the basement area.

Ms. Drew asked about the carve-out for the Elevator and asked where it is on the second floor. Ms. Franco advised it is the little box on the other side of the laundry room.

Dr. Cetron asked about the size of the elevator. Ms. Franco advised that it will be about 3 x 5. Dr. Cetron stated that would be tight for a stretcher. Ms. Franco advised she made the stairs extra wide to address the emergency access comments that came up during another hearing; in this case, EMS will need to use the stairs.

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Mr. Colangelo asked about the pool fence. Ms. Franco stated that it will be along the retaining wall and then down the side, it is fully in compliance.

Mr. Caccamo asked if the design will match up with the Victorian homes in the area. Ms. Franco replied yes. Mr. Caccamo stated that it looks great, she did a nice job.

Mr. Rohmeyer noted that there is no hard surface at the end of the stairs for the upper deck, since the applicant is maxed out on coverage so if they are thinking of adding a hard surface, now would be the time. Ms. Franco advised that they will probably add a stair or two to line it up with the walkway.

Mr. Colangelo asked for questions from the public.

Mark Fisher, 91 Third Avenue, noted the 2 foot wall in the steep slope and the front setback not being in compliance. He questioned what would trigger a geotechnical review. Isn't the wall at the toe of the slope? Dr. Cetron advised the toe of the slope is at the bottom of the slope, this is at the top of a slope. The wall design will be conditioned to be designed by an Engineer and reviewed by the building department.

Mr. Garito advised that it is a 5:1 slope so it is not necessarily a steep slope.

Mr. Fisher asked if it is landscaping wall or an engineered wall. Mr. Garito replied that it will be an engineered wall but built like a landscaping wall. There will be no geogrid or a foundation or anything like that. Mr. Fisher asked questions regarding the pool calculations, which were answered by Mr. Rohmeyer. Mr. Fisher asked why the project can't be designed to comply with lot coverage. Ms. Franco advised the lot is too small. Mr. Fisher stated that the pool adds to the lot coverage.

Mr. Pepe asked Mr. Garito if he has any concerns with the two foot wall and the cut being made into the rear of the property in terms of geotechnical movement.

Mr. Colangelo asked for any comments from the public.

Mark Fisher, 91 Third Avenue, indicated that he has concerns with granting variances when there are other options that can be looked at.

No further public comments were received.

Mr. Hawley stated that he is satisfied with the proposal based on Ms. Franco's testimony that they do have a hardship and the fact that a medical issue was noted, which means a lot.

Dr. Cetron stated that a proper drainage plan should be submitted during the permitting process to be reviewed by Mr. Rohmeyer. The applicant agreed.

Dr. Kloby stated that as far as the front porch, she feels that the home would look strange without one.

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Dr. Cetron stated that he would also like a condition that no bedrooms be allowed in the basement.

Mr. Pepe indicated that the proposal really brings the home into character with the neighborhood.

Ms. Drew stated that she agrees with the comments on the porch, it meets the character of the existing neighborhood. Also, if a wheelchair is required in the future, a larger porch fits with that request.

Dr. Cetron stated that he is pleased that Ms. Franco takes the emergency access comments into consideration from the forefront.

MR. PEPE OFFERED A MOTION TO APPROVE THE APPLICATION, SECONDED BY MR. HAWLEY.

ROLL CALL:

Ayes: Dr. Kloby, Mr. Caccamo, Dr. Cetron, Mr. Pepe, Mr. Hawley, Mr. Colangelo, Mr. Dougherty, Ms. Drew, Mr. McGoldrick
Nays: None
Abstain: None
Absent: Councilman Fligor, Mrs. Murray, Mr. Neff

Adjournment

There being no further business to come before the Board, Mr. Colangelo asked for a motion to adjourn the meeting.

MR. DOUGHERTY MOVED TO ADJOURN THE REGULAR MEETING AT 9:25 PM, SECONDED BY MR. MCGOLDRICK. BY VOICE VOTE ALL AGREED.

Erin Uriarte
Planning Board Secretary