



**CITY OF ABSECON
Municipal Complex
500 Mill Road
Absecon, New Jersey 08201**

PLANNING & ZONING
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**JANUARY 12, 2022
PLANNING BOARD
REORGANIZATION MEETING
MINUTES**

The meeting was called to order by Bob Preston at 7:00 p.m.

Flag Salute

Notification of Meeting

ROLL CALL

PRESENT: Aleli, Gersh, Horton, Howell, Kirk, Thompson, Strugala, Tiberio, Preston

ABSENT: Reilly, Clinkscale

ALSO PRESENT: Joe McGroarty, Board Solicitor; Andrew Previti, Board Engineer and Chris Dochney, Board Planner

REORGANIZATION MEETING

Chairman Position – motion for Bob Preston was made by John Aleli - second – Holly Gersh

No other nominations

All were in favor.

Position of Vice-Chair – motion for Nick Tiberio was made by John Aleli – second – Kim Horton

No other nominations

ROLL CALL: Aleli, yes; Gersh, yes; Horton, yes; Howell, yes; Kirk, yes; Thompson, yes; Strugala, yes; Tiberio, yes; Preston, yes

2022 Meeting Dates – motion to approve – Betty Howell – second – Lou Strugala

It was decided to eliminate the December 28th meeting

All were in favor.

REGULAR MEETING

NEW BUSINESS:

Appl. #1 – 2022 – John Falivene for Block 114 – Lots 7 & 8 – 1016 Marlborough Avenue for a minor subdivision

Tom Darcy, planner and attorney for applicant appeared, as well as owners, James and John Falivene, who were sworn in.

Tom – explained this is an application for a two-lot minor subdivision. He started with giving three zoning facts about the property for the board to keep in mind.

1. This does not create any new building lots. It's a change of lot lines; taking lots 7 and 8 and moving the existing lot line to try and to give as much area as we can to Lot 8, which is a pre-existing non-conforming building lot that was created over 100 years ago.
2. Lot 8 is a 45 x 100 ft. vacant lot, pre-existing, non-conforming lot. It was created in 1926 when about 400 lots were created in Absecon. The majority of the lots at that time were 50 x 100, and a grouping of small ones like this in the middle of the blocks. That subdivision was approved by city council on 6-6-1926. There was no zoning ordinance at that time either. In 1974, the zoning ordinance was created and then this lot became non-conforming.
3. There are 24 zoning requirements to meet for the two lots; each needing 12 and they will meet all but one of them. There is only one bulk variance they will need, which will be for lot area.

He then went into the existing conditions of the property. They have always been separate lot numbers and parcels of land. There is a difference between lots that are shown on the tax assessment records and lots as will be viewed as to zoning requirements, which means there is a difference between taxation and zoning. The proposal is to mitigate and enhance the size of lot 8 to bring it as close as we can to compliance with the R2 requirements. They want to move the lot line west towards the home (lot 7) as far as they can reasonably go, before we get to the garage. We need a 10 ft. setback at least. That will give us 30 ft. and we would end up having a 75 ft. frontage on proposed lot 8.01. That will meet the minimum requirement for the zone and it already has the minimum depth required of 100 ft. All zoning requirements will be able to be met except for lot area. It would be 7500 sq. ft. and not the 10,000 sq. ft. required for that zone. They can't add more feet from the house next door because of the placement of it on that lot. They are asking for a "C" variance for this application. He then explained the standards for a c variance.

Positive Criteria:

The C1 standard is a hardship, and they feel they meeting that since they can't get additional land. It has existed as a pre-existing, non-conforming lot for almost 100 years. It was created in 1926 when the lots were subdivided on that block. There is no vacant land available on lot 9 that the Trimarcos own, without creating zoning deficiencies in their property. They sent out two buy/sell letters by regular and certified mail to the neighboring properties at the beginning of December and they received the one back from 1013 Shelburne, but the Trimarcos didn't sign for it. There has been no contact regarding the letters. The board can take this all into consideration when considering the hardship of there being no additional land to purchase.

The second part is the C2 standard, which is the flexible C standard, if the benefits outweigh the detriments. He then went into the purposes of the NJ Land Use Law under sections: 2A, 2I and 2C.

He then explained the lots again and if the character would be substantially altered. Marlborough Avenue is 80 ft. wide and if lots 7 and 8 were combined, you'd have a 190 ft. lot width on Marlborough Avenue and a 19,000 sq. ft. lot. The other concern would be if it would degrade the R2 zone district. He took an inventory and there are only about 10 vacant 50 ft. lots that remain in the whole 400 lot subdivision that was created in 1926 and about half of them are owned in common ownership with an adjoining property with a 50 ft. lot. There could possibly be about 5-10 lots with a potential for an application to the board to try to justify the granting of a variance. Granting this variance won't substantially degrade the neighborhood. There are hundreds of other lots already developed and there are very few vacant lots that remain.

Section 2C it deals with light, air and open space. Lot 7 would have 115 ft. lot width, which is in excess of the 75 ft. requirement; and it's lot area would be 15% larger than required and Lot 8.01 will have the 75 ft. frontage. His opinion is that the board could grant the C2 variance. They have made the lot as large as they could.

Negative Criteria:

Can it be granted without a substantial detriment to the public good. That means is the essential character of this neighborhood going to be substantially altered by the granting of this variance. The key word is substantial, since there is always a detriment when a variance is granted. He passed out a diagram of the lots to the board members that showed the required setback requirements and yard area. The setbacks would be the same as if it were a 10,000 sq. ft. lot, with also making the front yard setback larger by 5 ft. and having a 30 ft. setback rather than a 25 ft. On the side that abuts lot 9, the minimum setback requirement is 10 ft., but they proposing a 20 ft. The rear yard is required to have 15 ft., but they propose a 20 ft. rear yard. This helps them by demonstrating to the board that they satisfying the negative criteria with a respect to the neighborhood. Keep in mind that Marlborough is an extra wide right of way of 80 ft. as well. The house would be a 2 ½ story with a single attached garage approximately 2,000 sq. ft., which is reasonably consistent with the development pattern in the neighborhood. It certainly is not substantially deficient.

The second part of the negative criteria is to demonstrate whether the variance will substantially impair the intent and purpose of the zoning ordinance and the zone plan. One of the purposes of the Master Plan is to encourage in fill development and that is what they are doing here. As to the zoning ordinance, this lot conforms to 11 out of the 12 requirements, so again the word substantial is important. In his opinion, not having one out of twelve is. We are also voluntarily agreeing to enhance the setbacks on this property to bring it more into conformance and providing the yard area that the zoning ordinance anticipates with a conforming 10,000 sq. ft. lot.

He went through the planner's report and engineer's report and addressed some of the issues. The sheds are to be removed; the planner asked for some details of the dwelling and a generic rendering was sent to him; the buy/sell letters were sent out and he addressed that earlier; some of the oak trees would be retained and some removed and they will show that on the plot plan. Andy made it a condition that the subdivision be filed by map and all the other conditions mentioned in his report.

John Aleli – he asked if the garage at the current home and if any thought was given to moving the garage. You believe that Lot 8 is a buildable lot?

Tom – we haven't and we don't know if that would create more difficulty. Lot 8 is a legal non-conforming, pre-existing lot, which means it was created at a time when it conformed with the zoning ordinance or there was no ordinance to make it non-conforming. The reason now is because the zoning ordinance was created in 1974.

Lou Strugala – asked if they knew when the garage was put on.

Tom – the house was built in 1963, but we don't know when it was put on

Bob Preston – you mentioned there were roughly 5-10 more lots in the neighborhood. Could that then create that many more structures?

Tom – he thinks it would be difficult to get a variance for a 50 ft. wide lot, plus other variances.

Anyone can decide to come to the board and provide justifications, but he feels it is very limited.

Bob – with the building envelope and setbacks you provided, what elements can be built into those setbacks?

Tom – accessory uses would have to meet the setback requirements. If you want, we could discuss enhanced setback requirements for those as well.

Andy Previti – went over his 10/20/21 report. The plot basically complies with the ordinance and Tom said he would comply with all his comments in his report. He does want it a condition for the filing to be by plat and not by deed.

John A. – asked for Andy's opinion as to it being a substantial negative impact

Andy – it's really a planner's question and an engineer shouldn't be answering that. The fact that the zoning ordinance requires a 75 ft. frontage and a 100 ft. depth, leads you to say why don't you have 7500 sq. ft. as your lot area? It meets all the bulk requirements, except for lot area. He lives in this area and there were many lots, even less than 75 x 100, so it probably wouldn't be out of character for the area.

Chris Dochney – his comments were addressed in his report and he agrees with the board engineer's comments. He hasn't done an inventory of the neighborhood of all the properties in the area, but looking over the tax maps and the lot sizes in this immediate area, they are not all exactly 10,000 sq. ft., there are a range of sizes and styles. He feels a home could be built and doesn't see it as a substantial detriment to the character of the community.

Bob – asked Chris' opinion about the offer by the applicant regarding the increased setbacks.

Chris – not sure if he has seen it done before, but it's a generous offer. Even if it was a 10,000 sq. ft lot, they would be allowed to by right build into those setbacks 4 ft. with a porch if they wanted to.

Bob opened it up to the public at this time.

John Cevoli – 1001 Marlborough Ave. – he has lived here for 33 ½ years and could have gone to other towns, but we chose here. Most lots are over 100 x 100 and he feels that 7500 is substantial; it's a 25% difference. The corner property on Marlborough and Morton sold and now there are about 9 or 10 cars outside that house. The density is crazy and we don't know that we will get out of this house. Is he going to rent or sell it? He's trying to change his hardship into mine. He knew when he bought it, it was undersized. He could have bought somewhere else. He bought it cheap and trying to make a profit now. It's fine to do that, but this is not acceptable to the neighborhood and we don't need another house. The corner lot just built a huge home, but it's on a 100 x 100 lot.

John Farinelli – 1021 Marlborough Ave. – again, this is a 25% lot reduction and not 5%. If it was 100 x 100, he'd have no problem. There are 8 houses on the street and he has 145 ft. x 100 lot and next door has the same and two other lots bigger than 100 x 100. He feels this house won't fit into the décor of the neighborhood.

Cathy Trimarco – 1008 Marlborough Ave. – gave a brief history of her property. She has lived there for 28 years and there are four houses on each side and she doesn't want to live any tighter than she is now.

Michael Trimarco - 1008 Marlborough Ave. – one of the reasons he moved to Absecon was because the street was wider than others. He had many conversations with Angelo in his garden, which is lot 8 and it was said many times that it's good that no one can build on this lot. He asked that this not happen. He doesn't want to live in a trailer park, with a house so close to me.

Carol Dhyne – 1013 Shelburne Ave. – her house is behind where they want to build. She has been in Absecon for 44 years and moved to this house two years ago after looking at several in this area. We chose this one for it's size and we mainly live in the back of the house and have a view of open space and can see through to Marlborough. If you put a two-story structure up, it will look out of place for us and for the neighborhood as well.

Todd Reitzel – 4 Canary Way – Galloway – his wife may inherit 1008 Marlborough Ave. in the future, so he is here to support his in-laws. He has admired Absecon and considered it to be a well-off town, where families come for what it is and the neighborhoods. Kids can ride bikes without crossing a big street and he feels Absecon is in a fight for its identity. It's been invaded by transients and the atmosphere is changing. Mr. Falivene owns many homes in addition to the Black Cat Bar and he's said it's a rental and no improvements have been made to the outside since then. He bought it in 2019 and knew the lot wasn't buildable and he's trying to do it anyway. There are other options available: the Trimarcos could buy it as vacant land or he could tear down the current home and build a new one on both lots. Mr. Falivene makes a lot of money in Absecon, but at what cost.

Lisa Byers – 1000 Marlborough Ave. – she agrees with everything that has been said so far. If he purchased it in 2019, he knew it wasn't a buildable lot. The biggest thing is that you don't live on that street, so you have no interest on what happens in the neighborhood. It is a 25% difference as well. We moved back to Absecon and built a very high-quality home on a 100 x 100 lot, and she doesn't feel a house built on a 7500 lot is going to be a high-quality home; it's going to look like a new home, that is just stuck in between in an older established neighborhood and it will look terrible.

Bob closed the public portion

Tom – responded to some of the public comments. He emphasized that the minimum lot wide the town established is 75 ft. and it meets that and the minimum lot depth is 100 ft. and this lot meets that as well. Yes, it doesn't have the 10,000 sq. ft. needed, but he explained why the board should approve the variance and explained that a hardship is not the owner's or personal to the owner; it runs with the land. It was created in 1974 when the zoning changed and has been with the property since then.

Joe – memorialized the motion which is to grant approval for a minor subdivision with lots 7 & 8. The lot line would be moved 30 ft. over to make lot 8 7,500 sq. ft. The only variance needed would be lot area for lot 8, since it would have 7500 sq. ft and not the 10,000 required. All conditions of approval mentioned would be in the resolution as well.

Motion to approve – John Aleli – second – Lou Strugala

Betty – asked for clarification of the 7500 sq. ft. lot area

Tom – explained the width and depth conform

Chris – explained the ordinance and lot sizes

Kim – wanted to know if it's a two-car garage on lot 7 and couldn't it be made into a 1 car? It is a lovely area there.

Tom – thinks we would gain two feet and it wouldn't be a major gain of property

Lou – asked if before 1974, this lot could have had a house built on it

Andy – many communities created small lots because small homes were built. This area was developed like that originally and gave some history of the area.

John – this is a tough call tonight and he's sympathetic to the neighbors, but if the applicant has made its case and met the criteria for a C variance, it has to be a reasonable judgment.

Michele – agrees with John and the Master Plan encourages in fill housing. She does sympathize

Bob – concerned about others coming in to do this and it will change the character of the neighborhood

Joe – cautioned that this application has to be decided on the merits of this case, based upon the criteria that has been presented. A next case would have to be decided on its own merits. The court will tell us that.

A picture of a potential home was passed around

Betty – agrees with John and is on the fence and feels for everyone. We all want to keep everything the same.

ROLL CALL: Aleli, yes; Gersh, yes; Horton, yes; Howell, no; Kirk, yes; Thompson, no; Strugala, no; Tiberio, yes; Preston, no

Motion passed 5-4

Finance Committee for 2022: Michele, Kim and Jessica

OLD BUSINESS:

Vote: Minutes of December 8, 2021 meeting

Motion to approve: Lou Strugala – second – Nick Tiberio

All were in favor.

APPROVAL OF BILLS

Andy Previti - \$720.00 for WP Absecon; \$360.72 for WP Absecon

Joe McGroarty - \$130.00 for Falivene

Motion to approve – Michele Kirk – second – Kim Horton

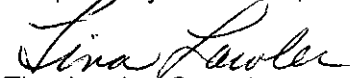
All were in favor.

ADJOURNMENT

Motion to adjourn – John Aleli – second – Kim Horton

All were in favor.

Respectfully submitted,



Tina Lawler, Secretary

Approved: 2-9-22