

Minutes of the Asbury Park Planning Board
January 27, 2020
Council Chamber
7:00pm

Announcement by the Chairperson that the meeting is being held in accordance with the Open Public Meetings Act, Chapter 231, Public Law 1975. Adequate notice of the meeting has been provided to the Coaster and the Asbury Park Press. All notices are on file with the Board Secretary. Official action may be taken on the matters listed below.

Pledge of Allegiance
Roll Call

Members in Attendance: Mayor John Moor, Councilwoman Yvonne Clayton, Michael Manzella, Alexis Taylor, Jennifer Souder, Rick Lambert & Chairperson Barbara Krzak

Members Absent: Trudy Syphax

Members Recused: Jim Henry

Staff: Jack Serpico, Esq., Jason Fichter, (InSite), Donna Miller (CCH), Michele MacPhearson (State Shorthand), Irina Gasparyan (Board Secretary)

Meeting begins at 7:00 pm

A. Minutes:

Minutes of December 16, 2019 Special meeting

Motion to approve: Manzella Second: Taylor

All in favor

B. Resolutions:

1. Appointing Board Attorney 2020

Motion to approve: Krzak Second: Clayton

All in favor

2. Appointing Board Planner 2020

Motion to approve: Manzella Second: Clayton

All in favor

3. Appointing Board Engineer 2020

Motion to approve: Second: Manzella

All in favor

4. Appointing Board Secretary 2020

Motion to approve: Taylor Second: Manzella

All in favor

5. Appointing Board Recording Secretary/Stenographer 2020

Motion to approve: Manzella Second: Clayton

All in favor

6. Appointing Board Conflict Planner 2020

Motion to approve: Manzella Second: Clayton

All in favor

7. Appointing Board Conflict Engineer 2020

Motion to approve: Clayton Second: Manzella

All in favor

C. Applications:

1. Asbury Partners, LLC (Carried from December 9, 2019)

1500 Ocean Ave., Block 4502 Lot 1.23, WRA Zone

Preliminary and Final Site Plan Approval for construction of a 6461 square foot Beach Club Pavilion

Motion for 3 minute Public Comment Period: Manzella Second: Taylor

All in Favor

Jennifer Phillips Smith, Esq. for applicant.

Smith: Letter dated 1/27/20 council submitted a letter intending to bring witness regarding marketing. Also received today article of formation for SAW

Mark Sinkevich, Esq. in place of Stuart Lieberman for SAW

Sinkovitch: witness intended to testify whether private or public

Serpico: lets argue motion:

Smith: went over Planning Board scope & MLUL; no conditions concerning . Council already determined this is permitted. Letter I submitted that cant look at outside information. Outside board's pervue. Marketing of another property has no bearing on decision and authority under MLUL.

Serpico: my opinion: unless there's something in municipal site plan ordinances that says marketing is relevant, in consistency w/ redevelopment plan, council passed resolution that says this application meets & complies w redev. plan w/ exception of a couple of items like fenestration. Our purpose is to look at site plan.

Exhibit A53: Resolution of council dated 3/19/19

Exhibit A54: Letter from Smith dated 1/27/20 in response to Liebermans letter

Exhibit O7: Liebermans letter re: marketing

Sinkovitch: do understand, do still believe its still highly relevant whether public or private. Second, none of the operations which we think are relevant have been discussed.

Krzak: at this point board attorney stated that its not in our jurisdiction to hear a marketing witness. Do any of the members have different opinion?

Taylor: are we in this saying that board has no jurisdiction. Marketing witness Just clarifying including fair housing, affordable housing, etc.

Souder: public comment issue

Serpico: if don't mind talk about that separately

Krzak: so board does feel that marketing is not in purview

Smith: 2nd issue is representation. Asked what is saw, know that 2019 had not filed. MLUL gies step further & have to show that group has right to use & enjoyment of area. If individuals, then yes.

Sinkovitch: undersand that. in terms of LLC they're a group of residents here that enjoy. Standard in nj is broad goes beyond. We believe that our llc does have a right.

Smith: just have clarifying questions

Sinkovitch: collective members do have interest

Serpico: rather go on as we have. We didn't want an appeal, so based on that, & based on fact that we've already gone this way so should stay the course.

Taylor: I think we just continue to ask if member of SAW

Manzella: I agree we're far enough along in process

Smith: call Mr. Rodrigues back up

Carlos Rodrigues, professional planner for opposition, Design Solutions LLC, sworn in
Board professionals sworn in

Smith: have u submitted another report? Would u agree that this meets the definition of place of assembly

Rodrigues: yes

Smith: what is parking requirement of place of assembly. Does WRA supersede all other plans in city

Rodrigues: no parking req. probably, don't recall seeing language to that effect.

Smith: read from WRA that states that it supersedes all

Rodrigues: I agree that

Smith: given that, are any other zones directly applicable? Conditional uses in B1 zones. So in report when talk about B1 zones

Rodrigues: so within framework of the city, this use is one of

Smith: what is framework? Do u mean PB? Can PB apply any other framework could apply conditional use criteria for another zone for this use?

Smith: stds for using B1

Rodrigues: B1 has conditions for place of assembly use, so seems to me that those would be applicable.

Smith: what are conditions for beach club in WRA?

Rodrigues: can block public access

Smith: did you say anywhere for granting relief from design waivers standard?
Rodrigues: don't recall seeing any.
Smith: who has jurisdiction to grant CAFRA permit, does this board have jurisdiction?
Rodrigues: DEP; I think CAFRA permit is relevant to this board
Smith: back to use- what legal entity adopted WRA?
Rodrigues: the governing body
Smith: who has more jurisdiction over interpretation of WRA?
Rodrigues: never claimed that long branch or Monmouth bch. the ap governing body creates the redevelopment plan so by finding a use that fits
Smith: resolution Exhibit A-53 before today had u reviewed this resolution?
Rodrigues: don't recall reviewing doesn't mean I didn't. possible.
Smith: did u provide a distinct list of design waivers in report?
Rodrigues: no don't believe because the board planners report did.
Taylor: as far as any other permits
Serpico: all of our resolutions have clause that all other permits have been acquired, including CAFRA permits
Taylor: are we also considering application as part of overall master plans consistency
Taylor: would also help if planner could speak to design standard
Miller: board is basically acting on preliminary & final site plan approval. Can't grant relief for a design exception or waiver doesn't rise to that level of scrutiny. In mlul not designed the way a design waiver would be
Serpico: Master Plan would come in for bulk variances which is not case
Taylor: just remind, applying for design waiver?
Smith: yes there are design waivers
Open to public questions: motion: Manzella Second: Clayton All in favor

Kerry Butch, SAW; as far as design principles, on pg 17 of WRA do u think this fits the design standards. Talking about the north shore area- needs to be like a park setting, more open, etc.
Rodrigues: don't recall that part statement, but statements regarding urban design are very clear and this application violates every one of them. Would create a precedent
Butch: how in your opinion does this not restrict access to beach?
Rodrigues: this is private prop. So no requirement that there's access thru middle, just req. that have access
Butch: according to the plan how does this marry with WRA principle of Bradley area
Serpico: that goes beyond scope of his testimony
Butch: how does this site plan preserve memories of past entertainment does it marry what used to be on Asbury's waterfront?
Rodrigues: no this is foreign object.
Smith: object
Butch: 2.2 of redev. plan objectives talks about respecting AP's historic character
Smith: object
Butch: does this part plan
Rodrigues: the parking is going to have to be satisfied by another use
Rob Taylor, not SAW: don't know how putting application for beach club when not... u don't even think this is a beach club is that correct?
Werner Baumgartner: not SAW, testified about architecture about it being foreign. Do u have any concerns w/ a pool being built here?
Rodrigues: not uncommon, other beach clubs including Monmouth county have pools near beach. Think if applicant had followed design standards we would have a very different project here today.
Baumgartner: do u consider board on board fence to be articulation to design
Rodrigues: no see it as insult
Baumgartner: how would u mitigate blank walls?
Rodrigues: can use faux windows. Don't understand emphasis on blank walls. There are many ways to dress them up so not as offensive. it's a foreign concept that's disguising whats behind it
Baumgartner: talk about design context. Does this bldg. fit into design context
Rodrigues: no makes no effort to draw upon the historic context
Ernest Mignoli, not SAW: is this an illegitimate beach club in your opinion
Rodrigues: this is not a legitimate beach club. This is a pool club masquerading as bch club
Mignoli: is this an insult to people? Was your testimony that no parking will affect other zones & uses.
Smith: for record, someone not speaking is disrupting meeting by setting up a recording device
Mignoli: is it your testimony that cars would affect
Rodrigues: would disrupt other uses
Nate Korum, not SAW: would u say that architecture is style of brutalist

Rodrigues: has similarities w brutalist
Korum: is there any other bldg. in AP that has this style?
Rodrigues: can't answer that.
Baumgartner: regarding testimony that TRC & city council being involved in design could u elaborate on that?
Rodrigues: at some point the zoning officer makes determination. Never seen a governing body make determination of use.
Baumgartner: are u aware that council is redevelopment agency?
Rodrigues: Aware of that. This is old area in need of redev.
Baumgartner: would require research in history. Do u know of any other city where TRC used
Rodrigues: know of other towns, but TRC doesn't override zoning officer role
Mignoli: if this is built as proposed, there are other lots could this set a dangerous precedent
Serpico: that's outside of testimony
Motion to close public questions: Krzak Second: Manzella All in favor

Motion for 5 min recess: Manzella Second: Clayton All in favor
8:36 pm Roll Call

Sean Delaney- Professional civil engineer, sworn in
Smith: after reviewing report & what additional work did u do?
Delaney: previously testified that original design was impervious & this is change of that also reviewed inlets & revised report which was submitted to CAFRA
Smith: was Goldman's testimony primarily w/ water quantity?
Delaney: So when we accounted for wood decking, the extra volume- water will go into sand & interact w/ stormwater pipe system & arise further. As result of this the amount of water discharge comes out to analysis now shows has lower rate of initial approved design.
Smith: clarify original
Delaney: talking about original design as part of original CAFRA permit
Smith: repeat conclusion of 100 yr storm
Delaney: didn't just look at out site expanded to total flow for 100 yr storm is less than originally submitted
Smith: Q of time of concentration
Delaney: min time of concentration is 6 min. & that's what we used as a minimum. If time exceeded 6min that is reflected
Delaney: roof leaders designed for, did analysis for 100 yr storm & pipes still only flow at 30-40% capacity for 100 yr storm
Smith: pipe discrepancies
Delaney: perhaps read them wrong. Pipes sloped
Smith: inlet capacity- what additional docs did u review to come to conclusion
Delaney: also performed survey which provided as-built conditions
Smith: #8 q of tailwater
Delaney: DEP came back to us & asked that we remove it
Smith: coordination w walkways
Delaney: ongoing throughout process. Not remains of pool. They are remains of structure that will be broken up when soil borings done
Smith: #3- exhibit to Goldmans report- blue area
Delaney: volume was for 10 yr storm the area she defined would be. Beginning of stormwater collection system
Smith: mounding
Delaney: as go away from center point it will collect and create mound. Not expected that mound will rise significantly enough to impact surrounding lots
Delaney: 8' below the vegetated non impervious level on our property
Smith: There was Q of capping?
Delaney: yes
Smith: maintenance manual?
Delaney: yes
Smith: vines will not interact?
Delaney: they will not impact pipe system
Smith: have u performed full stormwater calculation?
Delaney: yes
Smith: fence lines?
Delaney: yes our plans were revised in Oct 2019 to show articulating lines
Smith: construction phasing?
Delaney: yes

Manzella: in opinion would tailwater have an impact on that?
Delaney: no

Souder: All that was in report

Smith: just as update the DEP has issued another report of questions and that is the response

Taylor: was any further analysis done?

Sinkovitch: are u aware of DEP requirements in manual? Mounding analysis

Delaney: not currently in manual

Sinkovitch: do u know when those were installed? Have any concerns w/ condition of those inlets?

Delaney: did look at them before and don't recall that they were silted

Sinkovitch: how would main plan work so if there was silting

Delaney: main plans are for onsite. Along ocean ave are responsibility of city

Sinkovitch: can u describe

Sinkovitch: has Mr. Sheehan responded to last comments

Open to public Qs

Katherine Murphy, member of SAW: analysis was not done

Delaney: yes only done to 100 yr storm. 4 test pits

Pam Lamberton, SAW: testified that lot is one of highest points of system?

Delaney: inlets along Ocean ave are all along high points

Lam: fact that sewer plant location; what is tailwater?

Delaney: how quickly water can get out

Lam: original storm sewer system fit with city's original design.

Delaney: looked at what was original approved and adjusted calculating for current , ran #s for 100 yr storm rather than original 25 yr storm

Tracy rogers, SAW: when was analysis? If there is a failure how would that impact the area?

Delaney: Jan 10 2020. Can't predict event

Maureen Nevine, not SAW: did u speak w/ Deal lake commission & take into account flume?

Delaney: 2002 CAFRA permit

Rita Marano, not SAW: How old is CAFRA report? Are inlets referred to as deal lake?

Delaney: storm sewer grates

Smith: CAFRA permit is for all of waterfront it is public record

Marano: don't have date for CAFRA permit?

Andrea Goldman, not SAW: how many 100 yr storms is system designed to withstand?

Delaney: system was designed for if multiple storms hit

Mignoli: civil engineer? Is Deal lake or any authority of Deal lake any part of your project?

Delaney: 7-800 feet, yes will travel to deal lake. Systems currently in place right now. Using calcs approved by DEP.

Mig: have u seen site during flooding or rain?

Delaney: couple times driven by during rain events

Smith: no requirement for him to log days

Katherine Murphy: the CAFRA permit issued under 2002 waterfront what year flood maps was that based on?

Delaney: the current effective maps

Lamb: did u testify that discovered concrete?

Delaney: bottom of pool in one of test pits.

Linda (?) , not SAW: if there is a huge storm & water needs to be drained?

Delaney: that water will go thru the grates and into sand underneath so will be treated naturally & will not reach

Felicia Simmons, SAW: city is responsible for care of system?

Delaney: for main along public right of way

Mignoli: where does water go

Delaney: if water spills out of pool will go into ground & be filtered

Motion to carry to 2/3/20 in same location without further notice: Manzella
All in favor

Second: Clayton

Motion to adjourn: Manzella Second: Lambert All in favor
Meeting adjourned 9:58pm