

**City of Cape May Zoning Board of Adjustment Meeting Minutes**  
**Thursday, August 23, 2018**

**Opening:** In compliance with the Open Public Meetings Act of 1975, adequate notice of the meeting was provided. Chairperson Hutchinson called the meeting to order at 6:00 P.M.

|                   |                              |                         |
|-------------------|------------------------------|-------------------------|
| <b>Roll Call:</b> | Mrs. Hutchinson, Chairperson | Present                 |
|                   | Mr. Murray, Vice Chairperson | Present                 |
|                   | Mr. Iurato                   | Present                 |
|                   | Mrs. McAlinden               | Present                 |
|                   | Mrs. Werner                  | Absent - <b>excused</b> |
|                   | Ms. Hesel                    | Present                 |
|                   | Mr. Van de Vaarst            | Present                 |
|                   | Mrs. Lukens (Alt. 1)         | Present                 |
|                   | Mrs. Nelson (Alt. 2)         | Present                 |

**Also Present:** Richard King, Board Solicitor  
Craig Hurless, PE, PP, CME, Board Engineer  
Tricia Oliver, Board Assistant

**Minutes:**

**Motion made by Mrs. Lukens to adopt the minutes of April 26, 2018,** seconded by Mr. Murray and **carried 7-0.** Those in favor: Mr. Iurato, Mrs. McAlinden, Ms. Hesel, Mr. Van de Vaarst, Mrs. Lukens, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

**Resolutions:**

**Motion made by Mr. Van de Vaarst to approve Resolution number 08-23-2018: 1 James, Peterson, 20 Queen Street,** seconded by Ms. Hesel and **carried 7-0.** Those in favor: Mr. Iurato, Mrs. McAlinden, Ms. Hesel, Mr. Van de Vaarst, Mrs. Lukens, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

**Applications:**

***Timothy & Maureen Rafter***  
*(Appeal of HPC decision)*  
**931 Sewell Avenue**  
**Block 1089, Lot(s) 40**

Board Engineer, Craig Hurless, and the applicant's representative, Jeffrey Barnes, Esq., were sworn in for the record.

Board Solicitor, Rich King, Esq., explained to the membership the standard of review and the actual role of which the Zoning Board has in regard to an appeal of the Historic Preservation

Commission. Mr. King quoted the Cape May City Code section 525-39 as amended by ordinance # 335-2017 as well as the design standards incorporated into the ordinance and issued by the Historic Preservation Commission, for the record. He also stated that the record (transcriptions) presented for each of the three (3) meetings of which the applicant had appeared before the HPC should have been thoroughly reviewed by each member, since the record will not be repeated and would be a key component to the decision that the board must make.

*\*Mrs. McAlinden recused herself from the application.*

Representing the application, Mr. Jeffrey Barnes, Esq., briefly detailed the subject property, mentioning the limited information regarding history that exists for the property. Mr. Barnes stated that it was his belief the record supported the replacement of all of the windows, and highlighted the testimony of Mr. Jim Matthews on page 11 of the March 19, 2018 transcript which reads “I don’t believe these 60 windows are in good enough condition to save”, as well as his testimony on page 13 regarding broken mechanical elements, rot, and damaged finishes. He also indicated that he felt the applicant had presented expert testimony while there was no contrary expert testimony in the record supporting the HPC. It was also Mr. Barnes’ opinion that that the selection of 10 replacement windows was an arbitrary number and that the commission acted unreasonably and in an arbitrary manor such that their decision should be overturned and all windows should be replaced.

Mr. Robert Finberg, Esq., Counsel for the Historic Preservation Commission, highlighted the portions of the record in which he thought were in support the HPC determination. A majority of this testimony originated from the testimony of Mr. Blane Steinman, the applicant’s architect, during the hearing on January 18, 2018, indicating that many of the windows were “able to be repaired, and that only some would need to be replaced.” It was the determination of the HPC that the testimony on behalf of the applicant provided by Mr. Matthews was far too general and did not have proper support in the form of evidential photographs, a window by window analysis, or other details that would overcome Mr. Steinman’s initial representation to the membership that many of the windows could be repaired. Further, the commission did approve a permit for up to ten (10) windows to be replaced, in recognition of Mr. Steinman’s testimony, and made clear to the applicant that if they intended to replace more than ten (10) windows, they would be required to come back before the full commission to re-examine the circumstances.

Brief discussion was undertaken regarding the qualifications and experience of the membership of the Historic Preservation Commission, and the notion that specific members did in fact have more than a general knowledge of historical structures and the renovation or restoration thereof.

Board member, Mr. Murray addressed his fellow members regarding his acceptance of the HPC members’ knowledge regarding historic structures to be superior than that of the general public and indicated that it was his opinion that the HPC’s ruling was not arbitrary, capricious, unreasonable, or contrary to law, of which the Zoning Board was instructed to determine.

**Motion was made by Mr. Murray to affirm the decision of the Historic Preservation Commission**, seconded by Mr. Iurato and **carried 7-0**. Those in favor: Mr. Iurato, Ms. Hesel, Mr. Van de Vaarst, Mrs. Lukens, Mrs. Nelson, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

*\*Mrs. McAlinden returned to the meeting.*

***A short recess was taken at 7:54 PM and the meeting returned to order at 7:59 PM.***

***Christopher J. Haney  
336 Congress Street  
Block 1026, Lot(s) 10***

Legal Counsel for the application, Thomas Keywood, Esq., Architect, Joseph Ross and home owner, Chris Haney, were sworn in for the record.

Tom Keywood, Esq., gave a brief overview of the property and project details, turning over the presentation to Mr. Joseph Ross, Project Architect. Mr. Ross continued on detailing the scope of work proposed while guiding the members of the board through the site plans. He started with plans of the existing site (referencing pages A-4 and A-5), mentioning that the first floor is where the changes are being made.

As Mr. Ross continued through the site plan, he noted that the current home “basically sits on the ground” and must be raised to meet FEMA regulations. The largest parts of the application include raising the home, which triggers the need for a revised entryway with steps, and the removal of the current garage that sits on the front property line, replaced with a carport (page A-1). Mr. Ross detailed the proposed elevations on page A-3 of his presented site plan. He attested that the floor area ratio will not be increased and they remain under the maximum lot coverage, for a lot of the size. It is also his belief that the scope of the project advances the purpose of zoning because it will conform with FEMA, increase the off-street parking, and remove consisting nonconformities.

Board Engineer Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated July 12, 2018. He reviewed the five (5) variances required in detail (page 2 of 4):

1. §525-72D – Expansion of Non-Conforming Structure on Non-Conforming Lot
2. §525-15B(1) Table 1 – Lot Size
3. §525-15B(1) Table 1 – Lot Width
4. §525-15B(1) Table 1 – Building Setback
5. §525-15B(1) Table 1 – Side Yard Setback (Each & Total)

The General Review Comment 1 (page 3 of 4) and comments 2-10 (page 4 of 4), were all reviewed and explained in detail; all items were classified as conditions of approval.

**Discussion was opened to the public within 200 feet and beyond at 8:29 PM, and closed with no public coming forward to comment.**

**Motion was made by Mr. Murray to approve §525-72D – Expansion of Non-Conforming Structure on Non-Conforming Lot, §525-15B(1) Table 1 – Lot Size, §525-15B(1) Table 1 – Lot Width, §525-15B(1) Table 1 – Building Setback, and §525-15B(1) Table 1 – Side Yard Setback (Each & Total) variances for the application, with all variances subject to all conditions of approval discussed at the hearing and outlined in the review memorandum from Board Engineer Craig R. Hurless, PE, PP, CME, dated July 12, 2018, seconded by**

Mrs. Lukens and **carried 7-0**. Those in favor: Mr. Iurato, Mrs. McAlinden, Ms. Hesel, Mr. Van de Vaarst, Mrs. Lukens, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

Members were able to state their reasons for voting in the positive for the record.

**Motion made by Mr. Van de Vaarst to adjourn the meeting at 8:32 PM with all in favor.**

**Respectfully Submitted, Tricia Oliver/Board Assistant.**