

**City of Cape May Zoning Board of Adjustment Meeting Minutes
Thursday, November 8, 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.

Roll Call:	Mrs. Hutchinson, Chairperson	Present
	Mr. Murray, Vice Chairperson	Present
	Mr. Iurato	Present
	Mrs. McAlinden	Present
	Mrs. Werner	Present
	Ms. Hesel	Present
	Mr. Van de Vaarst	Absent - excused
	Mrs. Lukens (Alt. 1)	Absent - excused
	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 Mr. Iurato to adopt the minutes of October 25, 2018, seconded by Ms. Hesel and **carried 6-0**. Those in favor: Mr. Iurato, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mrs. Nelson, Mrs. Hutchinson. Those opposed: None. Those abstaining: Mr. Murray.

Resolutions:

Motion made by Mr. Iurato to approve Resolution number 11-08-2018: 1 Kyle Anderson, 521 Lafayette Street, seconded by Mrs. Nelson and **carried 6-0**. Those in favor: Mr. Iurato, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mrs. Nelson, Mrs. Hutchinson. Those opposed: None. Those abstaining: Mr. Murray.

Motion made by Mrs. Werner to approve Resolution number 11-08-2018: 2 Tellista Enterprises NJ, LLC, 1411 Harbor Lane, seconded by Mrs. Nelson and **carried 6-0**. Those in favor: Mr. Iurato, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mrs. Nelson, Mrs. Hutchinson. Those opposed: None. Those abstaining: Mr. Murray.

Applications:

*Michelle O'Donnell
1516 Yacht Avenue
Block 1160, Lot(s) 40, 41, & 41.01*

The property owner/applicant, Michelle O'Donnell was to be represented by Mr. Thomas Keywood, Esq., but due to a scheduling conflict, she elected to move forward without Mr. Keywood.

Board Engineer, Craig Hurless, and the applicant's Architect, Joseph Ross, as well as Ms. O'Donnell, were sworn in for the record.

Architect, Joseph Ross, indicated that the new structure on the property was designed to be entirely conforming, however the nonconformities were only related to the existing cottage along the road. The existing cottage is not within the boundaries of the City's Historic District, but according to both Mr. Ross and the applicant, it does appear to be a historic structure and is valued by the neighbors as such. The proposed project is to keep this structure, but in order to do so it will be an accessory structure and will require variances, while new residence is to be constructed in the rear of the property. Unfortunately, the odd shape of the property Mr. Ross continued on, explaining that the existing dwelling will be limited to a pool house and not used as a single family dwelling, serving as a buffer between the pool and the road. Which, he noted, would keep the appearance of the historic structure along the street, appeasing the neighbors and keeping with the existing look of the streetscape.

Board Engineer Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated October 22, 2018. He reviewed the four (4) variances required in detail (page 3 of 5):

1. §525-60A(1) – Pool in Front Yard
2. §525-54A(4) – Pool House in Front Yard
3. §525-54A(4) – Pool House in Side Yard
4. §525-54A(4) – Pool House Max. Height

The General Review Comments 1-4 (page 4 of 5) and 5-13 (page 5 of 5), were 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 6:31 PM, and closed with no public coming forward to comment.

Motion was made by Mr. Murray to approve §525-60A(1) – Pool in Front Yard, §525-54A(4) – Pool House in Front Yard, §525-54A(4) – Pool House in Side Yard, §525-54A(4) – Pool House Max. Height, 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 October 22, 2018, seconded by Mrs. Nelson and carried 6-1.

Those in favor: Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mrs. Nelson, Mr. Murray, Mrs. Hutchinson. Those opposed: Mr. Iurato. Those abstaining: None.

*Cape KMT, LLC
215 Decatur Street
Block 1049, Lot(s) 2*

The applicant's representative, Christopher Baylinson, Esq., and property owner, Jeff Gernitis, were sworn in for the record. Mr. Joseph Ross remained under oath.

Board Solicitor, Rich King, Esq., clarified that the application was being heard with a new plan after being tabled at a previous hearing when objectors came forward with concerns.

Mr. Chris Baylinson, Esq., presented [Exhibit A-1] into evidence, introducing the changes made to the previously submitted plans in an effort to accommodate the concerns expressed by certain neighbors. This Exhibit is to be incorporated into the final plans and, as expressed by Mr. King, would be attached as an Exhibit to the Resolution. Mr. Baylinson explained that the newly presented changes are satisfactory to the objectors. He continued on to generally explain the relief sought with both use variances and the existing nonconformities. The Use Variances relate to the residential units in a zoning district that does not permit so, and also another use variance is required because there are two principle uses on one single property. Mr. Baylinson then reviewed the details on [Exhibit A-1], which included but was not limited to the relocation of the non-emergency entrance from Decatur Street to Carpenters Lane, and also the redirection of an upper deck from the side of the building towards the front of the building.

Property owner, Jeff Gernitis, testified on behalf of the application, indicating that he is also the owner of two other well-known establishments in Cape May; The Peter Shields Inn and Fins (previously The Pilot House). Mr. Gernitis explained that the application had appeared before the City's Historic Preservation Commission (HPC) and made an effort to make the property look like a house on Decatur and a business along Carpenters, and did in fact received conceptual approval from the HPC. He indicated that the guest units will be operated from the Peter Shields Inn. There will be no front desk onsite, and the only maintenance staff will originate from the Peter Shields Inn. There will also be housekeeping from the Peter Shields Inn. All bookings will be through the Peter Shields Inn.

Brief discussion was undertaken regarding the appropriate number of parking spaces required, and this was clarified by the applicant and professionals, but since there is a seven (7) parking space deficiency and the project itself is a conversion, the ordinance permits a payment to the Parking Trust Fund in the amount of \$5,000. for each deficient parking space. The Applicant agreed to make a payment of \$35,000 to the Parking Trust Fund. This discussion also included loading zones and there was testimony that there was a loading space across the street to support the variance for loading space.

There was a legal opinion from the Board Attorney that a variance was not required because the ordinance allows the applicant to comply with the parking requirement by making the contribution, and therefore no variance is necessary. However, there was the consensus of those present that if the project is approved, it likely would have received the associated parking variance under the circumstances presented, and therefore although no variance is required in the opinion of the Board

Attorney, the Board's favorable approval of this project may be deemed to have included the grant of a variance for the reasons supporting the other variances to be considered in the application.

Architect, Joseph Ross then generally described the existing building, its aluminum siding, and its lost historical detail. He continued on to detail the floor plan of the project at length, and described certain windows will be designed so as to minimize the impact on neighbors. Mr. Ross stated that it is his opinion that the site is particularly suited for this use given the surrounding uses, the size of the structure, and the need to preserve the historical context.

General discussion regarding the connection between the proposed use and the Peter Shields Inn was undertaken. It was agreed by the applicant and professionals that the residential units may only be used in conjunction with existing guest house in Cape May, and that this should be set forth in the resolution and be a condition of approval for this use.

Board Engineer Craig Hurless, PE, PP, CME, then summarized his latest memorandum dated October 15, 2018. He reviewed the nine (9) variances required in detail (pages 3 and 4 of 5), and clarified the elimination of an off street parking variance as reported during testimony:

1. §525-9 – Use Variance (Multiple Uses)
2. §525-19A(1) – Use Variance (Retail)
3. §525-19B(1) Table 3 – Lots Size
4. §525-19B(1) Table 3 – Lot Size minimum per unit
5. §525-19B(1) Table 3 – Lot Width
6. §525-19B(1) Table 3 – Building Setback – Decatur
7. §525-19B(1) Table 3 – Building Setback – Carpenter
8. §525-49C – Off-Street Parking
9. §525-50 – Loading Space

The General Review Comments 1 and 2 (page 5 of 7), 2(1) and 3-9 (page 6 of 7) and comments 10-13 (page 7 of 7), were 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 7:50 PM.

Frank Curro, 501 Hughes Street, and owner of the Empress Bed and Breakfast, stated that the revisions made by the applicant did in fact appease his concerns.

Eric Goldstein, Esq. (representing Jane and Mark Lyons of 124 Decatur Street), explained that per e-mail correspondence, he was also under the impression that the concerns of his clients had been accommodated with the revised plans presented.

Discussion was closed to the public at 7:57 PM.

Motion was made by Mrs. Nelson to approve §525-9 – Use Variance (Multiple Uses), §525-19A(1) – Use Variance (Retail), §525-19B(1) Table 3 – Lots Size, §525-19B(1) Table 3 – Lot Size minimum per unit, §525-19B(1) Table 3 – Lot Width, §525-19B(1) Table 3 – Building

Setback – Decatur, §525-19B(1) Table 3 – Building Setback – Carpenter, §525-49C – Off-Street Parking, §525-50 – Loading Space, a site plan waiver and the addition of conditions numbers 14, 15, and 16 as stated by Board Solicitor, Rich King, 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 October 15, 2018, seconded by Mr. Murray and carried 7-0. Those in favor: Mr. Iurato, Mrs. McAlinden, Mrs. Werner, Ms. Hesel, Mrs. Lukens, Mr. Murray, Mrs. Hutchinson. Those opposed: None. Those abstaining: None.

Motion made by Mr. Murray to adjourn the meeting at 8:05 PM with all in favor.

Respectfully Submitted, Tricia Oliver/Board Assistant.