

# Planning/Zoning Board of Adjustment Meeting

September 8, 2014

4400 New Jersey Avenue

Wildwood, NJ 08260

The meeting of the Wildwood Planning/Zoning Board of Adjustment was called to order on September 8, 2014, by Chairman Porch at 6:00 PM at Wildwood City Hall, 4400 New Jersey Avenue, Wildwood, NJ.

Chairman Porch led the Pledge of Allegiance.

Chairman Porch read the Open Public Meetings Act.

## **Roll Call:**

**Present:** Timothy Blute, Jason Hesley, Michael Porch, Todd Kieninger, Dorothy Gannon, Carol Bannon

**Absent:** Joseph Spuhler, Anthony Leonetti, Daniel Dunn, Denise Magilton

**Also present:** Mrs. Kate Dunn (board secretary), Mr. William Kaufmann of Cafiero & Kaufmann and Mr. Raymond Roberts of Remington and Vernick.

## **NEW BUSINESS:**

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### **1. Maureen & Edward Olney 10-14P**

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Maureen Olney-240 W. 26<sup>th</sup> Avenue-Mrs. Olney was sworn in. She states she is here for her final approval of her subdivision. She is doing a minor subdivision at her property. She is trying to divide her property on 26<sup>th</sup> street with her property on Juniper Ave. She states it is self-explanatory and everyone has a copy of her plans and information. She is hoping to get a formal approval.

Mr. Kaufmann asks presently the property is owned by you, is that correct? Mrs. Olney states yes, it is owned by her husband and herself.

Mr. Kaufmann asks if it is developed with 2 residential structures. Mrs. Olney states that is correct.

Mr. Kaufmann asks if each structure is a single family residence. Mrs. Olney states that the structure that fronts on Juniper Avenue is 2 units. It is one structure but has 2 apartment units in it. It also has an attic space that they use for storage that could probably be turned into an apartment. They have not used the property in years.

Mr. Kaufmann states the building that fronts on Juniper has 2 units in it and the one that fronts on 26<sup>th</sup> street has the 1 unit. Mrs. Olney states that is correct.

Mr. Kaufmann asks which residence they reside in. Mrs. Olney states she resides in the 26<sup>th</sup> street property.

Mr. Kaufmann asks if it is the applicant's intention to maintain the units as is with the 26<sup>th</sup> street having the 1 unit and the Juniper Ave. having the 2 units. Mrs. Olney states that is her intention. Mr. Kaufmann states nothing is changing in that regard. Mrs. Olney confirms that is correct.

Mrs. Olney states she eventually hopes to sell off the Juniper Ave. property.

Mr. Kaufmann states that he noticed where the proposed lot line is not half way across from Juniper to 26<sup>th</sup> St. He asks her to explain to the board what her thinking was in that regard. Mrs. Olney states she thinks at some point the back of the building on Juniper Ave. was an addition. It wasn't in her or her husband's history but on the plot plan where it says there is a 2<sup>nd</sup> story deck and a set of stairs, the stairs jet out so much that if she were to cut it directly in half there would be no room in the back on the Juniper Ave. property. She probably wouldn't be able to maintain that set of stairs if she cut the lot directly in half.

Mr. Kaufmann asks if the neighborhood is fully developed and on both sides the properties develop, correct. Mrs. Olney states that is correct. Mr. Kaufmann states there is no vacant ground on either side of her property. Mrs. Olney states there is not.

Mr. Kaufmann asks if they are not proposing any structural changes to either building, correct. Mrs. Olney states that is correct. Mr. Kaufmann states so what is there now in terms of the side yard setbacks and building coverages are not going to change. Mrs. Olney states that is correct, it will remain the same. Mr. Kaufmann states all it really is drawing line and making 2 lots. Mrs. Olney states she is drawing a line and putting up a fence. Mr. Kaufmann states that is the only addition is putting up the fence. Mrs. Olney states that is correct.

Mr. Kieninger states that there is an easement for the water and the sanitary serving from the 26<sup>th</sup> Street to the Juniper Ave. property. Which property has its own gas meter? Mrs. Olney states she has a gas meter at 26<sup>th</sup> & a gas meter at Juniper. Mr. Kieninger states that the only easement she needs is for the water and sewer.

Mr. Blute asked if she rents the property out. Mrs. Olney states she hasn't rented in many years. It just empty and they have maintained it. She lets her family and friends stay there from time to time.

Mr. Kieninger states that eventually she will have to get a new water utility so that each property has one and the water bill will be separate. Mr. Kieninger asks if this should be part of the application.

Mr. Porch states that Mr. Roberts raised an issue about the utility easements as well and Mr. Porch will defer to the board attorney if the board should encompass this in the decision.

Mrs. Olney states that she did ask Mr. Roberts as she did get a copy of the engineers report and the report said need more information 803b and she wasn't sure what that meant. She asked Mr. Roberts before the meeting what does that mean and he explained that she needs to get a legal document drawn up about the easement which she doesn't have at this point.

Mr. Kaufmann states that the water utility easement is shown on the plans. Mr. Roberts talks about the easements.

Mr. Kieninger states that it is her advantage to get the water meters separated.

Mr. Kaufmann states that he thinks the plan as it is, if that is the plan that gets recorded at the office of the county clerk, that is sufficient to create the easement for the lots in their current configuration. He agrees with Todd that if the Olneys go to sell off the Juniper side lot they are going to want to get a separate meter on the 26<sup>th</sup> street side. He doesn't know that it needs to be referenced in this resolution because it's a subdivision application or on the subdivision plan because the subdivision plan presently shows a note about the easement. He believes this is sufficient for the time being until she goes to sell off the lot then she may want to extinguish that easement. Mr. Kaufmann thinks what the plan shows is sufficient to create an easement. Mr. Kaufmann doesn't think she needs to do anything else in that regard. The issue is going to arise when they go to sell off the Juniper side lot and the issue is going to arise because the applicant will remain on the 26<sup>th</sup> St. side and they are going to want to get their own meter. Whether or not that occurs in 3 months or it occurs in 5 years then the moratorium issue goes away.

Mr. Kieninger asks if there would be a sewer lateral as well as the water lateral.

Mr. Kaufmann states from a legal perspective the note on the survey that says "blanket utility maintenance easement to be granted," means that the area where the utilities are shown is existing.

Mr. Kaufmann states if he was representing the Olneys and they wanted to dig up the water line to fix it because there was a problem on their side, he would say that they have an easement to do so, to go find it and to repair it.

Mr. Kaufmann suggests that in this particular instance, the board may want to require if the laterals were put in on the 26<sup>th</sup> street side to hook the water and sewer in a certain period of time as condition of subdivision approval.

Mr. Kieninger asks if Mr. Olney is ok with that. Mrs. Olney wants to know what kind of time frame she would be looking at. Mr. Kieninger says 6months or a year. Mrs. Olney states she could pull something together.

Mr. Kieninger states that if she is going to sell it then she is going to want to have the separate utilities. She agrees with Mr. Kieninger. Mr. Kaufmann states that if she is going to sell the Juniper Ave. property she is going to have to have separate utilities.

Mr. Kaufmann states the only issue is that if the laterals aren't there does the board really want to enforce the condition and make them tear up the street.

Mr. Kaufmann states the condition would be to connect to the 26<sup>th</sup> street laterals within a year if they are in existence.

Mrs. Olney asks what if they are not in existence. Mr. Kieninger states then after the subdivision, in order to sell it, she will have to figure out how to separate the utilities.

Mrs. Olney states she has talked to the water company about separating them and she said they didn't mention any laterals but they didn't discuss it like that, she was concerned about everything coming off of the Juniper Ave. side. Within the 5yrs. Mrs. Olney can probably tear up the street in 5 years. This would be something she has to work out if she does sell the property. Mr. Kaufmann states that this would be a part of the agreement of sale for the Juniper Ave. property.

Mr. Kaufmann states the condition for approval should be to connect with the 26<sup>th</sup> street utilities laterals within 1 year if they are existing or upon the sale of the Juniper Ave. property, whichever occurs first. He states that she could always make an application to the governing body to dig up the street if need be.

Mr. Kaufmann states that as Mr. Roberts suggested that Mrs. Olney go down to Mr. Roberts office to see what is there and what is not.

Mrs. Olney asks about the approval of the subdivision being good for 2 years and then getting 3 1 year extensions. Mr. Kaufmann states that does not apply to a subdivision application and Mrs. Olney would have to file her map within 180 days. If she doesn't file her map with the county clerk's office within 180 days then the subdivision lapse and she would have to come back to the board for approval again.

Mr. Kaufmann states in order to create the 2 lots, she will have to have Mr. Noon prepare, in format for recording, 1 mylar and 1 paper copy that will need to be filed with the county within 180 days otherwise the subdivision approval will lapse.

Mr. Porch explains that what Mrs. Olney is referring to is if a new building project comes before the board and they approve plans for a new building the 2 year approval with the 3 1 year extensions would apply. This is different from a subdivision approval.

Mr. Kaufmann states that in order to perfect the approval given by the board, Mrs. Olney will have to file her subdivision map with the county clerk.

No other board members had any questions for the applicant.

Engineers Report: Mr. Roberts states that the C variances that are requested and C variances that are existing non-conforming.

Mr. Kaufmann states on Mr. Roberts report, the chart on the bottom of page 2 where it says density, there is noncompliance with the density, in this particular instance the applicant would not need to ask for a density variance because this would be a 1 or 2 lot subdivision so the exception to the rule statute would apply. It should be noted that the 1 non conformity would be eliminated is actually 2 principle buildings on 1 lot. In Wildwood you are only permitted 1 principle building a lot so by granting subdivision that existing non conformity would be eliminated and each principle lot would have 1 principle building on 1 lot which is a conforming condition.

Mrs. Olney asks if she gets approved tonight and her 2 lots split, how that affects her taxes. Mr. Hesley states that her taxes would not change until 2015 and it would be based on the date of the filing of the subdivision plan. The date of assessment is October 1<sup>st</sup>, so something that takes place before October 1, 2014 will impact the assessment of 2015. If she was to record the subdivision after October 1<sup>st</sup> but before the end of the year, Mr. Hesley would split the property but the net assessment would be the same as what she is paying now. They would not recalculate it because it took place after the assessment. If she filed in 2014 from October 1<sup>st</sup> to December 1<sup>st</sup>, it would be no different than if she filed before October 1<sup>st</sup> in 2015. The soonest the increase in taxes would take affect is 2016. From that point forward she would be paying taxes on 2 separate lots which in most cases is going to be higher than what she is paying now but that is because she has 2 saleable properties. Mr. Porch states she will have about 15 months to sell the property without any tax hit on her at all.

Mr. Porch states putting up the fence will be part of the approval assuming this is approved so when she goes to Mr. Noon for the Mylars he is going to draw the fence line.

No members are the public are present.

Mr. Kaufmann does a recap of the application.

Mr. Porch asks if anyone would like put forth the motion to approve the application. Todd Kieninger put forth the motion & Timothy Blute second that motion.

Application 10-14P was approved with 6 Yes votes.

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#### **MEMORIALIZING RESOLUTIONS:**

Resolution for Holly Beach Fire Company 13-14Z was approved with 4 yes votes. Todd Kieninger & Michael Porch abstained from the vote.

Resolution for Joseph Dougherty 11-14Z was approved with 6 Yes votes.

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**Approval of Minutes:**

The minutes from July 7, 2014 were approved. All were in favor.

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**MEETING ADJOURNED AT 6:36PM**

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*The preceding minutes are a summary of events that occurred during this meeting on the above mentioned date in compliance with New Jersey State Statute 40:55D, 2-7-6. These minutes are not nor are they intended or represented to be a verbatim transcription taken at*