

**CITY of SEA ISLE CITY**  
***ZONING BOARD OF ADJUSTMENT***  
**MONDAY, AUGUST 7<sup>th</sup>, 2023 @ 7:00 pm 'Regular Meeting'**  
**AGENDA**

**1. Called to Order**

**2. Pledge of Allegiance**

**3. Open Public Meetings Acts Statement**

*In accordance with the provisions of the New Jersey Open Public Meetings Act, Chapter 231 of the Public Laws of 1975, the Sea Isle City Zoning Board caused notice of the date, time and place of this meeting to be posted on the City Clerk's Bulletin Board at City Hall, Sea Isle City Web Site and published in the Atlantic City Press and/or Ocean City Sentinel.*

- 4. Roll Call**
- |  |                       |                              |
|--|-----------------------|------------------------------|
| _____ Patrick Pasceri, Chairperson     | _____ Jacqueline Elko | _____ William McGinn         |
| _____ Patricia Urbaczewski, Vice Chair | _____ Louis Feola, Jr | _____ Kenneth Cloud Alt I    |
| _____ Caryn Durling                    | _____ Lenny Iannelli  | _____ Patrick Curtin, Alt II |

**5. NEW BUSINESS**

***A* Applicant: **KUZY, John & Diane** (Hardship/Bulk/Flex 'C' Variances) CONTINUATION**

@ 7701 Pleasure Avenue / Block 77.01 / Lots 443.02, 443.03 / Zones R-2

*Proposed:* to construct a new single-family dwelling on vacant lot

*Requesting:* variance relief for rear yard setback, landscaping requirements, and on-site drainage

**The City has provided all application materials and the tape online for any interested parties:**

**<https://www.seaislecitynj.us/ZoningBoard>**

***A* Applicant: **9 - 42<sup>nd</sup> Street, LLC.** (Hardship/Bulk/Flex 'C' & Use 'D' Variances)**

@ 9 - 42<sup>nd</sup> Street / Block 41.01 / Lots 7.01 / Zones C-4

*Proposed:* change of use from commercial to mixed use commercial & residential development with accompanying upgrades

*Requesting:* variance relief for proposed change of use

***A* Applicant: **WAGNER, Gregg & Annemarie/28-30<sup>th</sup> Street Condo Assn.** (Hardship/Bulk/Flex 'C' Variances)**

@ 28 - 30<sup>th</sup> Street, South / Block 30.02 / Lots 8.01 & 9.01 / Zones R-2

*Proposed:* to add an 8' x 21' - 1<sup>st</sup> & 2<sup>nd</sup> Floor addition to rear of South Unit with roof top deck and rear yard in-ground pool

*Requesting:* variance relief for existing non-conforming conditions, setback from accessory structure (pool) to main building, planted green space in rear-if necessary, rear yard to proposed pool equipment platform

**\*\*\*\*\* APPLICATIONS BELOW SUBMITTED FOR A CONTINUANCE TO THE NEXT ZONING BOARD MEETINGSCHEDULED FOR WEDNESDAY, SEPTEMBER 6<sup>th</sup>, 2023**

***R* Applicant: **FERNS, Richard & Kristen** (Hardship/Bulk/Flex 'C' Variances)**

@ 6 - 79<sup>th</sup> Street / Block 79.01 / Lots 285.02 / Zones R-2

*Proposed:* to add a second-floor deck above the existing first floor deck

*Requesting:* variance relief for existing non-conformities and alterations of a pre-existing non-conforming lot & structure

***R* Applicant: **Andaloro, Michael** (Hardship/Bulk/Flex 'C' Variances)**

@ 23 - 34<sup>th</sup> Street, South Unit / Block 33.02 / Lot 4 / Zone R-2

*Proposed:* to remove and reconstruct second level exterior deck and enclose for added living space

*Requesting:* variance relief related to front and rear yard setbacks and lot coverage

**6. Resolutions**

**7. Meeting Minutes**

*m* Minutes of Wednesday, July 5<sup>th</sup>, 2023 Regular Zoning Board Meeting

**8. Adjourn**

\* Please note - changes are possible \*

**SEA ISLE CITY**  
**ZONING BOARD OF ADJUSTMENT**  
**Minutes of Regular 'In-Person' Meeting**  
**Monday, August 7<sup>th</sup>, 2023 @ 7:00 PM**

**~Meeting called to order:** by Acting Chairperson Mr. McGinn. All join for Pledge of Allegiance. Opening comments begin with the Open Public Meetings Act statement.

**~Board Roll Call:**

*Present:* Mrs. Durling, Mr. Feola, Mr. Iannelli, Mr. McGinn, Mr. Cloud (Alt #1) & Mr. Curtain (Alt #2),

*Absent:* Ms. Elko, Mrs. Urbaczewski & Mr. Pasceri

*Board Professionals:* Mr. Christopher Gillin-Schwartz, Esq., of Gillin-Schwartz Law, Zoning Board Solicitor and Mr. Christopher Eaton, P.E. of Collier's Engineering & Design, Interim Board Engineer.

**~Announcements:**

- To anyone here for the Ferns @ 6-79<sup>th</sup> Street or Andaloro @ 23-34<sup>th</sup> Street South applications that they have requested for a continuance to the next Zoning Board meeting scheduled for Wednesday, September 6<sup>th</sup>, 2023, and no further notice will be required for either application.
- Mr. Gillin-Schwartz, Zoning Board Attorney, introduces himself and provides a brief history behind the Kuzy Application, which was first considered at the July 5<sup>th</sup>, 2023, meeting. He notes how the applicant noticed to the 200' list and published in the official newspaper for the July 5<sup>th</sup> Meeting and had not requested an adjournment to the next meeting. Unfortunately, sometimes numerous applications are on agenda and sometimes applicants request for an adjournment, however when the agenda was updated to include the adjourned applications the Kuzy application was erroneously included in that list, after a short time the agenda was subsequently corrected but not in enough time for some people to see it, and believes the Zoning Board proceeded in Good Faith at that time with an applicant that had noticed for the July 5<sup>th</sup> Meeting where they heard testimony from the applicant and actually heard some public comment as well. Unfortunately, after the meeting and after a vote was taken at that meeting some members of the public received conflicting information and thought it would be heard at this meeting, adding how Board acted diligently in wanting to make sure that everyone, the applicant and members of the public and interested parties, were provided due process and an opportunity to be heard on this application which is why everyone is here. He further explains how the Zoning Board and the City of Sea Isle took the following steps to assure due process to all interested parties: 1) in advance of ten days there was notice on the City Website that this Zoning Board Application would be continued to this meeting; 2) application materials, exhibits from the July 5<sup>th</sup> meeting and recording of the meeting were made available on the City of Sea Isle City website for anyone interested in viewing the materials and notes for the record how rare this courtesy is but done for the benefit of all interested parties under these unique circumstances; and 3) the City further recommended to the applicant to re-notice pursuant to the Municipal Land Use Law and respectively the applicant re-noticed the certified 200' list from the Tax Assessor and republished for this meeting so anyone interested would know and/or receive notice again that this application would be proceeding, so anyone who may have been otherwise confused in thinking because it was heard on July 5<sup>th</sup> there would be no reason to bother would know and receive notice that the application was proceeding on August 7<sup>th</sup> and that anyone would have the opportunity to be heard. Therefore, summarizing for the record there was not any ill intent or any intent to subvert proper noticing, as it was an error and has been corrected by way of providing an opportunity for anyone to attend and present, question, comment and respond as he briefly reviews how the process will go beginning with the opening comments, opening the floor for public comment, closing comments and that a final vote on the application would occur after the Board heard a full record.

**~RETURNING BUSINESS:**

📁 **Applicant:** *KUZY, John & Diane (Hardship/Bulk/Flex 'C' & Use 'D' Variances)*

*@ 7701 Pleasure Avenue / Block 77.01 / Lots 443.02 & 443.03 / Zone R-2*

*Proposed:* to construction a new single-family dwelling

*Requesting:* variance relief for rear yard setback, landscaping, and stormwater management for minor development

**Professionals:** Lyndsy Newcomb, Esq. on behalf of the applicant notes for the record they are in agreement with everything Mr. Gillin-Schwartz said, as she continues with a summary of the proposed project pointing out how the application was appropriately noticed and heard despite an inadvertent switch of the agenda at no fault of the applicant, and reiterates how all of the testimony and documents have been accessible to the public for over month and the Applicants in good faith re-noticed the certified 200' list, published in the newspaper and have their experts available as deemed necessary. There is mention of the vote from the prior meeting was a 5-0 vote in favor which was discussed prior to the meeting since there are 6 board members present and only 4 of them were present at the prior meeting. Mr. James McAfee, R.A. offers detailed testimony to the plans, elevations, mechanicals, and related flood requirements, in addition to Exhibits submitted and marked into record. Mr. Scheidt reviews how the building itself does not require setback relief according to plans approved by NJDEP, so setback relief is from first floor above ground level, but the grade level parking does not need any variance relief, and though piles will be driven for the building he stresses that most of the property will remain undisturbed.

**Witnesses:** John & Diane Kuzy (Owner/Applicant) and were present for any questions.

**Exhibits/Reports:** Applicant EXHIBITS: A1: rendering of proposed dwelling from front/beach side angle; A2: plans addressing Board Engineer's comments, revised June 26, 2023. Opposition EXHIBITS: O1 – Opposing Attorney's objectors listing; O2 – photograph from property looking westward; O3 – six photos from area of conversation easement provided by clients; O4 – four photographs submitted by Mrs. Corvino that show migrating birds in a tree on the property.

**Public Comment:** Stewart Drew was at the prior meeting and wanted to speak on behalf of the Applicants because they are good people who just want to build their forever dream home, and Katie Drew to reiterate what wonderful people they are. Opposition's legal representation is provided the opportunity for questions or cross examination (See 'Opposition' \*\* section below). Michael Sinkevich, Esq. (Attorney to NJDEP app) explains how this application was previously filed and denied and after an extremely difficult and lengthy process with the NJDEP finally acquired authorization, settling in 2018 on improvements, and finally completed almost four years later.

**\*\*Opposition:** Christopher Norma, Esq. (opposing attorney) explains that he represents a group of 14 property owners known as the group "Save the Dunes", consisting of 8 on Pleasure Avenue and 6 on 77<sup>th</sup> Street as he submits a list of those names to Mr. Gillin Schwartz which is marked Exhibit O1 and read into record as follows: Edward & Theresa Myers, Joseph & Dianne Corvino, Anthony & Christine McIntyre, Peter & Adrianna Walheim, Michael & Dian Mullen, Al & Jenn Gallo, Michael & Sonya Einhorn(Zeigler), Carol Gravagno, Joseph & Christine Kisela, Edward & Ann Cavanaugh, Thomas & Regina Lane, William & Mary Stulginsky, Nilesh Doshi, and Thomas & Karen Davis; Mr. Norman cross-examines Applicant's Architect Mr. Scheidt regarding the square footage and number of bedrooms which is noted to be under the coverage and FAR and will be within the footprint permitted. Mr. Norman submits Exhibit O2 as westward view from property in relation to the surrounding neighborhood, and Exhibit O3 consisting of six photos taken by the Myers pertaining to the area easement. Mr. Corvino speaks in opposition saying the Dunes have been a form of protection and any development would have a negative impact on this area; Mr. Myers in opposition claims prior apps for State were denied and that they were also informed by the Mayor there would be no building on this site; Mr. Kisela in opposition expresses concern with setbacks interfering with parking and beach access; Mrs. Corvino speaks against the project offering Exhibit O4 consisting of 4 photographs showing migrating birds in a tree on this property and expresses concern about handicap drop off areas; Mrs. Zeigler-Einhorn speaks in opposition regarding the rear yard setback impacting the street as well as the safety of pedestrians and traffic and storm protection this will impact; Mrs. Cavanaugh speaks against this and expresses concern with overdevelopment and potential loss of dune. Mr. Stulginsky to speak in opposition and questions property coverage; Mrs. O'Hara speaks against the application and talks about how sand was brought in and distributed over areas where they say too much development is taking place near dunes.

**Board Comment:** some clarification is requested on the parking, the Board Engineer reviews his comments and addresses conditions of approval that should be detailed and incorporated into this project, which is followed by closing comments and instruction given by Mr. Gillin-Schwartz

- Motion taken in the affirmative on variance relief for rear yard setback, landscaping and stormwater management/grading, incorporating the proceedings and all relevant information as provided at the July 5, 2023 at which time the board voted 4-0 in favor, incorporating proceedings and all relevant information as provided at the August 7, 2023 hearing, including any & all comments and conditions as discussed, as agreed too, and outlined in Mr. Previti's engineer memorandum dated 6-20-2023 and updated 6-26-2023 inclusive; Motion made by Mr. Cloud, second by Mr. McGinn; roll call of eligible votes - *aye* '4' in favor / *nay* '0' opposed & therefore *GRANTED* 4-0

#### **~NEW BUSINESS:**

📁 **Applicant:** 9 – 42<sup>nd</sup> Street, LLC. (*Hardship/Bulk/Flex'C', Use'D' Variances*)  
@ 9-42<sup>nd</sup> Street / Block 41.01 / Lot 7.01 / Zone C-4

Proposed: for change of use from commercial to mixed use commercial & residential development with accompanying upgrades

Requesting: variance relief for proposed change of use

**Professionals:** Lyndsy Newcomb, Esq. on behalf of 9-42<sup>nd</sup> Street, LLC. briefly reviews the property located at 42<sup>nd</sup> Street and the Promenade as she explains the project that is being proposed and their request for an interpretation of the City Code as it pertains to this project to determine if 'D' variance relief is needed, as she distributes and reads the ordinance for the record detailing how the actual building will be 10' above ground level so the parking lot at ground level would be considered Commercial as per C-4 zoning requirements. Bill McAlees, R.A. offers testimony about the existing conditions of what is currently a single-story structure on pilings with parking underneath and points out for the record how the applicant's wish is to keep the rooftop miniature golf as well.

**Witness(es):** Matt Bateman (local representative for Owners) offers repeated testimony regarding the grade and how there are numerous other buildings at promenade level that are residential which he adds would be no different from what he is proposing which is addressed by the Board Engineer with particular attention to whether zoning was applied for with the Construction Official where he believes that determination will correspond with his in regard to this not being permitted and compares this to the DeCredico Building across the street on the promenade and what is so important about eliminating the commercial and not following the C4 requirements.

**Exhibits/Reports:** A1- photograph of existing structure and conditions; A2- copy of Chapter 26. Zoning, Article VI. Commercial Districts & a definition of a Parking Lot; A3- photograph looking down street between this structure and another across 42<sup>nd</sup> Street which is also located on the promenade.

**Board Comment:** Engineer Report is reviewed with specific attention to the parking area which is noted not to be an actual parking lot adding that commercial is required along the promenade so what the Applicants are proposing does not meet city code where residential at promenade level is not permitted; Board Solicitor reviews code and what is or is not permitted and explains what should be considered in making an interpretation for this project based on the information provided and as discussed.

**Public Comment:** Steve DeCredico comments on references made about his building which he points out went to the Planning Board for a determination and approvals, not Zoning, and questions some of the details discussed like the parking; Ryan Harkins speaks in favor of the project adding that anything would be an improvement to what is there now.

- Motion taken for a determination in the affirmative requiring a 'D' Variance as discussed including comments and as outlined in Mr. Previti's engineer memorandum dated 8/2/2023; Motion made by Mr. Cloud, second by Mrs. Durling; roll call of eligible votes - *aye* '4' in favor / *nay* '0' opposed / *abstain* '2' due to conflict.

📁 **Applicant:** WAGNER, Greg & Anne Marie (Hardship/Bulk/Flex 'C', Use 'D' Variances)

@ 28 – 30<sup>th</sup> Street / Block 30.02 / Lot 8.01 & 9.01 / Zone R-2

Proposed: to construct an addition to the southern unit which will also include a roof top deck and in-ground swimming pool

Requesting: variance relief on minimum front and rear and side yard setbacks (all existing non-conformities), setback from main building to accessory (pool) structure, distance of curb line from pool, green space in rear yard, landscaping, and on-site trees.

**Professionals:** Donald Wilkinson, Esq. on behalf of the applicant offers a summary of the project being proposed by way of an addition to their South Unit as well as an in-ground swimming pool and roof top deck. Mr. John Halbruner, P.E. offers testimony regarding the dimensions and layout of the proposed addition, reviews the pre-existing conditions, mentions the roof top deck, testifies on the second level deck lining up with the edge of the pool, and continues with the positive and negative criteria of the project as they further discuss the green space that is required in addition to having no affect on the utilities easement.

**Witness(es):** Mr. & Mrs. Wagner (Applicants/Owners of South Unit) offer some history as to how long they have been in Sea Isle in the Southern Unit of what is a duplex structure and how they have been wanting to do this project for some time, pointing out how this is their second home and they do not rent.

**Exhibits/Reports:** n / a

**Board Comment:** there is some discussion regarding the pre-existing conditions, there is a request for additional testimony regarding the proposed second floor deck being in line with the pool below because this is considered a safety issue which is currently being addressed by a Subcommittee under the Planning Board because of situations just like this. There is some discussion as to whether they would consider reducing the size of the pool for more distance and/or installing a higher railing on the second level deck when you consider how people would jump off the deck into the pool below, as well as increase the walking space around the pool and the material that will be used.

**Public Comment:** n / a

- Motion taken in the affirmative based on the variance relief for existing non-conformities per variance chart, setback from structure to pool proposed at 3.01' relief, distance of curb line to pool proposed at 15' relief, green space proposed at none required, and landscape relief of 2 trees; including any & all comments, changes as discussed and agreed to, conditions and as outlined in Mr. Previti's engineer memorandum dated 6/6/2023; Motion made by Mr. Feola second by Mr. Curtain; roll call of eligible votes - aye '6' in favor / nay '0' opposed

**~Meeting Minutes to Adopt:**

**M. Minutes of Wednesday, July 5<sup>th</sup>, 2023 Regular Zoning Board Meeting**

- Motion to adopt the July 5<sup>th</sup>, 2023, Zoning Board Meeting made by Mr. Cloud, second by Mr. Feola; roll call of those eligible to vote - aye '4' in favor / nay '0' opposed

~With no further business

- Motion to adjourn by Mr. McGinn, and all were in favor

**Meeting Adjourned**

Respectfully submitted,



Genell M. Ferrilli

Board Secretary

City of Sea Isle City Zoning Board