

The Manasquan Planning Board held a Zoom meeting on March 16, 2021 at 4pm. The Chairman, Neil Hamilton opened the meeting at 4:10pm. He greeted everyone and asked everyone to please salute the flag.

ROLL CALL:

Board Members Present:

Mayor Ed Donovan, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Neil Hamilton

Board Members Absent:

**Leonard Sullivan – he entered the meeting at 4:44pm
Mark Larkin, John Burke, Barbara Ilaria**

Professionals Present:

**Albert D. Yodakis, Board Engineer/Planner BORO Engineering
George D. McGill – Board Attorney**

Attorney George McGill read the Sunshine Law.

Neil stated there were no minutes or vouchers to approve. There are two Ordinances for the Board to give their approval to the Borough Council as they are up for second reading. George McGill will send the Administrator the Board's findings. Only one of the two needs approval by the Planning Board as that one has to do with Zoning.

ORDINANCE NO. 2345-2021 Amending Chapter 35 (Zoning) prohibiting the operation of any class of cannabis businesses within the boundaries of Manasquan, New Jersey, Borough of Manasquan.

Mark Apostolou made a motion to approve the Ordinance, seconded by Kevin Thompson.

Board Members Voting Yes:

Mayor Donovan, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, and Neil Hamilton

RESOLUTION #32-2020 – Grannick, Benjamin – 104 Lenape Trail
Mark Apostolou made a motion to memorialize, seconded by Bob Young, all in favor none opposed.

RESOLUTION #10-2021 – Ware, Mary and Charles – 85 McLean Avenue
Mark Apostolou made a motion to memorialize, seconded by Greg Love, all in favor none opposed.

RESOLUTION #25-2021 – Vasilenko, David – 43 Taylor Avenue – Mark Apostolou made a motion to memorialize, seconded by John Muly, all in favor none opposed.

RESOLUTION #33-2020 – Shalom, Steven – 53 Rogers Avenue – Mark Apostolou made a motion to memorialize, seconded by Robert Young, all in favor none opposed.

APPEAL OF THE ZONING OFFICER’S DECISION REGARDING A FENCE 61 BEACHFRONT – The fence permit was issued to the property owned by Kymer Family Trust. There is a one single-family house located on the property facing the Beachfront, no house exists on First Avenue. The Kymers were represented by Attorney Kevin Asadi of the Law firm of Zager Fuchs, PC of Redbank. Attorney James Kinneally, of Marriott Callahan & Blair of Sea Girt, was the attorney representing the Estate of Hohenstein who’s property is at 63 Beachfront, 60 First Avenue, they filed the appeal. Both properties are in the R-4 Zone. Alice Kavanagh gave extensive testimony for the Hohenstein estate. Exhibit A-1 is a letter from Alice Kavanagh, dated October 19, 2020 stating her objection to the Kymer fence permit. On November 6, 2020 James Kinneally wrote a letter to the Planning Board stating he represents Alice Kavanagh, Executrix of the Estate of Hohenstein. In the letter he stated the fence appears to be located on his client’s property. Also, it blocks access to 63 Beachfront and 60 First Avenue. He stated the fence creates a safety issue since there is insufficient space for police/first aid or fire personnel in the event they need access to the property. Also, the fence is located in an Easement for Beach Access. Also, it is solid where solid fences are not permitted. On November 6, 2021 Attorney James Kinneally filed an official appeal. Ms. Kavanagh stated the work began on October 19, 2020. Mr. McGill asked how Mr. Furey ran afoul. James

Kinneally said the Ordinance states very clearly solid fences are prohibited in the front yard in the R-4 Zone. This is a solid fence. He said Mr. Furey should not have granted this fence permit. Board members asking questions were Bob Young, Lenny Sullivan, Neil Hamilton, Mark Apostolou. James Kinneally explained directing the Board's attention to pictures submitted by Alice Kavanagh with this fence the Hohenstein house does not have access to two of their three doors, and also affects access to the Beach house, making it physically impossible for the Hohenstein's to enter their houses, front and rear. This is not only a fire access concern but also any emergency access. It was also testified that the Kymer's put solid wood at the bottom of the fence and the ugly side of the fence faces the Hohenstein property. Alice Kavanagh said the wood on the bottom of the vinyl fence is attached so it cannot be moved. Mr. McGill said we are not here to compare surveys as there were a few submitted with this appeal. Mr. Asadi, Council for Doris Kymer, said Mrs. Kymer is 91 years old second generation Manasquan resident, her daughter Linda Farrell is her mother's Power of Attorney for the Kymer Trust gave testimony. She stated this home on the Beachfront is her mother's solace, her retreat. The fence is a matter of safety. Her mother had to get a Cease and Desist due to the greenery from the Hohenstein property encroaching onto her property, she went to the Zoning Officer and offered to put a gate in. The renters from the Hohenstein property were parking on the Kymer's property. Mr. Kinneally asked Mrs. Farrell if they had a cement walkway to First Avenue and she said yes and they had to install a wooden walkway after Sandy as her mother was harassed by Alice Hohenstein. She said the wood at the base of the fence is to keep the sand off of the walkway. This fence is the same as the neighbor two doors down has. Next, George McGill swore in Dick Furey, Manasquan Zoning Officer. George stated he represents the Planning Board. Dick explained the 2019 application for a fence at #61 Beachfront. He recalls receiving a telephone call from #63 Beachfront regarding access to her house. He didn't issue the permit based on #61 not providing access to the neighbor. In July of 2020 he wrote a letter to the Kymer Family Trust stating that their application to install a 4-foot fence along the side property line has been approved with the following conditions. The fence will not block the required access to the dwelling facing the beachfront on Block: 165, Lot: 24.02 – 63 Beachfront. George McGill asked Mr. Furey if he approved the design of the fence? Dick replied he doesn't approve designs. However, no spikes, barbed wire is permitted.

Board members asking Dick Furey questions were Mark Apostolou, Bob Young. Dick stated in July 2020 he was under the impression that the neighbor issues had been resolved prior to his issuing the fence permit. Dick said the reason he denied the permit in 2019 because there were issues with beach access. Alice Kavanagh said she did not have any discussion with the Kymer family regarding the fence, she had offered to meet with them to communicate but they never agreed to meet.

Mark Apostolou made a motion to open the meeting to the public, seconded by Robert Young, all in favor none opposed.

Audience Members Speaking:

Bob Hohnstein – He said he is the son of Alice Kavanagh, he pointed out that his father was sick for many years and this put a burden on his mother to maintain the property.

James Henry – 85 Morris Avenue – he asked if the easement has restrictions for fences.

George McGill – said to go back to American Timber, there were many easements put in place before the land was subdivided.

John Sarto the attorney for Sepe, 33 Union Avenue spoke stating he's been sitting for two hours waiting for his application to be heard, will you be getting this over soon. Neil Hamilton said he hopes to get it done today.

Mark Apostolou made a motion to close the public portion, seconded by Robert Young, all in favor, none opposed.

Alice Kavanagh said she believes this was never American Timber property, she also wrote a note to Mr. Furey in 2019 stating she has concerns. Neil asked the attorney to sum up their statements. James Kinneally gave a brief conclusion, he said Mr. Furey believed there was agreement between both parties. His 2019 concerns remain unchanged today. If he granted permit that is grounds for the Board to reverse the granting of this permit. Solid fences are prohibited in this Zone. Mr. Asadi said Mr. Furey stated the permit was allowed and he approved it because it was shown to be allowed in the Ordinance, this case will possibly be adjudicated in Chancery Court.

Greg Love asked Mr. Furey if looking at the pictures did he think it was a good decision to allow this fence to go up. Dick's answer was yes.

Mayor Ed Donovan said we have some problems with wording in some of our Ordinances, but we also don't have anything prohibiting fences in easements.

Neil Hamilton agreed. George McGill upheld Dick's approval for the location of the fence but asked to modify the permit to replace a solid fence with an

open fence. Mayor Donovan then stated that the front of the Kymer house is the Beachfront and not First Avenue to which Neil agreed also. Mark Apostolou made a motion that the appeal was made in a timely fashion, seconded by Robert Young.

Board Members Voting Yes:

Mayor Donovan, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Neil Hamilton

Mark Apostolou made a motion that the existing solid fence be replaced with an open fence modifying the permit, seconded by Mayor Donovan.

Board Members Voting Yes:

Mayor Ed Donovan, John Muly, Greg Love, Mark Apostolou, Kevin Thompson, Neil Hamilton

Leonard Sullivan abstained.

The Board called for a five-minute recess

Roll Call Following Recess at 6:35pm

Board Members Present:

Mayor Ed Donovan, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Leonard Sullivan, Neil Hamilton

APPLICATION #09-2020 – SEPE – 33 UNION AVENUE

John Sarto is the attorney representing the applicant Union Avenue, LLC, 33, 33 ½, 39 Union Avenue – Affordable Housing, Mount Laurel Project. Mr. Sarto said this application was filed in December 2019. Municipal Planner Jennifer Beahm was sworn in by George McGill. Jennifer stated the plans were inconsistent with what was attached to the Settlement Agreement. Mark Apostolou asked Jennifer is she was happy, Jennifer said it's fine, I'm not happy but it's closer to conformity. She said Variances are needed and George agreed. Traffic Engineer, Lee Klein gave his testimony. Mr. Sarto said he will have his Architect speak if the Board agrees, Matthew Martinique, Architect for the project gave testimony showing plans on his screen. The Exhibits addressed were A-1 through A-19 which were previously submitted for the Board prior to the hearing. The applicant is proposing to demolish the existing structures on the property and construct a 23-unit structure, nine units will be affordable housing. They will provide 19 parking spaces, 18 X 9 located on ground level underneath the structure, 19 X 9 feet is required.

Exhibits entered were A. Preliminary and Final Major Site Plan prepared by Jaclyn Fior, PE, PP. B. Architectural layout and elevations prepared by Lawrence Appel, R.A. and associated rendering. C. Storm water Management report prepared by Jaclyn Fior, P.E., P.P. Storm water Management and Operation Maintenance Manual prepared by Jaclyn Fior, P.E., P.P. Boundary and Topographic Survey prepared by James Heiser, P.L.S. Traffic and Parking Evaluation prepared by Lee Klein, P.E. P.T.O.E. Neil Hamilton asked Jennifer Beahm to point out the minor issues on design. Jennifer said basically the front façade, the front turrets are more dramatic, there is a more rounded pitched roof and it is steeper which is safer over the driveway with snow and ice. The façade is consistent. The balconies on the left side are much improved. Board members Mark A., Neil, like the new look. Traffic expert Lee Klein who presented his credentials which were accepted by the Board. He gave his testimony. Neil Hamilton asked about guest parking stating that there is not much parking for residents never mind guests. Bob Young stated 19 parking spaces for 23 units is not sufficient. Neil Hamilton did say that area is affected by torrential rainfall and that flooding may affect the parking. Jaclyn said the first floor is above the BFE, vehicles will be outside of flooding area as required by the DEP. The Fire Marshall's report said the building will need to be fully suppressed, the water mains are adequate, the applicant will coordinate with the Manasquan Fire Department as well as Kevin Thompson, Supervisor of the Public Works. Neil Hamilton asked about garbage and recycling pick-up, Jaclyn stated the owner will have to hire someone privately and make a refuse pick-up agreement with them. Kevin Thompson asked that he and Al Yodakis, Board Engineer work together to review the landscaping on the site and it was agreed that they would do that. Bob Young questioned the required storage area for each unit. It was stipulated that each unit will have the required storage area provided to them.

Mark Apostolou made a motion to open the meeting to the public, seconded by Robert Young, all in favor none opposed.

Audience Members Participating:

Teresa Karon – Curtis Avenue – her question to the Board is will all the parking be underneath the building? The answer was yes.

Mark Apostolou made a motion to close the public portion of the meeting, seconded by Bob Young, all in favor none opposed.

John Sarto gave his closing statement. Jennifer Beahm agreed after having

multiple conversations with Mr. Sarto and his team that the plans are in substantial compliance with the Borough's Ordinances controlling site plan review and that relief could be granted without substantial impairment to the zone plan or substantial detriment to the public good, and that sufficient reasons have been shown in support of its request for waivers.

Kevin Thompson made a motion to approve the application with all the stipulations as proposed, seconded by Mark Apostolou.

Board Members Voting Yes:

Mayor Ed Donovan, John Muly, Robert Young, Greg Love,
Mark Apostolou, Kevin Thompson, Neil Hamilton, Leonard Sullivan,

Respectfully Submitted,

A handwritten signature in cursive script that reads "Mary C. Salerno". The signature is written in black ink and is positioned above the printed name and title.

Mary C. Salerno
Planning Board Secretary