

MINUTES  
ISLAND HEIGHTS PLANNING BOARD – May 13, 2015

The regular meeting of the Island Heights Planning Board was called to order by Chairperson Joest at approximately 6:35pm. Following the flag salute roll call was taken and present were: Garrett Joest, John Bendel, Joe Connors, Bob MacNeal, Ellie Seibert, Mayor Silver, Michael O'Donnell, Joe Coronato and Wendy Prior. Absent: Elizabeth Leahey, Stu Challoner, and Bob Snedden. Chairperson Joest then read the Open Public Meetings announcement.

Motion to approve the minutes from the March 11, 2015 meeting was made by Mr. Bendel second by Mr. MacNeal.

Roll Call Vote:

Mr. Joest	Yes	Ms. Leahey	Absent
Mr. Bendel	Yes	Mr. MacNeal	Yes
Mr. Challoner	Absent	Ms. Seibert	Yes
Mr. Connors	Yes	Mayor Silver	Yes
		Mr. Snedden	Abstain

Chairperson Joest asked for the representative of applicant for Block 20, Lot 4 Mr. Steven Kotzas to call his first witness. Mr. Kotzas asked for a few moments to set up and Chairperson Joest took that time to read the letter from O'Donnell, Stanton and Associates into the record.

Mr. Kotzas called his first witness Mr. Frank Sadeghi who was sworn in by Mr. Coronato. Mr. Sadeghi stated that he is a professional engineer and one of the principles of Morgan Engineering. He is the one who prepared the plans for the minor subdivision.

Mr. Kotzas asked that the minor subdivision plan be marked into evidence as A-1, the color render aerial view was marked into evidence as A-2 and the overall aerial view was marked as A-3. Mr. Sadeghi gave a short explanation of the application which is to subdivide the existing vacant property at 130 Central Ave. Mr. Sadeghi explained that there are residences up to Summit Ave. and the lot has frontage on both Central and Simpson Avenue's. Proposal is to subdivide it and create two single family dwelling lots. Further testimony was given by Mr. Sadeghi in regards to the location, size and lot area.

Chairperson Joest asked if any member of the board had questions. Mr. Bendel asked if that entire lot zoned commercial. Mr. Sadeghi stated that no it is zoned residential. Mr. Bendel said then the commercial zone starts where the office building is and Mr. Sadeghi said that is correct. Mr. Bendel said that the lots being proposed would be entirely in a residential zone. Mr. Sadeghi replied that is correct.

Chairperson Joest if any member of the public had any questions for the witness. Dale Doria of 119 Simpson Ave. was sworn in by Mr. Coronato. Mr. Doria asked Mr. Sadeghi if when he purchased the property that he was aware that the lot was non-conforming. Mr. Sadeghi said that they were told prior to purchasing that they could build at least one house. Mr. Doria asked even if the property is substandard as far as size goes that you can build on the property. Mr. Sadeghi said that is correct. Mr. Doria said that you can put a house on that even though the front is 50'?

Joe Cocco the Zoning/Code Official for the Borough asked if there is a plan for a one or two story dwelling. Mr. Sadeghi said that they would be two story dwellings. Mr. Cocco asked if they are planning on doing mirror images. Mr. Sadeghi said that we are not there in the planning yet. Further discussion was held regarding size of dwellings.

Mayor Silver brought up the issue with the water and sewer. He asked if they have seen the letter from Mr. Brodbeck which he then read into the record and was marked into evidence as A-4. Mayor Silver said that this is a critical part of the construction is the

utilities. Mr. Sadeghi said he has spoken to Mr. Brodbeck and is aware that they will be responsible for providing the water main down on Simpson.

Mr. Bendel said that just to clarify that the lot is buildable and the original subdivision pre-dated our current code. Mr. Sadeghi before buying the property and doing due diligence he spoke to Mr. Anderson about building at least one house on this property but as of right now they could apply for a building permit on that vacant lot. Mr. Bendel said that no matter what happens tonight that you will be able to build a house on that property. Mr. Sadeghi said that is correct.

Dale Doria of 119 Simpson Ave. asked what the hardships are for the variances being requested. Mr. Sadeghi stated that the Planner, Mr. Maczuga will be testifying to that.

Mr. John Maczuga was sworn in and the Board accepted him as an expert planner. Mr. Maczuga testified to the size of the lot, the plans for subdividing and the reasons the three variances on each lot for minimum lot depth, minimum lot area and minimum lot width for a total of six variances. Mr. Maczuga stated that the hardships requirements to grant these types of bulk variances are in N.J.S.A. 40:55D-70C1 and 70C2. He feels that this application falls under both the C1 and C2. Mr. Maczuga further went into details regarding the qualifications of the property for the relief to be granted under C1 due to the lot width is a pre-existing condition and cannot add to the property because to the north side it is a commercial district property and the south side is a residence. The tax map was then marked into evidence as A-5 and Mr. Maczuga went on to show examples of the lots in the area are consistent with the lot size that they are requesting and justifies the granting of the variance. As for the lot depth 100 feet is required and 97.5 feet is being requested, again reference was made to the tax map and surrounding properties. Mr. Maczuga then went into the lot size and maintaining the consistency to the surrounding neighborhood and a through lot should be discouraged.

Mr. Maczuga also believes that the C2 requirement is met in this subdivision. He further explained the reasons why he believes in his opinion that it is not detrimental and is in keeping with the neighborhood. Mr. Maczuga also discussed that in his opinion they would not be impairing the intent of the Master Plan and is in keeping with the grandfather ordinance that the Borough has in place.

Mr. Bendel stated that he felt the intent of the words in the ordinance is to apply to lots that exist if I am not mistaken. Is that correct? Mr. Maczuga said yes. Mr. Bendel said you are proposing to create a lot. Mr. Maczuga said that it applies to at least one lot. He is suggesting that they felt that that was a size that worked in the Medium Density Residential Zone.

Mr. Coronato in particular with the use of the two structures the intent and purposes are for them. Mr. Maczuga said they would be detached single family dwellings consistent with current zoning and the neighborhood.

Mr. Bendel asked why through lots are to be discouraged, why. Mr. Maczuga stated that it would create mid block crossings or create driveway that loops around and that could end up having nothing fronting the street but a garage on one and house on the other.

Mr. Bendel stated that we have had people come into this board with pictures of what they could build if we don't get them relief and feels it is a type threat. Isn't it true that when we talk about narrowness of a lot and those things that are a hardship that we are essentially talking about a hardship in a lot that exists and we are talking about building a house and we are not talking about creating another lot, we are talking here about creating a lot with a hardship? Mr. Maczuga said that the two lots are a better pattern of development for this particular piece of property and the neighborhood in general. Further discussion was held by Mr. Maczuga and Mr. Kotzas.

Mr. MacNeal asked about discussions occurring with Mr. Brodbeck regarding the water issues and who would be responsible for paying. Mr. Sadeghi indicated that the discussion concerned the fact that there is no water main that runs down Simpson Ave. but that there is sewer and that they as the applicant would be covering the cost. Further discussion held by the Board, Mr. Sadeghi and Mr. O'Donnell.

Brian Hall, 136 Bay Ave. was sworn in by Mr. Coronato. Mr. Hall asked Mr. Maczuga if this lot was included in a site plan for the commercial property and designating this lot as a buffer zone. Further discussion was held by Mr. Kotzas, Mr. Hall, and Mr. Coronato regarding the lot and a buffer zone.

Dave Detlefs, 126 Central Ave. was sworn in by Mr. Coronato. Mr. Detlefs asked why it is ok to build on lots that are 50' wide when the zoning ordinance states 75' to match lots that are existing in the neighborhood. Mr. Maczuga stated that is why we are here because we don't have that in terms of creating two lots and as indicated in my testimony you could put one home there as a matter of right. Further explanation by Mr. Maczuga regarding the intent of the grandfather clause in the zoning ordinance.

Maria Delia, 120 Central Ave. was sworn in by Mr. Coronato. Ms. Delia stated if allowing them to do that then it would be okay for anyone to do that now. Mr. Maczuga stated that anyone in the medium density residential zone can build on a 50' property right now as a matter of right.

Mr. Doria asked if financial gain was considered a hardship. Mr. Maczuga stated no and that was not in his testimony. Mr. Doria said that is what we are hearing is financial gain by building the two homes and not talking about the impact on the neighborhood.

Chairperson Joest opened the Public Hearing for this application.

Amy Trombino, 105 Summit Ave. was sworn in by Mr. Coronato. Ms. Trombino stated that she lives on a lot that is 100' x 100' and would she be able to subdivide her lot? Mr. Bendel said that she would be able to come before the board and make an application. Ms. Trombino said that she has concerns on the impact that this could have on the roads, utilities and the neighborhood. Mayor Silver said he understands her concerns because there are issues in that area with the sewer line. Further discussion held on the utilities in the area by Board and members of the public.

Mr. Doria had three pictures of the lot that were marked into evidence as O1, O2 and O3 by Mr. Coronato. Mr. Coronato instructed him to show Mr. Kotzas first. Mr. Kotzas asked him if he took the images himself and when they were taken. Mr. Doria said yes he took them and it was sometime in February. Mr. Doria stated that he lives on Simpson Ave. right next to the lot and does not feel he has heard anything but financial gain by building two houses nothing about the vested interest in the neighborhood, which is well represented tonight. Mr. Doria stated his family has been in town since 1895 and he built his house in 1989 due to the location and privacy. Mr. Doria is quite concerned with the congestion when the school is let out on Simpson Ave. which they wanted to make as a one way street. Additional housing would put child safety at risk with more car traffic. Mr. Doria stated he spoke to previous owner about buying the property in 1989 but was told it was not a buildable lot due to sewer easement. Mr. Doria also stated that his lifestyle would be threatened and the houses are being built for financial gain and no vested interest in what the neighborhood is going to become. He went on to discuss rental property, safety and security, privacy, traffic and decrease in value of his own home. Mr. Doria stated that he did not hear anything about the tree stewardship of trees and how there are other buffers in town such as Dillon's Creek Marina that you cannot tell it is even there. Mr. Doria concluded that it is a substantial change in our daily lives and this variance shall create an undue burden on the owners in the surrounding properties and a substantial detriment to the owners and public as well.

Terry Kempton, 76 River Ave. was sworn in by Mr. Coronato. Mr. Kempton stated that he believes this application is consistent with previous approved variances in town specifically the one on Central and Camp Walk where we allowed a subdivision to a front and back lot with a beautiful house on the lot instead of a storage or parking lot. It is consistent with what has been done in the past and consistent with the neighborhood.

Margaret Ossont, 122 Central Ave. was sworn in by Mr. Coronato. Ms. Ossont stated that she has the largest lot on the block and also has two lots and if she wanted to she could divide them they are under the 50' ordinance. Her only concern is where he places his driveways because of the snow removal and the parking on that street. There are mostly rentals across the street and they have to move their cars. Ms. Ossont also said she is concerned with the environmental impact, we are on a hill and the run-off is a concern since he is at the end of the piece. Further discussion by Ms. Ossont on the run-off and impact of the houses. Ms. Ossont also stated that these would be ratable's that increases the revenues of the town and helps residents. Ms. Ossont feels this would be an attribute for the town and for the block. Ms. Ossont said the woods breed critters and this would alleviate this issue although she hopes it is not clear cut but understands that to do construction this may happen. Overall she feels it will make a huge impact and be a positive one.

Frank Sadeghi said he would like to set the record straight. There has been some testimony about financial gain and being the big bad developer. We have made great investments in Island Heights, 8 Central Ave. our home that we spent \$300,000 to update that property, 12 Central the property that was mentioned we have had nothing but praise on what we are doing in Island Heights. We bought the property that has been sitting for so many years unoccupied and moved our business there, Morgan Engineering. Mr. Sadeghi said he takes exception to the fact that we are here and going to build a couple of houses and sell and run out of town. We have had many people who live in Island Heights approach us about this property and have indicated that they are interested in purchasing those houses.

Mr. Kotzas said that if you look at the way the ordinance is written that this is a compelling application under the law as well as under the facts that this application should be approved. He doesn't see any substantial argument here that it should not be approved. The testimony and the facts are right on with the case law.

Mr. Bendel stated that he would like to differ with Mr. Kotzas in the matter of the law, which was written for them to build that one house you obviously can build. Mr. Bendel said that it was not written to create lots and that is a real stretch. His concern with this Board is setting a really bad precedent. Further explanation by Mr. Bendel about precedent and does not think it should be approved and will be voting no.

Mayor Silver made a motion to approve as presented with two lots subject to extension of the water main to Lake Avenue and that an escrow be established for inspection of any public improvements. Mr. Bendel asked if that was acceptable and Mr. Sadeghi said conceptionally does not have an issue with it.

Chairperson Joest added to the motion that the applicant seeks three variances for each lot. The applicant is seeking to have 50' frontage on the lots and where the lots are required to have 100' depth the applicant is seeking to have 97.5'. The minimum lot area is 7500 square feet and the two lots each would be 4875 square feet. The applicant has to satisfy the negative criteria and that is he has to show that either because of exceptional narrowness, shallowness or slope to specific piece of property or by reason of exceptional topographical condition or physical features affecting the piece of property or by reason of an extraordinary exceptional situation uniquely affecting a specific piece of property he cannot comply with the zoning. Chairperson Joest further added to the motion that Mr. Maczuga has testified that the C1 variance was met because the property is 50' wide and no adjoining property that can be acquired to make it any larger. The 50' wide lots would be consistent with the adjoining property on that

block and also the lots there on the block are 50' x 75' to 50' x 100' and the lots that are proposed are consistent with the rest of the block. Further Mr. Maczuga stated that the C2 variance would be met regarding the matter that this lot is a through lot and it is not considered to be good planning to have such a through lot with a narrow lot as this. Chairperson Joest said that because of those reasons that the motion be granted and that it have a provision on it that the water main that is on Simpson be continued to the intersection of Simpson and Lake Avenue's. Mayor Silver stated that it should also include the sewer and Mr. O'Donnell said it should have an escrow established to cover the cost of the public utilities.

Roll Call:

Mr. Joest	Yes	Ms. Leahey	Absent
Mr. Bendel	No	Mr. MacNeal	Yes
Mr. Challoner	Absent	Ms. Seibert	Yes
Mr. Connors	Yes	Mayor Silver	Yes
		Mr. Snedden	Abstain

Motion to adjourn the meeting at 8:20PM was made by Chairperson Joest second by Mr. MacNeal. Unanimous Voice Vote.

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Respectfully Submitted by Wendy J. Prior