

MINUTES
ISLAND HEIGHTS PLANNING BOARD – August 9, 2018

The regular meeting of the Island Heights Planning Board was called to order by Chairperson Noble at approximately 7pm. Following the flag salute roll call was taken and present were: Bill Noble, Sean Asay, John Bendel, Joe Connors, Bob MacNeal, Donald Roberts, Bob Baxter, Frank Wetta, Terry Brady, Mike O'Donnell and Karen Kier. Absent: Ellie Seibert

Motion to approve the minutes from June 14th, 2018 was made by Mr. Baxter second by Mr. Asay
Roll Call Vote:

Mr. Noble	Yes	Mr. Roberts	Yes
Mr. Asay	Yes	Ms. Seibert	Absent
Mr. Bendel	Yes	Mr. Wetta	Abstain
Mr. Connors	Yes	Ms. Kier	Yes
Mr. MacNeal	Yes	Mr. Baxter	Abstain

Mr. Noble asked for applicant to speak for Block 25, Lot 8. Mr. Ben Montenegro stated that he is counsel for the applicant Arya Properties, LLC for Block 25, Lot 8; 121 VanSant Ave. The relief we are requesting tonight is a 2 lot minor subdivision that has frontage on both VanSant and Summit Avenue's. The lot size is 50' x 212.5' proposing to subdivide it into two 50' x 106.25' lots. The variance relief we are requesting is lot frontage and area where 7,500 is required we are proposing 5,312.5' is proposed for each lot. The proposal is to demolish the existing single family residence that exists on the lot that fronts on VanSant. There are 3 bulk variances associated with the structures on that lot. There is an existing non-conforming side setback and front setback for that home and there is also setback violation for the existing accessory shed one of the two and the lot frontage of 50'. There are 4 non-conforming issues as they currently exist and the proposal is to construct two new single family homes which other than lot area and frontage will meet all bulk requirements.

Mr. Brady swore in Matthew Wilder, 130 Central Ave. Island Heights, NJ. Mr. Montenegro asked for Mr. Wilder to state his qualifications which he did. Further discussion held on Mr. Wilder's qualifications. Mr. Montenegro asked Mr. Wilder if he prepared the subdivision plans for this application and is familiar with the subject property and surrounding properties and neighborhood which he replied yes to all. Mr. Montenegro asked Mr. Wilder to explain the site and project. Mr. Wilder stated that the first exhibit which he will mark as exhibit A1 and put current date on it. This exhibit A1 is a boundary and topographical survey which Mr. Wilder explained that it is currently two lots. Mr. Wilder said they are looking to re-subdivide the property which was at some time merged by the Tax Assessor. Mr. Wilder went on to explain the surrounding the neighborhood in detail. Mr. Wilder marked into exhibit as A2 and A3 some pictures of the existing property from VanSant and Summit Avenue's and proceeded to explain them. Mr. Wilder gave further testimony on the year the house was built, 1910, that it has been vacant. Mr. Wilder said the plan is to demolish the existing structure and put up two new ones, one that faces Summit and one that faces VanSant. Mr. Wilder marked into evidence as A4 the subdivision plans and explained again making two lots with two homes. Mr. Wilder further explained the driveways would have turn around's to alleviate backing out into the road, proposing drywells that would deal with runoff. Mr. Montenegro asked Mr. Wilder the zone the property is located in which he replied is Medium Density Residential and the only variances we are asking for is lot area and lot frontage. Mr. Montenegro asked Mr. Wilder to use exhibit A1 and point the non-conforming uses on the property which he did and also stated that with the demolition of the property it would be eliminating four non-conforming uses on the property.

Mr. Wilder addressed the letter from O'Donnell, Stanton and Associates dated June 21st, 2018. Mr. Wilder stated that they have no exceptions to any of the comments but reviewed the points of the letter and agreed with his statements with just one note there is a typo on page 3 of the letter under the structure coverage on lot 18 there is no variance required. They did receive adequate water and sewer service letter from the Department of Public Works and will provide a copy. Further discussion held on the letter by Mr. Wilder and that they take no exception and will meet the requirements as stated in letter.

Mr. Wilder presented two more exhibits one which was marked A5 and is colorized rendering of the proposed subdivision. The other was marked A6 which is colorized version of the tax map with overlay. Mr. Wilder discussed the exhibits which he is trying to demonstrate the number of lots in area that have similar width or frontage and similar area to what currently proposing.

Mr. Wilder marked into exhibit as A7 photos of two different homes that are built here in Island Heights one on Central and one on Simpson and is the style home from this developer. Mr. Wilder further described the homes.

Chairperson Noble asked for questions from the board. Mr. Asay said the A7 photos are what you are proposing but you earlier stated that the driveway would have a turnaround and not shown in these photos. Mr. Montenegro stated it was shown in Exhibit A1 these photos are just to depict the types of homes that may be built. Mr. Wilder said on A4 you can see 8' x 15' area which is the turn around on both lots. Further description was given by Mr. Wilder on the turn around. Mr. Asay said that these homes will be built on flat ground and Mr. Wilder said you will still have a grade. Mr. MacNeal said that then there would be no grass that the concrete would go right out to the sidewalk. Mr. Wilder said you will have some grass between edge of road to the turnaround will be about 13' of grass. Due to it being a county road we are required to provide that turn around.

Chairperson Noble asked about A6 the aerial overlay, is there a % of properties with 50' lot frontage. Mr. Wilder said no it is approximately 40%. Further discussion by Chairperson Noble and Mr. Wilder regarding the frontage. Chairperson Noble said these properties you are proposing that they will not be so different that they will stand out. Mr. Wilder said no it is consistent with neighborhood. Chairperson Noble asked about any existing variances. Mr. Wilder said they have no knowledge of prior approvals just the non-conformities that exist. Further discussion was held on history and variances on this property. Chairperson Noble asked if new structures need variances Mr. Wilder said no. Chairperson Noble asked about the adjoining properties, on the east side of Summit. Mr. Wilder said it is uniformity with what is being proposed. Further discussion on the neighboring house lot sizes on both roads. Chairperson Noble asked about the proposed homes will they be modular and Mr. Wilder said no. Chairperson Noble asked status of property and if it is under contract. Mr. Wilder replied his client is the contract person. Chairperson Noble asked if it is subject to the approval of this application and Mr. Wilder said yes. Chairperson Noble asked if it is denied is the contract no longer effective. Mr. Wilder said he is unsure. Mr. Montenegro said he believes it would be voided.

Mr. Roberts asked about the photograph of the proposed home what the proposed square footage on the new houses is. Mr. Wilder said between 1600 to 2000 square feet. Mr. Roberts said that one of his concerns is these properties are clearly in the Island Heights historic district and that this not being sympathetic to those homes. Mr. Wilder said the developer wants to appease any potential buyers and wants a home that is going to fit in the area. If the Board would like architectural enhancements to fit in with the area Mr. Wilder believes they would have no problems doing so. Further discussion was held on architectural features by Mr. Wilder. Mr. Roberts said that the current homes to the left and right of the property, on Summit the house to the left is a two story, on VanSant isn't it also a two story?. Mr. Wilder stated he is not sure and would like to clarify that he misspoke and the new homes would be closer to 2400 square feet.

Mr. MacNeal said that if the board approves this application you would then submit the storm water plans and conform to the New Jersey state statutes? Mr. Wilder said that is correct. Mr. MacNeal said why should we grant approval without seeing those plans? Mr. Wilder said to him it is an engineer technical item and as long as the Board Engineer is satisfied with the calculations which we are required to be in conformance and we are not asking for any variance exceptions related to storm water we have to comply and we will comply. Mr. Montenegro stated that this would be reflected in the resolution as a condition of approval.

Mr. Brady swore in John Maczuga, of JDM Planning, LLC in Brick. Mr. Maczuga stated his qualifications for the board who accepted him as an expert. Mr. Montenegro asked Mr. Maczuga to describe the activities in preparation for his testimony. Mr. Maczuga stated that he visited the site, reviewed the plans, application forms, and the Borough's Master Plan. Mr. Montenegro asked him to describe the site and adjoining properties. Mr. Maczuga stated that the property is a long and narrow lot it is 50' x 212.5' which he assumes was merged at some point by the Tax Assessor. He further described the existing structures on the lot. Mr. Maczuga further discussed the similar undersized lots in the area and the existing zoning of Medium Density Residential. Mr. Maczuga read verbatim the provided exception in the zoning ordinance. He further stated that the proposed subdivision would be consistent with the character of the area. Mr. Maczuga also testified what he found in the Master Plan regarding the Medium Density Residential zone and read verbatim the section regarding this. Further testimony on the application and the variances needed and not needed along with the type of variance and what the law states was given by Mr. Maczuga. Mr. Maczuga stated that the Board should grant these variances minimum lot width and minimum lot area as has been indicated with the C1 criteria. He further explained that the properties adjacent are already substandard or at 75' so they cannot buy additional property to make it 75' which makes it a practical difficulty and a hardship therefore it meets the C1 criteria. Mr. Maczuga stated that separating the through lots rather than developing them as a singular

use would better serve the public interest for a number of reasons. Mr. Maczuga gave further testimony on the C2 purposes and the negative criteria.

Chairperson Noble asked if the Board had any questions for Mr. Maczuga. Mr. Baxter stated that Mr. Maczuga quoted the master plan and zoning ordinance which shows that a decision was made at some point that they want 75' x 100' with one exception if you had already obtained a subdivision to create a smaller lot. Mr. Baxter further said that what this Board has tried to do with 50' x 100' is if someone wants to improve a building on this lot size we have allowed them to do so by knocking down the existing structure and stretching it somewhat. This application is asking for the creation of two non-conforming lots and there is not statutory exception in our ordinances for a through lot and there is not an inverse condemnation problem for the purchaser of the lot and they can meet the zoning requirements and not need a variance. Mr. Baxter said the problem he has is that was the intent of the drafters of our ordinances that at some point we do not want any more of this in town because it is so built up in certain areas we need to have some space and disagrees with Mr. Maczuga's interpretation that this does not affect or violate what the planners thought when they drafted our ordinance and when they did they Master Plan. He further stated that now we need what little space that we have and keep it from being developed and the problem he has is that we are creating two non-conforming lots. Mr. Baxter further discussed the ordinance and Master Plan of the Borough and that this through lot was not mentioned as an exception by the drafters and that this is not a hardship that has to be proved. Mr. Maczuga said that a developer could develop a large garage fronting Summit Ave. that is not what the Board wants for this property. Mr. Baxter said then you are saying that that is what has to happen. Mr. Maczuga said no just saying it could happen and a 200' deep lot is of no use to anyone and is out of character with what is in that area and the Board would be rectifying that situation. Mr. Brady stated they would still need a variance for a garage because you are building an accessory structure on an undersized lot. Multiple voices talking unable to determine conversation. Mr. O'Donnell said as long as it is within the setbacks they would just need a building permit and that there is an ordinance that discusses the size, etc for a garage but he doesn't have that ordinance in front of him. Mr. Montenegro stated that the difference and uniqueness of this application from the Master Plan and ordinances is that when these documents are done they do not go into detail of every specific piece of property in the Borough. Mr. Montenegro discussed this in further detail along with this application is more appropriate and a better option.

Mr. Bendel asked about the purpose of the law merging the two lots. Mr. Montenegro said he is not so sure they were merged by law and further explained the law and exception is through lots. Mr. Baxter said we can assume for our purposes that these were merged. Multiple voices talking unable to determine conversation. Mr. Bendel said his point is that one of the reasons that law was enacted whether it was a through lot or not is for density, to contain density. Mr. Maczuga said he did not think so and there is case law that states if I have an undersized lot then he would be entitled to a variance if there is no other property. Further testimony was given by Mr. Maczuga on that particular law. Mr. Baxter stated that the whole point of 7500 sq. ft. is for density. It is the point that we have to follow and you are asking us to create two lots that don't meet bulk variance size that is required in our ordinances. Mr. Montenegro further explained density and number of units and conformity. Mr. Brady explained for the Board the merger doctrine and stated that the lot area is an issue here and may have been why it was merged. Multiple voices cannot determine.

Mr. Bendel stated that a comment was said that this is unprecedented and it is not unprecedented and explained about a prior application recently before the board and it was denied and is a precedent that we have to keep in mind on this board. Mr. Montenegro said he is familiar with the case he is talking about and one is not precedence to the other because each neighborhood is unique unto itself. Further discussion by Mr. Montenegro about the prior application and resolution. Mr. Montenegro said that every case should be heard on its own merits and specifics. Mr. Montenegro further stated why this application is different than the other application. Mr. Bendel said that this Board should never make decisions on some terrible thing someone might do or build or has the ability to do. Mr. Bendel further stated - Mr. Maczuga interrupted Mr. Bendel and stated that he also said if you look at the photo from VanSant that it also speaks for itself and how it can be enhanced. Mr. Bendel said you used the word yourself creative design and you can use that and see another use that doesn't include another house. Mr. Maczuga stated that he thinks a house would be just fine from a planning perspective and further explained why.

Chairperson Noble said that while the Board is bound by precedent our decision a few meetings ago was our sensitivity to the prospect of that through lot having two structures on it and when you have a similar situation you need to understand the sensitivity of the Board and that building

might develop a more crowded project than what was there before. Further discussion held by Board and Mr. Montenegro. Mr. Montenegro stated that they do understand this and that is why they prepared the plans the way they did.

Chairperson Noble opened the floor to the public.

Mr. Brady swore in Bob Wightman, 130 VanSant Ave. Mr. Wightman stated he lives across the street and it is very ugly and the house is a mess. He further stated that he does not think anyone is going to try to put the money into it and if not allowed to split someone may build onto that house but still have an issue on Summit. Mr. Wightman felt for the view and overall good of the neighborhood this is the right way to go.

Mr. Brady swore in Andrew Parks, 121 Summit Ave. Mr. Parks said that he lives directly across from the backyard and he implores that the Board passes this application so he will have a nicer view from his house. Mr. Parks does not see that this would have an impact on density, but it would be beneficial to his property and hopes they approve this application.

Mr. Brady swore in Doug Platt, 118 Summit Ave. Mr. Platt stated that he lives directly to the west of the property on Summit Ave. Mr. Platt stated that he appreciates the Master Plan, ordinances and reiterates Mr. Park's statement that he has looked at this backyard for 35 years and would like nothing better than to see a nice house put on that lot and on VanSant Avenue and anything short of that is going to decrease the property value of his house. Mr. Platt further stated that he is concerned with that property staying the way it is and being able to sell it and if sold more bad options than good ones. He further said that the people have shown the willingness to put up nice, appropriate to the neighborhood type of buildings. Mr. Platt then said he implores the Board to pass this application for the sake of the people who live next door and have property in the immediate area.

Mr. Brady swore in Glen West, 123 VanSant Ave. Mr. West stated that his property is immediately to the east of the house on VanSant and agree with Mr. Platt. Mr. West said he has lived there for 13 years and the house next door is not suitable to re-build and would be thrilled to have a new house which affects his property value as everyone else's. Mr. West said that we also need the revenue of the two houses and our schools could also use more students.

Mr. Brady swore in Farshad Sadeghi, 122 Summit Ave. Mr. Sadeghi stated he lives to the east of the property on Summit Ave. and feels the application is a good thing.

Mr. Brady swore in Mike Zurawski, 127 Simpson Ave. Mr. Zurawski stated that he lives in one of the homes that are an exhibit and lives right around the corner from this property. He further stated that he was fortunate enough to be the original purchaser and Arya Properties was the developer. Mr. Zurawski said he is really proud to be part of this community and some of the Board members stopped in to welcome him to the community. Mr. Zurawski supports this application and that due to the approval of a subdivision by this Board he was able to move in. He further stated that by giving two more families the opportunity to move in to the community is a great thing. Mr. Zurawski said as far as the character of the community the homes that they built do come with crown molding and since he was on the house tour many people commented that they were impressed by the craftsmanship of the inside of the home not just the exterior.

Mr. Brady swore in Stanly Kazima, 118 Simpson Ave. Mr. Kazima stated that he has heard what is going on tonight and he supports the Master Plan with the 75' frontage. He further stated that he recently built a garage on his property and the town has certain requirements about height, width, setbacks and people afraid of the property on Summit becoming a dump after someone builds a new home does not make sense. Mr. Kazima said by keeping this one property there are many options the new owners had such as a garden and a beautiful garage in the back. He further stated that he does not like the density and supports the Master Plan of 75' x 100'.

Mr. Montenegro gave a brief summation of the application and thanked the Board for their time and consideration.

Mr. O'Donnell stated that any approval tonight should be subject to approval by the Ocean County Planning Board and should be in the resolution.

Chairperson Noble asked for discussion by the Board. Mr. Bendel said that he cannot support the creation of two non-conforming lots and has voted consistently against this kind of applications in the past. Mr. Bendel further stated that he agrees the lot looks terrible but that does not mean it has to always look terrible. Mr. Asay stated that he supports what is being

requested and thanks the residents for coming out on an August night and being heard. Mr. Asay finds that what they had to say compelling and the Planners testimony to carry a lot of weight and further thinks that this use is ultimately going to be the best use of this property and that their plans protect the neighborhood, run-off and all things we need to be concerned about. He further stated that we have seen what they can build, heard from people who own what they have built and he is inclined to support. Mr. MacNeal stated that he concurs with the goal of re-establishing the 75' frontage to maintain character so we do not end up with houses on top of houses which in many parts of town we already have. However looking at that particular piece of property he will support the variance because Mr. MacNeal feels that this is the best use of that piece of property. Mr. MacNeal also said that since it has been in this condition for so long he does not think that is in the best interest of the town.

Chairperson Noble stated that he has gone back and forth about this property over the past few days and even inspected the property. He further stated that he is concerned what would happen to the property if this application was denied but after hearing the public speak tonight that they are the ones most affected by whatever happens with this property and consequently he is inclined to give that more weight than anything else in the course of this decision. Chairperson Noble said that while he is concerned about overcrowding, the fact we do not have a lot of open land left and sympathetic to what Mr. Bendel stated but due to the particular situation involved with this property being an eyesore for so many years and the many neighbors support this application he is willing to move forward.

Mr. Connors said that he assumes when people bought their houses and saw this ugly house that their purchase price reflected this and where a beautiful house would have made the purchase price higher. Mr. Connor said that by putting up a beautiful house property values will go up. He further stated that it is ugly however it does not have to be a 4 car garage it could be a 2 car garage and he feels the people knew what the house looked like when they bought and this lot is large enough for a good garden and maybe a spa.

Mr. Baxter stated that at one point he lived on VanSant very close to Cedar and he is sure everyone is aware of the house that he had to look at and aware of how aggravating it is to look and live next to a piece of property like this and there are other properties in town that the houses and property that are falling apart and frankly there is no enforcement and it seems that the municipal government like many towns do a property maintenance code and if we took that it would mean that every time we were faced with this situation; very familiar with the house on both VanSant and Summit; that every time we were faced with this situation a developer could come in propose to subdivide the lot to improve it and we should approve it and is very torn listening to the neighbor's testimony but the way the property looks is not a reason for us, at least to him, to support creating a non-conforming lots in light of what we are trying to do in town about the size of the lots. Mr. Baxter said that he understands why they are here supporting it because you want something done so you don't have to look at what is there. He also said there is nothing that prevents the owner from repairing or doing something with it that looks nice. Mr. Baxter further explained his reasons for not supporting this application.

Motion to approve the application was made by Mr. Wetta second by Mr. Asay.

Roll Call Vote:

Mr. Noble	Yes	Mr. Roberts	No
Mr. Asay	Yes	Ms. Seibert	Absent
Mr. Bendel	No	Mr. Wetta	Yes
Mr. Connors	No	Ms. Baxter	No
Mr. MacNeal	Yes		

Mr. Brady said land use law does require a majority of the vote by the Board. Mr. Montenegro stated there is one additional Board member present working as secretary out of necessity that can vote and have ninth board member vote. Mr. Brady said it is up to the Board member if she feels she can vote. Ms. Kier said she is capable of voting. Chairperson Noble asked what her vote is and she replied yes.

Motion to adjourn the meeting at 8pm was made by Mr. Bendel second by Mr. Roberts. Unanimous Voice Vote.