

BOROUGH OF ISLAND HEIGHTS

PLANNING BOARD

REGULAR MEETING MINUTES

FEBRUARY 11, 2021

VIA ZOOM

CHAIRMAN NOBLE:

CALLED THE MEETING TO ORDER

CHAIRMAN NOBLE LED ALL IN THE:

SALUTE OF THE FLAG OF THE UNITED STATES OF AMERICA

CHAIRMAN NOBLE READ THE FOLLOWING:

PUBLIC MEETING ANNOUNCEMENT:

IN COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT OF THE STATE OF NEW JERSEY, ADEQUATE NOTICE OF THIS MEETING WAS PUBLISHED IN THE ASBURY PARK PRESS AND THE STAR LEDGER ON DECEMBER 10, 2020 STATING THE TIME, DATE, PLACE OF THIS MEETING. NOTICE OF THIS MEETING WAS ALSO POSTED ON BULLETIN BOARD AT THE MUNICIPAL BULLETIN BOARD, ADVERTISED ON THE BOROUGH TELEVISION CHANNEL AND WEBSITE AND FILED WITH THE BOROUGH CLERK.

THIS MEETING IS A JUDICIAL PROCEEDING. ANY QUESTIONS OR COMMENTS MUST BE LIMITED TO ISSUES THAT ARE RELEVANT TO WHAT THE BOARD MAY LEGALLY CONSIDER IN REACHING A DECISION, AND DECORUM APPROPRIATE TO A JUDICIAL HEARING MUST BE MAINTAINED AT ALL TIMES.

This meeting is being conducted remotely by electronic means, during the COVID-19 State of Emergency and State of Public Health Emergency, as provided by NJSA 10:4-9.3. Electronic notice has been posted on the Borough's Internet webpage and on the main access door of the building where the public would routinely attend in-person, viewable from the outside.

CHAIRMAN NOBLE REQUESTED THE:

ROLL CALL OF THE MEMBERS OF THE PLANNING BOARD:

Mr. Baxter	Present	X	Absent _____
Ms. Bottomley	Present	X	Absent _____
Mr. Brodbeck	Present	_____	Absent X
Ms. Kier	Present	X	Absent _____
Mr. Noble	Present	X	Absent _____
Mr. Parisi	Present	X	Absent _____
Mr. Parks	Present	_____	Absent X
Ms. Pendleton	Present	X	Absent _____
Mr. MacNeal	Present	X	Absent _____
Mr. Wilber	Present	X	Absent _____

Note: Ms. Bottomley arrived during the presentation by Counsel for Mr. Moustakis

Chairman Noble entertained a Motion for:

APPROVAL OF PRIOR MEETING MINUTES:

Adoption of the Proposed Minutes of the Meeting Conducted on January 14, 2021

Motion By: Mr. Baxter

Second By: Mr. Wilber

Board Member Comments/Discussion: None

Voting Record:

Mr. Baxter <u>Yes/No</u> Abs.	Ms. Bottomley <u>Yes/No</u> <u>Abs.</u>	Mr. Brodbeck <u>Yes/No</u> <u>Abs.</u>	Ms. Kier <u>Yes/No</u> Abs.	Mr. Parisi <u>Yes/No</u> Abs.	Mr. Parks <u>Yes/No</u> <u>Abs.</u>
	Ms. Pendleton <u>Yes/No</u> Abs.	Mr. MacNeal <u>Yes/No</u> Abs.	Mr. Wilber <u>Yes/No</u> Abs.	Mr. Noble <u>Yes/No</u> Abs.	

**BLOCK 56 – LOT 7 – 14 OCEAN BEND – MOUSTAKIS
REQUEST FOR CERTIFICATE OF NONCONFORMITY**

Applicant Presentation:

Daniel Steinhagen of Beattie, Padovano, LLC introduced himself as attorney for the applicant (Teddy Moustakis). Mr. Steinhagen presented the applicant’s arguments and evidence in favor of the applicant’s position that he should be entitled to a Certificate of Non-Conformity to continue to rent his residential property on a short term basis (for periods of less than thirty days) contrary to current Borough Code.

Mr. Steinhagen elicited testimony from his client and referred to the following documents:

A letter brief to the Planning Board dated 10/23/2020 prepared by Mr. Steinhagen. (A-1)

A letter to Mr. Stocco dated 9/11/2020 prepared by Mr. Steinhagen requesting the issuance of a Certificate of Non-Conformity (A-2)

A document detailing the rental of the applicant’s property from 7/25/2020 to 8/1/2020 (A-3)

A letter to the applicant dated 9/16/2019 prepared by Mr. Stocco advising the applicant that he is required to apply for Certificate of Occupancy to be permitted to rent his property (A-4)

A letter to Mr. Steinhagen dated 10/6/2020 prepared by Mr. Stocco denying the issuance of a Certificate of Non-Conformity for the applicant's property (A-5)

The Certificate of Occupancy issued for the applicant's property dated 10/23/2019 signed by Mr. Stocco (A-6)

Chapter 32 of the Island Heights Code printed on 12/8/2020 (A-7)

Borough Ordinance 2020-01 adopted by the Mayor and Council on 8/11/2020 (A-8)

Printout from the Asbury Park Press detailing the publication of Borough Ordinance 2020-01 dated 8/17/2020 (A-9)

Printout from Airbnb detailing the rental of the applicant's property from 11/28/2019 to 12/1/2019 (A-10)

Printout from Airbnb detailing the rental of the applicant's property from 12/29/2019 to 1/1/2020 (A-11)

Printout of an email dated 10/29/2019 from Mr. Stocco to the applicant's wife advising that a Certificate of Occupancy for the applicant's property is being issued subject to certain conditions (A-12)

Borough Resolution 2020-62 adopted by the Mayor and Council on 3/25/2020 prohibiting short term rentals in the Borough due to the Medical State of Emergency in effect at that time (A-13)

Summons issued to the applicant dated 8/3/2020 prepared by Mr. Asay charging the applicant with renting his property on a short term basis while such rentals were prohibited in the Borough (A-14)

Board Member Questions:

Following the presentation by Mr. Steinhagen, Chairman Noble opened the floor for questions from Board Members:

Mr. Baxter questioned Mr. Steinhagen regarding the arguments that he presented.

Mr. MacNeal questioned the applicant regarding work done at the applicant's property and whether he had proper permits.

The applicant stipulated that he had all necessary permits for the work done on his property.

Chairman Noble asked the applicant whether he obtained a Certificate of Occupancy (CO) when he purchased the property.

The applicant replied that he did believe he had a CO when he first rented the property.

Ms. Pendleton questioned whether the applicant knew for a fact whether the persons he was renting to were the persons who actually stayed at the property.

The applicant said that he thoroughly screened his renters and he believes that the renters were the persons staying at the property.

Ms. Pendleton said that she witnessed a large group of young men staying at the property at the end of 2019 and that they were lighting off fireworks in the street.

The applicant responded that the young men might have been members of his family using the house and not renters.

Public Questions:

Donna Mutter – How many persons are you allowing to rent the property at once and does the property have sufficient parking?

Applicant – A maximum of 14 per the CO and there is parking for six vehicles

Public Questioner – Why is there so much noise at your property when it is being rented?

Applicant – I have no knowledge of any noise complaints at the property

Mr. Brady questioned Mr. Stocco as to his interaction with the applicant and the reason(s) for his denial of the application submitted by counsel for the applicant.

Mr. Stocco was sworn in and provided testimony in response to Mr. Brady's questions as well as questions from Chairman Noble and Mr. Steinhagen

Public Comment(s):

Jeffrey Flamme was sworn in by Mr. Brady – He said that the applicant should advise renters that this is a one way street and there are children present. He agreed with the comments of Ms. Silver and Ms. Lubrano and said that they are true.

Colleen Silver was sworn in by Mr. Brady – She said that the applicant's property was frequently occupied by large numbers of people (35-40) and produced a disturbing level of noise and large amounts of garbage that was left at the curb.

Ms. Silver was questioned by Chairman Noble about the garbage issue at the applicant's property

Mr. Stocco commented that he received several complaints regarding garbage and littering at the property and garbage receptacles not being brought from the curb after pickup

Elisha Lubrano was sworn in by Mr. Brady – she said that the applicant's property is run more like a motel than a residential property.

Donna Mutter was sworn in by Mr. Brady – she said that her back bedroom faces the applicant's property and that there is frequently excessive noise coming from the applicant's property, vehicles parked on the street when the driveway is full and persons driving the wrong way on their street.

The applicant responded to the public comments, he said that he has cameras on the property and he would know if there were excessive numbers of people on the property, he said that he enforces his rental rules strictly.

Mr. Brady provided information to the Board as to the law surrounding non-conforming uses and several ways in which the Board might consider the issues raised by this application.

Mr. Steinhagen asked Mr. Brady to clarify the definition of non-conforming uses of property for the Board.

Board Member Motion:

TO: Approve _____ Deny X Table _____

Motion By: Mr. Baxter
Second By: Ms. Pendleton

Board Member Comments/Discussion: None

Voting Record:

Mr. Baxter <u>Yes/No</u> Abs.	Ms. Bottomley <u>Yes/No</u> <u>Abs.</u>	Mr. Brodbeck <u>Yes/No</u> <u>Abs.</u>	Ms. Kier <u>Yes/No</u> Abs.	Mr. Parisi <u>Yes/No</u> Abs.	Mr. Parks <u>Yes/No</u> <u>Abs.</u>
	Ms. Pendleton <u>Yes/No</u> Abs.	Mr. MacNeal <u>Yes/No</u> Abs.	Mr. Wilber <u>Yes/No</u> Abs.	Mr. Noble <u>Yes/No</u> Abs.	

Chairman Noble introduced the:

**REVIEW OF PROPOSED ORDINANCE 2021-04:
STORMWATER CONTROL**

Mr. Asay and Mr. Brady briefed the Board on the proposed new Stormwater Control Ordinance and how the adoption will affect our existing Ordinance and Master Plan.

Board Member Motion:

TO: Recommend Adoption by the Mayor and Council X

Not Recommend Adoption by the Mayor and Council

No Recommendation to the Mayor and Council

Motion By: Mr. Baxter
Second By: Mr. Wilber

Board Member Comments/Discussion: None

Voting Record:

Mr. Baxter <u>Yes/No</u> Abs.	Ms. Bottomley <u>Yes/No</u> Abs.	Mr. Brodbeck <u>Yes/No</u> <u>Abs.</u>	Ms. Kier <u>Yes/No</u> Abs.	Mr. Parisi <u>Yes/No</u> Abs.	Mr. Parks <u>Yes/No</u> <u>Abs.</u>
	Ms. Pendleton <u>Yes/No</u> Abs.	Mr. MacNeal <u>Yes/No</u> Abs.	Mr. Wilber <u>Yes/No</u> Abs.	Mr. Noble <u>Yes/No</u> Abs.	

NEXT PLANNING BOARD MEETING: MARCH 11, 2021

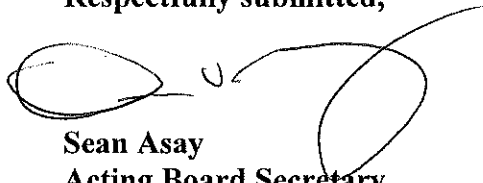
MEETING ADJOURNMENT

Motion to Adjourn@ 9:05 PM

Motion By: Mr. Parisi
Second By: Mr. Wilber

Voice Vote: Unanimous Consent

Respectfully submitted,



Sean Asay
Acting Board Secretary