

**ZONING BOARD OF ADJUSTMENT, BARNEGAT LIGHT  
MARCH 11, 2019**

**THE MEETING OF THE ZONING BOARD OF ADJUSTMENT** was called to order at 7:30pm by Chairman Nancy Spark who stated that the notice of this meeting has been published and posted in accordance with requirements set forth in the New Jersey Open Public Meetings Act.

**The Pledge of Allegiance followed.**

**ROLL CALL: OROS, FINELLI, WARK, SPARK, MESCOLOTTO**

**ABSENT: FITZSIMONS, MANOOKIAN, CLARK, ESPOSITO**

**Also present: Mr. Stuart Synder, Board Attorney & Elaine Tollison, Secretary**

**Alternate MESCOLOTTO** was asked to be seated for tonight's meeting.

**MINUTES OF THE JANUARY 14, 2019 MEETING**

Chairman Spark asked for a motion to approve the minutes of January 14, 2019. A motion was made by Oros and seconded by Wark

**MOTION: OROS**

**SECOND: WARK**

**VOTE: AYES: ALL IN FAVOR    ABSTAIN: NONE    NAYS: NONE**

**ABSENT: FITZSIMONS, MANOOKIAN, CLARK, ESPOSITO**

Mr. Snyder thanked the board for his appointment as Zoning Board Attorney

**APPLICATION ZB-2019-01**

Application ZB-2019-01 for Joseph Foy, 603 Broadway. Mr. James Raban is representing the the applicant Joseph Foy. Mr. Snyder marked the application A1, plot plan from FRD surveying, dated February 11, 2109 was marked A2, variance plan from Coastal Design marked A3. A letter from Owen Little dated March 6, 2019 was marked B1. Mr. Raban said this is a mixed use property, commercial with one residential unit. Mr. Foy wants to utilize a roof top deck and for safety purposes he has to install 36 inch railings and balusters. The finished height would come out to 30.77 feet which is over the 30 feet height limit. They are seeking a variance for the railing height. Mr. Snyder went over how the height was measured.

Mr. Frank DeSantis was sworn in. He is a licensed land surveyor and prepared the plot plan. He stated that it's an existing 2 story mixed use dwelling. The height of the roof is 27.77 feet and they are proposing a 36 inch railing which would make it 30.77 feet. He said everything else meets bulk zoning. Mr. Finelli asked if 36 inch railings are required. Mr. Raban was not sure in Barnegat Light but it is typical railing height.

Mr. Joseph Foy, Jr. was sworn in. He said that he is the owner of the property at 603 Broadway and he purchased it in June, 2017. The first floor is about 500 square feet of commercial use and the residential area is above that. He started with minor renovations and then discovered that the house needed a lot of structural support and ended up doing a complete demolition inside. The house will have 2 sets of stairs leading to the outside deck. One from the outside of the master

bedroom and the other is a spiral staircase off of the 2<sup>nd</sup> floor rear deck on the second floor. Mr. Foy described the lay out of the interior of the house. Mrs. Spark asked how the decks were accessed and Mr. Foy said they were accessed by outside stairs but you had to go into the house to get to them. Mr. Snyder asked if anything was outside of the footprint and he was told no that it wasn't. The deck is not shown on the plot plan so Mr. Foy drew it on and described for the board to show exactly where it is located. There is no access from the commercial area to the deck.

At this time Chairman Spark asked for a motion to open to the public. A motion was made by Wark and seconded by Mescolotto

**MOTION: WARK**

**SECOND: MESCOLOTTO**

**VOTE: AYES: ALL IN FAVOR    ABSTAIN: NONE    NAYS: NONE**  
**ABSENT: FITZSIMONS, MANOOKIAN, CLARK, ESPOSITO**

Mr. John Alchus from 7th Street asked what kind of commercial business was authorized in this building. Mr. Foy said that he did not know but that in the past it was an art studio. Mr. Alchus asked if it could be an eatery and Mr. Foy said he is looking for a year round tenant and he would conform to what the use allows.

Mr. John Patterson from 605 Broadway said he is next door to this property and that he appreciates that the house was not torn down and is being made into a beautiful piece of property. He said that he did not know how the height restrictions apply since it's not a living area or a solid wall, that it's a railing. Mr. Patterson said he has no issues with Mr. Foy putting up a railing on the 3<sup>rd</sup> floor. Mr. Snyder explained that Mr. Foy is here because 30 feet is allowed for any structure.

There were no further comments from the public.

At this time Chairman Spark asked for a motion to close to the public. A motion was made by Wark and seconded by Oros

**MOTION: WARK**

**SECOND: OROS**

**VOTE: AYES: ALL IN FAVOR    ABSTAIN: NONE    NAYS: NONE**  
**ABSENT: FITZSIMONS, MANOOKIAN, CLARK, ESPOSITO**

Mr. Raban addressed the use downstairs and said that it would have to be a permitted use otherwise that is a Planning Board issue and that is not the reason they are here tonight. He said that this request is for less than a foot and that it's very minor and that the safety benefit of having a railing outweighs any detriment. There were no surrounding property owners that seemed to have an issue with the railing or the height of it. He asked that the board grant the application as submitted.

Chairman Spark asked if there was any comment from the board. There was none.

Mr. Snyder said that this is a bulk variance. He said in his experience with this board that they take a hard line on height variances because they feel that construction can be accomplished to the height limit. He said that if the board wanted to grant the variance that it is a flexible C. He said that it is not a hardship, but under the land use law you are allowed to deviate if the benefits seem to outweigh the detriment on the variable C2 application. He said that this go either way and it's the boards call.

At this time Chairman Spark asked for a motion. A motion was made by Oros to approve the variance and seconded by Mescolotto

**MOTION: OROS**

**SECOND: MESCOLOTTO**

**VOTE: AYES: OROS, FINELLI, WARK, MESCOLOTTO**

**NAYS: SPARK ABSTAIN: NONE**

**ABSENT: FITZSIMONS, MANOOKIAN, CLARK, ESPOSITO**

**MOTION CARRIED**

Some reasons for the way the members voted:

Wark- Preexisting structure not unreasonable for 7.7”

Oros- Thought that it was a reasonable request, less than 1 foot for an open, safety railing

Mescolotto- Under 1 foot

Spark- Feels strongly that the height limit ordinance should be kept

**OTHER BUSINESS: NONE**

At this time Chairman Spark asked for a motion to open to the public. A motion was made by Wark and seconded by Oros.

**MOTION: WARK**

**SECOND: OROS**

**VOTE: AYES: ALL IN FAVOR ABSTAIN: NONE NAYS: NONE**

**ABSENT: FITZSIMONS, MANOOKIAN, CLARK, ESPOSITO**

**NO PUBLIC COMMENT**

At this time Chairman Spark asked for a motion to close to the public. A motion was made by Wark and seconded by Oros.

**MOTION: WARK**

**SECOND: OROS**

**VOTE: AYES: ALL IN FAVOR ABSTAIN: NONE NAYS: NONE**

**ABSENT: FITZSIMONS, MANOOKIAN, CLARK, ESPOSITO**

**There being no further business before the Zoning Board of Adjustments, on a motion by Wark the meeting was adjourned.**

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**Elaine Tollison**  
**Board Secretary**