

SEA GIRT PLANNING BOARD
WEDNESDAY, NOVEMBER 18, 2020

The virtual Regular Meeting of the Sea Girt Planning Board was held on Wednesday, November 18, 2020 at 7:00 p.m. In compliance with the Open Public Meetings Act, notice of this Body's meeting had been sent to the official newspapers of the Board and the Borough Clerk, fixing the time and place of all hearings.

As this was a virtual meeting there was no Flag Salute; roll call was taken:

Present: Carla Abrahamson, Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Ken Farrell, Stan Koreyva, Eileen Laszlo, Ray Petronko, Robert Walker, John Ward, Norman Hall

Absent: None

Kevin Kennedy, Board Attorney was also present; Board member and Secretary Karen Brisben recorded the Minutes.

The Board then turned to the Minutes of the October 21, 2020 meeting; the Minutes were approved on a motion by Councilwoman Anthony, seconded by Mrs. Laszlo and then by a roll call vote:

Ayes: Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Ken Farrell, Stan Koreyva, Eileen Laszlo, Ray Petronko, Robert Walker, John Ward, Norman Hall, Carla Abrahamson

Noes: None

It was put on the record that proper notice of this virtual meeting had been given to the newspaper and included log-in instructions; also plans for tonight's applications have also been posted on the website. Mrs. Brisben was asked to give her email in case anyone was having a problem logging on and she could address it; this was done, kbrisben@seagirtboro.com.

OLD BUSINESS:

The Board turned to the approval of a Resolution for variance relief for Block 41, Lot 12, 216 Beacon Boulevard, owned by Brian & Marguerite Baker, to allow alterations of the existing garage to convert part of it to a cabana & bathroom, addition of outdoor shower, pergola, & deck on principal dwelling. Mr. Kennedy noted one error on the Resolution, it said 30% Impervious Coverage is needed and it should say 35%, the Resolution was corrected and the following was presented for approval:

WHEREAS, Brian and Marguerite Baker have made Application to the Sea Girt Planning Board for the property designated as Block 41, Lot 12, commonly known as 216 Beacon Boulevard, Sea Girt, New Jersey, within the Borough's District 1, East Single-Family Zone, for the following approval: Bulk Variances associated with an Application to effectuate a number of improvements to an existing single-family home; and

PUBLIC HEARING

WHEREAS, the Board held a remote Public Hearing on October 21, 2020, Applicants having filed proper Proof of Service and Publication in accordance with Statutory and Ordinance Requirements; and

EVIDENCE / EXHIBITS

WHEREAS, at the said Hearing, the Board reviewed, considered, and analyzed the following:

- *Planning Board Application Package, introduced into Evidence as A-1;*
- *Site Plan, prepared by DMC Associates, Inc., dated September 6, 2018, last revised September 25, 2020, introduced into Evidence as A-2;*
- *Architectural Plans, prepared by Tokarski & Millemann Architects, LLC, dated September 25, 2020, introduced into Evidence as A-3;*
- *Map of property, prepared by DMC Associates, dated March 26, 2013, introduced into Evidence as A-4;*
- *Leon S. Avakian Inc., Review Memorandum, dated October 2, 2020, last revised October 19, 2020, introduced into Evidence as A-5;*
- *Illustrated version of the Site Plan, introduced into Evidence as A-6;*

- *Site Plan, prepared by DMC Associates, Inc., dated September 6, 2018, last revised September 25, 2020, introduced into Evidence as A-7;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

WITNESSES

WHEREAS, sworn testimony in support of the Application was presented by the following:

- Richard Tokarski, Architect;
- Joseph Golden, Engineer / Planner;
- Mark Aikins, Esq., appearing

TESTIMONY AND OTHER EVIDENCE PRESENTED ON BEHALF OF THE APPLICANTS

WHEREAS, testimony and other evidence presented on behalf of the Applicants revealed the following:

- The Applicants are the Owners of the subject property.
- There is an existing single-family home located on the site, with a detached garage and an in-ground pool.
- The existing garage is a 2-car garage.
- The Applicants propose to effectuate a number of improvements to the existing property, including, the following:
 - Conversion of a portion of the existing garage to a cabana / bathroom;
 - Installation of an outdoor shower;
 - Installation of a pergola;
 - Construction of a deck off of the existing single-family home; and

- Removal of existing impervious coverage from the site.
- Details pertaining to the proposed garage conversion include the following:

Location of garage:	Rear of Property (Per Plans)
Size of existing garage structure:	517 SF
Number of stories associated with the existing garage structure:	1
Number of garage bays (pre-conversion):	2
Number of garage bays (post-conversion):	1
Size of garage / cabana structure, after conversion:	517 SF
Portion of converted garage structure to be utilized for garage purposes (after conversion):	330 SF
Portion of converted accessory structure to be utilized for cabana purposes (after conversion):	187 SF
Cabana features:	The cabana will include a bar area, a television area, a sink, and a 5ft. 2in. X 5 ft. 5in bathroom.
Cabana utilities:	Electricity and water.
Living purposes?:	Neither the garage nor the cabana will be utilized for living or sleeping purposes.

- Details pertaining to the proposed shower include the following:

Type of shower:	Outdoor cold-water rinse shower
Size:	60 SF +/-
Location:	Rear of Property (adjacent to existing garage structure)
Setback:	3.2 ft. from the _____

- Details pertaining to the proposed pergola include the following:

Location:	Between accessory structure
-----------	-----------------------------

	and pool (per plans)
Height:	
Features:	Open beamed structure (No roof – just a screening)
Setback from pool:	Approximately 4-5 ft.

- Details pertaining to the proposed deck include the following:

Location:	Rear of Home (per plans)
Size:	15 ft. x 8 ft.
Materials:	Per plans

VARIANCES

WHEREAS, the Application as submitted, and amended, requires approval for the following Variances:

ACCESSORY BUILDING SIZE: Under the Borough's Prevailing Zoning Regulations, in addition to the garage, each single-family dwelling may have 1 additional accessory building of no more than 120 SF. In the within situation, the Applicants are proposing a cabana / bath / shower area having an area of approximately 187 SF and thus, Variance relief is required.

POOL LOCATION: Pursuant to the Borough's Prevailing Zoning Regulations, no portion of a swimming pool shall be closer than 10 ft. to a property line or any structure located on the property. In the within situation, the Applicants are proposing a pergola to be located less than 10 ft. from the existing pool, and, as such, Variance relief is required.

PUBLIC COMMENTS

WHEREAS, sworn comments, questions, and / or statements regarding the Application were presented by the following members of the public:

- Eilleen Devlin
- Elizabeth Mulholland

FINDINGS OF FACT

NOW, THEREFORE, BE IT RESOLVED, by the Sea Girt Planning Board, after having considered the aforementioned Application, plans, evidence, and testimony, that the Application is hereby **granted / approved with conditions**.

In support of its decision, the Planning Board makes the following Findings of Fact and Conclusions of Law:

1. The Sea Girt Planning Board has proper jurisdiction to hear the within matter.
2. The subject property is located at 216 Beacon Boulevard, Sea Girt, New Jersey, within the Borough's District 1, East Single-Family Zone.
3. The subject property contains an existing single-family home, a detached garage, and an in-ground pool.
4. Single-family use is a permitted use in the subject Zone.
5. In order to increase the functionality of the existing home / accessory structure, the Applicants propose to construct several improvements.
6. The proposed improvements include the following:
 - Conversion of a portion of the existing garage to a cabana / bathroom;
 - Installation of an outdoor shower;
 - Installation of a pergola;
 - Construction of a deck off of the existing single-family home; and
 - Removal of existing pervious coverage from the site.
7. Such a proposal requires Bulk Variance approval.
8. The Sea Girt Planning Board is statutorily authorized to grant such relief and therefore, the matter is properly before the said entity.

9. With regard to the Application, and the requested relief, the Board notes the following:

- The existing site contains a single-family home, a detached garage, and a pool.
- Single-family use is a permitted use in the subject Zone.
- Pool use is a permitted accessory use in the subject Zone.
- There is an existing garage structure located on the site, which measures 517 SF.
- Currently, the existing garage is utilized as a 2-car garage.
- In conjunction with the within Application, the Applicants have requested approval to convert a portion of the existing garage to a cabana / bath / outdoor shower area.
- Upon completion of the conversion / renovation approved herein, the 517 SF accessory structure will be utilized as follows:
 - 330 SF utilized for garage purposes; and
 - 187 SF utilized for cabana / bath / outdoor shower purposes.
- The Borough's Prevailing Zoning Regulations require a garage to have a minimum of 275 SF, and a maximum of 500 SF. Thus, upon the conversion approved herein, the size of the Applicants' garage will be 330 SF, which conforms with Prevailing Regulations.
- The Applicants' proposal will convert the existing 2-car garage to a 1-car garage.
- That notwithstanding, approval of the within Application will not reduce the total number of overall off-street parking spaces on the site.
- The Applicants' proposal satisfies the Borough's Prevailing Parking Requirements.
- Approval of the within Application will not render the site non-complying in terms of parking.

- The total elimination of the garage structure would be inconsistent with the Borough's Prevailing Requirements. Importantly, approval of the within Application will not result in the elimination of the garage.
- In conjunction with the above point, and in accordance with Prevailing Borough Regulations, the site will continue to have a functioning garage (and the size of the same complies with Prevailing Borough Requirements).
- As indicated, a detached garage will continue to remain on the site.
- Though the actual portion of the building to be utilized for garage purposes will be reduced, the size of the to-be-reduced garage will continue to comply with Prevailing Zoning Regulations.
- The Application as presented regards a variance for the size of the cabana portion of the accessory structure. Specifically, per the prevailing Borough regulations, the accessory structure cannot be larger than 120 SF; whereas, in the within situation, the cabana portion of the structure will be 187 SF.
- The Board would not typically be inclined to grant such a variance, in the absence of compelling circumstances.
- For the reasons set forth herein, a majority of the Board finds that compelling reasons do, in fact, exist for the grant of such relief.
- Importantly, there is no new structure being created / constructed hereunder. Rather, as indicated, there is an existing 517 SF garage structure on the site – and, as part of the within approval, a 187 SF portion of the existing garage structure will be converted to a cabana(for use as a cabana / bath / outdoor rinse shower area.)
- In conjunction with the above point, the Board is aware that the 517 SF garage structure already exists.
- The to-be converted oversized cabana / accessory structure is being carved out from the existing accessory structure.
- The footprint of the existing 517 SF accessory structure will not be changed as a result of the within approval.

- The height of the existing accessory structure will not be changed as a result of the within approval.
- The locations of the existing accessory structure will not be changed as a result of the within approval.
- The orientation of the existing accessory structure will not be changed as a result of the within approval.
- The roof line of the existing accessory structure will not be changed as a result of the within approval.
- Had the within Application involved a request to construct a brand- new structure (as opposed to a conversion of an already existing structure), the Board may not have approved the Application.
- Under the circumstances, it would be impractical for the Board to request or require that the size of the existing structure be physically reduced.
- There was a concern that the to-be converted cabana could be illegally utilized as a second dwelling unit on the site.
- The Board Members would not have approved the creation of a second dwelling unit on the site, as there was no professional / lay testimony presented in the said regard.
- The to-be converted cabana, as approved herein, will not be utilized for living or sleeping purposes.
- The within approval is conditioned upon the cabana / garage not being utilized for such living / sleeping purposes.
- There are a number of reasons why Board Members are confident that the to-be converted cabana will not be utilized for living / sleeping purposes, including, but not limited to, the following:
 - a. The bathroom for the to-be-converted cabana can only be accessed from outside of the structure;
 - b. The size of the bathroom (in the cabana) measures only approximately 5 ft. 2 in. by 5 ft. 5 in.;
 - c. The closet in the cabana measures only approximately 1 ft. by 3ft.;

- d. There is no interior shower in the cabana; and
- e. The outside rinse shower will not be serviced by hot water.

Based upon the above, and for the other reason set forth during the Public Hearing process, a majority of the Board Members find that the requested relief can be granted without causing substantial detriment to the public good.

- Per the testimony and evidence presented, and per the plans, there is, and will be, sufficient landscaping at the site, so as to essentially shield the proposed improvements from public view and / or the view of the neighbors.
- As a condition of the within approval, the said landscaping shall be perpetually maintained / replaced / replanted, as necessary, so that the shielding / buffering will always exist.
- There was a public discussion regarding the non-complying distance between the pergola and the pool. Specifically, there was a discussion as to whether the less than conforming distance between the pool and the pergola could potentially compromise the health and safety of the home occupants, guests, or other swimmers/guests at the site. The Board Members, and the public, debated whether a smaller pergola would be appropriate, whether a pergola set back a greater distance would be appropriate, or whether there should be a requirement as to the setback location of the posts for the pergola. There was also a discussion that the installation of the pergola added to the overall “bulk” of the site. Based upon the testimony and evidence presented, and subject to the conditions set forth herein, the Board finds that the set back between the pool and the pergola is acceptable, and that the same should not, in any way, compromise public health or safety.
- Per the testimony and evidence presented, and given the nature / location / type of pergola structure approved herein, the same would not appear to invite swimmers or other guests to attempt to jump (from the pergola) into the pool.
- A majority of the Board Members find that the within Application represents a creative and non-invasive way to improve the overall functionality of the home / accessory structure, without causing substantial detriment to the public good.

- The subject site can physically accommodate the renovations / conversion approved herein.
- The Applicants' renovation plans are reasonable under the circumstances and reasonable per the conforming size of the existing Lot.
- The Applicants' site / lot can physically accommodate the improvements proposed / approved herein.
- Approval of the within Application will not have an adverse aesthetic impact on the site or the neighborhood.
- Approval of the within Application will make the existing home / garage more functional, and approval will also improve the quality of life for the homeowners.
- Single-family use as approved / continued herein is a permitted use in the subject Zone.
- The location of the proposed improvements is practical and appropriate.
- Subject to the conditions contained herein, the renovations approved herein will not over-power / over-whelm the subject Lot.
- Upon completion, the renovation / conversion approved herein will not over-power / dwarf other homes / structures in the area.
- The renovations approved herein are attractive and upscale, in accordance with Prevailing Community Standards.
- Approval of the within Application will not detrimentally affect existing Parking Requirements at the site.
- The existing site currently has a non-conforming impervious coverage of 43.22% (whereas a maximum 35% is otherwise allowed). As part of the within Application, the Applicants will arrange for the impervious coverage to be reduced to 34.59% (which conforms with the Prevailing Regulations).

- Approval of the within Application will actually reduce the impervious coverage at the site from a non-conforming 43.22% to a conforming 34.59%.
- The Board finds that the reduction in impervious coverage, as aforesaid, promotes sound planning.
- The Board finds that the reduction in impervious coverage, as aforesaid, promotes the interest of the site, the neighborhood, and the Borough of Sea Girt as a whole.
- The Board finds that the reduction in the impervious coverage renders the site more compliant with the Borough's overall Zoning Regulations.
- Many times, Applicants petition the Land Use Board to increase overall impervious coverage; whereas, in the within situation, the Applicants are proposing to actually reduce the overall impervious coverage.
- The Board is aware that as part of the Application process, the Applicants are actually taking away / eliminating more than they are proposing to add (thereby resulting in the reduced impervious coverage).
- The Board applauds the Applicants' voluntary efforts to reduce the non-conforming impervious coverage at the site.
- The Board is aware, and history has unfortunately and brutally detailed, that excess impervious coverage can potentially contribute to various grading / drainage / flooding issues.
- The Borough of Sea Girt has, over the last decade, contributed a significant amount of resources addressing / curing / minimizing the ill effects / repercussions of overdevelopment / excess impervious coverage.
- The Board notes, positively, and enthusiastically, that approval of the within Application will actually reduce the overall impervious coverage at the site.
- Approval of the within Application will eliminate the pre-existing non-conforming impervious coverage at the site.

- The elimination of a pre-existing non-conforming condition (impervious coverage) (associated with the within Application) promotes the interests of the Borough of Sea Girt.
- The elimination of a pre-existing non-conforming condition (i.e. impervious coverage) promotes the interests of the Applicants.
- The elimination of a pre-existing non-conforming condition (i.e. impervious coverage) promotes the generic interests of the community.
- The elimination of a pre-existing non-conforming condition (i.e. impervious coverage) is consistent with the goals and objectives of the Borough's Master Plan.
- Approval of the within Application will allow the Applicants to address some of the practical / functional concerns they currently have with regard to their existing home / garage.
- The converted garage / cabana approved herein will fit in nicely with the other homes in the neighborhood.
- The Board notes that the within property involves a Lot which satisfies a Prevailing Lot Area Requirements. Had the Lot been undersized, the within Application may not have been approved.
- Sufficiently detailed testimony / plans were presented to the Board.
- The proposed improvements should nicely complement the property and the neighborhood.
- Approval of the within Application will not change the architectural integrity of the existing accessory structure.
- Approval of the within Application will not materially change the architectural appearance of the existing accessory structure.
- Subject to the conditions contained herein, the proposal will not appreciably intensify the single-family nature of the lot.

- Additionally, the architectural/aesthetic benefits associated with the proposal outweigh the detriments associated with the Applicants' inability to comply with all of the specified Bulk Standards.
- The architectural design of the to-be-converted garage structure approved herein will not be inconsistent with the architectural character of other similar accessory structures in the area.
- Subject to the conditions set forth herein, the overall benefits associated with approving the within Application outweigh any detriments associated with the same.
- Subject to the conditions contained herein, approval of the within Application will have no known detrimental impact on adjoining property owners and, thus, the Application can be granted without causing substantial detriment to the public good.
- The conversion approved herein will not be inconsistent with other single-family improvements located within the Borough.
- Subject to the conditions contained herein, approval of the within application will promote various purposes of the Municipal Land Use Law; specifically, the same will provide a desirable visual environment through creative development techniques.
- The Application as presented satisfies the Statutory Requirements of N.J.S.A. 40:55D-70(c) (Bulk Variances).

Based upon the above, and for other reasons set forth during the Public Hearing Process, a majority of the Board is of the opinion that the requested relief can be granted without causing substantial detriment to the public good.

CONDITIONS

During the course of the Hearing, the Board has requested, and the Applicants have agreed, to comply with the following conditions:

- a. The Applicants shall comply with all promises, commitments, and representations made at or during the Public Hearing process.
- b. The Applicants shall comply with the terms and conditions of the Leon S. Avakian, Inc. Review Memorandum, dated October 2, 2020, last revised October 19, 2020 (A-5).
- c. The Applicants shall comply with all Prevailing Affordable Housing Rules / Regulations / Contributions / Directives as required by the State of New Jersey, the Borough of Sea Girt, C.O.A.H., the Court System, and any other Agency having jurisdiction over the matter.
- d. The Applicants shall cause the Plans to be revised so as to portray and confirm the following:
 - The inclusion of a note confirming that neither the garage nor the cabana shall be utilized for living space or sleeping purposes.
 - The inclusion of a note confirming that the landscaping at the site shall be perpetually maintained / replaced / replanted, as necessary so as to perpetually maintain the buffers at the site (so as to minimize any adverse impact on adjacent property owners).
 - The inclusion of a note confirming that the outdoor shower shall be located a compliant 3.2 ft. from the rear property line.
 - The inclusion of a note confirming that the Applicants shall install a dry-well at the site, if deemed necessary by the Board Engineer (in order to control / prevent adverse run-off associated with the proposal). The said note shall furthermore confirm that the details for any such dry-well system shall be specifically reviewed and approved by the Board Engineer.
 - The inclusion of a note confirming that any installed dry-well at the site shall be installed and maintained in accordance with prevailing manufacturer standards and other best practices.

- The inclusion of a note confirming that any further expansion / intensification of the garage / cabana area shall require the further / formal approval of the Sea Girt Planning Board.
 - The inclusion of a note confirming that the posts of the pergola shall be located no closer than 4-5 ft. from the pool.
- e. The Applicants shall arrange for 3 sets of revised architectural plans (and engineering plans) to be submitted to the Board Secretary.
 - f. At the Hearing, the revised Site Plan, prepared by DMC Associates, dated September 6, 2018, last revised September 25, 2020 (A-7) was marked into the record. In that the said document was submitted at the Hearing, the Board Engineer did not have an opportunity to review / approve the same. Thus, the within approval shall be contingent upon the Board Engineer reviewing / approving the A-7 revised Site Plan.
 - g. Unless otherwise waived by the Board Engineer, grading / drainage details shall be submitted so as to confirm the absence of any adverse impacts associated with the within proposal.
 - h. The Applicants shall manage storm water run-off during and after construction (in addition to any other prevailing/applicable requirements/obligations.)
 - i. The Applicants shall obtain any applicable permits/approvals as may be required by the Borough of Sea Girt - including, but not limited to the following:
 - Building Permit
 - Plumbing Permit
 - Electric Permit
 - Demolition Permit
 - j. If applicable, the proposed improvement shall comply with applicable Provisions of the Americans with Disabilities Act.
 - k. If applicable, grading plans shall be submitted to the Board Engineer so as to confirm that any drainage/run-off does not go onto adjoining properties.
 - l. The renovated structure shall comply with the Borough's Prevailing Height Regulations.

- m. The construction shall be strictly limited to the plans which are referenced herein, and which are incorporated herein at length. Additionally, the construction shall comply with Prevailing Provisions of the Uniform Construction Code.
- n. The Applicants shall comply with all terms and conditions of the Review Memoranda, if any, issued by the Board Engineer, Borough Engineer, Construction Office, the Department of Public Works, the Bureau of Fire Prevention and Investigation, and/or other agents of the Borough.
- o. The Applicants shall obtain any and all approvals (or Letters of No Interest) from applicable outside agencies - including, but not limited to, the Department of Environmental Protection, the Monmouth County Planning Board, and the Freehold Soil Conservation District.
- p. The Applicants shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- q. If required by the Board / Borough Engineer, the Applicants shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.
- r. Unless otherwise agreed by the Planning Board, the approval shall be deemed abandoned, unless, within 24 months from adoption of the within Resolution, the Applicants obtain a Certificate of Occupancy (if required) for the construction / development approved herein.
- s. **The approval granted herein is specifically dependent upon the accuracy and correctness of the testimony and information presented, and the accuracy of the Plans submitted and approved by the Board. The Applicants are advised that there can be no deviation from the Plans approved herein, except those conditions specifically set forth or otherwise herein. In the event post-approval conditions at the site are different than what was presented to the Board, or different from what was otherwise known, or in the event post-approval conditions are not necessarily structurally sound, the Applicants and their representatives are not permitted to unilaterally deviate or build beyond the scope of the Board Approval. Thus, for instance, if the Board grants an Application for an existing building / structure to remain, the same cannot be unilaterally**

demolished (without formal Borough / Board consent), regardless of the many fine construction reasons which may exist for doing so. That is, the bases for the Board's decision to grant Zoning relief may be impacted by the aforesaid change of conditions. As a result, Applicants and their representatives are not to assume that post-approval deviations can be effectuated. To the contrary, post-approval deviations can and will cause problems. Specifically, any post-approval unilateral action, inconsistent with the testimony / plans presented / approved, which does not have advanced Borough / Board approval, and will compromise the Applicant's approval, will compromise the Applicant's building process, will create uncertainty, will create stress, will delay construction, will potentially void the Board Approval, and the same will result in the Applicants incurring additional legal / engineering / architectural costs. Applicants are encouraged to be mindful of the within – and the Borough of Sea Girt, and the Sea Girt Planning Board, are not responsible for any such unilateral actions which are not referenced in the testimony presented to the Board, and / or the Plans approved by the Board. Moreover, Applicants are to be mindful that the Applicants are ultimately responsible for the actions of the Applicant's, their Agents, their representatives, their employees, their contractors, their engineers, their architects, their builders, their lawyers, and other 3rd parties.

BE IT FURTHER RESOLVED, that all representations made under oath by the Applicants and/or their agents shall be deemed conditions of the approval granted herein, and any mis-representations or actions by the Applicants contrary to the representations made before the Board shall be deemed a violation of the within approval.

BE IT FURTHER RESOLVED, that the Application is granted only in conjunction with the conditions noted above - and but for the existence of the same, the within Application would not be approved.

BE IT FURTHER RESOLVED, that the granting of the within Application is expressly made subject to and dependent upon the Applicants' compliance with all other appropriate Rules, Regulations, and/or Ordinances of the Borough of Sea Girt, County of Monmouth, and State of New Jersey.

BE IT FURTHER RESOLVED, that the action of the Board in approving the within Application shall not relieve the Applicants of responsibility for any damage caused by the subject project, nor does the Planning Board of the Borough of Sea Girt, the Borough of Sea Girt, or its agents/representatives accept any responsibility for the structural design of the proposed improvement, or for any damage which may be caused by the development / renovation.

FOR THE APPLICATION: Carla Abrahamson, Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo, Ray Petronko, Robert Walker

AGAINST THE APPLICATION: John Ward

The foregoing Resolution was offered by Mrs. Brisben, seconded by Mr. Casey and adopted by Roll Call Vote:

IN FAVOR: Carla Abrahamson, Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo, Ray Petronko, Robert Walker

OPPOSED: None

INELIGIBLE TO VOTE: John Ward

NEW BUSINESS:

The Board then heard the continuation of a variance application for Block 5, Lot 7, 2 Seaside Place, owned by Glenn & Dana Hughes, to allow construction of a new home, detached garage, cabana & in-ground pool. Mr. Keith Henderson, Esq. represented the Hughes in presenting this application.

There were more exhibits to enter into the record:

Exhibit A-14, Plot Plan prepared by WSB Engineering Group, October 27, 2020.
Exhibit A-15, Architect Plan, done by CJ Aker, revised October 21, 2020.
Exhibit A-16, Board Engineer Peter Avakian report dated 11/4/20.

Mr. Kennedy noted that Board Member Carla Abrahamson was not eligible to vote in this matter as she was absent at one of the hearings. At this time Mr. Henderson thanked the Board for this continued hearing and noted the original plans were submitted in December of 2019 and this matter was delayed due to the Covid 19 cancellation of meetings; they now have new information to be presented. They are providing a detailed map of the neighboring height of the properties in this area. The home has been reduced widthwise by 3 feet, the fire pit has been set back to accommodate lot requirement setbacks, eliminated 4 window wells, reduced the driveway to a single car width, reduced the curb cut to 12 feet, eliminated the pergola, reduced the home by 10.5 inches and reduced the garage by a foot, so the scope of this application has been changed considerably and this removes 2 variances (driveway & curb cut).

He went on to say they will make the pool fencing as well as possible, the law says 4 feet for a pool, maybe the Board has ideas but he did not think they can get around needing a 4 foot fence.

At this time Mr. Andrew Janiw, Professional Planner came forward; it was noted he is still under oath from his last testimony. He asked for screen sharing and it was done, he then spoke of the retaining wall on the property line for the pool area and, thus, it would make a total height of 7 feet for the foot fence & wall. However, it become subjective as from the Hughes side it is the 4 foot fence, from the back neighbors it is 7 feet due to this retaining wall which is on the property line. In his opinion it is not a variance, the wall and fence are two structures and should not be viewed as one.

Mr. Kennedy marked Exhibit A-17 which is a power point showing the diagram of the pool fence and wall, this was done by the applicant Glenn Hughes and dated 11/18/20 and included a rendering of the proposed home as well as an area map. Mr. Janiw then addressed the changes in grade and said Seaside Place goes from 7.4 feet to 15.4 feet, a natural rise, the alleyway is also at 14.5 grade with an elevation of 49 feet.

He then spoke of the Master Plan and one of the goals is conformity with the neighborhood and in looking from 2 Seaside Place to 1 Seaside Place there is a consistent grade, a pattern of peak elevation rising from the street, going from 42.1 feet to an elevation of 49 feet. In this area are two older homes that were built in the 1940s with elevations of 43 feet and 45 feet and there is a chance they will be replaced with new roof peaks at different elevations; so 2 Seaside Place is keeping with the elevations in the area. What is triggering the variance for height is not the height of the home itself but the natural rise of the property. Sea Girt has wrestled with this over the years and height variances have been addressed by the Board.

Since the last meeting the peak has been reduced down and he commented that the Supreme Court has defined what hardship is – a lot with unusual topography, etc. An unusual topography does not stop use of a property and is considered a hardship, and 2 Seaside Place also has a different sized lot and is on an alleyway. He said if they drop the grade here they are creating a hole which will cause drainage problems and it would have an impact on the neighborhood and be detrimental and contrary to Land Use.

There was then a brief discussion on the point that this is a corner lot as opposed to an interior lot, if it were considered an interior lot some variances would not be needed. RSIS (Residential Site Improvement Standards) provides a standard for street widths, etc. and this alleyway does not fall into that, it is an access lane and Mr. Janiw said a site triangle consideration does not apply here as well. This is prompting a side yard setback variance due to the Board Engineer's interpretation.

At this time Mr. Henderson asked for a 5 minute recess and it was granted at 7:40; at 7:45 the hearing was back in session with a roll call being done, all present. Mr. Janiw went over the variance requests now, 35 feet in height maximum allowed and they are requesting a height of 37.6 feet, the home is within 35 feet high, it is the grade change that creates the variance need; there is a side yard setback requirement of 15 feet and they are proposing 12. He also noted the lot has a nonconforming depth of 130 feet where 150 is required. The garage height is allowed to be 16 feet high maximum and they are requesting 17.6 feet and, as the home, the garage is 16 feet high and it is the grade that creates the variance need. Mr. Janiw emphasized that the Board has to be aware of the change in grade on this property and the need to keep it for better drainage.

He then went over the C-1 criteria and commented again on the topography, it can't be changed. As far as Negative Criteria there is none to the Zone Plan or to the neighbors as they will work with the grade, this is a C variance and is not intrusive to light, air and open space; it will be an attractive seashore colonial and will be a visual improvement which is something the Municipal Land Use Law and Zoning consider. He said they could put up a home with a flat roof and that would not look good at all.

The Board then had questions – Mrs. Brisben asked about Mr. Avakian's recommendations on the pool lighting and Mr. Janiw said they will comply with all codes. Councilwoman Anthony asked to go back to the power point showing the elevations of the surrounding homes and this was done, she said she would have liked to have seen the actual homes but appreciated seeing this. Mr. Casey asked if there are any grade changes regarding the pool fence and retaining wall; Mr. Janiw said the wall is staying at 14.4-14.5 so there are no changes, the only grade change will be slightly in front of the lot and not in the rear. Mr. Petronko asked whose retaining wall is it and was told it is right on the property line and has been there a long time, the neighbors will have to agree on maintenance. Mr. Ward noted the comments on topography and asked if the property was back filled and is that considered. Mr. Janiw said this property has been this way for many years and a lot of lots have been

changed, especially along Ocean Avenue. The height is now measured from the street so it is a hardship with this grade on the lot and this proposed home will be consistent with what is built in the area and will match with the other homes.

As there were no other Board questions the hearing was opened to the public for questions to Mr. Janiw. Mr. Tom Britt, who owns property on Seaside Place, wanted to go to page 6 of the Power Point to understanding the sloping, testimony was given that water will slope to the alleyway, the grade goes from 16 at the front of the property to 14 at the alleyway, he wanted to know if there is a standard for runoff. Mr. Janiw felt that would be for an engineer to answer. As there were no more questions Mr. Henderson was asked to summarize the application.

Mr. Henderson said they have been here 2 times before on this application and felt that the C-1 Criteria has been satisfied with the positive and negative criteria. When the ordinance was changed in 1999 regarding height measurement it was recognized that variance relief would be needed in certain areas of town. The Hughes have done the best they can and ask for Board approval.

At this time the meeting was opened to the public for general comments and, hearing none, that portion was closed and the Board went into discussion. Chairman Hall asked Mr. Henderson how many variances were asked for originally and was told 12, they are now at 7 including the fence. Chairman Hall said there is a conflict between the Borough Ordinance and NJ Code on fencing around a pool. NJ Code says "barrier" and Sea Girt requires a fence. The Board then gave their comments: Mrs. Brisben appreciated the work the Hughes' have done and she now understood that drainage would be affected if the property were lowered, she would be for approval. Mayor Farrell understood the sloped lot and appreciated the information on the retaining wall; he agreed the alleyway is a pathway and was good with the application. Mr. Ward echoed the comments on the effort made here and appreciated it but he could not understand the height of the home or garage and felt a new home built here could comply and he was not for approval. Mr. Petronko felt it was a good Power Point presentation and the explanation of hardship, and he agreed on the alleyway, he struggled with the height variance but would now be for approval. Councilwoman Anthony appreciated all the work that was done by the Hughes, the time, energy and effort and going from 12 to 7 variances, 12 variances is a lot based on the current codes. She, too, struggled with the height but, based on the information given, she was for approval. Mrs. Laszlo commented that the Hughes have spent a great deal of time and effort and did a great job, there are difficulties here but the criteria was satisfied so she was for approval. Mr. Walker couldn't see any other alternative for the fence for the pool and felt the application was well done, he was in favor. Mr. Koreyva agreed they did a tremendous job and was in full favor. Chairman Hall said in the beginning there were a lot of inquiries and now, at this meeting, there are no negative comments so this shows how hard they worked with this; he felt it was one of the best applications he has worked with and was for approval. Mr. Casey agreed a lot of work was done and the information given tonight was informative, but he still had a problem with height of the home & garage. The nonconforming garage was made higher as it was said it would

block the next door neighbor's nonconforming garage and he agreed with Mr. Ward on the height of the house and did not see a hardship here, he would be a no.

Chairman Hall asked Mr. Henderson if he would like a vote on the application as a whole or on each variance and Mr. Henderson asked for 3 minutes, which was given at 8:30. At 8:32 Mr. Henderson came back and said he would like a vote on the application as a whole with one vote. Mr. Kennedy agreed that would be best and went over the conditions, after which Mrs. Laszlo made a motion for approval, with the conditions Mr. Kennedy stated, this seconded by Mr. Petronko and then by roll call vote:

Ayes: Councilwoman Diane Anthony, Karen Brisben, Mayor Ken Farrell, Eileen Laszlo, Ray Petronko, Robert Walker, Norman Hall

Noes: Jake Casey, John Ward

Not Eligible to Vote: Carla Abrahamson, Stan Korevya

At this time the Board took a 5-minute recess which was done at 8:34, reconvening at 8:41. Let the record reflect that both Mayor Farrell & Councilwoman Anthony had left the meeting as they are not eligible to hear the next continuation of an application as it involved a Use Variance. Roll call was then done and all were present.

The Board then turned to the continuation of a hearing for variance relief for Block 14, Lot 16, 105 Ocean Avenue, owned by Michael & Patricia Pope, to allow construction of a new home with detached garage, cabana & swimming pool, this was first heard at the October 21st meeting and requires a Use Variance.

Mr. Michael Rubino, Esq. came forward to present this and asked that the new Exhibits be marked into the record:

Exhibit A-13. Architectural plans, dated 10/21/20 revision, done by CJ Aker.

Exhibit A-14. Image of the heights of the homes on either side of 105 Ocean.

Exhibit A-15. Power Point presentation which is being submitted today through email and will be discussed this evening.

Exhibit A-16. 3-D images of the property, 2 images.

Exhibit A-17. Plot plan done by Frank Bauer, Engineer, dated 11/2/20.

Mr. Rubino noted the meeting was started last month and Mr. Pope started his testimony, proposing a 2 ½ story home on the north end of Ocean Avenue where there is a severe slope which created a need for a Use Variance, or D Variance due to the height of the proposed home. This is a vacant lot right now, the home that was on this lot was at 40.2 feet but has been demolished. There also is a variance need for the height of the garage, it will be at 22.2 feet where 16 feet is permitted as well as a Front Yard Setback of 22.8 feet where 25.88 would be required. There was a fence on the retaining wall and they decided to take the fence off the wall so they no longer need a variance for this. The existing wall on the north side of the driveway will be moved to create a better driveway to get in and out.

At this time Mr. Michael Pope was asked to speak, he was sworn in at the October meeting and was still under oath. He prepared a summary in a Power Point and did a testimony recap of his testimony from October, noting that the window well setback problem was removed and the accessory roof pitch is compliant. He then went over the Power Point which showed soil log information, the proposed home and the proposed home in between the other homes on either side. Mr. Rubino noted that the home to the North had been granted variances to build and the home to the South was built before the zoning changes. Mr. Pope went on to show the garage and said if they were to build a complying garage it would have a flat roof. He showed an aerial view of where the home will be on Ocean Avenue with a picture taken from Google. He went on to show the pool fence which will be 6-12" into the property line and will be barely visible. Mr. Rubino commented this will be better than putting the fence on the retaining wall. Mr. Pope then showed the driveway, which is now shared, they will move the existing wall to make two driveways. The pool lighting will be in compliance and will be approved by the Board Engineer.

The Board then questioned Mr. Pope. Mr. Petronko asked about the front setback and Mr. Pope said they tried to meet the Ordinance and took an average, they thought they were in compliance but then learned that the home next to them, on the corner of Chicago and Ocean, has a frontage on Chicago and couldn't be used to make the average setback so now they need a variance. Mrs. Abrahamson asked about the new curbcut and was told it is okay and will comply. Mrs. Brisben had a question about the wall and pool fence and where it will be in the grading, Mr. Rubino said they can make the pool fence at grade. Mr. Casey wanted to know if Mr. Avakian had seen the revised plans and Mrs. Brisben said no, there was not enough time for another review and it was decided to go with the original plans and discuss the revisions tonight, the final revisions will go to the Engineer.

As there were no more questions from the Board the hearing was opened to the public for questions and Mr. Richard D'Emilia from Chicago Boulevard said the proposed garage will be by his back yard, the Pope's side yard is Mr. D'Emilia's back yard. The fence will be within 6 inches of the retaining wall and he had a question about the 10 foot hedge that is there, he wanted to know if it was going to be taken down. Mr. Pope said they will be putting in landscaping but they do not know what right now. Mr. D'Emilia said if the hedge is taken down he will be looking at the garage and noted his garage is 11 feet high and his neighbor's garage has a flat roof, this done to comply to the zoning, the proposed garage will be high. Mr. Pope then said the hedge will be replaced.

Mr. John Eknoian, who lives at 107 Ocean Avenue, next door to the Popes, asked about the retaining wall on their side and Mr. Pope said it is not coming down, they are just putting fencing in front of it and he will work with the neighbors to do something with this and Mr. Eknoian agreed it is ugly.

As there were no other questions, that portion of the hearing was closed and CJ Aker, Architect, was asked to speak, noting he was still under oath from the October meeting. The Board accepted him as an expert witness. He said the home has a conventional layout with the ocean location and the view. There are grade differences here and they talked about eliminating a half-story but decided that would not work; this will be a shingle style home with a gambrel roof at 40.61 feet high. He then showed the front elevation on a rendering, the crown of the road is at 14.41 feet and the front of the home is 6.5 feet higher so if they put in a home at 35 feet they would have to cut off the roof so they decided on 40.61 feet. They pushed the garage to the back so they would have room to allow a K-turn area so they don't have to back out onto Ocean Avenue. He commented on the roof again, saying roof slopes are important and they want to keep the proper proportions. Mr. Rubino commented this also gives more light, space and open air. Mr. Aker said there is a 6 foot 9 inch differential for the height of the garage and they tried to match the roof pitch with the home; this will be a typical roof for a garage and if they stayed within the zoning they would not even be able to have a full garage door.

The Board then had questions. Mr. Casey asked to see the south side of the elevation of the garage and asked where the air conditioning units will be. Mr. Aker said they are hidden behind a ridge on the garage and will have a parapet around, it will be a fiberglass deck and will hide the condensers. Mrs. Brisben asked if the home can have a reduced ceiling height to lower it and Mr. Aker referenced the gambrel roof design, if it were made smaller it would not be appealing. This home has premier ocean views and to keep the 8 ½ story ceiling will look better and be more functionally pleasing. Mr. Petronko asked what is the pitch on the roof for a primary residence and will it make it identical to the garage. Mr. Aker thought so and did a quick look, he said it looks consistent and Chairman Hall agreed with him.

As there were no other questions from the Board the hearing was opened to the audience for questions to Mr. Aker. Mr. D'Emilia asked where the air conditioner generator will be on the garage and will he see it? Mr. Aker said this needs air circulation and they can try to hide it with railing, there is not a wall but he was sure they can make it less intrusive. Mr. D'Emilia asked if it can be put on the other side rather than on his side on the property line and Mr. Aker said the center of the back yard is where the outdoor living is so it would be less aesthetically appealing to have it on the other side; also, the area they want to put it is less intrusive to the street.

At this time Frank Baer of WSB Engineering came forward to speak, he is a Licensed Planner & Engineer and has been before this Board; he was accepted as an expert witness. He pretty much went over everything that was said about the hardship, moving the wall for the driveway to create two 8-foot wide driveways, stating the aerial view photos were accurate, agreed the four-foot fence is needed and will be put in at grade and there will be drywells with the drainage running from back to front. He said there will be no negative impact in creating the new driveways and the Impervious Coverage will be under 35%. He also said they meet all criteria for the basement and high-water line. Mr. Petronko asked about the garage height next to the Popes and Mr.

Baer did not know, but Mr. D'Emilia spoke and said it is 11 feet. Mr. Petronko asked, if the garage is approved, will it be at the same elevation and will the air conditioning units be on the ceiling joists. Mr. Baer said they will be below the peak of the roof, there is a 2-foot grade difference so the neighbor's garage is about 2 feet lower. Mr. Petronko asked about noise projection and Mr. Baer said the units will not have a lot noise projection. Mr. Casey asked about the height of the basement and was told it will be a 9 foot basement and there will be no basement under the garage; Mr. Aker said it will be 9 feet but about 8 feet with the duct work.

At this time the hearing was opened to the public for questions to Mr. Baer and, hearing none, that portion was closed. The next professional to speak was Andrew Janiw, the Planner, who was sworn in. The Board heard him speak in the previous application and he was accepted as an expert witness. He, too, went over all the other testimony that was given, the height issues, the plan is consistent with others in the area and he went over the variances that are needed as well as the "D" variance that applies, the application is not offensive to the Master Plan, ending with stating the benefits will be a new home that will fit in and benefit the area, there is nothing offensive here. There were no Board questions to Mr. Janiw and no public questions either.

The hearing was then open to public comments and Mr. D'Emilia was sworn in. His concern was not with the home, but with the garage; it will be 40-50% higher and he will see so much of it and does not know what landscaping will be put in. Catherine Metcalf of 103 Ocean Avenue next door was sworn in and wanted to compliment the Popes; they had to go to the Board for a height variance as well back in 2002. She said the Popes worked hard to make sure both families will not have to back out of their driveways and this is important; she was glad to see it and glad to see the wall moved. The benefit will be to them as they will have more room for cars, she wanted to see them get started and was in support of the application. John Eknoian of 107 Ocean Avenue was sworn in, the neighbor on the other side of the Popes and commented it looks like a beautiful house, but he was concerned with the front setback and was opposed to it.

As there were no other comments, that portion of the hearing was closed and Mr. Rubino went into summation. He felt they have met all the proofs, he appreciated what Mr. D'Emilia said but did not see a problem and felt the Board should be favorable to the retaining wall there and the application.

The Board then went into discussion. Mr. Ward found the testimony interesting and reminded all that each property stands on its own merit, he was concerned about the garage and felt the air conditioning units should be moved to the north side. The Architect said it is where it is for the owners' peace and he felt the units should be moved. Mr. Petronko appreciated all the work that was put into this and the Power Point was awesome; he loved the architecture & wished they had done better with the setback but was okay with it. He, too, was troubled with the garage and felt the air conditioning units can be facing a different direction so this doesn't affect the neighbors. Mrs. Laszlo commented that back in 2018 the Ordinance was changed on mechanical

equipment and we now let it be on the roof and behind a physical buffer. She heard the testimony that they are willing to do this and she felt the Board Engineer can help design this; she was not troubled by the setback. Mrs. Brisben was okay with the application other than the air conditioner units in the garage; she has this issue with the new home that is being built next to her and can understand the concern, she would be agreeable to having the Board Engineering work with the applicants on this. Mrs. Abrahamson agreed with all that was said and Mr. Casey felt it was a well done application, he had a little concern about the setback and could see a problem in the future. On the garage issue he would like to see it lower and air conditioner units moved to the north side and save Lot 2 from some of that noise. Mr. Koreyva had no problem with the height and was in full support, he felt the driveway improvement is great. Mr. Walker did not see the garage as being a big issue and he was in favor. Chairman Hall also would like to see something done with the air conditioning units and put in a parapet wall; he asked if the air conditioning units can be moved to the north side; Mr. Rubino said that Mr. Pope said they will move the air conditioning units to the north side and make it hidden from view, there is no intent to have these open. Mr. Aker agreed they can do this, they will make it work.

Mr. Kennedy summarized some of the conditions, including fencing at grade, revised plans being submitted, landscaping being replaced, retaining wall being maintained, the air conditioning units on the garage being relocated to the north side. Mr. Aker said there are 2 ridges on the north side and he will like to work with this to make the units not visible from the neighboring properties; he wanted to be able to "favor" the north side so he can work with the design of the garage and this was acceptable.

At this time Mr. Petronko made a motion to approve the application, with all the conditions spoken about, this seconded by Mr. Walker and then by the following roll call vote:

Ayes: Carla Abrahamson, Karen Brisben, Eileen Laszlo, Ray Petronko, Robert Walker, John Ward, Stan Koreyva, Norman Hall

Noes: Jake Casey

Before adjourning for the evening, Chairman Hall noted he will be having knee surgery and may not be available for the December meeting; Mrs. Laszlo said she will be present and can Chair the meeting. As there was no other business to come before the Board a motion to adjourn was made by Mrs. Brisben, seconded by Mr. Walker, and approved, all aye. The meeting was adjourned at 10:48 p.m.

Approved: December 16, 2020

