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SEA GIRT PLANNING BOARD
WEDNESDAY, AUGUST 15, 2018

(Note: before the meeting started, Chairman Hall announced that the hearing for 110 Beacon, LLC, scheduled for this evening, had been withdrawn by the applicant.)

The Regular Meeting of the Sea Girt Planning Board was held on Wednesday, August 15, 2018 at 7:00 p.m. at the Sea Girt Elementary School, Bell Place, Sea Girt. 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. After a Salute to the Flag, roll call was taken:

Present: Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell,
Councilman Michael Meixsell, Ray Petronko, Robert Walker,
John Ward, Norman Hall

Absent: Carla Abrahamson, Eileen Laszlo

Also present was Kevin Kennedy, Board Attorney; Board member and Secretary Karen Brisben recorded the Minutes. There were about 30 people in the audience.

The Minutes of July 18, 2018 Minutes were approved on a motion by Mr. Walker, seconded by Mr. Casey and approved with a voice vote, all aye.

OLD BUSINESS:

The Board then considered approval of a Resolution for JTAS Realty, LLC for Site Plan work at Block 77, Lot 5, 526-528 Washington Boulevard, owned by JTAS Realty, LLC. Mr. Kennedy explained this was a 2 for 1 application, 1) official decision of Zoning Officer's action on Stop Work order upheld and 2) Site Plan and variance relief given to allow the building to be constructed. The drainage at the site has to be fixed along with other conditions and the plans were revised to have a 4-foot and 6-foot sideline setbacks.

As all Board members, as well as the applicant, had received a draft copy and there were no changes or recommendations, the following was presented for approval:

PROCEDURAL HISTORY

WHEREAS, On or about July 5, 2017, the Applicant's Representatives submitted a Development Application to the Borough of Sea Girt (the "2017 Application"); and

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WHEREAS, the 2017 Application involved the property located at 526-528 Washington Boulevard, Sea Girt, New Jersey, within the Borough's District 2, East Convenience Commercial Zone; and

WHEREAS, in the 2017 Application, the Applicant's Representatives sought Site Plan Approval, Bulk Variance Approval, and Design Waiver Approval to effectuate the following:

- Conversion of an existing 1 story Bank Building to a 2 ½ story mixed use professional office (dental office) with residential apartment above;
- Construction of several additions to the existing building;
- Re-stripping of existing parking spaces;
- Elimination of an existing driveway; and
- Installation of other customary site improvements; and

WHEREAS, the Board held a Public Hearing on the said Application on or about October 18, 2017; and

WHEREAS, after the presentation by the Applicant's representatives, the Sea Girt Planning Board voted to conditionally approve the 2017 Application; and

WHEREAS, a Memorializing Resolution was thereafter adopted; and

WHEREAS, the said Resolution is attached hereto; and

WHEREAS, there was no known appeal of the said decision; and

WHEREAS, thereafter, in the midst of the Applicant's building/construction process, the Applicant's Representatives arranged for the entire structure and foundation to be demolished; and

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WHEREAS, the Municipal Zoning Officer determined that the complete demolition of the previously existing building/foundation exceeded the scope of the prior 2017 approval of/from the Sea Girt Planning Board; and

WHEREAS, in conjunction with the above point, a Stop Work Order was issued; and

WHEREAS, the Applicant's then attorney thereafter submitted a letter (to Borough / Board Officials) essentially indicating that (a) the Planning Board previously approved a complete demolition of the building/structure; (b) the Memorializing Resolution of the Planning Board reflected the same; (c) the deteriorating / compromised condition of the structure / foundation justified demolition of the same; and (d) the demolished structure will be rebuilt in the same location as the initially existing structure; and

WHEREAS, thereafter, a dispute ensued as to whether the Applicant's Representatives previously applied for and/or received approval to demolish the existing structure / foundation, or whether the Applicant's Representatives only applied for / received approval for a conversion of the existing building, with the construction of several additions thereto; and

WHEREAS, against such a backdrop, the Applicant's Representatives submitted a new Application (i.e. the "2018 Application") to the Sea Girt Planning Board.

WHEREAS, specifically, in the 2018 Application, the Applicant's Representatives sought the following forms of alternative relief:

- A vote to clarify the earlier Board vote/resolution (as to whether the Board approved a complete demolition of the structure and foundation);

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- A vote to overturn/reverse the Zoning Officer determination that the work performed at the site exceeded the scope of the 2017 Board approval/resolution;
- A vote to interpret the matter (relative to the demolition issue); and / or
- In the alternative, a vote retroactively legitimizing a complete demolition of the building / foundation, with approval to reconstruct the same in the same location.

PUBLIC HEARING

WHEREAS, the Board held a Public Hearing on July 18, 2018, Applicant's Representatives 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:

- *Site Plan, prepared by KBA Engineering Services, LLC, dated May 17, 2017, last revised December 4, 2017, consisting of 4 sheets, introduced into Evidence as A-1;*
- *A Soil Erosion and Sediment Control Plan, prepared by KBA Engineering Services, LLC, dated May 17, 2017, with a last revision date of April 16, 2018, consisting of 2 sheets, introduced into evidence as A-2;*
- *Architectural Plan, prepared by Grasso Design Group, revised and dated October 24, 2017, consisting of 1 sheet, introduced into Evidence as A-3;*
- *Communication from G. Kevin Callahan, Esq., dated May 9, 2018, introduced into Evidence as A-4;*
- *The initially submitted Development Application (i.e. the 2017 Application materials), dated on or about July 5, 2017, introduced into Evidence as A-5;*

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- *The initial Review Memorandum from Leon S. Avakian, Inc. (associated with the 2017 Application), dated September 6, 2017, introduced into Evidence as A-6;*

The Planning Board Resolution of Conditional Approval (associated with the 2017 Application), dated October 18, 2017, introduced into evidence as A-7;

- *Correspondence from the Municipal Zoning Officer, dated March 8, 2018, introduced into evidence as A-8;*
- *Correspondence from the Applicant's Engineer, dated February 26, 2018, introduced into evidence as A-9;*
- *Communication from the Board Attorney, dated March 27, 2018, introduced into evidence as A-10;*
- *Correspondence from G. Kevin Callahan, Esq., dated April 17, 2018, introduced into evidence as A-11;*
- *A copy of the transcript of the October 18, 2017 Sea Girt Planning Board hearing, introduced into evidence as A-12;*
- *Communication from the Sea Girt Planning Board Attorney to the Sea Girt Planning Board, dated May 4, 2018, introduced into evidence as A-13;*
- *Communication from G. Kevin Callahan, Esq., to the Planning Board Attorney, dated March 23, 2018, introduced into evidence as A-14;*
- *Review Memorandum, from Leon S. Avakian, Inc., dated June 8, 2018, introduced into evidence as A-15;*
- *Tenant Fit Out, prepared by JJM3 Office Design, dated January 9, 2017, introduced into evidence as A-16;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

WITNESSES

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

- Joseph J. Kociuba, P.E., P.P., Engineer/Planner
- C. Keith Henderson, Esq., Appearing

TESTIMONY AND OTHER EVIDENCE PRESENTED ON BEHALF OF THE APPLICANT'S REPRESENTATIVES

WHEREAS, testimony and other evidence presented on behalf of the Applicant and its Representatives revealed the following:

- The initially submitted Plan / Application (i.e. the 2017 Application) requested approval to convert an existing bank building (to a dental office building) and to construct certain additions and other site improvements. Additionally, the initially submitted Plan / Application materials (associated with the 2017 Application) did not necessarily envision a complete demolition of the structure / foundation.
- Thereafter, based upon conditions of the existing structure, there was some discussions amongst the Applicant's Representatives that a complete demolition of the structure may likely be required.
- That notwithstanding, the said discussions did not necessarily include Municipal / Board Representatives.
- Though the Applicant's representatives were aware of the proposed demolition at the 2017 Board Hearing, the proposed demolition details were not sufficiently presented to the Board Members.
- Additionally, notwithstanding the proposed demolition, some aspects of the Plans (associated with the 2017 approval) continued to contain references to a renovation of the existing structure (and not a complete demolition).

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- The 2017 Planning Board decision / resolution did not specifically reference a complete demolition of the existing structure / foundation.
- While there were some references in the 2017 Planning Board Hearing to a need to demolish the western wall (of the then existing structure), there was no clear-cut testimony regarding a complete demolition of the entire structure / foundation.
- The Board's Resolution of Conditional Approval did not specifically reference any complete demolition of the previously existing building / structure.
- Upon further review, actual building conditions required a complete demolition of the previously existing structure and foundation.
- The previously existing structure / foundation were, in fact, demolished.
- The said demolition occurred, in good faith, and there was no intent to deceive / confuse Municipal / Planning Board Officials.
- The Applicant's Representatives apologized for the confusion.
- As referenced in the 2017 Planning Board Hearing, Dr. Cuozzo, the Managing Member of JTAS Realty, LLC, has an existing dental practice, and has provided dental services in the Sea Girt area since approximately 1972.
- Dr. Cuozzo is proposing to relocate his dental practice to the subject site.
- The Applicant proposes to utilize the to-be-constructed new building as follows:

First Floor: Dental office use
Second Floor: Residential apartment use

- The details pertaining to the proposed dental office use include the following:

Number of Employees 10

Average number of patients seen per day 80 to 100

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Hours of Operation standard hours (morning to 7:00 pm), with the doctor and staff members leaving the facility by 8:00 p.m.

Days of week the proposed office will open Mondays and Wednesdays, but the said schedule will increase, if there is a need

- As indicated, the second floor and top half floor of the building will contain one residential apartment use.
- The proposed apartment will include the following:

Second Floor

Master Bedroom
Master Bathroom
Bedroom
Bedroom
Bathroom
Bathroom
Great Room
Kitchen
Office / Bedroom
Den
Balcony
Deck

Top Half Story

Loft area
Bathroom

- The proposed materials include the following:

Brick Veneer
Gray Shakes
Asphalt shingle porch
Other details, per the plans

VARIANCES

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WHEREAS, the 2018 Application as amended, requires approval for the following Variances:

SIDEYARD SET BACK (WEST SIDE): 6 ft. required; whereas 3.8 ft. proposed.

PARKING SPACE WIDTH: Minimum 10 ft. required; whereas 9 exists and 9 ft. proposed;

PARKING SPACE LENGTH: 20 ft. required; whereas 18 ft. exists, and 18 ft. proposed;

ACCESSORY STRUCTURE LOCATION: Per the prevailing Borough zoning regulations, a trash enclosure (potential accessory structure) is not to be located in a front yard area; whereas, in the within situation, the Applicant proposes such a front yard location for the trash area;

PUBLIC COMMENTS

WHEREAS, the following members of the public expressed questions, comments, statements, and / or concerns in connection with the 2018 Application:

- Clifford Stack.

FINDINGS OF FACT **(Appeal of Zoning Officer Decision)**

NOW, THEREFORE, BE IT RESOLVED, by the Sea Girt Planning Board, after having considered the aforementioned Application, plans, evidence, and testimony, that the Board hereby **affirms** the subject decision of the Municipal Zoning Officer.

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

1. The detailed "Procedural History" section of the within Resolution is incorporated herein at length.

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2. In short, the Applicant's Representatives previously obtained approval to convert a previously existing building at the site to a dental office. (The Applicant also obtained approval to construct several additions and other various site improvements as well). However, in the midst of the building / construction process, the previously existing building / foundation were demolished, prompting the Municipal Zoning Officer to issue an opinion that the Applicant's Representatives exceeded the scope of the Board's prior approval. Specifically, the Zoning Officer maintained that Applicant's Representatives previously obtained approval to convert a prior bank building to a dental office, and for the implementation of various other site improvements. The Zoning Officer also maintained that the Applicant's demolition of the entire building / foundation was not specifically envisioned / authorized / approved by the Sea Girt Planning Board.

3. The Applicant's Representatives appealed the said decision, essentially claiming that the said decision was improper and otherwise incorrect.

4. The Sea Girt Planning Board, a combined Land Use Board of the Borough of Sea Girt, is statutorily authorized to hear and decide such appeals and, as such, the said question / appeal is properly before the said entity.

5. With regard to the said appeal of the Zoning Officer decision, the Board notes the following:

- The previously submitted Planning / Zoning Application materials (submitted in conjunction with the 2017 Application) did not specifically or sufficiently describe that the Applicant's Representatives were proposing to completely demolish the previously existing building / foundation. In fact, the 2017 Application materials specifically suggested otherwise.

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- The Applicant's prior Plans (submitted in conjunction with the 2017 Board Approval) did not specifically or sufficiently describe that the Applicant's Representatives were proposing a complete demolition of the previously existing building / foundation. In fact, some aspects of the said Plans specifically suggested otherwise.
- The prior testimony submitted (in conjunction with the 2017 Board Approval) did not specifically or sufficiently describe that the Applicant's Representatives were proposing a complete demolition of the previously existing building / foundation. In fact, the overwhelming majority of the testimony suggested otherwise.
- The prior Planning Board transcripts (associated with the 2017 Board Approval) did not specifically or sufficiently describe that the Applicant's Representatives were proposing a complete demolition of the previously existing building / foundation. In fact, taken as a whole, the referenced transcripts suggested otherwise.
- The prior Planning Board Resolution of Conditional Approval (associated with the 2017 approval) did not specifically or sufficiently describe that the Applicant's Representatives were proposing a complete demolition of the previously existing building / foundation. In fact, the Board Resolution specifically suggested otherwise – making a number of references to the “conversion of the existing building” and the “adaptive re-use” of an existing building.
- Per the on-the-record discussion at the July 18, 2018 hearing, the overwhelming sentiment / recollection / belief of many Board Members (who were present for the 2017 testimony) was that they did not recognize an intent by the Applicant's Representatives to completely demolish the previously existing building / foundation.
- While the Board Members recognize that there were some discussions (at the 2017 public hearing) about the need for the western wall of the previously existing building to be demolished / removed, there was not sufficiently clear evidence to suggest that the entire building / foundation was to have been demolished.
- The Board Members find that there was certainly not sufficiently clear evidence presented (during the 2017 hearing) to suggest or otherwise infer that the entire building / structure would be demolished and removed.
- In conjunction with the 2017 Board Approval, the Planning Board granted Variance Relief for a Side Yard Setback Variance (on the

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western sideline) (i.e. 6 ft. required; whereas 3.8 ft. existed, and the said 3.8 ft. measurement would be extended for the upper floor). In large part, the 2017 Planning Board found that the said Variance was justified because the then existing bank building was an existing building in a non-conforming location, and that it would be impractical to relocate a building which has stood for approximately 60 years. The said rationale in granting the said Variance is entirely inconsistent with the complete demolition of the previously existing building / foundation.

- Had the testimony / plans / application / legal arguments (associated with the 2017 approval) sufficiently noted that the previously existing building / foundation would be demolished, additional professional testimony would have been necessary to justify such Variance Relief. That is, under such circumstances associated with the complete demolition of the building, and with the concept of a so-called “fresh start” development site, the Applicant’s Representatives would have had a more difficult time to justify the Side Yard Setback Variance Relief (particularly in that the subject lot is an oversized lot).
- Upon further review / analysis, the details pertaining to the 2017 Application (relative to demolition, etc.) could have been better identified / explained / relayed.
- Respectfully, the 2017 Application materials (relative to the demolition issue) were not made sufficiently clear to Board / Borough Representatives.
- Respectfully, the nature of the 2017 Plan / Presentation ultimately caused some confusion for Board Members / Municipal Representatives (particularly with respect to the demolition issues).
- Against such a backdrop, and confronted with the prevailing fact pattern, the Board finds that the decision of the Zoning Officer (holding that the demolition of the building / foundation exceeded the scope of the Board’s 2017 Approval) was correct and appropriate.
- Against such a backdrop, and confronted with the prevailing fact pattern, the Board finds that the decision of the Municipal Zoning Officer (holding that the complete demolition of the previously existing building / foundation exceeded the scope of the 2017 approval) is hereby **affirmed and upheld**.

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- Under the circumstances, against such a long and confusing fact pattern, it would have been inappropriate for the Zoning Officer to rule in any other fashion.
- Under the circumstances, and faced with such a long and confusing fact pattern, the subject decision of the Municipal Zoning Officer is justified.
- Under the circumstances, and faced with such a long and confusing fact pattern, the Board finds that the subject decision of the Municipal Zoning Officer is appropriate.
- Under the circumstances, and confronted with such a long and confusing fact pattern, the Board finds that the subject decision of the Municipal Zoning Officer is neither arbitrary, capricious, nor unreasonable.
- Under the circumstances, and confronted with such a long and confusing fact pattern, the Board finds that the subject decision of the Municipal Zoning Officer is, in fact, reasonable.
- Under the circumstances, any decision of the Municipal Zoning Officer (other than the decision he actually rendered) would be problematic.
- Under the circumstances, a decision of the Municipal Zoning Officer (other than the decision he rendered) would expose the Borough of Sea Girt (and agents thereof) to potential liability.
- Under the circumstances, any decision of the Municipal Zoning Officer (other than the decision rendered) would have compromised the administrative aspect of the building / construction / permit process (in that existing site conditions would be inconsistent with the limiting approval granted by the Planning Board).
- Notwithstanding all of the above, based upon the testimony and evidence presented, the Board finds no bad faith associated with the actions of the Applicant's Representatives (relative to the demolition confusion).
- Per the testimony and evidence presented, the Board finds that a number of factors contributed to the confusion – and the said factors include, but are not limited to, the following:
 - a. Some potentially confusing / inconsistent Plan details;

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- b. Some potentially confusing / inconsistent testimony;
 - c. Findings / language in the Resolution of Conditional Approval which did not reference a complete / total demolition:
 - d. A change in site-related details;
 - e. A change in building-related conditions;
 - f. A change in information / conditions associated with the structural integrity of the previously existing building / foundation; and
 - g. Other sufficient causes.
- Under the circumstances, sufficient evidence was not presented to justify a reversal of the subject decision of the Municipal Zoning Officer.
 - Respectfully, consultation with Municipal Officials before demolition of the entire building / foundation would have likely prevented some of the confusion / delay otherwise associated with the 2017 post approval process.
 - Respectfully, consultation with Municipal Officials before demolition of the previously existing building / foundation would have prevented some of the confusion delays, and hard feelings otherwise associated with the 2017 post approval process.

FOR THE FOREGOING REASONS, the subject decision of the Municipal Zoning Officer is hereby upheld and **affirmed**.

A MOTION TO AFFIRM THE DECISION OF THE ZONING OFFICER WAS MADE BY MR. BENSON.

A SECOND TO THE SAID MOTION WAS MADE BY MRS. BRISBEN.

THOSE INDIVIDUALS WHO VOTED IN FAVOR OF THE MOTION TO AFFIRM THE DECISION OF THE ZONING OFFICER:

Carla Abrahamson, Larry Benson, Karen Brisben, Jake Casey, Mayor Ken

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Farrell, Eileen Laszlo, councilman Michael Meixsell, Robert Walker,
Norman Hall

FINDINGS OF FACT
(Site Plan / Variance)

NOW, THEREFORE, BE IT RESOLVED, by the Sea Girt Planning Board, after having considered the aforementioned Application, plans, evidence, and testimony, that the Variance / Site Plan portion of the Application is hereby **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 526-528 Washington Boulevard, Sea Girt, New Jersey, within the Borough's District 2, East Convenience Commercial Zone.
3. A building (formerly used to host a bank) previously existed at the site.
4. The previously existing building / foundation were demolished and thus, currently the site is completely vacant.
5. The Applicant's Representatives propose to construct a new building at the site, which will essentially be located in the same exact location as the previously existing building.
6. The Applicant's Representatives propose that the first floor of the 2 ½ story building will be utilized as a dental office, and that the remainder will be utilized as a residential apartment.

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7. Such a proposal requires Site Plan Approval, Bulk Variance approval, and Design Waiver approval.

6. The Sea Girt Planning Board is statutorily authorized to grant such relief and therefore, the matter is properly before the said entity.

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

- The proposed dental office with residential unit above is a permitted use in the subject District 2 East Convenience Commercial Zone.
- The proposed mixed-use will require 7 off-street parking spaces, calculated as follows:

- Residential Apartment Use . . .	2 spaces
- Proposed Dental Office..... (1 space for each 600 SF of Gross floor area)	<u>5 spaces</u>
- Total required parking spaces	= 7 spaces

- The Applicant's representatives propose 13 off-street parking spaces, and thus, no parking variance is required.
- Sufficient/compliant parking is of critical importance to the Board – and but for the same, the within Application may not have been approved.
- Per prevailing ADA Regulations, the site will have at least one ADA parking space which be appropriately sized/located.
- Per the prevailing Borough Ordinance, parking spaces are required to measure 10 ft. wide by 20 ft. in length. Currently, the existing parking spaces at the site measure only 9 ft. by 18 ft., and the Applicant's representatives will be re-striping the same to the existing conditions. Under the circumstances, the Board has no objection to such a re-striping plan. Consequently, the Board finds that the two (2) variances for parking space dimensions (Length/Width) can be granted without causing substantial detriment to the public good.

- The Board is aware that per the testimony and evidence presented, there will be no tractor trailers at the site – but rather, the only deliveries will be via standard UPS and federal express type vehicles, etc. Towards that end, the Board recognizes that the existing and to be continued non-compliant parking spaces will be sufficient for the Applicant’s proposed use.
- The Board recognizes that the existing parking lot at the site contains 9 X 18 parking spaces, which will be continued hereunder. In the within situation, the Board finds that continuation of the pre-existing non-conforming parking space sizes will not be detrimental to the public good.
- The Applicant’s proposed building will be 2 ½ stories, which conforms with the Borough’s prevailing zoning regulations and, as such, no variance is necessary in the said regard.
- The Applicant’s proposed building will have a conforming height of approximately 34.32 ft. (whereas 35 ft. is otherwise allowed in the zone). As such, no height variance is required.
- The Board notes the subject property is an oversized lot, containing 12,797 sq. ft., (whereas the minimum required lot size in the zone is only 7,500 sq. ft.)
- The Application as presented requires a variance for side yard setback on the west side of the property. The specific measurements in the said regard include the following:

Required side yard setback	6 ft.
Previously existing side yard setback	3.8 ft.
Proposed side yard setback	3.8 ft.

- The Board Members thoroughly analyzed the said situation as to why such a variance should be granted under the circumstances (particularly in that the subject lot is oversized and in that the previously existing building was demolished).
- With respect to the above concern, the Board notes/observes/finds the following:
 - i. The previously existing building at the site had a non-conforming side yard setback of 3.8 ft.,

which is consistent with the side yard setback approved herein.

- ii. Approval of the within Application will not exacerbate the previously-existing, non-conforming side yard condition.
- iii. Other development options were considered (to avoid the need for a side yard setback variance associated with the to-be-constructed building), but the same were not found to be desirable, preferable, practical, or functional.
- iv. If the 6-ft. westside side yard setback were honored, the same would likely require, or otherwise result in building expansion to the rear or front, which would compromise the Applicant's consistency with other prevailing front yard setbacks and rear yard setbacks in the area.
- v. If the 6 ft. westside side yard setback were honored, the same would likely compromise the amount of parking which could otherwise be offered at the site.
- vi. If the 6 ft. westside side yard setback were honored, the same would presumably need to compromise the design / look / functionality of the Applicant's proposed waiting room.
- vii. Continuation of the previously existing, non-conforming west side setback will not be out of character for the area.
- viii. There were no public objections associated with the Application, or the requested variance relief. In fact, one member of the public encouraged the Board to approve the application.
- ix. The previously existing building at the site had a non-conforming setback (western side) of only 3.8 ft. – and, upon information and belief, the said building was in existence for approximately 60 years, with no known problems associated with the variant condition.

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- x. Per the testimony presented, the Board acknowledges that a compliant side yard setback at the site would likely require, or otherwise invite, a new building located towards the rear or the front of the site, which could further compromise the existing streetscape.
 - xi. Continuation of the previously existing non-conforming side yard setback will allow the Applicant to preserve/maintain the existing streetscape and fabric of the neighborhood.
 - xii. After analyzing the above factors, and the other items discussed during the Public Hearing process, the Board finds that the benefits of granting the variance relief outweigh any potential detriments associated therewith.
- The Board also notes that approval of the within Application will not result in the disturbance of any environmentally sensitive areas.
 - As part of the within application, the Applicant proposes an underground recharge field – which will be beneficial to the site, the neighborhood, and the Borough of Sea Girt as a whole.
 - Sufficiently detailed plans were submitted to the Board.
 - The site is an appropriate host site for the proposed dental office (with residential apartment above).
 - Per the testimony presented, Dr. Cuozzo intends to potentially occupy the residential apartment over the proposed dental office. In a general sense, the Board recognizes the many benefits associated with owner-occupied properties.
 - As part of the within application, the existing driveway off Washington Boulevard will be eliminated, thereby likely providing the Borough of Sea Girt with an additional off-street parking space available for public use.
 - Per the testimony and evidence provided, the elimination of the existing driveway should help improve/promote public safety.

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- Given the nature of the within Application, the Board recognizes that, essentially, the building approved herein will be created on land which hosted the previously existing building at the site (i.e. on top of the land which has already been disturbed).
- The Board is aware that one of the main purposes of the Borough's District 2, East Convenience Commercial Zone is to preserve the existing primary area of commercial concentration in town – and the Board finds that approval of the within Application will generally help effectuate such a goal.
- The Board notes that per the testimony and evidence previously presented, the dental office use is not an intense traffic generator (beyond what the site can handle).
- The Board is aware that the existing site is vacant / demolished, but nonetheless located on a major thoroughfare within the Borough of Sea Girt. Towards that end, the Board recognizes potential issues associated with a vacant demolished parcel on one of the main roads within the Borough's business corridor.
- The Board notes that the overall proposed lot coverage is compliant, and is even under what is otherwise permitted.
- As part of the within Application, the Applicant's Representatives will be adding a recharge tank to the site, which will help improve overall storm-water management techniques. The said improvements will be beneficial for the site, the neighborhood, and the community.
- The within approval represents the construction of a brand new building on the site, to replace the previously existing building at the site, in a modern/functional way, which will not compromise the interests of the Borough of Sea Girt.
- Subject to the conditions contained herein, and subject to reasonable standards, there is a legitimate development goal associated with allowing an Applicant to appropriately operate a professional medical office at the site in a manner which can better address the reasonable demands/needs of area residents.
- As indicated, the within application will result in a number of ADA-compliant features – including an ADA ramp, bathroom, parking areas, etc.

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- In conjunction with the above point, approval of the within application will significantly increase and improve the handicapped accessibility features which historically existed at the site.
- Improved handicapped accessibility is a laudable goal – and the benefits of the within application far out-weigh any detriments associated therewith.
- The driveway relocation, as referenced, will improve the overall traffic situation at and around the site (from what previously existed at the site.)
- The driveway relocation, as referenced, will improve the traffic circulation at and around the site (from what previously existed).
- The driveway relocation, as referenced, will improve / advance public safety (from what previously existed).
- The driveway relocation, as aforesaid, promotes a free flow of traffic in and around the site.
- Per the testimony and evidence presented, approval of the within Application will better channel motorists / pedestrians utilizing the parking area, thereby increasing overall motorist / pedestrian safety at and around the site.
- Given the very large size of the lot, approval of the within Application will not violate or otherwise compromise the traditional Zoning goals of open air, space, and light.
- Subject to the conditions contained herein, use at the site as a professional office site (with residential apartment above) will not be out of character for the subject area.
- The new-building to be constructed herein will comply with prevailing ADA-requirements.
- Making the site more ADA-compliant represents a sound and legitimate development goal.
- Making the site/structure more ADA-compliant facilitates appearance at the site by handicapped individuals, or other individuals whose mobility is challenged.

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- There are many benefits with making the site more open/accommodating/inviting to handicapped individuals and/or others whose mobility is challenged.
- The new building approved herein will be the same general size as the building approved in the 2017 Application.
- The new building approved herein will have the same height as the building approved in the 2017 Application.
- The new building approved herein will have the same look / design as the building approved in the 2017 Application.
- The new building approved herein will have the same general lot coverage as the building approved in the 2017 Application.
- The new building approved herein will have the same general building coverage as the building approved in the 2017 Application.
- The new building approved herein will be constructed with the same general materials as that which was approved in the 2017 Application.
- The site which will host the new building approved herein will utilize the same grading / drainage features as were approved in the 2017 Application.
- The new building approved herein will generally have the same amount of office space as that which was approved in the 2017 Application.
- The new building approved herein will have the same general setbacks as the building which was approved in the 2017 Application.
- The new building approved herein will have the same general siding and same general windows as that which was approved in the 2017 Application.
- The Board is aware that because of the large lot, the Applicant's representatives could propose to construct a building even larger than what is proposed / approved herein.
- The new building approved herein will be an asset to the Borough of Sea Girt.

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- The new building approved herein represents a significant improvement over the nature / condition of the building which previously existed at the site.
- The Board recognizes that while a conforming building could be located at the site, the same could potentially impact the amount of parking at the space and could further potentially compromise the ability of the site to have a front setback consistent with other development in the immediate area. Upon reviewing the Application, and the positive and negative features associated with the same, the Board has unanimously determined that the new building approved herein represents a better zoning alternative for the Borough of Sea Girt (than a totally compliant building location).
- The previously existing building at the site was, per the testimony and evidence presented, beginning to show signs of age. Additionally, the previously existing building at the site was beginning to suffer from deferred maintenance. However, approval of the within Application will allow a brand new Code-compliant building to be constructed at the site.
- Subject to the conditions set forth herein, the new building approved herein will have a sufficient amount of distance / space between the buildings on either side.
- The top floor residential apartment approved herein will be the same size as the apartment which was approved in the 2017 Application.
- The new building approved herein will generate the same amount of garbage as would have been generated by the building authorized in the 2017 Application.
- The new building approved herein will have the same general amount of parking spaces as the 2017 approved site would have.
- The Variance relief granted herein is substantially similar to the Variance relief granted in the 2017 Application.
- The Board appreciates Dr. Cuozzo's desire / ability / willingness to re-apply and work with the Board to address / resolve the open issues associated with the 2017 post-approval process.

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- Approval of the within Application will result in appropriate development of the site.
- Approval of the within Application will allow the Applicant's Representatives to continue work so that a dental office can be constructed / opened at the site, and so that Dr. Cuzzo's practice can be more formally welcomed to the Sea Girt community.
- As a result of the complete demolition of the previously existing building / structure, the site is currently empty / vacant.
- The empty nature of the lot is neither appropriate nor aesthetically pleasing.
- Additionally, per the testimony and evidence presented during the public hearing process, there are certain grading / drainage / ponding problems at the current / demolished site, which are causing problems for a number of Sea Girt Officials / business – and approval of the within Application will allow the said drainage / drainage / ponding issues to be immediately resolved.
- The Application as presented requires a potential variance for the location of the trash area in a technical front yard area. Towards that end, the Board recognizes that the subject lot is a through lot, with technical frontage on both Sea Girt Avenue and Washington Boulevard. Towards that end, the Board recognizes that the said geography compromises the ability of the Applicant to satisfy all of the prevailing bulk requirements (including the requirement for trash location.)
- Subject to the conditions contained herein, the subject Application satisfies all storm-water / recharge requirements.
- Subject to the conditions contained herein, the new building approved herein will properly manage storm water run-off at the site.
- Per the testimony and evidence presented, approval of the within Application will help an existing area professional remain operational and competitive, without causing a substantial detriment to the surrounding community.

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- Subject to the conditions set forth herein, and per the testimony and evidence presented, there are no known grading / drainage issues associated with the proposed construction.
- Subject to the conditions contained herein, the benefits of the within Application out-weigh any detriments associated therewith.
- 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.
- Approval of the within Application will have no known detrimental impact on adjoining properties and thus, the Application can be granted without causing substantial detriment to the public good.
- Professional Office Use at the site (with residential apartment use above), as approved herein, will not be out of character for the area.
- Subject to the conditions set forth herein, and in conjunction with any necessary Design Waivers, the Application satisfies the Site Plan Requirements of the Borough of Sea Girt.
- Subject to the conditions contained herein, the Application as presented will have a minimal impact on the surrounding neighborhood.
- The Applicant's Representatives have suffered stress, delays, and financial costs associated with the post-2017 approval process – and it is time for the matter to be resolved so that specifically authorized and appropriate construction / development can take place at the site.

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

MOTION TO APPROVE THE SITE PLAN / VARIANCE APPLICATION WAS MADE BY MAYOR FARRELL.

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A SECOND MOTION TO APPROVE THE SITE PLAN / VARIANCE APPLICATION WAS MADE BY COUNCILMAN MEIXSELL.

ALL THOSE WHO VOTE IN FAVOR TO APPROVE THE SITE PLAN / VARIANCE PORTION OF THE APPLICATION:

Carla Abrahamson, Larry Benson, Karen Brisben, Mayor Ken Farrell, Eileen Laszlo, Councilman Michael Meixsell, Robert Walker, Norman Hall

CONDITIONS

During the course of the Hearing, the Board has requested, and the Applicant's Representatives agreed, to comply with the following conditions:

- a. The Applicant shall comply with all promises, commitments, and representations made at or during the Public Hearing Process.
- b. The Applicant shall comply with the terms and conditions of the June 8, 2018 Review Memorandum of Leon S. Avakian, Inc. (A-15).
- c. The Applicant shall comply with all prevailing/applicable Affordable Housing requirements/contributions/directives as established by the State of New Jersey, COAH, the Borough of Sea Girt, the Court System and/or any other Agency having jurisdiction over the matter.
- d. The Applicant's representatives shall immediately, and in good faith, work out / resolve / fix / remedy / repair / cure the existing drainage / ponding problems at the site. (The details for the same shall be approved by the Municipal Zoning Officer and / or Board Engineer. The Applicant's representative shall report back to the Board Secretary with regard to any developments in the said regard.
- e. The Applicant shall cause the Plans to be revised so as to portray and confirm the following:
 - The inclusion of a Note confirming a correct building height of 34.32 ft. (allowing the first-floor elevation to be raised by approximately 8 inches.)

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- The inclusion of a Note confirming that the garbage can/trash area shall be enclosed with low maintenance vinyl fencing.
 - The inclusion of a Note confirming that the exterior lights will be turned off no later than 8:00 p.m.
 - The inclusion of a Note confirming that the no building coverage variance is required.
 - The inclusion of a note confirming that the stanchions shall be immediately cleared / removed from the sidewalk.
 - The inclusion of a note confirming that the building shall be relocated approximately 2 ½ inches to the east. That is, the building shall be slightly relocated so as to change the setback to 6 ft. on the left side (from Washington Boulevard) and so as to further change the setback to 4 ft. on the right side (from Washington Boulevard).
 - The inclusion of a Note confirming that signage at the site shall comply with prevailing zoning regulations.
- f. The Applicant shall comply with all conditions of the 2017 approval, unless obviated herein.
- g. The Applicant's representatives shall comply with all Prevailing Building / Construction Code Regulations.
- h. The Board Engineer shall review and confirm that the Applicant's existing dry-well comply (at least) with the minimum Municipal Requirements. (The testimony indicated that the Applicant's representatives installed larger dry-wells than the minimum size required by the Borough of Sea Girt.)
- i. **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-appraisal 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, 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 Applicant 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.

- j. The mechanical equipment shall be located in a Zoning-Compliant location.
- k. If requested by the Board Engineer, the Applicant shall submit a Grading Plan, which shall be approved by the Board Engineer.
- l. The Applicant shall manage storm water run-off during and after construction (in addition to any other prevailing/applicable requirements/obligations.)

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- m. The Applicant 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
- n. If applicable, the proposed structure shall comply with applicable Provisions of the Americans with Disabilities Act.
- o. 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.
- p. The proposed structure shall comply with the Borough's Prevailing Height Regulations.
- q. The construction, if any, 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.
- r. The Applicant 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.
- s. The Applicant 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.
- t. The Applicant shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- u. If required by the Board / Borough Engineer, the Applicant shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.
- v. Unless otherwise agreed by the Planning Board, the approval shall be deemed abandoned, unless, within 24 months from adoption of the within Resolution, the Applicant obtains a

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Certificate of Occupancy (if necessary) for the construction / development approved herein.

BE IT FURTHER RESOLVED, that all representations made under oath by the Applicant and/or its agents shall be deemed conditions of the approval granted herein, and any mis-representations or actions by the Applicant 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 Applicant's 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 Applicant 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.

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

IN FAVOR: Larry Benson, Karen Brisben, Mayor Ken Farrell, Councilman Michael Meixsell, Robert Walker, Norman Hall

OPPOSED: None

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ABSTAINED: None

INELIGIBLE: Jake Casey, Ray Petronko

ABSENT: Carla Abrahamson, Eileen Laszlo

NEW BUSINESS:

At this time an announcement was made by Mr. Kennedy that the application for 110 Beacon, LLC, for property located at 110 Beacon Boulevard, has been withdrawn by the applicant and he had prepared a Resolution of Dismissal without Prejudice which will enable the Board to close the file and stop automatic approval. Mr. Kennedy then read the following Resolution into the record:

WHEREAS, on or about April 5, 2018, Agents of 110 Beacon, LLC submitted a Development Application to the Borough of Sea Girt; and

WHEREAS, the said Application involved the property located at 110 Beacon Boulevard, Sea Girt, New Jersey, more formally identified as Block 19, Lot 12; and

WHEREAS, the said Application sought Variance Approval to effectuate the following:

- Removal of the existing front dwelling;
- Construction of a new single-family dwelling in the front of the site;
- Retention of the existing dwelling unit at the rear of the site;
- Installation of an in-ground swimming pool;
- Replacement of the driveway;

WHEREAS, the first Public Hearing on the matter occurred on or about June 20, 2018; and

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WHEREAS, during the aforesaid Public Hearing Process, a number of members of the public expressed concerns / opposition associated with the Application; and

WHEREAS, during the aforesaid Public Hearing Process, several Board Members also expressed several comments / questions / concerns regarding the subject proposal; and

WHEREAS, upon further review and analysis, the Applicant's representatives requested an adjournment of the Hearing, so that the proposal could be more formally reviewed / analyzed; and

WHEREAS, the aforesaid Application was carried to the July 18, 2018 meeting, without the need for any further re-noticing; and

WHEREAS, subsequent to the first Public Hearing, the Applicant's representatives and Board representatives learned that the Borough's tape recording system malfunctioned at the June 20, 2018 meeting and, as a result, the June 20, 2018 Public Hearing was not recorded; and

WHEREAS, under the circumstances, out of an abundance of caution, and so as to eliminate any potential litigation issues, the parties decided to re-commence the case, from the beginning, and upon further / formal notice; and

WHEREAS, the "new" Hearing was scheduled to take place on August 15, 2018; and

WHEREAS, on or about August 14, 2018, the Applicant's Attorney advised that the Applicant's representatives were withdrawing the subject Application, without prejudice; and

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WHEREAS, as such, under the circumstances, it is appropriate to officially dismiss the Application, without prejudice, so as to avoid the possibility of a legislatively-mandated approval of the request;

NOW, THEREFORE, BE IT RESOLVED, by the Sea Girt Planning Board as follows:

1. That at the request of the Applicant's Representatives, and/or agent thereof, the subject Application is hereby dismissed, without prejudice.

2. That the Applicant shall cause all outstanding escrow charges (and other appropriate charges) to be satisfied in full.

3. That upon satisfaction of all applicable charges, any remaining escrow can be returned to the Applicant.

4. That the Board Secretary, Board Attorney, and Zoning Office Representatives are hereby authorized to take all reasonable actions necessary to effectuate the intentions of the within Resolution.

5. That a certified true copy of the within Resolution shall be forwarded to the following:

- A. The Applicant's Attorney;
- B. The Board Attorney; and
- C. The Borough's Zoning Office

A motion to dismiss the application, without prejudice, was made by Mr. Ward, seconded by Mr. Casey, then by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Ray Petronko, Robert Walker, John Ward, Norman Hall

Noes: None

The Board then turned to an application for a conforming Minor Subdivision for Block 41, Lot 8, 221 Chicago Boulevard, owned by W. Peter & Susan Ragan, to create

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two buildable lots. The correct fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified. Chairman Hall recused himself from hearing this application and left the dais.

Mr. Kennedy asked the audience if anyone who had received a notice had a question on same and there was no response. He then marked the following:

- A-1. Application package
- A-2. Subcommittee memo
- A-3. Subdivision plan dated 4/6/18.
- A-4. Survey dated 3/28/18
- A-5. Board engineer memo dated 6/29/18.

Mr. Frank Baer of WSB Engineering Group came forward to present this application, he is an Engineer and Planner and has appeared before many Boards in Monmouth, Ocean & Middlesex Counties. He was accepted as an expert witness and was sworn in.

He explained this is a simple application on the northeast corner of Chicago & 3rd on a 100x150 foot lot, this is in the 1E zone and conforms. They will remove the home and subdivide the lot into two buildable lots with no variances. He reviewed the letter from Peter Avakian, Board Engineer, and has no objections to his review. He noted the Subdivision Committee wants them to preserve as many trees as possible and they will do the best they can in this. He said that the attorney for this, Michael Henderson, will have testimony on trees.

At this time Mrs. Brisben noted the lot numbers are wrong on the plan, as per the Assessor's report and the plans are not signed. She asked that 5 sets of correct plans are submitted. Mr. Casey asked if the garage and pool will also be removed and the answer was yes. Mr. Ward commented on the new Tree Ordinance that is being proposed by Council but it is not yet adopted. Mr. Henderson said he has not yet seen the proposed Ordinance but will review the language of it. Mr. Petronko asked about the trees and Mr. Baer said there is a holly tree in the middle of the proposed new lot and it will be tough to save, they can plant another one.

As there were no further Board questions, the hearing was opened to the public for questions to Mr. Baer and Sue Blasi came forward and was sworn in. She, too, was concerned about the trees, the Tree Ordinance is almost there and she asked that they please do not clear-cut the lot. As there were no other questions, that portion was closed.

Mr. Michael Henderson, Esq., then called Peter Ragan to come forward to testify, Mr. Ragan was sworn in giving his address as 221 Chicago Boulevard. He is the property owner along with his wife and there will be two fully conforming lots. Mr. Henderson asked about the existing trees and Mr. Ragan said the holly tree that was mentioned is not healthy. Mr. Ward asked if he is the developer and he said no; Mr.

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Henderson said they can't make a stipulation that the holly tree will be kept but they can replace any trees that are removed. Mr. Ward said if a developer comes in he can clear cut, the best intentions are not always enforceable. Mr. Kennedy said there will be an "iron-clad" statement in the Resolution on this. Mr. Casey asked if any of this needs approval from the Shade Tree Commission and Mr. Kennedy felt any replacement trees will need Shade Tree approval. He also assumed that, if the Tree Ordinance gets adopted they may have no option but to comply with it. Mrs. Brisben commented there is a Borough tree on the corner of this property and she was concerned it may get damaged in the subdivision process. The Mayor added that the Tree Ordinance has been tabled for finalization, they hope to re-introduce it at the September Council meeting and be adopted in October. Mr. Henderson said the tree is on Borough property and it can't be touched. Mrs. Brisben said the town has seen trees get destroyed by equipment and work being done. Mayor Farrell agreed and said that is what happened with the Mueller Major Subdivision, tree roots were cut when the lots were developed and trees destroyed.

The hearing was now opened to the public for general comments on a motion by Mr. Casey, seconded by Mr. Petronko and unanimously by the Board, all aye. Jim Stanford of 400 Brooklyn Boulevard came forward and was sworn in. He is at this meeting as he is the new Shade Tree Commissioner and applauded the Planning Board as they have asked the things he was going to ask. He also applauded Mr. Ragan for his statements and the job here. The Tree Ordinance they are talking about has not been vetted but it is at the final step, he again applauded the Planning Board. The public portion was closed on a motion by Mr. Ward, seconded by Mr. Casey and by the Board, all aye.

The Board then went into discussion and Councilman Meixsell felt it was straightforward and he was for it. Mr. Ward commented there is a water problem in town and trees are appreciated. Mr. Petronko and Mr. Walker were also for approval, Mayor Farrell felt it was sad that this home is going to be lost, it is a beautiful home and a beautiful property. Mr. Casey agreed but said it will bring in two more taxpayers. Mrs. Brisben said the Ragan family goes way back, a lovely family and a lovely family home; she, too, agreed it was a shame to see it go.

At this time a motion was made by Mr. Walker, seconded by Mayor Farrell, to approve the application, as presented. Mr. Kennedy went over the conditions that will be in the Resolution, then the following vote was taken:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell,
Councilman Michael Meixsell, Ray Petronko, Robert Walker, John Ward

Noes: None

The Board then was ready to hear the application for an appeal from the Zoning Officer's Stop Work Order for Block 20, Lot 13, 108 Chicago Boulevard, owned by Jason & Jacqueline Meyer. If appeal upheld, application for Use Variance/variance

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approval to allow re-construction of a new home, original approval given 10/26/17 for renovations, home demolished after approval given for renovations only.

The fees are paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified. Mayor Farrell & Councilman Meixsell had to step off the dais as they are not eligible to hear a Use Variance.

Mr. Michael Rubino, the attorney for the Meyers, came forward and said he understood that the recorder was not recording and in order. Mrs. Brisben is using her cell phone to tape the proceedings but if there is an appeal on this application this will not be an accurate record and he did not feel it was a good idea to proceed this evening. He said if he had known about this problem he would have brought a Court Transcriber. Chairman Hall commented this is not something the Board knew of in advance but Mr. Rubino felt it would be a problem to proceed. Chairman Hall asked if the first part, the Zoning Officer's Stop Work issue can be addressed but Mr. Rubino said no. Mr. Kennedy noted there is a lot of public here this evening and this is not just a technical issue, it is a legal issue; if there is litigation there is a problem and the Judge needs to rely on transcripts. If this does go forward and there is an issue with recordings it will have to be heard again, he commented it was a good thing this was found out before the application was heard so it can be addressed before all the testimony. He announced that Board will hear this application at their next meeting scheduled for September 19, 2018. Mr. Rubino added there will be no further notice and he will extend the time period for hearing this.

At this point Mrs. Amy Ledva spoke and asked if it has any bearing that Mr. Rubino represented them 10 years ago with the garage apartment (she and her husband are objectors). Mr. Kennedy said she should speak to Mr. Rubino on this and see if this is something to be addressed. Mr. Ward asked if the notice was given properly and Mr. Kennedy asked the audience if anyone had a problem with the notice they received – there was no response. At this time a motion to carry this hearing to September 19, 2018 was made by Mr. Ward, seconded by Mr. Petronko and unanimously approved by the Board, all aye.

Before adjourning for the evening, a few people in the audience wanted to address the Board and Mary Scheiderman of 711 Baltimore Boulevard came forward. She was here to make a suggestion to the Planning Board of considering using part of the tennis court area to use as a town pool; she also wanted to ask about putting in a traffic light on Highway 71 & Baltimore Boulevard, one can't cross the highway. Chairman Hall said years ago a pool was discussed, to be over by the library, however, he told her these are not in Planning Board jurisdiction and must be done by Council. He added that Highway 71 is a State Highway and is not under Sea Girt domain so a traffic light would be under State jurisdiction and not Sea Girt. Ms. Scheiderman felt the traffic travels too fast here and Chairman Hall told her to go to a Council meeting for both of her issues as the Planning Board does not have any authority in these matters. Mr. Kennedy suggested she write a letter to Council before she appears at a meeting so

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they are aware. She said she did not get answers the last time she tried and she may write to the Coast Star newspaper.

Sue Blasi came forward and said that when Mayor Ed Ahern was in office the traffic was addressed and the speed was lowered to 35 mph. She added that in different towns there are different speeds, not all agree on one speed but reiterated that this is a State Highway and they have the final say.

Eileen Devlin of 205 Beacon Boulevard then came forward and complained about how Sea Girt is changing and it has to be stopped, the town is being destroyed by 7 bedroom, 7 bath homes, it is going to end up looking like Hoboken; block after block of homes are gone. Mrs. Brisben explained to her that all the homes being built are not given approval by the Planning Board, if they comply with the zoning codes they can be built, the only ones the Board hears are the ones that need relief from the codes. Chairman Hall added the Board has tried to define the setbacks, etc. and the recommendations the Board makes go to Council; a good example of this is the Tree Ordinance that was addressed this evening, Council takes on some of the Board's recommendations. However, he told her if the rules are changed too much then every home would be nonconforming and the Board would be here every week because then even a minor change would need a Planning Board hearing. Ms. Devlin felt rules should be followed and commented some homes have 6 inches of grass area, that's all. Chairman Hall said that is why there is now an Impervious Coverage Ordinance, to keep this from happening.

Barbara Cundier of 408 New York came forward and said she is one of the old hold-outs and hears nothing but construction, she felt the developers cheat and lie and get away with things and the buildings are getting larger and larger. She asked if air conditioners can be on garages and Chairman Hall said yes, but they have to be screened so they can't be seen. She then went on about debris, porta-potties, etc. and that this is distressing, assessments are high and privacy has been lost; she hoped something can be done.

As there was no other business to come before the Board a motion to adjourn was made by Mr. Casey, seconded by Mrs. Brisben and then by unanimous voice vote, all aye. The meeting was adjourned at 8:15 p.m.

Approved: September 19, 2018

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