

SEA GIRT PLANNING BOARD  
WEDNESDAY, FEBRUARY 21, 2018

The Regular Meeting of the Sea Girt Planning Board was held on Wednesday, February 21, 2018 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 (arrived 7:19 pm), Karen Brisben, Jake Casey,  
Mayor Ken Farrell, Eileen Laszlo, Councilman Michael Meixsell,  
Ray Petronko, Robert Walker, Norman Hall

Absent - Carla Abrahamson, John Ward

Also present was Board Attorney Kevin Kennedy; Board member Karen Brisben recorded the Minutes and there were 15 people in the audience. The Minutes of the January 17, 2018 meeting were unanimously approved on a motion by Mayor Farrell, seconded by Mrs. Laszlo.

OLD BUSINESS:

The Board considered a Resolution of approval for a variance application for Block 14, Lot 12, 2 Beacon Boulevard, owned by Stacey A. Miranda, to allow construction of a single family dwelling with a detached garage and swimming pool. Mr. Kennedy told the Board that Mr. Casey had asked for a few minor alterations to the Resolution and Mr. Kennedy had no problem with them, so the following was presented for approval (note: before this, Mrs. Brisben had mentioned that this property is already being advertised for sale in the newspaper and Mr. Kennedy said that sometimes happens and had no effect on the variance application):

**WHEREAS**, Joseph and Stacey Miranda have made Application to the Sea Girt Planning Board for the property designated as Block 14, Lot 12, commonly known as 2 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 the following:

- Demolition of an existing single-family dwelling; and
- Construction of a new 2 ½ story single-family home, with a detached garage, accessory structure, and swimming pool.

## **PUBLIC HEARING**

**WHEREAS**, the Board held a Public Hearing on January 17, 2018, 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:

- *Plot Plan, prepared by WSB Engineering Group, P.A., dated August 4, 2017, last revised November 28, 2017, introduced into Evidence as A-1;*
- *Plot Plan, prepared by WSB Engineering Group, P.A., last revised January 3, 2018, introduced into evidence as A-2;*
- *Architectural Plan, prepared by Grasso Design Group, consisting of 2 sheets, dated August 14, 2017, last revised December 1, 2017, introduced into evidence as A-3;*
- *Architectural Plan, prepared by Grasso Design Group, consisting of 2 sheets, last revised January 2, 2018, introduced into evidence as A-4;*
- *Survey, prepared by WSB Engineering Group, P.A., dated May 11, 2017, last revised July 13, 2017, introduced into evidence as A-5;*
- *Leon S. Avakian, Inc., Review Memorandum, dated December 22, 2017, introduced into Evidence as A-6;*
- *Land Development Application completeness checklist, introduced into Evidence as A-7;*
- *Zoning Officer denial letter, dated August 21, 2017, introduced into Evidence as A-8;*
- *A series of Resolutions adopted by the Sea Girt Planning Board, including the Parisella Resolution, the Donnelly Resolution, the Fuge Resolution, the Marshall Resolution, the Godek Resolution, the Howley Resolution, the Roberto*

*Resolution, and the Bladgon Resolution, collectively introduced into evidence as A-9;*

- *Architectural Rendering of the proposed elevation, prepared by Grasso Design Group, dated January 17, 2018, introduced into evidence as A-10;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

### **WITNESSES**

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

- Joseph Miranda, one of the Applicants;
- Brian Berzinskis, Architect;
- Imants Smildzins, Professional Planner
- C. Keith Henderson, Esq., Appearing;

### **TESTIMONY AND EVIDENCE PRESENTED**

**WHEREAS**, testimony and other evidence presented by the Applicants and / or their representatives revealed the following:

- The Applicants are the Owners of the subject property.
- There is an existing single-family home located on the site.
- The Applicants propose the following:
  - Demolition of an existing single-family dwelling; and
  - Construction of a new 2 ½ story single-family home, with a detached garage, accessory structure, and swimming pool.
- Upon completion the new home will include the following:

### **FIRST FLOOR PLAN**

Kitchen  
Dining Room  
Living Room  
Foyer  
Study  
Mudroom  
Covered Front Porch  
Masonry Patio

#### SECOND FLOOR PLAN

Master Bedroom  
Master Bathroom  
Bedroom  
Bedroom  
Half Bathroom  
Laundry Room  
Covered Deck

#### TOP HALF STORY

Bedroom  
Bathroom  
Office  
Open Deck

- The mechanical equipment will be located in a zoning compliant location.
- Details pertaining to the proposed garage include the following:

Type of Garage:	Detached
Size of Garage:	499 SF
Height:	19.5 Ft.
Number of Bays:	2
Location:	Between the proposed home and the proposed garage (per plans)

- The Applicants are also proposing to construct / install an in-ground pool at the site.
- The pool will be 14 ft. X 22 ft.

- The pool lighting will comply with the Borough's Prevailing Ordinance Requirements.
- The pool equipment will be located in a zoning compliant location.
- The Applicants anticipate having the improvements completed in the very near future.
- The Applicants will be utilizing licensed contractors in connection with the demolition / construction process.

### **VARIANCES**

**WHEREAS**, the Application as presented and modified, requires approval for the following Variances:

- *BUILDING HEIGHT FOR A PRINCIPAL BUILDING:*  
*The maximum height allowed for a principal building is 35 feet; whereas, in the within situation, the Applicants are proposing a height of 38.5 feet.*
- *BUILDING HEIGHT FOR AN ACCESSORY STRUCTURE (GARAGE):* *Maximum 16 feet allowed; whereas 19.5 feet proposed.*

### **PUBLIC COMMENTS**

**WHEREAS**, public questions, comments, objections, and/or statements, in connection with the Application were presented by the following;

- None

### **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 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 2 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 dwelling.

4. The Applicants propose the following:

- Demolition of an existing single-family dwelling; and
- Construction of a new 2 ½ story single-family home, with a detached garage, accessory structure, and swimming pool.

5. Details pertaining to the proposed home and proposed garage are set forth elsewhere herein, and in the Plan which has been submitted.

6. Such a proposal requires Bulk Variance approval.

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

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

- The Application as presented requires Variances for the height of the proposed single-family home and the height of the proposed detached garage.
- Under the New Jersey Municipal Land Use Law, both of the aforesaid variances are Bulk "c" Variances.
- The Borough of Sea Girt Essentially requires structures to be measured from the crown of the road.
- In the within situation, the natural grade of the subject lot (which is typically approximately 1 foot above the crown of the road) is an average of 5 feet above the crown of the road. Thus, the Borough's 35-foot height requirement is still

measured from the crown of the road, notwithstanding that the finished floor of the proposed home will be located approximately 8-9 feet above the same.

- As indicated, and as referenced above, the natural grade of the lot is an average of 5 feet above the crown of the road. Towards that end, the Board finds that the elevation of the natural grade of the lot materially limits/restricts the ability of the Applicants to satisfy the Borough's prevailing height requirements (in an aesthetically pleasing / functional fashion).
- The testimony indicated that the level of the road (i.e. Beacon Boulevard) is approximately 5 feet below the existing ground level.
- As referenced, because the natural elevation of the grade of the subject property slopes, any structures (i.e. home and garage) to be constructed thereon will be approximately 5 feet higher than the crown of road.
- The said situation (as referenced above) is a rather unique situation – and, per the testimony and evidence presented, the said situation only affects a handful of homes in the Borough of Sea Girt.
- The nature of the existing topography essentially constitutes a hardship within the meaning of the New Jersey Municipal Land Use law.
- Some of the Board Members essentially inquired as to whether the home could be redesigned so as to comply with the Borough's overall height requirements. In response, the Applicants' representatives essentially suggested that while it would be physically possible to adjust / eliminate / reduce the roof pitches / roof lines / eve lines, doing so would materially compromise the overall aesthetic appeal of the new home. The Board accepts the said rational.
- Per the testimony and evidence presented, the installation of a height-complying flat roof, or a relatively flat roof, would not be practical, functional, nor aesthetically pleasing.
- The Applicants' representatives testified that the subject home has been designed so as to physically appear as if the same will have a conforming height of approximately 34 feet

(above grade). In light of the same, and for the other reasons set forth herein, the Board is of the opinion that the home approved herein will not appear dramatically different / larger / taller than other homes in the immediate area.

- Per the testimony presented, the home approved herein will not be taller than the homes in the immediately surrounding area.
- Because of the natural grade of the lot, and the fact that the home / garage will sit 4-5 feet above the crown of the road, the height of the structures approved herein will not overpower the lot.
- The rationale for the height relief (i.e. natural grade of the lot) applies to both the non-conforming home and the non-conforming garage.
- Per the Applicants' representatives, because of the natural / existing topography of the land, a height-conforming home would necessarily require a low-pitched roof, or a flat roof, which would not be in keeping with the design and the aesthetic appearance of other homes in the area.
- Per the testimony and evidence presented, the Board is aware that the actual home approved herein will not be greater than 35 feet tall.
- The Application as initially submitted requested variance approval for a number of variances, including a Building Coverage Variance, an Impervious Coverage Variance, and a Wall Height Variance. However, prior the hearing, the Applicant's representatives modified the proposal so as to eliminate the aforesaid variances.
- In conjunction with the above point, the Board is aware that the Application, as ultimately modified, only requires approval for the variance for the height of the home and the height of the garage.
- The Board finds that the elimination of some of the initially requested variances (as referenced above) substantially improves the overall merit / acceptability of the Application.
- The existing home on the site has a non-conforming Side Yard Setback (West side) of only 3.5 feet. The Board is



aware that in conjunction with the within approval, the existing home will be eliminated, and as such, the existing non-conforming Side Yard Setback will be eliminated as well.

- In conjunction with the above point, the pre-existing non-conforming Side Yard Setback will be eliminated and replaced with a conforming Side Yard Setback.
- The Board finds that there are definitive and many benefits associated with eliminating a non-conforming Side Yard Setback.
- The Board notes that the proposed home and proposed garage will satisfy all prevailing setback requirements.
- The proposed single-family use is a permitted use in the subject zone.
- The proposed detached garage use is a permitted accessory use in the subject zone as well.
- The proposed pool is a permitted accessory use in the zone.
- All elements of the home and garage (except height) will comply with the Borough's prevailing Bulk requirements – including size, setbacks, number of stories, location, etc.
- The topographical features referenced herein justify granting the Variance relief for the height of the garage as well.
- There were no public objections associated with the Application.
- The location of the proposed home / garage is practical and appropriate.
- The size of the proposed home / garage is appropriate, particularly given the size of the existing Lot.
- The Board notes that the subject Lot is a conforming Lot (in terms of Lot Area) (i.e. 7,500 SF exists; and 7,500 SF is required.)
- The home / garage approved herein will not overpower / overwhelm the subject Lot.

- The home / garage approved herein will not overpower / dwarf other homes in the area – particularly in light of the nature of the surrounding residential uses.
- The home / garage approved herein represents an attractive and upscale home, in accordance with Prevailing Community Standards.
- The site will provide a sufficient amount of off-street parking spaces for the Applicants' use and thus, no Parking Variance is required.
- The existence of sufficient and appropriate parking is of material importance to the Board – and but for the same, the within Application may not have been approved.
- Sufficiently detailed testimony / plans were represented to the Board.
- The proposed home should nicely compliment the property and the neighborhood.
- Approval of the within Application will significantly improve the aesthetic appeal of the site.
- 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 proposed home / garage will not be inconsistent with the architectural character of other homes / garage in the area.
- Subject to the conditions set forth herein, the 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 improvements to be constructed herein will not be inconsistent with other improvements located within the Borough.
- 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, 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 (on their behalf) 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 December 22, 2017 (A-6).
- c. The Applicants shall comply with all prevailing/applicable Affordable Housing Regulations/Contributions/Directives as required by the State of New Jersey, the Borough of Sea Girt, the Court System, COAH, and any other Agency, having jurisdiction over the matter.
- d. The Applicants shall comply with Prevailing FEMA Requirements / Regulations.
- e. The garage is not to be utilized as living space.
- f. The Applicants shall arrange for the Plans to be modified (if not already effectuated) so as to confirm that the Applicants will have conforming building coverage, conforming

impervious coverage, and a conforming wall height. (The Board Engineer shall specifically confirm the same.)

- g. The pool shall comply with the Borough's Prevailing Noise Regulations. The pool shall also comply with the Borough's Prevailing Pool Code Regulations.
- h. The Applicants are replacing the existing retaining wall on the east side of the property. Towards that end and as referenced in the Board Engineer's Review Memorandum (A-6), the reconstruction of the retaining wall will have a potential impact and potential encroachment on the adjacent properties. As such, the potential impact / encroachment will require permission (from the adjacent property owners) so as to reconstruct / extend the wall. Thus, to the extent necessary, the within approval shall be conditioned upon the Applicants obtaining such necessary consent and providing proof of same to the Board Secretary / Board Engineer. Additionally, all retaining wall construction shall comply with Prevailing Building / Construction / Municipal / Code Requirements – and the same shall be constructed entirely on the subject 2 Beacon Boulevard property.
- i. The Applicants shall comply with Prevailing Building Code / Construction Code Regulations.
- j. Unless otherwise waived by the Board Engineer, or unless already effectuated, the Applicants shall submit grading / drainage calculations to the Board Engineer, for his review / approval (so as to confirm the absence of any grading / drainage issues.)
- k. The Applicants shall obtain any and all necessary demolition Permits.
- l. The Applicants shall utilize good faith efforts to protect the existing trees at the site.
- m. The Applicants shall appropriately manage storm-water run-off during and after construction (in addition to any other Prevailing / applicable Requirements / obligations).
- n. 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
  - Electrical Permit
- o. If applicable, the proposed structure shall comply with applicable Provisions of the Americans with Disabilities Act.
  - p. 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.
  - q. 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.
  - r. 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.
  - s. 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.
  - t. The Applicants shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
  - u. If required by the Board / Borough Engineer, the Applicants shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.
  - v. Unless otherwise agreed by the Zoning Board, the within approval shall be deemed abandoned, unless, within 24 months from adoption of the within Resolution, the Applicants obtain a Certificate of Occupancy for the construction / development approved herein.

**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 demolition/ development

A motion for approval of the above Resolution was made by Mr. Petronko, seconded by Mayor Farrell and then by the following roll call vote:

Ayes: Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo, Michael Meixsell, Ray Petronko, Norman Hall

Noes: None

Not Eligible to Vote: Robert Walker

The Board then turned to a request for an extension of time to perfect a Minor Subdivision for Block 54, Lot 7, 321 Stockton Boulevard. Mr. Francis Rupp, Esq. came forward to represent his client and owner of 321 Stockton Boulevard, Jeff Woszczak. Mr. Woszczak came forward and was sworn in; he said that he had gotten a Minor Subdivision back on 2/15/17 to create two conforming lots and he then ran into problems taking down the existing home that was on the lot, he had an asbestos problem which delayed matters, had a problem with the demolition machine and had to hire someone to do this job (he usually did this himself) and this ran into more problems with the demolition. He had gotten a permit on 5/16/17 to do this work, but all the

delays took them into September and he never got the subdivision perfected and has to ask for this extension; he said there are no changes to the original subdivision application. He is now ready to go but needs the extension of time for filing. There was then a brief discussion on how much of an extension should be granted and it was decided, by Mr. Kennedy, that this extension should be retroactive to September of 2017 (the time it was to have been perfected by) and this will give Mr. Woszczak until September 2018 to get this done. Mr. Rupp said they are ready now to submit the deed for signature so September 2018 is more than enough time.

Mr. Casey noted the sidewalks in this area are deteriorated and wanted to know when they will be fixed and Mr. Woszczak wanted to wait until the second house was built and then he will replace the sidewalk. Mr. Casey felt the sidewalk in one area is not safe, the rear of Stockton Boulevard and he wanted to have that done as soon as possible; Mr. Rupp and Mr. Woszczak were agreeable to have this done. Mr. Kennedy felt this can be handled by the Board Engineer and they were to work with him.

At this time a motion for approval of the extension of time was made by Mrs. Brisben, seconded by Mrs. Laszlo and then by the following roll call vote:

Ayes: Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo,  
Councilman Michael Meixsell, Ray Petronko, Robert Walker, Norman  
Hall

Noes: None

#### NEW BUSINESS:

The next item on the agenda was an introduction presentation by Board Engineer Peter Avakian for the Master Plan Update. Chairman Hall explained that he has set up a sub-committee with 4 members of the Board and they will have professional advice as well when they meet, he wanted to let the public know what they are doing.

Peter Avakian, Board Engineer, then came forward and said the last update was done 10 years ago, by law it has to be done every 10 years, the last update was May of 2008 and that addressed the Army Camp zoning uses. He then introduced Jennifer Beahm, their Master Plan expert at Avakian Engineering, who gave her preliminary report and had passed out a memo on the Master Plan Re-examination. The memo outlined the 5 items needed to be included in this update: 1) The major problems and objectives relating to the land development in the municipality at the time of the adoption of the re-examination report, 2) The extent to which such problems and objectives have been reduced or have increased subsequent to such date, 3) The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the Master Plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition and recycling of designated recyclable materials

and changes in State, County and municipal policies and objectives, 4) The specific changes recommended for the Master Plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared; and 5) The recommendations of the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the Local Redevelopment and Housing Law into the Land Use Element of the municipal Master Plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

She went on to say the subcommittee will meet and a draft document will be prepared; she would appreciate any feedback from the Board members. While a Master Plan Update does not require public review she would recommend doing this but it is up to the Board. She would like to plan to have this public hearing at the May Planning Board meeting on Wednesday, May 16<sup>th</sup>. Chairman Hall questioned the timeline as the last plan was finalized in May of 2008 but Ms. Beahm felt the law says every 10 years and does not specify it being to the day, having a public hearing in May and adopting in June will be fine.

Mrs. Laszlo asked what input does the public have and Ms. Beahm said the documents are on file in the Borough Hall, notice will go to all surrounding municipalities and the County and she will give her report in May. Then the public can give input if they want to. She did say that if there is anyone who is interested in giving information to the Board for this update they should put it in writing and send it to the Board Secretary as soon as they can. She has already met with John Ward, who is a member of the subcommittee, and he stressed there be transparency. Chairman Hall also said that Mr. Ward was concerned about meetings and the Sunshine Law; Ms. Beahm said that 4 members or less is not a public hearing and Mr. Kennedy agreed with her. She said there also is nothing stopping professionals from speaking to committees. Chairman Hall agreed with all that was said and wanted to see people submit ideas to the Borough Hall for the committee to review, the more the public gets involved the better it will be.

He stressed to the audience and Board members that this is an Update to the Master Plan and is important, it is required and is the law. Ms. Beahm continued and said the Re-examination report, when adopted by the Board, is sent to the Governing Body as they are the sole ones to implement the Ordinance and can follow up on this. She also noted that the Mayor and one Councilperson sits on the Planning Board so they are up to date with what is going on.

Mayor Farrell agreed that there should be a public hearing and he has already gotten some feedback from people. Mrs. Brisben said she can contact the Coast Star for putting this information in their newspaper and was told the reporter from the Coast Star was in the audience and is noting all this down.

As the matter was open to the public for any comments or questions, Councilwoman Diane Anthony, who was in the audience, asked about her credentials;



Ms. Beahm said she has spoken before almost of the towns in Monmouth County and has done Master Plan updates multiple times, Neptune took two years to do theirs and Manasquan just did theirs. She has over 20 years in Planning work.

Ms. Beahm said she will send her schedule to Mrs. Brisben and then meetings can be arranged. Mr. Petronko asked why the paperwork the Board members received start with 1978 and Ms. Beahm said that is as far back as this goes. Both she and Mr. Avakian said they look forward working with the Planning Board on this matter.

The Board then turned to an application for a Minor Subdivision for Block 52, Lot 10, 304 Crescent Parkway, owned by Robert & Nancy Schatzman, to create two building lots. Building Coverage – 20% maximum allowed, 23.4% requested for one new lot, the other lot will be conforming. 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.

Before starting this hearing Mr. Kennedy marked the following exhibits:

- A-1. Application dated 10/30/2017 with an addendum.
- A-2. Subdivision plat done by InSite Engineering, dated 5/2/17 with revisions done on 10/2/17.
- A-3. Survey dated 4/24/17.
- A-4. Report from Leon S. Avakian, Inc. dated 12/22/17.
- A-5. Memo from Subdivision Committee dated 12/5/17.

At this time Michael Rubino, Esq. came forward to present this application and asked that Exhibit A-6 be marked into evidence, a series of 11 photos of the property and surrounding homed taken by him on 2/20/18. Mr. Rubino had 4 witnesses and they all came forward and were sworn in: Chris Rice, Architect, Robert Schatzman, owner, Patrick Ward, Professional Engineer and Allison Coffin, Professional Planner. Mr. Kennedy noted he has worked with both Mr. Ward and Ms. Coffin in the past and has no financial involvement with them but he wanted this disclosed. Mr. Rubino had no problem with this information.

At this time Mr. Ben Nadel, Esq. spoke up and told the Board he is there as an objecting attorney, representing Michael & Eileen Konczyk, the next door neighbors. Mr. Rubino said he had met with Mr. Nadel concerning the new lot to be created that his clients live next to. Their concern and request is to have any new driveway be on the east side of the new lot; this made sense to the Schatzmans, too, and it will be a condition of approval. Mr. Rubino they can put it in the subdivision itself and they had no problem with a deed restriction, Mr. Kennedy said okay. Chairman Hall asked Mr. Nadel if he was going to do a presentation and was told no, not if the condition is put in the Resolution and there is a deed restriction. Mr. Nadel wanted to wait until the public portion of the hearing before deciding.

Mr. Rubino then started and explained the Schatzmans purchased this property in 2002 and, when they decided to design a new home that they would do so to keep the west lot open for a future subdivision, the original application that came into the Board Secretary was for one 100 foot lot and one 50 foot lot, but they now have submitted a subdivision for two 75 foot lots; a beautiful side porch will have to come off so it does not encroach onto the new lot, but one variance is necessary as they want to keep the back porch and this takes them over lot coverage. They agree to keep this back porch open and never build above it; also, the impervious coverage will be reduced to 31% as they will be removing pavers around the side and pool area.

At this time Mr. Schatzman came forward and said they moved to Sea Girt in 2002 (he had attended Sea Girt school in his youth) in the summer. At the time of their purchase there was a colonial style home right in the center of the property, it was well built but had a small kitchen, etc., their sons had to live in the garage apartment on the property so it made sense to knock the home down and build a new one. At first they were going to build in the middle of the property but decided to build on one side and perhaps sell the side lot at a time in the future. Chris Rice was the architect and build their side porch which they were happy with as well as a roof-catch drainage; this was 12 years ago and they had approached the Tax Assessor about a subdivision and were told to go to the Planning Board but they were not ready to back then. They never addressed building coverage and thought 12 years ago it would have been all right, they never would have built over if they knew there was going to be a problem. They want to keep the back porch as it provides a lot of nice coverage and they sit on the porch and watch their grandkids in the pool. Mr. Rubino said the impervious coverage would be 55%, that includes the house and the impervious coverage around the home. Without the home being added in, it will be 31% impervious coverage.

Chairman Hall asked about their application for a 100 foot lot and a 50 foot lot and Mr. Schatzman said they were told to check on a deed restriction that required lots on this side of the block to be 75 feet wide, it was not in his deed and their broker, Phil Schwier and their attorney at that time, Kevin Callahan, could not find it. Then in July the deed restriction was found and they knew their original subdivision application was in violation. Mr. Rubino explained some Title companies only go back a period of time and not as far back as 1925 which is the time this deed restriction is from. Chairman Hall told Mr. Schatzman he could come before the Board for a variance for 50 feet but Mr. Rubino said there was no sense in trying, the neighbors are not for it and one property owner hired an attorney who is here tonight. Chairman Hall still felt the Planning Board could grant a variance for maybe a 65 foot wide lot but Mr. Rubino said they would be sued if they tried to do that and it could take years in court to resolve.

At this time Mr. Christopher Rice, Architect, came forward to testify. As the Board was very familiar with him, he was accepted as an expert witness. He said he had designed the home and the porch was built so it can be taken down; he said 12 years ago the building coverage was calculated differently. They had started with a new 50 foot lot until the neighbor came over with the deed restriction and told the Schatzmans they would fight them to the end on this; so the side porch will come off and the

Schatzmans are okay with that, they are asking for two 75 foot wide lots but go over the lot coverage by 3%. He commented that he thought it was good that Sea Girt has a maximum lot coverage of 20%, some towns have 25 to 30% and the 20% keeps the size of the homes down. He also said the back porch, that creates the lot coverage problem, cannot be seen from the street and does not violate anything; if it is taken down it will not be known that that happened. He agreed with Mr. Rubino that the impervious coverage will be taken down to 31% and felt this was good news.

Chairman Hall asked what would the lot size have to be for them to not do anything and keep the side porch, Mr. Rice said a new lot of 50 feet wide which was the original application. Chairman Hall asked what can be done to take the property down in percentage and Mr. Rice didn't have an answer. Chairman Hall then asked why the deed restriction cannot be changed and Mr. Rubino said it can't, to create a 60 or 65 foot wide lot is not going to happen, even if the Board granted a 50 foot wide lot they would be taken to court. Chairman Hall questioned how a deed restriction can be taken away and Mr. Rubino said they would have to have all the families sign off on it. Mayor Farrell said there was an issue similar to this in his area, a new owner purchased the property and had to move the whole house due to a deed restriction when he wanted to sell part of his property.

Mr. Rubino said this could be in litigation for 10 years, this deed restriction goes from Third Avenue to Fourth Avenue, it takes one side of the block. Mayor Farrell said back in history people could sell pieces of their property off over time. Chairman Hall asked about possibly re-zoning or a Master Plan update and Mr. Rubino said no, the Board does not have the right to do this. Mr. Kennedy spoke and researched this last summer when this first came up, the Board can grant the application but the minute the neighbors sue there will be an injunction; this is a difficult thing as deed restrictions are perpetual. Mr. Rubino agreed and said that, before Zoning in the 1950s, people could set up deed restrictions like this and they do remain in place.

Mr. Casey asked for confirmation from Mr. Rice that when this home was first built it did comply and Mr. Rice said yes, their intent was to be able to remove the side porch if that needed to be done to make the original lots but it is different now. If the Board makes the back porch come down the Schatzmans will build a patio with a pergola, to leave the back porch is the best solution. Chairman Hall asked if the back porch did come down does that take it to 20% and Mr. Rice said it still would be just slightly over.

Mayor Farrell commented that the new lot may have a new owner and they may want more variances when they build and Mr. Rice said this is an oversized lot and there would be no reason for that; Mayor Farrell noted "it happens". Mr. Rubino said if this happens the new owner would have to come before this Board for variance relief and it can be addressed then. The hearing was opened for questions to Mr. Rice and, hearing none, that portion was closed.

Before going on to the Engineer's testimony, Mr. Rubino wanted to state that all conditions in the Board Engineer's report will be met, they just ask that any sidewalk repair be done after building. At this time Mr. Patrick Ward, Engineer from InSite Engineering, came forward. He was accepted by the Board as an expert witness. He had nothing else to add and said that all the dark places on Exhibit A-2, the subdivision plat that all Board members had, is what will be removed and he agreed there is no problem with the driveway on the new lot. He did calculations on lots with no variances and came up with a 90 foot side lot and a 60 foot wide lot. Mr. Rubino then spoke of not wanting to amend this deed restriction and keep the lots at 75 feet wide. Mr. Casey did not feel it hurt to ask and Mr. Schatzman spoke up and said they did just that, they asked. Many people who live on this side of the block felt this was there and they want to keep it there, lots at 75 feet wide; some of their deeds did have this restriction on them and they are concerned if this is allowed, the corner lot may be subdivided into two 50 foot lots and they are not going to give this up, he has spoken with their attorney.

At this time the hearing was opened for questions to Mr. Ward and, hearing none, that portion was closed and Allison Coffin came forward. As she was known to the Board and had testified before them other times she was accepted as an expert witness. She said there is one variance which comes under the C-2 criteria and this variance will advance the Municipal Land Use Law and the outweighs any detriment. The lot is 3 times what the Ordinance allows, it is oversized and is in keeping with the deed restriction. The applicant did construct a home to have it comply but now that is not possible as the applicant cannot have a 100 foot lot and a 50 foot lot, this keeps the proper density in this area. The building coverage comes to less than 400 square feet and is an open porch that has no impact on the area and the applicant is going to remove some of the existing impervious coverage to bring that into compliance, the benefits here outweigh the detriments, the use is permitted and appropriate. Mr. Casey commented that if the math is done the way he does it is a significant variance, he gets 17%, not 3.4%.

The hearing was opened for questions to Ms. Coffin and, hearing none, that portion was closed. Mr. Ben Nadel, Esq., representing the owners of 314 Crescent Parkway spoke again and said he did have a conversation with Mr. Rubino this afternoon in regards to the condition that the new driveway for the new home will be on the east side and not the west side and the Schatzmans are acceptable to this, he asked that it be a condition of the Resolution. Mr. Rubino once again said it will be in the Resolution and there will be a deed restriction. Mr. Kennedy said he and the Board Engineer will review this deed perfecting the subdivision before it is signed. Chairman Hall asked if his clients agree with the variance relief and he said yes, they have no objection to the variance. Chairman Hall then asked if they were going to take this matter to the court and Mr. Nadel again said they had no objection.

At this time the hearing was opened to the public for general comments and Mr. Michael Konczyk came forward and was sworn in. He had one question regarding Mr. Casey's comment and wanted to know if the variance is for 3.4% over coverage or 17% over coverage, Mr. Rubino said it is 3.4% and Mr. Casey said it is 17%, that is how it is

done – 23 over 20. Mr. Konczyk said he wanted to know as they are going to build and will be coming before the Planning Board.

Mr. Rubino then told the Board about his first Zoning case in Sea Girt, which was back in 1978, he had a client at 21.1% and he was told the Board does not want to go over 1%. He could appreciate this and understood the Board's concerns, if they take off the back porch they will get to 20% & change; this is an open porch and he did not think it is overly significant, this is a beautiful home and if the porch is taken off there will be a patio and awning.

At this time the Board went into discussion. Mrs. Brisben felt the deed restriction application was taken out of context and read the reasons for the restriction, to have room for poultry and other barnyard animals, there was to be no outside privy, no hotel having less than 100 rooms, etc. This may have applied in 1925 but does not apply in 2018. However, she could see that the law is the law and she was in favor of approving the variance application as presented. Mrs. Laszlo felt it was a lovely home and appreciated working with the neighbors, she felt maybe the Title Company should be sued. Mr. Casey also loved the home and felt they will miss the side porch. He still felt it was a significant variance but after hearing all the testimony he would approve it.

Mayor Farrell felt a new home should be built to code but he is swayed that this is a back porch and will not be built on, this is a beautiful home and this lot size will keep that block private. He did agree with Mrs. Brisben, he can't keep pigs at his home either and back in 1925 they were not worried about too many homes. He, too, was in favor of approval for the subdivision and variance. Mr. Benson felt all has been said and he had no objections; Mr. Petronko agreed, it was a good presentation and he would approve. Mr. Walker was glad of the fact that the impervious coverage will be brought down to code and he was in favor of approval. Councilman Meixsell felt this was appropriate and he did not see any detriment. Chairman Hall said he wanted to change the lot size to keep this a variance free subdivision and he learned a lot about deed restrictions. This is why we have this Board and he was in favor of this.

At this time Mr. Kennedy went over the Resolution and the conditions on the driveway and deed restriction, keeping the back porch open and he will comment that any new building on the new lot will meet all requirements. Mr. Rubino was in agreement with Mr. Kennedy's comments; Mrs. Laszlo then made a motion to approve the application, as presented, with the conditions outlined by Mr. Kennedy, this seconded by Mr. Walker and then by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo, Councilman Michael Meixsell, Ray Petronko, Robert Walker, Norman Hall

Noes: None

At this time Mr. Chris Willms, the new Zoning Officer/Code Enforcement Official came forward to introduce himself to the Planning Board. He was covering part-time for Jim Quigley and, after Mr. Quigley retired he was appointed full time and he wanted to meet the Board and see if there are any questions anyone may have.

Mrs. Brisben did have a question for him on JTAS Realty, they were to put up an addition on the Washington Boulevard property and took the entire building down. Mr. Willms said he spoke to Dr. Cuozzo, they are still waiting on County approval and Dr. Cuozzo referred him to the builder. The builder said they demolished the whole building because the foundation from the bank structure there could not support the work to be done. They know it is not what was approved by the Board and he thought Mr. Callahan, their attorney, would be contacting Mr. Kennedy, the builder did what he thought was best. Chairman Hall wanted to know how he got a demolition permit and Mr. Willms said he said he did get one; Chairman Hall questioned Sandy Ratz issuing a demolition permit and Mr. Willms said he didn't know the extent of this and is planning on going to the construction office in the morning and finding out.

Mr. Kennedy agreed this is beyond what the Board approved and may have worked differently with the application if they knew this. Mr. Willms said he can issue a Stop Work Order but they have not yet applied for building permits. Chairman Hall commented the Board has seen this before when a property has been deemed unsafe. Mr. Kennedy did not want to have too much discussion as this is an active application, there will be phone calls and the Board will address this.

Chairman Hall then praised Mr. Willms for the work he is doing, he said he has heard great things about what he is doing around town. Mrs. Brisben, who works at Borough Hall, agreed and told the Board members he is very accessible if they have any questions.

#### OTHER BUSINESS:

Before starting Other Business, Chairman Hall commented on the letter sent from William Sitar regarding rezoning for the Master Plan update and he spoke to Ms. Beahm about it, Mrs. Brisben said she will forward a copy to Mr. Avakian and Ms. Beahm to consider. Mr. Petronko wanted to know who was on the Master Plan Update subcommittee and Chairman Hall said it was himself, Eileen Laszlo, John Ward and Mayor Farrell.

The Board then considered two Ordinance amendments, 02-2018 regarding Zoning Permit application fees and amendment 06-2018, Prohibited Uses. Mayor Farrell explained the new schedule for zoning application fees, this has gone back and forth with Council and these are the final figures they have come up with; he noted these escrow funds do get refunded if there is a balance after all is done. They would like Planning Board approval for this increase in fees, they have come a lot of costs trying to follow State rules and they feel these new fees will match the costs. Mr. Petronko added that there is engineering work for pools and wanted to know if this

covers those costs. Mayor Farrell said there are charges for electrical work, plumbing work, etc. and there is an itemized bill from the Engineer.

As there was no further discussion on this Ordinance amendment 02-2018 Mr. Benson made a motion for approval, this seconded by Mayor Farrell and unanimously approved on voice vote, all aye.

The other Ordinance amendment was 06-2018 and spoke of Sea Girt prohibiting the sale of marijuana and the making of it. Mr. Kennedy explained this is just for endorsement for Council action as there are going to be State laws on this. Governor Murphy want to legalize marijuana usage in NJ and the Council wants to oppose this. Chairman Hall asked if we can supersede State law and Councilman Meixsell responded by saying the State will want to allow towns to sell this, many towns are against this, nothings says this can't be superseded by the State but they may leave the towns the option of doing this so Council wants this known. Chairman Hall felt maybe there will be restrictions in the future and this Ordinance amendment shows Sea Girt doesn't want to support it. Mayor Farrell said there are about 50-60 dry towns in NJ that don't allow alcohol sales and used this as an example.

Mrs. Laszlo commented that the Master Plan is spoken of in this amendment and Chairman Hall wanted to know if the Planning Board should wait to vote on this until after the update is done but Mayor Farrell stated no, Council wants to get this done and they want to let the public know they have the town at heart.

At this time Mr. Kennedy asked for a motion to approve Ordinance amendment 06-2018 and this was done by Mrs. Brisben, seconded by Mr. Casey and then approved by voice vote, all aye.

As there was no other business to come before the Board a motion for adjournment was made by Mayor Farrell, seconded by Mrs. Brisben and unanimously approved by voice vote, all aye. The meeting was adjourned at 9:20 p.m.

Approved: March 21, 2018