

Wednesday, January 18, 2023

SEA GIRT PLANNING/ZONING BOARD
ORGANIZATIONAL MEETING
WEDNESDAY, JANUARY 18, 2023

The Organizational Meeting of the Sea Girt Planning Board was held on Wednesday, January 18, 2023 at 7:00 p.m. at the Sea Girt Elementary School on Bell Place as well as being a hybrid meeting. 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. Kevin Kennedy, Board Attorney, was present and Board Secretary Karen Brisben recorded the Minutes, there were 9 people in the audience; Board Engineer Peter Avakian was absent.

A Salute to the Flag was done, then the following roll call:

Present: Carla Abrahamson, Councilwoman Diane Anthony, Karen Brisben, Tom Britt, Jake Casey, Mayor Don Fetzer, Stan Koreyva, Eileen Laszlo, Robert Walker, John Ward (attended on Zoom), Norman Hall

Absent: None

Chairperson Hall asked if anyone in the audience or on the Zoom meeting wanted to discuss any item not on the agenda and there was no response so the Board turned to approval of the Minutes of the December 21, 2022. A motion was made and seconded to approve these Minutes and then by unanimous vote, all aye.

It was time to elect the Chairperson for the year 2023 and Mr. Casey made a motion to appoint Norman Hall, this seconded by Mrs. Brisben and then by the following roll call vote:

Ayes: Carla Abrahamson, Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Don Fetzer, Norman Hall, Eileen Laszlo, Robert Walker, John Ward

Noes: None

Not Eligible to Vote: Tom Britt, Stan Koreyva (Alternate Members)

Mrs. Brisben then made a motion to appoint Eileen Laszlo as Vice-Chairperson, this seconded by Mrs. Abrahamson and then by the following roll call vote:

Ayes: Carla Abrahamson, Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Don Fetzer, Norman Hall, Eileen Laszlo, Robert Walker, John Ward

Noes: None

Not Eligible to Vote: Tom Britt, Stan Koreyva (Alternate Members)

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A Resolution appointing Kevin Kennedy, Esq. to serve as Counsel to the Board for 2023 was then introduced, as follows:

WHEREAS, the Sea Girt Planning/Zoning Board is a duly organized Planning/Zoning Board (hereinafter referred to as "Planning/Zoning Board") having principal offices at 321 Baltimore Boulevard, Sea Girt, NJ; and

WHEREAS, there is a need for the Planning/Zoning Board to retain the services of a Board Attorney in order to represent its legal interests; and

WHEREAS, Kevin E. Kennedy, Esq., (hereinafter referred to as "Attorney") has expressed an interest in representing the Planning/Zoning Board in the said regard; and

WHEREAS, the legal services to be provided are deemed to be "professional services" pursuant to the Local Public Contracts Law (N.J.S.A. 40:A11-1, et seq.); and

WHEREAS, the Local Public Contracts Law authorized the awarding of a Contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the Contract and the contract itself are available for public inspection in the Office of the Municipal Clerk and that notice of the awarding of the Contract is published in a newspaper of general circulation in the municipality; and

WHEREAS, the Planning/Zoning Board, having considered the matter, now wishes to authorize the awarding of a Professional Service Contract to Kevin E. Kennedy, Esq., for the purpose of rendering necessary legal advice.

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

1. That the Sea Girt Planning/Zoning Board is hereby authorized to award a Contract to Kevin E. Kennedy, Esq. so as to represent its interests, as General Counsel, in connection with all Planning Board matters.
2. That the compensation associated with the said representation shall be \$140.00 per hour, and shall be memorialized in a Contract for Legal Services, which is incorporated herein at length.
3. That the Contract for Legal Services shall contain a Provision whereby the Contract can be terminated, with or without cause, upon thirty (30) days written notice.
4. That the Board Chair, Vice-Chair, Secretary and other appropriate representatives are hereby authorized to sign the said Professional Service Contract, which, if necessary, shall be approved as to form by the Borough Attorney.
5. That the within Contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5, et seq. of the Local Public Contracts Law of New Jersey because the services rendered will be performed by persons authorized by law to practice a recognized profession.

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6. That, in accordance with N.J. law, notice of the within appointment shall be published in one of the Borough's official newspapers.

A motion was made by Mayor Fetzer to approve the above Resolution, this was seconded by Mrs. Laszlo and then by the following roll call vote:

Ayes: Carla Abrahamson, Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Don Fetzer, Eileen Laszlo, Robert Walker, John Ward, Norman Hall

Noes: None

Not Eligible to Vote: Tom Britt, Stan Koreyva (Alternate Members)

The Board then considered the Resolution for a Board Engineer for the year 2023 and the following was introduced:

WHEREAS, the Sea Girt Planning/Zoning Board is a duly organized Planning/Zoning Board (hereinafter referred to as "Planning/Zoning Board") having principal offices at 321 Baltimore Boulevard, Sea Girt, NJ; and

WHEREAS, there is a need for the Planning/Zoning Board to retain the services of a Board Engineer in order to represent its engineering interests on designated/authorized matters; and

WHEREAS, Peter R. Avakian, P.E., PLS, P.P., of the firm Leon S. Avakian, Inc. (hereinafter referred to as the "Engineer") has expressed an interest in representing the Planning/Zoning Board in the said regard; and

WHEREAS, the engineering services to be provided are deemed to be "professional services" pursuant to the Local Public Contracts Law (N.J.S.A. 40:A11-1, et seq.); and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a Contract for "professional services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the Contract and the Contract itself are available for public inspection in the Office of the Municipal Clerk and that notice of the awarding of the Contract is published in a newspaper of general circulation in the municipality; and

WHEREAS, The Planning/Zoning Board, having considered the matter, now wishes to authorize the awarding of a professional service contract to Peter R. Avakian, P.E., PLS, P.P., for the purpose of rendering necessary engineering advice.

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

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1. That the Sea Girt Planning/Zoning Board is hereby authorized to award a Contract to Peter R. Avakian, P.E., PLS, P.P. of the firm Leon S. Avakian, Inc. to represent its interests as Board Engineer in connection with designated/authorized Planning/Zoning Board matters.
2. That the compensation associated with the said representation shall be consistent with the compensation rate the Engineer receives in his capacity as Borough Engineer. Additionally, the appointment terms shall be memorialized in a Contract.
3. That the Board Chair, Vice-Chair, Secretary and other appropriate representatives are hereby authorized to sign the said Professional Service Contract, which shall be approved as to form by the Borough Attorney or Board Attorney.
4. Any payment to be tendered hereunder shall be subject to the Borough's Finance Office confirming that funds are available for the stated purpose.
5. That the within Contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5, et seq. of the Local Public Contracts Law of New Jersey, because the services rendered will be performed by persons authorized by law to practice a recognized profession.

That, in accordance with N.J. law, notice of the within appointment shall be published in one of the Borough's official newspapers.

A motion to approve the above Resolution was made by Mrs. Laszlo, seconded by Mayor Fetzer and then by the following roll call vote:

Ayes: Carla Abrahamson, Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Don Fetzer, Eileen Laszlo, Robert Walker, John Ward, Norman Hall

Noes: None

Not Eligible to Vote: Tom Britt, Stan Koreyva (Alternate Members)

The Board then turned to the Resolutions for Meeting Dates for 2023 and the official newspapers of the Board:

OFFICIAL NEWSPAPERS

WHEREAS, the Sea Girt Planning/Zoning Board is a duly organized Land Use Board, operating and existing in accordance with the Laws/Regulations of the State of New Jersey and the Borough of Sea Girt; and

WHEREAS, under Prevailing Regulations, it is necessary for the Planning/Zoning Board to establish official Borough newspapers; and

WHEREAS, the listed/identified newspapers will be the newspapers in which Board-related notices can be lawfully advertised/published;

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NOW, THEREFORE, BE IT RESOLVED by the members of the Sea Girt Planning/Zoning Board as follows:

That the Planning Board hereby establishes the following 2 newspapers as the Board's Official Newspapers: The Coast Star

The Asbury Park Press

That the within Resolution shall take effect immediately.

The above Resolution was approved by unanimous voice vote, all aye.

MEETING DATES 2023

WHEREAS, an act of the Legislature known as the "Open Public Meetings Act" enacted October 21, 1975, requires that advance notice be given of all regularly scheduled meetings of the Planning/Zoning Board of the Borough of Sea Girt, this act becoming effective January 19, 1976,

NOW, THEREFORE, BE IT RESOLVED by the Planning/Zoning Board of the Borough of Sea Girt that:

The third Wednesday of the month at 7:00 p.m. is hereby set for meetings of the Sea Girt Planning/Zoning Board for the year 2023;

January 18, 2023

March 15, 2023

May 17, 2023

July 19, 2023

September 20, 2023

November 15, 2023

February 15, 2023

April 19, 2023

No meeting in June, school not available

August 16, 2023

October 18, 2023

December 20, 2023

A copy of this Resolution shall be posted on the public bulletin board in the Borough Hall and published in one of the official newspapers of the Board.

The above Resolution was approved by unanimous voice vote, all aye.

The last item was a Resolution appointing a Secretary of the Board for the year 2023. Mrs. Brisben then spoke and asked the Board to consider appointing Chris Willms as an Alternate Secretary as there may be times when she is not available for a meeting; this was done last year with no problems but this year it was asked to be confirmed by the Borough Attorney and the Board Attorney as Mr. Willms is also the Zoning Officer and issues the Letters of Denial for the applications.

Both Mr. Bogan (Borough Attorney) and Mr. Kennedy did not have any issues with Mr. Willms being Secretary but he would not be able to be a voting member of the Board due to his position in the Borough.

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The following Resolution was then presented for approval:

WHEREAS, the Sea Girt Planning/Zoning Board is a duly organized Land Use Board, operating and existing in accordance with the Laws/Regulations of the State of New Jersey and the Borough of Sea Girt; and

WHEREAS, it is necessary and appropriate for the Board to appoint the Board Secretary to handle the administrative affairs of the Board; and

WHEREAS, the absence of a Board Secretary can potentially compromise the efficient operations of the entity;

NOW, THEREFORE, BE IT RESOLVED by the members of the Sea Girt Planning/Zoning Board as follows:

1. That Karen Brisben is hereby appointed as Planning/Zoning Board Secretary and Chris Willms be appointed as Alternate Planning/Zoning Board Secretary for the calendar year 2023.
2. That compensation shall be established by the Borough of Sea Girt.

The above Resolution was approved on a motion by Mrs. Laszlo, seconded by Councilwoman Anthony and unanimously approved by voice vote, all aye.

The Board then heard from John Ward regarding his annual report of applications to the Board. He said this is a repeat of what he did last year as far as procedure and showed the number of applications and the variances asked for as well as what was received, the outcome. He did note that some applicants withdrew their applications, presumably because they realized they would not be approved. He felt the Board was doing a good job. Councilwoman Anthony thanked him for putting this together again this year and asked for a comparison of this year's number to last year's. Mr. Ward did not have those figures in front of him but felt last year was higher than this year, he felt that the applicants are seeing it is not so easy to come before the Board as the Board is so involved in reviewing the applications.

Mr. Casey asked about 106 New York Boulevard and felt that two variances were approved, one for setback and one for grade change; Mr. Ward agreed with this and felt that should be corrected, a change from 7 to 8. Mr. Kennedy did remember Mr. Avakian stating that a grade change is not a variance but needs approval from the Board, Mrs. Brisben agreed. Mr. Kennedy offered to accept the report as is or modify it, it was decided to accept it as it and this was offered on a motion by Mrs. Laszlo, seconded by Councilwoman Anthony. (Note: the report is attached at the end of these Minutes). Mr. Kennedy noted this report will be forwarded to Council.

As a motion was done and seconded, there was a voice vote, all aye for approval.

OLD BUSINESS:

It was time for the Board to consider approval of a Resolution for variance relief for Block 22, Lot 11, 106 New York Boulevard, owned by Matthew Martin & Sharon McGarvey, to allow construction of a new home. Mr. Kennedy reminded the Board this is for demolition of an existing home and construction of a new home; he went over some of the details of this Resolution as it is long and contains a number of conditions. He also noted he had received comments from Board members; he initially had a condition that the existing trees in the front shall be maintained and the applicants said they did not agree to that and Mr. Willms had told Mr. Kennedy they already have a permit to remove those trees. He was also asked to state the handrail details have to comply with the Ordinance, the applicants suggested to say the change in grade of greater than one foot was approved, there was a change in what Mr. Kennedy had said of the garage, it is 377 square feet.

Mr. Ward had some questions and points, on page 17 about ½ way down, "...the home will not dwarf the other homes...". He did not feel this should be in there and felt it should be struck. Mr. Ward then went to page 19 where it speaks of a drywell system and wanted to add that this will be maintained by the homeowner. Mr. Kennedy confirmed that he can remove the part of page 17 if the Board wants and, as far as the maintenance of the drywell system, he felt he had covered this somewhere else in the Resolution and found it in section P and read that portion. Mr. Ward also commented he did not feel that the Planning Board should be commenting on Architect's plans and whether it is beautiful or not, just if it fits. Mr. Kennedy had no problem with changing the wording in the Resolution and neither did the Board.

Mr. Casey wanted it to be clear that the Board is not approving roof pitch, or what is above being allowed by Code, if the applicant wants to do this it is on them. Mr. Kennedy commented there was a lot of discussion on this and this is commented on in the Resolution. It is made clear if there is a variance need, they will have to come back to the Board and he will add the clarification on the railings needing to comply. Mayor Fetzer noted that Mr. Avakian and Mr. Willms were going to review this.

As there was no further discussion, the following modified Resolution was presented for approval:

WHEREAS, Matthew Martin and Sharon McGarvey have made Application to the Sea Girt Planning Board for the property designated as Block 22, Lot 11, commonly known as 106 New York Boulevard, Sea Girt, New Jersey, within the Borough's District 1, East Single-Family Zone, for the following approval: Bulk Variance Approval associated with a request to effectuate the following:

- Demolition of an existing single-family structure; and

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- Construction of a new single-family home, detached garage, cabana, and swimming pool

PUBLIC HEARINGS

WHEREAS, the Board held Public Hearings on October 19, 2022, and December 21, 2022, 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:

- *Sea Girt Planning Board Application Package, introduced into Evidence as A-1;*
- *Variance Plan, prepared by KBA Engineering Services, LLC, dated July 27, 2021, last revised July 11, 2022, introduced into Evidence as A-2;*
- *Architectural Plans, prepared by Graham Station Architects, LLC, dated December 26, 2021, last revised June 28, 2022, introduced into Evidence as A-3;*
- *Survey, prepared by Charles O'Malley, POS, dated December 18, 2018, last revised May 11, 2022, introduced into Evidence as A-4;*
- *Leon S. Avakian, Inc. Review Memorandum, dated October 4, 2022, introduced into Evidence as A-5;*
- *Site Diagram, prepared by Richard Graham, Jr., AIA, introduced into Evidence as A-6;*
- *Illustrated Architectural Rendering, prepared by Richard B. Graham, Jr. AIA, introduced into Evidence as A-7;*

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- *Illustrated Site Plan, with Change of Grading Details, prepared by Joseph Kociuba, last revised July 11, 2022, introduced into Evidence as A-8;*
 - *Photo Board, containing 12 photographs of the subject property and /or surrounding properties, taken by Joseph Kociuba, P.E. / P.P., introduced into Evidence as A-9;*
 - *12 Photographs of the subject property and the surrounding properties, introduced into Evidence as A-10; (Note: the photographs introduced as A-9 are the same as the same as the photographs introduced as A-10);*
 - *Variance Plan, prepared by KBA Engineering Services, last revised November 28, 2022, introduced into Evidence as A-11;*
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- *Architectural Plans, prepared by Richard B. Graham, Jr., AIA, last revised December 5, 2022, consisting of 3 sheets, introduced into Evidence as A-12;*
 - *Leon S. Avakian, Inc. Review Memorandum, dated October 4, 2022, last revised December 16, 2022, introduced into Evidence as A-13;*
 - *A series of 6 photographs of the subject property, taken by Joseph Kociuba, P.E./P.P., dated October 18, 2022, introduced into Evidence as A-14;*
 - *Illustrated Plans, prepared by Richard B. Graham, Jr., AIA, (current site conditions), dated October 12, 2022, last revised December 19, 2022, introduced into Evidence as A-15;*
 - *Aerial Exhibit, introduced into Evidence as A-16;*
 - *Certification of Board Member Carla Abrahamson, confirming that she reviewed the tapes / transcripts of the October 19, 2022 Board Hearing, introduced into Evidence as B-1;*
 - *Affidavit of Service;*
 - *Affidavit of Publication.*

WITNESSES

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

- Sharon McGarvey, Applicant;
- Joseph Kociuba, PE, PP the Applicant's Engineer / Planner;
- Richard B, Graham, Jr., , AIA, the Applicant's Architect;
- Karen Martin, the Applicant's neighbor;
- Kathleen Mathesen, the Applicant's neighbor;
- Justin Auciello, PP, the Applicant's Planner;
- Barbara Ehlen, PP, the Planner for neighbor, Jodi Schwartz;
- Jodi Schwartz, neighbor;
- Tim Middleton, Esq., appearing.

WHEREAS, Peter Avakian, P.E., the Board Engineer, was also sworn with regard to any testimony / information he would provide in connection with the subject Application; and

WHEREAS, Chris Willms, the Sea Girt Zoning Officer, was also sworn with regard to any testimony / information he would provide in connection with the subject Application; and

TESTIMONY AND EVIDENCE PRESENTED BY THE APPLICANTS'
REPRESENTATIVES

WHEREAS, testimony and other evidence presented on behalf of the Applicants' and / or their representatives revealed the following:

- The Applicants are the Owners of the subject property.
- The Applicants have owned the property since approximately 1999.
- There is an existing single-family home located on the property.
- The Applicants live at the site.
- The existing home is quite old, and the same was not really built for the needs of a modern family.
- The Applicants herein propose to effectuate the following:
 - Demolition of an existing single-family structure; and

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- Construction of a new single-family home, detached garage, cabana, and swimming pool;
- As amended, the to-be-constructed home, will include the following:

First Floor

Dining Room

Kitchen

Family Room

Entry Way

Entry Way

Bathroom

Bathroom

Den /Bedroom

Second Floor

Bedroom

Bedroom / Study

Bedroom

Master Bedroom

Bathroom

Bathroom

Closet / Dressing Room

Half Story

Bedroom

Bathroom

Attic

Studio

Gallery

Balcony

- Details pertaining to the proposed garage/cabana include the following:

Type of garage:	Detached (The Garage/Cabana will include a garage, a bathroom, an outside shower, and a storage area.
Location:	South-eastern rear portion of the property (per the plans)
Size:	377 SF
Height:	16 FT

- Details pertaining to the proposed pool include the following:

Type of pool:	In-ground pool
Location:	South-western/rear portion of the property (per the plans)
Size:	12.8 FT x 35 FT
Pool Equipment Location	Rear of property (per the plans)

- It is anticipated that the demolition and construction will be completed in the near future.

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- The Applicants will be utilizing licensed contractors in connection with the demolition / construction work.

VARIANCES

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

*FRONT YARD SETBACK TO A PORCH: 30.73 ft. required;
whereas 27.17 ft. proposed;*

*FRONT YARD SETBACK TO THE DWELLING: 34.96 ft.
required; whereas 30.50 ft. proposed;*

PUBLIC COMMENTS

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

- James Rotolo
- Fred Marziano
- Meg LaChance
- Karen Martin
- Kathleen Mathesen
- Jodi Schwartz

FINDINGS OF FACT

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

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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 106 New York 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 existing structure is not built for the needs of a modern family.

5. As such, the Applicants propose the following:

- Demolition of an existing single-family structure; and
- Construction of a new single-family home, detached garage, cabana, and swimming pool.

6. Details pertaining to the proposed single-family home and other proposed improvements are set forth elsewhere herein and are also set forth on the submitted Plans.

7. Such a proposal requires Bulk Variance Approval.

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

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

- The Applicants submitted an initial Application, which was officially reviewed / discussed at the October 19, 2022 Public Hearing.
- The initial Application sought permission for several Variances, including a Building Coverage Variance, a Front Yard Setback Variance (for the dwelling), a Front Yard Setback Variance (for the porch), and other potential relief.

- As initially presented, the Applicant sought a Front Yard Setback Variance (to the home) of 28 ft. and a Front Yard Setback Variance (to the porch) of 24.07 ft.
- A number of Board Members had concerns with some aspects of the initial Application.
- Some of the more prevalent concerns associated with the initial Application included the following:
 - a. A concern that the home, as initially proposed, was not in keeping with the character of development in the neighborhood;
 - b. A concern that other more conforming options existed, as opposed to the initially submitted Application;
 - c. A concern regarding the grading / drainage issues associated with the proposal;
 - d. A concern with regard to the water table, and the water-related details of the proposal;
 - e. A concern that the initial home was just too bulky;
 - f. A concern that with the proposed demolition, and a "clean slate", the Applicants were in a position to create a Variance-free proposal, or at least a more conforming proposal;
 - g. A concern regarding the narrow driveway width;
 - h. A concern that the design of the home was not consistent with other homes in the area;
 - i. A concern with the change in grade;
 - j. A concern that the initially proposed home was very top-heavy; and
 - k. A concern that because the Borough's prevailing Front Yard Setback formula is based upon the average Front Yard Setback in the area, any approval of a Front Yard Setback Variance, would, by its very nature, furthermore reduce the overall average Front Yard Setback in the area (for future development applications).

- A majority of the Board Members did not believe that a sufficient professional or lay testimony was presented to justify the Variance relief associated with the initial Application.
- It did not appear that a majority of the Board Members were inclined to grant the Variance relief associated with the initial Application.
- The Public Hearing was carried / adjourned so that the Applicants and their representatives could more formally review the matter, and advise if any affirmative obligations would be /could be made so as to address some of the previously expressed concerns.
- The Public Hearing was carried and revised Plans were submitted.
- The Plan revisions included the following:
 - a. The Building Coverage was reduced;
 - b. The need for a Building Coverage Variance was eliminated;
 - c. The width of the home was reduced from approximately 34 ft. to 33 ft.;
 - d. The Grading /Drainage Plan was modified;
 - e. The Front Yard Setback (to the home) was increased to 30.50 ft.;
 - f. The Front Yard Setback (to the porch) was increased to 27.17 ft.;
 - g. The eastern Setback was increased;
 - h. The footprint of the home was reduced from approximately 1490 SF to approximately 1450 SF; and
 - i. The driveway width was increased from approximately 10 ft. 10 in. to 11 ft. 10 in..
- The aforesaid Plan revisions were formally reviewed and discussed at the December 21, 2022 Board Meeting.
- The revised Plans substantially improved the overall acceptability of the proposal.
- The revised Plans, as aforesaid, minimized /reduced the nature / extent of the necessary Variance relief.

- The Board Members appreciated the Applicants' good faith efforts in connection with the preparation of revised plans.
 - The elimination of the Building Coverage Variance was very significant to a number of the Board Members.
 - There was a rather extensive and good faith debate as to the Front Yard Setback Variance request.
 - Although the Front Setback (to the porch) and the Front Setback (to the dwelling were increased, there were still some Board Members who were concerned about granting the Front Yard Setback Variance relief.
 - There was an in-depth discussion as to the average Front Yard Setback calculation process, and the methodology for the same.
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- As referenced, per the Prevailing Borough Ordinance, and the averaging methodology associated therewith, the required Front Yard Setback (to the porch) is 30.73 ft. and the required Front Yard Setback (to the home) is 34.96 ft.
 - Per the testimony of the Applicant's Planner, the Board reviewed the document (marked into Evidence as A-15), which portrayed, in an illustrated fashion, the nature / extent of the exact Front Yard Setback relief.
 - In conjunction with the above point, and per the A-15 document, the Board Members are aware that there is only a very minimal area (of the proposed building) which does not satisfy the prevailing / required Front Yard Setback measurements.
 - A majority of the Board finds that if the home / porch complied with the prevailing Front Yard Setback requirements (ie. the averaging requirements) then, in that event, the Applicants' proposed home would be setback materially further than the surrounding homes, which would create, or contribute to, a compromised streetscape.
 - A majority of the Board finds that setting the Applicants' home back materially further than the surrounding homes would / could detrimentally compromise the overall streetscape.
 - Per the testimony and evidence presented, the non-conforming Front Setbacks approved herein will provide the Applicants with a greater opportunity for a larger and more functional back yard area.
 - Per the testimony and evidence presented, a majority of the Board finds that if the Applicants were to comply with the prevailing Front

Yard Setback requirements, the Applicants' proposal could likely block / compromise air, space, and light for the adjacent property.

- The non-conforming Front Yard Setback approved herein will also promote the privacy interests of the Applicants, as well as the adjacent neighbor.
- Given the Front Yard Setbacks of the other surrounding homes, and per the testimony and evidence presented, a majority of the Board finds that the non-conforming Front Yard Setback approved herein will prevent the area from having a so-called "checkerboard" look.
- Per the testimony and evidence presented, though the Applicants could, technically, comply with the prevailing Front Yard Setbacks requirements, a majority of the Board finds that the granting of the Variance relief represents a better overall zoning alternative for the site, the neighbor, and the community as a whole.
- A majority of the Board Members find that the spirit and intent of the prevailing Borough Ordinance is to keep a) homes in line as much as reasonably possible; b) approve visually appealing house designs /locations; c) honor and satisfy prevailing standards, when appropriate, and d) create/maintain, if possible, functional yard areas. As such, and subject to the conditions set forth herein, a majority of the Board finds that approval of the within Application will advance the aforesaid spirit / intent of the prevailing regulations.
- A majority of the Board finds that, subject to the conditions set forth herein, approval of the within Application will maintain the character / scale of the residential structures in the immediate area.
- The Board acknowledges that there is an adjacent residential neighbor who has an existing outdoor shower - and representatives of the said neighbor expressed that a replacement home at the Applicants' site (which complies with the prevailing Front Yard Setback requirements) would actually compromise the neighbor's privacy (particularly vis-à-vis the existing outdoor shower).
- In the within situation, the above-referenced adjacent neighbor attended the Public Hearings and formally encouraged the Board to approve the requested Front Yard Setback Variances.
- The adjacent neighbor's representatives also expressed concern that if the Applicant herein were required to comply with the prevailing front yard setback requirements, then, the same would also compromise the openness of the neighbor's yard.

- The affected neighboring property owner retained a Professional Planner to bolster the support of the Applicant's Development Team.
- While the Board is familiar with neighbors who support applications, and neighbors who oppose applications, the Board notes the relatively unique situation herein wherein a neighbor actually retained a Professional Planner to provide testimonial support to the Applicant.
- The Board appreciates the passion, zeal, and concerns of the neighbors who supported the application.
- The Board also appreciates the passion, zeal, and concerns of those neighbors who expressed questions, comments, and concerns regarding the proposal, or some aspects of the same.
- While all Board Members expressed appreciation for the Applicants' commitment to address Board concerns, some Members of the Board were of the opinion that, in conjunction with the Plan revisions process, the Applicants could have done more and should have done more, to address the Board's previously expressed concerns regarding the front yard setback variances. That notwithstanding, a majority of the Board finds that the revised plans, as submitted, are acceptable (in conjunction with the conditions set forth herein).
- At the conclusion of the public hearing process, the Applicants' representatives seemed to suggest that they would be open to moderately increasing the proposed front setbacks. However, after further debate and discussion, a majority of the Board Members did not believe any further front setback concessions were warranted.
- The Board Engineer review memorandum (A-13) identified the proposed alteration to the grading at the site. Specifically, the relevant portion of the review letter contained the following:

In Ordinance Chapter 17 Section 4.3 (Alteration of Natural Configuration and Elevations), no alteration of the existing natural configuration and elevation on any lands or lots shall be made without the permission of the Borough Engineer. Such permission will only be granted to the extent absolutely necessary to render the premises suitable for such permitted use. Our office will not approve any grade change exceeding one foot. The Applicants need approval from the Board for the approximate 2.2 feet of the increase in grade being proposed. The Applicants should provide testimony on the reason for the increase in grade and assurance that there will be no impact on adjacent property.

- The Board Engineer indicated that while no formal variance relief is necessary for the proposed change of grade, the Board Engineer would not administratively approve the change of grade absent Board approval/endorsement of the development application.
- There was an extensive discussion on the matter.
- The Applicants' representatives essentially testified that there would be no adverse impact (on the adjacent lands) as a result of the within approval.
- In response, some Board Members questioned the reliability of such grading testimony from the development team, and they questioned whether the Board could, in good faith, rely on the testimony. Clearly, there was a concern that all interested parties be as protected as much as possible so as to minimize any adverse grading/drainage impact associated with the subject approval.
- In response, Board representatives advised that the Board/Borough should take comfort in a number of salient facts, including, the following:
 - Confirmation that there was testimony and evidence presented to conclude that there would be no adverse grading/drainage impact on the adjacent lands;
 - Confirmation that the grading/drainage plans were modified to address previously expressed concerns;
 - Confirmation that the grading/drainage system would be improved as a result of the Applicants' commitment to install a drywell system at the site (the details of which would be reviewed and approved by the Board Engineer);
 - Confirmation that, as part of the Resolution Compliance process, the grading and drainage details would be again be reviewed and verified by municipal officials;
 - Confirmation that the Borough can, if necessary, have the zoning officer (and/or engineer) on site to further review/approve/confirm/verify the drainage improvement/system;
 - Confirmation that Performance/Maintenance Guarantees are to be submitted so as to guarantee the absence of any such grading/drainage problems (for the immediate future);

- Confirmation that an as-built survey will be submitted so as to further verify the appropriateness of the grading/drainage details; and
- Confirmation that the appropriate Municipal officials can confirm that the drywell system is installed/maintained in accordance with industry standards (or other best practices).

Against such a backdrop, a majority of the Board found the testimony and evidence to be acceptable.

- The aforesaid items (to address the specified grading/drainage details) are set forth as specific conditions herein.
- One purpose of the Borough's grade change Ordinance is to ensure, to the greatest extent possible, that there will be no adverse drainage impact on adjacent lands, as a result of the construction of the authorized improvements. Towards that end, per the testimony and evidence presented, between the drywell, the roof drains, and other measures, the stormwater runoff will be captured on site.
- The change of grade (greater than 1 foot) as referenced on the Plans and in the testimony, is approved herein.
- There was an intense discussion about the Borough's half-story definition and whether the Applicants herein complied with the same. There was also a rather intense discussion on the proposed roof pitch, and whether the Applicants herein complied with the same. Finally, there was also a rather intense discussion on the overall building height, and whether the Applicants herein complied with the same. There was also a discussion on the handrail height, and whether the same complied with prevailing Code /Ordinance requirements. The said discussions, as aforesaid were very spirited and technical, and also involved questions as to whether some of the prevailing regulations should be clarified and/or modified.
- In conjunction with the above point, the language of the controlling Ordinances was dissected, ridge height definitions were debated, height calculation methods were reviewed, and the nuances of the roof-top height exclusions (for certain decorative features) were analyzed as well. Based upon such discussions, and based upon the testimony and evidence presented, a majority of the Board determined that the Applicants complied with the prevailing half-story/roof pitch/height/railing height requirements.
- Additionally, the Applicant's Representatives maintained that the alleged half-story/roof pitch/height/railing height issues were not

flagged by the zoning officer or Board Engineer as deficiencies or variances.

- The Board Professionals were also of the belief that the application satisfied all prevailing half-story/roof pitch/height/railing height regulations.
- Compliance with the Borough's prevailing half-story, roof pitch, railing height, and height regulations are integral conditions of the within approval, as no such variance relief has been granted herein.
- For record-keeping purposes, the said issues may be placed on the agenda for the Board's Annual Review, so that, if authorized, the specific questions/concerns/suggestions can be more formally presented to the Borough Council for further review /consideration.
- There was also a fairly intense discussion about whether air conditioning units and other materials are permitted on the roofs of a home, the roofs of a garage, etc. The said discussion involved an analysis of the Borough's prevailing height definition, and the said discussion also involved whether roof-top mechanicals are permitted to extend beyond the traditional maximum height limitation. After further review and discussion, a majority of the Board found that the subject proposal complied with prevailing requirements. (There is also a condition requiring compliance with the prevailing roof/height requirements.)
- The Applicants' representatives also maintained that neither the zoning officer nor the Board Engineer suggested that there was any type of non-compliance in the said regard.
- Compliance with the prevailing height requirement is an expressed condition of the within approval, as no height variance relief is granted herein.
- The nuances of the roof-top mechanical regulations may also be placed on the agenda for the Board's Annual Review so as to determine if further review is warranted.
- The home approved herein is a beautifully designed home.
- The proposed single-family use is a permitted use in the subject Zone.
- The proposed garage is a permitted accessory use in the subject Zone.

- The majority of the Board Members are of the opinion that the previously referenced revisions substantially improved the overall acceptability of the proposal.
 - The majority of the Board Members are of the opinion that the aforesaid revisions substantially rendered the proposal much more compatible with the neighborhood.
 - The majority of the Board Members are of the opinion that the previously referenced revisions represent an appropriately scaled design for the project.
 - The majority of the Board Members are of the opinion that the previously referenced revisions mitigate any adverse impacts otherwise associated with the non-conforming elements of the subject proposal.
-
- The majority of the Board Members are of the opinion that the previously referenced revisions eliminated the nature / extent / number / impact of the requested Variance relief, thereby resulting in a better overall proposal.
 - The Application as initially submitted required approval for more (and more intense) Variances.
 - There was a discussion that the initially requested Variances represented a significant amount of Variances in connection with a proposal which involved the construction of a new structure on a soon-to-be-vacant Lot. That is, there was a concern that with a so-called blank slate / soon-to-be vacant land, the Applicants could be more creative and more sensitive about submitting a proposal which satisfied and complied with more of the Borough's Prevailing Zoning Regulations.
 - The ultimately revised Application requires approval for approximately 2 Variances, which is less than the number of Variances initially requested.
 - While it is preferable to eliminate the number of Variances when possible / practical, the Board is keenly aware that the number of Variances (associated with a proposal) is much less important than the overall impact of any particular Variance , or combination of Variances.
 - The Board is aware that even one ill-advised Variance can, in some circumstances, have more of a detrimental impact on the community than situations where many Variances are otherwise approved.

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- The Board finds that, subject to the conditions contained herein, the Variance relief associated with the revised Application can be granted without causing substantial detriment to the public good.
- The Board appreciates the Applicants' concessions, which resulted in a far superior proposal (than what was initially submitted).
- Given the fact that the Applicants will be starting with a blank slate, or vacant land, it is appropriate for the Applicants to comply with as many Zoning Regulations as possible.
- 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 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.
- The location of the proposed home / garage is practical and appropriate.
- The home approved herein will be consistent with the streetscape of the immediate area.
- The use of the land approved herein is, in fact, an appropriate use of the land.
- Subject to the conditions contained herein, the home approved herein has been appropriately scaled, and the same will not be inconsistent with the character of the neighborhood.
- The garage/cabana approved herein is not out of scale with the neighborhood.
- The proposed pool complies with all Prevailing Bulk Requirements.
- Per the Borough's Prevailing Zoning Regulations, the pool equipment / mechanical area will be located in a Zoning-compliant location.

- The location of the proposed home is practical and appropriate.
- The size of the proposed home is appropriate, particularly given the conforming size of the existing Lot.
- The Board notes that the subject Lot is a conforming Lot (in terms of Lot Area.) In fact, the minimum Lot size in the Zone is 7,500 SF; whereas the subject Lot has a conforming area of 7,500 SF.
- Subject to the conditions contained herein, the improvements authorized herein will not overpower / overwhelm the subject Lot.
- The home 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 complement the property and the neighborhood.
- Additionally, the architectural/aesthetic benefits associated with the proposal outweigh the detriments associated with the Applicants' inability to comply with all of the specified standards.
- The architectural design of the proposed home will not be inconsistent with the architectural character of other single-family homes 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, a majority of the Board is of the opinion that the requested relief can be granted without causing substantial detriment to the public good.

CONDITIONS

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

- a. The Applicants shall comply with all promises, commitments, and representations made at or during the Public Hearing Process.
- b. The Applicants shall comply with the terms and conditions of the Leon S. Avakian, Inc. Review Memorandum, dated October 4, 2022 (A-5), last revised December 16, 2022 (A-13).
- c. The Applicants shall cause the Plans to be revised so as to portray and confirm the following:
 - The inclusion of a note confirming that the roof pitch/height/half story/railing height shall comply with Prevailing Borough Regulations (as no such variance relief is granted herein).
 - The inclusion of a note confirming that the parapet shall not be utilized for entertainment/recreational

purposes, but rather, just to shield the roof-top HVAC/mechanicals.

- The inclusion of a note confirming that the roof-top mechanicals shall not be visible from the street.
- The inclusion of a note confirming that the roof-top mechanicals shall be surrounded by the parapet wall.
- The inclusion of a note confirming that the Applicants shall install a drywell system in compliance with the Borough Ordinance, the details of which shall be reviewed and approved by the Board Engineer.
- The inclusion of a note confirming that the cabana and garage shall not be utilized as habitable living space or as a dwelling unit.
- The inclusion of a note confirming that the pool lighting scheme shall comply with the Prevailing Borough Design Requirements.
- The inclusion of a note confirming that the existing non-conforming shed shall be removed.
- Confirmation that weep holes and/or zip drains shall be installed on the retaining wall, and directed to the drywell.
- Confirmation that unless otherwise authorized by the Board Engineer, the driveway shall drain to the front of the property.
- The inclusion of the retaining wall details on the Plans.
- The elimination of the discrepancy between the architectural plans and engineering plans, as referenced in point "j" of the Board Engineer Review Memorandum (A-13).
- The inclusion of a note confirming that, in the absence of formal approval of the Sea Girt Planning Board, there shall be no further expansion/extension/continuation of the front yard

setback than as specifically identified on the plans and on the A-15 Exhibit.

- The inclusion of a note confirming that there shall be no adverse light spillover onto any adjacent lands.
 - Confirmation that a pool-compliant fence shall be installed at the site.
- d. The Applicants shall obtain any and all necessary demolition Permits as the Borough of Sea Girt may require.
- e. The A-15 Exhibit shall be revised (or the Applicants shall cause a note to be attached to the same) so as to correct the 2 foot / 6 foot distance discrepancy (per the on the record discussion).
- f. The Applicants shall submit an as-built survey.
- g. In conjunction with an on-site visit, if necessary, the grade change details shall be specifically reviewed and approved by the Board Engineer, in consultation with the zoning officer.
- h. Revised Plans (5 sets), as referenced herein, shall be submitted to the Board Secretary.
- i. The Applicants shall comply with any Prevailing /applicable FEMA Regulations.
- j. The Applicants shall comply with all Prevailing Affordable Housing Regulations / direction / contributions, which may be required by the United States of America, the State of New Jersey, the Borough of Sea Girt, the Court System, C.O.A.H., and any other Agency having jurisdiction over the matter.
- k. The pool shall comply with all Prevailing Bulk Requirements, as no Pool Variance is granted herein.
- l. In conjunction with the above point, the pool lighting shall comply with the Borough's Prevailing Ordinance Requirements as well.
- m. The Applicants shall obtain any necessary pool permit as may be required.
- n. The Applicants shall utilize good faith efforts to protect any existing street trees at the site.

- o. The Applicants shall appropriately manage storm-water run-off during and after construction (in addition to any other Prevailing / applicable Requirements / obligations).
- p. The drywell shall be installed and maintained in accordance with manufacturing standards and other best practice standards.
- q. The Applicants shall obtain any applicable permits/approvals and pay any applicable charges as may be required by the Borough of Sea Girt (or other Agency having jurisdiction over the matter) - including, but not limited to, the following:
 - Building Permit
 - Plumbing Permit
 - Electrical Permit
 - Sewer Connection Fees
- r. If applicable, the proposed structure shall comply with applicable Provisions of the Americans with Disabilities Act.
- s. 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.
- t. 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.
- u. 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.
- v. Unless waived by the Zoning Office, 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, the Manasquan River Regional Sewerage Authority, and the Freehold Soil Conservation District.

Additionally, to the extent the Plans materially change as a result of any such outside Approvals, then, in that event, the Applicant

shall be required to re-appear before the Planning Board for further review / approval.

- w. The Applicants shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- x. If required by the Board / Borough Engineer, the Applicants shall submit appropriate performance guarantees in favor of the Borough of Sea Girt. (The Guarantees shall also cover/guaranty the stormwater improvements.)
- y. 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 Building Permit for the construction / development approved herein.
- z. **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 referenced herein. In the event post-approval conditions at the site are different than what was presented to the Board, or different from what was otherwise known, or in the event post-approval conditions are not necessarily structurally sound, the Applicants and their representatives are not permitted to unilaterally deviate or build beyond the scope of the Board Approval. Thus, for instance, if the Board grants an Approval 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 Applicants' approval, will compromise the Applicants' building process, will create uncertainty, will create stress, will delay construction, will potentially void the Board Approval, and the same will result**

in the Applicants incurring additional legal / engineering / architectural costs. Applicants are encouraged to be mindful of the within – and the Borough of Sea Girt, and the Sea Girt Planning Board, are not responsible for any such unilateral actions which are not referenced in the testimony presented to the Board, and / or the Plans approved by the Board. Moreover, Applicants are to be mindful that the Applicants are ultimately responsible for the actions of the Applicants', their Agents, their representatives, their employees, their contractors, their engineers, their architects, their builders, their lawyers, and other 3rd parties.

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

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structural design of the proposed improvement, or for any damage which may be caused by the development.

FOR THE APPLICATION: Carla Abrahamson, Karen Brisben, Stan Koreyva, Eileen Laszlo, Norman Hall

AGAINST THE APPLICATION: Councilwoman Diane Anthony, Jake Casey, Mayor Don Fetzer, John Ward

NOT ELIGIBLE TO VOTE: Tom Britt

ABSENT: Robert Walker

The foregoing Resolution was offered by Mrs. Laszlo, seconded by Mrs. Abrahamson and adopted by Roll Call Vote:

AYES: Carla Abrahamson, Karen Brisben, Norman Hall, Stan Koreyva, Eileen Laszlo

NOES: None

NOT ELIGIBLE TO VOTE: Councilwoman Diane Anthony, Tom Britt, Jake Casey, Mayor Don Fetzer, Robert Walker, John Ward

NEW BUSINESS:

The Board then turned to an application for variance relief for Block 15, Lot 2, 1 Beacon Boulevard, owned by Charles & Betsy Miller, to allow construction of a new ½ story addition. Variances required: Front Yard Setback – 40 feet required, existing 23.36 feet, addition will be 29 feet. Side Setback – 15 feet required, 2.87 feet existing on side of proposed addition, expansion of an existing non-conformity. Maximum Height – 35 feet required, 39.2 feet existing, addition will have a height of 38.4 feet to the dormer ridge. Existing Non-conformities not being affected: Lot Depth – 150 feet required, 100 feet existing. Lot Area – 7,400 square feet required, 5,000 square feet existing. Building coverage – 20% maximum allowed, 37.54% existing (proposed addition does not expand footprint). Minimum Rear Setback – 30 feet required, 27 feet existing, modification and addition will have a setback of 35 feet which conforms.

The correct fees were paid, taxes are paid to date and the property owners within 200 feet, as well as the newspaper notice, were in proper order. Mr. Kennedy asked if anyone who received a notice had any issues with it and there was no response; he had looked everything over with no problems and stated the Board had the jurisdiction to hear this application.

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Mr. Kennedy went on to explain that if this application required a D variance due to the height regulations the Mayor and Councilwoman would not be able to hear this, but as it is a C variance they are eligible to take part in the hearing and vote.

Mr. Mark Aikins was present to represent the applicants in this matter and Mr. Chris Willms, Zoning Officer was in the audience and was sworn in. Mr. Kennedy then marked the following exhibits:

A-1. The application package.

A-2. Architect's plans, 5 sheets, done by Christopher Rice of Rice & Brown Architects, dated 11/10/2022.

A-3. Topographic survey, prepared by Paul Lynch, dated 9/10/2021.

A-4. Board Engineer Peter Avakian's report, dated 12/16/2022.

A-5. Resolution from 1995 regarding this property.

A-6. Tax Map showing lot location, for illustration purposes.

A-7. Letter of Denial issued by Chris Willms, Zoning Officer, dated 5/11/22.

A-8. Series of photos of the property.

Mr. Mark Aikins, Esq. then came forward to present this application. He said this is an existing home on an undersized lot, the home was originally built in the early 1900s and is a 2 ½ story residence on the west side of the Sea Girt Lighthouse. The current half-story has no windows and no view of the ocean. The current ridge is 39.2 feet and a portion of the ridge is proposed at 38.4 feet and he confirmed that a C variance applies here and not a D variance as the change is 3.4 feet, if it were 3.5 feet it would require a D variance. The current front yard setback is 23.36 feet and Mr. Aikins noted the proposed addition is in the core of the home which is unusual; this addition is not adding onto the footprint and does not change it. The proposal is to add an interior stairwell to reach that half-story as well as an interior elevator. This property is very unique as you enter through a driveway and entrance that is below ground at grade level, the elevator will be there and will go to only the first and second floor, the stairs will then go to the half-story, not the elevator.

At this time the Architect, Dustin Brown, came forward and was sworn in. He is a partner at Rice & Brown Architects at 545 Washington Boulevard in Sea Girt. He is a registered Architect in Colorado and New Jersey and has been since 2009 and has given testimony before Boards; the Board accepted him as an expert witness. Mr. Brown put the plan on the easel and agreed with Mr. Aikins on the uniqueness here, it has a wrap-around porch and the driveway is below the house, a lot of grade here similar to the other homes on this side of the block so the house sits tall which is typical here; the grade is 4-5 feet higher than the crown of the road and has a basement.

He went on to explain that the applicants are looking for more accessibility for mobile issues as they are getting older and the master bedroom is on the second floor which is starting to be a problem, so they want an elevator that goes from the garage to

the first floor and second floor. They now have grandchildren, the home is a 3 bedroom home and they would like more room, a sleeping area so when family comes to visit they are not sleeping on couches. He showed all the areas on the plan on the easel and highlighted where the new work will be as well as showing where the stairs will be located. He showed how the house steps in, with a porch over the roof and where the addition will be; they did not want a bulky mass. There is an unused attic with an 8-foot headroom and this is where the additional sleeping area will be added. They are going to put in stacked stairs from the second floor to the attic area where there are now pull-down stairs; this needs variance relief as it is 2.7 feet from the property line that is existing. He then showed the front elevation of the home that looks south, the proposed addition and the new roof line, noting the new addition will be higher for the stair access, this is a minimal as it can be and explained how the stairs work here. They have a little bit of headroom up on the proposed area and need egress so they created a balcony on the ½ story, the loft space will have a bathroom and the front will bow out, there will be a spectacular view. There is an existing roof line over the dormer that keeps them from putting in a window so they want to extend that a little.

Mr. Aikins told the Board the Ordinance permits usage of 50% of the second floor on the attic and they are putting in 33%, so about 1/3 under what is permitted, they are not maximizing this. Mr. Brown agreed and said they are not trying to blow out the existing home, this is a nonconforming lot and they are working with this. There is a first floor footprint, the second floor goes back in and they are keeping the 3rd floor small, the Millers just want more space on the 3rd floor and this makes sense. He then showed the existing ridge at 39.2 feet and showed where they are creating two new roof lines out to create a gable end front and back.

Mr. Brown then produced a streetscape exhibit which was marked as Exhibit A-9. This shows the neighborhood with similar elevations and setbacks, so this property is in line with the second porch going back, taking the hip roof and turning it into a gable, with cedar shingles. The colors will be in the neutrals and will use upgraded materials. Councilwoman Anthony asked him to go over the east side elevation and this was shown, taking the gable roof and creating the small balcony and sleeping area with a nice view. The rear elevation is the same concept as the front, turning the hip roof into a gable roof and adding a window.

At this time Mr. Brown was done with his testimony and Mr. Casey asked if the east part is flat. Mr. Brown said the original roof is one pitch and showed where there is not enough room so they are putting in a small cricket. What he liked about this is the natural line of this home, the only option is to do a gable roof or they would have to put in a shed roof and that would create a super flat roof that would be seen walking down Beacon. That would be a little blocky and a little heavy; the solution they are proposing blends in and nestles into the area and follows the natural profile of the roof, the balcony fits into the hip roof. From the boardwalk one will see the slope of the hip roof, it's depth will be 4-5 feet; the eye will be drawn away from the bulk of the structure. Mr. Casey then questioned Mr. Avakian's report where he talks about 332 square feet of the half story; Mr. Casey had measured it and got a whole lot more, he questioned this, he added the balcony. Mr. Brown explained about a gross habitable finished space and he and Mr. Casey had a discussion on this and the space on the half story and the bathroom area and what was not usable space, as well as the stairs. Mayor Fetzer

asked what is there now on the third floor and Mr. Brown said it is just a roof line and a small dormer, he had photos to submit on this, which had been marked as Exhibit A-10 which depicted the existing conditions at the home, taken by Mr. Brown's office and done last week and were explained by Mr. Brown. Mayor Fetzer had a question on the ½ story and the calculations, do the calculations include the balcony and does this stay under the 50%? Mr. Brown said it comes to 43% with the 96.25 square foot balcony. Mayor Fetzer then asked for confirmation that the west side setback will not change and Mr. Brown confirmed this, the setback does not change.

At this time the Board was done with questions and no one from the audience had any questions or comments. Mr. Casey asked about the ceiling and was told there is a 9-foot knee wall on the first floor that slopes back down. Mr. Casey then asked about the hip roof part that is flat and is that allowed in code and Mr. Brown felt that was subjective and it is very common to have some sort of cricket in the roofline. A steep pitch cannot be gotten and they are not trying to create too much space here, he did not know the exact pitch. After further comment, he felt this will not even be seen.

As there were no other questions, the Board gave their comments. Mr. Casey felt it was a pretty good design, the only concern he had was for the neighbor on the west side and if their view would be blocked. Mr. Brown said the neighbors' view, having been there, is from their turret that is in front of their home and they are not looking directly east, more southeast. Councilwoman Anthony complimented the Miller family for designing this, as well as the Architect, taking a Sea Girt home and expanding it rather than knocking it down. She appreciated staying within the footprint and could understand the need for improvements as they are getting older and now have an expanded family, she can also see the need for an elevator; she appreciated it not going all the way to the third floor. Mr. Walker agreed and was glad they were keeping within the footprint. Mr. Britt also agreed with the comments made and working with the variance, it was refreshing. Mayor Fetzer appreciated them explaining all the details, he felt it was a well thought out design. Mr. Koreyva felt it was a great presentation and he was for it, Mrs. Abrahamson agreed with all that had been said and was for approval. Mrs. Laszlo said beautification of a Sea Girt home is always welcome, it is a unique topography and she was for it. Mrs. Brisben was in favor, too, even though it is over at 37% building coverage on a very small lot, it is not noticed by anyone going down the street, this will enhance their smaller home next to the Lighthouse and improve the whole streetscape. Chairman Hall was also in favor and Mr. Ward did not have anything more to add. Mr. Aikins thanked the Board for the opportunity to hear this application to update a classic Sea Girt home.

Mr. Kennedy went over the conditions: compliance with all the comments and testimony given, compliance with Mr. Avakian's report, the boilerplate paragraph that is always put in, compliance with any outside approvals, if plans change as a result of outside approvals, the applicants may have to come back before the Board, review of any drainage details, 24 months to obtain a building permit, compliance with building and construction code requirements on the ½ story Ordinance. Mr. Casey asked that a point be added to redo the math and confirm the 43%. Mayor Fetzer asked that the 1995 Resolution that was on this last variance application for this home, still be continued in force. Mr. Kennedy said that revised plans will have to be submitted verifying this and Mrs. Brisben asked for 5 sets of revisions. At this time a motion was

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made for approval with the conditions noted by Mr. Kennedy, this was seconded by Mrs. Abrahamson and then by the following roll call vote:

Ayes: Carla Abrahamson, Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Don Fetzer, Norman Hall, Eileen Laszlo, Robert Walker, John Ward

Noes: None

Not Eligible to Vote: Tom Britt, Stan Koreyva (Alternate members)

OTHER BUSINESS:

Mr. Casey came up to the microphone to give an update on the Ordinance Committee findings. They have 4 items they are finishing up: the Tree Preservation plan has gone to the subcommittee and they are getting this to Council, hopefully it will be addressed at the Feb. 8th meeting of Council, Councilwoman Anthony said they are meeting on 1/26 to discuss this with the Buildings & Grounds Committee. Mr. Casey then said the next item was the basements under garages issue, there was only going to be a one word change and it has become a much more significant issue than he every thought it would be. There is also a concern on basements under accessory buildings also and this will be discussed at their next Committee meeting which is the end of January. Councilwoman Anthony asked how many there are in town and Mr. Willms answered and told her there are quite a few, almost every new construction has this. If the accessory structure is attached to the garage, normally the basement/storage is continued under both spaces. Mr. Casey explained that, after Hurricane Sandy, the former Mayor had a study done and the basements now had to be 2 feet above the seasonal high water line, this done to minimize the number of structures; in 2015 or 2016 it was decided that basements would be allowed but would count in the 20% building coverage; Council decided to have this count in lot coverage but not building coverage, so in the last years this has been ongoing, this shows that words should be chosen carefully and this is how it worked out. He hoped to have something by the February meeting of the Board.

The next item is the ½ story, they may have changes for parapets, square feet, etc. and there are now more questions on roof slopes and dormers. The Committee will be covering this in their next meeting and he hoped to have something written up for the Board. The last item is Mechanicals, Mr. Willms got a write-up on this from the Committee and had some questions about it, one was putting barriers around mechanicals in the flood zone if it is under 16 inches, the flood level is 3 feet. This is a challenging issue for residents and Mr. Willms felt it would be much more enforceable if it is more than 16 inches above grade, it should be screened. This number was chosen as this is what counts towards impervious coverage, if it is less than 16 inches above grade then it counts towards impervious coverage, if it is above 16 inches it counts towards building coverage and should have coverage around it, there is a potential of having mechanicals 4-5 feet above grade and they should be screened. It would be much easier just to be able to inspect a mechanical and see if it above 16 inches and, if it is, then it needs to be screened, easier to enforce. Mr. Casey did not want to bring this back to the Ordinance Review Committee, he felt it would take more time, he would like the Board to vote on this. Mr. Willms again wanted to use 16 inches above or below

as the guide. Councilwoman Anthony asked about consideration on any kind of barrier and Mr. Casey said a solid barrier; Mrs. Brisben then asked for an example of a solid barrier, a plastic fence or what? Mr. Casey did not have an answer, they just said a "solid barrier". Mrs. Laszlo asked about the need for ventilation, maybe slats and Mr. Willms said air conditioning units do require ventilation, that is really not a big concern as these can go 12 inches from the house for clearance, generators are the items that need space and their platform could be much bigger as they could require a 36 inch clearance from the exhaust and another 36 inch clearance from a solid wall; this is a designer's problem to make it work, shrink the house or the garage if they need to put in a platform. Mr. Britt felt there could be a 2x4 foot generator and then it needs a space of 6x10 feet, now there is a huge box; this is the challenge. Mrs. Laszlo envisioned problems for the architects, she did not think a solid barrier is as nice as a fence for the neighbors to see. Mr. Willms said, with new construction, they are putting their condensers on the back side of the garage roofs. The concerns he hears is that they will be louder, this is the perception. He has gone out with the Police Department to a few of these with the sound decibel meters and he commented that birds chirping are sometimes louder than the new air conditioners and he again felt this is a perception, if someone sees it there they think it will be much louder, it's mind over matter. Sound disburse vertically and not horizontally, the noise is going straight up with air conditioners, generators will give sound where the exhaust is pointing, there will be most sound 10 feet up if that is where it is and not at ground level. Mr. Willms went on to say that the sound testing is done at the ground level and this is why there are no noise violations. Mr. Koreyva said he had this problem at his last home, around his generator he used a louvered wall, you can't see through it but it ventilates.

Mr. Casey said they went back and forth and came up with it being solid because they wanted it blocked from view, but he had no problem with louvered or solid. He felt the issues now to be voted on would be – 16 inches or less is impervious coverage, 16 inches or more is building coverage; louvered or solid around mechanicals. Mrs. Abrahamson questioned this and asked why can't the Zoning Office approve it, maybe someone wants a fence instead or a landscape barrier. Mr. Casey said they weren't all that concerned about mechanicals that were not elevated, only elevated ones. Mrs. Abrahamson still disagreed with telling an applicant what to use. Mr. Britt felt that Mr. Willms should address this and Mr. Willms told the Board the way it is written it needs tweaking. A visual barrier on all sides is the best way to describe something and he will work with Mr. Casey to make sure it is not landscaping (such as arborvitae). Chairman Hall added that Council has the final say. Mr. Casey wanted to move this along and again asked for a vote and reiterated that less than 16 inches is impervious coverage and over 16 inches is building coverage, and the changes to the barriers. The Board also agreed that anything over 16 inches needs a barrier. Councilwoman Anthony asked if a barrier could be just 4 stakes and burlap and Mr. Willms said no, it would have to be something permanent and approved by the Zoning Officer; the Board agreed with this. At this time a voice vote was taken and approved unanimously, all aye.

Mr. Casey was thanked for his work on this and, as there was no other business to come before the Board, a motion for adjournment was made by Mrs. Brisben, seconded by Mrs. Laszlo and unanimously approved, all aye. The meeting was adjourned at 8:50 p.m.

Wednesday, January 18, 2023

Karen S. Brisben, Secretary

Approved: Feb. 15, 2023

SEA GIRT PLANNING BOARD VARIANCE REQUESTS TRACKING FOR 2022

MEETING	PROPERTY	REQUESTED	GRANTED	COMMENTS
DATE				
1/19/2022	501 The Terrace	0	0	0 Minor Subdivision approved
1/19/2022	104 Stockton Boulevard	2	2	Continuation from 10/4/2021
2/16/2022	104 Stockton Boulevard	0	0	0 Dismissal of application for variance relief
3/16/2022	210 Washington Blvd.	0	0	0 Minor Subdivision approved
3/16/2022	4 Brooklyn Blvd.	3	3	Also had 3 existing nonconformities
4/20/2022	501 Washington Blvd. & 3 others -Sitar	0	0	0 Preliminary and Final Site Plan approval
5/18/2022	4 Brooklyn Blvd.	continuation	1	Continuation
5/18/2022	1003 Ocean Avenue	6	5	New construction
7/20/2022	107 Seaside Place	3	3	New construction
9/21/2022	107 Seaside Place	continuation	0	Continuation - dismissal of application for variance relief
9/21/2022	712 Morvan Terrace	0	0	0 Minor Subdivision approved
10/19/2022	116 Baltimore Blvd.	4	0	Dismissal of application for variance relief
10/19/2022	106 New York Blvd.	2	2	New construction
10/19/2022	8-12 Beacon Blvd. a/k/a Parker House	0	0	0 Site Plan approval
11/16/2022	No new applications	0	0	
12/21/2022	106 New York Blvd.	continuation	1	Continuation - setback variance granted, other variance amended by revised plan
TOTALS		18	7	