

**Sea Bright, New Jersey
Unified Planning Board Minutes
May 27, 2014
7:30 p.m.**

Chairman Cunningham called the meeting to order and requested those present to join him in the salute to the Flag.

Chairman Cunningham read the following statement:

2. OPENING STATEMENT:

The Borough of Sea Bright, in compliance with the "Open Public Meetings Act" has advertised the date; time and location of this meeting in **The Asbury Park Press** on January 11, 2014 filed it with the Clerk, and posted a notice on the bulletin board in the Borough Office.

3. ROLL CALL:

PRESENT: Cashmore, Cunningham (**Late**), Desio, Leckstein, McBride, Smith, Isoldi-Jany (Alt. 1), Beer (Alt. 2), Marrone (Alt. 3), Engineer Flor.

ABSENT: Davis, Nott, Long

Vice Chairman DeSio announced that Chairman Cunningham will be late this evening and he will take his place until Chairman Cunningham arrives. Chairman Cunningham arrived at 8:00pm. Vice Chairman DeSio chaired resolutions and the Angelica's application.

4. MEMORIALIZATION OF RESOLUTION:

Councilman Leckstein introduced a motion approving the following application.

**RESOLUTION OF THE SEA BRIGHT PLANNING/ZONING BOARD
GRANTING SITE PLAN AND VARIANCE APPROVAL**

**RE: John Duffy
19 Church Street
Block 14 Lot 11
Sea Bright, New Jersey**

WHEREAS, John Duffy (the "Applicant") made application to the Planning/Zoning Board of Sea Bright (the "Board") for property known as Block 14, Lot 11 on the Tax Map of the Borough of Sea Bright, also known as 19 Church Street for bulk variances to add a rear deck to an existing single family residence which was raised after Superstorm Sandy; and

WHEREAS, the Applicant seeks bulk variances for side yard setback where 3' is required and .5'/3.1' is existing and will be extended 10' with the addition of the deck; total side

yard setback where 6' total is required and 3.6' is proposed; front setback where 5-12" is required and 4' is existing and proposed; lot width where 25' is required and 20' is existing; and

WHEREAS, Applicant has provided due notice to the public and all surrounding property owners as required by law, has caused notice to be published in the official newspaper in accordance with N.J.S.A. 40:55D-1 et seq. and, therefore, this Board has accepted jurisdiction of the application and has conducted public hearing on the matter at meeting on May 13, 2014, at which time all persons having an interest in said application were given an opportunity to be heard; and

WHEREAS, the Applicant appeared and marked into evidence certain documents including the following:

- A-1:** Jurisdictional Packet
- A-2:** Architectural plans prepared by Robert Murphy dated 1-20-14
- A-3:** Survey prepared by JY Land Surveying dated 9-30-13
- A-4:** Photo of subject premises

WHEREAS, the Board considered the testimony and evidence presented and the Board makes the following findings of fact and conclusions of law:

1. The Applicant wishes to add a deck to the rear of the raised house which will be the same width as the house (16'). This will extend the side yard non-conformities 10' further to the rear.
2. No mechanicals will be located in any setback.
3. The Applicant seeks bulk variances for side yard setback where 3' is required and .5'/3.1' is existing and will be extended 10' with the addition of the deck; total side yard setback where 6' total is required and 3.6' is existing and proposed; front setback where 5-12" is required and 4' is existing and proposed; lot width where 25' is required and 20' is existing.
4. The subject property has been subject to flooding and was heavily damaged by the storm. The house has been raised to take it out of the flood dangers.

5. The new deck will allow for better use and enjoyment of the property in its raised condition and will give access to and use of the rear of the home.

6. The Board found that the proposed deck is the same width as the existing house and as such will merely extend the existing side yard setback non-conformities an additional 10 feet. The proposed deck will measure 10' x 16' and is not overly large or intrusive.

7. Board members noted that the side yard deficiencies have been existence for many years with no problems or issues and this proposal will not exacerbate the situation with the addition of an open deck.

8. The Board found that elevating the new house, removing it from flood danger led, in part, to the need for the deck to provide access and better use and enjoyment of the newly raised home.

9. The Board found that the bulk variances are consistent with the neighborhood and the pre-existing dwelling. The proposed design and layout of the deck will add to the safety of the property and make for a better and more aesthetically pleasing home.

12. The Board found that the variances could be granted without any negative impact on the zoning ordinance or zone plan. The proposal is the least obtrusive and improves existing conditions.

14. The Board found that the granting of the variances will have no substantial detrimental impact on surrounding properties nor will it substantially impair the intent and purpose of the zone plan and zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Planning/Zoning Board of the Borough of Sea Bright that the Application with the bulk variances set forth above described is approved in accordance with the plans submitted and marked into evidence, subject to the following conditions:

GENERAL CONDITIONS

1. The applicant shall submit proof of payment of all real estate taxes applicable to the

property and payment of all outstanding and future fees and escrow charges, posting of all performance guarantees, if any, in connection with the review of this application prior to and subsequent to the approval of this application.

2. The applicant must obtain the approval of all necessary and appropriate governmental agencies and compliance with all governmental regulations, including but not limited to CAFRA, except those specifically waived or modified in this Resolution.

3. The applicant shall comply with all building, FEMA and fire codes including but not limited to, entrances and exits.

4. The accuracy and completeness of the submission statements, exhibits and other testimony filed with or offered to the Board in connection with this application, all of which are incorporated herein by reference and specifically relied by the Board in granting this approval. This condition shall be a continuing condition, which shall be deemed satisfied unless and until the Board determines (on Notice to the applicant) that a breach thereof.

5. All stipulations agreed to on the record, by the applicant.

6. In the event that any documents require execution in connection with the within approval, such documents shall not be released until all of the conditions of the approval have been satisfied unless otherwise expressly noted.

7. The Applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality's professionals for review of the application for development, review and preparation of documents, inspections of improvements and other purposes authorized by the MLUL.

8. The Applicant shall furnish such Performance Guarantees and/or Maintenance Guarantee as may be required pursuant to the MLUL and the Sea Bright Ordinances.

9. No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.

10. No mechanicals will be located within any setback.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting of May 13, 2014; and

BE IT FURTHER RESOLVED that the Chairman and Board Secretary are hereby authorized to sign any and all documents necessary to effectuate the purpose of this Resolution; and

BE IT FURTHER RESOLVED that the Board Secretary is hereby authorized and directed to cause a certified copy of this Resolution to be sent to the Applicant, the Borough Clerk, the engineer and the zoning officer and to make same available to all other interested parties and to cause notice of this Resolution to be published in the official newspaper at the Applicant's expense.

I certify the foregoing to be a true copy of a Resolution by the Sea Bright Planning/Zoning Board memorialized on May 27, 2014.

Kathy Morris, Secretary
Sea Bright Planning/Zoning Board

Adopted on a roll call on a motion by _____
and
Seconded by _____

Lance Cunningham, Chairman
Sea Bright Planning/Zoning Board

Seconded by Boardmember Smith and adopted on the following roll call vote:
Ayes: Cashmore, DeSio, Leckstein, McBride, Smith, Isoldi-Jany(Alt.#1), Beer
(Alt. #2) Marrone (Alt. #3)
Nayes: None

1. Abstain: None
Absent: Cunningham (Late) Davis, Long, Nott.

5. MEMORIALIZATION OF RESOLUTION:

Councilman Leckstein introduced a motion approving the following application.

**RESOLUTION OF THE SEA BRIGHT UNIFIED PLANNING BOARD
GRANTING VARIANCE AND SITE PLAN APPROVAL
RE: BOONDOCKS FISHERY LLC
1006 OCEAN AVENUE
BLOCK 18, LOT 2**

WHEREAS, Boondocks Fishery, LLC, lessee of a portion of the premises commonly known as 1006 Ocean Avenue, Block 18, Lot 2, Sea Bright, New Jersey has applied to the Unified Planning Board for variance and site plan approval to renovate a portion of the building for use as a “To Go” seafood restaurant; and

WHEREAS, the Applicant is not proposing any changes to the existing building, however the following pre-existing non-conformities are present: front yard setback where 25’ are required and 17.57’ are existing; rear yard setback where 15’ are required and 8.81’ are existing and proposed; lot coverage where 70% maximum is permitted and 90.28’ is existing and proposed; and

WHEREAS, Applicant requests variance relief for parking in a front yard; 15’ buffering requirement; parking where 57 spaces are required and 32 total parking stalls, not exclusive to this Applicant, are proposed; and

WHEREAS, the Applicant has provided due notice to the public and all surrounding properties as required by law, has caused notice to be published in the official newspaper in accordance with N.J.S.A. 40:55D-1 et. seq., this Board gaining jurisdiction therein and a public hearing having been held on this matter at a regular Unified Board meeting of May 13, 2014, at which time all persons having an interest in said Application were given an opportunity to be heard, and

WHEREAS, the Applicant appeared and marked into evidence certain documents including the following:

A-1 Jurisdictional Packet

A-2 Plan of property prepared by Charles Widdis dated 6/6/03, revised to 7/25/03

A-3 Architectural plans prepared by Anthony Condouris dated 4-30-14 consisting of 2 sheets

WHEREAS, members of the public were given the opportunity to be heard regarding the Application; and

WHEREAS, the Board having considered the evidence presented, made the following findings:

1. The owner of the subject property is John E. Regan who consented to the application. A portion of the property is currently used for a Dunkin Donuts.

2. The Applicant seeks to renovate a portion of the building for use as a "To Go" seafood restaurant, with both indoor and outdoor seating.

3. The site is located in the BR zone and the proposed restaurant use is permitted.

4. The Applicant is not proposing any changes to the existing building, however the following pre-existing non-conformities are present: front yard setback where 25' are required and 17.57' are existing; rear yard setback where 15' are required and 8.81' are existing and proposed; lot coverage where 70% maximum is permitted and 90.28' is existing and proposed.

5. Applicant requests variance relief for parking in a front yard; 15' buffering requirement; parking where 57 spaces are required and 32 total parking stalls, not exclusive to this Applicant, are proposed.

6. Kelly Ryan testified as the managing member of Boondocks Fishery, LLC. She currently operates at a location in Red Bank and wishes to open at the subject site with a second restaurant. She stated that the restaurant will be open for business from approximately April through October, weather depending. It will operate from approximately 11:00 a.m. to 10:00 p.m.

There will be 6 interior picnic tables with a total of 18 seats. There will be picnic table type dining in both the front and the rear.

She stated that deliveries arrive in a box type truck. She stated that her peak hours are different than the peak hours of Dunkin Donuts. Accordingly, the availability of parking stalls will not be overly stressed.

7. Board members expressed concern with the safety of front exterior dining area adjacent to parking stalls. The Applicant **STIPULATED** and the Board made it a **CONDITION** of approval that some type of planters and/or bollards be placed separating the parking stalls from the picnic tables.

8. Board members expressed their feeling that the parking on the site would accommodate both uses, Dunkin Donuts and the Applicant. The peak hours of the two uses are different. The uses are permitted and the Board felt that a parking variance for total number of required spaces as well as parking in the front yard were warranted. There is no ability to park in the rear as the building abuts the river. Parking has always occurred in the front yard on the site.

9. The Board engineer noted that the six parking stalls located along Ocean Avenue appear to be within the DOT Right of Way. The Applicant is not proposing to take any action as to these stalls as they are not under their control.

10. The Board Engineer, in her review letter, noted that the parking stalls and ingress and egress from the site is unrestricted across the highway. The Board noted this has always been present on the site and the Applicant was taking no action to change it.

11. Board members were concerned with handicapped access to the building. The Applicant **STIPULATED** and the Board made it a **CONDITION** of approval that the architect verify to the Board engineer's approval that the entry threshold will meet code requirements for ADA access.

The Applicant also **STIPULATED** and the Board made it a **CONDITION** of approval that the architect verify to the Board engineer's approval the access route from the handicapped parking stall to the building.

12. The Applicant **STIPULATED** and the Board made it a **CONDITION** of approval that the architect shall verify to the Board engineer's approval a minimum .5' light candle.

13. The Applicant **STIPULATED** that the Architect will verify that there are no changes to the footprint of the building so that CAFRA approval is not required.

14. Applicant shall obtain approval from the fire official and health official.
15. The Applicant **STIPULATED** and the Board made it a **CONDITION** of approval that the architect will revise the plans to show the dumpster fence.
16. Upon the suggestion of a resident, the Applicant indicated that she would provide bicycle racks.
17. The Board found that the parking variances were warranted for the proposed site.
18. The Board found that the requirement for the 15' buffering was not necessary as there was no immediate neighbor to benefit from said buffering. The front and rear yard setback and lot coverage variances are for pre-existing conditions that are not being exacerbated by this application.
19. The Board found that the variances could be granted without any negative impact on the zoning ordinance or zone plan. The proposal is aesthetically pleasing, takes advantage of the river views and improves existing conditions
20. The Board found that the granting of the variances will have no substantial detrimental impact on surrounding properties nor will it substantially impair the intent and purpose of the zone plan and zoning ordinance.

NOW THEREFORE BE IT RESOLVED, that the Unified Planning Board of the Borough of Sea Bright, based upon the findings of fact set forth herein, that the variances requested and the site plan be approved subject to the following conditions:

GENERAL CONDITIONS

1. The applicant shall submit proof of payment of all real estate taxes applicable to the property and payment of all outstanding and future fees and escrow charges, posting of all

performance guarantees, if any, in connection with the review of this application prior to and subsequent to the approval of this application.

2. The applicant must obtain the approval of all necessary and appropriate governmental agencies and compliance with all governmental regulations, including but not limited to CAFRA, except those specifically waived or modified in this Resolution.

3. The applicant shall comply with all building, FEMA and fire codes including but not limited to, entrances and exits.

4. The accuracy and completeness of the submission statements, exhibits and other testimony filed with or offered to the Board in connection with this application, all of which are incorporated herein by reference and specifically relied by the Board in granting this approval. This condition shall be a continuing condition, which shall be deemed satisfied unless and until the Board determines (on Notice to the applicant) that a breach thereof.

5. All stipulations agreed to on the record, by the applicant.

6. In the event that any documents require execution in connection with the within approval, such documents shall not be released until all of the conditions of the approval have been satisfied unless otherwise expressly noted.

7. The Applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality's professionals for review of the application for development, review and preparation of documents, inspections of improvements and other purposes authorized by the MLUL.

8. The Applicant shall furnish such Performance Guarantees and/or Maintenance Guarantee as may be required pursuant to the MLUL and the Sea Bright Ordinances.

9. No site work shall be commenced or plans signed or released or any work performed

with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.

10. No mechanicals will be located in the setbacks.

11. Applicant shall provide 4 copies of the final revisions to A-23 to the Board Secretary.

SPECIFIC CONDITIONS.

1. Applicant will install some type of planters and/or bollards separating the parking stalls from the picnic tables.

2. The architect shall verify to the Board engineer's approval that the entry threshold will meet code requirements for ADA access and will verify the access route from the handicapped parking stall to the building.

3. The architect shall verify to the Board engineer's approval a minimum .5' light candle and light plan.

4. The Architect will verify that there are no changes to the footprint of the building so that CAFRA approval is not required.

5. The architect will revise the plans to show the dumpster fence.

BE IT FURTHER RESOLVED, that this Resolution memorializes the action taken by the Unified Planning Board at its meeting of May 13, 2014.

BE IT FURTHER RESOLVED that the Chairman and Board Secretary are hereby authorized to sign any and all documents necessary to effectuate the purpose of this Resolution; and

BE IT FURTHER RESOLVED that the Board Secretary is hereby authorized and directed to cause a certified copy of this Resolution to be sent to the Applicant, the Borough Clerk, the engineer, tax assessor and the zoning officer and to make same available to all other interested parties and to cause notice of this Resolution to be published in the official newspaper at the Applicant's expense.

Adopted on a roll call on a motion by _____

and

Seconded by _____

Lance Cunningham, Chairman
Sea Bright Planning/Zoning Board

I certify the foregoing to be a true copy of a Resolution by the Sea Bright Planning/Zoning Board memorialized on May 27, 2014.

Kathy Morris, Secretary
Sea Bright Planning/Zoning Board

Seconded by Vice Chairman DeSio and adopted on the following roll call vote:

Ayes: Cashmore, Cunnigham, DeSio, Leckstein, McBride, Smith, Isoldi-Jany(Alt.#1),
Beer (Alt. #2) Marrone (Alt. #3)

Nays: None

Abstain: None

Absent: Davis, Long, Nott.

6.

RAY LENA (ANGELICAS RESTAURANT)
1070 OCEAN AVENUE
BLOCK 16 LOT 3

Applicant is seeking variance approval to permit two signs for the business where only one sign, occupying a maximum of 10% of the façade is permitted. Applicant also seeks a variance to permit a sign to be attached at right angles to the building where same is not permitted.

Boardmember Cashmore recused himself from the application. No other member of the Board had a conflict or was within 200ft of 1070 Ocean Avenue Block 16 Lot 3.

A-1: Jurisdictional Package

