

**MINUTES  
REGULAR MEETING OF THE SEA BRIGHT PLANNING/ZONING BOARD  
TUESDAY, January 22, 2019**

**ADMINISTRATIVE MATTERS**

**Call to Order**

Chairman Cunningham called the meeting to order at 7:36 p.m. and requested those present to join in the Pledge of Allegiance.

**Chairman's Opening Statement**

Chairman Cunningham read the following Compliance Statement:  
The Borough of Sea Bright, in compliance with the Open Public Meetings Act, has provided the time, date and location of this meeting to at least two designated newspapers, published same in the Asbury Park Press, the official newspaper, filed it with the Borough Clerk, and posted notice on the bulletin board in the Borough Office.

**Attendance Roll Call**

**Present:** Cunningham, DeGiulio, Duffy, Leckstein, Long, Nott, Smith, McGinley, Wray, Cashmore (arrived at 7:44 p.m.)

**Not Present:** DeSio, Bills

**Also in attendance:** Board Attorney Kerry E. Higgins, Esq.  
Board Engineer David E. Hoder, P.E, P.P., C.M.E.  
Board Secretary Candace B. Mitchell

**2019 Oath Appointments**

Attorney Higgins administered the following Oath Appointments.

**1 Year Term Class II:**

**Elizabeth DeGiulio                      January 1, 2019-December 31, 2019**

**2 Year Term Class IV – Alternate #1:**

**Sean McGinley                              January 1, 2019-December 31, 2020**

**Approval of the January 8, 2019 Minutes**

Boardmember Wray offered a motion to approve the minutes. Second offered by Chairman Cunningham, and approved on the following roll call vote of eligible members:

Aye: Cunningham, Duffy, Smith, Wray

Nay: none

Absent: Cashmore, DeSio, Bills

**ITEMS OF BUSINESS**  
**Memorialization of Resolution**

**RESOLUTION OF THE SEA BRIGHT PLANNING/ZONING BOARD REMOVING  
CONDITION IN THE APPROVED AMENDED SITE PLAN AND USE VARIANCE  
VICTORY SCUDIERY  
150 Ocean Avenue,  
Block 34 Lots 4, 4.01**

**WHEREAS**, Victor Scudiery previously received preliminary and final site plan approval to demolish an existing building, as part of a settlement of builder's remedy litigation, retain an existing building and construct 24 apartment units in two residential buildings and a swimming pool. The proposed residential buildings were to be 3 ½ stories and 44 feet in height; and

**WHEREAS**, Victor Scudiery transferred ownership of the property to Gaiters Village, LLC (the "Applicant"); and

**WHEREAS**, the prior approved plan limited the use of the existing marina solely for residents of the complex; and

**WHEREAS**, thereafter Scudiery submitted an application and plans to amend the prior approved plan as a result of changes it alleged were required by CAFRA, including the elimination of the pool and addition of 12 boat slips, 20% of which could be restricted to residents of the complex resulting in a use variance to expand the non-conforming marina use; and

**WHEREAS**, the Board denied the amended site plan and use variance for the reasons set forth in its resolution adopted at its meeting of January 28, 2015; and

**WHEREAS**, after discussions with CAFRA, the requirement to construct additional boat slips was rescinded and CAFRA approved the plan with the existing marina, but directed that 75% of the slips must be made available to the public; and

**WHEREAS**, thereafter Scudiery submitted an amended preliminary and final site plan and use variance application to eliminate the pool which was on the original plans, eliminate the parking across Ocean Avenue, open 75% of the marina slips to the public (while keeping the same number of slips as existing), and to raise the residential buildings in accordance with post-Sandy FEMA regulations; and

**WHEREAS**, the Board granted Amended Site Plan and Use Variance Approval as memorialized by resolution on June 23, 2015; and

**WHEREAS**, the resolution contained a condition that there would be no parking for the development on the east side of Ocean Avenue and further that the Master Deed contain a notice that the lot on the east side of Ocean Avenue, Block 23, lot 134 is not part of the common elements of the development; and

**WHEREAS**, the Applicant, while **STIPULATING** that there will be no parking on said lot on the easterly side of Ocean Avenue, has requested the removal of the condition that it not be part of the common elements of the development in order to allow for the maintenance of the lot and beach access for the Condominium Association; 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 NJSA 40:55D-1 et seq. and, therefore, this Board has accepted jurisdiction of the application and has conducted a public hearing on the matter at its meeting on January 8, 2019, 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

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

1. Applicant **STIPULATED** that there would be no parking for the development on the eastern side of Ocean Avenue, known as Block 23, lot 134. It was further **STIPULATED** and made a **CONDITION** of approval that the Master Deed contain a notice that the lot on the east side of Ocean Avenue, known as Block 23, lot 134 not be used for parking.
2. Applicant proposes that Block 23, lot 134 be used for beach access for the residents of the development and their guests.
3. Applicant **STIPULATED** that there would be no other construction on Block 23, lot 134 other than the stairway structure over the sea wall.
4. Applicant **STIPULATED** that the Condominium/Homeowners Association will be responsible for the maintenance of Block 23, lot 134.

5. The Board agreed that it is in the best interest of Sea Bright that the Condominium/Homeowners Association be responsible for the maintenance of Block 23, lot 134 and the Condition in the prior resolution that it not be a part of the common elements should be removed.
6. Based on the evidence and testimony presented, the Board found that the removal of the Condition was warranted.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning/Zoning Board of the Borough of Sea Bright, based on the foregoing findings of fact, that the application for amended preliminary and final site plan and use variance approval to remove the CONDITION that the Master Deed contain a provision that Block 23, lot 134 not be a part of the common elements be and is hereby granted subject to the Stipulations and Conditions put on the record as well as compliance with the Stipulations and Conditions of the original approval:

#### **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 applicable 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.

#### **SPECIFIC CONDITIONS**

1. All Stipulations and Conditions contained in the prior Resolutions of Approval
2. No parking shall occur on the eastern side of Ocean Avenue, Block 23, lot 134 and the Master Deed shall contain a notice that no parking shall be permitted on Block 23, lot 134, located on the eastern side of Ocean Avenue.

**BE IT FURTHER RESOLVED** that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting of January 8, 2019; 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 January 22, 2019:

*Candace B. Mitchell*

Candace Mitchell, Secretary  
Sea Bright Planning/Zoning Board

Adopted on a roll call on a motion by Chairman Cunningham  
and Seconded by Boardmember Duffy

Vote: Cashmore - Absent	Cunningham - Yes	DeGiulio - Abstain
DeSio - Absent	Duffy - Yes	Leckstein - Abstain
Long - Abstain	Nott - Abstain	Smith - Yes
McGinley - Abstain	Bills - Absent	Wray - Yes

*Lance Cunningham*

Lance Cunningham, Chairman  
Sea Bright Planning/Zoning Board

**Memorialization of Resolution**

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

**RE: William Dixon  
360 Ocean Avenue  
Block 30 Lot 37  
Sea Bright, New Jersey**

**WHEREAS**, William Dixon (the "Applicant") made application to the Planning/Zoning Board of Sea Bright (the "Board") for property known as Block 30, Lot 37 on the Tax Map of the Borough of Sea Bright, also known as 360 Ocean Avenue for site plan and bulk variances to construct a new detached garage to replace one that was destroyed in Superstorm Sandy; and

**WHEREAS**, the Applicant seeks bulk variances for accessory structure located in front yard; height where 15' is permitted and 18' is proposed; 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 its meeting on January 8, 2019, 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 Survey dated 11-13-15 prepared by Robert Vallee
- A-3 Plot Plan for Variance prepared by Matthew Hockenbury dated 8-13-18
- A-4 Plans prepared by Matthew Hockenbury dated 8-13-18
- A-5 Photographs of existing property

**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 replace a detached garage that was destroyed in Superstorm Sandy. The proposed garage will be in essentially the same location but will be a bit wider and higher to accommodate storage.
2. The Applicant seeks bulk variances for accessory structure located in front yard and height where 15' is permitted and 18' is proposed
3. The Board found that the height was reasonable and necessary to keep the architectural lines to match the home and will provide storage above.
4. At the request of the Board, Applicant **STIPULATED** that the garage would not be habitable. The only plumbing would be limited to hose bibs/spigots/wash sinks, if any. The intended purpose of the garage is to accommodate 2 vehicles and provide storage above.
5. The Board noted that the configuration of the lot and the existing structures led to the garage location in the front yard.

6. The Applicant **STIPULATED** that the width of the garage would not exceed 25' and that the structure would be set back at least 5' from the property line.

7. The Board found the proposed garage located in the front yard and exceeding the height for an accessory structure would have no detrimental impact to the neighborhood or the zone plan. The height will allow for a better architectural configuration that will complement the existing home.

12. The Board noted that the lot is configured in such a fashion to require the layout of the garage as proposed.

13. The Board found that the variances could be granted without any negative impact on the zoning ordinance or zone plan. The proposal is not obtrusive, and will provide a more aesthetic structure and layout of the property.

14. The Board found that the granting of the variances will have no substantial detrimental impact on the surrounding neighborhood.

15. After evaluating all of the evidence and testimony the Board found that the granting of bulk variances would have no impact and could be granted with no negative impact.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning/Zoning Board of the Borough of Sea Bright that the Application for site plan with the bulk variances as set forth above 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.

**BE IT FURTHER RESOLVED** that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting of January 8, 2019; 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 January 22, 2019.

*Candace B. Mitchell*

Candace Mitchell, Secretary  
Sea Bright Planning/Zoning Board

Adopted on a roll call on a motion by Chairman Cunningham  
and Seconded by Boardmember Smith

Vote: Cashmore - Absent    Cunningham - Yes    DeGiulio - Abstain

DeSio - Absent            Duffy - Yes            Leckstein - Yes

Long - Yes                Nott - Abstain        Smith - Yes

McGinley - Abstain    Bills - Absent        Wray - Yes

*Lance Cunningham*

Lance Cunningham, Chairman  
Sea Bright Planning/Zoning Board

**Application carried from 12/4/18**

PBZB 2018-019

MMJD Properties, LLC

26 Beach Street

Block 10, Lot 21

Type of Application: Development/subdivision approval, with bulk variance relief

In attendance for the applicant was attorney Kevin E. Kennedy, Esq., Jeremiah J. Regan, A.I.A., Architect, NJ License No. AI-10726, and the applicant, Craig Grant.

The following exhibits had been entered into evidence at the 12/4/18 hearing:

**A-1** Jurisdictional Packet

**A-2** Narrative of Intent

**A-3** Architectural Plan, entitled Addition Alteration, Grant Residence, 26 Beach Street, Sea Bright, NJ, Dated 4/5/18, revised 9/1/18, consisting of three (3) sheets, prepared by Jeremiah J. Regan, AIA, NJ License AI-10726

**A-4** Plan entitled Minor Subdivision, dated 7/31/18, consisting of one (1) sheet, prepared by Charles Surmonte, P.E., P.L.S., NJ License No. 35885

**A-5** First Technical Review, dated 10/1/18, prepared by Hoder Associates, consisting of three (3) pages

**A-6** Photo taken by Mr. Grant, dated 12/4/18, showing proximity of existing structure to eastern boundary

**A-7** Copy of Sea Bright Tax Map, portion of page 8

**A-8** Copy of letter mailed and emailed to neighbors

**A-9** Front Yard Setback Plan, dated 11/21/18, consisting of one (1) sheet, prepared by Charles Surmonte, P.E., P.L.S., NJ License No. 35885

**A-10** Photo taken by Mr. Grant, dated 12/4/18, looking west

**A-11** Photo, taken by Mr. Grant, dated 12/4/18, view looking east

**A-12** Illustrated rendering of proposed structures, dated 12/4/18, consisting of one (1) sheet, prepared by Jeremiah J. Regan, AIA, NJ License AI-10726

Attorney Higgins entered additional exhibits into evidence as follows:

**A-13** Architectural Plan, entitled Addition Alteration, Grant Residence, 26 Beach Street, Sea Bright, NJ, Dated 4/5/18, revised 1/8/19, consisting of three (3) sheets, prepared by Jeremiah J. Regan, AIA, NJ License AI-10726

**A-14** Second Technical Review, dated 1/14/19, prepared by Hoder Associates, consisting of three (3) pages

Boardmember Stephen Cashmore joined the Board at this point in the meeting, 7:44 p.m..

Mr. Kennedy listed proposed changes that have been made to the plans in response to concerns expressed by the Board and members of the public during the 12/4/18 hearing.

Board attorney Higgins informed the applicant's attorney that two board members present this evening were absent from the first hearing and would not be eligible to vote on the matter. Mr. Kennedy stated that he wished to proceed with this evening's hearing.

Architect Jeremiah Regan, who remained under oath from the first hearing, explained revisions he made to the plans, including reduced depth of both proposed buildings, which improved front yard and rear yard setbacks.

Applicant Craig Grant, who was previously sworn in, discussed the front yard setback, stating that the setback to the ground floor and first floor of the buildings would be the same as the setback of the neighbor's home to the east.

Mr. Regan listed the improvements made in building coverage and lot coverage. He discussed drainage, which will be directed to the front of the property. Also, leaders will be placed under the sidewalk. He also discussed fire safety, positively affected by the improvement of the proposed side yard setbacks and by the use of particular fire-safe foundation materials. Mr. Kennedy elaborated on improvements made in the revised plan.

Mayor Long asked about the location of the air conditioning unit, expressly, the condensers. Mr. Regan answered that the air conditioning units will be located on the roof.

Attorney Higgins asked for verification that the houses will look as they do in the Exhibit A-12 rendering and was answered in the affirmative.

Mayor Long asked why Mr. Regan had decided on this rear yard setback. She stated that it is better, but how was it decided? Mr. Regan responded that he designed a "decent-sized house" for the client. Attorney Higgins stated that 15 feet are required and 4.4 feet to the deck is the proposed setback.

Chairman Cunningham asked for Boardmember statements, and there were none offered at this time.

**Public Statements and Questions:**

Courtney Davis, 24 Beach Street, expressed concerns about the height of the buildings. She also asked whether it would be possible, if the subdivision is approved, to build two conforming houses on this property. Councilman Leckstein stated that he didn't think so. Mayor Long stated that she thought it would be possible, based on the chart, with lots measuring 25 feet wide and 67.5 feet deep, but, possibly, that doesn't meet the homeowner's needs.

Jack Sanders, 12 Center Street, asked for clarification on the rear yard setback. Mr. Regan responded that the existing structure is .3 feet off the property line, and it is an improvement over the original plan. Mr. Sanders stated that the setback will be improved only in regard to the existing house.

Eric Lynn, 24 Beach Street, was sworn in to testify. Mr. Lynn expressed concerns with flooding. Mr. Regan addressed the flooding concern, stating the houses will be built to FEMA standards. Mr. Lynn expressed concern about a loss in the quality of living on Beach Street with additional parking on the street, because people use their garages for storage rather than for parking their cars. He also wished for more conformity in the buildings, and stated that it just seems too much.

Courtney Davis, 24 Beach Street, expressed flooding concerns. She stated that FEMA guidelines don't necessarily protect. Buildings that were built to standard, and even above standard, got two feet of water during Superstorm Sandy. Building to FEMA standards can't guarantee safety from flooding. Ms. Davis expressed concerns about parking, stating that you can't guarantee proper use of parking passes. People are not using their garages for parking. Four more parking passes would be a problem on their street which already has traffic problems. It is a one-way street and more parking will create more danger. She expressed her opinion that this project is a detriment to the public good, and that looking at the plans, the houses are still on top of each other. Two houses will severely impact the quality of life. Ms. Davis also talked about the impact to the solar panels on the neighboring house.

John Higgins, 27 Center Street, stated that he agrees with Ms. Davis about everything she said.

Attorney Adam Garcia, representing Brian Kelly of 30 Beach Street, a west-side neighboring property, stated that the project would create two undersized lots with two oversized houses and is detrimental. He also stated the problem of solar panel shading on neighboring houses. Mayor Long confirmed with Mr. Garcia that even if one conforming home is built, it could still be three feet from the neighbor and would still impact the solar panels. Mr. Grant discussed the solar panel concerns using data regarding the times of day when solar panels generate power and the times of day when the solar panels would be in the shade. He stated that he did not think the panels would be impacted at all. The peak of the roof is 18 feet from the neighbor's solar panels and the shadow would not affect them. It would have a negligible, if any, effect.

Jack Sanders, 12 Center Street, asked whether Mr. Regan could testify, using statistics, about the velocity of water flow during a flooding event. Mr. Regan stated that he has to go by FEMA standards. FEMA has established base elevation and the building code to alleviate displacement of water. Mr. Sanders wanted to know what goes into determining the FEMA standards. Chairman Cunningham stated that it is clear that Mr. Regan has established that he is meeting the FEMA guidelines, and the Board accepts Mr. Regan's opinion. Councilman Leckstein added that, if approved, Mr. Regan has to meet FEMA guidelines. Boardmember Cashmore discussed flooding regarding permeability, stating that the height of the groundwater is the height of the river. The ground water will come up with the river, based on the tides. He stated that if you made one house instead of two it might exacerbate water displacement. Chairman Cunningham added that Mr. Regan has to go by all zoning and FEMA standards. Attorney Higgins stated that the plans are designed per FEMA regulations to have no displacement of water. Councilman Leckstein added that the applicant will have to meet the code and that the Building Department will make sure of it.

Boardmember DeGiulio questioned that, since the houses are designed so that displaced water flows through the garages, if using the garages for parking, the cars would get flooded. So, she asked who would put their cars in the garage. Mayor Long offered that people would have to move their cars to higher ground if flooding is predicted. Councilman Leckstein stated that the Board can't base its decision on hypotheticals. Boardmember DeGiulio went on to state her concerns regarding the application. She stated that this lot is

the only place on the street where there is any light. The neighborhood is very dense. She stated that we have zoning requirements for a reason, and asked what is the priority in town. She asked whether a person's desire for a big house is more important than the zoning requirements.

Attorney Higgins stated that the Board has to evaluate whether the applicant has met his burden of proof with no detriment to the zoning regulations and no detriment to the neighborhood.

Mr. Kennedy made several points in closing. He stated that the client has considered a lot of options and that this version is a very acceptable option. He addressed various concerns. Regarding parking, there is no variance needed. Regarding building height, the plans comply with the height regulation. Regarding grading and drainage, the plan complies with all FEMA regulations. Regarding the side yard, no setback variance is needed. Regarding parking spaces and traffic, this is a police issue. Regarding a comment made about poor planning, he stated that he would respectfully argue that this is a permitted use and is not poor planning. The new buildings are going to be consistent with the character of the neighborhood on the south side of the street. He stated that keeping the existing structure is not ideal. Regarding solar panels on neighboring homes, the plan does not violate the regulations. Mr. Kennedy stated that regarding the zoning ordinance, he has proven the reasons for requesting variances. He stated that he has tried in good faith to address concerns to the Board's satisfaction, and he respectfully requests the Board approve the application.

Attorney Higgins summarized the main points of the application, stating that the lot is currently an oversized lot. The applicant is asking for approval of two undersized lots. The revised plans improve the front yard setback, the rear yard, the front overhang, and building coverage from the first plan.

**Boardmember Comments:**

Councilman Leckstein stated that there was no justification offered for the variances, that the applicant could have built one conforming house and decided not to. Councilman Leckstein stated that he doesn't know what positive criteria were offered other than it is what the applicant wants. Councilman Leckstein offered a motion to deny approval of the application.

Mayor Long offered to second the motion to deny, stating that she agreed with Councilman Leckstein. She stated that she didn't hear good reasons for granting the variances, and found the most compelling reason to deny approval was the rear yard setback, where 15 feet is required and 4.4 feet is proposed because the client would like a larger home. The quality of life in the downtown area was of concern.

Boardmember McGinley offered a comment regarding flooding.

Boardmember Smith stated that he can't really hear a justifiable argument for granting the variances. The reasons are not based in hardship, and economic well-being is not a reason.

Stephen Cashmore stated that the proposed house sizes and lot sizes are consistent with neighboring houses. He also stated that variances with these setbacks have been approved before, and that the applicant is adding nice new homes.

Mayor Long commented that those variances are usually granted on old construction that is being elevated, not on new construction.

**Determination:**

Councilman Leckstein offered a motion to deny approval of the application. Second was offered by Mayor Long, and the denial was adopted upon the following roll call vote:

- Ayes: Cunningham, DeGiulio, Duffy, Leckstein, Long, Smith, Wray
- Nays: Cashmore
- Abstain: Nott, McGinley
- Absent: DeSio, Bills

There was a meeting break from 9:05 to 9:15 p.m.

**New Application**

PBZB 2018-023  
 Michael Welty  
 49 Bellevue Place  
 Block 28, Lot 7  
 Type of Application: Variance approval to elevate and expand existing home

Boardmembers Duffy and Wray recused themselves from this application.

In attendance for the applicant was Kevin E. Kennedy, Esq., Architect Anthony M. Condoris, AIA, NJ State License # AI13804, and the applicants Michael and Sarah Welty.

Board Attorney Higgins verified the jurisdictional packet as complete and correct.

The following exhibits were entered into evidence:

- A-1 Jurisdictional Packet
- A-2 Architectural Floor Plans and Elevations, dated 10/25/18, prepared by Anthony M. Condoris, AIA, NJ State License # AI13804, consisting of four (4) sheets
- A-3 Narrative of Intent, dated 10/30/18

Mr. Welty was sworn in by Ms Higgins.

Mr. Kennedy introduced the application and guided Mr. Welty in offering a brief history of the home and his involvement in the home. Mr. Welty explained that the home had been a two-family home, and he rented one of the two homes as a summer home for many years. He eventually purchased the property and, in 2007, converted the home into a single-family home. When Superstorm Sandy took out the first floor, he worked to be able to return to the home with his wife and son as soon as possible and managed to move back in within about six months. He planned on elevating the home at a later date. Currently, Mr. Welty and his spouse live in the house year-round with their two children, a son and

daughter, who share an 8' x 10' bedroom. Mr. and Mrs. Welty would like to elevate the home and put on an addition which would accommodate the children's bedrooms. He stated that their home is the last home in the neighborhood to be lifted. A new garage will become part of the principle structure. Councilman Leckstein asked whether they would like to get rid of the old garage or keep it. Mr. Welty stated that they definitely want to demolish the present garage, which is only large enough to accommodate a sports car.

Mr. Kennedy entered the following exhibits into evidence:

**A-4** Photo, dated 1/22/19, applicant's home between two homes

**A-5** Photo, dated 1/22/19, Atlantic Way

**A-6** Photo, dated 1/22/19, property located behind applicant's home

**A-7** Photo, dated 1/22/19, house on Atlantic Way being lifted

**A-8** Ad Photo, an example of an outdoor eating area

Architect Anthony Condoris was sworn in to testify and was accepted by the Board as an expert witness. Councilman Leckstein asked whether two cars would fit in the new garage, with two to three cars able to fit in the driveway. Mr. Condoris answered in the affirmative.

Board Attorney Higgins and Mr. Kennedy discussed the variances requested, including: lot area, lot frontage, front yard setback, rear yard setback, side yard setback, building height, lot depth, and combined side yard setbacks.

Mr. Condoris explained that the 34 feet building height is consistent with neighboring homes and is necessary to fit the garage underneath. The house will be FEMA compliant, including materials used.

Councilman Leckstein asked about using matching cedar siding and was answered affirmatively. He stated that matching cedar shakes will be a condition of approval.

Board Engineer David Hoder suggested that if using the front yard as access to get to the garage, the applicant should keep the beach stone surface.

Placement of the air conditioning unit was discussed. Boardmember Cashmore asked whether the air conditioning unit will be raised and whether it will be located in the side yard setback. The applicant is requesting to raise the mechanicals and place them in the side yard next to the house. Ms. Higgins asked whether having mechanicals raised 8 feet high in the side yard will pose a noise issue. Councilman Leckstein asked whether something could be put around the mechanicals to lessen the noise generated. Several ideas were discussed. Board engineer David Hoder stated that he has generally found no statement in the ordinance regarding placing mechanicals in the side yard. Councilman Leckstein commented that, after doing their due diligence, an alternative couldn't be found for placing the air conditioning unit on the side of the house.

There were no further comments by the Board.

There were no statements or questions from the public.

**Determination:**

Councilman Leckstein offered a motion to approve the application stating that the project will be an improvement to the neighborhood, and the abundance of parking is very good. There will be stipulations regarding gutters, leaders, cedar shakes, and mechanicals. Second was offered by Boardmember Smith, and the approval was adopted upon the following roll call vote:

Ayes: Cashmore, Cunningham, DeGiulio, Leckstein, Long, Nott, Smith, McGinley  
Nays: none  
Abstain: Duffy, Wray  
Absent: DeSio, Bills

**Board Review of Ordinances to be introduced at 2/5/19 Council Meeting**

ORDINANCE NO. 01-2019

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF SEA BRIGHT, CHAPTER 130, "LAND USE", AND TO ESTABLISH AFFORDABLE HOUSING REGULATIONS AND A MANDATORY AFFORDABLE HOUSING SET-ASIDE

ORDINANCE NO. 02-2019

AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT, AMENDING AND SUPPLEMENTING CHAPTER 130, "LAND USE", ARTICLE XVII, "AFFORDABLE HOUSING REGULATIONS", TO PROVIDE FOR AFFORDABLE HOUSING DEVELOPMENT FEES

**Determination:**

The Board offered no discussion and voted to have the Board Secretary send a letter of approval to the Governing Body.

Councilman Leckstein offered a motion to approve. Second offered by Boardmember DeGiulio and adopted upon the following roll call vote:

Ayes: Cashmore, Cunningham, DeGiulio, Duffy, Leckstein, Long, Nott, Smith, McGinley, Wray  
Nays: None  
Abstain: None  
Absent: DeSio, Bills

**CLOSING MATTERS**

**Meeting Announcement**

There being no other business before the Board, the Secretary made an announcement of the next meeting date, which is February 12, 2019. The meeting will be held at the new municipal building located at 1097 Ocean Avenue.

**Adjournment**

The meeting was adjourned at 9:55 p.m. on a motion offered by Councilman Leckstein, seconded by Boardmember DeGiulio, and approved upon a unanimous voice vote by the Board members.

Respectfully submitted,  
Candace B. Mitchell, Board Secretary

*Candace B. Mitchell*