

**APPROVED MINUTES
REGULAR MEETING OF THE SEA BRIGHT PLANNING/ZONING BOARD
TUESDAY, June 11, 2019**

ADMINISTRATIVE MATTERS

Call to Order

Vice Chairman DeSio stepped in as Chairman for the evening. Mr. DeSio called the meeting to order at 7:37 p.m. and requested those present to join in the Pledge of Allegiance.

Opening Statement

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

Attendance Roll Call

Present: DeSio, Leckstein, Nott, Smith, McGinley, Wray

Not Present: Cashmore, Cunningham, DeGiulio, Duffy, Long, Bills

Also in attendance: Board Attorney Kerry E. Higgins, Esq.

Board Engineer David J. Hoder

Board Secretary Candace B. Mitchell

Approval of the May 28 Minutes

Boardmember Smith offered a motion to approve the minutes. Second offered by Boardmember Wray. Motion approved upon unanimous voice vote of eligible members.

ITEMS OF BUSINESS

Memorialization of Resolution

**RESOLUTION OF THE SEA BRIGHT PLANNING BOARD/ZONING BOARD
GRANTING PRELIMINARY AND FINAL MAJOR SUBDIVISION APPROVAL AND WAIVERS
RIVER STREET REALTY, LLC
Block 15, lot 4
4 River Street**

WHEREAS, the Applicant River Street realty, LLC ("Applicant"), is the owner of certain real property designated as Block 15, Lot 4 on the Borough of Sea Bright Tax Map; and

WHEREAS, Aldo Frustacci is the sole member of River Street Realty, LLC; and

WHEREAS, the Applicant proposes that Block 15, lot 4 is to be divided into eight (8) fully conforming residential lots as shown on the Preliminary/Final Major Subdivision Plan prepared by The Cannon Group, PC, Michael Cannon PE, LS dated 12-7-2018 consisting of 4 sheets; 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 hearings on the matter at its meetings on 4-9-19 and 5-14-19, at which time all persons having an interest in said application were given an opportunity to be heard; and

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

A-1 Jurisdictional Packet

A-2 Preliminary/Final Major Subdivision Plan prepared by The Cannon Group, PC, Michael Cannon PE,LS dated 12-7-2018 consisting of 4 sheets

A-3 Report from Board Engineer David Hoder, PE,PP,CME dated 3-20-19

A-4 Zoning Permit Application and Denial dated 1-9-19

A-5 Application for subdivision dated 1-7-19

A-6 Monmouth County Planning Board Preliminary Approval dated 2-11-19

A-7 Letter from DEP 4-24-06 determining that Waterfront Development Permit and CAFRA permit not applicable

A-8 Subsurface Soil Investigation

A-9 Environmental Impact Statement prepared by Envirotactics dated May 2019.

A-10 Revised letter report from David Hoder dated 5-10-19

A-11 Certification of Board Member Stephen Cashmore having listened to tape of April 9, 2019 meeting

WHEREAS, the Planning Board/Zoning Board of the Borough of Sea Bright held hearings on April 9, 2019 and May 14, 2019, at which time it made the following findings:

1. The land to be subdivided is Block 15, lot 4, to be divided into eight (8) fully conforming residential lots as shown on the Preliminary/Final Major Subdivision Plan prepared by The Cannon Group, PC, Michael Cannon PE,LS dated 12-7-2018 consisting of 4 sheets. Though the plans depict eight (8) detached single family homes, the depiction is solely for purposes of demonstrating that the lots can accommodate homes conforming with all setback requirements.

2. The property is located on the south side of River Street and has 120 feet of frontage on River Street and 100 feet of frontage on South Street. It is the site of the former Sea Bright School which has fallen into disrepair.

3. The property is located in the R-3 Residential zone. Applicant proposes subdividing into proposed lots 4.01 through 4.08 and subject to the approval of the lot numbers by the Borough Tax Assessor. Applicant's plan does not give rise to any bulk variances.

4. The Applicant proposes to demolish the existing building and subdivide the property into 8 fully conforming lots. No structures have been proposed and the Board makes no findings on any proposed structures. Any proposed structures will meet all zoning requirements at the time of application or Applicant will secure appropriate variances.

5. Applicant STIPULATED that it would comply with the technical review items set forth in the Board Engineer's reports of March 20 and May 10, 2019. As to items #5&6, the Applicant will replace the curbs and sidewalks on River Street and South Street as a condition of the issuance of a certificate of occupancy for the completed homes. As to item #8, Applicant will note the groundwater recharge method on the plans to the satisfaction of the Board engineer.

6. Applicant agreed that it will use its best efforts to preserve the dedication plaque on the Sea Bright School during the demolition process and provide same to the Borough. The Applicant placed on the record its approval for the Borough to inspect the plaque to determine the feasibility of preservation, provided the Borough agrees to indemnify and hold the Applicant harmless from any claims for damages arising from the inspection. If the Applicant is unable to preserve the dedication plaque despite good faith efforts, Applicant's approval shall not be nullified or invalidated in any way.

7. Applicant STIPULATED that the design and development of the subdivision will meet all parking requirements or Applicant will seek appropriate variances.

8. The Applicant STIPULATED that it will receive all required approvals or Letters of No Interest from Freehold Soil Conservation, CAFRA, Monmouth County Planning Board, Sea Bright Fire Official and Flood Plain Official. This is a CONDITION of approval.

9. The Applicant/Developer shall comply with the Sea Bright Affordable Housing Regulations, Section 130-118 et seq. as amended and supplemented by paying a fee of one and a half percent

(1.5%) of the equalized assessed value for all new residential development. This fee shall be payable by Applicant, its successors or assigns. Collection of the fee shall be as set forth in Section 130-123.

10. The Applicant STIPULATED that it will provide adequate measures to protect the adjacent community and residents from noise, damage and contamination during the demolition of the existing building.

11. The Applicant STIPULATED that Applicant will comply with the Borough of Sea Bright Demolition Checklist prior to demolition by engaging an environmental expert to survey the property for environmental hazards or conditions and will engage an environmental expert before the demolition to assure compliance with state law.

12. Demolition shall occur within 95 days of the publication of the resolution granting subdivision approval. This is a CONDITION of approval. This approval shall lapse in the event the building is not demolished with this time period and any Board approved extensions. No subdivision plat will be signed by the Board prior to demolition of the existing building.

13. The subdivision shall be perfected within 6 months of the publication of the resolution granting subdivision approval. The Applicant acknowledges that an extension should only be granted in the event the Applicant is proceeding in good faith and the delay is the result of an outside agency and not the Applicant. This approval shall lapse in the event the subdivision has not been perfected within this time period and any board approved extensions.

14. The Board agreed that the proposed subdivision meets all of the requirements for the R-3 zone and that all proposed lots are fully conforming.

15. The Board agreed to grant the following waivers:

- a) Section 130-65.B7 - Boundary of wooded areas within 200 feet;
- b) Section 130-65.B8 - Existing Utilities within 200 feet;
- c) Section 130-65.B9 - Existing structures within 200 feet;
- d) Section 130-65.B13 - Onsite Drainage Plan;
- e) Section 130-65.A14 - Offsite Drainage Plan;
- f) Section 130-65.B15 - Centerline Profiles on adjacent streets;
- g) Section 130-65.B25 - Exterior Lighting Plan;
- h) Section 130-65.B26 - Landscaping and screening Plan.

NOW, THEREFORE, BE IT RESOLVED by the Sea Bright Planning Board/Zoning Board of the Borough of Sea Bright, County of Monmouth, State of New Jersey, as follows:

The Preliminary and Final Major Subdivision of Block 14, Lot 4 with the above stated waivers to create to create eight (8) fully conforming lots as set forth above and on the subdivision map referred to above and marked as Exhibit A-2 and incorporated herein, be and is hereby approved by the Borough of Sea Bright Planning/Zoning Board, subject to the noted 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 prior to constructing any homes on the property.

3. The applicant shall comply with all building, FEMA and fire codes including but not limited to, entrances and exits for any homes constructed on the newly created lots.

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. The subdivision plat or deeds shall not be signed by the Board 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.

11. Applicant shall perfect the major subdivision within the time prescribed by law.

SPECIFIC CONDITIONS

1. Applicant comply with the technical review items set forth in the Board Engineer's reports of March 20 and May 10, 2009. As to items #5&6, the Applicant will replace the curbs and sidewalks on River Street and South Street as a condition of the issuance of a certificate of occupancy for the completed homes. As to item #8, Applicant will note the recharge method on the plans to the satisfaction of the Board engineer.
2. The design and development of the subdivision will meet all parking requirements.
3. The Applicant will receive all required approvals from Freehold Soil Conservation, CAFRA, Monmouth County Planning Board, Sea Bright Fire Official and Flood Plain Official.
4. The Applicant/Developer shall comply with the Sea Bright Affordable Housing Regulations, Section 130-118 et seq. as amended and by paying a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development. This fee shall be payable by Applicant, its successors or assigns. Collection of the fee shall be as set forth in Section 130-123.
5. The Applicant will provide adequate measures to protect the adjacent community and residents from noise, damage and contamination during the demolition of the existing building.
6. The Applicant will comply with the Borough of Sea Bright Demolition Checklist prior to demolition by engaging an environmental expert to survey the property for environmental hazards or conditions and will engage an environmental expert before the demolition to assure compliance with state law.
7. Demolition shall occur within 95 days of the publication of the resolution granting subdivision approval. This is a CONDITION of approval. Failure to meet this timeline and any Board approved extensions will result in the lapse of this approval.

8. The subdivision shall be perfected within 6 months of the publication of the resolution granting subdivision approval. Failure to meet this timeline and any Board approved extensions will result in the lapse of this approval.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting of May14, 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 June 11, 2019.

Candace B. Mitchell

Candace B. Mitchell, Secretary
Sea Bright Planning/Zoning Board

Adopted on a roll call on a motion by Boardmember Leckstein

and Seconded by Boardmember Smith

Vote:

Cashmore – Absent

Cunningham – Absent

DeGiulio - Absent

DeSio – Yes

Duffy – Absent

Leckstein - Yes

Long - Absent

Nott – Yes

Smith - Yes

McGinley (Alt. 1) – Yes

Bills (Alt. 2) - Absent

Wray (Alt 3) – Yes

David DeSio

David DeSio, Vice Chairman
Sea Bright Planning/Zoning Board

Memorialization of Resolution

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

**RE: Donald and Patricia Pignataro
414 Ocean Avenue
Block 30 Lot 21
Sea Bright, New Jersey**

WHEREAS, Donald and Patricia Pignataro (the "Applicant") made application to the Planning/Zoning Board of Sea Bright (the "Board") for property known as Block 30, Lot 21 on the Tax Map of the Borough of Sea Bright, also known as 414 Ocean Avenue for bulk variances to demolish the existing home and construct a new single family home to be compliant with all V zone standards; and

WHEREAS, the Applicant seeks bulk variances for minimum lot width where 75' f. is required and 25' is existing and proposed; combined side yard setbacks where 25' is required and 18.7' is existing and 21.1' is proposed and lot coverage where 50% maximum is permitted and 80.5% is existing and 77% 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 May 28, 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** Six (6) color photos of the present structure
- A-3** Property Tax/Sewer Certification, dated 5/28/19
- A-4** Elevation Certificate, dated 8/24/17
- A-5** Survey of 414 Ocean Ave., Block 30, Lot 25 and Block 23, Lot 96, prepared by Thomas P. Santry, P.A., P.L.S. Lic. No. 24GS3540000, consisting of one (1) sheet, dated 9/11/17

A-6 Proposed Reconstruction Plan of 414 Ocean Ave., Block 30, Lot 25 and Block 23, Lot 96, prepared by Matthew T. Cronin, AIA, Architect, consisting of five (5) sheets, dated 2/1/19, rev. 1- 2/7/19, rev. 2 – 2/13/19, rev. 3 – 4/3/19

A-7 Photo of existing conditions

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 is seeking to demolish the existing home and construct a new single-family home to be compliant with all V zone standards. Applicant seeks bulk variances for minimum lot width where 75' f. is required and 25' is existing and proposed; combined side yard setbacks where 25' is required and 18.7' is existing and 21.1' is proposed and lot coverage where 50% maximum is permitted and 80.5% is existing and 77% is proposed

2. Applicant Donald Pignataro testified that he purchased the home in order to renovate it and make it compliant with the flood zone. However, FEMA requirements for the V zone made renovation not feasible. The property is a repetitive loss property. The proposed new home will be built to Code and fully compliant with the V zone requirements.

3. Mr. Pignataro stated that the proposed home is very close to the existing footprint.

4. Architect Matthew Cronin described the proposed home. He presented Exhibit A-7 showing the existing conditions on the property. He explained that the proposed home will have a one-car garage underneath. The Board noted that parking would likely occur in the driveway which would result in the need for a waiver for parking in the front and side yards. The Board found that there was adequate space for such parking and in fact that is how cars are parked currently and same could be granted with no negative impact.

5. The Board found that the variances could be granted without any negative impact on the zoning ordinance or zone plan. The new home will be FEMA compliant. The side yard setback will be brought closer to compliance. Board members noted that the new home will be a good use of and a nice improvement to the property.

6. The Board found that the lot width is pre-existing and cannot be improved as the neighboring lots are fully developed. The side yard variance is necessitated by the lot width and will be improved over the current conditions. Each side yard will comply with setback requirement, however the combined side yard is deficient. Accordingly, the Board found that the granting of the variance will have no substantial detrimental impact on the surrounding neighborhood and will improve current conditions.

5. After evaluating all of the evidence and testimony the Board found that the bulk variances would have no negative impact on the zoning ordinance or zone plan and could be granted with no detriment to the neighborhood and are warranted by the narrow lot width.

NOW, THEREFORE, BE IT RESOLVED by the Planning/Zoning Board of the Borough of Sea Bright that the Application for 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 May 28, 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 June 11, 2019.

Candace B. Mitchell

Candace B. Mitchell, Secretary
Sea Bright Planning/Zoning Board

Adopted on a roll call on a motion by Boardmember Leckstein
and Seconded by Boardmember Smith

Vote:

Cashmore – Absent	Cunningham – Absent	DeGiulio - Absent
DeSio – Yes	Duffy - Absent	Leckstein - Yes
Long - Absent	Nott - Yes	Smith - Yes
McGinley – Yes	Bills - Absent	Wray – Yes

David DeSio

David DeSio, Vice Chairman
Sea Bright Planning/Zoning Board

Memorialization of Resolution

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

**RE: Dogs and Cats, Inc.
13 & 15 East Church Street
BLOCK 22 LOT 4.01, 4.02**

WHEREAS, Dogs and Cats, Inc., (the "Applicant") owner of premises commonly known as 13 & 15 East Church Street, BLOCK 22 LOT 4.01, 4.02, Sea Bright, New Jersey has applied to the Planning/Zoning Board for site plan approval with bulk variances and use variance approval to demolish an existing non-conforming building and construct a new non-conforming 2-family use in the B-1 zone where residential on the first floor is not permitted; and

WHEREAS, the applicant has provided due notice to the public and all surrounding properties as required by law in accordance with N.J.S.A. 40:55D-1, et seq., this Board gaining jurisdiction therein and the public hearing having been held on this matter on May 28, 2018 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 the following:

- A-1:** Jurisdictional Packet.
- A-2:** Variance plan, New Residence prepared by Grammar Design LLC consisting of 5 pages, dated 4-3-19
- A-3:** Architectural colored rendering
- A-4:** Zoning exhibit prepared by Maser Consulting dated 5-28-19
- A-5:** Land use Exhibit prepared by Maser Consulting dated 5-28-19

WHEREAS, the Board having considered the evidence presented it does hereby make the following findings of fact and conclusions:

1. The subject property is located in the B-1 Zone. The property is located on the North Side of East Church Street about 12 feet West of the sea wall. The property has 65.44 feet of frontage on East Church Street and contains 3,209 SF of land. It is the first lot from the beach. The property is located in the AE Flood Zone as per Firm Map panel 201 where the elevation is 9.0. Applicant seeks to demolish the existing vacant commercial building and construct a two-family home with bulk and use variances. Nancy Mulhearn is the sole shareholder of Dogs and Cats, Inc.

2. Residential use on the first floor is not permitted in the B-1 zone. Applicant seeks a "d" use variance to expand the non-conforming use as well as bulk variances as follows:

Bulk Variances

B-1 Business -Zone Schedule

Item	Required	Combined Lot
Lot Area	3,000 S.F.	3209 S.F.
Lot Width/Frontage	50 Ft.	63.00 Ft.
Lot Depth	60 Ft.	<i>49.08 Ft.</i>
Front Yard Setback	0 and 25 Ft.	2.10 Ft.
Side Yard Setback	0 Ft.	4.33 Ft.
Side Yard Combined	0 Ft.	10.33 Ft.
Rear Yard Setback	15 Ft.	5.0 Ft.
Max. Lot Coverage	75 %	63.3 %
Max. Building Coverage	50 %	60.7%
Max. Building Height	42 Ft./3 St.	39.33 Ft.
Min. Gross Floor Area	880 S.F.	930 S.F. & 930 S.F.

Notes:

- Variance Requests are in **Bold**.
- Pre-existing variances are in *italics*.

3. There is currently a vacant building (the former beach patrol building) on lot 4.01 which has been consolidated with lot 4.02. Lot 4.02 is vacant land. A "D" Use variance is requested because residential uses are only permitted above businesses in the B-1 zone.

4. Architect Ron Grammer described the proposed two-family dwelling. The base flood elevation will be raised from 9 feet (existing building) to 18 feet. He briefly described each level of the structure. Each unit will have 2 parking spaces in garages underneath. Cars will enter from East Church Street. Each unit will include an elevator. Level 1 of each unit will have 3 bedrooms, a laundry room, 2 bathrooms, and a balcony off the master suite. Level 2 will have a kitchen, bathroom, and great room with covered balcony. The attic level will include a bathroom and deck. Mr. Grammer stated that the mechanicals will be elevated.

5. Planner Raymond Liotta from Maser Consulting testified on behalf of the Applicant. Mr. Liotta presented Exhibit A-4, a zoning exhibit photo, to give context to the area where the applicant's proposed 2-family home will be located. The subject property, known as 13 and 15 East Church Street are located at the "dead end" of Church Street. He also presented Exhibit A-5, a land use exhibit, depicting commercial, single-family residential, 2-family residential, vacant, and exempted properties near the applicant's proposed 2-family home. Mr. Liotta added that the project will not affect any of the parking on the street. He noted that the zone allows for multi-family structures. Mr. Liotta noted that the applicant could have built two smaller single-family homes on two lots but decided on a 2-family structure, deeming it more storm resilient. Another benefit is the number of setback needed for one structure on one larger lot versus two single family homes on two smaller lots. Mr. Liotta reviewed the setbacks, and Boardmember DeSio noted that the plan improves the existing condition of the rear yard setback. The plan also reduces lot coverage.

Mr. Liotta further noted that development as a 2-family structure would maintain the same density while providing a better architectural aesthetic and scale consistent with recent development in the area. Board members noted in their Master Plan and the adopted Master Plan, it is recommended that the B-1 area east of Ocean Avenue in the area of East Church Street be reclassified as R-3 to reflect the development in that area.

6. Mr. Liotta testified that the immediate area is mostly residential. Of the approximately 12 residential homes in the area, four are two-family homes. He noted that the subject property is a double lot. As to front setback variance, he noted that the proposed 2.10 ft. is consistent with the neighborhood and greater than many. The rear setback of 5' versus the required 15' arises because the lot is not deep

enough (48.08 ft. versus 60' required). He also pointed out that the rear faces the municipal parking lot and will not impact any neighbors. The proposed setback brings it closer to conformance than the existing building. If the full setback requirements were to be applied to the subject lot, the building envelope depth shrinks to 9 ft. This is significant hardship requiring relief for any construction to occur. The proposed front/rear setbacks are equal to or exceed conditions on lots in the neighborhood.

7. Mr. Liotta opined and the Board agreed that the subject property, located at the end of a dead end, would not be conducive to commercial activity. Mr. Liotta stated that the use would serve the general welfare because the site is particularly suited for the use. The Board agreed that there is a hardship to using the site for business uses permitted in the B-1 Zone and the site is particularly suited for the proposed use. The site location is at the east end of the very narrow East Church Street immediately adjacent to the sea wall. This location and narrowness of street access which extremely limits vehicular movements and parking is not conducive to commercial use and is very unlikely to be developed for a business use.

8. The Master Plan recommends a change to residential use in this specific area. Additionally, multi-family use is contemplated in the area when located above a commercial use. The Board found that the subject property is not appropriate for commercial use. A two-family home on the subject property would help support the business district and meet the goal to produce a pedestrian friendly downtown. The proposed two-family home is consistent with the vision and policy statements in the Master Plan.

9. The existing lot depth of 49 ft. is an existing non-conformity to the 60 ft. depth requirement. There is no

possibility for obtaining additional land to comply with the regulation as the surrounding lots are fully developed.

10. The maximum building coverage is 50%, where 60.7% is proposed. The Board found that the variance was warranted as the proposed coverage allows for each unit to have a two-car garage, not requiring on-street parking. Additionally, the total impervious coverage complies where 75% is required and 63.5% is proposed. The Board found that there is little impervious coverage other than the building itself.

11. The Applicant **STIPULATED** that it will comply with items #3, 4, 5 and 6 of Board Engineer David Hoder's report. Specifically, the Applicant will replace all sidewalks and aprons damaged during construction; will amend the plan to show a swale between the new building and lot 4.03 to the West; will amend the plan to show the seawall easement; amend the plans to show the method of recharge for onsite roof drainage.

12. It was **STIPULATED** that the mechanicals will be elevated. The Applicant indicated that the mechanicals would be located on each side of the structure.

13. The Board agreed that the proposed two-story residence would not impair the intent of the zone plan or zoning ordinance. The Board found that the changes will be an upgrade to the property and a benefit to the streetscape. The Board further found that the setbacks are similar to the conditions in the neighborhood and will improve existing conditions.

14. The Board found that the two-family residential structure would be compatible with the predominantly residential neighborhood. The side setback to adjacent Lot 4.03 of 6 ft. far exceeds the existing 1ft. setback of the existing dwelling on Lot 4.03. The eastern side yard is adjacent to the sea wall so the structure has no impact on neighbors. Front and rear setbacks are consistent with and exceed existing neighborhood

setback conditions. Off-street parking is provided. The use is consistent with the neighborhood.

15. The Board found that there would be no substantial impact on the zone plan and ordinance. Multi-family use is contemplated for the area as a conditional use. The location of the site on a dead-end as well as the neighborhood indicates that commercial use is not viable on the site and further, is inconsistent with the existing development patterns.

16. The Board noted the Master Plan recommendation to rezone the area to residential use.

17. After evaluating all of the evidence and testimony and based on the above findings, the Board found that the applicant has met the enhanced burden of proof as to the positive and negative criteria.

18. The "D" variance relief sought can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Master Plan, Zone Plan and Zoning Ordinance for the reasons set forth above.

NOW, THEREFORE, BE IT RESOLVED by the Planning/Zoning Board of the Borough of Sea Bright based upon the findings of fact set forth hereinabove that the waivers, bulk and use variance request to demolish the existing vacant commercial structure and construct a two-family residential dwelling be granted subject to the following general and specific 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 including but not limited

to CAFRA and compliance with all governmental regulations 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 upon 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 has occurred.

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. No mechanicals would be located further into any setback than the walls of the buildings. All mechanicals shall be elevated to protect from flood dangers.

2. The plans will be amended to show a show a swale between the new building and lot 4.03 to the West; to show the seawall easement; to show the method of recharge for onsite roof drainage.

3. Applicant will repair any curb, sidewalk, apron and pavement disturbed during the course of construction, to the satisfaction of the Board engineer.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting of May 28, 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 June 11, 2019.

Candace B. Mitchell

Candace B. Mitchell, Secretary
Sea Bright Planning/Zoning Board

Adopted on a roll call on a motion by Boardmember Smith

and Seconded by Boardmember Nott

Vote:

Cashmore-Absent	Cunningham- Absent	DeGiulio-Absent
DeSio-Yes	Duffy-Absent	Leckstein-Abstain
Long-Absent	Nott-Yes	Smith-Yes
McGinley (Alt.1)-Yes	Bills (Alt.2)-Absent	Wray- (Alt.3) -Yes

David DeSio

David DeSio, Vice Chairman
Sea Bright Planning/Zoning Board

New Application

PBZB 2019-010

Gerard and Dawn Keane

5 New Street, Block 13, Lot 2

Type of Application: Bulk variance relief for construction of a new 2nd floor deck

Boardmember McGinley stepped down from hearing this application because he owns property that is located within 200 feet of the subject property.

In attendance for the application were the builder, Dennis Frank, of Allenwood, NJ, and applicant Dawn Keane. Mrs. Keane was sworn in by Attorney Higgins.

Board Attorney Higgins stated that she reviewed the jurisdictional packet and found it to be in good order. The Board accepted jurisdiction over the application.

Ms. Higgins noted that the Property Tax/Sewer Certification, which is current for both property and sewer taxes, lists the property owner as New Direction IRA, Inc. Ms. Higgins asked the applicant to clarify the ownership of the property. Mrs. Keane explained that she and her husband, Gerard Keane, co-own of the property with New Direction IRA, Inc.

Attorney Higgins entered the following exhibits into evidence:

A-1 Jurisdictional Packet

A-2 Architectural Plans for Deck and Alterations, Bl. 13, L. 2, prepared by Anthony M. Condouris, NJ State LIC #A113804, dated 2/7/19, consisting of three (3) sheets

A-3 Photograph of property as it exists submitted by applicant

The applicants are looking to build a second story deck above the existing deck. The second story deck will be the same size as the existing deck, which is a pre-approved non-conforming use. Bulk variance relief is needed for the front yard setback, where 5 feet are required, 2 feet exist, and 2 feet are requested; side yard setback, where 3 feet are required on each side, 5.3/.8 feet exist, and 5.3/.8 feet are proposed; and both sides, where 6 feet combined are required, 5.11 feet exist, and 5.11 feet are proposed.

Vice Chairman DeSio stated that he had been out to visit the site and noted, though it is not part of the application, the three-phase JCPL service that will be need to be moved, and, since JCPL is not easy to deal with, he wondered if the applicant had contacted them. Mrs. Keane answered that she has already contacted them.

Boardmember Nott remarked that the house will look better with the second story deck added.

Members of the public offered no questions nor comments.

Determination:

Councilman Leckstein offered a motion to grant the request for bulk variance relief to construct a new 2nd floor deck. Second was offered by Boardmember Nott, and the motion was adopted upon the following roll call vote:

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

Carried Application

PBZB 2019-006

280 Ocean Avenue Sea Bright, LLC

280 Ocean Avenue, Block 30, Lot 47

Type of Application: Approval for Amended Site Plan and Variances

Boardmember McGinley rejoined the Board.

Councilman Leckstein stepped down from hearing this application because the application includes a request for "D" Use variance relief, which presents a conflict for a member of Council.

In attendance for the application were attorney Rick Brodsky of Ansell Grimm and Aaron, P.C., engineer Brian P. Murphy of FWH Associates, P.A., and Dr. George Smith, the property owner.

Board Attorney Higgins stated that she has reviewed the jurisdictional packet and has found it to be in good order. Therefore, the Board accepted jurisdiction over the application.

Attorney Higgins entered the following exhibits into evidence:

A-1 Jurisdictional Packet

A-2 Amended Site Development Plan, Bl. 30, Lots 47 and 47.01, prepared by Brian P. Murphy PE, NJ Lic. No. 42000, dated 2/22/19, consisting of five (5) sheets

A-3 Color rendering of sheet no. 1 of Exhibit A-2

A-4 NJAW Safety Cover Enclosure Design drawing, prepared by MTP, dated 8/13/18, consisting of one (1) sheet

A-5 Color photograph of "Hot Box" enclosure, facing south

O-1 Photograph of "Hot Box" enclosure at 280 Ocean Avenue taken by Valerie Staab of 290 Ocean Avenue, which is located adjacent to the subject property to the south

O-2 Photograph of "Hot Box" enclosure at 280 Ocean Avenue taken by Valerie Staab of 290 Ocean Avenue, which is located adjacent to the subject property to the south

O-3 Correspondence addressed to Mr. Robert Staab from Mike Kammer, Director, Division of Water, State of New Jersey Board of Public Utilities, dated 5/10/19, consisting of 4 (four) pages

Attorney Rick Brodsky offered a brief summary of the 280 Ocean Avenue development project approved by the Board three years ago, which is in progress on the former site of the Quay. He explained that the issue for this application is approval of a "Hot Box" enclosure, which is a heated enclosure that protects waterworks equipment. The most common use is for backflow prevention. The "Hot Box" enclosure at 280 Ocean Avenue is required by the New Jersey American Water Company (NJAW.) Until recently, the piping

for the water connections could be located inside the building, but the Water Company has become concerned with factors including people tying in to steal water and, also, having the pipe connection close to the main so that their guys don't have to come onto the property to access them. Mr. Brodsky explained that the Water Company pretty much dictates where the "Hot Box" enclosure has to be located on the property, subject to certain considerations. There were site visits by the Water Company, and they said where it had to be. He explained that the property owner had wanted to locate the box inside the building but was not allowed to have it in that location. So, now, as a result, variance relief is needed. The structure is considered an accessory structure.

Engineer Brian Murphy was sworn in to testify and listed his credentials. The Board noted that Mr. Murphy had testified before this Board on the original application, and he was accepted as an expert witness.

Ms. Higgins pointed out that the "Hot Box" straddles two parking stalls. Mr. Murphy answered that the parking stalls will be angled when the fire lanes are striped, and the two parking spaces will not be lost. Mr. Murphy went on to explain that the Water Company requires the "Hot Box" enclosure to be placed above-ground, close to the water main connection. Board Engineer Dave Hoder explained that the Water Company requires the "Hot Box" to be placed above ground for drainage purposes, also. Ms. Higgins noted that the dimensions of the enclosure are 5'7" tall, 12'3" long, and 7'6" wide. There are two sets of pipes inside. She asked whether the pipes require a box. Mr. Murphy answered that they do need a box.

Vice Chairman DeSio asked whether the enclosure could be made to look nicer. Could it be painted and have low plantings added in the front? Mr. Murphy answered, "if we can." The valve covers need to be accessible.

Mr. Murphy noted that the site triangle requirements by the state were used instead of the municipal requirements because the box is located on a state road.

Board Engineer Dave Hoder discussed the relatively recent demand by the Water Company for the installation of these enclosures. He has come across them in at least ten towns in the course of his engineering work. The Water Company requires the enclosure to be located within 25 feet of the water main. Other towns have mitigated the unsightliness of the box by painting it green or sand to blend in with landscape plantings put in around it. Plantings could be added to the east, west, and south sides of the box. He suggested a third parking space could be made larger to allow for mitigation of the unsightliness of the box with plantings. He also agreed with Mr. Murphy that the location of the box complies with the state's sight triangle requirements but not with municipal sight triangle requirements and would need variance relief for the municipality's requirements. The state requirement has priority on the state highway.

Mr. Murphy noted that the present location, on the southeast corner of the property, necessitates variance relief for the following items:

1. Accessory structures are not permitted in the front yard
2. No obstruction taller than 30 inches is permitted in the sight triangle

3. The parking requirement from the previous plan is 95 spaces. The applicant has 83 spaces on site, but the two "hot box" spaces may be considered unusable; so, 81 spaces may be the total provided.

Public Questions and Comments:

Valerie Staab, 290 Ocean Avenue, was sworn in to make a statement. Mrs. Staab shared exhibits which were named O-1, O-2, and O-3. They consist of 2 photos of the "hot box" enclosure taken from the vantage point of her property, which is adjacent to the subject property, and a letter from the Board of Public Utilities. Mrs. Staab stated that the box is very unsightly. She also stated that she doesn't think it is in a safe location because it presents a large obstacle on a busy state highway. She stated that the placement of the enclosure is subject to restrictions, as she had been informed by the Water Company, and the contractor has to deal with it. In regard to a buffer to mask the enclosure, the fence that is going up is only four feet tall, and the box is over five feet tall.

Mr. DeSio asked if there is a landscape planting agreement that can be extended a little. Mrs. Staab stated that the applicants have planted, but they have planted much less than was agreed to. She and her husband have planted substantially but can only plant so close to the box. Mr. Hoder noted that the project is in progress, and the landscape buffer agreement has not been implemented yet, since landscaping is taken care of towards the end of the project. The Board engineer will be reviewing the project for compliance with everything that was agreed to in the Resolution granting approval. He also agreed to review the landscape plan that was made between the two parties.

Mr. DeSio stated that a landscape agreement had been made privately between the Staabs and the applicant prior to the box's installation.

Mr. DeSio stated that the testimony given is that the applicant was told where to locate the box. Ms. Staab answered that the Water Company said the applicant did not have to locate the box where they did.

Attorney Brodsky stated that the applicant is very willing to work with the neighbor and the Borough on the landscape agreement.

Mr. Hoder suggested that, even though the fence should only be 4 feet tall, the landscaping could wrap around the corner as part of the buffer.

Attorney Higgins clarified that, what Mr. Hoder is saying is, if both parties agree, the buffer could be expanded to include the neighbor's property at the applicant's expense.

Next, Dr. George Smith, owner of 280 Ocean Avenue Sea Bright, LLC, was sworn in and made a statement regarding the landscaping agreement.

Mrs. Staab commented that the box could have been placed 35 feet back and follow borough restrictions. Mr. Hoder responded that he was advised by the Water Company that the box needs to be 25 feet back. Mrs. Staab disagreed.

Boardmember Smith inquired as to whether it is normal to install the box at this point in the process. The applicant's engineer, Brian Murphy, responded that, yes, it normally occurs at this phase of the project. Mr. Smith asked whether there is any flexibility in how far back the box is placed. Could it be placed 35 feet back? Mr. Hoder responded that the box is about 26 feet from the water main. The Water Company dictates that the box should be 25 feet from the water main.

Mrs. Staab asked why the box was placed on the side of the property that borders a home instead of on the side of the property that borders a business. Mr. Murphy responded that the box would not fit on the other side of the property. This was the only area the box could be located.

Vice Chairman DeSio stated that the applicant should have come to the Board for guidance before putting the box in. Attorney Brodsky responded that the property owner placed the box where he was told to place it by the Water Company. The owner did not want the box placed there, either. Attorney Higgins responded that the placement could have been discussed before the decision on the location was made. Mr. Brodsky responded that the plan was to place the box inside the building. That was not allowed by the Water Company.

Mrs. Staab asked why no one has the Water Company's requirements that can be produced in writing.

Board engineer Hoder commented that these "Hot Boxes" are an "emergent thing," happening only in the last couple of years. These questions are being addressed by other towns, too. In Sea Bright, this was the first one that had to be dealt with.

Ms. Higgins commented that the Board could have addressed the location of the box before it was placed. The applicant could have asked to place the box on the other side of the property.

Boardmember Wray asked for clarification regarding accessing the box. Mr. Murphy briefly explained the process to the Board.

Mr. Hoder asked Mr. Murphy whether, by re-striping the parking lot, he could create more of a buffer on the south side, by 7 or 8 feet. If a stronger buffer is created on the applicant's property, the adjacent neighbor to the south probably won't see the box. Mr. Hoder offered to work with the neighbors to work out the buffer plan. The buffer plan, including painting the box green or sand color, would be a resolution compliance item, and would have to be implemented to the satisfaction of the Board engineer. Mr. Hoder reiterated that he would be happy to meet with Mrs. Staab. Ms. Higgins asked if that would be acceptable to Mrs. Staab, and she said it would be.

Christopher Capillo, 370 Ocean Avenue, was sworn in and asked, "How is the Water Company demanding this? It makes no sense at all."

Paul T. Higgins, Sr., 300 Ocean Avenue, stood up to say that he came in moral support of Mrs. Staab.

Vice Chairman DeSio closed the public portion of the meeting.

Attorney Brodsky stated that the applicant was willing to work with the neighbor in the past and is willing to work with them again.

Ms. Higgins stated the stipulations of the updated parking lot striping plan, along with the landscape buffer plan and installation, will be reviewed by the Board engineer and will become part of the engineer's resolution compliance review.

Boardmember McGinley stated that he would like to have seen more due diligence from the applicant.

Vice Chairman DeSio stated that he would like to see the project move forward and be completed.

Determination:

Boardmember Nott offered a motion to grant the request for amended site plan approval and variance relief with a provision regarding the creation of a strong buffer to mask the box to the satisfaction of the Board engineer, as stated above by Ms. Higgins. Second was offered by Boardmember Wray, and the motion was adopted upon the following roll call vote:

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

General Public Questions and Comments:

No one in the public wished to speak.

CLOSING MATTERS

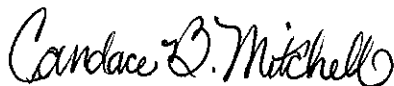
Meeting Announcement:

There being no other business before the Board, the Secretary made an announcement of the next meeting date, which is June 25, 2019.

Adjournment

The meeting was adjourned at 9:03 p.m. on a motion offered by Boardmember Nott, a second offered by Boardmember Smith, and approved upon a unanimous voice vote by the Board members.

Respectfully submitted,



Candace B. Mitchell, Board Secretary