

**APPROVED MINUTES OF THE
REGULAR MEETING OF THE SEA BRIGHT PLANNING/ZONING BOARD
TUESDAY, January 7, 2020**

ADMINISTRATIVE MATTERS

Call to Order

Chairman Cunningham called the meeting to order at 7:32 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 notice with the Borough Clerk, and posted notice on the Borough website and Borough Office.

2020 Oath Appointments

Attorney Higgins administered the following Oath Appointments:

4 Year Term Class IV

Robert Nott January 1, 2020 - December 31, 2023

4 Year Term Class IV

Stephen Smith January 1, 2020 - December 31, 2023

Unexpired 4 Year Term Class IV

Sean McGinley January 1, 2020 - December 31, 2022

2 Year Term Class IV - Alternate #2

Karolyn Wray January 1, 2020 - December 31, 2021

2 Year Term Class IV - Alternate #3

Heather Gorman January 1, 2020 - December 31, 2021

Attendance Roll Call

Present: Cashmore, Cunningham, DeSio, Kelly, Leckstein, McGinley, Nott, Smith, Wray, Gorman

Not Present: DeGiulio, Bills

Also in attendance: Board Attorney Kerry E. Higgins, Esq.
Board Engineer David J. Hoder
Board Secretary Candace B. Mitchell

Election of 2020 Chairperson and Vice Chairperson

Chairperson

Councilman Leckstein introduced a motion electing C. Lance Cunningham as Chairperson of the Planning/Zoning Board. Second offered by Mr. Nott and adopted upon the following roll call vote:

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

Vice Chairperson

Chairman Cunningham introduced a motion to elect David DeSio as Vice Chairperson of the Planning/Zoning Board. Second offered by Mr. Nott and adopted upon the following roll call vote:

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

Selection of 2020 Board Secretary

Chairman Cunningham introduced a motion to select Candace Mitchell as Secretary of the Planning/Zoning Board. Second offered by Councilman Leckstein and adopted upon the following roll call vote:

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

2020 Professional Appointments

Board Attorney

An appointment made without competitive bidding under the provisions of the Local Public Contracts Law N.J.S.A. 40:11.1 et seq.

Chairman Cunningham introduced a motion to appoint Kerry E. Higgins, Esq. of McKenna, DuPont, Higgins & Stone as Attorney for the Planning/Zoning Board. Second offered by Councilman Leckstein and adopted upon the following roll call vote:

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

Board Engineer

An appointment made without competitive bidding under the provisions of the Local Public Contracts Law N.J.S.A. 40:11.1 et seq.

Chairman Cunningham introduced a motion to appoint David E. Hoder of Hoder Associates as Engineer for the Planning/Zoning Board. Second offered by Councilman Leckstein and adopted upon the following roll call vote:

- Ayes: Cashmore, Cunningham, DeSio, Kelly, Leckstein, McGinley, Nott, Smith, Wray, Gorman
- Nayes: None
- Abstain: None
- Absent: DeGiulio, Bills

Board Planner

An appointment made without competitive bidding under the provisions of the Local Public Contracts Law N.J.S.A. 40:11.1 et seq.

Councilman Leckstein introduced a motion to appoint Christine A. Nazzaro-Cofone of Cofone Consulting Group, LLC as Planner for the Planning/Zoning Board. Second offered by Mr. Nott and adopted upon the following roll call vote:

- Ayes: Cashmore, Cunningham, DeSio, Kelly, Leckstein, McGinley, Nott, Smith, Wray, Gorman
- Nayes: None
- Abstain: None
- Absent: DeGiulio, Bills

Approval of 11/12/19 Minutes

Councilman Leckstein offered a motion to approve the minutes. Second offered by Chairman Cunningham and adopted on the following roll call vote of eligible members:

- Ayes: Cashmore, Cunningham, Leckstein, Smith, Wray
- Nayes: none
- Abstain: DeSio, McGinley, Nott, Gorman
- Absent: DeGiulio, Bills

Designation of Official Newspapers for the Calendar Year 2020

Councilman Leckstein offered a motion to designate the Asbury Park Press, The Link News, Two River Times, and Star Ledger as the official newspapers for the calendar year 2020. Second offered by Chairman Cunningham and adopted upon the following roll call vote:

- Ayes: Cashmore, Cunningham, DeSio, Kelly, Leckstein, McGinley, Nott, Smith, Wray, Gorman
- Nayes: None
- Abstain: None
- Absent: DeGiulio, Bills

Approval of Meeting Schedule for the Calendar Year 2020

**MEETING DATES OF UNIFIED PLANNING BOARD
BOROUGH OF SEA BRIGHT**

2020 ANNUAL SCHEDULE NOTICE

The dates, as set forth below, comprise the **Annual Unified Planning Board Schedule Notice** of regular meetings which will be held at **7:30 P.M.** prevailing time, in the Mayor Dina Long Community Room, Sea Bright Beach Pavilion, located at 1097 Ocean Avenue, Sea Bright, New Jersey.

Meetings will be held on the following Tuesdays:

January 7 and 28
February 11 and 25
March 10 and 24
April 14 and 28
May 12 and 26
June 9
July 14
August 25
September 8 and 22
October 13 and 27
November 10
December 8

Reorganization Meeting January 12, 2021

Workshops (if necessary) will be held prior to the first meeting of each month and will start at 7:00 p.m. Action will not be taken at workshop meetings.

Interested persons should check with the Unified Planning Board Secretary or Borough website.

Councilman Leckstein offered a motion to adopt the 2020 meeting schedule.
Second was offered by Mr. Smith and adopted upon the following roll call vote:

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

ITEMS OF BUSINESS
Memorialization of Resolution

**RESOLUTION OF THE
SEA BRIGHT PLANNING/ZONING BOARD
GRANTING MINOR SUBDIVISION
RE: MMJD PROPERTIES, LLC
26 Beach Street
Block 10 Lot 21
Sea Bright, New Jersey**

WHEREAS, MMJD Properties, LLC (the "Applicant") made application to the Planning/Zoning Board of Sea Bright (the "Board") for subdivision approval with variances for property known as Block 10, Lot 21 on the Tax Map of the Borough of Sea Bright, also known as 26 Beach Street; 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 meetings on August 27, 2018 and November 12, 2019, at which time all persons having an interest in said application were given an opportunity to be heard; and

WHEREAS, the following was marked into:

- A-1:** Jurisdictional Packet.
- A-2:** Minor Subdivision Plans prepared by Charles Surmonte dated 5-5-19
- A-3:** Copy of tax Map
- A-4:** Architectural Plans prepared by Jeremiah Regan, consisting of 3 sheets, dated 4-5-18. Revised 9-1-18
- B-1:** Letter from Board engineer David Hoder dated 8-16-19
- B-2:** Resolution of Denial dated 2-26-19

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

1. The property is located in the Center of town on the West side of Ocean Avenue, five lots from the River. The lot has 50 feet of frontage on Beach Street. The Zone is R-3 Residential.

2. Craig Grant testified he is the 80% principal of the LLC and managing member. The application proposes to subdivide the existing 3376 s.f. lot into two 1,688 s.f., 25 foot wide lots, with depths of 67.58 feet. The site is located in the R-3 Zone and residential uses are permitted. The existing significantly nonconforming residence will be removed and replaced with two conforming single-family residences that will comply with FEMA and all flood requirements.

Mr. Grant testified that the existing home is approximately 95 years old, is not FEMA compliant and the eaves sit over the property line. Due to its poor condition and crumbling foundation, raising or moving same is not feasible.

Mr. Grant **STIPULATED** that any homes constructed on the new lots would be fully compliant with all bulk set back requirements. He agreed to a **Deed Restriction** to ensure compliance.

Applicant further **STIPULATED** that the plans shall be amended to add a note setting forth that curb and sidewalk at the frontages will need to be replaced after all utilities are constructed.

3. The property is located in the FIRM Flood Zone AE with a minimum elevation in the AE zone with a BFE of 7.

4. Applicant is seeking a variance for minimum lot area where 1,800 s.f. is required and each new lot will contain 1,688 s.f. The newly created lots will contain the requisite width and depth, but not minimum lot area.

5. In a prior subdivision application, which was denied by the Board, Applicant had proposed two non-conforming houses to be built on the subdivided lots. The proposed homes would have required variances for front yard setback, rear yard setback, building coverage and lot coverage. The new application **STIPULATES** that any homes built will meet the setback requirements under the Borough ordinances. The sole variance is for minimum lot area.

6. The Board noted that the site is nearly 2 times the lot area permitted by the Ordinance, but due to its depth, it is not possible to create 2 fully conforming lots.

7. James Higgins, Professional Planner testified on behalf of the Applicant. Mr. Higgins noted that due to the limited depth of the lot which precluded the ability to meet the minimum lot area for the 2 new lots, without a variance for same, the Applicant

would have to maintain a lot that is nearly 2 times the permitted lot area. He noted that this is significantly inconsistent with surrounding lot areas, and the extent to which the property can be used is significantly inhibited.

8. Mr. Higgins also testified that the proposed development removes the existing non-conforming residence and proposes two new residences which will meet flood elevations and eliminate a significant existing safety hazard. Additionally, the existing home overhangs onto neighboring property, a situation which will be remedied by this development. The new homes will be moved further away from adjacent residence to the east, eliminating potential fire hazards. Higgins noted that these improvements will meet the purpose of the MLUL by encouraging municipal action to guide the appropriate development of land in a manner which will promote the public health, safety and general welfare. The proposed development will also secure the property from fire, flood and other disasters, meeting the purpose of the MLUL. The Board agreed that the proposed subdivision met these goals.

9. The Board questioned why one home could not be built on the existing lot. Mr. Higgins pointed out that the proposal, with two conforming homes left more open space and green space than one large conforming home. The Board felt that this was a benefit to the neighborhood and that one large home, meeting the setbacks, would be inconsistent with the neighborhood and the proposed development was more in conformity with the homes in the zone.

10. The Planner testified, and the Board agreed that the proposed development would result in no significant negative impact to either the zone plan or the surrounding properties as a result of granting the variance for minimum lot area. The proposed lots met the width and depth requirements but were slightly deficient in the minimum lot area requirements. The proposed lots are consistent with the character of the surrounding area and the residences will meet all of the requirements of the R-3 Zone - including off street parking - with the exception of minimum lot area. The Board noted that the appearance of the houses from street view will look as if the lots are fully conforming.

The Board found that the proposed development is more consistent with surrounding development than the existing situation, where the building does not meet the side and rear yard setbacks.

11. The Board found that the variance can be granted because positive reasons exist under both the C-1 and C-2 Criteria. With regard to the C-1, there is a practical

and undue hardship that justifies the granting of the variance (lot depth) and there is no significant detriment with regard to the granting of the variances.

The Board noted the number of substantial positive reasons for granting of the variances and found no substantial negative impacts. Consequently, the Board found that the benefits of granting of the variances significantly outweigh the detriments.

12. After evaluating all of the evidence and testimony the Board found that the subdivision with bulk variances would have no negative impact on the zoning ordinance or zone plan and could be granted with no detriment to the neighborhood.

NOW, THEREFORE, BE IT RESOLVED by the Planning/Zoning Board of the Borough of Sea Bright that the Application for subdivision of Block 10, lot 21 into two lots measuring 25' in width and 67.5' in depth consisting of 1,688 s.f. each, with variance 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.

10. The Applicant shall place a Deed Restriction in the deed for each newly created lot noting that any building constructed on the lot will be fully conforming with all bulk requirements under the Sea Bright ordinances. The proposed Deeds shall be approved by the Board attorney.

11. The Applicant/Developer shall comply with the Sea Bright Affordable Housing Regulations, Section 130-118 et seq. as amended and supplemented.

12. The Applicant will obtain 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.

13. The subdivision shall be perfected within 6 months of the publication of the resolution granting subdivision approval. This approval shall lapse in the event the subdivision has not been perfected within this time period and any board approved extensions.

14. Applicant comply with the technical review items set forth in the Board Engineer's report unless specifically waived by the Board, including curb and sidewalks to be replaced at the frontages after all utilities are constructed. Applicant shall add a note to the plans including this language.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting November 12, 2019.

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.

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 7, 2020.

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

Adopted on a roll call on a motion by Board member Marc A. Leckstein
and Seconded by Board member Lance Cunningham

Vote:

Cashmore – Yes	Cunningham – Yes	DeGiulio - Absent
DeSio – Abstain	Mayor Kelly - Abstain	Leckstein - Yes
McGinley - Abstain	Nott - Abstain	Smith - Yes
(Alt. 1) Bills - Absent	(Alt. 2) Wray – Yes	(Alt. 3) Gorman - Abstain

David DeSio
David DeSio, Vice Chairman
Sea Bright Planning/Zoning Board

Request for Extension of Approvals

PBZB 2019 - 001

River Street Realty, LLC

4 River Street, Block 15, Lot 4

Mr. Nott stepped down from hearing this matter due to proximity of property he owns to the applicant's property, as evidenced by the 200 ft. property list.

The Board received correspondence from John B. Anderson, Esq., attorney for the applicant, dated December 18, 2019, requesting a 60 day extension of all deadlines stated in the Resolution of Approval, which was memorialized 6/11/18. The Notice of Decision was published on 6/20/19.

Board Engineer Hoder informed the Board that his inspection of the property found the applicant had removed the main structure but failed to address all site conditions to the Borough's satisfaction. After a meeting with Mr. Hoder and Mr. Wheeler, the Borough Construction official, the applicant, and attorney Mr. Anderson, agreed to do additional site work, including removal of the concrete slab, removal of all foundation and footings except those within 5 feet of the property on the east side of the property, removal of surface level parking lot, filling and re-grading the lot, and covering the lot with crushed stone.

Councilman Leckstein offered a motion to grant the request for a 60 day extension, which was seconded by Mr. Cunningham, and adopted on the following roll call vote:

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

Executive Session

EXECUTIVE SESSION RESOLUTION

WHEREAS, Section 8 of the Open Public Meeting Act, NJSA 10:4-12 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED by the Unified Planning Board of the Borough of Sea Bright, New Jersey, that they meet in closed session to discuss the issues as herein set forth and when the need for confidentiality no longer exists the decisions made therein will be made available to the public.

1. The public shall be excluded from discussion of and action upon the hereinafter specified subject matter.
2. The general nature of the subject matters to be discussed are as follows:

Litigation settlement: Lands End v. Phan, Sea Bright Planning Board

3. It is anticipated at this time that the subject matters will be made public, if and when confidentiality is no longer needed. Action may be taken.
4. This Resolution shall take effect immediately.

BE IT FURTHER RESOLVED that the Unified Planning Board may come back into Regular Session to conduct additional business.

Boardmember Leckstein offered a motion adopt the resolution, seconded by Boardmember Smith, and approved upon unanimous voice vote.

January 7, 2020

CERTIFICATION

I, Candace Mitchell, do hereby certify that the foregoing is a Resolution adopted by the Unified Planning Board of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Regular Meeting held on January 7, 2020.

Candace B. Mitchell

Candace B. Mitchell, Board Secretary

Public Comments

After coming back to regular session, there were no members of the public wishing to speak.

CLOSING MATTERS

Meeting Announcement

There being no other business before the Board, the Chairman made an announcement of the next meeting date, which is January 28, 2020.

Adjournment

The meeting was adjourned at 7:55 p.m. on a motion offered by Councilman Leckstein, seconded by Mr. Nott, and approved upon a unanimous voice vote by the Board members.

Respectfully submitted,

Candace B. Mitchell

Candace B. Mitchell
Board Secretary

