

**APPROVED MINUTES
REGULAR MEETING OF THE SEA BRIGHT PLANNING/ZONING BOARD
TUESDAY, March 24, 2020**

DUE TO THE CORONAVIRUS AND THE NEED FOR SOCIAL DISTANCING, THIS MEETING
WAS HELD REMOTELY AND AVAILABLE TO THE PUBLIC VIA TELECONFERENCE.
732-963-8701, Access Code 07760#

ADMINISTRATIVE MATTERS

Call to Order

Chairman Cunningham called the teleconference meeting to order at 7:32 p.m. and requested those present join him 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 in the Borough Office.

Attendance Roll Call

Present: Cashmore, Cunningham, DeGiulio, DeSio, Kelly, Leckstein, Smith,
Bills, Wray, Gorman

Not Present: McGinley, Nott

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

Approval of 3/10/20 Minutes

Boardmember Smith offered a motion to approve the minutes, with a second offered by Boardmember Bills, and adoption on the following roll call vote of eligible members:

Roll Call:

Ayes: Cashmore, DeGiulio, DeSio, Smith, Bills, Wray, Gorman

Nays: none

Abstain: Cunningham, Kelly, Leckstein,

Absent: McGinley, Nott

ITEMS OF BUSINESS

Memorialization of Resolution

Unified Planning Board # 2020-03

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

**RE: LHP Holdings
13 & 15 East Church Street
BLOCK 22 LOT 4.01, 4.02**

WHEREAS, LHP Holdings (the "Applicant") is the 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 increase the size of the second floor and to utilize the existing building as a single family residence in the B-1 zone where residential use 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 March 10, 2020 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:** Prior resolution
- A-3:** Architectural Plans by Robert Krause dated 2-14-20
- B-1:** Report from David Hoder, Board Engineer dated 3-6-20

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 convert the existing vacant commercial building for residential use.

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.	63.01 Ft.
Lot Depth	60 Ft.	<i>49.08 Ft.</i>
Front Yard Setback	0 and 25 Ft.	11.8 Ft.
Side Yard Setback	0 Ft.	2.6 Ft.
Side Yard Combined	0 Ft.	27.70 Ft.
Rear Yard Setback	15 Ft.	2.0 Ft.
Max. Lot Coverage	75 %	59 %
Max. Building Coverage	50 %	38.5%
Max. Building Height	42 Ft./3 St.	28 Ft.
Min. Gross Floor Area	880 S.F.	2,217 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 Robert Krause described the proposed single-family dwelling. Two off-street parking spaces will be provided on the vacant portion of the property.

5. The Board noted that a prior use variance had been granted for the subject property to permit a two-family residence. Under that application, the noted that it reviewed exhibits depicting the area of the subject property. The subject property, known as 13 and 15 East Church Street is located at the "dead end" of Church Street. Most of the properties facing East Church Street are residential. The Board noted that the proposed conversion of the existing vacant commercial building to single-family residential will not affect any of the parking on the street. The Board noted that the zone allows for multi-family structures.

The Applicant and 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. The Applicant testified that the immediate area is mostly residential. The Applicant owns the residential property across the street from the subject. It was noted that there are approximately 12 residential homes in the area.

7. As to front setback variance, the Board noted that the proposed 11.8 ft. is existing but will be extended by the addition to the second floor. Same is consistent with the neighborhood and greater than many. The proposal adds a new deck which will be 3.6' from the front property line. The Board found that this is consistent with the other homes on the street.

8. The rear setback of 2' is also existing. This variance arises because the lot is not deep enough (48.08 ft. versus 60' required).

The Board noted that the rear faces the municipal parking lot and will not impact any neighbors. The proposed front/rear setbacks are equal to or exceed conditions on lots in the neighborhood.

9. The Applicant STIPULATED that it will comply with the terms of the Board Engineer's letter marked as Exhibit B-1. The Applicant will replace or repair any sidewalk, curb or apron damaged during construction. The Applicant will show the seawall easement on the plans. All mechanicals will be 3' above the BFE. The Applicant further STIPULATED that it will install fencing or some form of barrier at the North side of the lot to prevent vehicle access to the parking lot.

10. The Board agreed that the subject property, located at the end of a dead end, would not be conducive to commercial activity. The Board found 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.

11. 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-story home on the subject property would help support the business district and meet the goal to produce a pedestrian friendly downtown. The proposed two-story home is consistent with the vision and policy statements in the Master Plan.

12. 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.

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.

14. The Board found that the residential use would be compatible with the predominantly residential neighborhood. 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. Residential use is permitted on the second floor, however the immediate neighborhood is predominantly residential. 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 convert the existing vacant commercial structure to a single-family residential dwelling with bulk variances 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 as existing. All mechanicals shall be elevated to protect from flood dangers.

2. The plans will be amended to show the seawall easement.

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

4. Applicant will install fencing or some form of barrier at the North side of the lot to prevent vehicle access to the parking lot.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting of March 10, 2020; 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 March 24, 2020.

Candace B. Mitchell

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

Adopted on a roll call on a motion by Board member DeSio and seconded by Board member Smith

Vote: Cashmore - Aye Cunningham - Abstain DeGiulio - Aye DeSio - Aye
Mayor Kelly - Abstain Councilman Leckstein - Abstain McGinley - Absent
Nott - Absent Smith - Aye (Alt.1) Bills - Aye (Alt. 2) Wray - Aye
(Alt. 3) Gorman - Aye

David DeSio

David DeSio, Vice Chairman
Sea Bright Planning

Memorialization of Resolution

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

**RE: Donald and Patricia Pignataro
414 Ocean Avenue, Block 30 Lot 25
Sea Bright, New Jersey**

WHEREAS, on June 11, 2019, the Board granted bulk variance approval to Donald and Patricia Pignataro (the "Applicant") for property known as Block 30, Lot 25 on the Tax Map of the Borough of Sea Bright, also known as 414 Ocean to demolish the existing home and construct a new single family home to be compliant with all V zone standards; and

WHEREAS, the bulk variances granted were as follows: 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, during the construction of the new home, it was discovered that the Applicant's engineer error in staking out the foundation, resulting in different bulk variances being required;

WHEREAS, due to the home being partially constructed in the wrong footprint, the Applicant seeks bulk variances for rear yard setback where 20' is required and 11.6' is proposed to the stairs with 15.6' to the deck and the previous approval was for 20' to the deck and 16' to the stairs; side yard setback where 10' is required and a new variance of 8.8' is proposed;

combined side yard variance where 25' is required and 21.1' was previously granted and 21.6' is now required due to the new footprint; 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 March 10, 2020, 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 Property survey with Topography prepared by Najarian dated 6-1-19
- A-3 Plot Plan prepared by Najarian dated 8-20-19, revised to 2-19-20
- A-4 Foundation location prepared by Najarian dated 1-24-20
- A-5 Architectural plans prepared by Matthew Cronin dated 8-4-19, revised to 2-18-20
- A-6 Packet of 9 photos

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

1. On June 11, 2019, the Board granted bulk variance approval to Donald and Patricia Pignataro (the "Applicant") for property known as Block 30, Lot 25 on the Tax Map of the Borough of Sea Bright, also known as 414 Ocean to demolish the existing home and construct a new single family home to be compliant with all V zone standards.

2. Applicant Donald Pignataro testified that during the construction of the new home, it was discovered that the Applicant's engineer error in staking out the foundation, resulting in different bulk variances being required.

3. Mr. Pignataro stated that due to the home being partially constructed in the wrong footprint, it would be a hardship to demolish same and therefore the Applicant seeks bulk variances for rear yard setback where 20' is required and 11.6' is proposed to the stairs with

15.6' to the deck and the previous approval was for 20' to the deck and 16' to the stairs; side yard setback where 10' is required and a new variance of 8.8' is proposed; combined side yard variance where 25' is required and 21.1' was previously granted and 21.6' is now required due to the new footprint.

4. The Applicant's engineer described the new footprint and the resulting variances required.

5. The Board found that the proposed home remained the same as the approved plans, just in a slightly different footprint. The Board found that the combined side yard condition was being improved slightly and the new side yard variance was not significant.

6. 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 proposed footprint did not substantially impact the property, the neighborhood or the zone plan. 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 combined side yard variance is necessitated by the lot width and will be improved over the current conditions. The new side yard setback variance of 8.8' will not substantially affect the property or neighborhood. 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 amended 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 March 10, 2020; 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 March 24, 2020.

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

Adopted on a roll call on a motion by Board member Leckstein
and seconded by Board member Wray

Vote:

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

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

General Public Comments

There were no members of the public wishing to speak.

CLOSING MATTERS

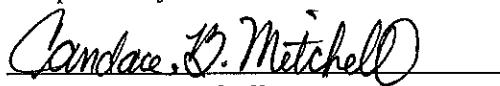
Meeting Announcement

There being no other business before the Board, the Chairman made an announcement of the next meeting date, which is April 14, 2020.

Adjournment

The meeting was adjourned at 7:38 p.m. on a motion offered by Board member DeSio, seconded by Ms. DeGiulio, and approved upon a unanimous voice vote by the Board members.

Respectfully submitted,

A handwritten signature in cursive script that reads "Candace B. Mitchell". The signature is written in black ink and is positioned above a horizontal line.

Candace B. Mitchell
Board Secretary