

**APPROVED MINUTES
REGULAR MEETING OF THE SEA BRIGHT PLANNING/ZONING BOARD
TUESDAY, January 11, 2022**

Call to Order and Flag Salute

Chairman Cunningham called the meeting to order at 7:33 p.m. and requested those present to join in the Pledge of Allegiance.

Open Public Meetings Statement

Good evening, Ladies and Gentlemen,

This Meeting Is Now Called to Order. The Borough of Sea Bright, in compliance with the Open Public Meetings Act, has provided adequate notice of the time, date, and location of his meeting to the Asbury Park Press and Link News on January 19, 2021, filed notice with the Borough Clerk, and posted notice in the Borough Office and on the Borough website. This Meeting Is Open to The Public.

ADMINISTRATIVE MATTERS

Oaths of Office

Board Attorney Monica C. Kowalski, Esq. administered two Oath Appointments:

1 Year Term Class II

Frank Lawrence January 1, 2022 through December 31, 2022

4 Year Term Class IV:

Marc A. Leckstein Unexpired term through December 31, 2023

Chairman Cunningham welcomed Councilman Erwin Bieber, who had been appointed to the Board by the Borough Council at their meeting on January 8, 2022, as the Class III Member, with a 1 year term from January 1, 2022 through December 31, 2022.

Attendance Roll Call

Present: Bieber, Cashmore, Cunningham, DeSio, Gorman, Kelly, Lawrence, Leckstein

Not Present: Bills, Schwartz, DeGiulio

Also in attendance: Board Attorney Monica C. Kowalski, Esq., Board Engineer David J. Hoder, and Board Secretary Candace B. Mitchell

Reorganization

Election of Chairperson:

Mr. Leckstein offered a motion to elect C. Lance Cunningham as Chair of the Planning/Zoning Board. Second was offered by Mr. Cashmore, and the motion was adopted upon a unanimous voice vote by the Board members.

Vice Chairperson:

Chairman Cunningham offered a motion to elect David DeSio as Vice Chair of the Planning/Zoning Board. Second was offered by Mr. Leckstein, and the motion was adopted upon a unanimous voice vote by the Board members.

Appointment of Board Secretary:

Chairman Cunningham offered a motion to appoint Candace B. Mitchell as Secretary to the Planning/Zoning Board. Second was offered by Mr. Cashmore, and the motion was adopted upon a unanimous voice vote by the Board members.

Professional Appointments:

Resolution No. 2022-01 Appointing a Board Attorney

Mr. Leckstein offered a motion to appoint Monica C. Kowalski, Esq. of Monica C. Kowalski, LLC, as Attorney for the Planning/Zoning Board. Second was offered by Chairman Cunningham, and the motion was adopted upon the following roll call vote:

Ayes: Bieber, Cashmore, Cunningham, DeSio, Gorman, Kelly, Lawrence, Leckstein

Nayes: None

Not Present: Bills, Schwartz, DeGiulio

Resolution No. 2022-02 Appointing a Board Engineer

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

Ayes: Bieber, Cashmore, Cunningham, DeSio, Gorman, Kelly, Lawrence, Leckstein

Nayes: None

Not Present: Bills, Schwartz, DeGiulio

Resolution No. 2022-04 Appointing a Board Planner

Chairman Cunningham offered a motion to appoint Jennifer C. Beahm of Leon S. Avakian, Inc. as Planner for the Planning/Zoning Board. Second was offered by Mr. Leckstein and the motion was adopted upon the following roll call vote:

Ayes: Bieber, Cashmore, Cunningham, DeSio, Gorman, Kelly, Lawrence, Leckstein

Nayes: None

Not Present: Bills, Schwartz, DeGiulio

Resolution No. 2022-05 Appointing a Conflict Board Planner

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

Ayes: Bieber, Cashmore, Cunningham, DeSio, Gorman, Kelly, Lawrence, Leckstein

Nayes: None

Not Present: Bills, Schwartz, DeGiulio

Resolution No. 2022-03 Appointing a Conflict Board Engineer

Mr. Leckstein offered a motion to appoint Gregory Blash from the engineering firm of Leon S. Avakian, Inc. as Conflict Engineer for the Planning/Zoning Board. Second was offered by Mr. Cashmore and the motion was adopted upon the following roll call vote:

Ayes: Bieber, Cashmore, Cunningham, DeSio, Gorman, Kelly, Lawrence, Leckstein

Nayes: None

Not Present: Bills, Schwartz, DeGiulio

Resolution No. 2021-06 Approving Meeting Dates for the Calendar Year 2022

Mr. Leckstein offered a motion to approve the 2022 Annual Schedule Notice. Second was offered by Mr. Lawrence, and the motion was adopted upon a unanimous voice vote.

**MEETING DATES OF UNIFIED PLANNING BOARD
BOROUGH OF SEA BRIGHT
2022 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 Sea Bright Beach Pavilion, third floor meeting room, located at 1097 Ocean Ave., Sea Bright, New Jersey.

Meetings will be held on the following Tuesdays:

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

Reorganization Meeting January 10, 2023

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 the Borough website.

Designation of Official Newspapers for the Calendar Year 2022:

Mr. Leckstein offered a motion to designate the following newspapers as the official newspapers for the 2022 calendar year: Asbury Park Press, The Link News, Two River Times, and The Atlantic Hub. Second was offered by Mr. Cunningham, and the motion was adopted upon a unanimous voice vote by the Board members.

ITEMS OF BUSINESS

Approval of 11/9/21 Regular Meeting Minutes:

Vice Chairman DeSio offered a motion to approve the minutes. Second was offered by Ms. Gorman, and the motion was adopted on the following roll call vote of eligible members:
Ayes: Cashmore, Cunningham, DeSio, Gorman, Leckstein
Nayes: none

Correspondence Regarding Mountain View Villas at Sea Bright:

From Robert J. McGowan, Esq., addressed to Borough of Sea Bright Unified Planning & Zoning Board, dated 1/7/22, requesting an extension of an additional six months with

respect to Specific Condition #4 of the Resolution of Approval during which the Applicant shall be permitted to perfect Final Major Subdivision of the subject parcels: Block 23, Lot 139; Block 33, Lot 20.02; Block 34, Lots 3.03 & 3.04, also known as Mountain View Villas at Sea Bright.

Mr. Leckstein offered a motion to approve the request for an extension of approvals. Second was made by Vice Chairman DeSio, and the motion was adopted upon the following roll call vote:

Ayes: Bieber, Cashmore, Cunningham, DeSio, Gorman, Kelly, Lawrence, Leckstein

Nays: None

Not Present: Bills, Schwartz, DeGiulio

Memorialization of Resolution:

APPLICANT: SCOTT AND INGRID HALL
ATTORNEY FOR APPLICANT: F. BRADFORD BATCHA, ESQ.
APPLICATION NUMBER: 2021-15
BLOCK: 23 AND 28
LOT: 64 AND 1 RESPECTIVELY
ADDRESS: 556 OCEAN AVENUE
RESOLUTION NUMBER: 2021-15



**RESOLUTION OF THE UNIFIED PLANNING/ZONING BOARD
OF THE BOROUGH OF SEA BRIGHT
FOR USE AND BULK VARIANCE RELIEF**

WHEREAS, BOARD MEMBER Marc A. Leckstein, Esq. offered the following Motion moved and seconded by **BOARD MEMBER** Vice Chairman David DeSio

WHEREAS, hereinafter referred to as the “applicant” filed an application with the Unified Planning/Zoning Board of the Borough of Sea Bright, (hereinafter referred to as the “Board”) seeking the following relief:

The applicant is seeking to elevate and expand an existing single-family residence. The applicant will seek the following variances.

1. The proposed elevation/addition expands the front yard set back of 4 ft. where 25 ft. is required.
2. The proposed elevation/addition expands the existing side yard setback of 4 ft. where 7 ft. is required.

Applicant also expressly makes application for any additional exceptions, waivers, variances, interpretations, and other approvals (as same may be further amended from time to time without further notice) and as may be determined to be necessary by the Board during the review and processing of the application.

WHEREAS, the application pertains to premises known and designated as Block 28, Lot 1 and Block 23, Lot 64 on the Tax Map of the Borough of Sea Bright, which premises are in the R-2 Zone located at 556 Ocean Avenue, Sea Bright, NJ 07760;

WHEREAS, all notice requirements were satisfied by the applicant and the Board has jurisdiction to hear, consider and determine the application at issue; and

WHEREAS the Board held a public hearing with regard to the referenced application on the following date, **NOVEMBER 9, 2021**:

WHEREAS, the following items were entered as Exhibits at the hearing which includes but is not limited to; any and all documentation as submitted and appearing on the Sea Bright website (seabrightnj.org) for presentation at the Public Meeting with public notice

Application No. 2021-15 Scott Hall and Ingrid Busson Hall, 556 Ocean Avenue, Block 23, Lot, 64 and Block 28, Lot 1

- [Hall - Zoning Permit Denial \(pdf\)](#)
- [Hall - Application \(pdf\)](#)
- [Hall - Survey \(pdf\)](#)
- [Hall - Architectural Drawings \(pdf\)](#)
- [Hall - Photo \(pdf\)](#)
- [Mail Service - Part 1 \(pdf\)](#)
- [Mail Service - Part 2 \(pdf\)](#)
- [Affidavit of mailing \(pdf\)](#)
- [Tax and Sewer Certification, 11-9-21 \(pdf\)](#)

Items produced as Additional Exhibits at hearing:

- EXHIBIT A-1, page C-101: part of the architectural plans: Additions and Renovations Plan prepared by Edward W. O'Neill, Jr., RA, dated 7/15/21, consisting of sheets 4 sheets, C-001, C-100, C-200, C-201
- EXHIBIT A-2: an undated photo
- EXHIBIT A-3, page C-100 of the architectural plans

WHEREAS The Board listened to the Testimony of the following:

1. SCOTT HALL, APPLICANT
2. EDWARD W. O'NEILL, JR. (ARCHITECT AND PLANNER)

WHEREAS The Board took Questions from the following member of the Public as to the witnesses presented:

1. DAVID JANAZZO – 174 OCEAN AVENUE, 3 WILLOW WAY – where are cars parked today? On Willow Way side.

WHEREAS, The Board took Public Commentary on the Application upon conclusion of the witness testimony as follows:

1. NONE.

WHEREAS, the Board, having given due consideration to the Exhibits moved into evidence and the Testimony presented at said hearing(s), does make the following findings of fact:

1. This is an application to elevate and expand a single family residence (new home) on the modified footprint of the prior house foundation.
2. The existing residence could not be renovated as it would exceed the 50% ordinance threshold and given that the building would have to be raised, it was the professional opinion of the applicant's architect that same would "fall apart" as the existing structure was not in good shape, had no sheathing with exterior pieces being nailed directly into studs.

3. Applicant proposes to build a basement and raise the house 4 feet, building a new 2 story structure (SFR) on the foundation. The deck in back will double as a carport. The sides of the deck/carport will be open to rear and front.
4. The finished attic adds square footage.
5. Lot coverage overall is reduced by 3%.
6. Variances are necessary as applicant cannot meet 25' set back on front and side yard (Willow Way). Should the setbacks be imposed, the lot would not be buildable. So, applicant can maintain 25' setback on Ocean Avenue but not on Willow Way.
7. Further, this is a corner lot. There are justifications for granting the requested variance under hardship. There is a hardship because the lot is on a corner, it has two front yards. The lot is large enough to build on, but the property is rendered unbuildable according to this interpretation in the zoning ordinance should the 25' setback be imposed on both sides.
8. Testimony was taken from the Applicant's Architect/Planner which the Board found credible:
 - a. Positive criteria. Applicant is replacing a dilapidated structure and removing a detached garage from rear. The property had 2 previous setback variances. Applicant, however, will now also comply with flood zone regulations as well. There will be room to park two cars under the overhang. Building coverage will be slightly reduced. **The height shown on the plans as presented will be revised down and will not require a height variance. Plans will be revised to so indicate and said revision is a condition of approval.**
 - b. **NEGATIVE CRITERIA: None.**
Utilities will not be in setback.
9. Additional discussion occurs with regard to parking and deck structure which is deemed inadequate for parking 2 cars side by side. Discussion involved how many cars could actually fit in the carport, and those cars are not allowed to be parked in the setback. Two cars technically can fit in the carport but would be a very tight fit. Also, the plans need to be corrected to show two cars. Councilman Leckstein suggested that cars would not realistically be parked side-by-side in the carport. Vice Chairman DeSio suggested that one car could be parked under the carport, and one car could be parked next to the carport in the setback if a variance were to be requested. Councilman Leckstein stated that he would have no problem with that and it is better to ask for a parking variance to allow parking in the setback.
10. Upon discussion, Applicant would be required to **REVISE THE PLANS TO SHOW 2 PARKING SPACES. THE ENTRANCE SHALL ONLY BE FROM WILLOW WAY.** The Board discusses the floor plan representation of cars under the deck (A-3) and if 2 cars will fit. Applicant suggests adjusting the entry deck. Board Member DiSeo suggests reduction of the the deck to 3 feet, then will have 16 feet for parking. However, the Board suggests the alternative is to amend the application and request a variance for parking in the setback as two spaces are required, and the deck area as shown will not allow for same.
11. **Applicant, upon Board discussion, amends their application on record in accordance with Public Notice for an additional variance to allow parking in the setback for the required 2 spaces without modification of the exterior deck above on Willow Way.**

WHEREAS, In order to prevail on an application for a variance, the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D – 70, requires the applicant to establish that the variance can be granted without substantial detriment to the public good and that the granting of the variance does not substantially impair the intent and purpose of the master plan, zone plan and zoning ordinance.

NOW THEREFORE, BE IT RESOLVED, by the Unified Planning/Zoning Board of the Borough of Sea Bright that it hereby adopts the aforesaid findings of fact and specifically makes the following conclusions:

- a. Based upon the aforesaid findings of fact, the Board concludes that:
 - i. The applicant has demonstrated that the proposed use of the property in question is substantially the same kind of use as that to which the premises were devoted at the time of the passage of the zoning ordinance.
- b. Based upon the aforesaid findings of fact, the Board further concludes that the granting of the approval set forth herein will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance and the zoning plan of the Borough of Sea Bright.

- c. **The Board specifically includes herein by reference, the Transcripts from the hearings, which provide the detailed basis and description of the decision as memorialized in this Resolution and do hereby rely upon same for further reference, as necessary.**

BE IT FURTHER RESOLVED, by the Unified Planning/Zoning Board of the Borough of Sea Bright that the following be and are hereby **GRANTED**, as follows:

The applicant is granted variances to elevate and build on the footprint of the existing single-family residence with modifications per the plans submitted in support of this application. The applicant is granted the following variances.

1. The proposed elevation/addition expands the front yard setback of 4 ft. where 25 ft. is required.
2. The proposed elevation/addition expands the existing side yard setback of 4 ft. where 7 ft. is required.

As a condition of approval, the following shall be revised by the applicant and approved by the Board Engineer:

- a. **The height shown on the plans as presented will be revised down and will not require a height variance. Plans will be revised to so indicate and said revision is a condition of approval.**
- b. **Applicant, upon Board discussion, is granted an additional variance to allow parking in the setback on the Willow Way side of the subject property in accordance with the amendment of the application on the record as referenced above for the required 2 parking spaces without modification of the exterior deck in the current plans submitted. However, as a condition of approval, the plans will be revised to show the 2 parking spaces as discussed and directed on the Record, which revision of plans is subject to review and approval by the Board Engineer.**

ALL APPROVALS GRANTED HEREIN ARE SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) The applicant shall comply with any requirements established by, and obtain any necessary approvals of the following, IF APPLICABLE, to the proposed construction herein:
 - a. **SUBJECT TO ALL REPRESENTATIONS AND TESTIMONY OF THE APPLICANT BEING TRUTHFUL AND ACCURATE**

APPLICATION VOTE:

Adopted on a roll call on a motion by Board member Marc A. Leckstein and Seconded by Board member David DeSio

THOSE IN FAVOR: Bills, Cashmore, Cunningham, DeGiulio, DeSio, Gorman, Leckstein

THOSE OPPOSED: None

RECUSED: None

ABSENT: Kelly, Schwartz

ABSTAINED: None

MEMORIALIZATION VOTE:

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

THOSE IN FAVOR: Cashmore, Cunningham, DeSio, Gorman, Leckstein

THOSE OPPOSED: None

RECUSED: None

ABSENT: Bills, DeGiulio

ABSTAINED: None

I certify the foregoing to be a true copy of the Resolution memorialized by the Unified Planning/Zoning Board of Sea Bright at its meeting on January 11, 2022.

Date: January 11, 2022

Candace B. Mitchell

Candace B. Mitchell

Administrative Officer of the Unified Planning Board of the Borough of Sea Bright

Application carried from the meeting of November 9, 2021

PBZB 2021-14

Martin Phan and Theresa Hoang Phan

164 Ocean Avenue, Block 33, Lot 20.02

Amended Site Plan approval, Use and Bulk Variance approval

Board members Mayor Brian Kelly and Councilman Erwin Bieber stepped down from the Board for this application because members of Council are not permitted to vote on matters involving a Use Variance.

Board members Marc A. Leckstein and Frank Lawrence, who had not participated in the first hearing on November 11, 2021, are eligible to participate and vote in this evening's hearing because each has certified, and Board attorney Monica C. Kowalski has signed and subscribed, that each has examined the record by listening to the entire recording of the November 11, 2021 hearing on this application and are, therefore, eligible to vote on this evening's matter.

Present for the application were Richard C. Sciria, Esq., Catherine Franco, Architect, and applicants Martin Phan and Theresa Hoang Phan.

Board attorney Kowalski stated that the application, which was first heard on November 9, 2021, remains under the Board's jurisdiction.

The following exhibits, prepared for this evening's meeting, as well as exhibits for the November 11th meeting, have been made available for view on the Borough website:

- Revised Site and Architectural Plan, prepared by Catherine Franco, AIA, dated 9/25/17, revised 4/2/21, revised 12/25/21 consisting of 4 sheets, Z-1 through Z- 4
- Board engineer's second Technical Review, dated 1/3/22, 4 pages

Mr. Sciria reintroduced the application and its history. The original application for bulk and use variances was approved by the Board on February 13, 2018. Lands' End Condominium Association was an objector to the approval. The Monmouth County Superior Court upheld the Board's decision, and Lands' End appealed. The Appellate division approved a settlement agreement in which it stipulated modifications that were minor in scope to the application and site plan. Under the settlement agreement the two rear exterior decks were to be eliminated, the plans had to incorporate a front deck or balcony below the roof deck. The contour of the stairwell facing Ocean Avenue was to be changed, making a solid wall all the up instead of a half wall. Also, the brick wall would be extended, and the number of trees to be planted were specified as a buffer between this property and the Lands' End Condominium development.

Mr. Sciria stated that, after reviewing the Board's comments made at the first hearing, architect Catherine Franco revised the plans, and Mr. Sciria asked Ms. Franco to describe the revisions. Ms. Franco, who remained under oath from the November hearing, stated that the building changes are found on sheet one (1) of the plan. The front circular driveway is now incorporated in the building, therefore, now being in the setback and eliminating a variance. Instead of the proposed 17' front yard setback, the setback will now be 25' 6". The rear stairwell will now be placed horizontally, to go against the back wall, and its left wall will be a solid, instead of a half solid wall. Building coverage has been reduced by 100 sq.'. The only stair to the roof is a spiral staircase located on the front side of the house. The rear decks have been taken away. Everything else is the same as in the original application.

Board Comments:

Vice Chairman DeSio commented that he was glad the front setback was improved. He noted that the property has two front yards, and the applicants were granted relief on Mountain View Way in the first application's approval. He is pleased that the setback on Ocean Avenue is now in compliance.

Board engineer David Hoder referenced his Second Technical Review, dated January 3, 2022, and stated the applicant should provide a place on the plan for the Board engineer to sign. The applicant should also place on the plan a note that any curb, sidewalk, or road surface damaged during construction will be replaced according to the Borough or NJDOT standards.

Public Comments:

David Janozzo, who resides at the Lands' End Condominiums, stated that he agrees with the settlement stipulations.

Vice Chairman DeSio offered a motion to approve the revised site plan, with a second offered by Chairman Cunningham. The motion was carried upon the following roll call vote:

Ayes: Cashmore, Cunningham, DeSio, Gorman, Lawrence, Leckstein,
 Nays: None
 Absent: Bills, DeGiulio, Schwartz

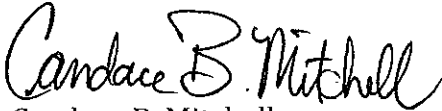
There were no general public comments.

There being no other business before the Board, the Chairman made an announcement of the next meeting date, which is January 25, 2022.

Adjournment

The meeting was adjourned at 8:13 p.m. on a motion offered by Mr. Leckstein, seconded by Vice Chairman DeSio, and carried upon a unanimous voice vote by the Board members.

Respectfully submitted,



Candace B. Mitchell
Board Secretary