

**APPROVED MINUTES
REGULAR MEETING OF THE SEA BRIGHT UNIFIED PLANNING/ZONING BOARD
Tuesday, October 11, 2022**

Call to Order and Flag Salute

Vice Chairman DeSio sat in for Chairman Cunningham and called the meeting to order at 7:35 p.m., requesting those present join in reciting 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, provided adequate notice of the time, date, and location of this meeting to the Asbury Park Press and Link News on January 13, 2022, 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

Attendance Roll Call

Present: Bieber, Bills, Cashmore, DeSio, Gorman, Lawrence, Leckstein, Schwartz, DeGiulio
Not Present: Cunningham, Kelly

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

Approval of 9/13/22 Regular Meeting Minutes

Board member Marc A. Leckstein, Esq. offered a motion to approve the minutes, with a second offered by Board Member Councilman Erwin Bieber. The motion was carried upon the following roll call.

Ayes: Bieber, Bills, Cashmore, Gorman, Lawrence, Leckstein, Schwartz, DeGiulio
Nays: none

ITEMS OF BUSINESS

Memorialization of Resolution

APPLICANT: MOUNTAIN VIEW VILLAS
APPLICATION NUMBER: 2021-10
BLOCK: 34, LOT 3.03 and 3.04 and
BLOCK 33, LOT 20.02
ATTORNEY FOR APPLICANT: Robert McGowan, Esq
RESOLUTION NUMBER: 2021-10.4



**RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT
OF THE BOROUGH OF SEA BRIGHT
FOR WAIVERS**

WHEREAS, BOARD MEMBER MARC A. LECKSTEIN , offered the following Resolution moved and seconded by **BOARD CHAIR LANCE CUNNINGHAM**:

WHEREAS, Mountain View Villas at Sea Bright by and through their Attorney, Robert McGowan, Esq. hereinafter referred to as the “applicant” filed an application with the Zoning Board of Adjustment of the Borough of Sea Bright, (hereinafter referred to as the “Board”) seeking the following relief:

APPLICANT IS SEEKING WAIVERS TO FILE THE FINAL PLANS WITH MONMOUTH COUNTY FOR LOTS 1-3 OF THE DEVELOPMENT WHILE IT CONTINUES TO PURSUE THE REQUISITE TIDELANDS GRANT OR LICENSE RELATIVE TO BLOCK 33, LOT 20.04. A SECOND PLAN TO BE FILED INCLUDING LOT 20.04 UPON RECEIPT OF APPROPRIATE GRANT OF LICENSE.

WHEREAS, the application pertains to premises known and designated as Blocks 34, Lots 3.03 and 3.04 and Block 33, Lots 20.02 on the Tax Map of the Borough of Sea Bright;

WHEREAS, notice to the general public was not required on this application due to the fact that this was a waiver hearing to determine the contents of the plan to be filed, application for tidelands grant/license pending. The Board has jurisdiction to hear, consider and determine the waiver requests at issue based on prior approval, per the MLUL; and

WHEREAS, the Board held an administrative hearing with regard to the referenced waiver request on the following date, September 13, 2022:

WHEREAS, the following items were entered as Exhibits at the hearing:

NONE.

WHEREAS, The Board listened to the Testimony of the following:

NONE

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

NONE.

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

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:

Present for the discussion regarding a waiver request was Attorney Robert J. McGowan, Esq., representing Mountain View Villas at Sea Bright. Mr. McGowan explained that, while continuing to pursue the required Tidelands Grant or License, the applicant is asking for a waiver of that requirement in order to be able to file final plans with the County for lots 1-3. A second plan will be filed when Lot 4 is provided with its Tidelands grant/license and the application is pending. Once the Tidelands claim is provided with the tidelands grant or lease number with grant date, the Map (plan) will be filed again in Monmouth County. The Map will be filed first with claim pending and then with grant or lease number for lot 4, when granted.

NOW THEREFORE, BE IT RESOLVED, by the Board of Adjustment 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. Certain Waivers in conjunction with the application for the may be necessary:

- ii. The Board has the authority, upon testimony, to waive or grant temporary relief to certain approved items for the application under continuing jurisdiction, and;
 - iii. The Board has been provided with information on the application and has been presented with testimony from the Applicant or their professionals, which testimony has been supplemented with the advice of Board professionals and does hereby decide the request.
- b. **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 Board of Adjustment of the Borough of Sea Bright that the following be and are hereby GRANTED:

The applicant is granted a temporary waiver and may file the Site Plan Map with Monmouth County for Lots 1-3 as approved in the original application. A second plan will be filed when Lot 4 is provided with its Tidelands grant/license and the application is pending. Once the Tidelands claim is provided with the tidelands grant or lease number with grant date, the Map (plan) will be filed again in Monmouth County. The Map will be filed first with claim pending and then with grant or lease number for lot 4, when granted.

APPLICATION VOTE:

Adopted on a roll call on a motion by Board member Marc A. Leckstein, Esq. and Seconded by Board Chairman C. Lance Cunningham:

ROLL CALL: Bieber, Bills, Cashmore, Cunningham, Gorman, Lawrence, Leckstein, Schwartz, DeGiulio

THOSE IN FAVOR: All in favor

THOSE OPPOSED: None

RECUSED: None

ABSENT:

ABSTAINED: None

MEMORIALIZATION VOTE:

Adopted on a roll call on a motion offered by Board member Marc A. Leckstein, Esq. and Seconded by Board member Councilman Erwin Bieber:

ROLL CALL: Bieber, Bills, Cashmore, Gorman, Lawrence, Leckstein, Schwartz, DeGiulio

THOSE IN FAVOR: All in favor

THOSE OPPOSED: None

RECUSED: None

ABSENT: Cunningham

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 October 11, 2022.

Date: October 11, 2022

Candace B. Mitchell

Candace B. Mitchell
 Administrative Officer of the
 Unified Planning/Zoning Board
 Borough of Sea Bright

Memorialization of Resolution

APPLICANT: 1030 LIQUOR PARTNERS, LLC (TOMMY’S TAVERN):
APPLICATION NUMBER: 2022-12
BLOCK: 17
LOT: 4
ADDRESS: 1030 OCEAN AVENUE
ATTORNEY FOR APPLICANT: MARK A. STEINBERG, Esq.
RESOLUTION NUMBER: 2022-12



**RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT
OF THE BOROUGH OF SEA BRIGHT
FOR BULK VARIANCE – SIGNAGE**

WHEREAS, BOARD MEMBER, MARC A. LECKSTEIN offered the following Resolution moved and seconded by **BOARD MEMBER STEPHEN CASHMORE:**

WHEREAS, 1030 PARTNERS, LLC, hereinafter referred to as the “applicant” filed an application with the Zoning Board of Adjustment of the Borough of Sea Bright, (hereinafter referred to as the “Board”) seeking the following relief:

Applicant is seeking approval for a seasonal 40 x 40 feet aluminum frame fabric tent which exceeds the permitted size of an accessory structure and may occupy more than 35% of the required rear or side yard and will be 1,600 square feet where a maximum of 500 square feet is permitted per section 130-38.D(1)(d) which requires C-2 bulk variance relief; any possible changes to the conditions set forth in the Resolution of this Board dated March 24, 2015 to accommodate the accessory structure; a possible parking variance if needed for number parking spaces which require C-1 bulk variance relief; changes to lighting and front façade from that which was previously approved; and Preliminary and Final Site Plan approval per Section 130-3.B (1)(b); together with any and all other requirements, variance and/or waivers the Board and/or its professionals may deem necessary.

APPLICATION IS AMENDED ON THE RECORD WHEREBY APPLICANT WITHDRAWS IN FULL THE REQUEST FOR SEASONAL STRUCTURE. APPLICANT LIMITS THEIR APPLICATION TO THE SIGNAGE ISSUE AS SET FORTH IN THE ZONING DENIAL OF FEBRUARY 11, 2022. These are to confirm the downlit gooseneck lighting and internally lit signs (type of lighting) which are already installed on building as approved. No change to size or location of sign is requested.

WHEREAS, the application pertains to premises known and designated as Block 17 Lot 4 on the Tax Map of the Borough of Sea Bright, which premises are located at **1030 OCEAN AVENUE;**

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, **September 13, 2022;**

WHEREAS, the following items were entered as Exhibits at the hearing:

- Zoning Denial No. Z2022-013 dated 2/11/22
- Zoning Denial No. Z2022-030 dated 3/30/22
- Application Packet, received 5/3/22
- Location and Topographic Survey prepared by James B. Goddard, Land Control Services and dated 9/9/14, 1 sheet
- Amended Site Plan prepared by Marc S. Lieber, East Point Engineering, LLC and dated 4/22/22, 4 sheets
- Architectural Plans prepared by Urban Tectonics LLC and dated 7/24/21, revised to 3/17/22, 2

- sheets
- Board Engineer's Technical Review of the Site Plan Application For an outdoor tent, prepared by David J. Hoder, and dated 5/12/2022

Exhibit entered into evidence at the meeting were as follows:

- A-1: 4 photos taken today, 9/13/22, showing existing signs/lighting

WHEREAS, The Board listened to the Testimony of the following:

MARC C. LIEBER, PE:

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

NONE

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

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. Exhibit A-1 (4 photos) shows the signage. Jim Monteforte, architect, prepared the plans and prepared signs on tower with 3 gooseneck lamps, print on tower, Tommy's "to go", and main sign, 'Tommy's Tavern and Tap' with 5 downlights and downlight gooseneck lighting.
2. The restaurant now has 8 locations so they are trying to make locations branded and similar. Signs are internally illuminated and LED but not turned on, pending approval. Signs are not in alignment with approved plans per zoning denial.
3. The signs were approved size. However, gooseneck lighting was eliminated in both locations on the façade and but the goosenecks over the "Tommys' to go" and goosenecks over the red awning will remain. The two lettered signs (tower and main) light up via internal lighting. No goosenecks on those two areas. The northside sign, which has 'Tommy's' sign with goosenecks will remain as approved. (Ex. A-1 page 2.)
4. Nothing will be placed on southern side of building.
5. Sign has not been assessed for lumens but there are dimmers on the sign should there be any issues. Applicant agrees that **if complaint with intensity of light, they will work with code enforcement officer to reduce lumens on the dimmer** as a condition of approval.
6. For clarification, **David J. Hoder, P.E., P.P., HODER ASSOCIATES** – Plan submitted was not what is out there for construction as hardi-board was installed instead of stucco, which the Board deems appropriate.
7. Board Member **Stephen Cashmore** indicates that a Mural was supposed to be painted on the roll out garage doors, like an ocean but the applicant advises that since they are branding all restaurants similarly, the mural will probably not be installed.
8. No bonding is required and minor inspection fees remain.

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 Board of Adjustment of the Borough of Sea Bright that it hereby adopts the aforesaid findings of fact and specifically makes the following conclusions:

- c. 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.

- d. 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.
- e. **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 Board of Adjustment of the Borough of Sea Bright that the following be and are hereby **GRANTED**:

APPLICATION IS APPROVED AS AMENDED AND APPLICANT LIMITS THEIR APPLICATION TO THE INSTALLATION OF HARDI-BOARD (installed) AND SIGNAGE wherein gooseneck lighting is eliminated in both locations on the façade but the goosenecks over the “Tommys’ to go” and goosenecks over the main red awning will remain. The two lettered signs (tower and main) will light up via internal lighting. No goosenecks on those two areas. The northside sign, which has ‘Tommy’s” sign with goosenecks will remain as approved.(Ex. A-1 page 2.) Applicant agrees that **if there is a complaint with intensity of light, they will work with code enforcement officer to reduce lumens on the dimmer** as a condition of approval.

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. All Plans must be approved by Township Engineer and Code and Construction Departments for the issuance of Permits;
 - b. MONMOUTH COUNTY PLANNING BOARD;
 - c. FIRE MARSHALL;
 - d. BOARD OF HEALTH;
 - e. SOIL CONSERVATION AND SEDIMENT CONTROL APPROVALS AND PERMITS;
 - f. AFFORDABLE HOUSING CONTRIBUTION (ORD. 04-22)
 - g. BOARD OF ADJUSTMENT PLANNER
 - h. BOARD OF ADJUSTMENT ENGINEER
 - i. POSTING OF PERFORMANCE GUARANTEES AND INSPECTION FEES;
 - j. FINAL SITE PLAN DRAWINGS INCORPORATING ALL CHANGES AND/OR AMENDMENTS MADE AT THE HEARING.
 - k. FINAL DESIGN SUBJECT TO APPROVAL OF THE BOARDS’S PROFESSIONALS.
 - l. SUBJECT TO THE APPLICANT COMPLYING WITH ANY AND ALL FEDERAL, STATE, COUNTY AND LOCAL LAWS, RULES AND REGULATIONS AFFECTING AND PERTAINING TO THE DEVELOPMENT OR USE OF THE SITE IN QUESTION.
- (2) 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, Esq. and Seconded by Board member Stephen Cashmore:

ROLL CALL VOTE: Bieber, Bills, Cashmore, Cunningham, Gorman, Lawrence, Leckstein, Schwartz, DeGiulio

THOSE IN FAVOR: All in favor

THOSE OPPOSED: None

ABSENT: None

ABSTAINED: None

MEMORIALIZATION VOTE:

Adopted on a roll call on a motion offered by Board member Councilman Erwin Beiber and
Seconded by Board member Marc A. Leckstein, Esq.:

ROLL CALL: Bieber, Bills, Cashmore, Gorman, Lawrence, Leckstein, Schwartz, DeGiulio
THOSE IN FAVOR: All in Favor
THOSE OPPOSED: None
ABSENT: Cunningham
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 October 11, 2022.

Date: October 11, 2022

Candace B. Mitchell

Candace B. Mitchell
Administrative Officer of the
Unified Planning/Zoning Board
Borough of Sea Bright

New Application No. 2022-14

Kim Kurkowski and Kerry Huffman
13 Church Street, Block 14, Lot 8

Bulk variance relief for lot area, lot frontage/width, front yard setback, side yards setbacks,
combined side yard setback, building coverage, number of stories, and height to demolish
the existing two-story structure and build a three-story single-family home, utilizing the
existing foundation

In attendance for the application was architect Anthony C. Condouris.

Board Attorney Monica C. Kowalski explained that the Board could not accept jurisdiction
of the matter because, after a review by Board professionals, it was determined that a "D"
use variance will be required for height. The need for the use variance is the result of the
undersized lot in relation to height requested. There was discussion among the Board
Attorney, the applicant's architect, and the Board Engineer. A new public notice will include
the request for "D" use variance approval. The proposed height of 39.5 ft. exceeds the
permitted height on this lot by more than 10%. The applicant will update the public notice
and re-notice for next meeting, which is scheduled on October 25, 2022.

OTHER BUSINESS

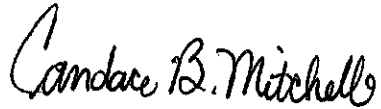
Dave Hoder, Board Engineer, briefly explained that a Sea Bright-Rumson Bridge report,
dated 9/22/22, was received by the Board Secretary. It is an informative report to be kept
on file.

There were no general comments by members of the public and no other business before the Board. The Vice Chairman made an announcement of the next meeting date, October 25, 2022.

Adjournment

The meeting was adjourned at 7:44 p.m. on a motion offered by Marc A. Leckstein, Esq., seconded by Peggy Bills, and carried upon a unanimous voice vote by the Board members.

Respectfully submitted,

A handwritten signature in black ink that reads "Candace B. Mitchell". The signature is written in a cursive, flowing style.

Candace B. Mitchell, Board Secretary