

APPROVED MINUTES
REGULAR MEETING OF THE SEA BRIGHT UNIFIED PLANNING/ZONING BOARD
Tuesday, November 22, 2022

ADMINISTRATIVE MATTERS

Call to Order and Flag Salute

Chairman Cunningham called the meeting to order at 7:30 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 October 28, 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.

Attendance Roll Call

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

Also in attendance: Board Attorney Monica C. Kowalski, Esq., Board Planner Jennifer C. Beahm, and Board Secretary Candace B. Mitchell

Approval of 10/25/22 Regular Meeting Minutes

Board member David DeSio offered a motion to approve the minutes, with a second offered by Board Member Frank Lawrence. The motion was carried upon a roll call vote of eligible members.

Ayes: Cashmore, Cunningham, DeSio, Lawrence

Nays: none

ITEMS OF BUSINESS

Memorialization of Resolution

APPLICANT: KERRY HUFFMAN AND KIM KURKOWSKI

APPLICATION NUMBER: 2022-14

BLOCK: 14

LOT: 8

ADDRESS: 13 CHURCH STREET

ATTORNEY FOR APPLICANT: KEVIN KENNEDY, Esq.

RESOLUTION NUMBER: 2022-14



RESOLUTION OF THE UNIFIED PLANNING - ZONING BOARD
OF THE BOROUGH OF SEA BRIGHT
FOR USE AND BULK VARIANCES

WHEREAS, BOARD MEMBER DAVID DESIO offered the following Resolution moved and seconded by **BOARD MEMBER FRANK LAWRENCE:**

WHEREAS, KIM KURKOWSKI AND KERRY HUFFMAN, hereinafter referred to as the “applicant” filed an application with the Unified Planning-Zoning Board of Adjustment of the Borough of Sea Bright, (hereinafter referred to as the “Board”) seeking the following relief:

Kim Kurkowski and Kerry Huffman have submitted a Development Application to the Borough of Sea Bright / Sea Bright Unified Planning-Zoning Board. The Application involves the property located at 13 Church Street, Sea Bright, NJ, more formally identified as Block 14, Lot 8 (R-3 Zone). There is an existing single-family home at the site. In order to make the home more functional and modern, the Applicants propose to demolish the existing structure and to construct a new single-family home on the site. (Though the Applicants intend to utilize the existing foundation for the new structure.)

In conjunction with the Application, the Applicants will be seeking approval for the following Variance relief:

LOT AREA: exists;	1,800 SF required; whereas 1,560 SF exists;
LOT FRONTAGE / WIDTH:	25 ft. required; whereas 20 ft. exists;
FRONT YARD SETBACK: proposed;	5 ft. required; whereas 2.53 ft. proposed;
SIDE YARD SETBACK: proposed;	3 ft. required; whereas 2.53 ft. proposed;
SIDE YARD SETBACK: proposed;	3 ft. required; whereas 0.8 ft. proposed;
COMBINED SIDE YARD SETBACK:	6 ft. required; whereas 3.44 ft. proposed;
BUILDING COVERAGE: 56.98% proposed;	Maximum 50% allowed; whereas 56.98% proposed;
PARKING: whereas one space proposed.	2 off street parking spaces required; whereas one space proposed.
NUMBER OF STORIES:	Maximum 2 ½ stories allowed; whereas 3 stories proposed;
HEIGHT: proposed.	35 ft. allowed; whereas 39.5 ft. proposed.
USE/D VARIANCE:	The proposed height of 39.5 ft exceeds the permitted height by more than 10 percent.

The Applicants will also be seeking approval for any and all other Variances and / or Design Waivers / Submission Waivers which are necessary, or which may become necessary, during the Public Hearing Process.

WHEREAS, the application pertains to premises known and designated as Block 14 Lot 8 on the Tax Map of the Borough of Sea Bright, which premises are located at 13 CHURCH STREET in an R-3 zone.

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, **OCTOBER 11, 2022 AND OCTOBER 25, 2022;**

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

- **2022-14 Kurkowski and Huffman, 13 Church St., Bl. 14, L. 8**
- **Cover Letter, dated 8-31-22 (pdf)**
- **Zoning Permit Denial Letter, dated 8-11-22 (pdf)**
- **Survey - 13 Church St, dated 4-16-13 (pdf)**
- **Development Application, dated 8-22-22 (pdf)**
- **Variance Plans, dated 6-27-22 (pdf)**
- **Narrative of Intent, undated (pdf)**
- **Property Photo, undated (pdf)**
- **Board Engineer's Review, dated 10-3-22 (pdf)**
- **Board Engineer's Updated Review, dated 10-12-22 (pdf)**
- **Public Notice, undated (pdf)**
- **APP Order Confirmation, run date 10-1-22 (pdf)**
- **Proof of Service Packet for 10-11-22 hearing (pdf)**
- **Proof of Service Packet for 10-25-22 meeting (pdf)**

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

KERRY HUFFMAN
ANTHONY CONDOURIS - AIA

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. Applicant intends to use as a full-time home in the future. House was raised after Sandy but not enough and needs adequate parking spaces for them and create a future home.
2. The intent is to keep the same footprint for foundation and raise the house to allow parking underneath. Foundation is non-conforming, 2.53 to remain in front yard setback. (other side yards to remain per Hoder letter) and height and number of stories is in issue.
3. 39.5' was noticed height, that area is the stair tower and elevator shaft otherwise would be 37.5'. (Elevator shaft and headroom for the stairway). There is a bedroom on this level as well at the 37.5' height.
4. The proposed 3rd floor is stepped back twice. Applicant argues this is a consistent look for the newer houses and is not a detriment to the neighborhood.

5. Applicant, upon suggestions, will remove piers in rear of garage and continue foundation, to there will be a 2-car garage. This will continue the foundation where the current piers are so this may drive a building coverage variance with not too much more added. It is at 56.4 and will now be proposed at 59.68. The addition of the extra parking space does make this attractive.
6. Board members have a problem with the "3 story designation".
7. The Board advises that if the applicant removed the proposed den in front of the house on third story that the percentages would then be acceptable, and the house would be designated as a 2.5 story structure as it would then be under 50%.
8. Board Engineer Hoder indicates with the extra parking space in garage the home conforms to RSIS and there should be bonding for new curb in front and any sidewalk curb broken must be replaced and gutters and leaders to discharge to front of building.
9. The neighbor wants fences to remain. They will not be changed out and replaced.
10. Applicant agrees to remove den and this area will be less than 50% of the second floor qualifying for a half story.
11. Height calculation is based on Ordinance Section 130-39.5 where the lot shall be reduced proportionally. Calculation is $(20/25) \times 35$ or 28 ft, but 30 is the minimum. The applicant can add in 4 feet if raising above the BFE or a requirement of 34 ft. Requesting a height variance of more than 10% can be considered a D-6 variance. The Board considers this a technical D variance based upon submission and elevation, where the positive criteria outweigh the negative in the balance for the support of the granting of the variance.

PUBLIC QUESTIONS/COMMENTS:

None.

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:

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

APPLICATION IS APPROVED AS AMENDED ON THE RECORD with the reduction of the proposed third story to create a half story so the home shall be listed as a 2.5 story residence. An Additional variance is granted for Building Coverage as may be deemed necessary where piers are being removed in the garage foundation area to create a second parking space and the foundation line will be moved to mirror the home, creating an increase in coverage which is approved.

A) Zoning

R-3 Downtown Residence Zone - Zone Schedule

Item	Required	Previous	GRANTED
Lot Area	1800 S.F.	1560 SF	<i>1560 SF</i>
Lot Width	25 Ft.	20 Ft	<i>20 Ft.</i>
Lot Depth	60 Ft.	78.0 Ft.	78.0 Ft.
Front Yard Setback	5 to 12 Ft.	2.53 Ft.	2.53 Ft.
Side Yard Setback	3 Ft.	2.64 & 0.8 Ft.	2.64 & 0.8 Ft
Side Yard Combined	6 Ft.	3.44 Ft.	3.44 Ft.
Rear Yard Setback	15 Ft.	16 Ft.	16 Ft.
Max. Lot Coverage	70 %	67.8 %	67.8%
Max. Building Cov.	50 %	56.4 %	56.98 %** AMENDED
Max. Build. Height ²	34 Ft.	25.3 Ft./ 2 St.	39.5 Ft. / 3 St. Ft.**AMENDED

Height variance of more than 10% can be considered a D-6 variance and to the extent that any exists, same is granted.

Sidewalks shall be installed if required by the Planning Board when deemed necessary for safety. A note should be placed on the plan that the curb and sidewalk should be replaced if damaged by the construction.

The new building will have a driveway so a depressed curb and 6" apron will need to be constructed. This should be shown on the plan and details provided.

Any new gutters and leaders should flow to the street and not to the rear or sides of the building. A note should be placed on the plan.

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 Frank Lawrence and Seconded by Board Member Peggy Bills:

THOSE IN FAVOR: Bills, Cashmore, Cunningham, DeSio, Lawrence, Leckstein

THOSE OPPOSED: None

RECUSED: Gorman (200' List)

ABSENT: Bieber, Kelly, Schwartz, DeGiulio

ABSTAINED: None

MEMORIALIZATION VOTE:

Adopted on a roll call vote of members who voted to approve the application, on a motion offered by Board Member David DeSio and Seconded by Board Member Frank Lawrence:

THOSE IN FAVOR: Cashmore, Cunningham, DeSio, Lawrence

THOSE OPPOSED: None

RECUSED: Gorman (200' Property List)

ABSENT: Bills, Kelly, Leckstein

ABSENT FOR 10/25/22 HEARING: Bieber, Schwartz, 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 November 22, 2022.

Date: November 22, 2022

Candace B. Mitchell

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

Request for third extension of approvals – Application No. 2020-10

Mountain View Villas at Sea Bright, LLC.

Bl. 23, L. 30; Bl. 33, L. 20.02; Bl. 34, L. 3.03 and 3.04

Attorney Robert J. McGowan was in attendance for this request.

Vice Chairman David DeSio offered a motion to grant the extension, with a second offered by Chairman Cunningham. The motion was carried on the following roll call vote:

Ayes: Bieber, Cashmore, Cunningham, DeSio, Gorman, Lawrence, Schwartz, DeGiulio

Nays: none

Preliminary investigation by the Planning Board to determine whether certain properties qualify as an area in need of redevelopment and should be included within the Shrewsbury River Properties Redevelopment plan

Councilman Erwin Bieber and Board member Heather Gorman, who owns property within 200' of the property to be discussed, stepped away from the Board for this matter.

Board Planner Jennifer C. Beahm was sworn in to testify. Ms. Beahm had prepared a document, named "Area in Need of Redevelopment Investigation," dated November 2022, for the Board to consider.

Ms. Beahm explained that two mid-block properties owned by the Borough, namely Bl. 13, L. 17 and Bl. 15, L. 9 were not included in the study area designation nor on the redevelopment plan. She stated that Council's intention was always to include these properties in the redevelopment plan. The Board has been asked to look at amending the needs study to include these properties. Ms. Beahm stated that including these properties in the study area designation is essential to the implementation of the redevelopment plan. She recommended an affirmative vote by the Board to include these properties. The Board would agree to adopt a resolution recommending inclusion of the amended needs study into the Redevelopment Plan. Memorialization of the resolution would take place at the December 13th meeting.

Attorney Kowalski also stated that these blocks need to be included in the noticing so that everyone has the opportunity to understand the proposal.

Chairman Cunningham invited Board questions and comments. There were none offered.

Chairman Cunningham invited Public questions and comments. There were none offered.

Board member Jon Schwartz offered a motion to amend the study area designation to include the properties located at Block 13, L. 17 and Bl. 15, Lot 9. A second was offered by Board member David DeSio, and the motion was carried on the following roll call vote:

Ayes: Cashmore, Cunningham, DeSio, Lawrence, Schwartz, DeGiulio

Nays: none

Councilman Bieber and Heather Gorman rejoined the Board.

OTHER BUSINESS

The Board discussed two matters:

Firstly, Vice Chairman DeSio discussed the problem of discrepancies among plans submitted for approval by the Board, plans submitted for resolution compliance, and what is actually built. Both Ms. Beahm and Councilman Bieber offered this problem would be a code enforcement issue. Mr. DeSio indicated that it could be a problem of not catching errors made in examining the resolution compliance plans. Ms. Beahm stated that this occasionally happens when the plans are being reviewed. The engineer is comparing the resolution, the technical review, and the plans, and is not necessarily looking at every detail on every page of the plans unless the item is noted in the resolution and/or in the engineer's review.

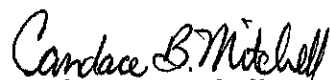
Lastly, Heather Gorman stated that, since there will be a lot of public input for the redevelopment application meeting(s,) she wondered if we might hold hybrid (public plus remote access) meetings, and, if not, she asked how the public can be given more notice. Attorney Kowalski explained that there is a legal time frame for an application to be heard. Once submitted, the application must be heard within a certain amount of time. Councilman Bieber stressed open communication with members of the public about the progress of the redevelopment project. Heather suggested creating something similar to the County Bridge project information which is easily accessible through the Borough website. Jennifer Beahm offered to contact the Borough attorney, Roger McLaughlin, and put together information to post on the Borough website showing the progress of the redevelopment project. Councilman Bieber agreed with putting something together for the website which is a step-by-step reporting of the project.

There was no member of the public wanting to speak and no other business before the Board. The Chairman made an announcement of the next meeting date, December 13, 2022 at 7:30 p.m.

Adjournment

The meeting was adjourned at 8:40 p.m. on a motion offered by David DeSio, seconded by Frank Lawrence, and carried upon a unanimous voice vote by the Board members.

Respectfully submitted,



Candace B. Mitchell, Board Secretary