

**APPROVED MINUTES
REGULAR MEETING OF THE SEA BRIGHT UNIFIED PLANNING/ZONING BOARD
Tuesday, April 12, 2022**

Call to Order and Flag Salute

Chairman Cunningham called the meeting to order at 7:35 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 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, Cashmore, Cunningham, Gorman, Lawrence, Leckstein

Not Present: Bills, DeSio, Kelly, Schwartz, DeGiulio

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

ITEMS OF BUSINESS

Approval of 3/22/22 Regular Meeting Minutes

Board member Marc A. Leckstein, Esq. offered a motion to approve the minutes, with a correction made to the motion for the Fialko application. Two motions had been made: a motion to direct the Board Attorney to prepare a positive resolution and a motion to carry the application to the meeting of 4/12/22. A second was offered by Board member Heather Gorman, and the motion to approve the minutes was carried upon the following roll call vote of eligible members:

Ayes: Cashmore, Gorman, Lawrence, Leckstein

Nays: none

Carried Application No. 2022-04

Ruth Fialko, 158 Ocean Ave., Bl. 34, L. 1

Bulk variance relief for lot width, front yard setback, and building height to demolish an existing single-story home and build a new 2½ story single-family home

Present for the application was the applicant, Ruth Fialko. Board Attorney Kowalski stated that the applicant's attorney, Rick Brodsky, Esq. contacted her to let her know that he couldn't attend tonight's meeting. He requested that if a resolution were presented this evening, that it not be memorialized, because he would like to have the opportunity to review it.

The following exhibits had been made available for view on the Borough website:

- Denial Letter, dated 10/29/21
- Planning/Zoning Board Application, received 1/22/22
- Survey prepared by Charles C. Widdis and dated 12/7/04
- Proposed 3-story addition floor plans prepared by Salvatore La Ferlita, Architect, with a revised date of 11/2/21, consisting of two (2) sheets
- Board Engineer Review Regarding Sidewalks dated 4/6/22, one (1) page
- Jurisdictional Packet, received by email 3/18/22

The Board Attorney stated that the Board maintains jurisdiction over the matter. Applicant Ruth Fialko was present and remained under oath.

During the 3/22/22 hearing the Board directed Board Engineer David Hoder, to review the plans regarding the matter of a sidewalk requirement to be added to Ms. Fialko's plans. Mr. Hoder sent a brief letter to the Board as follows:

**HODER ASSOCIATES
CONSULTING ENGINEERS**

**1101 RICHMOND AVENUE, SUITE 201-4
POINT PLEASANT, NJ 08742**

April 6, 2022

Ms. Candace Mitchell, Planning Board Secretary
Borough of Sea Bright
Unified Planning Board
1099 Ocean Avenue
Sea Bright, NJ 07760

Re: Fialko Residence
158 Ocean Ave.
Sidewalk Question
Block 34, Lot 1; R-2 Zone
Sea Bright App. # 2022-04
HACE # SEP-163

Dear Ms. Mitchell:

Our office is in receipt of the above application. While I did not review the plans, I did have a discussion with the applicant's attorney on whether the applicant should place sidewalks on Mountain View way. I felt that sidewalks should be required since both the application at the end of the street and the two single family houses being built to the West of this application all have sidewalks proposed.

If you have any questions regarding the matter, please do not hesitate to contact our office.

Very truly yours,

HODER ASSOCIATES

David J. Hoder, P.E., P.P., C.M.E.
Unified Planning Board Engineer

Chairman Cunningham stated that the other properties on Mountain View Way which are planning sidewalks have more property to put them on than the applicant does.

Marc Leckstein explained that he feels the Engineer needs to go and look at the property. If a sidewalk is not feasible, the Board will not ask the applicant to add a sidewalk, but, if feasible, he would like to have a sidewalk along Mountain View Way connecting to Ocean Avenue, and that stretch of sidewalk includes Ms. Fialko's property. There will be public access to the river at the end of Mountain View Way. People will be using that sidewalk or will have to walk in the street to access the river. The question is whether a sidewalk can fit on the property.

Ms. Fialko offered her point of view. She feels the sidewalk is impractical and unnecessary. She explained to the Board that her lot is very narrow. That is the reason she had to come to the Board for variance approval for a new home to be built. The sidewalk will make the property even narrower and less conforming. The properties located behind hers, which will have sidewalks, are twice as deep as her lot is. She also discussed the landscaping she has put in at significant cost and which will need to be torn out to put a sidewalk in. If she has to put a sidewalk in, she will be losing 10% of her property. She also mentioned privacy issues in that people will be walking on a sidewalk which is close to her house and will walk right past her windows. In addition, she stated that a sidewalk could be a safety concern because of the existence of utility poles which the sidewalk would have to go around. She said that she will also be losing property in the back, which accommodates four cars, and the cars would have to drive across the sidewalk. She stated that she doesn't understand why, if not required, she would have to put in a sidewalk on a recommendation. Ms. Fialko stated that, after reading the Board Engineer's letter, she does not think the Engineer reviewed the plans. She feels it is unfair to ask her to come back to the Board again. She doesn't currently live in the house or in the area.

Exhibit A-1 was entered as evidence: Recent photos of the property provided by Ms. Fialko. Ms. Fialko described the photos, showing the objects and the landscaping in the area where the sidewalk would be placed.

Councilman Bieber stated that he is in favor of sidewalks for safety reasons and that he thinks the Engineer should review the plans and visit the property.

Chairman Cunningham stated that the Board should carry the application, and a positive resolution should be available if the application is approved. The Board will vote on both the application and on the resolution at the next meeting, which is on April 26th.

Mr. Leckstein offered a motion to carry the application to the next meeting, which is April 26th. He also offered a motion directing the Board Attorney to prepare a positive resolution. The Board will vote on both the application and resolution on April 26th. The motions were seconded by Councilman Bieber and carried upon the following roll call:

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

Nays: none

Carried Application No. 2022-09

Gareth and Dawn Middleton

22 Surf Street, Bl. 11, L.14

Bulk variance relief for lot area, front yard setback, side yard setback, both side yard setbacks, rear yard setback, and building height to demolish an existing two-story (elevated) home and construct a three-story (elevated) home

The applicant requested this application be further carried to May 10th for the purpose of preparing for a second hearing.

Marc Leckstein offered a motion to carry the Middleton application to the meeting of 5/10/22, seconded by Heather Gorman, and carried upon a unanimous voice vote.

The Board Attorney made the announcement to members of the public who may have been here for this application.

New Application No. 2022-10

Alan Porto

568 Ocean Avenue, Bl. 27, L. 1

Bulk variance relief for front yard setback and building height to construct a new 2½ story home

In attendance for the application were attorney F. Brad Batcha, Esq., architect Michael Melillo, Victor Vinegra, a planner, surveyor, and engineer, and applicants Alan and Janet Porto.

The following exhibits had been made available for view on the Borough website:

- Zoning Denial, dated 2/18/22
- Application Packet, received 4/12/22
- Site Plan prepared by Charles J. Stewart, dated 1/21/22, revised 2/9/22, 2/28/22, and 3/4/22, 6 pages
- Floor Plans and Elevations prepared by Michael Melillo, dated 2/8/22, 4 pages
- Roof Height Survey prepared by Victor E. Vinegra, dated 3/29/22, 1 page
- Current photos, dated 3/9/22, 2 sheets with 5 photos total
- Jurisdictional Packet, received 4/11/22

The Board attorney stated that the notice has been deemed appropriate, and the Board has jurisdiction over the matter.

Mr. Batcha introduced the application and described the new home to be built. It will be a beautiful “zero emissions” home. One variance requested, which is for height, is needed in order to keep an architectural feature in place and add to the aesthetics of the home.

Mr. Melillo, the architect, was sworn in to testify. He gave his credentials and was accepted by the Board as an expert witness. He introduced the following exhibits as he presented the design and features of the home:

A-1: 1 Rendering photo superimposed depiction of home google earth photo was part of package for reference

A-2: 4 Renderings from all sides/photos

Board members made complimentary remarks regarding the home's design. Chairman Cunningham and Mr. Cashmore both stated that Mr. Melillo's plans are a great design.

There were no questions from the Board nor from the public for Mr. Melillo.

Next, planner Victor Vinegra was sworn in to testify, gave his credentials, and was accepted as an expert witness. He introduced the following exhibits:

A-3: Hand-written calculations on front yard prevailing survey which was provided by package

A-4: Photo which shows comparison house and neighboring properties for height

The Board took a break at 8:30 p.m.

The meeting reconvened at 8:40 p.m., and the Secretary took an attendance roll call.

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

Mr. Vinegra's testimony focused on the C-2 Variance that was being requested.

Whereas Sea Bright's zoning ordinance permits a building height of 38', the height of the majority of the proposed structure is 36.51', with the hip roof over the stairs at a height of 41.7'.

Mr. Vinegra discussed the two elements of negative criteria and how variance relief can be granted after considering the following two elements.

1. Without substantial detriment to the public good: The project as a whole does not increase the density of the area, the structure is residential in a residential zone, and the application is in keeping with the impervious coverage requirement.
2. Without substantially impairing the intent and purpose of the plan and zoning ordinance: The use is a permitted use and does not impair the zone plan or zoning ordinance. The property in question can be subdivided, which would promote additional density.

Mr. Vinegra discussed the positive criteria/special circumstances:

1. To encourage municipal action to guide the appropriate use or development of all lands in a manner which will promote health, safety, morals, and general welfare
2. To ensure safety from fire, flood, panic, and other natural manmade disasters
3. To promote the establishment of population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment.
4. To promote a desirable visual environment through creative development techniques and good civic design and arrangements.

He stated that the variance requested is created as beautification of the structure.

There were no questions from the Board nor from the public for Mr. Vinegra.

Attorney Batcha concluded his presentation, asking for approval of the C-2 flex. variance for height, based on the testimony provided, which he believes has met the statutory requirements.

Chairman Cunningham asked whether any members of the public had any statements or questions. A neighbor, Brice Weideman, living on Shrewsbury Way, offered positive comments.

The public portion of the meeting regarding this application was closed.

Mr. Leckstein offered a motion to approve the application, granting both variances requested, and stated that it is a beautiful home and a great design. A second was offered by Mr. Cashmore who agreed with Mr. Leckstein. As each Board member voted, he or she made a positive statement about the home. The motion was carried on the following roll call:

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

Nays: none

Public Comments

There being no general comments by members of the public and there being no other business before the Board, the Chairman made an announcement of the next meeting date, which is April 26, 2022.

Adjournment

The meeting was adjourned at 8:50 p.m. on a motion offered by Mr. Leckstein, seconded by Councilman Bieber, and carried upon a unanimous voice vote by the Board members.

Respectfully submitted,

Candace B. Mitchell, Board Secretary