

APPROVED MINUTES
REGULAR MEETING OF THE SEA BRIGHT UNIFIED PLANNING/ZONING BOARD
Tuesday, May 24, 2022

Call to Order and Flag Salute

Vice Chairman David DeSio sat in for Chairman Cunningham this evening. Mr. DeSio called the meeting to order at 7:35 p.m. and requested those present 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, 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, Cashmore, DeSio, Gorman, Leckstein, DeGiulio

Not Present: Bills, Cunningham, Kelly, Lawrence, Schwartz

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

ITEMS OF BUSINESS

Approval of 4/26/22 Regular Meeting Minutes

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

Ayes: Bieber, Cashmore, DeSio, Gorman, Leckstein, DeGiulio

Nays: none

Approval of 4/26/22 Executive Session Minutes

Board member Marc A. Leckstein, Esq. offered a motion to approve the minutes, with a second offered by Board member Elizabeth DeGiulio. The motion was carried upon the following roll call vote of eligible members:

Ayes: Bieber, Cashmore, DeSio, Gorman, Leckstein, DeGiulio

Nays: none

Memorialization of Resolution

APPLICANT: RUTH FIALKO
ATTORNEY: RICK BRODSKY, ESQ.
APPLICATION NUMBER: 2022-04
BLOCK: 34
LOT: 1
ADDRESS: 158 OCEAN AVENUE
RESOLUTION NUMBER: 2022-04



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

WHEREAS, BOARD MEMBER MARC A. LECKSTEIN, ESQ. offered the following Motion moved and seconded by **BOARD VICE CHAIR DAVID DESIO:**

WHEREAS, RUTH FIALKO, by and through her Attorney, **RICK BRODSKY, ESQ.** 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:

Applicant applied to permit the demolition of the existing single family residential dwelling and the construction of a new single family residential dwelling, with respect to premises located in the R-2 Zone and known as Block 34, Lot 1 on the Tax Map in the Borough of Sea Bright and commonly known as 158 Ocean Avenue, Sea Bright, New Jersey. Applicant seeks the following variances:

- (i) “c” variance: §130-5/130.39.c – Lot width of 40 feet existing and proposed, where 50 feet is required.;
- (ii) “c” variance: §1230-39.C – Front yard setback of 8 feet proposed (Mountain View Way – side street of corner lot), where 25 feet is required;
- (iii) “c” variance: §130-39-39.A(5) and §130-39.C – Building height of 34.92 feet proposed where a maximum of 33 feet is permitted.

In addition, the Applicant will request such other variances, exceptions, interpretations, and design waivers as may be determined to be necessary by the Planning/Zoning Board, and/or its professionals, in order to develop this property as stated above and will amend its application on the record accordingly.

WHEREAS, the application pertains to premises known and designated as Block 34, Lot 1 on the Tax Map of the Borough of Sea Bright, which premises are located at 158 Ocean Avenue, Sea Bright, NJ 07760; and

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 dates, **MARCH 22, 2022, APRIL 12, 2022 AND APRIL 26, 2022:**

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 conducted in person, with public notice:

- Fialko Client Photos for Submission (pdf)
- Meeting Exhibits, 3-22-22
 - Photo
 - SK-1_Fialko (pdf)
 - A-100_Fialko (pdf)
 - A-101_Fialko (pdf)
- 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
- Hoder Associates Review Letter – April 26, 2022, Rev'd April 14, 2022
- Jurisdictional Packet, received by email 3/18/22

EXHIBITS submitted at the public hearing:

EXHIBIT A-SK-1: Southside Elevation, dated 3/22/22.

EXHIBIT A-2 : Aerial View Photo

EXHIBIT A-3: for pictures provided by applicant

WHEREAS The Board listened to the Testimony of the following:

**RUTH FIALKO – APPLICANT
SALVATORE LA FERLITA, ARCHITECT**

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:

**JOSEPH DORAN
THERESA HUANG**

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. The applicant will build a new home. The lot size is appropriate, but the lot width needs a variance. Variances will be needed for front yard setback (this is a corner lot) and for height.
2. Architect Salvatore La Ferlita testified and presented Exhibit A-100, which was a copy of the exhibit posted on the municipal website. The present house will be demolished, and the setbacks for the new house were described.
 - a. The lot width, where 50' is required, 40' is proposed, and 40' is requested; front yard setback, where 25' is required and 8' is proposed; and building height, where 33' is allowed and 34.92' is proposed. Mr. La Ferlita testified (and the Board accepted) that the top floor qualifies as a half story, making the new home 2 ½ stories.
3. Board members inquired about putting in a sidewalk up to the widening line on Mountainview Way, like the new development Mountain View Villas at Sea Bright will be doing. Board member inquired and requested a right-of-way to put in sidewalks, a widening line on an undersized street, if possible.
4. The Applicant and Architect advised that the lot is narrow as it is and may not accommodate a ROW based on placement of two utility poles.
5. Board members suggested asking the Board Engineer to look at the project and determine whether a sidewalk should or could be added as it makes sense to continue the sidewalk if the other homes on the street are doing sidewalks.
6. The Board advised that they were potentially willing to provide relief on the sidewalk based upon the Board Engineer's review and advice.
7. The Board confirmed that mechanicals will be placed on the West Side and sufficient parking is provided on the subject property. Detached garage (single car) to stay. Mostly used as storage. Carport is part of garage and there will be a new carport on house as well.
8. Applicant testified that with installation of sidewalks, she will be losing 10% of the property on a small property and is being deprived of property. Applicant advised she will lose driveway area and people will be utilizing a portion of her yard. Applicant testified that the site tightens and there are also privacy issues which devalue the aesthetics, and the Ocean Ave sidewalk is on other side of street which creates another dangerous situation. Board Vice Chair DeSio stated that Ms. Fialko is not losing her property. Part of her property will have a sidewalk on it. It is still her property.
9. Applicant advised that the installation of sidewalks adds no value to the street and is asking for a waiver and advises the Board that there are no ordinances which indicate that a sidewalk is required as it is only a recommendation. This property is not practical for the sidewalk and setback.

10. Board Engineer Hoder, upon requested review and by amended letter referenced above, indicated that there was a preference for sidewalks and that the sidewalks could be installed as a curb/sidewalk joint with a construction piece between the two, at 4 feet, so the sidewalk would abut the curb line and minimize any impact for privacy or otherwise to Applicant's property.
11. Mr. Hoder suggested that the Applicant put a curb cut in her driveway (a very wide one with a sidewalk) and with regard to the two telephone poles on the applicant's property that the sidewalk could have a slight radius around the pole for the sidewalk. The sign post will not have to be moved.
12. Mr. Hoder advised that the site has adequate room for a sidewalk (8 feet) and has additional footage to the curb. There is more than enough room for a sidewalk installation.
13. Applicant Fialko advises that the width of street is public and that there has been public access to the end of the street, and no one uses the bench in the public access area. Applicant does not wish to have people 4 feet from house and claims no one will utilize the sidewalk and the cross walk is on the other side which makes people cross street and creates safety hazard.
14. Applicant advises that the property is here because of width and is non-conforming and she has to maintain and worry about litigation and removal of trees for noise and will have to remove them only because a developer came in, and installed sidewalks which abut her property and therefore she is being penalized for a continuation of sidewalks in an undersized width lot. Applicant claims this is unfair to her as a single citizen just building her home.
15. Applicant further testifies that her guest parking area will be in sidewalk as her driveway in the rear of her property is not deep, so a parked car will be in the sidewalk. However, Ms. Fialko does have a 2 car garage proposed for her home in new construction which is the only requirement so the additional parking area for "guests" is not necessary or required.
16. Ms. Fialko added that sidewalk installation will disturb the expensive landscaping that survived Superstorm Sandy. Applicant inquired as to whether all applicants were being asked to put in sidewalks.
17. Board Members advised that this area is planned for sidewalks for safe public access and commented that we can't compare what has been there for 20 or 30 years with what is planned for public safety moving forward, such as sidewalks. The Board has to consider what is good for the town. Mountain View Way is becoming one of the nicest streets in Sea Bright and access to the beach is necessary.
18. Board Member Gorman advises that with the development to west, more families coming in who will be forced off sidewalk if no sidewalk is there. There will be 5 new families back there who will be walking to the beach.
19. Upon discussion, the Board indicates that sidewalk installation is appropriate and required. The Board advises that a **4 ft sidewalk with interval curb with radius around poles with access easement to town which will allow for sidewalk to be dedicated to the Borough with maintenance by owner is appropriate in this instance.**
20. The Board also notes that the addition of the sidewalk outweighs any benefits of the variance granted based on matters of public safety and a continuous access point from beach to the end of Mountain View 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:

Applicant is Granted permission to demolish the existing single family residential dwelling and the construction of a new single family residential dwelling, with respect to premises located in the R-2 Zone and known as Block 34, Lot 1 on the Tax Map in the Borough of Sea Bright and commonly known as 158 Ocean Avenue, Sea Bright, New Jersey. In conjunction therewith, Applicant IS GRANTED the following variances:

1. "c" variance: §130-5/130.39.c – Lot width of 40 feet existing and proposed, where 50 feet is required.;
2. "c" variance: §1230-39.C – Front yard setback of 8 feet proposed (Mountain View Way – side street of corner lot), where 25 feet is required.
3. "c" variance: §130-39-39.A(5) and §130-39.C – Building height of 34.92 feet proposed where a maximum of 33 feet is permitted.

HOWEVER, the granting of the variances is strictly conditioned upon the installation of sidewalks by applicant as the Board and its Professional Engineer has indicated that sidewalk installation is appropriate and required as follows:

The Board requires that a **4 ft sidewalk with interval curb with radius around existing telephone poles with an access easement drawn to the Borough of Sea Bright which will allow for sidewalk to be dedicated to the Borough with maintenance of same guaranteed by the owner, is appropriate and necessary for public safety for access in this instance.**

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, Esq. and Seconded by Board Vice Chairman David DeSio

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

THOSE OPPOSED: None

RECUSED: None

ABSENT: Bills, Kelly, Lawrence, Schwartz

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

THOSE IN FAVOR: Bieber, Cashmore, DeSio, Gorman, Leckstein, DeGiulio

THOSE OPPOSED: None

RECUSED: None

ABSENT: Bills, Cunningham, Kelly, Lawrence, Schwartz

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 May 24, 2022.

Date: May 24, 2022

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

**Carried Application No. 2021-10
Beachfront Joe, LLC., 1084 Ocean Avenue, Bl. 15, L. 2
Site Plan and Bulk Variance Approval**

Present for the hearing were applicant Joe Fontana, Attorney Paul V. Fernicola, Esq., Attorney Hugh A. Maguire III, Esq., Architect Allende Matos, and Engineer Marc S. Leber.

John Anderson, Esq., Counsel to the objector, Marianne and Kristin, LLC. (Bain’s Hardware Store) was also present at the meeting.

The following exhibits had been made available for view on the Borough website for the 10/12/21 hearing, which was postponed:

- Application, received 5/5/21
- Architectural Plans titled “Additions & Renovations to Existing Commercial Restaurant, 1084 Ocean Ave., Sea Bright, Monmouth County, NJ,” prepared by Allende Matos, AIA, LEED AP, 4 sheets, dated 3/22/21
- Revised Architectural Plans titled “Additions & Renovations to Existing Commercial Restaurant, 1084 Ocean Ave., Sea Bright, Monmouth County, NJ,” prepared by Allende Matos, AIA, LEED AP, 4 sheets, dated 7/12/21

- Site Plan titled “1084 Ocean Avenue, Site Plan, Block 15, Lot 2, Borough of Sea Bright, Monmouth County, NJ, prepared by Marc S. Leber, PE, PP, 2 sheets, dated 12/11/17
- First Technical Review (Fees,) prepared by Board Engineer David J. Hoder, 1 page, dated 5/19/21
- 1st Technical Review, prepared by Board Engineer David J. Hoder, 4 pages, dated 6/8/21
- 2nd Technical Review, prepared by Board Engineer David J. Hoder, 4 pages, dated

The following exhibits had been made available for view on the Borough website for the 3/8/22 hearing:

- Proposed Addition & Existing Alteration to Existing Commercial Structure, prepared by Allende Matos, AIA, LEED AP, AM Architect’s Studio, LLC, 4 sheets dated 3/8/22
- 3rd Technical Review, prepared by Board Engineer David J. Hoder, dated 3/2/22, 4 pgs.
- Technical Review, prepared by Board Planner Jennifer C. Beahm, dated 3/3/22, 4 pgs.

The following exhibits had been made available for view on the Borough website for the 5/24/22 hearing:

- Revised Plans prepared by Allende Matos, AIA, LEED AP, AM Architect’s Studio, LLC, 4 sheets dated 3/8/22, revised to 5/24/22
- Beachfront Joe Easement Letter and exhibits, from Hugh A. McGuire III, Esq., 5/2/22 Attachments regarding Easement:
 - Exhibit A - Marked-up copy of the official tax map
 - Exhibit B - Survey obtained by Beachfront Joe, LLC at the time of purchase
 - Exhibit C - Fowlers’ Deed, dated October 25, 1961 and recorded January 25, 1962
 - Exhibit D – Nero’s Deed, dated October 31, 1962 and recorded November 1, 1962
 - Exhibit E – includes the Deed to Beachfront Joe, LLC
- Revised 2nd Technical Review, prepared by Board Planner, Jennifer C. Beahm, dated 5/20/22, 4 pgs.

Mr. Fernicola re-introduced the application and discussed the submission of plans which were revised based on concerns raised at the March meeting.

John Anderson discussed the meeting proceedings of the 3/8/22 hearing. Revised plans have been provided, and Mr. Anderson described an agreement reached by the objector and the applicant. He described modifications in the plans. The applicant has agreed to “notch out” his new building by 44”, creating a space for a covered outdoor staircase and landing which are shown on the revised plan. The rear window of the Bain’s second floor apartment will provide access to the fire escape. The applicant would build and maintain the stairwell which will serve as a fire escape.

Dave DeSio asked if the window was going to be replaced by a door. It will not. The rear bedroom window supplies required light and air circulation to the apartment.

Page A-100 of the revised plans shows the staircase.

Marc Leckstein brought up parking concerns. He asked about the easement behind the building providing a possible parking space. He pointed out that the applicant is asking for a lot of accommodations and is creating problems for himself in what he is asking for. He suggested the applicant could come in with a smaller shop instead.

Board Planner Jennifer Beahm stated the building will fill the entire footprint and deemed that ridiculous. She pointed out that the easement cannot have parking in it, and providing no required parking will be done at the expense of the town. There are not even parking spaces provided for employees of the business.

Dave DeSio commented that 80% of our businesses don't have parking, and it's not fair to place a restriction on a new business. Marc Leckstein answered that this is new construction, and parking could be incorporated into the plans.

Board Engineer Dave Hoder discussed the size of the easement with attorney Paul Fernicola.

Mr. Fernicola introduced the attorney who had researched the easement. Hugh A. McGuire III, Esq. was sworn in and accepted as an expert witness. Mr. McGuire had researched the deeds and easements for the Bain's and Beachfront Joe properties. He explained the history of the lots and easements. The easements behind the buildings are only 10' wide and L-shaped. A car parked in the easement wouldn't be able to turn out. Dave Hoder and Dave DeSio said that the easements were not practical for parking.

Marc Leckstein stated the applicant is asking for variance relief from a 6-parking-space requirement. He said the Board doesn't have to grant the variance. The applicant could, instead, plan for a less intensive use of the property.

Board Planner Jennifer C. Beahm added that the Board doesn't need to perpetuate a bad situation. Regardless of what happened in the past, the Board can decide not to perpetuate variance relief for parking.

Marc Leckstein stated that there is no precedent in zoning. The Board has to take each property as its own case.

Paul Fernicola disagreed, saying that precedent has to be considered. You can't put a burden on property owners where it has been granted to other property owners. You can't have unequal treatment.

Board member Heather Gorman commented that nothing whatsoever has been done to improve this property. It has sat empty since Superstorm Sandy and was purchased by the current owner back in 2015.

Mr. Fernicola explained that there were prior issues, like the possibility of eminent domain being declared. The property could have been acquired by the town. That presented a dilemma.

Mr. Leckstein offered that it was his understanding that the client had been working with a redeveloper. Mr. Fernicola stated that the redeveloper was no longer interested in the property.

Vice Chairman DeSio opened the meeting to the public for questions of the witness. There were no questions, and the meeting was closed to the public.

The applicant's architect, Allende Matos, who remained under oath from the first hearing, testified next. He stated that he had made a few changes to the original plans.

Marc Leckstein asked about the parking requirement for this use. Mr. Matos answered that, based on the number of employees and anticipated customers for a seasonal take-out restaurant of this size, 6 parking spaces are required.

Jennifer Beahm stated that the 15' width constraint of the building is challenging and asked what the architect has planned for the rest of the 72' length of the building, besides office space. She asked whether the second floor will just be office space. She asked that, if the building is to be used just as a take-out restaurant, what is the reason for having two floors. The size of the office is exorbitant, and she asked why there is a balcony on the second floor.

Mr. Matos described the use of the second floor space. 37' will be used as an office, and 37' will be used as storage for the restaurant. The staircase takes much of the space in the rear part of the second floor.

Mr. Cashmore asked how many square feet in the building and was answered @ 900 square feet per floor. He suggested a gathering space is needed for people waiting for their food orders. It is a tiny space.

Mr. Matos said that it is impossible to provide parking, and Mr. Leckstein answered that the building doesn't need to have this particular use. Mr. Matos said that the intent is to feed beach-goers who will walk over from the beach and will not need parking.

Marc Leckstein said that he is not suggesting parking on site. He is suggesting the application doesn't have to be for this use. He doesn't think it will pass inspection and asked whether there is any consideration for pulling back on the second floor.

Ms. Kowalski went on to ask for confirmation that the second level now has a space notched out for a fire escape as an accommodation to the neighbor to be able to satisfy objections by the neighbor.

Engineer Dave Hoder said that he will be working on the inspections, and, if the stairway can't be used for its intended purpose, it won't be approved, and he cannot possibly sign the plans.

John Anderson stated that the applicant is willing to design a stairwell in such a way to have a door into Beachfront Joe's. Bain's apartment could piggyback and have an apartment fire escape. He confirmed the details of the plan with the architect.

There were no public questions for the architect.

The applicant's Engineer, Marc S. Leber, was sworn in to testify and was accepted by the Board as an expert witness. Mr. Leber discussed parking. He stated that he had looked at applications on the street for other businesses. He listed the businesses and parking, or lack of parking available. Parking does not make sense for a lot of this size. Also, there are no uses in the Borough ordinance that would have a zero parking demand. Every use requires parking, and this lot cannot accommodate parking.

Mr. Leber also addressed the question about having a deck on the office level of the building and said that having a table on the deck doesn't mean the applicant is going to use the balcony incorrectly.

The Board Engineer advised that the Resolution should restrict the office upstairs to use by the restaurant owner so that it cannot be used as a rental unit.

Marc Leber offered positive and negative criteria of the application. He said that guiding the use of the property were beneficial considerations offering public health safety, securing safety from fire, flood, and man-made disasters, and providing light, air, and open space.

Mr. Leber discussed the C(2) variance and stated this proposal is consistent with the Master Plan. The negative aspect of the application is the lack of parking. He testified there is no substantial negative impact because this is a permitted use. He also stated that he believes this plan is probably the best use of the property.

Board member Elizabeth DeGiulio talked about the distance she lives from the center of town and suggested that people living to the north and south of the center will need parking if they want to patronize the applicant's sandwich shop. Only those who live close to the location will walk instead of drive. She said that most people living north and south of town do not walk into Sea Bright. They drive and need parking.

Mr. Leckstein agreed and said that people will travel to patronize a sandwich shop they like; so, it needs parking.

Engineer Jennifer Beahm stressed that people will drive to a sandwich shop if they like the food, and they need to be able to park. She agreed with Ms. DeGiulio that the sandwich shop will not be only a walk-up business.

David DeSio stated that the Board is supposed to encourage businesses.

Heather Gorman asked whether this will be a seasonal business, and she asked whether the office space is the best use of the second floor.

David DeSio said the Board could put a restriction in the resolution stating that the second floor office is only for the use of the owner and is not a rentable space.

Marc Leckstein asked Marc Leber how many of the buildings that Mr. Leber was naming in his analysis are new buildings. The answer is none.

There were no public questions for Mr. Leber, and the public portion was closed.

Property owner Joe Fontana was sworn in to testify. He presented an artist's rendering of the street scape of the proposed building. The rendering was entered into evidence as Exhibit A-1. Mr. Fontana described the outside of the proposed building.

David DeSio asked whether the upstairs office is for personal use and will not be for rent. Mr. Fontana verified that the second floor is for his personal use and will not be for rent.

Mr. DeSio asked Mr. Fontana whether he is aware that there will be a four-story building built on the north side of his 2-story building, and he expressed concern over the proportion of the streetscape, considering there will be a 3-story, a 2-story, and a 4-story building placed right next to each other.

Marc Leckstein stated that the resolution has to include the condition that the façade of Mr. Fontana's building has to be what is shown in the rendering. He also stated that the current structure has to be demolished within 60 days of the resolution memorialization.

Dave Hoder suggested that the new building being built to the north, The Break, could have access to the roof of the Fontana building and use of the fire escape.

There were no questions for Mr. Fontana from members of the public, and the public portion was closed.

Board Comments:

Stephen Cashmore commented that this is a great-looking building. It is modest, and he stated that this is a great application.

David DeSio commented that it is commendable that Mr. Fontana made an agreement with the owners of the building next door. He did a great job with so little to work with.

Elizabeth DeGiulio commented that this is a great application. It is great-looking. She stated that the parking issue is very important.

Marc Leckstein stated that if we keep doing this, granting parking variances, we will have no more parking left in Sea Bright.

Councilman Bieber commented that 90% of people are walk-ins. The majority of people will be walking, not driving.

Heather Gorman commented that this is a beautiful building and makes a lot of the space, but it is just another restaurant with a parking issue. She suggested there be a condition

that the business is considered, specifically, as a take-out restaurant, not a dine-in restaurant.

Planner Jennifer Beahm informed the Board that the ordinance does not characterize restaurants as take-out or eat-in restaurants. There is no differentiation. She addressed the Board saying they will be approving a restaurant with no parking.

Mr. Leckstein pointed out that if the take-out restaurant, once approved, wants to change to an eat-in restaurant, the applicant would have to come back to the Board.

Councilman Bieber commented that the space has unique challenges, and the team has done an excellent job in working together.

Marc Leckstein commented that we have to be forward thinking. It is a misperception that he is pushing for on-site parking. What the applicant is proposing is a use that requires 6 spaces.

Marc Leckstein offered a motion to deny the application due to the intensity of the plan. The master plan is calling for a diversity of businesses, not just food establishments. A second was offered by Elizabeth DeGiulio. The motion to deny the application did not carry upon the following roll call vote:

Ayes to deny the application: Leckstein, DeGiulio

Nays not to deny the application: Bieber, Cashmore, DeSio, Gorman

Councilman Bieber offered a motion to approve the application, with a second offered by Stephen Cashmore. The motion to approve carried upon the following roll call vote:

Ayes: Bieber, Cashmore, DeSio, Gorman

Nays: Leckstein, DeGiulio

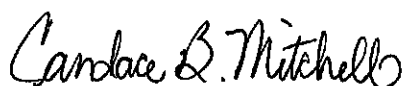
Public Comments

There being no general comments by members of the public and there being no other business before the Board, the Vice Chairman made an announcement of the next meeting date, which is June 14, 2022.

Adjournment

The meeting was adjourned at 9:35 p.m. on a motion offered by Ms. Gorman, seconded by Councilman Bieber, and carried upon a unanimous voice vote by the Board members.

Respectfully submitted,



Candace B. Mitchell, Board Secretary