

**APPROVED MINUTES
REGULAR MEETING OF THE SEA BRIGHT UNIFIED PLANNING/ZONING BOARD
Tuesday, October 10, 2023**

Call to Order and Flag Salute

Chairman Cunningham called the meeting to order at 7:30 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, has provided adequate notice of the time, date, and location of this meeting to the Asbury Park Press, 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, Cunningham, DeGiulio, DeSio, Lawrence, Leckstein, Schwartz, Zelina

Absent: Kelly

Also attending: Board Attorney Ben A. Montenegro, Board Engineer David H. Hoder, Board Secretary Candace B. Mitchell

Approval of 9/12/23 Regular Meeting Minutes

Mr. Leckstein offered a motion to approve the minutes. Second was offered by Chairman Cunningham, and the motion carried upon the following roll call vote:

Ayes: Bieber, Bills, Cashmore, Cunningham, DeGiulio, DeSio, Lawrence, Leckstein, Schwartz, Zelina

Nays: none

ITEMS OF BUSINESS

Memorialization of Resolution

RESOLUTION OF APPROVAL

**APPLICATION OF
ARMEN KHACHATURIAN**

| | |
|--------------------|---------------------------------|
| IN THE MATTER OF | : UNIFIED PLANNING/ZONING BOARD |
| ARMEN KHACHATURIAN | : BOROUGH OF SEA BRIGHT |
| | : APPLICATION NO. 2023-07 |
| | : BLOCK 29, LOT 23 |
| | : 48 NORMANDIE PLACE |

WHEREAS, ARMEN KHACHATURIAN has requested variance relief approval pursuant to N.J.S.A. 40:55D-70 (c) (2) to construct a paver walkway in the side yard at an existing single-family home on the property located at

Block 29, Lot 23 on the tax map of the Borough of Sea Bright, being commonly known as 48 Normandie Place, Sea Bright, New Jersey, and said premises being in the R-2 Zone; and

WHEREAS, the Board held a public hearing on said application on September 12, 2023; and

WHEREAS, the applicant provided adequate notice of the hearing in accordance with N.J.S.A. 40:55D-12; and

WHEREAS, the applicant Armen Khachaturian was represented by John A. Sarto, Esq., who presented the Application on his behalf; and

WHEREAS, the Board heard the testimony and evidence presented by the applicant, and received comments from the public.

NOW, THEREFORE BE IT RESOLVED, that the Unified Planning/Zoning Board of the Borough of Sea Bright, County of Monmouth and State of New Jersey, made the following findings:

1. The Board found the application complete.
2. According to the application, the applicant is seeking the following variance relief:
 - a. Maximum Lot Coverage where 70% is allowed and 74.4% is proposed.
 - b. Distance of paving to side property line where 3' from property line is required and 0' is proposed.
 - c. Existing variances for rear yard setback and maximum building coverage approved by Resolution 2022-06 are proposed to be remain without modification.
3. Based upon the opening comments of the Applicant's counsel, the Board heard the following:
 - a. The Applicant made field changes to the construction approved by Resolution 2022-06 (including constructing the paver walkway that is the subject of the application) which unbeknownst to Applicant increased the total impervious lot coverage at the site, requiring the additional variance relief required.

b. The Applicant requests variance relief for lot coverage and paver sidewalk within 3' of the side property.

c. The following were submitted in support of the Application:

- Borough of Sea Bright Unified Planning-Zoning Board-Certified Application, dated 8/17/23
- Borough of Sea Bright Application for Zoning Permit, dated 7/19/23 (denial)
- Photo of Subject Property
- Resolution 2022-06
- A1-Plans entitled "Final As-Built" Lots 23 & 23.01, Block 29, Sea Bright, Monmouth County, NJ, by Lindstrom, Diessner & Carr, P.C.- William Doolittle, P.L.S. – (last revision date 8/18/23- 1 sheet)
- A2 – Photo of subject and neighboring properties (Street view)
- A3 – Photo of subject and neighboring properties (Rear view)
- 9/7/23 Board Engineer Report of David J. Hoder, P.E., P.P., C.M.E.

4. Based upon the sworn testimony of the Applicant Armen Khachaturian, the Board made the following findings of fact:

- a. He is the owner of the subject property and is fully familiar with the property, the surrounding properties and the work performed pursuant to prior Resolution of Approval 2022-06.
- b. The subject property is located in the R-2 Zone.
- c. He explained the history of the property, his acquisition and his application/approval to construct the new home on site via prior Approval 2022-06.
- d. In accord with that prior Approval, he undertook construction of the single-family home and site improvements.

- e. During the course of construction, he made a decision in the field to modify the site improvements to eliminate a portion of the approved paver driveway in lieu of stone; while adding the paver walkway along the northern side property line. This area was approved as a pervious stone area.
 - f. He incorrectly assumed that the modifications off set each other for purposes of total lot coverage. He later learned that the stone driveway counts toward total impervious lot coverage and thus the additional side yard paver walkway increased the total lot coverage from the previously approved 71.8% to 74.4%. He also learned of the additional variance required for a paved walkway that is abutting the side property line, where 3' from the property line is required.
 - g. Upon learning of same, he timely applied to the Board seeking relief to allow for the modification.
 - h. There is no proposed modification to existing single family home footprint or rear deck as previously approved.
 - i. He noted that the existing design provides for the roof leaders to connect under ground to a perforated pipe drain. He testified that the current stormwater drainage design adequately addresses drainage on site and does not negatively impact the adjoining properties.
 - j. Applicant agreed as a condition to cut/provide an additional drain in the side yard paver walkway (approximately 1-3 total paver stones in size) to mitigate any drainage impact from the paver walkway. The exact size, type, number and location shall be submitted to and subject to the review/approval of the Board engineer. The final plan shall be amended to reflect the approved modification.
5. A member of the public, to wit, Gerard Logan, 42 Normandie Place (the adjoining property owner to the North) appeared to comment on the Application. He testified that the paver walkway abuts his side property line and since its construction there has been no negative impact to his property during rain events as a result of the new walkway. He believes the paver walkway (in conjunction with the new construction) is an

aesthetic and functional improvement to the site and he is in support of the Application as presented.

CONCLUSIONS OF LAW:

WHEREAS, after careful deliberation, the Board has determined that the applicant has met the requirements of N.J.S.A. 40:55D-70(c) (2) with conditions imposed, for the variances requested associated with this application in as much as the proposed application is an appropriate development of the subject parcel with a permitted use in the Zone; and

WHEREAS, after careful deliberation, the Board has determined that the proposal advances purposes of zoning as set forth in N.J.S.A. 40:55D-2 (a) and (i) of the Municipal Land Use Law; providing for improved aesthetics and functionality of the single-family use with a reasonable paver walkway design on this property, and those benefits outweigh any detriment from the proposal; and

WHEREAS, after careful deliberation and testimony from the neighbor most intimately affected, the Board has determined that the proposed development will not have a substantial negative impact on the neighborhood and will be a benefit in terms of the function of the site for the owner, and improved aesthetics at the site; and

WHEREAS, the Board has determined that the relief sought can be granted without a substantial negative impact to the public good, provided all conditions of approval are satisfied or met; and

WHEREAS, the Board has determined that the relief sought does not impair the intent and purpose of the Master Plan or Zoning Ordinance of the Borough of Sea Bright.

NOW, THEREFORE, BE IT RESOLVED by the Unified Planning/Zoning Board of the Borough of Sea Bright, in the County of Monmouth and State of New Jersey, on the 12th day of September, 2023, upon a motion made by Mr. Leckstein and seconded by Mr. Cashmore that the application of Armen Khachaturian be granted, subject to the following terms and conditions:

- a. The applicant shall be bound by all exhibits introduced, all representations made, and all testimony given before the Board at its meeting of September 12, 2023.
- b. The applicant shall provide all required Site Performance Bond and Inspection Fees in accordance with the Municipal Ordinance, if necessary.

- c. The applicant shall be responsible for obtaining any other approvals or permits from other governmental agencies, as may be required by law, including but not limited to the Municipality's and State's affordable housing regulations; and the applicant shall comply with any requirements or conditions of such approvals or permits.
- d. The applicant must comply with the Development Fee Ordinance of the Borough of Sea Bright, if applicable, which Ordinance is intended to generate revenue to facilitate the provision of affordable housing.
- e. The applicant shall comply with all items set forth in the Board Engineer report dated 9/7/23, unless specifically exempted herein.
- f. The applicant shall submit proof of payment of all real estate taxes applicable to the property and payment of all outstanding and future fees and escrow charges, posting of all performance guarantees, if any, in connection with the review of this application prior to and subsequent to the approval of this application.
- g. The applicant shall comply with all building, FEMA and fire codes including, but not limited to, entrances and exits.
- h. The accuracy and completeness of the submission statements, exhibits and other testimony filed with or offered to the Board in connection with this application, all of which are incorporated herein by reference are specifically relied upon by the Board in granting this approval. This condition shall be a continuing condition, deemed satisfied unless and until the Board determines (on notice to Applicant) of a breach thereof.
- i. In the event that any documents require execution in connection with this approval, such documents shall not be released until all conditions are satisfied.
- j. The applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality's professionals for review of the application for development, review and preparation of documents, inspections of improvements and other purposes authorized by the MLUL.

k. No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.

l. Applicant shall comply with the following special conditions:

- i. Applicant shall cut/provide an additional drain in the side yard paver walkway (approximately 1-3 total paver stones in size) to mitigate any drainage impact from the paver walkway. The exact size, type, number and location shall be submitted to and subject to the review/approval of the Board engineer. The final plan shall be amended to reflect the approved modification.
- ii. Unless specifically modified herein, Applicant shall be bound by the approval and all conditions set forth in prior Resolution 2022-06.

m. A brief notice of decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the applicant. (130-17 I.)

ADOPTED this 12th day of September, 2023.

APPLICATION VOTE ON ROLL CALL:

IN FAVOR: Ms. Bills, Mr. Cashmore, Ms. DeGiulio, Vice Chairman DeSio, Mr. Lawrence, Mr. Leckstein, Mr. Schwartz, and Mr. Zelina

OPPOSED: None

MEMORIALIZED this 10th day of October, 2023 on a roll call upon a motion by Mr. Leckstein and a second by Chairman Cunningham

MEMORIALIZATION VOTE ON ROLL CALL:

IN FAVOR: Ms. Bills, Mr. Cashmore, Ms. DeGiulio, Vice Chairman DeSio, Mr. Lawrence, Mr. Leckstein, Mr. Schwartz, and Mr. Zelina

OPPOSED: None

CERTIFICATION

I, Candace B. Mitchell, Secretary of the Unified Planning/Zoning Board of the Borough of Sea Bright, County of Monmouth, State of New Jersey, do hereby certify the attached is a true copy of the Resolution for Application No. 2023-07 Approved by the Unified Planning/Zoning Board at its regular meeting on September 12, 2023 and memorialized on October 10, 2023.

Candace B. Mitchell

Candace B. Mitchell, Secretary
Unified Planning/Zoning Board
Borough of Sea Bright

New Application No. 2023-08

Paul LoBiondo

912 Ocean Avenue, Bl. 24, L. 5

Bulk variance relief for construction of a three-story, single-family residence located in the R-2 zone

Present for the application were property owner Paul LoBiondo, builder/developer James LoBiondo, and architect Jeremiah J. Regan

Vice Chairman DeSio stepped down from hearing the application due to a business affiliation with the applicant.

Stephen Cashmore stepped down due to the proximity of property he owns to the applicant's property

The following items were submitted in support of the Application:

Borough of Sea Bright Unified Planning-Zoning Board-Certified Application, dated 9/5/23
Borough of Sea Bright Application for Zoning Permit, dated 2/1/23 (denial)

A1-Plans entitled "LoBiondo Residence" 912 Ocean Avenue, Sea Bright, Monmouth County, NJ, by Jeremiah Regan, AIA, 2 sheets (dated 11/8/22, last revision date 8/15/23).

A2 – Photo of subject and neighboring properties

A3 – Photo of 902 Ocean Avenue

A4 – Photo of 822 Ocean Avenue

A5 – Photo of 858 Ocean Avenue

A6 – Photo of 931 Ocean Avenue (Surfrider)

A7 – Front Elevation "A" (Compliant Plan Elevation)

A8 – Architectural Renderings (3 pages)

Board Engineer Report of David J. Hoder, P.E., P.P., C.M.E., dated 9/20/23

Brothers James LoBiondo and Paul LoBiondo were sworn in to testify.

James LoBiondo introduced the application. The property was purchased in 2020 by Surfrider Beach Club, LLC. Title subsequently was transferred to the applicant, Paul LoBiondo. The previous owner had found it would be too costly to renovate the single-family house on the property and decided to demolish the house, which was built in approximately 1922. The lot is currently vacant, and the applicant has, so far, replaced the bulkhead. Adjacent to the lot to the north and south are two residences, and across the street is Surfrider Beach Club. Mr. LoBiondo stated that single-family homes are permitted in the R-2 zone.

Entered into evidence:

Exhibit A-1, the architectural plans show the elevated home with a ground floor garage and storage, and three floors of living space above the ground floor. The proposed front setback, side setbacks at 9', building coverage, and lot coverage all are in compliance with the ordinance. The second floor will have "bump-outs" at less than 9'. A height variance will be needed. Mr. LoBiondo stated the proposed height and stories are similar to surrounding properties in the area.

Exhibit A-2 was a photo of the property as it currently looks.

Exhibit A-3 was a photo of a neighboring property, 902 Ocean Avenue, with a building height of 41.1'.

Exhibit A-4 was a photo of 822 Ocean Avenue, with a building height of 39.6'

Exhibit A-5 was a photo of 858 Ocean Avenue, with a building height of 38.2'

Exhibit A-6 was a photo of 931 Ocean Avenue, Surfrider Beach Club, with a building height of 44.3'.

Exhibit A-7 was an architectural rendering of a 2 ½ story home with a building height of 38', which complies with the ordinance but which is less aesthetically pleasing than the proposed design and creates a visually significant impact to the surrounding properties. The proposed pushed back/stepped back proposed design softens the look and is not overbearing on the street view.

The required rear yard setback is 15'. A setback of 3.5' is proposed. Because the property is a riverfront lot, the setback does not create a negative impact to any neighbors. The homes in the immediate area have similar rear yard setbacks.

Architect Jeremiah J. Regan was sworn in to testify with no objections from the Board. Mr. Regan discussed parking. There will be 8 spaces on site. 3 spaces are required. He also stated that FEMA and elevation requirements will be met.

Exhibit A-8, front and rear view architectural renderings: Mr. Regan discussed the garages. He discussed the stepped-back third floor.

Chairman Cunningham asked about the function of the garage doors in the back of the house. Besides water flow-through, they will serve as access to kayaks and other water equipment.

Councilman Bieber stated that the board has consistently pushed back on 3-story houses. The size of this 3rd floor is at 70% of the 2nd floor, driving towards a potential of a full 3rd floor. The 3rd floor cannot be more than 50% of the 2nd floor. Engineer Dave Hoder stated that the percentage requirement is not in the zoning ordinance. It is in the building code. If approved by the board, the applicant will have to deal with it when the applicant goes to the Building Department. Board Attorney Ben Montenegro stated that, from a land use perspective, a 3rd story, and not a half story, is what the applicant has asked and noticed for. A discussion ensued regarding how to calculate the 3rd floor area.

Councilman Bieber said he would hope there would be harmony in decisions among applications. The Board can allow, and the building code can say 'no,' and the Board has consistently asked that the 3rd floor be no more than 50% of the 2nd floor, trying to avoid full 3-story houses. The Board has been consistent about allowing 2 ½ stories, not 3 stories.

Frank Lawrence said that he sees a 3-story home.

Mark Zelina, Jon Schwartz, Councilman Bieber, and Marc Leckstein continued the discussion about approving 3 stories.

Councilman Bieber asked, if you had to live within the 50% limitation, how big a deal would it be? We're going from 33% to 55% to 70% to 80% of the second floor for the third floor.

Frank Lawrence stated that, if not limited, the next applicant will ask for more.

Public Questions and Comments

Edward Wheeler, 908 Ocean Avenue, whose property is adjacent to this property, was sworn in to testify. Mr. Wheeler was in support of the application and does not object to the variances for height, stories, or rear setback. His only concern is the grading, and he asked if anyone had done any engineering on the application.

Dave Hoder said that both side yards slope to the front, and that is good.

Stephen Cashmore, 902 Ocean Avenue, whose property is nearby, was sworn in to testify. Mr. Cashmore was in support of the application. He testified that his home is an elevated 3-story home and is fire-rated as required by the building code. The design of the proposed home mitigates any massing effect of a third story. Also, the rear setback is similar to many of the riverfront homes in the immediate area and will have no impact to the property owners in the neighborhood.

Board Comments

Peggy Bills stated that because the third floor is pushed back, it is definitely pleasing to the eye. The house "fits" the site.

Marc Leckstein said that he agrees with Ms. Bills. If the house were located on one of the side streets, it would be a different story. This house is appropriate for what is being requested. It is appropriate for the site.

Jon Schwartz commented that it is a beautiful house.

Frank Lawrence commented that the house is in more of an open neighborhood.

Councilman Bieber commented the house is beautiful and fits beautifully in its location, but, approving a 3-story home is a "slippery slope." He encouraged the board to look at 50% coverage on the third floor.

Elizabeth DeGiulio commented that it doesn't look like a third floor, and it works because the location is open.

Mr. Leckstein offered a motion to approve the application. Second was offered by Peggy Bills, and the motion carried upon the following roll call vote:

Ayes: Bills, Cunningham, DeGiulio, Leckstein, Schwartz

Nays: Bieber, Lawrence, Zelina

Stephen Cashmore and Vice Chairman DeSio rejoined the Board.

Carried Application No. 2023-06

Lindsay DeChario

27 Center Street, Bl. 10, L. 14

Bulk and use variance approval for renovation/addition to an existing 2-family home in the R-3 zone; First hearing: 8/22/23

Rick Brodsky, Esq., the attorney for the applicant, requested the application be carried to the meeting of November 28, because additional time is needed to explore the question of when the home was approved as a two-family home.

Mr. Leckstein offered a motion to approve the request to carry, with a second offered by Chairman Cunningham. The motion carried upon the following roll call vote:

Ayes: Bieber, Bills, Cashmore, Cunningham, DeGiulio, DeSio, Lawrence, Leckstein, Schwartz, Zelina

Nays: none

General Public Comments

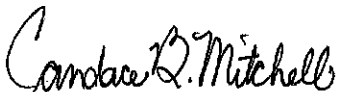
Thomas Largey, speaking on behalf of his parents who reside at 14 Willow Way, next to 6 Willow Way, wanted to ask the board about the application for 6 Willow Way that had been approved in March. Chairman Cunningham told Mr. Largey that he must go to the building department with his concerns. Mr. Leckstein agreed with the Chairman and told Mr. Largey that it is inappropriate to be talking to the Planning Board about his concerns, especially considering that the applicant could come before the board for another matter. He advised Mr. Largey to go to the Code Enforcement Officer.

CLOSING ITEMS

The Chairman announced the next regular meeting to take place on October 24, 2023.

With no further business, the meeting was adjourned at 8:45 p.m. on a motion offered by Chairman Cunningham, seconded by Mr. Leckstein, and carried upon a unanimous voice vote by the Board members.

Respectfully submitted,

A handwritten signature in cursive script that reads "Candace B. Mitchell".

Candace B. Mitchell, Board Secretary