

**APPROVED MINUTES
REGULAR MEETING OF THE SEA BRIGHT UNIFIED PLANNING/ZONING BOARD
TUESDAY, July 25, 2023**

Call to Order and Flag Salute

Chairman Cunningham called the meeting to order at 7:30 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 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, Cashmore, Cunningham, Lawrence, Leckstein, Schwartz, Zelina

Absent: Bills, DeGiulio, DeSio, Kelly

Also attending: Board Attorney Ben Montenegro, Board Secretary Candace B. Mitchell

Approval of 5/23/23 Regular Meeting Minutes

Councilman Erwin Bieber offered a motion to approve the minutes. Second was offered by Mark Zelina, and the motion carried upon the following roll call vote of eligible members:

Ayes: Bieber, Cashmore, Lawrence, Schwartz, Zelina

Nays: none

ITEMS OF BUSINESS

Memorialization of Resolution

**RESOLUTION OF APPROVAL
APPLICATION OF
WILLIAM A.G., INC.**

IN THE MATTER OF WILLIAM A.G., INC.	: UNIFIED PLANNING/ZONING BOARD : BOROUGH OF SEA BRIGHT : APPLICATION NO. 2022-15(B) : BLOCK 13, LOT 37 : 1106 OCEAN AVENUE
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WHEREAS, WILLIAM A.G., INC. has requested amended preliminary and final site plan approval with variance relief pursuant to N.J.S.A. 40:55D-70 (c)(1) and (2) to modify the plan approved via Resolution adopted 2/28/23 to enlarge the proposed rooftop open deck area above the second story living space from 920 sq. ft. to 2,276 sq. ft. and to enlarge the third story roof top room from 363 sq. ft. to a 450 sq. ft. penthouse study on the property located at Block 13, Lot 37 on the tax map of the Borough of Sea Bright, being

commonly known as 1106 Ocean Avenue, Sea Bright, New Jersey, and said premises being in the B-1 Central Business Zone; and

WHEREAS, the Board held a public hearing on said application on May 23, 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 was represented by counsel, Kevin I. Asadi, Esq., who presented the Application; and

WHEREAS, the Board heard the testimony and evidence presented by the applicant, applicant's witness and received no 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. Based upon the opening comments of the Applicant's counsel, the Board heard the following:
 - A. The Applicant proposed to modify the plan approved via Resolution adopted 2/28/23 to enlarge the proposed rooftop open deck area above the second story living space from 920 sq. ft. to 2,276 sq. ft. and to enlarge the third story roof top room from 363 sq. ft. to a 450 sq. ft. penthouse study.
 - B. No new variance relief was required or requested for the plan modifications presented; however, Applicant sought re-approval of the variances previously granted for front yard setback, rear yard setback, lot coverage, and parking.
3. The following were submitted in support of the Application:
 - A. Preliminary and Final Major Site Plan, consisting of three (3) sheets, prepared by Douglas D. Clelland, P.E. of Insite Engineering, LLC (last rev date 1/12/23)
 - B. Architectural Plans (5 sheets) by Kevin C. Roy, Architect, LLC (dated 1/9/23)

- C. 3/24/23 Board Planner Report of Jennifer C. Beahm, P.P.
- D. 4/12/23 Board Engineer Report of David J. Hoder, P.E.

4. Based upon the sworn testimony of the Applicant's Principal Steven Gardella, the Board made the following findings of fact:

- A. He is the Principal/Owner of Applicant William A.G., Inc., the owner of the subject property.
- B. The subject property is located in the B-1 Central Business Zone.
- C. There is an existing mixed-use building on the subject property, with three retail units on the first floor and one residential apartment on the second floor.
- D. On 12/13/22, Applicant presented (and received a favorable vote) on an application for preliminary and final site plan approval to enlarge the apartment on the second floor, add a small third floor, provide for a roof top deck, and provide a roll up garage door on Church Street (per plans/architecturals presented to the Board).
- E. The original Application proposed a rooftop open deck of 920 sq. ft. and a third-floor rooftop enclosed room of 353 sq. ft.
- F. During the course of developing final plans after the hearing/vote, Applicant revised the plans to increase the size of the rooftop open deck to 2,276 sq. ft and increased the size of the third story rooftop enclosed room to 450 sq. ft.
- G. The Board adopted its resolution of approval for Application 2022-15 on 2/28/23.

- H. During the course of resolution compliance review by the Board's Professional Planner Jennifer C. Beahm and Professional Engineer David J. Hoder, the increased rooftop open deck space and increased rooftop enclosed room were identified. It was agreed as between the Board's professionals and Applicant's professionals that these modifications were significant and required a return to the Board to seek an amended approval with legal notice to the public.
- I. The Applicants' intent per the architectural plans submitted is to modify the originally presented (and approved) plan to increase the rooftop open deck to 2,276 sq. ft. and increase the rooftop third story room to 450 sq. ft. No other changes to the plans are proposed.
- J. He testified that the residential apartment is currently owner occupied.
- K. He agreed as a condition that the rooftop open air deck and rooftop third story enclosed room is accessory to the residential apartment use only. It may not be utilized by the commercial tenants on site nor by any third parties.
- L. Applicant agreed as a condition to provide a final lighting plan that shall be subject to the review and approval of the Board Engineer and Board Planner as to size, type, number and location to insure no negative impacts to the surrounding property owners.
- M. In response to concerns regarding the size/scope of the rooftop deck and its potential impact to the surrounding neighborhood, Applicant agreed to the additional following conditions:
- Building Code Compliance, for both Roof Load, and maximum occupancy of the rooftop deck must be certified by Applicant's Architect, and provided to the Board Engineer for confirmation. If allowed by Code, there shall be a maximum occupancy for the rooftop deck of 100 persons. If Code allows for less than 100,

then the maximum occupancy for the rooftop deck shall not exceed that amount.

- Use of the rooftop deck shall cease at midnight.
- Applicant shall at all times comply with the Borough's noise ordinance.

N. He opined that there will be no negative impacts created by the application for amended site plan approval and that the benefits of the amended plans, outweigh any detriments.

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)(1) and (2) with conditions imposed, for the re-approval of variances previously granted for this application for amended site plan approval in as much as the amendments to the plans do not create any new variance conditions or exacerbate the previously approved variances, and the proposed application is an appropriate development of the subject parcel with a permitted use in the Zone;

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; and those benefits outweigh any detriment from the proposal; and

WHEREAS, after careful deliberation 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 functional use of the site and improved aesthetics at the site; and

WHEREAS, the Board (noting that despite public notice, no persons appeared in opposition to the application) 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 23rd day of May, 2023, upon a motion made by Mr. Cashmore and seconded by Mr. Bieber that the application of William A.G., Inc., be granted, subject to the following terms and conditions:

1. The applicant shall be bound by all exhibits introduced, all representations made, and all testimony given before the Board at its meeting of May 23, 2023.
2. The applicant shall provide all required Site Performance Bond and Inspection Fees in accordance with the Municipal Ordinance.
3. 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 CAFRA, and the Municipality's and State's affordable housing regulations; and the applicant shall comply with any requirements or conditions of such approvals or permits.
4. 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.
5. The applicant shall comply with all items set forth in the Board Planner report dated 3/24/23, unless specifically exempted herein.
6. The applicant shall comply with all items set forth in the Board Engineer report dated 4/12/23, unless specifically exempted herein.
7. The Board's Resolution of Approval for Application 2022-15 (memorialized 2/28/23) and all conditions therein remain binding on Applicant unless specifically modified by this Amended Preliminary and Final Site Plan approval.
8. 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.

9. The applicant shall comply with all building, FEMA and fire codes including, but not limited to, entrances and exits.
10. 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.
11. In the event that any documents require execution in connection with this approval, such documents shall not be released until all conditions are satisfied.
12. 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.
13. 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.
14. Applicant shall comply with the following special conditions:
 - A. The rooftop open air deck and rooftop third story enclosed room is accessory to the residential apartment only. It may not be utilized by the commercial tenants on site nor by any third parties.
 - B. Applicant shall provide a final lighting plan that shall be subject to the review and approval of the Board Engineer and Board Planner as to size, type, number and location to insure no negative impacts to the surrounding property owners.

C. Building Code Compliance, for both Roof Load, and maximum occupancy of the rooftop deck must be certified by Applicant's Architect, and provided to the Board Engineer for confirmation. If allowed by Code, there shall be a maximum occupancy for the rooftop deck of 100 persons. If Code allows for less than 100, then the maximum occupancy for the rooftop deck shall not exceed that amount.

D. Use of the rooftop deck shall cease at midnight.

E. Applicant's use of the rooftop deck shall at all times comply with the Borough's noise ordinance.

15. Publication of a notice of this decision shall be published in the official newspaper of the Board. Such publication shall be arranged by the applicant.

ADOPTED this 23rd day of May, 2023 on a roll call upon a motion by Mr. Cashmore and a second by Mr. Bieber

APPLICATION VOTE ON ROLL CALL:

IN FAVOR: Mr. Bieber, Mr. Cashmore, Ms. DeGiulio, Vice-Chair DeSio, Mr. Lawrence, Mr. Schwartz, and Mr. Zelina

OPPOSED: None

MEMORIALIZED on this 25th day of July 25, 2023 on a roll call upon a motion by Mr. Bieber and a second by Mr. Schwartz

MEMORIALIZATION VOTE ON ROLL CALL:

IN FAVOR: Mr. Bieber, Mr. Cashmore, Mr. Lawrence, Mr. Schwartz, 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. 2022-15(B) Approved by the Unified Planning/Zoning Board at its regular meeting on May 23, 2023 and memorialized on July 25, 2023.

Candace B. Mitchell

Candace B. Mitchell, Secretary

Borough of Sea Bright Unified Planning/Zoning Board

Application No. 2023-01 REVISED PLANS

16 Via Ripa Properties, LLC.

16 Via Ripa, Bl. 31, L. 6

Bulk variance relief for front yard setback, side yard setback, and maximum lot coverage;

Use variance relief to permit a two-family structure in a single-family zone

This application was heard at the meeting of 3/14/2. After discussion, the applicants decided to come back to the Board with revised architectural plans. They were scheduled to be heard this evening and have asked to be carried to the meeting of 9/12/23.

Mr. Leckstein offered a motion to approve carrying the matter to the 9/12/23 meeting with no further notice required. A second was offered by Mr. Cunningham, and the motion carried upon the following roll call vote:

Ayes: Cashmore, Cunningham, Lawrence, Leckstein, Schwartz, Zelina

Nays: none

Application No. 2023-04

Cambridge Custom Homes, LLC

16 New Street, Bl. 12, L. 10

Minor Conforming Subdivision

Board member Mark Zelina stepped down for this application due to a conflict.

Present for the application were Attorney Charles P. Kelly, Esq., Engineer and Professional Planner Bruce Jacobs, PE, applicant Tim Chenoweth, and current property owner/seller Natalie Nichols.

Marked into evidence were the following items:

- A-1 Jurisdictional Packet
- A-2 Minor Subdivision Map of Tax Lot 10 Block 12 prepared by Gravatt Consulting Group, John P. Augustine, PLS, dated March 10, 2023
- A-3 Tax Certification
- A-4 7/14/23 Board Engineer David J. Hoder Report

Mr. Montenegro noted the applicant's noticing was complete.

Mr. Jacobs was sworn in, offered his credentials, and was accepted by the Board as an expert witness. Mr. Jacobs described the property and the proposed subdivision. The plan proposes subdividing Block 12, Lot 10 into two fully conforming buildable lots. The subdivision will be filed by deed.

Mr. Leckstein stated any proposed residence must be conforming on all sides. Mr. Cashmore asked whether the applicant will come back to the Board for variances, and Mr. Bieber mentioned the possible need for a parking variance.

Mr. Kelly stated that future houses built on the two lots will have conforming setbacks and ample parking. Coming back to the Board for variances is not anticipated.

Mr. Montenegro stated that the existing residence must be demolished prior to the filing of the subdivision. A stipulation of the resolution will be that all construction on the subdivided lots

will comply with all zoning, setback, construction, design standards, and parking requirements, or the applicant will have to come to the Board for variance relief prior to obtaining building permits.

Mr. Montenegro reminded the Board that this evening's application is only to approve two fully conforming lots.

The meeting was opened to the public for questions.

Mr. Gareth Middleton, 22 Surf Street, asked about plans for parking. He asked how three cars can be accommodated on each lot. Mr. Kelly stated that the applicant is not prepared to discuss buildings this evening and would have to come back to the Board if variances were needed.

Mr. Leckstein offered a motion to approve the application to subdivide the property into two fully conforming lots. A second was offered by Mr. Bieber. The motion carried upon the following roll call vote:

Ayes: Bieber, Cashmore, Cunningham, Lawrence, Leckstein

Nays: Schwartz

The owner/seller of the property had requested of Mr. Kelly that the approval process be expedited if possible. Mr. Kelly asked whether the Board would consider having the resolution of approval voted upon this evening. Mr. Leckstein stated that it is not the usual process for the Board to memorialize the resolution of approval at the same meeting as application approval, but it has been done before. The proposed resolution was distributed, the Board members read through it and voted upon its memorialization.

Memorialization of Resolution

**RESOLUTION OF THE SEA BRIGHT PLANNING BOARD/ZONING BOARD
GRANTING MINOR SUBDIVISION APPROVAL
CAMBRIDGE CUSTOM HOMES, LLC
16 NEW STREET
SEA BRIGHT, NJ
BLOCK 12, LOT 10
APPLICATION NO. 2023-04**

WHEREAS, Cambridge Custom Homes, LLC ("Applicant"), as contract purchaser of property designated as Block 12, Lot 10, commonly known as 16 New Street, Sea Bright, NJ, within the Borough's R-3 Zone (the "Property"), has made Application to the Sea Bright Planning/Zoning Board for Minor Subdivision Approval; and

1. The plan proposes subdividing Block 12, Lot 10 into two fully conforming residential lots in the R-3 zone as shown on the Minor Subdivision Plan prepared by Gravatt Consulting Group, John P. Augustine, PLS, dated March 10, 2023.
2. The plan depicts an existing residential dwelling on the eastern portion of the Property which the Applicant has indicated its intention to remove and replace with a new residential home. Applicant agreed as a condition that the existing home and site improvements must be removed prior to the map filing of the subdivision plan.
3. It is STIPULATED that all construction on the subdivided lots will comply with all zoning, setback, construction, design standards and parking requirements of the Borough of Sea Bright or the Applicant will apply to the Board for the requested relief, prior to issuance of any building permit for construction.

NOW THEREFORE, BE IT RESOLVED by the Sea Bright Planning Board/Zoning Board of the Borough of Sea Bright, County of Monmouth, State of New Jersey, as follows:

The Minor Subdivision of Block 12, Lot 10 to create two fully conforming lots as set forth above and on the subdivision map referred to above and marked as Exhibit A-2 and incorporated herein, be and is hereby approved subject to the noted conditions:

GENERAL CONDITIONS

1. 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.
2. The Applicant must obtain the approval of all necessary and appropriate governmental agencies and compliance with all governmental regulations, except

those specifically waived or modified in this Resolution prior to constructing any homes on the Property.

3. The Applicant shall comply with all building, FEMA and fire codes including, but not limited to, entrances and exits for any homes constructed on the newly created lot(s).
4. 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 and specifically relied upon by the Board in granting this approval. This condition shall be continuing condition, which shall be deemed satisfied unless and until the Board determines, upon notice to the Applicant, that there is a breach thereof.
5. All stipulation agreed to on the record by the Applicant.
6. In the event any documents requiring execution in connection with the within approval, such documents shall not be released until all of the conditions of the approval have been satisfied unless otherwise expressly noted herein.
7. The Applicant shall pay to the Borough any and all sums outstanding for fees incurred by the Borough for services rendered by the Borough's professionals for review of the application, review and preparation of documents, inspections of improvements and/or other purposes authorized by the MLUL.
8. The Applicant shall furnish such performance and/or maintenance guarantees as may be required under the MLUL and/or Sea Bright ordinances.
9. The Applicant shall perfect the minor subdivision within the time prescribed by law.

10. 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.
11. The Applicant shall comply with all items set forth in the Board Engineer report dated 7/14/23, unless specifically exempted herein.
12. Publication of a notice of this decision shall be published in the official newspaper of the Board. Such publication shall be arranged by the Applicant.

SPECIFIC CONDITIONS

1. All construction on the subdivided lots will comply with all zoning, setback, construction, design standards and parking requirements of the Borough of Sea Bright or the Applicant will apply to the Board for the requested relief, prior to issuance of any building permit for construction.
2. The existing home and site improvements must be removed prior to the map filing of the subdivision plan.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting of July 25, 2023; and

BE IT FURTHER RESOLVED that the Chairman and Board Secretary are hereby authorized to sign any and all documents necessary to effectuate the purpose of this Resolution; and

BE IT FURTHER RESOLVED that the Board Secretary is hereby authorized and directed to cause a certified copy of this Resolution to be sent to the Applicant, the Borough Clerk, the engineer and the zoning officer and to make same available to all other interested parties.

ADOPTED this 25th day of July, 2023 on a roll call upon a motion by Mr. Leckstein and a second by Mr. Bieber

APPLICATION VOTE ON ROLL CALL:

IN FAVOR: Mr. Bieber, Mr. Cashmore, Mr. Cunningham, Mr. Lawrence, Mr. Leckstein

OPPOSED: Mr. Schwartz

MEMORIALIZED on this 25th day of July, 2023 on a roll call upon a motion by Mr. Leckstein and a second by Mr. Cashmore

MEMORIALIZATION VOTE ON ROLL CALL:

IN FAVOR: Mr. Bieber, Mr. Cashmore, Mr. Cunningham, Mr. Lawrence, Mr. Leckstein,

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. 2023-04 Approved by the Unified Planning/Zoning Board at its regular meeting on July 25, 2023 and memorialized on July 25, 2023.

Candace B. Mitchell

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

Public Comments

There were no members of the public wishing to speak.

CLOSING ITEMS

The Chairman announced the next regular meeting to take place on August 22, 2023.

With no further business, the meeting was adjourned at 7:55 p.m. on a motion offered by Mr. Leckstein, seconded by Mr. Bieber, and carried upon a unanimous voice vote by the Board members.

Respectfully submitted,



Candace B. Mitchell, Board Secretary