

Vice-Chairman DeSio called the meeting to order and requested those present to join in the Pledge of Allegiance to the flag:

Vice-Chairman DeSio read the following statement:

The Borough of Sea Bright, in compliance with the "Open Public Meetings Act" has advertised the date, time and location of this meeting in The Link on January 20, 2011 filed it with the Clerk, and posted a notice on the bulletin board in the Borough Office.

**3. ROLL CALL:**

**PRESENT:** Beer, Cashmore, DeSio, Fernandes, McBride, Murphy, Torcivia, Smith, (Alt. #1) Leckstein (Alt. #2)

**ABSENT:** Cunningham, Nott, Janey (Alt.#3)

**4. MINUTES:**

**A.** Boardmember Torcivia introduced a motion approving the January 25, 2011 Unified Planning Board Minutes. Second by Boardmember Smith and approved upon the following roll call vote:

Ayes: Beer, Torcivia, Smith,

NAYS: None

ABSTAIN: None

ABSENT: Cunningham, Janey

**5. MEMORIALIZATION OF RESOLUTION:**

**A.** Boardmember Smith introduced a motion memorializing the following resolution:

**RESOLUTION OF THE SEA BRIGHT PLANNING/ZONING BOARD  
GRANTING HEIGHT VARIANCE APPROVAL  
AND MINOR CHANGES TO THE APPROVED SITE PLAN**

**RE: D. LOBI ENTERPRISES, INC.  
T/A SURFRIDER BEACH CLUB  
931 Ocean Avenue  
Block 23 Lots 12.01 and 12  
Sea Bright New Jersey**

**WHEREAS,** D. Lobi Enterprises, Inc. (the "Applicant") made application to the Planning/Zoning Board of Sea Bright (the "Board") for property known as Block 23, Lots 12 and 12.01 on the Tax Map of the Borough of Sea Bright, also known as 931 Ocean Avenue for a height variance to permit the construction of two turrets with a height of 44.25 feet, exceeding the allowable height by 5.25 feet and a decorative dome

with a height of 42 feet 7 inches, exceeding the allowable height by 3.6 feet; and

**WHEREAS**, the Applicant also proposed revised architectural elevations showing the addition of a canopy over the front steps (which does not require any variances) as well as a variation to the lower roof; and

**WHEREAS**, the Planning/Zoning Board previously granted a use variance and site plan approval to expand the banquet facility and beach club by resolution on December 8, 2009; and

WHEREAS, Applicant has provide due notice to the public and all surrounding property owners as required by law, has caused notice to be published in the official newspaper in accordance with NJSA 40:55D-1 et seq and, therefore, this Board has accepted jurisdiction of the application and has conducted public hearings on the matter at meetings on January 25, 2011, at which time all persons having an interest in said application were given an opportunity to be heard; and

WHEREAS, the Applicant appeared and marked into evidence certain documents including the following:

A-1 Jurisdictional Packet,

A-2 Architectural Plans by James Monteforte Architectural Studio 1-14-11;

**WHEREAS**, the Applicant offered sworn testimony in support of the application by the following:

James Monteforte, Architect

**WHEREAS**, members of the public also presented testimony as follows:

David DeSio

**WHEREAS**, the Applicant requested the following variances or waivers:

1. A use or "D" variance for height of the two turrets with a height of 44.3 feet. The permissible height is 35 feet and decorative architectural features such as the turrets may, under the ordinance, exceed the height limitation by 4 feet, making the allowable height 39 feet.

2. A bulk height variance for the decorative dome which is built at a height of 42 feet 7 inches.

3. Minor revisions to the approved site plan for the addition of a canopy over the front steps and a slight variation in the lower roof. Neither change creates a need for a variance.

**WHEREAS**, the Board considered the testimony and evidence presented and the Board makes the following findings of fact and conclusions of law:

1. Applicant is requesting a use or "D" variance for height of the two turrets with a height of 44.3 feet. The permissible height is 35 feet and decorative architectural features such as the turrets may, under the ordinance, exceed the height limitation by 4 feet, making the allowable height 39 feet.

2. Applicant is also requesting a bulk variance for height regarding the decorative dome which is built at a height of 42 feet 7 inches.

3. The Board had the advantage of observing the impact of the proposed variances as the improvements have already been constructed.

4. Applicant's architect testified that he relied on an out-dated ordinance when he made the changes to the plan that necessitated the use and bulk variances.

5. At the request of the Board, the Applicant **STIPULATED** that the lighting in the turrets would be interior type lighting that will not spill over to the neighboring properties.
6. At the request of the Board, the Applicant **STIPULATED** there would be no permanent stairs to access the turrets and that the turrets and decorative dome would not be habitable.
7. The Board found that the turrets, measuring approximately 10 feet in width and the dome, measuring approximately 5 feet in width would not interfere with the view of any neighboring property and, due to the fact that they were broken up over the course of the rather long structure, the impact was minimal.
8. The Board found that the addition of these architectural features broke up the expanse of the front of the structure and was more aesthetically pleasing and more fitting with a seashore appearance.
9. A neighbor, David DeSio testified that he was pleased with the design and that the turrets and dome had no impact on the neighbors.
10. In light of the fact that this use is currently permitted by virtue of a use variance, the Board applies the standard set forth in Burbridge v. Mine Hill. The Board treats this application as an expansion of the non-conforming use and, therefore, looks not at the use itself and determined that the adverse impacts of the two turrets was minimal, if any and was in conformance with the surrounding area.

11. Therefore, the Board finds that the approval of this application will result in substantial aesthetic improvements to a property with a very large frontage.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning/Zoning Board of the Borough of Sea Bright that applicants' application for a height use variance, approval of a height bulk variances, and minor architectural changes, all as particularly set forth in the plans prepared by James Monteforte and marked as Exhibit A-2 is hereby granted subject to the following 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 including but not limited to CAFRA and compliance with all governmental regulations except those specifically waived or modified in this Resolution.

3. The applicant shall comply with all building, FEMA and fire codes including but not limited to, entrances and exits.

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 by the Board in granting this approval. This condition shall be a continuing condition, which shall be deemed satisfied unless and until the Board determines (on Notice to the applicant) that a breach thereof.

5. All stipulations agreed to on the record, by the applicant.

6. In the event that any documents require 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.

7. 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.

8. The Applicant shall furnish such Performance Guarantees and/or

Maintenance Guarantee as may be required pursuant to the MLUL and the Sea Bright Ordinances.

9. 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.

10. All other conditions contained in the prior approval granted on December 8, 2009 shall remain in full force and effect.

**BE IT FURTHER RESOLVED** that this Resolution memorializes the action taken by at the Planning/Zoning Board at its meeting of January 25, 2011; 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 and to cause notice of this Resolution to be published in the official newspaper.

Second by Boardmember Torcivia and approved upon the following roll call vote:

Ayes: Beer, Torcivia, Smith,

NAYS: None

ABSTAIN: None

ABSENT: Cunningham, Janey

## **6. OLD BUSINESS:**

**A.** Boardmember Leckstein introduced a motion for a closed executive session. Second by Boardmember Smith and approved upon the following roll call vote:

Ayes: Beer, Cashmore, DeSio, Fernandes, McBride, Murphy, Torcivia, Smith, Leckstein,

Nays: None

Abstain: None

Absent: Cunningham, Nott, Janey

Boardmember Leckstein introduced a motion authorizing Attorney Higgins to forward the Unified Planning Board's comments and recommendations of Ordinance 4-2011 to the Mayor and Council with their changes for Accessory use.

ORDINANCE NO. 4-2011

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF  
SEA BRIGHT, SPECIFICALLY CHAPTER 130, TO CREATE A NEW  
HOUSING DISTRICT ENTITLED "R - 4 MULTI FAMILY HOUSING"  
FOR DEVELOPMENT AT FOR BLOCK 34,  
LOT 4 ON OCEAN AVENUE

Second by Boardmember McBride and approved upon the following roll call vote:

Ayes: Beer, Cashmore, DeSio, Fernandes, McBride, Murphy, Torcivia, Smith, Leckstein,

Nays: None

Abstain: None

Absent: Cunningham, Nott, Janey

**7. ADJOURNMENT:**

There being no further business before the Planning Board Boardmember Murphy made a motion to adjourn the meeting at 9:38 P.M. Second by Boardmember Nott and approved upon unanimous voice vote.

Respectfully Submitted,

Suzanne Branagan  
Board Secretary