

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:

2. OPENING 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, DeSio, McBride, Murphy, Nott, Torcivia, Smith, (Alt. #1) Leckstein (Alt. #2, Janey (Alt.#3)

ABSENT: Cashmore, Cunningham, Fernandes

4. MINUTES:

A. March 8, 2011 Unified Planning Board Minutes was carried to

5. MEMORIALIZATION OF RESOLUTION:

A. Boardmember Torcivia introduced a motion memorializing the following resolution:

**SEA RAY TOWNHOUSES, LLC.
1246 Ocean Avenue
Block 3, Lot 25
B-2Zone
Variances: Rear yard setback,
air conditioning units in rear yard,
side yard setback, lot coverage.**

WHEREAS, Sea Ray Townhouses, LLC (the "Applicant") made application to the Planning/Zoning Board of Sea Bright (the "Board") for property known as Block 3, Lot 25 on the Tax Map of the Borough of Sea Bright, also known as 1246 Ocean Avenue for variance and amended site plan approval regarding the construction of the previously approved two-unit residential townhouse; and

WHEREAS, Applicant has provided 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 a public hearing on the matter at its meeting on March 8, 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 Survey prepared by Charles Surmonte dated 11-3-10
- A-3 Sheet 3 of Preliminary and Final Site Plan prepared by Charles Surmonte dated 9-29-09
- A-4 Site Plan, Building and Zoning Information, prepared by Paul. A. Damiano, Architects, LLC dated 11-15-10, revised to 12-1-10
- A-5 Floor Plan prepared by Paul A. Damiano
- A-6 Picture Board containing 9 photos
- A-7 Colored rendering of A-4

WHEREAS, the Board marked into evidence the following:

- PB-1 3-7-11 letter from Jaclyn Flor, Board engineer

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

Paul Damiano, Architect
Charles Surmonte, P.E. Engineer
Raymond Guzman, member, Sea Ray, LLC

WHEREAS, the Applicant requested the following variances or waivers:

1. Side yard setback of 14.3 feet where 15 feet is required and 14.5 ft. was previously approved.
2. Both side yards of 29.5 feet where 30 feet is required and 29 feet was previously approved.
3. Rear yard setback of 6.0 feet where 10 feet is required.

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

1. The property is in the B-2 Zone.
2. The property was granted variance and site plan approval in January 2010 to demolish a one-story building and two sheds and to construct a two unit townhouse with two cabanas in the rear yard. Due to errors in the original survey, discovered after the townhouse structure was substantially complete, the structure as built requires the variances set forth above.
3. The Applicant's engineer and surveyor, Charles Surmonte, testified that due to a ROW by DOT that was not picked up on the original survey, the entire lot was shifted back 4 feet. Because of the errors on the original survey, when the foundation for the two-unit townhouse was set and the building substantially completed with the resulting setback nonconformities.
4. Raymond Guzman, a member of Sea Ray LLC testified that the problem was discovered while the Applicant was removing the fence for the construction of the cabanas. The neighbor Haik Mendes pointed out the discrepancy.
5. Mr. Damiano explained the condition and presented photographs of the townhouses as constructed.

6. Haik Mendes, owner of the adjacent rear property testified that he had no objection to the variances and was pleased with the improvements to the property.
7. Vice-Chairman Desio asked if the Applicant had tried to buy or swap land with his neighbors and Mr. Guzman stated that he had previously, but not in regard to this new application. Upon questioning by the Board, Mr. Mendes was not inclined to sell any of his property to the Applicant to eliminate the rear setback violation.
8. Board Members noted that the mistake was unintentional and that the resulting sideyard variances were minimal. In reviewing the plans, it was determined that the building could not readily be cut down in size to make it conforming. The Board felt that if it were merely balconies involved, those could be removed to meet the rear setback requirement. However, actual living space would be affected and reducing the rear of the building by four feet would negatively impact the structure.
9. Board Members noted that the two-unit townhouse was a significant improvement to the prior condition of the property and that the building was aesthetically pleasing.
10. The neighbor affected by the rear yard setback variance had no objection to the rear variance and indicated that it had no impact on his property.
11. The as-built structure could not be reduced in size to meet the setback without significant hardship to the Applicant and without a significant negative impact on the aesthetics of the building itself.
12. Board Members noted that the structure as built was a significant improvement over the structures previously on the property.
13. Board Members felt that this was a significant positive project for the area.
14. Therefore, the Board finds that the approval of this application will result in substantial aesthetic improvements, that the sideyard variances were a minor change and that the rear yard setback variance, necessitated by the error in the survey, had no detrimental impact on the neighborhood or on the zone plan.
15. The Board found that the variances can be granted due to the nature of the development in the neighborhood, location, hardship to the Applicant, and can be granted without substantial detriment to the Zone Plan and Zoning Ordinance.

16. The Board finds that the variances can be granted without substantially impairing the Zone Plan and Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Planning/Zoning Board of the Borough of Sea Bright that applicants' application for a bulk variances for side yard setback of 14.3 feet where 15 feet is required and 14.5 ft. was previously approved; both side yards of 29.5 feet where 30 feet is required and 29 feet was previously approved and rear yard setback of 6.0 feet where 10 feet is required and amended preliminary and final site plan 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.

Specific Conditions

a. The Special Conditions as set forth in the Resolution of Approval memorialized on January 12, 2010 shall remain in full force and effect.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting of January 12, 2010; 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 at Applicant's expense.

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

Ayes: Beer, DeSio, McBride, Nott, Torcivia, Smith

Nays: None

Abstain: None

Absent: Cashmore

6. NEW BUSINESS:

A. Vice-Chairman DeSio said that the following application did not notice properly and will have to re-notice.

**FORSMAN REVOCABLE TRUST
9 RIVER STREET
BLOCK 16, LOT 26**

Remodel existing dwelling: replace rear deck,
add front porch, raise existing structure, add third story.

B.

**ORDINANCE NO. 11-2011
AN ORDINANCE REVISING CHAPTER 130, LAND USE,
ARTICLE VII, AREA BULK AND USE REQUIREMENTS,
SECTION 130-50 LOT AND BUILDING REQUIREMENTS
PARAGRAPH A (6)
OF THE CODE OF THE BOROUGH OF SEA BRIGHT**

Boardmember Leckstein introduced a motion amending Ordinance 11-2011 with the following recommendations:

When renovations are made to an existing structure that has been raised a minimum of two feet above the base flood elevation, and the height limit has not been previously revised pursuant to paragraph a., then the height limit of the structure shall be revised to allow three additional feet in height to be added to the maximum allowable height for that particular structure. In no case shall the maximum allowable height exceed three feet above the base maximum allowable height as set forth in the Schedule of Lot and Building Requirements. For undersized lots, in no case shall the maximum allowable height exceed three feet above the maximum allowable height as calculated under this Chapter.

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

Ayes: Beer, DeSio, McBride, Murphy, Nott, Torcivia, Smith, Leckstein, Janey

Nays: None

Abstain: None

Absent: Cashmore, Cunningham, Fernandes

7. ADJOURNMENT:

There being no further business before the Planning Board Boardmember Murphy made a motion to adjourn the meeting at 8:30 P.M. Second by Boardmember Smith and approved upon unanimous voice vote.

Respectfully Submitted,

Suzanne Branagan
Board Secretary