

**APPROVED MINUTES
VIRTUAL MEETING OF THE SEA BRIGHT PLANNING/ZONING BOARD
TUESDAY, MARCH 23, 2021**

ADMINISTRATIVE MATTERS

Call to Order

Chairman Cunningham called the meeting to order at 7:31 p.m. and asked those present to join him in the Pledge of Allegiance.

Chairman's Opening Statements

Chairman Cunningham read the following Compliance Statements:

This meeting will be conducted by electronic means in accordance with the Open Public Meetings Act of 2020, which explicitly permits a public body to conduct a meeting electronically during a state of emergency. Governor Murphy issued Executive Orders 103 and 107 declaring a "Public Health Emergency and State of Emergency" and directing residents to quarantine and practice social distancing.

The Borough of Sea Bright, in compliance with the Open Public Meetings Act, has provided the time, date, and location of this meeting to at least two designated newspapers, published same in the Asbury Park Press, the official newspaper, filed notice with the Borough Clerk, and posted notice on the Borough website and in the Borough Office.

Attendance Roll Call

Present: Cashmore, Cunningham, DeGiulio, DeSio, Leckstein, Gorman, Smith (7:45 p.m.,) Schwartz

Not Present: Bills, Kelly

BOARD BUSINESS

Memorialization of Resolution

**RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF SEA BRIGHT
APPOINTING NEW PLANNING BOARD ATTORNEY**

WHEREAS, the Planning Board of the Borough of Sea Bright has a need for new legal counsel as its former legal counsel, Kerry E. Higgins, Esquire, has resigned as a result of her appointment and confirmation as a Judge of the Superior Court of New Jersey; and

WHEREAS, prior to the resignation of its former legal counsel, the Planning Board did send out a request for professional services (RFP) in anticipation of Ms. Higgins's judicial appointment and the Board has therefore chosen to award a new contract for its legal counsel by way of a "Fair and Open Process" pursuant to N.J.S.A. 19:44A-20.5 et. sq.; and

WHEREAS, this new legal counsel is being appointed after the Planning Board's review of qualifications submitted for this position;

NOW THEREFORE BE IT RESOLVED, that during the Planning Board's regular meeting held on March 23, 2021, Monica C. Kowalski, Esquire of the Law Offices of Monica C. Kowalski LLC with a mailing address of 601 State Highway 35 North, Neptune, New Jersey 07753, was appointed to serve as the Planning Board Attorney for the remainder of the one year term commencing on March 23, 2021 and ending on December 31, 2021 and this Resolution is intended to memorialize that decision and the Chairman of the Planning Board is therefore authorized to execute a contract for Professional Services acknowledging the relationship.

The foregoing was Moved by Councilman Marc Leckstein, Seconded by Stephen Cashmore, and on Roll Call, the following vote was recorded:

Affirmative: Cashmore, Cunningham, DeGiulio, DeSio, Gorman, Leckstein, Schwartz

Negative: None

Abstentions: None

The foregoing is a true copy of a Resolution adopted by the Planning Board of the Borough of Sea Bright during its meeting held on March 23, 2021.

Candace B. Mitchell

Candace B. Mitchell

Secretary

Planning Board of the Borough of Sea Bright

Approval of 2/23/21 Regular Meeting Minutes

Board Vice Chair David DeSio offered a motion to approve the minutes, with a second was offered by Board member Elizabeth DeGiulio, and adopted on the following roll call vote of eligible members:

Ayes: Cashmore, Cunningham, DeGiulio, DeSio, Gorman, Leckstein, Schwartz

Nays: none

Not present: Kelly, Bills, Smith

Approval of 2/23/21 Closed Session Minutes

Board Vice Chair David DeSio offered a motion to approve the minutes, with a second was offered by Board member Elizabeth DeGiulio, and adopted on the following roll call vote of eligible members:

Ayes: Cashmore, Cunningham, DeGiulio, DeSio, Gorman, Leckstein, Schwartz

Nays: none

Not present: Kelly, Bills, Smith

Acknowledge Receipt of Correspondence

Letter addressed to Sea Bright Planning Board Chairman, from Monmouth County Division of Planning, dated 3/12/21, regarding an amendment to the MLUL requiring municipalities assess their climate change vulnerability in future land use plan elements of their municipal master plans

Acknowledgement of Ordinance No. 02-2021 in accordance with MLUL (N.J.S.A. 40:55D-15)

An Ordinance of the Borough of Sea Bright Amending and Supplementing Chapter 130, "Land Use," of the Code of the Borough of Sea Bright to delete Therefrom Article XVI, "Surface Water Runoff," and to add Thereto a New Article XVI, "Stormwater Control Regulations."

Councilman Marc Leckstein offered a motion to send a note back to the Council saying that the Ordinance has been reviewed by the Board and is in order. A second was offered by Chairman Cunningham, and the motion was adopted upon a unanimous voice vote.

New PB Application 2021-02

David Meyers and Christina Walker

548 Ocean Avenue, Bl. 28, L. 10

Minor Subdivision Application

An error was found by the Board secretary during review of the noticing materials. The attorney for the applicants requested a new hearing date and the opportunity to re-notice. The application is scheduled to be heard on April 13, 2021.

Capital Review – carried from 1/26/21

New Cingular Wireless PCS, LLC (“AT&T”) Communications/Cell Tower
Wayne Street/Ocean Avenue, Bl.20, L.7 and Bl 23, L. 2.01 and 2.02

The applicant is awaiting revised plans and has requested a new hearing date. The review will be scheduled for the meeting of April 27, 2021. Noticing for a capital review is not required.

New PB Application No. 2021-04

Diane Romanowski
7 Island View Way, Bl. 2, L. 25
Bulk variance relief to install an in-ground pool

Board member Jon Schwartz owns property within 200’ of the subject property and could not hear the application.

In attendance for the application were attorney Jeffrey Rosen, architect Anthony M. Condouris, and applicant Diane Romanowski.

The jurisdictional packet was received 3/19/21. Board attorney Monica Kowalski stated that the applicant’s notice was deemed appropriate with regard to service and content, and, therefore, the Board can accept jurisdiction on this matter.

Exhibits offered for public inspection at least ten days prior to the meeting are as follows:

- Zoning Denial, dated 1/13/21
- Application, received 2/25/21
- Proposed Pool Plans prepared by architect Anthony M. Condouris, NJ License No. AI13804, dated 1/5/21, 1 sheet
- 2 Photographs of premises

Architect Anthony Condouris was sworn in and accepted by the Board as an expert witness.

Attorney Jeffrey Rosen introduced the application for installation of an in-ground pool, stating that bulk variance relief is needed for rear and side yard set-backs and for pool equipment.

Vice Chairman DeSio pointed out that the pool is an elevated pool, and that if the pool is over 18” off the ground it has to comply with the bulk variances of normal construction. The pool set-backs do not apply to this situation. Pool construction has to be below 18” or ground level.

Before testimony was heard, Board attorney Kowalski explained that the application states the pool is an in-ground pool, and it is actually an elevated pool. She stated that if the applicant noticed for an in-ground pool, and this isn’t an in-ground pool, then a specificity of notice issue arises. The applicant should amend the application and go back to the zoning officer for another review. Amending the application will give the applicant the opportunity to notice for an elevated pool.

Board member Smith joined the meeting and Board member Schwartz re-joined the meeting.

New PB Application No. 2021-03

Brian and Vicki Hart
46 Normandie Pl., Bl. 29, L. 7
Demolishing 2 existing residences; bulk variance relief to construct one 2-story residence

In attendance for the application were attorney Mark R. Aikins, architect Mark Nemergut from N2 Architecture, planner Maeve E. Desmond from In-Site Engineering, engineer William E. Jensen from Jensen Design Group, and applicants Brian and Vicki Hart.

Exhibits offered for public inspection at least ten days prior to the meeting are as follows:

- Zoning denial dated 2/17/21
- Application received 2/22/21
- Boundary and Topographic Survey prepared by Justin H. Hedges, P.L.S., NJ Lic. No. GS43362, dated 5/18/20, consisting of 1 sheet
- Architectural Plans prepared by Kelly J. Nemergut, NJ Lic. No. 21 AI01791400, dated 12/8/20, revised to 1/21/21, consisting of 5 sheets
- NJDEP Permit and Grading Plan prepared by William E. Jensen, Jr., NJ PE No. 44521, dated 12/4/20, revised to 1/21/21
- 2 photographs of the premises as it exists
- Technical Review prepared by Planning board Engineer David J. Hoder, PE, PP, CME, dated 3/11/21

An additional exhibit, named Exhibit A-1, Landscape Design, prepared by N2 Architecture, consisting of 1 sheet, was received on 3/23/21

The jurisdictional packet was received 3/19/21. Board attorney Monica Kowalski stated that the applicant's notice was deemed appropriate with regard to service and content, and, therefore, the Board can accept jurisdiction on this matter.

Architect Marc Nemergut was sworn in and accepted by the Board as an expert witness. Mr. Nemergut introduced the application by discussing the photos presented of the site as it exists, and stating that the property is in a flood zone. The objectives are to build a house that is compliant with today's standards, use design standards for space and function, and meet all building codes.

The architectural plans were described page by page, and floor by floor. Mr. Nemergut said the plan is for a straight-forward structure with 3 bedrooms and 2½ baths that is open in the back to river views. The main living space to the west captures the beautiful views of the river. He briefly discussed the materials to be used on the outside: a fiber cement product which is commonly known to be hearty, cedar shakes or clapboard or both, and the colors will be in keeping with structures in the area, soft gray or soft blue-gray, and asphalt roof shingles with some metal roof accents.

Mr. Nemergut discussed the need for side setback variance relief. Front and rear setbacks are compliant, as well as building coverage, lot coverage, and the height requirement.

Mr. Nemergut also presented a proposed landscape diagram, marked as Exhibit A-1. The diagram was created in response to a question which had been presented by the Board engineer in his review. The driveway will be made of pavers, with grass on either side of the driveway, north and south, on the front yard. On the north side will be a crushed stone or gravel walkway.

Chairman Cunningham asked a question regarding the property line on the west side. He said it looks like the property line is actually west of the water line. He asked what is the distance between the new structure and the waterline. Board engineer Dave Hoder stated that the line is difficult to see on the plans. The distance is about 75'. Attorney Mark Aikins stated that the actual distance is 65.83' to that point, where 15' is required. Mr. Hoder added there's about another 10' to the mean high waterline. Mr. Cunningham wanted to know whether this structure would be basically in line

with neighboring structures. Mr. Aikins answered that this structure is fairly well in line with the surrounding structures.

Board member Dave DeSio had a question for Mr. Nemergut. First, he wanted to comment that the architect did a great job on the whole project. He said he loves everything but the air conditioner placement, which is too close to the property line and that isn't fair to the next door neighbor. He wanted to know if there is a more appropriate place to put the units and suggested building a dormer on the roof, where you could have access from the attic to get out onto the deck of the dormer. He would like to see the units not be placed in a setback. The Board has been very consistent with not allowing mechanicals in the setback. Stephen Cashmore added that the architect just needs to find a flat serviceable area that is not within the sideyard setbacks. Mr. Aikins agreed to take a look at putting the air conditioner units on the roof.

The meeting was opened to the public for questions of Mr. Nemergut.

Peter Hough, 7 Atlantic Way, stated that he wanted to make sure the rear setback on the house is equal to the neighbor to the south of the property. Mr. Nemergut answered that this property is actually set further back, meaning further east, than the property to the south. Mr. Hough stated that, if that is the case, then he was satisfied with that answer.

Mr. Aikins then called licensed engineer William Jensen, who was sworn in to testify. Mr. Jensen stated his credentials and was accepted by the Board as an expert witness. Mr. Aikins asked Mr. Jensen to review some of the critical issues concerning the floodplain by answering questions that were raised in the Board engineer's review letter. Mr. Jensen stated that the building and the site have all been designed to meet the standards for DEP permitting. The property is typically flat, and so the property was designed to provide side yard swales. The water will be directed to promote runoff recharge back into the ground. We will design the leaders as requested by the Board engineer. The plans will also be revised to show swales. Mr. Hoder said they could provide half-foot contours that would show swales. Also, the sanitary sewer should be shown on the plans. Gutters and leaders should be shown around to the front of the property. As far as stormwater management, the project is not considered a major development and does not disturb more than one acre of land; so, the applicant is not required to provide reduction of storm water flow. Mr. Jensen added that the plans show large areas of grass, stone, and gravel which will promote recharge into the ground of any roof leader runoff from the paver driveway itself. Mr. Hoder offered that grass is a good option for recharge but that he is not sure how well it will survive in Sea Bright.

Mr. Aikins called Maeve E. Desmond, professional planner, to testify. Ms. Desmond was sworn in, and her credentials were accepted. Ms. Desmond was asked to recite the variances requested and the criteria associated with the potential for granting those variances. Ms. Desmond described the lot, which has two existing dwellings on it. The side yards are required to be at least 7' on each side, for a combined 15'. The lot is an oversized lot, with more than double the square feet required, but it is non-conforming with respect to lot width. By demolishing the two existing structures some of the existing non-conformities will be cured by the proposed development of the property, such as building one dwelling instead of two dwellings, which improves conformity. In addition, the front yard setback is currently nonconforming, with 4' present where 25' is required. The proposed home will have a setback of 69.56'. The combined side setbacks for the existing front house are 13.3'. The combined side setbacks for the existing rear house are 18.8'. The applicants are proposing combined side yard setbacks of 11.49'. The variances are requested due to the exceptional narrowness of the lot. This variance is considered a C1 hardship variance. The burden of proof is met for both a C1 and a C2 variance. The deviation from the zoning ordinance and the benefits of granting the variance outweigh any detriments. The positive criteria include the following: The project promotes the general welfare in that it will be a dramatic improvement to

the existing conditions and will positively impact the neighborhood. The proposed development also eliminates the non-conforming use. The existing dwelling units do not meet the current flood zone construction zone standards, and the proposed project will be safe from flooding. Replacing two existing dwelling units that are not FEMA-compliant with a home designed to meet flood zone construction requirements is in the interest of security and safety from flooding for both the homeowners and the neighbors. The impact of the development on light, air, and open space is greatly improved. The project will transform the aesthetics of the property in a positive way for the entire neighborhood, conserving and improving property values. The elimination of one dwelling unit is a positive impact in that it will reduce traffic on the street. The new dwelling will be FEMA-compliant and will positively impact the Borough's CSR rating, which lowers flood insurance premiums for the community. The benefits of this application substantially outweigh any detriment.

There were no questions from the public.

Board comments: Mr. DeSio said that he thinks this is a great application and should be approved without hesitation. Councilman Leckstein added that he also thinks this is a very good application. It eliminates a very awkward situation and is conforming with the neighborhood. Mr. Cashmore and Chairman Cunningham agreed that this is a great application.

Councilman Leckstein offered a motion to approve the application with the condition that the mechanicals are placed out of the setbacks. A second was offered by Vice Chairman DeSio, and the motion was adopted on the following roll call vote:

Ayes: Cashmore, Cunningham, DeGiulio, DeSio, Leckstein, Smith, Schwartz

Nays: none

Not present: Kelly, Bills, Gorman

Boardmember Heather Gorman excused herself from the meeting before it was adjourned.

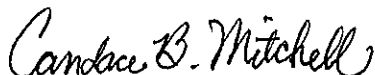
Meeting Announcement

There being no other public business before the Board and no general public comments, the Chairman announced the next regular meeting of the Planning Board is scheduled for April 13, 2021 at 7:30 p.m.

Adjournment

The meeting was adjourned at 9:03 p.m. on a motion offered by Councilman Leckstein, a second offered by Board Chair Lance Cunningham, and approval upon a unanimous voice vote by the Board members.

Respectfully submitted,



Candace B. Mitchell
Board Secretary