

**APPROVED MINUTES
REGULAR MEETING OF THE SEA BRIGHT PLANNING/ZONING BOARD
TUESDAY, February 8, 2022**

Call to Order and Flag Salute

Chairman Cunningham called the meeting to order at 7:33 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 his meeting to the Asbury Park Press and Link News on January 13, 2022, 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, DeSio, Gorman, Leckstein, Lawrence

Not Present: Bills, Kelly, Schwartz, DeGiulio

Also in attendance: Board Attorney Monica C. Kowalski, Esq., Board Planner Jennifer C. Beahm, and Board Secretary Candace B. Mitchell

ITEMS OF BUSINESS

Approval of 1/25/22 Regular Meeting Minutes

Board member Councilman Bieber offered a motion to approve the minutes. Second was offered by Board Vice Chair DeSio, and the motion was adopted on the following roll call vote of eligible members:

Ayes: Bieber, Cashmore, Cunningham, DeSio, Gorman, Lawrence

Nays: none

Memorialization of Resolution

APPLICANT: CHRISTOPER JERRY

APPLICATION NUMBER: 2022-02

BLOCK: 14

LOT: 9

ADDRESS: 15 CHURCH STREET

RESOLUTION NUMBER: 2022-02



**RESOLUTION OF THE UNIFIED PLANNING/ZONING BOARD
OF THE BOROUGH OF SEA BRIGHT
FOR BULK VARIANCE RELIEF**

WHEREAS, VICE CHAIR DAVID DeSIO offered the following Motion moved and seconded by **BOARD MEMBER FRANK LAWRENCE:**

WHEREAS, CHRISTOPHER JERRY, hereinafter referred to as the “applicant” filed an application with the Unified Planning/Zoning Board of the Borough of Sea Bright, (hereinafter referred to as the “Board”) seeking the following relief:

Applicant seeks bulk variance relief pursuant to N.J.S.A. 40:55D-70.c as the application involves the property located at 15 Church Street, Sea Bright, identified as Block 14, Lot 9 (R-3 zone). There is an existing single-family home at the site. The home/property suffered extensive damage as a result of Superstorm Sandy. Subsequent to Superstorm Sandy, the home was partially elevated but not enough to allow any vehicles to park on the ground level. The Applicant, as a relative new owner, now proposes to further elevate the home in accordance with the prevailing FEMA Regulations (and enough to allow ground level parking.) Permits for said elevation have been obtained and the elevation process is underway.

Additionally, the current home has an existing 3 ft. x 3 ft. stoop/deck/balcony landing in front of the home. In conjunction with the elevation process, the Applicant proposes to convert the existing stoop into a balcony (by replacing stairs across the façade of the house). Upon completion, the deck will be approximately 20' long and approximately 3 ft. deep. The deck will merely provide the Applicant with a small outside seating area.

In conjunction with the application, the Applicant will be seeking the following Variance relief:
FRONT YARD SETBACK: 12 ft./5 ft. required; whereas 0. Ft proposed.
SIDE YARD SETBACK; 3 ft. required, where less than 3 ft. proposed.

The Applicant will also be seeking approval for any and all other Variances and/or Design Waivers/Submission Waivers which are necessary, or may become necessary, during the Public Hearing Process.

WHEREAS, the application pertains to premises known and designated as Block 14, Lot 9 on the Tax Map of the Borough of Sea Bright, which premises are located at 15 Church Street, Sea Bright, NJ 07760; and

WHEREAS, all notice requirements were satisfied by the applicant and the Board has jurisdiction to hear, consider and determine the application at issue; and

WHEREAS the Board held a public hearing with regard to the referenced application on the following date, **JANUARY 25, 2022**:

WHEREAS, the following items were entered as Exhibits at the hearing which includes but is not limited to; any and all documentation as submitted and appearing on the Sea Bright website (seabrightnj.org) for presentation at the Public Meeting conducted in person, with public notice.:

The following exhibits had been made available for view on the Borough website:

- Zoning Permit Denial No. 2021-081, dated 10/14/21
- Location Survey prepared by Richard E. Stockton, LPLS, dated 8/17/21, consisting of one (1) sheet
- Architectural Plans prepared by Kurt J. Ludwig, AIA, dated 9/30/21, consisting of sheets A-1 and A-2
- Jurisdictional Packet received 1/21/22

Exhibits introduced at this evening's meeting:

- A-1 through A-6: photos of the property prepared by Mr. Jerry.

WHEREAS The Board listened to the Testimony of the following:

1. CHRISTOPHER JERRY (OWNER)

WHEREAS The Board took Questions from the following member of the Public as to the witnesses presented:

- 1. CHRISTINE DOXEY**
- 2. ERIN KEATING**

WHEREAS, The Board took Public Commentary on the Application upon conclusion of the witness testimony as follows:

- 1. CHRISTINE DOXEY:**
- 2. DREW MILLER:**
- 3. ERIN KEATING:**

WHEREAS, the Board, having given due consideration to the Exhibits moved into evidence and the Testimony presented at said hearing(s), does make the following findings of fact:

1. Phase 1 renovation is complete, and this is phase 2. Mr. Jerry described his project. The single-family home is being elevated. Currently, the home has an existing 3' x 3' stoop with attached stairwell to the street in front of the home. The stairs have been removed. In conjunction with the elevation process, Mr. Jerry proposes extending the stoop/deck area. The proposed deck will measure 20' long by 3' deep. The deck will provide a small outdoor seating area.
2. Installation of the garage will take cars off of the street and there will be an update to the back deck. There was a stoop with staircase in front of the house and applicant would like to replace that with 3' x 20' deck over garage. This is a sitting balcony.
3. This proposed balcony should not affect view or walkability for anyone else and Applicant testifies this is in keeping with other houses
4. It is noted by the Board that under current zoning, the old stairs would also have required a variance. So, the proposed installation is not going to be any worse than the prior condition. The condition still requires a variance as the house is already raised.
5. Board Engineer Hoder discussed the two variances requested: front setback and side yard setback where 3' is required and 2.7' is requested on the east side and .6' is requested on the west side. The setbacks are the same as for the house. The front setbacks will not change.
6. The Board notes that the proposed balcony creates a common site line/streetscape. Further, this proposal increases interior space and does provide off street parking.
7. Councilman Bieber's concern was for safety with the elevated deck reaching out to the sidewalk. Vice Chair DeSio explained that it will actually be a little less than the existing stairs as applicant is lessening the distance moving in toward the curb.
8. Board member Cashmore confirmed whether there was a variance needed to raise the home, and was answered, there was not. Also, was a variance needed for enclosing the front of the house and was answered that, no, there was not.
9. Board Member Cashmore stated that he understands the neighbors' concerns, but what is proposed is in line with the neighbors. He doesn't see that it is a detriment to the aesthetics of the street.
10. Board Member Lawrence stated that it seems to fit into character with what else has been done to neighboring properties.

WHEREAS, In order to prevail on an application for a variance, the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D – 70, requires the applicant to establish that the variance can be granted without substantial detriment to the public good and that the granting of the variance does not substantially impair the intent and purpose of the master plan, zone plan and zoning ordinance.

NOW THEREFORE, BE IT RESOLVED, by the Unified Planning/Zoning Board of the Borough of Sea Bright that it hereby adopts the aforesaid findings of fact and specifically makes the following conclusions:

- a. Based upon the aforesaid findings of fact, the Board concludes that:
 - i. The applicant has demonstrated that the proposed use of the property in question is substantially the same kind of use as that to which the premises were devoted at the time of the passage of the zoning ordinance.
- b. Based upon the aforesaid findings of fact, the Board further concludes that the granting of the approval set forth herein will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance and the zoning plan of the Borough of Sea Bright.
- c. **The Board specifically includes herein by reference, the Transcripts from the hearings, which provide the detailed basis and description of the decision as memorialized in this Resolution and do hereby rely upon same for further reference, as necessary.**

BE IT FURTHER RESOLVED, by the Unified Planning/Zoning Board of the Borough of Sea Bright that the following be and are hereby **GRANTED**, as follows:

Applicant is **GRANTED** bulk variance relief pursuant to NJSA 40:55D-70.c to permit the removal of the 3 x 3 ft stoop/deck/balcony in the front of the home and in conjunction with the elevation process, the Applicant is

granted bulk variances set forth below to convert the existing stoop into a balcony (by replacing stairs across the façade of the house). The deck will be approximately 20' long and approximately 3' deep.

In conjunction with the application, the Applicant is granted the following Variance relief to install the sitting 3' x 20' balcony as per the plans submitted with this application.

FRONT YARD SETBACK: 12 ft./5 ft. required; whereas 0. Ft proposed.

SIDE YARD SETBACK; 3 ft. required, where less than 3 ft. proposed.

ALL APPROVALS GRANTED HEREIN ARE SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) The applicant shall comply with any requirements established by, and obtain any necessary approvals of the following, IF APPLICABLE, to the proposed construction herein:
 - a. SUBJECT TO ALL REPRESENTATIONS AND TESTIMONY OF THE APPLICANT BEING TRUTHFUL AND ACCURATE

APPLICATION VOTE:

Adopted on a roll call on a motion by Board Vice Chair DeSio and Seconded by Board Chair Cunningham

THOSE IN FAVOR: Bieber, Cashmore, Cunningham, DeSio, Lawrence, DeGiulio

THOSE OPPOSED: None

RECUSED: Gorman (200' List recusal)

ABSENT: Bills, Kelly, Leckstein, Schwartz

ABSTAINED: None

MEMORIALIZATION VOTE:

Adopted on a roll call on a motion offered by Board Vice Chair DeSio and Seconded by Board member Councilman Bieber

THOSE IN FAVOR: Bieber, Cashmore, Cunningham, DeSio, Lawrence

THOSE OPPOSED: None

RECUSED:

ABSENT: DeGiulio

ABSTAINED: None

I certify the foregoing to be a true copy of the Resolution memorialized by the Unified Planning/Zoning Board of Sea Bright at its meeting on February 8, 2022.

Date: February 8, 2022

Candace B. Mitchell

Candace B. Mitchell

Administrative Officer of the Unified Planning Board of the Borough of Sea Bright

At the meeting of February 8, 2022, before the following Resolution was memorialized, Board attorney Monica Kowalski made a request to make a notation in the meeting minutes stating that a correction had been made during the January 25, 2022 hearing, noting the front yard setback was actually 10.9', whereas the notice had stated the setback was 12'. The Resolution states the correct setback of 10.9'.

Memorialization of Resolution

APPLICANT: MICHAEL AND VICKI TATELMAN
APPLICATION NUMBER: 2022-01
BLOCK: 27
LOT: 7.01
ADDRESS: 6 WILLOW WAY
RESOLUTION NUMBER: 2202-01



**RESOLUTION OF THE UNIFIED PLANNING/ZONING BOARD
OF THE BOROUGH OF SEA BRIGHT
FOR BULK VARIANCE RELIEF**

WHEREAS, VICE CHAIR DAVID DeSIO offered the following Motion moved and seconded by **COUNCILMAN BIEBER:**

WHEREAS, MICHAEL AND VICKI TATELMAN hereinafter referred to as the "applicant", by and through their attorney, **RICK BRODSKY, ESQ.**, filed an application with the Unified Planning/Zoning Board of the Borough of Sea Bright, (hereinafter referred to as the "Board") seeking the following relief:

To consider an application to permit the demolition of the existing single-family residential dwelling and the construction of a new single-family residential dwelling, with respect to premises located in the R-2 Zone and known as Block 27, Lot 7.01 on the Tax Map of the Borough of Sea Bright, and commonly known as 6 Willow Way, Sea Bright, New Jersey. Applicant is seeking the following variances:

- (i) "c" variance: 130-39.C – Front yard setback of 16.9 feet proposed, where 20.5 feet is existing and 25 feet is required
- (ii) "c" variance: 130-39.C – Building height of 3 stories proposed, where 1 story is existing and a maximum of 2.5 stories is permitted
- (iii) "c" variance: 130-39.C – Building height of 39 feet proposed, where ±19 feet is existing and a maximum of 38 feet is permitted

In addition, the Applicant will request such other variances, exceptions, interpretations, and design waivers as may be determined to be necessary by the Planning/Zoning Board, and/or its professionals, in order to develop this property as stated above and will amend its application on the record accordingly.

WHEREAS, the application pertains to premises known and designated as Block 27, Lot 7.01 on the Tax Map of the Borough of Sea Bright, which premises are located at 6 Willow Way, Sea Bright, NJ 07760; and

WHEREAS, all notice requirements were satisfied by the applicant and the Board has jurisdiction to hear, consider and determine the application at issue; and

WHEREAS the Board held a public hearing with regard to the referenced application on the following date, **JANUARY 25, 2022:**

WHEREAS, the following items were entered as Exhibits at the hearing which includes but is not limited to; any and all documentation as submitted and appearing on the Sea Bright website (seabrightnj.org) for presentation at the Public Meeting conducted in person, with public notice:

The following exhibits had been made available for view on the Borough website:

- Zoning Permit Denial No. 2021-085, dated 10/22/21
- Application, received 11/22/21
- Survey prepared by Seneca Survey Co., dated 1/29/18
- Architectural Plans prepared by Anthony M. Condouris, Architect, dated 10/5/21, consisting of three (3) sheets
- Two (2) Photos of property as it currently exists, undated
- Jurisdictional Packet, received 1/21/22

Exhibits introduced at the meeting:

- A-1 a height diagram comparison – October 5, 2021
- A-2 a colorized rendering – aerial view with front yard setback
- A-3 a colorized rendering – northwest side
- A-4 a colorized rendering – northeast side

WHEREAS The Board listened to the Testimony of the following:

1. ARCHITECT ANTHONY CONDOURIS

WHEREAS The Board took Questions from the following member of the Public as to the witnesses presented:

NONE.

WHEREAS, The Board took Public Commentary on the Application upon conclusion of the witness testimony as follows:

1. PAUL HALL

WHEREAS, the Board, having given due consideration to the Exhibits moved into evidence and the Testimony presented at said hearing(s), does make the following findings of fact:

1. The applicants wish to demolish the existing single-family home and construct a new single-family home. Approval for three variances is requested: for front yard setback where 25' is required and 16.9' is proposed, for building height where 2.5 stories are allowed and 3 stories are proposed, and for building height where 38' is allowed and 39' is proposed. Other setbacks will be brought into conformity, so despite the 3 variances the property is actually being brought into more conformity than presently exists.
2. The proposed setback for the property is set at 16', but the existing condition is currently 12'. Therefore, this setback will be a bit further back than the neighboring properties.
3. Vice Chair DeSio pointed out that the front yard setback variance will be decreased even further because the correct existing setback is 10.9'
4. Mr. Condouris advised, and the Board accepted, that the new house setbacks will comply on the back and sides of the house. The applicants are asking for 39' height, which is 1' more than allowed under the ordinance, driven by roof line design. Mr. Condouris provided an illustration with a comparably designed ordinance-compliant house with a different roofline, which is actually over 10' taller in height than the proposed design, based upon the height calculation in the current ordinance. The proposed design does not have a sloped roof and has full walls as it is a low-pitched roof for low impact design.

5. Mr. Brodsky discussed the number of stories proposed, which is driven by the design and design calculations under the ordinance. The applicants are asking for three stories, the third being a partial story which can be only one third of the second story in square feet.
6. Mr. Condouris stated that the final lot surface will be grass plus a driveway.
7. Engineer Hoder pointed out that the plot plan, required later, will show grading, and water and sewer lines. **Applicant agrees to fully repair any damage to sidewalk as a condition of approval. Applicant must also comply with comments in the Board Engineer's letter for notes on plan, etc.. There will be a review and a plot plan to be submitted for approval as well as any drainage calculations/reports to be complied with. Applicant must also show mechanicals and must also show water and sewer lines/hookups on the plan. Either Avakian (Town Engineer) or Hoder (Board Engineer) shall review plot plan/drainage and approve same.**
8. All other spaces other than driveway will be grass/landscaping.
9. The Board discussed that the third floor provides the benefit of additional living space, and the additional foot with the current height calculation does not create any negative impact. The Board discusses that the home is not out of character with other homes in town for height.
10. The applicant, if necessary, must meet fire code on a 3 story home and will comply with construction code.
11. Vice Chair DeSio stated that the application is improving the setbacks and centering the house, and that this is a good application.
12. Chairman Cunningham stated that most of the third floor is open air and that there are a fair number of homes in this style in the neighborhood

WHEREAS, In order to prevail on an application for a variance, the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D – 70, requires the applicant to establish that the variance can be granted without substantial detriment to the public good and that the granting of the variance does not substantially impair the intent and purpose of the master plan, zone plan and zoning ordinance.

NOW THEREFORE, BE IT RESOLVED, by the Unified Planning/Zoning Board of the Borough of Sea Bright that it hereby adopts the aforesaid findings of fact and specifically makes the following conclusions:

- d. Based upon the aforesaid findings of fact, the Board concludes that:
 - i. The applicant has demonstrated that the proposed use of the property in question is substantially the same kind of use as that to which the premises were devoted at the time of the passage of the zoning ordinance.
- e. Based upon the aforesaid findings of fact, the Board further concludes that the granting of the approval set forth herein will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance and the zoning plan of the Borough of Sea Bright.
- f. **The Board specifically includes herein by reference, the Transcripts from the hearings, which provide the detailed basis and description of the decision as memorialized in this Resolution and do hereby rely upon same for further reference, as necessary.**

BE IT FURTHER RESOLVED, by the Unified Planning/Zoning Board of the Borough of Sea Bright that the following be and are hereby **GRANTED**, as follows:

Applicant is GRANTED bulk variance relief pursuant to NJSA 40:55D-70.c and applicant is granted variances to construct the single family home per the plans submitted with this application, as follows:

1. "c" variance: 130-39.C – Front yard setback of 16.9 feet proposed, where 20.5 feet is existing and 25 feet is required
2. "c" variance: 130-39.C – Building height of 3 stories proposed, where 1 story is existing and a maximum of 2.5 stories is permitted
3. "c" variance: 130-39.C – Building height of 39 feet proposed, where ±19 feet is existing and a maximum of 38 feet is permitted

As a condition of approval, Applicant agrees to fully repair any damage to sidewalk post construction, if required, to the Borough's specifications. Applicant must also comply with comments in the Board Engineer's letter for notes on the plans. There will be a review and a plot plan submitted for approval and any and all drainage calculations/reports shall be complied with. Applicant must also show mechanicals and must also show water and sewer lines/hookups on the plan to be provided. Either Avakian (Town Engineer) or Hoder (Board Engineer) shall review plot plan/drainage and approve same, prior to construction permits being issued.

ALL APPROVALS GRANTED HEREIN ARE SUBJECT TO THE FOLLOWING CONDITIONS:

- (2) The applicant shall comply with any requirements established by, and obtain any necessary approvals of the following, IF APPLICABLE, to the proposed construction herein:
 - a. SUBJECT TO ALL REPRESENTATIONS AND TESTIMONY OF THE APPLICANT BEING TRUTHFUL AND ACCURATE

APPLICATION VOTE:

Adopted on a roll call on a motion by Board Vice Chair DeSio and Seconded by Board Member Councilman Bieber

THOSE IN FAVOR: Bieber, Cashmore, Cunningham, DeSio, Gorman, Lawrence, DeGiulio

THOSE OPPOSED: None

RECUSED: None

ABSENT: Bills, Kelly, Leckstein, Schwartz

ABSTAINED: None

MEMORIALIZATION VOTE:

Adopted on a roll call on a motion offered by Board Vice Chair DeSio and Seconded by Board member Councilman Bieber

THOSE IN FAVOR: Bieber, Cashmore, Cunningham, DeSio, Gorman, Lawrence

THOSE OPPOSED: None

RECUSED: None

ABSENT: DeGiulio

ABSTAINED: None

I certify the foregoing to be a true copy of the Resolution memorialized by the Unified Planning/Zoning Board of Sea Bright at its meeting on February 8, 2022.

Date: February 8, 2022

Candace B. Mitchell

Candace B. Mitchell

Administrative Officer of the Planning Board
of the Borough of Sea Bright

New Application No. 2022-03

RPR Holdings, LLC

11 Imbrie Place, Bl. 3, Lot 6.04 (formerly Lot 6.02)

Bulk variance approval for building height

Present for the application were attorney for the applicant, Rick Brodsky, and architect Michael J. Millemann.

Board attorney Monica C. Kowalski, Esq. stated that noticing for the application has been reviewed and is acceptable, and the Board has accepted jurisdiction in this matter.

The following exhibits had been made available for view on the Borough website:

- Application, received 12/16/21
- Zoning Permit Denial, dated 11/12/21
- Plot Plan prepared by Abbington Engineering, LLC, latest revision date 10/27/21, consisting of two (2) sheets
- Architectural Plans prepared by Tokarski + Millemann Architects, LLC, and dated 10/8/21, consisting of six (6) sheets
- Jurisdictional Packet received 2/4/22

Mr. Brodsky offered a brief recent history of the property which had come to the Board for a shift in the lot line after a subdivision had been approved, and the shift in the lot line was also approved. Mr. Brodsky stated the owner would like to have an elevator in this two-story house. He explained that an elevator shaft and stairs necessitate a height variance. 38' is permitted and 41.75' is requested.

Vice Chairman Dave DeSio offered clarification about the floor which accommodates the elevator shaft. It is uninhabitable space, and he questioned the need for a variance.

Architect Michael Millemann was sworn in, offered his credentials, and was accepted by the Board as an expert witness.

Mr. Millemann introduced the following exhibits for this evening's meeting:

- From the Architectural Plans prepared by Tokarski + Millemann Architects, LLC, and dated 10/8/21
 - A-1 Sheet 1 – ground and first floor
 - A-2 Sheet 2 - second floor bedrooms, bathrooms, and stairs continuing up to the roof
 - A-3 Sheet 3 - the roof plan which includes an extension of the main stairs and the elevator shaft. The roof will also have associated storage for the elevator equipment.

Mr. Millemann explained that the building height was determined based upon the Base Flood Elevation of 11' plus a 3' safety factor in this location, which is a high velocity wave zone. The section on the roof with the elevator shaft and stairs added an additional 9'.

Board planner, Jennifer Beahm, explained the Borough Code regarding building height: Section 130-39 (a)(2.) After discussion among the architect, attorneys, Board planner, and Board members, the planner noted that no variance is necessary, because the space is not habitable, and the only purpose of the extra space is to house the elevator shaft and top of the stairwell.

Board attorney Monica C. Kowalski asked for the record to show that the lot split which created 9 and 11 Imbrie Place had been previously approved by the Board.

A member of the public and nearby neighbor, Janet O'Connell, offered her concerns about the height of the structure, and the Board attorney answered that the home will be in compliance with the Borough code. The matter did not need to come to the Board for approval because no height variance is actually required. An interpretation of the ordinance was made by the Board, and it was determined that the height of the structure did not require a variance after all.

Board member Marc Leckstein suggested the Board use its interpretation powers and make a ruling, and the Board attorney agreed.

Mr. Leckstein offered a motion to approve the application based upon the Board's interpretation of Ord. 130-39 (a)(2,) determining no height variance is necessary. A second was offered by Board Vice Chairman DeSio.

The motion carried upon the following roll call vote:

Ayes: Bieber, Cashmore, Cunningham, DeSio, Gorman, Lawrence, Leckstein

Nays: none

Application No. 2021-08

Ivan Wanat Martin

3 Badminton Court, Bl. 16, L. 14

Use variance approval for commercial building in a residential zone

Heard 8/10/21 and carried with no further notice

Councilman Bieber stepped down because members of Council may not participate in applications requesting a "D" use variance. Board member Stephen Cashmore stepped down because he owns property within 200' of the subject property.

Board members Marc A. Leckstein and Frank Lawrence, who had not participated in the first hearing on August 10, 2021, are eligible to participate and vote in this evening's hearing because each has certified, and Board attorney Monica C. Kowalski has signed and subscribed, that each has examined the record by listening to the entire recording of the August 10, 2021 hearing on this application and are, therefore, eligible to vote on this evening's matter.

Present for the application were attorney Henry F. Wolff III, engineer Andrew R. Stockton, and applicant Ivan Wanat Martin.

The following exhibits had been made available for view on the Borough website.

For the 8/10/21 meeting:

- Zoning Denial No. 2020-05, dated 1/29/20
- Application, received 6/11/21
- Survey of Property prepared by Charles Surmonte, PE & PLS, dated 9/24/18, 1 sheet
- 1 Photo, taken by Mr. Martin
- 1st Board Planner Review prepared by Christine A. Nazzaro-Cofone, AICP, PP, dated 7/9/21, 4 pages
- 1st Engineering Tech. review, prepared by Dave Hoder, dated 1/20/21
- Jurisdictional Packet, received 8/6/21

For the 2/8/22 meeting:

- Minor Site Plan, prepared by Andrew R. Stockton, PE, LS, dated 11/11/21, consisting of 1 sheet
- Email from Fire Marshal Tom Haege, listing comments, dated 12/7/21,
- 2nd Board Planner Review, dated 12/9/21
- 2nd Engineering Tech. review, dated 12/10/21

Henry Wolff reintroduced the application and reviewed what Mr. Martin would like to do. Mr. Ivan Martin was sworn in to testify.

An additional exhibit was entered:

- A-1 Photo taken by Mr. Martin

Mr. Martin described improvements to the property that have taken place since the first hearing. The space heaters are now inside the building and are no longer visible from outside. Propane tanks are properly stored outside. Wires, trash, and debris were removed. He is removing the wooden fence and replacing it with a chain link fence. Mr. Martin has worked with Angelica's Restaurant to improve the area.

Chairman Cunningham asked for clarification about the alleyways that are used to travel between the building and the restaurant. He said that you can't get through the northern end of the alleyway. Mr. Martin said that it has not been a problem to move through. Ms. Gorman stated that the alleyway by the Thai restaurant is being used, and Mr. Cunningham stated that is someone else's property. Vice Chairman DeSio asked if this is a designated easement or is it for use by the public? Chairman Cunningham noted that the Board can't approve the use of someone else's property.

Board planner Jennifer Beahm pointed out that none of the application materials show permission or have documentation to use any of the alleyways.

Attorney Monica Kowalski stated that it would be nice to see an easement in writing for use of the alley running along the length of the squash club.

Board member Heather Gorman asked who maintains that alley now.

Chairman Cunningham stated that it's like the ghetto of Sea Bright.

Jennifer Beahm stated the critical importance of determining ownership and rights to use the alley.

Mr. Martin responded that, right now, the shed will be a temporary use and that, eventually, he wants to tear the shed down and expand the squash club. This had been a residential home destroyed by Sandy.

Mr. Martin stated that the items listed on the code enforcement officer's checklist have been accomplished. Ms. Beahm stated that a letter from the code enforcement officer would be needed, stating that his questions have been answered. His input thus far has simply been a memo from 12/7/21, mostly asking questions but not approving.

There were no comments nor questions from the public for Mr. Martin.

Andrew R. Stockton, the applicant's engineer, was sworn in to testify, stated his credentials, and was accepted as an expert witness. He stated that he has prepared minor site plan drawings. The survey is a compilation of the subject property and neighboring properties.

Badminton Court is a 15' right-of-way. It is a stone surface parking area.

Vice Chairman DeSio stated that the building is encroaching on private property.

Mr. Stockton answered that it has always been that way. It is an existing condition.

Mr. Stockton was questioned about access, and he described the traffic flow around the squash club. It is an existing alley. When questioned about easement rights, Mr. Stockton answered that the buildings have been there for a very long time, around a hundred years. He said that if they have to change the access, it could be done. There could be easement rights without a formal document.

Ms. Beahm stated that if you must use private property, it needs to be part of the application. Mr. Stockton stated that he hasn't done the research and that there may not have been written easements.

Ms. Kowalski suggested Mr. Stockton could do a Title search. He still has to prove the ability to use the property.

Board member Marc Leckstein offered his opinion that there is no point in doing a Title search, and he doesn't want to waste the applicant's time and money. He also stated that he is having a hard time understanding how the lot is appropriate for this use.

Chairman Cunningham pointed out that during the first hearing the Board had requested being informed about how to access the building and who owns the property.

Vice Chairman DeSio stated that the ordinance says you need to have a 15' buffer zone when converting from a residential to a commercial use.

Mr. Stockton stated "special reasons" for converting to commercial use, including the

physical location of the building lending to this use, its proximity to the squash club, and its easy access to the buildings fronting on Ocean Avenue. It does not generate any traffic or interfere with the day-to-day use of Badminton Court, it meets strategic goals without detriment to the public good, it supports the needs of Angelica's Restaurant, and the 2020 recovery plan supports bringing customers to the area.

Mr. Stockton mentioned that the residential condos next door have a storage building.

He stated that the storage building as a residential use is out of character in its location. Everything surrounding is gravel. Nothing surrounding is residential.

Mr. DeSio said that we have to look to the future. The property is zoned residential. Mr. Leckstein commented that we can't just look at what is there today to make a decision. He agreed with Mr. DeSio that we have to look ahead.

Mr. Stockton said that if the building was to be torn down and rebuilt, a single-family home would look ridiculous in this location. It would be out of character. The highest and best use of the building currently is as a storage building, and it helps Angelica's Restaurant.

Ms. Beahm didn't agree this use would be the best use of the property. She didn't agree with the special reasons Mr. Stockton offered and said she has concerns with this storage building being located in a residential zone. Approving the commercial use could have more of a negative impact on the area, and it does not provide a public benefit. Asking for a D-1 variance for this property is "a stretch."

Mr. Stockton reiterated that the Master Plan has a goal to support the businesses.

Mr. Leckstein stated that the plan is to keep this area a residential use.

Mr. Stockton stated the Master Plan does have a goal to promote and support the restaurants. That supports the public good.

Mr. Wolff said they have done their best. He said that the property is not suitable for anything but storage. He agrees there are problems with access, but they had wanted to improve the property a little bit.

Mr. DeSio stated that building was a victim of Sandy, and he would like to see it restored and continue as a residential use.

Mr. Cunningham stated that he has some serious concerns.

Mr. Martin discussed the improvements he has made to the squash club and has made it beneficial to the community.

Mr. Leckstein stated that Mr. Martin is a credit to the community but that he can't support the application. He feels the appropriate use for this property is residential.

There were no members of the public who had a statement or question.

Board member Marc A. Leckstein offered a motion to deny approval for the application, with a second offered by Board Vice Chairman DeSio. The motion to deny approval was carried upon the following roll call vote:

Ayes: DeSio, Gorman, Lawrence, Leckstein
Nays: Cunningham

ADDITIONAL ITEM OF BUSINESS

A matter for discussion was brought to the Board by Councilman Bieber. After recently reviewing the budget and being made aware of the Borough's photocopying costs, he would like to explore the Board's interest in potentially going paperless where it makes sense to do so. He suggested there might be elements of the packets, such as the meeting minutes and the agenda, that could be reviewed electronically.

Mr. Leckstein offered that in towns that have gone paperless where he serves as Board attorney, it doesn't work well. It could be problematic if Board members are voting on something they don't have in their hands.

Ms. Kowalski offered a similar comment regarding towns she works for that have gone paperless. If a packet isn't received complete, you can run into problems. There could be more reason for appeals of Board decisions. She also stated that not all Board members are tech. savvy. Ms. Kowalski and Mr. Leckstein said they are finding paperless to be more difficult for the functioning of the Board.

Ms. Beahm said that she has had Board members complain that they have to print things out themselves.

Mr. Cunningham asked whether everyone on the Board would have to be supplied with a laptop to access materials at the meeting. Would the public need to be supplied with a laptop? He suggested they all think about it and bring suggestions to the next meeting.

Councilman Bieber thought that was a good suggestion and hopes the Board members will think about it.

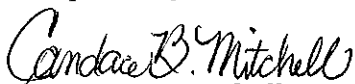
There were no general public comments.

There being no other business before the Board, the Chairman made an announcement of the next meeting date, which is February 22, 2022.

Adjournment

The meeting was adjourned at 9:10 p.m. on a motion offered by Mr. Leckstein, seconded by Mr. DeSio, and carried upon a unanimous voice vote by the Board members.

Respectfully submitted,



Candace B. Mitchell, Board Secretary