

**APPROVED MINUTES
REGULAR MEETING OF THE SEA BRIGHT UNIFIED PLANNING/ZONING BOARD
Tuesday, June 14, 2022**

Call to Order and Flag Salute

Chairman Cunningham called the meeting to order at 7:31 p.m. and requested those present 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, provided adequate notice of the time, date, and location of this 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, Bills, Cashmore, Cunningham, DeSio, Gorman, Leckstein, DeGiulio, Lawrence (joined the meeting at 7:38,)

Not Present: Kelly, Schwartz

Also in attendance: Board Attorney Monica C. Kowalski, Esq., Board Engineer David J. Hoder, Board Planner Christine Bell, and Board Secretary Candace B. Mitchell

ITEMS OF BUSINESS

Approval of 5/24/22 Regular Meeting Minutes

Board member Marc A. Leckstein, Esq. offered a motion to approve the minutes, with a second offered by Board Member Elizabeth DeGiulio. The motion was carried upon a unanimous voice vote of eligible members:

Memorialization of Resolution

APPLICANT: BEACHFRONT JOE, LLC

APPLICATION NUMBER: 2021-10

BLOCK: 15, LOT: 2

ADDRESS: 1084 OCEAN AVENUE

RESOLUTION NUMBER: 2021-10

**RESOLUTION OF THE -UNIFIED BOARD
OF THE BOROUGH OF SEA BRIGHT
FOR PRELIMINARY AND FINAL SITE PLAN APPROVAL
WITH BULK VARIANCES – NEW CONSTRUCTION**

WHEREAS, COUNCILMAN ERWIN BIEBER, offered the following Resolution moved and seconded by BOARD MEMBER STEPHEN CASHMORE:

WHEREAS, BEACHFRONT JOE, LLC, hereinafter referred to as the “applicant” by and through their attorneys, **RICK BRODSKY, ESQ.** and subsequently, **PAUL FERNICOLA, ESQ.**, filed an application with the Unified Board of the Borough of Sea Bright, (hereinafter referred to as the “Board”) seeking the following relief:

Applicant has filed an application for preliminary and final site plan and bulk variances to permit the construction of a two-story structure with a sandwich shop. The applicant seeks the following variances:

- (i) **§130.50.C – Minimum lot area of 1,076 square feet existing, where 3,000 square feet is required (existing condition).**
- (ii) **§130—50.C – Minimum lot width of 15 feet existing where 50 feet is required (existing condition).**
- (iii) **§130-50.C – Minimum rear yard setback of 0 feet existing and proposed where 15 feet is required.**
- (iv) **§130-50.C – Building coverage of 100% existing and proposed, where 50% is the maximum permitted.**
- (v) **§130-50.C – Lot coverage of 100% existing and proposed where 75% is the maximum permitted; and**
- (vi) **§130-32 -4 Parking spaces required, where none are proposed.**

As well as any other variances or waivers applicable at the time of hearing.

WHEREAS, the application pertains to premises known and designated as Block 15, Lot 2 on the Tax Map of the Borough of Sea Bright, which premises are located at 1084 Ocean Avenue, Sea Bright, NJ 07760.

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, **October 12, 2021 (postponed), March 8, 2022 and May 24, 2022;** and

WHEREAS, the following items were entered as Exhibits at the hearing:

- **PB No. 2021-10 Second Board Planner Review, 5-20-22 (pdf)**
- **PB No. 2021-10 Updated Plans for 5-24-22 meeting (pdf)**
- **PB No. 2021-10 Beachfront Joe Easement Letter for 5-24-22 (pdf)**
- **PB No. 2021-10 Attachments regarding Easement for 5-24-22 meeting (pdf)**
- **PB No. 2021-10 Noticing for 3-8-22 1084 Ocean Ave., Beachfront Joe, LLC (pdf)**
- **PB No. 2021-10 Revised Architectural Plans dated 3-8-22 (pdf)**
- **PB No. 2021-10 Third Tech. Review, 3-3-22 (pdf)**
- **PB No. 2021-10 Board Planner Review, 3-2-22 (pdf)**
- **PB No. 2021-10 Second Tech. Review, 10-2-21 (pdf)**
- **PB No. 2021-10 Architectural Plans (revised) dated 7.12.21 (pdf)**
- **PB No. 2021-10 First Tech. Review, 6-8-21 (pdf)**
- **PB No. 2021-10 Cover Letter to Board with Application 5.5.21 (pdf)**
- **PB No. 2020-10 Completed and Signed Application, List of Variances, Draft Notice of Hearing, 5-5-21 (pdf)**
- **PB No. 2021-10 Architectural Plans dated 3.22.21 (pdf)**
- **PB No. 2021-10 Denial Letter 3.10.21 (pdf)**
- **PB No. 2021-10 Letter to Bd Sec'y re revised architecturals 2.16.22 (2) (pdf)**
- **PB No. 2021-10 Drawing 2, 12-11-17 Layout1 (pdf)**
- **PB No. 2021-10 Drawing 01 12-11-17 Layout1 (pdf)**

The following exhibits had been made available for view on the Borough website for the 10/12/21 hearing, which was postponed:

- Application, received 5/5/21
- Architectural Plans titled “Additions & Renovations to Existing Commercial Restaurant, 1084 Ocean Ave., Sea Bright, Monmouth County, NJ,” prepared by Allende Matos, AIA, LEED AP, 4 sheets, dated 3/22/21
- Revised Architectural Plans titled “Additions & Renovations to Existing Commercial Restaurant, 1084 Ocean Ave., Sea Bright, Monmouth County, NJ,” prepared by Allende Matos,

AIA, LEED AP, 4 sheets, dated 7/12/21

- Site Plan titled "1084 Ocean Avenue, Site Plan, Block 15, Lot 2, Borough of Sea Bright, Monmouth County, NJ, prepared by Marc S. Leber, PE, PP, 2 sheets, dated 12/11/17
- First Technical Review (Fees,) prepared by Board Engineer David J. Hoder, 1 page, dated 5/19/21
- 1st Technical Review, prepared by Board Engineer David J. Hoder, 4 pages, dated 6/8/21
- 2nd Technical Review, prepared by Board Engineer David J. Hoder, 4 pages, dated

The following exhibits had been made available for view on the Borough website for the 3/8/22 hearing:

- Proposed Addition & Existing Alteration to Existing Commercial Structure, prepared by Allende Matos, AIA, LEED AP, AM Architect's Studio, LLC, 4 sheets dated 3/8/22
- 3rd Technical Review, prepared by Board Engineer David J. Hoder, dated 3/2/22, 4 pgs.
- Technical Review, prepared by Board Planner Jennifer C. Beahm, dated 3/3/22, 4 pgs.

The following exhibits had been made available for view on the Borough website for the 5/24/22 hearing:

- Revised Plans prepared by Allende Matos, AIA, LEED AP, AM Architect's Studio, LLC, 4 sheets dated 3/8/22, revised to 5/24/22
- Beachfront Joe Easement Letter and exhibits, from Hugh A. McGuire III, Esq., 5/2/22 Attachments regarding Easement:
 - Exhibit A - Marked-up copy of the official tax map
 - Exhibit B - Survey obtained by Beachfront Joe, LLC at the time of purchase
 - Exhibit C - Fowlers' Deed, dated October 25, 1961 and recorded January 25, 1962
 - Exhibit D - Nero's Deed, dated October 31, 1962 and recorded November 1, 1962
 - Exhibit E - includes the Deed to Beachfront Joe, LLC
- Revised 2nd Technical Review, prepared by Board Planner, Jennifer C. Beahm, dated 5/20/22, 4 pgs.

WHEREAS, The Board listened to the Testimony of the following:

1. **John Anderson, Esq., representing Marianne and Kristin, LLC (1092 Ocean Avenue – Hardware Store Property)**
2. **Allende Matos, Architect**
3. **Hugh McGuire, Esq**
4. **Marc Lieber, Eastpoint Engineering PE/PP**
5. **Mr. Joseph Fontana, Applicant**

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

1. **NONE.**

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

1. **NONE.**

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:

MARCH 8, 2022 MEETING: RICK BRODSKY, ESQ. ON BEHALF OF APPLICANT.

1. The building had housed a dry-cleaning business before Super Storm Sandy. The applicant previously had an ambitious plan for the building and was planning for a cafe on the first floor with an apartment upstairs.
2. There were various iterations of the plan, and, with lengthy redevelopment plan discussions and the project was put on hold for a while.
3. The current plan is to have a take-out sandwich shop on the first floor and storage and office space upstairs. This would be a low intensity use and would be operated by Applicant, Mr. Fontana.
4. Chairman Cunningham asked whether there is an easement/ right-of-way in the back. The answer is that, yes, there is. (See information from Exhibits and Testimony from subsequent hearings).
5. Mr. Brodsky stated that the building coverage is 100% of the lot, which is 1,076 sf.
6. Board Planner, Jennifer Beahm, stated she indicates 5 parking spaces are needed.
7. The current building is slated for demolition and the existing building will be removed to make way for proposed new construction.
8. Board Members noted there is a huge parking problem in this town. Board Engineer Hoder stated that if you take the restaurant out, there isn't a parking requirement and the applicant's professionals should discuss what the flow is going to be.
9. Allende Matos, Architect, gave his credentials and was accepted by the Board as an Expert Witness. Exhibit A-1, a revised architectural plan, composed of 4 pages was referenced. Mr. Allende stated that the existing building will be demolished. The new building will be raised above the BFE (base flood elevation).
10. *Board Member Leckstein asked whether the applicant will accept as a condition of approval that the existing building will be demolished within 60 days of approval. The applicant agreed.*
11. Vice Chairman DeSio stated that the title page of the plans will need to be revised as there are many inaccuracies. Jennifer Beahm, Board Planner, concurred and stated that a revision date, not just a new date, has to be put on the title page every time the plan is changed.
12. Board Engineer David Hoder stated that the Tax Map shows an easement going down River Street and questions were asked as to who owns the easement. There is no recorded easement on the Tax Map. Attorney for Marianne and Kristin, LLC, John Anderson, Esq., spoke about the easement, but no documents were produced as to the actual easement in question.
13. Chairman Cunningham stated that this Board is going to need to know about the easement before it can make a decision.
14. Board member Heather Gorman asked whether deliveries will be made through the front entrance and that deliveries should be restricted to the rear if an easement is available.
15. Applicant attorney Rick Brodsky, Esq. advised that there is no parking in an easement, so the easement would not alleviate the parking issue.
16. Board Members indicated that someone needs to do a serious Title search as to the Easement and parking in easement, if applicable. If the Board is being asked to vote on a parking variance, the Board needs an answer to the ownership question.
17. Planner Beahm asked whether there is a survey of the property. Mr. Hoder stated that the plans reference a survey. The applicant should submit the survey to the Board. Ms. Beahm said the Board needs the applicant's engineer to provide testimony and analysis comparing to other towns. She also stated there is no differentiation in our ordinance between a sit-down restaurant and a take-out establishment.
18. Board Vice Chair DeSio stated there will only be foot traffic if it is a sandwich shop.

MAY 24 MEETING: PAUL FERNICOLA, ESQ. ON BEHALF OF APPLICANT:

19. John Anderson, Esq. Withdraws objection for condition of approval as long as the applicant adheres to following conditions of agreement between parties;
 - Plans must depict with no party walls with zero lot line
 - Relocate roof leader to NW side of new building
 - Doors swung out will be inswing doors into easement area
 - North facing second floor windows.
 - Applicant at their cost can seal the Ocean Avenue nearest window
 - Rear window on second floor is a 1 BR apt. so window is required.

- Applicant will notch out the building creating 44' of space and install a covered outdoor stairwell to use with perpetual easement. Stairwell will be secured against unlawful intruders as shown on new plans, perpetual new access easement. Cross easement to allow for pedestrian foot traffic.
 - Adequate proof of insurance from applicant.
 - Applicant indicates these are conditions of cooperation to obtain relief.
- 20. The Board discusses that parking remains an issue. The easement cannot be for parking. This is a self-created hardship. Two stories, parking requirement, take out restaurant with balcony with no amelioration of parking issue. Building is being expanded and there is no property/parking. No room for his employees or Applicant to park.
- 21. Vice Chair DeSio indicates that 80% of businesses do not have parking, despite the fact that this is new construction.
- 22. Board Planner Jennifer C. Beahm added that the Board doesn't need to perpetuate a bad situation. Regardless of what happened in the past, the Board can decide not to perpetuate the variance relief for parking.
- 23. Hugh McGuire, Esq. testifies as to title on behalf of the Applicant with regard to size of easement. 10/31/1962. Deed from owner (predecessor) and area behind lot, 15' wide to 10' strip to corner point of Lot 1 to River St. Easement serves Lot 2. There is a limitation on deeded easement for ingress/egress and unloading. It is explicit that no parking be allowed.
- 24. Planner Beahm notes that this requires deliveries in rear of property.
- 25. The Board notes that Lot 1 is the underlying owner (Baines Hardware/Objector) of the easement.
- 26. Mr. Matos: Architect; Testifies as to the revised plan: T-001 A100-102 REVISED PLAN IN PACKAGE: Analysis of parking...take out sandwich shop (used restaurant use because there is no other comparable use) 6 spaces with office and restaurant. Take out restaurant. All seating in shop shall be removed from the plans and it will be strictly takeout. This is to feed beachgoers and people walking by.
- 27. Handicapped ramp on front to operate properly as well. HC bathroom and stairs to 2nd floor. This is not by any mean a big space. Need dry storage as well on second floor because there is no basement.
- 28. This building is 939 square feet on each floor. This is not considered a large space.
- 29. John Anderson, Esq. requests that stairwell as agreed be included as condition of approval and allow for a redesign of stairwells if necessary for security with lockbox and pushout in case of emergency. Canopy/cover is integral to stairs but flexibility there. John Anderson stated that the applicant is willing to design a stairwell in such a way to have a door into Beachfront Joe's. Bain's apartment could piggyback and have an apartment fire escape. He confirmed the details of the plan with the architect.
- 30. Applicant will also install a splash block on corner with support from objector (Anderson) so that no erosion to foundations occurs.
- 31. Marc Leber, Eastpoint Engineering PE/PP testifies that Applicant was willing to discuss parking...options on table but things like stack parking, will cause the loss of street spots. Parking does not make sense for this lot size. Nothing on Sea Bright list of uses would generate a zero parking demand. Further, the people who are using this building are already in town. It is the owner's office and the client is a walk in/walk out clientele. The Engineer testifies that to reject the use based on parking seems arbitrary...every use requires parking and this lot cannot accommodate parking.
- 32. ***Board Engineer advises that the Resolution should restrict use of office upstairs to restaurant owner only so that is cannot be a rental location and the Board agrees. The Applicant concurs.***
- 33. C(2) variance: This proposal is consistent with the Master plan; vision statement values and aspirations. Goals/objectives as stated in 2017. Attractive vibrant business district eat/drink and enjoy. This is a walkable district. Applicant testifies (and the majority of the Board agrees) that this proposed use supports these goals. Applicant has settled issues with neighbor and the property will be raised to comply with state requirements for flood hazard. The negative is that there is no additional parking on site. Applicant has reviewed aerial photography and other buildings do not have parking lot area requirements, but those buildings are not new construction sites. Applicant's Planner/Engineer testifies that there is no substantial negative impact because this is a permitted use on a lot with severe limitations being only 15' wide. Applicant advises this is an appropriate use, with concentration on the health, safety, and welfare of the public with

- consideration for safety for fire/flood/coastal zone flooding and still manages to provide adequate light air and open space in this central business district.
34. Mr. Joseph Fontana: Applicant, referring to A-1 Architectural Rendering. Depicted 2 story storefront. Mr. Fontana is retired and wants to open a sandwich shop. The upstairs office is for personal use not for rental. It will have interior access only. The façade will remain as it is in artist's rendering.
 35. Applicant agrees to demolish building within 60 days of approval, based upon approval.
 36. Potential to have the door on stairway for access to staircase from the alley from interior of shop opened. The wall of the building shall be at the property line.
 37. Applicant confirms this unsafe structure will be removed and new construction will enhance the area.
 38. Board Members advise that they appreciate zero lot construction considerations and the lot for this is a walkup establishment has constraints but will be a great location.
 39. Members express this will be a beautiful building and the application does an excellent job with the lot size and what will be situated there and would not want to see the property continue as vacant.
 40. ***The Board advises that as a condition of approval, it should be noted that the use is considered as a TAKE OUT RESTAURANT (which the Board differentiates from a sit down restaurant) and any change of use may bring this matter before the Board again to discuss another installed use where the parking variance granted for this take out restaurant would have to be revisited and given further consideration based on any potential new uses. This parking variance shall only be granted with the "take out restaurant" use.***

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 Board of Adjustment 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 Board of Adjustment of the Borough of Sea Bright that the following be and are hereby **GRANTED**:

Applicant is **GRANTED** bulk variances and preliminary and final site plan to permit the construction of a two-story structure with a sandwich shop. The applicant is granted the following variances:

1. §130.50.C – Minimum lot area of 1,076 square feet existing, where 3,000 square feet is required (existing condition).
2. §130-50.C – Minimum lot width of 15 feet existing where 50 feet is required (existing condition).
3. §130-50.C – Minimum rear yard setback of 0 feet existing and proposed where 15 feet is required.
4. §130-50.C – Building coverage of 100% existing and proposed, where 50% is the maximum permitted.
5. §130-50.C – Lot coverage of 100% existing and proposed where 75% is the maximum permitted; and
6. §130-32 -4 Parking spaces required, where none are proposed.

VARIANCES ARE CONDITIONALLY GRANTED SUBJECT TO COMPLIANCE WITH THE FOLLOWING AMENDMENTS AS AGREED TO DURING THE PENDENCY OF THE APPLICATION:

1. ***Applicant will DEMOLISH the existing building within 60 days of Resolution Approval as set forth on the record.***
2. ***Applicant, in agreement with Objector, agrees:***
 - Plans must depict with no party walls with zero lot line
 - Relocate roof leader to NW side of new building
 - Doors swung out will be inswing doors into easement area
 - North facing second floor windows.
 - Applicant at their cost can seal the Ocean Avenue nearest window
 - Rear window on second floor is a 1 BR apt. so window is required.
 - Applicant will notch out the building creating 44" of space and install a covered outdoor stairwell to use with perpetual easement. Stairwell will be secured against unlawful intruders as shown on new plans, perpetual new access easement. Cross easement to allow for pedestrian foot traffic. The applicant is willing to design a stairwell in such a way to have a door into Beachfront Joe's. Bain's apartment could piggyback and have an apartment fire escape. There is to be flexibility in design to work with construction department.
 - Adequate proof of insurance from applicant.
 - Applicant indicates these are conditions of cooperation to obtain relief
3. ***This Resolution restricts the use of the second-floor office and storage area to the restaurant owner only so that it cannot be a rental location to a third party. The Applicant concurs.***
4. ***All deliveries shall be in rear of property via the access easement.***
5. ***Applicant shall remove all interior seating from the plans and this shall be a "take out" restaurant only.***
6. ***The Board advises that as a condition of approval, it should be noted that the use is considered as a TAKE OUT RESTAURANT (which the Board differentiates from a sit down restaurant) and any change of use may bring this matter before the Board again to discuss another installed use where the parking variance granted for this take out restaurant would have to be revisited and given further consideration based on any potential new uses. This parking variance shall only be granted with this "take out restaurant" use.***

ALL APPROVALS GRANTED HEREIN ARE FURTHER 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. All Plans must be approved by Board Engineer and Code and Construction Departments for the issuance of Permits;
 - b. MONMOUTH COUNTY PLANNING BOARD;
 - c. FIRE MARSHALL;
 - d. BOARD OF HEALTH;
 - e. SOIL CONSERVATION AND SEDIMENT CONTROL APPROVALS AND PERMITS;
 - f. AFFORDABLE HOUSING CONTRIBUTION (ORD. 04-22)
 - g. BOARD PLANNER
 - h. BOARD ENGINEER
 - i. POSTING OF PERFORMANCE GUARANTEES AND INSPECTION FEES;
 - j. FINAL SITE PLAN DRAWINGS INCORPORATING ALL CHANGES AND/OR AMENDMENTS MADE AT THE HEARING
 - k. FINAL DESIGN SUBJECT TO APPROVAL OF THE BOARDS'S PROFESSIONALS.
 - l. PAYMENT OF ANY AND ALL OUTSTANDING REVIEW FEES.
 - m. SUBJECT TO THE APPLICANT COMPLYING WITH ANY AND ALL FEDERAL, STATE, COUNTY AND LOCAL LAWS, RULES AND REGULATIONS AFFECTING AND PERTAINING TO THE DEVELOPMENT OR USE OF THE SITE IN QUESTION.

(2)

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 member Councilman Erwin Bieber and Seconded by Board member Stephen Cashmore:

THOSE IN FAVOR: Bieber, Cashmore, DeSio, Gorman

THOSE OPPOSED: Leckstein, DeGiulio

RECUSED: None

ABSENT: Bills, Cunningham, Kelly, Lawrence, Schwartz

ABSTAINED: None

MEMORIALIZATION VOTE:

Adopted on a roll call on a motion offered by Board member David DeSio and Seconded by Board member Heather Gorman:

THOSE IN FAVOR: Bieber, Cashmore, DeSio, Gorman

THOSE OPPOSED: None

RECUSED: None

ABSENT: None

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 June 14, 2022.

Date: June 14, 2022

Candace B. Mitchell

Candace B. Mitchell
Administrative Officer
Unified Planning/Zoning Board
Borough of Sea Bright

Carried Application No. 2022-09

Gareth and Dawn Middleton
22 Surf Street, Bl. 11, L.14

Board member Frank Lawrence joined the Board.

Chairman Cunningham stepped down from the Board citing a business conflict.

In attendance for the application were applicants Gareth and Dawn Middleton, Attorney Robert F. Schillberg, and Architect Brian Manthey.

The following exhibits had been made available for view on the Borough website for the 3/22/22 hearing:

- Zoning Denial No. 2022-007, dated 1/26/22
- Planning/Zoning Board Application, received 3/3/22
- Proposed plans prepared by Brian Manthey, Architect, dated 12/10/21, consisting of eight (8) pages
- Survey prepared by Charles Surmonte, PE and PLS, dated 6/21/17
- Photos (11)

The following exhibits had been made available for view on the Borough website for this evening's hearing:

- Updated Zoning Denial, No. 2022-046, dated 5/4/22
- Updated Plans prepared by Brian Manthey, Architect, dated 5/9/22
 - Sheet L-1 Zoning and Site Foundation and Roof Plans
 - Sheet A-101 Preliminary Plans
 - Sheet A-201 Exterior Elevations
- Technical Review prepared by David Hoder, dated 5/31/22, 3 pgs.

The Board Attorney stated that the application is essentially a new application with new noticing. The noticing is in order and the Board may take jurisdiction.

Applicant Attorney Schillberg introduced the application by reviewing the March 22nd hearing, stating that the applicant revisited the Zoning Officer with the purpose of revising his plans to address Board concerns. He received an updated zoning denial and had revised plans drawn that addressed the height variance, which is no longer needed.

Mr. Schillberg introduced the applicant Gareth Middleton. Mr. Middleton was sworn in. He briefly described the changes he had made to the original plans. The building is now a 2 ½ story building, and the percent of the half-story attic space was addressed, now complying with the requirement for a half-story.

Planner Christine Bell commented that the lot is undersized.

Councilman Bieber asked if this was Mr. Middleton's primary residence. Mr. Middleton answered that it will be and that the house was gutted in 2006.

There were no questions from members of the Public.

Architect Brian Manthey was sworn in to testify. He discussed the lot as non-conforming with pre-existing non-conformities in the rear yard and side yard setbacks. He noted there is no knee wall around the perimeter.

Engineer Dave Hoder had a question about whether the house is 2½ stories since the attic does not have knee walls less than 2' and cannot qualify as a half story. He requested testimony addressing his concerns.

Mr. Manthey entered Exhibit A-1: SK1 – site plan of the front elevation

Also entered:

Exhibit A-2: SK2 – an aerial view created by Mr. Middleton, who described the exhibit to the Board. Mr. Middleton commented that, in looking at surrounding properties being rebuilt, the River Properties redevelopment will have the tallest homes. He feels that his home will be consistent with what is going on in his neighborhood.

Exhibit A-3: pg. A-101- Floor Plans was entered. Mr. Manthey described the drawings floor-by-floor

Vice Chairman DeSio noted that the center section is considered a half story. It meets the percentage required to be a half story.

Ms. DeGiulio had questions about the side yard setbacks.

Board Planner Christine Bell asked the architect whether he had proposed moving the building away from the lot line. Since the house is being built new, the side yard setback could be improved.

Monica Kowalski stated there had been a discussion at the first hearing about the applicant using the existing foundation and asked if using the existing foundation was still part of the plan. Mr. Manthey answered that we don't know the condition of the existing foundation.

Dave DeSio stated that the building lies in line with the home next door. He questioned whether there would be access to the backyard for fire emergencies.

Frank Lawrence said the plans are maintaining a very small space on the side. The home could be slid over, improving the small side yard setback and also could maintain the proportionality with the house next door.

Mr. Middleton explained why he would not want to move the house over. He wants to maintain the size of the yard on the other side of the house. He also stated that the neighbors have no problem with the proximity.

Stephen Cashmore also discussed the property line.

Mr. Manthey talked about usable space vs. non-usable space regarding the half story.

The Planner pointed out that the applicant is building a new home. It could be moved over on the lot.

David DeSio stated that most houses in the downtown area are about 3' apart. The proposed side yard setback is 0.1'

Ms. Bell stated that the applicant is knocking down the present structure, which gives him an opportunity to improve the rear setbacks instead of maintaining the previous nonconformity of 12.6 'where 15' is required. Mr. Manthey stated that they are looking to maintain the 12' rear yard setback and that 12' is in excess of what neighboring properties have.

Frank Lawrence discussed the idea that, though the house is technically 2 ½ stories, it looks like 3 stories from every side, whether it is or not. He asked whether this is what we want the community to look like. The roof height is the same on all sides, and he doesn't see a difference in the new plan. He wants to consider what the mass looks like.

Mr. Manthey entered into evidence Exhibit A-4: a photographic rendering of roof lines with examples of mansard roofs. He stated that everywhere the roof heights are the same.

Dave DeSio stated that styles have changed. There is more of a boxy look today, whereas there used to be a push for a half story inside a gabled roof, which softened the look.

Ms. Kowalski stated that, technically speaking, it doesn't have the qualities of a 3-story home.

Councilman Bieber stated that he doesn't have a problem with the house looking like a 3-story home.

Dave Hoder would like a note included regarding item nos. 3, 4 and 5 in his review. Sidewalks shall be installed if required by the Planning Board when deemed necessary for safety. A note should be placed on the plan that the sidewalk should be replaced if damaged by the construction.

Stephen Cashmore would like to see a note about mechanicals not being placed in the setbacks.

Board member Elizabeth DeGiulio, who is a member of Sea Bright's Green Team, would like to see more landscaping and greenery in the downtown. Dave DeSio stated Council would have to address adding greenery to the downtown.

The meeting was opened to public comments.

Former Mayor, Dina Long, 20 New Street, was sworn in. She stated that the back of her house faces Surf Street. She also stated that the house being built is the applicant's home, not an investment property. She thinks the revised plans are commendable and hopes the Board will approve the application. Former Mayor Long also pointed out that in the redevelopment area, there will be houses close-by that will be 52' tall. They will be in a different zone and the height is allowed, but the eye doesn't differentiate between zones.

The public portion was closed.

Mark A. Leckstein offered a motion to approve the application, with a second offered by Councilman Bieber. The motion to approve carried upon the following roll call vote:

Ayes: Bieber, Bills, Cashmore, DeSio, Gorman, DeGiulio, Leckstein
Nays: Lawrence

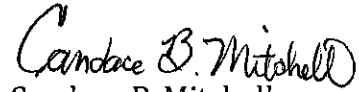
Public Comments

There being no general comments by members of the public and there being no other business before the Board, the Vice Chairman made an announcement of the next meeting date, which is July 12, 2022.

Adjournment

The meeting was adjourned at 8:37 p.m. on a motion offered by Ms. Gorman, seconded by Councilman Bieber, and carried upon a unanimous voice vote by the Board members.

Respectfully submitted,



Candace B. Mitchell
Board Secretary