

**APPROVED MINUTES  
REGULAR MEETING OF THE SEA BRIGHT PLANNING/ZONING BOARD  
TUESDAY, March 14, 2023**

**Call to Order and Flag Salute**

Chairman Cunningham called the meeting to order at 7:30 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 this meeting to the Asbury Park Press on January 26, 2023, 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: Bills, Cashmore, Cunningham, DeSio, Lawrence, Leckstein, Zelina

Absent: Bieber, DeGiulio, Kelly, Schwartz

Also in attendance: Interim Board Attorney, Kevin I. Asadi, Board Engineer David J. Hoder, Board Planner Christine Bell, and Board Secretary Candace B. Mitchell

**Approval of 2/28/22 Regular Meeting Minutes**

Board member Leckstein offered a motion to approve the minutes. Second was offered by Board member Bills, and the motion was adopted on the following roll call vote of eligible members:

Ayes: Bills, Cashmore, Cunningham, DeSio, Lawrence, Leckstein, Zelina

Nayes: none

**ITEMS OF BUSINESS**

**Memorialization of Resolution**

**RESOLUTION**

**SEA BRIGHT PLANNING – ZONING BOARD  
MICHAEL AND VICKI TATELMAN  
6 WILLOW WAY  
SEA BRIGHT, NJ  
BLOCK 27, LOT 7.01**

**VARIANCE APPLICATION**

**FILE NO.: 2022-01 AMENDED**

## **INTRODUCTION**

**WHEREAS**, Michael and Vicki Tatelman had previously made Application to the Sea Bright Planning Board (the “Board”) for the property designated as Block 27, Lot 7.01, located in the R-2 Zoning District for the demolition of an existing single-family residential dwelling and the construction of a new single-family residential dwelling, which included variance relief pursuant to N.J.S.A. 40:55D-70(c), to wit:

- 130-39.C – Front yard setback of 16.9 feet where 25 feet is required;
- 130-39.C – Building height of 3 stories where a maximum of 2.5 stories is permitted; and
- 130-39.C – Building height of 39 feet where a maximum of 38 feet is permitted.

**WHEREAS**, the Application was approved by Resolution of the Board 2022-01 dated February 8, 2022;

**WHEREAS**, the construction of the approved dwelling has commenced and was found to be mislocated, contrary to the approved plans;

**WHEREAS**, the Applicant has made this application for an amended approval which would allow the construction to continue as currently situated.

## **PUBLIC HEARINGS**

**WHEREAS**, the Board held a Public Hearing on February 28, 2023 at 3<sup>rd</sup> Floor, 1097 Ocean Avenue, Sea Bright, New Jersey, Applicants having filed proper Proof of Service and Publication in accordance with Statutory and Ordinance Requirements; and

**EVIDENCE / EXHIBITS**

**WHEREAS**, at the said Hearing, the Board reviewed, considered, and analyzed the following:

Application Submissions:

- *PB -1 Application package from Rick Brodsky, Esq, Dated January 10, 2023;*
- *PB -2 Resolution No.: 2022-01 dated February 8, 2022 approving the original Application;*
- *PB -3 Building Permit Plot Plan by Morgan Engineering & Surveying dated June 20, 2022, last revised on August 22, 2022; and*
- *PB -4 Architectural plans entitled "Tatelman Residence" prepared by Anthony Condouris Architect Inc., dated December 29, 2022 consisting of 2 sheets*

Hearing Exhibits:

- *O -1 Set of four photographs showing the property presented by Thomas Largey.*

**WITNESSES**

**WHEREAS**, sworn testimony in support of the Application was presented by the following:

- Matthew Wilder, Engineer; Planner;

**TESTIMONY AND EVIDENCE PRESENTED BY THE APPLICANTS'**

**REPRESENTATIVES**

**WHEREAS**, testimony and other evidence presented by the Applicants' and / or their representatives revealed the following:

- Existing conditions include the partially completed home which has been mislocated as compared to the approved architectural plans.
- Original plans provided for side yard setbacks of 18 feet on one side and 12 feet on the other side.
- After Board approvals, an engineer was engaged to prepare a plot plan for the purpose of obtaining building permits, and the plot plan contained a building situs that was inconsistent with the approved architectural plans, which reduced the side yard setback from 18 feet to 7 feet.
- 7 feet is conforming to the ordinance standard.

- The mistake was made in good faith. There is no discernable benefit derived from this innocent mistake other than creating a more functional easterly side yard.

### **PUBLIC COMMENTS**

**WHEREAS**, public questions, objections, comments, and / or statements, in connection with the Application were presented by the following:

- Thomas Largey, 1 Beach Way, Sea Bright

Mr. Largey attended in behalf of his parents who are elderly and unable to attend for themselves. Their property is 14 Willow Way, Sea Bright (Lot 6), which is adjacent to the subject property to the west, and the property most affected by the mislocation of the building.

They were initially concerned about the height of the proposed building but were comfortable that it was 18 feet away from the property line that was originally proposed; for that reason, they did not voice strenuous objection to the original application.

They are not asking the Board to deny the application; rather, they presented a number of requested conditions in order to mitigate against the concerns they have with the location of the building as follows:

- Require a berm on the westerly side of the subject property to protect 14 Willow Way against water runoff.
- Wants to ensure that no lighting is shining towards 14 Willow Way.
- Any retaining wall on the property shall be subject to Borough Engineer review.
- Air conditioning units to be screened from view.

Subject to revised plot plan review to ensure that water runoff will go toward the street.

Subject to the Borough Engineer review.

## FINDINGS OF FACT

**NOW, THEREFORE, BE IT RESOLVED**, by the Sea Bright Planning Board, after having considered the aforementioned Application, plans, evidence, and testimony, that the Application is hereby **granted / approved with conditions**.

In support of its decision, the Planning Board makes the following Findings of Fact and Conclusions of Law:

1. The Sea Bright Planning Board has proper jurisdiction to hear the within matter.

2. The subject property is shown on the Tax Map of the Borough of Sea Bright as Block 27, Lot 7.01 being a 0.14 +/- acre tract and is located within the R-2 Zoning District.

**3. The Board finds that had the original application come before the Board with the setbacks as now currently proposed, it might not have approved same; however, based upon the testimony presented, including that of the Applicant's neighbor who did not object to the new proposal, the Board finds the new variance relief can be supported, justified and given.**

4. The section of the proposed building that is 7 feet from the property line is only a corner point which is nearest to the driveway serving 14 Willow Way.

5. This application promotes the purpose and intent of the MLUL.

6. As such, the Applicants propose the following, which has been partially constructed already:

- Westerly side yard setback of 7 feet;
- Easterly side yard setback of 23 feet;
- Building height 3 stories and 39 feet pursuant to the Architectural plans marked as PB-4;
- Front Yard Setback of 17.2 feet; and
- Existing driveway along the easterly property line to be eliminated entirely;

7. Details pertaining to the proposed buildings and other proposed improvements are set forth elsewhere herein and are also set forth on the submitted plans.

8. The Sea Bright Planning Board is statutorily authorized to grant the requested approvals, and therefore, the matter is properly before the Board.

9. With regard to the Application, and the requested relief, the Board notes the following:

- The proposed residential use is a permitted use in accordance with the Zoning Ordinance.
  - The proposed accessory uses are permitted in accordance with the Zoning Ordinance.
  - The Board is of the opinion that the application is compatible with the neighborhood.
  - The Application as initially submitted requested variance approval for a number of variances, including setback and height variances.
  - The use of the land approved herein is, in fact, an appropriate use of the land.
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- Sufficiently detailed testimony / plans were represented to the Board.
  - Additionally, the Board finds while the mislocation of the building was to the detriment of the adjacent property to the west, the Board imposed reasonable conditions that will mitigate against these detriments.
  - Subject to the conditions set forth herein, the benefits associated with approving the within Application outweigh any detriments associated with the same.
  - Subject to the conditions contained herein, the within Application will can be granted without causing substantial detriment to the public good.
  - Approval of the within application will promote various purposes of the Municipal Land Use Law; specifically, the same will provide a desirable visual environment through creative development techniques.
  - All of the justifications for the variances that were noted in Resolution No.: 2022-01

Based upon the above, and for other reasons set forth during the Public Hearing Process, the Board is of the opinion that the requested relief can be granted without causing substantial detriment to the public good.

### CONDITIONS

During the course of the Hearing, the Board has requested, and the Applicants' representatives have agreed, to comply with the certain conditions. Applicant shall prepare a Plot Plan which fully complies with the Borough Engineer's review letter dated February 2, 2023 which demonstrates the following:

- A berm shall be shown along the westerly side of the subject property to protect 14 Willow Way against water runoff.
- All lighting, including exterior sconces, ground lighting, light posts or any other light source originating from outside the building shall be shown noted on the Plot Plan and it shall be demonstrated that no exterior light will shine towards 14 Willow Way.
- Any retaining wall on the property shall be subject to Borough Engineer review.
- Air conditioning units to be screened from view.
- Grading contours on the Plot Plan shall demonstrate that water runoff will go toward the street.

The above Plot Plan shall be subject to the Borough Engineer's reasonable satisfaction.

**BE IT FURTHER RESOLVED**, that all representations made under oath by the Applicants and / or their agents shall be deemed conditions of the approval granted herein, and any mis-representations or actions by the Applicants' representatives contrary to the representations made before the Board shall be deemed a violation of the within approval.

**BE IT FURTHER RESOLVED**, that the Application is granted only in conjunction with the conditions noted above - and but for the existence of the same, the within Application may not be approved.

**BE IT FURTHER RESOLVED**, that the granting of the within Application is expressly made subject to and dependent upon the Applicants' compliance with all other appropriate Rules, Regulations, and / or Ordinances of the Borough of Sea Bright, County of Monmouth, and State of New Jersey.

**BE IT FURTHER RESOLVED**, that the action of the Board in approving the within Application shall not relieve the Applicants of responsibility for any damage caused by the subject project, nor does the Planning Board of the Borough of Sea Bright, the Borough of Sea Bright, or its agents / representatives accept any responsibility for the structural design of the proposed improvement, or for any damage which may be caused by the development.

**APPLICATION VOTE:**

The foregoing Resolution was offered by Board Member Marc A. Leckstein, Esq., Seconded by Board Member Councilman Erwin Bieber, and adopted by Roll Call Vote:

THOSE IN FAVOR: Bieber, Bills, Cashmore, DeSio, Lawrence, Leckstein, Zelina

THOSE OPPOSED: DeGiulio

RECUSED: None

ABSENT: Cunningham, Kelly, Schwartz

ABSTAINED: None

**MEMORIALIZATION VOTE:**

The foregoing Memorialization of Resolution was offered by Board Member Marc A. Leckstein, Esq., Seconded by Board Member Peggy Bills, and adopted by Roll Call Vote:

THOSE IN FAVOR: Bills, Cashmore, DeSio, Lawrence, Leckstein, Zelina

THOSE OPPOSED:

RECUSED:

INELIGIBLE: Cunningham

ABSENT: Bieber, DeGiulio, Kelly, Schwartz

ABSTAINED:

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 March 14, 2023.

Date: March 15, 2023

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

**Application No. 2023-01**  
**16 Via Ripa Properties, LLC.**  
**16 Via Ripa Way, Bl. 31, L. 6**

Present for the Application were attorney Rick Brodsky, architect Anthony Condouris, Planner James Higgins, and applicants Eric and Maureen Schnabolk.

Planner Christine Bell informed the Board that the maximum permitted number of stories in the R-2 zone is 2½ stories, and the applicant has indicated the proposed structure is 2½ stories. However, the proposed third floor does not meet the definition of a 2½-story home and the building qualifies as a 3-story building. A "C" variance for height is required.

Rick Brodsky introduced the application for the property, which is located in the R-2 zone, for demolition of the existing 1½ story 2-family home and building of a 2 ½ story 2 -family home.

Mr. Brodsky listed the variance relief requested:

- Two family structures are a non-permitted use in the R-2 Zoning District;
- Front yard setback (Via Ripa Way) of 9 feet where 25 feet is required;
- Front yard setback (South Way) of 5 feet where 25 feet is required;
- Building coverage of 56% where a maximum of 50% is permitted.

Board Attorney Kevin Asadi announced the applicant's noticing was reviewed and is in order. The Board took jurisdiction of the matter, and Mr. Asadi listed the exhibits presented in the application submission:

- PB -1 Zoning Permit Denial dated October 19, 2022;
- PB -2 Application package from Rick Brodsky, Esq, Dated December 19, 2022;
- PB -3 Packet of fourteen (14) Photographs taken on December 2, 2022 showing different properties;
- PB -4 Plan of Survey of the Property by Russell S. Kauffman, PLS dated August 27, 2021;
- PB -5 Architectural plans entitled "Via Ripa Properties, LLC" prepared by Anthony Condouris Architect Inc., dated October 17, 2022 consisting of 4 sheets;
- PB -6 Engineering review letter by Hoder Associates Consulting Engineers dated February 2, 2023, consisting of 3 pages;
- PB -7 Planning review letter by Jennifer C. Beahm, Leon S. Avakian Consulting Engineers, dated February 28, 2023, consisting of 5 pages.

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

Mr. Condouris utilized the architectural plans, displayed on an easel, to discuss the pages, one by one. He testified that the existing building is a 2-family structure. One unit faces Via Ripa Way and one unit faces South Way. The units have garages which sit back-to-back. The garages dictate the depth of the building and the setback non-conformities.

The proposed building will be serviced by an elevator that will be utilized by the larger unit. The pitch of the roof line renders the top floor a full floor vs. a half story to accommodate the provision of the elevator. The first floor will be at 16 feet, which is above the base flood elevation (BFE,) and all mechanicals will be above the BFE.

Vice Chairman DeSio stated the house is going to be 45.6' high, and no other houses around it are over 42'. Mr. Condouris stated they will look at dropping the ridge.

Board member Marc Leckstein, Esq. asked whether the owner has the discretion to open the elevator to the tenant. The answer was that they do. Mr. Leckstein also stated that it is important to know what is there now and to know how the original 2-family came into existence. Did a previous owner receive variance approval? There were no answers offered.

Vice Chairman DeSio asked whether the building has been taxed as a 2-family home. It has been taxed as a 2-family home.

### **Public Questions for Mr. Condouris:**

Dave Sheridan, 5 Via Ripa Way, asked about the rear setback and keeping it as it is instead of making it smaller. It will be the smallest rear setback on the street and suggested that if it were kept the same as it is now, the residents would be able to park cars in the back.

Scott Paster asked how the height of the new building compares to other homes on the block. The architect said he had not done a study and couldn't give him an answer. Mr. Paster also asked about parking spots – how many will be lost or gained. He was answered that there will be a loss of one spot on the street and a net gain of two off-street spaces.

The public portion of the meeting was closed.

The property owners, Eric and Maureen Schnabolk, were sworn in to testify about the existing conditions at the property. Mr. Schnabolk testified that he bought the property as a 2-family home. It has a Certificate of Occupancy for a 2-family home. He uses the main unit for his family and assumes the 2-family use has been in service for a long time. He doesn't know when it became a 2-family.

Mrs. Schnabolk answered questions about how the house is laid out. The larger unit, facing South Way, has four bedrooms and two baths, and the smaller unit, facing Via Ripa Way, has two bedrooms and one bath.

Board member Mark Zelina commented that, because the present house is being demolished and a new house is being built, the applicants have the opportunity build a conforming house that respects the setbacks. Dave DeSio added that when a home is demolished the new house must conform with the master plan. Mr. Zelina said that the applicants could compromise. Mr. Leckstein stated that the applicants could have a beautiful single-family home. Mr. DeSio added that the applicants are actually creating two townhouses.

Board member Frank Lawrence asked about placement of outdoor utilities, and Mr. Condouris answered they would be placed on either the roof or the deck.

Board member Cashmore asked for the garage measurements. Mr. Condouris said that you can go as small as 18' in the garage, but it's hard to get around the cars. We try to go with 22'. The one garage is 26' to have space for some storage.

The meeting was opened to the public for questions of Mr. and Mrs. Schnabolk.

The public portion was closed and the applicants asked to take a break to confer. The Board recessed from 8:25 to 8:30 p.m.

Board members Bills, Cashmore, Cunningham, DeSio, Lawrence, Leckstein, Zelina were in attendance after the break.

Applicant attorney Brodsky stated that the applicants want to be respectful of the neighbors' concerns and they would like to come back to the Board with a revised plan to address some of the concerns. He asked for any other neighbors to speak and let them know their concerns.

Mr. DeSio asked the applicants to come back with elevations.

The public portion was again opened.

Joann Sheridan, 5 Via Ripa Way, was sworn in and stated that she is concerned about having a 2-family dwelling and does not see the need for it. She said the driveway will be an issue, and she is concerned that parking spaces lost on Via Ripa Way would be permit-parking spaces and would be a loss of parking for the neighborhood. She added that they are not opposed to the new construction. They are opposed to the zoning change. Ms. Sheridan encouraged the Board not to change the zoning to allow two-family houses.

Judy Geraud, 3 Via Ripa Way, was sworn in and stated her concerns that the street is already burdened with the addition of a public access platform. The permanent residents take up all of the parking now, and another curb cut on Via Ripa Way would cost parking spaces. In summer they have a very difficult time finding parking. If there were an emergency it would be a problem for vehicles to get to it. The existing home has a large parking pad in the back that they can use. She stated it would be irresponsible of the Board to allow the approval of this application.

Mr. Sheridan was sworn in to testify. He said that it would be a mistake to change the zone to allow 2-family homes.

Chairman Cunningham stated this 2-family home is a pre-existing non-conforming use. The zone is not being changed.

Mr. Asadi offered the property owner doesn't have an automatic right, if demolishing a 2-family home, to build a new 2-family home.

The public portion was closed, and Attorney Brodsky asked for the matter be carried. The owners would like to present a new application. A date was agreed upon.

Chairman Cunningham announced the application will be carried to the meeting of April 11<sup>th</sup> with no further notice.

### **OTHER BUSINESS**

Chairman Cunningham informed Board members the secretary advertised a Request for Proposals for a Board Attorney on 1/28/23, and nine responses were received by the deadline of 2/22/23. The subcommittee interviewed four candidates and is just about finished its discussions. An attorney will be chosen by the Board at the March 28<sup>th</sup> meeting.

Before the meeting adjourned, Chairman Cunningham expressed the Board's thanks to Kevin Asadi, Esq. for the tremendous job he did as Interim Board Attorney. The Board is very grateful to Mr. Asadi for stepping in when we needed him.

### **Public Comments**

There were no further comments.

### **CLOSING ITEMS**

Announcement of the next regular meeting to take place: March 28, 2023 at 7:30 p.m.

With no further business, the meeting was adjourned at 8:52 p.m. on a motion offered by Mr. Leckstein, seconded by Ms. Bills, and carried upon a unanimous voice vote by the Board members.

Respectfully submitted,

*Candace B. Mitchell*

Candace B. Mitchell, Board Secretary