

**APPLICANT: RPR HOLDINGS, LLC**  
**APPLICATION NUMBER: 2022-03**  
**BLOCK: 3**  
**LOT: 6.04**  
**ADDRESS: 11 IMBRIE PLACE**  
**RESOLUTION NUMBER: 2022-03**



**RESOLUTION OF THE UNIFIED PLANNING/ZONING BOARD  
OF THE BOROUGH OF SEA BRIGHT  
INITIALLY UPON APPLICATION FOR BULK VARIANCE RELIEF  
WHICH WAS RELIEVED BY ORDINANCE INTERPRETATION**

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**WHEREAS, BOARD MEMBER MARC LECKSTEIN, ESQ.** offered the following Motion moved by and seconded by **VICE CHAIR DAVID DeSIO and**

**WHEREAS RPR HOLDINGS, LLC, by and through their attorney, RICK BRODSKY,** 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:

This is to consider an application to permit the construction of a two-story single family residential dwelling with a roof deck, with respect to premises located in the R-2 Zone and known as Block 3, Lot 6.04 on the Tax Map of the Borough of Sea Bright, and commonly known as 11 Imbrie Place. The Applicant is seeking the following variance:

“c” variance: 130-39 C and Attachment 2 – Building height of 41.75 feet proposed, where a maximum of 35 feet is permitted.

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 3, Lot 6.04 on the Tax Map of the Borough of Sea Bright, which premises are located at 11 IMBRIE PLACE, 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, **FEBRUARY 8, 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:

[Variance Application Submission Package \(pdf\)](#)

[Architectural Plans \(pdf\)](#)

Plot Plan rev (pdf)

Service Submission Package 2.3.22 (pdf)

**Exhibits introduced at this evening's meeting:**

**EXHIBIT A-1:** 10-8-21: Ground level and first floor

**EXHIBIT A-2:** 10-8-21: Second floor plan

**EXHIBIT 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.

**Review of Borough Ordinance, Section 130-39 (a) (2)**

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

**MICHAEL MILLEMANN - ARCHITECT**

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

**JANET O'CONNELL**

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

N/A

**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. While the applicant was willing to place testimony on the record that the variance required by the Zoning Permit denial was appropriate, the testimony provided indicated that No Variance was required as the Board interpreted the correct section of the Borough Ordinance, read into record, **Section 130-39 (a)(2)**.
2. The new Zoning Officer advised that a height variance was necessary due to the installation of an elevator. The shaft area was originally 38' but with the addition of an elevator would now be 41.75' for elevator.
3. The home was still a 2 story with no living space on or in the roof line
4. The Zoning Permit which was denied to Applicant was strictly for an extension of the elevator shaft and stair. (18.2% which is percentage of total roof area and, according to the Zoning Officer, was the reason for the variance).
5. **HOWEVER**, the space to be added was uninhabitable space. The Zoning denial was not appropriate in this instance based on Section 130-39 (a)(2) which allowed for the expansion of uninhabitable space. The Board, using its interpretative powers under the MLUL, indicated that the incorrect Borough Ordinance had been set forth in the denial and the appropriate section of the Ordinance was applied.
6. No variance was deemed necessary based upon the application of the correct Borough Land Use Ordinance Section 130-39 (a)(2).

**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. **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**:

The BOARD has determined, pursuant to its interpretive powers under the MLUL, that a zoning permit denial was issued in error. The Applicant sought a “c” variance based upon the Zoning Denial under Ordinance Section 130-39 C; Building height of 41.75 feet proposed, where a maximum of 35 feet is permitted. However, upon review, **the height increase was not habitable space and according to Section 130-39 (a)(2), WAS PERMITTED UNDER THE BOROUGH ORDINANCE.**

As such, **NO VARIANCE WAS NECESSARY**, and the Applicant is **GRANTED** a Zoning Permit based upon the plans submitted and the information contained herein.

**APPLICATION VOTE:**

Adopted on a roll call on a motion by Board member Marc A. Leckstein, Esq. and Seconded by Board Vice Chair David DeSio

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

THOSE OPPOSED: None

RECUSED: None

ABSENT: Bills, Kelly, Schwartz, DeGiulio

ABSTAINED: None

**MEMORIALIZATION VOTE:**

Adopted on a roll call on a motion offered by Board member Marc A. Leckstein, Esq. and Seconded by Board member Councilman Erwin Bieber

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

THOSE OPPOSED: None

RECUSED: None

ABSENT: Bills, Kelly, Schwartz, 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 22, 2022.

Date: February 22, 2022

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

