

RESOLUTION OF THE SEA BRIGHT PLANNING/ZONING BOARD REMOVING
CONDITION IN THE APPROVED AMENDED SITE PLAN AND USE VARIANCE
VICTOR SCUDIERY
150 Ocean Avenue
Block 34 Lots 4, 4.01

WHEREAS, Victor Scudiery previously received preliminary and final site plan approval to demolish an existing building, as part of a settlement of builder's remedy litigation, retain an existing building and construct 24 apartment units in two residential buildings and a swimming pool. The proposed residential buildings were to be 3 ½ stories and 44 feet in height; and

WHEREAS, Victor Scudiery transferred ownership of the property to Gaiters Village, LLC (the "Applicant"); and

WHEREAS, the prior approved plan limited the use of the existing marina solely for residents of the complex; and

WHEREAS, thereafter Scudiery submitted an application and plans to amend the prior approved plan as a result of changes it alleged were required by CAFRA, including the elimination of the pool and addition of 12 boat slips, 20% of which could be restricted to residents of the complex resulting in a use variance to expand the non-conforming marina use; and

WHEREAS, the Board denied the amended site plan and use variance for the reasons set forth in its resolution adopted at its meeting of January 28, 2015; and

WHEREAS, after discussions with CAFRA, the requirement to construct additional boat slips was rescinded and CAFRA approved the plan with the existing marina, but directed that 75% of the slips must be made available to the public; and

WHEREAS, thereafter Scudiery submitted an amended preliminary and final site plan and use variance application to eliminate the pool which was on the original plans, eliminate the parking across Ocean Avenue, open 75% of the marina slips to the public (while keeping the same number of slips as existing), and to raise the residential buildings in accordance with post-Sandy FEMA regulations; and

WHEREAS, the Board granted Amended Site Plan and Use Variance Approval as memorialized by resolution on June 23, 2015; and

WHEREAS, the resolution contained a condition that there would be no parking for the development on the east side of Ocean Avenue and further that the Master Deed contain a notice that the lot on the east side of Ocean Avenue, Block 23, lot 134 is not part of the common elements of the development; and

WHEREAS, the Applicant, while STIPULATING that there will be no parking on said lot on the easterly side of Ocean Avenue, has requested the removal of the condition that it not be part of the common elements of the development in order to allow for

the maintenance of the lot and beach access for the Condominium Association; and

WHEREAS, Applicant has provided due notice to the public and all surrounding property owners as required by law, has caused notice to be published in the official newspaper in accordance with NJSA 40:55D-1 et seq. and, therefore, this Board has accepted jurisdiction of the application and has conducted a public hearing on the matter at its meeting on January 8, 2019, at which time all persons having an interest in said application were given an opportunity to be heard; and

WHEREAS, the Applicant appeared and marked into evidence certain documents including the following:

A-1 Jurisdictional Packet

WHEREAS, the Board considered the testimony and evidence presented and the Board makes the following findings of fact and conclusions of law:

1. Applicant **STIPULATED** that there would be no parking for the development on the eastern side of Ocean Avenue, known as Block 23, lot 134. It was further **STIPULATED** and made a **CONDITION** of approval that the Master Deed contain a notice that the lot on the east side of Ocean Avenue, known as Block 23, lot 134 not be used for parking.

2. Applicant proposes that Block 23, lot 134 be used for beach access for the residents of the development and their guests.
3. Applicant **STIPULATED** that there would be no other construction on Block 23, lot 134 other than the stairway structure over the sea wall.
4. Applicant **STIPULATED** that the Condominium/Homeowners Association will be responsible for the maintenance of Block 23, lot 134.
5. The Board agreed that it is in the best interest of Sea Bright that the Condominium/Homeowners Association be responsible for the maintenance of Block 23, lot 134 and the Condition in the prior resolution that it not be a part of the common elements should be removed.
6. Based on the evidence and testimony presented, the Board found that the removal of the Condition was warranted.

NOW, THEREFORE, BE IT RESOLVED by the Planning/Zoning Board of the Borough of Sea Bright, based on the foregoing findings of fact, that the application for amended preliminary and final site plan and use variance approval to remove the CONDITION that the Master Deed contain a provision that Block 23, lot 134 not be a part of the common elements be and is hereby granted

subject to the Stipulations and Conditions put on the record as well as compliance with the Stipulations and Conditions of the original approval:

GENERAL CONDITIONS

1. The applicant shall submit proof of payment of all real estate taxes applicable to the property and payment of all outstanding and future fees and escrow charges, posting of all performance guarantees, if any, in connection with the review of this application prior to and subsequent to the approval of this application.

2. The applicant must obtain the approval of all necessary and appropriate governmental agencies and compliance with all applicable governmental regulations, including but not limited to CAFRA, except those specifically waived or modified in this Resolution.

3. The applicant shall comply with all building, FEMA and fire codes including but not limited to, entrances and exits.

4. The accuracy and completeness of the submission statements, exhibits and other testimony filed with or offered to the Board in connection with this application, all of which are incorporated herein by reference and specifically relied by the Board in granting this approval. This condition shall be a continuing condition, which shall be deemed satisfied

unless and until the Board determines (on Notice to the applicant) that a breach thereof.

5. All stipulations agreed to on the record, by the applicant.

6. In the event that any documents require execution in connection with the within approval, such documents shall not be released until all of the conditions of the approval have been satisfied unless otherwise expressly noted.

7. The Applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality's professionals for review of the application for development, review and preparation of documents, inspections of improvements and other purposes authorized by the MLUL.

8. The Applicant shall furnish such Performance Guarantees and/or Maintenance Guarantee as may be required pursuant to the MLUL and the Sea Bright Ordinances.

9. No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.

SPECIFIC CONDITIONS

1. All Stipulations and Conditions contained in the prior Resolutions of Approval

2. No parking shall occur on the eastern side of Ocean Avenue, Block 23, lot 134 and the Master Deed shall contain a notice that no parking shall be permitted on Block 23, lot 134, located on the eastern side of Ocean Avenue.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting of January 8, 2019; and

BE IT FURTHER RESOLVED that the Chairman and Board Secretary are hereby authorized to sign any and all documents necessary to effectuate the purpose of this Resolution; and

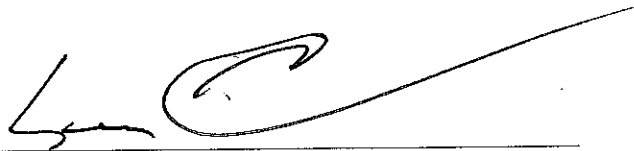
BE IT FURTHER RESOLVED that the Board Secretary is hereby authorized and directed to cause a certified copy of this Resolution to be sent to the Applicant, the Borough Clerk, the engineer and the zoning officer and to make same available to all other interested parties and to cause notice of this Resolution to be published in the official newspaper at the Applicant's expense.

I certify the foregoing to be a true copy of a Resolution by the Sea Bright Planning/Zoning Board memorialized on January 22, 2019:

Candace B. Mitchell
Candace B. Mitchell, Secretary
Sea Bright Planning/Zoning Board

Adopted on a roll call on a motion by Chairman Cunningham
And Seconded by John Duffy

Vote: Cashmore <u>Absent</u>	Cunningham <u>yes</u>	DeGiulio <u>Abstain</u>
DeSio <u>Absent</u>	Duffy <u>yes</u>	Leckstein <u>Abstain</u>
Long <u>Abstain</u>	Nott <u>Abstain</u>	Smith <u>yes</u>
McGinley <u>Abstain</u>	Bills <u>Absent</u>	Wray <u>yes</u>


Lance Cunningham, Chairman
Sea Bright Planning/Zoning Board

