

**APPLICANT: MICHAEL & GLYNIS BURKE**  
**APPLICATION NUMBER: 2021-06**  
**BLOCK: 32**  
**LOT: 4**  
**ADDRESS: 26 WATERVIEW WAY**  
**ATTORNEY FOR APPLICANT: RICK BRODSKY, ESQ.**  
**RESOLUTION NUMBER: 2021-06**

**RESOLUTION OF THE UNIFIED PLANNING/ZONING BOARD  
OF THE BOROUGH OF SEA BRIGHT  
FOR BULK AND USE VARIANCES**

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**WHEREAS, BOARD MEMBER PEGGY BILLS**, offered the following Motion moved and seconded by **BOARD MEMBER DAVID DESIO**:

**WHEREAS MICHAEL & GLYNIS BURKE**, 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:

The application involves the property located at 26 Waterview Way, Sea Bright, New Jersey, more formally identified as Block 32, Lot 4 (R-2 Zone). The applicants are seeking approval of bulk and use variance relief to amend approval granted by Board Resolution dated March 10, 2020 to include raising the 2-family structure in compliance with current flood regulations. The proposed first floor elevation will be 15.5 feet, whereas 13 feet is the minimum required. The interior floor plans have been revised to move the kitchen to the third level and relocate the bedrooms to the second level, and additional exterior stairs are proposed. The original approval included an addition at the rear of the main house for a new stairway to the second floor and removal of the existing stairwell, the construction of the balconies on the north and south sides of the main house and to raise the roof of the main house to provide greater headroom for the upper-level premises. Those improvements are still proposed. All with respect to premises located in the R-2 Zone and known as Block 32, Lot 4 on the Tax Map of the Borough of Sea Bright, and commonly known as 26 Waterview Way, Sea Bright, New Jersey. With this amended application the applicant continues to seek the following variances which were previously approved:

- i. “d” variance: 130-46.A(2) – Extension of existing non-conforming structures (two-family house and additional detached structure in a single family zone) where non-conforming structures shall not be extended.
- ii. “d” variance: 130-46.A(3)- Extension of existing non-conforming use (2-family house and additional detached structure in a single family zone) where a non - conforming use shall not be extended
- iii. “c” variance: 130-50.C- Side yard setback of 1 foot existing and proposed where a minimum of 7 feet is required
- iv. “c” variance: 130-50.C- Front yard setback of 4.8 feet existing and proposed where a minimum of 25 feet is required

In addition, the applicant will request such other variances, exceptions, interpretations, and design waivers as may be determined necessary by the Unified Planning 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 32, Lot 4 on the Tax Map of the Borough of Sea Bright, which premises are located in the R-2 Zone at 26 Waterview Way, 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, **April 13, 2021**:

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

Any and all documentation as submitted and appearing on the Sea Bright website (seabrightnj.org) for presentation at the Public Meeting conducted via the GoToMeeting platform with public notice.

Exhibits offered for public inspection at least ten days prior to the meeting were as follows:

- Denial Letter from Borough of Sea Bright Zoning Officer dated February 23, 2021;
- A completed Planning/Zoning Board Application(with attachments);
- Resolution Granting Expansion of Non-Conforming Use and Bulk Variance Approval dated March 10, 2020;
- Photos of the property/dwelling as it currently exists;
- Proposed Addition and Alteration Plan prepared by Anthony M. Condouris, Architect, and dated February 18<sup>th</sup>, 2021, consisting of three (3) sheets; and
- **EXHIBIT A-1**: 3 D Rendering from Anthony M. Condouris, AIA, offered at Public Meeting.

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

**1. TONY CONDUOURIS, AIA**

**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. CHARLIE ROONEY** – In support of Application.
- 2. MICHAEL BUTLER** - In support of Application
- 3. KATHLEEN FRANCO** - In support of Application

**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. Michael and Glynis Burke are seeking to occupy the two-story existing structure on a permanent basis and had obtained prior approvals for a Use Variance with corresponding bulk variances for both the continued non-conforming use and setbacks, along with other variance per the previous set of plans. There is also an existing cabana building located on the property, which is to remain.
2. However, when the Burkes went to obtain building permits, it was determined that, since the anticipated cost of the renovation was going to exceed 51% of the assessed value, the Borough's requirement to comply with its flood regulations had to be met and the home was required to be "lifted" to the minimum Base Flood Elevation. The flood elevation requirement for this flood zone is 13' above sea level.
3. While the original application did not propose raising the house, the Burkes had to redesign and raise the house in order to comply with the flood regulations and did so in the same footprint as previously approved while maintaining appropriateness of height (no variance required).
4. The variances sought in this application are the same as the March 2020 application yet, the zoning officer, when reviewing the plans, exercised discretion and decided that the plan should come back to the Board. He offered that the applicants have to raise the house to comply with the flood elevation requirement.
5. Anthony Condouris, licensed architect in New Jersey since 1996, was sworn in to testify and stated that the house didn't need to be raised to the height shown on the plans to meet the flood elevation requirement, but, by raising the house 2' above the required 13', parking would be able to be provided underneath the house. So, two more off-street parking spaces will be added. The lot is fairly wide; so, there will actually be more parking spaces on the property.
6. Mr. Condouris described the floor plan changes which were minor; to wit: On page Z-2, the floor plans note that the footprint of the house remains exactly the same as it was per the prior approved variances. However, on the upper left corner of the plan an expansion of the kitchen is shown. About 4' was added to the kitchen (which enclosed a prior deck area). The kitchen was, in essence squared off without increasing the footprint of the building. Also, because the house was being raised, stairs had to be added. Further (which does not affect variances granted) with the house being raised, the owner decided upon a "flipped" floor plan to take advantage of some of the new views they would be gaining. So, the floors in which the bedroom area and the kitchen area were situated, were switched. There was no change in the use or an intensification of the use.
7. The only changes associated with the new plan are the 4' enclosure of the deck area for the kitchen and the larger staircase for accessibility and egress.
8. Board Member Dave DeSio asked for clarification on whether this home is being made into a two-family home. Mr. Brodsky answered (and the Board accepted) that it was always a two-family home. The cabana structure in the back will remain a cabana and this information was provided in the prior application which obtained variance relief for a use variance. Mr. Brodsky added (and the Board accepted) there had been D variance approval for a pre-existing non-conforming use in the first application. The front setbacks will also remain the same, and those were the only two variances associated with the prior application in the D variance.
9. Mr. Condouris discussed floor plan page Z-3, the elevations. The house does comply with the height ordinance despite raising it.
10. Board Member Mr. DeSio asked, based on the amount of reframing that has to be done, if the house was going to be raised or is a new house being built on top of the new raised foundation? Mr. Condouris answered that the plan is to raise the existing house. Mr. DeSio

asked whether it wouldn't be cheaper to just build a new house there, and it could be moved over a few feet so that it's not one foot off of the property line. He expressed his opinion that the cost to raise a house is a waste of money, and they could build a new house on a new foundation. Mr. Condouris explained that one thing they are trying to do is use the existing foundation. The applicants have engineered the site based on prior approvals, have the cost of hiring a contractor, and are ready to proceed.

11. Mr. Condouris introduced Exhibit A-1, the north facing elevation on the street, showing the new staircases that had to be extended. Then he showed the squaring off of the first-floor kitchen area. Attorney Kowalski clarified this as an expansion of the non-conforming use, and, from the zoning officer's perspective, additional square footage has been added which is minor. This variance relief request does not interfere with the prior variances granted, which run with the land, but merely affect the design of the building. Mr. Brodsky agreed. The D variance for pre-existing non-conforming use and side yard setbacks as previously granted shall remain and the front setback as previously granted shall remain. This application relates to the kitchen expansion and stair addition. No variances are necessary due to the "raising" of the property as the structure remains in the footprint of the variances granted, and a variance for height is not required as the height meets ordinance standards.
12. The Applicant relied upon all previous testimony as set forth in March 2020 for the technical expansion of the non-conforming use with regard to the positive and negative criteria and special reasons placed on the record. The Board was fully familiar with same.

**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**:

The applicants are GRANTED per the Plans submitted to the Borough of Sea Bright.

In conjunction with the application, the applicant IS GRANTED the following CONTINUING approval of bulk and use variance relief to lift the residential home and add interior and exterior renovations to previously approved plans per the plans submitted in conjunction with this application:

The application involves the property located at 26 Waterview Way, Sea Bright, New Jersey, more formally identified as Block 32, Lot 4 (R-2 Zone). The applicants are GRANTED approval of bulk and use variance relief to amend approval granted by Board Resolution dated March 10, 2020 to include raising the 2-family structure in compliance with current flood regulations. The proposed first floor elevation will be 15.5 feet, whereas 13 feet is the minimum required. The interior floor plans have been revised to move the kitchen to the third level and relocate the bedrooms to the second level, and additional exterior stairs are proposed. The original approval included an addition at the rear of the main house for a new stairway to the second floor and removal of the existing stairwell, the construction of the balconies on the north and south sides of the main house and to raise the roof of the main house to provide greater headroom for the upper-level premises. Those improvements are still proposed. All with respect to premises located in the R-2 Zone and known as Block 32, Lot 4 on the Tax Map of the Borough of Sea Bright, and commonly known as 26 Waterview Way, Sea Bright, New Jersey. With this amended application the applicant is granted continuation of the following variances which were previously approved:

- i. “d” variance: 130-46.A(2) – Extension of existing non-conforming structures (two-family house and additional detached structure in a single family zone) where non-conforming structures shall not be extended.
- ii. “d” variance: 130-46.A(3)- Extension of existing non-conforming use (2-family house and additional detached structure in a single family zone) where a non - conforming use shall not be extended
- iii. “c” variance: 130-50.C- Side yard setback of 1 foot existing and proposed where a minimum of 7 feet is required
- iv. “c” variance: 130-50.C- Front yard setback of 4.8 feet existing and proposed where a minimum of 25 feet is required

**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. All Plans must be approved by Township 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 OF ADJUSTMENT PLANNER
  - h. BOARD OF ADJUSTMENT 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 BOARD'S PROFESSIONALS.**
- l. 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 Peggy Bills and Seconded by Board member David DeSio

THOSE IN FAVOR: Bills, Cashmore, DeGiulio, DeSio, Gorman, Smith

THOSE OPPOSED: None

ABSTAINED: None

MEMORIALIZATION VOTE:

Adopted on a roll call on a motion by Board member C. Lance Cunningham and Seconded by Board member Peggy Bills

THOSE IN FAVOR: Bills, Cashmore, DeGiulio, DeSio, Gorman, Smith

THOSE OPPOSED: 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 April 27, 2021.

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

*David DeSio*  
David DeSio, Vice Chairman  
Sea Bright Planning/Zoning Board