

RESOLUTION OF APPROVAL

**APPLICATION OF
PAUL LOBIONDO**

IN THE MATTER OF
PAUL LOBIONDO

: UNIFIED PLANNING/ZONING BOARD
: BOROUGH OF SEA BRIGHT
: APPLICATION NO. 2023-08
: BLOCK 24, LOT 5
: 912 OCEAN AVENUE

WHEREAS, PAUL LOBIONDO has requested variance relief approval pursuant to N.J.S.A. 40:55D-70 (c) (2) to construct a 3-story single-family home on the property located at Block 24, Lot 5 on the tax map of the Borough of Sea Bright, being commonly known as 912 Ocean Avenue, Sea Bright, New Jersey, and said premises being in the R-2 Zone; and

WHEREAS, the Board held a public hearing on said application on October 10, 2023; and

WHEREAS, the applicant provided adequate notice of the hearing in accordance with N.J.S.A. 40:55D-12; and

WHEREAS, the applicant Paul LoBiondo was not represented by legal counsel, but rather presented the Application on his own behalf; and

WHEREAS, the Board heard the testimony and evidence presented by the applicant, and received comments from the public.

NOW, THEREFORE BE IT RESOLVED, that the Unified Planning/Zoning Board of the Borough of Sea Bright, County of Monmouth and State of New Jersey, made the following findings:

1. The Board found the application complete.
2. According to the application, the applicant is seeking the following variance relief:
 - a. Rear Setback where 15' is required and 3.56' to deck/ 11.56' to house is proposed.
 - b. Building Height where 38' for an elevated home is allowed and 41.8' is proposed.
 - c. Building Stories where 2.5 stories are allowed and 3 stories are proposed.

3. Based upon the opening comments of the Applicant, the Board heard the following:
 - a. The Applicant is seeking approval to construct the 3-story elevated home as presented on the currently vacant waterfront lot.
 - b. The Applicant requests variance relief for rear setback, building height and building stories.
 - c. The following were submitted in support of the Application:
 - Borough of Sea Bright Unified Planning-Zoning Board-Certified Application, dated 9/5/23
 - Borough of Sea Bright Application for Zoning Permit, dated 2/1/23 (denial)
 - A1-Plans entitled "LoBiondo Residence" 912 Ocean Avenue, Sea Bright, Monmouth County, NJ, by Jeremiah Regan, AIA, 2 sheets (dated 11/8/22, last revision date 8/15/23).
 - A2 – Photo of subject and neighboring properties
 - A3 – Photo of 902 Ocean Avenue
 - A4 – Photo of 822 Ocean Avenue
 - A5 – Photo of 858 Ocean Avenue
 - A6 – Photo of 931 Ocean Avenue (Surfrider)
 - A7 – Front Elevation "A" (Compliant Plan Elevation)
 - A8 – Architectural Renderings (3 pages)
 - 9/20/23 Board Engineer Report of David J. Hoder, P.E., P.P., C.M.E.
4. Based upon the sworn testimony of the Applicant Paul LoBiondo and Builder/Developer of the property James LoBiondo, the Board made the following findings of fact:
 - a. Paul LoBiondo is the title owner of the subject property. James LoBiondo (brother of Applicant) is the builder/developer of the single family home project proposed for the subject property. Both are fully familiar with the subject property, the surrounding properties and the proposed home to be built on the currently vacant waterfront lot.
 - b. The subject property is located in the R-2 Zone.
 - c. The property was acquired in 2020 (first in title ownership to Surfrider Beach Club, LLC, subsequent transfer of title in 2023 to Applicant Paul LoBiondo).

- d. The predecessor owner had demolished and removed an old home on site, constructed in approximately 1902 due to its poor condition. The Applicant has replaced the bulkhead on site but the site currently remains a vacant lot.
- e. The front setback, side setbacks, building coverage and lot coverage proposed all comply with the borough ordinance.
- f. Immediately adjacent to the subject property both north and south are developed single family homes.
- g. Across the street from the subject property is the Surfrider Beach Club (beneficial ownership/operation by the LoBiondo family).
- h. Single family homes are a permitted use in the R-2 zone.
- i. Exhibit A1 – the proposed architectural plans for the subject property – show the elevated home (ground floor garage and storage) with 3 living levels above the ground floor as depicted on the plans.
- j. Exhibit A2 – is a photo of the subject property and two adjoining single family home properties.
- k. Exhibit A3 – is a photo of 902 Ocean Avenue with a building height of 41.1’.
- l. Exhibit A4 – is a photo of 822 Ocean Avenue with a building height of 39.6’.
- m. Exhibit A5 – is a photo of 858 Ocean Avenue with a building height of 38.2’. Said calculation is to the ridge of the home in the photo (not the turret in the photo).
- n. Exhibit A6 – is a photo of 931 Ocean Avenue (Surfrider Beach Club) with a building height of 44.3’.
- o. Exhibit A7 – is an architectural rendering a 2.5 story home with building height of 38’ which would fully comply with the Borough Ordinance for height. He opined that the compliant design is not only less aesthetically pleasing than the proposed design, but creates a significant impact visually to the surrounding properties.
- p. As to the rear yard setback, he noted that the lot is a riverfront lot so that rear setback violation for the deck and home creates no negative impact to any neighbors. It was further noted that the homes in the immediate area have similar rear yard setbacks for the homes/decks on the riverfront.
- q. As to off street parking, 3 spaces are required by RSIS whereas the proposed development provides for 8 off street parking spaces.
- r. He opined, making reference to the Exhibits presented, that the height and three stories proposed for the home are similar with the development in the area as to height, dimension and character.

5. Based upon the sworn testimony of the Applicant Jeremiah Regan, R.A., the Board made the following findings of fact:
 - a. He is a licensed architect in the State of New Jersey and prepared the subject architectural plans presented to the Board for approval (Exhibit A1).
 - b. He described the design of the elevated 3-Story home which provides for a ground floor garage/storage level, plus three levels of living space.
 - c. He described the architectural design and details of the home. He noted that the third story is stepped back with architectural details to minimize the impact visually (massing effect) of the third story.
 - d. He noted that the elevated home design provides for a ground level garage/storage level with FEMA compliant first finished floor at elevation 17.
 - e. He indicated that the proposed design exceeds the RSIS requirement for 3 off street spaces, providing for 8 off street spaces.
 - f. He agreed as a voluntary condition to provide that all gutters/leaders shall drain toward the front of the property with the final drainage plan to be subject to the review and approval of the Board Engineer.
 - g. He opined that the proposed home design is an aesthetic improvement to the neighborhood.
 - h. He testified that the proposed home is FEMA compliant, and to be constructed to all current building codes and standards; thereby providing for a safe condition on site and for the benefit of the surrounding properties.
 - i. He testified that the size, type and dimension of the proposed riverfront homes is similar in character to the other riverfront homes in the immediate area.
 - j. He opined that the variance relief requested may be granted without any significant impact to the surrounding neighbors, nor to the zoning ordinance and zone plan.
6. A member of the public, to wit, Edward Wheeler, 908 Ocean Avenue (an adjoining property owner) appeared to comment on the Application. He testified that he is in support of the Application as presented and does not object to the variances for height, stories or rear setback.
7. A member of the public, to wit, Steven Cashmore, 902 Ocean Avenue (a nearby property owner) appeared to comment on the Application. He testified that he similarly has an elevated 3-story home, that is fire rated as required by building code. The architectural design of the proposed home mitigates any massing effect of a third story. He noted that the rear setback violation is similar to the existing riverfront development of many of the homes in the immediate area and thus will have no significant impact to

any property owners in the neighborhood. He testified he was in support of the Application as presented.

CONCLUSIONS OF LAW:

WHEREAS, after careful deliberation, the Board has determined that the applicant has met the requirements of N.J.S.A. 40:55D-70(c) (2) with conditions imposed, for the variances requested associated with this application in as much as the proposed application is an appropriate development of the subject parcel with a permitted use in the Zone; and

WHEREAS, after careful deliberation, the Board has determined that the proposal advances purposes of zoning as set forth in N.J.S.A. 40:55D-2 (a) and (i) of the Municipal Land Use Law; providing for improved aesthetics and functionality of the single-family home designed for this riverfront lot with adequate off street parking, and those benefits outweigh any detriment from the proposal; and

WHEREAS, after careful deliberation and testimony from neighbors intimately affected (and noting no persons appeared in objection to the application), the Board has determined that the proposed development will not have a substantial negative impact on the neighborhood and will be a benefit in terms of the function and aesthetics of the site; and

WHEREAS, the Board has determined that the relief sought can be granted without a substantial negative impact to the public good, provided all conditions of approval are satisfied or met; and

WHEREAS, the Board has determined that the relief sought does not impair the intent and purpose of the Master Plan or Zoning Ordinance of the Borough of Sea Bright.

NOW, THEREFORE, BE IT RESOLVED by the Unified Planning/Zoning Board of the Borough of Sea Bright, in the County of Monmouth and State of New Jersey, on the 10th day of October, 2023, upon a motion made by Mr. Leckstein and seconded by Ms. Bills that the application of Paul LoBiondo be granted, subject to the following terms and conditions:

- a. The applicant shall be bound by all exhibits introduced, all representations made, and all testimony given before the Board at its meeting of October 10, 2023.
- b. The applicant shall provide all required Site Performance Bond and Inspection Fees in accordance with the Municipal Ordinance, if necessary.

- c. The applicant shall be responsible for obtaining any other approvals or permits from other governmental agencies, as may be required by law, including but not limited to the Municipality's and State's affordable housing regulations; and the applicant shall comply with any requirements or conditions of such approvals or permits.
- d. The applicant must comply with the Development Fee Ordinance of the Borough of Sea Bright, if applicable, which Ordinance is intended to generate revenue to facilitate the provision of affordable housing.
- e. The applicant shall comply with all items set forth in the Board Engineer report dated 9/20/23, unless specifically exempted herein.
- f. 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.
- g. The applicant shall comply with all building, FEMA and fire codes including, but not limited to, entrances/exits and fire rating.
- h. 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 are specifically relied upon by the Board in granting this approval. This condition shall be a continuing condition, deemed satisfied unless and until the Board determines (on notice to Applicant) of a breach thereof.
- i. In the event that any documents require execution in connection with this approval, such documents shall not be released until all conditions are satisfied.
- j. 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.
- k. 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.
- l. Applicant shall comply with the following special conditions:

- i. All gutters/leaders shall drain toward the front of the property and the final drainage plan shall be subject to the review and approval of the Board Engineer.

- m. A brief notice of decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the applicant. (130-17 I.)

ADOPTED this 10th day of October, 2023

VOTE ON ROLL CALL:

IN FAVOR: Mr. Leckstein, Ms. DeGiulio, Ms. Bills, Mr. Schwartz, Chairman Cunningham

OPPOSED: Mr. Zelina, Mr. Bieber, Mr. Lawrence

MEMORIALIZED this 24th day of October, 2023 on a roll call upon a motion by Mr. Leckstein and a second by Ms. Bills

MEMORIALIZATION VOTE ON ROLL CALL:

IN FAVOR: Ms. Bills, Mr. Leckstein, Mr. Schwartz

OPPOSED: None

CERTIFICATION

I, Candace B. Mitchell, Secretary of the Unified Planning/Zoning Board of the Borough of Sea Bright, County of Monmouth, State of New Jersey, do hereby certify the attached is a true copy of the Resolution for Application No. 2023-08 Approved by the Unified Planning/Zoning Board at its regular meeting on October 10, 2023 and memorialized on October 24, 2023.

Candace B. Mitchell

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