

June 4, 2025

Via e-mail and Hand Delivery

Candace Mitchell, Secretary, Planning/Zoning Board
Borough of Sea Bright
1099 Ocean Avenue
Sea Bright, NJ 07760

Re: Amendment Approval
164 Ocean Avenue
Block 33 ~ Lot 20.01

Dear Candace:

Enclosed please find fifteen (15) sets of the following documents

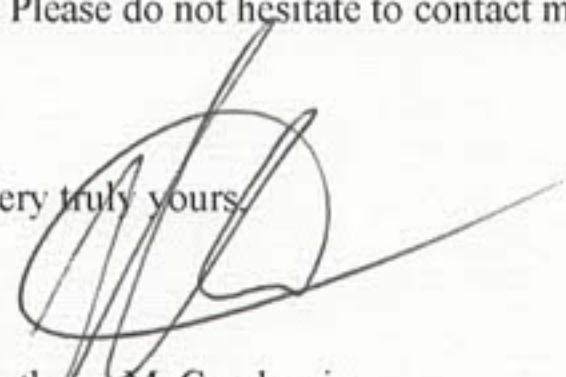
1. Planning/Zoning Board Application for Administrative Approval
2. Resolution Letter # 2021-14 & PBZB Resolution 2018-007
3. Architectural plans prepared by Anthony M. Condouris, Architect and dated June 3, 2025, consisting of two (2) sheets.

Checks enclosed.

Escrow fees in the amount of \$500 - Check # 11435
Application fee of \$150- Check # 11434

Your attention to this matter is greatly appreciated. Please do not hesitate to contact me if you have any questions.

Very truly yours,


Anthony M. Condouris

cc w/encs. Via e-mail

David J. Hoder, PE,PP, -Borough Engineer
Ben Montenegro_ Board Attorney
Theresa Phan

BOROUGH OF SEA BRIGHT PLANNING/ZONING BOARD APPLICATION

**1099 Ocean Avenue Sea Bright, New Jersey 07760
732-842-0099 ext. 123**

The application with supporting documentation must be filed with the office of the Planning Board Secretary and must be delivered for review **at least ten (10) days** prior to the meeting at which the application is to be considered.

NOTE: All plans must be folded. Any rolled plans will not be accepted.

To be completed by Municipal staff only.

Date Filed _____ Application No. _____

Application Fees _____ Escrow Deposit _____

Reviewed for Completeness _____ Hearing _____

1. SUBJECT PROPERTY

Location: 164 Ocean Ave
Block 33 Lot 2001
Dimensions: Frontage _____ Depth _____ Total Area _____
Zoning District: R-2

2. APPLICANT

Name: Anthony M. Condouris - Architect
Address: 20 Bingham Ave
Telephone Number: 732-842-3850
Applicant is a: Corporation ☐ Partnership ☒ Individual ☐

3. DISCLOSURE STATEMENT: Pursuant to J.J.S. 40:55D-48-1, the names and addresses of all persons owning 10% of the stock in a corporate applicant or 10% interest in any partnership, applicant must be disclosed. In accordance with N.J.S. 40:55D4-8.2 that disclosure requirement applies to any corporation or partnership which owns more than 10% interest in the applicant followed up the chain of ownership until the names and addresses of the non-corporate stockholders and partners exceeding the 10% ownership criterion have been disclosed. (Attach pages as necessary to fully comply.)

4. If owner is other than the applicant, provide the following information on the Owner(s).

Owner's Name: Martin & Theresa Phan
Address: 2 Elegante Dr. Edison, NJ 08820
Telephone Number: 908-433-6401

5. Property Information:

Restrictions, covenants, easements, association by-laws, existing or proposed on the property: N/A

(Attach copies)

No _____ Proposed _____

Note: All deed restrictions, easements, association by-laws, existing and proposed must be submitted for review and must be written in easily understandable English in order to be approved.

Present the use of the premises:

6. Applicant's Attorney: _____

Address: _____

Telephone Number _____ Email: _____

7. Applicant's Engineer: _____

Address: _____

Telephone Number _____ Email: _____

8. Applicant's Planning Consultant: _____

Address: _____

Telephone Number _____ Email: _____

9. Applicant's Traffic Engineer: _____

Address: _____

Telephone Number _____ Email: _____

10. List any other Expert(s) who will submit a report or who will testify for the Applicant: (Attach additional sheets as may be necessary).

Name: Anthony M. Condouris, Jr.

Field of Expertise: Architect

Address: 20 Bingham Ave. Rumson, NJ 07960

Telephone Number 732.842.3800 Email Tony@AmcArchitect.com

11. APPLICATION REPRESENTS A REQUEST FOR THE FOLLOWING:

_____ PLOT PLAN or VARIANCE PLAN APPROVAL
_____ SUBDIVISION

_____ Minor Subdivision Approval

_____ Subdivision Approval (Preliminary)

_____ Subdivision Approval (Final)

Number of lots to be created _____ (including remainder lot)

Number of proposed dwelling units _____ (if Applicable)

SITE PLAN:

- ☐ Minor Site Plan Approval
- ☐ Preliminary Site Plan Approval
- ☐ Final Site Plan Approval
- ☒ Amendment or Revision to an Approval Site
- ☐ Plan Area to be disturbed (square feet)
- ☐ Total number of proposed dwelling units
- ☐ Request for Waiver from Site Plan Review and Approval
- ☐ Request for Variance Approval

Reason for request:

- ☐ Informal Review
- ☐ Appeal decision of an Administrative Officer
(N.J.S.A 40:55D-70A)
- ☐ Map or Ordinance Interpretation of Special Question
(N.J.S.A.40:55D-70b)
- ☐ Variance Relief (hardship)
(N.J.S. A. 40:55D-70c (1))
- ☐ Variance Relief (substantial benefit)
(N.J.SA.40:55D-70c (2))
- ☐ Variance Relief (use)
(N.J.S 40:55D-70d)
- ☐ Conditional Use Approval
(N.J.S 40:55D-67)
- ☐ Direct issuance of a permit for a structure
in bed of a mapped street, public drainage way, or flood control
basin. (N.J.S 40:55D-334)
- ☐ Direct issuance of a permit for a lot lacking street frontage
(N.J.S 40:55D-35)

12. Section(s) of Ordinance from which a variance is requested _____

13. Waivers requested of development standards and/or submission requirements:(attach additional pages as needed)

14. Attach a copy of the Notice to Appear in the official newspaper of the municipality and to be mailed to the owners of all real property, as shown on the current tax duplicate, located within the State and within 200 feet in all directions of the property which is the subject of this application. The Notice must specify the sections of the Ordinance from which relief is sought, if applicable.

The publication and the service on the affected owners must be accomplished **at least 10 days prior** to the date scheduled by the Administrative Officer for the hearing. An Affidavit of Service on all property owners and Proof of Publication must be filed before the application will be complete and the hearing can proceed. *-N/A*

15. Explain in detail the exact nature of the application and the changes to be made at the premises including the proposed use of the premises: (attach pages as needed)

+ See letters attached

16. Is a public water line available? *yes*

17. Is public sanitary sewer available? *yes*

18. Does the application propose a well and septic system? *NO*

19. Have any proposed new lots been reviewed with the Tax Assessor to determine appropriate lot and block number? *N/A*

20. Are any off-tract improvements required or proposed? *NO*

21. Is the subdivision to be filed by Deed or Plat? *N/A*

22. What form of security does the applicant propose to provide as performance and maintenance guarantees? *N/A*

23. Other approvals, which may be required, and date plans submitted:

**MARK THE FOLLOWING WITH A YES OR NO
AND DATES OF THE PLANS SUBMITTED**

NE Regional Sewer Auth _____
Monmouth County Board Of Health _____
Monmouth County Planning Board _____
Freehold Soil Conservation District _____
NJ DEP _____
Sewer Extension Permit _____
Sanitary Sewer Connection Permit _____
Stream Encroachment Permit _____
Waterfront Development Permit _____
Wetlands Permit _____
Tidal Wetlands Permit _____
Potable Water Constr. Permit _____
NJ Department of Transportation _____
Public Service Electric & Gas _____
Other _____

N/A

24. Certification from the Tax Collector that all taxes due on the subject property have been paid.

#15
ANTHONY M. CONDOURIS, A.I.A.
ARCHITECT

20 BINGHAM AVENUE
RUMSON, NJ 07750

May 31, 2025

Zoning Department
Borough of Sea Bright

Re: Phan Residence
164 Ocean Avenue
Sea Bright, NJ 07760

Block 33, Lot 20.01

Attn: Candace B. Mitchell
Benjamin A. Montenegro, ESQ

A few months ago, I had a conversation with Mr. Montenegro regarding the above project.

At an earlier date, variances were granted to expand and renovate the existing house.

The house would also be lifted and placed on a new raised foundation which would provide a ground level garage and storage area.

My firm was hired to prepare the construction documents for this project.

Following an onsite inspection of the existing structure, we determined that it is highly impractical to lift and renovate the existing structure as most of the existing structure would need to be removed and reconstructed anyway.

It makes much more sense to demolish the existing structure and construct a new home.

This would eliminate the burden and expense of lifting a structure that in reality, cannot be used.

This letter is a request to allow a new house to be constructed that would match the design and footprint of the house that was approved.

TEL: 732-842-3800

FAX: 732-842-7777

**ANTHONY M. CONDOURIS, A.I.A.
ARCHITECT**

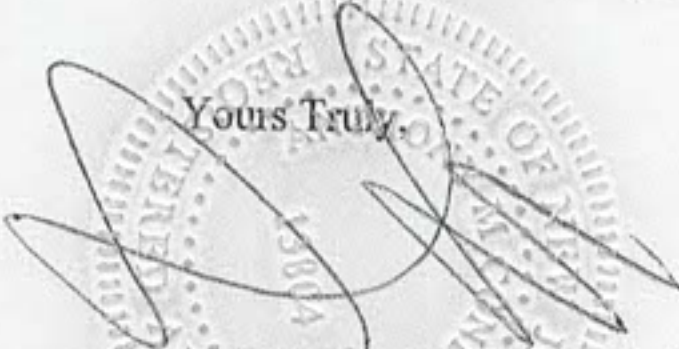
**20 BINGHAM AVENUE
RUMSON, NJ 07750**

Mr. Montenegro informed me that it could be possible to allow this administratively and not require going back to the zoning board.

The purpose of this letter is to request permission to submit plans for a new house and not the renovation.

Please let me know of any additional material or documentation you will need from me to continue to expedite this process.

Yours Truly,



Anthony M. Condonis, Architect
NJ License # AI-13804

Cc. Theresa Phan

25. Certification from Sewer Collector that sewer utility charges due on the subject property have been paid.

Note: It is the responsibility of the Applicant to mail or deliver copies of the Application form and all supporting documents to the Board Secretary, Borough Engineer and Board Attorney for their review at least ten (10) days prior to the meeting at which the application is to be considered, otherwise the application will be deemed incomplete. A list of those required to receive documents is attached to the application form.

26. The Applicant hereby requests that copies of the reports of the Borough Engineer and Board Attorney reviewing the application be provided to the following of the applicant's professionals.

Applicant's Professional Report Requested:

Attorney _____
Address: _____

Phone Number: _____ Email: _____

Engineer: _____
Address: _____

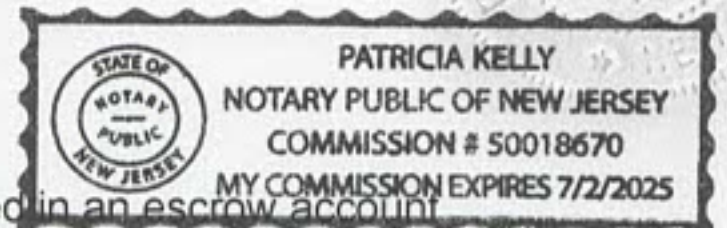
Phone Number: _____ Email: _____

CERTIFICATION

I certify that the foregoing statements and the materials submitted are true. I further certify that I am the individual applicant or that I am an Officer of the Corporate Application and that I am authorized to sign. (If the applicant is a corporation, this must be signed by an authorized corporate officer. If the applicant is a partnership, this must be signed by a general partner).

Sworn to and subscribed before me this 4th day of JUNE, 20 25.

A Notary Public of NJ Owner
My Commission Expires: 7/2/2025



I understand that the sum of \$ 500.00 has been deposited in an escrow account (Builder's Trust Account). In accordance with the Ordinances of the Borough of SeaBright, I further understand that the escrow account is established to cover the cost of professional services including engineering, planning, legal and other expenses associated with the review of submitted materials.

Sums not utilized in the review process shall be returned. If additional sums are deemed necessary, I understand that I will be notified of the required amount and shall add that sum to the escrow account within fifteen (15) days.

Date: 6/4/25 Applicant: [Signature] Anthony M. Condouris

**BOROUGH OF SEA BRIGHT PLANNING/ZONING BOARD
PROFESSIONAL STAFF**

BOARD ATTORNEY

Ben A. Montenegro, Esq.
Montenegro, Thompson, Montenegro & Genz, P.A.
531 Burnt Tavern Road
Brick NJ 08724
732-295-4500
Email: bmontenegro@mtmglaw.com

BOARD ENGINEER

Hoder Associates
1101 Richmond Avenue, Suite 201-4
Point Pleasant, NJ 08742
732- 241-4543
Email: dhoder@hoderassociates.com

CONSTRUCTION OFFICIAL

Tom Haege, Construction Official
1099 Ocean Avenue
Sea Bright, NJ 07760
732-842-0099 Ext 121

Kathryn Kwaak, Secretary to the Construction Official
1099 Ocean Avenue
Sea Bright, NJ 07760
732-842-0099 Ext 110
kkwaak@seabrightnj.org; FAX: 732- 963-8998

BOARD SECRETARY

Candace B. Mitchell
1099 Ocean Avenue
Sea Bright, NJ 07760
732-842-0099 Ext 123
cmitchell@seabrightnj.org

FIRE MARSHAL

Thomas Haege
1099 Ocean Avenue
Sea Bright, NJ 07760
732-842-0099 Ext 120
thaege@seabrightnj.org

ZONING OFFICER/FLOOD PLAIN MANAGER

Mary Tangolics
Office hours: Wednesdays, 8:30 a.m. – 1:30 p.m.
732-842-0099 Ext 128
mtangolics@seabrightnj.org

APPLICANT: MARTIN AND THERESA PHAN
ATTORNEY FOR APPLICANT: RICHARD SCIRIA, ESQ.
APPLICATION NUMBER: 2021- 14
BLOCK: 33
LOT: 20.01
ADDRESS: 164 OCEAN AVENUE
RESOLUTION NUMBER: 2021-14



**RESOLUTION OF THE UNIFIED PLANNING/ZONING BOARD
OF THE BOROUGH OF SEA BRIGHT
FOR AMENDED SITE PLAN APPROVAL**

WHEREAS, BOARD VICE CHAIR DI SEO offered the following Motion moved and seconded by **BOARD MEMBER CUNNINGHAM**:

WHEREAS, 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:

Amended Site Plan Approval from the Resolution entered on February 13, 2018 in conjunction with the Settlement Agreement (NJ Appellate Docket A-004249-18) entered on December 6, 2019 between the Applicant's Phan and The Land's End Townhouse Condominium Association, Inc (upon Notice to The Borough of Sea Bright).

Specifically, the Applicant will be seeking Amended Site Plan/Bulk ("c") Variance Approval for the following:

Eliminate the two (2) rear exterior decks;

Incorporate any front decks or balconies below the roof deck;

Incorporate "Juliet Balcony(ies)" on the rear elevation of the House;

Change the contour of the rear stairwell, thereby reducing the length as to the area of the rear stairwell from the back of the house by three (3) feet, which shall not change the footprint of the livable space;

Incorporate the planting of no less than five (5) trees of similar species, size, height, and caliper as currently exists on the Property in the buffer between the Property and the Association's property;

Extend the brick wall that runs half-way up the Ocean Avenue exterior stairwell with any other non-transparent material to the entire height of the stairwell. The enclosure of the stairwell triggers a front yard setback variance from Ocean Avenue whereas 25 feet is required and 17 feet is proposed;

Install a solid barrier (non-transparent) at the left-side railing on the roof deck adjacent to the Lands' End Condominium.

The Applicant will also be seeking approval for any and all other Variances and/or Design Waivers which are necessary, or which may become necessary, during the Public hearing process.

WHEREAS, the application pertains to premises known and designated as Block 33, Lot 20.01 on the Tax Map of the Borough of Sea Bright, which premises are located at 164 Ocean Avenue, 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, **NOVEMBER 9, 2021 AND JANUARY 11, 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 at the hearing as well as those appearing on the Sea Bright website (seabrightnj.org) for presentation at the Public Meeting as referenced above:

- Application, 6-25-21, with 2018 Resolution of Approval, 2-27-18 and Superior Court Stipulation of Settlement, 12-11-19 (pdf)
- Cover letter, 9-30-21 (pdf)
- Architectural Plans, dated 9-25-17 (pdf)
- Architectural Plans, revised to 4-24-21 (pdf)
- 2018 Application - Approved Architectural Drawings for comparison to 4-24-21 amended plans (pdf)
- Board Engineer's First Technical Review, 10-9-21 (pdf)
- Revised Architectural Plans, revised to 12-25-21 (pdf)
- Board Engineer Second Technical Review, 1-3-22 (pdf)
- Affidavit of Mailing, 10-5-21 (pdf)
- Reviewed Mail Service, 10-8-21 (pdf)
- Additional Mail Service, 10-15-21 (pdf)
- Affidavit of Publication, 10-18-21 (pdf)
- Reviewed Second Mail Service 10-28-21 (pdf)
- Affidavit of Mailing Mail Manifest, 10-28-21 (pdf)
- Affidavit of Publication, 11-9-21 (pdf)
- Tax and Sewer Certification, 11-9-21 (pdf)

WHEREAS The Board listened to the Testimony of the following:

1. CATHERINE FRANCO, ARCHITECT

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

1. NONE.

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

1. DAVID JANAZZO

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. The Board reviewed the testimony of Architect Catherine Franco, Catherine Franco – AIA and PP 150 Monmouth Ave, Atlantic Highlands regarding the settlement and prior resolution
2. Ms. Franco testified to modifications from the Appellate Division:
 - A. Eliminate the two rear decks and the plans had to incorporate any front deck or balcony below the roof deck, create Juliet balconies;
 - B. Turn the contour of the stairwell facing Ocean Avenue by making a solid wall all the way up instead of a half wall appearance.
 - C. Add landscape bumper.
3. The testimony initially provided was that the change of plans in accordance with the Settlement Agreement triggered a front yard setback variance on Ocean Avenue as the Applicant's enclosed the stairs and added a deck which movement changed the setback.
4. Board Vice Chair DiSeo pointed out that the structure was enlarged by 400 square feet total (200 sq/floor)
5. Board Vice Chair DiSeo advised that a 25' set back on Ocean Avenue – measured to curb was a non-negotiable item given the addition to the structure and the room to move the structure towards the back of the lot per the survey. This "movement forward" into the Ocean Avenue setback was not contemplated by the original resolution of 2018.
6. The applicant, in consideration of comments made, revised and resubmitted their plans for the structure for the January 11, 2022 meeting with the Ocean Avenue set back variance being eliminated.
7. Further, applicant per the revised plans, will conform with other requirements and buffering to plant 5 trees in between properties, with 4 trees in back and 1 in the front of the property, in the buffer as shown on the revised plans.
8. The Board, after revision of the plans, advised that the plans were now in compliance with the 2018 Resolution and subsequent Settlement Agreement.
9. Ms. Franco, testifying on the revised plans, stated that the building changes are found on sheet one (1) of the plans. The front circular driveway was now incorporated in the building and therefore, eliminated the variance. Instead of the proposed 17' front yard setback, the setback will now be 25' 6", which is above the requirement. The rear stairwell will now be placed horizontally, to go against the back wall, and its left wall will be a solid, instead of a half solid wall. Also, building coverage has been reduced by 100 sq.'. The only stair to the roof is a spiral staircase located on the front side of the house. The rear decks have been taken away. Everything else is the same as in the original application.
10. Vice Chairman DeSio commented that he was glad the front setback was improved. He noted that the property has two front yards, and the applicants were granted relief on the

Mountain View Way side in the first application's approval. He is pleased that the setback on Ocean Avenue is now in compliance.

11. Board Engineer David Hoder referenced his Second Technical Review, dated January 3, 2022, and stated the applicant should provide a place on the plan for the Board engineer to sign, which is a Condition of Approval. The applicant should also place on the plan a note that any curb, sidewalk, or road surface damaged during construction will be replaced according to the Borough or NJDOT standards, which is also a condition of approval.

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**:

Applicant is granted Amended Site Plan Approval from the Resolution entered on February 13, 2018 in conjunction with the Settlement Agreement (NJ Appellate Docket A-004249-18) entered on December 6, 2019 between the Applicant's Phan and The Land's End Townhouse Condominium Association, Inc (upon Notice to The Borough of Sea Bright).

Applicant is **GRANTED** bulk variance relief pursuant to NJSA 40:55D-70.c **PER THE REVISED PLANS SUBMITTED AND REFERENCED ABOVE; TO**

Eliminate the two (2) rear exterior decks;

Incorporate any front decks or balconies below the roof deck;

Incorporate "Juliet Balcony(ies)" on the rear elevation of the House;

Change the contour of the rear stairwell, which was revised to show a solid wall;

Incorporate the planting of no less than five (5) trees of similar species, size, height, and caliper as currently exists on the Property in the buffer between the Property and the Association's property;

Extend the brick wall that runs half-way up the Ocean Avenue exterior stairwell with any other non-transparent material to the entire height of the stairwell;

Install a solid barrier (non-transparent) at the left-side railing on the roof deck adjacent to the Lands' End Condominium.

Requires the original (existing footprint) to be unchanged;

(Board Engineer Hoder indicates the plans reflect these changes 1/3/2022)

Further, as a Condition of Approval, Board Engineer David Hoder referenced his Second Technical Review, dated January 3, 2022, and stated the applicant should also provide a place on the plan for the Board Engineer to sign, and the *Applicant should also place on the plan a note that any curb, sidewalk, or road surface damaged during construction will be replaced according to the Borough or NJDOT standards by the Applicant.*

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. SUBJECT TO ALL REPRESENTATIONS AND TESTIMONY OF THE APPLICANT BEING TRUTHFUL AND ACCURATE
 - b. SUBJECT TO ALL TERMS AS CONTAINED IN THE REVIEW LETTER OF HODER ASSOCIATS DATED JANUARY 3, 2022

APPLICATION VOTE:

Adopted on a roll call on a motion by Board Vice Chair DeSio and Seconded by Board Chair Cunningham

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

THOSE OPPOSED: None

RECUSED: None

ABSENT: Bills, DeGiulio, Schwartz

ABSTAINED: None

MEMORIALIZATION VOTE:

Adopted on a roll call on a motion offered by Board Chair Cunningham and Seconded by Board member Lawrence

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

THOSE OPPOSED: None

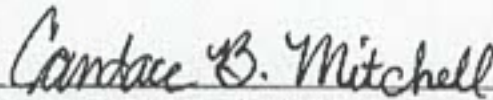
RECUSED: None

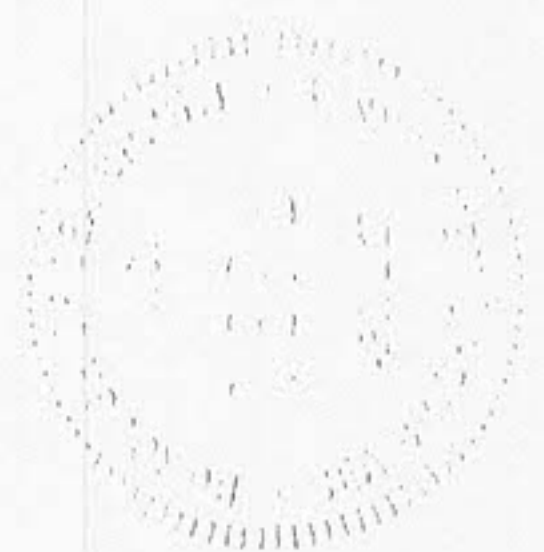
ABSENT: Bills, DeGiulio, Leckstein, Schwartz

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 January 25, 2022.

Date: January 25, 2022


Candace B. Mitchell
Administrative Officer of the Unified Planning
Board of the Borough of Sea Bright



RESOLUTION OF THE SEA BRIGHT PLANNING/ZONING BOARD
GRANTING SITE PLAN WITH BULK VARIANCES AND
USE VARIANCE APPROVAL

RE: MARTIN PHAN
164 OCEAN AVENUE
BLOCK 33 LOT 20.01
PBZB-2018-007

WHEREAS, the applicant, Martin Phan, owner of premises commonly known as 164 Ocean Avenue, Block 33, Lot 20.01, Sea Bright, New Jersey has applied to the Planning/Zoning Board for site plan approval with bulk variances and use variance approval to expand an existing non-conforming 2-family use in the R-2 zone; and

WHEREAS, the applicant has provided due notice to the public and all surrounding properties as required by law in accordance with N.J.S.A. 40:55D-1, et seq., this Board gaining jurisdiction therein and the public hearing having been held on this matter on February 13, 2018 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 the following:

- A-1: Jurisdictional Packet.
- A-2: Architectural plans prepared by Catherine Franco, Architect dated 9-25-17
- A-3: Report by David Hoder, Board Engineer, dated 1-18-18, revised to 1-24-18

- A-4: Architectural plans showing existing conditions and proposed, colored, dated 9-25-17
- A-5: Board with 4 photos and site plan
- A-6: Aerial
- A-7: Aerial

WHEREAS, neighboring condominium development Lands End appeared through its attorney and presented the following evidence:

- O-1: View of subject property from Mountain View looking East
- O-2: View along south property line from Ocean Avenue looking west
- O-3: View from Lands End looking at rear of subject

WHEREAS, the Board having considered the evidence presented it does hereby make the following findings of fact and conclusions:

1. The subject property is located in an R-2 Zone. The Applicant testified that the property is presently developed as a 2-family dwelling. The Applicant proposes to expand the existing 2-family residence from by adding 8' to the front and 30' to the rear.

2. Two-family homes are not permitted in the R-2 zone. Applicant is seeking a D variance for use as well as bulk variances for: lot width where 50' is required and 40' is existing and proposed; minimum front yard where 25' is required and 33.4'/4.8' is existing and 25.5'/4.8' proposed (corner lot requires two front yards); minimum side yard where 7' is required and 41.83'/4.8 is existing and proposed and will be extended with the additional with the addition;

3. The home is currently two-family and has been for many years. The architect, Catherine Franco testified that one unit is located on the first floor and one on the second floor. The first floor contains 1008 s.f. existing and will add an additional 937 s.f. including the deck. The total additional living space will be 581 s.f.

The second floor unit will add an additional 1273 s.f., (917 s.f. living space and 356 s.f. deck).

4. Applicant testified that the property has been used as a two family residence for many years. Applicant is proposing a garage which will allow vehicles to be parked inside and provide more greenspace than currently exists. The Applicant testified that the current stone driveway on Mountain View will be removed.

5. Steven Melenik, attorney for Lands End questioned the architect about the removal of 2 trees at the rear of the existing building. He also noted that home was being enlarged from 42' in length to 72'. The lot is 140' in depth.

6. Planner James Higgins testified on behalf of the Applicant. He noted that the applicant requires a D-2 variance for expansion of a pre-existing non-conforming use. He noted that there are currently 2 units with 2 bedrooms in each unit. This same configuration will remain with the addition. The improvements merely improve the functionality and "livability" of the home. The intensity of use will not be increased.

Higgins noted that the use would continue as it currently exists if the expansion did not take place.

The Planner further testified that the proposed expansion would improve current conditions, improve the aesthetics and provide a safer living environment for the residents.

7. The Planner further testified that the two-family use is consistent with the area. The 24 unit Lands End townhome

development is immediately adjacent to the subject property and the approved 24 unit Gaiters development is just north of the subject. Mountain View is sandwiched between these two large multi-family developments.

Higgins noted that the property is unique in that it is a corner lot requiring 2 front yards. The purpose is to allow the front yard site line to be consistent on both streets. That is not necessary in this instance because there is no other home on this side of Mountain View.

The Planner further noted that the lot is long and narrow (40 x 140). While 50% lot coverage is allowed, the subject, with the improvements, will only be 36.7%, which is 750 s.f. less than allowed. The Applicant is not maxing out the lot development.

Moreover, Higgins noted that the existing parking area for cars is stoned and cars park outside. The new garage will allow cars to be housed inside and provide less stone area and more green space, improving the neighborhood.

He further stated that the bulk variances were technical in nature due to the two front yards. The bulk variances were not being increased other than by extending the building down the same line an additional 30 '. He noted the large separation between the subject building and the closest Lands End building.

8. Mr. Phan testified that he is requesting the addition in order to make better living conditions for his family.

9. Neighbor Ruth Fialko lives directly across from the subject property and testified in favor of the application.

10. Planner Higgins gave his opinion that the expansion of the building would have no negative impact on the zone ordinance and was not inconsistent with the intent of the Master Plan. There would be no detriment to the neighborhood. The two residential uses have been in existence for many years.

He stated that the property would be improved aesthetically and provide for a better and safer plan. It would definitely improve the functionality of the home.

11. Lands End presented Planner Brian McPeak. He testified that the addition would diminish the aesthetic resources. He opined that there would be a detriment to the light and space by the addition to building.

McPeak further opined that the 130% increase in the floor area would be a substantial intensification of the use. He felt that there was no hardship for the issuance of the bulk variances.

12. The Board agreed that the proposed extension of the existing two-story residence would not impair the intent of the zone plan or zoning ordinance. The Board found that the exterior changes will be an upgrade to the property and a benefit to the streetscape. The Board further found that the setbacks are existing and will be extended by the length being added to the building, but are similar to the conditions in the neighborhood and will improve existing conditions.

13. The Board found that the proposed addition is not excessive in size and that the lot coverage is well under that permitted. The intensity of the use will not change. The two residential uses on the same lot have existed for many years with no detriment. The use is consistent with the neighborhood, especially with the Lands End development immediately adjacent.

14. The Board found that the proposed development would improve the functionality of the house and would provide more green space.

15. The Board agreed that the expansion of the building vertically would have no negative impact on the zone ordinance and was not inconsistent with the intent of the Master Plan.

The two residential uses have been in existence for many years.

The addition of 30' to the rear on this very deep lot would have no impact. The Board found that the proposed addition would be an aesthetic improvement and still leave considerable space between the subject house and the Lands End buildings. The Board found that the intensity of the use would remain the same and not be intensified by adding on the existing two-family structure. The property will still contain two two-bedroom units.

16. After discussion with the Board engineer, the Board determined that the waivers for road widening, curb and sidewalk on Mountain View were warranted.

17. The Applicant **stipulated** that no mechanicals would be located further into any setback than the walls of the buildings.

18. The Applicant noted, and the Board agreed, that the property was exceptionally narrow, making it difficult to comply with the one side yard/front yard setback. The side yard setbacks will remain the same, just be extended by the additions as set forth on the plans.

19. After evaluating all of the evidence and testimony the Board found that the applicant has met the enhanced burden of proof as to the positive and negative criteria as set forth in Medici v. BPR Co., 107 N.J. 1 (1987).

The addition to the existing two family residence by adding to the front and rear will have no impact on the existing provision of adequate light, air and open space.

The continuation of the two family use will not impede the specific intent and purpose of the zone, as it has been in existence for years. There are several multi-family uses in the neighborhood.

The Board found that the proposed expansion of the non-conforming use, making the units more functional and removing the driveway on Mountain View and the stoned area will promote the public health and safety.

20. The "D" variance relief sought can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Master Plan, Zone Plan and Zoning Ordinance for the reasons set forth above.

NOW, THEREFORE, BE IT RESOLVED by the Planning/Zoning Board of the Borough of Sea Bright based upon the findings of fact set forth hereinabove that the waivers, bulk and use variance request to expand the existing non-conforming two-family residential dwelling be granted subject to the following general and specific conditions:

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 including but not limited to CAFRA and compliance with all governmental regulations 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 upon 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 has occurred.

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. No mechanicals would be located further into any setback than the walls of the buildings.

2. The driveway along Mountain View will be removed.

3. Applicant will repair any curb, sidewalk and pavement disturbed during the course of construction, to the satisfaction of the Board engineer.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting of February 13, 2018; 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 February 27, 2018.

Kathy Morris, Secretary
Sea Bright Planning/Zoning
Board

Adopted on a roll call on a motion by

and

Seconded by _____

Lance Cunningham, Chairman
Sea Bright Planning/Zoning Board