

SEA GIRT PLANNING BOARD  
SPECIAL MEETING  
THURSDAY, FEBRUARY 11, 2021

A Special Meeting of the Sea Girt Planning Board was held on Thursday, February 11, 2021 at 7:07 p.m. virtually. In compliance with the Open Public Meetings Act, notice of this Body's meeting had been sent to the official newspapers of the Board and the Borough Clerk, fixing the time and place of all hearings.

Roll Call: Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Ken Farrell, Stan Koreyva, Eileen Laszlo, Robert Walker, John Ward, Norman Hall

Absent: Carla Abrahamson, Raymond Petronko

Board Attorney Kevin Kennedy was also present and Board Secretary Karen Brisben recorded the Minutes. Mr. Kennedy noted that the two official newspapers of the Board has been given notice of this Special Meeting and Mrs. Brisben gave her email [kbrisben@seagirtboro.com](mailto:kbrisben@seagirtboro.com) in case anyone was having a problem logging on.

OTHER BUSINESS:

As the Board did not get to finish the discussion on the Sitar litigation matter, Mr. Andrew Bayer once again was in attendance to finish presenting this settlement to the Board. Before he started, John Ward recused himself as he lives within 200 feet of 501 Washington Boulevard, the subject property.

Mr. Bayer again explained the settlement agreement reached with Council will allow 19 apartment units (16 market and 3 Affordable Housing). If approved by the Court there will be a Fairness Hearing scheduled which will be publicly noticed and they will decide if all is fair and can be approved; if they approve this settlement agreement there will then be a re-zoning done by Council through an Ordinance, then the Housing Element of the Master Plan will have to be amended.

Mr. Bayer went on to say this is Step One of a lengthy process and reminded the Board that the original Builder's Remedy litigation was for more than double the number of units and he recommended the Planning Board approve a Resolution agreeing to this settlement. The Board then had a brief discussion about opening this for public comments and the decision was to open it, even though Council had already done this. Chairman Hall then asked if anyone from the public wanted to comment and there was no response so the public comment portion was closed and the following Resolution was presented for approval:

## RESOLUTION AUTHORIZING SETTLEMENT OF LAWSUIT AND EXECUTION OF A SETTLEMENT AGREEMENT

WHEREAS, the Sea Girt Planning Board is a duly organized Land Use Board operating and existing in accordance with the rules and regulations of the State of New Jersey and the Borough of Sea Girt; and

WHEREAS, the Planning Board is a Defendant in the Builder's Remedy Litigation Case entitled 501 Washington Blvd., LLC, 503 Washington Blvd., LLC, Sea Girt Fifth Avenue, LLC, Sitco Sea Girt, LLC vs. Borough of Sea Girt; Borough Council of Sea Girt; and Sea Girt Planning Board, Docket No.: MON-L-000102-20; and

WHEREAS, the Borough of Sea Girt is a named Defendant in the case as well; and

WHEREAS, there is an opportunity to settle the aforementioned lawsuit; and

WHEREAS, there is an opportunity to settle the aforementioned lawsuit; and

WHEREAS, the proposed settlement terms are set forth in the attached Settlement Agreement; and

WHEREAS, the Planning Board Representatives have been advised that the terms of the Settlement Agreement are acceptable to the Plaintiff's Representatives as well and the Borough's Representatives; and

WHEREAS, the settlement of the case will, essentially, end the litigation; and

WHEREAS, under the circumstances, the settlement terms are reasonable;

NOW, THEREFORE, BE IT RESOLVED by the Members of the Sea Girt Planning Board as follows:

1. That the Sea Girt Planning Board is hereby authorized to settle the case entitled 501 Washington Blvd., LLC, 503 Washington Blvd., LLC, Sea Girt Fifth Avenue, LLC, Sitco Sea Girt, LLC vs. Borough of Sea Girt; Borough Council of Sea Girt; and Sea Girt Planning Board (Docket No.:MON-L-000201-20), pursuant to the Settlement Agreement which is attached hereto for a document substantially similar thereto.)
2. That the Chair, Vice-Chair, Board Secretary and Board Attorney are hereby authorized to sign and any all documents necessary to effectuate the intentions of the within Resolution – including, but not limited to, the attached Settlement Agreement (or a document substantially similar thereto).
3. That the execution of the Settlement Agreement shall be subject to the following:

- a) Execution of the Settlement Agreement (or a document substantially similar thereto) by Agents of the Borough of Sea Girt, and
  - b) Execution of Settlement Agreement (or a document substantially similar thereto) by Representatives of the Plaintiff.
4. That the within Resolution shall take effect immediately.

A motion to approve the above Resolution was made by Mrs. Laszlo, seconded by Mr. Casey and then the following roll call vote:

Ayes: Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Ken Farrell, Stan Koreyva, Eileen Laszlo, Robert Walker, Norman Hall

Noes: None

(Note: the Settlement Agreement noted in the Resolution is attached to the end of these Minutes).

#### NEW BUSINESS:

Chairman Hall announced that the agenda was being moved around as the attorney for the 708 Morven Terrace application was going to be late; the Board then turned to the application for Site Plan approval for Block 76, Lot 3, 507 Washington Boulevard, owned by Frank Kineavy (Applicant – Chefs International, Inc., Chefs Seagirt, LLC) to allow restaurant expansions. Front Yard Entrance ramp encroaches into Front Setback Area +/- 5 feet, variance required. Deck/patio area within front & side yards, two variances required. Variance required for 24 foot, 6-inch aisle width at proposed building addition. Existing non-conformity – two existing refrigerated boxes where garage/parking only permitted.

The correct fees were paid, taxes were paid to date and the owners within 200 feet as well as the newspaper were properly notified. Before starting, Mr. Kennedy asked if anyone within 200 feet had any problems with the notice they received and there was no response. He then thanked the attorney, Mr. John Jackson, Esq., for re-noticing the hearing as the last meeting was hacked and had to be closed so this hearing was not done on Jan. 27<sup>th</sup> as originally scheduled.

At this point Mr. Kennedy marked the following exhibits:

- A-1. The application
- A-2. The checklist
- A-3. Fire Official's report of 1/12/21.
- A-4. Freehold Soil report.
- A-5. Survey dated 12/11/20.
- A-6. Site Plan dated 9/18/20, revised 12/2/20.
- A-7. Architectural plans dated 12/11/20.
- A-8. Topographic survey dated 3/17/20.

A-9. Stormwater Management Report

A-10. Board Engineer's report dated 11/25/20, revised 1/12/21.

A-11 – Illustrated rendering of site dated 2/8/21.

Mr. Kennedy also explained that the original report from Avakian's office showed a Use Variance need but the new report says that has been taken away with revised plans so the two Council members can hear and partake of this application.

Chairman Hall then told Mr. Jackson the Board has a protocol of allowing 1 hour for testimony and if there is a need to carry the hearing it will be done. Mr. Jackson said he understood and hoped to have this done this evening. He said he had Bob Cooper of Chef's International here as well as Frank Kineavy, owner of the property; he then read the names of the partners in the Corporation and there was no conflict for any Board members: Dr. Robert Lombardi, Dr. Joe Lombardi, Michael Lombardi, Stephen Lombardi, Anthony Lombardi, Matthew Maschler, Lee Maschler.

At this point Mr. Kineavy came forward and was sworn in, stating he has been the proprietor of Rod's Tavern for 40 years and now Chef's International is taking over, they have been around for 50 years and are experienced. Mr. Cooper is the CEO and is here to present the concept of outside dining and he referenced Exhibit A-11, the rendering of what Rod's will look like when done. There will be an outdoor patio, they are putting in a handicapped ramp and there will be an outdoor deck. The proposed bar area will be  $\frac{1}{2}$  outside and  $\frac{1}{2}$  inside and in winter months will be all inside. The second floor deck will not be habitable, the one variance needed is for the outdoor patio in the front of the building on the first floor and needs a variance as it's in the front yard; the proposed outdoor dining deck will have a sound wall and landscape buffers so it will not bother the residences behind the building. Mr. Jackson then presented a 28 page Power Point, it is undated and was marked as Exhibit A-12. Mr. Jackson then went through the Power Point which gave information on the proposals of renovation.

Mr. Jim Butler, Licensed Architect, then was sworn in. He started by confirming that the final work will look just like the rendering (Exhibit A-11). The materials will be same as are on the building now, clapboard siding with white trim; the flat roof as the bar area will now have a mansard roof and he explained the handicap ramp. After his testimony was done Mrs. Brisben asked how they are going to close the open room on the east during the winter and he said there are glass doors which will be closed and make this an inside area. Mr. Jackson said there will be a bar which will be  $\frac{1}{2}$  in and  $\frac{1}{2}$  out, so in the winter there will just be  $\frac{1}{2}$  bar inside. Mrs. Brisben then asked how many can be seated on the outdoor deck and was told Mr. Cooper can answer that.

Mr. Bob Cooper was then sworn in and gave his address as 912 Birch Drive, Brielle, he is President and CEO of Chef's International. He answered Mrs. Brisben's question by stating the total number is 65 and the south patio/deck is 64. She then asked how the wall will help with the noise and Mr. Cooper said this wall will be attached to the deck and will be high enough to reflect sound as well as the proposed landscaping. They have not yet determined what it will be constructed of but it will be a

robust exterior wall. Mr. Walker asked if the patio/deck on the west side will get closed up in the winter as well and Mr. Cooper said that was not part of the plan but the doors can be closed if needed. Mr. Walker then asked about music outdoors; Mr. Cooper said there will be no live music, just canned background music perhaps for the diners. Mr. Jackson said they agree to have this put in the Resolution, there will be just background music.

Mr. Casey asked how wide is the handicap ramp on Washington Boulevard and Mr. Cooper said 4 feet. He then asked if the stairway comes down in the setback and the answer was yes. Mr. Jackson said the Engineer/Planner, Walter Hopkin, can address this and he was sworn in, stating he is a Professional Engineer and Planner. Mr. Kennedy wanted it known that he has worked with Mr. Hopkin in the past but has no working relationship at this time, he wanted to make that clear; both the Board members and Mr. Jackson had no problem with this. Mr. Hopkin said the handicap ramp does encroach into the front yard setback by 5.2 feet as well as the stairs, they are working with the existing building and a ramp is required and this is okay under the C-1 and C-2 criteria. He also stated there is no change in parking and he felt the existing parking can handle the expansion. In the Ordinance a deck is not allowed in the front or side yard and he felt this applies to residences but they are agreeable to asking for variance relief as they are trying to keep the deck away from the residences in the rear; he said the deck advances the criteria as it provides light, air and open space and complies with the Business District Report and Master Plan as both those reports want uses that promote foot traffic, the Chamber of Commerce also agrees with this thought. The applicant feels that, even though variances are being asked for, this works with the Master Plan and Business District Report.

At this time Mr. Jackson wanted to go over the Board Engineer's report and Mr. Hopkin just said they will comply with all the requirements in that report, no problem. Mr. Jackson stated they will also comply with the Fire Inspection Official report. Mr. Cooper stated that the doors will open at 11:30 am and will close at midnight, there are 26 employees per shift now and this will be increased to 29 per shift. He then commented that this restaurant will be tailored to the community, as Anchor Tavern in Belmar is that they own, outdoor dining is popular and they feel the residents of Sea Girt, Spring Lake and Manasquan will be customers. Mr. Cooper told the Board their home office is in Point Pleasant Beach and they have been there since 1992 with over 1,000 employees in Monmouth and Ocean County.

At this time the Board had some questions for the professionals. Mr. Koreyva spoke of the Noise Ordinance and asked how the restaurant will deal with noise after 10:00 pm. He said if he has a party at his home at 10:05 he may hear from the Police. Mr. Cooper said this is a Commercial Zone with a sound wall and vegetation so it is not an ordinary deck but if it becomes an issue they will deal with it; he reminded all that Council controls the Liquor License and can take measures if this is a problem. Mr. Ward asked that they say it's a Commercial Zone but there will be residences right next to them with the legal settlement just approved. Mr. Jackson said they are building in the downtown area, the vibrancy of it is what is important. Mr. Ward said they are

abutting residences and asked about deliveries. Mr. Cooper said there is access to the back and all deliveries are done during the day, in the morning. Mr. Ward asked if that meant 5:00 am? Mr. Cooper said the deliveries start at 8:00 and need signatures so there will be no early morning deliveries. Mrs. Brisben asked for confirmation that they will comply with the Fire Official's report as he had a lot of concerns with ingress and egress. Mr. Cooper said he had spoken to Chris Willms and they will work on the egress and Mr. Willm's direction during the construction. Chairman Hall commented they will have to do this to comply with CO regulations. Mr. Jackson said the Construction Department will see this also and they will comply; Chairman Hall told him they have to comply.

Mayor Farrell asked if they will be installing new grease traps and Mr. Cooper said yes, they are addressing the grease trap problem. Mrs. Laszlo said the Fire Official's report suggests putting in a fire suppression system and she wanted to know about that, Mr. Jackson said it is not code required and they may or may not put that in. Mrs. Laszlo said she felt the Board would be more comfortable with a fire suppression system, Mr. Jackson noted they are going from 239 seats to 251 seats with the indoor seating reduced. Mr. Casey asked how long will construction take and when are they planning on starting; Mr. Cooper they want to start as soon as possible and are thinking it will take 12 to 15 weeks to do, they are hoping opening by Memorial Day. Mr. Casey asked if the handicap ramp can be reconfigured to get out of the setback and Mr. Butler spoke saying they will take a look at it to see if it can be done but said no matter how they do it there may still be a variance need. Chairman Hall agreed and commented the ramp is usually in the same area as the stairs.

As there were no more Board questions the hearing was opened to the public for questions and Mr. Pat Scatuorchio of 510 Crescent Parkway was the first to speak, he lives right behind Rod's, they have been patrons for years and commented his kids have worked there. He asked about the upper deck and if it can be expanded in the future? Mr. Jackson said there are no plans to do this and if they wanted to they would have to come back before the Board, he commented this area is existing now. Mr. Scatuorchio asked if it will be bumped out and Mr. Butler said it will be expanded to be over the open room. Mr. Jackson said it is not even known if it can hold people. Mr. Scatuorchio then asked if the outdoor deck can be used for parties? Mr. Jackson said he did not think there is enough room for this. Mr. Scatuorchio then mentioned the comment there is no change in parking but yet they are increasing patronage, where will they park? Mr. Jackson said the application meets the parking requirements, people come by Uber, bike or train and this is a downtown area; Rod's Tavern complies with the Zoning.

Next to speak was Donna Reinhart of 506 Crescent Parkway, she sees changes happening here and does not want Rod's to turn into the Parker House; Chairman Hall then asked her to keep to questions only so Ms. Reinhart asked what is the target demographic for when this opens? Mr. Jackson said this is upscale dining and people will come in from the surrounding area. Ms. Reinharts asked how many seats will there be and was told 259, an addition of 29 seats from what is there now. Ms. Reinhart

asked about music and was told there will be no live outdoor music, only background music. She then asked about the noise and Mr. Jackson explained the wall and landscaping, Mr. Cooper added the wall will be about 7 feet high. She asked about the exterior look and was told the wall be done with 2x4s with an exterior covering. She then asked how it will buffer sound and Mr. Jackson said it will be soundproofed; she then asked will it go all the way around and Mr. Jackson said it will end at the end of the deck, it will not go all the way across the back. Ms. Reinhart then asked about the open room and bar and Mr. Jackson said the bar will be rectangular and be ½ inside and ½ outside. She wanted to know if the bar will be able to serve people without a waiter and Mr. Jackson said both will apply, the public can order from their table and they can come into the bar as well. Ms. Reinhart then asked for her other questions that were in her letter be addressed and Mr. Kennedy said she can give her comments during the comment period. As she was done Chairman Hall asked the other attendees to please not ask repetitive questions as to what has already been stated.

Jane Scatuorchio of 510 Crescent Parkway asked if TVs will be at the bar and Mr. Jackson said yes. Jean Collins of 534 Washington Boulevard had a question on the doors in the front and side, will they be open for the whole season or opened and closed? Mr. Jackson said that will be based on the weather and conditions. Ms. Collins asked if there is a difference between seating and actual occupancy, will this include standing around the bar? Mr. Jackson said this is based on the square footage and Mr. Butler added it is based on the seating capacity and building code and includes seats at the bar. Ms. Collins wanted a number and asked how many people can be at the bar, including those standing? Mr. Butler said he did not have a calculation for this. Ms. Collins asked if there will be live music inside and the doors will be open? Mr. Jackson said when there is live music inside the doors will be closed. She then asked about the TVs and will there be more than one? Mr. Jackson said they do not know that as yet.

Next to speak was Bill Baeszler of 506 Crescent Parkway who lives just north of the proposed deck, he has been there for 21 years. He asked about the comment they are losing inside seating and Mr. Jackson said it can be seen on the layout in the plans that are online. Mr. Baeszler said there was mention of landscaping, what will be put in? Mr. Hopkin said he had met with Mr. Scatuorchio and they agreed to put in arborvitae. Next to speak was Councilwoman Melissa Geigerich of 218 Philadelphia Boulevard who asked about the deliveries and wanted to know if there is someone a resident can call if there is a problem; Mr. Cooper answered that a Manager is always there and one can always call the main office in Point Pleasant Beach, they do not want to be a nuisance.

As there were no further questions from the public the hearing was open to general comments and Chris Rice was sworn in, he has his office on Washington Boulevard. He wanted to thank Mr. Cooper and Mr. Kineavy, he likes the new layout and is looking forward to the re-opening. Pat Scatuorchio was next to be sworn in, he said he has been a neighbor for a long time and felt there are a lot of unanswered questions. Right now they get the overflow parking from Fratello's and feels this will get worse, they have children going up and down the street; he felt this was a big

expansion. Donna Reinart was then sworn in and also had a concern about the traffic, she suggested getting rid of the side bar as she could not see a need for this; they need to consider the residents. Next to be sworn in was Bill Baeszler who commented that Sea Girt closes at midnight and he was the one to be most impacted by the outdoor deck. He said people in this area are selling their homes as they back up to Rod's and he felt this expansion is a detriment and opposed the outdoor use of Rod's. Jane Scatuorchio was then sworn in and said she had a very nice discussion with Mr. Cooper and Mr. Kineavy. Their house is for sale and they do have an issue with Rod's, they had a buyer but when they heard about this expansion they backed out; this impacts them, the plan is very nice but they worry about the expansion. Anchor Bar was mentioned but Sea Girt is not Belmar, she understands the concept of outdoor dining but feels it is a lot here and she, too, was concerned about traffic as well, she felt the traffic will be more than the area can bear and she just wanted the Board to know her concerns.

Councilwoman Melissa Geigerich was then sworn in, 218 Philadelphia Blvd. She noted the issue the neighbors by Harrigan's had with summer outdoor dining, the residents did not sign up for this. Jean Collins was sworn in, 534 Washington Boulevard, she was concerned about the size of the expansion and the unknown number of patrons as well as the increased traffic and parking.

As there were no further comments Mr. Jackson summarized the application. He said this has been run by Mr. Kineavy for 40 years and it was now time to upgrade the refresh the restaurant. He felt this will be a wonderful amenity for residents and the only variances are for the front setback and patio/decks. They are going to put up a wall so the deck will be shielded from the neighbors, it will be handicapped accessible which is a nice amenity; this will contribute to the health of the downtown vitality and reminded all they do meet the parking requirements. He said that all towns are different, Mr. Cooper has been involved since 1981 and will be responsible for this site.

The Board then gave their comments: Mrs. Brisben apologized for not asking before but noted the Board Engineer's report asked about testimony on lighting and Mr. Hopkin said it will not be intrusive. She then felt the sound wall and additional landscaping will help with the noise that will be generated, the parking in Sea Girt is just that, there is only so much parking that the town has lived with. She was for approval of the application. Mayor Farrell was concerned about the bar and doesn't want to see it be a problem, he was up in the air on this application. Mr. Koreyva felt the changes are amazing and felt the wall and landscaping have been addressed for the neighbors. He felt perhaps one can make a reservation for bar seating, this will eliminate people standing around the bar and this will resolve that issue and keep all at a reasonable level; he was for the application.

Mr. Casey felt the architecture looks great and was in favor of the application but questioned if something can be done to block as much sound as possible for the residents; he also would like to see the ramp redesigned. Mr. Walker felt it will be a great addition for downtown and the wall should work out. He commented the Parker



House is a beach bar and didn't think that would apply here, he was for the application. Mrs. Laszlo commented it was a great presentation and she misses going to Rod's, she felt Mr. Cooper and Mr. Kineavy want to be good neighbors. Over the past year the thought is that outdoor dining is healthier and the handicap ramp is an improvement, she approved of the application. Mr. Ward helped write the Downtown Study and this is what that committee was talking about. He, too, was concerned about the bar and density and felt the doors should close at 10:00 pm at night and said that any commercial building should have a Fire Suppression system. Councilwoman Anthony said a lot of what she was going to say has been addressed and she felt it was an excellent presentation, she accredited a lot of amenities for outdoor dining. She reminded all that there is a Noise Ordinance and Council is working on making it stronger and commented Mr. Kineavy has done a wonderful job all these years. She knew parking will be an issue and she hoped that all the requests from the residents will be able to be done to maintain their trust; she was behind the application. Chairman Hall said he liked the outdoor dining and the side bar at the deck also concerns him, but if there is a wall made that will absorb the noise it will work. He then asked Mr. Jackson what he would like to do for the next step.

Mr. Jackson said he would like to have a vote this evening and reiterated they will abide by the Construction, Fire and Council Ordinance. Mr. Kennedy then over the conditions of this application approval: comply with ADA requirements, comply with Noise Ordinance, construction will be as rendering (Ex. A-11), no patrons on second floor, noise absorbing wall, no live outdoor music just background music, if live band inside doors will be closed, compliance with all Board Professionals' reports, will have to come back before Board for any changes to approved plans, landscaping maintained, grease traps installed, Board of Health approval required, Construction Code will decide on Fire Suppression system, ramp be relocated, if possible, no further expansion without further approval by Board. Mr. Kennedy also noted revised plans will have to be submitted to show the proposed landscaping buffer, lighting information, etc. Mr. Jackson commented that having bar reservations would be a problem and he would rather rely on the ABC rules and Council.

At this time Mrs. Laszlo made a motion for approval, with the conditions noted, this seconded by Mr. Ward and then by the following roll call vote:

Ayes: Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Ken Farrell, Stan Koreyva, Eileen Laszlo, Robert Walker, John Ward, Norman Hall

Noes: None

The last item for the evening was for variance relief for Block 7, Lot 7, 708 Morven Terrace, owned by Harper Emp. Consulting, LLC (Applicant – Derek Serpe) for variance relief to demolish the existing dwelling & construct a 2 ½ story dwelling with integrated garage & wood deck. Side Setbacks – combined side setback of 15 feet required, 11 feet proposed. Garage Doors be set back 5 feet from front building line

required, even with front building line proposed. Garage no less than 275 square feet, 266 square feet proposed.

The correct fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified. Mr. Kennedy asked if anyone here who lives within 200 feet had a problem with the notice they received and there was no response. Mr. Kennedy then marked the following exhibits:

- A-1. The application.
- A-2. The checklist.
- A-3. Denial letter from Zoning Officer Chris Willms.
- A-4. Plot Plan dated 9/2/2020.
- A-5. Architectural Plan dated 9/25/2020.
- A-6. Survey dated 3/19/20.
- A-7. Topographic survey dated 3/19/20, revised 5/5/20.
- A-8. Board Engineer letter dated 11/25/2020.

Mark Aikins, Esq., attorney for the applicant, spoke and said this is for a new home with an integrated garage on Morven Terrace and this is oceanfront property; the existing home is to be demolished. CAFRA helped define the setbacks here as this property is on the ocean and he noted the height of the new home will comply.

The following people were then sworn in: Derek Serpe, owner of 708 Morven Terrace, currently residing at 16 Ridge Road, Rumson; Charles Lindstrom, Professional Planner and Engineer, with an office at 136 Drum Point Road, Brick; and Chris Rice, Architect with an office on Washington Boulevard, Sea Girt.

The first to testify was Chris Rice (who was accepted as an expert witness) who explained the home there now is large & tall and they are going to provide better height with the proposed home, he commented the existing home is 7 feet over the height limit of 35 feet. The proposed home will have more of a Sea Girt design and will not look like the square house that is there now. However, there are DEP restraints on their building envelope and how far east they can go and the Borough Ordinance has a restraint on how far west they can go but the new building coverage will be 17.8% where 20% is the maximum allowed. Because they can't go any farther east or west they are asking for variance relief for the Side Yard Setback. The Ordinance says the garage has to be set back 5 feet but they don't have that ability here so the attached garage will be set back 1-1 ½ feet from the front porch.

The Air Conditioner units, as shown on sheet A-2 of his architectural plans (Exhibit A-5) will not be seen as they are tucked down into the roof line. He then went to sheet A-4, the attic plan, which also shows where the mechanical equipment will be located.

Mr. Charles Lindstrom was next to speak and he, too, was accepted as an expert witness having appeared before the Board many times. He agreed with Mr. Rice that

they are “pinched” with space and noted the average setback on Morven Terrace is 31.2 feet and the existing home is 30.4 feet so is less than the average, the proposed home will be at 31.4 feet. He reiterated what Mr. Rice had said that they, due to CAFRA, can’t go east of the existing footprint so they are asking to intrude into the side setback, 5 feet on the south side and 6 feet on the north side. He told the Board there are 7 homes on Morven Terrace that do not meet the combined setback requirements of 15 feet, so, under the C-2 Criteria this proposed home is consistent with the neighborhood on side setbacks; they are also below the Impervious Coverage and Building Coverage as well as complying with the height. The Master Plan indicates the goal is to minimize overdevelopment and he felt they are doing that as most homes on Morven Terrace are more than what this home will be.

Mr. Lindstrom then presented Exhibit A-9 which is a side setback analysis dated 2/8/21. The garage not being recessed is being consistent with this block and they are asking for a 266 square foot garage where a 275 square foot garage is required. Mr. Rice spoke up and commented he felt this garage size requirement is really for other parts of town but if this is an issue he can expand the interior dimension of the garage. Mr. Lindstrom added they cannot put a garage on a dune and need this to provide off-street parking.

Mr. Aikins noted the Board Engineer had asked for testimony on the fencing that is here and Mr. Lindstrom said there is an existing wall on the north property line which will remain and it will be extended about 13 feet to the east, this is just a grading mechanism.

The Board then had questions for Mr. Rice and Mr. Lindstrom. Mrs. Brisben asked if there will be a cellar here as it is on the beach and Mr. Rice said no. Mr. Casey asked if the chimney counts in the setback as it looks like it does go into this and Mr. Lindstrom said it does extend into the setback by 1.33 feet, Mr. Rice said it can be 18 inches into the setback so they are okay. Mr. Casey went back to the air conditioning units, on sheet A-2 there is no barrier but on sheet A-4 there is a screen. Mr. Rice explained that if you look at the plans it looks like the 2 peaks meet but walls are there and he did agree it is a little deceiving on the plans. Mr. Rice then went back to Mrs. Brisben’s question on the cellar and said they do have the ability to put in a basement but don’t plan to, perhaps a crawl space.

At this time the meeting was opened to the public for questions to the professionals and Mr. Robert Feury, who lives next door, asked for confirmation this new home will be built in the same footprint as existing and Mr. Lindstrom answered yes. He then asked about the setbacks and Mr. Lindstrom explained this and noted all figures this evening do not include the deck and Mr. Feury understood that. As there were no more questions, that portion was closed and Mr. Aikins summarized the application.

He again said they are limited by CAFRA rules, but this is benefiting the area as they are dropping coverage and enhancing the side setback slightly on one side. He recommended approval by the Board.

The Board then went into discussion and comments. Councilwoman Anthony felt it was a nice presentation that was done by all and she appreciated building within the current footprint. Mr. Ward said he always feels a new home should not need variances, but after hearing the testimony he was in support. Mrs. Laszlo was also in favor of the application and Mr. Walker felt the new home will fit in better and he, too, was in favor. Mr. Casey agreed with the others and was in favor, Mr. Koreyva commented Mr. Rice designs great homes but he would have liked to have seen the drawings spoken about put up on the screen for all to see to better understand what is being done, Chairman Hall agreed and said this will be done in the future. Mayor Farrell said he was a No vote as he was the one who introduced the 30% rule. Mrs. Brisben asked for clarification as to why this home cannot be built within the proper side setbacks and Mr. Rice said they were restrained by the east and west boundaries so they had to go to the side lines; they have more of a side setback than some homes on Morven Terrace have and they didn't want to ask for a height variance. Mrs. Brisben said her concerns were answered and thanked all the professionals for being timely in their presentations as it was getting late.

Mr. Kennedy then went over the conditions and commented revised plans may need to be done, Mrs. Brisben asked why and Mr. Kennedy said the Engineer asked for drywells to be put in, thus the need for revisions.

A motion was then made by Mr. Casey to approve the application, as presented, with the conditions as noted by Mr. Kennedy, this seconded by Mr. Koreyva and then by the following roll call vote:

Ayes: Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Stan Koreyva, Eileen Laszlo, Robert Walker, John Ward, Norman Hall

Noes: Mayor Ken Farrell

Before adjourning Chairman Hall asked if any of the attendees wanted to speak to the Board on any matter and there was no response. A motion to adjourn was then made by Mrs. Laszlo, seconded by Mr. Walker and unanimously approved, all aye. The meeting was adjourned at 9:58 p.m.

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Karen S. Brisben, Board Secretary

Approved: March 17, 2021

