

Wednesday, January 20, 2016

BOROUGH OF SEA GIRT  
PLANNING BOARD  
REORGANIZATIONAL MEETING  
WEDNESDAY, JANUARY 18, 2017

The Reorganizational meeting of the Sea Girt Planning Board was held on Wednesday, January 18, 2017 at 7:30 pm in the Sea Girt Elementary School, Bell Place. In compliance with the Open Public Meetings Act, notice of this Body's meeting had been sent to the official newspapers of the Board. After a salute to the flag, roll call was taken:

Present – Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo, Councilwoman Anne Morris, Ray Petronko, Bret Violette, John Ward, Norman Hall

Absent - Carla Abrahamson

Attorney Kevin Kennedy was also present and Board member Karen Brisben recorded the Minutes; there were 5 people in the audience.

Let it be noted in the Minutes that the following appointments were made and those members had taken an Oath of Office before the meeting started:

Class I Member – Mayor Ken Farrell through 12/31/17  
Class II Member – Karen Brisben through 12/31/17  
Class III Member – Councilwoman Anne Morris through 12/31/17  
Class IV Member – Larry Benson through 12/31/20  
Class IV Member – Eileen Laszlo through 12/31/20  
Class IV Member – Bret Violette through 12/31/20  
Alternate Member No. 1 - Jake Casey through 12/31/17  
Alternate Member No. 2 – John Ward through 12/31/18

(Note: Class IV Member Carla Abrahamson was absent and will be sworn in at the February meeting).

Mrs. Brisben noted a correction to the Minutes, found by Councilwoman Morris. The word "covered walkway" was corrected to read "concrete walkway" and a motion was then made by Councilwoman Morris to approve the Minutes of December 21, 2016 meeting, this seconded by Mr. Petronko and approved by voice vote, all aye.

It was then time for the election of officers for the year 2017. Mrs. Brisben nominated Norm Hall to the position of Chairperson, this seconded by Mr. Violette. As there were no other nominations they were closed and Mr. Hall was appointed Chairman. This was approved by the following roll call vote:

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Ayes: Larry Benson, Karen Brisben, Jake Casey, Ken Farrell, Eileen Laszlo, Anne Morris, Ray Petronko, Bret Violette, Norman Hall

Noes: None

Not Eligible to Vote: John Ward

Chairman Hall nominated Bret Violette to the position of Vice-Chairman, this seconded by Mrs. Laszlo. As there were no other nominations they were closed and Mr. Violette was appointed Vice-Chairman by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Ken Farrell, Eileen Laszlo, Anne Morris, Ray Petronko, Bret Violette, Norman Hall

Noes: None

Not Eligible to Vote: John Ward

The Board then turned to approving Organizational Resolutions for 2017. The first one was for legal counsel and the following Resolution was presented:

WHEREAS, the Sea Girt Planning Board is a duly organized Planning Board (hereinafter referred to as "Planning Board") having principal offices at 321 Baltimore Boulevard, Sea Girt, NJ; and

WHEREAS, there is a need for the Planning Board to retain the services of a Board Attorney in order to represent its legal interests; and

WHEREAS, Kevin E. Kennedy, Esq., (hereinafter referred to as "Attorney") has expressed an interest in representing the Planning Board in the said regard; and

WHEREAS, the legal services to be provided are deemed to be "professional services" pursuant to the Local Public Contracts Law (N.J.S.A. 40:A11-1, et seq.); and

WHEREAS, the Local Public Contracts Law authorized the awarding of a Contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the Contract and the contract itself are available for public inspection in the Office of the Municipal Clerk and that notice of the awarding of the Contract is published in a newspaper of general circulation in the municipality; and

WHEREAS, the Planning Board, having considered the matter, now wishes to authorize the awarding of a Professional Service Contract to Kevin E. Kennedy, Esq., for the purpose of rendering necessary legal advice.

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

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1. That the Sea Girt Planning Board is hereby authorized to award a Contract to Kevin E. Kennedy, Esq. so as to represent its interests, as General Counsel, in connection with all Planning Board matters.
2. That the compensation associated with the said representation shall be \$140.00 per hour, and shall be memorialized in a Contract for Legal Services, which is incorporated herein at length.
3. That the Contract for Legal Services shall contain a Provision whereby the Contract can be terminated, with or without cause, upon thirty (30) days written notice.
4. That the Board Chair, Vice-Chair, Secretary and other appropriate representatives are hereby authorized to sign the said Professional Service Contract, which, if necessary, shall be approved as to form by the Borough Attorney.
5. That the within Contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5, et seq. of the Local Public Contracts Law of New Jersey because the services rendered will be performed by persons authorized by law to practice a recognized profession.
6. That, in accordance with N.J. law, notice of the within appointment shall be published in one of the Borough's official newspapers.

The above Resolution was approved on a motion by Mr. Petronko, seconded by Mr. Violette and approved by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Ken Farrell, Eileen Laszlo, Anne Morris, Ray Petronko, Bret Violette, Norman Hall

Noes: None

Not Eligible to vote: John Ward

The next Resolution was appointing a Planning Board Engineer and the following was presented:

WHEREAS, the Sea Girt Planning Board is a duly organized Planning Board (hereinafter referred to as "Planning Board") having principal offices at 321 Baltimore Boulevard, Sea Girt, NJ; and

WHEREAS, there is a need for the Planning Board to retain the services of a Board Engineer in order to represent its engineering interests on designated/authorized matters; and

WHEREAS, Peter R. Avakian, P.E., PLS, P.P., (hereinafter referred to as the "Engineer") has expressed an interest in representing the Planning Board in the said regard; and

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WHEREAS, the engineering services to be provided are deemed to be “professional services” pursuant to the Local Public Contracts Law (N.J.S.A. 40:A11-1, et seq.); and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a Contract for “professional services” without public advertising for bids and bidding therefore, provided that the Resolution authorizing the Contract and the Contract itself are available for public inspection in the Office of the Municipal Clerk and that notice of the awarding of the Contract is published in a newspaper of general circulation in the municipality; and

WHEREAS, The Planning Board, having considered the matter, now wishes to authorize the awarding of a professional service contract to Peter R. Avakian, P.E., PLS, P.P., for the purpose of rendering necessary engineering advice.

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

1. That the Sea Girt Planning Board is hereby authorized to award a Contract to Peter R. Avakian, P.E., PLS, P.P. so as to represent its interests as Board Engineer in connection with designated/authorized Planning Board matters.
2. That the compensation associated with the said representation shall be consistent with the compensation rate the Engineer receives in his capacity as Borough Engineer. Additionally, the appointment terms shall be memorialized in a Contract.
3. That the board Chair, Vice-Chair, Secretary and other appropriate representatives are hereby authorized to sign the said Professional Service Contract, which shall be approved as to form by the Borough Attorney or Board Attorney.
4. Any payment to be tendered hereunder shall be subject to the Borough’s Finance Office confirming that funds are available for the stated purpose.
5. That the within Contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5, et seq. of the Local Public Contracts Law of New Jersey, because the services rendered will be performed by persons authorized by law to practice a recognized profession.

That, in accordance with N.J. law, notice of the within appointment shall be published in one of the Borough’s official newspapers.

This Resolution was approved on a motion by Mrs. Laszlo, seconded by Mr. Casey and then by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Ken Farrell, Eileen Laszlo, Anne Morris, Ray Petronko, Bret Violette, Norman Hall

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Noes: None

Not Eligible to Vote: John Ward

The Board then turned to a Resolution approving the official newspapers for 2017:

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

WHEREAS, under Prevailing Regulations, it is necessary for the Planning Board to establish official Borough newspapers; and

WHEREAS, the listed/identified newspapers will be the newspapers in which Board-related notices can be lawfully advertised/published;

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

That the Planning Board hereby establishes the following 2 newspapers as the Board's Official Newspapers: The Coast Star  
The Asbury Park Press

That the within Resolution shall take effect immediately.

That the Board Secretary is hereby authorized to take any reasonable actions necessary to effectuate the intentions of the within Resolution.

This Resolution was approved on a motion by Mr. Petronko, seconded by Mr. Benson and then by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Ken Farrell, Eileen Laszlo, Anne Morris, Ray Petronko, Bret Violette

Noes: Norman Hall

Not Eligible to Vote: John Ward

The Board then addressed the Resolution appointing a Planning Board Secretary for the year 2017 and the following was presented:

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

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WHEREAS, it is necessary and appropriate for the Board to appoint the Board Secretary to handle the administrative affairs of the Board; and

WHEREAS, the absence of a Board Secretary can potentially compromise the efficient operations of the entity;

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

1. That Karen Brisben is hereby appointed as Planning Board Secretary for calendar year 2017 or until such time as her successor is appointed and qualified.
2. That the compensation for the said position shall be established by the Borough of Sea Girt.

This Resolution was approved on a motion by Mrs. Laszlo, seconded by Mr. Benson and then by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Ken Farrell, Eileen Laszlo, Anne Morris, Ray Petronko, Bret Violette, Norman Hall

Noes: None

Not Eligible to Vote: John Ward

#### OLD BUSINESS:

The Board considered a Resolution for approval of a variance application for Block 46, Lot 3, 307 Brooklyn Boulevard, owned by Eric Wasser, to allow construction of a covered porch with second floor deck. Mr. Kennedy went over some minor changes that Mr. Wasser asked to be put in and then the following Resolution was presented for approval:

**WHEREAS**, Eric S. Wasser has made Application to the Sea Girt Planning Board for the property designated as Block 46, Lot 3, commonly known as 307 Brooklyn Boulevard, Sea Girt, New Jersey, within the Borough's District 1, East Single Family Zone, for the following approval: Bulk Variances associated with an Application to effectuate the following:

- Construction of a front porch; and
- Construction of a balcony over the porch;

**PUBLIC HEARINGS**

**WHEREAS**, the Board held Public Hearings on May 8, 2016, August 17, 2016 and November 16, 2016, Applicant having filed proper Proof of Service and Publication in accordance with Statutory and Ordinance Requirements; and

**EVIDENCE / EXHIBITS**

**WHEREAS**, at the said Hearings, the Board reviewed, considered, and analyzed the following:

- *Planning Board Application Package, dated on or about November 23, 2015, introduced into Evidence as A-1;*
- *Land Development Application Completeness Checklist, dated on or about November 23, 2015, introduced into Evidence as A-2;*
- *Communication from the Applicant, to the Board Secretary, dated November 24, 2015, introduced into Evidence as A-3;*
- *Plot Plan, prepared by Cole & Associates, LLC, dated February 16, 2016, introduced into Evidence as A-4;*
- *Architectural Plan, prepared by the Applicant, dated February 16, 2016, consisting of 2 sheets, introduced into Evidence as A-5;*
- *Plan of Survey, prepared by Control Layouts, Inc., dated September 16, 2015, last revised January 12, 2016, introduced into Evidence as A-6;*
- *Leon S. Avakian, Inc. Review Memorandum, dated April 19, 2016, introduced into Evidence as A-7;*
- *Zoning Denial Letter, dated March 22, 2016, introduced into Evidence as A-8;*

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- *A picture of the front of the existing home, taken by the Applicant, in or about May of 2016, introduced into Evidence as A-9;*
- *A picture of the front of the existing home, taken by the Applicant, in or about May of 2016, introduced into Evidence as A-10;*
- *Illustrated Rendering, prepared by the Applicant, dated October 15, 2015, introduced into Evidence as A-11;*
- *Communication from the Applicant to the Board Secretary, dated August 4, 2016, introduced into Evidence as A-12;*
- *Zoning Chart, prepared by Cole and Associates, LLC, undated, introduced into Evidence as A-13;*
- *Plot Plan, prepared by Cole and Associates, LLC, dated February 16, 2016, last revised July 22, 2016, introduced into Evidence as A-14;*
- *Architectural Plan, prepared by the Applicant, dated July 22, 2016, consisting of 2 sheets, introduced into Evidence as A-15;*
- *Leon S. Avakian Inc. Review Memorandum, dated April 19, 2016, last revised August 8, 2016, introduced into Evidence as A-16;*
- *Illustrated Rendering of the proposed porch (not to scale), prepared by the Applicant, introduced into Evidence as A-17;*
- *Leon S. Avakian, Inc. Review Memorandum, dated April 19, 2016, last revised November 1, 2016, introduced into Evidence as A-18;*
- *Plot Plan, prepared by Cole and Associates, LLC, dated October 20, 2016, consisting of 1 sheet, introduced into Evidence as A-19;*
- *Architectural Plan, prepared by the Applicant, dated October 20, 2016, consisting of 2 sheets, introduced into Evidence as A-20;*
- *Communication from Board Member Bret Violette, confirming that he listened to the tape of the August 17, 2016 Planning Board Hearing, introduced into Evidence as A-21;*

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- *Certification from Board Member Larry Benson, confirming that he listened to the tape of the May 18, 2016 Planning Board Hearing, introduced into Evidence as A-22;*
- *Certification from Board Member Mayor Ken Farrell, confirming that he listened to the tapes of the May 18, 2016 and August 17, 2016 Planning Board Meetings, introduced into Evidence as A-23;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

### **WITNESSES**

**WHEREAS**, sworn testimony in support of the Application was presented by the following:

- Eric S. Wasser, Esq., Applicant and Attorney;
- Michael Cole, Engineer / Planner;
- Zdenka Tichy, the Applicant's partner;

### **TESTIMONY AND OTHER EVIDENCE PRESENTED ON BEHALF OF THE APPLICANT**

**WHEREAS**, testimony and other evidence presented on behalf of the Applicant revealed the following:

- The Applicant is the Owner of the subject property.
- The Applicant has owned the subject property for approximately 5 years.
- There is a single-family home at the site.
- Upon information and belief, the existing home was constructed in or about 1958.
- The Applicant currently utilizes the home as a 2<sup>nd</sup> home.

The Applicant anticipates moving to Sea Girt as his primary New Jersey home.

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- Currently, there is no real / functional porch at the site. Rather, per the testimony and evidence presented, there is only a small covered stoop area.
- The Applicant would like a porch for various functional and aesthetic reasons.
- The proposed porch, as ultimately modified, will be approximately 36 ft. X approximately 5 ft., extending across the front of the home.
- There will be no foundation associated with the proposed front porch.
- The proposed front porch will have a recessed step.
- The entire house will be re-sided in connection with the installation of the porch.
- The proposed materials associated with the addition will be consistent with the existing structure, and with other structures in the neighborhood.
- The proposed porch will not be enclosed.
- The Applicant is also proposing a balcony above the proposed porch.
- The Applicant maintains that there is a significant amount of other homes in the area which have similarly sized / similarly set back porches.
- The Applicant will be utilizing licensed contractors in connection with the construction / renovation process.
- The Applicant anticipates that the new porch / balcony will be constructed in the near future.

### **VARIANCES**

**WHEREAS**, the Application as ultimately modified, requires approval for the following Variances:

*BUILDING COVERAGE: Maximum 20% allowed;  
whereas 24.61% proposed.*

*FRONT YARD SETBACK (1<sup>st</sup> FLOOR): 40 feet required; whereas 35.9 feet proposed.*

*FRONT YARD SETBACK (2<sup>nd</sup> FLOOR BALCONY): 40 feet required; whereas 35.9 feet proposed.*

### **PUBLIC COMMENTS**

**WHEREAS**, the following members of the public expressed questions, comments, statements, and / or concerns in connection with the Application:

- Mr. Chris Scarpelli

### **FINDINGS OF FACT**

**NOW, THEREFORE, BE IT RESOLVED**, by the Sea Girt Planning Board, after having considered the aforementioned Application, plans, evidence, and testimony, that the Application, as **ultimately modified** is hereby **approved with conditions**.

In support of its decision, the Planning Board makes the following Findings of Fact and Conclusions of Law:

1. The Sea Girt Planning Board has proper jurisdiction to hear the within matter.
2. The subject property is located at 307 Brooklyn Boulevard, Sea Girt, New Jersey, within the Borough's District 1, East Single Family Zone.
3. The subject property contains an existing single-family home.
4. Single-family use is a permitted use in the subject Zone.
5. In order to improve the appearance of the home and in order to improve the functionality of the existing home, the Applicant proposes to construct a new front porch and balcony over the same at the site.
6. Such a proposal requires Bulk Variance approval.

7. The Sea Girt Planning Board is statutorily authorized to grant such relief and therefore, the matter is properly before the said entity.

8. With regard to the Application, and the requested relief, the Board notes the following:

- The Application as initially presented proposed a porch which had a non-conforming Front Setback of only 28.9 feet, and a non-conforming Building Coverage of 26.3%. The Board Members were not inclined to approve such significant deviations from the Prevailing Municipal Standards – and the Applicant’s representatives did not submit sufficient testimony / evidence to justify such relief.
- As a result of the above, the Applicant adjourned the first Public Hearing and agreed to modify / reduce the scope of the proposal (so as to address / assuage, the Board concerns).
- The Applicant arranged for the Plans to be revised / modified. At the August 17, 2016 Public Hearing, the Board reviewed the revised Plans. Specifically, per the revised Plans, the Applicant was then proposing a porch which had a non-conforming front setback of 33.9 feet, and a non-conforming Building Coverage of 24.9%. Though the same represented an improvement over what was previously submitted, Board Members were still concerned about the significant deviation from the Prevailing Municipal Standards. Likewise, the Applicant’s representative did not submit sufficient testimony / evidence to justify the modified relief requested.
- As a result of the above, the Applicant adjourned the 2<sup>nd</sup> Public Hearing and agreed to further modify / reduce the scope of the proposal.
- The Applicant thereafter arranged for the Plans to be further modified – and the further modified Plans were discussed at the November 16, 2016 Public Hearing.
- At the November 16, 2016 Public Hearing, the Applicant’s representatives advised that the Plans were further modified to reflect a non-conforming Front Setback of 35.9 feet and a non-conforming Building Coverage of 24.61%.

- As referenced above, the Applicant initially proposed a Front Setback of only 28.9 ft., which was later increased 33.9 ft., and ultimately increased to 35.9 ft.
- Subject to the conditions set forth herein, the increased Front Setback of 35.9 ft. (whereas 40 ft. is otherwise required) is deemed acceptable to a majority of the Board Members.
- As referenced above, the Applicant initially proposed a Building Coverage of 26.3% (whereas 20% was otherwise allowed). The said Building Coverage was later reduced to 24.9%, and ultimately reduced to 24.61%.
- In conjunction with the conditions set forth herein, a majority of the Board finds that the Variance for the non-conforming Building Coverage can be granted without causing substantial detriment to the public good.
- The Board Members engaged in an intense and good faith debate as to the overall merits of the proposal, and the proposal as ultimately modified. Those arguments weighing against approval included the following:
  - i. General reluctance to grant Variance relief in the absence of extraordinary and compelling circumstances;
  - ii. A concern that the Applicant's relief did not constitute a "hardship" within the meaning of New Jersey Municipal Land Use Law;
  - iii. A concern that the Applicant's proposal did not represent a better overall zoning alternative for the Borough of Sea Girt;
  - iv. A concern that the detriments associated with the Applicant's proposal out-weighed the benefits associated therewith;
  - v. A concern that while the Applicant testified that there are many other ~~similar non-conforming~~ front porches in the immediate neighborhood, the said representation may not be completely accurate;

- vi. A concern that while it is abundantly understandable that an Applicant would want a front porch, the guidelines for Bulk “c” Variance relief require that an Applicant show more than just a desire for a proposed improvement;
- vii. A concern that the existing house / property already exceeds the maximum allowable Building Coverage Requirements, and that approval of the within Application would merely increase / intensify the same;
- viii. A concern that most of the homes in the neighborhood have conforming Front Yard Setbacks, and that the Front Yard Setback deviation proposed herein would be out of character for the neighborhood;
- ix. A concern that the Applicant’s proposed Front Yard Setback will disturb the visual Front Setback line of the other homes on the street;
- x. A concern that modern planning and zoning is hopelessly intertwined with the need to employ proper storm-water management technique – and that the said goal is compromised by the Applicant’s excess Building Coverage;
- xi. A concern that the Borough just undertook significant and expensive efforts to stop / control / manage / minimize flooding within the Borough, and damage associated therewith – and that the excess Building Coverage proposed herein is inconsistent with such flood protection methods;
- xii. A concern that the Borough just spent a significant amount of money for the installation of a new and improved sewer system – and that the excess Building Coverage proposed herein will lead to further / greater flood related issues;
- xiii. A concern that excessive Building Coverage is directly linked to adverse storm-water management – and excess storm-water run-off

is directly linked to adverse grading / drainage / flooding issues; and

- xiv. A concern that the Borough's maximum Building Coverage for the Zone was actually reduced after the Applicant's Application was submitted, thereby suggesting that the impact of the Applicant's Variance request is technically even greater than as stated herein;

Those arguments in favor of approval of the Application include the following:

- i. A notion that there really is a need for a front porch at the site;
- ii. A notion that porches do add a significant aesthetic and functional value to a home;
- iii. A notion that there are many other porches in the area and in the Borough of Sea Girt – and that the porches do generally contribute to a more open community and that, generally speaking, porches are recognized as an inviting element;
- iv. A notion that per the testimony and evidence presented, and per the pictures presented, the existing front of the home is now flat and is architecturally unremarkable – and that approval of the within Application will represent a significant architectural / aesthetic benefit;
- v. A notion that the proposed porch, as ultimately modified, will add or otherwise contribute to the overall aesthetic appeal of the site;
- vi. A notion that porches generally contribute, in a positive fashion, to the overall aesthetic appeal / feel of a neighborhood;
- vii. A notion that the Applicant undertook significant and good faith efforts to modify the Plans, and re-modify the Plans, in an attempt to reduce the nature/ extent / scope of the proposal;

- viii. A notion that the Applicant utilized good faith efforts over the 3 Public Hearings to modify the proposal to address some of the Board concerns and/or otherwise minimize the overall impact of the Application, and the relief sought;  
  
herein will generally be consistent with other homes / porches in the neighborhood;
- ix. A notion that the Front Setback proposed / approved herein will not be out of character for the area;
- x. A notion that the excess Building Coverage is, under the circumstances, rather de-minimus in nature (in conjunction with the conditions set forth herein);
- xi. A notion that the Applicant agreed to a number of conditions which will further mitigate the impact of a non-conforming Building Coverage;
- xii. A notion that the Applicant agreed to undertake a number of storm-water management-related improvements at the site (including the installation of a dry-well, the removal of 500 SF of existing pavers, and the planting of additional landscaping) which will, as a whole, be beneficial to the site, the neighborhood, and the Borough of Sea Girt;
- xiii. A notion that if the Application were not approved, there would be no storm-water management improvements effectuated at the site;
- xiv. A notion that approval of the Application would be accompanied by a condition that the Applicant implement storm-water improvements which will more than off-set the increased coverage associated with the proposed porch;
- xv. A notion that the installation of a drywell system at the site, and the other storm-water management improvements effectuated herein (as a result of the conditions of approval) will actually improve the overall flow of water at the

site – and that such improvements would not be effectuated if the Application were denied outright;

- xvi. A notion that the imposition of the aforesaid storm- water management improvements will mitigate the detriments otherwise associated with the excess coverage; and
- xvii. A notion that approval of the within Application will actually result in a significant reduction in the overall Lot Coverage at the site;

After debate and analysis at the 3 Public Hearings, spread out over a 7 month period, a majority of the Board determined that the Application and relief can be granted without causing substantial detriment to the public good.

- Per the testimony and evidence presented there is a need for a front porch at the site.
- The proposed porch (as ultimately modified) will aesthetically enhance the appearance of the existing home.
- The proposed porch (as ultimately modified) will architecturally enhance the front of the existing home.
- The proposed porch (as ultimately modified) will be functional, practical, and aesthetically pleasing.
- Per the testimony of the Applicant, and per a condition of the within approval, the front porch approved herein will not be enclosed, absence further / formal approval of the Planning Board.
- Per the testimony and evidence presented, there are some other similarly situated porches in the area.
- Construction of the porch approved herein (as ultimately modified) will not materially change the character of the neighborhood.
- There were no public objections associated with the subject Application.

- Under the circumstances, the front setback approved herein is not inconsistent with the front setback of some other porches in the area.
- Because of the sufficient amount of landscaping / shrubbery at / around the site, the impact of the porch approved herein (as ultimately modified) (on neighboring property owners) will be minimal.
- Because of the mature landscaping and shrubbery at and around the site, approval of the within Application will have no adverse visual impact on the surrounding neighbors.
- The proposed porch (as ultimately modified) will improve the overall aesthetic appeal of the site.
- The construction (as ultimately modified) will not increase the overall height of the existing home.
- The design of the porch (as ultimately modified) is attractive and will be architecturally/aesthetically compatible with the neighborhood.
- Per the testimony and evidence presented, and subject to the conditions contained herein, the renovation approved herein (as ultimately modified) will not detrimentally change / affect the grading at the Site.
- The porch approved herein (as ultimately reduced) is not unduly large, particularly given the size of the lot and the size of the existing home.
- The Board is of the belief that the size of the proposed porch is appropriate for the Site/Lot (in conjunction with the conditions set forth herein).
- The architectural/aesthetic benefits associated with the proposal outweigh the detriments associated with the Applicant's inability to comply with all of the specified bulk standards.
- The architectural design of the proposed porch (as ultimately modified) will not be inconsistent with the architectural character of other porches in the area.

- Approval of the within Application (as ultimately modified) will allow the Applicant to more functionally and comfortably use and enjoy the property.
- The proposed porch (as ultimately modified) will be architecturally and aesthetically consistent with the existing structure.
- Approval of the within Application (as ultimately modified) will not materially intensify the existing (and permitted) single-family residential use of the site.
- The existing Lot is conforming in terms of Lot area (i.e. 7,500 SF is required, and 7,500 SF exists). Had the lot been undersized, the within Application may not have been approved.
- Subject to the conditions contained herein, the approved porch (as ultimately modified) will not over-power / overwhelm the subject Lot.
- Upon completion, and subject to the conditions contained herein, the renovation approved herein (as ultimately modified) will not overpower / dwarf other homes in the area.
- The porch approved herein (as ultimately modified) is attractive and upscale, in accordance with Prevailing Community Standards.
- Approval of the within Application will not detrimentally affect existing parking requirements at the site.
- Sufficiently detailed testimony / plans were presented to the Board.
- The proposed renovation (as ultimately modified) should nicely complement the property and the neighborhood.
- Approval of the within Application (as ultimately modified) will have no known detrimental impact on adjoining property owners and, thus, the Application can be granted without causing substantial detriment to the public good.
- Approval of the within Application (as ultimately modified) will promote various purposes of the Municipal Land Use Law;

specifically, the same will provide a desirable visual environment through creative development techniques.

- The Application as presented and as ultimately modified satisfies the Statutory Requirements of N.J.S.A. 40:55D-70(c) (Bulk Variances).
- The Application as ultimately modified, and subject to the conditions contained herein, will have a minimal impact on the surrounding neighborhood.

Based upon the above, and for the other reasons set forth herein, and during the Public Hearing process, a majority of the Board is of the opinion that the requested relief (as ultimately modified) can be granted without causing substantial detriment to the public good.

### **CONDITIONS**

During the course of the Hearing, the Board has requested, and the Applicant has agreed, to comply with the following conditions:

- a. The Applicant shall comply with all promises, commitments, and representations made at or during the Public Hearing Process.
- b. The Applicants shall comply with the terms and conditions of the Leon S. Avakian, Inc. Review Memoranda, dated April 19, 2016 (A-7), August 8, 2016 (A-16) and November 1, 2016 (A-18).
- c. The porch approved herein shall not be enclosed, absent further approval of the Sea Girt Planning Board.
- d. The Applicant shall submit storm-water management details and storm-water management improvements (as set forth herein) which are satisfactory to the Board Engineer.
- e. The Applicant shall perpetually maintain and replace landscaping at the site, necessary.
- f. The Applicant shall cause the Plans to be revised so as to portray and confirm the following:

- To eliminate 500 SF of existing paver areas on the property, and arrange for the said area / areas to be replaced with grass, stone, other pervious materials, or a combination of the same;
- Installation of a drywell (the details of which shall be approved by the Board Engineer, and which shall also be inspected by the Board Engineer, or his designee (utilizing the Applicant's escrow funds) before the drywell is physically covered);
- To correct / update the Zoning Chart;
- To include a note confirming that additional arborvitae shall be planted on the east side of the home sufficient to block the view of the front porch (from the ground level of the home immediately to the east);
- To clearly identify / portray the existing conditions at the site;
- To portray / confirm that the porch will have a Front Setback of 35.9 ft. (1<sup>st</sup> and 2<sup>nd</sup> floors);
- To confirm that the site will have a Building Coverage not to exceed 24.61%
- To include a note confirming that the deck will have a handrail, if so required by Prevailing Building Code / Construction Code;
- To include a note confirming that no water run-off will be directed to adjoining properties or to the Street (rather, the same will be handled onsite, in a manner approved by the Board Engineer);
- To include a note confirming that the Applicant shall utilize good-faith efforts to save / preserve the existing Holly tree located in the eastern portion of the front yard;
- To include a note confirming that there will be no railings on the porch (except for the stairs, if

required by the Prevailing Building Code / Construction Code or or if the Applicant so desires to place a railing on the steps);

- g. The Applicant shall submit a minimum of 4 sets of revised Plans to the Board Secretary, once all required revisions have been effectuated.
- h. If requested by the Board Engineer, the Applicant shall submit a Grading Plan, which shall be approved by the Board Engineer.
- i. The Applicant shall appropriately manage storm-water run-off during and after construction (in addition to any other prevailing/applicable requirements/obligations.)
- j. The Applicant shall obtain any applicable permits/approvals as may be required by the Borough of Sea Girt - including, but not limited to the following:
  - Building Permit
  - Plumbing Permit
  - Electric Permit
  - Demolition Permit
- k. If applicable, the proposed structure shall comply with applicable Provisions of the Americans with Disabilities Act.
- l. If applicable, grading plans shall be submitted to the Board Engineer so as to confirm that any drainage/run-off does not go onto adjoining properties.
- m. The proposed structure shall comply with the Borough's Prevailing Height Regulations.
- n. The construction, if any, shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. Additionally, the construction shall comply with Prevailing Provisions of the Uniform Construction Code.
- o. The Applicant shall comply with all terms and conditions of the Review Memoranda, if any, issued by the Board Engineer, Borough Engineer, Construction Office, the Department of Public Works, the Bureau of Fire Prevention and Investigation, and/or other agents of the Borough.

- p. The Applicant shall obtain any and all approvals (or Letters of No Interest) from applicable outside agencies - including, but not limited to, the Department of Environmental Protection, the Monmouth County Planning Board, and the Freehold Soil Conservation District.
- q. The Applicant shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- r. If required by the Board / Borough Engineer, the Applicant shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.
- s. Unless otherwise agreed by the Planning Board, the approval shall be deemed abandoned, unless, within 24 months from adoption of the within Resolution, the Applicant obtains a Certificate of Occupancy (if necessary) for the construction / development approved herein.

**BE IT FURTHER RESOLVED**, that all representations made under oath by the Applicant and/or his agents shall be deemed conditions of the approval granted herein, and any misrepresentations or actions by the Applicant contrary to the representations made before the Board shall be deemed a violation of the within approval.

**BE IT FURTHER RESOLVED**, that the Application is granted only in conjunction with the conditions noted above - and but for the existence of the same, the within Application would not be approved.

**BE IT FURTHER RESOLVED**, that the granting of the within Application is expressly made subject to and dependent upon the Applicant's compliance with all other appropriate Rules, Regulations, and/or Ordinances of the Borough of Sea Girt, County of Monmouth, and State of New Jersey.

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**BE IT FURTHER RESOLVED**, that the action of the Board in approving the within Application shall not relieve the Applicant of responsibility for any damage caused by the subject project, nor does the Planning Board of the Borough of Sea Girt, the Borough of Sea Girt, or its agents/representatives accept any responsibility for the structural design of the proposed improvement, or for any damage which may be caused by the development / renovation / construction.

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

Ayes: Larry Benson, Karen Brisben, Eileen Laszlo, Ray Petronko, Bret Violette, Norman Hall

Noes: None

Not Eligible to Vote: Jake Casey, Ken Farrell, Anne Morris, John Ward

The next Resolution for approval of Variance application was for Block 42, Lot 8, 219 Beacon Boulevard, owned by Bret & Jill Violette, to allow enclosing a portion of an existing front porch.

Before considering this Resolution, Mr. Kennedy asked Mr. Violette to step off the dais so a vote could be taken and this was done. Mr. Kennedy said he had sent out a revised Resolution to include the lot coverage, it wasn't changing but should be in the Resolution. He had spoken to Denis Higgins of the Board Engineer's office who agreed with him. The following Resolution was then presented for approval:

**WHEREAS**, Bret and Jill Violette have made Application to the Sea Girt Planning Board for the property designated as Block 42, Lot 8, commonly known as 219 Beacon Boulevard, Sea Girt, New Jersey, within the Borough's District 1, East Single Family Zone, for the following approval: Bulk Variances associated with an Application to enclose a portion of an existing covered porch; and

**PUBLIC HEARING**

Wednesday, January 20, 2016

**WHEREAS**, the Board held a Public Hearing on December 21, 2016, Applicants having filed proper Proof of Service and Publication in accordance with Statutory and Ordinance Requirements; and

### **EVIDENCE / EXHIBITS**

**WHEREAS**, at the said Hearing, the Board reviewed, considered, and analyzed the following:

- *Planning Board Application Package / Land Development Application Package, dated August 1, 2016, introduced into Evidence as A-1;*
- *Corrected Zoning Officer's Denial Letter, dated April 18, 2016, revised July 25, 2016, introduced into Evidence as A-2;*
- *Land Development Application Completeness Checklist, dated August 1, 2016, introduced into Evidence as A-3;*
- *Communication from Jeremiah J. Regan, AIA, to the Zoning Officer, dated September 6, 2016 (regarding impervious coverage calculations), introduced into Evidence as A-4;*
- *Architectural Plans, prepared by Jeremiah J. Regan, AIA, dated June 1, 2015, last revised March 11, 2016, introduced into Evidence as A-5;*
- *Survey, prepared by Charles O'Malley, PLS, dated March 28, 2016, introduced into Evidence as A-6;*
- *Leon S. Avakian, Inc. Review Memorandum, dated November 3, 2016, introduced into Evidence as A-7;*
- *2 pictures of the subject property, taken by the Applicants, on or about December 6, 2016, collectively introduced into Evidence as A-8;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

**WITNESS**

**WHEREAS**, sworn testimony in support of the Application was presented by the following:

- Bret Violette, one of the Applicants, appearing pro se;

**TESTIMONY AND OTHER EVIDENCE PRESENTED ON BEHALF OF THE APPLICANTS**

**WHEREAS**, testimony and other evidence presented on behalf of the Applicants revealed the following:

- The Applicants are the Owners of the subject property.
- The Applicants have owned the subject property for approximately 4 years.
- There is an existing single-family home at the site.
- The Applicants live at the site.
- Upon information and belief, the existing home is approximately 90-91 years old.
- Currently, there is an existing covered porch attached to the home – and the said porch extends along the front of the structure and along a portion of the side of the home.
- In order to increase living space at the site, the Applicants are proposing to enclose a portion of the existing covered porch. (Specifically, the Applicants propose to enclose the portion of the existing porch which runs along the side of the home.)
- The portion of the existing covered porch to be enclosed, as proposed herein, is 8 ft. by 16 ft.
- The existing roof / roof line will not change as a result of the within Application.
- The to-be-converted portion of the porch will be utilized as an office / study.

- Upon completion of the renovation process, the renovated home will include the following:

First Floor

Great Room  
Kitchen  
Dining Room  
Living Room  
Sitting Room  
Study  
Porch

Second Floor

Master Bedroom  
Bedroom #2  
Bedroom #3  
Bedroom #4  
Master Bathroom  
Bathroom  
Laundry Room  
Sitting Room  
Balcony

- The Applicants anticipating having the renovation work completed in the near future.
- The Applicants will be utilizing licensed contractors in connection with the renovation process.

**VARIANCES**

**WHEREAS**, the Application as submitted, requires approval for the following

Variations:

*FRONT YARD SETBACK: 40 ft. required; whereas 36.3 ft. exists.*

*COMBINED SIDE YARD SETBACK: 15 ft. required; whereas 13.7 ft. exists;*

*BUILDING COVERAGE: Maximum 20% allowed;  
whereas 24.75% exists;*

### **PUBLIC COMMENTS**

**WHEREAS**, the following members of the public expressed questions, comments, statements, and / or concerns in connection with the Application:

- NONE

### **FINDINGS OF FACT**

**NOW, THEREFORE, BE IT RESOLVED**, by the Sea Girt Planning Board, after having considered the aforementioned Application, plans, evidence, and testimony, that the Application is hereby **approved with conditions**.

In support of its decision, the Planning Board makes the following Findings of Fact and Conclusions of Law:

9. The Sea Girt Planning Board has proper jurisdiction to hear the within matter.
10. The subject property is located at 219 Beacon Boulevard, Sea Girt, New Jersey, within the Borough's District 1, East Single Family Zone.
11. The subject property contains an existing single-family home.
12. Single-family use is a permitted use in the subject Zone.
13. In order to increase living space at the site, the Applicants propose to convert a portion of an existing covered porch to fully-enclosed year-round living space (i.e. an office / study).
14. Such a proposal requires Bulk Variance approval.

15. The Sea Girt Planning Board is statutorily authorized to grant such relief and therefore, the matter is properly before the said entity.

16. With regard to the Application, and the requested relief, the Board notes the following:

- The existing and to-be-continued single-family home is a permitted Use in the subject Zone.
- There is an existing covered porch at the site, which extends along the front of the home and along a portion of the side of the home.
- As referenced, the existing porch is covered.
- The within Application merely involves the Applicants' attempt to fully enclose the "side" portion of the existing porch (i.e. not the portion of the porch which runs parallel to Beacon Boulevard).
- In that the within Application involves the Applicants' request to enclose a portion of an existing covered porch, approval of the within Application will not change Building Coverage at the site.
- In that the within Application involves the Applicants' request to enclose a portion of an existing covered porch, approval of the within Application will not change the Impervious Lot Coverage / Building Coverage at the site.
- Approval of the within Application will not change the footprint of the existing structure.
- Per the testimony and evidence presented, there is a need for additional interior year-round living space at the site.
- The existing site has a non-conforming Building Coverage of 24.75%. However, the Board notes that the said condition is an existing condition, which will not be exacerbated as a result of the within approval.
- The existing structure has a non-conforming Front Setback of 36.3 ft.; whereas 40 ft. is otherwise required. However, the Board notes that the said condition is an existing

condition, which will not be exacerbated as a result of the within approval.

- The existing structure has a non-conforming Combined Side Yard Setback of 13.7 ft. (whereas 15 ft. is otherwise required). However, the Board notes that the said condition is an existing condition, which will not be exacerbated as a result of the within approval.
- The Board notes that the Borough's Building Coverage calculation includes the existing covered porch and, as such, and as referenced above, the Board recognizes that approval of the within Application will not change the existing Building Coverage at the site.
- Though the Board Members are typically concerned about excess Lot Coverage and / or excess Building Coverage, per the testimony and evidence presented, the Applicants did not construct any significant exterior improvements at the site during the Applicants' Ownership.
- Notwithstanding the existing Building Coverage, the Applicants' acknowledge that during their ownership, the Applicants arranged for a dry-well system to be installed so as to help address any stormwater management run-off related issues.
- The Board finds that the within Application represents a non-invasive method for allowing internal year-round living space to be created without materially changing the aesthetic appeal, footprint, height, or character of the existing structure.
- Enclosure of a portion of the porch as approved herein will not change the character of the neighborhood.
- There were no public objections associated with the subject Application.
- The enclosure of a portion of the porch will not change the height of the existing home.
- The design of the to-be-enclosed addition is attractive and will be architecturally / aesthetically compatible with the neighborhood.

- Per the testimony and evidence presented, and subject to the conditions contained herein, the renovation approved herein will not detrimentally change / affect the grading at the Site.
- The to-be-enclosed addition approved herein is not unduly large, particularly given the size of the lot, the size of the existing home, and the size of the existing side portion of the covered porch.
- The architectural / aesthetic benefits associated with the proposal outweigh the detriments associated with the Applicants' inability to comply with all of the specified bulk standards.
- The architectural design of the proposed addition will not be inconsistent with the architectural character of other additions in the area.
- Approval of the within Application will allow the Applicants to more functionally and comfortably use and enjoy the property / home.
- The proposed renovation will be architecturally and aesthetically consistent with the existing structure.
- Approval of the within Application will not intensify the existing (and permitted) single-family residential use of the site.
- The existing Lot is conforming in terms of Lot area (i.e. 7,500 SF is required, and 7,500 SF exists). Had the lot been undersized, the within Application may not have been approved.
- Subject to the conditions contained herein, the approved renovation will not over-power / over-whelm the subject Lot.
- Upon completion, the renovated structure approved herein will not overpower / dwarf other homes in the area.
- The renovation approved herein is attractive and upscale, in accordance with Prevailing Community Standards.
- Approval of the within Application will not detrimentally affect existing parking requirements at the site.

- Sufficiently detailed testimony / plans were presented to the Board.
- The proposed renovation should nicely complement the property and the neighborhood.
- Approval of the within Application will have no known detrimental impact on adjoining property owners and, thus, the Application can be granted without causing substantial detriment to the public good.
- Approval of the within Application will promote various purposes of the Municipal Land Use Law; specifically, the same will provide a desirable visual environment through creative development techniques.
- The Application as presented satisfies the Statutory Requirements of N.J.S.A. 40:55D-70(c) (Bulk Variances).
- The Application as presented, and subject to the conditions contained herein, will have a minimal impact on the surrounding neighborhood.

Based upon the above, and for the other reasons set forth herein, and during the Public Hearing process, the Board is of the unanimous opinion that the requested relief can be granted without causing substantial detriment to the public good.

### **CONDITIONS**

During the course of the Hearing, the Board has requested, and the Applicants have agreed, to comply with the following conditions:

- I. The Applicants shall comply with all promises, commitments, and representations made at or during the Public Hearing Process.
- m. The Applicants shall comply with the terms and conditions of the November 3, 2016 Review Memorandum of Leon S. Avakian, Inc. (A-7).

- n. If requested by the Board Engineer, the Applicants shall submit a Grading Plan, which shall be approved by the Board Engineer.
- o. The Applicants shall manage storm water run-off during and after construction (in addition to any other prevailing/applicable requirements/obligations.)
- p. The Applicants shall obtain any applicable permits/approvals as may be required by the Borough of Sea Girt - including, but not limited to the following:
  - Building Permit
  - Plumbing Permit
  - Electric Permit
  - Demolition Permit
- q. If applicable, the proposed structure shall comply with applicable Provisions of the Americans with Disabilities Act.
- g. If applicable, grading plans shall be submitted to the Board Engineer so as to confirm that any drainage/run-off does not go onto adjoining properties.
- h. The proposed structure shall comply with the Borough's Prevailing Height Regulations.
- i. The construction, if any, shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. Additionally, the construction shall comply with Prevailing Provisions of the Uniform Construction Code.
- j. The Applicants shall comply with all terms and conditions of the Review Memoranda, if any, issued by the Board Engineer, Borough Engineer, Construction Office, the Department of Public Works, the Bureau of Fire Prevention and Investigation, and/or other agents of the Borough.
- k. The Applicants shall obtain any and all approvals (or Letters of No Interest) from applicable outside agencies - including, but not limited to, the Department of Environmental Protection, the Monmouth County Planning Board, and the Freehold Soil Conservation District.

- I. The Applicants shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- m. If required by the Board / Borough Engineer, the Applicants shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.
- n. Unless otherwise agreed by the Planning Board, the approval shall be deemed abandoned, unless, within 24 months from adoption of the within Resolution, the Applicants obtain a Certificate of Occupancy (if necessary) for the construction / development approved herein.

**BE IT FURTHER RESOLVED**, that all representations made under oath by the Applicants and/or their agents shall be deemed conditions of the approval granted herein, and any misrepresentations or actions by the Applicants contrary to the representations made before the Board shall be deemed a violation of the within approval.

**BE IT FURTHER RESOLVED**, that the Application is granted only in conjunction with the conditions noted above - and but for the existence of the same, the within Application would not be approved.

**BE IT FURTHER RESOLVED**, that the granting of the within Application is expressly made subject to and dependent upon the Applicants' compliance with all other appropriate Rules, Regulations, and/or Ordinances of the Borough of Sea Girt, County of Monmouth, and State of New Jersey.

**BE IT FURTHER RESOLVED**, that the action of the Board in approving the within Application shall not relieve the Applicants of responsibility for any damage caused by the subject project, nor does the Planning Board of the Borough of Sea Girt, the Borough of Sea Girt, or its agents/representatives accept any responsibility for the

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structural design of the proposed improvement, or for any damage which may be caused by the development / renovation.

A motion for approval of the above Resolution was made by Mr. Petronko, seconded by Mrs. Brisben and then by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Ken Farrell, Eileen Laszlo, Ray Petronko, Norman Hall, Anne Morris

Noes: None

Not Eligible to Vote: Jake Casey, John Ward

#### NEW BUSINESS:

The Board then turned to an application for a conforming Minor Subdivision for Block 54, Lot 7, 321 Stockton Boulevard, owned by Bjorn Anderson & Karen Andrews (Applicant – Jeffrey Woszczak), to create two conforming lots.

The proper fees were paid, taxes are paid to date – as this is a conforming subdivision so no property owners or newspaper notice was made.

Before starting the application Mr. Kennedy marked the following Exhibits:

- A-1. The application dated 11/30/16.
- A-2. Checklist dated 11/28/16.
- A-3. Memo from the Subdivision Committee dated 12/27/16.
- A-4. Minor Subdivision plan, 1 sheet, dated 9/21/16.
- A-5. Survey from Charles O'Malley dated 9/21/16.
- A-6. Report from Peter Avakian, Board Engineer, dated 1/4/17.

Mr. Kennedy said as this is a variance free application no notice is required. However, there may be a discussion on a possible side yard variance, if there is one notice will have to be given; he said he has spoken to the applicant about this. Chairman Hall asked if the Board has to determine this first and Mr. Kennedy wanted the applicant to testify first.

At this time Mr. Bjorn Anderson came forward and was sworn in, he is the present owner of the property along with his sister; Mr. Woszczak is purchasing the property from them. He said that this subdivision conforms. Chairman Hall said whoever purchases either lot will have to conform to the present setbacks to build. Mr. Kennedy still wanted to hear from the applicant so Mr. Jeffrey Woszczak came forward and was sworn in.

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Mr. Woszczak explained that he is here and speaking on his own, he is not using an attorney. He is staying within all the perimeters here, all setbacks comply and are within the building footprint. Mayor Farrell felt the interior lot has the wrong building footprint & setbacks, this for proposed Lot 7.02. The Ordinance required 10 feet on one side and 5 feet on the other. Mr. Woszczak explained that he can get revised plans that show the side setbacks and Mr. Kennedy felt this would be the best way, to get this done now. Mrs. Brisben said she will need 5 copies of any revised plans.

Mr. Casey asked if there is a rear setback requirement for a corner lot and Chairman Hall said yes. Mayor Farrell explained that you can put your front door wherever you like but this does not change the setback requirements. Mr. Violette felt that Mr. O'Malley, in doing the plans, was just showing the maximum footprint that can be built in and the 10 feet & 5 feet can be on either side. He felt this was conforming and it should be stated as such in the requirements. Mr. Woszczak agreed. Mayor Farrell said he was concerned because the old Ordinance was like this and was changed back in 2000. There was then a brief discussion on curb cuts and Chairman Hall said that will be handled by the Construction Department.

Mrs. Brisben asked about any trees on the property being saved, as noted in the Subdivision Committee report, and Mr. Woszczak said he wanted to save as many trees as he can and will replace any that die or come out; he has no interest in destroying any trees. Mayor Farrell asked about a change in topography and Mr. Woszczak said no, he has built in Sea Girt before and wants to maintain the integrity of the town.

Mayor Farrell also said that he applauded Mr. Woszczak's intention of creating two conforming lots, it is becoming an issue that new homes are being built to the maximum lot coverage and then decided they want a pool. Mr. Woszczak agreed and said he has seen it done and it doesn't work. By the time the utility lines go in and there is a new home there will be no room for a pool. Councilwoman Morris wanted to know if he was intending on selling both lots and Mr. Woszczak said he did not know at this time; he did live in Sea Girt but had to move to Point Pleasant, he may come back and live on the corner lot. It was noted there is a 5 year moratorium on street openings here and if a new line has to go in, it will need Council approval.

At this time the hearing was opened to the public for questions or comments. As there was no response that portion of the hearing was closed. As the Board did not have any further comments or questions Mr. Kennedy went over the conditions, which included that there is a 5 year moratorium on street openings, no change in topography, complying with the engineer's report, etc. Mr. Woszczak noted there is a low area in the back and that portion may have to be filled in; Chairman Hall said he will have to apply for a permit for that and work with the Engineer's office.

At this time Mayor Farrell made a motion to accept the subdivision application with the conditions as noted by Mr. Kennedy, this seconded by Mrs. Brisben and then by the following roll call vote:

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Ayes: Larry Benson, Karen Brisben, Jake Casey, Ken Farrell, Eileen Laszlo, Anne Morris, Ray Petronko, Bret Violette, Norman Hall

Noes: None

Not Eligible to Vote: John Ward

#### OTHER BUSINESS:

The Board then turned to the Annual Report that is given to list all the variance/subdivision applications that were heard and the number of variances requested for. Mr. Kennedy said that NJ law requires this to be done each year and gives the Planning Board a chance to see how many variances were granted and if one type of variance should be addressed, perhaps to be modified by Council. It is also the time to express any opinions on any changes that should be made. Mrs. Brisben spoke and said she felt, very strongly, that all applications that come before the Board should have to give notice to property owners within 200 feet and notice in the paper. She used the example of the application tonight, none of the neighbors have any idea of what is going on and that this one lot is now going to be two. She is also the Planning Board Secretary in Brielle and said, in that town, they require all to notice, they said if a lot line is being moved there has to be notice.

She was also interested in getting a "tree save" Ordinance being put in place, she has been told that it is very hard to stop a person from taking a tree down that is on their property, but felt that an application to the Shade Tree Commission should be made if a tree is a certain size and that a requirement be made to replace that tree. Mr. Ward agreed and had an article with him that was passed around, from Summit, N.J., outlining their Ordinance to save trees within that town. Mayor Farrell said that Council has spoken about this in the past but they decided it was too hard to police and could be a problem. However, he did say there now is a new Council and they can revisit this issue.

There was then a story of how Irish Catholics planted holly trees at their homes and the trees in Crescent Park came from the berries that the birds drop. Chairman Hall was in agreement with an Ordinance as long as it does not get thrown out for not being legal. Mayor Farrell agreed we are in an era right now where people do sue and if someone wants to remove a tree from their property they probably could win. Mr. Ward noted that, in Summit, they have notified all the tree firms of their Ordinance so they are aware. Mayor Farrell said he was having lunch with the Borough Attorney the next day and he would speak to him about this. Mr. Petronko told the Board how, in another town he lived in, he was told by the insurance company to take down two trees as they were a hazard.

On another topic, Mr. Casey said that on Memorial Day he was at a neighbor's home and watched 10 dump trucks come in and drop dirt on a property, this property is

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now two feet higher and he was told Mr. Quigley approved this; he did not know how this can be done and Chairman Hall felt that something was not right with this, there is an Ordinance on it. Mr. Casey said it is 305 Stockton Boulevard and it has a new home on it. Mr. Kennedy agreed with Chairman Hall and said topography changes require a variance, but some people just go ahead and do it. Mr. Casey said he questioned this but there was no response from Code Enforcement. Mayor Farrell said they can ask for a report on 305 Stockton Blvd. building permits. Mr. Casey commented that 307 Stockton is also built up.

At this time the Board was in agreement that Mrs. Brisben should write to the Borough Administrator, Lorraine Carafa, in regards to creating an Ordinance or Resolution stating that all applications that come before the Planning Board require notice to property owners within 200 feet and to the newspaper. A motion to authorize this was made by Chairman Hall, seconded by Mayor Farrell and approved by voice vote, all aye, no nays.

As Mr. John O'Grady was in the audience, Chairman Hall asked him if he wanted to speak to the Board and he came up to the podium. He was questioning the Port-a-potties that are seen at construction sites in the front yards, there are 3 on Beacon Boulevard now and one has been there for over 7 months. He wanted to know if this is allowed and Chairman Hall said yes. Mayor Farrell explained that the Ordinance says they have to be in the rear yard but sometimes that is not possible; they are trying to work with this but Port-a-potties have to be serviced once a week and it is not feasible to have them in the rear yard. The town does now have an employee that is checking on this, as well as silt fences, the potties having the door facing the rear, not starting work before 8:00 am, etc. Jay Amberg is now working on this and doing a great job in keeping the construction yards clean. Chairman Hall agreed things do look better with Jay on the job, Sea Girt has a number of Ordinances in place and now there is someone to keep check on this.

Councilwoman Morris told Mr. O'Grady the Council does have a draft update to the Dumpster Ordinance and it may be considered at next week's Council meeting, she wasn't sure. Mr. Laszlo said she has seen posts in the road and Mr. Violette thought they may be for the parking for the construction trucks; Mrs. Laszlo felt they should be taken down at night.

In going back to Mr. Amberg, Mayor Farrell said they may expand his duties to include shrubbery growing along walkways, these things need to be done.

As there were no more questions or comments, the Board needed to go into Executive Session. However, due to the subject matter, both Mayor Farrell and Councilwoman Morris were asked to leave the dais as they could not participate and this was done. A motion to go in to Executive Session to discuss legal matters was then made by Mr. Petronko, seconded by Mr. Casey and approved by voice vote, all aye.

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The Board came out of Executive Session on a motion by Mrs. Laszlo, seconded by Mr. Ward and unanimously approved by voice vote, all aye.

As there was no other business to come before the Board, a motion to adjourn was made by Mr. Benson, seconded by Mr. Petronko and unanimously approved, all aye. The meeting was adjourned at 8:40 p.m.

Approved: February 15, 2017