

SEA GIRT PLANNING BOARD
WEDNESDAY, SEPTEMBER 18, 2019

The Regular Meeting of the Sea Girt Planning Board was held on Wednesday, September 18, 2019 at 7:00 p.m. at the Sea Girt Elementary School, Bell Place, Sea Girt. 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.

After a Salute to the Flag, roll call was taken:

Present: Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo, Raymond Petronko, Robert Walker, John Ward, Norman Hall

Absent: Carla Abrahamson, Councilman Matt Mastrorilli

Also present was Kevin Kennedy, Board Attorney; Board member and Secretary Karen Brisben recorded the Minutes. There were approximately 40 people in the audience.

The Minutes of the August 21, 2019 meeting were approved on a motion by Mr. Walker, seconded by Mr. Casey and then by a voice vote, all aye with Mrs. Laszlo abstaining.

OTHER BUSINESS:

The first item on the agenda was consideration of a Resolution concerning downtown options/rezoning. Chairman Hall explained that research needs to be done on rezoning for the downtown and a committee needs to be formed to study this, the Board wants to get a cross-section of town members. There is also an urgency to have Council act on the permitted uses for age-based housing; the Board, therefore, is going to have a non-binding Resolution on this matter and then have a vote on whether there should be age-based housing to give Council direction.

Mr. Kennedy had formed a Resolution for approval and noted it was just done this afternoon and the Board had not had time to review it but he read it into the record; the Board then held a discussion on this and Mr. Ward felt the wording should be for the 2 East district and not the entire commercial zone and he didn't feel the municipal offices issue should be a part of this; he also did not feel a Council representative should be on this Committee as they are the ones to officially approve or deny it. These changes were made in the draft Resolution and it was suggested that John Ward's name be entered in place of "Council representative". As there were no other suggestions from the Board the hearing was opened to the public for questions or comments and there was no response.

Before doing a vote on this, Chairman Hall wanted a Board member to make a motion to approve having Senior Housing in the Commercial District; then the next Resolution would be a motion to deny this housing. Mr. Ward thought the Board should wait and see what the Committee comes up with; Mr. Petronko questioned how this would hold up in Court and, if this is done, will there be a need for more doctors in town, etc. He agreed that the Board should wait for a Committee report. Mr. Ward added to his opinion and felt that when the Committee finds the best uses in town they can then work with that. Mr. Casey thought this should be in the hands of Council but Chairman Hall commented Council heard the presentation on this being done and then sent it back to the Board, so they are doing a ping-pong game. Mrs. Brisben said that she put a notice requesting volunteers for this committee and had received interest from about 8 people, she sent all their emails to Mr. Ward.

The following Resolution was then presented for approval:

On this 18 day of September, 2019, the Sea Girt Planning Board hereby respectfully requests the following:

1. That the Governing Body of the Borough of Sea Girt, in good faith, create, organize, and fund a non-binding Committee to further review the existing regulations / restrictions in the Borough's Downtown Commercial Districts so as to consider the following:
 - A. To determine if there are any ways to better protect, promote, and preserve the stability / viability of the Commercial Districts;
 - B. To determine if there are any ways to better encourage / draw / generate appropriate pedestrian and business activity in the Commercial Districts;
 - C. To determine if there are any ways to better inject / welcome other permitted uses, or conditionally permitted uses, in the Commercial Districts so as to more appropriately attract / maintain appropriate pedestrian / commercial activity in the Commercial Districts;
 - D. To determine if there are any ways to better protect and promote the viability of the Borough's Commercial Districts in a modern society, where the nature of the traditional retail industry has substantially changed;
 - E. To determine if there are any ways to better protect, promote, and preserve the viability of the Borough's Commercial Districts, given the nature of the Commercial

Districts in other surrounding towns, coupled with the evolving nature of the traditional retail industry;

- F. To determine the nature / extent / conditions / limitations on any other potential uses which may be permitted, or conditionally permitted, in the Commercial Districts;
 - G. To determine if any type of age-restricted housing should or should not be considered to be a permitted use, or a conditionally permitted use, in the Commercial Districts, and to further consider any potential conditions / restrictions to be associated therewith;
 - H. To better determine the short-term and long-term impact of any changes to the Commercial Districts Regulations, and an analysis of the impact the same will have, or can have, on the Sea Girt community; and
 - I. To determine the nature of any other changes / amendments / recommendations which should be considered, or may be considered, with respect to the general parameters of the Borough's Commercial Districts.
2. That the to-be-formed Committee shall include a reasonable and manageable cross-section of the community, including:
- Residents;
 - Business Owners;
 - Chamber of Commerce Representatives;
 - Planning Board Officials (including John Ward); and
 - Other interested members of the community.
3. That the Governing Body appropriately fund expenditures so that the to-be-formed Committee can formally and reasonably commence activity and obtain the assistance of duly retained / qualified professionals, as reasonably necessary.
4. That the to-be-formed Committee be charged / directed to expeditiously, and in good faith, review the aforesaid zoning issues and conclude the study within a reasonable timeframe.
5. That with respect for, sensitivity to, and appreciation of, the prevailing provisions of New Jersey Law, the governing body

publicly review, discuss, and analyze the ultimate report of the to-be-formed Committee, and any potential Findings / Recommendations associated therewith.

6. That nothing contained herein shall be construed as the Planning Board officially endorsing any particular or proposed zoning change, as no endorsements are set forth herein, other than the designation and funding of the Committee, and a commitment to appropriately analyze the zoning issues associated with the Commercial Districts.
7. That the study / report of the to-be-formed Committee, and any Findings / Recommendations associated therewith, be made public, and/or otherwise distributed to the community, for public review / analysis.
8. That the Planning Board respects, appreciates, and welcomes the good faith direction / assistance of the Governing Body with respect to the non-binding issues set forth herein.

At this time a motion was made, by Mrs. Laszlo, to approve the Resolution Mr. Kennedy read, with modifications as noted above and to table the other two Resolutions until a Committee comes forward with suggestions. This motion was seconded by Mr. Walker and then approved by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Eileen Laszlo, Raymond Petronko, Robert Walker, John Ward, Norman Hall

Noes: None

Abstained: Mayor Ken Farrell

Mrs. Brisben said she will forward the Resolution to Mayor and Council for consideration at their next Council meeting.

NEW BUSINESS:

The Board then turned to an appeal hearing for Block 8, Lot 12, appeal of Zoning Officer's decision to allow pool construction at 800 First Avenue. If appeal upheld, then the Board will hear a variance application to allow the pool to remain. Appeal filed by Carolyn Monte, property owners – Adam & Jeanne Perle.

Before this started, Mayor Farrell stepped off the dais as, as Mayor, he cannot hear an appeal. Mr. Kennedy noted that both Carolyn Monte and John Jackson, Esq., attorney for the Perles, were present.

He explained that he had spoken to Ron Gasiorowski, Mrs. Monte's attorney at the time of the original filing (Mr. Gasiorowski was no longer representing her, she now is representing herself), as well as Mr. Jackson regarding this unique scenario and noted that litigation here is possible. He then stated the facts as he saw them:

Mrs. Monte is the owner of 810 First Avenue and the Perle family owns 800 First Avenue; in 2014 the Perles received variance relief to put a garage in their front yard area. Earlier this year the Perles asked for a permit to put in a pool and the permit was issued and the pool building was done. Mrs. Monte felt the Zoning Officer made a mistake as this pool, in her opinion, is in a front yard and variance relief is required. Under the Municipal Land Use Law anyone can file an appeal and it then comes before the Planning Board, if the Board says the appeal was timely filed it can be heard. The Perle family says the appeal was not timely filed and the Zoning Officer is correct, if this determination is reversed, then the Perles are asking for variance relief to allow the pool to stay. He also noted that both Mrs. Monte and the Perles have properly noticed property owners within 200 feet as well as the newspaper in a timely manner.

He then explained there are 3 areas for a vote:

- 1) The Monte appeal was filed in a timely manner.
- 2) Should the decision of the Zoning Officer be affirmed or reversed
- 3) Does the Board want to grant variance relief if the Zoning Officer's determination is overturned.

He also commented the Board has to consider what a Court would do. Mr. Kennedy then suggested combining these issues into one hearing so all can testify and a decision can be made. He also said that, if the appeal is upheld and the Zoning Officer's determination overturned that is no detriment to the Zoning Officer; he also wanted the Board to know that, even though each application stands on its own merit, in an appeal it may set a precedence for the future.

At this time Mrs. Carolyn Monte came forward and was sworn in. John Jackson stated he would abide by the Board's decision on how to hear this matter and the Board members were in agreement to have this matter combined into one hearing. Before starting testimony Mr. Kennedy asked the audience if anyone who had received a notice had any problems with it and there was no response. He reminded all that Mr. Jackson had noticed for a hearing that was to be held in July but had to be postponed due to improper notice procedures from Mr. Gasiorowski and that it was announced that Mr. Jackson's notice was adequate and the matter would be carried until tonight.

Mr. Kennedy then marked the following exhibits for the Monte appeal:

- Monte 1. The application package.
- Monte 2. Letter from Ron Gasiorowski to Nicholas Montenegro (Borough Attorney) dated 5/31/19.

Monte 3. A letter from Ron Gasiorowski to Nicholas Montenegro regarding a Stop Work Order request.

Mr. Kennedy said the appeal was filed on May 28th and they had until May 30th to file. He then read the two letters from Mr. Gasiorowski to Mr. Montenegro and commented the work was not stopped and no Stop Work Order was issued.

Mr. Kennedy then marked the following exhibits for the Perle variance:

Perle 1 – application package dated 6/26/19.

Perle 2 – Sea Girt Planning Board Resolution from 4/1/14, signed by the Board Secretary.

He then marked the following for the Planning Board exhibits:

B-1. Leon S. Avakian Engineering letter to Chris Willms dated 4/16/19.

B-2. Avakian review on the appeal filing dated 7/3/19.

B-3. Zoning approval letter dated 5/1/19.

B-4. Letter from Zoning officer to the Perles dated 5/30/19 (which Mr. Kennedy read as Mr. Willm's notified them there was an appeal being filed and they could continue building but it is at their own risk.

B-5. Another letter from Avakian Engineering, dated 3/21/19.

At this time Mr. Chris Willms came forward and was sworn in, he is the Zoning Officer and Code Enforcement official for Sea Girt and started in October 2017, made full time in February 2018; he is licensed through Rutgers University as a Certified Zoning Officer in New Jersey.

Mrs. Monte then started her testimony and handed out (marked as Exhibit Monte-4), a Resolution from May 1983, one from October 2018, a tax map copy showing the location of the Perle home, a Letter of Denial for a pool at 804 First Avenue, a letter from Avakian Engineering to Chris Willms dated 4/16/19, a permit for the pool at 800 First Avenue and a letter to the Perles regarding the appeal being filed and working at their own risk. She stated she has lived in town for a long time, she has been here for 45 years. She said the properties between Morven Terrace and First Avenue all have two front yards, 24 lots were done from the Stockton Hotel subdivision and every lot is 50x150 feet. She went on to say the Perles had a variance for a front yard garage but the house is over on setbacks.

She then referenced a Resolution for 812 First Avenue, from 1983, which had applied for a variance for a pool and it was denied as Morven Terrace and First Avenue are both considered front yards. She proceeded to read from that Resolution concerning this and said there are streets on both sides of these properties and she stated the Governing Body, in 1983, would not allow construction of pools in this subdivision. The general intent is to prohibit a pool and Mrs. Monte read from Article 5, Section 15; she then felt that this Resolution appropriately denied the pool as there is street frontage on both yards, creating two front yards. She then referenced an

application in 2018 where the Zoning Officer denied a pool being built on Morven Terrace; he said a pool has to be in the rear yard and not the front yard.

Mrs. Monte started to comment on a review from Avakian Engineering but Mr. Jackson objected to this as Mr. Avakian is not here to provide testimony and Mr. Kennedy agreed, telling Mrs. Monte she was “on thin ice”. She answered with Mr. Willms speaking with Avakian Engineering on this and all agreed a permit can be given. On May 1, 2019 permission was given to build the pool and the neighbors were not notified and found out about this 10 days later; Mrs. Monte then went to Mr. Willms and subsequently filed the appeal, she was told she had until May 30th to file. Mr. Willms then notified the Perles of the appeal and told them to proceed at their own risk. She ended by stating the Perles have 4 variances and Chairman Hall then told her she needs to zero in on the appeal, the Board has to decide if it was filed in a timely fashion and this is what needs to be addressed. Mrs. Monte kept going and said the Perles also have a berm and a 4-foot fence and any child can climb that berm. Chairman Hall again told her the Board has to go forward and this has nothing to do with Land Use.

Mrs. Monte then produced Exhibit Monte 5 – a picture of the Perle Front yard, taken by Mrs. Monte awhile ago, maybe 2 months ago and is an accurate photo. Mr. Kennedy clarified that the Zoning Officer gave a permit on May 1st and Mrs. Monte found out on May 10 and filed the appeal on May 28th. Mr. Casey wanted clarification that Mr. Willms gave Mrs. Monte 20 days to file or was this given to the neighbor, at this point Mr. Jackson objected saying this is hearsay and Mr. Kennedy said “so noted”.

Monte 6 was then marked as an exhibit, the notice of appeal filed by Ron Gasiorowski on May 28th. Mr. Benson asked Mrs. Monte why the photo in Exhibit Monte 5 was taken at night, Mr. Jackson said he heard she did not want the Perles to see her. At this point Chairman Hall asked to get the timing of the appeal filing done.

At this time Mr. Jackson said he has a Power Point Exhibit he wanted to have marked as Exhibit Perle 3, this came with hard copies. Mr. Jackson asked Mrs. Monte if she was aware of the 20 days to file and the answer was yes. Mr. Jackson said his clients own a corner lot and put of slides of the Perle property which borders on First Avenue, Trenton Boulevard and Morven Terrace and commented this property is unique. Mrs. Monte said all the properties here are unique but not all are on a corner. Mr. Jackson then asked her if the Resolutions she presented to the Board where denials were made were not for lots on a corner and she agreed that was true. Mr. Jackson said she had not provided a definition of a corner lot and she said she had not but reviewed the Ordinance. Mr. Jackson read that a Corner Lot shall have a front, side and rear yard and Mrs. Monte said she understood that but did not agree with it; Mr. Jackson commented that is what the Ordinance says.

Mr. Jackson then showed, on the Power Point, the Resolution for the Perle garage from 2014 where it says the Zoning Officer determined First Avenue to be the front yard; Mrs. Monte agreed with this statement. Mr. Jackson again stated corner lots have a front yard, side yard and rear yard and Mrs. Monte said this does not apply to

the Stockton Hotel subdivision. At this point Chairman Hall told Mr. Jackson the Board has to determine if the appeal was filed timely and Mr. Jackson said okay. He said that in August of 2018 the Perles decided to put in a pool and on May 1, 2019 got the permit to do this, after the permits were done an excavator came in on May 29th (shown on the Power Point) and construction started on the pool; the next issue is a letter from Mr. Willms, dated May 30, 2019, where he says an appeal was filed and that appeal was made on May 28, 2019 and to proceed at the Perles own risk. Mrs. Monte learned on May 8th and said she relied on the Zoning Officer saying she had 20 days to file an appeal which would come to the date of May 28th. If she can rely on all this information why can't Mr. Jackson's clients? He disagreed with the timing of 20 days from finding out about it, felt this is not an elaborate process as all one has to do is write a letter saying they are appealing. The point is Mrs. Monte learned about the permit and waited to file the appeal. Mrs. Monte countered with the statement that she put out a flyer to the neighbors and the Perles say that so they immediately starting building the pool. Mrs. Laszlo asked her when she sent the flyer out and Mrs. Monte said it was April or May she couldn't remember exactly but it was prior to the pool being built. It was asked if she had a copy of that notice and she said she did at home. Mr. Kennedy asked Mrs. Monte that the zoning permit was issued on May 1st but she found out on May 10th? She said the Perles knew she was going to appeal so they started immediately, she didn't have the dates. Mr. Petronko asked Mr. Kennedy if sending out the flyer was substantial and the answer was yes, it affects the timing argument. Chairman Hall asked Mrs. Monte if she saw construction start before May 1st and she said it was after May 1st, the equipment came in around the end of May. Mr. Jackson said there is no ability to get a Stop Work Order due to an appeal being filed, by Mrs. Monte's own admission she still had 10 days to file and he submitted that this appeal is out of time.

Chris Willms, Zoning Officer, then came forward and said he issued a zoning permit on May 1st and then ran into a neighbor in this neighborhood and told them a pool permit was done, that was on May 10th. He then said there is no case law that says neighbors have to be noticed for an approved building permit. They found out on May 10th so he gave them 20 days from May 10th to file, there is a Supreme Court ruling that says a person had 20 days from the day they find out the permit had been issued. Mr. Casey noted this means she had 20 days from May 10th which comes to May 30th; Chairman Hall agreed and felt this means the appeal was timely filed. Mr. Petronko asked Mrs. Monte what she did after finding out about the permit being given and she said she started contacting attorneys but some did not want to do this, she then found Ron Gasiorowski.

Chairman Hall told Mr. Jackson that Mr. Willms gave 20 days from the 10th to file the appeal and asked if he agreed with that? Mr. Jackson wondered why the extra time period was given; Chairman Hall asked Mr. Jackson if he had a problem with the Board going forward and accepting the appeal being timely filed and Mr. Jackson said that is up to the Board, he was not waiving his objection but he will allow the Board to go forward. Mr. Jackson had found a notice that Mrs. Monte had sent out and put it up on the Power Point projector, it was marked as Perle 4. He then commented that Mrs.

Monte knew about the pool permit on May 2nd and she said that was a lie, Mr. Jackson noted it was hearsay and couldn't be proved.

Mr. Kennedy then read of a ruling, Hart vs. Spring Lake on notice for an appeal, this filed on 6/26/18; he read that someone may not know until after that a permit was issued, there is no notice requirement for a Zoning Officer to give to neighbors and the 20 days to file an appeal runs when the person found out. He then asked for a motion, based on the evidence given, that the appeal was filed in a timely manner; this motion was given by Mr. Casey, seconded by Mr. Ward and then by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Raymond Petronko, Robert Walker, John Ward, Norman Hall

Noes: Eileen Laszlo

Mr. Kennedy announced that it has been determined, by the Planning Board, that the appeal was filed correctly so now the Board has to decide if the Zoning Officer made the correct determination. Mr. Jackson said he had a Planner to testify but Chris Willms came forward again and Mr. Kennedy asked him to take the Board through the analysis of this matter.

Mr. Willms said that, prior to May 1st, he had a zoning application for an in-ground pool and every pool application goes to the Borough Engineer for review; they went back and forth on this with regards to the pool and discussed its location and whether this was a rear or front yard. He determined this pool will be in the rear yard as per the Resolution of 2014 where it said the garage was in the front yard. This is a unique lot and the prior Zoning Officer said First Avenue was the front yard on this property. He went through other applications on this street for other homes on this block and this Resolution was the only one that said what was the front yard and what was the rear yard on this one lot; so he issued the permit for the pool.

Chairman Hall noted that a lot of the decision was due to the Resolution of 2014 and Mr. Willms said yes, he had looked at the exhibits from this application and the Zoning Officer approved a garage on the Morven Terrace side, he said that was the rear yard here; but a variance had to be granted to put the garage on the First Avenue side as neighbors wanted the garage on First Avenue and not Morven Terrace. Mr. Ward asked about the Resolution and Mr. Willms read the #9 bullet on page 6 as well as the #2 bullet where the Zoning Officer said First Avenue is the front yard. Mr. Ward asked if another Zoning Officer can change this? Chairman Hall answered and said Mr. Willms based his decision on the prior Zoning Officer and Mr. Ward commented that was not written in stone. Mr. Willms said this 2014 Resolution determined this was a rear yard, therefore, there is no conflict on this one property. Mr. Petronko asked if this affects other properties down the street and Mr. Willms said no, no other Resolutions addressed this, only this one.

Chairman Hal referred back to the Zoning Ordinance where a corner lot is defined as having a front, side and rear yard. Mr. Ward noted the first engineering letter says they need a variance and Mr. Willms said he spoke to them on this issue and they told him to determine if this is a rear yard, it was left to him to decide this. Mrs. Monte spoke up and felt that 1983 Resolution is correct, no pools on First Avenue or Morven Terrace. Mr. Jackson said this would only affect two corner lots here and Mr. Willms agreed and said there is no other information on the other properties. Mrs. Monte said there are 4 corner lots, 2 on the ocean.

At this time Mr. Justin Auciello, a Licensed Planner, came forward and was sworn in, the Board was okay with him being an expert witness. He said he did an analysis of the Resolution and agreed with the Zoning Officer, he reviewed the letter from the Zoning Officer for permits and read the Zoning Ordinance in full, he agreed the Resolution of 2014 shows the front yard is First Avenue. He felt the Zoning definition of a corner lot was clear, the rear yard shall be opposite the front yard and, back in 2014, the Planning Board determined First Avenue was the front yard.

As that testimony was done Chairman Hall asked for both sides to summarize. Mrs. Monte said they have curb cuts on both sides here and all homes face the ocean. In 1983 that was a Resolution and the Governing Body said no pools here due to the subdivision's location, all properties have two front yards. She did not know who wrote the definition of a corner lot but said they were crazy; there are tons of people here in the summer and this is no place for a pool; Mr. Willms is wrong because he decided what was a front yard, she knew this property has two front yards. She said this is a circus and this pool does not belong here, it's wrong and that is why she and others are here; who is going to watch this when they are gone? She said she will as she is year around, she did not want a pool in the middle of the street and showed a picture of the pool.

Mr. Jackson asked her if that picture was taken from her house and Mrs. Monte said no but she knows it's there. He then told the Board one question was whether this is binding and this applies to just this lot. You can't see this pool from the street with the landscaping & he showed photos from his Power Point. He asked the Planning Board to affirm the Zoning Officer's decision or decide did he go out of his realm in granting this? He requested that this Board uphold the Zoning Officer.

At this time Chairman Hall opened the meeting to the public for comments or questions and Tom Burkhardt of 402 Brooklyn Boulevard came forward. He questioned Mr. Willms telling the Perles to proceed at their own risk and wanted to know if that is a problem. Mr. Willms said he sent the letter to the Perles as an appeal was filed; Chairman Hall added that Mr. Willms did not have to do that. Paul Henry of 904 Second Avenue noted in one letter the engineer said there should be a variance and this should come before the Board. Mr. Jackson said his clients were not advised of this letter from Avakian Engineering. As there were no more public comments or questions that portion of the hearing was closed and the Board went into discussion.

Mr. Walker believed that Mr. Willms was in the scope of things and he supported his decision. Mr. Ward didn't think Mr. Willms was well advised and the language on the previous Zoning Officer making a decision should be open to question, he saw no reason why this should be permitted and the Zoning Officer's decision should be overturned. Mr. Petronko complimented both Mrs. Monte and Mr. Jackson on the testimony given; he said the Board wants to what is best and because this is such an unusual lot, along with the testimony given, he really felt he had no choice but to support Mr. Willms. He saw a lot of thought and intelligence in Mr. Willm's decision and he does a good job, he would affirm his decision. Mr. Casey saw the reasons for issuing the permit but also saw the other side and the documents. Mr. Avakian did say this may have to come before the Planning Board; he would vote to overturn Mr. Willms' decision. Mr. Benson felt this was difficult as this is one of those streets with both a front and back; and to say an owner can't have a pool on this one property he felt was wrong and should be allowed, this is considered a rear yard. Mrs. Laszlo upheld Mr. Willms based on all the research he did as well as the prior Resolution; she added the reason the garage ended up in the front yard was due to the neighbors and she would vote to affirm the Zoning Officer. Mrs. Brisben said she had read the Minutes from 2014 as well as the Resolution and agreed with the decision made by Mr. Willms. Chairman Hall said the Borough hires people and trusts them to make the right decisions and he also read the Resolution over and over and everything states the garage is in the front yard. The Board can only make a recommendation but it is the Governing Body that creates the Ordinances. It was said this was the front yard, he has empathy for all but the Board has to make a decision based on facts, so he would support Mr. Willms.

At this time a motion was made, by Mrs. Laszlo, to uphold the Zoning Officer's decision to issue a building permit for a pool, this seconded by Mr. Walker and then by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Eileen Laszlo, Raymond Petronko, Robert Walker, Norman Hall

Noes: Jake Casey, John Ward

Mr. Kennedy said there is no variance relief needed for the Perles and Mr. Jackson asked that their application be withdrawn without prejudice. A motion was made to allow the application for a pool variance for 800 First Avenue to be withdrawn without prejudice by Mr. Petronko, seconded by Mr. Casey and then a roll call vote was taken:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Eileen Laszlo, Raymond Petronko, Robert Walker, John Ward, Norman Hall

Noes: None

The next item on the agenda was an application for Use Variance relief for Block 18, Lot 18, 5 First Avenue, owned by Michael O'Neill Revocable Trust, to allow the

demolition of the existing home and construction of a new single-family home. Building Coverage – 20% maximum allowed, 23.2% proposed. Window Well – window wells on the north side of the proposed dwelling encroach into side yard setback. Building Height – 35 feet maximum allowed, 39.5 feet proposed (creates Use Variance). Freestanding Garage Height – 16 feet maximum allowed, 19 feet proposed. Three to four feet change of grade proposed, approval needed. Coping Elevation of Pool – no higher than 12 inches above the unaltered existing ground elevation – 16.25 feet proposed.

The proper fees were paid, taxes are paid to date and the property owners within 200 feet were properly notified as well as the newspaper. Mayor Farrell had to step off the dais as the Mayor cannot hear a Use Variance; Mr. Kennedy then asked if anyone in the audience had a problem with the notice they received and there was no response, he then said both he and Mrs. Brisben had reviewed same and all was in order.

Mr. Kennedy marked the following exhibits:

- A-1. The application package
- A-2. Grading Plan
- A-3. an Architectural plan done by Chris Rice, dated 1/17/19
- A-4. A plan showing the pool detail, dated 3/9/19
- A-5. Survey dated 8/8/19
- A-6. Review from Leon S. Avakian Engineering dated 9/11/19.

Ms. Lynn Kegenman, Esq. was the attorney for the applicant, Michael O'Neill and he was asked to come forward and be sworn in, giving his address as 120 Ashley Avenue, Brielle; he is the owner of the property at 5 First Avenue and is the Trustee. He told the Board he has owned this home for one year, it is to be removed and the property is vacant at this time. He lived in Sea Girt for 15 years, on New York Boulevard as well as Second Avenue, his mother lived on Washington Boulevard for 30 years; he now lives in Brielle but wants to move back to Sea Girt.

At this time Mr. Christopher Rice, Architect, came forward and was sworn in as well as Ray Carpenter, Engineer & Planner. The Board was familiar with both of them and accepted them as expert witnesses.

Mr. Rice submitted Exhibit A-7, 6 photos of the property (done on Google a few years ago). They want to tear down the home and he noted this is a very unique lot as the property rises 5 feet and the driveway is lower with retaining walls. They want to remove all this as well as the retaining walls. He then showed a rendering of the home they propose to build, a shore colonial home, and this was marked as Exhibit A-8, the northeast view of the rendering of the home was done by Mr. Rice. The setbacks are not an issue but the height is, from the street to the grade of the home is 5 feet and the heights of the other homes here are 39.5 feet and 41.2 feet (the home to the north), this creates a middle ground of 40 feet and they are asking for 39.5 feet. The existing home is 41 feet with a flat roof, the home to the south is at 39.5 with a pitched roof. Mr. Casey

said the application states 40 feet and Mr. Carpenter's plan says 39.5 feet; Mr. Rice said 39.5 feet is what they want, this is to the top of the ridge. There is a similar problem with the garage, 16 feet is allowed and they are asking for 19 feet which is about the same as the home to the left.

Mr. Rice also said there is a violation of the Ordinance to change the grade by more than what is allowed. Mrs. Brisben asked how high the house itself is, she wanted to know if the variance is partially caused by its height and Mr. Rice said the house itself is 34.5 feet high. Mr. Carpenter then spoke and said they put in a yard drain in the rear southern corner, at the request of the neighbor, to collect water there; there will also be a rear drywell going to a front drywell so the water will flow into the street, this also a request from the neighbor, it will be connected. Mr. Carpenter said they agreed with the Board Engineer's 90% and noted on page 2 of that report, #1e, they are reducing the coverage to 20% so they do not need a coverage variance.

Mr. Rice said this has to do with a deck by the driveway, the house is well under. When you look at the deck ¼ of it is where the driveway is so it is technically a deck, but after construction it will be below 16 inches which will make them below 20%. Mr. Petronko asked about the grading and Mr. Rice said they can't change the grade for the house area so they are asking for the Use Variance for height. He added this does not affect the lots on either side and he felt this is a positive change. Mr. Casey asked what the grade will like in the front and Mr. Rice showed the area with no retaining wall on his rendering. Mr. Casey asked about the grade by the pool and Mr. Carpenter said they are not changing that area and the front yard will be the same as the others. Going back to the pool Mr. Carpenter said the pool will be above natural grade, 3.5 feet higher than the driveway. Mr. Rice again said this is the same as the other homes here and this will fit right in.

He then said they have an escape well which complies but the basement window wells will stick out about 12 inches into the side setback but he emphasized no neighbors will be affected by this; he asked that they be allowed to stay as they are not deep and go below grade, these are area ways for basement windows and they are 6 feet from the property line here. Mr. Petronko asked about the height of the cabana and was told it complies.

Mr. Rice said the air conditioner unit will be screened and hardly be seen; a neighbor was concerned about seeing it and, in an effort to appease them, they will move the unit to the south side of the property, no variance is necessary. He commented that an actual spot has not yet been picked but it will be in a conforming location. Mrs. Brisben said this is a County road and, therefore, needs an approval from them and Mrs. Kegelmann had a copy of their report in her file and gave it to Mrs. Brisben for the Board file.

At this time the hearing was opened to the public for questions and there was no response so that portion was closed. It was then opened for general comments and Bob Fabricant of 7 First Avenue came forward and was sworn, he is the next door

neighbor. He appreciated working with the applicant and he supported the variance requests. As there were no other public comments that portion was closed and Mrs. Kegelmann was asked for a summary; all she had to say was to ask for a favorable ruling.

Mr. Casey asked about backwash for the pool and Mr. Carpenter said there is none, the new pools are saltwater and have cartridge filter systems with no backwashing. Mr. Walker had a problem with the window wells, that was all. Mr. Ward also had a problem with them, they will be more than 5 feet and new homes should follow the Ordinance. Mr. Petronko said he has been a fireman since 1973 and have never had a problem with a window well, he was for approval. Mr. Casey agreed with Mr. Walker, the only problem were the window wells. Both Mr. Benson and Mrs. Laszlo had no problem with the application and felt it should be approved as presented. Mrs. Brisben was for approval other than the window wells. Chairman Hall felt there was enough feet here for this and it will not affect the side setbacks; he was in favor with the window wells.

Mr. Rice said their intention was not to have them and if there is a way they can do this without encroachment they will, but they would like to have a variance approval if they need it. Chairman Hall added this will give light, air, etc. and these are standard windows wells and not large. The Board was in agreement that they should give it their best effort and would approve the application on that note. Mrs. Brisben asked Mr. Kennedy if he could put in the appropriate wording in the Resolution and he said he would. At this time a motion for approval was made by Mr. Ward, seconded by Mr. Petronko and then by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Eileen Laszlo, Ray Petronko, Robert Walker, John Ward, Norman Hall

Noes: None

Mr. Kennedy then briefly went over the conditions that will be shown in the Resolution.

At this time Mayor Farrell came back on the dais; the last item for the evening was an application for variance relief for Block 56, Lot 6, 302 Stockton Boulevard, owned by John Gelson, to allow the renovation of an existing garage, add a bonus room above the garage and expand the dining area. Lot Depth – 150 feet required, 92.98 feet existing & proposed. Lot Size – 7,500 square feet required, 6,973 square feet existing & proposed. Lot Coverage – 20% maximum allowed, 21.3% existing & 27.16% proposed. Front Yard Setback – 40 feet required, 25 feet existing, 32 feet proposed to bonus room dormer. Rear Yard Setback – 30 feet required, 13.6 feet existing & proposed. Side Yard Setback – 22.5 feet total required, 17.3 feet existing & proposed. Drywells required due to lot coverage.

The application fees were paid, taxes are paid to date and the property owners within 200 feet were properly notified as well as the newspaper. Mr. Kennedy asked if anyone in the audience had a problem with the notice if they received one and there was no response; he said he and Mrs. Brisben had gone over the notice and found all to be in order. He also told all that Mr. Gelson is an attorney and he had worked with him many years ago, over 17 years ago so he felt he could be the Board as he not no interest in this application.

He then marked the following exhibits:

- A-1. Application package.
- A-2. Architectural plans dated 3/31/19.
- A-3. Survey dated 2/10/19.
- A-4. Avakian report dated 8/26/19.

At this time Mr. John Gelson came forward and was sworn in, he said he has owned the home for 7 years and lives there. He said he originally lived at 500 Beacon Boulevard and his family resided there. He practiced law but he does not do that any more, he now works solely for Jersey Mike's Subs as General Counsel. He wanted to come back to Sea Girt and purchased this home. He then handed Exhibit A-5, a photo of the home and hand-done architectural drawings.

Mr. Gelson said the home he purchased here was pretty run down and he has made renovations to it, trying to keep his home consistent with the other homes, he kept the existing home low and did not try to go up. However, his daughter and her two children have moved back in with him and he now needs more room; he wants to move his study to over the garage and this gives building coverage, but there will be no change in the footprint as he is going up and did not want to build in the back. He said he has spoken to all his neighbors and they are okay with this.

Mr. Petronko asked if the home is 18 feet deep and the answer was yes, this is an oddity and Mr. Petronko agreed saying a home is usually 25 feet deep. Chairman Hall asked for an explanation as to why there is a change in lot coverage when there is no change in the footprint and Mr. Gelson said he was putting in a room over the garage and that goes to lot coverage. Chairman Hall commented if this home were on a regular 50x150 foot lot this would conform and Mr. Gelson said yes, the homes by him are smaller and he is not taking the existing home down and putting a large home up.

Mr. Ward noted a comment on a need for a drywell in the Engineer's report and Mr. Gelson was not sure if he needs one; Mr. Ward asked him if he had a sump pump and he does but it is not used as he has a dry basement and commented there was no water there even from Hurricane Sandy. Chairman Hall offered to have the Resolution say a drywell may be needed; Mr. Gelson agreed and said he will work this out. He told the Board they can see what he wants with the drawing that was submitted.

Mrs. Laszlo asked if the bonus room will be his study and the answer was yes so the kids can have the bedrooms.

The Board then went into discussion and Mr. Walker was all right with the coverage variance, Mr. Ward commented the application was "spot on" and the Board wants to see homes saved. Mr. Petronko and Mayor Farrell were in support of the application, Mr. Casey asked about Item J on the Avakian report regarding the building height and Mr. Gelson said he will speak to his builder. Both Mrs. Laszlo and Mrs. Brisben were for approval as well so Mr. Kennedy went over the conditions of the Resolution. At this time a motion for approval of the application, as presented, was made by Mr. Ward, seconded by Mayor Farrell and then by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo, Ray Petronko, Robert Walker, John Ward, Norman Hall

Noes: None

As there was no other business to come before the Board a motion to adjourn was made by Mr. Ward, seconded by Mr. Casey and unanimously approved, all aye. The meeting was adjourned at 10:40 p.m.

Approved: October 16, 2019