

SEA GIRT PLANNING BOARD  
WEDNESDAY, SEPTEMBER 16, 2020

The virtual Regular Meeting of the Sea Girt Planning Board was held on Wednesday, September 16<sup>th</sup>, 2020 at 7:00 p.m. 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.

As this was a virtual meeting there was no Flag Salute; roll call was taken:

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

Absent: Carla Abrahamson

Kevin Kennedy, Board Attorney was also present; Board member and Secretary Karen Brisben recorded the Minutes. New Board Member (Alternate No. 2) Stan Koreyva was sworn in and welcomed to the Board by Mr. Kennedy. Mr. Kennedy then proceeded to explain the duties of an Alternate Member, they are eligible to vote on a matter if a Regular Member is not present; even if they are not eligible to vote they can partake in the hearings and comment/ask questions. Their attendance at meetings is very important.

The Board then turned to the Minutes of the August 19, 2020 meeting which were approved on a motion by Mr. Walker, seconded by Mr. Petronko and then by a roll call vote:

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

Noes: None

Not Eligible to Vote: Stan Koreyva

Mr. Kennedy wanted it on the record that proper notice of this virtual meeting had been given to the newspaper and included log-in instructions; also plans for tonight's application had also been posted on the website. He then asked Mrs. Brisben to give her email in case anyone was having a problem logging on and she could address it; this was done, kbrisben@seagirtboro.com.

OLD BUSINESS:

The Board turned to the Resolution of variance approval for Block 29, Lot 12, 222 Brooklyn Boulevard, owned by Michael & Anne Reilly, to allow a patio in the front yard

setback. Mr. Kennedy read the list of conditions and the following was presented for approval:

**WHEREAS**, Michael & Anne Reilly have made Application to the Sea Girt Planning Board for the property designated as Block 39, Lot 12, commonly known as 222 Brooklyn Boulevard, Sea Girt, New Jersey, within the Borough's District 1, East Single Family Zone, for the following approval: Bulk Variance associated with an Application to install a new patio with firepit and water feature in a front yard area; and

### **PUBLIC HEARING**

**WHEREAS**, the Board held a remote Public Hearing on August 19, 2020, Applicant 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:

- *Land Development Application Package, introduced into Evidence as A-1;*
- *Plot Plan, prepared by East Point Engineering, LLC, dated April 1, 2020, introduced into Evidence as A-2;*
- *Boundary and Topographic Survey, prepared by KF2T, dated March 31, 2020, consisting of 1 sheet, introduced into Evidence as A-3;*
- *Leon S. Avakian Inc. Review Memorandum, dated July 1, 2020, introduced into Evidence as A-4;*
- *6 illustrated photographs of the subject property, taken by Justin Tal, Landscape Architect, on or about April 15, 2020, collectively introduced into Evidence as A-5;*

- *Affidavit of Service; and*
- *Affidavit of Publication.*

**WITNESSES**

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

- Marc Leber, Professional Engineer / Professional Planner;
- Justin Tal, Landscape Architect / Designer / Installer;
- Rick Brodsky, Esq., appearing

**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.
- There is an existing single-family home on the site.
- The subject home is located on a corner Lot (i.e. the corner of Brooklyn Boulevard and Third Avenue).
- The Applicant proposes to install a new patio with firepit and water feature at the site.
- In conjunction with the above, the Applicant is also replacing existing brick pavers in the backyard area and in the barbeque / bar area.
- Details pertaining to the proposed improvements include the following:

**PATIO**

Location:	Northern side of the
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	property (per the Plans)
Materials:	Open cell patio
Size:	Approximately 22 ft. by 22 ft.

**FIREPIT**

Location:	Within the open cell patio on the eastern portion of the property (per the Plans)
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**WATER FEATURE / FOUNTAIN**

Location:	Western portion of the property (per the Plans)
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- The proposed improvements will be constructed at grade.
- The Plans which have been submitted (renderings) are not drawn to scale.
- The Applicant would like to have the improvements installed as soon as possible.
- The Applicant will be utilizing Licensed Contractors in connection with the patio installation process.

**VARIANCE**

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

Variance:

*PATIO LOCATION: Pursuant to the Prevailing Borough Ordinance, patios and related improvements are not permitted in a front yard area; whereas, in the within situation, the Applicant proposes such improvements for a front yard area.*

### **PUBLIC COMMENTS**

**WHEREAS**, no members of the public expressed any questions, comments, statements, and / or objections regarding the Application;

### **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:

1. The Sea Girt Planning Board has proper jurisdiction to hear the within matter.
2. The subject property is located at 222 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 increase the functionality of the existing home, the Applicant is proposing to install a new patio, with firepit and water feature / fountain. (The Applicant will also be replacing the brick pavers in the backyard area at the site.)
6. Details of the proposed improvements were referenced on the submitted Plans, and were discussed, at length, during the Public Hearing process.

7. Such a proposal requires Bulk Variance approval.

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

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

- The subject property is located on a corner Lot – i.e. the corner of Brooklyn Boulevard and Third Avenue.
- As a corner property, the subject Lot has 2 front yard areas. As a corner property with 2 front yard areas, there really is no technical rear yard area at the site.
- The proposed improvements are permitted in a rear yard area – however, in the within situation, as indicated, there is no technical rear yard area at the site.
- The Board is aware of the fact that the corner nature of the Lot contributes to the need for the improvements to be located in a non-conforming technical front yard area.
- The Board is aware that the 2 technical front yard areas of the site, and a lack of a true rear yard area compromise the Applicant's ability to comply with all Prevailing Bulk Requirements.
- The proposed patio, firepit, and water fountain will be located in a practical locations on the site.
- There are, essentially, no other practical locations for the proposed patio and patio improvements to be located.
- The Board is aware that the proposed patio improvements will be shielded by an extensive amount of 8-15 ft. tall trees and hedge shrubs, which will be perpetually maintained, replanted, and replaced, as necessary.
- The existence of the extensive amount of shrubbery and large trees will serve as a visible shield, preventing neighbors / public from readily viewing the improvements approved herein.

- The existence of the extensive landscaping / shrubbery / trees will also serve as a barrier to any noise projecting from the site.
- Given the large hedge row screening and landscaping which already exists, and will be maintained, the Board finds that installation of the improvements approved herein will, essentially, be imperceptible to most of the public who are walking or driving by the site.
- The enhanced landscaping which already exist at the site, and which will be maintained, will help minimize the overall impact that approval of the within Application will have on adjoining owners and the neighborhood.
- The Board notes, positively, that the within Application complies with the Prevailing Lot Coverage Requirements. Specifically, a maximum Lot Coverage of 35% is allowed; whereas 32.9% is proposed herein.
- The absence of any Lot Coverage Variance is extremely important to the Board Members.
- The absence of any Lot Coverage Variance is a material reason as to why the within Application has been conditionally approved.
- The Board is furthermore aware that the Applicant is proposing an open cell patio – i.e. a patio which will include, essentially, floating slabs placed in the soil, with grass in between the slabs. That is, the nature of the open cell patio, as aforesaid, will allow water-runoff to percolate into the soil. Per the testimony and evidence presented, although the proposed open cell patio is pervious, out of an abundance of caution, the Applicant's representatives calculated the same as 100% impervious (so as to obtain a very conservative lot coverage calculation. The Board appreciates the Applicant's conscientious / conservative calculation in the said regard, and the beneficial impacts associated therewith.
- There is an existing front yard setback deficiency at the site (from Third Avenue). Specifically, a 40 ft. Front Yard Setback is required; whereas 16.8 ft. exists. The Board notes that the said condition is an existing condition, which is not being exacerbated herein.

- The Board is also aware that there is an existing Side Yard Setback deficiency at the site (5 ft. required; whereas 4.8 ft. exists). Again, the Board notes that the said condition is an existing condition which is not being exacerbated as a result of the within approval.
- The subject site can physically accommodate the renovations approved herein.
- The Applicants' renovation plans are reasonable under the circumstances and reasonable per the conforming size of the existing Lot.
- Approval of the within Application will not have an adverse aesthetic impact on the site or the neighborhood.
- Approval of the within Application will make the existing home more functional, and approval will also improve the quality of life for the homeowner.
- Single-family use as approved / continued herein is a permitted use in the subject Zone.
- The location of the proposed improvements is practical and appropriate.
- Subject to the conditions contained herein, the renovations approved herein will not over-power / over-whelm the subject Lot.
- Upon completion, the renovation approved herein will not over-power / dwarf other homes in the area.
- The renovations approved herein are attractive and upscale, in accordance with Prevailing Community Standards.
- Approval of the within Application will not detrimentally affect existing parking requirements at the site.
- Approval of the within Application will allow the Applicant to address some of the practical / functional concerns she currently has with regard to her existing home.
- There were no known public objections associated with the proposal.

- The Board notes that the within property involves a Lot which satisfies a Prevailing Lot Area Requirements. Had the Lot been undersized, the within Application may not have been approved.
- Approval of the within Application will not change the ground-level footprint of the existing structure.
- Sufficiently detailed testimony / plans were presented to the Board.
- The proposed improvements / renovations should nicely complement the property and the neighborhood.
- Subject to the conditions contained herein, the proposal will not appreciably intensify the single-family nature of the lot.
- The Board Members commented upon, and duly appreciate, the well-designed plan.
- The Board Members appreciate the thorough and detailed presentation submitted by the Applicant and her professionals.
- The Board appreciates the Applicant's commitment to maintaining the enhanced landscaping at the site as a way to minimize any adverse impact (associated with the within Approval).
- Additionally, 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 design of the patio / patio improvements approved herein will not be inconsistent with the character of other similar patio improvements in the area.
- Subject to the conditions set forth herein, the overall benefits associated with approving the within Application outweigh any detriments associated with the same.

- Subject to the conditions contained herein, 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.
- Subject to the conditions contained herein, 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).

Based upon the above, and for other reasons set forth during the Public Hearing Process, a majority of 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 Applicant has agreed, to comply with the following conditions:

- a. The Applicant shall comply with all the promises, commitments, and representations made at or during the Public Hearing process.
- b. The Applicant shall comply with the terms and conditions of the Review Memorandum from Leon S. Avakian, Inc., dated July 1, 2020 (A-4).
- c. The Applicant shall submit (to the Board Secretary) 3 signed / sealed Surveys of the property.
- d. The Applicant shall cause the Plans to be revised so as to portray and confirm the following:
  - A note confirming that the existing hedges / shrubbery / landscaping at the site shall be maintained, replaced, and replanted, as necessary (in the Applicant's courtyard area)

so as to perpetually minimize any adverse impact associated with the within approval. Additionally, when necessary, the said landscaping / shrubbery / trees shall be replaced / replanted with similarly sized shrubs / trees (as to that which currently exists).

- A note confirming that the Applicant shall remove the slate wall within the Municipal Right-of-Way.
  - A note confirming that the hedges at the site shall remain.
- e. In that the renderings submitted to the Planning Board Members were not drawn to scale, for record-keeping purposes, the said renderings / plans shall be drawn to scale (and submitted to the Board Secretary).
- f. The Applicant shall manage storm water run-off during and after construction (in addition to any other prevailing/applicable requirements/obligations.)
- g. 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
- h. If applicable, the proposed structure shall comply with applicable Provisions of the Americans with Disabilities Act.
- i. 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.
- j. 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.

- k. 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.
- l. 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.
- m. The Applicant shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- n. If required by the Board / Borough Engineer, the Applicant shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.
- o. 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 required) for the construction / development approved herein.
- p. **The approval granted herein is specifically dependent upon the accuracy and correctness of the testimony and information presented, and the accuracy of the Plans submitted and approved by the Board. The Applicant is advised that there can be no deviation from the Plans approved herein, except those conditions specifically set forth or otherwise referenced herein. In the event post-approval conditions at the site are different from what was presented to the Board, or different from what was otherwise known, or in the event post-approval conditions are not necessarily structurally sound, the Applicant and her representatives are not permitted to unilaterally deviate or build beyond the scope of the Board Approval. Thus, for instance, if the Board grants an Application for an existing building / structure to remain, the same cannot be unilaterally demolished (without formal Borough / Board consent), regardless of the many fine construction reasons which may exist for doing so. That is, the bases for the Board's decision to grant Zoning relief may be impacted by**

the aforesaid change of conditions. As a result, Applicant and her representatives are not to assume that post-approval deviations can be effectuated. To the contrary, post-approval deviations can and will cause problems. Specifically, any post-approval unilateral action, inconsistent with the testimony / plans presented / approved, which does not have advanced Borough / Board approval, will compromise the Applicant's approval, will compromise the Applicant's building process, will create uncertainty, will create stress, will delay construction, will potentially void the Board Approval, and the same will result in the Applicant incurring additional legal / engineering / architectural costs. Applicant is encouraged to be mindful of the within – and the Borough of Sea Girt, and the Sea Girt Planning Board, are not responsible for any such unilateral actions which are not referenced in the testimony presented to the Board, and / or the Plans approved by the Board. Moreover, Applicant is to be mindful that the Applicant is ultimately responsible for the actions of the Applicant's, her Agents, her representatives, her employees, her contractors, her engineers, her architects, her builders, her lawyers, and other 3<sup>rd</sup> parties.

**BE IT FURTHER RESOLVED**, that all representations made under oath by the Applicant and/or her agents shall be deemed conditions of the approval granted herein, and any mis-representations 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.

**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.

For the Application: Carla Abrahamson, Councilwoman Diane Anthony, Karen Brisben, Mayor Ken Farrell, Eileen Laszlo, Ray Petronko, Robert Walker, John Ward, Norman Hall

Noes: None

Not Eligible to Vote: Jake Casey

The foregoing Resolution was offered by Councilwoman Anthony, seconded by Mayor Farrell and adopted by Roll Call Vote:

Ayes: Councilwoman Diane Anthony, Karen Brisben, Mayor Ken Farrell, Eileen Laszlo, Ray Petronko, Robert Walker, John Ward, Norman Hall

Noes: None

Not Eligible to Vote: Jake Casey, Stan Koreyva

The Board then heard the continuation of application for variance relief for Block 5, Lot 7, 2 Seaside Place, owned by Glenn & Dana Hughes, to allow construction of a new home, detached garage, cabana & in-ground pool. Minimum Side Building Setback along the Alleyway – 15 feet required, 12 feet proposed. Fire Pit Side Yard Setback – 15 feet required, 12 feet proposed. Maximum Building Height – 35 feet allowed, 38 feet proposed. Garage Height – 16 feet allowed, 19.15 feet proposed. Driveway Width - 14 feet maximum allowed, 15.5 feet proposed. Curb Cut – 13 feet maximum allowed, 18 feet proposed. Pergolas not allowed in front or side yards – Pergola proposed in Front Yard.

Before starting this hearing, Mr. Kennedy told the virtual audience that the application for 501 Beacon Boulevard, scheduled for this evening, is being postponed until the Wednesday, October 21<sup>st</sup> meeting of the Board. Mrs. Brisben added that the attorney for the applicant had not noticed properly and had put in the wrong date, his error, so he asked that it be carried and he will renotece..

The Board then turned their attention to the Hughes application and Mr. Kennedy reminded all that this was first heard in July and is considered a “C” variance so the Mayor and Councilwoman can hear this. Mr. Henderson agreed as this is not subject to the requirements for a “D” variance. Mr. Kennedy said Mr. Henderson had re-noticed and asked if anyone in the virtual audience had a problem with the notice and there was no response so the Board can proceed.

Mrs. Brisben wanted the Board to know she had received an email letter objecting to this application and had to write back to the objector explaining the Board cannot accept a written letter as it cannot be cross examined, an objector has to be present to present their thoughts, this is the law. And she gave them log-in information for this evening. Mr. Kennedy agreed. He then asked Mrs. Brisben if Exhibit A-10 that was referenced to in July had been physically submitted to her for the file and it was.

Mr. Kennedy then proceeded to mark the new exhibits:

- A-11. A Plot Plan of 2 Seaside Place revised August 2020.
- A-12. Revised Architectural Plan done by CJ Aker on August 24, 2020.
- A-13. A new report from the Board Engineer, Peter Avakian, revision dated September 8, 2020.

After an explanation to the audience about this being carried from July due to concerns about setbacks and height, the Architect, C.J. Aker (who was sworn in at the July meeting) came forward to give testimony. He explained the amendments to the plan and that they reduced the width of the house, the east side setback was 10.16 feet and it was increased to 12 feet; the west side went from 5.17 feet to 6 feet so the house now complies for side setbacks. The home has been reduced in height from 38.3 feet to 38 feet, about 4 inches and they have eliminated the window wells in the side yards. Also, the fire pit has been moved to 12 feet from the side property line. He then referenced Exhibit A-12 that shows this along with 4 drawings. There is a 5 foot difference on the Hughes property so this property needs a height variance. Mr. Henderson asked if this property were measured from the alleyway would they need a variance and the answer was no.

Mr. Aker said that the Avakian report found a fence variance needed and Mr. Aker then went back to the curbing issue stating there is no curbing there now and they are providing this. As far as the pergola, they have to provide steps from the street to the walkway and felt a pergola would be appealing, it is being done for aesthetics and will not be covered.

The Board then had questions: A question was asked if the fire pit still needs a variance and was told yes. Mr. Ward asked why is a curbcut needed and Mr. Aker said this will be more beneficial and cleaner, it will show access better; he felt the Engineer can explain this better. Mr. Henderson said they would be happy to remove the curbcut but agreed the Engineer can address this. Mr. Ward then questioned the height reduction and Mr. Aker referred him to Sheet S-1 of his exhibit. The crown of the road is at 11.5 feet in front of the dwelling and the maximum the home can be is 35 feet, he again said if they could measure the height from the alleyway they would be at 35 feet and be okay. Mr. Ward felt the average is between the crown of the road and the height of the lawn, which is usually 2 feet but the Hughes property is at 4 feet so it seems a little more extreme. Mr. Aker said the finished floor is 2 feet above grade, the first floor has a 9 foot ceiling, the second floor an 8 foot ceiling and then there is a half-story. Basements are at 9 feet and that, combined with the grading and topography, creates the need for the variance.

Mayor Farrell asked about the pergola and felt it can be blown away through bad weather; he wanted to know why they wanted it and Mr. Henderson said it will be removed from the plans & application.

Mr. Casey asked about the fire pit and the 12 feet setback from the alleyway, what did the previous plans show? Mr. Aker said outdoor living is very important here and, because of the limited lot depth, they need variance relief and it is shown on the plans. He also reminded the Board the original thought was this was an interior lot but then the Board Engineer determined it to be a corner lot which changed things. Mr. Casey felt this is a common problem for corner lots and Mr. Aker agreed but this lot is not 150 feet deep.

Councilwoman Anthony commented that, as far as the Ordinance goes, most new homes in Sea Girt do comply and she asked if all these variances had been considered when they designed the home. Mr. Aker said people think they are going to build 2 ½ stories with a basement, they had a soil boring done and the finished floor is less than 30 inches above the foundation. They had a conversation on this and it was an easy decision to ask for a height variance; the town has beautiful back yards and they have a vision that they can do this but the smaller lot makes this a little more difficult. Also, he again reminded all that they originally were told this was an interior lot so they felt they had reason to request this.

As there were no more Board questions the hearing was opened for questions from the public and Mr. Tom Britt of 3 Seaside Place who lives across the street, asked if Mr. Aker knew the depth of all the lots east of Neptune Place and what will be the height as compared to the rest of the street. Mr. Aker could not speak for the lot sizes. Chairman Hall asked why the Board does not have a Panorama view of the heights of the other homes here, the Board has gotten this in the past and it does help put things in perspective. Mr. Henderson said there is a copy of the tax map that shows the depth of the lots, but Chairman Hall said there is usually is a plan that shows the heights of the different homes in the area. Mr. Henderson said when this new Ordinance was created

the Council recognized the problem in parts of town, he did not feel they need to supply this.

Anne Britt was next to ask about Exhibit A-10 that Mr. Henderson had submitted at the original hearing, he testified that there were 16 Resolutions allow height variances and he only submitted 8. Mr. Henderson said he submitted the ones that he had done. Mrs. Britt then asked Mr. Aker about showing the heights of the other homes in the area and Mr. Aker said no, he would need time and permission to do this. He took the average grade lines, as shown on his sheet S-1 and this application is in the middle. He went to all different addresses in town that he has done and showed the average grade and noted the Hughes home is only 33.8 feet high; he pointed this out on this exhibit to show this is an average home. Mr. Petronko asked if all the homes shown on his plan are Sea Girt homes and are any near the Seaside Place location? Mr. Aker did not know, his intent was to show as many as he could and was trying to show a variety of homes.

At this point Chairman Hall asked if this hearing could move on as they have already spent an hour on this. The next witness was Frank Baer, a Professional Engineer and Planner who gave his credentials again; he was previously sworn in and is still under oath. He spoke about the retaining wall and that it will remain but they are reducing the grade so it will be better. He then said the law requires a 4 foot high fence around a pool and this will be put in with the existing retaining wall which creates a variance need as the height will now be 7 feet high in that area, the wall runs the full length of the property, and holds around 15 feet above grade, then it drops about 14.5 feet at Seaside. Chairman Hall felt the code says a 4-foot barrier is needed around a pool, it does not say it has to be a fence. Mr. Baer said a fence keeps people from climbing into the pool area.

Mr. Henderson asked Mr. Baer to explain the reduction in the grading and he said the grade goes from 17 feet to 14 feet, it drops about 3 feet as you get to Seaside Place and there is about 1 ½ foot difference in front of the house; he said this is a unique house with a filled lot. Mr. Ward questioned the change in grade and the differences and Mr. Baer said the grade between the alleyway and house has a differential of about 9 inches. Working with the grade there, the wall will be removed along the alleyway and replaced with curbing. Mr. Aker spoke and said the average grade is 16.0 feet and this is the grade right in front of the home so the plans do match. Mr. Casey asked where the grade is being added and Mr. Baer said in front of the garage, the garage floor to the alleyway. Mr. Casey then asked about the area to the south and Mr. Baer said there will be a landscaped block wall that will not be impacting adjacent property owners.

There were no further questions from the Board and none from the audience so that portion of the hearing was closed. Mr. Henderson then asked for a 5 minute break so he could speak to his clients and this was done, the Board took a recess from 8:22 p.m. to 8:26 p.m.

Mr. Henderson said he had one more witness and Mr. Andrew Janiw, a Professional Planner with an address of 315 Highway 34, Colts Neck came forward, was sworn in and accepted as an expert witness. He reviewed the application and the Master Plan as well as the Avakian report and stated this is a 7800 square foot lot and what is being proposed is consistent with its use. This is a pre-existing condition as far as the lot depth and went over the variances requested, noting the pergola has been removed. Mr. Henderson asked him what the hardship was and Mr. Janiw said it was a combination of the grading of the lot and the depth of the lot, the depth creating the C-1 variance. There is a hardship as the lot is higher here and noted that Mr. Henderson had submitted an Exhibit showing Resolutions where height variances were granted. The short depth of 130 feet affects the whole building area. The C-2 relief comes in where the benefits outweigh the detriments, in keeping with the Municipal Land Use Law this situation warrants relief as 1) they are taking an older home and creating a new home, 2) they are securing the property from flooding, etc., 3) promoting health & public safety and 4) the new home to be built will beautify the town. The Master Plan of Sea Girt talks about new construction in keeping with the neighborhood which this will do.

Mr. Janiw then spoke about the variance relief needed: 1) Building Height – measured from the alleyway at Seaside Place, 2) finished floor to peak is over 31 feet, the envelope of the home is typical for a new home, it is not unattractive. The Board has dealt with grading issues in the past and has recognized this due to higher elevations, they are not raising the grade. The home and garage would be accepted if they were measured at the actual grades. Also, this has been deemed a corner lot so the 15-foot side yard requirement is needed.

As far as zoning purposes, the front of the home is expected to be on a Thorofare but this is on an alleyway that is a drive through for the homes here and is not used by the public as a roadway, he felt this is not a large variance to allow a 12 foot side yard instead of a 15 foot one. If this was an interior lot the setbacks would comply. As this is on a narrow alleyway, no effect will be had on light, air and open space and the curb & driveway are needed to be wider as they are on this narrow alleyway that can't be parked on and the driveway needs to accommodate two cars. On the fence variance, a fence is needed as it goes around a pool and, as this will be on the retaining wall a variance is proposed.

Mr. Janiw felt the variances speak for themselves and there are unique circumstances here. As far as negative criteria they are not doing something detrimental to the neighborhood, there is no "D" variance need as this is under the 10% for height. Mr. Ward asked about the lot & depth of this property, being 60 feet by 130 feet and asked if being over 50 feet wide mitigates the lot depth shortage and Mr. Janiw said the house has to be built on a lot depth of 130 feet instead of 150 feet and this is a disadvantage of 20 feet for the placement of the building and accessory uses; they had to work with this. Mr. Casey asked about the height of the garage and was told it was also measured from the corner of the alleyway and Seaside Place.

There were no further questions from the Board and none from the audience so that portion of the hearing was closed. Mr. Henderson said all his testimony was done and he was open to comments. At this time Chairman Hall opened the meeting to comments by the public and Kathleen Melli of 1001 Ocean Avenue was sworn in. She was well aware of the issues and was 100% for approval. She said the Hughes are really good people and she gives them 100% support. Anne Britt, who owns 3 Seaside Place across the street but at this time lives at 114 Trenton Boulevard was sworn in. She said they have spent the last 3 years designing their home and noted the homes in this area do have 130-foot deep lots. The home they are designing will not need variances and she was concerned about the height here, she looked at Mr. Henderson's Exhibit A-10 listing the height variances and commented that those were given as the Board felt they were in line with the other homes which were at the same height. In this area this is the only home that is elevated and she commented that every application is to be considered on its own and this home will not be the same as the others; she is across the street and sees a home that will be 3-5 feet higher. Tom Britt of 114 Trenton Boulevard (who owns 3 Seaside Place) was next to speak and be sworn in. He said Anne covered most of the concerns and they hope they don't see a home that is 5 feet higher than the neighbors, he felt 2 feet can be dealt with and felt a compromise can be made to maybe take the height down a little and still fit in. They need to work with the neighborhood here and not Sea Girt in total. He felt this will create a home on a pedestal.

Next to speak was John Bruno of 1 Sea Girt Avenue, who was sworn in. He refurbished his home in the last 5 years and has similar grading; he felt the Hughes have given much thought to improving the neighborhood and the process was done correctly, he was for approval. Wayne Dreyer of 212 Trenton Boulevard was sworn in and said he has seen the plans and understands it as he is a builder. People are concerned but what they will see when this is done is a home that fits right in. He has built homes that are on a raised elevation and felt he had a different view as he is a builder but felt it will be pleasing when it is done; he hoped the Board supports this application.

As there were no more comments from the audience the Board went into discussion. Mayor Farrell felt that 7 variances are a lot for a new home. Mr. Ward also had concerns over the number requested and commented this lot was filled in much higher and he can envision the grading taken down as it will be a vacant lot, he could not be in support right now as presented. Mr. Koreyva felt that as this is a brand new home they can come back with less variances. Mrs. Brisben had no problem with the application other than the height and agreed with Mr. Ward that, as a vacant lot, the grading can be taken down for more compliance. Mr. Walker also agreed the grading can be changed and they can work with the retaining wall, he had no problem with the other variances.

Mr. Petronko asked if there are now 6 variances with no pergola and Mr. Henderson said they can make it 5 if they take off the curbing. Mr. Petronko thought the same as Mr. Ward as they are going to create a vacant lot and start with a clean slate,

he thought re-grading is a great idea and would not be for the application now, regrading is the way to go. Mr. Henderson said that if they regraded they would need another variance. Mr. Petronko said two feet lower would go a long way.

At this time Mr. Henderson said they may want to carry this to next month and if the Board is okay with this, they will take a look at what they can do. He commented that this is the first time the Board has looked at this height in this way but he understood where the Board is going as well as the rest of the comments.

Councilwoman Anthony felt this will be a beautiful home and appreciated the Planner's input but she lives on a street where there is one home that is much higher than the others, the height variance is the only thing she would like to see consideration for and would like to hear about regrading. Mr. Casey appreciated all the efforts and hard work but he was generally not in favor. This is an oversized built up lot and the crown of road measurement affects this as well. The primary reason for the nonconforming garage was the nonconforming garage to the south; maybe landscaping will help this and he said he was fine with the curbcut and driveway. Mrs. Laszlo said she has been through this process several times and appreciates the work done, she was in favor of this application and the Planner tonight that spoke helped her make her decision. Chairman Hall said he has been on this Board for 20+ years and has seen a lot of height variances and they were in conformity with other homes in the area. Mr. Dreyer was right when he said that sometimes when something is built we get used to looking at it and it looks okay. It may help to see the heights of other homes in the area. He was going to look into the pool fence as they do have a retaining wall and commented "we will get there". Mrs. Brisben told Mr. Henderson that there was an application in the past where they used a Google map to show the heights of the homes on a street and superimposed the home they wanted to build so it was shown how it would fit in.

Mr. Kennedy asked Mr. Henderson on procedure as he now has heard the comments from the Board and Mr. Henderson said he would like to carry this to October or maybe November if needed. Mr. Kennedy and the Board were agreeable to this with no further notice needed. A motion was then made by Mr. Petronko to carry this application to October or November with no further notice, this seconded by Mr. Walker and then by voice vote, all aye.

#### OTHER BUSINESS:

Chairman Hall said he would like to draft a letter to Council to ask for a pedestrian crossing on Washington Boulevard, a County road, at the last Council meeting there was talk of this but he would like a letter to be sent. Mr. Kennedy wanted to know if Chairman Hall wanted a Resolution or a motion to do this letter and the Board was all okay with the letter.

Chairman Hall said he also spoke to two Councilmembers about the Downtown revitalization and it was a good conversation; the thought is to make a committee of two

Board members and two Council members to meet once a month to get on the same page. He then asked Mayor Farrell & Councilwoman Anthony about their thoughts on forming this. Mayor Farrell said there has been speculation that the town will have to come up with \$60,000 to pay for this and we do have a 2% CAP on the budget. The downtown district pays low taxes and they should be paying this and he agreed on a Business Improvement District (BID), every other town has one. Chairman Hall felt this is in general about the entire town as well as the Commercial District. Mayor Farrell said he would like to select the Committee and Chairman Hall was agreeable to that. Councilwoman Anthony thought this was a great idea and had no problem with the Mayoral appointment, but she did not think that Sea Girt should have a BID. We do not compete with larger municipalities that have more productive retail and she didn't approve of a BID for Sea Girt at this time. She also commented that, with respect to Borough employees, any speaking between Planning Board Members and Borough employees should be done in private and Chairman Hall agreed. He said a Committee will be formed in a few weeks, we have to talk to each other.

Mrs. Laszlo said she and Mr. Casey did work on the BID in other towns and made recommendations. It can be read at leisure and it highlights issues needed. Some BIDs have been successful and some not, Spring Lake was started by three business owners and she did not feel you need that much to start. Spring Lake pays .069 in BID fees and the Bed & Breakfasts pay .03. Chairman Hall said that the funding was discussed with the Councilmembers and he will share the information with Mr. Ward. Mrs. Laszlo said she had a conversation with the BID representative in Spring Lake and they work with a \$35,000 budget but they do have fund raising. Chairman Hall said the \$60,000 mentioned for Sea Girt is for salary & fees and Mr. Ward said this is 50/50, \$30,000 salary and \$30,000 for an expense account. The retail and restaurant crowd want more people and we don't have much of that here. Most businesses are okay with what they do now.

Before adjourning, Mr. Kennedy asked for a motion to authorize Mrs. Brisben to write a letter concerning the crosswalk on Washington Boulevard and this was done by Councilwoman Anthony, seconded by Mrs. Laszlo and then by the following roll call vote:

Ayes: Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo, Stan Koreyva, 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. Petronko, seconded by Mayor Farrell and unanimously approved, all aye. The meeting was adjourned at 9:54 p.m.

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Karen S. Brisben, Board Secretary

Approved: October 21, 2020