

Wednesday, March 17, 2021

SEA GIRT PLANNING BOARD

REGULAR MEETING WEDNESDAY, MARCH 17, 2021

The Regular Meeting of the Sea Girt Planning Board was held on Wednesday, March 17, 2021 at 7:00 p.m. virtually. In compliance with the Open Public Meetings Act, notice of this Body's meeting had been sent to the official newspapers of the Board and the Borough Clerk, fixing the time and place of all hearings. After the Pledge of Allegiance and a moment of silent prayer roll call was taken

Present: Carla Abrahamson, Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Stan Koreyva, Eileen Laszlo, Raymond Petronko, Robert Walker, John Ward

Absent: Mayor Ken Farrell, Norman Hall

Board Attorney Kevin Kennedy was also present and Board Secretary Karen Brisben recorded the Minutes. Mr. Kennedy noted that the two official newspapers of the Board has been given notice of this meeting and Mrs. Brisben gave her email kbrisben@seagirtboro.com in case anyone was having a problem logging on. It was also announced that the application for the Parker House was withdrawn and would not be heard this evening.

Mr. Walker made a motion to approve the Minutes of the February 11, 2021 meeting, this seconded by Mr. Casey and approved, all aye with Mrs. Abrahamson and Mr. Petronko abstaining. Councilwoman Anthony then made a motion to approve the Minutes of the February 17, 2021 meeting, this seconded by Mr. Ward and approved, all aye with Mrs. Abrahamson abstaining.

OLD BUSINESS:

The Board then considered approval of a Minor Subdivision Resolution for Block 31, Lot 10, 224 Stockton Boulevard, applicant – Shore Home Builders to create conforming buildable lots. Mr. Kennedy reminded all that the applicant had withdrawn the variance requests but there were conditions on the approval as noted in the Resolution. He said he had spoken to the applicant's attorney, Michael Henderson, and he had approved the draft Resolution. Before the vote, Mr. Casey asked if the revised plans will go back to the Board Engineer for a review and Mrs. Brisben explained that they usually go to the Zoning Officer, Chris Willms, for Resolution compliance. If he thinks the Board Engineer should also see the plans, he sends them to him. Mr. Ward questioned the water table issue that was raised by this subdivision and Mr. Kennedy said it was noted in the Resolution but there is no further action the Planning Board can take as this is a Council matter; after further discussion the following Resolution was presented for approval:

WHEREAS, Agents of Shore Home Builders, Corp. have made Application to the Sea Girt Planning Board for the property designated as Block 31, Lot 10, commonly known as 224 Stockton Boulevard, Sea Girt, NJ, within the Borough's District 1, East Single-Family Zone, for the following approval:

- Demolition of an existing single-family structure; and
- Minor Subdivision approval.

PUBLIC HEARING

WHEREAS, the Board held a remote Public Hearing on February 17, 2021, Applicant's representatives 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 WSB Engineering Group, P.A., dated August 3, 2020, consisting of 2 pages, introduced into Evidence as A-2;*
- *Architectural Plans, prepared by CJ Aker, AIA, dated July 31, 2020, consisting of 2 sheets, introduced into Evidence as A-3;*
- *Topographical Location Survey, prepared by WSB Engineering Group, P.A., dated May 5, 2020, last revised May 14, 2020, introduced into Evidence as A-4;*
- *Leon S. Avakian, Inc. Review Memorandum, dated November 25, 2020, introduced into Evidence as A-5;*
- *Review Memorandum, from the Sea Girt Planning Board Subdivision Committee, dated December 21, 2020, introduced into Evidence as A-6;*

- *Communication from the Monmouth County Planning Board (exempt approval letter), dated January 27, 2021, introduced into Evidence as A-7;*
- *E-mail communication from the Applicant's Attorney to the Planning Board Attorney, dated January 28, 2021 (3:55 p.m.) (regarding the withdrawal of the Water Table Variance relief), introduced into Evidence as A-8;*
- *Minor Subdivision Plan, prepared by WSB Engineering Group, P.A., dated April 6, 2020, introduced into Evidence as A-9;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

WITNESSES

WHEREAS, arguments in support of the Application were presented by the following:

- Anthony Garofolo, President of the Corporate Applicant;
- C.J. Aker, Architect;
- Frank Baer, Professional Engineer;
- Barbara Ehlen, Profession Planner;
- Michael Henderson, Esq., appearing;

TESTIMONY AND EVIDENCE PRESENTED

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

- The Applicant herein is Shore Home Builders, Corp.
- The Applicant is the Contract Purchaser of the subject property.
- The subject property currently contains 15,000 square feet.
- The subject site currently contains a single-family dwelling.

- The Applicant intends to demolish the existing structure.
- The Applicant proposes to subdivide the site into 2 Lots; namely, proposed Lot 10.01 and proposed Lot 10.02.
- Details pertaining to the 2 proposed Lots include the following:

PROPOSED LOT 10.01

Minimum Required Lot Area: 7,500 SF
Proposed Lot Area: 7,500 SF
Proposed Use: New 2 ½ single-family home
(to include detached garage, cabana, and swimming pool, per the submitted Floor Plans / Elevations)

PROPOSED LOT 10.02

Minimum Required Lot Area: 7,500 SF
Proposed Lot Area: 7,500 SF
Proposed Use: New single-family home
(No Floor Plans or Elevations have been submitted.)

- As referenced, each Lot will ultimately host a single-family home.

VARIANCES

WHEREAS, the Application as ultimately modified does not require approval for any Variances; and

PUBLIC COMMENTS

WHEREAS, during the Public Hearing process, public questions, statements, concerns, and / or objections were presented by the following:

- Deborah O'Connor
- Bob Wassmer

- John F. Gelson, Esq.
- Barbara Kulberg
- Phil Capparis
- Sheila Capparis
- Andrew O'Connor
- Susan Morano
- Libby Kurry
- Tricia White
- Tom Wallace

FINDINGS OF FACT

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Sea Girt, after having considered the aforementioned Application, plans, evidence, public comments, and testimony, that the Application is hereby **granted 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 224 Stockton Boulevard, Sea Girt, NJ, within the Borough's District 1, East Single-Family Zone. (The subject property (i.e., the mother Lot) is located at the corner of Stockton Boulevard and Third Avenue).
3. The subject site currently contains 15,000 SF.
4. The Applicant proposes to subdivide the property into 2 Lots; namely, proposed Lot 10.01 and proposed Lot 10.02.
5. Such a proposal requires Minor Subdivision Approval.
6. There are no Variances associated with the within proposal (as ultimately modified).

7. Each of the new Lots created hereunder will ultimately host a new single-family home.

8. Single family homes are permitted uses in the subject Zone.

9. The single-family homes to be constructed on the Lots will comply with all Prevailing Bulk Requirements. That is, and as indicated, there are no Variances required in connection with the within Application.

10. The newly created Lot sizes will comply with all Prevailing Lot Area Requirements.

11. The Application as initially submitted required Variance approval for the then proposed basement floor elevation. Specifically, per the Board Engineer's Review Memorandum (A-5), the aforesaid Variance request was described as follows:

Ordinance Chapter 17, Section 5.2.b.e states bottom elevation of the basement or cellar shall not be less than 2 ft. above the seasonal high ground water elevation, as defined by January 1 through April 1 of each year. The Applicant proposes a basement floor elevation of 4.1 ft. where the estimated seasonal high-water table is at 3.1 ft. The basement is set 1 ft. above the seasonal high-water table. A Variance is required.

However, prior to the Public Hearing, on or about January 28, 2021, the Applicant's Attorney submitted an e-mail communication to the Board Attorney (3:55 p.m.) (A-8) wherein the Applicant withdrew the said Variance request for the seasonal water table issues. The A-8 communication, as referenced above, indicates that the Applicant's representatives agreed to effectuate such a modification so as to "make the Application more compliant." The Board Members appreciate the aforesaid efforts of the Applicant to eliminate such a Variance. Moreover, as a condition of the within approval, the Plans shall be revised so as to formally reflect the absence of the aforesaid Variance, and / to

formally reflect a basement floor elevation which complies with the Prevailing Municipal Zoning Requirements (relative to the seasonal high-water table).

12. The Application as initially presented required Variance relief for the setback / location of the paver patio and the firepit. The Board Engineer Review Memorandum (A-5) described the aforesaid Variance relief as follows:

Ordinance Chapter 17, Section 5.11.i states decks, patios, colonnades, arbors and similar structures without roofs may be attached or detached from buildings. These structures shall not be permitted in the front or side yards. The minimum distance from the side lot line shall be 5 ft. and from the rear lot line shall be 3 ft. In the case of a corner lot abutting on 2 streets, there shall be no invasion of yards adjacent to either street. Unless specifically permitted elsewhere in this Chapter, no structure of any kind may be replaced within the defined setback and side yard areas. The Applicant proposes a paver patio and firepit within the Third Avenue setback area. Two Variances are required.

There was an intense, extensive, civil, good-faith, and on-the-record debate as to the proposal, the requested Variance relief, and the justification for the same.

Those arguments in support of the aforesaid Variance relief included the following:

- i. An argument that the firepit would be located a safe distance from the proposed home / pool (notwithstanding the need for Variance relief);
- ii. An argument that the location of the patio / firepit, as aforesaid, would preserve the traditional patterns of development in the Zone;
- iii. An argument that approval of the Application (with the non-conforming paver patio location / firepit location) would maintain the character and scale of development in the immediate neighborhood;
- iv. An argument suggesting that the corner nature of the lot further complicated and compromised the ability of the Applicant to satisfy the prevailing Zoning requirements;

- v. An argument that a paver patio and firepit are traditional structures associated with a single-family home, and that the same would not be out of character for the area;
- vi. An argument that approval of the Application would promote an overall desirable visual environment, beneficial for the site, the neighborhood, and the community as a whole;
- vii. An argument that the non-conforming paver patio / firepit would only serve as a minimal intrusion, with no adverse impact on surrounding uses;
- viii. An argument that the non-conforming location of the paver patio and firepit would not violate the privacy interests of the affected neighbors;
- ix. An argument that the proposed shielding / landscaping / buffer (around the development site) would further minimize any adverse impact associated with the non-conforming proposal; and
- x. An argument that notwithstanding the Variance relief, the Applicant did satisfy the Prevailing Impervious Requirements; and

Those arguments against the proposed Variance relief included the following:

- i. A concern that development should occur through the Zoning Ordinance, and not through Variance;
- ii. A concern that the water / grading / drainage issues associated with the development site compromised the ability of the Applicant to satisfy the necessary Variance Relief Standards;
- iii. A concern that the Applicant was violating the privacy rights of others, by not complying with the Prevailing Setback / Location Requirements for the paver patio / firepit;
- iv. A concern that the Setback / Location Regulations were designed so as to maintain sufficient air, space, and light between various properties – and a violation of the same would prove problematic for the surrounding community;
- v. A concern that the home / patio / firepit could be designed / located in a fashion which complied with the Prevailing Zoning Regulations;
- vi. A concern that the placement of a non-conforming paver patio and firepit at the site would not contribute to an overall desirable visual environment;

- vii. A concern that the setback / location deviations (for the paver patio and firepit) would not preserve the traditional character of development in the immediate area;
- viii. A concern that legally recognizable reasons were not presented to justify the Variance relief;
- ix. A concern that the detriments (associated with the non-conforming paver patio / firepit location) outweighed any benefits associated therewith;
- x. A concern that the setback / location deviations as referenced above, would prove detrimental to the neighborhood and the surrounding uses;
- xi. A concern that good cause was not presented to justify the requested Variance relief;
- xii. A concern that there were no public benefits associated with the non-conforming patio / firepit location;
- xiii. A concern that only the Applicant's personal economic interests were advanced as a result of the non-conforming paver patio / firepit location;
- xiv. A concern that a smaller pool could eliminate the need for the setback / location relief, as aforesaid;
- xv. A concern that additional engineering studies should be submitted by the Applicant (relative to grading / drainage issues), and that the same should be further verified by the Board Engineer, or Agents thereof;
- xvi. A concern that exceptional circumstances pertaining to the subject property were not present and, as such, there was no hardship justification for the requested Variance relief;
- xvii. A concern that in the within situation, the Applicant was going to demolish the existing structure, and start with a new clean / virgin slate and, as such, there was no reason why the Applicant should not comply with the Prevailing Zoning Requirements; and
- xviii. A concern that in the context of new construction, in the absence of extraordinarily compelling circumstances (as set forth in New Jersey Statutes and Case Law), compliance with the Zoning Regulations should be honored.

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The Board appreciates the arguments of the Applicant's representatives, and the good-faith, sincere, and legitimate concerns / objections expressed by the members of the public.

Against such a backdrop, the Board was poised to vote on the Application, and the requested relief.

Immediately prior to the Board vote, the Applicant's representatives indicated that they were withdrawing the aforesaid Variance relief, and that they were, instead, proposing a totally conforming (i.e., Variance-free) Subdivision.

As a condition of the within approval, the Plans shall be modified to reflect the elimination of the Setback / Location Variances for the paver patio and firepit.

The Board appreciates the Applicant's good-faith efforts in the said regard.

The elimination of the aforesaid Variances substantially improves the overall merits of the within Application.

13. The aforesaid Setback / Location Variances converted the within development project from non-conforming to conforming.

14. The interests of the Borough, the Planning Board, and the community at large are generally advanced when there is full compliance with the Borough's Prevailing Zoning Regulations.

15. Subject to the conditions contained herein, and subject to any necessary waivers, the Application, as ultimately modified, satisfies the Minor Subdivision Requirements of the Borough of Sea Girt.

Based upon the above, and subject to the conditions contained herein, the majority of the Board is of the opinion that the Minor Subdivision Application 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's Representatives have agreed, to comply with the following conditions: (Note: Unless otherwise indicated, all Plan Revisions shall be subject to the review and approval of the Board Engineer.)

- a. The Applicant shall comply with all promises, commitments, and representations made at or during the Public Hearing process.
- b. The Applicant shall comply with all terms and conditions of the Leon S. Avakian Review Memorandum, dated November 25, 2020 (A-5) and the Planning Board Subdivision Committee Review Memorandum, dated December 21, 2020 (A-6).
- c. The Subdivision shall not be perfected until such time as all of the existing structures kept on the site are demolished / removed, as confirmed by Borough Zoning / Construction Officials.
- d. The Applicant shall comply with any Municipal Street-opening moratorium which may be in effect.
- e. Per the Board Engineer Review Memorandum, the Applicant or subsequent Developer shall replace /repair any existing curb and sidewalk which is in poor condition (as deemed necessary by the Board Engineer).
- f. The Applicant shall cause the Plans to be revised so as to portray / confirm the following:
 - Confirmation that any cabana shall not be utilized as living space;
 - Confirmation that the grading / drainage details shall be reviewed and approved by the Board Engineer;
 - Confirmation that the pool fence shall comply with Prevailing Building / Construction Code Requirements.

- Confirmation that the pool equipment shall be located in a Zoning-compliant location;
- Confirmation that additional landscaping shall be placed around the pool, and that the same shall be perpetually replaced / replanted / maintained as necessary;
- Confirmation that the proposed home on Lot 10.01 shall contain a compliant 4 ft. block aluminum pool fence;
- Confirmation that the firepit (for the home on proposed Lot 10.01) shall be fenced / screened / landscaped so that the same is shielded from the Third Avenue / Stockton Boulevard street frontages. (The said landscaping / fencing / screening shall be perpetually maintained / replaced / replanted as necessary);
- Confirmation that the air conditioning systems placed on the roof shall be appropriately screened (so that the same are not readily visible by the neighbors);
- Confirmation that additional landscaping (arborvitae) shall be planted along the northern side of the property line (for the entire length of Third Avenue), and that the said landscaping shall be perpetually maintained / replanted / replaced as necessary;
- Confirmation that additional landscaping (arborvitae) shall be placed along the side of the driveway, and that the said landscaping shall be perpetually maintained / replanted / replaced as necessary;
- Confirmation that the Applicant shall comply with the Prevailing Seasonal High Water Table Requirements (relative to the basement elevation, etc.), as no Variance for the same has been granted;
- Confirmation that the paver patio and the firepit (for the home to be constructed on proposed Lot 10.01) comply with Prevailing Setback / Location Requirements, as no Variance for the same has been granted;
- Confirmation that the within Application is a totally conforming Variance-free Application;

- Confirmation that there shall be only 1 curb-cut / 1 driveway on each of the Lots created hereunder;
 - Confirmation that the driveway widths (for each driveway) shall comply with Prevailing Municipal Zoning Requirements; and
 - Confirmation that the existing driveway at the unsubdivided site (i.e., mother lot) shall be eliminated.
- g. The Applicant shall submit revised Plans (5 sets) to address the necessary / applicable items as referenced in the Board Engineering Review Memorandum and / or as otherwise referenced during the Public Hearing process, and as otherwise referenced herein. Any Plan revisions shall be subject to the review / approval of the Board Engineer.
- h. The Applicant shall obtain any and all necessary / applicable demolition permits.
- i. Prior to the issuance of any Construction Permits, the Applicant (or successor Applicant / Owner / Developer) shall submit grading, drainage, plot, and utility plans (and drainage calculations) to the Board Engineer, for review and approval.
- j. In the event the subdivision is to be perfected via Deed, the Subdivision Deed (including the legal descriptions) shall be reviewed and approved by the Board Attorney and Board Engineer.
- k. The Applicant, or any successor Applicant / Owner, shall comply with all Prevailing Rules and Regulations of the Municipal / Regional Utilities Authority. Additionally, the Applicant shall pay / satisfy any applicable sewer / utility connection fees (and any other charges / fees due and owing.)
- l. Unless otherwise waived by the Board Engineer, prior to the issuance of any Building Permit, the Applicant, or any successor Applicant / Owner, shall submit detailed Plans / Elevations – and the said documents shall be reviewed / approved by the Board Engineer (as well as any other applicable municipal official).
- m. The Applicant shall attempt, in good faith, to preserve as many trees on site as possible.
- n. Any single-family homes to be constructed on the newly created Lots shall comply with all Prevailing Bulk Zoning Regulations (as no Variances are granted hereunder.)

- o. The subdivision shall be perfected in accordance with Requirements of New Jersey Law (and within the timeframe set forth in New Jersey Law.)
- p. The Applicant shall review the proposed Block / Lot designations with the Municipal Tax Assessor so as to confirm the acceptability of the same.
- q. The Applicant (or any successor Applicant) shall comply with all applicable Affordable Housing related Ordinances / Regulations / Contributions / Directives as may be required / imposed by the Borough of Sea Girt, the State of New Jersey, COAH, the Court System, and / or any Agency having jurisdiction over the matter.
- r. Any construction / development of the Site shall comply with the Prevailing FEMA Requirements.
- s. The Applicant shall comply with all terms and conditions of the review memoranda, if any, issued by the Board Engineer, Construction Office, the Department of Public Works, the Office of the Fire Prevention and Investigation, and/or other agents of the Borough.
- t. The Applicant shall obtain any and all approvals (or Letters of No Interest) from applicable internal / outside agencies - including, but not limited to, the United States of America (FEMA), the Department of Environmental Protection (CAFRA), the Monmouth County Planning Board, the Freehold Soil Conservation District, the local utility offices, the Department of Public Works, the local Fire Department, and any other Agency having jurisdiction over the matter. The Applicant shall also satisfy any conditions associated with such outside agency review. (In the event the Plans are materially modified as a result of any such outside approvals, then, in that event, further Board approval is required.)
- u. The Applicant shall, in conjunction with appropriate Borough Ordinances, pay all appropriate/required fees, taxes, and inspection fees.
- v. If required by the Board Engineer, and New Jersey law, the Applicant shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.
- w. **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 than 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 their 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 their 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. Applicants are 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, Applicants are to be mindful that the Applicants are ultimately responsible for the actions of the Applicant's, their Agents, their representatives, their employees, their contractors, their engineers, their architects, their builders, their lawyers, and other 3rd parties.

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

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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 any constructed improvement, or for any damage which may be caused by the development / subdivision.

FOR THE APPLICATION: Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Eileen Laszlo, Raymond Petronko, Robert Walker, Norman Hall

AGAINST THE APPLICATION: Mayor Ken Farrell, John Ward

NOT ELIGIBLE TO VOTE: Stan Koreyva (Alternate Member)

The foregoing Resolution was offered by Mr. Petronko, seconded by Mr. Koreyva and adopted by Roll Call Vote:

IN FAVOR: Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Eileen Laszlo, Raymond Petronko, Robert Walker, Stan Koreyva

OPPOSED: None

NOT ELIGIBLE TO VOTE: Carla Abrahamson, John Ward

ABSENT: Mayor Ken Farrell, Norman Hall

The Board then turned to approval of a Resolution for variance relief for Block 7, Lot 7, 708 Morven Terrace, owned by Harper Emp Consulting, LLC (Applicant – Derek Serpe), to allow variance relief to demolish an existing home and construct a new 2 ½ story home.

Mr. Kennedy said he had gone over the draft Resolution with Mr. Aikins, the applicant's attorney and made a few small changes before the meeting, so the following Resolution was presented for approval:

WHEREAS, Harper EMP Consulting, LLC has made Application to the Sea Girt Planning Board for the property designated as Block 7, Lot 7, commonly known as 708 Morven Terrace, Sea Girt, NJ, within the Borough's District 1, East Single-Family Zone, for the following approval: Bulk Variances associated with a request to effectuate the following:

- Demolition of the existing single-family home; and
- Construction of a new single-family home, with integrated garage and decking.

PUBLIC HEARING

WHEREAS, the Board held a remote Public Hearing on February 11, 2021, Applicant's representatives 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:

- *Development Application Package, introduced into Evidence as A-1;*
- *Application Checklist, introduced into Evidence as A-2;*
- *Zoning Officer Denial Letter, dated October 2, 2020, introduced into Evidence as A-3;*

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- *Plot Plan, prepared by Lindstrom, Diessner & Carr, P.C., dated September 2, 2020, introduced into Evidence as A-4;*
- *Architectural Plans, prepared by Rice & Brown Architects, dated September 25, 2020, introduced into Evidence as A-5;*
- *Survey, prepared by Lindstrom, Diessner & Carr, P.C., dated March 19, 2020, last revised May 5, 2020, introduced into Evidence as A-6;*
- *Topographic Survey, prepared by Lindstrom, Diessner & Carr, P.C., dated March 19, 2020, last revised May 5, 2020, introduced into Evidence as A-7 (NOTE: The said Survey is not drawn to scale and the same is not sealed);*
- *Leon S. Avakian, Inc. Review Memorandum, dated November 25, 2020, introduced into Evidence as A-8;*
- *Site Yard Setback Analysis, prepared by Lindstrom, Diessner & Carr, P.C., dated February 8, 2021, introduced into Evidence as A-9;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

WITNESSES

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

- Derek Serpe, Managing Member of Applicant;
- Charles Linstrom, Professional Engineer / Professional Planner
- Christopher Rice, Architect;
- Mark Aikins, 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 herein is the owner of the subject property.
- There is an existing single-family home at the site.
- The existing home is quite large, with an approximate height of 42 ft.
- The existing structure at the site is, respectfully, a rather box-like structure, which does not currently possess all of the architectural charms / features that the new Purchaser desires.
- The Applicant herein is proposing the effectuate the following:
 - Demolition of the existing single-family home; and
 - Construction of a new single-family home, with integrated garage and decking.
- The proposed new home will include the following:

SHALLOW BASEMENT/CRAWLSPACE

FIRST/GROUND FLOOR

Bedroom
Bedroom
Bathroom
Bathroom
Den
Foyer
Laundry Room
Garage

SECOND FLOOR

Kitchen
Family Room
Dining Room
Bedroom
Bedroom
Bathroom
Bathroom

TOP HALF STORY

Master Bedroom Suite/bathroom

- The new home will contain 2 ½ stories, and the same will have a compliant height of 35ft. or less.
- Proposed materials for the new home include:
 - Cedar shingles on the wall and the roof
 - Wood
 - (Per Plans)
- The Applicant anticipates having the demolition and construction completed- in the near future.
- The Applicant will be utilizing licensed contractors in connection with the demolition / construction process.

VARIANCES

WHEREAS, the Application as submitted and amended requires approval for the following Variances:

COMBINED BUILDING SETBACK: 15 ft. required; whereas 11 ft. proposed. As such, Variance relief is required.

INTEGRATED GARAGE LOCATION: The Prevailing Zoning Ordinance provides that the integrated garage shall not extend beyond the building line of the principal building. Additionally, pursuant to the Prevailing Zoning Regulations, on any integrated garage, the doors (which face upon any street) shall be setback from the building line of the principal dwelling by a minimum of 5 ft. In the within situation, the Applicant proposes that the garage doors of the integrated garage to be even with the front building line and, as such, Variance relief is required.

MINIMUM GARAGE SIZE: The Prevailing Ordinance requires that each single-family dwelling have a garage, accessible by an automobile from the street, which is no less than 275 SF nor greater than 500 SF. In the within situation, the Applicant proposes a 266 SF garage, which does not meet the minimum standards. As such, Variance relief is required.

PUBLIC COMMENTS

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

- Robert Feury, on behalf of Robert Feury, Sr. and Mary Feury

FINDINGS OF FACT

NOW, THEREFORE, BE IT RESOLVED, by the Sea Girt Planning Board, after having considered the aforementioned Application, Plans, Evidence, Testimony, and Public Comments, that the Application is hereby **approved / granted 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 708 Morven Terrace, Sea Girt, NJ within the Borough's District 1, East Single-Family Zone.
3. There is an existing single-family at the site.
4. The Applicant proposes the following:
 - Demolition of the existing single-family structure and
 - Construction of a new single-family home, with integrated garage and decking.

5. Such a proposal requires Bulk Variance approval.
6. The Sea Girt Planning Board is statutorily authorized to grant the requested relief and therefore, the matter is properly before the said entity.
7. With regard to the Application, and the requested relief, the Board notes the following:
 - As referenced, the within Application approves the construction of a new single-family home on the lot.
 - Single-family use is a permitted use in the subject zone.
 - The existing home at the site is quite large, containing approximately 3_stories, and measuring approximately 42 ft in height.
 - The prevailing Municipal regulations provide that the maximum height in the subject zone is 35 ft. – and thus, the existing structure is non-conforming (relative to the height).
 - The Applicant is proposing to construct a new single-family home which will comply with the Borough's 35 ft. height limitation.
 - The home approved herein does not require any height Variance relief.
 - The Board Members are aware that many other would-be Applicants would likely request additional height relief, given the excessive height associated with the current structure, and given the elevation issues associated with the existing site.
 - The Board Members appreciate the Applicant's request to construct a home with a conforming height.
 - Approval of the within Application will convert the site from non-conforming (relative to height) to conforming (relative to height).
 - The approximate height difference of 7 ft (between the existing structure and the proposed structure) will have a beneficial and positive impact on the subject property, the neighborhood, and the community as a whole.
 - The existing structure is rather untraditional. The Board notes that the new single-family home_approved herein will, in fact, be quite traditional. That is, the new home approved herein will have more traditional roof lines, more traditional balconies, more traditional

porches, and enhanced entryways. The Board finds that the smaller and more traditional classic Sea Shore Colonial home approved herein will more appropriately fit in with the neighborhood.

- The Board notes, positively, that the maximum building coverage in the subject zone is 20% - and the Applicant herein proposes a conforming building coverage of 17.8%..
- The Board is aware that the overall architectural design and less intense mass of the new home approved herein will more appropriately blend in with the character of other homes in the immediate area.
- One of the purposes of the New Jersey Municipal Land Use Law encourages the approval of Applications which promote a desirable visual environment. Several Board Members commented on the beautiful design on the new structure. In furtherance thereof, a majority of the Board finds that approval of the within Application will improve the overall aesthetic appeal of the property.
- Respectfully, the new home approved herein will have more traditional / architectural appeal / character than what currently exists.
- The existing home likely contains 3 stories, which is non-conforming (as only 2 ½ stories are allowed under the prevailing Zoning regulations).
- The new home approved herein will contain 2 ½ stories, which complies with the prevailing Borough Ordinance.
- Approval of the within Application will convert the property from non-compliant (relative to the number of stores) to compliant (relative to the number of stories).
- The Board notes that the air conditioning system will be placed on the roof. However, per the testimony and evidence presented, the same will be tucked into the roof, not very visible from the street / neighboring properties, which should further minimize any adverse impact associated with the within approval.
- The Board Members critically reviewed the front setback for the site, both existing, proposed, etc.
- The existing structure has a non-conforming front yard setback of 30.4 ft, whereas 31.2 ft. is otherwise required (i.e., the average setback of the immediate homes in the area).
- The Applicant's representatives provided testimony and information relative to the front setbacks of other structures in the immediate

area. Per the testimony and evidence presented, the average front setback in the immediate area is 31.2 ft – and the new home approved herein will have a front setback of 31.4 ft.

- The Applicant's proposed front yard setback of 31.4 ft conforms with the prevailing Municipal Zoning requirements.
- Approval of the within Application will convert the property from non-compliant (relative to the front setback) to compliant (relative to the front setback).
- The prevailing Borough regulations require that each new structure (on a 50 ft. wide lot in the subject zone), have a side yard setback of at least 5 ft.
- The Application as presented requires a Variance for a combined side yard setback. Specifically, on a 50 ft. wide lot in the subject zone, a 15 ft. combined side yard setback is required; whereas only 11 ft is proposed / approved herein. Thus, Variance relief is required. (Specifically, a 5 ft. side yard setback on the south side is proposed and a 6 ft. side yard setback on the north side is proposed). During the Public Hearing process, a question, or series of questions, arose as to whether the Applicant could comply with the prevailing combined side yard setback requirement. In response, the Applicant's representatives advised that a) prevailing DEP regulations prohibit any further physical intrusion to the east; and b) prevailing Municipal regulations prevent any further physical intrusion to the west. As such, the Board Members recognize the physical limitations / governmental restrictions/hardship associated with the existing 50 ft. wide lot.
- The combined requirements of the NJDEP / Borough of Sea Girt compromise the ability of the Applicant to reasonably/practically/functionally satisfy the prevailing side yard setback requirements.
- Notwithstanding the need for a combined side yard setback Variance, the Board Members recognize that the Municipal regulations also require a side yard setback of at least 5 ft. on each side of a proposed Principal structure. Towards that end, the Board notes, positively, that there will be a 5 ft. side yard setback on one side of the property, and a 6 ft. side yard setback on the other side.
- Under the circumstances, and subject to the conditions set forth herein, the combined side setback approved herein will not compromise the privacy rights of any of the affected neighbors.

- Subject to the conditions contained herein, approval of the within Application will not violate the traditional principles of air, space, and light.
- The testimony and evidence presented indicated that on the subject street there are approximately 8 interior lots (excluding the subject lot, the double lot, and the corner lots.) Of the 8 Lots immediately surrounding the development site, 7 of the same do not meet the Borough's prevailing combined side yard setbacks. Moreover, 5 of the homes in the immediate area have a combined side yard setback of less than what is approved herein. As a result, the Board finds that although the combined side yard setback as proposed / approved is non-conforming, approval of the within Application will not materially disturb the character / pattern of the existing development in the area.
- Based upon the testimony in evidence presented, and based upon the aforesaid analysis of other combined side yard setbacks in the area, the combined side yard setbacks approved herein are not inconsistent with the combined side yard set-backs of other existing structures in the immediate neighborhood.
- The new home approved herein will have the same general footprint as the existing structure.
- The new single-family home approved herein will have the same general orientation as the existing structure on the lot.
- The Board is aware that a smaller home would not necessarily change the combined side yard setback as approved herein (or the Applicant's ability to reasonably satisfy the same.)
- During the Public Hearing process, many of the Board Members commented on the sharp and beautiful design of the proposed new home.
- The new home approved herein will (particularly when compared to the existing oversized non-traditional structure) represents a better overall design alternative for the Borough of Sea Girt.
- The application as presented also requires variance relief for the minimum size requirements of a garage. Specifically, the prevailing borough zoning regulation requires that the garage contain a minimum of 275 SF; whereas, in the within situation, the Applicant proposes a garage containing 266 SF/ The Board is aware that the need for the said variance largely stems from how the integrated garage measurements are calculated per the prevailing Sea Girt regulations. With a detached garage, one would calculate the size of the garage by including the walls. However, with an integrated

garage, the walls are not counted/included in the calculations. As such, the Board is aware that the unique calculation requirement complicates the ability of the Applicant to satisfy the prevailing minimum size requirements.

- The Board is also aware that if the integrated garage approved herein were a detached garage, the proposed garage would, in fact, satisfy the prevailing minimum size requirements. However, because of the integrated nature of the garage, the variance relief is necessary.
- Under the circumstances, the 266 SF garage approved herein satisfies the spirit and intent of the prevailing ordinance.
- Though non-conforming, the garage approved herein is still large enough to comfortably accommodate the Applicant's reasonable vehicular and storage needs.
- An important element of the prevailing Borough requirement is to ensure that the garage can physically accommodate a vehicle, and the garage approved herein can accommodate the same.
- The Board recognizes that the size of the integrated garage approved herein is only 9 square feet below the required amount.
- The Board also recognizes the unique nature of the one side of Morven Terrace, which likely complicates the ability of other owners to satisfy the prevailing minimum garage size requirements.
- The size of the garage approved herein is similar in size to the other garages located on the same side of Morven Terrace.
- There are no known health and safety concerns associated with the non-conforming garage size approved herein.
- The single-family home approved herein has been designed so as to comply with the overwhelming majority of the Borough's prevailing Bulk Zoning requirements.
- Single-family use, as approved herein, is appropriate for the site.
- Continued single-family use at the site is appropriate.
- Continued single-family use at the site is consistent with the Master Plan and prevailing Zoning Ordinances.
- Per the testimony and evidence presented, and subject to the conditions contained herein, approval of the within Application will improve overall Storm- Water Management at the site.

- The Municipal Land Use Law encourages the approval of Applications which promote a desirable visual environment – and approval of the within Application will advance such a purpose.
- The structure approved herein will not be inconsistent with the appearance/height/mass of other homes in the area (on similarly situated / sized lots).
- The Board Members appreciate the aesthetic design and appeal of the new single-family home proposed herein.
- The home approved herein is well designed and a beautiful structure.
- The Board is also aware that the proposed home will comply with mostly all prevailing Zoning Regulations regarding location, coverage, etc. (except for the combined side yard setback).
- As a condition of the within Approval, the Applicant will landscape the property so as to sufficiently minimize any potentially adverse impact of the development.
- The location of the proposed home is practical and appropriate.
- The size of the to-be-constructed home is appropriate, particularly given the size of the existing lot.
- The existing Lot contains 10,250 SF; whereas the minimum of 7,500 SF is otherwise required in the Zone. Thus, the Board notes that the subject Lot is an oversized Lot.
- The location / orientation of the home as proposed herein is consistent with the character of the neighborhood.
- The location / orientation of the home as proposed herein, is consistent with the pattern of development in the neighborhood.
- Subject to the conditions contained herein, the home approved herein will not overpower/overwhelm the subject Lot.
- Subject to the conditions contained herein, the home approved herein will not overpower/dwarf other homes in the area – particularly in light of the nature of the surrounding area.
- The size of the proposed home is appropriate – particularly as evidenced by the fact that the same will satisfy the Borough's Prevailing Building Coverage Requirements.
- The home approved herein represents an attractive and upscale proposal, in accordance with Prevailing Community Standards.
- The site will provide a sufficient amount of off-street parking spaces for the Applicant's use and thus, no Parking Variance is required.

- The existence of sufficient and appropriate parking is of material importance to the Board – and but for the same, the within Application may not have been approved.
- There are no known adverse health/safety/building/ construction issues associated with the placement of the home, as proposed.
- Approval of the within Application does not compromise the public health, safety, or welfare.
- Sufficiently detailed testimony/plans were represented to the Board.
- Subject to the conditions contained herein, the proposed home should nicely complement the property and the neighborhood.
- Subject to the conditions contained herein, the proposal will not appreciably intensify the historic and to-be-continued single-family nature of the lot.
- 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 architectural design of the to-be-constructed home will not be inconsistent with the architectural character of other homes in the area (on similarly sized lots).
- Subject to the conditions set forth herein, the 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.
- The improvement to be constructed herein will no be inconsistent with other improvements located within the Borough.
- 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 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 the terms, commitments, promises, and representations made at or during the Public Hearing Process.
- b. The Applicant shall comply with the terms and conditions of the Leon S. Avakian, Inc. Review Memorandum, dated November 25, 2020 (A-8).
- c. The Applicant shall obtain any and all necessary demolition permits.
- d. The Applicant shall satisfy any and all required Affordable Housing directives/contributions as required by the State of New Jersey, the Borough of Sea Girt, C.O.A.H., the Court System, and any other Agency having jurisdiction over the matter.
- e. The Applicant shall comply with all Prevailing Building/Construction Code Requirements.
- f. The Applicant shall submit grading/drainage plans, which shall be approved by the Board Engineer.
- g. The Applicant shall cause the Plans to be revised so as to portray and confirm the following:
 - Confirmation that the chimney setback shall comply with Prevailing Municipal Zoning Regulations.
 - The inclusion of a note confirming that the height shall comply with the Municipal Requirements, as no Height Variance relief is granted.
 - Confirmation that the air conditioning units will be appropriately (and perpetually) screened/shielded.
 - Confirmation that the mechanical equipment will be located in a Zoning compliant location.

- Confirmation that the Applicant shall install a drywell / drywells on the site, the details of which shall be reviewed and approved by the Board Engineer.
 - Confirmation that the Applicant shall arrange for the drywells to be installed in accordance with manufacturing design standards.
 - Confirmation that the drywell(s) shall be perpetually maintained in accordance with the industry standards (or other best practices).
- h. The Applicant shall arrange for 5 sets of revised Plans to be submitted to the Board Secretary.
- i. The Applicant shall comply with any Prevailing FEMA Requirements.
- j. If requested by the Board Engineer, the Applicant shall submit a Grading Plan, which shall be approved by the Board Engineer.
- k. The Applicant shall manage storm-water run-off during and after construction (in addition to any other prevailing / applicable requirements / obligations.)
- l. 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
- m. If applicable, the proposed structure shall comply with applicable Provisions of the Americans with Disabilities Act.
- n. The construction, 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 Provision of the Uniform Construction Code.
- o. 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. If conditions**

at the site are different than what was presented to the Board, or different from what was otherwise known, or in the event post-approval conditions are different than what was anticipated, the Applicant's representatives are not permitted to unilaterally deviate or build beyond what is approved herein. If the testimony / plans provide that an existing building / structure is to remain, the same cannot be unilaterally demolished / destroyed without formal Board / Borough consent), regardless of the many fine construction reasons for doing so. That is, the basis for the Board's decision to grant Zoning relief may be impacted by the aforesaid change of conditions. As a result, Applicant and his representatives are not to assume that any 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 Applicant incurring additional legal / engineering / architectural costs. Applicants are 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, Applicants are to be mindful that the Applicants are ultimately responsible for the actions of the Applicant, his Agents, his representatives, his employees, his contractors, his engineers, his architects, his builders, his lawyers, and other 3rd parties.

- p. The Applicant shall comply with all terms and conditions of the Review Memorandum, 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. 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. Additionally, if the proposal / plans / details significantly change as a result of any outside Approvals, the Applicant shall be required to seek further relief / permission / approval from the Sea Girt Planning Board.

- q. The Applicant shall, in conjunction with the appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- r. If required by the Board / Borough Engineer, and if authorized by New Jersey law, 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 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 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 damages which may be caused by the development.

Wednesday, March 17, 2021

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

AGAINST THE APPLICATION: Mayor Ken Farrell

ABSENT: Carla Abrahamson, Raymond Petronko

The foregoing Resolution was offered by Councilwoman Anthony, seconded by Mr. Casey and adopted by Roll Call Vote:

IN FAVOR: Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Stan Koreyva, Eileen Laszlo, Robert Walker, John Ward

OPPOSED: None

NOT ELIGIBLE TO VOTE: Carla Abrahamson, Raymond Petronko

ABSENT: Mayor Ken Farrell, Norman Hall

The last item for the evening was a Resolution recognizing the withdrawal of a Site Plan/Use Variance for Block 14, Lot 9, 8-12 Beacon Boulevard, owned by Avon Hotel Corp., the site of the Parker House. Mr. Kennedy said this application is being withdrawn "without prejudice", the file will be closed; this needs to be done as there is case law that says if an application is not approved within a certain time frame it becomes an automatic approval and this Resolution covers this.

Mr. Petronko said he was going to recuse himself as their builder is the same one he just used and he wanted to know if he could even vote on this Resolution; Mr. Kennedy agreed it would be a good idea to recuse himself from even voting on this.

The following Resolution was then presented for approval:

WHEREAS, Agents of Avon Hotel Corp. previously submitted a Development Application to the Borough of Sea Girt; and

WHEREAS, the said Application was submitted with respect to the property located at 8-12 Beacon Boulevard, Sea Girt, NJ, and more formally identified as Block 14, Lot 9; and

WHEREAS, the Application materials were submitted in connection with the Applicant's desire for Site Plan Approval, Waiver of Site Plan Approval, Use / "d" Variance Approval, and Bulk Variance Approval to effectuate the following:

- Removal of an existing shed at the site;
- Removal of temporary rest rooms at the site;
- Removal of an existing freezer at the site;
- Removal of a concrete pad at the site;
- Construction of an accessory structure, containing rest rooms and ice machines; and
- Excavation of the existing crawl space, and conversion of the same into a new storage / cooler area; and

WHEREAS, the Application was previously deemed complete, and scheduled for a Public Hearing (on or about March 17, 2021); and

WHEREAS, Public Notice for the March 17, 2021 Hearing, has, in fact, been issued; and

WHEREAS, on or about March 15, 2021, the Attorney for the Applicant submitted correspondence advising that the Applicant's representatives have decided to withdraw the Application; and

WHEREAS, under the circumstances, and for record-keeping purposes, the Planning Board should administratively dismiss the Application, without prejudice; and

WHEREAS, the failure to do so could, under certain circumstances, potentially result in an automatic approval of the Application; and

WHEREAS, such an automatic approval would not advance the interests of the Borough of Sea Girt, the Sea Girt Planning Board, and / or the residents of the Borough of Sea Girt; and

WHEREAS, the adoption of a Resolution authorizing such a dismissal, without prejudice, will facilitate the ability of the Borough / Board / Zoning Office to officially close the file on the matter;

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

1. That at the request of the Applicant's representatives, the subject Avon Hotel Corp. Application (with respect to the property located at 8-12 Beacon Boulevard, Sea Girt, NJ) is hereby **dismissed, without prejudice**.
2. That the Applicant shall cause all outstanding escrow charges (and other appropriate charges associated with the Planning Board Application) to be satisfied, in full.
3. That when and if appropriate, the Planning Board Secretary is authorized to advise the Borough's Finance Office that any replenished / remaining escrow can be returned to the Applicant.
4. That the Board Secretary, Board Attorney, and Zoning Officer are hereby authorized to take all reasonable actions necessary to effectuate the intentions of the within Resolution.
5. That the within Resolution shall take effect immediately.

FOR THE DISMISSAL RESOLUTION: Carla Abrahamson, Karen Brisben, Jake Casey, Stan Koreyva, Eileen Laszlo, Robert Walker, John Ward

AGAINST THE DISMISSAL RESOLUTION: None

ABSTENTIONS: Councilwoman Diane Anthony, Raymond Petronko

ABSENT: Mayor Ken Farrell, Norman Hall

Before adjourning for the evening, Barbara Kulberg asked how the Planning Board can vote on the 224 Stockton Boulevard subdivision when Council may be looking into the water table issue here, she felt the vote should have been delayed. Mrs. Laszlo told her the Board does not have jurisdiction on the water table issue, that is Council. Mr. Kennedy explained that the application itself, which was for a conforming subdivision, was approved so the Board has to adopt a Resolution memorializing this action taken, if this is not done the Board and town can be sued which would be

Wednesday, March 17, 2021

expensive for the town. He felt it was a good question and Council is the entity to look into this.

Mr. Kennedy then went on to address the Resolution for remote meeting protocol that was to be looked at this evening. He has gotten more information on issues that may arise, such as putting the application information online with phone numbers, email addresses and architectural plans showing bedrooms, etc., this raises privacy issues. He wanted to wait to finalize these issues before the Board adopts a Resolution and the Board agreed.

Mrs. Laszlo opened up the meeting for any public questions or discussion and Barbara Kulberg thanked the Board for letting her speak, she is worried about the underground stream that was in the area, she is in a flood zone and worries about this threat. Councilwoman Anthony noted she did a wonderful job with her presentation to Council and she will be kept posted on what transpires.

Mr. Casey stated that Shore Home Builders is building a home on the 400 block of Trenton Boulevard and workers were still there at 6:45 tonight when work is to end at 6:00. It was suggested the next time this happens he should call the Police and they will respond.

Mrs. Laszlo announced the next meeting of the Planning Board will be on Wednesday, April 21st at 7:00 p.m. At this time a motion to adjourn was made by Councilwoman Anthony, seconded by Mrs. Brisben and unanimously approved, all aye. The meeting was adjourned at 7:36 p.m.

Approved: April 21, 2021

Karen S. Brisben, Board Secretary