

Wednesday, September 15, 2021

SEA GIRT PLANNING/ZONING BOARD
REGULAR MEETING
WEDNESDAY, SEPTEMBER 15, 2021

The Regular Meeting of the Sea Girt Planning Board was held on Wednesday, September 15, 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 a Salute to the Flag roll call was taken:

Present: Carla Abrahamson, Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Don Fetzer, Stan Koreyva, Eileen Laszlo, Ray Petronko, Robert Walker, John Ward, Norman Hall

Absent: None

Board Attorney Kevin Kennedy was also present, Board Engineer Peter Avakian was absent, and Board Secretary Karen Brisben recorded the Minutes. Mrs. Brisben noted a typo error in the Minutes for August (found by Mr. Ward) they were corrected and, on a motion by Mr. Ward, seconded by Mayor Fetzer, the amended Minutes for 8/18/21 were approved, all aye, with Councilwoman Anthony, Mrs. Abrahamson and Mr. Petronko abstaining.

Mr. Kennedy then announced that the application for Block 23, Lot 6, 116 Baltimore Boulevard, applicant Paul Cerami, was being postponed, by the applicant, to the November 17th meeting of the Board. He had spoken to the applicant's attorney, Mark Aikins, who requested this and also told the opposing attorney, Mr. Asadi, of this postponement as well. It was decided that they would also re-notice to the property owners within 200 feet as well as the newspaper. A motion was made by Mrs. Laszlo to accept the postponement to 11/17, with re-notice, this seconded by Mr. Walker and unanimously approved, all aye.

OLD BUSINESS:

The Board then turned to the approval of a Resolution for Block 34, Lot 14, 204 Crescent Parkway, owned by David and Caroline Rahill, to allow a covered front porch. Mr. Kennedy noted as this was a 5 to 3 vote to approve, he addressed the concerns of some Board members in the Resolution and that if the home comes down in the future all the variances are eliminated. He also added a Notice of Restriction that will have to be recorded in the County, this will assure the Resolution is adhered to. Before the vote was taken, Mr. Ward said he was the one insistent on putting in the point of variances being removed if the home comes down and he would like to see this in all future Resolutions. Mr. Hall appreciated all the comments from the Board and how we all try to work together.

Mrs. Brisben asked Mr. Kennedy about the Notice of Restriction that was actually separate from the Resolution, it will be recorded in the County but does it then become a deed restriction? Mr. Kennedy explained if this is recorded it will come up in a title search if the home is sold, this puts the world on notice that this restriction exists; it would not be fair if the purchaser did not know about this. We do not need to record the Resolution as that would be expensive and not needed, but this Notice of Restriction outline will be recorded in the County. It needs to be signed by Mr. and Mrs. Rahill first and Mrs. Brisben said she had already spoken to Mr. Rahill on this and they will be in Friday to sign this form.

At this time the following Resolution and Notice of Restriction were presented for approval:

WHEREAS, David and Caroline Rahill have made Application to the Sea Girt Planning Board for the property designated as Block 34, Lot 14, commonly known as 204 Crescent Parkway, Sea Girt, New Jersey, within the Borough's District 1, East Single Family Zone, for the following approval: Bulk Variances associated with an Application to construct a new / unenclosed front covered porch; and

PUBLIC HEARING

WHEREAS, the Board held a Remote Public Hearing on August 18, 2021, Applicants having filed proper Proof of Service and Publication in accordance with Statutory and Ordinance Requirements; and

EVIDENCE / EXHIBITS

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

- *Planning Board Application Package, introduced into Evidence as A-1;*
- *Application Checklist, introduced into Evidence as A-2;*
- *Architectural Plans, prepared by Jeremiah J. Regan, AIA, dated January 30, 2021, consisting of 1 sheet, introduced into Evidence as A-3;*

- *Survey, prepared by Paul K. Lynch, PLS, dated January 25, 2021, introduced into Evidence as A-4;*
- *Leon S. Avakian Inc., Review Memorandum, dated July 29, 2021, 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:

- David Rahill, Applicant, appearing pro se;
- Caroline Rahill, Applicant, appearing pro se;
- Jeremiah J. Regan, Architect;

TESTIMONY AND OTHER EVIDENCE PRESENTED ON BEHALF OF THE APPLICANTS

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

- The Applicants are the Owners of the subject property.
- The Applicants have owned the subject property for approximately 4 years.
- There is an existing single-family home at the site (which, upon information and belief, was constructed in or about 1960).
- The Applicants live at the site.
- In their approximate 4-years of ownership, the Applicants have already effectuated a number of improvements to the home – including, but not limited to, the following:
 - Various internal renovations;
 - Installation of a new roof;
 - Installation of new concrete surrounding the pool; and

- Replacement of a covered pergola with an open air pergola.
- In order to improve the aesthetic appeal of the home, and in order to make the home more functional, the Applicants propose to construct a new porch at the site.
- Details pertaining to the proposed porch include the following:

Size:	Per Plans
Location:	Front of home (off of Crescent Parkway).
Height:	Conforming
Covered?	The porch will be covered
Enclosed / screened?:	The proposed porch will not be enclosed or screened.
Materials:	

- The proposed porch will architecturally / aesthetically complement the existing structure.
- The Applicants will not close the proposed front porch, nor will they create / construct any type of living space over the proposed porch.
- The Applicants anticipate commencing the construction process in the near future.
- The Applicants will be utilizing licensed Contractors in connection with the renovation process.

VARIANCES

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

Variances:

BUILDING COVERAGE: 20% allowed; whereas 23.66% proposed;

UNENCLOSED PORCH SETBACK: 40 ft. required; whereas 34 ft. proposed;

SIDE YARD SETBACK: 7.5 ft. required; whereas 6.34 ft. proposed;

PUBLIC COMMENTS

WHEREAS, sworn comments, questions, and / or statements regarding the Application were presented by the following members of the public:

- JP Connellan

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 **granted / 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 204 Crescent Parkway, 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 Applicants propose to construct a new covered / unenclosed front porch.
6. Such a proposal requires Bulk Variance approval.
7. The Sea Girt Planning Board is statutorily authorized to grant such relief and therefore, the matter is properly before the said entity.
8. With regard to the Application, and the requested relief, the Board notes the following:

- Currently, and respectfully, the existing home is a 2-story straight up / vertical structure, with no front projections / protrusions. The addition of the porch approved herein will architecturally / aesthetically break-up and / or otherwise improve the overall physical appearance of the home / structure.
- The porch improvement authorized herein will bring some architectural / aesthetic character to the existing structure.
- The porch improvement as authorized herein will significantly enhance the overall aesthetic appeal of the property, which will be beneficial for the site, the neighborhood, and the community as a whole.
- The porch approved herein will provide some much needed architectural diversity / character to the existing structure which, respectfully, is currently rather box-like.
- Aesthetics are always a concern in the context of a Variance Application – and the within Application is no different.
- The architectural / aesthetic benefits associated with the within approval out-weigh any potential detriments otherwise associated with the within Application.
- During the Public Hearing process, one Board Member made a comment that the physical appearance of the existing home essentially “screams” for a porch, such as that approved herein.
- The absence of a front porch at the home detracts from the overall physical aesthetic appeal of the existing structure.
- Respectfully, the existing home will continue to appear rather flat and undistinguished if there were no front porch at the site.
- The Board appreciates the visual enhancements which will result once the porch is constructed at the site.
- While the aesthetics / architectural improvements are important, architectural / aesthetic enhancements, in and of themselves, do not always justify Variance relief. In the within situation, the Board recognizes that there are other reasons justifying the approval as well – and many of the other

reasons are set forth herein and were otherwise set forth on the record during the Hearing.

- The Board is aware that the Crescent Park neighborhood is a rather unique neighborhood, in some respects, within the Borough of Sea Girt. Specifically, in the referenced neighborhood, the testimony indicated that the setbacks actually start / commence approximately 8 ft. beyond the sidewalks (as opposed to other areas of town where the setbacks apparently start at the actual sidewalk line). Additionally, the Board notes that there is also a mountable island in the middle of the very wide Crescent Parkway thoroughfare. The aforesaid conditions uniquely affect the subject property, and the aforesaid conditions / features help minimize the overall impact associated with the proposal.
- The Board is also aware that the existing single-family home / structure already exists on the site – and it would not be feasible, or practical, to have the home physically relocated (so as to increase / improve the Front Yard Setback).
- The Board is also aware that the porch, as approved herein, is a customary / standard feature in the Borough of Sea Girt.
- The Board Members critically review all Variance requests – and the within Application received the same extensive / critical review. Some Board Members noted that the impact of the requested Setback / Coverage Variances would be much more pronounced / impactful had the addition been an addition for actual / traditional interior living space (as opposed to an unenclosed porch).
- In furtherance of the above, as a condition of the within approval, the Applicants have agreed that the new porch will not be enclosed, absent further / formal approval from the Sea Girt Planning Board.
- Moreover, as a condition of the within approval, the Applicants have agreed that no living space (interior or exterior) can be constructed over the porch approved herein, absent further formal approval of the Sea Girt Planning Board.
- The architectural / aesthetic benefits of the porch, the functional benefits associated therewith, and the fact that the new porch will not be enclosed or built upon (so as to increase overall interior living space at the site) persuaded a

majority of the Board Members to conditionally approve the Application.

- The aforesaid conditions (restrictions against enclosure / living space being placed on top of the porch) assuaged the concerns of some of the Board Members.
- Per the testimony and evidence presented, the porch approved herein will not knowingly block the views of any adjacent property owners.
- The Applicants testified that in conjunction with their purchase (approximately 4 years ago), the Applicants considered demolition of the structure, as opposed to renovation and improvement of the same. Towards that end, the Applicants testified that because the structural integrity of the subject home was as solid, the Applicants were not inclined to demolish the structure.
- The Board Members appreciate the Applicants' desire to maintain / preserve / improve an existing structure – as opposed to just mere demolition.
- The Board Members recognize the inherent benefits associated with preservation of existing older structures, when it is appropriate / practical to do so.
- As indicated, the Board Members are aware that the existing home is an existing structure on the site, and that it would not be feasible / practical to relocate the existing structure (so as to make the setbacks compliant, or more compliant with Prevailing Zoning Regulations). Towards that end, a majority of the Board determined that if the within Application involved vacant land with totally new construction proposed, the said Variances would not have been granted. However, in the within situation, because the structure already exists, and because it would be impractical to relocate the existing house, a majority of the Board Members have decided to conditionally approve the unenclosed front porch Application.
- The Board Members reviewed some of the setbacks of other porches in the immediate area. Though Board Members had different opinions on the issue, a majority of the Board found that under the circumstances, the proposed Porch Setback approved herein will not cause substantial detriment to the public good.

- The testimony indicated that there are at least 2 other porches in the immediate area which have similar non-conforming Front Setbacks.
- In the within situation, a majority of the Board Members recognize the typical architectural / aesthetic / functional / quality of life benefits associated with the proposed porch – particularly in the beautiful shore community of Sea Girt.
- The Board Members note that there are other similar porches in many areas of the Borough of Sea Girt.
- Per the testimony and evidence presented, approval of the within Application will actually result in a reduction in the overall impervious surface, which will be beneficial for the property, the neighborhood, and the community as a whole.
- The proposed unenclosed front porch is not oversized or otherwise overwhelming.
- With regard to the Building Coverage Variance, the Board notes the following calculations:

Maximum allowed	20%
Existing	21.56%
Proposed.....	23.66%

Under the circumstances, and given the site constraints, and for the other reasons set forth herein, the majority of the Board is of the belief that the requested Building Coverage Variance is reasonable.

- In conjunction with the within approval, the Applicants have agreed to install a drywell at the site. The installation of such a drywell will help improve the overall stormwater management operations at the property, which help justify the requested Building Coverage relief.
- The Application as presented requires a Side Yard Setback Variance as well. Specifically, a 7.5 ft. Side Yard Setback is required; whereas 6.34 ft. is proposed on the eastern side of the structure. The Board notes that the existing home (on the east portion of the property) has an existing 6.34 ft. setback – and the front porch approved herein will merely honor / continue the same.

- The Front Porch Side Yard Setback approved herein will not exacerbate the non-conforming Side Yard Setback which currently exists (on the eastern portion of the property).
- There is sufficient landscaping at the site which will help minimize any impacts otherwise associated with the within approval.
- During the Public Hearing, there was a discussion regarding potential precedent approval of the within Application could have on other Applications. The Board recognizes, generally speaking, that an approval of one Application will not necessarily set the precedent for an approval of another Application. Rather, the Board is aware that each Application must rise or fall on its own merits, based upon the circumstances / testimony / evidence presented with a particular Application.
- The Front Porch Setback Variance granted herein applies to an unenclosed front porch, which will not ever be utilized as interior living space (either within the approved porch or on top of the approved porch.) But for the aforesaid circumstances, the unenclosed Front Porch Setback Variance would not have otherwise been approved.
- Had the Front Yard Setback Variance been proposed for interior living space (either within or on top of the approved porch), then, in that event, the subject Application would not have been approved.
- The Board Members engaged in a good faith, intelligent, and legitimate debate as to the overall merits of the Application. Concerns associated with the Application include the following:
 - a. A concern that the building coverage at the site was already non-compliant, and there was no legitimate / recognizable reason to increase the same;
 - b. A concern that the existing home at the site is much closer to the front property line than other homes in the immediate neighborhood – and, as such, there was a concern that there was no legitimate / recognizable reason to increase or otherwise exacerbate the said Front Setback deficiency;

- c. Recognition that the site already has a deficient Front Setback (an approximate 6 ft. deficiency), and that there is no legitimate / recognizable reason for exacerbating the said condition;
- d. A concern that the Board should not approve Bulk Variances in the absence of extraordinarily compelling circumstances – and a further concern that extraordinarily compelling circumstances were not present in the within situation;
- e. A concern that while the desire for a porch is certainly understandable, and appreciated, given the location of the existing structure on the site, and given the already non-conforming setback, the subject site cannot comfortably accommodate the front porch proposed herein;
- f. A concern about the overall impact the non-conforming Front Porch Setback will have on the property, the neighborhood, and the community as a whole;
- g. A concern that approval of the within Application could potentially cause some type of precedent in terms of future Applications;
- h. A concern that the unique features associated with Crescent Parkway do not, in and of themselves, justify the requested Variance relief;
- i. A concern that currently, one of the adjacent properties is vacant and, as such, approval of the within Application will not adversely affect the adjacent lot; but with further recognition that the subject vacant lot will not always be vacant;
- j. A concern that the porch approved herein will detrimentally affect / impact any development of the adjacent (currently vacant) lot;
- k. A concern that based up on the testimony and evidence presented, Variance relief was not

warranted, pursuant to the Municipal Land Use Law, or associated case law;

- I. A concern that zoning should be effectuated through the Municipal Zoning Ordinance – and not by Variance; and
- m. A concern that approval of the within Application does not represent a better overall design alternative for the Borough of Sea Girt.

Those arguments in support of the Application are set forth elsewhere herein.

- All reasons / concerns / findings (including those in support of the Application and those against the Application) represent legitimate, sound, and valid arguments – worthy of review, discussion, debate, and respect.
- After further debate / discussion, a majority of the Board Members have determined that the subject Application can be granted without causing substantial detriment to the public good.
- The subject Application was ultimately approved by a split vote of 5 - 3.
- The split vote, as aforesaid, represents the good faith debate, and compelling arguments generated by the subject Application.
- Subject to the conditions contained herein, the subject site can physically accommodate the front porch approved herein.
- Approval of the within Application will not compromise or otherwise detrimentally impact any views at and/or around the site.
- The Applicants' porch plans are reasonable under the circumstances and reasonable per the size of the existing Lot.
- Some Board Members were troubled about the potential future enclosure of the new covered porch, and/or the potential inclusion of living space over the porch. However, the Applicants indicated that they would not so enclose the

porch, nor would they create any living space over the same. Such a representation assuaged the concerns of a majority of the Board Members, and but for such a representation, the within application may not have been approved.

- Approval of the within Application will not increase the overall height of the existing structure.
- 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 homeowners.
- Single-family use as approved / continued herein is a permitted use in the subject Zone.
- The location of the proposed porch is practical and appropriate.
- Subject to the conditions contained herein, the porch 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 renovation approved herein is attractive and upscale, in accordance with Prevailing Community Standards.
- Approval of the within Application will not detrimentally affect existing parking requirements at the site.
- Sufficiently detailed testimony / plans were presented to the Board.
- The proposed new porch 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.
- Additionally, the architectural/aesthetic benefits associated with the proposal outweigh the detriments associated with

the Applicants' inability to comply with all of the specified bulk standards.

- The architectural design of the proposed new porch approved herein will not be materially inconsistent with the architectural character of other similar porches 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.
- The improvement to be renovated herein will not be inconsistent with other improvements located within the Borough.
- 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 opinion that the requested relief can be granted without causing substantial detriment to the public good.

CONDITIONS

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

- a. The Applicants shall comply with all promises, commitments, and representations made at or during the Public Hearing process.

- b. The Applicants shall comply with the terms and conditions of the Leon S. Avakian, Inc. Review Memorandum, dated July 29, 2021 (A-5).
- c. The Applicants shall cause the Plans to be revised so as to portray and confirm the following:
 - The inclusion of a note confirming that the porch shall not be enclosed, absent further / formal approval of the Sea Girt Planning Board.
 - The inclusion of a note confirming that no structure of any type shall be placed on top of the porch approved herein.
 - The inclusion of a note confirming that there shall be no occupancy / living space (of any type) above the porch approved herein.
 - The inclusion of a note confirming that a drywell shall be installed at the site, the details of which shall be reviewed and approved by the Board Engineer.
 - The inclusion of a note confirming that the subject drywell shall be installed and maintained in accordance with Prevailing Industry Standards / Best Practice Standards.
 - The inclusion of a note confirming that if the existing home is ever intentionally or unintentionally demolished / destroyed, then, in that event, because of the very unique circumstances associated with the within approval, the Applicants (or successor owners) shall be required to petition the Sea Girt Planning Board for new / necessary Variance relief (with the understanding that with a blank slate / vacant property, there will be an expectation that the Applicants can comply, or more closely comply, with Prevailing Bulk Zoning Regulations).
- d. The Applicants shall comply with all Prevailing Rules / Regulations / Contributions / Directives associated with Affordable Housing matters – as established by the State of New Jersey, C.O.A.H., the Court System, the Borough of Sea Girt, and / or any other Agency having jurisdiction over the matter.

- e. The Applicants shall submit 4-sets of revised Plans to the Board Secretary.
- f. Given the unique nature of the within Application, and the unique nature of the relief sought associated with the existing structure, per the on-the-record discussion at the Public Hearing, and with the consent of the Applicants the Variances granted herein shall not run with the land.
- g. The within Resolution shall be recorded in the Office of the Monmouth County Clerk – and proof of recording shall be submitted to the Board Secretary. (Or, in the alternative, a Notice of Restrictions (relative to the fact that the porch shall not be enclosed, nor shall living space be constructed above the same), shall be recorded in the Office of the Monmouth County Clerk.)
- h. The Applicants shall manage storm-water run-off during and after construction (in addition to any other prevailing / applicable requirements/obligations.)
- i. The Applicants shall obtain any applicable permits/approvals as may be required by the Borough of Sea Girt - including, but not limited to the following:
 - Building Permit
 - Plumbing Permit
 - Electric Permit
 - Demolition Permit
- j. If applicable, the proposed structure shall comply with applicable Provisions of the Americans with Disabilities Act.
- k. 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.
- l. The proposed structure shall comply with the Borough's Prevailing Height Regulations.
- m. 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 Provisions of the Uniform Construction Code.
- n. The Applicants shall comply with all terms and conditions of the Review Memoranda, if any, issued by the Board Engineer, Borough Engineer, Construction Office, the Department of Public Works, the

Bureau of Fire Prevention and Investigation, and/or other agents of the Borough.

- o. The Applicants shall obtain any and all approvals (or Letters of No Interest) from applicable outside agencies - including, but not limited to, the Department of Environmental Protection, the Monmouth County Planning Board, and the Freehold Soil Conservation District.
- p. The Applicants shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- q. If required by the Board / Borough Engineer, the Applicants shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.
- r. 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.
- s. **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 Applicants are 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 Applicants 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, Applicants 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 Applicants' approval, will compromise the Applicants' building process, will create uncertainty, will create stress, will delay construction, will potentially void the Board Approval, and the same will result in the Applicants 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 Applicants', 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 Applicants and/or their agents shall be deemed conditions of the approval granted herein, and any mis-representations or actions by the Applicants contrary to the representations made before the Board shall be deemed a violation of the within approval.

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

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

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

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

FOR THE APPLICATION: Karen Brisben, Stan Koreyva, Eileen Laszlo, John Ward,
Norman Hall

AGAINST THE APPLICATION: Jake Casey, Mayor Donald Fetzer, Robert Walker

ABSTENTIONS: None

ABSENT: Carla Abrahamson, Councilwoman Diane Anthony, Ray Petronko

NOTICE OF RESTRICTIONS

1. On or about August 18, 2021, the Sea Girt Planning Board conditionally approved the construction of a front porch on the property located at 204 Crescent Parkway, Sea Girt, New Jersey, (more formally identified as Block 34, Lot 14).
2. The Resolution memorializing the above-referenced approval was adopted by the Sea Girt Planning Board on or about September 15, 2021.
3. The Resolution of Approval contained a number of conditions.
4. The front porch approved by the Sea Girt Planning Board shall not be enclosed, absent further / formal approval of the Sea Girt Planning Board.
5. The front porch approved by the Sea Girt Planning Board shall not be utilized as interior living space.
6. No living space shall be placed on top of the porch approved herein, absent further / formal approval of the Sea Girt Planning Board.
7. The within Notice is being recorded as a requirement of the Approval of the Sea Girt Planning Board.

8. Interested members of the public are encouraged to review the full Resolution of Conditional Approval, which can be obtained at the office of the Sea Girt Planning Board Secretary

The foregoing Resolution and Notice of Restrictions was offered by Mrs. Laszlo, seconded by Mr. Ward and adopted by Roll Call Vote:

IN FAVOR: Karen Brisben, Stan Koreyva, Eileen Laszlo, John Ward, Norman Hall

OPPOSED: None

ABSTAINED: None

INELIGIBLE TO VOTE: Carla Abrahamson, Councilwoman Diane Anthony, Jake Casey, Mayor Donald Fetzner, Ray Petronko, Robert Walker

ABSENT: None

Before continuing with the meeting Mrs. Laszlo wanted to discuss a conversation she had with Chairman Hall regarding amending the application to include information on any previous variances that had been granted on a property coming before the Board. Chairman Hall wanted to have this discussion after the application being presented this evening had been heard, it will be spoken of under Other Business.

At this time Chairman Hall asked to speak to the Board and public. After 23 years of being on the Planning Board and 13 years as Chairperson, he felt it was time to pass the baton on to someone else. Effective January 1st, 2022 he would no longer be Chairperson (if nominated), it was time to use his expertise in doing other things for the town and other towns he has worked with; this town has given him a great life but he eventually will resign. He did say that he does intend to stay on the Board for a while to provide a smooth transition. He prided himself on how this Board deals with things and to hold respectful hearings and procedure; he was sure it will continue and he thanked the Board for all they do. Mrs. Laszlo said she was very grateful for the guidance Chairman Hall has given all through the years and was glad he was staying on for a time, she felt the residents of Sea Girt should feel the same way as he has put in a lot of time and effort on the Planning Board and she was looking forward to being guided by him in a different capacity. The rest of the Board agreed as well as Mr. Kennedy.

Chairman Hall then announced that he was going to have to recuse himself from hearing the application for 610 Chicago Boulevard due to a potential conflict and Vice-Chairperson Laszlo will be taking over the meeting.

NEW BUSINESS:

At this time the Board considered an application for variance relief for Block 86, Lot 10, 610 Chicago Boulevard, owned by Birgit Graham, to allow a covered front entry porch. Building Coverage – 20% allowed, 20.5% existing, 23.63% proposed. Front Yard Setback – 40 feet required, 28.3 feet existing, 21.3 feet proposed.

The correct fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified. Mr. Kennedy added that this is a legal meeting and was posted as well on the Borough website with the login information. He then asked if anyone in the audience had any comments or concerns with the notice they received they were to raise their virtual hand and Mrs. Brisben gave her email address if they wanted to respond through email; there was no response.

Mr. Kennedy then marked the following exhibits:

- A-1. The application.
- A-2. Photos of the property, numbered 1 to 10.
- A-3. Architectural plans prepared by Architect Richard Graham, dated 9/29/20,
- A-4. Survey prepared by Charles O'Malley, dated 6/15/2013.
- A-5. Engineer's report by Leon S. Avakian, Inc. dated 6/8/21.
- A-6 Letter of Denial from Zoning Officer Chris Willms dated 11/3/2020,
- A-7. Communication from Mrs. Graham, owner, dated 8/10/21 regarding grading
- A-8. Communication from Mrs. Graham, owner, dated 6/21/21 regarding drywell.

At this time Mrs. Birgit Graham was sworn in as well as Richard Graham, her Architect. Mr. Graham is here tonight as an Architect and Planner; Mr. Kennedy asked if his licenses were current and they are. He has been an Architect since 1992 and a Planner since 1988; he has practiced in the shore area for 39 years and the Board accepted him as an expert witness.

Mrs. Graham told the Board she has owned the property since 1973 and has been there for 48 years; she would like an entry porch, she does not want to sell her home – she just wants to make it more livable and make it easier to get from the car to the porch. She also has a side door at this home but has a problem with the steps, with a porch she can park by it and just go inside. She said she has new homes all around her and does not get the sun as she used to, she thinks the porch will improve the home, would be more convenient as it will be an entrance porch.

At this time Richard Graham put the architectural drawings on the screen, sheet 1 of 2 shows the existing entrance and in the upper left is the side entrance that is not used and said photo 6 from Exhibit A-2 shows this as well. Mr. Graham has been to this home many times as Mrs. Graham is his sister-in-law and agreed about the side door, stating it can't be made larger. He then went over points in the Municipal Land Use Law relating to a "C" variance which may be considered here; this is a lawfully

existing structure and a porch will improve the home, the benefits outweigh the detriments.

Mr. Avakian's letter does speak of the front yard encroachment, they are going from 28.3 feet to 21.3 feet, the porch will be 7 feet deep and 33.5 feet wide which is the length of the home. He had found a problem with the original application regarding building coverage as the rear deck is over 16 inches and has to be included in the coverage calculation, this adds another 250 square feet which brings the total coverage to 26.96% and is high for Sea Girt. The deck (Exhibit A-2, photo 7), was constructed in 1984 and was legal at that time but today is a violation and they are asking for relief for that.

Mr. Graham told the Board he was part of the professionals that met to change the ruling on decks back in the 80's, he met with Mayor MacInnes, Dan Miller (Zoning Officer) and they discussed some zoning issues, one was the deck coverage; it was this group that came up with the change of having a deck over 16 inches being made part of building coverage. So while the deck today is nonconforming it was conforming back in 1984 when it was built and he felt this may have made an "unusual condition" which would fall under a "C" variance.

As far as the proposed porch he had reviewed the Master Plan Update of 2018 and this update is receptive to porches and streetscape so Mr. Graham feels this application falls within the guideline of the re-examination report. He also noted this will be an open and unscreened porch. The home is a two-story Cape Cod which is 2,075 square feet and again said the porch will embellish the appearance of the home and will fit in with the new buildings all around this home; it will not impact any neighbors. He then referenced Exhibit A-2, photo 2, which shows the home with 608 Chicago on one side and 612 on the other side and they are quite large new homes.

The survey shows concrete paving blocks which is the entry now, the outer edge is the 7-foot mark and this is where the porch will come out to, it will have a roof over it but it will not be enclosed. Mr. Graham also thought this is not unique in town as there are porches that come into the front yard setback and are very attractive; he used the area between First and Second Avenue as an example. He also looked at the porches around town that just go part way across the front but felt this home would look better with the porch across the whole front of the home.

As this was the end of his testimony the Board had questions. Councilwoman Anthony asked about Exhibit A-7, the letter from Mrs. Graham on grading the rear yard and asked that this be addressed. Mr. Graham said there was a thought to bring the deck into compliance by changing the grade in the rear yard using a landscape architect, but they did not see any benefit to this other than making the deck conform; he also saw problems with drainage but he would defer to the landscape architect. Mrs. Graham spoke up and said the deck is not even, it is 18 inches in parts and 14 inches in parts and Mr. Graham explained that the deck is on a pitched grade.

Mr. Walker asked about the steps for the porch and Mr. Graham said there will be two steps at 7 inches and one at the door sill, they would be made of Trex and not wood. Mr. Petronko asked if the last riser is the frame of the deck and Mr. Graham said yes. Mr. Casey asked what the deck was made out of and the answer was wood but the porch will be Trex. Mr. Casey asked if they looked at this and tried to minimize the variance request. Mr. Graham said they talked about lowering the deck but they are hesitant to reduce or change this if possible, but they are open to reworking the deck and reframing it to 2 risers instead of 3 and improve the quality of the deck as well.

Mr. Walker asked about the setbacks on the two homes on either side and Mr. Graham said he did not measure this but he thought 612 Chicago is about 30.25 feet and 608 he did not know and the home down the street is still under construction. Mr. Casey noted that the area under construction is 2 doors down and Mrs. Graham said this is the last empty lot on her side of the street, there are no more. Mr. Ward said the Avakian report speaks of coverage of 23.63% and not 26.96% that Mr. Graham said they had. Mrs. Brisben explained that, after Mr. Graham brought it up, it was realized that both Mr. Willms, Zoning Officer and Peter Avakian had missed this as the depth of the deck was not noted and missed in both their reports, thus they only reported on the proposed porch and that coverage. Mr. Ward asked what the relevance was of speaking of the porches on First Avenue and Second Avenue on Chicago Blvd. and Mr. Graham said he was not doing a comparison, he was just saying if relief is granted it will not be unique as it can be seen in this part of Chicago Boulevard.

Mayor Fetzer noted item #G on Mr. Avakian's report of the setback being 28.3 and it will be 21.3 in the front yard. He said the home on the north side seems to be more set back and asked Mr. Graham to address this. Mr. Graham said new homes have the ability to integrate a covered entry and 608 Chicago has a nice entry porch, this application is dealing with an existing home and trying to make it look nicer. He also commented there is a high likelihood that this home will come down if it is ever sold. Mayor Fetzer felt the neighbor's view may be blocked with the porch and Mr. Graham did not agree, they are at least 20 feet away and the porch will only come out 7 feet so there will be a wide field of vision. Mayor Fetzer said he was asking as it is driveway by driveway between these two homes and this porch will be taking some more of the front setback. Mr. Graham did not see this as a problem as the porch will have a low pitch and 7 feet is not a wide dimension; he commented he took measurements of porch furniture and came up with the 7 feet.

Mrs. Brisben asked if they take one step off the deck will they comply and the answer was yes. She then asked about putting in a drywell which was item #K on Mr. Avakian's report. Mr. Graham said they never had a problem but he can speak to a landscape contractor for recommendations and it will be addressed. Councilwoman Anthony asked if the porch can be made less than 7 feet and Mr. Graham said if they did this it would be indistinguishable visually but would be significant for porch usage. Councilwoman Anthony asked for confirmation that the home is already non-conforming and the answer was yes. Mr. Graham had consulted with the Zoning Officer, Chris

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Willms, and they could not find any variances given in the past so this home was built without any variances needed at that time.

Mayor Fetzner asked if they considered making the living room and bedroom smaller to accommodate the 7 foot porch and the answer was yes but they wanted a sheltered entry across the home, if they put the door further into the home it does not solve the coverage. Mrs. Laszlo asked if they did do interior work would that be a problem for Mrs. Graham and Mr. Graham said yes.

As there were no more questions from the Board the hearing was opened for questions from the public and Michael Zaccaro of 600 Chicago Boulevard was sworn in. He started by stating they have lived at 600 Chicago Boulevard for 26 years and are neighbors to Mrs. Graham. This area used to have cape cod style homes but a few years ago things changed, old homes demolished and new ones built, some are immense. Mrs. Graham has had her air, etc. blocked and she has no sense of privacy. If the porch extends out past the front yard requirement he thought all the front yard setbacks have to be considered. He asked what is the deal with the average setbacks? Is he correct this has to be done? Mrs. Laszlo said this does appear to be an encroachment of the existing setbacks. Mrs. Brisben said the Board has taken the average setbacks on the block in the past. Mr. Casey asked if the home being built has a foundation yet as he was wondering about that setback and Mr. Graham said there is just dirt on that lot right now.

As there were no further questions, that portion of the hearing was closed and then opened for general comments. Michael Meixsell of 619 Chicago was sworn in. He listened to the testimony and has known Richard Graham a long time and has no opposition to this application, he felt this will be a nice addition. He agreed that the Master Plan update encouraged front porches and said he is maybe 4 houses away from Mrs. Graham.

John Lajewski of 609 Chicago Boulevard was then sworn in and wanted to reiterate what Mr. Meixsell had said; he lives across the street from Mrs. Graham and supports her, she is a great neighbor.

As there were no other comments Mr. Graham summarized the application. The proposed porch addition would solve the problem for Mrs. Graham and the benefits outweigh the detriments.

It was then time for Board comments – Mrs. Abrahamson felt this was tricky with the setback rules and the street being all new homes. This is a Cape home and Mrs. Graham is overpowered by enormous homes, but she did not see a hardship other than for her. She felt Mrs. Graham should enjoy the years left in her home and was for the application, adding that the Resolution should state it will be an open porch. Councilwoman Anthony took a lot of notes and looked at the C variance requirements. She was concerned with the front setback, she appreciated that Mrs. Graham wants to improve her home but she had a concern with the front setback. She asked if the front

porch can be made smaller and that was not happening, she was not in favor. Mrs. Brisben said she would like to see the rear deck lowered to under 16 inches, she would then be in favor. Mr. Casey agreed with Mrs. Brisben about the rear deck being lowered and he would like to see in the Resolution that a garage will never be built on the property. The setback is a problem here and he was struggling with it, he also felt a drywell should be put in; he was not supportive. Mrs. Laszlo said the Board recognized the lack of a garage and a garage will not be built. Mrs. Casey noted Mrs. Graham said she can't drive to the back yard and he thought that was an option.

Mayor Fetzner appreciated the presentation and the goals, he was also in favor of a drywell; he found out after Hurricane Sandy how important a drywell is. He, too, was concerned about the setback, the town has a 40 foot setback requirement and this is almost at 50% over, he recognized the average setback that is being used here which makes it less than 40 feet for the front setback but he was not in support of this application. This is an ease of access and is not a hardship and stated he was fine with reducing the rear deck and not re-grading. Mr. Koreyva felt this front porch addition will make the home even nicer and was in full support, this does not affect the neighborhood at all and the neighbors have spoken out for it. Mr. Petronko was also in full support, he looked at the safety factor and the bottom line is Mrs. Graham deserves to enjoy her home. This is a simple application and he supported it. Mr. Walker was concerned with the setback issue but in looking at the scale of homes around this home. He did not think the porch is an issue and he also agreed with the drywell and reducing the rear deck. Mr. Ward appreciated the comments from both sides and did not think a large home on either side applies. He did not think this meets the test for a variance and suggested maybe a covered ramp other than a 33 foot front porch, and going from 28 feet to 21 feet violates the rules on granting variances.

Mrs. Laszlo felt this was a modification to an existing home, Mrs. Graham wants to stay here and make a safer entry to her home. Mrs. Laszlo said she has two covered porches at her home and she appreciates them, she is a big fan of porches and agreed this was talked about in the Master Plan update. She noted older homes are coming down and felt the photos submitted are telling in this application. She felt the variance relief should be given and reminded all that if the home comes down in the future all the variances cease.

At this time Mr. Graham asked if he could speak with Mrs. Graham on the issues brought up and that was done. Mrs. Graham told the Board she had no problem with putting in a drywell and she can even remove the deck as she no longer can sit there anyway and Mr. Graham said they can also put in a patio instead. Mrs. Graham asked about the porch being reduced to 6 feet instead of 7 and Mr. Graham said it can be done but it will be tight. Mrs. Laszlo felt if the deck were lowered or removed and a drywell be put in it will help. Mr. Graham commented that the porch at his house is 6 feet and it is tight; there is an option to pull the porch length to less than 33.5 feet. Mrs. Graham and Mr. Graham spoke to each other and decided to lower the deck to less than 16 inches by lowering a step off the home.

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Mr. Kennedy wanted to know if a vote will be taken tonight or does the applicant want to think about it and this hearing carried. Mrs. Laszlo felt it would be difficult to carry and she would like a vote tonight. Mayor Fetzer had no problem with this but wanted to have a new sketch submitted and Mr. Graham said he will prepare this. Mr. Kennedy said the revised plan will show either the deck lowered or a patio put in and the installation of a drywell. Mr. Kennedy then went over the conditions that will be in the Resolution and asked about making the porch smaller in width but Mrs. Laszlo felt it should stay at 7 feet for safety. There was then a brief discussion on a garage and Mayor Fetzer said he would like to see an acknowledgement that there isn't one. Mr. Kennedy also said he will put in the Resolution about no change of grade and that was agreeable to all. He also wanted a letter from Mr. Graham about the changes to be made to the plans and Mr. Graham said he was agreeable to all the conditions but there may have to be a change in grade for the back deck, they may have to taper the grade; Mr. Kennedy said he will say any changes in grade to be approved by the Zoning Officer.

As there was no other discussion on this, Mrs. Abrahamson made a motion to approve the application with the conditions noted, this seconded by Mr. Walker and then by the following roll call vote:

Ayes: Carla Abrahamson, Karen Brisben, Eileen Laszlo, Ray Petronko, Robert Walker

Noes: Councilwoman Diane Anthony, Jake Casey, Mayor Donald Fetzer, John Ward

Mrs. Laszlo wanted to thank all for their patience, the Board was very thoughtful and she thanked the neighbors for speaking and commented that we all are neighbors here

OTHER BUSINESS:

Chairman Hall said he had forgotten to ask if anyone from the public would like to make any comments on anything other than the application tonight and there was no response.

Mrs. Laszlo then wanted to talk about revising our Planning/Zoning Board application to have a portion answered as to if there were any variance application requested in the past. Mr. Kennedy noted that other towns do this and he felt it was an awesome idea. It was felt this can be done but has to be approved by Borough Council, Mayor Fetzer agreed as it will help the applicant as they may not know about it. Mrs. Brisben felt it should be there but it would be easier if she or Mr. Willms answered this as the public does not have access to the Planning Board files to find this out. Mr. Kennedy said he will look into it.

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Mr. Ward wanted to bring up the year end report and make it more detailed, state the number of variances requested and the number of variances given, the Board agreed. Mr. Casey questioned Mr. Avakian not being present tonight and Mrs. Brisben said she had sent him all the information and thought he would be present. Mr. Casey was concerned that both Mr. Avakian and Mr. Willms missed the building coverage issue on the application heard. Chairman Hall commented that the Board took a long time tonight to deliberate on the application heard. Mrs. Laszlo said she does try to keep an eye on the time but it gets away.

As there was no other business to come before the Board a motion to adjourn was made by Mrs. Brisben, seconded by Mr. Casey and unanimously approved, all aye. The meeting was adjourned at 9:42 p.m.

Karen S. Brisben, Board Secretary

Approved: October 20, 2021