

SEA GIRT PLANNING BOARD

WEDNESDAY, AUGUST 17, 2016

The Regular meeting of the Sea Girt Planning Board was held on Wednesday, August 17, 2016 at 7:00 pm in the Sea Girt Elementary School, Bell Place. In compliance with the Open Public Meetings Act, notice of this Body's meeting had been sent to the official newspapers of the Board fixing the time & place of all hearings. After a salute to the flag, roll call was taken:

Present – Larry Benson, Karen Brisben, Eileen Laszlo, Donald McLaughlin, Anne Morris, Ray Petronko, Norman Hall

Absent – Carla Abrahamson, Donald Laws, Chris Randazzo, Bret Violette

Also present was Kevin Kennedy, Board Attorney and Board Secretary Karen Brisben recorded the Minutes. There were 5 people in the audience.

The Minutes of the July 20, 2016 meeting were approved on a motion by Mr. McLaughlin, seconded by Mrs. Morris and unanimously approved, all aye.

OLD BUSINESS:

The Board turned to the approval of a Resolution for Block 86, Lots 11 & 12, 604-608 Chicago Boulevard, owned by Shawn Mulligan & JCK Investments, LLC, to create a Minor Subdivision for 3 lots. As all Board members, as well as the applicants and their attorney, had received a draft copy and there were no changes or recommendations, the following was presented for approval after Mr. Kennedy summarized this:

WHEREAS, Shawn / Lora Mulligan and Representatives of JCK Investments, LLC have made Application to the Sea Girt Planning Board for the properties designated as Block 86, Lot 12 and Block 86, Lot 11, Sea Girt, New Jersey, within the Borough's District 1, West Single Family Zone, for the following approval:

- Minor Subdivision Approval; and

PUBLIC HEARING

WHEREAS, the Board held a Public Hearing on July 20, 201

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;*
- *Boundary Survey, prepared by Thomas J. Murphy, PLS, dated March 1, 2016, introduced into Evidence as A-2;*
- *Minor Subdivision Plan, prepared by Thomas J. Murphy, PLS, dated March 1, 2016, introduced into Evidence as A-3;*
- *Leon S. Avakian, Inc. Review Memorandum, dated June 8, 2016, introduced into Evidence as A-4;*
- *Communication to the Borough Tax Assessor, and the Assessor's hand-written response thereto, introduced into Evidence as A-5;*
- *Review Memorandum from the Planning Board Subdivision Committee, dated June 7, 2016, introduced into Evidence as A-6;*
- *Communication from Monmouth County Planning Board, dated April 25, 2016, introduced into Evidence as A-7;*
- *List of submission waivers, dated April, 2016, introduced into Evidence as A-8;*
- *Copy of a Deed from Earl W. Owens, Jr. to JCK Investments, LLC (regarding the Block 86, Lot 12 property), dated December 17, 2015, recorded (in the office of the Monmouth County Clerk) January 12, 2016 (Book OR-9148, Page 2042), introduced into Evidence as A-7;*
- *Consent to proceed (JCK Investments, LLC), introduced into Evidence as A-10;*

- *Affidavit of Service;*
- *Affidavit of Publication;*

WITNESSES

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

- Thomas James Murphy, Surveyor;
- Michael Rubino, Esq., appearing

TESTIMONY AND EVIDENCE PRESENTED

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

- The Applicants herein are Shawn / Lora Mulligan and JCK Investments, LLC.
- Shawn Mulligan is the Managing Member of JCK Investments, LLC.
- The Applicants are the Owners of the two adjacent lots.
- Details pertaining to the 2 existing Lots include the following:

604 CHICAGO BLVD.

BLOCK 86, LOT 12

OWNER: JCK INVESTMENTS, LLC

Size: 11,250 SF
Size: 75 feet x 150 feet
Current Use: Two-story single-family dwelling,
Garage, and Driveway

608 CHICAGO BLVD.

BLOCK 86, LOT 11

Size: 11,250 SF
Size: 75 feet x 150 feet
Current Use: Vacant

- The Applicants intend to demolish the existing structures on existing Lot 12.
- The Applicants are proposing to subdivide the site into 3 Lots; namely, proposed Lot 11.01, proposed Lot 11.02, and proposed Lot 12.01.
- Details pertaining to the proposed 3 Lots include the following:

PROPOSED LOT 11.01

Minimum Required Lot Area: 7,500 SF
Proposed Lot Area: 7,500 SF
Proposed Use: New single-family home

PROPOSED LOT 11.02

Minimum Required Lot Area: 7,500 SF
Proposed Lot Area: 7,500 SF

Proposed Use: New single-family home

PROPOSED LOT 12.01

Minimum Required Lot Area: 7,500 SF

Proposed Lot Area: 7,500 SF

Proposed Use: New single-family home

- As referenced, all Lots will ultimately host a single-family home.
- The Applicants are unsure as to whether they will develop the Lot themselves, or sell the property to a third party (for ultimate development.)

VARIANCES

WHEREAS, the Application as presented does not require approval for any new Variances; and

PUBLIC COMMENTS

WHEREAS, there were no members of the public who expressed any questions, comments, concerns, or objections associated with the Application.

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, 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 properties are identified as follows:

604 Chicago Blvd.

Block 86, Lot 12

Sea Girt, NJ

608 Chicago Blvd.

Block 86, Lot 11

Sea Girt, NJ
3. The two parcels are located on the South side of Chicago Blvd.
4. The subject Lots currently contain 22,500 SF combined. (Each existing Lot currently contains 11,250 SF).
5. As indicated, the Applicants proposed to subdivide the two properties into 3 Lots: namely, proposed Lot 11.01, proposed Lot 11.02, and proposed Lot 12.01.
6. Details pertaining to the proposed Lots are set forth elsewhere herein (and are also set forth in the submitted Plans).
7. Such a proposal requires Minor Subdivision Approval.
8. There are no Variances associated with the within proposal.

9. Each of the new Lots created hereunder will host a new single family home.

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

11. The single-family homes to ultimately 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.

12. The newly created Lot Sizes will comply with all Prevailing Lot Area Requirements.

13. There was no known public opposition associated with the Application.

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

15. Based upon the above, and subject to the conditions contained herein, the Board is of the unanimous 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 Applicants 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 Applicants shall comply with all promises, commitments, and representations made at or during the Public Hearing process.

- b. The Applicants shall comply with all terms and conditions of the Leon S. Avakian Review Memorandum, dated June 8, 2016 (A-4).
- c. The Applicants shall comply with the terms and conditions of the Review Memorandum from the Planning Board Subdivision Committee, dated June 7, 2016 (A-6).
- d. The Subdivision shall not be perfected until such time as the existing structures on the site are demolished / removed, as confirmed by Borough Zoning / Construction Officials.
- e. 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.
- f. Prior to the issuance of any Construction Permits, the Applicants (or successor Applicants / Owners) shall submit grading, drainage, plot, and utility plans (and drainage calculations) to the Board Engineer, for his review and approval.
- g. The Applicants, or any successor Applicants / Owners, shall comply with all Prevailing Rules and Regulations of the Municipal Utilities Authority. Additionally, the Applicants shall pay / satisfy any applicable sewer / utility connection fees (and any other charges / fees due and owing.)
- h. Prior to the issuance of any Building Permit, the Applicants, or any successor Applicants / Owners, 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).
- i. The Applicants shall attempt, in good faith, to preserve as many trees on site as possible.

- j. The Applicants shall comply with any prevailing Tree Preservation Ordinance.
- k. The Resolution of Subdivision Approval shall be recorded with the Subdivision Deed.
- l. In the event the Applicants sell the parcels or otherwise transfer the development rights, the Applicants shall specifically advise the would be developer of all the terms and conditions of the within approval.
- m. The Applicants shall cause the Plans to be modified (if necessary) so as to correct / clarify the Lot dimensions of the proposed Lots.
- n. Five copies of the revised subdivision map shall be presented to the Board Secretary.
- o. Pursuant to the Review Memorandum from the Board Engineer, in order to promote ground water recharge, the Plan shall be revised so as to portray and confirm that all roof leaders shall drain to a stone recharge trench, as approved by the Board Engineer.
- p. 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.)
- q. The subdivision shall be perfected in accordance with Requirements of New Jersey Law (and within the timeframe set forth in New Jersey Law.)
- r. The Applicants shall review the proposed Block / Lot designations with the Municipal Tax Assessor so as to confirm the acceptability of the same.
- s. The Applicants (or any successor Applicants) shall comply with all applicable Affordable Housing related Ordinances / Regulations of the Borough of Sea Girt – as the same may be amended from time-to-time.
- t. Any construction/development of the Site shall comply with the Prevailing FEMA Requirements.

- u. The Applicants 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.
- v. The Applicants 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.
- w. The Applicants shall, in conjunction with appropriate Borough Ordinances, pay all appropriate/required fees, taxes, and inspection fees.
- x. If required by the Board Engineer, the Applicants shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.
- y. The Applicants shall comply with any municipal street-opening moratorium which may be in effect.

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

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

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

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

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

Ayes: Larry Benson, Karen Brisben, Eileen Laszlo, Donald McLaughlin, Anne Morris, Ray Petronko

Noes: None

Not Eligible to Vote: Norman Hall

The next Resolution for approval was for Block 50, Lot 1, 301 Boston Boulevard, owned by JRM Real Property & JRM Holdings, to allow pool fencing and patio in the side yard setback. Mr. Kennedy went over some minor changes in wording that had been requested by the applicants' engineer; after a few questions from the Board the following amended Resolution was presented:

WHEREAS, representatives of JRM Real Property, LLC and JRM Realty Holdings, LLC have made Application to the Sea Girt Planning Board for the property designated as Block 50, Lot 1, commonly known as 301 Boston Boulevard, Sea Girt,

New Jersey, within the Borough's District 1, East Single Family Zone, for the following approval: Bulk Variances associated with an Application to effectuate the following:

- Construction / extension of a pool paver patio; and
- Installation of an aluminum fence.

PUBLIC HEARING

WHEREAS, the Board held a Public Hearing on July 20, 2016, Applicants having filed proper Proof of Service and Publication in accordance with Statutory and Ordinance Requirements; and

EVIDENCE / EXHIBITS

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

- *Development Application Package, dated March 18, 2016, introduced into Evidence as A-1;*
- *Pool Fence Plan, Patio Plot Plan, Grading and Drainage Plan, prepared by William F. Voeltz, P.E., dated March 8, 2016, last revised March 18, 2016, introduced into Evidence as A-2;*
- *Residential Landscape Plan, prepared by Design Landscapes, Inc., dated September 2015, consisting of 1 sheet, introduced into Evidence as A-3;*
- *Survey Plat, prepared by William J. Fiore, P.L.S., dated July 30, 2014, consisting of 1 sheet, introduced into Evidence as A-4;*
- *Leon S. Avakian, Inc. Review Memorandum, dated June 8, 2016, introduced into Evidence as A-5;*

- *Correspondence from William F. Voeltz, P.E., to the Board Engineer, dated March 25, 2016, introduced into Evidence as A-6;*
- *Zoning Denial Letter, dated March 10, 2016, introduced into Evidence as A-7;*
- *Correspondence from William F. Voeltz, P.E. to the Board Secretary, dated July 11, 2016, introduced into Evidence as A-8;*
- *Illustrated Rendering of the previously submitted Landscape Plan, introduced into Evidence as A-9;*
- *Series of 4 photographs of the existing property, taken by William Voeltz, P.E., taken on or about June 7, 2016, introduced into Evidence as A-10;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

WITNESSES

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

- Jodi Brenner, Managing Member of the Applicant, appearing pro se;
- Henry Hoberman, Applicant's representative;
- Brian Hatfield, Landscape Designer;
- William F. Voeltz, P.E., P.P.; and

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 since approximately 2014.
- There is an existing single-family home, garage, pool, patio, and fence located at the site.
- The Applicants utilize the property as their second home.
- Over the last several years, the Applicants have spent a considerable amount of time and money in renovating the property. Specific renovations include the following:
 - A rebuilding of the garage;
 - Installation of an in-ground pool; and
 - Planting of significant landscaping at the site.
- After the pool was installed, and the Applicant's representatives had an opportunity to use the same, it became clear that the Applicants needed a larger pool patio area surrounding the pool. Specifically, the existing pool patio can accommodate a standard table and chair, but the same does not provide ample or safe passage way for residents / guests.
- Thus, representatives of the Applicants have submitted the within Application in the hope of effectuating the following:
 - Construction / extension of a pool paver patio; and
 - Installation of an aluminum fence.
- The existing privacy screen at the site will not be relocated in conjunction with the within Application.
- The existing oversized driveway size will not be altered as a result of the within Application.

- The size of the existing garage will not be altered as a result of the within Application.

VARIANCES

WHEREAS, the Application as presented requires approval for the following

Variances:

FENCE HEIGHT: In the case of a corner Lot, the Fence Height Limitation of 3 ft. shall extend to the side yard area adjacent to the side street bounded by the side building line. In the within situation, the Applicant is proposing a 4 ft. high fence along the Third Avenue frontage and thus, a Variance is required.

PATIO LOCATION: The Prevailing Ordinance provides that pool patios shall not be permitted in a front or side yard area; whereas, the proposed pool patio is, in fact, located in a side yard area.

POOL LOCATION: The proposed pool patio is located in a side yard area which has a setback of 7 ft. from Third Avenue; whereas 15 ft. is otherwise required.

PUBLIC COMMENTS

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

- NONE

FINDINGS OF FACT

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

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

1. The Sea Girt Planning Board has proper jurisdiction to hear the within matter.
2. The subject property is located at 301 Boston Boulevard, Sea Girt, New Jersey, within the Borough's District 1, East Single Family Zone.
3. The subject site currently contains a single-family home, garage, pool, and pool patio area.
4. Representatives of the Applicants propose the following:
 - Construction / extension of a pool paver patio; and
 - Installation of an aluminum fence.
5. The details of the proposed pool / patio and proposed fence are set forth on the submitted Plans and were furthermore described, in detail, during the Public Hearing Process.
6. Such a proposal requires approval for several Bulk Variances.
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, a majority of the Board notes the following:

- The existing single-family use is a permitted use in the subject Zone.
- The existing pool is a permitted accessory use in the Zone.
- Per the testimony presented, the Applicants received all appropriate Permits for the prior construction / installation of a pool at the site.
- There is an existing paver pool patio at the site. However, per the testimony and evidence presented, there is a need for a larger pool patio area at the site. Thus, the Applicant's representatives submitted the within Application.
- Per the testimony and evidence presented, with the size of the existing pool patio at the site, there is not sufficient room to comfortably accommodate a standard patio table, chairs, and sufficient / safe passage way for the residents and their guests.
- The extended pool patio area approved herein will provide sufficient room to accommodate the standard table, chair, and sufficient / safe passage way.
- Moderately increasing the size of the pool patio at the site will provide the owners and their guests a more sufficient and safe environment to walk around the pool, thereby essentially promoting public health and safety.
- Some Board Members noted that the size of the existing pool is approximately 1/3rd of the size of the pool which would otherwise be allowed at the site.
- The size of the existing pool is, by all means, relatively modest.
- A majority of the Board notes that the existing pool at the site is not overly large.

- The corner nature of the Lot, with 2 front yard areas, further exacerbates the ability of the Applicants to comply with all Prevailing Bulk Zoning Regulations.
- The proposed fence will be located out of the existing arborvitae at the site – and thus, the improvements authorized herein will not really be visible from the public street.
- The design / location approved herein will provide the homeowners with a larger and more functional yard at the site.
- The Board Members appreciate the significant and attractive landscaping previously planted at the site.
- The 4 ft. high portion of the fence approved herein will not interfere with any sight lines.
- The proposed landscaping / shrubbery / plantings will appropriately shield the neighbors and public from the proposed improvements / existing pool.
- The proposed and to-be-maintained landscaping / fencing will minimize the impact that approval of the Application will have on the adjoining owners and the neighborhood.
- Approval of the within Application will not increase the height of the existing home or garage.
- The improvements approved herein will not overpower / overwhelm the subject Lot.
- The improvements approved herein will not overpower / dwarf other surrounding properties in the area – particularly in light of the nature of the surrounding residential uses.
- The improvements approved herein represent an attractive and upscale renovation, in accordance with Prevailing Community Standards.
- The site will provide a sufficient amount of off-street parking spaces for the Applicants' 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.
- Sufficiently detailed testimony / plans were represented to the Board.
- The proposed improvements should nicely compliment the property and the neighborhood.
- Approval of the within Application will improve the aesthetic appeal of the site.
- 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 improvements will not be inconsistent with the architectural character of other single-family amenities in the area.
- The location of the proposed improvements is practical and appropriate.
- The Board Members engaged in a civil and good-faith debate as to the overall merits of the Application. In that regard, concerns / issues associated with the proposal included the following:
 - i. There was a concern regarding the concept that Variance relief should only be granted in extraordinary circumstances.
 - ii. There was a concern that the Applicant's representatives have not satisfied the Prevailing Legal Standards justifying the Variance relief.
 - iii. There was a concern regarding the non-conforming nature of the proposal.
 - iv. There was a concern that the prevailing situation did not constitute a true hardship

within the meaning of the New Jersey Municipal Land Use Law.

- v. There was a concern that the benefits associated with the approval did not outweigh the detriments associated with the same.
- vi. There was a concern that the pool was recently installed – and that the representatives of the Applicants could have, and should have, considered / analyzed the desired / functional pool patio dimensions before the pool was installed.
- vii. There was a concern that if representatives of the Applicants desired a larger pool patio, they could have designed and installed a smaller pool.
- viii. There was a concern that there were numerous other design alternatives which could have been selected / pursued, which would have been conforming, or more conforming, with the Borough's Prevailing Zoning Regulations.
- ix. There was a concern that the property will become overbuilt with the home, garage, pool, larger than permitted driveway, and expanded pool patio area.
- x. There was a concern regarding potential drainage issues associated with the overbuilding of the site.
- xi. There was a concern that, as a matter of course, the Borough of Sea Girt, the Sea Girt Planning Board, the Applicants, and the public must be concerned with not only aesthetic factors, but other development-related issues as well.

- xii. There was a concern that aesthetic appeal alone does not, in and of itself, justify the granting of the Variance relief.
- xiii. There was a concern regarding the size of the setbacks initially proposed by the representatives of the Applicants.
- xiv. There was a concern regarding the potentially misleading and / or potentially confusing nature of the Application / Plans as submitted.
- xv. There was a concern regarding the lack of green / grassy areas at the site.

Notwithstanding the above, for the reasons set forth herein, and for the other reasons set forth during the Public Hearing Process, a majority of the Board is of the opinion that the benefits associated with the granting of the approval outweigh the detriments associated therewith.

- Subject to the conditions contained herein, the Applicants' site / lot can physically accommodate the improvements proposed/approved herein.
- Subject to the conditions contained herein, 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 / site 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.
- Approval of the within Application will not detrimentally affect existing parking requirements at the site.
- The Application as presented requires a Variance for the height of the pool fence (maximum 3 feet allowed; whereas 4 feet proposed). The Board notes that technical compliance with the 3 ft. municipal requirement would likely conflict with

the Prevailing Building / Construction Code Requirements that a fence surrounding a pool have a minimum height of 4 feet.

- The existence of only a 3 ft. fence surrounding a pool could potentially compromise the health and safety of others.
- The existence of only a 3 ft. fence surrounding the pool could potentially contribute to the pool being viewed as an “attractive nuisance” by area children.
- The existence of only a 3 ft. fence surrounding the pool could potentially create insurance / liability issues for the Applicants, and any successor owners.
- The installation of a 4 ft. fence around the pool should likely promote health and safety at and around the site.
- Additionally, the aesthetic benefits associated with the proposal outweigh the detriments associated with the Applicants’ inability to comply with all of the specified bulk standards.
- The design of the improvements approved herein will not be inconsistent with the architectural character of similar improvements on other single family lots 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 improvements to be installed herein will not be inconsistent with other similar 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, the 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' representatives have agreed, to comply with the following conditions:

- a. The Applicants' representatives shall comply with all promises, commitments, and representations made at or during the Public Hearing Process.
- b. The Applicants' representatives shall comply with the terms and conditions of the Leon S. Avakian, Inc. Review Memorandum, dated June 8, 2016 (A-5).
- c. The Applicants' representatives shall revise the Plans so as to portray and confirm the following:
 - To reduce the size of the patio area from 16 ft. to 12 ft. i.e. there shall be 12 ft. from the edge of the pool to the eastern edge of the existing patio with additional greenery planted / maintained between the eastern edge of the patio and the property line.
- d. The Applicants' representatives shall comply with all Prevailing Building Code / Construction Code Regulations regarding coping distances, distances between structures and pools, etc.

- e. The Applicants shall submit a Grading Plan / Drainage Plan / Stormwater Management Plan, which shall be approved by the Board Engineer. (The Applicants shall also install supplemental drywell / drywells, if deemed necessary by the Board Engineer.)
- f. The Applicants shall manage storm-water run-off during and after construction (in addition to any other prevailing/applicable requirements/obligations.)
- g. The Applicants shall submit 5 sets of revised Plans.
- h. 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
- i. If applicable, grading plans shall be submitted to the Board Engineer so as to confirm that any drainage/run-off does not go onto adjoining properties.
- j. The construction, if any, shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. Additionally, the construction shall comply with Prevailing Provisions of the Uniform Construction Code.
- k. The 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.
- l. 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.

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

BE IT FURTHER RESOLVED, that all representations made under oath by the Applicants and/or their agents shall be deemed conditions of the approval granted herein, and any misrepresentations or actions by the Applicants' 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.

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

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

Ayes: Larry Benson, Karen Brisben, Eileen Laszlo, Donald McLaughlin

Noes: None

NEW BUSINESS:

The Board turned to an application for Block 53, Lot 14, 312 Washington Boulevard, owned by CJ Kentler & Carol Reynolds (applicant – Robert Schwartz) for a Minor Subdivision to create two conforming lots.

The proper fees were paid and taxes are paid to date; as this is a conforming Minor Subdivision there was no notice given to property owners within 200 feet and no notice to the newspaper. Before starting this application Mr. Kennedy marked the following exhibits:

- A-1. Application dated 3/24/16.
- A-2. Subdivision plan dated 3/30/16.
- A-3. Survey dated 3/18/16.
- A-4. Engineer's review report dated 7/6/16.
- A-5. Planning Board Subdivision Committee report.
- A-6. Assessor memo on new lot numbers.
- A-7. Monmouth County Planning Board report dated 3/31/16.

Jacqueline McGowan, Esq. came forward to present this application, however, before doing so, Mrs. Laszlo said she has represented her in the past and is working with her on one small matter at this time. Mr. Kennedy felt it may be best if she recused herself from this application and Mrs. Laszlo stepped off the dais.

Ms. McGowan said she was representing the applicant, Robert Schwartz for this subdivision at 312 Washington Boulevard, which is a 16,000 square foot lot that has a residence and attached garage. Mr. Schwartz wants to subdivide this property into two 50x160 foot lots, which will become Lot 14.01 and Lot 14.02; each will have 8,000 square feet and will be developed with a single family home which is permitted in this zone. Once the homes are to be built, the proper permits will be obtained and drainage

issues, etc. will be handled at that time. Chairman Hall asked about the County report as this is a County road and Ms. McGowan said they granted it with no stipulations. Mr. McLaughlin asked if they had to go to the County for the curb cuts and utility lines and the answer was yes, they will go to them if they need to; Mr. Kennedy felt they would have to.

Mrs. Brisben noted the Engineer's report asked for revised plans and stated what he wanted to see on the plans, Ms. McGowan said that will be done. Mr. McLaughlin noted as error on the dimensions listed on the plan, one says 50x150 instead of 50x160 & Ms. McGowan will have that corrected.

As there were no further questions or comments from the Board and there were no questions or comments from the audience, Mr. Kennedy went over the stipulations that will be in the Resolution of approval – adherence to the Engineer's report and subdivision committee report, removal of all structures and any other requirements there may be. At this time Mr. McLaughlin made a motion to approve this subdivision application, but he made a comment about saving any trees, the property over on 311 Beacon Boulevard took all the trees down and he didn't know how to address that. Mrs. Brisben noted it's in the subdivision committee report as well as the Resolution but there is no way to enforce this as Sea Girt does not have a Tree Save Ordinance. Mrs. Morris said she has spoken to the Shade Tree Commission about this, it would be difficult to enforce; she also commented the property on Beacon Boulevard has sparked a lot of discussion.

Going back to the motion for approval, Mr. Petronko seconded it and the subdivision was approved by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Donald McLaughlin, Anne Morris, Ray Petronko, Norman Hall

Noes: None

Mr. Kennedy said, as this is a conforming subdivision, he had prepared an enabling Resolution that could be approved this evening but it's up to the Board. Chairman Hall felt that if there is no any urgency to this it should be held for Board review before approval; the rest of the Board agreed. Mrs. Laszlo then came back on the dais.

OLD BUSINESS:

The Board then turned to an amended variance application for Block 46, Lot 3, 307 Brooklyn Boulevard, owned by Eric Wasser, to allow a front porch in the front yard setback. This application was originally heard on May 18, 2016 and Mr. Wasser had asked if he could come back in August with amended plans. Mr. Kennedy said that only

the Board members who were present at the May meeting could vote on this application and Mrs. Brisben said the only member who was not present in May was Mr. Benson so he is not eligible to vote. Mr. Kennedy also told the Board and audience that no new notice had to be given if the plans were not substantially changed and they were not.

At this time the new exhibits were marked:

- A-12. Letter from Mr. Wasser dated 8/4/16.
- A-13. Zoning requirement chart by Cole & Associates.
- A-14. Plot plan done by Cole & Associates dated 7/22/16.
- A-15. Architectural plan.
- A-16. Board Engineer review dated 8/8/16.

Chairman Hall asked Mr. Kennedy about the new Ordinance on Impervious Coverage and if that applies here now; Mrs. Brisben commented this application was first heard in May and that Ordinance was not approved until July. Mr. Kennedy then said it does not apply as the application was submitted before it became law.

Mr. Eric Wasser then came forward to present his application and produced Exhibit A-17, a sketch of what is being proposed which was done by him and is not to scale; Mr. Kennedy marked this and dated it 8/17/16. Mr. Wasser explained he changed the lower portion of the porch so there is more maneuverability on the porch and he is now proposing a sliding glass door instead of the original French door. The porch will now be 5 feet wide with a bump out to 7 feet, it has been reduced from the original plan by 2.73% so the lot coverage now will be 24.91%.

He also road around town and made a map of the porches in town, this was marked as Exhibit A-18; he noted most homes have porches. He also said he does not want the brick front that exists now and will have siding put up. Three homes down there is a row of arborvitae so his porch will not be seen very much due to this. He also noted that not all porches have roofs but a lot did. Mrs. Morris asked if they were all within the 40 foot setback and Mr. Wasser did not know but he noted that a variance was given to the property on Lot 12 last year, Lada Realty.

Mr. McLaughlin asked if the zoning was revised and Mr. Wasser said yes, this was done by Michael Cole (Exhibit A-13) and this was submitted to Mr. Avakian. Mr. McLaughlin said the numbers do not match the plans and Mr. Wasser said the plan is not accurate, the revised zoning chart is. Mr. McLaughlin said they did not match with the Engineer's report either, Mrs. Laszlo agreed but Mr. Wasser felt all this was addressed.

Chairman Hall asked the elevation of the front porch and was told it was less than needed for railings; it will be higher than 18 inches but less than 30 inches. Mr. Petronko asked when the house was redone and Mr. Wasser said the previous owner

took it down and then rebuilt it with no porch, the house was taken down in the 80s and he did not know if the previous home had a porch. The previous owner did have a plan for a porch but had a problem with the contractor and never put it in. Mr. Hall questioned if we had a record of this and Mrs. Brisben said she can look back in the old records to see if something is there.

Mr. McLaughlin felt revised plans were needed to match the Engineer's report and he wondered why the Board was even hearing this. Mrs. Brisben explained that once the Engineer says an application is complete it has to be scheduled for a hearing; if there are changes to be made as per his report revised plans can be done after the hearing, it is done all the time and was just done with the other application heard tonight.

At this time Mr. Wasser asked if his neighbor, Chris Scapelli of 309 Brooklyn Boulevard can come forward and speak. Mr. Scapelli came forward and was sworn in and stated he has been included in Mr. Wasser's expansion work and he was all for this porch; he realized it would mean a lot to Mr. Wasser's parents, who were in the audience, to enjoy this area. He also felt it would be good for the neighborhood. Chairman Hall asked him if he had a porch and the answer was yes.

Chairman Hall then asked Mr. Wasser about Exhibit A-18 and were the porches proposed or existing. Mr. Wasser said they are existing and explained that his home has a generator, deck and garage in the rear along with a lot of landscaping and a garden. Mr. Petronko asked about the height for steps and Mr. Wasser said there may be a step down, he was not exact on that yet. Mr. Petronko felt that, basically, there is 18 inches from the door to the porch and he felt that was narrow; Mr. Wasser said he is trying to make it as narrow as he could. Mr. Wasser said the right porch is his parents' room and the left porch is an office and the sliding doors will give more room than the French doors originally planned.

At this time the hearing was opened to the public for questions or comments and, as there were none, that portion was closed and the Board went into discussion. Mrs. Brisben said she first thought the second floor balcony was too much but walking around town she noticed homes with this feature and it was very attractive. She also noted the trees in the front of Mr. Wasser's home will block the view from the street; she felt this would be a good addition and would vote for it. Mrs. Laszlo agreed with Mrs. Brisben.

Mrs. Morris was having a difficult time with this, she could appreciate what Mr. Wasser wants to do but she has to take into consideration what is required in town. She does not disagree with someone wanting a porch but she did not want to see one come out into the front yard setback and make more bulk. She asked if the back yard was paved and Mr. Wasser said there are pavers, a deck and a garden area. Mrs. Morris again said she was struggling with the bulk and what this does to the character of

the town, the homes that were mentioned all seem to comply with the 40 foot front setback. Mr. Wasser felt that the home two doors down was within the 40 foot front yard setback. Mrs. Morris did not want to see this discrepancy added to, she said it is a "slippery slope". Mr. Benson felt it was too much for the home and he would like to see it reduced even more than it has been, he would not approve it as is.

Mr. McLaughlin said he has not changed his position since the May hearing. The town puts these Ordinances in place and if the Board keeps allowing changing the setbacks the Board is changing the appearance of the town. Mr. Petronko said he appreciated the work Mr. Wasser did and likes the looks of it, but he felt it should be 5 feet straight out and then steps in between. He would be in favor of this if Mr. Wasser only came out 5 feet and then had two steps; he did not think this was a safe porch as presented this evening. Mr. Wasser asked Mr. Benson if he would be more in favor if this was done and Mr. Benson said he would be more inclined to approve it. Chairman Hall also leaned towards Mr. Petronko's comments and Mr. Petronko then added if it were graded right he would only need 5 feet.

At this time Mr. Wasser asked if he could come back with another set of revised plans. Mr. McLaughlin was against this and did not want to hear this application for a third time. Mr. Wasser said he had asked for input at the May meeting. Mrs. Laszlo agreed with Mr. Wasser, the original plans had a large bump-out and that was taken away; she felt these were different plans and again said she appreciated the time given on this. Mr. Petronko asked if he can just say he will make it 5 feet across but Chairman Hall said that would change the roofline and new plans should be submitted.

Mrs. Morris did not want to dissuade Mr. Wasser but felt he was fighting an uphill battle, to her anyway. Chairman Hall said that the height was an issue as well as having a roof over the porch puts it in lot coverage; he did a porch and he had to do under 16 inches with no roof. He had no problem with Mr. Wasser coming back but told him he may have resistance again. The majority of the Board agreed that Mr. Wasser could come back with revised plans and Mr. Kennedy said it can be carried if the Board wants this. Mr. Wasser said he will be out of the country in September; Mr. Kennedy asked him to waive the time for approval of this application, then it can be carried to perhaps October. The third Wednesday of October would be October 19th.

Mrs. Morris asked if the new Impervious Coverage Ordinance would apply to this but this application was first heard in May before the Ordinance was introduced. Mrs. Laszlo commented that anyone who was not present this evening or at the May hearing can listen to the tape of those meetings and then be able to vote in October; this may be good as there is a small attendance this evening.

A motion was then made to carry this hearing to October 19th, without further notice and Mr. Wasser is waiving the time limit for approval. This motion was made by Mrs. Brisben, seconded by Mrs. Laszlo and approved by voice vote.

OTHER BUSINESS:

The last item for discussion this evening was a matter of the Minor Subdivision deed for 511 Philadelphia Boulevard. Mr. Kennedy said he had received a letter from Keith Henderson stating that they had a buyer for the entire lot and would close on it before the subdivision was perfected; Mr. Kennedy said this is not unusual and he did not have a problem with it. Mr. Henderson will attach a copy of the subdivision Resolution to the deed so the purchaser knows about it. Chairman Hall asked about wording about any moratorium and Mr. Kennedy said that is already in the Resolution as condition "E".

Chairman Hall was concerned as there is an issue with a previous subdivision where a road opening was not done before a moratorium; Mrs. Brisben was aware of this issue, she had spoken to the buyer and explained to him that the moratorium was in both the Engineer's report as well as the enabling Resolution for that subdivision. It is also in the Resolution that was just passed on the O'Neill property on New York Boulevard. Chairman Hall said he is asking the Board Engineer for the cost of doing a road opening during a moratorium and putting it back perfectly.

Mr. McLaughlin noted the term "1031 tax free exchange" in Mr. Henderson's letter and asked for an explanation. Mr. Kennedy said it is a method used when buying a property within a period of time, it is just a method of saving tax obligations.

As there was no other business to come before the Board a motion to adjourn was made by Mrs. Morris, seconded by Mrs. Laszlo and unanimously approved, all aye. The meeting was adjourned at 8:29 p.m.

Approved: September 22, 2016

Wednesday, August 17, 2016

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