

Wednesday, February 15, 2023

SEA GIRT PLANNING/ZONING BOARD  
REGULAR MEETING  
WEDNESDAY, FEBRUARY 15, 2023

The Regular Meeting of the Sea Girt Planning/Zoning Board was held on Wednesday, February 15, 2023 at 7:00 p.m. at the Sea Girt Elementary School on Bell Place as well as being a hybrid meeting.

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.

Kevin Kennedy, Board Attorney, was present and Board Secretary Karen Brisben recorded the Minutes, there were 7 people in the audience; Board Engineer Peter Avakian was absent.

A Salute to the Flag was done, then the following roll call:

Present: Councilwoman Diane Anthony, Karen Brisben, Tom Britt, Jake Casey, Mayor Don Fetzer, Stan Koreyva, Robert Walker, John Ward (attended on Zoom), Norman Hall

Absent: Carla Abrahamson, Eileen Laszlo

Chairperson Hall asked if anyone in the audience or on the Zoom meeting wanted to discuss any item not on the agenda and there was no response; Mrs. Brisben then told the Board she had received information on CAFRA applications, the first one was for 712 Morven Terrace, the minor subdivision the Board approved a few months ago, the developer has applied to CAFRA for construction of two new homes; the second one was a CAFRA application from the Borough to do work on the Sea Girt Beach, cleanup the areas and install a handicapped ramp and other work (by law the Planning Board is notified of these applications).

Chairperson Hall then asked Mr. Kennedy to address the issue of Planning Board members visiting properties to do a site inspection before a hearing. Mr. Kennedy said some members like to do a site inspection as it makes them feel a little more in tune with an application rather than just riding by and looking. We do have the application and plans mailed to members but some like to do an inspection to get the proper perspective and actually look at the property. The question came up as to rules and regulations in doing this and discretion has to be used, there should not be too much of a discussion with the applicants if they are home and they want to engage you in a conversation on what they want to do, this really can't happen as per the Open Public Meetings Act which says that everything the Board does has to be done in public and in a public setting. If a Board member does go to a property they will have to extricate themselves from any long conversation, this also goes for seeing someone at a baseball game or the barber shop who wants to talk about an application, this cannot

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be done. He said to just blame the attorney who said a member can't talk publicly about an application. He also suggested having some form of ID made for the Board members to carry just to be able to identify themselves and to never to go a property with another Board member, this also violates the Open Public Meetings Act as well as speaking to another Board member outside the meeting place. Mr. Kennedy did say, in very rare circumstances, the Board can meet at a site along with the Engineer and gave the example of a large site plan such as a shopping center where the Engineer can explain details. He also said a Board member should not go inside of a home, they may be able to go into a restaurant or something commercial just to see how it is set up but they should try not to do this, this is a practical issue. He noted that some towns have it in their applications that the owners are to allow Board members on their property, Sea Girt does not have this. In closing, Mr. Kennedy said to use discretion, err on the side of caution and to call the Board Attorney, Chairperson or Secretary in case of a problem.

the Board then turned to approval of the Minutes of the January 18, 2023 meeting. Mr. Ward made a comment on the annual meeting notice, he felt it should also have said the June meeting will be virtual as the school is not available and it says there is no meeting scheduled for June. Mrs. Brisben did not find this to be a problem and said, if there is business in June, a notice would have to be sent to the newspapers and she did not feel a second notice needs to be sent at this time. This was acceptable to the Board and a motion was made by Councilwoman Anthony and seconded by Mr. Walker to approve these Minutes, then there was a unanimous vote, all aye.

#### OLD BUSINESS:

The Board then turned to a Resolution for variance relief for Block 15, Lot 2, 1 Beacon Boulevard, owned by Charles & Betsy Miller, to allow construction of a new ½ story addition, this was heard at the January meeting. Mr. Kennedy went over the conditions in the Resolution and said that Mr. Ward had a few changes to the Resolution, he asked for clarification on the front yard setback, change the word "old" home to "older" home, he felt two conditions were repetitive on drainage and grading plans; Mr. Kennedy said if the Board is okay with the changes the Resolution can be adopted.

The following Resolution was then presented for approval:

**WHEREAS**, Charles and Betsy Miller have made Application to the Sea Girt Planning Board for the property designated as Block 15, Lot 2, commonly known as 1 Beacon Boulevard, Sea Girt, New Jersey, within the Borough's District 1, East Single-Family Zone, for the following approval: Bulk Variances associated with a request to effectuate the following:

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- Modification of the existing attic;
- Construction of an addition;
- Installation of an elevator;
- Extension of the roof-line;
- Installation of new windows; and
- Installation of other site improvements (as referenced on the Plans).

#### **PUBLIC HEARING**

**WHEREAS**, the Board held a Public Hearing on January 18, 2023, 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;*
- *Architectural Plans, prepared by Rice and Brown Architects, dated November 10, 2022, consisting of 5 sheets, introduced into Evidence as A-2;*
- *Survey, prepared by Paul K. Lynch, PLS, dated September 10, 2021, introduced into Evidence as A-3;*
- *Leon S. Avakian, Inc. Review Memorandum, dated December 16, 2022, introduced into Evidence as A-4;*
- *Resolution of the Sea Girt Planning Board (regarding the subject property), dated September 21, 1995, introduced into Evidence as A-5;*
- *A copy of the Tax Map, introduced into Evidence as A-6;*
- *Zoning Officer Denial Letter, dated May 11, 2022, introduced into Evidence as A-7;*

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- *A series of photographs of the subject property, collectively introduced into Evidence as A-8;*
- *A series of photographs of the existing property / existing conditions, taken by the Applicants' Architect in January of 2023, collectively introduced into Evidence as A-9;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

**WITNESSES**

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

- Dustin Brown, Architect;
- Mark Aikins, Esq., appearing;

**WHEREAS**, Chris Willms, the Municipal Zoning Officer, was also sworn with regard to any testimony / information he would provide in connection with the subject Application; 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 for a number of years.
- There is an existing single-family home at the site.
- The Applicants live at the site.
- The existing Lot is undersized. (There is a 7,500 SF minimum Lot Area required in the Zone; whereas 5,000 SF exists.)

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- The existing single-family home, which, upon information and belief, was built in the early 1900's, contains 2 ½ stories and 3-bedrooms.
- Because of the unique topography of the existing Lot, the existing home was already elevated.
- There is a need for additional living space at the site.
- Accessing and climbing the stairs is becoming problematic for the Applicants.
- Additionally, currently, there is only a pull-down staircase which will allow one to travel from the existing 2<sup>nd</sup> floor to the existing top-half story.
- The existing pull-down staircase is neither functional, practical, nor aesthetically pleasing.
- Additionally, the existing home is in need of updating, renovation, and improvement.
- As a result of the above, the Applicants propose the effectuate a number of improvements – including, the following:
  - a. Implementation of an attic modification (so that the attic area can be used as a functional sleeping space);
  - b. Construction of an addition;
  - c. Installation of an elevator;
  - d. Extension of the roof-line;
  - e. Installation of new windows; and
  - f. Installation of other site improvements (as referenced in the Plans).
- It is anticipated that the proposed addition will have a neutral seashore / beige / greyish color.
- The proposed material include cedar shingles, azak trim (and other details as identified on the Plans).
- Upon completion of the renovation process, the home will include the following:

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Ground Level

2-Car Garage  
Laundry Room / Mud Room  
Storage Room  
Crawl Space  
Mechanical Room / Elevator

1<sup>st</sup> Floor

Kitchen  
Dining Room  
Powder Room  
Guest Room  
Family Room

2<sup>nd</sup> Floor

Master Bedroom  
Master Bathroom  
Bedroom  
Bathroom  
Uncovered Balcony

Top Half Story

Loft / Den  
Uncovered Balcony  
Bathroom

- It is anticipated that the improvements will be completed in the near future.
- The Applicants will be utilizing Licensed Contractors in connection with the construction / renovation process.

**VARIANCES**

**WHEREAS**, the Application as presented and modified, requires approval for the following Variances:

*FRONT YARD SETBACK: 40 ft. required; whereas 29 ft. proposed;*

*SIDE YARD SETBACK (WEST SIDE): 5 ft. required; whereas 2.87 ft. proposed (and to be continued);*

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*COMBINED SIDE YARD SETBACK: 15 ft. required;  
whereas 11.96 ft. proposed (and to be continued);*

*BUILDING HEIGHT: Maximum 35 ft. allowed;  
whereas 38.4 ft. proposed; (NOTE: The existing structure  
has a non-conforming height of 39.2 ft.)*

### **PUBLIC COMMENTS**

**WHEREAS**, no members of the public expressed any comments, questions, concerns, statements, and / or objections in connection with the Application; and

### **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/granted with conditions**.

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

1. The Sea Girt Planning Board has proper jurisdiction to hear the within matter.
2. The subject property is located at 1 Beacon Boulevard, Sea Girt, New Jersey, within the Borough's District 1, East Single-Family Zone.
3. The subject property contains an existing single-family home.
4. Single-family use is a permitted use in the subject Zone.
5. In order to improve the appearance of the home, in order to increase living space, and in order to make the home more functional, the Applicants propose a number of improvements.
6. The proposed improvements include the following:

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- a. Modification to the existing attic (so that the attic area can be used as a functional sleeping space);
  - b. Construction of an addition;
  - c. Installation of an elevator;
  - d. Extension of the roof-line;
  - e. Installation of new windows; and
  - f. Installation of other site improvements (as referenced on the Plans).
7. Such a proposal requires Bulk Variance approval.
8. The Sea Girt Planning Board is statutorily authorized to grant such relief and therefore, the matter is properly before the said entity.
9. With regard to the Application, and the requested relief, the Board notes the following:
  - Single family use, as proposed / approved / continued herein, is a permitted Use in the subject zone.
  - The existing lot is an undersized lot. Specifically, a Minimum Lot Area of 7,500 SF is required, whereas, the lot which is the subject of the within Application, contains only 5,000 SF.
  - The undersized nature of the lot compromises the ability of the Applicants to comply with all prevailing Bulk requirements.
  - Per the testimony and evidence presented, there is a need for increased living space at the site.
  - Per the testimony and evidence presented, there is a need for the existing old home to be updated / improved.
  - The addition approved herein is essentially located in the core of the existing building.
  - Because the proposed improvement is essentially located in the core of the existing structure, approval of the within Application will not materially change the existing building coverage and / or the existing lot coverage at the site.



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- Approval of the within Application will not materially change the footprint of the existing structure.
- The existing site has a non-conforming building coverage of 37.54% (whereas maximum 20% is otherwise allowed). As indicated, the existing non-conforming lot coverage is an existing condition, which will not be exacerbated by the within Approval.
- The Board notes that the existing impervious coverage at the site is 10.4%, which conforms with the Borough's prevailing Zoning Regulations.
- The testimony and survey revealed that the existing home is not centrally located on the subject lot. Rather, the existing structure is located approximately 2.87 ft. off of the western property line. The half-story modification approved herein will also have a 2.87 ft. western sideyard setback. Under the circumstances, the Board finds that it is appropriate for the half-story modification to mirror the existing western sideyard setback.
- The approval granted herein will not exacerbate the existing side yard setback deficiency; rather, as indicated, approval of the within Application will merely continue the said non-conforming side yard setback condition.
- The existing property has a non-conforming combined sideyard setback of 11.96 ft. (whereas 15 ft. is otherwise required). Approval of the within Application will not change the existing combined non-conforming sideyard setback.
- The Application as presented requires a Height Variance. The Board is aware that a Height Variance for a principal structure can be a Bulk "c" Variance or a Use "d" Variance. Specifically, if the height deviation is greater than 10 ft. or 10%, then, in that event, the Height Variance is classified as a Use "d" Variance. In the alternative, if the height deviation is less than 10 ft and / or less than 10%, then, in that event, the height deviation is classified as a Bulk "c" Variance.
- In the within situation a maximum 35 ft. height is allowed, whereas 38.4 ft. is proposed to the dormer ridge. Because the said height deviation (associated with the within proposal) is less than a 10% deviation, the required height Variance is classified as a Bulk "c" Variance.
- The relevant height calculations pertaining to the Application include the following:

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Maximum Allowed Height in the Zone.....35 ft.

Existing Structure Height.....39.2 ft.

Proposed Height (to the Dormer Ridge)....38.4 ft.

- Per the testimony and evidence presented, and per the prior 1985 Resolution of Approval (regarding the subject property), there is a unique topography associated with the property. Specifically, per the testimony and evidence presented, the existing grade is approximately 4.5 ft – 5 ft. above the crown of the ridge. As a result, the existing home is, essentially, already elevated.
- The Board recognizes that the height approved herein will not exceed the height of the structure which already exists.
- The testimony indicated that currently, there is an unused attic in the home.
- Because there is a need for more space at the site, the Applicants propose to create useable space in the existing unused attic.
- Converting the existing unused attic space (to livable space) is a creative and efficient way to add living space at the site without substantially changing the footprint of the existing structure.
- Currently, there is no full permanent staircase connecting the existing 2<sup>nd</sup> story to the existing top-half story. Rather, such access is only through a temporary pull-down staircase.
- The temporary pull-down staircase is awkward and difficult to maneuver.
- In conjunction with the within Application, the roof line will be raised by approximately 5 ft., which contributes to the need for a Height Variance.
- The Board is aware that the aforesaid slight roof line extension / elevation is the minimum amount necessary to physically accommodate the stairwell access associated with the improved attic space.
- Generally speaking, the raised roof line extension approved herein has a dormer-like appearance.
- The roof line modifications approved herein will follow the natural flow lines of the existing roof.

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- If not for the roof line modification approved herein, the existing structure would have a relatively flat roof, which would compromise the overall aesthetic appeal of the building.
- Though a Height Variance is required, the Applicant herein will still comply with the half-story requirements of the Borough of Sea Girt.
- The aforesaid factors, in addition to all the other Findings set forth herein, contribute to the Board's determination that, subject to the conditions set forth herein, the Height Variance can be granted without causing substantial detriment to the public good.
- Per the testimony and evidence presented, the proposed elevator at the site will improve the ease with which occupants can travel between the various floors of the home.
- When a Height Variance is discussed, the Board Members are typically concerned about the taller than permitted structure having an overbearing presence on the lot and / or in the neighborhood.
- The within Application is no different - and the Board Members, were, legitimately, concerned as to whether the non-conforming height would contribute to an overbearing presence at the site.
- For the reasons set forth on the record and the reasons set forth herein, the Board has determined that the height deviation approved herein will not contribute to an overbearing presence on the property.
- The Board herein finds that the proposed renovations have been designed to minimize the overall mass of the structure. Specifically, there is a physical step-back between the existing 1<sup>st</sup> floor and the existing 2<sup>nd</sup> floor – and there is be a similar step-back between the existing 2<sup>nd</sup> story and the existing top-half story.
- The Applicant's attention to the aforesaid massing concerns, and the Applicant's attempt to minimize the same is a key reason as to why the Board has determined that the Height Variance can be granted without causing substantial detriment to the public good.
- The Board notes, positively, that the Applicants have only proposed to extend the roof line the minimum amount necessary to accommodate the new staircase approved herein.
- The Board appreciates the Applicants' modest design proposal, which was specifically designed to minimize any adverse impact associated with the proposal.

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- The Applicants' desire / goal of only extending the roof line the minimum amount necessary to reasonably accommodate the new staircase limited the nature / extent of any requested Variance relief.
- Additionally, the Board notes that the improvements authorized herein will also allow the Applicants to have a view of the nearby Atlantic Ocean.
- The Board Members are aware of modern design principles which recognize the traditional benefits associated with having a view of the ocean.
- The existing structure currently has a non-conforming front setback of 23.36 ft (whereas a 40 ft front setback is otherwise required). The ½ story modification approved herein will have a non-conforming front setback of only 29 ft. The Board recognizes that the front setback of the top ½ story approved herein is merely a function of the existing non-conforming front deviation.
- The front setback approved herein will be less than the front deviation which currently exists at the site.
- There were no known public objections associated with the Application.
- The Board appreciates that the Applicants' professionals explained, in detail, the exact nature of the Application, the exact nature of the requested relief, and the many reasons justifying the same.
- The Board is aware that approval of the within Application will result in a necessary upgrade of the existing structure at the site.
- The Board finds that approval of the within Application will enhance the overall aesthetic appearance of the property /site.
- Per the extensive testimony and evidence presented, the Board finds that approval of the within Application will improve the overall streetscape.
- The location of the proposed improvement is practical and appropriate.
- The size of the proposed addition is appropriate.
- The location of the proposed addition is practical, and can be constructed without causing a substantial detrimental impact to the public good.

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- Subject to the conditions contained herein, the addition / improvements approved herein will not overpower / overwhelm the subject Lot.
- The addition / improvements authorized herein will not overpower / dwarf other homes in the area – particularly in light of the nature of the surrounding uses.
- The addition / improvements approved herein are attractive and upscale, 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 for the Board – and but for the same, the within Application may not have been approved.
- The proposed improvement approved herein will render the existing structure more functional and more modern.
- The proposed improvement will address the Applicants' functional / space limitations associated with the existing dwelling.
- The subject property can physically accommodate the Applicants' proposal.
- The renovated structure approved herein will not overpower the subject property / neighborhood.
- Approval of the within Application will result in the continued existence (and renovation / improvement) of the home (as opposed to demolition).
- The Board appreciates the benefits of improving / renovating an old structure (so as to avoid demolition).
- Preserving older structures represents a positive, appropriate, and legitimate development goal.
- The renovations to the existing old structure constitute an adaptive re-use of an existing structure.
- Importantly, approval of the within Application, will not trigger the need for any additional Building Coverage deviation (beyond what currently exists).

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- The referenced improvement authorized herein will approve the overall aesthetic appeal of the site.
- The design of the subject addition is attractive and will be architecturally/aesthetically compatible with the neighborhood.
- Per the testimony and evidence presented, and subject to the conditions contained herein, the renovation approved herein will not detrimentally change / affect the grading at the Site.
- The improvements authorized herein are not unduly large.
- The Board is of the belief that the size of the proposed improvement is appropriate for the Site/Lot.
- Approval of the within Application will allow the Applicants to more functionally and comfortably use and enjoy the property.
- The proposed addition / improvements will be architecturally and aesthetically consistent with the existing structure.
- Approval of the within Application will not intensify the existing (and permitted) single-family residential use of the site.
- Sufficiently detailed testimony / plans were represented to the Board.
- The proposed addition / improvements 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 Applicant's inability to comply with all of the specified bulk standards.
- The architectural design of the proposed addition will not be inconsistent with the architectural character of other homes / additions in the area (on similarly situated lots).
- Subject to the conditions set forth herein, the benefits associated with approving the within Application outweigh any detriments associated with the same.
- Subject to the conditions contained herein, approval of the within Application will have no known detrimental impact on adjoining

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property owners and, thus, the Application can be granted without causing substantial detriment to the public good.

- The improvement to be constructed herein will not be inconsistent with other improvements located within the Borough.
- Approval of the within application will promote various purposes of the Municipal Land Use Law; specifically, the same will provide a desirable visual environment through creative development techniques.
- The Application as presented satisfies the Statutory Requirements of N.J.S.A. 40:55D-70(c) (Bulk Variances).

Based upon the above, and for the other reasons set forth herein, and during the Public Hearing process, the Board is of the unanimous opinion that the requested relief can be granted without causing substantial detriment to the public good.

### **CONDITIONS**

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

- a. The 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 December 16, 2022 Review Memorandum of Leon S. Avakian, Inc. (A-4).
- c. The Applicants shall comply with all Affordable Housing Contributions / Directives / Requirements as required by the State of New Jersey, C.O.A.H., the Court System, the Borough of Sea Girt, and any other Agency having jurisdiction over the matter.
- d. The Applicants shall cause the Plans to be revised so as to portray and confirm the following:
  - Inclusion of a note confirming that the Applicants shall comply with the Borough's Prevailing Half-Story Ordinance Requirements;

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- e. The Zoning Officer / Board Engineer shall confirm the 332 SF finished attic calculations (as discussed during the Public Hearing process).
- f. The terms and conditions of the 1995 Resolution of Conditional Approval (regarding the subject property) (unless obviated herein) shall remain in full force and effect.
- g. The Applicants shall submit 5 sets of the revised Plans to the Board Secretary.
- h. The Applicants shall arrange for the Architectural Plans to be signed and sealed.
- i. If requested by the Board Engineer, the Applicants shall submit a Grading Plan, which shall be approved by the Board Engineer.
- j. The Applicants shall manage storm water run-off during and after construction (in addition to any other prevailing / applicable requirements/obligations.)
- k. 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
- l. If applicable, the proposed structure shall comply with applicable Provisions of the Americans with Disabilities Act.
- m. 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.
- n. 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.
- o. 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.



- p. 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. Additionally, to the extent the Application is materially modified as a result of the aforesaid outside approvals, then, in that event, the Applicant shall be required to reappear before the Planning Board, for further relief.
- q. The Applicants shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- r. If required by the Board / Borough Engineer, the Applicants shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.
- s. Unless otherwise agreed by the Planning Board, the approval shall be deemed abandoned, unless, within 24 months from adoption of the within Resolution, the Applicants obtain a Building Permit (if necessary) for the construction / development approved herein.
- t. **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. If conditions at the site are materially different than what was presented to the Board, or different from what was otherwise known, or in the event post-approval conditions are different than what was anticipated, the Applicants' representatives are not permitted to unilaterally deviate, or build beyond, what is approved herein. For example, if the testimony/plans provide that an existing building / structure is to remain, the same cannot be unilaterally demolished / destroyed (without formal Board/Borough consent), regardless of the many fine construction reasons for doing so. That is, the basis for the Board's decision to grant Zoning relief may be impacted by any change of conditions. As a result, Applicants and their representatives are not to assume that any post-approval deviations can be effectuated. To the contrary, post-approval deviations can and will cause problems. Specifically, any post-approval unilateral action, inconsistent with the testimony / plans presented / approved, which does not have advanced Borough/Board approval, will compromise the 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**

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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 3<sup>rd</sup> 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 structural design of the proposed improvement, or for any damage which may be caused by the development / renovation / construction.

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FOR THE APPLICATION: Carla Abrahamson, Councilwoman Diane Anthony, Karen  
Brisben, Jake Casey, Mayor Don Fetzer, Norman Hall, Eileen  
Laszlo, Robert Walker, John Ward

AGAINST THE APPLICATION: None

NOT ELIGIBLE TO VOTE: Tom Britt, Stan Koreyva (Alternate Members)

The foregoing Resolution was offered by Mr. Ward, seconded by Mayor Fetzer and  
adopted by Roll Call Vote:

AYES: Councilwoman Diane Anthony, Karen Brisben, Tom Britt, Jake Casey, Mayor  
Don Fetzer, Stan Koreyva, Robert Walker, John Ward, Norman Hall

OPPOSED: None

ABSENT: Carla Abrahamson, Eileen Laszlo

Before continuing on, Mr. Ward asked about confirmations the Board was to  
receive concerning issues with 106 New York Boulevard that the Board approved last  
month; he wanted to know about getting written comments from the Board Engineer and  
Zoning Officer, they were to meet and discuss this. Mrs. Brisben said she would reach  
out to them and ask for a report through an email.

#### NEW BUSINESS:

The Board then turned to an application for variance relief for Block 65, Lot 7,  
415 Chicago Boulevard, owned by Thomas & Deborah Cusimano, to allow a generator  
in a Front Yard Setback. Exterior Mechanical Equipment to be in rear yard or on top of  
principal or accessory building, generator proposed in front yard along Fifth Avenue  
(corner property). Existing Non-Conformities: Lot Depth – 150 feet required, 100 feet  
existing. Building Coverage – 20% maximum allowed, 20.3% existing (no change to  
coverage proposed). Front Yard Setback – 40 feet required, 12 feet existing &  
proposed (Fifth Avenue). Side Setback – minimum 7.5 feet on one side, north side  
setback is 5 feet existing & 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 asked if  
anyone in the audience had any issues with the notice received and there was no  
response. Mr. Kennedy said he and Mrs. Brisben had looked over the notices and  
found everything in order and, therefore, the Board has the jurisdiction to proceed with  
this application.

Mr. Kennedy then marked the following exhibits:

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- A-1. The application packet.
- A-2. Zoning Officer letter of denial dated 8/14/2022.
- A-3. Site Plan, one sheet, dated 12/9/22.
- A-4. Survey, dated 6/17/21, done by Morgan Surveying & Engineering.
- A-5. Board Engineer Peter Avakian review dated 1/17/23.
- A-6. Series of pictures of the property, collectively marked as A, B, C, D, E, F & G.

At this time Deborah Cusimano came forward, an owner of the property, and Chris Shaffer who owns Aquatech Mechanical Plumbing & Electrical, LLC, licensed in NJ and NY and whose address is 2556 Arthur Kill Road in Staten Island, NY 10309. Mr. Kennedy asked him if he was an Electrician and he said he was an apprentice Electrician and there is a Licensed Electrician in his company; both witnesses were then sworn in.

Mrs. Cusimano was first to speak and said she and her husband have owned the home since June of 2021 and they live there. They want to put this generator in due to their experience with Hurricane Sandy, they were without power at their previous home because of this Hurricane and they want to do this, they do not have much of a back yard and not a lot of open space. Mr. Shaffer then spoke and said they contacted him over a year ago, he did not realize the restrictions in Sea Girt and that there is not adequate area in the back yard for a generator, so they are asking for a variance to put this on the Fifth Avenue side of the home which is considered a front yard as it is a corner lot. It is a Generac Generator and will run 5 minutes per week for testing, these are seen all over New Jersey; it will make noise when there is a blackout but it is quieter than a portable generator. He had a large copy of the plans and showed where the generator will be on Fifth Avenue by the gas meter and electric meter, there is no room in the small back yard for installation guidelines; it needs to be 18 inches from the home and needs 36 inch clearance from the generator and, along with size of the generator, the total needed is 7 feet and there is not 7 feet in the back yard.

He then showed pictures of the back yard and said that, although there is not a fence on the property line, if the neighbor were to put one up there would be no way to access the generator if it were in this location and it would be a fire hazard. He commented that the home may have been built before a lot of laws were written as it is nonconforming now and this is way they are putting the generator in the location proposed.

At this time Chairperson Hall asked if any Board member had questions and Mr. Casey asked if the area behind the house can be called a side yard and the generator be put on the Trex decking. Mr. Shaffer said he had not explored putting the generator on the Trex decking, the generator has to be 3 feet from structures so they would have to remove part of the decking. Mr. Casey did agree there is a problem with frontages as this is a corner lot with 2 fronts and 2 sides according to the old code, now the short side of the lot is the front side and this home was maybe built under the old codes. He

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then asked if there were any variances requested on this home in the past and Chairperson Hall said no, there were two homes built here with no variances.

Councilwoman Anthony asked to look at the photos of the back side and Mr. Shaffer showed her where the property line is, she then asked if there is any consideration to a smaller generator and the answer was no, none would qualify without a need for a variance. There is one that is a little smaller and is only slightly less wide and would still need 7 feet clearance and this one would not work for a whole house; the generator proposed will get the job done. Mr. Walker asked where the air conditioning units are and Mrs. Cusimano said they are behind the house facing the neighbor's driveway. Mr. Shaffer said condensers do not have the same requirements as a generator. Councilwoman Anthony asked about one of the photos shown, Mr. Shaffer said that is the back of the garage and he was not sure what kind of roof extension it is, but it is a free standing garage and not attached to the house.

Councilwoman Anthony then said that she noticed, on the Fifth Avenue side, the landscape wall and some of the landscaping appears to be on Borough property (Mr. Ward and Mr. Casey had noticed this as well). As there were no variances when this home was built and now there is this wall, she asked Mrs. Cusimano if she was willing to bring this encroachment up to code. Mrs. Cusimano said the wall was there when they purchased the property, a stone wall, it goes out and then curves back in; Mr. Casey said it comes to maybe about 3 feet. Chairman Hall felt this should not be addressed and the application should stay as presented and Mrs. Cusimano was confused over moving this back; Mayor Fetzer commented it is shown on the survey as well. Councilwoman Anthony said this is not the only home that has encroachment onto Borough property and she showed a picture she had taken with her phone to the other Board members, she just felt this was an opportunity to bring this home more in tune. She again asked Mrs. Cusimano if she would consider moving this wall further east closer to the home and Chairman Hall intervened and said he would not have it moved. Mr. Ward spoke and agreed with Councilwoman Anthony as it is over the line.

Mr. Shaffer felt this is a separate issue and is not part of the generator application and should be addressed on its own application and noted Mr. Cusimano is not present this evening to speak on this; Mrs. Cusimano said 3 feet is a lot and it looks nice, she doesn't want to do it but does want the generator. Chairman Hall said if the wall were taken down all the landscaping in this area would be taken down as well and he again said he was not for doing this, some other Board members agreed with him. Mayor Fetzer did not feel the Board should be negotiating with the applicant and cautioned the Board on this. Mr. Ward added that this is another nonconformity to be added on, the Engineer should have picket this up in his report.

Mr. Casey said he went online and saw the home that was there before this one and it looked like that wall was further in, he felt perhaps a variance was granted for this wall that is there now. Mr. Britt asked if the Board moves forward with this or does the applicant go back and revise the application. Mrs. Cusimano was asked when the home was built and she said 2006, Mayor Fetzer suggested checking the files to see if

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a variance was granted; Mrs. Cusimano said she wanted to go forward with the application presented this evening. Mayor Fetzer asked Mr. Shaffer is there was any problem, if the wall were moved back, with putting the generator in as proposed and Mr. Shaffer said there would still be enough room as long as the landscaping was kept at 3 feet.

Mrs. Brisben apologized to the Board for not looking up in the file if there were any variance requests in the past and wanted to know if this should be carried or go forward, she asked Mr. Kennedy for direction. Mr. Kennedy did not feel this Board has the jurisdiction to address the issue of a nonconformity but he could put in the Resolution this was discussed but the Board cannot legitimize it, this is on the Borough right-of-way. He did suggest Mrs. Brisben look in the file as it is possible an easement was granted to allow this; again he said the Board cannot grant a variance, the Borough has to do this if they so choose and he also suggested seeing if there is another survey that may shed light on this. Mr. Koreyva spoke and agreed with Mr. Kennedy, he felt the application should go forward as presented and let the Borough deal with the wall in the Borough right-of-way; let the Board just address the generator. Chairman Hall noted it was asked if they would remove the wall and the Board cannot ask that. Mr. Shaffer agreed and asked that the application move forward as suggested.

Mr. Kennedy said it can be adjourned until more information is found on the wall or the Board can go forward with the application, he again said this is a Borough issue, either get more information or vote as presented. After further discussion, Chairman Hall asked if anyone from the audience had any comments and Lisa Luke of 410 Chicago Boulevard came forward and was sworn in. She and her husband live across the street from this property and have no problem in the generator location being proposed. As no one online had any comments to make, that portion of the hearing was closed and the Board went into discussion.

Mr. Casey felt there was a limited choice for the generator but there are a number of nonconformities which is why this wall has become an issue; it appears that the only new nonconformity is for the generator, all the rest were there when the home was purchased. He understood not wanting to move the generator into the deck area. Mr. Walker felt this is two separate issues; he looked at the property and was in favor of this application as presented. Mr. Britt felt this was a unique lot and he could understand the location of the generator, these encroachments are all over town and if the town is looking to fix this it should be done separately and he was in favor of the application. Mayor Fetzer was also in favor but was not in favor of the encroachment, the Borough should be made aware of it but he was okay with the generator. Mr. Koreyva was also in favor and agreed with Mr. Britt's comments that the Borough should deal with the wall separately. Mrs. Brisben was in agreement with what was said and said there is a lot of landscaping there; she did not feel it would even be seen from the street. Councilwoman Anthony commented this home is not unique and the Borough is trying to address problems with encroachments in the Borough. While she was for approval for the generator, she felt the need to be more diligent in looking at the codes. Mr. Ward appreciated Mr. Kennedy's remarks and agreed that this is something

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out there that the town should be addressing as it is out of the Board's jurisdiction, he was for the application with the caveat that the town should look into this. Chairman Hall was also in favor of the application as presented.

A motion was then made by Mr. Koreyva to approve the application as presented, this seconded by Mr. Walker. Mr. Kennedy then went over the conditions that will be noted in the Resolution: Compliance with all the testimony and comments made this evening, 24 month time frame to receive building permits, maintaining landscaping around the generator, compliance with building & construction code, compliance with the Leon S. Avakian Engineering report, disclosure concerning the wall that encroaches and the Borough may have an issue with it. It was also decided that Mr. Kennedy should write to the Borough Administrator regarding this encroachment.

Mrs. Brisben also asked about the extra photos that Mr. Shaffer had presented to the Board, should they be marked as exhibits? Mr. Kennedy said yes and they were marked as Exhibit A-7, A, B, C & D taken by Mrs. Cusimano approximately 3 days ago.

The vote on the above application was then approved by the following roll call vote:

Ayes: Councilwoman Diane Anthony, Karen Brisben, Tom Britt, Jake Casey, Mayor Don Fetzer, Stan Koreyva, Robert Walker, John Ward, Norman Hall

Noes: None

#### OTHER BUSINESS:

Mr. Casey then came forward to address the Board with an Ordinance Committee Report. He wanted to cover 4 things, the first is an update on the Tree Preservation which was posted on the Sea Girt website after the 2/8 Council meeting. He outlined the 4 changes made to this: 1) tree removal fees changed after discussions with the Borough Administrator and Mr. Willms, 2) tree inventory being taken, 3) stump removal & time management for inspection 4) upfront escrow fees, thought to be too onerous regarding fees paid before the work done, fees to be paid before a Certificate of Occupancy or Temporary Certificate of Occupancy is issued. He reminded the Board this is a Council and not a Land Use Ordinance, Chapter 19, Council asked the Board to look into this. Mayor Fetzer and Councilwoman Anthony thanked Mr. Casey for doing all this work and Councilwoman Anthony wanted to know if #4, the upfront escrow, is the one that is the biggest issue; Mr. Casey said yes, that is the one that he feels most strongly about. Mr. Britt, also on the Committee, did not have strong feelings on this, he felt the financials are being handled and whatever is best for management for Mr. Willms & Mr. Gant is what should be done.

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Mr. Casey also wanted to thank Mike Meixsell for all his hard work on this, it was time consuming and he did a great job. Mr. Casey then commented that Mr. Willms had told him it is difficult to collect fees after the work is done and this was one of the

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reasons it was felt the escrow fees should be paid up front and Mayor Fetzer did say there was discussion on this topic and there will be a public hearing on March 8<sup>th</sup> on this. Mr. Casey said he was not complaining about this, he just wanted to bring up the 4 points as they were changed from what was presented to the Planning Board.

Mr. Casey then spoke about Elevated Mechanicals. The information the Planning Board had at the November meeting were sent to Mr. Willms in December, and in January Mr. Willms came back with some notes for changes, those changes were brought back to the Board at the January meeting and they were approved, Mr. Casey did not have the write-up back as yet and will work on this to get the Ordinance changed.

On the half-story issue, it was also discussed at the November Board meeting and it went back to Mr. Willms and the Committee; it was decided that there was too much going on in definitions and he would like to see it split up with separate items for pitch, half-story, dormer, decorative structures. Mr. Willms felt it would be easier to enforce if they were separated out into 4 definitions; so it is back to the drawing board. The Board had suggested some rewriting as well and it is all being worked on with options on how to do this. He reminded the Board that nothing changes without Planning Board approval, then Mr. Willms & Mr. Avakian get the writing done properly.

Mr. Casey then went over the handout given to the Board (attached at the end of these Minutes), this on Basements under Accessory Structures. He read the first paragraph "the current language of the Ordinance does not match the then intent of the Sea Girt Planning Board. The Zoning/Code Enforcement Officer can't enforce the Board's intent with vague Ordinance language". The Committee has some alternative Ordinance language which is outlined in the handout. Mr. Casey then referred to Section 17-5.1, b.4 which speaks of "basement areas below accessory and/or garage structures are limited to use as storage space only; garage basement dwelling units are not permitted. Accessory and/or garage structures constructed with basement areas shall be included in the lot coverage calculation." He said this was supposed to say "building" coverage and not "lot" coverage as building coverage means not going over 20% but lot coverage means not going over 35%. Mr. Casey said the reason this came into play back in about 2018 was due to the flooding problems within the Borough and a report was done with a suggestion regarding basements & pools being made at least two feet higher than the mean high water line; he felt this part of the Ordinance was poorly written and should say "building" coverage. He said this has become an issue with all the new building being done in town.

The next issue was regarding 17-5.1c, which Mr. Casey addressed by stating he was not sure all understand what an Accessory Structure is supposed to be and read from part of this section – "Such additional accessory building shall be limited in use to a changing room, a bathroom, a storage shed, a pool equipment shed, or a combination thereof. The accessory building shall not be heated, shall not have any cooking facilities and shall not be used for any other activity of daily living except as set forth herein." Mr. Casey said this was created so pool equipment, patio equipment, etc. can



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be kept in a nice place and have a clean back yard with a quality building. However, it has morphed into basements under these structures and mechanical equipment on top and he said it is amazing how it's changed.

He then read part of 17-5.2e – "Bottom elevation of the basement or cellar shall not be less than two feet above the seasonal high groundwater elevation, as defined by January 1 through April 1 of each year." Mr. Casey did not know when basements under these structures came into being, Chairman Hall thought maybe 10 years ago.

Mr. Casey then spoke of the options discussed by the Ordinance Committee. He read from the handout:

1. Count 1 or both accessory structure basements as part of 20% building coverage (initial Planning board intent) versus current 35 % impervious coverage.
2. Allow 1 basement either under garage or additional accessory structure.
3. Allow 1 accessory structure basement and count a 2<sup>nd</sup> again 20% building coverage.
4. Allow only basic slab and any necessary footings under accessory structures.

He went back to Hurricane Sandy and said it was realized that something needed to be done to minimize the effects of a storm like this. One thing is that sea levels are rising and that is going against Sea Girt, also many homes have been built since Sandy that have more underground work; if there were another storm like this the flooding will be worse. Mr. Casey also told the Board the way the Ordinance is written now an accessory structure does not have access to the garage, but these basements are heated, used as man caves attached to garages with doors and not to code, they are supposed to be storage space. He had suggested language for Ordinance 1705.1,b.4: "Accessory and/or garage structures constructed with basement areas shall be included in the impervious coverage calculation. Basement areas are subject to a maximum height of 5 feet from the finished floor level to the ceiling or bottom of the floor above support rafters." They will check with Peter Avakian and/or Chris Willms for the right technical wording.

At this time Mr. Casey asked if anyone had any comments and Mayor Fetzer commended the Committee, they did a lot of work for a difficult situation. It was asked if Mr. Casey had any figures on the number of basements that are being constructed or have been and Mr. Casey did not have the numbers, he wished he had. Mr. Britt commented that most new homes now have storage under the garage, prior to Sandy it was a rarity; Mr. Casey said that David Hyde was the first one to do this. Mayor Fetzer noted that if a lot of new homes are doing this and if the Ordinance is changed this will create a lot of nonconforming uses, he was trying to get his head around this. Mr. Casey looked at this a little differently; he felt there was value in saying construction two feet above sea level is planning ahead and the more basements are the more flooding but Mayor Fetzer was concerned about creating a whole set of variances for those who

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do have this and Mr. Casey said he will try to get some numbers of those that have basements underground.

Mr. Ward then spoke and gave his opinion that these new homes may already be maxed out as far as building and there may not be a need for them to ask for new variances. Mr. Walker asked how these basements are accessed and Mr. Casey said it is from the structure they are under, not from the house, but that is not what they are seeing today. Mayor Fetzer asked if there should be no more outdoor stairways and it should all be internal or what? Mr. Britt said he has a bilco door on his accessory structure where he houses his pool equipment. He was in favor of it as long as there is no encroachment and it goes towards the maximum coverage. Mr. Casey reminded all that the way the Ordinance is written now it is applied to the 35% impervious coverage and not the 20% building coverage. There was further conversation on the usage of these and the coverage type and Mr. Casey felt some editing has to be done, there are interesting interpretations on what is being built today.

Mr. Britt felt there is not a possible way to write an Ordinance that can't be interpreted any other way; the spirit of the intent can mean plans have a way of getting around an Ordinance, it can be read in different ways, it will never be successful in finding all the loopholes. Councilwoman Anthony remembered when this Ordinance was first made, the intention was to create storage and no one saw what it was going to turn into; she has not actually seen any, other than David Hyde's, and she was in agreement with Mayor Fetzer on the number and what they look like. She asked if there is a way to check on these properties a year or so after they are done and see what is there, Mayor Fetzer noted this would be a staff problem to have someone able to take the time to do this. Councilwoman Anthony felt that this Ordinance Review Committee is very helpful in finding out the changes that need to be made.

Mr. Casey said he needed a vote tonight on the changes proposed on page 2 of his handout regarding the Ordinance language change. Mr. Casey then polled each Board member and received a "yes" from all of them, basement area height of 5 feet, this applies to impervious coverage and the wording to be confirmed by the Board Engineer and Zoning/Code Enforcement Officer. This was all Mr. Casey had for tonight and anticipated having another report in March.

On another matter, Mr. Ward wanted to know what was going on with the wind turbines projected for the ocean, the Board had talked about it and he wanted to know what the Board's position is, Mrs. Brisben told all that this was discussed a meeting or two ago and she was under the impression she was to write to the BOEM representatives stating the Planning Board was against this wind turbine project and she did do that. Mayor Fetzer added that the Council had also written on this matter, objecting as well. Mr. Ward felt this should be on the website and Mayor Fetzer did not see a reason not to do this and said it will be done. Councilwoman Anthony said the improvements to the Tree Ordinance will be on as well.

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As there was no other business to come before the Board, a motion to adjourn was made by Mr. Koreyva, seconded by Mayor Fetzer and approved unanimously, all aye. The meeting was adjourned at 8:50 p.m.

Approved: March 15, 2023

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Karen S. Brisben, Board Secretary

## Basement Under Accessory Structures

### Issue:

The current language of the Ordinance does not match the then intent of the Sea Girt Planning Board (SGPB). Zoning/Code Enforcement officer can't enforce SGPB intent with vague ordinance language.

Alternative ordinance language suggested by the SGORC is below:

### Current Language:

#### **§ 17-5.1 Accessory Buildings and Structures in Residence Districts.**

##### **17-5.1, b.4:**

Basement areas below accessory and/or garage structures are limited to use as storage space only; garage basement dwelling units are not permitted. Accessory and/or garage structures constructed with basement areas shall be included in the lot coverage calculation.

##### **17-5.1 c.:**

Additional Accessory Buildings. In addition to the garage as set forth in paragraph b above, each single-family dwelling may have one additional accessory building of no more than 120 square feet and no higher than eight feet in wall height, with a maximum 9/12 pitched roof. The additional accessory building may be freestanding or attached to, but shall not access, either the garage or the principal building. If attached to the principal building the additional accessory building shall not be included as part of the principal building's lot coverage pursuant to subsection 17-5.3, Building Coverage. Such additional accessory building shall be limited in use to a changing room, a bathroom, a storage shed, a pool equipment shed, or a combination thereof. The accessory building shall not be heated, shall not have any cooking facilities, and shall not be used for any other activity of daily living except as set forth herein.

#### **§ 17-5.2 Basement Beneath an Accessory or Principal Structure.**

##### **17-5.2 e.:**

Bottom elevation of the basement or cellar shall not be less than two feet above the seasonal high groundwater elevation, as defined by January 1 through April 1 of each year.

### Options discussed by SGORC:

1. Count 1 or both accessory structure basements as part of 20% Building coverage (initial PB intent) versus current 35% Impervious coverage.
2. Allow 1 basement: either under Garage or the additional Accessory structure.
3. Allow 1 accessory structure basement and count a 2<sup>nd</sup> against 20% building coverage.
4. Allow only basic slab and any necessary footings under accessory structures.

### Suggested Ordinance Language for 17-5.1, b.4:

Basement areas below accessory and/or garage structures are limited to use as storage space only; garage basement dwelling units are not permitted. Accessory and/or garage structures constructed with basement areas shall be included in the impervious lot coverage calculation. Basement areas are subject to a maximum height of 5 feet from the finished floor level to the ceiling or bottom of the floor above support rafters.

### Background:

A few years ago, the SGPB adopted a new rule that required basements/storage areas under a garage or accessory structure to be included with the allowable 20% "Building lot coverage". After an SGBP vote agreeing to this new ordinance concept, we agreed to have the then current Sea Girt mayor work with the Sea Girt Boro experts to create the language of the new ordinance and submit to Sea Girt Council. The Ordinance language chosen was "Lot coverage". The problem is this chosen term is vague as it can be interpreted as either Building lot coverage or Impervious lot coverage. It was intended to be Building coverage, hence part of the 20% calculation. However, it was actually incorrectly interpreted to be part of 35 % Impervious coverage

Hurricane Sandy raised the water table in town and the Mayor had a water table study conducted to consider options to help protect the town. The improperly worded ordinance for garage substructures along with, at the time, new ordinances for basement floors and pool depths required to be 2 feet above seasonal high based upon soil bore samples were part of the suggested options and crafted at roughly the same time, post Sandy.

The reason this is important had to do with the amount of sub structures being built into the ground potentially raising the water table in town for all residents. This new ordinance was intended to protect the town while allowing homeowners to choose how they used their 20% building coverage allowance.

Issue:

The current language of the Ordinance does not match the then intent of the Sea Girt Planning Board (SGPB). Zoning/Code Enforcement officer can't enforce SGPB intent with vague ordinance language.

Alternative ordinance language suggested by the SGORC is below:

Current Language:

**§ 17-5.1 Accessory Buildings and Structures in Residence Districts.**

17-5.1, b.4:

Basement areas below accessory and/or garage structures are limited to use as storage space only; garage basement dwelling units are not permitted. Accessory and/or garage structures constructed with basement areas shall be included in the lot coverage calculation.

17-5.1 c.:

Additional Accessory Buildings. In addition to the garage as set forth in paragraph b above, each single-family dwelling may have one additional accessory building of no more than 120 square feet and no higher than eight feet in wall height, with a maximum 9/12 pitched roof. The additional accessory building may be freestanding or attached to, but shall not access, either the garage or the principal building. If attached to the principal building the additional accessory building shall not be included as part of the principal building's lot coverage pursuant to subsection **17-5.3, Building Coverage**. Such additional accessory building shall be limited in use to a changing room, a bathroom, a storage shed, a pool equipment shed, or a combination thereof. The accessory building shall not be heated, shall not have any cooking facilities, and shall not be used for any other activity of daily living except as set forth herein.

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