

SEA GIRT PLANNING/ZONING BOARD  
REGULAR MEETING  
WEDNESDAY, FEBRUARY 21, 2024

A Regular Meeting of the Sea Girt Planning/Zoning Board was held on Wednesday, February 21, 2024 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 this hearing. Kevin Kennedy, Board Attorney, was present as well as Zoning Officer Chris Willms and Board Secretary Karen Brisben recorded the Minutes, there were 7 people in the audience and 2 on the Zoom meeting; Board Engineer Samuel Avakian was absent.

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

Present: Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Don Fetzer, Stan Koreyva, Eileen Laszlo, Robert Walker, John Ward, Norman Hall (Note: John Ward attended on the Zoom meeting)

Absent: Carla Abrahamson, Tom Britt

As there was no one in an online audience or in live attendance to discuss any item not on the agenda the Board turned to approval of the Minutes of the January 17, 2024 meeting. As there were no changes to be considered, a motion for approval was made by Mrs. Laszlo, seconded by Councilwoman Anthony and unanimously approved, all aye.

Before starting the meeting, Mr. Kennedy made an announcement to the audience that the hearing scheduled for this evening for 105 Stockton Boulevard, owned by Richard & Geraldine Venino, was being postponed, by the applicant, to the Wednesday, March 20<sup>th</sup> meeting of the Board and there will be no further announcement or newspaper notice on this. A motion to approve this postponement was made by Councilwoman Anthony, seconded by Chairman Hall and unanimously approved, all aye.

**NEW BUSINESS:**

The Board turned to an application for variance relief for Block 7, Lot 5.01, 714 Morven Terrace, owned by 714 Morven Terrace, LLC (Braeden and Emma Tkachuk), to allow construction of a new dwelling with an integrated garage. Integrated Garage – shall be set back from the building line of the principal dwelling by a minimum of 5 feet, 1 foot proposed. Side Setback – 10 feet required, 6.08 feet proposed.

Taxes are paid to date and the property owners within 200 feet, as well as the newspaper, were properly notified and no one in the audience had a problem with the notice they received so Mr. Kennedy said this Board has the jurisdiction to hear this matter.

Mr. Kennedy then marked the following Exhibits:

- A-1. The application package.
- A-2. The application checklist.
- A-3. Letter of Denial from Zoning Officer Chris Willms dated Dec. 28, 2023.
- A-4. Plot plan consisting of one sheet prepared by Ray Carpenter of R.C. Associates Consulting, Inc., dated Dec. 27, 2023 with the latest revisions dated January 3, 2024.
- A-5. Boundary and topographic survey consisting of one sheet prepared by William Doolittle of Lindstrom, Diessner & Carr, dated Jan. 11, 2024.
- A-6. Architectural plan consisting of two sheets prepared by Christopher Rice of Rice & Brown Architects, dated Jan. 2, 2024.
- A-7. Engineering report from Engineer Samuel Avakian of Leon S. Avakian, Inc. dated Feb. 5, 2024.

At this time Mr. Kennedy swore in Zoning Officer Chris Willms as he will be taking part in this application. Mr. Mark Aikins, Esq. came forward to present this and explained to all that this is an application for construction on an unimproved lot that mirrors the 712 Morven Terrace application the Board heard a few months ago, this property is next door to that one; however, this proposed dwelling will have a finished basement so there is a need for a window well, below grade, which encroaches in the side yard.

The professionals for this application then came forward to be sworn in, William Merunka, Engineer & Planner and Dustin Brown, Architect. Mr. Brown submitted Exhibit A-8, a colored 3D rendering of the proposed residence, this done by Rice & Brown Architects and is not dated but is part of the application package, just done in color. He did mention that the clients cannot be here tonight due to one of the clients' occupation but everyone should be familiar with this location, 714 Morven Terrace and there are requirements that they have to contend with as it is on the beach; they have the town requirements, DEP and CAFRA so they are locked into a tight footprint. The garage was to be in the rear yard but this is not permitted by CAFRA and Sea Girt requires a garage on the property so it is best to have an integrated garage. One of the things they had to contend with is the 5-foot setback in the front of the home which is in the Zoning Ordinance and this eats into the livable space of the home so they have the garage doors set back 1 ½ feet instead of 5 feet and this is like what was approved next door at 712 Morven Terrace. This will give a little change to the line of the home so it will not be straight across and will work here.

Mr. Brown continued on and said that one note from Mr. Avakian was on the parking in the garage with regards to the steps that come in from the house to the garage and how that may impact the parking; they came up with a solution where they can push those steps a little further into the living space and this will give full access to a 9x18 foot full parking spot. Mr. Brown noted they do have a full basement and there is a bedroom in the basement so they need to have egress here and they are putting in a window well on the south side of the property. There is concern that, during construction, there could be a problem as this is close to the neighbor; in this case the window well is to be 6 feet from the property line and the adjoining structure is another 5

feet away so they don't see any issue with a safety concern there. The other concern would be the ability of a first responder to access that side of the house but they feel there is plenty of room to get by and the window well will be surrounding by a grade level grate which is permitted by building code and is better safety-wise for getting out as well as being less intrusive visibly and gives a clear path. Mr. Aikins asked if this will be visible from the street and Mr. Brown said no.

Mr. Aikins had a copy of the CAFRA permit and it was marked as Exhibit A-9, it is dated March 1, 2023. Mr. Aikin said this relates to the placement and the ability to determine the size of the structure and this had a major impact on the design of this home. Mr. Brown agreed and said that CAFRA had determined the information on the previous structure which means they can not move more forward towards the water and it also limits how far south they can go as well, they have to keep in the same footprint and this affects the side yard setbacks also. The home that is being presented this evening complies with the CAFRA requirements.

Mr. Aikin then turned back to Mr. Avakian's letter and spoke of the Flood Zone, the easterly side of the property is in the Flood Zone but where the house is to be located is not in the Flood Zone, it is in Zone X, these comments made in reference to page 3, item 2B. Mr. Aikins was going to have the Engineer/Planner go through the rest of the Board Engineer's report and, at this time, Mr. Brown was done testifying.

At this time Mr. William Merunka, Licensed Engineer & Planner, came forward to give his testimony. He showed, in Exhibit A-4, the line behind the proposed home that is the Flood Zone line, the home is in front of it so is not in the Flood Zone. He said he looked at the other homes on Morven Terrace and also commented on the next door home, 712 Morven Terrace that was approved for the same garage location, so they feel they comply with what is on this block. In regards to the window well, there is 6 feet on their side yard and there will be 11 feet between the proposed window well and the neighboring home on that side, no fencing; the rest of that side will be open and will comply with the Zoning. He felt the proposed home compares with the others on this block as far as size and square footage. Speaking of the Flexible C variance requirements, there is no detriment to the neighborhood, they are not blocking air and light and open space, the positive criteria has been achieved.

As Mr. Merunka was done with his testimony, the Board had questions for him and Mr. Brown. Mr. Casey asked about the high-water table and Mr. Merunka said there is a depression on the whole lot where the original house was demolished but once that is filled in it will be at elevation 15 on the property, they will be matching the adjacent lot where the other new home is to be built. Mr. Casey asked about the level of the basement and was told it will be at elevation 7.1 feet which is 2 feet above the seasonal high-water table. Councilwoman Anthony asked what will be in the basement and Mr. Merunka said there will be a bedroom, bathroom and large workout area. On a question about the steps, Mr. Brown said the stairs will be pushed back and there will be a legal space of 9 feet x 18 feet in the garage and there will be living space below the garage. Mr. Casey asked about the square footage of the garage, Mr. Willms said 275 square feet is the normal size and Mr. Brown calculated 294 square feet for the

exterior square footage. Mr. Aikins said this information can be added to the plans if desired by the Board and Mr. Casey said that would be helpful. Mr. Casey also mentioned that there is no comment on the ½ story and he asked about this, Mr. Aikins said there is no variance requested for this, it will comply with the Zoning Ordinance and they will provide the calculations on the plans.

Mayor Fetzer noted on the plan there is to be an elevated driveway with a retaining wall and asked how high that will be, Mr. Merunka said it will be about a foot and will match the driveway. Right now there is a big hole in the ground and they are going to work with Mr. Avakian's office to get everything graded back to the natural grade and will match the new home to the north. Mayor Fetzer then asked about they will be handling the drainage on either side of the driveway, Mr. Merunka said the drainage will go towards the street. Mayor Fetzer noted in the Engineer's report that he was concerned with the information on the drywell, the number of gallons should be revised from 1,100 gallons to 1,464 gallons. Mr. Merunka noted the error and said the number of gallons will be 1,496 gallons and they will correct this on the plans. Mrs. Laszlo asked about the height of the window well and was told by Mr. Brown it will be 8 inches with landscaping. Mr. Ward commented on one thing that was brought up in the testimony, the bottom of the basement will be two feet above the high-water line and this is not in the Engineer's letter or on the plan and, in the future, it should be shown and confirmed by the Board Engineer.

As there were no other Board questions the hearing was opened to the public for questions and Steven Toma of 720 Morven Terrace came forward and was sworn in. He wanted to know the height from the basement floor to the garage and Mr. Brown said it will be 8.6 feet from the basement slab to the garage slab. As there were no more questions that portion of the hearing was closed and the Board gave their comments.

Mr. Casey appreciated the consistency of the plans in being relatively similar with the one for 712 Morven Terrace but he was not excited about the egress in the right-of-way and noted this proposed home is significantly larger than the average home and, with the size of the lot he felt the egress can be made to fit in the setback for the basement bedroom. Councilwoman Anthony appreciated the fact that they did come close to the previous application heard for 712 Morven Terrace in regards to the front yard setback. She also appreciated what they were able to do with the egress and have 11 feet between their home and the neighbors to help the first responders utilize this area. She felt they did a great job working with the design and CAFRA guidelines and restrictions and she liked what they did with the plan. Mr. Walker felt this was a unique lot and had no problem with the application, he felt it will be a beautiful home. Mayor Fetzer noted they worked with what they had and did a good job but was concerned with the grading, he hoped it would be strong enough to carry emergency responders, he didn't want to see them go in and then go down in the sand by the window well. Mr. Brown assured him the grate will be strong enough for people to walk over, they have done this before in this area and he was confident there won't be a problem. Mr. Koreyva felt it was a great presentation with a nice looking house and had no other comments. Mrs. Laszlo echoed Mr. Koreyva's comments and questioned Mr. Avakian's thoughts on the stairs to the garage. Mr. Aikins said they are revising the plans to fix

the stairs so they do not impede into the garage and parking space. Mrs. Brisben had no additional comments, she felt everything was covered but she will need 5 sets of revised plans, she was for approval of the application as presented. Mr. Ward also had no problem with the application and appreciated what they did in a challenging space; Chairman Hall had no further comments.

The meeting was opened to the public for comments and there was no response, so Mr. Kennedy went over the conditions of approval: compliance with all the testimony given, compliance with the Board Engineer's report, plans revised to confirm the drywell's details to conform with the Zoning standards, proper gallons of 1,496 to be shown on plan, drywell installed and maintained according to manufacturer's specifications, grading and drainage details to be reviewed and approved by the Board Engineer, compliance with the DEP and CAFRA regulations, 5 copies of revised plans to be submitted, compliance with FEMA or Affordable Housing requirements, management of stormwater runoff during and after construction, obtaining all necessary permits and approvals, if the variance relief changes the applicant will come back before the Board, the approval is valid for 24 months, what is approved is what must be built, steps recessed further into the living space from the garage to accommodate a 9x18 foot parking space in the 294 square foot garage, grade coordination with the Borough Engineer for the space between the neighboring homes, square footage of garage put in the revised plans, also confirmation the ½ story calculations are in compliance with Zoning and to be confirmed by Board Engineer, drainage will be towards the street, planting and maintain landscaping, verification of seasonal high-water table calculations relative to the basement, grate on window well access be sturdy enough to be stood on or walked over without collapsing. Mr. Aikins was in agreement with these conditions.

At this time a motion to approve the application, as presented with the conditions outlined by Mr. Kennedy, was made by Mrs. Brisben, seconded by Councilwoman Anthony and then by the following roll call vote:

Ayes: Councilwoman Diane Anthony, Karen Brisben, Mayor Don Fetzer, Stan Koreyva, Eileen Laszlo, Robert Walker, John Ward, Norman Hall

Noes: Jake Casey

After the vote was taken, Mr. Ward just asked for confirmation that the Resolution will say that the drywell will be maintained as well as installed and Mr. Kennedy agreed that will be in the Resolution.

#### OTHER BUSINESS:

Mr. Kennedy asked to speak to the Board briefly and told them about the DEP notice received about the Atlantic Offshore wind turbines off the Sea Girt coast with a 15 day timeframe for a response and Mr. Kennedy wanted to send a letter, on behalf of the Board, speaking against this project, he needed Board approval to do this. A motion was then made by Mrs. Laszlo, seconded by Mayor Fetzer, authorizing him to do so. This was then approved by the following roll call vote:

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

Noes: None

Comments were made by the Board on the excellent letter Mr. Kennedy had written and thanked him for doing this.

The Board then turned to a review on Fair Share Implementing Ordinances introduced at the Council meeting of February 7, 2024. Before starting, Mr. Ward said he attended the Council meeting on this and the presentation made by the attorney was very thorough and really didn't leave much in the way of options; at the end of the day we have to do this, at least until 2025.

Mr. Kennedy explained these are the proposed Zoning Ordinances to be adopted by Council after Planning Board review that decides if they are consistent with the Master Plan and a lot of people were involved in this; the Borough Attorney, the Affordable Housing Attorney, Jennifer Beahm who is the Borough Planner and Peter Avakian's office as well as Council and having Mayor Fetzer and Councilwoman Anthony here tonight is a plus as well. Even if the Planning Board does not want these adopted, Council can still do it with a super majority vote for approval.

These Zoning Ordinances were introduced at the Feb. 7<sup>th</sup> meeting of Council and will be up for public hearing at the March 13<sup>th</sup> Council meeting. This is all part of the Affordable Housing litigation that was instigated a few years ago where the Borough and Planning Board were named as the Defendants in a Builder's Remedy lawsuit; the Borough & Planning Board filed an answer, the Fair Share Housing Entity got involved (which is standard) and a settlement agreement was reached by all parties and the Court approved this; this includes everything that the Board is doing tonight, the creation of the proposed Zoning Ordinances. He reminded the Board they adopted the Fair Share Housing Element which is also part of this, for low and moderate income housing.

The first Ordinance, #02-2024, is establishing a mandatory set-aside for residential development. If there are 5 or more units proposed, 20% of them must be set aside for affordable housing and the developer has to comply with the UHAC (uniform Housing Affordability Controls) which are State requirements on the unit size, etc. They must have the same general layout as the market rate units and be treated the same way.

Ordinance #03-2024 creates an Affordable Housing Overlay Zone on Route 71, also known as Seventh Avenue, to address the Borough's unmet need. Ordinance #04-2024 does the same thing, but in the Borough's Commercial District. Ordinance #05-2024 authorizes the Borough of Sea Girt to implement the Borough's third round housing and Fair Share plan putting the State regulations into the Borough's Zoning Code and definitions of what is required. There is also an enforcement clause so the Borough can make sure the Developer follows the regulations. The last Ordinance is

06-2024 which creates an Affordable Housing Development Fee, these are fees that the Developer pays and this Ordinance outlines the requirements and exceptions. Also, the Construction Office needs to be notified that this particular development is taking place; the Tax Assessor is also notified. 100% of the fee is due prior to the issuance of a Certificate of Occupancy and this also creates an Affordable Housing Trust Fund.

The next item in the packet is a Resolution authorizing the Affirmative Housing Plan, this is just a Resolution, not an Ordinance, so there is no need to comment on this but it basically says where the Affordable Housing will be located, where this will be posted and what newspapers will be utilized, the whole process. There is also another Resolution endorsing the Housing Element Plan that the Planning Board already adopted in November.

Mr. Kennedy was done and said he did not find anything irregular or out of bounds or unusual, he did speak with Jennifer Beahm and she confirmed this is all standard and the town needs to go through this for the Fair Share Housing, this is Court mandated. Mr. Kennedy added that, even though Sea Girt is small and will probably not see any large development, the town needs to have all this in place, this is not optional. He gave an example of a developer coming in and buying 5 lots, side by side, and then have a major development.

Mr. Kennedy reminded the Board about when this first all started, back in 2020, and the Board met in Executive Session and talked about Mt. Laurel and Affordable Housing which started in 1976 and then had several changes over the years, the Council on Affordable Housing really doesn't even exist anymore, it's been taken over by the Courts and we are now dealing with the 2024 version of what needs to be done and how to do it, it is the law to create affordable housing for low and moderate income families.

The Board now has to decide if these Ordinance are consistent or inconsistent with the Master Plan and address to Council any other concerns in this regard. As Council will be adopting these Ordinances before the next Planning Board meeting, he asked that this be adopted this evening and then he will write to Council letting them know of the Board's decision in this matter; this is so they can get this in time for their next meeting, which is scheduled for March 13<sup>th</sup> and the Board will not be meeting again until March 20<sup>th</sup>. This can be part of the motion, authorizing Mr. Kennedy to write to Council.

There was then a brief discussion on the overlay zones, Mayor Fetzer stating that the State wanted to include the beach and parks in this, it was very messy and they worked it out not to include these but they did add the DPW yard to the overlay zone, they finally got a Court Master involved to finalize things. He thanked Mr. Kennedy for explaining all this, it was not an easy road to get to this but he felt the Borough did well here and added it is just not feasible to have affordable housing in the beach area, they put the Affordable Housing overlay in the Commercial Zone and along Route 71.

Mr. Kennedy again brought up the need for a motion to approve these, either take each one individually or all as one and Mr. Ward felt the Board should consider all

these as one and have one vote. Mr. Kennedy noted the 5 Zoning Ordinances, #02-2024, #03-2024, #04-2024, #05-2024, #06-2024 and asked for a motion to approve these, as presented and for him to write to Council letting them know that the Planning Board approved these. Councilwoman Anthony asked if she and the Mayor are eligible to vote on this and the answer was yes.

Mr. Ward made a motion to approve the Resolutions as presented and to authorize Mr. Kennedy to write to Council on behalf of the Board, this seconded by Mr. Casey and then by the following roll call vote:

Ayes: Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Don Fetzler, Stan Koreyva, Eileen Laszlo, Robert Walker, John Ward, Norman Hall

Noes: None

The last item on the agenda was a discussion on the Ordinance Review Committee and Chairperson Jake Casey said he had contacted the Acting Borough Administrator, Justin Macko, and traded emails on the Ordinance Review Committee and they are to meet next week to get him up to speed on the pending Ordinance changes. Chairperson Hall asked to be included in that meeting and Mr. Casey will let him know the date and time. Mr. Casey said Administrator Macko wants to go over the proposed Ordinance changes one at a time so get a proper understanding of this. Mr. Casey also said the Ordinance Review Committee hasn't met since October and is looking towards a plan of action to get things going again, they are planning to start meeting again in March.

Before adjourning, Mrs. Laszlo mentioned that she would like to have Mr. Chris Rice, Architect, speak to the Board on his take on open front porches and options, this to be done at the March 20<sup>th</sup> meeting as there is only one application to be heard. Mrs. Laszlo asked that this be done first before the application as that hearing may take some time. Mrs. Brisben asked that it be kept to ½ hour so the application can be heard in a timely manner.

A motion to adjourn was then made by Mayor Fetzler, seconded by Mr. Walker and unanimously approved, all aye. The meeting was adjourned at approximately 8:30 p.m.

Approved: March 20, 2024

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Karen S. Brisben, Secretary