

Wednesday, May 18, 2022

SEA GIRT PLANNING/ZONING BOARD  
REGULAR MEETING  
WEDNESDAY, MAY 18, 2022

The Regular Meeting of the Sea Girt Planning Board was held on Wednesday, May 18, 2022 at 7:00 p.m. virtually. In compliance with the Open Public Meetings Act, notice of this Body's meeting had been sent to the official newspapers of the Board and the Borough Clerk, fixing the time and place of all hearings. Kevin Kennedy, Board Attorney, Peter Avakian, Board Engineer were also present and Board Secretary Karen Brisben recorded the Minutes.

Mr. Kennedy made the announcement that the notice for this Board meeting did have the login information posted and, therefore, this is a lawfully held meeting where the public can participate. Mrs. Brisben gave her email, [kbrisben@seagirtboro.com](mailto:kbrisben@seagirtboro.com) if someone was having a problem logging on.

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

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

Absent: Carla Abrahamson, Jake Casey

Chairman Hall wanted all to know that the Planning/Zoning Board will be going fully live in July, at the elementary school, it will not be a hybrid meeting. He was not sure how to respond to someone who would not be able to attend but felt the Board had until July to work this out; it was time to go back to being live and people being able to see each other. He also wanted the professionals who are presenting the application this evening know that they have one hour to present their case. At the end of the hour is when public comments, Board discussion, etc. will take place.

Chairman Hall then opened the meeting to anyone in the audience who wanted to present a question or comment on any matter other than the application this evening or future applications; he asked if anyone wanted to speak to raise their virtual hand; there was no response.

CORRESPONDENCE:

The Board received a copy of a Notice to the DEP from the Borough of Sea Girt for removal of invasive and non-native plant species from Sea Girt Beach Dunes and planting native dune & maritime forest vegetation. Mr. Avakian, Borough and Board Engineer, was the one who sent the letter and commented on it, he said the work has been done, and the report process is being completed.

OLD BUSINESS:

The Board then turned to the approval of a Resolution for Block 76, Lot 1 & 2, Block 77, Lot 16 & 17, 500, 501 & 503 Washington Boulevard and 905 Fifth Avenue, owned by William Sitar properties, Preliminary and Final Site Plan approval.

Mr. Kennedy started by stating he had a lot of help in doing this Resolution, a lot of professionals were involved, including the applicant's attorney, Mr. Ken Pape. He then went over the major changes: the Mayor had pointed out that Mr. Kennedy had said the demolition of the existing structures would be done and he suggested saying the building on one parcel will not be demolished right away, the Board Engineer gave Mr. Kennedy a breakdown of the apartments on the northern parcel for the Resolution as well as the southern parcel, they plan on starting construction on the northern parcel within a year and then occupancy would be done, this after all plans are approved by all agencies. He then continued with the Resolution wording and mentioned, on page 12, he had received all the landscaping details; also, the Borough's Affordable Housing Attorney suggested wording stating the approval granted herein is consistent with the terms of the Settlement Agreement with the Borough. Mr. Pape, the applicant's attorney, suggested taking out the usual paragraph they have about benefits outweighing detriments, etc. as that applies more to a variance application. He also added comments on a charging system and drainage and the municipal water/sewer would provide an adequate system for this site and eliminated the reference to using a well. One more condition that was added, and spoken to with everyone, was that the northern building will contain the 3 affordable housing units so it will be constructed first and Certificates of Occupancy will be issued before the southern building. This being put in to make the affordable housing units in as per the Settlement Agreement between the Borough and the Sitar Companies. Mr. Kennedy then referenced Title 39 and explained to the Board that this is to allow police to go onto a private parking area to do enforcement, if needed, and Mr. Avakian said this is typically applied to a Site Plan and can be in the Resolution to protect the interests of the Borough, this has to be approved by the Council first and can then be applied to this Resolution. The final change regarded the Developer's Agreement with the Borough and Mr. Pape, the applicant's attorney, did not feel wording on this was necessary as there already is a Settlement Agreement but Mr. Kennedy and the Affordable Housing Attorney, Mr. Bayer, felt it should stay in the Resolution, he wanted it in there in case the Borough finds issues with the building as this is such a big project.

Chairman Hall just wanted to make sure that this is meeting the mandate of the Court and Mr. Kennedy said yes it was and this is why he wanted the input from all the professionals involved, including the applicant's attorney. Mayor Fetzer felt the Board was following the lead from the Affordable Housing Attorney, Andy Bayer, and all was in good shape. He also thanked Mr. Kennedy for adding the need for fencing as he felt it would help with car headlights not going into the neighbor's yards at night.

The following Resolution was then presented for approval:

**WHEREAS**, representatives of Sitco Sea Girt, LLC (collectively hereafter referred to as the “Applicant”) have made Application to the Sea Girt Planning Board for the following properties:

- 501 / 503 Washington Boulevard, Sea Girt, New Jersey  
Block 76, Lots 1 and 2
- 500 Washington Boulevard / 905 Fifth Avenue, Sea Girt, New Jersey  
Block 77, Lots 16 and 17

within the Borough’s Affordable Housing Zone, for the following approval:

- Preliminary and Final Site Plan Approval to effectuate the following:
  - Demolition of the existing structures and associated site improvements on the subject properties (except the existing Sitar Commercial Building on the northern parcel, which will remain);
  - Construction of a 3-story Residential Building (containing 10 Units), with associated off-street parking on the southern property (referred to as the “Southern” parcel or “Southern project”); and
  - Construction of a 3-story Mixed Use Building (containing 9 units and 2,276 SF of office/retail space), with off-street parking on the northern property (referred to as the “Northern” parcel or “Northern project”).

### **PUBLIC HEARING**

**WHEREAS**, the Board held a remote Public Hearing on April 20, 2022, Applicant’s representatives having filed proper Proof of Service and Publication in accordance with Statutory and Ordinance Requirements; and

### **EVIDENCE / EXHIBITS**

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

- *Planning Board Application, introduced into Evidence as A-1;*

- *Site Plan, prepared by Dynamic Engineering, dated November 24, 2021, last revised April 8, 2022, consisting of 15 sheets, introduced into Evidence as A-2;*
- *Architectural Plans, prepared by Thomas J. Brennan, Architects, dated December 12, 2021, last revised April 8, 2022, introduced into Evidence as A-3;*
- *A Boundary and Topographic Survey, prepared by Dynamic Survey, LLC, dated September 3, 2021, introduced into Evidence as A-4;*
- *A Stormwater Management, Ground Water Recharge, and Water Quality Analysis, prepared by Dynamic Engineering, dated November 2021, introduced into Evidence as A-5;*
- *Traffic Impact and Parking Assessment, prepared by Dynamic Traffic, dated December 3, 2021, consisting of 6 sheets, introduced into Evidence as A-6;*
- *Review Memorandum from Leon S. Avakian, Inc., dated March 11, 2022, introduced into Evidence as A-7;*
- *Supplemental Review Letter, prepared by Leon S. Avakian, Inc., dated April 19, 2022, introduced into Evidence as A-8;*
- *Communication from the Monmouth County Planning Board, referencing an action taken (and a request for additional information), dated January 24, 2022, introduced into Evidence as A-9;*
- *Memorandum from the Municipal Fire Prevention Bureau / Fire Chief, dated March 9, 2022, introduced into Evidence as A-10;*
- *Memorandum from the Municipal Police Department, undated, introduced into Evidence as A-11;*
- *Aerial Map Exhibit, prepared by Dynamic Engineering, dated April 18, 2022, introduced into Evidence as A-12;*
- *Illustrated Site Plan Rendering, prepared by Dynamic Engineering, dated April 18, 2022, introduced into Evidence as A-13;*
- *Illustrated Aerial Overlay, prepared by Dynamic Engineering, dated April 18, 2022, introduced into Evidence as A-14;*

- *Illustrated Rendering (northern side of building), prepared by Thomas J. Brennan, Architect, dated December 20, 2021, introduced into Evidence as A-15;*
- *Illustrated Rendering (southern side of building), prepared by Thomas J. Brennan, Architect, dated December 20, 2021, introduced into Evidence as A-16;*
- *Illustrated Rendering (southern building), prepared by Thomas J. Brennan, Architect, dated April 8, 2022, introduced into Evidence as A-17;*
- *Floor Plans for the northern building, prepared by Thomas J. Brennan, Architect, introduced into Evidence as A-18;*
- *Affidavit of Service;*
- *Affidavit of Publication.*

**WITNESSES**

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

- Douglas Hanley, Professional Engineer;
- Justin Taylor, Traffic Engineer;
- Thomas J. Brennan, Architect;
- William Joseph Sitar, Principal of the Corporate Applicant;

**WHEREBY**, the following Municipal witnesses were also sworn with regard to any testimony / information they would provide in connection with the subject Application:

- Peter R. Avakian, P.E., Planning Board Engineer;
- Jennifer Beahm, Professional Planner; and
- Chris Willms, Zoning Officer; and

**TESTIMONY AND EVIDENCE PRESENTED BY THE APPLICANT'S**  
**REPRESENTATIVES**

**WHEREAS**, testimony and other evidence presented by the Applicant's representatives revealed the following:

- The Applicant, or agents thereof, are the owners of the subject parcels.
- The properties are identified as follows:
  - Block 76, Lots 1 & 2 (Northern parcel)
  - Block 77 Lots 16 & 17 (Southern parcel)
- The subject properties are located on the northwest corner and the southwest corner of the Washington Boulevard and Fifth Avenue Sea Girt intersections.
- The subject properties are currently occupied by several uses which include office space, an ice cream shop, a single family home, and 3 apartments.
- The Applicant's Representatives propose the following:
  - Demolition of the existing structures and associated site improvements on the subject properties (except the existing Sitar Commercial Building on the northern parcel, which will remain);
  - Construction of a 3-story Residential Building (containing 10 Units), with off-street parking on the southern property (referred to as the "Southern" parcel or "Southern project"); and
  - Construction of a 3-story Mixed Use Building (containing 9 units and 2,276 SF of office/retail space), with off-street parking on the northern property (referred to as the "Northern" parcel or "Northern project").
- Details pertaining to the proposal (the Northern and Southern parcels) include the following:

**Northern Parcel**

Street address	501 Washington Boulevard 503 Washington Boulevard
Lot Designation	Block 76, Lots 1 & 2
Size (acres)	0.38 acres
Size (SF)	16,500 SF
Existing use	The Girt commercial building and Sitar Real Estate Company
Proposed Use	Mixed use development, consisting of 9 residential apartments (for rent) and 2,276 SF of office/retail space. The 9 proposed residential units will include 1 1-bedroom unit, and 8 2-bedroom units.
# of Affordable Housing Units	3
Non-residential details	2,276 SF of office/retail space
Site Improvements	Parking, landscaping, sidewalk, etc.
Height	43.90 ft
# of stories	3
Floor Plan details	Per Plans
Materials	Per Plans
Required off street parking spaces	16
Off Street parking spaces provided	17
Order of Construction	The Northern parcel will be constructed before the Southern Parcel
Anticipated demolition schedule:	Approximately Fall of 2023
Anticipated construction commencement timeframe:	Within 12-months of approval, subject to receipt of outside approvals and permits.
Anticipated occupancy:	12-months after the commencement of construction

### Southern Parcel

Street address	500 Washington Boulevard 905 Fifth Ave.
Lot Designation	Block 77, Lots 16 and 17
Size (acres)	0.37 acres
Size (SF)	16,000 SF
Existing use	The Surfside frozen custard shop and a single family home
Proposed use	10 residential apartments (for rent) The 10 proposed residential units will include 2 1-bedroom units, and 8 2-bedroom units.
# of Affordable Housing units	0
Non-residential details	There is only residential use proposed for the Southern parcel
Site Improvements	Parking, landscaping, and sidewalks, etc.
Height	38.25 Ft
# of Stories	3
Materials	Per Plans
Required Off Street parking spaces	17
Off Street parking spaces provided	17
Order of Construction:	The Northern parcel will be built before the Southern parcel
Anticipated Demolition Schedule:	Approximately Fall of 2023
Anticipated Construction commencement timeframe:	Approximately 1 year after the commencement of the construction of the Northern parcel.
Anticipated occupancy:	Approximately 12-months after commencement of construction.

### **VARIANCES**



**WHEREAS**, the Application as submitted and amended does not require approval for any Variances;

### **PUBLIC COMMENTS**

**WHEREAS**, sworn public questions, comments, statements, and / or objections in connection with the Application were presented by the following:

- Pat Raffetto;
- Alan Zakin; and
- Sean Fresco

### **FINDINGS OF FACT**

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

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

1. The Sea Girt Planning Board has proper jurisdiction to hear the within matter.
2. The subject properties are identified as follows:  
  
Block 76, Lots 1 and 2  
  
Block 77, Lots 16 and 17.
3. The subject properties are located in the Borough of Sea Girt, and the same are located in the Borough's Affordable Housing Zone.
4. The Applicant's representatives are proposing to effectuate the following:
  - Demolition of the existing structures and associated site improvements on the subject properties (except

the existing Sitar Commercial Building on the Northern parcel, which will remain);

- Construction of a 3-story Residential Building (containing 10 Units), with off-street parking on the southern property (referred to as the “Southern” parcel or “Southern project”); and
- Construction of a 3-story Mixed Use Building (containing 9 units and 2,276 SF of office/retail space), with off-street parking on the northern property (referred to as the “Northern” parcel or “Northern project”).

5. Such a proposal requires Preliminary and Final Site Plan Approval.

6. The Sea Girt Planning Board is statutorily authorized to grant the requested relief and therefore, the matter is properly before the said entity.

7. With regard to the Application, and the requested relief, the Board notes the following:

- The within application arises from a lawsuit entitled 501 Washington Blvd, LLC 503 Washington Blvd, LLC, Sitco Sea Girt, LLC, and Sea Girt Fifth Avenue, LLC vs the Borough of Sea Girt, Borough Council of Sea Girt, and the Sea Girt Planning Board, Docket No. MON-L- 102-20 (and associated Docket No. MON-L-2312-20).
- The aforesaid lawsuit is generally referred to a “Builder’s Remedy” lawsuit.
- The subject lawsuit has been conditionally settled, and the subject Settlement Agreement is incorporated herein at length.
- The subject Settlement Agreement provides for the construction, in the aggregate (i.e. the combined development sites) of 19 residential apartments and two offices. (3 of the aforesaid 19 residential apartments will be dedicated/deed restricted for affordable housing units.)
- Pursuant to the subject Settlement Agreement, the Borough’s zoning ordinances have been amended.

- As referenced, the Applicant's representatives propose the following:
  - Demolition of the existing structures and associated site improvements on the subject properties (except the existing Sitar Commercial Building on the Northern parcel, which will remain);
  - Construction of a 3-story Residential Building (containing 10 Units), with off-street parking on the southern property (referred to as the "Southern" parcel or "Southern project"); and
  - Construction of a 3-story Mixed Use Building (containing 9 units), with off-street parking on the northern property ( and 2,276 SF of office/retail space) referred to as the "Northern" parcel or "Northern project").
- As referenced, the Applicant's proposal is broken down into a "Northern parcel" and a " Southern parcel."
- The within application has been designed and proposed in accordance with the parameters and the terms of the subject Settlement Agreement and the associated zoning ordinances.
- The subject proposal is a conforming proposal, in that there are no variances required.
- The Northern parcel aspect of the project requires 16 off-street parking spaces, calculated as follows:

Residential:	1.7 sp. Per unit X 9 units:	16
Commercial:	0 SF X 2,276 SF	0
Total Park. Spaces Req.		16

- There are 17 off-street parking spaces proposed for the Northern parcel, as follows:

Standard parking spaces:	13
Handicapped Accessible park. Spaces:	1
Make-shift Ready Elec. Vehicle Spaces:	3
Total Park. Spaces Req.	17

- Thus, as referenced above, 16 off-street parking spaces are required for the Northern parcel and 17 such spaces are provided, which conforms with (and even exceeds) the prevailing requirements.
- The Southern parcel aspect of the project requires 17 off-street parking spaces, calculated as follows:

Residential:	1.7 sp. Per unit X 10 units:	17
Commercial:	0 SF X 0 SF	0
Total Park. Spaces Req.		17

- There are 17 off-street parking spaces proposed for the Southern parcel, as follows:

Standard parking spaces:	12
Handicapped Accessible park. Spaces:	1
Make-shift Ready Elec. Vehicle Spaces:	4
Total Park. Spaces Req.	17

- Thus, as referenced above, 17 off-street parking spaces are required for the Southern parcel and 17 such spaces are provided, which conforms with the prevailing requirements.
- The existence of sufficient parking is of the utmost importance to the Board, and but for the same, the within application may not have been approved.
- The Applicant's proposed plan, as amended, provides parking spaces which conform with the size requirements as established in the prevailing regulations.
- In conjunction with the application, the Applicant's representatives submitted a Traffic Impact and Parking Assessment Report which was marked into the record as A-6.
- The said Traffic Impact and Parking Assessment Report is incorporated herein at length.
- Per the submitted traffic documentation, the proposed project is anticipated to generate the following:

- 2 additional entering trips and 6 additional exiting trips during the weekday am peak hour
  - 6 additional entering trips and 4 additional exiting trips during the weekday evening peak hour; and
  - 4 additional entering trips and 4 additional exiting trips during the Saturday midday peak hour.
- Per the testimony / evidence presented, access to the site will be provided via two new full movement driveways along Fifth Avenue, with one driveway providing access to the northern and southern portions of the site, respectively.
  - Per the traffic testimony and evidence presented, the driveways and internal circulation patterns have been designed to provide for a safe and efficient movement of the anticipated vehicles.
  - Per the traffic testimony and evidence presented, the proposed parking supply and design satisfy the prevailing requirements, and the same are sufficient to support the projected demand.
  - Subject to the conditions contained herein, the proposed parking is safe and efficient.
  - The conclusion of the Traffic Impact and Parking Assessment report is as follows:

*Based upon our Traffic Assessment as detailed in the body of this report, it is the professional opinion of Dynamic Traffic that the adjacent street system will not experience any significant degradation in operating conditions with the redevelopment of the site. The site driveways are located to provide safe and efficient access to the adjacent roadway system and the site plan provides adequate parking to accommodate the project's needs.*

The Board accepts the aforementioned traffic conclusion.

- The proposed signage at the site complies with the prevailing regulations as well.
- The project is increasing the amount of impervious coverage on site, by more than ¼ of an acre. As such, the project qualifies as a major development. The Board notes that the project has been designed to meet the goal of maintaining natural hydrology, so as to reduce stormwater runoff volume, encourage infiltration and groundwater recharge, and so as to reduce pollution.

- Per the testimony and evidence presented, the Applicant's representatives have designed the stormwater management system so as to address the prevailing stormwater management requirements.
- The Applicant is proposing a pervious paving system which qualifies as a green infrastructure improvement, in accordance with prevailing guidelines.
- Pursuant to prevailing guidelines, any lighting used to illuminate an off-street parking area shall be arranged so that the light is directed or otherwise reflected away from any residential premises and/or public streets. Subject to the conditions contained herein, the subject project has been designed to comply with the said requirements.
- The architectural elements of the project (including the clapboard material and the balconies) reflect an overall design /look which is in keeping with the Borough of Sea Girt.
- The proposed landscaping has been designed, and will be placed, so as to hide/camouflage the proposed parking areas.
- As a condition of the within approval, proposed landscaping will be perpetually replaced/replanted, as necessary, so that the benefits associated with the proposal are permanent in nature.
- The Board finds that the architectural design/look of the project will be beneficial for the Borough of Sea Girt.
- Subject to the conditions contained herein, approval of the application will not have a substantial impact on the public good.
- Per the testimony and evidence presented, the sites will be landscaped with 501 total plantings, consisting of the following:
  - 15 Shade Trees / Ornamental Trees
  - 265 Evergreens / Deciduous Trees
  - 105 Perennials
  - 58 Ground Covers
- The extensive landscaping is necessary and appropriate
- The extensive landscaping will soften the appearance of the conforming proposal.

- As a condition of the within approval, the said landscaping will be perpetually replanted/replaced, as necessary, so that the referenced benefits will be long lasting.
- One purpose of the New Jersey Municipal Land Use Law encourages the approval of projects which promote or facilitate the free flow of traffic. Towards that end, the Board finds that the Applicant's parking area / proposal will advance such a purpose.
- The Approval granted herein is consistent with the terms of the previously referenced Settlement Agreement.
- Once purpose of the Municipal Land Use Law is, essentially, to encourage the creation of desirable visual environments through creative development techniques – and approval of the within Application will advance such a goal.
- 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 (and in conjunction with any requested Design Waivers, Submission Waivers, and noted conditions) satisfies the Site Plan Requirements of the Borough of Sea Girt.

Based upon the above, and for the other reasons discussed during the Public Hearing Process, the Board has unanimously determined that the Application can be granted without causing substantial detriment to the public good.

### **CONDITIONS**

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

- a. The Applicant's representatives shall comply with all promises, commitments, and representations made at or during the Public Hearing Process.
- b. The Applicant's representatives shall comply with the terms and conditions of the Leon S. Avakian, Inc. Engineering Review

Memorandum, dated March 11, 2022 (A-7) and revised, Supplemental Engineering Memorandum, dated April 19, 22 (A-8).

- c. The Applicant's representatives shall cause the Plans to be revised so as to portray and confirm the following:
- Confirmation that development approved herein complies with the previously executed Settlement Agreement and the prevailing zoning regulations.
  - Confirmation that there shall be no interference with the sight triangle requirements.
  - Confirmation that the utilities at the sites shall be placed underground.
  - Confirmation that 2 make ready electrical charging stations shall be placed on site (one on the Northern parcel and one on the Southern parcel, per the approved Plans).
  - Confirmation that garbage at the site shall be collected in accordance with Borough Policies / Procedures.
  - Confirmation that there shall be a parking space exclusively dedicated for each residential apartment.
  - Confirmation that the fire department connection and fire access shall be placed on the Eastern side of each proposed structure, per the Fire Prevention Memorandum, dated 3-9-22 (A-10).
  - Confirmation that all affordable housing units will comply with Prevailing State / UHAC Regulations.
  - Confirmation that the setbacks for all Affordable Housing units shall comply with the Prevailing Setback Requirements.
  - Confirmation that the office/retail use at the site shall comply with the Settlement Agreement and Prevailing Zoning Ordinances.
  - Confirmation that a knox box shall be placed on the buildings and gates.



- Confirmation that the FDC connections/details shall comply with all prevailing regulations (including, but not limited to, NFPA 13R and NFPA 13).
- Confirmation that, per the Fire Prevention Memo (A-10), a class 1 standpipe shall be installed on the second floor lobby of both buildings (for fire department use.)
- Confirmation that the Green Infrastructure details shall comply with Prevailing Requirements.
- Confirmation that the apartments approved hereunder shall be for rent / lease.
- Confirmation that the stockpile height shall not exceed the prevailing requirement of the Freehold Soil Conservation District, and any other Agency having jurisdiction over the matter.
- Confirmation that a 6 foot solid vinyl fence (and landscaping) shall be placed along the western, southern, northern, and rear property lines of the building on the Southern parcel.
- Confirmation that the fences at the sites shall comply with all Prevailing Zoning Regulations.
- The inclusion of an additional / supplemental landscape buffering details, as identified in the Board Engineer's review memorandum.
- Confirmation that there shall be no adverse light spillover onto adjacent residential uses (including headlight spillage, etc.).
- Confirmation that a professional management company shall be retained to run/administer the two buildings. (The Board acknowledges that the Applicant may use its own Property Management Company.)
- Confirmation that the use of the parking gates shall be limited to the residential tenants.

- Confirmation that the dwelling units approved hereunder shall, in accordance with the Settlement Agreement, be restricted to rental units.
  - Confirmation that the exterior lights as the site shall be placed on a timer and that the same shall only be on from dusk to dawn.
- d. The Northern parcel (containing the Affordable Housing Units) shall be constructed and Certificates of Occupancy issued before any Certificates of Occupancy are issued for the Southern parcel / project.
- e. Grading / drainage details shall be reviewed and approved by the Board Engineer.
- f. The Affordable Housing Units shall be appropriately deed restricted, in the manner set forth in the Settlement Agreement, zoning Ordinance, or otherwise required per New Jersey Law.
- g. The Affordable Housing Units shall be appropriately occupied/verified in accordance with prevailing legal requirements.
- h. The Bedroom breakdown of the Affordable Housing Units, and the income restrictions associated therewith, shall comply with the prevailing Settlement Agreement.
- i. Any necessary easements shall be reviewed and approved by the Board Engineer and Board Attorney, before the same are recorded in the office of the Monmouth County Clerk.
- j. Block 76, Lots 1 and 2 shall be consolidated. Likewise, Block 77, Lots 16 and 17 shall be consolidated as well. The deeds of consolidation shall be reviewed and approved by the board attorney and the board engineer. Upon such review/approval, proof of recording shall be submitted to the Board Secretary.
- k. The Applicant's Representatives shall, in good faith, coordinate the development/demolition process with the Borough of Sea Girt/Sea Girt Fire Department so that the Fire Department can participate in the demolition process, as a training exercise. (Any necessary insurance and related details shall be handled by the Borough of Sea Girt.)
- l. In accordance with the Police Department Review Memorandum (A-11), Agents of the Borough of Sea Girt may petition the Borough of Sea Girt, to place a "no parking" area at each property, along Fifth Avenue, between the parking areas to Washington Boulevard,

at the western curb line of Fifth Avenue. The said issue was discussed during the Public Hearing process, and, in furtherance thereof, the Applicants' representatives advised, on the record, that they had no objection to such a proposal. Thus, the within Approval shall be contingent upon the Applicants' representatives (to be broadly construed) continuing to express no objection to such a proposal.

- m. The Applicant shall comply with the terms and conditions of the Fire Prevention Memorandum, dated 3-9-22 (A-10).
- n. The Applicant shall comply with the terms and conditions of the undated Police Department Memorandum (A- 11).
- o. If requested by the Borough Council of the Borough of Sea Girt, the Applicant shall, at no cost, provide the Borough with Title 39 jurisdiction over the properties if the Borough so desires.
- p. The Applicant's representatives shall comply with the terms and conditions of the previously referenced Settlement Agreement.
- q. The Applicant's Representatives shall provide the Borough's First Responders with a copy of the keys/access codes for the knox boxes.
- r. The Applicant's Representatives shall provide the Board Engineer and Secretary with the Operations and Maintenance Manual for the proposed Stormwater Management facilities.
- s. The Applicant's Representatives shall pay and satisfy any prevailing Water and Sewer capacity, tie-in, infrastructure, hook-up fees, and other fair share contributions which may be required/applicable.
- t. If requested by the Governing Body, or the Board/Borough Engineer, the Applicant's representatives shall execute a Developer's Agreement with the Borough of Sea Girt. The Developer's Agreement shall be reviewed and approved by the Borough Council, the Borough Attorney, and the Borough Engineer. (The said Developer's Agreement shall address any development related items as the Borough may require.)
- u. In the event the Applicant secures any outside approvals, and any such outside approvals materially change the nature of the Application approved herein (to be liberally construed) then, in that event, the Applicant shall, upon notice to all affected property owners, return to the Sea Girt Planning Board for further / amended relief.

- v. The Applicant shall comply with any provisions of any Tree Preservation Ordinance.
- w. 4 sets of Revised plans (incorporating the within) shall be presented to the Board Secretary.
- x. The Applicant shall secure approval from the Monmouth County Planning Board and provide Board representatives with proof of the same.
- y. The Applicant shall comply with any on-site construction / management regulations as required by the Borough of Sea Girt, the County of Monmouth, the State of New Jersey, and any other Agency having jurisdiction over the matter.
- z. The Applicant shall comply with any and all Prevailing ADA Requirements.
- aa. The Borough's Building Department shall review and approve the Plans for ADA Compliance, as necessary / applicable.
- bb. The Development shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. Additionally, the development / construction shall comply with Prevailing Provisions of the Uniform Construction Code.
- cc. Unless otherwise waived by the Board Engineer, the Applicant shall obtain any and all necessary approvals (or Letters of No Interest) from applicable outside agencies – including, but not limited to, the State of New Jersey, the New Jersey Department of Environmental Protection, the New Jersey Department of Transportation, the Monmouth County Planning Board, the Borough's Fire Official, the Borough's Police Department, the Borough's Building Department, Department of Water and Sewer, the Freehold Soil Conservation District, the Borough's Department of Public Works, and any other Agency having jurisdiction over the matter. In the event the nature of the application changes as a result of the aforesaid outside approvals, the Applicant's representatives shall be required to re-petition the Sea Girt Planning Board for further relief.
- dd. The Applicant shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- ee. If required by the Board Engineer, and as otherwise required by law, the Applicant shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.

- ff. Unless otherwise agreed by the Planning Board, the within approval shall be deemed abandoned, unless, within 36 months from adoption of the within Resolution (or any agreed upon extension), the Applicant obtains a Building Permit for the development approved herein.
- gg. **The approval granted herein is specifically dependent upon the accuracy and correctness of the testimony and information presented, and the accuracy of the Plans submitted and approved by the Board. The Applicant is advised that there can be no deviation from the Plans approved herein, except those conditions specifically set forth or otherwise referenced herein. In the event post-approval conditions at the site are different than what was presented to the Board, or different from what was otherwise known, or in the event post-approval conditions are not necessarily structurally sound, the Applicant and its representatives are not permitted to unilaterally deviate or build beyond the scope of the Board Approval. Thus, for instance, if the Board grants an Application for an existing building / structure to remain, the same cannot be unilaterally demolished (without formal Borough / Board consent), regardless of the many fine construction reasons which may exist for doing so. That is, the bases for the Board's decision to grant Zoning relief may be impacted by the aforesaid change of conditions. As a result, Applicants and their representatives are not to assume that post-approval deviations can be effectuated. To the contrary, post-approval deviations can and will cause problems. Specifically, any post-approval unilateral action, inconsistent with the testimony / plans presented / approved, which does not have advanced Borough / Board approval, will compromise the Applicant's approval, will compromise the Applicant's building process, will create uncertainty, will create stress, will delay construction, will potentially void the Board Approval, and the same will result in the Applicant incurring additional legal / engineering / architectural costs. Applicants are encouraged to be mindful of the within – and the Borough of Sea Girt, and the Sea Girt Planning Board, are not responsible for any such unilateral actions which are not referenced in the testimony presented to the Board, and / or the Plans approved by the Board. Moreover, Applicants are to be mindful that the Applicants are ultimately responsible for the actions of the 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 its agents shall be deemed conditions of the approval granted herein, and any mis-representations or actions by the Applicant's representatives contrary to the representations made before the Board shall be deemed a violation of the within approval.

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

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

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

FOR THE APPLICATION: Councilwoman Diane Anthony, Karen Brisben, Tom Britt,  
Jake Casey, Mayor Don Fetzer, Stan Koreyva, Eileen Laszlo, Robert Walker,  
Norman Hall

AGAINST THE APPLICATION: None

ABSTENTIONS: None

NOT ELIGIBLE TO VOTE: John Ward (recused)

ABSENT: Carla Abrahamson

Wednesday, May 18, 2022

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

IN FAVOR: Councilwoman Diane Anthony, Karen Brisben, Tom Britt, Mayor Don Fetzer, Stan Koreyva, Eileen Laszlo, Robert Walker, Norman Hall

OPPOSED: None

ABSTAINED: None

INELIGIBLE TO VOTE: Carla Abrahamson, John Ward

ABSENT: Jake Casey

The Board then turned to the continuation of a hearing for Block 12, Lot 11, 4 Brooklyn Boulevard, owned by Kerry Shaughnessy, revised plans for removal of a covered porch and propose an open patio/pergola in rear yard. Building Coverage now proposed at 19.94%. Variance still requested for garage height and oversized proposed cabana.

Mr. Kennedy explained this is a continuation of a hearing held on March 16, 2022 and no new notice was required, new plans and other paperwork have been received and were marked as:

Exhibit A-9, a plot plan prepared by InSite Engineering, LLC, revised as of March 30, 2022.

Exhibit A-10 was the architectural plan prepared by CJ Aker, Architect, revised as of April 5, 2022.

Exhibit A-11 was the latest Leon S. Avakian review memorandum dated May 2, 2022.

Exhibit A-12 – communication from attorney Michael Rubino to Board Secretary Karen Brisben, dated April 8, 2022, which explained the changes that were made to the original submission of plans.

At this time the Board Engineer, Peter Avakian, was again sworn in. Chairman Hall then asked Mr. Rubino how many witnesses he had and the answer was three; they were then all sworn in, Douglas Clelland, Engineer, CJ Aker, Architect and Kerry Shaughnessy, owner of the property and applicant.

Mr. Rubino reminded all that this was first heard in March and asked Mrs. Brisben how many are eligible to vote tonight and Mrs. Brisben said 8. Mr. Rubino said the building was over on coverage and the roof over the deck has been removed so they are now in compliance, a trellis will be going in instead. They are continuing the request to turn the third bay in the garage into a cabana, which needs a variance as it will be oversized. The existing garage was not built along with the existing house, it

was there before and stayed as it was well built. Old photos show the garage as far back as 1956 and it has been brought up to date as current photos show, it looks like a new structure. At this time a photo of the garage, taken by Mr. Rubino, was marked as Exhibit A-13. The photo to the right of this one is a picture of the rear yard off of the garage and this was marked as Exhibit A-14. Mr. Rubino explained the photos and that the third bay is currently used for storage and they want to turn that part into a cabana. The cabana equipment has been moved into the footprint of the garage and Mr. Clelland, the Engineer, will address some of the other issues. As there were no questions from the Board Mrs. Shaughnessy was next to speak and she told the Board they were disappointed they did not get approval for their original plan but they are now going with a pergola and this will make the building coverage compliant. They still want a pool cabana in place of the third bay of the garage, the neighbors want this as well rather than another structure being built for the cabana and she then thanked the Board for hearing them.

The next witness to speak was CJ Aker, Architect. He said there is an existing, nonconforming garage, 620 square feet where 500 is allowed. It is a 3-bay garage and showed a photo of the garage on the screen so the Board could see where the 3<sup>rd</sup> bay has a difficult turning radius to get a car into, right now it is used for storage. After the last meeting, they discussed the possibility of putting up a separate 120 square foot cabana but the neighbors were opposed to that, takes away too much open space, so now they are asking to use the third bay as a cabana as this is the most efficient use of the building and added that this is an oversized lot so the oversized cabana will fit in at 195 square feet, less than 1.9% allowed on a regular lot; this makes the most sense to do this. They are also putting the pool equipment in the back left corner of the inside of the garage and the mechanical equipment will be on the roof of the garage and this all complies. He added the mechanical equipment will be hidden by a small parapet wall, with railings and would not be in any views of neighboring properties and this is the normal way to do this these days, it will be enclosed with a Level 2 sound enclosure. There will be a generator put in that is less than what is there now, a 22 KW, and is a lot less invasive, lighter and quieter. Mr. Aker said this wrapped up what he had to say. Mr. Rubino asked about the impervious coverage and Mr. Aker said they are significantly under it.

Next to come forward was Douglas Clelland who spoke of the numbers here, 20% is the maximum building coverage allowed and 19.98% exists here and will be reduced now to 19.94% which is compliant. Also 33.05% impervious coverage exists, 35% is the maximum permitted, this application will reduce the impervious coverage to 30.32%. As Mr. Aker said, the pool equipment will be inside the garage. The HVAC and generator will be placed on the roof and will be compliant with all setbacks and sound enclosure. It is noted on the plan they are proposing a pool with a fence and gate, the detail for the fence is missing on the plan and they will add it on, no problem to do this and it will satisfy all conditions of the pool codes. In keeping the neighboring properties in mind as far as drainage, they will place yard inlets around the property to help with stormwater drainage and piped safely into the front yard for a discharge to the public



right-of-way. Mr. Rubino added that they will comply with all recommendations noted in the Engineer's report, A, B & C.

It was time for Board questions and Mr. Walker asked if the cabana is within the footprint of the existing garage, will it be larger and Mr. Aker answer no, there is no change, it will take up the bay of the garage and no more. Mr. Ward asked if this is approved, can a 120-foot structure still be built on this property? Mr. Rubino said they would agree not to add a cabana as they will be using the garage for this. Chairman Hall felt it was a good question and wondered what would keep the next homeowner from putting an additional structure on. Mr. Kennedy asked Mr. Rubino if he would agree not to add a cabana and Mr. Kennedy said that could be put in the Resolution if it is acceptable to the Board and it would run with the property. Mr. Rubino said they could also record a deed with the Resolution attached. Chairman Hall said the current Ordinance says you are allowed to have one accessory structure and he felt that by turning part of the garage into a cabana, they were adding an accessory structure. Mr. Avakian answered this and said the cabana to be created should be treated as the accessory structure even though it is being placed inside a garage. Mr. Avakian also felt it appropriate to put in the Resolution that no additional structure shall be constructed in the future.

Mayor Fetzner asked for a clarification on the comments on this being an oversized lot so can accommodate the cabana, he just wanted to say that is not how the Board interprets this, the accessory structure is not based on the size of the lot. Mr. Kennedy said he will put wording in the Resolution so nothing is tied to the size of the lot.

It was time for anyone in the audience to ask questions and there was no response. Mr. Avakian asked to speak to clarify some of the testimony so the Board members understand the variances removed and proposed. The covered porch being removed was 469 square feet in area which represents approximately 3.7% of building coverage, so it was 23.63% being asked for; that 3.7% removal now brings them down to 19.94%. Likewise, the impervious coverage is now 30.32%. The testimony on putting the pool equipment inside the garage is appropriate, he would still like to see the details for the parapet wall and noise features, that can be part of condition approval. With regard to the third bay of the garage being used as a cabana at 195.6 square feet which needs a variance, no other cabana will be constructed. The pool fence will be shown on the plans with details and all items in his report will be complied with. Mayor Fetzner had one more question, he wanted to know if the generator will be run on diesel and Mr. Aker said he assumed it will be run on natural gas, this is the standard for a level 22KW generator.

Mr. Rubino then summarized the application, he felt it was a very reasonable request, no adding any additions to the property, a good application and he asked the Board to look favorably at it.

It was now time for Board comments and Mrs. Brisben said she was for the application the first time around and this one is even better, she had no problem with approval and thanked Mr. and Mrs. Shaughnessy for working hard to remedy and building coverage overage. Mr. Walker felt they were complying with the Zoning requirements and not increasing the footprint of the garage and was in favor. Mayor Fetzner also wanted to thank the applicants for considering the concerns raised by the Board at the last meeting and he felt this was more in conformance with Borough Ordinances and this will be very nice. Mr. Britt was also supportive, he felt the removal of the building coverage variance made this a very clean application, reducing impervious coverage and would be for approval. Mrs. Laszlo echoed the comments made so far and was in favor of the application, Mr. Koreyva agreed as well and was in full support of this, as was Chairman Hall.

Mr. Kennedy then went over the conditions that will be in the Resolution: compliance with the testimony given, compliance with the Board Engineer's report, coverage variance has been withdrawn, a drywall is not being installed as they are not exceeding coverage but there will be a drainage system with a perforated pipe and open flow inlet in the yard, to be reviewed by the Engineer, revised plans showing a pool compliant fence, no additional cabanas will be built on this property with some kind of notice of restriction, details of the parapet wall will be submitted, as well as the sound enclosure for noise on the roof of the garage. Chairman Hall wanted to add that any tree removal must comply with the Tree Removal Ordinance and Mr. Rubino agreed to all the conditions noted.

At this time Mrs. Laszlo made a motion to approve the application, with the conditions and also wanted to thank Mr. and Mrs. Shaughnessy for working with the Board, this seconded by Mr. Walker and then by the following roll call vote:

Ayes: Karen Brisben, Tom Britt, Mayor Donald Fetzner, Stan Koreyva, Eileen Laszlo, Robert Walker, John Ward, Norman Hall

Noes: None

Absent: Carla Abrahamson, Jake Casey

#### NEW BUSINESS:

The Board then turned to an application for variance relief to allow new construction for Block 5, Lot 9, 1003 Ocean Avenue, owned by James & Kathleen O'Brien. Building Coverage – 20% maximum allowed, 20.71% requested. Minimum Rear Yard Setback – 30 feet required, 19 feet along Right-of-Way proposed. Building Height – 35 feet maximum allowed, 37.68 feet proposed. Garage Height – 16 feet maximum allowed, 17.62 feet proposed. Driveway Width- 14 feet maximum allowed, 20 feet proposed. Curb Cut – 13 feet maximum allowed, 20 feet proposed.

Taxes are paid to date, property owners within 200 feet were properly noticed as well as the newspaper. Mr. Kennedy asked the listening public if anyone had an issue or problem with the notice if they received one and, if they did and could not speak on the computer they can contact the Board Secretary at [kbrisben@seagirtboro.com](mailto:kbrisben@seagirtboro.com). Mrs. Brisben said she did receive an email from a neighbor who said she was in Florida and could not come on the meeting this evening, she did not know if this email was submissible to the Board or not. She had told the neighbor she did not think the email could be read as it cannot be cross-examined and Mr. Kennedy said this is correct. He asked if she had been given the log-in information and Mrs. Brisben said yes, but she could not attend, she was an objector. Mr. Kennedy said that, as she cannot speak the Board cannot accept an email.

At this time Peter Avakian, Board Engineer, was sworn in for this hearing. Mr. Rubino had Mr. and Mrs. O'Brien, Joe Kociuba and Paul Grabowski to give testimony. Mr. Kennedy then asked Mr. O'Brien for his address, which is 72 Park Slope, Ridgewood, N.J., along with Kathleen O'Brien. Next was Joseph Kociuba, KBA Engineering Associates, Manasquan, N.J. and then Paul Grabowski, Virtuoso Architecture, 1330 Laurel Avenue, Sea Girt. All were then sworn in, Mr. Kociuba as Planner and Engineer, Mr. Grabowski as Architect.

Mr. Kennedy then marked the following exhibits:

- A-1. The application.
- A-2. Variance plan, prepared by KBA Engineering, revised 2/21/22, 1 sheet.
- A-3. Architectural Plans, prepared by Virtuoso Architecture, dated 2/16/22, 15 sheets.
- A-4. Outbound topographic survey, prepared by Clearpoint Services, dated July 27, 2021, 1 sheet.
- A-5. Review report done by Board Engineer Peter Avakian, dated 4/22/22.

Mr. Kennedy then asked if anyone had raised their hand in response to the question of notice and Mrs. Brisben said there was none, however, Mr. Britt wanted to say that he lives within 200 feet of this application and had received a notice and had to recuse himself from this hearing.

Mr. Rubino had additional exhibits to offer and Mr. Kociuba said he had aerial photos of the site and surrounding area. Mr. Kennedy marked as Exhibit A-6 the aerial photo and as A-7 a photo exhibit 11 pages with 2 photos per page (total 22 photos), photos taken by both Mr. Rubino and Mr. Kociuba within the past two days.

Mr. Rubino said the applicants want to take down the existing house at 1003 Ocean Avenue, it's on the south end of town and is an oceanfront lot that is on a lane. The houses to the north and south are corner lots and this home, in the middle, is old and run down. This application is a challenge as Ocean Avenue is a paper street in this location and runs down in front of this lot on the ocean side, so there is a 40-foot setback that has to be honored and the other homes all line up with this setback, as well

as the DEP/CAFRA saying they have to stay at that line as well. The lot itself is a 10,000 square foot lot, 100 feet by 100 feet, but presents challenges as the lot lacks depth, so to get a compliant house on it, as far as depth, would be a 30-foot wide house with a 40-foot front yard setback (on the ocean side). Therefore, they are asking for a variance for the rear yard so they can go into the rear yard setback which would be the side the lane is on, Mr. Avakian agreed. The other variances are for building height, as they measured from the street for the height, also for the garage. They are also requested relief for a driveway width and curb cut to be 20 feet. There is no parking on the lane so they need the extra width for parking. The building coverage of 20.71% is being asked because of a landing platform and stairs to get to the second story, this will be explained by Mr. Grabowski. The last item is for the deck in the front yard (ocean side) and this is a variance request as well. Mr. Rubino was done with his opening remarks and Mr. Kennedy wanted to let the Board know this request is for a C variance, it could be a D variance if the height was more than 10% over and the Mayor and Councilwoman could not hear it, but; as it is not, all Board members can hear this application; Mr. Rubino agreed it is a C variance.

Mrs. O'Brien then spoke and told the Board that she and her husband first bought 409 Brooklyn Boulevard in 2004 and then in 2014 moved to 101 Philadelphia Boulevard and then this home came up, the view is so fantastic that they jumped on it. They are not living in the home but have stayed there a couple of times. The home was built in the 1940s and needs major updating, plaster walls that are patched and cracked, the heating system is not great, windows need to be replaced, there have been additions put on that don't make a lot of sense, they had to make a decision to either try to fix the house or take it down and start again. They met with Mr. Grabowski and he designed a new home but it does need variances. The current driveway is currently 20 feet wide and they want to keep this as there is no parking on the lane or turn around. They have two children and a grandchild that visit and need the room for those extra cars.

The next witness was Paul Grabowski, Architect, licensed in NJ for over 25 years and has testified before Boards throughout NJ as well as Sea Girt several times. The Board accepted him as an expert witness. Mr. Grabowski had Mr. Kociuba put the architect package on the screen. He designed the home to be in keeping with the seashore colonial aesthetics with a reverse living plan, the main floor rooms on the second floor to maximize the views of the ocean and the rest on the first floor. There is also a deck on the first floor for outdoor living. The ½ story consists of 2 bedrooms, a bathroom, a loft area with a covered balcony, and a space in the eaves for mechanical equipment as well as storage. The home is 4,460 square feet with a balcony space on the second floor. The home will be built with a crawl space due to it being in a flood zone and will have a detached garage with the a/c condensers and generator on the roof and there is also an outdoor cabana proposed with an outdoor shower. The exterior of the home is designed with cedar shake siding and a cedar shake roof, stone fascia veneer, copper accents and trim details.

Mr. Grabowski then added that the existing house is not conducive to modern living and is not flood compliant for the V Zone where this property is. The variances they are requesting are for building coverage, 20% maximum allowed, 20.71% proposed due to the pervious staircase on the south side of the home; he showed the Board where this will be located on the exhibit and also showed the landing. This staircase and landing provide access from the main living area which is located on the second floor, it will also provide a secondary means of egress to grade level. The property is 100 feet deep and they need to maintain the 40-foot front yard setback on the ocean side due to the paper street as was spoken of before, this also has to comply with the CAFRA regulations that require the 40-foot setback. This reduces the buildable depth of the property, the minimum rear-yard setback along the lane is 30 feet but they are proposing a 19-foot setback but noted the main volume of the home is located 27 feet back and showed this on the exhibit. The interior staircase is located 21 feet back and the one-story front porch is 21.6 feet back, only the Master bath and laundry room are at 19 feet. The allowable building height is 35 feet and they are at 37.68 feet due to being measured from Seaside Place at an elevation of 12.71 feet, they couldn't measure from the dirt lane. There is a significant grade elevation from that location to this property's location, that's why they need the variance for height. The detached garage height is allowed at 16 feet and the garage will be 17.62 feet, again due to the measurement from Seaside Place. Mr. Grabowski finished by stating the deck on the ocean side is considered to be in the front yard.

Mr. Rubino then asked Mr. Joe Kociuba to speak to the Board, he is a Licensed Planner and Engineer in NJ and has been before this Board many times, he was accepted as an expert witness. He brought up Exhibit A-6, the aerial view, this is a nonconforming lot on the east side of a public right-of-way, the lot is 100x100 feet, 10,000 square feet in the 1E Zone where a 7,500 square foot size lot is the requirement, while this lot complies in square footage, it lacks depth as 150 feet is needed and there is only 100 feet. This is a unique location with Ocean Avenue being a paper street on the east which is actually a dune complex, he then referred to Exhibit A-2, his variance plan which showed the existing front right-of-way of the property, an unimproved street that is 15 feet wide that provides access for 5 properties. The other unique feature is that this is the only interior lot, the other lots are corner lots that front on properly improved streets and all 5 homes here are in the V Zone, Flood Zone, the only ones in town so it does require V Zone construction, break-away walls, grade level slab, etc. It is located within 150 feet of a beach dune so this is covered by CAFRA rules and they have obtained the CAFRA permit approval for construction.

The existing dwelling is a two-story dwelling, it has a 19.5-foot driveway flaring out to 20 feet wide, it does have a small retaining wall that helps maintain the dune complex and needs to remain under CAFRA, they cannot go past this retaining wall with construction. There is an existing patio in what is considered the front yard, so it is nonconforming; there is an existing porch that also is nonconforming today, this home was built in the 1940s. The building height here is unique as it is measured from the crown of the road, but the right-of-way is not considered a road so it had to be measured from Seaside Place and this measurement differs with the existing homes

here as Seaside Place and Sea Girt Avenue have different elevations; what this means is that this property at 1003 Ocean Avenue is at a disadvantage as the two homes next to it are allowed to be higher.

Mr. Kociuba went on to say the applicants want to construct a new home for modern living and keep 4 parking stalls by constructing a two-car detached garage and a driveway, a wide driveway is typical for this area as no parking is on the right-of-way and making turns in the driveway to get out is difficult without the extra space and he added there is no parking allowed at the end of Sea Girt Avenue in this area. The applicants have to maintain the oceanside front setback so a variance is needed for the rear yard and they do want to provide outside access to the second floor where the main living will be. Going back to Exhibit A-2 and said they will be regrading the front yard to lower the grade slightly in front of the garage to allow for appropriate access to that structure, adding a deck to the home rather than a patio, adding a conforming cabana with an outdoor shower, a 20-foot wide driveway, a drywell system will be added. He again stated the only setback variance here is for the rear of the property that fronts on the right-of-way, 30 feet is required and 19 feet is proposed and this is in keeping with the properties next to them who have a side-yard setback requirement as they are corner lots so they feel this is adequate for this area. He explained, as stated earlier, that 71 square feet they are over in building coverage is due to the outdoor side staircase that does not affect the neighbors at all; he also stated they are under in impervious coverage. He told the Board the grades around the home are between 16 feet and 18.2 feet, the average grade is 17.1 feet and again stated the homes on either side have different reference points as to grade. The dwelling must be V Zone compliant so there can be no basement and it has to have break-away walls, the finished floor will be at elevation 20 and there are limitations on how to build the break-away walls, there is a matter of height and depth; they are setting the crawl space at 16 feet and work up from there so they end up with a break-away wall that is only two feet tall and this pushes up the finished floor. The detached garage also has a problem with the measurement from Seaside Place as it takes it over the 16 feet allowed. As far as the curb cut, it really is not needed here as this is just a dirt right-of-way but they are asking for variance relief due to the size of the driveway.

Mr. Kociuba said the variances can be granted under both the C-1 and the C-2 criteria, the unique conditions as stated cover the C-1 and the benefits outweigh the detriments under the C-2. The Municipal Land Use, Section 2 where the purposes of zoning are outlined, Purpose A covers general welfare, Purpose B covers safety (fire, flood, etc.), Purpose C provides for adequate air, light and open space, Purpose I references a desirable visual environment. He felt all those purposes of zoning can be applied here and this property keeps in line with the other homes on either side, as well as the two homes across the right-of-way. He finished by stating there is no detriment to the Zoning Plan or to the public good or negative impacts and he recommended approving this application.

It was time for Board questions and Chairman Hall wanted to see a panoramic view of the property and surrounding properties to see what all this will look like, this

has been submitted in the past so the Board can see the height of the other homes; Mr. Kociuba did not have that to show. He told Mr. Kociuba to please have this in the future and Mr. Kociuba said it was so noted. Mr. Walker asked if the height of the buildings were measured from the alley way and Mr. Kociuba said the elevation there is 14.5 so the building height would be 35.9 feet. Mr. Ward asked for an explanation of what a break-away wall is and Mr. Kociuba said in the V Zone the rules say they have to contemplate wave action coming through and there has to be a wall that can break away to allow water to flow underneath the home, you see this in Bay Head and Mantoloking and this one here will be a lot shorter at two feet tall by about 6 to 8 foot wide panels that actually can break away when wave action comes through, the structure is on piers and girders. Chairman Hall again said he was not aware of any homes in the V Zone and Mr. Kociuba said there are 5, the ones here.

Mrs. Brisben asked how high the house itself is without any grading being taken into consideration and the answer was 33 feet 4 inches, the garage is under the 16 feet maximum allowed. She also asked Mr. Kociuba for the exhibits he had this evening as well as a copy of the actual CAFRA approval, she needed these for the file and Mr. Kociuba said he will email them to her. She then asked about the driveway, on the plans of the existing home it is on the north side but the proposed dwelling has it on the south side and Mr. Kociuba said this is correct, they are moving the driveway but still asking for it to be 20 feet wide as the existing driveway is. Mrs. Brisben then asked about the footage between the proposed driveway and the neighboring home, it didn't appear that they will be right next to each other and she asked if this was correct. Mr. Kociuba said there will be about 12 feet between driveways. Mayor Fetzner asked if the proposed deck counts in building coverage and Mr. Kociuba said it will be a pervious deck and less than 16 inches high so does not count in building coverage. The Mayor then asked about the outside stairs that create the 71 feet overage on building coverage and if there was any consideration of trying to stay within the 20% coverage as per the Ordinance. Mr. Grabowski answered and said that, in the total design of the home, he tried to keep the dimensions of the living area the appropriate sizes and not overdesign the home, it was kept as tight as possible and they felt it was reasonable to ask for this extra 71 square feet. Mayor Fetzner understood what was said but did not feel building a new home has entitlements, the Ordinance states 20%. At this time Mr. Rubino spoke up and said they anticipated this question, the applicants have stated they will comply with the 20% building coverage and will come up with something to get there.

There were no other questions from the Board so Chairman Hall opened the meeting to the public for questions to any of the professionals and there was no response so Mr. Rubino was asked to summarize the application. He felt this was a reasonable application, this is a difficult lot to develop and the applicants should be able to have a 20-foot wide driveway and curb-cut, he asked the Board to look favorably at this application. At this time the hearing was opened for general comments from the audience and Mr. Robert Gregg of 515 Boston Boulevard, asked to speak. He said this is a new build and they are asking for 6 variances, he did not realize that a lot on the oceanfront in Sea Girt was a hardship. He was under the impression that there were not going to be variances on new builds in town, if this house wasn't designed as big as

it is, it wouldn't need the overage. There is a builder in town that has built about 20-30 homes and has never come in for one variance. He said he could maybe see the height issue but did not feel a 20-foot wide driveway was necessary, there are Ordinances and they should be adhered to, why not build with no variances? He thanked the Board for their time. Mr. Rubino spoke up and said he has represented the builder that Mr. Gregg mentioned and he has come before this Board and asked for variance relief, the Board has to look at the merits of each lot and application and the difficulties there may be in building and this is why there are Boards such as this one, to take a look at each application and make a reasonable decision. Chairman Hall added that one of the variances are removed, they are going to make some changes to the plans so the building coverage is 20% or less and Mr. Rubino said yes.

As there were no more comments from the audience it was time for the Board to speak. Mrs. Laszlo appreciated Mr. Gregg's comments but felt this was a very thoughtful design, the driveway is a safety issue so no problem with that or the two height variances, the deck in the front yard is a quirky thing with the paper street, she agreed with Mr. Rubino this is a unique property and each one has to be looked at independently and this particular property does have hardships, the existing home is not in good shape as per testimony given and she would be for approval of the application and thanked the O'Briens for compromising on the coverage issue. Mr. Ward felt that all new builds should not need variances, however, in this case he felt there was a strong case for relief and he was for approval with the change to the building coverage complying. Mr. Koreyva agreed with Mrs. Laszlo's comments and was for support of this, Mayor Fetzer appreciated the change to the coverage and their presentation; he agreed with the variance for the building heights and the need to measure from Seaside Place, he was not sure of the deck in the front yard and its grade, the driveway bothered him a little bit, the curb cut bothered him less, he did realize the problem with turning around but asked to hear from Mr. Avakian on perhaps what it should be.

Mr. Avakian did feel this is a unique set of circumstances in the Borough, there are areas with the frontage of a property is not on an approved street, there is Carriage Way and other locations and it makes it very difficult to evaluate it, it puts the property owner at a deficit. He felt Mrs. Brisben's question on the actual height of the buildings was right on point and it showed that the buildings themselves are compliant, it's the data on elevation that makes them need relief, however, this doesn't mean they are correct for the property and the Board has to listen to the testimony. He then addressed the driveway and curb cut and felt one of the issues is the width of the alleyway, if you come in from the North it's about 12 feet wide and widens out to about 15 feet wide as you approach the driveway which could be the reason they moved the driveway from the north side of the property to the south side. He did not have the exact figures and, to answer the Mayor's concerns on the driveway, he felt that perhaps maybe 2 feet can be taken off but the applicants want the 20 foot driveway for ease in turning around and access. He did agree with Mr. Gregg's concerns but felt there is a justification for all the variances requested with the exception of the coverage but that is being taken care of by the applicant; building height, accessory building height, driveway width and curb cut are all justifiable by the orientation and configuration of the property. At this point Mr.



Rubino spoke to the Board and said he had conferred with the O'Briens and they are willing to put the driveway and curb cut at 18 feet wide.

Councilwoman Anthony spent a lot of time looking at this property and, she too, saw the amount of variances requested for; but after hearing the testimony clarifying everything as well as comments made by Mr. Avakian and Mr. Rubino stating the O'Briens are willing to compromise and make the home coverage compliant and reduce the driveway width, she has no issues at all with all the additional information presented. Mrs. Brisben agreed with all that was said and noted that there is additional consideration given to the properties that are closer to the beach due to the higher elevation and that should be given here as well, she thanked the O'Briens for the agreement to cut back on the coverage and driveway and curb cut even though she had no problem with the driveway; she was for approval of the application. Chairman Hall felt it was good to cut the driveway down to 18 feet and agreed a wide driveway is needed here and also would have approved a 20-foot driveway; he was going to vote for this but wanted to make it clear on the record that he will not vote for any type of height increase without a panoramic view that shows the relationships of the buildings on that side of the block. Chairman Hall commented that with today's technology this can be done and he wanted to see this in the future, he has even been asked about this from concerned citizens. Mr. Walker then commented and said a regular parking space is 10 feet wide so he felt a 20-foot driveway would fit here, but he wanted to know how they were going to mitigate the coverage issue to get to 20% or less; it was stated that has not been decided but it will be done so Mr. Walker then stated he had no problem with the application as presented with the stipulations presented. Chairman Hall added that the applicants still have to come before the Zoning Officer, Chris Willms, to make sure they are compliant so that will be taken care of with revised plans.

Mr. Kennedy then went over the conditions: compliance with all the comments and representations made in this evening's testimony, compliance with the Board Engineer's review memorandum, compliance with the affordable housing regulations, etc., demolition permits, revised plans to show compliant coverage and an 18-foot wide driveway and curb cut, confirmation from the Borough Engineer and Zoning Officer, obtaining all outside approvals and proof of same, compliance with the rules of the V Zone, installation and maintenance of a dry well, and compliance of installation of utilities; Mr. Rubino agreed with all the conditions noted.

At this time Mrs. Laszlo made a motion to approve the application with the conditions as noted by Mr. Kennedy, this seconded by Mr. Ward and approved by the following roll call vote:

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

Noes: None

Not Eligible to Vote: Tom Britt (recused)

Wednesday, May 18, 2022

Mrs. Brisben asked Mr. Avakian if DEP approval is needed as well as CAFRA and Mr. Avakian said they are basically the same and the CAFRA approval will address all this. Sea Girt is a CRS community and our Flood Plain Manager reviews those kinds of applications and there will be construction compliance to make sure all is followed, nothing further is needed.

#### OTHER BUSINESS:

Chairman Hall just wanted to announce that the Ordinance Review Committee will be having their first meeting virtually Tuesday evening, it will be a short Organizational one. Once again, he commented the Board on doing a great job.

As there was no other business to come before the Board, a motion for adjournment was made by Mr. Walker, seconded by Mayor Fetzner and unanimously approved, all aye. The meeting was adjourned at 9:28 p.m.

---

Karen S. Brisben, Secretary

Approved: June 15, 2022