

Wednesday, November 16, 2022

SEA GIRT PLANNING/ZONING BOARD
REGULAR MEETING
WEDNESDAY, NOVEMBER 16, 2022

The Regular Meeting of the Sea Girt Planning Board was held on Wednesday, November 16, 2022 at 7:00 p.m. at the Sea Girt Elementary School on Bell Place. In compliance with the Open Public Meetings Act, notice of this Body's meeting had been sent to the official newspapers of the Board and the Borough Clerk, fixing the time and place of all hearings. Kevin Kennedy, Board Attorney, was also present (Board Engineer Peter Avakian was absent) and Board Secretary Karen Brisben recorded the Minutes, there were 3 people in the audience.

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

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

Absent: None

Chairman Hall announced that this is the first time for a hybrid meeting of the Board; he, the Board Secretary Karen Brisben and the IT person at the school spent a lot of time working to get this set up, if there are glitches please understand and a comment on this can be sent to the Board Secretary at kbrisben@seagirtboro.com. He also reminded all that this is a volunteer group and anyone participating should be respectful to the Board and presenters. Mr. Kennedy added that proper notice of this meeting was sent to the official newspapers of the Board with the logon information so this meeting is lawful.

Chairman Hall then asked if there were any public comments not related to any applications this evening from those in person or online and there was no response. He then asked for approval of the Minutes of the October 19, 2022 meeting; Mrs. Brisben noted two small changes in wording that Mr. Ward had asked for and the Minutes were approved on a motion by Mrs. Laszlo, seconded by Mayor Fetzer and approved, all aye, with Mrs. Abrahamson abstaining and Mayor Fetzer commending Mrs. Brisben on the work done on these Minutes, it was a long meeting.

OLD BUSINESS:

The Board then turned to the consideration of a Resolution for a Site Plan application for The Parker House, owned by Avon Hotel Corporation, Block 14, Lot 9, 8-12 Beacon Boulevard. Mr. Kennedy spoke and explained this is for a retaining wall, new entry steps, landings & doors and other miscellaneous improvements. There are two options, Option A and Option B; the conditions of approval included the Board Engineer's review memorandum, elimination of the pedestrian pick-up/drop off stand, if necessary, compliance with the Borough's Fire Prevention Officer report, confirmation that the retaining wall shall be located east of the Beacon Boulevard staircase for Fire Dept. connections, details for the retaining wall shall be placed on the plans,

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confirmation that the plans shall include details to be reviewed by the Board Engineer, including survey encroachments, and dry well system to be reviewed by the Board Engineer. The other unique thing was compliant with previous approved conditions of approval, and explained Option A & Option B; Option B is to be approved in this Resolution, driven by the County Planning Board. The applicant will let the Board know if the final Option is Option A or Option B, depending on the County Planning Board findings and will submit that information for filing; If Option B is approved, Option A will be withdrawn. If Option A is confirmed, there may be a further review by the Board Engineer, Borough Administrator and Planning Board to ensure the details are consistent with the testimony given and Option B will be withdrawn.

Mr. Ray Bogan, the Borough Attorney, also had reviewed the Resolution and, on page 4 and 9, references were made to quality of life issues that existed and Mr. Bogan felt they should be taken out, due to litigation, and Mr. Kennedy had no problem with this. Mr. Kennedy also told the Board that the case has now been settled, although at the time of the application it had not been settled and the Resolution reflects this and will stay in to be consistent. The only other change the Borough Attorney wanted was the wording in reference to the liquor license as this is handled by the Borough Council.

Mr. Charles Shaw, Esq., was in the audience for the applicant and said he basically agreed. Mr. Casey asked if the change requires a variance or not and Mrs. Brisben answered and said the Ordinance says a change in grade has to be approved by the Board, it does not reference it as a variance, only a need for approval given. Mr. Casey then asked about the email received from Catherine Metcalf and Chris Willm's email answer regarding the number of exit doors and capacity, he thought it was odd there was no discussion on this; Chairman Hall told him the Board has nothing to do with this as per Mr. Willm's email and codes that apply, the Resolution is to address what was discussed in the application. The Board should not get involved with matters outside their jurisdiction. Mr. Kennedy spoke and wanted to state that one of the findings in this matter is this is not an expansion of a nonconforming use, Condition P says that the applicant will comply with the codes and regulations and this will be reviewed by the Professionals that deal with this. Chairman Hall agreed and said the Board has to stay with the facts and not get away from what is being considered. Mr. Ward did not understand that the Fire Official can increase capacity without Planning Board approval and Chairman Hall again said that has nothing to do with Land Use or Zoning.

As there were no other comments or questions, the following was presented for approval:

INTRODUCTION

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WHEREAS, representatives of The Avon Hotel Corporation (t/a The Parker House) have made Application to the Sea Girt Planning Board for the property designated as Block 14, Lot 9, commonly known as 8-12 Beacon Blvd., Sea Girt, NJ, within the Borough's District 1, East Single Family Zone, for the following approval: Minor Site Plan Approval, Waiver of certain Site Plan submission requirements, and Change of Grade approval associated with a request to effectuate the following:

- Installation/Construction of a new Retaining Wall/Seat Wall;
- Installation of new entry steps/landings/doors; and
- Other miscellaneous improvements.

PUBLIC HEARING

WHEREAS, the Board held a Public Hearing on October 19, 2022, Applicant's representatives having filed proper proof of service in accordance with Prevailing Statutory and Ordinance Requirements; and

EVIDENCE / EXHIBITS

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

- *Land Development Application, introduced into Evidence as A-1;*
- *Preliminary and Final Site Plan, prepared by KBA Engineering Services, LLC, dated September 19, 2022, introduced into Evidence as A-2;*
- *Architectural Plans, prepared by Paul A. Damiano Architects, LLC, dated September 21, 2022, introduced into Evidence as A-3;*
- *Survey, prepared by Acre Survey Company, Inc., dated November 13, 2014, last revised October 1, 2015, introduced into Evidence as A-4;*
- *Memorandum prepared by the Borough of Sea Girt Fire Prevention Bureau, dated October 6, 2022, introduced into Evidence as A-5;*

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- *Leon S. Avakian Inc. Review Memorandum, dated October 4, 2022, introduced into Evidence as A-6;*
- *Resolution of the Sea Girt Planning Board, regarding the subject property, dated on or about 2015, introduced into Evidence as A-7;*
- *Revised Lay-Out Grading Plan (Exhibit "A"), prepared by KBA Engineering Services, LLC, dated October 18, 2022, introduced into Evidence as A-8;*
- *~~Revised Lay-Out Grading Plan (Exhibit "B"), prepared by KBA Engineering Services, LLC, dated October 18, 2022, introduced into Evidence as A-9;~~*
- *A Board containing 5 pictures of the subject property and surrounding properties, taken by Michael R. Rubino, Jr., Esq., introduced into Evidence as A-10;*
- *Illustrated Rendering, prepared by Paul A. Damiano, Architect (with 2 pictures of the subject property), dated September 21, 2022, introduced into Evidence as A-11;*
- *Affidavit of Service;*
- *Affidavit of Publication;*

WITNESSES

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

- Joseph Kociuba, Engineer / Planner;
- Shane Matthews, a representative of the Applicant;
- Paul Damiano, Architect;
- Michael Rubino, Esq., appearing.

WHEREAS, Peter Avakian, P.E., the Board Engineer, was also sworn with regard to any testimony / information he would provide in connection with the subject Application.

TESTIMONY AND OTHER EVIDENCE PRESENTED

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WHEREAS, testimony and other evidence presented on behalf of the Applicant's representatives revealed the following:

- The Avon Hotel Corporation, T/A The Parker House, is a seasonal Bar / Restaurant / Hotel.
- The main Parker House structure has, upon information and belief, existed for approximately 138 years.
- The Parker House / Restaurant / Bar / Hotel is a pre-existing non-conforming use, located in the Borough's single family zone.
- The Parker House establishment is very popular during the Summer season, attracting a very large clientele.
- The Parker House has a seasonal liquor license.
- The Parker House Bar / Restaurant / Hotel is open from approximately Memorial Day of each year to approximately Labor Day of each year.
- During the Summer season, closing time for the Bar / Restaurant is 12:00 midnight.
- The pre-existing non-conforming commercial establishment is located and is surrounded by a number of other uses, including many single-family homes.
- There is currently pending litigation between two nearby neighbors, the Applicant, the Borough of Sea Girt, in which the aforesaid neighbors alleged various issues related to the impact of Parker House operations on nearby property owners as well as the Borough's enforcement of various Ordinances and Statutes vis-à-vis Parker House operations and its patrons.
- The Sea Girt Planning Board is not a party to the litigation case.
- There is a possibility for the litigation case to be settled.
- The potential settlement involves a global settlement of all litigation-related claims, and some other related operational/quality of life issues.
- Per the testimony and evidence presented the potential global settlement involves a number of elements, including, certain improvements on First Avenue, the widening of First Avenue, the installation of new curbing, the widening of the sidewalks adjoining First Avenue, the installation of protective bollards, the installation of

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Retaining/Seat Walls (both within and outside of the municipal right-of-way), and the creation of a designated taxi drop off/pick-up area for patrons.

- Not all of the improvements associated with the proposed global settlement are actually located on the actual/physical Parker House property.
- Not all of the improvements associated with the proposed global settlement require Site Plan approval from the Sea Girt Planning Board.

Generally speaking, the Applicant's representatives are proposing two separate options associated with the proposal; namely, Option/Exhibit "A" and Option/Exhibit "B."

The two different Options are being explored because of the need for approval from the Monmouth County Planning Board.

- Details pertaining to the proposal (i.e.. The two Options) include the following:

OPTION / EXHIBIT "A" (EXHIBIT A-8)

- Major improvements on Beacon Blvd. and major improvements on First Ave, including:
- Sidewalk expansion of both Beacon Blvd. and First Ave.;
- The installation of a Retaining/Seat Wall on both Beacon Blvd. and on First Ave.;
- The replacement of stairs on both Beacon Blvd. and First Ave.;
- The installation of new walkways and entryways to the ground floor of the Parker House (from Beacon Blvd.);
- The replacement of the existing Retaining Wall (in kind), on First Ave., south of the First Ave. staircase;
- The installation of protective bollards on Beacon Blvd.; and
- A grading change for both Beacon Blvd. and First Ave.

OPTION / EXHIBIT "B" (EXHIBIT A-9)

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- Major improvements on Beacon Blvd. and only minor improvements on First Ave., including:
 - Sidewalk expansion of only Beacon Blvd;
 - The in-kind replacement of the First Ave. sidewalk;
 - The installation of a Retaining/Seat Wall on Beacon Blvd. only;
 - The replacement of stairs on both Beacon Blvd. and First Ave.;
 - The installation of new walkway and entryways to the ground floor of the Parker House (from Beacon Blvd.);
 - The replacement of the existing Retaining Wall (in kind) on First Ave, south of the First Ave. staircase;
 - The installation of protective bollards on Beacon Blvd.;
 - The change of grade on Beacon Blvd; and
 - No grade change along First Ave.—
- Testimony was submitted regarding both Options.
- Both Options were reviewed and discussed, in detail, at the Public Hearing.
- Option / Exhibit "A" (Exhibit A-8) is the Applicant's preferred Option.
- Option / Exhibit "B" (Exhibit A-9) represents the so-called "scaled back" Option the Applicant (with other litigants) will implement should outside approval / County Planning Board approval not be secured with Option / Exhibit "A."
- Though both Options involve different Site Plans, with different elements, the actual site improvements to the Parker House property are not dramatically different under either Option.
- The Applicant's representatives would like the aforesaid improvements to be completed as quickly as possible, subject to all necessary outside approvals being obtained.

VARIANCE

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WHEREAS, the Application as submitted and as amended (i.e. either Option) does not require any Variance approval.

PUBLIC COMMENTS

WHEREAS, the following members of the public expressed comments, questions, concerns, statements and / or objections in connection with the Application;

- Catherine Metcalf

FINDINGS OF FACT

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Sea Girt, after having considered the aforementioned Application, plans, evidence, and testimony, that the **Option/Exhibit "B" (A-9) portion** of the Application is hereby **granted / approved with conditions**.

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

1. The Sea Girt Planning Board has proper jurisdiction to hear the within matter.
2. The subject property is located at 8-12 Beacon Blvd., Sea Girt, NJ, within the Borough's District 1, East Single Family Zone.
3. There is a 3 story structure located at the site.
4. The Parker House Bar / Restaurant / Hotel operates from the site.
5. A Bar / Restaurant / Hotel is not a permitted use in the subject Zone.
6. In that the testimony indicated that the Parker House business / structure has been in existence for approximately 145 years, the said use constitutes a pre-existing non-conforming use.

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7. The Applicant's representatives propose to install a new retaining / seat wall, new entry steps, a new landing, a new doors, and other minor improvements, as referenced on the approved plans.

8. Such a proposal requires Minor Site Plan Approval and Change in Grade Approval.

9. The Sea Girt Planning Board, a Unified Land Use Board, is statutorily authorized to grant the requested relief and therefore, the matter is properly before the said entity.

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

- Approval of the within Application will not increase the occupancy / capacity of the Parker House operation.
- Approval of the within Application will not increase the number of overall patrons / customers associated with the Parker House establishment.
- Approval of the within Application will not increase / extend the hours of operation for the Parker House establishment.
- Approval of the within Application will not materially increase the amount of garbage generated from the Parker House establishment.
- Approval of the within Application will not materially increase the noise emanating from the Parker House establishment.
- Approval of the within Application will not increase the size of the bar / liquor-dispensing areas associated with the Parker House operation.
- Approval of the within Application will not increase the number of employees associated with the Parker House operation.
- Approval of the within Application will not change the seasonal nature of the Parker House operation.
- Approval of the within Application will not increase the parking demands associated with the Parker House operation.

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- Approval of the within Application will not materially affect the number of parking spaces existing at or otherwise associated with the site.
- Approval of the within Application will not increase the number of occupants / rooms associated with the hotel aspect of the Parker House operation.
- The Parker House is a very popular Bar / Restaurant / Hotel, which attracts large crowds during the Summer season. There are, undoubtedly and, not unexpectedly, episodes of tension between the pre-existing non-conforming Parker House business use and some of the surrounding residential uses.
- Historically, some of the surrounding residential owners (and others) have complained about Parker House Bar operations and patron behavior.
- In response to the aforesaid concerns, at the insistence of the Borough of Sea Girt, over the years, Parker House representatives have gone to significant efforts to attempt to combat, minimize, eliminate, and / or otherwise reduce the nature / extent of such quality of life problems caused by, and / or otherwise associated with, the pre-existing non-conforming Parker House commercial use.
- That notwithstanding, against the aforesaid backdrop, the Planning Board is aware that there is active litigation by and between the Parker House, the Borough of Sea Girt, and others relating to (generally speaking) Parker House operations. (Note: The Planning Board is not a party to the litigation and, as such, Planning Board representatives have no first-hand knowledge as to the intimate details of the aforesaid litigation case.)
- The Planning Board Legal Representatives have been advised that there is a possibility for the subject case to be settled, although no settlement has yet been finalized.
- One aspect of the potential settlement involves increasing the width of the affected sidewalks in the area of the Parker House.
- Increasing the width of the sidewalks, as aforesaid, will provide entering / existing patrons with more space to walk, thereby minimizing the need / opportunity for such patrons to trespass over the private property of neighboring property owners.
- Increasing the width of the sidewalks, as aforesaid, will help enhance the privacy of the neighboring property owners.

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- The increased sidewalk width, as referenced above, will likely consist of paver stones, which are decorative, and which will have a beneficial aesthetic impact.
 - The increased sidewalk width, as aforesaid, will also improve the safety with which entering/exiting patrons can walk to / from / by the commercial establishment.
 - The increased sidewalk width, as aforesaid, will likely help better direct entering / exiting patrons to travel in / on / over the designated sidewalk path (i.e. a path which does not involve customers trespassing over properties owned by neighboring individuals / entities).
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- Increasing the width of the municipal sidewalks, as aforesaid, is a prerogative of the Mayor and Council of the Borough of Sea Girt, for which no Planning Board review / approval is required.
 - That notwithstanding, given the slope of the existing ground, in order for the width of the surrounding sidewalks (in the Municipal Right-of-Way) to be widened, a retaining / seat wall will need to be placed/constructed at the site.
 - Per the testimony and evidence presented, the sidewalk width cannot be specifically increased / expanded unless the subject retaining / seat wall is installed.
 - As such, the installation of the retaining / seat wall will facilitate / allow the width of the subject sidewalks to be so increased.
 - The details of the proposed retaining / seat wall are referenced herein, are referenced on the Plans, and were discussed, at length, during the Public Hearing process.
 - The installation of the retaining / seat wall, as aforesaid, does not constitute "exempt" development under the prevailing zoning ordinances.
 - As such, formal Site Plan Approval is required for the proposed installation of the retaining / seat wall.
 - Likewise, any material change in grade at the site requires approval of the Borough Engineer.
 - Per the testimony and evidence presented, given the litigation and the prevailing circumstances, the Borough Engineer is not comfortable with administratively approving a Change of Grade

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Application, unless effectuated in a public / transparent / noticed forum, in a manner which is open to the public.

- Consequently, the Applicant's representatives have applied for such relief, and publicly noticed for the same.
- The retaining / seat wall approved herein is functional and aesthetically pleasing.
- The retaining / seat wall approved herein is predominantly located within the Municipal Right-of-Way and also on the Applicants property).
- The proposed retaining / seat wall will not compromise the overall aesthetic appeal of the site.
- The proposed retaining / seat wall will not compromise the overall aesthetic appeal of the neighborhood.
- As referenced, the retaining / seat wall will allow the width of the sidewalks to be increased, which will, in turn, promote overall safety at and around the site. As such, the Board finds that approval of the within Application will, in fact, directly and indirectly promote the overall health and safety of the public at large.
- As referenced, the Applicant's representatives are also requesting approval for a Change of Grade at the site. The Prevailing Regulations suggest that such permission / approval should only be granted when necessary. Per the testimony and evidence presented, as confirmed by the Planning Board Engineer, the proposed Change of Grade is necessary under the within circumstances.
- The testimony indicated that the Applicant's representatives propose to change the grade by an amount not to exceed 4 feet. Per the testimony and evidence presented, as confirmed by the Board Engineer, a smaller / lesser change of grade would not be sufficient (to allow the necessary /contemplated increase in the width of the sidewalks).
- Per the testimony and evidence presented, and subject to the conditions contained herein, approval of the within Application will not adversely affect grading / drainage for the subject property, or the adjacent properties.
- Subject to the conditions contained herein, approval of the within Application will not adversely affect storm-water management run-off at the site.

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- One purpose of the Municipal Land Use Law is to approve Applications which promote the overall public health and safety. Subject to the conditions set forth herein, the Board is of the opinion that approval of the within Application (which will allow the public to walk over wider sidewalks) satisfies and advances such a purpose of the Municipal Land Use Law.
- The Board acknowledges and appreciates the fact that approval of the within Application may, to a certain extent, help advance the overall global settlement of the litigation.
- The Planning Board Members are aware that litigation is time-consuming, costly, and stressful – and thus, the Board recognizes that generally speaking, there are benefits of a fair and mutually acceptable settlement.
- The existing doors at the site are old, compromised, narrow, and not necessarily compliant with all modern/prevaling Building/Construction Code requirements.
- The new doors approved herein will allow for improved and more efficient exit from the commercial establishment, in the event of an emergency.
- The new doors approved herein will facilitate the ability of the Borough's first responders to access the structure in the event of an emergency.
- The new doors approved herein will allow patrons to exit in a more expeditious and orderly manner in the event of an emergency.
- In an emergency, exit time is a key factor in minimizing the nature/extent of injuries. The doors approved herein will help improve the overall speed with which patrons can exit the facility in an emergency. As such, the new doors approved herein will undoubtedly advance/promote the health and safety of all patrons and first responders.
- The door improvements authorized herein will likely improve the overall safety associated with the site.
- The improved ingress / egress associated with the within approval will be beneficial for all involved.
- Promoting the public health and safety (through improved and easier egress) is a legitimate development goal, which the Sea Girt Planning Board approves/endorses.

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- The door improvements authorized herein will promote the overall health and safety of the patrons.
 - The door improvements authorized herein will promote the health and safety of the Borough's Emergency First Responders.
 - Approval of the within Application will not materially change the overall Lot Coverage at the site.
 - Approval of the within Application will not materially change the overall Building Coverage at the site.
 - Approval of the within Application does not necessitate the need for any Variance approval.
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- Approval of the within Application, and the installation of the door improvements as referenced herein, will allow for quicker and easier emergency access to the existing structure.
 - Approval of the within Application, and approval of the within door improvements will not increase the size of the occupiable space associated with the site.
 - Approval of the within Application, and approval of the within door improvements will not adversely impact any neighboring property owners.
 - The new doors approved herein are architecturally/aesthetically superior to the currently existing doors.
 - The height of the retaining / seat wall herein is a function of the to-be-widened width of the sidewalks.
 - In conjunction with the above point, the Board finds that approval of the within application does not represent an actual expansion of the overall Parker House commercial operation.
 - Having the proposed retaining wall placed at the site, as referenced herein, will be beneficial to the subject property, the neighborhood, and the Borough of Sea Girt as a whole.
 - Having the proposed retaining wall placed on the site, as approved herein, (in conjunction with the widened sidewalks) will promote the public good.
 - Subject to the conditions contained herein, and subject to any necessary design waivers, the application presented and modified

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satisfies the Minor Site Plan requirements of the Borough of Sea Girt.

- Approval of the within Application will not intensify the historic and to-be-continued commercial use of the Lot.
- Subject to the conditions contained herein, the benefits of approving the Application outweigh any potential detriments associated therewith.

Based upon the above, and subject to the conditions contained herein, the Board is of the unanimous opinion that the subject **Option / Exhibit "B" (Exhibit A-9)** portion of 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: (Note: Unless otherwise indicated, all Plan Revisions shall be subject to the review and approval of the Board Engineer.)

- a. The Applicant's representatives shall comply with all promises, representations, and commitments made at and during the Public Hearing process.
- b. The Applicant's representatives shall comply with the terms and conditions of the Leon S. Avakian, Inc. Review Memorandum, dated October 4, 2022 (A-6).
- c. The Applicant's representatives shall cause the Plans to be revised so as to portray and confirm the following:
 - i. Elimination of the pedestrian taxi pick-up / drop off stand, if necessary;
 - ii. Compliance with the terms and conditions of the memorandum from the Borough's Fire Prevention Bureau, dated October 6, 2022 (A-5);
 - iii. Confirmation that the retaining / seat wall shall be relocated to the east of the Beacon Avenue staircase (so as to facilitate any necessary fire department connections);

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- iv. Confirmation so as to include the creation of a 4 ft. by 6 ft. landing area, as referenced in the Fire Prevention Memorandum (A-5);
 - v. The inclusion of a knox-box, per the Fire Prevention Bureau Memorandum, dated October 6, 2022 (A-5);
 - vi. Confirmation that there shall be a maximum grade change at the site of 4 ft.;
 - ~~vii. Confirmation that the infiltration system shall be placed on the proposed Plans;~~
 - viii. Confirmation that the construction details for the retaining / seat wall shall be contained on the Plans;
 - ix. Confirmation that the Plans shall include the water run-off details (to be reviewed and approved by the Board Engineer);
 - x. Confirmation that the Plans shall include/detail any Survey Encroachments;
 - xi. Confirmation that the Plans shall include a clean stone dry-well system, the terms and conditions of which shall be reviewed and approved the by the Board Engineer;
 - xii. Confirmation that the Applicant's representatives shall comply with the boiler concerns, as referenced in the memorandum of the Board Engineer (A-6).
- d. The Applicant shall comply with the terms and conditions of the prior Resolution(s) of Approval, unless specifically obviated herein.
- e. As referenced, the Applicant's representatives essentially submitted two separate/distinct plan options; namely Option/Exhibit "A" (A-8) and Option/Exhibit "B." (A-9).) Additionally, as referenced, Option/Exhibit "B" is conditionally approved herein. The aforesaid Options are driven, in large part, by what the County Planning Board may or may not approve. The Applicant's representatives shall pursue the County approval in good faith and shall keep the Board/Borough officials advised as to any relevant developments in the said regard.

Prior to the issuance of any permits, the Applicant's representatives shall advise the Board Secretary, in writing, as to whether Option/Exhibit "B" is going to be constructed/built, in accordance with the approved plans/Option. A copy of the said communication shall

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be forwarded to the Planning Board Chair, the Borough Administrator, the Borough Engineer, the Planning Board Engineer, the Borough Attorney, the Zoning Officer, and the Planning Board attorney.

In the event building/construction permits are obtained for Option/Exhibit "B" (Exhibit A-9), then, in that event any Planning Board approval of Option/Exhibit "A" is hereby withdrawn and of no further force or effect.

In the event the Applicant's representatives advise the Board Secretary that they intend to build Option/Exhibit "A" (Exhibit A-8), and the Applicant secures all necessary outside approvals for the same (including approval from the Monmouth County Planning Board), then, in that event, the Board Engineer and the Applicant's representatives shall administratively review/confirm the details at a Sea Girt Planning Board Meeting, so that the Planning Board and the Board Engineer can administratively confirm that the Option/Exhibit "A" details are, in fact, consistent with the testimony presented at the Oct. 19, 2022 Planning Board Meeting.

In the event that the Applicant's representatives choose to build/construct Option/Exhibit "A" (Exhibit A-8), then, in that event, any Planning Board approval of the Option/Exhibit "B" (A-9) shall be withdrawn and of not further force or effect.

- f. The Applicant's representatives shall comply with the terms and conditions of the memorandum from the Borough Fire Prevention, dated October 6, 2022 (A-5).
- g. 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

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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 3rd parties, etc.

- h. The Applicant's representatives shall pursue County Planning Board Approval in good faith, and shall keep the Sea Girt Planning Board advised as to any pertinent developments associated therewith.
- i. Five sets of revised Plans shall be submitted to the Board Secretary.
- j. The Applicant's representatives shall perpetually maintain, replace, and replant landscaping at the site, as necessary.
- k. The Applicant shall obtain any and all necessary outside approvals – and, if the Plans shall materially change as a result of such outside approvals, the Applicant's representatives shall be required to return to the Planning Board for such further approval.
- l. The Applicant shall obtain any and all permits as the Borough of Sea Girt may require.
- m. The Applicant shall comply with all conditions associated with the Liquor License.
- n. The Applicant shall obtain any and all outside approvals (associated with the within Application) as may be required by the State of New Jersey, the Department of Alcohol and Beverage Control, the County of Monmouth, the Borough of Sea Girt, and any other Agency having jurisdiction over the matter.
- o. Unless otherwise authorized by prevailing law, the Applicant shall comply with all previously established occupancy restrictions / regulations affecting the property.

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- p. The Applicant's representatives shall comply with all Prevailing Building Code / Construction Regulations.
- q. Unless otherwise indicated, or unless otherwise obviated herein, the Applicant shall comply with all terms and conditions of any prior approvals for the site.
- r. The Applicant shall comply with all Prevailing Flood Zone Regulations / FEMA Regulations, as may be amended from time to time.
- s. The Applicant shall obtain any applicable permits/approvals as may be required by the Borough of Sea Girt - including, but not limited to, the following:
 - Building Permit
 - Plumbing Permit
 - Electrical Permit
- t. If applicable, the proposed structure shall comply with applicable Provisions of the Americans with Disabilities Act.
- u. If applicable, grading plans shall be submitted to the Board Engineer so as to confirm that any drainage/run-off does not go on to adjoining properties.
- v. The construction shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. Additionally, the construction shall comply with Prevailing Provisions of the Uniform Construction Code.
- w. The Applicant shall comply with all terms and conditions of the Review Memoranda, if any, issued by the Board Engineer, Borough Engineer, Construction Office, the Department of Public Works, the Bureau of Fire Prevention and Investigation, and/or other agents of the Borough.
- x. The Applicant shall obtain any and all approvals (or Letters of No Interest) from applicable outside agencies - including, but not limited to, the Department of Environmental Protection, the Monmouth County Planning Board, and the Freehold Soil Conservation District.
- y. The Applicant shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- z. If required by the Board / Borough Engineer, and / or NJMLUL the Applicant shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.

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- aa. Unless otherwise agreed by the Board, or unless otherwise allowed by the Borough of Sea Girt in connection with potential settlement of the ongoing litigation case, the within approval shall be deemed abandoned, unless, within 24 months from adoption of the within Resolution, the Applicant obtains a Building Permit (if necessary) for the construction / development/installation approved herein.

BE IT FURTHER RESOLVED, that all representations made under oath by the Applicant's Officials and / or their 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 improvements, or for any damage which may be caused by the development / installation.

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

AGAINST THE APPLICATION: None

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ABSENT: Carla Abrahamson, Tom Britt

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

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

OPPOSED: Jake Casey, John Ward

INELIGIBLE TO VOTE: Carla Abrahamson, Tom Britt

OTHER BUSINESS:

Mr. Casey then came forward to present findings of the Ordinance Review Committee, he said it took almost a year to get here and there were papers that were handed out for the Board to follow: Tree Preservation, Half Story Definition and Mechanical Equipment, which he said he had the most complaints on.

He started his presentation with the Elevated Mechanicals but noted the Tree Preservation took the most time and he might have more for the next Board meeting. (Note: all three of the papers are attached to the end of the Minutes). Chairman Hall asked Mr. Casey if he had met yet with the Mayor on these and the answer was no, Mr. Casey wanted to present these to the Board first to make sure all was in order and he received some Board thoughts.

He said what will be proposed to Council will not be a new Ordinance but changes that may be made to existing Ordinances and these will then be reviewed by the appropriate Professionals, Borough Attorney, Board Engineer, and Zoning Officer; the Committee will not be doing the formal changes and will have the experts do this for the proper language and Mr. Casey said he will work with those Professionals to make sure the final Ordinance is properly representing what the Planning Board intended.

He then explained that the Committee goes through the Ordinance, section by section, and work on changes. On Elevated Mechanicals, which upsets the neighbors most, is the noise and unsightly appearance; he said the wording in the Ordinance is difficult to enforce, he referred to Section 17-5.4 of the Zoning Ordinance. He then listed the changes the Committee recommends; the current language does not simply define blocking elevated mechanicals from neighbor's view or provide a sound barrier, does not include similar requirements for elevated mechanicals in a Flood Zone, does not simply limit how high on a roof the mechanicals can be placed. The Committee suggests change the parapet wall requirement to include a solid wall with a minimum height of 6 inches above the tallest mechanical, allow slot venting (air vents to keep the air flow going), elevated mechanicals must be 100% blocked from standing view from streets, sidewalks and any neighboring properties. Top of solid wall cannot exceed the ridgeline of a roof where the mechanicals are placed, solid wall requirement for all

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mechanicals elevated above 16 inches – in a Flood Zone, the 16 inch measurement starts at Local Defined Flood Elevation. Mr. Casey asked if anyone had any comments or questions on what he just read and Councilwoman Anthony asked where the Committee got the 6 inches above the tallest mechanical from and Mr. Casey said it was strictly arbitrary. Mayor Fetzer asked about the comment on blocking from view from neighboring properties and how are they defining "neighboring property"? Mr. Casey said seen from standing from the ground, that is the intent. Mrs. Abrahamson asked if one side has to be open for servicing and Mr. Casey said the intent is one side has to open and has to lead to some sort of interior space for access to the equipment. Mrs. Abrahamson said there will then be a door for this and the answer was yes. Mr. Ward asked about ladders going up the side and Mr. Casey said they will address that. On a question about putting it on a roof, Mr. Casey said they wanted to define this better as roof could be for a house or garage. As there were no more comments or questions Mr. Casey went on to the next section.

He read that the current language allows mechanicals to be put on primary and accessory structure roof, allows non-standard and possibly dangerous access to roof placed mechanicals. The Committee suggests garage or ground only, eliminate the word "primary". He noted that ladders are not to be permanent but they are taken down for inspections and then the people put them back up after the inspection is over. The Committee is saying no permanent or temporary ladder in the setback and a permanent stairwell is put in for access. He commented that, according to the Board Engineer's office, there is conversation about not allowing a generator to be on a roof as it can be difficult to access for service or emergencies, there has to be a shut-off within 5 feet of the generator and this can be done if the generator is on the ground. He used the example of a fire fighter, in full gear, trying to get up a ladder to get to the generator on the roof in an emergency situation. The Committee was okay with keeping them on the ground, this can be addressed by the Board Engineer. Chairman Hall felt this may be contrary to saying it can't be on the main structure but Mr. Casey said it can't, this applies to garages.

Mrs. Laszlo asked how is this addressed if a garage is part of the house, the town does allow an integrated garage, she didn't think the rule should be it has to be on the garage. Mr. Casey said they did not think about this; Mrs. Abrahamson felt there may be a different rule if one has an integrated garage. Mr. Casey had the thought that if an integrated garage has a story above it, then it is treated like a primary structure roof, if it does not have a story above it can be put on. Mr. Britt asked if this need for a stairwell is only for a generator and not other mechanicals and Mr. Casey said yes and this is why they would prefer it on the ground. Mrs. Laszlo felt this was a lot to ask for, if a stairwell is put inside a garage it takes away useable space and Mr. Casey agreed but says it is the generator on the top of garages that offend people the most. Mrs. Laszlo said a generator running is a nuisance no matter where it is and felt there was less impact if it is on a roof than on the ground, Mr. Casey said it is the view that upsets people. Mr. Britt commented he thought that both sides of the equation have to be kept in mind, this may make it too burdensome. Mrs. Abrahamson asked why not just say it has to be on the ground and Mrs. Laszlo said the idea was to get it out of the setbacks and it is allowed to be on roofs, this has been done for at least 10 years, garage and primary structures. Chairman Hall felt the first step would be to address seeing &

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hearing it, why not address this only right now, also the wall information on what is a wall and be higher than 6 inches, it is tough to get a consensus; Mr. Casey agreed and said it has taken the Committee three months to get to this.

Mrs. Laszlo asked what was the problem with ladders and Mr. Casey said it was the sight and safety. The Board heard last month about two "temporary" ladders on properties that were put up and the neighbors had to see this, for emergency personnel it is not safe and this is why Mr. Avakian's office may come up with saying that generators have to be on the ground. Mr. Ward was in favor of not having elevated equipment and have it on the ground, let the people who want the generator have to hear it. Mr. Michael Meixsell, one of the Committee members who was present, said he had spoken with Mr. Willms and the noise is not any worse on the roof or on the ground. Mr. Ward was speaking more of air conditioners than generators. Mrs. Laszlo said the town has been complimented on having mechanicals on the roof and she also has been asked to come to homes and listen to the noise generated and they asked her what they can do and she said there is really nothing that can be done, these are normal functions of the units. She complimented the Committee on the excellent effort here, we have all felt the pain of the citizens who come before the Board due to lack of clear guidance from the code. She had no issue with what the Committee is proposing, she has a real problem with not allowing a ladder and felt it was overreaching, she also would not take out the primary and accessory structures from being used. She would like to hear from local Architects to see what they have to comment on this. Mr. Casey said that Mrs. Napolitano, who spoke to the Board last month on this, sent him an email and said the neighbor on the other side now has plans to put up a new garage and plans to do the same thing as her other neighbor did and she is complaining about this. Mrs. Laszlo hoped the builders will be able to work with this and felt these changes should be codified as soon as possible to take care of this; she again did not want to see an overreach. Chairman Hall said there are a lot of opinions and felt there should be a focus on the noise and the walls. Mr. Casey then asked about the stairwell, there were 5 for and 5 against. Mayor Fetzer asked if units are to be allowed in the setback and Mrs. Laszlo said they were at one time but no more, Chairman Hall agreed. Mr. Casey said that when there is a ladder in the rear yard by the three-foot setback, there sometimes is not enough room for emergency personnel to get up the ladder, it's not safe. Mr. Britt said there are also ladders on the side of the building, there are a lot of variations. Mrs. Laszlo asked about a pull-down staircase and Mr. Casey said they did think of this but Mr. Willms did not like this and felt it was not safe, Chairman Hall added a stairwell has to be 3-feet wide.

Mr. Casey again reminded the Board that if Mr. Avakian's office says generators cannot be on the roofs, only air conditioners, then there will be a change to what the Committee is proposing and the stairwell issue goes away. He was going to go to Council with needing a stairwell, a wall higher than 6 inches above the highest mechanical. Mr. Casey then asked the Board for a vote on not elevating the generator, it has to be less than 16 inches off the ground with an exception to the Flood Elevation, a motion was made by Chairman Hall, seconded by Mr. Ward and a show of hands for a straw vote showed 8 Board members in favor of this. Mr. Casey said this recommendation would then eliminate the need for the stairwell. The comment was made that the existing ones now would be grandfathered in.

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Mayor Fetzer asked if the Committee dealt with electric car chargers and Mr. Casey had no idea on this, he suggested including an exception for electric car chargers. The last item was the current language on calculations, Avakian uses one method to figure impervious information, Mr. Willms uses another, the Committee wants to standardize this in regards to the generator; there was a difference in the platform used to put the generator on and they want to make the footprint on this platform impervious coverage; the Board was all okay on this.

Heather Scaturo, another Committee member, then came forward to speak to the Board on the half-story issue. She said that homes are looking top-heavy and the Committee is looking into this. The existing Language says a half story is defined as attic space above or second story which shall have a pitched roof to being within 12 inches of the ceiling joists line of the story below and which pitch shall have a minimum slope of 30%. Such attic space, if finished, shall have a minimum vertical wall of five feet in a finished area including deck and balcony space not to exceed 50% of the second story living space in the case of a 2 ½ story structure. Chimneys shall not be elevated more than three feet above the established ridge height. Decorative structures such as, but not limited to, railings, widow walks, parapets, etc., are not allowed to be more than an additional two feet above the established ridge height. Dormers attached to half-stories must meet the setback requirements included in the definition of dormers.

She then looked at what other towns have on this and read the requirements for Spring Lake, Brielle, Manasquan and Bradley Beach. She said that what is happening in Sea Girt is what she referred to as a Barn Door roof look that creates large spaces on the third floor, are considered "unfinished" but have a head space of over 5 feet which they claim as storage areas; Sea Girt considered the "finished" area as over 5 feet head space so people are not finishing the rest until after inspections are done. She said that Spring Lake has adopted what Sea Girt has, Brielle has 50% whether finished or unfinished, Manasquan has 60% finished, Avon 40% of the floor below and Bradley has 50%.

She then referred to page 3 of her report which shows what the proposed new language will read, removing some wording and putting in new wording, showing that stairwells, elevator shafts and roofed over a porch or balcony space not to exceed 50% of the second floor area. There also will be a new paragraph: "Floor plans submitted for living space in attic areas shall be provided with a line delineating the extents of the floor area with a height equal to or greater than five (5) feet. Further, the plans shall include the ratio of attic floor space containing a ceiling height equal to or greater than five (5) feet divided by the full floor space of the story below." This will stop third floor usage after inspections and will require calculations on the plans.

Mayor Fetzer asked if this addresses the Barn Door roof effect that she described and Ms. Scaturo said she had sat down with a local Architect and asked them if this can be done and was told this type of home can be done but it will lessen the barn door design. Tom Britt answered a question from Chairman Hall on the roof and said the roof line has to start at the top of the second floor, you can't have a two-foot vertical wall and then have the roof line start; and added that a primary roof is normally 30% but

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gambrel roofs are 30%-60%; Chairman Hall felt that was not correct, the term is degrees and not percentage and Mr. Britt said it is in the existing code as percentage. After further discussion, Mr. Casey said they will check with Mr. Willms to make sure he is using degree and not percentage. Mayor Fetzer said he would like to see this on the plans, it is difficult to figure. Mr. Casey said he had spoken to the Engineer's office and no one had checked the footage on the third floor, they don't do it as a matter of course and the information is not available to Mr. Willms for his original Letter of Denial. Mayor Fetzer agreed it is very time consuming and that the applicant should have to provide this. Ms. Scaturro added that Avon has this requirement.

Mrs. Abrahamson asked if they are trying to get rid of the gambrel roof and Ms. Scaturro said no, one can still build with a gambrel roof but it will be regulated and there will be no porch or balcony on the third floor. Mr. Ward questioned the "two feet above the ridgeline for decorative structures allowed" and he said this can make a 35 foot house look like a 37 foot house, why can't all be within the 35 feet? Chairman Hall agreed, the 35 foot height limitation should be 35 feet, not more; Mr. Casey and Ms. Scaturro agreed. Mr. Britt felt they should stay focused on the current issue of the third floor and not pulling in other things, he would hate to tell someone they can't put a cupola on and he did not think this was meaningful and part of the issue. The Board then had further discussion on this, that it would be a huge change, also it was noted a chimney has to be to code and does not apply here; Mrs. Laszlo noted this was not in the proposal brought in tonight, Ms. Scaturro said Mr. Ward had brought it up this evening. Chairwoman Anthony felt that the Architects are very creative and there would be a way to design a beautiful home that can have the decorative structure and still be under 35 feet. Mr. Casey said he had texted Councilwoman Richman who is also on the Committee and she agreed it should be 35 feet and not higher

Mayor Fetzer commented that everyone says they don't want the homes to all look the same but he thought this may make them look more the same. Mr. Casey mentioned the application that was heard last month wants to put the mechanicals on the roof and it will be two feet above the ridgeline. Mrs. Brisben spoke up and reminded all the Board members that this is allowed right now in our Ordinance, they designed this home following the Sea Girt Zoning and even if a change to eliminate this was finalized tomorrow, what is on the books at the time of application is what applies and Mr. Kennedy confirmed this, the application for 106 New York is in compliance with the current Ordinance in this issue. There was then a show of hands for striking the decorative items that may go over 35 feet and 4 were for doing this and the rest of the Board voted to leave this in the code. Chairman Hall suggested having a restriction on the square footage allowed and Mayor Fetzer felt that Mr. Avakian may have a figure to recommend. Mrs. Abrahamson asked if this has been a problem with the decorative structure and she was told it is not being abused but it could be. The decision was to let it go as is and Mr. Casey reminded all it was not something that the Committee reviewed, it was brought up this evening. On the square footage issue, Chairman Hall did not feel the Board could do this, it should be determined by Mr. Avakian and/or Mr. Willms and they should be told we looked at this as a possibility and that was agreeable to the Board.

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The last person to speak to the Board was Michael Meixsell of the Ordinance Review Committee; he spoke to the Board on the Tree Ordinance and explained he had two handouts, the changes proposed and the Ordinance itself. Mr. Casey spoke then and explained that the Planning Board does not have jurisdiction over Chapter 19 on Tree Preservation but Council has asked us to look at this. Mayor Fetzer agreed and Chairman Hall said a lot of towns have an Environmental Commission but Sea Girt does not; if it did a member of that Commission must be on the Planning Board.

Mr. Meixsell said the Zoning Officer sees this Ordinance come into play a lot and noted the Committee had 18 points to address. The first one applies to when you get a tree permit you don't have to put any money down and Mr. Willms suggests paying an escrow fee which will ensure the applicant is actually planting trees to avoid forfeiture and avoid the need to "chase" the applicant and this also will get trees planted more quickly. The second one is to give a time limit to when this should be done, they are suggesting that no C.O or C.A. be issued until the tree requirement is met. The third one is the suggestion of only considering a need for a tree permit when a building permit, zoning permit, demolition permit and/or variance application is required. Right now a tree permit is required for any tree removal on private property. Chairman Hall asked for clarification, if he takes down a tree in his yard he does not need a permit under the new rules and Mr. Meixsell said yes. Mr. Casey gave the example of taking a tree down to expand the patio, the homeowner is not going to put another tree in there but will have to pay escrow and put in a tree elsewhere.

Mr. Meixsell continued with item 4, the Ordinance now requires a permit for trees with a diameter of 6 inches or more and the Committee recommends changing this to 4 inches or more, this may encourage less trees to be removed because it becomes more expensive and requires more trees to be replaced. Going on to item 5, there now is a charge of \$500 if a tree is not replaced or replacement of at least 1/2 of all removed trees by planting a tree of 3 to 3 1/2 inches caliper or remit a fee. The Committee wants to create a replacement fund requirement based on the size of the tree and a replacement fee based on the size of the tree, which schedule is found on page 3 of the suggested change paperwork. He added the caliper of the tree replaced would be 2 1/2 inches or greater instead of 3 to 3 1/2 inches and Mr. Casey says this is what the town uses, to put in a 3-3 1/2 inch caliper tree is very expensive and the homeowner may just pay the fine instead of replacement, so by taking it down it may be better to get a replacement.

Mr. Meixsell went on to item 6, to avoid a situation where a lot is clear-cut and could lay vacant for an indefinite amount of time, the Ordinance should require a building permit before issuing a tree permit. Building permits require significant upfront investments and also expire, this will likely limit tree cutting and leaving properties vacant for extended periods. Mrs. Brisben asked if this means if a subdivision is approved, no trees can be taken down until a building permit is given? Mr. Meixsell thought this was a good question and Mr. Britt said if they get a demolition permit they can proceed with tree removal, this was not mentioned, getting a demolition permit in item 6. Mrs. Brisben and Mrs. Laszlo noted that Councilwoman Anthony had asked for any trees to be taken down be donated to the Borough at a recent subdivision and it was done, item 6 does not say this. Mr. Casey said the Planning Board is not going to allow people to clear-cut a lot, they can make a negotiation with the town for tree

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removal to go somewhere else in town. Mr. Casey also added that this is not a Planning Board thing, it is a Council thing and has to be done through them, but allowing a subdivision does not mean a lot can be clear-cut. Mrs. Brisben then asked about this being in the Resolutions, about saving trees, should this be taken out? Chairman Hall felt that it is out of the Board's jurisdiction and should not be considered in Resolutions. Mr. Casey said that Councilwoman Richman has asked that, for a variance application, a tree save plan be included and they are going to ask for this to be included but again noted it is a Council matter. Chairman Hall disagreed as the Board has nothing to do with this. There was then a brief discussion on saying, in the Resolution, that the applicant has to comply with all Ordinances in town. Mr. Kennedy said there were a couple of things being talked about here, one is a tree plan to be included that would have to be put on the checklist of the application, and as far as the Resolution the Board has historically put in that a good faith effort is put in to save trees; ~~this is not a Zoning Ordinance and the Board cannot grant relief on this, this has to be done through the Borough.~~ Chairman Hall did not want people to ask why is the Board allowing this to happen, there are things the Board can do and can't do.

Mrs. Laszlo asked if any of the money collected will go to environmental accounts and Mr. Meixsell said item 7 addresses this, any tree replacement funds should be escrowed and targeted for Shade Tree Commission use only, right now it is not. Mr. Kennedy said this is also audited for by the Borough Auditor and addressed. Councilwoman Anthony asked if Spring Lake does this and the answer was yes.

Mr. Meixsell went on to item 8, to avoid messy lots, the Committee is asking that when trees are removed from a "new construction" site the Contractor/Owner shall have 30 days to remove stumps or grind stumps from the entire premises. It could be considered a safety hazard to leave stumps for people or children to trip over and it also cleans up the property so it's not a neighbor's eyesore. Mr. Ward asked if 30 days is practical for tree services to do this work and Mr. Meixsell did not know, this is an arbitrary number and the Committee can take a look at it. Chairman Hall felt this can be put in the original contract with the tree service and Mr. Meixsell said this was done right down the street from his home on Chicago Boulevard, trees and stumps were removed so it can be done. Mr. Casey added the Committee had discussed different amounts of time and came up with the 30 days. Councilwoman Anthony added she has seen both, trees & stumps being removed right away and stumps left, as on a Beacon Boulevard property across from the Parker House. After further discussion, it was decided to leave it at not to exceed 30 days for stump removal.

Items 9, 10 and 11 recommends taking Section 19-3a, 19-4c, 19-7 b-2 out of Chapter 19 as this will remove references to the Planning Board as tree removal is a code Enforcement responsibility. Mr. Meixsell then went on to item 12 and removing Section 19-d which references a property owner taking down a tree, they will have the right to do this without a building/zoning permit. Mrs. Brisben asked about people who clear-cut their property, there have been complaints about this at Borough Hall. Mr. Casey said the Committee feels this is the best way to handle this and Mrs. Brisben was not for that at all. Mr. Casey asked if a person can do to their property what they want and if that is the case, then they don't need a permit to take down a tree/trees. Mayor Fetzer agreed and felt if a person wants to take down a tree in their own yard, they

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shouldn't have to pay for it. Mrs. Brisben still felt there should be a charge, that will go to the Shade Tree Commission, which can then be used to put in other trees in town and noted Councilwoman Anthony had just planted trees in Edgemere Park. Mr. Casey said there may be a way to cover the escrow funds that will provide money for the Shade Tree Commission and not need the individual homeowner's requirement for escrow. Mr. Ward added his opinion that another reason for not taking down trees is that they absorb water and, if one clear-cuts his property, does that water go to the neighbor's property? There should be some way to make sure that the water that is no longer absorbed by the trees stays on that homeowner's property. Mr. Meixsell commented on what the definition of "clear-cut" is and had asked Mr. Willms how many tree permits have been issued back to 2020, so from September 2020 to now there were 38 total permits. The average cut was 4 & 50% of the applications were for only one tree, applications for 10 or more was 5. Councilwoman Anthony asked if there was any way to consider the number of trees taken down and there was a short discussion on this and the thought was again stated that the Shade Tree Commission should be able to plant trees in other parts of town under the proposed changes as shown on the replacement fund information in the paperwork submitted for Board review. Mr. Ward still felt that if the charge for taking down a tree is taken away, the town is really losing money by not having that revenue any more. Mr. Casey again stated there will be more than enough by changing the fee structure.

Mr. Meixsell moved on to item 13; Section 19-4b should be to remove "and the removal of same shall be limited to no more than 30% of the total number of trees on the site and shall, in the opinion of the Construction Official or his designee, clearly be necessary for the construction of the subject building or structure." This part of the current Ordinance is not enforceable. As any applicant can advise that a tree that needs to come down for construction on a site, that can potentially later change. New construction requires new underground utilities, drywells, and the structures themselves which transverse all aspects of the property. Mr. Meixsell said if the town limits the Ordinance to new construction on a property only, the construction documents show all development on the site. Mr. Meixsell and Mr. Casey emphasized that, according to Mr. Willms, this is not enforceable the way it is written now.

Addressing item 14, trees are not to be "felled" and dropped in the street or Borough property. Mr. Meixsell actually saw this a few weeks ago, the developers were cutting trees down and dropping them on Chicago Boulevard literally, not cutting them up. He then went on to item 15, raise the penalty for removing more trees than the permit allows. The Committee suggests adding to tree removal requirements that before stumps are removed an inspection has to be done to confirm trees removed matches up to the permit request and, if different, the replacement cost escrow account can be modified at any time. In the event a tree(s) was removed from a site without a permit and without prior approval, the property owner shall be penalized a flat fee of \$2,000 per violation for violating the Tree Ordinance. Mr. Koreyva asked who was going to do this and was told Code Enforcement; Mr. Koreyva felt this was giving him another job and Mr. Meixsell said he has to do an inspection/audit anyway to make sure the work was done correctly, this is his job today. Chairman Hall said that, while this may be more work, it may be easier to see it is done properly and reduce his time and frustration.

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Mrs. Brisben asked if she could go back to item 8 and doesn't this work with the 30-day time period for removal of stumps as now this is saying stumps can't be removed until the inspector inspects it. So they can't do it all in one day as was discussed earlier, taking both the tree and stump out at the same time; item 8 and 15 work together. Mr. Casey said Mr. Willms will have a tree plan to address all this. Mr. Meixsell and Chairman Hall agreed with Mrs. Brisben and this may have to be clarified as to when stumps can be removed.

Mr. Meixsell went on to item 16 and reiterated that Section 9-4a should be removed from that section as a tree permit should not be required. He read item 17, Chapter 19 Tree Preservation shall apply to private property only as public right-of-way and Borough property are the charge of the Sea Girt Shade Tree Commission. On the last item, #18, it reads to remove the reference to Shade Tree Commission in Section 19-13, Penalties, as this is a Code Enforcement matter.

Mr. Meixsell then referenced the end of the report he had submitted and spoke of the Tree Replacement Plan, Replacement Requirements and Replacement Fund that is shown.

As he was done, Chairman Hall commended him on a great job. Mr. Casey summarized what was done and noted they will have to work with Council on getting changes made. Chairman Hall asked the Board members if anyone had an issue with any part of this and there was no response. Mayor Fetzer said he and Mr. Casey will speak on this to finalize the edits and then get this to Council for processing.

Chairman Hall felt the Board did do a nice job of discussing all this, he was feeling good about this project. Mr. Casey said there was a chance they may have one or two more for the next meeting and, hopefully, it will be quicker.

Before adjourning, Mr. Ward recommended the Board members read about the Affordable Housing information that is on the Sea Girt Borough website, he felt it was a wonderful explanation of it. As there was no more business to come before the Board a motion for adjournment for made by Mr. Ward, seconded by Mr. Koreyva and unanimously approved at 9:18 p.m.

Approved: December 21, 2022


Karen S. Brisben, Secretary

Possible/Suggested Changes to SG Code Chapter 19 Tree Preservation

Updated 11/15/22

1. When tree permit is issued, applicant should have to provide any applicable dollar amount for tree replacement upfront and then have it placed in Escrow (Similar to building escrows required by Boro). This should ensure applicant actually planting tree/s to avoid forfeiture and avoid the need for Code Enforcement/Zoning to "chase" applicant and also to perhaps get trees planted quicker. An Audit shall be conducted by Code Enforcement to confirm accuracy of tree removal request.
2. Right now, we do not have a time limit as to when trees should be planted or replacement fee to be paid to satisfy Boro code. To prevent this loophole from continuing we suggest that no C.O. and/or C.A. be issued to property owner unless tree requirements are met.
3. Currently Tree Ordinance requires a tree permit for any tree removal on private property. We should only consider need for Tree permits when a building permit, zoning permit, demolition permit and/or variance application is required. If required, Section 19-5 of Chapter 19 Tree Preservation will apply.
4. SG Ordinance requires permit for trees with a diameter of six inches or greater. SG should adopt 4-inch diameter. This smaller diameter may encourage less trees to be removed because it becomes more expensive and/or requires more trees to be replaced.
5. SG charges \$500/tree if tree is not replaced or replacement of at least 1/2 of all removed trees by planting a tree of 3 to 3 1/2 inches caliper or remit fee. We should create a replacement fund requirement based on size of tree and replacement fee based on size of tree. **Please see attached Tree Removal chart for requirements.** Caliper of tree replaced would be 2 1/2 inch or greater instead of 3 to 3 1/2 inch.
6. To avoid a situation where a lot is clear cut and could lay vacant for an indefinite amount of time ordinance should require a building permit before issuing a tree permit. Building permits require significant upfront

- investment and also expire. This will likely limit tree cutting and leaving properties vacant for extended periods.
7. Any tree replacement funds should be escrowed and targeted for Shade Tree Commission use only.
 8. When trees are removed from a "New Construction" site Contractor/Owner shall have 30 days to remove stumps or grind stumps from entire premises. It could be considered a safety hazard to leave stumps for people or children to trip over. It also cleans up a property so it's not a neighbor's eyesore.
 9. Remove Section 19-3, a. Planning Board cannot make decisions that supersede Tree Preservation ordinance.
 10. Remove reference to Planning Board in 19-4, c.
 11. Remove reference to Planning Board in Section 19-7, b-2. The Planning Board has concluded #9, #10, and #11 that Tree Removal is a Code Enforcement responsibility and not the purview of the Planning Board.
 12. Remove Section 19-4, d, as property owner should have the right to remove a tree when desired and owner does not require a building/zoning permit.
 13. Section 19-4, b should change to remove "and the removal of same shall be limited to no more than 30% of the total number of trees on the site shall, in the opinion of the Construction Official or his designee, clearly be necessary for the construction of the subject building or structure. This part of the current ordinance is not enforceable. As any applicant can advise that a tree that needs to come down for construction on a site, that can potentially later change. New construction requires new underground utilities, drywells, and the structures themselves which transverse all aspects of the property. If we limit ordinance to new construction on a property only, the construction documents show all development on the site.
 14. Trees are not to be "felled" and dropped in street or borough property.
 15. Raise the penalty for removing more trees than the permit allows. We suggest adding to tree removal requirements that before stumps are removed an inspection has to be done to confirm trees removed matches up to permit request, and if different, the replacement cost escrow account can be modified at any time. In the event a tree(s) was removed from a site

without a permit and without prior approval, the property owner shall be penalized a flat fee of \$2,000 per violation for violating Tree Ordinance.

16. Section 19-4 a. should be removed from that section as tree permit should not be required.

17. Chapter 19 Tree Preservation shall apply to private property only as public right of way and Boro property are the charter of the SG Shade Tree Commission.

18. Remove reference to Shade Tree Commission in section 19-13 Penalties as this is a Code Enforcement matter.

Tree Replacement Plan: Shall consist of the following

- Site plan, survey or plot plan (1"=20') showing location, number, caliper (4" or greater) and species of existing trees to be removed.

Replacement requirements: Caliper (diameter) measured @ 54" above ground

Size of Tree Removed	Number of Replacement Trees with at Least 2 ½" caliper	
4" but not more than 6"	-	1 Tree
More than 6" but less than 10"	0-	2 Trees
More than 10" but less than 16"	-	3 Trees
More than 16"	-	4 Trees

Replacement Fund: In lieu of planting replacement trees:

Size/DBH		Replacement tree value
Greater than 4 inches up to 6	☐	\$500.00
Greater than 6 inches up to 10	☐	\$750.00
Greater than 10 inches up to 16	-	\$1,000.00
Greater than 16 inches		\$1,500.00

Chapter 19

TREE PRESERVATION

§ 19-1. PURPOSE. [Ord. No. 18-2018]

The purpose of this chapter is to prevent indiscriminate, uncontrolled, and excessive destruction, removal, and clear cutting of trees upon lots and tracts of land within the Borough of Sea Girt in order to maintain the aesthetic character of the Borough of Sea Girt, prevent erosion, and control actions that will substantially change drainage patterns, and restrict actions that will cause a hazard to persons or property.

§ 19-2. DEFINITIONS. [Ord. No. 18-2018]

As used in this chapter:

CLEAR CUTTING — Shall mean the removal of all standing trees on a site or portion of a site.

COMPETENT PUBLIC AUTHORITY — Shall mean the members of the Shade Tree Commission, the Code Enforcement Officer, Borough Engineer, members of the Sea Girt Police or Public Works Departments, or a N.J. Certified Tree Expert.

DIAMETER AT POINT OF MEASURE (DPM) — Shall mean the diameter (caliper) of a tree at a point on the tree 54 inches above the actual ground level.

EMERGENCY — Shall mean any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger or hazard to person or property as determined by a N.J. Certified Tree Expert or competent public authority (Borough Engineer);

PUBLIC RIGHT-OF-WAY — Shall mean any street or road shown upon a map or plan filed in the Monmouth County Clerk's office or on the Official Map of the Borough of Sea Girt.

REMOVAL — Shall mean the actual removal of trees, or direct or indirect actions resulting in the effective removal of trees through damage or poison, or similar actions directly or indirectly resulting in the death of trees subject to the provisions of this chapter. Moving a tree to a different location on the same property does not constitute removal. Removal shall not include pruning for maintenance purposes.

SIGNIFICANT SPECIMEN TREES — Shall mean any tree with a diameter at point of measure exceeding 60% of that of the largest similar tree listed in either the Monmouth County's Largest Trees, prepared and annually updated by the Monmouth County Shade Tree Commission or New Jersey's Big Trees, prepared and updated bi-annually by the Division of Parks & Forestry of the New Jersey Department of Environmental Protection.

SITE — Shall mean any lot, tract, parcel or parcels of land within the Borough.

TREE — Shall mean any living deciduous or evergreen tree with a single trunk at a height of one foot above the root crown, with a normally anticipated mature height of 30 feet or greater (including, but not limited to: Norway; Silver and Sugar Maple; Sweetgum; London Plane; American Sycamore; White and Red Pin Oak; American

Elm; Yellow and White Poplar; Copper Beech; Cedar; Spruce; Pine; and Fir).

TREE REMOVAL PERMIT — Shall mean a certificate issued by the Borough to remove trees as defined in this chapter.

UNDISTURBED AREA — Shall mean an area in which trees, shrubs, and understory will not be disturbed by filling, cutting or by any other means.

§ 19-3. TREE REMOVAL PROHIBITED. [Ord. No. 18-2018]

No person shall remove, or cause to be removed any existing trees with a diameter of six inches or greater caliper at point of measure, upon any lands within the Borough of Sea Girt without a tree removal permit except as follows:

- a. Trees that are to be removed as the direct result of a development application that has been approved by the Borough of Sea Girt Planning Board;
- b. Any trees cut or removed in accordance with a management plan developed by the New Jersey Department of Environmental Protection, Bureau of Forestry, filed with the Construction Official of the Borough;
- c. Trees directed to be removed by municipal, County, State or Federal authority. No person shall remove any tree growing on or over a public right-of-way or public land without the express written consent of a competent municipal authority (Code Enforcement Officer, Borough Engineer, etc.) or Shade Tree Commission.

§ 19-4. TREE REMOVAL PERMIT. [Ord. No. 18-2018]

A Tree Removal Permit shall be required for the removal of any trees of six inches or greater caliper at point of measure, as follows:

- a. Trees that are dead, severely damaged by natural causes or accident to the point that the natural habit of the tree cannot be restored as determined by a N.J. Certified Tree Expert or competent public authority trees that are severely diseased and require removal as certified by a N.J. Certified Tree Expert; or trees that pose an imminent public safety hazard as determined by a N.J. Certified Tree Expert or a competent public authority (Police, Department of Public Works, Borough Engineer, etc.).
- b. An application for zoning approval for the construction of new residences, additions to residences in excess of 300 square feet, or the construction of swimming pools or other accessory buildings or structures for the zoning permit or to the Planning Board for a variance shall include an inventory of all trees on the site. Such trees shall clearly be shown on the construction plans and identified by size and the removal of same shall be limited to no more than 30% of the total number of trees on the site and shall, in the opinion of the Construction Official or his designee, clearly be necessary for the construction of the subject building or structure.
- c. Trees required to be removed subject to a construction permit as issued by the Construction Official for construction of new residences, additions to residences in excess of 300 square feet, or the construction of swimming pools or other accessory buildings or structures that are not the subject of Planning Board application.

approvals. Such trees shall clearly be shown on the construction plans and identified by size and the removal of same shall, in the opinion of the Construction Official or his designee, clearly be necessary for the construction of the subject building or structure.

- d. Trees removed by a property owner on his own property where no building permit for a new or replacement principal structure is sought.

§ 19-5. TREE REMOVAL PERMIT REQUIREMENTS. [Ord. No. 18-2018]

- a. Application Form. An application form can be obtained from the Code Enforcement Officer or Borough Clerk and shall include the following information:

1. Name and address (street and lot and block) of the owner of the premises and status of legal entity (individual, partnership, corporation).
2. Description of the premises where removal is to take place, including lot and block numbers, and street address as assigned if different than the address of the owner.
3. Purpose of tree removal.
4. In addition to the application form, a survey showing the approximate location and size of all trees with a diameter at breast height of six inches or greater caliper that exist on the lot, and identifying those trees to be removed. At the discretion of the Code Enforcement Officer or his/her designee, other appropriate documents may be substituted if a survey is not available.
5. If a tree is removed under the requirements of Section 19-3 or Section 19-4 paragraph b., c., or d., a mitigation plan must be submitted and approved by the Code Enforcement Officer or his/her designee prior to the issuance of any permit that will provide for the replacement of at least 1/2 of all removed trees by planting a tree of three inches to 3 1/2 inches caliper or remitting a fee to the Borough of Sea Girt in the amount of \$500 per tree removed.

§ 19-6. FEES. [Ord. No. 18-2018]

Upon the filing of an application with the Code Enforcement Officer for a tree removal permit under the terms of this chapter, the applicant shall pay an application fee of \$50 for any trees removed. No fee is required for a tree removed under Section 19-4 paragraph a.

§ 19-7. PERMIT APPROVAL. [Ord. No. 18-2018]

- a. Time Limits for Action.
 1. The Code Enforcement Officer or his/her designee shall act on an application for a tree removal permit within 30 business days of the receipt of a complete application. Failure to act within 30 days shall be deemed to be an approval of the application and thereafter, a tree removal permit shall be issued.
- b. Duration of Permits.

1. If granted for a lot or parcel of land for which no building permit is required, three months from the date of issuance.
2. If granted for a lot or parcel of land for which a building permit is required but for which no variance, subdivision, or site plan approval is required or has been approved by the Planning Board, until expiration of building permit granted with such tree removal permit.

§ 19-8. COMPLETION. [Ord. No. 18-2018]

The holder of a tree removal permit shall notify the Code Enforcement Officer when the tree removal has been completed.

§ 19-9. SIGNIFICANT SPECIMEN TREES. [Ord. No. 18-2018]

It is presumed that Significant Specimen Trees should only be removed in the most compelling and extraordinary circumstances. Removal will be permitted only after approval by a Hearing Panel, as described in Section 19-10. The loss of lot yield, building area, or profitability of developmental layout shall be deemed neither compelling nor extraordinary.

§ 19-10. APPEALS. [Ord. No. 18-2018]

Whenever any application for a tree removal permit shall be denied by the Code Enforcement Officer or his/her designee, the applicant may appeal the denial to the Borough Administrator by filing a written notice of appeal with the Borough Clerk within 10 days after receiving notice of the denial. Upon receipt of the notice of appeal, the Borough Administrator shall appoint a hearing panel consisting of three members: The Borough Engineer, an employee of the Department of Public Works, and any other designee of the Borough Administrator. This panel shall proceed to hear the appeal upon notice to the applicant within 30 business days of the filing of such notice of appeal. This panel shall have the discretion, after interviewing both the applicant and the Code Enforcement Officer or his/her designee, to reverse, affirm, or modify the aforesaid decision.

§ 19-11. PROTECTION OF EXISTING TREES. [Ord. No. 18-2018]

In connection with any construction, subsequent to tree clearing but prior to the start of other construction, snow fencing or other protective barrier acceptable to the Construction Official and/or Borough Engineer, shall be placed around trees that are not to be removed. The protective barriers shall be placed at the dripline or canopy line of any tree and shall remain in place until all construction activity is terminated. No equipment, chemicals, soil deposits, or construction materials shall be placed within any area so protected by barriers. Any landscaping activities subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor.

§ 19-12. EMERGENCY ACTION. [Ord. No. 18-2018]

In the event of an emergency, trees that pose an imminent public safety hazard as determined by a N.J. Certified Tree Expert or a competent public authority (Police, Department of Public Works, Borough Engineer, etc.), shall have the authority to have

such tree removed without requiring that the property owner first apply for a permit. However, the property owner or the designee of such person shall apply for a tree removal permit not later than the end of the second succeeding business day after any regulated activity takes place and may not proceed with non-emergency work including restoration until a permit is obtained.

§ 19-13. PENALTIES. [Ord. No. 18-2018]

When regulated trees are removed without a tree removal permit, the affected areas shall be replanted as required by the Code Enforcement Officer or his/her designee. Any such replanting shall be in accordance with the requirements of development regulations. Any person found guilty of violating any of the provisions of this chapter shall be subject to a fine not exceeding \$1,000 as determined by the Shade Tree Commission, per removed tree. Each tree removed or destroyed in violation of this section shall be considered a separate violation.

Mechanical Equipment Ordinance Issues

Current Ordinance Language:

§ 17.5.4 Mechanical Equipment.

[Ord. #855, § 4-1; Ord. No. 20-2018; amended 10-26-2021 by Ord. No. 14-2021]

All exterior mechanical equipment, including units for heat, ventilation, air- conditioning, pool pumps and accessories, heat pumps, other than individual air- conditioners and permanently installed generators, to serve a building shall be located in the rear yard and/or on the top story of either the principal building or accessory buildings, either inside or outside. If installed in the yard, they shall comply with the rear yard and setback provisions. If installed on the buildings they shall not be visible from the front or side street and shall be located behind physical buffer such as a parapet wall or solid short fence so as to dampen noise effects on neighboring properties.

ORC Committee Ordinance Edits:

Current language does not simply define blocking elevated mechanicals from neighbor's view nor provide sound barrier.

Current language does not include similar requirements for elevated mechanicals in flood zone.
Current language does not simply limit how high on a roof the mechanicals can be placed.

Suggestion: Change parapet wall requirement to include a solid wall with a minimum height of 6 inches above tallest mechanical. Slot venting allowed (to be defined). Elevated Mechanicals must be 100% blocked from standing view from streets, sidewalks and any neighboring properties. Top of solid wall cannot exceed ridgeline of roof where mechanicals placed. Solid wall requirement for all mechanicals elevated $\geq 16"$. In Flood Zone, the $\geq 16"$ measurement starts at (LDFE?).

Current language allows mechanicals to be put on primary and accessory structure roof.

Current language allows non-standard and possibly dangerous access to roof placed mechanicals

Suggestion: Eliminate the words "primary and accessory" in current ordinance. Mechanicals are to be allowed on the ground or garage roof. Access to roof placed mechanicals must be via permanent stairwell.

Current language does not include complete definition of mechanicals.

Suggestion: Standardize Mechanicals to include units for Heat, Ventilation, A/C (excluding single room window or in-wall installed A/C units), Generator, Pool Filter, Pool Motor, Pool Heater, Pool Controls, Heat Pump, Well Pump.

Current language does not restrict mechanicals and other equipment from installation in setback areas.

Suggestion: Suggestion: Using expanded Mechanicals definition, don't allow mechanicals in setback areas, nor permanent or temporary garage or accessory structure affixed roof access ladders.

Current language does not define standard of 20% building or 35% impervious coverage calculation of mechanicals allowing town engineer and zoning official determine calculations differently and also at different elevated mechanical heights.

Suggestion: Standardize to 35% Impervious to encourage ground placement

Half Story Definition

SEA GIRT Existing Language: 17-2

HALF STORY - Shall be defined as attic space above or second story which shall have a pitched roof to begin within 12 inches of the ceiling joists line of the story below and which pitch shall have a minimum slope of 30%. Such attic space, if finished, shall have a minimum vertical wall of five feet in a finished area including deck and balcony space not to exceed 50% of the second story living space in the case of a 2 1/2 story structure. Chimneys shall not be elevated more than three feet above the established ridge height. Decorative structures such as, but not limited to, railings, widow walks, parapets, etc., are not allowed to be more than an additional two feet above the established ridge height. Dormers attached to half-stories must meet the setback requirements included in the definition of dormers

SECOND FLOOR AREA - Shall mean and shall be measured by using the outside dimensions of the building above the level of the ceiling of the first floor area

SPRING LAKE: Section 225-7 Definitions

Half-Story: A space under a sloping roof which has the line of intersection of the roof and wall face not more than three feet above the floor level and in which space the possible floor area with head room and five feet or less occupies at least 40% of the floor area of the story directly beneath.

Recently amended to: Attic space above second story which shall have a pitched roof to begin at within 12 inches of the ceiling joists line of the story below. Such attic space, if finished shall have a minimum vertical wall of five (5) feet in a finished area including deck and balcony space not to exceed fifty (50%) percent of the second story living space in the case of a two and one-half (2 1/2) story structure. Chimneys shall not be elevated to more than three (3) feet above the established ridge height. Decorative structures such as, but not limited to, railings, widow walks, parapets, etc., are not allowed to be more than an additional two (2) feet above the established ridge height. Dormers attached to half-stories must meet the setback requirements included in the definition of dormers.

BRIELLE Section 20-3 Definitions:

Story, Half - Shall mean the finished area of an attic where the intersection of the roof rafters and the exterior wall occurs within 12 inches of the floor/ceiling system, and in which space the possible floor area with the headroom of five feet or less occupies at least 50% of the square footage of the story directly beneath it.

MANASQUAN Section 35-3.1 Definitions

STORY, HALF - The finished area of an attic where the intersection of the roof rafters and the exterior wall occurs within four inches of the floor/ceiling system, and in which space the maximum floor area at a ceiling height of five feet or more, inclusive of stairwells and roofed over porches, does not exceed 60% of the square footage of the floor directly below, inclusive of roofed over porches.

All dormers, except stairwells, must be stepped back a minimum of 24 inches from the exterior wall face beneath it, except for stairwell dormers located on residential principal buildings located in Flood Hazard Zone V as reflected on the most current FEMA Flood Insurance Rate Map (FIRM) as released on December 15, 2012.

AVON-BY-THE-SEA Section 113-5 Definitions

STORY, HALF - The area under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two (2) feet above the surface of the floor of such a story and any dormers are sized so that at least forty (40%) percent of the total floor area of the half story contains a ceiling height five (5) feet or less. Floor plans submitted for living space in attic areas shall be provided with a line delineating the extents of the floor area with a height equal to or greater than five (5) feet. Further, the plans shall include the ratio of attic floor space containing a ceiling height equal to or greater than five (5) feet divided by the full floor space of the story below/Second Floor Area.

BRADLEY BEACH Section 450-4 Definitions

HALF-STORY - A story under a sloping roof, which may have dormers with windows, having a floor area not exceeding 50% of the floor area below it, inclusive of any balconies on said story. The roof rafters shall intersect the exterior wall within one foot of the floor of said half story. See also "story, half."

STORY, HALF - A story under a sloping roof, which may have dormers with windows, having a floor area not exceeding 50% of the floor area below it, inclusive of any balconies on said story. The roof rafters shall intersect the exterior wall within one foot of the floor of said half story. See also "half-story."

PROPOSED SEA GIRT New Language

HALF STORY - Shall be defined as attic space above or second story which shall have a pitched roof to begin within 12 inches of the ceiling joists line of the story below and which pitch shall have a minimum slope of 30%. Such attic space, if finished, in which space the maximum floor area at ~~shall have a minimum vertical wall of five feet in a finished area~~ including deck, stairwells, elevator shaft, and roofed over porch or balcony space not to exceed 50% of the ~~second story living space~~ Second Floor Area in the case of a 2 1/2 story structure. Chimneys shall not be elevated more than three feet above the established ridge height. Decorative structures such as, but not limited to, railings, widow walks, parapets, etc., are not allowed to be more than an additional two feet above the established ridge height. Dormers attached to half-stories must meet the setback requirements included in the definition of dormers.

Floor plans submitted for living space in attic areas shall be provided with a line delineating the extents of the floor area with a height equal to or greater than five (5) feet. Further, the plans shall include the ratio of attic floor space containing a ceiling height equal to or greater than five (5) feet divided by the full floor space of the story below.