

SEA GIRT PLANNING BOARD

WEDNESDAY, JULY 20, 2016

The Regular meeting of the Sea Girt Planning Board was held on Wednesday, July 20, 2016 at 7:00 pm in the Sea Girt Elementary School, Bell Place. In compliance with the Open Public Meetings Act, notice of this Body's meeting had been sent to the official newspapers of the Board fixing the time & place of all hearings. After a salute to the flag, roll call was taken:

Present – Carla Abrahamson, Larry Benson, Karen Brisben, Eileen Laszlo, Donald McLaughlin, Anne Morris, Ray Petronko, Chris Randazzo, Bret Violette

Absent – Norman Hall, Donald Laws

Also present was Kevin Kennedy, Board Attorney and Board Secretary Karen Brisben recorded the Minutes. There were 8 people in the audience.

The Minutes of the June 29, 2016 meeting were approved, after a correction on the abbreviation "KBA" which should have "KVA", on a motion by Mr. McLaughlin, seconded by Mrs. Laszlo and unanimously approved, all aye.

OLD BUSINESS:

The Board turned to the approval of a Resolution for Block 22, Lot 8.01, 114 New York Boulevard, owned by Michael O'Neill, Trust, to allow a Minor Subdivision to create three building lots. As all Board members, as well as the applicant's attorney, had received a draft copy and there were no changes to be made, and Mr. Kennedy went over the conditions required, the following was presented for approval:

WHEREAS, Michael O'Neill has made Application to the Sea Girt Planning Board for the property designated as Block 22, Lot 8.01, commonly known as 114 New York Boulevard, Sea Girt, NJ, within the Borough's District 1, East Single Family Zone, for the following approval:

- Minor Subdivision Approval; and

PUBLIC HEARING

WHEREAS, the Board held a Public Hearing on June 29, 2016; and

EVIDENCE / EXHIBITS

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

- *Application Package, dated January 19, 2016, introduced into Evidence as A-1;*
- *Survey, prepared by Charles O'Malley, dated December 10, 2015, introduced into Evidence as A-2;*
- *Review Memorandum from Leon S. Avakian, Inc., dated May 23, 2016, introduced into Evidence as A-3;*
- *Subdivision Committee Report, dated February 9, 2016, introduced into Evidence as A-4;*
- *Memorandum from the Municipal Assessor, dated June 14, 2016, introduced into Evidence as A-5;*
- *Communication from the Freehold Soil Conservation District, dated June 14, 2016, introduced into Evidence as A-6;*
- *Photo-board, containing 12 photographs of the subject property and surrounding properties, introduced into Evidence as A-7;*

WITNESSES

WHEREAS, testimony / arguments in support of the Application were presented by the following:

- Michael O'Neill, Applicant
- Lynn Kegelman, Esq., appearing

TESTIMONY AND OTHER EVIDENCE PRESENTED

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

- The Applicant herein is Michael O'Neill.
- The subject property currently contains 22,500 square feet.
- The subject site currently contains a single-family dwelling, attached garage, and a swimming pool.
- In or about July of 2007, the Applicant received prior Minor Subdivision approval (from the Sea Girt Planning Board) so as to create the said 150 ft. wide by 150 ft. deep Lot.
- The Applicant proposes to subdivide the subject property into 3 Lots; namely, proposed Lot 8.01, proposed Lot 8.02, and proposed Lot 8.03.
- The Applicant will arrange for all existing structures on the Mother Lot to be demolished (before perfection of the subdivision).
- Details pertaining to the 3 proposed Lots include the following:

PROPOSED LOT 8.01

Minimum Required Lot Area:	7,500 SF
Proposed Lot Area:	7,500 SF
Lot Measurements:	50 ft. wide by 150 ft. deep
Proposed Use:	New single-family home

of Driveways on Lot: 1

PROPOSED LOT 8.02

Minimum Required Lot Area: 7,500 SF

Proposed Lot Area: 7,500 SF

Lot Measurements: 50 ft. wide by 150 ft. deep

Proposed Use: New single-family home

of Driveways on Lot: 1

PROPOSED LOT 8.03

Minimum Required Lot Area: 7,500 SF

Proposed Lot Area: 7,500 SF

Lot Measurements: 50 ft. wide by 150 ft. deep

Proposed Use: New single-family home

of Driveways on Lot: 1

- As referenced, all 3 Lots will ultimately host a single-family home.

VARIANCES

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

PUBLIC COMMENTS

WHEREAS, questions, comments, statements, concerns, or objections associated with the Application were presented by the following:

- NONE

FINDINGS OF FACT

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

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

1. The Sea Girt Planning Board has proper jurisdiction to hear the within matter.
2. The subject property is located at and currently identified as 114 New York Boulevard, Sea Girt, NJ, within the Borough's District 1, East Single Family Zone.
3. The subject site (i.e. Mother Lot) currently contains 22,500 SF.
4. The Applicant proposes to subdivide the property into 3 Lots; namely, proposed Lot 8.01, 8.02 and proposed Lot 8.03.
5. Such a proposal requires Minor Subdivision Approval.
6. There are no Variances associated with the within proposal.
7. Each of the new Lots created hereunder will ultimately host a new single family home.
8. Single family homes are permitted uses in the subject Zone.
9. The single-family homes to ultimately be constructed on the Lots will comply with all Prevailing Bulk Requirements. That is, and as indicated, there are no Variances required in connection with the within Application.

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

11. There was no known public opposition / objections associated with the Application.

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

13. Based upon the above, and subject to the conditions contained herein, the Board is of the unanimous opinion that the Minor Subdivision Application can be granted without causing substantial detriment to the public good.

CONDITIONS

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

- a. The Applicant shall comply with all promises, commitments, and representations made at and during the Public Hearing Process.
- b. The Applicant shall comply with all terms and conditions of the Leon S. Avakian Review Memorandum, dated May 23, 2016 (A-3).
- c. The Applicant shall comply with the Report of the Subdivision Sub-Committee, dated February 9, 2016 (A-4).
- d. The Applicant shall comply with any prevailing Tree Preservation Ordinance which may be in effect.

- e. The Applicant shall comply with any Municipal Street-opening moratorium which may be in effect.
- f. Per the Board Engineer Review Memorandum, the Applicant shall replace any existing curb and sidewalk which is in poor condition (as deemed necessary by the Board Engineer).
- g. The Applicant shall submit revised Plans to address the necessary / applicable items as referenced in the Board Engineering Review Memorandum and / or as otherwise referenced during the Public Hearing process. Any Plan revisions shall be subject to the review / approval of the Board Engineer.
- h. The Applicant shall obtain any and all necessary / applicable demolition permits.
- i. Unless otherwise required by Law, no Building Permits shall be issued until the Zoning Officer processes the within approval as well.
- j. The Subdivision shall not be perfected until such time as all the existing structures on the site (including the home and any accessory structures) are demolished / removed, as confirmed by Borough Zoning / Construction Officials. Likewise, the Subdivision shall not be perfected until such time as all conditions in the Board Engineer Review Memorandum (A-3) have been satisfied.
- k. In the event the subdivision is to be perfected via Deed, the Subdivision Deed (including the legal descriptions) shall be reviewed and approved by the Board Attorney and Board Engineer.
- l. Prior to the issuance of any Construction Permits, the Applicant (or successor Applicant / Owner / Developer) shall submit grading, drainage, plot, and utility plans (and drainage calculations) to the Board Engineer, for review and approval.

- m. The Applicant, or any successor Applicant / Owner, shall comply with all Prevailing Rules and Regulations of the Municipal Utilities Authority. Additionally, the Applicant or subsequent Developer shall pay / satisfy any applicable sewer / utility connection fees (and any other charges / fees due and owing.)
- n. Prior to the issuance of any Building Permit, the Applicant, or any successor Applicant / Owner / Developer, shall submit detailed Plans / Elevations – and the said documents shall be reviewed / approved by the Board Engineer (as well as any other applicable municipal official).
- o. The Applicant shall attempt, in good faith, to preserve as many trees on site as possible (which are outside of the Building envelope).
- p. Any single-family homes to be constructed on the newly created Lots shall comply with all Prevailing Bulk Zoning Regulations (as no Variances are granted hereunder.)
- q. The subdivision shall be perfected in accordance with Requirements of New Jersey Law (and within the timeframe set forth in New Jersey Law.)
- r. The Applicant shall submit the proposed Block / Lot designations with the Municipal Tax Assessor so as to confirm the acceptability of the same.
- s. The Applicant (or any successor Applicant / Developer) shall comply with all applicable Affordable Housing related Ordinances / Regulations as required by the Borough of Sea Girt, the State of New Jersey, the Court System, and any other Agency having jurisdiction over the matter.
- t. Any construction / development of the Site shall comply with the Prevailing / applicable FEMA Requirements.
- u. The Applicant shall comply with all terms and conditions of the review memoranda, if any, issued by the Board Engineer, Construction Office, the Department of Public Works, the Office of the Fire Prevention and Investigation, and/or other agents of the Borough.

- v. The Applicant or subsequent Developer shall obtain any and all approvals (or Letters of No Interest) from applicable internal / outside agencies - including, but not limited to, the United States of America (FEMA), the Department of Environmental Protection (CAFRA), the Monmouth County Planning Board, the Freehold Soil Conservation District, the local utility offices, the Department of Public Works, the local Fire Department, and any other Agency having jurisdiction over the matter.
- w. The Applicant shall, in conjunction with appropriate Borough Ordinances, pay all appropriate/required fees, taxes, and inspection fees.
- x. If required by the Board Engineer, the Applicant or subsequent Developer shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.

BE IT FURTHER RESOLVED, that all representations made under oath by the Applicant and/or his agents shall be deemed conditions of the approval granted herein, and any misrepresentations or actions by the Applicant 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 any constructed improvement, or for any damage which may be caused by the development / subdivision.

The above Resolution was approved on a motion by Mr. Benson, seconded by Mr. Petronko and then by the following roll call vote:

Ayes: Carla Abrahamson, Larry Benson, Karen Brisben, Eileen Laszlo, Donald McLaughlin, Anne Morris, Raymond Petronko, Chris Randazzo

Noes: None

Not Eligible to Vote: Bret Violette

The Board then turned to the approval of a variance application for Block 10, Lot 4, 9 Philadelphia Boulevard, owned by Patrick & Pamela Sullivan, to install a generator in the side yard.

Mr. Kennedy then went over the conditions of approval, including the requirement for a letter from the neighbors stating they have no problem with this application. He also told the Board Mrs. Morris had requested a change on page 9 of the Resolution citing a lot of coverage with other structures, etc. and that has been done.

At this time the following Resolution was presented for approval:

WHEREAS, Patrick and Pamela Sullivan have made Application to the Sea Girt Planning Board for the property designated as Block 10, Lot 4, commonly known as 9 Philadelphia Boulevard, Sea Girt, New Jersey, within the Borough's District 1, East Single Family Zone, for the following approval: Bulk Variance associated with an Application to install a generator; and

PUBLIC HEARING

WHEREAS, the Board held a Public Hearing on June 29, 2016, Applicants having filed proper Proof of Service and Publication in accordance with Statutory and Ordinance Requirements; and

EVIDENCE / EXHIBITS

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

- *Variance Application, dated January 22, 2016, (with Addendum), introduced into Evidence as A-1;*
- *Variance Plan, prepared by Joseph Kociuba, P.E., P.P., dated October 28, 2015, last revised March 11, 2016, introduced into Evidence as A-2;*
- *Leon S. Avakian, Inc., Review Memorandum, dated May 23, 2016, introduced into Evidence as A-3;*
- *Survey, prepared by Peter Bennett, dated March 7, 2016, introduced into Evidence as A-4;*
- *Zoning Officer Denial Letter, dated December 8, 2015, introduced into Evidence as A-5;*
- *Board containing the aforementioned Variance Plan, prepared by Joseph J. Kociuba, P.E., P.P., dated October 28, 2015, last revised March 11, 2016, introduced into Evidence as A-6;*
- *Photo-board, containing 12 photographs of the subject property and surrounding properties, introduced into Evidence as A-7;*
- *Affidavit of Service;*
- *Affidavit of Publication.*

WITNESSES

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

- Joseph Kociuba, Engineer / Professional Planner;
- Patrick Sullivan, Applicant;
- Michael Rubino, Jr., Esq., appearing; and

TESTIMONY AND OTHER EVIDENCE PRESENTED ON BEHALF OF THE APPLICANTS

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

- The Applicants are the owners of the subject property.
- The Applicants have owned the subject property for approximately 4 years.
- There is an existing single family home at the site.
- The Applicants utilize the home as a 2nd home.

The unusual episodes of severe weather which have been experienced over the recent years, and the power outages associated therewith, have caused significant inconvenience and hardship for the Applicants (particularly in that the area is prone to flooding).

- The power outage (and associated lack of heat, air conditioning, electricity, and burglar alarm service) has caused stress and inconvenience for the Applicants.
- They Applicants would feel more safe / comfortable with a generator on the site, whereby the Applicants can have access to generated power, even in the midst of a power outage.
- In light of the above, the Applicants desire to place a generator at the site.
- The generator will provide power to the site when electricity has been temporarily knocked out.
- Given the fact that the Applicants utilize the subject property as a 2nd home, the Applicants are very satisfied that the generator will turn on automatically.
- The Applicants have spent approximately \$150,000.00 on flood-related improvements at the site (including a retaining wall, etc.), and the Applicants feel a generator will also help as well.
- Details pertaining to the proposed residential generator include the following:

Unit Type	Residential Unit
Model	Generac
Unit Condition	Brand new unit
Dimensions	Per Plans and Testimony.
Power Source	Natural Gas
Foundation	Per Plans / Specifications
Method of	The generator unit will be bolted to

Attachment	the pad
Sound generation	Approximately 60 decibels
Enclosure	The generator unit will be physically encased in a sound attenuating enclosure.
Use Frequency	As necessary, and only when the power servicing the home dips below a designated voltage.
Testing Procedure	The generator will be tested 1 time per week (for approximately 10-15 minutes) (at a time programmed by the owners)
Safety Feature	The unit will have an automatic safety feature, whereby the generator will fail if flood waters compromise the same.

- The Applicants will contract with a licensed installer to install the said generator.
- The Applicants will be placing the generator on the east side of the home (per the Plans).
- The said location (for the generator) was chosen by the Applicants, in conjunction with their professionals, as the said area will result in minimal disturbance to the neighbors.
- The Applicants have spoken with the most directly affected neighbor, and the Applicants advise that the neighbor has no objections to the proposal.
- The Applicants will look to have the generator installed as soon as possible.

VARIANCE

WHEREAS, the Application as submitted, requires approval for the following Variance:

LOCATION OF ACCESSORY STRUCTURE: Accessory structures, such as a generator, are not to be placed in a side yard area. In the within situation, however, the Applicants propose to place a generator in such a side yard location and, as such, a Bulk Variance is necessary.

PUBLIC COMMENTS

WHEREAS, there were no public comments, statements, or objections issued in connection with the subject Application.

FINDINGS OF FACT

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

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

1. The Sea Girt Planning Board has proper jurisdiction to hear the within matter.
2. The subject property is located at 9 Philadelphia Boulevard, Sea Girt, New Jersey, within the Borough's District 1, East Single Family Zone.

3. The site contains an existing single-family dwelling, which is a permitted use in the Zone.

4. As a result of increasing episodes of severe weather, resulting power outages, and the inconveniences / hardships associated therewith, the Applicants are requesting permission to install a natural gas generator at the site.

5. The details of the proposed generator are set forth elsewhere in the within Resolution.

6. Such a proposal requires Bulk Variance Approval.

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

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

- The increasing episodes of severe weather, accompanied by associated power outages, has proven to be a great inconvenience for the Applicants, particularly in that the subject property is prone to flooding.
- As a result of the above, the Applicants have an understandable need / desire for a generator at the site.
- The proposed generator is appropriately sized for the residential neighborhood in which the same will be located.
- The Applicants and their representatives considered a number of locations on the property to serve as a host site for the generator. However, the proposed host location is appropriate for a number of reasons – including, the following:
 - The Prevailing State Law requires that the generator must, at a minimum, be located a

certain distance from the home (and the Applicants' proposed location conforms with such a requirement).

- The proposed generator can be and will be appropriately shielded at the proposed location.
 - There are no known safety concerns associated with the Applicant's proposed generation location.
 - Placing the generator in other areas of the property would presumably have a detrimental impact on the neighbors.
 - Per the testimony and evidence presented, the proposed location is safe, convenient, and appropriate.
 - Per the testimony and evidence presented, the proposed location complies with applicable Building Code and Construction Code setbacks.
 - Subject to the conditions contained herein, the said generator will be appropriately shielded from the neighbors (and the Street).
 - The location for the proposed generator is physically located near the existing gas main / electrical main / air conditioning condenser system.
- As a result of the above, the proposed host location for the generator is the most appropriate.
 - While there are other zoning compliant locations (on the site) for the generator to be located, per the testimony presented, the proposed location is the best location for the same.
 - The generator will be appropriately shielded with shrubbery / landscaping / fencing.

- Subject to the conditions contained herein, the location of the generator will minimize, to the greatest extent possible, any disturbance to the neighboring properties.
- The proposed generator will be a unit specifically designed for residential use.
- The proposed generator will be a brand new unit, which will satisfy prevailing energy efficiency ratios.
- Per the testimony and evidence presented (and per prior testimony received by Board members), the noise levels associated with the proposed generator equate to typical noise associated with an average / typical conversation.
- The generator will be tested one time per week, for an approximate 10-15 minute period, presumably between 12:30 p.m. and 1:30 p.m. Per the testimony presented, it is not expected that the noise from the said testing will prove problematic or annoying for the Applicants or the neighbors. If the noise from the said testing creates issues / concerns, the Applicants can arrange for the testing time to be reasonably changed.
- The generator will have an automatic shut-off / safety feature.
- The Board is aware that a smaller generator would not necessarily constitute a quieter generator.
- The Board Members engaged in a civil and good faith debate as to the merits / detriments associated with the subject Application. Those arguments against approval of the Application included the following:
 - i. The general reluctance to grant Variance relief when circumstances do not so justify.
 - ii. The general reluctance to grant Variance relief when other viable locations exist for the generator to be located in a zoning-compliant location.

- iii. The general concern that the generator could be located in a better and / or less disruptive location.
- iv. The concern regarding the Code-required Distances between the generator and other structures (i.e. home, pool, garage) at the site.
- v. The potential visual impact of having a generator located in a side yard area.
- vi. The concern that the site already contains a single-family home with a 24.04% lot coverage and a front setback of 34 feet, a garage, a pool, and a retaining wall – and that perhaps there are just too many things being “squeezed” onto the property.

Arguments in favor of the Application included the following:

- i. There is a history of flooding at the site – and, as such, there is a need for a generator.
- ii. The topography of the property slopes, which further limits the amount of practical / functional space where a generator can be safely / appropriately / practically located.
- iii. The notion that the Applicants have spent a considerable amount of money to effectuate needed flood-improvements at the site – and that the installation of the generator will be one more important effort in the said regard.
- iv. The notion that the most affected neighbor did not personally appear at the Hearing and / or object to the Application.
- v. The fact that per the testimony presented, the Applicants did speak with the affected neighboring property owner, and no objections were noted.

- vi. The fact that the generator will be appropriately shielded / landscaped / fenced so as to minimize any visual impact.
- vii. The fact that the generator, as shielded, will not be visible from the public street.
- viii. The fact that the generator approved herein is a residential generator, specifically designed for residential use.
- ix. The concept that in the absence of extraordinary circumstances, the Board Members should not attempt to select / mandate the location for the generator.
- x. The fact that any approval granted by the Land Use Board will be conditioned upon the Applicant obtaining any and all necessary Construction Department Approval, Building Department Approval, and Fire Sub-Code Protection Approval. Thus, if there are any issues / concerns associated with the location of the generator or distances from other structures, etc., the same will be flagged during the building / construction office review.

After such good faith debate and discussion, a majority of the Board Members were of the opinion that the Variance could be granted without causing substantial detriment to the public good.

- Subject to the conditions set forth herein, the benefits associated with approving the within Application outweigh any detriments associated therewith.
- Subject to the conditions contained herein, approval of the within Application will have no known detrimental impact on adjoining property owners and thus, the Application can be granted without causing substantial detriment to the public good.

- Approval of the within Application will allow the Applicants to more functionally and comfortably use and enjoy the property.
- Approval of the within Application will not materially intensify the existing (and permitted) single-family residential use of the site.
- Approval of the within Application will promote various purposes of the Municipal Land Use Law; specifically, the same will provide a desirable visual environment through creative development techniques.
- The Application as presented satisfies the Statutory Requirements of N.J.S.A. 40:55D-70(c) (Bulk Variances).
- The Application as presented, and subject to the conditions contained herein, will have a minimal impact on the surrounding neighborhood.

Based upon the above, and subject to the conditions contained herein, a majority of the Board is of the opinion that the requested relief can be granted without causing substantial detriment to the public good.

CONDITIONS

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

- a. The Applicants shall comply with all terms, conditions, and representations made during the Public Hearing.
- b. The Applicant shall comply with the terms and conditions of the May 23, 2016 Review Memorandum from the Board Engineer (A-3).
- c. Out of an abundance of caution, the Applicants shall, within 60 days of the adoption of the within Resolution, provide the

Board Secretary with some form of written / signed verification confirming that the neighboring Owner of the 7 Philadelphia Boulevard, Sea Girt, NJ property, has no objection to the proposed / approved location of the generator.

- d. The Applicants shall perpetually and appropriately maintain the shrubbery / fencing / landscaping at the site (and replace the same as necessary) so as to shield the generator (from the adjacent property owner and from the public view).
- e. The Applicants shall comply with and otherwise satisfy the Prevailing Requirements of the Building Code / Construction Code.
- f. The installation of the generator and the maintenance of the same shall, in all respects, comply with Prevailing State / Local Requirements.
- g. The generator shall be installed by an appropriately licensed / certified Contractor, as necessary / mandated.
- h. The Applicants shall obtain any applicable permits / approvals as may be required by the Borough of Sea Girt - including, but not limited to, the following:
 - Construction Permit
 - Building Permit
 - Plumbing Permit
 - Electric Permit
 - Fire Permit
- i. The installation shall be strictly limited to the Plans which are referenced herein and which are incorporated herein at length. Additionally, the installation shall comply with Prevailing Provisions of the Uniform Construction Code.
- j. The Applicants shall obtain any and all applicable permits and approvals required for the Development, including, but not limited to, Permits and Approvals from the following:

- Department of Public Works
 - Fire Official/Fire Department
 - Building Department
 - All Agencies having jurisdiction over the matter.
- k. Unless otherwise waived by the Borough's Zoning Office, and if necessary, the Applicants shall obtain any and all approvals (or Letters of No Interest) from applicable outside agencies – including, but not limited to the Monmouth County Planning Board, the Freehold Soil Conservation District, and any other agency having jurisdiction over the matter.
- l. The Applicants shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees, taxes, and escrows.
- m. If required by the Board Engineer, the Applicants shall submit appropriate performance and maintenance guarantees in favor of the Borough of Sea Girt.
- n. Unless otherwise agreed by the Zoning Board, the within approval shall be deemed abandoned, unless, within 24 months from adoption of the within Resolution, the Applicants obtain the appropriate permits (if necessary) for the installation approved herein.

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

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

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

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

The above Resolution was approved on a motion by Mr. McLaughlin, seconded by Mr. Benson and then by the following roll call vote:

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

Noes: None

Not Eligible to Vote: Anne Morris, Ray Petronko, Chris Randazzo, Bret Violette

NEW BUSINESS:

The Board then considered an application for a Minor Subdivision for Block 86, Lots 11 & 12, 604 & 608 Chicago Boulevard, 604 Chicago Blvd. owned by Earl & Tracey Ownes, 608 Chicago Blvd. owned by Shawn Mulligan (also the Applicant), Minor Subdivision to create three conforming buildable lots.

The fees were paid and taxes are paid to date. As this is a request for a conforming subdivision there was no notice to property owners within 200 feet or to the

newspaper. Before this hearing started, Mr. Violette recused himself as he is involved in the sale of this property and Mr. Randazzo took over as Chair.

Mr. Kennedy told the Board this is a Minor Subdivision to create three buildable lots that are conforming and one of the lots has been sold to Mr. Mulligan so there now is one owner of these properties. He then marked the following Exhibits:

- A-1. The application for a Minor Subdivision of three lots.
- A-2. A survey of the properties.
- A-3. A Minor Subdivision plan done by Thomas Murphy and dated 3/1/16.
- A-4. Board Engineer's report dated 6/8/16.
- A-5. Assessor's memo conforming proper Block and Lot numbers.
- A-6. Subdivision Committee report dated 6/7/16.
- A-7. Monmouth County Planning Board exempt report dated 4/25/16.
- A-8. List of requested waivers.

Mr. Michael Rubino came forward to present the applicant, he presented a copy of a deed from 12/17/15 to Mr. Mulligan, who put the Ownes property in the name of JCK Investments, which are the initials of his three children. The principal is Shawn Mulligan. This deed copy was marked as Exhibit A-9 and A-10 was a copy of the consent. Mr. Kennedy said there is jurisdiction to proceed.

Mr. Rubino explained that there are now two existing lots, both 75 feet wide; they want to combine those lots and create three buildable lots, they will be taking down one of the homes to do this. He testified that there will be no problem with meeting setbacks from any buyer. They are not sure if they are selling all the lots or keeping one. Mr. Rubino felt the burden should be on the developer and not the subdivider to take care of any grading and drainage issues as all building permits will be done by the developer. He also referenced the Subdivision Committee report as to "any sizable trees should not come down"; he did not know of any large trees on this property. Mr. McLaughlin wanted to know which home was going to stay and was told the easterly one, 604 Chicago.

At this time Mr. Thomas James Murphy came forward and was sworn in, he is a Licensed Surveyor in New Jersey and works for D. W. Smith. He said the lots, in total, are 22,500 square feet and they can create three conforming lots from this, each lot being 50x150 feet with no obstructions to building 3 homes. Mr. Randazzo noted that, on the Subdivision Committee's report, it states that the applicant shall comply with the Engineer's report, not the developer; he wondered if this should be changed. Mr. Kennedy explained that some parts of the plans are subject to conditions before building permits are issued and some parts are done after approval. This report will be referenced in the Resolution. Mr. Rubino agreed, some work is done by the applicant and the actual building is done by the developer.

Mr. McLaughlin noted that the description, on the application, says the lot size is 100 x 200 feet and Mr. Rubino said that was an error, it should read 150x150 feet. At this time Mrs. Brisben noted the Subdivision plat was not signed by the owners, either, and she will need 5 revised plans.

As there were no Board comments or questions or comments from the audience, a motion was made by Mr. McLaughlin to approve this subdivision with conditions to be outlined by Mr. Kennedy. Mr. Kennedy said they will have to be in compliance with the Board Engineer's report, the Subdivision Committee's report, tree preservation if possible, clarify that some conditions will be addressed by the applicant and some by the developer, grading and drainage to have Engineer's approval and compliance with all other requirements of the Borough and to modify the application to show the correct lot sizes. Mr. Petronko seconded the motion made by Mr. McLaughlin and the application was approved by the following roll call vote:

Ayes: Carla Abrahamson, Larry Benson, Karen Brisben, Eileen Laszlo, Donald McLaughlin, Anne Morris, Ray Petronko, Chris Randazzo

Noes: None

Mr. Violette came back on the dais and Mr. Randazzo handed the gavel back to him for the next hearing.

The last item on the agenda was for variance approval for Block 50, Lot 1, 301 Boston Boulevard, owned by JRM Real Property & JRM Holdings, to allow 4 foot fencing for a pool. Fences – Maximum 3 feet in side yard abutting a street, proposed 4 Feet in side yard abutting a street. Patios – permitted in rear yard only, proposed in the side yard abutting a street.

The fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were notified. Before starting the hearing, Mr. Kennedy marked the following exhibits:

- A-1. The application.
- A-2. Fence and Patio plan revised 3/18/16.
- A-3. Landscaping Plan.
- A-4. Survey dated 7/30/14.
- A-5. Report from Board Engineer dated 6/8/16.
- A-6. Letter to Board, from William Voeltz, Engineer, dated 3/26/16.
- A-7. Letter of Denial from Zoning Officer dated 3/10/16.
- A-8. Letter to Board, from William Voeltz, with notice of service (which was in reviewed and was in order).

Jodi Brenner and Henry Hoberman came forward and were sworn in. In regards to the two LLCs this property is in the name of, Ms. Brenner said she was the sole owner and has owned this since August of 2014. There is a home on this lot, as well as a fenced in pool and a garage; this is a weekend home and they have spent the last year redoing the property and they did put in a conforming pool. However, they now want to extend that pool area, they have seen pools around town that have extended patios. The new fencing will be inside the arborvitaes that are there and the additional patio will not be seen.

Mr. Kennedy marked as Exhibit A-9 which is a rendering of the landscaping. Mr. Hoberman spoke and said they hired a Landscaper and this rendering is what he came up with, they want to beautify the area and have it be appealing; he emphasized they are not moving the privacy screen that is there now and confirmed the fence will be inside it. They have taken into consideration all privacy concerns.

Mrs. Morris commented this is a double driveway and asked if they needed a variance to put it in and was told it was existing when they purchased the home. Mrs. Morris then asked about the trees on the south side and that was answered by the Landscaper, Mr. Brian Hatfield from By Design Landscapes, who was sworn in. He first stated he is the President of this company and is a Landscape Designer. He then asked to have photos marked, a series of 4 photos of the existing property taken by Mr. Voeltz, done 6/7/16. He answered Mrs. Morris by stating these are eastern horn beans and grow upright to 10-12 feet. Mrs. Morris then asked if there is any underground retention system and was told there is a seepage tank that all leaders are tied into and there are French drains to Third Avenue, this was done with the pool grading plan.

Mrs. Morris then asked why they didn't do this when they originally did the pool and Ms. Brenner said they decided, after the pool was put in, they needed more space; Mr. Hoberman added they were seeing this done around town.

Mr. Randazzo asked who did the application as it referenced a C-1 Variance; he wanted to know what the "hardship" was. Mr. Voeltz said he will testify to that when he comes to the podium. Mr. McLaughlin noted the plans state the driveway will be made bigger by 4 square feet and Ms. Brenner said Mr. Voeltz can address that. At this time Mr. William Voeltz came forward, he is a Professional Planner & Engineer in N.J. and was sworn in. As he has testified before this Board in the past he was accepted as an expert witness.

He explained the 4 square feet to the driveway is being done by squaring off the area by the garage, where the driveway meets the pool area; this could also be considered a walkway. Mr. Randazzo again asked about the "hardship" and Mr. Voeltz said this is due to the lot width and what is now on the lot. Mr. Randazzo told Mr. Voeltz this is a normal sized lot; Mr. Voeltz said this is a corner lot so there is a side yard setback issue, there is not enough allowable width to permit any more construction. Mr.

Randazzo felt the C-2 criteria would be more in line for this application. A pool was put in on a corner lot and every block in town as 4 corner lots. He also commented on the walkway that was referred to and felt it really is going to be a patio. Mr. Petronko said it will be a 320 square foot patio that will be 20 feet wide and then said that it looks like from the pool it will be 300 square feet. Mr. Voeltz said the current sidewalk is 4 feet wide and they are bringing out the patio more, so it will be 250 square feet; there is a patio all around the pool. Mr. Petronko did not feel that worked out properly and Mr. Voeltz said he calculated a total of 625 feet for the patio. Mr. Petronko then stated it looks like they are trying to make it smaller and Ms. Brenner said there was a two-car garage and they made it a one-car garage so the lot coverage does go down. Mr. McLaughlin commented it is a 400 square foot garage. Mr. Voeltz testified that when he was hired the pool and paver patio were all in. Mr. Petronko felt this application was misleading, it looks as if they are reducing the building area but are not. Mr. Voeltz could see the confusion due to the landscape area.

Mr. McLaughlin asked about the new Impervious Surface Coverage Ordinance and Mrs. Morris said it is 35% but does not include building coverage and a swimming pool; the garage, patio and driveway are all part of the impervious coverage. Mr. McLaughlin then asked Mr. Kennedy if this affects this application and the answer was it depends on when the application was submitted; in this case it was submitted before July 6th. Mr. Voeltz offered a 46% impervious coverage which includes the home and garage. Mr. Violette said the garage and pavers are part of the impervious coverage so this application does comply with the new Ordinance.

Mr. Violette asked, with 15 feet in the side yard setback, how much does the proposed patio go and Mr. Voeltz said 10 feet into that area. Mr. Violette asked how much more room does this give and the answer was there is 4 feet now so another 10 feet will make 14 feet. Mr. Violette asked if they looked to make it less of a patio in this area going east. Mr. Voeltz said 14 feet is not unreasonable and will give room to walk; he emphasized the arborvitae is already there.

Mrs. Brisben asked how hold the home is and was told by Ms. Brenner that it was built in 2006 or 2008; Mrs. Brisben asked this question as there are so many nonconformities here regarding the house dimensions as per the Engineer's report.

Mr. Randazzo noted there is already 10 feet on the north side of the lot for the patio, why the need to go 10 feet to the east? Ms. Brenner said they want room for a table, chairs and recliners, as well as passage to the home. Mr. Randazzo asked where the grill was and is it blocking any area; he reminded them they are asking for another 10 feet. Ms. Brenner said it's very tight now, there is no room on the existing patio with the table, chairs and recliners. Mr. Voeltz agreed there is no room to walk around. Mr. Hoberman said that is how it feels now, it's hard to get around and they would like more room on the north side.

Mrs. Morris asked if they put in the pool and Ms. Brenner said yes, Mr. Voeltz did not design it, an Architect did. Mrs. Laszlo said she was struggling with the lot coverage here, the Board has dealt with corner lots and fence issues; it seemed like there is a lot of coverage. Mr. Voeltz said he has seen about 18 homes in the area with this configuration. Mrs. Brisben told him the Board has asked applicants to reduce their proposed patios for more grass. Mr. Voeltz said they originally wanted 16 feet but now are asking for 14 feet. Mr. Randazzo noted they now have 4 feet to walk to the house but now want 10 more feet. Mr. McLaughlin asked if they would consider amending the application to make it less and Mr. Hoberman said they have a lot of landscaping there and he wanted to know why this patio is being a problem. Mr. McLaughlin said they are looking for two variances and they are adding to variances that already exist. Mr. Hoberman said the existing variances were there when they purchased the house, this is the first variance they are asking for. Ms. Brenner added the arborvitae screening that it there and also could not understand why this is a problem; Mr. Hoberman added this will not be seen with this privacy screen.

Mrs. Brisben tried to explain to them that the Planning Board has a responsibility to try to keep properties within the Zoning Ordinance; as they are going so far out of the setback it is a concern. Mrs. Laszlo added that people have applied for approvals that the Board did not grant due to this.

Mr. Petronko said, if you calculate from the pool coping to the edge it comes to about 17 feet and Mr. Voeltz said it is 16 feet from the coping and the patio is 4 feet, they are asking for another 10 feet. He felt this is under what is allowed and said the new drainage system is already in. Mr. Petronko said the recharge has an additional burden if there is another 10 feet of patio and wanted to know if the system that is in there will be adequate as the calculations were done on the original pool area. Mr. Voeltz said runoff will go into the landscape bed. Mr. Petronko asked if they need to put in drywells and Mr. Voeltz said this amounts to 24 cubic feet. Mr. Violette again commented that he did not think there is an impervious coverage issue here and Mr. Voeltz said they can put in a trench, that would be easy.

Mr. Randazzo felt they could have put in a smaller pool but didn't and now want to add more. The Board understands that it will be very nice visually but the Board's job is to adhere to the code as much as possible. The Board needs to see more of an argument to understand why they should give the applicants more use of this property. Mr. Hoberman said they have lived here for a bit and found that this is a very tight area, they have a large family and over the Fourth of July they were on top of each other, you can barely get by with the table and chairs around; he agreed that maybe they should have thought about it before it was done but did not.

Mr. Violette did comment that the Board has seen at least a dozen pools and this one is small; it is consistent with corner lots. The main question is "is there enough room to put in a patio?" He has never seen a patio within 5 feet of the property line, he

felt the patio was big. Mr. Hatfield, the Landscaper, said a lounge needs about an 8 foot space and maybe they can go out 8 feet and not 10, they still need the fence where they propose it; so they could shorten the patio by 2 feet. Mrs. Brisben said she would like to see more of a grass area in the two feet, this has been done by applicants in the past who have shortened their patio. Mr. Hatfield said there is no grass there now and grass would have to be maintained in such a small area....Mrs. Abrahamson then suggested stones. It was offered, by the applicants, to shorten the patio by two feet, leave the fence where it is proposed, at 14 feet, and put in shrubs in the two foot area between the patio and fence.

Mr. Hoberman wanted to know if this is acceptable to the Board and Mr. Violette suggested a short recess so the applicants can discuss if this is what they want to do; after that the Board will vote or the applicants can ask that this be carried and come back with an amended plan. This was done and, when the applicants came back in, they accepted the plan of taking two feet off which will make the patio 12 feet in total. Mr. Voeltz summed up that they are now asking for a 12 foot patio with the fence staying as originally asked for, all this in the Side Yard Setback off 3rd Avenue; this would give a 7 foot setback where 15 feet is required.

The Board then gave their comments: Mr. McLaughlin was in favor with the amended application as well as Mr. Benson, who commented the property is overbuilt but he would approve it. Mr. Randazzo felt that grass would have been better than putting a patio down, it would have avoided a variance. Mrs. Morris thanked the applicants for working with the Board, but she felt they put in a pool that can't fit their family. It is a hardship of the applicants but this is going to affect the drainage, all these "couple of feet" add up. The town just spent over 3 million dollars on new outfall pipes to help with the drainage problem Sea Girt has and she realized they have not lived in town very long and may have not had a drainage problem.

Mr. Petronko hoped they now understand more of the purpose of the Planning Board and he could understand their needs, but sometimes you have to be "buyer beware" as there are limitations; you have to take into consideration what you are investing in. You may not know of the limitations to coverage of a property; it's not about keeping a property beautiful – he was still torn on this application. Mrs. Abrahamson was torn, too and she would like to see flagstone or grass here and felt that would be better; she was not sure. Mrs. Laszlo agreed with the comments made but felt the Board is looking at the future; she, too, was a big fan of grass and was struggling with this. Mrs. Brisben also agreed with all that was said, but as the applicants were willing to compromise, she would vote for approval. Mr. Violette said he appreciated what they have done and their working with the Board.

Mr. McLaughlin made a motion to approve an amended application, then the conditions were outlined by Mr. Kennedy: be in keeping with code requirements for grading and drainage, comply with the review by the Board Engineer and reduce the

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patio to 12 feet on the east side. This motion was seconded by Mrs. Brisben, then approved by the following roll call vote:

Ayes: Carla Abrahamson, Larry Benson, Karen Brisben, Eileen Laszlo, Donald McLaughlin, Bret Violette

Noes: Anne Morris, Ray Petronko, Chris Randazzo

As there was no further business to come before the Board a motion to adjourn was made by Mrs. Morris, seconded by Mr. McLaughlin and approved unanimously by the Board, all aye. The meeting was adjourned at 9:00 p.m.

Approved: August 17, 2017

Wednesday, July 20, 2016