

SEA GIRT PLANNING BOARD

WEDNESDAY, DECEMBER 21, 2016

The Regular meeting of the Sea Girt Planning Board was held on Wednesday, December 21, 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, Mayor
Ken Farrell, Eileen Laszlo, Donald McLaughlin, Councilwoman
Anne Morris, Raymond Petronko, Bret Violette, Norman Hall

Absent – None

Also present was Kevin Kennedy, Board Attorney and Board member Karen Brisben recorded the Minutes. There were 11 people in the audience.

The Minutes of the November 16, 2016 meeting were approved on a motion by Mr. Petronko, seconded by Mr. Benson and approved by voice vote, all aye.

OLD BUSINESS:

The Board turned to the approval of a Resolution for Block 46, Lot 3, 307 Brooklyn Boulevard, owned by Eric Wasser, to allow construction of a covered front porch with second floor deck.

Mr. Kennedy told the Board he has receive a request for several changes to the draft Resolution and went over these with the Board members. After a brief discussion on some of the points, especially the request for some flexibility in regards to eliminating 500 square feet of impervious surface, as well as a drywall inspection (the Mayor has seen drywalls built and then covered up before inspection). It was decided to postpone the approval of this enabling Resolution until the January 2017 meeting of the Board to give them time to look over a revised draft Resolution. A motion was made to allow this, done by Mayor Farrell, seconded by Councilwoman Morris and then approved by voice vote, all aye.

NEW BUSINESS:

The Board then considered an application for variance relief for Block 29, Lot 4, 108 Seaside Place, owned by Stephen & Patricia Valentino, to allow construction of an in-ground pool, patio & new driveway apron. Bottom elevation of pool structure shall not be less than 2 feet above the seasonal high groundwater. Elevation of 1.14 feet

proposed which puts pool in seasonal high water table. Pool shall not be closer than 10 feet to a structure, proposing a setback to the dwelling of 9.35 feet. Corner Lot – 15 feet prevailing setback line for this street, 6.75 feet proposed. No swimming pool shall be constructed within 10 feet of any rear or side property lot line, 6.5 feet proposed. Lots abutting two streets, no invasion of yard adjacent to either street – proposed pool patio will be in this yard area. Side Setback for patio – feet required, 2 feet proposed. Curb Cut Opening for driveway – 13 feet required, 20 feet proposed. Driveway Width – not to exceed 14 feet running from street to garage or parking area, 22 feet proposed.

Before starting this hearing, Mr. Kennedy marked the following exhibits:

- A-1. The application dated 8/24/16.
- A-2. Addendum to application.
- A-3. Zoning Officer denial letter of 6/29/16.
- A-4. Review by Board Engineer dated 6/29/16.
- A-5. Another review by Board Engineer dated 10/6/16.
- A-6. Grading and Variance Plan dated 3/2/16, done by R.C. Associates
- A-7. As-built plan dated 8/2/16, done by Paul Lynch.
- A-8. Photo board of property (7 photos) taken one week ago by Michael Rubino, Esq.
- A-9. Resolution regarding the approval of a pool for 110 Seaside Place.
- A-10. Landscape Plan done by George Borab Landscaping.

Mr. Michael Rubino, Esq. came forward to present this application; he told the Board this property has been in the family for a long time, the old home has now been taken down and a new one built. This property is unusual in that it is a triangular shaped lot and goes through from Seaside Place to Sea Girt Avenue and on the north side of Sea Girt is a No Parking Zone. He said they want to put in a pool, which complies with the Ordinance but due to the lot's odd size there is a lack of depth to the lot which creates a problem for putting in a pool and garage access so variances are needed.

Mr. Rubino then addressed paragraph 3 of the Board Engineer's report concerning the pool being within the high water table and they will have testimony from Mr. Carpenter on this. The pool will be concrete, will be built properly and there will be a filtering system for the water that comes off the pool. There will also be testimony on the pool location being too close to the house and being only 6.5 feet from the property line. In regards to paragraph 8 of that report there will be testimony on the landscaping; they will also address paragraph 10 which relates to the pool patio being too close to Sea Girt Avenue. There is a variance request to the Driveway Ordinance to allow a 22 foot width, as well as for the driveway curb cut.

Mr. Rubino said there are challenges with this property due to its odd size and this creates a hardship. He said, in regards to the driveway curb cut, there is an

existing curb cut of 20 feet that is no longer in use and the Valentinos want to put this in front of the new garage as there is a problem in getting into the garage area. This will take an extra couple of cars off the street which gets very crowded with parking in the summer. He then referred to Exhibit A-9, a Resolution for the next door neighbor, which granted a pool being put in with variances.

As the Board did not have any questions of Mr. Rubino the hearing was opened to the public for questions. Mr. Robert Kregg of 515 Boston Boulevard came forward, was sworn in, and wanted to know how many variances were given for this property in the past; Mr. Kennedy said none. Mr. Kregg then asked how many variances are being presented now and was told 7.

Before this hearing went on any further, Mrs. Laszlo spoke to Mr. Kennedy and reminded him of her past business relationship with Mr. Ray Carpenter who worked on this application, she had business dealings with him in October and that is all finalized now. Mr. Kennedy, wanted to be on the side of caution, suggested that she recuse herself from hearing this application and she left the dais.

At this time Mr. Stephen Valentino came forward and was sworn in. He told the Board they go way back in Sea Girt, his wife's parents owned this property since 1961; they took it over in 2007, took the old home down and built this new one. They live in New York City and come down as often as they can and have a lot of company that visits. The home itself was built with no variances but now they would like to put in a pool so their two girls can stay on the property to swim. They tried to fit this pool in as best they could and have spoken to their neighbors who are okay with this plan. They do face the Army Camp so no one is behind them where this pool will be.

They have a two car garage, they want to move their current driveway and work with a landscaper on this. If they can have a 2 foot wide driveway curb cut it will allow them to get cars in and out, there will be more room for their visitors, sometimes the parking can go all the way down to the Army Camp entrance. Mr. Rubino then went over the pictures of Exhibit A-8 which shows the heavy landscaping to the north as well as the back of neighbors' garages. Mrs. Brisben asked how many cars will be able to be parked in this driveway if the variance is granted and Mr. Valentino said two.

Mr. Violette questioned the depth of the pool, Mr. Valentino said they felt 5 feet was too shallow and 7 feet would be good. Mr. Petronko wanted to know why have a pool and what will be its use? Mr. Valentino said they tried to not make it too large but still enjoyable, it's 7 foot depth will be good for exercise. At this time Mrs. Patricia Koenig Valentino came forward and was sworn in; she explained she wanted the pool to be safe and not have it too shallow, she also wanted it pushed away from the house, she did not think she was asking for too much as this depth would make her able to swim in the pool. She has been in the ocean and there were a lot of rip tides this summer, her goal was to keep everyone safe in the pool.

Mrs. Morris asked if there is a basement here and the answer was no, it is a crawl space. Mrs. Morris then asked about the drainage and was told Mr. Carpenter will address this. Mayor Farrell asked about the lowest finished floor elevation and that will also be addressed by Mr. Carpenter. Mayor Farrell commented that there are so many setback variances being asked for and this house was just built, they need variances as the house was built to its maximum. Mr. Valentino explained they used the footprint of the old house, they knew there may be difficulties due to the odd shape of the lot. Mr. Rubino said the house itself is 43 feet back but there is a covered entry and that brings the home to the correct front yard setback of 40 feet.

As there were no further questions from the Board the hearing was opened to the public for questions to the Valentinos and there was no response so that portion was closed.

At this time Mr. Raymond Carpenter came forward and was sworn in as an Engineer and Planner. As the Board was very familiar with Mr. Carpenter he was accepted as an Expert Witness. He said the house coverage is 2,207 square feet and this includes a covered screen porch and the house meets all the setback requirements; it is 29 feet deep and 44 feet at the other end and sits at elevation 12. Mayor Farrell commented this makes it 4 feet above the flood zone. Mr. Carpenter said the pool is an odd shape and is about 36x15 feet, a kidney shaped pool. There can't be much done with this area and the pool fits in, there is no one across the street as that is the Army Camp so this south side location is perfect. He felt a pool at a lesser depth than 7 feet was dangerous as kids will jump in a pool that is 6 feet deep and can hit bottom. He said there are all kinds of pools and the only one you can build here is a concrete reinforced pool and it will pass a buoyancy test, it will be water tight. From a construction standpoint you can put a 10 foot deep pool here, the 7 feet would be in the "seasonal" high water table so it is not in this at all times and he said there was only one time where this water table reached this. There also is a mineral layer, or iron part, here which is about ½ inch thick.

Mayor Farrell felt Mr. Carpenter was wrong about the water table in this area and the water table has risen since Hurricane Irene in 2011 and there have been instances of two feet of water in the homes here which goes all the way back to Third Avenue, with water coming out of the storm drains. The basements get filled and the pools displace the water table. Mr. Carpenter said a pool this size would have a minimal impact on the water table. Mayor Farrell explained Sea Girt now has an Ordinance on this, due to Hurricane Sandy and this Ordinance says you cannot get within 2 feet of the water table; it has risen all over town and the Ordinance stands. Mr. Rubino spoke up and quoted the Engineer's report who just asked that the pool is built properly; the pool they are proposing will not affect this. Mayor Farrell still felt there is a displacement of water. There was then a brief discussion on the grade here and Mr. Violette felt if they reduced the pool there may not be all the variances needed; Mr. Carpenter said if they

made the pool comply it would have to be only 4 feet deep. Mr. Violette was concerned with the thought that maybe 75 other people may want to do the same thing if they allow this here and again Mr. Carpenter said there was no study done to substantiate a problem here. Mayor Farrell said the town just did a 3 million dollar storm sewer project but could not put in new pipes in this part of town, this is why the Ordinance was put in place. Mr. Carpenter felt putting in a pool here would be a positive thing for the town. Mayor Farrell said the storm sewer backs up to Third Avenue and they put the Ordinance in to protect neighbors from flooding, this has nothing to do with the structure of the pool itself.

Chairman Hall spoke and verified that Mr. Carpenter testified that the pool will be erected property as per the Engineer's letter and Mr. Carpenter said yes. Chairman Hall then asked that the rest of the Engineer's report be dealt with. Mr. Carpenter then referenced paragraph #4 about the pool being 9.35 feet from the structure and he said the pool is actually 10 feet from the house itself, it's 9.35 feet from the steps there. Paragraph #5 says the pool will be 6.75 feet from the property line but it really will be 15 feet if you include the sidewalks and right-of-way in the area. He felt Paragraph 6 and 7 were not issues and addressed paragraph #8, landscaping. The neighbor's home is heavily landscaped but they can put in more if the Board requests it. Paragraph #9 spoke about the fencing which was not a problem with the Board as this is a State regulation. Paragraph #10 referred to the patio variances and Mr. Carpenter said they can reduce the patio on that side from two feet off the property line so then it will be 6.5 feet, paragraph #11 was okay and the variance needed for the side yard for the patio can be eliminated and they will comply. Then paragraph 13 & 14 refer to the driveway width of 22 feet and curb cut of 20 feet. Mr. Carpenter said a lot of cars park here all summer and whatever parking Mr. Valentino can get on his property is good, they just want to move the apron. Chairman Hall asked if they are increasing the apron and Mr. Carpenter said it looks like the one there now is about 19 feet and a two car driveway is normally 20 feet wide.

Mrs. Abrahamson asked if the shape and size of the pool be changed and Mr. Carpenter said yes, they can make a smaller one; Mrs. Abrahamson felt perhaps a rectangular shaped pool may fit in better.

Mrs. Morris felt the landscaping plans shows a little difference than the plot plan and Mrs. Brisben agreed; she asked for an explanation on this. Mr. Carpenter agreed with this that there are differences in the two plans, the schematic done by Mr. Borab is not accurate and is more of a rendering.

Mayor Farrell had a preliminary FEMA map which shows this area is prone to flooding and this was marked as Exhibit B-1, it is a FEMA Flood Hazard Resource map from 2013; Mr. Carpenter said this map has been updated since then but Mayor Farrell said he had just downloaded it a few days ago from the FEMA website. Mayor Farrell said this shows this property is in the AE8 Zone, which is a flood zone. Mr. Carpenter

said this is now known as the A-9 Zone as of 1/1/2014 and Chairman Hall noted the base floor would have to be at 9 feet. Mayor Farrell said the point is that its law and the water point is high here, when the water table comes up the area is prone to flooding. He also said that sump pumps are used here as well and wanted to know if there is a need for a relief well here and Mr. Carpenter said no. Mayor Farrell then said they are displacing where the water is, he said he may be overprotective but this is what the town has. Mr. Carpenter still felt this doesn't matter, the pool can be filled with water or the area filled with dirt. Mrs. Morris said they rely of the town Engineer and this part of town is prone to flooding and they have an Ordinance, it was put in to help and not have overbuilding.

Mr. McLaughlin commented on a statement made earlier; he has lived in this area for a long time and he has never seen parking go all the way down from the beachfront to the Army Camp entrance.

Mr. Petronko went back to the landscaping plan that was done in March, Exhibit A-10, he felt it was more compliant and wondered why this plan was not adhered to. Chairman Hall felt the Board should not use the landscape plan and Mr. Carpenter said it was hand drawn and is not accurate. Mr. Petronko said it was submitted with the application and felt it would work. Mr. Carpenter said that plan has the pool 7 feet from the house and 8 feet from the garage and is not the same configuration. Mr. Violette commented that this pool is considered a "free form" pool so it can be made any way and Mr. Carpenter agreed; he said they tried to make a pool that fits.

At this time the hearing was opened to the public for questions to Mr. Carpenter and Mr. Robert Kregg came forward again. He said the request for variances is happening numerous times and asked how many variances are being asked for now and was told they are down from 7 to 5. He then asked what the lot coverage was now and was told 19%. Mr. Kregg questioned the work "hardship" as to the oddness of the lot. If you build on a lot you should think about that before you build and he agreed with the Mayor that the town has spent over 3 million dollars on water issues and we don't need any more to affect this and did not think the Board should give away variances.

Mr. McLaughlin asked what were the latest revisions done on 4/18 and 4/20 to the original plan and Mr. Carpenter said there were changes to comply with the Engineer's review letter, things he wanted to see on the plans. Mr. Kennedy noted the report refers to plans of 3/2/16 and not to any revised plans.

Mr. Rubino then asked that this application be tabled to next month so they can discuss the various issues that have come up. Mrs. Brisben questioned the time table and if they can get revised plans done in time for another review before the January meeting, she suggested carrying this application to February.

Chairman Hall asked Mr. Rubino if he wanted to hear the Board comments and Mr. Rubino was agreeable to that as long as they can table this hearing. Mr. Benson had no comments, Mr. Petronko was presently not in favor of it and would like to see changes made. Mr. McLaughlin felt there were too many variances and was concerned with the water table issue, Mr. Violette felt the Board has been flexible with the 10 feet to a structure issue but he would like to see less encroachment, this application is not that far off and they may be able to come back with less variances needed. He was talking about the pool and not the patio, maybe moving the pool one foot east and keeping it out of the 10 feet of property line.

Mrs. Morris's main issue was the water table, she could not see a variance here for this; she also had a problem with all the setbacks issue and agreed there are a lot of variances requested. Mayor Farrell said his comments are not aimed at any individuals but what is good for Sea Girt; the town has built dunes to protect the town and Council considers very carefully what they need to do. Flooding started in 2011 and the problem has gotten worse, the storm sewer is 5 feet lower in the south end of town and it can't be put any lower so the new Ordinance is critical. He remembers when no one had a pool, he is not against pools but is serious about not wanting to see the water table affected and felt it could be damaging to homes. He also commented he had no problem with the parking widths requested.

Mrs. Abrahamson agreed with all that was said, she felt the pool can be made to conform and she would rather see that than not have a pool. Mrs. Brisben had a problem with the curb cut requested and could see a problem with other applications if this were granted, she would also like to see the pool above the water table line and she had no problems with the setback variances. Chairman Hall agreed about making the driveway apron made smaller and also had no problem with the setbacks, many applications ask for these variances and this property backs up to the Army Camp property. However, he would like to see landscaping done, the pool to the west has landscaping so that side is okay. As far as the pool being closer to the house the 10 feet is for safety reasons but as there is no cellar here this should be okay, even if it is closer to 8 feet; the water table issue is a concern but he has not yet made an opinion on this but noted Council has taken a lot of study on this and he felt the Board members are also concerned here.

Mr. Rubino thanked the Board for their input and asked that this hearing be carried to the February 15, 2017 meeting of the Board when no further notice and this was done on a motion by Mr. Petronko, seconded by Mrs. Morris and approved by voice vote, all aye.

The last application for the evening was for variance relief for Block 42, Lot 8, 219 Beacon Boulevard, owned by Bret & Jill Violette, to allow enclosing the easterly portion of an existing covered front porch. Lot Coverage – 20% allowed, 25.3% existing & proposed. Front Yard Setback – 40 feet required, 25.47 feet existing & proposed.

Side Yard Setback – 10.0 feet on the driveway side required, 7.6 feet existing & proposed.

The proper fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified. Before starting this hearing, Mr. Kennedy spoke to the Board about Mr. Violette being a member of the Planning Board so this is an issue. This comes up and a Board member should not be punished and not be allowed to come before the Board for relief, the Municipal Land Use Law suggests that an applicant use an attorney or spouse to present the application but there are times where that is not practical or economical; the Board needs to disclose that they are going to treat Mr. Violette as an applicant – no Board members had a problem with this and no one had to recuse themselves.

At this time Mr. Kennedy marked the following exhibits:

- A-1. The application, dated 8/1/2016.
- A-2. The Zoning Officer Denial Letter dated 4/18/2016, updated 7/25/2016.
- A-3. The application checklist.
- A-4. Communication from Jeremiah Page relating to the impervious coverage, dated 9/6/2016.
- A-5. Architectural Plan done by Jeremiah Page, revised 3/11/2016.
- A-6. Survey done by Charles O'Malley, dated 3/28/2016.
- A-7. Engineer's letter dated 11/3/2016.

Mr. Kennedy also stated he had reviewed the notices and all is in order and swore in Mr. Bret Violette. Mr. Violette said he and his wife have owned this property for 4 years, it is a classic Sea Girter and is 90 years old. One thing they have always wanted was an office or study and they want to use the east side of the covered porch to do this, this is unique as they will not be increasing lot coverage; there already is a front setback and side setback violation, as well as lot coverage and it all is existing.

He then referred to Exhibit A-5, the architectural plans which show where the study will be, two of the four walls are already there and is part of the covered porch and they want to enclose the whole area; the porch is big and they really do not use that side of the porch. Mr. Kennedy then marked, as Exhibit A-8, pictures taken by Mr. Violette and dated 12/18/2016. Chairman Hall asked if they did not have a side yard setback violation would they still need a variance and Mr. Violette said no, they are not adding to any existing violations. He then asked if this will block the view for any of the neighbors and the answer was no, they looked at coming out a little more forward but decided they didn't want to do that. Chairman Hall then asked if the neighbor to the west has the same front setback as they do and Mr. Violette said yes, it is almost the same home and then have done a similar project and enclosed that area of their porch with windows.

Mr. McLaughlin asked for confirmation that this plan did not create any new variances and Mr. Violette said no, he is enclosing an existing non-conforming space. Mr. McLaughlin then asked about the front yard setback and was told that, too, is existing. He asked if there were variances requested when this home was built but, as that was 90 years ago, it was built before there were any zoning requirements. Chairman Hall noted that, in the past, they have tried to change some Zoning in order to help people like this but it never went anywhere.

Mrs. Morris asked if they put in a pool and Mr. Violette said no, that was there when they purchased the property, the only thing he has done is put up an 8x15 shed. Mrs. Morris noted that homes in Sea Girt are required to have a garage and Mr. Violette said this home was built before that requirement was put in place and he did not think there was room to get around the house to get to a garage if one were built. Mrs. Morris then asked about a drainage plan and Mr. Violette said he already had one put in when they installed a shower as they had a water problem. He also commented they are not increasing impervious coverage; Mrs. Morris then asked if the impervious coverage information submitted (Exhibit A-4) included the walkway in front and the answer was yes; Mrs. Morris felt this was a long covered area and Mr. Violette explained it's part patio, walk & driveway and the whole area was done for impervious coverage.

Mayor Farrell asked if the great room in the back was original to the home and Mr. Violette thought it was added on in the 80s or 90s – Mayor Farrell felt this may be the reason the home is over in lot coverage.

At this time the hearing was opened to the public for questions or comments to Mr. Violette and, as there were none that portion of the hearing was closed and the Board went into discussion. Mrs. Brisben said she also has an old Sea Girter and has also thought about enclosing the side porch; she could understand Mr. Violette's reasoning here and did not think there will be a difference once it is done. Mrs. Laszlo agreed with Mrs. Brisben and Mrs. Abrahamson also lives in an old Sea Girter and thought one has to find room where one can. Mayor Farrell wondered about the addition built in the 80s or 90s that took this over in lot coverage. He did not want to congest the neighborhood and commented that, on last month's application, they put on a condition that the proposed porch never be enclosed. Mrs. Morris noted the existing setback conditions but as they are not coming out any more she looked at this as a positive application.

Mr. McLaughlin also felt that once it is done there will be no difference to see, he was concerned about the lot coverage but was okay with the application. Mr. Petronko agreed with the rest of the Board comments, as did Mr. Benson who felt it will be a nice improvement. Chairman Hall also felt it will be great when done and asked for a motion for approval, as presented, and this was done by Mr. McLaughlin. Mr. Kennedy then went over the normal conditions put in a Resolution; there was then a second to the motion for approval, done by Mr. Petronko and then by the following roll call vote:

Ayes: Carla Abrahamson, Larry Benson, Karen Brisben, Mayor Ken Farrell, Eileen Laszlo, Donald McLaughlin, Councilwoman Anne Morris, Raymond Petronko, Norman Hall

Noes: None

OTHER BUSINESS:

The Board then turned to the approval of a Resolution setting the Meeting Dates for the year 2017. Mayor Farrell had a problem with the last meeting of the year, to be held on December 20th, as that is already set for a Council meeting. It was decided to not schedule a meeting for December and, if one is needed, a date will be considered at that time. The following Resolution was then presented:

WHEREAS, an act of the Legislature known as the "Open Public Meetings Act" enacted October 21, 1975, requires that advance notice be given of all regularly scheduled meetings of the Planning/Zoning Board of the Borough of Sea Girt, this act becoming effective January 19, 1976,

NOW, THEREFORE, BE IT RESOLVED by the Planning/Zoning Board of the Borough of Sea Girt that:

The third Wednesday of the month is hereby set for meetings of the Sea Girt Planning/Zoning Board for the year 2017, meetings held at the Sea Girt Elementary School at 7:00 pm:

January 18, 2017

March 15, 2017

May 17, 2017

July 19, 2017

August 16, 2017

October 18, 2017

December – no meeting (School not available)

February 15, 2017

April 19, 2017

June – no meeting (School not available)

September 20, 2017

November 15, 2017

A copy of this Resolution shall be posted on the public bulletin board in the Borough Hall and published in one of the official newspapers of the Board.

A motion was made by Mrs. Laszlo so approve this Resolution, this seconded by Mrs. Morris and unanimously approved by the Board, all aye.

Wednesday, December 21, 2016

EXECUTIVE SESSION:

Mr. Kennedy requested a motion to allow the Board to go into Executive Session on the subject of Pending Litigation; this was done at 10:05 p.m. by Mrs. Morris, seconded by Mr. McLaughlin and unanimously approved by the Board, all aye.

The Board came out of Executive Session at 10:25 p.m. on a motion by Mrs. Morris, seconded by Mr. Petronko and unanimously approved by the Board, all aye.

As there was no more business to come before the Board a motion to adjourn was made by Mrs. Morris, seconded by Mr. McLaughlin and approved unanimously by voice vote, all aye. The meeting was adjourned at 10:28 p.m.

Approved: January 18, 2017