

Wednesday, October 17, 2018

SEA GIRT PLANNING BOARD  
WEDNESDAY, OCTOBER 17, 2018

The Regular Meeting of the Sea Girt Planning Board was held on Wednesday, October 17, 2018 at 7:00 p.m. at the Sea Girt Elementary School, Bell Place, Sea Girt. 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. After a Salute to the Flag, roll call was taken:

Present: Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo, Councilman Michael Meixsell, Raymond Petronko, Robert Walker, John Ward, Norman Hall

Absent: Carla Abrahamson

Also present was Kevin Kennedy, Board Attorney; Board member and Secretary Karen Brisben recorded the Minutes. There were 5 people in the audience.

The Minutes of September 19, 2018 Minutes were approved on a motion by Mrs. Laszlo, seconded by Mr. Casey and approved with a voice vote, all aye with Councilman Meixsell abstaining.

OLD BUSINESS:

The Board turned to the Resolution for approval of application for Block 8, Lot 11, 802 First Avenue, owned by John & Patricia Klein, to allow construction of a new home & detached garage. Mr. Kennedy went over the conditions and noted the addition to the Resolution of the statement that is now in all Resolutions about renovations/demolitions being done, it is written in bold. As there were no other comments the following was presented for approval:

**WHEREAS**, Jon and Patricia Klein have made Application to the Sea Girt Planning Board for the property designated as Block 8, Lot 11, commonly known as 802 First Avenue, Sea Girt, New Jersey, within the Borough's District 1, East Single-Family Zone, for the following approval: Bulk Variances associated with an Application to effectuate the following:

- Demolition of an existing single-family house and driveway;
- Construction of a detached garage and driveway (in a front-yard area); and

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- Construction of a new single-family home.

### **PUBLIC HEARING**

**WHEREAS**, the Board held a Public Hearing on September 19, 2018, 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:

- *Planning Board Application Package, introduced into Evidence as A-1;*
- *Zoning Officer Denial Letter, dated April 25, 2018, introduced into Evidence as A-2;*
- *Land Development Application Completeness Checklist, introduced into Evidence as A-3;*
- *Architectural Plans, prepared by Christopher Rice, R.A., dated March 8, 2018, consisting of 5 sheets, introduced into Evidence as A-4;*
- *Plot Plan, prepared by R. C. Associates Consulting, Inc., dated March 5, 2018, last revised May 7, 2018, introduced into Evidence as A-5;*
- *Survey of property, prepared by Charles V. Bell Associates, Inc., dated March 16, 2017, introduced into Evidence as A-6;*
- *Leon S. Avakian, Inc. Review Memorandum, dated July 17, 2018, introduced into Evidence as A-7;*
- *Illustrated Rendering of the proposed home (west side), prepared by Christopher Rice, Architect, dated September 19, 2018, introduced into Evidence as A-8;*

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- *Illustrated Rendering of the proposed home (east side), prepared by Christopher Rice, Architect, dated September 19, 2018, introduced into Evidence as A-9;*
- *Aerial photograph of the subject property, obtained from the internet on or about September 19, 2018, introduced into Evidence as A-10;*
- *Aerial photograph of the subject property and surrounding properties, introduced into Evidence as A-11;*
- *Photograph imposed on a Survey, with the proposed new home superimposed thereon, prepared by Christopher Rice, Architect, dated September 19, 2018, introduced into Evidence as A-12;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

**WITNESS**

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

- Patricia Klein, Applicant;
- Chris Rice, Architect;
- Ray Carpenter, Engineer / Planner;
- Michael J. Rubino, Jr., Esq., appearing;

**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 1 ½ years.

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- There is an existing single-family home and driveway at the site.
- The Applicants proposed to effectuate the following:
  - Demolition of an existing single-family house and driveway;
  - Construction of a detached garage and driveway (in a front-yard area); and
  - Construction of a new single-family home.
- Upon completion, the proposed new home will include the following:

1<sup>st</sup> FLOOR

Den  
Bedroom  
Bedroom  
Bedroom  
Laundry Room  
Bathroom  
Bathroom  
Bathroom

2<sup>nd</sup> FLOOR

Family Room  
Kitchen  
Den  
Bathroom  
Balcony

ATTIC

Master Bedroom  
Master Bathroom  
Unfinished Attic / Storage Space  
Unfinished Attic / Storage Space

- The proposed materials for the new home include the following:

Cedar Shingles  
Azek Trim  
Timberline Products

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- The Applicants would like to have the demolition and construction completed in the very near future.
- The Applicants will be utilizing licensed contractors in connection with the construction process.

### **VARIANCES**

**WHEREAS**, the Application as submitted and ultimately amended requires approval for the following Variances:

*LOCATION FOR AN ACCESSORY STRUCTURE (GARAGE):*

*The Prevailing Municipal Regulations provide that no accessory structure (including a free-standing garage) shall be placed in the front yard area of any Lot – whereas, in the within situation, the Applicants are proposing a free-standing garage in a technical front-yard area.*

*LOCATION OF MECHANICAL EQUIPMENT: Pursuant to the Prevailing Zoning Regulations, mechanical equipment shall only be located in the rear yard; whereas, in the within situation, the mechanical equipment is located in a technical front yard area.*

*DRIVEWAY WIDTH: The Zoning Regulations provide that a driveway shall not exceed 14 ft. in width; whereas in the within situation, the Applicants propose a driveway which, at some points, has a width of 20 ft.*

### **PUBLIC COMMENTS**

**WHEREAS**, the following members of the public expressed questions, comments, and / or statements in connection with the Application:

- Nancy Nolan
- Bill O'Brien

**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 802 First Avenue, Sea Girt, New Jersey, within the Borough's District 1, East Single Family Zone.
3. The subject property contains a single-family home.
4. Single-family use is a permitted use in the subject Zone.
5. The Applicants are proposing to effectuate the following:
  - Demolition of an existing single-family house and driveway;
  - Construction of a detached garage and driveway (in a front-yard area); and
  - Construction of a new single-family home.
6. Such a proposal requires Bulk Variance approval.
7. The Sea Girt Planning Board is statutorily authorized to grant the requested 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 existing Lot is a "through" Lot – having street frontage on both Morven Terrace and First Avenue. Thus, as referenced, the Lot has 2 technical front yard areas.

- In conjunction with the above point, the Board is aware that the subject property does not, technically, have a rear yard area.
- The proposed Zoning Regulations do not permit garages to be located in a front yard area. Obviously, the said situation is complicated as a result of the fact that the subject property has 2 technical front yard areas (i.e. off of Morven Terrace and one off of First Avenue).
- The said geographical fact of life complicates the ability of the garage to be placed in a zoning-compliant location (i.e. there are 2 front yard areas, and no rear yard area).
- As indicated, there is an existing single-family home on the property, which is being demolished as part of the within Application.
- Currently, there is an attached garage at the site.
- Per the testimony and evidence presented, there is, in fact, a need for a garage at the site.
- The Applicants have a legitimate question as to whether the proposed garage should be located off of Morven Terrace or located off of First Avenue.
- The Applicants have considered potential locations for the garage, and the Applicants have debated the most appropriate host site for the garage.
- The Applicants have also reviewed the location of other garages in the area as well.
- The Applicants' representatives testified that there are 7 homes in the immediate area which have garages facing First Avenue (such as that proposed by the Applicants).
- The Applicants' representatives also testified that there are 4 homes in the immediate area which have garages facing Morven Terrace.
- Thus, the Applicants' proposed garage location (off of First Avenue) is in keeping with the majority of other homes in the immediate area.

- The Applicants' believe that placing / constructing the garage off of First Avenue is preferred for a number of reasons, including, the following:
  - a. The preferred preference of the Applicants;
  - b. Aesthetic concerns;
  - c. Functional concerns;
  - d. Recognition that Morven Terrace is more prone to heavy beach traffic / beach parking demands.
- The Board accepts the Applicants' arguments in the said regard.
- Given the geographic realities as referenced above, a garage in the front yard area (at and around the subject development site) is fairly common.
- The Applicants considered constructing an attached garage as well – but the same did not represent a better overall design alternative.
- The garage, as proposed / approved herein, is more in keeping with a traditional Sea Girt home.
- The Board notes that the proposed garage will be located substantially further back than the existing garage.
- The proposed garage has been designed to be only 280 SF, and the said small dimension will minimize the overall impact of the proposal.
- The Board is also aware that current Zoning Regulations require homeowners to have a garage.
- The location of the proposed garage is, under the circumstances, appropriate, practical, functional, and aesthetically pleasing.
- As initially submitted, the Applicants requested a Variance so as to place the air conditioning condensers on the top of the garage, in a front yard area. As referenced, the Prevailing Zoning Regulations do not permit the air conditioner condensers to be placed in a front yard area.

- There were some concerns, from Board Members and the Public, as to the wisdom of placing air conditioning condensers on top of the garage. Specifically, there were some aesthetic concerns expressed, functional concerns expressed, practical concerns expressed, and quality of life concerns expressed.
- In conjunction with the above point, the Applicants' representatives testified that they were initially under the belief that if the air conditioning condenser system were not placed on the garage, then, in that event, the Applicants would need to secure other / additional Variance relief.
- Upon further review, the Applicants have agreed to modify the proposal so as to remove the air conditioning condensers from the garage roof, and place the same on the ground. Most Board Members seemed satisfied with such a concession (i.e. relocating the air conditioning condensers from the top of the garage to the ground).
- Those members of the public (in attendance at the meeting) seemed satisfied with the idea that the air conditioning condensers would be relocated from the top of the garage (to the ground).
- The proposed air conditioning units will be brand new energy-efficient units, sufficient and appropriate for a single-family home.
- Importantly, the Board finds that the location of the air conditioning condenser units will not violate any setback requirements.
- The Board is aware that the relocation of the air conditioner units (from the top of the garage to the ground) will minimize the overall impact of the non-conforming location of the garage.
- The Board is furthermore aware that the relocation of the air conditioning units (from the top of the garage to the ground) will more appropriately shield / disguise the non-conforming elements of the Applicants' proposal.
- The Board appreciates the willingness of the Applicants to work with the neighbors and the Board (relative to the location of the air conditioning condensers).

- The Board is aware that per the testimony presented, the Applicants have designed a smaller home (than that which currently exists) in an effort to minimize the overall visual / aesthetic / functional impact of the proposal.
- The Board is also aware that the proposed home will comply with all Prevailing Zoning Regulations regarding size, location, setback, coverage, etc.
- The Board is also aware of the following facts pertaining to the existing single-family home at the site and the proposed single-family home:

	Existing Home	Proposed Home
Stories:	2 ½	2 ½
Garage Details:	Attached (2 car)	1 ½ bay garage (detached)

- As generally referenced above, the Board is aware that the new home approved herein will be somewhat smaller than the home which currently exists at the site.
- As a condition of the within approval, the Applicants will landscape the property so as to sufficiently minimize the overall impact of the development.
- As initially presented, the Applicants proposed a Variance for the curb-cut size. Specifically, per the Prevailing Zoning Regulations, the driveway opening shall be no greater than 13 ft.; whereas, the Applicants were proposing a driveway opening width of 14 ft.
- Sufficient testimony / evidence was not presented to justify the Variance relief for the driveway width.
- In the public hearing, the Applicants agreed to modify the plans so as to have a conforming driveway width.
- Thus, as referenced above, the request for the Variance for the curb cut size has been withdrawn.
- The Application as presented requires a Variance for driveway width (maximum 14 ft. required; whereas 20 ft. proposed).

- The Board is aware that the current driveway at the site has a non-conforming width (at its widest point) of approximately 24 ft.
- The proposed 20 ft. driveway width is appropriate, and will not present any safety issues / concerns.
- Per the testimony and evidence presented, the subject site can accommodate the excess driveway width.
- The subject property is a unique “through” Lot. Specifically, though not a corner property, the subject property fronts on 2 streets; namely, First Avenue and Morven Terrace.
- It is believed that there are several other similarly geographically configured properties within the Borough.
- The unique “through nature” of the Lot, and the geographical limitations / constrictions associated therewith, clearly restrict the nature / lay-out / orientation of any proposed garage at the site.
- Under the circumstances, the unique “through nature” of the Lot (and geographical constrictions / limitations associated therewith) constitutes a hardship.
- The unique “through nature” of the Lot (and geographical constrictions / limitations associated therewith) materially limit the ability of the Applicants to satisfy all Prevailing Bulk Standards (for the placement of a garage) in a functional and pleasing fashion.
- Single-family use, as proposed / approved herein, is a permitted use in the subject Zone.
- The proposed garage is a permitted accessory use at the site.
- The location of the proposed home and garage are practical and appropriate – particularly in the light of the many limitations associated with the existing “through” Lot.
- The size of the to-be-constructed home and the proposed garage are appropriate, particularly given the size of the existing Lot.

- The existing Lot contains 7,500 SF; whereas a minimum of 7,500 SF is otherwise required in the Zone.
- Placement of the garage on the First Avenue portion of the property, as proposed, will help address / minimize various safety concerns, aesthetic concerns, and functional concerns.
- The Board appreciates the Applicants willingness to consider the concerns of some of the neighbors. The ability to address reasonable development concerns of adjoining property owners, when possible and feasible, represents a legitimate development goal.
- The ability to address reasonable development concerns of adjoining property owners, when possible and feasible, promotes good neighborly relations.
- Notwithstanding the good faith and neighborly preferences, the garage as proposed herein (off of First Avenue) does represent a better zoning alternative for the Borough of Sea Girt (and the neighborhood).
- Per the testimony and evidence presented, there are approximately 7 other driveways on First Avenue in the immediate area – and thus, approval of the within Application will not be inconsistent with other development within the neighborhood.
- Per the testimony and evidence presented, of the approximate 11 homes in the immediate area, approximately 7 of the same have garages off of First Avenue. Thus, approval of the within garage location will not be out of character for the neighborhood.
- The location of the garage as proposed herein is consistent with the character of the neighborhood.
- The location of the garage, as proposed herein, is consistent with the pattern of development in the neighborhood.
- There were no public objections directly associated with the subject Application.
- The Board appreciates the good faith cooperation between the Applicants and their neighbors.

- Though the Board appreciates the cooperation between the Applicants and the neighboring property owners, the Board is nonetheless cognizant that the same is not the only controlling legal standard / factor in connection with a Variance Application. However, in addition to the cooperation between the Applicants and the neighboring property owners, the Board also finds that the within proposal (for a garage which is in a non-conforming location) represents a better zoning alternative for the subject property, the neighborhood, and the community as a whole.
- The home / garage approved herein will not overpower / overwhelm the subject Lot.
- The home / garage approved herein will not overpower / dwarf other homes in the area – particularly in light of the nature of the surrounding uses.
- The size of the proposed home is appropriate – particularly as evidenced by the fact that the same will satisfy the Borough's Prevailing Height Requirements, as well as the Borough's Prevailing Building Coverage Requirements.
- The size of the proposed garage is appropriate – particularly as evidenced by the fact that the same will satisfy the Borough's Prevailing Height Requirements, Prevailing Size Requirements, as well as the Borough's Prevailing Building Coverage Requirements, etc.
- The home and garage approved herein represent an attractive and upscale proposal, in accordance with Prevailing Community Standards.
- The site will provide a sufficient amount of off-street parking spaces for the Applicants' use and thus, no Parking Variance is required.
- The existence of sufficient and appropriate parking is of material importance to the Board – and but for the same, the within Application may not have been approved.
- There are no known adverse health / safety / building / construction issues associated with the placement of the home or garage.
- Approval of the within Application does not compromise the public health, safety, or welfare.

- The Board finds that the particular facts and circumstances associated with the within Application / site are sufficiently unique that the within Application / Resolution should not be construed as a precedent or basis for any other approvals or requests for Variances. Rather, as is the standard espoused in New Jersey Municipal Land Use Law, each Zoning Application will need to succeed or fail based upon its own merits / circumstances.
- Sufficiently detailed testimony / plans were represented to the Board.
- Subject to the conditions contained herein, the proposed home / garage should nicely complement the property and the neighborhood.
- Subject to the conditions contained herein, the proposal will not appreciably intensify the historic single-family nature of the lot.
- Additionally, the architectural / aesthetic benefits associated with the proposal outweigh the detriments associated with the Applicants' inability to comply with all of the specified bulk standards.
- The architectural design of the to-be-constructed home / garage will not be inconsistent with the architectural character of other homes / garages in the area (on similarly sized Lots).
- Subject to the conditions set forth herein, the benefits associated with approving the within Application outweigh any detriments associated with the same.
- 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.
- The improvements to be constructed herein will not be inconsistent with other improvements located within the Borough.
- Approval of the within application will promote various purposes of the Municipal Land Use Law; specifically, the

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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).

Based upon the above, and for other reasons set forth during the Public Hearing Process, the Board is of the unanimous 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 the terms, commitments, promises, and representations made at or during the Public Hearing Process.
- b. The Applicants shall comply with the terms and conditions of the Leon S. Avakian, Inc. Review Memorandum, dated July 17, 2018 (A-7).
- c. The Applicants shall obtain any and all necessary demolition permits.
- d. The Applicants shall satisfy any and all required Affordable Housing directives / contributions as required by the State of New Jersey, the Borough of Sea Girt, C.O.A.H., the Court System, and any other Agency having jurisdiction over the matter.
- e. The Applicants shall comply with all Prevailing Building / Construction Code Requirements.
- f. The Applicants shall submit grading / drainage plans, which shall be approved the Board Engineer.
- g. The Applicant shall cause the Plans to be revised so as to portray and confirm the following:
  - The Applicants shall revise the Plans so as to comply with the maximum 13 ft. width for the driveway opening (i.e. the Applicant shall eliminate the need for the said Variance);

- The Applicants shall relocate the proposed detached garage so that the same has a 25 ft. setback (off of the First Avenue property line);
  - The Applicants shall revise the plans so as to relocate the 2 air conditioning condensers from the top of the garage to the ground (between the house and garage) (i.e. the air conditioning condensers will not be placed on the garage).
  - The Applicants shall modify the plans so as to include a note confirming that the Applicants' to-be-submitted landscaping plan shall be reviewed and approved by the Board Engineer and the Zoning Officer.
  - The Applicants shall revise the plan so as to include a note confirming that any landscaping damage during the demolition / construction process shall be replaced / replanted (with the same caliber of plants, etc.).
- h. The Applicants shall comply with any Prevailing FEMA Requirements.
- i. The Applicants shall obtain any necessary curb-cut Permit from the Borough of Sea Girt, and any other Agency having jurisdiction over the matter.
- j. If requested by the Board Engineer, the Applicants shall submit a Grading Plan, which shall be approved by the Board Engineer.
- k. The Applicants shall manage storm-water run-off during and after construction (in addition to any other prevailing/applicable requirements/obligations.)
- l. 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:
- Building Permit
  - Plumbing Permit
  - Electric Permit
  - Demolition Permit
- m. If applicable, the proposed structure shall comply with applicable Provisions of the Americans with Disabilities Act.

- n. If applicable, grading plans shall be submitted to the Board Engineer so as to confirm that any drainage/run-off does not go onto adjoining properties.
- o. The proposed structure shall comply with the Borough's Prevailing Height Regulations.
- p. 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.
- q. **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 Applicants are advised that there can be no deviation from the Plans approved herein, except those conditions specifically set forth or otherwise 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-appraisal conditions are not necessarily structurally sound, the Applicants and their 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 / destroyed (without formal Borough / Board consent), regardless of the many fine construction reasons which may exist for doing so. That is, the bases for the Board's decision to grant Zoning relief may be impacted by the aforesaid change of conditions. As a result, Applicants and their representatives are not to assume that post-approval deviations can be effectuated. To the contrary, post-approval deviations can and will cause problems. Specifically, any post-approval unilateral action, inconsistent with the testimony / plans presented / approved, which does not have advanced Borough / Board approval, will compromise the Applicant's approval, will compromise the Applicant's building process, will create uncertainty, will create stress, will delay construction, will potentially void the Board Approval, and the same will result in the Applicant incurring additional legal / engineering / architectural costs. Applicants are encouraged to be mindful of the within – and the Borough of Sea Girt, and the Sea Girt Planning Board, are not responsible for any such unilateral actions which are not**

**referenced in the testimony presented to the Board, and / or the Plans approved by the Board. Moreover, Applicants are to be mindful that the Applicants are ultimately responsible for the actions of the Applicant's, their Agents, their representatives, their employees, their contractors, their engineers, their architects, their builders, their lawyers, and other 3<sup>rd</sup> parties.**

- r. The Applicants 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.
- s. The Applicants 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.
- t. The Applicants shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- u. If required by the Board / Borough Engineer, the Applicants shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.
- v. Unless otherwise agreed by the Planning Board, the approval shall be deemed abandoned, unless, within 24 months from adoption of the within Resolution, the Applicants obtain a Certificate of Occupancy for the construction / development 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 mis-representations 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.

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**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 improvement, or for any damage which may be caused by the development.

FOR THE APPLICATION: Carla Abrahamson, Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo, Councilman Michael Meixsell, Raymond Petronko, Norman Hall

AGAINST THE APPLICATION: None

NOT ELIGIBLE TO VOTE: Robert Walker, John Ward (Alternate Members)

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

Ayes: Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo, Councilman Michael Meixsell, Ray Petronko, Norman Hall

Noes: None

Not Eligible to Vote: Robert Walker, John Ward (Alternate Members)

Absent: Carla Abrahamson

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The next item under Old Business was a Resolution for approval of application for Block 20, Lot 13, 108 Chicago Boulevard, owned by Jason & Jacqueline Meyer, to allow construction of a new home & reconstruction of garage apartment.

Mr. Kennedy summarized this Resolution and commented it was a very complicated one, it is long but he tried to include everything. He explained if there is litigation the Court would look at this Resolution to consider if the Board was arbitrary and unreasonable so he wanted to cover everything to give proper weight. He also told the Board he has been in communication with the Ledvas, the neighbors, and explained to them to get an attorney if they want to appeal this application. Mr. Ledva had received a draft copy of the Resolution from Mr. Kennedy and asked for a change for the rear window in the apartment; he noted Mr. Rubino also asked for some changes in the Resolution. Mr. Meyer was in the audience and, when asked, said he was agreeable to the changes requested by Mr. Ledva and Mr. Rubino. Mrs. Brisben reminded Mr. Meyer that revised plans need to be received by the Board and Mr. Kennedy agreed with her.

The following revised Resolution was then presented for approval:

**WHEREAS**, in or about 2017, the Applicant's Representatives submitted a Development Application to the Borough of Sea Girt (the "2017 Application"); and

**WHEREAS**, the 2017 Application involved the property located at 108 Chicago Boulevard, Sea Girt, New Jersey, within the Borough's District 1, East Single-Family Zone; and

**WHEREAS**, in the 2017 Application, the Applicants' Representatives sought Use Variance Approval and Bulk Variance Approval, to effectuate the following:

- Reconfiguration of an existing garage apartment (rear dwelling);  
and
- Improvements to a then existing single-family home (front dwelling);  
and

**WHEREAS**, the Board held a Public Hearing on the said 2017 Application on or about July 19, 2017; and

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**WHEREAS**, after the presentation by the Applicant's representatives, and after analysis of public comments, the Sea Girt Planning Board voted to conditionally approve the 2017 Application; and

**WHEREAS**, a Memorializing Resolution was thereafter adopted; and

**WHEREAS**, the said Resolution is attached hereto; and

**WHEREAS**, there was no known appeal of the said decision; and

**WHEREAS**, thereafter, in the midst of the Applicants' building / construction process, while certain previously authorized demolition work was being completed, a wind storm destroyed the remaining shell / walls of the front structure, resulting in a total destruction of the front structure; and

**WHEREAS**, the Municipal Zoning Officer determined that the complete destruction of the previously existing front building exceeded the scope of the prior 2017 approval of / from the Sea Girt Planning Board; and

**WHEREAS**, in conjunction with the above point, a Stop Work Order was issued; and

**WHEREAS**, against such a backdrop, the Applicant's Representatives ultimately submitted a new Application (i.e. the "2018 Application") to the Sea Girt Planning Board.

**WHEREAS**, specifically, in the 2018 Application, the Applicant's Representatives sought the following forms of alternative relief:

- a. *A vote to overturn / reverse the Zoning Officer determination that the work performed at the site exceeded the scope of the 2017 Board approval / resolution; or*
- b. *In the alternative, a vote retroactively legitimizing a complete demolition / destruction of the front single-family home, with approval to reconstruct the building in the same location as previously existed; or*

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- c. *In the alternative, a vote that, as a matter of law, the previously obtained 2017 Use Variance Approval automatically allows a new front single-family home to be constructed on the site (without any further Board oversight / approval);*

### **PUBLIC HEARING**

**WHEREAS**, the Board held a Public Hearing on September 19, 2018, Applicants' Representatives having filed proper Proof of Service and Publication in accordance with Statutory and Ordinance Requirements; and

### **EVIDENCE / EXHIBITS**

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

- *Amended Application Package (with Addendum), dated May 9, 2018, introduced into Evidence as A-1;*
- *Zoning Officer Denial Letter, dated May 1, 2018, introduced into Evidence as A-2;*
- *Communication from the Zoning Officer, to the Applicants, dated April 9, 2018, introduced into Evidence as A-3;*
- *Resolution of the Sea Girt Planning Board (regarding the subject property), (associated with the July 19, 2017 Planning Board Hearing), introduced into Evidence as A-4;*
- *Architectural Plans, prepared by Rice and Brown Architects, dated September 12, 2017, last revised April 13, 2018, consisting of 19 sheets, introduced into Evidence as A-5;*
- *Plot Plan, prepared by KBA Engineering Services, dated February 16, 2017, last revised April 18, 2018, introduced into Evidence as A-6;*
- *Outbound and Topographical Survey, prepared by Clearpoint Services, dated November 1, 2016, introduced into Evidence as A-7;*

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- *Review Memorandum from Leon S. Avakian, Inc., dated July 2, 2018, introduced into Evidence as A-8;*
- *Communication from the Applicants' Attorney, to the Board Attorney, dated September 17, 2018 (regarding conflict of interest issues), introduced into Evidence as A-9;*
- *Correspondence from the Applicants' Attorney, to the Board Attorney, dated September 17, 2018 (regarding legal issues involving the prior Board Approval), introduced into Evidence as A-10;*
- *Illustrated rendering of the proposed single-family home, prepared by Chris Rice, Architect, dated September 19, 2018, introduced into Evidence as A-11;*
- *Photo-board, containing 9 photographs of the subject site, taken by Joe Kociuba, P.E., P.P., dated September 19, 2018, introduced into Evidence as A-12;*
- *A photo-board, containing 3 photographs of the subject property (with an aerial photograph), reflecting previously existing conditions at the site, obtained through Google Maps, dated September 19, 2018, introduced into Evidence as A-13;*
- *Plot Plan, prepared by KBA Engineering, prepared in accordance with the Board's prior Resolution of Conditional Approval, introduced into Evidence as A-14;*
- *Plot Plan, prepared by KBA Engineering Services, last revised April 18, 2018, introduced into Evidence as A-15;*
- *2 pictures of the subject property, taken during the recent construction / development process associated with the site, in or about March or April of 2018, introduced into Evidence as A-16;*
- *A picture of the 4 joists and wall studs of the previously existing front dwelling at the site, taken in or about February or March of 2018, introduced into Evidence as A-17;*
- *E-mail chain and other information/documents regarding the 108 Chicago Boulevard, Sea Girt, NJ property, introduced into Evidence as Public-Ledva 1;*

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- *A Seller's Disclosure Statement and prior Sales Contract associated with the subject property, introduced into Evidence as Public-Ledva 2;*
- *A copy of the Deed for the subject property (Sandra Wilson to the Applicants herein), introduced into Evidence as Public-Ledva 3;*
- *A copy of the Deed for the subject property, from Marion E. Wilson to Sandra Lee Wilson, dated September 16, 2014, introduced into Evidence as Public-Ledva 4;*
- *A copy of the Case entitled Motley vs. Borough of Seaside Park, introduced into Evidence as Public-Ledva 5;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

#### **WITNESSES**

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

- Joseph Kociuba, P.E., P.P., Engineer / Planner;
- Christopher Rice, Architect;
- Wayne Teicher, the Applicants' Builder;
- Jason Meyer, one of the Applicants;
- Jacqueline Meyer, one of the Applicants;
- Michael Rubino, Jr., Esq., appearing;

#### **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 since approximately 2014.
- Until recently there were two (2) structures on the site; namely, a front dwelling and a rear dwelling.
- Details pertaining to the previously existing front-dwelling include the following:

Use	Single-Family Home
Number of bedrooms	5
Number of bathrooms	2 ½
Occupancy status	The Applicants occupied the structure as their summer / second home

- Details pertaining to the existing rear-dwelling include the following:

Use	Garage apartment
Number of bedrooms	3
Number of bathrooms	2
Occupancy status	The unit is not currently occupied. Historically, the Applicants only utilized the garage apartment for family and friends, (i.e. individuals who would otherwise have complete and unfettered access to the main dwelling on the property). The Applicants will continue, in the future, to utilize the garage apartment in the same limiting and non-intense fashion as has been utilized by the Applicants in the past. That is, the Applicants will not rent / lease the garage apartment to third parties. (The Applicants will record a Deed Restriction in the said regard.)

- In order to improve the appearance and functionality of the site, the Applicants previously proposed (in 2017) a number of improvements / modifications to both structures. The 2017 proposed improvements / modifications included the following:

#### Front Structure

- Interior Renovations;
- Removal of existing front dormers;
- Installation of new / replacement dormer;
- Removal of a portion of the back of the home (so as to reduce the overall size of the same);
- The addition of a rear second story addition, over the existing first floor;
- Exterior material improvements;

#### Garage Apartment

- Reduction of the size of the actual garage apartment building;
  - Conversion of an existing bedroom into an actual garage;
  - Reconfiguration of the existing building;
  - Exterior material changes;
- The said proposed improvements were conditionally approved by the Sea Girt Planning Board in or about 2017.
  - The previously authorized / renovation work, as aforesaid, was commenced.
  - The Applicants arranged for work to be effectuated at the rear home on the site.
  - Concerned neighbors complained that the work being performed on the rear garage apartment exceeded the scope of the Board 's 2017 approval.
  - The Municipal Zoning Officer investigated the matter and found that the work being performed by the Applicants' builder (associated with the rear garage structure) did not exceed the scope of what was approved by the Planning Board in 2017.
  - Concerned neighbors thereafter expressed additional concerns that the work being performed on the rear garage structure did, in fact, exceed the scope of what was approved by the Planning Board in 2017.

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- Representatives of the Borough Engineer / Board Engineer thereafter inspected the site and investigated the matter.
- Representatives of the Borough Engineer / Board Engineer also found that the work being performed (on the rear garage structure) did not exceed the scope of what was approved by the Planning Board in 2017.
- Thereafter, work on the front structure commenced, including the anticipated demolition of some walls, with a simultaneous retention of other walls on the front structure.
- In furtherance thereof, certain walls for the existing front home were removed.
- While some walls to the front home were still standing, a significant wind storm occurred at the Jersey Shore, knocking down the remaining walls of the front home, thereby resulting in a complete destruction of the front structure.
- Neither the Applicants nor their representatives called municipal / board officials to advise as to the developments, as aforesaid.
- Notwithstanding the complete destruction / loss, work on the front structure continued.
- Thereafter, the Municipal Zoning Officer ultimately issued a Stop Work Order because the scope of the work being performed on the front home exceeded the scope/authority of the Board's 2017 approval.
- As such, the Applicants have now submitted a multi-faceted Application, requesting various forms of alternative relief.
- Specifically, the Applicants have requested the following forms of alternative relief.
  - a. *A vote to overturn/reverse the Zoning Officer determination that the work performed at the site exceeded the scope of the 2017 Board approval / resolution; or*
  - b. *In the alternative, a vote retroactively legitimizing a complete demolition / destruction of the front single-family home, with approval to reconstruct the building in the same location as previously existed; or*

- c. *In the alternative, a vote that, as a matter of law, the previously obtained 2017 Use Variance Approval automatically allows a new front single-family home to be constructed on the site (without any further Board oversight / approval);*
- In sum, the Applicants are seeking permission to rebuild / reconstruct the front home as the same previously existed – i.e. same height, same location, same orientation, same size, same setbacks, etc.
  - Upon completion of the renovation / construction process proposed herein, the structures will ultimately include the following:

FRONT BUILDING  
(SINGLE FAMILY HOME)

FIRST FLOOR

Kitchen  
Television Room  
Mud Room  
Dining Room  
Living Room  
Laundry Room  
Bathroom  
Front Covered Porch  
Trellis Covered Deck

SECOND FLOOR

Master Bedroom  
Bedroom No. 2  
Bedroom No. 3  
Bedroom No. 4  
Master Bathroom  
Bathroom  
Bathroom

REAR STRUCTURE  
(GARAGE / APARTMENT)

Garage

Bedroom  
Bedroom  
Bathroom  
Kitchen  
Living Room  
Dining Area  
Laundry Closet

- The Applicants anticipate completing the construction of the front single-family home in the very near future.
- The Applicants have already commenced the renovation process associated with the rear dwelling.
- The Applicants will be utilizing licensed Contractors in connection with the demolition / construction / renovation process.

### **VARIANCES**

**WHEREAS**, the Application as presented and modified requires approval for the following Variances:

*USE VARIANCE: Pursuant to the Prevailing Zoning Regulations, 2 dwellings are not permitted on 1 Lot. In the within situation, the Applicants are attempting to re-establish two (2) existing dwelling units on one (1) lot. As such, Use Variance Approval is required.*

*EXPANSION OF NON-CONFORMING USE: As indicated, pursuant to the Prevailing Zoning Regulations, two (2) dwelling units are not permitted on one (1) lot. However, in the within situation, testimony indicated that there were previously two (2) dwelling units on the one-lot – and the same constitutes a pre-existing, non-conforming use. Through the within Application, the Applicants are requesting approval to construct / alter / expand / modify the said structures – and, pursuant to New Jersey Municipal Land Use Law, the same technically constitutes a potential expansion of a pre-existing, non-conforming use;*

*BUILDING COVERAGE: A maximum 20% percent allowed; whereas 36.16% proposed; where 40.8% exists.*

*FRONT YARD SETBACK FOR THE FRONT DWELLING: 17.18 feet is the average of adjacent lots required; whereas 13.92 feet proposed;*

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*SIDE YARD SETBACK FOR THE FRONT DWELLING: 5 feet required; whereas 2.6 feet proposed;*

*COMBINED SIDE YARD SETBACK FOR THE FRONT DWELLING: 15 feet required; whereas 15.2 feet proposed;*

*REAR YARD SETBACK FOR THE REAR DWELLING: 30 feet required; whereas 2.33 feet proposed;*

*SIDE YARD SETBACK FOR THE REAR DWELLING: 5 feet required; whereas .9 feet and 2.4 feet exist and are proposed;*

*COMBINED SIDE YARD SETBACK FOR THE REAR DWELLING: 15 feet required; whereas 3.3 feet exists;*

### **PUBLIC COMMENTS**

**WHEREAS**, the following members of the public expressed questions, comments, statements, objections, and / or concerns in connection with the 2018 Application:

- Michael Ellia
- John Ledva
- Rita McTighe
- Sam DiFeo
- John Jankowski
- Terri Martini
- John Kemper
- Robert Kregg
- Amy Ledva

### **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 Use Variance / Bulk Variance portion of 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 108 Chicago Boulevard, Sea Girt, New Jersey, within the Borough's District 1 East Single Family Zone.
3. Until recently the subject property contained two (2) detached dwelling units; namely a front dwelling (single family home) and rear dwelling (garage apartment).
4. In order to improve the overall aesthetic appeal and functionality of the site, in or about 2017, the Applicants previously proposed a number of improvements.
5. The details of what was approved by the Board in 2017 are set forth elsewhere herein, and are also set forth in the Board's 2017 Resolution (A-4).
6. As referenced, the subject 2017 Application was conditionally approved by the Sea Girt Planning Board.
7. A memorializing Resolution was thereafter adopted.
8. The said Resolution of Conditional approval is attached hereto.
9. There was no known appeal of the said decision.

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10. Renovation work, pursuant to the aforesaid 2017 approval was commenced.

11. While the previously existing front structure had some walls standing, a significant wind storm occurred in the Jersey Shore area, resulting in the total destruction of the remaining walls of the front structure.

12. The Applicants' work on the front structure continued, notwithstanding the total destruction of the aforesaid front structure.

13. The Municipal Zoning Officer ultimately issued a Stop Work Order because the scope/authority of the work (associated with the front structure) now exceeded what was approved by the Board in 2017.

14. The Applicants now desire to reconstruct the front building at the site (i.e. a single family home).

15. In connection therewith, the Applicants essentially have submitted the within Application seeking the following three forms of alternative relief:

- a. A vote to overturn / reverse the Zoning Officer determination that the work performed at the site exceeded the scope of the 2017 Board approval / resolution; or*
- b. In the alternative, a vote retroactively legitimizing a complete demolition / destruction of the front single-family home, with approval to reconstruct the building in the same location as previously existed; or*
- c. In the alternative, a vote that, as a matter of law, the previously obtained 2017 Use Variance Approval automatically allows a new front single-family home to be constructed on the site (without any further Board oversight / approval);*

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

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

### **Destruction**

- The facts and circumstances surrounding the intentional demolition of a portion of the then existing front structure, coupled with the total destruction resulting from the significant windstorm, was described elsewhere herein, was described, in detail, at the 2017 public hearing, and need not be repeated herein at length.
- The complete demolition / destruction of the front structure did, in fact, materially change the nature / conditions / circumstances of the Board's prior 2017 approval.
- It was reasonable, foreseeable, and logical for the Zoning Officer to issue a Stop Work Order under the within circumstances.
- The factual/legal scenario referenced herein is very complicated.
- The total demolition / destruction of the front structure complicates the legal protection / rights which otherwise existed.
- The Board notes that a windstorm is a "Act of God."
- The Board also notes, importantly, that phone calls, from the Applicants' Representatives to Borough/ Construction / Zoning Officials (immediately after the destruction / windstorm) should have been made.
- The Board notes, importantly, that phone calls to the Borough's Construction / Zoning Officials immediately after the destruction / windstorm would likely have prevented some of the confusion, stress, costs, and angst otherwise associated with the within 2018 Application.
- That notwithstanding, the Board does recognize the "Act of God" consequences associated with the windstorm.
- Based upon all of the extensive testimony and evidence presented, the Board finds that there is no evidence of bad faith by the Applicants, the Applicants' builder, or other representatives of the Applicants.

- The Board also finds, based upon the extensive testimony and evidence presented, there was no intent to deceive or, otherwise manipulate the zoning process, by the Applicants, or the Applicants' Representatives.
- The Applicants sincerely apologized for the confusion / problems – and the Board accepts, and appreciates, the sincerity with which the testimony / apology was presented.
- The Board also notes that the complex factual scenario presented herein could present interesting and challenging scenarios for law school examinations and/or Court challenges.
- Because of the same, and the passion / concerns of all involved, the Sea Girt Planning Board conducted a extremely thorough, professional, and extensive public hearing on the 2018 matter.
- Because of the complicated factual / legal scenario presented herein, the Board Attorney has prepared what is hoped to be a thorough / intense Resolution, in due respect for the challenges all interested parties experienced.
- The within scenario has caused financial stress, emotional stress, legal stress, confusion, and angst for the Homeowners / Applicants.
- The within scenario has also caused financial stress, emotional stress, legal stress, confusion, and angst for the most directly affected neighbors.
- The Board notes, importantly, that at its core, the within scenario is, in fact, ultimately a testament to the municipal zoning process, and the established rule of law. Specifically, in the context of planning and zoning applications, applications are granted based upon the specific testimony and evidence presented, and based upon the specifically prevailing circumstances. Deviations from the specifically approved testimony / plans, regardless of the cause, can have potentially significant consequences.
- Hopefully, the within circumstances can serve as a teachable moment for all involved – including, the Applicants, objectors, neighbors, zoning officials, engineers, builders, planners, attorneys, and Board Members.

### **Use / Bulk Variance**

- The site previously contained two separate detached dwelling units; namely, a front single-family home and a rear garage apartment. The Borough's Prevailing Zoning Regulations do not allow two dwelling units on one lot. Thus, from a zoning standpoint, the previously existing situation constituted a pre-existing non-conforming use.
- Though pre-existing non-conforming uses are not favored, the New Jersey Municipal Land Use Law (and case law interpreting the same) hold that duly established pre-existing non-conforming uses are permitted to continue to exist (although the same cannot be expanded / intensified absent further / formal approval of the Municipal Land Use Board).
- Per the testimony and evidence presented, the site has historically contained 2 structures – i.e. a front dwelling (single-family home) and a rear dwelling (garage apartment). As indicated, the previously existing front single-family home has been destroyed – and, as such, the site currently only contains the garage apartment.
- The existence of a stand-alone garage apartment on the site (as an accessory dwelling unit) is not permitted in the Borough's District 1 East Single Family Zone Regulations.
- The existence of a stand-alone garage apartment on the site, and the continued existence of just a stand-alone garage apartment on the site (without the main home), is not appropriate.
- The existence of a stand-alone garage apartment on the site, and the continued existence of just a stand-alone garage apartment on the site (without the main home), is not aesthetically pleasing.
- The existence of a stand-alone garage apartment on the site, and the continued existence of just a stand-alone garage apartment on the site (without the main home), does not fit in with the character of the neighborhood.
- The existence of a stand-alone garage apartment on the site, and the continued existence of just a stand-alone garage apartment on the site (without the main home), is not an efficient or effective use of lands.
- While the reduction of the number of overall dwelling units on the property (associated with the prior destruction of one of the dwelling units) is generally welcome and beneficial, the same would typically imply / implicate the removal / elimination of the garage apartment use. In the within situation, the existence of a stand-alone garage

apartment on the site, and the continued existence of just a stand-alone garage apartment on the site (without the main home), is not appropriate.

- While reducing the overall number of dwelling units on the property from 2 to 1 would generally be welcome, the said theory does not hold up when the situation (as presented herein) involves the continued existence of a stand-alone garage remaining on the property (by itself).
- By virtue of the previously referenced windstorm, the historic accessory dwelling unit on the site has, essentially, now become a principal use.
- The existing garage apartment structure is not centrally located on the Applicant's 7,500 SF Lot.
- The existing garage apartment structure is not functionally located on the Applicant's 7,500 SF Lot.
- The existing garage apartment structure is not appropriately located on the Lot (if the same were to be viewed as a permitted / principal use).
- The previously referenced destruction of the front single-family home at the site, and the stand-alone presence of the existing garage apartment structure, significantly highlights and accentuates the non-conforming nature of the Lot.
- When the previously existing single-family home was located on the site, the existing garage apartment was barely visible from the public street. However, now that the previously existing front single-family dwelling has been destroyed, the only structure visible on the site is, in fact, the garage apartment.
- The destruction of the previously existing front single family home at the site, and the physical presence of the stand-alone garage apartment, compromises the overall aesthetic appeal of the property.
- The destruction of the previously existing front single-family home at the site, and the presence of a stand-alone non-conforming garage apartment on the site, compromises the overall look of the property.
- The destruction of the previously existing front single-family home at the site, and the stand-alone presence of a non-conforming

garage apartment at the site, compromises the overall “feel” of the site.

- The destruction of the previously existing front single-family home at the site, and the presence of a stand-alone non-conforming garage apartment, compromises the ability of the site to appropriately blend in with the neighborhood.
- The prior destruction of the previously existing front single-family home at the site, and the presence of a stand-alone non-conforming garage apartment, makes the site look as if “something is missing.”
- The destruction of the previously existing front single-family home at the site, and the presence of a stand-alone non-conforming garage apartment, compromises the overall aesthetic appeal of the property.
- Per the testimony and evidence presented, the existing physical condition of the property (i.e. with a destroyed shell, and just a stand-alone garage apartment) constitutes an eye-sore.
- Per the testimony and evidence presented, and per the comments from some members of the public, the existing physical condition of the property (i.e. with a destroyed shell and just a stand-alone garage apartment) constitutes a public nuisance.
- Per the testimony and evidence presented, and per the comments from some members of the public, the existing physical condition of the property (i.e. with a destroyed shell and a stand-alone garage apartment) makes the site look like a perpetual construction / development site.
- Per the testimony and evidence presented, and per the comments from some members of the public, the existing physical condition of the property (i.e. with a demolished / destroyed shell and a stand-alone garage apartment) potentially compromises the overall grading / drainage situation at the site.
- The existing physical condition of the property (i.e. with a demolished / destroyed shell and a stand-alone garage apartment) is problematic.
- The “construction site” nature of the existing property is not appropriate.

- The “construction site” nature of the existing property is not aesthetically appealing.
- The “construction site” nature of the existing property is not beneficial for the community.
- The “construction site” nature of the existing property is not beneficial for the neighborhood.
- The “construction site” nature of the existing property is not beneficial for the Borough of Sea Girt.
- The “construction site” nature of the existing property is not compatible with the neighborhood.
- The existing physical situation at the site, and the continued existence of a stand-alone garage apartment, does not represent a better overall Zoning alternative for the Borough of Sea Girt.
- The existing situation needs to be remedied / approved.
- The existing situation needs to be corrected / rectified.
- The existing situation, if not corrected / resolved, will continue to compromise the quality of life for the Applicants, the neighbors, the neighborhood, and the Borough of Sea Girt as a whole.
- The existing situation at the site, from a development / zoning standpoint, needs to be resolved.
- Appropriate resolution of the controversy is necessary and overdue.
- Appropriate resolution of the controversy will be appropriate for the Applicants, the neighbors, and the Borough of Sea Girt as a whole.
- Though the continuation of a pre-existing single-family home and garage apartment is not permitted under the Prevailing Zoning Regulations, the presence of a stand-alone garage apartment, by itself, is also not permitted.
- While the theoretical elimination of the non-conforming garage apartment use at the site, coupled with the construction of a zoning-compliant single-family home at the site would be permitted and preferred, such a proposal is not before the Sea Girt Planning Board.

- The Sea Girt Planning Board cannot approve / endorse an Application which has not been submitted.
- As indicated, per the testimony and evidence presented, the site has historically contained a pre-existing single-family front dwelling and a pre-existing rear garage apartment.
- Per the testimony and evidence presented, and per prior Resolution of the Sea Girt Planning Board, the previously existing use constituted a pre-existing non-conforming use.
- Under the New Jersey Municipal Land Use Law, while duly established pre-existing non-conforming uses cannot be increased / intensified (without formal Board Approval), such pre-existing non-conforming uses are permitted to continue to exist.
- The destruction of the previously existing single-family home on the property potentially impacts the legal status of the aforesaid previously existing non-conforming uses.
- The destruction of the previously existing single-family home on the property, in conjunction with the Planning Board's adoption of the prior Resolution on the matter, also potentially impacts the legal status of the aforesaid pre-existing non-conforming uses.
- Prior to the destruction of the previous existing front single-family home at the site, and prior to the Board's adoption of the 2017 Resolution, the Applicants, or any subsequent owners of the property, would have been permitted to outright rent out / lease the garage apartment (to third parties).
- During the 2017 Application, and at the request of the neighboring property owners, the Applicants agreed to significantly restrict the nature / extent of the future rental arrangements for the existing garage apartment. Specifically, the Applicants agreed that during their ownership, they would not rent out the garage apartment to third parties. Rather, at the 2017 Public Hearing, the Applicants agreed that they would only allow the garage apartment to be occupied by the Applicants' family members / friends.
- The Planning Board's 2017 Resolution of Approval contained the following conditions:
  - c. *During the Applicant's ownership (as loosely defined herein), the garage apartment shall not be rented / leased / occupied by 3<sup>rd</sup> parties. Rather, during the Applicants' ownership (as loosely defined herein), the garage apartment is only to be*

*utilized (as a convenience) (and at no charge to the temporary guests) for the temporary shelter of the said family members and friends of the Applicants who are simultaneously interacting with the occupants in the main single-family dwelling on the site. That is, during the Applicants' ownership (as loosely defined herein), the garage apartment shall not be independently leased / rented / occupied (apart from the principal single-family dwelling on the site).*

- d. *During the Applicants' ownership (as loosely defined herein), the garage apartment shall not be utilized as a 2<sup>nd</sup> residential structure on the site, except for the limited temporary sheltering of family members and friends, as otherwise specifically set forth herein.*

**NOTE:** *For purposes of the within Resolution, including conditions "c" and "d" herein, the term "Applicants' ownership" (and similar / related terms) shall be liberally construed so as to include the following:*

- *The period of time when the subject property is owned by either one or both of the Applicants;*
  - *The period of time when the subject property is owned by a company, corporation, limited liability company, or other type of entity in which either one or both of the Applicants (or agents thereof) are a principal;*
  - *The period of time when the property is owned by the Estate of one or both of the Applicants;*
  - *The period of time when the subject property is owned by the heirs / beneficiaries of one or both of the Applicants (except for fair market value transfers made to the Applicants' heirs / beneficiaries).*
- Per the 2017 Planning Board Resolution (A-4), it appears that neighboring property owners, John Ledva and Amy Ledva participated in the 2017 Public Hearing Process.
  - Per the testimony and evidence presented, there has been no known appeal of the Board's 2017 conditional approval of the Application.

- The existence of the garage apartment, and potential rental opportunities associated therewith, appears to have been a major concern (of Mr. and Mrs. Ledva) in connection with the 2018 Application.
- During the 2018 Public Hearing Process, John Ledva and / or Amy Ledva questioned the Applicants as to the nature / extent / sufficiency of the aforesaid rental restrictions (associated with the 2017 approval).
- During the 2018 Public Hearing Process, John Ledva and / or Amy Ledva, again appeared to express concerns that the 2017 Board-imposed rental restrictions would not affect, or otherwise restrict, future owners of the property.
- After public and private off-the-record discussions between the Applicants, John Ledva, Amy Ledva, and/or their respective representatives, the Applicants agreed, among other things, that if the Application were approved, and if the appeal period successfully expired without challenge, then, in that event, the Applicants would perpetually agree to restrict the ability of the Applicants (and any future owners) to ever rent out / lease the garage apartment (to independent third parties). That is, the Applicants agreed to perpetually restrict the ability of the garage apartment to ever be leased to independent third parties. Rather, the Applicants agreed that the existing rear garage apartment would only be utilized (as a convenience) (and at no charge to the temporary guests) for the temporary shelter of family members and friends of the Applicants, who are simultaneously interacting with the occupants of the main single-family dwelling at the site.
- The interested parties were assuaged by the aforesaid concession and, the conditions set forth herein.
- The Applicants furthermore agreed that such a rental restriction would be memorialized in a Deed Restriction which, once approved by the Board Attorney, would be recorded in the Office of the Monmouth County Clerk.
- The recording of the aforesaid Deed Restriction will further ensure that the Restriction is part of the public record – and available for public inspection before any future owners purchase the subject property.
- The recording of such a Deed Restriction (in the Office of the Monmouth County Clerk) will significantly reduce the possibility of any individual purchasing the property without being aware of the

aforesaid Rental Restriction. (The Deed Restriction, as aforesaid, will prevent the outright leasing of the garage apartment, to third parties, except as specifically set forth herein.) From a “legal” standpoint, the validity of the Restriction should not exclusively depend on whether future owners are actually aware of the same. That notwithstanding, in an effort to potentially avoid any further issues, out of an abundance of caution, the aforesaid Deed Restriction will be recorded, so that any future owners (and their Attorneys, Lenders, Title Companies, and Attorneys) can be aware of the same, or should become aware of the same, before any actual purchase.

- As referenced above, the recording of the Deed Restriction should likely prevent the possibility that any owner will “innocently” purchase the property without being aware of the aforesaid Deed Restriction.
- The perpetual elimination of the ability to out-right lease the garage apartment (as referenced herein) represents a significant proprietary right being knowingly surrendered by the Applicants.
- The Board appreciates the willingness of the Applicants to work with the affected neighbors so as to amicably address the neighbors’ concerns.
- The Board also appreciates the concerns of the neighboring property owners, and the neighbors’ appearance at, and participation in, the various public hearings.
- Reasonable and respectful cooperation between the Applicants and the neighbors will better allow the existing controversy to be amicably / expeditiously / fairly resolved.
- Reasonable and respectful cooperation between the Applicants and the neighbors will reduce the likelihood of any potential litigation involving the matter.
- Reasonable and respectful cooperation between the Applicants and the neighbors will likely reduce the level of tension amongst the neighbors.
- The aforesaid restriction on the future rental rights associated with the garage apartment will most likely limit the nature / extent / frequency with which the second dwelling unit on the property is occupied / utilized.

- The Applicants' agreement to restrict the ability of the garage apartment to be outright leased to third parties (as specifically set forth herein) will render the site much more compliant with, and / or compatible with, the Borough's existing Zoning Regulations.
- The Applicants' agreement to restrict the ability of the garage apartment to be outright leased to third parties (as referenced herein) will advance the goals and objectives of the Borough's Master Plan.
- Restricting the nature / extent / frequency with which the accessory garage apartment is occupied / leased will improve the quality of life for some of the neighboring property owners (particularly in light of the non-conforming location of the second dwelling unit / structure at the site).
- Reducing the nature / extent / frequency with which the garage apartment is occupied (as referenced herein) represents a better overall zoning alternative for the Borough of Sea Girt.
- Reducing the nature / extent / frequency with which the garage apartment will be occupied / leased is beneficial for the neighborhood and the Borough of Sea Girt as a whole.
- Many times, Applicants seek to expand, increase, or otherwise intensify a pre-existing non-conforming use. However, in the within situation, the Board finds that, in conjunction with the aforesaid Deed Restriction, approval of the within Application will actually significantly reduce / minimize the nature / extent of the non-conforming second dwelling unit at the site.
- In the context of an Application involving a Use Variance or a so-called expansion or modification of a pre-existing non-conforming use, the Board should, whenever possible, look for ways in which the non-conforming use can be corrected / modified / ameliorated / improved so as to minimize any intrusion / detriments otherwise associated with the non-conforming use. The Sea Girt Planning Board has reviewed the within Application in such a context.
- Approval of the within Application will not increase the number of overall dwelling units at the site.
- Approval of the within Application will not increase the number of overall bedrooms at the site.
- Approval of the within Application will not increase the number of overall occupants at the site.

- The Board is aware that the previously existing front single family home had 5 bedrooms; whereas, upon completion of the construction / renovation process approved herein, the to-be-reconstructed front home will have 4 bedrooms.
- The Board notes that the existing, and to be continued, garage apartment will barely be visible from the public street (when the front home is re-constructed).
- The Board is aware that the Applicants' limited use of the garage apartment (and any future limited use of the garage apartment) will be much less intense than what would otherwise exist with a totally unrestricted / pre-existing second dwelling unit at the site (i.e. if there were a deed restriction).
- Subject to the conditions contained herein, upon expiration of the within appeal period, the garage apartment will only be temporarily utilized in a limiting and non-intense fashion (i.e. by family members and friends of the Applicants who are visiting the Applicants and who have reasonable unfettered access to the Applicants' main dwelling.)
- Approval of the within Application will not increase the physical size of the pre-existing garage apartment structure.
- Approval of the within Application will not increase the footprint of the pre-existing garage apartment.
- Approval of the within Application will not materially change the height of the pre-existing garage apartment.
- Approval of the within Application will not increase overall parking demands associated with the site.
- Approval of the within Application will not appreciably intensify the historic and to-be-continued multiple dwelling nature of the Lot. Rather, though 2 dwelling units will be re-established / authorized at the site, because of the aforesaid Deed Restriction, the likely frequency / intensity with which the garage apartment is occupied will be reduced.
- As indicated, approval of the within Application will not increase the height / footprint of the previously existing garage apartment. Thus, it is clear that some of the non-conforming bulk conditions relative to the existing garage apartment are existing conditions which will not be exacerbated as a result of the within approval.

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- Approval of the within Application will essentially continue a complete owner-occupied arrangement at the site, which in general terms, has many benefits.
- The improvements approved herein will be functional, practical, and aesthetically pleasing.
- The proposed improvements will improve the overall aesthetic appeal of the site.
- The design of the proposed new front single-family home is attractive and will be architecturally/aesthetically compatible with the neighborhood.
- Per the testimony and evidence presented, and subject to the conditions contained herein, the construction / renovation approved herein will not detrimentally change / affect the grading at the Site.
- The architectural / aesthetic benefits associated with the proposal outweigh the detriments associated with the Applicants' inability to comply with all of the specified use and bulk standards.
- The architectural design of the proposed front single-family home will not be inconsistent with the architectural character of other similar single family homes / structures in the area.
- Approval of the within Application will allow the Applicants to more functionally and comfortably use and enjoy the property in a more zoning compliant fashion.
- Subject to the conditions contained herein, the improvements approved herein will not over-power / over-whelm the subject Lot.
- The improvements approved herein are attractive and upscale, in accordance with Prevailing Community Standards.
- Approval of the within Application, will not detrimentally affect or otherwise exacerbate existing parking demands at the site.
- Sufficiently detailed testimony / plans were presented to the Board.
- The proposed construction / renovation should nicely complement the property and the neighborhood.
- The Board Members engaged in a civil and good faith debate as to the merits of the overall proposal, and the complicated site / history.

On the one hand, the Board Members acknowledged the benefits and positive features associated with the application, as referenced in the within Resolution. On the other hand, some Board Members and some members of the public also expressed questions, comments, concerns, and/or objections regarding elements of the proposal – including, the following:

- i. A concern regarding the overall site, and non-conforming uses associated therewith;
- ii. A concern regarding the overall non-conforming use;
- iii. A concern regarding the overall density at the site;
- iv. A concern that Agents of the Borough recently re-examined the Master Plan, and the resulting product did not contain any support for approving new Applications allowing multiple dwellings on 1 Lot;

After debate and analysis, a majority of the Board determined that the benefits of approval outweighed the detriments associated with the application.

- The proposed use (i.e. 2 dwelling units on 1 Lot), will require 4 off-street parking spaces, calculated as follows:

- Residential Apartment Use . . .	2 spaces
- Single Family Home . . .	2 spaces
- Total required parking spaces ...	= 4 spaces
- The Applicant’s representatives propose 4 off-street parking spaces, and thus, no parking variance is required.
- Sufficient/compliant parking is of critical importance to the Board – and but for the same, the within Application may not have been approved.
- The Applicants’ proposed single family front home will be 2 ½ stories, which conforms with the Borough’s prevailing zoning regulations and, as such, no variance is necessary in the said regard.
- The Applicant’s proposed single family front building will have a conforming height of approximately 32 ft. (whereas 35 ft. is

otherwise allowed in the zone). As such, no height variance is required.

- The Board notes the subject property is a conforming lot(in terms of lot area) containing 7,500 sq. ft., (whereas the minimum required lot size in the zone is 7,500 sq. ft.)
- The Application as presented requires a variance for the front setback on the to-be-reconstructed front single-family home. The specific measurements in the said regard include the following:

Required front yard setback 17.18 ft.

Previously existing front yard setback 13.92 ft.

Proposed front yard setback 13.92 ft.

- The to-be-constructed front single-family home will have the same non-conforming front setback as existed (for the previously existing home at the site for many, many years.)
- The Board Members thoroughly analyzed the said situation as to why the requested variance relief should be granted under the circumstances. With respect to the above concern, the Board notes/observes/finds the following:
  - i. The previously existing single-family front structure at the site had a non-conforming front yard setback of 13.92 ft., which is consistent with the front yard setback approved herein.
  - ii. Approval of the within Application will not exacerbate the previously-existing, non-conforming front yard condition.
  - iii. Other development options were considered (to avoid the need for a front yard setback variance associated with the to-be-reconstructed single-family front structure), but the same were not found to be desirable, preferable, practical, or functional.
  - iv. This Section is intentionally deleted.
  - v. If the required 17.18 ft. front yard setback were honored, the same could potentially

compromise the amount of parking which could otherwise be offered at the site.

- vi. If the required 17.18 ft. front yard setback were honored, the same could presumably compromise the design / look / functionality of the Applicants' proposed new front structure.
- vii. Continuation of the previously existing, non-conforming front yard setback will not be out of character for the area.
- viii. Continuation of the previously existing non-conforming front yard setback will allow the Applicants to preserve/maintain the existing streetscape and fabric of the neighborhood.
- ix. There did not appear to be any historic issues / problems with the previously existing / non-conforming Front Setback.

After analyzing the above factors, and the many other items discussed during the Public Hearing process, a majority of the Board finds that the benefits of granting the variance relief outweigh any potential detriments associated therewith.

- Per the testimony presented, the Board also notes that approval of the within Application will not result in the disturbance of any environmentally sensitive areas.
- As part of the within application, the Applicant anticipated proposing underground utilities – which will be beneficial to the site, the neighborhood, and the Borough of Sea Girt as a whole.
- Sufficiently detailed plans were submitted to the Board.
- Given the nature of the within Application, the Board recognizes that, essentially, the front single-family dwelling approved herein will be constructed on land which hosted the previously existing front single-family dwelling at the site (i.e. on top of the land which has already been disturbed).
- The Board notes that per the testimony and evidence previously presented, the permitted single-family use in the to-be-

reconstructed front home is not an intense traffic generator (beyond what the site can handle).

- The Board is aware that the existing portion of the site (where the front single-family home previously existed) is vacant, but nonetheless located on a popular residential thoroughfare within the Borough of Sea Girt. Towards that end, the Board recognizes potential issues associated with an essentially vacant parcel on a main road within the Borough's residential corridor.
- The within approval involves the construction of a brand new front single-family dwelling on the site, to replace the previously existing / destroyed front single-family dwelling at the site, in a modern/functional way, and in a way which will not compromise the interests of the Borough of Sea Girt.
- Given the conforming 7,500 SF size of the lot, approval of the within Application will not violate, or otherwise compromise, the traditional Zoning goals of open air, space, and light.
- The new front single-family dwelling approved herein will be the same general size as the front single-family which previously existed at the site.
- The new front single-family dwelling approved herein will have the same height as the front single-family dwelling which previously existed at the site.
- The new front single-family dwelling approved herein will have the same look / design as the front single-family dwelling which previously existed at the site.
- The new front single-family dwelling approved herein will have the same general lot coverage as the building which previously existed at the site.
- The new front single-family dwelling approved herein will have the same general building coverage as the front single-family dwelling which previously existed at the site.
- The new front single-family dwelling approved herein will be constructed with the same general materials as that which previously existed at the site.

- The site which will host the new front single-family dwelling approved herein will generally utilize the same grading / drainage features as were approved in the 2017 Application.
- The new front single-family dwelling approved herein will generally have the same amount of open space as which previously existed at the site.
- The new front single-family dwelling approved herein will have the same general setbacks as the front single-family dwelling which previously existed at the site.
- The new front single-family dwelling approved herein will have the same general siding and same general windows as the front structure which previously existed at the site.
- Construction of the new front single-family dwelling approved herein represents a significant improvement over the physical condition of the existing site.
- The previously existing front building at the site was, per the testimony and evidence presented, beginning to show signs of age / decline. Additionally, the previously existing front building at the site was beginning to suffer from deferred maintenance. However, approval of the within Application will allow a brand new Code-compliant front building to be constructed at the site.
- The Board is aware that upon construction of what is approved herein, the site will have the same number of bedrooms as was authorized / recognized in the Board's 2017 approval.
- The Board is aware that upon construction of the improvements approved herein, the site will have the same number of bathrooms as approved in the Board's 2017 Application.
- The Board is aware that upon construction of the improvements authorized herein, the site will generate the same essential parking demand as existed / generated in the 2017 Application.
- The Board is aware that approval of the within Application will not materially increase the number of overall occupants associated with the site (from what was approved in the 2017 Application).

- The Board is also aware that approval of the within Application will not increase the number of overall dwelling units at the site (from what was approved in the 2017 Application).
- The Variance relief granted herein is very similar to the nature / extent of the Variance relief granted in the 2017 Application.
- The Board appreciates the Applicants' desire / ability / willingness to re-apply and work with the Board to address / resolve the open issues / problems associated with the 2017 post-approval process.
- Under the circumstances, approval of the within Application will result in appropriate development of the site.
- As a result of the complete destruction of the previously existing front structure, the front portion of the site is currently empty / vacant. Per the testimony and evidence presented from some members of the public who attended the Public Hearing Process, the existing physical condition of the site constitutes a "eye-sore" and a "nuisance."
- The empty nature of the front portion of the lot is neither appropriate nor aesthetically pleasing.
- Subject to the conditions contained herein, the new front building approved herein will be designed to properly manage storm-water run-off at the site.
- Subject to the conditions set forth herein, and per the testimony and evidence presented, there are no known grading / drainage issues associated with the proposed construction / re-construction.
- Subject to the conditions contained herein, the benefits of the within Application out-weigh any detriments associated therewith.
- 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.
- Approval of the within Application will have no known detrimental impact on adjoining properties and thus, the

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Application can be granted without causing substantial detriment to the public good.

- Under the circumstances, the reconstruction of the front dwelling so that the property continues to host 2 dwelling units, will not detrimentally affect the Borough of Sea Girt.
- Subject to the conditions contained herein, the Application as presented and modified will have a no adverse impact on the surrounding neighborhood.
- The Applicants' Representatives have suffered stress, delays, and financial costs associated with the post-2017 approval process – and it is time for the matter to be resolved so that specifically authorized and appropriate construction / development can take place at the site.
- Concerned neighbors have also experienced stress, inconvenience, and aggravation – and a fair and final resolution will be beneficial for them as well.
- Approval of the within Application, as amended, and with the noted conditions, 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, as amended, 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, as amended, satisfies the Statutory Requirements of N.J.S.A. 40:55D-70(c) (Bulk Variances) and N.J.S.A. 40:55D-70(d) (Use Variance).

Based upon the above, and for the other reasons set forth herein, and set forth during the Public Hearing process, a majority of the Board is of the opinion that the requested variance relief can be granted without causing substantial detriment to the public good.

### **Appeal of Zoning Officer Decision**

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- As indicated, the Applicants' Representatives initially appealed the decision of the Zoning Officer.
- At the September 19, 2018 public hearing, and in the spirit of the publicly negotiated / approved settlement, the Applicants' Representatives officially withdrew the said request / appeal.
- As such, the Board has made no substantive decision on the said appeal of the subject Zoning Officer determination.

### **Question of Law**

- As referenced, the Applicants initially requested a vote that, as a matter of law, the 2017 Use Variance Approval automatically allowed a new front structure home to be constructed on the site, without any further Board oversight / approval.
- The Zoning Board Attorney did not agree with such a contention, but advised that, out of an abundance of caution, the referenced legal issue would need to be further researched / briefed before any official analysis / answer could be provided.
- At the conclusion of the September 19, 2018 public hearing, before any Board vote occurred, and in the spirit of the publicly negotiated / approved settlement, the Applicants' Representatives officially withdrew the said request for the Board to act on the aforesaid question of law.
- As such, the Land Use Board did not substantively rule on the said matter of law.

### **CONDITIONS**

During the course of the Hearing, the Board has requested, and the Applicants'

Representatives agreed, to comply with the following conditions:

- a. The Applicants shall comply with all promises, commitments, and representations made at or during the Public Hearing Process.
- b. The Applicants shall comply with the terms and conditions of the July 2, 2018 Review Memorandum of Leon S. Avakian, Inc. (A-8).
- c. The Applicants shall comply with all prevailing / applicable Affordable Housing requirements / contributions / directives as established by the

State of New Jersey, COAH, the Borough of Sea Girt, the Court System, and/or any other Agency having jurisdiction over the matter.

- d. Upon successful expiration of the within appeal period, and/or upon final Judicial affirmation of the within determination, the garage apartment shall not be rented / leased / occupied by third parties. Rather, the garage apartment is only to be utilized (as a convenience) (and at no charge to the temporary guests) for the temporary shelter of the family members and friends of the Applicants who are simultaneously interacting with the occupants in the to-be-constructed main single-family dwelling on the site. That is, the garage apartment shall not be independently leased / rented / occupied (apart from the to-be-constructed principal single-family dwelling on the site).
- e. Upon successful expiration of the within appeal period, and/or upon final Judicial affirmation of the within determination, the existing garage apartment shall not be utilized as a 2<sup>nd</sup> residential structure on the site, except for the limited temporary sheltering of family members and friends, as otherwise specifically set forth herein / above.
- f. Per the testimony presented, the Applicants shall prepare a Deed Restriction providing that the Applicants shall perpetually agree to restrict the ability of the Applicants (and any future owners) to ever rent out / lease the garage apartment (to independent third parties). That is, the Applicants shall agree to perpetually restrict the ability of the garage apartment to ever be leased to independent third parties. Rather, the Applicants shall agree, via the aforesaid Deed Restriction, that the existing rear garage apartment shall only be utilized (as a convenience) (and at no charge) to the temporary guest for the temporary shelter of family members and friends of the Applicants, who are simultaneously interacting with the occupants of the main single family dwelling at the site. The said Deed Restriction shall be approved, as to form and content, by the Board Attorney. Thereafter, the said Deed Restriction shall be recorded in the Office of the Monmouth County Clerk – and proof of such recording shall be presented to the Board Secretary.
- g. The Applicants shall cause the Plans to be revised so as to portray and confirm the following:
  - To include a note confirming that the Applicants shall plant reasonably significant shrubbery / trees so as to appropriately / reasonably shield the existing rear garage apartment structure from the adjacent Ledva home. The details for the said landscaping shall be reasonably reviewed and approved by the Zoning

Officer. Additionally, the Applicants shall be required to perpetually maintain and re-plant the aforesaid shrubbery / trees as reasonably necessary.

- To include a note confirming that the previously removed bay window (from the rear garage apartment) shall remain permanently removed / eliminated.
  - To include a note confirming that there shall only be a small window over the kitchen sink (in the garage / apartment structure).
- h. The Applicants shall comply with all conditions of the 2017 approval, unless specifically obviated herein.
- i. The Applicants' representatives shall comply with all Prevailing Building / Construction Code Regulations.
- j. 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 Applicants are advised that there can be no deviation from the Plans approved herein, except those conditions specifically set forth or otherwise 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-appraisal conditions are not necessarily structurally sound, the Applicants and their 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 / destroyed (without formal Borough / Board consent), regardless of the many fine construction reasons which may exist for doing so. That is, the bases for the Board's decision to grant Zoning relief may be impacted by the aforesaid change of conditions. As a result, Applicants and their representatives are not to assume that post-approval deviations can be effectuated. To the contrary, post-approval deviations can and will cause problems. Specifically, any post-approval unilateral action, inconsistent with the testimony / plans presented / approved, which does not have advanced Borough / Board approval, will compromise the Applicant's approval, will compromise the Applicant's building process, will create uncertainty, will create stress, will delay construction, will potentially void the Board Approval, and the same will result in the Applicant incurring additional legal /**

**engineering / architectural costs. Applicants are encouraged to be mindful of the within – and the Borough of Sea Girt, and the Sea Girt Planning Board, are not responsible for any such unilateral actions which are not referenced in the testimony presented to the Board, and / or the Plans approved by the Board. Moreover, Applicants are to be mindful that the Applicants are ultimately responsible for the actions of the Applicant's, their Agents, their representatives, their employees, their contractors, their engineers, their architects, their builders, their lawyers, and other 3<sup>rd</sup> parties.**

- k. The mechanical equipment shall be located in a Zoning-Compliant location.
- l. If requested by the Board Engineer, the Applicants shall submit a Grading Drainage Plan, which shall be approved by the Board Engineer.
- m. The Applicants shall manage storm-water run-off during and after construction (in addition to any other prevailing / applicable requirements / obligations.)
- n. 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:
  - Building Permit
  - Plumbing Permit
  - Electric Permit
  - Demolition Permit
- o. If applicable, the proposed structure shall comply with applicable Provisions of the Americans with Disabilities Act.
- p. If applicable, grading plans shall be submitted to the Board Engineer so as to confirm that any drainage / run-off does not go onto adjoining properties.
- q. The proposed front structure shall comply with the Borough's Prevailing Height Regulations.
- r. The construction / development, 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.

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- s. The Applicants 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.
- t. The Applicants 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.
- u. The Applicants shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- v. If required by the Board / Borough Engineer, the Applicants shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.
- w. Unless otherwise agreed by the Planning Board, the approval shall be deemed abandoned, unless, within 24 months from adoption of the within Resolution, the Applicants obtain a Certificate of Occupancy for the construction / development approved herein.
- x. There shall be no physical change / modification / enlargement / modernization / expansion / intensification to the garage apartment, or the to-be-reconstructed front single family home, absent further formal approval of the Sea Girt Planning Board.
- y. To the extent necessary, the Municipal Building Office / Construction Office (or designee) shall confirm that the garage apartment approved herein satisfies any prevailing / applicable occupancy standards.
- z. Unless otherwise waived by the Board Engineer, the Applicants shall submit Grading Plans / Drainage Plans so that the Board Engineer can review / approve the same, and so as to further confirm that any drainage run-off does not go onto adjoining properties.
- aa. The Applicants shall comply with all prevailing Building Code / Construction Code Requirements.

**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 mis-representations or actions by the Applicants contrary to the

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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 improvement, or for any damage which may be caused by the development / construction / use.

A Motion to approve the application was made by Mrs. Laszlo, seconded by Mrs. Abrahamson.

THOSE WHO VOTED TO APPROVE THE APPLICATION: Carla Abrahamson, Larry Benson, Karen Brisben, Eileen Laszlo, Raymond Petronko, Norman Hall

THOSE WHO VOTED AGAINST APPROVAL OF THE APPLICATION: Jake Casey

NOT ELIGIBLE TO VOTE: Robert Walker, John Ward (Alternate Members)

The foregoing Resolution was offered by Mrs. Brisben, seconded by Mr. Petronko and then by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Eileen Laszlo, Raymond Petronko,

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Norman Hall

Noes: None

Not Eligible to Vote: Jake Casey, Robert Walker, John Ward

Absent: Carla Abrahamson

#### NEW BUSINESS:

The Board then turned to the proposed Ordinances to be adopted by Mayor and Council on October 24<sup>th</sup>, they were sent first to the Planning Board for review/comments. The first one is Ordinance 18-2018, Tree Preservation. Mayor Farrell said this was re-introduced for better definitions, they have done a first reading. This Ordinance says now one needs a permit to remove trees 6" or more in diameter and at least 54" high. Trees will now have to be drawn on construction plans and a tree removal permit will be needed as well as all trees being identified. A tree will be replaced by one that has a diameter of 3-3.5" or one can remit a fee of \$500 to the Borough for a tree, this will go into a tree replacement fund. So one can clear-cut a lot but needs to replant trees or pay a fee.

Chairman Hall asked if anyone who goes for a permit will have a survey done and the answer was yes. Mayor Farrell added that, if a tree is dead, one can see the Zoning Officer for a determination and a survey is not needed. Mr. Petronko asked what happens if a storm comes and a tree is leaning on a home and has to be taken down; Mayor Farrell said it has to be cleaned up and no permit will be required. Mrs. Laszlo commented that, after Hurricane Sandy, many trees fell over but the root ball stayed in, those trees were able to be saved. Mr. Ward commented on Section 4-D where it says that trees removed by the property owner on his own property needs a tree permit also. Mr. Casey noted that, in Section 8, it says that trees damaged by a storm have to be replaced. Mayor Farrell said that 50% of trees removed have to be replaced.

Chairman Hall didn't like some of the wording and Mayor Farrell said Council can address this but the goal is to get people to replace trees that are taken down. Mr. Ward also didn't think a homeowner should have to pay a fee to remove something, he felt it was detrimental. Mayor Farrell said the fee is to cover the time the Zoning Officer has to take on this; Mr. Ward felt this was penalizing someone for following the rules. Mayor Farrell said there is a process to do the permitting work. Mr. Ward didn't feel it was practical to take down a 24" diameter tree and plant a 3 ½" diameter tree but Mayor Farrell felt it was practical as a 3 ½" tree can readily be purchased, the goal is to stop clear-cutting, there already are fees being charged for removing trees for driveway work, etc. Mayor Farrell asked about changing the wording to "dead or diseased" and wanted to know if that was okay and Chairman Hall felt "diseased" can be an opinion and there needs to be a better interpretation. Mayor Farrell said the Tree Ordinance is difficult and it has been brought up before. Chairman Hall suggested on focusing on

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clear-cutting and go from there. Mayor Farrell said they can take out the ruling for dead/diseased trees, trees in the park were taken down and that came from the Shade Tree Commission.

Mrs. Brisben felt the fees to be charged were in line with the Zoning Officer's fee schedule, there are different fees for getting permits for building. Mr. Casey felt that whoever wrote this Ordinance was not in sales and Mayor Farrell said it was the Shade Tree Commission Chairman that wrote this. Mrs. Laszlo added that this is also in the Master Plan Update that was just passed.

At this time Chairman Hall asked for a roll call to accept or deny and send it to Council. Mr. Kennedy said we can record it and say what the Board would like to see changed and then it is up to Council, they do not have to follow the Planning Board. Mayor Farrell again said they will take out a permit fee for diseased or dead trees, this was difficult and very controversial and agreed the Master Plan Update did address this. Mr. Ward just wanted to see something get going on this Tree Preservation and maybe make changes later on, but wanted to see it get approved. He then made a motion to approve the Ordinance with the wording of removing a permit fee for diseased/dead trees. This was seconded by Mr. Petronko and then by the following roll call vote:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo, Councilman Michael Meixsell, Ray Petronko, Robert Walker, John Ward, Norman Hall

Noes: None

The Board then considered Ordinance No. 19-2018 Definitions, Article 17-2. Mayor Farrell said this started as Ordinance No. 17-2018, this followed a recommendation from the Master Plan and Jennifer Beahm and they had the first reading last week. Mayor Farrell then read the definitions of schools, churches and similar places of worship (the entire Ordinance is attached to the end of these Minutes). After reading the definitions he explained this is put in place to establish a standard for places of worship and schools, Council does not want a 50-foot wide lot becoming a school and this is also addressed in the Master Plan Update; he noted Manasquan adopted a similar Ordinance last year. Mr. Ward asked about the wording in item "J" and Mayor Farrell noted the wording was changed and agreed it was not worded properly. Mr. Petronko asked Mr. Kennedy if this was a problem and Mr. Kennedy said no, he has seen this being done in a lot of towns.

Mr. Petronko then asked why it had to be re-introduced and Mayor Farrell explained it needed to be reviewed by the Planning Board so they had to re-introduce it. Mr. Petronko felt this was good and goes along with the Master Plan, he was in support. Chairman Hall said the reason why the Planning Board has to see it is there may be some changes but this meets with the Planning Board's intents and all are on the same page. At this time a motion for approval, as written, was made by Mr. Petronko, seconded by Mr. Ward and then by the following roll call vote:

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Ayes: Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo, Councilman Michael Meixsell, Ray Petronko, Robert Walker, John Ward, Norman Hall

Noes: None

The last Ordinance for consideration was Ordinance 20-2018 and the Schedule of Limitations, regarding refining different definitions. Mayor Farrell said this has a lot in it and some changes were made (this Ordinance is also attached at the end of the Minutes). He started at the top, structures 16 inches or less for attics, eaves, etc. are not to be counted as lot coverage as opposed to be 24 inches or less; Council wants to keep it at 16 inches for a half-story definition. Mayor Farrell said if this is raised to 24" that would make a wall 8 inches higher and this is bulkier and will be bigger. Mr. Petronko asked if all this started with basement windows and Chairman Hall agreed, he said the subcommittee spent months working on this issue, they tried to reduce the bulk but Council did not understand, we now have 3-story high homes. Mayor Farrell said it's in the setbacks and Council did want to try it but decided to let the Planning Board address it through applications to them. Chairman Hall was against this as the Board already worked so hard on it.

Mayor Farrell then said the next item was dormer definition, then a ½ story definition. Accessory structure basement dwelling units are not permitted. Mrs. Brisben commented this is what is being seen, more and more storage areas under the garage. Mayor Farrell commented that everyone is putting in a 9-foot high basement and pool, then they go under the garage; he asked where is the water going to go? Council had decided to add this underground space under a garage to building coverage, they are trying to discourage this being done. Chairman Hall said a detached garage is not included in lot coverage but is included in impervious surface coverage and he couldn't understand not allowing this underground storage area, mechanical equipment can go here if it is properly ventilated. Mayor Farrell said people are now getting water in their basements as this underground area displaces water, they don't know what future water issues will be. Chairman Hall agreed with the philosophy but he felt that space can be allowed under a garage to a height of no more than 6 feet, this way it can't be made into a living space and this will not impose on the water table; he said there are positive things to have a space under the garage for mechanicals.

Mayor Farrell said they worry about 6 feet, that may be nothing in parts of town but a problem elsewhere in Sea Girt and noted that Philadelphia Boulevard is 6 feet lower than Beacon Boulevard, as an example, and this makes a difference. If this is made part of building coverage they can limit it. Chairman Hall commented on pools and both Mayor Farrell & Mrs. Laszlo said we already have that, Mayor Farrell added that what started as a Pool Ordinance expanded to basements and now they want to address garages. Mayor Farrell also reminded the Board that these Ordinances are on for a Public Hearing at the October 24<sup>th</sup> meeting of Council.

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The next item was definitions of “home office”, there already is an Ordinance on home offices and this is just to clean it up. Mr. Casey asked about item “e” and if storage in the garage can be included, Mayor Farrell said this is not a problem if you want to store paper, etc. Mrs. Laszlo asked why the requirements are so extensive and Mayor Farrell explained said this is to cover things from getting out of hand. There was a resident in town that made Council address this, operating a business out of his house. This keeps ½ dozen workers from going to a house and unloading things, this is clarification so we have a peaceful, residential area. Mrs. Laszlo was in favor of having business meetings in a home and felt the town is overreaching and went back to the basement in a garage issue. The home they are having built has a basement built under the garage and it works for storage. Their neighbors do not hear their pool equipment as its in the basement of the garage.

This brought Mayor Farrell to the Schedule of Limitations and explained the clarifications of setbacks (The Schedule of Limitations is attached to the end of these Minutes) and they will be at 30% for side yard setbacks, this comes to still being 15 feet for a 50-foot wide lot and will be different for larger lots, this is to make this setback line more uniform. He then addressed mechanicals on the roof, Section 17-5.4 and said a parapet wall or fence will have to be erected to hide the mechanicals. Mr. Casey asked if there is a height limitation and Mayor Farrell said it can't go over the top of the mechanicals. Mr. Casey asked if it will help block the sound and the answer was yes. Mayor Farrell said he would like to see this put in at 10 feet and then a wall at about 3 feet.

Mr. Ward went back to the dormer definition (Section 1, Article 17-2) and asked about the comments on the stairs, he felt that architects are very creative and bulk may not be reduced. Chairman Hall said that, logistically, proper stairs are needed and the Board had discussions on this in the past. Mayor Farrell said a stairway to a dormer is now the way to build.

Mr. Ward then went to the porch definitions & requirements (also Section 1, Article 17-2) and wanted to know who is going to enforce the requirement that a porch can only be screened in the summer, from May 1 through October 31, he felt that a screened porch obstructs site view. Mr. Casey and Mrs. Laszlo also objected to this as well but felt it is nice to have screening. Mr. Ward then went back to the Mechanical Equipment, Section 17.5-4 and opposed it being on a roof. He felt it also should be counted as impervious coverage if on a roof as it is on a concrete slab. Also, the higher the equipment is the noisier it is for others.

Mrs. Brisben brought up the thought that there is nothing in the Ordinances now that presents someone from having a deck on a roof but the Board didn't discuss this. Chairman Hall felt there is disagreement on this proposed Ordinance and they should revisit it. He recommended the Planning Board rejecting it. At this time Mrs. Laszlo made a motion to deny this Ordinance being adopted, this seconded by Mr. Benson, but Mayor Farrell then felt the Board can vote on each issue so Council can get a better understanding of the issues. Chairman Hall noted if it is rejected then Council needs a

strong consensus to override the Planning Board's decision. Mr. Kennedy said the Board can accept or reject it as a whole or vote on the 7 issues and the Board decided to go with the 7 smaller votes:

- 1) Mayor Farrell started with the side yard setbacks of being 30% of the lot width and there was no problem with the Board on this, unanimous approval
- 2) Next was the dormer definitions and requirements and Mrs. Laszlo felt this was overstepping again and the town is overcomplicating the codes. Mr. Ward did not like the way it was written. The rest of the Board had no problem with this so the vote was 8 for approval, 2 against.
- 3) Front porches – 8 feet wide vs. 6 feet wide. Chairman Hall did not want to see cookie-cutter porches and Mr. Casey did not think the calculations here are correct, better definition is needed. After a further discussion, Mayor Farrell removed this part to be reworked. Chairman Hall asked who will revisit this issue and Mr. Casey said he would do so, Chairman Hall said he would join him and Mr. Walker was the third to make a subcommittee on this issue.
- 4) Building area, maximum horizontal cross-sectional area of a building that includes cornices, eaves, etc. Should this be 24 inches or 16 inches? Chairman Hall was in favor of 24 inches and the rest of the Board wanted it to stay at what it currently is, 16 inches. The vote was 9 for and 1 against.
- 5) Basement under garages to be for storage only and included in building coverage. Mrs. Laszlo felt this can be better addressed with new construction, Mayor Farrell said the water table has been encroaching and gave the example of his neighbors who have an overbuilt home and failing drywells. Councilman Meixsell was in favor of it as worded, as were Mr. Ward, Mr. Walker and Mr. Petronko. Chairman Hall was against it and felt there are benefits to a space under a garage. Mr. Casey, Mr. Benson and Mrs. Brisben were for approval, Mrs. Laszlo was opposed. Mayor Farrell said he also was in favor of this so the vote here was 8 for approval, 2 against.
- 6) The next item was definitions & requirements for a home office. Mrs. Laszlo said she is a lawyer and has a problem with this, this goes up to the letter "L" with definitions/requirements and asked what is Council doing? Mayor Farrell again explained that this started with one individual taking advantage of this and Mrs. Laszlo felt there is another way to handle this, this is onerous legislation. Chairman Hall asked if the restrictions in place now are enough and Mayor Farrell said if the town is going to allow a home office there is a need to control it. Mrs. Laszlo said some people have started business in homes and have then become successful, the town should have something with "teeth" without saying an office should be limited to one room, "this is Big Brother in my home". She did not like definition "C" or "D". The vote was then as follows: Councilman Meixsell was for keeping it in place, maybe making it a little more conducive. Mr. Casey had a problem with "C" and Mayor Farrell offered to take that out and he was for it then. Mr. Ward didn't think it needed to be struck, this keeps a business from having 15 people coming in every day. Mrs. Laszlo asked what the penalty is for not following

this and Mr. Kennedy explained a summons is issued and the Municipal Judge determines the fines. Mr. Walker said he works out of his home but felt if it is a commercial endeavor it should be in the Commercial Zone. Chairman Hall felt people can meet in the street and agreed "C" is "stupid". Mayor Farrell noted that 3 people are against item "C". Mr. Petronko felt this should be revisited and the town is going about this in the wrong way. Chairman Hall felt the Ordinance that is now in place controls this and is against all of it. Mr. Benson was okay with item "C" being taken out. Mrs. Laszlo was absolutely opposed to all of this and Mrs. Brisben was okay with item "C" being taken out. So the vote to approve this with item "C" being removed was 7 for approval and 3 against approval.

- 7) The last item for vote was for Mechanical Equipment requirement for a parapet wall or solid short fence. Mr. Casey wanted something that defines wall height, Mayor Farrell said the wording can be to "cover side view". Chairman Hall said a generator is combustible but an air conditioner is not and he was going to research the requirements for circulation needed. Mrs. Laszlo felt the architects should know this and design it. Mayor Farrell agreed with her and they can defer to professionals as long as the view is covered. The vote on this matter was unanimous for approval with the above comments being taken into consideration.

Mr. Casey then commented that the Corner Lot definition was not discussed and Chairman Hall felt this is what the Planning Board wants and this is just a better definition; Mr. Casey agreed it is good. Chairman Hall then said there is a motion on the table to deny Ordinance 20-2018, does the Board vote or does Mrs. Laszlo wish to withdraw her motion and she said she will unhappily withdraw the motion. Mr. Ward then made a motion for approval and to include, to Council, the Planning Board discussion on this, this was seconded by Mrs. Brisben and then by the following vote:

Ayes: Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo (unhappily), Ray Petronko, Robert Walker, John Ward

Noes: Norman Hall

Abstain: Councilman Michael Meixsell

Chairman Hall saw that there were people in the audience so he opened the meeting for any comments the public may wish to make and Mrs. Marilyn Ward came up to the microphone. She said she was before Council last week concerning building issues in town and it was suggested she also speak to the Planning Board. She said she and others had circulated a petition and spoke to people outside of Joe Leone's regarding these concerns for the last two weeks, she had a petition with about 150 signatures. She wanted to see changes to the Zoning Code and said the Master Plan revision was adopted by Council and noted it spoke of excess building being a concern, this has been going on for 20 years and the zoning codes are insufficient; the average number of new homes is 18 per year for the last 6 years. She also said 94 new

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properties could be created through subdivisions and the population swells in the summer as many of the homes being built have 7-8 bedrooms which creates more parking problems. She felt our current codes do not address this issue. She then spoke of the changes those who signed the petition would like to see: change the side yard setbacks, change the height restrictions, change the Impervious Coverage percentage and not permit basements under detached garages or count them as part of building coverage (she did note the basements under garages is being done & will be part of building coverage). She then presented a photo of a driveway that caved in due to the construction being done next to it as well as submitting a photo of a before and after of the home at 409 Boston Boulevard as an example. The "before" photo showed a much smaller home than the "after" photo. She felt that large homes being built next to smaller homes devalues the smaller homes and that Cindy Zipf of Clean Ocean Action had stated that the overbuilding along the New Jersey oceanfront is destroying our aquifer. She then handed out a two-page sheet which outlined the changes requested (attached at the end of these Minutes).

Next to speak was Meghan Pacetti of 300 Washington Boulevard who was also at the Council meeting and wanted to speak to the Planning Board. She felt the town has to be tough on the building that is going on, it is amazing and houses are on top of each other; basements under garages are not needed as well as 10-foot high basement ceilings. There is too much excavation going on which is damaging the landscaping, she wanted to preserve Sea Girt and make restrictions tighter, she closed by stating Sea Girt is a high money town and there is greed going on.

Robert Gregg then came forward and spoke of his neighbor who did a clear-cut of his back yard, he couldn't figure how many trees were taken down, by the time he got there it was too late. He wondered the best way to inform residents that they need permission to cut a tree down and Mr. Ward said that perhaps the Tree Service companies can be sent a copy of the Ordinance so they are informed, everyone thought this was an excellent suggestion. Chairman Hall agreed that there needs to be improvement in letting people know what is going on, we can't just send out an email.

As there were no more public comments, the Board was to listen to a Power Presentation from Mr. Kennedy on Land Use Liabilities, however, as it was late in the evening, it was decided to hold this Power Point Presentation at the November 28<sup>th</sup> meeting of the Board.

Before adjourning, Chairman Hall commented there was a lot of discussion this evening and he was glad to suggest solutions to Council. He said if someone doesn't agree, air it. As there was no other business to come before the Board a motion to adjourn was made by Mayor Farrell, seconded by Mr. Casey and unanimously approved, all aye. The meeting was adjourned at 10:14 p.m.

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Karen Brisben, Board Secretary

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Approved: November 28, 2018