

SEA GIRT PLANNING BOARD
WEDNESDAY, SEPTEMBER 19, 2018

The Regular Meeting of the Sea Girt Planning Board was held on Wednesday, September 19, 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: Carla Abrahamson, Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo, Councilman Michael Meixsell, Ray Petronko, Robert Walker, John Ward, Norman Hall

Absent: None

Also present was Kevin Kennedy, Board Attorney; Board member and Secretary Karen Brisben recorded the Minutes. There were about 30 people in the audience.

The Minutes of August 15, 2018 Minutes were approved on a motion by Mr. Walker, seconded by Mr. Casey and approved with a voice vote, all aye.

OLD BUSINESS:

The Board turned to the approval of a Resolution for a conforming Minor Subdivision for Block 41, Lot 8, 221 Chicago Boulevard, owned by W. Peter & Susan Ragan.

As all Board members, as well as the applicants, had received a draft copy and there was a change asked for by the applicants' attorney, Michael Henderson, Mr. Kennedy explained the change of the Tree preservation request. Condition G spoke of this and he added Condition H which he read concerning the fact that the Council will be approving the Tree Ordinance on September 26th and this Resolution falls in right before that. Mayor Farrell explained to the Board the gist of this Tree Save Ordinance and Mr. Kennedy felt this is tricky as the Resolution is getting adopted this evening and the Ordinance next week. Mr. Henderson was okay with this and they will attempt to comply. The following was then presented:

WHEREAS, Peter and Susan Ragan have made Application to the Sea Girt Planning Board for the property designated as Block 41, Lot 8, commonly known as 221 Chicago Boulevard, Sea Girt, NJ, within the Borough's District 1, East Single Family Zone, for the following approval: Minor Subdivision Approval; and

PUBLIC HEARING

WHEREAS, the Board held a Public Hearing on August 15, 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:

- *Land Development Application Package, dated March 24, 2016, introduced into Evidence as A-1;*
- *The Review Memorandum from the Subdivision Committee, dated June 20, 2018, introduced into Evidence as A-2;*
- *Minor Subdivision Plan, prepared by WSB Engineering Group, P.A., dated April 6, 2018, introduced into Evidence as A-3;*
- *Survey, prepared by WSB Engineering Group, P.A., dated March 28, 2018, introduced into Evidence as A-4;*
- *Leon S. Avakian, Inc. Review Memorandum, dated June 29, 2018, introduced into Evidence as A-5;*
- *Affidavit of Service;*
- *Affidavit of Publication; and*

WITNESSES

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

- Frank Baer, P.E., P.P.;
- Peter Ragan, Applicant;
- Michael Henderson, Esq., appearing;

TESTIMONY AND EVIDENCE PRESENTED

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

- The Applicants herein are Peter and Susan Ragan.
- The Applicants are the Owners of the subject property.
- The subject property currently contains 15,000 square feet.
- The subject site currently contains a single-family dwelling, detached garage, swimming pool, driveway, and other site amenities.
- The Applicants intend to demolish the existing structures.
- The Applicants propose to subdivide the site into 2 Lots; namely, proposed Lot 8.01 and proposed Lot 8.02.
- Details pertaining to the 2 proposed Lots include the following:

PROPOSED LOT 8.01

Minimum Required Lot Area:	7,500 SF	
Proposed Lot Area:	7,500 SF	
Proposed Use:	New	single-family home

PROPOSED LOT 8.02

Minimum Required Lot Area:	7,500 SF	
Proposed Lot Area:	7,500 SF	
Proposed Use:	New	single-family home

- As referenced, each Lot will ultimately host a single-family home.

VARIANCES

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

PUBLIC COMMENTS

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

- Sue Blasi
- Jim Sanford

FINDINGS OF FACT

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

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

1. The Sea Girt Planning Board has proper jurisdiction to hear the within matter.
2. The subject property is located at 221 Chicago Boulevard, Sea Girt, NJ, within the Borough's District 1, East Single Family Zone. The subject property (i.e. the mother Lot) is located on the northeast corner of the intersection of Chicago Boulevard and Third Avenue.
3. The subject site currently contains 15,000 SF.
4. The Applicants propose to subdivide the property into 2 Lots; namely, proposed Lot 8.01 and proposed Lot 8.02.
5. Such a proposal requires Minor Subdivision Approval.
6. There are no Variances associated with the within proposal.

7. Each of the new Lots created hereunder will ultimately host a new single family home.

8. Single-family homes are permitted uses in the subject Zone.

9. The single-family homes to ultimately be constructed on the Lots will comply with all Prevailing Bulk Requirements. That is, and as indicated, there are no Variances required in connection with the within Application.

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

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

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

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

CONDITIONS

During the course of the Hearing, the Board has requested, and the Applicants' Representatives have agreed, to comply with the following conditions: (Note: Unless otherwise indicated, all Plan Revisions shall be subject to the review and approval of the Board Engineer.)

- a. The Applicants shall comply with all terms and conditions of the Leon S. Avakian Review Memorandum, dated June 29, 2018 (A-5) and the Planning Board Subdivision Committee Review Memorandum, dated June 20, 2018 (A-2).

- b. The Subdivision shall not be perfected until such time as all of the existing structures (principal and accessory) (including the pool and garage) on the site are demolished / removed, as confirmed by Borough Zoning / Construction Officials.
- c. Per the Board Engineer Review Memorandum, the Applicants or subject Developer shall replace any existing curb and sidewalk which is in poor condition (as deemed necessary by the Board Engineer).
- d. The utilities at the site shall be installed in accordance with Prevailing Borough protocol / procedure.
- e. The Applicants shall cause the Plans to be revised so as to portray and confirm the following:
 - The correct identity of the existing and proposed Lots.
- f. The Applicants shall arrange for the Plans to be appropriately signed / notarized.
- g. The Applicants shall comply with any Prevailing Tree Preservation Ordinance / Regulation in effect.
- h. To the extent any Municipal Tree Preservation Ordinance is not yet effective, the Applicants shall, in good faith, attempt to comply with the spirit and intent of the Borough's proposed Tree Preservation Ordinance. The Applicants' representatives shall report back to the Board Secretary with definitive information in the said regard.
- i. Per the testimony and evidence presented, one 19" Holly Tree, which is in an unhealthy condition will be removed. Likewise, one 20" Holly Tree in the rear will be removed as well. Towards that end, any existing trees removed from the site shall be replaced with Shade Tree Commission-approved replacement trees.
- j. The Applicants shall, in good faith, take necessary and appropriate care to protect the existing Borough Trees on the property. To the extent any existing Borough trees on the site are damaged or destroyed as a result of the within subdivision, the Applicants shall immediately arrange for such trees to be replaced (with a similar size / caliber / quality tree) (to be approved by the Municipal Shade Tree Commission).
- k. The Applicants shall comply with any Prevailing On-Site Construction Regulations of the Borough of Sea Girt.

- l. The Applicants shall comply with all Prevailing Construction Code / Building Code Regulations.
- m. The Applicants shall submit revised Plans (5 sets) to address the necessary / applicable items as referenced in the Board Engineering Review Memorandum, and / or as otherwise referenced during the Public Hearing process, and as referenced herein. Any Plan revisions shall be subject to the review / approval of the Board Engineer.
- n. The Applicants shall obtain any and all necessary / applicable demolition permits.
- o. Prior to the issuance of any Construction Permits, the Applicants (or successor Applicant / Owner / Developer) shall submit grading, drainage, plot, and utility plans (and drainage calculations) to the Board Engineer, for review and approval.
- p. In the event the subdivision is to be perfected via Deed, the Subdivision Deed (including the legal descriptions) shall be reviewed and approved by the Board Attorney and Board Engineer.
- q. The Applicants, or any successor Applicant / Owner, shall comply with all Prevailing Rules and Regulations of the Municipal / Regional Utilities Authority. Additionally, the Applicant shall pay / satisfy any applicable sewer / utility connection fees (and any other charges / fees due and owing.)
- r. Unless otherwise waived by the Board Engineer, prior to the issuance of any Building Permit, the Applicant, or any successor Applicant / Owner, shall submit detailed Plans / Elevations – and the said documents shall be reviewed / approved by the Board Engineer (as well as any other applicable municipal official).
- s. The Applicants shall attempt, in good faith, to preserve as many trees on site as possible.
- t. Any single-family homes to be constructed on the newly created Lots shall comply with all Prevailing Bulk Zoning Regulations (as no Variances are granted hereunder.)
- u. The subdivision shall be perfected in accordance with Requirements of New Jersey Law (and within the timeframe set forth in New Jersey Law.)
- v. The Applicants shall review the proposed Block / Lot designations with the Municipal Tax Assessor so as to confirm the acceptability of the same.

- w. The Applicants (or any successor Applicant) shall comply with all applicable Affordable Housing related Ordinances / Regulations / Contributions / Directives as may be required / imposed by the Borough of Sea Girt, the State of New Jersey, C.O.A.H., the Court System, and / or any Agency having jurisdiction over the matter.
- x. Any construction/development of the Site shall comply with the Prevailing FEMA Requirements.
- y. The Applicants shall comply with all terms and conditions of the review memoranda, if any, issued by the Board Engineer, Construction Office, the Department of Public Works, the Office of the Fire Prevention and Investigation, and/or other agents of the Borough.
- z. The Applicants shall obtain any and all approvals (or Letters of No Interest) from applicable internal / outside agencies - including, but not limited to, the United States of America (FEMA), the Department of Environmental Protection (CAFRA), the Monmouth County Planning Board, the Freehold Soil Conservation District, the local utility offices, the Department of Public Works, the local Fire Department, and any other Agency having jurisdiction over the matter. The Applicants shall also satisfy any conditions associated with such outside agency review.
- aa. The Applicants shall, in conjunction with appropriate Borough Ordinances, pay all appropriate/required fees, taxes, and inspection fees.
- bb. If required by the Board Engineer, the Applicants shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.

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

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

BE IT FURTHER RESOLVED, that the granting of the within Application is expressly made subject to and dependent upon the 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 any constructed improvement, or for any damage which may be caused by the development / subdivision.

FOR THE APPLICATION: Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell, Councilman Michael Meixsell, Raymond Petronko, Robert Walker, John Ward

AGAINST THE APPLICATION: None

ABSTENTIONS: None

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

Ayes: Larry Benson, Karen Brisben, Jake Casey, Mayor Ken Farrell, Councilman Michael Meixsell, Raymond Petronko, Robert Walker, John Ward

Noes: None

Not Eligible to vote: Carla Abrahamson, Eileen Laszlo, Norman Hall

NEW BUSINESS:

The first item was a hearing for variance relief for Block 8, Lot 11, 802 First Avenue, owned by Jon & Patricia Klein, to allow construction of a new 2 ½ story home and detached garage. Garage – rear yard required, front yard proposed. Mechanical Equipment – rear yard required, front yard proposed. Driveway – 14 foot width maximum allowed, 20 foot width proposed. Curb Cut – 13 foot width allowed, 14 foot width proposed.

The correct fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified. Mr. Kennedy asked if those in the audience that were notified had any problem with what they received and there was no response.

Mr. Kennedy then went on to mark the following exhibits:

- A-1. The application
- A-2. Zoning Officer Letter of Denial dated 4/24/18.
- A-3. Checklist
- A-4. Architectural plans dated 3/8/18.
- A-5. Engineering plan dated 3/5/18, revised 5/7/18.
- A-6. Survey dated 3/16/17.
- A-7. Board Engineer review dated 7/18/18.

Mr. Michael Rubino, Esq., the attorney for the Kleins, then came forward with more exhibits to mark, as follows:

- A-8. Colored rendering of proposed home done by Christopher Rice, Architect, dated 9/19/18.
- A-9. Architectural view of East side of home dated 9/18/18.
- A-10. Aerial view of property taken from the Internet dated 9/18/18.
- A-11. Another aerial view of the block.

Mr. Rubino then started his testimony and explained this property fronts on both Morven Terrace and First Avenue, therefore has two front yards as far as zoning. The Kleins would like to take down the existing home and build a more traditional home, the one that is there is of a modern design and needs a lot of work. As this property has two front yards they need a variance for the garage which will be less into the front yard setback than what is there now. Also, the mechanical equipment will need to be in the front yard as well and they plan to put this on the roof and it will be screened. Mr. Rubino also noted they are withdrawing the variance request for the curb cut and will meet the 13 foot requirement.

At this time Mr. Christopher Rice, Architect, was sworn in; as he was familiar to the Board he was accepted as an expert witness. He was hired by the Kleins to design this new home which will have a detached 280 square foot garage, they can go to a 500

square foot garage but they don't want to do this, they are trying to minimize the impact here and showed this on Exhibit A-8. The existing front yard of the current home is less than 15 feet and they will be at 15 feet, there will be a flare driveway in front of the garage that will widen to 20 feet, the garage will be smaller than the driveway but this look will not be out of character and they need the extra parking area as this property is one block from the beach.

He then spoke about where the front of the house should be and noted there are 7 homes that face First Avenue and 4 homes that face Morven Terrace and they had to choose which way the home would front, they decided to go with the way it is set up now, fronting on First Avenue; he also noted there are no issues with height or lot coverage and felt this home will fit in with the other 7 homes that face First Avenue. He then explained about the mechanicals being on top of the garage in a cut-out. He referred to Exhibit A-1 showing the elevations and that they do meet the requirements for the height of a garage, 16 feet is allowed and they will be at 13 feet with the mechanicals screened. Mrs. Brisben asked Mr. Rice where this is shown on Exhibit A-8, the colored rendering of the proposed home and Mr. Rice said the mechanicals are not shown on the rendering, it was done before they decided to do this. He then said the neighbor's garage is next to the proposed one. Mr. Casey asked about putting the mechanicals in the back as, if he were the neighbor, he would not want to see them.

Mr. Walker asked about the homes facing First and Mr. Rice said the home at Crescent & First fronts on First, then he went down the street and showed the homes that front on Morven Terrace and the homes that front on First Avenue, he said they worked on this for a long time and studied the two streets. Mr. Rubino noted if you go up and down the block there are front doors on both sides.

Mr. Ward went back to the mechanicals and asked if there was any way to screen them from above so the neighbor does not see them from their second floor window and Mr. Rice said it will be very difficult to be seen. Mr. Ward suggested moving them to the other side by the driveway and Mr. Rice agreed this can be done but it would require another variance. Chairman Hall said that mechanicals are allowed to be put on the garage roof, Mr. Rice said they can be put on the ground and they would not be seen but they would need variance relief. Mr. Petronko asked why put them on the North side and not the South side and Mr. Rice answered the left side is right next to the neighbor's garage. Mayor Farrell felt that the mechanicals should not be in the setback and Mr. Rice said this is why they will be put on the roof. Mr. Ward noted there is 10 feet between the garage and home so maybe they can be put there, Mr. Rice explained this is their pathway from the home to the garage and putting them in this area would impact that. Mrs. Brisben asked about trees on this property, she only saw one pine tree, there are mostly shrubs and there was agreement on this.

At this time the hearing was opened for questions to Mr. Rice and Bill O'Brien from 100 Trenton Boulevard came forward and said he was concerned about the hedges here and he wanted to know if he would see the air conditioner units? Mr. Rice said his home is raised and the air conditioner units will be at 13 feet; if he stood on a

chair he might see the mechanicals. Nancy Nolan of 100 Trenton Boulevard felt these will be seen from the second story, Mr. O'Brien said right now he sees hedges and would hate to see them taken down. Ms. Nolan noted if they move the curb cut as they are proposing they will have to remove some of the hedge and Mr. Rice agreed but this will be less intrusive than putting it on Morven Terrace. Mr. O'Brien asked if he can get the addresses of new homes in Sea Girt that have air conditioners on their roofs and Mr. Rice said he can get that, but not this evening.

As there were no more questions from the audience, Mr. Rubino called Trish Klein forward and she was sworn in, giving her address as 111 Barrow Street, New York City. Mr. Rubino noted she is one of the owners here, her husband is currently in England. She told the Board they have owned the home for 1 ½ years and the current home is not conducive for them and they want a more traditional style. She commented on the thought of putting the air conditioners in the rear of the garage and she felt the units are safer on top of the garage in case of flooding in their area, she also commented the neighbors have no issue here. Mr. Rice commented they can move the garage over 3 feet and put them on a platform there, but the Board will have to give them 25 feet instead of 28 feet for the garage setback. Chairman Hall again said there is nothing wrong with units on top of the garage, it is allowed. He asked about a cage or lattice work so it can't be seen as long as it doesn't lose efficiency. Mr. Rice said there will be a slight loss, if any and again offered to put the garage 25 feet from First Avenue, then they can put the air conditioners on the ground, they will be behind the neighbors and their garage. The hearing was then opened to Mrs. Klein for questions and there were none so that portion was closed. Mr. Rubino asked Mrs. Klein about hiring a landscaper and she said absolutely and she said they will try to save as much as possible of the shrubs and hedges.

Next to come forward was Ray Carpenter, Planner/Engineer who was sworn in. As the Board is familiar with him he was accepted as an Expert Witness. He said there is a 2 ½ story home there now and the proposed one will be the same, but instead of a 2 car garage as is there now, there will be a 1 ½ car garage; he also noted the existing garage is in the setback area now and the home to the north has a garage at 14 feet in.

He referred to Exhibit A-12, the photo survey with the new home superimposed on the plans by Chris Rice, this is dated 9/19/18. They are asking for a wider driveway but not a curb cut variance; Mr. Rubino interjected they are also cleaning up some existing nonconformities. Mr. Carpenter said there is no drainage there now and the new home will comply with all drainage regulations; he agreed with earlier testimony that the proposed curb and driveway off First Avenue is the logical place to be put. He again referred to Exhibit A-12 and showed the 5 foot setback on the side of the garage, on the plan it says 5.10 – Mr. Rice said it is 5.1. Mr. Petronko asked why not have it at 5 feet and Mr. Rice said 5.1 feet works better here, Mr. Carpenter said the shrubs here will not be affected.

The hearing was opened for questions to Mr. Carpenter and Mr. Casey asked about extending the driveway, he was told they want to get two cars to be able to park

here side by side and keep a car off the street. As there were no other questions that portion of the hearing was closed and opened for general comments.

Nancy Nolan came forward again and this time was sworn in. She wanted to know if the air conditioning units will be moved and Chairman Hall said "probably". Ms. Nolan said she would like that. Bill O'Brien then was sworn in and told the Board he loves the town and wants to see the hedges survive, they are from the old Stockton Hotel that was there. Chairman Hall asked Mr. Rice to do what he can to preserve them, Mr. Rice said the homeowners want to keep them and they will try but they can't guarantee this.

As there were no other comments Mr. Rubino came forward to summarize the application and just said this is an odd property with two fronts and they are agreeable to moving the garage to accommodate the mechanical units.

The Board then went into discussion, Councilman Meixsell agreed this is a unique zoning challenge and he was fine with this, including moving the garage so the mechanicals can be on the ground. Mr. Benson had no problem with the application and all his concerns were answered. Mr. Walker did not like to see the garage in the front yard but it couldn't be helped here and he would be in favor. Mr. Petronko was in favor of approval and moving the setback for the garage. Mayor Farrell felt the applicant can't be blamed for this situation and thanked them for working with the neighbor. This was subdivided way back and it was done wrong, but what is done is done. He felt there were a lot of positives here, the whole block is upside down; the air conditioner units in the side yard is not what is wanted in town but they are working with the neighbor here. Mr. Casey appreciated the flexibility given to solve the air conditioner problem and wished them good luck with the home. Mr. Ward agreed with what has been said, Mrs. Abrahamson was in favor of the application with the change to the garage setback and mechanical units. Mrs. Laszlo agreed, the code allows air conditioner units to be on the roof but they are accommodating the neighbor and are to be lauded for this; she was confident they will try to preserve as much landscaping as possible. Mrs. Brisben agreed with the rest of the comments and, personally, does not like air conditioner on roofs so was glad that was changed. Chairman Hall also agreed with the other members and said he was there when the Stockton Hotel burned down, he was in agreement to move the garage.

Mr. Kennedy then went over the conditions of the Resolution, remove the curb cut variance, revise the plans to show the garage at a 25 foot setback and the air conditioner units be put on the ground, there will be a good faith effort to preserve the existing hedge. Mr. Petronko then made a motion for approval, as outlined by Mr. Kennedy, this seconded by Mayor Farrell and then by the following roll call vote:

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

Noes: None

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

The Board then turned to an application for appeal from Zoning Officer's Stop Work Order for Block 20, Lot 13, 108 Chicago Boulevard, owned by Jason & Jacqueline Meyer. If appeal upheld, application for Use Variance/Variance approval to allow reconstruction of a new home, original approval given August 2017 for renovations only, home demolished after approval given.

As this is a Use Variance application, both Mayor Farrell and Councilman Meixsell had to leave the dais. Chairman Hall asked Mr. Kennedy if this is considered a new application and the answer was yes. Mr. Kennedy then explained the appeal that is being asked for, this is a unique application and now there are procedural issues; there was a home and garage apartment on the site, pre-existing nonconformity. In August of 2017 the Board granted improvements to the garage apartment and the existing home. The applicants started work on the apartment and the neighbors complained, the Zoning Officer and Engineer reviewed the site and approved the work being done. Then there was a question on the work being done on the home, a demolition was done when renovations only were approved, the Zoning Officer issued a Stop Work Order. Now there is a two-part application, the first is the Zoning Officer's decision with the demolition violating the Resolution. If the Board agrees with the Zoning Officer, then Mr. Rubino is asking for relief to rebuild the home with the existing apartment which involves a Use Variance which the Mayor and Councilman cannot hear.

Mr. Kennedy reminded all that last month there was a problem with the recorder so this hearing was carried to this month with no further notice. This is now a new application, so any member that was not present at the first hearing last fall can hear this application. Mr. Rubino came forward and commented that he felt Mr. Kennedy made a nice introduction and he would now like to address the Board, he also agreed this is a new application.

At this time the following was marked as Exhibits:

- A-1. Amended application package, with addendum, dated 5/18.
- A-2. Zoning Officer Letter of Denial dated 5/1/18.
- A-3. Zoning Officer notice to applicant dated 4/9/18.
- A-4. Resolution of Planning Board dated 7/19/17
- A-5. Architectural plans dated 7/19/17.
- A-6. Plot Plan done by KBA Engineering dated 4/18/18.
- A-7. Topographic survey dated 11/20/2016.
- A-8. Avakian Engineering report dated 7/2/18.
- A-9. Communication from Michael Rubino, dated 9/17/18, regarding Conflict of Interest.
- A-10. Communication from Michael Rubino, dated 9/17/18 regarding legal issues

running with the land.

A-11. Rendering of proposed residence, done by Chris Rice, dated 9/19/18.

A-12. Photo Board of 9 photos showing current site, taken by Mr. Kociuba August 2018.

At this time Mr. Joe Kociuba of KBA Associates Engineer came forward and was sworn in. He presented Exhibit A-13, a photo board with 3 aerial photos taken 9/19/18, done by Google, along with street views done by Google. Exhibit A-14 was a copy of a plot plan dated 10/06/17 showing Resolution compliance. Exhibit A-15 is a plan submitted subsequent to the revocation, showing home will be reconstructed, this dated 4/18/18. Exhibit A-16 are photos taken by Mr. Teicher (the builder) dated March 2018. Exhibit A-17 is a photo of the floor joists and wall studs taken by Mr. Teicher March 2018.

Mr. Kennedy noted that, at the last meeting, Mrs. Amy Ledva has raised a possible conflict of interest for Mr. Rubino. Mr. Rubino has responded, as per Exhibit A-9, saying there is no conflict of interest. Mr. Rubino said they bought their home in 2008 and after they closed on the property there was some back and forth between them and the then owners of 108 Chicago, not the Meyers. This file is void of anything since 2008, there was no confidential information done, etc., the only issue was the people had used the Ledvas' property for contractor access to the rear of 108 Chicago Boulevard; that issue is all done now and there is no conflict, Mr. Rubino had done research on this along with ethics work and found no conflict. Chairman Hall asked Mr. Kennedy if this is the Board's concern and Mr. Kennedy answered the issue is valid as someone was concerned about it. He gave an example of being an attorney for a Board and then being the attorney for a developer, this could be a problem but that is not the case here. This landed in the Board's lap so we, as a Board, have no formal role in saying a conflict exists and we cannot disqualify Mr. Rubino from presenting this case. If there is a dispute with the Ledvas it is private but Mr. Kennedy appreciated it being brought up.

Mr. Kennedy said there is also the issue that Mr. Rubino says a variance runs with the land, however, there is another thought that if there is a demolition this right is lost. Mr. Rubino stated that, because of the nature of what happened, there was a Stop Work issue, a storm took down some walls. In July 2017 the Board granted relief and gave a Use Variance as well as Bulk Variance relief. On April 4, 2018 there was a windstorm that took down a wall and this affected one other wall, then a third wall was affected by the rain and wind. The Use Variance was granted for the renovation; the kicker is this is not similar to a pre-existing nonconforming use, if the use is more than 50% destroyed a Planning Board has to get involved. But this property had a variance that was approved so it was not a nonconforming use any longer, this makes it difficult, so he appealed the Zoning Officer's ruling. Mr. Rubino emphasized that he is not saying Mr. Willms should not have done it, it was probably right, but the legal position is this was taken down by an Act of God, no deceit was done. Therefore, he felt all variances stay in place. Mrs. Brisben asked if the Construction Department was

contacted when this happened in April and the answer was no and Mr. Rubino admitted if they had they probably would not be here this evening.

Mr. Kennedy agreed this is complicated, but he had just received Mr. Rubino's letter today and does not have the ability to answer this tonight. The Board gave approval for a Use Variance and Bulk Variances and he then read parts of the enabling Resolution from 2017. He noted the garage apartment had the appearance of part of it being a garage but was not, this is a pre-existing nonconformity. The Municipal Land Use Act says that they can exist. The application is questioned as to whether this is an expansion of a nonconforming use and the Board found it is not as the apartment is being reduced from 33.8% to 29.8% lot coverage for the property. The impervious coverage is going from 42.5% to 38.1% and the bedrooms are being reduced from 3 in the garage apartment to 2, part of this will be converted back into a garage. Also, the home will go from a 5 bedroom to a 4 bedroom home, most of the conditions are existing and being improved. The Board approval should have been more stringent if the home was to be taken down. This was not vacant land, approvals run with the land and why would a Board approve an expansion of a nonconforming use?

Mr. Kennedy did not know of any case law on this and needs to do some research, he was not in a position to agree or disagree with Mr. Rubino as his saying the previous approval is still in force. Mr. Rubino said the Use Variance granted given the property a permitted use and it is still a permitted use, he can supplement the briefs he gave in his letter.

Mr. Rubino then told there are two issues here tonight and both can be heard, the same testimony will apply from last year. Now this is considered a new application and, therefore, it is handled as such but the evidence given will be what was given last year as it is relevant. Mr. Kennedy noted the issue of the Zoning Officer's Stop Work order has not been resolved and Mrs. Brisben felt the Board should take a vote on this now, Chairman Hall agreed but Mr. Kennedy said testimony has to be given first.

At this time Christopher Rice, Architect came forward and was sworn in; as he is known to the Board he was accepted as an expert witness. He said he has experience on projects like this, everything was approved and those plans went to the Building Department, 3 walls were to be saved and the rest to be demolished. The home was built in the 1880s and they had hopes that the walls were okay. This home was balloon framed and that type of work was stopped in the 1950s, the structure was severely deteriorated and the builder did what he should have done, replace the walls as they were damaged. The question was asked "did we notify the Building Department?" Usually, they are allowed to replace this type of thing, they do not run to the Building Department for things like this. The Building Department gives them the right to replace what is bad and what is built after is inspected as to compliance. He felt what was done to the walls was normal and, if there was not a complaint made, this home would have been done. There is no way to tell about an old home, how the lathe & plaster is. On top of this a windstorm came and further damaged the 3 walls that were to remain, Mr.

Rice then showed what was there and what was approved and they are the same. The builder went back and started to work, what was approved is what will be built.

He then went over his testimony from last year, the apartment looked like a garage but was an apartment, they deconstructed part of this and the back building went from 2 inches to 7 feet rear yard and they added back the garage, the apartment itself is now in a not more conformity. Mr. Rubino added that they stopped working on the garage apartment as well as the house after the Stop Work Order was issued. Mr. Rice said the foundation is staying where it is and there is no change in that. Mr. Rice also again said they had no intention of taking down the home but there will be a 1 ½ story home built here, the Meyers are not getting anything more and they now have had to spend over \$300,000 more on this project. He affirmed what Mr. Rubino said about Chris Willms, he does a fine job and did what he had to. Mr. Ward asked why Mr. Rice did not state, in his original testimony, what may happen as this is an older home and Mr. Rice said they do not know until construction starts what may happen, the plans were for renovation and the walls were to remain. Mr. Ward then asked if there was testimony that only 3 walls of the home were to remain and the answer was yes.

Mr. Petronko asked if the foundation was damaged and the answer was no, but the floor joists were not put in properly and this situation could not be seen in the basement. Mr. Rice also said the builder was not aware this was a Use Variance situation and just did what was needed. Mr. Benson asked if there were 16" centers and Mr. Rice said no.

As there were no more Board questions the hearing was opened to the public for questions to Mr. Rice. Michael Ellia came forward and was sworn in, he lives at 106 Chicago Boulevard and is a neighbor and a witness to what happened. He was here to support the facts given, on 4/4/18 there was a severe windstorm and power was lost, this was the worst storm he has seen in a long time and went on through the night. He looked outside and saw the east wall on the Meyers' home collapsed and laying on the dumpster and then also saw the front wall, they tried to save the third wall but ½ of it was gone. Mr. Casey asked if he is the neighbor to the east with a garage apartment and the answer was yes, he rents out the apartment. As there were no other questions that portion of the hearing was closed.

At this time Mr. Wayne Teicher came forward and was sworn in, he is the builder for the Meyer home. Mr. Kennedy asked if Exhibit A-16 were photos taken by him and the answer was yes and they are accurate. Exhibit A-17 show the floor joists and studs, Mr. Teicher said this was taken in February/March 2018. Mr. Teicher said he has been a builder for 30 years and specializes in restorations, this project was started in December of 2017. They picked at the demolition, plaster and siding and it took longer than normal due to the large amount of plaster & siding. As far as the rear apartment they demolished what looked like a garage but was a bedroom and bathroom. In April the Stop Work Order came but they had completed the framing. Mr. Rubino noted he got an okay for the garage apartment and was going forward with that.

Mr. Teicher continued and said the floor joists were not proper and they did have to rebuild them, they had the three walls they were going to rebuild but the storm came and the next morning the walls were down; they cleaned up the mess and tried to rebuild as shown on the plan. He did not contact the Construction Department and started to reconstruct the walls and not save them, then the Stop Work Order came. Mr. Petronko asked that, once the walls were exposed how were they going to proceed with the balloon construction; Mr. Rice explained how they could do this. Mr. Petronko commented they knew the age of this home and felt they knew they would find balloon construction, perhaps also knob & tube. Mr. Rice said they would not have changed the construction, Mr. Petronko asked if they shored it up and Mr. Teicher said the wind was so strong, the walls were attached to masonry columns and they were pulled over. As there were no further questions to Mr. Teicher, the hearing was opened to the public for questions and, there being no response, that portion was closed.

Mr. Jason Meyer then came forward and was sworn in, he is one of the owners of 108 Chicago Boulevard as well as one of the applicants. They visited Sea Girt 20 years ago and loved it, they had come back and bid on a home but lost it, then found 108 Chicago Boulevard, they are the second homeowners. They had an old home in North Jersey that they restored and thought they could do it here, they loved the front porch and the property had a garage apartment. They thought they could modernize and fix the home and it morphed out to more than that and they decided to put in a better dormer after speaking with Mr. Rice. This will be a 2400 square foot home, the back apartment has been fixed and now has a 7 foot rear yard space. They had heard that the previous renters in the back apartment had thrown water out onto the Ledvas' lot so they took out the back door to accommodate them, the air conditioner is in the front and they also decided to remove the back bay window; they have no interest in renting the apartment out. He went on to say they have not gained anything here, they are building to code. He felt the builder should have called the Construction Department and he apologized for this not being done and just asked the Board to approve this, when all is said and done it will look like what was approved last year. Mr. Casey asked Mr. Meyer if he knew what the weather forecast was for on April 3rd and Mr. Meyer did not know. Mr. Casey said he asked as it looks like the walls would not support strong winds and Mr. Rubino said he was not even there then.

As Mr. Meyer was done with his testimony the hearing was opened for questions and Mr. John Ledva of 109 Brooklyn Boulevard, the property behind the Meyers, came forward. He said in the Resolution is stated the apartment can be rented out if the house is sold and Mr. Meyer said as long as they own it the apartment will not be rented. Mr. Ledva wanted confirmation that if the house is sold the apartment can be rented out by the new owners and the answer was yes, this is how the Resolution was drafted. As there were no other questions that portion of the hearing was closed.

Jacqueline Meyer of 931 Kimball, Westfield, N.J. came forward and was sworn in. She is the other owner of this property and the wife of Mr. Meyer. She said they had no malicious intent here, she did not want a cookie-cutter home and did not want a

large, three story home; they worked hard on this home. As there were no questions to Mrs. Meyer that portion of the hearing was closed.

Joseph Kociuba of KBA Engineering came forward, he was already sworn in. After giving his credentials and, as the Board was familiar with him, he was accepted as an expert witness. He said his testimony will be the same as was given last year. Exhibit A-15 shows the changes to the property and the reduction of some variances and impervious coverage, they did everything they could to reduce the variance need and Mr. Kociuba felt this Use Variance is an appropriate use for this site. This dates back to the 1920s for two units. He showed the photo board, Exhibit A-13, consisting of 3 photos, one aerial where the number of structures here can be seen, also the garage apartments in this area (one property has 3 units on it) and felt this proposed plan is not out of character and one if not able to see the rear units driving down Chicago Boulevard. He also said the C-1 criteria can be applied here, the existing foundation is being saved as well as the driveway which allows for a 30-inch planting bed. There will be no detriment to the public good and will not affect light, air and open space. Mr. Ward asked if there are Certificate of Occupancy records on this and Mr. Kociuba said they did not have that information. At this time the hearing was opened for questions and John Ledva came forward and asked Mr. Kociuba a lot of questions on distances such as around the garage apartment, to the home, width of structures, etc.; Mr. Kociuba answered them all. Amy Ledva then came forward and asked about the east and west side of this and what is the total lot coverage, the answer to that was 38.1% and the impervious coverage will be 29.8%. As there were no further questions that portion was closed.

Mr. Rubino said he would like to hear public comments and then he would ask for a vote. Mr. Kennedy reminded all the first issue will be voted on, to affirm or reverse the Zoning Officer's decision to issue a Stop Work Order.

The comments from the audience were as follows: Rita McTighe came forward and was sworn in, her mother owns 106 Chicago Boulevard but lives in Manasquan. This home has been under construction since April and it is now a nuisance. Sam Defeo of 117 New York Boulevard was sworn in and said he was in support of this application, he has known the Meyers for over 25 years and felt they have been conciliatory to the neighbors' concerns and, while this is now a rebuilding, it really is continuing the restoration. John Jankowski of 107 Chicago Boulevard came forward and was sworn in, he was home the day of the storm and felt the walls were unsafe looking, this was a treacherous storm. The neighbors appreciate what they are building and they are not doing a huge home. His home is from 1929 and has a historical look and the Meyers are keeping that look, he also had letters from 5 other residents on this block supporting this. Mr. Kennedy explained to him the Board cannot accept letters as they cannot be questioned or cross-examined.

Terry Martini of 114 Chicago Boulevard was then sworn in, she was in support of the Meyers and felt it was unfortunate the walls were taken down; she felt the home to be built will be a nice home. John Kemper of 116 Chicago Boulevard was then sworn

in, he told the Board the Meyers are nice neighbors and he is happy to have them here, the home will look very nice on this street. Robert Kregg of 515 Boston Boulevard came forward and was sworn in and asked if the impervious surface and the drainage plan meet the code compliance, Mr. Rubino answered yes. Mr. Kregg went on to say he was originally against this plan so he came tonight and now has heard the testimony; he can see what type of home was built across the street and did not want to see this here, the homes now are huge and they did not want this in Sea Girt; the Meyers are building a 1 ½ story home and making it look historic. He was against this as it is two dwellings on one lot but this home to be built is not big and will fit in, it should be approved, under the circumstances it wasn't their fault about what happened. He did not want to see the apartment taken down and then an 8-bedroom home built.

Amy Ledva of 109 Brooklyn Boulevard came forward and was sworn in. She wanted to know where the Board was right now with this application and Mr. Kennedy explained the first issue will be a vote on the Zoning Officer's decision. If the Board affirms his decision they are then asking to reconstruct the home, there may be further testimony on legal issues. She then said she believed the back property was not grandfathered and said she had testimony and documents on this. Chairman Hall told her the Board granted relief for the back garage apartment and he wanted to know how it was different now, how is it worse? Mrs. Ledva said she never gave testimony in the original hearing and wanted to tonight; Mr. Kennedy said the issue if the front home and then suggested she tell the Board what she has. Mrs. Ledva said the Meyers commented they did not know this was a nonconforming property when they bought it; she went to the municipal officials and the historical file only had two permits in it. Mr. Rubino felt this was getting far afield and Mrs. Ledva addressed the utility companies and permits it issued for utilities, she said the Board can call them to talk to them if they want.

She did say they were the ones to complain about the property and no one lived in the back house since 2008, they did not complain about the front house and they came back from vacation in the spring to find out the front house was down. Mr. Kennedy told her she has every right to complain and go to the town to find history on a property, it doesn't matter if she had one complaint or ten. Mrs. Ledva did not feel they were "complaints" but rather "questions". She also explained she was set back when she saw Mr. Rubino as he was their attorney way back when they had problems with the previous owners, the Wilsons. She had disclosure information from Sandy Wilson who did not know if there was work done with permits, the deed that Mrs. Ledva had gotten a copy of did say "subject to the zoning laws in Sea Girt". Mr. Rubino looked over the documentation Mrs. Ledva presented and found no problem with submitting it. Mrs. Ledva also had the forms the town uses to asking for a CO and had one for 108 Chicago Boulevard. Mr. Kennedy marked this as Exhibit P-Ledva 1. It was email communication, dated 3/15/18 referencing a CO dated 7/10/15 to Wilson Family Trust and a CO for a checklist and application, dated 8/15/2008 from James Quigley, Zoning Officer, to Marion and Lee Wilson. Mrs. Ledva also had a seller's disclosure statement which says permits "unknown" and said they had an electric garage opener but they did not have a garage. There was also a copy of a sales contract for a "single-family

home". She also said the real estate listing said the property had a garage. Mr. Rubino saw these forms and had no problem with them, Mr. Kennedy marked them as Exhibit P-Ledva 2. Mrs. Ledva then gave over the copy of the deed from Sandra Wilson to the Meyers and this was marked P-Ledva 3. She also had a deed from Marion Wilson to Sandra Wilson, dated 9/16/14 and this was marked as P-Ledva 4. She also submitted a Motley vs. Seaside Park document regarding a Stop Work Order, this was marked as Exhibit P-Ledva 5.

Mrs. Ledva then asked what was the hardship applied for and Mr. Kociuba did not understand the question, he said they applied for a Use Variance. There was an unusable garage and Sea Girt requires one. Mr. Meyer then spoke and said there was a garage door with less than 10 feet of storage, the previous owner had added a bedroom and bathroom in there, this was done a very long time ago. Mrs. Ledva asked why not take them out and Mr. Rice said that is what they did and made it a garage to Sea Girt's standards, a garage has to be able to hold a car and they have done that. Mrs. Ledva said she had an email from Chris Willms saying there is enough room for a car; Mr. Rice countered with the comment that it was an awkward size and they did it better.

Mr. Petronko asked her what her point was in speaking of the utilities company and she explained the back property was never grandfathered, she said the electric was put in back in the 1980s and the gas meter and line put there in 2002, there is now a furnace and newer electric and one water/sewer line. Mrs. Brisben commented that there is a garage apartment on her property with only one water/sewer line, they get one bill for both units. She also told Mrs. Ledva the building records could have been purged, the Borough does this periodically to clean out old records allowed to be destroyed by the State. She didn't know if the Building Department did this or not and how far back their records go.

At this time Mr. Kennedy told the Board they have to: 1) affirm or deny the Zoning Officer's action, 2) if affirmed, they have to vote on the application, 3) there may be discussion on legalities. He then asked Mrs. Ledva how much longer until she is done with her statements and she said she would need another ½ hour and wanted to discuss hardship. At this point Mr. Meyer came forward and asked for a 10 minute recess to speak to Mrs. Ledva in private and this was granted.

After the recess the Board reconvened and Mr. Kennedy confirmed that all Board members were back on the dais. Mr. Meyer spoke the said they had come to an agreement, there would be a deed restriction that this would always be a single-family home with no paying renters in the back garage apartment, family members only and they are going to put more shrubbery in the back to insure privacy for the Ledvas. Chairman Hall then said these would be the only changes to the application and the appeal is retracted; Mr. Rubino agreed and said the vote is on the Use Variance application. Mr. Kennedy asked Mrs. Ledva if she agreed to this and she said "I agree." Mr. Kennedy noted all this happens only if the application is approved by the Board and he then asked Mrs. Ledva if she was done and she said yes. There was then a

confirmation that the bay window that was in the back of the garage apartment would be taken out and Mr. Meyer spoke and said it is already out and there will be just one small window in its place.

Mr. Kennedy then went over the items discussed and that the Board will re-approve the 2017 application. Mr. Rubino noted one error in the original Resolution, it says 1,190 for coverage and that is just the first floor; Mr. Kennedy said he will correct this and then went over the conditions. Chairman Hall commented he wished the neighbors had talked an hour ago but he was glad to see this was resolved between them.

At this time Mrs. Abrahamson made a motion to approve the application with the conditions as discussed, this seconded by Mrs. Laszlo and then by the following roll call vote:

Ayes: Carla Abrahamson, Larry Benson, Karen Brisben, Eileen Laszlo,
Raymond Petronko, Norman Hall

Noes: Jake Casey

Not Eligible to vote: Robert Walker, John Ward (Alternate members)

As there was no other business to come before the Board a motion to adjourn was made by Mrs. Abrahamson, seconded by Mrs. Laszlo and unanimously approved by the Board, all aye. The meeting was adjourned at 11:22 p.m.

Approved: October 17, 2018