

Wednesday, November 28, 2018

SEA GIRT PLANNING BOARD  
WEDNESDAY, NOVEMBER 28, 2018

The Regular Meeting of the Sea Girt Planning Board was held on Wednesday, November 28, 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 (arrived 7:15), Karen Brisben, Jake Casey, Mayor Ken Farrell, Eileen Laszlo (arrived 7:04), Councilman Michael Meixsell, Raymond Petronko, John Ward, Norman Hall

Absent: Robert Walker

Also present was Kevin Kennedy, Board Attorney; Board member and Secretary Karen Brisben recorded the Minutes. There were 6 people in the audience.

The Minutes of October 17, 2018 Minutes were approved on a motion by Mayor Farrell, seconded by Councilman Meixsell and approved with a voice vote, all aye.

NEW BUSINESS:

The first item of business was a request for extension of time for filing a Minor Subdivision Map for Block 52, Lot 10, 304 Crescent Parkway, owned by Robert & Nancy Schatzman.

Mr. Kennedy explained this request is a technicality in this matter, and, while it may not have been necessary to notify property owners within 200 feet and put a notice in the paper, the applicant did so. Mr. Michael Rubino, Esq. then came forward and said that back on 4/18/18 the Planning Board approved a Minor Subdivision for 304 Crescent Parkway; the applicant had 190 days to perfect the map and file it with the County, however, Mr. Schatzman, the owner, had to remove a side porch in order to perfect the subdivision to make two conforming lots and that was not done until the summer. Then another mishap happened with work done and the engineering firm had to come back and certify all; then the project manager became ill, so many delays. Everything finally got done, sent to the Board Engineer but then changes were made that needed to be confirmed. They did not get the plans back until the 190<sup>th</sup> day and the map ended up getting filed a day late. Even though the County Planning Board accepted the map the applicant does not want to see a problem when the new home on the new lot is put up. So, to be on the safe side, they are asking for a 30-day extension to get the map filed.

Mr. Kennedy suggested giving to 12/31/18 for filing and perfecting the subdivision; Mrs. Brisben noted she has already received notice from the County that

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the map was filed. As no Board members had any problem with granting this extension, Mrs. Laszlo made a motion to approve the extension, this seconded by Mayor Farrell and then by the following roll call vote:

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

Noes: None

the following Resolution was then presented for approval:

**WHEREAS**, the Sea Girt Planning Board is a duly organized Land Use Board, operating and existing in accordance with the Rules and Regulations of the United States of America, the State of New Jersey, and the Borough of Sea Girt, and

**WHEREAS**, under separate cover, agents of Robert and Nancy Schatzman submitted a Development Application to the Borough of Sea Girt, and

**WHEREAS**, the said Application involved the property located at 304 Crescent Parkway, Sea Girt, NJ, more formally identified as Block 52, Lot 10; and

**WHEREAS**, the said Application sought approval to subdivide the subject parcel into two lots; and

**WHEREAS**, the said Subdivision Application was approved in or about March, 2018, and

**WHEREAS**, a Memorializing Resolution was thereafter adopted on or about April 18, 2018; and

**WHEREAS**, under the New Jersey Municipal Land Use Law, a Minor Subdivision must be perfected within 190 days of the adoption of the Resolution; and

**WHEREAS**, the Subdivision perfection date expired on or about October 25, 2018; and

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**WHEREAS**, the Subdivision was perfected (via the recording of a Map) on or about October 26, 2018; and

**WHEREAS**, depending upon the counting formula utilized, the Subdivision may have been perfected approximately one-day beyond the perfection due date; and

**WHEREAS**, such a scenario could potentially cause problems/issues for the Applicants, future Owners, Title Companies, Lenders, etc.; and

**WHEREAS**, the prevailing Statute does provide a mechanism for establishing a timeframe for extending the timeframe for the perfection of the Subdivision; and

**WHEREAS**, out of an abundance of caution, the Applicants' representatives have petitioned the Sea Girt Planning Board for such a retroactively effective extension; and

**WHEREAS**, good cause does exist for such an extension; and

**WHEREAS**, such an extension will not compromise the interests of the Borough of Sea Girt or the Sea Girt Planning Board; and

**WHEREAS**, the Applicants' representatives publicly noticed for the extension request; and

**WHEREAS**, the matter was formally reviewed and discussed by the Planning Board at the November 28, 2018 meeting;

**NOW, THEREFORE, BE IT RESOLVED**, by the Members of the Sea Girt Planning Board that

1. The timeframe for the perfection of the Schatzman subdivision (Block 52, Lot 10 parcel) is hereby extended until **December 31, 2018**.

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2. The within Resolution shall be retroactively effective (if necessary) as of the date the initial perfection timeframe expired.

3. That all other terms and conditions of the Board Approval, unless modified herein, shall remain in full force and effect.

4. That the Board Chairman, the Board Secretary, Zoning Officer, Board Attorney, and other representatives are hereby authorized to sign any and all documents necessary to effectuate the intentions of the within Resolution.

A motion to approve the above Resolution was made by Mrs. Brisben, seconded by Mrs. Laszlo and then by the following roll call vote:

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

Noes: None

The Board then turned to an application for variance relief for Block 50, Lot 9, 319 Boston Boulevard, owned by John & Eileen Sivoletta, to allow a pool patio & arbor within a setback. Patio & Arbor – Side Yard/Front Yard setback from Fourth Avenue, west side – 5 feet from property line proposed, not permitted in this area (corner lot).

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

- A-1. the application package
- A-2. A Letter of Denial from the Zoning Officer
- A-3. Plot plan done by Charles Gilligan of Gilligan Engineering, last revised 7/9/18.
- A-4. Cover sheet done by Gilligan Engineering dated 10/3/18.
- A-5. Landscape plan
- A-6. As-built survey done by Ragan Surveying
- A-7. Report from Board Engineer
- A-8. Application addendum.

Mr. Kennedy had reviewed the notice and it was okay, he asked if anyone in the audience had a problem with the notice they received and there was no response.

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Mr. Michael Rubino, Esq., the attorney for this matter, came forward with more exhibits and they were marked as follows:

- A-9. A photo board of 8 pictures of the property and neighboring properties, taken this week.
- A-10. A landscaping plan superimposed on the lot to show what the final landscaping will look like.

Mr. Rubino told the Board they are asking for relief for a pool patio, arbor and walkway along 4<sup>th</sup> Avenue, the 4-foot fence around the pool is now allowed in a front yard. This is a 50-foot wide corner lot and they needed a walkway here without going into the front yard. The applicants also want a trellis in the back of the house in the side yard setback, they feel this will keep people away from the pool itself; the pool is 416 square feet and is 25 feet long.

At this time Mr. John Sivoletta came forward and was sworn in. He told the Board they purchased the property in 2002, they knew Sea Girt well and his wife summered here on Philadelphia Boulevard as well as knowing the Mueller family; it was Fritz Mueller that told him to buy property in Sea Girt. They love the town and come down every summer, they now live in Massachusetts. They had decided to remove the existing home and build a new one, Richard Graham did the architectural work, they wanted to modernize the property; the new home has a detached garage in the side yard. He commented they have two children, one in high school and one in college and their goal is to live in Sea Girt after they retire and have a pool so the kids will want to visit.

They want a patio/walkway around the pool along with a trellis, this is due to the way the property is set up with the garage and the things in the garage. This is a high traffic area so they want it to work safely, they want the trellis for aesthetics, it will look pretty from the road and will help cut down the view to the pool as well as give privacy. They gave the landscaper a free hand and the pool will be well screened. Mr. Casey asked how high is the trellis and Mr. Rubino said he thought it was 7 ½ feet but the landscaper can testify to this.

At this time the hearing was opened for questions to Mr. Sivoletta and, as there were none, that portion was closed. Mr. Ryan Clayton then came forward and was sworn in, he is a N.J. licensed landscape architect and graduated from Rutgers University in 2010. The Board accepted him as an expert witness.

He said the pool is 16 ½ feet wide and 25 feet long with a depth from 4 to 6 feet. It will have an automatic cover so when the owner is not there it will be covered; the fencing is a 4-foot compliant pool fence. He agreed the entry arbor will have an aesthetic appeal and also help block the view from the sidewalk. Mr. Clayton said he has done other work in Sea Girt and trellises are common there and delineate the entrance into the back area. He then referred to Exhibit A-10 and explained what is to be planted as shown on the exhibit, he said after one year the area will be fully grown.

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He also noted the drywell in the front yard so there is no other drainage plan needed. As far as lighting in the pool there will be 6 lights, all shielded and underwater.

Mr. Casey asked about backwash and Mr. Clayton said this is a cartridge filter so there will be no backwash. Mr. Petronko noted the arbor will have a self-closing gate and asked about the outdoor shower, will it be where the pavers end and the answer was yes. Mr. Ward stated there is about 9 feet into the setback and wanted to know if they can shrink the pool, Mr. Rubino said the pool itself complies, it's the patio that needs the variance. He did admit they can make the pool smaller but the Board has granted variances such as the one asked for in the past. Councilman Meixsell questioned how far the arbor is in the setback and commented the Board Engineer's letter, page 4 #9 says the arbor is in the front yard setback; the answer was 9.51 feet and is shown on the drawing.

As there were no more Board questions, Charles Gilligan, Licensed Engineer & Planner, came forward and was sworn in. The Board was familiar with Mr. Gilligan and accepted him as an expert witness. He said that all the water from the pool will go into deck drains and then to a dry well so there is no drainage problem. The arbor is at 9.51 feet and the patio/walkway is at 9 feet and the requirement is 15 feet. The arbor is in a convenient place and, if you extend it to comply it will take you to the side entrance of the main home. The area of the pool will have extensive landscaping, one will not be able to see in, it will be highly private. The walkway is needed as shown, to make it narrower would take one closer to the pool so this plan presented is safer. He also noted that a 25-foot long pool is not a big one and they are well above the seasonal high-water line.

Mr. Gilligan went on to say all this is supported by the C-1 and C-2 criteria, this is a hardship as it is a corner lot and the setbacks cannot be met. The C-2 deviation here adds to the zoning purposes as it adds to the improvements. Mr. Ward asked about the drywell and was told it was put in when the new home was built. Chairman Hall asked how wide is the walkway on Fourth Avenue and Mr. Gilligan said six feet. Mayor Farrell commented on the drywell, there have been many drywells put in and then failed; he was concerned as he is the one to get the calls. Mr. Rubino suggested putting something in the Resolution to address this if it becomes a problem, he had no issue with that. Mr. Gilligan said the topsoil is heavy and it is sandy below, this is a good drywell.

At this time the hearing was opened to the public for questions to Mr. Gilligan and, as there were none, that portion was closed. The hearing was now opened to the public for general comments and Robert Ferguson, Sr. from Philadelphia Boulevard came forward and was sworn in. He was on the Planning Board for a number of years and was Vice-Chairman for a while. He has known the Sivorellas and their children since 2002, the children are wonderful, fine kids and he saw no disruption from this family using a pool. He lives within 200 feet of this property and will see the arbor; he saw the old home go down and the new home go up and commented on the fine workmanship that was done, it's all high end. He was confident all will be built correctly

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and said he, too, has an arbor and loves it, he has absolutely no objection to this pool going up; he finished by stating the homes around him are summer homes, he is the only full-time resident here.

Next to come forward was Jeff Udis of 315 Boston Boulevard, who was sworn in. He came of his own free will and wanted to say he is fine with this application also and they live one home away. He agreed that the home was well built and the owners are very respectful, there should be no objection here, this is the right thing to do. He ended by stating he is also building a pool and can understand some of what has to be done, he commented he does not need a variance for his pool.

As there were no other comments that portion of the hearing was closed and Mr. Rubino summarized the application. He said this project mimics other projects and will look good; as far as the length of the pool, this is not a big pool and he asked that the Board look favorably on this. The Board then went into discussion, starting with Councilman Meixsell who said that, based on Mr. Gilligan's testimony regarding this being a hardship, he would be in support. Mr. Ward was not for approval, he felt the setbacks should be followed and the pool can be made smaller. Mr. Benson abstained from comments as he came in after the hearing started. Mr. Petronko was in favor of the application and the Mayor was, as well, as long as the drywells are approved by the Board engineer. Mr. Casey, Mrs. Abrahamson and Mrs. Laszlo agreed that they were in support of the application. Mrs. Brisben commented she loves arbors, she was concerned about the location but, after hearing about all the landscaping that was going in to hide this area she was for the approval.

At this time a motion was made by Mr. Petronko, to approve the application with a notation on the drywell working properly, this seconded by Mr. Casey and approved by the following roll call vote:

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

Noes: John Ward

Abstain: Larry Benson

#### OTHER BUSINESS:

The Board then turned to a Power Point Presentation on Land Use Liabilities, to be presented by Mr. Kennedy, this was postponed from last month. Mr. Kennedy explained this has to do with personal liability on a Board member and the JIF (Joint Insurance Fund) the Borough belongs to, has encouraged this to be done. The insurance companies today are taking a big hit from lawsuits so all towns in the JIF have to take this seminar and will give better coverage if it is done. There are personal lawsuits that violate someone's civil rights and a liability can be on an individual, also

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the town can be held to pay all legal fees. Chairman Hall felt this may apply more to Governing Bodies and Mayor Farrell noted there is a JIF Seminar on December 4<sup>th</sup>. He has been sued personally by a resident in town and has had \$75,000 in legal fees, this is still in litigation with the town and over \$400,000 has been spent on this lawsuit.

Mr. Kennedy noted the Power Point speaks of 10 cases where improper actions were taken and again reminded the Board members that they can be held liable. He then went over the Power Point Presentation (which is attached at the end of the Minutes), after which each Board member signed the attendance sheet which will be given to the Borough Administrator.

There was a brief discussion on some of the Power Point issues spoken of and after that, as there was no other business to come before the Board, a motion for adjournment was made by Mr. Petronko, seconded by Mr. Ward and unanimously approved by the Board, all aye. The meeting was adjourned at 8:40 p.m.

Approved: December 19, 2018