

Chairman Cunningham called the meeting to order and requested those present to join in the Pledge of Allegiance to the flag:

The Borough of Sea Bright, in compliance with the "Open Public Meetings Act" has advertised the date, time and location of this meeting in the *Courier* on January 15, 2010 filed it with the Clerk, and posted a notice on the bulletin board in the Borough Office.

3. ROLL CALL:

PRESENT: Beer, Cashmore, Cunningham, DeSio, Fernandes, Torcivia, Smith, Leckstein

ABSENT: McBride, Murphy, Nott

4. MINUTES:

A. Boardmember DeSio made a motion adopting the December 8, 2010 Unified Planning Board Minutes. Second by Boardmember Cashmore and approved upon the following roll call vote:

Ayes: Cashmore, Cunningham, DeSio, Torcivia, Smith

NAYS: None

ABSTAIN: Fernandes

ABSENT: McBride, Murphy, Nott

B. Boardmember Torcivia made a motion adopting **the January 12, 2010 Reorganization Meeting Minutes**. Second by Boardmember DeSio and approved upon the following roll call vote:

Ayes: Cashmore, Cunningham, DeSio, Fernandes, Torcivia, Smith, Leckstein

NAYS: None

ABSTAIN: None

ABSENT: McBride, Murphy, Nott

5. MEMORIALIZATION OF RESOLUTION:

Boardmember DeSio made a motion memorializing the following resolution:

**RESOLUTION OF THE SEA BRIGHT
PLANNING/ZONING BOARD GRANTING SITE PLAN
AND VARIANCE APPROVAL
RE: SEA RAY TOWNHOUSES, LLC
1246 Ocean Avenue
Block 3 Lot 25
Sea Bright New Jersey**

WHEREAS, Sea Ray Townhouses, LLC (the "Applicant") made application to the Planning/Zoning Board of Sea Bright

(the "Board") for property known as Block 3, Lot 25 on the Tax Map of the Borough of Sea Bright, also known as 1246 Ocean Avenue for variance and site plan approval to demolish the existing building and construct a two-unit residential townhouse; and

WHEREAS, Applicant has provide due notice to the public and all surrounding property owners as required by law, has caused notice to be published in the official newspaper in accordance with NJSA 40:55D-1 et seq and, therefore, this Board has accepted jurisdiction of the application and has conducted a public hearing on the matter at its meeting on January 12, 2010, at which time all persons having an interest in said application were given an opportunity to be heard; and

WHEREAS, the Applicant appeared and marked into evidence certain documents including the following:

A-1 Jurisdictional Packet,

A-2 Plot Plan prepared by Paul Damiano, architect 7-27-09, revised to 1-7-09 (color)

A-3 three-dimensional model

A-4 Board with 5 photos with cross section of street

A-5 Board with 9 photos of subject and surrounding area

A-6 Board with Floor Plan ground and 2nd floor

A-7 Board with 3rd floor plan

A-8 Board with colored elevations

A-9 Board with colored landscaping plan

A-10 Reference to photos on wall of Borough Hall

WHEREAS, the Applicant offered sworn testimony in support of the application by the following:

Paul Damiano, Architect

Charles Surmonte, P.E. Engineer

Frederick Kniessler, Professional Planner

WHEREAS, the Applicant requested the following variances or waivers:

1. Lot area of 8,530 s.f. where 25,000 s.f. is required.
2. Lot width of 65 feet where 100 feet is required.
3. Side yard setback of 14.5 feet where 15 feet is required.
4. Both side yards of 29 feet where 30 feet is required.
5. Lot coverage of 54.56% where 50% is required.
6. Height where 30 feet maximum is permitted and 34'5" is proposed to the top of the roof line and 40' is proposed to the top of the cupola. (D variance)

WHEREAS, the Board considered the testimony and evidence presented and the Board makes the following findings of fact and conclusions of law:

1. The property is in the B-2 Zone.
2. In addition to the garage, the plans call for two stacked off-street parking spots for each townhome. Though within the setback, the Board finds the benefit far outweighs any detriment.
3. The Applicant made every effort to keep the height of the building down. The first floor ceiling height is 7'71/2". The architect testified that he could have

designed a shorter, fatter building, but that it would not be as aesthetically pleasing. Moreover, by so doing, the plan would lose the 2 stacking parking spots on each side and have less open space.

4. The architect explained that the cupola is used to access the roof deck and is likely not visible from the street. The architect explained how he carried the stone all around the building. The stone sticks out 6" into the sideyard but he felt that was minimal and that the added aesthetic outweighed any minor detriment.
5. Mr. Surmonte provided testimony regarding the height of the surrounding structures, for instance: Waterways - 37' from crown of road; 1198 Ocean Avenue - 28 ½ ' from crown of road; Chris' Landing - 42' from crown of road; 2 Tradewinds - 34 1/2 ' from crown of road; 3 Marius Lane - 37 1/2' from crown of road.
6. The Planner testified that the proposed development is less intense than development in the area. He stated that the proposal greatly enhances the property with little impact. He pointed out that the flood elevation is 9' so that limits what the Applicant can do with regard to the height of the building. Additionally, the proposed building is consistent with the height of the neighboring structures.

7. Mr. Kniessler further opined that the in reducing the lot coverage by nearly 20%, the Applicant advanced the purpose of the MLUL. Additionally, the new construction will meet new building codes and be a greener builder compared to the existing.
8. In response to the Board's request, the Applicant **STIPULATED** as follows:
 - a. The landscaping will be of salt resistant plantings.
 - b. Constituent documents of the townhouse development will require continued maintenance and replacement of the trees and landscaping to the front of the building.
 - c. The mechanicals will be moved so as not be within any setback. The plans will be amended to reflect same.
 - d. The plans shall be amended to show a hip roof to match the cupola.
 - e. All fencing will comply with the Borough ordinances.
 - f. A grading plan will be submitted with the request for building permits, for review by the engineer.
9. The above Stipulations will be **conditions of approval**.
10. Chairman Cunningham asked if the Applicant had tried to buy or swap land with his neighbors and the Planner

stated that letters had been sent and the neighbor was not so inclined.

11. Board Member Nott noted that though the cupola was above the height limitation, it was small in area, sits back so as to be barely visible, yet adds interest to the building without increasing the bulk. As to the height itself, he noted that with the flood elevation, the Applicant did the best job they could to meet the limitation.
12. Board Member DeSio indicated that the architect brought the design features all around the building, not just in the front, which was a positive.
13. Board Member McBride stated that he was pleased the Applicant had reduced the proposed building from 3 residential units as in the original plans presented at the informal review to 2 units, as permitted by the ordinance.
14. Board Member Cashmore felt that the height was fitting with the surrounding area.
15. Board Member Torcivia noted that the proposal, with the stipulations, was a significant improvement over the existing structure.
16. Board Member Smith noted that the proposal is what the town wants; the project evolved and met challenges and issues and came out with a significant positive project for the area.

17. Therefore, the Board finds that the approval of this application will result in substantial aesthetic improvements, will reduce the lot coverage and add open space which advances the purposes of the MLUL, the new construction will meet building codes and be a greener building, all of which are positive reasons for the grant of the variances.

18. The Board found that the variances can be granted due to the nature of the development in the neighborhood, location, the new variances are consistent with the other residences in the neighborhood, made for a safer design and layout and therefore can be granted without substantial detriment to the Zone Plan and Zoning Ordinance.

19. The Board finds that the variances can be granted without substantially impairing the Zone Plan and Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Planning/Zoning Board of the Borough of Sea Bright that applicants' application for a D variance for height, approval of the various bulk variances, and preliminary and final site plan is hereby granted subject to the following conditions:

GENERAL CONDITIONS

1. The applicant shall submit proof of payment of all real estate taxes applicable to the property and payment of all outstanding and future fees and escrow charges, posting of all performance guarantees, if any, in connection with the review of

this application prior to and subsequent to the approval of this application.

2. The applicant must obtain the approval of all necessary and appropriate governmental agencies, including, but not limited to CAFRA and compliance with all governmental regulations except those specifically waived or modified in this Resolution.

3. The applicant shall comply with all building, FEMA and fire codes including but not limited to, entrances and exits.

4. The accuracy and completeness of the submission statements, exhibits and other testimony filed with or offered to the Board in connection with this application, all of which are incorporated herein by reference and specifically relied by the Board in granting this approval. This condition shall be a continuing condition, which shall be deemed satisfied unless and until the Board determines (on Notice to the applicant) that a breach thereof.

5. All stipulations agreed to on the record, by the applicant and as set forth in Paragraph 8, a-f.

6. In the event that any documents require execution in connection with the within approval, such documents shall not be released until all of the conditions of the approval have been satisfied unless otherwise expressly noted.

7. The Applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality's professionals for review of the application for development, review and preparation of documents, inspections of improvements and other purposes authorized by the MLUL.

8. The Applicant shall furnish such Performance Guarantees and/or Maintenance Guarantee as may be required pursuant to the MLUL and the Sea Bright Ordinances.

9. No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.

Specific Conditions

a. The landscaping will be of salt resistant plantings.

b. Constituent documents of the townhouse development will require continued maintenance and replacement of the trees and landscaping to the front of the building.

c. The mechanicals will be moved so as not be within any setback. The plans will be amended to reflect same.

d. The plans shall be amended to show a hip roof to match the cupola.

e. All fencing will comply with the Borough ordinances.

f. A grading plan will be submitted with the request for building permits, for review by the engineer.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting of January 12, 2010; and

BE IT FURTHER RESOLVED that the Chairman and Board Secretary are hereby authorized to sign any and all documents necessary to effectuate the purpose of this Resolution; and

BE IT FURTHER RESOLVED that the Board Secretary is hereby authorized and directed to cause a certified copy of this Resolution to be sent to the Applicant, the Borough Clerk, the engineer and the zoning officer and to make same available to all other interested parties and to cause notice of this Resolution to be published in the official newspaper at Applicant's expense.

Second by Boardmember Smith and approved upon the following roll call vote:

Ayes: Beer, Cashmore, DeSio, Torcivia, Smith, Leckstein

NAYS: None

ABSTAIN: None

ABSENT: McBride, Nott

6. NEW BUSINESS:

A. Boardmember Torcivia made a motion authorizing Board Secretary Branagan to send a letter to the Governing Body of the Borough of Sea Bright approving Ordinance 10-2010.

ORDINANCE 1-2010
**AMENDING LAND USE CHAPTER 130-8 A OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF SEA BRIGHT,
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**
Review and Consideration

Second by Boardmember Smith and approved upon the following roll call vote:

Ayes: Beer, Cashmore, Cunningham, DeSio, Fernandes, Torcivia, Smith, Leckstein

Nays: None

Abstain: None

Absent: McBride, Murphy, Nott

B.

BEATRICE & PAUL PATTON
924 Ocean Avenue
Block 24, Lot 3
R2 Zone

Demolish an existing home and construct a new one-family residence. Variance for rear-yard setback.

Boardmembers Cashmore, Cunningham, DeSio were recused from hearing this application. Attorney Higgins stated that all the Boardmembers present were not within 200 feet of the applicant.

A-1 Jurisdictional Packet

A-2 Architectural prepared by Anderson & Campanella dated 9/24/2009

A-3 Plot Plan prepared by Charles Surmonte, P.E. dated 9-23-2009

A-4 Photograph of north view

A-5 Photograph of south view

A-6 Photograph of parking area

A-7 Photograph of existing structure from street

A-8 Photograph from neighbor's house

A-9 Colored rendering elevations

A-10 Board mounted photographs of existing house

A-11 Board mounted photographs of existing house

A-12 Colored Plot Plan

A-13 Computerized rendering of proposed structure

A-14 Rendering of Floor Plans

The Applicant offered sworn testimony in support of the application by the following:

James Christian Anderson, Architect

Paul David Patton, Applicant

Charles Surmonte, Professional Engineer, Surveyor

The following members of the public were heard:

Stephen Cashmore

David DeSio

The Applicant requested a variance from the rear yard setback. The front set back is required to have 25 ft and existing is 26 ft. for on-site parking.

Mr. Patton testified that they want to build a new home because the existing structure leaks, pipes freeze, and there is no insulation. There are several code deficiencies. A parking area is needed in the front yard mainly for safety reasons. Backing out from the property onto Ocean Avenue is extremely hazardous and a safety issue because of the traffic moving beyond 40 mph.

Mr. Anderson testified that the plans reflect functional requirements and it fits into the character of a coastal community. The plans shows the safety of pulling into the lot and turn around without having to back into Ocean Avenue. They are proposing a one-car garage. The house would not look boxy but have the use of gables, cupolas, widow's walk and having the look of a coastal cottage. There is two principal stories and above 13 feet above sea level for flood protection. The house is 35 feet in height. The look is pleasant from the river and Ocean Avenue.

Mr. Surmonte testified that 4.5 ft setback is needed for the HVAC and a six foot fence would surround the unit.

Boardmember Fernandes made a motion approving this application. Second by Boardmember Smith and approved upon the following roll

call vote:

Ayes: Beer, Fernandes, Torcivia, Smith, Leckstein

Nays: None

Abstain: None

Absent: McBride, Murphy, Nott

7. OLD BUSINESS:

**AMCK, LLC
1066 Ocean Avenue
Block 16, Lot 4
B1 Zone**

Demolish an existing structure and construct a three story masonry building. Seeking approval for the following variances: mixed use retail, office and residential, minimum lot width, maximum building coverage and parking.

Mayor Fernandes was recused from hearing this application.

A-6 Zoning Officer Tangolic's letter dated November 19, 2009.

A-7 Architectural prepared by Anthony M. Condouris, Architect.

Martin McGann, Esq. said that the Zoning Officer's letter states that the applicant's project would not be defined as a "Multi-family B" Project. The ordinance specifically states that this definition applies to "residential developments". This would mean a project as "Mixed-use", which is permitted in the B-1 Zone. She states that specific regulations for Multi family B would apply to this project, as the definition seems to reference project that are residential only, not mixed use.

Attorney Higgins said that "mixed use" is not limited to a two residential project which would be multi-family A permitted in the zone. Multi-family B is more than two units and not allowed in this zone and multi family A which is two units or less is allowed. The zone allows for mixed use of residential and commercial combined and this is reflected in the ordinance.. The ordinance never defined the residential with a mixed use. Zoning Officer Tangolics is interpreting it as a mixed use that allows more than two residential units when it is a mixed use project. The Board did not agree with the Zoning Officer's interpretation of combining a Multi-Family B with a commercial allowing it to be permitted. The intent of the ordinance was to attract mixed-use projects but not eliminate the restrictions that were already in the ordinance as to the number of residential units.

Boardmember Leckstein made a motion that the Board's

interpretation of Ordinance 1-2009 is limiting a mixed-use development in the B1 Zone to be a Multi-Family A. The residential combined with commercial is restricted to two or less units. Second by DeSio and approved upon the following roll call vote:

Ayes: Beer, Cunningham, DeSio, Torcvia, Smith, Leckstein

Nays: Cashmore

Abstain: None

Absent: McBride, Murphy, Nott

Anthony Condorius, Architect previously sworn in said that the architectural plan was revised by adding cedar shake and brick to the side of the building. The plan will show the elimination of the office in the rear. The 3 HVAC units would be surrounded by solid fencing and located up to four feet into the set back. Potentially, 16 parking spaces are proposed based on the building code and the ordinance.

The application was re-scheduled to February 9, 2010.

8. ADJOURNMENT:

There being no further business before the Planning Board Boardmember DeSio made a motion to adjourn the meeting at 9:58 P.M. Second by Boardmember Cashmore and approved upon unanimous voice vote.

Respectfully Submitted,

Suzanne Branagan
Board Secretary