

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

Chairman Cunningham read the following statement:

2. OPENING STATEMENT:

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 Link** on January 20, 2011 filed it with the Clerk, and posted a notice on the bulletin board in the Borough Office.

3. ROLL CALL:

PRESENT: Beer, Cashmore (arrived at 8:04 p.m.) Cunningham, DeSio, Fernandes, McBride, (arrived at 8:07 p.m.), Murphy, Nott Torcivia, Smith, (Alt. #1) Leckstein (Alt. #2), Janey (Alt.#3)

ABSENT: None

4. MINUTES:

A. Boardmember Smith introduced a motion approving the June 28, 2011 Unified Board Meeting Minutes. Second by Boardmember Murphy and approved upon the following roll call vote:

Ayes: Beer, DeSio, McBride, Murphy, Torcivia, Smith, Leckstein, Janey.

5. MEMORIALIZATION OF RESOLUTIONS:

A.

Boardmember Leckstein introduced a motion memorializing the following resolution:

**RESOLUTION OF THE SEA BRIGHT PLANNING/ZONING BOARD
GRANTING VARIANCE APPROVAL**

**RE: Kathleen B. Forsman Revocable Living Trust
9 River Street
Block 16 Lot 26**

WHEREAS, the Kathleen B. Forsman Revocable Living Trust, owners of premises commonly known as 9 River Street, Block 16, Lot 26, Sea Bright, New Jersey have applied to the Planning/Zoning Board for new bulk variances from the rear yard setback and building coverage and to permit three stories where two and one-half stories are allowed and pre-existing variances for lot area and width requirements in order to permit the applicants to raise the existing structure above the flood elevation, remodel the existing dwelling, remove and replace the existing deck and front porch and add a third story of living space; and

WHEREAS, the applicant has provided due notice to the public and all surrounding properties as required by law, has caused notice to be published in the official newspaper in accordance with N.J.S.A. 40:55D-1 et seq., this Board gaining jurisdiction therein and a public hearing having been held on this matter at a regular planning/zoning board meeting of June 28, 2011 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 Survey prepared by Land Control Services dated 5-22-10;
- A-3 Application;
- A-4 Architectural plan prepared by Jeremiah J. Ryan dated 10-14-10;
- A-5 Color rendering;
- A-6 Photographs

WHEREAS, members of the public were given the opportunity to be heard regarding the application; and

WHEREAS, the Board having considered the evidence presented made the following findings:

1. The applicant seeks variances from the rear yard setback requirements where 15 feet is required, 16.44 is existing and 10.44 is proposed; building coverage where 50% maximum is allowed, 46.3% is existing and 51.74% is proposed; to permit three stories where two and one-half stories are allowed in order to elevate the existing single family residence above the flood zone, remodel the existing dwelling, remove and replace the existing deck and front porch and add a third story of living space. Pre-existing variances exist for side yard, minimum lot area and lot width.
2. The subject premises is located in R-3 Zone.
3. Architect Jeremiah J. Ryan testified that the raising of the structure out of the flood elevation and the remodeling will be a better and safer design.

4. Ryan testified that the three stories versus the two and one-half stories permitted is a function of lifting the house out of the flood elevation. The new first floor living area will be at elevation of 15 feet.

There will be a garage which will provide off street parking which does not currently exist. The improvements include hurricane windows and aesthetic improvements. To the rear is a large masonry wall so that there will be negative impact by the rear yard setback.

Ryan testified that the front setback will be consistent with the houses in the immediate area.

5. The Board found that the proposed renovation is aesthetically pleasing in appearance and presents a minimal impact on the neighborhood. Most of the surrounding area has similar front setback.

6. Raising the home above the base flood elevation will provide a safer design as the first floor living area will be well above the flood elevation, while it is currently in the flood elevation.

7. The Board further found that the renovations will include a garage which will provide off-street parking where none currently exist. This is a considerable improvement for the neighborhood. The Board also found that the renovations will make the home safer from hurricanes and will improve a currently sub-standard dwelling.

8. Because the lot is undersized, the maximum permitted height is 33 feet. The proposed structure will be 36 feet. However, because the structure is being raised 2 feet above base flood elevation, the Borough Ordinance allows an additional 3 feet in height, making the maximum allowable height 36 feet.

9. The variances can be granted due to the nature of the development in the neighborhood, location, the front setback is consistent with the other residences in the neighborhood, the improvements are aesthetically pleasing and enhance safety and therefore can be granted without substantial detriment to the Zone Plan and Zoning Ordinance.

10. The Board finds that the variances can be granted without substantially impairing the Zone Plan and Zoning Ordinance in that the existing nonconformities are not being exacerbated, the three stories is a result of raising the dwelling out of the flood elevation, the front yard variance is consistent with the neighborhood and the rear

yard variance will have no impact on the surrounding properties. The proposal will provide off-street parking, will enhance safety and aesthetics and the benefits far outweigh any detriments.

11. The Board found that the proposed improvements will not enlarge the footprint, are consistent with the homes in the neighborhood, and enhanced the safety and aesthetic value of the subject property.

NOW, THEREFORE BE IT RESOLVED, for the reasons set forth above, that the Planning/Zoning Board of the Borough of Sea Bright, based upon the findings of fact set forth herein that the variances requested for the renovations of the subject dwelling as set forth on the proposed plans marked into evidence be granted subject to the following conditions:

1. The applicant shall obtain the approval of all necessary and appropriate governmental agencies and comply with all governmental regulations except those specifically waived or modified in this resolution.

2. 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 in connection with the review of this application prior to and subsequent to the approval of this application.

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

4. All of the terms and conditions set forth on the record and hereinabove.

5. The applicant shall be bound by all representations made in testimony before the Zoning Board as set forth in the minutes of the hearings on the dates referred to above.

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 Building inspector and the Tax Assessor and to make same available to all other interested parties.

BE IT FURTHER RESOLVED that the Board Secretary is hereby authorized and directed to cause a notice of this Resolution to be published in the official newspaper at the applicant's expense and to send the Affidavit of Publication to the Applicant and to make same available to all other interested

parties.

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

Ayes: Beer, DeSio, McBride, Murphy, Torcivia, Smith, Leckstein, Janey

B. Boardmember Leckstein introduced a motion memorializing the following resolution:

**RESOLUTION OF THE SEA BRIGHT PLANNING/ZONING
BOARD DENYING SUBDIVISION AND VARIANCE APPLICATION**

**BRAD POLLACK
15 Via Ripa Way
Block 32 Lot 16
Sea Bright New Jersey**

WHEREAS, Brad Pollack (the "Applicant") made application to the Planning/Zoning Board of Sea Bright (the "Board") for subdivision approval with bulk variances and site plan approval to construct a one story residential dwelling with a "d" variance for height on property known as Block 32, Lot 25 on the Tax Map of the Borough of Sea Bright, also known as 15 Via Ripa Way; 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 June 28, 2011, at which time all persons having an interest in said application were given an opportunity to be heard; and

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

- A-1 Jurisdictional Packet,
- A-2 6-22-11 engineering review letter from T&M Associates
- A-3 Minor subdivision plan prepared by Land Control Services, James B. Goddard dated 12-10-10
- A-4 Board with aerial view of the neighborhood; tax map showing non-conforming lots in the area;
- A-5 Two sided board with 4 photos on 1 side and 9 photos on the other side.

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

Brad Pollack, Applicant
Andrew Janiew, Beacon Planning, Professional Planner
James B. Goddard, licensed land surveyor

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 R-2 Zone.

2. The Applicant proposes to subdivide the existing property, lot 16 into two new non-conforming lots.
3. At the hearing, Applicant requested to bi-furcate the site plan/variance application and the subdivision application and proceed first on the subdivision application.
4. Existing lot 16 contains 4,500 sf where a minimum of 4,000 sf is required. He proposes to subdivide into two new lots containing 2,250 each.
5. The new lots would require the following variances: minimum lot area where 4,000 sf is required and 2,250 is proposed for each lot; lot width where 50' is required, 60' is existing and 30' for each lot is proposed; side yard where 7' is required, 2.63 and 37' is existing and proposed for lot 16.01 is 2.63/6.87' and lot 16.02 proposed is 4'/6'; combined side yard where 15' is required, 39.63 is existing and 9.5' is proposed for lot 16.01 and 10 is proposed for lot 16.02.
6. The requested "d" height variance for proposed dwelling on lot 16.02 is bi-furcated.
7. The Planner, Andrew Janiew testified that the proposal would create two additional off-street parking places and would address an easement encroachment. He stated that undersized lots should be developed in character with the neighborhood. Mr. Janiew stated that Via Ripa was originally subdivided as 30' lots and that is the historical character of the neighborhood. He stated that this is a unique lot and that the home is skewed to one side of the lot.
8. Neighbor Judy Geraud noted that parking is an issue in the area and that added more intensity would be detrimental.
9. The Board noted that while two off-street parking spaces were being created, one on-street space would be eliminated by the new driveway for the new lot.
10. The Board also noted that the old tax map may show 30' lots, but the nature of the development in the neighborhood is larger lots.
11. The Board found that the proposed subdivision would create two new lots that were not consistent with the area. There are a number of conforming lots in the neighborhood and the Board saw no benefit to permitting the creation of two extremely undersized lots.
12. The Board also found that the creation of two severely undersized lots would be detrimental to the neighborhood. It would add more intensity to the neighborhood and remove at least one on-street parking space.

The proposal calls for a reduction of the existing driveway on lot 16.01 to 6.9' from the east side of the dwelling to the proposed lot line. The existing driveway would then encroach another 5' onto adjacent lot 16.02. The applicant proposes a 3.1' access easement on adjacent lot 16.02 to provide the necessary 10'

driveway width. The Board felt that the parking layout was not viable and that the parking and driveway proposals called for easements and encroachments and did not represent good planning.

13. The Board found no positive to grant the variances requested to create two severely undersized lots from an existing conforming lot.
14. Board Members found that the proposal would have a significant detrimental effect on the neighborhood and the zone plan and ordinance.
15. 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 cannot 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 subdivision with variances is denied.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting of June 28, 2011; 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 Torcivia and adopted upon the following roll call vote:

Ayes: Beer, DeSio, McBride, Murphy, Torcivia, Smith, Leckstein, Janey

Nays: None

Abstain: None

Absent: None

C. Boardmember Leckstein introduced a motion memorializing the following resolution:

**RESOLUTION OF THE SEA BRIGHT UNIFIED PLANNING BOARD
APPROVING MASTER PLAN HOUSING ELEMENT AND FAIR SHARE PLAN**

WHEREAS, the Borough of Sea Bright prepared a Master Plan Housing Element and Fair Share Plan in accordance with the requirements of the Municipal Land Use Law, NJSA 40:55D-1 et.

seq.; and

WHEREAS, the Borough forwarded the Plan to the Planning Board for its review and comment; and

WHEREAS, the Board reviewed the plan entitled "Master Plan Housing Plan Element and Fair Share Plan prepared by T&M Associates, John D. Maczuga, PP, AICP dated April 22, 2011 at its meeting of June 28, 2011 and approved of same.

NOW, THEREFORE, BE IT RESOLVED by the Sea Bright Planning Board that the plan entitled "Master Plan Housing Plan Element and Fair Share Plan prepared by T&M Associates, John D. Maczuga, PP, AICP dated April 22, 2011 is hereby approved and the Board recommends its adoption by the Mayor and Council of the Borough of Sea Bright.

Second by Boardmember Torcivia and adopted upon the following roll call vote:

Ayes: Beer, DeSio, McBride, Murphy, Torcivia, Smith, Leckstein, Janey

6. NEW BUSINESS:

A.

**VICTORY SCUDIERY
150 Ocean Avenue
Block 34 Lots 4, 4.01**

Attorney Higgins stated that all the Boardmembers present were not within 200 feet of the applicant. Thomas Hirsch, Esq. represented the applicant, Victor Scudiery.

- A-1 Jurisdictional Packet,
- A-2 7-7-2011 letter from T&M Associates,
- A-3 Plans entitled Gaiter's Village prepared by Concept Engineering dated 4-26-2011,
- A-4 Architectural Plans - first and second level plans prepared by Bach & Clark, LLC, Architecture, dated 5/1/2011,
- A-5 Aerial photograph
- A-6 Color rendering of drawing
- A-7 Floor plans with highlighting (four pages)
- A-8 Color rendering of proposed plans with river view
- A-9 Color rendering of various elevations
- A-10 exterior stone, Stoneworks, Bucks County, PA
- A-11 fiber cement siding, Hardy Pine

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

Bhaskar Halari, P.E., Concept Engineering Consultants
John Rea, P.E. McDunn and Rea Associates

Daniel Bach, Bach & Clark, LLC, Architecture

Mr. Halari said that the 60,000 square foot site is located on the southbound side of Route 36 and along the Shrewsbury River and is about 60,000 sf. The north corner has an existing marina. To the south of this property lie single family homes and a 24 unit condominium.

Mr. Halari said that the applicant proposed to demolish an existing building, retain an existing building and construct two residential buildings. The proposed residential buildings would be 3 ½ stories and 44 feet in height. The driveway entrance will be along the northern property line. Two handicap parking stalls would be on the site. A new pool will be constructed. Each unit will have either a riverview or oceanview. By reducing impervious coverage to 77% there will be no impact as far as the stormwater on this site is concern.

Kevin Kennedy, Esq. representing Land's End said that in discussions with the applicant the marina would be restricted to residents only. He had concerns about the environmental impact statement being waived. Mr. Halari said that the trees and the wetland areas would remain undisturbed. The applicant would provide the required documents to CAFRA for their determination. Engineer Flor said that DEP would be extremely thorough because of CAFRA, flood hazard area rules and it being an environmentally sensitive area.

John Rea, P.E. of McDunn and Rea Associates testified that they propose to consolidate the separate entrance/exit to the north end of the property meeting NJDOT's criteria. The southern end would not be a better suited location. The northern location is has one caveat the site triangle has to be kept lower than 30" height. The southern end of the property would require the relocation of storm sewers. Moving the building further to the north would have an impact on the site distance for both north and southbound traffic on Route 36.

Daniel Bach, Bach & Clark, LLC, architect testified as to the size and location of the units. He said that the plans include office space in some of the units. The closet would be removed from the office room so as not to be construed as bedroom use. The siding would be a mountain sage and heather moss with white trim. The buildings would have a sandstone Atas metal roof. Hurricane windows, trim and fasteners would be installed. The building would be a raised slab at elevation 12 feet. There will be no basement and the area will be filled with earth and gravel. The building would be set on pilings, footings and beams.

The buildings are separated by parking. There will be a utility

room in each of the units within the building will have a separate heating/cooling system. The air conditioner units will be mounted by brackets within the setbacks. The air conditioner condensed units will extend 3 ft. out. The board said that it should be stipulated that four center units for each building will have outside mounted mechanicals on the parking lot side of the building would also have matching exterior louvers for all three floors. The outside units would be self-contained.

The Board said that the settlement agreement requires the applicant to provide four affordable housing units. The units are required to have a particular bedroom mix mandated by affordable housing requirements.

The marina would be used by the residents only. There will be 14 boat slips. The Board agreed that it should be stipulated in the deed and by-laws that both the pool and the marina would be used by the residents only and not for public use.

The flood elevation would be at twelve feet. The ground identification sign is not to exceed 10 square feet or six feet in height. The fence can not be higher than four feet when it is within 15 feet from the river.

Both buildings would have a sprinkler system and the Fire Marshall would be submitting a report. The applicant would comply with the Engineer's recommendations concerning utilities.

The applicant would submit a detailed garbage and recycling report.

The revised lighting plan would be submitted to the Engineer concerning spillage.

The applicant would work in good faith with Lands' End and the Borough Engineer with designing a landscaping plan.

It would be stipulated in the master deed and by-laws that the two site triangles easement should be maintained with 30" or lower proper landscaping materials.

Master deed/bylaws would indicate that the office area would not be used as a bedroom.

Boardmember Murphy introduced a motion approving this application. Second by Boardmember Beer and adopted upon the following roll call vote;

Ayes: Beer, Cashmore, Cunningham, Fernandes, McBride, Murphy, Nott, Torcivia.

Nays: None

Abstain: DeSio

Absent: None

7. ADJOURNMENT:

There being no further business before the Planning Board Boardmember DeSio made a motion to adjourn the meeting at 11:02 P.M. Second by Boardmember McBride and approved upon unanimous voice vote.

Respectfully Submitted,

Suzanne Branagan
Board Secretary

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