

**APPROVED MINUTES
VIRTUAL MEETING OF THE SEA BRIGHT PLANNING/ZONING BOARD
TUESDAY, APRIL 13, 2021**

ADMINISTRATIVE MATTERS

Call to Order

Chairman Cunningham called the meeting to order at 7:30 p.m. and asked those present to join him in the Pledge of Allegiance.

Chairman's Opening Statements

Chairman Cunningham read the following Compliance Statements:

This meeting will be conducted by electronic means in accordance with the Open Public Meetings Act of 2020, which explicitly permits a public body to conduct a meeting electronically during a state of emergency. Governor Murphy issued Executive Orders 103 and 107 declaring a "Public Health Emergency and State of Emergency" and directing residents to quarantine and practice social distancing.

The Borough of Sea Bright, in compliance with the Open Public Meetings Act, has provided the time, date, and location of this meeting to at least two designated newspapers, published same in the Asbury Park Press, the official newspaper, filed notice with the Borough Clerk, and posted notice on the Borough website and in the Borough Office.

Attendance Roll Call

Present: Bills, Cashmore, Cunningham, DeGiulio, DeSio, Leckstein, Smith, Gorman

Not Present: Kelly, Schwartz

Also in attendance:

Board Attorney Monica C. Kowalski, ESQ.

Board Engineer David J. Hoder, PE, PP, CME

Board secretary Candace B. Mitchell

BOARD BUSINESS

Approval of 3/23/21 Meeting Minutes

Board member Stephen Smith offered a motion to approve the minutes, with a second offered by Board member Elizabeth DeGiulio, and adopted on the following roll call vote of eligible members:

Ayes: Cashmore, Cunningham, DeGiulio, DeSio, Leckstein

Nays: none

Memorialization of Resolution

APPLICANT: BRIAN AND VICKI HART

APPLICATION NUMBER: 2021-03

BLOCK: 29

LOT: 27

ADDRESS: 46 NORMANDIE PLACE

ATTORNEY FOR APPLICANT: MARK R. AIKINS, ESQ

RESOLUTION NUMBER: 2021-03



**RESOLUTION OF THE UNIFIED PLANNING/ZONING BOARD
OF THE BOROUGH OF SEA BRIGHT
FOR BULK VARIANCES ON NEW CONSTRUCTION**

WHEREAS, BOARD MEMBER MARC LECKSTEIN, ESQ., offered the following Motion moved and seconded by **BOARD MEMBER DAVID DeSIO**:

WHEREAS BRIAN and VICKI HART, hereinafter referred to as the “applicant” filed an application with the Unified Planning/Zoning Board of the Borough of Sea Bright, (hereinafter referred to as the “Board”) seeking the following relief:

The application involves the property located at 46 Normandie Place, Sea Bright, New Jersey, more formally identified as Block 29, Lot 27 (R-2 Zone). The applicants are seeking bulk variances to permit the demolition of the existing one story (front) residence and the two (2) story (rear) residence and construct a new two (2) story single family residence. In conjunction with the application, the applicant’s will be seeking the following variance relief:

1. Side Yard Setback: 7 ft. one side yard setback required; 13/5.8 ft. (rear residence) exists; 6.16 ft. proposed on north side.
2. 8 ft. one side yard setback required; 3.4/9.9 feet (front residence) exists; 5.33 ft proposed on south side.
3. 15 ft. combined side yard setback required; 11.49 ft. proposed
4. Minimum Lot Width: 50 ft. required, 37.5 ft. exists and 37.5 ft. proposed (pre-existing).
5. The applicant will also be seeking approval for any and all other variances and/or design or submission waivers which are necessary or will become necessary, during the public hearing process.

WHEREAS, the application pertains to premises known and designated as Block 29, Lot 27 on the Tax Map of the Borough of Sea Bright, which premises are located in the R-2 Zone at 46 Normandie Place, Sea Bright, NJ 07760;

WHEREAS, all notice requirements were satisfied by the applicant and the Board has jurisdiction to hear, consider and determine the application at issue; and

WHEREAS the Board held a public hearing with regard to the referenced application on the following date, **March 23, 2021**:

WHEREAS, the following items were entered as Exhibits at the hearing:

Any and all documentation as submitted and appearing on the Sea Bright website (seabrightnj.org) for presentation at the Public Meeting conducted via Zoom with public notice. Specifically, those items which are as follows, listed for review for 46 Normandie Place, Bl. 29, L. 27,

- 46 Normandie Pl. Cover letter (pdf)
- 46 Normandie Pl. Zoning Denial (pdf)
- 46 Normandie Pl. Application (pdf)
- 46 Normandie Pl. Survey (pdf)
- 46 Normandie Pl. 2005 Plans (pdf)
- Landscape Sketch, submitted 3-23-21
- 46 Normandie Pl. Photo 2.JPG
- 46 Normandie Pl. Photo 1.JPG

- 46 Normandie Pl. NJDEP Permit and Grading Plan (pdf)
- Board Engineer's Tech Review (pdf)
- Tax and Sewer Certification (pdf)
- Applicant's Affidavit of Publication (pdf)
- Applicant's Affidavit of Mailing (pdf)
- Applicant's Mail Service - 1 of 2 pgs. (pdf)
- Applicant's Mail Service - 2 of 2 pgs. (pd)
- **EXHIBIT A-1**: Proposed landscape Diagram submitted on 3-23-2021.

WHEREAS The Board listened to the Testimony of the following:

1. **MARK NEMERGUT, AIA (N2 Architecture)**
2. **WILLIAM E. JENSEN, JR., PE (Jensen Design Group)**
3. **MAEVE DESMOND, PP (InSite Engineering)**

WHEREAS The Board took Questions from the following member of the Public as to the witnesses presented:

1. **PETER HOUGH (7 ATLANTIC WAY) – Questioned the testimony of Mr. Nemergut to ensure a rear setback line.**

WHEREAS, The Board took Public Commentary on the Application upon conclusion of the witness testimony as follows:

NONE.

WHEREAS, the Board, having given due consideration to the Exhibits moved into evidence and the Testimony presented at said hearing(s), does make the following findings of fact:

1. Proposed plan for the Single-Family Residence includes tandem parking with 4 spaces in driveway and meets RSIS requirements for this 3 BR house with 2 1/2 Baths. The Board also notes there is an attic just for storage with minimal headroom (not a separate living area).
2. There is need for side setback variance relief on the proposed plan for construction. Front and rear setbacks are compliant, as well as building coverage, lot coverage, and the height requirement.
3. Per Exhibit A-1: Proposed landscape Diagram submitted on 3-23-2021, the driveway will be made of pavers, with grass on either side of the driveway, north and south, on the front yard. On the north side will be a crushed stone or gravel walkway.
4. Chairman Cunningham questioned the location of the water line in the rear yard, requesting clarification on the distance between rear structure and water line. It was determined there is approximately 75' to mean high water line. Attorney Mark Aikins stated that the actual distance is 65.83' to that point, where 15' is required. Mr. Hoder added there is about another 10' to the mean high waterline. Mr. Cunningham wanted to know whether this structure would be basically in line with neighboring structures. Mr. Aikins answered that this structure is fairly well in line with the surrounding structures and the Board accepted such representation upon review of the survey provided.
5. Board Member DeSio questioned the examination of the placement of the proposed installed AC and suggested a secondary location, perhaps a dormer in the roof line to remove them from near the property line. Applicant advised that they did not want to put the units on the roof but would reconsider placement of same as a condition of approval after Board Member Leckstein advised that the Board had been consistent in not allowing mechanicals in the setback. The Board accepted the representation of relocation of mechanical units and discussed potential placement areas.
6. Applicant's Engineer Jensen advised that the applicant would meet all DEP building permit requirements and side yard swales will be provided without affecting neighboring properties. The water will be directed

to promote runoff recharge back into the ground. Further, roof leaders will be corrected to side yard swales as requested by the municipal Engineer. Proposed utilities will be shown on plan as requested. As far as stormwater management, the project is not considered a major development and does not disturb more than one acre of land; so, the applicant is not required to provide reduction of storm water flow.

7. Per Engineer Hoder's March 11, 2021 Review Letter, the applicant stipulates to all necessary items as listed and the Board notes same.
8. Applicant's Planner, Maeve E. Desmond recited variances necessary for the subject property as set forth above. Ms. Desmond described the lot, which has two existing dwellings on it. The side yards are required to be at least 7' on each side, for a combined 15'. The lot is an oversized lot, with more than double the square feet required, but it is non-conforming with respect to lot width. By demolishing the two existing structures some of the existing non-conformities will be cured by the proposed development of the property, such as building one dwelling instead of two dwellings, which improves conformity. In addition, the front yard setback is currently nonconforming, with 4' present where 25' is required. The proposed home will have a setback of 69.56'. The combined side setbacks for the existing front house are 13.3'. The combined side setbacks for the existing rear house are 18.8'. The applicants are proposing combined side yard setbacks of 11.49'. The variances are requested due to the exceptional narrowness of the lot. This variance is considered a C1 hardship variance. The burden of proof is met for both a C1 and a C2 variance. The deviation from the zoning ordinance and the benefits of granting the variance outweigh any detriments. These variances are required due to extreme narrowness of lot. This is c(1) based on hardship of lot but does meet the criteria for c(2) variances.
9. The Board accepts the Positive Criteria with uncontradicted testimony for the grant of the variances which include promotion of the general welfare, dramatic improvement to neighborhood and elimination of a non-conforming use in the zone. Proposed construction will also meet the Flood zone construction requirements and remove the 2 structures that are currently not FEMA compliant. Additionally, with revised compliance for front/rear yard setbacks, there is adequate light air and open space. This new construction will also improve the current street scape.
10. The proposed construction will not cause substantial detriment to public good. The street scape is improved, the plan will take cars off the street and eliminate a nonconformity. Further, 11 feet of structure is eliminated and will be FEMA compliant. This will further lower flood insurance premiums for the community creating a benefit to the neighborhood without negative impact.
11. This is one single family dwelling unit in R-2 zone where more than 30% of lot width is proposed for open space
12. The Board finds that the purposes of planning are advanced by proposed development.

WHEREAS, In order to prevail on an application for a variance, the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D – 70, requires the applicant to establish that the variance can be granted without substantial detriment to the public good and that the granting of the variance does not substantially impair the intent and purpose of the master plan, zone plan and zoning ordinance.

NOW THEREFORE, BE IT RESOLVED, by the Unified Planning/Zoning Board of the Borough of Sea Bright that it hereby adopts the aforesaid findings of fact and specifically makes the following conclusions:

- a. Based upon the aforesaid findings of fact, the Board concludes that:
 - i. The applicant has demonstrated that the proposed use of the property in question is substantially the same kind of use as that to which the premises were devoted at the time of the passage of the zoning ordinance.
- b. Based upon the aforesaid findings of fact, the Board further concludes that the granting of the approval set forth herein will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance and the zoning plan of the Borough of Sea Bright.
- c. **The Board specifically includes herein by reference, the Transcripts from the hearings, which provide the detailed basis and description of the decision as memorialized in this Resolution and do hereby rely upon same for further reference, as necessary.**

BE IT FURTHER RESOLVED, by the Unified Planning/Zoning Board of the Borough of Sea Bright that the following be and are hereby **GRANTED**, as follows:

The applicants are GRANTED bulk variances to permit the demolition of the existing one story (front) residence and the two (2) story (rear) residence and construct a new two (2) story single family residence per the Plans submitted to the Borough of Sea Bright.

In conjunction with the application, the applicant's IS GRANTED the following variance relief PER THE PLANS SUBMITTED:

1. Side Yard Setback: 7 ft. one side yard setback required; 13/5.8 ft. (rear residence) exists; 6.16 ft. proposed on north side.
2. 8 ft. one side yard setback required; 3.4/9.9 feet (front residence) exists; 5.33 ft proposed on south side.
3. 15 ft. combined side yard setback required; 11.49 ft. proposed
4. Minimum Lot Width: 50 ft. required, 37.5 ft. exists and 37.5 ft. proposed (pre-existing).

HOWEVER, *as a condition of approval, the Applicant agrees to move the location of the mechanical units out of the setbacks for placement in the rear of the property* (or other location such as rooftop) which location shall be reviewed and approved by Board Engineer Hoder upon receipt of revised plans; and

ALL APPROVALS GRANTED HEREIN ARE SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) The applicant shall comply with any requirements established by, and obtain any necessary approvals of the following, IF APPLICABLE, to the proposed construction herein:
 - a. All Plans must be approved by Township Engineer and Code and Construction Departments for the issuance of Permits;
 - b. MONMOUTH COUNTY PLANNING BOARD;
 - c. FIRE MARSHALL;
 - d. BOARD OF HEALTH;
 - e. SOIL CONSERVATION AND SEDIMENT CONTROL APPROVALS AND PERMITS;
 - f. AFFORDABLE HOUSING CONTRIBUTION (ORD. 04-22)
 - g. BOARD OF ADJUSTMENT PLANNER
 - h. BOARD OF ADJUSTMENT ENGINEER
 - i. POSTING OF PERFORMANCE GUARANTEES AND INSPECTION FEES;
 - j. FINAL SITE PLAN DRAWINGS INCORPORATING ALL CHANGES AND/OR AMENDMENTS MADE AT THE HEARING.
 - k. **FINAL DESIGN SUBJECT TO APPROVAL OF THE BOARD'S PROFESSIONALS.**
 - l. SUBJECT TO THE APPLICANT COMPLYING WITH ANY AND ALL FEDERAL, STATE, COUNTY AND LOCAL LAWS, RULES AND REGULATIONS AFFECTING AND PERTAINING TO THE DEVELOPMENT OR USE OF THE SITE IN QUESTION.
- (2) SUBJECT TO ALL REPRESENTATIONS AND TESTIMONY OF THE APPLICANT BEING TRUTHFUL AND ACCURATE

APPLICATION VOTE:

Adopted on a roll call on a motion by Board member Marc Leckstein, Esq. and Seconded by Board member David DeSio

THOSE IN FAVOR: Cashmore, Cunningham, DeGiulio, DeSio, Leckstein, Smith, Schwartz

THOSE OPPOSED: None

ABSTAINED: None

MEMORIALIZATION VOTE:

Adopted on a roll call on a motion by Board member Marc Leckstein, Esq. and Seconded by Board member David DeSio

THOSE IN FAVOR: Cashmore, Cunningham, DeSio, DeGiulio, DeSio, Smith

THOSE OPPOSED: None

ABSTAINED: None

I certify the foregoing to be a true copy of the Resolution memorialized by the Unified Planning/Zoning Board of Sea Bright at its meeting on April 13, 2021.

Candace B. Mitchell
Candace B. Mitchell, Secretary
Sea Bright Planning/Zoning Board

C. Lance Cunningham
C. Lance Cunningham, Chairman
Sea Bright Planning/Zoning Board

New Application No. 2021-05

1485 Ocean Avenue Realty, LLC

1485 Ocean Avenue, L. 5, Bl. 4

Amended site plan approval and bulk variance relief to permit an existing tiki bar structure with ancillary deck area

In attendance for this application were attorney for the applicant Michael A. Bruno, Esq., engineer/planner Walter J. Hopkin, and a property owner, Mr. Stavola.

Exhibits offered for public inspection at least ten days prior to the meeting are as follows:

- Jurisdictional Packet, received 4/9/21
- Zoning Denial, dated 11/17/20 and 1/20/21
- Application, received 3/1/21
- 3 Photos
- CAFRA Permit, dated 7/29/20
- Amended Preliminary & Final site Plan prepared by Walter J. Hopkin, P.E. of WJH Engineering, LLC, dated 2/22/2021, consisting of two (2) sheets
- Boundary and Topographic Survey prepared by Colliers Engineering & Design (formerly known as Maser Consulting, PA) dated 3/18/19 and revised through 7/10/20, consisting of one (1) sheet
- Board Engineer's Technical Review, dated 4/7/21, consisting of 3 pages

The following exhibit was marked into evidence at the meeting:

A-1 Color rendered version of the preliminary site plan, dated 2/22/21

Board attorney Monica Kowalski stated that she has reviewed the notice, and as the notice is deemed appropriate, the Board can accept jurisdiction of the matter.

Applicant attorney Michael Bruno introduced the application, stating that this is an application to memorialize some existing conditions. He explained that improvements have been undertaken over the years, particularly since Superstorm Sandy in October 2012, and this application seeks to memorialize the existing deck and tiki bar area that have been there for quite some time. The tiki bar has been improved from time to time over the years and was never reflected on an approved site plan.

A renewal of the CAFRA permit that is needed for beach club activities requires the addition of certain conditions, such as removal of certain permanent improvements, namely walls and windows, and to make them of a temporary nature. The site plan presented provides for that, and the applicant would like the Board to understand and approve the existing conditions at the site.

Licensed professional engineer Walter K. Hopkin was sworn in to testify to describe the improvements and make clear what the applicant is seeking. His credentials were accepted without objection from the Board. Mr. Hopkin presented an exhibit that is a color rendered version of the site plan, dated 2/22/21, which was not submitted to the Board prior to this meeting. Ms. Kowalski marked the exhibit as A-1. The property as depicted runs along the eastern side of Ocean Avenue and is located in the B-3 zone. The cabana club has existed there for quite some time. The tiki bar has existed since at least 2002, with an adjacent deck, and has been in the same footprint since at least 2002. What is being proposed is to memorialize the tiki bar and deck under the strictest interpretation of the ordinance. The ordinance does not permit accessory structures greater than 500 sq. ft. The tiki bar is approximately 1,050 square feet, and the adjacent deck is 1,743 sq. ft.

Board engineer David Hoder's technical review asks what is proposed or existing with regard to lighting. Mr. Hopkin stated there is existing security lighting on the exterior of the tiki bar. There is also a request to locate the existing refuse and recycling elsewhere on site and identify that on the site plan. There was also concern about the location of pilings that are not, in fact, located on top of the seawall. They are adjacent to the jetty and not on the seawall.

Mr. Hopkin stated there is no expansion of the footprint. Mr. Bruno clarified that the deck and tiki bar shown on the plan are consistent with the CAFRA permit that was issued in 2020. He stated this proposal will not cause any negative impacts and is justifiable under the municipal land use law for this type of variance.

Mr. Hopkin then testified as a professional planner. He pointed out that there are several positive criteria in this application. Even with what is being considered, the site as a whole is well below the allowed building lot coverage. Also, approval will allow a previously existing structure to remain that. The public and the club members have been able to enjoy the structure for close to twenty years. Since it has existed for that length of time, Mr. Hopkin stated there would be no negative impact to either the community nor to the zone plan or the zone plan's intent. Mr. Hopkin also agreed with Mr. Bruno's statement that there are no drainage concerns or visual impacts on any surrounding property owners.

Mr. Bruno asked whether the applicant is prepared to comply with the suggestions set forth in Mr. Hoder's letter. Mr. Hopkin answered in the affirmative. Then he asked whether the Board members have any questions.

Councilman Leckstein asked for clarification for the historical record. He asked whether this is the same structure that's been there for twenty years, or was the structure destroyed in Sandy and then rebuilt. Mr. Bruno stated that the tiki bar was destroyed in Sandy and was rebuilt in its place. The tiki bar has been improved from time to time, and side walls and windows were put in. Some refrigeration service and gas service were added so that food could be served. Required permits were received to do that. The applicant did not appear back before this Board for any of those improvements. With the new CAFRA permit issued, the applicant would like to memorialize what is there so that the municipality has a record of it and their site plan is updated. Councilman Leckstein stated that he has no problem with the application itself. He just wants to make sure that everyone is on the same page, and that what is there has not been there for twenty years. It has been there from approximately 2013, probably in the rebuilt structure, and that there was actually an application submitted to Zoning. It appears that, according to the application, the zoning application

was actually denied by the zoning officer, and, then, no one appeared here. Councilman Leckstein further stated that he wants to make sure the record is accurate, and that is what happened. Mr. Bruno stated that he thinks the testimony is that the tiki bar in the deck was there before Sandy. They built after Sandy, and that is the structure that is before you today. Councilman Leckstein said that he thought there would be agreement that there was an application sometime in 2012, and it was denied. Mr. Bruno said that he is not aware of that. He didn't recall being part of that. He said that his client, William Stavola, is available to answer some questions about the operation because the Stavolas have owned the property since 2011. Councilman Leckstein asked for clarification that the structure has been there for twenty years and the applicant is just coming forward now to get approval, because that is not accurate. He stated that he just wants to make sure that everything is appropriately listed in the resolution approving this application.

Board attorney Kowalski stated that we can acknowledge when it was rebuilt it wasn't built to the same size and in the same footprint, which is why the applicant is here for relief. Mr. Hopkin said that is not correct, that it is built in the same footprint. Mr. Bruno added that the bar is larger, but, if talking about the deck, it is his understanding that the deck is built in the same footprint. What has been made bigger and has been improved over the years is the tiki bar itself. He asked Mr. Hopkin if that was an accurate statement. Mr. Hopkin answered that there was a deck that surrounded the tiki bar, and the bar, itself, was expanded to fit the footprint of that deck. When you look down on this from above, it looks the same as it did in 2002. There was an expansion of the bar to fit the deck that was around the bar. Mr. Bruno clarified that it is fair to say that the deck is substantially the same as pre-Sandy, and the tiki bar is larger than it was pre-Sandy.

William Stavola, one of the owners of the property, joined the meeting and was sworn in to testify. Mr. Stavola responded to questions asked by Mr. Bruno. Mr. Stavola's family bought the Driftwood Beach Club in December of 2010. He believes the tiki bar and deck area date back to around 2002. After the storm in 2012, the deck was rebuilt as it was, as far as the footprint goes, and the outer edge of the bar was expanded to the edges of the deck. Since 2012 outer walls, windows, a gas line, refrigeration, beer taps, lighting, and ceiling fans were all added. Gas and electric were approved through the construction department.

Board Vice Chair Dave DeSio stated that he had a question, that he was not opposed to the application at all, but he was wondering how the DEP permit would be responded to, which states that the tiki bar will be modified by removal of the walls and windows and will be converted to an open food concession bar. He said the picture he was looking at definitely has windows and walls. Mr. Stavola said there is a plan to take out the windows and walls, and make it structurally sound. They have hired a structural engineer. The state is allowing them to put up a non-permanent roll-up type curtain in place of what's there now. They will make sure the area can be secured at night, as far as alcohol and the equipment inside. Councilman Leckstein asked whether they are planning on keeping it open during the winter, or summer only. Mr. Stavola answered that they haven't decided yet because of the winter weather we have down here. They haven't crossed that bridge yet. The primary focus is to make this a place for members in the summer. They will try to make it work in the winter, but that is not the primary goal. Councilman Leckstein stated that he thinks it's a nice place to go and, when it is open in winter, it is nice.

Dave Hoder stated that Mr. Hopkin had taken care of the items in his review letter in terms of Mr. Hoder's concerns. He wanted to make sure the seawall wasn't hurt in any way, and they are going to add the items in number 2 and 3 on the plans. In terms of performance guarantees, there doesn't need to be any kind of bonding on this project because it's really under the purview of the building department. These changes are all going to be building changes, not site changes. There should be a small amount of inspection put up.

Chairman Cunningham opened the meeting to Board questions and comments. Peggy Bills said that she doesn't understand why DEP wants to make the building more temporary. A more sound structure would be safer in storms or wind. It doesn't make sense. Chairman Cunningham added that it has been a very pleasant place for a long time, and he hopes it continues to be.

The meeting was opened to public comments. There were no public comments.

Councilman Leckstein offered a motion to approve the application, with a second offered by Board member Peggy Bills, and adopted on the following roll call vote of eligible members:

Ayes: Bills, Cashmore, Cunningham, DeGiulio, DeSio, Leckstein, Smith, Gorman

Nays: none

PB Application 2021-02

David Meyers and Christina Walker

548 Ocean Avenue, Bl. 28, L. 10

Minor Subdivision Application

This application was originally scheduled for January 26, 2021. The matter was carried to March 9, 2021. An error was found when reviewing the noticing materials for the March 9, 2021 hearing. The attorney for the applicants requested a new hearing date and re-noticed correctly for this evening's meeting.

In attendance for the application were attorney Rick Brodsky, Esq., planner Suzanne Warren, and owners David Meyers and Christine Walker.

Exhibits offered for public inspection at least ten days prior to the meeting are as follows:

- Jurisdictional Packet, received 4/8/21
- Zoning Denial, dated 2/13/21
- Application, received 2/24/21
- Photos
- Survey & Minor Subdivision Plan, prepared by Suzanne Warren, P.L.S., MidAtlantic Engineering Partners, LLC, dated 1/11/21, one (1) sheet
- Board Engineer's Tech Review, dated 3/4/21, three (3) pages

Board attorney Monica Kowalski stated that she has reviewed the notice, the notice is deemed appropriate, and the Board can accept jurisdiction of the matter.

Attorney Brodsky began by stating this application is seeking minor subdivision approval with no variances. The property is located in the R2 zone. The existing lot contains a single-family residential home which will remain. There is no construction proposed at this time.

Mr. Brodsky introduced professional land surveyor Suzanne Warren, who prepared the survey for the application. Ms. Warren was sworn in to testify, was accepted by the Board as an expert witness, and she pulled up the survey/plan on-screen for viewing.

Vice Chairman DeSio stated that since the application is a subdivision creating two conforming lots, presentation to the Board is all that is required. The Board does not need testimony and cannot deny the application. Ms. Kowalski confirmed the statements made by Mr. DeSio and stated that the attorney for the applicant wants to put testimony on the record.

Ms. Warren testified that the applicants would like to subdivide existing block 28, lot 10, on the corner of Ocean Avenue and Atlantic Way as shown on the plan. Proposed lot 10.02, if approved, in the back, shows the recently constructed improvements. Proposed lot 10.01 in the front, would front on Ocean Avenue and will be vacant. There is no development proposed at this time. Mr. Brodsky asked Ms. Warren to confirm that the existing home on its proposed new lot, 10.02, as well as proposed lot 10.01, both fully conform with all requirements set forth in the zoning ordinance. Ms. Warren confirmed that, and she also confirmed that the lot across the street on East Ocean Avenue, Bl. 23, L. 66, will be, by deed, connected with the newly proposed lot 10.01.

Chairman Cunningham asked that, if by dividing the lot, the existing structure on the back lot will remain conforming to all of the zoning requirements. Ms. Warren answered that it would remain conforming.

Board engineer David Hoder referred to items 4 and 5 on his technical review. The overlying regulation in terms of subdivisions and residential, has a minimum of 50' right-of-way, which would be 25' on each side. That would be an additional 12.5' that would have to be asked for. Mr. Hoder suggested the applicant ask for a waiver because on rest of the street it is not that wide, and there is no reason to increase the width in only one area. The second thing is that a 21' right-of-way is required. 20' would exist, and Mr. Hoder suggested the applicant ask for a waiver since the difference is such a minimal amount. Mr. Brodsky stated that the applicant is requesting a waiver for both items. He stated that Atlantic Way has been that way for many years, and the applicant is not proposing to change it in any way.

Mr. Cunningham asked for any public comments.

Marie Banich, manager of SB Ocean House, LLC, owner of 536 Ocean Avenue, was sworn in to testify. Ms. Banich stated that after speaking with Tim Anfuso, the Sea Bright tax assessor, she sent materials to the Board secretary to be displayed at this evening's meeting. Ms. Kowalski, after clarifying the source of the spreadsheets, entered the following exhibits from Ms. Banich into the record:

A-1 Excel file entitled "OceanAvenueHouses.xlsx" derived from material downloaded from the Monmouth County Tax assessment website.

A-2 1342 demo 111704 derived from material downloaded from the Monmouth County Tax Assessment website, showing the town of Sea Bright

Exhibits A-1 and A-2 were shown on the computer screen. Ms. Banich explained that the exhibits show that on all properties north of McLoone's that have an Ocean Avenue address and appear to be single family residences, 786 to 154 Ocean Avenue, there is no single family residence lot that has an Ocean Avenue address that has a depth of less than 100 feet from Ocean Avenue, with one exception of 96 feet at 628 Ocean Avenue. She added that approving the reduction of the lot at 548 Ocean Avenue to a depth of 75 feet would set a precedent that could change the character of North Beach in Sea Bright. An approval opens the door for an increased number of small lots facing Ocean Avenue. In addition, it will allow for an increased number of lots overall, given that most all of the single family houses on Ocean Avenue are of a lot size that would accommodate subdivisions into multiple lots of 75' depth. Such an increase would have implications for Sea Bright infrastructure and support.

Ms. Kowalski stated that, for purposes of the record, the Board appreciates Ms. Banich's commentary, and the Board can certainly take it into consideration, but, because there are no variances required and the application is for a subdivision that legally meets the criteria set forth in the ordinances of Sea Bright, the application actually can't be denied.

There being no additional public nor Board comments, Councilman Leckstein offered a motion to approve the application based on the attorney's advice that the Board has no right but to approve the application. A second was offered by Board Chairman Cunningham, and the motion was adopted on the following roll call vote:

Ayes: Bills, Cashmore, Cunningham, DeGiulio, DeSio, Leckstein, Smith, Gorman

Nayes: none

New Application No. 2021-06

Michael and Glynis Burke

26 Waterview Way, Bl. 32, L. 4

Amended site plan approval and bulk and use variance relief to lift house and add interior and exterior renovations to previously approved plans

Chairman Cunningham stepped down from the Board because of family property listed on the 200' property list. Vice Chairman David Desio stepped in to chair for this application.

Councilman Leckstein stepped down from the Board because, as a member of the governing body, he may not be part of applications that include D Use variances.

Appearing on behalf of the application were attorney Rick Brodsky, Esq., architect Anthony Condouris, and owners Michael and Glynis Burke.

Exhibits offered for public inspection at least ten days prior to the meeting are as follows:

- Jurisdictional Packet, received 4/7/21
- Application, received 3/2/21
- Zoning Denial, dated 2/23/21
- Resolution memorialized 3/10/2020
- 8 Photos
- Architectural Plans prepared by Anthony Condouris, NJ State Lic # AI13804, dated 2/18/21, consisting of three (3) sheets

Board attorney Kowalski stated that the submission package has been reviewed, does meet requirements, and the Board can accept jurisdiction in this matter.

Mr. Brodsky introduced the application for 26 Waterview Way, located in the R2 zone. He stated that most Board members may recall the Board approved an application for renovation and additions for this existing two-family structure, a family residential home, back in March of 2020.

Michael and Glynis Burke are looking to occupy the two-story existing structure on a permanent basis, and the idea was to make it livable for them. There is also an existing cabana building located on the property, which is to remain. Variances with respect to expansion and pre-existing use, as well as bulk variances, were all approved last time. However, when the Burkes went to obtain building permits, it was determined that, since the anticipated cost of the renovation is going to exceed 51% of the assessed value, the Borough's requirement to comply with its flood regulations had to be met. While the original application did not propose raising the house, the Burkes would have to redesign and raise the house in order to comply with the flood regulations. The variances sought are the same as the March 2020 application. The zoning officer, when reviewing the plans, exercised discretion and decided that the plan should come back to the Board. She offered that the

applicants have to raise the house to comply with the flood elevation requirement. The flood elevation requirement for this flood zone is 13' above sea level.

Anthony Condouris, licensed architect in New Jersey since 1996, was sworn in to testify. Mr. DeSio stated that Mr. Condouris has appeared before this Board many times, and the Board would accept his credentials. There was no objection from the Board. Mr. Condouris shared the architectural plans on-screen for everyone to see.

He stated that the house didn't need to be raised to the height shown on the plans to meet the flood elevation requirement, but, by raising the house 2' above the required 13', parking will be able to be provided underneath the house. Two more off-street parking spaces will be added. The lot is fairly wide; so, there will actually be more parking spaces on the property.

After technical difficulties, the Board secretary shared the architectural plans on the screen.

Mr. Condouris continued. On page Z-2, the floor plans, he described some minor changes made. The footprint of the house remains exactly the same as it was. On the upper left corner of the plan an expansion of the kitchen is shown. About 4' was added to the kitchen. The kitchen was squared off. Also, because the house is being raised, stairs have to be added. There is one increase in the footprint because the staircases have to be bigger, because you have to be able to get down to the ground. In addition, with the house being raised, the owner would like to take advantage of some of the new views they would be gaining. So, the bedroom area and the kitchen area were switched. The kitchen and living areas are now on the top floor.

Dave DeSio asked for clarification on whether this home is being made into a two-family home. Mr. Brodsky answered that it was always a two-family home. The cabana structure in the back will remain a cabana. The applicants are losing their basement by raising the house, but they will pick up a little storage space by raising.

Mr. Brodsky added there had been D variance approval for a pre-existing non-conforming use in the first application. The front setbacks will also remain the same, and those were the only two variances associated with the prior application.

Mr. Condouris discussed floor plan page Z-3, the elevations. The house does comply with the height ordinance despite raising it.

Mr. DeSio asked, based on the amount of reframing that has to be done, if the house was going to be raised or is a new house being built on top of the new raised foundation. Mr. Condouris answered that the plan is to raise the existing house. Mr. DeSio asked whether it wouldn't be cheaper to just build a new house there, and it could be moved over a few feet so that it's not one foot off of the property line. He expressed his opinion that the cost to raise a house is a waste of money, and they could build a new house on a new foundation. Mr. Condouris explained that one thing they are trying to do is use the existing foundation. The applicants have had the cost of hiring a contractor, and he is ready to go.

Mr. Condouris introduced a new 3D exhibit. It was marked Exhibit A-1. Mr. Condouris exhibited the north facing elevation on the street, showing the new staircases that had to be extended. Then he showed the squaring off of the first-floor kitchen area. Attorney Kowalski clarified this as an expansion of the non-conforming use, and, from the zoning officer's perspective, additional square footage has been added. Mr. Brodsky agreed.

The meeting was opened to the public for questions.

Charlie Rooney, 196 Ocean Avenue, was sworn in. He stated that he lives about 25 yards away from Waterview Way and that Alice Gaffney, also a neighbor, is also attending the meeting. Mr. Rooney stated that he is speaking for everyone who lives around here. Everyone takes a lot of pride in our area, and we support the Burkes and their application.

Michael Butler, 52 North Way, stated that he has known the applicants for most of his life and has lived full-time in Sea Bright for 34 or 35 years. The Burkes are wonderful people, and he'll be happy to see them move into the neighborhood full-time. They, like Charlie Rooney said, want to make their house look nice, and it will be great for everybody.

Kathleen Franco, 30 Waterview Way, was sworn in. She stated that her great grandparents' house was built in 1932, and she has been friends with Charlie Rooney and Mike Butler for over 60 years. She has spent summers together with the Burkes, and it's welcoming to see them back in the neighborhood. Ms. Franco stated that this is a great project for their street and that cocktail hour is at 5:00.

The meeting was closed to the public, and Mr. Brodsky made a brief statement. He said that the Board saw fit to approve this application when it originally came before the Board a year ago. The revisions to the plan have been driven by the requirement to have the house raised. No new variances are associated with the application. There are going to be significant aesthetic improvements to the existing structure. The structure has been used as a two-family house for decades, if not generations.

Ms. Kowalski asked Mr. Brodsky if it would be safe to say that he is relying on the planning testimony that was previously presented for purposes of variance relief which was originally obtained to substantiate the D variance for this application. Mr. Brodsky answered affirmatively, and stated, as set forth in the prior resolution, and Ms. Kowalski affirmed that this is simply an amendment. Mr. Brodsky stated that he hopes the Board will see fit to approve the application again.

Board Comments and Questions:

Board member Stephen Cashmore stated that he wanted to bring up the fact that with the new height of the house, and the fact that the house is right on the property line, he would be more comfortable with the house centered, or if not centered, to at least meet the setback requirement of 7'. Ms Kowalski answered that, with regard to Mr. Cashmore's comment, the applicants have a prior grant for a variance on those setbacks. The setbacks themselves are not changing; so, the setbacks are really not an issue in this application. Technically, for the purposes of the application, the variances that were previously granted run with the land. The real variance here is additional square footage, which would be an expansion of a non-conforming use. The height itself does not violate the height requirement, and the only reason the applicants are here is because the cost of construction is over the 51% limit.

Board member Peggy Bills offered a motion to approve the application, with a second offered by acting Chairman David DeSio, and adoption on the following roll call vote:

Ayes: Bills, Cashmore, DeGiulio, DeSio, Smith, Gorman
Nays: none

Chairman Cunningham and Councilman Leckstein rejoined the Board.

CLOSING ITEMS

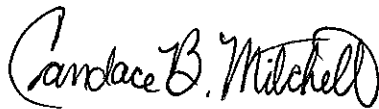
Meeting Announcement

There being no other public business before the Board and no general public comments, the Chairman announced the next regular meeting of the Planning Board is scheduled for April 27, 2021 at 7:30 p.m.

Adjournment

The meeting was adjourned at 8:55 p.m. on a motion offered by Peggy Bills, a second offered by Councilman Leckstein, and approval upon a unanimous voice vote by the Board members.

Respectfully submitted,

A handwritten signature in cursive script that reads "Candace B. Mitchell". The signature is written in black ink and is positioned above the printed name and title.

Candace B. Mitchell
Board Secretary