

**VILLAGE OF LOCH ARBOUR  
PLANNING BOARD  
MINUTES –REORGANIZATION MEETING**

**January 8, 2024**

**THE REORGANIZATION MEETING OF THE VILLAGE OF LOCH ARBOUR PLANNING BOARD WAS HELD IN THE VILLAGE OF LOCH ARBOUR MUNICIPAL BUILDING, 550 MAIN STREET, LOCH ARBOUR, NEW JERSEY ON MONDAY, JANUARY 8, 2024 AND WAS CALLED TO ORDER BY CHAIRPERSON, ROBERT FERNICOLA AT 6:30 PM.**

Salute to the Flag. The following members were sworn into office as a Member of the Planning Board of the Village of Loch Arbour and signed the Oath of Allegiance and Office.

- Carol Wilusz, as a Class IV (resident) Member for a 4-year term
- Remo Maisto as a Class IV (resident) Alternate Member for a 2-year term

THE SECRETARY CALLED THE ROLL. PRESENT WERE: Commissioner D’ Angelo, Mayor Fernicola, Ms. Appello, Mr. Cumiskey, Mr. R. Fernicola, Mr. Wiener, Ms. Wilusz, Mr. Santos, Mr. Maisto.  
ABSENT WERE: None

The Board Secretary announced that the notice requirements of C. 231, P.L. 1975, have been met by transmitting the notice of this rescheduled Reorganization and Regular Meeting to the Planning Board’s two designated newspapers on December 18, 2023 posting a copy of the notice on the Municipal Building bulletin board, and filing a copy of the notice with the Municipal Clerk on the same date.

**ELECTION OF OFFICERS**

**Resolution 2024-01: Nomination of Chairperson:** UPON MOTION of Mr. R. Fernicola, seconded by Ms. Appello, carried, that Robert Wiener be and he is hereby nominated to serve as Chairperson of the Planning Board for 2024. There were no further nominations.

WHEREAS, the need exists to appoint a Chairperson of the Village of Loch Arbour Planning Board.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Village of Loch Arbour that Robert Wiener be and he is hereby appointed as Chairperson for the term through December 31, 2024 and until his successor be appointed.

Recorded Vote:

Ayes: Commissioner D’ Angelo, Mayor Fernicola, Ms. Appello, Mr. Cumiskey, Mr. R. Fernicola, Mr. Wiener, Ms. Wilusz, Mr. Santos, Mr. Maisto      Nays: None      Absent: None

**Resolution 2024-02: Nomination of Vice-Chairperson:** UPON MOTION of Mayor Fernicola, seconded by Mr. R. Fernicola, carried, that Elizabeth Appello be and she is hereby nominated to serve as Vice Chairperson of the Planning Board for 2024. There were no further nominations.

WHEREAS, the need exists to appoint a Vice-Chairperson of the Village of Loch Arbour Planning Board.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Village of Loch Arbour that Elizabeth Appello be and she is hereby appointed as Vice-Chairperson for the term through December 31, 2024 and until her successor be appointed .

Recorded Vote:

Ayes: Commissioner D’ Angelo, Mayor Fernicola, Ms. Appello, Mr. Cumiskey, Mr. R. Fernicola, Mr. Wiener, Ms. Wilusz, Mr. Santos, Mr. Maisto      Nays: None      Absent: None

**Resolution 2024-03:** UPON MOTION of Ms. Appello, seconded by Mayor Fernicola, carried, that the following resolution be adopted:

BE IT RESOLVED by the Planning Board of the Village of Loch Arbour as follows:

Exhibit A-7: Email (OPRA Request) from Jennifer Krimko, Esq., to Village Clerk

Exhibit A-8: Email (OPRA Request) to Jennifer Krimko, Esq., from Village Clerk

Exhibit A-9: Copy of Village of Loch Arbour Ordinance 2022-475. Pages: 1,4,6,7,8,10,11,36.

The following Exhibits were marked into evidence:

Exhibit A-10: Village Ordinance 156 – (Section 417) pages 15/16 consisting of two pages.

Exhibit A-11: Amended Plans prepared by Robert Hazelrigg and Associates dated October 27, 2023.

Exhibit PB-1: Memorandum prepared by Samuel Avakian, PE., dated December 20, 2023, consisting of one page.

Jennifer Krimko, Esq., from the law firm Ansell, Grimm and Aaron, PC., Attorney for the owners at 101 Edgemont Drive, Loch Arbour appearing on their behalf. Ms. Krimko stated at the last meeting the Appeal was focused on. Ms. Krimko summarized.

Samuel Avakian, Planning Board Engineer, was sworn in. He referenced PB-1 and read the Memorandum he submitted to the Board. Mr. Avakian agrees this structure meets the definition in the IRC for a sunroom.

Ms. Krimko referenced Exhibit A-10 and read from Section 417(e) Building Permits and Procedure. She stated she will be referencing in her closing arguments.

UPON MOTION of Mr. Wiener, seconded by Mayor Fernicola carried the meeting be opened to the public for comments regarding this Application.

David Dweck, Euclid Avenue, was sworn in. Mr. Dweck asked if there was a process that could have happened that Mr. Avakian could have looked the file over and come to a decision, to alleviate the cost to the town. He believes there were mistakes made.

Jennifer Krimko stated this is an Appeal and his question should be directed to the Board of Commissioners, not the Planning Board.

Mayor Fernicola stated it is not a Commissioners issue, a lot of this issue is the contractor testified in July at the Commissioners Meeting that this was a cabana. He believes if the initial application was presented in a clearer fashion, this all could have been avoided.

Joseph McGrath, Zoning Officer, stated he disagrees with the characterization there were mistakes made by issuing the Stop Work Order. There was direct testimony by the builder that plumbing was installed. He spoke about the Flood Certificate. He stated it is the Zoning Officers obligation to know if the plans were deviated from and if they were to act upon same. It is the Boards decision if this structure is a cabana, based upon the testimony the contractor gave.

Mayor Fernicola stated construction was not consistent with what was approved in the plans that came before this Board.

Ms. Krimko stated the Stop Work Order does not allege that the plans deviated from the construction plans, it states the construction plans differed from the approved plans before the Planning Board. Ms. Krimko stated that is not the case.

The Board and Ms. Krimko discussed the inconsistencies in the plans.

UPON MOTION of Mr. Wiener, seconded by Commissioner D' Angelo, carried the meeting be closed to the public.

Recorded Vote:

Ayes: Commissioner D' Angelo, Mayor Fernicola, Ms. Appello, Mr. Wiener, Mr. Santos, Mr. Maisto

Nays: None

Absent: Mr. Cumiskey, Mr. R. Fernicola, Ms. Wilusz

Ms. Krimko offered her closing arguments for this Appeal. She read the allegations and presented all the proofs of why this Stop Work Order should be overturned and allow the work to continue, pursuant to the Construction Plans.

The Board discussed the Appeal. Mayor Fernicola stated he does not agree with the argument that it does not constitute to be a cabana as it is same elevation as the pool and not the house, and it is not connected, via a doorway, to the house. He acknowledges that is how it was depicted on the plans and approved in 2021. Mayor Fernicola stated this could have been avoided if the testimony had been clear. He spoke about the process, to which, the Village handles Applications for a Certificate of Appropriateness. Mayor Fernicola stated granting this, has limited precedence value, because this property is unique.

UPON MOTION OF Mayor Fernicola, seconded by Commissioner D' Angelo, carried the Stop Work Order be lifted, and grant the approval to continue based upon the plans that were approved by the Planning Board by Resolution on October 20, 2021. The Resolution will be memorialized at the next Planning Board Meeting scheduled for February 14, 2024.

Recorded Vote:

Ayes: Commissioner D' Angelo, Mayor Fernicola, Ms. Appello, Mr. Wiener, Mr. Santos, Mr. Maisto

Nays: None

Absent: Mr. Cumiskey, Mr. R. Fernicola, Ms. Wilusz

Ms. Krimko discussed the Application for an Amendment to Certificate of Appropriateness to make a change to the exterior of the structure.

Thomas Lavin, Architect, referenced Exhibit A-11. Mr. Lavin testified there were 3 windows on the west elevation. Mr. Lavin testified the applicant is proposing to remove 1 horizontal window and 1 vertical window, due to the structural engineer determining these windows are not able to be installed.

The Board discussed. Mr. Lavin testified that there would be one window left on the west elevation wall. Mr. Lavin testified the structure still qualifies as a sunroom as per the definition.

Ms. Krimko referenced Sheet P1.3 in Exhibit A-11. Mr. Lavin testified the horizontal window is higher than 4 feet on the plan, which he stated architectural plans never show any windows that are more than 4 feet of the floor. (skylights) It was shown on the elevation, but not on the plans. The Board questioned same. Mr. Lavin also testified the original plans did not show the structural pocket for where the sliding glass door would go.

Mr. Lavin testified when the structural engineer prepared the structural drawings, there needed to be more space and had to lower the steel beam to support the roof. Mr. Lavin testified the original coverage with the windows was approximately 63% and with the amended plans it is 57%, which still qualifies as a sunroom.

UPON MOTION of Mr. Wiener, seconded by Ms. Appello, carried the meeting be opened to the public. There being no comments/questions, UPON MOTION of Mr. Wiener, seconded by Commissioners D' Angelo, the meeting be closed to the public.

Recorded Vote:

Ayes: Commissioner D' Angelo, Mayor Fernicola, Ms. Appello, Mr. Wiener, Mr. Santos, Mr. Maisto

Nays: None

Absent: Mr. Cumiskey, Mr. R. Fernicola, Ms. Wilusz

Ms. Krimko summarized the proposed Amendments to the Certificate of Appropriateness.

UPON MOTION of Ms. Appello, seconded by Mayor Fernicola, carried that Amendment to the Certificate of Appropriateness is hereby granted. The Resolution will be memorialized at the next Planning Board Meeting scheduled for February 14, 2024.

Recorded Vote:

Ayes: Commissioner D' Angelo, Mayor Fernicola, Ms. Appello, Mr. Wiener, Mr. Santos, Mr. Maisto  
Nays: None Absent: Mr. Cumiskey, Mr. R. Fernicola, Ms. Wilusz

### **NEW BUSINESS**

#### **A. Resolution 2024-07: Planning Board Annual Report –**

**UPON MOTION** of Mayor Fernicola, seconded by Ms. Appello, carried the following Resolution be adopted:

**WHEREAS**, the Planning Board is required, pursuant to N.J.S.A 40:55D-70.1 and 40:55D-25 c. to review at least once a year its decisions on applications and appeals for variances, and to prepare and adopt by Resolution a report on its findings on Zoning Ordinances provisions which were subject of variance requests and its recommendations for Zoning Ordinances amendments or revision, if any; and,

**WHEREAS**, the Board has prepared a report, has discussed the same and finds the report to be proper.

**NOW, THEREFORE, BE IT RESOLVED**, by the Planning Board of the Planning Board of the Village of Loch Arbour as follows:

The report, a copy which is attached hereto and incorporated herein, is approved.

The Chairman of the Board is hereby authorized to execute the report.

A copy of the report and the herein Resolution shall be forwarded to the Mayor and Board of Commissioners.

Recorded Vote:

Ayes: Commissioner D' Angelo, Mayor Fernicola, Ms. Appello, Mr. Wiener, Mr. Santos, Mr. Maisto  
Nays: None Absent: Mr. Cumiskey, Mr. R. Fernicola, Ms. Wilusz

**Mayor Fernicola stepped down from the dais.**

#### **B. Resolution : Village Ordinance 2024-492**

**UPON MOTION** of Ms. Appello, seconded by Ms. Wilusz, carried that the following resolution be adopted:

**WHEREAS**, the Planning Board of the Village of Loch Arbour, New Jersey conducted a meeting on January 8, 2024, at which time there was a discussion regarding Village of Loch Arbour Ordinance #2024-492, which was introduced by the Village of Loch Arbour Board of Commissioners on first reading at their regular meeting held January 3, 2024;

#### **Ordinance #2024-492**

**AN ORDINANCE AMENDING AND SUPPLEMENTING ORDINANCE NO. 156, AND ORDINANCE 2022-480 ENTITLED "AN ORDINANCE ESTABLISHING LAND USE DEVELOPMENT REGULATIONS (CHAPTER 291, P.L. 1975) AMENDING ORDINANCE 156, ARTICLE 4, (417D) AND ORDINANCE 2022-480 ENTITLED 'PERMITS' FOR THE VILLAGE OF LOCH ARBOUR, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY."**

**WHEREAS**, the Board considered Ordinance #2024-492 to determine if said Ordinance is consistent with the Village of Loch Arbour Master Plan; and

**NOW THEREFORE, BE IT RESOLVED**, by the Planning Board of the Village of Loch Arbour, that the Secretary of the Planning Board be and she hereby is authorized and directed to transmit this Resolution, to the Clerk of the Village of Loch Arbour, New Jersey confirming the Planning Board determined Ordinance #2024-492 is consistent with the Village of Loch Arbour Master Plan.

Recorded Vote:

Ayes: Ms. Appello, Mr. Wiener, Ms. Wilusz, Mr. Santos, Mr. Maisto  
Nays: None Absent: Mr. Cumiskey, Mr. R. Fernicola,  
Abstain: Commissioner D' Angelo, Mayor Fernicola

**c. Resolution: Village Ordinance 2023-489 and Village Ordinance 2024-494**

UPON MOTION of Mr. Wiener, seconded by Ms. Wilusz, carried that the following resolution be adopted:

WHEREAS, the Planning Board of the Village of Loch Arbour, New Jersey conducted a meeting on January 8, 2024, at which time there was a discussion regarding Village of Loch Arbour Ordinance #2023-489 (adopted in 2023) and Ordinance #2024-494, which was introduced by the Village of Loch Arbour Board of Commissioners on first reading at their regular meeting held January 3, 2024;

## ORDINANCE 2023-489

AN ORDINANCE ENTITLED “AN ORDINANCE ESTABLISHING A “PROTECTION OF TREES” IN THE  
VILLAGE OF LOCH ARBOUR, COUNTY OF MONMOUTH

## ORDINANCE 2024-494

AN ORDINANCE AMENDING AND SUPPLEMENTING ORDINANCE 2023-487 ENTITLED “AN ORDINANCE ESTABLISHING A “PROTECTION OF TREES” IN THE VILLAGE OF LOCH ARBOUR, COUNTY OF MONMOUTH

WHEREAS, the Board considered Ordinance #2023-489 and Ordinance #2024-494 to determine if said Ordinance is consistent with the Village of Loch Arbour Master Plan; and

NOW THEREFORE, BE IT RESOLVED, by the Planning Board of the Village of Loch Arbour, that the Secretary of the Planning Board be and she hereby is authorized and directed to transmit this Resolution, to the Clerk of the Village of Loch Arbour, New Jersey confirming the Planning Board determined Ordinance 2023-489 and Ordinance #2024-494 is consistent with the Village of Loch Arbour Master Plan.

Recorded Vote:

**Ayes:** Ms. Appello, Mr. Wiener, Ms. Wilusz, Mr. Maisto

Nays: None

**Absent:** Mr. Cumiskey, Mr. R. Fernicola,

**Abstain: Commissioner D' Angelo, Mayor Fernicola, Mr. Santos**

D. 112 Euclid Avenue, Block 9, Lot 2

An Application was received on behalf of Mr. Brian Cumiskey requesting approval from the Planning Board for an addition of a detached 12 foot by 24 foot accessory structure in the rear yard of an existing single-family lot. The improvements require variances for building coverage and rear yard setback.

E. 112 Euclid Avenue, Block 9, Lot 2 (Major Alteration)

An Application for Certificate of Appropriateness was received regarding 112 Euclid Avenue, Loch Arbour, New Jersey.

Robert Witek, Esq., from the law firm of Resnikoff, Resnikoff and Witek, PC Attorney for the owner at 112 Euclid Avenue. Mr. Witek summarized the application.

Jonathan Wolfe, Architect, was sworn in. The Board qualified him as an expert witness with regards to Architecture.

Exhibit A-1: Architecture Plans prepared by Jonathan Wolfe dated December 6, 2022, consisting of 1 page.

Mr. Wolfe testified his client is requesting approval to install a storage shed in his backyard. The structure would be 12 x 24 - foot accessory structure. The rear of the site is the only place the structure would fit. He testified there is no garage on the property. The shed would primarily be used for storage. Recreational items, etc.

Mr. Wolfe testified it is common on this particular block and in the Village that the properties have garages. Mr. Wolfe stated it is being proposed that there will be electrical service installed, but no plumbing. Mr. Wolfe referenced the Village Historic Preservation Ordinance and testified that the shed would be historic in design and be consistent with the HPO. Mr. Wolfe stated there is no access for a vehicle to get back to the shed.

Sam Avakian, Planning Board Engineer, was sworn in. Mr. Avakian discussed with the Board the 2 variances that are being sought. Rear Yard Setback and building coverage. Mr. Avakian testified to the calculations of the total coverage of the existing and the proposed coverage. Mr. Avakian confirmed the principal structure – no change. Mr. Avakian discussed the coverage calculations with Mr. Wolfe. Mr. Avakian confirmed the rear yard setback is 25 feet for an accessory structure.

Mr. Avakian confirmed the total coverage is 52.3%.

Mr. Wolfe testified the intention was to bring the coverage for accessory up to 20%. Mr. Avakian discussed with Mr. Wolfe. The total coverage is over the allowable percentage.

The Board and Mr. Wolfe discussed the adjacent properties around Mr. Cumiskey's home. Mr. Wolfe testified the properties on Mr. Cumiskey's block have similar coverage and have similar accessory structures. Mr. Wolfe stated the design of the shed is a similar style of the home.

Mr. Wiener discussed coverage issues within the Village, and setting a precedence with granting variances for coverage. The Board and Professionals discussed. Mr. Aikins and Mr. Witek discussed a C-1 Hardship Criteria with the Board.

Mr. Wiener suggested coming before the Board again and bring other examples within the area, with similar size and setbacks for accessory structures.

Brian Cumiskey was sworn in. Mr. Cumiskey owns the property at 112 Euclid Avenue. He testified his lot is an undersized lot. Mr. Cumiskey stated to the west of him there is a carriage house, and to the east are all garages. He testified they are all located on the back property line. Mr. Cumiskey testified the design of the shed matches the design of his home.

Ms. Appello spoke to Mr. Cumiskey about the placement of the shed being parallel, and not the direction that a detached garage would be. Mr. Wolfe testified the property is long and it is not a right angle at the back of the property line. Mr. Wolfe believes the structure should be parallel with the structure of the home. Mr. Wolfe testified there is a roll-up door on the west side of the structure and there are two sliding glass doors facing the home. Ms. Appello stated this does not look like a shed.

The Board and the applicant spoke about trying to decrease the coverage. Mr. Cumiskey proposed the sidewalk to the west of the home be removed.

Mr. Wolfe testified the shed would not be seen by any angle from Euclid Avenue.

Mr. Aikins discussed with the Board the application. Mr. Witek spoke to the Board about coming before the Board again with a Planner. Mr. Avakian spoke about the coverage issue and the rear setback.

The Board concluded they are having issues granting the coverage variance, the Board would like more evidence of what is around the area of this home. The Board also has an issue with the sliding glass doors, and it not looking like a shed.



It was confirmed that this application will be carried to the next Loch Arbour Planning Board Meeting scheduled for March 13, 2024 at 7:00 p.m. This shall also confirm the Applicant and their Attorney extend the time to make a decision regarding this matter.

**DISCUSSION -**

**A. PENDING APPLICATIONS –**

**a. 115 Euclid Avenue, Block 7, Lot 5**

**Variance/Certificate of Appropriateness**

**This matter is being scheduled for February 14, 2024 at 7:00 pm**

**B. Next Planning Board Meeting is scheduled for Wednesday, February 14, 2024 at 7:00 p.m.**

**PUBLIC COMMENTS**

UPON MOTION of Mr. Wiener, seconded by Commissioner D' Angelo, carried that the meeting be opening to the public.

David Dweck, inquired why there is not one Board Member on the Planning Board from the Syrian Community.

Joseph McGrath, commented to the Board when an application is before the Board regarding a Notice of Appeal. Mr. McGrath thanked the Board for all their support for the years that he worked for the Village as the Zoning/Code Enforcement Officer.

The Board Thanked Mr. McGrath for all his hard work.

UPON MOTION Mr. Wiener, seconded by Ms. Wilusz, carried the meeting be closed to the public.

There being no further business, and UPON MOTION of Mr. Wiener, seconded by Ms. Wilusz, carried that the meeting be adjourned at 8:40 p.m.

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Marilyn Simons, Board Secretary