

**VILLAGE OF LOCH ARBOUR
PLANNING BOARD
MINUTES –REORGANIZATION MEETING
January 15, 2020**

THE REORGANIZATION MEETING OF THE VILLAGE OF LOCH ARBOUR PLANNING BOARD WAS HELD IN THE VILLAGE OF LOCH ARBOUR MUNICIPAL BUILDING, 550 MAIN STREET, ON WEDNESDAY, JANUARY 15, 2020 AND WAS CALLED TO ORDER BY MAYOR PAUL V. FERNICOLA AT 7:30 PM.

The Mayor announced the lawsuit known as Michael & Gila Goodman vs. The Village of Loch Arbour to invalidate the Village of Loch Arbour Historic Preservation Ordinance, was ruled on and the Judge found in favor of Loch Arbour and dismissed the lawsuit.

FOLLOWING THE 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.

- Mary Gosline, as a Class IV (resident) Member for a 4-year term
- Remo Maisto, Jr. as a Class IV (resident) Alternate Member for a 2-year term

THE SECRETARY CALLED THE ROLL. PRESENT WERE: Mayor Fernicola, Ms. Appello, Ms. Gosline, Mr. Wiener, Mr. Santos, Mr. Maisto. Commissioner D’ Angelo, Mr. R. Fernicola, Ms. Wilusz were absent.

The Board Secretary announced that the notice requirements of C. 231, P.L. 1975, have been met by transmitting the notice of this Reorganization and Regular Meeting to the Planning Board’s two designated newspapers on January 21, 2019, 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 2020-01: Nomination of Chairperson: UPON MOTION of Mayor Fernicola, seconded by Ms. Appello, carried, that Robert Fernicola be and he is hereby nominated to serve as Chairperson of the Planning Board for 2020. 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 Fernicola be and he is hereby appointed as Chairperson for the term through December 31, 2020 and until his successor be appointed.

Recorded Vote:

Ayes: Mayor Fernicola, Ms. Appello, Ms. Gosline, Mr. Wiener, Mr. Santos, Mr. Maisto

Nays: None

Absent: Commissioner D’ Angelo, Mr. R. Fernicola, Ms. Wilusz

Resolution 2020-02: Nomination of Vice-Chairperson: UPON MOTION of Mayor Fernicola, seconded by Mr. Wiener, carried, that Elizabeth Appello be and she is hereby nominated to serve as Vice Chairperson of the Planning Board for 2020. 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, 2020 and until her successor be appointed .

Recorded Vote:

Ayes: Mayor Fernicola, Ms. Gosline, Mr. Wiener, Mr. Santos, Mr. Maisto

Nays: None

Abstain: Ms. Appello

Absent: Commissioner D’ Angelo, Mr. R. Fernicola, Ms. Wilusz

**MINUTES – REORGANIZATION MEETING
January 15, 2020**

(continued)

Resolution 2020-03: UPON MOTION of Mayor Fernicola, seconded by Ms. Appello, carried, that the following resolution be adopted:

WHEREAS, the need exists for the appointment of an Attorney to serve the Village of Loch Arbour Planning Board; and,

WHEREAS, funds are available for this purpose, and the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the resolution authorizing the appointment without competitive bids must be publicly advertised.

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

1. The Planning Board is hereby authorized and directed to engage the services of Sanford D. Brown, Esq. as Planning Board Attorney for the term through December 31, 2020 and until his successor be duly appointed.
2. This appointment is made without competitive bidding because it involves a member of a recognized profession, licensed and regulated by law, and is therefore exempt under N.J.S.A. 40A:11-5.
3. A copy of this resolution shall be published within ten (10) days of its passage as required by law.
4. Compensation shall be at the rate of \$150 per hour and \$150 per hour for litigation.

Recorded Vote:

Ayes: Mayor Fernicola, Ms. Appello, Ms. Gosline, Mr. Wiener, Mr. Santos, Mr. Maisto

Nays: None

Absent: Commissioner D' Angelo, Mr. R. Fernicola, Ms. Wilusz

Resolution 2020-04: UPON MOTION of Mayor Fernicola, seconded by Ms. Appello, carried, that the following resolution be adopted:

WHEREAS, the need exists for the appointment of an Engineer and Planner to serve the Village of Loch Arbour Planning Board; and,

WHEREAS, funds are available for this purpose, and the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the resolution authorizing the appointment without competitive bids must be publicly advertised.

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

1. The Planning Board is hereby authorized and directed to engage the services of Peter R. Avakian, PE as Planning Board Engineer and Planner for the term through December 31, 2020 and until his successor be duly appointed.
2. This appointment is made without competitive bidding because it involves a member of a recognized profession, licensed and regulated by law, and is therefore exempt under N.J.S.A. 40A:11-5.
3. A copy of this resolution shall be published within ten (10) days of its passage as required by law.
4. Compensation shall be at the 2020 schedule of rates as supplied.

Recorded Vote:

Ayes: Mayor Fernicola, Ms. Appello, Ms. Gosline, Mr. Wiener, Mr. Santos, Mr. Maisto

Nays: None

Absent: Commissioner D' Angelo, Mr. R. Fernicola, Ms. Wilusz

Resolution 2020-05: UPON MOTION of Mayor Fernicola, seconded by Mr. Wiener, carried, that the following resolution be adopted:

WHEREAS, the need exists for a Secretary to serve the Village of Loch Arbour Planning Board.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Village of Loch Arbour that Marilyn Simons be and she is hereby appointed as Secretary to the Planning Board for the term through December 31, 2020 and until her successor be duly appointed, at the rate in the Village of Loch Arbour salary ordinance and resolutions.

Recorded Vote:

Ayes: Mayor Fernicola, Ms. Appello, Ms. Gosline, Mr. Wiener, Mr. Santos, Mr. Maisto

Nays: None

Absent: Commissioner D' Angelo, Mr. R. Fernicola, Ms. Wilusz

Resolution 2020-06: UPON MOTION of Mayor Fernicola, seconded by Ms. Appello, carried, that the following resolution be adopted:

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

1. Regular meetings of the Planning Board, when necessary, will be held at 7:30 PM on the third Wednesday of each month. Executive sessions, when necessary, will be held at 7:00 PM on the same evenings. All regular meetings and executive sessions will be held at the Village of Loch Arbour Municipal Building, 550 Main Street, Loch Arbour.
2. The public may not participate in the executive session, but may be present.
3. Participation by the public at regular meetings shall be at such time and place as set forth in the Agenda of the meetings at the direction of the presiding officer.

BE IT FURTHER RESOLVED that the 2021 Reorganization Meeting is hereby scheduled for January 20, 2021.

BE IT FURTHER RESOLVED that The Asbury Park Press and The Coaster are hereby designated as official newspapers for notices. Such notices shall be sent to one or all under the provisions of the Open Public Meetings Act.

BE IT FURTHER RESOLVED that a copy of this resolution shall be published within ten (10) days of its passage as required by law.

Recorded Vote:

Ayes: Mayor Fernicola, Ms. Appello, Ms. Gosline, Mr. Wiener, Mr. Santos, Mr. Maisto

Nays: None

Absent: Commissioner D' Angelo, Mr. R. Fernicola, Ms. Wilusz

There being no further business, and UPON MOTION of Mayor Fernicola, seconded by Mr. Wiener, carried, that the Reorganization Meeting be adjourned. The Board immediately began the Regular Meeting .

AGENDA – REGULAR MEETING

CORRESPONDENCE – None

OLD BUSINESS –

RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF LOCH ARBOUR REGARDING 205 EDMONT, LLC DENYING USE AND BULK VARIANCES

WHEREAS, 205 Edgemont, LLC (hereinafter referred to as “Applicant”), as the owner of property located at 205 Edgemont Drive in the Village of Loch Arbour designated as Block 10, Lot 11 on the Tax Map of the Village of Loch Arbour (the “Property”) has filed the application subject of this Resolution; and

WHEREAS, the Village of Loch Arbour Planning Board pursuant its power granted under N.J.S.A. 40:55-25c to act as a board of adjustment (the “Board”) has considered this matter; and

WHEREAS, the Applicant filed for a use variance and site plan approval with bulk variance relief; and

WHEREAS, a review of the notices and publication indicate that the Board has jurisdiction to hear this application; and

WHEREAS, a hearing was held on November 27, 2019, and all interested parties were given an opportunity to be heard and express their opinions; and

WHEREAS, the Board and professional staff reviewed the materials submitted and the Board reviewed and carefully considered the reports of Planning Board Engineer and Planner, Peter R. Avakian, P.E. PP, revised through October 28, 2019, as well as all of the evidence and testimony from the Applicant and Applicant’s expert witnesses and from the Board’s Engineer and Planner;

WHEREAS, the Board has made the following findings:

1. The Property is known as 205 Edgemont Drive in the Village of Loch Arbour and is located in Block 10, Lot 11 on the municipal tax map.
2. The Property is located in the Village Residential Zone.
3. The Applicant had previously appealed the Village Zoning Officer’s determination that a pre-existing non-conforming six-unit apartment use in the Building on the Property has been abandoned. The Board affirmed the Zoning Officer’s decision after a hearing on the matter on October 16, 2019.
4. The Applicant is now requesting a use variance and site plan approval and bulk variances for this apartment building.
5. Applicant is proposing to renovate the existing Building and create three (3) apartment units. In accordance with Ordinance Section 704.B. “Principal permitted use on the land and in Buildings” do not list apartment units as a permitted use. A use variance (D1) is required:

l) **Criteria for Use Variance Relief**

This application requires a use variance pursuant to N.J.S.A. 40:55D-70.d(1). The Applicant has the affirmative duty to demonstrate that the application satisfies the positive and negative criteria of the Municipal Land Use Law for the granting of the use variance relief. Consequently, the Applicant must demonstrate the following:

a) Positive Criteria

- (1) That the site is particularly suited to the use.
- (2) There are special reasons that allow a departure from the Zoning regulations in this particular case. In general, to show special reason, the grant of a variance must be shown to implement one or more of the purposes of the Municipal Land Use Law (N.J.S.A. 40:55D-2

b) Negative Criteria

- (1) That the variance can be granted without substantial detriment to the public good. This requires an evaluation of the impact of the proposed use on surrounding properties and a determination as to whether or not it causes such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.
- (2) That the variance will not substantially impair the intent and the purpose of the Zoning plan and ordinance. The Applicant is required to provide an enhanced quality of proof that the use variances sought is not inconsistent with the intent and purpose of the master plan and zoning ordinance.

6. In accordance with the Ordinance Section 704.D., Building Height, “For all permissible uses- no building shall exceed 35 feet in height nor contain more than two-stories above grade”. The existing building height is 38.0 feet, which represents an existing non-conformity. The existing building has three-stories, which represents an existing non-conformity. The proposed historical architecture feature is 3.58 feet above the ridge line. This architectural feature is not included in the building height calculation. The new ordinance for building height and number of stories was adopted after the application was submitted to the Board.

7. In accordance with Ordinance Section 704.E.1., the minimum lot width permitted per the zoned district is 75 feet. The existing lot has a width of 50 feet, which represents an existing non-conformity.

8. In accordance with Ordinance Section 704.E.2, the minimum lot depth permitted per the zoned district is 100 feet. The existing lot has a depth of 151 feet, which conforms.

9. In accordance with Ordinance Section 704.E.3, the minimum lot area permitted per the zoned district is 7,500 square feet. The existing lot area is 7,676 square feet, which conforms.

10. In accordance with Ordinance Section 704.E.4, the minimum side yard setback per the zoned district is 5 feet. The existing building west side yard setback is 7.5 feet to the bay windows and the east side yard setback is 1.4 feet, to the porch. The west side yard setback conforms, but the east side yard setback represents an existing non-conformity. The roof overhang is part of the Building and should comply with the side yard setback requirements. The existing side yard setback to the roof overhang is 7.3 feet on the west side and 0.9 feet on the east side. The west side yard setback conforms, but the east side yard setback represents an existing non-conformity.

11. In accordance with Ordinance Section 704.E.5, the minimum rear yard setback per the zoned district is 25 feet. The existing rear yard setback is 20.1 feet, which represents an existing non-conformity. The Applicant is proposing a rear yard setback of 31.1 feet to the roof overhang, which conforms.

12. In accordance with Ordinance Section 704.E.6, the minimum front yard setback shall not increase or decrease the pronounced uniformity of the street front alignment of the existing buildings and in the depths of the existing front yards. The Applicant has provided the average setback of 21.3 feet. The existing front yard setback to the porch is 18.2 feet, which represents an existing non-conformity. The front yard setback to the front steps is 13.1 feet, which represents an existing non-conformity. The proposed front yard setback to the second and third stories is 21.9 feet, which conforms.

13. In accordance with Ordinance Section 704.E.7, the maximum building coverage is twenty percent (20%) of the lot may be occupied by the principal use or structure. The existing building coverage is 51.17%, which represents an existing non-conformity. The Applicant proposed a building coverage of 47.08%, which is reducing the coverage due to the removal at the rear of the dwelling. A variance is required. An additional twenty percent (20%) of the lot may be occupied by all other buildings or structures which constitute building coverage. The existing lot coverage is 16.47%, which conforms. The Applicant proposed a lot coverage of 30.33%. A variance is required. The maximum building coverage ordinance regulation also stipulates that in no event shall the total lot coverage exceed 40% of the lot area. The existing total lot coverage is 67.6%, which represents an existing non-conformity. The Applicant proposed total lot coverage of 77.41% and therefore a variance is required.

14. The applicability of the Residential Site Improvement Standards (RSIS) was debated during the hearing. RSIS requires 2.0 parking spaces per each two-bedroom apartment and requires 2.1 parking spaces per each three bedroom apartment. The Applicant utilized "garden apartments" as the standard for determining required parking spaces. RSIS does not indicate the number of parking spaces for a four-bedroom garden apartment. The Applicant is proposing one (1) apartment unit with two bedrooms and two (2) apartment units with four bedrooms. The Applicant proposed a total of six parking spaces. The Applicant proposed three parking spaces in the rear yard and three parking spaces within the rear of the Building. Testimony was provided at the hearing by the Board Planner/Engineer questioning the applicability of RSIS as interpreted by the Applicant and more particularly questioned the adequacy of parking space proposed. The Applicant failed to meet its burden of proof on this point.

15. The Applicant offered on site screening of parking spaces. The Board Engineer/Planner noted that vehicle traffic and parking patterns would direct headlights toward adjacent residential properties. Testimony was provided at the hearing by Applicant contending that screening would be provided with regard to shielding these headlights.

16. In accordance with Ordinance Section 614, all area lighting shall provide translucent fixtures with shields around the light source. The light intensity provided at ground level shall average a maximum of five-tenths foot candle over the entire area. The Board Engineer's review of the Applicant's lighting plan indicated spillage onto residential properties to the east, north and west. If the application was approved, the Applicant would have needed to modify or screen to avoid spillage onto adjacent properties.

17. As to drainage and grading, the proposed improvement to the Property is not defined as a major development because it does not disturb more than one acre and did not increase the impervious coverage by one-quarter acre or more. Therefore, the storm water management regulations of N.J.A.C. 7.8 do not apply. The Applicant proposed a drywell for the clean roof runoff and sized to capture the storm water volume generated by the increase in impervious surfaces proposed. If the application was approved, the storm water report had to include a soil boring indicating seasonal high-water table elevation and permeability rate of the soil.

18. The Applicant's storm water report indicated the proposed drainage pattern and proposed off-site storm water flows would remain close to the same. The Applicant failed to provide grading to further reduce the storm water flows to the adjacent rear lots as recommended by the Board Engineer.

19. Regarding Flood Hazard Regulations, the Property is currently located in the Zone AE 10. In accordance with Ordinance #O-2013-386 Section 5.2-1[a] new construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated at or above the base flood elevation or advisory base flood elevation whichever is more restrictive, plus 1 foot. The Applicant proposed a finish first floor elevation of 12.3 feet, which is 2.3 feet above the Zone AE Elevation 10.

20. The Applicant proposed to backfill the existing cellar to height of the existing outside adjacent grade. The Applicant also proposed to remove all utilities and to be relocated to individual units.

21. The Applicant failed to provide the requisite enhanced quality of proof for entitlement of a variance pursuant to N.J.S.A. 40:55D-d(1) for the proposed non-inherently beneficial use.

22. As to the positive criteria, the Applicant failed to prove that the site is particularly suited to the proposed use.

23. The Applicant failed to prove that granting the proposed use would implement one or more of the purposes of the New Jersey Municipal Land Use Law.

24. The Applicant failed to prove that the use variance can be granted without substantial detriment to the public good as the granting the use would cause such damage to the character of the single family residence neighborhood would constitute a substantial detriment to the public good.

25. The Applicant failed to prove that granting the variance will not substantially impair the intent and the purpose of the Zoning plan and ordinance or that granting the use variance sought would not inconsistent with the intent and purpose of the master plan and zoning ordinance.

26. The Applicant failed to prove entitlement to the bulk variances requested under N.J.S.A. 40:55D-70c.

27. The Applicant failed to prove that the benefits of allowing such deviations would substantially outweigh the detriments in order to allow for the departure from the applicable regulations.

28. The Applicant failed to prove that granting the various bulk variances would not substantially impair the intent and the purpose of the Zoning plan and ordinance or would be inconsistent with the intent and purpose of the master plan and zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED, based upon the evidence and findings contained herein the application of 205 Edgemont, LLC is denied.

AYES: Antonio Santos

NAYS: None

ABSTAIN: None

ABSENT: None

**RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF LOCH ARBOUR
REGARDING APPLICATION FOR CERTIFICATE OF APPROPRIATENESS
BY MR & MRS JOSEPH MANOPLA FOR
PROPERTY LOCATED AT 206 Euclid Ave.**

WHEREAS, Mr. & Mrs. Joseph Manopla (hereinafter “Applicant”) have applied to the Planning Board of the Village of Loch Arbour for approval of a Certificate of Appropriateness for premises located at 206 Euclid Ave., Village of Loch Arbour and known as Block 10, Lot 2 on the tax map of the Village of Loch Arbour, which premises are in the Residential Zone; and

WHEREAS, a review of the notices and publication indicate that the Board has jurisdiction to hear this application; and

WHEREAS, a hearing was held on December 17, 2019, and all interested parties were given an opportunity to be heard and express their opinions; and

WHEREAS, the Board reviewed the materials submitted; and

WHEREAS, the Board, after carefully considering the evidence presented by Applicant and Applicant’s expert, the Project Architect, has made the following factual findings:

1. The Applicant filed an Application for Certificate of Appropriateness to request approval from the Planning Board for the construction of a rear second floor addition to Applicant’s single-family dwelling on the Property.

2. The Applicant is the owner of the property located at 206 Euclid Avenue known as Lot 2 and 18 in Block 10 on the municipal tax map of the Village of Loch Arbour, County of Monmouth, and State of New Jersey, which property is located in the Residential Zone.

3. The Board considered all relevant criteria under the Municipal Historic Preservation Ordinance #2018-450, based on the testimony of the Applicant’s architect and more particularly under Section 7.2.

4. At the hearing, the Applicant’s attorney entered into evidence Exhibits which were relied upon by the Board in making its findings including pictures of the existing home and additionally, but not limited to:

Sealed Plans by Robert A. Hazelrigg & Associates, Architects, revised 10/18/19 (Sheets A1.1 through A1.4) of the proposed second floor rear addition to be constructed.

5. Findings under the Ordinance Criteria (mentioned by number as listed in the Ordinance) (for the purposes of this Resolution, “Work “or “New Structure” means the proposed addition as more specifically substantiated by testimony at the hearing and the comments by the Board at the hearing) are as follows:

(1) The Work will be compatible with existing structures, landscaping and streetscapes within the District because the general appearance is similar.

(2) The Work will not adversely affect the ambience, character, and appearance of the District and the relationships among structures and between structures and public ways in the District as same will conform to the area and the addition cannot be seen from the street.

(4) The Work will not result in structural elements that are out of scale the other structural elements in the surrounding area as the height requirements comply and the structure in relation to the size of the lot is not bulky.

(5) The New Structure will be visually compatible with the structures and places to which it is visually related as the structures which are historic in the District are similar to the new structure.

(6) The height of the roof of the New Structure will be visually compatible with adjacent structures as the roof is within the height limit in the Zone as testified to by the Project Architect and which must be verified post construction, with a sealed/certified “As Built” submitted to the Board Engineer for his approval verifying the height complies with the Ordinance.

(7) The relationship of the width of the New Structure to the height of the front elevation will be visually compatible with structures and places to which it is visually related as the New Structure is no wider than the existing frontage and it is in the rear and cannot be seen.

(8) The relationship of the width of the windows to the height of windows in the New Structure will be compatible with the structures and places to which it is visually related as no existing windows are being replaced and the new windows are compatible.

(10) The relationship of the New Structure to the open space between it and adjoining structures will be visually compatible with the structures and places to which it is visually related as well as being within the setbacks.

(12) The relationship of materials and texture of the facade and roof of the New Structure will be visually compatible with the predominant materials used in the structures to which it is visually related as it will be the same as the existing structure and the historic surrounding homes are similar.

(13) The roof shape of the New Structure will be visually compatible with structures to which it is visually related, again in relation to the existing structure and also nearby historic homes.

(15) The size of the New Structure, the mass of the New Structure in relation to open spaces, and the windows, door openings, porches and balconies will be visually compatible with the structures and places to which it is visually related as the historic houses on the street have similar characteristics.

(24) The siding on the New Structure is acceptable as it is appropriate for the period of the building's construction and will not detract from the character of the District and it will be the same as the existing structure.

(25) The windows in the New Structure are properly divided in terms of the number of lites or panes appropriate to the style of the building as set forth by a review of the Plans and other historic houses on the Street have similar characteristics

6. As stipulated to by the Applicant via the Attorney and Architect, a sealed/certified "As Built" shall be submitted to the Board Engineer, immediately after construction is completed and before a final permit is issued for the Engineer's approval, verifying the height of the new roof complies with the Ordinance.

7. The Applicant through the Project Architect and Attorney stated that the New Structures will comply with all bulk setbacks, and no variances are required to complete the Work, which representations the Board relied on.

8. Of great significance to the Board's approval of the New Structure for the Certificate of Appropriateness, is compliance with all findings, representations and conclusions from the hearing on this matter as this Resolution grants relief in full reliance on the details submitted as to the New Structure and its relationship to the setbacks and the like.

9. Based on all the findings and testimony at the hearing by the Applicant's Architect, the Board finds the Applicant should be granted the approval of the Application for Certificate of Appropriateness for the construction of the New Addition to the Existing single family dwelling on the Property as per the Plans filed at the hearing and as testified about, subject to the conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Village of Loch Arbour on the 21th day of January, 2020, that the approval of the Application for Certificate of Appropriateness be granted for purposes of the construction of the proposed second story rear addition on the Property because the Applicant has satisfied the criteria of the Loch Arbour Historic Preservation Ordinance based on the findings of fact set forth above.

NOW, THEREFORE be it resolved by the Board that the approval of the application is subject to the following conditions and/or the Applicant complying with the following.

A. Being bound to documents submitted and all representations at the hearing made by Applicant's expert and through counsel including but not limited to the timely submittal and approval of the "As Built" verifying compliance with height of the new addition as set forth in Paragraph 6 of this Resolution.

B. Any and all requirements of this Municipality and any other governmental subdivisions as set forth in any laws, ordinances or regulations, and obtainment of any permits or approvals required thereunder, including NJDEP.

C. Publication of a notice of this decision in the official newspaper serving the Village of Loch Arbour and return of proof of publication to the Planning Administrator.

D. Payment of all taxes, escrows and assessments to date. No building permit or certificate of occupancy is to be issued and no map is to be signed or filed, if applicable, until proof is furnished to the Planning Administrator of the Planning Board that there are no taxes, escrows or assessments due or delinquent on the Property.

E. Obtaining all proper building permits for construction and constructing same in accordance with the documents marked at the hearing and in compliance with the testimony of the Applicant and the Applicant's expert at the hearing.

BE IT FURTHER RESOLVED that a copy of this Resolution, certified by the Secretary of the Planning Board to be a true copy, be forwarded to the Village Clerk, the Village Construction Official, the Board Engineer/Planner, the Village Tax Collector, the Village Tax Assessor, the Village Tax Collector, the Village Attorney, the Board Attorney, and the Applicant herein.

BE IT FURTHER RESOLVED that this Resolution shall serve as one of memorialization of the action taken by this Board at its meeting of December 17, 2019.

Moved by: Elizabeth Appello

Seconded by: Mayor Fernicola

ROLL CALL VOTE

Those in favor: Mayor Fernicola, Ms. Appello, Mr. Santos Those Opposed: None

Those absent: Commissioner D'Angelo, Mr. R. Fernicola, Ms. Wilusz

Those recused: Ms. Gosline, Mr. Wiener, Mr. Maisto

RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF LOCH ARBOUR REGARDING SITE PLAN AND VARIANCE RELIEF BY P.E. 601 MAIN STREET, LLC FOR PROPERTY LOCATED AT 601 MAIN STREET

WHEREAS, P.E. 601 Main Street, LLC (hereinafter "Applicant") have applied to the Planning Board of the Village of Loch Arbour for approval of a Site Plan with variance and design waiver relief for premises located at 601 Main Street, Village of Loch Arbour and known as Block 1, Lot 3 on the tax map of the Village of Loch Arbour, which premises are in the Commercial Zone; and

WHEREAS, the Applicant had previously appeared before the Board on an Informal Application and as a result made extensive changes to the proposed facade of the building as suggested by the Board; and

WHEREAS, a review of the notices and publications indicate that the Board has jurisdiction to hear this application; and

WHEREAS, a hearing was held on December 17, 2019, and all interested parties were given an opportunity to be heard and express their opinions, with no members of the public expressing any comments; and

WHEREAS, the Board reviewed the materials submitted; and

WHEREAS, the Board, after carefully considering the evidence presented by Applicant and Applicant's expert, the Project Architect, has made the following factual findings:

1. The Applicant filed an Application for Site Plan approval with variances and design waivers from the Planning Board for the renovation of an existing building (“Building”) on the Property.

2. The Applicant is the owner of the property located at 601 Main Street known as Lot 3 in Block 1 on the municipal tax map of the Village of Loch Arbour, County of Monmouth, and State of New Jersey, which property (“Property”) is located in the Commercial Zone.

3. On May 19, 1999, a Resolution was adopted by the Planning Board (the “1999 Resolution”) approving a site plan for proposed improvements then proposed based on Applicant’s predecessor’s application (the “1999 Application”). The improvements included the expansion of the existing restaurant/tavern use, through the construction of a concrete patio with bar, adjacent to the southerly elevation of the building.

4. The Property is situated on the west side of Main Street adjacent to Deal Lake. The lot is irregular shaped and consisting of a total lot area of approximately 27,025 square feet.

5. The existing lot consists of a one-story masonry commercial Building utilized as a restaurant and tavern, an outside sitting area, and parking lot.

6. The new owners are proposing to change the architectural elements of the Building, relocate the 3 parking spaces along the north side of the Building to create a concrete walkway, relocate the dumpster to the southwest to allow for 1 of the relocated parking spaces, the other 2 relocated parking spaces will be located along the west side of the Building, the existing outdoor bar structure to be replaced with a new outdoor bar structure, the existing masonry patio walls to be replaced with a metal and cable railing system, with removal of the existing light pylon sign and new sign to be placed on the Building.

7. The Property is located in the “C” Commercial Zone and the existing restaurant and tavern is permitted use in the zone.

8. At the hearing, the Applicant’s Attorney entered into evidence numerous Exhibits which were relied upon by the Board in making its findings including but not limited to:

- a. A picture of the Proposed New Facade, marked as part of Exhibit A-1,
- b. A “Parking Lease Agreement” between the Owners of adjacent Lot 2 and the Applicant (A-2)
- c. Sealed Plans by Massa Multimedia Architectural, revised 11/06/2019 (Sheets SP-1 through SP.4) of the proposed renovations to the exterior and interior of the existing Building, the outside deck area, and parking lot (the “Plan”) marked as Exhibit A-3.
- d. A Sheet titled SP-5 prepared by Massa Multimedia Architectural showing the railing detail marked as Exhibit A-4

e. A survey of Property consisting of one (1) sheet prepared by Lakeland Surveying dated September 17, 2019, with no revisions,

f. Village Board Resolution as Exhibit A-6 consisting of seven (7) sheets adopted on May 19, 1999 regarding this Site (“1999 Application”)

The Board also reviewed and accepted the findings in the Report by the Board Engineer and Planner dated December 16, 2019 (“the “Report”)

9. In accordance with Ordinance Section 705.D, (building height) no building shall exceed 35 feet in height or contain more than two-stories above grade. The Applicant is proposing a building height of 18.5 feet, which conforms.

10. In accordance with Ordinance Section 705.E.1, the minimum lot width permitted per the zoned district is 50 feet. The existing lot has a width of 180 feet, which conforms. Testimony was provided on this point since the 1999 Application indicated a lot width of 175 feet.

11. In accordance with Ordinance Section 705.E.2, the minimum lot depth permitted per the zoned district is 100 feet. The existing lot has a depth of 150 feet, which conforms.

12. In accordance with Ordinance Section 705.E.3, the minimum lot area permitted per the zoned district is 5,000 square feet. The existing lot area is 27,025 square feet, which conforms.

13. In accordance with Ordinance Section 705.E.4, the minimum side yard setback permitted per the zoned district is 10 feet. The prior approval in 1999 indicated a setback to the patio of 20 feet. Approval of this application is subject to the Applicant revising the plan to indicate the side yard setback to both side yard setbacks.

14. In accordance with Ordinance Section 705.E.5, the minimum rear yard setback permitted per the zoned district is 20 feet. The Plan indicates an existing rear yard setback of 86 feet, which conforms.

15. In accordance with Ordinance Section 705.E.6, the maximum building coverage permitted per the zoned district is 40%. The definition of building coverage is, “The square footage or other area measurement by which a building and/or structure occupies the land as measured on a horizontal plane and including the area under the roof of any structure supported by columns or walls, as measured around the extremities of the roof above the columns. The maximum building coverage requirements permitted by this ordinance shall be the total area of all buildings and structures. Buildings and structures include, but are not limited to, buildings, structures, dwellings, accessory buildings, garages, storage sheds, tool sheds, recreation courts, pool decks, patios, driveways, walkways, and all other areas covered by pavers or impervious materials. Driveways and parking areas shall be improved with a dust free-durable, all-weather material said material is deemed to include concrete, asphalt, brick or pervious concrete pavers, but shall exclude gravel, stone or other similar material.” The Applicant indicates on the Plan a building coverage of 18%. Approval is subject to the Applicant changing the Plan to indicate, per the above definition, that the proposed building coverage is approximately 84%. A variance is required. The Board is satisfied that since the Building has been used for many years functionally for the same intended purposes as Applicant proposes, and there are benefits to the proposed changes to the Building that there are no negative impacts. The variance is granted.

16. In accordance with Ordinance 705.F.2, (Off-Street Parking), allows for 1 space for each 3 seats in a tavern, restaurant, or snack bar. The coversheet of the Plan indicates the restaurant and tavern have 243 seats, which requires 81 parking spaces. The Board Engineer counted the number of seats shown on the ground floor plan. The total numbers of seats are 249 of which 78 of the seats are outside and 153 of the seats are inside. This number of seats appeared to require 83 parking spaces. The proposed spaces are obtained from on-site and within a New Jersey Transit Right-of-Way (“Transit Parcel”) (total of 44 spaces) and from Lot 2 (37 spaces). At the hearing, the Applicant’s Expert and Counsel offered that the spaces provided are compliant with the proposed Ordinance Requirements. The Board accepts the testimony of the Applicant on this point subject to the Applicant amending the ground floor plan to clearly indicate that there shall be no more than 243 seats, which limitation must be upheld at

all times by the Applicant in running the Restaurant/Tavern. The Applicant's counsel was asked about any agreement with the owners of Lot 2. An executed "Parking Lease Agreement" dated in 2019 with the owners of Lot 2 was provided and marked into evidence (A-2) (the "Lease"). The Lease is for a 5-year term with multiple options. There is also a "Right of First Offer". Approval of this application is contingent upon the Applicant maintaining the Lease in full effect or purchasing the parking lot.

The Applicant advised that it is not aware of an existing agreement or easement for the Transit Parcel. The 1999 Resolution, had referred to the same status at that time. The Board finds that since it is common knowledge that the prior owners of the Property used this area for years for parking and other uses without interruption, that the Board will not require production of a written agreement. However, if at some future point in time, use of the Transit Parcel is restricted in any way, then the Applicant must immediately return to the Board to seek alternate means to satisfy parking.

17. In accordance with Ordinance Section 705.G, at least one space for each use shall be provided. Each space shall have minimum dimensions sufficient to accommodate the largest vehicle customarily making deliveries to the building and located so that vehicles either parked or maneuvering into a space do not obstruct other parking spaces, driveways, aisles, fire lanes, streets or sidewalks. Testimony at the hearing was provided by Applicant's expert and as a result the Board is satisfied with the existing parking lot layout with the condition that the Applicant must clearly mark on the macadem the turning signs on the Applicant's Lot.

18. In accordance with Ordinance Section 705.H.1, each use may have one lighted sign no larger than 30 square feet or the equivalent of 10% of the area of the front of the building, whichever is smaller. The Applicant indicated in the Plan that the sign dimensions of 11 feet by 2 feet 9 inches, which has a sign area of 30.25 square feet. However, at the hearing, the Applicant stipulated that the actual size of the sign will conform and approval is conditioned on the Applicant providing revised Plan noting the conforming sign dimensions, subject to approval by the Board Engineer.

19. In accordance with Ordinance Section 506.B.1, existing and proposed contours at one-foot intervals throughout the tract and within 100 feet of any building should be provided or a waiver should be requested from the Board. The Board is comfortable in granting the design waiver.

20. In accordance with Ordinance Section 608, an Environmental Impact Report should be provided or a waiver should be requested from the Board. Based on the representations by the Applicant and the general knowledge of the Property, the Board grants the design waiver.

21. In accordance with Ordinance Section 619.B, individual parking and loading spaces shall be served by onsite aisles designed to permit each motor vehicle to proceed to and from each parking and loading space without requiring the moving of any other motor vehicle. The Applicant provided testimony on the loading space and area and the Board is satisfied the parking and spaces conform.

22. In accordance with Ordinance Section 619.C, off-street parking spaces shall be 10 feet wide and a minimum of 20 feet in length. The minimum aisle width for 90° parking shall be 22 feet. The Applicant proposed in the Plan to relocate 3 parking spaces with a space width of approximately 9 feet. A design waiver is required. Additionally, two of the proposed parking spaces would have a length of 20 feet, which conforms. The third proposed parking space will have a length of 18 feet. A design waiver is required. The two proposed parking spaces on the west side of the building will allow for an aisle width of approximately 18 feet. A design waiver is required. At the hearing, the Applicant noted that it was realigning the parking spaces so only one design waiver was necessary. The Board grants this waiver, subject to Applicant's revising the Plan to conform to the representations at the hearing and subject to approval by the Board Engineer.

23. In the Board Engineer's Report was reference to Condition Number 12 of the 1999 Resolution, stating, "A maximum of 18 bar stools shall be utilized in connection with the covered bar and no more than 30 seats shall be utilized for tables on the patio." The present Report notes that the Applicant indicates 18 bar stools and 71 seats while the Board Engineer counted 18 bar stools and 78 seats. Testimony was provided at the hearing by the Applicant's Architect and approval is subject to the Applicant submitting a revised Plan which confirms the testimony at the hearing, subject to approval by the Board Engineer.

Also at the hearing, there were discussions about restrictions on the use of the new outside patio. The Applicant produced a recent ABC approval for the Property, which limits occupancy on the outdoor patio area to no more than 90 individuals: standees, and patrons sitting at the bar and/or at tables. The Board grants approval of this application subject to the Applicant's strict adherence to this occupancy limit. If at a later time a modified ABC approval permits a higher number on the outside patio, the Applicant may return to the Board to request a higher capacity number.

24. The Property is currently located in the Flood Zone AE as shown on the Flood Insurance Rate Map Number 34025C0332G for the Village of Loch Arbour. The Application is approved on the condition that the Applicant's submits to the Board Engineer, a flood elevation certificate verifying all proposed improvements comply with the Village Flood Damage Prevention Ordinance.

25. The survey provided with the application was not signed or sealed by the person who prepared the survey. Approval of the application is conditioned upon The Applicant submitting a signed and sealed survey of the Property subject to the approval of the Board Engineer.

26. Approval of the application is conditioned upon the Applicant obtaining Monmouth County Planning Board approval.

27. Approval of the application is conditioned upon the Applicant submitting to the Board Administrator for review by the Board Chair and Vice Chair of samples of the material proposed for the railing system as identified in part on the Ground Floor Plan of A- 3 (SP-3)(as 42" high cable metal railing system) including the stainless-steel cables and wood. As stipulated to by the Applicant, approval is subject to approval of these samples or returning to the Board to seek a modified Approval.

28. The Board and Applicant discussed the Conditions set forth in the 1999 approval for prior renovations to the Property. The Applicant stipulated to comply with the Conditions which the Board finds should continue and as more particularly set forth in the Conditions Section at the end of this Resolution. The Board relies on compliance by the Applicant of these continued Conditions in granting the relief requested.

29. The Applicant stipulated that it would comply all Conditions of Approval recommended in the Board Engineer's/Planner's Report (Page 5 of 5).

30. Based on all the findings and testimony at the hearing by the Applicant's Architect, the Board finds the Applicant should be granted the approval its Site Plan Application along with variance and design waiver relief as set forth in detail above.

WHEREAS, the Board has determined that granting the variances will: (a) advance the purposes of the Municipal Land Use Act based on N.J.S.A. 40:55D-70.c.(2); and (b) result in benefits which substantially outweigh any detriment and that such relief can be granted without causing substantial detriment to the public good and will not substantially impair the intent and the purpose of the Village Zone Plan and Zoning Ordinance, as there will be no visual harm caused to the neighbors or the neighborhood from the street side; and

WHEREAS, the Board has determined that granting the design waivers are in conformance with the discretionary standards of the Municipal Land Use Law; and

WHEREAS, the Board had determined that granting the Site Plan Application will be in conformance with the standards of the Village Ordinance and that upon completion of all requirements under this Resolution, the Applicant will have received Preliminary and Final Site Approvals as defined under N.J.S.A. 40:55D46 and 50.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Village of Loch Arbour on the 15th day of January, 2020, that the approval of the Application for Site Plan Approval with bulk variances and design waivers be granted for purposes of the construction of the Renovations on the Property; and

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Board that the approval of the application is subject to the following conditions and/or the Applicant complying with the following:

1. The Applicant submitting all changes and revisions to its Plan as required in this Resolution to the Board Engineer and subject to his approval.
2. The Final Site Plan Plat conforming to all requirements under Ordinance 506, based on submission of the revise Plan to the Board Engineer and subject to his approval.
3. Compliance with the following conditions set forth in the 1999 Resolution and as modified by the Board as the immediate hearing and as follows:
 - a. No plantings shall encroach onto the Main Street right of way.
 - b. The Applicant shall construct a silt fence during construction in order to minimize any adverse impact on adjacent Deal Lake.
 - c. The Applicant shall be obligated to maintain agreements with the owner of Lot 2 to provide 37 off-street parking spaces. Further, if New Jersey Transit to permit any of the 18 existing parking spaces on its parcel, the Applicant must immediately return to the Planning Board for a determination if available off-street parking is sufficient to accommodate the business operation based upon ordinance requirements. In the event the Board determines in such future application that insufficient off-street parking spaces are provided, the Board shall have the right to amend the provisions of this Resolution in order to require adequate off-street parking to service the Property.
 - d. Applicant shall continue to maintain an access pad (instead of steps) at the rear of the patio in order to provide access for handicapped persons.
 - e. No live music is permitted on the patio except for a one-piece acoustic guitar or similar instrument. The Applicant shall take all necessary action to ensure compliance with municipal noise ordinances and to minimize disturbance of residents in the vicinity of the site. No music shall be allowed after 11:00 p.m.
 - f. In the event that three or more noise complaints in connection with music are successfully prosecuted against the Applicant (or any of its successors) within any two-year period, no music shall be allowed on the patio.
4. The parking lot shall be marked with traffic arrows showing the one-way vehicular circulation on the parking lot.
5. Being bound to all documents submitted and all representations at the hearing made by the Applicant's expert and through counsel including but not limited to submittal to the Board Administrator for review and approval by the Board representatives of the material samples for the railing system and otherwise returning to the Board for relief as set forth above in Paragraph 6 of the Board's Resolution approving the Certificate of Appropriateness.
6. Restricting the number of seats in the Restaurant and patio area to a total of no more than 243 seats.
7. Any and all requirements of this Municipality and any other governmental subdivisions as set forth in any laws, ordinances or regulations, and obtainment of any permits or approvals required thereunder, including NJDEP.
8. Publication of a notice of this decision in the official newspaper serving the Village of Loch Arbour and return of proof of publication to the Planning Administrator.
9. Payment of all taxes, escrows and assessments to date. No building permit or certificate of occupancy is to be issued and no map is to be signed or filed, if applicable, until proof is furnished to the Planning Administrator of the Planning Board that there are no taxes, escrows or assessments due or delinquent on the Property.
10. Obtaining all proper building permits for construction and constructing same in accordance with the documents marked at the hearing and in compliance with the testimony of the Applicant and the Applicant's expert at the hearing.

BE IT FURTHER RESOLVED that a copy of this Resolution, certified by the Secretary of the Planning Board to be a true copy, be forwarded to the Village Clerk, the Village Construction Official, the Board Engineer/Planner, the Village Tax Collector, the Village Tax Assessor, the Village Tax Collector, the Village Attorney, the Board Attorney, and the Applicant herein.

BE IT FURTHER RESOLVED that this Resolution shall serve as one of memorialization of the action taken by this Board at its meeting of December 17, 2019.

Moved by: Mayor Fernicola

Seconded by: Elizabeth Appello

ROLL CALL VOTE

Those in favor: Mayor Fernicola, Ms. Appello, Ms. Gosline, Mr. Santos

Those Opposed: None

Those absent: Commissioner D' Angelo, Mr. Fernicola, Ms. Wilusz

Those recused: Mr. Wiener, Mr. Maisto

RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF LOCH ARBOUR

**REGARDING APPLICATION FOR CERTIFICATE OF APPROPRIATENESS
BY P.E. 601 MAIN STREET, LLC FOR
PROPERTY LOCATED AT 601 Main Street**

WHEREAS, P.E. 601 Main Street, LLC, (hereinafter “Applicant”) has applied to the Planning Board of the Village of Loch Arbour for approval of a Certificate of Appropriateness for premises located at 601 Main Street, Village of Loch Arbour and known as Block 1, Lot 3 on the tax map of the Village of Loch Arbour, which premises are in the Commercial Zone; and

WHEREAS, the Applicant had previously appeared before the Board on an Informal Application and as a result, made extensive changes to the facade proposal for the building as suggested by the Board; and

WHEREAS, a review of the notices and publication indicate that the Board has jurisdiction to hear this application; and

WHEREAS, a hearing was held on December 17, 2019, and all interested parties were given an opportunity to be heard and express their opinions, with no members of the public expressing any comments; and

WHEREAS, the Board reviewed the materials submitted; and

WHEREAS, the Board, after carefully considering the evidence presented by Applicant and Applicant’s expert, the Project Architect, has made the following factual findings:
The Applicant filed an Application for Certificate of

1. Appropriateness to request approval from the Planning Board for the renovation of an existing building on the Property, which has been utilized as a tavern and restaurant.

2. The Applicant is the owner of the property located at 601 Main Street known as Lot 3 in Block 1 on the municipal tax map of the Village of Loch Arbour, County of Monmouth, and State of New Jersey, which property is located in the Commercial Zone.

3. The Board considered all relevant criteria under the Municipal Historic Preservation Ordinance #2018-450, based on the testimony of the Applicant’s Architect and more particularly under Section 7.2.

4. At the hearing, the Applicant’s Attorney entered into evidence Exhibits which were relied upon by the Board in making its findings including a picture of the Proposed New Facade, marked as part of Exhibit A-1 and additionally, but not limited to:

Sealed Plans by Massa Multimedia Architectural, revised 11/06/2019 (Sheets SP-1 through SP.4) of the proposed renovations to the exterior and interior of the existing building and the outside deck area, and parking lot.

5. Findings under the Ordinance Criteria (mentioned by number as listed in the Ordinance)(for the purposes of this Resolution, “Renovations” means the proposed changes to the existing building and the outdoor deck area as more specifically substantiated by testimony at the hearing and the comments by the Board at the hearing) are as follows:

(1) The Renovations will be compatible with existing structures, landscaping and streetscapes within the District because the general appearance is an improvement on the existing building and the revised design, modified since the Informal Hearing on this application, is more compatible with the structural elements in the Village, having better, softer colors including natural blue accents as shown on Exhibit A-1.

(2) The Renovations will not adversely affect the ambience, character, and appearance of the District and the relationships among structures and between structures and public ways in the District as same will conform to the area.

(4) The Renovations will not result in structural elements that are out of scale the other structural elements in the surrounding area as the height requirements comply and the structure in relation to the size of the lot is not bulky.

(5) The Renovations will be visually compatible with the structures and places to which it is visually related as the structures which are on Main Street and also will blend into the historic character of the nearby Residential zone of the Village.

(6) The height of the roof will be visually compatible with adjacent structures as the roof is within the height limit in the Zone.

(7) The relationship of the width of the structure to the height of the front elevation will be visually compatible with structures and places to which it is visually related as the Renovations do not change any these existing characteristics.

(10) The relationship of the Renovations to the open space between it and adjoining structures will be visually compatible with the structures and places to which it is visually related as the changes to the exterior structure along with the removal of the existing cinder block wall on the Lake side of the building replaced by the stainless steel wire railings with wood tops, will be more compatible with the character of the Village, providing for a more beach club type of setting.

(12) The relationship of materials and texture of the facade and roof of the Renovations will be visually compatible with the predominant materials used in the structures to which it is visually related in the District and the removal of the existing metal green false roof and replacement with the new textured walls will be an improvement and fit in more with the character of the Zone.

(13) The roof shape of the Renovations will be visually compatible with structures to which it is visually related, again in relation to the nearby buildings.

(15) The size of the proposed structure, the mass of the proposed structure in relation to open spaces, and the windows, door openings, deck will be visually compatible with the structures and places to which it is visually related in that Zone especially in relation to the contiguous Lake.

(24) The siding on the proposed structure is acceptable as it is an improvement on the existing siding and the colors of the new walls fit more into the beach character of the Village.

6. The Board was amenable to the proposed railing system as depicted on the submitted Exhibit which includes horizontal stainless-steel cables. As stipulated to by the Applicant, approval is subject to the Applicant submitting to the Board Administrator for review by the Board Chair and Vice Chair, samples of the material including the wood which shall be utilized for the railing system to confirm conformity with the representations at

the hearing. If the conclusions by the Board Leadership is that the materials do not match, then the Applicant must return to the Board for modified Approval.

7. Of great significance to the Board's approval of the structure as proposed as to the Certificate of Appropriateness, is compliance with all findings, representations and conclusions from the hearing on this matter as this Resolution grants relief in full reliance on the details submitted as to the Renovations .

8. Based on all the findings and testimony at the hearing by the Applicant's Architect, the Board finds the Applicant should be granted the approval of the Application for Certificate of Appropriateness for the construction of the proposed Renovation on the Property as per the Plans filed at the hearing and as testified about, subject to the conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Village of Loch Arbour on the 15th day of January, 2020, that the approval of the Application for Certificate of Appropriateness be granted for purposes of the construction of the Renovations on the Property because the Applicant has satisfied the criteria of the Loch Arbour Historic Preservation Ordinance based on the findings of fact set forth above.

NOW, THEREFORE be it resolved by the Board that the approval of the application is subject to the following conditions and/or the Applicant complying with the following.

A. Being bound to documents submitted and all representations at the hearing made by Applicant's expert and through counsel including but not limited to the submittal to the Board Administrator for review and approval by the Board representatives of the railing system and if not approved to return to the Board for relief as set forth above in Paragraph 6 of this Resolution.

B. Any and all requirements of this Municipality and any other governmental subdivisions as set forth in any laws, ordinances or regulations, and obtainment of any permits or approvals required thereunder, including NJDEP.

C. Publication of a notice of this decision in the official newspaper serving the Village of Loch Arbour and return of proof of publication to the Planning Administrator.

D. Payment of all taxes, escrows and assessments to date. No building permit or certificate of occupancy is to be issued and no map is to be signed or filed, if applicable, until proof is furnished to the Planning Administrator of the Planning Board that there are no taxes, escrows or assessments due or delinquent on the Property.

E. Obtaining all proper building permits for construction and constructing same in accordance with the documents marked at the hearing and in compliance with the testimony of the Applicant and the Applicant's expert at the hearing.

BE IT FURTHER RESOLVED that a copy of this Resolution, certified by the Secretary of the Planning Board to be a true copy, be forwarded to the Village Clerk, the Village Construction Official, the Board Engineer/Planner, the Village Tax Collector, the Village Tax Assessor, the Village Tax Collector, the Village Attorney, the Board Attorney, and the Applicant herein.

BE IT FURTHER RESOLVED that this Resolution shall serve as one of memorialization of the action taken by this Board at its meeting of December 17, 2019.

Moved by: Mayor Fernicola

Seconded by: Elizabeth Appello

ROLL CALL VOTE

Those in favor: Mayor Fernicola, Ms. Appello, Ms. Gosline, Mr. Santos

Those Opposed: None

Those absent: Commissioner D' Angelo, Mr. Fernicola, Ms. Wilusz

Those recused: Mr. Wiener, Mr. Maisto

Continued:

E. Shams, 214 Euclid Avenue, Loch Arbour, Block 10, Lot 5.

The Applicant is requesting amended approval from the Planning Board to continue to construct a new single-family dwelling with a driveway, in ground swimming pool, and storage shed. The Applicant made the following changes from the approved plan; a half story addition to the 2-story house; a new configuration of the front porch; relocation of the basement Bilco door, generator and air conditioning condenser units; and relocation of an in-ground swimming pool, raised patio and shed.

This matter has been continued until the next Planning Board Meeting scheduled for February 19, 2020, with no further notice necessary.

NEW BUSINESS

Planning Board Annual Report – The Planning Board discussed the Annual Report.

A. **Resolution 2020-07:** UPON MOTION, of Mayor Fernicola, seconded by Ms. Appello, carried that the following Resolution be and the same is hereby 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 Ordinance provisions which were the subject of variance request and its recommendations for Zoning Ordinance amendments or revisions, 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 Village of Loch Arbour as follows:

1. The report, a copy which is attached hereto and incorporated herein, is approved as amended.
2. The Chairman of the Board is hereby authorized to execute the report

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

Recorded Vote:

Ayes: Mayor Fernicola, Ms. Appello, Ms. Gosline, Mr. Wiener, Mr. Santos, Mr. Maisto

Nays: None

Absent: Commissioner D' Angelo, Mr. R. Fernicola, Ms. Wilusz

B. Terzi, 5 Ocean Place, Block 9, Lot 10

The applicant originally requested approval from the Planning Board for the construction of a spiral staircase in the front of the dwelling, the installation of a new pool cover and replacing the existing concrete on the northside of the dwelling with stepping stones.

The application has been deemed complete and revised plans were then submitted.

The following Exhibits were marked into evidence:

Exhibit A-1: Survey of Property, prepared by Charles Surmonte, PE, dated December 5, 2018.

Exhibit A-2: Site Plan, prepared by Antonio Scalise, AIA with the last revision date October 10, 2019.
(2 Sheets)

Exhibit A-3: Architecture Plans, (Board)

Exhibit A-4: Series of Photographs

Exhibit A-5: Letter prepared by Antonio Scalise, AIA, dated August 9, 2018

Exhibit A-6: A-F - Colored Photographs of subject property.

Exhibit B-1 Letter prepared by Peter Avakian, PE, dated August 3, 2018 revised thru November 27, 2019.

Appearing on behalf of the applicant is Robert Farber, Esq.

Mr. Farber stated this is a continuation of a hearing held on August 15, 2018. Mr. Farber stated he is not going to rely on any of the testimony from the hearing in 2018. Mr. Farber summarized the Application before the Board. Mr. Farber referenced Exhibit A- 1 and Exhibit A-4. Mr. Farber stated Exhibit A-4 depicts the property today. Mr. Farber explained the Plan regarding the proposed spiral staircase. Mr. Farber stated, it is his understanding, one of the neighbor's objects to the staircase in the front of the property. He referenced Exhibit A-3, which depicts the spiral staircase on the south side of the property, and stated this is being submitted as an alternate plan.

Antonio Scalise, AIA, from the firm Parallel Architectural Group, LLC., was sworn in and accepted by the Board as a Professional Licensed Architect.

Mr. Scalise, referenced Exhibit A-2 and Exhibit A-3 and testified to the proposed spiral staircase. He testified, at this time, there is no access to the outside by the 2nd story balcony. Mr. Scalise testified regarding constructing the spiral staircase on the south side of the property, his only concern is it is very close to the property line and it blocks the sideyard access to the backyard.

Mr. Scalise referenced Exhibit B-1 and testified regarding 2E and 2H.

Peter Avakian, Village Engineer, clarified calculation of the average front yard setback.

Mr. Scalise referenced Exhibit A-5 and testified regarding the Flood Zone. Mr. Scalise testified the homeowner proposes the astro turf on the north side of the property be removed and replaced with grass or rocks to reduce coverage.

The Board discussed the lot coverage with Mr. Scalise. Mr. Avakian clarified the lot coverage calculations.

The Board and Mr. Avakian discussed coverage percentages. Mr Wiener questioned the June, 2016 Survey. Mr. Avakian discussed with the Board and compared the coverage on the 2016 Survey and the 2018 Survey. It was determined the coverage was increased. The Board discussed the need for a retroactive approval regarding the increase in lot coverage.

Mr. Brown and Mr. Farber discussed the need for a variance regarding coverage.

Five minutes recess.

Mr. Farber proposed to reduce the back patio by 3ft., on the west side of the patio. Mr. Avakian stated, if this reduction is made, it would also allow the water from any runoff from the pavers to runoff on the grass and not directly on the neighbor's property.

Discussed was the side yard setback in the back yard.

Mr. Maisto asked about the fence in the backyard.

UPON MOTION of Mayor Fernicola seconded by Mr. Wiener, carried the Meeting is opened up to the public regarding this application only.

Joseph Gassaro, Ocean Place, is opposed to the spiral staircase being approved in the front yard.

UPON MOTION of Mayor Fernicola seconded by Mr. Wiener, carried the Meeting is closed to the public.

Recorded Vote:

Ayes: Mayor Fernicola, Ms. Appello, Ms. Gosline, Mr. Wiener, Mr. Santos, Mr. Maisto

Nays: None Abstain: None

Absent: Commissioner D' Angelo, Mr. R. Fernicola, Ms. Wilusz

The Board and the professionals discussed the staircase and the front yard setback. They referenced Exhibit A-6 and discussed the photos. The Board discussed the pool patio and the rear setback and the side yard setback. The Board and Mr. Avakian discussed if a rear yard setback variance is required.

Mr. Terzi was sworn in. Mr. Terzi discussed with the Board the Application before them tonight.

Sandy Brown, Esq., reviewed the Notice and discussed the variances required with Mr. Farber.

The Board discussed the Certificate of Appropriateness and the issue of the staircase being in the front yard, and it not being consistent with the other homes on the block. Mr. Farber stated this property is not a historic home. Mr. Brown discussed criteria.

The Board discussed the side yard setback in the backyard and confirmed the concrete pavers are 1.7 feet away from the property line. The Board continued to discuss the spiral staircase if installed on the side of the house or on the front of the house. Exhibit A-2 was referenced.

Mr. Terzi testified to the layout of the 2nd floor of the home, leading out to the 2nd floor balcony.

The Board discussed the Historic Preservation Ordinance regarding this property. Also discussed with the Board was the location of the spiral staircase.

The Board and Mr. Scalise discussed the spiral staircase as well as a regular staircase off the balcony. The Board discussed the colors and the proposed materials for the spiral staircase.

Peter Avakian, discussed coverage issues. Mr. Avakian confirmed this property is an undersized lot.

Five minute recess.

There was a proposal made by the Applicant's Attorney:

- Front Spiral Staircase
- Remove 3 feet of pavers in the backyard.
- And Any other conditions discussed.

The application was closed to the public and the Board discussed with Sandy Brown the criteria regarding the Historic Preservation Ordinance.

The Board discussed the application before them.

Mr. Farber stated he would like to withdraw the application regarding the spiral staircase, but remove the 3 feet of the pavers in the backyard – so the property will be confirming.

Five minute recess.

Mr. Farber spoke to his client and if he is not going forward with the front staircase, he would like to keep the backyard the way it is presently. His client is willing to remove the concrete/astro turf on the northside of the property.

Mayor Fernicola clarified the following. He did not hear any testimony, in his opinion, warranting a variance to expand the building coverage from 63.8% to 65.5%.

Five minute recess:

Mr. Farber spoke to his client and he will withdraw the application regarding the spiral staircase, without prejudice. However, regarding the coverage, the applicant will remove 3 feet of the pavers in the backyard, as well as, remove the concrete/astro turf on the northside of the property.

Mayor Fernicola stated due to the withdrawal of part of the application, the only part of the application the Board has before them is the application for a variances, which would be the subject of the removal of the concrete/astro turf on the northside of the property and remove 3 feet of the pavers from the back of the property.

The board and the professionals confirmed this application is a Flexible C-2 Variance – lot/building coverage – side yard setback – rear yard setback. Also, the issue with the fence being on the property line should be corrected.

Mayor Fernicola stated the applicant is proposing for the Board to make a Motion for the following:

Approve a lot coverage variance and a building coverage variance; a rear yard setback variance and a side yard setback variance, based upon the pavers being removed within 3 feet of the western property line and the removal of the area of approximately 234 square feet, which represents the concrete/astro turf on the northside of the house.

No second.

UPON MOTION of Mayor Fernicola, seconded by Mr. Wiener, carried that the application for lot coverage, building coverage, the zero setback in the side yard and the rear yard setback is hereby DENIED. The Resolution will be memorialized at the next Planning Board Meeting to be held on February 19, 2020.

Recorded Vote:

Ayes: Mayor Fernicola, Ms. Appello, Ms. Gosline, Mr. Wiener, Mr. Santos, Mr. Maisto

Nays: None Abstain: None

Absent: Commissioner D' Angelo, Mr. R. Fernicola, Ms. Wilusz

DISCUSSION -

A. PENDING APPLICATIONS –

The following application is scheduled for the next Planning Board Meeting scheduled for February 19, 2020:

- | | | |
|--|--|-----------------|
| <ul style="list-style-type: none">• 329 Euclid, LLC | Block 3, Lot 12
329 Euclid Avenue | Variance |
|--|--|-----------------|

PUBLIC COMMENTS

There being no public present. UPON MOTION Mayor Fernicola, seconded by Ms. Appello, carried the meeting be closed to the public.

There being no further business, and UPON MOTION of Mayor Fernicola, seconded by Mr. Wiener, carried that the meeting be adjourned at 10:00 p.m.

Marilyn Simons, Board Secretary