

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

**July 15, 2020**

<https://zoom.us/j/9871856747>

Meeting ID: 987 185 6747

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**THE REGULAR MEETING OF THE VILLAGE OF LOCH ARBOUR PLANNING BOARD  
WAS CONDUCTED VIA ZOOM ON WEDNESDAY, JULY 15, 2020 AND WAS CALLED TO ORDER  
BY CHAIRMAN, ROBERT FERNICOLA AT 7:30 PM.**

The secretary called the roll. PRESENT WERE: Commissioner D' Angelo, Mayor Fernicola, Ms. Appello, Mr. Fernicola, Mr. Santos, Mr. Maisto. ABSENT WERE Ms. Gosline, Mr. Wiener, Ms. Wilusz

Also present were Board Attorney, Sanford Brown, Board Engineer/Planner, Peter Avakian, and Board Secretary, Marilyn Simons.

The Board Secretary announced the notice requirements of C. 231, P.L. 1975, have been met by transmitting the notice of this Regular Meeting to the Planning Board's two designated newspapers on January 20, 2020 and July 6, 2020, posting a copy of the notice on the Municipal bulletin board, and filing a copy of the notice with the Municipal Clerk on the same date.

**CORRESPONDENCE** – None

**MINUTES** –

UPON MOTION of Mayor Fernicola, seconded by Ms. Appello, carried, the following minutes are hereby approved as presented.

- Regular Meeting of the Planning Board held on May 19, 2020.

Recorded Vote:

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

Nays: None Abstain: Mr. Fernicola

Absent: Ms. Gosline, Mr. Wiener, Ms. Wilusz

**OLD BUSINESS** –

**RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF LOCH ARBOUR  
REGARDING APPLICATION FOR AMENDED CERTIFICATE OF APPROPRIATENESS  
BY 109 EDMONT LLC FOR  
PROPERTY LOCATED AT 109-111 EDMONT DRIVE**

WHEREAS, 109 Edgemont, LLC (hereinafter "Applicant") has applied to the Planning Board of the Village of Loch Arbour for approval of an Amended Certificate of Appropriateness for premises located at 109-111 Edgemont Drive, Village of Loch Arbour and known as Block 9, Lots 17 and 18 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 publications indicate that the Board has jurisdiction to hear this application; and

WHEREAS, the Applicant previously received approval of a Certificate of Appropriateness pursuant to a Resolution of Memorialization dated December 19, 2018 ("2018 Resolution"); and

WHEREAS, a hearing was held on June 17, 2020 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: The Applicant is the owner of the property located at 109-111 Edgemont Drive known as Lots 17 and 18 in Block 9 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.

The Applicant filed an Amended Application for a Certificate of Appropriateness to request approval from the Planning Board in part for improvements already made to the dwelling which deviated from the approved plan under the 2018 Resolution as well as for other proposed changes. The Board considered all relevant criteria under the Municipal Historic Preservation Ordinance #2017-424, based on the testimony of the Applicant's architect and more particularly under Section 7.2.

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-6 which was a compilation prepared by the Applicant's Architect which showed the plans which were approved under the 2018 Resolution, the plans showing the existing condition of the Dwelling and the proposed new plan of how the Dwelling will look when completed.

Changes from the 2018 approval, per A-6, include:

(a) on the front/ South elevation, a deletion of all awnings and the inclusion of shutters, a larger window on the second floor in the entranceway, deletion of a side door on the deck area on the Western side of the front, a different door which the Board finds more aesthetically pleasing;

(b) on the West side elevation, deletion of the first-floor north window, in light of the need for space within the kitchen;

(c) on the rear/Northern elevation, a change of the windows in light of pragmatic interior space needs;

(d) on the East side elevation, change in the number and size of windows due to interior space needs and the deletion of the first floor wall ornamental decoration which would not have been seen from the street, and while not a condition, the Applicant advised they were planning to plant a row of plantings along that side line for privacy and aesthetics.

6. The Board is especially concerned about the long-term integrity of the bump out architectural feature ("Feature") which will be constructed on the West side of the Dwelling. This is largely because of knowledge by Board members of a history of water intrusion/delamination problems with using EFIS in the construction of such features. At the hearing, the Applicant's General Contractor described the method of the construction of the Feature. The Applicant through counsel and the Contractor emphasized that all efforts will be taken to ensure that the Feature will remain, and the Board interprets that to mean and require that the Feature will continue to be maintained in a new-like condition. If the Feature has any evidence of disrepair, including due to delamination, the Owner must immediately repair/fix/replace accordingly. The Board will not accept a position by the Owner that the Feature cannot be restored and if necessary, the Owner shall rebuild the Feature, even if it requires removing the stucco from the Wall upon which the Feature shall be installed. In summary, the appearance of the Feature must remain the same as first constructed even if it must be reapplied, reinstalled or reconstructed using different methods and/or materials.

7. The Board finds that the amended Certificate of Appropriateness can be granted based on strict compliance with the plans provided with the immediate application, which were part of the plans submitted with Exhibit A-6, and which highlighted all four sides of the Dwelling on completion, plus the following changes and conditions:

(a) the bump out architectural detail Feature on the West elevation must be maintained in a new like condition and prior to the issuance of a final Certificate of Occupancy for the property, Applicant must: submit a Deed restriction to this effect, subject to the approval of the Board Attorney and Engineer, including in consideration of the Board's findings under Paragraph 6 above of this Resolution; the approved Deed must be recorded, with a recorded copy submitted to and acknowledged by the Board Attorney who shall advise the Village Code Department accordingly.

(b) all window grilles shall be converted to the ones which had been approved in the 2018 Resolution, and therefore, will include vertical in addition to horizontal pieces.

8. The Board came to the above conclusions and conditions based on a careful comparison of the criteria of the HPO relied upon in the approval of the dwelling with the changes approved.

9. The Board relied upon the representations by Applicant and Applicant's professionals, including Applicant's Architect, Contractor and Attorney, as well as the comments by the Board members, in making this decision.

10. The Board's approval of the changes under this Resolution is in strict reliance of and compliance by the Applicant with all findings, representations and conclusions from the hearing on this matter.

11. Based on all the findings and testimony at the hearing the Board finds the Applicant should be granted the approval of the Amended Application for Certificate of Appropriateness as per the drawings and 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 17<sup>th</sup> day of June, 2020, that the approval of the Amended Application for Certificate of Appropriateness as more particularly set forth above, is granted as 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 further resolved by the Board that the approval of the Amended Application is subject to the additional following conditions and/or the Applicant complying with the following:

Being bound to documents submitted and all representations at the hearing made by Applicant's experts and through counsel.

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.

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.

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.

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 June 17, 2020.

Moved by: Ms. Appello

Seconded by: Commissioner D' Angelo

#### **ROLL CALL VOTE**

Those in favor: Commissioner D' Angelo, Mayor Fernicola, Ms. Appello, Mr. Santos, Mr. Maisto

Those Opposed: None

Those absent: Ms. Gosline, Mr. Wiener, Ms. Wilusz

Those recused: Mr. R. Fernicola

#### **NEW BUSINESS**

##### **A. Betesh, 116 Elberon Avenue, Block 4, Lot 5 – Variance**

An Application has been received on behalf of the Applicant Mr. and Mrs. Betesh. The Applicant is requesting approval from the Planning Board for renovations and additions to the existing two and half story single family dwelling. The addition consists of an attached outdoor kitchenette on the east side of the dwelling which was formerly part of the covered porch. In the rear, the Applicant is proposing a swimming pool/spa, pool patio, and exterior staircase to the cellar. A new driveway is being proposed in the side yard. The improvements will require a variance as otherwise described in the Engineer's Completeness Report dated May 20, 2020.

##### **B. Betesh, 116 Elberon Avenue, Block 4, Lot 5, Certificate of Appropriateness -**

**Application for a Certificate of Appropriateness:** An Application was received on behalf of the Applicant, Mr. and Mrs. Betesh, regarding the Historic Preservation Ordinance of the Village of Loch Arbour for a Certificate of Appropriateness for a MAJOR ALTERATION.

The Board Secretary confirmed the application before the board tonight was properly noticed and the Board took jurisdiction in this matter.

Present was the Applicant's Attorney, Mark R. Aikins, Esq.

The following Exhibit were marked into evidence:

Exhibit A-1 – Applications and Jurisdictional package

Exhibit A-2 – Architectural Plan, prepared by Robert W. Adler, of Robert W. Adler & Associates, PA, dated October 15, 2019, with the latest revisions dated March 13, 2020, consisting of 8 pages.

Exhibit A-3 – 1 colored photo of front of residence

Exhibit A-4 – 1 colored photo of rear of residence

Exhibit A-5 – 1 colored photo of portion of the porch on rear of residence

Exhibit B-1 - Letter dated May 20, 2020 prepared by Village Engineer/Planner, Peter Avakian, PE, consisting of 5 pages.

Robert W. Adler, Architect, was sworn in and was accepted as an expert witness.

Mr. Joseph Betesh was also sworn in. Mr. Betesh stated he purchased the home in February, 2008. To date, they have only done cosmetic, interior work to the home. Mr. Betesh explained the renovation he would like to make to his home, including an interior renovation for a bedroom. He testified that he is also proposing a portion of the porch on the east side be made into an outdoor kitchenette and he is also proposing to put in a pool and patio.

There were no questions by the Board at this time.

Mr. Adler stated his credentials for the record. Mr. Adler summarized the proposed changes to the dwelling. Mr. Adler referenced Exhibit A-2, He testified to the existing conditions. Mr. Adler referenced Page 3 of Exhibit 2 and testified to the proposed changes to the side porch. He explained an outdoor kitchenette would be added to the east side of the dwelling, which was formerly part of the covered porch. He also testified that a trellis would be added over the outdoor dining/living area. Mr. Adler testified to the size and shape of the proposed pool/spa. Mr. Adler referenced Page 4 of Exhibit 2 and testified to the changes on the 2<sup>nd</sup> floor of the residence. Mr. Adler also discussed the 2 balconies that are being proposed to be closed in on the 2<sup>nd</sup> floor. He discussed the roof line. Mr. Adler testified to the pool/patio being proposed for the yard.

Mr. Adler referenced Exhibit A-3. Mr. Adler testified that the home is a seashore colonial-victorian style. Mr. Adler testified there will be no changes to the front of the home. Mr. Adler referenced Exhibit A-4 and A-5. Testified to the proposed changes to the porch and the back of the home. Mr. Adler testified to the proposed driveway.

Mr. Adler summarized the historical details regarding the proposed changes. Mr. Adler testified the materials being proposed, would match the existing materials on the residence at this time. Mr. Adler also testified regarding the visual compatibility of the home.

Mr. Adler summarized the variances being sought. He discussed with Board Engineer/Planner the coverage of the existing property and the coverage proposed. Mr. Adler discussed the proposed coverage with the Board. The Board Engineer summarized the proposed coverage. Proposed Building coverage is 28.9%. Proposed Lot coverage is 9.9%. It was determined the actual coverage of the proposed improvements would be less than the maximum coverage. Mr. Adler will clarify the calculation of the building, lot and total coverage on Exhibit A-2, Page 1, and will submit it to the Village. No variance for lot coverage is required.

Mr. Adler referenced Exhibit B-1. Mr. Adler summarized the conditions in Mr. Avakian's letter. Mr. Avakian and Mr. Adler discussed grading. The proposed grading will be added to this project to insure no impact on neighboring properties.

Mr. Adler testified regarding the positive impact to the neighborhood, and stated this project is within the guidelines of the Historic Preservation Ordinance.

Discussed was the porous pavement driveway. Mr. Adler confirmed the driveway will comply with the Ordinance requirements, and will utilize permeable pavers.

UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D' Angelo, carried the meeting be opened up to the public for questions for Mr. Adler only. No questions at this time, UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D' Angelo, carried that the meeting be closed.

Recorded Vote:

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

UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D' Angelo, carried the meeting be opened up to the public for questions for Mr. Betesh only. No questions at this time, UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D; Angelo, carried that the meeting be closed.

Recorded Vote:

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

There being no further witnesses, UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D' Angelo, carried that the meeting be opened up to the public for general questions or comments.

Michael Jemal, 215 Euclid Avenue, was sworn in. Mr. Jemal stated for the record he is in favor of this application

There being no further public comments UPON MOTION of Mayor Fernicola, seconded by Mr. Wiener, carried that the be closed to the public.

Recorded Vote:

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

UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D' Angelo, carried that the hearing be closed to the public.

Recorded Vote:

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

Board discussed the application.

UPON MOTION of Ms. Appello, seconded by Mr. R. Fernicola, carried that a variance be granted for the application of 116 Elberon Avenue, Block 4, Lot 5 with any and all conditions which will be set forth in the Resolution. The Resolution will be memorialized at the next regular scheduled Planning Board Meeting on August 19, 2020.

Recorded Vote:

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

UPON MOTION of Mr. R. Fernicola, seconded by Ms. Appello, carried that a Certificate of Appropriateness (MAJOR) be granted for the application of 116 Elberon Avenue, Block 4, Lot 5 with any and all conditions which will be set forth in the Resolution. The Resolution will be memorialized at the next regular scheduled Planning Board Meeting on August 19, 2020.

**Recorded Vote:**

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

**DISCUSSION/VOTE –**

**A. Next Planning Board Meeting – Wednesday, August 19, 2020 at 7:30 p.m., via Zoom**

**B. Shams, 214 Euclid Avenue, Block 10, Lot 5 – Application of Appeal** – This matter will be scheduled for the next Planning Board Meeting to be held on August 19, 2020.

**C. PENDING APPLICATIONS -**

- **GOODMAN, 2 Elberon Avenue, Certificate of Appropriateness, Block 5, Lot 1**

**D. PENDING LITIGATION – 207 Edgemont Drive Appeal** – The Appeal is proceeding in the normal course.

**PUBLIC COMMENTS –**

UPON MOTION of Mr. R. Fernicola, seconded by Mayor Fernicola, carried the meeting be opened to the public.

Being no public comments, UPON MOTION of Mr. R. Fernicola, seconded by Ms. Appello, carried the meeting be closed to the public.

**Recorded Vote:**

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

UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D'Angelo, carried, that the meeting be finally adjourned at 9:00 PM.

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Marilyn Simons  
Board Secretary