

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

August 19, 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, AUGUST 19, 2020 AND WAS CALLED TO
ORDER BY MAYOR FERNICOLA AT 7:30 PM.**

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

Also present were Board Attorney, Sanford Brown 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 August 10, 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 Mr. Wiener, carried, the following minutes are hereby approved as presented.

- Regular Meeting of the Planning Board held on June 17, 2020;

Recorded Vote:

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

Nays: None Abstain: None

Absent: Ms. Gosline, Mr. R. Fernicola

OLD BUSINESS –

**RESOLUTION OF THE PLANNING BOARD OF
THE VILLAGE OF LOCH ARBOUR
FOR JOSEPH BETESH
116 ELBERON AVENUE, BLOCK 4, LOT 5**

WHEREAS, Joseph Betesh (hereinafter "Applicant") has applied to the Planning Board of the Village of Loch Arbour for variance approval at the premises located at 116 Elberon Avenue, Village of Loch Arbour and known as Block 4, Lot 5, on the tax map of the Village of Loch Arbour (hereinafter "Property"), 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, a virtual hearing was held on July 15, 2020 due to the COVID-19 Crisis and pursuant to governmental guidelines, and all interested parties were given an opportunity to be heard and express their opinions; and

WHEREAS, the Board, after carefully considering the evidence presented, has made the following factual findings:

The Applicant is the owner of the Property located at 116 Elberon Avenue, known as Lot 5 in Block 4 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.

At the hearing, the Applicant submitted testimony from the Project Architect, Robert W. Adler and submitted documents into evidence including:

- An architectural plan consisting of eight (8) sheets prepared by Robert W. Adler, R.A. of Robert W. Adler & Associates, P.A., dated October 15, 2019, with the latest revisions dated March 13, 2020.

- A survey of property consisting of one (1) sheet prepared by Brian T. Yuro, P.L.S. of J.Y. Land Surveying, Inc., dated March 3, 2020, with no revisions.

- Various pictures of the existing residence showing all sides of the structure and detail sheets of the proposed improvements from the architectural plans.

At the hearing, the Board relied upon the report submitted by Board Planner and Engineer, Peter Avakian, which was marked into Evidence as B-1, as well as testimony by Mr. Avakian.

The Applicant is requesting approval from the Planning Board for renovations and additions to the existing two and a 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 yard, 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 require a variance for building coverage.

The relevant zoning provisions under the Village Land Use Ordinance are as follows:

The minimum lot width permitted per the zoned district is 75 feet. The existing lot has a width of 83 feet, measured at the front setback, which conforms.

The minimum lot depth permitted per the zoned district is 100 feet. The existing lot has a depth of 150 feet, which conforms.

The minimum lot area permitted per the zoned district is 7,500 square feet. The existing lot has an area of 11,512 square feet, which conforms.

The minimum front building setback permitted per the zoned district shall conform with those provided for adjacent buildings. The plans indicate an average front building setback of 18.58 feet.

The existing front yard setback is 18.83 feet, which conforms. The Applicant is proposing no change to the front yard setback.

The minimum side building (each) setback permitted per the zoned district is the greater of 5 feet per side or 10% of the lot width per side. The permitted setback is 8.3 feet. The existing west side yard setback is 15.08 feet, which conforms. The existing east side yard setback is 6.5 feet, which represents an existing non-conformity. The Applicant is proposing an east side yard setback of 10 feet to the one-story addition, which conforms.

The minimum rear yard setback required per the zoned district is 25 feet. The existing rear yard setback is 56 feet, which conforms.

The maximum building coverage permitted per the zoned district is 20% of the lot size may be occupied by the principal use or structure. The existing building coverage is 29.05%, which represents an existing non-conformity. The Applicant indicates a building coverage of 31.42%, which includes the open trellis. The Board Planner had advised at the hearing that the open trellis should not be included in this building coverage calculation and calculated a building coverage of 28.9%. The kitchenette has a smaller area than the porch area it is replacing. An additional twenty percent (20%) of the lot size may be occupied by all other buildings or structures, which constitutes as building coverage. The existing coverage is 8.9%, which conforms. The Applicant indicates a proposed additional building coverage of 9.44%, which conforms. The open trellis area should be included in this coverage and the Board Engineer calculated an additional building coverage of 12.0%, which conforms.

The maximum building coverage ordinance regulation also stipulates that "In no event shall the total lot coverage exceed 40% of the lot". The existing total building coverage is 37.92%, which conforms. The Applicant's plans proposed a total building coverage of 40.86%, thus slightly over the maximum, which would require a variance. However, at the hearing, the Board Engineer recalculated the relevant areas, and the Applicant and Board agreed that the actual Lot Coverage after

development of the proposed improvements will be less than the maximum and therefore, no variance for Total Lot Coverage will be required.

Swimming Pools and Hot Tub

A swimming pool may be constructed in a rear yard only. The Applicant is proposing the swimming pool, hot tub and pool patio in the rear yard, which conforms.

No swimming pool, portion thereof, equipment or accessory structure may be located closer than 10 feet to any property line or structure. The Applicant is proposing a side yard setback of 13.42 feet, which conforms.

The Applicant is proposing a rear yard setback of 29.17 feet, which conforms.

The Applicant is proposing a separation of 11.25 feet between the swimming pool and the existing principal dwelling, which conforms.

The proposed pool equipment is located in the rear yard and has a side and rear yard setback of 11 feet, which conforms.

No swimming pool including equipment and accessories may occupy more than 50% of the rear yard in which it is located. The Applicant is proposing a rear yard coverage of 18.7%, which conforms.

The plan should indicate that all fences shall be equipped with self-latching device in compliance with the Swimming Pool Code of New Jersey.

The pool shall be surrounded by a fence no less than 4 feet in height. The Applicant is proposing a fence height of 4 feet, which conforms.

Filter backwash lines and pool drain lines shall be connected directly to an underground storm drainage system, if one is available. If a drainage system is not available, filter backwash lines and pool drain lines shall be connected to a dry well constructed on site, with design to be approved by the Village Engineer of the Village of Loch Arbour. Connections to the sanitary sewer are not permitted. The Applicant shall indicate compliance on revised plans to be submitted.

The pool may be lighted by underwater or exterior lights or both provided that all exterior lights are located so that the light is neither directed nor reflected upon adjacent properties in such a manner as to be a nuisance or annoyance to the neighboring properties. Above water lighting shall be so designated as to light the entire pool, including its bottom, in such a manner that all portions of the pool, including its bottom may be seen without glare. Such lighting shall provide not more than three watts per square foot of pool area and three watts per square foot of such surrounding area with three foot-candles illumination. Underwater lighting shall be in compliance with applicable National Electric Code. The Applicant shall provide this information to the satisfaction of the Board Engineer when it submits the revised plans.

The relevant provisions of the submitted site improvement plan and conditions are as follows: The architectural plan drawings include both a plot plan and grading plan of property (on Sheet 8 of 8). These plans indicate schematically the proposed pool, spa, chaise pool, patio, garden, outdoor dining area, and other site improvements. Neither of these plans indicates either the size or dimension of the improvements.

The Board determines that approval of the application is subject to the Applicant submitting revised architectural plan drawings, accurately depicting the location, size and dimension of each of the proposed areas of improvement subject to the satisfaction of the Board Engineer.

At the hearing the Applicant stipulated to compliance with all requests in the Avakian report dated May 20, 2020, Exhibit B-1.

At the hearing, the Applicant stipulated that he would change the porous asphalt on the plans to permeable pavers. Approval of the application is subject to the Applicant providing revised plans of the above changes, to the satisfaction of the Board Engineer.

At the hearing, the Board concluded that the only variance required was for maximum building coverage, which could be granted in conformance with applicable Ordinance and statutory provisions.

WHEREAS, the Board has determined that granting the variance for maximum building coverage will: (a) advance the purposes of the Municipal Land Use Act based on N.J.S.A. 40:55D-2.i; and (b) result in benefits which substantially outweigh any detriment and further that 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 all of the criteria being satisfied from proofs on the record including but not limited to, that the improvements will be very aesthetically pleasing and will have a positive impact on the neighborhood including based on the findings set forth in the companion Resolution approving Applicant's Certificate of Appropriateness Application.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Village of Loch Arbour that the approval of the Application of Joseph Betesh be granted for purposes of allowing the improvements requested in the application, as per the plans filed with the Board and marked into evidence at the hearing, and as modified as set forth in this Resolution and based on the various findings of fact set forth in this Resolution and full compliance by the Applicant with all conditions and findings by the Board in this Resolution.

AND BE IT FURTHER RESOLVED by the Planning Board that the approval of the within application as aforesaid is subject to the following conditions:
Applicant submitting revised architectural site plan drawings accurately depicting the location, size, dimension, distances to property lines as to each of the proposed improvements, subject to the approval of the Board Engineer, the change of material as to the driveway.

Applicant submitting details on filter backwash discharge, showing compliance with ordinance requirements, subject to the approval of the Board Engineer.
Applicant submitting details on lighting, showing compliance with Ordinance requirements, subject to the approval of the Board Engineer.

Applicant submitting a grading plan to prove that stormwater runoff does not drain onto adjacent properties, subject to the approval of the Board Engineer.
Applicant providing an amendment to the plans changing the porous pavement driveway to permeable pavers, and any other revisions to the plans to satisfy the conditions of this Resolution and all subject to the approval of the Board Engineer.

Compliance with any suggestions set forth in the Board Engineer/Planner's report dated May 20, 20020.

All representations made by the Applicant or Applicant's expert under oath are conditions of the within approval and a violation of same shall be deemed a violation of this approval.

Granting of any required construction permits.

Complying with any and all other 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.

Being bound to all representations at the hearing made by Applicant, Applicant's counsel and/or Applicant's expert.

Submitting a sufficient number of certified final plans ("Final Plan") as required by the Village, and only after the Village Engineer/Planner has signed off on any conditions required under this Resolution, which Final Plan shall then be reviewed by the Village Construction Official, and upon the Official issuing a Construction Permit(s), Applicant shall construct any and all improvements in strict conformance with the Final Plan. If the Applicant wishes to deviate in any way from the details of the Final Plan, Applicant must re-apply to the Board for any relief and before taking any steps to construct in deviation of the Final Plan.

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.

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 July 15, 2020.

Moved by: Commissioner D' Angelo

Seconded by: Ms. Appello

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. R. Fernicola

Those recused: Mr. Wiener, Ms. Wilusz

**RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF LOCH ARBOUR
REGARDING APPLICATION FOR CERTIFICATE OF APPROPRIATENESS
BY JOSEPH BETESH FOR PROPERTY LOCATED
AT 116 ELBERON AVENUE, BLOCK 4, LOT 5**

WHEREAS, JOSEPH BETESH (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 116 Elberon Avenue, Village of Loch Arbour and known as Block 4, Lot 5, 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, a hearing was held on July 15, 2020 in conjunction with a bulk variance application by the Application which was granted by the Board (Companion Resolution), 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 Architect, has made the following factual findings:

The Applicant filed an Application for Certificate of Appropriateness to request approval from the Planning Board to construct specified improvements ("Improvements") which are set forth in some detail in the Companion Resolution, the findings of fact from said Resolution being adopted herein as if set forth at length.

The Applicant is the owner of the property located at 116 Elberon Avenue known as Lot 5 and Block 4 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 Board considered all relevant criteria under the Municipal Historic Preservation Ordinance #2018-450, based on the testimony of the Project Architect and comments by Board members more particularly under Section 7.2.

At the hearing, the Applicant entered into evidence numerous Exhibits which are identified in the Companion Resolution and which were relied upon by the Board in making its findings, especially from Sheets 7 and 8 of the Project Architect's plans, by Robert W. Adler, PA, revised March 13, 2020, entered into evidence as A-2.

The Board found the Improvements are very impressive, as was the presentation by the Applicant at the hearing and that the Improvements will completely satisfy all relevant criteria under the Ordinance.

Findings under the Ordinance Criteria (mentioned by number as listed in the Ordinance) (for the purposes of this Resolution, "structure" means the existing dwelling; and the "work" means the construction of all Improvements in strict conformance with the approved Final Plan) were as follows:

The work will be compatible with the existing structures, landscapes and streetscapes within the District.

The work will not adversely affect the ambiance, character, and appearance of the District and the relationships among structures and between structures and public ways in the District.

The work will not adversely affect the exterior architectural features and setting of the existing structure and its historical and architectural interest.

The work will not result in structural elements that are out of scale with the other structural elements in the surrounding area.

The structure as improved by the work will remain visually compatible with the structures and places to which it is visually related.

The height of the structure as improved by the work will remain visually compatible with adjacent structures.

The relationship of the width of the structure, as improved by the work, to the height of the front elevation will be visually compatible with structures and places to which it is visually related.

The relationship of the width of windows to the height of windows in the structure as improved by the work will remain visually compatible with the structures and places to which it is visually related.

The relationship of solids to voids in the front façade of the structure as improved by the work will remain visually compatible with the structures and places to which it is visually related.

The relationship of a structure, as improved by the work, to the open space between it and adjoining structures will be visually compatible with the structures and places to which it is visually related.

The relationship of a structure's entrance and porch projections to the street will remain visually compatible with the structures and places to which it is visually related.

The relationship of materials and texture of the façade and roof of the structure as improved by the work will remain visually compatible with the predominant materials used in the structures to which it is visually related.

The roof shape of the structure as improved by the work will remain visually compatible with structures to which it is visually related.

The trellis which is a portion of the work, shall maintain visual compatibility of the structure with the structures and places to which it is visually related.

The size of the structure, as improved by the work, as well as the mass of the structure in relation to the open spaces, and the windows, door openings, porches and balconies shall remain visually compatible with the structures and places to which it is visually related.

The structure as improved by the work will be visually compatible with structures and places to which it is visually related in its directional character, whether this be vertical character, horizontal character, or non-directional character.

(Not applicable)

Existing materials of the structure are being reasonably maintained and repaired rather than replaced due to the work.

To the extent that the work results in replacement of materials, the new material will match the material being replaced in composition, design, texture, and other visual qualities.

Architectural details of the structure will be maintained as best as reasonably possible as a result of the work.

The new roofing material for the work will be of the same type of material and size as the existing roofs of the structure.

(Not applicable)

Period trim that defines the character of a structure are retained by the work.

(Not applicable)

Windows of the structure as improved by the work based on division into the number of lites/ panes are appropriate to the style of the building.

(Not applicable)

Doors of the structure will have the number and type of panels suitable to the style of building.

Based on all the findings and testimony at the hearing by the Applicant's expert, the Board finds the Applicant should be granted the approval of the Application for Certificate of Appropriateness for the improvements set forth in the application per the drawings and plan 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 19th day of August, 2020, that the approval of the Application for Certificate of Appropriateness

is granted for the improvements requested 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: Being bound to all representations at the hearing made by Applicant and/or Applicant's expert including those set forth in the Companion Resolution granting a variance. 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 as revised and approved by the Board Engineer/Planner and Village Construction Official as more particularly in strict conformance of the plan as set forth in the Companion Resolution.

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 July 15, 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. R. Fernicola

Those recused: Mr. Wiener, Ms. Wilusz

NEW BUSINESS -None

DISCUSSION/VOTE –

A. Next Planning Board Meeting – Wednesday, September 16, 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 September 16, 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 Mayor Fernicola, seconded by Mr. Wiener, carried the meeting be opened to the public.

Being no public comments, UPON MOTION of Mr. Wiener, seconded by Ms. Wilusz, carried the meeting be closed to the public.

Recorded Vote:

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

Nays: None

Absent: Ms. R. Fernicola, Ms. Gosline

UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried, that the meeting be finally adjourned at 7:45 PM.

Marilyn Simons
Board Secretary