

**VILLAGE OF LOCH ARBOUR
PLANNING BOARD
MINUTES –REORGANIZATION MEETING
January 19, 2022
<https://zoom.us/j/9871856747>
Meeting ID: 987 185 6747**

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THE REORGANIZATION MEETING OF THE VILLAGE OF LOCH ARBOUR PLANNING BOARD WAS CONDUCTED VIA ZOOM ON WEDNESDAY, JANUARY 19, 2022 AND WAS CALLED TO ORDER BY CHAIRPERSON, ROBERT FERNICOLA AT 7:30 PM.

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.

- Robert Fernicola, as a Class IV (resident) Member for a 4-year term
- Robert Wiener, 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: Commissioner D' Angelo, Mayor Fernicola, Ms. Appello, Mr. R. Fernicola, Mr. Wiener, Mr. Santos Mr. Maisto. ABSENT WERE: Ms. Gosline, Ms. Wilusz.

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 22, 2021, 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 2022-01: Nomination of Chairperson: UPON MOTION of Ms. Appello, seconded by Mr. Wiener, carried, that Robert Fernicola be and he is hereby nominated to serve as Chairperson of the Planning Board for 2022. 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, 2022 and until his successor be appointed.

Recorded Vote:

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

Resolution 2022-02: Nomination of Vice-Chairperson: UPON MOTION of Mr. R. 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 2022. 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, 2022 and until her successor be appointed .

Recorded Vote:

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

Resolution 2022-03: UPON MOTION of Mr. R. Fernicola, seconded by Mayor Fernicola, 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 Mark R. Aikins, Esq. as Planning Board Attorney for the term through December 31, 2022 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: Commissioner D' Angelo, Mayor Fernicola, Ms. Appello, Mr. R. Fernicola, Mr. Wiener, Mr. Santos, Mr. Maisto
Nays: None Absent: Ms. Gosline, Ms. Wilusz

Resolution 2022-04: UPON MOTION of Mr. R. Fernicola, seconded by Mr. Wiener, 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, 2022 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 2022 schedule of rates as supplied.

Recorded Vote:

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

Resolution 2022-05: UPON MOTION of Mr. Wiener, seconded by Ms. Appello, 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, 2022 and until her successor be duly appointed, at the rate in the Village of Loch Arbour salary ordinance and resolutions.

Recorded Vote:

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

Resolution 2022-06: UPON MOTION of Mr. R. 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 second 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 of the Planning Board of the Village of Loch Arbour will allow the public to access the Meetings via Zoom, due to the Municipal Building being closed to the public.
2. The public may not participate in the executive session.
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 2023 Reorganization Meeting is hereby scheduled for January 11, 2023.

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

There being no further business, and UPON MOTION of Mr. R. Fericola, seconded by Ms. Appello, carried, that the Reorganization Meeting be adjourned. The Board immediately began the Regular Meeting .

AGENDA – REGULAR MEETING

CORRESPONDENCE – None

MINUTES

UPON MOTION of Mr. R. Fernicola, seconded by Mr. Wiener, carried, the following minutes are hereby approved as presented.

- Regular Meeting of the Planning Board held on December 15, 2021;

Recorded Vote:

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

OLD BUSINESS

Board Members Mayor Fernicola and Remo Maisto are recused from this application.

A. 2 Elberon Avenue, Block 5, Lot 1 (continued)

An application was received on behalf of Gila Dabah, 2 Elberon Avenue. The applicant is requesting approval from the Planning Board for renovations to the existing detached accessory garage structure exterior and windows. Also the relocation of the second-floor bathroom to the first floor. The improvements require variance for use.

B. 2 Elberon Avenue, Block 5, Lot 1 (continued)

An application for a Certificate of Appropriateness was received regarding 2 Elberon Avenue, Loch Arbour, New Jersey.

C. 2 Elberon Avenue, Block 5, Lot 1: Notice of Appeal of the Zoning Officers decision.

Appearing on behalf of the applicant is Jessica Sweet, Esq. of the law firm of Bennett and Sweet. Ms. Sweet summarized the history of this application. Ms. Sweet stated the Use Variance is being withdrawn. Before the Board tonight is the Application regarding the request for a Certificate of Appropriateness. Ms. Sweet would like to proceed with the request for a Certificate of Appropriateness first. She believes the Variance Application which was withdrawn for Use and the determination of the decision regarding the Certificate of Appropriateness will alleviate the need to hear the Appeal of the Zoning Officer.

The Board discussed and agreed they would like to hear from the Zoning Officer at this time.

Joseph McGrath, Zoning Official for the Village of Loch Arbour testified regarding the Municipal Court violations and the procedural history. Mr. McGrath believes the pool permits should not be released until the violations on the property, which are not apart of the Certificate of Appropriateness, are resolved.

Ms. Sweet, Esq., objected to any bad faith against her client. She stated Ms. Dabah plead guilty to the violations in municipal court and paid the fines. The only summons issued was for violation of not obtaining a Certificate of Appropriateness.

Ms. Sweet talked about the prior building permits that have been issued, regarding the sewer pipe and the interior alterations.

Mr. Wiener asked if there were interior alterations that were done, that were not approved.

Mr. R. Fernicola discussed the bathroom in the garage, and it not being used the entire time Ms. Dabah has owned this property and if the use was abandoned. Mr. Fernicola questioned if there has been plumbing installed on the 1st floor as previously testified to. Mr. Fernicola questioned Ms. Sweet what the subject matter of the Appeal is.

Ms. Sweet discussed the pool variance and stated all the proper permits have been filed. Ms. Sweet stated there is no legal basis to withhold the permits for construction of the pool. Ms. Sweet also confirmed the roll-up window framing is going to be removed. Ms. Sweet confirmed there has been modifications to the garage, without approval. Ms. Sweet stated they are here to remedy this matter.

Mr. R. Fernicola questioned if there was new plumbing installed in the garage.

Ms. Sweet stated a witness will have to testify, regarding the plumbing. Ms. Sweet confirmed there will be no alterations to the interior of the garage.

There was a lengthy discussion regarding the plumbing in the garage and the subject of the Appeal.

Mr. McGrath stated the interior alterations were done without permits, installation of plumbing for 1st floor bathroom and kitchen.

Ms. Sweet, Esq., discussed prior Planning Board Approval with regards to the pool.

Mr. Wiener questioned changes to the garage.

Cathy Zuckerman, Architect, was sworn in.

Ms. Zuckerman testified no new plumbing was installed. She testified that the pass thru has been covered. Ms. Zuckerman referenced the Resolution for the pool variance (October, 2019). Ms. Zuckerman discussed permits to replace the old plumbing for the 2nd floor bathroom.

The Board and Mr. McGrath discussed with Ms. Zuckerman the permits obtained for the sewer line.

Gila Dabah was sworn in. Ms. Dabah testified to the previous plans and presently, she only would like to restore the exterior of the building. Ms. Dabah testified since the divorce from her ex-husband there has been no work done on the garage. Ms. Dabah testified she has no intention, at this time, of putting a bathroom on the 1st floor.

Ms. Zuckerman and the Board discussed the sewer line and the plumbing in the garage.

Mr. McGrath stated a condition should be, the plumbing be removed from the garage.

Ms. Dabah agreed to remove any new plumbing that was installed, that was not pre-existing.

The Board is not concerned with what is in the ground at this time, but all new plumbing in the garage shall be removed.

Ms. Sweet confirmed the new plumbing in the garage will be removed.

UPON MOTION of Mr. R. Fernicola, seconded by Mr. Wiener carried the meeting be opened to the public for questions and statements from the public.

Paul Fernicola, Euclid Avenue, was sworn in. Mr. Fernicola stated Mr. McGrath should have the opportunity to inspect the garage tomorrow, so that the Village knows what is currently present with regards to this plumbing.

The Board suggested Mr. McGrath take pictures and to inspect the service lines.

Ms. Sweet agreed, but suggested the Deal Plumbing Inspector should perform the inspection.

UPON MOTION of Mr. R. Fernicola, seconded by Mr. Wiener carried that the meeting be closed to the public for question and statements.

Recorded Vote:

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

Nays: None

Recused: Mayor Fernicola, Mr. Maisto

Absent: Ms. Gosline, Ms. Wilusz

UPON MOTION of Mr. Wiener, seconded by Mr. R. Fernicola, the Appeal of the Zoning Officer's decision is hereby approved with the condition that the Deal Plumbing Inspector and the Zoning Officer inspect the interior of the garage and take pictures and all new plumbing be removed from the garage, that was not pre-existing. The approval will be memorialized with all conditions at the next Planning Board Meeting to be held on February 9, 2022.

Recorded Vote:

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

Nays: None

Recused: Mayor Fernicola, Mr. Maisto

Absent: Ms. Gosline, Ms. Wilusz

Certificate of Appropriateness:

The following Exhibits were marked into evidence:

Exhibit A-15: Plans: Renovation and Alterations prepared by CDZ Architects, LLC., revised thru October 6, 2021. Revision of Sheet A-1.

Exhibit A-16: Plans Renovation and Alterations prepared by CDZ Architects, LLC., revised thru January 19, 2022. Revision of Sheet A-3.

Exhibit A-17: Photo of historic windows on 2nd floor rear of the garage (rear), provided by Architect. No date when photo was taken.

Exhibit A-18: Photo of historic double hung window in the garage (rear), provided by Architect. No date when photo was taken.

Ms. Zuckerman referenced Exhibit A-15 and Exhibit A-16 and testified to the exterior changes to the garage. Ms. Zuckerman testified that in old photos there were double hung windows on the 2nd floor in the rear of the garage, where the barn doors(plywood) are located. Exhibit A-14 was referenced. She confirmed the stucco would match the house. She testified all windows would be double hung and the garage door would be wood. Ms. Zuckerman confirmed the skylights and the roll up window, have been removed from the revised plans.

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

Paul Fernicola, Euclid Avenue, referenced Exhibit A-15 and Exhibit A-16 and asked about the revised plans to install a window on the 1st and 2nd floor in the rear of the garage.

Ms. Zuckerman testified when she studied this structure to restore the building to its original form, she discovered there were double hung windows on the 2nd floor in the rear of the garage. Ms. Zuckerman does not know if there was a 1st floor window in the rear of the garage, but does see old framing work.

Mr. Fernicola, referenced Exhibit of a picture that was taken from this property. The picture depicts that there was not a window on the rear of the garage on the 1st floor. Mr. Fernicola testified that Ms. Dabah advised him there would be no window on the 2nd floor (rear of the garage) and she would install shutters.

Ms. Zuckerman referenced Exhibit A-17 and Exhibit A-18 and testified to the historic pictures depicting the double hung windows on the 2nd floor, rear of the garage. Ms. Zuckerman acknowledged she did not know when the pictures were taken.

UPON MOTION OF Mr. R. Fernicola, seconded by Mr. Wiener, carried the meeting be closed to the public.

Recorded Vote:

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

Nays: None

Recused: Mayor Fernicola, Mr. Maisto

Absent: Ms. Gosline, Ms. Wilusz

UPON MOTION, OF Mr. R. Fernicola, seconded by Mr. Wiener, carried the meeting be opened to the public for statement of objectors.

Paul Fernicola, Euclid Avenue, was sworn in. Mr. Fernicola stated he has lived in his home since 2003 and there has never been windows on the south side of the garage. They have always been barn doors. Mr. Fernicola stated that if windows are installed on the 2nd floor of the south side and the 1st floor of the south side, the windows would be intrusive and a loss of privacy to the neighbors to the north of the property.

Ms. Zuckerman and Mr. Fernicola discussed the windows.

Ms. Dabah agreed to not install windows on the south side of the garage on the 2nd floor. Ms. Dabah also agreed to not install a window on the south side of the garage on the 1st floor.

UPON MOTION OF Mr. Fernicola, seconded by Mr. Wiener, carried the meeting be closed to the public.

Recorded Vote:

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

Nays: None

Recused: Mayor Fernicola, Mr. Maisto

Absent: Ms. Gosline, Ms. Wilusz

UPON MOTION of Mr. R. Fernicola, seconded by Mr. Wiener, carried that a Certificate of Appropriateness (MAJOR) be granted for the application of 2 Elberon Avenue, Block 5, Lot 1 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 February 9, 2022.

Recorded Vote:

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

Nays: None

Recused: Mayor Fernicola, Mr. Maisto

Absent: Ms. Gosline, Ms. Wilusz

C. 335 Euclid Avenue, Block 3, Lot 15 – Variance/Certificate of Appropriateness. The Board did not have a quorum to hear this application tonight.

UPON MOTION OF Mr. R. Fernicola seconded by Commissioner D' Angelo, carried the matter was properly noticed and the Board took jurisdiction of this matter. The matter will be carried until the next planning board meeting without the need for further notice. This matter will be scheduled for the next planning board meeting to be held on February 9, 2022

Recorded Vote:

Ayes: Commissioner D' Angelo, Mayor Fernicola, Mr. R. Fernicola, Mr. Santos

Nays: None

Recused: Ms. Appello, Mr. Wiener, Mr. Maisto

NEW BUSINESS

A. Resolution 2022-07: UPON MOTION of Mr. R. Fernicola, seconded by Mr. Wiener, carried the following Resolution be adopted:

WHEREAS, Sanford D. Brown, Esquire has served as the Village of Loch Arbour Planning Board Attorney since January 1, 2009 and has announced his retirement, effective January 1, 2022; and

WHEREAS, during Mr. Brown's years of faithful service as Planning Board Attorney he earned the admiration and respect of the members of the Planning Board, applicants to the Board and the residents of the Village of Loch Arbour; and

WHEREAS, through his professionalism and practical approach to the many scores of land use applications, he provided counsel which greatly benefitted the quality of life, health and well being of all of the residents of the Village of Loch Arbour;

NOW, THEREFORE, BE IT RESOLVED, that the Village of Loch Arbour Planning Board hereby extends its sincere gratitude, heartfelt appreciation and congratulations to Sanford D. Brown upon his retirement.

BE IT FURTHER RESOLVED, that this Resolution be spread upon the Meeting Minutes of the Village of Loch Arbour Planning Board and a copy of this Resolution be presented to Sanford D. Brown, Esquire.

Recorded Vote:

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

Nays: None

Absent: Ms. Gosline, Ms. Wilusz

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

A. Resolution 2022-08: UPON MOTION, of Mr. R. 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.
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: Commissioner D' Angelo, Mayor Ferniocl, Ms. Appello, Mr. R.Fernicola, Mr. Wiener, Mr. Santos, Mr. Maisto

Nays: None Absent: Ms. Gosline, Ms. Wilusz

DISCUSSION -

A. PENDING APPLICATIONS –

A. 335 Euclid Avenue will be continued to be heard on February 9, 2022.

B. Next Planning Board Meeting is scheduled for Wednesday, February 9, 2022 at 7: 30 p.m.

PUBLIC COMMENTS

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

UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D' Angelo, carried, that the following **Resolution** be and the same is hereby adopted:

WHEREAS, Section 8 of the Open Public Meetings Act, N.J.S.A. 10:4-12 et seq., permits the exclusion of the public from a meeting in certain circumstances; and,

WHEREAS, this public body is of the opinion that such circumstances presently exist.

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

1. The public shall be excluded from discussion of and actions upon the hereinafter-specified subject matter.
2. The general nature of the subject matter to be discussed is as follows: Pending Litigation/ Attorney-client privileged information, 205 Edgemont Drive. No official action will be taken.
3. It is anticipated at this time that the above stated subject matter will be made public within 120 days.
4. This resolution shall be effective immediately.

Recorded Vote:

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

Nays: None Absent: Ms. Gosline, Ms. Wilusz

DISCUSSION -

A. PENDING APPLICATIONS –

A. 335 Euclid Avenue will be continued to be heard on February 9, 2022.

B. Next Planning Board Meeting is scheduled for Wednesday, February 9, 2022 at 7: 30 p.m.

PUBLIC COMMENTS

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

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

Marilyn Simons, Board Secretary