

**VILLAGE OF LOCH ARBOUR PLANNING BOARD
MINUTES –REGULAR MEETING
February 9, 2022**

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

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**THE REGULAR MEETING OF THE VILLAGE OF LOCH ARBOUR PLANNING BOARD
WAS CONDUCTED VIA ZOOM, ON WEDNESDAY, FEBRUARY 9, 2022 AND WAS CALLED TO
ORDER BY CHAIRPERSON, ROBERT FERNICOLA AT 7:30 PM.**

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. Wilusz

Also present were Board Attorney, Mark Aikins, Esq., Sam Avakian, Board Engineer, 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 24, 2022, 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.

MINUTES

UPON MOTION of Mr. R. Fernicola, seconded by Ms. Appello, carried, the following minutes are approved as submitted.

- Reorganization and Regular Meeting of the Planning Board held on January 19, 2022.

Recorded Vote:

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

Nays: None

Abstain: Mayor Fernicola, Mr. Maisto

Absent: Ms. Wilusz

CORRESPONDENCE –

A. Email dated January 27, 2022, from Mary Gosline resigning from her position as a member of the Loch Arbour Planning Board. The Board Chairperson thanked Ms. Gosline for her years of service to the Loch Arbour Planning Board.

OLD BUSINESS –

A. 2 Elberon Avenue, Block 5, Lot 1

RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF LOCH ARBOUR
GRANTING APPROVAL OF THE APPEAL OF THE ZONING OFFICER'S DETERMINATION
BY GILA DABAH FOR

PROPERTY LOCATED AT 2 ELBERON AVENUE

WHEREAS, GILA DABAH (hereinafter "Applicant") has appealed the decision of the Zoning Officer to the Planning Board of the Village of Loch Arbour relating to the premises located at 2 Elberon Avenue, Village of Loch Arbour and known as Block 5, Lot 1, on the tax map of the Village of Loch Arbour; 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 January 19, 2022 in conjunction with the aforesaid appeal; and

WHEREAS, the Board, after carefully considering the testimony by the Applicant as represented through attorney Jessica Sweet, Esquire and the testimony and evidence presented by the Applicant's Architect, Cathy Zukerman, AIA of CDZ Architects, LLC, has made the following factual findings, some of which apply to the companion Resolution of Memorialization as to the request for a Certificate of Appropriateness:

The Applicant is the owner of the property located at 2 Elberon Avenue known as Block 5, Lot 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 Residential Zone.

The Applicant is appealing the determination of the Zoning Officer as set forth in his letter dated December 6, 2021 which precluded issuance of the construction permit for the swimming pool on the basis that the Applicant had not addressed outstanding previously cited violations.

The Applicant, by letter from her Attorney dated January 19, 2022 agreed to withdraw, without prejudice, the request for a use variance proposing interior modifications to the garage structure, including the relocation and reconstruction of the bathroom to the first floor.

The Applicant stipulated that all proper permits for the pool have been filed.

The Applicant stipulated to immediately removing all new plumbing, as determined by the Zoning Officer, from the garage structure.

The Applicant stipulated to permitting the Village Plumbing Inspector inspect the garage structure to confirm removal of the new plumbing, as determined by the Zoning Officer, with the Zoning Officer to take pictures to confirm the condition of the interior of the garage structure conforms with the Applicant's representation that all code violations have been addressed.

At the hearing, neighbor Paul Fernicola requested that the Zoning Officer should have the opportunity to inspect the garage structure the next day so that existing conditions can be assessed relative to the Applicant's representation that all code violations were addressed.

At the hearing, the Board considered the testimony of the Applicant's Architect, Cathy Zukerman, who stated that no new plumbing was installed in the garage structure.

BE IT RESOLVED that the Applicant's Appeal of the Zoning Officer's decision is herewith approved, subject to the findings of fact as previously set forth in this Resolution being expressed conditions with which the Applicant shall comply.

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 Zoning Officer, 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 February 9, 2022.

Moved by: Mr. R. Fernicola

Seconded by: Mr. R. Wiener

ROLL CALL VOTE

Those in favor: Commissioner D' Angelo, Ms. Appello, Mr. R. Fernicola, Mr. Wiener, Mr. Santos

Those Opposed: None

Those absent: Ms. Wilusz

Those recused: Mayor Fernicola, Mr. Maisto

B. 2 Elberon Avenue, Block 5, Lot 1

**RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF LOCH ARBOUR
REGARDING APPLICATION FOR CERTIFICATE OF APPROPRIATENESS
BY GILA DABAH FOR
PROPERTY LOCATED AT 2 ELBERON AVENUE**

WHEREAS, GILA DABAH (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 2

Elberon Avenue, Village of Loch Arbour and known as Block 5, Lot 1, 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, hearings were held on September 30, 2021, October 20, 2021 and January 19, 2022 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 through attorney Jessica Sweet, Esquire, and Applicant's expert Cathy Zukerman, AIA of CDZ Architects, LLC have made the following factual findings:

The Applicant filed an Application for Certificate of Appropriateness, originally to request approval from the Planning Board for renovations to garage exterior, including:

Garage Exterior

Replacement/reframing of garage roof.

Replacement in-kind of overhead garage door.

Replacement in-kind of damaged white stucco exterior cladding with new stucco to match the existing, and including:

Garage Windows

Replacement of windows on second floor of north and south elevations.

Installation of new windows on garage rear/south elevation.

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

Exhibit A-15 Plans entitled Addition & Alterations to Existing Dwelling, by CDZ Architects, LLC, revised through October 6, 2021; Revision of Sheet A-1.

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

Exhibit A-17: Photo of historic windows on the 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.

The Board refers to by references and adopts herein all findings of fact in the companion Resolution of Memorialization as to the Applicant's appeal of the Zoning Officer's decision at the January 19, 2022 hearing as testified to by the Applicant's Architect and her revised Plan dated January 19, 2022.

The Board considered all relevant criteria under the Municipal Historic Preservation Ordinance #2017-424, based on the testimony at the hearings, including the Project Architect and more particularly under Section 7.2., the Board makes the following findings:
All work shall be compatible with the existing structures, landscapes and streetscapes within the District.

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

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

Every structure shall be and remain visually compatible with the structures and places to which it is visually related.

The height of the structure shall be visually compatible with adjacent structures.

The relationship of the width of the structure to the height of the front elevation shall 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 shall be 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 shall be visually compatible with the structures and places to which it is visually related.

The relationship of the structure to the open space between it and adjoining structures shall be visually compatible with the structures and places to which it is visually related.

The relationship of the structure's entrance and porch projections to the street shall be 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 shall be visually compatible with the predominant materials used in the structures to which it is visually related.

The roof shape of the structure shall be visually compatible with structures to which it is visually related.

As proposed, appurtenances such as walls and open-type fencing shall form cohesive walls of enclosure along a street, to extent necessary to maintain visual compatibility of the main structure with the structures and places to which it is visually related.

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

A structure shall 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.

Work to restore all or part of a structure shall return the structure, or that part covered by the application, to the known or reasonable conceived appearance (including design elements, architectural details, and textures) it had when it was first constructed or when it was remodeled, if the remodeling occurred before 1950. Notwithstanding the foregoing, the Board may permit (i) modifications that are necessary or beneficial to contemporary living and consistent with the architectural design and character of the structure, and (ii) modifications that improve structures lacking architectural merit and not in character with the District and which will result in a structure that is in character with the District.

Existing materials, if they are the original materials of the original structure or remodeling which is being restored, should, where reasonably possible, be maintained and repaired rather than replaced.

In the event that replacement of materials is necessary, the new material should match the material being replaced in composition, design, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of original features. This is not intended to require that the new material be identical to the material being replaced. Material adequately mimicking the material being replaced is acceptable, and may sometimes be preferable where of greater durability than the material being replaced.

Architectural details of the original construction or remodeling which is being restored or altered should be retained. This includes, but is not limited to, cornices and their brackets, window trims such as molded lintels, porch elements such as posts, balustrades, and spindles, and windows, particularly the number and size of the individual panes.

The original roofing material should be maintained or repaired, and, if replacement is needed, it should be of the same material and size. If the same material is not available, a substitute material should be of the same shape, texture, and size.

Storm windows and doors should be as unobtrusive as is reasonable possible.

Period trim that defines the character of a structure should be retained. It should not be covered by application of aluminum or vinyl.

Synthetic siding (aluminum or vinyl) is acceptable, but the width of the siding shall be appropriate for the period of the building's construction and not detract from the character of the District.

Windows should be divided into the number of lites or panes appropriate to the style of the building. True divided lites are preferred, but snap-in-mountings are acceptable.

Shutters should be of a height and width so that they appear capable of being closed. They are not appropriate on double, bay, or picture windows.

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

Demolition of a building, accessory building or garage in this District shall not be permitted unless (a) the structure has been condemned by applicable procedures, (b) the condition of the structure is such that the cost of necessary restoration or repairs make such restoration or repairs unfeasible, or (c) it can be shown that the structure has no significant architectural or historic value. Based on all the findings and testimony at the hearing by the Applicant and Applicant's expert, the Board finds the Applicant should be granted approval of the Application for Certificate of Appropriateness for the renovations to the existing detached accessory garage structure exterior and windows as per the revised plan filed at the January 19, 2022 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 9th day of February, 2022, that the approval of the Application for Certificate of Appropriateness be granted for purposes of the renovations to the existing detached accessory garage structure exterior and windows 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: Applicant is bound to all representations at the hearing made by the Applicant and Applicant's expert.

The improvements shall be constructed strictly as set forth in the Architect's revised plan dated January 19, 2022.

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.

No windows shall be installed on the south side of the garage on the second floor.

No windows shall be installed on the south side of the garage on the first floor.

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 February 9, 2022.

Moved by: Mr. R. Fernicola

Seconded by: Commissioner D'Angelo

ROLL CALL VOTE

Those in favor: Commissioner D' Angelo, Ms. Appello, Mr. R. Fernicola, Mr. Wiener, Mr. Santos

Those Opposed: None

Those absent: Ms. Wilusz

Those recused: Mayor Fernicola, Mr. Maisto

Board Member Mr. Wiener, Ms. Appello are recused from this matter. Ms. Appello left the meeting. Mr. Maisto signed an Affidavit confirming he listened to the recording from the prior meeting regarding this application held on November 17, 2021.

A. 335 Euclid Avenue, Block 3, Lot 15

An Application was received on behalf of Mr. and Mrs. Raymond Harari requesting approval from the Planning Board for a one-story addition to the rear of the existing two-story single-

family dwelling. The Applicant is proposing a swimming pool, pool patio, and a raised patio at the rear of the dwelling. The improvements require a variance for building coverage.

B. 335 Euclid Avenue, Block 3, Lot 15, Cert. of Appropriateness (Major Alteration)

An Application for a Certificate of Appropriateness (Major Alteration) was received on behalf of Mr. and Mrs. Raymond Harari.

Appearing on behalf of the applicant is Jennifer Krimko, Esq., of the law firm of Ansell, Grimm and Aaron, PC.

The following Exhibits were marked into evidence at the November 17, 2022 Planning Board Meeting:

Exhibit A-1: Variance Plan, prepared by Craig W. Stires, PE, of Stires Associates, PA, dated March 24, 2021 with latest revision dated July 22, 2021. 4 sheets.

Exhibit A-2: Architectural Plan, prepared by Alan J. Zimbler, RA., dated May 20, 2021 - 10 sheets.

Exhibit B-1: Letter dated October 18, 2021 prepared by Board Engineer, Peter Avakian, consisting of 4 pages.

The following Exhibits were marked into evidence:

Exhibit A-3: Revised Plot Plan, prepared by Craig W. Stires, PE, of Stires Associates, PA, with latest revision dated December 3, 2021. 4 sheets.

Exhibit A-4: Revised Architectural Plan, prepared by Alan J. Zimbler, PA, dated November 22, 2021. 10 sheets.

Exhibit B-2: Letter dated October 18, 2021, revised January 3, 2022 prepared by Board Engineer, Peter Avakian, consisting of 5 pages.

Ms. Krimko summarized the application. She stated new plans were submitted for this project. She referenced Exhibit A-3 and Exhibit A-4. Ms. Krimko stated a much better plan was submitted. New Plan benefits homeowner and concerned neighbor. She discussed the changes in the plans.

Craig Stires, Engineer for the applicant was previously sworn in and still under oath. Mr. Stires summarized the revised plans submitted to the Board. Mr. Stires referenced Exhibit B-2 and testified the owner will comply with all conditions listed in the letter.

Mr. Stires referenced Exhibit B-2 (3A) and testified no porous pavement on the property.

Mr. Stires referenced Exhibit B-2 (2A) and testified the drainage will be as stated on the plans.

Mayor Fericola asked the percent of the coverage being proposed.

Mr. Stires testified the principal dwelling is 24.34% and the accessory coverage is 15.11%. The total coverage is 39.45%.

UPON MOTION of Mr. R. Fericola, seconded by Commissioner D' Angelo, carried the meeting be opened for questions of the Engineer, Craig Stires.

Mrs. Crisci, 333 Euclid Avenue, is the neighbor to the east of the property. Mrs. Crisci wanted to clarify the house is 3 stories and not 2 stories as indicated on the notice she received. Ms. Crisci also wanted to confirm there is no proposed raised patio on the plan. The Board Chair explained the Applicant's Architect will answer the questions she is asking.

UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D' Angelo, carried the meeting be closed for questions from the public.

Recorded Vote:

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

Nays: None

Abstain: Mr. Wiener

Absent: Ms. Appello, Ms. Wilusz

Alan J. Zimbler, Architect, was previously sworn in and still under oath. Mr. Zimbler referenced Exhibit A-4, page A-2 and testified to the changes that are being proposed. Mr. Zimbler confirmed a raised rear patio has been omitted from the plans. He also confirmed the home is a 2 ½ story home and there is no change to the 2nd and ½ (3) story of the home. Mr. Zimbler confirmed there is an addition to the 1st story in the rear of the home.

No questions from the Board.

UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D' Angelo, carried that the meeting be opened for questions of the Architect.

Mrs. Crisci discussed with the Architect the building coverage. Mrs. Crisci discussed the addition to the 1st floor. Mrs. Crisci suggested the applicant conform to the Village Ordinances regarding the coverage percentage for the residence. Ms. Krimko discussed with Mrs. Crisci.

Ms. Krimko confirmed the proposed pool is conforming to all Village Development Ordinances.

Mrs. Crisci and the Engineer discussed the side yard setback. Mr. Stires testified the addition complies with the side yard setback requirements.

The Board and the professionals had a lengthy conversation about the building coverage and the lot size.

Mrs. Crisci is concerned about the following

- Hedges on the east side of the property – Mrs. Crisci stated the hedges are on the property line and are jointly owned. Ms. Krimko confirmed this application does not propose any changes to the hedges.
- The excessive noise that will happen during construction. Mr. Zimbler confirmed there will be no disturbance to the neighbor's property during construction.
- Water table level – due to installing a pool, and the potential problems if her basement floods. Mr. Stires discussed the run-off with Mrs. Crisci
- The lack of storage – due to the two storage sheds being taken down. Ms. Krimko confirmed no shed will be constructed.

Mrs. Crisci requested a noise barrier be installed during construction. She also commented the overhead wires over the proposed pool area, and if this is a safety issue. Mrs. Crisci discussed the soil evaluation report that was submitted.

UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D' Angelo, carried that the meeting be closed for questions from the public.

Recorded Vote:

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

Nays: None

Abstain: Mr. Wiener

Absent: Ms. Appello, Ms. Wilusz

The Meeting was opened up to the public for general comments/questions. No additional/questions at this time from the public.

Jennifer Krimko, Esq., summarized the application.

The Board discussed the application.

UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried the variance be granted for the application of 335 Euclid Avenue (Block 3, Lot 15) 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 March 9, 2022.

Recorded Vote:

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

Abstain: Mr. Wiener

Nays: None

Absent: Ms. Appello, Ms. Wilusz

UPON MOTION of Mr. R. Fernicola, seconded by Mayor Fernicola, carried that a Certificate of Appropriateness (MAJOR) be granted for the application of 335 Euclid Avenue (Block 3, Lot 15) 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 March 9, 2022.

Recorded Vote:

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

Abstain: Mr. Wiener

Nays: None

Absent: Ms. Appello, Ms. Wilusz

NEW BUSINESS – None

SCHEDULING -

A. Pending Application – None

B. Next Planning Board Meeting – Wednesday, March 9, 2022 at 7:30 p.m.

PUBLIC COMMENTS –

UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D' Angelo, carried that the meeting be opened to the public for comments.

No comments, UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D' Angelo, carried that the meeting be closed to the public for comments.

Recorded Vote:

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

Nays: None

Absent: Ms. Appello, Ms. Wilusz

UPON MOTION of Mayor 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 Fernicola, Mr. R. Fernicola, Mr. Wiener, Mr. Santos, Mr. Maisto

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

UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D' Angelo, carried, that the meeting be finally adjourned at 8:45 PM.

Marilyn Simons
Board Secretary