

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

October 21, 2020

<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, SEPTEMBER 16, 2020 AND WAS CALLED TO
ORDER BY CHAIRPERSON, ROBERT FERNICOLA AT 7:30 PM.**

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

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 October 13, 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.

MINUTES -

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

- Regular Meeting of the Planning Board held on September 16, 2020;

Recorded Vote:

Ayes: Ms. Appello, Ms. Gosline, Mr. Wiener, Mr. Santos

Nays: None Abstain: Mr. R. Fernicola, Mr. Maisto

Absent: Commissioner D' Angelo, Mayor Fernicola, Ms. Wilusz

CORRESPONDENCE – None

OLD BUSINESS

**A. Memorialize Certificate of Appropriateness Application,
Fernicola, 106A Euclid Avenue, Lock 9, Lot 6.**

RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF LOCH ARBOUR
GRANTING CERTIFICATE OF APPROPRIATENESS AND REAFFIRMING PRIOR GRANT OF VARIANCES
APPLICATION BY ROBERT C. FERNICOLA
FOR PROPERTY LOCATED
AT 106A EUCLID AVENUE, BLOCK 9, LOT 6

WHEREAS, ROBERT C. FERNICOLA (hereinafter "Applicant") has applied to the Planning Board of the Village of Loch Arbour for a Certificate of Appropriateness and reaffirmation of a prior grant of variances for premises located at 106A Euclid Avenue, Village of Loch Arbour and known as Block 9, Lot 6, on the tax map of the Village of Loch Arbour (the "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 hearing was held on September 16, 2020, and members of the public were given an opportunity to be heard and express their opinions, if any; and

WHEREAS, the Board, having carefully considered all of the evidence and testimony by the Applicant and the Applicant's Architect, has made the following factual findings:

The Applicant filed an application requesting approval from the Planning Board for amendments to a previous approval by the Board ("2016 Resolution") for an addition and remodeling of the second and third floors of the existing dwelling.

The 2016 Resolution granted variances for front building setback, side building setback and number of stories. The Property has non-conformities in building coverage, lot width, lot area, front and side building setbacks, and number of stories.

The Applicant is the owner of the Property located at 106A Euclid Avenue, known Lot 6 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 minimum lot width permitted per the zoned district is 75 feet. The existing lot has a width of 31.55 feet, which represents an existing non-conformity.

The minimum lot depth permitted per the zoned district is 100 feet. The existing lot has a depth of 138.42 feet, which conforms.

The minimum lot area permitted per the zoned district is 7,500 square feet. The existing lot has an area of 4,367 square feet, which represents an existing non-conformity.

The minimum front building setback permitted per the zoned district shall conform to those provided for adjacent buildings. In the 2016 Resolution, the Board found that the average front yard setback was 11.3 feet to the front porch and 20.0 feet to the building. In 2016, the Applicant had proposed a front building setback of 17.5 feet to the second and third floor addition. A variance was granted.

Also, under the 2016 Resolution, the Applicant proposed a front building setback of 11.2 feet to the second and third floor balconies. A variance was granted.

The minimum rear building setback permitted per the zoned district is 25 feet from the rear lot line. The rear building setback to the proposed second floor addition and third floor balcony is approximately 70 feet, which conforms.

The minimum side building setback permitted per the zoned district is 5 feet. Under the 2016 Resolution, the proposed south side building setback was 4.2 feet on the east side and 5.0 feet on the west side. The proposed east side building setback was an expansion of an existing non-conformity. A variance was granted under the 2016 Resolution. This has not changed under the immediate application and the prior holding is reaffirmed herein.

These setbacks and variances do not change under the immediate application and are the Board finds that the granting of the variance is equally applicable and proper under the present application.

The maximum building coverage permitted in the zone district is 20% of the lot area and may be occupied by the principal structure. In the 2016 Resolution, the Board found that the existing building coverage of 28.3% (1,236 square feet) included the dwelling, porch, and deck. The Board found that since the improvements did not increase the building coverage, this represented an existing non-conformity. This has not changed under the immediate application and the prior holding is reaffirmed herein.

An additional 20% of the lot area may be occupied by all other structures, which constitute building coverage. In the 2016 Resolution, the Board found that the existing lot coverage was 31.8%, which included the garage, steps, asphalt, and concrete. Since the improvements did not increase the lot coverage, this represented an existing non-conformity. These conditions have not changed under the immediate application and the prior holding is affirmed herein.

The maximum building height permitted is 35 feet. In the 2016 Resolution, the Board found that the Applicant was proposing a building height of 34.6 feet, which conformed. This finding is affirmed as to the immediate application herein.

In the 2016 Resolution, the Board noted that under the then present zoning, the principal dwelling could not be more than two-stories above grade. The Applicant had proposed a renovation and addition to the third story above grade. The improvements included a master bedroom, master bathroom, walk-in closet, sitting room, mechanical room, and two balconies. In the 2016 Resolution, a variance was granted for the improvements to the third-story above grade. This finding is affirmed as to the immediate application herein.

The Property is located in the Flood Zone AE as shown on the Flood Insurance Rate Map Number 34025C0351G for the Village of Loch Arbour. Under the 2016 Resolution the Applicant provided a flood elevation certificate verifying all proposed improvements complied with the Village

Flood Damage Prevention Ordinance and provided testimony regarding compliance with the 'substantial improvement' section of the aforesaid Ordinance, which testimony was acceptable by the Board. The Board affirms such compliance herein.

Under the 2016 Resolution, in accordance with RSIS Table 4.4, a single-family dwelling with 4 bedrooms required 2.5 parking spaces. The site plan showed two (2) existing parking spaces. The Applicant provided testimony regarding the off-street parking, which testimony was acceptable to the Board resulting in there being no need for a variance or waiver. The Board affirms that finding herein.

Under the 2016 Resolution, the Board noted there was a common driveway between the Property and adjacent house No. 106 Euclid Avenue and that the Applicant had provided testimony that a legal and satisfactory access easement does exist on the adjacent property. The Board reaffirms that finding herein.

Under the 2016 Resolution, the Board determined that the positive criteria for granting a c.(2) variance had been met by the Applicant, in part because the new improvements would enhance the visual quality of the neighborhood in that the new exterior was more consistent with the character of the neighborhood being a traditional architectural design, and that allowing for the long term probable abandonment of the basement was a future benefit for safety reasons, although there was no condition therein requiring the removal or filling in of the basement. Additionally, the Board found that the third floor was a pre-existing non-conforming use prior to the time the Loch Arbour Ordinance restricting such use came into effect. The Board found that the improvements as outlined therein would not have an adverse impact on the neighborhood, and that the alignment of the second and third floor additions would be substantially in conformance with the existing street alignment and would have no negative visual impacts on the Applicant's immediate neighbors.

Under the immediate application and for the reasons expressed below, the Board finds that the Applicant has provided even stronger proofs to satisfy the positive criteria.

The Board additionally found under the 2016 Resolution that the Applicant had proven the necessary negative criteria in that the second and third floor additions would be substantially in conformance with the existing street alignment and would have no negative visual impacts on the Applicant's immediate neighbors or the neighborhood in general. Therefore, the Board found that the Applicant had proven that the variance relief could be granted without substantial detriment to the public good and would not substantially impair the intent and the purpose of the zoning and planning ordinance.

Under the immediate application and for the reasons expressed below, the Board finds that the Applicant has provided even stronger proofs to satisfy the positive criteria.

Under the 2016 Resolution, the Board found that while not necessary to grant any of the relief requested, the Applicant had satisfied the proofs for relief pursuant to N.J.S.A. 40:55D-70 c.(1).

Under the 2016 Resolution, the Board found that the approval of the application was subject to conditions and/or the Applicant complying with the following:

The Applicant shall submit revised plans to satisfy all conditions of the Resolution, which submission was subject to the review and approval of the Board Engineer and Planner. The plans were to include the provision that the existing sidewalk along the frontage would be replaced if found in poor condition by the Board Engineer/Planner.

Any further site improvements would exceed maximum lot coverage and would require variance approval from the Planning Board.

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.

Complying with all applicable CAFRA regulations for construction.

Being bound to all representations at the hearing made by Applicant and/or experts.

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 was to be issued and no map was to be signed or filed, if applicable, until proof was furnished to the Planning Administrator of the Planning Board that there were no taxes, escrows or assessments due or delinquent on the Property.

Obtaining all proper building permits for construction, and shall construct same in accordance with the documents marked at the hearing and in compliance with the testimony of the Applicant and the experts at the hearing.

As to the immediate application, the Board finds that the variances approved under the 2016 Resolution are reduced by the new changes which are detailed in the Applicant's Architect's drawings, marked at the hearing as A-1 and as further shown on Plans marked into evidence at the hearing as A-2, A-through D, highlighting the differences for all four sides of the dwelling between the Approved Plans under the 2016 Resolution and the Proposed Plans under Exhibit A-1 herein. The square footage of both the third floor and the second floor is being reduced. The new changes eliminate the variance condition for the front yard setback on the 2nd and 3rd floors to meet the average front yard setback of 20 feet to the dwelling. The new changes enhance the historically appropriate details of the dwelling. The new windows, especially the half-moon top floor window of the front of the dwelling, are more historically appropriate and aesthetically pleasing. The size of the dormers is reduced, which is also a positive under the HPO criteria.

The new siding will be more in the character of the neighborhood and adds to the seascape theme of dwellings in the beach area. The new siding will be grey cedar impressions with a grey shingle roof all as depicted on the recently renovated garage, Exhibit A-3 - A. The new mansard roof over the first floor of the dwelling is compatible with the historic architecture in the neighborhood. The railings proposed for the balconies are appropriately traditional and fit into the character of the neighborhood.

Based on the testimony by the Applicant and the Applicant's Architect in the immediate application, the Board finds that the Applicant has satisfied all of the criteria under the Historical Preservation Ordinance criteria of Section 7.2 for the reasons set forth above and in the relevant findings under the 2016 Resolution and more particularly as to the specific criteria as follows:

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 litesr/ 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.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Village of Loch Arbour on the 16th day of September, 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 variances granted under the 2016 application are reaffirmed and that the Applicant has satisfied the positive and negative criteria under N.J.S.A. 40:55D-70 c.(2) 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:
The Applicant shall submit revised plans to satisfy all conditions of this Resolution, which submission is subject to the review and approval of the Board Engineer and Planner. The plans shall also include the provision that the existing sidewalk along the frontage will be replaced if found in poor condition by the Board Engineer/Planner.

Any further site improvements will exceed maximum lot coverage and will require variance approval from the Planning Board.

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.

Complying with all applicable CAFRA regulations for construction.

Being bound to all representations at the hearing made by Applicant and/or experts.

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 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 shall construct same in accordance with the documents marked at the hearing and in compliance with the testimony of the Applicant and the experts at the hearing.

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.

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 September 16, 2020.

Moved by: Robert Wiener

Seconded by: Elizabeth Appello

ROLL CALL VOTE

Those in favor: Appello, Gosline, Wiener, Santos

Those Opposed: None

Those absent: Commissioner D' Angelo, Mayor Fernicola, Wilusz

Those recused: R. Fernicola, Maisto

Ms. Appello is recused from this matter.

B. DWECK, 404 EUCLID AVENUE, BLOCK 12, LOT 8, CERTIFICATE OF APPROPRIATENESS (MAJOR ALTERATION)

Application for a Certificate of Appropriateness: An Application was received on behalf of the Applicant, David Dweck, 404 Euclid Avenue, regarding the Historic Preservation Ordinance of the Village of Loch Arbour for a Certificate of Appropriateness for a MAJOR ALTERATION.

The following persons were sworn in:

David and Julianne Dweck

Donald Passman, Architect. Mr. Passman stated his qualifications. Mr. Passman was accepted by the Board as an expert in the field of Architecture.

The following Exhibits were marked into evidence:

Exhibit B-1: Letter prepared by Joseph McGrath, Loch Arbour Zoning Officer dated September 15, 2020.

Exhibit B-2: Letter prepared by Joseph McGrath, Loch Arbour Zoning Officer dated October 8, 2020.

Exhibit A-1: Request for Local Zoning Determination, date issued, September 15, 2020.

Exhibit A-2: Application for a Certificate of Appropriateness submitted by David Dweck, dated September 4, 2020.

Exhibit A-3: Floor Plans, prepared by Passman & Ercolino Architects, PC., dated September 29, 2020, consisting of 5 pages.

Exhibit A-4: 2 Colored pictures (proposed and existing), consisting of 1 page.

Present were the Applicant's, David and Julianne Dweck. Mr. Dweck summarized the Application submitted. Mr. Dweck testified the proposed changes are in conformity with the neighborhood.

Joseph McGrath, Loch Arbour Zoning/Code Enforcement Officer, was sworn in. Mr. McGrath referenced Exhibit B-1 and Exhibit B-2. He summarized the letters and testified he has no objection to the Certificate of Appropriateness, but had questions regarding the measurements of the living space in the attic. Mr. McGrath also questioned the living space in the basement, and if the basement has egress windows and all proper prior approvals.

Mr. Dweck testified the roof materials and the siding will match the house exactly. Mr. Dweck testified the proposed changes fits into the architecture of the neighborhood. Mr. Dweck also testified the same type of windows will be used, with the same grid on the proposed windows.

Mr. Passman referenced Exhibit A-3 and testified no change to basement or 1st floor. Mr. Passman testified on the 2nd floor the deck on the westside of the home is proposed to be enclosed.

Mr. Passman testified to the attic and the roof line. He testified there will be no bathrooms or plumbing in the attic. Mr. Passman testified there is a furnace in the attic. Existing is a fixed set of stairs to go up and down from the attic.

Mr. Wiener, discussed with the Architect, Mr. Passman, the height of the rooms in the attic. Discussed was the habitability of the attic.

Mr Passman testified the attic is being expanded, by pushing out a dormer. Mr. Passman testified the attic is not to building code and bedrooms are not allowed. Mrs. Dweck testified no bedrooms will be in the attic space.

Mr. McGrath, Zoning Officer, recommended to the Board, that a stipulation be written in the Resolution for the inability to use the attic space (1/2 story) as a bedroom.

Mr. Passman, confirmed calculations for the 2nd floor and the attic space. Mr. Passman testified that the materials for the roof, siding and windows would match the existing materials. Mr Passman testified regarding the habitable attic.

Mr. Passman confirmed the window is being taken out and replaced by a door on the east side deck on the 2nd floor of the home.

Mr. McGrath, shared his concerns regarding no egress windows in the basement at the present time.

Mr. Passman testified that the basement does not have windows and are not required as per the building code.

Mr. Passman also testified that in the attic space, egress windows are not required as per the building code.

Discussed was a stipulation to be added in the Resolution that there will be no bedrooms in the basement and no bedrooms in the attic space (1/2 story).

Mr. McGrath disagreed with Mr. Passman's statements regarding the building code.

Mr. And Mrs. Dweck confirmed they agree that there will be no bedrooms in the basement or attic space. A stipulation will be added to the Resolution.

There were no members of the public present.

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

Recorded Vote:

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

Nays: None Absent: Commissioner D' Angelo, Mayor Fernicola, Ms. Wilusz

Recused: Ms. Appello

UPON MOTION of Mr. R. Fernicola, seconded by Mr. Wiener, carried that a Certificate of Appropriateness be granted for the application of 404 Euclid Avenue, Block 12, Lot 8 with any and all stipulations and conditions which will be set forth in the Resolution. The resolution will be memorialized at the next regular scheduled Planning Board Meeting on November 18, 2020.

Recorded Vote:

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

Nays: None Absent: Commissioner D' Angelo, Mayor Fernicola, Ms. Wilusz

Recused: Ms. Appello

NEW BUSINESS - None

Mr. Fernicola left the meeting.

DISCUSSION/VOTE –

A. Next Planning Board Meeting – Wednesday, November 18, 2020 at 7:30 p.m.

B. Shams, 214 Euclid Avenue, Block 10, Lot 5, Notice of Appeal

Ms. Gosline asked the status of the litigation for 214 Euclid Avenue. Mr. Brown confirmed that the matter is in litigation and is being handled by the Village Attorney. Mr. Brown does not have any information on this matter at this time.

C. Pending Application -

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

Mr. Maisto asked the status of 2 Elberon Avenue. No information on this matter at this time.

D. PENDING LITIGATION – 207 Edgemont Drive Appeal – No report given.

PUBLIC COMMENTS – None

UPON MOTION of Mr. Wiener, seconded by Ms. Gosline, carried, that the meeting be finally adjourned at 8:15 PM.

Marilyn Simons
Board Secretary