

**VILLAGE OF LOCH ARBOUR PLANNING BOARD
MINUTES –REGULAR MEETING
MAY 11, 2022**

**THE REGULAR MEETING OF THE VILLAGE OF LOCH ARBOUR PLANNING BOARD
WAS HELD IN THE LOCH ARBOUR MUNICIPAL BUILDING, 550 MAIN STREET, ON
WEDNESDAY, MAY 11, 2022 AND WAS CALLED TO ORDER BY MAYOR PAUL FERNICOLA AT
7:30 PM.**

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

Also present were Board Attorney, Mark Aikins, Esq., 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. Wiener, seconded by Ms. Wilusz, carried, the following minutes are approved as submitted.

- Regular Meeting of the Planning Board held on April 13, 2022.

Recorded Vote:

Ayes: Mayor Fernicola, Mr. Wiener, Ms. Wilusz, Mr. Santos

Nays: None

Abstain: Commissioner D' Angelo, Mr. R. Fernicola, Mr. Maisto

Absent: Ms, Appello

CORRESPONDENCE – None

OLD BUSINESS –

- A. Memorialize Resolution – 205 Edgemont, LLC., Block 11, Lot 10

**RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF LOCH ARBOUR
GRANTING APPROVAL OF THE APPEAL OF THE ZONING OFFICER'S DETERMINATION
205 EDMONT, LLC
ON PROPERTY LOCATED AT 205 EDMONT AVENUE**

WHEREAS, 205 EDMONT, LLC (hereinafter "Applicant") is the owner of the premises located at 205 Edgemont Drive, Village of Loch Arbour and known as Block 10, Lot 11, on the tax map of the Village of Loch Arbour (hereinafter "Property");

WHEREAS, Applicant sought to renovate the building and convert same from a 6-unit residential building to a 3-unit residential building, along with related site improvements;

WHEREAS, the Zoning officer denied the Applicant's Zoning Permit application deeming the prior-nonconforming multi-family use as "abandoned";

WHEREAS, Applicant appealed the decision of the Zoning Officer to the Planning Board of the Village of Loch Arbour (hereinafter "Board") and in the alternative made application for a use variance, bulk variances, Certificate of Appropriateness and site plan approvals in order to renovate and develop the Property as a 3-unit residential building (hereinafter collectively the "Application"; and

WHEREAS, the Board denied said Application; and

WHEREAS, the Applicant filed an action lieu of prerogative writ challenging the Board's determination; and

WHEREAS, as the result of a settlement reached between the Applicant and the Board, the Board conducted, after due notice by the Applicant, a Whispering Woods hearing at a public meeting on April 13, 2022;

NOW THEREFORE, BE IT RESOLVED, the Board hereby grants use variance, bulk variance and site plan approval with waivers to the Applicant in order to renovate and develop the property pursuant to the plans submitted and subject to any and all representations made at the prior hearings, and further subject to the development being age restricted by deed as "55 or older housing" within the meaning of the Federal Fair Housing Act, 42 U.S.C. 3601 et seq. as amended by the Housing for Older Persons Act of 1995, 42 U.S.C. 3607(b)(2)(C)(collectively "Fair Housing Act") so as to qualify as "housing for older persons" within the meaning of the Fair Housing Act.

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 April 13, 2022.

Moved by: Mayor Fernicola

Seconded by: Ms. Wilusz

ROLL CALL VOTE

Those in favor: Mayor Fernicola, Wiener, Wilusz, Santos

Those Opposed: None

Those absent: Appello

Those recused: D'Angelo, R. Fernicola, Maisto

NEW BUSINESS –

Commissioner D' Angelo is recused from this application.

A. 329 Euclid Avenue, Block 3, Lot 12, (Major Alteration)

An Application for a Certificate of Appropriateness was received regarding 329 Euclid Avenue, Loch Arbour, New Jersey.

This matter was adjourned due to lack of quorum at the Planning Board Meeting scheduled for April 13, 2022. This matter was carried without the need for further notice.

The Board Attorney confirmed the Board has jurisdiction to hear this application.

Robert Farber, Esq., appearing on behalf of the applicant. Mr. Farber reported that the homeowner, Sam Shamie, is present. David Grimm, Architect, is present and will testify regarding this application.

The following Exhibits have been marked into evidence:

Exhibit A-1: Application for a Certificate of Appropriateness dated March 4, 2022, Site Plans and Survey.

Exhibit A-2: Anderson Window/Patio Door Specifications Sheet.

David Grimm, Licensed Architect, of the firm of Michael Savarese Associates, was sworn in. Mr. Grimm testified to his credentials. Mr. Grimm was accepted by the Board as an expert witness in Architecture.

Mr. Grimm referenced the Site Plan dated April 8, 2016 prepared by Michael Savarese Associates. Mr. Grimm testified to the proposed spiral staircase. He testified the Spiral staircase will be located on the east elevation of the home in the back. The staircase will have limited visibility

from the street. The proposed material of the staircase is aluminum and it will be power coated white. Referenced was Exhibit A-2 and Mr. Grimm testified the French door (Colonial Door pattern) is styled to match the existing exterior doors on the home. Mr. Grimm testified the door will be located off the master bedroom closet. He testified the door and staircase will not be for regular use. This entrance is essentially being installed as a fire escape.

The Board discussed with Mr. Grimm the means of egress. Mr. Grimm testified there is one set of stairs in the interior of the home and the windows are egress windows, complying with fire code. The proposed stairs would function as a second staircase exit from the home in an emergency.

Mr. Grimm spoke about the Historic Preservation Ordinance. He testified to the criteria of the HPO Ordinance. Mr. Grimm testified the proposed staircase is a very low priority function on the home. He testified to the scale and color of the staircase. The Board and Mr. Grimm discussed the architectural features of the home and if the proposed staircase is compatible with features and characteristics within the Village. Mr. Grimm testified the staircase is compatible to color and the stairs are appropriately scaled. The Board and Mr. Grimm discussed the safety aspect of the spiral staircase vs. a straight staircase, and the access to get out of the home in an emergency situation.

Board Member Robert Wiener referenced the site plan and the date of April 8, 2016. He also discussed with the Architect the change in the side yard setback Ordinance in 2018. Mr. Wiener stated in accordance with the current ordinance the side yard setback is 11 feet and a variance application is necessary. Mr. Grimm testified that plans are the original plans with the addition of the proposed spiral staircase. Mr. Grimm acknowledged that a revision date is not indicated on the plans when the proposed spiral staircase was added. Mayor Fernicola stated the Village adopted a new side yard setback Ordinance in 2018. The Board confirmed that a variance is required.

The Board discussed the denial of a prior spiral staircase application before the board. The Board discussed the proximity of the proposed spiral staircase and the visibility from the street. Mr. Farber discussed with the Board installing a spiral staircase vs. a standard staircase. The standard staircase would definitely be bigger and more intrusive. Mr. Grimm discussed the proximity of the staircase.

UPON MOTION of Mr. R. Fernicola, seconded by Mayor Fernicola, carried the meeting be opened to the public for comment regarding this application.

No questions or comments, UPON MOTION of Mr. R. Fernicola seconded by Ms. Wilusz carried that the meeting be closed to the public.

Recorded Vote:

Ayes: Mayor Fernicola, Mr. R. Fernicola, Mr. Wiener, Ms. Wilusz, Mr. Santos, Mr. Maisto

Nays: None

Abstain: Commissioner D' Angelo

Absent: Ms. Appello, Ms. Wilusz, Mr. Santos

Mr. Farber discussed the Request for Local Zoning Determination #2021-30.

After a lengthy discussion regarding applying for a variance for a side yard setback, this matter was adjourned. Mr. Farber and the Board confirmed the Certificate of Appropriateness is carried, and the variance will be noticed.

B. 408 Euclid Avenue, Block 12, Lot 7 (Variance)

The Applicant is requesting approval from the Planning Board for a one-story addition to the rear of the existing 2 ½ story single-family dwelling and a second-floor addition over the covered patio on the west side of the lot. In the rear yard, the Applicant is proposing a swimming pool, spa and patio. The improvements require a variance for building coverage.

408 Euclid Avenue, Block 12, Lot 7 (Major Alteration)

An Application for a Certificate of Appropriateness was received regarding 408 Euclid Avenue, Loch Arbour, New Jersey.

The Board Attorney confirmed the Board has jurisdiction to hear this application. The Board Attorney and the Board discussed the members that are eligible to hear this application, due to 4 board members being within 200' of the property. After discussion it was determined to have a proper quorum for this application Board Member, Mr. Wiener, will be allowed to hear this application.

Mark Kitrick, Esq., Attorney for Applicant, confirmed he will allow Mr. Wiener to hear this application, even though he is within 200' feet of the said property.

Commissioner D' Angelo joined the Board at the dais.

Board Members, Ms. Wilusz and Mr. Santos are within 200' of said property. They both exited the meeting.

The Board Secretary confirmed the Board Members hearing this application are as follows: Commissioner D' Angelo, Mayor Fernicola, Mr. R. Fernicola, Mr. Wiener, Mr. Maisto.

Mr. Kitrick, Esq., summarized the application. He stated this application consists of a 1 story addition to the 2nd floor to the rear of the home and installation of a pool and patio.

Robert Adler, Architect, and Mr. and Mrs. Catton are present at this hearing.

Robert Adler, Architect, was sworn in and accepted by the Board as an expert witness in Architecture.

Mr. Kitrick, Esq., confirmed Mr. Adler submitted an updated plot plan and grading plan to answer some of the questions in Mr. Avakian's review letter. Mr. Sam Avakian, Village Engineer confirmed these plans were not submitted 10 days prior to the meeting. Mr. Aikins confirmed these documents can be considered as an Exhibit, with the Board Chairperson's consent. The Board Chairperson has no objection to using the documents as Exhibits.

The Board and Mr. Adler discussed the side yard setback.

The following Exhibits have been marked into evidence:

Exhibit A-1: Applications for Variance and for a Certificate of Appropriateness with attachments – dated March 3, 2022.

Exhibit A-2: Plot Plan prepared by Cranmer Engineering, PA, revised through May 3, 2022, consisting of 2 pages.

Exhibit A-3: Colored renderings of the property, consisting of 16 pages.

Mr. Adler testified to the current conditions of the home. He referenced Exhibit A-2 and testified to the proposed expansion to the home. He testified to removing the deck and adding an indoor/outdoor area. He referenced Exhibit A-3.

Mr. Adler testified the pool and patio are fully compliant with all Village Development Ordinances.

Mr. Adler discussed with the Board the existing building coverage, which is already over the allowable coverage for building. (27.47%). Mr. Adler testified the proposed building coverage will be 31.20%. He testified the proposed accessory coverage is 16.96%. The overall coverage is proposed at 48.16%.

Mayor Fernicola and Mr. Adler discussed the proposed “sun shelf” with reference to the pool, as well as the addition to the home. Mr. Adler clarified the details.

The Board and Mr. Adler discussed the proposed coverage at length. The Board indicated they have concerns about the additional building coverage and overall coverage total. Also discussed were alternative changes to the proposed plans submitted.

The applicant is proposing the pool equipment on the side yard, away from all of the neighbors. The Village Ordinance states pool equipment is restricted to the backyard. The Board thinks the proposed placement is acceptable.

UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D’ Angelo, carried the meeting be opened to the public regarding this application.

Jacob Hedaya, 410 Euclid Avenue, is concerned about the pool being installed. Mr. Hedaya explained trees were removed from the property last year and shortly after that occurring, his basement started flooding. Mr. Hedaya is very concerned about the ground water level in this area.

The Board and the professionals discussed the flooding issue. Also discussed were the issues with installing a pool in this area.

Mr. Hedaya is also concerned having a pool so close to his living space.

Mr. Hedaya is also concerned about the storage of all the pool accessories. Mr. Adler confirmed the cellar will be the storage area for the pool accessories.

UPON MOTION of Mr. R. Fernicola, seconded by Commissioner D’ Angelo, carried the meeting be closed to the public regarding this application.

Recorded Vote:

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

Nays: None Abstain: None

Absent: Ms. Appello, Ms. Wilusz, Mr. Santos

The Applicant’s Attorney, Mr. Kitrick, Esq., confirmed with the Board this matter will be carried without the need for further notice until the Planning Board Meeting scheduled for July 13, 2022. Mr. Kitrick, Esq., stated new plans would be submitted.

SCHEDULING -

A. Pending Application –

B. Next Planning Board Meeting – Wednesday, June 8, 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.

Kathleen Shade, 11 Buena Vista Court, spoke to the Board about renovating her house. She explained the proposed addition. She stated the addition would not affect the overall coverage of the property. The proposed addition would be over the existing kitchen at the back of her home. The Board discussed and Mrs. Shade agreed to have professional drawings done and the Board would consider the application.

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

Recorded Vote:

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

Nays: None

Abstain: None

Absent: Ms. Appello, Ms. Wilusz, Mr. Santos

UPON MOTION of Mayor Fernicola, seconded by Ms. Appello, carried, that the meeting be
finally adjourned at 8:00 PM.

Marilyn Simons
Board Secretary