

**VILLAGE OF LOCH ARBOUR  
PLANNING BOARD  
MINUTES –REGULAR MEETING  
June 14, 2023**

**THE REGULAR MEETING OF THE VILLAGE OF LOCH ARBOUR PLANNING BOARD WAS HELD IN THE VILLAGE OF LOCH ARBOUR MUNICIPAL BUILDING, 550 MAIN STREET, LOCH ARBOUR, NEW JERSEY ON WEDNESDAY, JUNE 14, 2023 AND WAS CALLED TO ORDER BY CHAIR PERSON, ROBERT FERNICOLA AT 7:30 PM.**

Salute to the Flag. THE SECRETARY CALLED THE ROLL. PRESENT WERE: Commissioner D' Angelo, Mayor Fernicola, Mr. R. Fernicola, Mr. Santos, Mr. Maisto. Absent were Ms. Appello, Mr. Cumiskey, Mr. Wiener, 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 Regular Meeting to the Planning Board's two designated newspapers on January 17, 2023 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.

**CORRESPONDENCE** – None

**OLD BUSINESS** - None

**NEW BUSINESS** –

**Notice of Appeal – Dweck, 337 Euclid Avenue, Block 3, Lot 16**

Zoning Official, Joseph McGrath, issued a Stop Work Order in violation of Village Ordinance #2018-450.

Jennifer Krimko, Esq., from the law firm Ansell, Grimm and Aaron, PC., Attorney for the owners at 337 Euclid Avenue, Loch Arbour, filed an Application of Appeal.

Mayor Fernicola discussed a procedural issue. Mayor Fernicola questioned the Notice – regarding the east side corner of the property, if a side yard setback variance is required. He stated the plans it is identified at 6.7 feet, and in the living space on this corner is identified at 5.5 feet.

Ms. Krimko stated the notice states 4.3 feet. Ms. Krimko and Mayor Fernicola discussed the Architectural Plans. Ms. Krimko read the notice and said a side yard setback was noted and any and all other variances.

Mayor Fernicola stated it was not referenced in the Resolution. The Board did not grant a side yard setback. Ms. Krimko disagrees, the Board approved the plans and any of the variances associated with those plans. Ms. Krimko stated the period to appeal over those plans has long since expired. Mayor Fernicola stated he does not recall any testimony or any wording in the Resolution that the applicant sought a side yard setback variance. Ms. Krimko stated it was testified to at the hearing that the existing corner – the vertical wall of the second floor was following the 5.5 setback.

Mr. Avakian stated the report said the east side setback was existing 4.3 feet, which is an existing non-conforming. Mayor Fernicola stated that was the porch. He is talking about a little further to the North.

Ms. Krimko objected to this discussion. This hearing is for an Appeal of a Stop Work Order for a violation of a Certificate of Appropriateness. To raise new jurisdictional questions that the Board did not raise at the prior hearing, nor the Board Engineer or Board Attorney did not raise at the first hearing is improper.

Mayor Fernicola disagrees, because the living space is being expanded in that corner on the 1<sup>st</sup> and 2<sup>nd</sup> floor.

Ms. Krimko stated the 1<sup>st</sup> floor living space is not being expanded. Ms. Krimko referenced Exhibit A-1 and explained the plans are identical to the plans that were reviewed at the first meeting. The shading is in regards to the 2<sup>nd</sup> floor only. The first floor exists at that setback. Additionally, a portion of the 2<sup>nd</sup> floor existed there as well. That area was just made full to the ceiling height. The setback existed at the eve of the roof, before any work was done. Mayor Fernicola stated that during the construction the 2<sup>nd</sup> floor was totally removed. Mayor Fernicola stated he believes a variance is required due to the demolition of the corner, and now they want to reconstruct something. Ms. Krimko stated a portion of the structure was demolished, consistent with the testimony. The

architect stated at the 1<sup>st</sup> hearing the 2<sup>nd</sup> floor was being removed in its entirety. Mr. Fernicola stated that the testimony was that all the walls of the 1<sup>st</sup> floor would remain, and they did not remain. Mayor Fernicola stated the plans submitted and relied upon at the hearing showed the 2<sup>nd</sup> floor walls were to remain. M. Krimko disagrees. Mr. Fernicola stated Mr. Savarese testified that the 1<sup>st</sup> floor and basement walls to remain. Mr. Fernicola stated during construction they did remove walls on the 1<sup>st</sup> floor.

Ms. Krimko referenced Exhibit A-1, SK3 (page 4) Existing 2<sup>nd</sup> floor plan. Ms. Krimko stated that the corner wall, was never to remain. That was a new wall to be constructed in that area. There was not a wall there. Mayor Fernicola discussed the side yard setback variance.

Mayor Fernicola is concerned the application requires a side yard setback. Mayor Fernicola reviewed the initial application. The Board and professionals discussed the initial application and variances required. Ms. Krimko discussed the Notice. Mr. Fernicola agreed there is not a notice issue.

The following Exhibits have been marked into evidence:

Exhibit A-1: Architectural Plans prepared by Michael Savarese Associates dated July 13, 2022 and revised through March 10, 2023, consisting of 8 pages.

Exhibit A-2: 6 colored photos; taken on March 6, 2023 by Ms. Krimko.

Exhibit A-3: drawings of the existing elevation and the proposed elevation prepared by Michael Savarese Associates dated March 3, 2023.

Exhibit A-4: four color photos of the construction progress and the proposed rendering prepared by Michael Savarese Associates.

Exhibit B-1: Stop Construction Order, date of notice: March 6, 2023, issued by the Borough of Deal Construction Department.

Ms. Krimko discussed a municipal estoppel and the Stop Work Order being issued only for the Certificate of Appropriateness. Mayor Fernicola confirmed in the initial notice the setback of 5.5 feet, where 6.7 was required.

Joseph McGrath, Loch Arbour Zoning Official was sworn in. Mr. McGrath summarized why the Stop Work Order was issued. He explained the entire walls were removed on the 1<sup>st</sup> and 2<sup>nd</sup> floors of the home. He referenced Exhibit B-1. Mr. McGrath referenced Exhibit A-2. Mr. McGrath testified the sheathing and the studs were removed. Mr. McGrath testified all walls were removed, except for the westerly side, where the chimney remains.

It was confirmed the building department's Stop Work Order was withdrawn, due to it being a Zoning Issue. Mr. McGrath then issued a Stop Work Order.

Mr. McGrath confirmed the whole 2<sup>nd</sup> floor was demolished. Ms. Krimko stipulated to that.

Ms. Krimko referenced Exhibit A-2. Ms. Krimko questioned Mr. McGrath. Mr. McGrath stated the builder took the walls down one section at a time. He testified the exterior walls were removed. Ms. Krimko and Mr. McGrath discussed the studs in the walls on the 1<sup>st</sup> floor, as depicted in Exhibit A-2.

The Board discussed the matter. Pictures were taken on March 3, 2023. The photos depict the entire front of the home taken down.

5-minute recess.

Marcella Crisci, Euclid Avenue, was sworn in. She testified she is the neighbor 2 doors down and the exterior walls were taken down. She observed the studs laying in the front yard for a few weeks and eventually

went in the dumpsters. She testified the bones of the house were taken down. She testified all the old studs were eventually removed. The contractor removed the studs in sections.

Ms. Krimko asked once the new studs were installed, did they then put the old studs back in? Mrs. Crisci testified, not that she observed. Mrs. Crisci observed all the walls down.

Mayor Fernicola asked if rough inspections were done. Professionals discussed.

It was determined that this matter will be carried to the Planning Board Meeting scheduled for Tuesday, July 11, 2023 at 7:30 p.m. Mike, Blue Creek Construction will be present at this meeting.

Michael Savarese, Architect, was sworn in and accepted by the Board as an expert in Architecture.

Mr. Savarese referenced Exhibit A-3. Mr. Savarese testified that the studs were supposed to remain, but reconfigured because of the window sizes. Mr. Savarese testified the ceiling height of the existing house was 7 feet to be lifted to 10 feet height. He explained the sistering method to make the walls higher. Mr. Savarese testified to the Plans.

Mr. Savarese testified the house that was reconstructed is in the same footprint as the approved plans; and with all the same materials that were approved. He also testified that he has not walked inside the house, so he cannot confirm the inside.

Mr. Savarese referenced Exhibit A-4. Mr. Savarese testified the house is being constructed to the plan, and discussed with the board the depiction of the home referenced in Exhibit A-4.

Mr. Savarese discussed with the Board the plans submitted to the Board are preliminary plans, and the construction plans go more into detail. Mr. Savarese testified the only change on the plans that were submitted to the construction department was the note on the front elevation – referencing the 2<sup>nd</sup> floor walls to remain.

Mayor Fernicola stated he wants to hear testimony regarding the Historic Preservation Ordinance, in particular 7.2., regarding demolition.

Mr. Santos believes the mechanics on the east side will not fit in setback.

The public had no comments at this time.

It was confirmed that this application will be carried to the next Loch Arbour Planning Board Meeting scheduled for July 11, 2023 at 7:30 p.m. This shall also confirm that the Applicant and their Attorney extend the time to make a decision regarding this matter.

## **DISCUSSION -**

### **A. PENDING APPLICATIONS –**

**Cumiskey**, 112 Euclid Avenue, Block 9, Lot 2  
Variance – Certificate of Appropriateness

### **B. Next Planning Board Meeting is scheduled for Tuesday, July 11, 2023, 2023 at 7: 30 p.m.**

**C. Local Government Ethics Law Financial Disclosure Statement** – All local government officials are required to complete and file a Financial Disclosure Form with the Municipal Clerk annually on or before April 30<sup>th</sup> of each year. The State is requiring all forms be electronically filed. The information was sent to each official, so that the form can be completed online and transmitted to the State.

## **PUBLIC COMMENTS**

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

There being no further business, and UPON MOTION of Mr. R. Fernicola, seconded by Mayor Fernicola, carried that the meeting be adjourned at 8:45 p.m.

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Marilyn Simons, Board Secretary