

**VILLAGE OF LOCH ARBOUR  
PLANNING BOARD  
MINUTES –REGULAR MEETING  
July 11, 2023**

**THE RESCHEDULED 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 TUESDAY, JULY 11, 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 Rescheduled Regular Meeting to the Planning Board's two designated newspapers on June 19, 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** - CONTINUED FROM THE HEARING HELD ON JUNE 14, 2023

**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. The following Exhibits have been marked into evidence at the Planning Board Meeting held on June 14, 2023.

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.

The following Exhibit was marked into evidence at this Planning Board Meeting:

Exhibit A-5: Colored Photo Packet (35 photos) prepared by Mike Kakiashvili, Blue Creek Construction.

Exhibit B-2: Black/White Photos (3 photos) submitted to you by the Board.

Jennifer Krimko, Esq., from the law firm Ansell, Grimm and Aaron, PC., Attorney for the owners at 337 Euclid Avenue, Loch Arbour, is present. She summarized the Application for Appeal and stated the homeowner is asking for relief for a Certificate of Appropriateness for Demolition.

Mike Kakiashvili, Blue Creek Construction, LLC., was sworn in. Mr. Kakiashvili is the contractor for the subject property. He testified he followed the plans that were submitted to the construction department. He testified the construction plans depicted the 2<sup>nd</sup> floor being demolished. Ms. Krimko confirmed the plans were a little different than what the Board approved. He referenced Exhibit A-5 and testified to the East side of the house (1<sup>st</sup> photo). He explained the procedure done to sister the 2x6 wood with the 2x4 wood.

Mr. R. Fernicola and Mayor Fernicola discussed the old studs and the 2<sup>nd</sup> floor demolition with Mr. Kakiashvili. Mayor Fernicola referenced Exhibit A-2 and it was represented at the last Board Meeting, by the applicant's Attorney, that this was the extent of the demolition. Mayor Fernicola stated the Board took their own photographs (Exhibit B-2) depicting the entire 2<sup>nd</sup> floor and the entire front of the building was demolished. Mr. R. Fernicola referenced Exhibit B-2 and discussed the old studs neatly stacked on the side of the home. He referenced Exhibit A-2 and testified the studs were back in place throughout the front, which gives the indication that it was done intentionally to make it appear that old studs were still being used. Mr. Kakiashvili testified that was not the intention, and he stated the designer working on this house mentioned she might use the old studs in the project.

Mr. Kakiashvili testified the 1<sup>st</sup> floor on the plans are being changed to 10' ceilings, and he stated the 2<sup>nd</sup> floor had to be demolished. He also testified the plans he received and were working with, depicted the whole 2<sup>nd</sup> floor being demolished. Mr. Kakiashvili testified the house was out of square and the framers were fixing that problem. He also testified regarding the headers in the front of the home. He testified the framing subcontractor did not contact him when he ran into problems with having to deviate from the plans.

Mr. R. Fernicola referenced Exhibit A-5 (3<sup>rd</sup> photo). Mr. Kakiashvili confirmed he took the photo which depicts the front of the home with no front wall. Mr. Kakiashvili confirmed the photo was taken on March 2, 2023. Mr. Fernicola confirmed the photos in Exhibit A-2 were taken on March 6, 2023.

Mr. R. Fernicola referenced Exhibit A-5 (3<sup>rd</sup> photo) he discussed with Mr. Kakiashvili the rear of the home and how it appears that the framing contractor had cut the majority of the studs on an angle. Mr. Kakiashvili confirmed that is where the addition was going and now is an interior wall.

The Board/Professionals discussed the original plans submitted dated November 30, 2022. (Exhibit A-8 from the original hearing.)

Mr. Avakian discussed with Mr. Kakiashvili if it is common practice to sister the old wood with new. Mr. Fernicola referenced Exhibit A-5 (photo 27-28). It appears from the pictures that the sister studs – serve no structural purpose.

Mr. Kakiashvili testified the house was out of square. Mr. Kakiashvili confirmed that none of the old studs on the 1<sup>st</sup> floor serve any purpose. The Board/Professionals discussed the reason why the old studs were not used, and the Board believes the application regarding this was misleading. Ms. Krimko believes Mr. Savarese did not go into enough detail about what was being done.

Mayor Fernicola stated this is exactly why the Historic Preservation Ordinance was designed to prevent. Ms. Krimko refuted that statement. Ms. Krimko confirmed the applicant did not know any of this was happening.

UPON MOTION of Mr. R. Fernicola, seconded by Mayor Fernicola, carried that the meeting be opened regarding this matter only.

Marcella Crisci, Euclid Avenue, asked who is going to be held responsible for the deviation from the plans.

Ms. Krimko reminded the board they are not a board of enforcement. The Applicant is here seeking a Demo Permit under the Historic Preservations Ordinance – after the fact.

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

Recorded Vote:

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

Nays: None                      Absent: Ms. Appello, Mr. Cumiskey, Mr. Wiener, Ms. Wilusz

Jennifer Krimko, Esq., confirmed Michael Savarese, Architect is still under oath.

Joseph McGrath, Loch Arbour Zoning Officer, stated he disagrees with Ms. Krimko, that there should be a vote as to the appropriateness of the Stop Work Order.

Ms. Krimko stated on the record she concedes to the Stop Work Order being appropriate.

Jennifer Krimko and Mayor Fernicola discussed Notice.

Michael Savarese, Architect, testified that a Certificate of Appropriateness for demolition should have been applied for. Mr. Savarese read a prepared Statement regarding the Historic Preservation Ordinance regarding Demolition. He testified to the criteria listed in the Ordinance regarding why a Demolition Permit should be issued for this project. Mr. Savarese testified the structure has no significant architectural or historic value.

The Board questioned Mr. Savarese regarding the age of the home, and the Historic and Architectural significance of this home. The Board and Mr. Savarese discussed the style of home. (Bungalow)

The Board and Mr. Savarese discussed the plans and the demolition of the 1<sup>st</sup> and the 2<sup>nd</sup> floor. Mr. Savarese testified these actions were not done intentionally or to mislead the Board.

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

No Comments.

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

Recorded Vote:

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

Nays: None

Absent: Ms. Appello, Mr. Cumiskey, Mr. Wiener, Ms. Wilusz

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

David Dweck, Euclid Avenue, is in favor of the style of the proposed plans. He stated the home was dilapidated. He stated the style of the home proposed fits into the neighborhood.

Marcella Crisci, Euclid Avenue, read from a prepared statement. She stated the non-conformities regarding this application. She also discussed the owner and contractor ignoring the deviation from the plans. She spoke about the historical homes in Loch Arbour.

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

Recorded Vote:

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

Nays: None

Absent: Ms. Appello, Mr. Cumiskey, Mr. Wiener, Ms. Wilusz

Jennifer Krimko, Esq., closing statement. Ms. Krimko confirmed there was some appearance of misrepresentation by the Architect at the hearing and by the Builder sistering the studs. In retrospect, a demolition permit under the HPO should have been applied for, and the testimony at the hearing should have been more explicit regarding what was being demolished. Ms. Krimko stated the testimony from the Architect and the criteria stated in the Ordinance, demolition is appropriate to qualify for a demolition permit under the Historic Preservation Ordinance.

The Board discussed. Mayor Fernicola read from the Demolition Section of the Historic Preservation Ordinance. The Board discussed this application, with regards to retroactively approving this demolition permit. Mayor Fernicola stated the proofs presented tonight are extremely light on its findings, but knowing the house, he does not believe there was significant architectural values. Mr. R. Fernicola disagrees and he believes these bungalow style home do have historical value. Due to this situation, the home that is being constructed is compatible with the neighbor, and in retrospect he does not know if he would have granted the demolition permit, but at this time from a practical stand point there is not a choice. Mr. Fernicola stated in the future this Board needs to be much more diligent on these applications.

UPON MOTION OF Mayor Fernicola seconded by Commissioner D' Angelo, carried that a Certificate of Appropriateness for Demolition be granted for 337 Euclid Avenue, Block 3, Lot 16, with any and all conditions which will be set forth in the Resolution. The Resolution will be memorialized at the regular scheduled Planning Board Meeting to be held on August 9, 2023.

Recorded Vote:

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

Nays: None

Absent: Ms. Appello, Mr. Cumiskey, Mr. Wiener, Ms. Wilusz

## **DISCUSSION -**

### **A. PENDING APPLICATIONS –**

**Cumiskey**, 112 Euclid Avenue, Block 9, Lot 2

Variance – Certificate of Appropriateness

### **B. Next Planning Board Meeting is scheduled for Wednesday, August 9, 2023, 2023 at 7: 30 p.m.**

**C. REMINDER - 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.

**NEW BUSINESS:** None

## **PUBLIC COMMENTS**

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

David Dweck, 404 Euclid Avenue, has questions regarding plans for his residents. Extend Basketball Court, pool, etc. Mr. Dweck requested an informal hearing on this matter. The Board reviewed the Ordinance, Section 502. Mr. R. Fernicola stated to set up an informal hearing, and asked Mr. Dweck to submit plans, 10 days prior to meeting date. Mr. Dweck stated he will talk to the Board Engineer, Sam Avakian, about this application before he comes before the Board for an informal hearing.

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

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

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Marilyn Simons, Board Secretary