

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

**June 16, 2021**

<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, JUNE 16, 2021 AND WAS CALLED TO ORDER  
BY MAYOR FERNICOLA, AT 7:30 PM.**

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

Also present were Board Attorney, Sanford Brown, Board Engineer from P. Avakian's office, Sam Avakian 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 22, 2021, 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.

**CORRESPONDENCE** – None

**OLD BUSINESS** –

**A. Memorialize Variance Application – 203 Edgemont Drive, Block 10, Lot 13**

**RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF LOCH ARBOUR  
GRANTING AMENDED APPLICATION FOR BULK VARIANCES BY CARR FOR  
PROPERTY LOCATED AT 203 EDMONT AVENUE**

WHEREAS, Leonard Carr (hereinafter "Applicant") has applied to the Planning Board of the Village of Loch Arbour for an amended approval of bulk variances in order to make improvements to the premises located at 203 Edgemont Avenue, Village of Loch Arbour and known as Block 10, Lot 13, 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 May 19, 2021 in conjunction with an application for a certificate of appropriateness; and

WHEREAS, the Board, after carefully considering the testimony by the Applicant, the testimony and evidence presented by the Applicant's Architect, Robert A. Hazelrigg, and the documents submitted, has made the following factual findings:

The Applicant is the owner of the property located at 203 Edgemont Avenue known as Lot 13 in Block 10 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 Board had previously considered an application by the Applicant for similar variance relief which was heard by the Board on February 17, 2021, which application was granted and which approval was memorialized by the Board at its meeting of March 17, 2021.

At the February 17, 2021 hearing, the Board considered the exhibits submitted and the testimony of the Applicant's Architect, Robert A. Hazelrigg, about his Plan marked into evidence, and dated 2/02/21 which had ten sheets.

As with the prior approval, the Applicant has now requested relief from the Planning Board for an expansion of a nonconforming structure and side yard setback to the addition less than five feet.

The prior approval related to the construction of a small second floor addition to the rear of the dwelling with renovations to the existing dwelling and no improvement to the garage.

After said approval, the Village Zoning Officer issued a stop work for the following violations: The contractor has begun exterior construction without a letter of Resolution Compliance being issued by the Borough Engineer as required to formalize the plans approved by the Planning Board. Although permits have been applied for, the proper plans were not submitted.

The rear garage has been taken down and is in the process of being re-built without the required Certificate of Appropriateness, (Ordinance 2018-450, Section 6.1) and in testimony before the Planning Board, was not to be part of the renovations to the property. No demolition permit was obtained for the garage as required. New footings have also not been properly inspected by the building department.

A utility trench has been excavated to accommodate hot and cold-water lines to run from the main structure to the garage, only a cold-water line was approved for a "foot wash" on the exterior of the garage in the recently approved Certificate of Appropriateness.

The utility trench was dug without calling for the required Marking Out of the site as required by law prior to digging.

The rear addition foundation has been installed without benefit of footing and other building department inspections as required by the Uniform Construction Code.

The Applicant is presently filing an appeal of the stop work order and in addition seeks an amended Certificate of Appropriateness to permit the reconstruction of a portion of the rear of the dwelling that was removed, and reconstruction of the garage which has been removed, in the same location, with similar finish.

The Village Board Engineer reviewed the new May 2021 plans to determine if reconstruction of the rear of the dwelling and the reconstruction of the garage conform with the requirements of the Land Use Development Ordinance the resulting report being marked into evidence at the hearing and relied upon by the Board.

At the May 2021 hearing, the Applicant submitted an architectural plan consisting of ten (10) sheets prepared by Thomas F. Lavin, AIA of Robert A. Hazelrigg & Associates Architects, dated May 5, 2021 with no revisions.

The minimum lot width permitted per the zoned district is 75 feet. The existing lot has a width of 25 feet, which represents an existing non-conformity. The improvement to a non-conforming lot required Board approval.

The minimum lot depth permitted per the zoned district is 100 feet. The existing lot has a depth of 134.5 feet, which conforms.

The minimum lot area permitted per the zoned district is 7,500 square feet. The existing lot has an area of 3,397 square feet, which represents an existing non-conformity. The improvement to a non-conforming lot requires Board approval.

The minimum front building setback permitted per the zoned district shall conform with those provided for adjacent buildings. The Applicant is proposing no change to the existing front yard setback.

The minimum rear building setback permitted per the zoned district is 25 feet from the rear lot line. The reconstruction and addition to the rear of the dwelling will have a proposed rear yard setback 43.92 feet to the roof overhang, which conforms. The rear building setback is 40.42 feet to the rear porch, which conforms.

The minimum side building setback permitted per the zoned district is 5 feet per side or 10% of the lot width per side. The existing side building setback is 0.95 feet to the roof overhang on the east side and is 1.92 feet to the roof overhang on the west side. Both of these represent existing non-conformities. The reconstruction and addition to the rear of the dwelling will have a proposed side building setback of 0.95 feet on the east and 1.92 feet on the west. This is an expansion of an existing non-conformity. A variance is required for both side building setbacks.

The maximum building coverage permitted by the zoned district is 20% of the lot size may be occupied by the principal use or structure. The existing building coverage is 31.7% which represents an existing nonconformity. The reconstruction of the rear of the dwelling does not increase the building coverage but the building coverage exceeds the maximum allowed. A variance is required.

An additional twenty percent (20%) of the lot size may be occupied by all other buildings or structures, which constitutes as building coverage. Our office calculated an existing coverage of

52.8%, which represents an existing non-conformity. The reconstruction of the garage does not increase the coverage, but the coverage exceeds the maximum allowed. A variance is required.

The Applicant indicates an additional building coverage of 15.5%. The Applicant did not include the driveway, walkway, and paved areas. The Applicant provided calculations at the hearing. The maximum building coverage ordinance regulation also stipulates that "In no event shall the total lot coverage exceed 40% of the lot." The Applicant indicates an existing total lot coverage of 84.5%, which represents an existing non-conformity. The improvements will not increase the coverage, but the coverage exceeds the maximum allowed. A variance is required.

The building height means the vertical distance measured to the highest point of the roof from the mean level of the curb in front of the center of the building. No building shall exceed 35 feet in height. No building shall contain more than two and one-half stories. The Applicant indicates the existing building height of 26.43 feet from the grade around the dwelling. The Applicant is not proposing to increase the building height. The Applicant provided the building height from the top of the curb. The building height conforms.

The allowed side and rear yard setbacks are 5 feet for an accessory structure (garage). The existing side yard setback is 1.5 feet on the east side and 0 feet on the west side. Both of these side yard setbacks represent an existing non-conformity. The Applicant is proposing an east side yard setback of 1.5 feet to the proposed reconstruction of the garage. A variance is required.

The existing rear yard setback is 1.8 feet, which represents an existing non-conformity. The Applicant is proposing a rear yard setback of 1.8 feet to the proposed reconstruction of the garage. A variance is required.

At the hearing, the Applicant's Architect testified that the proposed improvements will return the home to a much more historically consistent structure, that the degrading stucco will all be replaced on all sides of the dwelling, that the new windows and doors will be much more consistent with the historic structure, that the new second floor addition is small in relation to the existing home, will not exacerbate much the existing nonconformities as to side yard setback, that the additional overhangs could be constructed to cut down on the incursion into the setbacks but would architecturally be unappealing, that the overall improvements to the structure will enhance the neighborhood and will have no negative impact on the intent or purpose of the master plan or the Zoning Ordinance of the Village.

The Board finds that based on the testimony by Applicant's Architect, that the Amended Application for variances can be granted relying upon the same findings of fact the Board made in the prior March 2021 Resolution of approval, which are adopted by reference as if set forth at length herein.

**WHEREAS**, the Board finds that the variances requested can be granted based on the flexible standards of N.J.S.A. 40:55D-70-c.(2) and that the positive and negative criteria have been proven as set forth in the Board's findings of fact set forth on the record and in this Resolution; and

**WHEREAS**, the Board finds that the purpose of the Municipal Land Use Law will be advanced by the approval of the variances, and that the benefits substantially outweigh any possible detriments to the within application.

**WHEREAS**, the Board finds that the granting of the variances will be without any substantial detriment to the public welfare and without substantial impairment to the intent and purpose of the zoning plan or zoning ordinance.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of the Village of Loch Arbour hereby grants the application for variances subject to the following conditions:  
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 Plan dated May 5, 2021.

A general note shall be added to the Plan indicating the existing sidewalk along the frontage will be replaced if found in poor condition.

Payment of any outstanding real estate taxes.

Granting of any required construction permits.

**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 May 19, 2021.

Moved by: Commissioner D'Angelo

Seconded by: Mary Gosline

**ROLL CALL VOTE**

Those in favor: D'Angelo, Appello, Gosline, Wilusz, Maisto

Those Opposed: None

Those absent: Mayor Fernicola, R. Fernicola, Wiener, Santos

Those recused: None

**B. Memorialize Certificate of Appropriateness – 203 Edgemont Drive, Block 10, Lot 13**

**RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF LOCH ARBOUR  
GRANTING APPLICATION FOR AMENDED CERTIFICATE OF APPROPRIATENESS  
BY CARR FOR PROPERTY LOCATED AT 203 EDGEMONT AVENUE**

WHEREAS, Leonard Carr (hereinafter "Applicant") has applied to the Planning Board of the Village of Loch Arbour for approval of an Amended Certificate of Appropriateness for premises located at 203 Edgemont Avenue, Village of Loch Arbour and known as Block 10, Lot 13, 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, a hearing was held on May 19, 2021 in conjunction with an application for bulk variances; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant's Architect, Robert A. Hazelrigg, and the documents submitted, has made the following factual findings:

The Applicant is the owner of the property located at 203 Edgemont Avenue known as Lot 13 in Block 10 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 had originally filed an Application for a Certificate of Appropriateness to request approval from the Planning Board for construction of an addition to the 2<sup>nd</sup> Floor, replacement of existing windows and doors, new exterior finishes, and a new rear deck which application was heard by the Board at a public meeting on February 17, 2021 and which was approved and which decision was memorialized by the Board at its meeting of March 17, 2021.

At the February 17, 2021 hearing the Board considered all relevant criteria under the Municipal Historic Preservation Ordinance #2017-424, based on the testimony of the Applicant's Architect and more particularly under Section 7.2.

In the Board's March Resolution of Memorialization findings of fact included:

- the Plan by Applicant's Architect, marked into evidence as Exhibit A-2 at that hearing, dated 2/02/21 and had ten sheets

- Under the Ordinance Criteria for the purposes of that Resolution, "structure" meant the existing dwelling and the approved new addition and other improvements

- "new work" meant the improvements permitted under that Resolution, and as follows:

a. The new work will be compatible with the existing structures, landscapes and streetscapes within the District.

b. The new 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.

c. The new work will bring the existing building back into an historic condition and more particularly will be very consistent with the look of the building shown on Sheet P2.0 of the Plan, of the historic front facade dated Dec. 11, 1926.

d. The new work will result in an addition on the second floor on the rear of the existing building which will not be out of scale with the other structural elements in the surrounding area.

e. The new work will include all new stucco on the entire building, all new windows which are much more historically compatible with the historic look of the building and will be visually compatible with the structures and places to which it is visually related.

f. The height of the structure is not changing but for the small extension on the rear addition and that will be visually compatible with adjacent structures.

g. The width of the structure to the height of the front elevation is not changing and will be visually compatible with structures and places to which it is visually related.

h. The relationship of the width of the new windows to the height of new windows in the structure will be visually compatible with the structures and places to which they are visually related.

i. The relationship of solids to voids in the front façade of a structure will be visually compatible with the structures and places to which it is visually related.

j. The existing building has many nonconformities, is on a very small lot but the new addition only exacerbates that condition to a very small extent and so the relationship of the structure to the open space between it and adjoining structures will remain the same visually with the structures and places to which it is visually related.

k. The structure's entrance and porch projections to the street are changing only to the extent that the front entrance wall is being squared off which will result in a better historic visual.

l. The relationship of texture of the new stucco walls and the existing roof of the structure will be visually compatible with the predominant materials used in the structures to which it is visually related.

m. The roof shape of the structure due to the second floor addition will be visually compatible with structures to which it is visually related.

n. The addition on the second floor with new roof line 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.

Based on all the findings and testimony at the hearing by the Applicant's expert, the Board found the Applicant should be granted approval of the Application for a Certificate of Appropriateness per the drawings and plans filed at the hearing and as testified about, subject to the conditions set forth below.

Thereafter, the Village Zoning Officer issued a stop work order for numerous reasons, as repeated in the Village Engineer's Report to the Board dated May 14, 2021. Reasons included that the rear garage had been taken down and was in the process of being re-built without the required Certificate of Appropriateness and that a portion of the rear of the dwelling had been removed which not part of the original plan submitted and approved by the Board under its Resolution granting a Certificate of Appropriateness dated March 15, 2021.

Thereafter, the Applicant filed the present Amended Application for a Certificate of Appropriateness, in conjunction with an Application requesting other relief, including new Variances. At the hearing on this matter on May 19, 2021, the same Architect who had testified for the Applicant at the February hearing, Robert Hazelrigg, testified. He opined that the new garage will look very consistent with the plans approved at the February 2021 hearing related to the changes to the dwelling and confirmed the new construction would be in strict conformance with his new plan dated May 5, 2021. He also affirmed that the exterior of the dwelling approved by the Board at the February 2021 shall remain the same. He opined that the effect of the construction of the new rear section of the existing dwelling which had been torn down will result in the same positive impacts under the

relevant criteria of the Village's Historic Preservation Ordinance as he testified to at the February 2021 hearing.

The Board finds that based on the testimony by Applicant's Architect, that the Amended Application for a Certificate of Appropriateness can be granted based on the same findings of compliance with and in support of the relevant criteria under the Municipal Historic Preservation Ordinance #2017-424, and more particularly under Section 7.2. as set forth in the March 15, 2021 Resolution of the Board, which findings are adopted here as if set forth at length.

The Board does not address the Applicant's request for relief from the decision of the Village Zoning Officer, as Applicant withdrew that application at the hearing.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Village of Loch Arbour on the 16<sup>th</sup> day of June, 2021, that the approval of the Application for an Amended Certificate of Appropriateness be granted for purposes of constructing a first and second floor addition on the North side/rear of the existing dwelling, replacement of existing windows and doors, new exterior finishes and a new rear deck and a new garage because the Applicant has satisfied the criteria of the Loch Arbour Historic Preservation Ordinance based on the findings of fact set forth above.

**BE IT FURTHER 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 Applicant's expert.

Full compliance with all terms and conditions of the Applicant's application for variances as set forth in a companion Resolution of Memorialization.

The improvements shall be constructed strictly as set forth in the Architect's Plan dated May 5, 2021.

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.

**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 May 19, 2021.

Moved by: Ms. Wilusz

Seconded by: Commissioner D' Angelo

#### **ROLL CALL VOTE**

Those in favor: D'Angelo, Appello, Gosline, Wilusz, Maisto

Those Opposed: None

Those absent: Mayor Fernicola, R. Fernicola, Wiener, Santos

Those recused: None

#### **NEW BUSINESS –**

A. 2 Elberon Avenue, Block 5, Lot 1 – Variance and Certificate of Appropriateness

This matter has been adjourned due to an objector, Remo Maisto. Mr. Maisto's Attorney, Christopher Beekman, Esq., was not available to attend the meeting.

It was determined that this matter will be adjourned until the next Planning Board Meeting scheduled for July 21, 2021, with no need for further notice.

## **SCHEDULING -**

### **A. Pending Application –**

The following application was received, said application will be scheduled when the Village Engineer deems the application complete.

- **PE, 601 Main Street, Block 1. Lot 3 – Site Plan Application**
- **337 Euclid Avenue, Block 3, Lot 16 – Variance/Certificate of Appropriateness**
- **335 Euclid Avenue, Block 3, Lot 15 – Variance/Certificate of Appropriateness**

### **B. Next Planning Board Meeting – Wednesday, July 21, 2021 at 7:30 p.m.**

**PUBLIC COMMENTS** – Upon Motion of Ms. Appello, carried, the meeting be opened to the public. No public comment. Upon Motion of Ms. Appello, carried, the meeting be closed to the public.

UPON MOTION of Commissioner D' Angelo, seconded by Ms. Wilusz, carried, that the meeting be finally adjourned at 7:45 PM.

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Marilyn Simons  
Board Secretary