

VILLAGE OF LOCH ARBOUR PLANNING BOARD

MINUTES –SPECIAL MEETING

APRIL 29, 2020

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THE SPECIAL MEETING OF THE VILLAGE OF LOCH ARBOUR PLANNING BOARD WAS HELD IN THE LOCH ARBOUR MUNICIPAL BUILDING, 550 MAIN STREET, LOCH ARBOUR, NEW JERSEY, ON TUESDAY, APRIL 29, 2020 AND WAS CALLED TO ORDER BY CHAIRPERSON ROBERT FERNICOLA AT 7:30 PM.

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

Also present were Board Attorney, Sanford Brown, Board Engineer/Planner, Peter 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 Special Meeting to the Planning Board's two designated newspapers on April 17, 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 Mayor Fernicola, carried, the following minutes are hereby approved as presented.

- Reorganization and Regular Meeting of the Planning Board held on January 15, 2020;

Recorded Vote:

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

Nays: None Abstain: Mr. R. Fernicola, Ms. Wilusz

Absent: Commissioner D' Angelo, Ms. Gosline, Mr. Maisto

UPON MOTION of Mayor Fernicola, seconded by Ms. Wilusz, carried, the following minutes are hereby approved as presented.

- Regular Meeting of the Planning Board held on February 19, 2020.

Recorded Vote:

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

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

Absent: Commissioner D' Angelo, Ms. Gosline, Mr. Maisto

CORRESPONDENCE – None

OLD BUSINESS –

Continued from November 4, 2019

C. Shams, 214 Euclid Avenue, Loch Arbour, Block 10, Lot 5 - The Applicant is requesting amended approval from the Planning Board to continue to construct a new single-family dwelling with a driveway, in ground swimming pool, and storage shed. The Applicant made the following changes from the approved plan; a half story addition to the 2-story house; a new configuration of the front

porch; relocation of the basement Bilco door, generator and air-conditioning condenser units; and relocation of an in-ground swimming pool, raised patio and shed.

The following Exhibits were marked into evidence for identification purposes only at the Planning Board held on November 4, 2019:

Exhibit A-1: Architecture Plans dated October 24, 2019, prepared by Architect, Michael Savarese, RA of MSA Architect, consisting of 9 pages.

Exhibit A-2: Colored Photos, prepared by J. Krimko, Esq., consisting of 4 pages.

Exhibit A-3: Page 1 of Exhibit A-1- colored rendering of the approved house and a photo of the as-built house.

The following Exhibits were marked into evidence:

Exhibit A-4: Historic Appropriateness: Classification overview, prepared by Architect, Michael Savarese, RA of MSA Architect, dated December 17, 2019, 3 pages.

Exhibit A-5: Rendering and As-Built colored picture. Dated October 25, 2019

Exhibit A-6: Request for Local Zoning Determination, Date issued December 11, 2018.

Exhibit B-1: Peter Avakian's report dated October 30, 2019.

Present was Applicant's Attorney, Jennifer Krimko, Esq., of the Law Firm Ansell, Grimm and Aaron, PC. Ms. Krimko stated this is a continuation of the hearing from November 4, 2019. Ms. Krimko gave a brief summation of the prior hearing.

Michael Savarese, Architect, from the firm MSA Architect, was sworn at the prior Planning Board Meeting and is still under oath.

Ms. Savarese referenced Exhibit A-4 and testified regarding the style of the home. He testified the style of the home is both Mission style and Spanish revival style. Mr. Savarese identified the features of each style, regarding the features included in the design of the house.

Mr. Savarese referenced page 2 of Exhibit A-4. He testified to other homes located in Loch Arbour with similar styles. He testified regarding different roof lines and the window styles. Mr. Savarese referenced page 3 of Exhibit A-4

Ms. Krimko referenced the Village Historic Preservation Ordinance. Mr. Savarese went thru and testified regarding each element from the criteria (#1-27) to issue a Certificate of Appropriateness in the Village Historic Preservation Ordinance. Mr. Savarese testified that the style, as it was modified, does keep with the character of both the Mission style and Spanish revival style. Ms. Krimko referenced the Addendum for Inclusion and Guidelines for the Historic District in the Village Historic Preservation Ordinance. (2nd Subsection A). Mr. Savarese testified to the forms and styles of the subject home. He also testified the home is compatible with the historic architecture of the district.

Chairperson Fernicola referenced Exhibit A-3 and Exhibit A-5. He questioned previous approved plan and the as-built. Mr. Fernicola discussed with Mr. Savarese the window size. The Board and the professionals discussed the proposed changes.

Mayor Fernicola referenced Exhibit A-5 and discussed with Mr. Savarese the brackets on the front of the home. Also referenced was Exhibit A-4 and Exhibit A-5. There was a discussion regarding the side elevation of the house. Mayor Fernicola asked for the square footage of the stucco area (triangle) including the window below the tile roof line; and the square footage of the stucco area that consists of the 1st and 2nd floor. Mr. Fernicola discussed with Mr. Savarese the architectural features of the home.

Mr. Brown discussed with the Board the variances being sought. Ms. Krimko referenced Exhibit 2. Mr. Krimko believes the variances are grandfathered in as part of the original zoning approval. The Board questioned if that statement is correct.

Mr. Avakian, referenced his report dated October 30, 2019, and discussed with the Board. Mr. Avakian confirmed there are non-conformities, as well as two variances that are existing.

Mr. Avakian discussed with the Board the height of the building.

Ms. Krimko cross examined Mr. Avakian. Ms. Krimko referenced Exhibit A-1. Ms. Krimko discussed with Mr. Avakian the Bilco doors. Also discussed was the height of the building.

Mr. Brown stated the variance issues is a legal argument, and he does not necessarily agree with Ms. Krimko.

Ms. Krimko requested the Board to take three separate votes. 1. If variances are required. 2. If required, if they grant/deny the variances. 3. Certificate of Appropriateness.

Ms. Krimko referenced Exhibit A-6, Request for Local Zoning Determination, Date issued December 11, 2018. Ms. Krimko referenced an email dated January 3, 2019, that stated, the Zoning Officer conferred with Village Counsel and reversed his previous denial. She also stated it was retroactively reversed to December 11, 2018. Board discussed Exhibit A-6.

Mr. Brown stated Mr. Avakian's report references 2 variances, which are required. Mr. Brown also stated Mr. Avakian has not amended his report and Mr. Avakian has not changed his opinion that variances are still required. Ms. Krimko disagrees with Mr. Avakian's report.

The Board and Ms. Krimko discussed the timeline of this application. The Board discussed Exhibit A-6. Ms. Krimko read into the record Mr. Hayes' email dated January 3, 2019, regarding Exhibit A-6. The Board discussed Village Ordinances adopted for building height and 2½ story structures.

Mr. Savarese testified the dormers were definitely not constructed prior to December, 2018.

Mr. Savarese testified the following square footage: 865 sf – bottom level - 2 stories and 82 sf – attic triangle.

Upon motion of Mr. Fernicola seconded by Mr. Wiener, carried that the meeting was opened to the public for questions to the Architect, Mr. Savarese and Village Engineer, Mr. Avakian only.

With there being no questions, Upon Motion of Mr. Fernicola, seconded by Ms. Wilusz, carried that the meeting be closed to the public.

Recorded Vote:

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

Nays: None

Absent: Commissioner D' Angelo, Ms. Gosline, Mr. Maisto

Mr. Shams, the homeowner was sworn in. He discussed with the Board the timeline of the construction of the 3rd floor. He testified the framing happened after January, 2019.

Upon motion of Mr. Fernicola seconded by Mr. Wiener, carried that the meeting was opened to the public for questions to Mr. Shams only.

With there being no questions, Upon Motion of Mr. Fernicola, seconded by Ms. Wilusz, carried that the meeting be closed to the public.

Recorded Vote:

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

Nays: None

Absent: Commissioner D' Angelo, Ms. Gosline, Mr. Maisto

The Board discussed the variances being sought with Mr. Avakian. – Bilco Doors, and height of roof. The Board also discussed the Certificate of Appropriateness.

The Board and Mr. Brown discussed procedural issues regarding voting on this application.

Ms. Krimko, discussed the application with the Board and put on the record her closing argument.

Finding of Facts.

UPON MOTION of Mayor Fernicola, seconded by Mr. R. Fernicola, carried that the Village of Loch Arbour Planning Board DENY the 2 variances being sought.

Recorded Vote:

Ayes: Mayor Fernicola, Ms. Appello, Mr. R. Fernicola, Mr. Santos

Nays: Mr. Wiener, Ms. Wilusz

Absent: Commissioner D' Angelo, Ms. Gosline, Mr. Maisto

Ms. Krimko respectfully requested that the Board take a second vote and break down the individual variances. Ms. Krimko stated if the Bilco doors needs to be relocated, in order to make it comply, her client will move the Bilco doors, if the Board is willing to grant the variance for the roof.

The Board discussed.

Ms. Krimko stated the Application is being amended to relocate the Bilco Doors to a conforming location, subject to approval by Mr. Avakian's office.

UPON MOTION of Carol Wilusz, seconded by Mr. Wiener, carried that the Village of Loch Arbour Planning Board will reopen the hearing subject to the amended application by the Applicant, whereby the Bilco doors will be removed and relocated.

Recorded Vote:

Ayes: Ms. Appello, Mr. R. Fernicola, Mr. Wiener, Ms. Wilusz

Nays: Mayor Fernicola, Mr. Santos

Absent: Commissioner D' Angelo, Ms. Gosline, Mr. Maisto

Ms. Krimko reiterated the request that the application be amended to remove the Bilco Doors to a conforming place. Mr. Savarese confirmed.

The Board discussed.

UPON MOTION of Mayor Fernicola, seconded by Mr. R. Fernicola, carried that the Village of Loch Arbour Planning board DENY the variance being sought for the roof height.

Recorded Vote:

Ayes: Mayor Fernicola, Ms. Appello, Mr. R. Fernicola, Mr. Santos

Nays: Mr. Wiener, Ms. Wilusz

Absent: Commissioner D' Angelo, Ms. Gosline, Mr. Maisto

Board discussed voting on to grant/deny a Certificate of Appropriateness.

UPON MOTION of Mayor Fernicola, seconded by Mr. R. Fernicola, carried that the Village of Loch Arbour Planning Board to consider a vote for a Certificate of Appropriateness.

Recorded Vote:

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

Nays: None

Absent: Commissioner D' Angelo, Ms. Gosline, Mr. Maisto

Finding of Facts

UPON MOTION of Ms. Wilusz, seconded by Mr. Wiener, carried that the Village of Loch Arbour Planning Board to APPROVE the Certificate of Appropriateness.

Recorded Vote:

Approve: None

Deny: Mayor Fernicola, Ms. Appello, Mr. R. Fernicola, Mr. Wiener, Ms. Wilusz, Mr. Santos

Absent: Commissioner D' Angelo, Ms. Gosline, Mr. Maisto

UPON MOTION of Mr. R. Fernicola, seconded by Ms. Appello, carried that the Village of Loch Arbour Planning Board to DENY the Certificate of Appropriateness.

Recorded Vote:

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

Nays: None

Absent: Commissioner D' Angelo, Ms. Gosline, Mr. Maisto

NEW BUSINESS – None

DISCUSSION/VOTE –

A. Regular Meeting rescheduled for Tuesday, May 19, 2020.

B. Pending Application –

- **329 Euclid Avenue, Variance Application, Block 3, Lot 12** – scheduled for May 19, 2020.
- **109-111 Edgemont Drive, Certificate of Appropriateness, Block 9, Lot 17/18** – scheduled for May 19, 2020.
- **BETESH, 116 Elberon Avenue, Variance Application/Certificate of Appropriateness** – Will be scheduled when the Applications are deemed complete.
- **Goodman, 2 Elberon Avenue, Certificate of Appropriateness, Block 5, Lot 1.** Mr. Brown stated a letter was received by the Attorney of record, Ms. Sweet. Mr. Brown read the letter into the record. The letter stated that Ms. Sweet requested the application be held in abeyance pending the submission of revised plans and/or amended application materials. Ms. Sweet consents to an adjournment to take action on this application through July 31, 2020.
- **Pending Litigation – 207 Edgemont Drive Appeal.** Mr. Brown discussed with the Board.

PUBLIC COMMENTS –

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

Being no public comments, UPON MOTION of Mr. R. Fernicola, seconded by Mr. Wiener, carried the meeting be closed to the public.

Recorded Vote:

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

Nays: None

Absent: Commissioner D' Angelo, Mr. Gosline
Mr. Maisto.

UPON MOTION of Mr. R. Fernicola, seconded by Ms. Wilusz, carried, that the meeting be finally adjourned at 10:45 PM.

Marilyn Simons
Board Secretary