

**VILLAGE OF LOCH ARBOUR PLANNING BOARD
MINUTES –REGULAR MEETING
May 15, 2019**

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 15, 2019 AND WAS CALLED TO ORDER BY CHAIRPERSON, ROBERT FERNICOLA AT 7:30 PM.

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

Also present were Board Attorney, Sanford Brown 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 21, 2019, 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. R. Fernicola, seconded by Ms. Appello, carried, the following minutes are hereby approved as presented.

- Regular Meeting of the Planning Board held on April 17, 2019.

Recorded Vote:

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

Nays: None Absent: Commissioner D'Angelo, Mayor Fernicola

Abstain: Ms. Gosline, Mr. Wiener, Ms. Wilusz

CORRESPONDENCE – None

OLD BUSINESS

- A. **Shams, 214 Euclid Avenue, Loch Arbour, Block 10, Lot 5 (MAJOR ALTERATION) (CONTINUED) This matter will not be heard tonight. Waiting for a report from Village Engineer and Planner, Peter Avakian.**

Jennifer Krimko of the law firm of Ansell, Grimm and Aaron announced she is representing Mr. and Mrs. Shams regarding this matter. She informed the Board new Plans are being drawn up and will be submitted to the Board. Ms. Krimko stated the matter will be re-noticed when it is scheduled.

NEW BUSINESS –

- A. **Goodman, 2 Elberon Avenue, Block 5, Lot , Variance Application**

This matter has been postponed by the Applicant's Attorney, Jessica Sweet, Esq. and carried to the Next Planning Board Meeting scheduled for June 19, 2019.

- B. **205 Edgemont, LLC, Block 10, Lot 11**

An Application has been received on behalf of the Applicant, 205 Edgemont, LLC. The Applicant is appealing the zoning Officers Determination that the pre-existing non-conforming use has been abandoned. Should the Board affirm the Zoning Officer's decision; the Applicant will be requesting a Use Variance. In addition, the Applicant is requesting Board approval for site plan approval and bulk variances as noted in the Engineer's Completeness Report dated January 31, 2019.

The following Exhibits were marked into evidence:

Exhibit A-1: Field Report dated April 13, 2018, prepared by Architect, Michael Saverese, RA., of MSA Architect, consisting of 2 pages.

Exhibit A-2: Existing Conditions dated February 20, 2019, prepared by Architect, Michael Saverese, RA, of MSA Architect, consisting of 6 pages.

Exhibit A-3: Tax list dated 1927, consisting of 5 pages.

Exhibit A-4: New Jersey Property Tax System Legend, consisting of 1 page.

Exhibit A-5: Village of Loch Arbour, Master Plan and Summary of Proposals dated July, 1969.

Exhibit A-6: Memo from Planning Board Clerk, Village of Loch Arbour dated January 10, 1977, consisting of 7 pages.

Exhibit A-7: Resolution Re-Adopting the 1969 Master Plan dated January 25, 1977, consisting of 4 pages.

Exhibit A-8: Enlarged poster of NJSA 40:55D-68.

Exhibit A-9: Enlarged poster of "Continued Operation" Scavone v. Mayor and Council of Totowa.

Exhibit B- 1: Planning Board Application, 205 Edgemont, LLC., dated June 14, 2018, consisting of 6 pages.

Exhibit B-2: OPRA Request received by Jennifer Krimko, Esq., dated December 5, 2017, consisting of 27 pages.

Exhibit B-3: Peter Avakian, P.E., report dated January 31, 2019, consisting of 6 pages.

Exhibit B-4: Zoning Request #2018-13, date issued: May 30, 2018, consisting of 1 page.

The Board Secretary confirmed the application before the board tonight was properly noticed.

Present was Applicant's Attorney, Jennifer Krimko, Esq., of the law firm Ansell, Grimm and Aaron. Ms. Krimko stated the Appeal for the Zoning Denial should be determined by the Board, before the case proceeds. Ms. Krimko stated the applicant is Appealing the Zoning Officers May 30, 2018 Determination that the pre-existing non-conforming, 6-unit apartment use has been abandoned. Ms. Krimko talked about abandonment laws and cited Case Law from 2004 and 2009.

Board Attorney, Sanford Brown, Esq., spoke about the procedure of this application.

Mr. Brown read Ordinance 156, Section 617(B). Mr. Brown cited Case Law from 1994 and 2009.

Chairperson Fernicola read from Case Law from 2009 and Appellate Division Case from 2008.

Mr. Avakian joined the meeting at this time.

- Daniel Nolan, Architect of the firm of Savarese Associates, 34 Sycamore Avenue, Unit 1E, Little Silver, New Jersey, was sworn in and accepted by the Board as an expert witness.

Mr. Nolan referenced Exhibit A-1., testified test probes were done in the walls, and it was determined to be Plaster and confirmed the plaster is the original material used to construct the building. Mr. Nolan referenced A-2 and testified regarding the existing conditions of each unit. Mr. Nolan testified the original construction date is 1927.

- Andrew Janiw, PP., Beacon Planning, 315 Route 34, Suite 129, Colts Neck, New Jersey, was sworn in and accepted by the Board as an expert witness.

Mr. Janiw referenced Exhibit A-3 and Exhibit A-5. Mr. Janiw testified to the timeline from tax records of the classification of the property. Mr. Janiw referenced Exhibit A-5 and testified in the 1966 Master Plan the Village acknowledged apartments at this location. Mr. Janiw referenced A-6 establishing in 1977, 205 Edgemont is an apartment building. Mr. Janiw testified the apartment building was zoned as a Single-Family Residential Lot sometime after 1977.

Mr. Janiw referenced and read, Exhibit A-8. He referenced Case Law from 1969, and referenced and read Exhibit A-9.

Mr. Janiw testified to establishing existing non-conforming use of the apartment building. He referenced Case Law from 1969. He testified that all 6 separate dwelling units have individual meters for each unit. Mr. Janiw testified there has been no changes to the structure and the property has not been abandoned.

5 minutes recess.

Chairperson Fernicola referenced Exhibit B-2 and discussed with the Board the "Annual Statement of Income" dated January-December, 2000 and 2007. The documents were submitted by the previous owner to the Village.

Mr. Brown spoke to the Board regarding the procedure of this hearing. Mr. Brown recommended that an analysis be done by the Village Engineer/Planner of all of the documentation submitted to the Board tonight. The Board agreed.

After Board discussion it was determined, and Ms. Krimko agreed, this Application would be carried to the Planning Board Meeting scheduled for July 17, 2019, without the need for any further notice. Ms. Krimko extended the time for the Board to make a decision in this matter.

C. 329 Euclid Avenue, Block 3, Lot 12 – Variance Application

An Application has been received on behalf of the Applicant, 329 Euclid, LLC. The Applicant is requesting approval from the Planning Board for a variance of the roof overhang in the side building setback. The improvements require variance for side building setback. The improvements will require a variance as otherwise described in the Engineer's Completeness Report dated January 31, 2019.

The following Exhibits were marked into evidence:

Exhibit B- 1: Planning Board Application, 329 Euclid, LLC., dated October 10, 2018, consisting of 6 pages.

Exhibit B-2: Report received from Peter Avakian, P.E. dated January 31, 2019, consisting of 3 pages.

Exhibit A-1: Memo prepared by Denis M. Higgins of Avakian's office dated March 9, 2018, consisting of 5 pages.

Exhibit A-2: Zoning Request #2016-08, and cover letter dated April 20, 2018. Zoning determination date issued: April 18, 2016, consisting of 8 pages.

Exhibit A-3: Final Survey, prepared by Charles Surmonte, P.E., dated July 3, 2018, consisting of 1 page.

Exhibit A-4: Second Floor Plan Notes, prepared by Michael Savarese Associates, revised thru October 2, 2018, consisting of 1 page.

Exhibit A-5: Second Floor Plan Notes, prepared by Michael Savarese Associates, revised thru October 2, 2018, (HIGHLIGHTED), consisting of 1 page.

The Board Secretary confirmed the application before the board tonight was properly noticed.

Present was the Applicant's Attorney, Jennifer Krimko, Esq., of the law firm Ansell, Grimm and Aaron.

- Daniel Nolan, Architect of the firm of Savarese Associates, 34 Sycamore Avenue, Unit 1E, Little Silver, New Jersey, was sworn in and was accepted by the Board as an expert witness.

Mr. Nolan, referenced Exhibit A-2, Zoning Permit Approval. Mr. Nolan referenced Exhibit A-1 and testified to the measurements and what was approved by the Zoning Official. Mr. Nolan also referenced Exhibit A-5. Mr. Nolan testified the builder overbuilt the overhang more than what was approved by the Zoning Official.

Mr. Nolan testified that this is a minor encroachment. The appearance of this minor encroachment is aesthetically pleasing and would not be symmetrical to the whole house, if the overhang was cut off.

The Board discussed this being a new home and that it was built on an oversized lot. Mr. Avakian, Planning Board, Engineer/ Planner discussed application and referenced Exhibit A-1.

Mr. Brown explained to the Board a C-2 Variance.

After discussion regarding the property to the east of this application, the Board determined, and Ms. Krimko agreed, this Application would be carried to the Planning Board Meeting scheduled for July 17, 2019, without the need for any further notice. Ms. Krimko extended the time for the Board to make a decision in this matter.

DISCUSSION/VOTE –

A. Next Planning Board scheduled for June 19, 2019 at 7:30.

B. Pending Application –

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| <ul style="list-style-type: none">• Terzi | Block 9, Lot 10
5 Ocean Place | Variance/Cert of Appropriateness |
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PUBLIC COMMENTS –

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

Dr. Albert Sarkessian, Edgemont Drive, lives next to 205 Edgemont Drive. Dr. Sarkessian made a statement regarding the old owner of the building.

After no further comments, UPON MOTION of Mr. R. Fernicola, seconded by Mr. Santos, carried the meeting be closed to the public.

UPON MOTION of Mr. R. Fernicola, seconded by Mr. Wiener, carried, that the meeting be finally adjourned at 10:25 PM.

Marilyn Simons
Board Secretary