

**VILLAGE OF LOCH ARBOUR PLANNING BOARD  
MINUTES –REGULAR MEETING  
JULY 17, 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, JULY 17, 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. ABSENT WERE Commissioner D' Angelo, Mayor Fernicola, 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 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 Mr. Wiener, carried, the following minutes are hereby approved as presented.

- Regular Meeting of the Planning Board held on May 15, 2019.

**Recorded Vote:**

Ayes: Ms. Appello, Mr. R. Fernicola, Ms. Gosline, Mr. Wiener, Ms. Wilusz, Mr. Santos  
Nays: None                      Absent: Commissioner D'Angelo, Mayor Fernicola, Mr. Maisto  
Abstain: None

**CORRESPONDENCE – None**

**OLD BUSINESS**

**Continued:**

**A. 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 and revised through July 12, 2019.

The following Exhibits were marked into evidence at the Planning Board Meeting held May 15, 2019:

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 and Mr. Brown discussed with the Board putting the Appeal aside to seek a D-1 Use Variance at this time.

It was determined Ms. Krimko would proceed with the Appeal of the Zoning Officers May 30, 2018 Determination the pre-existing non-conforming, 6-unit apartment use has been abandoned.

The following Exhibits were marked into evidence:

Exhibit A-10: Copies of Historic Rent receipts, consisting of 5 pages.

Exhibit A-11: Copies of envelopes from the U.S. Census Bureau, consisting of 3 pages.

- Peter Siegel, a principle owner in an entity that has an interest in the property at 205 Edgemont Drive, was sworn in.

Mr. Siegel referenced Exhibit A-10 and Exhibit A-11 and testified that he found the Exhibits in the basement and 1<sup>st</sup> floor of 205 Edgemont Drive. Mr. Siegel testified the Exhibits are pages from a rent receipt book (Exhibit A-10) and copies of envelopes from the U.S. Census Bureau (Exhibit A-11). The Exhibits were discussed.

Mr. Brown referenced Exhibit A-10 and Exhibit A-11 and questioned the validity of both Exhibits.

Chairperson Fernicola asked the Board if there were any questions for the witness, Mr. Siegel. It was determined there are no questions at this time for the witness.

Jennifer Krimko, Esq., presented a summation to the Board on why Appeal should be overturned.

Board Members discussed with Ms. Krimko the abandonment issue.

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

UPON MOTION of R. Fernicola, seconded by Mr. Wiener, that the meeting be opened to the public for questions for Peter Siegel, owner.

Recorded Vote:

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

Nays: None

Absent: Commissioner D' Angelo, Mayor Fernicola  
Mr. Maisto

Peter Siegel, testified that there are 6 individual meters located in the back of the property. Mr. Siegel stated there was installation of updated electrical equipment at the premises prior to the purchase.

Michael Savarese, Architect, was sworn in as an expert witness in Architecture. Mr. Savarese testified the electrical is a mix of both, knob and tube wiring in the building and updated electrical meters.

Dr. Sarkessian, Edgemont Drive, was sworn in. Dr. Sarkessian testified he has lived next to the property since the 1980's and in his opinion the property was not abandoned. There were no tenants and he only saw family members going in and out. Dr. Sarkessian stated for the record he is in favor of this application.

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

Recorded Vote:

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

Nays: None

Absent: Commissioner D' Angelo, Mayor Fernicola  
Mr. Maisto

Mr. Brown recommended a brief schedule be considered. Mr. Brown stated the Village needs sufficient time to respond to the applicant's brief. The Board agreed.

Ms. Krimko asked the Board if the case can move forward and use the time wisely tonight and start moving in evidence, describing the plans, etc. Ms. Krimko stated she would like the Board to hear all the evidence before the Board makes any decision.

Mr. Brown discussed with the Board the differences of the burden of proof between the two applications. Mr. Avakian discussed with the Board, if the application was not abandoned, which variances would still be needed.

Ms. Krimko asked for the Board to consider setting a Special Meeting date.

After Board discussion it was determined, and Ms. Krimko agreed, this Application would be carried to the Planning Board Meeting scheduled for August 21, 2019, without the need for any further notice. If a Special Meeting is determined, Ms. Krimko will re-notice the hearing date.

It was determined that a formal brief will be submitted by the Applicant's Attorney within 7-10 days. The Board agreed.

**NEW BUSINESS - None**

**DISCUSSION/VOTE –**

**A. Next Planning Board scheduled for August 21, 2019 at 7:30.**

**B. Pending Applications –**

- **Goodman, 2 Elberon Avenue, Block 5, Lot 1, Variance Application – Tentatively scheduled for August 21, 2019, Applicant's Attorney must notice meeting in accordance with the law.**
- **329 Euclid Avenue, Block 3, Lot 12, Variance Application – Tentatively scheduled for September 18, 2019. Applicant's Attorney must notice meeting in accordance with the law.**

- **Shams, 214 Euclid Avenue, Block 10, Lot 5, Certificate of Appropriateness. Tentatively scheduled for September 18, 2019. Ms. Krimko put on the record she represents Mr. Shams and that a plan will be submitted within the next two weeks.**
- **Terzi, 5 Ocean Place, Block 9, Lot 10, Variance/Cert of Appropriateness**

**PUBLIC COMMENTS –**

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

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

UPON MOTION of Mr. R. Fernicola, seconded by Ms. Appello, carried, that the meeting be finally adjourned at 9:00 PM.

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Marilyn Simons  
Board Secretary