

MINUTES

Seaside Heights Planning Board

May 25, 2022

6:00 PM

116 Sherman Ave.

Court Room over Fire House

- Open Public Meetings Act Statement
- Pledge of Allegiance
- Roll Call

Present: Frank C. Gorman, Steve Sanzone, Chris Vaz, Frank M. Santora, Peter Jarkezian, Robert Triano, Vito Ferrone, David Witherspoon, Thomas Faragalli, Ted Szejnrok Paul Firetto

- Motion to approve minutes of May 2, 2022

***Motion by Tom Faragalli Seconded by Robert Triano- All in favor
Paul Firetto was not present at the meeting so he could not vote.***

RESOLUTIONS TO MEMORIALIZE

- **RESOLUTION #2022-18**

**BLOCK 71 LOT 1.01 – 1516 BAY BOULEVARD – CAS INTERNATIONAL IMPROVEMENTS, LLC – ZONE:
LOW DENSITY RESIDENTIAL (LDR)
MINOR SITE PLAN WITH USE AND BULK VARIANCES
APPLICATION# 22-07**

Motion by: Steve Sanzone Seconded by Robert Triano

Yes votes: Steve Sanzone, Robert Triano, Frank C. Gorman, Chris Vaz, David Witherspoon, Thomas Faragalli, Ted Szejnrok

- **RESOLUTION #2022-19**

**BLOCK 71 LOT 32 – 323 HIERING AVE. – CAS INTERNATIONAL IMPROVEMENTS, LLC – ZONE: LOW
DENSITY RESIDENTIAL (LDR)
MINOR SITE PLAN WITH USE AND BULK VARIANCES
APPLICATION# 22-08**

Motion by: Robert Triano Seconded by Steve Sanzone

Yes Votes: : Robert Triano, Steve Sanzone, Frank C. Gorman, Chris Vaz, David Witherspoon, Thomas Faragalli, Ted Szejnrok

- **RESOLUTION #2022-20**

**BLOCK 52 LOT 3 – 208 SHERIDAN AVE – OAK FOREST DEVELOPMENT, LLC.-EXTENSION OF PRIOR
APPROVAL
APPLICATION #2019-14**

Motion by: Robert Triano seconded by Chris Vaz

Yes votes: Robert Triano, Chris Vaz, Frank C. Gorman, Steve Sanzone, David Witherspoon, Thomas Faragalli, Ted Szejnrok

APPLICATIONS FOR REVIEW

BLOCK 8.02 LOT 6 – 707 OCEAN TERRACE -MARLEYN OCEAN PROPERTIES, LLC. – ZONE: RESORT RECREATIONAL (RR)

MINOR SITE PLAN WITH VARIANCE

APPLICATION #2022-06

The applicant is looking for approval to build a 55 foot by 60 foot addition to their retail store, which is on the boardwalk, in the existing parking lot on this property that faces the street. The applicant will be removing the parking lot to provide room for the proposed addition. Currently there is an existing non-conforming front setback on the property which faces the boardwalk. That portion of the property will remain the same.

VARIANCE: FRONT SETBACK

ATTY: SALVATORE ALFIERI, ESQ.

****THIS IS A CONTINUATION FROM APRIL 27, 2022 MEETING***

Salvatore Alfieri, Esq. appeared on behalf of the applicant.

Items were marked for identification:

A-3 Color Rendering of the projected building

A-4 Architectural Plans dated May 3, 2022

Ronin Yefet, owner and applicant was sworn in to discuss this application. Yefet, using the color rendering of the proposed building explained that the same colors that are seen on these plans are what will be used to construct his building. The outside will be vinyl siding and stone façade on the base of the building. Top floor of the building will be solely for storage, but to make the building aesthetically pleasing he will have clothing displays in the upstairs windows, so passers by cannot see the boxes in the windows.

A Planning Board member had questions about parking cars in the lot next to the proposed building. Kenny Roberts, Zoning Officer was sworn in. The concern was for the safety of the building in case there was a car fire next to the building. Roberts advised that since there is a 0 foot setback on this space, they must build the new portion with fire rated materials.

The Board was happy to see that the top floor of the building was situated in such a way that it can barely be seen on the boardwalk side. They were also satisfied with the lighting plans. Additionally, the Board wanted to know where the HVAC would be located. The applicant advised that it will be on the roof of the building.

A motion to adopt a resolution for this application was made by Thomas Faragalli, seconded by David Witherspoon.

Yes votes: Thomas Faragalli, David Witherspoon, Frank C. Gorman, Steve Sanzone, Chris Vaz, Frank M. Santora, Robert Triano, Vito Ferrone, Ted Szejnrok- All were in favor.

Peter Jarkezian was asked to recuse himself by the applicant since Jarkezian's family owns competing stores.

At this point of the meeting, approx. 6:50pm Chris Vaz and Ken Roberts left to attend a viewing of a fellow fireman. Frank Santora and Vito Ferrone left the dais as well since the following applications all have USE variances and they are unable to vote on zoning issues.

BLOCK 2.01 LOT 22 – 22 DUPONT AVE. – WP PROPERTY, LLC – ZONE: RESIDENTIAL & RETAIL BUSINESS (R&RB)

MINOR SUBDIVISION WITH USE AND BULK VARIANCES

APPLICATION #2022-09

This applicant is requesting approval to subdivide the existing 8000 square foot lot into 3 conforming lots. One lot will be 4000 square feet in dimension (proposed lot 22.01) and the other 2 lots will be 2000 square feet each with proposed lot numbers of 22.04 and 22.05. If approved, the applicant proposes to build a single-family residence on lots 22.04 and 22.05. To build the proposed homes on lots 22.04 and 22.05, this application will require variances for side yard setbacks, requesting that each set back be on the left side of the buildings be 1 foot, where 3 feet are required. In addition, they will be requesting a variance for the height of the houses to be 44.4 feet tall, where 40 feet is allowed.

VARIANCES: SIDE YARD SETBACKS

USE VARIANCE FOR BUILDING HEIGHT

ATTY: MATT HEAGEN, ESQ.

Matt Heagen, Esq. appeared on behalf of the applicant. He explained that this is a 3 lot subdivision with variances for side yard setbacks and height.

Daniel P. Wheaton, Architect and Planner from Ten 10 Architects, 714 Main St., Stafford Twp. was sworn in.

The following were marked for identification:

A-1 Application and all attachments

A-2 Engineer review letter from Doug Klee dated May 3, 2022

Mr. Wheaton continued to review the application. He explained that this is a 3 lot subdivision that would divide the property into two 2000 square foot lots and one 4000 square foot lot which is the lot on the eastern side of the property. This property is in a split zone. Part of the property is in the Retail Business (RB) Zone and the other is in the Residential (R) zone. The applicant is asking for a side yard setback variance to be 1 foot on the western side of the property where a 3 foot setback is required and they will keep the 3 foot required setback on the eastern side of the property. There will be a total of 4 feet between the buildings.

The applicant is requesting USE Variance for height so they can build the houses at 44.4 feet tall where 40 feet is allowed. Mr. Wheaton explained that the proposed homes will be 16 feet wide with 4 bedrooms in each. There will be room for 3 parking spaces in front of the houses with a space for one car inside each garage. The design of the house pushes the front of the house back further from the front property line to extend the garage so that it can be used for storage and parking. This construction will take away 2 metered parking spaces for driveways.

Mr. Wheaton believes that this project will promote a desirable visual environment. The house will be stepped back from the front porch, there will be a garage and 3 living levels. It is the desire of the applicant to have a peaked roof on these homes instead of a flat roof, which is why they are requesting the height variance. The other homes on this block have peaked roofs, so they would like to stay consistent with the neighborhood. Mr. Wheaton stated that there will be no substantial impairment to

the neighborhood, public good or master plan. In addition, Wheaton pointed out that they will be removing paving on this property which will help with any water run-off.

Doug Klee, Planning Board Engineer wanted to clarify that these variances are only for the residential lots. He also verified that the houses will have a 24 foot front set back. Doug stated that the plans will need to be revised to show the proposed buildings and to include the 10 foot rear yard setback. Mr. Klee also reminded that applicant that there is a fee to the town for the lost parking spaces. The remaining lot, 40x100 is split into two zones, R and RB.

The Board members advised the applicant that this needs to be made fire safe due to the proximity of the homes. Mr. Wheaton stated that there will be fire safe windows and walls as required by code. Members also stated that there are to be NO fences between lots 22.01 and 22.05.

Doug Klee inquired if there is any way they can lower the ceilings which in turn would lower the height and pitch of the roof. If they can do this, they would eliminate the height (USE) variance.

The meeting was opened to the public for comments.

Prairie Rugilo, 312 Franklin Ave., Seaside Heights was sworn in.

Ms. Rugilo stated that she is very concerned about all these types of houses that are being built around the town. She believes that Seaside is going to lose its beach town charm and that "regular" people are not going to be able to afford these houses. She stated that she is a real estate agent and feels the market is going to bottom out and the town will be filled with big empty homes that no one can afford. Ms. Rugilo asked Mr. Wheaton if he did a sunlight study of the area. He stated that a 40-foot-high building casts a minimal shadow. She further questioned him about that the side setbacks asking if a 1-foot setback is enough distance in the case of a fire. Mr. Wheaton explained that separation distances are for safety, setbacks are for aesthetics. Mr. Wheaton ensures that all his designs are build with firewall and to specifics of New Jersey official construction codes.

Mark Weir, 135 East 13th Ave., Pinehill, NJ was sworn. He owns the house directly across the street from the subject property. He wanted to know about the driveway and where would the people living in the house put their garbage. Mr. Wheaton explained that there will be a typical 10-foot driveway that flares out to about 20 feet wide. There will be 4-6 feet of open space for the garbage pails to be places. Weir also mentioned the 1 foot set back because he is in a house where the neighboring house has a 0 foot setback. There is a fence along the side of the building and garbage and debris gets stuck in there and it is physically impossible for him to get in there to clean it out. Wheaton stated that the applicants plan to clear the property of all fencing.

There were no further questions of the public or 200' radius.

Doug Klee questioned the applicant if they would be able to shift the properties to the east. Matt Heagen explained that in doing so, the existing 4000 foot lot would then be non-conforming and they would have to come to the Board again for more variances.

Doug Klee also asked the applicant if they would be willing to lower the height to something under 44 feet. They said they could do so, followed up by Doug that they would not need a D variance and will need to reflect this in updated plans.

A motion to adopt a resolution approving this application was made by Peter Jarkezian seconded by Steve Sanzone.

Yes votes: Peter Jarkezian, Steve Sanzone, Frank C. Gorman, Robert Triano, David Witherspoon, Thomas Faragalli, Ted Szejnrok, and Paul Firetto. - All were in favor.

BLOCK 26 LOTS 31 & 29 – 110-114 BAY BOULEVARD – SUSAN MASLUCK – ZONE: LOW DENSITY RESIDENTIAL (LDR)

PRELIMINARY AND FINAL SUBDIVISION WITH BULK AND USE VARIANCES

Applicant is seeking approval to subdivide an existing 8750 square foot property (lot 31) into 4 buildable lots at 221.87 x 90-foot lots with plans to build a single-family home on each lot. The applicants also request to take a 10x87.50 feet of property from lot 31 and add it to lot 29. On Lot 31.01, the applicant is requesting a variance for the front yard setback asking for 3 feet back on the Lincoln Ave side, where 10 feet are required.

With regard to right side yard setbacks, the applicant is requesting variances to allow 2-foot side setbacks, where 3 feet are required on all 4 lots.

For all four lots, the applicant is requesting use variances for height, asking to be allowed to build the homes at elevation 43 feet where 35 foot elevation is allowed.

VARIANCES: FRONT YARD SET BACK

SIDE YARD SET BACKS

USE VARIANCE FOR BUILDING HEIGHT

ATTY: MATT HEAGEN, ESQ.

Matt Heagen, Esq. appeared for the applicant.

The following were marked for identification:

A-1: Application and all its attachments

A-2 Engineer review letter by Doug Klee dated May 23, 2022

Matt Heagen detailed that this is a 4-lot subdivision that is conforming in use. There will be an excess of 87 feet of width, which will be divided amongst and added to the lots, making them all 90 feet deep. For the corner lot, the applicant is requesting a variance for a 3-foot front setback, where 10 feet are necessary. For all the lots, the applicant is requesting a 2-foot side-yard setback where 3 is required and will be leaving 3-foot side-yard on the opposite side of the houses. They are also requesting a USE variance for height.

The following items were marked for identification:

A-1 the application and all attachments

A-2 Engineer review letter by Doug Klee, dated May 23, 2022

Daniel Wheaton, Ten10 Architecture was sworn in to stand in for Matt Wilder, Engineer, who was out ill. He described that application as follows:

If the subdivision is approved there will be 4 lots fronting along Bay Boulevard. Each lot will be 100 feet deep. The applicant proposes to build a single-family home on each lot which will each have 3 bedrooms, with two on-site parking spaces for each house. The homes will be built 25 feet from the property line to provide the room for the on-site parking spaces. When building these homes, there will be 4 on-street parking spaces lost to make room for the curb cuts necessary for these houses, which are going to be built on conforming sites.

The lots will be 1968 square feet each. The choice to make the front yard setback at 25 feet will give an additional 15 feet of open space in front of the houses. The applicant is requesting approval to build the homes each at 43 feet high. The height of the houses will reduce in the front and the rear of the property with the most height at the middle of the house. This was designed this way so not to shadow any nearby properties. There will be a den on the top floor that will walk out to a roof-top deck. The deck is placed on the roof top to reduce the amount of noise the occupants will hear up there.

Daniel Wheaton stated that the design of these homes will promote a desirable visual environment. The applicant has also added positive elements to this project by reducing the footprint of the houses and shaping the houses like a "wedding cake" to promote air, light and space for the neighboring properties. In addition, there will be 20 foot, clear back yard behind each of the homes. He said that the plans for this project will not impair or be a detriment to the public good.

With regard to the Engineer Review letter by Doug Klee, Mr. Wheaton stated that the applicant stipulates to all of the conditions reported. Doug Klee asked Mr. Wheaton to clarify if the ceiling heights were going to be 9 feet high attempting to possibly adjust the height of the houses down to be out of the "D" variance area. Mr. Wheaton said they are building with a flat roof and can not change the height of the ceilings or else there will be no room for the duct work to install the HVAC. Unfortunately, according to Daniel Wheaton, they cannot make any workable changes to get out of the D use variance for height.

There were no further questions or comments. The meeting was opened to the 200 foot radius and the public for comment.

Prairie Rugilo, 312 Franklin Ave., Seaside Heights was sworn in. She asked Daniel Wheaton why the houses need to be built so high. Daniel Wheaton explained that it will be the best living space conditions and they are trading off taking up the whole footprint of the property to compromise for their desired height.

There were no further comments or questions.

A motion to adopt a resolution for this application was made by Tom Faragalli. Robert Triano seconded the motion.

Yes votes by: Tom Faragalli, Robert Triano, Frank C. Gorman, Steve Sanzone, Peter Jarkezian, David Witherspoon, Ted Szejnrok.

BLOCK 28 LOT 6 – 308 FRANKLIN AVE. – LOUISA & JOSEPH KOSTIHA – ZONE LOW DENSITY RESIDENTIAL (LDR)

SUBDIVISION WITH BULK AND USE VARIANCES

These applicants are requesting approval to subdivide their 6,500 square foot property in to 3 buildable lots. Proposed lot number 6.01 will have a measurement of 2,000 square feet. Proposed Lot numbers 6.02 and 6.03 will each measure 2,250 square feet if approved.

Currently, there are two buildings on this property, which will be removed, to allow for the construction of 3 single family residences. For each of the proposed new lots, they are asking for 1-

foot setbacks on the right sides of the homes where 3 feet are required. They are also requesting use variances for each lot to build the homes at 46.25-foot elevation where 35 feet is the maximum.

VARIANCES: RIGHT SIDE YARD SETBACK

USE VARIANCE FOR HEIGHT

ATTY: MATT HEAGEN, ESQ.

Matt Heagen appeared on behalf of the applicants with Daniel Wheaton, Architect of Ten 10 Architecture. Mr. Heagen stated that the application is a request to subdivide the existing lot into 3, conforming, buildable lots. Heagen pointed out that the neighbor to this property is the Cornerstone Apartment building. According to Heagen, 2 of the lots will be 22.5 x 100 feet on the western side of the property and the lot on the eastern side of the property will be 20 x 100 feet.

The following were marked for identification:

A-1 application and all attachments

A-2 Engineer Review letter by Doug Klee, May 9, 2022

Daniel Wheaton reviewed the application for the Board. He stated that the applicants are seeking right side yard setbacks to be 1 foot as opposed to the minimum of 3 feet. That setback will meet with the opposing side to produce a total of 4 feet between houses on the eastern side of the properties.

The applicants are requesting approval to build their homes at 46 feet high where 35 feet are allowed. They will be providing a larger front yard set back of 20 feet which will allow for 2 off-street parking spaces in front of each house. There will be useable garages for each house, not just for parking. To be able to curb cut for these houses, two on-street parking spaces will be lost.

The design of the houses to be built is such so that the highest elevation is to the back of the house. The house steps back from the street in terms of heights and floors. Wheaton stated that they have done sun studies on similarly constructed houses for the winter and summer. There was some shading to the rear of the house. He reminded the Board that there will be a 15 foot rear yard setback as opposed to 5 feet. According to the study there will be some shading in the winter, but no shading in the summer.

Daniel Wheaton explained the special reasons for the height variance. He stated that the building on site now is not flood compliant. The new buildings will ensure that everything is compliant. The air movement will be good in the rear of the homes and this is a good utilization of the property. Wheaton feels that this a good utilization of the property, will provide a desirable visual environment for and promote the general welfare of the neighborhood.

Dan Wheaton addressed a portion of Doug Klee's (Planning Board Engineer) letter regarding draining and grading. Mr. Wheaton stated that it will be handled on a per lot basis. He also said that there will be peaked roofs, vinyl siding and they will be using all fire rated materials.

Doug Klee asked Mr. Wheaton if the setback lines can match the building footprint. He stated that they will be 20 feet in the front and 15 feet in the rear.

Since the Board had no more questions the meeting was opened up to public comment and questions.

Prairie Rugilo, 312 Franklin Ave., Seaside Heights was sworn in. She is in the 200' radius of this property.

Her question was for Daniel Wheaton. Ms. Rugilo wanted to know if there is any way they can make the houses lower. Wheaton stated that they designed the houses so that they can get the most livable space and moved the highest part of the house to the backs of the buildings. The design also compromised by putting a bigger backyard in to create an airier feeling. Prairie also stated that losing an on-street parking spaces on this block causes a problem for the neighboring houses. Mr. Wheaton explained that all the homes' residents will have their own parking. Daniel Wheaton feels that the buildings will look nice aesthetically and there will be open space in the back yards.

There were no further questions regarding this application.

A motion to adopt a resolution was made by Steve Sanzone, seconded by Peter Jarkezian.

Yes votes: Steve Sanzone, Peter Jarkezian, Frank C. Gorman, Robert Triano, David Witherspoon, Tom Faragalli, and Paul Firetto.

Ted Szejnrok recused himself since he is in the 200 foot radius.

FOR DISCUSSION AND ACTION

BOROUGH OF SEASIDE HEIGHTS MASTER PLAN REEXAMINATION REPORT-MAY 2022 PREPARED BY PAULUS, SOKOLOWSKI, AND SARTOR, LLC WITH JENNIFER GORINI.

Members to discuss their observations after reading the report and to vote on a tentative adoption of this plan.

Chris Vaz clarified that there will be no vote on this tonight, just comments since it is necessary to have public hearings on these issues. Chris also clarified that this is NOT the Master Plan and that in the Fall, the Board will continue to address those plans.

Vaz explained that a town is supposed to do a reexamination report every 10 years. The report above covers from 2005 to the present date. This report will examine things that need to be done to comply with the State and bring Seaside Heights up to date.

Chris reported that there is a change that needs to be made to the report. In 2015-2016 ordinances were passed by the town which designated the Tilles property into a zone. The beach there is considered public and that property is now in the Resort Recreational Zone. This information needs to be included in the Reexamination Report. Vaz also mentioned the Peterson property as an area that needs to be added into the report.

Vito Ferrone mentioned about the designation of "town center". Chris Vaz stated that a person from the state is guiding the town with this and assisting with the Master Plans. Currently Seaside Heights Town Center designation expires in 2023.

Chris Vaz also mentioned that after Super Storm Sandy, the entire town was designated as an area in need of rehabilitation. This reexamination report updated everything so we are current.

The next step is for the Board to vote to tentatively adopt approval of the reexamination report then in July we will schedule a public hearing. This action will bring the town into compliance with the guidelines from the state.

EXECUTIVE SESSION

MEETING WITH ERIC McCULLOUGH, ESQ.

437 Hiering, LLC v. Planning Board of Seaside Heights.

An executive session was had on May 2, 2022, to review and discuss a letter written by Eric D. McCullough, Esq, who was present, proposing a settlement of Docket No. OCN-L-3322-21. After lengthy discussion, the Board decided that they would like to physically go to the subject site and inspect it, prior to making any decisions. Tonight, will be the continuation of these discussions.

A motion to go into Executive Session was made by Robert Triano, seconded by David Witherspoon. All left in attendance were in favor.

Since this is pending litigation, these minutes are kept separate and apart from the regular meeting minutes, but the topic was discussed in executive session.