

Chairman Cunningham called the meeting to order and requested those present to join him in the Pledge of Allegiance to the Flag.

Chairman Cunningham read the following statement:

**1. OPENING STATEMENT:** The Borough of Sea Bright, in compliance with the "Open Public Meetings Act" has advertised the date, time and location of this meeting in the *Courier* on January 17, 2008, filed it with the Clerk, and posted a notice on the bulletin board in the Borough Office.

**2. ROLL CALL:**

PRESENT: Cashmore, Cunningham, DeSio, Fernandes, McBride, Murphy Torcivia, Smith

ABSENT: Clauer, Nott

**3. MINUTES**

**A.** Chairman Cunningham made a motion approving the Planning Board Minutes of October 14, 2008. Second by Boardmember DeSio and adopted upon the following roll call vote:

Ayes: Cashmore, Cunningham, DeSio, Fernandes, McBride, Murphy Torcivia, Smith

Nays: None

Absent: Clauer, Nott

Abstain: None

**B.** Boardmember DeSio made a motion approving the Planning Board Minutes of November 11, 2008. Second by Boardmember McBride and adopted upon the following roll call vote:

Ayes: Cashmore, Cunningham, DeSio, Fernandes, McBride, Murphy Torcivia, Smith

Nays: None

Absent: Clauer, Nott

Abstain: None

**4. MEMORIALIZATION OF RESOLUTION**

**A.**

**RESOLUTION OF THE SEA BRIGHT PLANNING/ZONING BOARD**

**GRANTING VARIANCE APPROVAL**

**RE: Linda O'Mara**

**6 West Front Street,**

**Block 13, Lots 19.01 and 19.02**

**WHEREAS,** Linda O'Mara, owners of premises commonly known as 46 West Front Street, Block 13, Lots 19.01 and 19.02, Sea

Bright, New Jersey have applied to the Planning/Zoning Board for variances required for renovation and upgrading of an existing two family home in the B-1 zone, expansion of the second floor front and rear bedrooms, expansion of the third floor living area, add two full bathrooms and change the roof line for more interior head space and add a third floor rooftop deck; and

**WHEREAS**, the applicant has provided due notice to the public and all surrounding properties as required by law, has caused notice to be published in the official newspaper in accordance with N.J.S.A. 40:55D-1 et seq., this Board gaining jurisdiction therein and a public hearing having been held on this matter at a regular planning/zoning board meeting of November 11, 2008 at which time all persons having an interest in said application were given an opportunity to be heard; and

**WHEREAS**, the applicant appeared and marked into evidence certain documents including the following:

**A-1** Jurisdictional Packet;

**A-2** Photograph of West Front side;

**A-3** Site plan prepared by Passman, Ercolino, Anthony J. Ercolino, dated 9-23-08;

**A-4** Photograph of rear of subject property.

**WHEREAS**, members of the public were given the opportunity to be heard regarding the application and none appeared; and

**WHEREAS**, the Board having considered the evidence presented made the following findings:

1. The applicant seeks Variances for minimum lot width, 50 ft. required, 38.25 ft. existing and proposed; minimum each side yard, 7 ft. required, where 2.1 ft. is existing and proposed; minimum both side yards, 14 ft. required, 9.1 ft. existing and proposed; height where 26.76 ft is allowed and existing is 32' and proposed is 33'8" from grade, a "D" variance.

2. Anthony J. Ercolino, a licensed architect in the State of New Jersey, employed by Passman and Ercolino was sworn and offered the following testimony:

His office prepared the plans marked A-3. Each side of the duplex will have the same three bedrooms, with the square footage increased on the second floor and third floor and the ceiling height increased on the third floor. The existing roof line is slanted and results in the bulk of the third floor

bedroom ceiling being low, causing a safety risk to the occupants. All improvements in the expansion will be in the footprint of the existing building. However, they will add volume in the second and third floor.

Mr. Ercolino stated that the revised roof line will allow for a uniform 8' ceiling height. A bathroom will be added adjacent to the bedrooms on each side of the duplex.

Mr. Ercolino stated that the existing second floor bedrooms will be expanded to the first floor front wall. Currently, dressers for the bedrooms are located outside the rooms.

Mr. Ercolino offered that the plans propose a rooftop deck on the third floor. Their height will not be affected by the deck.

3. Linda O'Mara testified that they use one side of the duplex year round and the other side is used for family and friends seasonally. The improvements will add comfort and safety for the occupants. She stated that the property is surrounded by single family homes.

4. Mr. Ercolino testified that the proposed improvements are within the existing footprint, and in his opinion, the upgrades will be consistent with other homes in the area, and the improvements are consistent with the existing structure.

The renovated home will not be out of character with other homes in the area and in Sea Bright.

5. The Board was concerned about the measurement of the existing and proposed height of the structure. It was **stipulated** that the plans would be revised to show both the existing parking and the elevations.

The Applicant further **stipulated** that the height of the structure cannot increase more than 1'8" above the existing height and in no event may the height exceed 35' from the crown of the road.

6. The Board noted that the proposal requires a "D" variance, for the height. The Board discussed that the height of the existing bedrooms is 8' at the highest, but slants with the roof line, making it dangerous for the occupants to navigate safely without striking their head. The board also found that the existing configuration would not allow for usual bedroom use, with a dresser or other furniture in the room.

Board member Doxey pointed out that the proposed changes made the home safer for inhabitants and offered a better design and layout. The proposed height was not inconsistent with the neighborhood and the benefits to the variances far outweighed any detriment.

7. The Board found that the variances can be granted due to the nature of the development in the neighborhood, location, the new variances are consistent with the other residences in the neighborhood, made for a safer design and layout and therefore can be granted without substantial detriment to the Zone Plan and Zoning Ordinance.

8. The Board finds that the variances can be granted without substantially impairing the Zone Plan and Zoning Ordinance in that the height variance will provide for an 8' ceiling height in the third floor bedrooms, it is a pre-existing two-family house and the proposal will improve the structure and provide a better and safer layout.

9. The Board found that the proposed improvements were consistent with the homes in the neighborhood, and enhanced the value and aesthetic value of the subject property.

10. The variances can be granted due to the nature of the development in the neighborhood, location, the existing nonconformities which would not be significantly increased by the addition and therefore can be granted without substantial detriment to the Zone Plan and Zoning Ordinance.

11. Subject to the conditions set forth herein, the benefits associated with approving the within Application outweigh any detriments associated with the same.

12. After evaluating all of the evidence and testimony, the Board felt that the applicant had met its burden of proof, as to the positive and negative criteria.

13. The Board further found that the D variance relief sought could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance for the reasons set forth above.

**NOW, THEREFORE BE IT RESOLVED,** that the Planning/Zoning Board of the Borough of Sea Bright, based upon the findings of fact set forth herein that the variances requested for the improvements as set forth on the proposed plans marked into evidence be granted subject to the following conditions:

## **General conditions**

1. The applicant shall obtain the approval of all necessary and appropriate governmental agencies and comply with all governmental regulations except those specifically waived or modified in this resolution.

2. The applicant shall submit proof of payment of all real estate taxes applicable to the property and payment of all outstanding and future fees and escrow charges, posting of all performance guarantees in connection with the review of this application prior to and subsequent to the approval of this application.

3. The applicant shall comply with all building, FEMA and fire code including, but not limited to, entrances and exits.

4. All of the terms and conditions set forth on the record and hereinabove, including, but not limited to screening the mechanicals.

5. The applicant shall be bound by all representations made in testimony before the Zoning Board as set forth in the minutes of the hearings on the dates referred to above.

## **Specific conditions**

1. Applicant **stipulated** that the plans would be revised to show both the existing parking and the elevations.

2. The Applicant further **stipulated** that the height of the structure cannot increase more than 1'8" above the existing height and in no event may the height exceed 35' from the crown of the road.

3. No permits shall issue until revised plans have been supplied.

**BE IT FURTHER RESOLVED**, that this resolution memorializes the action taken by the Planning/Zoning Board, at its meeting of November 11, 2008.

**BE IT FURTHER RESOLVED** that the Board Secretary is hereby authorized and directed to cause a certified copy of this Resolution to be sent to the applicant, the Borough Clerk, the Engineer and the Tax Assessor and to make same available to all other interested parties.

**BE IT FURTHER RESOLVED** that the applicant is hereby

authorized and directed to cause a notice of this Resolution to be published in the official newspaper at the applicant's expense and to send the Affidavit of Publication to the Board Secretary and to make same available to all other interested parties and that no permits shall be issued until such proof of notice has been proffered.

Adopted on a roll call on a motion by Doxey and second by Clauer. to grant this application was as follows:

AYES: Arnette, Clauer, Cunningham, DeSio, Doxey, Cashmore, McBride

NAYS: None

ABSTAIN: None

ABSENT: Markson, Nott

Boardmember DeSio made a motion memorializing this application. Second by Boardmember Cashmore and adopted upon the following roll call vote:

AYES: Cunningham, DeSio, McBride, Cashmore

NAYS: None

ABSTAIN: None

ABSENT: Clauer

## **5. NEW BUSINESS**

### **A.**

**RALPH CLAUER  
Bulk Variance Relief required for setbacks  
32 Waterview Way  
Block 30, Lots 7**

The Board did not accept jurisdiction of this application as the applicant had not noticed all residents within 200 feet of this property.

### **B.**

**RESOLUTION OF THE SEA BRIGHT PLANNING/ZONING BOARD  
GRANTING VARIANCE APPROVAL  
RE: Richard and Karen Fahrenholz  
402 Ocean Avenue,  
Block 30, Lots 33 and 33.02**

Attorney Higgins asked the Boardmembers if they were within 200feet or had a conflict with this application.

Mr. Kevin Kennedy, Esq. represented Richard and Karen Fahrenholz in regard to this application.

**A-1** Jurisdictional Packet

**A-2** Plans prepared by Passman and Ercolino, Anthony J. Ercolino, entitled "Additions and Alterations to the Residence of Mr. And Mrs. R. Fahrenholz, dated 10/30/08

**A-3** Photo of subject;

**A-4** Photo of subject;

They submitted an application on or about April 10, 2007 and received variance approval from the Planning/Zoning Board for renovations and upgrades of an existing two family home. The renovations included enclosing an existing second story wood deck measuring 18.6 ft. x 5.35 ft on the Ocean Avenue side of the property. The plans were to construct a new 18.6 ft. x 5.35 ft. wood deck and enclose an existing 11 ft. 10 in. X 32.2 ft. The second floor deck on the southern side of property would be a sunroom. The plans were to construct an enclosed area for a first story room. They were to remove an exterior staircase to the existing second floor deck on the western side and use a portion of the roof of the newly enclosed second floor deck as a third floor observation deck on southern side of property. During the construction, they made an error by having the chimney for the 2nd story fireplace constructed within the side yard setback, leaving it 8.7 feet from the side yard line where 10 feet is required and they had never received approval for this. He said that they need a side yard setback 10 feet required versus 8.7 ft. proposed. The combined yard setbacks need to be adjusted as well as lot coverage with 30% allowed and previously approved for 32.84% and as a result, it is going to be 33.16%. The error does not increase the height, change the look or increase living space.

Attorney Higgins said that the applicant is not asking for retroactive approval to renovate and upgrade an existing two-family with the construction of a 2<sup>nd</sup> story fireplace. She said that a "D" variance was granted because it is a multi-family and its height. This application is a bulk variance for side yard setbacks and the fireplace is jutting out when it was not suppose in the prior application. They received their approvals but not for the side yard setback and they are seeking approval for this now.

Attorney Higgins sworn in the property owner Mr. Fahrenholz. Mr. Fahrenholz answered Mayor Fernandes question about whether they could have prevented the chimney from jutting out. He said that it designed to go out and that he thought they had gotten approval for this. He said that they made a mistake and apologized.

Chairman Cunningham opened this meeting to the public at \*:35 p.m. No one wished to be heard

Boardmember Desio made a motion approving this application. Second by Boardmember Cashmore and approved by the following roll call vote:

Ayes: Cashmore, Cunningham, DeSio, Fernandes, McBride, Murphy, Torcivia, Smith

Nays: None

Abstain:

Absent: Clauer, Nott

**6. ADJOURNMENT:**

There being no further business before the Planning Board Boardmember DeSio made a motion to adjourn the meeting at 9:01 P.M. Second by Boardmember Murphy and approved upon unanimous voice vote.

Respectfully Submitted,

Suzanne Branagan  
Planning Board Secretary