

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

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 Asbury Park Press on January 17, 2009, filed it with the Clerk, and posted a notice on the bulletin board in the Borough Office.

PRESENT: Boardmembers, Cashmore, Clauer, Cunningham, DeSio, McBride, Torcivia, Smith, Attorney Higgins, Board Secretary Branagan

ABSENT: Fernandes, Murphy, Nott (arrived at 8:06 p.m.)

3. OLD BUSINESS:

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**

WHEREAS, on or about April 10, 2007, Richard and Karen Fahrenholz, owners of premises commonly known as 402 Ocean Avenue, Block 30, Lots 33 and 33.02, Sea Bright, New Jersey received variance approval from the Planning/Zoning Board for renovation and upgrading of an existing two family home in the R-1 zone, to include enclosing existing second story wood deck (18.6 ft. x 5.35 ft.) on the Ocean Avenue side of property; construct a new 18.6 ft. x 5.35 ft. wood deck; enclose an existing 11 ft. 10 in. X 32.2 ft. second floor deck on southern side of property for use as a sunroom; construct an enclosed area for first story room over existing gravel area and beneath existing deck on southern portion side; remove an exterior staircase to existing second floor deck on western portion; utilize a portion of the roof of the newly enclosed second floor deck as a third floor observation deck on southern side of property, which shall be open on all four sides; and

WHEREAS, during the renovation process, the chimney for the 2nd story fireplace was inadvertently constructed within the side yard setback, leaving it 8.7 feet from the side yard line where 10 feet is required; and

WHEREAS, the Applicants seek additional variance approval

for the side yard variance of 8.7' where 10' are required; total combined side yard of 14' where 25' is required and lot coverage of 33% where 32.84% was previously approved; 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 January 13, 2009 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 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;

A-5 Application and narrative of intent

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 the side yard variance of 8.7' where 10' are required; total combined side yard of 14' where 25' is required and lot coverage of 33% where 32.84% was previously approved.

2. The Applicant testified that during the renovation process, the chimney for the 2nd story fireplace was inadvertently constructed within the side yard setback, leaving it 8.7 feet from the side yard line where 10 feet is required. The Applicant admitted that it was his mistake and that he erroneously believed that the plans and approval called for the chimney to be constructed by jutting out from the sidewall of the house as that is normally how such are constructed. He indicated that he did not realize that the chimney had to be

flush with the sidewall and gave his builder incorrect information. The renovations are complete, however, during the Borough inspection process, it was discovered that the chimney or fireplace addition was constructed closer to the side yard than allowed. It is only the second story that is impacted by this violation.

3. The Board reviewed the photos of the home as renovated and noted that the side yard incursion was limited to the brick "chimney" portion of the fireplace on the second story only. The Board found that the incursion into the side yard was deminimus and would have no effect on the neighboring property or on the neighborhood. The next door property is a flag lot and the portion abutting this section of the subject will never contain any structures, so there is no actual impact.

4. The Board found that the improvements on the home are consistent with other homes in the area, and the improvements are consistent with the existing structure.

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

5. The Board found that the Applicant did not intentionally violate the setback and that the incursion into the side yard setback was noticeable to the naked eye.

6. The Board noted that this is an area recently rezoned from R-2 to R-1. This would be conforming if it remained in the R-2 zone. The Board further found that there would be undue hardship to the applicant to tear out the improvement in order to make it conforming. The Board found that the fireplace and chimney as built were aesthetically pleasing and improved the structure and the neighborhood.

7. The variance can be granted due to the nature of the development in the neighborhood, location, and is consistent with the other residences in the neighborhood and therefore can be granted without substantial detriment to the Zone Plan and Zoning Ordinance.

8. The Board finds that the variance can be granted without substantially impairing the Zone Plan and Zoning Ordinance in that the variance is deminimus and the as built chimney is architecturally consistent with the existing structure.

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

10. 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.

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 variance requested for the improvements as set forth above and on the plans marked into evidence be granted subject to the following 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.

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.

BE IT FURTHER RESOLVED, that this resolution memorializes the action taken by the Planning/Zoning Board, at its meeting of January 13, 2009.

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 Board Secretary 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 applicant 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.

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: None

Absent: Clauer, Nott

Boardmember DeSio made a motion memorializing this resolution. Second by Boardmember Cashmore and approved upon the following roll call vote.

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

Nays: None

ABSTAIN: Clauer

ABSENT: Fernandes, Murphy, Nott

A. Boardmember Clauer abstained from hearing this application.

4. NEW BUSINESS

**RALPH CLAUER
Variance Relief Requested
32 Waterview Way
Block 30, Lots 7**

Attorney Higgins stated that all the Boardmembers present were not within 200 feet of the applicant nor had a conflict with this application.

- Exhibit A-1 Jurisdictional Packet
- Exhibit A-2 Site Plan prepared by Cerminara Architects dated November 25, 2008.
- Exhibit A-3 Zoning Officer's denial

Attorney Higgins sworn in Lloyd Schiffres builder of L&H properties. Mr. Schiffres stated that the front yard setback's requirement is 25 feet and the existing is 5 feet. The application has no effect on the front yard setback. The side yard set back is 7.5 feet on one side which is the side of the proposed garage. The garage would extend across that line at the rear of the house. The garage would follow in line with the back of the house for esthetical and structural purposes. The structural purpose would allow a line on the foundation wall to make it stronger by underpinning the foundation walls and the roof line.

Mr. Schiffres stated that the back, the left side facing the house and front of the property he would be cutting a footing as per building requirement of three feet deep and setting a one foot footing. There would be a block wall up to the base flood elevation as required. Currently the elevation is 9.34 feet and following that same line with the back house which meets those requirements. They would be tying in with the existing house's foundation. A gabled roof would be built flowing from the left side and coming across the existing ridge line of the house. The proposed garage's dimensions would be 26 feet by 17 feet. The master bedroom would be expanded by 8 feet.

Attorney Higgins sworn in Mr. Clauer the applicant and owner of this property. Mr. Clauer stated that there is not a house or structure behind his property.

Chairman Cunningham opened the meeting to the public at 8:20 p.m. No one wished to be heard and the public portion of the meeting was closed at 8:21p.m.

Boardmember Cashmore made a motion approving the application. Second by Boardmember Nott and approved upon the following roll call vote.

Ayes: Cashmore, Cunningham, DeSio, McBride, Nott, Torcivia, Smith

Nays: None

ABSTAIN: None

ABSENT: Fernandes, Murphy

5. MEMORIALIZATION OF RESOLUTION

RESOLUTION OF THE SEA BRIGHT PLANNING/ZONING BOARD GRANTING VARIANCE APPROVAL

RE: RALPH CLAUER

32 Waterview Way

Block 30, Lots 7

WHEREAS, the applicant Ralph Clauer owner of the premises commonly known as 32 Waterview Way, Block 30, Lot 7 Sea Bright, New Jersey made an application before the Planning/Zoning Board for the Borough of Sea Bright for an addition of a garage and an expansion of a master bedroom on the existing single family home.

WHEREAS, the existing home is non-conforming in terms of front yard setback where 5 feet is existing and proposed and this application has no effect on the front yard setback. The side yard setback has existing and proposed 7.5 feet and 12.82 feet. The rear yard setback where 15 feet is required and 11.53 feet are existing and with the proposed garage extending that in

the rear yard setback violation further across the rear of the property.

WHEREAS, the applicant has provide due notice to the public and to all surrounding properties as required by law has caused put notice to be published in the official newspaper in accordance to N.J.S.A. 40:55D-1 et seq. this Board having gained jurisdiction therein a public hearing having been held on this matter at a regular Planning/Zoning board meeting of January 27, 2009 at which time all persons having an interest in said application were given an opportunity to be heard.

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

- Exhibit A-1 Jurisdictional Packet
- Exhibit A-2 Site Plan prepared by Cerminara Architects dated November 25, 2008.
- Exhibit A-3 Zoning Officer's denial

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

WHEREAS, the Board having considered the evidence presented made the following findings.

1. The applicant seeks variances as set forth above.
2. The applicant's builder Lloyd Schiffres testified as to the extent of the proposed addition and indicated that the proposed layout of the garage is in keeping with the existing structure will match the existing structure will extend the rear building line of the house and keep it flush with the existing back building line of the house.
3. The builder has indicated that this is preferable for the both esthetical and structural purposes in that it will make the property more structurally sound to maintain that line on the foundation wall as well as on the roof line.
4. The proposal meets the base flood elevations.
5. The zoning schedule set forth on the plans is incorrect as to lot coverage as no variances required as per the zoning officer's denial letter.
6. The Board reviewed photographs of the home and is familiar with the neighborhood and finds that the incursion into the rear yard would have not effect on the neighboring property

or on the neighborhood.

7. The Board found that the improvements on the home are consistent with the other homes in the area and consistent with the existing structure.

8. The Board found that the home with it's proposed addition of a garage would not be out of character with other homes in the area or in Sea Bright.

9. Due to the nature of the development of the neighborhood, the location and the existing non-conformities of the home that proposed addition would be keeping with the neighborhood and can be performed without substantial detriment to the zone plan and the zoning ordinance.

10. The Board finds that the variances can be granted without substantially impairing the zone plan and the zoning ordinance. The proposed addition is architecturally consistent with the existing structure will esthetically improve the existing structure and will provide the applicant with a place to park his vehicle under cover and protected from the elements will meet one of the other purposes of the zoning ordinance that is providing off street parking. The Board felt that the applicant had met its burden of proof.

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 variance requested for the improvements as set forth above and on the plans marked into evidence be granted subject to the following 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.

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.

BE IT FURTHER RESOLVED, that this resolution memorializes the action taken by the Planning/Zoning Board, at its meeting of January 13, 2009.

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 Board Secretary 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 applicant 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.

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

Ayes: Cashmore, Cunningham, DeSio, McBride, Nott, Torcivia, Smith

Nays: None

ABSTAIN: None

ABSENT: Fernandes, Murphy

5. ADJOURNMENT:

There being no further business before the Planning Board. Boardmember Clauer made a motion to adjourn the meeting at 8:37 P.M. Second by Boardmember DeSio and approved upon unanimous voice vote.

Respectfully Submitted,

Suzanne Branagan
Planning Board Secretary