**Sea Bright, New Jersey**

**Unified Planning Board Minutes**

**January 13, 2015**

**7:30 p.m.**

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

Chairman Cunningham read the following statement:

**2.** **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 Asbury Park Press** on December 11, 2015 filed it with the Clerk, and posted a notice on the bulletin board in the Borough Office**.**

**3.** **ROLL CALL:**

**PRESENT:** Cashmore, Cunningham, Leckstein, Long, McBride, Schussheim, Smith, Isoldi-Jany(Alt.#1) Beer (Alt.2) ( Marrone (Alt.3)

 **ABSENT:**  Desio, Nott

**4.** Chairman Cunningham introduced a motion approving the December 9, 2014 & January 6, 2015 Reorganization Minutes Seconded by Boardmember McBride and approved by unanimous voice vote.

**5. MEMORIALIZATION OF RESOLUTION:**

Councilman Leckstein introduced a motion approving the JOINT DEFENSE AGREEMENT.

 **JOINT DEFENSE AGREEMENT**

 This Joint Defense Agreement is made by and between the undersigned counsel.

 **WHEREAS,** a lawsuit captioned Victor V. Scudiery v. The Borough of Sea Bright Planning Board and The Borough of Sea Bright has been filed in the Superior Court of New Jersey, Monmouth County vicinage, under Docket No. MON-L-4045-14; and

 **WHEREAS,** after consultation, the undersigned counsel believe that there is a mutuality of interests which can be better served if counsel and/or their clients are able to freely communicate among one another concerning facts and issues relating to this dispute; and

 **WHEREAS,** the undersigned counsel wish to continue to pursue their separate but common interests and to avoid any suggestion that there has occurred any abandonment and/or voluntary waiver of the confidentiality and/or privilege pertaining to various information, communications and/or documents; and

 **WHEREAS,** the undersigned have mutually concluded that the respective interests of their clients will be best served by this agreement and the undersigned have received the authorization of their respective clients to enter into this Agreement; and

 **WHEREAS,** it is the intention and the understanding of the undersigned that communications among and between the undersigned and any joint interviews of their respective clients or of prospective witnesses or any interviews obtained by counsel who is a party to this agreement which are disclosed by any means to other counsel and/or their clients who are parties to the agreement, are and shall remain confidential and protected from disclosure to any third party by our clients' attorney-client privilege, our own attorneys' work product privileges, and any and all other relevant privileges or basis for confidentiality; and

 **WHEREAS,** in order to pursue a joint defense effectively, counsel has also concluded that, from time to time, the mutual interests of their respective clients may be best served by sharing documents, factual material, financial analyses, investigative material, mental impressions, memoranda, interview reports, and other information, including confidences of each client, all of which hereinafter be referred to as "defense materials"; and

 **WHEREAS,** in the absence of such sharing, these defense materials would be privileged from disclosure to any third party as a result of, inter alia, the attorney-client privilege, the attorney work product privilege, and other applicable privileges or bases for confidentiality; and

 **WHEREAS,** it is the purpose of this agreement to ensure that the exchanges and disclosures of defense materials contemplated herein do not extinguish or diminish in any way to the confidentiality or privilege of the defense materials and do not constitute a waiver of any confidentiality or privilege otherwise available; it is, therefore,

 **AGREED,** that each of the undersigned may obtain and provide to any and all other signatories to this agreement defense materials, including, but not limited to, business and medical records, personal documents, mental impressions, copies of transcripts of testimony given by his client in the instant or any other related matter, copies of debriefings by his clients, copies of analyses of clients' financial and/or other activities and any other factual material and/or information; and it is further

 **AGREED,** that defense materials obtained by any of the undersigned counsel to the extent that such materials were or are confidential and/or privileged under the applicable law of the jurisdiction in which such claim of confidentiality and/or privilege may be raised, shall remain confidential and shall be protected from disclosure to any third party notwithstanding their disclosure to the undersigned and/or their clients, except as provided herein; and it is further

 **AGREED,** that any defense materials shall be used solely in connection with the dispute and any litigation relating to the dispute; and it is further

 **AGREED,** that neither counsel, nor our clients, will disclose defense materials, or the contents thereof, to anyone except our respective clients, attorneys within our firms, our employees or agents, without first obtaining the consent of all counsel who are parties to this agreement and whose clients or who themselves may be entitled to claim any confidentiality and/or privilege with respect to such materials. It is expressly understood that nothing contained herein shall limit the right of any counsel to disclose any documents or information obtained exclusively from that counsel's client or any information which has been independently obtained by such counsel; and it is further

 **AGREED,** that all persons permitted access to defense materials shall be advised that defense materials are privileged and confidential and specifically advised that such materials are subject to the terms and conditions of this agreement; and it is further

 **AGREED,** that the undersigned will not disclose any defense materials to any person or entity not a party to this agreement until such time as the latter has also signed a copy of this agreement and has agreed to be bound by the terms and conditions stated herein; and it is further

 **AGREED,** that if any other person or entity requests or demands, by legal process, subpoena or otherwise, any defense materials from any of the undersigned or their clients, counsel will immediately notify all counsel who are parties to this agreement whose clients or who themselves may have rights in said materials, so that each counsel so notified will be provided the opportunity to take all steps available to facilitate the assertion, before the appropriate forum or court, of all applicable rights and privileges with respect to said defense materials. The undersigned further agree to cooperate fully with counsel with respect to any executive, administrative or judicial proceeding which seeks to compel the disclosure of defense materials; and it is further**AGREED,** that, in the event any of the undersigned counsel determines his or her client no longer has, or no longer will have, mutuality of interest in a joint defense for any reason, she will promptly notify the other undersigned counsel of his withdrawal from this agreement, which will thereupon be terminated as to that client; provided, however, that no such termination shall affect or impair the obligations of confidentiality with respect to defense materials previously furnished pursuant to this agreement; and it is further

 **AGREED,** that all documents containing information received from another party or his or her counsel pursuant to this agreement shall be delivered back to counsel for the originating party immediately after any of the following events: the conclusion of the dispute or subsequent litigation as to that party; the disposition on behalf of the receiving law firm's client of any proceedings resulting from this matter; the termination of the receiving law firm's representation of its client; or the withdrawal of the receiving law firm from this agreement; and it is further

 **AGREED,** that this agreement memorializes earlier oral and/or written agreements between the undersigned pursuant to which defense materials may have already been viewed and/or exchanged; and it is further

 **AGREED,** that nothing contained herein shall be deemed to create an attorney-client relationship between any attorney and anyone other than the client of that attorney as listed below; and it is further

 **AGREED,** that if the validity, or enforceability of any one or more of the terms, conditions warranties set forth in this Agreement shall be challenged in or court of competent jurisdiction and shall be adjudged unenforceable and/or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereto; and it is further

 **AGREED,** this Agreement may be executed in one or more identical counterparts. Each such counterpart shall be deemed to be an original for purposes of this Agreement.

Seconded by Mayor long and adopted on the following roll call vote:

**AYES: Cashmore, Cunningham, Leckstein, Long, Mcbride, Smith, Isoldi-Jany, Beer, Marrone.**

**NAYS: None**

**ABSTAIN: None**

**NEW BUSINESS:**

**Chairman Cunningham announced that the River Street Realty, LLC 4 River Street, Block 15 Lot 4 former school application will be carried to the February 10, 2015 meeting without further notice.**

Rakugo Realty, LLC

1 Church Street

Block 14 Lot 2

Kevin Kennedy Esq. testified that the representatives of Rakugo Realty have submitted a Development Application to the Borough. The Application involves the property located at 1 Church Street. A single family home previously existed on the site and was heavily damaged during Superstorm Sandy. The single family structure was previously demolished. The Applicants represenitives now propose to construct a 2- family home at the site, which is a conditional permitted use in the zone. The home is located in the R -3 zone and the proposed use is permitted as a conditional use provided minimum lot size is met. The property exceeds the requirements.

No Member of the Board had a conflict or was within 200ft of 1 Church Street Block 14 Lot

The Applicant appeared and the following were marked into evidence

**A-1** Jurisdictional Packet

**A-2** Survey prepared by D.P. Sweeney dated July 24, 2014.

**A-3** Architectural plans prepared by Anthony Condouris dated 12/10/14

**A-4** Photo of prior home

**A-5** Revised plans by Anthony Condouris dated 1/3/14

Applicant George Knutson testified that he is the managing member of Rakugo Realty LLC, the Applicant also testified that his family will live in the new home and he may possible rent home in the future.

Anthony Condouris testified home would consit of 3 bedrooms and a half story finished attic.

The Board had concerns that the attic could be used as another room. The Applicant stipulated that it would be used for storage.

The Board had concerns that the garage would be used for storage the Applicant stipulated the garage would be used for cars only.

The Board noted that the drawings indicate a brick face to match the neighboring building. The Applicant stipulated that the front of the building would be covered in brick face.

Chairman Cunningham opened the meeting to the public.

Resident Janet Henschel, 7 East Church Street wanted to make sure the building would have a brick face front.

The Board found that the multi –family use was a permitted conditional use which met the condition of minimum lot size and the application needed no variances.

Councilman Leckstein made a motion approving the application.

Councilman Leckstein introduced a motion approving the application. Second by Boardmember McBride and approved on the following roll call.

**AYES: Cashmore, Cunningham, Leckstein, Long, Mcbride, Smith, Isoldi-Jany, Beer, Marrone.**

**NAYS: None**

**ABSTAIN: None**

**ABSENT: Desio, Nott.**

**EILEEN WINTERS**

**1006 OCEAN AVENUE**

**BLOCK 18 LOT 2**

**CROSSFIT OAR**

No Member of the Board had a conflict or was within 200ft of 1006 Ocean Avenue Block 18 Lot 2

The Applicant appeared and the following were marked into evidence.

**A-1** Jurisdictional Packet

**A-2** Architectural plans prepared by Anthony Condouris dated 12/29/14

Eileen Winters Applicant wishes to lease a portion of 1006 Ocean Avenue formally known as the Sea Bright Service Center to open a cross fit training center which will have 10 rowing machines, personal training room and a group training room. She believes the maximum number of clients at one time will be 19-21 people including staff. She stated that her peak hours of operation will be from 5:30-6:30 am, approximately 9:30-10:30 am and approximately 4:30-5:30 pm. She will have a maximum of 2 employees at any time.

The owner of the subject property is John E. Regan who consented to the application.

The Applicant seeks variance relief parking where 24 spaces are required and 14 total parking stalls are available.

Board members were concerned with the number of parking stalls and suggested that additional stalls could be added to the left/south side of the entry to the training center.

Patricia Ryan was present, the daughter of John Regan owner of the building and testified that she managed her father’s property. She stated that the landlord would have no objection to the placement of additional parking stalls. The Board made it a **CONDITION** of approval that the additional stalls would be added to the left/south side of the training center. The Board made it a **CONDITION** of approval that some type of planters and/or bollards be placed separating the parking stalls from the building.

Board members addressed handicapped access. The applicant stipulated and the Board made it a condition of approval that the architectural plans will meet code requirements for ADA access.

Chairman Cunningham opened the meeting to the public.

Residents Janet Henschel, Linda Lamia and Councilman John Lamia stated that the proposed business would be a welcome sight and a benefit to the town.

The Board found that parking variances were warranted for the proposed site.

Board member McBride introduced a motion approving the application. Second by Councilman Leckstein and approved on the following roll call.

**AYES: Cashmore, Cunningham, Leckstein, Long, Mcbride, Smith, Isoldi-Jany, Beer, Marrone.**

**NAYS: None**

**ABSTAIN: None**

**ABSENT: Desio, Nott.**

**5. ADJOURNMENT:** There being no further business before the Planning Board. Chairman Cunningham made a motion to adjourn the meeting at 10:00 P.M. Second by Councilman Leckstein and approved upon unanimous voice vote.

Respectfully Submitted,

Kathy Morris

Unified Planning Board Secretary