**Sea Bright, New Jersey**

**Unified Planning Board Minutes**

**October 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:** Cunningham, Desio, Leckstein, Schwartz, Smith

Isoldi-Jany(Alt.#1) Beer (Alt.2) DiGiulio (Alt4)

**ABSENT:** Cashmore, Long, Nott, Schussheim, Marrone.

**4.** Chairman Cunningham carried the approval of the July 14, 2015 minutes and August 11, 2015 minutes and the September 8, 2015 minutes. No meeting was held September 23, 2015 in observance of Yom Kipper.

**5. MEMORIALIZATION OF RESOLUTION:**

Boardmember Beer introduced a motion approving the following application.

**RESOLUTION OF THE SEA BRIGHT UNIFIED PLANNING BOARD**

**GRANTING USE VARIANCE AND SITE PLAN APPROVAL**

**RE: 280 Ocean Avenue, LLC**

**280 OCEAN AVENUE**

**BLOCK 30, LOT 47**

**WHEREAS,** 280 Ocean Avenue, LLC, owner of the premises commonly known as “The Quay”, 280 Ocean Avenue, Block 30, Lot 47, Sea Bright, New Jersey has applied to the Unified Planning Board for use variance and site plan approval to remove the existing, dilapidated, damaged restaurant structure and to replace it with a new 3-story building (a 2-story banquet hall and residential structure with parking below) and associated site improvements. An existing residential structure containing two residential units will remain. The existing marina will remain. The existing restaurant building was severely damaged during Superstorm Sandy. The new banquet hall building will have three residential units above. The existing onsite parking in front of the building and marina will remain; 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 Unified Board meeting of September 8, 2015, 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 Major Site Plan prepared by Brian Murphy of FWH Associates dated 2-25-14, revised to 5-20-15

A-3 Architectural plans prepared by Tokarski and Millemann dated 6-24-14, revised to 5-28-15

A-4 Environmental Impact Statement

A-5 Resolution “Patrons Quay” dated 5-11-1999

A-6 Aerial

A-7 Road level pictures of the site

A-8 T&M letter dated 9-1-15

A-9 Color rendering of site plan

A-10 Second floor plan as originally submitted

A-11 color rendering architectural plans

**WHEREAS,** members of the public were given the opportunity to be heard regarding the Application; and

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

1. The owner of the subject property is 280 Ocean Avenue LLC. The main building had been unoccupied for many years, but had previously been the Quay restaurant. The restaurant building was severely damaged as a result of Superstorm Sandy and is dilapidated and unusable. There is an existing second building on the property containing 2 residential units, as well as a marina.

2. The Applicant seeks to remove the existing, dilapidated restaurant structure and to replace it with a new 3-story building to serve as a banquet hall with three residential units above, and associated site improvements.

3. The Application requires “d” variance relief to permit the proposed banquet hall in the R-1 zone; to permit multi-family residential apartments on the site and permit the continued use of the marina.

The Applicant originally proposed a height of 42.1’ which would require a D variance. Upon listening to the concerns of the Board and neighbors, the Applicant reduced the height by 1’ to change the variance to a “C” variance.

4. The Application also requires “bulk” variance relief to permit:



Max Building height/stories 38’/2.5 unknown 41.1’

Additionally, Applicant proposes a 13’ externally lit sign whereas 6’ is permitted. The sign shall be 32 s.f. whereas 10 s.f. is permitted.

Applicant requested waivers for parking which currently extends into the setback areas and will continue as an existing condition. Additionally, no screening of the northerly parking area is proposed.

5. The Applicant originally appeared at a hearing held on March 24, 2015. The Board expressed many concerns with the proposal and the matter was carried. Based upon comments by the Board and neighbors, Applicant revised the plans, re-noticed and appeared on 9-8-15 with new plans. This hearing was considered as a new application with all new testimony.

6. Brian Murphy, engineer, testified on behalf of the Applicant. He discussed the parking and how it operates on the site and under the building. He stated that with all of the uses on site, 95 spaces are required under the ordinance. The Applicant proposes 83 lined spaces. He indicated that during events, due to the very wide aisles, 9 additional cars can be stacked by the valet parking. He further stated that of the 83 spaces, 15 stalls count for the marina and the marina uses will most likely be at different times than the catering hall use.

7. Murphy further testified that the new building will be shifted further away from the southerly properly line than the existing restaurant building. There will be a total of 5 residential units, 2 existing in the separate building and 3 new in the proposed catering hall building.

8. The catering hall will contain a prep kitchen with warming ovens only. Food will not be prepared on site.

9. Upon discussion with the Board, the Applicant **STIPULATED** and the Board made it a **CONDITION** of approval that there be no outdoor entertainment. This includes no outdoor, seating, gathering areas, tables or any other outdoor use by the catering hall use.

10. The engineer discussed the landscaping and **STIPULATED** that additional landscaping and berm will added to the south side. Additionally, the Applicant **STIPULATED** that it would enter into an agreement with the neighbors for joint landscaping and maintenance of landscaping.

11. The Applicant **STIPULATED** that all fencing will comply with the Borough ordinances.

12. Upon discussion with the Board, the Applicant **STIPULATED** and the Board made it a **CONDITION** of approval that all music will end at 11:00 pm.

13. Upon discussion with the Board, the Applicant **STIPULATED** and the Board made it a **CONDITION** of approval that the proposed retractable walls will be removed from the plans and replaced with hurricane glass and self-closing stationary doors that will be closed at 9:00 pm.

14. Mr. Murphy testified that the proposal will include re-routing the storm pipes. Upon discussion with the Board, the Applicant **STIPULATED** and the Board made it a **CONDITION** of approval that DOT approval be obtained, if required. If required, Applicant will also obtain any necessary easements from the neighboring properties.

15. The Board made it a **CONDITION** of approval that the Engineer certify that the bulkhead is structurally sound.

16. Michael Millemann, architect, testified on behalf of the Applicant and described the proposed new building. He stated that the design incorporated many features to attenuate the sound. He stated that there would not be a full kitchen, just a warming kitchen for food brought in catering style. He stated that the refuse area would enclose and located under the building. Roll out containers will be used.

17. The Applicant **STIPULATED** that no mechanicals will be located in the setbacks.

18. The Applicant further **STIPULATED** that the hours of operation would be from noon to 11:00 pm.

19. Managing Member George Smith testified that he believed that the residential units above the catering hall would help self-police the activities of the catering hall use.

Neighbors expressed concern that the Applicant would utilize the parking lot as a source of income and open the parking lot up to paying patrons for beach use. The Applicant **STIPULATED** that the parking lot would not be available for outside use and would be limited to use by the marina, residents and catering hall patrons and employees.

20. John Rea, traffic engineer testified on behalf of the applicant. He stated that he had received a Letter of No Interest from DOT.

Rea stated that the proposed use for catering hall was ~~a~~ less intense than the existing restaurant use. He stated that under RSIS 92 parking spaces are required and 83 lined spaces are provided. He explained that an additional 9 cars could be “stacked” during a catering due to the very wide aisle. He said that from a shared parking perspective, most if not all, of the 15 parking spaces allocated to the marina would be available for the banquet use.

21. There was discussion regarding the occupancy of the catering hall. The Applicant **STIPULATED** and the Board made it a **CONDITION** of approval that the plans be amended to show the correct occupancy of 178 banquet customers plus employees.

22. The Applicant **STIPULATED** and the Board made it a **CONDITION** of approval that turning templates would be provided, including for large vehicles.

23. The Applicant **STIPULATED** and the Board made it a **CONDITION** of approval that the Applicant will comply with the Fire Official’s review.

24. The Applicant **STIPULATED** and the Board made it a **CONDITION** of approval that the plans will be revised to show the signage for the parking spaces under the building.

25. The Applicant **STIPULATED** and the Board made it a **CONDITION** of approval that the Applicant will comply with the Flood Plain Manager.

26. Allison Coffin, Professional Planner testified on behalf of the Applicant. She noted that the Applicant **STIPULATED** that it was abandoning the restaurant use, which was more intense than the proposed catering hall use. She noted that the restaurant was a pre-existing non-conforming use.

Ms. Coffin noted positive reasons in that there was overall decrease in intensity on the site, an improvement in the rear yard setback from 0’ to 7.5’; the new building will meet the side yard setback; the parking is adequate for the use. She opined that the proposal advanced the purposes of the MLUL by creating an area of mixed uses, taking advantage of the river frontage. She noted that the building could merely be raised in the same footprint, without any variance approval required. However, there is a benefit to the new building which will improve rear and side setbacks and will provide parking underneath.

She also felt that the onsite residential units will be a self-policing of the catering hall as to noise and nuisance.

Ms. Coffin stated that there was no detriment to the public good and the proposal would not impair the intent and purpose of the zone plan. She noted that it had been a mixed use site for many years. The site is oversized – almost 10 times the minimum lot area. Thus, the overall density is not excessive.

She noted that this riverfront development is tailored to optimize the water related use. The marina with banquet hall meets the intent better than single family residential use.

27. The Board took note that the property had been mixed use for many years. It also noted that the lot was oversized for the zone and that the abandonment of the restaurant use decreased the overall intensity on the site.

Board members noted that the new structure would alleviate noise in comparison to the existing structure. The Board felt that the proposal would not have a significant effect on traffic. The extra residential units plus the banquet hall would be less intense than the restaurant use. The Board felt that the mixed uses would help control noise and nuisance issues that could possibly arise from the banquet hall use.

28. Board members expressed their feeling that the applicant offered proof of adequate parking with the additional spaces underneath the Building and proposed valet parking system as needed.

29. The Board noted that the destruction of the old structure gave an opportunity to create a better layout and take advantage of the river views and attenuate sound emanating from the structure. The new building will be up to code whereas the old building does not meet all code requirements.

The Board noted that this is a unique site as the site fronts on Ocean Avenue and the Shrewsbury River

30. The Board reviewed the plans and felt that per the ordinance, the building would be 3 stories where 2 ½ stories are permitted. The Board found that the design, with parking underneath and the roof line design gave a softer appearance and did not appear to be too high. The Board found the variance was warranted.

31. The building will be better protected from flooding.

32. The Board noted that the property was previously occupied by a restaurant with direct frontage on the Shrewsbury River. The property has frontage on Ocean Avenue, the major thoroughfare through the Borough. While the property is located within a residential zone, it is well known to have previously occupied a restaurant use. The dimensional qualities of the site work well for the proposed mixed use.

For the foregoing reasons, the Board felt that the site is particularly suited for the proposed use.

33. The Board agreed that this Application is consistent with many of stated purposes of the Municipal Land Use Law (“MLUL”).

Specifically, special reasons exist under NJSA 40:55D-2 as follows:

*a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;*

*b. To secure safety from fire, flood, panic and other natural and man-made disasters;*

The applicant proposes a complete upgrade of the property that was severely impacted by Superstorm Sandy, a major benefit to the public good as it is an investment in Sea Bright’s future.

The applicant also intends to comply with FEMA flood requirements, securing it from future floods.

*c. To provide adequate light, air and open space.*

*g. To provide sufficient space in appropriate location for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.*

The applicant is bringing the side yard condition of the new structure into compliance. The rear yard condition is being improved. The new building is a safe building that will meet flood requirements – this is a substantial improvement. Adequate light, air, and open space will continue and the property offers sufficient space in an appropriate location for the use.

*i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement.*

The applicant is significantly improving the property, which is located in a prominent location in the Borough. What the applicant intends to create will send a strong signal to the community and visitors that Sea Bright intends to push forward even better following the devastation inflicted by Superstorm Sandy.

The Board noted that the height is appropriate given the surroundings and neighborhood.

34. The Board found that the proposal will present no substantial detriment to the public good. The applicant proposes a complete upgrade of the subject property, which currently features a dilapidated structure in a highly visible area.

The use is clearly appropriate for the location, especially considering it was previously occupied by a restaurant and marina. The marina use will continue, taking advantage of the riverfront location.

The requested bulk variances are relatively benign, and the site can accommodate the deviations, according to the testimony of the site engineer.

35. The Board also found that the proposal would not impair the intent and purpose of the zone plan and zoning ordinance.

The purpose of the Sea Bright Ordinance, set forth at Section 130-2, mirrors many purposes of the MLUL. Therefore, since the Application meets multiple MLUL purposes in the Positive Criteria, it thus satisfies the purpose of the zoning ordinance.

A use variance is required for the mixed use, but when taking into account the variance, the Board must consider the prior usage of the property (restaurant) and the character of the immediate area.

Therefore, The Board agreed that the proposal will not impact the intent of the zone plan.

36. The Board takes note that the “Borough of Sea Bright Downtown & Oceanfront Smart Growth Plan,” March 2007, sets forth the objective to both retain and “spur more [commercial] vitality” along Ocean Avenue and provide riverfront access in the area to the west of Ocean Avenue.

The Board agreed that the proposal will contribute to the commercial vitality along Ocean Avenue.

37. The 2003 Master Plan Reexamination states on page 105: “Sea Bright is concerned about overdevelopment of single family residential areas particularly along Ocean Avenue which has experienced increased traffic volumes through the years.”

Residential is a permitted use by-right on this property, and by developing this site with a catering hall and 5 multi-family units rather than developing with single family residential, the applicant is not contributing to the overdevelopment of residential along Ocean Avenue.

38. The Board further finds, after evaluating all of the evidence and testimony that the applicant has met the enhanced burden of proof as to the positive and negative criteria as set forth in Medici v. BPR Co., 107 N.J. 1 (1987).

39. The Board found that the variances could be granted without any negative impact on the zoning ordinance or zone plan. The proposal is aesthetically pleasing, takes advantage of the river views, improves existing conditions and will further protect the property and its critical services from danger of flooding. The new building will be FEMA and building code compliant.

40. The Board found that the granting of the variances will have no substantial detrimental impact on surrounding properties nor will it substantially impair the intent and purpose of the zone plan and zoning ordinance.

**NOW THEREFORE BE IT RESOLVED,** that the Unified Planning Board of the Borough of Sea Bright, based upon the findings of fact set forth herein, that the variances requested and the site plan be approved subject to the following conditions:

**GENERAL CONDITIONS**

1. 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, if any, in connection with the review of this application prior to and subsequent to the approval of this application.

2. The applicant must obtain the approval of all necessary and appropriate governmental agencies and compliance with all applicable governmental regulations, including but not limited to CAFRA, except those specifically waived or modified in this Resolution.

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

4. The accuracy and completeness of the submission statements, exhibits and other testimony filed with or offered to the Board in connection with this application, all of which are incorporated herein by reference and specifically relied by the Board in granting this approval. This condition shall be a continuing condition, which shall be deemed satisfied unless and until the Board determines (on Notice to the applicant) that a breach thereof.

5. All stipulations agreed to on the record, by the applicant.

6. In the event that any documents require execution in connection with the within approval, such documents shall not be released until all of the conditions of the approval have been satisfied unless otherwise expressly noted.

7. The Applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality’s professionals for review of the application for development, review and preparation of documents, inspections of improvements and other purposes authorized by the MLUL.

8. The Applicant shall furnish such Performance Guarantees and/or Maintenance Guarantee as may be required pursuant to the MLUL and the Sea Bright Ordinances.

9. No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.

10. No mechanicals will be located in the setbacks.

11. Applicant shall provide 4 copies of the final revisions to A-23 to the Board Secretary.

**SPECIFIC CONDITIONS.**

1. There shall be no outdoor entertainment. This includes no outdoor, seating, gathering areas, tables or any other outdoor use by the catering hall use.

2. Additional landscaping and berm will added to the south side. Additionally, the Applicant will enter into an agreement with the neighbors for joint landscaping and maintenance of landscaping.

3. All fencing will comply with the Borough ordinances.

4. All music will end at 11:00 pm.

5. The proposed retractable walls will be removed from the plans and replaced with hurricane glass and self-closing stationary doors that will closed at 9:00 pm.

6. DOT approval be obtained, if required for the re-routing of the sewer pipes. If required, Applicant will also obtain any necessary easements from the neighboring properties.

7. The Engineer will certify that the bulkhead is structurally sound.

8. No mechanicals will be located in the setbacks.

9. The hours of operation will be from noon to 11:00 pm.

10. The parking lot will not be available for outside use and will be limited to use by the marina, residents and catering hall patrons and employees.

11. The plans shall be amended to show the correct occupancy of 178 banquet customers plus employees.

12. Turning templates will be provided, including for large vehicles.

23. The Applicant will comply with the Fire Official’s review.

24. The plans will be revised to show the signage for the parking spaces under the building.

25. The Applicant will comply with the Flood Plain Manager.

26. The Applicant **STIPULATED** that the restaurant use is hereby abandoned.

**BE IT FURTHER RESOLVED** that this Resolution memorializes the action taken by the Unified Planning Board at its meeting of September 8, 2015.

**BE IT FURTHER RESOLVED** that the Chairman and Board Secretary are hereby authorized to sign any and all documents necessary to effectuate the purpose of this Resolution; and

**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, tax assessor and the zoning officer and to make same available to all other interested parties and to cause notice of this Resolution to be published in the official newspaper at the Applicant’s expense.

Adopted on a roll call on a motion by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

and

Seconded by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Lance Cunningham, Chairman

Sea Bright Planning/Zoning Board

I certify the foregoing to be a true copy of a Resolution by the Sea Bright Planning/Zoning Board memorialized on

Kathy Morris, Secretary

Sea Bright Planning/Zoning Board

Seconded by Boardmember Schwartz and adopted on the following roll call vote:

Ayes: Cunningham, Desio, Schwartz, Smith, Beer (Alt2) DiGiulio (Alt4)

Nays: Smith, Isoldi-Jany(Alt1),

Abstain: Leckstein,

Absent: Cunningham, Long, Nott, Schussheim,

**6. NEW APPLICATION**

Walker/Meyers

4 Atlantic Way

Block 28 Lot 9 No Member of the Board had a conflict or was within 200ft of 4 Atlantic Way

The Applicant appeared and the following were marked into evidence

**A-1**: Jurisdictional Packet

**A-2:** Architectural plans by Jeff Jordan Architects, LLC dated 7-22-15.Revised 9-22-15

Christina Walker/Dave Meyers made application to the planning board for site plan approval to relocate JCP&L utility poles which feed adjacent properties on Willow Way.

Christina Walker testified that she already has permits to build a new home but the utility lines run directly in the middle of the property and will prohibit the location of the new home. The applicant also requested relocation of the pole in front of Atlantic Way 10’ in either direction to allow for a new proposed driveway.

JCP&L has consented to the removal of the pole in the middle of the property and to add two poles in the rear of the property in order to re-route the lines around the outside of the property than through the middle of the property.

The Board granted approval for the addition/relocation of the two rear poles. The Board **denied** the relocation of the front pole along Atlantic Way.

Councilman Leckstein made a motion approving the addition and relocation of the two rear poles Seconded by Boardmember DiGiulio and approved on the following roll call vote.

Ayes: Cunningham, Desio, Leckstein, Schwartz, Smith, Isoldi-Jany (Alt. 1) Beer (Alt2) DiGiulio (Alt. 4).

Nayes:

Abstain: None

Absent: Cashmore , Long, Nott, Schussheim, Marrone.

**NEW APPLICATION**

Walker/Meyers

Addition of a Mezanine

4 Atlantic Way

Block 28 Lot 9

No Member of the Board had a conflict or was within 200ft of 4 Atlantic Way block 28 lot 9.

The Applicant appeared and the following were marked into evidence

**A-1**: Jurisdictional Packet

**A-2:** Architectural plans by Jeff Jordan Architects, LLC dated 7-22-15.

The Applicants desire to construct a new home the home is fully compliant with all set backs the Applicants already have building permits to build a two story home. They seek to add an interior mezzanine level which would make it a technical 3 story home where two story maximum is permitted. The Mezzanine level will be added to the interior of the home only and will not affect the outside or affect the height of the home.

The Board found that the mezzanine level did not affect the height or footprint of the approved home.

The Board found that the additional ½ story would not have a negative impact on the neighborhood or on the zoning ordinance or plan. The Board found that the proposed home met all other zoning requirements and improved the non-conformities of the previous structure.

Councilman Leckstein introduced a motion approving the Walkers/Meyers application. Seconded by Boardmember DiGiulio and approved on the following roll call vote.

Ayes: Cunningham, Desio, Leckstein, Schwartz, Smith, Isoldi-Jany (Alt. 1) Beer (Alt2) DiGiulio (Alt. 4).

Nayes:

Abstain: None

Absent: Cashmore , Long, Nott, Schussheim, Marrone.

**7. NEW APPLICATION**

William Bahrs

376 Ocean Avenue

Block 30 Lot 34

No Member of the Board had a conflict or was within 200ft of 4 Atlantic Way block 28 lot 9.

The Applicant appeared and the following were marked into evidence

**A-1**: Jurisdictional Packet

**A-2:** Architectural plans by Anthony Condouris dated 9-17-14

The Applicant wishes to demolish the existing storm damaged home and build a new elevated single family home. The new home will allow for a garage underneath the home. Previously the Applicant had a detached garage on the property and that will not be replaced. The new home will be located in the same basic footprint as the existing home.

Chairman Cunningham opened the meeting to the public there was no public comment. Chairman Cunningham closed the public portion of the meeting.

The Board found that the bulk variances are consistent with the neighborhood and the pre-existing dwelling The Board found that the variances could be granted without any negative impact on the zoning ordinance. The proposal improves existing conditions.

Councilman Leckstein introduced a motion approving the Walkers/Meyers application. Seconded by Boardmember Desio and approved on the following roll call vote.

Ayes: Cunningham, Desio, Leckstein, Schwartz, Smith, Isoldi-Jany (Alt. 1) Beer (Alt2) DiGiulio (Alt. 4).

Nayes:

Abstain: None

Absent: Cashmore , Long, Nott, Schussheim, Marrone.

**8. ADJOURNMENT:** There being no further business before the Planning Board Chairman Cunningham made a motion to adjourn the meeting at 10:30 P.M. Second by Boardmember Beer and approved upon unanimous voice vote.

Respectfully Submitted

Kathy Morris

Board Secretary