

## **BOROUGH OF DEAL**

### **PLANNING BOARD/BOARD OF ADJUSTMENT MINUTES**

**March 4, 2020**

A regular meeting of the Planning Board/Board of Adjustment of the Borough of Deal was called to order by Chair Richard Cummings.

Richard Cummings asked everyone to salute the flag.

Michael Egan read the sunshine law, in conjunction with the "Open Public Meeting Law", p.l. 1975 C231, the notice required by this statute has been satisfied as per a resolution passed on December 5, 1997 at 8:00 P.M. at Borough Hall at a regular meeting of the Planning Board, Borough of Deal, Monmouth County, New Jersey. This meeting is a judicial proceeding. Any questions or comments must be limited to the issues of what this Board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times.

Roll Call of those present: Nicole Cohen, Sam Cohen, Richard Cummings, Richard Fetaya, Kathleen Jannarone, David Simhon.

Those Absent: Ruby Antebi, Mandy Cohen, Irwin Levine, Max Zeevi.

A motion was made by Richard Cummings and seconded by Nicole Cohen that the minutes of the February 5, 2020 meeting be adopted.

Moved by: Richard Cummings

Seconded by: Nicole Cohen

#### **ROLL CALL VOTE**

Those in favor: Nicole Cohen, Sam Cohen, Cummings, Jannarone, Simhon

Those opposed: None

Those absent: Antebi, Mandy Cohen, Levine, Zeevi

Those not voting: Fetaya

The first item on the agenda is the adoption of the Resolution for 76 Poplar Avenue, Block 16, Lot 13.02, Larry Warren, approved at the February 5, 2020 meeting.

#### **RESOLUTION**

Whereas, Larry Warren, the record owner of the property has applied to the Planning Board of the Borough of Deal for variances at the premises located at 76 Poplar Avenue, Borough of Deal and known as Block 16, Lot 13.02 on the official tax map of the Borough of Deal which premises is located in both the R-2 zone

The Applicant is proposing a one-story addition to the rear of the dwelling and patio.

The property has non-conformities with existing lot area, lot width, lot frontage and lot depth. The existing dwelling has non-conformities with front yard setbacks and building coverage. The development of a non-conforming lot/structure and variances for impervious coverage and side yard setback to the patio requires Planning Board approval.

Whereas, the Board after carefully considering the evidence presented by the Applicant, the Applicant's expert and the comments, if any, by the general public, has made the following factual findings:

1. The Applicant is the owner of the property.
2. The Applicant presented the testimony of Robert Hazelrigg a New Jersey licensed architect.
3. The Applicant presented the following exhibits:

A-1 Addition and Alteration Plans by Robert Hazelrigg dated 10/22/19.

A-2 Survey by Clearpoint Services by Alan R. Boettger dated July 15, 2019.

A-3 Photo Packet of 5 Photos of Subject property showing street view/rear view.

B-1 Engineer review letter by Leon S. Avakian, Inc. dated December 27, 2019

4. The property has a total area of 5,694.12 square feet.
5. The existing lot contains a 2 ½ story dwelling with a deck, basketball court and driveway.
6. The Applicant is proposing a one-story addition to the rear of the dwelling and patio.
7. The Applicant is proposing to remove an existing wooden deck and replacing same with an addition. That addition will be within the footprint of the now existing deck.
8. The one-story addition as proposed will consist of a bathroom, bedroom and small sitting room.
9. The Applicant seeks to add a patio to put a grill. The proposed patio is within the side yard setback. **A variance is required.**
10. The minimum lot area permitted is 18,750 square feet per the R-2 Zoned Districts. The existing lot area is 5,694.12 square feet, which represents an existing non-conformity.
11. The minimum lot frontage permitted is 150 feet per the R-2 Zoned Districts. The existing lot frontage is 54.96 feet, which represents an existing non-conformity.
12. The minimum lot depth permitted is 125 feet per the R-2 Zoned Districts. The existing lot depth is 109 feet, which represents an existing non-conformity.
13. The minimum front yard setback permitted is 50 feet or average alignment per the R-2 Zoned Districts. The existing front yard setback is 23.1 feet, which represents an existing non-conformity.
14. The minimum front yard setback to the porch permitted is 40 feet per the R-2 Zoned Districts. The existing front yard setback to the porch is 15.3 feet, which represents an existing non-conformity.
15. The minimum lot width permitted is 150 feet per the R-1 and R-2 Zoned Districts. The existing lot frontage is 75.08 feet, which represents an existing non-conformity.
16. The maximum building coverage permitted is 20% per the R-2 Zoned Districts. The existing building coverage is 24.4% feet, which represents an existing non-conformity.
17. The maximum impervious coverage permitted is 40%. The existing impervious coverage is 46.5%, which represents an existing non-conformity. The Applicant is proposing 47.9% impervious coverage. **A variance is required.**
18. The Applicant agrees to remove the patio from the application and will not construct same. Accordingly, the Applicant will not be increasing the impervious coverage. As such a variance for maximum impervious coverage is not required.
19. The Applicant will convert a section of the now-existing driveway for patio use for the barbeque.

Whereas, the Board has determined that the relief requested by the applicant can be granted as presented without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan of the Borough of Deal.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 5<sup>th</sup> day of February 2020 that the application is approved subject to the following

conditions:

- (1). The Applicant shall comply with all promises, commitments and representations made at or during the Public Hearing Process.
- (2). The Applicant shall comply will those applicable terms and conditions of the Leon S. Avakian review letters dated December 27, 2019.
- (3). A general note should be added to the plan indicating the existing curb and sidewalk along the frontage will be replaced if found in poor condition.
- (4). The Applicant shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. All construction shall comply with prevailing provisions of the Uniform Construction Code.
- (5). The Applicant shall obtain all approvals necessary for this project.
- (6). The Applicant shall in conjunction with appropriate Borough Ordinances pay all appropriate/required fees and taxes.
- (7). Any future improvements will require Planning Board Approval.
- (8). The Applicant will not direct stormwater and/or runoff from the property onto adjacent properties.
- (9). The grading plan and landscaping plan of the Applicant shall be subject to the review and approval of the Borough Engineer.

Moved by: Richard Cummings

Seconded by: David Simhon

#### ROLL CALL VOTE

Those in favor: Nicole Cohen, Sam Cohen, Cummings, Jannarone, Levine, Simhon

Those opposed: Antebi

Those absent: Mandy Cohen, Fetaya, Zeevi

Those not voting: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 4th day of March, 2020 that the Resolution be adopted.

Moved by: Sam Cohen

Seconded by: Richard Cummings

#### ROLL CALL VOTE

Those in favor: Nicole Cohen, Sam Cohen, Cummings, Jannarone, Simhon

Those opposed: None

Those absent: Antebi, Mandy Cohen, Levine, Zeevi

Those not voting: Fetaya

The second item on the agenda is the adoption of the Resolution for 120 Roosevelt Avenue, Block 11, Lot 2.01, James Sutton, approved at the February 5, 2020 meeting.

#### RESOLUTION

Whereas, James Sutton, the record owner of the property has applied to the Planning Board of the Borough of Deal for variances at the premises located at 120 Roosevelt Avenue, Borough of Deal and known as Block 11, Lot 2.01 on the official tax map of the Borough of Deal which premises is located in both the R-1 zone

The Applicant is proposing a two-story addition to the east side (Pearl Street side) of the dwelling with a second story balcony and first floor covered porch. The Applicant is also proposing an in-ground swimming pool along the Pearl Street frontage.

The property has non-conformities with existing lot area and lot width. The proposed improvements require Planning Board Approval of variances on the location of the pool and pool patio in the front yard.

Whereas, the Board after carefully considering the evidence presented by the Applicant, the Applicant's expert and the comments, if any, by the general public, has made the following factual findings:

1. The Applicant is the owner of the property.
2. The Applicant presented the testimony of Charles Surmonte a New Jersey licensed engineer and Donald Passman a New Jersey licensed architect.
3. The Applicant presented the following exhibits:
  - A-1 Architectural Plans by Passman Ercolino with a revision date of 11/19/19.
  - A-2 Survey by Charles Surmonte dated 9/4/19 with a revision date of 11/20/19.
  - B-1 Engineer review letter by Leon S. Avakian, Inc. dated January 28, 2020.
4. The property has a total area of 17,116 square feet.
5. The existing lot contains a two-story dwelling with a detached garage, driveway, patio and walkways.
6. The lot is unique in that it has three frontages.
7. The Applicant is proposing a two-story addition to the east side (Pearl Street side) of the dwelling with a second story balcony and first floor covered porch. The Applicant is proposing an in-ground swimming pool along the Pearl Street frontage.
8. The addition will maintain the same roofline and color scheme when completed.
9. The minimum lot area permitted is 18,750 square feet per the R-1 Zoned Districts. The existing lot area is 17,116 square feet, which represents an existing non-conformity.
10. The minimum front yard setback permitted is 50 feet per the R-1 Zoned Districts. The existing front yard setback is 37.4 feet on Roosevelt, 72.3 feet of Pearl and 38.3 feet on Norwood, which represents an existing non-conformity. There is no change proposed on the Norwood side. The Applicant is proposing a 61.1 feet front yard setback to the addition along Pearl Street frontage, which conforms. The Applicant is proposing a front yard setback of 37.4 feet, to the second story addition along Roosevelt Avenue. This is an expansion of a non-conformity and a **variance is required**.
11. The minimum front yard setback to the porch permitted is 40 feet per the R-1 Zoned Districts. The existing front yard setback to the porch is 33.5 feet, which represents an existing non-conformity. The Applicant is proposing a front yard setback of 33.5 feet to the new porch. This is an expansion of an existing non-conformity and a **variance is required**.
12. The Applicant is proposing a swimming pool and pool patio in the front yard along pearl street (this lot is unique as there is frontage on three sides). **A variance is required**.

13. The proposed swimming pool is setback 30.3 feet from Pearl Street, where 50 feet is permitted. **A variance is required.**

14. The proposed swimming pool is setback 38.6 feet from Norwood Avenue, where 50 feet is permitted. **A variance is required.**

15. The Applicant is proposing the pool equipment in the side yard, which is not permitted. **A variance is required.**

16. All fences and walls may be erected, altered or reconstructed to height not to exceed three feet above ground level when located in the front yard. The Applicant is proposing a pool fence in the front yard but does not indicated the height of the fence. A pool code compliant fence requires a minimum height of four feet. **A variance is required.**

Whereas, the Board has determined that the relief requested by the applicant for the variance relief noted above can be granted as presented without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan of the Borough of Deal.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 5<sup>th</sup> day of February 2020 that the application is approved subject to the following conditions:

(1). The Applicant shall comply with all promises, commitments and representations made at or during the Public Hearing Process.

(2). The Applicant shall comply will those applicable terms and conditions of the Leon S. Avakian review letters dated January 28, 2020.

(3). A general note should be added to the plan indicating the existing curb and sidewalk along the frontage will be replaced if found in poor condition.

(4). The Applicant shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. All construction shall comply with prevailing provisions of the Uniform Construction Code.

(5). The Applicant shall obtain all approvals necessary for this project.

(6). The Applicant shall in conjunction with appropriate Borough Ordinances pay all appropriate/required fees and taxes.

(7). Any future improvements will require Planning Board Approval.

(8). The Applicant will not direct stormwater and/or runoff from the property onto adjacent properties.

(9). The grading plan and landscaping plan of the Applicant shall be subject to the review and approval of the Borough Engineer.

Moved by: David Simhon

Seconded by: Richard Cummings

ROLL CALL VOTE

Those in favor: Antebi, Nicole Cohen, Sam Cohen, Cummings, Jannarone, Levine, Simhon

Those opposed: None

Those absent: Mandy Cohen, Fetaya, Zeevi

Those not voting: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 4th day of March, 2020 that the Resolution be adopted.

Moved by: Richard Cummings

Seconded by: David Simhon

#### ROLL CALL VOTE

Those in favor: Nicole Cohen, Sam Cohen, Cummings, Jannarone, Simhon

Those opposed: None

Those absent: Antebi, Mandy Cohen, Levine, Zeevi

Those not voting: Fetaya

The third item on the agenda is the adoption of the Resolution for 200 Ocean Avenue, Block 34, Lot 15.02, Raymond Levy, approved at the February 5<sup>th</sup> meeting.

#### RESOLUTION

Whereas, Raymond Levy, the record owner of the property has applied to the Planning Board of the Borough of Deal for variances at the premises located at 200 Ocean Avenue, Borough of Deal and known as Block 34, Lot 15.02 on the official tax map of the Borough of Deal which premises is located in both the R-1 zone

The Applicant is proposing a first story addition to the rear of the dwelling and a second story addition to the southside of the dwelling. The Applicant is also proposing a swimming pool with patio and cabana. The Applicant is removing the driveway access at the rear of the property to allow for the cabana and pool.

The property has non-conformities with existing lot area, lot width, and lot frontage. The dwelling has an existing non-conformity with the side yard setback. The development of a non-conforming lot and variance for the location of pool equipment requires Planning Board approval.

Whereas, the Board after carefully considering the evidence presented by the Applicant, the Applicant's expert and the comments, if any, by the general public, has made the following factual findings:

1. The Applicant is the owner of the property.
2. The Applicant presented the testimony of Raymond Levy, property owner.
3. The Applicant presented the following exhibits:

A-1 Plot/Grading Plan by Charles Surmonte, Engineer dated 9/30/2019.

A-2 Architectural Plan by Anthony J. Ercolino AIA of Passman & Ercolino Architects, dated 10/24/2019.

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A-3 Survey by Charles Surmonte, dated 7/21/2019.

B-1 Engineer Review letter by Leon S. Avakian, Inc. dated January 28, 2020.

4. The property has a total area of 15,571 square feet.

5. The existing lot contains a 2 ½ story dwelling with two driveways.

6. The Applicant is proposing a one-story addition to the rear of the dwelling and patio.

7. The Applicant is proposing a first story addition to the rear of the dwelling and a second story addition to the southside of the dwelling. The Applicant is also proposing a swimming pool with patio and cabana. The Applicant is removing the driveway access at the rear of the property to allow for the cabana and pool. The one-story addition as proposed will consist of a bathroom, bedroom and small sitting room.

8. The minimum lot area permitted is 18,750 square feet per the R-1 Zoned Districts. The existing lot area is 15,571 square feet, which represents an existing non-conformity.

9. The minimum lot frontage permitted is 150 feet per the R-1 Zoned Districts. The existing lot frontage is 103.61 feet, which represents an existing non-conformity.

10. The minimum lot width permitted is 150 feet per the R-1 Zoned Districts. The existing lot frontage is 103.67 feet, which represents an existing non-conformity.

11. The minimum side yard setback permitted is 20.7 feet. The existing side yard setback (north) is 12.5 feet, which represents an existing non-conformity.

12. The Applicant is proposing the pool equipment in the side yard, which is not allowed. **A variance is required.**

13. The Applicant is removing an existing non-conforming roof deck on the rear of the dwelling.

Whereas, the Board has determined that the variance relief requested by the applicant can be granted as presented without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan of the Borough of Deal.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 5<sup>th</sup> day of February 2020 that the application is approved subject to the following conditions:

(1). The Applicant shall comply with all promises, commitments and representations made at or during the Public Hearing Process.

(2). The Applicant shall comply will those applicable terms and conditions of the Leon S. Avakian review letters dated January 28, 2020.

(3). A general note should be added to the plan indicating the existing curb and sidewalk along the frontage will be replaced if found in poor condition.

(4). The Applicant shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. All construction shall comply with prevailing provisions of the Uniform Construction Code.

(5). The Applicant shall obtain all approvals necessary for this project.

(6). The Applicant shall in conjunction with appropriate Borough Ordinances pay all appropriate/required fees and taxes.

(7). Any future improvements will require Planning Board Approval.

(8). The Applicant will not direct stormwater and/or runoff from the property onto adjacent properties.

(9). The grading plan and landscaping plan of the Applicant shall be subject to the review and approval of the Borough Engineer.

Moved by: Richard Cummings

Seconded by: David Simhon

#### ROLL CALL VOTE

Those in favor: Nicole Cohen, Cummings, Jannarone, Levine, Simhon

Those opposed: Antebi

Those absent: Antebi, Mandy Cohen, Sam Cohen, Fetaya, Zeevi,

Those not voting: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 4th day of March, 2020 that the Resolution be adopted.

Moved by: Richard Cummings

Seconded by: Nicole Cohen

#### ROLL CALL VOTE

Those in favor: Nicole Cohen, Cummings, Jannarone, Simhon

Those opposed: None

Those absent: Antebi, Mandy Cohen, Levine, Zeevi

Those not voting: Sam Cohen, Fetaya

The fourth item on the agenda is the adoption of the Resolution for 128 Norwood Avenue, Block 31, Lots 2 and 6, Synagogue of Deal, approved at the February 5, 2020 meeting.

#### RESOLUTION

Whereas, Synagogue of Deal, the record owner of the property has applied to the Planning Board of the Borough of Deal for minor site plan approval at the premises located at 128 Norwood Avenue, Borough of Deal and known as Block 31, Lot 2 and 6 on the official tax map of the Borough of Deal.

In order to enhance security in the parking lot located at the rear and west of the Property, Applicant proposes to upgrade exterior lighting. Currently, on site, the parking lot lighting is contained in bollards. The Applicant seeks approval to install pole mounted, LED lighting.

Whereas, the Board after carefully considering the evidence presented by the Applicant, the Applicant's expert and the comments, if any, by the general public, has made the following factual findings:

1. The Applicant is the owner of the property.
2. The Applicant presented the testimony of David Boesch a New Jersey licensed engineer.
3. The Applicant presented the following exhibits:

A-1 Lighting Plan by Nelson Engineering, David Boesch dated 1/8/2020 with a revision date of 1/21/2020.



B-1 Engineer review letter by Leon S. Avakian, Inc. dated January 31, 2020.

B-2 Engineer revised review letter by Leon S. Avakian, Inc. dated February 5, 2020

4. Currently existing on site are bollard style lighting fixtures for the Property's parking lot.

5. In their current configuration, when cars are parked in the parking lot, the bollard lights are blocked and/or obstructed. This in turn creates a potential security issue.

6. The Applicant has received a grant from Homeland Security to install a new lighting system for the purpose of enhancing congregant safety and security.

7. The Applicant's lighting plan indicates light intensity under each pole of approximately 10 to 14-foot candles.

8. The Applicant is proposing the installation of twelve pole mounted lights in the parking lot.

9. Deal Ordinance Regulations provide that the light intensity provided at ground level shall average a maximum of .5-foot candles over the entire area with a maximum of one (1) foot candle at any point. The proposed lighting plan exceeds these requirements.

10. In the sole discretion of the Borough Engineer, the Applicant has agreed to install landscaping, where necessary, to prevent light spillage from the subject property to adjacent properties.

11. The Applicant has agreed to lowering the proposed pole mounting to a height specified, at the sole discretion, of the Borough Engineer.

12. The Applicant agrees to reduce the luminaire intensity from that which is provided on the lighting plan. The Borough Engineer shall have sole discretion in determining the appropriate luminaire intensity for the new lights.

13. The lights will be timed to turn off a half hour after the conclusion of all activities on site. The Applicant testified that no more than two lights will remain on for security purposes following the conclusion of those activities.

Whereas, the Board has determined that the relief requested by the applicant for minor site plan approval can be granted as presented without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and/or ordinances of the Borough of Deal.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 5<sup>th</sup> day of February 2020 that the application is approved subject to the following conditions:

- (1). The Applicant shall comply with all promises, commitments and representations made at or during the Public Hearing Process.
- (2). The Applicant shall comply will those applicable terms and conditions of the Leon S. Avakian review letters dated January 31, 2020 and February 5, 2020.
- (3). A general note should be added to the plan indicating the existing curb and sidewalk along the frontage will be replaced if found in poor condition.
- (4). The Applicant shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. All construction shall comply with prevailing provisions of the Uniform Construction Code.
- (5). The Applicant shall obtain all approvals necessary for this project.
- (6). The Applicant shall in conjunction with appropriate Borough Ordinances pay all appropriate/required fees and taxes.
- (7). Any future improvements will require Planning Board Approval.
- (8). The Borough Engineer shall have the sole discretion with regard to the items listed above.

(9). The landscaping plan (if applicable) of the Applicant shall be subject to the review and approval of the Borough Engineer.

(10). The Applicant shall take all reasonable steps to minimize light spillage onto adjacent properties.

Moved by: Sam Cohen

Seconded by: David Simhon

#### ROLL CALL VOTE

Those in favor: Nicole Cohen, Sam Cohen, Cummings, Levine, Simhon

Those opposed: None

Those absent: Mandy Cohen, Fetaya, Zeevi

Those not voting: Antebi

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 4th day of March, 2020 that the Resolution be adopted.

Moved by: Richard Cummings

Seconded by: David Simhon

#### ROLL CALL VOTE

Those in favor: Nicole Cohen, Sam Cohen, Cummings, Simhon

Those opposed: None

Those absent: Antebi, Mandy Cohen, Levine, Zeevi

Those not voting: Fetaya, Jannarone

The final item on the agenda is the application for 15 Poplar Avenue, Block 13, Lot 11.01, Natalie Vilinsky. Application was carried from the January 2, 2020 meeting to continue testimony. Attorney for the applicant, John Guinco.

Enter into evidence:

B-2 Testimony Affidavit of Sam Cohen that he has listened to the tape of the meeting on January 2, 2020 and is eligible to sit.

B-3 Memo by Leon S. Avakian, Inc. dated March 4, 2020 by Peter Avakian.

John Guinco, at the last meeting there were some comments from the neighbor's we thought we would make some minor adjustments to the site plan and hopefully satisfy some of those concerns. I would like to bring back David Eareckson, our Engineer to talk and Cathy Zukerman, the architect, to describe the elevations and we did make a change, it was the issue of the parking spaces and the potential impact to that easement so I think we resolved that issue with a bit of a redesign and finally our planner Andrew Janiw will be our last witness this evening.

John Bazzurro, Attorney from Millstone New Jersey. I am appearing on behalf of an objector, Isadora and Kenneth Chamlin who own the property adjacent to the applicant. I have become familiar with the plans and the applicant's application and the issues that relate to my client that has to do with parking. It came to my attention, literally at 1:00 this afternoon with a telephone conversation with the applicants attorney that he is intending to produce tonight an amended plan for parking and he told me that it might have a portico and some additional parking spaces and I understand why he is trying to do that and it may be favorable to my client but I have not seen it and that's the problem, I did speak to the planning board attorney and to Mr. Guinco and place my objection to him. I don't think that the public has been placed on fair notice of any new evidence or any changes to the proposed plan. I am not certain that your Board even has jurisdiction to take action on this additional information or evidence tonight because there may be

people here that came to prior public meetings and they were looking at one set of plans and they are saying this is good and I am going home now and all of a sudden the applicant comes in today and try to submit a new plan and that person might think the old plan is the one going forward and has no objection to it but they may have an objection to the new plan. I want to place it on the record and I do not think you have jurisdiction over the new evidence and my clients would strenuously object to it.

John Guinco, Municipal Land Use Law is clear, an applicant is entitled to supplement an application and we are presenting a supplement in direct response to what we perceived an objection by Mr. Buzzarro's clients.

Michael Convery, Attorney. I reiterate, this is an 11<sup>th</sup> hour issue, I got a call from Mr. Guinco on Monday and he told me that he was making revisions to the plans and he would share with me by Tuesday. I still never got them and I spoke to Mr. Anderson this morning and asked him what's going on because we understand that there is going to be a revision to the plan. Mr. Guinco called Mr. Buzzarro and said the same thing. I spoke to Mr. Anderson this afternoon and said that Mr. Guinco is not putting in a revision, the plan itself is a backup. The goalpost keeps changing here. If you go back to the First Engineer letter, the plan reviewed was dated December and then there is January plan and now there is a third plan. It's not fair to the objectors, the applicant and to the Board that we keep seeing revisions. So clearly that the goal posts keep changing and I state the objection as with Mr. Buzzarro's that I don't think you have jurisdiction to proceed.

Erik Anderson, for the audience, I spoke with all attorneys, the conversation I had with John was that this was a backup plan. My concern is this. It's all about fairness to all the parties, public, applicant, objectors and the board. I don't understand what the gravity of the changes are. I understand there is a portico involved which I understand would change the elevations, the architectural, potentially creating coverage issues, variances. I don't know.

John Guinco, there are new variances.

Erik Anderson, that says you.

John Guinco, who else is going to say.

Erik Anderson, our Engineer. My concern is this, John. All the parties have spent a lot of money to bring everyone in. I was told that this wasn't going to happen. You weren't going to lead off with a change of plans.

John Guinco, I think that is exactly what I did say. I was going to demonstrate the revised parking plans.

Erik Anderson, I have concerns with a new plan being presented to the board right now.

Sam Cohen, we can't see a revised plan that hasn't been properly presented.

John Guinco, the supplement to the plan is permitted expressly by the Municipal Land Use Law. This is a supplement which is quite insignificant in the overall plan. It doesn't move the building, it doesn't create any new variances and what it does it removes one of the parking spaces in the rear that was objected to because it would back out and block the easement that is a mutual easement that was created in 1952.

Michael Convery, I have a couple of questions, 1) if there is a plan when were the revisions started and why haven't they been filed and 2) when counsel said he would send it to me Tuesday, why didn't he send it, why haven't we seen it. Why couldn't we get it today? I have an objector planner who is been preparing to object to the application that was filed.

Sam Cohen, very valid concerns.

Richard Cummings, if the new plans accommodate the objections, why can't the Engineer look at it.

Erik Anderson, Mr. Guinco is correct in that they are allowed to supplement and modify the plans as it goes along. It is allowed. There is a mechanism to do that. In my opinion to say here are the new plans, that's not the mechanism. That's just my opinion.

Michael Convery, I do not think we should proceed and take testimony on the old plan because the intent is to change it.

David Simhon, is the new plan just the movement from one parking spot from the rear to the front?

John Guinco, that is correct.

Sam Cohen, you made the changes without submitting them to the Engineer or to the opposing attorneys beforehand. That's the problem.

Richard Cummings, that's the problem I have. Nobody knows what's going on.

John Guinco, let me talk to my client.

Break in testimony.

Richard Cummings, back in session.

John Guinco, first of all, I did not intend to cause an issue. I thought it was a minor point to respond to objectors. I would like to carry this to the May hearing. I have another application in April. We will submit the plans.

Erik Anderson, what is the May date?

Stephen Carasia, May 6<sup>th</sup>.

Erik Anderson, should we consider a special session? Mr. Chairman, the options are to select a new date dedicated to this where the applicant would be required to notice to everyone. The Attorney's will work together to get a new date. We will carry with a new date to be determined, the notice requirement for the applicant and applicant will waive the time notice the board meets. The next item on the agenda is the Board is going into executive session, they will not be taking action after the executive session.

The Board comes out of executive session.

There being no further business, the meeting was adjourned.

Respectfully submitted;

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Michael W. Egan

Planning Board Secretary