

**MEMORIALIZING RESOLUTION OF THE
BOROUGH OF SEASIDE PARK PLANNING BOARD
APPLICATION NO. PB 18-10**

WHEREAS, the Borough of Seaside Park Planning Board is a duly constituted Planning Board pursuant to N.J.S.A. 40:55D-23 and 25c, and Borough of Seaside Park Development Ordinance §200-15; and

WHEREAS, PAULEE, LLC, applicant, has applied to the Planning Board of the Borough of Seaside Park demolish an existing home and construct a new two and one-half story home necessitating bulk variances for premises located at 601 South Ocean Avenue, also known as block 23, lot 23, as designated on the official tax map of the Borough of Seaside Park; and

WHEREAS, the applicants have provided proper notice to all property owners within 200 feet and all other pertinent parties; and

WHEREAS, the applicants have submitted to the Board an Affidavit of Publication in proper form; and

WHEREAS, the applicants are requesting bulk variances for lot area of 3750 square feet whereas 5000 square feet is required, maximum building height of 32.8 feet whereas 30 feet is allowed, driveway width of 16 feet whereas 12 feet is allowed, and curb cut width of 16 feet whereas 12 feet is allowed; and

WHEREAS, the Planning Board having considered the application and the documents filed by the applicants; having heard the testimony on behalf of the applicant and witnesses, and having examined the exhibits submitted, and having heard the testimony of all interested parties during its meeting of April 24, 2018; and

WHEREAS, the Planning Board after carefully considering all the evidence provided, has made the following findings of fact:

1. All those exhibits contained in the Board file and discussed during the hearing are hereby considered evidence for the purpose of this application.

2. In addition to the exhibits noted above, the following exhibits were also specifically marked into evidence at the hearing:

- A-1 Development Application
- A-2 Tax Collector's Certification
- A-3 Water & Sewer Certification
- A-4 Tax Assessor's Certified List of Property owners
- A-5 Affidavit of service
- A-6 Affidavit of publication
- A-7 Hearing notice.
- A-8 Review letter dated April 11, 2018 prepared by Board Engineer, Douglas Rohmeyer, PE, CME, CFM.
- A-9 Survey of Property with Topography and Plot Plan for Variance prepared by Ronald Post, PLS and James Giordano, PE dated February 6, 2018, unrevised.
- A-10 Architectural Plans prepared by Aquatecture Associates dated February 12, 2018, three sheets.
- A-11 Packet of 4 photographs
- A-12 Two Google Earth images of property.
- A-13 Colored rendering of proposed dwelling.

3. The property is located in the Residential Zone District which permits single family residential uses.

4. The applicant is the owner of the subject property.

5. JOHN C. AMELCHENCO, AIA, was duly sworn and testified as follows:

A. He testified he is a licensed architect of the state of New Jersey for over 30 years, and prepared the plans on behalf of the applicant presently before the board.

B. He testified the subject property is an oceanfront corner lot that provides 3750 square feet in area where 5000 is required by the development regulations. The property is located in an X-zone and therefore experiences minimal flooding.

C. He testified an existing flat roof dwelling will be demolished. In its place applicant proposes to construct a 2 ½ story 3000 square foot home. The property will feature a reverse living layout to take advantage of the natural ocean views. The property will appear as depicted in exhibit A-13. The structure will comply with all bulk requirements of the zone district except for lot size, and building height.

D. He testified the site provides three parking spaces in conformance with the Borough requirements. Applicant proposes to remove the two additional unused curb cuts and seeks a variance for the proposed 16 foot wide curb cut and driveway noted on the plan.

E. He testified the height variance is necessitated by the proposed 2 foot freeboard, 9 foot first floor ceiling heights, and the nine on twelve roof pitch. He noted that the structure could be modified to conform with the building height limits if applicant reduced the first floor ceiling height to 8 feet, and slightly lower the proposed roof pitch, while maintaining the required 2 foot free board.

F. He testified the air conditioning condenser locations conform to the zone district regulations.

6. JAMES GIORDANO, PE, PP, was duly sworn and testified as follows:

A. He testified he is a licensed professional engineer and planner of the state of New Jersey and his firm prepared the plans presently before the Board in this application.

B. He testified that the proposed home eliminates three bulk non-conformities and brings the property into compliance, but creates three new non-conforming conditions, height, curb cut width and driveway width.

C. He testified the proposed curb cut will not reduce on-street parking.

D. He testified the proposed height of the home is consistent with surrounding development.

7. The meeting was opened to the public for comment.

8. MICHAEL MERVEI, 605 South Ocean Avenue, was duly sworn and testified that having the proposed home only 4 feet from his property line will have a negative impact on him. In addition, he noted the existing home was featured in the publication "Architectural Digest", and does not want to see it replaced with a modern home.

9. DOROTHY WALSH, 7 6th Avenue, was duly sworn and testified that her property is immediately to the west of the applicant's lot. She opined the proposal is a "more intense use of an undersized lot," and that the proposed house will block her ocean views.

10. MARY ALTOBELLI, 12 7TH Avenue, was duly sworn and testified that the home is too high for the lot, and will have a negative impact on the ocean breezes and views available to the surrounding homes.

11. CANDICE HANSEN, 13 6th Avenue, was duly sworn and testified she agreed with prior comments of the other neighbors. She opined that this house is “too high” and the applicant has not demonstrated any hardship that compels construction of house taller than permitted by code. She feels the proposal is not in keeping with the neighborhood character as other properties with taller homes provide larger lots.

12. The meeting was closed to the public as there were no additional members of the public that wished to be heard in the matter.

13. The Board considered the testimony of the applicant and the witnesses and all the exhibits contained in the Board file and same are hereby incorporated as the findings of fact of the Planning Board.

WHEREAS, the Borough of Seaside Park Planning Board has determined that:

AS TO THE HEIGHT VARIANCE:

- a. the purposes of the Municipal Land Use Law will not be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation do not substantially outweigh the detriment; and
- b. the applicant will not suffer undue hardship if the relief is not granted; and

c. the variances requested by the applicant cannot be granted without substantial detriment to the public good and will substantially impair the intent and purpose of the zone plan and zoning ordinances of the Borough of Seaside Park for the following reasons:

1. The development regulations specifically tie maximum building height to the total lot area. In cases of under sized lots, a formula is set forth in the code to ensure the lot is not overdeveloped. These provisions recognize the property owner's right to use of the undersized lot for a permitted purpose and allow, in certain cases, development on a lot as small as 2500 square feet. However, to mitigate the per se detriment that can flow from undersized lots, the code limits the maximum height so that the home has an appropriate, rather than disproportionate impact on the neighborhood. The proposal here is to demolish the existing home, and the applicant is starting with a vacant parcel. The Board finds nothing unusual about the lot that prevents development of a home conforming to all bulk standards. In fact, the applicant testified that the home can be modified to meet the code requirements through elimination of excessive ceiling heights on the first level, and a slight reduction of roof pitch.

2. A home exceeding the height requirements will have an unnecessary negative impact on the neighbors light, air and open space, including ocean views and breezes.

3. A home exceeding the height requirements will be out of character with the neighborhood, as most homes built to that height are on larger lots.

4. The elimination of three preexisting bulk nonconformities does not on balance justify a height variance. First, the applicant seeks three new variances in their place. Second, there is no evidence that the near total coverage of this lot with paving stones (causing almost 80% lot coverage) was done pursuant to duly issued zoning and construction permits in the first place. Finally, the applicant proposes to demolish the existing improvements and start with a “blank canvas.”

AS TO THE DRIVEWAY AND CURB CUT VARIANCES:

- a. the purposes of the Municipal Land Use Law will be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation substantially outweigh any detriment; and
- b. the applicant will suffer undue hardship if the relief is not granted; and
- c. the variances requested by the applicant can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinances of the Borough of Seaside Park for the following reasons:

1. Due to the location of the proposed 16 foot curb cut there will be no loss of off-street parking by reason of it exceeding the code's requirement by 4 feet, and therefore it provides no detriment to neighborhood.

2. Applicant's proposed impervious lot coverage is 55%, or 10% less than that permitted by code. Accordingly, the excess driveway width provides no detriment.

3. Applicant proposes to eliminate two existing curb cuts appurtenant to the lot which will increase available on street parking.

4. The undersized nature of the lot makes it difficult to provide the required on-site parking with a confirming driveway

NOW, THEREFORE, be it resolved by the Borough of Seaside Park Planning Board on this **22nd day of May 2018**, that the application of **PAULEE, LLC** for bulk variances be and hereby is **granted** subject, however, to the following conditions:

1. A bulk variance for driveway width of 16 feet whereas 12 feet is permitted, shall be granted.

2. A bulk variance for curb cut width of 16 feet whereas 12 feet is permitted, shall be granted.

3. A bulk variance for lot area of 3750 square feet whereas 5000 square feet is required, shall be granted.

4. Applicant's request for a height variance is DENIED. The plan shall be amended to depict a conforming maximum height (30 feet or less). The 30 foot maximum height shall also apply to the elevator shaft.

5. The "Solarium / Screen Porch" noted on the plan shall only be utilized as a three season room. This space shall not be climate controlled.

6. The variances granted herein shall be exercised within two years as provided by Borough Code 200-16D.

7. The applicant shall obtain any and all other federal, state, county, local or CAFRA approvals as required by law.

8. The applicant shall provide performance bonds and inspection fees in accordance with the Seaside Park Borough Ordinances or any other law or regulation as required.

9. Proof of payment of real estate taxes to date, and all outstanding application fees and professional escrow fees. No zoning or building permit shall issue until proof of payment is submitted accordingly.

Moved by: Vice-Char Wilk

Seconded by: Mr. Bucci

ROLL CALL

Those in Favor: Wilk, Bucci, DiCaro, Losey, Pitchell

Those Opposed:

Those Abstaining:

CERTIFICATION

I, **SUSAN CONNOR**, secretary of the Borough of Seaside Park Planning Board, hereby certify the above Resolution to be a true and correct copy of a Resolution adopted by the Borough of Seaside Park Planning Board on May 22, 2018.



**SUSAN CONNOR, SECRETARY
SEASIDE PARK PLANNING BOARD**