

**MEMORIALIZING RESOLUTION OF THE  
BOROUGH OF SEASIDE PARK PLANNING BOARD  
APPLICATION NO. PB/2020-01**

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, RICHARD FAGERSTEN, applicant, Lynne Dunn, Esq. appearing, has applied to the Planning Board of the Borough of Seaside Park to renovate an existing three-family dwelling and convert same into a two-family dwelling necessitating special reasons variances for premises located at 15 L Street., also known as Block 61, Lots 21 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 a special reasons variance to permit a two-family use and structure; 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 ; 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 as 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 Variance Plan prepared by TEC Engineering dated February 13, 2020, unrevised (One Sheet)
- A-9 Architectural Plans prepared by Feltz and Frizzell Architects, LLC dated January 29, 2020, unrevised (Two Sheets)
- A-10 Survey of Property prepared by Ronald W. Post Surveying, Inc. dated January 29, 2020, unrevised (One Sheet).
- A-11 (Not Used)
- A-12 Elevation Certificate prepared by Ronald W. Post Surveying, Inc. dated February 12, 2020.
- A-13 Current Photographs of the Property in Question.
- A-14 Zoning Permits dated April 4, 2010, February 20, 2002, and July 27, 2017 all indicating the property as containing three dwelling units.
- A-15 Letter dated March 10, 2020 from Lynne Dunn, Esq. amending development application to include a request for a sketch site plan classification.
- A-16 Rental Permits approved May 2, 2019 and May 25, 2018 indicating three dwelling units at the site.

- A-17 Email from the Seaside Park Borough Tax Assessor dated May 14, 2020 indicating the improvements at the site are assessed as a “multifamily three-unit property.”
- A-18 Correspondence from Pilot Construction, LLC, undated, to the applicant indicating the cost of proposed improvements is \$49,000.00.
- A-19 Board Engineer review letter dated March 3, 2020 prepared by Douglas Rohmeyer, PE, CME, CFM.

- 3. The property is located in the Residential Zone District which does not permit two-family residential uses.
- 4. The applicant is the owner of the subject property.
- 5. RICHARD FAGERSTEN, was duly sworn and testified as follows:
  - A. He is the owner of the property which his family purchased about 28 years ago.
  - B. The property contained “three units” when purchased.
  - C. His plan is to renovate and modernize the ground floor which contains two apartments now with a total of 5 bedrooms. The renovations will convert the ground floor to a single apartment containing 4 bedrooms and two bathrooms.
  - D. The second story and the third half-story comprise a single dwelling unit which will remain unchanged.
  - E. The detached “masonry garage” noted on the survey is used as a garage and storage area. This structure is not living space.
- 6. VERITY FRIZZELL, FAIA, LEEDAP, was duly sworn and testified as follows:

A. She is a licensed architect in the State of New Jersey for approximately 25 years, and has prepared the architectural plans on behalf of applicant.

B. She testified the structure will be converted from three dwelling units to two dwelling units by redeveloping the ground level as single unit.

C. The existing rear ground level entrance will remain, and all other ground level entrances will be eliminated.

D. The existing two A/C compressors are in a non-conforming location, currently set back from the front property line by 17 feet and 21 feet respectively, whereas 30 feet is required. The compressor currently set back from the front property line by 17 feet is proposed to be relocated so that it provides a 41-foot setback.

E. She confirmed the west side driveway is not large enough to park a car. However, the east side driveway provides 9 off-street parking spaces whereas the proposed development requires only 5 spaces.

7. 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 prepared the Variance Plan on behalf of applicant.

B. Referring to the exhibits submitted with the application, he confirmed the property appears to contain a pre-existing non-conforming three-family use. The proposal moves the property closer into conformity with the R-Zone District requirements by eliminating one dwelling unit.

C. By relocating one A/C compressor, the applicant will eliminate an existing bulk non-conformity.

D. The property provides excess off-street parking – 9 spaces whereas 5 are required.

E. The proposed development consists of interior changes only which will not impact the exiting stormwater management on site.

F. The applicant has offered to close the westerly curb cut which provides the local residents additional on-street parking.

G. He opined that the two-family use will provide no detriment to the neighborhood as it provides a reduction in dwelling units from three to two, and eliminates one bedroom from the site.

8. The meeting was opened to the public and thereafter closed as there were no members of the public that wished to be heard on the application.

9. 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

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 its detriment; and

b. special reasons exist to grant a departure from the development regulations; 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. The proposed development does not violate the light, air, or space of any adjacent residential properties as the plan does not propose any exterior changes to the building.
2. The proposed development provides additional on-street parking for the Borough residents and seasonal visitors which enhances the general welfare of the residents in a beach-front community.
3. The application eliminates an existing A/C compressor setback violation.
4. The site is particularly suited for the proposed use as it has been developed with a multi-unit building for decades without any apparent negative impact.
5. The application reduces the number of dwelling units on the property from three to two, thereby bringing the property closer to conformity with the goals and intent of the master plan and applicable district regulations.
6. The Board finds the professional planning testimony credible and persuasive.

NOW, THEREFORE, be it resolved by the Borough of Seaside Park Planning Board on this 23<sup>rd</sup> day of June, 2020 that the application of RICHARD FAGERSTEN for variances shall be granted subject, however, to the following conditions:

1. A special reasons variance to permit a two-family use and structure, shall be granted.

2. The plans shall be amended to depict elimination of the westerly curb cut and driveway apron.

3. No variances are granted herein from the Borough Flood Damage Prevention ordinances. The Borough Floodplain Manager shall determine whether or not the improvements constitute a “substantial improvement” under the ordinance thereby requiring elevation of the existing structure. In the event the Floodplain Manager determines the improvements constitute a “substantial improvement”, the approvals granted herein shall be deemed void.

4. The architectural plans and variance plot plan shall be amended to relocate the A/C compressor in accordance with the testimony at the hearing.

5. The applicant shall strictly comply with the plans and surveys submitted and discussed, as amended, during the hearing. Any deviation from said plans shall be subject to further review and approval by the Planning Board.

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 any outstanding application or escrow fees. No building permit shall issue until proof of payment is submitted accordingly.

Moved by:

Seconded by:

#### CERTIFICATION

I, SANDRA MARTIN, 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 June 23, 2020.

Sandra Martin  
SANDRA MARTIN  
Board Secretary