

Borough of Brielle

FEBRUARY 21, 2017

June 08 2017

February 21st, 2017

BRIELLE PLANNING BOARD

TUESDAY, FEBRUARY 21, 2017

The Regular meeting of the Brielle Planning Board was held on Tuesday, February 21, 2017 at 7:30 pm in the Brielle Borough Hall, 601 Union Lane. After a moment of silent prayer and a salute to the flag, roll call was taken:

Present – Mayor Thomas Nicol, Councilman Frank Garruzzo, James Langenberger, Eric Lapham, Stacey Montalto, James Maclearie, Charles Sarnasi, Thomas Condon

Absent – James Stenson

Also present were Karen S. Brisben, Recording Secretary, Joe Clark, Esq., Board Attorney and Board Engineer Alan Hilla Jr.

Mr. Condon called the meeting to order and declared a quorum. He announced that, in compliance with the Open Public Meetings Act, notice of this Body's meeting had been sent to the official newspapers of the Board fixing the time and place of all hearings.

The Minutes of the January 10, 2017 meeting were approved on a motion by Councilman Garruzzo, seconded by Mr. Langenberger and approved by voice vote, all aye.

CORRESPONDENCE:

The Board received a copy of a Notice to the DEP for Hoffman's Marina West, to approve Boat Lift & Dock changes for Block 52, Lots 2.01-8.01.

OLD BUSINESS:

The Board turned to the approval of a Resolution for variance relief for Block 29.01, Lot 4, 523 Harris Avenue, owned by Charles & Deborah Kauffman, to allow demolition & reconstruction with expansion of a single family dwelling & detached garage.

As all Board members, as well as the applicants had received a draft copy and there were no changes or recommendations, the following was presented for approval:

WHEREAS, CHARLES & DEBORAH KAUFFMAN ("Applicants") have applied to the Planning and Zoning Board ("Board") of the Borough of Brielle seeking variances for the property located at 523 Harris Avenue, and known as Block 29.01, Lot 4 (hereinafter "Property or Parcel"), on the tax map of the Borough of Brielle, to allow demolition and reconstruction with expansion of a single family dwelling & detached garage; and WHEREAS, This application specifically requires the following variance to construct a rear yard addition to an existing home:

- a. Lot Size – 11,250 square feet required, 10,150 square feet existing;
- b. Lot Width – 75 feet required, 50 feet existing;
- c. Building Height – 35 feet allowed, 36.5 feet proposed;
- d. Front Yard Setback – 30 feet required, 26.1 feet proposed;
- e. Side Yard Setback – 10 feet required, 8 feet proposed;
- f. Accessory Side Yard Setback – 7 feet required, 5 feet proposed.

WHEREAS, the Board held a hearing on January 10, 2017, and considered the following documents presented at the hearing in connection with this application:

- a. Jurisdictional Packet;
- b. Exhibit A-1, sheet Z-2 from Architect Kieran Kelly;
- c. Exhibit A-2, sheet Z-1 from Architect Kieran Kelly;
- d. Exhibit A-3; rendering of proposed house showing vinyl siding and cultured stone base

WHEREAS, the Board considered the following testimony presented at the hearing in connection with this application:

Mr. Charles Kauffman came forward and was sworn in, giving his address as 523 Harris Avenue. He testified

that his family moved to Brielle in 2005, has become active in the community through school and outside events, and would like to build a home they can stay in for a long time.

Mr. Kauffman indicated that his neighbor was present to support the application, as well as the architect. Mr. Kauffman further indicated that he had letters of support for the record, but was informed that they could not be introduced without a live witness present.

Mr. Kauffman further testified that some variances were pre-existing and some were new, and that Applicants were trying to be compliant with FEMA regulations applicable to their flood prone area. Applicants' 37.5 feet height variance was a product of the FEMA regulations.

At this time Mr. Kieran Kelly was sworn in, he is a licensed architect in New Jersey and was accepted by the Board as an expert witness. At this point the application, called Z-2 by the architect, was marked as Exhibit A-1.

Mr. Kauffman continued his testimony and said Applicants want to put in an attached garage and are 2.9 feet off on that on the side line setback. With regards to Mr. Hilla's comments on the ½ story calculation, Applicants want to keep the ½ story to preserve as much useful space as possible. With regard to the driveway along the east property line, Mr. Kauffman said that Applicants can curve the driveway back.

Mr. Kauffman indicated that the mechanical equipment, HVAC, will be on the 3rd floor space, which helped create a need for extra height; rather than place the equipment on the ground in a flood plain, it will be elevated. The AC condensers will be on the west side by the back of the house and they may also put a gas generator there. They will comply with town requirements on grading and drainage.

At this point, the Board had the following questions:

Mr. Langenberger asked about the deck area in the rear and Mr. Kauffman said that will be 5 feet from the neighbors.

Mr. Stenson asked about the lot size Mr. Kauffman told the Board the plans submitted show the existing and an overlay of the new home.

Mr. Langenberger asked about the lot coverage and Mr. Kelly spoke and said the existing home is 17.4% and the new home will be 17.53% and this includes the garage.

Mr. Condon noted the application states the lot coverage is 42% and Mr. Kauffman said that was his error, he took the floor area ratio by mistake.

Mr. Maclearie asked if any of the other neighbors have a two car garage and Mr. Kauffman said the last home built on this street has a two car garage.

Mr. Lapham asked about the current driveway and was told it was within one foot of the property line. Mr. Kelly referenced the survey which shows it curves back towards the center of Applicants' Property, as demonstrated on Exhibit A-2.

Mr. Lapham asked about this again and was told it will to right down the property line. Mr. Lapham asked Mr. Hilla if that is a problem and Mr. Hilla said there is no room for any error here and it may become a grading problem; Mr. Kauffman noted his neighbors ran Belgian block down their driveway, he said ¾ goes to the front and ¼ goes to the back.

Mr. Condon felt Applicants needed to provide a grading plan so that grading issues could be addressed; Mr. Hilla was in agreement with this.

Mr. Sarnasi asked about the floor heights, are the ceilings 10 feet? Mr. Kauffman said no, they will be 9 feet on the first floor, then 8 feet and then 8 feet. Mr. Sarnasi asked about the crawl space and Mr. Kelly said it will be 3 feet clear and there will be 12 inches for the first floor framing. Mr. Sarnasi wanted to see them get closer to the 35 foot height limit allowed. Mr. Kelly said this was about as low as they could get, they can't excavate any more. Mr. Sarnasi asked if there was a way to shrink the duct work and Mr. Kelly said they could but can't make that call right now. Mr. Sarnasi asked where does their ridge line go compared with the home next door and Mr. Kelly said maybe 2.5 feet, Mr. Kauffman said they lost space with the crawl space. Mayor Nicol asked about the second story on the garage and wanted confirmation that there will be no water there and Mr. Kauffman agreed there will be no water, he didn't want it there.

At this time the hearing was opened to the public for questions to Mr. Kauffman and, as there was no response that portion was closed.

Mr. Kelly offered to walk the Board through the plans but the Board felt all their concerns were answered. Mr. Kelly did offer a rendering of the proposed house which shows the vinyl siding and cultured stone base; this was marked as Exhibit A-3. Mr. Lapham asked about the pitched roof and was told was 35 degrees and 8.5 slope.

The hearing was opened again to the public for questions to Mr. Kelly and, having no response, that portion was closed and the Board went into discussion.

Mr. Langenberger said he would like to see the AC condensers moved as he felt they were going to be too close to the neighbors but, other than that was okay with the application. He asked if the deck was raised and Mr. Kelly said no, it is really a patio at grade. Ms. Montalto felt it was a nice addition and the other Board members agreed with her. Mayor Nicol also had no problem but reminded Mr. Kauffman he will have to work out the grading with the engineer.

At this time the application was opened to the public for comments and, as there were none, that portion was closed.

WHEREAS, the Board after carefully considering the evidence presented by the applicant at the hearings and of the adjoining property owners and general public, if any, made the following factual findings and

conclusions of law:

- a. The variance relates to a specific piece of property;
- b. The purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirement because the variance encourages 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; promotes the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment; and promotes a desirable visual environment through creative development techniques and good civic design and arrangement;
- c. In this case, compliance with FEMA regulations has mandated at least some of the requested variances;
- d. The variances can be granted without substantial detriment to the public good;
- e. The benefits of the deviation substantially outweigh any detriment; and
- f. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

The Board then voted on the application on a roll call on a motion by Councilman Garruzzo, seconded by Mr. Stenson and it was approved by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Thomas Condon, James Langenberger, Eric Lapham, Stacey Montalto, Charles Sarnasi, James Maclearie, James Stenson

Noes: None

Not Eligible to Vote: Ralph Condoluci

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle, that Applicants' variance application is hereby approved and granted subject to the following conditions:

- A. Applicants shall pay all taxes and other applicable assessments, costs and fees to date, as applicable.
- B. Applicants shall comply with all requirements and outside approvals as may be required from the Borough of Brielle or any other governmental authority not otherwise disposed of by this application.
- C. Applicants shall provide the Borough Engineer with a grading plan for review and approval.

A motion for approval of the above Resolution was made by Councilman Garruzzo, seconded by Ms. Montalto and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Stacey Montalto, Charles Sarnasi

Noes: None

Absent: James Stenson

The Board then turned to the approval of a Resolution for variance relief for Block 57, Lot 5, 1056 Lake Avenue, owned by Joseph & Rebecca Dubicki, to allow construction of a new single family dwelling. All Board members, as well as the applicants, had received a draft copy and, as there were no errors or recommendations, the following was presented for approval:

WHEREAS, JOSEPH AND REBECCA DUBICKI ("Mr. Dubicki" and "Mrs. Dubicki," respectively and collectively as "Applicants") have applied to the Planning and Zoning Board ("Board") of the Borough of Brielle seeking variances for the property located at 108 Lake Avenue, and known as Block 57, Lot 5 (hereinafter "property or parcel"), on the tax map of the Borough of Brielle; and

WHEREAS, This application specifically requires the following variance to construct a rear yard addition to an existing home:

- a. Lot Size – 12,500 square feet required, 10,198 square feet existing.
- b. Lot Width – 75 feet required, 40 feet existing.
- c. Side Yard Setback – 10 feet required, 5.7 feet proposed on both sides.

WHEREAS, the Board held a hearing on January 10, 2017; and considered the following documents presented at the hearing in connection with this application:

- a. Jurisdictional Packet;
- b. Applicants' Exhibits:

A-1. Proposed home plan done by Grasso Design Group.

A-2. Site plan done by Charles O'Malley.

A-3. Rendering of proposed structure.

WHEREAS, the Board considered the following testimony presented at the hearing in connection with this application:

Mr. Joseph Lane, Esq. came forward to present this application and items A-1, A-2, and A-3 were marked as exhibits. Mr. Dubicki came forward and was sworn in, giving his address as 157 McLean Avenue, Manasquan. He explained that he wants to build a single family home on Lake Avenue and the lot does not comply with the Ordinance requirements. The home will be 34 feet, 10 inches high and will be three stories, the entrance and garage will be on the first floor and the second & third floors will be living space for him and his family. Right now it is an empty lot with just a shed on it – he would like to keep the shed for storage until the home is done and then have it removed.

Mr. Lane asked him to address Exhibit A-2, the plan that shows the setbacks and Mr. Dubicki said he can do a 10 foot sideline due to the lot width; he will also put in fill to conform to the code. This property is about 250 feet from Debbie's Creek so he does not need CAFRA approval. In regards to drainage, there will be two 450 square foot drywells on each side which will be sufficient for rainfall there and he plans on using the utilities from the old home that was there and taken down.

Mr. Lane noted a driveway on the east side with a curbcut on the west side and Mr. Dubicki said if he can use that curbcut he will and he may have to move the driveway around. Mr. Lane asked about a holly tree that is on the property and Mr. Dubicki said this is where the driveway will be, it will have to be taken down but he will replace it; he commented it is now in the wires. Exhibit A-3 is a rendering of the home and shows it will be 30 feet from the curb and 205 feet from the high tide water line; this complies with the other homes in the area.

Mr. Stenson noted the plan shows 2.5 stories but Mr. Dubicki said he was asking for 3 stories and Mr. Dubicki said the first floor is just on pilings and is not livable space. Mr. Lapham asked about a Flood Hazard Permit and is that an issue, Mr. Hilla said that is standard. Mr. Lane said there is an 0-4 Flood Hazard Permit that may be required and, if so, they will get one. Mr. Sarnasi noticed a jog in the building and wanted to know what that was and Mr. Dubicki said it is the way the property was designed; Mr. Sarnasi then commented that the setback in the corner is closer to the 10 feet and Mr. Dubicki said yes, the other side is at 5.7 feet. Mr. Condon asked about the one car garage and the opening in the rear; Mr. Dubicki said area will be open and used for kayak/paddleboard storage.

At this time the hearing was opened to the public for questions and Mr. Tom Pair from Leslie Avenue came forward and was sworn in but, as he wanted to give a statement, he was told to come forward and that portion of the hearing was open for comments, this was for questions only. As there were no questions, that portion was closed and the hearing was again opened for comments and Mr. Pair did come forward again and told the Board he felt this will be an asset for the neighborhood, right now it is an unmaintained lot. As there were no other comments that portion of the hearing was closed and the Board went into discussion.

Mr. Hilla felt there will be a problem when it comes to utilities and drainage, there is a 5 year moratorium on Lake Avenue right now, he felt if the road has to be opened, then a condition of approval should be that Applicants are required to utilize infra-red technology and that it should be face formed, in addition to any other requirements for opening a road on which there is a moratorium.

There were no further Board comments or questions and the hearing was opened to the public for questions or comments. There were none and that portion was closed.

WHEREAS, the Board after carefully considering the evidence presented by the applicant at the hearings and of the adjoining property owners and general public, if any, made the following factual findings and conclusions of law:

g. The variance relates to a specific piece of property;

h. The purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirement because the variance:

i. encourages 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;

ii. promotes the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment; and

iii. promotes a desirable visual environment through creative development techniques and good civic design and arrangement;

i. The variance can be granted without substantial detriment to the public good;

j. The benefits of the deviation substantially outweigh any detriment; and

k. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

The Board then voted on the application on a roll call on a motion by As no Board members had any further comments or questions, a motion for approval, with stipulations as noted by the Engineer, was made by Councilman Garruzzo, seconded by Mr. Stenson and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Thomas Condon, Ralph Condoluci, James Langenberger, Eric Lapham, Stacey Montalto, Charles Sarnasi, James Stenson

Noes: None

Recused and stepped down from podium: James Maclearie

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle, that Applicants' variance application is hereby approved and granted subject to the following conditions:

A. Applicants shall pay all taxes and other applicable assessments, costs and fees to date, as applicable.

B. Because there is a 5 year moratorium on performing work on Lake Avenue, if the road has to be opened, then Applicants are required to utilize infra-red technology and face form the roadway, in addition to any other requirements for opening a road on which there is a moratorium.

C. Applicants shall comply with all requirements and outside approvals as may be required from the Borough of Brielle or any other governmental authority not otherwise disposed of by this application.

A motion to approve the above Resolution was made by Mr. Langenberger, seconded by Councilman Garruzzo and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Langenberger, Eric Lapham, Stacey Montalto, Charles Sarnasi, Thomas Condon

Noes: None

Absent: James Stenson

The Board then heard the continuation of a hearing for variance relief for Block 110, Lot 2, 1025 Highway 70,

owned by Alpha Property Management (Site of Dance for Joy). Mr. David Leone, Esq. came forward and asked that Andrew Thomas, Professional Planner, come forward to testify. Mr. Thomas came forward and was sworn in; as he has testified before this Board many times he was accepted as an expert witness.

Mr. Thomas said he has reviewed Mr. Hilla's latest report and did not find any change in the application due to this report. He said the square footage has been modified since 2007 and the expansion was done without Board approval, it was done for purposes of storage. He verified previous testimony that was given on this as well as the pick-up and drop-off spots for students. He then referenced the Omnipoint application that was done in 2009 to allow a cell tower to be on the side of the Alpha Management building. He then went over the off-street parking and commented there are different spaces required for different businesses. He then referenced the 2007 Resolution where the term "studio" was stated 11 times, he feels this is a studio and, therefore, the spaces for a "studio" should be considered. He came up with a total spaces needed of 57.5 and there are 53 on site so they are only 4.5 spaces short.

Mr. Leone confirmed that Mr. Thomas disagreed with Mr. Hilla's report that 99 spaces are needed as he felt the use should be defined under "auditorium" and not "studio". Mr. Thomas said the term "auditorium" applies to fixed seats, etc. and there are none in the Dance for Joy Studio. This is a drop-off and pick-up type of use and the lot is adequate for all businesses here; there is no additional parking needed.

Mr. Thomas then referenced the Municipal Land Use Law as far as positive and negative criteria and felt this use promotes health, safety & general welfare, a free flow of traffic and there is no detriment to the Zoning Ordinance. Mr. Leone said there is a concern from the Board over a possible change of use in the future and Mr. Thomas felt this can be in the enabling Resolution, if there is a change of use then the applicant would have to come back before the Board for approval. Mr. Condon asked if this can apply to all the business there and Mr. Thomas said yes this can apply to all.

Mr. Maclearie asked what would stop Dance for Joy from doing adult dance classes and enrolling more students? Mr. Leone said the Resolution can stipulate requirements for just this business and limit its use. Mr. Leone said the definition of a "studio" is not a true definition in the Ordinance but it was the one they felt fit Dance for Joy best; he said, as in the past, that there are no shows inside as there is no seating inside.

Mr. Hilla stated that an auditorium or recreational establishment is in the definition of an auditorium and he felt that fits here, a studio would be for broadcasting or art. He said if a gym wanted to go in here that would not be a change of use; he also commented that the testimony on the square footage does not match with the math from the Omnipoint application. Mr. Leone said the Omnipoint application was a separate application and not part of Alpha Management or Dance for Joy. Mr. Hilla said Alpha Management owns the building and the property owner knew of this. Mr. Leone said they leased the land and the Resolution from 2009 does not mention Alpha Management.

Mr. Leone told the Board that a Professional Planner testified this evening that this is a "studio" use and he addressed the concerns of the Board; he again said the Resolution can be tailored to fit the Board's concerns.

Mr. Clark could see the position on both sides but he said he felt the Board should get a legal report on this from Mr. Leone, he did not know if there is enough here to act on and he agreed some of the terminology in the Ordinance is undefined. There was then another brief discussion on the parking. Mr. Clark felt the issue is the use definition that is before this Board. The dancing school is used primarily during off peak hours and the parking does not seem to be an issue. The Board can make it a condition of approval that no matter what comes in there in the future will have to come back before the Board and Mr. Leone agreed and said he will prepare a brief on the position of Alpha Management/Dance for Joy.

At this time the hearing was opened for questions to Mr. Thomas and, as there were none, that portion was closed. Mr. Leone asked the Board if Mr. Thomas not be required to come back as he is done with his testimony and the Board agreed.

Mr. Leone did have one more witness to come forward, Susan Allman, the Manager of Dance for Joy who came forward and was sworn in. She presented photos of the storage area that caused the expansion and these were marked as Exhibits A-3 through A-7. Also, the plant submitted by Mr. Leone of the square footage of the building was marked at this time, it was marked Exhibit A-8.

Ms. Allman said she has been the office manager here since 2007, they did take over more area but it is for storage as Exhibits A-3 through A-7 show, it is not used for studio space. They store equipment and supplies here and no students are allowed in this area. She also said she was familiar with the traffic pattern and would like to have an area, up front, for an admission area (no dancing) and this may help the parking, they now have only one door and would like another one so it would be easier for dropping off and picking up students. As far as the back-up on Old Bridge Road, they have sent out emails on this and they have

employees come out and ask people to keep moving or park at the end of the building; she said this can be enforced more.

Councilman Garruzzo noted a space between the two studios and was told that is part of Alpha Management, they have an office there. Mr. Maclearie asked about the two doors and would that change the traffic lanes – Ms. Allman said no, she felt that two doors will help move traffic along. Mr. Langenberger felt the traffic would still stop even with two doors, there are 260 students at this time and he could see a problem if this goes to 300-350 students; he wanted to know if the student enrollment can be capped at 300 and he would not have a problem with this application if this were done. Right now there can be a back-up to Harpoon Willy's restaurant down the street and he was concerned about this. Ms. Allman said she could understand the concern but the Friday night classes are ending at 7:30 and the Saturday classes only go to 12:30, as far as capping the enrollment that would be up to the owner. She then told the Board they have 4 special needs students and really need more room for them and a solo space, the extra space is not for classes and the students in a class are about 15-17, there is no more room for more and they do cap the number of students in a class. She closed by stating that some students have gone on for scholarships due to the education they received here.

At this time the hearing was opened to the public for questions or comments and, as there were none, that portion was closed. The Board decided to carry this hearing to the April meeting of the Board, this approved on a motion by Councilman Garruzzo, seconded by Mr. Lapham and then by voice vote, all aye, no nays. It was announced that there will be no further notice that will be given.

NEW BUSINESS:

The Board then heard an application for variance relief for Block 70.01, Lot 1.01, 603 Sandy Court, owned by Andrew & Shannon Aldi, to allow construction of a covered rear patio addition to an existing two story dwelling. Rear Yard Setback – 40 feet required, 18.6 feet proposed, 21.4 foot variance requested.

The correct fees were paid, taxes are paid to date and property owners as well as the newspaper were properly notified. Councilman Garruzzo recused himself from hearing this application as he lives within 200 feet of the property.

Mrs. Shannon Aldi came forward to present this application and was sworn in, she owns the property along with her husband. She said they had hired an architect and she had those plans to submit tonight, which were marked as Exhibit A-1. She said, according to the architect, their property can support 6,607 gallons of water for infiltration as far as rainwater. The architectural drawings are no different than what has been asked for in their application, they are just better. Mr. Langenberger asked if this is going to be a raised paver patio and Mrs. Aldi said no, it will be under 36 inches, one will come out the back of the home and down a few steps to the pavers, or treks, and down to the patio. They cannot use the lot the way it is now and commented they have put in over 40 trees on their lot as well as the streetscape area. Right now there is no reason to sit outside in their yard the way it is.

Mr. Clark marked as Exhibit A-2 a picture of the back yard. Mr. Lapham asked for clarification that 40 trees were planted and Mrs. Aldi show him where they were planted on the pictures submitted with the application, there are a lot of evergreens. Mr. Sarnasi went back to her comment on the rainwater collection and asked if she needed a recharge system; her answer was no, they can handle the runoff in an adequate manner. She also said there are only 3 homes on Sandy Court and their front faces her rear yard.

At this time the hearing was opened to the public for questions or comments and, hearing none that portion was closed. As all Board members were in favor of approving this application, Mayor Nicol made a motion for approval, this seconded by Mr. Maclearie and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, James Langenberger, Eric Lapham, Stacey Montalto, James Maclearie, Charles Sarnasi, Thomas Condon

Noes: None

Councilman Garruzzo return to the dais and the Board then turned to the next item on the agenda, an application for variance relief for Block 47.01, Lot 14, 318 Woodland Avenue, owned by Denise Cerone, to allow construction of a two story 8.2 foot wide porch on an elevated dwelling. Minimum Lot Area – 11,250 square feet, 5,479 square feet existing & proposed. Minimum Lot Width – 75 feet required, 50 feet existing & proposed. Minimum Side Yard Setback – 10 feet existing, 8 feet proposed. Lot Coverage – 20% maximum allowed, 25.8% proposed.

The correct fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified. Concetta Alvarez & Denise Cerone came forward and were sworn, Ms. Cerone being the owner of the property and Mrs. Alvarez, a representative of the builder, was presenting the application. She said the deck will be a one story deck and not a two story deck as per the zoning officer's report and she will address this during her application. Mr. Clark marked the application plans as Exhibit A-1.

Mrs. Alvarez said that, right now, they are going to do a platform with temporary stairs and they brought the application back for a one story deck and the hearing tonight is for this; she said they already have a CO for the home, just need to finish the deck. They had to raise the home as per FEMA so they need a variance, they now have long stairs and they still want her to be comfortable so they want a deck. The front porch is to keep with the integrity of the neighborhood as her whole neighborhood has porches, this porch is over 3 feet high.

She then presented pictures, which were marked Exhibit A-2 – A-5. Photo Exhibit A-2 shows the homes around this house, the home to the left has a porch and the one next to that has a two-tiered deck and porch as well as another home in this area; the other side of the street has the same type of homes and Ms. Cerone is the only one without this. Exhibit A-3 and A-4 are more photos of the surrounding homes and Exhibit A-5 shows the ones with porches over 3 feet. They are asking for a larger space to alleviate the safety of 10 stairs. Mr. Langenberger said he liked the deck but is it possible to make the deck smaller to reduce the lot coverage? Mrs. Alvarez said this would not even be an issue if it weren't for FEMA, they did not go over the minimum height and they gave her 10 steps, this was created by them. Mr. Hilla commented this deck has a roof over it and if it did not have a roof it wouldn't even be counted in lot coverage. Mr. Langenberger said he was not aware of anyone else coming in and asking for 26% lot coverage.

Mr. Hilla asked about a shed on the property and Mrs. Alvarez said the shed is remaining for now, because of the house size the shed is needed for storage; the garage has lost a few square feet and they would like to keep the shed but they can remove it if needed by the Board. Mr. Hilla said the application says the shed will be removed and Mrs. Alvarez again stated they want to keep the shed and that statement should not have been put in the application; she also included the shed square footage in the lot coverage calculation. Mr. Condon asked about storage in the home and was told there is a low crawl space that is sheet rocked. Mr. Hilla asked if the stairs are going into the front yard and Mrs. Alvarez said the original drawing shows the stairs going straight down and they might have to put in an "L" shaped stairway, she would like to see that but it is not her home. Mr. Langenberger asked how far out it is if it is not built "L" shaped and Mr. William Taylor, Professional Engineer came forward and was sworn in. He holds an engineering degree from the University of Michigan and Mr. Hilla knew him so he was accepted as an expert witness. He said that instead of going out 9 feet it would be 6.5 feet if it were "L" shaped. Mr. Hilla said this changes the variance by ½ foot and he asked about the hanging wire that is in the photos that seems to clip the porch and stairs. The photo best showing this was marked as Exhibit A-6 by Mr. Clark; Mrs. Alvarez said this is to be lifted by a foot and the electrician will do this. Mr. Clark then marked more photos, with notes on them, as Exhibit A-7.

Mr. Hilla noted the hydrant in the driveway and it wasn't in the driveway before. Ms. Cerone explained that when she purchased the home she moved the driveway and so the hydrant is now in her driveway. Mr. Langenberger said the hydrant was not in the driveway until Ms. Cerone expanded it and Mr. Hilla said this driveway now extends into the Right-of-Way. Ms. Cerone said she is having the driveway redone and can bring it back in away from there; Mrs. Alvarez agreed and said they will be putting in Belgian block. Mr. Langenberger told them they need at least 3 feet on either side of the hydrant for Fire Company access. Mrs. Alvarez said they will bring it in 3 feet but it will make a narrow driveway and they will have to lose some grass, the driveway is 13 feet wide but they can take it down to 10 feet wide or bring it into the grassy area. Mr. Hilla then asked about drainage, he knew this was flat land but asked if there will be runoff from the new structure and Mr. Taylor said he did not do calculations on that. Mr. Hilla said they can put in the Resolution that additional work may need to be done for drainage. Mrs. Alvarez said they can put in a gutter system to control the water flow, right now there is drainage to the neighbors and they do want to take that away from them.

At this time the hearing was opened to the public for questions and, as there were none that portion of the hearing was closed. It was then opened again for comments and, as there were none, that portion of the hearing was also closed and the Board went into discussion.

Mr. Langenberger did not have a problem with the application other than the lot coverage issue. Ms. Montalto felt it was an excellent plan, it is a small lot but they have a FEMA problem and she was supportive of their efforts but said she would prefer the "L" shaped to the stairway, Mr. Maclearie agreed with her. Mr. Sarnasi felt this variance will enhance the look of the home and Councilman Garruzzo had no issues with the application, the other Board members were supportive of approval. Mrs. Brisben told Mrs. Alvarez she needs 5 sets of revised plans showing the changes that were discussed, the "L" shape stairs, gutters/leaders, the wire moved, the driveway change, etc.

Councilman Garruzzo made a motion to approve the application with the conditions as noted above and the Resolution will reference the possible need for drainage approval from the Board Engineer, this motion was seconded by Mr. Maclearie and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Langenberger, Eric Lapham, Stacey Montalto,

James Maclearie, Charles Sarnasi, Tom Condon
Noes: None

The next application to be heard was for variance relief for Block 97.01, Lot 2.01, 405 Sycamore Lane, owned by Stephen Flood, to allow construction of an addition of a porch for expansion of a single family dwelling. Front Yard Setback – 40 feet required, 33.9 feet to front porch addition.

The correct fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified. Mr. John Jackson, Esq. came forward to present this application. This application complies with all zoning requirements except the Front Yard Setback for a new porch and Sycamore Lane is a narrow road with a large Borough Right-of-Way. At this time Mr. Christopher Rice, Licensed Architect in NJ, came forward and was sworn in. As he is well known to the Board he was accepted as an expert witness. Photos of the property were marked as Exhibit A-1 & A-2 and a colored rendering of the site was marked as Exhibit A-3. Mr. Rice felt these depict what they are want to do here. The home itself is at 41 feet back and they want to add a covered porch. He had already done an addition to the home, a one story Master Suite and they then decided a porch would be aesthetically pleasing but brings them to 33.9 feet in frontage.

Exhibit A-4 was then marked, a drawing showing the proposed front porch, which will be an open air and will never be enclosed or screened and will be 7 feet wide; they wanted 8-9 feet but felt that will extend too far into the front yard setback. Mr. Rice noted this is a beautiful street with large trees and he did not think a porch will even be noticed but they are trying to keep within the front yard setbacks as much as possible. He then went back to Exhibit A-4 and went over the design for the porch, he felt this is better than a flat front that is there now and no matter what they did they would need a variance for it; he also stated this brings the property to 18.2% coverage as the property is large.

Mr. Lapham asked about the material for the base and was told it will be masonry. Mr. Hilla asked about drainage and Mr. Ray Carpenter, Professional Planner, came forward and was sworn in. He is well known to the Board and accepted as an expert witness. He noted the plan has an error on it as to drainage and this will be corrected; he will submit 5 revised plans.

As there were no more questions from Board members the hearing was opened to the public for questions; as there were none that portion was closed and the hearing was again opened for comments; as there were none that portion was also closed and the Board went into discussion.

All Board members were in agreement that they liked the application, as presented, Councilman Garruzzo made a motion for approval, this seconded by Mr. Lapham and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Langenberger, Eric Lapham, Stacey Montalto, James Maclearie, Charles Sarnasi, Tom Condon

Noes: None

The next item on the agenda was an application for a Minor Subdivision for Block 98, Lots 1-1.01 & 2-2.01, 912 & 914 Jordan Drive, owned by the Kokes Family, to allow a lot line change between the two existing properties.

The correct fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified. Mr. Matt Kalwinsky, Esq. came forward to present this application for the Kokes family.

He said the purpose of this subdivision was to improve the nonconformities to the existing lot line between the two properties, both owned by the Kokes family. At this time Mr. David Eareckson, Licensed Professional Planner and Engineer in NJ came forward and was sworn in, he was accepted as an expert witness by the Board. He prepared the plans, which were marked as Exhibit A-1 and had a colored rendering up on the easel with the variances needed highlighted. There is an existing nonconformity in regards to the street frontage, the code requires all front yard face on a 50 foot right-of-way for at least 40 feet, both Lots have issues with this and require variances for the existing and proposed non-conformities for lot frontage. Also, the code requires all accessory structures be set back a minimum of five feet from the side lot lines. While this moving of a lot line helps one accessory structure to comply, the patio around the fish pond on Lot 2 would extend to the property line proposed. Another variance is that the relocation of the lot line will reduce the existing side setback to the driveway on Lot 1 from the 5 feet required to less than 1 foot. Mr. Kalwinsky said there will be a landscape berm for drainage so there is no problem in that regard.

Mrs. Brisben spoke and said the application was submitted to the Board stating that no variances were required and this is a conforming subdivision; she was confused as to them stating now that there are variances. Mr. Kalwinsky agreed that the application was submitted with no variances requested, however, Mr. Hilla's report found the above variance issues so they came tonight prepared to deal with these; they also published the variances requested in the notice to property owners and the newspaper. Mrs. Brisben asked Mr. Clark to note this in the Resolution so there is no confusion in the future as to the Board's actions on this

matter and Mr. Clark agreed this can be put in. Mr. Hilla asked how this subdivision will be filed and was told it will be done by deed.

The hearing was then opened publicly for questions and, as there were none, that portion was closed; the hearing was again opened for general comments and, again there was no response so that portion was closed and the Board went into discussion. As all Board members were in agreement that this moving of the lot line should be approved, a motion was made by Mr. Langenberger to approve this application with the variances noted in the Resolution, this seconded by Mr. Lapham and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Langenberger, Eric Lapham, Stacey Montalto, James Maclearie, Charles Sarnasi, Tom Condon

Noes: None

The last item for the agenda was for variance relief for Block 48.01, Lot 14.02, 306 Fisk Avenue, owned by Eric Leonhardt, to construct a new single family dwelling. Maximum Building Height 35 feet, proposed height 38 feet. The correct fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified.

Mr. Eric Leonhardt of 602 Valley Road came forward and was sworn in. Mr. Clark started by telling the Board there may be a jurisdictional issue with this application. Mr. Hilla's review found a need for a "D" variance due to the floor area ratio on the third floor, this would result in a Use Variance and Mayor Nicol and Councilman Garruzzo would have to step down off the dais. The requirement is a floor area ratio of .50 and they are asking for .573.

At this time Mr. Tom Peterson, a Licensed Architect since 1982 and a Professional Planner in NJ came forward and was sworn in; he was accepted as an expert witness by the Board. He said they need a height variance as they are in a Flood Zone and this results in an unintended variance which is 40 square feet over on the floor area issue. They propose to reduce this by cutting down on the size of the open deck on the third floor. Mr. Clark looked over the notice that was sent out and said they did notice for this so the application is covered. Mr. Hilla told them that, if this turns out to be a Use Variance they need 5 affirmative votes to pass and there are only 6 members sitting who will be able to vote. Mr. Peterson said they can reduce the deck from 20x11 feet to 16x11 feet which will make them 2 square feet under the floor rear ratio. It was decided that this application can proceed as a bulk variance request and the Mayor and Councilman can stay on the dais. Mr. Clark said all this will be noted in the enabling Resolution.

Mr. Leonhardt said they purchased the home at 602 Valley Road about 4 years ago, saw this lot on the waterfront and wanted to buy it, they need extra storage. Mr. Maclearie asked if this is going to be a third story loft and Mr. Leonhardt said yes. Mr. Peterson said this is a typical ½ story and then it pitches up and Mr. Hilla agreed it does achieve the definition of a ½ story in the Brielle Ordinance. Mr. Peterson said it is not a full story and is finished.

The hearing was opened for questions to Mr. Leonhardt and, hearing none, that portion was closed. Mr. Peterson went on to say this property is in the Flood Zone A-11 & A-10, the first floor will be 13.5 feet high and they have 8 feet under this to park and have a walk-through as it has to be open space with no storage. The building is measured from the street so there is a problem with building height and they need the extra height for this bottom space; there is no basement so there is no storage area and the ½ story will be one big open area and storage. The roof pitch is 6.5 on 12, a low pitch; when a house is up that high one sees less of the roof and they have added dormers to try to make it look like a Brielle seashore home.

At this time Mr. Clark marked the plans, sheet 1-3, done by Mr. Peterson and dated 11/21/16 as Exhibit A-1, A-2 and A-3. Mr. Peterson said they did the front of the home the way they did for aesthetics, to keep an architectural interest to soften the look. They have to contend with the Flood Zones and he noted this problem is becoming more and more common and he did not think this is an unusual or unique situation. He said they also have another variance and that is for the amount of space not at the 5 feet height, they have 2 gables which come out front, if they did not have this they would be in conformance but they have roughly an 8 foot space that is under 5 feet, they can remove it if the Board wants it and just close that area off but he felt this home needs those gables as well as a half-round window.

Mr. Peterson then reviewed Mr. Hilla's report and said that, from the building code they are below three stories. In regards to fill being put on the property they will need a Flood Hazard Permit and their engineer will work with Mr. Hilla on the drainage. There will be a gravel driveway and landscaping will be put in. Mr. Hilla asked about the floor level material and was told it will be concrete, as far as not submitting a survey they used the subdivision map and he asked if that is sufficient. Mr. Hilla did not really care but wanted the file to be complete and the Board does have a file on the original subdivision that was done last year. Mr. Hilla said there is no depiction of the limits for the driveway, he did not want to see the whole front yard end up being gravel with cars parked. Mr. Leonardt said they want to run gravel in the front all the way but they don't plan on parking cars in the front yard. Mr. Langenberger commented the home across the street needed

to put in a green area so it does not look like a parking lot; Mr. Leonhardt again said there will be a lot of landscaping and it will not be a bare lot. Mr. Hilla said he wants to see impediments to parking on the lot and have a driveway area, Mr. Leonhardt agreed he wanted that as well.

Mr. Peterson summed up that this will give them a home that is in conformance to the seashore style home and gives them space for storage. The height is only at the ridge and the top two gables – they thought of a gambrel roof but that would not really work here, if they have to cut the gables they can as they are not used for bedrooms. Overall he did not see any negative impact and only a positive impact on the town and, from a Planning standpoint, he could see no reason not to approve this application.

Mr. Sarnasi asked what the FEMA requirement is for a first floor and was told 13 feet and they are at 13.5 feet, this also helps with the floor insurance. Mr. Sarnasi felt if they dropped to 13 feet they would lose and Mr. Peterson agreed as they can't use the area underneath for anything other than parking and it's not a full 8 feet. Mr. Sarnasi asked about roof runoff and Mr. Peterson said this leads to the street, they can't put in a recharge system.

At this time the hearing was opened to the public for questions and, as there were none, that portion was closed. It was opened again for general comments and again there were none so that portion was also closed. The Board all agreed with the plan as presented, with the deck being reduced stops a "D" variance and Mrs. Brisben told Mr. Peterson she would need 5 revised plans showing the reduced deck and driveway outline. At this time Councilman Garruzzo made a motion to approve the application with the stipulations as noted, this seconded by Ms. Montalto and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Langenberger, Eric Lapham, Stacey Montalto, James Maclearie, Charles Sarnasi, Tom Condon

Noes: None

As there was no further business to come before the Board a motion for adjournment was made by Mr. Maclearie, seconded by Councilman Garruzzo and unanimously approved, all aye. The meeting was adjourned at 10:00 p.m.

Karen Brisben, Recording Secretary

Approved: March 14, 2017
