

Tuesday, December 8, 2020

BRIELLE PLANNING BOARD
TUESDAY, DECEMBER 8th, 2020

The Regular Meeting of the Brielle Planning Board was held on Tuesday, December 8th, 2020 at 6:00 p.m. virtually. Ms. Trainor read the OPMA compliance statement. After a moment of silent prayer and a Salute to the Flag roll call was taken.

Present – Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Glenn Miller, Corrine Trainor, James Maclearie, Christian Siano, Karen Brisben and Andrew Chermak

Absent – Madeline Ferraro

Also present were David Clark, Board Attorney, Alan Hilla, Board Engineer and Carol Baran Recording Secretary.

A motion was made to approve the Minutes of November 10th, 2020, this done by Mr. Stenson, seconded by Mr. Maclearie and approved by unanimous vote, all aye.

CORRESPONDENCE: Copy of CAFRA notice for 504 Green Avenue, Block 59, Lot 5-5.01, owned by Michael & Christine Granite, to allow reconstruction of home, dock & bulkhead.

Copy of CAFRA notice for 306 Fisk Avenue, Block 48.01, Lot 14.02, owned by Eric & Charity Leonhardt, to allow construction of a recreational dock.

September-October issue of the New Jersey Planner

OLD BUSINESS:

Resolution of Approval for Site Plan/Use Variance for Block 54, Lots 1-2 & Block 58.01, Lot 2, 101-103 Ocean Avenue & 1 Ocean Avenue, owned by 1 Ocean Road, LLC (Applicant – Paradise Hospitality, LLC) to allow expansion of The River House Restaurant.

RESOLUTION OF APPROVAL OF THE BRIELLE BOROUGH PLANNING BOARD, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY WITH RESPECT TO THE APPLICATION OF PARADISE HOSPITALITY, LLC SEEKING SITE PLAN APPROVAL AND VARIANCE RELIEF FOR CONSTRUCTION OF ADDITIONS TO A MULTI-STORY RESTAURANT AND OTHER SITE IMPROVEMENTS ON THE PROPERTIES LOCATED AT 1 OCEAN AVENUE AND 101-103 OCEAN AVENUE WHICH ARE IDENTIFIED ON THE TAX MAP OF THE BOROUGH OF BRIELLE AS BLOCK 58.01, LOT 2 AND BLOCK 54, LOTS 1 AND 2

WHEREAS, Paradise Hospitality, LLC (the “Applicant”) filed an application with the Planning Board of the Borough of Brielle (the “Board”) seeking site plan approval and variance relief for certain site improvements to the properties located at 1 Ocean Avenue and 101-103

Ocean Avenue which are identified on the Borough tax map as Block 58.01, Lot 2 and Block 54, Lots 1 and 2 (collectively, the “Property”); and

WHEREAS, the portion of the Property located at 1 Ocean Avenue, Block 58.01, Lot 2 in Brielle (the “Restaurant Lot”) is an approximately 24,704 square foot lot that is currently the site of a multi-story restaurant and banquet hall known as the Brielle River House along with a 17 space parking lot; and

WHEREAS, the portion of the Property located at 101-103 Ocean Avenue, Block 54, Lots 1 and 2 (the “Parking Lot”) is approximately 26,717 square feet and is the site of a 70 space parking lot that provides parking for the Brielle River House; and

WHEREAS, the Property is located within the Borough’s Marine Commercial (C-2) zone; and

WHEREAS, restaurants are permitted as conditional uses within the Borough’s C-2 zone so long they are part of a marina complex; and

WHEREAS, a restaurant has operated on the Restaurant Lot for over forty years; and

WHEREAS, since some time in mid 1990’s, the Restaurant Lot has been subdivided and separated from the nearby lot containing the marina complex uses; and

WHEREAS, on November 4, 2019, the Borough Zoning Officer issued a Notice of Violation to the Applicant directing it to seek Board approval for certain additions that it was constructing to the Brielle River House; and

WHEREAS, consequently, the Applicant filed this application for Amended Preliminary and Final Major Site Plan Approval and variance relief (the “Application”) seeking approval to permit certain additions and renovations to the Brielle River House restaurant including: construction of a second floor mezzanine with elevator service at the northwestern corner of the existing building; an outdoor patio bar behind the restaurant with pergola to replace the recently demolished patio bar; construction of an additional stairway from the patio area at the rear of the restaurant to the second floor; a new ramp to the lower level of the restaurant at the rear of the site; along with landscaping, and other typical site improvements; all as described more fully within the Application; and

WHEREAS, all of the proposed improvements are on the Restaurant Lot and no changes are being proposed to the Parking Lot; and

WHEREAS, the Applicant is seeking the following variance relief through its Application:

D variance relief

- The Applicant is seeking a d(4) variance for the deviation from the floor area ratio (FAR) requirements of the Borough Code: maximum FAR under Borough Code is .25%; existing FAR is .47%; proposed FAR is .44%; and,
- The Applicant is seeking a d(3) variance for relief from the conditional use requirement that a restaurant be utilized in connection with a marina facility, whereas the existing restaurant is not owned or operated in connection with a marine facility on the same lot, although nearby marina facilities can access the restaurant, and for the parking space requirements where 145 spaces are required and 87 spaces with valet service are being proposed.

C variance relief

- Front yard setback (Ocean Avenue)—30 feet required; 15.5 feet existing; 10.5 feet proposed (to shed roof overhang); 13.8 feet proposed (to the building wall); 12.4 feet proposed (to the island bar); 6.5 feet proposed (to the island bar pergola).
- Side yard setback—10 feet required; 2.8 feet existing/proposed (to principal structure); 4 feet proposed (to the new stairs).

- Side yard setback (accessory)—10 feet required; 1.3 feet existing/proposed; 3 feet proposed (to the new dumpster enclosure).
- Lot coverage—25% maximum allowable; 47% existing; 44% proposed.
- Building height—35 feet maximum allowable; 35 feet existing; 38 feet 5 inches proposed (to elevator tower).
- Non-residential FAR—0.25 maximum allowable; 0.68 existing; 0.71 proposed.
- Rear yard setback—30 feet required; 10.8 feet existing/proposed.
- Water's edge setback—30 feet required; 10.8 feet existing/proposed.

WHEREAS, the Applicant submitted the following documents in support of its Application:

- (a) Boundary and Topographic Survey prepared by Justin J. Hedges, PLS, dated July 26, 2018;
- (b) Limited Topographic Survey prepared by Thomas Ertle, PLS, dated January 18, 2018;
- (c) Architectural Plans (11 sheets) prepared by Daniel M. Condatore, R.A., dated December 9, 2019, last revision (sheets Z-2, Z-3, and Z-5.1) dated July 27, 2020;
- (d) Landscaping Improvements Plan (Sheet L-101) prepared by A.M. Alexander, Licensed Landscape Architect dated January 22, 2020, last revision dated March 10, 2020; and
- (e) an Application package which includes a Notice of Violation from the Zoning Officer; and

WHEREAS, the Board was also provided with two letters dated February 25, 2020 and August 10, 2020 prepared by the Board's Engineer and Planner Alan Hilla of H2M Associates, Inc. providing a technical review of the Application; and

WHEREAS, the Planning Board held hearings on this Application on March 10, 2020, August 11, 2020, September 8, 2020, October 13, 2020, and November 10, 2020, and considered the following documents presented at the hearings in connection with this Application:

- a. Exhibit A-1--2nd Floor Area Plan;
- b. Exhibit A2--Elevations;
- c. Exhibit A3--Site Plan;
- d. Exhibit A4--pictures of pergola system;
- e. Exhibit A5--first floor layout;
- f. Exhibit A6--first floor area plans;
- g. Exhibit A7--lighting plan;
- h. Exhibit A8--Gotham Lighting plan;
- i. Exhibit A9--Landscaping plan;
- j. Exhibit A10--aerial photos;
- k. Exhibit A-11--(revised document Z2 site plan);
- l. Exhibit A-12 (revised document Z3 pergola system);
- m. Exhibit O1—photo;
- n. Exhibit O2—photo;
- o. Exhibit O3—photo;
- p. Exhibit O4—photo;
- q. Exhibit O5—photo;
- r. Exhibit O6—photo;
- s. Exhibit O-7—photo of River House deck from youtube video;

- t. Exhibit O-8—photo of River House deck with tables between the bar and the band;
- u. Exhibit O-9—photo of River House deck; and

WHEREAS, the Board considered the following testimony presented at the hearings in connection with this Application:

March 10, 2020 hearing

John Giunco, Esq. introduced this Application by stating that there have been alterations to the plans that were submitted to the Board, the main change being a reduction in the elevator tower height which reduced and/or eliminated the height variance being required. Mr. Condon asked Mr. Clark whether this change to the plans required re-noticing of the application. Mr. Clark stated that the notice provided the public with a general understanding of the approvals being sought by the Applicant and that the one change in the plans did not require re-noticing as any height variance has either been reduced or eliminated entirely due to the change in the plans. Mr. Giunco then had two people sworn in-- Dan Condatore, a licensed architect, and Barbara Ehlen, a licensed professional planner.

Mr. Dan Condatore stated his credentials, which are that he is a licensed architect in the State of New Jersey since 2008 with his own company since 2014 appearing before other Boards (but not previously before this Board). Ms. Barbara Ehlen stated her credentials, which are that she is a licensed professional planner in the State of New Jersey with Beacon Planning and Consultants since 2008 appearing before other Boards (but not previously before this Board). The Board accepted the qualifications of both professionals.

Mr. Condatore stated that he prepared the plans for the Application, analyzed the Municipal Ordinances, and investigated the history of the use of the Property. Mr. Condatore stated that his company was retained at the end of 2017 when his client took over the operating business at the River House. Mr. Condatore testified that in the winter of 2018 the owner obtained building permits to undertake some renovations to the bar on the marina side. Mr. Condatore explained that in the summer of 2018 the Property was operational as it had existed as a modified restaurant, existing patio and two-story banquet facility. Mr. Condatore described the restaurant over the last thirty years and that it developed with different levels as the building was updated. He stated that the Applicant wanted to give the building a new fresher look, more unified. In speaking to the Zoning officer Mr. Condatore discovered that the structure had some non-conformities and asked what could be done to the Property. Mr. Condatore stated that he was told that if they stayed within the existing footprint, they could make improvements to the Property. Mr. Giunco asked Mr. Condatore to explain what he meant by existing footprint and what they relied on. Mr. Condatore explained they used past approvals from the Borough. Mr. Condatore explained they filed zoning plans to be able to move forward. Mr. Condatore testified that is when demolition began and they noticed issues, such as ADA compliance issues, sloping floors and leaking skylight.

Mr. Condatore stated they discovered more issues such as the original concrete patio located under the wooden deck. The applicant went back to the Zoning Officer with a subsequent application to replace the patio in its place. Mr. Condatore had hoped to find existing plans for that bar, but they did not, so they concurred they did not have the right to replace the bar back. Mr. Condatore

testified they wanted to add the half story for the bridal suite. Mr. Condatore continued they were here today to ask for these things and also to seek permission to install pergolas.

Mr. Giunco asked Mr. Condatore if the building is built on the same foundation and he responded it is on the same foundation. Mr. Condatore explained there was a basement with all the utilities which they wanted to preserve. Mr. Giunco asked if they continued to build until they reach these issues and Mr. Condatore responded yes. Mr. Giunco asked Mr. Condatore how many seats were in the prior approval. Mr. Condatore responded that he could not find an approved occupant load and the applicant was relying upon the seating capacity which had historically operated at the site in the past which, based upon his investigation, is approximately 160 people for the banquet facility, 100 people for the patio/bar area, and 75 people for the smaller restaurant lower level. Mr. Condatore felt the current application filed before the Board is consistent with the historic use of the property. Mr. Condatore explained they increased some of the accessory uses. Mr. Condatore stated this Property had been operating with 87 parking spaces in the past.

Mr. Giunco asked Mr. Condatore to explain what the applicant has come to the Board to seek. Mr. Condatore marked Exhibit A1-- 2nd Floor Area Plan. Mr. Condatore explained the purpose of the exhibit is to show the relationship between what the existing floor was and what the applicant is proposing. He explained that the existing 2nd floor plan was 4490 square feet and the existing patio was 641 square feet. The square footage represented a reception area, small office, exterior patio, small kitchen space and outdoor stairways. Mr. Condatore explained that the Applicant has reduced the building area of the second floor and proposes to create a ceremony area covered by a pergola for ceremonies and photographs. The Applicant is also proposing to flatten the roof to the first-floor bar which will reduce the 2nd floor building area and increase to deck area. Mr. Condatore stated that the use of the space will be strictly for ceremony and photographs. Mr. Giunco asked Mr. Condatore about the proposed Bridal Suite area. Mr. Condatore explained that the Bridal suite is in the mezzanine area in the front of the building, approximately 285 square feet. Mr. Giunco asked if that was included in the 3872 square feet and Mr. Condatore responded it was not included and constitutes additional square footage. Mr. Giunco asked the purpose of the mezzanine and Mr. Condatore replied for the Bride to get ready and spend time with the Bridal party.

Mr. Condatore marked Exhibit A2 - Elevations. Mr. Clark asked if this exhibit showed the changes and Mr. Condatore replied no but he would point out the things that did change.

Mr. Condatore explained when building an elevator there is a minimum height needed for the overrun beyond the elevator's stop. According to Mr. Condatore, he felt that this overrun would not be included in calculating height restrictions but that Ms. Elissa Commins, the Borough Zoning Officer, said that it should be included. Mr. Condatore testified that the Applicant could reduce the height of the elevator and eliminate the need for this variance. Mr. Condon asked if the elevator had been installed and Mr. Condatore answered no they would not even order it until they receive approval from the Board.

Mr. Condatore introduced Exhibit A3 - Site Plan. He explained this exhibit shows the replacement of the patio bar. Mr. Condatore explained that the change would level out the bar area which had no access from the parking lot. The four-sided bar comes under the proposed pergola area. Mr. Giunco asked Mr. Condatore to explain the pergola. Mr. Condatore stated that the pergola is a

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premanufactured aluminum system that is automated to open for nice weather and close for inclement weather. Mr. Condatore shared pictures of the pergola system and marked it as Exhibit A4. Mr. Giunco asked Mr. Condatore to put Exhibit A1 back up to show where the proposed pergola would cover the bar and where a second pergola would cover the ceremony space.

Mr. Condatore went back to Exhibit A3 to show the stairway. He explained that the stairway would exit the second floor down to the main patio. Mr. Giunco asked if with all these proposals does the footprint remain the same and Mr. Condatore responded yes that is correct. Mr. Condatore marked Exhibit A5 – first floor layout. Mr. Condatore explained the exhibit shows the changes which are 7892 square feet existing and 7856 square feet proposed, existing patio remains the same, and four additional structures: three existing cooler boxes and a 91 square foot existing valet. Mr. Condatore explained they were trying to refresh the whole building. Mr. Giunco asked Mr. Condatore to explain in more detail the patio/bar area. Mr. Condatore stated they were replacing the existing awning with the pergola. Mr. Condatore marked Exhibit A6 – first floor area plans and explained how it relates to canopy and pergola area. Mr. Condatore explained there were several canopies in the original restaurant, they propose to put small canopies over the front entrance, walk to the back and a pergola over the bar area. Mr. Giunco asked Mr. Condatore if he had lighting plans. Mr. Condatore introduced Exhibit A7 - lighting plan and explained the decorative fixtures on the path, railing lighting, existing parking lot lighting not being changed, and the pergola comes with lighting. Mr. Giunco asked Mr. Condatore if he was asking the Board to approve an alternative lighting plan which would light the same area without additional spill over and Mr. Condatore replied yes. Exhibit A8 - Gotham Lighting plan was introduced, marked and explained by Mr. Condatore.

Mr. Giunco asked Mr. Condatore about the proposed ground level ramp and Mr. Condatore responded yes and it will be ADA compliant. Mr. Condatore introduced and marked Exhibit A9 - Landscaping plan. Mr. Condatore explained that the proposal includes sealing and filling in the cracks and restriping and cleaning existing landscape for parking lot and also the main entrance paver path with awning and backside for ADA accessibility. Mr. Condatore stated in Mr. Hilla's review there was a small step access which went slightly over and that will be moved so that it is within the property lines.

Mr. Condatore responded to Mr. Giunco's reference to the ADA ramp by explaining how the ramp will have a decorative handrail on one side and provide access to first floor. Once someone is inside the elevator will provide access to the other floors. Mr. Giunco asked if Mr. Condatore would work with Mr. Hilla on the landscaping for remote parking lot and Mr. Condatore responded that he would absolutely do so.

Mr. Giunco asked if the valet service would be provided to all the banquets, Mr. Condatore responded he could not answer that would be a question for the ownership. Mr. Giunco asked about the trash area and Mr. Condatore replied there is an existing gate along the back, they will update, and trash is picked up privately.

Mr. Giunco asked in reference to Mr. Hilla's letter would Mr. Condatore be able to comply with the requirements of the letter and work together with Mr. Hilla, Mr. Condatore responded yes. Mr. Giunco added it his understanding they would provide valet service for all banquets and on busy

weekends if there was no banquet. Mr. Hilla wanted to clarify the variance relief on the parking. Mr. Giunco asked Mr. Condatore about the ADA spaces. Mr. Condatore replied that there are 4 ADA spaces required (see Exhibit A3) and that the proposed 4 ADA spaces take away two spaces from the plans so that 87 spaces goes to 85 spaces with the Handicap parking. Mr. Hilla asked if the rear deck would be level and Mr. Condatore responded yes level with the lower level which will make it easier to be compliant with ADA requirements. Mr. Hilla asked about the exterior stair and Mr. Condatore responded it would be for staff and will be controlled.

Mr. Hilla asked how many seats at the proposed bar compared to the original and Mr. Condatore responded the bar is slightly larger than the original, he estimated 40 people and added they would lose tables and chairs. Mr. Hilla explained the original canopies were temporary and had been approved in the past, but that the last owner was told ten years ago they would need to come to the Board for approval to replace the temporary canopies with something more permanent. Mr. Hilla asked for Mr. Condatore to explain the roof elevations. Mr. Giunco introduced and marked Exhibit A10 – aerial photos. Mr. Condatore responded to Mr. Giunco that only the roof lines were part of the permit issued. Mr. Condatore explained the roof lines. Mr. Giunco asked Mr. Condatore to clarify the top two photos were existing building and the bottom two were what they have done so far, and he responded yes there were.

Mr. Hilla asked about the landscape plan which showed two features, one of which was a fence parallel to the curb and Mr. Condatore stated it was a mistake that was a curb line not a fence. With regard to the same drawing, Mr. Hilla also asked about a gate and Mr. Condatore said it would be a decorative structure to walk through. Mr. Giunco responded the client doesn't consider it critical but would like to have it as an attractive feature. Mr. Hilla pointed out the lighting must be fully operable in its entirety in reference to both parking lots and Mr. Condatore responded they would work with him. Mr. Condatore said they would provide an adequate lighting plan if they need to change it.

Mr. Hilla wanted to discuss the railing at the dock, he asked Mr. Condatore to explain. Mr. Condatore used Exhibit A10 to show the access off the dock to get to lower restaurant, as a safety measure they propose a guardrail, not occupied space. Mr. Hilla asked if there were different levels between the restaurant and the dock and Mr. Condatore responded yes. Mr. Hilla wanted clarification they were not expanding the area and the plan should be amended accordingly. Mr. Condatore agreed. Mr. Condatore responded to Mr. Hilla's item #11 stating they would work with a contractor to take care of the jetting.

Mr. Condon stated we would address the letter from Mr. Houseal at the next meeting. Mr. Condon opened the meeting up to the public. Mr. Tom Stuhmann, 106 Ocean Avenue, came forward. Mr. Stuhmann asked Mr. Condatore about an outdoor patio. Mr. Condatore responded the area did increase because of flattening the roof and that the areas would be used for short periods of time for the ceremony and photographs. Mr. Stuhmann asked if there would be amplified music on the outdoor patio on the upper floor and Mr. Condatore responded no. Mr. Stuhmann asked if there would be amplified music on the lower level. Mr. Condatore responded there would be some music, a small band or single acts.

Mr. G Kevin Callahan, 205 River Mist Way, came forward and asked to see the roof line exhibit and for Mr. Condatore to explain the roof line. Mr. Callahan asked the square footage of the deck area. Mr. Condatore responded 1200 square feet currently and it was originally 641 square feet. Mr. Callahan asked if the owners were going to testify and Mr. Giunco responded he did not plan to have them testify. Mr. Callahan asked the use of the deck area and Mr. Condatore responded for formal ceremonies. Mr. Callahan asked if the restaurant would have access to the stairway and Mr. Condatore responded it would be a controlled stairway not open to the public. Mr. Callahan asked if there would be music and Mr. Giunco responded indoors there would be music and Mr. Condatore responded no music outdoors. Mr. Callahan asked about the drainage and Mr. Condatore responded it connects to the internal drains which can be seen in the photo. Mr. Callahan asked the size of the pergola, Mr. Condatore responded the height is a 9ft. flat top pergola and approximately 35 x 35. Mr. Callahan asked how they would shield the residents from the deck and Mr. Condatore responded they would put a fabric fixed screen along the property line. Mr. Callahan asked about the trash location and Mr. Condatore responded it is the same location as was existing. Mr. Callahan expressed complaints regarding the noise from dumping the bottles and cans into the recycling containers and Mr. Condatore said he would address that issue with the owners.

Mr. Callahan asked to submit six photos which were marked as Exhibits O1-6. Mr. Callahan asked Mr. Condatore if they were exhaust fans seen in photo 1 and Mr. Condatore responded yes, they were existing. Mr. Callahan asked if screening would be put up to block HVAC system. Mr. Condatore said yes, they could. Mr. Callahan asked Mr. Condatore to confirm that photos 3 and 4 showed the deck and its height. Mr. Callahan asked about stairs that come off the back and Mr. Condatore responded that service stairway was staying. Mr. Callahan asked about the ratio for square footage whether it included the coolers. Mr. Condatore responded it does not, he did not feel they should be but if it does, they will be added. After doing some research Mr. Condatore responded they already were included.

Mr. Callahan asked about the fencing and access from the marina. Mr. Condatore responded that there is an entry from the marina to the restaurant and they felt as a matter of safety that would like a railing on the wooden deck area. Mr. Giunco added the fence would remain and they would add a fence for safety so there is no question about additional space. Mr. Callahan questioned the mention of stairs that are not on their property area. Mr. Condatore responded there is an existing stair and when they rebuild it will be within the boundaries.

Mr. Howard Dubinett, 100 Ocean Avenue came forward and was sworn in. Mr. Dubinett expressed his dislike of the easement being cut off by a fence and Mr. Condatore responded that was part of their plan for safety, but they would not do anything which is illegal. Mr. Dubinett asked about the lighting plan which he felt was not submitted. Mr. Condatore assured him that they had submitted a lighting plan and would address it accordingly. Mr. Dubinett asked if there would be larger weddings and Mr. Condatore responded nicer weddings, not larger ones.

Mr. Condon read Lt. Boyd's response letter which stated the Department has reviewed the application and it had no additional stipulations. Mr. Condon asked if there were any more questions from the public. Hearing none, Mr. Condon closed that portion. Mr. Condon then turned to the Board for questions. Mr. Stenson asked for clarification on the square footage whether the

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1851 included the ceremony space and Mr. Condatore replied it did include that space. Mr. Stenson also asked if they had increased the total space by 1300 square feet and Mr. Condatore replied yes. Ms. Trainor asked referencing Exhibit A-1, if the ceremony space can be accessed after the ceremony and Mr. Condatore yes it could be accessed by the wedding attendees. Ms. Trainor stated her concern with the noise and asked if it could be restricted. Mr. Condatore stated they could restrict that space. Ms. Trainor asked where the elevator tower appeared on the footprint. Mr. Condatore used Exhibit z8 to point out the small roof area in the top right corner which he called a hip roof. Mrs. Siano asked if the area for the ceremony would not be accessed after the ceremony and Mr. Condatore replied that is how it is being proposed. Mr. Miller asked if the capacity had been increased for the wedding and Mr. Condatore replied they have not increased it; the reception space remained the same. Mr. Maclearie asked what the third floor was before the addition, and Mr. Condatore responded there was nothing it was more like an attic space. Mr. Maclearie asked if they had picked up more square footage because of the bridal space and Mr. Condatore said no they had removed a total of 618 square feet from the back which was administrative offices. Mr. Maclearie asked if the third floor of the elevator was for the bride and her bridal party and Mr. Condatore responded yes. Mr. Maclearie asked if this fell under the marine commercial zone and Mr. Giunco replied this is the existing condition. Mr. Condon asked Mr. Hilla to shed some light. Mr. Hilla responded the property was originally a part of the Brielle Yacht Club development, this property with the parking across the street and the marina in the mid 80's. He continued it was developed all at the same time, it was proposed and ultimately approved all at the same time as one project even though they are two blocks apart. Mr. Maclearie talked about no music upstairs on the outdoor space and Mr. Condatore replied there would be music in the reception space and the outdoor deck area but no music on the ceremony space.

Mr. Condon asked Mr. Hilla why the elevator shaft wouldn't be considered like a chimney on the side of a house and Mr. Hilla responded he did not know. Mr. Giunco asked if he could respond. Mr. Giunco interpreted the Borough ordinance similar to many which provide for mechanicals and elevator shafts on the second or third floor roof area but not on the roof line. Mr. Hilla added our ordinance does list many things but not elevator shaft specifically.

Mr. Condon asked if the elevator goes to the Bridal suite and if there is a staircase just in case of emergency and Mr. Condatore replied yes and there is a direct connection between the Bridal suite and reception space. Mr. Condon asked if anyone would be able to go the Bridal suite from the reception space. Mr. Condatore replied there are ways to control that access. Mr. Condon asked if there were means to dampen the music on the lower level. Mr. Giunco responded they could investigate it but the residents to the westward side would be blocked by the building. Mr. Giunco added he would consult with his clients and get back to the Board.

Mr. Condon announced this application would continue at the next meeting which is April 7th, 2020. Mr. Condon also announced no further noticing would need to be made by the Applicant.

August 11, 2020 hearing

Mr. John Giunco, attorney for Paradise Hospitality, LLC, stated this is a continuation from the hearing on March 10 in which testimony from their architect, Mr. Dan Condatore was presented.

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Mr. Giunco added that both Mr. Condatore and Ms. Barbara Ehlen, planner, had been sworn in and accepted as experts.

Mr. Clark confirmed that both witnesses were under oath and had already been accepted as experts.

Ms. Brisben announced that both she and Ms. Ferraro listened to the March 10th meeting and that they are therefore both eligible to vote.

Mr. Giunco began his questioning of Mr. Condatore by asking him if he had considered the questions that were raised by adjoining property owners and what were the two biggest issues. Mr. Condatore stated the operations alongside the yard between the building and the adjacent property, where the residents live, as far as removing trash which has resulted in some modifications to the plans. The second issue is the ceremony space on the second floor. Mr. Condatore testified that they were asked to provide some sort of screening for visual and sound. Mr. Condatore stated that he has prepared some new exhibits showing the changes made by the applicant to the plans.

Mr. Giunco asked Mr. Condatore if each of these exhibits were prepared under his direction and submitted to the Board. Mr. Condatore responded yes.

Mr. Condatore displayed Exhibit A-11 (revised document Z2). Mr. Condatore testified that what he is presenting is a site plan. Mr. Condatore stated that along the west property line, they are proposing a 10 x 10 dumpster area with a gate and a roof that faces away from the residents which can be seen in the top left of exhibit.

Mr. Condatore displayed Exhibit A-12 (revised document Z3) which represented the pergola and reception area. Mr. Condatore stated that they are proposing a 9-foot screen wall to shield the view for the ceremony and to mitigate the sound. Mr. Condatore stated that on this plan there is an existing mechanical area and they are proposing a four-foot screen wall to shield the existing mechanical equipment. Mr. Condatore testified that along the back of the wall is a series of 6 x 6 posts that they will be screening with an Azek TimberTech 1X6 or Adobe Clad with tight joints on both sides. Mr. Condatore stated that this will be very appealing for the ceremony and neighbors and the density of the Azek will absorb sound and deflect it. Mr. Condatore stated that they are proposing a gate be installed to help control the accessibility of the ceremony space by people after the ceremony. Mr. Condatore testified that this gate would be closed after the ceremony. Mr. Condatore stated that people would be able to access the outdoor reception deck. Mr. Condatore testified that the outdoor bar will be able to fit 31 stools. Mr. Condatore stated that the bar is a standard bar with granite or quartz bar top with a center island of equipment covered with a pergola system. Mr. Condatore referred to document Z5-1 to show the location of the trash enclosure in relation to some of the existing structures, the coolers.

Mr. Condatore stated that he had received a letter dated August 10th from Mr. Hilla and would like to touch on a few points raised in the letter. Mr. Condatore testified that the applicant has added handicap spaces that would be accessible through the parking lot to a walkway, alongside the building, into an ADA ramp. Mr. Condatore added that this will bring a person up approximately two feet to a deck level with the first floor.

Referring to document Z-9, Mr. Condatore testified that this exhibit shows that the pergola will be put over the bar area and second store ceremony space. Mr. Condatore stated this optical system will provide sun and shade and that they have no intention of closing any of the sidewalls.

Mr. Giunco asked Mr. Condatore to speak about the elevator shaft and the reduction of the height. Mr. Condatore testified they could rebuild the roof within the beam, instead of on top of the beam, which should eliminate six inches from the overall height so that the height is down under the 10% so that it will be a "c" variance rather than a "d" variance. Mr. Giunco asked Mr. Condatore for an example of the pergola in operation nearby, Mr. Condatore responded that he believes the Manasquan River Yacht Club has this pergola system in use. Mr. Giunco stated that he had no other questions for Mr. Condatore.

Ms. Trainor asked if there was anyone from the public that had questions for Mr. Condatore. Mr. Donald Gordon and his fiancé Ms. Caran Marra who reside at 206 River Mist Way were sworn in by Mr. Clark.

Mr. Gordon asked what the height of the pergola is. Mr. Condatore replied that the height of the pergola is 9 feet, which is less than what was previously there. Mr. Gordon asked Mr. Condatore what the plan for lighting is. Mr. Condatore stated that there are little LED lights that shine down and produce a glow. Mr. Gordon asked Mr. Condatore if the rooftop is going to be used for ceremonies. Mr. Condatore stated that the rooftop is used for the ceremony and for photographs. Mr. Gordon asked Mr. Condatore if everyone celebrates downstairs. Mr. Condatore replied that the reception is on the second floor. Mr. Gordon asked Mr. Condatore what time the ceremonies end. Mr. Condatore stated that he would not be able to answer that question. Mr. Giunco stated that the next witness, Barbara Ehlen, would be able to discuss the hours of operation. Mr. Gordon asked Mr. Condatore if they are proposing a wall or screen. Mr. Condatore answered that they are proposing a screen wall, which is a solid wall, about 8 inches thick and 9 feet high. Mr. Gordon asked Mr. Condatore if the initial plan was for a mesh screen. Mr. Condatore replied that was correct but based on the last hearing and some of the public's concerns, the applicant has made it more of a permanent structure. Mr. Gordon asked Mr. Condatore what the change was based on. Mr. Condatore stated concerns of the neighbors, the inadequacy of the mesh to block sound and the permanency of it. Mr. Gordon questioned what material is being used and the height of the material versus the initial scenario of the mesh and the pros and cons of both. Mr. Condatore answered that along the sidewall they are installing 6x6 posts every 3 to 4 feet based on the structure and on either side of the post they will use a 1x6 Azek decking. Mr. Condatore stated that there will be horizontal boards put tightly together with no space from the ceremony floor to the top of the posts at 9 feet high. Mr. Condatore testified that aesthetically and functionally this is a much better solution. Ms. Trainor asked Mr. Gordon and Ms. Marra if either had any other questions. Mr. Gordon and Ms. Marra replied that they did not.

Ms. Trainor asked if there was anyone from the public that had questions for Mr. Condatore. Mr. Thomas Stuhmann who resides at 106 Ocean Avenue was sworn in by Mr. Clark.

Mr. Stuhmann stated that he had three photographs that he would like to present. Mr. Stuhmann started with photograph number 3, which was a photograph of the River House deck from a YouTube video. Mr. Clark marked this photograph as Exhibit O-7. Mr. Stuhmann asked Mr.

Condatore where the bar would sit in relation to the previous bar. Mr. Condatore responded that the bar is pretty much at the center of where the bar was previously located. Mr. Condatore stated that the bar that they are proposing is square and shorter. Mr. Stuhmann asked if there will be tables for people to sit at. Mr. Condatore stated that on Exhibit O-7 where the tables are shown on the right towards the main building is where an elevated deck area is for ADA access. Mr. Condatore stated that the little table area in Exhibit O-7 is smaller than what exists today. Mr. Stuhmann asked if the band will remain with their backs to the building and facing the water. Mr. Condatore responded that he did not know that answer. Mr. Giunco stated that the applicant did not have a plan about live music at the bar but if they did, it would be facing the river with the building behind them and all amplifiers, and other band equipment would be pointed towards the south. Mr. Stuhmann stated he was concerned if the area would be large enough for a dancing, nightclub environment at night. Mr. Stuhmann asked Mr. Condatore if there would be people seated at the tables and if it would be kept as a sit-down place. Mr. Condatore stated that they do not have a definitive seating chart and that the owner did not intend to change the existing operation.

Mr. Stuhmann asked if he could present photograph number 2. Mr. Clark marked this photograph as O-8. Mr. Stuhmann stated that this picture reflects tables between the bar and band. Mr. Clark asked Mr. Stuhmann to describe where this picture comes from. Mr. Stuhmann responded that there is a whole set of tables between the bar and the band. Mr. Stuhmann asked that photograph number 1 be presented. Mr. Clark marks this photograph as Exhibit O-9. Mr. Stuhmann stated that this picture shows people sitting at the bar, people at the tables and a low-key band. Mr. Stuhmann asked if it would be possible to keep the tables there. Mr. Condatore responded that they plan to keep the tables there. Mr. Stuhmann stated that he had no further questions.

Mr. Giunco stated that he was able to communicate with his client regarding the location of the band, relative to the tables. Mr. Giunco stated that if the board was inclined to approve the application with that condition, his client would be pleased to accept. Mr. Giunco stated that this would have the least impact to the adjoining residents. Ms. Trainor asked Mr. Giunco to clarify that they would be willing to keep the location of the band and the location of the tables as represented in the testimony. Mr. Giunco stated that this is correct, and they would follow the outline that was presented. Mr. Giunco testified that the band will play with its back to the building, the tables would be present and there would not be a stand-up crowd around the band.

Ms. Trainor asked if there was anyone from the public that had questions for Mr. Condatore. Dr. Salvatore Iradi who resides at 303 River Mist Way was sworn in by Mr. Clark

Dr. Iradi asked Mr. Condatore if the 9-foot fence that will be facing towards the residential area will encircle the entire deck. Mr. Condatore responded that the fence would just face the residential area. Dr. Iradi asked Mr. Condatore if there is a proposal to have a stairwell from the lower deck to the upper deck. Mr. Condatore responded yes. Dr. Iradi asked Mr. Condatore how they intend to minimize people from going from the lower deck to the upper deck after the wedding has ended. Mr. Condatore replied that they will be closing it off from the reception on the second floor and it is up to operations to control that area. Dr. Iradi asked Mr. Condatore what the purpose of steps were. Mr. Condatore responded that the purpose of the steps is because they are the only other means of egress from the second floor. Dr. Iradi stated that he had no further questions.

Ms. Trainor asked Mr. Giunco if he any questions that he would like to ask Mr. Condatore to clarify. Mr. Giunco asked Mr. Condatore to address the sound attenuation on the second floor. Mr. Condatore stated that the screen wall will connect the building on the second floor to the open air with the ceremony space. Mr. Giunco asked Mr. Condatore if there is a solid wall where the dining is for the reception, that the ceremony area is open to the south and to the river for the view and if it is closed off as it goes to the west by virtue of the sound attenuation installed. Mr. Condatore testified that that is correct. Mr. Giunco asked Mr. Condatore if everything except that area is under the roof and what is above the ceremony area is the pergola system and Mr. Condatore replied the pergola is above the ceremony area. Mr. Giunco asked Mr. Condatore if they are able to direct sounds away from those residents to the west with those static techniques. Mr. Condatore responded yes; the purpose of the sound wall is to direct the sounds away from the residents. Mr. Giunco asked Mr. Condatore if any steps have been taken to assure that the lighting will be directed away from the western side. Mr. Condatore testified that the lighting fixtures are below the screen wall so you would not be able to see the lighting source. Mr. Giunco asked Mr. Condatore in his opinion could any additional steps be taken to limit sound to the west. Mr. Condatore answered not currently, they have done the best they could do in the situation. Mr. Giunco asked Mr. Condatore if they are using up to date standard techniques and materials that are most efficient. Mr. Condatore stated that they are.

Ms. Trainor asked if there any other members of the public that had questions for Mr. Condatore. Mr. Howard Dubinett whom resides at 100 Ocean Avenue was sworn in by Mr. Clark.

Mr. Dubinett asked Mr. Condatore if he had any idea about the volume or how many pieces would be playing in the band that plays with its back to the building. Mr. Condatore responded that this is more of an operational question so he would not be able to answer this question. Mr. Giunco stated that he would be able to provide this information through their planner's testimony. Ms. Brisben commented that the Board will probably be addressing the music and loudness at another meeting. Ms. Trainor asked Mr. Dubinett if he had any other questions for Mr. Condatore. Mr. Dubinett responded that he would reserve his questions for later.

Ms. Trainor asked if there any other members of the public that had questions for Mr. Condatore. Mr. Kevin Callahan indicated that he had questions for this witness. Mr. Clark stated the Mr. Kevin Callahan was sworn in and testified at the last hearing. Mr. Clark asked Mr. Callahan to state his address for the record. Mr. Callahan stated that he resides at 205 River Mist Way.

Mr. Callahan stated that he had some questions for Mr. Condatore about the square footage that he had indicated has been reduced from what it was previously. Mr. Callahan testified that when he looked at document Z-5.1, he sees two bays that are in red that were apparently demolished and removed. Mr. Callahan asked Mr. Condatore if that accounts for the difference between the previous square footage and the current square footage. Mr. Condatore answered no, they also removed an enclosed building area on the second floor. Mr. Callahan asked Mr. Condatore if the deck measurements were included in the square footage. Mr. Condatore replied, he believes that he previously testified that the deck area is increased. Mr. Callahan asked about the space where the building was taken down and replaced with a deck if Mr. Hilla could indicate whether that deck area is part of the square footage calculation. Mr. Hilla responded that it is counted for square

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footage, as he understands it, for at least the parking requirements but he does not think it counts as enclosed space.

Mr. Callahan asked Mr. Condatore how the dumpster they are proposing is going to reduce the noise. Mr. Condatore responded that the sound of the dumping is being deflected within the enclosed space. Mr. Callahan asked Mr. Condatore to confirm that it is going to be 8-foot-high with a metal roof and doors. Mr. Condatore responded, yes. Mr. Callahan asked Mr. Condatore if there will be a removable dumpster inside. Mr. Condatore answered that he did not know if there will be individual cans or 1- or 2-yard dumpsters. Mr. Condatore stated that he did not know the operation of the trash, but he could get that information. Mr. Callahan asked if they could eliminate the noise of bottles and cans that happen at 10, 11, 12 by moving it to 8 o'clock in the morning. Mr. Condatore responded that they could discuss that operational issue with the owner. Mr. Giunco stated that the whole intent of enclosing that dumpster is to limit the sound and the optics make it look better. Mr. Giunco stated that that is why they put a roof on it, to block the sound from going up and being an irritant.

Mr. Callahan stated that on the upper deck there is a doorway that accessed a stairway going down to the rear of the kitchen. Mr. Callahan asked Mr. Condatore if it is correct that a void has been left where the stairwell was. Mr. Condatore answered that was correct, the stair was removed but the slope ceiling which went over the stairwell remains in place. Mr. Callahan asked Mr. Condatore if the deck had been expanded over to fill that void of the stairwell. Mr. Condatore replied that it had not. Mr. Callahan asked Mr. Condatore if the stairwell could be restored and the kitchen could be accessed from the back of the building instead of from the front patio area. Mr. Condatore answered that it is more of an egress there than an access to the back of the kitchen. Mr. Condatore asked if there are other means to service the second floor from the kitchen within the building. Mr. Callahan asked Mr. Condatore if that is the case, why is there a need for this front stairwell. Mr. Condatore responded they need two means of egress for emergencies out of the second floor. Mr. Callahan asked Mr. Condatore why a third egress would be needed if you have the entrance at the front of the building and this stairway off the back of the building is restored. Mr. Condatore replied that they eliminated the one that goes to the back, that stairway is no longer there and is not going to be rebuilt and that the second means of egress turns towards the open deck so they could egress safely to the side street. Mr. Callahan asked Mr. Condatore if the rear stairway could be reinstalled and if reinstalled, it could eliminate the possibility of the public coming onto the deck. Mr. Condatore responded that it could be restored but that is not what the applicant is planning to do. Mr. Condatore replied that they don't want people egressing through the back of the house which is like a storage area and from a life safety standpoint, the stairs go to the open deck and the applicant will work with the owner to control access through the operations of the building after the ceremony is over.

Mr. Callahan asked if he could look at Exhibit O-7. Mr. Callahan asked if there were two bars down on the patio. Mr. Condatore responded, yes, that there is one underneath the metal roof which is enclosed as an interior bar for the reception and cocktail hour. Mr. Giunco asked Mr. Condatore if this plan has been revised it and have, they enclosed the bar area. Mr. Callahan asked Mr. Condatore if it had a roof area above it as shown in O-7 and that roof extended beyond the end of the interior reception area. Mr. Condatore agreed that that was correct. Mr. Callahan asked if it covered the bar area and if that had been changed to a deck area. Mr. Condatore responded that it

is part of the interior space. Mr. Callahan asked Mr. Condatore if the area below the roof area has been enclosed. Mr. Condatore replied yes. Mr. Callahan asked Mr. Condatore if it had been enclosed before. Mr. Condatore responded that there were partitions that were put up there whether permanent or not, they did enclose it at some points. Mr. Callahan stated that there were no walls. Mr. Condatore replied that there was glass put in there at some point. Mr. Giunco asked Mr. Callahan if that is what the applicant is proposing. Mr. Condatore responded no; they have folding doors. Mr. Callahan stated that what he was talking about is down on the ground level, where the second bar was against the wall of the building and completely open around except for the metal roof. Mr. Callahan asked Mr. Condatore if that was correct. Mr. Condatore responded that is correct. Mr. Callahan asked Mr. Condatore if that is area is now becoming enclosed. Mr. Condatore replied, yes. Mr. Callahan asked Mr. Condatore if the metal roof that was above that open bar has been changed and has become a deck area. Mr. Condatore responded, yes. Mr. Callahan asked if this deck area is being added to the ceremony deck except you are calling it the reception area. Mr. Condatore responded, yes. Mr. Callahan asked Mr. Condatore if the deck area has been included in any of the calculations or the enclosure in your square footage. Mr. Condatore replied, yes and it is all in the existing calculations that were presented and submitted in the original submission.

Mr. Callahan asked if the building is a non-conforming structure as far as satisfying setbacks. Mr. Condatore responded yes, all preexisting at that back area. Mr. Callahan asked Mr. Condatore if the setback under code, between the property line, that separates the condominiums from the restaurant is 10 feet. Mr. Condatore answered that he believes that Mr. Callahan is correct. Mr. Callahan questioned Mr. Condatore if the wall that is proposed, if it is physically possible for the wall to be set 10 feet in from the property line on the deck. Mr. Condatore replied that he would have to investigate that further. Mr. Callahan asked Mr. Condatore if it is correct that in the previous operation, that outside deck, the activity was blocked from his property by the structure that was there. Mr. Condatore responded that that was correct. Mr. Callahan asked Mr. Condatore if now after taking that structure down, the party moves right out to 2 feet from his property line. Mr. Condatore responded that he did not know how to answer the question. Mr. Callahan asked Mr. Condatore if the prior occupancy of that space was not as intrusive on their privacy as the open deck would be. Mr. Condatore answered that he feels that the applicant is screening the area in sufficiently where you would have the same sense of privacy whether it was provided by the building or the screen wall. Mr. Condatore stated that he does not think it's adversely going to impact the view and thinks flattening some of the roofs will provide the next-door residents with a better view over the top of the building.

Mr. Callahan asked Mr. Condatore where the screening of the mechanical sections, where the air conditioners are located, if the screening can be also be mounted to enclose the fan belts and the duct work. Mr. Condatore stated that he did not have a definitive answer for that. Mr. Callahan stated that he had no further questions for Mr. Condatore.

Ms. Trainor asked Mr. Giunco if he had any redirect based on Mr. Callahan's questions. Mr. Giunco stated that that he would like to wait until the next meeting so Mr. Condatore can research the issues that were raised. Ms. Trainor stated that Mr. Giunco can reserve his ability to redirect at the next meeting. Mr. Clark stated that Mr. Giunco does not have any obligation to re-notice for the next meeting. Mr. Clark stated that the Board members and/or the public may have questions

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based on what Mr. Condatore testifies at the next meeting. Ms. Trainor announced this application would continue at the next meeting which is September 8th, 2020

September 8, 2020 hearing

Mr. John Giunco, attorney for Paradise Hospitality, LLC, was unavailable for the hearing so Mr. John Sarto appeared for the Applicant. Mr. Sarto asked to stipulate to a few questions that were raised last meeting. Mr. Sarto asked to show Exhibit A-12. The question had been in reference to the screening of mechanical equipment. Mr. Sarto stated the duct work which sticks up out of the building would be relocated and the mechanicals would be screened from the property owners from the west with the same material as the ceremony space. Mr. Sarto continued by saying the Applicant would stipulate no outdoor live music with this application.

Ms. Trainor asked the Board for questions. Mr. Stenson, Mr. Miller, Mr. Maclearie, Ms. Ferraro, Mr. Siano had no questions. Ms. Brisben asked if the sound wall would be on the second floor for the bridal suite. Mr. Sarto responded yes. Ms. Brisben asked if the nine-foot-high wall would block views from the condo owners. Mr. Sarto responded the structure there previously was higher and the view would be improved. Ms. Brisben stated she sent a copy of the liquor license to the Board. Ms. Brisben stated the liquor license renewal had stipulations about the music. Ms. Brisben asked for an explanation of the operable pergola. Mr. Sarto explained the vertical blades of the pergola can be turned flat to shade on a hot day.

Ms. Trainor asked for clarification on the stipulation about outdoor music. Mr. Sarto responded there would be no outdoor music and that there would only be a microphone during the ceremony and possibly musical accompaniment during the ceremony.

Ms. Trainor stated there was concerns and questions about the inside stairwell and leaving it up to management to restrict use. Mr. Sarto replied the conditions would be a part of the resolution and enforceable by the Zoning Officer. Mr. Sarto continued by reminding the Board the stairs are for ingress safety purposes. Mr. Condatore reiterated what Mr. Sarto said on the safety purposes of the stairwell.

Ms. Trainor asked Mr. Clark for some guidance on enforcement. Mr. Clark responded the Board could put reasonable conditions on the approval. Ms. Trainor asked Mr. Hilla if he had any thoughts. Mr. Hilla recapped that the Fire Code requires an egress. Mr. Sarto stated that the Applicant would be happy to work with Mr. Hilla on effective language for signage.

Ms. Brisben read a condition from Mr. Hilla's letter, it says that "you have not mentioned soil conservation measures, and we should condition any approval on the applicant cleaning all drainage facilities incident and downstream of their site to ensure proper stormwater flow". Ms. Brisben asked if Mr. Sarto or Mr. Condatore could address that. Mr. Sarto responded, "they would agree to that".

Mr. Maclearie asked when the operable pergola is closed where does the water run; Mr. Sarto responded it drains as the existing building drains now, on to the patio then it runs off to the soil around the back area and drain as it does currently without creating additional runoff.

Ms. Trainor asked Mr. Clark for some guidance on the public asking questions. Mr. Clark responded that Mr. Condatore did not give any new testimony, so it was within the Board's discretion whether to allow more public questions. The Board allowed further public questions.

Ms. Karen Marra, 206 River Mist Way asked what the timeline is for this application. Ms. Trainor explained we could not determine the timeline due to testimony and questions from the public and the Board.

Ms. Trainor asked Mr. Sarto to present his next witness. Mr. Sarto asked the professional planner, Barbara Ehlen to state her qualifications for the Board. Ms. Ehlen is a licensed professional planner in the State of New Jersey who has qualified before several Planning Boards throughout New Jersey. The Board accepted her qualifications as a professional planning expert.

Ms. Ehlen began by explaining the property is located within the Borough's C2 zone, Marine Commercial Zone and restaurants are conditionally permitted within the district. Ms. Ehlen testified the renovation work respects the footprint established by the original configuration of the building, with minor modifications consisting of the incorporation an elevator capable of accommodating structure, relocation of a bridal suite and reconstruction of the outdoor bar with a pergola. Ms. Ehlen continued by stating that the proposed improvements are to better accommodate the operations of the site, which has operated as a restaurant and banquet hall, and that there are no significant changes to operations at the site, but rather these improvements will allow better operations as well as help mitigate impacts on the surrounding community. Ms. Ehlen added specifically the elevator renovation would better accommodate those with limited mobility. Ms. Ehlen stated the construction of the sound wall would buffer visual and sound intrusions and there is no additional seating proposed in connection with the expanded ceremony deck. Ms. Ehlen added typically weddings ceremonies are around four, cocktail hour at five downstairs and the reception between six and ten. Ms. Ehlen stated parking is provided across the street and valet parking is provided Friday through Sunday throughout the summer.

Ms. Ehlen testified the applicant would continue to use the outdoor bar which has operated on the site without negatively impacting the community. Ms. Ehlen added the application is on point with the goals and description of the Borough of Brielle's 2000 Master Plan. Ms. Ehlen testified the variances requested consists of a D variance to permit a conditional use that does not meet all the stated standards of the condition, the second D variance is for the floor ratio and the C variance is in connection with the parking. Ms. Ehlen added that the 1984 resolution approval from the Board granted relief to permit 11 docking berths and the balance of the docking berths were required to be located at the common marina site. She also indicated that the restaurant use was not meant to be exclusively utilized by patrons arriving via boats, as is evidenced by the inclusion of parking, and the prior resolution of approval.

Ms. Ehlen described the need for the C variances the front yard setback, 30 feet required where 15.5 exists, and 10.8 is proposed to shed roof which provides protection for patrons during inclement weather, 14.8 feet proposed to the wall, 12.4 proposed to the island bar which has operated without detriment and 6.5 feet proposed to the pergola which will provide shade to the patrons. Ms. Ehlen testified the Applicant was improving the side yard setback 10 feet required,

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2.8 feet exists, and 4 feet proposed and lot coverage 25% is permitted, 47% exists and 44% proposed. Next Ms. Ehlen spoke of the building height, 35 feet is permitted and 38.6 is proposed due to the proposed elevator.

Ms. Ehlen stated the proposed changes would not intensify the use, it would accommodate the current operations in an improved manner and would not generate additional traffic noise or trash.

Ms. Ehlen added the reconfiguration of the site presents a better alternative as it enhances the customer experience without intensifying the use and provides stability. Ms. Ehlen finished her testimony by stating the last variance for parking, the additional square footage is due to the proposed ceremony space and bridal suite, neither of which is bringing additional patrons to the site.

Ms. Trainor asked Mr. Hilla if the witness has answered the questions raised in his letter. Mr. Hilla asked for clarity on the height, Ms. Ehlen responded that the Applicant has stipulated that it will make sure they are below a 10% increase and Mr. Sarto stated that testimony was provided at last month's hearing on this issue.

Ms. Trainor then opened the hearing to questions from the public for this witness. Ms. Trainor called on Mr. Donald Gordon, 206 River Mist Way. Mr. Gordon was sworn in by Mr. Clark. Mr. Gordon stated he was having difficulty understanding the proposal from the pictures. Mr. Gordon asked when he could see the plans. Mr. Clark interjected to help clarify Mr. Gordon's concerns about plans not being available for public review. He stated that plans were submitted with the application and are available for anyone to review. Mr. Gordon asked how the seats would be considered when the restaurant does not own the docks. Ms. Ehlen replied the 1984 resolution had tied the number of seating with the number of docks and parking. Mr. Gordon's last question was the hours of operation and Ms. Ehlen responded 10 pm and Mr. Sarto added the sound wall proposed would buffer the noise. Mr. Gordon asked if the ceremony would end at nine and the bar open until 12 and strictly ceremony. Ms. Ehlen stated strictly ceremony and typical hours are four o'clock ceremony, five o'clock cocktail hour and six to ten o'clock reception. Mr. Gordon asked if liquor would be on the deck and Ms. Ehlen responded patrons might bring a drink outside while having their picture taken. Mr. Gordon asked if the Board agreed. Mr. Sarto responded food on the deck is not proposed.

Ms. Trainor asked the Board if they agreed to give the applicant another twenty minutes for the hearing on this application. The Board agreed. Ms. Trainor asked Mr. Callahan if he had questions. Mr. Clark stated Mr. Callahan is still under oath. Mr. Callahan asked Ms. Ehlen if she has stated there is no intensification of the property or its use. Ms. Ehlen replied yes. Mr. Callahan stated the upper deck has been extended to the edge of the existing building which has a setback of less than three feet and asked if that is correct. Ms. Ehlen asked which deck Mr. Callahan was referring to. Mr. Callahan asked about the ceremony deck and Ms. Ehlen responded the footprint has remained the same. Mr. Callahan asked if there was an island bar up against the building at ground level. Mr. Sarto stated his objection to the same line of questioning asked of the architect at the August meeting. Ms. Trainor acknowledged Mr. Sarto's objection but allowed Mr. Callahan to continue. Mr. Callahan asked if over the second bar area on ground level, is a second floor there. Ms. Ehlen responded yes; the roof has been converted to a deck. Mr. Callahan asked if the conversion

intensifies the use of the property. Ms. Ehlen answered not in this instance because it does not provide additional seating. Mr. Callahan asked if the proposed wall would infringe upon the 10-foot setback. Ms. Ehlen responded the wall that is proposed will respect the setback that was established by the previous building, not a new intrusion. Mr. Callahan asked if the demolition of the structure part of the original permit and Mr. Sarto responded yes, and the construction of the wall was in response to Mr. Callahan's request. Mr. Sarto continued the idea was to have a better ceremony area in the existing footprint with appropriate standard measures that could be managed in an effective way for the owner and the patron. Mr. Callahan stated his appreciation of the offered enclosure for the mechanicals and exhaust fans. Mr. Callahan asked what the material would be. Mr. Sarto responded the ceremony area would be the same material and consistent color designed to match. Mr. Callahan asked the Board if they would require the plans be submitted to Mr. Hilla for approval. Ms. Trainor asked Mr. Sarto about his intention for submitting the documentation. Mr. Sarto responded if approved, they would submit something for Mr. Hilla's review, and it would be part of the final plans submitted for compliance.

Ms. Trainor asked Mr. Dubinett if he was ready to ask questions. Mr. Dubinett said he would wait for another time. Ms. Marra stated Mr. Callahan had represented the group very well and she had no questions.

Ms. Trainor stated it was Mr. Stuhmann's turn to ask his questions. Mr. Stuhmann stated he lived at Six Ocean Avenue and was sworn in by Mr. Clark. Mr. Stuhmann asked if there would be live outdoor entertainment or music even at the patio area. Ms. Ehlen responded that there would be no music except an officiant and possible violinist or similar.

Ms. Trainor asked if any other member of the public had a question. Mr. Dubinett, 100 Ocean Avenue, already sworn in at last month's meeting, asked about the planner's testimony on the boat slips. Ms. Ehlen responded the original 1986 approval effectively allowed the configuration as it exists today, as it did not tie the number of seats to the dock slips directly associated with the restaurant and it allowed dock slips to be counted. Mr. Dubinett asked if people could come up to the restaurant by boat. Ms. Ehlen stated the restaurant would be open to boaters and walk-up or drive-up patrons.

Ms. Trainor stated the Board would be carrying the application until October 13th. Mr. Sarto thanked the Board.

October 13, 2020 hearing

Ms. Trainor asked who was representing the Applicant. Mr. Sarto stated he was representing the Applicant. Mr. Clark asked Ms. Trainor if there were enough members to hear the Application. Ms. Brisben responded there were enough members to hear the Application. Mr. Clark told Mr. Sarto there were five Planning Board members tonight and the two missing members would be able listen to the recording of tonight and vote at a future meeting.

Mr. Sarto stated he believed at the last meeting we left off with the Board members turn to ask questions of Barbara Ehlen. Ms. Trainor agreed it was time for the Board members to ask questions. Ms. Trainor proceeded to call on the Board members for questions. Ms. Trainor started

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with Mr. Stenson who had no questions at this time. Mr. Miller and Mr. Siano also had no questions at this time.

Ms. Trainor called on Ms. Brisben who had several questions. Ms. Brisben asked Ms. Ehlen if she testified that the parking lot across the street held 83 or 85 spots, with valet parking it could hold up to 127 cars and could she explain. Ms. Ehlen responded yes, she did, when using valet parking they can stack the cars and shift them around when needed. Ms. Brisben asked where the public using the restaurant would park when valet parking is used for a wedding. Ms. Ehlen responded she has discussed with the applicant to encourage wedding clients to use busing to take guests to the venue. Ms. Ehlen reminded the Board “the site has currently accommodated the use as it is, as it is presented today. There is no intensification wherein more parking is going to be demanded because of the proposed revisions. Ms. Brisben asked how bright and intrusive the lights would be for the parking lot. Ms. Ehlen said she could not answer that question. Mr. Sarto responded Dan Condatore, project architect, testified that LED lights will be directed to point down. Ms. Brisben asked Mr. Hilla if he has any comment on the lighting. Mr. Hilla responded he believed the lighting recently was operational. Mr. Sarto explained Mr. Condatore had another meeting which he needed to attend so he was unavailable to confirm. Mr. Sarto offered to confirm with Mr. Condatore and give an update at the next hearing.

Ms. Trainor asked Mr. Chermark if he had any questions and he responded not at this time.

Ms. Trainor indicated that she had several questions of Ms. Ehlen about the intensification of the use of the outside ceremony deck. Ms. Trainor asked what the use of the deck was previously. Ms. Ehlen responded a ceremony space. Ms. Trainor asked if Ms. Ehlen has investigated the intensification of the use of the space. Ms. Ehlen stated the space was wider but the number of people the facility accommodates did not increase. Ms. Trainor asked, in reference to the variances, is the Board supposed to consider the intensification of the use of the property as a whole. Ms. Ehlen responded there is a thought that additional footage would intensify the use but, in this case, they are rearranging the space for better usage. Ms. Trainor asked who could answer the question of what the use of the deck was previously. Mr. Sarto responded he could answer. Mr. Sarto continued by saying the footprint was the same and the use was the same. Ms. Trainor asked if there was a different deck space for the guest to revel after the ceremony. Ms. Ehlen responded correct.

Ms. Trainor asked Mr. Sarto if he had any further witnesses. Mr. Sarto responded the two witnesses were the conclusion of their testimony.

Ms. Trainor asked the public for comments of the Application. According to the log in list of names, Mr. Callahan, 205 River Mist Way, was the first person listed to provide comments. Mr. Callahan stated his name and address for the record. Mr. Callahan had been previously sworn in. Mr. Callahan testified he was a resident of the condos next door to the restaurant. Mr. Callahan continued by saying their concern was the effect this Application will have on their lives and they were thankful the Applicant has agreed to some of the stipulations. Mr. Callahan stated they were pleased with the offer to screen the units and fans. Mr. Callahan stated his surprise to the stipulation to no outside music or food or beverages served on the outside deck. Mr. Callahan testified he

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would like the Applicant to put back the wall and the shingled roof they had ripped down on the outside deck. Mr. Callahan stated he did not want the new wall.

Ms. Trainor asked Mr. Howard Dubinett, 100 Ocean Avenue, if he would like to comment. Ms. Trainor stated Mr. Dubinett had been sworn in previously. Mr. Dubinett stated the Applicant is trying to create a Riverwalk which is not what was intended, and it was always considered part of the marina. Mr. Dubinett stated he felt it was a life safety issue to install a railing, should someone fall into the water they would not be able to get out.

Ms. Trainor asked Mr. Tom Stuhmann, 106 Ocean Avenue, for his comments. Ms. Trainor stated he had been sworn in previously. Mr. Stuhmann requested the Applicant use the warmest lights and not extremely bright white lights and that the lighting plan be reviewed and installation inspected. Mr. Stuhmann testified he felt the new restaurant was an improvement to the area and re-opening would enhance the waterfront. Mr. Stuhmann stated he felt the new patio was a positive and the stipulation of no outside music would make it consistent with the other restaurants in the Borough.

Ms. Trainor asked Mr. Don Gordon, 206 River Mist Way, for his comment. Mr. Gordon stated he had been sworn in previously. Mr. Gordon stated he lives next the restaurant and had a boat in the marina. Mr. Gordon stated he did not know where the patrons who wanted to dock and dine would be able to dock their boats. Mr. Gordon stated his concern with the lighting on the proposed deck. Mr. Gordon stated he agreed with his neighbor Mr. Callahan and would like the Applicant to go back to the old roofline.

Ms. Trainor asked if any other public member would like to comment. Mr. Anthony Knapp, 16 Crescent Drive, was sworn in by Mr. Clark. Mr. Knapp stated he was a resident of Brielle for 26 years. Mr. Knapp wished to compliment the Applicant on this Application, and he felt year-round waterfront dining would be a good thing for the public. Mr. Knapp testified he hoped the Board would approve the Application.

Ms. Trainor asked for any other public comment. Hearing none, she closed the public comment portion. Ms. Trainor adjourned the Application to next month's meeting and stated she would allow Mr. Sarto to give closing statements and hear comments from the Board at that time. Ms. Trainor asked Mr. Clark if in advance of next month's meeting, it would make sense for Mr. Clark and Mr. Sarto to put together a list of stipulations which have been agreed upon by the Applicant over the months. Mr. Callahan asked to be copied on the list so he may circulate it among his neighbors. Mr. Sarto responded "I'm agreeable to work with the Board Attorney to come up with the stipulations. I don't really think it's appropriate to open that up to neighbors, to add additional comments and stipulations, because it's our application".

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Mayor Nicol announced that he had to recuse himself from this application for previous reasons, and Mr. Maclearie stated that he had listened to the tape from the previous meeting that he had missed and was now eligible to vote.

Ms. Trainor began by asking Mr. Sarto if he had finished the testimony of all his witnesses. Mr. Sarto replied that he had. Ms. Trainor stated that now that Mr. Sarto has indicated that he has presented all of his witnesses and the testimony is in with respect to all of them, she wanted to make sure that any objectors that have any objections don't have any witnesses of their own to present. Mr. Callahan stated that this is correct and replied that his only comments would be as to the proposed stipulations and that he tried to reach Mr. Clark today unsuccessfully and there are minor changes to the stipulations.

Ms. Trainor stated that she wanted to make sure that there is no more testimony to hear first. Ms. Trainor asked if there is any testimony that needs to be heard that they should speak up now. None heard.

Ms. Trainor asked Mr. Sarto to proceed with his summation. Mr. Sarto stated as a matter of housekeeping, based on the prior hearings, he and Mr. Clark have exchanged a list of stipulations that he believes Mr. Callahan has also acknowledged being provided a copy.

Mr. Sarto stated that he was also supposed to report about the lighting on the parking lot. Mr. Sarto stated that the lights were turned on to make sure they were working and took some pictures. Mr. Sarto stated he spoke to Mr. Hilla and is happy to work with him on any modifications to that lighting to make it acceptable as a condition pending approval that the Board may grant and aside from that, he would like to make his summation.

Ms. Trainor asked Mr. Sarto if the stipulations that the Board received are based on testimony, questions, and comments, and have occurred during his presentation. Mr. Sarto replied, yes. Ms. Trainor stated that in other words, the Board is not bound by these stipulations, these are stipulations that Mr. Sarto agreed on and proposed them in writing, rather than just for the Board's convenience because we've heard that over the course of several meetings. Mr. Sarto responded that this is correct, that they have tried to catalog them for the convenience of the Board.

Ms. Trainor asked Mr. Sarto if he would like to go through these stipulations first before he gives the Board a summary of all the testimony and why the Board should grant the application. Mr. Sarto replied, yes. Mr. Sarto asked Ms. Trainor if she would like to read them aloud.

Ms. Trainor asked Mr. Clark how he would like to handle this. Mr. Clark responded that his advice was to read one at a time and if any members of the Board or public had a question, the Board could address it before moving onto the next one. Mr. Clark stated that these stipulations are basically trying to encapsulate what was agreed to at various meetings by the applicant and then try to put into writing what was agreed to, not necessarily a list of every condition that might ultimately be imposed. Ms. Trainor agreed with Mr. Clark's suggestion and asked Mr. Sarto if this was alright with him.

Mr. Sarto replied, yes and stated that there are 11 on this list and began with the first one.

1. The Applicant agrees that there shall be no amplified live music outdoors at the property. A violin or similar instrument, as well as a microphone for the officiant, shall be permitted outdoors during ceremonies.

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Ms. Trainor asked the members of the Board if they had any questions or concerns about the way number one is stipulated or worded.

Ms. Brisben asked Mr. Sarto if there will be canned music such as a radio, a CD being played over a sound system. Mr. Sarto responded that there will not be a DJ, there is no intention to have live DJ type of music. Mr. Sarto stated that he thinks this is encapsulated in the liquor license resolution already as well. Ms. Brisben stated that the liquor license does say controlled background music may be permitted in the deck area and asked Mr. Sarto if he is saying there will be controlled background music or not, like somebody putting on a CD and putting it through a sound system. Mr. Sarto stated that there will be no live music but thinks it would be reasonable if there were some kind of ambient light background music but if it is the Boards plan to not have any, that is not a problem, certainly not a DJ or band. Mr. Sarto stated that they are agreeing to whatever is in the liquor license also would apply.

Ms. Brisben asked Mr. Sarto if he would like to have background music, which is stated in the liquor license, part of this agreement. Mr. Sarto replied that he will suggest that it is reasonable and appropriate, and if the Board is inclined to leave that favorably some background music, if not, then that is negotiable.

Ms. Trainor asked the Board if there were any other comments with respect to stipulation number one. None being heard, Ms. Trainor asked if there were questions from the public.

Mr. Callahan asked Mr. Sarto if the music up on the ceremony deck area is limited to something equivalent to a violin or a guitar, is it understood that they will not need to be amplified based upon the limited area they're covering. Mr. Sarto responded that he believes that the officiant would have a microphone. Mr. Sarto stated that it is not the intention to have a band or amplified music, however, we've all been to a wedding where a violinist wears a small microphone on her lapel or on her dress and presented through a small speaker. Mr. Sarto stated he would suggest that that would be in the spirit with what was suggested. Mr. Sarto stated that it is a small space and perhaps wouldn't be necessary but thinks it would certainly be reasonable to have.

Ms. Trainor stated to Mr. Sarto that she doesn't read the stipulation that way. Ms. Trainor said she reads the stipulation as being no amplified live music, meaning no musicians playing music outdoors and certainly that ceremony space is considered outdoor space. Mr. Sarto responded that the second sentence states a violin or similar instrument as well as a microphone for the officiant shall be permitted for the ceremony. Ms. Trainor stated to Mr. Sarto that there would be no amplification.

Mr. Sarto responded sure, ok, no amplification but he will still ask that the officiant be able to use a microphone during the ceremony, which would be in the earlier hours of the evening. Ms. Trainor stated that this is different than music, right. Mr. Sarto replied, sure.

Ms. Trainor asked if any other members of the public have any questions or concerns with respect to stipulation number one.

Mr. Thomas Stuhmann stated that he had a question. Ms. Trainor announced that Mr. Stuhmann has previously been sworn in. Mr. Stuhmann stated that there is a Borough ordinance from the Police chapter, 3-16.5 which limits control background music to Fridays, Saturday, and Sundays. Mr. Stuhmann stated that this ordinance references the exact days and hours. Mr. Stuhmann continued that if the Board were to allow background music, he asks that those days and hours be incorporated to any allowed background music because the liquor license doesn't conform with that ordinance. Mr. Sarto stated that this is fine and that's the case anyway, because the ordinance would apply and the Board cannot undo that because it is not a zoning ordinance, it is a general ordinance, so he agrees. Mr. Clark stated that he would look at the ordinance and will put in whatever provisions are about controlled background music so whatever it is consistent with the Board's conditions.

Ms. Trainor asked if any other members of the public have any questions or concerns with respect to stipulation number one, amplified music. Hearing none, Ms. Trainor asked Mr. Sarto to go to stipulation two.

2. Drinks and food will not be served on the second-floor outdoor ceremony space.

Ms. Trainor asked if any member of the Board have any questions or comments with respect to stipulation two. Hearing none, Ms. Trainor asked if any members of the public have any questions or concerns in respect to stipulation number two.

Mr. Callahan stated that he is concerned with the word served. There are doors that come from the second floor enclosed area and also from an area adjacent to the wedding ceremony area that is designed for the wedding guests after the ceremony is over to go inside and they can be served inside and go back into these deck areas. Mr. Callahan continued that he would rather instead of the word served that it says that it is not permitted on the ceremony deck. Mr. Clark asked Mr. Sarto if it could say food would be prohibited to which Mr. Sarto replied, sure.

Ms. Trainor asked if any members of the Board have any other questions with respect to stipulation two. Hearing none, Ms. Trainor asked if any members of the public had any other questions in respect to stipulation two.

Ms. Trainor asked Mr. Sarto to continue with stipulation three.

3. The second-floor outdoor ceremony space will not be used after 10 pm.

Ms. Trainor asked if any members of the Board have any questions with respect to stipulation three. Hearing none, Ms. Trainor if any members of the public had any other questions in respect to stipulation three. Hearing none, Ms. Trainor asked Mr. Sarto to continue with stipulation four.

4. Re-entry to the outdoor second floor ceremony space via the patio stairs shall be prohibited after conclusion of the ceremony. The Applicant agrees to post signage at the steps leading from the patio area to the second-floor ceremony space prohibiting re-entry to the area post-ceremony. The Applicant agrees to work with the Planning Board Engineer relating to the

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location, size and text on said sign. Additionally, The Applicant agrees to provide a rope or gate at the base of the stairs if permitted to do so by fire codes.

Ms. Trainor asked if any members of the Board have any questions with respect to stipulation four. Ms. Brisben stated that she liked the last sentence, that if permitted by fire code, because that is something that might have to be addressed and might have to be changed.

Ms. Trainor asked if any members of the public had any questions in respect to stipulation four.

Mr. Callahan stated he would like to see some signage from the doors to come out of the second-floor area and signage from the gate area restricting people from going back out onto the ceremony area with drinks and appetizers. Mr. Sarto replied that stipulation number three says, the second floor, outdoor ceremony space will not be used after 10:00 PM. Mr. Sarto stated that limiting someone who decides to go in and out of the second floor from the deck, back inside and come back out, the idea of prohibiting that is a contradiction to stipulation number three. Mr. Sarto stated he would like to leave that as it is. Ms. Trainor stated that her understanding of the testimony or agreement here, which is the ceremony space would only be used for ceremonies. Mr. Callahan stated that he doesn't want the ceremony deck to become part of the reception.

Ms. Trainor asked Mr. Sarto to continue with stipulation number five.

5. The second-floor outdoor ceremony space will be screened from adjacent residents with a nine foot (9') high wall constructed with Azek cladding on interior and exterior as depicted on Exhibit A-12 marked into evidence.

Ms. Trainor asked if there were any comments from the Board. Hearing none, Ms. Trainor asked if there were any comments from the public.

Mr. Callahan stated that he wants to be sure that it is understood that the 9-foot wall is just not on the west side but wraps around the corners to enclose as intended. Mr. Sarto replied that this is what is on the plans, and the exhibit shows that, so that meets your comment.

Ms. Trainor asked Mr. Sarto to continue with stipulation number six.

6. The Applicant shall screen the ductwork and roof mounted equipment adjacent to the second-floor ceremony space from view from the adjacent property with Azek cladding the same color and style as the screen wall for the proposed second floor outdoor ceremony space.

Ms. Trainor asked if anyone from the Board or the public had any comments or questions with respect to stipulation number six. Hearing none, Ms. Trainor asked Mr. Sarto to continue to stipulation number seven.

7. The Applicant shall confirm that the parking lot lighting on Lots 1 and 2 of the Property are LED fixtures, and the lighting plan for those lots shall be reviewed and approved by the Board Engineer.

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Ms. Trainor asked if anyone from the Board or the public had any comments or questions with respect to stipulation number seven. Mr. Howard Dubinett stated that he had a question. Ms. Trainor stated that Mr. Dubinett has been previously sworn. Mr. Dubinett stated that he did mention about the color of the lighting, that it would be really harsh, and the adjacent property has these horrible looking lights and he doesn't want the same thing. Mr. Dubinett continued by saying it should say in the stipulation that the lighting will not exceed 3000 Kelvins as far as lighting color goes. Ms. Trainor asked Mr. Sarto if he had any response. Mr. Sarto stated that they will agree to work with Mr. Hilla to do any screening, and that he is not at liberty to talk about an exact Kelvin now. Ms. Trainor stated to Mr. Dubinett that the Board hears what he is saying and will take into consideration when the Board is doing our comments and when it's the Board's turn to impose any conditions they might have on the application.

Mr. Dubinett stated that he wanted to recognize that the Board gave Mr. Callahan pre consideration about the stipulations and working with him prior to this and that he expects that the Board would give me the same opportunity to work on the lighting in the parking lot.

Ms. Trainor replied that, so we are all clear, nothing Mr. Callahan has said has been approved by the Board. Ms. Trainor stated that the back and forth discussion with Mr. Callahan and Mr. Sarto is the same kind of conversation that the two of you are having. Mr. Sarto says he is not able to comment on the particular Kelvin for the lighting and that is where the conversation ended between the two of you, the Board has not agreed to any of these stipulations or, in fact, to approve the application at all at this point. Mr. Callahan stated that he would like to join Mr. Dubinett's request for controlled illumination.

Ms. Trainor asked if anyone else had comments with respect to stipulation number seven. Hearing none, Ms. Trainor asked Mr. Sarto to continue with stipulation number eight.

8. The Applicant shall clean the stormwater drainage facilities and confirm the same to the Board Engineer.

Ms. Trainor asked if anyone from the Board or the public had comments with respect to stipulation number eight. Hearing none, Ms. Trainor asked Mr. Sarto to continue with stipulation number nine.

9. The Applicant agreed to enclose and roof the refuse area as depicted on Exhibit A-11 marked into evidence.

Ms. Trainor asked if any Board members or members of the public have any comments, questions or issues with stipulation number nine. Mr. Callahan stated he would prefer to see the applicant purchase inexpensive, plastic barrels and accumulate them down by the enclosed refuse and be restricted to dumping them into the collection area between 8:00 AM and 6:00 PM in the evening.

Ms. Trainor asked if anyone else has any other comments with respect to stipulation number nine.

Mr. Dubinett stated that he believes there is an Ordinance that prohibits the dumping of bottles to certain hours, during the week and weekends. Mr. Stuhmann stated that it is his understanding

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that the Ordinance is only for the pickup with the truck, not for the internal. Mr. Stuhmann stated that he doesn't know if this Ordinance will cover this concern.

Ms. Trainor asked if there were any other questions or concerns from the Board or the public in respect to stipulation number nine. Hearing none, Ms. Trainor asked Mr. Sarto to continue to stipulation number ten.

10. The Applicant has agreed to reduce the maximum height of the elevator tower to thirty-eight feet, five inches (38' 5") so that only a bulk "C" variance will be required for this application rather than a "D" variance.

Ms. Trainor asked if any member of the Board has any questions or comments in respect to stipulation number ten. Hearing none, Ms. Trainor asked the public if there were any questions or comments. Hearing none, Ms. Trainor asked Mr. Sarto to continue with stipulation number eleven.

11. The Applicant shall provide valet parking during banquet events and busy weekends if no banquet is scheduled.

Ms. Trainor asked if any Board members or the public had any comments with stipulation number eleven.

Ms. Brisben asked if the testimony referencing valet and stacked parking is true. Mr. Sarto responded that this was the testimony. Ms. Brisben stated that it worked in the past and there haven't been complaints, so she doesn't see any problem with it.

Ms. Trainor asked if there were any other comments from the Board on this proposed stipulation. Hearing none, Ms. Trainor asked if there were any comments from the public. Hearing none, Ms. Trainor announced it was now time for Mr. Sarto to tell the Board why they should approve this client's application.

Mr. Sarto stated that the location and the restaurant itself has been in existence and functioning for over 40 years. It is conditionally permitted use in the Zone which means that the Governing Body recognizes that use itself is compatible with adjacent uses, subject to the conditions being met. Mr. Sarto continued by saying the application itself is really a renovation and an upgrade, improvements to the existing restaurant were meant to be done, sympathetic with the previous restaurant and structure and be an improvement. Mr. Sarto stated that in the course of several hearings, we've heard comments from the public and we have responded to meet these comments by making changes, many which are kind of outlined in the stipulation that we just reviewed. Mr. Sarto stated that it would be fair to characterize that the neighbors appreciated the accommodations that were made. Mr. Sarto stated that with the expert testimony of a Professional Planner, they are asking the Board to grant Site Plan approval, as well as the conditional use and bulk variances that they are requesting. Mr. Sarto continued that this application meets the positive and negative criteria that allows the Board to grant this request and, in summary, we appreciate all the Board's time and efforts through this process.

Ms. Trainor announced it is now time for comments from the Board with respect to the application.

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Ms. Trainor asked Ms. Brisben if she had any comments about the application. Ms. Brisben stated that the only concern she had was a parking issue, however, she hasn't heard anything from the neighbors complaining about the parking and the fact that the restaurant has been there for a very long time, she would be for approval along with the stipulations that were discussed.

Ms. Trainor asked Mr. Stenson if he had any comments about the application. Mr. Stenson stated he thinks this should be approved and believes the list of eleven conditions that were read are consistent with what the Board has talked about. Mr. Stenson stated that he thinks that Mr. Sarto and the owner have been very amenable to all the suggestions that have been made by the neighbors and have bent over backwards in many cases. Mr. Stenson stated he would approve the application.

Ms. Trainor asked Mr. Miller if he had any comments about the application. Mr. Miller stated that after listening to what the applicant has done to try to satisfy all the issues neighbors and communities had, the applicant has gone out of their way to resolve all the issues. Mr. Miller stated he thinks it's a great improvement and that he looks forward to visiting the River House.

Ms. Trainor asked Mr. Siano if he had any comments about the application. Mr. Siano stated that it looks like everyone has come to terms, the neighbors are in agreement and the Board is satisfied so he is ok.

Ms. Trainor asked Mr. Maclearie if he had any comments about the application. Mr. Maclearie stated he agrees that the applicant bent over backwards to get the public in the right spot, and it looks like they are really trying hard. Mr. Maclearie stated that the only question he has is those gates, people go up at night, but with the right signage and people watching, and doing the right thing, it could work fine.

Ms. Trainor asked Mr. Chermark if he has listened to the tapes and if he will be voting on this. Mr. Chermark replied that he did not and that he had no comments and will be abstaining on this application.

Ms. Trainor thanked Mr. Sarto for the comprehensive presentation and thanked the members of the public for engaging in the process here. Ms. Trainor stated she appreciated all the Board's input and the public input too. Ms. Trainor continued by stating that in general, she doesn't like seeing applications where property owners make improvements to the property without coming to the Board first, but this does not affect the Board's consideration of the application one way or another. Ms. Trainor stated that she would like to note this and that the Board would like to be consulted first in accord with the appropriate procedure that we have here in Brielle.

Ms. Trainor stated that one of the issues is whether there was an expansion of use for based on the ceremony deck and whether it meets the requirements for the D variance. Ms. Trainor stated that she finds the site is not an expansion of the current conditional use and thinks it's a decrease, to be fair. Ms. Trainor stated to have the ceremony deck now be limited in its use helps meet the requirements of the D variance, so she doesn't find that there is an expansion of use based on it.

Ms. Trainor stated that she knows there have been questions about the marina, whether this restaurant is part of that marina complex and I find that it is, it has been for many years and is part of litigation from a long time ago. Ms. Trainor stated that she finds that's also been satisfied with respect to the D variance. Ms. Trainor continued by saying with respect to the C variances that have been sought, she finds that the applicant has met all the requirements for the C variance requests.

Ms. Trainor said she wanted to clarify, with respect to some of the stipulations, she is concerned and wants to make sure that the Board holds the applicant to what the applicant has put forward, which is that the ceremony deck will only be used for ceremonies. Ms. Trainor stated to the extent that stipulation number four is not clear in that regard, she would request that the Board consider stipulation number 12, which is not on the list currently, but would say that the ceremony deck is limited to ceremonies. Ms. Trainor stated that she thinks this would cover that concern and other than that, she is in favor of the application and would vote to approve.

Ms. Trainor discussed and re-iterated the stipulations Mr. Sarto presented with Mr. Clark and members of the Board. Mr. Clark asked if someone from the Board would like to make a motion to approve and to approve the variance relief being sought with those conditions summarized by, he and Ms. Trainor.

Ms. Brisben commented that regarding Mr. Dubinett's comment about the marina, she couldn't find any gate on the plan, so she isn't sure what he is referring to. Ms. Brisben said that she believes there is a stipulation in a previous Planning Board approval that the Boardwalk area must be open to the public and if the marina areas were restricted, people who own the boats at that private dock would not be able to get to them. Mr. Sarto stated that the plan shows a guardrail going along the bulkhead, but where the dock goes out perpendicular to where the boat slips would be, that will remain open. Mr. Sarto continued by adding that there is no gate on the end that would restrict someone from walking on to the dock itself.

Ms. Trainor stated to Mr. Clark that she thinks that the Board should clarify and reflect on what Mr. Sarto said to the extent if there is any confusion here. Ms. Trainor continued that the Board should be sure that the plans that they are approving do not restrict public access to the marina.

Mr. Clark suggested that the Board add a condition, as condition number 13 which will need to be worded but will basically say that these plans and approvals will not restrict access to the marina or public access ways to the Boardwalk.

Mr. Clark stated that he would be adding the standard ones in, also add that the applicant will submit five sets of conforming plans and all representations made on the record.

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, makes the following factual findings and conclusions of law:

- a. The correct fees were paid, taxes are paid to date and the property owners within two hundred (200') feet, as well as the newspaper, were properly notified.

- b. The Property is located within the Borough's Marine Commercial (C-2) zone.
- c. The C-2 zone allows restaurants as conditional uses so long as they are operated in conjunction with a marine facility, which for purposes of the Borough Code means that the restaurants must be located on the same site and property as the marine facility, must be integrated in use and design with the marine facility, and that there must be one docking berth for every four (4) seats in the restaurant with a minimum of at least 25 docking berths.
- d. A restaurant has operated on the Restaurant Lot for over forty years.
- e. At the time that the development of the Restaurant Lot was first approved by the Planning Board, the lot met the conditional use requirements for use as a restaurant and, to the extent that the marina did not have a sufficient number of berths in relation to the number of seats in the restaurant, strict compliance with that condition was previously waived by the Planning Board through its approval of the project.
- f. Some time in the mid 1990's, the Restaurant Lot was subdivided and separated from the nearby lot containing the marina complex uses as a result of litigation.
- g. The Restaurant Lot is immediately adjacent to the marina and is used by people using the marina. While the Restaurant Lot may no longer be on the same tax lot as the marina, nothing else has substantively changed and it still integrated in use and design with the marine facility.
- h. The Applicant is seeking approval for certain additions and renovations to the Brielle River House restaurant including: construction of a second floor mezzanine with elevator service at the northwestern corner of the existing building; an outdoor patio bar behind the restaurant with pergola to replace the recently demolished patio bar; construction of an additional stairway from the patio area at the rear of the restaurant to the second floor; a new ramp to the lower level of the restaurant at the rear of the site; along with landscaping, and other typical site improvements; all as described more fully within the Application.
- i. The improvements proposed through this project are on the Restaurant Lot and the Parking Lot is not being substantively altered in any way.
- j. The capacity of the restaurant and the intensity of its use of the Restaurant Lot is not changing, and instead the Applicant is simply re-aligning the structures on the site in order to more efficiently operate the banquet hall components of the restaurant.
- k. The historic use of the Property with a restaurant of similar capacity for many years has demonstrated that the site can accommodate this use despite its lack

of strict compliance with all of the conditional use requirements of the zone and that any problems associated with such deviations can be addressed through conditions placed upon approval.

- l. In that regard, the Applicant has agreed to stipulate to a number of conditions to address concerns from neighboring property owners. These stipulated conditions include, among other things, a prohibition on any live outdoor amplified music at the Property, the screening of the second floor outdoor ceremony space, the ductwork and roof mounted equipment, and the refuse area, limitations on the use of the second floor outdoor ceremony space, and other conditions as enumerated more fully herein.
- m. By reason of the size, shape, and topography of the Property, it would be a hardship to the Applicant to comply with the requirements of the Borough Code, and the development being proposed by the Applicant is consistent with other development in the neighborhood.
- n. Many of the deviations from the bulk requirements of the zone are pre-existing conditions which are not being exacerbated, and instead are being reduced, by the development proposed through this Application.
- o. The purposes of the Borough Code would be advanced by this proposed development and the benefits of the variances sought outweigh any detriments.
- p. Moreover, the variances sought by the Applicant herein can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and ordinance.
- q. This Application and the variance relief sought therein advances the purposes of the Municipal Land Use Law, does not cause any substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, Mr. Stenson moved to approve the Application with the conditions as described herein; this motion was seconded by Mr. Siano. At that time the Application was approved by the following roll call vote:

Ayes: James Stenson, Glenn Miller, Corinne Trainor, James Maclearie, Christian Siano, Karen Brisben

Noes: None

Not eligible to vote: Mr. Chermark

Absent: Madeline Ferraro

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

- a. The Applicant shall pay all taxes and other applicable assessments, costs and fees to date, as applicable;
- b. The Applicant agrees that there shall be no amplified live music outdoors at the Property. This prohibition includes both live musicians and DJ's. An unamplified violin or similar instrument, as well as a microphone for the officiant, shall be permitted outdoors during ceremonies. Controlled background music is permitted outdoors so long as it complies with the requirements of the Borough Code as to noise control and as to hours of operation.
- c. Drinks and food shall be prohibited on the second floor outdoor ceremony space.
- d. The second floor outdoor ceremony space will not be used after 10 pm.
- e. Re-entry to the outdoor second floor ceremony space shall be prohibited after conclusion of the ceremony. The Applicant agrees to post signage at the steps leading from the patio area to the second floor ceremony space and at second floor door and gates accessing the ceremony area prohibiting re-entry to the area post-ceremony and prohibiting food and drink as provided in subsection c above. The Applicant agrees to work with the Planning Board Engineer relating to the location, size and text of this signage. Additionally, the Applicant agrees to provide a rope or gate at the base of the stairs if permitted to do so by fire codes.
- f. The second floor outdoor ceremony space will be screened from adjacent residents with a nine foot (9') high wall constructed with Azek cladding on interior and exterior as depicted on Exhibit A-12 marked into evidence.
- g. The Applicant shall screen the ductwork and roof mounted equipment adjacent to the second floor ceremony space from view from the adjacent property with Azek cladding the same color and style as the screen wall for the proposed second floor outdoor ceremony space.
- h. The Applicant shall confirm that the parking lot lighting on Lots 1 and 2 of the Property are LED fixtures, and the lighting plan for those lots shall be reviewed and approved by the Board Engineer.
- i. The Applicant shall clean the stormwater drainage facilities and confirm same to Board Engineer.
- j. The Applicant shall enclose and roof the refuse area as depicted on Exhibit A-11 marked into evidence.

- k. The Applicant has agreed to reduce the maximum height of the elevator tower to thirty-eight feet, five inches (38' 5") so that only a bulk "c" variance will be required for this application rather than a "d" variance.
- l. The Applicant shall provide valet parking during banquet events and busy weekends if no banquet is scheduled.
- m. The second floor outdoor ceremony space shall only be used for ceremonies.
- n. The Applicant shall not block public access to the marina or to the boardwalk.
- o. Since the Applicant made revisions to its plans which were discussed at the hearing on this Application but are not reflected within the plans currently on file with the Board Secretary, the Applicant shall prepare revised plans reflecting all of these changes and shall submit five (5) sets of the revised plans to the Board Secretary by no later than thirty (30) days of the date of the adoption of this resolution. No building permits will be issued without proof of compliance with this condition;
- p. The Applicant 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;
- q. All representations made under oath by the Applicant or its agents shall be deemed conditions of this approval, and any misrepresentations or actions by the Applicant contrary to the representations made before the Board shall be deemed a violation of this approval.

A motion to approve the above resolution was made by Jim Stenson seconded Glenn Miller and then by the following roll call vote:

Ayes: Ms. Corinne Trainor, Mr. James Maclearie, Mr. James Stenson, Mr. Christian Siano, Ms. Karen Brisben and Mr. Glenn Miller.

Noes: None

Not eligible to vote: Mr. Andrew Chermack.

Absent: Ms. Madeline Ferraro

OTHER OLD BUSINESS:

Resolution of Approval for Variance relief for 70.01, Lot 4, 608 Locust Road, owned by Aaron & Stacilyn Feldman, to allow construction of a second-story addition to an existing nonconforming home.

RESOLUTION OF APPROVAL OF THE BRIELLE BOROUGH PLANNING BOARD, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY WITH RESPECT TO THE APPLICATION OF AARON AND STACILYN FELDMAN SEEKING SITE PLAN APPROVAL AND VARIANCE RELIEF FOR CONSTRUCTION OF AN ADDITION TO A RESIDENTIAL DWELLING ON THE PROPERTY LOCATED AT 608 LOCUST ROAD AND IDENTIFIED ON THE TAX MAP OF THE BOROUGH OF BRIELLE AS BLOCK 70.01, LOT 4

WHEREAS, Aaron and Stacilyn Feldman (the “**Applicants**”) filed an application with the Planning Board of the Borough of Brielle (the “**Board**”) seeking site plan approval and variance relief to construct a second-story addition to an existing one-story single-family dwelling on property owned by the Applicants located at 608 Locust Road and identified on the tax map of the Borough of Brielle as Block 70.01, Lot 4 (the “**Property**”); and

WHEREAS, the Property is located within the Borough’s R-2 Single Family Residential Zone (the “**R-2 Zone**”); and

WHEREAS, the Property is currently developed with a single-story dwelling; and

WHEREAS, the Applicants are proposing to construct a second-story addition within the footprint of the existing structure consisting of three additional bedrooms, a bathroom, and a loft space, along with some interior alterations to the first floor layout as described more fully within the plans submitted with this application; and

WHEREAS, portions of the existing structure and the proposed second-story addition extend into the required minimum yard areas and therefore require bulk variance relief from this Board; and

WHEREAS, specifically, the Applicants are seeking the following variance relief through their application:

- (a) Minimum lot depth—125 feet required; 92.94 feet existing and proposed;
- (b) Maximum front yard setback—40 feet required; 34.7 feet existing and proposed (to the structure) and 31.9 feet existing and proposed (to covered front porch);
- (c) Minimum rear yard setback—40 feet required; 19.78 feet existing and proposed
- (d) Maximum lot coverage—20% permitted; 22.8% existing and proposed; and

WHEREAS, the Applicants submitted the following documents in support of their application:

- (a) survey of the Property (one sheet) prepared by Lakeland Surveying dated November 11, 2019;
- (b) architectural plans (3 sheets) prepared by Akertect Design including a site plan dated July 24, 2020;
- (c) an application package signed by the Applicants; and
- (d) a Zoning Permit denial letter from the Zoning Officer dated June 29, 2020; and

WHEREAS, the Planning Board held a hearing on this application on November 10, 2020; and

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

Ms. Trainor asked Mr. Aaron Feldman if he would be presenting on his own tonight. Mr. Feldman replied that he would be. Mr. Feldman was sworn in by Mr. Clark. Mr. Clark asked Mr. Feldman

if he and his wife, Stacilyn Feldman, live at 608 Locust Road. Mr. Clark asked Mr. Feldman if anyone else would be testifying on this application. Mr. Feldman replied that he was testifying on his own behalf. Mr. Feldman started by stating it might be helpful to give some background. Mr. Feldman stated that he is a licensed landscape engineer with experience testifying in front of bodies like this one. Mr. Feldman stated that prior to moving to New Jersey, Mr. Feldman was on the staff of the Park and Planning Commission in Montgomery County, Maryland, presenting parkland and urban development projects for Planning Boards several times a year, for the better part of a decade. Mr. Feldman stated that the one-story house has approximate 1500 square living space with an attached garage, partial basement and attic space. Mr. Feldman stated that the renovation proposes to add a second floor directly above a portion of the existing footprint of the house, adding about 900 square feet of occupiable space. Mr. Feldman stated that the second-floor addition will be partially in line with the front side of the house, recessed by about nine feet in the back keeping 28.2 feet from the property line on the second floor. Mr. Feldman stated the variance request was due to the acknowledgement of a condition that has existed since the property was subdivided when the house was constructed around 1940. Mr. Feldman stated that in Ms. Commins denial letter, dated June 29th, it states lot depth in front and rear of setbacks do not currently conform to R2 zoning requirements, nor have they ever. Mr. Feldman stated that the plans proposed are to keep the existing footprint of the house intact while adding a second floor well within the height restrictions enumerated in the Zoning Code. Mr. Feldman stated the proposed renovation does not exacerbate the non-conforming condition of the property, and the architectural character of the proposal remained consistent with much of the rest of the neighborhood. Mr. Feldman stated that his understanding that his request is consistent with other approvals in the past. Mr. Feldman stated that he would like to close by mentioning that this house will serve as their primary residence to raise their young family for years to come. Mr. Feldman thanked the Board for their time and consideration and that he is more than happy to answer any questions.

Ms. Trainor announced that the Board received correspondence from a neighbor with respect to Mr. and Mrs. Feldman's application who are in favor of this application. Ms. Trainor asked Mr. Clark how the Board would handle this correspondence. Mr. Clark replied that under the new guidelines that the State has put out, under this time of Covid, the state is now encouraging Boards because of the remote nature of meetings, to consider these types of letters and be read into the record. Ms. Trainor stated that before the Board and Mr. Hilla have any questions for the applicant, she would read this letter in.

"Hi, my name is Jane Blessing, and my husband and I live directly across the Locust Road from the Feldman's. They currently have an application pending for your meeting on November 10th. We are 100% in favor of this, they are wonderful family, and I do also feel they are going to make a very positive addition to this town. Respectfully submitted Jane Blessing." Ms. Trainor stated that it appears her husband also signed, although I can't read a signature.

Ms. Trainor asked Mr. Hilla if he had any questions for Mr. Feldman. Mr. Hilla replied that his parents are within 200 feet of this applicant so therefore he has recused himself from reviewing this application and that Ms. Commins has reviewed the application instead.

Ms. Trainor asked Ms. Commins if she had any questions for Mr. Feldman. Ms. Commins replied that she didn't have any questions for the applicant and stated that this is a very straightforward

application. Ms. Commins stated that the lots on Locust being an average of 90 to 105 feet deep with 40-foot front and rear setbacks make for a very limited footprint of development, it is very common to see this scenario on Locust Road.

Ms. Trainor asked the Board if there were any questions for Mr. Feldman. Hearing none, Ms. Trainor asked the public if there were any questions. There were no public questions.

Ms. Trainor announced it was time for the Board to make comments regarding this application. Ms. Trainor asked Mayor Nicol if he had any comments. Mayor Nicol commented that he thinks this is a straightforward application and is not going to change the footprint that much and that he would be in favor of it. Ms. Trainor asked Ms. Brisben if she had any comments. Ms. Brisben replied that she is for this application. Ms. Brisben stated that she thinks the home will be beautiful and that the home next to it is a larger home, so this will fit right in. Ms. Trainor asked Mr. Stenson if he had any comments. Mr. Stenson stated that he agreed with Ms. Brisben. Ms. Trainor asked Mr. Miller if he had any comments. Mr. Miller replied that he thinks this is an improvement to the property and is well warranted. Ms. Trainor asked Mr. Siano if he had any comments. Mr. Siano replied that it looks like they did a nice job designing it, fitting in with the other homes in the neighborhood. Ms. Trainor asked Mr. Maclearie if he had any comments. Mr. Maclearie replied that it looks great. Ms. Trainor asked Mr. Chermack if he had any comments. Mr. Chermack responded that he agrees with Mayor Nicol and Mr. Siano that it will be an improvement to the neighborhood. Ms. Trainor stated that she has nothing but positive comments, welcomed the Feldmans to Brielle and based on the lot and the footprint that's existing, thinks that the addition of a second story is just fine.

Ms. Trainor announced it was time to hear comments from the public regarding this application. Mark and Paige Morro, residing at 611 Locust Road were sworn in by Mr. Clark. Mr. Morro stated that they feel that the addition is going to fit in the neighborhood and are very excited to have the Feldmans on the block.

Hearing no other comments, Ms. Trainor asked for a motion with respect to this application.

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

- r. The correct fees were paid, taxes are paid to date and the property owners within two hundred (200') feet, as well as the newspaper, were properly notified.
- s. The Property is located within the Borough's R-2 single family residential zone.
- t. The Applicants seek approval to construct a second story addition on an existing one-story single family home on the Property.
- u. Portions of the existing structure and the proposed second-story addition extend into the required minimum yard areas and therefore require bulk variance relief from this Board.
- v. The deviations from the Borough Code requirements already exist due to the single-story structure on the Property and are not being exacerbated by the

second story addition since the addition is being constructed within the footprint of the existing structure.

- w. By reason of the size, shape, and topography of the Property, it would be a hardship to the Applicants to comply with the requirements of the Borough Code, and the development being proposed by the Applicant is consistent with other development in the neighborhood
- x. The purposes of the Borough Code would be advanced by this proposed development and the benefits of the variances sought outweigh any detriments.
- y. This application and the variance relief sought therein advances the purposes of the Municipal Land Use Law, does not cause any substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, Mr. Stenson moved to approve the application; this motion was seconded by Mr. MacLearie. At that time the application was approved by the following roll call vote:

Ayes: Mayor Nicol, James Stenson, Glenn Miller, Corinne Trainor, James Maclearie, Christian Siano, Karen Brisben, Andrew Chermark

Noes: None

Absent: Madeline Ferraro

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

- r. The Applicants shall pay all taxes and other applicable assessments, costs and fees to date, as applicable;
- s. The 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;
- t. All representations made under oath by the Applicants or their agents shall be deemed conditions of this approval, and any misrepresentations or actions by the Applicants contrary to the representations made before the Board shall be deemed a violation of this approval.

A motion to approve the above resolution was made by Jim Stenson seconded Karen Brisben and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Ms. Corinne Trainor, Mr. James Maclearie, Mr. James Stenson, Mr. Christian Siano, Ms. Karen Brisben, Mr. Glenn Miller and Mr. Andrew Chermark.

Noes: None

Absent: Ms. Madeline Ferraro

OTHER OLD BUSINESS:

Ms. Trainor announced that the Board would hear the continuation of hearing for Major Subdivision for Block 64.06, Lot 18, 619 Rankin Road, owned by 619 Rankin Road, LLC (applicant Bojac Realty), to create 5 buildable lots.

Ms. Trainor read the letter from Mr. Houseal, Environmental Commission chairperson. Ms. Trainor asked Mr. Henderson if he had seen the letter and Mr. Henderson responded he had received that afternoon and reviewed it. Mr. Henderson stated they could respond tonight or with a report. Mr. Houseal's letter strongly recommended the applicant confirm the generalized soil data used for the Stormwater Management Report dated 29 May 2019 Rev. 21 July 2020 and the applicant account for the deliberate strategy of stormwater infiltration.

Ms. Trainor then reminded the members of the public should they wish to be heard with reference to Mr. Carr, they would need to use the virtual meeting chat box and would be heard in the order received.

Ms. Trainor begin with Mr. Lackey who was set to ask questions of Mr. Carr at the last meeting before time ran out.

Mr. Lackey asked Mr. Carr if he authored the environmental impact statement dated 11/22/2019 and was it true and accurate. Mr. Carr responded yes.

Mr. Lackey asked if Mr. Carr did an investigation. Mr. Carr responded they had input from an environmental consultant, did some research and reviewed other documents. Mr. Lackey stated "you stated the proposed project will not generate any of the EPA measured air pollutants, carbon monoxide, nitrogen dioxide, ozone sulfur dioxide, or lead, therefore this project will not adversely impact the regional air quality" then asked Mr. Carr if that was his conclusion. Mr. Carr responded yes. Mr. Lackey asked Mr. Carr what was the factual basis for that conclusion? Mr. Carr responded it is a residential community and not a commercial type facility that would generate emissions.

Mr. Lackey asked if there were cedar trees on the property and Mr. Carr responded he was not sure. Mr. Lackey asked if Mr. Carr had walked the property and Mr. Carr responded yes. Mr. lackey asked Mr. Carr if his conclusion was no impact to the wetlands because of the project and Mr. Carr responded correct. Mr. Lackey asked for the factual basis for Mr. Carr's conclusion. Mr. Carr responded it was his study opinion based on the design of the site and criteria by the NJDEP. Mr. Lackey asked what the criteria was. Mr. Carr responded there are regulations about the disturbance and impact of wetlands and buffers. He continued they were not disturbing the wetlands and they are meeting the NJDEP water quality standard so based on that criteria.

Mr. Lackey asked who the Environmental Consultant on the project was. Mr. Carr responded DuBois Environmental consultants submitted reports to the NJDEP.

Mr. Lackey asked what the impact to the wildlife would be at the site. Mr. Carr responded minimal impact as there are currently two buildings, a house, and a garage with a separate unit.

Mr. Lackey asked Mr. Carr if he was referring to the concrete pond as the previous disturbance to the wetlands buffer. Mr. Carr responded partly, also the walkways and greenhouses.

Mr. Lackey asked, "In your environmental impact statement at section three entitled Zoning Review, you say the proposed project will result in the minimal disturbance and minimal adverse environmental impacts to the site and surrounding area, Is that your conclusion.". Mr. Carr responded correct. Mr. Lackey asked what was meant by minimal disturbance. Mr. Carr responded "There of course will be disturbance to the property as you would do on all residential construction. In my opinion, the construction of five homes on this property is generally a minimum amount of disturbance and is not a significant environmental impact.".

Mr. Lackey read section five entitled hydrology from the Environmental impact statement and asked if that was his statement and what was the basis. Mr. Carr responded yes, and the stormwater management systems are designed with the NJDEP regulations. Mr. Carr added there are a lot of design calculations that have been addressed.

Mr. Lackey asked if soil samples have been taken from the site for presences of oil. Mr. Carr responded no. Mr. Lackey asked if there was knowledge of underground storage tank. Mr. Carr responded no.

Mr. Lackey asked Mr. Carr other than referencing IT trip generation manual 10th edition, what investigation did he perform regarding traffic on Rankin Road. Mr. Carr responded he was confused by the question; the manual is the standard guideline for trip generation. Mr. Carr continued he draws his conclusions from the trip generation, site visits, and 40 years of experience. Mr. Lackey asked Mr. Carr for the basis of his conclusion on the minimal traffic impact and Mr. Carr stated he would repeat it again, the IT trip generation studies, familiarity with the area and years of experience. Mr. Lackey asked what an average daily trip was, and Mr. Carr responded a trip when you leave or arrive at your house, some houses have more or less but there are averages. Mr. Lackey asked Mr. Carr if he had dealt with a subdivision where there was a negative impact and Mr. Carr responded yes.

Mr. Lackey asked how many variances are being sought and Mr. Carr responded two and they are lot depth variance on lot 18.05 and lot width on lot 18.01. Mr. Lackey asked what is a "technical variance" and how does it differ from other types, quoting Mr. Carr from the October 13th, 2020 meeting. Mr. Carr responded different cases and extenuating circumstances on how you perceive the various shapes and sizes of properties and whether it visually meets the criteria. Mr. Lackey asked what it would take to eliminate the two variances. Mr. Carr responded you cannot eliminate them; they ride with the "mother lot". Mr. Lackey asked if there was a hardship that necessitates the variances and Mr. Carr responded yes because of the existing conditions of the site.

Mr. Lackey asked if Mr. Carr if he analyzed the detriments of benefits to the Master Plan and what was his analysis. Mr. Carr answered he had not given planning testimony and he believed they would present a planner for additional testimony.

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Mr. Lackey asked if Mr. Carr had analyzed the impact on nearby properties from moving the utility pole and where was it going to go. Mr. Carr responded it was going to shift down approximately 20 feet along the roadway and zero impact.

Mr. Lackey asked if the plan was to move or demolish the existing house. Mr. Carr responded it is to relocate to one of the new lots. Mr. Lackey had no further questions of Mr. Carr.

Ms. Trainor stated that this application has reached the 45-minute mark and given all the traffic issues that various people had raised the Board would continue this application at the January meeting. Before closing this portion of the hearing, Ms. Trainor asked if anyone from the public had any questions for Mr. Carr and none were heard.

NEW BUSINESS:

Application for Variance relief for Block 43.01, Lot 5, 616 Cedarcrest Drive, owned by Peter & Tara Christou, to allow replacement of a Bilco style basement entry door with a full stairway enclosure. Minimum Side Yard Setback – 8 feet required & existing, 3.1 feet proposed. Maximum Lot Coverage – 20% allowed, 20.6% existing, 21.4% proposed. Possible variance for Accessory Side Yard Setback (5 feet required) if walkway is extended to the northerly property line.

Mr. Peter Christou was sworn in by Mr. Clark before testifying. Mr. Christou thanked the Board for hearing his application. He explained in May he, his wife and new baby moved from up north. Mr. Christou shared with the Board that a family member had had a break-in through a similar door. Mr. Christou explained for that reason they would like to replace the current door with a regular secure door using the existing stairs with a “little dog house” over it.

Ms. Trainor turned to the Board for questions of Mr. Christou. Mayor Nicol, Councilman Garruzzo, Mr. Stenson, Mr. Miller, Mr. Siano, Mr. Chermark and Ms. Trainor had no questions. Ms. Brisben stated she had driven by the property and asked if the fencing would be open fencing or solid fencing. Mr. Christou responded it would be a solid fence. Ms. Brisben asked if the door would be seen from the street. Mr. Christou responded you would not see it from the street.

Mr. Hilla asked if there would be a paver walkway up to the door. Mr. Christou responded nothing more than what is currently there.

Ms. Trainor opened the meeting to comments from the public Hearing none, Ms. Trainor turned to the Board for comments of Mr. Christou. Mayor Nicol responded he had no problems with the application. Councilman Garruzzo responded he also had no issues with the application. Mr. Stenson, Mr. Miller, Mr. Maclearie, Ms. Brisben and Mr. Chermark had no comments. Ms. Trainor stated she understood the need for improvements to make it safer for Mr. Christou’s family.

Ms. Trainor asked for comments from the public. Hearing no other comments, Ms. Trainor asked for a motion with respect to this application. Mr. Stenson made a motion, Mr. Maclearie seconded, and a roll call vote was then taken:

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Ayes: Mayor Nicol, Councilman Garruzzo, James Stenson, Glenn Miller, Corinne Trainor, James Maclearie, Christian Siano, Karen Brisben, Andrew Chermark

Noes: None

Ms. Trainor stated if there was no other business, she would ask for a motion to adjourn. Councilman Garruzzo made the motion, seconded by Mr. James Stenson, and unanimously approved by the Board, all aye.