

# ***Borough of Brielle***

---

**AUGUST 8, 2017**

---

December 07 2017

**August 8, 2017**

BRIELLE PLANNING BOARD

TUESDAY, AUGUST 8, 2017

The Regular meeting of the Brielle Planning Board was held on Tuesday, August 8, 2017 at 7:30 pm in the Brielle Borough Hall, 601 Union Lane. After a moment of silent prayer and a salute to the flag, roll call was taken:

Present- Joseph Bonacci, Thomas Condon, Eric Lapham, James Maclearie, Stacey Montalto, Charles Sarnasi, James Stenson

Absent - Mayor Thomas Nicol, Councilman Frank Garruzzo, James Langenberger

Also present were Karen S. Brisben, Recording Secretary, Joe Clark, Esq., Board Attorney and Alan Hilla, Jr. Board Engineer. There were approximately 30 people in the audience. The reporter from the Coast Star newspaper recorded the hearing and the applicant had a Court Reporting service transcribe the meeting.

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

The Minutes of the July 11, 2017 meeting were approved on a motion by Mr. Bonacci, seconded by Ms. Montalto and approved by voice vote, all aye.

## **CORRESPONDENCE:**

All members received a copy of a notice to the DEP for construction of two new single-family homes at 400 & 402 Chester Avenue, as well as one for the reconstruction of a home at 308 Fisk Avenue. Also received was the May/June issue of the NJ Planner.

## **OLD BUSINESS:**

The Board turned to the continuation of a hearing for Waypoint 622, Block 52.01, Lots 1-8.01, Use Variance/Site Plan approval. Mr. John Jackson, Esq. came forward to represent Waypoint 622 and presented the Board with paperwork outlining his conflict issue with Board Engineer Alan Hilla, Jr. Mr. Clark said he had received this report and did some research and then presented his own memo to the Board stating that he did not think this is an issue; he advised the Board to proceed with the application and the Board agreed. Mr. Jackson said he will abide by the Board's decision.

Mr. Condon wanted it known that the Board had offered to meet twice in July as well as meeting tomorrow night, but there was a conflict of all attorneys being able to meet so the Board only was able to have the one meeting in July and, within the last 3 hours was notified by the objecting attorneys they have conflicts on Thursday. Mr. Collins, one of the objecting attorneys said he had just learned of the dates a few hours ago; he went on to say he and Tim Middleton, the other objecting attorney, have a right to represent their clients, but if both of them can't be here there is an issue. Mr. Middleton spoke up and said he had notified Mr. Clark last week he was not able to attend Thursday evening. Mr. Condon said the Board has been trying to get meetings set for a while and this will be discussed at the end of this evening.

At this time the hearing went back to the cross-examination of Mr. Lurie, the applicant's engineer, by Mr. Middleton. Before this started, Mr. Clark asked Mr. Jackson how many more witnesses he had and the answer was John Rea, Traffic Expert, Richard Kenderian, Planner, Mr. Grafas and his supporters. Mr. Jackson was hoping to get Mr. Kenderian's testimony tonight; Mr. Clark then swore all the witnesses in.

Mr. Middleton started and referred to Exhibit 0-3, the plan with the approved stamp made by the Zoning Officer. Mr. Lurie gave out copies of the 0-3 deck drawing dated 1/13/15, this was done a day after the Zoning Officer approval; Mr. Lurie said there were 2 deck plans. Exhibit 0-6 was then marked, this a letter from Zoning Officer Elissa Commins to Larry Grafas stating that the patios and decks can be replaced within

the footprint. Mr. Middleton asked Mr. Lurie if the plan sent to the DEP was the same one as in 2015 and Mr. Lurie answered a canopy was added and not on the DEP plan, but as this relates to the deck both plans were identical.

Mr. Lurie said the existing deck and canopy had a lower patio and an upper patio fit in the footprint, they were combined by the new plan. Mr. Middleton then referred to Exhibit 0-3 and asked why the deck was expanded toward the bulkhead. Mr. Lurie said the client and architect laid this out and then the architect gave his company the plan and they put that on the site plan; this is normal. Mr. Middleton said there was correspondence back and forth with the town that the deck was built differently than what was approved. Mr. Lurie said he was told to match the deck to the concrete. Mr. Middleton asked him if they did a revised plan and submitted it for approval and Mr. Lurie said he imagined so, Mr. Grafas, the owner, would have done this as he was the construction manager. There was then a discussion back and forth regarding the square footage of the original deck and the new one that was referred to on Exhibit 0-3, the left side showed the original deck and the right side the new one.

Mr. Middleton then asked a plan called the existing seating exhibit and that was marked as Exhibit 0-7, this was dated 10/28/15 and done by DW Smith Engineers. Mr. Middleton went over the square footages of certain parts of the Union Landing Restaurant, which is shown on the left side of Exhibit 0-7; the right side is the seating area for Waypoint 622. He asked about the lower seating area, 1,100 square feet and above this was a planter area; Mr. Lurie said yes, the planter area was built on the deck and it separated the upper and lower deck, the 1,100 square feet is excluding the planter area. Mr. Middleton asked if the new deck covers that planter area and Mr. Lurie said yes. Exhibit 0-8 was then marked, the approved deck as of 10/28/15, this was used as an exhibit during the appeal.

Mr. Middleton noted a bump-out on the original lower deck but the new deck has no bump-out, it goes all the way up. Mr. Lurie said yes and it added maybe 10 square feet; he wanted it to be known the edge of the raw bar is now smaller. Mr. Lurie also said the canopy and deck all fell in the limits of the patio on the water side of the property. Mr. Middleton did not think so and felt the building was not done within the footprint and Mr. Lurie disagreed with this statement. Mr. Middleton felt a 35% increase was done and Mr. Lurie disagreed again and referred to a survey from 2000.

There was then a brief discussion on different surveys that were used, one from 2011 and one from 2000. Mr. Lurie said the footprint he used was on the water side and not the upper patio. Mr. Middleton commented that Mr. Grafas may have been acting with good intentions but there was a 35% increase and Mr. Jackson spoke up and objected to this; Mr. Lurie did not say there was a 35% increase, Mr. Middleton keeps saying it. Mr. Condon asked that the cross-examination just go on.

Mr. Middleton asked about when Mr. Lurie found out the configuration of the deck had to be changed and he said Mr. Grafas and his team met with the Zoning Officer and said they had to revise the deck to stay within the same footprint; they also added the canopy and submitted new building plans. Mr. Middleton thought Mr. Grafas wanted the permit for the elevated deck as he wanted to open in May of 2015 and Mr. Lurie agreed, he said Mr. Grafas said Zoning Board approval was not required to open. Mr. Middleton asked if the deck is on pilings and the answer was yes, DW Smith did the piling plan. Exhibit 0-9 was then marked, a foundation plan for the canopy, however, Mr. Middleton wanted it taken down, it was not the plan he wanted; he was looking for the coy pond area which was in Exhibit A-9. Mr. Middleton asked what was there when it was Union Landing and was told a couple of benches and walkway. Mr. Middleton then noted Mr. Grafas put in tables and chairs there and Mr. Lurie said yes; Mr. Middleton wanted confirmation that no permit was given for this and Mr. Lurie said that was correct and it will now be a passive seating area. Mr. Middleton asked if there are activities in this area, tents, etc. and the answer was no. He then asked if there will be a water feature here and again the answer was no.

Mr. Middleton then went back to the original lower ties of the deck and asked if Mr. Lurie had calculated the area of planters & stairs and Mr. Lurie said no. Mr. Middleton then asked about the live music and Mr. Condon had to tell him that was not part of his testimony. Mr. Middleton then asked about the band area and it was shown to him, it is a dance area and there are also tables there. Mr. Middleton asked about its size and Mr. Lurie did not know. Mr. Middleton then started asking Mr. Lurie about the sound system volume and, again, Mr. Condon had to tell him that was not part of his testimony.

There was then a question about the canopy size and Mr. Jackson said Exhibit A-19 is a series of photos that show the basis of the canopy areas, Mr. Clark noted it is a set of 12 photos. Mr. Lurie explained the photos show the main canopy area, a close up of the raw bar canopy area, the band area, the center bar area, the east side of the upper deck, the docks that show the canopy in the background, aerial photos from 2013 that shows the canopies and a 2012 photo of the canopy area. Mr. Lurie said he used these photos to make the new canopy area to match and not be put closer to the water.

Mr. Lurie then referred to a survey by Charles O'Malley dated 1/20/00, revised 12/21/00. This shows a

dashed property line along the center of Union Lane and also shows the upper deck area and steps to the patio.

At this time Mr. Middleton was done with his cross-examination and Mr. Dennis Collins, Esq. came forward to do his cross-examination. He asked Mr. Lurie about doing the replacement deck and Mr. Lurie said it all became one deck, including the landscape area, which was created on top of the concrete slab and put in after the original deck; he used the concrete footprint for the replacement deck. Mr. Collins noted this increased the seating area as they were no longer using the landscaped area and Mr. Lurie said yes. Mr. Collins asked about the square footage of this area and was told 100 square feet. Mr. Collins made remarks about modifying a landscaped area and felt this needed approval but Mr. Lurie said this area was on top of the concrete patio. Mr. Collins asked if this increased the parking need but Mr. Lurie said no, the parking was based on the total deck area. Mr. Condon asked if they added 100 square feet would that increase parking and Mr. Lurie said yes.

Mr. Collins then asked what the significance was between the 2000 and 2015 surveys and Mr. Lurie said the Union Lane property line and referred to Exhibit A-20 which shows the dashed line to the center of Union Lane. Mr. Collins asked about the photos on Exhibit A-19 and Mr. Lurie explained they were taken when they were doing the dredging permit. Mr. Collins asked if these show what was there when Mr. Grafas purchased the property and the answer was yes.

The attorneys were done with their cross-examination so the hearing was opened to the public for questions only to Mr. Lurie. Margaret Herman of 208 Homestead Road came forward and wanted to know about the deliveries that are made, they are being in the front as they can't get to the back. Mr. Lurie said she would have to ask Mr. Grafas about this; Mrs. Herman said sometimes there are 2 or 3 trucks there at one time. Mr. Condon explained that this was not of part of his testimony and maybe the Planner can answer this. Next to come forward was Charlotte Madison of 206 Homestead Road and wanted to know if she could submit pictures; Mr. Condon told her when the comment time period happens she will be able to do this. As there were no other questions to Mr. Lurie, that portion of the hearing was closed.

At this time Mr. Richard Kenderian, Professional Planner and Engineer, came forward to testify, he had been sworn in earlier this evening. He gave his professional history as being a Planner since 1972 and has qualified as an expert witness in over 100 towns; he also mentioned he is a Brielle resident and has lived here over 30 years. The Board accepted him as an expert witness. Mr. Kenderian said this is an irregularly shaped site and is 1.72 acres with a 2 ½ story structure and a 2-story commercial structure with marine activities and storage as well as extra bathrooms. There are 42 parking spaces with 2 handicapped spaces. The marina contains 23 boat slips with 2 additional slips on the side tee; the restaurant use is the same as Union Landing was. The Union Landing restaurant had 265 seats and Waypoint 622 has 209 seats and the current owner also owns Hoffman's Marina next door; all this is in the C-2 Marine Commercial Zone. The permitted uses in this zone are marine uses, some retail shops as well as restaurants, etc. The application here is for a multi-use Marine complex and the restaurant does promote the marina use for both residents and visitors and may be the only restaurant in Brielle that offers dock & dine. He was familiar with Union Landing and felt the proposed use is compatible with the surrounding environment; Waypoint 622 will have no significant effect on property values in the area. There were concerns over the sound impacts and complaints were filed when the restaurant first opened but in no case did the sound exceed the Ordinance, however, it was recognized as a nuisance and addressed with sound walls & sound control. Waypoint did invite the neighbors to discuss these issues and two people came and a discussion was held with them.

As far as traffic Mr. Kenderian qualifies as a Traffic Engineer and said that Union Landing did not provide good parking; that has been corrected and now they have full circulation with no dead ends, they now have a pedestrian drop-off as well as ADA access, all improvements. As far as parking stalls they now have the availability of parking at Hoffman's next door and cars will be directed to park there. The marina use is during the day and after 4:00 p.m. the parking lot is open for spaces to use, this makes another 50 stalls available for parking.

In regards to screening both the previous use and this use have the thick hedgerow along Green Avenue which blocks the visibility from the surrounding residences. Sound attenuation has been put in place and Mr. Kenderian was there on July 30th and walked around the site and could not hear the band on Green Avenue to the railroad tracks. He then addressed the lighting and said it is sufficient for pedestrians and has no glare. The next item was fire protection and there is a vast source of water from the Manasquan River with a standpipe there. There was a paved area that could not support a fire truck and on 2/25/16 they received approval from the Fire Company for a striping plan.

The Planning Board has to find this site complies to the requirements of the C-2 Marine Commercial Zone and it does as it meets two of the criteria: 1) the use is permitted in this zone and 2) restaurants are permitted, no drive-ins. Also, this has to be in conjunction with a marine facility. He then went on to considering the slips

in Hoffman's Marina, there are 84 slips in total which means 334 seats would be permitted and they have 209 seats so they meet the Ordinance requirement. As far as the swimming pool at Hoffman's, it is not part of the restaurant use. The 2006 Master Plan Update suggested that development densities are consistent with the pattern of development and this site meets that definition. Also, the entire site was renovated with new plumbing, electricity, etc. and all is more energy efficient and environmentally friendly; the deck is now above flood elevation. He also felt that the old Union Landing decks had steps between the decks and this was a tripping hazard, the exiting is now safer and better identified. This area is manned at all times for assistance and to make sure no one leaves with a drink.

Mr. Kenderian said the actual square footage of the current deck has not changed and this includes the planters that were just put in and easily removed, the gross floor area is measured between walls. The outside limits of the previous upper and lower patios is what Union Landing used, there is now an extra 2 square feet which is de minimis.

According to the Master Plan 20% of Brielle's tax base is Commercial Zone and here you have Hoffman's, Waypoint and marinas along with specialty retail establishments. He went on to say there is some "fake news" here, there is a story that the applicant did not get permits, etc. and this is not true. There was no existing violation in 2014 and the DEP gave exemptions for permits, including the deck, they said it did not need their approval. A deck plan and canopy plan was done in 2015 and a permit was issued, the difference was the front stairs which are now further back from the bulkhead. Then a CO was issued and a side patio area, where the koi pond was, had tables and chairs put in and they will be removed as per the applicant to comply. The applicant has gone beyond to be a good neighbor and put in an audio system with two speakers controlled by the applicant. Mr. Kenderian said he was a professional drummer when he was younger and knew about bands, when he was there in July he thought it was canned music and it was a band with controlled sound.

The uses here are permitted but they cannot meet all the requirements because this is a pre-existing use. Case Law gives approval for a Use Variance for a Conditional Use, the applicant's inability to comply need not affect the site for Conditional Use, the use should be relevant to the nature of the zone and the applicant must show the site will accommodate the proper use. Mr. Grafas did his due diligence and has the paperwork to prove this, he did all this in good faith; the site is now more code compliant and meets the purpose and intent of the Marine C-2 Zone.

The deck is safer, it is a deck that is a single level and is above the flood plain, there is better drainage and there are less combustible materials and better exits. They have removed the oil tanks and there is a better pattern and circulation as well as an improvement to the off-street parking issue. Waypoint 622 employs about 110 people, many do not drive – they ride bikes or live nearby. Patrons use either Uber or taxis, there are not as many cars as in the past.

This site comports to the Master Plan and there is no expansion of use, the passive seating area where the koi pond was will be put back in. The Conditional Use is a permitted use and this meets the intent of the Zone; whether it be 2 feet or 100 feet difference in the deck it there is no impact on the Master Plan or Zoning Ordinance and the improvements made are consistent with the permits given.

Mr. Jackson asked for clarification on the lot size and Mr. Kenderian said it is 1.72 acres including the marina as well as riparian area & upland. This is different from the 2 acres it is required to be but this difference is de minimis and is pre-existing. Mr. Jackson made reference to the patio area and Mr. Kenderian said they made application and were approved and given a permit. Mr. Jackson asked about setbacks and Mr. Kenderian said this is an open structure and the 4.94 feet on one side where 10 feet is required is due to a column. Mr. Jackson said that 25% coverage is allowed and Mr. Kenderian said this is under that. As far as Floor Area Ratio there is no change from Union Landing. Mr. Jackson then asked if this is all an upgrade and Mr. Kenderian said that, comparing it to Union Landing, it is. It is a steel structure that is made to protect and is fire resistant, it is a dramatic upgrade and he commented there is a more sophisticated crowd here now. Mr. Kenderian also felt that commercial uses today are under pressure, things are rapidly changing due to the internet and it is scary. Towns are so dependent on their commercial uses, it is very important that the towns support their commercial areas and uses.

As Mr. Kenderian was through with his testimony Mr. Collins came forward to cross-examine him. He started by stating his client has a conflict and this is being waived. He then wanted to go over the notice that was mailed out and Mr. Jackson objected, he was the one to do the notice, not Mr. Kenderian. Mr. Collins said he wanted to go over each variance listed on the notice with the Planner; Mr. Jackson again protested but Mr. Condon noted Mr. Kenderian spoke of the variances and Mr. Collins should go on. Mr. Collins said there was interaction between two properties and Mr. Kenderian said the boating lot from Hoffman's is used by Waypoint. There is a D3 variance needed and he suggested that Mr. Jackson can address the other issues. As Mr. Collins was interrupting the answers Mr. Jackson complained that he was not letting the witness answer

the questions. Mr. Collins then asked the criteria for a D3 variance and Mr. Kenderian said he will look it up in the Municipal Land Use Law; Mr. Collins then questioned him having to do that as he was a Planner. Mr. Kenderian said he does not have this memorized and would rather read it from the law.

Mr. Collins then asked about parking relief and Mr. Kenderian said yes, they need relief; this will be a C-1 variance not related to the Conditional Use, there is a C-1 variance for the boat slips also and if this were not an existing use there would be a limit. Mr. Collins said the restaurant is a Conditional Use and do they need a D3 variance for seating regulations. Mr. Jackson spoke and said the C variances and D variances are entangled in the Conditional use, all this was addressed through the testimony given. Mr. Clark said that knowing the nature of the variances is important, Mr. Kenderian is not a lawyer but he thought the Board needs to know what variances are needed. Mr. Jackson said there is one Conditional Use and not more than one D3 variance, there are C variances also. He put this in the notice and felt that Mr. Collins was misstating the rules of the D variances and C variances. Mr. Collins said that 5 votes are necessary as this is a Use Variance and, if this were a permitted use, this would be before the Planning Board and this is a concern. Mr. Jackson still felt that Mr. Collins is distorting the law. Mr. Collins said he just wanted to get everything straight. Mr. Jackson said they do need a D3 variance and this questioning is confusing the witness. Mr. Clark did not think Mr. Collins was trying to trap Mr. Kenderian and Mr. Condon noted that all the variances requested are listed in the notice. Mr. Collins persisted that he wants to get the right testimony. Mr. Jackson noted that Mr. Hilla said this is a D1 variance and he disagreed with that, then the notice was questioned by Mr. Rubino when he was the objecting attorney and he revised it. This application has been done through the Zoning Officer and Planning Board and the notice was done with the direction of the Board, to suggest that the notice is not adequate is just not right. Mr. Clark still felt that Mr. Collins should be able to ask questions.

Mr. Collins then went on and asked about the different variances needed for:

Multi-Use Marina: answer D3. Floor Area Ratio: answer D3. Minimum Setbacks: answer C2. Side Yard: answer C2 as well as the front. Traffic: answer C2. Loading zone: answer C2. Loading spaces: answer C2. Screening: answer C2. Signage: answer C2. Curb Cuts: answer C2. Parking spaces: answer C2. Driveway width: answer C2. Landscaping: answer C2. Roof sign: answer C2. Square Foot variance: Mr. Kenderian said he did not read this but already testified that the rear stairs would apply to the setbacks. Patio Canopy: Mr. Kenderian said he addressed this, there is a setback violation for the column, the square footage of the canopy has no relief requested.

Mr. Collins then said that Mr. Kenderian said this was a dramatic renovation and Mr. Kenderian said he did not say that, he said it is a substantial upgrade, from the road it looks the same. Mr. Collins then asked him what type of research he did on this and Mr. Kenderian said he reviewed files, the Master Plan as well as previous files. Mr. Collins asked about this being grandfathered and Mr. Kenderian said yes, this use had been here for many years, this is an existing condition. Mr. Collins then asked about the deck being above the flood zone and he wanted to know if Mr. Kenderian was familiar with the flood program; the answer was "somewhat". If a patio is at grade, it has to be above the flood plain. Mr. Collins asked about the setback in the rear and Mr. Kenderian said this is a pre-existing condition. Mr. Collins then asked how high the deck was before it was redone and Mr. Kenderian said it was at grade, the deck is now higher. Mr. Collins asked if the height has a mass effect on the structure and Mr. Kenderian said yes. Mr. Collins then asked if the setback is different if the deck is raised and Mr. Jackson objected. Mr. Collins then reworded his question to ask if there is a setback violation it is not being changed even though it is being raised? Mr. Kenderian answered yes, no change.

Mr. Collins then asked about parking at Hoffman's and does that ameliorate the parking issues and Mr. Kenderian said yes. Mr. Collins asked how many spaces are being provided and the answer was between 50 and 90; Mr. Condon noted this is what he said before in his testimony. Mr. Collins then asked if this makes 132 spaces and Mr. Kenderian said "approximately". Mr. Collins then asked if this access to Hoffman's required a cross access agreement and Mr. Kenderian said no; Mr. Collins felt there needs to be something in writing and Mr. Kenderian said this can be in the Resolution. Mr. Collins then asked if the client will commit to those spaces and Mr. Jackson spoke up and said the Ordinance says proof that parking meets the agreement and that has already been done. Mr. Collins then said that, in order for a lot to be approved there is Ordinance criteria and Mr. Kenderian said yes, but this is a boatyard and does not meet that criteria, this is a unique situation and is relative to the Marina Use. Mr. Collins asked how many boats are in the yard today and Mr. Kenderian did not know but there are open parking spaces. He felt that Mr. Rea, the traffic expert, may be able to address this.

Mr. Collins then asked about valet parking and Mr. Kenderian said yes, it will be offered but he, personally, did not think this is necessary. Mr. Collins asked, as a Planner, did he look at similar uses here and the answer was yes. Mr. Collins asked if Mr. Kenderian looked at the Shipwreck Grill site and Mr. Jackson objected, this has no bearing and is a different site. Mr. Clark felt this should be answered so Mr. Collins asked if Mr. Kenderian has ever seen a band outside Shipwreck Grill and Mr. Kenderian said no, but he has seen dancing outside on the deck. Mr. Collins then asked the same question in regards to the Sand Bar and Mr. Kenderian said that is in a residential area. Mr. Collins said they are not allowed to have live music outside. Mr. Collins

then asked the same question regarding the River House and Mr. Kenderian did not know. Mr. Collins asked if there is a pattern of restrictions, does that apply here? Mr. Kenderian said each application stands on its own merits. Mr. Collins then asked what restaurant in this area has a dedicated dance floor and Mr. Kenderian did not know. Mr. Condon then asked Mr. Collins for the definition of a "dance floor" and Mr. Collins withdrew his question. Mr. Kenderian said he has seen people dance at Waypoint, the Riverhouse, the Sand Bar, he has seen little kids dance. He has no opinion on a high end restaurant for dancing.

Mr. Collins then asked about being code compliant and Mr. Kenderian said yes. Mr. Collins asked if it was ADA compliant when it was Union Landing and Mr. Kenderian said he did not do a study on this. The deck had steps and he didn't know if this was code compliant. Mr. Collins then asked about the seating, Union Landing had 265 and Waypoint has 209, where were the seats at Union Landing? Mr. Kenderian said he did not break it down so Mr. Collins asked if there are less seats now outside; Mr. Kenderian said his testimony was seating in total, they did a history study on Union Landing and found 265 seats, 209 is the seating arrangement today, not including the side patio.

Mr. Middleton came forward and asked if the Conditions of the 1978 Resolution no longer applied and Mr. Kenderian said he did not know if those plans were ever signed and all the improvements were never done so he dismissed it – it was long ago and there is now an Ordinance that they comply with. Mr. Middleton asked if all permits were obtained by the applicant and did he get a permit for the outdoor bar. Mr. Kenderian said he believed he did, he did not think a permit is needed for a sound system. Mr. Middleton echoed Mr. Collins remarks and said the Sand Bar was denied for sound outside and Mr. Kenderian again said this is a residential area. Mr. Middleton said the Shipwreck was denied for have outdoor speakers and Mr. Kenderian was not aware of that. Mr. Middleton then asked if they have awnings and the answer was yes; Mr. Middleton wanted to know if there are permits for this and Mr. Kenderian did not know, they are retractable. Mr. Middleton went back to Mr. Kenderian being on site on 7/30 and had a sound meter, Mr. Kenderian agreed and read them but did not record them, he is not a sound expert. Mr. Middleton asked how many speakers are there and was told 2. Mr. Middleton said if he said 8 or 9 would Mr. Kenderian be surprised and change anything and the answer was no. Mr. Middleton said the sound engineer said 57-58 decibels causes impact to the neighbors and Mr. Kenderian did not recall.

Mr. Middleton then went to the parking at Hoffman's and that the applicant can use 50 to 90 spaces there and Mr. Kenderian said yes, it is a gravel parking lot and is not delineated, he has counted cars there and it is between those numbers, this is an observation by him and not a study. Mr. Middleton asked if there is a concern using a parking lot with boats and Mr. Kenderian said no, there is no boat work done in the evening. Mr. Middleton then asked the number of seats at the bar and Mr. Kenderian thought there were 36.

As the attorneys had no further questions, the Board members were able to question Mr. Kenderian. Mr. Lapham asked if the parking of 42 spaces with 2 handicapped is appropriate here and Mr. Hilla answered there is one space for every 25 square feet. Mr. Lapham then asked about the noise issue and Mr. Kenderian said he had studied this but was not a noise expert. Mr. Lapham then asked about emergency vehicles and Mr. Kenderian said that, during Union Landing, there was continuous pavement and he has seen trucks park there at the end of Union Avenue, in looking at very heavy vehicles he would have a concern and does not know if this would be an issue with a fire truck, but they do not have to go down there and there is now a walkway there with no vehicle use. Ms. Montalto asked about the public meeting he spoke about and when was that? Mr. Kenderian said this was about a year ago. Ms. Montalto asked if this was after complaints and Mr. Kenderian said yes, they sent letters to the neighbors and invited them and offered food. They had 2 people show up and the noise and parking issues were addressed. Ms. Montalto then asked about the traffic circulation in the front and Mr. Kenderian said this is now highly desirable due to the better traffic circulation. There is a way in & out the Union Lane side and one way out on Green Avenue, it will be changed so it will be better. Ms. Montalto then asked if it is possible to get a transcript of these hearings for review and Mr. Jackson said yes but it may take a couple of weeks.

Mr. Stenson asked about the measurements of the planters and Mr. Kenderian said they were not permanent, he would guess less than 40 square feet. Mr. Stenson then asked about the sound wall and Mr. Kenderian said it is totally around where the band sits and goes to the top of the canopy; the speakers point to towards the bar. Mr. Bonacci asked for confirmation of the numbers in the notice and on square footage and was told 1,550 square feet originally, 1,570 square feet constructed. The deck was 1,490 and now is 1,492 square feet and is 5 feet above grade. Mr. Bonacci asked if this was better and was told yes. Mr. Bonacci asked if the music is done at 10:00 p.m. and the answer was yes. Mr. Bonacci asked if there is a traffic problem and Mr. Kenderian said it has always been a problem but is now safer. The site is better now and there is less parking on the side streets, they have a parking attendant and that is functioning fine. Mr. Maclearie asked why they are not just combining both Hoffman's lot and Waypoint's lot. Mr. Kenderian felt this was subjective as it is the same owner and the Board should consider this is the same owner; there is a walkway and they are connected but they are two properties, it is owned by one owner but is two sites and he agreed it acts like one. Mr. Maclearie asked why not make it one and Mr. Jackson said they cannot be combined due to

financing, if Hoffman's wanted to put a restaurant on their site they would need approval. There will be an easement for parking that will run with the land and he did agree the lots are entangled, boaters come in to use Waypoint and Waypoint uses Hoffman's lot.

Mr. Sarnasi asked why there are less seats for Waypoint and Mr. Kenderian said the parking will drive this factor, it is a matter of seating and size of tables. Mr. Jackson referred to Exhibit 0-7 which shows the layout. Mr. Hilla asked what basis does Mr. Kenderian have to not include the setback for the stairs and he said if there is a setback on a home it usually does not affect stairs but Mr. Hilla said Brielle's Ordinance does have this requirement. Mr. Kenderian said they then need a C2 variance. Mr. Condon questioned Mr. Kenderian's statement that he did not think a valet was necessary and Mr. Kenderian said there is no problem now with no valet. Mr. Condon said this is a gravel lot and not much lighting, he thought they may be open to liabilities. Mr. Jackson said that Mr. Grafas had purchased a golf cart to direct people to park and drive them to and from their car. They agree there is a side entrance but it's just for employees only and everyone else will use the sidewalk or boardwalks. Mr. Condon asked if a permit was required for the sound wall and Mr. Kenderian said there were walls before so he couldn't answer that. Mr. Jackson spoke and said they do have permits. Mr. Condon asked if the canopy is a permanent structure and Mr. Jackson felt it was but the DEP saw it as a temporary structure. Mr. Condon asked about Hoffman's, 84 slips? Mr. Kenderian said that number includes both properties, there are 56 at Hoffman's and that does not include dry storage.

As there were no further questions from the Board the hearing was opened to the public for questions to Mr. Kenderian. Hearing none, that portion was closed. Mr. Stenson had a question for Mr. Lurie so he came forward again. Mr. Stenson asked about the seating plan and Mr. Lurie said he did a lot of research on this and came up with this drawing of the seating plan for Union Landing and Waypoint.

As it was after midnight, Mr. Condon announced that this hearing will be continued next Tuesday, August 15th at 7:30 p.m. The meeting was then adjourned on a motion by Mr. Stenson, seconded by Ms. Montalto and unanimously approved, all aye. The meeting was adjourned at 12:03 a.m.

---

Karen S. Brisben, Recording Secretary

Approved: September 12, 2017