

Tuesday, June 14, 2022

BRIELLE PLANNING/ZONING BOARD  
TUESDAY, JUNE 14, 2022

The Regular Meeting of the Brielle Planning/Zoning Board was held on Tuesday, June 14, 2022 at 6:00 p.m. virtually. Chairperson Trainor read the OPMA compliance statement and then announced it was time for the Salute to the Flag and then a moment of silent prayer.

Roll call was then taken:

Present – Mayor Thomas Nicol, Councilman Frank Garruzzo, Karen Brisben, Amber Fernicola, Stephanie Frith, Jay Jones (arrived 6:20), Chris Siano, James Stenson, Charlie Tice, Corinne Trainor

Absent - None

Also present were David Clark, Board Attorney and Alan Hilla, Board Engineer. Board Secretary Karen Brisben recorded the Minutes.

A motion to approve the Minutes of May 10, 2022 was made by Mrs. Brisben, seconded by Councilman Garruzzo and then by voice vote, all aye.

OLD BUSINESS:

The Board then turned to the approval of a Resolution for Block 35.01, Lot 19, 611 Brielle Avenue, owned by JR Knight Development, LLC, Minor Subdivision to create two conforming lots.

The following Resolution was then presented:

**WHEREAS**, JR Knight Development, LLC (the “Applicant”) filed an application with the Planning Board of the Borough of Brielle (the “Board”) seeking minor subdivision approval for the proposed subdivision of the property located at 611 Brielle Avenue identified on the tax map of the Borough of Brielle as Block 35.01, Lot 19 (the “Property”); and

**WHEREAS**, the Applicant is the owner of the Property; and

**WHEREAS**, the Property is located within the Borough’s R-4 Residential Zone (the “R-4 Zone”); and

**WHEREAS**, the Property is located on the northwesterly side of Brielle Avenue approximately 400 feet northeast of Union Lane; and

**WHEREAS**, the Property is currently improved with a two-story residential structure, a freestanding garage with an apartment above, a gazebo, and an asphalt driveway; and

**WHEREAS**, the Property is approximately 12,346 square feet in size; and

**WHEREAS**, the Applicant is proposing to subdivide the Property into two lots which it identifies within its application as proposed Lots 19.01 and 19.02; and

**WHEREAS**, proposed Lots 19.01 and 19.02 will both exceed the 5,000 square foot minimum lot size for the R-4 Zone and will not require any variance relief; and

**WHEREAS**, the Applicant is proposing to retain the existing two-story residential structure on proposed Lot 19.02 and to demolish the garage/apartment on proposed Lot 19.01 and most of the other accessory structures so that a new residential dwelling may be built on proposed Lot 19.01, as described more fully within the plans submitted with the application; and

**WHEREAS**, the existing use of the freestanding garage with apartment is non-conforming to the zone, but the existing principal structure to remain on proposed Lot 19.02, the proposed principal structure on proposed Lot 19.01, the proposed subdivided lots, and their proposed uses are all conforming to the zone; and

**WHEREAS**, the Applicant submitted the following documents in support of this application:

(a) property and topography survey prepared by William E. McGrath, P.L.S. dated August 18, 2021;

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(b) development plan prepared by Joseph J. Kociuba, P.E., P.P. dated February 15, 2022;

(c) an application package signed by the Applicant; and

**WHEREAS**, after filing its application, the Applicant was made aware of a discrepancy between the boundaries of Lots 7 and 8 located to the rear of the Property (as shown on their deeds) and the boundary of the rear of the Property (as shown on the Property's deed) which resulted in an overlapping strip of land spanning the full width of the Property with a width varying from 1.82 feet to 2.59 feet with disputed ownership (the "Overlap Area"); and

**WHEREAS**, the Applicant has agreed, as a condition of the approval of its application, that it will waive any rights that it has to the ownership of the Overlap Area and will accept that the deeds for Lots 7 and 8 accurately reflect their boundaries with the Property, and that the Applicant will therefore submit revised plans to the Board reflecting its waiver of any claim to ownership of the Overlap Area and showing the boundaries for the proposed subdivided lots using the boundary lines with the Property taken from the deeds for Lots 7 and 8; and

**WHEREAS**, the Board was also provided with a letter dated May 2, 2022 prepared by the Board Engineer, Alan Hilla, P.E., P.P., C.M.E. of H2M Associates, Inc., providing a technical review of the application; and

**WHEREAS**, the Planning Board held a hearing on this application on May 10, 2022;

**WHEREAS**, at the hearing, the Applicant submitted the following exhibits:

(a) Exhibit A-1 revised subdivision map; and

(b) Exhibit A-2 revised development plan; and

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

Attorney Michael Rubino announced he was here for the applicant and said the application being presented was for a minor subdivision of a property. Mr. Rubino stated that the existing lot was 12,346.6 feet and was in the R-4 Zone where 5,000 square feet was required. Mr. Rubino stated both lots would be approximately 6,200 square feet and would be compliant in area and would meet all of the yard requirements. Mr. Rubino stated that the applicant's intent was to keep the existing house but it may have to be taken down and a new one constructed. Mr. Rubino stated the garage that is shown on the northern side of the property would be demolished and a new house would be built. Mr. Rubino stated that Mr. Hilla had indicated in his letter that there was an overlay issue that should be addressed. Mr. Rubino stated that these lots were oversized and said that the last thing they want was years of litigation so they had agreed to amend the plans to show the two boundary lines meeting. Mr. Rubino stated he felt that should eliminate any issue as to a claim of overlap against the neighbors to the rear. Mr. Rubino stated that to address Mr. Hilla's last question in his letter, he thought it would be a good idea to file the deed by map so anyone searching the title would understand exactly what they were getting. Mr. Rubino stated that the applicant is also the listing broker and said that he advised him he should attach a copy of the subdivision as part of the selling the property. Mr. Rubino stated the applicant would submit a grading plan to the Board, and would check with the Borough Tax Assessor in regard to the Lot numbers.

Ms. Trainor asked Mr. Clark if Mr. Rubino's proffer was sufficient. Mr. Clark responded that he had spoken to Mr. Rubino prior to this meeting and had also spoken to Mr. Hilla and said that the applicant agreed to waive the two foot overlap area and assume that it would become the neighbor's property and make certain the boundaries meet. Mr. Clark stated the applicant had agreed to submit revised plans to show that and were willing to have that as a condition of their approval, so it is clear what the exact size of the subdivided lots would be. Mr. Clark stated that he thought Mr. Kociuba would be testifying about the size of the revised lots and how the lots were slightly different then what is in the plans.

Mr. Joseph Kociuba, KBA Engineering Services, Manasquan, NJ was sworn in by Mr. Clark. Mr. Kociuba stated he was a licensed engineer and a licensed planner in the state of New Jersey and would be testifying as both in this application.

Mr. Kociuba presented Exhibit A-1 and explained that this exhibit had been updated to show the amended lots for the proposed subdivision. Mr. Kociuba stated the existing lot consisted of 12,346 square feet, contained a 2-story dwelling, a garage apartment, and a driveway. Mr. Kociuba then identified the rear of the property and the area of questionable title. Mr. Kociuba stated that had been determined by the surveyor

that there was an overlap of 1.82 feet on the southern end and 2.59 feet to the northern end. Mr. Kociuba stated that it was agreed that the applicant would relinquish that area.

Mr. Kociuba presented Exhibit A-2 that he described as the updated development plan to show the amended areas. Mr. Kociuba identified the right lot, Lot 19.01 and said this was the vacant lot that would be developed with a new home, would have 6,088 square feet of area, 50 feet of width, and would be fully conforming. Mr. Kociuba identified the left lot, Lot 19.02 and said this lot would have 6,119 square feet and 50 feet of width and would also fully conform. Mr. Kociuba stated that the intent was to maintain the existing home on the property but that the applicant would have to construct a new conforming driveway for the home. Mr. Kociuba stated they would be eliminating the garage apartment which was a nonconforming use and would be fully conforming with parking. Mr. Kociuba stated the property grades from the rear of the property towards Brielle Avenue and that would continue. Mr. Kociuba stated they would provide a plot plan for any proposed construction and agreed with the recommendations in Mr. Hilla's review letter. Mr. Kociuba stated there were two large trees in the front of Lot 19.01 that would need to be removed in order to construct the dwelling. Mr. Kociuba stated there were a number of cedar trees running down the right side of the property that would need trimming in order to try to save them, said they would save the trees and vegetation up the left side of the property and would maintain the trees along the rear of the property. Mr. Kociuba stated there were no variances being requested as result of the application.

Mr. Rubino asked Mr. Kociuba if the existing house would conform with the subdivision if it remained. Mr. Kociuba answered that it would conform and stated that the home was positioned in a way that a subdivision could be created without creating any variances.

Ms. Trainor asked Mr. Hilla if he had anything to add. Mr. Hilla said that with the modification, the deed would be filed by map, and stated it should be noted that the subdivision map was not reviewed for map filing so that would have to be done before being released and ready for signature.

Ms. Trainor announced it was time for questions from the Board for Mr. Kociuba. Ms. Brisben asked Mr. Kociuba if he would talk about any new landscaping that would mitigate taking down the two trees in the front. Mr. Kociuba stated they could certainly add a street tree at the front of the property. Ms. Brisben asked Mr. Clark if that could be added to a Resolution to which Mr. Clark replied that it could. Mr. Rubino stated they would prefer it be a condition of the Certificate of Occupancy. Mr. Clark stated that the Board could declare it be a condition of the C.O. Mr. Kociuba stated he wanted to make it clear that there would be a minimum of three trees, two large trees in the front and one in the rear, which would be removed. Mr. Jones asked Mr. Kociuba if he could confirm that stormwater would not drain on the adjacent properties and if this would be included on their new development plan. Mr. Kociuba replied that there would be no drainage impact to any neighbor and it would be included on the new plan. Mr. Rubino added that it would be to Mr. Hilla's approval. Mayor Nicol, Councilman Garruzzo, Ms. Trainor, Mr. Tice, and Ms. Fernicola did not have any questions for Mr. Kociuba.

Ms. Trainor announced it was time for questions from the public for Mr. Kociuba. Mr. Jonathan Marotta, 606 Cardeza Avenue, was sworn in by Mr. Clark. Mr. Marotta referenced a white fence that divides the two properties and asked if that was part of the overlay dispute that was being discussed. Mr. Kociuba answered that it was not and said that Mr. Marotta's fence was identified on the survey and was completely on his property. Mr. Marotta asked if the large poplar tree was on his property. Mr. Kociuba answered that he thought it may straddle the property line but was not sure.

Ms. Trainor asked if there was anyone else from the public that had questions for Mr. Kociuba. Hearing none, Mr. Rubino called Mr. Pittenger to testify. Mr. James Pittenger of J.R. Knight Development was sworn in by Mr. Clark. Mr. Pittenger stated that Pittenger Builders had been in business since 1953, that he had been with the Pittenger family company for roughly 18 years and had built a number of homes. Mr. Rubino asked Mr. Pittenger to explain to the Board his thoughts on the existing house. Mr. Pittenger responded that when the property was bought the owner was still living in the home so as to not disrupt the owners daily life, he did not spend a lot of time in the home and said the outside of the home matched the character of some of the other homes on the street. Mr. Pittenger stated that they would like to update the existing home but would not know if that were possible until the structural integrity of the home was determined. Mr. Rubino asked Mr. Pittenger if the garage apartment would be demolished. Mr. Pittenger answered that the garage apartment would be demolished. Mr. Rubino asked Mr. Pittenger if the new home would represent the style of houses in the area. Mr. Pittenger answered that it would. Mr. Rubino stated that he and Mr. Kociuba had a long discussion with the Board regarding the overlap issue and asked Mr. Pittenger if he understood that by doing this he would be giving up any claim to any title action to settle any boundary dispute that he had with any of the houses. Mr. Pittenger answered that he fully understood that.

Ms. Trainor asked Mr. Hilla if he had any following to add with respect to the letter sent to the Board dated, May 2<sup>nd</sup>. Mr. Hilla answered he did not have anything to add.

Ms. Trainor announced it was time to hear questions for Mr. Pittenger from the Board. Hearing none, Ms. Trainor asked if there were anyone from the public that had questions for Mr. Pittenger. Hearing none, Ms. Trainor then said it was time to hear comments from the public in regard to the application. Hearing none, Ms. Trainor announced it was time to hear comments from the Board. Mayor Nicol stated he had no issues with the application. Councilman Garruzzo stated he thought the application was good, had no issues, stated there were no variances being sought, and it fits in with the characteristics of the neighborhood. Ms. Brisben stated she had no problems with the application and was sure they would build a proper home. Mr. Jones stated he was glad the applicant had given clarification of the borderlines, and said that everything looked fine. Ms. Trainor, Mr. Tice, and Ms. Fernicola had no comments.

Ms. Trainor asked Mr. Rubino if he had anything else to add. Mr. Rubino stated he agreed with the Board's positive comments, the two lots were completely conforming,

said they were resolving any potential issue of a boundary dispute in the future and there would be trying to keep the existing house or build a new house and also a house built on the vacant lot. Mr. Rubino asked the Board to look favorably on the application.

**WHEREAS**, the Board after carefully considering the evidence presented by the Applicant at the hearing 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 Applicant is the owner of the Property.
- c. The Property is located within the R-4 Zone.
- d. The R-4 Zone requires residential lots to have a minimum lot size of 5,000 square feet.
- e. The Property is an oversized lot that is approximately 12,346 square feet in size.
- f. The Property is located on the northwesterly side of Brielle Avenue approximately 400 feet northeast of Union Lane.
- g. The Property is currently improved with a two-story residential structure, a freestanding garage with an apartment above, a gazebo, and an asphalt driveway.
- h. The Applicant is proposing to subdivide the Property into two lots which it identifies within its application as proposed Lots 19.01 and 19.02.
- i. Proposed Lots 19.01 and 19.02 will both exceed the 5,000 square foot minimum lot size for the R-4 Zone and will not require any variance relief.
- j. The Applicant is proposing to retain the existing two-story residential structure on proposed Lot 19.02 and to demolish the garage/apartment on proposed Lot 19.01 and most of the other accessory structures so that a new residential dwelling may be built on proposed Lot 19.01, as described more fully within the plans submitted with the application.
- k. The existing use of the freestanding garage with apartment is non-conforming to the zone, but the existing principal structure to remain on proposed Lot 19.02, the proposed principal structure on proposed Lot

19.01, the proposed subdivided lots, and their proposed uses are all conforming to the zone.

- I. After filing its application, the Applicant was made aware of a discrepancy between the boundaries of Lots 7 and 8 located to the rear of the Property (as shown on their deeds) and the boundary of the rear of the Property (as shown on the Property's deed) which resulted in an overlapping strip of land spanning the full width of the Property with a width varying from 1.82 feet to 2.59 feet with disputed ownership (the "Overlap Area"). The Applicant has agreed, as a condition of the approval of its application, that it will waive any rights that it has to the ownership of the Overlap Area and will accept that the deeds for Lots 7 and 8 accurately reflect their boundaries with the Property, and that the Applicant will therefore submit revised plans to the Board reflecting its waiver of any claim to ownership of the Overlap Area and showing the boundaries for the proposed subdivided lots using the boundary lines with the Property taken from the deeds for Lots 7 and 8. Additionally, in order to eliminate any confusion regarding the Overlap Area, the Applicant proffered to perfect the minor subdivision (if approved) by filing of a map.
- m. The relief sought through this application furthers the goals of the Municipal Land Use Law by, among other things, eliminating a non-conforming use on the Property (i.e. the garage apartment) and replacing it with two subdivided lots which conform to the zoning requirements and which will have conforming uses on them.
- n. The Board finds that the tract which is sought to be subdivided herein is fundamentally suitable for the proposed development and does not present any dangers to the public welfare.
- o. The Board further finds that since the proposed subdivision will result in two fully-conforming lots, the relief sought through this application will 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**, Councilman Frank Garruzzo moved to approve the application with the conditions described herein; this motion was seconded by Karen Brisben. At that time the application was approved by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Corinne Trainor, Karen Brisben, Jay Jones, Charlie Tice, Amber Fernicola



Noes: None

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

- a. Prior to filing a subdivision map to perfect this subdivision, the Applicant shall submit 5 sets of revised plans to the Board Secretary in order to (i) show the revised lot lines and revised lots dimensions/sizes resulting from the Applicant's waiver of any ownership rights in the contested Overlap Area to the rear of the Property, (ii) show the lot numbers assigned to the subdivided lots by the Borough Tax Assessor, (iii) to revise the Development Plan to depict the correct scale as identified with paragraph #2 of the May 2, 2022 technical review letter, and (iv) to reflect any other changes to the application (if any) discussed by the Applicant during the hearing on the application.
- b. Prior to filing a subdivision map to perfect this subdivision, the Applicant shall submit a proposed Grading Plan to the Board Engineer for his review and approval. The Grading Plan will include stormwater mitigation for the new dwelling on proposed Lot 19.01 so as not to impact adjacent properties. The Applicant shall make any changes to the Grading Plan required by the Board Engineer including, but not limited to, requiring an on-site recharge system to serve the new structure to minimize any additional gutter flow in Brielle Avenue.
- c. The Applicant recognizes that the lot numbers to be assigned to the lots created through this subdivision may change and are subject to the final approval of the Borough Tax Assessor. Prior to and as a pre-condition to filing the map to perfect this subdivision, the Applicant shall obtain lot numbers for the subdivided lots from the Borough Tax Assessor and shall thereafter include them within its revised plans.
- d. The Applicant shall use commercially reasonable efforts to preserve the trees and vegetation on the Property, but will remove the two large trees to the front of the Property that are in the proposed footprint of the new structure on Lot 19.01 and the one tree to the rear of the Property described during the testimony on the application. As a condition of the issuance of a Certificate of Occupancy for the structure to be constructed on Lot 19.01, the Applicant shall install at least one replacement tree at the front of Lot 19.01 of a type and in a location as approved by the Board Engineer.

- e. The Applicant shall demolish and remove the garage/apartment on proposed Lot 19.01.
- f. The Applicant shall replace the existing driveway on the Property with a new driveway, complying with all Borough Code requirements, in order to serve the existing structure on Lot 19.02.
- g. The Applicant shall record and file a subdivision map conforming to the requirements of the Map Filing Law within the time period required under the Municipal Land Use Law, unless such time period is extended as authorized under law. Prior to filing the subdivision map, the Applicant shall submit the proposed subdivision map to the Board Engineer for his review and approval and shall make any revisions required by the Board Engineer.
- h. The Applicant shall pay all taxes and other applicable assessments, costs and fees to date, as applicable;
- i. 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;
- j. 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 Councilman Garruzzo, seconded by Mrs. Brisben and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Karen Brisben, Amber Fernicola, Charlie Tice, Corrine Trainor

Noes: None

Not Eligible to Vote: Stephanie Frith, Chris Siano, James Stenson

Absent: Jay Jones (had not yet arrived)

#### OTHER BUSINESS:

There was then a discussion of going back to live meetings at the Borough Hall; Mr. Clark had distributed information on this and stated the reason of having to go to remote meetings was due to the Covid Health Emergency but now going back to live meetings is being encouraged. A public notice was sent out at the beginning of the year stating this Board was going to hold virtual meetings at 6:00 p.m. and now a new notice

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will need to be sent stating the Board is going to be live at Borough Hall and the Board has to decide as to the time to start and what date to start.

At this point the discussion was open to the Board and Mrs. Brisben noted that Chairperson Trainor was going to have a baby at the end of June and felt that it would be proper to wait to go back live until August to give her a chance to get settled, etc. She also felt that 6:00 p.m. may be too early for people to get to a live meeting as some work a distance away, she suggested perhaps 7:00 p.m. may work better. Councilman Garruzzo agreed with the time and to start in August to give everyone time to adjust to going back live, the other Board members agreed. Mayor Nicol had no problem in staying virtual and felt that a 6:00 start was good as all can have access and not have to travel; he added this would leave a greener footprint and save on heating the building, he has not heard of any problems with having virtual meetings. Mr. Siano agreed with the Mayor and suggested try going back live and keep it open and if there is a flare-up we go back virtual, however, he did feel the Board has to give it a shot and go back live. On the thought of possibility of going back to virtual, Mr. Clark felt that always could happen but he did not want the Board to be going back and forth on live or virtual, the Board should go live, it would be very confusing and he felt it would be the last resort to go back to being virtual. Mr. Siano asked if anyone knew the percentage of Boards that were back and Mayor Nicol it was about 50-50 right now; Mr. Hilla said that all the Boards he knows of have gone back to live. Mrs. Brisben noted that some Boards have gone hybrid and were both live and online and it has been very hard to do; Mr. Hilla agreed and said, unless the town wants to go to the investment of having live telecasts, he did not recommend it, it has to be one or the other.

Chairperson Trainor thanked Councilman Garruzzo for raising this issue at the last meeting, she felt it was time to address this, the Board has been virtual since 2020 and the Governor dropped the emergency measures a few months ago. As there was no further discussion on this, she asked for a motion to approve this. Mr. Clark said it would be a motion to go back live, the proper notice will be made noting the start date of August 9<sup>th</sup>, 2022 at 7:00 p.m. Mrs. Brisben said she will take care of the notice in the newspaper.

At this time Mr. Stenson made the motion of going back to live meetings starting with the August meeting and the meeting time will start at 7:00 p.m., this motion was seconded by Ms. Fernicola and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Karen Brisben, Amber Fernicola, Stephanie Frith, Chris Siano, James Stenson, Charlie Tice, Corrine Trainor

Noes: None

The Board then turned to a discussion of Rules and Regulations of the Planning/Zoning Board and Mr. Clark spoke about adopting same. He had circulated some proposed ideas and went over a few things. It is the Board's decision to adopt

these and it does not have to be done tonight if there are items that may need more information. There were a couple of issues that started this: one was a late written submission, some coming in as late as a half-hour before a meeting, this is a concern to the Board and there already is a State law (and Borough rule) that any map shall be on file at least 10 days before the date of the hearing. So the applications & plans have to be on file at least 10 days in advance and this can't be changed as people who are noticed have a right to see the plans; he was wondering what other kind of documents could come in such as an objector's letter or an objector filing a notice that they have hired an attorney, briefs that come in, other written submissions, and he put a timeline (48 hours before the meeting) but on second thought felt that would not work as 48 hours before a meeting night would be Sunday night. He now is suggesting perhaps a submission by Friday so it can be distributed in a timely manner. He felt this would work as there is a thought that a property owner would receive the notice and would then need some time to respond if they wanted to.

The next item is time limits which the Board has a right to do, they also have the right to stop testimony if it is not in keeping with the application, the time limits have to be uniformly applied. This Board has been using the 45-minute time limit and there is no actual ruling on this time frame, adopting the Rules and Regulations will address this. Of course, the Board can go over on the time limit if there is a reason to allow it to go on but Mr. Clark felt this was a good time limit.

The only other substantive rule was that the Board follows the Roberts Rules of Order, a guidebook that has been in place since the days of England, including rules on making a motion, giving testimony, it gives rules of procedure on how things are supposed to be done. All the proposed Rules and Regulations can always be amended in the future.

The Board then had a discussion on this. Councilman Garruzzo felt that 45 minutes is a good time frame and has worked, this gives everyone the same opportunity to present an application. In regards to subsequent correspondence, he had no problem with a Friday before the meeting deadline and he also agreed to have the latitude to give an applicant a little more time if need be. Mayor Nicol seconded what Councilman Garruzzo said, Mr. Stenson wanted to see the deadline for other written submissions be in by Thursday before the meeting, not Friday, he felt that was too short of notice to get out to the Board, he agreed with the rest. Mr. Siano agreed and felt that keeping an application to 45 minutes may make an applicant want to move along and get it done and not drag it out; he was also for the Thursday deadline for written submissions as Mr. Stenson proposed. Mrs. Brisben appreciated the Thursday deadline, if submitted on Friday that is the weekend and the emails may not be looked at until Monday. Mrs. Brisben also commented that Jay Jones had just joined the meeting, he arrived at 6:20 p.m. As no other members of the Board had any comments to add, Section 2.3C was changed to Thursday by 4:00 p.m.

The following was then submitted for approval :

## **BRIELLE PLANNING BOARD RULES AND REGULATIONS**

### **1.1 Legal Authorization**

The Planning Board for the Borough of Brielle (the “Brielle Planning Board” or the “Board”) is established pursuant to N.J.S.A. 40:55D-23(a) and the Borough of Brielle Municipal Code (the “Borough Code”) §20-4.1 et seq. In accordance with N.J.S.A. 40:55D-1 et seq. and Borough Code §20-4.8, the Brielle Planning Board is the appropriate authority responsible for adopting and promulgating rules and regulations for procedural operations of the Board.

### **1.2 Rules and Regulations Established**

The Brielle Planning Board hereby adopts and promulgates these rules and regulations of the Brielle Planning Board in accordance with Borough Code §20.4.8. These rules and regulations shall be known as the "Brielle Planning Board Rules and Regulations."

### **1.3 Right to Relax Rules for Good Cause**

The Board has the right, in its sole discretion, to relax or waive the applicability of any of the rules and regulations set forth herein on a case-by-case basis upon a showing of good cause to do so. Such relaxation or waiver shall be effectuated by an affirmative vote of a majority of the Board members present at the applicable meeting where such relaxation or waiver is sought.

### **1.4 Previous Rules, Policies and Procedures**

All rules, regulations, and written directive previously issued that conflict with the rules and regulations contained herein are hereby revoked to the extent of any such inconsistency. All other rules, regulations and written directives not in conflict with those contained herein shall remain in full force unless expressly revoked by competent authority.

### **1.5 Right to Amend or Revoke**

The Board reserves the right to amend or revoke any of the rules and regulations contained herein through future Board action.

## **CHAPTER 2 – MEETING PROCEDURES**

### **2.1 Robert’s Rules of Order**

The rules contained in the twelfth edition of *Robert’s Rules of Order Newly Revised* shall govern the Board in all cases to which they are applicable and in which they are not

inconsistent with State Law, the General Code of the Borough of Brielle, and any other rules that the Board may adopt.

## 2.2 Time Limit of Hearings at Meetings

In order to provide each applicant with the opportunity to be heard by the Board at the meetings when their applications are scheduled, each application filed with the Board shall be subject to a forty-five (45) minute per meeting time limit. If the time limit for an application is exhausted at a particular Board meeting, the Board's normal practice will be for the application to be carried and for the hearing on the application to continue at the next scheduled Board meeting, subject to the Board's right in its sole discretion to relax or waive this time limitation on a case-by-case basis as provided in Section 1.3 of these rules and regulations..

## 2.3 Submission of Documents to the Board

(a) The Board recognizes that both the Municipal Land Use Law and the Borough Code already require that "any map and documents for which approval is sought at a hearing shall be on file and available for public inspection at least 10 days before the date of the hearing". The Board does not intend to alter this requirement through the adoption of these rules and regulations.

(b) The Board often receives other written submissions from applicants, objectors, or members of the public, including but not limited to supplemental documents from applicants, letters from applicants and/or from objectors citing to legal provisions allegedly applicable to the application, letters from objectors or members of the public enclosing other documents allegedly relevant to the application, and the like. These written submissions (which are hereinafter referred to as "Other Written Submissions") are often sent to the Board Secretary the day of the scheduled meeting, which is too late for them to be distributed to and reviewed by the Board members prior to the scheduled meeting date. In order to regulate the submission of Other Written Submissions to the Board, the Board is adopting this rule.

(c) All Other Written Submissions must be filed with the Board Secretary by no later than 4:00 p.m. on the Thursday before the Board meeting. If Other Written Submissions are submitted after this deadline, the Board reserves the right to disregard the Other Written Submissions and/or to carry the hearing on the application to a future meeting so that the Other Written Submissions may be considered by the Board.

(d) The term Other Written Submissions excludes "any map and documents for which approval is sought at a hearing" (hereinafter, the "Application Documents") which, as stated above, must be on file with the Board Secretary no later than 10 days before the date of the hearing. The term Other Written Submissions also excludes the exhibits presented by applicants, objectors, or members of the public at the hearing on the application.

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As this was agreeable to the Board, the following Resolution was presented to approval:

**WHEREAS**, N.J.S.A. 40:55D-10(a) requires municipal agencies to hold a hearing on each application for development, adoption, revision or amendment of the master plan, each application for approval of an outdoor advertising sign submitted to the municipal agency as required pursuant to an ordinance adopted under subsection g. of section 29.1 of P.L. 1975, c.291 (C.40:55D-39) or any review undertaken by a planning board pursuant to section 22 of P.L. 1975, c.291 (C.40:55D-31), and

**WHEREAS**, N.J.S.A. 40:55D-10(b) permits municipal agencies to make the rules governing such hearings, and

**WHEREAS**, Chapter 20-6.2 of the municipal code for the Borough of Brielle permits the Planning Board to make rules governing hearings before the Board, and

**WHEREAS**, the Planning Board has not heretofore adopted a standard set of rules and regulations for procedure of meetings; and

**WHEREAS**, the Planning Board wishes to adopt a standard set of rules and regulations.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Brielle, that the Planning Board hereby adopts the Brielle Planning Board Rules and Regulations as attached to this resolution; and

**BE IT FURTHER RESOLVED** that the Planning Board hereby directs the Board Secretary to post the Brielle Planning Board Rules and Regulations on the Borough website and to make them available to all applicants, objectors and members of the public.

A motion to accept the above Resolution was made by Mr. Siano, seconded by Mrs. Frith and then approved by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Karen Brisben, Stephanie Frith, Jay Jones, Chris Siano, James Stenson, Charlie Tice, Corinne Trainor

Noes: None

Not Eligible to Vote: Amber Fernicola (Alternate Member)

Before going into Executive Session, Chairwoman Trainor opened the meeting to anyone from the public who wished to speak to the Board on any topic other than applications or pending applications and there was no response.

Tuesday, June 14, 2022

The Board then went into Executive Session at 6:45 p.m. on the topic of Litigation on 3 lawsuits, M & D, LLC, Burke and Waypoint, on a motion by Mrs. Brisben, seconded by Councilman Garruzzo, all aye.

The Board came out of Executive Session at 8:10 p.m. on a motion by Mrs. Brisben, seconded by Mr. Stenson.

As there was no other business to come before the Board a motion for adjournment was made by Mrs. Brisben, seconded by Mr. Stenson and unanimously approved, all aye. Chairperson Trainor reminded all that the next meeting on Tuesday, July 12<sup>th</sup>, will be held virtually. The meeting was adjourned at 8:12 p.m.

Approved: July 12, 2022

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Karen S. Brisben, Board Secretary