

Tuesday, December 13, 2022

**BRIELLE PLANNING BOARD
TUESDAY, DECEMBER 13th, 2022**

The Regular Meeting of the Brielle Planning Board was held on Tuesday, December 13th, 2022, at 7:00 p.m., in the Brielle Borough Hall, 601 Union Lane. After a moment of silent prayer and a Salute to the Flag roll call was taken:

Present – Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Stephanie Frith, Jay Jones

Absent – Charlie Tice, Amber Fernicola

Also present were Mr. David Clark, Board Attorney, Mr. Alan Hilla, Board Engineer and Ms. Denise Murphy, Recording Secretary. There were 11 people in the audience.

CORRESPONDENCE: Receipt of the September/October issue of the NJ Planner. Letter to NJ DEP re: construction of a new home at 403 Osborn Avenue & extension of pier at 1008 Brainard Place.

A motion was made to approve the Minutes of November 8th, 2022 this done by Councilman Frank Garruzzo, seconded by James Stenson, all ayes, no nays.

OLD BUSINESS: Approval of Resolution for variance relief for Block 89.02, Lot 12, 624 Holly Hill Drive, owned by David and Nancy McFadden, to allow a rear covered porch addition to remain.

RESOLUTION OF APPROVAL OF THE BRIELLE BOROUGH PLANNING BOARD, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY WITH RESPECT TO THE APPLICATION OF DAVID AND NANCY STARK MCFADDEN SEEKING VARIANCE RELIEF TO MEMORIALIZE AND APPROVE THE PREVIOUS CONSTRUCTION OF A NON-CONFORMING ROOF AND DECK ENCLOSURE ON THE REAR DECK OF THE PROPERTY LOCATED AT 624 HOLLY HILL DRIVE AND IDENTIFIED ON THE TAX MAP OF THE BOROUGH OF BRIELLE AS BLOCK 89.02, LOT 12

WHEREAS, David and Nancy Stark McFadden (collectively, the “Applicants”) filed an application with the Planning Board of the Borough of Brielle (the “Board”) seeking variance relief to memorialize and approve the previous construction of a non-conforming roof and deck enclosure on the rear deck of the property owned by the Applicants located at 624 Holly Hill Drive and identified on the tax map of the Borough of Brielle as Block 89.02, Lot 12 (the “Property”);
and

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

WHEREAS, the Property is currently developed with a bi-level frame dwelling with an attached garage; and

WHEREAS, the Applicants are seeking variance relief to memorialize and approve the previous construction of a non-conforming roof and deck enclosure on the rear deck of the Property (as described more fully within the application, the “Project”); and

WHEREAS, the existing and proposed uses are conforming to the zone, but the existing structure on the Property and the proposed Project are not conforming to the zone; and

WHEREAS, the Applicants are seeking the following variance relief through this application (the variances sought are highlighted in bold type below):

(a) Rear Yard Setback—40 feet required; **12 feet existing/proposed (to rear covered porch and deck)**; and

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

(a) site plan (1 sheet) prepared by Thomas N. DiGiorgio, R.A. dated June 20, 2017, last revised August 30, 2022;

(b) plan of survey prepare by Charles A. O’Malley, P.L.S. dated May 23, 2022;

(c) architectural drawings (4 sheets) prepared by Thomas N. DiGiorgio, R.A. dated June 20, 2017, last revised July 26, 2017;

(d) an application package submitted by the Applicants; and

(e) a Zoning Permit denial letter from the Zoning Officer dated August 1, 2022; and

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WHEREAS, the Board was also provided with a letter dated October 25, 2022 prepared by the Board's Engineer and Planner 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 November 8, 2022; and

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

Mr. Thomas DiGiorgio, Thomas DiGiorgio Architecture, stated he was appearing before the Board for the applicant and was sworn in by Mr. Clark. Mr. DiGiorgio stated he has been a licensed New Jersey Architect since 1991 and has appeared before several Boards throughout the state. Ms. Trainor announced that Mr. DiGiorgio was accepted by the Board as an expert witness in Architecture.

Mr. DiGiorgio began by saying that in 2003 the applicant received a variance approval for setback from the Planning Board for the installation of a deck and then in 2018 they had submitted a Zoning application to do some alterations on the house which included enclosing part of the approved deck. Mr. Giorgio stated that they did receive permits, did the work, and then received a Certificate of Occupancy from the Building Department. Mr. DiGiorgio said the applicant subsequently received a letter in August of 2022 from Ms. Commins, the Borough Zoning Officer, issuing a Zoning denial for the rear covered porch addition and indicating that she had missed the reference on the application and had erroneously issued a Zoning Permit. Mr. Clark asked Mr. DiGiorgio if it was his position that they had a non-conformity which was in the setback and they were expanding that non-conformity. Mr. DiGiorgio replied that was correct but at the time when he had made the plans, he was not aware there was need for a variance there. Mr. DiGiorgio stated since 2003, there had been no complaints from the neighbors and that the larger wooded area in the back screens the deck.

Ms. Brisben referenced item number 2 in Mr. Hilla's review letter and asked about the pillars. Mr. DiGiorgio stated he could not comment because he was not involved in that project but said the applicant may be able to comment on that.

Mr. Stenson, Ms. Trainor, Mr. Jones, Ms. Frith, and Ms. Fernicola did not have any questions for Mr. DiGiorgio.

Ms. Trainor asked if there were any questions from the public for Mr. DiGiorgio. Hearing none, Nancy McFadden was sworn in by Mr. Clark. Mr. Clark asked Ms. McFadden if she had seen Mr. Hilla's review letter to which she replied she had seen it. Mr. Clark stated that in item 2, Mr. Hilla talks about some pillars that are on opposite sides of the existing driveway which Mr. Hilla thinks are in the Borough's right-of-way and if so the applicant would need to get permission

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from the Borough for those pillars to remain. Mr. Clark added that Mr. Hilla stated that he is recommending that the Board put a condition on any approval that the Board gives that the applicant must, in a specified period of time, go to the Borough for permission if they want the pillars to remain. Mr. Clark then asked Ms. McFadden if she was willing to stipulate and agree to that condition on any approval the Board gives to which Ms. McFadden replied that she would agree to that condition. Mr. Clark asked Ms. McFadden if she had any personal knowledge if the pillars are or are not in the right-of-way. Ms. McFadden responded that she did not know and said they hired a landscape company who presented them with plans and then put up the pillars, they assumed the pillars were legal. Mr. Hilla stated that the applicant would need to obtain an Encroachment Permit from the town if the pillars are within the Borough's right-of-way.

Ms. Trainor asked if there were any questions from the Board for the applicant.

Ms. Brisben stated she did not have any questions but felt that the Board should set a time period for the applicant to go to the Borough. Mr. Clark agreed and said the Board should make it a condition that within a certain amount of time the applicant should apply for an Encroachment Permit and then carry out whatever the Borough decides. Mr. Clark asked Ms. McFadden if she would agree to file for the Encroachment Permit within 60 days of the Resolution approval which would be at the December meeting. Ms. McFadden agreed to the timeframe of 60 days.

Mr. Stenson, Ms. Trainor, Mr. Jones, Ms. Frith, and Ms. Fernicola did not have any questions for Mr. DiGiorgio.

Ms. Trainor asked if there were any questions from the public for the applicant. There were no questions from the public.

Mr. DiGiorgio stated he had no other testimony to present.

Ms. Trainor asked if there were any comments with respect to the application from the public. Mr. Jeff Brehm, 626 Holly Hill Drive, was sworn in by Mr. Clark. Mr. Brehm stated he is the neighbor on the left side. He indicated that he had no issues with the application and said that because of the topography of the land he cannot even see the applicant's deck.

Ms. Trainor stated it was time to hear comments from the Board with respect to the application.

Ms. Brisben stated that when she drove by the property, she could not see the deck from the street and said she had no issues with the application. Ms. Trainor stated that, based on the information Mr. DiGiorgio provided, that a finding was made by the Board when they obtained their original variance and said the unique attributes to the property which would have supported a C-variance at that time, she would defer to the finding of that Board. Ms. Trainor also said how unfortunate it was for the applicant to have to come back before the Board after such a long time and apologized on behalf of the Borough.

Ms. Trainor asked Mr. Clark if there were any stipulations that needed to be a part of any approval from the Board. Mr. Clark stated that the only stipulation was that the applicant had

agreed to file, within 60 days from the adoption of the Resolution, for an Encroachment Permit from the Borough for the pillars that are referenced in Mr. Hilla's review letter and would abide by any decision the Borough made regarding those pillars.

Ms. Trainor asked for a motion to approve the application with the conditions. James Stenson made a motion, seconded by Stephanie Frith, and followed by the roll call vote.

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:

- 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 Applicants are the record owners of the Property.
- c. The Property is located within the Borough's R-2 residential zone.
- d. The Property is currently developed with a bi-level frame dwelling with an attached garage.
- e. The Applicants are seeking variance relief to memorialize and approve the previous construction of a non-conforming roof and deck enclosure on the rear deck of the Property (as described more fully within the application, the "Project").
- f. Specifically, the Applicants presented testimony indicating that they filed an application with the Planning Board in 2003 to install a deck on the rear of their house and that they were granted variance relief from the Planning Board in 2003 for a rear yard setback for the installation of the deck.
- g. The Applicants also provided testimony indicating that in or about 2018, they submitted a zoning application seeking approval to enclose part of the previously-approved deck and that the Borough issued the Applicants a permit for the enclosure of this portion of the deck and then issued a Certificate of Occupancy when the work was completed.
- h. The Applicants provided further testimony indicating that in 2019, the Borough Zoning Officer issued a letter to the Applicants revoking the previous zoning permit granted for the enclosure of the deck, indicating that the Zoning Officer had missed the reference to the enclosure of the deck in the documents and that such work required Board approval as it was an expansion of a non-conforming condition.

- i. The Applicants filed this Application seeking Board approval for the work that it already performed in enclosing a portion of the deck in or around 2018.
- j. The existing and proposed uses are conforming to the zone, but the existing structure on the Property and the proposed Project are not conforming to the zone; and
- k. The Applicants are seeking the following variance relief through this application (the variances sought are highlighted in bold type below): (i) Rear Yard Setback— Rear Yard Setback—40 feet required; **12 feet existing/proposed (to rear covered porch and deck)**.
- l. The Board finds that it previously granted the Applicants a setback in 2003 for the construction of the deck and that, in doing so, it concluded that the Applicants had shown that 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 that the development proposed by the Applicants was consistent with other development in the neighborhood.
- m. The Board also finds that although the Project to enclose part of the previously-approved deck that was completed by the Applicants in 2018 technically was an expansion of a non-conforming condition, it did not change the rear yard setback at all and did not exacerbate the previous non-conformity with the Borough Code in any material way.
- n. The Board further finds that the rear deck is not visible from the street and that none of the neighbors to the Property objected to this Application to memorialize and approve the Project (and, in fact, one of the neighbors appeared before the Board and made statements in support of the Project).
- o. The Board also recognizes that the Applicants were previously granted an approval to construct this Project by the Borough and that the Applicants have filed this Application to ensure that the construction work that it has already completed is acceptable to the Board and, in that regard, that the Applicants have also agreed to file an Encroachment Permit with the Borough to obtain a determination as to whether the pillars on either side of their driveway are within the Borough's right-of-way and have agreed to take whatever steps are required by the Borough to ensure that the pillars are lawfully located.
- p. The Board finds that the purposes of the Borough Code would be advanced by this proposed development and the benefits of the variance sought outweigh any detriments.
- 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

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public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

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

Ayes: James Stenson, Corinne Trainor, Karen Brisben, Stephanie Frith, Jay Jones, Amber Fericola

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. Within sixty (60) days of the date of the adoption of this resolution, the Applicants shall apply to the Borough for an Encroachment Permit from the Borough for the pillars referenced within Mr. Hilla's review letter and shall abide by any decision that the Borough makes with regard to that Encroachment Permit.
- b. The Applicants shall pay all taxes and other applicable assessments, costs and fees to date, as applicable.
- d. 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;
- e. 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 James Stenson, seconded by Stephanie Frith and then by the following roll call vote:

Ayes: James Stenson, Corinne Trainor, Karen Brisben, Stephanie Frith, Jay Jones

Noes: None

Recused: Mayor Thomas Nicol, Councilman Frank Garruzzo, Chris Siano

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OLD BUSINESS: Continuation of hearing for a Major Subdivision for Block 104.01, Lot 7.02, Block 120, Lot 13.01 & 15, Tamarack Drive and Route 70, owned by Brielle Shores, Inc., to create 5 residential lots & a drainage basin.

Attorney Keith Henderson, Henderson & Henderson, Manasquan, NJ, stated he was representing the applicant. Mr. Clark stated that Mr. Lindstrom had finished his testimony, was questioned by the Board and by the public and believed that Mr. Henderson had stated he had no other witnesses to present to the Board. Ms. Trainor then announced it was time for comments from the public.

Daniel Burke, Cedar Lane, was sworn in by Mr. Clark. Mr. Burke expressed concerns with the tree save, drainage basin, the retaining wall and storm water maintenance.

Jeff Clayton, Aldrin Lane, was sworn in by Mr. Clark. Mr. Clayton stated that some of his concerns were already addressed by Mr. Burke and then added other concerns with regard to the trees, sound, and the basin lot.

Anne Nissim, 10 North Tamarack, was sworn in by Mr. Clark. Ms. Nissim expressed concerns with noise, the 50 foot tree save and asked if a traffic study could be done.

Denise Clayton, Aldrin Lane, was sworn in by Mr. Clark. Ms. Clayton expressed concerns with the proposed Homeowner's Association, the drainage basin, traffic, and parking of construction vehicles.

Hearing no other comments, the public comment portion was closed and it was time for comments from the Board.

Mayor Nicol stated he did not have any major problems with the application and felt that any drainage concerns could be worked out between the Board Engineer and the applicant. Mayor Nicol also said that the applicant has a reputation of leaving as much vegetation on a lot as possible. Mayor Nicol stated there was a report submitted by the traffic expert in the Police Department that stated that there they were confident that the traffic would be controlled correctly.

Councilman Garruzzo stated he had heard the concerns from the residents and felt that Mr. Lindstrom had addressed many of the questions and thought his analysis was very well presented. Councilman Garruzzo stated he did have similar concerns with the Homeowner's Association and stated that Mr. Henderson did say that there are now laws in place to make the Homeowner's Association work, with consequences if not maintained. Councilman Garruzzo stated he did not have too many concerns with the application and felt that Mr. Henderson and his expert, Mr. Lindstrom, had done a good job presenting the application.

Mr. Stenson stated he had concerns with the Homeowner's Association and felt that the Board needed to make sure there were documents in place to cover the maintenance of the H.O.A. and when the houses are bought, it is understood what is expected. Mr. Stenson also stated he wanted to make sure that the water calculation for run-off that was presented was for 20%.

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Mr. Siano stated he agreed with Mr. Stenson and stated he felt there were some loose ends that needed to be tied up in regard to the Homeowner's Association.

Mr. Jones began by saying he remembered when the area was all woods and what a shock it was when the building had started back then so he understood the neighbors' concerns. Mr. Jones stated he felt it was important to have the tree-save buffer for the noise. Mr. Jones stated the lots are large and said he believed the homes would be very nice.

Ms. Frith stated she had three things that were concerning to her, the enforcement of the Homeowner's Association, the drainage and the tree save buffer.

Ms. Brisben stated she also remembered when the area was all woods and said that the applicant had received approval from the Planning Board for a major subdivision, done in pieces, in the 1980's. Ms. Brisben stated that the applicant has been very good regarding the tree easement and it has been listed in the deeds. Ms. Brisben stated she believed that Mr. Henderson had said that the basin was created under NJ DEP rules and regulations and thought that the state could override any decisions by the Board in regard to that. Ms. Brisben stated she did have concerns about the Homeowner's Association but felt that Mr. Clark would make sure it was done properly. Ms. Brisben referenced the traffic report and said the Police Department stated they have no concerns and said the Planning Board does not have any jurisdiction with what goes on with public streets. Ms. Brisben stated she felt that the application was covered very well and did not have any issues with it.

Ms. Trainor stated that due to the fact that the Police Department had submitted a letter to the Board stating there were no traffic safety concerns, she felt a traffic study was not necessary. Ms. Trainor stated she did hear the comment regarding construction traffic and thought that this had been addressed at a prior meeting and said there was a kind request that the construction vehicles would be parked on the lots being developed to the extent that it could be arranged. Ms. Trainor stated the Board could have requested an environmental impact study but said she did not think it was necessary given the NJ DEP had reviewed this application at length. Ms. Trainor stated that Mr. Hilla had also reviewed the plans and had advised the Board that the NJ DEP did approve the basin as proposed to the Board. Ms. Trainor stated that what the Board is being asked to approve is the variance for the size of the lot where the basin sits. Ms. Trainor referenced the proposed Homeowner's Association and said she accepts the representation from Mr. Henderson that the rules have changed in the matter of documentation and the Homeowner's Association would be part of a deed restriction for each of the properties. Ms. Trainor stated she found Mr. Lindstrom's testimony credible and was unchallenged in the manner he described the drainage and the elevations of the drainage.

Ms. Trainor asked Mr. Henderson if he had any closing remarks to make. Mr. Henderson began by saying that he thought the largest concern was the enforcement issue and said there was a document filed with CAFRA which is a manual that deals with the Homeowner's Association that he would submit to the Planning Board and the Borough. Mr. Henderson stated that because the application is under the jurisdiction of the NJ DEP, the applicant was required to seek a CAFRA permit and said the CAFRA permit is what generates the need for the detention basin. Mr. Henderson stated that the Stormwater Management Operation Maintenance Manual is very well

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defined to what has to be done, maintenance of the structure, ongoing maintenance, equipment needed and the cost. Mr. Henderson stated that the applicant has been doing tree saves for much longer than CAFRA. Mr. Clark listed for the Board the stipulations that the applicant had previously agreed to in respect to Mr. Hilla's letter. Mr. Hilla and Ms. Trainor listed other stipulations that were not addressed by Mr. Clark. Mr. Henderson confirmed that the applicant had stipulated to those items listed.

Ms. Trainor asked for a motion to approve the application with the conditions Mr. Clark had listed. Karen Brisben made a motion, seconded by Jay Jones, and followed by the roll call vote.

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Karen Brisben, Jay Jones

Noes: Stephanie Frith, Chris Siano

NEW BUSINESS: Application for a Minor Subdivision for Block 61, Lot 6.01 & 6.02, 22 Crescent Drive, owned by Michael Centrella, to create two buildable lots. Side Yard Setback- 10 feet required, 2.57 feet to existing home (which will remain). Also, request for design waiver from requirements to dedicate additional width to Donnelly Place (50 feet required, 30 feet existing).

Attorney Ronald Gasiorowski stated he was representing the applicants. Mr. Gasiorowski stated that the applicants had submitted an application to the Board in March of 2021 and said that the plans they were submitting now were identical to the previous plans except that one of the conditions in the Resolution of approval was that the existing house would be demolished. Mr. Gasiorowski presented to the Board a copy of the Resolution which was marked as Exhibit A-1.

Mr. Clark announced that due to a legal proceeding between the applicants he wanted to confirm that both applicants were aware of and consented to this application. Mr. Clark stated he had sent a letter to Mr. Gasiorowski who confirmed that they were aware and did consent but stated he would have each of their attorneys send a letter as well. Mr. Clark stated he had received letters from each of their attorneys confirming the same. Mr. Clark marked the letters as Exhibits A-2A through A-2D.

Mr. Gasiorowski stated to the Board that the earlier Resolution clearly states that the approval is subject to the removal of the existing house. Mr. Gasiorowski stated that he felt that the only way to handle this application is to have Mrs. Centrella remain in the home and if she were to vacate the house, for whatever reason, it would be demolished.

Mr. Gasiorowski called Robert Burdick, RC Burdick & Associates, Point Pleasant, NJ who was sworn in by Mr. Clark. Mr. Burdick stated he would be testifying as a Professional Engineer and Professional Planner and had appeared before the Board in regard to this lot. Ms. Trainor announced that Mr. Burdick was accepted by the Board as an expert witness in Engineering and Planning.

Mr. Burdick began by saying that he had prepared and submitted the previous application which was approved by the Planning Board. Mr. Burdick stated that the only difference between this

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application and the prior application was that the applicants are now proposing that the existing house not be demolished and that Mrs. Centrella would continue to reside in the home. Mr. Burdick stated that the request for the house demolition in the previous application was not made by the Planning Board but was made by the applicant. Mr. Burdick stated the property is a corner lot on Crescent Drive and Donnelly Place which is a paper road. Mr. Burdick stated that Donnelly Place provides access to the lot to the south and some access to their parcel and said there is no future plan for the road to be extended. Mr. Burdick stated that the applicant was before the Board for a 3-lot subdivision and then changed to a 2 lot subdivision. Mr. Burdick stated the applicant has approached the NJ DEP and has received tentative approval for riparian rights for each of the lots. Mr. Burdick stated they had looked at some historical aerials of the property and said the existing house has been there since about 1953 and added that there was also a guest cottage at one time which had been removed. Mr. Burdick reviewed why he believed the existing house was a pre-existing non-conforming use. Mr. Burdick stated it was his opinion that the existing house was older, not modern and would anticipate that within 20 years or so there would be two big, beautiful homes that would be fully conforming. Mr. Gasiorowski stated that the application they are presenting to the Board is specifically contingent on the fact that if Mrs. Centrella were to move out or sell the house, the approval would be vacated and what would remain is two totally conforming lots. Mr. Gasiorowski stated that he had no other questions for Mr. Burdick.

Ms. Trainor announced it was time to hear questions from the Board for Mr. Burdick.

Mr. Stenson asked if the applicant was before the Board with the request to tear down the existing house and have two conforming lots. Mr. Burdick answered that the previous approval was to demolish the existing home.

Mr. Siano asked if the applicant was proposing that if Mrs. Centrella vacated the home, it would have to be demolished. Mr. Gasiorowski replied that it was his understanding if Mrs. Centrella vacated the home she would not be able to rent it to a third party, therefore the house would be demolished.

Ms. Brisben asked Mayor Nicol if it was true that the Borough had no desire to do anything to Donnelly Place. Mayor Nicol answered that was correct.

Mr. Burdick stated he believed there was a letter from the Tax Assessor stating that the same lot numbers in the previous approval would be used and said they would be filed by deed and said they would provide that to the Board Attorney and Engineer.

Ms. Trainor asked Mr. Gasiorowski how a restriction on Mrs. Centrella stating no other person would live on the property be memorialized. Mr. Gasiorowski answered that he proposed that in the Resolution of approval there would be specific language dealing with the variance and how it could be vacated and if Mrs. Centrella did not adhere to the approval she could be subject to the Code Enforcement. Mr. Gasiorowski stated it could also be a deed restriction. Ms. Trainor asked, if in the alternative, was the applicant asking the Board to accept that this is an existing non-conformity and to approve the subdivision and not require the house to be demolished in the future. Mr. Gasiorowski replied that it would be subject to the provisions presented. Ms. Trainor asked Mr. Gasiorowski why it would have to be subject to the provisions and said she was concerned

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that it would create more problems for the future Planning Board members, Mayors and Code Enforcement Officers that are necessary. Ms. Trainor asked if it was a requirement to demolish the existing house to approve the subdivision to which Mr. Gasiorowski answered it was not.

Ms. Brisben asked Mr. Clark if it were true that the variance runs with the land and if Mrs. Centrella sold her home and the person wanted to keep the existing home, they could. Mr. Clark replied that the variance does run with the land and if the Board granted that variance then it would run with the land but if the Board granted a variance with the deed restriction that Mr. Gasiorowski is proposing then that would not be the case.

Mayor Nicol stated that he did not think it was fair to involve the Borough in the legal matters of the applicants and said he did not think it was good for the future of the Borough, future politicians, and future Planning Boards. Mayor Nicol stated it should not hinge on requiring someone to live in the house and if they move they have to tear it down.

Mayor Nicol, Councilman Garruzzo, Mr. Jones, Ms. Frith had no questions for Mr. Burdick. Ms. Trainor announced it was time to hear questions from the public for Mr. Burdick.

Danie Burke, Cedar Lane, was sworn in by Mr. Clark. Mr. Burke asked questions about Donnelly Place, and access to the property.

Ms. Trainor asked if there were any other questions from the public. Hearing none, Mr. Gasiorowski called the applicants to testify. Michael and Lori Centrella were sworn in by Mr. Clark. Mr. Gasiorowski asked Mrs. Centrella if she is presently residing in the existing house. Mrs. Centrella answered she was living in the home and it was her wish to continue to do so. Mrs. Centrella stated she understood that if she vacated the property they were proposing that the house be demolished and added it was not her intention to ever rent the home.

Ms. Trainor asked the Board if they had any questions for Mrs. Centrella. Hearing none, Ms. Trainor asked if there were any public questions for Mrs. Centrella. Hearing none, Mr. Gasiorowski called Mr. Centrella to testify. Mr. Centrella stated he was the deeded property owner of 22 Crescent Drive. Mr. Centrella stated that he agreed that at some point when the house was sold it would be demolished and said it is an old house and thought that someone would want to build a new modern house on a lot more centered. Mr. Centrella stated the intent is for Mrs. Centrella to live in the existing home.

Ms. Trainor asked the Board and then the public if they had any questions for Mr. Centrella. Hearing none, Ms. Trainor stated it was time to hear comments from the public in regard to the application. Mr. Burke, Cedar Lane, stated he felt the waiver along Donnelly Place should be denied. There were no other comments from the public.

Ms. Trainor asked Mr. Clark if he could address the right-of-way issue. Mr. Clark said this issue is addressed in Mr. Hilla's review letter and then discussed what is written in the Borough Code and explained to the Board the waiver the applicant was seeking in regard to that code. Ms. Trainor asked Mr. Gasiorowski if he planned on providing any testimony in regard to the waiver. Mr.

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Burdick stated that the dedication of the additional 10-feet does nothing because nothing would be developed there and then said that the Borough had no intention to improve Donnelly Place.

Ms. Trainor stated it was time to hear comments from the Board in regard to the application.

Mayor Nicol asked if it was the Board's decision or the applicant's attorney's decision to put two votes before the Board. Mr. Clark answered that he thought it was the Board's decision and said that the Board could make a motion to grant the variance relief or they could make a motion to grant what Mr. Gasiorowski originally stated which was to have a deed restriction and the various other things. Mr. Clark said he thought if the Board made a motion and it was denied, Mr. Gasiorowski could ask the Board if they would be willing to consider a different motion. Ms. Trainor said that if the applicant requested the Board to make a motion for the relief they are seeking and it was denied then the Board would accept a request for a different kind of motion.

Councilman Garruzzo stated that the house has been there since the 1950's and said he did not see a reason to complicate the issue by putting a deed restriction stating that if Mrs. Centrella vacated the house, the house would have to be demolished. Councilman Garruzzo said he thought the relief should be given and Mrs. Centrella should be able to live there without that specific condition.

Mr. Stenson and Mr. Siano stated they agreed with Councilman Garruzzo.

Mr. Jones stated he felt the Board should require the additional 10 feet be added to Donnelly Place for safety reasons. Mr. Jones said he was not in favor of the waiver.

Ms. Brisben stated she thought it would be expensive for the Borough to take over the maintenance of Donnelly Place and said that Mayor Nicol has stated twice that Borough of Brielle does not have intentions of doing anything with Donnelly Place. Ms. Brisben stated she was in favor of the waiver and a variance for the existing home.

Ms. Trainor stated that with respect to Donnelly Place, she thought it was a future issue for whomever might develop the subdivided parcel as how they would propose safe access to their property that would conform. Ms. Trainor stated she agreed with Ms. Brisben in respect to the waiver, said she felt Mrs. Centrella should be able to live peacefully in her house and said she did not think it should be the Borough's business who was living there or if the home was rented.

Mr. Gasiorowski said after speaking to the applicants, they would like the Board to consider granting a variance for the pre-existing nonconforming use and a variance for the waiver request.

Ms. Trainor asked Mr. Clark and Mr. Hilla if there were any other conditions discussed. Mr. Clark answered there were not and said that it was a motion to approve a variance for the subdivision with the pre-existing property. Mr. Clark stated he thought that the approval for the subdivision and the approval for the waiver should be voted on separately.

Ms. Trainor asked the Board for a motion to let Mrs. Centrella live in her house without any involvement or enforcement from the Borough. Chris Siano made a motion, seconded by Councilman Frank Garruzzo, and followed by the roll call vote.

Tuesday, December 13, 2022

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

Noes: None

Ms. Trainor asked for a motion to approve the request for a waiver for Donnelly Place. Chris Siano made a motion, seconded by Councilman Frank Garruzzo, and followed by the roll call vote.

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

Noes: Jay Jones

Ms. Trainor asked for a motion to approve the request for the 2 lot subdivision. Chris Siano made a motion, seconded by Stephanie Frith, and followed by the roll call vote.

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

Noes: None

Mrs. Centrella thanked the Board, said she has lived in her home for 21 years, loves her street and her 100 year old Sycamore tree.

Ms. Trainor asked if there was any other business to bring before the Board.

Daniel Burke, Cedar Lane, asked the Board to consider posting application documents on the Borough website.

Ms. Trainor asked for a motion to adjourn. Karen Brisben made the motion, seconded by James Stenson, and then unanimously approved by the Board, all ayes. The meeting was adjourned at 8:51 p.m.

Denise Murphy, Recording Secretary

Approved: January 10th, 2023