

BRIELLE PLANNING BOARD  
TUESDAY, DECEMBER 12, 2023

The Regular Meeting of the Brielle Planning Board was held on Tuesday, December 12<sup>th</sup>, 2023 at 7:00 p.m., in the Brielle Borough Hall, 601 Union Lane. Ms. Trainor read the OPMA compliance statement. After a moment of silent prayer and a Salute to the Flag, roll call was taken:

Present – Mayor Thomas Nicol, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Jay Jones, Charlie Tice, Daniel Turak

Absent – Councilman Frank Garruzzo, Stephanie Frith, Amber Fernicola

Also present were David Clark, Board Attorney, Alan Hilla, Board Engineer and Denise Murphy, Recording Secretary. There were 13 people in the audience.

Swearing in of New Member: Daniel Turak, Alternate #2, through 12/31/2025.

Ms. Trainor announced that the last item on the new business portion of the agenda, 110 Union Avenue, LaMondina Restaurant was being carried to the January 9<sup>th</sup>, 2024 meeting with no further notice required.

A motion was made to approve the Minutes of November 7<sup>th</sup>, 2023, this done by Chris Siano, seconded by James Stenson, all ayes, no nays.

Correspondence: Receipt of the NJ Planner, September/October 2023. Copy of application to DEP for 6 Crescent Drive, to allow replacement of a dock & mooring piles with vinyl bulkhead, new dock, floating dock and boat lift.

OLD BUSINESS: Resolution of approval for Block 18.01, Lot 11, 405 Union Avenue (Rt. 71), site of Bank of America, to allow restoration work on the outdoor lighting system.

**RESOLUTION OF THE BRIELLE BOROUGH PLANNING BOARD, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY APPROVING THE APPLICATION OF BANK OF AMERICA, N.A. SEEKING MINOR SITE PLAN APPROVAL AND VARIANCE RELIEF FOR THE PROPERTY LOCATED AT 405 UNION AVENUE IDENTIFIED ON THE TAX MAP OF THE BOROUGH OF BRIELLE AS BLOCK 18.01, LOT 11**

**WHEREAS**, Bank of America, N.A. (the “Applicant”) filed an application with the Planning Board of the Borough of Brielle (the “Board”) seeking minor site plan approval and

variance relief as described more fully herein for the property located at 405 Union Avenue which is identified on the Borough tax map as Block 18.01, Lot 11 (the “Property”); and

**WHEREAS**, the Applicant is a tenant who leases the Property; and

**WHEREAS**, the owner of the Property, Diane Thompson, has consented to this application; and

**WHEREAS**, the Property is located on the western side of Union Avenue, between Harris Avenue and Borrie Avenue; and

**WHEREAS**, the Property is located within the Borough’s commercial C-1 zone (the “C-1 Zone”); and

**WHEREAS**, the Property is improved with a one-story Commercial Bank and an asphalt driveway/parking area; and

**WHEREAS**, the Applicant is seeking approval to modify the existing site with updated lighting consisting of the replacement of 22 existing fixtures with new LED fixtures and 5 new light poles with LED fixtures in order to comply with the lighting requirements of N.J.S.A. 17:16K-10; and

**WHEREAS**, the existing and proposed use are conforming for the zone, but the existing lot and proposed principal structures and various ancillary facilities are non-conforming for the zone; and

**WHEREAS**, the Property has the following existing non-conformities that are not being impacted by the development proposed by the Applicant within its application:

- (a) Minimum Front Setback (principal structure) – 30 feet required, 25.3 feet existing;
- (b) Minimum Lot Width –150 feet required, 94 feet existing;
- (c) Parking – 22 spaces required, 16 spaces existing; and

**WHEREAS**, the Applicant is seeking the following variance relief through this application (the variance relief sought is shown in bold type):

- (a) **relief from the 50-foot buffer zone requirement between residential and commercial zones required under Borough Code Section 21-36.9; and**

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

- (a) Outbound and Topographic Survey prepared by Russell S. Kauffman, PLS, dated July 14, 2023;
- (b) Minor Site Plan prepared by Bradford W. Petrick, P.E., dated August 28, 2023;
- (c) letter of Denial from the Borough Zoning Officer dated March 16 2023;
- (d) application package; and

**WHEREAS**, the Board was also provided with a letter dated October 9, 2023 prepared by the Alan Hilla of H2M Associates, Inc., the Board Engineer, providing a technical review of the application; and

**WHEREAS**, the Board held a hearing on this application on November 7, 2023, and considered the following documents presented at the hearings in connection with this application:

- a. Exhibit A-1-a blown-up version of document C-100;
- b. Exhibit A-2- four photos showing the existing conditions of the site;
- c. Exhibit A-3- a document showing a foot candle as a light measurement;
- d. Exhibit A-4- document C-300 showing the various foot candles proposed;
- e. Exhibit A-5- photos of the rear of the property, drive through ATM and walk up ATM; and

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

Thomas Letizia, Esq. from the law firm Troutman Pepper Hamilton Sanders, Princeton, New Jersey stated that he was representing the applicant and tenant, Bank of America National Association. Mr. Letizia said that the applicant was proposing to upgrade their external lighting at

the bank in order to comply with the New Jersey Security Lighting Standards for banks that have automated teller machines. He said the scope of the lighting changes includes replacing existing lighting fixtures with LED lights and installing five new light poles also with LED fixtures. Mr. Letizia stated that state law mandates certain lighting levels for safety and security of the public accessing ATM facilities and said the NJ Statute is called the Electronic Fund Transfer Privacy Act and is set forth at N.J.S.A. 17:16K. Mr. Letizia referenced "Section 10" of this law and gave the Board a detailed description of which lighting is required and where the lighting is required to be placed. He said that it was important to point out that this Act supersedes and preempts all codes and requirements of the county or the municipality pertaining to lighting levels for ATM's and said that this was the code that banks must comply with.

Mr. Letizia called Brad Petrick, Petrick Real Estate Services, to testify. He was then sworn in by Mr. Clark. Mr. Petrick recited his educational background, said he became a Licensed Engineer in NJ in 2015, has completed multiple exterior lighting projects within the state and for the bank and has testified as an expert in boards across New Jersey. Ms. Trainor stated that the Board accepted Mr. Petrick as an expert in civil engineering.

Mr. Petrick presented five documents which were marked as Exhibits by Mr. Clark. They were:

Exhibit A-1, described as document C-100.

Exhibit A-2, described as four photos showing the existing conditions of the site.

Exhibit A-3, described as a document showing a foot candle as a light measurement.

Exhibit A-4, described as document C-300, shows the various foot candles proposed.

Exhibit A-5, described as photos of the rear of the property, drive through ATM and walk up ATM.

Mr. Petrick spoke about a 6 foot tall white vinyl fence and large 20-30 foot tall evergreen trees that are located in the rear of the property. He then described to the Board what a foot candle was and how it is measured. Mr. Petrick stated that per the requirements, they would need to light within 50 feet of the ATM in the rear of the building as well as inside of the building. He then described to the Board the different proposed light levels around the site and the adjacent lots. Mr. Petrick stated that the existing lighting would be removed and new lighting would be installed but said some existing poles would remain and five new poles would be added. He said that along the rear of the property line they have tried to reduce the intrusiveness of the light onto the adjacent property by including light shields on the fixtures, which block the light from going in an unwanted direction. Mr. Petrick was asked if the trees belonged to the bank. He replied that the trees belong to the neighbor.

Mr. Petrick stated that the applicant was proposing to place a dumpster with an enclosure in its current location. Mr. Petrick stated that to create enough space for the dumpster enclosure, they would have to reduce the size of the six adjacent parallel parking spaces by 2 feet each. He said the existing spaces are 25 feet long and said 22 feet is required so this would create enough area for the dumpster enclosure. Mr. Hilla asked if the dumpster enclosure would be on the side of Harris Avenue. Mr. Petrick answered that it could go on either side of Harris or Borrie Avenues. Mr. Letizia asked Mr. Hilla if he had a preference where it should be placed. Mr. Hilla stated he thought the Borrie Avenue side was preferable because most dumpsters are front load and this

would not impact the traffic pattern on the site. Mr. Petrick said he agreed that the Borrie Avenue side would provide better circulation.

Mr. Petrick said that the applicant has agreed to patch the pothole adjacent to the curb. Mr. Petrick then summarized his testimony and thanked the Board for their time. Mr. Letizia stated he had no further questions for Mr. Petrick.

Ms. Trainor said it was time to hear questions for Mr. Petrick from the Board. Mr. Siano asked Mr. Petrick to show him where the five proposed light poles would be. Mr. Petrick referenced Exhibit A-4 and pointed to the light poles. Mr. Jones asked if the new light poles would be 10 feet high. Mr. Petrick replied that there would be a mixture of 10 foot and 20 foot poles. Mr. Jones asked if the light shield was like a collar to which Mr. Petrick answered that it was basically a three-way collar. Ms. Brisben asked if the light poles on Harris Avenue would be 20 feet high and asked if the lights would have a shield on them. Mr. Petrick replied that they would not because they need to light backwards and said there shouldn't really be any light spillage based on their calculations. Ms. Brisben asked if they would be digging up the parking lot for the new electric. Mr. Petrick answered that they would be digging a trench about 3 foot wide. Ms. Trainor asked if when the foot candles on Lot 12 were measured, did the applicant take into account the trees. Mr. Petrick answered they had taken that into account. There were not any other questions from the Board.

Ms. Trainor said it was time to hear questions for Mr. Petrick from the public. Dan Burke, 1013 Cedar Lane, was sworn in by Mr. Clark. Mr. Burke asked if the lights would be LED lights and what the color temperature would be. Mr. Petrick answered the lights would be LED and the color temperature would be white. There were no other questions from the public.

Ms. Trainor asked if there were any comments from the public. Eleanor Fox, 608 Harris Avenue, was sworn in by Mr. Clark. Ms. Fox stated that she was the owner of 602-604 Harris Avenue, Lot 12 which she said was behind the fence. Ms. Fox said she was concerned about the brightness of the light and thought it could be a problem at nighttime. She said she was concerned about the 20 foot pole and asked if it could be reduced to 10 feet. She also was concerned about side light and asked if the pole could be turned. Mr. Petrick responded that as far as the pole was concerned, the compliance area requirement is 50 feet to maintain light and said the light was facing towards the ATM. Mr. Siano asked what the foot candle measurement was on Ms. Fox's property to which Mr. Petrick responded 0.1. Mr. Petrick stated that shrinking the height of the pole would reduce the size of the area of the light and said that generally when a pole is shortened, it creates other pockets of darkness which he said is what they were trying to avoid. There were not any other comments from the public.

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

Mayor Nicol commented that he wanted the neighbors to be satisfied with the lighting.

Councilman Garruzzo agreed with Mayor Nicol but said that it did not appear that the lighting would be anymore detrimental than what was currently there and said he was inclined to move forward with the application.

Mr. Stenson asked what the candle foot measurement was where all of the neighbors were. Mr. Petrick answered that the highest measurement would be .2 to which Mr. Stenson said that he was satisfied with that.

Mr. Jones said he agreed with Mr. Stenson.

Ms. Brisben asked Mr. Hilla if the applicant would have to submit revised plans for the dumpster placement to which he replied that they did have to do that. She said she would need 4 sets of the plans to show where the dumpster would be.

Ms. Trainor said she heard the comments about the lights but thought that it would need to be balanced against the safety purposes of the statutory scheme that governs the lighting that is necessary for an ATM, said that the trees are in the neighbor's control and said she thought the application made good sense. She also said she would want the pot hole to be addressed.

Mr. Clark then reviewed the items that the applicant had agreed to. Ms. Trainor asked for a motion to approve the application with the stipulations Mr. Clark had listed.

**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 a tenant who leases the Property.
- c. The owner of the Property, Diane Thompson, has consented to the Applicant's application.
- d. The Property is located on the western side of Union Avenue, between Harris Avenue and Borrie Avenue.
- e. The Property is located within the Borough's C-1 Zone.
- f. The Property is improved with a one-story Commercial Bank and an asphalt driveway/parking area.
- g. The Applicant is seeking approval to modify the Property with updated site lighting consisting of the replacement of 22 existing fixtures with new LED fixtures and five new light poles with LED fixtures in order to comply with the lighting requirements of N.J.S.A. 17:16K-10.

- h. The existing and proposed use are conforming for the zone, but the existing and proposed principal structures and various ancillary facilities are non-conforming for the zone.
- i. The Property has the following non-conformities that are not being impacted by the development proposed by the Applicant with its application: (i) Minimum Front Setback (principal structure) – 30 feet required, 25.3 feet existing; Minimum Lot Depth – 50 feet required, 94 feet existing; and Parking – 22 spaces required, 16 spaces existing.
- j. The Applicant is seeking the following variance relief through this application (the variance relief sought is shown in bold type) (i) **non-compliance with the 50-foot buffer zone requirement between residential and commercial zones required under Borough Code Section 21-36.9.**
- k. The Applicant has provided testimony demonstrating that it is required to make changes to the lighting on the Property in order for the Applicant to comply with the lighting requirements of N.J.S.A. 17:16K-10.
- l. In conjunction with the changes to the lighting that are being made in order to comply with the requirements of State law, the Applicant has agreed to make other improvements to the Property, including the enclosure and screening of the trash dumpster on the Property, the relocation of the dumpster enclosure so that it complies with the Borough Code requirement of being at least five feet or more from the property line, and the patching of the pothole in the Harris Avenue gutter-line immediately adjacent to the driveway access to the site.
- m. The Applicant has also shown a willingness to mitigate any adverse impact of these lighting improvements upon the neighboring residential properties through the installation of light collars that will, to the extent feasible, direct the light towards the bank and away from the neighboring residential properties.
- n. The Applicant has provided testimony that the impact of these lighting changes upon the neighboring residential properties will be minimal due to the existing tree line on neighboring residential properties along with the use of light collars and the proposed heights and locations of the lighting improvements.
- o. The Board recognizes that N.J.S.A. 17:16K-10 requires banks to comply with certain lighting requirements for ATM's and that the improvements proposed through this application are necessary in order to meet these legal requirements and to satisfy the underlying safety concerns of the State law. The Board concludes that the Applicant has taken adequate steps to mitigate any adverse impact that these improvements will have upon neighboring residential properties.

- p. The Board recognizes that the current pre-existing configuration of the bank on the Property does not comply with the 50-foot buffer zone requirement between residential and commercial zones required under Borough Code Section 21-36.9 and that there is no practical way to modify the bank in order to achieve such compliance. It is noted that relief from the buffer requirement was granted in 1987 when the Board approved converting this building into a bank. The Board finds that the Property is an irregularly-sized and shaped lot and the deviations from the requirements of the zone are minimal and do 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. Moreover, the improvements being made to the Property reduce some of the non-conformities of the Property (such as relocating the dumpster enclosure to a conforming location) and that the benefits of these site improvements outweigh any detriments. For these reasons, the Applicant has met the criteria for a N.J.S.A. 40:55D-70(c)(1) variance for the bulk variance sought through this application.

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

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

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. The Applicant shall relocate the dumpster on the Property so that it is located within an enclosure and so that it complies with the Borough Code requirement of being at least five feet or more from the property line.
- b. The Applicant shall screen the dumpster area with vegetation that it shall plant and maintain in a manner as approved by the Board Engineer.
- c. Within thirty (30) days of the adoption of this resolution, the Applicant shall submit four sets of revised plans to the Board Secretary with the revised location of the dumpster enclosure, dumpster pad, and vegetative screening.
- d. The Applicant shall patch the pothole in the Harris Avenue gutter-line immediately adjacent to the driveway access to the site. These pothole repairs



will be completed prior to or simultaneous with the Applicant's installation of the lighting improvements approved through this application.

- e. The Applicant stipulates and agrees that it shall maintain, repair, and replace all collars in the light fixtures approved herein so that all lighting fixtures which have been identified within the application as having collars shall continuously remain collared.
- f. The Applicant shall pay all taxes and other applicable assessments, costs and fees to date, as applicable.
- g. 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
- h. 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 James Stenson , seconded by Chris Siano and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Jay Jones, Charlie Tice

Noes: None

Not eligible to vote: Daniel Turak

OLD BUSINESS: Continuation of hearing for Minor Subdivision for Block 81.01, Lot 1, 409 Union Lane, owned by Daniel & Todd Burke, co-Executors, to allow a two lot subdivision.

Ms. Trainor announced that the Board had received correspondence about a scheduling issue regarding this application. Mr. Middleton's witness, Mr. DiFolco, was not able to attend tonight's meeting due to illness. The application was carried to the January 9<sup>th</sup>, 2023 meeting with no further notice required.

NEW BUSINESS: Application for variance relief for Block 43.01, Lot 17, 623 Green Avenue, owned by Ryan Burlew, to allow a retaining rock wall to stay on the property (violation notice given). Front Yard Setback —25 feet required, 3.5 feet existing & proposed.

Mr. John Giunco from the law firm Giordano, Halleran, and Ciesla, stated he was representing the applicant and noted that the applicant had already been before the Board for approval to develop this property. Mr. Giunco said in addition to a swimming pool being built, a rock wall was also

built which turned out to be in violation of the setback. He stated that the applicant was before the Board to ask for a Bulk C variance, said they would be presenting testimony and asked the Board to consider letting the rock wall remain.

Mr. Giunco called Barbara Ehlen, Beacon Planning and Consulting Services, to testify. Ms. Ehlen stated she was a Licensed Professional Planner and an A.I.C.P and said she had appeared before the Planning Board before. Ms. Ehlen was accepted as an expert in planning.

Ms. Ehlen presented a photo board containing four photographs she said were views of the property. Mr. Clark marked these photos as Exhibits A-1, A-2, A-3 and A-4. Ms. Ehlen said this was a single family home, located in the R-4 Zone with a detached garage, a driveway, an inground swimming pool and a rock wall with a slide and said that landscaping had been installed particularly along Green Avenue. She then described the different photographs to the Board and said they were all taken along Green Avenue. Ms. Ehlen referenced the Borough's Master Plan and said that the rock wall does require a variance, 25 feet required, 3.5 feet exists and is proposed. She noted that if this were a rear side yard, only 5 feet would be required. She said that in respect to the variance requested she felt it would qualify under the C-2 criteria. She said the project was previously approved for the location of the house, the garage and the pool and said they were all situated in order to permit adequate circulation between the structures and acknowledged the fact property is quite unique in its shape and multiple frontages which pushed the pool along Green Avenue. Ms. Ehlen said that in order to buffer that and to provide privacy and to provide a better visual environment along Green Avenue, fencing, landscaping and the rock wall were placed there. She said this blocks noise from coming in from the property and noise from coming out onto the street and prevents those parking across the street from looking directly into the backyard. She said she did not see any negative criteria and said it was her opinion that the positive criteria was met. Mr. Giunco stated he did not have any other questions and asked Ms. Ehlen if she had anything else to add. She replied that she did not at this time have anything else to say.

Ms. Trainor asked Mr. Hilla if he had anything he wanted to discuss regarding his letter or if he had any questions. Mr. Hilla began by saying that this property has three fronts and a rear, said that this is the way it was classified and said he mentioned this to clarify the record. He referenced item #2 in his letter and said that there were a number of variances associated with the original application which were approved and said there were reasons for those variances being approved. He said he felt the litmus test for this application is whether or not the variance being requested would have been approved had it been heard originally and said now it is being taken out of context where it is now a single variance and is being shown as having some aesthetic appeal. Mr. Hilla asked Ms. Ehlen if she was saying that this was a C-2 variance and asked how the municipality was benefitting from the rock wall behind the arborvitaes. Ms. Ehlen answered that it would prevent those parked across the street from looking directly into the backyard and said it helps shield the property and other properties behind it from things such as lights and noise from the parking lot. Mr. Hilla stated he did not have any other questions.

Ms. Trainor stated it was time to hear questions from the Board for Ms. Ehlen. Mr. Stenson asked why the rock wall was not included in the original application. Mr. Giunco responded that he did not know why. Mr. Jones asked if the rock wall could have been placed somewhere else to make

it more conforming. Ms. Ehlen answered that there needed to be separation between the pool, the house and the garage and it was figured this way to keep it balanced.

Ms. Brisben asked if Mr. Burlew were present and said that maybe he could answer Mr. Stenson's question. Before Mr. Burlew answered, he was sworn in by Mr. Clark. Mr. Burlew stated that when he originally applied for the pool permits, the pool contractor was responsible for taking care of the permitting of the pool and the rock wall and said that the contractor left off the permitting and the engineering for the rock wall in the original application. He said he had looked at the Borough's Ordinances and said he was unable to find any as far as delineating that area as a structure, he said they had delineated it as a landscape area on the site plan so he installed the rock wall because the pool contractor confidently told him that it was part of the landscaping. Mr. Stenson asked Mr. Burlew if he had planned on putting the rock wall in originally. Mr. Burlew answered that he had planned on the rock wall and said once he received the violation letter he contacted Zoning Officer, Elissa Commins and she informed him that anything over eight inches in grade in Brielle was considered a structure. Ms. Brisben added that Elissa does a great job and said she did a very nice job finding this error and addressing it.

Ms. Trainor asked Ms. Ehlen to explain how the height of the structure meets the C-2 criteria. Ms. Ehlen answered that she felt that it would add to the ability of it to help screen the property, provide a visual buffer and help block the impact from the commercial property across the street. Ms. Trainor asked Ms. Ehlen if the wall cannot be seen, how would that contribute to her C-2 analysis. Ms. Ehlen replied that it helps to block the view. There were no other questions from the Board.

Ms. Trainor asked if there were any questions from the public for Mr. Ehlen. Hearing none, Mr. Hilla asked Ms. Ehlen how does the criteria that she has applied to this application not set a precedent elsewhere in town of large accessory structures in a front yard. Mr. Giunco answered that he felt that this may be more of a legal question and referenced and read from two legal cases that he said addressed this very issue. Mr. Giunco said that both cases imply in his view that an aesthetically beneficial element would be satisfactory for positive criteria for granting a variance.

Ms. Trainor asked Mr. Hilla if there was an Ordinance that governs or affects the size of the structure. Mr. Hilla replied no and said the only variance being sought was for the setback.

Mr. Giunco stated he did not have anything else to add. Ms. Trainor stated it was time to hear public comments in regard to the application.

Marguerite Van Nostrand, 616 Homestead Road, was sworn in by Mr. Clark. Ms. Van Nostrand stated she thought the applicant put a lot of effort in making the property look so beautiful, complimented the fencing and the landscaping, and then said that the rock wall cannot be seen from the street and does not pose a problem. She also said that she felt the home brings the street to a safer level and said she feels like the noise level is less.

Debra Kristiansen, 611 Homestead Road, was sworn in by Mr. Clark. Ms. Kristiansen said she was present to show her support to the applicant and said she felt the property was absolutely gorgeous.

Jonathan Scott, 619 Homestead Road, was sworn in by Mr. Clark. Mr. Scott said the property is beautiful and is an asset to their block and to Brielle and said the owners are tremendous neighbors. He said he agreed that there was a lot less noise and has noticed less cars driving down Homestead Road. He said he felt the way motorists drive around the corner should be more of a concern.

Peter Donnelly, 411 Melrose Avenue, was sworn in by Mr. Clark. Mr. Donnelly stated he felt the house is beautiful and said he didn't even know there was a wall there. He also said the landscaping looked great and thought the property was an asset to the neighborhood.

Ms. Trainor asked to hear comments from the Board.

Mayor Nicol stated he did not have any issues with this application or the rock wall and said he felt it was a great improvement.

Mr. Stenson stated that when he first saw the wall he thought it was unattractive but when he went by it recently, he said he couldn't even see it and felt that the applicant did a good job disguising it. He said he did not have any issues with the rock wall, said he appreciated Mr. Burlew's explanation about the pool and finished by saying he thought the property looked beautiful.

Mr. Siano said he felt it was a vast improvement and was in favor of the application.

Mr. Jones said he thought the property was beautiful but said the issue was whether to grant a variance or not. He said he understood the placement of the pool but said the rock structure was not approved by the Board and said he was not in favor of the application because he thought it would set a precedent of building now and ask for forgiveness later.

Ms. Brisben said she felt that the rock wall was not visible due to the landscaping and said she would be in favor of approving this application.

Mr. Tice said he appreciated Mr. Burlew's honesty, thought the house looked great and said he did not have any issues at this time.

Mr. Turak said the rock wall could be seen before the landscaping was completed but said that the applicant did a beautiful job, said he agreed with the neighbors that spoke and said it was an absolute improvement. He said the only thing he thought the Board should be concerned about was if this would set a precedent.

Ms. Trainor said there was a mix in the testimony, whether the wall could be seen from the street or not, said there were some comments from the public that the wall could not be seen and said that effects the analysis as to whether it really is an added aesthetic under C-2 but then said that there was no one present objecting to the application. She said she felt that there was an added benefit to the municipality because of the safety that was added to the property for motorists that pass by that may not know there is a body of water behind the fence. Ms. Trainor stated she was in favor of the application.

December 12, 2023

Mr. Siano stated he had another comment and said that this property was unique in that it has three front yards, not your typical corner property and said he understood the discussion of precedent but said he thought it would be hard to find another Lot with three front yards and everything else.

Ms. Trainor asked Mr. Clark if there were any stipulations agreed to. Mr. Clark said he did not think there were any besides the normal stipulations that the Planning Board has. Ms. Trainor asked Mr. Giunco if he was familiar with those stipulations to which he replied that he was. Ms. Trainor asked for a motion to approve the application.

A motion to approve the above application was made by Chris Siano, seconded by James Stenson and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Charlie Tice, Daniel Turak

Noes: Jay Jones

Ms. Training then asked if there were any other business to be brought before the Board. Ms. Brisben stated that she wanted to discuss the date for the February 2024 Planning Board meeting. She said the school's winter break is the second week of February and asked if the Board could meet the 1<sup>st</sup> Tuesday of February instead, if that were acceptable with everyone. Ms. Trainor stated she thought that made good sense.

Ms. Trainor announced that this was Mayor Nicol's last meeting on the Planning Board and said on behalf of Brielle and all who live here, thank you very much for everything you've done. Mayor Nicol said, "He was smart enough to know he's dumb enough to know that he needed to surround himself with good people and said all of the members of the Planning Board he has appointed over the last 32 years were smarter than him and did a great job." Mayor Nicol said he has always been proud to serve on the Planning Board and said he appreciated all of the members efforts.

A motion to adjourn was made and seconded with unanimous vote, all aye. The meeting was adjourned at 8:05 p.m.

---

Denise Murphy, Recording Secretary

Approved: January 9<sup>th</sup>, 2024