

REGULAR MEETING

The following are the minutes of the Land Use Review Board of the Borough of Ship Bottom, Ocean County, New Jersey, which was held in Borough Hall, 1621 Long Beach Blvd., Ship Bottom, New Jersey on June 19, 2019.

WORKSHOP MEETING

Chairman Cooper stated the following:

The workshop meeting of the Ship Bottom Land Use Review Board is now open. The time is 7:00 P.M. and the date is June 19, 2019. Upon completion of the Work Shop Meeting the regular meeting will convene. Both meetings meet all the criteria of the Open Public Meetings Act.

Mr. Snyder brought to the board's attention the fact that that we have an application before us tonight that is a use variance. Councilman English and Councilman Butkus need to recuse themselves, Mr. Dixon has a conflict, Mr. Hay is within 200ft of the applicant's property and we are short one alternate member. This leaves six (6) members that can vote with a need for five (5) affirmative votes.

Mr. Snyder explained that the LBI Partners Inc. application is not complete due to the lack of request for variance.

Mr. Snyder informed that the Diane Amberg-Borsellino has filed with superior court.

Chairman Cooper opened the Regular Meeting.

REGULAR MEETING

Chairman Cooper stated the following:

The Meeting of the Ship Bottom Land Use Review Board will come to order. The time is 7:08 P.M. and the date is June 19, 2019. The time, date and location of this meeting is listed in Resolution 2018-A, which was published in the Asbury Park Press, the Press of Atlantic City and Beach Haven Times. This was also posted on the Bulletin Board in the Municipal Building.

The next regular meeting of Ship Bottom Land Use Review Board is scheduled for July 17, 2019.

The conduct of this meeting is being recorded so all testimony can be clearly heard. At the appropriate time, the meeting will open to the public for any questions and comments. Maximum time period allowed to present testimony, witnesses and other proofs are limited to one hour and may be extended only at the discretion of the board. The meeting will adjourn at 10:30 P.M. with no further testimony being taken unless otherwise ordered at the discretion of the Board. All electronic devices and mobile phones should be turned off at this time.

Will the secretary please call the roll.

Roll call of members: Councilman English, Councilman Butkus, Mr. Basile, Mr. Bishop, Mr. Dixon, Mr. Hay, Ms. Schmidt, Mr. Yankowski, Vice Chairman Tallon and Chairman Cooper, present.

Also in attendance were the Board Attorney, Stuart D. Snyder, Esq., the Board Engineer/Planner, Frank J. Little, Jr., PE, PP, CME of Owen, Little and Associates and the Board Secretary, Sara Gresko.

CORRESPONDENCE:

The correspondence folder was passed around for all members to review.

MINUTES:

The minutes of the May 15, 2019 meeting were presented to the Board. On a motion by Ms. Schmidt, seconded by Vice Chairman Tallon, the minutes were approved as

submitted.

Roll Call Vote: Councilman English, Councilman Butkus, Mr. Basile, Mr. Bishop, Mr. Hay, Ms. Schmidt, Vice Chairman Tallon and Chairman Cooper, all aye.

RESOLUTIONS:

- A. DOCKET NO. 19:08
WILLIAM & LINDA KILROY
120 WEST 3RD STREET
BLOCK 133 LOT 5

A motion to approve this resolution was made by Mr. Hay and seconded by Councilman English. It is as follows:

**RESOLUTION OF MEMORIALIZATION OF THE
LAND USE REVIEW BOARD OF THE BOROUGH OF SHIP BOTTOM
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2019:08**

WHEREAS, William S. Kilroy and Linda Kilroy have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the construction of an elevated first story deck with dimensions of 11.3 x 37.2 feet, with stairs, at the existing single family dwelling, located at 120 West 3rd Street Lot 5 Block 133 in the Borough of Ship Bottom, County of Ocean and State of New Jersey; and

WHEREAS, the Land Use Review Board considered this application at a public hearing on May 15, 2019. Katharine Schackleton, Esq. represented the applicant. The application dated March 15, 2019 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. titled “Variance Map Lot 5 Block 133, Tax Map Sheet # 19 Borough of Ship Bottom, Ocean County, New Jersey” dated September 24, 2018 with a final revision date of April 24, 2019, under signatures and seals of Robert G. de Blois, PLS and James D. Brzozowski, PE, PP was entered into evidence as Exhibit A-2; the architectural plans prepared by Musnug & Associates titled “Kilroy Residence, Block 133 Lot 5, 120 West 3rd Street, Ship Bottom, NJ” dated June 12, 2018 containing Sheets TS-1, A-2, A-3, and A-5 title was entered into evidence as Exhibit A-3; a set of five (5) photographs taken before the house was raised during the fall of 2018 were entered into evidence as Exhibit A-4; a set of twelve (12) current photographs of the property were entered into evidence as Exhibit A-5. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated April 9, 2019 was entered into evidence as Exhibit B-1. Testimony was offered by James Brzozowski, applicants engineer and professional planner; and by Robert P. Musnug, applicant’s architect. There was not any public comment offered; and

WHEREAS, the Land Use Review Board after considering the Application, documentation entered into evidence, testimony of the witnesses and argument of counsel has made the following factual findings:

1. All jurisdictional requirements have been met.
2. The applicants are the owners of the property.
3. The property is located in the OR Office Residential Zone. The property is situate at the southeast corner of Third Street and Central Avenue; it has dimensions of 57.40’ x 60.00’ x 65.00’ x 20.00’ x 7.60’ x 40.00 feet, containing 3,596 square feet; with lot width and lot frontage of 57.40 feet where 60 feet is required; improved with a two story single family home.
4. The house on the lot was below base flood elevation, with permits applicant raised the house to elevation 14.3 feet. Applicant constructed a raised deck fronting on Third Street, and proposes a roof portico there over. Stairs are proposed to provide access and egress to the house; as the front entranceway is located on Third Street. Prior to raising the house there was an existing deck on the house located adjacent to lot 6. A photograph depicted the existence of that covered deck prior to the raising of the house. Applicant proposes to construct a new covered deck on the north side of the house adjacent to lot 6, the new deck will be covered and constructed along the entire width of the house, 34.2 feet; the deck will be 11.2 feet wide, and provide a landing to the east to accommodate a stairway. In conjunction with the approved work on the house, the piling were installed for the new deck; as the original deck had been

removed; applicants are before the Board seeking variance relief. The existing porch fronting on Central Avenue is being removed and eliminated.

5. The house was raised in place; the front yard from Central Avenue was 3 feet; with the elimination of the porch the proposed front yard is 8.5 feet; 15 feet is required applicant is requesting variance relief; the front yard setback from Third Street remains at 9.4 feet where 15 feet is required; also applicant is requesting a portico/roof above, variance relief is requested. The proposed side yard setback to the new covered deck is 5.6 feet; the prior deck maintained a setback of 5.5 feet. Applicant proposes to relocate and replace the outside shower on the easterly side of the building, at the existing rear yard setback of 10.7 feet where 20 feet is required, variance relief is requested.

6. The existing building coverage is 40.0%; as a result of the proposed modifications, accommodating the house raise, the requested building coverage is 40.9%.

7. The grade level has been enclosed and provides storage; there is not any living area at grade.

8. Applicant also testified that the deck will remain open and will not be covered or enclosed in any manner. The covered deck located on the northerly side of the house, will not be used as heated living area. That deck abuts a property currently vacant and owned by TKR Cable Company, being used as a storage yard. Applicant also testified that the deck will remain open and will not be covered or enclosed in any manner; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicants William S. Kilroy and Linda Kilroy for variances to permit the construction of an elevated first story deck with dimensions of 11.3 x 37.2 feet, with stairs, maintain the existing nonconforming setbacks and increase building coverage to 40.9%, all in conjunction with the raising of their single family dwelling, located at 120 West 3rd Street Lot 5 Block 133 in the Borough of Ship Bottom, County of Ocean and State of New Jersey can be granted without substantial detriment to the public good and without impairing the intent and purposes of the zone plan and zoning ordinances of the Borough of Ship Bottom, as the location of the deck and stairs on Third Street and the deck on the northerly side of the property not have any negative impact upon the adjoining property; the decks will be covered, and will enhance the habitability of the house; and by raising the house the prior decking and patios were eliminated; the building coverage is minimal and necessitated by elevating the house to meet current FEMA standards; the decks will not be utilized for heated living space; the grade level enclosure is for storage only; and the property is aesthetically improved; whereupon the relief requested can be granted without substantially impairing the intent and purpose of the zone plan and zoning ordinances of the Borough of Ship Bottom, as the setbacks are preexisting; the increase in building coverage is minimal and generated solely by increased decking; which shall not be converted to heated living space; and the relief may be granted without detriment to the public good; as the property is being brought into conformity with current FEMA requirements; and the house has been renovated to meet all current building, fire and safety codes; and

WHEREAS, the Board had granted the applicants a Temporary Resolution of Memorialization at the May 15, 2019 meeting of the Board to accommodate applicants to permit the issuance of permits and the commencement of the approved project.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of William S. Kilroy and Linda Kilroy have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the construction of an elevated first story covered deck with dimensions of 11.3 x 37.2 feet, with stairs, and the construction of a first floor deck at the front yard on Third Street, with a roof portico and to maintain existing nonconforming setbacks and expand building coverage to 40.9%; at the existing single family dwelling, located at 120 West 3rd Street Lot 5 Block 133 in the Borough of Ship Bottom, County of Ocean and State of New Jersey, be and hereby is, conditionally approved.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's compliance with all terms and conditions of the letter of the Board Engineer, Frank J. Little, Jr., P.E., P.P., and C.M.E., dated April 9, 2019, as entered into evidence as Exhibit B-1.

BE IT FURTHER RESOLVED that the decks shall remain uncovered and open; and not be converted to living space.

BE IT FURTHER RESOLVED that Applicants shall file a copy of this Resolution in conjunction with a deed setting forth the conditions contained herein and the specific condition that all decking shall remain open and uncovered, and that no

additional living space shall be created at the property without further approval from this Board or any successor municipal authority having jurisdiction over this property. Said deed shall be filed with the Ocean County Clerk, with a filed copy being provided to the secretary to the Land Use Review Board.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant obtaining all permits required for the project.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant obtaining all outside agency approvals from all agencies having jurisdiction over this development.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's payment of all taxes and all other applicable assessments, and Applicant satisfying all fees and escrow fees as may be required.

BE IT FURTHER RESOLVED that the Applicant is required to comply with all ordinances of the Borough of Ship Bottom, and failure to specify compliance herein shall not be deemed a waiver or recommendation by the Land Use Review Board with respect to Borough Ordinances, including the Zoning Ordinances.

BE IT FURTHER RESOLVED that this approval is subject to all conditions and representations made by applicants and their witnesses and as placed on the record at the public hearing conducted on November 19, 2018 when this matter was considered.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant complying with all technical revisions and any other requirements as set by the Borough Engineer.

BE IT FURTHER RESOLVED that applicant is granted variance relief to permit the existing lot width and lot frontage of 57.40 feet; the existing lot depth of 60.00 feet; existing lot area of 3,596 square feet; a front yard setback of 8.5 feet on Central Avenue; a front yard setback of 9.4 feet on Third Street; a rear yard setback to the outside shower of 10.7 feet; and a side yard setback to the north of 5.6 feet; building coverage is approved at 40.9%.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicants' compliance with the Ordinances of the Borough of Ship Bottom, as applicable, with respect to bonding, guarantees, inspection costs and payment of such fees as may be related thereto, including escrow fees as to this application and as may be required by the Board Engineer/Planner and/or Construction Official and/or Secretary to the Board and/or Clerk of the Borough. Any guarantees shall be subject to the written review and approval of the Board Engineer/Planner, the Borough Attorney's office and the Mayor and Council.

BE IT FURTHER RESOLVED that, as a condition of this approval Applicant shall file a copy of this Resolution in conjunction with a deed setting forth the conditions contained herein and the specific conditions that the covered decks approved herein shall remain open and that the areas shall not be converted to additional living space; and the enclosed area at grade shall be used for storage only, and not used for living space' without further approval from this Board or any successor municipal authority having jurisdiction over this property. Said deed shall be filed with the Ocean County Clerk, with a filed copy being provided to the secretary to the Land Use Review Board.

BE IT FURTHER RESOLVED that in the event the conditions set forth herein are not met by July 1, 2020, this Application may be listed by the Board Secretary on the Land Use Review Board Agenda for the meeting of the following month for dismissal, without prejudice, unless the Applicant offers appropriate reasons for the delay, all of which may be considered in the discretion of the Board. Further, it shall be understood that this administrative time limit is not a representation or guarantee by the Board, as existing State law applies and the Board advises that it continues to be Applicants' obligation to comply with all applicable laws.

Roll Call: Council English, English Butkus, Mr. Basile, Mr. Bishop, Mr. Dixon, Mr. Hay, Ms. Schmidt, Vice Chairman Tallon and Chairman Cooper, all aye.

B. DOCKET NO. 19:09
CHRISTOPHER & PATRICIA HEISER
2418 CENTRAL AVENUE
BLOCK 28 LOT 11

A motion to approve this resolution was made by Councilman English and seconded by Councilman Butkus. It is as follows:

**RESOLUTION OF MEMORIALIZATION OF THE
LAND USE REVIEW BOARD OF THE BOROUGH OF SHIP BOTTOM
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2019:09V**

WHEREAS, Christopher J. Heiser and Patricia B. Heiser have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit building coverage of 39.0% and permit the expansion of the elevated first story deck with encroachment of a post within the site triangle at the existing single family dwelling, located at 2418 Central Avenue, Lot 11 Block 28 in the Borough of Ship Bottom, County of Ocean and State of New Jersey; and

WHEREAS, the Land Use Review Board considered this application at a public hearing on May 15, 2019. James S. Raban, Esq. represented the applicant. The application dated March 15, 2019 was entered into evidence as Exhibit A-1; the plan prepared by Land Line Surveyors titled "Plan to Accompany Application for Variance situate in Borough of Ship Bottom, Ocean County, New Jersey Block 28 Lot 11" under signature and seal of John M. Lis, PLS. dated February 18, 2019; the plans prepared by Creative Minds Group was entered into evidence as Exhibit A-3; The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated April 9, 2019 was entered into evidence as Exhibit B-1. Testimony was offered by Christopher Heiser, the applicant. There was not any public comment offered

WHEREAS, the Land Use Review Board after considering the Application, documentation entered into evidence, testimony of the witnesses and argument of counsel has made the following factual findings:

1. All jurisdictional requirements have been met.
2. The applicants are the owners of the property.
3. The property is located in the OR Office Residential Zone. The property consists of a lot with dimensions of 40' x 80' feet improved with a two story single family home. The property maintains a nonconforming area of 3,200 square feet; the rear setback is nonconforming at 14.5 feet; the side yard setback of 9.0 feet is nonconforming, 10.0 feet minimum is required and the front yard setback to 25th Street is non-conforming at 5.8 feet where 20.0 feet is required. Applicant is requesting variance relief for the existing nonconforming conditions.

4. The property is located on the southeast corner of Central Avenue and 25th Street; applicant proposes to expand the existing first floor deck by dimensions of 11.5 feet x 8.6 feet. The increase in the first floor deck will increase the nonconforming building coverage from 35.9% to 39.0%. Applicant is requesting variance relief for the increase in building coverage to 39.0%.

5. The Board adopts the contents of the letter from Frank J. Little, Jr. dated April 9, 2019 entered into evidence as Exhibit B-1 as if set forth herein at length.

6. The plan entered into evidence as Exhibit A-2 does not accurately reflect the site triangle easement at the property; it should be measured from the property line; not the curb line as shown. It appears that once corrected and modified, the plan will reflect a small encroachment of a corner deck post into the site triangle. Applicant is requesting variance relief to permit the encroachment in the site triangle.

7. The house is improved with two (2) decks at the front of the house facing Central Avenue; each deck has dimensions of 13.7 x 8.6 feet; one on the first level and one on the second level at the same location. The first floor deck has a solid rail system; and the second floor deck has open rails. Applicant is proposing enlarging the first floor deck with an open rail system; the new deck will have dimensions of 11.5 x 8.6 feet whereupon the decking on the first floor will be completed to the width of the house. There is not any expansion proposed to the second floor deck.

8. The new deck will not have any impact upon the neighboring properties. The house is located on a corner lot. Central Avenue is an 80.0 foot wide right of way and 25th Street is an 80 foot right of way. The decks maintain a front yard setback of 15.3 feet; the post encroachment will not impede the site triangle predicate upon its location and the location of the right of way.

9. The increase in building coverage is generated by an increase in open decking only, not additional heated living space.

10. The decks will remain open and will not be covered or enclosed in any manner; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicants Christopher J. Heiser and Patricia B. Heiser for variances to permit the expansion of the elevated first story deck

encroachment of a post within the site triangle at the existing single family dwelling, located at 2418 Central Avenue, Lot 11 Block 28 in the Borough of Ship Bottom, County of Ocean and State of New Jersey can be granted without substantial detriment to the public good and without impairing the intent and purposes of the zone plan and zoning ordinances of the Borough of Ship Bottom, as the deck will continue to remain uncovered and open; the encroachment into the site triangle will not have any negative impact upon traffic at the corner; and the development will not have any impact upon the Borough or the neighborhood..

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of Christopher J. Heiser and Patricia B. Heiser have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit building coverage of 39%; and the expansion of the elevated first story deck with an encroachment of a post within the site triangle at the existing single family dwelling, located at 2418 Central Avenue, Lot 11 Block 28 in the Borough of Ship Bottom, County of Ocean and State of New Jersey, be and hereby is, conditionally approved.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's compliance with all terms and conditions of the letter of the Board Engineer, Frank J. Little, Jr., P.E., P.P., and C.M.E., dated April 9, 2019, as entered into evidence as Exhibit B-1.

BE IT FURTHER RESOLVED that the deck shall remain uncovered and open; and not be converted to living space.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant obtaining all permits required for the project.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant obtaining all outside agency approvals from all agencies having jurisdiction over this development.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's payment of all taxes and all other applicable assessments, and Applicant satisfying all fees and escrow fees as may be required.

BE IT FURTHER RESOLVED that the Applicant is required to comply with all ordinances of the Borough of Ship Bottom, and failure to specify compliance herein shall not be deemed a waiver or recommendation by the Land Use Review Board with respect to Borough Ordinances, including the Zoning Ordinances.

BE IT FURTHER RESOLVED that this approval is subject to all conditions and representations made by applicants and their witnesses and as placed on the record at the public hearing conducted on May 15, 2019 when this matter was considered.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant complying with all technical revisions and any other requirements as set by the Borough Engineer.

BE IT FURTHER RESOLVED that applicant is granted variance relief for the existing nonconforming conditions that exist at the property; and for the encroachment of a deck post onto the site triangle and to increase the building coverage to 39%.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicants' compliance with the Ordinances of the Borough of Ship Bottom, as applicable, with respect to bonding, guarantees, inspection costs and payment of such fees as may be related thereto, including escrow fees as to this application and as may be required by the Board Engineer/Planner and/or Construction Official and/or Secretary to the Board and/or Clerk of the Borough. Any guarantees shall be subject to the written review and approval of the Board Engineer/Planner, the Borough Attorney's office and the Mayor and Council.

BE IT FURTHER RESOLVED that in the event the conditions set forth herein are not met by July 1, 2020, this Application may be listed by the Board Secretary on the Land Use Review Board Agenda for the meeting of the following month for dismissal, without prejudice, unless the Applicant offers appropriate reasons for the delay, all of which may be considered in the discretion of the Board. Further, it shall be understood that this administrative time limit is not a representation or guarantee by the Board, as existing State law applies and the Board advises that it continues to be Applicants' obligation to comply with all applicable laws.

Roll Call: Council English, English Butkus, Mr. Basile, Mr. Bishop, Mr. Dixon, Mr. Hay, Ms. Schmidt, Vice Chairman Tallon and Chairman Cooper, all aye.

NEW BUSINESS:

- A. DOCKET NO. 19:11
LBI PARTNERS, LLC
131 & 137 E. 21ST STREET
BLOCK 45 LOTS 23 & 24.01

Robert Rue, Esq., representing the applicants, requesting a minor subdivision.

The application is being carried to July's meeting due the application being filed incomplete. The applicant must republish and renote.

A motion to carry this application was made by Councilman English and seconded by Mr. Basile.

Roll Call Vote: Councilman English, Councilman Butkus, Mr. Basile, Mr. Bishop, Mr. Dixon, Mr. Hay, Ms. Schmidt, Vice Chairman Tallon and Chairman Cooper, all aye.

OLD BUSINESS:

Councilman English and Councilman Butkus excused themselves from the meeting at 7:20 P.M. due to the nature of the applications.

- A. DOCKET NO. 19:07
LISA KUDISH
503 OCEAN AVENUE
BLOCK 117, LOT 3

James Raban Esq, representing the applicant, requesting to demolish existing duplex and construct a new single-family dwelling and expand existing deck to proposed dwelling. The existing deck and duplex are constructed over the building line.

The following were marked into evidence by Mr. Snyder:

A-1 Application

A-2 Survey, prepared by Horn, Tyson & Yoder, Inc.

A-3 Architectural Plans, two (2) sheets, prepared by Gary R. Irwin, Architect/Planner

An Engineer's Letter was not prepared by Frank Little Jr., due to jurisdictional issues regarding the construction over the building line.

Discussion ensued amongst the board.

On a motion by Mr. Bishop, seconded by Mr. Basile that board does not have jurisdiction over this application.

Roll Call Vote: Mr. Basile, Mr. Bishop, Mr. Dixon, Mr. Hay, Ms. Schmidt, Vice Chairman Tallon and Chairman Cooper, all aye.

Mr. Hay and Mr. Dixon recused themselves from the meeting at 7:37 P.M. due to the nature of the application.

- B. DOCKET NO. 19:10
TRITON PARTNERS, LLC
2020 LONG BEACH BLVD.
BLOCK 45 LOTS 14, 15, 16

Nicholas Talvacchia, Esq., representing the applicants, requesting to demolish existing commercial building and construct a two-story mixed-use commercial building.

Mr. Talvacchia requested that the application be carried to July's meeting.

A motion to carry this application was made by Ms. Schmidt and seconded by Vice Chairman Tallon.

Roll Call Vote: Mr. Basile, Mr. Bishop, Ms. Schmidt, Mr. Yankowski, Vice Chairman Tallon and Chairman Cooper, all aye.

ADJOURNMENT:

On a motion by Ms. Schmidt seconded by Mr. Basile and an all aye vote, Chairman Cooper adjourned the meeting at 7:40 P.M.

Sara Gresko, Secretary
Land Use Review Board