

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 April 19, 2017.

WORKSHOP MEETING

Vice Chairman Tallon 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 April 19, 2017. Upon completion of the Work Shop Meeting the regular meeting will convene. Both meetings meet all the criteria of the Open Public Meetings Act.

On a motion by Mr. Hay, seconded by Councilman Butkus and an all in favor vote, all aye, the workshop meeting was closed.

REGULAR MEETING

Vice Chairman Tallon stated the following:

The Meeting of the Ship Bottom Land Use Review Board will come to order. The time is 7:04 P.M. and the date is April 19, 2017. The time, date and location of this meeting is listed in Resolution 2017-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 May 17, 2017.

The conduct of this meeting is being recorded so all testimony can be clearly heard. At the appropriate time the meeting will be opened 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.

Vice Chairman Tallon asked the secretary to call the roll.

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

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, Kathleen Wells.

CORRESPONDENCE:

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

MINUTES:

The minutes of the March 15, 2017 meeting were presented to the Board. On a motion by Councilman Butkus, seconded by Mr. Bishop, the minutes were approved as submitted.

All in Favor Vote: Councilman English, Councilman Butkus, Mr. Basile, Mr. Bishop, Mr. Dixon, Mr. Hay, Ms. Schmidt, Mr. Fenimore and Vice Chairman Tallon, all aye.

OLD BUSINESS: NONE

NEW BUSINESS:

- (A) DOCKET NO. 17:06
ROBERT AND KATHLEEN LEIFESTE
104 E. 30TH STREET
BLOCK 17, LOT 9

Vice Chairman Tallon stepped down as she is within 200 feet of the applicant's property. John Hay chaired this portion of the meeting.

James Raban, Esq. representing the applicants.

The following were marked into evidence by Mr. Snyder:

- A-1 The application
- A-2 Plans by Horn, Tyson and Yoder
- A-3 Picture
- A-4 Picture
- J-1 Resolution 06:13
- B-1 Review letter prepared by Owen, Little & Associates
- A-5 Letter from James Brzozowski

Mr. Raban presented the application. Robert and Kathleen Leifeste were sworn in to give testimony.

On a motion made by Councilman English, seconded by Councilman Butkus and an all in favor vote, the public portion was open.

Tom Tallon, 3002 Long Beach Blvd., was in support of the application.

Not recognizing anyone else from the public, on a motion made by Councilman English, seconded by Butkus and an all in favor vote, the public portion was closed.

Mr. Raban provided closing statements and discussion ensued amongst the Board.

A motion to approve this application was made by Councilman English and seconded by Mr. Dixon, with the condition that the shed be removed.

Roll Call Vote: Councilman English, Councilman Butkus, Mr. Basile, Mr. Bishop, Mr. Dixon, Mr. Hay, Ms. Schmidt and Mr. Fenimore, all aye.

A break was called at 7:27 p.m.

Mrs. Tallon returned to the meeting and reopened the meeting at 7:30 p.m.

Councilman English and Councilman Butkus left the meeting at 7:31 p.m.

- (B) DOCKET NO. 17:05
MARIA AND KURT PUFF
241 W. 7TH ST.
BLOCK 114, LOT 22

Maria and Kurt Puff representing themselves.

The following were marked into evidence by Mr. Snyder:

- A-1 The application.
- A-2 Plans by JCR Engineering.
- B-1 Review letter prepared by Owen, Little & Associates

Mr. and Mrs. Puff presented their case.

On a motion made by Mr. Hay, seconded by Mr. Bishop and an all in favor vote, the public portion was open.

Alice Sheppard, 237 W. 7th St. had concerns with the safety of the construction of the existing deck. It was explained that if this application was approved, the Construction Official would be responsible for the safety of the present deck if allowed to stay or the future deck if the current structure needed to be modified or replaced.

Not recognizing anyone else from the public, on a motion made by Mr. Hay, seconded by Mr. Bishop and an all in favor vote, the public portion was closed.

Mr. and Mrs. Puff provided closing statements and asked the board to carry their application so that they may address some of the Board’s concerns. Discussion ensued amongst the Board.

A motion to carry this application was made Ms. Schmidt and seconded by Mr. Basile.

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

RESOLUTIONS:

- A. DOCKET NO. 17:02
MESP, LLC
1419 LONG BEACH BLVD.
BLOCK 75, LOT 1

A motion to approve this resolution was made by Mr. Hay and seconded by Mr. Dixon. 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. 2017:02 V**

WHEREAS, MESP, LLC has made application to the Land Use Review Board of the Borough of Ship Bottom for approval to permit a 7.9 square foot electronic sign, above the northerly stairs, at its restaurant, commonly known as Crabby Paddy’s located at 1419 Long Beach Boulevard, Lot 1 Block 75 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 conducted on February 15, 2017. The applicant was represented by James S. Raban, Esq. The application dated January 25, 2017 was entered into evidence as Exhibit A-1; four (4) photographs, three of the subject sign, currently mounted at the building, and one of Shell Liquors, was entered into evidence as Exhibit A-2. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., PE, PP, CME, dated February 8, 2017 was entered into evidence as exhibit B-1. Testimony was offered by Patrick Moeller, a member of applicant. Douglas Klee, PE, PP There was not any public comment; and

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

1. All jurisdictional requirements have been met.
2. Applicant has requested a waiver from site plan submission as the site is fully developed; which wavier is granted, as the Board Engineer has previously reviewed the plans and development and no further review is required.
3. The Board adopts the contents of the February 8, 2017 letter from Owen, Little and Associates, Inc. entered into evidence as Exhibit B-1, as if set forth herein at length.
4. The property has been developed with a two story commercial building containing a restaurant and office uses. The development of this property was authorized under Resolutions of Memorialization Docket Number 2013:28; 2014:21 and 2014:29 previously adopted by this Board.
5. Applicant testified that in an attempt to generate business to the restaurant use and to expand the season, it requires additional signage and has acquired and installed an electronic sign above the northerly stairs to the entry deck. The

sign reflects a message toward the north to attract patron traveling in a southerly direction. The sign contains 7.9 square feet.

6. The sign provides digital messages; it is applicant's intention to provide the time and temperature on the sign, the name of the restaurant and hours of operation; all of which may be changed on a regular basis, electronically. Applicant testified that there will not be any graphics displayed. Notwithstanding, the Board finds the sign to be a message sign; at the least; and the sign is capable of displaying movement or the illusion of movement.
7. Ship Bottom Ordinance Section 16.52.130(A)(1) *Animated, Flashing Freestanding and Illusionary Signs. Signs using mechanical or electrical devices to revolve, flash or display movement or the illusion of movement and electronic message signs are prohibited*; prohibits applicants sign; whereupon variance relief is requested.
8. The utilization of the sign as proposed by applicant with the changing messages is of concern to the Board taking into account the proximity to the Street; the distraction to those persons traveling on Long Beach Boulevard; and safety of the pedestrians traversing the area; and

WHEREAS, applicant requested the Board to carry the application to the March 16, 2017 meeting of the Board to enable applicant an opportunity to tailor the sign in an attempt to satisfy the Board's concerns. The proceedings were suspended until March 16, 2017 with applicant's waiver of any time constraints, and without further notice required; other than the announcement made to the public; and

WHEREAS, applicant appeared at the March 16, 2017 meeting of the Board and the public hearing was continued. James S. Raban, Esq. appeared for applicant; there were not any additional exhibits offered into evidence. Testimony was given by Ted Mitchel, the general manager of Coastal Signs, who is familiar with the sign at applicant's property; and by Patrick Moeller, the managing member of applicant; and the entity that leases and operates the restaurant. There was not any public comment offered; and

WHEREAS, the Land Use Review Board after considering the additional testimony offered and argument of counsel has made the following factual findings:

1. Applicant will limit the use of the sign to provide one message display; without graphics, or movement, which display will not be changed in less than one hour.
2. The sign will be programed to limit any display to amber led. There will not be any change of color, flashing, scrolling or appearance of movement, the message will not scroll and shall remain static. There will only be a letter message on the sign.
3. The brightness of the sign will be reduced to not mote that 500 candle power during the evening; which is ten 10% percent of the signs capability of 5000 candle power. During the day, the sign will be brighter to account for interference from glare; and to maintain its visibility; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicant, 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, subject to the representations and restrictions proposed by applicant, to limit the sign to display only one static message at time in amber led, not to be changed in less than one hour; in letter form, with no scrolling; flashing or movement; with candle power of not more than 500 candle power during the evening; as such operation of the sign, according to applicants witness, will not have any deleterious effect upon traffic or pedestrian safety; the limitations imposed substantially exceed the federal standards for operation of this type of sign.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Review Board of the Borough of Ship Bottom that the application of MESP, LLC PM Real Estate, LLC for a variance to permit a 7.9 square foot electronic sign, above the northerly stairs, at its restaurant, commonly known as Crabby Paddy's, located at 1419 Long Beach Boulevard, Lot 1 Block 75 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 applicant is granted a waiver from submitting complete site plan documentation and plans.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's compliance with the following restrictions and conditions in use and operation of the sign: the sign shall display only one (1) message in letter form at any time; all displayed messages shall be amber led; there shall not be any colors; graphics, scrolling, flashing, movement or the appearance of any movement displayed; the duration of all messages shall be for not less than one (1) hour. The candle power during the evening, after

sunset, and early morning hours, until sunrise, shall not exceed 500 candle hours. Any violation of the conditions and restrictions herein stated shall subject Applicant, its successors and assigns to a vacation and termination of this approval. The approval herein was granted subject to these restrictions, as represented to an agreed upon by Applicant, which address the safety concerns of the Board. Any deviation from same will modify the facts upon which this approval has been granted, and until further action by the Board, will invalidate the approval set forth herein.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant’s compliance with all ordinances of the Borough of Ship Bottom; in the event additional signage at the property is proposed, same may be provided if applicant complies with the area and other requirements of the Borough Sign Ordinances.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining all requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development; including a permit for the subject sign, subject to the conditions set forth herein.

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, if required.

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. Applicant shall also pay and post all inspection fees, performance guarantees and maintenance bonds as may be required, in amounts established by the Borough Engineer, and in such form as required by the Borough Solicitors

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 Board with respect to Borough Ordinances, including the Zoning Ordinances.

BE IT FURTHER RESOLVED that this approval is subject to all conditions as set forth herein and as placed on the record at the public hearings conducted on February 15, 2017 and March 16, 2017 and all representations of applicants, its witnesses and representatives, when this matter was considered.

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

B. DOCKET NO. 17:03
 ROBERT P. MUSGNUG
 108 E. 27TH ST.
 BLOCK 20, LOT 10

A motion to approve this resolution was made by Mr. Dixon and seconded by Ms. Schmidt. 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. 2017:03V**

WHEREAS, Robert P. Musgnug has made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the demolition of the existing two story home and shed; and for the construction of a new two story single family home at property located at 108 E. 27th Street, Lot 10 Block 20 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 March 15, 2016. The applicant was represented by Katharine M. Shackleton, Esq. The application received by the Board Secretary on February 21, 2017 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. titled “Variance Map Lot 10 Block 20 Tax Map Sheet #2 Borough of Ship Bottom, Ocean County, New Jersey” dated August 7, 2015, with a final revision date of January 12, 2017 under signatures and seals of James D. Brzozowski, PE, PP and Hayes A Hewitt, PLS was entered into evidence as Exhibit A-2; ; architectural plans prepared by Musgnug & Associates Architects , titled “Musgnug Residence Block 20, Lot 10 108 27th Street, Ship Bottom, NJ” dated November 8, 2016 containing three (3) sheets was entered into evidence as Exhibit A-3. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr.,

dated March 8, 2017 was entered into evidence as Exhibit B-1. Testimony was offered by the applicant Robert P. Musgnug, who also prepared the architectural plans; and by James Brzozowski, applicant's engineer and professional planner. Public comment was offered by Kevin O'Neill and Diane O'Neill; 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. The property is located in the R-3 Single and Two Family Residential Zone. The property consists of a lot with dimensions of 25' x 70' feet improved with a two story single family home. The adjoining properties on 27th Street are fully developed.
3. The property is nonconforming; the lot area is 1,750 square feet where 4,000 square feet is required; the lot frontage and lot width is 25' feet where forty (40') feet are required; the lot depth is 70' feet where 100' feet are required. The front yard setback is 10.9' feet where 15 feet is required; the westerly side yard setback is 0 feet to the air-conditioning unit and 1.7 feet to the building and the side yard setback to the east is 3.3 feet where a minimum 10 foot side yard setback is required on one side with combined side yard setbacks of 15 feet are required. the rear yard setback to the stairs is 18.2 feet where a 20 feet rear yard setback is required; the floor area at the first floor is 442 square feet where 900 square feet is required; the building coverage is 50.1% where 35% is permitted; the lot coverage is 78.2% where 75 % is permitted; the house maintains two stories where one story is permitted, as the lot does not have 40 feet of frontage. The detached shed maintains a side yard setback of 0.2 feet where 5 feet is required, and a distance of 0 feet to the house where 5 feet is required. The property does not have any onsite parking where 2 spaces are required; and the first floor elevation is 5.0 feet NAVD where 9.0 feet NAVD is required.
4. The property was acquired by applicant's father in 1967 or 1968; according to the 2010 census the property was delineated as a two family home. Applicant testified that the existing and proposed use is a single family home.
5. The house was damaged as a result of Storm Sandy when three feet of water entered the living area.
6. The house structurally is unable to be raised.
7. Applicant proposes to demolish the existing buildings on the site and construct a new two story raised home at a height of 29 feet. Applicant is requesting a special reasons/use variance for this relief.
8. Applicant proposes to maintain a conforming front yard setback of 15 feet. The setback to the grade level is proposed at 18 feet to provide onsite parking. The proposed side yard setbacks are 3 feet on each side. The proposed building coverage is 41.8% and the rear yard setback is proposed at 14.7 feet where 20 feet is required. Applicant also proposes a living area of 592 square feet. Applicant is requesting bulk variances for these proposed nonconformities.
9. The Board finds that the lot width, lot frontage and lot area are preexisting conditions; there is not any adjoining property available to improve or eliminate these nonconformities.
10. Predicated upon the size of the lot, the house proposed is modest and built towards scale; the exterior stairs generate an increase in building coverage. By elevating the house applicant will be providing two parking spaces at the site, where none existed. The combined side yard setbacks are being increased by one foot; the building coverage is being reduced; and the lot coverage will conform at 75% or less.
11. The rear yard setback to the house is proposed 18 feet with a setback of 14.7 feet to the required stairs and landing.
12. To enable the storage and garage space at grade, and maintain FEMA requirements with a 12.5 foot NAVD; and maintain 8 foot ceiling height and a three foot roof peak the building height of 29 feet is necessary; the houses adjoining the property to the west although on a forty foot lot, maintains a height of 32 feet. .
13. Applicant proposes to install the air conditioning on the roof towards the easterly side of the house.
14. Applicant is providing a screened porch within the footprint of the house on the first floor; to alleviate providing outside decking; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicant Robert P. Musgnug has made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the demolition of the existing two story home and shed; and for the construction of a new two story single family home at property located at 108 E. 27th Street, Lot 10 Block 20 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 property size, width and depth are preexisting nonconformities; the house proposed is modest, and is suitable for the site; and the use is permitted. Applicant is providing a conforming front yard setback, conforming lot coverage and two parking spaces. The nonconforming shed is being removed; the combined side yard setback is increased by one foot; the building coverage is being reduced; the house will comply with FEMA requirements and provide an aesthetic improvement to the neighborhood.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of Robert P. Musgnug for variances to permit the demolition of the existing two story home and shed; and for the construction of a new two story single family home at property located at 108 E. 27th Street, Lot 10 Block 20 in the Borough of Ship Bottom, County of Ocean and State of New Jersey at a height of 29 feet in accordance with plans entered into evidence as Exhibit A-3 with setbacks contained in Exhibit A-2, 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 March 8, 2017 as entered into evidence as Exhibit B-1.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining all requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development. Variance relief is granted for existing conditions lot frontage and lot width of 25 feet, lot depth of 70 feet and lot area of 1,750 square feet; and to permit Building coverage not to exceed 41.8%; a two story house at a height not to exceed 29 feet; side yard setbacks of 3 feet on each side, with combined side yard setbacks of 6 feet; a rear yard setback of 14.7 feet to the stairs and 18 feet to the building; and a minimum floor area at the first floor level of 592 square feet.

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 this approval is subject to and conditioned upon the approval of the Ship Bottom Water and Sewer Department; in the event the existing systems are determined to require repair or replacement; applicant shall comply with the Directives of that Department.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicants' compliance with Borough Ordinances pertaining to the curb cut at the front of the property and applicant replacing any curbs below current design standards; and installing curbs and sidewalks as reflected on the plans, in accordance with Borough Codes and as directed and approved by the Borough Engineer;

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 applicant and their witnesses and as placed on the record at the public hearing conducted on March 16, 2017 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 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 May 1, 2018, 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 Vote: Mr. Basile, Mr. Bishop, Mr. Dixon, Mr. Hay, Ms. Schmidt, and Vice Chairman Tallon, all aye.

C. DOCKET NO. 17:04
 SHAWN AND LORRAINE MAHONEY
 131, 133, 135 & 137 E. 29TH ST.
 BLOCK 19, LOT 1.01 & LOT 24

A motion to approve this resolution was made by Ms. Schmidt and seconded by Mr. Basile. 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. 2017:04V**

WHEREAS, Shawn Mahoney and Lorraine Mahoney have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the demolition of the existing two (2) buildings at the property and for the construction of a new two- story elevated single family home with attached two (2) story “guest house” at the rear at their property located at 131, 133, 135 & 137 East 29th Street, Lots 1.01 and 24 Block 19 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 March 15, 2017. The applicant was represented by Richard P. Visotcky, Esq. The application dated February 18, 2017 was entered into evidence as Exhibit A-1; the plan prepared by Nelke/Tyszka Land Surveyors, Inc. entitled “Variance Plan Tax Map Lots 1.01 & 24 - Block 19 Tax Map Sheet #2 Borough of Ship Bottom, Ocean County, New Jersey”, under signature and seal of Leon J. Tyszka, P.L.S. was entered into evidence as Exhibit A-2; Architectural plans prepared by Robert Stack Architect dated February 17, 2017, titled “Mahoney Residence 135 E. 29th Street, Ship Bottom Block 19 Lot 25 Block 1.01 & 24, Ship Bottom, Ocean County, New Jersey”, consisting of a Sheet A-1 Site Plan, Sheet A-2 Ground Floor Plan and First Floor Plan; Sheet A-3 Second Floor Plan and Southwest Elevation, Sheet A-4 Northeast (Side) Elevation, Southeast (Oceanfront) Elevation, Northwest Elevation, Southeast Elevation Guest House, Northwest Elevation Guest House was entered into evidence as Exhibit A-3; two (2) photographs of the property were entered into evidence as Exhibit A-4; tow (2) photographs of the property were entered into evidence as Exhibit A-5; a copy of the CAFRA permit 1528-16-0006.1 (CZM160001) issued for the development of the property with the proposed house and swimming pool was entered into evidence as Exhibit A-6. The review letter of Owen, Little and Associates, Inc. dated March 8, 2017, was entered into evidence as Exhibit B-1. Testimony was offered by Leon Tyszka, applicant’s surveyor; Robert Stack, applicant’s architect and Shawn Mahoney. Public comment was offered by Kevin O’Neill, George Ivanoff the owner of the adjoining property to the west, George Finck, and David Esposito, Esq. appeared on behalf of Estelle Forcelle the owner of the adjoining property to the North; the adjoining property owner; and

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

1. All jurisdictional requirements have been met.
2. The applicant is the owner of the property. The property is located in the R-3EC Residential Zone.
3. The property consists of two lots, Lot 1.01 Block 19 which is located on the Oceanfront. This property was acquired by applicant in 1992. In 2000 applicants acquired the adjoining property to the west, Lot 24 Block 19. Lot 1.01 Block 19 is improved with a single family home. Lot 24 Block 19 was

improved with a two family duplex dwelling together with a detached single family one story unit; for a triplex use. Applicant has demolished the two family duplex dwelling which was located on Lot 24. Applicant now intends to consolidate the two properties into one lot. They intend to remove the single family home from Lot 1.01 and the one story unit remaining at Lot 24. It is their intention to construct a new single family home on the consolidated lot with a separate guest house to the west; being attached by a 7.25' foot wide open deck covered with a pergola; and an in ground swimming pool.

4. Lot 24 Block 19 has dimensions of 50 x 75 feet; Lot 1.01 Block 19 has dimensions of 215 x 75 feet. The entire tract will have dimensions of 265 x 75 feet, containing 19,875 square feet. The developable area of Lot 1.01 Block 19 is reduced as a result of the Oceanfront Building Line; whereupon the area to be developed after the lot consolidation is 125 x 75 feet.
5. The lot depth is preexisting at 75 feet; applicant is requesting variance relief to maintain an 8 foot rear yard setback to the air conditioning platform, where 20 feet is required; the existing rear yard setback is 4.8 feet. The proposed rear yard setback to the main structure is 10 feet, where a 20 foot rear yard setback is required. The existing rear yard setback at Lot 24 is 4.8 feet.
6. Applicant can modify the plan to maintain a ten (10) foot setback to the air conditioning platforms; whereupon the rear yard setback to the north will be maintained at ten (10) feet. Predicated upon the lot depth of 75' feet and the location of the adjoining structure, the proposed ten (10) foot rear yard will not deleteriously affect the neighboring properties, and have minimal impact upon the surrounding neighborhood.
7. The guest house will provide additional living space and two bedrooms with a loft; there is will not be a kitchen installed in that structure. The grade level will maintain a two car garage.
8. The Board adopts the March 8, 2017 letter from Frank J. Little, Jr. entered into evidence as Exhibit B-1 as if set forth herein at length, Applicant will adjust the proposed front yard setback to the house to maintain a 15 foot conforming front yard setback.
9. Applicant represents to the Board that the property will retain a single family use, any requested expansion of that use will require Board approval.
10. Applicant proposes a conforming building height which is 35 feet for an Oceanfront building as set forth in Ordinance Section 16.60.010 J. Applicant shall not exceed the permitted building height.
11. Applicant proposes a two car garage at the attached guest building and a one car garage at the primary house; they are proposing two (2) curb cuts, a twenty (20) foot curb cut at the guest structure and a twelve (12) foot curb cut at the primary home, where only one curb cut is permitted per lot frontage Ordinance Section 16.52.080.C.1. A variance is required and requested.
12. The Board finds that there is not permitted parking on E. 28th Street adjacent to applicants property; whereupon the proposed curb cuts will enable preferable access to the property for off street parking; and will not interfere with permitted on street parking at E. 28th Street.
13. The new house will be constructed to code; it will meet all building, fire and safety codes and will comply with all FEMA requirements; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicants Shawn Mahoney and Lorraine Mahoney to permit the demolition of the existing two (2) buildings at the property and for the construction of a new two- story elevated single family home with attached two (2) story "guest house" at the rear at their property located at 131, 133, 135 & 137 East 29th Street, Lots 1.01 and 24 Block 19 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 new home will be suited for the site; the new construction will comply with all current codes and FEMA requirements; whereupon the Borough will benefit from the house being constructed at a higher elevation to meet current and anticipated FEMA requirements. Applicant will maintain a rear yard setback of ten (10) feet. The single family use is permitted; applicant has demonstrated the criteria for variances pursuant to NJSA 40:55D-70 (2) as the lot depth of 75 feet is preexisting and there is not any property available for acquisition to increase the lot depth. The nonconforming use will be eliminated; as will the nonconforming front yard and side yard setbacks, and setbacks for accessory buildings. The rear yard setback will be improved, although remain nonconforming; and the two curb cuts will not have any deleterious effect upon the parking in the area.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of Shawn Mahoney and Lorraine Mahoney to permit the demolition of the existing two (2) buildings at the property and for the construction of a new two-story elevated single family home with attached two (2) story "guest house" at the rear at their property located at 131, 133, 135 & 137 East 29th Street, Lots 1.01 and 24 Block 19 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 March 8, 2017, as entered into evidence as Exhibit B-1.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon all construction at the property conforming to FEMA requirements.

BE IT FURTHER RESOLVED that this approval is subject to applicant submitting revised plans providing for a rear yard setback of not less than 10 feet.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining all requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development. Variance relief is granted to permit existing lot depth of 75 feet; and for a rear yard setback of 10.00 feet. Applicant is also granted a variance to provide two curb cuts at the newly consolidated lot, one at 20 feet and one at 12 feet. Applicant shall also record a deed of consolidation creating one lot.

BE IT FURTHER RESOLVED that applicant shall utilize the property as a single family home; the single family use is a material consideration in granting the relief herein. In the event applicant desires to change the use of the site; such change shall be subject to approval from this Board or its' successor.

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 the approval of the Ship Bottom Water and Sewer Department; in the event the existing systems are determined to require repair or replacement; applicant shall comply with the Directives of that Department.

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 this approval is subject to and conditioned upon applicants' compliance with Borough Ordinances pertaining to the curb cut(s) at the front of the property and applicant installing curbs and sidewalks as reflected on the plans, in accordance with Borough Codes and as directed and approved by the Borough Engineer; but for the variance granted herein to permit two (2) curb cuts.

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 March 16, 2017 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 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 April 1, 2018, 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 Vote: Mr. Basile, Mr. Bishop, Mr. Dixon, Mr. Hay, Ms. Schmidt, and Vice Chairman Tallon, all aye.

BUSINESS OF THE BOARD:

There was discussion regarding the Master Plan and the process of the review of the Master Plan.

ADJOURNMENT:

On a motion by Mr. Hay seconded by Ms. Schmidt and an all aye vote, Chairman Cooper adjourned the meeting at 8:24 pm.

Kathleen Wells, RMC, Secretary
Land Use Review Board