

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 May 17, 2017.

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 May 17, 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.

The upcoming Master Plan Review was discussed. There will be a committee formed of Frank Little-Engineer, Frank Cooper-Chairman, Susan Kilcheski-Zoning and Construction Official, a member of the Governing Body and two (2) members of the Land Use Review Board. Chairman Cooper asked for volunteers.

REGULAR MEETING

Chairman Cooper stated the following:

The Meeting of the Ship Bottom Land Use Review Board will come to order. The time is 7:04 p.m. and the date is May 17, 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 June 21, 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.

Will the secretary please call the roll.

Roll call of members: Mr. Basile, Mr. Bishop, Mr. Dixon, Mr. Hay, Ms. Schmidt, Mr. Fenimore, Vice Chairman Tallon and Chairman Cooper, present. Councilman English, Councilman Butkus (absent due to all applications and the resolution on the agenda requesting use variances) and Mr. Panetta, 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, the Board Secretary, Sara Gresko and Alternate Board Secretary, Kathleen Wells.

CORRESPONDENCE:

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

MINUTES:

The minutes of the April 19, 2017 meeting were presented to the Board. On a motion by Mr. Bishop, seconded by Mr. Basile, the minutes were approved as submitted.

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

APPOINTMENT AND OATH OF OFFICE:

Sara Gresko as Board Secretary and Kathleen Wells, Alternate Board Secretary.

OLD BUSINESS:

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

Maria and Kurt Puff represented themselves. Robert Woodcock of JCR Engineering, LLC was sworn in by Stuart Snyder, Esq. Mr. Woodcock testified on behalf of Mr. and Mrs. Puff.

The following were marked into evidence by Mr. Snyder:

- A-3 Revised JCR Engineering variance plan
B-2 Revised review letter prepared by Owen, Little & Associates

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

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

There was discussion amongst the Board.

A motion to approve this application with conditions was made by Mrs. Tallon and seconded by Mr. Hay. The conditions are as follows:

1. Rear deck to remain open, not be enclosed.
2. In accordance with the revised plans for both the front and rear steps.

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

NEW BUSINESS:

- (A) DOCKET NO. 17:07
DONNA AND RICHARD LEARY
205 W. 27TH STREET
BLOCK 10, LOT 14

Robert Kiss, Esq. representing the applicants.

The following were marked into evidence by Mr. Snyder:

- A-1 The application
A-2 Final as-built survey by Lakeland Surveying
A-3 Three (3) sheets of architectural plans by Michael H. Strunk, LLC, Architect
A-4 Copy of tax map with delineated 200-foot radius
B-1 Review letter prepared by Owen, Little & Associates
B-2 Plot plan submitted by Frank Little showing proposed lot coverage

Mr. Richard Leary was sworn in by Stuart Snyder, Esq. and provided testimony.

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

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

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

A motion to approve this application was made by Mr. Hay and seconded by Mr. Basile. This is conditioned upon the applicant removing the windows on the west side addition portion of the house or moving the home 4" to the east in order to conform with the building codes to keep the windows as presented.

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

(B) DOCKET NO. 17:08
D & B DEANE/ TANTRISM, LLC
104 E. 26TH STREET
BLOCK 22, LOT 6

Katharine Shackleton, Esq. representing the applicants.

The following were marked into evidence by Mr. Snyder:

- A-1 The application.
- A-2 Variance plan by Horn, Tyson and Yoder
- A-3 Architectural plans by Ian Nilsen, Architect
- A-4 Three (3) sheets of 10 pictures taken by Mr. Brzozowski
- B-1 Review letter prepared by Owen, Little & Associates

James Brzozowski, Engineer and Planner of Horn, Tyson and Yoder, provided testimony.

Mr. Deane was also sworn in by Stuart Snyder, Esq. and provided testimony.

On a motion made by Ms. Schmidt, seconded by Mr. Cooper and an all in favor vote, all aye, the public portion was open.

Glenn Minetti, 102 E. 26th Street, questioned the set back on his side of the house and also the proposed height of the house, which is an additional 20% above the allowed height.

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

Ms. Shackleton provided closing statements and discussion ensued amongst the Board.

A motion to approve this application was made by Mr. Hay and seconded by Mr. Dixon.

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

RESOLUTION:

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

A motion to approve this resolution was made by Mr. Hay and seconded by Ms. Schmidt. It goes 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. 2017:06V**

WHEREAS, Robert Leifeste and Kathleen Leifeste, husband and wife have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit a three (3) foot extension to the rear deck at the existing single family dwelling at property known and designated as Lot 9 Block 17; 104 East 30th Street 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 April 19, 2017. The applicant was represented by James S. Raban, Esq. The application dated March 29, 2017 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. entitled “Variance Map Tax Lot 9 Block 17 Tax Map Sheet # 2 Borough of Ship Bottom, Ocean County, New Jersey” dated January 10, 2017, under signature and seal of James D. Brzozowski, P.E., P.P. and Hayes A. Hewitt,

P.L.S. was entered into evidence as Exhibit A-2; photographs of the existing rear deck were entered into evidence as Exhibits A-3 and Exhibit A-4; a letter dated April 18, 2017 from James D. Brzozowski, PE,PP in response to the review letter of Frank J. Little, Jr., dated April 10, 2017 was entered into evidence as Exhibit A-5. A copy of Resolution of Memorialization Docket # 06-13V was entered into evidence as Exhibit J-1. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr. P.E., P.P., C.M.E., dated April 10, 2017 was entered into evidence as Exhibit B-1. Testimony was offered by Robert Leifeste and Kathleen Leifeste, the applicants. Public comment was offered by Tom Tallon; and

WHEREAS, the Land Use Review Board after considering the Application, documentation entered into evidence, testimony of the witness', argument of counsel and public comment 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 50 x 75 feet containing 3,750 square feet.
3. The property is improved with a single family residence that was constructed in 2014 predicated upon the variance approval granted by this Board on October 18, 2006 under Resolution of Memorialization Docket Number #06:13V, granting Applicants variance approval to construct a new single family home upon a substandard lot with dimensions of 50 x 75 feet containing 3,750 square feet. Said approval, as Memorialized, was granted subject to conditions.
4. Applicants are now seeking variance relief to modify the rear deck at the house, by extending it an additional 3.0 feet.
5. On October 18, 2006 as Memorialized under Resolution Docket Number # 06:13V; applicants were granted variance relief to demolish the then existing home, and to construct a two story raised home upon the site; retaining the detached shed.
6. The home to be constructed under the aforementioned approval; was to maintain all conforming setbacks and a 10 foot front yard setback. Building coverage at the property was not to exceed 35%.
7. The aforementioned Resolution of Memorialization mandated that the house to be constructed maintain a conforming rear yard setback, which is, and was at the time of approval, 20 feet; with building coverage not exceeding 35%.
8. The property was developed with the new home completed in 2008; in or about 2015 applicants moved into the property as their primary home.
9. The rear deck was delineated on the approved plan in 2006 as 7.0 feet; when constructed the actual size of the deck is 7.7 feet, whereupon the rear yard setback is 19.3 feet. The actual building coverage as reflected in Exhibit A-3 is 35.9%; according to applicants' engineer, the detached shed was not included in the building coverage calculation when the plans were approved in 2006. Taking into account the shed area of 64 square feet

together with the additional .70 feet of decking, the building coverage exceeds the 35%; and is 36.9%.

10. Applicants testified that they were not aware of any non-conformity until the plans were drawn for this application. Their contractor provided them with a certificate of occupancy when the house was completed.
11. Applicants are requesting variances to permit them to expand the deck by three (3) feet. They indicated that the size of the existing deck does not permit them to accommodate a picnic table or table and chairs for their families use. The proposed building coverage is 38.8% and the proposed rear yard setback is 16.3 feet.
12. The Board finds that the expansion of the deck by three (3) feet and rear yard setback of 16.3 feet will not have any impact upon adjoining property owners.
13. The Board also finds that the building coverage can be reduced by the elimination of the shed from the property or relocation of the shed or a replacement shed under the deck whereupon the shed would not contribute to the building coverage. .
14. Applicants have requested the Board to consider their application with the elimination of the shed or relocation of the existing shed, if possible under the deck, or replacement with a shed that fits under the deck, to assure that the shed does not contribute to building coverage.
15. The proposed building coverage without the shed, or with the shed totally under the deck will not exceed 37.1%.
16. The Board adopts the contents of the April 10, 2017 letter from Frank J. Little, Jr., PE, PP, CME entered into evidence as Exhibit B-1, as if set forth herein at length; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicants, Robert Leifeste and Kathleen Leifeste, to construct a three (3) foot extension to the rear deck at the existing single family dwelling at property known and designated as Lot 9 Block 17; 104 East 30th Street in the Borough of Ship Bottom, County of Ocean and State of New Jersey reducing the rear yard setback to 16.3 feet and increasing the building coverage to 37.1% upon removal or relocation of the detached shed or replacement totally under the deck; in accordance with the plans entered into evidence as Exhibit A-2 (to be amended to reflect the elimination of the detached shed from its current location, with a shed located totally under the deck) 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 larger deck will improve the utilization of the property by applicants and will not have any negative impact upon the light, air and open space of adjoining properties.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of Robert Leifeste and Kathleen Leifeste for variances from the rear yard setback and building coverage requirements, to construct a three (3) foot extension to the elevated rear deck at the existing single family dwelling

at their nonconforming property known and designated as Lot 9 Block 17; 104 East 30th Street in the Borough of Ship Bottom, County of Ocean and State of New Jersey reducing the rear yard setback to 16.3 feet and increasing the building coverage to 37.1% upon removal of the detached shed or relocation of the shed (or replacement shed) totally under the deck, in accordance with the plans of Horn, Tyson & Yoder, Inc. as entered into evidence as Exhibits A-2, to be revised to reflect the elimination of the detached shed or relocation of a shed totally under the deck, be and hereby is, conditionally approved.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's submission of revised plans reflecting the elimination of the detached shed or relocation of a shed totally under the deck, whereupon the shed will not contribute to building coverage.

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., C.M.E., dated April 10, 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 and all building, fire and safety Codes.

BE IT FURTHER RESOLVED that this approval is subject to all conditions and representations as contained herein and as placed on the record at the public hearings conducted on April 19, 2017.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant maintaining building coverage of not more than 37.1%; and the rear yard setback not being less than 16.3 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.

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 in the event the conditions set forth herein are not met by June 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'

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

BUSINESS OF THE BOARD:

Ordinance 2017-05: Wireless Communications. There was discussion amongst the board. On a motion by Mr. Hay, seconded by Mr. Basile the Land Use Review Board will forward a letter to the governing body stating that there is no objection to the adoption of this ordinance.

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

ADJOURNMENT:

On a motion by Mr. Hay, seconded by Ms. Schmidt and an all in favor vote, all aye, Chairman Cooper adjourned the meeting at 8:37 p.m..

Kathleen Wells, RMC, Alternate Secretary
Land Use Review Board