

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 21, 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 June 21, 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.

Chairman Cooper stated that the first meeting of the committee for the Master Plan Review is scheduled for Thursday, June 29, 2017 at 5:00 P.M. at the Borough Hall. The members of the committee are as follows: Frank Cooper- Chairman, Joann Tallon- Vice Chairman, Bill Fenimore- Land Use Member, Susan Kilcheski- Borough Construction and Zoning Official, Joe Valyo- Borough Councilman, Frank J. Little Jr.- Engineer, Alice Iannaccone- Owen Little.

REGULAR MEETING

Chairman Cooper stated the following:

The Meeting of the Ship Bottom Land Use Review Board will come to order. The time is 7:03 P.M. and the date is June 21, 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 July 19, 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: Councilman Butkus, Mr. Basile, Mr. Bishop, Mr. Hay, Ms. Schmidt, Mr. Fenimore, Vice Chairman Tallon and Chairman Cooper, present. Councilman English (due to nature of application and resolutions), Mr. Dixon, 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 Secretary Kathleen Wells.

CORRESPONDENCE:

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

MINUTES:

The minutes of the May 17, 2017 meeting were presented to the Board. On a motion by Mr. Hay, seconded by Mr. Basile, the minutes were approved as submitted.

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

OLD BUSINESS:

NONE

NEW BUSINESS:

- A. DOCKET NO. 17:09
KEVIN & DAUNNE SULLIVAN
1709 BAY TERRACE
BLOCK 61, LOT 5

James S. Raban Esq. representing the applicant requested the application be listed as new business on the July 19, 2017 meeting due to a publication error. Publication and notice by regular mail will be complete according to law, as certified mail was completed.

A motion to approve this request was made by Mr. Hay and seconded by Ms. Schmidt.

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

RESOLUTIONS:

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

A motion to approve this resolution was made by Ms. Schmidt and seconded by Vice Chairman Tallon. 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. 2017:05V**

WHEREAS, Maria Puff and Kurt Puff have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the construction of decks and landings to the existing two story two (2) family home at property located at 241 W. 7^h Street, Lot 22 Block 114 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 applicants appeared pro se. The application dated March 24, 2017. was entered into evidence as Exhibit A-1; the plan prepared by JCR Engineering, LLC titled “Variance Plan Lot 22 Block 114 241 West 7th Street, Kurt & Maria Puff Zone R1 Tax Map Sheet No. 20 Ship Bottom Borough Ocean County, New Jersey” dated March 21, 2017 under signatures and seal of Robert A. Woodcock, PE, PP was entered into evidence as Exhibit A-2. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated April 10, 2017 was entered into evidence as Exhibit B-1. Testimony was offered by Maria Puff and Kurt Puff, the applicants. Public comment was offered by Alice Sheppard, 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 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-1 Single Family Residential Zone. The property consists of a lot with dimensions of 30’ x 100’ feet improved with a two story two (2) family home. The adjoining properties on West 7th Street are fully developed.
3. The property and use are nonconforming. The two family use is not permitted in the R-1 Zone. The lot area is 3,000 square feet where 6,000 square feet is required; the lot frontage and lot width is 30’ feet where sixty (60’) feet are required; the building coverage is 37.55%. The front

yard setback is 3.8 feet where 15 feet is required; the side yard setback is 1.50 feet with combined side yard setbacks of 9.40 feet. The distance between adjoining buildings is 9.67 feet.

4. Applicants acquired the property as a two family, top and bottom duplex, in 2002. The property was damaged by Storm Sandy; the property has recently been raised to comply with FEMA requirements. The house has been raised in place.
5. Applicants commenced the construction of the front and rear stairs and landings at the property prior to obtaining permits; the size and configuration of the structures being constructed did not coincide with the plans submitted with their house raising project and permitting. They were ordered to stop work on the project, comply with the submitted plans or request variance relief. This application follows.
6. Applicants are requesting a "D" use/special reasons variance; as the two family use at the property is not permitted; together with bulk variances. They propose to construct a 5 x 17.83 foot deck at the front of the house with stairs towards the east. The proposed deck will encroach into the right of way by 1.2 feet; the proposed side yard setback is 1.50 feet with combined side yard setbacks of 6.4 feet. They propose a raised 15 x 16.5 foot open deck with stairs and landings at the rear of the house, providing access to the second floor unit; with a 1.6 foot side yard setback and combined side yard setbacks of 8.1 feet.
7. Variance relief is also requested for 48% proposed building coverage.
8. Applicants have not provided any building plans for the proposed decks and stairs; and have not considered revisions to their proposal to limit the nonconformities being created under the submitted plan.
9. According to the adjoining property owner the construction at the rear of the house, appears large and unsafe, without proper supports or foundations.
10. The Board finds that any additional construction at the house requires permitting and adherence to all building codes and regulations; and

WHEREAS, applicants have requested the Board carry this matter to the May meeting to allow them an opportunity to revisit their plans, and submit revised plans taking into account the bulk zoning requirements of the R-1 Single Family Zone; including but not limited to building coverage requirements, applicants have waived all time constraints as part of their continuance request; and

WHEREAS, the Board has granted applicants request to continue the application and public hearing to the May 17, 2017 meeting of the Board, without further publication or mailing of notices; and

WHEREAS, the Land Use Review Board again considered this application at a public hearing on May 17, 2017. The applicants appeared pro se. The plan prepared by JCR Engineering, LLC titled "Variance Plan Lot 22 Block 114 241 West 7th Street, Kurt & Maria Puff Zone R1 Tax Map Sheet No. 20 Ship Bottom Borough Ocean County, New Jersey" dated March 21, 2017 revised on May 3, 2017 under signature and seal of Robert A. Woodcock, PE, PP was entered into evidence as Exhibit A-3. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated May 13, 2017, Second Review, was entered into evidence as Exhibit B-2. Testimony was offered by Robert A. Woodcock, applicant engineer and professional planner. There was not any public comment offered; and

WHEREAS, the Land Use Review Board after considering the revise plans, entered into evidence and testimony of the witnesses has made the following factual findings:

- 1 Applicant reduced the size of the front deck to 4 x 3.8 feet, eliminating the encroachment into the right of way; the deck is constructed to the building line; with the stairs being reconfigured at 3 feet wide along the front of the building.
- 2 The rear deck was reconfigured with a portion of the proposed deck removed; the deck has dimensions of 12.33 x 12.42 feet with four foot stairs and a 4 x 4 foot landing proposed. The setback to the deck is 1.60 feet.
- 3 As a result of the modifications to the plans, as discussed with the Board and its engineer at the April 19, 2017 meeting; the building coverage is reduced to 42.56%; where 48% was initially proposed.
- 4 Applicant will remove any improper construction, and reconstruct the deck with permits and according to building codes.

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicants Maria Puff and Karl Puff for to permit the construction of decks and landings to the existing two story two (2) family home at property located at 241 W. 7th Street, Lot 22 Block 114 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 encroachment into the front yard setback is being eliminated; the decks are required as a result of raising the house to conform to FEMA requirements; and the reconfiguration will not have a negative impact upon the light and air of adjoining properties; the decks will be constructed to code; and shall remain open. There is not any additional living space being provided to increase the density of this nonconforming building and use.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of Maria Puff and Karl Puff for to permit the construction of decks and landings to the existing two story two (2) family home at property located at 241 W. 7th Street, Lot 22 Block 114 in the Borough of Ship Bottom, County of Ocean and State of New Jersey in accordance with the revised plans entered into evidence as Exhibit A-3, 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 May 12, 2017, as entered into evidence as Exhibit B-2.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicants obtaining building permits for the construction of the front and rear decks and stairs; with any inferior work or improper construction being corrected or removed and replaced as directed by the building department.

BE IT FURTHER RESOLVED that building coverage shall not exceed 42.5%.

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 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 April 19, 2017 and May 17, 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 July 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. Bishop, Mr. Hay, Ms. Schmidt, Vice Chairman Tallon and Chairman Cooper, all in favor, all aye. Mr. Basile, nay.

B. DOCKET NO. 17:07
DONNA & RICHARD LEARY
205 W. 27TH STREET
BLOCK 10, LOT 14

A motion to approve this resolution was made by Mr. Hay 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. 2017:07V**

WHEREAS, Richard B. Leary and Donna M. Leary have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the construction of additions and renovations to the existing elevated two story single family home at their property, a lot with dimensions of 26.17' feet x 80.00' feet located at 205 West 27th Street, Lot 14 Block 10, 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 17, 2017. The applicants were represented by Robert J. Kiss, Esq. The application dated April 21, 2017 was entered into evidence as Exhibit A-1; the as built survey prepared by Lakeland Surveying titled "Final As Built Survey of Prepared for Donna M. Leary 205 West 27th Street Tax Lot 14 Block 10 Borough of Ship Bottom, Ocean County, New Jersey" dated June 13, 2016 under signature and seal of Marc J. Cifone, PLS was entered into evidence as Exhibit A-2; Architectural plans prepared by Michael H. Struck, Architect dated March 14, 2017 under signature and seal of Michael A. Strunk titled "The Leary Residence – Addition & Alterations 205 W. 27th Street, Lot 14 Block 10 Borough of Ship Bottom, Ocean County, New Jersey", consisting of Sheets A-1, A-2 and A-3 was entered into evidence as Exhibit A-3; a copy of the Ship Bottom Tax Map showing the property and the lots within 200 feet surrounding the site was entered into evidence as Exhibit A-4. The review letter of Owen, Little and Associates, Inc. dated May 10, 2017 was entered into evidence as Exhibit B-1; a portion of the as built survey with notes and markings by the Board engineer, Frank J. Little, Jr. was entered into evidence as Exhibit B-2. Testimony was offered by Richard B. Leary, one of the applicants. 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. The property is located in the R-2 Single Family Residential Zone. The property consists of a lot with dimensions of 26.17' x 80.00' feet containing 2,093.60 square feet; improved with a two story single family home.
3. The lot frontage and lot width requirement in the R-2 Single Family Residential Zone is 40' feet; the property is 26.17' feet wide; and maintains lot frontage of 16.17' feet. The lot depth required in the R-2 Single Family Residential Zone is 100' feet; the subject property maintains a lot depth of 80' feet. The minimum required lot area is 4,000 square feet; the subject property contains 2,093.60 square feet.
4. Applicants acquired the property in 1996; at that time the lot was improved with a single family two (2) bedroom home at the front of the lot; and a two story duplex dwelling at the rear of the lot. Each apartment in the duplex had two (2) bedrooms.
5. According to applicant the buildings were damaged by Storm Sandy; they subsequently demolished the rear duplex and repaired and raised the single family house, in place, with required stairs and landings; with all work being permitted by the Borough zoning and building departments.

6. Applicants are requesting variance relief to construct a 22 feet 5 and 1/4" inch x 15 feet and four inch addition to the rear of the house. Based upon calculations of the Board engineer; the proposed building coverage will 43.5% where 35% building coverage is permitted and 35.2% building coverage exists.
7. The addition will be constructed to the existing building height of 28 feet; as the lot width and frontage of the property is less than 40 feet; the development of the property is limited to a single story home at a height not to exceed 24 feet pursuant to Ordinance Section 16.52.070; as the proposed height exceeds 10 percent of the permitted height a use/special reasons variance is required and requested.
8. The proposed development is to the rear of the existing building, notwithstanding the front yard setback is nonconforming at 7.5 feet.
9. The existing house has two bedrooms; applicants propose to enlarge the building to improve upon the living space; a bathroom on the first floor will be replaced with a powder room; and they propose a family room on that story. They propose to add an additional bedroom and bathroom on the second floor.
10. The existing side yard setbacks are 2.7 feet to the west and 7.8 feet to the building on the east side. The setback to the stairs and air conditioner units to the east is 3.5 feet. Applicant proposes to maintain the existing side yard setbacks with the construction of the addition.
11. The architectural plans indicate that the addition has windows on the side of the building. The Board recognizes that the setback of 2.7 feet will prohibit the installation of windows on that side of the building, and the Board does not have jurisdiction to waive the controlling fire codes. Applicant shall either amend the architectural plans to eliminate windows at the 2.7 foot side yard setback; or offset the addition to maintain a side yard setback of not less than three (3') feet. Notwithstanding anything herein to the contrary, roof overhangs shall not exceed those overhangs existing on the existing portion of the house.
12. The addition will be constructed to meet all FEMA requirements under the Advisory Base Flood Elevations; or final Maps in effect when the house is constructed.
13. The Board adopts the contents of the letter of Frank J. Little, PE, dated May 10, 2017 entered into evidence as Exhibit B-1, as if set forth herein at length.
14. The addition 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 Richard B. Leary and Donna M. Leary for variances to permit the construction of additions and renovations to the existing elevated two story single family home at their property, a lot with dimensions of 26.17' feet x 80.00' feet located at 205 West 27th Street, Lot 14 Block 10, in the Borough of Ship Bottom, County of Ocean and State of New Jersey at a building height not to exceed 28 feet with building coverage not to exceed 43.5% 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 applicants eliminated a nonconforming three family use at the property; the single family use is permitted in the zone; the nonconforming Lot Width, Lot Frontage and Lot Area together with the nonconforming front yard setback, and side yard setbacks are preexisting. There is not any property available for acquisition to bring the lot into conformance. The proposed addition will not impede the light, air or open spaces of adjoining property owners; and the addition will create more habitable living areas; the house will have three (3) bedrooms and the construction will comply with all current codes and FEMA requirements. The use is permitted; applicant has demonstrated the criteria for a Hardship Variance pursuant to NJSA 40:55D-70 (c) 2 and a height variance under NJSA 40:55D-70 (d); the nonconforming side yard setbacks will continue; however, applicant shall eliminate the windows from the west side of the addition where the 2.7 foot setback is proposed; or alternatively modify the plans to provide for a setback of not less than three (3) feet.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of Richard B. Leary and Donna M. Leary for variances to permit the construction of additions and renovations to the existing elevated two story single family home at their property, a lot with dimensions of 26.17'

feet x 80.00' feet located at 205 West 27th Street, Lot 14 Block 10, 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 May 10, 2017, as entered into evidence as Exhibit B-1.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicants submitting revised plans either eliminating the windows on the side of the addition adjacent to the 2.7 foot side yard setback; or providing for a three foot side yard setback. Building coverage shall not exceed **43.5%** and the setbacks shall be limited to those as set forth on the plans entered into evidence; and the finished building height shall not exceed **28' feet**.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon all construction at the property conforming to proposed FEMA requirements, as set forth in the Advisory Maps, if the final Maps have not been adopted at the time of construction; and all building, fire and safety Codes.

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 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 on 27th Street; and applicant installing curbs in accordance with Borough Codes and as directed and approved by the Borough Engineer. The curb cut shall not exceed 12' feet.

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 representative as placed on the record at the public hearing conducted on May 17, 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 July 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. Hay, Ms. Schmidt, Vice Chairman Tallon and Chairman Cooper, all aye.

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

A motion to approve this resolution was made by Mr. Hay 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. 2017:08V**

WHEREAS, Tantrism, LLC, Katharine Shackleton, D & B Deane; and Deane Development, LLC have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the demolition of the existing one story single family home and shed and construction of a new raised two story single family home at property located at 104 E. 26th Street, Lot 6 Block 22 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 17, 2017. The applicant was represented by Katharine Shackleton, Esq. The application dated April 26, 2017 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. titled "Variance Map Lot 6 Block 22 Tax Map Sheet #2 Borough of Ship Bottom, Ocean County" dated October 5, 2016 under signature and seal of James D. Brzozowski, PE, PP and Hayes A. Hewitt, PLS was entered into evidence as Exhibit A-2; architectural plans prepared by Nilsen Architecture, titled "Proposed Residence For 104 East 26th Street, Lot 6 Block 22, Ship Bottom, New Jersey consisting of Drawing 1 of One dated November 15, 2016 under signature and seal of Ian Laurance Nilsen Architect, was entered into evidence as Exhibit A-3; a series of ten (10) photographs of the property on one sheet was entered into evidence as Exhibit A-4. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated May 10, 2017 was entered into evidence as Exhibit B-1. Testimony was offered by Brian Deane, a member of applicant and James D. Brzozowski, applicant's engineer and professional planner. Public comment was offered by Glenn Minetti, an adjacent 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 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-3 Single and Two Family Residential Zone. The property consists of a lot with dimensions of 25' x 70' feet improved with a one story single family home and detached shed. The adjoining properties on 26th Street are fully developed. The site is located on the East side of Long Beach Boulevard; it fronts 26th Street; and the rear line fronts on Ship Bottom Avenue.
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 from the building to East 26th Street is 1.8 feet; the front steps encroach 1.4' feet into 26th Street; the side yard setbacks are 1.7' feet and 3.0' feet; for a total of seven (4.7') feet. The building coverage is 48%. The first floor living area is 720 square feet where a minimum square footage of 900 is required.
4. The house was substantially damaged as a result of Storm Sandy which occurred on October 29, 2012; the current Flood Zone is AE requiring a Base Flood Elevation of 7.0' feet; the Advisory Flood Zone is AE requiring a Base Flood elevation of 9.0' feet.
5. Applicant's submission to the Board is for the demolition of the existing structure on the property; and to permit the construction of a two (2) story elevated single family home; at a first floor elevation of 13.3' feet.
6. Applicant proposes a front yard setback of 15 feet; with the garage at grade being offset three (3) feet to provide a distance of 18 feet from the property line to provide onsite parking; in the yard and in the garage.

There is not any off street parking currently provided. Applicant is proposing building coverage of 34.8% in conformance with Borough Ordinances. Variances are being requested to permit two side yard setbacks of 3' feet with a combined side yard setback of 6 feet; for a first floor living area of 610 square feet and for a building height of 28 feet.

7. Applicant is requesting the height variance to enable the construction of a garage at grade; the ceiling height for the garage is 7.3 feet with the ceiling heights of the first and second story being 8 feet.
8. Applicant has testified that the roof overhangs will not exceed 6 inches together with gutters of not more than 6 inches.
9. Applicant has requested waivers from installing curbs and sidewalks on both 26th Street and Ship Bottom Avenue. The Board finds that curbs and sidewalks are required to be installed on 26th Street, applicant may use pavers at its discretion, and curbs are required to be installed on Ship Bottom Avenue, and a waiver from installing sidewalks on Ship Bottom Avenue is granted.
10. The air conditioning units shall be installed within the 3 foot setbacks.
11. Applicant's plans provide for showers to be located under the building, and shall not encroach into the side yard setbacks.
12. The board adopts the contents of the May 10, 2017 letter from Owen, Little and Associates as if set forth herein at length.
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 applicant Tantrism LLC, Katharine Shackleton, D & B Deane; and Deane Development, LLC for variances to permit the demolition of the existing one story single family home and shed and construction of a new raised two story single family home at property located at 104 E. 26th Street, Lot 6 Block 22 in the Borough of Ship Bottom, County of Ocean and State of New Jersey; with side yard setbacks of 3 feet; and at a building height of 28 feet 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 building will be placed in a preferable location on the lot; 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. The use is permitted; applicant has demonstrated the criteria for a Hardship Variance pursuant to NJSA 40:55D-70 (c) 1 and NJSA 40:55D-70 (c) 2; the lot is unique by its substandard size; however there are other such limited lots in the zone; in this instance the construction will improve upon the existing nonconforming setbacks; eliminate the encroachment into 26th Street; reduce the building overage; provide two off street parking spaces, and the new home will be constructed to scale and be aesthetically preferable to that which exists; and the building will meet and exceed all FEMA requirements.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of the applicant Tantrism LLC, Katharine Shackleton, D & B Deane; and Deane Development, LLC. for variances to permit the demolition of the existing one story single family home and shed and construction of a new raised two story single family home at property located at 104 E. 26th Street, Lot 6 Block 22 in the Borough of Ship Bottom, County of Ocean and State of New Jersey; with side yard setbacks of 3 feet each; at a building height of 28 feet, 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 May 10, 2017, as entered into evidence as Exhibit B-2.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicants submitting revised plans limiting any roof overhangs to 6 inches, with any gutters being limited to 6 inches; offsetting the first floor garage 18 feet from the property line; confirming that all air-conditioning units shall not be located within the three (3) foot side yard setbacks.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon all construction at the property conforming to proposed FEMA requirements, as set forth in the Advisory Maps, if the final Maps have not been adopted at the time of construction; and all building, fire and safety Codes.

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 from existing lot size, lot frontage and lot width, lot depth and lot area requirements; and to permit a two story home at a finished building height of 28' feet. Applicant is also granted variances to maintain two side yard setbacks of 3' feet each for a total of 6' feet; and a first floor living area of 610 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 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 installing curbing at Ship Bottom Avenue and curbs and sidewalks at 26th Street along the length of the property in accordance with Borough Codes and as directed and approved by the Borough Engineer. A waiver is granted from the installation of sidewalks on Ship Bottom Avenue.

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 17, 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 July 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. Hay, Ms. Schmidt, Vice Chairman Tallon and Chairman Cooper, all aye.

There was no public present to participate.

ADJOURNMENT:

On a motion by Mr. Hay, seconded by Vice Chairman Tallon and an all in favor, all aye vote, Chairman Cooper adjourned the meeting at 7:21pm.

Sara Gresko, Land Use Secretary
Land Use Review Board