

**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 July 19, 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 July 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.

Chairman Cooper stated that Frank Little is working on a report for the Master Plan Committee and that they plan to meet again in September.

Councilman Butkus asked Frank Little the status of the Arlington Beach Club application located at the circle. Mr. Little stated that the application is moving forward.

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

**REGULAR MEETING**

Chairman Cooper stated the following:

The Meeting of the Ship Bottom Land Use Review Board will come to order. The time is 7:02 P.M. and the date is July 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 August 16, 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. Dixon, Mr. Hay, Ms. Schmidt, Mr. Fenimore, Mr. Panetta, and Chairman Cooper, present. Councilman English (due to nature of the applications and resolution), and Vice Chairman Tallon, 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, Sara Gresko.

**CORRESPONDENCE:**

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

**MINUTES:**

The minutes of the June 21, 2017 meeting were presented to the Board. On a motion by Councilman Butkus, seconded by Ms. Schmidt, the minutes were approved as submitted.

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

**OLD BUSINESS:**

NONE

**NEW BUSINESS:**

DOCKET NO. 17:10  
DIANE-AMBER BORSELLINO  
136 EAST 19<sup>TH</sup> STREET  
BLOCK 46, LOT 2

Stuart Synder Esq., stated that Docket 17:10 will not be heard at this month's meeting and her attorney requested to be carried to the August 16, 2017 meeting.

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

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

(A) DOCKET NO. 17:12  
EDWIN & PATRICIA POLING  
607 OCEAN TERRACE  
BLOCK 116, LOT 4

Richard P. Visotcky, Esq. of Kelly & Visotcky, LLC representing the applicants.

The following were marked into evidence by Mr. Snyder:

- A-1 The application
- A-2 Variance Map by Horn, Tyson & Yonder Inc.
- A-3 Architectural Plans, eight (8) sheets by Jay Madden, Architect
- B-1 Review letter prepared by Owen, Little & Associates
- A-4 Dual photograph

Mr. Visotcky presented the application requesting to convert the existing duplex to a single-family dwelling and construct a third story addition proposing a rear yard setback of 11.7'.

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

Mr. Poling was also 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 Mr. Basile, seconded by Councilman Butkus and an all in favor vote, all aye, the public portion was closed.

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

A motion to approve this application was made by Mr. Dixon and seconded by Mr. Hay, to approve the plans as submitted with adding a variance for the third floor and the stairwell in the setback.

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

A break was called at 7:55 P.M.

Chairman Cooper returned to the meeting and reopened the meeting at 8:00 P.M.

Councilman Butkus stepped down from the meeting at 8:01 P.M. due to the nature of the applications and resolution.

(B) DOCKET NO. 17:09  
KEVIN & DAUNNE SULLIVAN  
1709 BAY TERRACE  
BLOCK 61, LOT 5

James S. Raban, Esq. representing the applicants.

The following were marked into evidence by Mr. Snyder:

- A-1 The application
- A-2 Property Survey by Najarian Associates
- A-3 Plot Plan by Najarian Associates
- A-4 Architectural Plans, two (2) sheets, prepared by Craig W. Brearley
- B-1 Review letter prepared by Owen, Little & Associates
- A-5 Picture
- A-6 Picture

Mr. Raban presented the application requesting to demolish existing single-family dwelling and construct a new two story single family dwelling.

Robert Kuhne, Engineer of Najarian Associates and Craig W. Brearley, Architect, were sworn in for testimony.

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

1. Daniel Latoof, 1705 Bay Terrace, was in support of the application.
2. Donna Futchko, 1707 Bay Terrace, questions concerning parking and roofing.

Not recognizing anyone else from the public, on a motion made by Ms. Schmidt, seconded by Mr. Bishop and an all in favor vote, all aye, 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 Mr. Hay, and seconded by Mr. Dixon, as presented with the modification of a roof above the second floor deck on the rear of the house. Neither deck would be enclosed. Variance was also granted for less than minimum living space on the first floor.

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

(C) DOCKET NO. 17:11  
REGINA EHRLINE  
260 WEST 11<sup>TH</sup> STREET  
BLOCK 89, LOT 14

Richard P. Visotcky, Esq. of Kelly & Visotcky, LLC representing the applicant.

The following were marked into evidence by Mr. Snyder:

- A-1 The application
- A-2 Survey Plan by Seneca Surveying Co.
- A-3 Architectural and Site Plan, one (1) sheet by Robert Roth, Jr.
- B-1 Review letter prepared by Owen, Little & Associates
- A-4 Dual photograph
- A-5 Picture

Mr. Visotcky presented the application requesting to tear down existing second story deck and construct a garage with additional second floor bedroom with the existing side yard setback of 3.77'.

Robert B. Roth, Jr., Architect, was sworn in for testimony.

Ms. Ehrline was also sworn in by Stuart Snyder, Esq. and provided testimony.

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

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

A motion to approve this application was made by Ms. Schmidt, and seconded by Mr. Bishop, as presented with an additional variance for the front three steps within the front yard setback.

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

(D) DOCKET NO. 17:13  
JOHN & PENNI BREITLING  
107 WEST 23<sup>RD</sup> STREET  
BLOCK 36, LOT 9

James S. Raban, Esq. representing the applicants.

Stuart Snyder, Esq. brought to the attention of the board the fact that he represented a condominium organization of which Mr. Breitling was a member. Mr. Snyder did not feel he had a conflict but wanted to have full disclosure.

The following were marked into evidence by Mr. Snyder:

- A-1 The application
- A-2 Variance Plan by Nelke/Tyszka Land Surveyors
- A-3 Architectural Plans, one (1) sheet by Robert Roth
- B-1 Review letter prepared by Owen, Little & Associates
- A-4 Notarized Letter of Waiver of Public Notice – Van-Dyke

Mr. Snyder talked about the contents of the previous resolution of docket number 14:28.

Mr. Raban submitted as presented as A-4 a notarized statement signed by Shirley Van- Dyke acknowledging receipt of the public notice and waiving the deficiency of the notice.

Mr. Raban presented the application requesting to construct a single family dwelling on a vacant lot requesting a variance for lot area, lot width, side yard setback and maximum building height.

Leon J. Tyszka, Surveyor, was sworn in for 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 Mr. Basile, seconded by Mr. Dixon and an all in favor vote, all aye, 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 Mr. Hay, and seconded by Mr. Bishop as presented.

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

**RESOLUTIONS:**

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

A motion to approve this resolution was made by Mr. Hay 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. 2017-09V**

**WHEREAS**, Kevin Sullivan and Duanne Sullivan have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to demolish the existing structures and permit the construction of a two (2) story single family dwelling at property known and designated as Lot 5 Block 61; 1709 Bay Terrace 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 July 19, 2017. The applicant was represented by James S. Raban, Esq. The application received May 31, 2017 was entered into evidence as Exhibit A-1; the plan prepared by Najarian Associates titled “Property Survey 1709 Bay Terrace Lot 5 Block 61 Borough of Ship Bottom, Ocean County, New Jersey” dated April 3, 2017 under signature and seal of Harry J. Widdis, NJ Land Surveyor was entered into evidence as Exhibit A-2; the plan prepared by Najarian Associates titled “Plot Plan 1709 Bay Terrace Lot 5 Block 61 Borough of Ship Bottom, Ocean County, New Jersey” dated April 18, 2017 under signature and seal of Robert B. Kuhne, NJ Professional Engineer was entered into evidence as Exhibit A-3; architectural plans prepared by Craig W. Brearley Architect dated May 31, 2017 under signature and seal of Craig W. Brearley, A.I.A. titled “Sullivan Residence Lot 5 Block 61 Borough of Ship Bottom, Ocean County, New Jersey”, consisting of a Sheet BD-1 Preliminary Floor Plans; and Sheet BD- 2 Preliminary Floor Plans was entered into evidence as Exhibit A-4; a photograph of the subject property together with the properties to the north was entered into evidence as Exhibit A-5; a photograph of the subject property together with the properties to the south was entered into evidence as Exhibit A-6. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated June 13, 2017 was entered into evidence as Exhibit B-1. Testimony was offered by Robert B. Kuhne, PE, applicant’s engineer; and by Craig W. Brearley, applicants architect; the applicants were present to respond to any questions. Public comment was offered by Daniel Latoof the owner of 1705 Bay Terrace, Ship Bottom, NJ and Donna Futchko the owner of the adjoining property at 1707 Bay Terrace, Ship Bottom, NJ; and

**WHEREAS**, the Land Use Review Board after considering the Application, documentation entered into evidence, testimony of the witnesses, 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-2 Single Family Residential District. The property consists of a lot with upland dimensions of 20 x 91.00 feet. Minimum lot width and lot frontage of 40 feet is required in the R-2 Zone, and a minimum lot depth of 100’ feet is required. The minimum lot area required in the R-2 Zone is 4,000 square feet; applicant’s lot contains 3,593 square feet inclusive of the riparian area; the lot contains 1,819.00 square feet of upland area.
3. The property is currently improved with a one story raised dwelling.
4. Applicants propose to demolish the existing structure and construct a new two (2) story raised single family home in accordance with the architectural plans entered into evidence as Exhibit A-4 to be located on the property as shown in the plot plan entered into evidence as Exhibit A-3.
5. The proposed home will be constructed at a first floor elevation of 12’ feet; side yard setbacks of 3.0’ feet and 3.0’ feet; a conforming front yard setback of 15.0’ feet; with an off set at grade to provide at least an 18 foot setback to the garage. The rear yard setback is proposed at 17.6’ feet to the rear spiral stairs. Applicant further intends to construct a roof over the second story rear deck. The rear setback to the deck structure will exceed the required 20.00 feet.

6. The building coverage is proposed at 42.3% where 42.1% exists.
7. The first floor living area is proposed at 611.38 square feet; where a minimum of 720 square feet is required; variance relief is requested. Increasing the square footage of the first floor living area will result in a more nonconforming building coverage.
8. Applicant is seeking variance relief to enable the construction of a two (2) story raised home, at a height in excess of 24' feet. The proposed height is 30.3' feet, whereupon applicant is requesting a use/special reasons variance.
9. The Board finds that the design of the house incorporates roof overhangs. Applicant has agreed to limit any roof overhangs to not more than 6" inches per side and applicants shall provide gutters and leaders to direct water away from adjoining properties.
10. The new house will be constructed to code; it will meet all building, fire and safety codes and will comply with all FEMA requirements.
11. Applicant shall also provide curbing along the front property line; with depressed curbing of 12 feet pursuant to Ordinance.
12. The air conditioning compressors will be mounted on the roof within the proposed height of 30.3 feet.
13. The applicant will comply with the terms and conditions as set forth in the letter of Frank J. Little, Jr. dated June 13, 2017 entered into evidence as Exhibit B-1.; and

**WHEREAS**, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicants Kevin Sullivan and Daunne Sullivan for variances to demolish the existing structures and permit the construction of a new two story single family dwelling at property known and designated as Lot 6 Block 61; 1709 Bay Terrace in the Borough of Ship Bottom, County of Ocean and State of New Jersey in accordance with the plans entered into evidence as Exhibits A-3 and A-4, to be revised to reflect the locations of the air-conditioning unit(s) on the roof, within the building height of 30.3 feet, and limiting the roof overhangs to six (6") inches together with gutters and leaders, 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. The house to be constructed shall meet all FEMA, health, fire and safety codes; onsite parking will be accomplished; there are other two (2) story homes in the area; the use is permitted; the property will comply with FEMA requirements; the house to be constructed is aesthetically pleasing, and will comport with other properties.

**NOW, THEREFORE, BE IT RESOLVED** by the Land Use Board of the Borough of Ship Bottom that the application of applicants Kevin Sullivan and Daunne Sullivan for variances to demolish the existing structures and permit the construction of a new two (2) story elevated single family dwelling at a height not to exceed 30.3 feet at property known and designated as Lot 5 Block 61; 1709 Bay Terrace in the Borough of Ship Bottom, County of Ocean and State of New Jersey in accordance with the plans entered into evidence as Exhibits A-3 and A-4, to be revised to provide for the air conditioning units being placed on the roof at the requested height of 30.3 feet; and limiting the roof overhangs to six (6") inches together with gutters and leaders, be and hereby is, conditionally approved.

**BE IT FURTHER RESOLVED** that this approval is subject to and conditioned upon applicant submitting revised plans reflecting the air conditioning units being located upon the roof, at a height not exceeding 30.3 feet; and limiting all roof overhangs to six (6") inches and providing for gutters and leaders.

**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 June 13, 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. The Board has not granted any waivers or variance relief from FEMA requirements; and applicant is on Notice that the elevations shall meet all FEMA and Flood Protection requirements.

**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 this approval is subject to and conditioned upon applicants' compliance with Borough Ordinances, whereupon applicants will install curbs and sidewalks at the property 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, their witnesses and representatives, and as placed on the record at the public hearing conducted on July 19, 2017 when this matter was considered.

**BE IT FURTHER RESOLVED** that applicants are granted variances from lot area and lot frontage, lot width and lot depth requirements; variances to permit side yard setbacks of 3.0 feet and 3.0 feet with combined side yard setbacks of 6.0' feet; from the first floor living area requirement of 720 square feet; and from the building height requirements, whereupon variances to permit a two (2) story elevated building at the finished building height of not more than 30.3' feet is granted. Applicant is also granted a variance from the rear yard setback requirements and to maintain building coverage of 42.3%. This approval is subject to and conditioned upon the applicants' development conforming to the plans as entered into evidence as Exhibits A-3 and A 4, which plans shall be revised and approved by the Borough engineer prior to the issuance of a building permit.

**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** Applicant shall file a copy of this Resolution in conjunction with a deed setting forth the conditions contained herein and the specific condition that the rear deck may be covered; however it will not be enclosed; that no additional living space shall be created at the property, except as approved herein; unless authorized by a change in zoning requirements or further action by this Board or its successor. All roof overhangs shall not exceed six (6") inches and gutters shall be installed and maintained to direct runoff away from adjoining properties. Said deed shall be filed with the Ocean County Clerk, with a filed copy being provided to the secretary to the Land Use Review Board.

**BE IT FURTHER RESOLVED** that in the event the conditions set forth herein are not met by August 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 Chairman Cooper, all aye.

### **ADJOURNMENT:**

On a motion by Mr. Hay, seconded by Mr. Basile and an all aye vote, Chairman Cooper adjourned the meeting at 9:17 P.M.

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Sara Gresko, Secretary  
Land Use Review Board