

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 20, 2016.

The Work Session was opened at 7:00 p.m. by Chairman Butkus who announced to all present that the requirements of the Public Notice of the Meeting and of the Open Public Meetings Act had been satisfied.

INFORMAL HEARING:

Arnold Lakin on behalf of Shore Prospects. 107-109 W. 9th Street, known as “The Circle” property. Jeff Wells, project architect and Tiffany CuvIELLO, project planner, are both present this evening.

Jeff Wells describes the project as a 30 unit apartment complex and briefly explains the variances that will be needed.

Tiffany CuvIELLO describes the variances needed for the property.

REGULAR MEETING:

The Regular Meeting was called to order by Chairman Butkus at 7:20 p.m. He informed all those present that this meeting met all the criteria of the Open Public Meetings Act.

Roll call of members: Mayor Huelsenbeck, Mr. Basile, Mr. Cooper, Mr. Dixon, Mr. Hay, Mr. Bishop and Chairman Butkus present. Councilman English, Ms. Schmidt, Mr. Panetta 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, Danielle Mezzina.

CORRESPONDENCE:

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

MINUTES:

The minutes of the June 15, 2016 meeting were presented to the Board for review. Mr. Basile made a motion to approve the minutes as written, Mr. Dixon seconded the motion. Roll call vote: Basile, Dixon, Bishop and Butkus all aye to approve.

NEW BUSINESS:

- (A) DOCKET NO. 16:06
KRIKAL, LLC
105 E. 16TH STREET
BLOCK 20, LOT 25

James Raban from the office of Reginald Raban, representing the applicants.

Frank Little sworn in as Board Professional Planner and Engineer

The following were marked into evidence by Mr. Snyder:

- A-1 Application
- A-2 Deed
- A-3 Subdivision map
- A-4 Floor plans
- A-5 8x10 Photograph of the property
- A-6 Arial view of the property from Google Maps

B-1 Review letter prepared by Owen, Little & Associates

Mr. Raban explains that there is a single family home on the property currently. The new proposed structures will meet all bulk requirements. The variances they are seeking is for lot size and lot area.

Leon Tyska, professional surveyor for the applicant. The property is surrounded by lots of similar size.

Michael Pagnotta, licensed architect and planner, describes the architectural plans that are proposed.

Discussion ensued regarding non-conforming subdivisions and duplexes.

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

Seeing no one from the public, Mr. Hay made a motion to close the public portion, seconded by Mr. Basile and an all aye vote, the public portion was closed.

Mr. Raban provided closing statement and requests the Board grant the approval of this application.

Discussion amongst the Board regarding upholding the integrity of the subdivision ordinance and what else they would be able to do with the property.

A motion to deny this application was made by Mr. Basile and seconded by Mayor Huelsenbeck. Roll call vote: Huelsenbeck, Basile, Bishop and Butkus all aye to deny, Cooper. Dixon and Hay nay to deny.

RESOLUTION:

**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. 2016:05V**

WHEREAS, Krikal, LLC has made application to the Land Use Review Board of the Borough of Ship Bottom for variance to permit the demolition of the existing two story home and for the construction of a new two- story elevated single family home at their property located at 133 East 28th Street, Lot 25 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 June 15, 2016. The applicant was represented by James S. Raban, Esq. The application dated May 25, 2016 was entered into evidence as Exhibit A-1; the plan prepared by Nelke/Tyszka Land Surveyors, Inc. entitled “Variance Plan Plot Plan of Survey T.M. Lot(s) 25 Block 20 Tax Map # Borough of Ship Bottom, Ocean County, New Jersey A.K.A Lots 18 & 18 Block “I”, Per F.M. #E-144”, under signature and seal of Leon J. Tyszka, P.L.S. was entered into evidence as Exhibit A-2; Architectural plans prepared by Michael Pagnotta Architect, PC, dated May 18, 2016, 2009 , under signature and seal of Michael Pagnotta, Architect, titled “Crosby Residence 133 E. 28th Street, Ship Bottom Lot 25 Block 20 Ocean County, New Jersey”, consisting of a Sheet A-1 Ground Floor Plan, Sheet A-2, First and Second Floor Plans; Sheet A-3 Roof Plan; and Sheet A-4 Elevations, was entered into evidence as Exhibit A-3; a series of four (4) photographs of the existing building were entered into evidence as Exhibit A-4. The review letter of Owen, Little and Associates, Inc. dated June 8, 2016, was entered into evidence as Exhibit B-1. Testimony was offered by Leon Tyszka, applicant’s surveyor; and Michael Pagnotta, applicant’s architect and professional planner. Public comment was offered by Charles Swartz and Mary Jane Swartz 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-3 Single Family Residential Zone. The property is nonconforming; it consists of a lot with dimensions of 40' x 60.72' feet improved with a two (2) story home. The application references the house as a single family home; Mr. Tyszka testified that the house contained a small apartment therein. The lot contains 3,103.2 square feet.
3. The minimum lot area permitted in the R-3 Zone is 4,000 square feet; and the minimum lot depth is 100 feet. The properties surrounding the site are improved; there is not any vacant property available for acquisition to increase the lot depth or lot area.
4. The existing structure maintains a nonconforming front yard setback of 2.73' to the building; with the stairs encroaching 3.6' into the right of way; a nonconforming rear yard setback of 8.63' and nonconforming building coverage of 42.3%.
5. Applicant proposes to demolish the existing building and construct a new single family home upon the property. The new home will maintain a front yard setback of 15' in conformance with the Borough Ordinances; building coverage will not exceed 35% as permitted by ordinance, and the side yard setbacks will conform at 5.54' and 10.37' with a combined side yard setback of 15.91 feet. Applicant is requesting variance relief to permit a 10.33' rear yard setback where 20' is required.
6. The property also maintains a two (2') foot high block wall along a portion of the easterly property line, rear property line and westerly property line. Applicant will maintain that wall and repair or replace same after construction.
7. Applicants propose to construct a new curb and sidewalk at the property; together with an 18' foot depressed curb for driveway access.
8. The rear yard setback is limited as a result of the lot depth of 6.72 feet; a 16.42' portion of the house will maintain a setback of 10.33'; the remainder of 17.76' feet will maintain a rear yard setback in excess of 14'. The rear yard setback is greater than that which currently exists; and will not have a negative impact upon the adjoining property.
9. There was concern expressed by the adjoining property owner regarding drainage onto their property. Applicant shall grade their site to assure that drainage or runoff does not deleteriously affect any adjoining properties.
10. The Board is cognizant that parking is at a premium on 28th Street; notwithstanding, applicant is providing the required two (2) off street parking spaces for the property. The garages will be off set under the house to provide additional parking on the lot.
11. The Board adopts the contents of the Review letter of Frank J. Little, PE, dated June 8, 2016, entered into evidence as Exhibit B-1, as if set forth herein at length.
12. The new house will conform to all building, fire and safety codes.
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 Krikal, LLC for variances to permit the demolition of the existing two story home and for the construction of a new two-story elevated single family home at their property located at 133 East 28th Street, Lot 25 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 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. The use is permitted; applicant has demonstrated the criteria for a Use Variance pursuant to NJS 40:55D-70 (d) and NJS 40:55D-70 (2) as the lot depth and lot area is preexisting and there is not any property available for acquisition to increase the lot depth and lot area. The nonconforming use will be eliminated; as will the nonconforming front yard setback and building coverage. The nonconforming rear yard setback of 8.63' will be improved and the new home will be constructed to scale and be

aesthetically preferable to that which exists. Applicant is also providing conforming parking for the single family use.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of Krikal, LLC for variances to permit the demolition of the existing two story home and for the construction of a new two- story elevated single family home at their property located at 133 East 28th Street, Lot 25 Block 20 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 June 8, 2016, 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 adequately grading the property to assure that all drainage is directed away from the adjoining properties. Upon completion of the construction and as a condition of the issuance of a certificate of occupancy applicant shall either repair or replace the two (2') foot block wall in its current locations at the east, west and rear property lines; to be approved by the Borough engineer.

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 size of 3,103.2 square feet; lot depth of 62.07 feet; and for a rear yard setback of 10.33 feet, as reflected on the plans entered into evidence as Exhibit A-2.

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.

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 June 15, 2016 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 August 1, 2017, 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.

Adopted: July 20, 2016
Moved By: Hay
Seconded By: Cooper
Roll Call Vote: Cooper, Hay, Bishop and Butkus all aye.

BOARD BUSINESS:

Ordinance 2016-16 of the Governing Body is up for the second reading and approval at the next meeting of the Governing Body. This ordinance deals with the density in the GC Zone with townhouses and apartment units.

Discussion regarding the LBI School property commenced between the Mayor and the Board.

On a motion made by Mr. Hay, seconded by Mr. Basile and an all in favor vote, the Board will send a letter of support to the Governing Body.

ADJOURNMENT:

On a motion by Mr. Cooper seconded by Mayor Huelsenbeck and an all aye vote, the meeting was adjourned.

Respectfully submitted,

DANIELLE MEZZINA, SECRETARY
LAND USE REVIEW BOARD