

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 August 16, 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 August 16, 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 asked if any of board members would like to attend the League of Municipalities Conference in November.

On a motion by Councilman Butkus, seconded by Mr. Hay and 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 7:04 P.M. and the date is August 16, 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 September 20, 2017.

The conduct of this meeting is being recorded so all testimony can be clearly heard. At the appropriate time, the meeting will open 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. Bishop, Mr. Dixon, Mr. Hay, Ms. Schmidt, Mr. Fenimore, Mr. Panetta, Vice Chairman Tallon and Chairman Cooper, present. Councilman English (due to the nature of the applications and resolutions) and Mr. Basile 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 July 19, 2017 meeting were presented to the Board. On a motion by Mr. Hay, seconded by Ms. Schmidt, the minutes were approved as submitted.

Roll Call Vote: Councilman Butkus (up to the point where he left the meeting), Mr. Bishop, Mr. Dixon, Mr. Hay, Ms. Schmidt, Mr. Fenimore, Mr. Panetta, and Chairman Cooper, all aye.

OLD BUSINESS:

- (A) DOCKET NO.17:10
DIANE-AMBERG BORSELLINO
136 EAST 19TH STREET
BLOCK 46, LOT 2

Mr. Dixon stepped down from the meeting at 7:08 P.M. due to having prior conversations with the applicant regarding possible options of the development of the property.

Katharine Shackleton, Esq. representing the applicants.

Ms. Shackleton presented the application requesting to appeal the Construction Official’s decision and to raise the dwelling.

Councilman Butkus stepped down from the meeting at 7:20 P.M. due to Ms. Shackleton stated that there may be an appeal to the governing body.

James Brzozowski, Engineer and Planner of Horn, Tyson and Yoder was sworn in for testimony.

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, two (2) sheets by Michael Pagnotta, Architect
- B-1 Review letter prepared by Owen, Little & Associates

Ms. Borsellino was sworn in by Mr. Snyder to give testimony as to the process she has followed since she has been the contract purchaser of the property.

A break was called at 8:23 P.M.

Chairman Cooper reopened the meeting at 8:31 P.M.

A motion was made by Mr. Hay, seconded by Ms. Schmidt with the determination that this board does not have jurisdiction to hear this application.

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

NEW BUSINESS:

- (A) DOCKET NO. 17:13
ROBERT NUGENT
1721 LONG BEACH BLVD.
BLOCK 58, LOT 1

Councilman Butkus and Mr. Dixon returned to the meeting at 8:36 P.M.

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

The following were marked into evidence by Mr. Snyder:

- A-1 The application
- J-1 Resolution 82:04
- J-2 Resolution 84:12
- J-3 Resolution 01:13
- A-2 Site Plan by Horn, Tyson & Yonder Inc.
- B-1 Review letter prepared by Owen, Little & Associates
- A-3 Picture
- A-4 Picture

Mr. Visotcky presented the application requesting to add ten (10) outdoor seats and three

(3) additional parking spaces.

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

Robert Nugent was also sworn in for testimony.

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

Howie Brecher, 1702 Long Beach Blvd., in support of the application.

Larry Goral, 1805 Long Beach Blvd Unit B, in support of the application.

Not recognizing anyone else from the public, on a motion made by Mr. Hay, seconded by Ms. Schmidt and 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. Bishop, and seconded by Mr. Dixon.

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

RESOLUTIONS:

- (A) DOCKET NO. 17:11
REGINA EHRLINE
260 WEST 11TH STREET
BLOCK 89, LOT 14

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. 2017:11V**

WHEREAS, Regina A Ehrline has made application to the Land Use Review Board of the Borough of Ship Bottom for variances to remove the wooden deck located on the westerly side of the existing two story single family home located at 260 W. 11th Street, Lot 14 Block 89 in the Borough of Ship Bottom, County of Ocean and State of New Jersey; and replace same with an attached one car garage with a second story bedroom and to construct a covered patio at the front of the house; and

WHEREAS, the Land Use Review Board considered this application at a public hearing on July 19, 2017. The applicant was represented by Richard P. Vistocky, Esq. The application dated June 26, 2017 was entered into evidence as Exhibit A-1; the plan of survey prepared by Seneca Survey Co., Inc. titled “Plan of Survey situate Borough of Ship Bottom Ocean County New Jersey Block 89 Lot 14” dated July 18, 2003 under signatures and seal of Timothy P. O’Connor, Sr. PLS and PP dated July 30, 2003 was entered into evidence as Exhibit A-2; architectural plans prepared by Rob Roth Architects titled “ Addition and Alterations for...Pyle Residence Lot 14 Bock 89 Borough of Ship Bottom Oc. Co., New Jersey” dated June 2017 containing Sheet 1 V-1 under signature and seal of Robert B. Roth, Jr. Architect was entered into evidence as Exhibit A-3. A photograph of the front of the hours was entered into evidence as Exhibit A-4; two (2) photographs of the west side of the house was entered into evidence as Exhibit A-5. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated July 13, 2017 was entered into evidence as Exhibit B-1. Testimony was offered by Robert B. Roth, applicant’s architect and professional planner and Regina A. Ehrline, the applicant. 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 applicant is the owner of the property, having acquired same in 1993. The property is located in the R-1 One Family Residential Zone. The property consists of a lot with dimensions of 60' x 100' feet improved with a two story single family home.
3. Applicant proposes to demolish the existing second floor deck on the west side of the house and construct a two story addition on the west side of the house maintaining the nonconforming side yard setback of 3.77 feet. The first floor at grade will provide a garage and the second story will be utilized as a bedroom. Applicant also proposes to construct a covered front porch, with a depth of approximately five (5') feet, maintaining a front yard setback of 15 feet to the deck; and a setback of 12.88 feet to the stairs. The covered front porch will be centered to the existing house, and maintain conforming side yard setbacks. The proposed building coverage is 25.2% and will conform to the zone requirements.
4. The proposed garage will have dimensions of 12.1' x 20.1' feet; the second floor addition will have dimensions of 12.1' x 16.8'; as shown on the plans entered into evidence.
5. The property was renovated within the last 15 years; the proposed construction will match the existing exterior finishes. The front porch will aesthetically improve the house.
6. The non-conforming side yard setback to the deck and landing has existed for many years; there are not any objections to the replacement of that encroachment with the garage and bedroom addition.
7. The Board adopts the contents of the July 13, 2017 letter from Frank J. Little, Jr. entered into evidence as exhibit B-1, as if set forth herein at length.
8. Applicant will amend her plans to note that all deteriorated curbing shall be removed and replaced along the entire frontage of the property; with concrete curb, and that the depressed curbing for driveway purposes shall not exceed 12 feet in width.
9. All construction shall conform to all building codes and FEMA regulations, and all grades shall conform to the requirements of the Ship Bottom Building Department: and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicant Regina A Ehrline for variances to remove the wooden deck located on the westerly side of the existing two story single family home located at 260 W. 11th Street, Lot 14 Block 89 in the Borough of Ship Bottom, County of Ocean and State of New Jersey; and replace same with an attached one car garage with a second story bedroom and to construct a covered patio at the front of the house, with a side yard setback of 3.77 feet and a front yard setback of 12.88 feet to the front stairs 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 side yard setback of 3.77 feet previously existed without objections; the encroachment into the front yard setback will be limited to open stairs; and the preexisting setback of 4.09 feet is not being affected by the development. The proposed project will be aesthetically pleasing and the building coverage is proposed at 25.2%; almost ten (10%) percent less than that which is permitted in the zone.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of Regina A Ehrline for variances to remove the wooden deck located on the westerly side of the existing two story single family home located at 260 W. 11th Street, Lot 14 Block 89 in the Borough of Ship Bottom, County of Ocean and State of New Jersey; and replace same with an attached one car garage with a second story bedroom and to construct a covered patio at the front of the house, with a side yard setback of 3.77 feet and a front yard setback of 12.88 feet to the front stairs, 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 July 13, 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 providing for the removal of the deteriorated curb and installation of concrete curbing along the entire front of the property; with a depressed curb cut/driveway of not more than 12 feet; as permitted by Ordinance.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining all requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development. Variance relief is granted for existing side yard setback of 4.09 feet; a side yard setback of 3.77 feet to the garage and bedroom addition, and a front yard setback of 12.88 feet to the front steps.

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 July 19, 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 in the event the conditions set forth herein are not met by September 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, and Chairman Cooper, all aye. Mr. Dixon abstained.

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

A motion to approve this resolution was made by Mr. Hay and seconded by Councilman Butkus. 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. 2017:12V**

WHEREAS, Edward P. Poling, Jr. and Patricia E. Poling 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 two (2) story two (2) family oceanfront home, converting the use to a single family use, and adding a third story at property located at 607 Ocean Terrace, Lot 4 Block 116 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 Richard P. Vistocky, Esq. The application dated June 26, 2017 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. titled “Variance Map Lot 4 Block 116 Tax Map

Sheet #18 Borough of Ship Bottom, Ocean County” dated November 16, 2016 under signatures and seals of James D. Brzozowski, PE, PP and Hayes A. Hewitt, PLS was entered into evidence as Exhibit A-2; architectural plans prepared by Jay Madden, Architect, titled “ The Poling Residence Lot 4 Block 116 607 Ocean Avenue, Ship Bottom, New Jersey” dated June 26, 2017 containing eight (8) sheets was entered into evidence as Exhibit A-4; two photographs of the house were entered into evidence as Exhibit A-5. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated July 13, 2017 was entered into evidence as Exhibit B-1. Testimony was offered by James Brzozowski, applicant’s engineer and professional planner; Jay Madden applicants architect and Edwin Poling. 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-3 Single and Two Family Residential Zone. The property consists of a lot with dimensions of 50’ x 150’ feet improved with a two story two family home. The property is located on the ocean front and traversed by the Oceanfront Building line; all construction, but for the existing decks, is westward of said building line.
3. Applicants propose to modify the interior of the existing building; creating a garage, storage room, entry porch, foyer, bedroom and bathroom on the existing first story; the deck will remain. They intend to modify the second story to contain three (3) bedrooms, two (2) bathrooms, a laundry room and family room. A new third story is proposed to include a living room, kitchen pantry, dining room, bar area, powder room and decking. Applicant also propose a three story 6.8’ x 28.9’ addition on the south side of the structure to accommodate the proposed elevator and garage on the first story, and living space on the second and third floor.
4. The existing first and second floor decks encroach over the building line by 5.5’ feet. The property also maintains a nonconforming side yard setback of 11.7’ feet.
5. Applicant is requesting variance relief to permit a third story at the property which according to Ordinance Section 18.08.020 which limits any residence to two (2) stories. The proposed height will conform to the building height requirement of 35 feet.
6. Applicant proposes a roof top deck within the permitted height limitation; with air conditioning equipment mounted thereon.
7. The plans as presented reflect a stairway within the nonconforming setback of 11.7’; applicant has agreed to modify the plan to recess the entry stairs into the structure.
8. The Board finds that there are not any other three story structures in the area; however the height proposed will not exceed the permitted height in the zone; and further that only a portion of the first story will be utilized for living purposes, a garage and storage area will also be maintained within that story.
9. Applicant represents that the property conforms to FEMA requirements.
10. The building coverage is proposed at 19.2% and will not exceed the maximum permitted building coverage of 35%.
11. The proposed addition will not encroach upon the permitted side yard setbacks.
12. There will not be any further encroachment over the ocean front building line.
13. The exterior renovations will be aesthetically pleasing, and the project will not have a deleterious effect upon adjoining properties.
14. The single family use will reduce density and parking at the property; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicants Edward P. Poling, Jr. and Patricia E. Poling for variances to permit the construction of additions and renovations to the existing two (2) story two (2) family oceanfront home, converting the use to a single family use, and adding a third story at property located at 607 Ocean Terrace, Lot 4

Block 116 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 building will not exceed the permitted height of 35 feet; the addition will not violate the permitted side yard setback requirement of 10 feet; the building coverage will conform; there will not be any negative impact upon surrounding properties; and the project is aesthetically pleasing. The density is being reduced from a two family to a single family home. 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 building area as mandated by the Oceanfront building line; and the benefits to eliminate the second unit will enhance the surrounding areas; and the third story, although not permitted; takes into account a first story partially utilized as a garage and storage area; and the building height is permitted at 35%; whereupon the third story is not generating a nonconforming building height.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of Edward P. Poling, Jr. and Patricia E. Poling, for variances to permit the construction of additions and renovations to the existing two (2) story two (2) family oceanfront home, converting the use to a single family use, and adding a third story at property located at 607 Ocean Terrace, Lot 4 Block 116 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 July 13, 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 recessing the proposed stairs at the entranceway on the south side of the house into the structure; and noting that air-conditioning equipment will be located upon the roof decks, within the approved building height.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining all requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development. Variance relief is granted for existing conditions, a side yard setback of 11.7 feet, and to permit a third story addition to be constructed at a height not to exceed 35 feet.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant obtaining all outside agency approvals from all agencies having jurisdiction over this development.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's payment of all taxes and all other applicable assessments, and Applicant satisfying all fees and escrow fees as may be required.

BE IT FURTHER RESOLVED that 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 July 19, 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 September 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: Councilman Butkus, Mr. Dixon, Mr. Hay, Ms. Schmidt, and Chairman Cooper, all aye. Mr. Bishop denied.

(C) DOCKET NO. 17:13
 JOHN & PENNI BREITLING
 107 WEST 23RD STREET
 BLOCK 36, LOT 9

A motion to approve this resolution was made by Ms. Schmidt and seconded by Mr. Hay. 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. 2017:13V**

WHEREAS, John Breitling and Penni Breitling has made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the construction of a new two story elevated single family home at its' property, a lot with dimensions of 30' feet x 100' feet located at 107 West 23rd Street, Lot 9 Block 36, 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 16, 2014. The applicants were represented by James S. Raban, Esq. The application dated June 13, 2014 was entered into evidence as Exhibit A-the plan prepared by Nelke/Tyszka, LLC. titled "Variance Plan T.M. Lot 9 – Block 36 Tax Map Sheet #6 Borough of Ship Bottom, Ocean County, New Jersey A.K.A. Part of Lot 29, Block 66 F.M. #B-255" dated June 7, 2017 under signature and seal of Leon Tyszka, PLS, was entered into evidence as Exhibit A-2; Architectural plans prepared by Robert B. Roth, Jr., A.IA. dated April 2017 with a final revision date of June 14, 2017 consisting of Sheet V-1 was entered into evidence as Exhibit A-3. The review letter of Owen, Little and Associates, Inc. dated July 12, 2017 was entered into evidence as Exhibit B-1. Testimony was offered by Leon J. Tyszka, applicants Professional Land surveyor; and Robert B. Roth, applicants architect and professional planner, applicants were present to answer any questions. There was not any public comment; 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:

15. All jurisdictional requirements have been met.
16. The applicant is the owner of the property. The property is located in the OR Office Residential Zone. The property consists of a lot with dimensions of 30' x 100' feet containing 3,000 square feet; a one story single family home and detached sheds had been demolished, the lot is vacant.
17. The lot frontage and lot width requirement in the OR Office Residential Zone is 60' feet; the property is 30' feet wide; and maintains lot frontage of 30' feet. The minimum required lot area in the OR Office Residential Zone is 4,800 square feet; the subject property contains 3,000 square feet.
18. Applicants' predecessors in title were granted variance relief to construct an elevated two story home upon the property with a different configuration that that which is currently before the Board, as set forth in Resolution of Memorialization 2014-28 V adopted on August 20, 2014.
19. Applicants are requesting variance relief to construct a new elevated two story home, containing two bedrooms and one and one half bathrooms on the first floor; and a second floor loft area for an additional bedroom, and bath at a finished height of 29.0' feet.
20. Applicants propose to construct the new home at a first floor elevation of 14.00' feet.

21. The Board adopts the July 12, 2017 letter from Owen, Little & Associates, Inc., entered into evidence as Exhibit B-1, as if set forth herein at length.
22. Applicant proposes a front yard setback of 15' feet to the first floor deck; a rear yard setback of 32 feet; with a 3 x 4 foot air conditioning platform located in the rear yard. Applicants are also proposing side yard setbacks of six (6') feet each, for combined side yard setbacks of 12 feet. The proposed building coverage is 32.2%.
23. Applicants are requesting a height variance, to construct the home at two stories at a height of 29 feet, the lot width being less than 40' feet, mandates a single story home; and the maximum height permitted is 24' feet. The proposed height exceeds 10% per cent of the permitted height, a use variance is required.
24. The neighbors who testified expressed concern with the height of the proposed building, and the proximity of the building to the adjoining properties. Concern was raised pertaining to the safety of the site during construction; applicant will provide a temporary construction fence during demolition and construction.
25. During the course of the proceeding applicant agreed to eliminate the roof deck from the project; and lower the building to maintain a building height not to exceed 29' feet.
26. Applicants are proposing the curbing at the front of the property, with a 12 foot depressed curb opening.
27. The Board finds that there has not been any change of the conditions of the neighborhood since the prior approval in 2014.
28. The grade level will be improved with a garage, storage area and outdoor shower.
29. The new home will provide a desirable visual environment; the house will be suitable for the site; and the compliance with anticipated FEMA requirements will provide a benefit to the Borough at large. The Board finds that the height requested is necessary for the construction of the new home, and is necessary to provide onsite parking, and compliance with FEMA requirements.
30. 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, John Breitling and Penni Breitling for variances to permit the construction of a new two story elevated single family home at its' property located at 107 West 23rd Street, Lot 9 Block 36, in the Borough of Ship Bottom, County of Ocean and State of New Jersey, a lot with dimensions of 30' feet x 100' feet at a height not to exceed 29' feet; with side yard setbacks of 6' feet each with building coverage not to exceed 32.2% 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 nonconforming Lot Width, Lot Frontage and Lot Area are preexisting; there is not any property available for acquisition to bring the lot into conformance. The proposed house will not impede the light, air or open spaces of adjoining property owners. 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) 2 and a height variance under NJSA 40:55D-70 (d); onsite parking will be provided; the front yard setback will also comply with zoning requirements. The design of the new house will be aesthetically pleasing. The Board further finds that the conditions in the neighborhood have not changed since the prior approval granted in 2014, but for the construction of new houses exceeding the permitted height requirements, under variance approvals.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of , John Breitling and Penni Breitling for variances to permit the demolition of the existing one story single family home and detached sheds and for the construction of a new two story elevated single family home at its' property located at 107 West 23rd Street, Lot 9 Block 36, in the Borough of Ship Bottom, County of Ocean and State of New Jersey, a lot with dimensions of 30' feet x

100' feet at a height not to exceed 29' feet; with side yard setbacks of six (6) feet each; with building coverage not to exceed 32.2% be and hereby is, conditionally approved.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's compliance with all terms and conditions of the letter of the Board Engineer, Frank J. Little, Jr., P.E., P.P., and C.M.E., dated July 12, 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 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 Central Avenue; and applicant installing curbs in accordance with Borough Codes and as directed and approved by the Borough Engineer. The curb cut shall not exceed twelve 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 witnesses 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 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 September 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. Dixon, Mr. Hay, Ms. Schmidt, and Chairman Cooper, all aye.

BUSINESS OF THE BOARD:

Stuart Snyder had discussion with the board concerning the Ethel Jacobson school.

ADJOURNMENT:

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

Sara Gresko, Secretary
Land Use Review Board