

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 November 15, 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 November 15, 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.

On a motion by Mr. Hay, seconded by Ms. Schmidt 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 7:01 P.M. and the date is November 15, 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 December 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 allowed to present testimony, witnesses and other proofs are limited to one hour and may be extended only at the discretion of the board. The meeting will adjourn at 10:30 P.M. with no further testimony being taken unless otherwise ordered at the discretion of the Board. All electronic devices and mobile phones should be turned off at this time.

Will the secretary please call the roll.

Roll call of members: Mr. Bishop, Mr. Hay, Ms. Schmidt, Mr. Fenimore, and Chairman Cooper, present. Councilman English, Councilman Butkus, Mr. Basile, Mr. Dixon, Mr. Panetta, Vice Chairman Tallon absent.

Also in attendance were the Board Attorney, Kevin Quinlan, 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 October 18, 2017 meeting were presented to the Board. On a motion by Mr. Bishop, seconded by Mr. Hay, the minutes were approved as amended.

Roll Call Vote: Mr. Bishop, Mr. Hay, Mr. Fenimore, and Chairman Cooper, all aye.

OLD BUSINESS: NONE**NEW BUSINESS:**

Councilman English and Councilman Butkus are unable to attend the meeting due to the nature of the application and resolutions.

A. DOCKET NO. 17:19
JASON SCHEPIS
519 OCEAN AVENUE
BLOCK 117 LOT 1 C.1 & C.2

James S. Raban Esq., of Raban & Raban, LLC representing the applicants.

The following were marked into evidence by Mr. Raban:

A-1 The application with resolution attachments
A-2 Sea Watch Condo Association Minutes
A-3 Sea Watch Condo Association Correspondence
A-4 Resolution 2007:15V/SP
A-5 Amended Resolution 2007:15V/SP on April 16, 2008
A-6 Site Plan by Horn, Tyson & Yonder, Inc., two (2) sheets
A-7 Architectural Plans, three (3) sheets by Michael Pagnotta, Architect
B-1 Review letter prepared by Owen, Little & Associates
A-8 Pictures, two (2) sheets – 7 colored photographs with descriptions

Mr. Raban presented the application requesting to reduce condominium units from six (6) to five (5). Applicant seeks to demolish two (2) units and construct a new dwelling consisting of one (1) unit.

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

Mr. Raban stated there was an error on the application. Jason Schepis was listed as the owner of the property, he is the purchaser under contract. The current owner, who is represented by Stuart Snyder, Esq. gave approval to carry on with the application.

Michael Pagnotta, Architect, sworn in for testimony.

Mr. Little had a question regarding changing the plan in order to provide additional parking.

Jason Schepis, Applicant, and John Schepis, President of Condominium Association sworn in for testimony.

Applicant amended application with a 6 foot by 20 foot recess under the southernly side of the building to provide for the parking.

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

Kevin Nepveux, 519 Ocean Avenue, Unit 4, Mark Ullinger, 123 East 6th Street, and Kevin Rooney, 125 East 6th Street are in objection with the application due to parking, building size, setbacks and obstruction of view.

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

A break was called at 8:25 P.M.

Chairman Cooper reopened the meeting at 8:30 P.M.

Mr. Raban stated that applicant is willing to make modifications to the plans.

On a motion made by Mr. Hay, seconded by Mr. Bishop and all in favor vote, all aye, Chairman Cooper extended the time limit of the application.

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

Kevin Nepveux, 519 Ocean Avenue, Unit 4, Mark Ullinger, 123 East 6th Street, and Kevin Rooney, 125 East 6th Street are in objection with the application due to building size, setbacks and obstruction of view.

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

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

RESOLUTIONS:

- A. DOCKET NO. 17:17
 DANIEL PLATT III & DIANA CASTLE
 1922 BAY TERRACE
 BLOCK 50 LOT 14

A motion to approve this resolution was made by Mr. Hay and seconded by Mr. Fenimore. 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. 2017-17V**

WHEREAS, Daniel P. Platt, III and Diana Castle have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to raise the existing single-family home in place enclose the bottom with a garage and storage area; and construct stairs and a 4 ‘x 11.8’ foot balcony at the rear of the raised structure at property known and designated as Lot 14 Block 50; 1922 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 October 18, 2017. The applicant was represented by David G. Esposito, Esq. The application received September 20, 2017 was entered into evidence as Exhibit A-1; the plan prepared by the plan prepared by Nelke/Tyszka, LLC. titled “Variance Plan T.M. Lot 14 – Block 50 Tax Map Sheet #8 Borough of Ship Bottom, Ocean County, New Jersey A.K.A. Part of Lot 29 & P.O. Lot 30 Block 6-A, Per F.M. #C-233” dated September 1, 2017 under signature and seal of Leon Tyszka, PLS, was entered into evidence as Exhibit A-2; was entered into evidence as Exhibit A-2; drawings prepared by the applicants Daniel P. Platt, III and Diana Castle containing three (3) sheets, the first sheet containing a schematic of the proposed balcony; the second sheet containing elevations of the building; and the third sheet containing elevations of the building was entered into evidence as Exhibit A-3. A photo shop picture of the property was entered into evidence as Exhibit A-4. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated October 13, 2017 was entered into evidence as Exhibit B-1. Testimony was offered by Jeffrey Barton, a Registered Planner and licensed architect; and by Daniel Platt, one of the applicants. Public comment was offered by Mark Volpe and Steven Moser; 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 30 x 64.75 feet irregular. 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 1,893 square feet of upland area.
3. The property is currently improved with a two story raised dwelling.
4. Applicants propose to raise the existing structure; enclose the grade level for garage and storage. Applicants are requesting a variance to construct stairs at the rear of the house and construct a balcony landing with dimensions of 4’x 11.8’ feet. Applicants will be removing the existing front steps and entrance.

5. The entrance to the garage will be set back at least 18' feet from the property line. The Board is cognizant that there is limited parking on Bay Terrace; applicants will be providing two (2) on-site parking spaces.
6. Applicants will not be creating any additional living space.
7. To accommodate the proposed garage, the first floor elevation is 12.7 feet the building height is proposed at 32 feet.
8. The existing nonconforming side yard setbacks of 0.4 feet and 4.4' feet will be reduced to 0.4 feet and 1.4 feet as a result of the stair construction. The existing front yard setback of 8.1 feet will remain. The elevated balcony will reduce the rear yard setback from 8.3 feet to 4.2 feet.
9. The nonconforming building coverage of 55.9% is being increased to 57.7%. The installation of stairs and the balcony/landing after the removal of the front stairs and landing account for the increase in building coverage.
10. The Board is cognizant that the applicants could raise the house to three (3') feet above required BFE, and install stairs and a landing without requiring Board approval. Applicant is seeking variance relief to enable the elevation to 12.7 feet at a finished building height of 32 feet. They also are requesting variance for the existing nonconformities; and to enable the construction of the proposed landing/balcony. By raising the house as proposed applicants will be able to accommodate a garage and storage at grade, and provide two (2) parking spaces, where none exist.
11. Applicants shall also provide curbing along the front property line; and request depressed curbing of 20 feet pursuant to enable on-site parking.
12. Applicant's will comply with the terms and conditions as set forth in the letter of Frank J. Little, Jr. dated October 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 Daniel P. Platt, III and Diana Castle for variances to raise the existing single family home in place enclose the bottom with a garage and storage area; and construct stairs and a 4 'x 11.8' foot balcony at the rear of the raised structure at property known and designated as Lot 14 Block 50; 1922 Bay Terrace 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. The upland lot are is limited; there are not any available properties for applicant to acquire to bring the property into conformity. The house is not being enlarged; the stairs, landing/balcony and the garage/storage will improve the property; and not interfere with adjoining properties; the proposed height is consistent with other houses being raised; and the creation of two parking spaces is beneficial to the neighborhood. The compliance with FEMA requirements will benefit the Borough.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of applicants Daniel P. Platt, III and Diana Castle for variances to raise the existing single family home in place enclose the bottom with a garage and storage area; and construct stairs and a 4 'x 11.8' foot balcony at the rear of the raised structure at property known and designated as Lot 14 Block 50; 1922 Bay Terrace 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 submitting revised plans eliminating the front stairs, landing and entranceway; and reflect that the distance to the garage enclosure and door is not less than 18 feet from the property line.

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 October 13, 2017, as entered into evidence as Exhibit B-1.

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 October 18, 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 0.4’ feet and 1.4’ feet with combined side yard setbacks of 1.8’ feet; a front yard setback of 8.1’ feet and rear yard setback of 4.2; feet to the balcony, 8.3’ feet to the house; a building height of 32’ feet and building coverage of 57.7%.; applicant is also granted approval to maintain a twenty (20’) foot curb cut. The rear balcony/landing shall not be enclosed thereunder.

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 December 1, 2019, 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, Mr. Fenimore, and Chairman Cooper, all aye.

- B. DOCKET NO. 17:18
604 CENTRAL AVE. LLC
604 CENTRAL AVENUE
BLOCK 115 LOT 7, 8.01

A motion to approve this resolution was made by Mr. Hay and seconded by Mr. Bishop 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. 2017:18**

WHEREAS, 604 Central Ave., LLC has made application to the Land Use Review Board of the Borough of Ship Bottom for amended preliminary and final site plan approval together with variances to permit the expansion of the existing restaurant/ take out / market facility known as “The Local” to permit the installation and utilization of an airstream trailer in the front yard, currently designated as the 14’ x 30’ foot outdoor market fronting on Central Avenue to serve ice cream and beverages at property located at 604 Central Avenue Lots 7 & 8.01 Block 115 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 conducted on October 18, 2017. The applicants were represented by James S. Raban, Esq. The application dated September 27, 2017, together with attached exhibits Resolution of Memorialization Docket 02:08V/SP and Resolution of Memorialization Docket 2015:14, was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. titled "Site Plan Lot 7 and 8.01 Block 115 Tax Map Sheet # 19 Borough of Ship Bottom, Ocean County New Jersey" dated March 27, 2015 with a final revision date of September 26, 2017 under signatures and seals of James D. Brzozowski, PE, PP and Robert deBlois, PLS, was entered into evidence as Exhibit A-2; a series of four (4) photographs of the property was entered into evidence as Exhibit A-3. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated October 13, 2017 was entered into evidence as Exhibit B-1. Testimony was offered by James D. Brzozowski, PE, PP, applicants engineer and professional planner and by Raymond Hughes a member of the applicant. Public comment was offered by Dennis Gallagher, Linda Decker, Joyce Gallagher, Rick McDonough, and Jeff Sedden; and

WHEREAS, the Land Use Review Board after considering the Application, documentation entered into evidence, argument of counsel, testimony of the witnesses and public comment has made the following factual findings:

1. All jurisdictional requirements have been met.
2. Applicant is the owner of the property.
3. The property currently is being utilized as a restaurant, delicatessen, and retail store; which uses were previously approved by this Board.
4. As part of the approval an outside area fronting on Central Avenue with dimensions of 14 x 30 feet was approved to be used as an outside market for plants and produce; applicant is now requesting permission to locate a 9' x 22' foot Airstream trailer within that space and utilize same for the sale of ice cream and beverages.
5. The trailer will be on wheels, and shall remain moveable. There will be electric service provided together with refrigeration. There will not be any additional seating created, nor with the trailer have cooking facilities.;
6. There will not be any food preparation within the trailer; and it will provide additional service to the existing business; applicant sells ice cream within the current location; and the trailer will provide an additional venue for the sale and service to their customers.
7. There were concerns raised regarding additional noise and lighting as a result of this expansion of the uses; applicants will not operate the trailer past 7:00 PM.
8. The placement of the trailer will not impact the loading zone at the site.
9. Applicant will assure that there is not any additional trash or noise generated into the adjoining residential properties.
10. The Board adopts the contents of the October 13, 2017 letter from Frank J. Little, Jr. entered into evidence as Exhibit B-2 as if set forth herein at length.
11. The use proposed by applicant is consistent to the use approved at the designated area for a retail outdoor market.
12. Applicant's proposed trailer use will generate the requirement for an additional parking space. Applicant is seeking variance relief.
13. The applicant has been operating the business at the site as approved under Resolution of Memorialization Docket 2015:14. The proposed expansion and change from the outdoor market to the utilization of an Airstream Trailer for the sale of ice cream during daytime hours and up to 7:00PM should not have any negative impact to the community.
14. All terms and conditions of the prior approvals from this Board and its predecessors, except as modified herein shall remain in full force and effect; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicants 604 Central Ave., LLC for amended preliminary and final site plan approval together with variances to permit the expansion of the existing restaurant/ take out / market facility known as "The Local" to permit the installation and utilization of an airstream trailer in the front yard, currently designated as the 14' x 30' foot outdoor market fronting on Central Avenue to serve ice cream and beverages at property located at 604 Central Avenue Lots 7 & 8.01 Block 115 in the Borough of Ship Bottom, County of Ocean and State of New Jersey may be granted without substantial detriment to the public good and without impairing the intent and

purposes of the zoning ordinances of the Borough of Ship Bottom, as the utilization of the airstream trailer is consistent with the approved retail use of the site; applicant will not operate the trailer past 7:00 PM, which should not impede or interfere with the adjoining residential uses.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of 604 Central Ave., LLC has made application to the Land Use Review Board of the Borough of Ship Bottom for amended preliminary and final site plan approval together with variances to permit the expansion of the existing restaurant/ take out / market facility known as “The Local” to permit the installation and utilization of an airstream trailer in the front yard, currently designated as the 14’ x 30’ foot outdoor market fronting on Central Avenue to serve ice cream and beverages at property located at 604 Central Avenue Lots 7 & 8.01 Block 115 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 October 23 , 2017, as entered into evidence as Exhibit B-1.

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; including all municipal codes and requirements of the Board of Health.

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 October 18, 2017 when this matter was considered.

BE IT FURTHER RESOLVED that all conditions set forth in prior approvals granted to this property set forth in Resolution of Memorialization 2015:14; Resolution of Memorialization Docket Number 1997:04 V/SP and Resolution of Memorialization Docket Number 2002:08 adopted by the Board shall remain in full force and effect; but for the amendments contained therein and as amended herein.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant terminating the use of the Airstream Trailer not later than 7:00 PM.

Roll Call Vote: Mr. Bishop, Ms. Schmidt, Mr. Fenimore, and Chairman Cooper, all aye. Mr. Hay denied the application.

ADJOURNMENT:

On a motion by Mr. Hay seconded by Mr. Fenimore and an all aye vote, Chairman Cooper adjourned the meeting at 9:00 P.M.

Sara Gresko, Secretary
Land Use Review Board