

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 19, 2018.

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 19, 2018. 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 discussed with the board a scheduled site inspection on December 8th, 2018 and 10:00 A.M. for the following docket:

DOCKET NO. 18:13
THE BALDWIN RESIDENCE, LLC
338-380 W. 8TH STREET
BLOCK 103, LOTS 3 & 6

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

Chairman Cooper opened the regular meeting.

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 November 19, 2018. The time, date and location of this meeting is listed in Resolution 2018-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 19, 2018.

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: Mr. Basile, Mr. Bishop, Mr. Dixon, Mr. Hay, Ms. Schmidt, Mr. Fenimore, Mr. Yankowski, Vice Chairman Tallon and Chairman Cooper, present. Councilman English and Councilman Butkus, 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 October 17, 2018 meeting were presented to the Board. On a motion by Mr. Basile, seconded by Mr. Dixon, the minutes were approved as submitted.

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

OLD BUSINESS:

Councilman English and Councilman Butkus could not attend the meeting due to the nature of the applications.

Mr. Dixon recused himself from the meeting at 7:07 P.M.

- A. DOCKET NO. 17:10
DIANE-AMBERG BORSELLINO
136 E. 19TH STREET
BLOCK 46 LOT 2

Kathrine Shackleton Esq., representing the applicant, requesting to appeal the Construction Official's decision, change use from duplex to single family dwelling and to raise the dwelling.

The following were marked into evidence by Mr. Snyder:

- A-1 The Application
- A-2 Variance Plan prepared 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

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

Mr. Brzozowski demonstrated the variance plan and As-built Survey of Army Corps of Engineers dunes.

Michael Pagnotta, licensed planner and architect sworn in for testimony.

Mr. Pagnotta demonstrated the architectural plans.

Diane-Amberg Borsellino, applicant, sworn in for testimony.

Stewart Farrell, Stockton University's Coastal Research Center's Coastal Sciences Researcher, presented the Beach & Dune Shoreline Geomorphology report.

Chairman Cooper called for recess at 8:17 P.M.

Chairman Cooper reopened the meeting at 8:23 P.M.

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

Ted Maglione, licensed engineer and planner in New Jersey, 129 E. 20th Street, disputed the professional testimony.

Michael Miskiv, 127 E. 20th Street, Andrew Wilk, 134 E. 20th Street and Egon Willy Kahl, Realtor of Long Beach Island, 117 E. 20th Street, oppose the application.

Dan Erni and Jean Solga, 128 E. 19th Street, asked numerous questions regarding the design of the proposed plan.

Mr. Snyder marked the following into evidence:

- 0-1 Wind Speed Map
- 0-2 Proposed Expansion, South Elevation of 136 E. 19th Street
- 0-3 Proposed Expansion, South Elevation of 136 E. 19th Street, simplified

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.

Discussion between the board and Ms. Shackleton ensued.

Vice Chairman Tallon suggested the applicant provide an elevation certificate and structural engineer's report for further information regarding the dwelling.

A motion to carry this application was made by Mr. Hay and seconded by Mr. Bishop.

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

Chairman Cooper called for recess at 9:27 P.M.

Chairman Cooper reopened the meeting at 9:32 P.M.

Mr. Dixon returned to the meeting at 9:32 P.M.

NEW BUSINESS:

- C. DOCKET NO. 18:18
TIMOTHY DUFFY
135 E. 20th STREET
BLOCK 46, LOT 1

Arnold Lakin Esq., representing the applicant, requesting to carry the application to next month's meeting with waiving all time constraints.

- A. DOCKET NO. 18:16
PAUL & RENE HORVATH
226 W. 7TH STREET
BLOCK 109 LOT 6

James Raban Esq., representing the applicants requesting to remove and relocate the existing staircase leading up to the existing second story deck in the rear of the property.

The following were marked into evidence by Mr. Snyder:

- A-1 The Application
- A-2 Variance Plan prepared by Land Line Surveyors
- B-1 Review letter prepared by Owen, Little & Associates
- A-3 Colorized photograph, 4X6"

Paul Horvath, applicant, was sworn in for testimony.

Board member questioned if the staircase will remain open.

On a motion made by Vice Chairman Tallon, seconded by Ms. Schmidt and 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 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 as presented was made by Mr. Basile and seconded by Mr. Hay.

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

- B. DOCKET NO. 18:17
KAI PROPERTY ONE, LLC
1518 LONG BEACH BLVD.
BLOCK 67 LOT 14

James Raban, Esq., representing the applicants requesting to reconstruct a three-story commercial office on the property.

The following were marked into evidence by Mr. Snyder:

- A-1 The Application
- A-2 Site Plan prepared by Horn, Tyson & Yoder, Inc.
- A-3 Architectural Plans, two (2) sheets, prepared by Craig Brearley, Architect
- B-1 Review letter prepared by Owen, Little & Associates
- A-4 Colorized Photo
- A-5 Colorized Photo
- A-6 Colorized Photo
- A-7 Colorized Photo

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

There was discussion between Mr. Little and Mr. Brzozowski regarding the site triangle.

Craig Brearley, licensed architect, sworn in for testimony.

Board members had questions regarding the flood regulations for the ground floor.

Mr. Brearley stated the building will be flood proof and meet all flood regulations.

William Bartzak, applicant, sworn in for testimony.

On a motion made by Ms. Schmidt, seconded by Vice Chairman Tallon and 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 Mr. Basile and all in favor vote, 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 Vice Chairman Tallon and seconded by Mr. Basile.

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

RESOLUTIONS:

- A. DOCKET NO. 18:13
THE BALDWIN RESIDENCE
338-380 W. 8TH STREET
BLOCK 103, LOTS 3 & 6

A motion to approve this resolution was made by Vice Chairman Tallon 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. 2018:13A SP/V**

WHEREAS, The Baldwin Residence, LLC has made application to the Land Use Review Board of the Borough of Ship Bottom to further modify and amend the previously granted Variances and Site Plan approvals; and for variances and preliminary and final Major Site Plan approval for the development of Lot 6 Block 103 located at 338-380 West 8th Street including Lot 3 Block 103 354 West 9th Street (pertaining to usage of 19 parking spaces on that property occupied by the CVS Pharmacy) in the Borough of Ship Bottom, County of Ocean and State of New Jersey to eliminate three (3) hotel rooms from the 105 hotel rooms previously approved, to permit an interior redesign to include a spa and salon for guest and public use; to permit the installation of a temporary tent upon the rooftop to enclose an area used in conjunction with receptions and events; to permit the placement of a “food truck” on the rooftop terrace for preparation and service of lite fare in conjunction with receptions and events; and to

permit the use and storage of electric motor vehicle shuttles to transport hotel guests to and from the beach; subject to the terms of Section 5.40.090 of the Ship Bottom Municipal Code. All previously approved variances and site plan and development conditions, not modified herein shall continue in full force and effect; and

WHEREAS, the Land Use Review Board considered this application at a public hearing conducted on October 17, 2018. The applicant was represented by James S. Raban, Esq. The application dated August 29, 2018 was entered into evidence as Exhibit A-1; the plan prepared by Stout and Caldwell Engineers, LLC titled "Amended Preliminary / Final Site Plans Site Layout Plan Lot 6- Block 103 Tax Map Sheet #17 Land Situate in Ship Bottom Borough, Ocean County, New Jersey, Hotel LBI designated Sheet 3 of 11 with a final revision date of August 27, 2018 was entered into evidence as Exhibit A-2; a plan titled Partial Roof Plan – West W/Roof Tent Scale 1/8"= 1'-0" Hotel LBI 8/27/18 was entered into evidence as Exhibit A-3; a document with a reduction of A-3 imposed at the top of the page and three photographs of the proposed tent and elevations of the proposed tent at the bottom of the page titled inspiration rooftop tent was entered into evidence as Exhibit A-4; a document with a reduction of A-3 imposed at the top of the page and three (3) photographs of food trucks at the bottom of the page titled inspiration rooftop was entered into evidence as Exhibit A-5; a document titled Spa Area Floor Plan Scale 1/8"=1'-0" Hotel LBI 8/27/18 was entered into evidence as Exhibit A-6; a plan prepared by Michele Pelafas, Inc. dated August 22, 2018 titled Hot Mess Studio/Hotel LBI- Long Beach Island, NJ Floor Plan was entered into evidence as Exhibit A-7; photographs of four (4) transport vehicles titled inspiration/ beach transportation was entered into evidence as Exhibit A-8; and a photograph of the proposed roof lounge area, covered by the proposed tent titled HOTEL LBI ROOFTOP GARDEN LOUNGE was entered into evidence as Exhibit A-9. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., PE, PP, CME, and dated September 3, 2018 was entered into evidence as Exhibit B-1. The Board has taken notice of prior approvals as set forth in Resolutions of Memorialization 2006:16 SP/V; 2007:10 SP/V; 2015:04 SP/V; and 2017:01 SP/V. Testimony was offered by Christopher Vernon, member of applicant. Public comment was offered by Donna Edwards, and

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

1. All jurisdictional requirements have been met.
2. The property is in the GC General Commercial Zone.
3. The Board had previously approved the development of the subject property and adjacent properties for a multifamily apartment use and restaurant facility under Resolution of Memorialization Docket Number 06:16 SP/V adopted on November 15, 2006. That approval was thereafter modified to permit the reconfiguration of the bar and restaurant area together with an outside bar and patio; acknowledging that the construction of the approved multifamily uses would subsequently be constructed, under Resolution of Memorialization Docket Number 2007:10 SP/V adopted on September 19, 2007; thereafter the approvals were modified to permit the development of the site with an extended stay hotel facility with 105 guest rooms; a meeting room; kitchen and area for meal services; a lounge and a bar; a rooftop deck; fitness facilities and two swimming pools under Resolution of Memorialization 2015-04SP/V adopted March 18, 2015. Applicant then appeared before the Board on January 18, 2017 with an amended plan under Docket 2017-01 SP/V to modify the delineation and sizes of the guest rooms; operate a banquet facility and restaurant; modify the common areas, rooms and amenities, eliminate a second swimming pool; and provide a covered patio area and enhance the roof top deck. The modifications proposed were approved by the Board subject to certain conditions, all as set forth on the record and under Resolution of Memorialization 2017-01 SP/V adopted on February 15, 2017.
4. Applicant now appears before the Board requesting further revisions to the approved development plan.
5. Applicant proposes to install a temporary tent structure on the roof deck; eliminate three (3) guest rooms and replace with a spa and salon to be used by guests and by the general public, by reservation;

- provide a “food truck” free standing structure to be placed at the roof top deck area, and to provide two (2) shuttle vehicles to provide transportation for the guests to and from the Beach.
6. The project is under construction, in conjunction with the banquet and wedding services applicant proposes to provide at the hotel, they are requesting permission to eliminate three (3) of the guest rooms as reflected on the plan entered into evidence as Exhibit A-6; providing, massage, hair, nail and makeup services; within approximately 1,850 square feet. The installation of this facility represents an interior modification of the plans; there are not any changes proposed to the footprint or elevation of the building. One hundred and two (102) guest rooms will remain.
 7. Applicant proposes to install a temporary tent upon the roof deck. The area to be enclosed by the tent is approximately 3,000 square feet. Applicant is requesting permission to utilize the tent to protect guests from weather conditions during cocktail hours and roof top receptions. The area will accommodate 200 guests; and be tented from April 15 until October 15 during each year; the proposed tent is removable, and may be removed in advance of storms. Applicant intends for the tent to be centered upon the roof area, set back eight (8’) feet from the edge of the roof. The tent will be located behind the parapet walls; and the top ridge is intended to be three (3) feet lower than the elevator towers.
 8. The Board expressed concern about the safety of the tent; and the actual height in conjunction with the finished elevations. Applicant testified that the tent is rated to withstand 130 mph winds. Applicant further testified that the wall height of the tent is 9.3 feet; with a ridge height of 12.8 feet; as reflected on Exhibit A-5. Board members questioned applicant about the relocation and reduction in size and height of the tent. Applicant requires more information from the manufacturer; and will provide same to the Board at a later hearing.
 9. Applicant proposes to place a “food truck” on the roof, as part of the roof deck improved area. The “food truck” appears to be either a truck or trailer; most of the insides are removed; and it becomes a vessel for the preparation and service of lite fare and limited foods to guests during cocktail hours and cocktail receptions or other events on the roof top. The proposed location of the “food truck” is an area of 10 x 15 feet, located outside of the tented area, as shown on Exhibit A-5. The height of the “food truck” will not exceed 7 feet.
 10. There shall not be any amplified music on the roof deck.
 11. Applicant is also requesting a modification to the approved plan to provide shuttle service for its guests from its facility to the beach.
 12. Applicant proposes to maintain two (2) shuttle vehicles on site, with capacities of 4 to 8 passengers; as reflected on Exhibit A-8. The vehicles will be parked at the main driveway at the “valet spots” and will not interfere with the circulation of traffic upon the site.
 13. The Board does not have jurisdiction regarding the actual utilization of the shuttle service; notwithstanding, applicant will provide information of their route and obtain clearance from the Ship Bottom Police Department.
 14. All uses and ownership of the vehicles shall be in compliance with the New Jersey Motor Vehicle Laws, as delineated under Title 39 of New Jersey Statutes Annotated. Applicant will provide supplemental information at a later Board meeting.
 15. Applicant, in response to public comment from Donna Edwards, stated that the tree boundary at the rear of the valet parking lot at Lot 8 Block 100 will be maintained, and that lot will be finished upon completion of the construction.
 16. The Board adopts the contents of the September 2018 letter from Frank J. Little, Jr, entered into evidence as Exhibit B-1 as if set forth herein at length.
 17. Applicant testified that the salon use at the facility will provide companion services to the guests and wedding participants and

enhance the operation of the facility; the salon will also be open to the general public subject to appointments.

18. Applicant is providing 231 parking spaces where 205 parking spaces are required for the hotel, dining facility, salon and employees; as set forth in the review letter dated September 13, 2018 entered into evidence as Exhibit A-1.
19. Applicant further testified that the roof top space, food truck and tent are being used in conjunction with the banquet facilities, and will not result in the servicing of seating for more than 200 people as previously approved. Applicant will be providing additional information at a later meeting; whereupon the Board will request clarification that the roof deck will not be used to accommodate additional people.
20. Applicant is in the process of constructing the building; whereupon it appears to be framed and roofed; actual elevations will be provided to the Board, to address the proposed height of the proposed tent; and the visual effect of same.
21. Applicant has requested the Board to consider the modification eliminating the three (3) rooms and constructing the spa/salon within the building; and for permission to allow the "food truck" to be placed on the roof deck as submitted. It was further requested to carry that portion of the application regarding the placement of the temporary tent on the roof; and for the shuttle service and maintenance of shuttle vehicles; to permit applicant an opportunity to obtain and present more information to the Board; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has agreed to bifurcate the application to consider the request for the modifications of the interior of the building, eliminating three (3) hotel rooms, and providing a spa/salon; and considering the placement of a "food truck" upon the roof top deck. The Board agreed to continue that portion of the application requesting permission to install a temporary tent upon the roof; and to maintain shuttle vehicles and provide shuttle service to the Beach, until the December 19, 2018 meeting of the Board, applicant having waived any time constraints upon the Board; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicant, The Baldwin Residence, LLC, for Preliminary and Final Minor Site Plan approvals to further amend the approval set forth in Resolution 2017:01 to permit the elimination of three (3) guest rooms and provide a spa/salon for hair, nails, makeup, tanning, and massage for hotel guests, and for the general public upon appointment within an area of approximately 1,850 square feet as delineated on Exhibits A-6 and A-7; and to provide a "food truck" on the roof deck, within an area of 10 x 15 feet as reflected on the plan entered into evidence as Exhibit A-5, at a height not to exceed 7 feet at property known and designated as Lots 6 Block 103 located at 338-380 West 8th Street and 354 West 9th Street, Ship Bottom, Ocean County, 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 modification to the plan for the spa/salon involves and interior renovation solely, there is adequate onsite parking, the use is permitted in the zone and will complement the hotel use; the "food truck" will be located upon the roof deck, and be used during receptions in that area, a limited menu of lite fare will be prepared/and or served therefrom; and the vessel will be used to serve current guests at the hotel or banquet; there will not be an additional parking requirement; and there will not be any negative impact upon the development or upon the adjoining properties. The requirements and conditions of all prior approvals for the development of this property not amended herein will continue in full force and effect.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Review Board of the Borough of Ship Bottom that the application of The Baldwin Residence, LLC, for Preliminary and Final Minor Site Plan approvals to further amend the approvals set forth in Resolution 2017-01 to permit the elimination of three (3) guest rooms and provide a spa/salon for hair, nails, makeup, tanning, and massage for hotel guests, and for the general public upon appointment within an area of approximately 1,850 square feet as delineated on Exhibits A-6 and A-7; and to provide a "food truck" on the roof deck, within an area of 10 x 15 feet as reflected on the plan entered into evidence as Exhibit A-5, at a height not to exceed 7 feet at property known and designated as Lots 6 Block 103 located at 338-380 West 8th Street and 354 West 9th Street, Ship Bottom, Ocean County,

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 September 13, 2018, as entered into evidence as Exhibit B-1; and applicant complying with all other technical revisions as may be required by the Board engineer.

BE IT FURTHER RESOLVED that all conditions and matters set forth prior approvals of this Board for the development of the property not modified herein be and hereby shall remain in full force and affect.

BE IT FURTHER RESOLVED that applicant's requests to provide shuttle service and maintenance of shuttle vehicles at the site has been continued; and applicants request to install a temporary tent upon the roof top deck has also been continued; and will be considered by the Board, after receipt of additional information from applicant at the December 19, 2018 meeting of the Board; or as otherwise rescheduled; with appropriate waivers of all time constraints.

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.

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, including but not limited to Ocean County Planning Board; Ocean County Soil Conservation District and from the Ship Bottom Water and Sewer Departments; the New Jersey Alcohol Beverage Commission and the Mayor and Council and Construction and Zoning Departments of the Borough of Ship Bottom; and the New Jersey Department of Transportation; as may be required.

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. Applicant shall also pay and post all inspection fees, performance guarantees and maintenance bonds as may be required, in amounts established by the Borough Engineer, and in such form as required by the Borough Solicitor.

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 Board with respect to Borough Ordinances, including the Zoning Ordinances.

BE IT FURTHER RESOLVED that this approval is subject to all conditions as set forth herein and at the public hearing and all representations as placed on the record at the public hearing conducted on October 17, 2018 when this matter was considered.

BE IT FURTHER RESOLVED that applicant shall comply with all terms and conditions set forth in Resolution 2017-01 SP/V except those conditions and approvals as modified herein.

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

B. DOCKET NO. 18:14
ANTONIO MANFREDONIA
111 E. 19TH STREET
BLOCK 56, LOT 17

A motion to approve this resolution was made by Vice Chairman Tallon 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. 2018-14V**

WHEREAS, Antonio Manfredonia has made application to the Land Use Review Board of the Borough of Ship Bottom for variances to demolish the existing one story single family dwelling and construct a two (2) story single family dwelling at property known and designated as Lot 17 Block 56; 111 E. 19th Street 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 17, 2018. The applicant was represented by Eric P. LeBoeuf, Esq. The application dated August 31, 2018 was entered into evidence as Exhibit A-1; the plan prepared by Nelke/Tyszka Land Surveyors, LLC titled "Variance Plan T.M. Lot(s) 17 Block 56 Tax Map Sheet #9 Borough of Ship Bottom, Ocean County, New Jersey" dated May 16, 2018 under signature and seal of Leon J. Tyszka, PLS was entered into evidence as Exhibit A-2; architectural plans prepared by Craig W. Brearley, A.I.A., Architect dated May 29, 2018 under signature and seal of Craig W. Brearley, A.I.A. titled "E. 19TH STREET Lot: 17 Block: 56 Ship Bottom Borough, Ocean County, New Jersey" consisting of Sheet BD-1 Preliminary Floor Plans and Sheet BD-2 Preliminary Elevations, 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 8, 2018 was entered into evidence as Exhibit B-1. Testimony was offered by Craig W. Brearley, applicant's architect and John Manfredonia, applicant's son. Public comment was offered by Charles Green, the adjoining property owner to the west; 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:

22. All jurisdictional requirements have been met.
23. The applicant is the owner of the property. The property is located in the R-3 Single and Two Family Residential Zone. The property consists of a lot with dimensions of 20 x 100 feet improved with a one story single family dwelling and detached shed. Minimum lot width and lot frontage of 40 feet is required in the R-3 Zone. The minimum lot area required is 4,000 square feet. The subject lot has 20 feet of lot frontage and lot width. The lot contains 2,000 square feet.
24. The existing building coverage is 47% and the side yard set backs are 0.86 feet and 2.00 feet, with a combined side yard setback of 2.86 feet; a minimum side yard setback of 10 feet is required for one side yard and a minimum combined side yard setback of 15 feet is required. The existing front yard setback is 8.1 feet. The existing building height is 14.7 feet.
25. Applicant proposes to demolish the existing house at the site and construct a new two story single family home at a building height not to exceed 24 feet, in accordance with the plot plan and architectural plans entered into evidence as Exhibits A-2 and A-3. He further intends to relocate the shed on the property to conform with the accessory building set back requirements.
26. Applicant is requesting variance relief to permit a two (2) story home where only one (1) story is permitted on a lot with less than 40 feet frontage.
27. The proposed front yard setback is 15 feet; applicant proposes to construct a 16' foot wide house with side yard setbacks of 2' feet each with a combined side yard setback of 4 feet. The proposed building coverage is 45.5%.
28. Applicant is also seeking a waiver to permit a 20 foot curb cut to accommodate on-site parking.
29. Applicant proposes to construct the new home in conformance with FEMA requirements. The proposed house will contain 1,307 square feet of living space.
30. The air conditioning unit will be located upon the top of the outside shower at the northeast corner of the house.
31. The Board finds that if the applicant either modifies the configuration of the front stairs, by turning them to the side or relocates the house toward the rear of the lot; the parking would be enhanced by providing a second on site 18 foot space.
32. The Board further finds that the proposed side yard setbacks of two (2) feet each are not acceptable. The minimum acceptable side yard setback taking into account fire safety and the ability to properly maintain the property is not less than three (3) feet on each side. The board also finds that the building overhangs should not exceed six (6") inches and gutters should be installed to adequately control the drainage at the site.
33. The Board adopts the contents of the October 8, 2018 letter from Frank J. Little, Jr. as if set forth herein at length.

34. The proposed twenty foot curb opening will enable applicant to park two cars upon the property; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicant Antonio Manfredonia for variances to demolish the existing one story single family dwelling and construct a two (2) story single family dwelling at a building height not to exceed 24 feet at property known and designated as Lot 17 Block 56; 111 E. 19th Street in the Borough of Ship Bottom, County of Ocean and State of New Jersey, as revised to provide for a reconfiguration of the front steps and/or moving the house toward the rear of the lot to provide two (2) onsite 18 foot parking spaces; and side yard setbacks of three (3) feet each, with the detached shed being relocated upon the lot to maintain permitted five (5') foot accessory building setbacks, 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, 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 in the area. The twenty (20) foot curb cut will facilitate the use of the two parking spaces; and the building coverage shall not exceed 45.5%.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of applicant Antonio Manfredonia for variances to demolish the existing one story single family dwelling and construct a two (2) story single family dwelling at a building height not to exceed 24 feet at his property known and designated as Lot 17 Block 56; 111 E. 19th Street in the Borough of Ship Bottom, County of Ocean and State of New Jersey, a lot with dimensions of 20 x 100 feet, as amended to maintain two (2) eighteen 18 foot parking spaces on the property, by either moving the house toward the rear of the property and/or turning the front stairs, and with minimum side yard setbacks of three (3) feet on both sides of the house for a combined side yard setback of six (6) feet together with a waiver to permit 20 feet of depressed curb, be and hereby is, conditionally approved; with building coverage not exceeding 45.5%.

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 8, 2018, as entered into evidence as Exhibit B-1.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant submitting revised plans, to be approved by the Board Engineer, said plans providing two (2) side yard setbacks of 3 feet each; revisions to the front stairs and/or relocating the house toward the rear of the lot to provide for two (2) on-site 18 foot parking spaces. The revised plans also will limit all roof overhangs to 3 inches, and gutters shall be installed to control drainage. Notwithstanding the modifications to the plan; the building coverage shall not exceed 45.5%.

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.

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 17 2018 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; and from the building height requirements, whereupon variances to permit a two (2) story single family home at the finished building height of not more than 24' feet is granted. This approval is subject to and conditioned upon building coverage not exceeding 45.5%. Applicant is also granted a waiver to permit a 20 foot depressed curb. Applicant may retain the detached shed upon the property, subject to same being relocated upon the lot to maintain required five (5') foot setbacks for accessory buildings. Any sidewalks in disrepair or below current standards shall be replaced or repaired by applicant to the satisfaction of the Borough Engineer.

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 decks at the property shall not be converted to heated living space; unless authorized by a change in zoning requirements or further action by this Board or its successor. 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 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: Mr. Basile, Mr. Bishop, Mr. Dixon, Ms. Schmidt, Mr. Fenimore, Vice Chairman Tallon and Chairman Cooper, all aye.

C. DOCKET NO. 18:15
ANTHONY & JOHN DIOGUARDI
200 W. 17TH STREET
BLOCK 59, LOT 7

A motion to approve this resolution was made by Mr. Dixon 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. 2018:15V**

WHEREAS, Anthony Dioguardi and John Dioguardi has made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the demolition of the existing house and construction of a new two story elevated single family home at their property, a lot with dimensions of 40' feet x 80' feet located at 200 West 17th Street, Lot 7 Block 59, 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 17, 2018. Richard P. Visotcky, Esq. represented the applicants. The application dated September 22, 2018 was entered into evidence as Exhibit A; the survey prepared by East Coast Engineering, Inc. titled "Survey Map Block 59 Lot 7 Borough of

Ship Bottom , Ocean County, New Jersey” dated August 10, 2018 under signature and seal of Jay F, Pearson, PLS, PP was entered into evidence as Exhibit A-2; the plan titled “Variance Plan Prepared for Anthony & John Dioguardi Block 59 Lot 7 Borough of Ship Bottom, Ocean County New Jersey dated September 19, 2018 was entered into evidence as Exhibit A-3; architectural plans prepared by Adamson, Riva & Lepley Architects, AIA, dated August 30, 2018 titled Proposed Dwelling for John & Anthony Dioguardi 200 West 17th Street Ship Bottom, New Jersey 08008 Borough of Ship Bottom ” consisting of a Drawing A2.0 Ground Floor Plan, Drawing A2.1 First Floor Plan, Drawing A2.2 Second Floor Plan, A3.0 Exterior Elevations, A3.1 Exterior Elevations, was entered into evidence as Exhibit A-4, two (2) photographs of the property were entered into evidence as Exhibit A-5. The review letter of Owen, Little and Associates, Inc. dated October 9, 2018 was entered into evidence as Exhibit B-1. Testimony was offered by Scott Lepley, applicant’s architect. 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 OR Office Residential Zone. The property consists of a lot with dimensions of 40’ x 80’ feet containing 3,200 square feet; improved with a one story single family home.
3. The lot frontage and lot width requirements in the OR Office Residential Zone is 60’ feet; the property is 40’ feet wide; and maintains lot frontage of 40’ feet. The minimum required lot area in the OR Office Residential Zone is 4,800 square feet; the subject property contains 3,200 square feet. The property is nonconforming.
4. Applicant is requesting variance relief to construct a two story home at a finished height of 32.7’ feet.
5. The existing house maintains a nonconforming side yard setback of 1.6 feet and a nonconforming rear yard setback of 1.5 feet.
6. The proposed house to be constructed will provide a side yard setback of 10.5 feet together with a combined side yard setback of 16.0 feet. The rear yard setback will be 20.5 feet, reduced to 17.5 feet to the air conditioning platform, as hereinafter set forth.
7. The submitted plan provides for the air-conditioning platform of 3 x 3 feet to be located in the westerly side yard setback. The Board finds that location too close to the adjoining house; applicant has agreed to relocate the platform to the rear of the house, whereupon a 2.5 foot encroachment into the rear yard setback will exist. Applicant also provides for the front steps maintaining a setback of 12.5 feet with the remainder of the structure being set back 19.5 feet.
8. The building coverage is proposed at 31.9%.
9. The plans provide for drainage to avoid runoff on the adjoining properties. The lot will be raised by 16 inches pursuant to Borough Ordinances; the house will maintain a BFE of 12.8 feet. The proposed curb cut will conform at 12 feet.
10. The Board adopts the October 9, 2018 letter from Owen, Little & Associates, Inc., entered into evidence as Exhibit B-1, as if set forth herein at length.
11. The new house will be constructed to code; it will meet all building, fire and safety codes and will comply with all FEMA requirements. The house will be constructed to scale, the nonconforming rear and side yard setbacks will be eliminated; the lot elevation will be raised, and the development will create an aesthetic improvement ; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicants, application of Anthony Dioguardi and John Dioguardi for variances to permit the demolition of the existing house and construction of a new two story elevated single family home at their property, a lot with dimensions of 40’ feet x 80’ feet located at 209 West 17th Street, Lot 7 Block 59, 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 nonconforming Lot Area is 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; the house is being constructed to scale; the front yard setback will conform, but for the setback to the steps; and but for the air conditioning platform, the rear yard setback will also comply. The design of the new house will be aesthetically pleasing. Applicant is eliminating the substantial nonconforming side yard and rear yard setbacks.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of Anthony Dioguardi and John Dioguardi for variances to permit the demolition of the existing house and construction of a new two story elevated single family home at their property, a lot with dimensions of 40' feet x 80' feet located at 209 West 17th Street, Lot 7 Block 59, in the Borough of Ship Bottom, County of Ocean and State of New Jersey, with a front yard setback of 12.5 feet to the front steps, and a rear yard setback of 17.5 feet to the air-conditioning platform be and hereby is, conditionally approved.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicants submitting revised plans relocating the air conditioning platform from the side yard setback to the rear of the house.

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 9, 2018, 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, together with 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 October 17, 2018 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

ASDXC 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: Mr. Basile, Mr. Bishop, Mr. Dixon, Ms. Schmidt, Mr. Fenimore, Vice Chairman Tallon and Chairman Cooper, all aye.

ADJOURNMENT:

On a motion by Vice Chairman Tallon seconded by Mr. Hay and an all aye vote, Chairman Cooper adjourned the meeting at 10:12 P.M.

Sara Gresko, Secretary
Land Use Review Board