

The following are the minutes of the Land Use Review Board of the Borough of Ship Bottom, Ocean County, New Jersey, which was held in Borough Hall, 1621 Long Beach Blvd., Ship Bottom, New Jersey on July 17, 2019.

Chairman Cooper stated that in lieu of the workshop meeting we would hold a closed executive session to discuss pending litigation. This meeting lasted 7:10 P.M. to 7:26 P.M.

REGULAR MEETING

Chairman Cooper opened the regular meeting at 7:26 P.M.

On a motion by Vice Chairman Tallon, seconded by Councilman English, the decision was made to hire Glenn Kienz, Esq., to handle the litigation regarding the Baldwin Residence, LLC/Hotel LBI.

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

REGULAR MEETING

Chairman Cooper stated the following:

The Meeting of the Ship Bottom Land Use Review Board will come to order. The time is 7:27 P.M. and the date is July 17, 2019. The time, date and location of this meeting is listed in Resolution 2019-A, which was published in the Asbury Park Press, the Press of Atlantic City and Beach Haven Times. This was also posted on the Bulletin Board in the Municipal Building.

The next regular meeting of Ship Bottom Land Use Review Board is scheduled for August 21, 2019.

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.

Chairman Cooper announced that Mr. Fenimore has been reappointed to the Land Use Review Board.

Will the secretary please call the roll.

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

Also in attendance were the Board Attorney, Stuart D. Snyder, Esq., the Board Engineer/Planner, Frank J. Little, Jr., PE, PP, CME of Owen, Little and Associates and the Board Secretary, Sara Gresko.

CORRESPONDENCE:

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

MINUTES:

The minutes of the June 19, 2019 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: Mr. Basile, Mr. Bishop, Mr. Hay, Ms. Schmidt, Mr. Yankowski, Vice Chairman Tallon and Chairman Cooper, all aye. Councilman English, Councilman Butkus and Mr. Dixon abstained.

OLD BUSINESS:

- A. DOCKET NO. 19:11
LBI PARTNERS, LLC.
131 & 137 E. 21ST STREET
BLOCK 45 LOTS 22 & 23

Robert Rue, Esq., representing the applicants, requesting a minor subdivision. Mr. Rue is asking to carry the application for next month's meeting.

A motion to carry this application was made by Councilman English and seconded by Mr. Basile with the condition to renote and republish.

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

Councilman English, Councilman Butkus, Mr. Dixon and Mr. Hay recused themselves from the meeting at 7:33 P.M. due to the nature of the application.

- B. DOCKET NO. 19:10
TRITON PARTNERS, LLC.
2020 LONG BEACH BLVD.
BLOCK 45 LOTS 14, 15 & 16

Nicholas Talvacchia, Esq., representing the applicants, requesting to demolish existing commercial building and construct a two-story mixed-use commercial building.

The following were marked into evidence by Mr. Snyder:

- A-1 Application
- A-2 Site Plan, prepared by Horn, Tyson & Yoder, Inc.
- A-3 Architectural Plans, two (2) sheets, prepared by Michael Pagnotta, Architect
- B-1 Review letter prepared by Owen, Little & Associates
- B-2 Ship Bottom Volunteer Fire Company Review Letter

Michael Pagnotta, licensed architect sworn in for testimony.

- The following were marked into evidence:
- A-4 Daytime Rendering of proposed project
 - A-5 Nighttime Rendering of proposed project

James Brzozowski, licensed engineer and professional planner, sworn in and provided testimony.

- The following was marked into evidence:
- A-6 Revised Site Plan, revised June 6, 2019

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

Anthony Pessolano, owner of Joe Pop's, 2002 Long Beach Blvd, in support of the application, concerns with construction.

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

Discussion between the board members ensued.

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

A motion to approve this application was made by Mr. Basile and seconded by Mr. Bishop with the following conditions:

- Revised plans to conform with FEMA
- Signage meet ordinance
- Lighting shield the rear of building

- Crushed shell parking lot to reduce coverage
- Site Triangle waiver
- Retail to comply with ordinance

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

NEW BUSINESS: NONE

RESOLUTIONS:

- A. DOCKET NO. 2019:07
LISA KUDISCH
503 OCEAN AVENUE
BLOCK 117, LOT 3

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. 2019:07**

WHEREAS, Lisa J. Kudisch has made application to the Land Use Review Board of the Borough of Ship Bottom for variances to demolish the existing two story two family home; and construct a new story single family home; connecting same to the deck currently fifteen inches over the oceanfront building line; at property known and designated as Lot 3 Block 117; 503 Ocean Avenue in the Borough of Ship Bottom, County of Ocean and State of New Jersey; and

WHEREAS, the Land Use Review Board considered argument of counsel at the June 19, 2019 public hearing, to determine whether or not the Board is vested with jurisdiction to consider the application. The applicant was represented by James S. Raban, Esq.; the application dated February 15, 2019 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. entitled “Map Showing a Survey of: Lot 3 Block 117 Tax Map Sheet# 18 Borough of Ship Bottom, Ocean County, New Jersey” dated August 3, 2018 with a final revision date of February 13, 2019 under signature and seal of Robert G. deBlois, P.L.S. was entered into evidence as Exhibit A-2; architectural drawings entitled “Gregg and Lisa Kudisch, Additions and Alterations to the Residence at 503 Ocean Ave Ship Bottom, NJ 08008 Block 117 Lot 3”, dated February 8, 2019, consisting of Sheet 1, Existing Site Plan, Proposed Site Plan and Zoning Table; and Sheet 2 Floor Plans and Elevations; prepared by Gary R. Irwin, R.A., P.P. was entered into evidence as Exhibit A-3; and

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

1. All notice and publication requirements have been met.
2. The property is owned by the applicant.
3. The property consists of a lot with dimensions of 60’ x 100 feet located on the oceanfront at East 5th Street. The property fronts on Ocean Avenue an unimproved street located 95 feet eastwardly from the Oceanfront Building Line. The property is developed with a two story, two family home. The property is located in the R-3 Residential One and Two Family Zone.
4. The property is traversed by the Oceanfront Building Line, whereupon approximately 15 inches of the house extends past the ocean front building line.
5. Applicant proposes to demolish the existing house and construct a new two story single family home, not to encroach past the ocean front building line. The existing decks would remain in their current location, eastwardly of the ocean front building line; and would be renovated in place; those decks would be attached to the new house by a 15 inch deck extension over the ocean front building line.

6. Ordinance 2018-12 adopted on November 7, 2018 repealed Ordinance 16-72.010 and was codified under Ordinances 4-04.10 – 4-08.120. The Board is cognizant that Title 4 provides for BEACH AND DUNE MAINTENANCE AND PROTECTION/BULKHEADS. Chapter 4.04.010 - Beach protection/bulkheads; at Section C. states: *C. Construction. 1. Construction Prohibited. Construction of any type, southeastwardly of the oceanfront building line, except protective works approved and/or undertaken by the borough, county, state or federal governments is prohibited.* italics added.
7. Prior to November 7, 2018 the aforementioned restrictions were included within the Land Development Code under Title 16. Ordinance 16-72.010 was repealed by the governing body of Ship Bottom. The Board finds that predicated upon the amendment to the Ordinances it does not have any jurisdiction to permit construction eastwardly of the ocean front building line.
8. The variance relief requested from the front yard setback requirement and rear yard setback requirement are properly before the Board: and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that it is without jurisdiction to entertain an application for construction upon property located eastward of the Ocean Front Building Line; as the relief requested by applicant is specifically prohibited by Ordinances adopted for Beach Protection; not zoning, planning or land development.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that it does not have subject matter jurisdiction to consider the application of Lisa J. Kudisch to permit construction of a deck expansion eastwardly of the Ocean Front Building Line at Lot 3 Block 117; 503 Ocean Avenue in the Borough of Ship Bottom, County of Ocean and State of New Jersey.

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

ADJOURNMENT:

On a motion by Mr. Basile seconded by Mr. Bishop and an all aye vote, Chairman Cooper adjourned the meeting at 8:40 P.M.

Sara Gresko, Secretary
Land Use Review Board