

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 September 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 September 19, 2018. Upon completion of the Workshop Meeting the regular meeting will convene. Both meetings meet all the criteria of the Open Public Meetings Act.

Mr. Snyder welcomed the Land Use Board's newest member, Kenneth Yankowski.

Chairman Cooper stated there are revisions for the agenda this evening.

REGULAR MEETING

Chairman Cooper stated the following:

The Meeting of the Ship Bottom Land Use Review Board will come to order. The time is 7:02 P.M. and the date is September 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 October 17, 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: Councilman Butkus, Mr. Bishop, Mr. Hay, Mr. Fenimore, Mr. Yankowski, Vice Chairman Tallon and Chairman Cooper, present. Councilman English, Mr. Basile, Mr. Dixon and Ms. Schmidt, absent.

Also in attendance were the Board Attorney, Stuart D. Snyder, Esq., Alternate Board Attorney, Robert G. Shinn, 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 August 15, 2018 meeting were presented to the Board. On a motion by Mr. Hay, seconded by Mr. Bishop, the minutes were approved as submitted.

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

RESOLUTIONS:

- A. DOCKET NO. 18:11
FRANCESCO & CAROL DIMEGLIO
222 W. 21ST STREET

BLOCK 40, LOT 12

A motion to approve this resolution was made by Councilman Butkus 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. 2018:11**

WHEREAS, Carol Ann DiMeglio and Francesco DiMegilo have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the expansion of decks and landings to the existing single family home at property located at 222 W. 21st Street, Lot 12 Block 40 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 August 15, 2018. The applicants were represented by James S. Raban, Esq. The application dated June 27, 2018 was entered into evidence as Exhibit A-1; the plan prepared by Nelke/Tyszka Land Surveyors, LLC titled "Variance Plan T.M. Lot 12 Block 40 Tax Map Sheet #6 Borough of Ship Bottom, Ocean County, New Jersey a.k.a. Lots 16 & 17 Block "C", per F.M.#A-215" dated April 24, 2018; under signature and seal of Leon J. Tyszka, PLS, was entered into evidence as Exhibit A-2; building elevations prepared by applicant, containing three (3) sheets was entered into evidence as Exhibit A-3; two photographs of the rear yard of applicants property were introduced into evidence as Exhibit A-4. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated July 12, 2018 was entered into evidence as Exhibit B-1. Testimony was offered by Francesco DiMeglio, 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 applicants are the owners of the property, having acquired same in 2002. The property is located in the R-2 Single Family Residential Zone. The property consists of a lot with dimensions of 40' x 100' feet improved with a two story single family home. Applicant added the second floor in 2007.
3. Applicants are requesting variance relief to enlarge the existing front deck at the property. They intend to expand the deck toward the street by three (3) feet; whereupon the existing front yard setback to the deck of 14.4 feet will be reduced to 11.4 feet; and they intend to expand the side by 5.2 feet, reducing the existing side yard setback of 11.95 feet to 6.75 feet. The additional decking will contain 136.2 square feet.
4. The property currently maintains a nonconforming front yard setback of 11.35 feet to the front stairs and landing; and lot coverage is 39.6%; the rear yard is landscaped and there are two pergolas, one with dimensions of 10.2 x 10.5 feet; with nonconforming accessory building setbacks of 1.45 feet and 1.97 feet; and one with dimensions of 5.8 x 13.2. As the pergolas have an open roof structure, they are included in the building coverage calculation.
5. Applicant is now requesting variance relief for the existing and proposed front yard setback of 11.35 feet to the stairs, and 11.4 feet to the deck; and for the proposed combined side 12.1 feet and from maintaining one side yard setback of 10 feet; they also are requesting a lot coverage variance to permit 43.2% of building coverage.
6. The front stairs existed at the time the property was acquired; the pergolas were installed in 2010 as part of a landscaping project.
7. Applicants modified their application, to remove the rear pergola with dimensions of 10.5 x 10.02 feet from the property; that pergola contains 107.1 square feet; which accounts for 2.7% of building coverage does not conform to the accessory building set back requirements of 5 feet rear and side.
8. Applicant also testified that the deck will remain open and will not be covered or enclosed in any manner; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicants Carol Ann DiMeglio and Francesco DiMeglio to enlarge the existing first floor deck in accordance with the plans submitted, subject to the removal of the rear 10.2 x 10.5 foot pergola at property located at 222 W. 21st Street, Lot 12 Block 40 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 nonconforming accessory building setbacks are being eliminated; the net increase in building coverage is minimal at 30.5 square feet; and the deck will remain uncovered and open; and will not have a negative impact upon the light and air of adjoining properties.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of Carol Ann DiMeglio and Francesco DiMeglio to enlarge the existing first floor deck in accordance with the plans submitted, subject to the removal of the rear 10.2 x 10.5 foot pergola at property located at 222 W. 21st Street, Lot 12 Block 40 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 12, 2018, as entered into evidence as Exhibit B-1.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicants submitting a revised plan providing for the elimination of the 10.2 x 10.5 foot pergola at the rear of the property. The removal of the pergola shall be a condition precedent to the issuance of a building permit for the deck expansion.

BE IT FURTHER RESOLVED that the net increase in building coverage shall not exceed 30.5 square feet.

BE IT FURTHER RESOLVED that the deck shall remain uncovered and open; and not be converted to living space.

BE IT FURTHER RESOLVED that Applicants shall file a copy of this Resolution in conjunction with a deed setting forth the conditions contained herein and the specific condition that all decking shall remain open and uncovered, and that no additional living space shall be created at the property without further approval from this Board or any successor municipal authority having jurisdiction over this property. 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 this approval is subject to and conditioned upon applicant obtaining all permits required for the project.

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 August 15, 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 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 October 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: Councilman Butkus, Mr. Bishop, Mr. Hay and Chairman Cooper, all aye. Mr. Fenimore and Vice Chairman Tallon denied the application.

- B. DOCKET NO. 18:12
LBI PARTNERS, INC.
1001 BARNETGAT AVENUE
BLOCK 93, LOT 2

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. 2018:12**

WHEREAS, LBI Partners, Inc. has made application to the Land Use Review Board of the Borough of Ship Bottom to subdivide the properties known and designated as 1001 Barnegat Avenue, Lot 2 Block 93 in the Borough of Ship Bottom, Ocean County, New Jersey into single family building lots, New Lot 2.01 having dimensions of having dimensions of 65 x 100 feet containing 6,500 square feet and New Lot 2.02 having dimensions of 60 x 100 feet containing 6,000 square feet; and

WHEREAS, the Land Use Review Board considered this application on August 15, 2018 at a public hearing. The applicant was represented by Robert G. Shinn, Esq. The application dated May 9, 2018 was entered into evidence as Exhibit A-1; the plan prepared by Nelke/Tyszka Land Surveyors, LLC entitled "Owner/Applicant LBI Partners, Inc. 345 Bay Avenue, Manahawkin, NJ 08050; Minor Subdivision Plan Tax Map Lot 2 Block 93 Tax Map Sheet #15 Borough of Ship Bottom Ocean County New Jersey" dated March 16, 2018 under signature and seal of Leon J. Tyszka, PLS was entered into evidence as Exhibit A-2; a copy of the April 30, 1954 deed between Borough of Ship Bottom and William B. Blair recorded in the Ocean County Clerk's Office in Book 1556 Page 481 establishing a deed restriction of 6,000 square feet of land and minimum 900 square feet of building was entered into Evidence as Exhibit A-3. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated August 8, 2018 was entered into evidence as Exhibit B-1. Testimony was offered by Mark Ligeikis, a principal of applicant. Public comment was offered by Joyce Lubach, the owner of 1105 Barnegat Avenue, Ship Bottom, NJ 08008; and Gloria Box 1015 Barnegat Avenue, Ship Bottom, NJ 08008: and

WHEREAS, the Land Use Review Board after considering the Application, documentation entered into evidence, testimony of the witness' and argument of counsel and public comment has made the following factual findings: All jurisdictional requirements have been met.

1. The property is located in the R-1 Single Family Residential Zone. The property is vacant and has dimensions of 100 x 125 feet located at the southwest corner of Barnegat Avenue A/K/A Pennsylvania Avenue and 10th Street.
2. Applicant is requesting subdivision approval to subdivide the property into two (2) conforming single family building lots; one with dimensions of 65 feet on Barnegat Avenue x 100 feet on 10th Street; and one with dimensions of 60 feet on Barnegat Avenue x 100 feet.
3. Applicant is not requesting any variance relief; both lots will conform to the zoning requirements of the R-1 Zone. Applicant is proposing curbing along both Barnegat Avenue and 10th Street; with 30 foot depressed curbing at each lot on Barnegat Avenue; however applicant is requesting a waiver from installing sidewalks.

4. The Board adopts the contents of the letter from Frank J. Little, Jr. dated August 8, 2018 entered into evidence as Exhibit B-1, as if set forth herein at length.
5. The Borough Ordinances do not require installation of sidewalks, they are required under the Residential Site Improvement Standards, and may be waived by the Land Use Board; and.

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicant, LBI Partners, Inc., to subdivide the property known and designated as 1001 Barnegat Avenue, Lot 2 Block 93 in the Borough of Ship Bottom, Ocean County, New Jersey into two lots New Lot 2.02 having dimensions of 65 x 100 feet and New Lot 2.01 having dimensions of 60 x 100 feet; both lots conforming to the zoning requirements of the R-1 Zone; 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 application is for a conforming subdivision. Applicant will curb the property; they have requested a waiver from installing sidewalks which may be granted at the location of the property does not warrant the installation of sidewalks at this time.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of LBI Partners, Inc., to subdivide the property known and designated as 1001 Barnegat Avenue, Lot 2 Block 93 in the Borough of Ship Bottom, Ocean County, New Jersey into two lots New Lot 2.02 having dimensions of 65 x 100 feet and New Lot 2.01 having dimensions of 60 x 100 feet be and hereby is, conditionally approved; also applicant is granted a waiver from installing sidewalk at the property; and

BE IT FURTHER RESOLVED that this approval is also subject to any technical revisions as may be required by the Borough Engineer. All drainage will be properly graded and there shall not be any drainage upon the adjoining properties.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's installation of curbs on Barnegat Avenue and 10th Street abutting the property. The installation shall comply with Borough Ordinances and as directed by the Borough Engineer; all curb cuts shall conform to Borough Ordinance.

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., C.M.E., dated August 6, 2018 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 zoning, 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 the Ship Bottom Water and Sewer 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 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 as set forth herein and as placed on the record at the public hearings conducted and all representations as placed on the record at the public hearings conducted on August 15, 2018 when this matter was considered.

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.

Roll Call: Councilman Butkus, Mr. Bishop, Mr. Hay, Mr. Fenimore, Vice Chairman Tallon and Chairman Cooper, all aye.

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

Katharine Shackleton, Esq., representing the applicant wrote a letter requesting the application to be carried.

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

Roll Call Vote: Councilman Butkus, Mr. Bishop, Mr. Hay, Mr. Fenimore, Mr. Yankowski, Vice Chairman Tallon and Chairman Cooper, all aye.

- (B) DOCKET NO. 18:13
 THE BALDWIN RESIDENCE
 338-380 W. 8TH STREET
 BLOCK 103 LOT 3, 6

James Raban, Esq., representing the applicant, wrote a letter requesting the application be carried.

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

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

Councilman Butkus stepped down from tonight’s meeting at 7:15 P.M. due to the nature of the application.

Mr. Snyder excused himself from the meeting at 7:15 P.M. due to conflict, Robert G. Shinn, Esq. presided over the application.

OLD BUSINESS:

- (A) DOCKET NO. 18:06
 BARRY & VALERIE LAYNE
 328 W. 17TH STREET
 BLOCK 60 LOT 9

Nicholas Talvacchia, Esq., representing the applicants requesting to demolish existing building and construct a new single family dwelling. Applicant was carried from May’s meeting.

The following were marked into evidence by Mr. Shinn:

- A-1 The Application
- A-2 Revised Variance Plan prepared by Nelke/Tyszka Land Surveyors
- A-3 Revised Architectural Plans prepared by Michael Pagnotta
- B-1 Review letter prepared by Owen, Little & Associates
- A-4 3D Rendering of Neighborhood – Day time
- A-5 3D Rendering of Neighborhood – Night time
- A-6 Rendering of similar height of homes

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

Board members had questions concerning the height of garage and location of air conditioning unit.

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

Michael & Susan Gobbo, 322 W. 17th Street, Gertrude Haughey, 334 W. 17th Street, Barbara Karzyzkowski, 307 W. 17th Street, do not support the application for the

following reasons:

- Height variance
- Increased living level and space
- Tree in front yard

The following stood up in support of the application: Ellaine and William Middleton, 336 W. 17th Street, Mary Egan, 1715 & 1719 Bay Terrace, Donna Bradley, 325 W. 17th Street, Rosemarie Sprouls, 219 W. 18th Street.

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

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

A motion to approve this application was made by Mr. Hay and seconded by Vice Chairman Tallon, with the condition to have the open deck remain open.

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

ADJOURNMENT:

On a motion by Mr. Hay seconded by Vice Chairman Tallon and an all aye vote, Chairman Cooper adjourned the meeting at 8:37 P.M.

Sara Gresko, Secretary
Land Use Review Board