

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 February 17, 2016.

The Work Session was opened at 7:02 p.m. by Chairman Butkus who announced to all present that the requirements of the Public Notice of the Meeting and of the Open Public Meetings Act had been satisfied.

REGULAR MEETING:

The Regular Meeting was called to order by Chairman Butkus at 7:03p.m. He informed all those present that this meeting met all the criteria of the Open Public Meetings Act.

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

MINUTES:

Vice Chairman Tallon noticed there was a typo on the address of the second application under New Business, Ms. Mezzina makes note of the error and will correct it. Mr. Butkus asked for a motion to approve the minutes of the January 20, 2016 meeting with the revision as stated, Mr. Hay makes a motion to approve, seconded by Mr. Basile. Roll call vote: Dixon, Hay, Schmidt, Tallon and Butkus all aye to approve.

RESOLUTIONS:

- A. DOCKET NO. 16:01
 URBANIK, RONALD & KATHLEEN
 130 E. 26TH STREET
 BLOCK 24, LOT 3

**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. 2016:01V**

WHEREAS, Ronald Urbanik and Kathleen Urbanik have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the construction of additions and renovations to the existing two story single family home at property located at 130 E. 26th Street, Lot 3 Block 24 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 January 20, 2016. The applicant was represented by Richard P. Vistocky, Esq. The application dated December 12, 2015 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. titled “Variance Map Lot 3 Block 24 Tax Map Sheet #2 Borough of Ship Bottom, Ocean County” dated July 22, 2015, with a final revision date of November 23, 2015 under signatures and seals of James D. Brzozowski, PE, PP and Robert G. de Blois, PLS was entered into evidence as Exhibit A-2; ; architectural plans prepared by Jay Madden, Architect, titled “Urbanik Residence Lot 3 Block 24 130 East 25th Street Ship

Bottom, New Jersey” dated December 16, 2015 containing three (3) sheets was entered into evidence as Exhibit A-3; a photograph of the house from E. 26th Street was entered into evidence as Exhibit A-4; two photographs of the house were entered into evidence as Exhibit A-5; revised architectural drawings prepared by Jay Madden Architect, sheet 1A revised on January 19, 2016 and revised drawing A-3 , roof plan, revised on January 19, 2016 were entered into evidence as Exhibit A-6; a photograph of the interior of the living room was entered into evidence as Exhibit A-7. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated January 14, 2016 was entered into evidence as Exhibit B-1; Resolution of Memorialization 1984-13 granted to a predecessor in title to the applicant, Richard McAleer and Joseph McAleer was entered into evidence as Exhibit B-2. Testimony was offered by the principal of applicant, Ronald Urbanik, James Brzozowski, applicant’s engineer and professional planner; Jay Madden applicants architect. Public comment was offered by Margaret Carson, who owns 134 E. Ship Bottom Avenue, across the street from the rear of the property. Deidre M. Martin, Esq appeared on behalf of Janet and Dominick Anfuso the adjoining property owners; and

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

1. All jurisdictional requirements have been met.
2. The applicants are the owners of the property. The property is located in the R-3 Single and Two Family Residential Zone. The property consists of a lot with dimensions of 25’ x 70’ feet improved with a two story single family home. The adjoining properties on 26th Street are fully developed. The site is located on the East side of Long Beach Boulevard; it fronts 26th Street; and the rear line fronts on Ship Bottom Avenue.
3. The property is nonconforming; the lot area is 1,750 square feet where 4,000 square feet is required; the lot frontage and lot width is 25’ feet where forty (40’) feet are required; the lot depth is 70’ feet where 100’ feet are required. The front yard setback to 26th Street is 12.2’ feet, and the front yard setback to Ship Bottom Avenue is 11.5’ feet to the air conditioning platform and 14.5’ feet to the house; the side yard setbacks are 4.3’ feet and 5.3’ feet. The building height is two stories at 21.5’ feet, the existing first floor area is 620 square feet where a minimum square footage of 900 square feet is required. This property was developed in accordance with variance relief granted to predecessors in title in 1984 under Resolution of Memorialization # 84-13 adopted by the Ship Bottom Zoning Board of Adjustment on March 14, 1983. The house was constructed substantially in compliance with that approval. The existing building coverage is 38.5%.
4. Applicants propose to expand the living space on the second floor, They propose to enclose seven (7’) feet of the second floor deck, and add additional decking over the existing ground floor deck, shower, and landing, The front yard setback will remain at 12.2’ feet. As a result of the additional building

coverage over the grade deck the building coverage will increase to 39.2%.

The plans also provide for a roof top deck; increasing the building height to 23.8' feet, and applicants are seeking variance approval for this addition.

5. Predicated upon concerns expressed by the adjoining property owners, Janet and Dominick Anfuso, the owners of Lot 4 Block 24, 128 East 26th Street, applicants modified their building plans as set forth in architectural drawings 1A and 3, entered into evidence as Exhibit A-6. The second floor enclosure will contain an angled wall adjacent to Lot 4; leaving an open 4' x 4' foot triangular deck area; and all railings will be transparent glass railings. Counsel for Anfuso acknowledged that the revised plan is acceptable to her clients, subject to the railings being glass and see through. Applicant also agreed to limit any roof overhangs to eight (8") inches.
6. Applicant will deed restrict the property to provide that the new deck remain open and uncovered; with clear glass, translucent railings.
7. Applicants will install curbing along the frontage of Ship Bottom Avenue; with a twelve (12') foot curb cut; and will replace any damaged curbing along the frontage of 26th Street, and install new curbing, as discussed, with a twelve (12') foot curb cut. Applicant will provide onsite parking for two vehicles.
8. Applicant testified that additional living area is requested to expand the living and dining rooms; according to the architect the additional living proposed is 97 square feet.
9. In conjunction with the project applicant will be residing the shower to match the exterior of the building.
10. The proposed roof deck has dimensions of 15' x 40' feet containing 425 square feet, accessible by a built in staircase from the second floor of the house. Applicant is requesting more outdoor space at the property.
11. The roof top deck as proposed can accommodate additional people at the premises, and may contribute to additional noise to surrounding properties.
12. Applicant has agreed to reduce the size of the rooftop deck to 200 square feet to be located from the stairs forward to 26th Street; the plans will be so revised; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicants Ronald Urbanik and Kathleen Urbanik for variances to permit the construction of additions and renovations to the existing two story single family home at property located at 130 E. 26th Street, Lot 3 Block 24 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 increase in building coverage is minimal; the rooftop deck is being reduced in size; the increase in living area is modest, with the railing being clear; the building setbacks are being maintained; the outside shower will be sided to conform to the house, aesthetically improving the building; curbs will be provided on Ship Bottom Avenue; together with a designated trash area, to address neighbor concerns; and the height will remain less than 24' feet. Applicant will also deed restrict the property to limit

any enclosure of the proposed decking. The use is permitted; applicant has demonstrated the criteria for a Hardship Variance pursuant to NJSA 40:55D-70 (c) 1 and NJSA 40:55D-70 (c) 2; the lot is unique by its substandard size; however there are other such limited lots in the zone; in this instance the construction will be aesthetically pleasing, the increase in living area will not impact upon the existing setbacks.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of Ronald Urbanik and Kathleen Urbanik for variances to permit the construction of additions and renovations to the existing two story single family home at property located at 130 E. 26th Street, Lot 3 Block 24 in the Borough of Ship Bottom, County of Ocean and State of New Jersey, to enlarge the living and dining room over the existing deck area, construct an additional second floor deck over the existing landing and outside shower, and construct a roof deck, 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 January 14, 2015, as entered into evidence as Exhibit B-1.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicants submitting revised plans modifying the size of the roof deck to 200 square feet; from the proposed stairs towards 26th Street, and providing for overhangs not to exceed 8" inches. The revised plans will note that the railings at the newly constructed second floor deck be clear and translucent; the deck shall remain open and uncovered.

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, with the second floor deck's rail system being clear and translucent, 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 requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development. Variance relief is granted for existing conditions, and to permit Building coverage not to exceed 39.2%; and for a building height of 23.8' feet.

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

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon

Applicant's payment of all taxes and all other applicable assessments, and Applicant satisfying all fees and escrow fees as may be required.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicants installing curbing at Ship Bottom Avenue, with a curb cut of 12' feet and replacing curbing below current design standards, and installing new curbing with a 12' foot curb cut at 26th Street along the length of 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 applicants and their witnesses and as placed on the record at the public hearing conducted on January 20, 2016 when this matter was considered.

BE IT FURTHER RESOLVED that all construction shall conform to the elevations and floor plans amended by applicants, as set forth in Exhibit A-6, revised architectural drawings, Sheets 1A and 3, subject to those changes and conditions reflected herein.

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 March 1, 2017, 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.

Adopted: February 17, 2016
Moved By: Mr. Hay
Seconded By: Ms. Tallon
Roll Call Vote: Dixon, Hay, Schmidt, Tallon and Butkus all aye.

B. DOCKET NO. 16:03
MAGAZINER, ALLAN & SUZANNE
20 ROBERT DRIVE
BLOCK 16, LOT 1.10

**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. 2016:03V**

WHEREAS, Allan Magaziner and Suzanne Magaziner have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the construction of additions and renovations to the existing two story single family home at property located at 20 Robert Drive, Lot 1.10 Block 16 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 January 20, 2016. The applicant was represented by Richard P. Vistocky, Esq. The application dated December 29, 2015 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. titled "Variance Map Lot 1.10 Block 16 Tax Map Sheet #3 Borough of Ship Bottom, Ocean County" dated November 11, 2015, under signatures and seals of James D. Brzozowski, PE, PP and Robert G. de Blois, PLS was entered into evidence as Exhibit A-2; ; architectural plans prepared by Coastal Design Group Architecture, titled "Proposed Renovation to: Project: Magaziner Residence 20 Robert Drive Ship Bottom, NJ Lot 1.10 Block 16" dated September 17, 2015 with a revision date of December 30, 2015 under signature and seal of Jeffrey F. Wells, AIA containing four (4) sheets was entered into evidence as Exhibit A-3; a copy of applicants permit from the New Jersey Department of Environmental Protection, CAFRA, was entered into evidence as Exhibit A-4; two (2) photographs of the house one taken from Roberts Drive and the other showing the southerly property line, were entered into evidence as Exhibit A-5; two (2) photographs of the house, one of the rear of the house and bulkhead and one showing the location of the proposed swimming pool were entered into evidence as Exhibit A-6; a photograph of the existing rear of the house, with an architecturally enhanced mark up of that picture reflecting the proposed additions and renovations was entered into evidence as Exhibit A-7. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated January 14, 2016 was entered into evidence as Exhibit B-1. Testimony was offered by the applicant, Allen Magaziner, James Brzozowski, applicant's engineer and professional planner; and Jeffrey F. Wells, applicants 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 R-2 Single Family Residential Zone. The property consists of an irregularly shaped lot containing 4,810 square feet, located at the terminus of a cul de sac.
3. The lot frontage is nonconforming, 22.33' feet where a 40' foot lot frontage is required; the lot width is 31' feet where 40' feet is required; and the lot depth is 92.9' feet where 100' feet is required. The lot was created by subdivision approved by the Borough in 1986. The existing side yard setbacks are 3.7' feet and 10' feet with a combined side yard setback of 13.1' feet; where 15' feet are required. The existing rear yard setback to the building conforms at 20.1' feet; the existing rear yard setback to the stairs and deck is 5.6' feet where 20' feet are required. The existing building coverage is 37.2% where 35% is permitted; and the building height is 35.3 feet where 32' feet are permitted.
4. Applicants propose to reconfigure, replace and add decking to the property and construct a second story addition to the rear corner of the house. These renovations are planned in conjunction with the installation of a swimming pool and, paver surround and fencing at the property. The proposed swimming pool will meet the required accessory building and swimming pool setbacks.
5. The property is located adjacent to the Manahawkin Bay; applicants have received CAFRA approval for their planned development from the State of New Jersey Department of Environmental Protection. The permit requires a setback of 8.5' feet for the swimming pool, which is reflected on the plans submitted.
6. The existing decking at the first floor is stepped at two levels; the proposed renovation will replace that decking as a single level; a portion of the existing decking, as shown on the plan entered into evidence as Exhibit A-2 will be removed.; whereupon the existing 5.6' foot rear yard setback to the steps and deck will be eliminated, however the side yard setback to an existing 10' foot wide drainage easement will be reduced from 3.7' feet to 3.1 feet to accommodate the corner of the deck. The proposed rear yard setback to the deck will be 8.1' feet. The building coverage will be reduced to 36.2%.
7. The existing fiberglass deck at the second floor leaks over the living room; applicant proposes to enclose that deck and create a sitting room; and construct 2.1' x 12.4' and 2' x 12' foot additions to that area at the second floor. The rear yard setback to the second story of the building will be reduced from 20.1' feet to 17.6' feet.
8. The development as proposed will create an aesthetic improvement to the property and will not affect the light, air or open space of adjoining properties. The second floor addition will not exceed the 32' foot permitted height.
9. The building coverage including the swimming pool will not exceed 42%; applicant will submit revised plans reflecting this coverage; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has

determined that the relief requested by the applicants Allan Magaziner and Suzanne Magaziner to permit the construction of additions and renovations to the existing two story single family home at property located at 20 Robert Drive, Lot 1.10 Block 16 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 condition of the property are preexisting; the building coverage will be reduced; the modifications to the setbacks are minimal and will not have any impact upon adjoining properties; the second floor addition will conform to the Borough height requirements; and the development will create an aesthetic improvement to the site. The use is permitted; applicant has demonstrated the criteria for a Hardship Variance pursuant NJSA 40:55D-70 (c) 2.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of applicants Allan Magaziner and Suzanne Magaziner to permit the construction of additions and renovations to the existing two story single family home at property located at 20 Robert Drive, Lot 1.10 Block 16 in the Borough of Ship Bottom, County of Ocean and State of New Jersey, propose to reconfigure, replace and add decking to the property and construct a second story addition to the rear corner of the house; in conjunction with the installation of a swimming pool and paver surround and fencing; in accordance with the plans entered into evidence as Exhibits A-3 and A-4, 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 January 14, 2016, as entered into evidence as Exhibit B-1.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicants submitting revised plans confirming that the building coverage inclusive of the swimming pool will not exceed 42%.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining all requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development. Variance relief is granted for existing conditions, and to permit Building coverage, exclusive of the swimming pool, not to exceed 36.2%; and for a side yard setback to 3.1' feet to the deck; and for a rear yard setback to the second floor addition of 17.1' feet.

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

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's payment of all taxes and all other applicable assessments, and Applicant

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicants replacing curbing below current design standards or in disrepair, 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 applicants and their witnesses and as placed on the record at the public hearing conducted on January 20, 2016 when this matter was considered.

BE IT FURTHER RESOLEVED that construction conform to the plans entered into evidence as Exhibits A-2 and A-3.

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 March 1, 2017, 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.

Adopted: February 17, 2016
Moved By: Mr. Hay
Seconded By: Mr. Dixon
Roll Call Vote: Dixon, Hay, Schmidt, Tallon and Butkus all aye.

**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. 2016:02V**

WHEREAS, William F. Mehl, III and Joshua R. Fuss have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the them to convert the existing ground floor apartment into garage and storage space; and to construct a new apartment unit above the existing second floor apartment at their property, a lot with dimensions of 50' x 60' feet, containing 3,000 square feet, improved with a nonconforming two story two (2) family duplex dwelling, in the R-1 Single Family Residential Zone located at 701 Barnegat Avenue, Lot 3 Block 110 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 January 20, 2016. The applicants were represented by Richard P. Visotcky. The application dated December 29, 2015 was entered into evidence as Exhibit A-1; the Variance Map prepared by Horn, Tyson & Yoder, Inc. titled "Variance Map Lot 3 Block 110 Tax Map Sheet #20 Borough of Ship Bottom, Ocean County, New Jersey" dated August 13, 2015 with a final revision date of December 28, 2015 under signatures and seals of James D. Brzozowski, PE, PP and Robert G. de Blois, PLS was entered into evidence as Exhibit A-2; architectural plans prepared by Studio Tagland Designs, LLC, dated December 23, 2015, titled "Proposed Additions/Alteration to an Existing Duplex- Lot 3 Blk. 110 – Borough of Ship Bottom, Ocean County, New Jersey Applicant: William Mehl" consisting of Drawing Number A-1 Proposed Floor Plans, Drawing Number A-2 Plans and Elevations, under signature of David A. Gaffin, Architect was entered into evidence as Exhibit A-3; two (2) photographs of the existing building, one taken from the corner of Barnegat Avenue and 7th Street and one taken from Barnegat Avenue were entered into evidence as Exhibit A-4; and two (2) photographs of the existing building taken from 7th Street were entered into evidence as Exhibit A-5. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated January 14, 2016 was entered into evidence as Exhibit B-1. Testimony was offered by James D. Brzozowski, PE, PP, applicants engineer and professional planner; David Gaffin, applicants architect; and by one of the applicants, William Mehl, III. There was not any public comment offered; and

WHEREAS, the Land Use Review Board after considering the Application, documentation entered into evidence and testimony of the witness 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 at the southwest corner of 7th Street and Barnegat Avenue, in the R-1 Single Family Residential Zone. The property consists of a lot with dimensions of 60' x 50' feet improved with a two story two (2) family home.

3. The two (2) family duplex is not a permitted use in the R-1 Residential Zone.
4. The property maintains a nonconforming two (2) family use. The lot area of 3,000 square feet is nonconforming, 6,000 square feet is required; the lot frontage of 50.00' feet is nonconforming, a minimum lot frontage of 60.00' feet is required; the lot depth of 60.00' feet is nonconforming, the a minimum lot depth of 100.00' feet is required. The 2.1' foot front yard setback to Barnegat Avenue is nonconforming, a minimum front yard setback of 15' feet is required. The 5.8' foot front yard setback to the shower from 7th Street; the 6.8' front yard setback from the steps to 7th Street; and the 10' foot front yard setback to the building from 7th Street are nonconforming; a minimum front yard setback of 15' feet is required. The existing 5.7' foot side yard setback to the air conditioning unit; and 7.9' foot side yard setback to the building are nonconforming, a minimum side yard setback of 10' feet is required.
5. The existing 15.7' foot rear yard setback to the steps, and 19.1' foot rear yard setback to the building are nonconforming, a minimum 20' foot rear yard setback is required. The ground coverage is nonconforming at 76.1% where 75% ground coverage is permitted.
6. The building currently maintains an apartment at grade, with a second story apartment there over. The hot tub previously was located upon a deck and was relocated as a result of Storm Sandy, when the first floor apartment was also damaged. The existing first floor elevation to the grade apartment is 4.1' feet.
7. Applicants propose to eliminate the living area from the first floor; the kitchen and bathroom will be removed; the enclosed grade area will be converted to a garage, three storage facilities and an interior foyer and entranceway; as set forth on the architectural plans entered into evidence as Exhibit A-3. A second story apartment will be constructed above the existing apartment; as depicted in the architectural plans; the living area of the new apartment will be reduced in size from the existing apartment at grade, to accommodate a deck and landing, and a spiral staircase to the proposed roof deck.
8. In conjunction with the development, the air conditioning platform with maintains a 5.7' foot side yard setback will be removed and relocated within the footprint of the building.
9. The design of the second story apartment provides for two (2) window seats, bump outs of 2' x 8' feet each, the building coverage is proposed at 46.8%.
10. Applicants will amend their plans to limit the bump outs to 8' x 20" inches. Applicants will also limit any overhangs to 24" inches. Plans will also include the outside shower, and dimensions of stairs at 3.3' feet wide.
11. The finished building height will conform to the maximum 32' feet permitted by ordinance. An additional onsite parking space will be provided at the property, by the construction of the garage.
12. The living areas and mechanical systems will all be FEMA compliant.
13. Notwithstanding the nonconforming front yard setbacks; there is a setback of ten (10) feet from the property line to the curb at 7th Street; and a setback of 19' feet from the property line to the curb on Barnegat Avenue.

14. The Board adopts the contents of the letter of Frank J. Little, PE, dated January 14, 2016 entered into evidence as Exhibit B-1, as if set forth herein at length.
15. In conjunction with the project applicants will replace all damaged or deteriorated curbs in accordance with Borough Ordinances and as directed by the Borough Engineer.
16. Applicants are requesting variances for the preexisting conditions; a waiver from the parking requirements; and a waiver from providing the site triangle, as a result of existing conditions; and to increase the nonconforming building coverage from 45.9% to 46.8%. A waiver is granted from the parking requirements of four (4) onsite parking spaces; one exists, and an additional parking space is being provided in the new garage; for a total of two (2).

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicants William F. Mehl, III and Joshua R. Fuss have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the them to convert the existing ground floor apartment into garage and storage space; and to construct a new apartment unit above the existing second floor apartment at their property, a lot with dimensions of 50' x 60' feet, containing 3,000 square feet, improved with a nonconforming two story two (2) family duplex dwelling, in the R-1 Single Family Residential Zone located at 701 Barnegat Avenue, Lot 3 Block 110 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 use is existing, the setbacks are existing; the increase in building coverage is generated by two (2) bump outs at the new second floor apartment; which is being reduced in size from the existing grade level apartment; the density and living space at the site is not being increased; the flood elevation for the living area is being brought into FEMA conformity; and the proposed work will be aesthetically pleasing.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Ship Bottom that the application of William F. Mehl, III and Joshua R. Fuss have made application to the Land Use Review Board of the Borough of Ship Bottom for variances to permit the them to convert the existing ground floor apartment into garage and storage space; and to construct a new apartment unit above the existing second floor apartment at their property, a lot with dimensions of 50' x 60' feet, containing 3,000 square feet, improved with a nonconforming two story two (2) family duplex dwelling, in the R-1 Single Family Residential Zone located at 701 Barnegat Avenue, Lot 3 Block 110 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 January 14, 2016 and 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 submitting revised plans setting forth the width of the exterior stairs not to exceed 3.3' feet; the roof overhangs not exceeding 24" inches; the air-condition system being incorporated into the footprint of the building, eliminating the nonconforming setback that currently exists; the bump outs at the new story apartment not to exceed 20" inches.

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 fronts of the property; and applicant installing or replacing damaged curbs 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 applicants and their witnesses and as placed on the record at the public hearing conducted on January 20, 2014 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 variance approval is granted to permit the continuation of the two family use at the site, all preexisting nonconformities may exist, the building coverage may be increased, as a result of the two (2) bump outs at the new apartment; however said coverage shall not exceed 46.8%; a waiver is granted from the parking requirements and from providing a site triangle, as the site is currently developed at grade.

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 March 1, 2017, 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.

Adopted: February 17, 2016
Moved By: Mr. Hay
Seconded By: Ms. Schmidt
Roll Call Vote: Dixon, Hay, Schmidt, Tallon and Butkus all aye.

BUSINESS OF THE BOARD:

Mr. Snyder gives a brief status on the litigation with the property on Central Ave., they had the trial on February 2nd, 2016 and Judge Ford indicated we would get the decision in a couple of days, but we have not received anything yet. Brief discussion on this matter ensued.

ADJOURNMENT:

On a motion by Mr. Hay seconded by Ms. Schmidt and an all aye vote, the meeting was adjourned.

Respectfully submitted,

**DANIELLE MEZZINA, SECRETARY
 LAND USE REVIEW BOARD**