

**BRANT BEACH, NEW JERSEY  
JANUARY 14, 2015**

A Regular Public Meeting of the Land Use Board of the Township of Long Beach was held in the Multi-Purpose Room in the Administration Building, 6805 Long Beach Boulevard, Brant Beach, New Jersey on the above date.

The meeting was called to order at 7:00 P.M.

**Mrs. C. K. Sicheri, Board Attorney**, made the following announcement: "This is a regular meeting of the Long Beach Township Land Use Board, notice of which was posted on the Bulletin Board in the Municipal Clerk's office and advertised in the Beach Haven Times and Asbury Park Press and filed with the Municipal Clerk on or before January 1, 2015 as required by the Open Public Meeting Act."

Members of the Board present: **Commissioner R.H. Bayard, J. C. Konnor, D.S. Southwick, R.S. VanBuren, and Mrs. L. J. Schnell** presiding.

Members of the Board absent: **Mrs. V.E. Applegate, J. A. Leonetti, Mayor J. H. Mancini, R. R. Monaco as Mayor's Designee and R. Pingaro.**

Alternate members of the Board present: **P.M. Moran, R. L. Jones and E. J. Hummel.**

Alternate member of the Board absent: **R. Andreotta.**

Also present were the following: **Mrs. C. K. Sicheri, Esq., Board Attorney, Mr. K.S. Quinlan, Esq., Mr. Frank J. Little, Jr, P.E., P.P., Board Engineer, Mrs. L. C. Krueger, Secretary for the Board/Commission and Mrs. S. L. Bongiovani, Clerk.**

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**(Tape #583 - Side 1)**

Mrs. Schnell announced that the reorganization of the Board would take place and noted that four members of the Board, Commissioner Bayard, Mr. Leonetti, Mr. VanBuren and Mr. Jones had been sworn in.

Mrs. Sicheri asked for a nomination for **Chairman. Moran moved, seconded by Jones to nominate Lynne J. Schnell.** The following roll call vote was recorded: Bayard, Konnor, Southwick, VanBuren, Moran, Jones and Hummel all voted **YES**. Schnell abstained.

Chairman Schnell asked for a motion for **Vice Chairman. Southwick moved, seconded by Hummel to nominate Jeffrey C. Konnor.** The following roll call vote was recorded: Bayard, Konnor, Schnell, Southwick, VanBuren, Moran, Jones and Hummel all voted **YES**. Konnor abstained.

Chairman Schnell asked for a motion for **Secretary. Jones moved, seconded by Southwick to nominate Ronald Pingaro.** The following roll call vote was recorded: Bayard, Konnor, Schnell, Southwick, VanBuren, Moran, Jones and Hummel all voted **YES.**

Chairman Schnell asked for a motion for **Board Attorney. Moran moved, seconded by Jones to retain Carol Sicheri, Esquire with the firm, Sicheri and Sicheri, P.C..** The following roll call vote was recorded: Bayard, Konnor, Schnell, Southwick, VanBuren, Moran, Jones and Hummel all voted **YES.**

Chairman Schnell asked for a motion for **Board Engineer. Konnor moved, seconded by Southwick to retain Frank J. Little, Jr., P.E. with the firm of Owen, Little and Associates Inc..** The following roll call vote was recorded: Bayard, Konnor, Schnell, Southwick, VanBuren, Moran, Jones and Hummel all voted **YES.**

Chairman Schnell asked for a motion for **official newspapers. Moran moved, seconded by Jones to retain the Beach Haven Times and Asbury Park Press as the official newspapers.** The following roll call vote was recorded: Bayard, Konnor, Schnell, Southwick, VanBuren, Moran, Jones and Hummel all voted **YES.**

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Mrs. Sicheri gave a brief overview of the applications to be considered. She noted that she had a conflict with the Davies application (LUB-4-15-P) and that Mr. Kevin Quinlan, Esq. would step in to cover that application.

**1. #LUB-1-15: DKR HOLDINGS, LLC (Block 15.01, Lot 17) 1 West Harrington Avenue, Brant Beach:** Mrs. Sicheri stated that applicant proposed to demolish the existing single family home and to construct a new single family home in substantially the same footprint which required bulk variances for front and side yard setbacks. Mrs. Sicheri noted that the Board received a letter sent from Daniel Krupinski of the Long Beach Island Health Department, stating that if the application was approved, the structure should be demolished within ninety days.

**2. #LUB-2-15: KOEBEL (Block 12.18, Lot 11) 112 East Sand Dune Lane, Peahala Park:** Mrs. Sicheri stated that applicant proposed to enlarge the front deck and to construct a two story addition in the rear of the building. Mrs. Sicheri noted that a special reasons variance for expanding the existing nonconforming use and bulk variances for front yard setback, distance between structures and lot coverage were required.

**3. #LUB-3-15: SCHUSTER (Block 15.01, Lot 5) 25 West Harrington Avenue, Brant Beach:** Mrs. Schnell stated that this application was being held over due to improper notice.

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Mrs. Schnell listed the following **Resolutions of Memorialization:**

**1. #LUB-45-14: ZIMAN – Resolution of Denial moved by Jones, seconded by Konnor.** The following roll call vote was recorded: **Konnor, Schnell, Jones and Hummel** all voted **YES.**

2. **#LUB-46-14: NOLAN** – Resolution of Approval moved by **Moran**, seconded by **Hummel**. The following roll call vote was recorded: **Konnor, Schnell, Moran, Jones and Hummel** all voted **YES**.
3. **#LUB-47-14: GOZDIESKI** – Resolution of Approval moved by **Moran**, seconded by **Hummel**. The following roll call vote was recorded: **Konnor, Schnell, Moran and Hummel** all voted **YES**.
4. **#LUB-48-14: O’MEARA** – Resolution of Approval moved by **Hummel**, seconded by **Moran**. The following roll call vote was recorded: **Konnor, Schnell, Moran, Jones and Hummel** all voted **YES**.
5. **#LUB-49-14: DILLON** – Resolution of Approval moved by **Moran**, seconded by **Hummel**. The following roll call vote was recorded: **Konnor, Schnell, Moran, Jones and Hummel** all voted **YES**.

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**Mrs. Schnell noted that there were three applications to be considered, as follows:**

**Commissioner Bayard stepped down from the following application:**

(1) **#LUB-2-15** PEAHALA PARK

**TERESA KOEBEL**  
Owner and Applicant  
Block 12.18, Lot 11

**Ms. Teresa Koebel, represented herself, was sworn and evidence was marked as follows:** Application and Attachments, **#A-1**, Variance Map prepared by Nelke/Tyszka Land Surveyors, LLC dated January 21, 2014 with the latest revision date November 17, 2014, **#A-2**, Three page Architectural Map prepared by Arthur Demarest, RA Architects, LLC dated July 25, 2014, **#A-3**, Five pages of photographs of surrounding properties, **#A-4**, Eight photographs of subject property and surrounding properties, **#A-5**, Variance Map prepared by Nelke/Tyszka Land Surveyors, LLC dated January 21, 2014 with the latest revision date of December 9, 2014, **#A-6**, Memo from Joanne Tallon, Zoning Officer, Re: Base Flood Elevation of property dated December 9, 2014, **#B-1**.

**Mr. Leonetti joined the Board.**

**Mr. Leon Tyszka, Land Surveyor** was sworn. Ms. Koebel stated that she proposed to expand the first and second floor to add an additional bedroom to the first floor apartment. She noted that the house was outdated and small and that she wanted to become competitive in the rental market. Ms. Koebel stated that many homes in the area had been upgraded. Mr. Tyszka described the setbacks that were requested. Mr. Tyszka stated that the proposed lot coverage was calculated with the removal of the existing sheds. Ms. Koebel stated that the proposed third floor addition was for her apartment on the second floor and that would have a total of four bedrooms.

Mr. Tyszka stated that the existing home was above the base flood elevation. Mrs. Sicheri noted that a special reasons variance was required as the home was a duplex structure. The Board noted that with the proposed lot coverage and third floor addition that the proposal was a large structure for the small lot.

Ms. Koebel stated that the proposed front yard setback was conforming due to averaging and that the proposed rear yard setback exceeded what was required by ordinance. Mr. Tyszka stated that existing deck in the rear could be removed.

**The Public Session was closed.**

Mr. Tyszka suggested that Ms. Koebel request a hold over to submit an alternate plan.

The Board was polled and decided that the application should go to a vote this evening.

The Board discussed the application and felt that the proposed lot coverage was excessive and were not in favor of the expansion of the nonconforming use.

**Hummel moved, seconded by Konnor to deny the application as submitted.** The following roll call vote was recorded: **Konnor, Schnell, Southwick, VanBuren, Moran, Jones and Hummel** all voted **YES**.

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**Commissioner Bayard rejoined the Board.**

**Mrs. Sicheri and Mr. Konnor stepped down from the Board and Mr. Kevin S. Quinlan, Esq. joined the Board for the following application:**

**(Tape #583 - Side 2)**

**(2) #LUB-4-15-P HOLGATE**

**MARK DAVIES**

Applicant

**DAVID COLLINS, ESTHER TESSEL COLLINS, KIM LAMBERT**

**and MICHELLE FORTE**

Owners

Block 1.64, Lot 1

Block 1.66, Lot 1

Block 1.68, Lot 1

**Mr. Quinlan announced that the Board had jurisdiction to hear the major subdivision and interpretation application.**

**Mr. Stuart Snyder, Esquire, represented the applicants and evidence was marked as follows:** Application and Attachments, **#A-1**, Preliminary Plat - Major Subdivision Map for Lot 1, Block 1.64, Lot 1, Block 1.66, Lot 1, Block 1.68, Lot 1 prepared by Horn, Tyson & Yoder, Inc.

dated September 24, 2013 with the latest revision date September 9, 2014, #A-2, and, review letter to the Board from Frank J. Little, Jr., P.E. dated January 7, 2015, #B-1. Mr. Snyder stated that the application was for a preliminary major subdivision and an interpretation as to whether side yard setback variances were required for three of the lots due to the wetlands area. He noted that all of the limitation of the ordinances are based on upland area. He noted that all of the proposed lots met or exceeded the 6,000 square foot area requirement for newly created lots. Mr. Snyder stated that they were prepared to request the variances if the Board found that they were required or submit a configuration of lots that would not require variances.

**Mr. Mark Davies, contract purchaser of the property** was sworn and testified that since the lot area included the wetlands area it impacted the calculation of the side and the combined side yard setbacks required by ordinance, on some of the proposed lots. Mr. Hummel asked how the Board could make a decision if a determination of the wetland boundaries was pending. Mr. Quinlan stated that any decision that the Board would make would be predicated upon the exhibits that were before the Board and conditioned upon that. He noted that if the ultimate decision of the DEP varied from what was submitted then the applicant would have to come back before the Board. Mr. Quinlan stated that the approval was subject to any outside agency approval.

Mr. Little reviewed the interpretation of the ordinance regarding wetlands. He stated that he would tend to agree that the area of the wetlands should not be used in the calculation of lot frontage but regardless there were still variances that would be required.

**Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson & Yoder, Inc.** was sworn. Mr. Snyder stated that the applicant was seeking preliminary subdivision approval and noted that the applicant had submitted an application to the NJDEP for a wetlands determination and rule change adopting the new wetlands line. Mr. Snyder stated that they would not have come before the Board if the State of New Jersey had not accepted the applicant's petition to eliminate certain areas from the New Jersey wetlands. Mr. Snyder stated that Mr. Davies was under contract with the Trust for Public Lands to acquire the property for preservation purposes and that they would not acquire the property if it was not developable. Mr. Snyder stated that at this point they were asking the Board to approve the lot layout as proposed.

Mr. Quinlan stated that in deciding on the application, the matter of the Trust and possible sale of the property was not for consideration. He noted that if preliminary approval were granted it would be granted for the development of the property as there were no guarantees that the property would go to the Trust.

Mr. Brzozowski described the existing property and the proposed plans for the property.

**(Tape #584 - Side 3)**

Mr. Brzozowski submitted a Preliminary Plat for a Major Subdivision for the subject property with the same number of building lots that would eliminate the need for variances, marked #A-3. He noted that the plan would also create three additional lots that were undevelopable. Mr. Snyder noted that the three lots could be deed restricted as open and preserved lots. He stated that there would also be one lot reserved for non-CAFRA use. Mr. Davies stated that the development was designed so as not to require CAFRA approval. Mr. Little stated that a letter of no interest from CAFRA would be required as a condition of approval.

Mr. Quinlan stated that it should be decided whether the Board was hearing the application with or without variances. The Board was polled and the majority of the Board preferred to proceed with the plan that created lots that did not require variances. Mr. Snyder amended the application to submit revised plans and to move forward with the subdivision as depicted in #A-3 which did not require variances. Mr. Snyder stated that a waiver from the requirement for architectural plans would no longer be required. Mr. Brzowski addressed Mr. Little's review letter and the layout of the proposed subdivision. Mr. Brzowski stated that the proposed use was a permitted use in the zone and that the lots conformed to the zoning ordinance. Mr. Quinlan read a letter from the State of New Jersey addressed to Kevin J. Coakley, Esq. re: Petition for Rulemaking, and the attached notice of action, marked, #A-4.

**The Board took a five-minute recess.**

**(Tape #584 – Side 4)**

**Mr. Kyle Gronostajski, Executive Director of Alliance for Living Ocean** was sworn and read a statement of the concerns of the Alliance for Living Ocean with the application and stated that they could not support the application.

**Mr. Douglas Shearer of 10 West Rosemma Avenue, Holgate** was sworn and testified that he was not in favor of the application.

**Ms. Donna Husted Levy of 30 Jacqueline Avenue, Holgate** was sworn and discussed the Trust for Public Land and Mr. Quinlan stated that that was not an issue before the Board.

**Mr. Tom Beaty of 5103 West Avenue, Holgate** was sworn and stated his concerns with the preservation of the land. He noted that the land was still considered wetlands. Mr. Quinlan reiterated that the application before the Board was for development and that the Board could not consider that the property could potentially go the Trust.

**Mr. Dean Lundahl of 3605 South Long Beach Boulevard, Holgate** was sworn and noted that the unique property was a very sensitive piece of property.

**Mr. James Dougherty of Centennial Avenue, Holgate** was sworn and testified that he felt that the application was premature as the public had not had a chance to weigh in on the rule change proposed by the NJDEP. Mrs. Schnell noted that the application before the Board was for preliminary subdivision only and that the applicant would have to get the proper approval from the NJDEP. Mrs. Schnell noted that environmental concerns should be addressed to the NJDEP. Mr. Dougherty stated that the proposed application would increase congestion in the area.

**Mr. Thomas Potash of 16 Beck Avenue** was sworn and asked if the Board had the authority to vacate streets and Mr. Quinlan stated that would be up to the Governing Body. Mr. Quinlan noted that any development on proposed lot 3 reserved for non-CAFRA use would require further action by the Board as there was currently no proposal for lot 3.

(Tape #585 - Side 5)

**Mr. Jim Healey of 15 Beck Avenue, Holgate** was sworn and stated that the amended plan had not been available to the public. Mr. Quinlan stated that the applicant had over noticed as the new plan did not require variances and that the applicant had the right to amend the application.

**Ms. Carol Jelich of 13 W. Julia Avenue, Holgate** was sworn and discussed her concerns with storm water management.

**Mr. Randall Pearsall of 3001 Bay Avenue, Holgate** was sworn and asked about the sewer system and Mr. Little replied that calculations had been done to determine capacity which was sufficient. Mr. Pearsall reviewed what the process will be, going forward with the application.

**Mr. Shearer** spoke again regarding the vacating of the paper streets.

**Mr. Beaty** addressed the Board again.

**Mr. Potash** addressed the Board regarding cul-de-sacs at the street ends.

**Mr. Timothy Feeny was sworn** and asked who should be addressed at the DEP regarding environmental issues.

**The Public Session was closed.**

Mr. Snyder requested that the application be approved as the proposed subdivision was conforming and the variance request had been eliminated. Mr. Snyder stated that the subdivision would be subject to the rule change but noted that the DEP had already recommended the rule change. Mr. Snyder stated that the non-CAFRA lot would be subject to Board approval for any future development.

The Board discussed the application. Mr. Hummel felt that the application was brought to the Board prematurely as the property was currently wetlands and it was not know exactly when or how the DEP would rule. Mr. Quinlan stated that any approval would be subject to outside agency approvals and issues could be raised at the final subdivision hearing if there were any changes. The Board noted that the applicant could not do anything with the property until the DEP had made their determination and had final approval from the Board. The majority of the Board felt that the application was complete and noted that variances were not required. The waivers requested would pertain only to the preliminary approval.

**Moran moved, seconded by Jones to approve the application as amended by the submittal of the Preliminary Plat for Major Subdivision, marked #A-3 with the following conditions: 1. That lot 3 be reserved for a non-CAFRA use, 2. That new lots 14, 15 and 16 be Deed Restricted so that future development is prohibited, and, 3. The granting of waivers for sidewalks and curbs along Long Beach Boulevard and sidewalks along Colmer Drive. The following roll call vote was recorded: Bayard, Leonetti, Schnell, Southwick, VanBuren, Moran and Jones all voted YES. Hummel voted NO. The motion carried.**

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**The Board took a five-minute recess.**

**Mr. Konnor rejoined the Board.**

**Mrs. Sichei, Esq. rejoined the Board and Mr. Quinlan stepped down for the remainder of the meeting.**

**(3) #LUB-1-15 BRANT BEACH**

**DKR HOLDINGS, LLC**

Owner and Applicant

Block 15.01, Lot 17

**Mr. Arnold C. Lakind, Esquire, with the firm of Szaferman, Lakind, Blumstein & Blader P.C., Attorneys at Law, represented the applicants and evidence was marked as follows:** Application and Attachments including permit denial from Joanne Tallon, Zoning Officer dated August 8, 2014, **#A-1**, Variance Map prepared by Horn, Tyson & Yoder Inc. dated September 30, 2014, **#A-2**, Ten page architectural drawings prepared by George A. Fett, AIA dated August 30, 2012 with the latest revision date April 22, 2014, **#A-3**, Letter from Daniel Krupinski, Assistant Health Officer addressed to the Board dated December 26, 2014 regarding DKR Holdings, LLC (LUB-1-15), **#B-1**, Letter from Daniel Krupinski, Assistant Health Officer addressed to Mr. Arnold C. Lakind, Esq., dated December 26, 2014 regarding DKR Holdings, LLC (LUB-1-15), **B-2**. Mr. Lakind stated that the existing structure had been damaged by Super Storm Sandy.

**(Tape #585 – Side 6)**

Mr. Lakind stated that variances were requested for the footprint of the existing structure and that proposed expansion of the footprint would not exacerbate any of the existing variance conditions or introduce new variances. Mr. Lakind stated that he had requested an appeal of the decision of the zoning officer and in the alternative the bulk variances. Mrs. Sichei noted that the State statute Mr. Lakind cited as the basis for his appeal did not apply to this situation as the footprint would be expanded. Mr. Lakind stated that he did not want to waive the interpretation argument in case the variances were not granted. Mrs. Sichei stated that Mr. Lakind's right was preserved.

**Mr. James Brzowski, P.E., P.P. with the firm of Horn, Tyson & Yoder, Inc.** was sworn and described the property to the Board. Mr. Brzowski stated that the existing nonconformities were front and side yard setbacks and combined side yard setbacks. Mr. Brzowski stated that the applicant proposed to demolish the existing structure and rebuild in the same footprint with an addition on the south side of the structure. He stated that the existing nonconformities would become variances that the applicant was seeking. He noted that a lot coverage variance was not requested and that the parking requirements had been met. Mr. Lakind stated that the existing home could be removed within ninety days of the approval.

**Christine Nazzaro Cafone, Planner** was sworn and qualified. Ms. Cafone stated that existing structure was in a state of disrepair and lacked curb appeal. She noted that the properties on all sides were developed and that there was not additional land available to be acquired. Ms. Cafone stated that retaining the existing footprint rather than constructing a long, narrow house that would not require variances was a better plan as it preserved the rear yard setback preserving more light, air and open space.

**Ms. Marilyn Ciccolina of 12 West Harrington Avenue** was sworn and stated her concerns with the impact on the street parking. It was noted that the onsite parking criteria had been met.

**Mr. Christopher Jennings of 13 West Harrington Avenue** was sworn and discussed his concerns with the layout of the home and the proposed parking.

**The Public Session was closed.**

Mr. Lakind stated that the proposed design would allow for more parking

The Board noted that the existing home was in disrepair and that the design allowed for parking in the rear. It was also noted that a lot coverage variance was not required and that the distance between structures had been met.

**Southwick moved, seconded by Moran to approve the application as submitted with the condition that the structure be removed no later than April 11, 2015.** The following roll call vote was recorded: **Bayard, Konnor, Leonetti, Schnell, Southwick, VanBuren, Moran, Jones and Hummel** all voted **YES**.

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Under **New Business**, the Board discussed proposed Ordinance **#15-01C**. The Board was in support of the Ordinance as written and approved same, by voice vote.

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The Board approved the payment of the Board Attorney's bill and Board Engineer's bill.

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The meeting was adjourned at 10:55 P.M.

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**LYNNE J. SCHNELL**  
**CHAIRMAN**

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**JEFFREY C. KONNOR**  
**VICE CHAIRMAN**