

**BRANT BEACH, NEW JERSEY  
MAY 9, 2012**

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.

**Mr. A.P. 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, 2012 as required by the Open Public Meeting Act."

Members of the Board present: **Mrs. V. E. Applegate, J. C. Konnor, J. A. Leonetti, R. Pingaro, D. A. Southwick, R. S. VanBuren and Mrs. L. J. Schnell presiding.**

Members of the Board absent: **Commissioner R. H. Bayard, Mayor J. H. Mancini and R. R. Monaco as Mayor's Designee.**

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

Alternate member of the Board absent: **J. J. TERNYLA.**

Also present were the following: **Mr. A.P. Sicheri, Esq., Board Attorney, Mr. F. J. Little, Jr., P.E., P.P., Board Engineer, Mrs. L. C. Krueger, Secretary for the Board/Commission and Mrs. M. P. Cleary, Senior Clerk.**

**(Tape #513 - Side 1)**

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Mr. Sicheri gave a brief overview of the applications to be considered:

**(1) #LUB-9-12: FLOOD (Block 8.08, Lot 18) 112 East Marine Lane, Dunes:** Mr. Sicheri stated that the application would be carried to the June 13, 2012 meeting and that Mr. Raban would renote the application.

**(2) #LUB-10-12: DUNNOTTAR PROPERTIES, L.L.C. (Block 15.121, Lot 1) 3911 Ocean Boulevard, Brant Beach:** Mr. Sicheri stated that the applicant proposed to construct a deck and elevator tower addition to the existing single family home. He noted that a bulk

variance was required for the elevator tower as it was proposed to be within ten feet from the exterior wall as well as a bulk variance for setback from the street.

**(3) #LUB-11-12-PF: ACME MARKETS, INC. (Block 11.35, Lot 28) 9600 Long Beach Boulevard, Beach Haven Park:** Mr. Sichei noted that it was unclear from the application whether ACME Markets was the contract purchaser or applying as the tenant of the property. Mr. Sichei stated that the applicant was seeking preliminary and final subdivision approval to create one commercial and six residential lots. The proposal for the commercial lot included a new ACME supermarket replacing the existing supermarket and a commercial pad where the movie theatre currently exists. Mr. Sichei stated that since the property was located in a commercial district, a special reasons variance was also required for the proposed residential lots.

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Minutes of the meeting held April 11, 2012 were presented for approval. **Southwick** moved, seconded by **Konnor** for adoption. The following roll call vote was recorded: **Konnor, Leonetti, Schnell, Southwick and VanBuren all voted YES.**

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

**1. #LUB-5-12: RYAN** – Resolution of Approval moved by **VanBuren**, seconded by **Southwick**. The following roll call vote was recorded: **Konnor, Leonetti, Schnell, Southwick and VanBuren all voted YES.**

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

**(1) #LUB-10-12 BRANT BEACH**

**DUNNOTTAR PROPERTIES, L.L.C.**

Owner & Applicant  
Block 15.121, Lot 1

**Mr. Reginald J. Raban, Esquire represented the applicant and evidence was marked as follows:** Application and Attachments, **#A-1**, Variance Map prepared by Horn, Tyson and Yoder, Inc., dated December 28, 2000 and bearing the latest revision date of April 11, 2012, **#A-2**, and, three page architectural drawing prepared by Michael Strunk, Architect, L.L.C. dated April 11, 2012, **#A-3**. Mr. Raban stated that the application required a variance because the proposed elevator shaft was located 3.6 feet from the exterior walls on the northerly and westerly side of the structure. Mr. Raban noted that the deck was proposed to

be ten feet from the paper street.

**Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson and Yoder, Inc.,** was sworn and described the oceanfront property. He noted that the property was currently being renovated and that the proposed elevator would provide access to the rooftop deck. He stated that a new ordinance required that the elevator tower be located ten feet from the sides and rear of the structure and fifteen feet from the front face of the building. Mr. Brzozowski stated that the setback of the deck from 40<sup>th</sup> Street was proposed as ten feet.

**Mr. Michael Strunk, registered Architect and licensed in the State of New Jersey, located in Brant Beach, New Jersey** was sworn and stated that the elevator shaft was located to the side to give the occupants of 40<sup>th</sup> Street the maximum view. He noted that a wrap around stair was located around the elevator shaft. Mr. Strunk stated that the deck was approved to be ten feet from 40<sup>th</sup> Street and that the new staircase was proposed to be seven and a half feet from 40<sup>th</sup> Street. A copy of the zoning permit which approved the setback for the deck at ten feet was circulated.

Mr. Strunk discussed the elevator location and the progression of the building plans with the Board.

**Mr. Benjamin Bennattar, one of the owners of the property** was sworn and testified that they had planned on an elevator to accommodate elderly family members. It was noted that the elevator would access the other floors of the home as well as the roof top deck.

**(Tape #513- Side 2)**

**Mr. Hank Dipasquale of 7 East 40 Street, Brant Beach** was sworn and testified that he objected to the added height of the structure.

**Mr. Greg Kopenhaver of 3808 Ocean Boulevard, Brant Beach** was sworn and testified that he felt that the proposed elevator tower would be unsightly.

**Ms. Suzanne Barnum of 28 East 40<sup>th</sup> Street, Brant Beach** was sworn and testified that the integrity of the code and the community should be respected. She stated that the proposed deck was close to the beach access and was not in favor of the application.

**The Public Session was closed.**

Mr. Raban stated that constraints on the footprint of the property created a hardship. He noted that locating the elevator in the center of the structure would not be appropriate and that the proposed location would not have a negative impact. Mr. Raban stated that the deck was at the ten feet permitted on the side street and that the proposed encroachment of two and half feet in the center of the deck towards the paper street would not have any impact. He requested that the application be approved as submitted.

The Board felt that the elevator tower should be located in the middle of the house so it would not look so obtrusive. They noted that the home could have been designed to be more in compliance and avoid variances. It was noted that the need for the variances for the

elevator tower and the deck extension was not demonstrated.

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

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

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(2) **#LUB-11-12-PF** **BEACH HAVEN PARK**

**ACME MARKETS, INC.**  
Applicant  
**MOELLER ENTERPRISES, L.L.C.**  
Owner  
Block 11.35, Lot 28

**Mr. Nicholas F. Talvacchia, Esquire, of Cooper Levenson, Attorneys at Law, represented the applicant and evidence was marked as follows:** Application and Attachments, **#A-1**, twelve page preliminary and final subdivision and site plan drawing prepared by SR3 Engineering, Inc., dated April 18, 2012, **#A-2**, two page architectural drawing prepared by Yarosh Associates, Inc., dated April 19, 2012, **#A-3**, three page revised architectural plan prepared by Timothy M. O'Neill, R.A., "Proposed Shopping Center" dated February 12, 2012, together with letter from Samuel Renauro, P.E. of SR3 Engineers, **#A-4**, Trip Generation Comparative Analysis prepared by Traffic Planning and Design, Inc., dated April 20, 2012, **#A-5**, Drainage Report for Acme Markets prepared by Samuel Renauro, P.E. dated April 18, 2012, **#A-6**, and, review letter to Board by Frank J. Little, Jr., P.E., dated May 1, 2012, **#B-1**. Mr. Talvacchia stated that the applicants proposed to demolish the existing ACME market and construct a new market approximately twice as large, with all of the modern amenities. He stated that a new nine thousand square foot pad housing four commercial uses as well as six residential lots were also proposed. Mr. Talvacchia noted that the ACME would be the contract purchaser of the ACME site and would not build the site unless they purchase the property. He stated that they would not own the six residential lots or the other commercial site but would impose deed restrictions on the pad site.

The Board discussed the proposed ownership of the site.

**Mr. Samuel Renauro, P.E. and Planner with SR3 Engineers, L.L.C.**, was sworn and was qualified. Mr. Renauro submitted an aerial photograph of the site, marked **#A-7** and described what currently existed on the site. Mr. Renauro submitted a colored rendering of sheet #3 of the site plan, marked **#A-8** and described what was proposed for the site. Mr. Renauro described the storm water management and landscape plans as well the improvements to the site. Mr. Renauro described the traffic, delivery truck flow and the proposed parking.

**(Tape #514 – Side 3)**

The location of the traffic signals on the site and the flow of truck traffic were discussed.

The Board stated its concerns with the traffic flow.

Mr. Renauro addressed Mr. Little's review letter. Mr. Little stated that a waiver was required for the two foot separation between the bottom of the infiltration basins and the seasonal high water table. It was noted that a use variance as well as bulk variances for impervious coverage and the loading zone were required.

Mr. Little discussed the possibility of another entrance to the ACME off of Jerome Avenue.

The Board discussed the proposed residential lots facing Jerome Avenue and noted that the lots would reduce the amount of available parking on the site.

**Mr. Matthew Juhring, Operations District Manager of Southern New Jersey for the ACME Markets**, was sworn and testified regarding deliveries to the store. He noted that it was planned to store recycling and trash inside and that the extra trailers used for storage would be eliminated. Mr. Juhring stated that they planned to open the store with zero waste and recycle everything possible. Mr. Juhring noted that there would be an increase in full time employees.

**(Tape #514 – Side 4)**

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

**Deanna Drumm, P. E., PTOE, with the firm of Traffic Planning and Design Inc.**, was sworn and qualified. The Board discussed the traffic study that Ms. Drumm had prepared. Ms. Drumm addressed the shared parking on the site between the ACME and the proposed restaurants on the pad site. The Board discussed the traffic flow on and around the site with Ms. Drumm.

Mr. Renauro addressed the variances requested and stated the reasons why they should be granted. The Board discussed their concerns with the six proposed residential lots and proposed pad site. Mr. Talvacchia stipulated that the ACME would start construction before any of the residential construction starts.

**(Tape #515 – Side 5)**

Mr. Talvacchia discussed the application with the Board. The Board asked about the elimination of the existing movie theater.

**Ms. Deborah Frank, owner of Frank Theaters**, was sworn and qualified. Ms. Frank discussed the economic feasibility of maintaining the theater next to the ACME.

**Dr. Kimberly Jones of 2 West Jerome Avenue** was sworn and testified that she was in favor of the application and viewed the proposal as progress.

**Mr. Joe McSpedon of 9315 North Susan Lane** was sworn and stated that the building was aging and was in favor of the proposed new ACME building.

**Mr. Robert Bunsu of 7 Sea Breeze Drive** was sworn and stated his concerns regarding a landscape buffer and lighting projecting on to Sea Breeze Drive.

**Mr. Hans Sammer of 9308 North Susan Lane** was sworn and stated his concerns with parking on Jerome Avenue and felt that there should be a screening of the loading zone. Mr. Sammer noted that the cart corrals were not located in convenient areas and were not practical.

**The Public Session was closed.**

Mr. Talvacchia stated that he understood that the Board had questions and he requested that if the Board wanted more information that the application not be denied.

The Board felt that they would like more information on the building that would be going on the pad site. They noted that a parking variance was required but that a subdivision for six single family homes was proposed where there could be additional parking. The Board felt that there were unanswered questions with traffic circulation and driveway problems.

**(Tape #515 – Side 6)**

The Board discussed the special commercial zone, the need for the improved ACME and the six residential lots proposed on the site.

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

Mr. Talvacchia stated that in light of the Board's comments and questions the applicant would request a continuance to the next meeting or request a Special Meeting.

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

The Board discussed holding a Special Meeting on June 6, 2012 with ACME covering the costs of the Special Meeting. It was decided, by voice vote, to carry the application to a Special Meeting. Mr. Sicheri announced the application would be carried to the June 6, 2012 date at 7:00 P.M.

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

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The Board went into closed session to discuss pending litigation.

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The meeting was adjourned at 11: 30 P.M.

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

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