

**BRANT BEACH, NEW JERSEY  
JUNE 5, 2012**

A Special 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 special 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 May 17, 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: **R. L. Jones.**

Alternate member of the Board absent: **P.M. Moran.**

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 #516 - Side 1)**

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

**(1) #LUB-11-12-PF: ACME MARKETS, INC. (Block 11.35, Lot 28) 9600 Long Beach Boulevard, Beach Haven Park:** Mr. Sicheri noted that this was a special meeting to consider revisions to the application for ACME Markets. Mr. Sicheri stated that the proposed eight lot subdivision consisted of six single family residential lots and two commercial lots, one of which would contain a new ACME supermarket. Mr. Sicheri stated that in addition to subdivision approval, site plan approval was required as well as bulk variances for impervious coverage and the loading zone. Mr. Sicheri noted that lot 8 did not have frontage on the street and that there should be testimony as to the easement access proposed which would require a design waiver.

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

**1. #LUB-10-12: DUNNOTTAR PROPERTIES, L.L.C.** – Resolution of Denial moved by **VanBuren**, seconded by **Applegate**. The following roll call vote was recorded: **Applegate, Konnor, Leonetti, Pingaro, Schnell, Southwick, VanBuren and Jones all voted YES.**

**Mr. Sicheri** read a Resolution into the record, remembering Board Member John J. TERNYLA who recently passed away.

**2. RESOLUTION FOR JOHN J. TERNYLA YEARS OF SERVICE** – Resolution of Appreciation moved by **Southwick**, seconded by **Konnor**. The following roll call vote was recorded: **Applegate, Konnor, Leonetti, Pingaro, Schnell, Southwick, VanBuren and Jones all voted YES.**

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**Mrs. Schnell noted that there was one application to be considered, as follows:**

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**(1) #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:** letter from Samuel Renauro, P.E., SR3 Engineering, L.L.C., dated May 24, 2012, **#A-9** twelve page preliminary and final subdivision and site plan drawing prepared by SR3 Engineering, L.L.C., dated April 18, 2012, and bearing the latest revision date of May 24, 2012, **#A-10**, one page architectural drawing prepared by Yarosh Associates, Inc., dated May 22, 2012, **#A-11**, Trip Generation Comparative Analysis prepared by Traffic Planning and Design, Inc., May 23 dated, 2012, **#A-12**, Drainage Report for Acme Markets prepared by Samuel Renauro, P.E. dated April 18, 2012 and revised May 24, 2012, **#A-13**, Report relating to Preliminary Storm Water Design prepared by Underwood Engineering Company dated April 18, 2012, **#A-14**, and, review letter to Board by Frank J. Little, Jr., P.E., dated May 31, 2012, **#B-2**.

**Mr. Samuel Renauro, P.E. and Planner with SR3 Engineers, L.L.C.,** was sworn and described the revisions from the prior application. Mr. Renauro submitted a colored rendering of the site plan, marked **#A-15**. Mr. Renauro stated that there were five significant differences from the prior plan. He noted that the Jerome Avenue exit was now located in the center of the property which aligned with the main drive aisle in front of the ACME and that brick paver cross walks were proposed. Mr. Renauro noted that the subdivision was now

proposed to be eight lots instead of seven, adding a second commercial lot. (Lot 8) Mr. Renauro stated that the site plan was for the ACME (Lot 7) with no proposal for lot 8 at this time. He stated that the nine thousand square foot building previously proposed was no longer part of the site plan application and that part of the area previously devoted to the proposed commercial building would now become parking for the ACME. He noted that the plan now complied with the parking requirements. Mr. Renauro submitted a drawing of the site plan showing the access easement to lot 8, marked **#A-16**. Mr. Renauro stated that an easement was proposed off of the ACME driveway so that lot 8 would not become land locked.

Mr. Renauro stated that a use variance was required for the six residential lots proposed and that the site plan required bulk variances for the loading zone and impervious coverage. He noted that the impervious coverage would be reduced.

The Board discussed the proposed landscape buffer and the site triangle. Mr. Little stated that there should be a sidewalk from Jerome Avenue along lot 4 for pedestrian access to the ACME.

**Mr. Garrett W. Roberts, of 9312 N. Susan Lane**, was sworn and asked what was proposed for lot 8. Mr. Sicheri stated that it was a commercial lot and that any application to develop that lot would have to come before the Board for site plan approval. Mr. Sicheri noted that the ACME would place restrictions on lot 8. Mr. Talvacchia stated that a deed restriction would be requested from the sellers regarding lot 8 to protect the ACME interests.

The Board discussed the future use of lot 8.

**Mr. Reginald J. Raban, representing the owner of the property, Moeller Enterprises, L.L.C.**, stated that the future use of lot 8 was not before the Board. He suggested that the Board go into executive session to discuss a settlement of litigation.

**The Board went into executive session.**

**VanBuren moved, seconded by Applegate to resume the regular meeting.** The following roll call vote was recorded: Applegate, Konnor, Leonetti, Pingaro, Schnell, Southwick, VanBuren and Jones all voted **YES**.

Mr. Sicheri stated that the Board went into executive session to discuss pending litigation regarding the Fish Outta Water property owned by Mr. Moeller and litigation regarding property owned by Mr. and Mrs. Rothenberg. He noted that discussions by the Board regarding pending litigation were confidential. Mr. Sicheri noted that neither litigation involved this specific property even though one of the parties involved was the owner of the subject property.

**Ms. Judy Senker of 9301 North Susan Lane** was sworn and stated her concerns with what would eventually be proposed for lot 8.

**The Public Session was closed.**

Mr. Talvacchia reviewed a list of businesses that would be prohibited by deed restriction on adjacent lot 8.

**(Tape #516 – Side 2)**

The Board noted that they would like a restriction added that lot 8 be graded and seeded, with the grass maintained and mowed.

Mr. Talvacchia stated that the Board's concerns had been addressed in respect to parking, circulation, adjusted the Jerome Avenue exit and traffic calming. He noted that there would be more landscaping in this proposal than currently existed.

Mr. Talvacchia stated that the new ACME would be a modern store which would enhance the site. It was noted that the proposed impervious coverage would not exceed 82%.

The Board discussed the amount and location of the cart corrals.

**Mr. Matthew Juhring, Operations District Manager of Southern New Jersey for the ACME Markets**, was sworn and testified that cart corrals could be added on the north side and south sides of the ACME. The Board noted that the details could be worked out with Mr. Little.

The Board discussed the limitations that would be placed on proposed lot 8. The Board approved of the changes to the site plan which they felt would relieve congestion and also approved of the well thought out site plan for the ACME market. The Board noted that they would like a restriction that all buildings be removed and permits issued for the ACME before any residential permits were issued. The Board did not want lot 8 used for any type of storage and requested that the lot to be cleared, leveled, maintained and mowed. The Board discussed plantings and requested that lot 4 have a sidewalk and curb cuts for access to the ACME.

**Pingaro moved, seconded by Konnor to approve the subdivision and use variance portion of the application to create six residential and two commercial lots, subject to the restrictions requested by the Board.** The following roll call vote was recorded: Applegate, Konnor, Leonetti, Pingaro, Schnell, Southwick and VanBuren all voted **YES**.

**Southwick moved, seconded by Applegate to approve the site plan for the ACME market with variances for impervious coverage and the number of loading zones, design waivers for the establishment of lot 8 and the required two foot separation between the bottom of the infiltration basin and the seasonal high water table as well as the other restrictions requested by the Board.** The following roll call vote was recorded: Applegate, Konnor, Leonetti, Pingaro, Schnell, Southwick, VanBuren and Jones all voted **YES**.

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The Board reviewed Resolution **LUB-21-09(Remand B)** regarding the Rothenberg litigation. **Konnor moved, seconded by Applegate to approve the Resolution as corrected.** The

following roll call vote was recorded: Applegate, Konnor, Leonetti, Pingaro, Schnell, Southwick, VanBuren and Jones all voted **YES**.

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

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**Konnor moved, seconded by Pingaro authorizing the Board Attorney to enter into a stipulation of settlement regarding Moeller (Fish Outta Water) LUB-4-11-PF.** The following roll call vote was recorded: Applegate, Konnor, Leonetti, Pingaro, Schnell, Southwick, VanBuren and Jones all voted **YES**.

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The meeting was adjourned at 8:50 P.M.

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

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