

**BRANT BEACH, NEW JERSEY**  
**June 10, 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. Sichiari, 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: **J. C. Konnor, J. A. Leonetti, E. J. Hummel as Mayor's Designee, R. Pingaro, D. A. Southwick, R. S. VanBuren and Mrs. L. J. Schnell presiding.**

Members of the Board absent: **V. E. Applegate, Commissioner R.H. Bayard and Mayor J. H. Mancini.**

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

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

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

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**(Tape #595 - Side 1)**

Mrs. Sichiari gave a brief overview of the applications to be considered:

**1. #LUB-11-06-PFA(2): DADDY O REAL ESTATE LLC (Block 15.102, Lots 1 & 2, Block 15.106, Lots 1, 17 & 18) 4401 Long Beach Boulevard, Brant Beach:** Mrs. Sichiari stated that applicants were seeking preliminary and final amended site plan approval so as to permit the re-configuration of the patio area and noted that as submitted, the proposal did not require variances.

**2. #LUB-24-15: GARRETT (Block 15.150, Lot 3) 3101 Ocean Boulevard, Brant Beach:** Mrs. Sichiari stated the applicants propose to demolish the existing dwelling and construct a new single family home which required bulk variances for setback from the street and combined side yard setback.

**3. #LUB-26-15: DEMCSAK (Block 1.22, Lot 19) 6 West Janet Road, Holgate:** Mrs. Sichiari stated that applicants proposed to construct an extension of the existing second story deck which required bulk variances for side yard and combined side yard setback.

**4. #LUB-25-15: SEEGER (Block 15.25, Lot 14) 6508 Long Beach Boulevard, Brant Beach:** Mrs. Sicheri stated the applicants proposed to demolish the existing dwelling and construct a new single family home. Mrs. Sicheri noted that although many variances were being requested the applicant proposed to better the existing conditions. Bulk variances were requested for the combined side yard setbacks, distance between structures, lot coverage, elevator location, and the entryway stairs.

**5. #LUB-27-15: JONES (Block 14.04, Lot 7) 118 East Surf Avenue, Beach Haven Crest:** Mrs. Sicheri stated that applicants proposed to demolish the existing dwelling and construct a new single family home which required bulk variances for side yard setback.

**6. #LUB-28-15: VIZZONE (Block 6.36, Lot 5) 12 West South 33rd Street, Beach Haven Gardens:** Mrs. Sicheri stated that applicant proposed to demolish the existing dwelling and construct a new single family home on the existing undersized lot which required bulk variances for lot area, rear yard setback and lot coverage.

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Minutes of the meeting held May 13, 2015 were presented for approval. **Moran** moved, seconded by **VanBuren** for adoption. **Konnor, Leonetti, Hummel, Schnell, VanBuren, Moran and Jones** all voted **YES**.

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

- 1. #LUB-17-15: MAURY** – Resolution of Approval moved by **Jones**, seconded by **Hummel**. The following roll call vote was recorded: **Konnor, Leonetti, Hummel, VanBuren, and Jones** all voted **YES**.
- 2. #LUB-18-15: MILLER** – Resolution of Approval moved by **Moran**, seconded by **Konnor**. The following roll call vote was recorded: **Konnor, Hummel, Schnell, VanBuren, Moran and Jones** all voted **YES**.
- 3. #LUB-20-15: COSSMAN** – Resolution of Approval moved by **Moran**, seconded by **Jones**. The following roll call vote was recorded: **Konnor, Schnell, VanBuren, Moran and Jones** all voted **YES**.
- 4. #LUB-21-15: LEONETTI** – Resolution of Approval moved by **Jones**, seconded by **Hummel**. The following roll call vote was recorded: **Konnor, Hummel, Schnell, VanBuren, Moran and Jones** all voted **YES**.
- 5. #LUB-22-15: RENAUD** – Resolution of Approval moved by **Hummel**, seconded by **Konnor**. The following roll call vote was recorded: **Konnor, Hummel, Schnell, VanBuren and Moran** all voted **YES**.
- 6. #LUB-23-15: SMITH** – Resolution of Approval moved by **Moran**, seconded by **VanBuren**. The following roll call vote was recorded: **Konnor, Hummel, Schnell, VanBuren, Moran and Jones** all voted **YES**.

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

**(1) #LUB-24-15 BRANT BEACH**

**ROBERT P. AND TRINA M. GARRETT**

Owners and Applicants

Block 15.150, Lot 3

**Mr. Reginald Raban, Esquire, represented the applicant and evidence was marked as follows:** Application and Attachments, #A-1, Variance Map prepared by Horn, Tyson & Yoder, Inc. dated March 2, 2015, #A-2, and three page Architectural Drawings prepared by Michael Pagnotta, Architect, P.C. dated April 10, 2015, #A-3. Mr. Raban stated that applicants had purchased the property a few months before Super Storm Sandy but had not sustained major damage. He noted that the prior owner had obtained a CAFRA permit which did not allow the footprint of the proposed home to go any further to the south and necessitated the need for the variance from the side street. He noted that the setback from Ocean Boulevard would be increased.

**Mr. James Brzowski, P.E., P.P. with the firm of Horn, Tyson & Yoder, Inc.** was sworn and described the existing property. He stated that it was proposed to demolish the existing structure and construct a new single family home. Mr. Brzowski noted that property was adjacent to a beach access area and that the house across 31st Street was buffered by mature Japanese pines as well as the access easement to the beach. Mr. Brzowski submitted photographs of the property, marked #A-4. Mr. Brzowski discussed the adjacent beach access with the Board.

**The Public Session was closed.**

Mr. Raban requested that the application be approved as submitted.

The Board noted that the beach access and trees provided a buffer zone and noted that the proposed home would be further from Ocean Boulevard.

**Moran moved, seconded by Hummel to approve the application as submitted with the condition that the trees never be removed.** The following roll call vote was recorded: **Konnor, Leonetti, Hummel, Pingaro, Schnell, Southwick, VanBuren, Moran and Jones** all voted **YES**.

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**Mr. Southwick stepped down from the Board for the following application:**

**HELENE S. VIZZONE**

Owner and Applicant

Block 6.36, Lot 5

**Mr. Reginald Raban, Esquire, represented the applicant and evidence was marked as follows:** Application and Attachments, #A-1, Plot plan prepared by Crest Engineering Associates Inc. dated August 6, 2014 with the latest revision date April 29, 2015 #A-2, Five page architectural plans prepared by James T. Voorheis Architect dated March 16, 2015 with the latest revision date April 28, 2015, #A-3, and Deed recorded in the Ocean County Clerk's Office on April 15, 2015 #A-4. Mr. Raban stated that the proposal required variances for lot area and lot coverage mainly caused by a deck that was more than a foot above grade.

**Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson & Yoder, Inc.** was sworn and testified that he had reviewed the plans and described the plans to the Board. He noted that the home was below base flood elevation and that it was proposed to remove the existing home and construct a new single family home. Mr. Brzozowski stated that the encroaching rear yard setback was due to the configuration of the rear deck and noted that the deck would be approximately seven feet above the grade. He noted that combined side yard setbacks were also required and that the existing lot coverage would be reduced. Mr. Brzozowski submitted an aerial photograph of the property, marked #A-5 and a group of photographs, marked #A-6. Mr. Raban stated that the applicant had originally planned to raise and renovate the existing structure and now planned to construct a new home.

**Ms. Deidre M. Martin, Esquire,** represented objectors, the Robert B. Schultz Trust, of 8 West South 33<sup>rd</sup> Street.

**(Tape #595 - Side 2)**

Ms. Martin stated that the existing deck was at grade level and if the deck were raised up and maintained the same setbacks, it would impede her client's view of the bay as well as the free flow of light and air. Ms. Martin submitted photographs marked, #O-1, renderings, marked #O-2 and aerial photographs, marked #'s O-3, O-4 and O-5. Ms. Martin stated that she felt that the variances requested were excessive.

**Ms. Karen Bland, Trustee and Mr. Robert Schultz, Principle of the Robert B. Schultz Trust of 8 West South 33<sup>rd</sup> Street,** adjacent property owners, read a statement into the record that was prepared by the family. Ms. Bland stated that they had remodeled the family room with oversized windows to take advantage of the views to the Bay and noted that her father spent much of his time enjoying these views. Mr. Schultz stated that his major concern was the deck that extended to within a foot and a half of the rear property line.

**The Public Session was closed.**

The Board noted that the ground deck located a foot and a half from the rear property line had a much different impact when elevated seven feet higher and would be a safety problem so close to the rear fence.

They noted that the shape of the deck could be more rectangular which would increase the rear yard setback.

**Pingaro moved, seconded by Moran to put the application on hold to allow all parties involved to discuss the application.** The motion was carried by voice vote.

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**Mr. Southwick rejoined the Board.**

**(3) #LUB-25-15 BRANT BEACH**

**DAVID SEEGERS**  
Owner and Applicant  
Block 15.25, Lot 14

**Mr. David Seegers, represented himself was sworn and evidence was marked as follows:** Application and Attachments, **#A-1**, Variance Map prepared by Horn, Tyson and Yoder, Inc. dated April 1, 2013, bearing the latest revision date of April 6, 2015, **#A-2**, Two page Architectural Drawings prepared by Studio Tagland Designs LLC dated April 15, 2015, **#A-3**. Mr. Seegers submitted photographs of the property, marked **#A-4**. Mr. Seegers stated that he proposed to remove the storm damaged home and construct a new single family home.

**Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson & Yoder, Inc.** was sworn and described the existing property. Mr. Brzozowski described the proposed bulk variances required for the proposal. He noted that the principal structure met the combined side yard setbacks but that the proposed nine by eight open deck would encroach within five feet of the property line. He noted that lot coverage would be reduced and that the proposed elevator would require a variance for its location. Mr. Brzozowski stated that the proposed home would be in keeping with the other homes in the neighborhood and would not have any negative impact. He noted that the home as proposed would be an aesthetic improvement and would not interfere with the neighbors' light and air as the house would be centered on the lot.

The Board discussed the proposed deck. Mr. Seegers stated that due to the structures surrounding the property that the location of the deck was the most logical and that the size of the deck was the minimal size to be usable. He noted that the area to the south adjacent to the deck was open.

**Mr. Carl Thulin of 6511 Long Beach Boulevard** was sworn and testified that he was in favor of the application as submitted.

**The Public Session was closed.**

Mr. Seegers stated that the building that was destroyed by Superstorm Sandy was an eyesore and that the new structure would be both functional and aesthetically pleasing. He requested that the application be approved as submitted.

The Board noted that the proposed structure would be an asset to the neighborhood.

**Leonetti moved, seconded by Pingaro to approve the application as submitted with the condition that the deck never be enclosed. The following roll call vote was recorded: Konnor, Leonetti, Hummel, Pingaro, Schnell, Southwick, VanBuren, Moran and Jones all voted YES.**

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**(Tape #595 – Side 3)**

**(2) #LUB-28-15 BEACH HAVEN GARDENS**

**HELENE S. VIZZONE**

Owner and Applicant

Block 6.36, Lot 5

**Mr. Southwick stepped down from the Board for the continuation of the Vizzone hearing.**

Mr. Raban stated that the building contractor would testify regarding the rear deck.

**Mr. Anthony Gennarelli, Registered Building Contractor in the State of New Jersey,** was sworn and testified that the new home would be on pilings. Mr. Gennarelli stated that the width of the proposed deck in the rear of the home would be decreased from twelve feet to eight feet and be located in the center of the house which would increase the rear yard setback to 5.49 feet and that the stairs would come down towards the driveway.

**Ms. Martin** stated that her clients were opposed to the revised proposal.

Mr. Brzozowski stated that with the changes the proposed lot coverage would be 36.93%.

Mr. Raban stated that his client agreed to never enclose the rear deck and modify the plans as proposed. He felt that this was a reasonable compromise with the neighbor. Mr. Raban requested that the application be approved as revised.

The Board noted that they found the compromise that the applicant proposed to be acceptable. They noted that the centering of the deck would open up the view for the neighbor more than originally proposed and that the setback proposed would be approximately the same as the neighbor.

**Konnor moved, seconded by Hummel to approve the application as revised with the conditions that 1. That the deck never be enclosed, 2. That no permanent roof be installed over the rear deck, and, 3. That revised plans be submitted before a permit is issued. The following roll call vote was recorded: Konnor, Leonetti, Hummel, Pingaro, Schnell, VanBuren, Moran and Jones all voted YES.**

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

**Mr. Southwick rejoined the Board for the remainder of the evening.**

**ELLEN DEMCSAK**

Owner and Applicant

Block 1.22, Lot 19

**Mr. Jerry Dasti, 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 30, 2014, #A-2, and Photograph of subject house, Architectural drawing prepared by William R. Beyer, R.A., A.I.A. Architect dated February 5, 2014 and soil log prepared by Horn, Tyson & Yoder, Inc., dated January 31, 2006, #A-3. Mr. Dasti stated that the applicant proposed to extend the second floor deck which would not block anyone’s light or air and which would never be enclosed.

**Mr. Bob Demcsak, owner** was sworn and testified that they proposed to increase the second floor deck off of the main living area of the house. Mr. Demcsak stated that there was not enough room to move around on the narrow deck and was requesting a three foot extension to be cantilevered.

**Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson & Yoder, Inc.** was sworn and described the existing property and noted that the deck extension would not adversely affect any of the neighbors. Mr. Brzozowski stated that although there was plenty of separation from the neighboring properties the proposal required bulk variances for side yard and combined side yard setbacks. Mr. Brzozowski submitted three pages of photographs, marked #A-4.

**The Public Session was closed.**

Mr. Dasti requested that the application be approved as submitted.

The Board noted that the three foot extension would make the deck usable and would still be an acceptable distance from the neighboring homes.

**Moran moved, seconded by Southwick to approve the application as submitted with the condition that the deck never be enclosed and that a permanent roof not be installed over the structure.** The following roll call vote was recorded: **Konnor, Leonetti, Hummel, Pingaro, Schnell, Southwick, VanBuren, Moran and Jones** all voted **YES**.

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**JAMES H. AND JAMES R. JONES**

Owners and Applicants

Block 14.04, Lot 7

**Ms. Deidre M. Martin, Esquire represented the applicants and evidence was marked as follows:** Application and Attachments including list of exhibits A thru L photographs and exhibit O tax map, #A-1, Variance Map prepared by Horn, Tyson & Yoder, Inc. dated July 24, 2013 revised April 28, 2015, #A-2, Building Permit Plot Plan prepared by Horn, Tyson and Yoder, Inc.,

dated July 24, 2013 with a revision date of April 22, 2015, #A-3, Four page architectural plans prepared by Michael H. Strunk, Architect LLC, dated April 16, 2015, #A-4, Exhibit M copy of the recorded CAFRA Permit along with letter dated February 4, 2015 from DEP, #A-5, Exhibit N deed recorded in the Ocean County Clerk's Office on July 18, 1983, #A-6. Ms. Martin stated that the proposed new structure would maintain a setback from Surf Avenue of ten feet and that in order to comply with the ordinance requiring that all side yards parallel to an improved roadway maintain the same setback alignment as the neighboring building a setback of 19.8 feet would be required. She stated that due to the size of the lot and location in comparison to lot 8, they would be left with an oceanfront home of fifteen feet in width. Ms. Martin stated that the nonconforming duplex use would be eliminated, that the proposed home would be above the base flood elevation and that the combined side yard and rear yard setbacks would be brought into conformity.

**Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson & Yoder, Inc.** was sworn and described the adjacent property as well as the existing property. Mr. Brzozowski stated that the existing setback off of Surf Avenue was 10.3 feet and that ten feet would be provided with the ng proposed home and was the only variance that was requested. He noted that the other nonconformities would be brought into conformity and that adequate parking would be provided in the westerly side yard. Mr. Brzozowski stated that the view would be improved for the home to the west (lot 8) as the footprint of the home on the subject property was being moved to the east.

**Mr. David Ruhnke of 108 East Surf Avenue** (lot 8) was sworn and testified that he objected to the application and submitted three photos, marked #O-1. Mr. Ruhnke stated that his sight line was impeded by the existing and proposed structure. The Board noted that the subject house could be raised and remodeled in the existing footprint which would be sixteen feet closer to Mr. Ruhnke's property than the proposed new home.

**(Tape #595 – Side 4)**

**Mr. Paul Contillo, adjacent homeowner to the north** was sworn and testified that he had a question regarding the location of the proposed home. Mr. Brzozowski stated that proposed home would be approximately four inches closer to Surf Avenue than the existing home. Mr. Contillo stated that he was not troubled over four inches.

**The Public Session was closed.**

Ms. Martin stated that the proposed home would eliminate an existing nonconformity, improve the setbacks and improve the sight line of lot 8. Ms. Martin asked that the variance be granted.

The Board discussed the application and noted that moving the house to the east would improve the light and air, eliminate a nonconforming use and improve the setbacks. The Board felt that the new structure would be an improvement for the neighborhood.

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

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**DADDY O REAL ESTATE LLC**

Owner & Applicant  
Block 15.102, Lots 1 & 2  
Block 15.106, Lots 1, 17 & 18

**Mr. Robert Kiss represented the applicant and evidence was marked as follows:** Application and Attachments, **#A-1**, Amended Minor Site Plan prepared by Nelke/Tyszka Land Surveyors, LLC dated December 15, 2006 with the latest revision dated April 28, 2015, **#A-2**, Deed of Consolidation recorded February 29, 2012 with Ocean County Clerk, **#A-3**, Resolutions of prior applications dated April 6, 2006 and July 11, 2007, **#A-4**, Review letter from Frank J. Little Jr., P.E. dated June 2, 2015, **#B-1**, Notice of Violation from Ronald Pingaro, Construction Official dated October 2, 2014 Re: Patio bar area and three photos taken May 14, 2015, **#B-2**. Mr. Kiss stated that the original approval included a large outdoor refrigeration unit that was destroyed by Sandy which was removed a smaller refrigeration unit was installed. Mr. Kiss stated that they also placed a bar to facilitate service to the outdoor patio with twenty-four seats, which seating had been previously approved. Mr. Kiss stated that Mr. Pingaro had pointed out to Daddy O's that they had to come back before the Land Use Board for an Amended Site Plan to allow the bar to remain.

**Mr. Peter Palladino, General Manager of Daddy O** was sworn and testified that after Super Storm Sandy they had rebuilt the first floor and at that time decided to install the outside bar. Mr. Palladino stated that the bar area and refrigeration took up less room than the large refrigeration unit that was destroyed by Storm Sandy. Mr. Palladino addressed Mr. Little's review letter. Mr. Palladino stated that the outdoor lighting was purely decorative and would not shine on any adjacent property.

Mr. Little asked Mr. Palladino to address the tables and seating. Mr. Palladino stated that the high top tables were for people to stand around and would not have seating. The Board pointed out that the occupancy in the area would be increased with the high top tables. The Board discussed the proposed seating and bar area. Mr. Palladino stated that the music in the outdoor area was not live but piped in with speakers which pointed to the north. He noted that the seating in the area would stop at 9PM and the music would be turned off around 10PM. He stated that the bar area was installed without first obtaining permits.

**Mr. Robert Carpenter, adjacent property owner at 5 East 45<sup>th</sup> Street** was sworn and testified that he is in close proximity to the area and that he felt that the allowed seating was exceeded and the noise level high.

(Tape #596 – Side 5)

**Ms. Debra Hodge of 25 East 45<sup>th</sup> Street** was sworn and testified that she was concerned that the area around the outdoor bar could be filled beyond capacity and that the noise level would rise. She stated her concerns with the effect on the neighborhood.

**The Public Session was closed.**

Mr. Kiss stated that Daddy O was a responsible business, that the amount of seats were not being increased and that the proposal would not impact parking. He requested that the Amended Site Plan be approved as submitted.

Some members of the Board felt that as long as the capacity of the restaurant and the seating were not increased there would not be an intensity of use and they would be in favor of the application. Others felt that the outdoor bar would intensity the use. It was noted that even without the bar, the outdoor area could still be used.

**Hummel moved, seconded by Moran to approve the amended site plan application as submitted.** The following roll call vote was recorded: **Leonetti, Hummel, Pingaro, VanBuren and Moran all voted YES. Konnor, Schnell, Southwick and Jones all voted NO. The motion carried.**

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Mr. Snyder submitted a letter to the Board regarding the **Leonetti application, (LUB-21-15)**. Mrs. Sicheri read the letter to the Board and discussed the Leonetti application. She stated that the Board would have a limited hearing next month, only as to fair market value of the property. Mr. Snyder noted that he would send a letter to the adjoining property owners stating that they would have to appear with their experts. Mrs. Sicheri announced that the hearing would be held on July 8, 2015 at 7PM.

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Under **Discussion** the Board noted that they would discuss the End of Year Report at next month's meeting.

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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 10:10 P.M.

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

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