

BRANT BEACH, NEW JERSEY
JANUARY 13, 2010

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 duly 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, 2010 as required by the Open Public Meeting Act."

Members of the Board present: **Mrs. V. E. Applegate, Commissioner R. H. Bayard, Mrs. M. P. Cleary, J. A. Leonetti, Mayor J. H. Mancini, R. S. VanBuren and Mrs. L. J. Schnell presiding.**

Members of the Board absent: **J. C. Konnor and D.A. Southwick.**

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

Alternate member of the Board absent: **Mrs. G. M. Harle.**

Also present were the following: **Mrs. C.K. Sicheri, Esq., Board Attorney, Mr. F. J. Little, Jr., P.E., Board Engineer, Mrs. L. C. Krueger, Board Secretary and Mrs. B. M. Bielawne, Clerk.**

(Tape #461 - Side 1)

Mrs. Schnell announced that the reorganization of the Board would take place.

Mrs. Sicheri asked for a nomination for **Chairman. Moran moved, seconded by Applegate to nominate Lynne J. Schnell. The motion carried by voice vote.**

Chairman Schnell asked for a motion for **Board Attorney. Applegate moved, seconded by Cleary to retain the firm, Sicheri and Sicheri, P.C.. The motion carried by voice vote.**

Chairman Schnell asked for a motion for **Board Engineer. Applegate moved, seconded by Cleary to retain the firm Owen, Little and Associates Inc.. The motion carried by voice vote.**

Chairman Schnell asked for a motion for **Vice Chairman**. **Applegate moved, seconded by VanBuren to nominate Jeffrey C. Konnor. The motion carried by voice vote.**

Chairman Schnell asked for a motion for **Secretary**. **Mancini moved, seconded by Applegate to nominate Mary P. Cleary. The motion carried by voice vote.**

Chairman Schnell asked for a motion for **official newspapers**. **VanBuren moved, seconded by Mancini to retain the Beach Haven Times and Asbury Park Press as the official newspapers. The motion carried by voice vote.**

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

(1) #LUB-35-09: SCHRAISHUHN (Block 14.08, Lots 19 & 20) 7805 Bayview Avenue, Beach Haven Crest: Mrs. Sichei stated that the applicants proposed to subdivide the property into two residential lots noting that there were no variances required pertaining to the subdivision ordinance. Mrs. Sichei stated that bulk variances were required for the existing single family structure that will remain.

(2) #LUB-1-10: PINO (Block 20.175, Lot 4) 312 Beach Plum Drive, Loveladies: Mrs. Sichei noted that the applicant was requesting that the outdoor structures be allowed to remain as-built. Mrs. Sichei stated that bulk variances were required for rear yard setback and lot coverage.

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Minutes of the meeting held December 9, 2009 were presented for approval. **VanBuren moved, seconded by Mancini for adoption. The motion carried by voice vote.**

Chairman Schnell listed the following **Resolutions of Memorialization:**

- 1. #LUB-36-09: ERRICO-** Resolution of Approval moved by **VanBuren** seconded by **Applegate**. The following roll call vote was recorded: **Applegate, Bayard, Cleary, Leonetti, VanBuren and Ternyila all voted YES.**
- 2. #LUB-37-09: NARKIEWICZ –** Resolution of Approval moved by **Applegate** seconded by **VanBuren**. The following roll call vote was recorded: **Applegate, Bayard, Cleary, Leonetti, VanBuren and Ternyila all voted YES.**

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Chairman Schnell noted that there were two applications to be considered, as follows:

Mr. Leonetti stepped down from the Board for the following application:

(1) #LUB-35-09 BEACH HAVEN CREST

CHARLES & SARAH SCHRAISHUHN

Owners and Applicants
Block 14.08, Lots 19 & 20

Mr. Richard P. Visotcky, Esquire with the firm Kelly and Visotcky, L.L.C., represented the applicants and evidence was marked as follows: Application and attachments, **#A-1**, Minor Subdivision prepared by Horn, Tyson and Yoder, Inc. dated October 14, 2009, **#A-2**, and, review letter to the Board by Frank J. Little, Jr., P.E. dated December 23, 2009, **#B-1**. Mr. Visotcky stated that the proposed subdivision was conforming but that bulk variances would be required for the existing single family home located at the corner of the property. Mr. Visotcky noted that the bulk variances required were setback from the street, rear yard setback and lot coverage.

Mr. James Brzozowski, P. E., P.P. with the firm of Horn, Tyson and Yoder, Inc., was sworn and described the existing conditions of the property. Mr. Brzozowski stated that the applicant proposed to subdivide the property into two, fifty by eighty foot lots and that the existing single family dwelling was to remain. Mr. Brzozowski noted that although the front yard setback to the deck was nonconforming, the applicants had obtained a permit to extend the deck by averaging the front yard setbacks of the houses along Jeanette Avenue. He noted that in the eyes of the Zoning Department the setback was conforming. Mr. Brzozowski described photographs Mr. Visotcky submitted marked as **#A-3**. Mr. Brzozowski addressed Mr. Little's review letter and noted that the applicants were seeking a waiver for the sidewalk.

The Public Session was closed.

The Board felt that since the front and rear yard setbacks for the structure already existed and that the subdivision itself did not require variances, they would be in favor of the application. The Board noted that a stipulation that the decks never be enclosed should be included in the approval.

Mancini moved, seconded by Moran to approve the application with a waiver of the sidewalk requirements and the condition that the decks never be enclosed. The following roll call vote was recorded: Applegate, Bayard, Cleary, Mancini, Schnell, VanBuren, Moran, Ternyila and Jones all voted **YES**.

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Mr. Leonetti rejoined the Board.

(2) #LUB-1-10 LOVELADIES

ANGELO J. PINO

Owner & Applicant

Block 20.175, Lot 4

Mr. Reginald J. Raban, Esquire represented the applicant and evidence was marked as follows: Application and Attachments, #A-1, Variance Plan prepared by Nelke/Tyszka Land Surveyors, Inc., dated November 13, 2009, #A-2, and memo to the Board from the Building Department dated December 22, 2009, #B-1. Mr. Raban stated that the application required variances for rear yard setback and lot coverage. He noted that a rear yard setback was required because the pergola and outdoor structures were attached to the house. Mr. Raban stated that if the structures were located five feet away from the house that they would be considered accessory structures with conforming setbacks and would not be included in lot coverage. Mr. Raban stated that the lot was ten thousand square feet but that ninety-two hundred and thirty-five square feet was upland.

Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson and Yoder, Inc., was sworn and stated that the variance plan had been prepared by Leon Tyszka's office. Mr. Brzozowski stated that he was retained to review the application from a professional planning perspective. Mr. Brzozowski described the outdoor structures and noted that the coping of the hot tub was constructed fifteen inches above adjacent grade and was therefore included in lot coverage calculations. Mr. Brzozowski noted that the pool cover had been included in lot coverage calculations for the same reasons. Mr. Brzozowski submitted photographs of the property marked as #A-3 and an as-built survey and photographs showing accessory structures on block 20.72, lot 7, marked #A-4. Mr. Brzozowski noted that if the square footage of the spa, pool cover and outdoor kitchen were excluded from coverage the lot coverage calculation would be 24.6%.

Mr. Brzozowski discussed how the lot coverage was calculated and noted that if the pergola was detached from the principal structure it would require two additional columns to support it. He stated that the structures would be five feet closer to the bulkhead and that he believed they were less intrusive where they were located.

(Tape #461 – Side 2)

Mr. Brzozowski addressed the letter from the building department regarding the putting green and whether or not the surface was impervious. Mr. Brzozowski stated that he felt the area was very pervious as it was constructed of a filter fabric with compacted sand below. Mr. Raban stated that the applicant would not have any objection to an Engineer certifying the surface and noted that including the putting green in the impervious surface calculation would bring it to seventy-seven percent.

Mr. Lance Farina, Licensed Builder in the State of New Jersey, was sworn and qualified. Mr. Farina described the evolution of the permitting process and how the pergola

and outdoor kitchen came into existence without formally updating an existing permit. Mr. Farina stated that the hot tub and landscaping were under someone else's permit. Mr. Farina stated that the pergola and outdoor kitchen had been constructed openly without any intention to try to hide the construction.

Mr. Joshua Kline, Landscaper was sworn and testified that he had installed the hot tub and landscaping. Mr. Kline stated that a six foot hot tub had been planned originally and that the size had been upgraded. Mr. Kline stated that when the permits were acquired for the larger hot tub, the drawings reflected that it would be twelve inches above grade. Mr. Kline stated that he had installed the brick work for the bar. Mr. Kline noted that there had been another builder that had been released from the job and that he had obtained permits for the gas line. Mr. Kline thought that the builder had also obtained permits for the outdoor grill, but he had not.

The Board discussed the putting green.

Mr. Kline stated that he had calculated the height for the hot tub from the crown of the road and had not allowed for the coping around the tub.

Mr. Farina described how the putting green had been installed. Mr. Farina stated that the prior builder had constructed the outdoor kitchen and that the homeowner did not know that permits had not been obtained.

Mr. Angelo Pino, Owner was sworn and clarified his address. He noted that when he realized that the prior builder had not obtained permits he terminated their contract.

(Tape #462 – Side 3)

Mr. Pino and Mr. Farina addressed the progression of obtaining contractors and permits.

Mr. Marc Spielberg, Esquire represented objectors, the Nemroff family adjacent to the subject property and the Alvino family directly across the lagoon.

Mr. Spielberg submitted a letter and pictures from the Nemroff family marked as **#O-1**.

Mrs. Barbara Nemroff and Mr. Burton Nemroff of 311 Beach Plum Drive, adjacent property owners, were sworn and testified that this was their primary residence. Mrs. Nemroff read her letter describing the pictures that had been submitted to the Board.

Mr. Spielberg objected to the pictures submitted by the applicant as part of the application as they did not show what currently existed.

Mrs. Sicheri read a letter into the record from Ron Pingaro regarding the removal of a free standing cabana that had been erected without permits. Mr. Farina stated that the cabana had been removed.

Mrs. Nemroff stated her objections to the application.

Mr. Nemroff stated that he was strongly opposed to the granting of any variances sought by the applicant and noted his objections.

Mrs. Nemroff submitted a notarized limited power of attorney and letter from Ronna Cooper marked as #O-2. Mrs. Nemroff read a portion of Ms. Cooper's letter of objection into the record.

(Tape #462 – Side 4)

Mr. Spielberg stated that the property was like a resort hotel in the middle of Loveladies and had a negative impact on the neighborhood. Mr. Spielberg stated that the noise from the hot tub equipment and an unshielded outdoor light directly affected his clients' property.

Mr. Spielberg reviewed the variances requested and stated that variances should not be granted. He asked that if the Board granted the variances to consider requiring dense planting as a shield, a noise buffer in front of the hot tub equipment, a shield for the light and capping the time that the hot tub could be used. Mr. Spielberg requested that the application be denied.

Mr. Melvyn Rothbard of 306 Althea Drive was sworn and testified that he was not in favor of the application or building over the permitted lot coverage.

Mr. Eldon Hickerson of 313 Beach Plum Drive, adjacent property owner, was sworn and testified that the Mr. Pino had planted a row of Leyland Cypress along his side of the property that acted as a noise and sight barrier. He noted that the Nemroff side of the property was noisy and busy. Mr. Hickerson stated that the cabana was his biggest concern and that he was not in favor the granting of the variances.

The Public Session was closed.

Mr. Raban stated that the applicant was certainly willing to do things to make the neighbors' lives more comfortable. Mr. Raban noted that the issues raised were not zoning issues but nuisance issues that were beyond the scope of the Board. Mr. Raban stated that the applicant would remove the light and install a barrier of trees to act as a view and sound buffer. Mr. Raban noted that the cabana was required to comply with the setbacks of an accessory structure and would be relocated to conform to accessory structure setbacks.

Mr. Raban stated that the setback and lot coverage were the issues. He noted that the applicant could relocate the pergola and bar and grill with proper permits but would be more intrusive on the view and impact to neighboring properties. Mr. Raban stated that the benefit derived by the granting of the variance from the setback would be a better visual environment for the neighborhood. Mr. Raban requested that the application be approved as submitted and that the applicant would make every effort to peacefully co-exist with the neighbors. Mr. Raban stated that the putting green could be subject to the inspection of the Board Engineer and if he was not satisfied that the surface was pervious, the impervious coverage would be brought down to the permitted seventy-five percent.

Mrs. Sicheri noted that the pictures supplied by the applicant indicated the appropriate

size of the hot tub. Mrs. Sicheri reminded the Board to look at the application as if nothing had been built and that the financial impact was not a factor for zoning.

The Board discussed the application.

The Board felt that the hot tub was too high as well as noisy and while it was inexcusable that permits had not been obtained, moving the pergola five feet towards the bay would not benefit the neighbors.

It was suggested that the application could be held over to perhaps work things out with the neighbors and to come back to the Board with revisions based on the Board's comments.

(Tape #463 – Side 5)

The Board decided, by voice vote, to hold the application over to the March 10, 2010 meeting, with a fee. Mrs. Sicheri stated that the applicant must renounce.

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Under **Correspondence**, Mrs. Sicheri addressed a Mayor's Fax Advisory regarding the Permit Extension Act and regulations regarding windmills.

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

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The meeting was adjourned at 9:55 P.M.

LYNNE J. SCHNELL
CHAIRMAN