

**BRANT BEACH, NEW JERSEY
MARCH 10, 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. Sichiari, 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: **Commissioner R. H. Bayard, Mrs. M. P. Cleary, D.A. Southwick and R. S. VanBuren presiding.**

Members of the Board absent: **Mrs. V. E. Applegate, J. C. Konnor, J. A. Leonetti, Mayor J.H. Mancini, and Mrs. L. J. Schnell.**

Alternate members of the Board present: **J. J. Ternyila and R. L. Jones.**

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

Also present were the following: **Mrs. C.K. Sichiari, 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 #466 - Side 1)

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

(1) #LUB-1-10: PINO (Block 20.175, Lot 4) 312 Beach Plum Drive, Loveladies: Mrs. Sichiari noted that the application had been held over from the January 13, 2010 meeting. Mrs. Sichiari stated that the applicant was requesting that the outdoor structures be allowed to remain "as built" noting that bulk variances were required for rear yard setback and lot coverage.

Mr. Leonetti joined the Board.

(2) #LUB-3-10: MENGERT (Block 11.26, Lot 6) 23 East Alabama Avenue, Beach Haven Park: Mrs. Sichiari stated that the applicants proposed to add an elevator addition to

the existing single family home which required bulk variances for side yard setback and lot coverage.

(3) #LUB-4-10: ORTIZ (Block 20.172, Lot 8) 48 Holly Drive, Loveladies: Mrs. Sichei stated that the applicants were requesting that the hot tub be allowed to remain “as built” noting that a variance for lot coverage was required. Mrs. Sichei noted that the hot tub was nineteen inches above grade and therefore was considered in the lot coverage calculation.

(4) #LUB-5-10: MOELLER (Block 1.88, Lots 2.04 & 2.05) 123 West Osborn Avenue, Holgate: Mrs. Sichei stated that the applicant proposed to construct a single family home on the easterly side of the property and a public park with a pier on the westerly side of the lot. Mrs. Sichei noted that two uses on one lot were proposed and a deed restriction would be required as the owner of the home would be responsible for the maintenance of the park. Mrs. Sichei noted that a site plan and conditional use permit were required.

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Minutes of the meeting held February 16, 2010 were presented for approval. **Ternyila** moved, seconded by **Bayard** for adoption. The following roll call vote was recorded: **Bayard, VanBuren, Ternyila and Jones all voted YES.**

Acting Chairman VanBuren listed the following **Resolutions of Memorialization:**

1. **#LUB-54-04-PFA: MOELLER** – Resolution of Denial moved by **Ternyila** seconded by **Leonetti**. The following roll call vote was recorded: **Bayard, Leonetti, VanBuren and Ternyila all voted YES.**
2. **#LUB-8-06-PFA2: BRENNAN** - Resolution of Approval moved by **Ternyila** seconded by **Jones**. The following roll call vote was recorded: **Leonetti, VanBuren, Ternyila and Jones all voted YES.**
3. **#LUB-2-10: FRANLIN** - Resolution of Approval moved by **Ternyila** seconded by **Jones**. The following roll call vote was recorded: **Bayard, Leonetti, VanBuren, Ternyila and Jones all voted YES.**

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Mr. VanBuren presided and noted that there were four applications to be considered, as follows:

(1) #LUB-1-10 LOVELADIES

ANGELO J. PINO
Owner & Applicant
Block 20.175, Lot 4

Mr. VanBuren noted that the application had been held over from the January 13, 2010 meeting. Mr. Reginald J. Raban, Esquire represented the applicant and additional evidence was marked as follows: Memo to the Board from JoAnne Tallon Zoning Officer dated January 14, 2010, #B-2. Mr. Raban stated that he was submitting a copy of a letter from Mr. Raban to Marc Spielberg, Esquire who represented the Nemroffs, adjacent property owners. Mr. Raban noted that the letter indicated an agreement of items to be done to alleviate the impact of the pool and spa to the Nemroff property. Mrs. Sicheri marked the letter, dated March 10, 2010 as #A-5. Mr. Raban submitted a copy of the permit for the spa, marked #A-6 and of the electrical permit, marked #A-7.

Mr. Raban stated that most of the concerns from the neighbors had been with the impact of the activities in the applicant's back yard on their quality of life. Mr. Raban read the letter into the record noting that the work would be done by May 31, 2010. Mr. Raban stated that the applicant also agreed to put the air conditioner compressors on the roof rather than on the side of the property facing the Nemroffs. Mr. Raban stated that if the pergola was detached and moved five feet from the main structure as an accessory structure that the location would have a negative impact.

Mr. Angelo J. Pino, Applicant was sworn and testified that he was in agreement with the representations Mr. Raban had made to the Board.

Mr. Marc Spielberg, Esquire representing the adjacent property owners, the Nemroffs, stated that based on the representations made by the applicant, he believed that the impact on his clients would be minimized. Based on that, he requested that the Board approve the application.

The Public Session was closed.

Commissioner Bayard asked whether the putting green had been addressed and Mr. Little noted that he would make a determination whether the green was pervious.

The Board discussed the application and did not approve of the cabana being placed in the front yard. The Board determined that if the putting green was found to be an impervious surface it should be brought into compliance.

Mr. Raban stated that the applicant would be bound by what the Board decided regarding the cabana.

Leonetti moved, seconded by Jones to approve the application with the following conditions: 1. That the applicant comply with impervious lot coverage or come back before the Board if Mr. Little determined the putting green to be an impervious surface, 2. That the cabana be removed from the property, and, 3. That the terms of the letter from Mr. Raban to Mr. Spielberg dated March 10, 2010 be incorporated into the Resolution.

(Tape 466 – Side 2)

The following roll call vote was recorded: Bayard, Cleary, Leonetti, VanBuren, Ternyila

and Jones all voted **YES**.

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(2) **#LUB-3-10** BEACH HAVEN PARK

CRAIG & SUSAN MENGERT

Owners and Applicants

Block 11.26, Lot 6

Mr. Reginald J. Raban, Esquire represented the applicants and evidence was marked as follows: Application and attachments, **#A-1**, Variance Map prepared by Horn, Tyson and Yoder, Inc., dated May 21, 2006, revised January 7, 2010, **#A-2**, two page architectural drawing prepared by Studio Tagland Designs, L.L.C. dated December 2, 2009, **#A-3** and, note from JoAnne Tallon, Zoning Officer, **#B-1**. Mr. Raban stated that if the applicants had known that they were going to need an elevator they would have incorporated it into the design of the house built in 2008.

Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson and Yoder, Inc., was sworn and testified that the elevator would encroach into the eleven foot side yard and that the combined side yard setback would also become nonconforming. Mr. Brzozowski noted that a lot coverage variance would also be required for the elevator. Mr. Brzozowski submitted a page of photographs, marked **#A-4**, noting that the photograph reflected that the eleven foot side yard was not being used as a driveway and therefore would not have an impact on the off street parking.

Mr. David Gaffin with the firm of Studio Tagland Designs, L.L.C. was sworn and testified that the most logical location for the proposed elevator was next to the stairwell.

Mr. Craig Mengert, Applicant was sworn and testified that the elevator was not included in the original design because at the time they did not feel that they needed it. He noted that within the last two years, three family members had accidents which necessitated a need for the elevator.

The Public Session was closed.

Mr. Raban stated that it would be a hardship to redo the floor plan of the new home to internalize the proposed elevator and that the impact of the addition encroaching into the setback area was deminimus.

The Board felt that the proposed addition was deminimus noting that the distance between structures would be maintained.

Southwick moved, seconded by Ternyila to approve the application as submitted. The following roll call vote was recorded: Bayard, Cleary, Leonetti, Southwick, VanBuren,

Ternyila and Jones all voted **YES**.

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(3) **#LUB-4-10** LOVELADIES

MANUEL & MARY ORTIZ

Owners and Applicants

Block 20.172, Lot 8

Mr. Stuart D. Snyder, Esquire represented the applicants and evidence was marked as follows: Application and attachments, **#A-1**, Variance map prepared by Horn, Tyson and Yoder, Inc., dated November 17, 2006 bearing the latest revision date of December 21, 2009, **#A-2**, sheet of two pictures, **#A-3**, and, note with attachments from JoAnne Tallon, Zoning Officer, **#B-1**. Mr. Snyder stated that the applicants had purchased the lot and constructed the new home, pool and attached spa. Mr. Snyder noted that a C.O. had been issued when a question came up regarding the fence on the property. He stated that when Mrs. Tallon went out to make an inspection regarding the fence she questioned whether the spa had been included in the lot coverage on the as-built survey.

Mr. Snyder stated that an above ground spa of less than six hundred gallons was allowed by ordinance. Mr. Snyder noted that Mrs. Tallon told him that the ordinance did not apply to built-in spas. Mr. Snyder stated that he wanted to note it as a comparison for planning purposes and for the Board consideration of the request for the variance. Mr. Snyder stated that the spa was nineteen inches above grade and it was determined that the applicants' property did exceed the lot coverage.

Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson and Yoder, Inc., was sworn and testified that the building coverage including the spa was 25.82% which included the area to the outer edge of the coping. Mr. Snyder submitted photographs of the spa, marked **#A-4 and #A-5**. Mr. Snyder submitted specifications of the pool, marked **#A-6**. Mr. Brzozowski stated that he estimated the spa to be right at six hundred gallons. Mr. Snyder submitted a photograph of the metal framing, marked **#A-7**. Mr. Brzozowski stated that the spa would not have a negative impact on any of the neighboring properties.

The Public Session was closed.

The Board noted that all the setback requirements had been met and that they did not have a problem with the application.

Southwick moved, seconded by Cleary to approve the application as submitted. The following roll call vote was recorded: Bayard, Cleary, Leonetti, Southwick, VanBuren, Ternyila and Jones all voted **YES**.

Mr. Snyder requested that the Resolution memorializing the action of the Board be approved on this evening. Mr. Snyder noted that he had brought along a temporary

Resolution which would allow the applicants to obtain a Resale C.O.. Mrs. Sicheri stated that the Board would send a memo to the Construction Office regarding the approval of the application.

The Board took a five-minute recess.

(Tape #467 – Side 3)

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(4) #LUB-5-10 HOLGATE

PATRICK S. MOELLER
Owner and Applicant
Block 1.88, Lots 2.04 & 2.05

Mr. Reginald J. Raban, Esquire represented the applicant and evidence was marked as follows: Application and attachments, #A-1, letter of authorization from the State of New Jersey dated May 9, 2009, #A-2, Landscape Plan, #A-3, Site Plan Map prepared by Horn, Tyson and Yoder, Inc. dated January 15, 2010, #A-4, and, review letter to the Board by Frank J. Little, Jr. P.E., dated March 2, 2010, #B-1. Mr. Raban stated that the property could not be developed without complying with the conditions of the CAFRA permit. Mr. Raban noted that the CAFRA permit required the public dock and park that had been submitted as part of the application. Mr. Raban stated that in the prior application the town did not want to take on the burden of maintaining the proposed park or any potential liability that might arise out of its use. Mr. Raban stated that his client was still attempting to develop the property and that this application differed from the prior one in that there was not a subdivision. He noted that the property owner would be responsible for the maintenance and liability of the park. Mr. Raban stated that the single family home and the park area with the dock were permitted uses. Mr. Raban stated that what was proposed would be attractive, clean up the site, eliminate boat storage and that people in the neighborhood could enjoy the park.

Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson and Yoder, Inc. was sworn and testified that the property was in the Marine Commercial Zone and whatever was planned there would require a CAFRA permit. He noted that this parcel of the original subdivision was set aside for future water dependent use. Mr. Brzozowski addressed the points of the Board Engineer's review letter and discussed the proposed parking. Mr. Brzozowski noted that public restrooms were not proposed.

Ms. Gail Price of 121 West Osborn Avenue was sworn and stated her concerns with the proposed park.

Mr. John Hanley of 117 Osborn Avenue was sworn and stated that the property was already a de facto park in the summertime and that the property as it existed was a blight on

the neighborhood.

Mr. Richard Heissler of 128 Osborn Avenue was sworn and testified that the property was a problem. He noted that he had placed garbage cans by the property which people were using but that the town did not pick up the cans. He stated his concerns with the property. Commissioner Bayard stated that he would look into the garbage situation.

Ms. Price stated that she thought a park would be a bad idea but that the property needed to be cleaned up.

The Public Session was closed.

Mr. Raban stated that the applicant had litigated with the State of New Jersey in an attempt to come up with a solution to develop the property in a reasonable manner. Mr. Raban stated that the application was a good solution to a problem.

(Tape #467 – Side 4)

Mr. Raban stated that the dock and park were a permitted use, would be an asset to the neighborhood and appropriate for the property.

Mrs. Sicheri stated that the applicant was before the Board for a conditional use and site plan review. She noted that there were solutions available by way of ordinance to force the clean up of the property.

The Board noted that the property was to be reserved for water dependent use. They felt that creating a public park that the town has no control over and relying on the owners to insure and maintain would create too many potential problems for the town and homeowner. They noted that a public facility on a residential property was not a good mix and that the water depth was an issue.

Mr. Little noted that the Board had to decide on the item stated in his review letter, #1.a.iv., “Furthermore, the granting of such conditional use permit shall not be detrimental to the health, safety and general welfare of the community and shall be reasonably necessary for the convenience of the community in the judgment of the appropriate Board”.

The Board felt that the proposal created an unsafe situation and Commissioner Bayard noted the amount of work it took to maintain a park.

Ternyila moved, seconded by Jones to deny the application as submitted. The following roll call vote was recorded: Bayard, Cleary, Leonetti, Southwick, VanBuren, Ternyila and Jones all voted **YES**.

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Commissioner Bayard stepped down from the Board for the evening.

Under **Public Participation**, Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson and Yoder, Inc. addressed the Board regarding the following approved site plan:

#LUB-11-09-PFA2

BRANT BEACH

S & A LOURES, L.L.C.

Owner & Applicant

Block 15.108, Lot 2

Mr. Brzozowski stated that the applicant had approval to square off one story of the projection off of the rear of the main building. Mr. Brzozowski stated that the applicant was requesting that the second story also be allowed to be squared off. Mr. Brzozowski noted that the projection off of the rear of the building was part of the owner's apartment. **Southwick moved, seconded by Ternyila to approve the request as a field change.** The following roll call vote was recorded: Cleary, Leonetti, Southwick, VanBuren, Ternyila and Jones all voted **YES**.

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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 9:25 P.M.

ROBERT S. VANBUREN
ACTING CHAIRMAN