

**BRANT BEACH, NEW JERSEY
JUNE 9, 2010**

A Regular Public Meeting of the Land Use Board of the Township of Long Beach was held in the Court 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 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, Mrs. M. P. Cleary, J. A. Leonetti, D.A. Southwick, R. S. VanBuren and J. C. Konnor presiding.**

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

Alternate members of the Board present: **J. J. Ternyila.**

Alternate members of the Board absent: **P. M. Moran, Mrs. G. M. Harle and R. L. Jones.**

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

(Tape #472 - Side 1)

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

- 1. #LUB-11-10: EVERT (Block 4.06, Lot 7) 12 West 14th Street, North Beach Haven:** Mr. Sicheri stated that the applicants were proposing to demolish the existing single family home and construct a new single family dwelling which required a variance for distance between structures. Mr. Sicheri noted that the lot area and width were grandfathered.
- 2. #LUB-21-09-A: ROTHENBERG (Block 1.85, Lot 2) 117 West Marshall Avenue, Holgate:** Mr. Sicheri stated that the application was back before the Board after an order of remand by Judge Grasso signed May 12, 2010. Mr. Sicheri noted that the judge had

remanded the application for the Board's consideration as to whether or not the applicants could satisfy the negative criteria for a "C" variance. He stated that the applicants had authorization from the DEP to fill an additional nine hundred and eighty-eight square feet of the lot of which seven hundred square feet was to be below the proposed structure.

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Minutes of the meeting held May 12, 2010 were presented for approval **Southwick** moved, seconded by **VanBuren** for adoption. The following roll call vote was recorded: **Applegate, Konnor, Leonetti, Southwick and VanBuren all voted YES.**

Mr. Moran joined the Board.

Vice Chairman Konnor listed the following **Resolutions of Memorialization:**

1. **#LUB-9-10: KELLY** – Resolution of Approval moved by **Southwick** seconded by **Applegate**. The following roll call vote was recorded: **Applegate, Konnor, Leonetti, Southwick, VanBuren and Moran all voted YES.**
2. **#LUB-10-10: O'BRIEN** - Resolution of Approval moved by **Applegate** seconded by **Southwick**. The following roll call vote was recorded: **Applegate, Konnor, Leonetti, Southwick, VanBuren and Moran all voted YES.**

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

(1) **#LUB-11-10** **NORTH BEACH HAVEN**

STEVEN AND SARAH EVERT

Owners & Applicants

Block 4.06, Lot 7

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 March 2, 2010, **#A-2**, and four page architectural drawing by Robert Stack, Architect, dated May 5, 2010, **#A-3**. Mr. Raban stated that the applicants were year round residents with two young children and that the present home had outlived its usefulness. Mr. Raban stated that the applicants proposed to tear down the home and construct a new single family home with the only variance required being the distance between adjoining structures.

Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson and Yoder, Inc. was sworn and described the property, as it existed, to the Board. Mr. Brzozowski submitted

photographs to the Board, marked #A-4. Mr. Brzozowski stated that the required distance between structures variance was from an existing two story deck on the adjacent lot. Mr. Brzozowski stated that the width of the proposed home was less than the existing home which would produce better light and air.

Mr. Robert Stack, Architect was sworn and described the proposed plans. He testified that the proposed home had the proper side yard setbacks but the deck on the adjoining property encroached and therefore they would not meet the required fifteen feet between structures.

Steven and Sarah Evert, Applicants were sworn and testified that the existing structure was not suitable for raising and asked the Board for their consideration.

The Public Session was closed.

The Board felt that the proposed home was an improvement and would be an asset to the neighborhood.

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

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(2) **#LUB-21-09-A** **HOLGATE**

LEONARD AND RANDI ROTHENBERG

Owners & Applicants

Block 1.85, Lot 2

Mr. James P. Rhatican, Esquire with the firm of Connell Foley, L.L.P. represented the applicants and additional evidence was marked as follows: Certification that the record was examined by Board Member, Mary C. Cleary, #B-2, and Certification that the record was examined by Board Member, Patrick M. Moran, #B-3. Mr. Rhatican stated that the application was back before the Board following a remand order from Superior Court which had followed litigation over the prior denial of the variances sought by the Rothenbergs. Mr. Rhatican noted that the application required a variance from the ordinance excepting coastal wetlands from the calculations of setbacks and coverage. Mr. Rhatican stated that the applicants had obtained a Coastal Wetlands permit to fill a percentage of the site and that the Army Corp. of Engineers had also issued a permit for the fill on the property.

Mr. Rhatican noted that the court order stated that the application was remanded to the Board on the sole issue of access to the proposed development site by fire and emergency vehicles.

Mr. Willis Flower, Esquire of Ford, Flower and Hasbrouck in Linwood, New Jersey

represented the property owners of 114 W. Osborne Avenue and noted that he felt that the issue was not limited to just the access but also to the negative criteria.

Mr. John J. Mallon, P.E., P.P. was sworn, qualified and Mr. Rhatican submitted a copy of Mr. Mallon's resume, marked **#A-7**. Mr. Mallon testified that he was employed by the firm of Ernst, Ernst and Lissenden in Toms River, NJ. Mr. Mallon described the site to the Board members. He noted that the proposal was to fill approximately one thousand square feet of the lot, creating a retaining wall within the garage and cantilevering the balance of the home out the back. Mr. Mallon stated that approximately eight thousand square feet of the lot was reserved for conservation area.

(Tape #472 – Side 2)

Mr. Mallon stated that the proposed home would have fire sprinklers. The Board discussed how fire fighters would access the property.

Mr. Richard J. Shackleton, Esquire with the firm of Shackleton and Hazeltine, representing Long Beach Township cross-examined Mr. Mallon. Mr. Mallon stated that the house footprint was within the high tide line.

Mr. Flower cross-examined Mr. Mallon.

Mr. Gerald Sweeney, Esquire and owner of 113 W. Osborne Avenue cross-examined Mr. Mallon.

Mr. Robert Musgnug, Architect of Musgnug and Associates, Architects was sworn. Mr. Musgnug described photographs that he had taken, marked **#A-8, A through F**. Mr. Musgnug described the proposed plans to the Board. Mr. Musgnug stated that the applicants were willing to construct a rear means of access as a condition of the application.

The Board discussed sprinkler systems.

Mr. Shackleton cross-examined Mr. Musgnug.

(Tape #473 – Side 3)

Mr. Rhatican stated that the applicants would consent to sprinkler all three floors of the structure. Mr. Musgnug stated that the plan was revised to convert one side of the garage as an open area for storage and access to the rear of the house. Mr. Musgnug reviewed the plans and the photographs with Mr. Shackleton.

The Board took a five-minute recess.

Mr. Flower cross-examined Mr. Musgnug. Mr. Musgnug stated that a walkway was proposed to access the rear of the building, without going through the building. Mr. Musgnug agreed that it would be difficult for fire fighters to access egress windows from the marsh with their ladders.

Mr. Sweeny cross-examined Mr. Musgnug.

Mr. Joseph Reinhart, expert in fire fighting tactics and fire suppression, was sworn and qualified. Mr. Rhatican submitted Mr. Reinhart's professional highlights, marked #A-9. Mr. Reinhart described how a fire would be fought on this property and noted that a fire truck could not be brought around to the rear of the home.

Mr. Reinhart recommended that the structure be constructed with automatic sprinkler protection which was ninety-seven percent effective.

Mr. Reinhart noted that if the pressure was inadequate, the sprinkler system would be designed with an independent pressure tank that the system could operate on.

(Tape #473 – Side 4)

Mr. Reinhart discussed the system with the Board.

Mr. Reinhart stated that he would have concerns (from a fire fighting standpoint) with the current plan but with sprinklers and modifications to the plan he would feel comfortable with it.

Mr. Shackleton cross-examined Mr. Reinhart.

Mr. Flower cross-examined Mr. Reinhart.

Mr. Little stated that if the applicants proposed walkways on the upland portion of the property it would reduce the size of the home which would be a substantial modification to the architectural plans. Mr. Little stated that would require a whole new architectural plan for the Board to review.

The Board discussed the water supply on the street.

Mr. Sweeny cross-examined Mr. Reinhart.

The Board took a five-minute recess.

Mr. Rhatican requested that the application be carried to provide more detailed plans to the Board.

Mr. Konnor announced that the application would be carried to the August 11, 2010 meeting, with a waiver of time. Mr. Sicheri stated that a consent order should be prepared extending the time.

Moran moved, seconded by Applegate to carry the application to the August 11, 2010 meeting subject to renotification by the applicants. The following roll call vote was recorded: Applegate, Cleary, Konnor, Leonetti, VanBuren, Moran and Ternyila all voted **YES**. Southwick voted **NO**.

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(Tape # 474 – Side 5)

Under **Old Business**, Mr. Sichiari addressed a letter received from Reginald J. Raban, Esquire regarding the **Mengert Application (LUB-3-10)** requesting that the Board modify the Resolution to allow for a change in the setback of an elevator shaft from 5.9 feet to 5.74 feet. Mr. Sichiari advised that the application be reopened and renoticed.

Moran moved, seconded by VanBuren to reopen the Mengert variance application at the July 14, 2010 meeting, with the condition that the applicants renotify. The motion was approved by voice vote.

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Under **Correspondence**, Mr. Little addressed the Board regarding the **Grimes (LUB-36-08-PF)** application and the required improvements on the site, including the removal of the travel lift.

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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 10:22 P.M.

**JEFFREY C. KONNOR
VICE CHAIRMAN**