

Borough of Brielle

JULY 10, 2018

October 26 2018

July 10th, 2018

BRIELLE PLANNING BOARD
TUESDAY, JULY 10, 2018

The Regular meeting of the Brielle Planning Board was held on Tuesday, July 10, 2018 at 7:30 p.m. in the Brielle Borough Hall, 601 Union Lane. After a moment of Silent Prayer and a Salute to the Flag roll call was taken:

Present – Mayor Thomas Nicol, Councilman Frank Garruzzo, Joseph Bonacci, Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, James Stenson

Absent - Stacey Montalto

Also present were Alan Hilla, Jr., Board Engineer, David Clark, Board Attorney and Secretary of the Board Karen Brisben who recorded the Minutes. There were 14 people in the audience.

The first order of business was the swearing in of the newest Planning Board member, Glenn Miller, as Alternate Member #1 through 12/31/18.

A motion was made by Councilman Garruzzo to approve the Minutes of the June 12, 2018 meeting, this seconded by Mr. Maclearie and unanimously approved, all aye.

CORRESPONDENCE:

A Notice of Settlement Agreement from the D.E.P. was received, regarding a denial of a permit for 1006 Brainard Place bulkhead/dock plan. Mr. Clark noted this is just for the Board's information and no action needs to be taken.

OLD BUSINESS:

The Board then considered approval of a Resolution for Site Plan/Use Variance for Block 85, Lot 3, Union Lane and Ashely Avenue, Brielle Landing Condominiums, for site improvements.

As all had received a draft copy and there were no changes or recommendations the following was presented for approval:

WHEREAS, Brielle Landing Condominium Association c/o JCR Management Services (the "Applicant") has applied to the Planning Board of the Borough of Brielle (the "Board") for a Site Plan Approval for the property located at the intersection of Union Lane and Ashley Avenue and identified on the tax map of the Borough of Brielle as Block 85, Lot 3 (the "Property"); and

WHEREAS, the Property is located within the Borough's Marine Commercial Zone 2 (the "C-2 Zone") and consists of a 6.3-acre lot containing a residential condominium complex consisting of four (4) buildings; and WHEREAS, the Applicant is proposing to update/renew common space elements on the Property by undergoing the following improvements 1) modify the landform; 2) install new sidewalks, retaining walls, a new pool deck, and fencing; 3) improve the lighting and landscaping, and 4) undergo other minor site improvements at the interior court yard of the complex; and

WHEREAS, the Board held a hearing on June 12, 2018, and considered the following documents presented at the hearing in connection with this application:

- a. Jurisdictional Packet;
- b. Exhibit A-1 Aerial photo showing the commercial and residential use at these condominiums
- c. Exhibit A-2 colored rendering of the Courtyard area

WHEREAS, the Applicant's attorney, Daniel S. Popovitch, Esq., presented this Application; and WHEREAS, Christopher P. Rosati, P.E., P.P. of FWH Associates testified on behalf of the Applicant; and WHEREAS, the Board considered the following testimony presented at the hearing in connection with this Application:

Mr. Rosati came forward and was sworn in. He has a Bachelor's degree from Rutgers University and has worked in the engineering field since 1994; he has testified before many boards, he previously worked for

Leon S. Avakian Engineers in Neptune, and had served as the engineer for the Township of Millstone for several years. The Board accepted Mr. Rosati as an expert witness.

Mr. Rosati stated that this property is in the C-2 Marine Commercial Zone and presented Exhibit A-1, an aerial photo showing the commercial and residential use at these condominiums. He said most of the improvements will be in courtyard area, which is shielded from public view by residential buildings. He said there are a lot of retaining walls, which are made of timber, are currently in disrepair.

He presented Exhibit A-2, a color rendering of the courtyard area. The plans include removing retaining walls and installing landscaped areas. There will be significant landscaping which will soften the area and be easier to maintain.

There will still be some concrete retaining walls by the water. The Applicant cannot eliminate the grade at the slope by the water so retaining walls are needed in this area. However, the old timber and brick retaining walls will be replaced by concrete with pavers.

The proposed bollard lighting will be by LED lighting. There are four (4) poles at twelve (12') feet high around the pool and the south section will have a flagpole and lighting.

Mr. Rosati testified that storm water management will also be addressed. The Applicant is changing the drainage patterns minimally due to some changes in the grading in this area. This will result in reducing the impervious surface by 1.6% or about 1,900 square feet.

Mr. Rosati then referred to the Section 21-9.16 in the zoning section of the Borough Code that requires site plan approval from this Planning Board grading more than two (2') feet of soil. Mr. Rosati testified that the Applicant's plans propose to smooth out six (6') feet to be more of a slope, there will be approximately 56 truckloads of fill coming in and Applicant will work with the contractor so as to not bring this in all at once and obstruct the neighbors.

Mr. Rosati felt all of this work will be an improvement as there are currently tripping hazards as this condominium site is over 30 years old. Instead of making improvements piece-by-piece, the Applicant wants to complete the work in one project. This will create a more uniform result to the improved areas. The Applicant estimates that this project will take 90-100 days to complete. The Applicant plans to begin the work after the summer. The Applicant has a pre-construction meeting planned for August, and will work with Board Engineer, Alan Hilla on this.

With respect to the soil erosion issue, Mr. Rosati said the Applicant's approval is waiting for the official approval letter to come in.

Mr. Rosati said that 29 bollard lights are proposed for installation. There will be 20 ornamental trees and 892 shrubs along with grasses and perennial flowers. Mr. Popovitch asked if the lighting will impact the property owners and Mr. Rosati said the pool light will be twelve (12') feet high and the rest of the lights will be 41 inches high.

Mr. Rosati also stated they do not need CAFRA approval as they are reducing the impervious coverage and no additional parking is proposed.

Mr. Langenberger whether Mr. Rosati knew about the truck pads to the east of building 1. Mr. Rosati responded yes and there are no proposed changes. Mr. Langenberger explained the truck pads are for the fire company and that they have been there since the beginning.

Mr. Langenberger also noted the proposed plans will include work to be completed at one of the entrances, and at one time, the condo association wanted to lock this entrance. However, this is not permitted as this is a public access area. If Applicant shuts this gate, it will interrupt the emergency services. Mr. Rosati said they are aware of all this and it will be addressed with the contractors.

Mr. Maclearie asked if the sidewalks are ADA compliant and the answer was yes; Mr. Maclearie then asked about soil erosion work and Mr. Rosati said that the Applicant will be watching the contractors like a hawk while they are doing this work.

The hearing was opened for comments regarding Mr. Rosati's testimony and Robert Houseal of the Environmental Commission residing at 608 Rankin Road was sworn in and provided the following comments:

Mr. Houseal noted that in the middle of the plan, by the fold, there is a note "remove fence" and, at the bottom of the page there is a shed that shows a fire hydrant. Is this where the fence is and Mr. Langenberger

answered by saying it has a break-away front, the hydrant is not in an easy place but the Fire Company has used it. Mr. Houseal said the fence shows on the aerial map, maybe about 30 feet by the south end, he wanted to know if they are removing the fencing at that location? Mr. Rosati said yes, it is being replaced and upgraded. Mr. Houseal noted there is public access in this location and Mr. Rosati said Applicant will comply, and that Applicant did not perform a boundary survey, only a topographic survey. Mr. Houseal said that area is now locked. Mr. Hilla said there is a gate there now but the sign for public access is missing. If one follows the sidewalks it comes out to the bulkhead to the Sand Bar and this is public access.

Mr. Houseal then addressed the site plan grading and drainage, it shows 3 risers and the previous sheet of the plan shows sidewalks and those risers are not there; this makes this not ADA compliant. Mr. Rosati showed Mr. Houseal the areas that will be compliant with ADA access requirements.

Mr. Houseal then asked about the pool details, are they going to put in an ADA lift for the pool? Mr. Rosati said they are not planning on this, but that he will address it with the Construction Code official. Mr. Houseal noted they have to submit a Certificate to the ADA and Mr. Rosati said they will be doing this.

Mr. Houseal then asked about the irrigation system and was told it is supplied by a well; Mr. Houseal asked if the storm water will be going into the system with an 18" RCP and Mr. Rosati said yes, Applicant does that now and will be putting in new leader pipes. Mr. Houseal asked if this storm water can be used for irrigation and Mr. Rosati said it is not in the plans. Mr. Houseal then asked about the ornamental grasses. As they can be invasive, he wanted to know if Applicant can certify that they will be using non-invasive species of grass. Mr. Rosati said they will work that out with the engineer but the grasses will be maintained by the staff. Mr. Houseal said that when the grass goes to seed it will go into the water and this should not happen. Mr. Rosati asked that the Environmental Commission give them a letter on what to plant and what not to plant; Mr. Houseal said they want to see non-invasive and non-reproducing plants and noted the USDA has changed the zones for plantings, this area is now Zone 7-A.

As Mr. Houseal had no more questions, and there were no other public questions, Mrs. Brisben spoke up and told the Board she was Board Secretary back in the 1980s when this project was created and the proposed public access portion was very important to the Board at that time and was one of the reasons this project got approved. Mr. Hilla added the gate by the road could use some work on it. Mr. Popovitch assured the Board they will comply with the public access requirements.

The hearing was then opened to general public comments on the Application and the following comments were provided:

Christine Persico of 208 Ashley Avenue came forward and was sworn in. She has lived at this Property for the past 8 years and commented that perhaps 50% of the units are used by year-round owners who are here full time. This maintenance/upgrade work is desperately needed, other than general maintenance, they have not taken care of the grounds. She was concerned as the water now slopes to her building and there are bad mold problems, the steps and walkways are not even with different levels of disrepair. She did not know what the code was in 1987 but there is no ADA access at all and she would like to ensure that the improvements made to the common areas are ADA compliant. Councilman Garruzzo asked her if this work is going to help her and Ms. Persico said "that is what they tell me," they will fix the slope and were told this will remedy the mold/water problem. She invited the Board to come over and look at this. Mr. Rosati said Ms. Persico is right and one of the main goals is to get the water away from the building with new grading so there will be no pitch to the buildings any more. They also will fix the steps and risers in the common areas.

Mr. Houseal again came forward and told the Board he felt this will be a much improved property when it takes place.

As there were no other public comments that portion of the hearing was closed.

Mr. Popovitch made his closing remarks. He said there really wasn't too much to add, this is a much needed improvement plan, the common areas will be ADA compliant and will comply with all building codes.

Chairman Condon opened the hearing to the Board for general comments.

Mr. Langenberger said there is a lot here and there isn't any part that he doesn't like, he was in favor of approval; Mr. Maclearie felt it will be a great improvement; Councilman Garruzzo agreed and felt this will resolve the problems here; Mayor Nicol also had no problem with the plans; and Chairman Condon felt that doing all this at once was the way to go. Mrs. Brisben asked Mr. Hilla if this needed any bonding and Mr. Hilla said no.

WHEREAS, the Board after carefully considering the evidence presented by the Applicant at the hearing and

general public, if any, makes the following factual findings and conclusions of law:

- a. The correct fees were paid, taxes are paid to date and the property owners within two hundred (200') feet, as well as the newspaper, were properly notified;
- b. This property represents the residential portion of a Multi-Use Marine Complex which is set forth as a Conditional Use in the Ordinance;
- c. The Application proposes to update and renew common space elements that have been in place for thirty years;
- d. The proposed lighting plan is within Code requirements;
- e. This Application has no impact on the Property's status as a Conditional Use in the C-2 Zone;
- f. The Site Plan Application meets the requirements set forth in Section 21-9.16 of the Borough Code;
- g. The Applicant has taken steps to ensure minimal disruption to neighboring properties;
- h. The Applicant's proposed plans to complete all improvements through one project will cause less overall disruption to neighboring properties than a piece-by-piece improvement plan;
- i. The proposed plans encompassing all improvements will create a uniform aesthetic which will benefit the community; and

WHEREAS, Councilman Garruzzo made a motion to approve the Application for the Site Plan Approval with conditions as described herein, this motion was seconded by Mr. Maclearie. At that time, the following roll call was taken:

Ayes: Thomas Nicol, Councilman Frank Garruzzo, Thomas Condon, James Langenberger, James Maclearie

Noes: None

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle, that the Applicant's Application for Site Plan Approval is hereby approved and granted subject to the following conditions:

- A. The Applicant shall pay all taxes and other applicable assessments, costs and fees to date, as applicable.
- B. The Applicant shall comply with all requirements and outside approvals as may be required from the Borough of Brielle or any other governmental authority not otherwise disposed of by this application.
- C. Applicant shall receive the final approval from the Freehold Soil Conservation District and provide a copy of same to the Board Secretary.
- D. The Applicant shall comply with all public access requirements on the Property.
- E. The Applicant shall ensure that all improvements are ADA compliant.

The above Resolution was approved on a motion by Mr. Maclearie, seconded by Councilman Garruzzo and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Thomas Condon, James Langenberger, James Maclearie

Noes: None

Not Eligible to Vote: Joseph Bonacci, Eric Lapham, Glenn Miller, James Stenson

The next Resolution to be considered was for approval of a variance application for Block 69.01, Lot 11, 601 Locust Road, owned by Larry & Shannon Salvatoriello, to allow an addition to an existing home.

As all had received a draft copy and there were no changes or recommendations, the following was presented for approval:

WHEREAS, Larry and Shannon Salvatoriello (the "Applicants") have applied to the Planning and Zoning Board of the Borough of Brielle (the "Board") for a Variance Plan Approval for the property located at 601 Locust Road and identified on the tax map of the Borough of Brielle as Block 69.01, Lot 11 (the "Property"); and WHEREAS, the Property is located within the Borough's Residential Zone 2 (the "R-2 Zone") and consists of a two (2) story frame dwelling with a one-car attached garage, and various accessories; and WHEREAS, the Applicants are seeking variance relief for the construction of lateral additions to the front, side and rear of the principal structure, and for the construction of a second story addition over a portion of the structure's extended footprint, as shown in the site plan application submitted by the Applicants; and WHEREAS, the Property contains the following pre-existing nonconforming conditions:

- a. Lot Width – Pursuant to §21-12.2(a)(1)(b) of the Ordinance, the minimum lot width permitted for this Property is one hundred and twenty-five (125') feet; the Property has a lot width of 90.03 feet existing and proposed;

WHEREAS, this Application specifically requires the following variances:

- a. Front Yard Setback (to the garage) – Pursuant to §21-12.2(a)(1)(d) of the Ordinance, the minimum front yard setback required for this Property is forty (40') feet; the Property has an existing front yard setback of

36.8 feet and has proposed a setback of 37.3 feet;

b. Front Yard Setback (to the porch and upper story overhang) – Pursuant to §21-12.2(a)(1)(d) of the Ordinance, the minimum front yard setback required for this Property is forty (40') feet; the Property has an existing front yard setback of 36.8 feet and has proposed a setback of 29.1 feet;

c. Rear Yard Setback (to the garage) – Pursuant to §21-12.2(a)(1)(f) of the Ordinance the minimum rear yard setback required for this Property is forty (40') feet; the Property has an existing rear yard setback of 33.8 feet and has proposed a setback of thirty-six (36) feet;

d. Rear Yard Setback (to the porch and upper story overhang) – Pursuant to §21-12.2(a)(1)(f) of the Ordinance the minimum rear yard setback required for this Property is forty (40') feet; the Property has an existing rear yard setback of 33.8 feet and has proposed a setback of 28.9 feet;

WHEREAS, the Board held a hearing on June 12, 2018, and considered the following documents presented at the hearing in connection with this application:

- a. Jurisdictional Packet;
- b. Exhibit A-1 First Floor Plans;
- c. Exhibit A-2 Second Floor Plans;
- d. Exhibit A-3 Roof Plans
- e. Exhibit A-4 South and East elevation
- f. Exhibit A-5 Aerial photos of the property as it currently exists
- g. Exhibit A-6 Front façade view from the south
- h. Exhibit A-7 Front façade view from the west
- i. Exhibit A-8 View of the property from Riverview Drive

WHEREAS, the following individuals testified on behalf of the Applicants: Larry Salvatoriello, Brendon McHugh, AIA, NCARB of McHugh Architecture, and Raymond Carpenter, P.E., P.P. all of whom were accepted as either experts in their field or fact witnesses; and

WHEREAS, the Board considered the following testimony presented at the hearing in connection with this application:

Larry Salvatoriello came forward and was sworn in. He gave a general statement regarding the nature of his application.

Brendan McHugh of McHugh Architects, came forward and was sworn in. He gave his credentials, he went to Miami University in Ohio and has a Master's Degree from Georgia Tech; he has been licensed since 1999 and has been in Manasquan since 2009 and has testified before many Boards but this is the first time that he Brielle Planning Board. The Board accepted him as an expert witness.

Mr. McHugh had pages of the Applicants' plans marked as exhibits and explained that the Applicants need a larger home that is more family friendly. The Property is a non-conforming lot. Mr. McHugh referred to Exhibit A-1 and stated that the Front Yard setback cuts through the front of the existing home and the Rear Yard setback cuts through the rear of the existing home, this is due to the non-conforming lot on a corner. He then discussed Exhibit A-2, the second floor plans. There is currently an office above the garage, but Applicants propose to put in a master bedroom in addition to a kid-friendly space. These additions will drive the house to be longer in length.

The Salvatoriellos will also require a variance for the proposed front porch that will be 6.2' x 11.6.' The Salvatoriellos are also expanding the area on the second floor over the porch. The back bedroom will extend out over the back porch.

Exhibit A-3 shows a gambrel roof which creates a more historic appearance and will work with the existing structure. In reply to Mr. Hilla's Report questioning how the ½ story portion of the structure will be accessed, Mr. McHugh stated that there is a pull-down stair for storage.

Exhibit A-4 shows the South and East elevation, the small porch by the pool and the rear setbacks. Mr. McHugh then submitted Exhibit A-5, aerial photos of the property as it currently exists. Exhibit A-6 is a front façade view from the south and Exhibit A-7 is the front façade view from the west, Exhibit A-8 is the view of the property from Riverview Drive.

Mr. Condon asked if the pool is there now and the answer was yes. Mr. Condon asked about the side setback, whether the Property will be even with the house to the west of the Property. Mr. McHugh answered yes.

At this time the hearing was opened to the public for questions to Mr. McHugh and, hearing none, that part of the hearing was closed.

Raymond Carpenter came forward and was sworn in. As he was familiar to the Board he was accepted as an expert witness.

Mr. Carpenter said this is a non-conforming corner lot, which results in two front yards. Because the Property is subject to front yard setback minimums on two sides of the lot making, the structure cannot be added to in conformance with the Code. The structure is currently plain and the proposed porches will break this up and make it more aesthetic. The only conforming corner lot is at the corner of Rankin Road and Riverview Drive, all other corner lots along Riverview Drive are non-conforming. Mr. Carpenter stated that this issues is something properties on corner lots deal with and the proposed plans will make full use of this Property. Mr. Carpenter feels that the setbacks are actually de minimis. Mr. Carpenter also mentioned the proposed plans provide stormwater management.

The hearing was opened for general comments from the public and the following members of the public provided comments in support of this Application: Colon Elliot of 633 Locust Road and James Fogerty of 809 Riverview Drive; and

The Board was in agreement that it should be approved, Mr. Condon noted they are 4% over on lot coverage but they have constraints with this non-conforming lot and he felt it will fit in the neighborhood.

WHEREAS, the Board after carefully considering the evidence presented by the Applicants at the hearing and of the adjoining property owners and general public, if any, makes the following factual findings and conclusions of law:

- j. The correct fees were paid, taxes are paid to date and the property owners within two hundred (200') feet, as well as the newspaper, were properly notified;
- k. The Property's minimum lot width of 90.03 feet is an existing non-conformity.
- l. The Property is situated on a corner lot making the Property uniquely subject to front yard setback requirements on two sides of the lot, therefore the strict application of the Code would result in exceptional and undue hardship upon the Applicants of such property;
- m. The variances relate to a specific piece of property;
- n. The variances can be granted without substantial detriment to the public good;
- o. The benefits of the deviations substantially outweigh any detriment; and
- p. The variances will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, James Langenberger made a motion to approve the Application for the Variance Plan with conditions as described herein, this motion was seconded by Stacey Montalto. At that time, the following roll call was taken:

Ayes: Mayor Thomas Nicol, Thomas Condon, James Langenberger, Stacey Montalto, James Maclearie

Noes: None

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle, that the Applicants' Application for Variance Approval is hereby approved and granted subject to the following conditions:

- A. The Applicants shall pay all taxes and other applicable assessments, costs and fees to date, as applicable.
- B. The Applicants shall comply with all requirements and outside approvals as may be required from the Borough of Brielle or any other governmental authority not otherwise disposed of by this application.

A motion to approve the above Resolution was made by Mr. Langenberger, seconded by Mr. Maclearie and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Thomas Condon, James Langenberger, James Maclearie

Noes: None

Not Eligible to Vote: Councilman Frank Garruzzo, Joseph Bonacci, Eric Lapham, Glenn Miller, James Stenson

NEW BUSINESS:

The Board then turned to an application for variance relief for Block 64.03, Lot 10, 644 Susan Lane, owned by David & Laura Leone, to allow construction of a rear-yard deck extension. Rear Yard Setback – 40 feet required, 26 feet existing & proposed (applicants want to construct an extension to the side of the nonconforming deck which will not affect the side yard setback).

The correct fees were paid and the property owners within 200 feet as well as the newspaper were properly notified. Mr. David Leone came forward to present his application, he explained his parents built this home back in 1977, it was built by Bill Rathjen. There is 41 feet from the rear yard to the home but a deck was built which created a 26 foot rear yard setback. Back in 1986 they applied to the Zoning Board for variance approval and expanded their dining room and they kept the deck. He now wanted to expand the deck to the

side yard and will not be going out to the rear or infringing on the side yard setback.

He said this is a part of the yard they do not use and he felt it will be beneficial to be able to have the larger deck; this will not disturb any of the neighbors.

The hearing was opened to the public for questions to Mr. Leone and Jennifer Maguire of 642 Susan Lane, came forward and was sworn in. She asked about the existing air conditioning units and where they will be going, Mr. Leone said they will be under the deck. Ms. Maguire asked if there would be a hedge or something for privacy for them as they are the neighbors most affected by this extension; Mr. Leone said yes, they will put in something for privacy.

As there were no other questions from the public that portion was closed. Mr. Langenberger asked if this part of the deck will be covered and the answer was no. Mr. Lapham wanted more information on hedges for the neighbors and Mr. Leone said right now this area is overgrown with Mountain Laurel and Euonymus plants, he does not have a plan right now but will put in something in the future. The Maguires do have a very nice patio and he plans on some sort of privacy but right now it is overgrown and he will put in something easier to maintain. Mr. Miller said the plan looks like he was matching up the home and Mr. Leone said yes and it will be no closer to Rathjen Road.

Mr. Hilla asked if there were going to be any additional steps and Mr. Leone said maybe 2 steps depending on the grade. Mr. Hilla commented that if they are encroaching it would be a problem, if they are not there is no problem.

As there were no other Board questions the hearing was opened to the public for general comments, and as there were none, that portion of the hearing was closed and the Board went into discussion. All the Board members agreed on approval of this application and did not have any objections so Mr. Langenberger made a motion for approval, as presented, this seconded by Mr. Stenson and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Joseph Bonacci, Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, James Stenson

Noes: None

The next application for consideration was for variance relief for Block 30.01, Lot 11, 523 Borrie Avenue, owned by Jason & Laura York, to construct a second story bedroom and 5-foot wide front porch to an existing dwelling. Minimum Lot Width – 75 feet required, 60 feet existing & proposed. Minimum Lot area – 11,250 feet required, 6,150 square feet existing & proposed. Minimum Front Yard Setback – 30 feet required, 26 feet existing & proposed to the dwelling, 21 feet proposed to the new front porch. Minimum Side Yard Setback – 10 feet required, 7.1 feet existing & proposed.

The correct fees were paid, taxes are paid to date and the newspaper was properly notified. However, Mrs. Brisben found an error in the property owners' notice in that one owner was not notified; she did say he, Mr. Duffe, owns another property in this vicinity and so was noticed for that property, however, there are two other people listed along with him for 525 Borrie Avenue, the lot that was missed. Mr. Clark explained that this creates a risk for the applicants if they want to proceed. Mr. Jason York, the applicant, said that 525 Borrie Avenue was a rental that was Mr. Duffe's mother and, after she passed, he rented it out. Mr. Condon felt if Mr. Duffe had a concern he would be here this evening, and Mr. York can proceed at his own risk but he doesn't want a jurisdictional flaw. Mr. Stenson asked if he would have to notice all again and Mr. Clark says yes, he has to. Mr. York commented it cost him \$275 to do this but the Board felt he should re-notice and come back for the August 14th meeting, Mr. Lapham commented it would cost him a lot more than \$275 if it is heard and then becomes a jurisdictional issue.

The Board then looked at the application for variance relief for Block 51, Lot 14, 313 Leslie Avenue, owned by Thomas & Catherine Langan, to allow construction of a new single-family dwelling. Minimum Lot Depth – 100 feet required, 80 feet existing & proposed. Minimum Front Yard Setback – 25 feet required, 11.8 feet existing, 1 foot proposed (to landing) and 12 feet proposed to building. Minimum Rear Yard Setback – 25 feet required, 9.6 and 13.1 feet proposed. Maximum Building coverage – 20% maximum allowed, 20.6% proposed. Building Height – 35 feet maximum allowable, 15 feet existing, 38 feet proposed.

The correct fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified. The following people were sworn in: Thomas and Catherine Langan and Anthony Condouris, Architect from Rumson. Mr. Condouris gave his credentials and has been an Architect since 1996 appearing before many Boards. The Board accepted him as an expert witness.

Mr. Langan told the Board they want to build a new home at this location and asked that the Architect explain the application. Mr. Condouris said this property is on the water and has a bulkhead, the original home is right on the setback line and they require 5 variances. The proposed home will be raised up and will allow parking under one side of it; there is no finished attic, they are proposing an unfinished area with pull down stairs. They are going to have an 8 foot high garage and then a two story home, they are asking for the extra 3 feet to avoid having too flat a room and this is more for aesthetics. The first floor will be garage and storage, the second floor is the living area and the third floor will have 3 bedrooms, 2 bathrooms & a laundry room. He added that they may cut part of the deck off, away from the neighbors. Mr. Hilla asked if this is an open deck and Mr. Condouris said it will be an open deck but the second story deck will be fiberglass and covered.

Mr. Langenberger said he was familiar with the property and he did not have a problem with it but was concerned with the 38 foot height as it will be higher than anyone else in this area. Mr. Condon asked about the flood elevation here and Mr. Condouris did not know, Mr. Hilla said it is at 9 feet and Mr. Condouris noted they are going 4 feet above that for the garage. Mr. Stenson said he would like to see this more like 35 feet and Mr. Bonacci agreed this is a valid concern as it is the only one that high. Mr. Condouris said there is a new home going up down the street but he did not know what the height will be. Mr. Lapham asked about the ceiling heights and was told 8 feet for the garage, storage, 9 feet for the first floor and 8 feet for the second floor.

Mr. Maclearie did not like the step in the front being one foot from the property line and Mr. Condouris said there are some other ways they can use to configure this, they do turn to not encroach on the driveway. Mr. Maclearie felt maybe they can move the door and then can move the steps; Mr. Miller also had a concern with this as well. Mr. Lapham asked if the chimney is higher than the roof and Mr. Hilla answered and said yes, it is not part of the 38 feet and can go above that. Mr. Condon agreed with Mr. Maclearie on the steps, he was not concerned about the flood zone but the steps may have to be moved. Mr. Condouris offered to have them at 3 feet instead of one foot.

Mr. Hilla asked about the parking and how will that work, there is only 12 feet on the driveway. Mr. Condouris said they can park on the right side of the home, under the raised deck and they can widen the driveway; Mr. Langenberger thought that would be fine. Mr. Hilla then asked about the status of their CAFRA application and Mrs. Langan said she spoke to them two weeks ago and she was waiting for them to call her back on this. Mr. Hilla noted that CAFRA could force them to come back before this Board and this should be stated in the Resolution. Councilman Garruzzo asked if people usually get the CAFRA approval before they come before the Board and Mr. Hilla said that is what is urged but that does not work out sometimes. Mr. Condon asked about the 20.6% coverage and if that goes to the bulkhead or beyond into the water. Mr. Condouris said he used the lot area and this includes the area on the water.

As there were no other Board questions at this time, the hearing was opened to the public for questions to Mr. Condouris and Mr. Robert Houseal of the Environmental Commission came forward and was sworn in, giving his address as 608 Rankin Road. He asked for verification that the plans he had, dated 12/11/17 were the correct ones here and was told they were. He noted this is in the R-4 zone and asked what makes the R-4 zone special – Mr. Condouris did not know. Mr. Houseal asked Mr. Condouris to read the Zoning definition and purpose of the R-4 zone and this was done, it states the purpose is to provide small lots for least cost housing. Mr. Houseal then went on to say there are certain requirements that apply to all zones, Section 21-9.7 stating that yards shall be free of buildings and the front set of stairs here should not be. Mr. Condon stepped in and commented that the owner, in this application, can have relief due to the flood zone area here. Mr. Hilla stated it is allowable for an existing structure but a new structure is restricted, State law and the Zoning Ordinance apply.

Mr. Houseal continued and said that, on the 3rd sheet, there are two front elevations and two side elevations; Mr. Condouris said these are typo errors. Mr. Houseal said he sees stairs if he is looking down the street and if he is in the rear yard there are steps in the rear yard so he see a deck if he is the neighbor. He also commented that, in Zoning data, this is more than a two-story house and is at 38 feet. Mr. Condouris said there is no living space in the attic, it is actually two stories.

Mr. Houseal then turned to the definition of a basement and Mr. Condouris read that it has to be less than 4 feet above grade, if 7 feet or more it is considered a story. Mr. Houseal then read that such shall be considered habitable and both Mr. Condon and Mr. Hilla said this is in a Flood Zone so it is not habitable; Mr. Hilla added this is stated in the Flood Hazard Ordinance and established the building in a flood elevation.

Mr. Bonacci asked Mr. Houseal if there is something in this application that is erroneous and Mr. Houseal said yes, there are stairs in the front and rear and there is 3 stories, there is an issue with height and this may need a "D" variance. Mr. Hilla said they would need a "D" variance if the building height was at 38.5 feet so this does not apply for this application, this is a "C" variance application. Mr. Houseal still felt this home was

three stories. Mr. Condouris said they know they are not compliant on the stairs and have asked for variance relief for it.

Mr. Houseal then wanted to know how they measured for FAR (floor area ratio), they cannot exceed 50% as per the Ordinance. He did not think there was any legal precedent to use the part of the property that is under water. Mr. Condouris said it was used for lot coverage and the dimensions of the property and he did not know of any legal precedent on this.

As there were no other questions for Mr. Condouris from the public, that portion was closed and the hearing was opened for general comments. Mr. Tom Pair of 314 Leslie Avenue came forward and was sworn in, he lives across the street and purchased his property in 2001. He said this lot has been flooded numerous times and he would love to see something better put in, the lot is disgusting right now and it needs to be fixed, he asked the Board to let them put up a new home. Mr. Condon asked what is the height of his home and was told 35 feet.

Ed Feaster of Leslie Avenue came forward and was sworn in, he has lived across from this rat-infested eyesore for 10 years and it was even worse after Hurricane Sandy; he asked that the variances please be granted as the home is a mess now. Robert Houseal came forward again and agreed it is an eyesore and it needs to go but Brielle has a Zoning Ordinance and this proposed home is not in compliance. The stairs can be pulled back into the home; he felt that precedent may be an issue and told the Board to be careful they do not "bust their Zoning Ordinance". The property can be tucked tighter, the purpose of the R-4 zone is for smaller lots with least cost housing and this home will not be that. There can be a very nice home here without taking up so of the yard, the front yard is a blatant violation.

Elise Visciano of 679 Prospect Avenue in Little Silver came forward and was sworn in. Her husband is the builder and she was under the impression that only those property owners within 200 feet can speak about this application. Councilman Garruzzo answered her and said no, under the law, anyone can speak on any application that comes before the Board.

As there were no more comments, that portion of the hearing was closed and the Board went into discussion. Mr. Maclearie felt that something has to be done with the front steps, recess them or do something. Mr. Condouris said they can do 3 feet and will do more if they can. Mr. Lapham asked Mr. Clark if the Board can give them a target for this and Mr. Clark said the Board can ask for 3 feet if they want. Mr. Langenberger said this property has been a nightmare for the Borough and, after Hurricane Sandy, there are only two homes not refurbished, this home and the one next door. With respect to the R-4 zone, people are not building little homes anymore; he would like to see closer to 35 feet in height but he did not have a problem with the application as this property is in bad condition from Hurricane Sandy. The whole street here is changing as well as other streets in this area, he felt the home will fit in and would like the 3 feet for the steps. Mr. Stenson agreed with what has been said and Mr. Bonacci was okay with the 3 feet for the stairs but asked about the height and asked Mr. Condouris if there is anything that can be done about this. Mr. Condouris said he could maybe drop if a foot and do an 11 or 12 pitch. Mr. Miller felt all comments were covered on the steps and the height, he felt it would be a vast improvement and would be in favor of it.

Councilman Garruzzo felt this new home will be a huge compliment to the neighborhood; the neighbors are for it and he was more lenient to the 38 foot height but would like to see the 3 feet for the stairs. Mr. Condon felt that he would be for approval with lowering the height and moving the stairs, bring it down to 37 feet, do the 3 feet for the stairs and get CAFRA approval.

Mr. Clark noted that Mr. Hilla had said, in his report, that there needs to be a grading plan and this can be a condition of approval as well as CAFRA. The Board will need revised plans to show 37 feet in height and the steps change, the vote will be subject to those changes; 37 feet high, 3 feet in for the steps, create a second parking space along with the deck change. Councilman Garruzzo made a motion for approval with those conditions, this seconded by Mr. Stenson and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Joseph Bonacci, Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, James Stenson

Noes: None

At this time the following Resolution was read to allow the Board to go into Executive Session:

WHEREAS, the Brielle Planning Board has the need to go into Executive Session, and

WHEREAS, this Executive Session is dealing with ongoing litigation,

NOW, THEREFORE, BE IT RESOLVED that the Brielle Planning Board is going into Executive Session as this time; these Minutes may be made public in the future.

The Resolution was approved on a motion by Mr. Condon, seconded by Mr. Lapham and unanimously approved, all aye and the Board went into Executive Session at 8:50 p.m.

The Board came out of Executive Session at 9:12 p.m. on a motion by Mr. Lapham, seconded by Mr. Stenson and unanimously approved, all aye.

As there was no further business to come before the Board, a motion to adjourn was made by Mr. Stenson, seconded by Mr. Lapham and unanimously approved, all aye. The meeting was adjourned at 9:15 p.m.

Karen S. Brisben, Planning Board Secretary

Approved: August 14, 2018