

Borough of Brielle

JANUARY 8, 2019

June 10 2019

January 8th, 2019

BOROUGH OF BRIELLE
PLANNING/ZONING BOARD
ORGANIZATIONAL MEETING
TUESDAY, JANUARY 8, 2019

The Reorganizational meeting of the Brielle Planning/Zoning Board was held on Tuesday, January 8, 2019 at 7:30 pm 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 B. Nicol, Councilman Frank A. Garruzzo, Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, John Pierciey, James Stenson, Corinne Trainor

Absent – Stacey Montalto

Also present were David Clark, Board Attorney, James Kennedy, Alternate Board Engineer and Karen S. Brisben, Secretary of the Board. There were 6 people in the audience.

Mr. Condon opened the meeting and declared a quorum present. He announced that, in compliance with the Open Public Meetings Act, notice of this Body's meeting had been given to both the Asbury Park Press and the Coast Star newspapers.

The following appointments were then made:

Class I - Mayor Thomas B. Nicol through 12/31/19
Class II - James Langenberger through 12/31/19
Class III – Frank A. Garruzzo through 12/31/19
Class IV – Thomas Condon through 12/31/22
Class IV – Glenn Miller through 12/31/22
Class IV – new Alternate Member #1, FJ Pierciey, through 12/31/20

Mr. Clark swore in all the members and congratulated them on their new terms.

It was then time for the election of officers for the year 2019. Councilman Garruzzo nominated Thomas Condon to the position of Chairperson. As there were no other nominations, Mr. Langenberger seconded the motion and it was approved unanimously by voice vote, all aye.

Mr. Stenson was nominated for the position of Vice-Chairman by Councilman Garruzzo. As there were no other nominations, Mr. Lapham seconded the motion and it was approved unanimously by voice vote, all aye.

The following Resolutions for Attorney, Engineer, Meeting Dates, Official Newspapers and Secretaries were then presented:

BOARD ATTORNEY & BOARD ENGINEER

"WHEREAS, N.J.S.A. 40A:11-5(1)(a)(i) permits the Planning Board to award a professional services contract without public advertising for bids and bidding; and

WHEREAS, the Brielle Planning Board has determined that there is a need for legal services and engineering services during the 2019 calendar year; and

WHEREAS, the Brielle Planning Board has determined to provide the need to acquire legal services and engineering services as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5: and

WHEREAS, the Chief Finance Officer of the Borough of Brielle has determined to certified in writing that the value of the legal services and engineering services may exceed \$17,500; and

WHEREAS, the term of these contracts are one year (January 1, 2019 to December 31, 2019); and

WHEREAS, David Clark of Gluckwalrath, LLC has proposed to provide legal services and Alan Hilla, Jr. of H2M Architecture, LLC, has proposed to provide engineering services; and

WHEREAS, both Mr. Clark and Mr. Hilla have completed and submitted a Business Entity Disclosure Certification which certifies that they have not made any reportable contributions to any political or candidate committee in the Borough of Brielle in the previous year, and that the contracts will prohibit them from making any reportable contributions through the term of the contracts; and

WHEREAS, a certification as to the availability of funds executed by the Chief Finance Officer is attached to this Resolution pursuant to the provisions of N.J.A.C. 5:30-4;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle that:

1. The Business Disclosure Entity Certification of both Mr. Clark and Mr. Hilla as well as the Determination of Value Certification of the Chief Financial Officer shall be filed in the office of the Municipal Clerk and shall be available for public inspection.
2. The Planning Board is hereby authorized and directed to execute a contract with Mr. Clark to provide legal services and Mr. Hilla to provide engineering services for the 2019 contract year.
3. A notice stating the nature, duration, service and the amount of this contract shall be published in the Coast Star and this Resolution shall be maintained on file and available for public inspection in the office of the Board Secretary.
4. A certified copy of this Resolution shall be sent to Mr. Clark and Mr. Hilla."

MEETING DATES

"WHEREAS, an act of the Legislature known as the "Open Public Meetings Act" enacted October 21, 1975, requires that advance notice be given of all regularly scheduled meetings of the Zoning Board of Adjustment of the Borough of Brielle, this act becoming effective January 19, 1976,

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle that:

1. The regularly scheduled public business meetings of the Brielle Planning Board shall be held in the Borough Hall, 601 Union Lane, at 7:30 p.m. on the second Tuesday of each month. Work Sessions, if needed, will be held at 7:00 p.m. on the same night.
2. A copy of this Resolution shall be posted on the public bulletin board in the Borough Hall and published in one of the official newspapers of the Board."

NEWSPAPERS

"RESOLVED, that the Asbury Park Press & the Coast Star are designated as the official newspapers for publishing legal notices of the Brielle Planning Board."

SECRETARIES

"WHEREAS, there is a need for an Administrative Secretary and a Recording Secretary for the Brielle Planning/Zoning Board, and

WHEREAS, the Board has money in the Salary Ordinance to cover the expenses associated with these positions,

NOW, THEREFORE, be it resolved that Colleen Castronova be appointed Administrative Secretary for the year 2019 at a salary of \$5,000 and Karen Brisben be appointed as Recording Secretary for the year 2019 at a salary of \$5,000."

A motion was made by Mr. Condon to approve the above Resolutions, this seconded by Councilman Garruzzo and approved unanimously by voice vote, all aye.

The Minutes of the November 27, 2018 meeting were approved on a motion by Mr. Langenberger, seconded by Mr. Stenson and unanimously approved, all aye.

CORRESPONDENCE:

The Board received a copy of a notice to NJDEP regarding block 104.01, Lot 7.02 & Block 120, Lots 13.01 & 15, CAFRA approval for Brielle Shores, Inc.

The Board also received a copy of a notice to NJDEP regarding comment period for NJ Natural Gas lines across the Manasquan River Route 35 Bridge and a copy of a notice to NJDEP regarding Block 59, Lot 15, 16 Crescent Drive, to remove an existing fixed dock and construct a new floating dock.

The November/December issue of the NJ Planner was distributed to all members.

OLD BUSINESS:

Before starting Resolution approvals, Councilman Garruzzo left the dais as he was not eligible to vote on the Resolutions or hear the application for this evening. The Board then turned to approval of a Resolution for Site Plan for Block 23.01, Lot 16, 7-9 Union Lane, owned by Aaron & Company, to modify the parking area.

As all Board members, and the applicant, had received a draft Resolution and then a revised draft Resolution and there were no further changes to be made, the following was presented:

WHEREAS, Aaron and Company, Inc. (the "Applicant") has applied to the Planning and Zoning Board of the Borough of Brielle (the "Board") for approval of a Site Plan Application for the property located at 7-9 Union Avenue and identified on the tax map of the Borough of Brielle as Block 23.01, Lot 16 & 17 (the "Property"); and

WHEREAS, the 1.6-acre Property is located within the Borough's Commercial Zone 1 (the "C-1 Zone") and consists of a one-story masonry building which operates a retail store, a one-story metal storage building in the rear of the property, and parking and loading facilities; and

WHEREAS, the Applicant is seeking approval for its Site Plan Application for the modification of the parking area and circulation on the southern side of the retail store, as shown in the plans submitted with the Application; and

WHEREAS, the Application is classified as a Minor Site Plan as there are no appreciable changes to site conditions that would require a preliminary and final site plan application and, as such, the existing non-conformities will not be affected and therefore are not addressed herein; and

WHEREAS, the Applicant's existing and proposed use conform to the C-1 Zone, however, the proposed changes to the parking area require several c(2) variances; and

WHEREAS, this Application specifically requires the following variances:

- a. Off-Street Parking Within a Required Front Setback – Pursuant to §21-31.21 of the Code, parking is permitted in the front yard of a commercial property, if a five (5') foot landscaped area is provided along the front and side lot lines; whereas a four (4') foot landscaped area along the front and side lot lines is proposed;
 - b. Paving Location Restriction – Pursuant to §21-31.22 of the Code, paving for parking, except for entrance or exit drives crossing perpendicular to property lines, shall not be permitted within five (5') feet of any property line; whereas paving for parking is proposed within four (4') feet of the Property lines;
 - c. Number of Parking Spaces – Pursuant to §21-32.2 of the Code, 75 off-street parking spaces are required for the Property, whereas 16 spaces exist and 25 off-street parking spaces are proposed; and
- WHEREAS, the Board held a hearing on November 27, 2018, and considered the following documents presented at the hearing in connection with this application:
- a. Jurisdictional Packet;
 - b. Exhibit A-1: Aerial Photo of the Property;
 - c. Exhibit A-2: Landscape Plan and Details dated August 6, 2018, last revised October 28, 2018 prepared by Maser Consulting, P.A.;
 - d. Exhibit A-3: Site Plan; and

WHEREAS, the Applicant's attorney, Meredith Marcus, Esq., presented this Application; and

WHEREAS, the following individuals testified on behalf of the Applicants: Anthony M. Conte, CFO of Aaron and Company, Inc., and Mark E. Zelina, P.E. of Maser Consulting, P.A.; and

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

Meredith Marcus, Esq. came forward and provided an overview of this Application. Then Anthony Conte of 30 Turner Place, Piscataway, New Jersey, came forward and was sworn in.

Mr. Conte testified on behalf of the Applicant that it has been in Brielle since 2013 and currently owns 8 plumbing supply stores. Applicant's business hours are 7:00 a.m. to 5:00 p.m. Monday through Wednesday, they are open Thursday until 8:00 pm and Saturday until 1:00 p.m. The building on the Property is old and many improvements have been made to the building. Paving the parking lot is the finishing touch. A house was previously situated where the current parking lot is located, but was demolished. Applicant is seeking to clean up the parking lot which currently appears unkempt according to Mr. Conte.

Mr. Conte stated that the Applicant has nine employees at the Property. While the employees generally deal with tradesmen, they hope to get more of the public to the Property. An existing room in the building has

been converted to a showroom.

As his testimony was finished, the hearing was opened to the public for questions and, as there were none, that portion was closed.

Mr. Maclearie asked if more employees would be hired for the retail area and counter help, and Mr. Conte said no. Seven of their employees worked for Dickson Supply that occupied the Property before Applicant. When the showroom opened, Applicant added two employees. The showroom was requested to help increase homeowner interest. Mr. Hilla asked if the Applicant purchased the other Dickson Supply building located across the street and the answer was no.

As there were no other Board questions, Mark Zelina from Maser Consulting, PA, came forward and was sworn in. Mr. Zelina, a licensed engineer and planner, has worked for Maser for over 20 years. He has a Bachelor's degree from Lafayette College and has testified before Boards for over 35 years, this being his first time in front of the Brielle Planning Board. The Board accepted him as an Expert Witness in both engineering and planning.

Mr. Zelina marked an aerial photo of the Property taken in 2012 as Exhibit A-1. The Property is entirely in the C-1 Zone. He explained that a lot of what is shown in the photo from 2012 is not there anymore. The home on the corner and the trailers in the back lot were all removed in 2013. The project area is about 12,000 square feet and the main entrance is on the south side of the building. The area of where the house was is now unsightly; the space will be paved and made to look much better.

Mr. Zelina then presented Exhibit A-2, Landscape Exhibit, an aerial photo superimposed with landscaping plans. There will be 25 parking spaces with a one-way circulation through the lot with access to Agnes Avenue. A portion of depressed curb will be eliminated on Union Avenue (Highway 71). The sidewalks, currently in bad shape, will be improved.

The pavement currently runs right up to meet the sidewalk along Union Avenue. The plan is to install a strip of landscaping between a portion of the parking lot and the sidewalk. The Zoning Ordinance requires five (5') feet, but the Applicant is seeking variance relief to allow only a four (4') foot landscaping strip. The landscaping will be done in stone mulch.

The plans do not extend the parking lot toward the area that borders the residential property. The Applicant will install curbing on the area of the Property fronting Agnes Avenue, as there currently is no curbing there. There will be landscaping on the strip of Property fronting Agnes Avenue, as well as the corner of Agnes Avenue and Union Avenue.

The second variance sought by the Applicant is for the number of parking spaces. 75 spaces are required, but this is based on the existence of two buildings on the Property. However, the building in the rear of the Property is a warehouse that is not open to the public. There are no changes being sought to the structures themselves, and the Applicant is able to increase the parking spaces from 16 to 25, including one handicap accessible space. The Applicant prefers not to reduce the width of the parking spaces as business trucks and vans park there. Mr. Conte added that this parking lot has existed for five years in its current state, and the Applicant has not had any parking problems. For that reason, the Applicant did not conduct a traffic study. There will be three light poles around the site with downward lighting so there will be no effect on the neighbors.

Mr. Zelina then referenced Mr. Hilla's report regarding the increase of impervious coverage and storm information. He then entered Exhibit A-3 into the record. Exhibit A-3 is the Site Plan revised the same day. The blue line is the property line and the dark gray area is currently gravel which will be paved. This will make 2,600 square feet of new pavement, but they are getting rid of the original pavement and found they will still have 570 square feet of new pavement on the lot. The Applicant decided to remove a ten foot by sixty foot (10' x 60') section of pavement in front of the building on Union Avenue and install landscaping. This will improve the aesthetics and eliminate 600 square feet of impervious coverage.

Mr. Zelina concluded by stating that the Applicant is seeking a c(2) variance, and they need to prove negative and positive criteria. Mr. Zelina opined the C variance applies to the existing site, and the benefits outweigh the detriments without any impairment to the Zoning Ordinance. The use here is permitted in this zone, the site is already developed and this plan will improve safety to vehicles and pedestrians. There is no negative impact. They are not coming closer to the neighborhood homes to the west. He opined that the C-1 Zone is advanced by this plan and the Board should grant the variances.

Mr. Hilla asked Mr. Zelina about the letter from the Fire Marshall regarding signage for fire lanes. Mr. Zelina said there is no problem in doing this, and they are happy to comply. He also noted there are letters from the

County and Freehold Soil that were submitted to the Board with the application.

At this time the hearing was opened to the public for questions to Mr. Zelina and, as there was no response, that portion was closed.

Mr. Langenberger asked about two spaces at the north end of the site and Mr. Zelina confirmed they are there and are used by employees. Mr. Langenberger asked about the Fire Lane width and was told it was 25 feet wide.

Mr. Langenberger said he would like to see a "right turn only" restriction for the Union Avenue entrance as he felt it may be a problem for trucks turning left onto the highway. Mr. Conte spoke up and told the Board of a similar problem they have at a business location. A "no left turn" restriction was placed but trucks do not adhere to it, and the restriction is not enforced by law enforcement. Mr. Conte wanted to be cautious about doing this here. Mr. Langenberger was concerned as he had heard there may be development of the lot across the street from the Property. Mr. Condon noted this is a State Highway they are talking about and asked Mr. Hilla about it. Mr. Hilla said the fact that the Applicant is using the existing curb cut means the State has no interest in this. Mr. Condon did not know of any accidents that occurred when people made left turns from this lot onto Highway 71. Mr. Conte did not know of any either. Mr. Conte suggested waiting to see what happens with the building across the street and then imposing conditions upon the Applicant's property. However, Board Attorney David Clark stated that cannot be done and that the Board has to deal with what is there now. They cannot come back to it later. Mr. Condon suggested continuing with the questions from other Board members and coming back to this with a poll.

Mr. Stenson stated that the proposed plans would be an improvement and had no problem with the Application. Ms. Montalto asked about the landscaping on the highway side and was told it will be behind the sidewalk. Ms. Montalto liked the plan. Mr. Maclearie asked where the employees park and was told on the west side by the residential area. The rest of the parking is for customers.

Mr. Lapham has made numerous visits to this store and also questioned the exit from the parking lot. He was concerned whether there will be an increase in vehicles pulling out onto Agnes Avenue.

Mr. Conte said they spent a lot of time on the Agnes Avenue entrance and they are installing shrubs around the residential end of the lot. He commented that most business trucks pull out onto Union Avenue (Route 71). Ms. Marcus said they can put a sign there that says "local traffic only" but Mr. Hilla did not agree that this was a good idea as it will force vehicles to cross Highway 71. Mr. Hilla did not see more traffic in any direction and said that placing traffic signage on this lot may push traffic into other unanticipated locations. At this time, Mr. Condon felt the Board was overthinking this, as the building has been there for over 50 years and he did not think this was an issue.

Mr. Miller asked about the storm runoff, and whether the Applicant is trapping water. Mr. Zelina said a trench exists at the northwest corner of the parking lot and overland stormwater runoff runs around the back of the building and not to Highway 71. Mrs. Trainor asked whether the landscaping on the corner of Agnes Avenue and Highway 71 will affect the sight line. Mr. Zelina said they will plant azaleas, small bushes and grasses and there will be no impediment to the sight line.

As there were no other Board questions, the hearing was opened to the public and, as there were no comments, that portion was closed. Ms. Marcus summarized by stating this is a great project and it will look great for the town; she hoped it would be approved.

The hearing was opened for general comments from the public and as no members of the public came forward to comment, this portion of the hearing was closed; and

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:

- 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. The variances relate to a specific piece of property.
- c. The Property's use is permitted in the C-1 Zone.
- d. The proposed plans will eliminate 600 square feet of impervious coverage.
- e. The proposed plans will not impact the bordering residential zone.
- f. The proposed plans will improve safety to vehicles and pedestrians.
- g. The proposed plans will improve the aesthetic appearance of the Property.
- h. The variances can be granted without substantial detriment to the public good;
- i. The benefits of the deviations substantially outweigh any detriment; and

j. The variances will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, James Stenson made a motion to approve the Site Plan Application and variance relief with conditions as described herein, this motion was seconded by James Maclearie. At that time, the following roll call was taken:

Ayes: Mayor Thomas Nicol, Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, Stacey Montalto, James Stenson, Corinne Trainor

Noes: None

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle, that the Applicant's Minor Site Plan Application and variance relief 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. The Site Plan shall be amended to reflect placement of "NO PARKING – FIRE LANE" signs on the southwest side of the existing building to further highlight the existing fire lane along with entrance way from Union Avenue in a manner to be approved by the Borough's Fire Prevention Bureau.
- D. The Site Plan shall be amended to reflect placement of "No Parking" signs on the two (2) proposed islands in the renovated parking area to ensure no parking in said areas or in the travel way in a manner to be approved by the Borough's Fire Prevention Bureau.

E. All required amendments to the Plans must be submitted to the Board Engineer for approval.

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

Ayes: Mayor Thomas Nicol, Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, James Stenson, Corinne Trainor

Noes: None

Not Eligible to Vote: John Pierciey

Mayor Nicol now left the dais as he was not eligible to vote on the next Resolution or the application to be presented this evening. The next Resolution for consideration was for variance relief for Block 40.01, Lot 29, 524 Harris Avenue, owned by Michael & Lisa Mechler, to allow construction of a pool and fencing. As all Board members had received a draft copy and there were no changes offered, the following was presented for approval:

WHEREAS, Michael and Lisa Mechler (the "Applicants") have applied to the Planning and Zoning Board of the Borough of Brielle (the "Board") for approval of a Variance Plan application for the property located at 524 Harris Avenue and identified on the tax map of the Borough of Brielle as Block 30.01, Lot 29 (the "Property"); and

WHEREAS, the Property is located within the Borough's Residential Zone 4 (the "R-4 Zone") and consists of a one and a half (1 ½) story frame dwelling and various accessories; and

WHEREAS, the Applicants are seeking variance relief for the construction of a pool in the rear of the Property, as shown in the plans submitted with the Application; and

WHEREAS, the Applicants' existing and proposed use conform to the R-4 Zone, however the existing principal and accessory structures, as well as the proposed swimming pool and equipment are non-conforming to the Zone; and

WHEREAS, the Property contains the following pre-existing nonconforming conditions:

- a. Front Yard Setback (principal) – Pursuant to §21-14.2(a)(1)(d) of the Code, the minimum front yard setback permitted for the Property is twenty-five (25') feet; whereas the existing and proposed front yard setback is 24.94 feet;
- b. Side Yard Setback (principal) - Pursuant to §21-14.2(a)(1)(3) of the Code, the minimum side yard setback permitted for the Property is eight (8') feet; whereas the existing and proposed side yard setback is 6.98 feet;
- c. Accessory Building Rear Yard Setback - Pursuant to §21-14.2(a)(2)(a) of the Code, the minimum rear yard setback permitted for an accessory structure on this Property is five (5') feet; whereas the existing and proposed rear yard accessory setback is 3.17 feet;
- d. Accessory Building Side Yard Setback - Pursuant to §21-14.2(a)(2)(a) of the Code, the minimum side yard setback permitted for an accessory structure on this Property is five (5') feet; whereas the existing and

proposed side yard accessory setback is 2.54 feet;

e. Lot Coverage - Pursuant to §21-14.2(a)(1)(h) of the Code, the maximum lot coverage permitted on this Property is twenty percent (20%); whereas the existing and proposed lot coverage is 28.40%;

f. Mechanical Equipment Setback (side) – Pursuant to §21-14.2(a)(2)(a) of the Code, the minimum side setback required for mechanical equipment is five (5') feet; whereas the existing and proposed side setback for the mechanical equipment is four (4') feet; and

WHEREAS, this Application specifically requires the following variances:

d. Impervious coverage – Pursuant to the Code, the maximum allowable impervious coverage for this Property is fifty percent (50%); the Property has an existing impervious coverage of 52.02% and a proposed impervious coverage of 53.25%;

e. Swimming Pool Location (rear) – Pursuant to §10-3 of the Code, no swimming pool shall be constructed closer than ten (10') feet to any side or rear lot line; the proposed location for the swimming pool is five (5') feet from the lot line;

f. Swimming Pool Location (side) – Pursuant to §10-3 of the Code, no swimming pool shall be constructed closer than ten (10') feet to any side or rear lot line; the proposed location for the swimming pool is five (5') feet from the lot line;

g. Pool Equipment Setback (rear) – Pursuant to §21-14.2(a)(2)(a) of the Code, the minimum rear setback required for the proposed pool equipment is five (5') feet; the proposed rear setback for the pool equipment is one (1') foot;

h. Pool Equipment Setback (side) – Pursuant to §21-14.2(a)(2)(a) of the Code, the minimum side setback required for the proposed pool equipment is five (5') feet; the proposed side setback for the pool equipment is one (1') foot; and

WHEREAS, the Board held a hearing on November 27, 2018, and considered the following documents presented at the hearing in connection with this application:

e. Jurisdictional Packet;

WHEREAS, Applicant, Michael Mechler, appeared as a witness to testify before the Board, and was accepted as a fact witness; and

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

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

They want to keep it as far away from the home as possible as they do have a dormer and do not want any problems in the future with someone trying to access the pool from the dormer.

Mr. Mechler stated they are putting the pool equipment in the back of the yard as he does not want it to affect their neighbors, who also have pools. They will also have fencing around it to prevent the sound of the equipment from being heard by neighbors.

The pool will be 6.5 feet at the deepest point, and there not be a diving board. Applicants have not had any drainage issues on the Property, but when they put in the pavers they will have drainage put in. As far as backwashing the pool, the water will go down the street through storm water system.

Mr. Hilla agreed with this, he noted the land is flat in the back but wanted to condition this approval on making sure there is no impact on the neighbors and this may have to be addressed if it becomes a problem, this should be in the Resolution.

As there was no further testimony from Mr. Mechler the hearing was opened to the public for questions and, as there were none, that portion was closed and the Board asked questions.

Mrs. Trainor asked about the other pool equipment that the neighbors have and Mr. Mechler said they are both on the opposite sides of the yard away from him. She then asked about fencing and Mr. Mechler said they are installing a horizontal fence that will be built in the previous fence's location.

The hearing was opened for general comments from the public and as no members of the public came forward to comment, this portion the hearing was closed; and

Mr. Langenberger asked if the fence will be theirs and not the neighbors. Mr. Mechler responded the fence will be theirs. Mr. Hilla asked about details of the horizontal fence and Mr. Mechler said it was not scalable, Mr. Hilla just did not want to see a problem here. No other Board members had comments or questions, Mr. Condon felt it was a good application and all the surrounding neighbors have pools.

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:

- k. 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;
- l. The variances relate to a specific piece of property;
- m. The placement of the swimming pool and mechanical equipment is situated in a manner that limits disturbance to neighbors;
- n. The fencing around the mechanical equipment will reduce the neighbors' exposure to the sound and appearance of same.
- o. The variances can be granted without substantial detriment to the public good;
- p. The benefits of the deviations substantially outweigh any detriment; and
- q. The variances will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, James Maclearie 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: Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, Stacey Montalto, James Stenson, Corinne Trainor

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:

- F. The Applicants shall pay all taxes and other applicable assessments, costs and fees to date, as applicable.
- G. 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.
- H. The swimming pool's drainage system shall be installed in a manner that does not impact the neighboring properties and to be approved by the Board Engineer.

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

Ayes: Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, James Stenson, Corinne Trainor

Noes: None

Not Eligible to Vote: John Pierciey

NEW BUSINESS:

The Board turned to an application for Site Plan approval for Block 77.01, Lot 5, 403 Higgins Avenue, owned by Higgins restaurant Group, LLC, to modify the parking area at Waterman's Grill. Minimum Front Yard Setback – 30 feet required, 21.5 feet to Higgins Avenue & 17.1 feet to Gull Lane proposed. Accessory Structure (garage) – 30 feet required, 5 feet to Gull Lane existing. Street Intersection to Curb Cut – 25 feet required, 22 feet existing. Distance between Curb Cuts – 50 feet required, 36 feet existing. Landscape Setback – 5 feet required, 5 feet paved area existing. Paving – not allowed within 5 feet of property line, 0 feet existing. Loading Area – required, none existing. Landscaping – 20% of site required, 5.8% existing and paving of pedestrian area to one-way access negatively impacts this condition. Driveway Width – 30 feet required and curb return of not less than 15 feet for commercial use, driveways at Gull Lane & Higgins Avenue exceed this requirement & no curb returns provided, this is existing. Parking Spaces – separated by 20 feet, parking along Ashley Avenue separated by 15.2 feet proposed. Buffer – 50 feet where commercial abuts residential, no buffer existing. Parking within buffer area – proposed within 50 feet of the R-2 zone existing.

The fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified. Before starting, Mr. Clark reminded all that the Board Engineer, Mr. Hilla, had a conflict with this application as his brother lives within 200 feet of the property, so the Board has hired James Kennedy of Kennedy Consulting Engineers as Alternate Engineer to hear this application.

At this time Ms. Jilian McLeer, Esq. came forward to present a Power Point presentation on this matter, she handed out a hard copy of the presentation to all Board members, which was marked as Exhibit A-1 by Mr. Clark. She said she was here on behalf of Mr. Grafas, the owner, and Tim Lurie of DW Smith also was here to testify.

This property used to house Simko's and is now known as Waterman's Tavern, it is in the C-1 zone; she

showed an aerial view of the restaurant which shows the current parking area and commented there has been renovation to the bar and dining area inside, this application is for the parking lot area, for preliminary and final Minor Site Plan approval to allow changes to the parking lot. She also noted they will be using a driveway area in the front for a drop-off. She then referred to slide 18, showing the proposed lot with the driveway aisle off Higgins Avenue, this will have valet parking if a patron wants it. The original plan had traffic flow going west on Higgins but they are changing it to going east as per the Board Engineer's review.

Slide 24 is the zoning table and she noted most of the variances listed are pre-existing and not being altered. She then went to Slide 31 and explained the benefits of the new design, going to one-way by the entrance, this is where the valet will be and it is also a good place to drop off elderly or handicapped patrons, this will also be good for Uber drop-offs. She said that valet parking is not uncommon for this type of restaurant and this will bring the property more in conformance with the Ordinance. They also plan to have better landscaping put on the lot and she commented they also have received the Police and Fire Protection official's letters.

As her testimony was done the hearing was opened to the public for questions and Virginia Lofton of 407 South Street, Brielle, came forward and was sworn in. She wanted to know if there is a one-way drop-off for traffic will there be more traffic on Ashley Avenue? Ms. McLeer said they would not do that, they can make a right onto Ashley Avenue or a left back onto Higgins and felt they would go to Higgins Avenue, she showed where the front door is on the plan. Ms. Lofton commented they will still have to pull out onto Ashley Avenue and Ms. McLeer said the valet would not always be there. Ms. Lofton then asked if using a valet was required and Mr. Larry Grafas came forward and was sworn in so he could answer. He said no, a valet is not mandatory, most cars will come into the restaurant parking lot, this is to accommodate the elderly and there is a new handicapped ramp on this side by the front door on Higgins Avenue. Mr. Condon noted that most people use the side door by the parking lot.

As there were no other public questions that portion of the hearing was closed. Mr. Miller asked about the public parking area and Mr. Grafas said there are handicapped spots and two spots in front of the shed by Ashley Avenue for employees, all the other parking is in the main lot.

At this time Mr. Tim Lurie of DW Smith came forward and was sworn in, he is here as Engineer and Planner tonight. As the Board was very familiar with Mr. Lurie he was accepted as an expert witness. He went through the existing variances as well as the proposed ones and noted 403 Higgins Avenue is a corner lot that borders Higgins Avenue, Gull Lane and Ashley Avenue, this is in the C-1 zone and is comprised of 1.3 acres. They are going to add a 10'x19' canopy and create a one-way driveway aisle, the lot will be restriped to 9'x18' spaces with a new handicap ramp and a re-striped handicap area to be in conformance; they are also adding landscaping islands along Gull Lane. They are required to have 30 feet off of Higgins and they have 26.1 feet, they are required to have 30 feet off Gull Lane and have 17 feet. Also, the parking requires a 5-foot separation from the street and they have 0 feet on Ashley Avenue and Gull Lane, 96 spaces are required and they have 115, there is no Loading Zone but they don't need one. He then noted the proposed canopy will have a setback of 3.9 feet from Higgins Avenue and will add .3% to coverage to bring a total coverage to 17.3%. He said that the current lot has 115 spaces but they are going to lose some of them so the final amount will be 101 spaces which is still over what is required. He told the Board the property was granted approval back in 2002 for a canopy.

Mr. Lurie then went over the existing variances again: front yard setback, parking setbacks, Gull Lane parking, variance will be lessened for landscaping, shed setback variance, driveway and curb cut variances, parking by the entrance in the front still needs a variance but not as much as previously, there is no loading zone, 5 foot buffer needed and there is none but Gull Lane will have islands, there is a 50 foot buffer needed for the residential area next to the restaurant building and they do have that but they do have parking in this buffer. Mr. Lurie then went through the Engineer's comments in his report and said that items on pages 1 through 3 have been covered, page 5 speaks of signage and that is already existing. As far as lighting there are lights on Jersey Central Power & Light poles and are existing, as well as on the sign, they will remain and he will provide the calculations to show they satisfy the criteria.

At this point Mr. Kennedy asked to speak and he referenced the sign; the proposed canopy shows signage he wanted to know the square footage and where the signage will be located on the canopy, there are limitations on this in the zoning and they may need a variance for this. Mr. Lurie told Mr. Kennedy they will comply with the zoning and no variances will be requested. Mr. Kennedy remarked that, in the revised plans submitted, there is shown two proposed lighting fixtures and this is a change; he felt they will shine on the neighbors and would like to see the lighting where they are at a changed angle so not shining there.

Mr. Lurie then spoke of changing the curb stops to bollards and this would be no problem to do along the building area. He then referred to Item B in the report and said they will add stop bars at the end of the parking aisles and make it a one-way in from Higgins Avenue and then out onto Ashley Avenue. Mr. Kennedy suggested dividing up this space, when you park in the main lot you need to walk across the parking lot and

someone may not be familiar with the configurations, he asked what the design intent was here? Mr. Lurie said patrons should use the existing sidewalk by Higgins Avenue; Mr. Kennedy then asked if there will be signs or what? He asked if Mr. Lurie would walk out to the sidewalk and then down Higgins or just walk through the parking lot? Mr. Lurie said they can add a lane to direct them to the doorway. Mr. Kennedy felt this should be considered. Mr. Kennedy suggested some work can be done on the walkway in front, narrow it down and then widen it out to get to the drop-off by the front door; Mr. Lurie said they can do this; Mr. Kennedy remarked they want to see people get to the front door safely. Mr. Lurie said they can take a foot off the landscaping on Higgins and this can be done, Mr. Kennedy said this would have to be shown on the revised plans. Mr. Condon agreed with what was said, people will just walk across the parking lot if this is not done.

Mr. Lurie then went on to Item D, there is an area striped yellow in the rear that that juts out and they would like to make this another parking spot as well as keep the other area by the corner by Ashley Avenue. Mr. Kennedy had no issue with this and Mr. Lurie said they will yellow stripe the back of Ashley and Gull Lane. Mr. Lapham asked if employees park there now and Mr. Lurie said they also park by Gull Lane. Mr. Kennedy said he would like to see no yellow striping on the Ashley Avenue/Gull Lane portion, maybe more landscaping. The Loading Zone requirement was then discussed and Mr. Lurie said trucks come in the morning and unload by Ashley Avenue, there is no problem with this. On Item H regarding the grading, it will be provided, on Item I the canopy detail will be given; as far as Item J for landscaping, Mr. Lurie showed the landscaping plan. Mr. Kennedy commented that, if the Board wants him to, he can provide more of a review on the proposed landscaping. Mr. Lurie then said, for Item K, the utilities will remain; Item L on grading again, additional information will be provided. Mr. Kennedy commented this is a Minor Site Plan so he just wants to be certain all is okay and Mr. Condon agreed. For item M, it talks about the standards for the Commercial Zone be met and Mr. Lurie said this is being done, there will be more safety and security now, the front area will be the main control.

At this time the hearing was opened to the public for questions to Mr. Lurie and Ms. Lofton again came forward and said she was curious about the landscaping plan, why the islands on Gull Lane and not just straight landscaping? Mr. Lurie said there are exits onto Gull Lane and they are staying. As there were no other questions from the audience that portion of the hearing was closed. Mrs. Trainor asked if they intend to keep the fencing along Higgins Avenue and Mr. Grafas answered and said yes. She was wondering about the area between the parking aisles and the sidewalk and consideration for pedestrians. Mr. Grafas said they want to put in landscaping and remove some curb stops, he eventually wants to take out the fence and put in landscaping and bollards, this was thought of after the plans were done; also, there is a brick sidewalk there now and they want to make it concrete. Mrs. Trainor asked about the traffic to the front door and Mr. Clark said this will be shown in the revised plans to be submitted. Mr. Lurie explained they will lessen the drive aisle to 10 feet and lessen the landscaping so they can put in a concrete walk. Mrs. Trainor asked about the Uber drivers and commented they will have to pull out and turn left on Ashley Avenue and then left onto Higgins; Mr. Lurie said there will be signage they have to go to Ashley Avenue. Mr. Stenson asked about the small valet area perhaps backing up into the mail parking lot and Mr. Grafas said no, they will have 4 valets so this will move very quickly. Drivers will turn left on Ashley and then left on Higgins, they will not be going down Ashley Avenue. Mr. Stenson commented he had no problem with making the striped area that is there now being make into parking. Mr. Lapham asked about this continuing to be a restaurant and the answer was yes, he felt this plan was good but would like to see the revisions before making a vote.

Mr. Grafas then spoke and said their concern is safety and the walkway can be done, they had talked about this and it will be done. Mr. Grafas continued and said there is enough lighting, 20 LED downlights all along the building; Ms. McLeer showed slide #5 which highlighted this area. She also commented they are looking for a vote tonight and will work with the Board. Mr. Maclearie felt the walkway was a great idea and Mr. Pierciey agreed with all that has been said, Mr. Miller had concerns about removing the fence and putting in landscaping and Mr. Grafas said they can keep the fencing up but would like to put bollards up with landscaping. Mr. Miller said his concern also was the valet parking area but putting in a walkway makes a big difference. Mr. Condon also was concerned with the pedestrian area and agreed that the Board needs to see revised plans and plans for the fencing area. Mr. Condon then asked Mr. Kennedy if there was anything else he would like to see and Mr. Kennedy felt it all has been discussed. At this time Mr. Clark marked a blow-up of the Site Plan as Exhibit A-2 for the record.

Mr. Condon said they were past the 45 minutes usually allowed for presentation and, as revised plans are needed, he announced this hearing will continue at the February meeting of the Board.

As there was no other business to come before the Board a motion to adjourn was made by Mr. Maclearie, seconded by Mr. Stenson and unanimously approved by the Board, all aye. The meeting was adjourned at 8:47 p.m.

Karen S. Brisben, Secretary of the Board

Approved:
