

Borough of Brielle

MARCH 12, 2019

June 10 2019

March 12th, 2019

BRIELLE PLANNING BOARD
TUESDAY, MARCH 12, 2019

The Regular Meeting of the Brielle Planning Board was held on Tuesday, March 12, 2019 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, James Langenberger, James Maclearie, Glenn Miller, James Stenson, Corinne Trainor

Absent - Eric Lapham, Stacey Montalto, Francis Pierciey

David Clark, Board Attorney, Alan Hilla, Jr., Board Engineer and Karen S. Brisben, Board Secretary, were also present; there were 8 people in the audience.

A motion was made to approve the Minutes of February 12, 2019, this done by Mr. Langenberger, seconded by Mr. Maclearie and approved by unanimous vote, all aye.

OLD BUSINESS:

The Board turned to consideration of a Resolution for approval of an extension of time for recording a Minor Subdivision for Block 9.01, Lot 2, 504 Old Bridge Road, River Point Properties, LLC. Mr. Clark explained this is just housekeeping after approving the extension last month and this allows time for filing the paperwork. The following was then presented:

WHEREAS, River Point Properties, LLC (the "Applicant") previously obtained an approval from the Planning Board of the Borough of Brielle (the "Board") for the minor subdivision of the property located at 504 Old Bridge Road and identified on the tax map of the Borough of Brielle as Block 9.01, Lot 2 (the "Property") into two buildable lots to be identified as Lots 2.01 and 2.01 (one of which will be a flag lot) and for variance for proposed Lot 2.02; and

WHEREAS, the Board approved the Applicant's minor subdivision and variance application for the property on November 16, 2017 and memorialized that approval through a Resolution adopted on December 12, 2017 (the "December 12, 2017 Resolution"); and

WHEREAS, The December 12, 2017 Resolution provided, among other things, that the Applicant shall comply with all requirements and outside approvals required from the Borough or any other governmental authority; and

WHEREAS, the December 12, 2017 Resolution that the Deed memorializing the minor subdivision for the property shall be recorded within 190 days of the date of the adoption of the memorializing resolution and that the failure to record the Deed within this time period would render the approval null and void; and

WHEREAS, the deadline for the applicant to record the Deed memorializing the minor subdivision was June 20, 2018; and

WHEREAS, the Applicant failed to record the Deed memorializing the minor subdivision by this deadline; and

WHEREAS, on or about January 16, 2019, the Applicant filed an application with the Board seeking Board approval for an extension of the 190 day period to record the Deed memorializing the minor subdivision for the property; and

WHEREAS, a public hearing was held on the Applicant's extension request on February 12, 2019 and the Board considered the letter dated January 12, 2019 from the Applicant's attorney along with testimony from the Applicant's attorney Charles Shaw, Esq. at the hearing; and

WHEREAS, the Applicant represented to the Board that County approval was needed to proceed with this minor subdivision of the property and that the Applicant had applied to the County for such approval on March 9, 2017 but did not receive the County approval until November 27, 2018 (an approximately 20 month delay); and

WHEREAS, no members of the public had any comments or questions regarding the Applicant's extension request; and

WHEREAS, N.J.S.A. 40:55D-47(f) provides that a Planning Board "may extend the 190 day period for filing a minor subdivision plat or deed ... if the developer proves to the reasonable satisfaction of the Planning Board (1) that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and (2) that the developer applied promptly for and diligently pursued the required approvals"; and

WHEREAS, N.J.S.A. 40:55D-47(f) further provides that the developer may apply for such an extension either before or after what would otherwise be the expiration date and that the length of the extension shall be equal to the period of delay caused by the wait for the required approvals as determined by the Planning Board; and

WHEREAS, the Board after carefully considering the evidence presented by the Applicant 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 Applicant received a minor subdivision and variance approval for the property through the December 12, 2017 Resolution;
- b. The December 12, 2017 Resolution required the Applicant to record the Deed memorializing the minor subdivision for the property within 190 days of the date of the memorializing Resolution (i.e. by June 20, 2018);
- c. The Applicant failed to file the Deed memorializing the minor subdivision for the property within the 190 day period;
- d. The Applicant has demonstrated that it applied for County approval for this subdivision on March 9, 2017, but did not receive the County approval until November 27, 2018 (an approximately 20 month delay);
- e. The Applicant acted diligently in attempting to perfect said subdivision approval but was unable to obtain the necessary governmental approvals within the 190 day period;
- f. Consequently, the Applicant has demonstrated under N.J.S.A. 40:55D-47(f) that it is entitled to an extension to the deadline to record the Deed memorializing the minor subdivision for the property for a period of 120 days from the date of the Planning Board's vote on this extension request (i.e. February 12, 2019).

WHEREAS, Councilman Frank Garruzzo made a motion to approve the extension request, this motion was seconded by Eric Lapham and the following roll call was taken:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, Stacey Montalto

Noes: None

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle that Applicant's request for an extension of the deadline to record the Deed memorializing the Minor Subdivision for the Property is hereby approved and granted subject to the following conditions:

- a. With the exception of the deadline to record the Deed memorializing the minor subdivision for the property which is extended as set forth herein, the Applicant shall satisfy all the conditions set forth within the December 12, 2017 Resolution.
- b. The deadline to record the Deed memorializing the minor subdivision for the property is hereby extended for a 120 day period from the date of the February 12, 2019 vote to approve this extension request.
- c. Copies of this Resolution will be attached to the Recording Deed(s) so it will be recorded with the County's Records.

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

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

James Maclearie, Glenn Miller

Noes: None

Not Eligible to Vote: Thomas Condon, James Stenson, Corinne Trainor

The Board then considered a Resolution for approval of variance relief for Block 31.01, Lot 21, 503 Woodland Avenue, owned by Dennis and Emily Beezley, to allow construction of a covered front porch. As there were no comments or corrections to be made the following was presented for approval:

WHEREAS, Emily Beezley, (the "Applicant") has applied to the Planning Board of the Borough of Brielle (the "Board") for a site plan approval with variance relief for the property located at 503 Woodland Avenue and identified on the tax map of the Borough of Brielle as Block 31.01, Lot 21 (the "Property"); and WHEREAS, the Property is located within the Borough's Residential Zone 4 (the "R-4 Zone") and currently contains a one (1) story residential dwelling; and WHEREAS, the Applicant is seeking variance relief for the construction of a covered front porch in accordance with the plans submitted in support of this application (the "Plans"); and WHEREAS, this application specifically requires the following variances:

a. Side Yard Setback – Pursuant to §21-14.2(a)(1)(e) of the Ordinance, the minimum side yard setback required for this Property is eight (8') feet; the Property has an existing and proposed side yard setback of 7.42 feet;
b. Rear Yard Setback – Pursuant to §21-14.2(a)(1)(f) of the Ordinance, the minimum rear yard setback required for this Property is twenty-five (25) feet; the Property has an existing and proposed rear yard setback of 24.22 feet;
c. Lot Coverage – Pursuant to §21-13.2(a)(1)(h) of the Ordinance, the maximum lot coverage allowable is 20%; the Property has an existing lot coverage of 21.9% and a proposed lot coverage of 25.32%. This variance request was modified by the Applicant who agreed at the hearing to reduce the size of the porch in a manner to be approved by the Borough Engineer so that the lot coverage will not exceed 24.9%; and WHEREAS, the Board held a hearing on Tuesday, February 12, 2019 and considered the following documents presented at the hearing in connection with this application:

a. Jurisdictional Packet
b. Applicant's initial application for relief

WHEREAS, the Applicant, Emily Beezley, was sworn in and presented this application; and WHEREAS, the Board considered the following testimony presented at the hearing in connection with this application:

Mrs. Beezley explained she was requesting variance relief for an open and airy porch which would improve the look of the house and keep it aligned with the look of the neighborhood. She said that from an aesthetic standpoint, it would be an improvement to the house, street and nearby properties. She added that the house next door has a porch which sticks out further than the one that she is requesting.

Mr. Clark added that other variances already exist and are pre-existing and that the only variance sought which is an increase over the existing conditions is the lot coverage variance.

Mr. Garruzzo asked the dimensions of the porch. Mrs. Beezley responded 6ft. and described what her porch would look like. The porch would have columns, the roof which would extend from the existing roof line, railing and two or three steps. She added it would be 28ft long sticking out six feet from the house.

Mr. Langenberger stated his concerns of allowing the lot coverage to exceed 25%.. He felt that the Board likes to stay in the 23 or 24% range and asked the Applicant if the porch size could be reduced. Mrs. Beezley agreed that would not be a problem and agreed to reduce the porch size. Mr. Langenberger also reminded Mrs. Beezley that she could not enclose the porch in the future.

Mr. Hilla suggested that the porch size be reduced to just below 25% lot coverage at 24.9%. Mrs. Beezley said she did not see a problem with shortening the porch to about 25ft which would bring it under the 25% maximum limit. Mrs. Montalto asked for confirmation that just the porch was the only thing adding to the lot coverage. Mrs. Beezley affirmed that it was just the porch.

Mr. Miller, Councilman Garruzzo, Mr. Lapham, Mr. Piercey, Ms. Trainor had no problems with the application. Mr. Maclearie asked if the roofline would change. Mrs. Beezley responded that the roofline would stay the same.

WHEREAS, the hearing was opened to the public for general comments and no comments were provided; and WHEREAS, the Board after carefully considering the evidence presented by the Applicant 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 sought relate to a specific piece of property;
c. The purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirement because the variances encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general

welfare; and promotes a desirable visual environment through creative development techniques and good civic design and arrangement, which benefit the entire neighborhood by creating an enhanced aesthetic and concomitant sense of community;

d. The variances can be granted without substantial detriment to the public good;

e. The benefits of the deviations substantially outweigh any detriment; and

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

WHEREAS, Mr. Langenberger moved to approve the application with the conditions as described herein; this motion was seconded by Councilman Garruzzo. At that time the application was approved by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, Stacey Montalto, Corinne Trainor, Francis Pierciey

Noes: None

Absent: Thomas Condon, James Stenson

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

a. The size of the porch proposed in the Plans shall be reduced from 28 feet to 25 feet, thereby reducing the lot coverage variance to 24.9%.

b. The Applicant agrees that the porch shall never be used as an apartment and/or living or sleeping quarters;

c. The Applicant shall submit revised Plans showing reductions to the size of the porch to reduce the lot coverage to 24.9% and to indicate that the porch shall never be used as an apartment and/or living or sleeping quarters. The Applicant shall submit these revised Plans to the Borough Engineer for his review and approval. Once they are approved by the Borough Engineer, the Applicant shall provide five (5) sets of the revised Plans to the Board Secretary.

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

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Langenberger, James Maclearie, Glenn Miller, Corinne Trainor

Noes: None

Not Eligible to Vote: Thomas Condon, James Stenson

The last Resolution was for approval for the Site Plan for Block 77.01, Lot 5, Higgins Restaurant Group, LLC, known as Waterman's Grill, 403 Higgins Avenue. Mr. Clark told the Board this is a revised Resolution as the attorney for Waterman's Grill had requested that information be put in the Resolution in regards to the lighting and that it is a pre-existing condition. The following was then presented for approval:

WHEREAS, Higgins Restaurant Group LLC (the "Applicant") has applied to the Planning Board of the Borough of Brielle (the "Board") for minor site plan approval with variance relief for the property commonly referred to as Waterman's Grill located at 403 Higgins Avenue and identified on the tax map of the Borough of Brielle as Block 77.01, Lot 5 (the "Property"); and

WHEREAS, the Property is located within the Borough's Central Commercial Zone 1 (the "C-1 Zone") and contains a restaurant and parking area; and

WHEREAS, the Applicant is seeking minor site plan approval with variance relief to allow modifications to the parking lot and exterior of the restaurant as described more fully within the site plans submitted with this application (the "Plans"); and

WHEREAS, this application specifically requires the following variances:

d. Front Yard Setback – Pursuant to §21-18.2(a)(4) of the Ordinance, the minimum front yard setback required for this Property is thirty feet; the Property has a proposed front yard setback of 21.6 feet for Higgins Avenue, 17.1 feet for Gull Lane, 2.6 feet to the proposed canopy;

e. Accessory Structures – Pursuant to §21-18.2(b)(1) of the Ordinance, accessory structures must conform to the same setbacks as the principal structure. The required setback for an accessory structure on this property is thirty feet. The existing setback to the detached garage on Gull Lane is five feet.

f. Street Intersection to Curb Cuts – Pursuant to §21-31.11 of the Ordinance, the minimum distance required from the street intersection to curb cut is 25 feet; the Property has an existing distance 22 feet.

g. Distance Between Curb Cuts – Pursuant to §21-31.11 of the Ordinance, the minimum distance required between two curb cuts is 50 feet; the Property has an existing distance of thirty-six (36) feet.

h. Landscape Setback – Pursuant to §21-31.11 of the Ordinance, the minimum landscape setback to parking areas on this Property is 5 feet; the Property has an existing paved area of 5 feet;

i. Driveway Paving Setback – Pursuant to §21-31.22 of the Ordinance, paving for parking is prohibited within 5 feet of the property line. The Property has an existing pavement within 0 feet;

j. Loading Area – Pursuant to §21-33.2 of the Ordinance, this Property requires a loading area at least 14 feet in width and 55 feet in length; the Plans do not propose a Loading Area;

k. Landscaping – Pursuant to §21-37.1 of the Ordinance, a minimum of 20% percent of the site must be

devoted to landscaped areas; the Property had a proposed landscaping coverage of 7.2% in the original Plans, which was increased to 7.7% in the revised Plans submitted by the Applicant, and the Applicant's variance request was for approval of 7.7% landscaping coverage;

l. Driveway Width– Pursuant to §21-31.10 of the Ordinance, driveways on this Property have a required minimum distance of 15 feet curb return and a maximum width of 30 feet; the driveway on this Property exceeds 30 feet and no curb return is proposed;

m. Parking Spaces – Pursuant to §21-31.22 of the Ordinance, the minimum distance between parking spaces backing into a driveway from the street is twenty 20 feet; the Parking area along Ashley Avenue has an existing distance of 15.2 feet;

n. Buffer – Pursuant to §21-36.9 of the Ordinance, a 50 foot buffer is required for commercial zones bordering residential zones; the Property has no existing buffer area;

o. Parking in Buffer Area – Pursuant to §21-36.12 of the Ordinance, parking in a buffer zone is prohibited; the Property proposes parking within the required 50 foot buffer area;

p. Site Lighting Standards – Pursuant to §21-31.14, lighting levels are required to be a minimum of 0.3-foot candles with a minimum average intensity of 0.5-foot candles; portions of the property do not meet the minimum nor average minimum requirement, but this condition is a pre-existing non-conformity which is not being exacerbated by the development proposed through this application.

WHEREAS, Mayor Nicol, Councilman Frank Garruzzo and Mr. Langenberger recused themselves from hearing this application; and

WHEREAS, the Board's regular planner and engineer, Alan Hilla, had a conflict which prevented him from assisting the Board with this application so the Board retained James Kennedy, a licensed planner and engineer employed by Kennedy Consulting Engineers, LLC, to assist the Board with this application; and

WHEREAS, the Board held hearings on January 8, 2019 and on February 12, 2019 regarding the application and considered the following documents presented at the hearing in connection with this application:

- a. Jurisdictional Packet;
- b. Exhibit A-1: power point presentation from January 8, 2019;
- c. Exhibit A-2: enlarged site plan mounted on board;
- d. Exhibit A-3; revised power point presentation from February 12, 2019;
- e. Exhibit A-4: enlarged revised site plan mounted on board.

WHEREAS, the Applicant's attorney, Jillian McLeer, Esq., presented this application; and

WHEREAS, the following individuals testified on behalf of the Applicant at the hearings: Larry Grafas, a representative of the Applicant, and Timothy P. Lurie, a professional engineer and architect employed by D.W. Smith Associates, LLC; and

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

On January 8, 2019, the Applicant's attorney Jillian McLeer, gave an opening statement regarding the application which included a power point presentation which was marked into evidence as Exhibit A-1. Ms. McLeer indicated that this Property used to house Simko's and is now known as Waterman's Tavern. The Property is in the C-1 zone. She indicated that there has already been renovation to the bar and dining area inside and that this application is for the parking lot area for minor site plan approval to allow changes to the parking lot. She also noted the Applicant will be using a driveway area in the front of the restaurant for a drop-off. She then referred to slide 18 of the power point 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 so that the traffic flow goes 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 conditions which are 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 install better landscaping on the lot and she commented they also have received the Police and Fire Protection official's letters.

After Ms. McLeer's presentation was completed, 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, the valet parking 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, this 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.

After Mr. Grafas answered these questions, Mr. Tim Lurie of DW Smith was sworn in and accepted as an expert witness in engineering and planning. Mr. Lurie went through the existing variances as well as the proposed ones and noted that the Property is a corner lot that borders Higgins Avenue, Gull Lane and Ashley Avenue, that is in the C-1 zone, and that is comprised of 1.3 acres. The Applicant is 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 Avenue 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 parking spaces are required and they have 115, there is no Loading Zone but they don't need one. He then noted that the proposed canopy will have a setback of 3.9 feet from Higgins Avenue and will add .3% to coverage to bring a total lot 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 more than 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 Borough Engineer's November 30, 2018 report and said that the Engineer's comments 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 they are existing, as well as on the sign, they will remain and he will provide the calculations to show that they satisfy the criteria.

At this point the Borough's engineer, 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 that the Applicant will comply with the zoning requirements and that 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 they are not shining on the neighbors.

Mr. Lurie then spoke of changing the curb stops to bollards and this would be no problem to install along the building area. He then referred to Item B in the Kennedy report and said that the Applicant 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 that the Applicant can add a lane to direct patrons of the restaurant 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 that the Applicant can do this; Mr. Kennedy remarked that the Borough wants to see people get to the front door safely. Mr. Lurie said that the Applicant can take a foot off the landscaping on Higgins and 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 of the Kennedy Report, which discussed an area striped yellow in the rear that juts out. The Applicant 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 being 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 that 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 about after the plans were already 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 made 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 that the Applicant's 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. 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 an enlarged Site Plan mounted on a board as Exhibit A-2 for the record.

Mr. Condon thereafter announced that since revised plans were needed from the Applicant, the hearing would be carried to the February meeting of the Board.

On February 12, 2019, the hearing on this application was continued. As the Board Chairman Mr. Condon was absent, the Board's attorney Mr. Clark chaired the hearing.

The Applicant's attorney, Ms. McLeer, started the presentation by indicating that the Applicant had submitted revised plans to address the concerns raised by the Board and the Board Engineer, and that the Board Engineer had provided a February 5, 2019 report commenting on the revised plans. She submitted a revised power point presentation to the Board which was marked into evidence as Exhibit A-3 and a revised site plan mounted on a board which was marked into evidence as Exhibit A-4.

Ms. McLeer stated that the Applicant was presenting the revised plans to address the recommendations made by Mr. Kennedy. The most notable one was for a 36" concrete walkway. Ms. McLeer asked Mr. Lurie to explain the changes. He stated that other changes included the addition of the walkway, the size of the driveway from 13ft down to 10ft, addition of 2 more parking spaces and bollards, added circulation arrows and landscaping along Higgins Avenue to match the current landscaping. In reference to the lighting plans, the Applicant will maintain levels as they currently exist. Mr. Lurie referenced the items from Mr. Kennedy's letter including the drainage suggestions.

Mr. Clark asked if any of the requested variances had changed. Mr. Lurie said the new variances were for the canopy set back which 2.6 feet from Higgins avenue, for landscaping where 20% is required and they are increasing the landscaping from 7.2% in the original Plans to 7.7% in the revised Plans, and the parking spaces backing up into the driveway where there is a 20 foot setback requirement, there is 9 feet existing, and the Applicant is proposing 15.2 feet. Mr. Clark clarified with Mr. Lurie that with the exception of the canopy set back, to the extent that the other variances have changed, those changes are now closer to compliance with the code requirements. Mr. Lurie also testified that the parking configuration is safer and has no negative impact on the public.

Mr. Clark turned to the Board for questions. Mr. Lapham asked about the lighting. Ms. McLeer explained this is the lighting that has been in place for a long time and there have never been issues. The rest of the Board members had no questions.

Ms. McLeer closed her presentation with comments regarding Mr. Grafas' efforts to enhance the neighborhood and Brielle with the proposed improvements to Waterman's Grill and she thanked the Board for their time.

The hearing was then opened to the public for comments. Mr. Keith McEligot of 615 Brielle Avenue came forward and was sworn in. He asked if there were provisions for security cameras in the parking lot for the safety of the customers. Ms. McLeer responded there were no security cameras in the Plans. She stated there was no customer access to the back of the building. Mr. Clark explained there are no provisions in the Borough Code codes requiring restaurants to install security cameras.

Ms. Virginia Loftin of 407 South Street came forward and was sworn in. She asked why the Board was allowing for the landscaping percentage to be 7.7% instead of the required amount. Mr. Clark explained the percentage could have stayed the same, instead they were improving it. Mr. Maclearie added the Applicant is increasing it slightly which they did not have to do as it was a pre-existing condition.

Ms. Trainor questioned if there are bollards in the middle of the parking lot. Mr. Lurie responded no. Then Ms. Trainor asked if the revised plans include the fence and Ms. McLeer answered with Mr. Grafas' confirmation that the fence would stay in place until the bollards are put in. Mr. Maclearie mentioned he appreciated Ms. Loftin's concerns. All other Board members had no comments.

Mr. Clark reminded the Board of Mr. Kennedy's recommendation that a condition be included in the resolution requiring that all signage must conform to the zoning code. Mr. Clark advised he had spoken to the Applicant's attorney and that the Applicant consents to this condition being included in the resolution. This concluded the hearing on this application.

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

- g. 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.
- h. The variances relate to a specific piece of property.
- i. The Property's use is permitted in the C-1 Zone.
- j. Many of the variances are pre-existing conditions that are not being changed by the Applicant through this application.
- k. The Applicant's proposed plans, as revised, will not adversely impact the bordering residential zone.
- l. The Applicant's proposed plans, as revised, will improve safety to vehicles and pedestrians.
- m. The Applicant's proposed plans, as revised, will improve the aesthetic appearance of the Property.
- n. The variances sought by the Applicant 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 Maclearie made a motion to approve the application with conditions as described herein; this motion was seconded by Francis Piercey. At that time, the following roll call was taken:

Ayes: Eric Lapham, James Maclearie, Glenn Miller, Stacey Montalto, Corinne Trainor, Francis Piercey

Noes: None

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle, that the Applicant's application for minor site plan approval with 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. All signage, including but not limited to the canopy sign, will conform with the requirements of the Borough zoning code.
- D. The Applicant shall construct and maintain all required barrier free improvements in accordance with the Barrier Free requirements of the New Jersey Uniform Construction Code and/or Americans with Disabilities Act.
- E. All representations made under oath by the Applicant or his agents shall be deemed conditions of this approval, and any misrepresentations or actions by the Applicant contrary to the representations made before the Board shall be deemed a violation of this approval.

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

Ayes: James Maclearie, Glenn Miller, Corinne Trainor

Noes: None

Not Eligible to Vote: Mayor Thomas Nicol, Councilman Frank Garruzzo, Thomas Condon, James Langenberger, James Stenson

NEW BUSINESS:

The Board then hear the application for variance relief for Block 66.02, Lot 8, 706 Schoolhouse Road, owned by Gregory & Kathleen Mooney, to allow construction of a 20x20 foot deck at the rear of the existing home. Lot area – 11,250 square feet required, 10,000 square feet existing. Lot Depth – 125 feet required, 100 feet existing. Rear Yard Setback – 35 feet required, 15 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. Mr. Gregory Mooney came forward and was sworn in, giving his address as 706 Schoolhouse Road.

Mr. Mooney said he is seeking a variance for a deck in the rear of his home, he has a small rear yard so the deck will leave only a 15foot rear yard setback. It will be pressure treated wood and this deck will give him a place to enjoy his back yard. Mr. Condon asked about the height at the beginning of the deck and then at the end of the deck and Mr. Mooney said it will go from 3 feet to about maybe 3.5 feet. Mr. Stenson asked if the deck can be made smaller and Mr. Mooney said this is already smaller than what he had originally planned, a 20x20 deck is the best use.

Mr. Miller asked about the drainage and what will be under the deck, slab or stone? Mr. Mooney said his yard is great the way it is now, with grass, and he will keep it that way, he added there are drywells on the property. Councilman Garruzzo thought the back yard slopes down pretty sharply, he knew there were drainage issues here, the water still pools there. If a deck is put in the grass will not grow under it and it may mean more water will accumulate; he had a concern on this and felt there is an issue here as a deck that size may not help with the drainage.

Mr. Hilla asked about the drainage facilities, he knew that drywells were put in, he asked if Mr. Mooney had spoken to his neighbors. Mr. Mooney said he met all his neighbors and, from what he has seen from living there over a year, all seems to be working well; Mr. Hilla commented this was the year to test this.

As there was no more testimony from Mr. Mooney the hearing was opened for questions from the public and Keith McEligot of 615 Brielle Avenue came forward and asked if there will be electric or gas put on the deck and the answer was no. Next to come forward was Shawn Dettlinger of 707 Howell Drive. He had concerns as he has water issues on his property and said the Mooney property slopes a lot, he wanted to know how Mr. Mooney can go out his slider to a 3-foot high deck, it's more than 3 feet down from his slider. He also questioned what will happen to the trees there, if they come down he loses his privacy, his home is behind the Mooney property. He said every time it rains he gets rain down the south side of his property and the whole corner of his property floods. He didn't want to be a bad neighbor but said the builder of the Mooney home did not get rid of the dirt in digging the basement and put it around the property so the grading changed. He never had water issues before but does now. Mr. Mooney answered Mr. Dettlinger's question and said they will go down steps from the back of their home to the deck.

Mr. Dettlinger then asked about the trees as this is a big slope. Mr. Condon asked if there is something that can be done about the trees and Mr. Dettlinger said the berm that was put in is also not being taken care of and he did not feel his water drainage should be affected. Mr. Condon noted there is no site plan showing the elevations and if the Board could have this it may be easier to review. He told Mr. Mooney he thought he was going out his back door directly to the deck; Mr. Mooney said they would go down to the bottom of the stairwell to get to the deck. Mr. Langenberger commented if the deck were made 16x24 feet it would not go as far. Mr. Mooney said the trees are like a fence and they are not coming down. Mr. Dettlinger told the Board he had fought with the builder when the home was being built.

Mr. Hilla commented on the statement Mr. Mooney made about going down steps then going to the deck, the survey shows this to be 8-10 steps, it's kind of hatched over, there are no better plans to see and there are no spot shots. Mrs. Trainor commented it seems like Mr. Dettlinger disagrees with how far this will be and Mr. Hilla noted the deck is not at the doorway, goes down. Councilman Garruzzo said one can't tell from the plans, Mr. Mooney testified that the deck will go from 3 feet to 3.5 feet but it looks steeper. Mr. Dettlinger said there is a 10 foot difference from walking out the slider then going down to the deck. Mrs. Trainer felt there was a drainage and site line issue here and she did not think the board had enough information to believe what the grading issue is.

Mr. Condon felt that the Board would need a site elevation done so they can see what is going on. Mr. Hilla agreed that a section of the property showing this area be done. Mayor Nicol suggested Mr. Hilla conversing with Mr. Mooney so he knows what the Board needs. If the berm has settled, that needs to be addressed, this was working at one time and extra drywells were put in as well. Mr. Clark asked the question will this deck make the drainage worse? Mr. Dettlinger said that 400 square feet of less grass may be a problem.

Mr. Clark marked a photo taken by Mr. Dettlinger today as Exhibit O-1, the left side is the Mooney back yard and the right side is the Dettlinger back yard. Mr. Dettlinger said he marked the swing set height on the photo, it's at 88 inches high. Mr. Mooney said he had taken all into consideration in planning this deck.

Next to come forward was Virginia Lofton of 407 South Street who wanted to know what is the current lot coverage and what is the proposed lot coverage and Mr. Hilla said the deck is slatted so there is no change in the lot coverage. Frank MacDonald of 705 Howell Drive came forward and felt that Mr. Dettlinger covered the problem here. His concern is the runoff and confirmed the berm is a lot smaller now, he submitted a photo showing the water in his yard this past Sunday, this water comes from Mr. Mooney's property onto his property. This photo was marked as Exhibit O-2. He felt Mr. Mooney should have realized his yard is not a place for a picnic, the soil is now flat and then there is a heavy drop, soil was used to flatten the yard.

At this time the Board agreed that this matter needed to be carried to next month and Mr. Mooney come in with plans detailing the area of the deck with elevations. Mr. Mooney felt he can have this in time for that meeting; Mr. Condon announced there will be no further notice required, this matter is being carried to the Tuesday, April 9th meeting of the Board, a motion to carry this was made by Mr. Stenson, seconded by Councilman Garruzzo and then by unanimous voice vote, all ayes, no nays.

Ms. Lofton asked if she could ask a general question on variances and wanted to know, on the Waterman's Grill application, they were not made to totally conform; she felt this was the time to improve the property and bring it into compliance. Mr. Clark explained there are existing conditions on the property that are not being changed and were grandfathered in, their application was on what was changing and what was pre-existing. Mr. Hilla commented they also would have had to buy 25 more feet of property and could not do this; Councilman Garruzzo agreed with what was said and added there are some things that are not changed. Ms. Lofton said she was concerned about flooding and saw the need to put in more landscaping.

She then asked how many homes in Brielle are over on lot coverage and Mr. Hilla said the Ordinance allows 20% lot coverage and this is less than other towns, Manasquan is at 35% lot coverage. Mayor Nicol added that a lot of homes were built years ago when there were less laws.

EXECUTIVE SESSION:

Mrs. Brisben read the following into the record:

"WHEREAS, the Planning Board has a matter that requires an Executive Session, and
WHEREAS, under the Open Public Meetings Act the Planning Board is entitled to go into closed session, and
WHEREAS, the matter to be discussed in Pending Litigation.

NOW, THEREFORE, BE IT RESOLVED that the Brielle Planning Board is going into Executive Session and the Minutes from this will be made public in the future".

This was approved on a motion by Mr. Condon, seconded by Mr. Stenson and approved unanimously by voice vote, all aye and the Board went into Executive Session.

The Board came out of Executive Session at 8:58 p.m. on a motion by Mr. Condon, seconded by Mr. Stenson and approved unanimously by voice vote, 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. Miller and approved unanimously by voice vote, all aye. The meeting was adjourned at 9:00 p.m.

Karen S. Brisben, Board Secretary
Approved: April 9, 2019