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BRIELLE PLANNING BOARD  
TUESDAY, NOVEMBER 10<sup>th</sup>, 2020

The Regular Meeting of the Brielle Planning Board was held on Tuesday, November 10<sup>th</sup>, 2020 at 6:00 p.m. virtually. Ms. Trainor read the OPMA compliance statement. After a moment of silent prayer and a Salute to the Flag roll call was taken.

Present – Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Glenn Miller, Corrine Trainor, James Maclearie, Christian Siano, Karen Brisben and Andrew Chermak

Absent – Madeline Ferraro

Also present were David Clark, Board Attorney, Alan Hilla, Board Engineer, Elissa Commins, Alternate Engineer and Denise Murphy who recorded the Minutes.

A motion was made to approve the Minutes of October 13<sup>th</sup>, 2020, this done by Mr. Stenson, seconded by Mr. Miller and approved by unanimous vote, all aye. Mr. Maclearie not eligible to vote.

CORRESPONDENCE: Receipt of letter in support of application for 608 Locust Road.

Ms. Trainor announced that the Board would rearrange the agenda since Councilman Garruzzo is unable to hear the 608 Locust Road application and the River House Restaurant.

OLD BUSINESS:

Ms. Trainor announced that the Board would hear the continuation of hearing for Major Subdivision for Block 64.06, Lot 18, 619 Rankin Road, owned by 619 Rankin Road, LLC (applicant Bojac Realty), to create 5 buildable lots.

Ms. Trainor said that she would like to note that this afternoon, on the day of the Board meeting, like last month, the Board has received a late submitted correspondence from the Law Office of Kenneth J. Lackey LLC., counsel for an objector with respect to this application, dated November 10<sup>th</sup>, 2020 and for the record, the correspondence has been circulated to the Board and has been reviewed. Ms. Trainor stated that it would make sense to hear from Mr. Lackey before going forward.

Mr. Kenneth Lackey said that he will stand by the argument in the letter and added that there were exhibits that the expert, Mr. Carr, was referring to that should be visible and were not and he thinks that this prevented the public from being able to understand the application and follow along with the expert's testimony. Ms. Trainor gave Mr. Keith Henderson, attorney for applicant, an opportunity to respond.

Mr. Henderson began by stating that before he addressed the letter, he would like to correct a statement he made at the last hearing. Mr. Henderson stated that he had stated to the Board that

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the letter from Mr. Lackey was received at 3:30 but it was forwarded from the Board's attorney. Mr. Henderson stated that his computer records show that it reached his office after closing hours at 5:30. Mr. Henderson stated that if he had not gotten it from the Board attorney, he wouldn't have even known about it and that it was an effort to delay and it cost the applicant a lot of time. Mr. Henderson stated that he doesn't think there is any merit to it and it's very clear that the applicant has the right to present the case and if Mr. Lackey has an objection, he can object. Mr. Henderson asked that this letter be thrown out and disregarded completely.

Ms. Trainor stated that because this is an evidentiary issue, this is not submitted to the Board and that the Chair would make the call. Ms. Trainor thanked Mr. Lackey for the correspondence but noted that his correspondence, like last time, was received just hours before this meeting and stated that the Board needs more time and asked Mr. Lackey going forward to please not do that.

Ms. Trainor stated that Mr. Lackey's objection, with respect to the entirety of the testimony by the applicant's engineer, Mr. Carr, is overruled and that Mr. Lackey and the public have the right to cross-examine the applicant's witnesses. Ms. Trainor stated that there is an order of procedure and that Mr. Henderson presented Mr. Carr's testimony last month. Ms. Trainor stated if Mr. Henderson didn't see fit to mark exhibits during that testimony, that's his prerogative, it's his case to present. Ms. Trainor added that it is also Mr. Lackey's prerogative to make objections to evidence. Ms. Trainor noted that she could see that Mr. Lackey is signed in using a computer and if he isn't open to interrupting, he could use the chat feature to object or voice an objection. Ms. Trainor stated that at this point, to the extent that Mr. Lackey didn't waive his objection at the time that he has no harm either, because he can certainly mark exhibits, should he so choose tonight to cross-examine Mr. Henderson's witness.

Ms. Trainor noted that there is another issue Mr. Lackey raised in his letter concerning a procedural issue with respect to the Minutes. Ms. Trainor stated that to be clear for the record, Mr. Lackey argued that the Minutes because they are in draft form are not available on the Planning Board website and that he had objected to that. Ms. Trainor stated that those draft Minutes are not public until the Board reviews and approves them, and that the Board has done that by motion tonight and they will now be made part of the public view.

Ms. Trainor reminded the Board and the public that this application was first heard November 12, 2019 and that there was no testimony again until October 13<sup>th</sup>, 2020 and that there are Minutes of those proceedings so the Board and the public can refresh their memories.

Ms. Trainor announced that it was now time for questions from the Board, with respect to Mr. Henderson's witness, Mr. Carr.

Ms. Trainor asked Mayor Nicol if he had any questions and he stated that he did have a question about the water management program that has been submitted. Mayor Nicol stated that it is rather complicated and presented with volumes of material. Mayor Nicol suggested that if and/or when the Board approves this application, they could put the caveat in there that the water management system meets all criteria of the DEP. Mayor Nicol stated that he believed this would protect and be beneficial for the Borough. Mayor Nicol stated that in the past the Borough has had

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developments occur upstream and created a lot of havoc for the Borough with sedimentation and run off into Rick's run.

Mr. Carr replied that he would agree with that as a condition of approval and that they would provide any backup documents to Mr. Hilla, proving that it meets those criteria for the DEP, Stormwater Management.

Mayor Nicol had no other questions at this time. Ms. Trainor then asked Ms. Brisben if she had any questions for Mr. Carr. Ms. Brisben stated that she did and referred to the first page of Mr. Hilla's report, which states that the applicant is going to demolish the detached garage, greenhouse and various other accessories but on Mr. Carr's site plan it shows that they are to remain. Ms. Brisben questioned whether they are to remain or be taken down.

Mr. Carr responded that the accessory structures and garage on the right side will be demolished. The greenhouses, planter areas, small shed, and a garden on lot 18.03 that will remain, the existing dwelling will also remain and be relocated to one of the lots.

Ms. Brisben then stated to Mr. Carr that it looks like that there is an encroachment from the driveway to Rankin Road on sheet 4 of 10. Ms. Brisben asked Mr. Carr to address this.

Mr. Carr asked Ms. Brisben if she was looking at the shaded area that looks like stones to which Ms. Brisben replied, yes. Mr. Carr then stated that this is the existing driveway and will be removed.

Ms. Brisben asked Mr. Carr if all the trees were going to be removed. Mr. Carr replied that to the extent that they can save the trees, they will. Mr. Carr stated that there are a couple of trees that are in the roadbed that will be removed. Ms. Brisben stated that she had no further questions.

Having no further questions, Ms. Trainor asked Mr. Stenson if he had any questions for Mr. Carr and he stated that he did. Mr. Stenson asked Mr. Carr if the number of homes that are going to be built are the same as originally presented. Mr. Carr replied that this is correct. Mr. Stenson then asked Mr. Carr in the one that says there will be a building moved, is that in the original program. Mr. Carr replied, yes, there are five homes, one of which is an existing home which will be relocated to lot 18.02.

Having no further questions, Ms. Trainor asked Mr. Miller if he had any questions to which he replied yes. Mr. Miller stated that he is still concerned with the new proposed road, Squan Brook Way. Mr. Miller stated that he is concerned about visibility coming around that corner. Mr. Miller asked Mr. Carr if the plantings and stuff can be cleared out, that this will open and cause better visibility for in and out of the driveway. Mr. Miller asked Mr. Carr how the lighting in the driveway is going to affect the current residents on Scott Road.

Mr. Carr responded that there are shrubs and undergrowth that will be cleaned out as part of the application with the construction of the new road, so sight visibility will be improved. Mr. Carr stated that they did check it for the AASHTO standards, and the sight distances do meet the AASHTO standards for safe sight distances. Mr. Carr stated that lighting is low level and that they

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are proposing three lights in the subdivision, one at the intersection, one at the cul-de-sac and one approximately midway. Mr. Carr stated the lights are generally low, colonial type, low lighting to define where the roadway is.

Mr. Miller asked Mr. Carr if the greenhouse that is remaining has facilities such as bathrooms, water, sinks, anything of that sort and how the regrading and new drainage will be handled. Mr. Carr answered that to his understanding, it is just a greenhouse, but he has never been in it, so he does not know.

Having no further questions, Ms. Trainor asked Mr. Maclearie if he had any questions for Mr. Carr to which he stated he did. Mr. Maclearie began by asking Mr. Carr if there will be a Homeowner's Association responsible for the water drainage.

Mr. Carr replied that all of the storm drains, which are within individual lots, can be held by a Homeowner's Association other than an inlet at the end of the cul-de-sac to pick up the roadway drainage, there is no drainage within the right of way. Mr. Maclearie asked Mr. Carr if the greenhouse would be impervious because it is a temporary structure. Mr. Carr replied that there is a small greenhouse and a small shed that would be impervious, but they don't affect lot coverage or building coverage. Mr. Carr stated that everything else in that area is loose gravel for walking between the planting beds, the shaded areas are the gravel walk areas and the rectangles are open landscape beds. Mr. Carr stated that this is a private garden owned by Lot 88.03.

Having no further questions, Ms. Trainor asked Mr. Siano and Mr. Chermark if they had questions for Mr. Carr which all replied that they did not.

Ms. Trainor asked Mr. Carr if there has been a traffic study. Mr. Carr replied that there has not been. Ms. Trainor then asked Mr. Carr if he could give the reasoning for that and why the Board should approve the application without one.

Mr. Carr replied that there are numerous roads like Rankin Road, other cul-de-sacs in the area. Mr. Carr stated that this is a cul-de-sac that will serve five dwellings and is not a traffic generator. Mr. Carr stated that as indicated on the plans, the applicant meets the AASHTO standard. Mr. Carr continued by saying the roadway is a conforming township road with adequate slopes, drainage and curving. Mr. Carr stated that he did not see the need for a traffic report.

Ms. Trainor asked Mr. Carr what kind of development or subdivision would require a traffic report. Mr. Carr responded that generally commercial, high generator commercial and large developments would.

Ms. Trainor asked Mr. Carr to confirm that when he is referring to AASHTO, he is referring to the American Association of State Highway Officials and that the standards are to ensure safe distances when turning in and out of a development. Mr. Carr replied that this is correct and that there are no site distances shown on the plan. Mr. Carr stated that he believed that in Mr. Hilla's report it specifically states that it is designed in accordance with the AASHTO standards.

Ms. Trainor asked Mr. Hilla if this is stated in his report. Mr. Hilla responded that to an extent he does say this in his letter but looking at the AASHTO plan, there are a couple of things he's concerned about that he may have not picked up in his first review. Mr. Hilla stated that the AASHTO issues are the sight distance that has to do with stopping distance from the time a user is driving along Rankin Road, sees a vehicle pull out and has the available stopping distance to avoid a collision. Mr. Hilla continued that the posted speed for this road is 25 miles per hour and the stopping distance by the chart in AASHTO is 150 feet, however not everyone drives 25 mph on this road and it is a well-known fact that speeding is an issue and stopping distance is very important. Mr. Hilla expressed his concerns with the site triangle but stated he is not an expert and is not comfortable and has been clear about having some traffic testimony to satisfy the safety of that intersection, primarily because of its location of the curve.

Ms. Trainor asked Mr. Carr if he is a traffic expert. Mr. Carr responded that although he has forty years of experience doing site plans, and subdivisions, he does not profess to be a traffic engineer. Ms. Trainor stated that Mr. Carr was qualified as an engineer, for purposes of the hearing, and asked Mr. Carr, in this capacity, if he is qualified to , as an engineer, determine whether the sight lines that Mr. Hilla has compliance concerns with respect to the AASHTO standard. Mr. Carr replied that he certainly is and that he doesn't profess to be a traffic engineer.

Ms. Trainor stated that she has no further questions and asked Mr. Hilla if he had any follow up questions. Mr. Hilla reiterated that he is not comfortable and is very concerned about the safety of this intersection.

Ms. Brisben stated that on page six on Mr. Hilla's report, Mr. Hilla states that the revised plans are using plastic pipe, plastic stormwater chambers, and plastic drain basins and has a concern for the suitability of this plastic piping. Ms. Brisben asked Mr. Carr to address this.

Mr. Carr responded that this is a manufactured pipe, a high-density polyethylene pipe typically used in shopping centers, large commercial sites, underneath pavement. Mr. Carr stated that it handles H 20 loading, which is tractor trailer loading and is a standard industry product that has been around for a number of years. Mr. Carr stated that this would be maintained by the Homeowner's Association, all on individual lots. Mr. Carr stated that this is a type of pipe that allows it to be installed in stone beds that promotes recharge and groundwater recharge and filtration.

Ms. Trainor stated that Mr. Carr's mentioning of the Homeowners Association and the testimony with respect to its oversight of the water management issues and Mayor Nicol's concerns about that, brings to light whether the association is an insured and has the appropriate assets to indemnify the Borough to the extent that there are already stormwater issues. Ms. Trainor asked if Mr. Carr could comment on this to which he replied no, that sounds like a legal question. Mr. Carr stated that what he would say is that the stormwater system is relatively small, relatively low maintenance piping, the lower part of the system is recharge basins.

Ms. Trainor asked if anyone on the Board had any further questions for Mr. Carr. Mr. Miller stated that he had a question. Mr. Miller asked Mr. Carr on Lot 18.01, it looks like along the driveway out to Rankin Road there is a small strip of property, is this all on homeowner's property or is this

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the Homeowner's Association. Mr. Carr responded that this would be all Lot 18.01 and proposed to remain neutral. Mr. Miller asked if the Board could stipulate what is put in this space or how this is maintained. Mr. Hilla responded to Mr. Miller that one thing that could be considered would be a conservation easement and that would allow that strip of land to remain in the condition that it is in right now, keeping a future homeowner from clear cutting something that was intended by the Board to remain. Mr. Miller stated he had no further questions for Mr. Carr.

Ms. Trainor asked Mr. Garruzzo if he had any questions. Mr. Garruzzo asked Mr. Carr what the intentions were for the whole line from the back portion of the homeowner's on Scott Road. Mr. Garruzzo stated that it looked like there is 20-25 feet of greenery and shrubbery as a buffer zone to the road. Mr. Carr responded that it is 20 feet and at the request of the homeowners Squan Brook Way was shifted to the west for the approach of Scott Road as to keep a 20-foot strip there and the intent is it remain natural.

Ms. Brisben asked Mr. Henderson if he would confirm that every deed that is made for this subdivision will have a stipulation that they will be part of this Homeowner's Association. Mr. Henderson replied yes and in addition to that, there will probably be a not for profit corporation, bylaws, and deed restrictions that will deal with some of these issues. Mr. Henderson stated that all these documents regarding the Homeowner's Association will be submitted to the Board attorney for review, long before construction is started.

Ms. Trainor asked the Board if there were any other questions for Mr. Carr. Hearing none, Ms. Trainor announced it was time for the public portion of the question and answer.

Mr. Brian and Mrs. Desiree Carton residing at 823 Scott Road were sworn in by Mr. Clark. Mrs. Carton asked Mr. Carr what the concepts are to ensure that the current and future sightlines will not be blocked by landscaping, or additional fencing along the developments of 100 feet of frontage. Mr. Carr responded that those lots could have deed restrictions which would maintain any vegetation within the site triangle.

Ms. Trainor asked Mr. and Mrs. Carton if they had any other questions for Mr. Carr to which they replied that they did not.

Mr. Thomas and Mrs. Suzanne Beaton residing at 623 Rankin Road were sworn in by Mr. Clark. Mr. Beaton asked if the public could see the exhibits. Mr. Clark responded that so far, the applicant has only marked one exhibit, right at the very beginning of the hearing in November, which was a blow up of the site. Mr. Clark stated that he believes what is being referenced by this witness and by the Board members is the plans on file at the Borough Hall which can be seen, and a copy purchased by anyone. Mr. Clark stated that there is a way to have the plans shown on the screen if there is a question about a particular plan.

Mr. Beaton stated his property is Lot 16 joins 619 Rankin Road on three sides and is concerned about the negative impact on Lots 4 and 5. Mr. Beaton asked Mr. Carr if the applicant would be willing to agree to some conditions and also stated that he has been talking to Mr. Henderson. Mr. Henderson interjected that Mr. Carr would not be able to answer this and that he is aware of the conditions Mr. Beaton is referring to and that Mr. Henderson simply ran out of time sending an

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email to Mr. Beaton and tonight will have an agreement drawn up, agreeing to certain restrictions. Ms. Trainor asked if Mr. and Mrs. Beaton had any other questions for Mr. Carr, they replied they did not.

Ms. Trainor stated that this application has reached the 45-minute mark and will continue this application at the December meeting.

#### NEW BUSINESS:

Application for variance relief for Block 70.01, Lot 4, 608 Locust Road, owned by Aaron & Stacilyn Feldman, to allow construction of a second-story addition to an existing nonconforming home. Minimum Lot Depth – 125 feet is required, 92.94 feet exists. Minimum Front Yard Setback – 40 feet required, 34.7 feet is existing & proposed to the home and 31.9 feet to the covered front porch. Minimum Rear Yard Setback – 40 feet is required; 19.78 feet is proposed. Maximum Lot Coverage – 20% maximum allowed, 22.8% is existing & proposed.

Mr. Garruzzo announced that he was going to recuse himself from hearing this application.

Ms. Trainor stated that if any member of the public, should have questions for any witness that might be presented tonight or would like to be heard with respect to this application, to please enter their name and address in the chat box, and that the Board will get to you at the appropriate procedural juncture.

Ms. Trainor asked Mr. Aaron Feldman if he would be presenting on his own tonight. Mr. Feldman replied that he would be. Mr. Feldman was sworn in by Mr. Clark. Mr. Clark asked Mr. Feldman if he and his wife, Stacilyn Feldman, live at 608 Locust Road. Mr. Clark asked Mr. Feldman if anyone else would be testifying on this application. Mr. Feldman replied that he was testifying on his own behalf. Mr. Feldman started by stating it might be helpful to give some background. Mr. Feldman stated that he is a licensed landscape engineer with experience testifying in front of bodies like this one. Mr. Feldman stated that prior to moving to New Jersey, Mr. Feldman was on the staff of the Park and Planning Commission in Montgomery County, Maryland, presenting parkland and urban development projects for Planning Boards several times a year, for the better part of a decade. Mr. Feldman stated that the one-story house has approximate 1500 square living space with an attached garage, partial basement and attic space. Mr. Feldman stated that the renovation proposes to add a second floor directly above a portion of the existing footprint of the house, adding about 900 square feet of occupiable space. Mr. Feldman stated that the second-floor addition will be partially in line with the front side of the house, recessed by about nine feet in the back keeping 28.2 feet from the property line on the second floor. Mr. Feldman stated the variance request was due to the acknowledgement of a condition that has existed since the property was subdivided when the house was constructed around 1940. Mr. Feldman stated that in Ms. Commins denial letter, dated June 29<sup>th</sup>, it states lot depth in front and rear of setbacks do not currently conform to R2 zoning requirements, nor have they ever. Mr. Feldman stated that the plans proposed are to keep the existing footprint of the house intact while adding a second floor well within the height restrictions enumerated in the Zoning Code. Mr. Feldman stated the proposed renovation does not exacerbate the non-conforming condition of the property, and the architectural character of the proposal remained consistent with much of the rest of the neighborhood. Mr. Feldman stated that

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his understanding that his request is consistent with other approvals in the past. Mr. Feldman stated that he would like to close by mentioning that this house will serve as their primary residence to raise their young family for years to come. Mr. Feldman thanked the Board for their time and consideration and that he is more than happy to answer any questions.

Ms. Trainor announced that the Board received correspondence from a neighbor with respect to Mr. and Mrs. Feldman's application who are in favor of this application. Ms. Trainor asked Mr. Clark how the Board would handle this correspondence. Mr. Clark replied that under the new guidelines that the State has put out, under this time of Covid, the state is now encouraging Boards because of the remote nature of meetings, to consider these types of letters and be read into the record. Ms. Trainor stated that before the Board and Mr. Hilla have any questions for the applicant, she would read this letter in.

"Hi, my name is Jane Blessing, and my husband and I live directly across the Locust Road from the Feldman's. They currently have an application pending for your meeting on November 10th. We are 100% in favor of this, they are wonderful family, and I do also feel they are going to make a very positive addition to this town. Respectfully submitted Jane Blessing." Ms. Trainor stated that it appears her husband also signed, although I can't read a signature.

Ms. Trainor asked Mr. Hilla if he had any questions for Mr. Feldman. Mr. Hilla replied that his parents are within 200 feet of this applicant so therefore he has recused himself from reviewing this application and that Ms. Commins has reviewed the application instead.

Ms. Trainor asked Ms. Commins if she had any questions for Mr. Feldman. Ms. Commins replied that she didn't have any questions for the applicant and stated that this is a very straightforward application. Ms. Commins stated that the lots on Locust being an average of 90 to 105 feet deep with 40-foot front and rear setbacks make for a very limited footprint of development, it is very common to see this scenario on Locust Road.

Ms. Trainor asked the Board if there were any questions for Mr. Feldman. Hearing none, Ms. Trainor asked the public if there were any questions. There were no public questions.

Ms. Trainor announced it was time for the Board to make comments regarding this application. Ms. Trainor asked Mayor Nicol if he had any comments. Mayor Nicol commented that he thinks this is a straightforward application and is not going to change the footprint that much and that he would be in favor of it. Ms. Trainor asked Ms. Brisben if she had any comments. Ms. Brisben replied that she is for this application. Ms. Brisben stated that she thinks the home will be beautiful and that the home next to it is a larger home, so this will fit right in. Ms. Trainor asked Mr. Stenson if he had any comments. Mr. Stenson stated that he agreed with Ms. Brisben. Ms. Trainor asked Mr. Miller if he had any comments. Mr. Miller replied that he thinks this is an improvement to the property and is well warranted. Ms. Trainor asked Mr. Siano if he had any comments. Mr. Siano replied that it looks like they did a nice job designing it, fitting in with the other homes in the neighborhood. Ms. Trainor asked Mr. Maclearie if he had any comments. Mr. Maclearie replied that it looks great. Ms. Trainor asked Mr. Chermack if he had any comments. Mr. Chermack responded that he agrees with Mayor Nicol and Mr. Siano that it will be an improvement to the neighborhood. Ms. Trainor stated that she has nothing but positive comments, welcomed the



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Feldmans to Brielle and based on the lot and the footprint that's existing, thinks that the addition of a second story is just fine.

Ms. Trainor announced it was time to hear comments from the public regarding this application.

Mark and Paige Morro, residing at 611 Locust Road were sworn in by Mr. Clark. Mr. Morro stated that they feel that the addition is going to fit in the neighborhood and are very excited to have the Feldmans on the block.

Hearing no other comments, Ms. Trainor asked for a motion with respect to this application. Mr. Stenson made a motion, Mr. Maclearie seconded, and a roll call vote was then taken;

Ayes: Mayor Nicol, James Stenson, Glenn Miller, Corinne Trainor, James Maclearie, Christian Siano, Karen Brisben, Andrew Chermak

Noes: None

Absent: Madeline Ferraro

#### OTHER OLD BUSINESS:

Continuation of hearing for Site Plan/Use Variance approval for Block 54, Lots 1-2 & Block 58.01, Lot 2, 101-103 Ocean Avenue & 1 Ocean Avenue, owned by 1 Ocean Road, LLC (Applicant – Paradise Hospitality, LLC) to allow expansion of The River House Restaurant.

Mayor Nicol announced that he had to recuse himself from this application for previous reasons, and Mr. Maclearie stated that he had listened to the tape from the previous meeting that he had missed and was now eligible to vote.

Ms. Trainor began by asking Mr. Sarto if he had finished the testimony of all his witnesses. Mr. Sarto replied that he had. Ms. Trainor stated that now that Mr. Sarto has indicated that he has presented all of his witnesses and the testimony is in with respect to all of them, she wanted to make sure that any objectors that have any objections don't have any witnesses of their own to present. Mr. Callahan stated that this is correct and replied that his only comments would be as to the proposed stipulations and that he tried to reach Mr. Clark today unsuccessfully and there are minor changes to the stipulations.

Ms. Trainor stated that she wanted to make sure that there is no more testimony to hear first. Ms. Trainor asked if there is any testimony that needs to be heard that they should speak up now. None heard.

Ms. Trainor asked Mr. Sarto to proceed with his summation. Mr. Sarto stated as a matter of housekeeping, based on the prior hearings, he and Mr. Clark have exchanged a list of stipulations that he believes Mr. Callahan has also acknowledged being provided a copy.

Mr. Sarto stated that he was also supposed to report about the lighting on the parking lot. Mr. Sarto stated that the lights were turned on to make sure they were working and took some pictures. Mr. Sarto stated he spoke to Mr. Hilla and is happy to work with him on any modifications to that

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lighting to make it acceptable as a condition pending approval that the Board may grant and aside from that, he would like to make his summation.

Ms. Trainor asked Mr. Sarto if the stipulations that the Board received are based on testimony, questions, and comments, and have occurred during his presentation. Mr. Sarto replied, yes.

Ms. Trainor stated that in other words, the Board is not bound by these stipulations, these are stipulations that Mr. Sarto agreed on and proposed them in writing, rather than just for the Board's convenience because we've heard that over the course of several meetings. Mr. Sarto responded that this is correct, that they have tried to catalog them for the convenience of the Board.

Ms. Trainor asked Mr. Sarto if he would like to go through these stipulations first before he gives the Board a summary of all the testimony and why the Board should grant the application. Mr. Sarto replied, yes. Mr. Sarto asked Ms. Trainor if she would like to read them aloud.

Ms. Trainor asked Mr. Clark how he would like to handle this. Mr. Clark responded that his advice was to read one at a time and if any members of the Board or public had a question, the Board could address it before moving onto the next one. Mr. Clark stated that these stipulations are basically trying to encapsulate what was agreed to at various meetings by the applicant and then try to put into writing what was agreed to, not necessarily a list of every condition that might ultimately be imposed. Ms. Trainor agreed with Mr. Clark's suggestion and asked Mr. Sarto if this was alright with him.

Mr. Sarto replied, yes and stated that there are 11 on this list and began with the first one.

1. The Applicant agrees that there shall be no amplified live music outdoors at the property. A violin or similar instrument, as well as a microphone for the officiant, shall be permitted outdoors during ceremonies.

Ms. Trainor asked the members of the Board if they had any questions or concerns about the way number one is stipulated or worded.

Ms. Brisben asked Mr. Sarto if there will be canned music such as a radio, a CD being played over a sound system. Mr. Sarto responded that there will not be a DJ, there is no intention to have live DJ type of music. Mr. Sarto stated that he thinks this is encapsulated in the liquor license resolution already as well. Ms. Brisben stated that the liquor license does say controlled background music may be permitted in the deck area and asked Mr. Sarto if he is saying there will be controlled background music or not, like somebody putting on a CD and putting it through a sound system. Mr. Sarto stated that there will be no live music but thinks it would be reasonable if there were some kind of ambient light background music but if it is the Boards plan to not have any, that is not a problem, certainly not a DJ or band. Mr. Sarto stated that they are agreeing to whatever is in the liquor license also would apply.

Ms. Brisben asked Mr. Sarto if he would like to have background music, which is stated in the liquor license, part of this agreement. Mr. Sarto replied that he will suggest that it is reasonable

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and appropriate, and if the Board is inclined to leave that favorably some background music, if not, then that is negotiable.

Ms. Trainor asked the Board if there were any other comments with respect to stipulation number one. None being heard, Ms. Trainor asked if there were questions from the public.

Mr. Callahan asked Mr. Sarto if the music up on the ceremony deck area is limited to something equivalent to a violin or a guitar, is it understood that they will not need to be amplified based upon the limited area they're covering. Mr. Sarto responded that he believes that the officiant would have a microphone. Mr. Sarto stated that it is not the intention to have a band or amplified music, however, we've all been to a wedding where a violinist wears a small microphone on her lapel or on her dress and presented through a small speaker. Mr. Sarto stated he would suggest that that would be in the spirit with what was suggested. Mr. Sarto stated that it is a small space and perhaps wouldn't be necessary but thinks it would certainly be reasonable to have.

Ms. Trainor stated to Mr. Sarto that she doesn't read the stipulation that way. Ms. Trainor said she reads the stipulation as being no amplified live music, meaning no musicians playing music outdoors and certainly that ceremony space is considered outdoor space. Mr. Sarto responded that the second sentence states a violin or similar instrument as well as a microphone for the officiant shall be permitted for the ceremony. Ms. Trainor stated to Mr. Sarto that there would be no amplification.

Mr. Sarto responded sure, ok, no amplification but he will still ask that the officiant be able to use a microphone during the ceremony, which would be in the earlier hours of the evening. Ms. Trainor stated that this is different than music, right. Mr. Sarto replied, sure.

Ms. Trainor asked if any other members of the public have any questions or concerns with respect to stipulation number one.

Mr. Thomas Stuhmann stated that he had a question. Ms. Trainor announced that Mr. Stuhmann has previously been sworn in. Mr. Stuhmann stated that there is a Borough ordinance from the Police chapter, 3-16.5 which limits control background music to Fridays, Saturday, and Sundays. Mr. Stuhmann stated that this ordinance references the exact days and hours. Mr. Stuhmann continued that if the Board were to allow background music, he asks that those days and hours be incorporated to any allowed background music because the liquor license doesn't conform with that ordinance. Mr. Sarto stated that this is fine and that's the case anyway, because the ordinance would apply and the Board cannot undo that because it is not a zoning ordinance, it is a general ordinance, so he agrees. Mr. Clark stated that he would look at the ordinance and will put in whatever provisions are about controlled background music so whatever it is consistent with the Board's conditions.

Ms. Trainor asked if any other members of the public have any questions or concerns with respect to stipulation number one, amplified music. Hearing none, Ms. Trainor asked Mr. Sarto to go to stipulation two.

2. Drinks and food will not be served on the second-floor outdoor ceremony space.

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Ms. Trainor asked if any member of the Board have any questions or comments with respect to stipulation two. Hearing none, Ms. Trainor asked if any members of the public have any questions or concerns in respect to stipulation number two.

Mr. Callahan stated that he is concerned with the word served. There are doors that come from the second floor enclosed area and also from an area adjacent to the wedding ceremony area that is designed for the wedding guests after the ceremony is over to go inside and they can be served inside and go back into these deck areas. Mr. Callahan continued that he would rather instead of the word served that it says that it is not permitted on the ceremony deck. Mr. Clark asked Mr. Sarto if it could say food would be prohibited to which Mr. Sarto replied, sure.

Ms. Trainor asked if any members of the Board have any other questions with respect to stipulation two. Hearing none, Ms. Trainor asked if any members of the public had any other questions in respect to stipulation two.

Ms. Trainor asked Mr. Sarto to continue with stipulation three.

3. The second-floor outdoor ceremony space will not be used after 10 pm.

Ms. Trainor asked if any members of the Board have any questions with respect to stipulation three. Hearing none, Ms. Trainor if any members of the public had any other questions in respect to stipulation three. Hearing none, Ms. Trainor asked Mr. Sarto to continue with stipulation four.

4. Re-entry to the outdoor second floor ceremony space via the patio stairs shall be prohibited after conclusion of the ceremony. The Applicant agrees to post signage at the steps leading from the patio area to the second-floor ceremony space prohibiting re-entry to the area post-ceremony. The Applicant agrees to work with the Planning Board Engineer relating to the location, size and text on said sign. Additionally, The Applicant agrees to provide a rope or gate at the base of the stairs if permitted to do so by fire codes.

Ms. Trainor asked if any members of the Board have any questions with respect to stipulation four. Ms. Brisben stated that she liked the last sentence, that if permitted by fire code, because that is something that might have to be addressed and might have to be changed.

Ms. Trainor asked if any members of the public had any questions in respect to stipulation four.

Mr. Callahan stated he would like to see some signage from the doors to come out of the second-floor area and signage from the gate area restricting people from going back out onto the ceremony area with drinks and appetizers. Mr. Sarto replied that stipulation number three says, the second floor, outdoor ceremony space will not be used after 10:00 PM. Mr. Sarto stated that limiting someone who decides to go in and out of the second floor from the deck, back inside and come back out, the idea of prohibiting that is a contradiction to stipulation number three. Mr. Sarto stated he would like to leave that as it is. Ms. Trainor stated that her understanding of the testimony or agreement here, which is the ceremony space would only be used for ceremonies. Mr. Callahan stated that he doesn't want the ceremony deck to become part of the reception.

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Ms. Trainor asked Mr. Sarto to continue with stipulation number five.

5. The second-floor outdoor ceremony space will be screened from adjacent residents with a nine foot (9') high wall constructed with Azek cladding on interior and exterior as depicted on Exhibit A-12 marked into evidence.

Ms. Trainor asked if there were any comments from the Board. Hearing none, Ms. Trainor asked if there were any comments from the public.

Mr. Callahan stated that he wants to be sure that it is understood that the 9-foot wall is just not on the west side but wraps around the corners to enclose as intended. Mr. Sarto replied that this is what is on the plans, and the exhibit shows that, so that meets your comment.

Ms. Trainor asked Mr. Sarto to continue with stipulation number six.

6. The Applicant shall screen the ductwork and roof mounted equipment adjacent to the second-floor ceremony space from view from the adjacent property with Azek cladding the same color and style as the screen wall for the proposed second floor outdoor ceremony space.

Ms. Trainor asked if anyone from the Board or the public had any comments or questions with respect to stipulation number six. Hearing none, Ms. Trainor asked Mr. Sarto to continue to stipulation number seven.

7. The Applicant shall confirm that the parking lot lighting on Lots 1 and 2 of the Property are LED fixtures, and the lighting plan for those lots shall be reviewed and approved by the Board Engineer.

Ms. Trainor asked if anyone from the Board or the public had any comments or questions with respect to stipulation number seven. Mr. Howard Dubinett stated that he had a question. Ms. Trainor stated that Mr. Dubinett has been previously sworn. Mr. Dubinett stated that he did mention about the color of the lighting, that it would be really harsh, and the adjacent property has these horrible looking lights and he doesn't want the same thing. Mr. Dubinett continued by saying it should say in the stipulation that the lighting will not exceed 3000 Kelvins as far as lighting color goes. Ms. Trainor asked Mr. Sarto if he had any response. Mr. Sarto stated that they will agree to work with Mr. Hilla to do any screening, and that he is not at liberty to talk about an exact Kelvin now. Ms. Trainor stated to Mr. Dubinett that the Board hears what he is saying and will take into consideration when the Board is doing our comments and when it's the Board's turn to impose any conditions they might have on the application.

Mr. Dubinett stated that he wanted to recognize that the Board gave Mr. Callahan pre consideration about the stipulations and working with him prior to this and that he expects that the Board would give me the same opportunity to work on the lighting in the parking lot.

Ms. Trainor replied that, so we are all clear, nothing Mr. Callahan has said has been approved by the Board. Ms. Trainor stated that the back and forth discussion with Mr. Callahan and Mr. Sarto is the same kind of conversation that the two of you are having. Mr. Sarto says he is not able to

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comment on the particular Kelvin for the lighting and that is where the conversation ended between the two of you, the Board has not agreed to any of these stipulations or, in fact, to approve the application at all at this point. Mr. Callahan stated that he would like to join Mr. Dubinett's request for controlled illumination.

Ms. Trainor asked if anyone else had comments with respect to stipulation number seven. Hearing none, Ms. Trainor asked Mr. Sarto to continue with stipulation number eight.

8. The Applicant shall clean the stormwater drainage facilities and confirm the same to the Board Engineer.

Ms. Trainor asked if anyone from the Board or the public had comments with respect to stipulation number eight. Hearing none, Ms. Trainor asked Mr. Sarto to continue with stipulation number nine.

9. The Applicant agreed to enclose and roof the refuse area as depicted on Exhibit A-11 marked into evidence.

Ms. Trainor asked if any Board members or members of the public have any comments, questions or issues with stipulation number nine. Mr. Callahan stated he would prefer to see the applicant purchase inexpensive, plastic barrels and accumulate them down by the enclosed refuse and be restricted to dumping them into the collection area between 8:00 AM and 6:00 PM in the evening.

Ms. Trainor asked if anyone else has any other comments with respect to stipulation number nine. Mr. Dubinett stated that he believes there is an Ordinance that prohibits the dumping of bottles to certain hours, during the week and weekends. Mr. Stuhmann stated that it is his understanding that the Ordinance is only for the pickup with the truck, not for the internal. Mr. Stuhmann stated that he doesn't know if this Ordinance will cover this concern.

Ms. Trainor asked if there were any other questions or concerns from the Board or the public in respect to stipulation number nine. Hearing none, Ms. Trainor asked Mr. Sarto to continue to stipulation number ten.

10. The Applicant has agreed to reduce the maximum height of the elevator tower to thirty-eight feet, five inches (38' 5") so that only a bulk "C" variance will be required for this application rather than a "D" variance.

Ms. Trainor asked if any member of the Board has any questions or comments in respect to stipulation number ten. Hearing none, Ms. Trainor asked the public if there were any questions or comments. Hearing none, Ms. Trainor asked Mr. Sarto to continue with stipulation number eleven.

11. The Applicant shall provide valet parking during banquet events and busy weekends if no banquet is scheduled.

Ms. Trainor asked if any Board members or the public had any comments with stipulation number eleven.

Ms. Brisben asked if the testimony referencing valet and stacked parking is true. Mr. Sarto responded that this was the testimony. Ms. Brisben stated that it worked in the past and there haven't been complaints, so she doesn't see any problem with it.

Ms. Trainor asked if there were any other comments from the Board on this proposed stipulation. Hearing none, Ms. Trainor asked if there were any comments from the public. Hearing none, Ms. Trainor announced it was now time for Mr. Sarto to tell the Board why they should approve this client's application.

Mr. Sarto stated that the location and the restaurant itself has been in existence and functioning for over 40 years. It is conditionally permitted use in the Zone which means that the Governing Body recognizes that use itself is compatible with adjacent uses, subject to the conditions being met. Mr. Sarto continued by saying the application itself is really a renovation and an upgrade, improvements to the existing restaurant were meant to be done, sympathetic with the previous restaurant and structure and be an improvement. Mr. Sarto stated that in the course of several hearings, we've heard comments from the public and we have responded to meet these comments by making changes, many which are kind of outlined in the stipulation that we just reviewed. Mr. Sarto stated that it would be fair to characterize that the neighbors appreciated the accommodations that were made. Mr. Sarto stated that with the expert testimony of a Professional Planner, they are asking the Board to grant Site Plan approval, as well as the conditional use and bulk variances that they are requesting. Mr. Sarto continued that this application meets the positive and negative criteria that allows the Board to grant this request and, in summary, we appreciate all the Board's time and efforts through this process.

Ms. Trainor announced it is now time for comments from the Board with respect to the application.

Ms. Trainor asked Ms. Brisben if she had any comments about the application. Ms. Brisben stated that the only concern she had was a parking issue, however, she hasn't heard anything from the neighbors complaining about the parking and the fact that the restaurant has been there for a very long time, she would be for approval along with the stipulations that were discussed.

Ms. Trainor asked Mr. Stenson if he had any comments about the application. Mr. Stenson stated he thinks this should be approved and believes the list of eleven conditions that were read are consistent with what the Board has talked about. Mr. Stenson stated that he thinks that Mr. Sarto and the owner have been very amenable to all the suggestions that have been made by the neighbors and have bent over backwards in many cases. Mr. Stenson stated he would approve the application.

Ms. Trainor asked Mr. Miller if he had any comments about the application. Mr. Miller stated that after listening to what the applicant has done to try to satisfy all the issues neighbors and communities had, the applicant has gone out of their way to resolve all the issues. Mr. Miller stated he thinks it's a great improvement and that he looks forward to visiting the River House.

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Ms. Trainor asked Mr. Siano if he had any comments about the application. Mr. Siano stated that it looks like everyone has come to terms, the neighbors are in agreement and the Board is satisfied so he is ok.

Ms. Trainor asked Mr. Maclearie if he had any comments about the application. Mr. Maclearie stated he agrees that the applicant bent over backwards to get the public in the right spot, and it looks like they are really trying hard. Mr. Maclearie stated that the only question he has is those gates, people go up at night, but with the right signage and people watching, and doing the right thing, it could work fine.

Ms. Trainor asked Mr. Chermark if he has listened to the tapes and if he will be voting on this. Mr. Chermark replied that he did not and that he had no comments and will be abstaining on this application.

Ms. Trainor thanked Mr. Sarto for the comprehensive presentation and thanked the members of the public for engaging in the process here. Ms. Trainor stated she appreciated all the Board's input and the public input too. Ms. Trainor continued by stating that in general, she doesn't like seeing applications where property owners make improvements to the property without coming to the Board first, but this does not affect the Board's consideration of the application one way or another. Ms. Trainor stated that she would like to note this and that the Board would like to be consulted first in accord with the appropriate procedure that we have here in Brielle.

Ms. Trainor stated that one of the issues is whether there was an expansion of use for based on the ceremony deck and whether it meets the requirements for the D variance. Ms. Trainor stated that she finds the site is not an expansion of the current conditional use and thinks it's a decrease, to be fair. Ms. Trainor stated to have the ceremony deck now be limited in its use helps meet the requirements of the D variance, so she doesn't find that there is an expansion of use based on it.

Ms. Trainor stated that she knows there have been questions about the marina, whether this restaurant is part of that marina complex and I find that it is, it has been for many years and is part of litigation from a long time ago. Ms. Trainor stated that she finds that's also been satisfied with respect to the D variance. Ms. Trainor continued by saying with respect to the C variances that have been sought, she finds that the applicant has met all the requirements for the C variance requests.

Ms. Trainor said she wanted to clarify, with respect to some of the stipulations, she is concerned and wants to make sure that the Board holds the applicant to what the applicant has put forward, which is that the ceremony deck will only be used for ceremonies. Ms. Trainor stated to the extent that stipulation number four is not clear in that regard, she would request that the Board consider stipulation number 12, which is not on the list currently, but would say that the ceremony deck is limited to ceremonies. Ms. Trainor stated that she thinks this would cover that concern and other than that, she is in favor of the application and would vote to approve.

Ms. Trainor discussed and re-iterated the stipulations Mr. Sarto presented with Mr. Clark and members of the Board. Mr. Clark asked if someone from the Board would like to make a motion



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to approve and to approve the variance relief being sought with those conditions summarized by, he and Ms. Trainor.

Ms. Brisben commented that regarding Mr. Dubinett's comment about the marina, she couldn't find any gate on the plan, so she isn't sure what he is referring to. Ms. Brisben said that she believes there is a stipulation in a previous Planning Board approval that the Boardwalk area must be open to the public and if the marina areas were restricted, people who own the boats at that private dock would not be able to get to them. Mr. Sarto stated that the plan shows a guardrail going along the bulkhead, but where the dock goes out perpendicular to where the boat slips would be, that will remain open. Mr. Sarto continued by adding that there is no gate on the end that would restrict someone from walking on to the dock itself.

Ms. Trainor stated to Mr. Clark that she thinks that the Board should clarify and reflect on what Mr. Sarto said to the extent if there is any confusion here. Ms. Trainor continued that the Board should be sure that the plans that they are approving do not restrict public access to the marina.

Mr. Clark suggested that the Board add a condition, as condition number 13 which will need to be worded but will basically say that these plans and approvals will not restrict access to the marina or public access ways to the Boardwalk.

Mr. Clark stated that he would be adding the standard ones in, also add that the applicant will submit five sets of conforming plans and all representations made on the record.

Ms. Trainor asked for a motion for approval of the applications with the thirteen stipulations plus the standard addition Mr. Clark referenced. Mr. Stenson made a motion, Mr. Siano seconded this and then there was the following roll call vote;

Ayes: James Stenson. Glenn Miller, Corinne Trainor, James Maclearie, Christian Siano, Karen Brisben

Noes: None

Not eligible to vote: Mr. Chermark

Absent: Madeline Ferraro

Ms. Trainor thanked and congratulated Mr. Sarto to which Mr. Sarto thanked Ms. Trainor and everybody for this and wished everyone a good night.

Mr. Stenson stated he wanted to congratulate Mr. Clark and Mr. Sarto and that he thinks the conditions they put together were very helpful and really got the Board on the right way, nice job.

Ms. Brisben added that the next meeting is Tuesday, December 8<sup>th</sup> and added that this meeting will be a virtual meeting.

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Ms. Trainor stated if there was no other business, she would ask for a motion to adjourn. Ms. Brisben made the motion, seconded by Mr. Miller and unanimously approved by the Board, all aye.