

May 11<sup>th</sup>, 2021

BRIELLE PLANNING BOARD  
TUESDAY, MAY 11<sup>th</sup>, 2021

The Regular Meeting of the Brielle Planning Board was held on Tuesday, May 11<sup>th</sup>, 2021 at 6:00 p.m., virtually. Ms. Trainor read the OPMA compliance statement. After a Salute to the Flag and a moment of silent prayer, roll call was taken:

Present: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Jim Maclearie, Glenn Miller, Chris Siano, Karen Brisben, Stephanie Frith, Jay Jones

Absent: Madeline Ferraro

Also present were David Clark, Board Attorney, Alan Hilla, Board Engineer, Elissa Commins, Zoning Officer, and Denise Murphy, Recording Secretary.

A motion was made to approve the Minutes of April 13<sup>th</sup>, 2021 this done by Mayor Nicol, seconded by Ms. Brisben, and approved by unanimous vote, all ayes.

OLD BUSINESS:

Approval of Resolution for Block 125, Lot 1, 626 Spruce Place, owned by Michael & Christine Hartnett, to allow construction of a pool house.

**RESOLUTION OF APPROVAL OF THE BRIELLE BOROUGH PLANNING BOARD, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY WITH RESPECT TO THE APPLICATION OF MICHAEL HARTNETT SEEKING VARIANCE RELIEF FOR CONSTRUCTION OF AN ACCESSORY STRUCTURE ON THE PROPERTY LOCATED AT 626 SPRUCE PLACE IDENTIFIED ON THE TAX MAP OF THE BOROUGH OF BRIELLE AS BLOCK 125, LOT 1**

**WHEREAS, Michael Hartnett** (the “**Applicant**”) filed an application with the Planning Board of the Borough of Brielle (the “**Board**”) seeking variance relief to construct an addition to an existing single-family dwelling on the property owned by the Applicants located at 626 Spruce Place and identified on the tax map of the Borough of Brielle as Block 1251, Lot 1 (the “**Property**”); and

**WHEREAS**, the Property is located within the Borough’s R-2 Residential Zone (the “**R-2 Zone**”); and

**WHEREAS**, the Property is currently developed with a single-family dwelling, shed, pool with concrete patio, and an asphalt driveway; and

**WHEREAS**, the Applicant is proposing to construct a 22 foot by 20 foot covered area, a curvilinear planter, and a supplemental 650 foot concrete patio on the Property as described more fully within the plans submitted with this application; and

**WHEREAS**, the proposed accessory structure is open on three sides and has a rear wall; and

**WHEREAS**, the existing lot and the principal structure are conforming to the zone, but the proposed accessory structure is not conforming to the zone and requires variance relief; and

**WHEREAS**, the Property is a corner lot which, pursuant to the Borough Code, is considered to have two front yards for purposes of calculating setback and other code requirements; and

**WHEREAS**, the Applicant is seeking the following variance relief through this application (the variances sought are highlighted in bold type below):

(a) Minimum Front Yard Setback (Teaberry Lane)—40 feet required; 40 feet existing, **27.7 feet proposed**; and

**WHEREAS**, the Applicant submitted the following documents in support of this application:

- (a) plan of survey prepared by Charles O'Malley P.L.S. dated January 18, 2021;
- (b) architectural plan of pool house (1 sheet) unsigned and undated;
- (c) photos of the Property;
- (d) an application package signed by the Applicant; and
- (e) a Zoning Permit denial letter from the Zoning Officer dated September 28, 2020 and corrected November 16, 2020; and

**WHEREAS**, the Board was also provided with a letter dated March 12, 2021 prepared by the Board's Engineer and Planner Alan Hilla of H2M Associates, Inc. providing a technical review of the application; and

**WHEREAS**, the Planning Board held a hearing on this application on April 12, 2021; and

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

Mr. Michael Hartnett begin by thanking the Board for looking at his application. Mr. Hartnett stated that he would like to build a pool house structure that will be aesthetically pleasing, done in good taste and provide a good opportunity for some family gatherings.

Ms. Trainor asked Mr. Hartnett if he had any witnesses. Mr. Hartnett replied that he did not.

Ms. Trainor stated that with respect to this application there is a letter from Mr. Hilla and asked Mr. Hilla if he would discuss this. Mr. Hilla began by saying the proposal is to construct a significant covered area in what is the front yard, along Teaberry Lane. Mr. Hilla stated that this property is a corner property so it has two front yards, and it is on the Teaberry Lane side that the proposed covered area would encroach in the front yard. Mr. Hilla stated that 40-feet is required for the setback and 27.7-feet is proposed. Mr. Hilla stated that it should be noted that in the photographs that were provided by the applicant, the structure would be inside the white vinyl fence, so it would be away from the street on the side, inside of the interior of the lot. Mr. Hilla continued by saying that the variance is required for that item and in addition to 400 or 440-foot square foot structure, there is a fair-sized patio which would increase the amount of impervious coverage up to around 1,000 square feet of patio and building structure that would generate stormwater. Mr. Hilla stated that item number two in his letter suggests that there be some accommodation for drainage, so the street does not get inundated with more stormwater. Mr. Hilla stated that the groundwater is fairly shallow in that area and drainage has always been an issue.

Ms. Trainor announced it was now time to hear questions from the Board regarding this application.

Mr. Miller asked if the picture with the tree in front of the vinyl fence was taken on Teaberry Lane and if the structure would be behind this part of the fence. Mr. Hartnett replied that that was correct and noted that the tree in the picture had been removed. Mr. Hartnett stated that he recently planted 11 giant arborvitaes to create a hedge line on the outside of the white fence to give a natural barrier. Mr. Miller asked Mr. Hartnett if when there is a storm if there is flooding on this street and if there is a potential drainage problem there. Mr. Hartnett stated that there are some issues as far as ground water collecting, not necessarily on his property because he sits a little higher than the other homes. Mr. Hartnett stated that after he received Mr. Hilla's report, he immediately hired InSite Engineering. Mr. Hartnett stated that InSite Engineering is doing a

topography report, a plot plan, a grading report and designing a drywell. Mr. Hartnett stated he does not want any drainage issues and is prepared to fully comply with the Board and any requests made by the Board engineer to eliminate any possible issues. Mr. Miller asked Mr. Hartnett if the row of arborvitaes were planted on the inside or outside of the fence. Mr. Hartnett replied that he planted them on the outside of the fence. Mr. Hartnett stated he planted 11 9-foot arborvitaes along Teaberry Lane and 25 standard 7-foot arborvitaes around the rear of his property. Mr. Miller stated that by planting all the shrubs, this could help the situation by absorbing some moisture. Mr. Hilla stated he is acquainted with InSite Engineering and had no doubt that what they would propose would be more than adequate for what is being proposed here.

Ms. Brisben asked Mr. Clark if he could add into the Resolution that a drywell would be put in as Mr. Hartnett stated he would put it in. Mr. Clark responded that he would put that as one of the conditions if that were what the Board wanted him to do.

As there were no other questions from the Board, Ms. Trainor asked if there were any questions from the public. Hearing none, Ms. Trainor announced it was time for comments from the Board.

Mr. Nicol commented that he thought it would be an improvement and hoped that the Board would approve the application.

Mr. Miller stated he agreed with Mayor Thomas Nicol, thought that everything looked in order and that he saw no issues.

Mr. Siano stated that he thought it was a nice addition to the property and the neighborhood.

Ms. Brisben commented that she thought it would be a lovely addition and stated that she was a little concerned with the height of the structure, but thinks is it far enough back, and does not think it going to bother any neighbors. Ms. Brisben stated that no one had come in to see the plans so she would be for approval.

Ms. Trainor stated that the only comments that she had relate to the certain standards that the Board considers when considering variances. Ms. Trainor continued by saying that this is a corner lot and that this technically means under the Ordinance, there are two frontages, so based on that, this could be considered in respect to the application. Ms. Trainor stated that she would be in favor of the application with the two conditions previously spoken about, the mitigation of the setback from the street with the giant arborvitaes, provided they are maintained and a drywell that is installed by InSite Engineering with appropriate drainage and to the satisfaction of Mr. Hilla. Ms. Trainor stated she would want Mr. Hilla to approve the dry well first.

Ms. Trainor announced it was time for comments from the public. Hearing none, Ms. Trainor asked for a motion to approve the application, with the conditions that had been described.

**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 Property is located within the Borough's R-2 residential zone.
- c. The Property is currently developed with a single-family dwelling, shed, pool with concrete patio, and an asphalt driveway.
- d. The Applicants are proposing to construct a 22 foot by 20 foot covered area, a curvilinear planter, and a supplemental 650 foot concrete patio on the Property as described more fully within the plans submitted with this application.
- e. The proposed accessory structure is open on three sides and has a rear wall.
- f. The existing lot and the principal structure are conforming to the zone, but the proposed accessory structure is not conforming to the zone and requires variance relief.
- g. The Property is a corner lot which, pursuant to the Borough Code, is considered to have two front yards for purposes of calculating setback and other code requirements.
- h. The Applicant is seeking the following variance relief through this application (the variances sought are highlighted in bold type below): (i) Minimum Front Yard Setback (Teaberry Lane)—40 feet required; 40 feet existing, **27.7 feet proposed**.
- i. The improvements proposed through this application are located to the back and side of the house in an area that would be considered the side yard but for the fact that the Property is a corner lot with two front yards for purposes of calculating setback requirements.
- j. By reason of the size, shape, and topography of the Property, it would be a hardship to the Applicant to comply with the requirements of the Borough Code, and the development being proposed by the Applicant is consistent with other development in the neighborhood.
- k. The purposes of the Borough Code would be advanced by this proposed development and the benefits of the variance sought outweigh any detriments.

May 11<sup>th</sup>, 2021

1. This application and the variance relief sought therein advances the purposes of the Municipal Land Use Law, does not cause any substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

**WHEREAS**, Mayor Thomas Nicol moved to approve the application; this motion was seconded by Chris Siano. At that time the application was approved by the following roll call vote:

Ayes: Mayor Thomas Nicol, Corinne Trainor, Glenn Miller, Chris Siano, Karen Brisben, Stephanie Frith, Jay Jones

Noes: None

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Brielle, that the application is hereby approved and granted subject to the following conditions:

- a. The Applicant shall install an on-site recharge system (drywell) on its Property in order to mitigate the runoff from the new impervious surfaces. Prior to its installation, the plans for this on-site recharge (drywell) system shall be submitted to the Board Engineer for his review and approval, and the Applicant agrees to comply with any revisions to the system proposed by the Board Engineer;
- b. The Applicant shall maintain the trees that he planted outside of the fence facing Teaberry Lane and shall timely replace any dead or dying trees with equivalent species of trees;
- c. The Applicant shall pay all taxes and other applicable assessments, costs and fees to date, as applicable;
- d. 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;
- 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 Chris Siano, seconded by Glenn Miller and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Corinne Trainor, Glenn Miller, Chris Siano, Karen Brisben, Jay Jones

May 11<sup>th</sup>, 2021

Noes: None

Absent: Stephanie Frith- not present at time of vote

Not eligible to vote: Councilman Frank Garruzzo, James Stenson, Jim Maclearie

OTHER OLD BUSINESS:

Approval of Resolution for Block 63.01, Lot 15, 701 Union Lane, owned by Daniel & Barbara Kiley, to allow construction of an L-shaped covered porch.

**RESOLUTION OF APPROVAL OF THE BRIELLE BOROUGH PLANNING BOARD, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY WITH RESPECT TO THE APPLICATION OF DANIEL AND BARBARA KILEY SEEKING VARIANCE RELIEF FOR CONSTRUCTION OF AN ADDITION TO A RESIDENTIAL DWELLING ON THE PROPERTY LOCATED AT 701 UNION LANE IDENTIFIED ON THE TAX MAP OF THE BOROUGH OF BRIELLE AS BLOCK 63.01, LOT 15**

**WHEREAS, Daniel and Barbara Kiley** (the “**Applicants**”) filed an application with the Planning Board of the Borough of Brielle (the “**Board**”) seeking variance relief to construct an addition to an existing single-family dwelling on the property owned by the Applicants located at 701 Union Lane and identified on the tax map of the Borough of Brielle as Block 63.01, Lot 15 (the “**Property**”); and

**WHEREAS,** the Property is located within the Borough’s R-2 Residential Zone (the “R-2 Zone”); and

**WHEREAS,** the Property is currently developed with a single-family dwelling with a concrete patio, various walks, a paver driveway, and a shed; and

**WHEREAS,** the Applicants are proposing to construct a 350 square foot L-shaped covered porch as an addition to the dwelling on the Property as described more fully within the plans submitted with this application; and

**WHEREAS,** the existing lot and the principal structure are not conforming to the zone and the proposed addition likewise is not conforming to the zone; and

**WHEREAS**, the Property is a corner lot which, pursuant to the Borough Code, is considered to have two front yards for purposes of calculating setback and other code requirements; and

**WHEREAS**, the Property has the following pre-existing non-conformities that are not being changed by the development proposed by the Applicants within their application:

- (a) Minimum Lot Area—15,625 square feet required; 13,621 square feet existing;
- (b) Minimum Lot Width—125 feet required; 74 feet existing;
- (c) Minimum Rear Setback—40 feet allowed; 25.45 feet existing; and

**WHEREAS**, the Applicants are seeking the following variance relief through this application (the variances sought are highlighted in bold type below):

- (a) Minimum Front Yard Setback (Union Lane)—40 feet required; 21.20 feet existing, **19.47 feet proposed**; and

**WHEREAS**, the Applicants submitted the following documents in support of this application:

- (a) the plan of survey prepared by Robert W. Smith, Jr., P.L.S. dated November 15, 2017;
- (b) a revised plan of survey prepared by Charles O'Malley, P.L.S. dated January 12, 2021;
- (c) floor plan-elevations-site diagram (1 sheet) prepared by Richard Villano, AIA dated January 22, 2021;
- (d) an application package signed by the Applicants; and
- (e) a Zoning Permit denial letter from the Zoning Officer dated January 18, 2021; and

**WHEREAS**, the Board was also provided with a letter dated March 16, 2021 prepared by



the Board's Engineer and Planner Alan Hilla of H2M Associates, Inc. providing a technical review of the application; and

**WHEREAS**, the Planning Board held a hearing on this application on April 12, 2021; and

**WHEREAS**, prior to the commencement of the hearing on this application, Mr. Siano stated that he was recusing himself from this application and he did not participate in the hearing; and

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

Mr. Daniel and Mrs. Barbara Kiley were sworn in by Mr. Clark. Mrs. Kiley stated they were representing themselves and had no witnesses.

Mrs. Kiley began by thanking the Board for hearing their application. Mrs. Kiley stated that her and her husband had purchased their home on Union Lane three years ago but had not moved in until this past November. Mrs. Kiley continued by saying that when they saw the size of the property, they thought it would be great in their retirement years because they would love to put a wraparound porch on the property so that they could sit and enjoy Brielle Park and the neighbors. Mrs. Kiley stated that she then realized the setback was not enough because the house was built back in 1852 when setbacks did not matter.

Mrs. Kiley stated that they are not going out any further, just going over the existing stoop and wrap along to the side. Mrs. Kiley stated that she was told that the problem is not the wrap around part it is the connecting that front to the porch, so they are requesting a variance.

Ms. Trainor asked Mr. Hilla to discuss the various issues that were raised in his March 16, 2021 letter. Mr. Hilla began by saying that this property is a corner lot, which has two front setbacks, corner lots, by definition, have two fronts, a rear, and a side. Mr. Hilla continued by saying, in this instance, the applicant is proposing a porch in both front yards but the front yard along Union Lane frontage is not within the requisite setback, front setback is 40-feet required, 21.2-feet existing and 19.47 feet proposed. Mr. Hilla stated there are a couple of pre-existing nonconformities, the lot is deficient for lot area, lot width, and the setback to the principal structure. Mr. Hilla stated those three pre-existing conditions are just provided for the Board's information and that the Board would not weigh in on those. Mr. Hilla stated that the only item that is being requested in terms in variance relief is the front setback for the proposed porch. Mr. Hilla stated the only other item that relates to this application is that the survey did not show a shed located in the front yard on Schoolhouse Road. Mr. Hilla continued by saying that ordinarily that would not matter but he would want to make sure that the minimum setbacks were adhered to, both in the placement of the shed and there is also a minimum setback from principal structures to accessory structures within the Borough. Mrs. Kiley stated that she did have a new survey that showed the

May 11<sup>th</sup>, 2021

shed and a copy of the permit the Zoning Department had given her. Ms. Brisben stated it was on file at the Borough Hall. Mr. Clark asked Mr. Hilla if the Zoning Officer issued the permit and if there were a setback issue, would not the Zoning Officer have flagged it and stated that the applicant needed to come to the Planning Board for a variance. Mr. Hilla replied, yes but that this goes to whether the shed was placed properly.

Ms. Trainor stated that since the Board members did not have the new survey or the copy of the permit from the Zoning Department it would make sense to move forward with the application and ask the Board if they had any questions.

Mayor Thomas Nicol stated the only question he had was about the shed.

Ms. Brisben stated she had no questions but did apologize for sending the incorrect survey to the Board members. Mr. Brisben stated that Mrs. Kiley did bring in the new survey and that when she sent everything out, she must have sent the old one by mistake. Ms. Brisben said she will get everything in order and straighten it out. Mr. Brisben stated she had no problem with the application and has no questions.

As there were no other questions from the Board, Ms. Trainor asked if there were any questions from the public. Hearing none, Ms. Trainor announced it was time for comments from the Board.

Mayor Thomas Nicol stated that the Board heard two wonderful applications that were represented by the applicants themselves and that they went very smoothly.

Mr. Miller stated that it looked like a nice addition to the house and does not see any issues. Mr. Miller stated that the shed should be reviewed but does not know if that would have any bearing on approving the application.

Ms. Brisben stated that she drove past the property and that the shed does not even look like it is permanently in the ground. Ms. Brisben stated that the shed looks like it is on blocks and is nice. Ms. Brisben stated that she had no problems at all.

Ms. Frith stated that the porch sounds lovely.

Ms. Trainor stated that the wraparound porch would look beautiful and wished the Kiley's a wonderful retirement. Ms. Trainor stated that the side of the porch that the Kiley's are proposing along Schoolhouse Road is quite a long way from Schoolhouse Road so really it is just the oddities of the property that brings them before the Board. Ms. Trainor asked Mrs. Kiley if she would agree if the shed were not conforming, she would bring it back before the Board or would fix it. Mrs. Kiley replied, yes. Ms. Trainor stated that if it were alright with the Board, she would ask for a condition in the Resolution that the shed is conforming and to the extent that it is not, the Kiley's will either fix it or come back before the Board with that issue.

Ms. Trainor announced it was time for comments from the public. Hearing none, Ms. Trainor asked for a motion to approve the application, with the conditions that had been described.

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

- a. The correct fees were paid, taxes are paid to date and the property owners within two hundred (200') feet, as well as the newspaper, were properly notified.
- b. The Property is located within the Borough's R-2 residential zone.
- c. The Property is currently developed with a single-family dwelling with a concrete patio, various walks, a paver driveway, and a shed.
- d. The Applicants are proposing to construct a 350 square foot L-shaped covered porch as an addition to the dwelling on the Property as described more fully within the plans submitted with this application.
- e. The existing lot and the principal structure are not conforming to the zone and the proposed addition likewise is not conforming to the zone.
- f. The Property is a corner lot which, pursuant to the Borough Code, is considered to have two front yards for purposes of calculating setback and other code requirements.
- g. The Property has the following pre-existing non-conformities that are not being changed by the development proposed by the Applicants within their application: (i) Minimum Lot Area—15,625 square feet required; 13,621 square feet existing; (ii) Minimum Lot Width—125 feet required; 74 feet existing; and (iii) Minimum Rear Setback—40 feet allowed; 25.45 feet existing.
- h. Thus, the lot is both exceptionally narrow and has an insufficient depth to meet the front and rear setback requirements of the Borough Code.
- i. The Applicants are seeking the following variance in this application (variance being sought is highlighted in bold type): (i) Minimum Front Yard Setback (Union Lane)—40 feet required; 21.20 feet existing, **19.47 feet proposed**.
- j. By reason of the size, shape, and topography of the Property, it would be a hardship to the Applicants to comply with the requirements of the Borough Code, and the development being proposed by the Applicants is consistent with other development in the neighborhood.
- k. The purposes of the Borough Code would be advanced by this proposed development and the benefits of the variance sought outweigh any detriments.

1. This application and the variance relief sought therein advances the purposes of the Municipal Land Use Law, does not cause any substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

**WHEREAS**, Mr. Miller moved to approve the application; this motion was seconded by Mayor Nicol. At that time the application was approved by the following roll call vote:

Ayes: Mayor Thomas Nicol, Corinne Trainor, Glenn Miller, Karen Brisben, Stephanie Frith, Jay Jones

Noes: None

Absent: Councilman Frank Garruzzo, James Stenson, James Maclearie and Madeline Ferraro.

Not eligible to vote: Chris Siano

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Brielle, that the application is hereby approved and granted subject to the following conditions:

- a. The Applicants have represented that they believe that their shed conforms with all applicable Borough Code requirements (including minimum setback requirements). The Applicants agree as a condition of this approval, however, that if the Borough advises them that the shed does not conform to these Borough Code requirements, they will either move the shed so that it does conform to these requirements or file an application to this Board to seek variance relief for the location of the shed;
- b. The Applicants shall pay all taxes and other applicable assessments, costs and fees to date, as applicable;
- c. The Applicants shall comply with all requirements and outside approvals as may be required from the Borough of Brielle or any other governmental authority not otherwise disposed of by this application;
- d. All representations made under oath by the Applicants or their agents shall be deemed conditions of this approval, and any misrepresentations or actions by the Applicants 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. Miller, seconded by Mayor Nicol and then by the following roll call vote:

May 11<sup>th</sup>, 2021

Ayes: Mayor Thomas Nicol, Corinne Trainor, Glenn Miller, Karen Brisben, Stephanie Frith, Jay Jones

Noes: None

Not eligible to vote: Councilman Frank Garruzzo, James Stenson, Jim Maclearie, Chris Siano

#### NEW BUSINESS:

Application for variance relief for Block 66.03, Lot 4, 718 Howell Drive, owned by Thomas Weatherall, to construct front, side & rear additions to create a two-story home where a one-story home exists. Front Yard Setback (Howell Drive) — 30 feet required, 37.8 feet existing, 25.4 feet proposed. Front Yard Setback (unnamed) — 30 feet required, 30.1 feet existing, 27.2 feet proposed. Rear Yard Setback — 35 feet required, 28.9 feet existing, 14.8 feet proposed. Lot Coverage — 20% maximum allowed, 15.5% existing, 20.6% proposed. Existing non-conformity: Lot Depth — 125 feet required, 100 feet existing.

Mr. Keith Henderson stated that he was representing the Weatheralls in this application. Mr. Henderson stated that they had previously submitted the Zoning letter of denial from Elissa Commins, dated November 23<sup>rd</sup>, 2020, a certified list of the property owners, a copy of the notice to the property owners and public utilities, a copy of the certified mail receipts and an affidavit of publication and a copy of the public notice. Mr. Henderson requested that the Planning Board accept jurisdiction of the application. Ms. Trainor responded, so accepted. Mr. Henderson stated he had two witnesses to be sworn. Mr. Thomas Weatherall and Mr. Joseph Kociuba were sworn in by Mr. Clark.

Mr. Henderson began by asking Mr. Weatherall if the property was owned by him and if this is his permanent year-round residence. Mr. Weatherall responded yes. Mr. Henderson asked Mr. Weatherall if he had reviewed Mr. Hilla's report regarding the presence of bamboo on the site. Mr. Weatherall replied yes. Mr. Henderson asked Mr. Weatherall if he planted the bamboo. Mr. Weatherall stated that he did not, it was there when he purchased the property. Mr. Henderson asked if the bamboo is solely on his property. Mr. Weatherall stated that the bamboo is almost entirely on his property. Mr. Henderson asked if Mr. Weatherall maintains the bamboo in a way that it has not spread any further. Mr. Weatherall responded that he does maintain the bamboo. Mr. Henderson asked Mr. Weatherall why he is asking the Board to permit him to maintain the bamboo. Mr. Weatherall replied that his residence backs up to Route 35 and the bamboo provides a tremendous screening effect for noise and sight of Route 35, enhances what is already there along the easement and provides wonderful privacy. Mr. Henderson asked Mr. Weatherall if he has had the bamboo looked at professionally. Mr. Weatherall responded that he does when his landscapers are there weekly and by a professional tree service once a year.

Mr. Henderson stated that in Mr. Hilla's report, he indicated that they were over on Lot coverage and asked Mr. Weatherall if he determined the reason. Mr. Weatherall stated that he understood it to be his shed in the back yard and that he would be happy to remove it. Mr.

Henderson asked Mr. Weatherall if he removed the shed, would he be below the 20%. Mr. Weatherall replied, yes. Mr. Weatherall stated that he would like to have a much smaller shed and stated he was confident he would still be under 20%. Mr. Henderson asked Mr. Weatherall if he would apply for a Zoning Permit for the new shed and if he were representing to the Board that he would stay under the 20%. Mr. Weatherall replied, absolutely. Mr. Henderson stated he had no further questions.

Ms. Trainor announced it was time to hear questions from the Board.

Mayor Nicol asked Mr. Weatherall what he does with any bamboo that is removed or cut. Mr. Weatherall replied that he believed that the landscapers have taken it with them in the past. Mayor Nicol stated to Mr. Weatherall that he wanted him to know Brielle does not collect bamboo from the curb because it has not been able to find a place to take it.

Mr. Maclearie asked Mr. Weatherall to confirm that he is only putting the screened porch on the front. Mr. Weatherall replied that the screened porch will be in the back. Mr. Maclearie asked Mr. Weatherall if it is 300 or so square feet. Mr. Kociuba answered that the entire rear addition is 335 square-feet, it is an expansion of the dwelling plus the screened porch. Mr. Kociuba stated that he did not have exact dimension for the screened porch but believed it was probably closer to 160-180 square-feet.

Ms. Brisben stated that in the last paragraph of Mr. Hilla's report, it talks about replacement of deteriorating curb sections and asked if that would be done. Mr. Henderson replied that would be done.

Ms. Trainor announced it was time for questions from the public. Hearing none, Ms. Trainor asked Mr. Henderson to call his next witness.

Mr. Henderson called Mr. Joseph Kociuba. Mr. Henderson asked Mr. Kociuba what he did for a living. Mr. Kociuba responded that he is a professional Engineer and Planner in the state of New Jersey and has been qualified and testified as an expert before this Planning Board multiple times. Mr. Henderson asked Ms. Trainor to accept Mr. Kociuba as an expert in this petition. Ms. Trainor stated that the Board does accept Mr. Kociuba.

Mr. Henderson asked Mr. Kociuba if he was retained by the applicant in this matter. Mr. Kociuba replied yes. Mr. Henderson asked Mr. Kociuba to describe to the Board the property and the adjacent uses. Mr. Kociuba began by stating that this is an existing single-family dwelling in the R-3 Zone looking to expand on an existing lot that has a reduced depth. Mr. Kociuba stated that it is conforming in area, 14,780 square-feet, however, the lot depth is 100 feet where 125 feet is required. Mr. Kociuba stated that the applicant is proposing to construct an addition in the front, side, and rear to create a two-story structure, but it would look like a one-story structure together with a driveway expansion. Mr. Kociuba stated that one of the primary benefits is that the applicant wants a two-car garage which is in the front yard setback request on both the main front as well as the unnamed street and the rear yard setback request is for the rear screened porch which is on the corner of Howell Drive and the unnamed right-of-way. Mr. Kociuba stated that the right-of-way leads into the back of the Brielle Elementary School where the sports courts are in the field. Mr.

Kociuba stated that between this property and the elementary school exists a 6-foot drainage easement on the property as well as a 20-foot utility easement on the elementary school property. Mr. Kociuba stated that that 26-foot area is currently wooded and intended to stay that way, providing a buffer between the property and the school and as indicated on the right-hand side is the existing bamboo which the applicant wishes to maintain.

Mr. Kociuba stated that the property is a unique property being on the outside of the bend in the road, as well as the intersection and that it backs up to the school. Mr. Kociuba stated that currently the front yard setback is 37.8 feet, and that applicant is proposing a front yard setback of 25.4 feet which is just to the front corner of the property, at the closest point. Mr. Kociuba stated that this is kind of at an angle so there is not a substantial amount of the proposed dwelling that is at that setback. Mr. Kociuba stated that the front yard setback north towards the existing right-of-way is pretty de minimis, 40-feet required, 27.2 is proposed. Mr. Kociuba stated that this right-of-way is a dead end, only utilized by this home, there is a driveway on it for this dwelling. Mr. Kociuba stated the front-yard setback to Howell Drive at 25.4-feet would be commensurate with the area. Mr. Kociuba stated that the applicant is not proposing a substantially tall dwelling and stated that he believed that the height was less than 28-feet where 35-feet is permitted. Mr. Kociuba stated that this has been designed to look like a ranch with some dormers. Mr. Kociuba stated that the architectural features would certainly brighten up the home and promote a desirable visual environment there.

Mr. Kociuba stated that the two front yard setback variances and the rear yard setback variance to the enclosed screened porch that are being requested are limited by the fact that the house exists in its current location and is shallow in depth, so by being a kind of a pie shaped lot, only 100-feet deep, it does limit the ability to work within the setback.

Mr. Kociuba stated that he did not believe the small reduction in setback to the small, screened porch would have any visual impact on the neighborhood or on the elementary school. Mr. Kociuba stated that the lot coverage variance as testified is being eliminated as the applicant is going to remove the shed and by removing the shed the lot coverage is closer to 18 or 18.2%. Mr. Kociuba stated that the applicant intends to re-install a shed at some point and will submit a Zoning Application. Mr. Kociuba stated that the applicant intends on complying with the 20% requirement, which would be permitted so that variance is being eliminated and not requested tonight.

Mr. Kociuba stated that believed the variances can be granted under both the C-1 and C-2 criteria, C-1, by reason of exceptional narrowness, shallowness, or shape of a property or by reason of extraordinary exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon and would result in peculiar and exceptional practical difficulties or exceptional or undue hardship. Mr. Kociuba stated that this is a shallow lot on a pie shaped piece of property, very difficult to conform with the setbacks. Mr. Kociuba stated it was his opinion that what is being proposed does not exceed building coverage, does not create a substantial detriment to air, light and open space, but by virtue of that depth, where the existing home is today, and specifically where the garage is at the front left corner, it is necessary to request some relief in order to expand the garage forward, provide the architectural benefits and provide a small screened in porch at the rear of the structure.

Mr. Kociuba stated under the C-2 criteria, which is the benefit criteria where the benefits outweigh any detriments, this application does promote a number of purposes of Zoning found in Municipal Land Use law, specifically purpose I, promotion of a desirable visual environment. Mr. Kociuba stated that when looking at the elevations, you can see the existing home is somewhat plain, whereas the proposed architectural improvement will certainly provide a better look and a more contemporary structure that will fit into the neighborhood. Mr. Kociuba stated that purpose B, safety from fire, the additions will conform with all the building codes. Mr. Kociuba stated that purpose C, to provide adequate air, light, and open space, the design was intentional to provide something that looks more like a one-story structure, not exceeding the height and in fact, much lower than the height would permit. Mr. Kociuba stated that it does promote the purposes of Zoning and will have no detriment on the public good. Mr. Kociuba finished by saying he would answer any questions that the Board may have.

Mr. Henderson stated he had no further questions of this witness. Ms. Trainor announced it was time to hear questions from the Board.

Ms. Trainor asked Mr. Kociuba about the location of the bamboo. Mr. Kociuba replied that it is primarily on the right-hand side and does not believe it traverses over the property line, kind of in the dead corner behind the shed and forward. Ms. Trainor asked Mr. Kociuba if it is the kind of bamboo that runs. Mr. Kociuba replied that it is, but it is kind of confined on the north side and that the applicant has provided some landscaping to block it from expanding. Ms. Trainor stated she is concerned that the bamboo would run onto the Borough's property. Mr. Kociuba replied that he understood her concern and stated he did not see it running on to the Borough's property when he visited.

Ms. Trainor announced it was time to hear questions from the public. Hearing none, Ms. Trainor announced it was time to hear comments from the Board.

Mayor Nicol stated that this would be a great improvement, believes a corner lot deserves some empathy and has no problems with this application.

Councilman Garruzzo stated he agreed with Mayor Nicol and thinks it is going to be a very nice improvement and has no issues with this application.

Mr. Stenson stated he has no problems with the application.

Mr. Miller stated he thought it would be a great addition, a nice improvement and is familiar with bamboo. Mr. Miller stated that if maintained properly, bamboo does provide great screening.

Mr. Maclearie stated he had no problems with the addition and stated it would add depth to the house and make it look more handsome.

Mr. Siano stated that he agreed with all the Board members and stated that they did a nice job putting the application together.



Ms. Brisben stated that the improvements will make the house look better, is on a side street that she does not think a lot of people travel and that the property backs up to the school. Ms. Brisben stated she thought this was a well-done application and would have no problem approving it.

Ms. Frith stated she thought the application was very thorough and impressive and had no issues with it.

Ms. Trainor stated she agreed with Mr. Kociuba's assessment regarding the application of the variance criteria. Ms. Trainor stated with the shed concession and the unique issues to the property and its shape and thought the application was great.

Ms. Trainor stated there was no one from the public with comments. Mr. Clark stated he would like to summarize what the conditions would be for this application. Mr. Clark stated the first condition would be that the applicant would remove the shed and that some sort of timeframe would be included in the Resolution by which they will remove the shed and therefore, they would be complying with lot coverage. Mr. Clark stated that the applicant would agree if they replaced the shed, they would apply for a Zoning Permit and would not exceed the 20% lot coverage requirement. Mr. Clark stated another condition, which he thought Mr. Henderson agreed to, was the curb improvements that Mr. Hilla identified in his letter would be made to the satisfaction of the Board Engineer. Mr. Clark stated that a third condition would have to do with the bamboo and asked the Board for some guidance regarding this. Ms. Trainor stated she thought the motion should go through without comment about the bamboo, if there is an ordinance or an issue that Code Enforcement had in town, it would be referred to the town. Ms. Trainor stated she did not think the Board should be setting precedents allowing bamboo. Mr. Clark asked Ms. Trainor if she was saying that there should not be a condition about bamboo at all and let it be enforced if there were an enforcement issue. Ms. Trainor replied yes, it would be up to the town to enforce or not enforce it and continued by saying her thought was that the Board should not deal with it. Mr. Clark stated then there would be two conditions, the shed, and the curb improvements. Mr. Henderson stated that they would stipulate to those two conditions.

Ms. Trainor asked for a motion in the matter and with the conditions that Mr. Clark just articulated. Mr. Siano made a motion, seconded by Mr. Miller, and followed by the roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Jim Maclearie, Glenn Miller, Chris Siano, Karen Brisben, Stephanie Frith

Noes: None

#### OTHER NEW BUSINESS:

Application for variance relief for Block 66.02, Lot 21, 719 Howell Drive, owned by William & Jennifer Folker, to allow installation of an in-ground pool within the front yard area of the property. Front Yard Setback — 30 feet required, 20 feet proposed from Howell Drive right-of-way (accessory structures shall conform to the front yard setback requirements). The following

May 11<sup>th</sup>, 2021

are existing non-conformities: Lot Depth — 125 feet required, 92 feet existing. Front Yard Setback — 30 feet required, 29.6 feet existing. Rear Yard Setback — 35 feet required, 27 feet existing.

Mr. Hilla recused himself from this application and stated that Elissa Commins would be doing the review as the Board Engineer.

Ms. Trainor asked Mr. William and Mrs. Jennifer Folker if they had representation or would they be presenting on their own. Mr. Folker replied that they would be presenting on their own behalf. Mr. and Mrs. Folker were sworn in by Mr. Clark.

Mr. Folker stated they purchased the property in October, this was their primary residence and that they were looking forward to spending quality time in Brielle. Mr. Folker stated that they were seeking to put a pool in the location noted on the site plan submitted. Mr. Folker stated they have about 192-feet of frontage but due to Zoning issues, it is all considered front yard and that technically they do not a side yard on either side of the house. Mr. Folker said the request is for the relief as to the front yard variance which he stated is merely a circumstantial thing because of the way the property is situated. Mr. Folker stated that the pool in question would not be rectangular which he thought would fit into the contour as well as the bend of the property. Mr. Folker stated he believed it is in line with similar property developments in the area. Mr. Folker stated there are three very large trees which buffer the neighbor to the immediate west and continued by saying that they are not going to be removing any of the trees on the property. Mr. Folker stated he believed that the sight lines as far as the pool is concerned, with fencing or otherwise, would not be an issue. Mr. Folker stated the pool would be tucked into the corner and would be well inside the Borough right-of-way. Mr. Folker stated that there are no visual impairments for people going either direction on the street that would be compromised by a fence or the pool and that the trees provide a buffer for that and the fencing would be inside of the existing trees. Mr. Folker stated they did not have any Lot coverage issues with the existing residents, it is merely because he does not have a side yard. Mr. Folker stated he thought this is in line with improvements made to this property as well as improvements in the neighborhood.

Ms. Trainor asked Ms. Commins if she had anything to add or questions for the applicant.

Ms. Commins asked Mr. Folker if he would be willing to repair any damage that was a result of the construction of the pool. Mr. Folker replied, yes. Ms. Commins asked Mr. Folker if as stated in his application, his Lot is irregular in shape, with no side yard, all front and rear yard. Mr. Folker replied, correct.

Ms. Trainor announced it was time for questions from the Board.

Councilman Frank Garruzzo asked Mr. Folker if he would be putting fencing around the whole pool. Mr. Folker answered yes and stated that this would be required. Mr. Folker stated that they had received a permit last fall for fencing, which they put in and plan to continue adding more fence in the back and add more fencing for the pool.

Mr. Maclearie stated that his question is regarding the fence because the property is on a total curve and it is all frontage of the house, there is a sight line when people are driving down Howell Drive, so the fence must be kept away, and even at 25 miles per hour, the fence would have to be held back 20 feet and it looks like the pool is at 20 feet. Mr. Folker responded that heading down the curve off Route 35 you can see three very large trees which he believed would be more of a visual impairment. Mr. Folker stated that the proposal would be to jut off the edge of the house, and along the property line there are three or four odd trees on the edge of the Borough right-of-way. Mr. Folker stated that the fencing would be inside those trees. Mr. Maclearie asked Mr. Folker if he had spoken to his contractor about what type of fence he would use. Mr. Folker replied yes, and Mrs. Folker stated she hoped it would be a 6-foot PVC fence with the last 2-foot trellis opening. Mr. Maclearie asked Mr. Folker if he knew how far the fence would be from the street. Mr. Folker replied, 20-feet but where it illustrates the 20-feet, it is on an angle to the point of the Borough right-of-way. Mr. Folker said that it is going to be coming basically straight off the edge of the house so it would not be square, there will be a quarter turn to the fence. Mr. Folker stated that all fencing will be inside the property line inside the three trees.

Ms. Trainor asked Ms. Commins if she had a comment with respect to the exchange that is going on. Ms. Commins replied that if the pool were taken out of the equation, the Folkers would be permitted to put a 6-foot solid fence on their property line on the entire property as long as the finished side faces outward. Ms. Commins continued by saying that typically in a situation like this, they would ask for a minimum of 10-feet off the edge of pavement, because they do not quite have 10-feet from the curb line into the property, the right-of-way buffer is closer to 8 or 9-feet, so she felt 10-foot would be a nice compromise to make sure there is adequate sight distance for anyone turning the corner. Ms. Trainor asked Mr. Folker if he would consider this with respect to the placement of the fence. Mr. Folker responded that he thought that was reasonable.

Mr. Siano referred to where Mr. Folker had 20-foot written on the survey and asked Mr. Folker how far would the fence be off the pool coping. Mr. Folker answered, he needed 6-feet maximum off the edge of the pool to provide some walkway on the outside of the pool, maybe some grass and stated it could be less but no more than that. Mr. Siano asked Mr. Folker if he were saying at least 6-feet off the coping, which would bring it down to 14-feet plus a 10-foot right-of-way, you would have 24-feet to the street. Mr. Folker replied, yes that was correct.

Ms. Brisben asked Mr. Folker if there was any room to put the pool in the back. Mr. Folker replied that they had some room, but they did not want to put in a rectangular pool and moving the pool around would have required them to remove the big trees which they did not want to do. Ms. Brisben asked Mr. Folker if they would be removing any trees. Mr. Folker responded that there would be no trees removed. Ms. Brisben asked Mr. Folker if he would address any kind of grading change that Ms. Commins referred to in her report. Mr. Folker stated that that there is not a lot of variation, not very hilly, in the topo plan and he would be engaging an engineer to do the topographical report for that part of the property. Ms. Brisben asked Mr. Folker if he was saying there would not be much of a grading change. Mr. Folker replied that there would not be a change.

Mr. Jones asked Mr. Folker where he proposed to put the pool equipment. Mr. Folker responded that there were two options, in the corner where the deck is or in the back. Mr. Folker stated that he thought the ideal scenario would be just where the deck is, where the power connects.

Ms. Trainor asked Mr. Folker to clarify where he had indicated putting the pool equipment. Mr. Folker replied in the front of the house, where the power lines come into the house, inside of the fence.

Ms. Trainor asked Mr. and Mrs. Folker if they had any other witnesses to present. Mr. Folker replied he did not. Ms. Trainor announced it was time for comment period for the application.

Mr. John and Mrs. June Jasman, 723 Howell Drive, Brielle, NJ were sworn in by Mr. Clark. Mr. Jasman began by saying he has lived in this area since 1998 and stated he knew the area well. Mr. Jasman stated he understood the Folkers wanting a pool but wanted to express some safety concerns he had. Mr. Jasman stated there is no sidewalk and stated there are school children that walk on the side of the road, across the street from this property, and stated that there would be a substantial visual impact coming around the bend. Mr. Jasman stated by having a 6-foot fence, cars would not be able to see small children walking around the bend. Mr. Jasman stated that cars coming off Route 35 go 55-60 miles per hour into a residential zone and as they are coming down, their line of sight will be blocked. Mr. Jasman stated that big trucks, bulldozers, snowplows, and very large Borough equipment would have to veer away from the property and then almost be in the center of the road.

Mr. Jasman stated that there were also Zoning issues. Mr. Jasman stated that he looked at the notice that was sent to him and stated there are Zoning Standards and Setbacks that have been determined by professionals that were hired to uphold the safety and the quality of life and the living standards and from what he could see they are not conforming for the R-3 residential zone. Mr. Jasman stated that as far as the property goes, it is one big front yard and there will be a pool in someone's front yard and that visual impact would be detrimental for the neighborhood, for property values, and would destroy the neighborhood fabric.

Mr. Jasman stated that there would be noise and pools have spotlights that people would see and something like that is meant for a backyard, meant to be private, not in a front yard.

Ms. Trainor stated to Mr. and Mrs. Jasman that she thought that earlier the applicants said they were willing to have the fence 10-feet in from the street line and asked if that changed their thoughts or comments at all. Mr. and Mrs. Jasman replied, no. Mrs. Jasman stated she thought it would impact the sight line too much. Mr. Jasman stated that the police and emergency vehicles use the road as a cut through to Route 35 and that they are in a hurry.

Ms. Trainor stated based on Mr. and Mrs. Jasman's comments, she had a question for the applicants. Ms. Trainor stated to Mr. and Mrs. Folker that there is a concern about the lights that may or not be added to their property because of the pool and asked if they intended to add any

lights to their property to illuminate the pool area. Mr. Folker answered no, the pool has a light in it, and there are three lights on the decks that are existing.

Ms. Trainor asked the Board and Ms. Commins if, based on Mr. and Mrs. Jasman's comments, they had any questions for the applicants.

Mr. Siano asked the applicant if the existing wood decks had been refurbished recently and asked what condition these decks were in. Mr. Folker answered that the decks had not been refurbished and were in decent shape when they purchased the house. Mr. Siano asked Mr. Folker what the second-floor deck comes off. Mr. Folker replied that it comes off one of the bedrooms upstairs, right above it, centered in the middle of the existing downstairs deck. Mr. Siano asked Mr. Folker if the deck was supported from the ground or if the deck is cantilevered. Mr. Folker responded that it is cantilevered. Mr. Siano asked Ms. Commins if it was true that the applicant can have a 6-foot fence on their property line in the front yard. Ms. Commins answered that the Borough of Brielle permits a fence not to exceed 6-feet in height anywhere on the property provided it is within the confines of the property. Mr. Siano suggested that if Mr. Folker removed the wooden deck on the first floor, they could pull the pool back farther away from the road and create a patio up to the house that would not affect the second-floor deck. Mr. Folker replied that they would prefer to leave the deck as it stands.

Ms. Brisben asked Mr. Folker to confirm that he said the fencing would be behind the trees. Mr. Folker replied, yes, the fencing would be inside of the trees. Ms. Brisben asked Mr. Folker if there was fencing along the back of the property line. Mr. Folker replied, yes there would be fencing in the back.

Mayor Nicol stated he would like the Record to reflect that the Planning Board had received a letter from the Brielle Police Department, Traffic Safety Unit that stated they have no issues with this application. Mayor Nicol stated the Board had also received a letter from the fire department that stated they had no objections.

Ms. Trainor asked if there were any comments from the public. Hearing none, Ms. Trainor announced it was time to hear comments from the Board.

Councilman Garruzzo stated that he had read the letter from Lieutenant Boyd, Traffic Safety Officer for the Brielle Police Department and thought that it did impact the application.

Mr. Maclearie stated he was not a big fan of this application. Mr. Maclearie stated he agreed with the suggestion Mr. Siano made about moving the deck towards the house and picking up 15 or 20-feet would be a great idea.

Ms. Brisben stated that she agreed with Mr. Siano and said it was an excellent suggestion. Ms. Brisben stated it is nice to have a builder on the Board that could see things that some on the Board could not. Ms. Brisben stated she is kind of struggling with the application and thought that if it moved back a little, it would be great.

Ms. Trainor began by stating that this property, not built by the Folkers, is a uniquely shaped property, is the on the curve with three Borough streets on three sides of the property and the parcel itself is not that big. Ms. Trainor stated that this is one of the reasons why variance relief is appropriate for people when they have a house that does not fit the way the town has subsequently planned its zoning rules. Ms. Trainor stated that given that the Borough does allow fencing to be placed anywhere on the property, the applicant is willing to set the fencing back away from the street far enough and that the sight lines have been addressed to the satisfaction of the person that would know best, Lieutenant Boyd, she thought the applicants met the requirement for the variances they were seeking. Ms. Trainor stated that she thought the pool equipment should not be in the front yard proper even with a fence.

Mr. Trainor asked Mr. Clark if he would review the specific conditions that were discussed. Mr. Clark stated that the applicant had agreed to make improvements to the curbing to the satisfaction of, in this case, the Substitute Board Engineer. Mr. Clark stated the applicant agreed that the fence that would be installed around the pool area would be at least 10-feet off the street line.

Ms. Trainor asked for a motion to approve the application with the conditions that Mr. Clark just referenced. Mr. Miller made a motion, seconded by Mr. Stenson, and followed by the roll call vote.

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Glenn Miller, Stephanie Frith, Jay Jones

Noes: Jim Maclearie, Chris Siano, Karen Brisben

#### OTHER BUSINESS:

Review of two proposed Zoning Ordinances before Council.

- 1) Ordinance No. 1104 prohibiting the operation of any class of Cannabis business within all Zones of the Borough.
- 2) Ordinance No. 1105 provides for a mandatory Affordable Housing set-aside applicable to all Zones in the Borough.

Mr. Clark gave a quick summary and reviewed each of the proposed Zoning Ordinances. Mr. Clark stated that Ordinance 1104 is an Ordinance that prohibits the operation of any class of cannabis business in the Borough and Ordinance 1105 is an Ordinance that creates a mandatory, affordable housing set aside that is for any projects, developments or land use approvals which have multi-family housing with 5 or more units, or housing with 5 or more units. Mr. Clark stated any projects with 5 or more units must meet certain set aside requirements, which means that a percentage of the units must be affordable.

Mr. Clark stated that whenever there is a Zoning Ordinance, the Borough must send it to the Planning Board for a consistency review to see if there are any reasons what is being proposed is inconsistent with the Borough's Master Plan. Mr. Clark stated that since the Planning Board

normally prepares the Master Plan, it is assumed that the Board is best situated to tell if there are any inconsistencies or issues. Mr. Clark stated that the Planning Board would give a report or recommendation back to the Borough Council and then the Council could accept it or override it. Mr. Clark stated he had prepared proposed Resolutions under the assumption that there would be no inconsistencies because the Board does not have time to wait the 30 days and then do a Resolution later. Mr. Clark asked Mr. Hilla if he would like to weigh in on this proposed Ordinance. Mr. Hilla stated the prohibitions for various uses happen in every town, including Brielle and having another use that is prohibited is not uncommon. Mr. Clark stated that the Resolutions he prepared in anticipation of this meeting can be changed if needed. Mr. Clark stated that the Resolutions basically say that the Board received the Ordinances from the Borough Council, have been reviewed and that the Board does not find that they are inconsistent with the Master Plan.

Ms. Trainor asked if there were any questions or comments from the Board.

Mayor Nicol stated that the Borough's legal experts had put a lot of time and effort into both Ordinances and as Mayor and Council, they are trying to protect the residents of Brielle of any legal ramifications because of these Ordinances.

Councilman Garruzzo asked Mr. Clark if he and Mayor Nicol, being Mayor and Council Member, would still vote on these Resolutions since the Council brought it to the Board. Mr. Clark replied that he thought since they are both Planning Board Members, they would be allowed to vote but could recuse if they preferred.

Ms. Trainor asked Mr. Clark whether there would be a public comment portion or not. Mr. Clark stated that because this is a consistency review and not an application or hearing, there would not be public comment.

Ms. Trainor asked for a motion to adopt the Resolution concerning Ordinance 1104. Ms. Brisben made a motion, seconded by Mr. Stenson, and followed by the roll call vote.

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Jim Maclearie, Glenn Miller, Chris Siano, Karen Brisben, Stephanie Frith

Noes: None

Ms. Trainor asked if there were any questions or comments concerning Ordinance 1105.

Mr. Stenson asked if he understood that if a builder came into Brielle and wanted to build five or more units, they would have to follow this law and have a certain percentage for low or moderate income. Mr. Clark answered that was his understanding and stated that the Board was not necessarily looking at the law but whether it is inconsistent with the Master Plan.

Ms. Trainor asked for a motion to adopt the Resolution concerning Ordinance 1105. Mr. Stenson made a motion, seconded by Mr. Maclearie, and followed by the roll call vote.

May 11<sup>th</sup>, 2021

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Jim Maclearie, Glenn Miller, Karen Brisben, Stephanie Frith

Noes: Chris Siano

Ms. Trainor announced that before she asked for a motion to adjourn, she would like to recognize the good service from Glenn Miller, who had submitted a letter of resignation, which the Board regrettable would accept. Ms. Trainor stated this would be Mr. Miller's last meeting and said the Board wanted to thank Mr. Miller for all his kind attention he had given to the neighbors and to Brielle. Mr. Miller thanked the Board and wished the Board luck going forward.

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

---

Denise Murphy, Recording Secretary  
Approved: June 8<sup>th</sup>, 2021

## **RESOLUTION REGARDING MASTER PLAN CONSISTENCY REVIEW OF BOROUGH ORDINANCE 1104**

**WHEREAS**, the Brielle Borough Council has introduced Ordinance 1104 prohibiting the operation of any class of cannabis business within all zones of the Borough; and

**WHEREAS**, prior to adopting Ordinance 1104, the Borough Council referred it to the Brielle Planning Board (the "Board") pursuant to N.J.S.A. 40:55D-64 and 40:55D-26 for review as to its consistency with the Borough Master Plan; and

**WHEREAS**, the Board has reviewed Ordinance 1104 and its relationship with the Borough Master Plan and wishes to adopt this resolution as its report under the statutes cited herein.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Brielle, as follows:

1. Ordinance 1104 is an ordinance introduced by the Brielle Borough Council which prohibits the operation of any class of cannabis business within all zones of the Borough.
2. The Board has reviewed Ordinance 1104 and examined its relationship with the Borough Master Plan.



3. Ordinance 1104 is not inconsistent with the provisions of the Borough Master Plan.

**RESOLUTION REGARDING MASTER PLAN CONSISTENCY REVIEW OF  
BOROUGH ORDINANCE 1105**

**WHEREAS**, the Brielle Borough Council has introduced Ordinance 1105 providing for a mandatory affordable housing set-aside applicable to all zones in the Borough; and

**WHEREAS**, prior to adopting Ordinance 1104, the Borough Council referred it to the Brielle Planning Board (the “Board”) pursuant to N.J.S.A. 40:55D-64 and 40:55D-26 for review as to its consistency with the Borough Master Plan; and

**WHEREAS**, the Board has reviewed Ordinance 1105 and its relationship with the Borough Master Plan and wishes to adopt this resolution as its report under the statutes cited herein.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Brielle, as follows:

1. Ordinance 1105 is an ordinance introduced by the Brielle Borough Council providing for a mandatory affordable housing set-aside applicable to all zones in the Borough.
2. The Board has reviewed Ordinance 1105 and examined its relationship with the Borough Master Plan.
3. Ordinance 1105 is not inconsistent with the provisions of the Borough Master Plan.