

BRIELLE PLANNING BOARD
TUESDAY, NOVEMBER 8th, 2022

The Regular Meeting of the Brielle Planning Board was held on Tuesday, November 8th, 2022, at 7:00 p.m., in the Brielle Borough Hall, 601 Union Lane. After a moment of silent prayer and a Salute to the Flag roll call was taken:

Present – Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Stephanie Frith, Jay Jones, Amber Fernicola

Absent – Charlie Tice

Also present were Mr. David Clark, Board Attorney, Mr. Alan Hilla, Board Engineer and Ms. Denise Murphy, Recording Secretary. There were 21 people in the audience.

Mayor Thomas Nicol stated he had listened to the tape from the prior meeting and is eligible to vote on the Pellicane and Brielle Shores Application.

A motion was made to approve the Minutes of October 11th, 2022 this done by Councilman Frank Garruzzo, seconded by Chris Siano, all ayes, no nays.

OLD BUSINESS: Approval of Resolution for variance relief for Block 43.01, Lot 1, 632 Cedarcrest Drive, owned by Robert & Deborah Pellicane, to allow construction of a gable roof.

RESOLUTION OF APPROVAL OF THE BRIELLE BOROUGH PLANNING BOARD, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY WITH RESPECT TO THE APPLICATION OF ROBERT AND DEBORAH PELLICANE SEEKING VARIANCE RELIEF FOR THE CONSTRUCTION OF A NEW ROOF ON THE CARPORT ON THE PROPERTY LOCATED AT 632 CEDARCREST DRIVE AND IDENTIFIED ON THE TAX MAP OF THE BOROUGH OF BRIELLE AS BLOCK 43.01, LOT 1

WHEREAS, Robert and Deborah Pellicane (collectively, the “Applicants”) filed an application with the Planning Board of the Borough of Brielle (the “Board”) seeking variance relief to construct a new gable-style roof on the carport on the property owned by the Applicants located at 632 Cedarcrest Drive and identified on the tax map of the Borough of Brielle as Block 43.01, Lot 1 (the “Property”); and

WHEREAS, the Property is located within the Borough’s R-4 Residential Zone (the “R-4 Zone”); and

WHEREAS, the Property is currently developed with a 1 ½ story frame dwelling with an attached carport, two sheds, and various other accessories; and

WHEREAS, the Applicants are proposing to remove the existing flat roof on the carport and to replace it with a gable-style roof consistent with the home (as described more fully within the application, the “Project”); and

WHEREAS, the existing lot and the existing and proposed use are conforming to the zone, but the existing carport and sheds are not conforming to the zone; and

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

(a) Rear Yard Setback—25 feet required; 15 feet existing (to carport with flat roof); **15 feet proposed (to carport with gable-style roof)**; and

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

- (a) plan of survey prepared by Robert M. Horvath, PLS dated March 11, 2022;
- (b) sketches of the proposed roof structure prepared by the Applicants;
- (c) an application package submitted by the Applicants; and
- (d) a Zoning Permit denial letter from the Zoning Officer dated March 21, 2022; and

WHEREAS, the Board was also provided with a letter dated September 21, 2022 prepared by the Board’s Engineer and Planner Alan Hilla, P.E., P.P., C.M.E., of H2M Associates, Inc. providing a technical review of the application; and

WHEREAS, the Planning Board held a hearing on this application on October 11, 2022; and

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

Attorney David Leone, Carton Law Firm, announced he was appearing for the Applicants. Mr. Leone stated that the Applicants proposed to replace a portico that currently has a flat roof with a gable roof in the same footprint. Mr. Leone referred to Mr. Hilla's letter and said that the Applicants have agreed to relocate two sheds to conforming locations and to also move a portion of the fence on Cedarcrest Drive, so it is no longer in the right-of-way.

Ms. Trainor stated it was time to hear questions from the Board in respect to the application. Councilman Frank Garruzzo asked Mr. Leone to confirm that the only change proposed is the construction of an angled roof in place of the existing flat roof. Mr. Leone stated that was correct. Ms. Brisben wanted to confirm that the fence would be moved. Mr. Leone stated it would be moved to comply. Mr. Stenson, Ms. Trainor, Mr. Siano, Ms. Frith, Mr. Jones, and Ms. Fernicola had no questions for Mr. Leone.

Ms. Trainor stated it was time to hear questions from the public. Hearing none, Ms. Trainor asked Mr. Leone if he had any witnesses to present to the Board. Mr. Leone answered that he did not have any witnesses to present.

Ms. Trainor stated it was time to hear comments from the Board. Councilman Garruzzo, Mr. Stenson, Mr. Siano, Ms. Frith, Ms. Fernicola stated they did not have any issues with the application. Mr. Jones and Ms. Brisben stated they felt the project would be an improvement and also did not have any issues with the application. Ms. Trainor thanked Mr. Leone for his expediency with the application, their willingness to work with the Board and said she also did not have any issues with the application.

Ms. Trainor stated it was time to hear comments from the public with regard to the application. Hearing none, Ms. Trainor asked Mr. Clark to list the conditions the Board should consider for a motion. Mr. Clark stated that the sheds detailed in Mr. Hilla's letter are currently non-compliant and would be moved to a conforming location and the portion of the fence that is along Cedarcrest Avenue would be moved to a conforming location, out of the public right-of-way.

Ms. Trainor asked for a motion to approve the application with the conditions Mr. Clark had listed.

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 Applicants are the record owners of the Property.
- c. The Property is located within the Borough's R-4 residential zone.
- d. The Property is currently developed with a 1 ½ story frame dwelling with an attached carport, two sheds, and various other accessories.
- e. The Applicants are proposing to remove the existing flat roof on the carport and to replace it with a gable-style roof consistent with the home (as described more fully within the application, the "Project").
- f. The existing lot and the existing and proposed use are conforming to the zone.
- g. The Applicants are seeking the following variance relief through this application (the variances sought are highlighted in bold type below): (i) Rear Yard Setback—25 feet required; 15 feet existing (to carport with flat roof); **15 feet proposed (to carport with gable-style roof)**.
- h. The improvements proposed by the Applicants through this Project will not exacerbate the non-conformities on the property as the Applicants are merely proposing to change the type of roof on the existing carport and the distance from the carport to the rear yard boundary of the Property will not change.
- i. The Project proposed by the Applicants will eliminate some of the other existing non-conformities on the Property because the Applicants have agreed to relocate the two existing sheds from their current non-conforming locations to conforming locations on the Property and to also relocate the portion of the fence that is along Cedarcrest Avenue (and which is current in the public right-of-way) to a conforming location that it out of the public right-of way.
- 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 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 variances sought outweigh any detriments.
- l. 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, Chris Siano moved to approve the application; this motion was seconded by Councilman Frank Garruzzo. At that time the application was approved by the following roll call vote:

Ayes: Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Stephanie Frith, Jay Jones, Amber Fernicola

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. Prior to completion of the construction of the gable-style roof on the carport, the Applicants will move the two existing sheds from their current locations (which are in violation of the 5-foot side yard setback requirement for the R-4 zone and are also in violation of the requirement that there be at least 10 feet of horizontal separation between principal and accessory structures) to conforming locations on the Property.
- b. Prior to completion of the construction of the gable-style roof on the carport, the Applicants shall relocate the portion of the fence that is along Cedarcrest Avenue (and which is current in the public right-of-way) to a conforming location that it out of the public right-of way.
- c. The Applicants shall pay all taxes and other applicable assessments, costs and fees to date, as applicable.
- d. 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;
- e. 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 Councilman Frank Garruzzo, seconded by Karen Brisben and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Stephanie Frith, Jay Jones, Amber Fernicola

Noes: None

OLD BUSINESS: Continuation of hearing for a Major Subdivision for Block 104.01, Lot 7.02, Block 120, Lot 13.01 & 15, Tamarack Drive and Route 70, owned by Brielle Shores, Inc., to create 5 residential lots & a utility lot that will contain a drainage basin. Lot Area – 15,000 square feet required, 14,499 square feet proposed for new Lot 7.08. Lot Depth – 125 feet required, 67.95 feet proposed for new Lot 7.08. Also, Environmental Impact, Stormwater, Tree Save, Retaining Walls & Grading issues.

Ms. Trainor began by explaining in detail the manner in which Planning Board meetings in New Jersey are heard. Ms. Trainor said that the reason meetings are conducted this way is so everyone has a chance to be heard.

Ms. Trainor started by saying that she understood that the Board would be revisiting a motion Mr. Henderson presented at the October meeting and said that it was her understanding that Mr. Henderson had submitted something in writing to Mr. Clark. Ms. Trainor stated she had asked Mr. Clark to review that submission and provide a recommendation to the Board with respect to the motion.

Mr. Clark stated that after the last meeting, he had received from Mr. Henderson a written outline of his client's position, which he had distributed to the Board members and secretary. Mr. Clark said that what he had received was essentially citations to various things, many of which Mr. Henderson had already put on the Record orally at this last meeting. Mr. Clark stated Mr. Henderson cited what the definition of a lot and a detention basin is under the Municipal Land Use Law. Mr. Clark stated that when these issues were first raised, Mr. Hilla, Board Engineer, had determined that two variances were needed, one for Lot size and one for Lot depth because there were five lots being proposed for residential use and one lots for a detention basin. Mr. Clark stated it was Mr. Hilla's position was that there is no distinction between a lot being developed as a house and a lot being developed as a detention basin and if the Borough code states all lots must be a certain size or a variance would be required, then that is what is needed. Mr. Clark stated it was his recommendation that the Board deny Mr. Henderson's motion and explained to the Board in detail the reasons for his recommendation. Mr. Clark stated that he felt if the motion was denied and if Mr. Henderson needed to supplement the applicant's testimony to address these variances, that it should be provided with that opportunity.

Ms. Trainor asked the Board members if they had any questions about Mr. Clark's recommendation. Hearing none, Ms. Trainor asked for a motion to accept the recommendation of the Board Attorney, Mr. Clark. James Stenson made a motion, seconded by Councilman Garruzzo, and followed by the roll call vote.

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Stephanie Frith, Jay Jones, Amber Fernicola

Noes: None

Mr. Henderson stated he would like to reserve his right to make arguments on the Board's decision and said he thought he had already presented evidence but would like to think about it while he was proceeding with the rest of the case. Mr. Henderson stated he believed that they

had left off with a number of stipulations they had made based upon Mr. Hilla's review letter and then listed the item numbers 4, 5, 6, 7, 8-stipulated as needed based on Mr. Hilla's inspections, 9, 10, and 11. Mr. Henderson said that he believed at the end of the prior meeting the Board had asked them to specifically address if the drainage system and the enforcement of the drainage system were adequate.

Mr. Henderson called Mr. Lindstrom, who had been previously sworn in by Mr. Clark, to testify. Mr. Lindstrom began by saying that at the end of the last meeting, he was asked to look at the drainage regarding the basin and the development of the lots. Mr. Lindstrom stated he was asked to show the lots developed at a higher percentage than what is shown on Exhibit A-1. Mr. Lindstrom displayed Exhibit A-1 and described those changes and calculations to the Board. Mr. Lindstrom stated that the basin could handle the changes and said that the basin is oversized for the amount of water that would go into it.

Mr. Henderson asked Mr. Lindstrom if, in his professional opinion as a Planner and an Engineer, was the applicant's discussion with the Board of what could be included, excluded reasonable, and balanced. Mr. Lindstrom answered that he thought that what the applicant proposed was reasonable, if not overly conservative, because under the Ordinance, lots are allowed 20% and they were proposing 20% for the houses but 30 % for the rest of the Lots so people could put in other impervious items. Mr. Lindstrom stated the Lots are extremely large, much larger than the Ordinance requires with the exception of the basin lot which he said does not have to be any larger to serve its purpose. Mr. Henderson asked Mr. Lindstrom if one of the purposes of the Municipal Land Use Law is to prevent flooding and if this detention basin was an aid to prevent flooding, to which Mr. Lindstrom responded yes. Mr. Henderson then asked if the basin would advance the purpose of the Municipal Land Use Law and if there were any negatives associated with the basin lot bearing in mind that the Board has determined that two variances were required. Mr. Lindstrom stated he did not think that there were any negatives and explained his reasonings to the Board.

Mr. Henderson asked Mr. Lindstrom to confirm that the basin lot would be deed restricted, would be used only as a drainage basin, would have a stipulation that a house could never be built on the lot, and that whoever inherits the job of maintaining the basin lot would follow the operational manual submitted to CAFRA with reporting and inspection requirements reported to the local government. Mr. Lindstrom confirmed that what Mr. Henderson said was correct.

Mr. Henderson stated to the Board that he would submit to Mr. Clark for review a copy of the governing documents dealing with the Homeowner's Association, the enforceability which is essentially through a lien which could be enforced by the Borough. Mr. Henderson stated they had considered putting the basin on one of the other lots but NJDEP would not allow that so that was not an option. Mr. Clark asked Mr. Henderson if the NJDEP accepts the proposal of a Homeowner's Association to which he replied that they did.

Ms. Trainor asked if Mr. Lindstrom had any other testimony to present to the Board, Mr. Henderson said he did not and that they were finished. Ms. Trainor asked if any Board members had any questions based on the testimony provided this evening.

Ms. Brisben asked Mr. Henderson if he had received the letter dated October 26, 2022 from Freehold Soil Conservation District asking for revised plans. Mr. Lindstrom answered that they had received the letter and are in the process of responding to that letter.

Ms. Trainor asked for more information about the drainage into the river. Mr. Lindstrom stated he remembered that he had been asked about the drainage on Route 70 and said Route 70 is divided in that area so there would not be anything from the other side of the road. Mr. Lindstrom stated there would be a very small flow from the basin down onto Route 70 right-of-way down to an inlet on Riverview Drive and then to the river. Mr. Lindstrom used Exhibit A-1 to demonstrate this to the Board. Ms. Brisben stated Riverview Drive is a county road and asked if the County would be involved in any part of it. Mr. Lindstrom answered that they did submit everything to the Monmouth County Planning Board and they did approve the plans.

Mayor Nicol, Councilman Garruzzo, James Stenson, Chris Siano, Jay Jones, Stephanie Frith, and Amber Fernicola did not have any questions for Mr. Lindstrom.

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

Mr. Daniel Burke, 1013 Cedar Lane, asked Mr. Lindstrom if the storm water report provides for the flow rates in the new proposed NJDEP regulations. Mr. Lindstrom replied that they started working on this five years ago and have been working with the NJDEP during that time. Mr. Lindstrom stated that the applicant's system was not designed for those flow rates because they were not in effect at that time. Mr. Lindstrom stated the current Ordinance and current rules and regulations are met with the design they have created. Mr. Burke asked how the basin lot would be landscaped. Mr. Lindstrom replied that generally it would be a natural vegetative slope on the edges of the basin and that the bottom would be a sand bottom to allow infiltration down to the bottom. Mr. Burke asked if a buffer could be provided from the highway to Lots 7.07 and 7.06. Mr. Lindstrom answered that he did not think they could provide a tree save buffer on the Route 70 side because it is basically a graded area. Mr. Lindstrom stated they did attempt to reduce the buffers near the adjacent residential homes on Lot 7.07 and Lot 7.03 but the NJDEP would not let them change the deeded easement. Mr. Burke asked who is in control of the deeded easements. Mr. Lindstrom answered that the NJDEP is in control of them. Mr. Burke asked if Lot 7.03 would be a part of the Homeowner's Association. Mr. Lindstrom replied that it would because the NJDEP considers the project to be an entire development and insisted that all five lots must have a common Homeowner's Association. Mr. Burke asked if the retaining wall proposed was suitable for the intended purpose. Mr. Lindstrom replied they would defer that determination to Mr. Hilla and would make any repairs or replacements of the wall if necessary.

Mr. Jeremy Leary, 19 South Tamarack Drive, was sworn in by Mr. Clark and asked Mr. Lindstrom to explain what the treatment for the new water filtration system would be. Mr. Lindstrom described to Mr. Leary how the proposed basin would work. Mr. Leary asked what the fence on the basin lot would look like. Mr. Lindstrom answered that they had not yet finalized what type of fence would be used.

Mr. Daniel Turak, 21 South Tamarack Drive, was sworn in by Mr. Clark. Mr. Turak asked based on the calculation of runoff, what figures were used for the size of the homes. Mr. Lindstrom

answered Mr. Turak's question by describing the figures that were used. Mr. Turak asked how many different Homeowner Associations exist in the neighborhood already. Mr. Henderson suggested to Mr. Turak that if he gathered some representatives from the neighborhood, he would be happy to meet with them and go through the paperwork. Mr. Turak stated he would be happy to do that.

Mr. Jeff Nissim, 10 North Tamarack Drive, was sworn in by Mr. Clark. Mr. Nissim asked if there would be parking on the street for the 5 houses. Mr. Lindstrom answered that he could not control the street but the lots will have driveways and garages.

Ms. Dorothy Schulze, 1010 Shore Drive, was sworn in by Mr. Clark. Ms. Schulze asked if the variances for the basin were denied what other plans would the applicant have. Mr. Lindstrom replied that he felt the variances should be granted and did not have any contingency plans if they were not granted. Ms. Schultz stated to Mr. Lindstrom the variances had already been denied by the Board to which Mr. Clark explained that the Board had not yet determined whether the variances would be granted or not.

Ms. Ann Nissim, 10 North Tamarack Drive, was sworn in by Mr. Clark. Ms. Nissim referred to the tree save plan and asked if there was a plan to replace any trees that were knocked down during the development of the homes. Mr. Henderson said there is a replacement plan for trees in the tree save. Ms. Nissim referenced noise from the highway and asked if there was any consideration of what types of replacement trees would be planted. Mr. Lindstrom answered that this would almost be self-regulating and said that the houses would experience most of the noise and in fact the houses would block a lot of the noise. Ms. Nissim asked if after the houses are developed and a bunch of trees die a year or two later, how would they go about replacing those trees. Mr. Lindstrom answered that the Conservation Restrictions are in favor of the NJDEP so if the trees come down in that area, that would be a violation and could be turned over to the NJDEP and they could require some replanting of the trees.

Ms. Trainor asked if there were any other questions from the public. Hearing none, Ms. Trainor closed the public question portion of the application and stated that in light of the conversations Mr. Henderson had offered to have with members of the community it would make sense to carry the application to the next meeting to allow time for those conversations to occur. The hearing on this application was therefore adjourned for the evening and carried to the December meeting.

NEW BUSINESS: Application for variance relief for Block 89.02, Lot 12, 624 Holly Hill Drive, owned by David & Nancy McFadden, to allow a rear covered porch addition to remain. Rear Yard Setback – 40 feet required, 12 feet existing. This application is to legalize a building permit issued in error.

Mayor Nicol, Councilman Garruzzo and Chris Siano announced it was necessary for them to recuse themselves from this application.

Mr. Thomas DiGiorgio, Thomas DiGiorgio Architecture, stated he was appearing before the Board for the applicant and was sworn in by Mr. Clark. Mr. DiGiorgio stated he has been a licensed New

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Jersey Architect since 1991 and has appeared before several Boards throughout the state. Ms. Trainor announced that Mr. DiGiorgio was accepted by the Board as an expert witness in Architecture.

Mr. DiGiorgio began by saying that in 2003 the applicant received a variance approval for setback from the Planning Board for the installation of a deck and then in 2018 they had submitted a Zoning application to do some alterations on the house which included enclosing part of the approved deck. Mr. Giorgio stated that they did receive permits, did the work, and then received a Certificate of Occupancy from the Building Department. Mr. DiGiorgio said the applicant subsequently received a letter in August of 2022 from Ms. Commins, the Borough Zoning Officer, issuing Zoning denial for the rear covered porch addition and indicating she had missed the reference on the application and had erroneously issued a Zoning Permit. Mr. Clark asked Mr. DiGiorgio if it was his position that they had a non-conformity which was in the setback and they were expanding that non-conformity. Mr. DiGiorgio replied that was correct but at the time when he had made the plans, he was not aware there was need for a variance there. Mr. DiGiorgio stated since 2003, there had been no complaints from the neighbors and that the larger wooded area in the back screens the deck.

Ms. Brisben referenced item number 2 in Mr. Hilla's review letter and asked about the pillars. Mr. DiGiorgio stated he could not comment because he was not involved in that project but said the applicant may be able to comment on that.

Mr. Stenson, Ms. Trainor, Mr. Jones, Ms. Frith, and Ms. Fernicola did not have any questions for Mr. DiGiorgio.

Ms. Trainor asked if there were any questions from the public for Mr. DiGiorgio. Hearing none, Nancy McFadden was sworn in by Mr. Clark. Mr. Clark asked Ms. McFadden if she had seen Mr. Hilla's review letter to which she replied she had seen it. Mr. Clark stated that in item 2, Mr. Hilla talks about some pillars that are on opposite sides of the existing driveway which Mr. Hilla thinks are in the Borough's right-of-way and if so the applicant would need to get permission from the Borough for those pillars to remain. Mr. Clark added that Mr. Hilla stated that he is recommending that the Board put a condition on any approval that the Board gives that the applicant must, in a specified period of time, go to the Borough for permission if they want the pillars to remain. Mr. Clark then asked Ms. McFadden if she was willing to stipulate and agree to that condition on any approval the Board gives to which Ms. McFadden replied that she would agree to that condition. Mr. Clark asked Ms. McFadden if she had any personal knowledge if the pillars are or are not in the right-of-way. Ms. McFadden responded that she did not know and said they hired a landscape company who presented them with plans and then put up the pillars, they assumed the pillars were legal. Mr. Hilla stated that the applicant would need to obtain an Encroachment Permit from the town if the pillars are within the Borough's right-of-way.

Ms. Trainor asked if there were any questions from the Board for the applicant.

Ms. Brisben stated she did not have any questions but felt that the Board should set a time period for the applicant to go to the Borough. Mr. Clark agreed and said the Board should make it a condition that within a certain amount of time the applicant should apply for an Encroachment

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Permit and then carry out whatever the Borough decides. Mr. Clark asked Ms. McFadden if she would agree to file for the Encroachment Permit within 60 days of the Resolution approval which would be at the December meeting. Ms. McFadden agreed to the timeframe of 60 days.

Mr. Stenson, Ms. Trainor, Mr. Jones, Ms. Frith, and Ms. Fernicola did not have any questions for Mr. DiGiorgio.

Ms. Trainor asked if there were any questions from the public for the applicant. There were no questions from the public.

Mr. DiGiorgio stated he had no other testimony to present.

Ms. Trainor asked if there were any comments with respect to the application from the public. Mr. Jeff Brehm, 626 Holly Hill Drive, was sworn in by Mr. Clark. Mr. Brehm stated he is the neighbor on the left side, stated he had no issues with the application and said that because of the topography of the land he cannot even see the applicant's deck.

Ms. Trainor stated it was time to hear comments from the Board with respect to the application.

Ms. Brisben stated that when she drove by the property, she could not see the deck from the street and said she had no issues with the application. Ms. Trainor stated that, based on the information Mr. DiGiorgio provided, that a finding was made by the Board when they obtained their original variance and said the unique attributes to the property which would have supported a C-variance at that time, she would defer to the finding of that Board. Ms. Trainor also said how unfortunate it was for the applicant to have to come back before the Board after such a long time and apologized on behalf of the Borough.

Ms. Trainor asked Mr. Clark if there were any stipulations that needed to be a part of any approval from the Board. Mr. Clark stated that the only stipulation was that the applicant had agreed to file, within 60 days from the adoption of the Resolution, for an Encroachment Permit from the Borough for the pillars that are referenced in Mr. Hilla's review letter and would abide by any decision the Borough made regarding those pillars.

Ms. Trainor asked for a motion to approve the application with the conditions Mr. Clark had listed. James Stenson made a motion, seconded by Stephanie Frith, and followed by the roll call vote.

Ayes: James Stenson, Corinne Trainor, Karen Brisben, Stephanie Frith, Jay Jones, Amber Fernicola

Noes: None

Abstained: Mayor Thomas Nicol, Councilman Frank Garruzzo, Chris Siano

Ms. Trainor asked if there was any other business to bring before the Board. Hearing none, Ms. Trainor asked for a motion to adjourn. Karen Brisben made the motion, seconded by James

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Stenson, and then unanimously approved by the Board, all ayes. The meeting was adjourned at 8:32 p.m.

Denise Murphy, Recording Secretary

Approved: December 13th, 2022