

BRIELLE PLANNING BOARD
TUESDAY, SEPTEMBER 12th, 2023

The Regular Meeting of the Brielle Planning Board was held on Tuesday, September 12th, 2023 at 7:00 p.m., in the Brielle Borough Hall, 601 Union Lane. Ms. Trainor read the OPMA compliance statement. After a moment of silent prayer and a Salute to the Flag, roll call was taken:

Present –James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Stephanie Frith, Jay Jones, Amber Fernicola

Absent – Mayor Thomas Nicol, Councilman Frank Garruzzo, Charlie Tice

Also present were Mr. David Clark, Board Attorney, Mr. Alan Hilla, Board Engineer and Ms. Denise Murphy, Recording Secretary. There were 12 people in the audience.

A motion was made to approve the Minutes of August 8th, 2023, this done by James Stenson, seconded by Karen Brisben, all ayes, no nays.

OLD BUSINESS: Consideration of Resolution of Approval for variance relief for Block 47.01, Lot 9, 319 Fisk Avenue, to allow construction of a new home, Squan Custom Homes.

RESOLUTION OF APPROVAL OF THE BRIELLE BOROUGH PLANNING BOARD, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY WITH RESPECT TO THE APPLICATION OF SQUAN CUSTOM HOMES, LLC SEEKING VARIANCE RELIEF FOR THE CONSTRUCTION OF CERTAIN IMPROVEMENTS ON THE PROPERTY LOCATED AT 319 FISK AVENUE IDENTIFIED ON THE TAX MAP OF THE BOROUGH OF BRIELLE AS BLOCK 47.01, LOT 9

WHEREAS, Squan Custom Homes, LLC (the “Applicant”) filed an application with the Planning Board of the Borough of Brielle (the “Board”) seeking variance relief to construct certain improvements as described more fully herein on the property owned by the Applicant located at 319 Fisk Avenue identified on the tax map of the Borough of Brielle as Block 47.01, Lot 9 (the “Property”); and

WHEREAS, the Property is located within the Borough’s R-3 Residential Zone (the “R-3 Zone”); and

WHEREAS, the Property currently contains a one-story frame dwelling, pergola, shed, concrete patio, and asphalt driveway; and

WHEREAS, the Applicant is proposing to demolish the existing structures and to construct a new two-story dwelling on the Property as described more fully within the plans submitted with this application; and

WHEREAS, the existing and proposed use are conforming to the zone, but the existing and proposed principal structures are not conforming to the zone; and

WHEREAS, the Property has the following non-conformities which are not being impacted or changed by this application:

- (a) Minimum Lot Size—11,250 square feet required; 7,000 square feet existing;
- (b) Minimum Lot Width—75 feet required; 50 feet existing; and

WHEREAS, the Applicant filed an application with the Board seeking the following variance relief (the variances sought are highlighted in bold type below):

- (a) Minimum Side Yard—10 feet required; **6.37 proposed (to mechanical platform)**;
- (b) Maximum Building Coverage—20% allowed; 14.19% existing; **25.13% proposed**; and

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

- (a) boundary, topographic and utility survey prepared by Justin J. Hedges, P.L.S., revised June 7, 2022;
- (b) variance plan prepared by Joseph Kociuba, P.E. dated December 14, 2022;

(c) architectural drawings (8 sheets) prepared by Paul Grabowski, R.A. dated November 22, 2022;

(d) a Zoning Permit denial letter from the Zoning Officer dated March 7, 2023; and

(e) an application package signed by the Applicant; and

WHEREAS, the Board was also provided with a letter dated June 19, 2023 prepared by 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 August 8, 2023 and considered the following documents presented as exhibits at the hearing:

(a) Exhibit A-1 described as a front rendering of the home;

(b) Exhibit A-2 described as alternate views of the front of the home;

(c) Exhibit A-3 described as a rear rendering of the home;

(d) Exhibit A-4 described as the crawl space plan;

(e) Exhibit A-5 described as the first and second floor;

(f) Exhibit A-6 plot plan; and

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

Attorney Michael Henderson, Henderson and Henderson, Manasquan, NJ stated he was representing the owner and applicant. Mr. Henderson stated he had three witnesses to present to the Board. Mr. Mark Herrmann, principle of Squan Custom Homes, LLC, Mr. Joseph Kociuba, KBA Engineering Services, LLC, Manasquan, NJ and Mr. Paul Grabowski, Virtuoso Architecture, Wall, NJ were all sworn in by Mr. Clark.

Mr. Henderson called Mr. Herrmann to testify. Mr. Henderson asked Mr. Herrmann to describe to the Board what was being proposed. Mr. Herrmann answered that Squan Custom Homes, LLC acquired the property in June of 2022 and said that they were proposing to demolish the existing home and build a two story home, which would be above flood level. Mr. Henderson stated that he had no further questions for Mr. Herrmann.

Ms. Trainor asked the Board if they had any questions for Mr. Herrmann. Ms. Brisben asked Mr. Herrmann if he was aware that this was a substandard sized lot, only 7000 square feet. Mr. Herrmann answered that he was aware of that. There were no other questions for Mr. Herrmann. Ms. Trainor asked if there were any questions from the public. There were no questions from the public for Mr. Herrmann.

Mr. Henderson called Mr. Grabowski to testify. Mr. Grabowski began by saying he has been a licensed architect in New Jersey for the last 25 years and has testified before Boards throughout New Jersey and including this Planning Board. Ms. Trainor stated that Mr. Grabowski was accepted as an expert witness. Mr. Grabowski presented five documents which were marked for the Record by Mr. Clark.

Exhibit A-1- described as a front rendering of the home.

Exhibit A-2- described as alternate views of the front of the home.

Exhibit A-3- described as a rear rendering of the home.

Exhibit A-4- described as the crawl space plan.

Exhibit A-5- described as the first and second floor.

Mr. Grabowski stated that because of the flood zone, the design for this proposed home is an elevated design with parking underneath the home. Mr. Grabowski said that in a flood zone, a crawl space can be used for parking cars, access into the building and for storage. Mr. Grabowski stated that the proposed home would be a 2,719 square feet, 5 bedroom, 3 ½ bath home, and he further stated that the exterior would be a dutch colonial style. Mr. Henderson stated he did not have any other questions for Mr. Grabowski.

Ms. Trainor asked the Board if they had any questions for Mr. Grabowski. Mr. Hilla asked if the composite deck in the back would be constructed as a deck or a roof over the patio below. Mr. Grabowski replied that it would be a pervious composite deck that would allow water to flow through it. Councilman Garruzzo stated that he could see that the garage would be in the lower level and then asked if the front door would be in that space and if there would be a few steps from the front door into the house. Mr. Grabowski answered that there was a small, covered porch with a step up into the access area and then a staircase that goes to the first floor. Mr. Grabowski said there would also be a door there that closes it off from the back of the crawl space. Mr. Stenson asked if this area would count as a floor to which Mr. Grabowski replied that it counts as a crawl space and said that it was included in the square footage. Ms. Brisben asked if someone could walk into the crawl space. Mr. Grabowski answered that because there would be parking under the house, the height of this space would be higher. Ms. Brisben asked if the crawl space would have a cement floor. Mr. Grabowski responded that it would be cement. Ms. Trainor referenced Exhibit A-4 and said it looked like the mechanicals would be in the crawl space area. Mr. Grabowski replied that what was shown was the furnace, the air handler. Mr. Grabowski stated that the generator and the condensers would be on the side of the house above the flood plain.

Ms. Trainor asked if there were any questions from the public. Maureen O'Neill, 321 Fisk Avenue, was sworn in by Mr. Clark. Ms. O'Neill said that she noticed on one of the drawings that there was a lift and asked if it was an elevator. Mr. Grabowski replied that what

she was referring to is a platform for two condensers and a generator. There were no other questions from the public for Mr. Grabowski.

Mr. Henderson called Mr. Kociuba to testify. Mr. Kociuba stated he is a Licensed Engineer and Planner in New Jersey and has testified before numerous Boards in Monmouth and Ocean Counties. Ms. Trainor stated that Mr. Kociuba was accepted as an expert witness. Mr. Kociuba stated that this property is in the R-3 Zone, said the Lot is 7000 square feet which is undersized, it is 50 x 140, which is narrower than what is permitted in the zone. Mr. Kociuba stated the pre-existing home on the property is nonconforming for front yard and side yard setback.

Mr. Kociuba presented a document described as the plot plan prepared by his office. Mr. Clark marked this document as Exhibit A-6. Mr. Kociuba stated that the existing home would be demolished and said that the proposed home would comply with front, side and rear setbacks. Mr. Kociuba then detailed the variance relief the applicant was seeking for the mechanical deck. Mr. Kociuba said it was only the deck and the mechanicals there were pushing it over for the allowable building coverage.

Mr. Kociuba stated that the applicant is proposing a one car garage. Mr. Kociuba stated that the Borough's Ordinance requires two parking stalls and then said that the R.S.I.S. standards require three parking spaces for a 5 bedroom home. Mr. Kociuba said that the applicant wants to be compliant with the R.S.I.S. requirement so they could expand the driveway along the front of the property from 12 foot wide to 18 foot wide to allow for two cars in the front yard. Mr. Kociuba said that the only issue with that was that the Borough's Ordinance requires properties with less than 75 feet in width to obtain a design waiver to allow a driveway that is wider. Mr. Kociuba stated it was his opinion that widening the driveway to two cars would be beneficial, planning wise. Mr. Kociuba also stated that it was his opinion that the variances could be granted under the C-1 and the C-2 criteria and then detailed the reasons he felt this way. Mr. Kociuba stated it was his opinion that the Board should grant the variances as requested and said he felt there would not be any negative impact as result of the application.

Mr. Kociuba referenced Mr. Hilla's review letter and said that the applicant agrees with all the figures in item number 1, in item number 2, said that they would provide the extra parking stall and in item number 3, they are proposing to replace the sidewalk and the curb along the front and agree that it is in poor condition.

Mr. Hilla asked Mr. Kociuba if when he refers to widening the driveway, he is only referring to the driveway and not the curb cut. Mr. Kociuba answered that they would keep the curb cut the same width and flare out the two car driveway in the property.

Councilman Garruzzo asked Mr. Kociuba if the applicant is asking for this driveway or if this was just an idea. Mr. Kociuba answered that their plan was to install that driveway because they are not asking for relief from the parking, his position is that he does not believe they need relief for two cars and said he thought it was appropriate to provide for three. Mr. Kociuba said Mr. Hilla is correct that the R.S.I.S. states that for 5 bedrooms you need 3 parking stalls and then said the Borough Ordinance requires two. Mr. Hilla stated that he thought the R.S.I.S. by

reference supersedes the Ordinance so it becomes a variance condition because it supersedes the Ordinance requirement. Mr. Clark stated he agreed with Mr. Hilla. Mr. Henderson stated he also agreed and they would agree to provide three off street parking spaces. Ms. Trainor asked Mr. Clark if this variance request needed to be noticed. Mr. Clark said it was not a variance it was a design waiver. Mr. Henderson stated that the applicant's notice said they were seeking any variances and waivers that came up during this hearing. Mr. Henderson stated he did not have any other questions for Mr. Kociuba.

Ms. Trainor asked the Board if they had any questions for Mr. Kociuba. Mayor Nicol asked if the driveway was pervious. Mr. Kociuba replied that they planned on a paved driveway, impervious. Ms. Brisben asked how someone would get to the mechanical platform. Mr. Kociuba answered that when it needed to be maintained they would use a ladder. Mr. Tice asked how they would accomplish making the driveway 18 feet. Mr. Kociuba replied that they would expand 6 feet to the right side. There were no other questions for Mr. Kociuba.

Ms. Trainor asked if there were any questions from the public for Mr. Kociuba. Dennis O'Neill, 321 Fisk Avenue, was sworn in by Mr. Clark. Mr. O'Neill asked if the applicant would consider moving the setback a minimum of 4 feet from Fisk so they would not lose the complete view of the Glimmer Glass. Mr. Kociuba stated that they would agree to 34 feet. There were no other questions.

Mr. Henderson finished by saying he thought this application was very straightforward, and is seeking minimal relief, would be aesthetically pleasing to the neighborhood, meets the goals of the Municipal Land Use Act in that it provides safety from fire and flood and is in line with the neighborhood scheme.

Ms. Trainor asked if there were any comments in regard to the application from the public. Hearing none, Ms. Trainor asked to hear comment from the Board. Mayor Nicol stated he thought this was a reasonable application. Councilman Garruzzo said he appreciated that the applicant's flexibility when dealing with the neighbors, stated there was no negativity from the public and finished by saying he had no issues with the application. Mr. Stenson said he had no issues with the application. Mr. Jones stated he felt the application was very thorough and thought it would be a nice improvement. Ms. Brisben said she agreed with Mr. Jones, had no issues with the application and said she thought it would be a very nice home. Mr. Tice said he had no issues with the application and liked that the applicant worked with the neighbors. Ms. Trainor said she appreciated that the applicant worked with the neighbors, said she felt the applicant had met the requirements for the C-1 and C-2 variances that were sought and thought their design waiver would meet the R.S.I.S. requirements and were appropriate.

Ms. Trainor asked Mr. Clark if he could review the different things spoken about that would be a condition of approval. Ms. Brisben asked if there could be a stipulation added that the patio below the deck could never be enclosed. Mr. Henderson stated that the area could not legally be turned into livable space under FEMA compliance and said if the Board decided to add it as a stipulation the applicant would agree.

Ms. Trainor asked for a motion to approve the application with the stipulations Mr. Clark had listed. James Stenson made a motion, seconded by Councilman Frank Garruzzo, and followed by the roll call vote:

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-3 residential zone.
- c. The Property currently contains a one-story frame dwelling, pergola, shed, concrete patio, and asphalt driveway.
- d. The Applicant is proposing to demolish the existing structures and to construct a new two-story dwelling on the Property as described more fully within the plans submitted with this application.
- e. The existing and proposed use are conforming to the zone, but the existing and proposed principal structures are not conforming to the zone.
- f. The Property has the following non-conformities which are not being impacted or changed by this application: (i) Minimum Lot Size—11,250 square feet required; 7,000 square feet existing; and (ii) Minimum Lot Width—75 feet required; 50 feet existing.
- g. The Board therefore finds that this Property is undersized and exceptionally narrow.
- h. The Applicant filed an application with the Board seeking the following variance relief (the variances sought are highlighted in bold type below): (i) Minimum Side Yard—10 feet required; **6.37 proposed (to mechanical platform)**; and (ii) Maximum Building Coverage—20% allowed; 14.19% existing; **25.13% proposed**.
- i. During the hearing, the Applicant agreed to completely replace the curb and sidewalk fronting this Property as a condition of any approval of its application.
- j. During the hearing, and in response to a request from a neighboring property owner, the Applicant agreed to relocate the position of the proposed house on

the Property and to move the house back four feet further from Fisk Avenue than the location that had originally been proposed within its plans (so that the proposed house has a 34 foot setback from Fisk Avenue).

- k. During the hearing, the Applicant also requested a design waiver and/or a variance to allow it to widen the driveway on the Property in order to allow two cars to park on the driveway so that the Applicant can satisfy the R.S.I.S. requirement that there be three off-street parking spaces for a five bedroom dwelling. The Applicant agreed that if the Board grants this design waiver and/or variance to allow it to widen the driveway, that it will keep the curb cut the same width and then flare out the two car driveway on the Property.
- l. The Board finds that the Property is an irregularly-shaped lot which is narrower than the width required in the zone and that the Property is also an undersized lot as the minimum lot size for the R-3 zone is 11,250 square feet required and the Property is only 7,000 square feet. For these reasons, the Applicant meets the hardship requirements of N.J.S.A. 40:55D-70(c)(1).
- m. Moreover, the improvements proposed by the Applicant are consistent with other development in the neighborhood and the deviations from the requirements of the zone do 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. Indeed, these improvements will make the Property more visually consistent with the neighborhood by changing the house on the Property to a Dutch Colonial style house and by making improvements to the Property which will, as described within the testimony of the Applicant's engineer Joseph Kociuba, further the interests set forth in the Municipal Land Use Law.
- n. For these reasons, these deviations from the zone requirements—specifically, the deviation from the minimum side yard setback requirement, the deviation from the maximum building coverage requirement, and the deviation from the driveway width requirement-- meet the conditions for variance relief under N.J.S.A. 40:55D-70(c)(1), and the Board therefore grants the variance relief sought by the Applicant under N.J.S.A. 40:55D-70(c)(1).
- o. N.J.S.A. 40:55D-70(c)(2) allows a planning board to grant variance relief without a showing of undue hardship where the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and the benefits of such deviation would substantially outweigh any detriment and the variance will not substantially impair the intent of the zone plan and zoning ordinance;
- p. The Applicant herein has presented testimony demonstrating to the satisfaction of the Board that the purposes of the Municipal Land Use Law would be advanced by granting the variance relief requested by the Applicant

because, among other things, the application promotes a better visual environment and better drainage and parking for the site and the minor deviations from the requirements of the Borough Code are consistent with other development in the neighborhood and do 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.

- q. For these reasons, the Board also finds that the requirements for a N.J.S.A. 40:55D-70(c)(2) variance have also been satisfied by the Applicant, and the Board therefore grants the variance relief sought by the Applicant under N.J.S.A. 40:55D-70(c)(2) as well.

WHEREAS, James Stenson moved to approve the application with the conditions listed by the Board Attorney; this motion was seconded by Councilman Garruzzo. At that time the application was approved by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Karen Brisben, Jay Jones, Charlie Tice

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. Within forty-five (45) days of the date of the adoption of this resolution, the Applicant shall submit four (4) sets of revised plans to the Board Secretary in order to reflect the changes to the design of the driveway and to the location of the proposed home on the Property that the Applicant agreed to make during the hearing on the application.
- b. The Applicant shall completely replace the curb and sidewalk fronting this Property in a manner satisfactory to the Board Engineer. The replacement of this curb and sidewalk must be completed before the Applicant obtains a Certificate of Occupancy for the proposed home that it is constructing on the Property and its satisfactory completion shall be a condition of the issuance of this Certificate of Occupancy.
- c. The Applicant agrees that the widening that it has proposed to the driveway of the Property will not impact the width of the curb cut for the driveway and that such curb cut shall remain at its current width.
- d. The Applicant shall pay all taxes and other applicable assessments, costs and fees to date, as applicable;

- e. 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;
- f. All representations made under oath by the Applicant or her 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 Jay Jones, seconded by Karen Brisben and then by the following roll call vote:

Ayes: James Stenson, Corinne Trainor, Karen Brisben, Jay Jones

Noes: None

Absent: Mayor Thomas Nicol, Councilman Frank Garruzzo, Charlie Tice

Not eligible to vote: Chris Siano, Stephanie Frith, Amber Fernicola

NEW BUSINESS: Application for Use Variance approval for Block 65.01, Lot 6.01 & 8, 629 Higgins Avenue, owned by M. Holtzman Realty, LLC. Applicant Integrated Health Care Management, to allow a Medical Use Facility in the C-1A Gateway Zone (not a Permitted Use)

Stephanie Frith announced she would be recusing herself from this application due to the fact that she resides within 200 feet of the property.

Attorney Keith Henderson, Henderson and Henderson, Manasquan, NJ stated he was representing the applicant and the owner. Mr. Henderson called Joseph Saponaro to testify and stated that Mr. Saponaro was the existing tenant and the operator of the facility. Mr. Saponaro was sworn in by Mr. Clark and said that Integrated Health Care has been at this site since 2017 practicing chiropractic, physical therapy and acupuncture. Mr. Saponaro stated that currently the business is characterized as a health and fitness use and said they are before the Board asking for approval to expand to a medical use.

Ms. Trainor stated it was time to hear questions from the Board for Mr. Saponaro.

Mr. Stenson asked if they were occupying space where the liquor store was. Mr. Saponaro answered yes and said that they were before the Board asking for approval to expand the other side for medical services. Mr. Jones asked what services would be added if approved. Mr. Saponaro answered primary care services and podiatry. Ms. Brisben asked if there would only be one doctor added to which Mr. Saponaro replied that was correct. There were no other questions from the Board.

Ms. Trainor asked if there were any questions for Mr. Saponaro from the public. Hearing none, Mr. Henderson called Mr. Joseph Kociuba, KBA Engineering, Manasquan, NJ. Mr. Kociuba was sworn in by Mr. Clark. Mr. Kociuba said he was a Licensed Engineer and Planner and had testified previously and had been accepted as an expert by this Planning Board. Mr. Kociuba was accepted by the Board as an engineering and planning expert.

Mr. Henderson asked Mr. Kociuba to describe the current condition of the site. Mr. Kociuba said that the existing conditions on the site are shown on a document he called the parking plan, prepared by his office on April 10, 2023. Mr. Clark marked this document as Exhibit A-1. Mr. Kociuba then described the existing facility, the size of the facility, the parking lot, and the parking stalls. Mr. Kociuba stated that up until recently the site contained the Brielle Sports Club and a liquor store and said that the application was to convert the liquor store space to a medical use. Mr. Kociuba spoke in detail about the number of parking stalls and said it was his opinion that the parking is adequate and is consistent for the proposed use.

Mr. Henderson asked Mr. Kociuba if a use variance was required. Mr. Kociuba answered that the application does require a D-1 use variance because medical use in the Borough's Ordinance is not a permitted use in the C-1A Zone, it is only permitted in the C-1 Zone. Mr. Kociuba stated that the proposed D-1 use variance could be granted and stated that the applicant is seeking the approval under the special reasons category. Mr. Kociuba then reviewed those special reasons to the Board. Mr. Kociuba stated he believed the site was particularly suited for the use and said that it promotes a number of the purposes of Zoning found in Section 2 of the Municipal Land Use Law. Mr. Kociuba referenced the Borough's 2016 Gateway Redevelopment Plan and said that aesthetically this keeps the cohesive corridor and said that the look of this facility is an improvement from the liquor store.

Mr. Kociuba displayed a document he called a photo of the front of the facility. Mr. Clark marked this document as A-2. Mr. Kociuba discussed with the Board the details of the second section of the Master Plan 2016 Reexamination Report. Mr. Kociuba stated he felt there was no negative criteria and said it was his opinion that there was no substantial detriment to the public good by allowing the use and said that Higgins Avenue has a variety of uses including another medical use. Mr. Kociuba said any improvements would be to the interior, traffic would be the same if not less than what existed at the liquor store and said there would be no nuisance or noise. Mr. Kociuba stated it was also his opinion that there would be no detriment to the Zoning Plan or Zoning Ordinance.

Mr. Henderson referenced Mr. Hilla's review letter and asked Mr. Kociuba to review that letter with the Board and asked him to state what the applicant would and would not comply with. Mr. Kociuba discussed with the Board items number 1 through 8.

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

Mr. Siano asked what the hours of operation would be. Mr. Saponaro replied that the standard hours for medical services and primary care are between 9:00 and 5:00. Mr. Siano asked Mr. Saponaro if there was an intention to increase the number of providers or services at the facility.

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Mr. Saponaro answered that in their other facility they only have primary care and podiatry. Mr. Saponaro stated that if a specialist is needed, they would only come once a month.

Mr. Jones asked how many rooms there were. Mr. Saponaro answered that on the medical side there were 7 examination rooms. Mr. Jones referenced the parking and said the parking lot was unsightly. Mr. Saponaro said they have spoken with the owner of the gym who is willing to get on board with them and said that within one year he felt they could fix it.

Ms. Trainor asked Mr. Saponaro how long the facility had been there. Mr. Saponaro replied that they had been on the other side of the gym since 2017.

Mr. Hilla asked if the trash enclosure would be only for this the applicant, the tenant or would it be for the health club as well. Mr. Saponaro responded that it would be for both together and said they would also redo the fence. There were no other questions for Mr. Saponaro.

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

Scott Kenneally, 624 Locust Road, was sworn in Mr. Clark. Mr. Kenneally asked if the applicant would be changing the number of parking spaces and what the hours were for the other uses of the facility. Mr. Kociuba stated that they would not be adding parking spaces and Mr. Saponaro answered the hours would be from 9:00 to 7:00. There were no other questions from the public.

Mr. Henderson summarized by saying that this property had been developed and redeveloped a number of times and said he felt the present proposal was the most appropriate use of the site with very little expansion. Mr. Henderson stated that the only issue was a minor parking variance which he said was de minimis considering the size of the property and finished by saying that he hoped that the Board would consider the application favorably.

Ms. Trainor announced it was time to hear comments with respect to the application from the public.

Scott Kenneally said he felt that the property had not been maintained, said the fence was in bad condition, asked if the air conditioning units could be addressed and if the dumpster and landscaping could be cleaned up.

Mr. Saponaro stated that on their side of the building, they had already spent \$300,000 on brand new HVAC units that are low profile and located to the rear of the building. There were no other comments from the public.

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

Mr. Stenson said he felt the fencing should be addressed and the air conditioning should be moved.

Mr. Siano stated that the applicant is the tenant and said he did not think it was fair to burden the applicant with all of this. Mr. Siano asked Mr. Hilla if a fence is required on this commercial

property. Mr. Hilla replied that the fence is required. Mr. Siano then said he thought the property maintenance should be more of a code enforcement issue that should be addressed with the owner of the property unless of course the applicant has agreed to maintain his portion of the property. Mr. Henderson stated to the Board that he would contact the owner of the property and explain to him the Board's concerns and suggest to him that it would be a good idea to be a good neighbor.

Ms. Brisben stated that the request for a time frame for the parking lot should not be longer than one year. Mr. Henderson stated that one year was recommended in Mr. Hilla's letter. M. Brisben stated she agreed with that recommendation.

Mr. Jones stated he agreed with Mr. Siano and said someone should bear the responsibility for the property upkeep.

Ms. Trainor stated she was confused if the use variance the applicant was seeking was for the new space or if it was for both uses in both spaces. Mr. Henderson said he thought the use that is presently running there should be legalized with the new use and said there had not been any issues with that facility. Ms. Trainor stated she was not suggesting that any of it was a problem, she would just like to clean it up while his clients were before the Board. Mr. Hilla stated that considering the whole thing as a medical use regardless of whether it is cardiologists, chiropractors or primary care physicians, it is all being treated the same by this application, both from a use perspective and a parking perspective.

Ms. Trainor asked if the use variance that was being sought is applicant specific or is it for this space in perpetuity. Mr. Clark answered that any variances run with the land so it would be for the space. Ms. Trainor stated that as a result of that, the concern she had was for the operational issues, such as hours of operation and said that it seemed to her that the other uses that are approved in the C1-A Gateway Zone are for uses that would be daytime uses. Ms. Trainor said one of the concerns was if the Board approves a use for a medical office, would that include ambulatory or emergency care centers, and said the approval would not be just to this particular applicant would want to use the site for what it is currently, it would be approving the site for in perpetuity. Mr. Henderson stated it was his personal opinion that the Planning Board ask the Governing Body to create a definition of medical uses because there currently is not one.

Mr. Hilla asked if an agreement could be made for hours of operation so it does not end up being a 24 hour medical facility. Mr. Saponaro stated the current hours of operation are from 7:00 a.m. to 7:00 p.m. and would agree that these would be the hours going forward with their 20 year lease. Mr. Kociuba stated that there is an Ordinance that has a hospital definition that would probably be for a 24 hour facility that ambulatory services would fall under. Mr. Kociuba stated he did agree the Ordinances were not great in this area but this is listed.

Ms. Trainor said she is encouraged that this applicant has been successfully in operation since 2017 and has been so successful that he is looking to expand which she said is a good use of this particular space. Ms. Trainor said she believed this would be a compliment to the town and be helpful to the C1-A Gateway Zone.

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Ms. Trainor asked Mr. Clark to review the items that the applicant had agreed to. Ms. Trainor asked for a motion to approve the application with the stipulations Mr. Clark had listed. Chris Siano made a motion, seconded by James Stenson, and followed by the roll call vote:

Ayes: James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Jay Jones, Amber Fernicola

Noes: None

Absent: Mayor Thomas Nicol, Councilman Garruzzo, Charlie Tice

Not Eligible to vote: Stephanie Frith

NEW BUSINESS: Application for Use Variance approval for Block 109, Lot 2, 1007-1009 Route 70 (Site of Dunkin Donuts), owned by JMZ Realty Corporation, LLC (Applicant — AKSH Donuts, LLC) to allow a Drive-Thru lane. Minimum Front Yard Setback (Old Bridge Road) — 30 feet required, 29.9 feet existing, 23.33 feet proposed (to freezer/cooler). Parking Spaces not any closer than 20 feet from street right-of-way line — 3 parking spaces on east side of the building do not conform. Off-Street Parking Spaces — 22 required, 9 proposed. Paving not permitted within 5 feet of the property line — 2 feet proposed for drive-thru lane.' Existing Non-Conformities: Minimum Lot Area — 1 acre required, .41 acre existing. Minimum Lot Depth — 200 feet required, 36.87 feet existing. Loading Zone — 14x55 feet required, none existing/proposed.

Attorney Keith Henderson, Henderson and Henderson, Manasquan, NJ stated he was representing the applicant and owner of the property. Mr. Henderson said that before the Board was a D-3 use variance which he said has a much lower requirement of proof than a standard D variance.

Mr. Henderson called Atul Patel to testify. Mr. Patel was sworn in by Mr. Clark. Mr. Patel stated he is one of the principals of the company that operates this Dunkin Donuts and said it is a franchise that he has operated since October 2006. Mr. Patel stated he was before the Board to request approval to change this facility to a drive-through only. Mr. Henderson stated he had no further questions.

Ms. Trainor announced it was time to hear questions from the Board for Mr. Patel. Ms. Brisben asked if this would be a drive-through only. Mr. Patel answered that was correct. Mr. Jones stated that the plans also show a walk-up window. Mr. Patel replied that there would be a walk-up window and a drive-through and said guests would not be able to enter the store. There were no other questions for Mr. Patel from the Board.

Ms. Trainor announced it was time to hear questions for Mr. Patel from the public. Hearing none, Mr. Henderson called Michael Elkin, GKA Architects, to testify. Mr. Elkin was sworn in by Mr. Clark. Mr. Elkin testified he had been an architect for 47 years and had testified before different Boards many times. Ms. Trainor stated that the Board accepted Mr. Elkin as an expert in Architecture.

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Mr. Elkin presented six documents which were marked for the Record by Mr. Clark.

Exhibit A-1- described as 3 photos, 2 of the existing building and 1 photo of an existing pylon sign.

Exhibit A-2- described as Sheet 1.0 of the Architectural Plans prepared by GKA Architects on September 11, 2023.

Exhibit A-3- described as Sheet 2.2 of the same Architectural Plans with coloring identifiers.

Exhibit A-4- described as a sheet that shows 2 of the Elevations relating to signage.

Exhibit A-5- described as a sheet that shows another Elevation relating to signage.

Exhibit A-6- described as a sheet that shows the one free standing sign at the drive-through.

Mr. Elkin referenced the first three Exhibits and described the existing site, the current conditions of the property and the proposed changes. Mr. Elkin spoke about renovating the interior of the building, the creation of a vestibule with a public restroom, a walk-up window, a drive-through window, and a new walk-in refrigerator and freezer. Mr. Elkin said the public would not be able to access the building except to use the restroom. Mr. Elkin described the proposed changes to the exterior of the building and described the existing and proposed signage.

Ms. Trainor announced it was time to hear questions from the Board for Mr. Elkin. Ms. Brisben asked if there would be one or two bathrooms. Mr. Elkin replied that only one bathroom is required and that there would only be one bathroom. Mr. Jones referenced a particular sign and asked if Dunkin Donuts also owned Lukoil. Mr. Elkin answered that Lukoil proposed the sign and said that there is an existing Dunkin Donuts sign there. Ms. Trainor asked how someone would access the restroom. Mr. Elkin stated there would be a door in the north-west corner of the building that would open into a vestibule and the bathroom would be there. Mr. Hilla asked if the bathroom would be accessible for the public and the workers. Mr. Elkin replied that was correct. Mr. Hilla asked, from a franchise point of view, if the signs and the sizes of the signs were mandated by Dunkin Donuts. Mr. Elkin answered that they were mandated by Dunkin. There were no other questions from the Board.

Ms. Trainor announced it was time to hear questions from the public for Mr. Elkin. Hearing none, Mr. Henderson called Mr. Joseph Kociuba, KBA Engineering, Manasquan, NJ. Mr. Kociuba was sworn in by Mr. Clark. Mr. Kociuba stated he was testifying as both a Planner and an Engineer in this application. Mr. Kociuba presented a document, described as a colored copy of the lay-out plan with some amendments prepared by his office. Mr. Clark marked this document as Exhibit A-7.

Mr. Kociuba described the preexisting site and the surrounding area, and stated that Lukoil was the owner and Dunkin was the tenant and said the applicant was proposing to amend the southern end of the site to allow for a drive-through. Mr. Kociuba said the site is 4.11 acres, was an odd, shaped lot with primary frontage on Route 70, and said the property was in the C-3 Zone. Mr.

Kociuba said the proposal was to reduce the size of the building to create a drive-through with a walk-up window which he said would decrease traffic and said they would also create 4 angled parking stalls. Mr. Kociuba stated the drive-through aisle was proposed as 12 feet wide with an ample radius around the southern side of the building. Mr. Kociuba discussed setbacks, curbing, grading, drainage, landscaping, lighting improvements, parking and the circulation of traffic through the site. Mr. Kociuba also discussed the way the proposed drive-through lane would work. Mr. Kociuba stated there would be a total of 10 parking stalls. Mr. Kociuba referenced Mr. Hilla's letter and said two other changes made were that the applicant would be supplying a fenced refuse enclosure on the property and they would add a striped 14 x 40 foot loading area. Mr. Kociuba stated he had finished his engineering and site related items and asked the Board if he should continue to the use variance portion of his presentation. Ms. Trainor replied that there was 5 minutes left of the Board's 45-minute rule and suggested that Mr. Hilla ask Mr. Kociuba questions from the testimony that had been presented so far.

Mr. Hilla stated that the old center line of Old Bridge Road was the dividing line between Brielle and Wall Township and asked if there had been any communication with Wall Township. Mr. Kociuba answered that they had attended an informal meeting in Wall Township to discuss the application and ask if there were any approvals necessary. Mr. Kociuba said the improvement is in the NJ DOT right-of-way and that Wall Township said that their separate approval was not necessary. Mr. Henderson stated that Wall Township said they had no interest. Mr. Hilla asked if there had been any filing with the NJ DOT in regard to the traffic pattern change on the site, the modification of the jug handle and the driveways. Mr. Kociuba said they were aware they need approval from the NJ DOT and that approval is pending.

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

Mr. Stenson said he wanted to confirm that there would be 7 parking spaces around the building. Mr. Kociuba answered that was correct and said one of them would be handicapped accessible.

Mr. Siano asked if vehicles would only be able to exit onto Route 70. Mr. Kociuba responded that they could technically circulate up to the Old Bridge Road exit but said they anticipate that this would be the least favorite option.

Ms. Brisben asked about the overhead height and asked how tall it would be. Mr. Kociuba answered it would be 9 feet.

Mr. Jones asked how many feet would be eliminated from the building. Mr. Kociuba replied that he believed it would be 12 feet on the south side and 7 feet on the north side.

Ms. Trainor asked if Mr. Kociuba could explain how the employee parking would happen. Mr. Kociuba stated they would have 3 vehicle parking stalls at the north end, 2 of them are stacked and 1 is an individual spot and said they anticipate 1 employee for the gas station and 2 for the facility.

Ms. Trainor announced that the 45 minutes had passed and that the application would be carried to the next meeting. Ms. Trainor asked if there was any other business any member of the public

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would like to bring before the Board. David Eareckson, 301 Old Bridge Road, was sworn in by Mr. Clark. Mr. Eareckson stated he was before the Board to speak about the Affordable Housing Plan. The Board stated that the Council had endorsed the plan and so had the Planning Board.

Ms. Training asked if there was any other business to be brought before the Board. Hearing none, a motion to enter into Executive Session was made by Chris Siano, seconded by Amber Fernicola at 9:16 pm. The reason the Board went into Executive Session was to discuss issues requiring attorney-client advice and litigation. Mr. Clark announced that the Board was out of closed session at 10:15 pm.

A motion to adjourn was made and seconded with unanimous vote, all aye. The meeting was adjourned at 10:16 p.m.

Denise Murphy, Recording Secretary

Approved: October 10th, 2023