

**BRANT BEACH, NEW JERSEY
DECEMBER 14, 2016**

A Regular Public Meeting of the Land Use Board of the Township of Long Beach was held in the Multi-Purpose Room in the Administration Building, 6805 Long Beach Boulevard, Brant Beach, New Jersey on the above date.

The meeting was called to order at 7:00 P.M.

Mrs. C. K. Sichiari, Board Attorney, made the following announcement: "This is a regular meeting of the Long Beach Township Land Use Board, notice of which was posted on the Bulletin Board in the Municipal Clerk's office and advertised in the Beach Haven Times and Asbury Park Press and filed with the Municipal Clerk on or before January 1, 2016 as required by the Open Public Meeting Act."

Members of the Board present: **J.C. Konnor, J. A. Leonetti, E. J. Hummel as Mayor's Designee, R. Pingaro, D.S. Southwick, R. S. VanBuren and Mrs. L. J. Schnell presiding.**

Members of the Board absent: **Mrs. V.E. Applegate, R. H. Bayard and Mayor J. H. Mancini.**

Alternate members of the Board present: **P. M. Moran, R. L. Jones and R. B. Roth, Jr.**

Alternate members of the Board absent: **R. Andreotta.**

Also present were the following: **Mrs. C. K. Sichiari, Esq., Board Attorney, F. J. Little, Jr., P.E., P.P., Board Engineer, Mrs. L. C. Krueger, Secretary for the Board/Commission and Mrs. S. L. Bongiovani, Clerk.**

(Tape #633 - Side 1)

*** * * * ***

Mrs. Sichiari gave a brief overview of the applications to be considered:

1. #LUB-36-16-PF: DAVIES (Blocks 1.64, 1.66 and 1.68, Lot 1) West Abbott Avenue and South Long Beach Boulevard, West Abbott Avenue and West Beck Avenue, Holgate: Mrs. Sichiari stated that the applicant proposed to subdivide the property into eight lots, seven for single family development and one lot not currently developable. Mrs. Sichiari noted that bulk variances were not required and that the applicant would be requesting that Philmar and Abbott Avenue between Long Beach Boulevard and Pennsylvania Avenue be vacated.

2. #LUB-35-16: RAGUSA (Block 14.08, Lot 1) 7809 Bayview Avenue, Beach Haven Crest: Mrs. Sichiari stated that the applicant was requesting minor subdivision approval to create two single family residential building lots. Mrs. Sichiari noted that no bulk variances were required for the subdivision.

3. #LUB-34-16: PERONE (Block 11.19, Lot 12) 40 West California Avenue, Beach Haven Park: Mrs. Sicheri stated that the applicants proposed a minor subdivision and bulk variance approval so as to create two single family residential flag shaped lots which required a bulk variance for lot frontage.

4. #LUB-37-16: U.S. HOME CORP. d/b/a LENNAR (Block 1.13, Lots 4, 21-25; Block 1.16, Lots 2-7, 12, 14-18; Block 1.19, Lots 6-9, 11-19 and Block 1.22, Lot 14) South Long Beach Boulevard, Harding Avenue, Roosevelt Avenue and Pershing Avenue between South Long Beach Boulevard and West Avenue: Mrs. Sicheri stated that the applicant proposed to bifurcate the application, applying for the variances necessary to develop the Long Beach Island Trailer Park into fifty-one single family residential building lots. Mrs. Sicheri stated that thirty-six conforming single family lots could be created from the tract. Mrs. Sicheri noted that bulk and special reasons variances were required for the proposal.

Mrs. Sicheri announced that the **Bilow Application (LUB-33-16)** would be held over to the January 11, 2017 meeting, due to insufficient notice.

* * * * *

Minutes of the meeting held November 9, 2016 were presented for approval. **Roth** moved, seconded by **Konnor** for adoption. **Konnor, Leonetti, Hummel, Pingaro, Schnell, VanBuren and Roth** all voted **YES**.

* * * * *

Mrs. Schnell listed the following **Resolutions of Memorialization:**

- 1. #LUB-29-16: McCafferty** – Resolution of Approval moved by **Pingaro** seconded by **Hummel**. The following roll call vote was recorded: **Konnor, Leonetti, Hummel, Pingaro, Schnell, VanBuren and Roth** all voted **YES**.
- 2. #LUB-30-16: Weinstock** – Resolution of Approval moved by **Konnor** seconded by **Pingaro**. The following roll call vote was recorded: **Konnor, Leonetti, Hummel, Pingaro, Schnell, VanBuren and Roth** all voted **YES**.
- 3. #LUB-31-16: Mutch** – Resolution of Denial moved by **Hummel** seconded by **Konnor**. The following roll call vote was recorded: **Konnor, Hummel, Pingaro, Schnell and Roth** all voted **YES**.
- 4. #LUB-32-16: Brown** – Resolution of Approval moved by **Konnor** seconded by **Hummel**. The following roll call vote was recorded: **Konnor, Leonetti, Hummel, Pingaro, Schnell, VanBuren and Roth** all voted **YES**.
- 5. #LUB-41-05-PFA: Moore** – Resolution of Approval moved by **Roth** seconded by **Konnor**. The following roll call vote was recorded: **Konnor, Leonetti, Hummel, Pingaro, Schnell, VanBuren and Roth** all voted **YES**.

* * * * *

Mrs. Schnell noted that there were four applications to be considered, as follows:

(1) #LUB-35-16 BEACH HAVEN CREST

JOSEPH RAGUSA
Owner & Applicant
Block 14.08, Lot 1

Mr. Stuart Snyder, Esquire of Surf City, NJ represented the applicant and evidence was marked as follows: Application and Attachments, #A-1, Minor Subdivision Map prepared by Nelke/Tyszka Land Surveyors, LLC dated October 4, 2016, #A-2, and review letter from Frank J. Little, Jr., P.E. dated November 23, 2016, #B-1. Mr. Snyder stated that the proposed subdivision was a conforming subdivision.

Leon J. Tyszka, Surveyor with the firm of Nelke/Tyszka Land Surveyors, LLC was sworn and addressed the Board Engineer's review letter. Mr. Tyszka stated that the applicant was requesting a waiver from the curb and sidewalk requirement. Mr. Little stated that the Board had waived the sidewalk requirement in the past but curbs have been required.

Mr. Charles Kaczorowski, adjacent property owner, was sworn and testified that the property should be developed but with proper setbacks. It was noted that the proper distance between the new structure and his structure would be maintained as a variance was not being requested.

The Public Session was closed.

Mr. Snyder requested that the application be approved noting that all setbacks would conform.

The Board noted that the application would be a good addition to the neighborhood with conforming lots.

Moran moved, seconded by Hummel to approve the application with the waiver of sidewalks but not the curb. The following roll call vote was recorded: **Konnor, Leonetti, Hummel, Pingaro, Schnell, Southwick, VanBuren, Moran and Jones** all voted **YES**.

* * * * *

(2) #LUB-36-16-PF HOLGATE

MARK W. DAVIES
Owner & Applicant
Block 1.64, 1.66 and 1.68, Lot 1

Mr. Stuart Snyder, Esquire of Surf City, NJ represented the applicant and evidence was marked as follows: Application and Attachments, #A-1, Preliminary and Final Plat Major Subdivision prepared by Horn, Tyson and Yoder, Inc., dated September 24, 2013, with the latest revision of October 25, 2016, #A-2 and review letter from Frank J. Little, Jr., P.E. dated November 23, 2016, #B-1. Mr. Snyder stated that preliminary approval had been granted for thirteen lots on

the site and with this new application. Mr. Davies is requesting eight lots that all front on Long Beach Boulevard. Mr. Snyder stated that as a condition of approval Philmore and Abbott Avenues would have to be vacated through the municipality. He noted that a waiver of the sidewalk requirement was requested. Mr. Snyder stated that the proposed lots were all larger than required in the zone.

Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson & Yoder, Inc. was sworn and described the existing property to the Board. Mr. Brzozowski stated that the proposed lots all had upland area in excess of 6,000 square feet. It was noted that DEP approval was required. Mr. Brzozowski addressed the Board Engineer's review letter.

(Tape #633 – Side 2)

Mr. Brzozowski stated that the subdivision conformed to all zoning requirements.

Mrs. Nancy Vorbach of 32 Star Avenue was sworn and asked if the plan was to sell the property ultimately to a land trust that would protect the land and Mr. Snyder stated that that was the plan. She stated that she felt that the proposal would be detrimental if the homes were built and Mrs. Sicheri replied that the proposal was for conforming lots which required approval from additional agencies including the DEP. Mrs. Vorbach stated that she was not in favor of the application.

Mr. Douglas Shearer of Long Beach Township was sworn and testified that he was not in favor of the application and objected to the development of the land.

Mr. Brian Vorbach of 32 Star Avenue was sworn and testified that that he was not in favor of any development of the property and stated his concerns with the wildlife in the area.

Mr. Tom Beaty of 5103 West Avenue was sworn and asked if there were plans to develop the end of Beck Avenue. Mr. Brzozowski stated that there was no plan to develop the end of Beck Avenue. He noted that all of the proposed lots fronted on Long Beach Boulevard so there was not a need to develop Beck Avenue.

Mr. Greg Vorbach of 32 Star Avenue was sworn and testified that he understood the property was no longer wetlands but would encroach on existing wetlands and would have an impact going forward.

Mr. Grant Versall of 3001 Long Beach Boulevard was sworn and testified that there were not curbs along the Boulevard in the area so why require curbing? Mr. Little replied that curbing holds the edge of the road and keeps it from breaking off and noted that ponding cannot be created on the Boulevard. It was noted that depressed curbs could be provided.

Mr. Thomas Potash of 16 Beck Avenue was sworn and asked why a new application was submitted to the Board.

Mr. Mark Davies, Applicant was sworn and testified that the application had been changed from thirteen lots that had been previously approved to the current application of eight lots because it was easier to get through the State. Mr. Snyder stated that at this point there was not a plan to

develop the balance of the property.

Mr. Potash noted that at least three of the proposed lots were located on Township right-of-ways and objected, noting that there was no reason for the Township to vacate the easements.

Mr. Kyle Gronoscajski of Surf City, New Jersey and Executive Director of the Alliance for Living Ocean was sworn and testified that the organization had been in strong opposition of the plan since it started. Mr. Gronoscajski stated that he felt that by approving the applicant it set a dangerous precedent by allowing development when sand washes over property.

Ms. Della Harbourt of Webster and Beck Avenue was sworn and asked if the properties had riparian rights and Mr. Snyder stated that as far as he knew there were no riparian rights or grants with the property. Ms. Harbourt asked if Beck Avenue would be improved and the Board replied it would be the town's responsibility.

The Public Session was closed.

Mr. Snyder noted that the plan was conforming and requested that the proposed curbs be allowed to be depressed curbs and that the terms of Mr. Little's review letter would be complied with.

The Board noted that the proposed subdivision was conforming and that it is the DEP who decides the wetlands determination. Mr. Little stated that parking was not permitted along the Boulevard so allowing depressed curbs along the Boulevard to help drainage with would not be an issue. Mr. Little stated that if the property ever does get developed that a drainage plan would be required as well as a Soil Erosion Plan for each individual lot.

Mr. Davies stated that he was in touch with the Trust for Public Land and had agreed to terms for the property, except for time frames and that he fully intends to sign the contract. He noted that he had submitted a plan to the State for CAFRA approval and has obtained a verbal approval. Mr. Davies noted that the application has to stand on its own.

Moran moved, seconded by Leonetti to approve the application with the waiver of sidewalks and with the installation of depressed curbing. The following roll call vote was recorded: **Konnor, Leonetti, Hummel, Pingaro, Schnell, Southwick, VanBuren, Moran and Jones** all voted YES.

* * * * *

The Board took a five-minute recess.

(Tape #634 – Side 3)

(3) **#LUB-34-16** BEACH HAVEN PARK

ANNE AND FRED PERONE

Owners & Applicants

Block 11.19, Lot 12

Mrs. Anne Perone, representing herself was sworn and evidence was marked as follows: Application and Attachments, **#A-1**, Minor Subdivision Map prepared by Horn, Tyson and Yoder, Inc., dated June 8, 2016 with the latest revision date of October 21, 2016, **#A-2**, and Review letter to the Board from Frank J. Little, Jr., P.E. dated November 23, 2016, **#B-1**. Mrs. Perone stated that the property had been owned by them since 1979. Mrs. Perone stated that the existing home was thirty feet from the street and they proposed to move the house to twenty feet from the street and subdivide the property into two flag shaped lots.

Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson & Yoder, Inc. was sworn and he described the existing property and the proposed subdivision. Mr. Brzozowski stated that the subdivision required a bulk variance for lot frontage for the twenty foot access staff located on California Avenue. Mr. Brzozowski addressed Mr. Little's review letter and noted that both lots conform to the required lot area. He requested a waiver from the sidewalk requirement and noted that the proposed homes would be in-keeping with the neighborhood.

Mr. Michael Leckstein, Esquire with Leckstein and Leckstein of Silverton New Jersey represented objectors, Mr. and Mrs. Belforti, adjoining property owners. Mr. Leckstein questioned Mr. Brzozowski regarding the variance requested.

Mr. Keenan Hughes, P.P. with the firm of Phillips, Preiss and Grygiel in Hoboken, NJ was sworn and qualified. Mr. Hughes submitted an aerial photograph of the property, marked **#O-1**. Mr. Hughes stated the lot was neither peculiar nor extraordinary compared to the lots on the south side of California Avenue and was in odds with the character of that side of the street. He noted that there was not a hardship and that the applicant had not demonstrated how the proposed deviation advanced the purposes of the Municipal Land Use Law or benefited the community. He stated that in his opinion there was no basis for granting the requested relief from a planning view point.

Ms. Loretta Czerwinski, Township Resident was sworn and asked if the neighbors were objecting because their view of the bay would be blocked and Mrs. Schnell replied that it was not relevant.

Ms. Cynthia Longenbach of 7 West California Avenue was sworn and testified that she was not in favor of the application and noted her concerns with the proposed application.

Mr. David Pilterski of 21 West California Avenue was sworn and testified that he was not in favor of the application noting he felt that it was an overdevelopment of the property.

Mr. Bill Finelli of 30 West California Avenue was sworn and testified that he objected to the proposed application.

Ms. Czerwinski stated that she was in favor of the application.

(Tape #634 – Side 4)

The Public session was closed.

Mrs. Perone requested that the application be approved as submitted. The Board discussed the RREM program with Mrs. Perone which would make funds available to raise the existing home.

Mr. Leckstein noted that there was not a hardship, that financial hardship could not be considered and requested that the application be denied.

The Board noted that there was not a hardship in this case and were not in favor of the flag shaped lot requiring a frontage variance. They suggested that the Perones look into the RREM Grant Program.

Jones moved, seconded by Pingaro to Deny the application. The following roll call vote was recorded: **Konnor, Leonetti, Hummel, Pingaro, Schnell, Southwick, VanBuren, Moran and Jones** all voted **YES**.

* * * * *

(4) #LUB-37-16 BRANT BEACH

US HOME CORP d/b/a LENNAR

Applicant

LONG BEACH ISLAND TRAILER PARK

Owner

Block 1.13, Lots 4; 21-25

Block 1.16, Lots 2-7; 12; 14-18

Block 1.19, Lots 6-9; 11-19

Block 1.22, Lot 14

Mr. Thomas Monahan, Esquire with the firm of Gilmore and Monahan, P.A. of Toms River, NJ represented the applicant and evidence was marked as follows: Application and Attachments, **#A-1**, ALTA/NSPS Land Title Survey prepared by FWH Associates, P.A. dated July 25, 2016 with the latest revision dated September 7, 2016, **#A-2**, Variance Map prepared by FWH Associates, P.A. dated July 26, 2016 with the latest revision dated October 26, 2016, **#A-3**, and, Review letter from Frank J. Little, Jr., P.E. dated November 23, 2016, **#B-1**.

Mrs. Sicheri stated that an issue had been raised regarding the applicant's notice of the application. **Mr. Louis A. Felicetta, Esquire, with the Firm of Carluccio, Leone, Dimon, Doyle and Sacks, L.L.C. of Toms River, NJ** noted that he represented eight individual homeowners. Mr. Felicetta stated that the notice was deficient. Mr. Monahan stated that the notice was quite clear. Mrs. Sicheri stated that her opinion the notice was sufficient and that jurisdiction had been met. A poll was taken of the Board as to whether the Board had jurisdiction or not to hear the application. **Konnor, Leonetti, Pingaro, Schnell, Southwick, VanBuren and Moran** all voted **YES**, determining that the Board had jurisdiction to hear the application.

Mr. Monahan submitted an aerial photograph of the property, marked #A-4. Mr. Monahan stated that the trailers were gone and that a density variance was required for the lots that were proposed at four thousand square feet. Mr. Monahan stated that three of the proposed lots required C(1) variances because they had additional structures on the lots. Mr. Monahan stated that the applicant was only seeking the variances in regard to the property and would have to come back with a subdivision plan if the variances were to be granted.

Mr. Jim Harrington with Lennar Homes, New Jersey Division was sworn and testified that his role was to secure approvals for communities and then develop the property with infrastructure and site approvals. Mr. Harrington stated that the trailer park property and the structures on the property had been heavily damaged during Super Storm Sandy and that the trailer structures had been removed from the property.

Mr. Brian Murphy, P.E., P.P. with the Firm of FWH Associates in Toms River, NJ was sworn and qualified. Mr. Murphy described the aerial submission and noted that the property was 4.96 acres in the R-50 Zone. Mr. Murphy stated that the property had 146 mobile homes prior to Sandy. Mr. Murphy stated that it was not feasible to raise the trailers to be compliant with the FEMA regulations and flood protection. He stated that he thought that the proposal of 51 single family homes, with the lots ranging from 4,000 to 6,000 square feet, made more sense. Mr. Murphy submitted a color rendering of the variance map, marked #A-5.

(Tape #635 – Side 5)

Mr. Murphy described the proposal. He noted that waivers were requested from requirements of the checklist as the application was bifurcated. Mr. Murphy addressed Mr. Little's review letter. Mr. Murphy stated that the proposal would reduce traffic flow from what existed with the trailer park and would promote a more desirable visual environment with the new homes being an attractive addition to the neighborhood. Mr. Murphy submitted a color rendering of the existing conditions plan, marked #A-6. Mr. Murphy noted that 59% of the existing lots in the neighborhood were 4,000 square feet or less. He stated that the proposed project was very similar to what exists in the neighborhood and would blend in with the rest of the neighborhood.

Mr. Felicetta, Esquire, asked Mr. Harrington to confirm that Lennar was the contract purchaser and that the property was all one tract. It was noted that none of the Board members had any conflict with the Lennar application.

Mr. Felicetta questioned Mr. Murphy as to the existing property and the existing lot sizes. It was determined that 36 conforming lots could be created. The Master Plan Update was discussed.

Ms. Ann Marie Jacobelli of 2 Roosevelt Avenue was sworn and testified as to her concerns with parking and stated that she was not in favor of the application.

Mr. Rand Pearsall of 3001 South Long Beach Boulevard was sworn and testified that he was not in favor of the application and stated his concerns with the proposal.

(Tape #635 – Side 6)

Ms. Roberta Brackman, Holgate Resident, was sworn and testified that she felt that the proposed application was too much and would visually diminish the neighborhood.

Mr. Carl Winter, Holgate Resident, was sworn and testified that he was concerned with the increased density and was opposed to the application.

Ms. Karin Kornaga of 22 Roosevelt Avenue was sworn and testified that she was not in favor of the application and was not in favor of the proposed distance from her home.

Ms. Josephine Tyne, Holgate Resident, was sworn and testified that she was opposed to the application.

Ms. Betty Jelich, Holgate Resident, was sworn and testified that she was not in favor of the application.

Mr. Bill Hutson, Holgate Resident, was sworn and testified that he was in favor of the application noting that the lots were currently overgrown and felt that the proposed application would be good for the neighborhood.

Mr. Mark Davies, Holgate Resident, was sworn and testified that he was concerned that if the proposed application was not approved what else could be built on the site and felt that the application could be made better.

Mr. Rudolph Wenzel, Jr., Esquire stated that he represented Kanta Sunder Rha, Holgate Resident. Mr. Wenzel noted that his client was opposed to the application.

Ms. Eileen Bowker, Holgate Resident, was sworn and testified that she was in favor of the application noting that the proposal conformed to other lots in the area.

Ms. Vanessa Vanorden, Holgate Resident, was sworn and testified that she was not in favor of the application noting larger lots could be created and stated her concerns with parking.

The Public Session was closed.

Mr. Monahan stated that the variances requested for the proposed lots were consistent with what currently existed in the neighborhood and were not a hardship. He stated that the proposal would enhance the neighborhood and that the positive criteria had been met and that the negative criteria had been addressed.

Mr. Felicetta stated that all the negative criteria would go away if the current zoning and Master Plan were met. He requested that the application be denied.

Some members of the Board felt that this was a good opportunity to create larger lots as four thousand square foot lots were too small given the size of the tract. Other members noted that the proposal would be consistent with the neighborhood and that larger lots and homes would be out of character for the neighborhood. The Board discussed the neighborhood and lot sizes.

Moran moved to DENY the application as submitted.

(Tape #636 – Side 7)

There was not a second and the motion was withdrawn.

Leonetti moved, seconded by Pingaro to approve the application as submitted. The following roll call vote was recorded: **Konnor, Leonetti, Pingaro** all voted **YES**. **Schnell, Southwick, VanBuren and Moran** all voted **NO**. The motion was not approved and the application was denied.

* * * * *

The Board approved the payment of the Board Attorney and Board Engineer bills.

* * * * *

The meeting was adjourned at 11:10 P.M.

LYNNE J. SCHNELL
CHAIRMAN

JEFFREY C. KONNOR
VICE CHAIRMAN