

**BRANT BEACH, NEW JERSEY
FEBRUARY 12, 2020**

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.

Mr. A. P. Sicheri, 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, 2020 as required by the Open Public Meeting Act.”

Members of the Board present: **E.J. Hummel, R. Pingaro, R. S. VanBuren, R. L. Jones and Mrs. L. J. Schnell presiding.**

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

Alternate members of the Board present: **R.B. Roth, Jr., Mrs. P.M. Caplicki, Mrs. K. Ducker and A. Meehan.**

Alternate members of the Board absent: **None.**

Also present were the following: **A.P. Sicheri, Esq., Board Attorney, Mrs. L. C. Krueger, Secretary for the Board/Commission and Mrs. S. L. Bongiovani, Clerk.**

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(Tape #718 - Side 1)

Mr. Sicheri gave a brief overview of the application to be considered:

1. #LUB-29-19: MAHNKEN (Block 1.28, Lot 32) 3 W. Joan Road, Holgate: Mr. Sicheri stated that the application had been carried from the December 11, 2019 so that the applicant could bring testimony from the modular home company. He stated that the structure as built had exceeded the allowable height requiring a bulk variance.

2. #LUB-3-20: BUCHALTER (Block 20.172, Lot 1) 41 Holly Drive, Loveladies: Mr. Sicheri stated that the applicants had previously been before the Board and that a condition of the resolution had been imposed that lot coverage be no more that 26.1%. Mr. Sicheri stated that the applicants were back before the Board for the construction of a sunroom, ground floor addition and a raised patio resulting in a lot coverage of 29.1%. Mr. Sicheri stated that the proposal required bulk variances for rear yard setback and lot coverage.

3. #LUB-4-20: AITKEN (Block 6.13, Lot 3) 205 East 28th Street, Beach Haven Gardens:

Mr. Sicheri stated that the applicants proposed to demolish the existing duplex structure and construct a new single family home on the corner lot which required bulk variances for setback from the easement and 28th Street as well as distance between structures.

4. #LUB-5-20: LEVINE (Block 7.11, Lot 13) 124 East Pennsylvania Avenue, Units A and B, Beach Haven Terrace: Mr. Sicheri stated that the applicants proposed to connect the two decks on the front of the existing duplex unit which required a bulk variance for extending the nonconforming setback to the street as well as a special reasons variance.

5. #LUB-6-20: PINZIMINIO, INC. (Block 13.02, Lot 1) 8701 Long Beach Boulevard, Brighton Beach: Mr. Sicheri stated that the applicant was seeking to remove a restriction from Resolution LUB-32-05PF which required that the residential apartments above the commercial use be utilized only by the employees or owners of the property.

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Minutes of the meeting held November 13, 2019 were presented for approval. **Roth** moved, seconded by **Hummel** for adoption. **Hummel, Pingaro, Schnell, VanBuren, Jones, Roth and Caplicki** all voted **YES**.

Minutes of the meeting held December 11, 2019 were presented for approval. **Pingaro** moved, seconded by **Roth** for adoption. **Hummel, Pingaro, Schnell, Roth and Caplicki** all voted **YES**.

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

1. #LUB-2-20: WILLET – Resolution of Approval moved by **VanBuren**, seconded by **Roth**. The following roll call vote was recorded: **Hummel, Pingaro, Schnell, VanBuren, Jones, Roth and Caplicki** all voted **YES**.

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Mrs. Schnell noted that there were five applications to be considered this evening, as follows:

(1) **#LUB-29-19** **HOLGATE**

WALTER MAHNKEN
Owner and Applicant
Block 1.28, Lot 32

Mr. James S. Raban, Esquire of Haven Beach, NJ represented the applicants and additional evidence was marked as follows: Certification that Richard L. Jones, Class IV member of the Board listened to the recording of the December 11, 2019 meeting, **#B-1**, and, Certification that Robert S. VanBuren, Class IV member of the Board listened to the recording of the December 11, 2019 meeting, **#B-2**. Mr. Raban noted that a variance was requested for the roof

peak height of thirty-five feet.

Mr. Walter Mahnken, owner was sworn and testified that he had reached out to the modular company, Signature Building Systems, that had constructed his home. Mr. Mahnken submitted a letter from Signature Building Systems, marked #A-5. He stated that Signature Building Systems would not do anything regarding the home as it was built to specifications and approved and that they would not come before the Board and state their position.

Mr. James Brzozowski, P.E., P.P., with the firm of Horn, Tyson and Yoder, Inc. was sworn and testified that the roof peak was one foot above the allowable height and therefore the rooftop deck was also too high.

Mr. Mahnken stated that he had asked the modular company to remedy the situation and their reply was no. It was noted that it would be expensive and time consuming to sue Signature Homes for a remedy. The Board noted that due to the truss construction that it would be very hard to remove the part of the roof that was above the height limit.

The Public Session was closed.

Mr. Raban stated that there was nobody from the public objecting and that there was plenty of light, air and open space to the surrounding properties.

While some members of the Board felt that to lower the house was a possibility, others noted that no one was there to object to the application and that the height difference was not noticeable from the street.

Hummel moved, seconded by Pingaro to Deny the application. The following roll call vote was recorded: **Hummel, Pingaro and Caplicki** all voted **YES**. **Schnell, VanBuren, Jones and Roth** all voted **NO**. **The motion failed to carry.**

Roth moved, seconded by Jones to approve the application as submitted. The following roll call vote was recorded: **Schnell, VanBuren, Jones and Roth** all voted **YES**. **Hummel, Pingaro and Caplicki** all voted **NO**. **The motion was approved.**

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(2) #LUB-3-20 LOVELADIES

JEFFREY BUCHALTER

Owner and Applicant

Block 20.172, Lot 1

Mr. Richard Visotcky, Esquire of Manahawkin, NJ represented the applicants and evidence was marked as follows: Application and Attachments, #A-1, Variance Map prepared by Horn, Tyson and Yoder, Inc., dated October 29, 2018 with the latest revision date of December 12, 2019, #A-2, and, five page Architectural drawing prepared by Jay Madden Architect dated

December 17, 2019, #A-3. Mr. Visotcky stated that the applicant had previously been before the Board for a lot coverage variance but that the Resolution had expired. Mr. Visotcky stated that when the applicant applied for the building permit, he realized that the base flood elevation had changed and decided to raise the house and modify the plans. Mr. Visotcky stated that there was an existing patio that would be elevated and noted that the new plan would increase the lot coverage to 29.1%.

Mr. Jay Madden, Architect of Harvey Cedars, NJ was sworn and described the proposed plans to the Board.

(Tape #718 – Side 2)

Mr. Madden stated that when the applicants realized that they were below the Base Flood Elevation they decided to raise the structure while doing the renovations. Mr. Madden stated that a patio that was on grade was also to be raised. He asked that the patio be allowed to be an extra foot higher than grade which would require additional lot coverage but would eliminate an additional two steps. He noted that the patio was 420 square feet or half of the variance they were seeking for lot coverage. Mr. Visotcky submitted photographs of the property, marked #A-4 and #A-5 which Mr. Madden described.

Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson and Yoder, Inc. was sworn and described the existing property to the Board. Mr. Brzozowski stated that the property was surrounded by water on three sides. Mr. Brzozowski noted that it was proposed to elevate the structure to comply with the Base Flood Elevation. He noted that a sunroom and deck off the west side of the structure and a raised patio on the south side would result in a lot coverage of 29.1% and that a rear yard setback variance was also required. Mr. Visotcky submitted a Google Earth photograph, marked #A-6. Mr. Brzozowski stated that the proposal would be an aesthetic improvement.

The Public Session was closed.

The Board felt that if the patio were lowered there would not be a need for a rear yard setback and would reduce lot coverage noting that it would be just two more steps to access the raised patio. It was noted that without the patio the lot coverage would calculate to 26.8%.

Pingaro moved, seconded by Roth to approve the application with the conditions that the patio be lowered to 12 inches above grade and that the lot coverage not exceed 26.8%. The following roll call vote was recorded: Hummel, Pingaro, Schnell, VanBuren, Jones, Roth, Caplicki, Ducker and Meehan all voted YES.

The Board took a five minute recess.

(Tape #719 – Side 3)

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A. RICHARD AITKEN JR.

Owner and Applicant

Block 6.13, Lot 3

Mr. Richard J. Visotcky, Esquire of Manahawkin, NJ represented the applicant and evidence was marked as follows: Application and Attachments, **#A-1**, Variance Map prepared by Horn, Tyson and Yoder, Inc. dated January 18, 2017 with the latest revision date of December 24, 2019, **#A-2**, eight page Architectural drawing prepared by Jay Madden Architect dated January 15, 2020, **#A-3** and Zoning Officer comments dated January 23, 2020, **#B-1**. Mr. Visotcky stated that the property currently contains a duplex which the applicant proposes to demolish and build a single family home. Mr. Visotcky stated that the proposal required two variances, front yard setback and distance between structures on a corner of the northeast side of the property. Mr. Visotcky stated that the proposed parking would exceed what was required.

Mr. James Brzozowski, P.E., P.P. with the firm of Horn, Tyson and Yoder, Inc. was sworn and described the existing property to the Board. Mr. Brzozowski described the variances that were required. He stated that he believed a variance was not required to the easement but would seek the additional variance if the Board required it. Mr. Visotcky submitted photographs to the Board, marked **#A-4**. Mr. Brzozowski described the photographs and noted that the nonconforming duplex use would be eliminated. He stated that the applicant proposed to construct a single family home which would comply with the flood requirements and would generally conform with the other homes on 28th Street. He noted that that the proposal would not have any detriment to the surrounding properties and that off street parking would be increased.

The Board discussed which yard would be considered the front yard on the corner lot.

Mr. Jay Madden, Architect of Harvey Cedars, NJ was sworn and described the proposed plans to the Board.

Mr. Michael Kustrup of 2718 Atlantic Avenue was sworn and testified that he was not in favor of the application.

Mr. John Warren Tracy of 207 East 28th Street, adjoining neighbor to the north was sworn and testified and stated his concerns with the distance between structures.

The Public Session was closed.

The majority of the Board felt that since the applicant was proposing new construction that the setback to 28th Street should be increased. The Board noted that the house should be reduced to twenty-four feet in width.

Roth moved, seconded by Hummel to approve the application with the conditions that the front yard be the ocean side of the lot and that the setback to 28th street be no less than 11 feet with a structure no more than 24 feet in width. The following roll call vote was recorded: **Hummel, Pingaro, Schnell, VanBuren, Roth, Caplicki, Meehan and Ducker** all voted **YES**. Jones voted **NO**. **The motion carried.**

(4) #LUB-5-20 BEACH HAVEN TERRACE

JEFFREY AND JANET LEVINE

Owners & Applicants
Block 7.11, Lot 13
Units A and B

Mr. James S. Raban, Esquire of Haven Beach, NJ represented the applicants and evidence was marked as follows: Application and Attachments, #A-1, Variance Map prepared by East Coast Engineering, Inc., dated December 10, 2019, #A-2, and, four page Architectural drawing prepared by Craig Brearley, AIA, Architect dated November 14, 2019, #A-3. Mr. Raban stated that the units were in the ownership of the same family and that they proposed to join the two decks together with an increase in the lot coverage but no increase in the front yard setback.

Mr. Jason M. Marciano, P.E., P.P., licensed in the State of New Jersey and with the firm of East Coast Engineering was sworn and testified that he had prepared the Variance Map and described the existing property to the Board. He stated that at the time that the structure was built the front yard setback was compliant but that averaging the current adjacent structures increased the front yard setback and therefore a variance would be required.

(Tape 719 – Side 4)

Mr. Marciano stated that it was proposed to continue the front line of the decks and infill between the two existing decks. He stated that another means of egress would be provided and increase safety. He felt that there would not be any detriment to adjacent properties. He stated that the total additional deck area would be three hundred square feet and that a lot coverage variance would be required.

Mr. Craig Brearley, Registered Architect in the State of New Jersey, was sworn and described the proposed plans to the Board. He noted that the proposal would not interfere with the current parking situation.

Mr. Jeffrey Levine, applicant was sworn and testified as to the ownership of the property. He stated that the family used both units and that going up and down both sets of stairs to each unit was difficult and that a deck connection would enable them to go from unit to unit. The Board noted that the two units were condominiums. The Board noted that a walkway between the two units would achieve the same goal. Mr. Brearley noted that a wider deck would be a safer option.

The Public Session was closed.

The Board felt that the construction of the additional deck would result in a substantial increase in lot coverage and that a four foot wide walkway with a thirty-six inch high rail would be safe, sufficient and solve the issue.

Roth moved, seconded by Jones to Deny the application as submitted. The following roll

call vote was recorded: **Hummel, Pingaro, Schnell, VanBuren, Jones, Roth and Caplicki** all voted **YES**.

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Mr. Roth stepped down from the Board for the following application:

(5) #LUB-6-20 BRIGHTON BEACH

PINZIMINIO, INC.
Owner & Applicant
Block 13.02, Lot 1

Mr. James S. Raban, Esquire of Haven Beach, NJ represented the applicants and evidence was marked as follows: Application and Attachments including prior Resolutions of Memorialization, #A-1, Recorded deed required for Land Use Board Site Plan Approval, #A-2, and, apartment floor plan, #A-3. It was noted that the matter was before the Board as an amendment to an existing site plan approval.

Mr. Raban stated that the applicant had previously obtained site plan approval for a commercial restaurant and market with two apartments above. Mr. Raban stated that the Board had imposed a restriction that the two apartments be restricted to only employees or owners of the premises below. Mr. Raban stated that the owner was seeking to have the restriction removed so that anyone could occupy the two residential units. He noted that parking was not an issue. Mr. Raban stated that they were before the Board solely to remove the restriction from the Resolution.

The existing parking was discussed.

Ms. Karen DeGilio, principal of the Corporation was sworn and described the parking as it existed. Ms. DeGilio stated that the property was located along the railroad cutout where there was plenty of parking and that there had never been issues with the parking.

Mr. David S. McWilliam of 8611 Long Beach Boulevard was sworn and testified that he had no problem with the applicant's request.

Mr. James Frankovich of 8801 Long Beach Boulevard was sworn and testified that he was in favor of the request.

Ms. JoAnne Jaeger of 9 East Mermaid was sworn and testified that she was in support of the request.

The Public Session was closed.

The Board stated that they were not in favor of restricting how the apartments over the business were used and would be in favor of removing the restriction from the Resolution. They stated that there had been a change in circumstances since the initial approval and was no longer be required.

Hummel moved, seconded by Pingaro to approve the request to remove the restriction. The following roll call vote was recorded: Hummel, Pingaro, Schnell, VanBuren, Jones, Caplicki, Ducker and Meehan all voted YES.

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Mr. Roth rejoined the Board.

Under **New Business** the Board discussed proposed **Ordinance #20-09C** and approved of the Ordinance, as written, by voice vote.

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

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The meeting was adjourned at 9:35 P.M.

**LYNNE J. SCHNELL
CHAIRMAN**