

A Special Meeting of the Brick Township Board of Adjustment was held on **February 28, 2018** in the Municipal Building. The meeting was called to order at 7:00 pm.

Notice of Special Public Meeting was read by Chairman Langer. He led the Salute to the flag and the roll was called.

**MEMBERS PRESENT**

Harvey Langer  
David Chadwick  
Mike Jamnik  
Dawn White  
Carl Anderson, Alt 1  
Michele Strassheim, Alt 2

**MEMBERS ABSENT**

Frank Mizer  
Stephen Leitner  
Louis Sorrentino

**ALSO PRESENT**

John Miller, Esq.  
Brian Boccanfuso, PE  
Tara Paxton, AICP/PP, Assistant Municipal Planner  
Sean Kinnevy, Zoning Officer  
Denise Sweet, Court Reporter  
Pamela O'Neill, Secretary

The Board Professionals were sworn.

**NEW BUSINESS:**

**BA-3079-A-B-1/18**  
**Appeal/Interpretation**  
**JSTAR, LLC-Brick**  
**RTS-V-LLC, Application # BA-3040-PMS-D 6/17**

John J. Jackson, Esq. appeared . He stated he paid for this special meeting on behalf of his applicants. He noted the Zoning Officer is not authorized to hear an appeal on the

matter of res judicata. He noted that res judicata could be determined after he presents his case.

Only the Board can rule on res judicata.

He noted the prior application was for 13 lots and this one is for 7 lots.

Mr. Shea said he sent a letter to Ms. Paxton regarding the appeal and he asked her to give a determination and determine if the application of RTS-V, LLC should be dismissed.

Mr. Miller said Ms. Paxton is not the Zoning Officer. Sean Kinnevy is the Zoning Officer and has not made a determination and so Mr. Shea should go right for the Interpretation.

Mr. Shea said he has two witnesses, a Planner and Engineer.

Mr. Miller said he did not object to have the witnesses testify, but res judicata is a legal doctrine and does involve engineering and planning.

Mr. Shea noted his experts will testify on the differences between the prior application and this one

Robert Shea, Esq, is representing J. Starr, LLC, owner of Block 36, Lot 11, 7 Lindhurst Ave, adjacent to the applicant.

Brian McPeak, PP/AICP, PS & S, Planner for the Objector was present.

Sean Delany, PE, Bowman Consulting Group, Engineer for the Objector was present.

Mr. Shea presented the Board with a packet of information including a letter to Mr. Miller dated February 28, 2018.

Mr. Miller said he has never seen this letter or the information and it is a violation of the MLUL since it was not submitted 10 days prior. He recommended the Board carry the matter to the next meeting and not hear the application tonight.

The Chairman allowed Mr. Shea to make comments on the documents, but noted the case will not be heard.

A motion was made by Ms. White and seconded by Mr., Chadwick to carry the application.

Ayes: Mr. Chadwick, Mr. Jamnik, Ms. White, Mr. Langer, Mr. Anderson, Mr. Strassheim

The Chairman confirmed no notice is required..

**BA-3040 PMS-D-6/17, RTS IV, LLC**  
**456 Route 35 North**  
**Block 36, Lot 12**  
**Preliminary Major Subdivision with Variance**

John J. Jackson, Esq., appeared on behalf of the applicant.

He stated the board has the Power Point presentation on file. He gave an overview of the project noting that it had been a bungalow community. There are 3 sections to the original Camp Osborne community. The other sections are to the North and the East of the subject property. This site is different in that it has one owner to make decisions. Camp Osborne was wiped out by Superstorm Sandy.

A previous application for his site was approved by the Board for 13 homes. The new plan is for 7 homes in a different configuration. One of the important aspects of the plan is that Cummins Street will be available to the development of the rest of Camp Osborn should they get approval of a plan.

Mr. Jackson noted the proposal is for two oceanfront homes and five houses on Cummins Street. The proposed development will match the development pattern of the area.

He noted the objector has one house on two lots.

Mr. Jackson said the Township is insisting on the requirement for a density variance, but, he does not believe a density variance is really required as they meet the density of the R.75 zone.

He further stated the application advances the MLUL because all of the homes are being constructed to V Zone FEMA standards even though they are not required to do so.

The homes will have pleasing elevations as they will look like conventional houses. The stairs will be inside and there will be storage for bikes and so forth. They will complement the area and all homes will have elevators.

Mr. Jackson said the developer could build one home, but that would be a colossal waste of land. This application provides for a broader segment of the community to have use of this site.

Mr. Jackson said he has the following witnesses to testify:  
Jeffrey J. Carr, P.E.,P.P., of Lindstrom, Diessner & Carr, PC  
John D. Maczugar, P.P. of JDM Planning Associates, LLC  
Michael Mellillo, AIA of Mellillo Architecture  
Joseph Prestifilippo, Developer

Mr. Jackson called Mr. Carr to testify as engineer for the applicant.

Mr. Shea objected because he said Mr. Carr's outline was not submitted. The Chairman advised him that the outline was part of the Board record since January 5, 2018. Mr. Miller stated the Board has jurisdiction.

Mr. Shea objected to the notice regarding variances.  
Mr. Miller said the Board has jurisdiction and the notice is adequate.

Jeffrey Carr, P.E., Engineer, Lindstrom, Diessner, & Carr and John Maczugar, AICP/P.P., Planner, JDM Planning Associates were sworn and their credentials to testify were accepted by the Chairman.

Jeff Carr testified to Slide # 28 on the Power Point presentation, the proposed subdivision plan which eliminates one of the two roads and shows 2 ocean front lots and 5 lots on one side of Cummins Street.

Chairman Langer asked Assistant Planner Ms. Paxton about the approval of the development of Lyndhurst Drive. She said she believed they got variances to construct in the R 7.5 zone on a private road.

Mr. Jackson asked Mr. Carr what the differences were from the previous application. He testified he had designed the previous plan and this plan is substantially different. He testified there is only one way to design with this very narrow parcel. There are only 7 homes on this plan whereas 13 homes.

Mr. Carr reviewed the history of the site.

Mr. Carr testified Cummins Street will be developed with concrete edges and clamshell. Fire trucks and garbage trucks will be able to maneuver. Homeowners Association will maintain the road and beach.

Mr. Carr reviewed the CME report dated October 10, 2017 prepared by Mr. Boccanfuso..

He testified the applicants are not impacted by the V-zone and they will apply to CAFRA.

On the issue of density, Mr. Carr testified they have the density, but the Township is requiring a density variance due to the fact the lots are undersized. He testified as to each lot area. Two lots are deficient in lot area. All others meet the area. He testified to the other bulk relief.

Chairman Langer called for a break at 8:33 pm. The meeting was called back to order at 8:38 PM.

Mr. Carr. continued his testimony on setbacks for each lot.

He noted they have maximized the impervious coverage by including decks and stairs inside the building footprint. The common beach area is the amenity that makes up for yard area.

Mr. Carr testified the roadway is adequate to service the homes. It is a private road. If the Board approves the roadway, it would be permitted.

Mr. Carr testified they are asking for a waiver for Tree Planting as trees are not seen on beachfront properties. CAFRA will require beach type plantings.

They are asking for waiver of Environmental Impact Statements and Soil borings.

Mr. Carr testified that it is not feasible to develop the property in a way that would comply with the zoning requirements of the R-7.5 zone.

He testified the layout of the site will be similar to other development in the area.

Mr. Carr stated the applicant will comply with N.A.V.D..

Mr. Carr agreed to comply with the recommendations for the clamshell roadway section. He agreed to confirm the detail on bituminous pavement detail.

Regarding parking, Mr. Carr testified they will comply with Title 39 and will meet RSIS standards, He stated they have an application with NJDOT relative to the proposed subdivision. He testified the community had 32 units pre Sandy and the new proposal would generate far less trips.

The clamshell roadway will be 24 feet wide. The easement is existing from the original developer.

He said trash collection will be individual cans in front of each home. The maintenance of the roadway will be the home owner's association responsibility.

The applicant will comply with ADA requirements.

Mr. Carr agreed to comply with the storm water management comments. BTMUA water and sewer improvements are available. The applicant will apply for CAFRA. He testified the applicant has provided an easement to the Army Corp of Engineers.

Regarding lighting, the applicant will provide beachfront style lighting. Spillover will be addressed. Regarding plantings, the applicants will meet with and comply with the recommendations of the Board Engineer and Planner. He noted mailboxes will be on the houses and the site identification sign will not be illuminated, but will be installed within the BTMUA easement only if permitted. The applicant will comply with outside agency requirements.

Mr. Carr testified the applicant agrees to comply with the following:  
Bureau of Fire Safety Report Dated June 24, 2018 and August 23, 2018  
Municipal Engineers Report dated June 30, 2018  
Brick Police Department, Traffic Safety Unit dated July 5, 2017  
Environmental Commission dated July 19, 2017

Mr. Jackson noted the Architectural Committee report dated July 12, 2017 was agreed to by all members present.

Mr. Boccanfuso questioned Mr. Carr on the bulk variances and asked if a variance is required for the clamshell roadway and the beachfront lot.

Ms. Paxton agreed variances are needed. She noted the roadway is a flag lot and will require a variance for the 8 foot width.

He asked if there are established setbacks creating the building envelope should a lot be developed by a third party. Mr. Jackson said a builder could build less but not more. Mr. Jackson agreed that they will stipulate any lot must be built to V-zone construction standards, all fences will comply with the ordinances and the site will be held to the R 7.5 standards for all accessory uses.

Mr. Boccanfuso requested the applicant request a design waiver on the ordinance requiring paved roads. The applicant agrees and will provide 3" stone and 6" compacted PGA clam shell roadway.

The applicant will be prepared to address the fence, pedestrian circulation, sidewalks and the dune crossing access to the beach at the next hearing

Ms. Paxton noted the applicant will be responsible to apply to the DEP for Beach Maintenance Permits.

Mr. Carr testified there is an existing five foot road widening easement on which minor grading improvements are proposed.

Mr. Carr stated they have made application to the DEP for the private beach and will be required to provide a beach access easement. Public access is required and the association may charge a reasonable fee.

At Mr. Boccanfusco's request, the applicant agrees to address how the impervious coverage of the residential lots will be controlled at the next meeting.

Mr. Miller said the application of the objector J-Star should proceed at the next meeting. Following the J-Star application, Mr. Shea will proceed to cross examine Mr. Carr.

Chairman Langer announced the hearing will be carried to a Special meeting on March 14, 2018. No further notice is required.

Mr. Jackson agrees to grant a waiver of time. He will follow up with a letter.

## **ADJOURNMENT**

A motion to adjourn the meeting was made and all were in favor.

The meeting was adjourned at 10:00 PM

Respectfully submitted by:  
Judy Fox Nelson