

A Special Meeting of the Brick Township Board of Adjustment was held on **January 31, 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
Stephen Leitner
Louis Sorrentino
Dawn White
Carl Anderson, Alt 1
Michele Strassheim, Alt 2

MEMBERS ABSENT

Frank Mizer

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 3040-RTS IV, LLC, PMS (Osborn Estates)
456 Route 35 North
Block 36, Lot 12
Preliminary Major Subdivision w/ variance**

Chairman Langer announced the application was carried from the meeting of January 17, 2018.

John J. Jackson, Esq. appeared on behalf of the applicants, RTS,IV, and LLC.

He noted that Joseph Prestifillipo, of RTS,IV, LLC was present.

Jeff Carr,P.E., Lindstrom Diessner & Carr, engineer for the applicant, was sworn.

Mike Milillo, Architect for the applicant, was sworn.

John Maczugar, PP/AICP, Planner for the applicant, was sworn

Chairman Langer asked the objecting attorney to identify himself and have his witnesses sworn.

Robert Shea, Esq, stated he 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 sworn.

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

Mr. Jackson stated he had been prepared to present his case on the January 17, 2018 meeting, but the Board Attorney, Mr. Miller has requested that notice be served to the adjoining lots 13 & 18. He noted he disagreed with Mr. Miller, however he provided the revised notice as requested in an abundance of caution. The Board Secretary determined that one notice was incorrect. The notice was to Mr. and Mrs. Baldino, owners of a condo at the Ocean Club Condo (former Thunderbird). He drove to the Baldino's home in Princeton and got waivers signed by Mr. and Mrs.. Baldino.

The waivers were marked A-1 and A-2.

Mr. Shea objected and Mr. Miller said he will have an opportunity to state his objections.

Jeff Carr, P.E, testified that the condo unit was more than 200 feet from the subject property.

A-3- a google map was marked, showing the distance of the unit from the applicant's property.

Mr. Shea said he did not object to Mr. Carr's measurement.

Mr. Miller said the applicant has complied with the noticing requirement. He said the Condominium has been noticed .

Mr. Shea stated he has been retained by J. Starr, LLC, adjoining property owner who was represented by Mr. Liston in a previous application on this property which had been approved by the Board and then over turned by the Court.

Mr. Shea said there have been recent rulings that have come up regarding the reorganization of the Board. The annual meeting has to be posted in two newspapers. He introduced the following exhibits:

JS-1-

Exhibit 1- 2016 Annual Notice dates from January through December- no carry over to 2017

Exhibit 2- 2017 Annual Notice dates from January through December- no carry over to 2018

Exhibit 3- notice for special meeting published January 2018 . The previous meeting was January 17.

The Chairman called for a 10 minute recess. Chairman Langer called the hearing back to order.

Exhibit 4- January 31 special meeting, published January 25, 2018 in 2 newspapers. The only properly noticed meeting.

Mr. Shea said the Board did not have the ability to act on January 3, 2018 or January 17, 2018.

Mr. Shea asked to have additional letters marked.

JS-2

Exhibit A-1-letters to John Miller from Robert Shea, dated January 15, 2018.

Exhibit A-4- letter to J. Miller from R. Shay regarding a violation of the Open Public Meetings Act, dated January 16, 2018.

Chairman Langer called for a 10 minute recess. The hearing was called back to order.

Mr. Miller asked Mr. Shea to go over all of his jurisdictional issues.

Mr. Shay said his most important issue was the annual notice for the Open Public Meetings Act.

Mr. Miller ruled that adequate notice for this meeting has been provided for this meeting. Mr. Jackson has provided notice as required for his application.

The annual notice was on the website and on the bulletin board.

Mr. Shea objected.

Mr. Miller had Exhibit B-1 marked for the record. It was an email from Pamela O'Neill to the Asbury Park Press dated January 12, 2018 noticing for the annual meetings.

Mr. Shea asked if the Board had the opinion as stated by Mr. Miller.

The Chairman asked for a motion from the Board.

A motion was made by Mr. Jamnik and seconded by Mr. Leitner to stand behind the opinion of Mr. Miller that the Board had provided adequate notice on all matters.

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

JS-S 3- Exhibit –Mr. Jackson's notice dated January 25, 2018, was marked.

Mr. Shea objected to Mr. Jackson's notice because there were more green cards than on the Tax Assessors list.

Mr. Miller opined that Mr. Jackson had noticed in accordance with the MLUL.

JS-4-Aplication for Preliminary Major Subdivision, was marked

Mr. Shea objected to the notice because it was for Preliminary and Final Major Subdivision and the application was for Preliminary only.

Mr. Miller opined that the notice is not defective and the Board can go forward.

Mr. Shea objected to the fact that the owners of Lot 13 and Lot 18 are not on the application.

Mr. Jackson noted he does not believe he had to notice within those lots but he did so at Mr. Miller's request. His improvements are limited to the four corners of the property. They are not planning any improvements on lot 13.

Mr. Miller ruled that this is not a jurisdictional issue and the Board can move forward.

Mr. Shea objected to the notice that the corner lot is deficient in size and not mentioned in the notice.

The Chairman asked Mr. Jackson if he included the "any and all" clause was included. Mr. Jackson said he did. The Chairman stated the Board will accept that.

The issue of Res Judicata will be determined at the next hearing.

Mr. Miller stated the next meeting will be to determine the Appeal Interpretation.

Mr. Jackson agreed to pay for the appeal for a Special on February 28, 2018 at 7:00 PM. No further notice will be required.

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