

A Special Meeting of the Brick Township Board of Adjustment was held on **March 14, 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

Robert Shea, Esq. appeared on behalf of the applicant.

John J. Jackson, Esq., attorney for RTS-V-LLC, stated his objection to the presentation of Mr. Shea.

Mr. Miller stated his recommendation that the Board go ahead with a jurisdictional determination of res judicata.

The following exhibits were marked by the court reporter:

A-1 Letter to John Miller dated February 28 consisting of 92 pages

A-2 Appeal application

A-3 Application for RTS, IV, LLC, dated June 12, 2017

A-4 Resolution of approval of BA-2907-dated December 2, 2015

A-5 Township Beach Cottage Ordinance dated 2011

A-6 Township Beach Cottage Ordinance pending approval 2018

A-7 Copy of a plan by Lindstrom, Diessner & Carr from the 2015 application marked up
By Mr. Delaney

A-8 The 5 elements of the Doctrine of Res Judicata

Mr. Miller stated for the record the five elements of ResJudicata as follows:

1. The second application is substantially similar to the first
2. The same parties or their privies are involved
3. There must be no substantial change in the application itself or conditions surrounding the property.
4. There must have been an adjudication on the merits in the first case
5. Both applications must involve the same cause of action

Mr. Shea stated he has two witnesses to testify.

Mr. Miller opined that there is no relevance for Mr. Shea's engineer and planner to testify since the Board has a determination of legal doctrine. He said he will allow the testimony, but does not believe it to be relevant.

Sean Delaney, P.E., engineer, Bowman Consulting, was sworn and his credentials were accepted by the Chairman.

A-9- Sheet 4 of 9 from the application BA 3040- Preliminary Major Subdivision highlighted by Mr. Delaney was marked

There was some discussion about A-10 – a colored map comparing the two applications, but it was pulled.

Mr. Delaney testified about the density and his opinion of the two applications.

Mr. Jackson questioned Mr. Delaney.

Chairman Langer called for a break at 8:40 PM and he called the meeting back to order at 8:45 PM.

Brian McPeak, AICP/PP, PSS, LLC, Planner, was sworn and his credentials to testify were accepted by the Chairman.

He testified to the application of 2015 and the current application to the concept of res judicata.

He stated his opinion and his comparison that the application is substantially similar to the previous application.

Mr. Jackson questioned Mr. Mc Peak regarding the density on the previous application and the current application. .

There was some testimony regarding the Township ordinance on density.

Mr. Jackson asked the Chairman to hold the decision on the Res Judicata because Mr. Shea is only trying to delay his case.

Chairman Langer said the Board will vote tonight.

Mr. Miller said the Res Judicata is a jurisdictional issue and he recommends the Board to vote. The engineer said the applications were substantially similar, but the number of units is a substantial difference and the number of variances was different. The lots are different. The changes are substantially different.

A motion was made by Ms. Strassheim and seconded by Mr. Jamnik to deny the applicants position that the application meets the standards of res judicata.

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

The motion passed and the Res Judicata is voted down.

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

Chairman Langer stated the application will be carried to April 25, 2018 at 7:00 PM with no further notice 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