

A meeting of the Brick Township Board of Adjustment was held on **October 17, 2018** in the Municipal Building. The meeting was called to order at 7:00 pm.

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

**MEMBERS PRESENT**

Harvey Langer  
Frank Mizer  
David Chadwick  
Mike Jamnik  
Stephen Leitner (arrived 7:10 PM)  
Louis Sorrentino  
Dawn White  
Carl Anderson, Alt 1  
Michele Strassheim, Alt 2

**ALSO PRESENT**

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

The Board Professionals were sworn.

**OLD BUSINESS:**

**RESOLUTIONS**

**BA-2076-1/18-David Gibbs  
439 Osborn Avenue  
Block 540.05, Lot 11**

A motion to approve the resolution was made by Mr. Chadwick and seconded by Ms. White.

Ayes: Mr. Chadwick, Mr. Jamnik, Mr. Sorrentino, Ms. White, Mr. Mizer, Mr. Langer

The motion carried and Resolution R-58-18 was adopted.

**BA-3104-6/18 Richard Petrocelli**  
**218 Cartagena Drive**  
**Block 211.32, Lot 20 & 21**

A motion to approve the resolution was made by Mr. Mizer and seconded by Mr. Chadwick.

Ayes: Mr. Chadwick, Mr. Jamnik, Mr. Sorrentino, Ms. White, Mr. Mizer, Mr. Langer

The motion carried and Resolution R-56-18 was adopted.

**BA 3105 6/18-Anne and Glenn Hedde**  
**785 South Drive**  
**Block 945, Lot 15**

A motion to approve the resolution was made by Mr. Mizer and seconded by Mr. Chadwick.

Ayes: Mr. Chadwick, Mr. Jamnik, Mr. Sorrentino, Ms. White, Mr. Mizer, Mr. Langer

The motion carried and Resolution R-57-18 was adopted.

Chairman Langer announced the following cases listed on the agenda will not be heard tonight.

**BA-3051 Mar-T-Development**  
**581 Mantoloking Road**  
**Block 190.88, Lot 18**  
**Appeal**

This application will be carried to November 7, 2018.

**BA-3107-Christopher Kronenthal**  
**59 B Topsail Road**  
**Block 324.39, Lot 6**  
**Bulk Variance**

The applicant had defective notice and will be rescheduled and will have to renotice

**NEW BUSINESS:**

**BA-3096-4/18-Adam Watman  
82 Driftwood Drive  
Block 86.09, Lot 1  
Carried from September 19, 2018**

Adam Watman, was sworn and he testified he is seeking a variance to construct a 16 X 20 foot in ground swimming pool with a paver patio and a 6 foot high fencing along the Driftwood Drive property line. He had submitted a new survey at the request of the Board showing the corrected dimensions. He testified he had a very narrow curved lot with no real back yard. He agreed to submit a grading plan to the Township Engineer Mr. Boccanfuso stated the lot does have a hardship. Chairman Langer opened the hearing to Public comment, seeing none the public was closed.

Factual findings were made by Mr. Mizer and all concurred with his findings.

A motion to approve the application was made by Ms. White and seconded by Mr. Sorrentino.

Ayes: Mr. Chadwick, Mr. Jamnik, Ms. White, Mr. Sorrentino, Mr. Mizer, Mr. Langer

**BA-3098-CT07, 135 Brick Boulevard, LLC  
135 Brick Blvd  
Block 381, Lot 2  
Amended Final Site Plan**

Board Member Strassheim stated she is in conflict and left the room.

John J. Jackson, Esq. appeared on behalf of the applicant. He noted the applicant is seeking an Amended Final Major Site Plan of a previously approved and developed , luxury apartment complex .with a swimming pool and parking, rain gardens, benches, walkways and clubhouse. They are proposing to convert some of the clubhouse area for storage for the residents of the complex.

Stuart Challoner, P.E., Engineer and Planner for the applicant, was sworn. His qualifications to testify were accepted by the Chairman.

Exhibit A-1-Power Point presentation was marked.

Carey Tajfel, E. Windsor, NJ, applicant, was sworn. He said they would build open cages for storage use. The space is not being used. The apartment complex is fully occupied. He testified they will have camera coverage of the storage area.

Mr. Jackson asked for relief from the resolution requirement to have a manager reside on site in one of the apartments.(Paragraph #13) He noted the office is fully staffed and they do not need to have an on -site manager living in the building. No manager has been living there since the beginning. In the case of emergency, a maintenance worker who lives nearby comes to the site.

They also request relief from Paragraph # 15 requiring the complex to be gated. They will reinstall the gates should it be needed. Mr. Tajfel testified the cameras will identify the comings and goings at the gates.

Mr. Jackson stated the applicant will agree to a provision the Town Administrator or some member of the Town Staff will be authorized to require the gates be reinstalled.

Ms. Paxton advised that the approval was granted for a use variance with the consideration that there would be a resident manager and the gates would be provided.

Mr. Challoner testified to the positive criteria:  
That there is 24 hour maintenance  
There are 3 or 4 staff members on the site daily  
There is a 24 hour hot line.

Mr. Sorrentino noted he does not want to see the gated come down. He believes the gate provides safety. He said his daughter lives there.

Chairman Langer called for public comments

Jamie Richards- 107 C Street, was sworn. She asked how long the gates have not been working.

Mr. Tajfel responded the gates are working now, but have been not working from time to time when damaged by a car..

She asked if the residents believe there is a resident manager.

Mr. Tajfel responded they do not advertise that there is a resident manager.

Christine Koehler, 101 C Street was sworn. She asked if the cameras catch left turns. She has a fear of the left turns.

Traci Dari, 111 C Street, asked if outside storage would be permitted for a boat for example and were they using the room that was designated for party use for storage. Mr. Tajfel said only inside storage would be permitted and they have a club room for the enjoyment of all residents, not party rentals.

Dennis Miller, 103 C Street, wants to see an additional gate.

Mr. Tajfel stated that if they are successful in eliminating the existing gate, they will consider the additional gate.

Jamie Richards, 107 C Street said her big concern as the mother of 2 children was safety and preventing crime. She is not in favor of removing the gates.

Christine Koehler, 101 C Street said she is concerned about safety as well and does not favor removing the gates.. She is also concerned about commercial vehicles parking on her street.

Seeing no other comments, the Chairman closed the hearing.

Ms. White asked the applicant if they would consider having the requests voted on separately.

Chairman Langer called for a brief recess at 8:30 PM The meeting was called back to order at 8:40 PM.

Chairman Langer announced that Mr. Sorrentino will recuse himself since his daughter lives at the complex.

He further announced the Board will vote separately on the three requests.

A motion was made by Ms. White and seconded by Mr. Jamnik to approve the use of a designated unused space in the clubhouse for 20, 4 by4 foot metal gated storage units to be used by tenants of the apartments.

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

A motion was made by Ms. White and seconded by Mr. Chadwick to remove the requirement to have a resident manager in one of the apartments from the original approval.

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

A motion was made by Mr. Mizer and seconded by Mr. Jamnik to eliminate the bar at the front gate and relocate the gate to the rear to prevent left hand turns.

Ayes: Mr. Mizer, Mr. Langer, Mr. Anderson

Nays: Mr. Chadwick Mr. Jamnik, Ms. White, Mr. Leitner

The motion failed.

Secretary O'Neill left the meeting for family emergency.

**BA- 3040-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 RTS IV, LLC  
Robert C. Shea, Esq. appeared on behalf of the objector, JSTAR, LLC

Mr. Shay continued his cross examination of John MacZugar, Planner for the applicant. Mr. MacZugar noted he has 44 years of experience. He further stated his testimony builds upon other expert witnesses of the applicant and includes documents , such as the Master Plan.

Mr. Shay asked Mr. MacZugar about the burden of proof for the D-5 variance.

Mr. MacZugar testified that his original conclusion was that he did not think there was a need for a D-5 variance, but they encompassed the proofs anyway since the Township Called out the D-5 variance..

Mr. Shay asked about the site suitability test.

Mr. MacZugar was questioned about the historical background of the property with 32 units prior to the Superstorm Sandy. He agreed with Mr. Shay that there is no legal right to reconstruct 32 units.

Mr. Jackson objected that the cross exam was duplicating previous testimony. He said that the Burden of Proof was a legal matter, not planning.

Mr. Shay asked Mr. MacZugar if 4 of the 7 proposed lots are under the required size for the R-5 zone. Mr. MacZugar responded yes.

Mr. MacZugar testified there was no appeal to the D-5 variance.

Regarding site suitability, Mr. MacZugar testified it would be out of character to build 1 single house on this parcel.

There were multiple questions regarding alternative plans to eliminate one or more lots would increase lot area.

Mr. MacZugar said maybe or maybe not.

Mr. Shay asked about the common lot of 11,200 SF which would provide access to the ocean and private beach.

Mr. Shay asked Mr. MacZugar if he was familiar with the Dune Preservation Ordinance in Brick. He said he is not but generally familiar with dunes.

John J. Jackson objected and Mr. Miller upheld the objection. Mr. MacZugar had not testified as to the dunes.

Mr. Jackson objected to questions regarding the CAFRA application.

Mr. Shay asked Mr. MacZugar about his comments he made about the upgrading of the character of the property as being superior to cottages.

Mr. Shay asked if 42 variances was a dominos determination and Mr. MacZugar said he could not sum up in one word.

Chairman Langer said the testimony is being repeated over and over.

The next meeting is, November 28, 2018. Mr. Shay will continue his cross with Mr. MacZugar There will be no further notice.

Mr. Jackson said the questions are redundant and are designed to delay the application. He said it is unfair.

Mr. Shay said Mr. Jackson's client has produced a plan that has variances. He should submit a plan that conforms to the ordinances.

## **ADJOURNMENT**

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

The meeting was adjourned at 9:56 PM

Respectfully submitted by:  
Judy Fox Nelson