

A **SPECIAL PUBLIC** meeting of the Brick Township Board of Adjustment was held on Wednesday, **April 29, 2019** in the Municipal Building
401 Chambers Bridge Road.

The meeting was called to order at 7:10 PM.

Chairman Langer called the meeting to order. He led the Salute to the flag and read the following Open Public Meetings Act Statement.

Pursuant to Section 10 of the Open Public Meetings Act, notice of this meeting was sent and advertised in the Asbury Park Press and the Ocean Star. A copy of that notice was posted on the bulletin board, where public notices are displayed, in the municipal building. In addition, a copy of that notice is, and has been available to the public, and is on file in the office of the municipal clerk. Accordingly, this meeting is deemed to be in compliance with the Open Public Meetings Act.

Mr. Langer read a statement from the Insurance Company on proper meeting conduct.

The Roll was called

MEMBERS PRESENT

Harvey Langer
Frank Mizer
David Chadwick
Dawn White
Carl Anderson
Mike Jamnik
Frank Mizer
Louis Sorrentino
Michele Strassheim, Alt 1

ALSO PRESENT

Ron Cucchiaro, Esq.
Brian Boccanfuso, PE
Christopher Romano, Zoning Officer
Denise Sweet, Court Reporter
Pamela O'Neill, Secretary

The Board Professionals were sworn

NEW BUSINESS

**BA-3040 PMS-D-5/18 (carried from April 10, 2019)
RTS IV, LLC
BA-3079-JStar, LLC Appeal and Interpretation
Block 36, Lot 2
456 Route 35 North
Density Variance and Preliminary Major Subdivision**

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

Robert Shea, Esq. appeared on behalf of JSTAR, LLC.

Ron Cucchiaro, Esq. stated there is a legal issue to be taken care of before the hearing goes forward. There were letters from Mr. Shea dated April 24, 2019 and April 29, 2019 and an e-mail from Mr. Jackson, dated April 25, 2019. The focus was on the subject of a survey submission. Mr. Shea contended the Board should not go forward with the meeting this evening.

Mr. Shea accused the Board of an OPRA violation because he did not receive a survey he requested.

Mr. Cucchiaro asked Ms. O'Neill if she was in possession of the survey from Mr. Carr on April 24, 2019. Ms. O'Neill stated she was not in possession of the survey on that date.

Mr. Shea refused to say he did not believe the Board was in violation of OPRA.

Mr. Jackson noted the revised survey was submitted to show that the beach was bigger due to the replenishment. Mr. Jackson said it does not require study to show the changes and there is no change on the developable portion of the property. The revised site plans were submitted on April 1, 2019 that shows the site and the newly enlarged beach.

Mr. Shea continued to request the meeting to be carried because the revised survey was not submitted ten days prior to this date.

Mr. Cucchiaro said the issue for the Board is to determine if the survey in question was submitted to substantiate, clarify or supplement previously submitted documents.

After a discussion Mr. Cucchiaro said the Board should make a motion to say that the applicant has either satisfied or not satisfied the requirements of Section 10 B of the MLUL.

Mr. Mizer made a motion that the applicant has met the requirements of Section 10 B of the MLUL.

The motion was seconded by Mr. Chadwick.

In favor: Mr. Chadwick, Mr. Jamnik, Ms. White, Mr. Sorrentino, Mr. Mizer, Mr. Anderson and Mr. Langer

Jeffrey Carr, PE, engineer for the applicant, was previously sworn on April 10, 2019. He described nine photos that were submitted to the Board on April 17, 2019. The first in a series of nine that showed ariel photos from July 4, 2007 to July 1, 2018. The photos showed Beach conditions pre Sandy through to the current Beach replenishment conditions of today. Mr. Carr said the lot lines on the revised plan are all the same on the subdivision plan. He testified the beach is comprised of three sections, the area east of the dune, the dune area and the beach area.

Mr. Shea cross examined Mr. Carr. Mr. Shea asked to have Exhibit O-23- the topo survey prepared by Mr. Doolittle, of Lot 12, Block 36 dated 3-21-19 on the preparation of the documents.

Chairman Langer called for a brief recess at 8:45 PM. He called the meeting back to order at 8:55 PM.

Mr. Jackson stated he has completed his case.

Mr. Shea called Sean Delaney, PE, and Bowman Engineering, to testify. He had been previously sworn. Mr. Delaney testified that he thinks there is a discrepancy on the documents between the survey and the site plan. He testified the beach area can change.

Mr. Shea called Brian McPeak, PP, AICP, and Planner for the Objector, previously sworn, testified to the documents he reviewed to prepare for the hearing. He said the application for 9 lots, 7 residential, 1 beach and 1 access and the density exceeds what is laid out in the Master Plan and what is in the area. He testified there are 43 variances associated with the application including the (D-5) density variance.

Mr. Mc Peak testified he did not believe Mr. McZugar made the case for a D-5 density variance.

There was a discussion of whether comments from the Mayor and Council President in minutes after the Camp Osborn Ordinance was adopted by the Town Council should be allowed in the testimony of Mr. McPeak. Mr. Cucchiaro recommended the Attorneys send him an email to consider their comments on having this issue and he will make a determination.

Chairman Langer noted the hour was late and the hearing will be carried to the meeting on June 5, 2019. No further notice will be given.

ADJOURNMENT

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

The meeting was adjourned at 8:47 PM.

Respectfully submitted by:
Judy Fox Nelson