

A **PUBLIC** meeting of the Brick Township Board of Adjustment  
Was held on Wednesday, **June 5, 2019** at Brick Township Municipal Building  
401 Chambers Bridge Road.

The meeting was called to order at 7:00 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  
Mike Jamnik  
Frank Mizer  
Louis Sorrentino  
Michele Strassheim, Alt 1

**MEMBERS ABSENT**

Carl Anderson

**ALSO PRESENT**

John P. Miller, Esq.  
Ron Cucchiaro, Esq.  
Brian Boccanfuso, PE  
Tara Paxton, AICP/PP, Municipal Planner  
Christopher Romano, Zoning Officer  
Denise Sweet, Court Reporter  
Pamela O'Neill, Secretary

The Board Professionals were sworn

## **OLD BUSINESS**

### **VOUCHERS**

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

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

### **RESOLUTIONS**

#### **BA-3140-2/19 Brian McCrossan**

740 Midstreams Road  
Block 958.22, Lot 1  
Bulk Variance

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

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

The motion carried and Resolution R-26-19 was adopted.

#### **BA-3135-PSP-FSP-D-C-11/18, Legacy Property Associates, LLC**

1697 Route 88  
Block 842, Lot 16  
Preliminary and Final Site Plan with Bulk Variance

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

In favor: Mr. Chadwick, Mr. Jamnik, Ms. White, Mr. Sorrentino, Ms. Strassheim, Mr. Langer

The motion carried and Resolution R-27-19 was adopted.

## **NEW BUSINESS**

Chairman Langer announced the following application will be carried to the meeting of August 7, 2019

**BA-3117-PSP-FSP-D- 728 Princeton Avenue, LLC**  
**728 Princeton Avenue**  
**Block 927, Lot 44 & 44.01**  
**Use Variance and Preliminary & Final Site Plan**

This is the notice. No further notice is required.

**BA-3138-C-1/19-DRM Construction, LLP**  
**154 Pinehurst Road**  
**Block 615, Lot 27**  
**Bulk Variance**

John J. Jackson, Esq., appeared on behalf of the applicant. He noted there had been an approval to build a SFD by this Board in 2011.

Frank Baer, PE, PP, WSB Engineering, engineer and planner, was sworn and his qualifications to testify were accepted by the Chairman.

Rafael Pimentel, President of DRM, was sworn.

Exhibit A-1, Power Point Presentation, pages 1 -12 was marked.

Frank Baer testified that the applicant is seeking approval to construct a 2 story, 3 bedroom single family dwelling on a 4,000 SF corner lot. The lot is located on the corner of Pinehurst and Burton Parkway in the R-5 zone.

The application requires variances for Lot area, whereas 6,000 SF is required and 4,000 SF exists, Lot width 50 feet is required and 40 feet is provided. The application also needs a front yard setback where 20 feet is required and 11 feet is provided.

Mr. Baer testified there was no land available to mitigate the deficiencies.

Mr. Baer testified the proposed elevations of the house will fit in with the character of the neighborhood.

Buy and sell letters were placed on the record by Mr. Jackson as Exhibit A-2 and A-3.

Chairman Langer called for public comments, seeing none, he closed the public.

Mr. Chadwick provided factual findings and all concurred.

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

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

**BA- 3051-A 8/17--Mar-T-Development Corp.**

Block 190, Lot18  
581 Mantoloking Road  
Appeal

John Paul Doyle, Esq, appeared on behalf of the applicant. He stated the applicant was appealing a determination made by former zoning officer Sean Kinnevy on a 3 acre parcel of land between Church and Susan Lane. He said the property was originally owned by Anthony Palladino, Sr., deceased, who operated a contractor's yard since 1950.

Mr. Cucchiaro advised the Board that the sole decision for them to make was whether Mr. Kinnevy had jurisdiction to render an opinion. Mr. Cucchiaro said the opinion had to be made within one year of the zone change to be valid.

Mr. Cucchiaro further stated that the Board cannot determine if the use of the property is pre-existing, non -conforming. The applicant needs to apply under Section 68 to make that determination.

Mr. Cucchiaro said all of the determinations of the Zoning Officer were post the one year timeframe and should be invalid.

Mr. Doyle said the application was only requesting the 2017 determination.

Mr. Chadwick made a motion to overturn every determination of Mr. Kinnevy on this property after the one year period. The motion was seconded by Ms. White.

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

Chairman Langer called for a brief recess at 7:43 PM. He called the hearing back to order at 7:52 PM.

**BA-3040-RTS IV, LLC** (carried from April 29, 2019)

**BA-3079-JSTAR, LLC**

456 Route 35, North  
Block 36, Lot 12  
Density Variance and Preliminary Major Subdivision  
Consolidated

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

Robert Shea, Esq. appeared on behalf of JSTAR, LLC, Mr. Cucchiaro advised the Board that the last hearing had planning testimony from Mr. Shea's witness Brian McPeak, and a question had come up regarding accepting minutes of the Council Meeting where the Barrier Island Neighborhood Plan Ordinance was adopted. Mr. Shea had submitted a brief on the subject.

After a long discussion, Mr. Jackson objected and said he would like the Board to ask Ms. Paxton to weigh in on her knowledge of the ordinance and why this parcel was not part of the ordinance.

Mr. Cucchiaro advised the Board that they could see the minutes, but should decide how much weight to place on them.

Mr. Shea requested Exhibit O-24, a letter from Mr. Shea regarding the minutes from a Council meeting on the ordinance adoption.

Mr. McPeak, still under oath, continued to testify regarding his opinion that the applicant did not prove their case for the density variance. No special reasons were proved. He noted in addition to the density variance, the applicant seeks 45 bulk variances. They should not be approved because they do not meet the positive and negative criteria.

Mr. Jackson objected to Mr. McPeak testifying about the appeal. Chairman Langer asked him to keep his testimony on planning.

Mr., McPeak testified the approval of this application would do meaningful damage to the Intent of the Township of Brick Zone Plan. He said the Board should deny the application because the standard of proof was not made.

Mr. Jackson noted for the record he had previously cross examined Mr. McPeak and asked that his previous cross examination be included in the record. He then questioned Mr. McPeak about the density in the R-7.5 zone.

Mr. Jackson asked Chairman Langer if he could ask Ms. Paxton some questions about the adoption of the Barrier Island Neighborhood Plan Ordinance.

Chairman Langer asked Ms. Paxton to explain the reasons that this applicant's property was not included in this ordinance.

Ms. Paxton said she was not on the Land Use Committee. Mr. Fowler was. However, she was in attendance at a series of meetings along with the Construction Official, Bureau of Fire Safety, Township Engineer and Township Attorney, who met with the Osborn, Sea Bay Community at their request after the destruction of Camp Osborn from Sandy. The parcel in question this evening had an application submitted to the Township at that time and did not ask to participate in the creation of an

ordinance. She noted there was a process in creating a plan that took place between 2014 and 2018. The applicant did not ask for a rezone.

Chairman Langer opened the hearing to the public for questions and comments. Seeing none, he closed the hearing to the public.

Mr. Cucchiaro reminded the Board the application is a consolidated application. The Board needed to determine if the application was barred by Res Judicata and if it was there was no other decision.

If the Board determined there was not barred by Res Judicata. A decision had to be made on the Preliminary Major Subdivision.

Chairman Langer asked the Board if they wanted to do two motions or one.

Mr. Chadwick made a motion stating that there was no Res Judicata and the applicant shall be granted a D-5 Variance relief along with Preliminary Major Subdivision.

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

## ADJOURNMENT

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

The meeting was adjourned at 9:23 PM...

Respectfully submitted by:  
Judy Fox Nelson