

A **SPECIAL PUBLIC** meeting of the Brick Township Board of Adjustment
Was held on Wednesday, **July 10, 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
Carl Anderson
Michele Strassheim, Alt 1

ALSO PRESENT

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

The Board Professionals were sworn

NEW BUSINESS

BA- 3132-PSP-FSP-D-12/18
Vilamoura, LLC
29-39 Mantoloking Road
Block 60, Lot 8 & 8.01
D(6) Height Variance-Preliminary & Final Major Site Plan

Mr. Cucchiaro, Board Attorney, gave a brief update to the Board since the last meeting on May 1, 2019. Ron Gasiorowski, Esq., representing Mantoloking, filed an Order to Show Cause Seeking Temporary Restraints to prevent Vilamoura from proceeding with the application. Judge Ford denied Mantoloking's request. Therefore, Mr. Cucchiaro advised the Board to go forward with the hearing.

Mr. Cucchiaro asked all of the attorneys to enter their appearances.

John J. Jackson, Esq, King, Kitrick, Jackson, McWeeney, on behalf of Vilamoura
Mr. Jackson noted his associate, Jillian McLeer was present as well.

Paul Shaufenhauser, Esq, Chiesa, Shahinian & Giantomasi, PC, West Orange, on behalf of Vilamoura

Ron Gasiorowski, Gasiorowski & Holobinko, Red Bank, as Special Counsel for Mantoloking.

Jean Cipriani, Esq., Rothstein, Mandell, Strohm & Halm, PA, Lakewood, representing Mantoloking

Edward Liston, Jr. Esq., Toms River, on behalf of the Mantoloking Yacht Club

Gerald Darling, Archer & Greiner, Haddonfield, on behalf of the adjacent land owner, Marion J. Lee, Inc.

Mr. Cucchiaro stated he received a communication from Michelle Donato, Esq., Lavallette, who is in transit and represents Save Barnegat Bay.

Mr. Cucchiaro asked Mr. Jackson to address the standing of Mantoloking.

Mr. Jackson said he thought the Judge had agreed they had standing.

Mr. Gasiorowski said he had emailed a copy of Judge Ford's decision to Mr. Cucchiaro and Mr. Jackson.

Mr. Cucchiaro addressed a letter received from Ms. Cipriani preserving Mantoloking's objection to the notice and her request the Board not move forward because CAFRA application has not been adjudicated.

Ms. Cipriani further noted that they continue to assert that a use variance is required and that is another reason to delay the hearing.

Mr. Cucchiaro advised the Board that nothing has been presented to refute the Brick professionals determination that Mantoloking was somewhere around 700 feet from the subject property.

He also said that regarding CAFRA, the Board cannot determine they are not going to hear an application. There was some discussion regarding continuing the hearing. Mr. Cucchiaro advised the Board to move forward with the hearing.

Regarding the issue of a use variance, Mr. Jackson stated his client needs a D-6 variance for height, but does not require a D-1 variance for the catering facility. The Board Planner and Zoning Officer have determined that a restaurant use encompasses a banquet. In other words a restaurant and a banquet use are the same. Mr. Jackson noted the facility will have a restaurant and he will have a witness, Mr. Chip Grabowski, one of the principals in the Harvest Group who will be jointly operating the facility with the Mauriellos's.

Exhibit A-2, a brief prepared by Mr. Jackson regarding the definition of a restaurant, catering hall, banquet facility as being one and the same and not needing a D-1 variance was marked.

Exhibit A-3, a brief prepared by Mr. Paul Scafhauser, Esq, Co-counsel for the applicant regarding the need for a D-1, was marked.

Exhibit A-4, a document titled "Examples of Other Catering/ Banquet Facilities in the Surrounding Area", pages 1-6, was marked.

There was a discussion and objections regarding the submission of these exhibits.

Christine Nazzaro Cofone, Planner, was sworn and her credentials to testify were accepted by the Chairman.

At this time, Michele Donato, Esq, arrived at the meeting and her appearance was noted on the record representing "Save Barnegat Bay"

Ms. Cofone testified to the restaurant and catering, banquet uses at Beacon 70, a restaurant at 799 Route 70 and the River Rock restaurant formerly Petersons on Route 70. She said she wanted the Board to be aware there are other facilities in Brick that have restaurants, and banquet facilities. They have been historically treated the same. She testified regarding other restaurant and Catering Banquet facilities in Brick. She testified regarding definitions of restaurants and catering facilities. She testified it was her opinion that a D-1 variance was not required for this application.

Chairman Langer called for a brief recess at 8:08 Pm He called the hearing back to order at 8:17 PM.

Mr. Liston cross examined Ms. Cofone.

Mr. Gasiorowski cross examined Ms. Cofone.

Ms. Donato cross examined Ms. Cofone.

Mr. Gasiorowski called Planner, Andrew Thomas, and Brielle to testify.

Mr. Gasiorowski stipulated there were no other attorneys present for his preparation of the witness.

Andrew Thomas, AICP/PP , Planner, Brielle, was sworn.
He testified that it is his opinion that banquet facilities are not the same as restaurants and a D-1 variance is required

Ms. Donato cross examined Mr. Thomas on the similarity or differences .between banquets and restaurants..

Mr. Jackson cross examined Mr. Thomas on the similarity or difference between banquets and restaurants.

Chairman Langer called on Ms. Paxton for her opinion.. She testified that after a review with the Zoning Officer, Mr. Romano and the Municipal Engineer, Ms. Commins, her opinion is that a D-1 variance is not necessary and that a banquet facility was part of the restaurant functionality.

Chairman Langer called upon Christopher Romano, Zoning Officer, said he feels that this applicant has a permitted use in the zone..

Mr. Romano and Ms. Paxton agreed the variance required ifs for height alone.

Mr. Gasiorowski cross examined Ms. Paxton.

Mr. Liston cross examined Ms. Paton on her qualifications.

Mr. Liston cross examined Christopher Romano on his qualifications..

Ms. Donato cross examined Ms. Paxton on her opinion of a banquet facility.

Mr. Gasiorowski , Mr. Liston and Ms. Donato made final comments on the subject of the D-1 variance.

Mr. Cucchiaro advised the Board they are making a decision on needing a D-6 height variance or needing a D1 use variance and a D-6 height. Variance.

A motion was made by Mr. Mizer that the applicant needs a D-6 height variance only. The motion was seconded by Ms. White.

Voting in favor: Mr. Sorrentino, Ms. White, Mr. Jamnik, Mr. Chadwick, Mr. Mizer and Mr. Langer

Chairman Langer announced the hearing will be carried to Wednesday, August 21, 2019. This is the notice. There will be no further notice.

Mr. Jackson agreed to a waiver of time until September 18, 2019.

ADJOURNMENT

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

The meeting was adjourned at 10:52 PM...

Respectfully submitted by:
Judy Fox Nelson